



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. Many items have been previously discussed at a Council Study Session.

Citizen Communication is limited to five minutes; however, the Mayor may limit comments to a lesser amount of time depending on the number of individuals who wish to speak.

- 1. Pledge of Allegiance**
- 2. Roll Call**
- 3. Consideration of Minutes of Preceding Meeting** (August 24, 2015)
- 4. Report of City Officials**
 - A. City Manager's Report
- 5. City Council Comments**
- 6. Presentations**
 - A. Colorado Cities and Towns Week Proclamation
- 7. Citizen Communication (5 minutes or less)**

The "Consent Agenda" is a group of routine matters to be acted on with a single motion and vote. The Mayor will ask if any Council member wishes to remove an item for separate discussion. Items removed from the consent agenda will be considered immediately following adoption of the amended Consent Agenda.

- 8. Consent Agenda**
 - A. Downtown Westminster Street and Utility Project – Authorization to Pay Xcel Energy
 - B. Ranch Creek Underpass and Trails Project – Construction Contingency
 - C. Additional Expenditure Authorization for Vehicle Purchases to Sill-Terhar Motors
 - D. Downtown Westminster Streetscape Consultant
 - E. Big Dry Creek Wastewater Treatment Facility Digester Complex Repair Project – Engineering Services Contract
 - F. Second Reading of Councillor's Bill No. 42 Appropriating 2015 CDBG Funds
 - G. Second Reading of Councillor's Bill No. 43 Authorizing 2nd Quarter 2015 Budget Supplemental Appropriation
 - H. Second Reading of Councillor's Bill No. 44 Authorizing Lease Agreement for Kids Nite Out Program
 - I. Second Reading of Councillor's Bill No. 45 - Supplemental Appropriation of Grant for Metzger Farm South Trail
- 9. Appointments and Resignations**
- 10. Public Hearings and Other New Business**
 - A. Public Meeting on the Adopted 2016 Budget
 - B. Councillor's Bill No. 46 Amending Title XVI, Chapter 1, re Public Utility Commission Data Privacy Rules
 - C. Resolution No. 28 Amending the City Council's Adopted Rules and Regulations
- 11. Old Business and Passage of Ordinances on Second Reading**
 - A. Special Legal Counsel Services for Drafting of Collective Bargaining Ordinance (Tabled 10-27-14)
 - B. Proposed Findings of Fact & Conclusions of Law on a Request for a Salvation Army Thrift Store
- 12. Miscellaneous Business and Executive Session**
 - A. City Council
 - B. Executive Session – Discuss strategy and progress on negotiations related to economic development matters for Downtown Westminister, disclosure of which would seriously jeopardize the City's ability to secure the development; discuss strategy and progress on the possible sale, acquisition, trade or exchange of property rights, including future leases; and provide instruction to the City's negotiators on the same as authorized by Sections 1-11-3(C)(2), (4), and (7), W.M.C., and Sections 24-6-402 (4)(a) and 24-6-402(4)(e), C.R.S.
- 13. Adjournment**

NOTE: Persons needing an accommodation must notify the City Clerk no later than noon on the Thursday prior to the scheduled Council meeting to allow adequate time to make arrangements. You can call [303-658-2161](tel:303-658-2161)/TTY 711 or State Relay or write to lyeager@cityofwestminster.us to make a reasonable accommodation request.

GENERAL PUBLIC HEARING PROCEDURES ON LAND USE MATTERS

- A.** The meeting shall be chaired by the Mayor or designated alternate. The hearing shall be conducted to provide for a reasonable opportunity for all interested parties to express themselves, as long as the testimony or evidence being given is reasonably related to the purpose of the public hearing. The Chair has the authority to limit debate to a reasonable length of time to be equal for both positions.
- B.** Any person wishing to speak other than the applicant will be required to fill out a “Request to Speak or Request to have Name Entered into the Record” form indicating whether they wish to comment during the public hearing or would like to have their name recorded as having an opinion on the public hearing issue. Any person speaking may be questioned by a member of Council or by appropriate members of City Staff.
- C.** The Chair shall rule upon all disputed matters of procedure, unless, on motion duly made, the Chair is overruled by a majority vote of Councillors present.
- D.** The ordinary rules of evidence shall not apply, and Council may receive petitions, exhibits and other relevant documents without formal identification or introduction.
- E.** When the number of persons wishing to speak threatens to unduly prolong the hearing, the Council may establish a time limit upon each speaker.
- F.** City Staff enters a copy of public notice as published in newspaper; all application documents for the proposed project and a copy of any other written documents that are an appropriate part of the public hearing record;
- G.** The property owner or representative(s) present slides and describe the nature of the request (maximum of 10 minutes);
- H.** Staff presents any additional clarification necessary and states the Planning Commission recommendation;
- I.** All testimony is received from the audience, in support, in opposition or asking questions. All questions will be directed through the Chair who will then direct the appropriate person to respond.
- J.** Final comments/rebuttal received from property owner;
- K.** Final comments from City Staff and Staff recommendation.
- L.** Public hearing is closed.
- M.** If final action is not to be taken on the same evening as the public hearing, the Chair will advise the audience when the matter will be considered. Councillors not present at the public hearing will be allowed to vote on the matter only if they listen to the tape recording of the public hearing prior to voting.

CITY OF WESTMINSTER, COLORADO
MINUTES OF THE CITY COUNCIL MEETING
HELD ON MONDAY, AUGUST 24, 2015, AT 7:00 P.M.

PLEDGE OF ALLEGIANCE

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

ROLL CALL

Mayor Herb Atchison, Mayor Pro Tem Bob Briggs and Councillors Bruce Baker, Maria De Cambra, Alberto Garcia, Emma Pinter, and Anita Seitz were present at roll call. Also present were City Manager Donald M. Tripp, City Attorney David Frankel, and City Clerk Linda Yeager.

CONSIDERATION OF MINUTES

Councillor Briggs moved, seconded by Councillor Seitz, to approve the minutes of the regular meeting of August 10, 2015, as presented. The motion carried unanimously.

CITIZEN COMMUNICATION

Clerk's Note: Mayor Atchison switched the order of business to hear Citizen Communication before other business.

Rex Bevins, 9071 Garrison Street, urged Council to re-establish communication with a private developer for Downtown Westminster. Citizens were not aware of the redevelopment proposed or of the City's new vision to become the next urban center in the metro area and questioned the use of local taxpayer funds to redevelop the area. Redevelopment should be undertaken by a qualified developer using his financial resources.

CITY MANAGER'S REPORT

Mr. Tripp announced there would be a post-meeting following tonight's City Council meeting to discuss one item. Further, employees and some members of the Parks, Recreation, Libraries and Open Space Advisory Board were in the audience to accept proclamations. One was to celebrate Employee Appreciation Week; the other, 30 Years of Open Space. This was the first year he would have the opportunity to honor City employees as the City Manager. He welcomed the employees to the meeting and was grateful for the privilege to work with such an outstanding group of dedicated, innovative individuals throughout the organization.

COUNCIL REPORTS

Mayor Pro Tem Briggs reported having attended the North Metro Arts Alliance "Jazz in the Garden" at the Aar River Gallery Sculpture Garden on August 16. It had been an enjoyable opportunity to hear local musicians and dine in the relaxing atmosphere of the garden.

Councillor Seitz reported recently attending the Westminster Club Soccer Player Appreciation Barbeque, noting it was the perfect venue to engage the community as 500 to 600 families attended. Additionally, she extended thanks to all City employees. One of her favorite things was observing how well-run the City was and the level of buy-in of City employees to make sure the very best service was being provided to Westminster's citizens. City employees had deepened her sense of community and she looked forward to personally thanking them during Employee Appreciation Week activities.

