



WESTMINSTER
COLORADO

AUGUST 11, 2003
7:00 P.M.

CITY COUNCIL AGENDA

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

Members of the audience are invited to speak at the Council meeting. Citizen Communication (item 5) and Citizen Presentations (item 12) are reserved for comments on items not contained on the printed agenda.

1. Pledge of Allegiance
2. Roll Call
3. Consideration of Minutes of Preceding Meetings
4. Presentations
 - A. Presentation of Employee Service Awards
5. Citizen Communication (5 minutes or less)
6. Report of City Officials
 - A. City Manager's Report
7. City Council Comments

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

8. Consent Agenda
 - A. Construction of Reclaimed Waterline Extension for Bradburn Village
 - B. Contract with Acumen Development for Retail Development Consulting Work
9. Appointments and Resignations
10. Public Hearings and Other New Business
 - A. Resolution No. 31 re 2003 Great Outdoors Colorado Grant Application
 - B. Councillor's Bill No. 38 re Accent Windows Business Assistance Package
11. Old Business and Passage of Ordinances on Second Reading
12. Citizen Presentations (longer than 5 minutes) and Miscellaneous Business
 - A. City Council
 - B. Executive Session
13. Adjournment

CITY OF WESTMINSTER, COLORADO
MINUTES OF THE CITY COUNCIL MEETING
HELD ON MONDAY, AUGUST 11, 2003 AT 7:00 P.M.

PLEDGE OF ALLEGIANCE

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

ROLL CALL

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

CONSIDERATION OF MINUTES

Councillor Dittman moved, seconded by Councillor Dixon to approve the minutes of the meeting of July 28, 2003 with no corrections or additions. The motion carried unanimously.

EMPLOYEE SERVICE AWARDS

Mayor Moss presented certificates of appreciation to the following employees for 30 years of service: Ron Hellbusch, Michele Kelley; and to Sam LaConte for 45 years of service. Mayor Moss and Councillor presented certificates, pins, and checks for \$2,500 to the following employees for 25 years of service: Bill Christian and Herb George.

CITIZEN COMMUNICATION

Hal Schroyer, 9330 Julian Way, addressed Council regarding political signs in right-of-ways, and stated he wanted the signs to be allowed. He discussed ragweed growing along the right of ways and believes the initiative process for signatures required should stay as it is currently.

Ben Beatty, 4500 W 110th Cir, President of Westminster Citizens Police Academy, addressed Council on the Westminster Public Safety Recognition Foundation banquet will be held at the Westminster Doubletree Hotel on Thursday, Sept. 11, tickets are \$27.50 each. The primary focus is to recognize police, fire, citizen and employee acts of courage or heroism intended to promote public safety within the community and businesses that have made significant contributions to the community in the form of goods, services, or deeds that promote public safety. He also stated the Randal's Beer Run will be held on October 4th, the next Citizen Police Academy will begin August 27th, and there will be a Special Police Academy for Spouses conducted in the near future.

CITY MANAGER COMMENTS

Brent McFall, City Manager, recognized the employees celebrating anniversaries, commented on the Annual National Night Out held on August 5th, and on the Volunteer Barbeque that will be held on August 28.

CITY COUNCIL COMMENTS

Councillor Dittman stated he and Councillors Hicks, Dixon, and McNally, took a tour of the Standley Lake Spillway on Saturday.

Councillor Dixon commented on the Annual National Night Out on August 5th, and that she attended the Adams County Fair breakfast with Councillors Hicks and McNally.

Councillor Hicks commented on the Standley Lake Tour and Employee recognition.

Mayor Moss commented on the Citizen Police Academy Alumni cleaning the inside of the police cars last weekend and the Westminster Public Safety Recognition Foundation banquet.

CONSENT AGENDA

The following items were considered as part of the consent agenda: Construction of Reclaimed Waterline Extension for Bradburn Village with Continuum Partners for \$83,072 with a contingency of \$8,372; Contract with Acumen Development for Retail Development Consulting Work for \$165,000.

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

Councillor Dixon moved, seconded by McNally to adopt the consent agenda items as presented. The motion carried unanimously.

