

September 8, 1998

7:00 PM

**Notice: 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**  
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. 88th Avenue & Zuni Street Lift Station Design - Contract with Lockwood Green Technologies for \$17,096 for design and inspection services
  - B. Countryside Youth Little League Ball Fields - Contract with Western Mobile Inc for \$36,640 for parking lot paving
- 9. Appointments and Resignations**  
None
- 10. Public Hearings and Other New Business**
  - A. TABLED - CB No 27 re Definitions for Hotels/Motels
  - B. Public Hearing re 1999 City Budget - Opportunity for Citizens to address City Council with suggestions on expenditures and/or programs for 1999 Budget year.
  - C. Public Hearing re Conoco Locations - Amendment to Official Development Plans to place a red 7" wide internally illuminated band around the bottom of canopy covering pump islands.
  - D. Official Development Plan Amendments re Conoco Locations - illuminated band around the bottom of canopy covering pump islands.
  - E. Councillor's Bill No. 39 re Big Dry Creek Trail Project - Appropriating \$50,000 for construction of the trail project
  - F. Resolution No. 48 re Great Outdoors Colorado trails grant for Big Dry Creek Trail from confluence of Big Dry Creek and Walnut Creek northeast under US 36 to 104th Avenue near the Butterfly Pavilion.
  - G. Councillor's Bill No. 40 re Ranch Barn Relocation - Appropriating \$25,000 for the relocation and restoration of the Ranch Barn located at 120th Avenue & Pecos Street.
  - H. Councillor's Bill No. 41 re Cabaret Dancing Amendment - Repeals Section 5-16-9 (A) 2 which does not allow amusement machines and dancing in the same room.
  - I. Revised Employment Contract with Martin McCullough, City Attorney for 1999 and 2000

- J. Resolution No. 49 re Westminster Economic Development Authority Loan for advance funding of \$100,000 for the Westminster Reinvestment Project.

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

None

**12. Citizen Presentations (5 Minutes + in Length) & Miscellaneous Business**

- A. Sheryl Martinson re Kings Mill Area Traffic Concerns
- B. Arapahoe Ridge Elementary School Access
- C. City Council
- D. Request for Executive Session

**13. Adjournment**

CITY OF WESTMINSTER, COLORADO  
MINUTES OF THE CITY COUNCIL MEETING  
HELD ON TUESDAY, SEPTEMBER 8, 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 Atchison and seconded by Allen to accept the minutes of the meeting of August 24, 1998 with no additions or corrections. Mayor Pro Tem Merkel requested to abstain as she was not present at the meeting. The motion carried with 6 aye votes and Mayor Pro Tem Merkel abstaining.

A motion was made by Atchison and seconded by Allen to accept the minutes of the special meeting of August 31, 1998 with no additions or corrections. The motion carried unanimously.

CITIZEN COMMUNICATION:

Steve Kosco, 2724C W. 107th Court, presented a petition to Council requesting a stop light be installed at 108th Avenue and Federal Boulevard.

Adolph Stehle, 7263 Marshall Court, addressed Council requesting financial assistance for the construction of a retaining wall on his property due to the number of traffic accidents that have damaged his property.

Carl Walzak, 3725 West 78th Avenue, addressed Council with questions regarding the Y2K problem, Ice Centre cost overruns, restricting garage sales and the parking improvements at 72nd Avenue and Lowell Boulevard.

REPORT OF CITY OFFICIALS:

City Manager Bill Christopher stated there would be a Special City Council meeting and Study Session September 21 and the next regular City Council meeting will be September 28.

CONSENT AGENDA:

The following items were considered as part of the consent agenda: **Design of 88th Avenue and Zuni Street Lift Station** - Authorize the City Manager to sign a contract with Lockwood Greene Technologies, Inc., in the amount of \$17,907 for the design and inspection services of the 88th Avenue and Zuni Street Lift Station based on their proposal being the lowest cost and charge the expense to the appropriate project account in the Utility Fund Capital Improvement Program; **Countryside Youth Little League Ball Fields** - Authorize the City Manager to approve a contact with the low bidder, Western Mobile, Inc., in the amount of \$36,640.00 and to approve a total construction budget of \$40,604.00 because it is in the best interest of the City and charge the expense to the appropriate project account in the General Capital Improvement Fund.

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. Councillor Scott requested Item 8A, Design of 88th Avenue Lift Station, be removed from the Consent Agenda.



A motion was made by Allen and seconded by Merkel to adopt the remaining Consent Agenda item as presented. The motion carried unanimously.

DESIGN OF 88TH AVENUE AND ZUNI STREET LIFT STATION:

A motion was made by Scott and seconded by Dixon to authorize the City Manager to sign a contract with Lockwood Greene Technologies, Inc., in the amount of \$17,907 for the design and inspection services of the 88th Avenue and Zuni Street Lift Station based on their proposal being the lowest cost and charge the expense to the appropriate project account in the Utility Fund Capital Improvement Program. Councillor Atchison requested to abstain from voting as he has business affiliations with Lockwood Greene Technologies. The motion carried with 6 aye votes and Councillor Atchison abstaining.

PUBLIC HEARING ON 1999 CITY BUDGET:

At 7:30 P.M. the meeting was opened to a public hearing on the 1999 Proposed City Budget. Mayor Heil reiterated the key focus areas to be pursued by City Council which were to diversify and protect the City's revenue base; protect home rule prerogatives; maintain a focus on the delivery of quality municipal services in a maturing community; expand and enhance awareness of cultural diversity in Westminster; develop a strategy for local government structure to enhance local control, eliminate duplication of services, reduce costs and build community cohesion; assume a leadership role in developing partnerships among northern communities on issues of common concern; and explore, evaluate, and implement a new north metro area consortium to address regional issues. City Manager Bill Christopher stated that some of the highlights of the proposed Operating Budget represents a 2.5 percent increase over the 1998 budget, but with no increase in the City's property tax mill levy rate of 3.65 mills and the City's Sales Tax. He also commented on the proposed increase in staffing levels and the Capital Improvement Program funding.

The following citizens addressed Council: Barbara Coronado, 7840 McCella Court, re traffic control improvements at the intersection at 78th Avenue, Lowell Boulevard and Turnpike Drive; Christy Compton, 13127 Tejon Street re a sidewalk, crosswalks and access points for Arapahoe Ridge Elementary School for the residents of Amherst Subdivision.

Mayor Heil invited the Citizens that were in the audience for Agenda Item 12B, Citizen Presentations for Arapahoe Ridge Elementary School Access, with Budget related issues to bring those items before Council during the Public Hearing on the Proposed 1999 City Budget.

Terry Fernandez, 13274 Osage Street, submitted a petition with 47 signatures requesting the closure of Osage Street to through traffic; Thea Blagg, 1381 W. 133rd Way, traffic problems on 133rd Way; Jim McMurdo, 13254 Osage Street, closure of Osage Street; Darla Brand, 2251 W. 135th Place, re a new road from Arapahoe Ridge Elementary west to Zuni Street; Lorada Taylor, 1272 W. 135th Place, additional access points for the school; Michael Mullins, 13264 Osage Street, School Zone signs on Osage Street; Lori Snyder, drainage and traffic problems if Pecos Street extension is approved; Carol Turner, Arapahoe Ridge Elementary School Principal, improvements on 132nd Avenue for additional access to the school; Teresa Grease, Amherst resident, build one-way street from Zuni to 132nd Avenue; Mary Padilla, Director of Adams County Head Start, requesting assistance from the City to find space for low income children in the Head Start program, especially in the southwest part of the City; and Carl Walzak, 3725 W. 78th Avenue, re funding for the year 2000 problems. At 8:14 P.M. the public hearing was declared closed.