Councillor Garcia congratulated the Butterfly Pavilion on having been named the best in the United States. It was a great honor for them and for the City to have them in the community. Additionally, upcoming events included a Full Moon Walk at Standley Lake and the rescheduled Movie in the Park at Countryside Ballfield where "Sandlot" would be featured. Finally, he added his thanks to City employees, noting he had been unable to limit the words he selected to describe City employees in a video being prepared for Employee Appreciation Week. Employees were dedicated, passionate and caring about the residents of Westminster. It was rewarding to sit on City Council and be able to serve with them.

Councillor Baker reported that today was the deadline to file nomination petitions seeking election to office on the City Council. New note pads proclaiming Westminster the Next Urban Center of the Front Range were on the Council's Board Room table before this meeting. The election would allow the people of Westminster the opportunity to weigh in on that vision. Candidates would provide clear choices. The election results would be beneficial and meaningful.

Councillor De Cambra thanked everyone in the audience and voiced appreciation for the team of talented, innovative employees at the City. Citizens raved about the work of City employees who were dedicated to maintaining quality of life and always went the extra mile to ensure their service mattered. She thanked employees for their commitment.

Mayor Atchison reported that this year marked the Butterfly Pavilion's 20th year of operation. Upcoming events to mark the occasion were the Annual Gala at the Marriott; Bugaboo Halloween; Spirits and Spiders; and the Living Lights. These events were held to raise funding to help offset operational costs and to fund admission fees for children who would not be able to explore the Pavilion without assistance. More than 40,000 children had visited the facility. Mayor Pro Tem Briggs added that the Pavilion and the Denver Botanic Gardens had recently partnered to provide an extension of the Butterfly Pavilion at the Gardens at Chatfield.

PROCLAMATIONS

Mayor Atchison proclaimed September 7 through 10 to be City of Westminster Employee Appreciation Week in recognition of the contributions of City employees to the overall success of the City organization and the quality of life of Westminster citizens. It was difficult to find adequate words to convey City Council's appreciation of City employees and the outstanding work they performed every day. Employees were the City's most valued resource and he was honored to present the proclamation to members of the Employee Recognition and Action Team and the Employee Advisory Committee.

Councillor Garcia proudly read a proclamation issued to recognize celebration of 30 years of Open Space in Westminster. The Open Space Program had been created in 1985 when residents of the City had approved a ballot measure to tax themselves one-quarter of one percent to preserve open spaces and purchase properties for parklands. Events and activities were planned in September to celebrate the preservation of spectacular mountain views, riparian corridors, wildlife habitat, natural areas, and miles of trails that had been built throughout the City. Accepting the proclamation were members of the Parks, Recreation and Libraries staff and members of the Parks, Recreation, Libraries, and Open Space Advisory Board.

CONSENT AGENDA

The following items were submitted on the consent agenda for Council's consideration: accept the July Financial Report as presented; authorize the City Manager to enter into an amendment to the contract dated August 25, 2014, in substantially the same form as distributed with the agenda, with Jefferson County Housing Authority to continue administering the Emergency and Essential Home Repair Program; authorize the City Manager to execute a development agreement with IBC Denver VII LW IV LLC for Park 1200 development; authorize the additional expenditure of \$60,000 for deicing salt to the previous Council approved not to exceed amount of \$380,000, increasing the total authorized expenditure to \$440,000; authorize the City Manager to execute a change order to the 2015 Asphalt Pavement Rehabilitation Project with the low bid contractor, Martin Marietta Materials, Inc., in the amount of \$342,000 for additional roadway improvements to be completed in 2015; authorize the City Manager to execute a contract with the lowest bidder, J-2 Contracting Company, in the amount of \$162,848 to construct material storage bins at the Big Dry Creek facility, plus a 10% contingency of \$16,285 for a total expenditure of \$179,133; authorize the transfer of \$100,000 from the 88th Avenue Water Main Replacement/Zuni Water Main Replacement project account into the Storage Facility Improvements project account to pay for costs associated with the project; based on a recommendation of the City Manager, determine that public intent would be served by authorizing the City Manager to enter into an agreement for special legal counsel services with Butler Snow LLP, in substantially the same form as distributed with the agenda packet, in an amount not to exceed \$50,000 in connection with special district formation, public finance, compliance and other legal services as needed; and final passage on second reading of Councillor's Bill No. 18 adopting amendments to the 2013 Comprehensive Plan.

It was moved by Councillor Baker, seconded by Councillor Garcia, to approve the consent agenda, excluding Items 8C and 8H. The motion carried with all Council members voting affirmatively.

PARK 1200 DEVELOPMENT AGREEMENT WITH IBC DENVER VIII LW IV LLC (ITEM 8C)

It was moved by Councillor Seitz, seconded by Mayor Pro Tem Briggs, to authorize the City Manager to execute a development agreement with IBC Denver VII LW IV LLC for Park 1200 development. The motion passed on a 6:1 vote with Councillor Baker voting no.

SPECIAL LEGAL COUNSEL AGREEMENT WITH BUTLER SNOW (ITEM 8H)

Councillor Pinter moved to determine that public intent would be served by authorizing the City Manager to enter into an agreement for special legal counsel services with Butler Snow LLP, in substantially the same form as distributed with the agenda packet, in an amount not to exceed \$50,000 in connection with special district formation, public finance, compliance and other legal services as needed. Mayor Pro Tem Briggs seconded the motion and it passed by a 6:1 margin with Councillor Baker dissenting.

COUNCILLOR'S BILL NO. 42 APPROPRIATING 2015 CDBG FUNDS

It was moved by Councillor Garcia and seconded by Councillor Pinter to pass Councillor's Bill No. 42 on first reading appropriating funds received from the United States Department of Housing and Urban Development, Community Development Block Grant program, in the amount of \$578,221. At roll call, the motion passed unanimously.

COUNCILLOR'S BILL NO. 43 AUTHORIZING 2ND QUARTER 2015 SUPPLEMENTAL APPROPRIATION

Upon a motion by Mayor Pro Tem Briggs, seconded by Councillor Seitz, the Council voted unanimously on roll call vote to pass Councillor's Bill No. 43 on first reading, providing for a supplemental appropriation of funds to the 2015 budget of the General, Legacy Ridge, Heritage at Westmoor, Parks Open Space and Trails, and General Capital Improvement Funds.

COUNCILLOR'S BILL NO. 44 AUTHORIZING LEASE AGREEMENT FOR KIDS NITE OUT PROGRAMS

Councillor Seitz moved, seconded by Councillor Garcia to pass Councillor's Bill No. 44 on first reading authorizing the City Manager to sign a three-year lease agreement with ABC Entertainment, L.L.C. for the continuation of the Kids Nite Out Program. The motion carried unanimously on roll call vote.

COUNCILLOR'S BILL NO. 45 - SUPPLEMENTAL GRANT APPROPRIATION FOR METZGER FARM TRAIL

Mayor Pro Tem Briggs moved to pass Councillor's Bill No. 45 on first reading appropriating grant funds received from the Adams County Open Space Grant Program in the amount of \$400,000 for the Metzger Farm South Trail. Councillor De Cambra seconded the motion, which passed unanimously at roll call.

RESOLUTION NO. 27 APPROVING 2015 PRIVATE ACTIVITY BOND ALLOCATION & ASSIGNMENT

It was moved by Mayor Pro Tem Briggs and seconded by Councillor Baker to adopt Resolution No. 27 authorizing the assignment of \$5,515,800 of the City's private activity bond allocation for 2015 to the Colorado Housing and Finance Authority for the qualified purposes set forth in the resolution and authorize the Mayor to execute the necessary documents. At roll call, the motion passed by unanimous vote.