RESOLUTION NO. 31 RE 2003 GREAT OUTDOORS COLORADO GRANT APPLICATION

Councillor McNally moved, seconded by Hicks, to adopt Resolution No. 31 authorizing the Department of Parks, Recreation and Libraries to pursue a Grant outdoors Colorado Grant for the Fall 2003 grant cycle. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 38 RE ACCENT WINDOWS BUSINESS ASSISTANCE PACKAGE

Councillor Dittman moved, seconded by Kauffman, to pass Councillor's Bill No. 38 on first reading authorizing the City Manager to execute the business assistance package between the City of Westminster and Accent Windows. Mr. Terry Marvocich, co-owner, addressed Council. Upon roll call vote, the motion carried unanimously.

MISCELLANEOUS BUSINESS

Mayor Pro-Tem Atchison asked what the status is of the monitoring of commercial water users. The City Manager advised the Council that Staff is working with commercial water users. He also asked about the separate account for contingency transfers. The City Manager advised Council that since this is a new process and the projects are not completed, it will be awhile before the process can be evaluated.

ADJOURNMENT:

The meeting was adjourned at 7:35 P.M.

ATTEST:

City Clerk

Mayor



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
August 11, 2003

Subject: Presentation of Employee Service Awards

Prepared by: Michele Kelley, City Clerk

Recommended City Council Action:

Present service pins and certificates of appreciation to employees celebrating 25, 30 and 45 years of service with the City, and provide special recognition to our 25 year employees with the presentation of a \$2,500 bonus.

Summary Statement:

- City Council is requested to present service pins and certificates of appreciation to those employees who are celebrating their 25th, 30th and 45th anniversary of employment with the City.
- In keeping with the City's policy of recognition for employees who complete increments of five years of employment with the City, and City Council recognition of employees with 20 years or more of service, the presentation of City service pins and certificates of appreciation has been scheduled for Monday night's Council meeting.
- In 1986, City Council adopted a resolution to award individuals who have given 25 years of service to the City with a \$2,500 bonus to show appreciation for such a commitment. Under the program, employees receive \$100 for each year of service, in the aggregate, following the anniversary of their 25th year of employment. The program recognizes the dedicated service of those individuals who have spent most, if not all, of their careers with the City.
- There are two employees celebrating 25 years of service, and they will be presented with a check for \$2,500, less income tax withholding.

Expenditure Required: \$5,000

Source of Funds: Fire Department

Policy Issue

No policy issues identified.

Alternative

No alternatives identified.

Background Information

The following 25-year employee will be presented with a certificate, service pin and check for \$2,500, minus amounts withheld for Federal and State income taxes:

Bill Christian	Fire Department	Fire Lieutenant
Herb George	Fire Department	Fire Captain

William Christian

Bill Christian started his career with Westminster as a Firefighter Trainee II in June 1978, and promoted to Firefighter in June 1980. In August of the same year, Bill received his paramedic certification and was promoted to Paramedic. Bill worked for 7 years as a Paramedic until his promotion to Fire Lieutenant in 1987. In June of 1988, Bill moved from line operations to Fire Administration with a position reclassification to Deputy Fire Marshal. During that time, Bill was responsible for plan review and inspections. In 1989, Bill joined the Department's first Fire (Arson) Investigation team as a Team Leader. Bill is currently a Fire Lieutenant at Station 4 and is still a member of the Fire Investigation Team.

Herb George

Herb George started his career with Westminster as a Firefighter Trainee II at age 18 in June 1978. He moved to Firefighter I in January 1980. To attend paramedic school, Herb, only 20 years old, had to obtain special permission from Dr. Gordon, Paramedic Educator, to certify as a paramedic. Herb was one of the youngest paramedics in the state in 1980. Herb was an outstanding paramedic for over 15 years, and served as a mentor/trainer for new paramedics. Herb was one of the first members of the Adams and Jefferson County Haz-Mat teams. Herb was instrumental in the merger of the two counties into one Adams/Jeffco Hazmat, and represented the City as a board member for over eight years. His natural leadership abilities promoted him to Lieutenant in April 1987. For the next 16 years, Herb was a valued and important part of the Fire Department's supervisory team, and just recently, in June 2003, was promoted to Fire Captain. Herb currently is stationed at Fire Station 1.

The following 30-year employees will be presented with a certificate and service pin:

Ron Hellbusch	Public Works and Utilities	Director
Michele Kelley	General Services Department	City Clerk

The following 45-year employee will be presented with a certificate and service pin:

Sam LaConte	Public Works and Utilities	Street Operations Manager
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On August 20th, the City Manager will host an employee awards luncheon at which time 9 employees will receive their 10 year service pin, and 12 employees will receive their 5 years service pin, while recognition will also be given to those who are celebrating their 25th, 30th and 45th anniversary. This is the third luncheon for 2003 to recognize and honor City employees for their service to the public.

