

July 27, 1998
7:00 PM

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

1. **Pledge of Allegiance**
2. **Roll Call**
3. **Consideration of Minutes of Preceding Meetings**
4. **Presentations**
None
5. **Citizen Communication (5 minutes or Less in Length)**
6. **Report of City Officials**
 - A. City Manager's Report
7. **City Council Comments**

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

8. **Consent Agenda**
 - A. CB No. 26 re Growth Management Program Amendments (Merkel-Atchison)
9. **Appointments and Resignations**
None
10. **Public Hearings and Other New Business**
 - A. Public Hearing re COSTCO 7th Amended PDP Lake Arbor Industrial Park
 - B. 7th Amended Preliminary Development Plan for Lake Arbor Industrial Park
 - C. IGA re Arapahoe Ridge Elementary School
 - D. Councillor's Bill No. 30 re Personnel Policies & Rules Amendments
 - E. Councillor's Bill No. 31 re Martin Luther King Holiday
 - F. Retention of Temporary Legal Counsel
 - G. Reallocation of Capital Improvement Project Funds
 - H. Councillor's Bill No. 32 re Golf Course Bond Proceeds Appropriation
 - I. Golf Course Project Funds Transfer
 - J. Westminster Conference Center Lease Agreement
11. **Old Business and Passage of Ordinances on Second Reading**
None
12. **Citizen Presentations (5 Minutes + in Length) & Miscellaneous Business**
 - A. Don McKinley & John Engelbrecht re Home Occupation Ordinance
 - B. Financial Report for June, 1998
 - C. Quarterly Insurance Report
 - D. City Council
 - E. Request for Executive Session
 1. Hotel Business Assistance Package
 2. Personnel Matter
 3. Proposed Lawsuit Settlement Effort
13. **Adjournment**

CITY OF WESTMINSTER, COLORADO
MINUTES OF THE CITY COUNCIL MEETING
HELD ON MONDAY, JULY 27, 1998 AT 7:00 P.M.

PLEDGE OF ALLEGIANCE:

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

ROLL CALL:

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

CONSIDERATION OF MINUTES:

A motion was made by Allen and seconded by Atchison to accept the minutes of the meeting of July 13, 1998 with no additions or corrections. Councillors Allen and Dixon requested to abstain as they were not present at the meeting. The motion carried with 5 aye votes and Councillors Allen and Dixon abstaining.

A motion was made by Allen and seconded by Smith to accept the minutes of the Special meeting of July 20, 1998 with no additions or corrections. The motion carried unanimously.

CITY COUNCIL COMMENTS:

Councillor Dixon reported on her attendance at the conference on Department of Energy schedule regarding Rocky Flats cleanup and closure and the Jefferson County Commissioners Forum.

CONSENT AGENDA:

The following item was considered as part of the Consent Agenda: **Councillor's Bill No. 26** re Growth Management Program Amendments.

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

A motion was made by Scott and seconded by Merkel to adopt the consent agenda item as presented. The motion carried unanimously.

PUBLIC HEARING RE COSTCO 7TH AMENDED PDP LAKE ARBOR INDUSTRIAL PARK:

At 7:08 P.M. the meeting was opened to a public hearing on the Costco Wholesale request for an amended Preliminary Development Plan to add gasoline sales on their existing developed site at 6400 West 92nd Avenue. Dave Shinneman, Planning Manager, entered a copy of the Agenda Memorandum, Planning Commission recommendation, and other related items as Exhibits. Costco Wholesale representative Kathy Nishihira, gave a brief slide presentation and answered questions from Council and Staff. No one spoke in opposition to the amendment to the PDP. At 7:45 P.M. the public hearing was declared closed.

7TH AMENDED PDP FOR LAKE ARBOR INDUSTRIAL PARK:

A motion was made by Dixon and seconded by Atchison to deny the 7th amended Preliminary Development Plan to Lake Arbor Industrial Park Filing No. 2 based on the following findings: (a) that the addition of gasoline sales does not promote the existing and future development of this property as a District Center, as described in the Westminster Comprehensive Plan; (b) that the introduction of gasoline sales is prohibited by the existing 6th Amended Planned Unit Development. If the gasoline sales are permitted this opens the door for the development of Auto Accessory Uses at the adjacent undeveloped pad sites along 92nd Avenue; and (c) that the introduction of an additional use such as gasoline

sales, on an already developed parcel, will result in increased traffic impacts on-site, and may result in a potentially adverse influence on surrounding areas. The motion carried with 4 aye votes and dissenting votes by Heil, Merkel and Scott.

INTERGOVERNMENTAL AGREEMENT RE ARAPAHOE RIDGE ELEMENTARY SCHOOL:

A motion was made by Atchison and seconded by Scott to approve the IGA for the Development and Use of Real Property and Facilities between the City of Westminster and School District #12, Adams County, for Arapahoe Ridge Elementary School #25, and authorize the expenditure of funds from the appropriate City funds to fulfill the City's obligations under the intergovernmental agreement. The motion carried unanimously.

COUNCILLOR'S BILL NO. 30 - CITY PERSONNEL POLICIES AND RULES:

A motion was made by Merkel and seconded by Allen to pass Councillor's Bill No. 30 on first reading amending Westminster Municipal Code sections on the Personnel Management System and Appointive Officers. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 31 - MARTIN LUTHER KING JR. DAY HOLIDAY:

A motion was made by Scott and seconded by Smith to pass Councillor's Bill No. 31 on first reading amending the Westminster Municipal Code sections on holiday leave to add Martin Luther King Jr. Day to the paid holidays authorized by the City. Upon roll call vote, the motion carried unanimously.

RETENTION OF TEMPORARY LEGAL COUNSEL:

A motion was made by Allen and seconded by Atchison to authorize the City Manager to execute the contract for legal services with former Assistant City Attorney Janice Loudon to assist the City Attorney's Office during the absence of Assistant City Attorney Sharon Widener and charge the expense to the City Attorney's Office budget. The motion carried unanimously.

REALLOCATION OF CAPITAL IMPROVEMENT PROJECT FUNDS:

A motion was made by Allen and seconded by Merkel to authorize reallocation of \$400,000 of Westcliff Park's CIP funding to the following five project accounts in the General Capital Improvement Fund: \$25,000 for the Ranch Barn Relocation Project; \$80,000 for Countryside Little League Fields; \$50,000 for the Wolff Run Ballfield Renovation; \$75,000 for the Ice Centre project management, and \$160,000 for the Club House and Maintenance Building at the Heritage Golf Course. Also, authorize the City Manager to award the contract to the Jefferson County Construction Management Department in the amount of \$68,000 plus a \$7,000 contingency to professionally manage the remainder of the Ice Centre design/build contract based on a finding that it is in the City's best interest to have such services rendered. The motion carried unanimously.

ORDINANCE NO. 2602 - GOLF COURSE BOND PROCEEDS APPROPRIATION:

A motion was made by Merkel and seconded by Allen to adopt Councillor's Bill No. 32 as an emergency ordinance to appropriate \$6,300,000 bond proceeds for the Heritage Golf Course at Westmoor, and to transfer \$501,750 loan funds from General Reserve to the Golf Course Activity Enterprise Reserve and appropriate accordingly, and lastly to unappropriate the POST Bond proceeds and transfer them back to the Capital Projects Fund. Upon roll call vote, the motion carried unanimously.

GOLF COURSE PROJECT FUNDS TRANSFER:

A motion was made by Allen and seconded by Merkel to authorize the transfer of \$202,953 from Unauthorized Project Account in the Golf Course Project Fund to the Construction Account. The motion carried unanimously.

WESTMINSTER CONFERENCE CENTER LEASE AGREEMENT:

A motion was made by Atchison and seconded by Allen to Table the Westminster Conference Center Lease Agreement until a future date. The motion carried unanimously.

CITIZEN COMMUNICATION:

John Englebrecht, 4860 West 112th Circle, and Don McKinley, 5060 West 102nd Avenue, who have been running a business from 5431 West 103rd Avenue, addressed Council concerning the City's Home Occupation requirements and restrictions. The Mayor directed Staff to schedule this item for a Study Session in August and advise Mr. Englebrecht and Mr. McKinley of the Study Session date so they can attend.

MISCELLANEOUS BUSINESS:

Council reviewed the Quarterly Insurance Report and the Financial Report for June, 1998.

The Mayor stated there would be an Executive Session regarding a Hotel Business Assistance Package, two personnel matters, a proposed Lawsuit Settlement effort and an update on the Westminster Mall.

ADJOURNMENT:

The meeting was adjourned at 8:40 P.M.

ATTEST:

Mayor

City Clerk

Date: July 27, 1998
Subject: COSTCO - 7th Amended PDP for Lake Arbor Industrial Park
Prepared by: Teresa L. Hamilton, Planner

Introduction

The owner, Costco Wholesale, is requesting an amendment to the allowable uses for Lot 1, Block 1, Westminster Price Club Subdivision, for the additional use of Gasoline Service Station as an accessory use to a primary retail or wholesale business of not less than 149,000 square feet.

Summary

The owner of the existing Costco wholesale members club, at 6400 West 92nd Avenue, in the Lake Arbor Industrial Park, is requesting a use change so that Costco can pursue alterations to their existing property in order to provide gasoline sales to their membership.

Applicant/Property Owner: Costco Wholesale Inc.

Location: 6400 West 92nd Avenue (Lot 1, Block 1, Westminster Price Club Subdivision), which is the location of the existing Costco business, situated behind the two vacant lots along 92nd Avenue.

Size of site: 13.37 Acres

Description of Proposed Use: The applicant proposes to add gasoline sales to the existing permitted uses for the property. The gasoline sales would be limited as an accessory use to a primary retail or wholesale business of no less than 149,000 square feet. This would allow Costco to pursue an Official Development Plan Amendment for the siting of gasoline sales on their existing developed site.

The two remaining vacant lots adjacent to 92nd Avenue are not under consideration in this land use request, and gasoline sales are not permitted, or being requested for these sites.

Major Issues:

1. Compliance with the Comprehensive Plan.
2. Land Use Impact on future development in the area

Planning Commission Recommendations

The Planning Commission by a vote of five to two approved a motion to recommend to City Council the Seventh Amendment to the Preliminary Development Plan for Lake Arbor Industrial Park Filing No. 2.

The Amendment will permit the construction of a gasoline fueling facility on the Costco property only. The Planning Commissions justification for the recommendation is that the facility will only service Costco customers via a credit card system; that no cash sales will occur on the site; there will be no sales of other products i.e. gum, candy or tobacco from the facility; and that this facility will not function as a service station in the contemporary mode; and that approval of this facility will not impact the uses established for the vacant parcels fronting on W. 92nd Avenue.

The two dissenting Planning Commission members based their vote on their opinion that there was not a need for the facility; the traffic in the parking lot was dangerous in its flow; it was not an appropriate use for the surrounding area; and the belief that approval of the fueling facility would have an impact on the potential uses for the property facing on W. 92nd Avenue.

Staff Recommendation

1. Hold a public hearing.
2. Deny the Seventh Amended Preliminary Development Plan to Lake Arbor Industrial Park Filing No. 2 based on the following findings:

(a) that the addition of gasoline sales does not promote the existing and future development of this property as a District Center, as described in the Westminster Comprehensive Plan; and

(b) that the introduction of gasoline sales is prohibited by the existing 6th Amended Planned Unit Development. If the gasoline sales are permitted this opens the door for the development of Auto Accessory Uses at the adjacent undeveloped pad sites along 92nd Avenue: and

(c) that the introduction of an additional use such as gasoline sales, on an already developed parcel, will result in increased traffic impacts on-site, and may result in a potentially adverse influence on surrounding areas.

Background Information:

The land use request is for gasoline sales as an accessory use to a primary retail or wholesale business of not less than 149,000 square feet pertains to the Costco site only. This does not include the two vacant pad sites located adjacent to Costco along 92nd Avenue.

The Lake Arbor Industrial Park Planned Unit Development includes a wide mix of land uses. The Westminster Comprehensive Land Use Plan indicates the majority of the Planned Unit Development (PUD) as a District Center. Any future development or redevelopment of parcels with this designation are required to comply with this this land use designation, and the Preliminary Development Plan (PDP) modified if necessary.

Discussion of Major Issues

1. Compliance with the Comprehensive plan: The Comprehensive Plan identifies this parcel as a part of District Center. A District Center may have a variety of land uses and gasoline sales are not expressly allowed or prohibited. The focus of a District Center is to promote a variety of uses with an integrated site design oriented towards pedestrian and public places.

Because of this focus, City Staff believes the introduction of gasoline sales at this location would be detrimental to the intended use of this property as a District Center. Attached to this Agenda Memorandum is the description of "District Center" from the Westminster Comprehensive Land Use Plan. Also, there are already three nearby gas stations (Diamond Shamrock, Texaco and Conoco).

2. **Land Use Impact on Future Development:** The existing PDP as it pertains to Costco and the adjacent two lots along 92nd Avenue, prohibits, among other uses: gasoline sales, automotive wash, general repair shop, used motor vehicle parts, and auto accessory uses at the pad areas (referring to the undeveloped lots adjacent to 92nd Avenue). City Staff believes that if gasoline sales were to be permitted for the Costco property, this would have a adverse impact on the ability of the City to continue to prohibit auto accessory uses from occurring on the adjacent vacant properties.

3. **Adverse Impact on Surrounding Areas:** The property fronting on 92nd Avenue is already a developed site. Staff has received numerous proposals for automotive uses on these pad sites. The additional development of gasoline sales on the property will cause an increase in traffic throughout the site; this may result in an adverse influence of traffic impact off-site as well.

4. **Adverse Impact on Parking:** As the entire site is currently developed the addition of gasoline sales will eliminate several existing parking spaces. During weekends and holiday periods, Costco's lot is often very full. If approved, the new use must meet the City's current parking and landscape regulations.

Architectural/Building Materials: This proposed PDP amendment for the Costco site has noted that any future development will follow the City of Westminster Municipal Code, Commercial Guidelines, and Landscape Regulations. If the use is approved, an Official Development Plan (ODP) Amendment to the Costco property will be required to meet the current City standards and regulations.

Public Land Dedication, Parks/Trails: Not applicable to this amendment.

Access and Circulation: General access and circulation within the business/industrial park will be altered with this amendment. A new traffic study will be required to evaluate access and circulation impacts both on and off-site with the Amended ODP, if this use is approved.

Site Design: This amendment would allow for an additional use on a developed site. Future site design would occur with an Official Development Plan amendment to the Costco property and would be required to meet the City's current standards.

Signage: Changes in this regard would be part of an ODP amendment.

However, it is likely that additional signage would be needed.

Service Commitment Category: Any additional service commitments would occur with the ODP, if necessary.

Referral Agency Responses: No referrals were necessary with this request.

Public Comments: There was no public comment from adjacent property owners or the general public.

Surrounding Zoning: Surrounding properties of the Costco site are zoned Planned Unit Development with a variety of light manufacturing, business, commercial and office uses allowed. Gasoline sales (Conoco) occur as part of a separate PDP in an existing retail center which is directly east of this property on 92nd Avenue and Harlan Street.

Historical Information: The existing zoning of this property to Planned Unit Development occurred in February 1981. There are still several vacant lots which have not been developed within this industrial/business park, which the Comprehensive Land Use Plan designated for business park, industrial and retail uses.

Respectfully submitted,

William M. Christopher
City Manager

Attachments

1. District Center definition
2. Vicinity Map

Date: July 27, 1998
Subject: Intergovernmental Agreement re Arapahoe Ridge Elementary School.
Prepared by: John Carpenter, Director of Community Development

Introduction

The City of Westminster has negotiated an Intergovernmental Agreement (IGA) with Adams County School District #12 to facilitate the development of the new Arapahoe Ridge Elementary School at 132nd Avenue and Pecos Street.

Summary

The recommended IGA implements the proposal made by the City to the District last year to attract a new elementary school to the City. Both the City of Westminster and City of Broomfield made proposals to the District, and Westminster's proposal was selected.