SECOND READING - COUNCILLOR'S BILL NO. 40 CREATING THE DOWNTOWN GID

Councillor Seitz moved, seconded by Mayor Pro Tem Briggs, to pass on second reading Councillor's Bill No. 40 creating the City of Westminster Downtown General Improvement District. At roll call, the motion carried on a 6:1 vote with Councillor Baker voting no.

SECOND READING - COUNCILLOR'S BILL NO. 41 CREATING THE PARK 1200 GID

Councillor Pinter moved to pass on second reading Councillor's Bill No. 41 creating the City of Westminster Park 1200 General Improvement District. Councillor Seitz seconded the motion and on roll call vote, the motion carried by a 6:1 vote with Councillor Baker voting no.

ADJOURNMENT

There was no further business to come before the City Council, and, hearing no objections, the Mayor adjourned the meeting at 7:56 p.m.

ATTEST:

City Clerk

Mayor



Agenda Item 6 A

Agenda Memorandum

City Council Meeting
September 14, 2015



SUBJECT: Proclamation re Colorado City and Towns Week

Prepared By: Ben Goldstein, Senior Management Analyst
Jodie Carroll, Communication and Outreach Coordinator
Alexa Priddy, Communication and Outreach Coordinator

Recommended City Council Action

Mayor Atchison to present Kevin Bommer, Deputy Director of the Colorado Municipal League, the proclamation for Colorado City and Towns Week.

Summary Statement

Now in its second year, sponsored by the Colorado Municipal League (CML), Colorado Cities and Towns Week, September 14–20, is an opportunity for municipalities to connect with residents and acknowledge outstanding municipal employees and/or volunteers, while reminding residents about the vital services provided by their city or town. The City of Westminster will be participating in the week through a variety of events and educational offerings to residents, visitors and employees.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

None identified

Alternative

None identified

Background Information

When the Colorado Municipal League developed Colorado Cities and Towns Week last year, they envisioned a week that would unite the municipal family in communicating to residents the essential services cities provide. To that end, Staff plans to provide a week filled with opportunities to bring residents, staff, and elected officials together, to educate young people on the importance of municipal government, and to acknowledge and show appreciation to City employees and volunteers for all the hard work they do each and every day.

The Communication and Outreach Division staff assembled a Cities & Towns Week Outreach Plan that includes a comprehensive approach to outreach. The plan features resident engagement at both events and through the city's social media. The Sunday Kick-off at the Irving St. Library, new city service and City Council initiative, will be a featured event. On Facebook and Twitter, the city will host daily trivia with prizes as well as graphics and videos highlighting the best that Westminster has to offer to our residents.

The City will be holding events and providing information throughout the week of September 14; these events will include:

- September 13: Sunday Funday Kick-off @ Irving St. Library from 12-2:00 p.m.
- September 14: City Council Proclamation of Cities & Towns Week.
- September 17:
 - City Council attending Public Works & Utilities Annual Employee Meeting from 11:30-1:30 p.m.
 - The announcement about Cities & Towns Week will run in The Weekly.
- September 19: Touch a Truck (City Park – from 9:00am to Noon)
- September 14-20 (daily):
 - City Services social media campaign (Facebook and Twitter).
 - Westminster Trivia on Facebook with daily prizes.
 - Featured Westminster's Best and Behind the Scenes videos showcasing city services and employees.
 - Channel 8 and the City's YouTube Channel will feature the Colorado Municipal League's Cities & Towns Week PSA.
 - The announcement about Cities & Towns Week will run in the "News Headlines" section of the homepage.

Celebrating Colorado City and Towns Week supports all six of City Council's Strategic Plan goals: Visionary Leadership, Effective Governance and Proactive Regional Collaboration; Vibrant, Inclusive and Engaged Community; Dynamic, Diverse Economy; Beautiful, Desirable, Safe and Environmentally Responsible City; Financially Sustainable Government Providing Excellence in City Services; and Ease of Mobility.

Respectfully submitted,

Donald M. Tripp
City Manager

Attachments: Proclamation
Event Calendar

WHEREAS, municipal government is the government closest to most citizens and the one with the most direct daily impact upon its residents; and

WHEREAS, municipal government is administered for and by its citizens and is dependent upon public commitment to and understanding of its many responsibilities; and

WHEREAS, municipal government officials and employees share the responsibility to pass along their understanding of public services and their benefits; and

WHEREAS, Colorado Cities & Towns Week is a very important time to recognize the important role played by municipal government in our lives; and

WHEREAS, as a member of the Colorado Municipal League, the City of Westminster has joined together with other cities and towns to teach students and other citizens about municipal government through a variety of different projects and information; and

WHEREAS, Colorado Cities & Towns Week offers an important opportunity to convey to all the citizens of Colorado that they can shape and influence government through their civic involvement.

NOW, THEREFORE I, HERB ATCHISON, Mayor of the City of Westminster, on behalf of the entire Council and Staff do hereby proclaim the year 2015 and the week of September 14 to celebrate

COLORADO CITIES AND TOWNS WEEK

and encourage all residents, visitors and employees to celebrate by attending an event during the week of September 14.

Dated this 14th day of September, 2015.

Herb Atchison, Mayor



Agenda Item 8 A

Agenda Memorandum

City Council Meeting
September 14, 2015



SUBJECT: Downtown Westminster Street and Utility Project – Authorization to pay Xcel Energy

Prepared By: David W. Loseman, Assistant City Engineer

Recommended City Council Action

Authorize the payment of \$1,132,486 to Xcel Energy for the construction of all of the gas and electric facilities for the entire Downtown Westminster Project and authorize a construction contingency of \$25,000.

Summary Statement

- Hammerlund Construction began the construction of the Downtown Westminster infrastructure in June and will continue this work into 2016. In coordination with the work being performed by Hammerlund Construction, it is necessary to install gas and electric facilities to serve all of the future development that will occur. Xcel Energy has completed the design and calculated the costs for this work, which includes not only the Phase 1 portion of the infrastructure construction, but also the installation of these gas and electric facilities for the entire Downtown Westminster project. Council authorization to pay Xcel for these installations is now requested.
- The recommended \$25,000 contingency is normal for work performed by Xcel Energy on a project of this size.

Expenditure Required: \$1,157,486

Source of Funds: General Capital Improvement Fund - Westminster Center Urban Reinvestment Project

Policy Issue

Should the City Council authorize the payment to Xcel Energy for the installation of gas and electric lines for the entire Downtown Westminster project?

Alternative

City Council could chose to not make this payment to Xcel Energy and, instead, require future developers to coordinate this work and make payment directly to the utility provider on a project-by-project basis. Staff does not recommend this alternative because it would hinder the City's ability to attract quality developers who might expect gas and electric facilities to already be available to individual sites. Furthermore, a phased installation of this infrastructure would require numerous cuts of newly completed roadways.

In addition, the City will be able to recover a substantial portion of the money spent on gas and electric utilities as development occurs. When such development occurs within the Downtown Westminster site, each developer will receive a construction allowance from Xcel for the service to their project. Any costs above this construction allowance will be charged to the developer by Xcel Energy, which the utility company will then rebate to the City. It is difficult to state with accuracy how much of the City's costs will be recovered through this process because electric and gas loads for individual buildings will not be known for some time. But, a fair estimate of the City's recovery would be 50%, or approximately \$575,000 over the life of the project.

Background Information

The Downtown Westminster Phase 1 improvements that are currently in construction include all of the roads shown on the attached exhibit, including Westminster Boulevard and portions of 89th Avenue, 90th Avenue, 91st Avenue, Central Avenue and Eaton Street. Since the City recently decided to develop the project on a block-by-block approach, and because there is significant development interest at this time, it is in the best interest of the City and the public to expand the roadways that are being constructed to include the roads around Blocks B-3, B-4, C-4 and C-5.