The aggregate City service represented among this group of employees is 305 years of City service. The City can certainly be proud of the tenure of each of these individuals and of their continued dedication to City employment in serving Westminster citizens.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
August 11, 2003



Subject: Construction of Reclaimed Waterline Extension for Bradburn Village

Prepared by: Diane M. Phillips, Capital Improvement Projects Coordinator
Richard A. Clark, Utilities Manager
Kipp Scott, Water Quality Administrator

Recommended City Council Action

Authorize the City Manager to execute a contract with Continuum Partners, LLC. for a sum not to exceed \$83,721 plus a project contingency of \$8,372 (10%) to be maintained in a separate account, for a total project budget of \$92,083, for the construction of 650 feet of 16-inch reclaimed water main to serve the northern portion of the Bradburn development, including the right-of-way along 120th Avenue.

Summary Statement

- In order to fully utilize the Reclaimed Water Treatment system to its full capacity, waterlines need to be extended to applicable reclaimed customer locations.
- Martin/Martin Consulting Engineers was retained to design three extensions to the reclaimed mains. The Bradburn project is one of those three.
- The landscaping for the ROW along 120th Avenue was completed in spring of 2003. The Developer of the project (Continuum Partners, LLC) has asked to complete the construction on a portion of the reclaimed line that needs to be installed prior to their contractor completing street improvements including pavement on Vrain Street from 118th Avenue to 120th Avenue.
- Continuum solicited competitive bids for all of the utility work for this phase of their development. The City reviewed these bids and concurs with the selection of contractor to be used by Continuum.
- The City of Westminster's Capital Project's Advising Engineer has reviewed the bids and acknowledges that the construction costs are competitive with other projects that the City of Westminster has recently bid.
- Other components of the project outside of this section that needs to be installed to meet the scheduled completion of road improvements will be competitively bid by the City of Westminster and built later in the fall.
- \$613,444 is currently available in the CIP budget for extensions of the reclaimed system. This project will encumber \$83,721 with a 10% contingency that will be set aside in a separate account. The total equals \$92,093 leaving \$521,351 for the remaining projects that are under design.

Expenditure Required: \$83,721 with a 10% project contingency of \$8,372

Source of Funds: Utility Fund Capital Improvement Budget

Policy Issue

Should the City reimburse a developer for the extension of a reclaimed water line?

Alternatives

The City could choose to not enter into an agreement with Continuum and choose to bid the complete project for extension of the reclaimed water lines to this area. This will delay the developer in finishing the road improvements on Vrain or will require construction within a new roadway soon after completing the roadway.

The City could choose to not construct the reclaimed water mains; however, this would impact the schedule to build out the reclaimed system and reduce the utilization of the system.

Background Information

In order to fully utilize the capacity in the Reclaimed Water Treatment Facility (currently 6 million gallons per day (MGD)) reclaimed waterlines need to be extended to potential customers.

Three projects are in various stages of design and construction by the City of Westminster, which include:

- Bradburn subdivision: Sheridan east from 116th Avenue and north to 120th Avenue
- Federal north from 112th Avenue to Stratford Lakes Park and the Ranch Reserve Subdivision
- Park Center Commercial Center: Pecos west and east along 122nd Avenue, which is under construction and will provide reclaimed water to current commercial property including the DeVry Institute project

These projects have been identified in the recently completed Reclaimed Master Plan (RMP) as being cost effective extensions to do at this time, prior to full development of these parcels. The RMP identifies that installation of this infrastructure will be more cost effective prior to completion of streets and landscaping.