PUBLIC HEARING ON CONOCO LOCATION ODP AMENDMENTS:

At 8:18 P.M. the meeting was opened to a public hearing regarding Conoco, Inc.'s requested Official Development Plan amendment to allow a red seven-inch wide internally illuminated band around the bottom of the gas canopy at two gas stations. Director of Community Development John Carpenter gave a brief background on the Conoco requested ODP amendment and entered a copy of the Agenda Memorandum, Planning Commission recommendation and other related items as exhibits. Paul Nations of Galloway Romero Associates, representing the applicant, was present to address Council and gave a slide presentation. City Planner John Quinn gave a slide presentation and addressed questions from Council. Joseph Lombardi, owner of Lombardi's Roman Garden, 3006 W. 72nd Avenue, spoke in favor of the proposed amendment. No one spoke in opposition. At 9:14 P.M. the public hearing was declared closed.

OFFICIAL DEVELOPMENT PLAN AMENDMENTS FOR CONOCO LOCATIONS:

A motion was made by Dixon to approve the Official Development Plan amendments based on the following conditions: Accent strips to be 7 inches in height or less, only 1 row of accent strips to be allowed, and illumination shall be appropriate for the neighborhood, but if complaints are received by the City on the amount of lighting, then the applicant will be required to lower the amount of illumination. The motion failed for lack of a second.

A motion was made by Scott to deny the Official Development Plans Amendment based on the following findings: The proposal does not meet the standards for approval of Official Development Plans, Section 11-5-15 of the Westminster Municipal Code; The City's Commercial Standards do not allow trimming the building in neon, or the illuminating of awnings. The red stripe is not neon. However, it acts in the same fashion and thus the same criteria should apply for other similar forms of stripe lighting; and, The present recorded Official Development Plan does not permit the red accent stripe at the bottom of the canopy sign. The motion failed for lack of a second.

A motion was made by Smith and seconded by Merkel to approve the Official Development Plan based on the conditions that the accent strip is not illuminated, the height of the accent strip be limited to 7 inches in height, and only one row of accent strip is permitted and is limited to the main structure. The motion carried with 6 aye votes and a dissenting vote by Dixon.

The Mayor stated that because of the large amount of citizens wishing to speak under Citizens Presentations, that Council will move to Item 12A, Kings Mill Area Traffic and Item 12B, Access to Arapahoe Ridge Elementary School.

CITIZEN COMMUNICATION - SHERYL MATRINSON RE KINGS MILL AREA TRAFFIC:

Sheryl Martinson, 8550 W. 90th Avenue and Kent Henderson, 8570 W. 90th Avenue, addressed Council with traffic concerns within the Kings Mill area, in particular, 90th Avenue between Moore Middle School and Zerger Elementary School.

CITIZEN COMMUNICATION - ACCESS TO ARAPAHOE RIDGE ELEMENTARY SCHOOL:

Jim McMurdo, 13254 Osage Street, requested to know the City's current proposal for the traffic issues at Arapahoe Ridge. City Engineer Dave Downing gave a brief background report on the issue and presented Staff's proposed recommendation that is being considered for formal presentation to City Council. Brian Carlson, 13203 Osage Street, question why sidewalk not completed prior to school opening and installation of "divets" across the road to act as speed deterrent; Christy Compton, 13127 Tejon Street, re clarification when decision on access road will be finalized; Mark Crabb, 13569 Vallejo Street, re overall traffic flow around the school; Dave Nearing, 1339 W. 133rd Way, re closure of Osage Street; Kathy Falliano, concerns why traffic flow wasn't part of approval process for new school; Elina Clark, 13181 Raritan Court, re pedestrian access from Amherst Subdivision at 134th and Pecos Street; and Kim Wilcoxson, 13154 Tejon Street, re traffic on Osage Street.

PECOS STREET EXTENSION:

A motion was made by Smith and seconded by Dixon to authorize the City Manager to execute a contract or change order with a qualified contractor acceptable to the City Manager, in an amount not to exceed the amount currently budgeted for the extension of Pecos Street from 132nd Avenue to 134th Avenue, including a side walk, and charge the cost to the appropriate General Capital Improvement Account. The motion carried unanimously.

Darren Eurich, 1274 W. 132nd Place, addressed Council re playground and fence at Arapahoe Ridge Elementary School.

COUNCILLOR'S BILL NO. 39 - BIG DRY CREEK TRAIL GRANT APPROPRIATION:

A motion was made by Allen and seconded by Merkel to pass Councillor's Bill No. 39 on first reading appropriating \$50,000 into the General Capital Improvement Fund and authorize these funds for construction of the Big Dry Creek Trail project. Upon roll call vote, the motion carried unanimously.

RESOLUTION NO. 48 - GOCO CONTRACT FOR BIG DRY CREEK TRAIL PROJECT:

A motion was made by Allen and seconded by Scott to authorize the City Manager to sign a contract with Great Outdoors Colorado regarding the City's obligations for the construction of the Big Dry Creek Trail project. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 40 - RANCH BARN RELOCATION APPROPRIATION:

A motion was made by Merkel and seconded by Scott to pass Councillor's Bill No. 40 on first reading appropriating \$25,000 into the Open Space/Sales Use Tax Fund and also authorize these funds to be used for the relocation and restoration of the Ranch Barn. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 41 - CABARET DANCING AMENDMENT:

A motion was made by Atchison and seconded by Allen to pass Councillor's Bill No. 41 on first reading which repeals section 5-16-9(A)2 of the Municipal Code which does not allow amusement machines and cabaret dancing within the same room of an establishment. Upon roll call vote, the motion carried unanimously.

REVISED EMPLOYMENT CONTRACT WITH MARTIN McCULLOUGH:

A motion was made by Smith and seconded by Dixon to approve a revised employment agreement with Martin McCullough serving in the position of City Attorney for calendar years 1999 and 2000, and authorize the Mayor and City Clerk to execute the agreement on behalf of City Council. The motion carried unanimously.

RESOLUTION NO. 49 - CONTINGENCY TRANSFER FOR WEDA LOAN:

A motion was made by Atchison and seconded by Merkel to adopt Resolution No. 49 authorizing the transfer of \$100,000 from the General Fund Contingency Account to the Westminster Economic Development Authority Budget for expenses involved in the Westminster Center Reinvestment Project. Upon roll call vote, the motion carried unanimously.

MISCELLANEOUS BUSINESS:

Jim Sullivan addressed Council complimenting the City on the Westminster Center project and announced that he was donating the fountain and sculpture at the northeast corner of 92nd Avenue and Sheridan Boulevard to the City.

ADJOURNMENT:

The meeting was adjourned at 11:09 P.M.

ATTEST:

\_\_\_\_\_  
Mayor

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

**Date:** September 8, 1998  
**Subject:** Design of 88th Avenue and Zuni Street Lift Station  
**Prepared by:** Diane M. Phillips, Capital Improvement Projects Coordinator

### **Introduction**

City Council action is requested to authorize the City Manager to sign a contract with Lockwood Greene Technologies, Inc., an engineering consulting firm, in the amount of \$17,907 for the design of and inspection services for the 88th Avenue and Zuni Street Lift Station. Funds are available in the Utilities Capital Improvements Project Budget for this project.

### **Summary**

The City solicited and received four proposals from engineering firms for the design of the 88th Avenue and Zuni Street Lift Station on July 29. Lockwood Greene Technologies, Inc., submitted the low proposal and are well qualified to perform the work.

Lockwood Greene Technologies, Inc.	\$17,907
Integra Engineering	\$17,960
Sear-Brown Group	\$36,880
Burns and McDonnell	\$39,930

Lockwood Greene Technologies, Inc. is a qualified and capable firm that has experience with the design of similar utility system facilities projects.

As provided in City Charter Section 5.12, disclosure of any pecuniary interest of a Councillor should be made and unanimous approval by City Council will be required. In this case, Councillor Atchison is employed by Lockwood Greene Technologies, Inc.