The general items and conditions of the IGA are as follows:

The City shall:

- < Pay the District \$232,680 for the seven-acre Wandering View site located at 107th and King Street (funds received on June 19, 1998).
- < Pay the District \$100,000 to upsize the driveway along the eastern edge of the site to a collector street (Pecos Street).
- < Pay the District \$25,000 for the collector street right of way dedication.
- < Pay the District \$100,000 for water and sewer lines extended under the proposed new collector street.
- < Pay the District \$235,000 to upsize the gym for preferential use by the City.
- < Pay the District \$180,000 to improve two acres of the school site for recreational facilities.
- < Purchase land for a future City park site south of the District's property. The estimated cost to purchase three acres is \$90,000.
- < Improve the City park by September 1, 1999, at an estimated cost of \$270,000.
- < Construct a walk path from Umatilla Street to the school site by fall 1999 (cost unknown).
- < Construct the extension of the collector street north to 134th Avenue from 132nd Avenue, if pursued by the City.
- < Construct the extension of the collector street (Pecos Street) south from the District driveway to future street(s) (cost and date unknown - to be part of future housing development or/and City Park development).

< Allow the District to use the park site during school hours at no cost.

The District shall:

< Construct the school and associated school site improvements.

< Upsize the gym to a full court size and add rest rooms (\$235,000 being paid by the City of Westminster, see above).

< Transfer clear title of the Wandering View site to the City of Westminster in exchange for \$232,680 (closing held and deed conveyed)

< Allow the City to use the gym during non-school hours and when not scheduled in advance for school functions.

< Make available the unused portion of the school site north of 132nd Avenue for the expansion of the regional detention area.

< Pay to the City at the time the regional detention area is expanded, \$10,000 for the District's portion of the regional detention area.

Staff Recommendation

Approve the Intergovernmental Agreement for the Development and Use of Real Property and Facilities between the City of Westminster and School District #12, Adams County for Arapahoe Ridge Elementary School #25, and authorize the expenditure of funds from the appropriate City funds to fulfill the City's obligations under the intergovernmental agreement.

Background Information

In 1997, School District #12 solicited proposals from the City of Broomfield and City of Westminster for the construction of an elementary school to be located west of I-25. The City of Westminster submitted proposals to facilitate the construction of an elementary school either near the Ranch Subdivision or Amherst Subdivision. These proposals were reviewed and approved in advance with City Council and contained several forms of financial assistance for the project.

The School Board selected the Amherst site as the location of the new school based on Westminster's proposal. The recommended IGA incorporates the provisions of the proposal made by the City to the District. The school, subsequently named Arapahoe Ridge Elementary, is scheduled to open next month with the start of the new school year.

Respectfully submitted,

William M. Christopher
City Manager

Attachment

Date: July 27, 1998

Subject: Councillor's Bill No. re City Personnel Policies and Rules

Prepared by: Debbie Mitchell, Human Resources Manager

Introduction

City Council action is requested to pass the attached Councillor's Bill on first reading which amends certain sections of the City Code related to the Personnel Management Program and Appointive Officers.

Summary

The proposed Councillor's Bill which City Council is being asked to approve on first reading will implement a number of changes involving personnel management provisions contained in the Westminster Municipal Code, Title 1, Chapter 24; additional changes in Title 1, Chapter 13, modifying the definition of Administrative Officers; and an update to the Surety Bonds section reflecting changes made to the City Charter Section (5.10) approved by the voters on November 7, 1995. The proposed amendments to the Personnel Rules Ordinance reflect the input obtained over many months of discussion from the City's Management Team, the Employee Advisory Committee, the Personnel Board, the Human Resources Division, and the City Attorney's Office.

Recommended changes are primarily intended to clarify unclear passages in the Ordinance, reflect standard practices, and update or finetune sections that have become outdated. The substantive changes recommended are intended to improve procedures and practices or better define or delineate a policy. City Staff believes that the recommended changes will provide for a document that is more responsive to today's organizational needs and will be more readable and understandable to both supervisors and employees.

Recommendation

Pass Councillor's Bill No. on first reading amending Westminster Municipal Code sections on the Personnel Management System and Appointive Officers.

Background Information

Although changes have been made periodically to update the Personnel Management Chapter of the Westminster Municipal Code, a comprehensive review and update of the entire document has not been accomplished since October, 1994. The Human Resources Division has collected input for potential changes to the Personnel Policies and Rules from City employees, managers, and the City Attorney's Office over the past several years. Meetings were held with each of these groups in 1998 to review proposed changes to the Personnel Policies and Rules. Many of the proposed changes are addressed in the Westminster Municipal Code Personnel Management section and must be revised by ordinance prior to similar changes being made administratively to the City Personnel Policies and Rules.

As City Council will see upon review of the attachments, the Westminster Municipal Code Title 1, Chapter 24 changes address the following policy areas:

- > Several definition changes and clarification with regard to the classification system;
- > Deletion of titles of Division Manager positions, eliminating outdated lists within the Ordinance;
- > Creation of regular part-time appointments for part-time benefited authorized positions, articulating probationary periods identical to full-time benefited classified positions;
- > Expansion of the Lateral Transfer provisions;
- > Addition of "stepchild" to the definition of Relative;
- > Provision for employees to supplement Short Term Disability Pay with general leave usage;
- > Creation of a Short Term Disability category of appointment to allow for recruitment of a new employee if it is certain that the employee on Short Term Disability will not return to work;
- > Replacement of the Sexual Harassment section with a Workplace Harassment policy;
- > Addition of "dishonesty" and "discrimination or harassment" to the reasons for dismissal or disciplinary action;
- > Clarification of demotion and dismissal procedures for various categories of appointment;
- > Revisions to the timeline for grievance submittals and responses; and
- > Clarification throughout the Ordinance that unclassified employees are "at-will."

Recommended changes to the Westminster Municipal Code Title 1, Chapter 13 include the two areas listed below:

- > Revision of the Administrative Officers definition, eliminating the need for updates when title changes are made; and
- > Update of 1-13-6 SURETY BONDS to reflect changes made to the City Charter 5.10 authorized by Westminster voters on November 7, 1995, allowing insurance coverage instead of a surety bond.

Staff believes that the changes described above provide for a personnel system that is more responsive to the needs of today's organization.

Respectfully submitted,

William M. Christopher
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. _____

SERIES OF 1998

INTRODUCED BY COUNCILLORS

A BILL
FOR AN ORDINANCE AMENDING PERSONNEL POLICIES AND RULES AND APPOINTIVE OFFICERS

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Title 1, Chapter 24 of the Westminster Municipal Code is hereby amended as follows:

1-24-1: DEFINITIONS: For the purposes of this chapter, the following words and terms, unless the context clearly states otherwise, shall have the meaning indicated below. (2248)

Appeal: The action taken by an employee in order to have the employee's suspension, demotion or dismissal reviewed by the Personnel Board and the City Manager.

Appointing Authority: A Division Manager or higher level position who has the authority to make original appointments or recommend such appointments.

Board: The Personnel Board.

Charter: The home rule charter of the City of Westminster.

City Code: The City of Westminster Municipal Code.

Class: A position or group of positions, which are sufficiently similar with respect to skill, effort and responsibility, that they may be properly designated by the same title, and equitably compensated from the same range of pay under substantially the same employment conditions.

Compensatory Time: Leave hours earned for hours worked beyond the scheduled work day, scheduled work period or beyond the work period designated for Fair Labor Standards Act compliance.

Continuous Municipal Service: Uninterrupted length of service in a position or positions designated as receiving general leave, medical and dental insurance and other fringe benefits.

Corrective Action: The verbal counseling or verbal reprimand of an employee for the purpose of communicating deficiencies in the employee's conduct or performance.

Council: The City Council of Westminster, Colorado.

Demotion: The movement of an employee from a position in one class to a position in another class, having a lower maximum salary rate than the original class, or the movement of an employee to a lower salary in the same class AND PAY RANGE.

Department Head: An individual who is regularly responsible for directing and managing the overall operations of a City department as authorized by the Charter or City Code, and who has been designated as a department head by the City Manager. The City Manager and the City Attorney shall assume duties assigned to department heads in this Chapter for carrying out those actions involving positions which report directly to them.

Disciplinary Action: A written reprimand, suspension, demotion, dismissal, or any other documented action taken in a disciplinary manner involving an employee, but not including a corrective action.

Division Manager: An individual appointed by the department head to manage a work group designated as a division within the department. For purposes of this Chapter, the City Manager, department head or the City Attorney shall assume the responsibilities assigned to division manager when the employee in question reports to a department head, the City Attorney, or the City Manager. ~~Positions designated as division managers are: Employee Services Manager, Risk Manager, City Clerk, Court Administrator, Building Maintenance Superintendent, Fleet Manager, Purchasing/Telecommunications Officer, Chief Accountant, Data Processing Manager, Sales Tax Administrator, Utility Billing Manager, Police Captain, Fire Marshal, Battalion Chief, Training Chief, Planning Manager, City Engineer, Chief Building Official, Community Development Programs Administrator, Economic Development Coordinator, Open Space Coordinator, Water Resources Manager, Street Operations Manager, Utilities Manager, Park Services Manager, Recreation Facilities Manager, Recreation Program Manager, Design/Development Manager, and Library Services Manager.~~

Employee: A person who receives monetary compensation from the City in return for present services or work performed on a noncontractual basis, or who is on a leave of absence without pay which has been approved by the ~~Employee Services~~ HUMAN RESOURCES Manager. This definition shall include all full-time, part-time, temporary, provisional, seasonal, instructor, INDEXED, INTERN, SPECIAL PROJECT, SHORT TERM DISABILITY, and emergency employees. This definition shall exclude elected municipal officials, volunteer firefighters, all other volunteer personnel, and retirees from the City.

Employee--Classified: All probationary, part-time, temporary, provisional, emergency and regular employees with the exception of those specifically excluded by the Charter or the City Code.

EMPLOYEE--INDEXED: AN EMPLOYEE APPOINTED TO SERVE FOR A LIMITED PERIOD OF TIME INDEXED TO A PARTICULAR WORKLOAD LEVEL BELOW WHICH THE EMPLOYEE POSITION SHALL BE TERMINATED.

EMPLOYEE--INSTRUCTOR: AN EMPLOYEE WHO HAS RECEIVED AN APPOINTMENT FOR SPECIFIC INSTRUCTIONAL ACTIVITIES CONDUCTED ON BEHALF OF THE CITY. INSTRUCTOR'S WORK IS PART-TIME, OCCASIONAL WORK AND THERE IS NO TIME LIMIT TO THE AMOUNT OF TIME AN EMPLOYEE MAY HOLD A POSITION IN THIS CAPACITY.

EMPLOYEE--INTERN: AN EMPLOYEE APPOINTED TO A POSITION IN AN INTERN CAPACITY FOR A PERIOD OF UP TO TWO YEARS.

Employee--Part-Time REGULAR: : An employee who has been appointed to a part-time authorized CLASSIFIED position to work ~~no more than thirty two (32)~~ LESS THAN FORTY (40) hours during a seven day period ON A REGULAR BASIS, AND WHO HAS SUCCESSFULLY COMPLETED THE INITIAL PROBATIONARY PERIOD.

Employee--Probationary: An individual who has been appointed to an authorized position in the municipal service, but who has not yet completed the probationary period.

Employee--Regular: An employee who has been appointed to a full-time authorized classified position in the municipal service, and who has successfully completed the initial probationary period.

Employee - Seasonal/Instructor: An employee who has received an appointment for a specified period of time, normally on a seasonal basis or for a specific activity FOR A DESIGNATED SEASON.

EMPLOYEE--SHORT TERM DISABILITY: AN EMPLOYEE WHO IS APPOINTED TO THIS CATEGORY IS RECEIVING SHORT TERM DISABILITY PAY AND HAS AN AUTHORIZED MEDICAL PROFESSIONAL CERTIFICATION THAT THEY ARE UNABLE TO RETURN TO WORK.

EMPLOYEE--SPECIAL PROJECTS: AN EMPLOYEE WHO HAS RECEIVED A TEMPORARY APPOINTMENT FOR A SPECIFIED PROJECT PERIOD OF TIME NOT TO EXCEED ONE YEAR.

Employee--Temporary: An employee who has received an appointment for a period of time, not to exceed one year who is not serving in a temporary benefitted position.

~~Employee - Temporary Benefitted: An employee appointed for a limited period of time to serve as an intern or indexed to a particular workload level below which the employee shall be terminated.~~

Employee - Unclassified: A full-time or part-time employee holding a position which is specifically designated as unclassified in the City's pay plan. EMPLOYEES IN THIS CATEGORY ARE AT-WILL EMPLOYEES.

Examination: A written, oral, physical, or skill test, or a combination of these tests specifically used to assist in evaluating an applicant's qualifications for a particular position, including a promotional examination in which admission to the examination is limited to employees who meet the qualifications set forth in the job specifications.

Fringe Benefit: Any form of compensation in addition to the base salary as adopted by Council. General leave, health and life insurance, uniforms, cleaning allowance, educational reimbursement, safety shoes, and other benefits shall be considered as fringe benefits.

Grievance: A disagreement regarding the meaning, interpretation, application, or alleged violation of this Chapter, policies and rules adopted hereunder, departmental policies and rules or any other administrative policies of the City.

Holiday: The period between 12:01 a.m. and the following midnight of the date on which a designated holiday falls.

Job Description: The written description of a class, including the title, a statement of the nature of the work, examples of duties and responsibilities, and the requirements that are necessary and/or desirable for the satisfactory performance of the duties of the class.

Job Title: The title assigned to any particular class, and used for reference to that class.

~~Lateral Transfer: The movement of an employee from one position to another position of the same class having an overlapping pay range, involving the performance of similar duties, and requiring essentially the same basic qualifications FOR WHICH THE EMPLOYEE IS QUALIFIED.~~

Layoff: The separation of an employee from the municipal service, which has been made necessary by lack of work or funds or other reasons not related to fault, delinquency, or misconduct on the part of the employee. This term shall include those separations initially expected to be temporary as well as those resulting from the elimination of a position.

Longevity Pay: That portion of a classified employee's base pay that is provided for uninterrupted length of service according to the formula established in this Chapter.

Original Appointment: The appointment of a person to a position in the municipal service.

Position: A group of current duties and responsibilities requiring the full-time, temporary, or part-time services of one employee.

Probationary Period: A working test period following an original appointment, a promotion, a lateral transfer or a demotion during which an ~~regular~~ employee is required to demonstrate the ability to satisfactorily perform and learn in the assigned position.

Promotion: The movement of an employee from a position of one class to a position of another class having greater or increased responsibilities and pay.

Reclassification: The official determination by the City Manager that a position be assigned to a class different from the one to which it was previously assigned.

Reemployment List: A list of persons who have been regular employees in a particular class, and who are entitled to have their names certified for appointment to a position in that class.

Relative: The employee's spouse, child, STEPCHILD, grandchild, parent, grandparent, sibling, half-sibling, or any of these relationships arising through adoption.

Separation: The voluntary or involuntary severing of an employee's employment with the City.

Supervisor: Any individual having authority, in the interest of the City, to hire, transfer, suspend, lay off, promote, discharge, assign, reward, or discipline other employees, or having responsibility to direct them, or to adjust their grievances, or effectively having the authority to recommend such action, if the exercise of such authority is not merely routine or clerical in nature, but requires the use of independent judgment.

Suspension: The temporary separation of an employee from performing his or her regularly assigned duties with or without pay for disciplinary reasons, or pending the outcome of an investigation involving the employee.

Vacation Leave: General leave that is taken from normal working hours for vacation or leisure purposes.

1-24-2: GENERAL PROVISIONS: (2248)

(A) Intent of Chapter: It is the intent of the City Council that this Chapter shall provide for a professional and impartial personnel management system in accordance with the provisions of the City Charter. This Chapter supersedes any previously distributed ordinances, resolutions, rules, policies and employee handbooks. The language of this Chapter is not intended to create, nor is it to be construed to constitute, a contract between the City of Westminster and any one or all of its employees. Employees have the right to terminate employment at any time for any reason and the City retains the right to terminate employment at any time for the reasons specified in this Chapter.