In addition to the roadway network mentioned above, there are several utilities that should be installed in conjunction with the roadways so that building sites are fully serviced and the need to cut fresh asphalt in the near future is eliminated. Sewer and water utilities are included in the roadway construction contract, but the design and installation of gas and electric facilities must be arranged through Xcel Energy. Xcel recently completed this design work, and the cost to install all of these facilities for the entire Downtown Westminster project is \$1,132,486. While the alternative of having future developers of individual sites coordinate the installation of gas and electric lines directly with the provider was considered by staff, it is highly recommended that this infrastructure be installed now for the reasons previously mentioned.

The recommended \$25,000 contingency is normal for work performed by Xcel Energy on a project of this size.

Council action on this item meets elements of two goals in the City's Strategic Plan: *Dynamic, Diverse Economy, Vibrant & Inclusive Neighborhoods* and *Ease of Mobility*.

Respectfully submitted,

Donald M. Tripp
City Manager

Attachment – Site Map



Key

X-#	Block Designation
##.ac	Approximate Block Area in Acres
[Dashed Line]	Parcel Boundary
[Solid Line]	Plan Area Boundary
[Grey Box]	Existing Streets
[Light Blue Box]	Future Streets
[Dark Blue Box]	Potential Future Street/Alley
[Light Blue Box]	Planned Phase I Streets
[Dark Blue Box]	Interim Existing Street
[Orange Box]	Available for Development
[Green Box]	Future Development Parcel
[Light Green Box]	Non-City Owned Parcel
[Bike Icon]	Bicycle Lanes or Bicycle Path
[P Icon]	Phase I Planned Public Parking Structure Location

Note: Development block areas and dimensions are provided for reference purposes only and shall be verified by a duly licensed land surveyor.

Additional setbacks and build-to lines apply along street frontages per the Westminister Downtown Specific Plan @ www.westministercenter.us

Potential Roadway added to Phase 1 Alternative 2 (red)

Potential roadway added to Phase 1 - Alternative 1 (blue)

The City of Westminister and the Westminister Economic Development Authority (WEDA) are launching the construction of Westminister's new downtown with the release to market of select, fully serviced development parcels.

Utility and road construction to service the first release of parcels is scheduled to begin in the summer of 2015, with completion in the spring of 2016.

The City and WEDA are accepting inquiries and expressions of interest from qualified mixed-use developers interested in purchasing and developing one or more of the select parcels.

Only proposals meeting the highest standards for dense, mixed-use development will be considered. This includes residential, retail and office uses with architectural characteristics and retail uses that contribute to the unique and vibrant urban setting desired for the City's new downtown. Exceptions will be considered for parcels B-6 and C-7, which may allow for quality townhome-type dwellings. All development must be consistent with the Westminister Downtown Specific Plan.

The City and WEDA are committed to providing a sustainable new downtown, and will be looking for proposals that include, among other characteristics, a minimum of LEED™ Silver certification for buildings and the provision of up to 20 percent workforce housing.

Initial inquiries can be directed to Jody Andrews, deputy city manager of the City of Westminister, at 303-658-2003 or jandrews@cityofwestminister.us.

Downtown Westminister

Phase I

Prepared by: Sarah Nurmela, City of Westminister
6/2/15



Agenda Memorandum

City Council Meeting
September 14, 2015



SUBJECT: Ranch Creek Underpass and Trails Project – Construction Contingency

Prepared By: David W. Loseman, Assistant City Engineer

Recommended City Council Action

Authorize an increase of the construction contingency for this project in the amount of \$182,000, thus bringing the total project contingency for this project to \$414,000.

Summary Statement

- In November of 2014, the City completed the design and began the construction of a pedestrian underpass under 120th Avenue, located just east of the existing Ranch Creek crossing of the street, which is approximately 600 feet east of Federal Boulevard.
- This project includes the construction of an underpass under 120th Avenue, the modification of an existing drainage culvert under Federal Boulevard and the installation of approximately 4,800 lineal feet of concrete trail and sidewalk linking the Big Dry Creek Trail to trails on the south side of 120th Avenue as well as other trails in the vicinity of the 120th Avenue and Federal Boulevard intersection (see attached map).
- During the construction of this project, several unforeseen utility conflicts were encountered that required the contractor to focus on other portions of the project instead of the actual underpass while these utilities were relocated. This action extended the completion of the project by approximately three months because potential efficiencies in constructing the project were lost. Each element of the project had to be constructed separately instead of concurrently, thus limiting the contractor's ability to construct the underpass and the trails at the same time.
- During the course of the project, several change orders were necessary to address the many utility conflicts. Some of the major change orders included redesigning the horizontal alignment to miss unforeseen utilities; rerouting an unidentified drainage pipe; realigning a portion of the trail alignment due to marshy subsurface conditions; and increasing the pavement thickness on 120th Avenue as required by the Colorado Department of Transportation. All of these changes have almost depleted the entire original \$232,000 contingency previously approved by Council.
- Project closeout will occur in the next few months, and the requested additional contingency is needed to complete the final change order that will rectify total project quantities. Staff wishes to make this request at this time rather than later ask Council to ratify expenses that have already been incurred.
- Funding for this additional contingency is available from the original budgeted amount for this project.

Expenditure Required: \$182,000

Source of Funds: General Capital Improvement Fund - Ranch Creek Underpass and Trails Project

Policy Issues

Should Council authorize an additional contingency for this project?

Alternatives

An alternative to authorizing additional contingency now is to wait until the end of the project to see if additional costs are incurred during the project closeout. Staff does not recommend this alternative because it is not unusual for a project of this complexity to have overruns on individual line items in the bid schedule.

Background Information

This 120th Avenue pedestrian underpass has been a desire of the City for many years. This underpass will serve a large residential population to the south of 120th Avenue and provide a safe, grade-separated crossing of a major highway (120th Avenue), thus allowing these citizens access to the Big Dry Creek Trail system, Metzger Farms Open Space and the many businesses located on the north side of 120th Avenue. A secondary but equally important benefit of this underpass is that it will pass residual 100-year storm flows from Ranch Creek that cannot be passed through the existing box culvert under 120th Avenue without causing an overtopping of the roadway. While providing major flood prevention benefits, the box will be designed to keep water out of the pedestrian cell during minor storm events. The timing of the construction of this underpass has become critical due to the schedule for the 120th Avenue and Federal Boulevard Intersection improvement project. This federal-aid intersection project is currently under design and is scheduled for bidding in 2015 and construction in 2016. It is desirable to construct the 120th Avenue pedestrian underpass prior to the commencement of the construction of these intersection improvements.

The underpass project is currently being built and includes the construction of the underpass under 120th Avenue; the modification to the south cell of the existing box culvert under Federal Boulevard, north of 120th Avenue; a low water crossing of Ranch Creek; a concrete trail between the two underpasses; and a concrete ramp on the south side of the underpass to connect to the sidewalk along the south side of 120th Avenue.

The construction of this project began in March 2015 and was originally scheduled for completion in June 2015. Due to the complications previously mentioned, the project is now scheduled for completion by mid-October 2015. None of these delays have been caused by the contractor but, instead, were caused by unforeseen conditions that could not be controlled.

City Council action on this item meets elements of two goals in the City’s Strategic Plan: *Dynamic, Diverse Economy* and *Vibrant Neighborhoods in One Livable Community*.