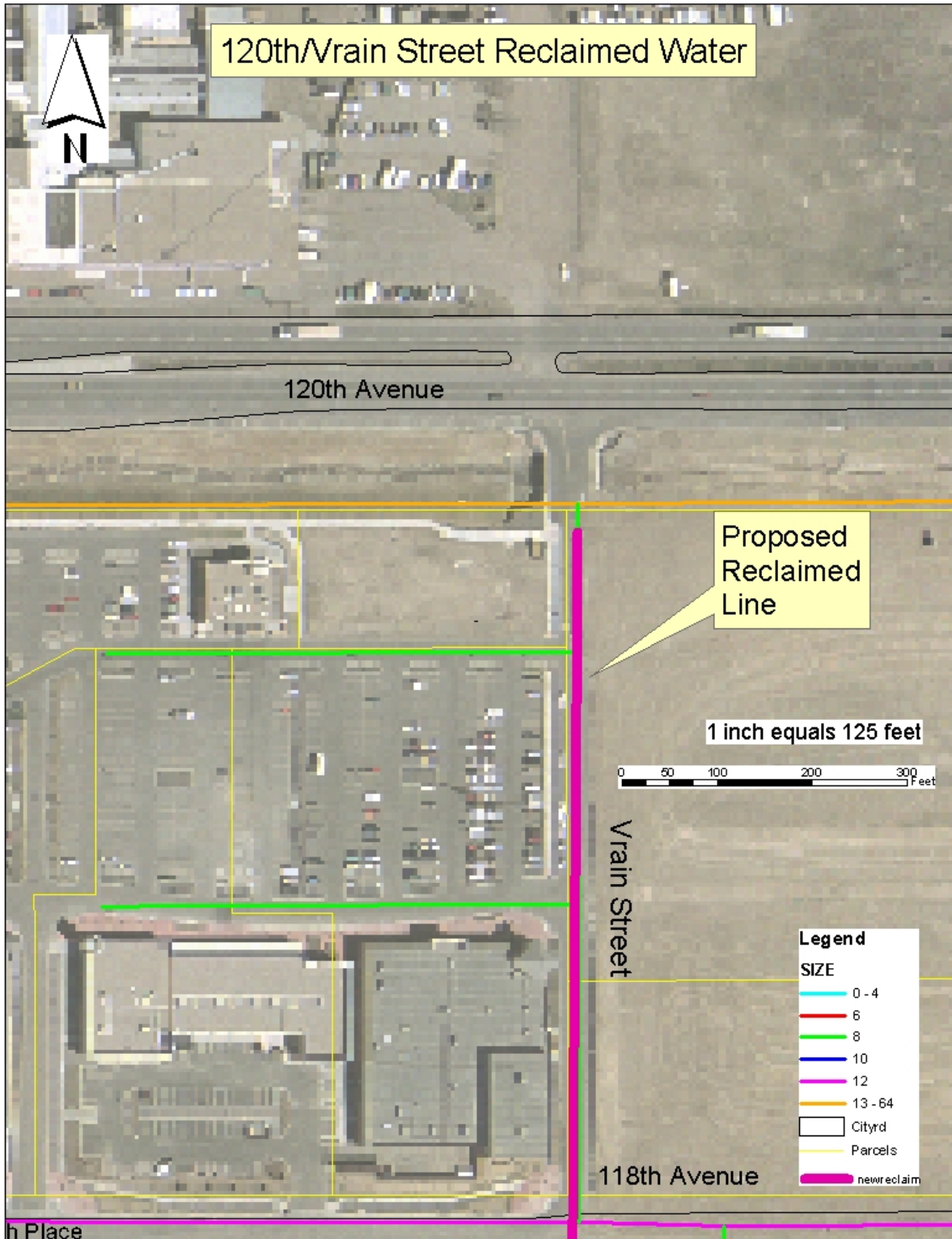
The City of Westminster chose to enter into a similar reimbursement contract with the Developer at the Park Center development in April of 2003. By allowing the developer to complete a portion of the work with their contractors the City of Westminster is able to coordinate installation of the reclaimed water mains with the construction that is occurring within the development. This reduces conflicts on these projects due to the timing of the installation of other utilities, warranty issues on recently installed landscaping and other public improvements, and a genuine desire by the developer to have access to the reclaimed system as soon as possible.

City of Westminster Staff evaluated options for this project and believes it is in the best interest to contract with the developer of the Bradburn project, Continuum, to install the portion of water line that is located within Vrain Street, beginning at 118th Avenue and continuing north along to 120th Avenue (see attached map). The developer has competitively bid the work and selected the contractor that can provide the work in the most economical and efficient manner. The City of Westminster will competitively bid the remainder of the project that includes connecting to the reclaimed line at Sheridan and 116th and continuing north and east to join the segment being installed by Continuum.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment





WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
August 11, 2003



SUBJECT: Contract with Acumen Development for Retail Development Consulting Work

Prepared By: Steve Smithers, Assistant City Manager

Recommended City Council Action

Make a finding that the public's interest will best be served by waiving City Bidding requirements and authorize the City Manager to enter into a sole source contract with Acumen Development for consulting services related to retail development in an amount not to exceed \$165,000.