### **Staff Recommendation**

Authorize the City Manger to execute a contact with Lockwood Greene Technologies, Inc., in the amount of \$17,096 for the design and inspection services of the 88th Avenue and Zuni Street Lift Station based on their proposal being the lowest cost and charge the expense to the appropriate project account in the Utility Fund Capital Improvement Program.

### **Background Information**

The existing 88th Avenue and Zuni Street Sewage Lift Station has been in operation for 28 years. This station has required numerous repairs and it is located below ground in a confined space. The lift station has a pumping capacity of 400 gallons per minute. The replacement station will have a capacity of 700 gallons per minute and will provide increased pumping capacity, assure continued operation, and provide safer access for maintenance.



An alternative to accepting the Lockwood Greene Technologies, Inc., proposal would be to accept the second low proposal made by Integra Engineering. Both firms are qualified and capable; however, Lockwood Greene was the most responsive in their proposal and meets all requirements set out in the City's request for proposals.

A second alternative would be to delay the lift station design and construction, but this would jeopardize reliable sewer system service in that area of the City.

Respectfully submitted,

William M. Christopher  
City Manager

**Date:** September 8, 1998  
**Subject:** Countryside Youth Little League Ball Fields  
**Prepared By:** Becky Eades, Landscape Architect

**Introduction**

City Council action is requested to authorize a contract with Western Mobile, Inc. for \$36,640, and to approve a 10% project contingency for parking lot sub-base repairs and completion of the north parking lot at the Countryside Youth Little League Ball Fields. Funds for this project expense of \$40,304 are available in the 1998 CIP project account.

**Summary**

The Countryside Youth Little League Ballfield project consists of two little league fields and parking for approximately 100 cars, located just north of the Countryside Recreation Center at the intersection of 106th Avenue and Oak Street. Currently, project construction is 95 percent complete with All Phase Landscape, with the only parking lot remaining to be completed.

The base course of asphalt was successfully completed last fall. However, when Brannan Asphalt, All Phase Landscape's subcontractor, returned this May to finish the surface course of asphalt, approximately 1500 square feet of the base course failed due to increased moisture in the parking lot sub-base. Parks Staff has consulted with Staff from the Streets Division of Public Works and Utilities to determine the best course of action for remediation. It was determined that the contractor could not be held responsible for the failure of this section of the parking lot because even after extensive testing and investigation, Staff was unable to identify the source of the moisture. When All Phase Landscape and Brannan Asphalt indicated a reluctance to warranty any further work on this portion of the parking lot, bids were solicited from additional paving companies to provide the necessary repair and repaving. Those bids are as follows:

Western Mobile, Inc.	\$36,640.00
Asphalt Specialties Co.	\$36,994.95
Brannan Asphalt	\$45,304.05

The apparent low bid from Western Mobile, Inc. for \$36,640.00 is considered a good bid, and Western Mobile, Inc. is highly recommended, by Street Division personnel.

Projected project budget for repair and repaving is as follows:

Western Mobile, Inc.	\$36,640.00
10% Construction Contingency	\$3,664.00
<b>TOTAL</b>	<b>\$40,304.00</b>

**Staff Recommendation**

Authorize the City Manager to approve a contact with the low bidder, Western Mobile, Inc., in the amount of \$36,640.00 and to approve a total construction budget of \$40,604.00 because it is in the best interest of the City and charge the expense to the appropriate project account in the General Capital Improvement Fund.

### **Background Information**

The 7.6 acre project site is located at the southeast corner of W. 106th Avenue and Oak Street adjacent to Countryside #13 Open Space.

The project was advertised and bid according to the City's purchasing ordinance and the contract was awarded in June of 1997 to All Phase Landscape. Construction of the project began in July of 1997 and it is now substantially complete.

Jefferson County Open Space (JCOS) initially awarded the Countryside Ball Field project a \$60,000 Joint Venture grant in 1995. When City Staff became aware that the construction costs of the project exceeded the available funding, even with a reduction in the scope of the project, an additional grant application was submitted to JCOS. In 1997, JCOS awarded the Countryside Ball Field project an additional \$100,000, allowing construction to proceed. Additional grant funding contributions for the project came from the American West Little League, \$35,000, and from Great Outdoors Colorado (GOCO), \$75,000. Also, \$330,000 was available for the project from the City's Capital Improvement Project fund.

At the July 27, 1998 City Council meeting, Council approved the reallocation of \$90,000 from the Westcliff Park acquisition funds to the Countryside Youth Little League Ball Fields, a portion of which is earmarked for parking lot repairs and repaving. The remainder of the reallocated funds will be used to complete the 0.9 acre wetland mitigation necessitated by the Federal Governments revised criteria which involved construction of the ball fields. Also, installation of additional fencing at the west ball field will be funded.

Respectfully submitted,

William M. Christopher  
City Manager

Attachments - Project area map

**Date:** September 8, 1998  
**Subject:** Second Public Hearing on 1999 City Budget  
**Prepared by:** Barbara Gadecki, Assistant to the City Manager

### **Introduction**

City Council is scheduled to hold a public hearing to receive public input on the 1999 City Budget at Tuesday night's City Council meeting.

### **Summary**

Development and review of the 1999 City Budget will culminate in the distribution of the 1999 Proposed Budget to City Council on September 11. This is the final public hearing prior to the City Council Budget Retreat, so that citizens will have one more opportunity to comment and provide feedback on the 1999 City Budget. In accordance with the City Charter, City Council must adopt the budget no later than the October 26 City Council meeting.

### **Staff Recommendation**

Hold a public hearing on the 1999 City Budget and receive citizen comments.

### **Background Information**

In April, City Council identified key focus areas to be pursued in 1999. The following is a list of these focus areas:

- > diversify and protect the City's revenue base;
- > protect home rule prerogatives;
- > maintain a focus on the delivery of quality municipal services in a maturing community;
- > expand and enhance awareness of cultural diversity in Westminster;
- > develop a strategy for local government structure to enhance local control, eliminate duplication of services, reduce costs and build community cohesion;
- > assume a leadership role in developing partnerships among northern communities on issues of common concern; and
- > explore, evaluate, and implement a new north metro area consortium to address regional issues.

The direction provided by City Council assists City Staff as they prepare and review the 1999 Proposed City Budget. Other considerations that go into developing a well-balanced budget are department priorities that strive to maintain existing service levels, and citizen/neighborhood input.

The development of the 1999 City Budget has occurred throughout the summer, and a Proposed Budget per City Charter requirements will be submitted by the City Manager to City Council on September 11 for their review. After reviewing the Proposed Budget for several weeks, City Council will hold their annual Budget Retreat on October 3 to more thoroughly review staffing levels, programs, services, and capital projects. Adoption of the 1999 Budget is scheduled for October 26 per City Charter requirements.

Respectfully submitted,

William M. Christopher, City Manager

**Date:** September 8, 1998  
**Subject:** Official Development Plan Amendment for Conoco Locations  
**Prepared by:** John H. Quinn, AICP

### **Introduction**

City Council action is requested to decide on the appeal by the City Manager regarding Conoco, Inc.'s requested Official Development Plan (ODP) amendment to allow a red seven-inch wide internally illuminated band around the bottom of the gas canopy at two gas stations.

### **Summary**

The property owner, Conoco, Inc., requested an amendment to their existing Official Development Plan to place a red seven-inch wide internally illuminated band around the bottom of the canopy covering the pump islands. The Planning Commission approved this request on July 28, 1998. However, this decision was appealed by Staff to the City Council in accordance with Section 11-5-13(B)1e of the Westminster Municipal Code. The attached August 6, 1998 memorandum from the City Manager, outlines Staff's justification for this appeal. For these reasons and the following reasons, Staff is opposed to this request.

- The proposal does not meet the standards for approval of Official Development Plans, Section 11-5-15 of the Westminster Municipal Code.
- The City's Commercial Standards do not allow trimming the building in neon, or the illuminating of awnings. The red stripe is not neon, but nevertheless, it acts in the same fashion and thus the same criteria should apply for other similar forms of stripe lighting.
- The present recorded Official Development Plan does not permit the red accent stripe at the bottom of the canopy sign.