Respectfully submitted,

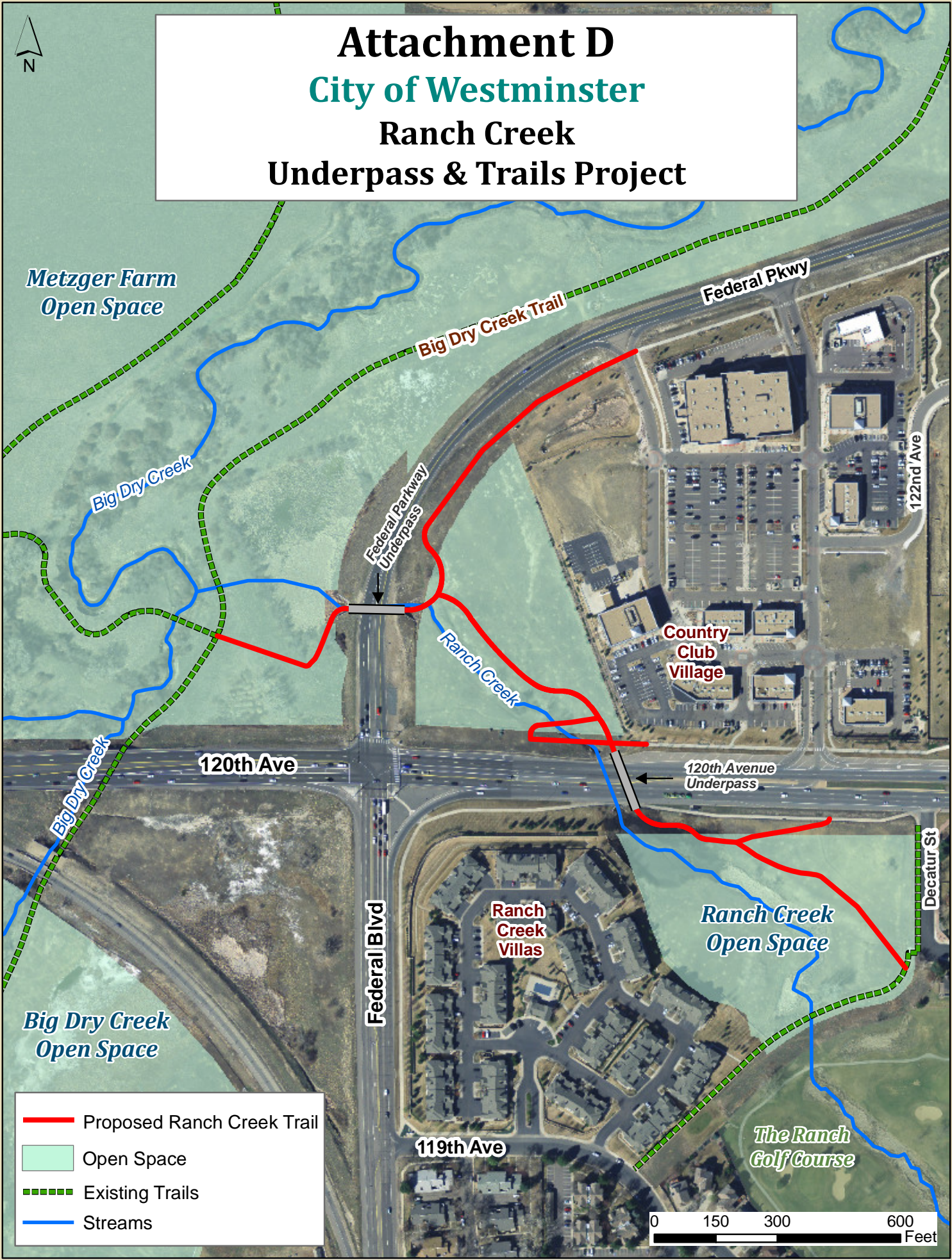
Donald M. Tripp
City Manager





Attachments: Vicinity map

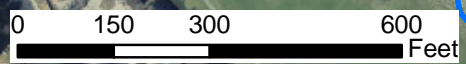
Attachment D

City of Westminster

Ranch Creek Underpass & Trails Project



-  Proposed Ranch Creek Trail
-  Open Space
-  Existing Trails
-  Streams





Agenda Memorandum

City Council Meeting
September 14, 2015



SUBJECT: Additional Expenditure Authorization for Vehicle Purchases to Sill-Terhar Motors

PREPARED BY: Jeffery H. Bowman, Fleet Manager
Matthew E. Booco, Business Operations Coordinator

Recommended City Council Action

Authorize the additional expenditure to Sill-TerHar Motors for the purchase of two medium-duty vehicles in the amount of \$178,413 to the previous Council approval of \$ 261,126, increasing the total authorized expenditure to \$439,539.

Summary Statement

- City Council is requested to approve two medium-duty vehicle purchases to Sill-TerHar Motors based on the Colorado Department of Transportation (CDOT) bid award. These vehicles were previously approved and are within the amount authorized by City Council in the 2015 General Capital Outlay Replacement Fund, and the 2015 POST General Capital Outlay Replacement Fund as outlined below.
 - General Capital Outlay Replacement Fund
 - One replacement vehicle for the Public Works and Utilities Street Division
 - POST - General Capital Outlay Replacement Fund
 - One new-add vehicle for the Parks, Recreation and Libraries Department
- On January 12, 2015, City Council approved the purchase of nine Police Department patrol cars through Sill-TerHar Motors totaling \$261,126, using the State of Colorado bid award. The proposed purchase of two medium-duty vehicles using the CDOT award for \$178,413 would bring the total amount spent with Sill-TerHar Motors in 2015 to \$439,539.
- The City saves considerable dollars by purchasing vehicles through cooperative bid awards such as the Colorado Department of Transportation bid processes when possible.

Expenditure Required: \$178,413

Source of Funds:	\$ 55,167	General Capital Outlay Replacement Fund
	\$123,246	POST - General Capital Outlay Replacement Fund

Policy Issue

Should City Council authorize an additional expenditure of \$178,413 for the purchase for two medium-duty vehicles to Sill-TerHar Motors?

Alternatives

1. City Council could decide not to approve the additional expenditure authorization to Sill-TerHar Motors and instruct Staff to re-bid these two medium-duty vehicles. This alternative is not recommended because the CDOT bid reflects a lowered price based on the purchasing power of many political subdivisions in Colorado.
2. Council could choose to not approve the purchase of one or both of the two medium-duty vehicles. This alternative is not recommended because one of the vehicles needs to be replaced and has a maintenance history that make it impractical to keep it in regular service and the one new vehicle addition supports new Open Space work previously approved by City Council.

Background Information

City Staff documents the detail for each replacement vehicle being purchased. This detail is critical and requires extensive review because a vehicle ordered using a government award cannot be exchanged. When a cut-off date is issued by the manufacturer for a specific model, vehicles ordered after that date become the next model year; in this case, they would become 2016 models. Missing the cut-off date generally means an increase in cost, a delay receiving the vehicle as current year models are being produced, and requiring the City to maintain the old vehicle for a longer period of time. On August 24, 2015, Sill-TerHar Motors notified City Staff that the cutoff for ordering medium-duty 2015 vehicles would be the third week of September. This vehicle order represents the remaining medium-duty vehicles for 2015, thus avoiding the anticipated third week of September cut-off date. The approved replacement vehicle identified in the table below has reached a point where it is no longer economically reasonable to maintain it in service. Please note, the life-to-date vehicle maintenance costs in the table do not include accident repairs or fuel cost. The new-add and replacement vehicles have mounted accessories calculated into the cost. These vehicles are used to either transport crews, haul materials, install and manage street signs, or perform other services around the City.

DEPT.	OLD UNIT #	YEAR	REPLACEMENT MAKE/MODEL	Vehicle Total Hours	LIFE-TO-DATE VEHICLE MAINTENANCE COST	NEW VEHICLE MAKE/MODEL	PRICE	BIDDER AWARDED
Street Division	6219	1996	Chevrolet 2500 Regular Cab	8032	\$65,160	Ford F 550 Bucket Truck	\$123,246	Sill-TerHar Motors
POST-Parks, Recreation & Libraries	New Add	N/A	N/A	N/A	N/A	Ford F 550 Dump Truck	\$55,167	Sill-TerHar Motors

The replacement and new addition of these vehicles support City Council’s Strategic Plan Goal of “Financially Sustainable Government Providing Excellence in City Services” by keeping a highly dependable fleet of trucks on the job and by obtaining the best possible price for these two medium-duty vehicles.