Summary Statement

- > The City has been working on a significant retail prospect on a parcel of land just north of the Promenade over the last eighteen months.
- > The complexities of putting this retail development together along with the detailed negotiations involved require specialized knowledge and experience. Staff believes the use of outside consulting services will greatly increase the likelihood of landing this major retail prospect.
- > Acumen Development has worked on other developments in the City, perhaps most notably the Promenade development and the Glauser Mercedes-Benz car dealership development located just off 104th Avenue and US 36. Rich Kraus is the principal of this firm and brings excellent credentials and experience to this project.
- > Funds for this expense were specifically allocated by City Council from the 2002 Carryover to this project in the General Capital Improvement Fund.

Expenditure Required: \$165,000

Source of Funds: General Capital Improvement Fund

Policy Issues

Should the City proceed with hiring a sole source consultant to assist with negotiations and various other development issues related to a significant retail prospect?

Alternatives

City Council could choose to not authorize Staff to enter into this agreement. Given the complexities involved in this deal, and the time commitments being put into other economic development prospects by Staff, the City's prospect of landing this major retailer without outside assistance would be greatly diminished.

Background Information

During 2001, the Economic Development Division approached a large retailer about its interest in locating a store in Westminster. After some back and forth discussions, the north Promenade area was identified as the preferred location. This location presented several challenges not least of which was that the ownership of the land was split between the City and Catellus Corporation – owners of Circle Point Business Park located just north of the Promenade. With the assistance of Acumen Development the City successfully negotiated the acquisition of the land from Catellus, thereby removing one of the major impediments to this deal moving forward.

There remain many other difficult steps that need to be undertaken in order to finalize the deal with this retail prospect. Staff believes that the services of Acumen Development will be critical in assuring these steps are completed in a strategic and timely manner. Westminster is not the only City interested in this retail prospect; therefore, timing is key.

The fee being charged by Acumen Development is very competitive and a good value for the City. The total amount of the fee will be dependent on the length of time required to complete the deal and get the retail development plans finalized; however, the fees will not exceed \$165,000. If this retail project moves forward as anticipated by Staff, the annual sales tax generated is conservatively projected to be in excess of \$1.8 million.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
August 11, 2003



SUBJECT: Resolution No. 31 re 2003 Great Outdoors Colorado Grant Application

Prepared By: Becky Eades, Landscape Architect II

Recommended City Council Action

Adopt Resolution No. 31 authorizing the Department of Parks, Recreation and Libraries to pursue a Great Outdoors Colorado (GOCO) Grant for the Fall 2003 grant cycle.

Summary Statement

- The Department of Parks, Recreation and Libraries wishes to pursue a grant from the Great Outdoors Colorado Program for the construction of a skatepark to be located at City Park.
- Great Outdoors Colorado provides grant money in Colorado for municipalities to acquire, establish, expand and enhance park, outdoor recreation and environmental educational facilities.
- Staff recommends requesting a \$50,000 grant from GOCO towards the construction of a skatepark at City Park.
- The Department of Parks, Recreation and Libraries has a 50% match of \$50,000 in the 2003 Capital Improvement Program for a Skatepark.

Expenditure Required: \$50,000 for a Skatepark is already approved in the CIP Fund

Source of Funds: Parks, Recreation and Libraries 2003 General Capital Improvement Program.

Policy Issue

Should the City attempt to increase the funding for the Skatepark by pursuing grant monies from GOCO?

Alternatives

1. Council could choose not to pursue additional funding for this project and proceed with the improvements at the current budget level. However, Staff recommends attempting to increase the scope of the project with grant monies.
2. Council could choose to pursue another project for GOCO funding.

Background Information

The Department of Parks, Recreation and Libraries has been successful in applying for and receiving grants from Great Outdoors Colorado in the past. In recent years, projects such as the Westminster T-Ball Complex, Sensory Park, Skyline Vista Park and the Countryside Youth Little League Ballfields have received a total of \$485,000.