(B) Persons Covered by Chapter: This Chapter applies to all positions and employees in the civil service system as instituted by the City Charter. In addition, unless specifically noted otherwise, it shall also apply to unclassified and other categories of municipal employment where not inconsistent with provisions of the Charter or other ordinances.

(C) Administrative Regulations: The City Manager shall have the authority to establish such policies and rules deemed necessary for the efficient and orderly administration of the personnel management system. Such authority may be delegated to department heads, division managers and supervisors as deemed appropriate by the City Manager. All such policies and rules must be in writing and be consistent and compatible with this Chapter and the Charter.

(D) Nondiscrimination: No action affecting the employment status of any employee or applicant for a position in the municipal service, including examination, appointment, promotion, demotion, suspension, or removal shall be taken or withheld by reason of race, color, sex, national origin, political, or religious affiliation, age, disability or Vietnam veteran status.

1-24-3: ADMINISTRATION: (2248)

(A) City Council: The City Council is the ultimate personnel policymaking authority for the City of Westminster.

(B) Personnel Board: The Board shall consist of five (5) members and two alternates all of whom are Westminster citizens appointed by Council for terms not to exceed two years. The Board shall serve as an advisory body to the City Manager and ~~Employee Services~~ HUMAN RESOURCES Manager on matters pertaining to personnel management. The Board shall also have the authority and responsibility to hear and make findings and a decision when an employee files an appeal in accordance with the provisions set out in this Chapter.

(C) City Manager: The City Manager shall be responsible for the effective administration of the provisions of this Chapter, for advising Council and the Board of appropriate improvements, and recommending changes regarding personnel policies to the City Code and Charter. The City Manager may designate individuals to carry out these administrative functions.

(D) ~~Employee Services~~ HUMAN RESOURCES Manager: The ~~Employee Services~~ HUMAN RESOURCES Manager shall be the City Manager's authorized representative to administer and to implement the City's personnel management program. The ~~Employee Services~~ HUMAN RESOURCES Manager shall be responsible for the following:

1. Preparing and recommending position classification and pay plans, and directing the continuous administration of these plans.
2. Developing and administering such recruiting, examination and selection programs as may be necessary to obtain qualified applicants for municipal service.
3. Certifying appointments, promotions, demotions, discipline and other personnel actions directed toward employees.
4. Establishing and maintaining personnel records and an employee roster.
5. Exercising leadership in the development of effective personnel administration within the various City departments, and encouraging development, of programs for the improvement of employee effectiveness, efficiency, job knowledge and training, in cooperation with department and division management and others.
6. Administering the employee grievance procedure.
7. Recommending revisions or amendments to the City Code as necessary for the improvement of the personnel management program.
8. Administratively interpreting and clarifying the provisions of this Chapter, and any policies and rules adopted pursuant to this Chapter when questions on the meaning and intent arise.
9. Monitoring new practices, techniques, theories and philosophies in the field of personnel management.

(E) Classification Plan: A classification plan resulting from an analysis and evaluation of all positions in the municipal service shall be prepared annually and maintained by the ~~Employee Services~~ HUMAN RESOURCES Manager. It shall consist of a listing which groups all positions in classes, based on the skill, effort, responsibility, and qualifications that are necessary or desirable for the satisfactory performance of the duties of the class. The classification plan shall include titles and written job descriptions for all the various classes of positions. Each class shall include all positions in the municipal service which are sufficiently similar with respect to duties, responsibilities, and authority, so that the same descriptive title may be used to designate each position allocated to the class. Council approval of the job titles and pay ranges in the pay plan shall constitute approval of the classification plan.

(F) Announcements: All authorized, benefited position openings in the municipal service WITH THE EXCEPTION OF THOSE NOTED IN THIS PARAGRAPH shall be advertised by posting announcements on bulletin boards and in such places and through such media as the ~~Employee Services~~ HUMAN RESOURCES Manager deems advisable. The announcement shall specify the title, salary range, basic duties of the class, a summary of qualifications, place and manner of making applications, and any other pertinent information. It shall not be necessary to advertise position openings that are to be filled through lateral transfer, reclassifications, or demotion.

(G) Selection: The City reserves the right to limit the number of applicants examined for any full-time or part-time classified position to a number that is practical in terms of physical facilities and staffing available to administer examinations, as determined by the ~~Employee Services~~ HUMAN RESOURCES Manager. The methods to determine which applicants are best to examine shall be accomplished through comparative evaluation of applications.

(H) Admission May be Restricted to City Employees: Admittance to position examinations may be limited to employees in the municipal service on a department or City basis when the ~~Employee Services~~ HUMAN RESOURCES Manager, after conferring with the division manager concerned, determines that there are a sufficient number of qualified candidates within the existing employee workforce.

(I) Employment of Relatives: 1. Applicants or existing employees who are relatives will be denied placement in positions where:

- a. One relative would directly exercise supervisory, appointment, dismissal authority, or disciplinary action over the other relative or domestic partner; or

b. One relative would audit, verify, receive, or be entrusted with monies received or handled by the other relative or domestic partner; or

c. One relative would have direct access to the employer's confidential information, including payroll and personnel records.

D. ONE RELATIVE'S POSITION IN THE CITY WOULD POTENTIALLY REPRESENT A CONFLICT OF INTEREST AS A RESULT OF PERSONAL, FINANCIAL OR BUSINESS CONNECTIONS OUTSIDE THE ORGANIZATION.

2. In the event a separation or transfer is necessary to achieve compliance with this section, the employees affected will be given the opportunity to determine first between themselves which one will be separated or transferred should a vacancy exist for which the person opting for transfer is qualified. In the event the relatives do not make such a choice in writing within ~~five (5)~~ SEVEN (7) CALENDAR days of the ~~Employee Services Division~~ HUMAN RESOURCE MANAGER'S request to transfer or terminate, the ~~Employee Services~~ HUMAN RESOURCES Manager shall choose which employee is to be separated or transferred based on past job performance and the City's needs.

(J) Disqualification from Consideration: The ~~Employee Services~~ HUMAN RESOURCES Manager may automatically remove from consideration the application of an applicant who the ~~Employee Services~~ HUMAN RESOURCES Manager determines:

1. Is found to lack the minimum qualifications described in the job description;
2. Has used, or attempted to use, political influence or bribery to secure advantage in consideration for appointment;
3. Has made a false or misleading statement of any material fact or has practiced, or attempted to practice, deception or fraud in the application or examination; or
4. Has otherwise violated provisions of the Charter or the City Code.

(K) Unclassified Positions: Recruitment, selection and appointment for unclassified positions shall be based on merit as determined by such factors as experience, education and past performance. Selection procedures for each individual position will be established by the ~~Employee Services~~ HUMAN RESOURCES Manager and approved by the affected department head.

(L) Reemployment Lists: Regular employees who are separated from the municipal service through layoff or disability and whom the ~~Employee Services~~ HUMAN RESOURCES Manager deems to have a satisfactory employment record shall have the following reemployment rights, subject to testing to ensure that the employee is qualified for the position:

1. Laid off employees may be placed on an appropriate reemployment list if such a list is established at the time of lay off. Such list shall expire one year from the date of separation from municipal service.

2. Employees who are laid off as a result of a disability shall be placed on a reemployment list for three years and shall be reemployed if determined to be fit for duty pursuant to medical advice obtained by the City, if a position is available, and if the former employee is willing and qualified to perform the duties of the position.

(M) Categories of Appointment: All appointments by an appointing authority shall be made into one of the following categories: probationary, part-time REGULAR, temporary, TEMPORARY BENEFITTED INDEXED, SPECIAL PROJECTS, seasonal, instructor, provisional, emergency, regular and unclassified. A description of these follows:

1. Probationary: All classified employees new to a regular OR PART-TIME position shall be considered probationary until they have up to one year of satisfactory service in their position or as otherwise provided in rules promulgated by the City Manager. Probationary employees are subject to termination after a hearing at any time in accordance with the procedures specified by the City Manager.

2. Part-time REGULAR: AN EMPLOYEE WHO HAS BEEN APPOINTED TO A PART-TIME AUTHORIZED, CLASSIFIED POSITION TO WORK LESS THAN FORTY (40) HOURS DURING A SEVEN DAY PERIOD ON A REGULAR BASIS. Part-time employees shall be paid at an hourly rate. Employees in positions authorized at twenty (20) or more hours per week are eligible for City fringe benefits and some benefits may be prorated. AFTER A PART-TIME CLASSIFIED EMPLOYEE HAS SUCCESSFULLY COMPLETED THE PROBATIONARY PERIOD, THE EMPLOYEE SHALL RECEIVE A REGULAR PART-TIME APPOINTMENT WITH THE CITY. Employees of this category are subject to termination FOR CAUSE PURSUANT TO ~~at any time for reasons specified in this Chapter.~~

3. Special Project: Employees in this category do not receive benefits except that the City Manager may determine that medical and dental benefits be provided. Special project employees are subject to termination by the department head or the City Attorney at any time without cause. A special project employee may be terminated due to cessation of funds for the project for which the employee was hired.

4. Temporary: Employees in this category are appointed to other than a temporary benefitted position for a temporary period of time not to exceed one year. Temporary employees shall be paid at an hourly rate and are not eligible for any City fringe benefits. Employees in this category are subject to termination by the Department Head at any time without cause. After one year, a temporary employee shall be terminated.

5. Temporary Benefitted: Employees in this category serve as interns or are indexed to a predetermined workload. When the workload falls below the indexed level, the employee must be terminated subject to such notice provisions as may be established by the City Manager. Medical and dental insurance shall be provided and such other benefits as may be granted in the discretion of the City Manager. Temporary benefitted employees are subject to termination by the Department Head at any time without cause.

6. Seasonal/Instructor: Employees in this category are those appointed for a specified period of time, normally ~~on a DESIGNATED seasonal basis or for a specific activity.~~ SEASONAL CLASSIFICATIONS ARE LISTED IN THE SEASONAL SECTION OF THE ANNUAL PAY PLAN. ~~Seasonal/Instructor~~ employees shall be paid at an hourly rate and are not eligible for any City fringe benefits. Employees in this category are subject to termination by the department head or division manager AT ANY TIME WITHOUT CAUSE. SEASONAL EMPLOYEES WILL BE TERMINATED AT THE END OF EACH SEASON.

7. INSTRUCTOR: EMPLOYEES IN THIS CATEGORY ARE THOSE APPOINTED TO PROVIDE INSTRUCTION IN CITY PROGRAMS ON A PERIODIC OR OCCASIONAL BASIS. EMPLOYEES IN THIS CATEGORY SHALL BE PAID ON AN HOURLY BASIS AND ARE NOT ELIGIBLE FOR ANY CITY FRINGE BENEFITS. EMPLOYEES IN THIS CATEGORY ARE SUBJECT TO TERMINATION BY THE DIVISION MANAGER AT ANY TIME WITHOUT CAUSE.

78. Provisional: A department head or division manager may make a provisional appointment when a critical position vacancy occurs and, due to the length of time required to fill it or because of an extended leave of absence, it becomes necessary to appoint a replacement on a "provisional" basis. An appointment shall be considered provisional if the individual serving in the temporarily vacant position having a higher pay classification is required to do so for a period of more than 80 consecutive work hours. Should a temporary appointment, originally intended not to exceed 80 consecutive hours, extend beyond 80 hours, payment for the provisional status shall be made retroactively. An employee serving in provisional status for less than 80 hours shall not receive provisional pay. Provisional pay for classified employees serving in classified positions on a provisional basis shall be ~~step A~~ MOVED TO THE FIRST STEP of the range of the vacant position or a 5% increase over current salary, whichever is higher as long as the 5% increase does not exceed the ~~E~~ LAST step of the range for the vacancy. Classified and unclassified employees serving on a provisional basis in an unclassified position shall receive the level of compensation determined by the ~~Employee Services~~ HUMAN RESOURCES Manager. The employee may be allowed by the ~~Employee Services~~ HUMAN RESOURCES Manager to credit the time served in a provisional status toward completion of the probationary period, should a probationary appointment to the position occur immediately subsequent to the provisional appointment.

89. Emergency: In an emergency, to prevent undue delay or serious interferences with the provision of necessary public services, a division manager may make emergency appointments for a period not to exceed ninety (90) calendar days. Successive emergency appointments involving the same employee shall not be made. Emergency appointments may

be made without regard to the formal selection provisions of this Chapter. Approval of the ~~Employee Services~~ HUMAN RESOURCES Manager must be obtained prior to an emergency appointment. Emergency appointed employees are not eligible for any City fringe benefits.

910. Regular: After a full-time classified employee has successfully completed the probationary period, the employee shall receive a regular appointment with the City. Regular classified employees can only be terminated pursuant to the provisions of this Chapter.

101. Unclassified Service: Unclassified positions are designated into management/administrative and secretarial. Unclassified positions receive salaries within the parameters of the existing pay plan as determined by department heads. Individuals holding unclassified positions are entitled to the fringe benefits granted to classified employees as well as other benefits approved by City Council. Unclassified employees shall be subject to termination at the discretion of the City Manager, or with regard to the City Attorney's Office, the City Attorney. Such employees who are involuntarily separated shall be eligible for up to thirty (30) days severance pay as determined by length of service and position as follows:

(a) Department Heads, City Clerk and Executive Secretary to the City Manager: Those employees employed in unclassified service more than six (6) months, but less than two (2) consecutive years shall be granted full pay and benefits for fifteen (15) working days following involuntary separation. Employees with two (2) years service in these classifications, but less than five (5) years service, shall receive twenty (20) working days of full pay and benefits. Employees with service of five (5) or more years shall receive thirty (30) working days of pay and benefits upon involuntary separation.

(b) All Other Unclassified Employees: Those employees employed more than six (6) months, but less than two (2) years in these classifications shall be granted full pay and benefits for ten (10) working days following involuntary separation. After two (2) years, but less than five (5) years of unclassified service, the employee shall receive fifteen (15) working days of full pay and benefits as severance pay. Employees with five (5) or more years of unclassified service shall receive twenty (20) working days of pay and benefits upon involuntary separation.

11. SHORT TERM DISABILITY. AN EMPLOYEE WHO IS APPOINTED TO THIS CATEGORY IS RECEIVING SHORT TERM DISABILITY PAY AND HAS AN AUTHORIZED MEDICAL PROFESSIONAL CERTIFICATION THAT THEY ARE UNABLE TO RETURN TO WORK.

(N) Layoffs. In the event of a layoff, the criteria for determining which employees shall be laid off shall be based on the employees' performance in their positions and not on seniority. All other criteria being equal, seniority may be used as determining factor. The names of regular and part-time employees who have been laid off shall be placed on an appropriate reemployment list for one year. In addition, at the discretion of the City Manager, based on available resources, the City may provide to employees who are to be laid off an extension of medical and dental insurance for a period of up to six months from the date of layoff, assistance in finding another position within the city, out-placement counseling, and counseling and assistance with transition during the period prior to layoff.

1-24-4: COMPENSATION AND BENEFITS: (2248)

(A) Preparation, Adoption and Amendment of Pay Plan: The ~~Employee Services~~ HUMAN RESOURCES Manager, as the representative of the City Manager, shall be responsible for the development and maintenance of a Citywide compensation plan, which shall consist of minimum and maximum rates of pay for each class or position and may include longevity pay, and any such intermediate rates as deemed necessary. Salary ranges shall be related directly to the position classification plan, and shall be determined with due regard to range of pay for other classes, requisite qualifications, prevailing rate of pay for like work in other public and private organizations, recruiting experience, working conditions, suggestions of department heads, maintenance of other benefits received by employees, the financial policy of the City, and other economic considerations. In addition, the ~~Employee Services~~ HUMAN RESOURCES Manager shall develop, maintain and update a set of salary complements which shall be designed to assist in attracting and retaining qualified employees. The pay plan shall be submitted to Council by the City Manager for adoption on an annual basis in order to maintain the competitive nature of the City's personnel program.