Respectfully submitted,

Donald M. Tripp
City Manager



Agenda Item 8 D

Agenda Memorandum

City Council Meeting
September 14, 2015



SUBJECT: Downtown Westminster Streetscape Consultant

Prepared By: Kathy Piper, Landscape Architect II
Becky Eades, Landscape Architect II

Recommended City Council Action

Based on the report of the City Manager, find that the public interest would be best served by accepting the bid for the master plan and construction documents for the streetscape in Downtown Westminster from Wenk Associates, Inc., authorize the City Manager to execute a contract for master planning, construction documentation, and bidding assistance and construction observation of the streetscape in Downtown Westminster with Wenk Associates, Inc. in the amount of \$429,835 with a 10% contingency of \$43,000, for a total design project authorized expenditure not to exceed \$472,835.

Summary Statement

- On October 15, 2014, Staff issued an RFP for master planning and construction document preparation for the public spaces and streetscape in Westminster's New Downtown.
- On November 20, 2014, proposals were received from five landscape architectural firms.
- On January 14, 2015, all five firms were interviewed by a committee of 13 people, including staff from Parks, Recreation, and Libraries; Community Development; and the City Manager's Office.
- Following the initial interviews, negotiations with Oliver McMillian as a potential master developer for the site included streetscape as one of the components that Oliver McMillian would handle.
- Upon the termination of negotiations with Oliver McMillian, Staff re-interviewed the 3 firms with the lowest estimated cost for streetscape master planning.
- Staff felt that Wenk Associates, Inc. was the most qualified firm for the project, and negotiated a final scope and fee with them.
- The City Attorney's Office has reviewed these contracts as to legal form.

Expenditure Required: \$472,835 - Downtown Westminster Streetscape Design

Source of Funds: General Capital Improvement Fund - COP Parks & Streetscape Project

Policy Issue

Should the City proceed with the Downtown Westminster streetscape at this time?

Alternative

City Council could direct staff to delay the streetscape design, however Staff does not recommend this option. Phase One of the street construction is currently underway and this current project stops at the back of the curb. The streetscape will include the sidewalks and landscape along all Phase One streets. In addition to the importance of the sidewalks, moving forward with the streetscape landscaping will allow the plant material to become established and the trees to begin maturing early in the , which will help provide shade and character to the downtown.

Background Information

Per the Institute for Public Administration at the University of Delaware, ‘streetscape’ refers to the built fabric of the street including its design quality and visual effect, recognizing that the street and its right-of-way is a public place where people interact and engage in various activities. Streetscapes and their visual experience largely influence public places and ultimately help define a community’s aesthetic quality, economic activity, health and sustainability.

On October 15, 2014, a Request for Proposal (RFP) was sent to nine firms requesting proposals for master planning and construction document preparation for the streetscapes and public spaces in Westminster’s new downtown. Firms were asked to provide information on their project team, including why their team was uniquely suited to the projects, and to provide relevant examples of similar work the firm had produced in other communities. Additionally, firms were asked to define the approach and design philosophy they would incorporate to their designs.

Proposals were received from five firms on November 20, 2014.

Consultant	Original Bid Streetscape Master Plan *
DTJ Design, Inc.	\$62,960
Wenk Associates, Inc.	\$63,613
Hoerr Schaudt Landscape Architects	\$188,350
Sasaki Associates, Inc.	\$151,751
Design Workshop, Inc.	\$137,900

*Price listed is the initial estimate, prior to determination of final scope, see below.

All five responding firms were interviewed on January 14, 2015. At the time of the initial interviews the developer involved with the project indicated that they would be responsible for the streetscape design as part of being the master developer of the site. Once it was determined that the City would be moving forward without the involvement of a master developer, the City re-interviewed the three firms with the lowest fees for streetscape master planning: DTJ Design, Inc., Wenk Associates, Inc., and Design Workshop, Inc. These firms clearly illustrated the best understanding of local landscape material as well as applicable streetscape experience. Of these three, Wenk Associates, Inc. demonstrated superior understanding of our vision for the downtown and relevant experience with similar successful projects. The cost currently recommended for award varies from the initial proposal amount listed above because the

costs above included only the preparation of a master plan, while the final costs proposed also includes design development, construction documents preparation, bidding assistance, construction observation, and development of a wayfinding system for the downtown. At this time it is anticipated that installation of the streetscape will begin in fall of 2016.

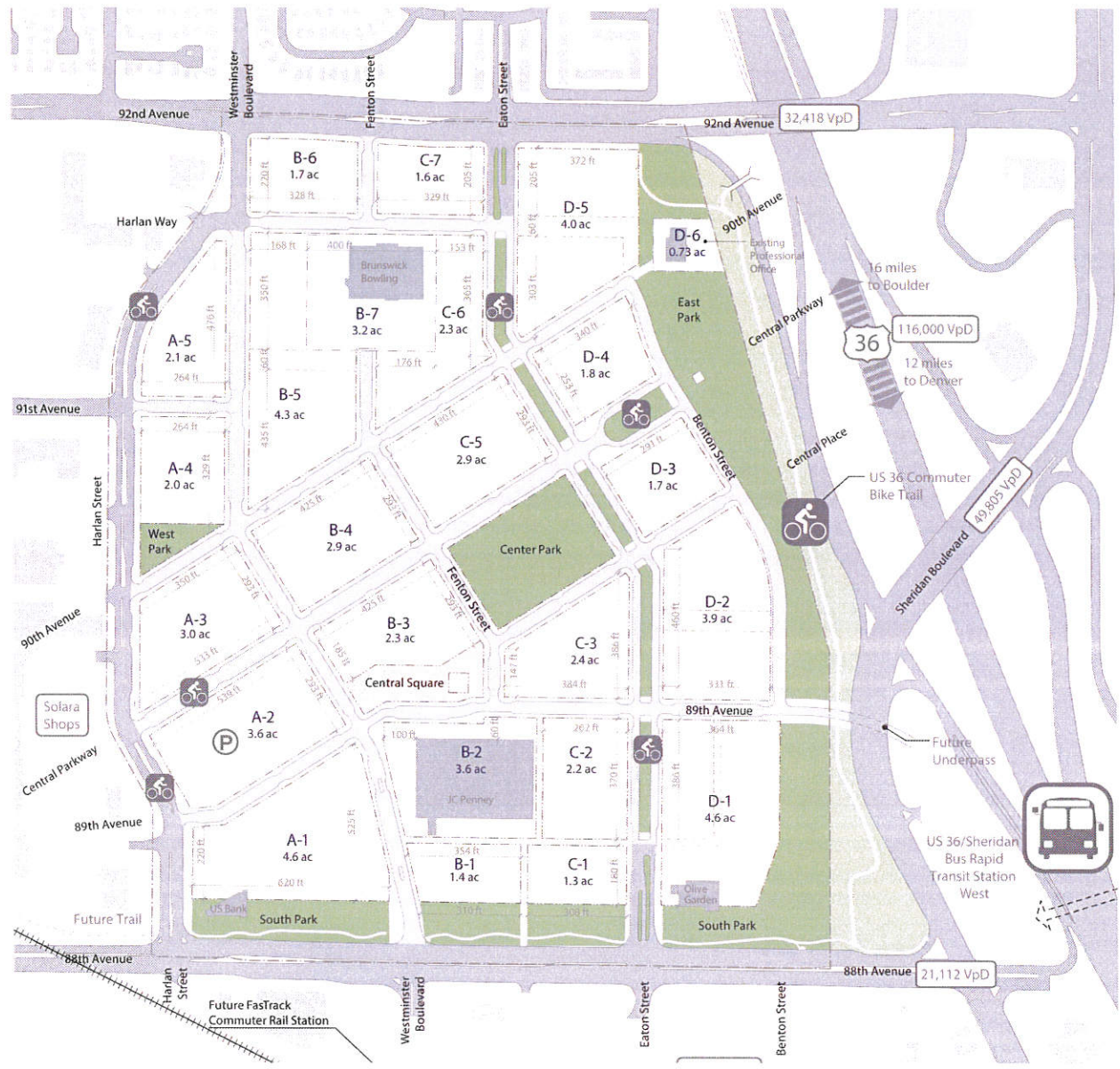
These proposed enhancements to the new downtown Westminster support the City's 2015 Strategic Plan goals of Vibrant, Inclusive and Engaged Community; Beautiful, Desirable, Safe and Environmentally Responsible City; and Ease of Mobility.