The applicant is seeking approval to install the red stripe on two of the Conoco facilities presently existing in the City and to add this trim to any future stations built in the community. The question before City Council is whether or not to approve the applicant's request.

### Applicant/Property Owner

Conoco Inc.  
600 North Dairy Ashford  
Houston, TX 77079

### Locations

The southwest corner of 72nd Avenue and Federal Boulevard  
7199 N. Federal Boulevard (see attached vicinity map)

The southwest corner of 80th Avenue and Federal Boulevard

7995 N. Federal Boulevard (see attached vicinity map)



### Major Issues

1. Compliance with the Title XI Land Development and Growth Management Procedures.
2. Compliance with the Commercial Development Standards.
3. Compliance with the Official Development Plan.

### **Planning Commission Recommendation**

The Planning Commission at their meeting of July 28, 1998 by a vote of 5-2 approved the installation and illumination of a seven-inch high red accent stripe on the bottom of the fuel pump canopy at the two Conoco facilities noted above. The City Manager has appealed this decision to the City Council. (See attached memorandum from City Manager to City Council).

### **Staff Recommendation**

1. Hold a public hearing.
2. Deny the Official Development Plans Amendment based on the following findings:
  - (a) The proposal does not meet the standards for approval of Official Development Plans, Section 11-5-15 of the Westminster Municipal Code.
  - (b) The City's Commercial Standards do not allow trimming the building in neon, or the illuminating of awnings. The red stripe is not neon. However, it acts in the same fashion and thus the same criteria should apply for other similar forms of stripe lighting.
  - (c) The present recorded Official Development Plan does not permit the red accent stripe at the bottom of the canopy sign.

### **Background Information**

The applicants installed the red accent stripe on the canopy at their facility located at 80th Avenue and Federal Boulevard and their facility at 112th Avenue and Sheridan Boulevard without obtaining a building permit. The stripe is not illuminated at night, because City Staff informed Conoco their addition was not permitted unless the Official Development Plan was amended. The applicants have not installed the red accent stripe at their 72nd Avenue and Federal Boulevard facility. (See copy of building permits).

For sometime, Staff has made a concerted effort to downplay the size and color of gasoline island canopies, due to their size and prominent location on the front of the site. The use of brightly colored accent stripes emphasizes the prominence of the canopy, having the opposite effect of what is desired by Staff. Lighted accent stripes are present on other buildings in the City. These include:

1. Trailside Commercial - 88th and Garrison.
2. Long John Silvers - 73rd and Federal.
3. Two Diamond Shamrock locations located at
  - Northwest corner of 92nd Avenue and Wadsworth Parkway.
  - West side of Sheridan in front of Walmart.

The accent stripes are gaudy and their sole purpose is to attract attention to a business in a way that detracts from the project and the overall streetscape. These lighted colorbands, when placed on a building in a commercial complex, often clash with the overall color schemes.

### Discussion of Major Issues

The City Staff has discouraged the use of attention grabbing devices, because they act as signs, without being counted as part of the allowable sign area for the business. The City has made a conscious effort to minimize the impact of pump island canopies, not emphasize them. City Staff has been able to convince several oil companies to construct uniquely designed stations within the community to meet the higher quality standards the City is striving to achieve. In addition, if this seven-inch wide canopy band is permitted, Staff believes that other oil companies will seek to install lighted canopy bands. If the illuminated canopy accent stripes are allowed without specific guidelines of how these sign features (accent bands) are to be controlled, a precedent will have been set.

The following portions of the City Code or guidelines are applicable to this issue.

1. The proposal does not comply with Section 11-5-15 of the Westminster Municipal Code. The trim would be incompatible with the existing buildings and surrounding developments.
2. The Commercial Development Standards, in Section 6 states that "Exposed neon signage is not permitted, and the trimming of buildings in neon is not permitted". The illuminated red stripe is not neon; however, the same principal is involved. These stripes function in the same manner as a neon stripe would around the canopy, therefore, the same criteria should apply and the request should be denied. (Example Long John Silvers)
3. The architectural design of all structures is a requirement of the Official Development Plan. The approved plan did not include a red accent stripe on the bottom of the canopy. City Staff does not support this amendment to the Official Development Plan.

### Alternatives

Should the City Council decide to approve the applicants request for the accent stripe, Staff suggests the following conditions be applied:

1. The accent stripe be non-illuminated.
2. The colors be consistent with the color scheme for the approved ODP (if applicable).
3. The height of the accent stripe be limited to 7" in height. Only one row of accent stripe is permitted and is limited to the main structure.
4. If illumination is permitted (not recommended by Staff), the bulbs shall not be more than 40 watts so as to reduce the brightness.

### Architectural/Building Materials

The red accent stripe at the bottom of the canopy is incompatible with the existing structures and surrounding development.

### Public Land Dedication, Parks and Trails

Not applicable to this amendment.

### Access and Circulation

Not applicable to this amendment.

### Site Design

Not applicable to this amendment.



Signage

The fact that this red band does not spell out words or symbols does not diminish the fact that it serves the function and purpose of a sign. In addition, it is not counted as part of the sign area of the permitted sign area.

Service Commitments Category

Not applicable to this amendment.

Referral Agency Responses

Not applicable to this amendment.

Public Comments

No public comments have been received.

Surrounding Zoning

The properties adjacent to the 72nd Avenue and Federal Boulevard site is zoned C-1 and B-1 commercial, with a variety of businesses uses on the sites.

The property located at 7995 N. Federal Boulevard is zoned commercial to the northeast and south of the site; the property to the west is zoned R-1 residential.

Historical Information

Both of these sites have been service stations sites for several years and are well known locations to their customers. The need for additional attention getting devices on the canopy will be of little benefit and may detract from the existing architectural theme of the buildings.

Respectfully submitted,

William M. Christopher  
City Manager

Attachments

**Date:** September 8, 1998

**Subject:** Big Dry Creek Trail GOCO Grant 104th Avenue to Walnut Creek

**Prepared by:** Philo Shelton, Park Project Engineer

### **Introduction**

City Council action is requested to pass on first reading the attached Councillor's Bill regarding a supplemental appropriation of \$50,000 (the amount of the 1998 Great Outdoors Colorado (GOCO) grant award that the City received in April) into the General Capital Improvement Project Fund for construction of the Big Dry Creek Trail project. City Council action is also requested to adopt the attached Resolution authorizing the City Manager to sign a contract with GOCO regarding the City's obligation of matching funds for construction of the Big Dry Creek Trail project. The City already has budgeted the matching funds in the Big Dry Creek Trail account.

### **Summary**

In December 1997, Staff applied for a \$50,000 trail grant sponsored by Colorado State Parks and Great Outdoors Colorado (GOCO) Trust Fund for Big Dry Creek Trail. The City was awarded the grant in the amount of \$50,000 in April 1998 for the construction of the trail. This is the third grant received from GOCO for the Big Dry Creek Trail.

The grant is for the construction of Big Dry Creek Trail from the confluence of Big Dry Creek and Walnut Creek northeast under the Boulder Turnpike to 104th Avenue next to the Butterfly Pavilion. This portion of the trail was previously funded by Jefferson County Open Space (JCOS) Trails 2000 program. The construction cost of the project is anticipated to be \$260,000 including a matching grant from GOCO totalling \$50,000.

### **Staff Recommendation**

1. Pass Councillor's Bill No. \_\_\_\_\_ on first reading appropriating \$50,000 into the General Capital Improvement Fund and authorize these funds for construction of the Big Dry Creek Trail project.
2. Adopt Resolution No. \_\_\_\_\_ authorizing the City Manager to sign a contract with Great Outdoors Colorado regarding the City's obligations for the construction of the Big Dry Creek Trail project.