(B) Longevity Pay: Longevity pay shall be included in determining classified employees' base pay. Regular and part-time classified employees may commence receiving longevity pay at the completion of their third year of continuous municipal

service at the rate of 2% of the pay listed for their classification in the pay plan. The longevity component of base pay shall increase one-half (1/2) of 1% each succeeding year to a maximum of 10% which is reached at the completion of 19 years of continuous municipal service. When provided, longevity pay shall be considered as part of the City's overall compensation package during the development of pay plan recommendations for City Council.

(C) General Leave Accrual Rate:

1. The following schedule shall be used to calculate the amount of general leave accruing to each employee except firefighters and emergency medical personnel working an average of one hundred twelve (112) hours in a two week period, for years of continuous municipal service:

<u>Years of Continuous Municipal Service</u>	<u>Accrual Rate Per Pay Period</u>	<u>Accrual Rate Per Year</u>
Less than 5	8.59 hours	224 hours
5 - 10	9.51 hours	248 hours
10 - 15	10.43 hours	272 hours
15 - 20	11.35 hours	296 hours
Over 20	12.27 hours	320 hours

2. The following schedule shall be used to calculate the amount of general leave accruing to each firefighter or emergency medical personnel working an average of one hundred twelve (112) hours in a two-week period:

<u>Years of Continuous Municipal Service</u>	<u>Accrual Rate Per Pay Period</u>	<u>Accrual Rate Per Year</u>
Less than 5	12.04 hours	314 hours
5 - 10	13.31 hours	347 hours
10 - 15	14.61 hours	381 hours
15 - 20	15.88 hours	414 hours
Over 20	17.18 hours	448 hours

(D) General Leave for Holidays: Employees who do not normally work on scheduled holidays shall have each holiday charged automatically against General Leave unless the employee actually works the holiday.

Holidays that shall automatically be charged against General Leave of all employees, except those normally subject to work holidays, shall be as follows:

1. The first of January (New Year's Day)
2. The third Monday of February (Presidents' Day)
3. The last Monday of May (Memorial Day)
4. The Fourth of July (Independence Day)
5. The first Monday of September (Labor Day)
- 6-7. The fourth Thursday and immediate following Friday of November (Thanksgiving)
78. The 25th of December (Christmas)

In addition to the eight (8) scheduled holidays, all full-time employees shall receive ~~sixteen (16)~~ TWENTY FOUR (24) hours as a floating holiday. Firefighting and emergency medical personnel will receive ~~22.5~~ 33.6 hours for their floating holiday. Part-time employees who receive benefits shall receive a prorated number of floating holiday leave hours based on the number of hours they are authorized to work per work period. Any special holidays that may be proclaimed during the year by the Mayor and City Council shall not be charged to general leave, but shall be in addition to general leave.

(E) Pay for Holiday Work: An employee who works a schedule that does not take into consideration City holidays (e.g., police, fire, and plant operations personnel including those employees responding to emergency situations, such as snow removal and water main breaks) shall be eligible to receive compensation for both the hours worked and the general leave hours for the holiday. Employees whose schedules do not take into consideration any City holidays may be allowed to receive pay for the floating holiday at any time during the year. Employees who are not on the combined vacation/holiday leave schedule are eligible to receive pay for hours worked on the holiday and the general leave for that holiday. If an

employee's shift is longer than eight hours, the first eight hours of additional pay shall be recorded as holiday leave and the remainder recorded as vacation leave. Employees who are on the combined vacation/holiday leave schedule will have the total leave hours charged to their combined vacation/holiday leave.

(F) Major Illness Leave: Except for firefighters and emergency medical personnel required to work an average of one hundred twelve (112) hours in a two (2) week period, any major illness, psychological disorder, medical operation, pregnancy or off-the-job injury that necessitates employee absence in excess of eighty (80) working hours may be charged to major illness Leave. Only the amount of leave that is in excess of eighty (80) hours may be charged against major illness leave to a maximum of four hundred eighty (480) hours in any one twelve (12) month period. For firefighters and emergency medical personnel required to work an average of one hundred and twelve hours (112) in a two (2) week period, any major illness, medical operation, pregnancy or off-the-job injury that necessitates employee absence in excess of one hundred twelve (112) working hours may be charged to major illness leave; only the amount of leave that is in excess of one hundred twelve (112) hours may be charged against major illness leave to a maximum of six hundred seventy-two (672) hours in any one twelve (12) month period. General leave shall accrue during the time in which an employee is on major illness leave. If a holiday occurs during the time an employee is under approved major illness leave, the hours will be charged to major illness leave and not general leave.

(G) Payment for Unused General Leave: Upon separation, regular and part-time employees shall receive full payment for general leave that could have been used for vacation according to the maximum allowable vacation schedule for the calendar year in which the employee terminates minus the leave hours that have already been used for vacation, and receive one-half (1/2) payment for any additional accumulated general leave hours. Probationary employees in the first year of municipal service are eligible to receive only one-half (1/2) pay for all unused general leave hours. If the separation is grieved and appealed to the Board, the employee has the option of requesting that payment be withheld pending the Board's decision.

(H) Death of Employee: Upon the death of an employee, all accrued salary and general leave will be paid at the established rate directly to the beneficiary designated on the employee's major City paid life insurance designation forms or as otherwise specified in writing by the employee.

(I) Injury Leave: All employees receiving fringe benefits shall be granted leave with pay in the event of an injury incurred on the job which renders them incapable of performing their normal duties unless it can be shown that said injury occurred as the result of the carelessness or negligence of the injured employee. Injury leave shall be provided for a period not to exceed 480 hours per injury. Firefighters and emergency medical personnel who work on an average of 112 hours in a two-week period are granted 672 hours of injury leave per injury. Injury leave ~~shall~~ MAY terminate prior to the end of 480/672 hours if any of the following occurs:

1. A ruling is made of permanent disability.
2. The employee's licensed health care provider releases the employee to return to work IN A LIMITED DUTY CAPACITY.
3. The employee is declared capable of performing the normal duties of the employee's position by a licensed health care provider.

If, prior to release for normal duties, it is determined by the licensed health care provider that the employee is capable of performing limited work assignments, the employee shall immediately report for duty under the conditions set forth in the licensed health care provider's certificate if the City is able to provide a suitable work assignment.

If a holiday occurs during the time an employee is under approved injury leave, the hours will be charged to injury leave and will not be charged to general leave. In the event that an employee has exhausted 480/672 hours of injury leave for a work-related injury, and is still unable to return to work in either a normal duty or limited assignment capacity in a regular position, the employee becomes eligible for compensation in accordance with the Colorado Workers' Compensation Act, C.R.S. Section 8-42-105 and the City's short-term disability (STD) benefits as described herein. EMPLOYEES MAY SUPPLEMENT WORKERS' COMPENSATION WITH GENERAL LEAVE TO BRING PAY TO 100% OF THE EMPLOYEE'S BASE SALARY.

(J) Jury Duty: All regular and probationary employees and part-time employees who receive benefits shall be given time off, with pay, when performing jury duty in any municipal, county, state, or federal court. Any regular or daily compensation except for mileage reimbursement received from the court by the employee shall be reimbursed to the City.

(K) Short-Term Disability (STD) Pay: If an employee exhausts the major illness leave available pursuant to this Code due to non-work-related illness or injury that continues to prevent the employee from returning to work, the employee will receive short-term disability pay. The employee shall receive payment for up to the same number of hours of leave as was available to the employee in the form of major illness leave at sixty percent (60%) of the employee's base pay. AN EMPLOYEE MAY SUPPLEMENT THE STD BENEFIT WITH GENERAL LEAVE AS LONG AS THE TOTAL COMPENSATION DOES NOT EXCEED 100% OF BASE PAY. ~~However,~~ STD pay shall not continue past the time that the employee becomes eligible for long-term disability compensation. Short-term disability pay due to non-work-related illness or injury is subject to the same medical qualifications and verification as ~~an~~ Major Illness Leave. EMPLOYEES WILL CONTINUE TO RECEIVE ALL EMPLOYEE BENEFITS WHILE ON SHORT TERM DISABILITY WITH THE EXCEPTION OF GENERAL LEAVE ACCRUAL. EMPLOYEES MAY BE PLACED IN A SHORT TERM DISABILITY CATEGORY OF APPOINTMENT IF A DULY APPOINTED HEALTH CARE PROVIDER HAS PROVIDED A STATEMENT THAT THE EMPLOYEE WILL NOT BE ABLE TO RETURN TO WORK. THIS CATEGORY WILL BE UTILIZED TO ALLOW EMPLOYEES TO RECEIVE SHORT TERM DISABILITY BENEFITS UNTIL THEY ARE ELIGIBLE FOR LONG TERM DISABILITY COVERAGE. DIVISIONS MAY FILL THE VACATED POSITION ONCE AN EMPLOYEE IS PLACED IN THE SHORT TERM DISABILITY CATEGORY OF APPOINTMENT. The employee placed on STD pay is expected to return to normal duty in the employee's regular position within the 480/672 hour time period. If an employee cannot perform the essential functions of the position after that period and the City is unable to provide suitable employment based on the medical restrictions, then the employee may be terminated.

1-24-5: EMPLOYEE CONDUCT AND DISCIPLINE: (2248 2533)

(A) Political Activity: 1. An employee shall not:

- (a) Use any City facility or resource or the authority of any City office in support of any issue or candidate;
- (b) Campaign for any issue or candidate in any manner calculated to exert the influence of City employment;
- (c) Distribute political stickers, buttons or similar materials during working hours or at City facilities;
- (d) Campaign for any issue or candidate during working hours or at City facilities;
- (e) Campaign for any issue or candidate while wearing a uniform that identifies him as an City employee;
- (f) Serve as an officer of any organization which has the primary purpose of promoting the candidacy of any person for City office;
- (g) Organize a political organization or political club which has the main purpose of promoting the candidacy of any person for City office;
- (h) Directly or indirectly solicit, receive, collect, handle, disburse, contribute, or account for assessments, contributions, or other funds in support of the candidacy of any person for City office;
- (i) Organize, sell tickets to, or promote in a fund-raising activity of a candidate for City office;
- (j) Manage the political campaign of a candidate for City office;
- (k) Become a candidate for, or campaign for an elective City office, unless the employee is on formally authorized unpaid leave from City employment;
- (l) Solicit votes in support of or in opposition to a candidate for City office;

- (m) Drive voters to the polls on behalf of a candidate for City office;
- (n) Endorse or oppose a candidate for City office in a political advertisement, broadcast, campaign literature, or similar material;
- (o) Address a convention, caucus, rally, or similar gathering in support of or in opposition to a candidate for City office; or

2. All employees are free to engage in political activity to the widest extent consistent with the restrictions imposed by law and this subsection, so long as any such activity is done in the employee's capacity as a private citizen and not in the capacity of a City employee. Subject to the limitations of subsection (1) of this section, each employee retains the right to:

- (a) Register and vote in any election;
- (b) Display a political picture, sticker, badge, or button;
- (c) Participate in the nonpartisan activities of a civic, community, social, labor, or professional organization;
- (d) Be a member of a political party or other political organization and participate in its activities to the extent consistent with law;
- (e) Attend a political convention, rally, fund-raising function, or other political gathering;
- (f) Sign a political petition as an individual;
- (g) Expend personal funds, make contributions in kind, and use personal time to urge electors to vote in favor of or against any issue or candidate before the electorate, except any candidate for City office.
- (h) Seek election to City office, provided that the employee resigns or takes formally authorized unpaid leave from City employment prior to any campaign activities being undertaken on his or her behalf or filing a nomination petition.
- (i) Run for nomination or election as a candidate in any election not involving City government;
- (j) Be politically active in connection with a charter or constitutional amendment, referendum, approval of a municipal ordinance or any other question or issue of a similar character,
- (k) Participate, at the direction of the City Council, in any political activity in which the City is authorized by state law to participate, subject to the instructions of the City Council, provided, however, an employee may choose not to participate, or
- (l) Otherwise participate fully in public affairs, except as prohibited by law, in a manner which does not materially compromise his efficiency or integrity as an employee or the neutrality, efficiency, or integrity of City government.

3. No supervisor shall in any way coerce an employee to campaign for or against any candidate or issue.

4. It shall be unlawful for a candidate for the office of City Councillor or Mayor to solicit knowingly, directly or indirectly, a City employee to contribute money or campaign for or against any candidate for the office of City Councillor or Mayor. This provision shall not prohibit coincidental contacts with City employees through mass mailings or distribution of literature.

(B) ~~Sexual Harassment: Harassment based upon sex is in violation of Title VII of the Civil Rights Act of 1964 and is unacceptable behavior for all employees and officers of the City. Actions which constitute sexual harassment include sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:~~

- ~~1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;~~
- ~~2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or~~
- ~~3. Such conduct has the purpose or effect of interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.~~

~~The immediate supervisor is responsible for conduct between coworkers and the conduct of nonemployees in the workplace where the supervisor has knowledge of or should have known of sexually harassing conduct. This responsibility includes taking immediate action to investigate allegations of sexual harassment and to correct such behavior.~~

WORKPLACE HARASSMENT: IN COMPLIANCE WITH APPLICABLE LAW, THE CITY INTENDS TO PROVIDE A WORKING ENVIRONMENT FREE FROM HARASSMENT OF ITS EMPLOYEES BASED ON RACE, COLOR, RELIGION, GENDER, NATIONAL ORIGIN, AGE, DISABILITY, OR VETERAN OR MARITAL STATUS.

EXAMPLES OF UNACCEPTABLE CONDUCT INCLUDE THE TELLING OF "DIRTY" JOKES IN THE WORKPLACE OR DURING WORKING HOURS, REFERENCE TO CO-WORKERS BY DEROGATORY SEXUAL TERMS, OR OTHER CONDUCT WHICH REASONABLY COULD BE CONSTRUED BY ANOTHER EMPLOYEE AS CREATING OR CONTRIBUTING TO THE CREATION OF AN INTIMIDATING, HOSTILE OR OFFENSIVE WORKING ENVIRONMENT. SIMILARLY, INSULTING, DEGRADING, THREATENING OR OTHERWISE OFFENSIVE OR HOSTILE REMARKS, GRAFFITI, JOKES, POSTERS, WRITINGS, GESTURES, ACTIONS OR OTHER COMMUNICATIONS ARE STRICTLY PROHIBITED, AS ARE RACIAL, ETHNIC OR RELIGIOUS JOKES OR SLURS, OR ANY OTHER COMMUNICATIONS OR CONDUCT DISPARAGING OR PUTTING DOWN ANY RACIAL, MINORITY, ETHNIC OR RELIGIOUS GROUP. THE PRECEDING LIST OF FORMS OF MISCONDUCT IS NOT ALL-INCLUSIVE, BUT IS INTENDED MERELY TO ILLUSTRATE SOME OF THE ACTIVITIES WHICH THE CITY'S HARASSMENT POLICY PROHIBITS.

NO EMPLOYEE SHALL MAKE, AS A CONDITION OF ANY PERSON'S EMPLOYMENT, UNWELCOME SEXUAL ADVANCES OR REQUESTS FOR SEXUAL FAVORS, OR OTHER VERBAL OR PHYSICAL CONDUCT OF A SEXUAL NATURE; USE A PERSON'S SUBMISSION TO OR REJECTION OF SUCH CONDUCT AS THE BASIS FOR OR AS A FACTOR IN ANY EMPLOYMENT DECISION; OR OTHERWISE CREATE AN INTIMIDATING, HOSTILE OR OFFENSIVE WORKING ENVIRONMENT BY SUCH CONDUCT.