Respectfully submitted,

Donald M. Tripp
City Manager

Attachment: Street Layout Map

Attachment A- Street Layout





Agenda Memorandum

City Council Meeting
September 14, 2015



SUBJECT: Big Dry Creek Wastewater Treatment Facility Digester Complex
Repair Project - Engineering Services Contract

Prepared By: Kent Brugler, Senior Engineer
Stephen Grooters, Senior Projects Engineer

Recommended City Council Action

Authorize the City Manager to execute a contract with HDR Engineering Inc. in the amount of \$343,350 to provide engineering planning and design services for the Big Dry Creek Wastewater Treatment Facility Digester Complex Repair Project, plus a contingency amount of \$34,335 for a total authorized expenditure of \$377,685.

Summary Statement

- Staff maintains a comprehensive database that includes the age, criticality, and remaining useful life for assets at the Big Dry Creek Wastewater Treatment Facility. As part of that effort, projects are identified and prioritized for repair and replacement as required to maintain current levels of wastewater treatment service to City customers.
- The current project involves priority repairs to biosolids treatment, processing, and operator safety equipment. Repairs will occur upstream and independent of future dewatering facilities and are necessary because the assets are old (20-40 years) and have reached the end of their useful life.
- The project includes a master plan for the biosolids digester complex. Staff anticipates the need for large-scale repairs within a 10-year timeframe and the master plan will help determine the best long-term reinvestment strategy for the City.
- Staff prepared and distributed a Request for Proposals to five selected engineering firms that have expertise in the planning and design of the repairs identified.
- Of the three proposals received, Staff believes the HDR Engineering Inc. (HDR) team provides the best value to the City and recommends they be awarded the design contract.
- Design completion is expected in December 2015 with construction completion in December 2016. The Digester Master Plan is expected by June 2016.
- Adequate budget for this work was adopted by City Council as part of the 2015/2016 budget process and is available for this project.
- Staff is also proposing miscellaneous minor plant repair work be implemented together with this digester project to streamline project costs and Staff resources. As such, the budget includes two Utility Capital Fund project accounts.

Expenditure Required: \$377,685

Source of Funds: Utility Capital Improvement Fund - BDCWWTF Digester Complex Major R&R project, BDCWWTF Building and Facility Maintenance project

Policy Issue

Should City Council proceed with awarding the engineering design contract to HDR?

Alternatives

1. City Council could decline to approve the contract and place the project on hold. This is not recommended because this action would result in delaying the repairs to the treatment facility and could result in increased maintenance, expenses, and possible service impacts to Westminster wastewater customers.
2. City Council could choose to award the contract to one of the other consultants that submitted a proposal; however, this is not recommended as Staff believes HDR provides the best value for this project.

Background Information

The initial construction of the Big Dry Creek Wastewater Treatment Facility (BDCWWTF) took place in 1971. Since that time various expansion and improvement projects have been constructed to maintain service and the ability to meet more stringent regulations. Overall, the facilities at the BDCWWTF continue to provide high-level service to City customers, but certain components are beginning to age and need repair or replacement. To address aging infrastructure challenges, Staff developed and continues to maintain a comprehensive repair and replacement program for all of the assets at the BDCWWTF. As part of that effort, projects are identified and prioritized for repair and replacement as required to maintain current levels of wastewater treatment service to City customers.

Current priority needs at the BDCWWTF include repairs to the biosolids treatment process known as the Digester Complex. This is the process at the plant that treats biosolids under high temperatures to allow safe land disposal at the Strasburg Natural Resources Farm. Biosolids are further treated downstream of the Digester Complex with the biosolids dewatering process (which has been discussed recently with City Council). Work within the current project includes the following:

1. Repairs to the concrete structures of three of the five digesters
2. Repairs to one of the digester covers
3. Mechanical repairs and/or replacement of digester mixing equipment
4. Replacement of heating, ventilation, and gas handling safety equipment
5. Miscellaneous plant repair work that is relatively minor in nature to replace the biofilter (odor control) wood chip media and install a new hoist in the headworks building to facilitate maintenance safety
6. Repairs to two of the original four reclaimed water treatment facility high service pumps. Note: repairs to the other two original pumps were designed and implemented in 2011 as part of the reclaimed water treatment facility expansion project. Staff will implement the same design for repairs for the remaining two pumps and will incorporate this work into a single bid package to save costs

Also included in the project is a master plan for the biosolids digester complex. The current complex was originally constructed in 1983 and underwent significant redesign in 1995. Staff anticipates the need for large-scale repairs within a 10-year timeframe and the master plan will help determine the best long-term reinvestment strategy for the City.

In June 2015, Staff sent a Request for Proposals to five engineering firms experienced in wastewater treatment facility repairs and rehabilitation. Staff requested specific information related to the experience of the project teams, relevant projects with references, project team availability, and a detailed scope of work and fee breakdown by task. The City received proposals from the following three firms:

- HDR Engineering, Inc.
- Black & Veatch Corporation
- Burns & McDonnell Engineering, Inc.

Of the two firms that did not submit a proposal, one firm indicated concerns with the City’s contract terms, and the other firm indicated they did not have Staff available to meet the City’s project schedule.

Staff evaluated each proposal received based on key criteria, including:

1. Response to specific requirements in the RFP, clarity and presentation of proposed scope, tasks and fee.
2. Firm’s background and expertise in completing projects of similar size, scope, and complexity;
3. Firm’s references related to the ability to complete project requirements on schedule and within budget;
4. Firm’s reputation with the City and familiarity with City codes, policy, procedures, and regulations;
5. Professional background and experience of each key person of the project team;
6. Key team member availability and commitment to the project; and
7. Level of effort, competitive firm fee schedule and competitive hourly rates for Staff assigned to this project relative to their experience level.

The City selection committee scored each firm based on the selection criteria, with the HDR team achieving the highest score. Because this project incorporates a significant work effort, competitive firm fees were of particular importance. A comparison of each firm’s proposed fee is shown below:

FIRM	Hourly Rate Range for Key Staff	Fee Proposal Based on Scope Submitted
HDR Engineering, Inc.	\$152/hr	\$343,350
Burns & McDonnell	\$164/hr	\$366,893
Black & Veatch	\$148/hr	\$348,288

Engineering fees from the proposals received ranged from \$343,350 to \$366,893. Along with the range of fees, proposals ranged in the level of complexity and thoroughness of scope relative to the City’s goals for the project. Of the firms that proposed, the HDR approach was the most comprehensive and the team was the best qualified for the project. They incorporated strong local staff with proven repair and rehabilitation experience for wastewater treatment facilities. Because they have successfully provided engineering services to the City on many utility system projects, they showed intimate knowledge of City codes and procedures. This helped to facilitate their proposed scope in a cost-efficient manner. As such, the firm’s fee was the lowest of those submitted at \$343,350.