Recently, Staff has been evaluating several sites for a proposed City skatepark. After much evaluation, Staff has determined that City Park is the best-suited park site to locate the City's first public skatepark. The skatepark's proposed location is near the softball complex. (See attached plan) The skatepark will be comprised of modular equipment located on a concrete pad and will be free to the public. Receipt of a \$50,000 grant from GOCO would greatly expand the scope of the project.

The City Park Master Plan did originally propose building a skateboard park at City Park. However, when Van's decided to build a new indoor facility at the Westminster Promenade, Staff recommended delaying the construction of a new skatepark so as to not compete with Van's, which provided tax revenue to the City. Van's now has closed its doors and has gone out of business. This action has created an even greater need for a public skateboard park in Westminster. Although the proposed park will not be as elaborate as some skateboard parks in surrounding communities, Staff believes that it will fulfill a significant need for such a facility in the City of Westminster. Staff, therefore, recommends proceeding with this project.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

RESOLUTION

RESOLUTION NO. **31**

INTRODUCED BY COUNCILLORS

SERIES OF 2003

GRANT REQUESTS TO GREAT OUTDOOR COLORADO

WHEREAS, great Outdoor Colorado has established a local government grant application process to assist municipalities and special districts with the development of recreation capital improvements; and

WHEREAS, The City of Westminster has budgeted for improvements for a skatepark and;

WHEREAS, grant money received from Great Outdoor Colorado would significantly enhance the improvements for the above-mentioned project.

NOW, THEREFORE, the Westminster City Council hereby resolves that City of Westminster Staff submit a grant application to the Great Outdoor Colorado Grant program for 2003, requesting funding in the amount of \$50,000, to enhance the Skatepark project.

Passed and adopted this 11th day of August 2003.

Attest:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
August 11, 2003



SUBJECT: Councillor's Bill No. 38 re Accent Windows Business Assistance Package

Prepared By: Becky Johnson, Economic Development Program Coordinator

Recommended City Council Action

Pass Councillor's Bill No. 38 on first reading authorizing the City Manager to execute the business assistance package (BAP) between the City of Westminster and Accent Windows.

Summary Statement

- City Council action is requested to pass the attached Councillor's Bill that authorizes the execution of the amendment to the business assistance agreement with Accent Windows.
- Accent Windows manufactures and installs vinyl windows and doors. Accent Windows is considering locating their manufacturing facility from 54th Avenue and Washington Street, in unincorporated Adams County, to the existing Data Ray building at 12300 Pecos Street in Park Centre.
- Accent Windows will employ 115 people at move-in.
- Assistance is based in the City's desire to encourage the filling of existing vacant office and industrial space.
- Adams County Economic Development is also proposing an assistance package personal property tax rebates over 4 years. This assistance is provided to aid in the retention of existing County business.

Expenditure Required: \$6,000 (Permit Fees and Use Tax Rebates)

Source of Funds: The business assistance package to Accent Windows will be funded through the rebate of permit fees, construction use tax, and equipment use tax directly generated from Accent Windows locating to the existing DataRay building in Park Centre Business Park.

Policy Issue

Does Council desire to provide assistance to Accent Windows to promote the filling of existing space in the City?

Alternatives

Do Nothing: One alternative to offering the above business assistance package is to offer nothing to this company. Though City may not lose the project if assistance is not provided, the result would be that the City would not be supporting the goal of filling existing vacant space with quality companies.

Provide Less: Another alternative is to provide less assistance than what is recommended. The recommended assistance package is considered modest.

Provide More: A third alternative would be to provide a greater amount of assistance than recommended. As noted above, Staff has recommended an assistance package that is 28% of the total 5-year projected revenue. There is room for additional funding. However, it is staff's opinion that additional assistance is not needed.

Background Information

Accent Windows is considering moving its manufacturing facility from 1221 East 56th Avenue in unincorporated Adams County. The company will consolidate two different facilities and is looking to lease the 62,000 square foot former DataRay building in Park Centre Business Park. The former DataRay building has been on the market, for sale, for the past two years. A local investor recently purchased the building and Accent Windows is considering a 15 year lease, with the option to purchase the building in the future. Accent Windows has also opened a new show room for retail sales at the Colonade Shopping Center at the southeast corner of Wadsworth Parkway and Church Ranch Boulevard in Westminster.

The average salary paid by this company is \$58,000 per year. The company plans to employ approximately 115 people, resulting in an annual payroll of approximately is \$7 million. Accent Windows has projected employment to grow to 150 employees by 2008.