THE IMMEDIATE SUPERVISOR IS RESPONSIBLE FOR CONDUCT BETWEEN CO-WORKERS AND THE CONDUCT OF THE NON-EMPLOYEES IN THE WORKPLACE WHERE THE SUPERVISOR HAS KNOWLEDGE OF OR SHOULD HAVE KNOWN OF HARASSING CONDUCT. THIS RESPONSIBILITY INCLUDES TAKING IMMEDIATE ACTION TO REPORT ALLEGATIONS OF HARASSMENT AND TO CORRECT SUCH BEHAVIOR.

HARASSMENT IS EXTREMELY SERIOUS MISCONDUCT AND MAY RESULT IN DISCIPLINE, UP TO AND INCLUDING TERMINATION. HARASSMENT MAY ALSO SUBJECT THE HARASSER TO PERSONAL LEGAL AND FINANCIAL LIABILITY. FALSE STATEMENTS OF HARASSING BEHAVIOR MAY ALSO RESULT IN DISCIPLINE, UP TO AND INCLUDING TERMINATION.

IF AN EMPLOYEE BELIEVES HE/SHE HAS BEEN SUBJECTED TO HARASSMENT OR OBSERVES HARASSMENT OF ANOTHER EMPLOYEE AND HAS BEEN UNSUCCESSFUL IN OR UNCOMFORTABLE ADDRESSING THE ISSUE DIRECTLY TO THE EMPLOYEE INITIATING THE UNWELCOME BEHAVIOR, THE EMPLOYEE SHALL REPORT THE INCIDENT TO HIS/HER SUPERVISOR, ANOTHER MEMBER OF THE CITY'S MANAGEMENT TEAM, OR THE HUMAN RESOURCES MANAGER. AN EMPLOYEE SHOULD NOT ATTEMPT TO RESOLVE INCIDENTS OBSERVED OR HEARD ABOUT FROM OTHERS, BUT IS EXPECTED FIRST TO REPORT THE MATTER PROMPTLY. ANY SUPERVISOR OR MANAGEMENT TEAM MEMBER WHO RECEIVES A REPORT SHALL RELAY IT TO THE HUMAN RESOURCES MANAGER, WHO SHALL COMMENCE AN INVESTIGATION. THE REPORT SHALL BE HANDLED AS A GRIEVANCE BY THE HUMAN RESOURCES MANAGER PURSUANT TO THIS CODE.

TO THE EXTENT POSSIBLE, ANY INVESTIGATION WILL BE HANDLED IN CONFIDENCE. HOWEVER, THE CITY CANNOT PROMISE ANONYMITY TO PERSONS WHO REPORT HARASSMENT. THE CITY WILL NOT TOLERATE RETALIATION AGAINST ANY INDIVIDUAL WHO BRINGS A HARASSMENT COMPLAINT IN GOOD FAITH, OR WHO TESTIFIES AND/OR ASSISTS IN ANY INVESTIGATION.

EMPLOYEES HAVE THE RIGHT TO FILE CHARGES CONCERNING CERTAIN FORMS OF HARASSMENT, INCLUDING SEXUAL AND RACIAL HARASSMENT, WITH THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, A FEDERAL AGENCY, AND THE COLORADO CIVIL RIGHTS DIVISION, A STATE AGENCY.

IF AN EMPLOYEE HAS ANY QUESTIONS CONCERNING THIS POLICY, HE/SHE IS RESPONSIBLE FOR CONTACTING HIS/HER SUPERVISOR OR THE HUMAN RESOURCES MANAGER FOR CLARIFICATION.

(C) Reasons for Dismissal or Disciplinary Action: CLASSIFIED employees are subject to disciplinary action up to and including immediate dismissal for any of, but not limited to, the following reasons:

1. Violation of the provisions of this Chapter, the Charter, City Code, rules promulgated administratively by the City Manager and other written City or department policies and regulations;
2. Failure to demonstrate reasonable competence to the supervisor;
3. Inefficiency;
4. Insubordination;
5. Tardiness;
6. Acting so as to endanger the health and safety of others;
7. Negligence;
8. DISHONESTY
9. Submission of a misleading or incorrect application form or resume;
910. Damaging or wasting public property or theft of City property;
101. Substandard job performance;
142. Offensive conduct toward the public or other City employees;
123. Absence from duty without properly approved leave;
134. Providing false information or a misstatement of a material fact relating to the individual's employment with the City;
145. Refusal or inability to follow directions;
156. Improper or unauthorized use of City facilities, equipment, or vehicles;
167. Mental or physical infirmity or defect which renders the employee incapable of satisfactorily performing the essential duties of the employee's position;
178. Possession, sale, distribution or illegal use of controlled substances while on duty or during lunch or other breaks or while otherwise at a City work site or during City work time, or inability to complete assigned duties safely and competently during work hours due to use of chemical substances or consumption of alcoholic beverages;

189. Engaging in off duty conduct which reflects the employee's lack of fitness for employment in the City;

1920. Failure to fully cooperate in any investigation involving employee conduct;

201. Sexual harassment of another employee;

242. Knowingly making false accusations regarding the behavior of another employee;

223. Loss of required license or other prerequisite for employment when such prerequisite is required for carrying out the duties of the employee's position; or

234. Engaging in conduct that is deemed by the City Manager or a department head to be clearly not in the best interest of the City.

25. DISCRIMINATION OR HARASSMENT OF ANOTHER EMPLOYEE OR THE PUBLIC BASED ON DISABILITY, AGE, RACE, GENDER, RELIGION OR ETHNIC BACKGROUND.

26. PHYSICAL FIGHTING OR HORSEPLAY BETWEEN EMPLOYEES.

The exclusive remedy for an employee who believes that good reason for his disciplinary action did not exist shall be the grievance procedure specified in Section 1-24-6.

(D) Disciplinary Actions: Supervisory and administrative personnel shall have the authority to take whatever disciplinary actions that they deem necessary, provided that provisions on suspension, demotion, or dismissal are closely adhered to and that any action taken is not inconsistent with the provisions of this Chapter or departmental policies and regulations. Employees shall be required to cooperate with administrative staff in any investigation involving questionable employee conduct. When information received by the appointing authority indicates the possible need to administer a suspension, demotion or dismissal, the appointing authority shall initiate such discipline by notifying the employee of a summary of the information. No sooner than twenty-four (24) hours after the employee has received notification, the appointing authority shall meet with the employee involved, present the information that has come to the appointing authority's attention, and give the employee an opportunity to admit or deny the charge or present information regarding mitigating circumstances.

It is not intended that this meeting constitute a formal hearing but only provide the employee notice of the charges and give the employee an opportunity to meet and exchange information with the appointing authority. No other formal procedural requirements shall be required for this meeting including employee representation, meeting recordation, or witness examination. If the employee wishes, the employee may submit a written explanatory statement to the appointing authority which shall be attached to and kept with a copy of any disciplinary action. The appointing authority's determination of the action to be taken shall be based upon the information obtained from circumstances of the case. WHILE UNCLASSIFIED EMPLOYEES SHALL HAVE THE OPPORTUNITY TO PARTICIPATE IN A PRE-DISCIPLINARY MEETING, THEIR EMPLOYMENT REMAINS AT-WILL.

When the appointing authority authorizes a disciplinary action, official notification of such action shall be provided to the employee in writing by the immediate supervisor or the person taking the disciplinary action, and a copy thereof shall be provided to the affected department head and the ~~Employee Services~~ HUMAN RESOURCES Manager. This notification shall describe the specific reasons and circumstances surrounding the disciplinary action. The employee may pursue the grievance procedure on any disciplinary action not specifically excluded by the personnel rules promulgated by the City Manager. The record of a written reprimand or more severe disciplinary action shall be filed with the employee's personnel records. The ~~Employee Services~~ HUMAN RESOURCES Manager may investigate and review any disciplinary action to assure compliance with the provisions of this Chapter and the rules promulgated by the City Manager.

(E) Suspension: A division manager may suspend an employee under that division manager's jurisdiction without pay as a disciplinary measure when the division manager deems a suspension to be appropriate. Prior to initiating a suspension, the division manager shall consult with the ~~Employee Services~~ HUMAN RESOURCES Manager and the City Attorney's Office. A written notification of the suspension shall be given to the employee and a copy shall be submitted to the department head, ~~Employee Services~~ HUMAN RESOURCES Manager with a copy for the personnel files, describing the circumstances preceding and specific reasons for the suspension. The actual day(s) of the suspension shall be set by the

employee's supervisor. An employee who receives a suspension for disciplinary purposes, does not have the option of working on a day off in lieu of receiving a suspension day without pay. EXEMPT EMPLOYEES WILL BE REQUIRED TO USE GENERAL LEAVE DURING SUSPENSION AND ARE NOT SUBJECT TO A SUSPENSION WITHOUT PAY.

When, in the judgment of a supervisor, an employee's mental, emotional or physical condition or conduct is such that the employee's presence on the job or operation of equipment or a motor vehicle potentially endangers the employee, other employees or the public safety and welfare, the supervisor may suspend the employee immediately. The provisions specified in this Section shall then be followed as soon thereafter as practicable. The division manager may review the suspension. If the division manager determines that all or part of the suspension is unwarranted, the employee may receive pay for days previously suspended according to the final decision rendered.

(F) Demotion: A division manager may demote any regular or part-time classified employee under the division manager's jurisdiction for the good of the municipal service or as a disciplinary measure when the division manager deems it appropriate. THE CITY MANAGER MAY AUTHORIZE THE DEMOTION OF AN UNCLASSIFIED EMPLOYEE. Prior to initiating a demotion, the division manager shall consult with the ~~Employee Services~~ HUMAN RESOURCES Manager and the City Attorney's Office. The division manager shall give written notification of the demotion to the employee and shall submit a copy to the department head and the ~~Employee Services~~ HUMAN RESOURCES Manager, describing the circumstances preceding and the specific reason for the demotion.

(G) Dismissal: A department head may, after consultation with the ~~Employee Services~~ HUMAN RESOURCES Manager and the City Attorney's Office, dismiss a classified employee in accordance with this Chapter and rules promulgated by the City Manager. The department head shall give written notification of the dismissal to the employee and a copy to the ~~Employee Services~~ HUMAN RESOURCES Manager, describing the circumstances preceding and the specific reasons for the dismissal. Failure to follow these procedures is grounds for disciplinary action of supervisory or administrative personnel but does not affect the validity of the underlying dismissal action. Dismissal of unclassified employees shall be at the discretion of the City Manager; except that, dismissal of unclassified employees in the Office of the City Attorney shall be at the discretion of the City Attorney. ALL UNCLASSIFIED EMPLOYEES ARE AT-WILL EMPLOYEES. AN UNCLASSIFIED EMPLOYEE, OR THE CITY, MAY TERMINATE THE EMPLOYMENT AT ANY TIME, WITH OR WITHOUT NOTICE, WARNING, PROCEDURE OR FORMALITY, FOR ANY REASON OR NO REASON, WITH THE CITY'S ONLY OBLIGATION BEING PAYMENT OF WAGES EARNED AND BENEFITS VESTED THROUGH THE LAST DAY WORKED.

1-24-6: GRIEVANCES AND APPEALS: (2248)

(A) General: Supervisory and administrative personnel shall strive to anticipate, and thereby eliminate, the cause of most misunderstandings, problems, complaints, or grievances. To the extent that they occur, the employee is encouraged to promptly seek the employee's immediate supervisor's assistance. Supervisory personnel shall not interfere with or discriminate against or make reprisals against any employee who files a grievance. The City strongly encourages the use of nonadversarial dispute resolution techniques to resolve grievances in a manner that is satisfactory to all affected parties.

(B) Filing a Grievance: Any employee with a grievance must file ~~the~~ A WRITTEN complaint with the employee's division manager (OR THE PARTY WHO TOOK THE ACTION BEING GRIEVED IF THAT PARTY IS OF HIGHER RANK) with a copy to the ~~Employee Services~~ HUMAN RESOURCES Manager within fourteen calendar days following the grieved action. The division OR DEPARTMENT manager shall try to resolve the matter within ~~seven~~ TEN (10) calendar days from the receipt of the written grievance. If the employee is not satisfied that the difference has been resolved after action by the division manager, the employee may within ~~twenty-one~~ TEN (10) calendar days of ~~the grieved action~~ RECEIPT OF THE GRIEVANCE RESPONSE file the grievance with the department head (IF NOT ALREADY REVIEWED BY THE DEPARTMENT HEAD). The department head shall try to resolve the matter within ~~seven~~ TEN (10) calendar days OF RECEIPT OF THE GRIEVANCE. THE DEADLINES IN THIS PARAGRAPH (B) MAY BE EXTENDED WITH THE MUTUAL CONSENT OF THE PARTIES. If the employee is not satisfied that the difference has been resolved after action by the department head, the employee may pursue the following procedure:

1. Actions other than suspension, demotion or dismissal. Within ~~fourteen~~ TEN (10) calendar days after receipt of the department head's response, the employee may ask the ~~Employee Services~~ HUMAN RESOURCES Manager in writing to investigate the grievance.

If the department head has taken no action within ~~seven (7)~~ TEN (10) calendar days after receipt of the written grievance, the employee may request in writing that the ~~Employee Services~~ HUMAN RESOURCES Manager investigate the grieved action ~~within twenty-one calendar days after the department head's receipt of the written grievance~~. The ~~Employee Services~~ HUMAN RESOURCES Manager shall, within twenty-one calendar days, investigate the grievance and consult with the employee and then make recommendations to the City Manager or the City Manager's designee who shall decide on the grievance within ~~seven~~ TEN (10) calendar days. The City Manager's or the City Manager's designee's decision shall be final in all instances. The deadlines in this paragraph (1) may be extended with the mutual consent of the parties OR BECAUSE OF AN INABILITY TO DO A COMPLETE INVESTIGATION IN THE TIME ALLOWED.

2. Suspension, demotion or dismissal. Within fourteen calendar days after receipt of the department head's response, the employee may file an appeal to the Personnel Board or, if the department head has taken no action within ~~seven~~ TEN (10) calendar days of receipt of the written grievance, the employee may file a written appeal to the Personnel Board within twenty-one calendar days after the department head's receipt of the written grievance.

3. An employee loses any right to file a grievance OR APPEAL with the ~~Employee Services~~ HUMAN RESOURCES Manager or to file an appeal to the Board if the employee fails to file a written grievance ~~with the department head within twenty-one calendar days following the grieved action~~ THE TIME LINES DEFINED ABOVE.

No organization or individual has the right to file a grievance on the employee's behalf and legal representatives shall not be permitted to attend any meeting with the grieved employee held for the purpose of investigating the grievance prior to the time an appeal has been filed pursuant to subsection (D) of this section.

4. Grievances Related to Disabilities. If an employee has, in the employee's view, suffered discrimination in violation of state or federal law based on a past or current disability, whether real or perceived, or association with an individual with a disability, the employee may file a grievance pursuant to this subsection (B). This procedure is not a prerequisite to the pursuit of other legal remedies authorized by federal law. A disability-related grievance alleging a violation of federal laws protecting individuals with disabilities may be filed at any time.

(C) Appeal: Only suspensions, demotions, or dismissals for disciplinary reasons can be appealed to the PERSONNEL Board and only after all administrative remedies through the grievance procedure have been exhausted. Only regular FULL TIME employees IN AUTHORIZED POSITIONS IN THE CLASSIFIED SERVICE are eligible to appeal. Part-time employees shall, upon request, be provided a post-disciplinary hearing. The form of the hearing shall be established by the City Manager. UNCLASSIFIED EMPLOYEES HAVE NO APPEAL RIGHTS BEYOND THE GRIEVANCE PROCESS TO THE CITY MANAGER.

(D) Filing an Appeal: The employee must file an appeal and request a hearing, in writing, setting forth the reasons for appeal in detail with the ~~Employee Services~~ HUMAN RESOURCES Manager as set forth in subsection (B) of this section. The appeal must specify the grounds for appeal and shall contain a detailed statement of facts in support of the appeal.