### **Background Information**

Westminster has in the past benefited from JCOS for trail development along Big Dry Creek as part of the Trails 2000 program, and Jefferson County's financial contribution of \$350,000 for masterplanning of Big Dry Creek Trail, and design and construction of Phase I of Big Dry Creek Trail from City Park to Sheridan. All of Big Dry Creek Trail in Jefferson County was previously funded 100% by the Jefferson County Open Space (JCOS) Trails 2000 program.

However, as a result of a citizen survey in Jefferson County, funding from the Trails 2000 program is no longer available due to a shift in JCOS program to focus on open space acquisition instead of trail development.

Since the Big Dry Creek Trail is the City's top trail priority, City Council appropriated \$900,000 in the 1998 General CIP Fund to help complete the Big Dry Creek Trail in Jefferson County.

In November 1997, City Council authorized a resolution for the submittal of a trails grant application to GOCO and Colorado State Parks for the construction of the Big Dry Creek Trail from the confluence of Big Dry Creek and Walnut Creek north-east under the Boulder Turnpike to 104th Ave. next to the Butterfly Pavilion.

Westminster has benefited from the GOCO and Colorado State Parks trails grants. Over the past four years, Westminster has been successful in receiving a trails grant for every year. These projects include Big Dry Creek Trail from Sheridan to 128th for \$45,000, Big Dry Creek trail from 128th to Huron and Amherst School for \$40,000, Little Dry Creek Trail from Federal to Zuni for \$50,000, and Big Dry Creek Trail from Walnut Creek to 104th for \$50,000.

Respectfully submitted,

William M. Christopher  
City Manager

Attachments - Resolution, Councillor's Bill and Project map

RESOLUTION

RESOLUTION NO.

INTRODUCED BY COUNCILLORS

SERIES OF 1998

\_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WESTMINSTER  
DEFINING RESPONSIBILITY TO THE STATE BOARD  
OF THE GREAT OUTDOORS COLORADO TRUST FUND

WHEREAS, the City of Westminster supports the completion of Big Dry Creek Trail Project; and

WHEREAS, the The State Board of the Great Outdoors Colorado Trust Fund awarded Westminster a grant in the amount of \$50,000 in 1998 for construction of Big Dry Creek Trail, subject to the execution of a grant agreement; and

NOW, THEREFORE, the Westminster City Council hereby resolves that the City Manager on behalf of the City of Westminster shall enter into an agreement with The State Board of the Great Outdoors Colorado Trust Fund on a contract for Big Dry Creek Trail project, and the City of Westminster shall be responsible for providing matching funds as identified in the contract for construction of Big Dry Creek Trail project. This resolution to be in full force and affect from and after its passage and adoption.

Passed and adopted this 8th day of September, 1998.

ATTEST:

\_\_\_\_\_  
Mayor

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

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 GENERAL CAPITAL IMPROVEMENT PROJECT FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 1998 ESTIMATED REVENUES IN THE FUND

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 1998 appropriation for the General Capital Improvement Project Fund, initially appropriated by Ordinance No. 2566 in the amount of \$17,405,000 is hereby increased by \$50,000 which, when added to the fund balance as of the City Council action on September 8, 1998, will equal \$14,575,000. The actual amount in the General Capital Improvement Project 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 a Great Outdoors Colorado grant for the construction of Big Dry Creek Trail

Section 2. The \$50,000 increase in the General Capital Improvement Project Fund shall be allocated to City Revenue and Expense accounts which shall be amended as follows:

<u>Description</u>	<u>Current Budget</u>	<u>\$ Increase</u>	<u>Final Budget</u>
<u>REVENUES</u>			
Intergovernmental			
75-0478-000	\$155,000	<u>\$50,000</u>	\$205,000
<u>EXPENSES</u>			
Big Dry Creek Trail project			
75-50-88-555-391	\$945,200	<u>\$50,000</u>	\$995,200

Section 3 - Severability. The provisions of this Ordinance shall be considered as severable. If any section, paragraph, clause, word, or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part shall be deemed as severed from this Ordinance. The invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect the construction or enforceability of any of the remaining provisions, unless it is determined by a court of competent jurisdiction that a contrary result is necessary in order for this Ordinance to have any meaning whatsoever.

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

Section 5. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 8th day of September, 1998.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this \_\_\_\_\_ day of September, 1998.

ATTEST:

\_\_\_\_\_  
Mayor

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



**Date:** September 8, 1998  
**Subject:** Ranch Barn Relocation  
**Prepared By:** Becky Eades, Landscape Architect

### **Introduction**

City Council action is requested to authorize the City Manager to pass on first reading the attached Councillor's Bill providing for a supplemental appropriation of \$25,000 into the Open Space Fund. This is the amount due the City from Jeff Salter to be applied toward the relocation and restoration of the Ranch Barn.

### **Summary**

On March 14, Jeff Salter entered into a Donation Agreement with the City. As part of the Agreement, Mr. Salter agreed to pay \$25,000 toward the relocation of the Ranch Barn from his property to the adjacent City Open Space at 120th Avenue and Pecos Street. The donation also was to be used to help restore the barn to a more structurally sound and useable condition as well.

### **Staff Recommendation**

Pass Councillor's Bill No. on the first reading appropriating \$25,000 into the Open Space/Sales Use Tax Fund and also authorize these funds to be used for the relocation and restoration of the Ranch Barn.

### **Background Information**

Since 1989, when 18.8 acres of Ranch Open Space property was purchased, the Department of Parks, Recreation and Libraries has had an agreement with a local rancher to graze a limited number of livestock on the property as a management tool and to present an aesthetic quality for those viewing the property. Jeff Salter, owner of two adjacent barns including the barn considered for relocation, has allowed the smaller barn to be used free of charge for sheltering livestock. Both the City and Mr. Salter view the grazing of animals on the open space to be an enhancement for the property and wish to see the tradition continue.

Project costs include \$144,000 for MBA Denver, Inc., relocation contractor; \$8,500 for Public Service Company; \$15,000 for water tap; and a \$14,400 contingency for a total project budget of \$183,900. Incorporating Mr. Salter's contribution of \$25,000, reduces the City's total expense to \$158,900.

Mr. Salter is in the process of constructing an office building and parking lot on his property, which necessitated either the removal or relocation of the barn and adjacent windmill. Based on a Confidential Memorandum presented to City Council on December 31, 1997, Staff was directed to proceed with the relocation of the barn and windmill onto the adjacent City Open Space.

Currently, the relocation and restoration onto the City Open Space is approximately 80 percent complete. The restoration activities should be completed within 6 weeks.

Respectfully submitted,

William M. Christopher, City Manager  
Attachments - Project area map, Councillors Bill

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 OPEN SPACE FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 1998 ESTIMATED REVENUES IN THE FUND

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 1998 appropriation for the Open Space Fund, initially appropriated by Ordinance No. 2566 in the amount of \$4,052,000 is hereby increased by \$25,000 which, when added to the fund balance as of the City Council action on September 8, will equal \$4,077,000. 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 a \$25,000 donation to the City by Westminster business owner, Jeff Salter, to be used for the relocation and refurbishment of the Ranch Barn.

Section 2. The \$25,000 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>Current Budget</u>	<u>\$ Increase</u>	
<u>Final Budget</u>			
<u>REVENUES</u>			
Business Contributions			
54-1108-000	\$0	<u>\$25,000</u>	\$25,000
Total change to revenues		<u>\$25,000</u>	
<u>EXPENSES</u>			
Open Space Construction			
54-10-90-505-000	\$182,900	<u>\$25,000</u>	\$207,900
Total change to expenses		<u>\$25,000</u>	

Section 3 - Severability. The provisions of this Ordinance shall be considered as severable. If any section, paragraph, clause, word, or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part shall be deemed as severed from this Ordinance. The invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect the construction or enforceability of any of the remaining provisions, unless it is determined by a court of competent jurisdiction that a contrary result is necessary in order for this Ordinance to have any meaning whatsoever.