It is anticipated that Accent Windows will generate over \$21,000 of revenue directly to the City in the first five years of operation. This revenue is in addition to the current property tax being paid by the building owner. The revenue estimate is based on \$100,000 in tenant finish and new equipment purchases of \$100,000 at move-in as well as annually. The following is a brief projection of revenue to the City:

Based on a 5-year projection of direct City tax and fee revenue, Staff recommends the following business assistance package:

Proposed Assistance

**Approximate
Value**

Building Permit-Fee Rebate

\$1,500

100% of the building related fees (excluding water & sewer tap fees) will be rebated up to \$1,500

Building Use Tax Rebate \$1,500
100% of the General Use Tax (excludes the City's .25% Open Space Tax) on construction materials for this project will be rebated up to \$1,500

Use Tax on Furniture and Fixtures Rebate \$3,000
For the period 3 months prior to and the 3 months after the date that Accent Windows obtains the Certificate of Occupancy for the new Westminster facility, the City will rebate 100% of the General Use Tax (excludes the City's .25% Open Space Tax) collected on the furnishing and equipment purchased to furnish the new facility up to a maximum of \$3,000

Total Proposed Assistance Package Not To Exceed \$6,000

This assistance package is based upon the City's goals to attract quality companies and fill existing vacant space. The attraction of the Accent Windows will add a major employer from the manufacturing sector to the City's economy. It will also retain the employer in Adams County.

As Council will note, the assistance being proposed is 28% (\$6,000 total assistance divided by \$21,000 Projected Revenue = 28%) of the total direct general use tax and fee revenue projected from the project in the first 5 years of operation. The City will be made whole on this investment at the time of the Certificate of Occupancy.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **38**

SERIES OF 2003

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AUTHORIZING A BUSINESS ASSISTANCE PACKAGE BETWEEN ACCENT WINDOWS AND THE CITY OF WESTMINSTER TO AID IN THE RELOCATION TO PARK CENTRE BUSINESS PARK IN WESTMINSTER

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

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

WHEREAS, Accent Windows plans to occupy 62,000 square feet in the current DataRay facility at 124th Avenue and Pecos Street in Park Centre Business Park, in Westminster; and

WHEREAS, the assistance agreement continues to meet the goal of filling vacant space in the City; and

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

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

THE CITY OF WESTMINSTER ORDAINS:

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

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 11th day of August 2003.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 25th day of August 2003.

ATTEST:

Mayor

City Clerk

**ASSISTANCE AGREEMENT FOR
ACCENT WINDOWS IN THE CITY OF WESTMINSTER**

THIS AGREEMENT is made and entered into this _____ day of _____, 2003, between the CITY OF WESTMINSTER (the "City"), and Accent Windows.

WHEREAS, the City wishes to provide certain assistance to Accent Windows to aid in the relocation of the company to existing space in the City; and

WHEREAS, Accent Windows plans to occupy 62,000 square feet of existing space at 124th Avenue and Pecos, in the former DataRay facility in Park Centre Business Park; and

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

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

1. Building Permit Fee Rebates. The City shall rebate 100% of the building related permit fees, required under W.M.C. Section 11-10-3 (E), excluding water and sewer tap fees, to Accent Windows that will result in occupying of a 62,000 square foot existing building at 12300 Pecos Street, the former DataRay facility in Park Centre Business Park, with a projected move-in date of November 2003. The permit fee rebate shall not exceed \$1,500.

2. Use Tax Rebate- Construction. The City shall rebate 100% of the Building Use Tax on the construction materials, which are to be used in tenant finish of the 62,000 square foot facility existing building at 12300 Pecos Street, the former DataRay facility in Park Centre Business Park in Westminster, required under W.M.C. sections 4-2-9 and 4-2-3, to Accent Windows. The rebate shall not exceed \$1,500.

3. Use Tax Rebate- Furniture and Fixtures. For purchases of items for the new offices made during the 3 months prior to and the 3 months after the date that Accent Windows obtains the Certificate of Occupancy, the City shall rebate 100% of the General Use Tax remitted to the City of Westminster on its use tax return for the new offices. The total rebate pursuant to this paragraph shall not exceed \$3,000 (the "Rebate"). Such Rebate shall be payable exclusively from those revenues actually collected by the City from Accent Windows and attributable to the imposition against Accent Windows, of the City's 3.0% general use tax (excludes the City's .25% Open Space Tax).