The ~~Employee Services~~ HUMAN RESOURCES Manager shall immediately forward copies of the written appeal to each member of the Board. The ~~Employee Services~~ HUMAN RESOURCES Manager has the authority to return to the employee for correction any appeal that fails to conform to this provision regarding specifying grounds for appeal and containing detailed statement of facts in support of the appeal.

(E) Appeal Procedure: Upon receipt of the appeal from the ~~Employee Services~~ HUMAN RESOURCES Manager, the Board shall schedule a hearing on the appeal. Once the Board meets to hear the appeal, it may take the time necessary to obtain all the information deemed appropriate and in so doing the Board is not restricted to any particular time frame to conclude the hearing.

(F) Subpoenas: The chairperson of the Board may issue a subpoena stating the title of the proceeding before the Board and commanding each person to whom it is directed to attend and give testimony at a hearing on an appeal before the Board at the time and place specified therein.

(G) Findings and Decision: It is the interpretation of the City Council that the Charter of the City of Westminster establishes a personnel grievance process in which the Personnel Board has the responsibility of determining the facts of an

appeal and determining when disciplinary action should be reconsidered and in such cases, the City Manager has the responsibility of reconsidering the disciplinary action and making the final disciplinary decision based on the facts determined by the Board. At the conclusion of the hearing, the Board shall send a written decision to the City Manager which concludes that:

1. The action appealed was without justification and should be reconsidered. The Board may recommend that the appellant be restored to previous status and receive compensation for the period of the suspension, termination, or reduction in grade; or,
2. The action appealed was justified and should be confirmed; or
3. The action appealed was partially justified and should be reconsidered. The Board may recommend that the discipline be reduced under the conditions the Board deems proper.

The Board's decision shall contain findings of evidentiary fact on all material issues of fact and conclusions regarding the issues of law or discretion presented by the appeal.

(H) Notice of Findings and Decision; Transcript: The Board shall report its findings and decision to the City Manager, the parties and their attorneys within thirty (30) days after the conclusion of the hearing. Notice shall be sent in the manner specified in subsection (H) of this Section. The City shall make a record of the testimony and proceedings at an appeal hearing. Either the City or the employee may request a transcription of the testimony and proceedings at an appeal hearing. If the employee requests a hearing transcription, it shall be prepared at the employee's expense.

(I) Decision of the City Manager: 1. When the Board has concluded that the discipline was justified, the City Manager shall confirm the decision of the Board.

2. When the Board has concluded that the action appealed was without justification or was partially justified, the City Manager shall reconsider the suspension, demotion or discharge and either reinstate the employee, impose a lesser penalty, or confirm the original suspension, demotion or discharge.

3. When reconsidering a suspension, demotion or discharge, the City Manager shall be bound by the Board's findings of evidentiary fact. The City Manager may accept or reject the Board's findings of ultimate fact or conclusions and may accept or reject the Board's recommendation regarding discipline.

(J) Administrative Procedure Jurisdictional: No employee may bring an appeal before the Board until the employee has received the written notice of the final action taken or contemplated by the department head. The filing of an appeal under any of the procedures described in this section shall not constitute grounds for delaying the administrative action against which the appeal is made.

(K) Appeal from Decision of City Manager: The employee may appeal any action of the City Manager resulting in suspension, demotion or dismissal to the District Court.

(L) Right to Legal Counsel: The employee may only be represented by a person who is licensed to practice law in the State of Colorado. If the employee chooses to not be represented by legal counsel, the appointing authority shall not be represented by legal counsel. If the employee retains legal counsel, appointing authority shall be represented by the City Attorney.

(M) Rules of Procedure: The Board may adopt additional rules of procedure to supplement the procedures outlined in this section.

1-24-7: SUBSTANCE ABUSE POLICY: (2248)

(A) Policy on Substance Abuse: Given the importance of maintaining a healthy work environment and the opportunities that employees have to address substance dependencies through treatment and counseling programs offered by the City, substance abuse which adversely affects job performance will not be tolerated. This applies to on-duty employees as well as employees who are receiving on-call pay.

(B) Pre-Employment PLACEMENT Substance Screening: All applicants certified for positions that receive City benefits are required to submit to a medical examination prior to their appointment to a City position. As part of this medical examination, prospective employees will be screened for a range of chemical substances. The type(s) of screening and the levels of the substances which constitute a positive screen will be determined administratively after consultation with the City's medical service provider(s). Applications for positions with the City will state that substance screenings will be given as part of the pre-employment PLACEMENT medical examination. In addition, at the time of the medical examination, certified applicants will be told of the substance screening and will be required to sign a consent form. Applicants who refuse to consent to substance screening or who attempt to tamper with the screening sample will not be eligible for City employment.

An applicant whose initial substance screen shows a positive result will automatically be given another screening using a different screening technique on the same sample. If the second screen of the same sample shows a negative result, the individual will not be disqualified from City employment on account of the substance screen.

If the second test confirms the positive test result, the ~~Employee Services~~ HUMAN RESOURCES Manager will determine whether the applicant shall be disqualified for consideration for City employment. In making this decision, the ~~Employee Services~~ HUMAN RESOURCES Manager shall take into account the specific job requirements of the position that is being filled and any mitigating information. All screens will be made on the same sample by a qualified firm selected by the City. An applicant whose test shows positive will have 24 hours after receiving notification of the positive test to provide verification of a current valid medical prescription in the applicant's name.

Any positive test results from the second screen will be reported directly to the ~~Employee Services~~ HUMAN RESOURCES Division. If it is determined that the applicant will not be certified as a result of a positive drug screen, the ~~Employee Services~~ HUMAN RESOURCES Division will notify the appropriate supervisor that the applicant did not pass the medical examination.

(C) Possession, Sale, Distribution or Use of Illegal Substances: The possession, sale, distribution and/or use of illegal substances by an employee while on duty or during work and other breaks or at any time while the employee is on a City work site or in a City vehicle constitutes cause for dismissal. The appropriate law enforcement agency will be notified in a timely fashion of any such possession, sale, distribution and/or use of illegal substances by employees.

(D) Use of Medication: All employees who are using a prescription or non-prescription drug which may in any way impact their job performance must notify their supervisor. The division manager may require a doctor's statement if the employee indicates that there is a need to use the prescription drug for an extended period.

(E) Substance Screening for Current Employees: City employees are subject to substance screening if there is reasonable suspicion that, while on duty, they are impaired. Impairment is defined as being unable to perform their duties safely or competently due to use of alcohol or controlled substances. Reasonable suspicion is a belief based on objective facts sufficient to lead a reasonably prudent person to suspect that an employee is under the influence of drugs or alcohol so that the employee's ability to perform the functions of the job is impaired or so the employee's ability to perform the employee's job safely is reduced. Observations which constitute a factual basis for determining reasonable suspicion may include but are not limited to: odor of alcoholic beverage, slurred speech, erratic behavior, violent mood swings, excessive unexplained absenteeism including tardiness, and an accident which was caused by the apparent action or inaction of the employee.

Employees involved in an accident involving serious injury to the employee or a third party are required to submit to a substance screening. A supervisor who has reasonable suspicion that an employee is impaired by alcohol or a non-prescription controlled substance on the job shall, with the approval of the department head, immediately arrange for a substance screening through the ~~Employee Services~~ HUMAN RESOURCES Division. If a screening is required after normal business hours, the supervisor will make direct contact with the clinic that has been designated to perform screenings for the City AFTER RECEIVING APPROVAL FROM THE DEPARTMENT HEAD, THEIR DESIGNEE OR THE HUMAN RESOURCES MANAGER OR DESIGNEE.

Employees who are scheduled for a substance screening must be transported to the designated medical clinic by the employee's supervisor. The testing for substances will be made on a sample provided at the clinic. The type(s) of screening and the levels of the substances which constitute a positive screen will be determined administratively after consultation

with the City's medical service provider(s). After the sample is given, the supervisor will see that the employee is safely transported home.

If the testing of the sample provides a negative result, the conclusion will be that the sample contains no alcohol or controlled substances. If the first screen shows a positive result, a second screen using a different testing technique will be given on the same sample.

If the second screen shows a negative result, it will be assumed that the individual is not under the influence of alcohol or controlled substances. If the second screen shows a positive result, or if it is shown that the employee tampered with the sample, the employee will be presumed to be impaired by alcohol or controlled substances. An employee whose test shows a positive result will have 24 hours after receiving notification of the positive result to provide bona fide verification of a current valid prescription which may have caused the positive result. The prescription must be in the employee's name.

(F) Discipline: Employees who refuse to submit to a substance screen when reasonable suspicion of substance abuse has been identified, will be disciplined in accordance with the City personnel policies and rules. Under appropriate circumstances, a supervisor who has reasonable suspicion that an employee is impaired by alcohol or a non-prescription controlled substance on duty may immediately suspend the employee in accordance with this Chapter. **EMPLOYEES MAY BE REQUIRED TO COMPLETE ADDITIONAL SUBSTANCE SCREENING AND HAVE A NEGATIVE SCREEN AS PART OF A CONDITION OF RETURNING TO WORK.**

(G) Employee Assistance Program: An employee who is disciplined for substance abuse or refused to submit to an appropriately ordered substance screen must submit to an evaluation by the City's employee assistance program as a condition of continued employment. In addition, the employee may be required to participate in a treatment program and periodic screening.

(H) Assistance and Leave for Substance Abuse Treatment: Employees who choose to participate in a substance abuse treatment program that requires inpatient care shall be granted general leave and major illness leave in accordance with the provisions of these rules. Use of leave for this purpose shall not constitute cause for disciplinary action.

Section 2. Title 1, Chapter 13 of the Westminster Municipal Code is hereby amended as follows:

1-13-1: ADMINISTRATIVE OFFICERS: The administrative officers of the City shall be the City Manager, City Attorney, City Clerk and Finance Director, and such additional administrative officers as may be created by City Council, ~~including but not limited to:~~ **THE DESIGNATED ADMINISTRATIVE OFFICERS SHALL BE THOSE EMPLOYEES LISTED AS "UNCLASSIFIED" IN THE PAY AND CLASSIFICATION PLAN APPROVED BY CITY COUNCIL RESOLUTION.**

CATEGORY I:

- ~~Assistant City Manager~~
- ~~Chief of Police~~
- ~~Director of Finance~~
- ~~Director of Community Development~~
- ~~Director of General Services~~
- ~~Director of Public Works and Utilities~~
- ~~Director of Parks, Recreation and Libraries~~
- ~~Fire Chief~~
- ~~City Clerk~~
- ~~Executive Secretary to the City Manager (1282 1413 1699 1747 1889)~~

CATEGORY II:

- ~~Assistant City Attorney~~
- ~~Assistant City Engineer~~
- ~~Assistant for Planning and Administration~~
- ~~Assistant to the City Manager~~
- ~~Battalion Chief~~
- ~~Building Maintenance Superintendent~~

~~Chief Accountant~~
~~Chief Building Official~~
~~City Engineer~~
~~Community Development Program Administrator~~
~~Court Administrator~~
~~Data Processing Manager~~
~~Employee Development Specialist~~
~~Fire Marshal~~
~~Fleet Manager~~
~~Investment Officer~~
~~Legal Liaison Officer~~
~~Legal Secretary~~
~~Library Reference Administrator~~
~~Library Services Manager~~
~~Operations Chief~~
~~Park Development Coordinator~~
~~Parks Services Manager~~
~~Personnel Analyst~~
~~Planning Director~~
~~Police Captain~~
~~Police Lieutenant~~
~~Public Information Officer~~
~~Purchasing Agent~~
~~Recreation Services Manager~~
~~Risk Management Officer~~
~~Senior Secretary~~
~~Street Operations Manager~~
~~Training Chief~~
~~Utilities Operations Manager~~
~~Water Resources Manager (1282 1413 1699 1747 1889)~~

1-13-2: MANAGER AND ATTORNEY: The City Manager and City Attorney shall be appointed by the City Council for an indefinite period, shall be responsible to and serve at the pleasure of the City Council and shall have their compensation fixed by the City Council. (Charter)

1-13-3: APPOINTMENTS: All Administrative Officers of the City, except the City Manager and City Attorney, shall be appointed by the City Manager for an indefinite period, except that, Administrative Officers employed in the office of the City Attorney shall be appointed by the City Attorney. The appointment of City Clerk and Finance Director shall be subject to confirmation by the City Council. Except as provided by Section 1-16-3(b), all persons designated as administrative officers under Section 1-13-1 hereof shall be responsible to the City Manager. Except for the City Attorney, all Administrative Officers shall have their compensation fixed by the City Manager within the salary ranges approved by the City Council. (1282 1413 1592)

1-13-4: RESIDENCE REQUIREMENTS: The City Council may require an Administrative Officer, if he is not a resident at the time of his appointment, to become a resident of the City within the time set by the City Council and so remain throughout his tenure of office or employment.

1-13-5: OATH OF OFFICE: Every officer before entering upon the duties of his office shall take the oath of office prescribed by Section 8 Article XII of the Constitution of the State and shall file the same with the City Clerk, together with any bond required by this Chapter. In case of failure to comply with the provisions of this Section within ten (10) days from the date of his appointment, such officer shall be deemed to have declined the office and such office shall thereupon become vacant unless the City Council shall, by resolution, extend the time in which such officer may qualify as above set forth.

1-13-6: SURETY BONDS: All officers of the City whose duties involve the custody of public property or the handling of public funds, either by way of receipt or disbursement or both, and all other officers and employees so required by the City

Council shall, before they enter upon the duties of their respective offices, file with the City an official bond, in such form and amount as the City Council shall direct and approve. Such official bond of every officer and employee shall be conditioned that ~~he~~**THE OFFICER OR EMPLOYEE** will faithfully perform the duties of ~~his~~**THE** office, and will on demand, deliver over to ~~his~~**THE** successor in office, or other proper officer or employee, or an agent of the City, all books, papers, monies, effects and property belonging to the City, or appertaining to ~~his~~**THE** office, which may be in ~~his custody~~**as in THE CUSTODY OF THE** officer or employee; and such bonds may be further conditioned as the City Council shall prescribe. The official bond of every officer whose duty it may be to receive or pay out money, besides being conditioned as above required, shall be further conditioned that ~~he~~**THE OFFICER** will, on demand, pay over or account for to the City, or any proper officer or agent thereof, all monies received by ~~him as such~~**THE** officer or employee. The requirements of this Section may be met by the purchase of one or more appropriate blanket surety bonds covering all, or a group of, City employees and officers, **OR BY COMPARABLE COVERAGE UNDER THE CITY INSURANCE PROGRAM.** (1959 Code)

All official bonds shall be corporate surety bonds and the premiums thereon shall be paid by the City. The City Clerk shall be custodian of all bonds of all officers or employees, except that the Finance Director shall be custodian of any bonds pertaining solely to the City Clerk. (1282 1699)

1-13-7: DELIVERY OF OFFICE: Whenever any officer or employee shall cease to hold such office or employment for any reason whatsoever, he shall within five (5) days, or sooner on demand, deliver to his successor in office or to his superior all books, papers, monies and effects to his custody as such officer or employee. Any Officer or employee found guilty of violating this provision by the Municipal Court may be punished by fine or imprisonment, or both. Any officer violating this provision may be sued or prosecuted in the same manner as public officers generally for a like offense under State Statutes. (Charter A1699)

1-13-8: REMOVAL FROM OFFICE: Any appointed officer may be removed from office by the same authority and in the same manner as he was originally appointed. (Charter)

Section 3. Severability: If any section, paragraph, clause, word or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part deemed unenforceable shall not affect any of the remaining provisions.

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

Section 5. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 27th day of July, 1998.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this _____ day of August, 1998.

ATTEST:

Mayor

City Clerk

Date: July 27, 1998
Subject: Councillor's Bill No. re Martin Luther King Jr. Day Holiday
Prepared by: Debbie Mitchell, Human Resources Manager

Introduction

City Council action is requested to pass the attached Councillor's Bill on first reading which amends several sections of the City Code related to holiday leave.