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

Section 5. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 8th day of September, 1998.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this \_\_\_\_\_ day of September, 1998.

ATTEST:

\_\_\_\_\_

Mayor

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City Clerk

**Date:** September 8, 1998  
**Subject:** Councillor's Bill No. re Cabaret Dancing Amendment  
**Prepared by:** Michele Kelley, City Clerk

### **Introduction**

City Council action is requested to amend the Municipal Code pertaining to Cabaret Dancing pursuant to a request from the business community. This request has also been reviewed by the Special Permit and License Board with the Board recommending the repeal of this section of the code.

### **Summary**

Recently, an existing Westminster business that currently has a restaurant liquor license and amusement machines requested information and requirements pertaining to obtaining a cabaret dancing license.

During the process of reviewing the City's ordinance, the applicant questioned Section 5-16-9 (A)(2) which requires amusement machines not to be located in the same room as cabaret dancing. Because of the applicant's current facilities, this requirement would not allow them to apply for a cabaret license.

Upon Staff's review of this requirement, there did not seem to be any specific reason for this restriction. This requirement was reviewed by the Special Permit and License Board on July 22, 1998 and the Board has no objection to repealing this Section of the Code, since the Special Permit and License Board would be reviewing each application individually and could place specific conditions on any one license based on any Fire Department and/or Police Department concerns or concerns of citizens or the Board.

Staff has prepared the attached Councillor's Bill which will repeal this section of the Code.

### **Staff Recommendation**

Pass Councillor's Bill No. which repeals section 5-16-9 (A) 2 of the municipal code which does not allow amusement machines and cabaret dancing within the same room of an establishment.

### **Background Information**

This recommendation from the Special Permit and License Board has previously been reviewed by City Council and Council did concur with the repeal of WMC Section 5-16-9 (A)(2) regarding the prohibition of amusement machines and cabaret dancing in the same room.

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 REPEALING SECTION 5-16-9 (A) 2 OF THE MUNICIPAL CODE PERTAINING TO AMUSEMENT CENTERS AND CABARET DANCING

THE CITY OF WESTMINSTER ORDAINS:

Section 1: Section 5-16-9 (A) of the Westminster Municipal Code is hereby amended as follows:

**5-16-9: PROHIBITED ACTS:**

(A) It shall be unlawful for any licensee or his agent knowingly to do or to permit any of the following acts on the premises of any premises licensed pursuant to this Chapter or on any parking lot, street or sidewalk adjacent to the premises.

(1) It shall be unlawful for any person or group of persons to congregate or linger needlessly at any location at or near the premises licensed pursuant to this Chapter other than in the building.

~~(2) If pool or billiard tables or coin-operated amusement games or devices are housed in the same building as the dance hall or cabaret, it shall be unlawful to house the tables, games or devices in the same room that is utilized for the purpose of drinking or dancing.~~

(3) No dance hall or cabaret licensee shall install, maintain or operate, or permit the installation, maintenance or operation of, within or upon the licensed premises, any gambling table, device, machine, apparatus or other thing contrary to this Code or to the laws of this State or which is kept or used for the purpose of gambling, either directly or indirectly. The licensee is hereby specifically charged with knowledge of and made responsible for the use of all tables, games and devices in any manner constituting a violation of this section.

(4) It shall be unlawful for any licensee knowingly to permit any unlawful or disorderly act, conduct or disturbance to be committed by any person or group of persons upon any premises licensed hereunder.

Section 2. Severability: If any section, paragraph, clause, word or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part deemed unenforceable shall not affect any of the remaining provisions.

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

Section 4. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 8th day of September, 1998.

PASSED, ENACTED ON SECOND READING, AND FULL

TEXT ORDERED PUBLISHED this \_\_\_\_\_ day of September, 1998.

ATTEST:

\_\_\_\_\_  
Mayor

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City Clerk



**Date:** September 8, 1998

**Subject:** Revised Employment Contract with Martin McCullough

**Prepared by:** Bill Christopher, City Manager

### **Introduction**

City Council consideration is requested pertaining to the attached revised Employment Agreement with City Attorney Martin McCullough.

### **Summary**

At the time City Council appointed Martin McCullough as City Attorney in February, 1986, an employment agreement was formally approved by the Council to reflect the terms and conditions of his employment. Each year, the employment contract is reviewed and revised based on the results of the Council's performance evaluation of the City Attorney. This year's evaluation was completed on August 17. City Council action is requested to extend this contract for the calendar years 1999 and 2000 in substantially the same form as attached. A salary adjustment is being suggested based on salary survey data of other City Attorney positions in the Denver metropolitan area generated by the Department of General Services, as well as the salary survey of public officials published annually by the Colorado Municipal League.

### **Staff Recommendation**

Approve a revised employment agreement with Martin McCullough serving in the position of City Attorney for calendar years 1999 and 2000, and authorize the Mayor and City Clerk to execute the agreement on behalf of City Council.

### **Background Information**

Martin McCullough was appointed City Attorney on February 10, 1986, after holding the position of Acting City Attorney since September 1985. Prior to such positions, he was an attorney with the municipal law firm of Calkins, Kramer, Grimshaw and Haring. Marty holds a B.A. from the University of Virginia, an M.S. from Florida State University and graduated magna cum laude from the University of Houston School of Law in 1982. He is admitted to practice law in Texas and Colorado and is a member of the National Institute of Municipal Law Officers and the Colorado and Denver Bar Associations. Marty has served as president of the Attorneys Section of the Colorado Municipal League, is past president of the Metro City Attorney's Association, and is a member and past chairperson of the Local Government Committee of the Colorado Bar Association. Marty is also a past recipient of the Metro City Attorney's Association's "City Attorney of the Year" and "Leadership" awards.

At the time Council appointed Marty McCullough as City Attorney in February 1986, an employment agreement was formally approved by the Council to reflect the terms and conditions of his employment.

The City Attorney's employment agreement has typically followed substantially the same format and covered essentially the same terms and conditions as the City Manager's employment contract. The existing contract between Marty and the City is scheduled to expire December 31, 1999.

The only changes in the revised agreement compared to the existing agreement are as follows:

- > The City Attorney's total salary will increase 4.9% to \$99,700.
  
- > The increased compensation is to be divided between base salary and deferred compensation. The annual salary will become \$91,700 plus \$8,000 as lump sum deferred compensation.

All other provisions of the contract would remain the same. The proposed agreement would become effective as of January 1, 1999.

City Council was previously provided with a salary survey of other area city attorneys' compensation packages. The average and median salary of the cities surveyed indicated a median 1998 compensation of \$96,312 and an average of \$99,237, which includes any deferred compensation for 1998. This compares to the 1998 annual salary and deferred compensation for the Westminster City Attorney in the amount of \$95,000.

Respectfully submitted,

William M. Christopher  
City Manager

Attachment

## EMPLOYMENT AGREEMENT

THIS AGREEMENT, effective as of the 1st day of January, 1999, by and between the City of Westminster, State of Colorado, a municipal corporation, hereinafter called "CITY" as party of the first part, and MARTIN R. McCULLOUGH, hereinafter called "EMPLOYEE", as party of the second part, both of whom understand as follows:

WHEREAS, the CITY desires to continue employing the services of MARTIN R. McCULLOUGH, as City Attorney of the City of Westminster as provided by City Charter, Chapter IV, Section 4.13; and

WHEREAS, it is the desire of the City Council to provide certain benefits, establish certain conditions of employment, and to set working conditions of said EMPLOYEE; and

WHEREAS, it is the desire of the City Council to (1) secure and retain the services of EMPLOYEE and to provide inducement for him to remain in such employment; (2) make possible full work productivity by assuring EMPLOYEE'S morale and peace of mind with respect to future security; (3) act as a deterrent against malfeasance or dishonesty for personal gain on the part of EMPLOYEE; and (4) provide a just means for terminating EMPLOYEE'S services at such time as he may be unable to fully discharge his duties due to age or disability or when CITY may desire to otherwise terminate his employ; and

WHEREAS, EMPLOYEE previously accepted employment as City Attorney of said CITY.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

### SECTION 1. DUTIES:

A. CITY hereby agrees to continue the employment of EMPLOYEE as City Attorney of CITY to perform the duties and functions specified in Section 4.13 of the City Charter, Chapter 16 of Title I of the City Code and such other legally and ethically permissible and proper duties and functions as the City Council shall from time to time assign.