4. Payments of Rebates. Rebates will be paid by the City in quarterly installments from revenue actually collected and received by the City from Accent Windows. Payments of each quarterly installment shall be made within 20 days of the calendar quarter end.

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

6. Termination. This Assistance Agreement shall terminate and become void and of no force or effect upon the City if Accent Windows has not moved into its new building by July 31, 2004 or should Accent Windows not comply with the City regulations or code.

7. Business Termination. In the event Accent Windows ceases business operations within the City within three (3) years after the new operations commence, then Accent Windows shall pay to the City the total amount of fees and taxes that were due and payable by Accent Windows to the City but were rebated by the City, as well as reimburse the City for any funds provided to Accent Windows pursuant to this Agreement.

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

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

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

ACCENT WINDOWS

CITY OF WESTMINSTER

Terry Marvocich
Co-Owner

J. Brent McFall
City Manager

ATTEST:

ATTEST:

Title Michele Kelley
City Clerk

ADOPTED BY ORDINANCE NO. 3041

Summary of Proceedings

Summary of proceedings of the regular City of Westminster City Council meeting of Monday, August 11, 2003. Present at roll call were Mayor Moss, Mayor Pro-Tem Atchison, Councillors Dittman, Dixon, Hicks, Kauffman and McNally. Absent none.

The minutes of the July 28, 2003 meetings were approved. Council recognized Employees with 25, 30, and 45 years service.

Council approved the following: Construction of Reclaimed Waterline Extension for Bradburn Village with Continuum Partners for \$83,072 with a contingency of \$8,372; Contract with Acumen Development for Retail Development Consulting Work for \$165,000.

The following Councillor's Bills was adopted on first reading:

A BILL FOR AN ORDINANCE AUTHORIZING A BUSINESS ASSISTANCE PACKAGE BETWEEN ACCENT WINDOWS AND THE CITY OF WESTMINSTER TO AID IN THE RELOCATION TO PARK CENTRE BUSINESS PARK IN WESTMINSTER purpose: Business Assistance for Accent Windows

The following Resolution was adopted:
Resolution No. 31 re Great Outdoors Colorado Grant Applications

At 7:35 P.M. the meeting was adjourned

By order of the Westminster City Council
Michele Kelley, CMC, City Clerk
Published in the Westminster Window on August 21, 2003

NOTICE OF PUBLIC HEARING

Notice is hereby given that pursuant to the ordinances of the City of Westminster, Cornerstone United Methodist Church, has filed an application with the Special Permit and License Board of the City of Westminster, Colorado for a Special Use Permit for church uses to be located at 960 West 124th Avenue, Suite 800.

A public hearing on this application will be held in the City Council Chambers, 4800 West 92nd Avenue on Wednesday, September 3, 2003 at 7:10 P.M., when and where all interested parties can be heard.

The neighborhood has been established as 128th Avenue on the north, 120th Avenue on the south, Interstate 25 on the east and Zuni Street on the west. The City will be circulating petitions within this neighborhood.

For additional information contact City Clerk's Office 303-430-2400 Extension 2161.

SPECIAL PERMIT AND LICENSE BOARD
CITY OF WESTMINSTER
Michele Kelley, City Clerk

Published in the Westminster Window, August 21, 2003

NOTICE OF PUBLIC HEARING

Notice is hereby given that pursuant to the liquor laws of the State of Colorado and the ordinances of the City of Westminster, Tesfa Alemayehu d/b/a 92nd Avenue Liquor and Wine has filed an application with the Special Permit and License Board of the City of Westminster, Colorado for a retail liquor store license, to be located at 7715 West 92nd Avenue.

A public hearing on this application will be held in the City Council Chambers, 4800 West 92nd Avenue on Wednesday, September 3, 2003 at 7:15 P.M., when and where all interested parties can be heard.

The neighborhood has been established as 100th Avenue on the north, 80th Avenue on the south, Pierce Street on the east and Garrison Street on the west. The City will be circulating petitions within this neighborhood.

Owner of Record is: Tesfa Alemayehu, 7777 East Yale Avenue #A207, Denver, CO 80231.

For additional information contact City Clerk's Office 303-430-2400 Extension 2161.

SPECIAL PERMIT AND LICENSE BOARD
CITY OF WESTMINSTER
Michele Kelley, City Clerk

Published in the Westminster Window, August 21, 2003