Summary

The proposed ordinance which City Council is being asked to approve will add a holiday, Martin Luther King Jr. Day, to the existing holiday leave City employees receive as outlined in the Westminster Municipal Code, Title 1, Chapter 24. The proposed change increases the total number of paid holidays to nine, in addition to three floating holidays. Additionally, the change increases the accrual rate of general leave by 8 hours annually. Staff has researched holiday leave and facility closures of other comparable cities in the Denver Metro area. The cities surveyed are the same utilized in the salary survey process. The attached summary provides a cost estimate for the holiday and a comparison of paid holidays and facility closures.

The additional expense to add Martin Luther King Jr. Day as a City holiday would be approximately \$36,750 per year. This cost would provide funds for employees on a combined holiday/vacation schedule the opportunity to cash out holiday leave. There may be additional expense incurred for coverage when these employees take the additional holiday off at another time during the year. In addition to the hard dollar costs, there would be a soft dollar expense of one less work day productivity per year for all benefitted employees.

Staff Recommendation

Pass Councillor Bill No. on first reading amending the Westminster Municipal Code sections on holiday leave to add Martin Luther King Jr. Day to the paid holidays authorized by the City.

Background Information

The City currently has eight designated paid holidays and three floating holidays per year, for a total of 88 hours of holiday leave. Martin Luther King Jr. Day is not one of the designated holidays. If City Council adds Martin Luther King Jr. Day as an additional holiday, the organization would rank second of the surveyed organizations in number of total holiday hours with 96 holiday hours per year. This is second only to the City of Boulder with 104 holiday hours per year. However, it is important to note that the City's General Leave program is different than traditional leave programs, making apples to apples comparisons difficult. Also, the third floating holiday that was added in January 1998 did not increase the total number of General Leave hours that employees accrue. This addition of a floating holiday, without an addition of leave accrual, reduced the total amount of other leave available to City employees.

If the City of Westminster has a facility closure for the Martin Luther King Jr. Day holiday, the organization would have a total of nine facility closure days per year. The average yearly facility closures for the eight surveyed municipalities is nine days. The cities that recognize Martin Luther King Jr. Day as a holiday close facilities on that day.

The attached spreadsheet provides a summary of the eight surveyed cities' holiday hours and yearly facility closures. The information given to Staff by the City of Arvada does not reflect a current proposal before Council to add Martin Luther King Jr. Day as an additional holiday and facility closure. If passed, Arvada would have a total of 88 holiday hours with seven facility closure days per year. This would mean that five of the eight survey cities provide Martin Luther King Jr. Day as a holiday.

Respectfully submitted,

William M. Christopher
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. _____

SERIES OF 1998

INTRODUCED BY COUNCILLORS

A BILL
FOR AN ORDINANCE AMENDING TITLE I, CHAPTER 24 SECTION 4(C AND D) OF THE
WESTMINSTER MUNICIPAL CODE RELATING TO GENERAL LEAVE ACCRUAL AND GENERAL
LEAVE FOR HOLIDAYS

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Title 1, Chapter 24 of the Westminster Municipal Code is hereby amended as follows:

1-24-4(C): General Leave Accrual Rate:

1. The following schedule shall be used to calculate the amount of general leave accruing to each employee except firefighters and emergency medical personnel working an average of one hundred twelve (112) hours in a two week period, for years of continuous municipal service:

<u>Years of Continuous Municipal Service</u>	<u>Accrual Rate Per Pay Period</u>	<u>Accrual Rate Per Year</u>
Less than 5	8.59 8.9 hours	224 232 hours
5 - 10	9.51 9.82 hours	248 256 hours
10- 15	10.43 10.74 hours	272 280 hours
15 - 20	11.35 11.66 hours	296 304 hours
Over 20	12.27 12.58 hours	320 328 hours

2. The following schedule shall be used to calculate the amount of general leave accruing to each firefighter or emergency medical personnel working an average of one hundred twelve (112) hours in a two-week period:

<u>Years of Continuous Municipal Service</u>	<u>Accrual Rate Per Pay Period</u>	<u>Accrual Rate Per Year</u>
Less than 5	12.04 12.47 hours	314 325 hours
5 - 10	13.31 13.74 hours	347 358 hours
10 - 15	14.61 15.04 hours	381 392 hours
15 - 20	15.88 16.31 hours	414 425 hours
Over 20	17.18 17.61 hours	448 459 hours

(D) General Leave for Holidays: Employees who do not normally work on scheduled holidays shall have each holiday charged automatically against General Leave unless the employee actually works the holiday.

Holidays that shall automatically be charged against General Leave of all employees, except those normally subject to work holidays, shall be as follows:

1. The first of January (New Year's Day)
2. THE THIRD MONDAY OF JANUARY (MARTIN LUTHER KING, JR. DAY)
23. The third Monday of February (Presidents' Day)
34. The last Monday of May (Memorial Day)
45. The Fourth of July (Independence Day)
56. The first Monday of September (Labor Day)
- ~~6~~7-8. The fourth Thursday and immediate following Friday of November (Thanksgiving)
79. The 25th of December (Christmas)

In addition to the ~~eight (8)~~ NINE (9) scheduled holidays, all full-time employees shall receive ~~sixteen (16)~~ TWENTY FOUR (24) hours as a floating holiday. Firefighting and emergency medical personnel will receive ~~22.5~~ 33.6 hours for their floating holiday.

Part-time employees who receive benefits shall receive a prorated number of floating holiday leave hours based on the number of hours they are authorized to work per work period. Any special holidays that may be proclaimed during the year by the Mayor and City Council shall not be charged to general leave, but shall be in addition to general leave.

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 27th day of July, 1998.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this _____ day of August, 1998.

ATTEST:

Mayor

City Clerk

Date: July 27, 1998
Subject: Retention of Temporary Legal Counsel
Prepared by: Marty McCullough, City Attorney

Introduction

City Council action is requested to retain former Assistant City Attorney Janice Louden to assist the City Attorney's Office on a short-term basis during the absence of Assistant City Attorney Sharon Widener.

Summary

Assistant City Attorney Sharon Widener underwent major back surgery on July 15, 1998, and will be in recovery and rehabilitation for approximately three months. During Sharon's absence, in order to meet ongoing service demands, it is necessary to retain outside legal counsel on a short-term basis.

Staff Recommendation

Authorize the City Manager to execute the attached contract for legal services with former Assistant City Attorney Janice Louden to assist the City Attorney's Office during the absence of Assistant City Attorney Sharon Widener and charge the expense to the City Attorney's Office budget.

Background Information

Assistant City Attorney Sharon Widener will be recovering from major back surgery for approximately three months. Janice Louden, who served as an Assistant City Attorney from January 3, 1995 to August 30, 1996, has agreed to fill in on a part-time basis as needed. Janice will commence working the first week of August at an hourly rate of \$35 per hour for a period not to exceed four months without further City Council approval.

Respectfully submitted,

William M. Christopher
City Manager

Attachment

Date: July 27, 1998

Subject: Reallocation of Capital Improvement Project Funds

Prepared by: Bill Walenczak, Director of Parks Recreation and Libraries

Introduction

City Council action is requested to reallocate a portion of Westcliff Park acquisition funds (\$400,000) to support five ongoing Capital Improvement Projects (CIP) projects in need of funds. The five CIP projects are: The Ranch Barn Relocation, Countryside Little League Fields, Wolff Run Ballfield Renovation, a project management contract for the new Ice Arena, and the Club House and Maintenance Building at the Heritage Golf Course. City Council will also be requested to approve a professional services contract for project management of the new ice arena construction.

Summary

Staff has completed an analysis of the CIP funds available in 1998 and would like to reallocate some funds in order to complete five CIP projects. The source of these CIP funds is Westcliff Park. Since Westcliff Park was purchased by paying the property owners interest over the next five years and a full payment of the principal at the end of the loan term, the remaining project funds could be used to complete other park projects requiring additional dollars. Funds will be budgeted in subsequent years to pay for the Westcliff Park acquisition. There is a total of \$840,900 available in the Westcliff acquisition CIP account. Staff is proposing to set aside \$440,900± for the first year's payment on the principal and the interest for the Westcliff purchase, and \$400,000 to be used for the projects described below.

A brief description, dollar amount, and justification for these requests are as follows:

<u>General Capital Improvement Fund Projects</u>	<u>Estimated Cost</u>
Ranch Barn Relocation	\$25,000
Countryside Baseball Fields	\$90,000
Wolff Run Ballfield Renovation	\$50,000
Ice Centre project management	\$75,000
Club House and Maintenance Building at the Heritage Golf Course	\$160,000
 Total Reallocated to Capital Projects Fund	 <u>\$400,000</u>

The projects recommended to receive additional construction funds are as follows:

1. The Ranch Barn Relocation Project is a project that was not programed in the 5-year CIP since this project arose out of Jeff Salter's development project for an office building. The main barn next to the Ranch Open Space was decided to be relocated to preserve its historic value, the character of the Open Space, and to continue to board horses at this site. Parks, Recreation and Libraries is obligated to pay 15% of the project costs equalling \$25,000, with the Open Space fund paying for the remaining portion of the project. The \$25,000 contribution by Jeff Salter to restore the barn has already been incorporated into the project budget. Total project costs for the barn relocation is \$183,900; with \$144,000 for the building contractor, \$15,000 for water service, \$8,500 for electrical service, \$2,000 for a parking area, and a \$14,400 project contingency.

2. The Countryside Youth Little League Ball Fields were constructed with monies from the City, Jefferson County Joint Venture Grant, Colorado State Lottery Grant, and American West Little League. The site that the ball fields were constructed on included .99 of an acre of wetlands. Due to recent changes in federal wetlands laws, the Army Corps of Engineers requires that this wetland disturbance be mitigated. The construction bids for the mitigation came in significantly higher than the consultant's estimate of cost, and after negotiation with the low bidder, an additional \$15,000 is needed to complete the mitigation. Additionally, the poor soils underlying the site resulted in the failure of the asphalt subbase on a portion of the parking lot. The costs to amend the underlying soils and repave the parking lot are estimated to be approximately \$40,000. Since this was an isolated "pocket" of poor soils, it did not show up on the normal soils tests that were taken. Finally, although the ballfields themselves are available for play, the smaller field was not fenced as part of the original contract. Since this field faces the parking area, Staff recommends that fencing be installed to separate the outfield from parked cars. The cost of this fencing is estimated to be \$35,000. This additional scope of work totals to \$90,000 for this project.

3. City Council identified Wolff Run Park playground and ballfield plaza as one of the park improvement projects in the 1997 CIP budget. Renovation of the north side of Wolff Run Park (Wolff Run II) located at 78th Avenue and Wolff Court was completed in May 1997 and included a second picnic shelter, new play equipment, plaza, connecting concrete pathways, and a new pedestrian crossing leading to the baseball fields at the southern portion of the park. Wolff Run Park ballfields (Wolff Run I) are located in the southern half of the park site at 76th Avenue and Winona Court. This park required special attention and additional work to replace the existing restroom, concession, and bleacher areas.

These facilities, originally built in 1979, did not meet the current Americans with Disabilities Act (ADA) criteria. While evaluating these ballfield facilities, Staff and consultants determined that the facilities did not comply with the ADA standards and Consumer Safety Product guidelines. Staff and the consultants considered the option of renovation of the existing structure, but it became evident that meeting ADA guidelines would result in a structure that would be unsuitable for recreational use. A new structure will provide the City with a building which can accommodate both the current and future needs.

The new structure added approximately \$50,000 to the project budget and the extra costs were covered by using 1998 Park Major Maintenance CIP Budget which affected the time table on when the England Park Ballfield Lights Renovation will now take place. The following is a summary of CIP funds used to complete the renovation of Wolff Run Ballfields.

1997 Park Major Maintenance CIP Fund	\$410,000
1998 Park Major Maintenance CIP Fund	\$49,830
TOTAL FUNDING	\$459,830

4. The Ice Centre at the Promenade has been under construction since February. Bob Spada, former Recreation Program Manager for the City, was acting as project coordinator for the ice arena. However, Mr. Spada left City employment in May, and Bill Walenczak has been serving as project manager. However, due to other demands of the Director's office, Mr. Walenczak is not able to spend the time that is necessary to properly manage this \$14 million project. Staff recommends that the City enter into a contract with Jefferson County's Project Management Department for an amount not to exceed \$75,000 to manage the project to completion.

It might be possible to pay this sum back to the project at a later time, with the concurrence of Hyland Hills, once projected revenues are being met. Ann Panza, Director of the Jefferson County project management group, has already assigned a manager to the project at no financial risk to the City. This person has been representing the City for over a month on the project. The County would, however, like to have a formal contract authorized by City Council to be paid for these services. Staff has reviewed the proposed fee rates provided by the County and believes their fees would be less than other professional service fees had this service been competitively bid. Therefore, Staff sees no advantage to the City to bid this competitively, and requests that City Council waive the formal bidding requirements. City Charter Sec. 13.3(j) allows the award of a contract under the above circumstances based on the finding by the City Manager that this contract will best serve the public interest.

5. The Club House and Maintenance Building for The Heritage at Westmoor Golf Course are currently in the construction document stage. Staff has been working with the consultant to "value engineer" all aspects of the two buildings to insure the project bid is within the budget parameters. City Council reviewed plans for the clubhouse earlier this year. Alternate plans were presented based on an anticipated tight budget. Councillors and Staff preferred the plan that represented a full buildout of the clubhouse facility to include an event dining area for large functions, i.e. tournaments, and a full basement to accommodate cart storage. The project architect estimates that the cost of the clubhouse (full buildout) and maintenance facility is in excess of \$2.4 million. The original budget projections by Staff and architect was approximately \$1.9 million. Staff is recommending that approximately \$250,000 of this shortfall be funded through capital improvement funds and the balance through value engineering that has already been done on the golf course construction contract. A total of \$160,000 of the \$250,000 needed from capital improvements is being proposed from the Westcliff acquisition surplus at this time. The remaining \$90,000 will be proposed in the 1999 CIP. These funds would be paid back from the golf course enterprise out of net profits that should be realized within a few years of full operations.

Alternatives

- > City Council could reject Staff's recommendation and designate the entire \$840,900 in the Westcliff CIP toward the purchase of the Westcliff Park property.
- > City Council could reject Staff's recommendation and designate the surplus funds to other CIP projects.
- > City Council could select a portion of the recommended project to be funded from the portion of Westcliff funds.
- > City Council could earmark all or a portion of the funds for partial development of Westcliff Park.

Staff Recommendation

Authorize reallocation of \$400,000 of Westcliff Park's CIP funding to the following five project accounts in the General Capital Improvement Fund: \$25,000 for the Ranch Barn Relocation Project; \$80,000 for Countryside Little League Fields; \$50,000 for the Wolff Run Ballfield Renovation; \$75,000 for the Ice Centre project management, and \$160,000 for the Club House and Maintenance Building at the Heritage Golf Course. Also, authorize the City Manager to award the contract to the Jefferson County Construction Management Department in the amount of \$68,000 plus a \$7,000 contingency to professionally manage the remainder of the Ice Centre design/build contract based on a finding that it is in the City's best interest to have such services rendered.

Background Information

The Parks and Recreation Master Plan identifies the need for a community park in the area around the Trend Homes, Franklin Square, and Westcliff Subdivisions. Staff has been negotiating off and on with U.S. Homes over the last three years to acquire a 16-acre parcel which U.S. Homes had an option to buy from the Westcliff Seven Partnership.

An agreement on the terms was recently reached by both parties which enabled the City to acquire the desired park site.

- * The City acquired the 16.07 acre park site from Westcliff Limited Liability Partnership as shown on the attached map at a cost of \$1,012,500.
- * Ned Phye's partnership, Westcliff LLP, contracted with the City to finance the acquisition under a 5-year note based on 6% interest, monthly payments of \$5,000 and with a balloon payment on the outstanding balance. This will free up budgeted funds in the Westcliff Park Acquisition account for other needed park-related expenditures.

The above listed projects are those projects that Staff believes are most important to fund at this time based on the need to complete them in 1998. Staff would appreciate Council's favorable consideration of these requests.