B. EMPLOYEE shall prepare and submit a proposed budget for the City Attorney's Office following guidelines established by the City Manager. This budget shall be reviewed by the City Manager's Office and submitted to the City Council for final approval as part of the City Manager's recommended City Budget. Requests for changes in the budget during the fiscal year shall also be submitted through the City Manager's Office.

C. EMPLOYEE shall supervise the staff of the City Attorney's Office as may be authorized by the City Council. All employees of the City Attorney's Office shall be employed by the City Attorney in accordance with the provisions of section 1-16-3 of the City Code.

### SECTION 2. TERMS:

A. During the term of this Agreement, EMPLOYEE agrees to remain in the exclusive employ of CITY. EMPLOYEE will serve as City Attorney for calendar years 1999 and 2000. EMPLOYEE agrees neither to seek, to accept, nor to become employed by any other employer until said termination date, unless said termination date is effected as hereinafter provided.

The term "employed" shall not be construed to include occasional teaching, writing, consulting work or other related activities performed on EMPLOYEE'S time off.

B. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the City Council to terminate the services of EMPLOYEE at any time, subject only to the provisions set forth in Section 3, Paragraph A and B of this Agreement.

C. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of EMPLOYEE to resign at any time from his position with the CITY, subject only to the provisions set forth in Section 3, paragraph C of this Agreement.

D. This Agreement shall be considered for renewal annually, no later than October 31 of each year to address extending the Agreement, salary, and other changes negotiated between the parties. Each renewal of the Agreement shall be for a specified time. If this Agreement is not renewed, or terminated, as set forth in the Agreement, and the Agreement expires, EMPLOYEE shall continue to work under the terms of the last executed Agreement until a new Agreement is executed or EMPLOYEE is terminated after receiving four (4) months' written notice of termination.

### SECTION 3. TERMINATION, NOTICE AND SEVERANCE PAY:

A. In the event City Council decides to terminate EMPLOYEE before expiration of the aforementioned term of employment and during such time that EMPLOYEE is willing and able to perform the duties of City Attorney, then and in that event, the CITY agrees to give EMPLOYEE four (4) months' written notice or to pay EMPLOYEE a lump sum cash payment equal to his base salary for the ensuing four (4) months, provided however, that in the event the EMPLOYEE is terminated because of his conviction of any illegal act, then, and in that event, CITY has no obligation to give notice or pay the aggregate severance sum designated in this paragraph.

B. In the event the CITY at any time during the employment term reduces the salary or other financial benefits of EMPLOYEE in a greater percentage than an applicable across the board reduction for all City employees, or in the event the CITY refuses, following written notice to comply with any other provisions benefiting EMPLOYEE herein, or the EMPLOYEE resigns following a formal suggestion by the City Council that he resign, then, and in that event, EMPLOYEE may, at his option, be deemed to be "terminated" at the date of such reduction, such refusal to comply or such resignation, within the meaning and content of the four (4) months' severance pay provisions herein.

C. In the event EMPLOYEE voluntarily resigns his position with the CITY before expiration of the aforesaid term of employment, then EMPLOYEE shall give the CITY four (4) months notice in advance in writing.

D. The parties may, by mutual written agreement, shorten the time required for written notification of termination or resignation set forth in paragraphs A and C of this Section 3, and paragraph D in Section 2.

### SECTION 4. SALARY:

A. Effective January 1, 1999, the CITY agrees to pay EMPLOYEE for his services rendered pursuant hereto an annual base salary of \$91,700, payable in installments at the same time as other employees of the CITY are paid, plus a lump sum payment in deferred compensation of \$8,000.

B. CITY agrees to review the EMPLOYEE'S performance annually, no later than October 31 of each year. Salary evaluation each year shall be at the discretion of the CITY.

### SECTION 5. HOURS OF WORK:

A. It is recognized that EMPLOYEE must devote a great deal of his time outside normal office hours to business of the CITY, and to that end EMPLOYEE will be allowed to take compensatory time off as he shall deem appropriate during normal office hours.

B. EMPLOYEE shall not spend more than ten (10) hours per week in teaching, consulting, or other non-City connected business without the expressed prior approval of the Council. Provided, that such consulting or other non-City connected business does not constitute a conflict of any nature with EMPLOYEE'S work as City Attorney. City Council shall be the sole judge of such conflicts whose determination shall be final.

SECTION 6. DUES AND SUBSCRIPTIONS:

CITY agrees to budget and to pay the professional dues of EMPLOYEE necessary for his continuation and full participation in national, regional, state, and local associations and organizations necessary and desirable for his continued professional participation, growth and advancement, and for the good of the City.

SECTION 7. PROFESSIONAL DEVELOPMENT:

CITY agrees to budget and to pay registration, travel and subsistence expenses of EMPLOYEE for professional and official travel to meetings and occasions related to the professional development of EMPLOYEE and to official and other functions as a representative of the City, including, but not limited to, the Colorado Bar Association, NIMLO, the Colorado Municipal League, and continuing legal education courses and seminars related to the practice of municipal law. In addition to reasonably funding educational/training programs for EMPLOYEE's professional staff, sufficient funds shall be budgeted to permit EMPLOYEE to attend at least one national, one statewide, and one local educational/training program each year.

SECTION 8. GENERAL EXPENSES:

CITY recognizes that certain expenses of a non-personal, job affiliated nature are incurred by EMPLOYEE, and hereby agrees to reimburse or to pay said non-personal, job affiliated expenses. Disbursement of such monies shall be made upon receipt of duly executed expense vouchers, receipts, statements, or personal affidavit.

SECTION 9. FRINGE BENEFITS:

EMPLOYEE will be allowed all benefits as are extended to all other Department Head level employees, including a monthly car allowance in the amount of \$300 per month, except that when such benefits are in conflict with this Agreement, said Agreement shall control.

SECTION 10. OTHER TERMS AND CONDITIONS OF EMPLOYMENT:

A. The City Council shall fix any other terms and conditions of employment as it may from time to time determine, relating to the performance of EMPLOYEE, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the City Charter or any other law.

B. All provisions of the City Charter and Code, and regulations and rules of the City relating to vacation and sick leave, retirement and pension system contributions, holidays, longevity pay, and other fringe benefits and working conditions as they now exist or hereafter may be amended, shall also apply to EMPLOYEE as they would to other employees of CITY in addition to said benefits enumerated specifically for the benefit of EMPLOYEE, except as herein provided.

SECTION 11. GENERAL PROVISIONS:

A. The text herein shall constitute the entire agreement between the parties.

B. This Agreement shall be binding upon and to the benefit of the heirs at law and executors of EMPLOYEE.

C. This Agreement becomes effective on January 1, 1998, and shall be in effect through calendar years 1998 and 1999.

D. If any provision, or any portion hereof contained in this Agreement is held to be unconstitutional, invalid or unenforceable, the portion thereof shall be deemed severable, and the remainder shall not be affected, and shall remain in full force and effect.

E. The parties agree that this Agreement is entered into and shall be governed by the laws of the State of Colorado.

F. Nothing in this Agreement shall be construed as creating any multiple fiscal year obligation on the part of the City within the meaning of Colorado Constitution Article X, Section 20.

IN WITNESS WHEREOF, the City of Westminster, Colorado, has caused this Agreement to be signed and executed on its behalf by its Mayor, and duly attested by its City Clerk, and EMPLOYEE has signed and executed this Agreement both effective as of the day and year first above written.

Approved by Westminster City Council this 8th day of September, 1998.

ATTEST:

\_\_\_\_\_  
Mayor

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

\_\_\_\_\_  
Martin R. McCullough

**Date:** September 8, 1998

**Subject:** Resolution No. re Westminster Economic Development Authority Loan

**Prepared by:** Bill Christopher, City Manager

### **Introduction**

The City Council is requested to authorize an interim loan of funds to the Westminster Economic Development Authority (WEDA) for advance funding of the recommended Westminster Center Reinvestment Project. Funds are to be repaid to the City's General Fund at such time as WEDA can make the repayment.

The Westminster Center Reinvestment Project is described in detail in the WEDA agenda memorandum pertaining to the Westminster Center Reinvestment Study to be performed by the Denver consulting firm of BRW.

### **Summary**

City Council has previously studied the merit of a proactive effort initiated by the City and the Westminster Economic Development Authority to identify options to protect the future viability and competitiveness of the Westminster Center area and, in particular, the Westminster Mall. An approach has been identified which would first consist of a reinvestment study which, in turn, would lead to formulating a reinvestment plan for the subject area assuming the study identifies the basis and justifications to go forward with the additional steps and actions.

The WEDA Budget has basically been exhausted in conjunction with the Westminster Plaza Redevelopment Project. In the past, City Council has advanced City funds to WEDA so that actions under WEDA could progress. That certainly was the case involving the Westminster Plaza Redevelopment Project that has led to the successful conclusion of the redevelopment of the Plaza property by Hunt Properties and Safeway. In order to move forward on the reinvestment project, \$100,000 is recommended to be advanced to WEDA at this time. The balance remaining in the General Fund contingency after this action will be \$770,675.

### **Staff Recommendation**

Adopt Resolution No. authorizing the transfer of \$100,000 from the General Fund Contingency Account to the Westminster Economic Development Authority Budget for expenses involved in the Westminster Center Reinvestment Project.

### **Background Information**

The Westminster Center area, which includes the Westminster Mall contain approximately 4.4 million square feet of retail space. This retail district is the most significant revenue source for the City of Westminster. Retail sales produce City Sales Tax revenues which, in turn, finance over 65% of the basic municipal services which Westminster residents and customers enjoy such as police protection, fire protection, ambulance service, parks, recreation and library services, street maintenance and open space acquisitions and trail development.

Sales Tax funds also play a key role in debt financing, key municipal capital improvements, such as City Park Recreation Center, City Hall, the Companion Facility, Northwest Recreation Center, major street improvements such as the ones around the Westminster Mall and numerous other improvements. To assure the vitality and competitiveness of the Westminster Center retail "complex" it is paramount to take action now that will protect the future tax base.

The first step in embarking upon this significant endeavor is to commission a reinvestment study. The recommended transfer of \$100,000 to the WEDA Budget will allow initial steps to be accomplished. It is the City's intent to address this important endeavor on a step-by-step, phase-by-phase basis to see where actions and decisions will lead the City and the retail development owners.

Respectfully submitted,

William M. Christopher  
City Manager

Attachment



RESOLUTION

RESOLUTION NO. \_\_\_\_\_

INTRODUCED BY COUNCILLORS

SERIES OF 1998

\_\_\_\_\_

FOR A GENERAL FUND CONTINGENCY TRANSFER TO FUND CONSULTING AND LEGAL SERVICES RELATED TO THE PREPARATION OF A PLAN FOR THE WESTMINSTER CENTER AREA

WHEREAS, the City Council deems it in the City's best interest to loan funds to the Westminster Economic Development Authority (WEDA) in order to facilitate reinvestment studies and related work to identify existing and potential needs in the Westminster Center area; and

WHEREAS, City Staff estimates the cost to fund these services relative to the Westminster Center reinvestment study will cost approximately \$100,000; and,

WHEREAS, the total expenditure required for these professional services was not provided for in 1998; and

WHEREAS, the General Fund Contingency account for the 1998 budget year currently stands at \$870,675.

NOW THEREFORE, BE IT RESOLVED that the Westminster City Council hereby authorizes a General Fund Contingency Account Transfer of \$100,000 to the Westminster Economic Development Authority Fund to provide for the expense required for the professional services of a reinvestment study.

Passed and adopted this 8th day of September, 1998.

ATTEST:

\_\_\_\_\_  
Mayor

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

**Date:** September 8, 1998

**Subject:** Citizen Communication - Sheryl Martinson re Kings Mill Area Traffic

**Prepared by:** Michele Kelley, City Clerk

**Introduction**

Sheryl Martinson, who resides at 8550 West 90th Avenue has requested time at Monday night's Council meeting to address City Council with traffic concerns within the Kings Mill area.

**Summary**

Ms. Martinson has indicated that her discussion with City Council will be longer than 5 minutes in length, and therefore this item has been placed under item 12 A.

Ms. Martinson is requesting that City Council give consideration to implementing traffic calming measures or provide for the installation of guard rails in this immediate area. This area has been evaluated in accordance with the traffic calming procedures recently adopted by City Council and is eligible for implementation of traffic calming measures. City Staff will be presenting an eligibility list for traffic calming projects to City Council at an upcoming Council Study Session.

Ms. Martinson has prepared the attached booklet regarding hazardous traffic within the neighborhood. Mr. Kent Henderson, 8570 West 90th Avenue will also be present to speak.

**Staff Recommendation**

City Council listen to the Kings Mill area residents concerns about traffic.

Respectfully submitted,

William M. Christopher  
City Manager

Attachment

**Date:** September 14, 1998

**Subject:** Citizen Communication re Access to Arapahoe Ridge Elementary School

**Prepared by:** David R. Downing, City Engineer

### **Introduction**

Several residents who live near the new Arapahoe Ridge Elementary School have requested to address the City Council with their concerns regarding access to the school. Since a number of citizens are expected to speak on this issue, this item will be scheduled under the Citizen Presentations portion of the agenda.

### **Summary**

- > In the spring of this year, Staff announced a proposal for the City to enhance access to the Arapahoe Ridge Elementary School by extending Pecos Street between 132nd Avenue and 134th Avenue within a storm water detention pond that separates Quail Crossing Subdivision and Amherst Subdivision.
- > Many owners of lots that abut the detention pond voiced their objections to this proposal. Subsequently, Staff and a Council representative met with members of the neighborhoods that border the pond on three occasions to hear their concerns.
- > As a result of the strong opposition to the extension of Pecos Street from the residents who live in the immediate vicinity of the proposed road, the City decided to conduct a survey of the entire school service area to determine if there was a favored approach to provide additional access to Arapahoe Ridge. The results of this survey indicated that the originally proposed extension of Pecos Street was the most favored option.
- > City Council considered the survey results during the Council Study Session of July 20 and confirmed that the construction of Pecos Street between 132nd Avenue and 134th Avenue would be in the best interests of the entire populace of the subject school service area.
- > Several residents of the area have requested a formal audience with the City Council to voice their opinions on this decision to construct the new road. It is anticipated that many of the affected citizens will make requests to the Council for further improvements such as landscaping along the proposed Pecos Street and the closure of adjacent Osage Street to through traffic to mitigate some of the impact of the new road behind their lots. Staff supports such reasonable mitigation measures.

### **Staff Recommendation**

Listen to citizens concerns regarding access to the new Arapahoe Ridge Elementary School.

**Background Information**

Attached is a copy of the Staff Report, dated July 15, 1998, which described the survey that was conducted of the entire Arapahoe Ridge Elementary School service area.

Appropriate City Staff will be available at the September 8 City Council meeting to address questions from the citizens.

Respectfully submitted,

William M. Christopher  
City Manager

Attachment