Respectfully submitted,

William M. Christopher
City Manager

Attachment

Date: July 27, 1998

Subject: Councillor's Bill No. 32 re Appropriation of Golf Course Bond Proceeds

Prepared by: Mary Ann Parrot, Finance Director

Introduction

City Council action is requested to adopt Councillor's Bill No. 32 on an emergency basis, appropriating the Golf Course Bond Proceeds, setting up the Reserve Fund for the Golf Course Bonds, repaying the POST Bond Proceeds loaned to the Golf Course Fund in February, 1998 to begin construction on the Heritage Golf Course, and transferring \$202,953 from the Unauthorized Project Account in the Golf Course Fund to the Construction Account.

Summary

The Heritage Golf Course at Westmoor is under construction and ahead of schedule. The action requested of City Council will allow the project to remain on schedule, as staff will have authorized funds for expenditure when the bond proceeds are settled on July 30. This will avoid any delay caused between July 30 closing on the bond proceeds and the nearest Council meeting scheduled for August 10.

Staff Recommendation

1. Adopt Councillor's Bill No. 32 as an emergency ordinance, to appropriate \$6,300,000 bond proceeds for the Heritage Golf Course at Westmoor, and to transfer \$501,750 loan funds from General Reserve to the Golf Course Activity Enterprise Reserve and appropriate accordingly, and lastly to unappropriate the POST Bond proceeds and transfer them back to the Capital Projects Fund.
2. Authorize the transfer of \$202,953 from Unauthorized Project Account in the Golf Course Project Fund to the Construction Account.

Background Information

The project of building the Heritage Golf Course at Westmoor was expedited in February, 1998, with the appropriation of POST Bond Proceeds. This allowed the project team to take advantage of favorable construction bids and the weather, and avoided unnecessary delays and resulting increased costs. The appropriation approval by City Council will place all bond proceeds in a project account labeled "Unauthorized" until such time as they are needed for project expenditure.

Secondly, by appropriating these bond proceeds, Staff can now repay the POST Bond Proceeds to the Capital Project Fund. These POST Bond Proceeds were loaned to the Golf Course Fund by approval of City Council on Feb 23, 1998, to allow construction on the Golf Course to proceed.

Lastly, because the project is ahead of schedule, seeding and grow in is scheduled to begin in a month. In addition, much of the underground and infrastructure expenditures are encumbered and will be paid for from the POST bond proceeds.

Additional monies may be needed in early August to keep the project on schedule, and these funds will be available when the bond proceeds are wired to the City on July 30, the confirmed closing date. In order to avoid a delay, until the Council meeting in August, it is recommended by Staff that funds be transferred from Unauthorized to the Construction Account at this time.

Respectfully submitted,

William M. Christopher
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. _____

SERIES OF 1998

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE INCREASING THE 1998 BUDGET OF THE GOLF COURSE FUND AND GENERAL CAPITAL IMPROVEMENT FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 1998 ESTIMATED REVENUES IN THE FUNDS

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 1998 appropriation for the Golf Course Fund, initially appropriated by Ordinance No. 2566 in the amount of \$1,783,723 is hereby increased by \$6,801,750 which, when added to the fund balance as of the City Council action on July 27, 1998, will equal \$17,028,473. The actual amount in the Golf Course Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. This increase is due to the appropriation of bond proceeds and the General Reserve loan to fund the construction and bond reserve for the Heritage at Westmoor Golf Course.

Section 2. The \$6,801,750 increase in the Golf Course Fund shall be allocated to City Revenue and Expense accounts which shall be amended as follows:

<u>Description</u> <u>Final Budget</u>	<u>Current Budget</u>	<u>\$ Increase</u>	
<u>REVENUES</u>			
Bond/Loan Proceeds			
22-1477-000	3,700,000	6,801,750	10,501,750
Total change to revenues		6,801,750	
<u>EXPENSES</u>			
Heritage at Westmoor Project Account			
22-50-88-555-227	59,236	6,300,000	6,359,236
Golf Course Reserve Account			
22-50-88-611-227	-0-	501,750	501,750
Total change to Expenses		6,801,750	

Section 3. The 1998 appropriation for the Golf Course Fund, initially appropriated by Ordinance No. 2566 in the amount of \$1,783,723 is hereby decreased by \$3,700,000 which, when subtracted from the fund balance as of the City Council action on July 27, 1998, will equal \$13,328,473. The actual amount in the Golf Course Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. This decrease is due to the unappropriation of POST bond proceeds that were appropriated as a loan for the construction of Heritage at Westmoor Golf Course until the golf course financing was finalized.

Section 4. The \$3,700,000 decrease in the Golf Course Fund shall be allocated to City Revenue and Expense accounts which shall be amended as follows:

<u>Description</u> <u>Final Budget</u>	<u>Current Budget</u>	<u>\$ Decrease</u>	
<u>REVENUES</u>			
Bond/Loan Proceeds			
22-1477-000	10,501,750	(3,700,000)	6,801,750
Total change to revenues		(3,700,000)	

EXPENSES

Heritage at Westmoor Project Account

22-50-88-555-227

6,359,236

(3,700,000)

2,659,236

Total change to Expenses

3,700,000

Section 5. The 1998 appropriation for the General Capital Improvement Fund, initially appropriated by Ordinance No. 2566 in the amount of \$26,130,000 is hereby increased by \$3,700,000 which, when added to the fund balance as of the City Council action on July 27, 1998, will equal \$14,425,000. The actual amount in the General Capital Improvement Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. This increase is due to the repayment of POST bond proceeds that were transferred as a loan to the Golf Course Fund for the construction of Heritage at Westmoor Golf Course until the golf course financing was finalized.

Section 6. The \$3,700,000 increase in the General Capital Improvement Fund shall be allocated to City Revenue and Expense accounts which shall be amended as follows:

<u>Description</u> <u>Final Budget</u>	<u>Current Budget</u>	<u>\$ Increase</u>	
<u>REVENUES</u>			
Bond Proceeds			
75-1477-000	(3,700,000)	3,700,000	-0-
Total change to revenues		3,700,000	
<u>EXPENSES</u>			
Countryside Recreation Center Project Account			
75-50-88-555-381	13,035	3,700,000	3,713,035
Total change to Expenses		3,700,000	

Section 7. Severability. The provisions of this Ordinance shall be considered as severable. If any section, paragraph, clause, word, or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part shall be deemed as severed from this Ordinance. The invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect the construction or enforceability of any of the remaining provisions, unless it is determined by a court of competent jurisdiction that a contrary result is necessary in order for this Ordinance to have any meaning whatsoever.

Section 8. 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. Therefore, this ordinance shall be in full force and effect upon adoption of this ordinance on July 27, 1998, by an affirmative vote of six members, if six or seven members are present, or by an affirmative vote of four members, if four or five members of the Council are present.

Section 9. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, PASSED AND ADOPTED AS AN EMERGENCY ORDINANCE this 27th day of July, 1998.

ATTEST:

Mayor

City Clerk

Date: July 27, 1998
Subject: Westminster Conference Center Lease Agreement
Prepared by: Alan Miller, Assistant City Manager

Introduction

City Council action is requested to authorize an additional provision to the Westminster Conference Center Lease Agreement that would subordinate the City's rent payment to the construction lender, Bank One.

Summary

In the last few weeks, significant efforts have been expended to finalize all the legal documents necessary to make the Westminster Westin Hotel and Conference Center a reality. One provision has surfaced from the construction lending bank, Bank One, that would require the City to subordinate the conference center rent payment until such time as the take out loan bank is in place. This provision was not included in the original lease document draft provided to City Council. Staff believes that while this provision is low risk and unnecessary, it is important to the construction lender bank and is a significant enough added provision to warrant City Council action.

The take out loan bank, Deutsche Bank, has committed to fund the take out loan six-months after the hotel and conference center opens. So the expected duration of the construction loan is rather short. The first quarterly rent payments are not due until after the conference center opens. The initial annual rent payment is \$200,000 and therefore not significant as compared to the \$2 million plus rent payments due after several years of operation.

Staff Recommendation

Authorize the City Manager to sign a Conference Center Lease Agreement with Inland Pacific Colorado as previously authorized by City Council, that also includes a provision that subordinates the City's conference center rent payment to Bank One's construction loan commitment.

Background Information

The Westminster Westin Hotel and Conference Center is about to become a reality pending finalizing all the various legal, financial, and construction details. Construction drawings and Official Development Plan documents are being prepared, the lease agreement documents, land transfer documents, common area maintenance agreements, cross parking easements and a variety of other documents all making up these complex arrangements are about to be completed.

The lease agreement previously presented to City Council is the most significant legal hurdle to achieve prior to the lending institutions making their construction and take out loan commitments. A myriad of issues have been addressed and resolved over a several week period of time in order to make this project a reality. One final provision, as previously described, seems to be the last hurdle in achieving the construction funding from Bank One necessary for the project.

Staff believes that the request from Bank One is overly conservative and unnecessary given the fact that the take out lender bank (for permanent financing) will be coming on board within six-months of the hotel and conference center opening. Therefore, this is almost negating any rent payments being made during the period of the construction loan. Nevertheless, Bank One is insistent upon this provision as a condition of the construction loan. City Staff has analyzed this closely, along with its outside legal counsel, Barbara Banks of Banks and Imatami, and have concluded that the provision is not significantly adverse to the City to include in the lease agreement, but important enough for City Council to act upon prior to the City Manager signing the lease document. Therefore this item has been brought for City Council's action before the final lease agreement has been executed by the appropriate parties.

Respectfully submitted,

William M. Christopher
City Manager

Date: July 27, 1998
Subject: Citizen Communication - John Engelbrecht and Don McKinley
Prepared by: Michele Kelley, City Clerk

Introduction

John Engelbrecht and Don McKinley of The Food Merchants, Inc, have requested an opportunity to address City Council at Monday night's meeting pertaining to the City's home occupation restrictions.

Summary

Mr. McKinley and Mr. Englebrecht have been cited by Code Enforcement personnel for violations of the current home occupation City Code provisions. A list of the four code violations is listed in the attached outline of their presentation.

Mr. McKinley and Mr. Englebrecht have indicated that their discussion with City Council will be longer than 5 minutes in length, and therefore this item has been placed under item 12. Steve Peterson, Code Enforcement supervisor, will be present at the meeting to respond to any questions and provide any needed background information.

A copy of the City Code section on Home Occupation provisions is attached for Council's information.

Staff Recommendation

Listen to their presentation and then decide what, if any, action is appropriate.

Respectfully submitted,

William M. Christopher
City Manager

Attachments

Date: July 27, 1998
Subject: Financial Report for June 1998
Prepared by: Mary Ann Parrot, Finance Director

Introduction

City Council is requested to review the attached financial statements which reflect 1998 transactions through June, 1998.

Summary

There are three sections to the attached report:

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

General Fund revenues represent 51% of the total budget estimate while General Fund expenditures and encumbrances represent 51% of the 1998 appropriation. The total budgeted revenue increased \$143,870 due to a transfer from the Sales Tax Fund for mid-year staffing increases. There is a corresponding increase in the sales tax fund.

Utility Fund revenues represent 52% of the total budget estimate. Utility Fund expenditures and encumbrances represent 53% of the 1998 appropriation.

The Sales and Use Tax Fund revenues represent 54% of the total budget estimate, while expenditures and encumbrances in that fund represent 51% of the 1998 appropriation. Total Sales and Use Tax revenues for the 25 shopping centers reported increased 25% from the same period last year and increased 7% year-to-date. The Sales Tax Fund also increased \$143,870. This increase was reflected in additional sales tax revenues and increased transfers out.

The Open Space Fund revenues represent 61% of the total budget estimate while expenditures and encumbrances in that fund represent 46% of the 1998 appropriation.

The Golf Course Fund operating revenues represent 15% of the total budget estimate while operating expenditures represent 34% and encumbrances represent 9% of the 1998 appropriation. This year's budget increased \$3.7 million due to borrowing POST bond proceeds while financing is being arranged. Last year's figures reflect the issuance of the \$4.8M refunding bonds.

Theoretically, 50% of revenues and expenditures should be realized after six months in the budget year. However, it is recognized that both revenues and expenditures do not occur on an even 1/12 flow each month of the year.

Staff Recommendation

Accept the report as presented.

Background Information

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

Respectfully submitted,

William M. Christopher
City Manager

Attachments

Date: July 27, 1998
Subject: Quarterly Insurance Report
Prepared By: Nancy Winter, Risk Management Specialist

Introduction

The following is a list of third party claims filed with the City from April 1, 1998 through June 30, 1998. No Council action is required at this time.

Summary

The information provided on each claim includes the claim number, date of loss, claimant's name and address, a brief summary of the claim and the claim's status. Since all claims represent a potential liability to the City, Risk Management Staff works closely with the City Attorney's Office to make sure that the interests of both the City and the citizen are addressed in each instance. All of the claims listed in this report are in compliance with City Ordinance No. 1411 of 1984.

Staff Recommendation

Staff is not recommending any action at this time.

Background Information

The Risk Management Division received the following claims during the second quarter of 1998:

1. WS16688013 Date of Loss: January 28, 1998. Jon Everhart, 8870 Cody Street, Westminster, CO 80021. Claimant alleges the City is responsible for costs of plumbing service incurred as a result of a sewer back-up at claimant's home. CIRSA settled the claim for \$339.00.
2. WS12498014 Date of Loss: April 14, 1998. Thomas Maestes, 3220 Prince Circle, Broomfield, CO 80020. Claimant alleges a City employee in a Parks Division vehicle backed into claimant's car. CIRSA settled the claim for \$3,099.51.
3. WS04228015 Date of Loss: March 21, 1998. Joe Lucero, 1138 Kalamath Street, Denver, CO 80204. Claimant alleges that a City employee driving an ambulance failed to stop, and as a result, hit claimant's vehicle. CIRSA settled the claim for \$943.91.
4. WS11468016 Date of Loss: April 27, 1998. Gene Ibarra, 4532 North Federal Boulevard, Denver, CO 80211. Claimant alleges that an employee in a Street Division vehicle hit claimant's parked vehicle. CIRSA settled the claim for \$1,286.53.
5. WS10358017 Date of Loss: June 7, 1991. Anthony Grayson, (303) 671-5240 No address given. Claimant alleges a Westminster Police Officer used excessive force in detaining claimant, causing several injuries to claimant. CIRSA denied the claim.

6. WS11398018 Date of Loss: May 22, 1998. Big Dry Creek Wastewater Treatment Plant, 13150 North Huron, Westminster, CO 80234. Hail damaged the roof of three buildings at the wastewater plant, as well as some outdoor light covers. Damage estimates total approximately \$35,000. CIRSA investigated the claim and repairs are underway.

7. WS10358019 Date of Loss: December 4, 1997. James A. Robb, 5845 Pierce Street, Arvada, CO 80003. Claimant alleges Westminster Police Officers acted outrageously and assaulted him at the J.C. Penney store in the Westminster Mall. As a result of the alleged assault, claimant seeks damages in the amount of \$350,000 for various injuries he suffered. CIRSA is investigating the claim.

8. WS11468020 Date of Loss: May 14, 1998. Charlotte Bender, 2560 W. 109th Avenue, Westminster, CO 80234. Claimant alleges a City employee driving a Street Division vehicle backed into her car. CIRSA settled the claim for \$765.07.

9. WS14628021 Date of Loss: May 14, 1998. Clyde, Diane, and Kevin Henkelman, c/o attorneys Kiel & Trueax, P.C., 5445 DTC Parkway, Suite 940, Englewood, CO 80111. Claimants allege that the City is responsible for injuries and damages incurred when a driver in an H2O Construction Company street sweeping vehicle bearing the City of Westminster logo rear-ended claimants' vehicle. H2O Construction Company is under contract with the City, but the driver of the vehicle was not a City employee. CIRSA is investigating the claim.

Respectfully submitted,

William M. Christopher
City Manager