In addition to a core scope of services, HDR offered some value-added tasks for the City’s consideration including frequent team meetings to confirm City buy-in during the master planning process and field visits to Front Range utilities to review digester design features. It is Staff’s assessment that these tasks and the associated fees are in the best interest of the City and will provide the best value to the City. Staff recommends HDR be awarded the contract. Staff is requesting a 10% contingency of \$34,335, with a total authorized expenditure of \$377,685. Construction phase services will be negotiated following successful completion of the design phase and presented to City Council at a later date for approval.

Funds for the project were previously approved by City Council as part of the 2015/16 Budget. The budget is funded by two Utility Capital Fund project accounts (which include anticipated construction costs). No new or additional funds are being requested at this time.

The Big Dry Creek Wastewater Treatment Facility Digester Complex Major Repair and Replacement Project helps achieve the City Council's Strategic Plan Goals of "Beautiful, Desirable, Safe and Environmentally Responsible City" by contributing to the objective of investing in well-maintained and sustainable City infrastructure and facilities, and "Financially Sustainable Government Providing Excellence in City Services" by contributing to the objective of operating and maintaining capital infrastructure in a responsible and sustainable way.

Respectfully submitted,

Donald M. Tripp
City Manager



Agenda Memorandum

City Council Meeting
September 14, 2015



SUBJECT: Second Reading of Councillor's Bill No. 42 re 2015 Community Development Block Grant (CDBG) Fund Appropriation

Prepared By: Heather K. Ruddy, Community Development Program Planner

Recommended City Council Action

Pass Councillor's Bill No. 42 on second reading appropriating funds received from the United States Department of Housing and Urban Development, Community Development Block Grant program, in the amount of \$578,221.

Summary Statement

- City Council action is requested to pass the attached Councillor's Bill on second reading.
- This Councillor's Bill was passed on first reading on August 24, 2015, appropriating the City's 2015 Community Development Block Grant (CDBG) funds in the amount of \$578,221, awarded by the U.S. Department of Housing and Urban Development (HUD).
- The 2015 CDBG allocation was designated to fund the 2015 CDBG projects, pursuant to City Council approval on April 27, 2015. Project funding includes \$90,000 towards the Emergency and Essential Home Repair Program, \$372,577 towards the Bradburn Boulevard Street Enhancement Project, and \$115,644 towards administration.
- The amount awarded to the City represents a six percent reduction from the City's 2014 award of \$614,010.

Expenditure Required: \$578,221

Source of Funds: 2015 Community Development Block Grant Funds

Respectfully submitted,

Donald M. Tripp
City Manager

Attachment – Councillor's Bill

BY AUTHORITY

ORDINANCE NO. **3799**

COUNCILLOR'S BILL NO. **42**

SERIES OF 2015

INTRODUCED BY COUNCILLORS
Garcia - Pinter

**A BILL
FOR AN ORDINANCE INCREASING THE 2015 BUDGET OF THE COMMUNITY
DEVELOPMENT BLOCK GRANT (CDBG) FUND AND AUTHORIZING A SUPPLEMENTAL
APPROPRIATION FROM THE 2015 ESTIMATED REVENUES IN THIS FUND**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2015 appropriation for the CDBG Fund, initially appropriated by Ordinance No.3737, is hereby increased by \$578,221. This appropriation is the amount approved by the U.S. Department of Housing and Urban Development (HUD) for the City for 2015.

Section 2. The \$578,221 increase in the CDBG Fund shall be allocated to City revenue and expense accounts as described in the City Council Agenda Item 10 A, dated August 24, 2015, (a copy of which may be obtained from the City Clerk) increasing City fund budgets as follows:

CDBG Fund	<u>\$578,221</u>
Total	<u>\$578,221</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 24th day of August, 2015.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 14th day of September, 2015.

ATTEST:

Mayor

City Clerk



Agenda Memorandum

City Council Meeting
September 14, 2015



SUBJECT: Second Reading of Councillor’s Bill No. 43 - 2015 2nd Quarter Budget Supplemental Appropriation

Prepared By: Karen Barlow, Accountant

Recommended City Council Action

Pass Councillor’s Bill No. 43 on second reading, providing for a supplemental appropriation of funds to the 2015 budget of the General, Legacy Ridge, Heritage at Westmoor, Parks Open Space and Trails, and General Capital Improvement Funds.

Summary Statement

- City Council action is requested to adopt the attached Councillor’s Bill on second reading, authorizing a supplemental appropriation to the 2015 Budget of the General, Legacy Ridge, Heritage at Westmoor, Parks Open Space and Trails, and General Capital Improvement Funds
 - General Fund amendments total: \$ 293,168
 - Legacy Ridge Fund amendments total: \$ 2,190
 - Heritage at Westmoor Fund amendments total: \$ 1,990
 - Parks, Open Space and Trails Fund amendments total: \$ 10,000
 - General Capital Improvement Fund amendments total: \$ 29,466

- This Councillor’s Bill was approved on first reading on August 24, 2015.

Expenditure Required: \$336,814

Source of Funds: The funding sources for these budgetary adjustments include grants, reimbursements, transfers, and intergovernmental.

Respectfully submitted,

Donald M. Tripp
City Manager

Attachment: Councillor’s Bill

BY AUTHORITY

ORDINANCE NO. **3800**

COUNCILLOR'S BILL NO. **43**

SERIES OF 2015

INTRODUCED BY COUNCILLORS
Briggs - Seitz

A BILL

FOR AN ORDINANCE AMENDING THE 2015 BUDGETS OF THE GENERAL, LEGACY RIDGE, HERITAGE AT WESTMOOR, PARKS OPEN SPACE AND TRAILS, AND GENERAL CAPITAL IMPROVEMENT FUNDS, AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2015 ESTIMATED REVENUES IN THE FUNDS

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2015 appropriation for the General, Legacy Ridge, Heritage at Westmoor, Parks Open Space and Trails, and General Capital Improvement Funds, initially appropriated by Ordinance No. 3737 is hereby increased in aggregate by \$336,814. This appropriation is due to the receipt of funds from grants, reimbursements, transfers, and intergovernmental.

Section 2. The \$336,814 increase shall be allocated to City Revenue and Expense accounts as described in the City Council Agenda Item 10B dated August 24, 2015 (a copy of which may be obtained from the City Clerk) amending City fund budgets as follows:

General Fund	\$293,168
Legacy Ridge Fund	2,190
Heritage at Westmoor Fund	1,990
Parks, Open Space and Trails Fund	10,000
General Capital Improvement Fund	<u>29,466</u>
Total	<u>\$336,814</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 24th day of August, 2015.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 14th day of September, 2015.

ATTEST:

Mayor

City Clerk



Agenda Memorandum

City Council Meeting
September 14, 2015



SUBJECT: Second Reading of Councillor’s Bill No. 44 re Lease Agreement for the Kids Nite Out Program with ABC Entertainment, LLC

Prepared By: Tim Lachermeier, Recreation Supervisor
Justin Cutler, Recreation Services Manager

Recommended City Council Action

Pass Councillor’s Bill No. 44 on second reading authorizing the City Manager to sign a three-year lease agreement with ABC Entertainment, LLC for the continuation of the Kids Nite Out Program.

Summary Statement

- The lease agreement for the Kids Nite Out Program currently being offered at the City Park Recreation Center has expired.
- The original lease was for three years, with one, three-year renewable option.
- The new lease agreement with ABC Entertainment, LLC would be for three years running through 2018. It includes one, three-year renewable option.
- This privately-run program offers a variety of activities in a safe, highly-supervised and controlled environment for youth from 7 to 14 years old.
- The program operates from the hours of 7:00 p.m. to 10:30 p.m. on Friday nights during the school year, September through May.
- Activities offered include a disc jockey with dancing, organized games, swimming, and concessions.
- This program generates up to \$18,000 per year of revenue for the City.
- Leasing of property owned by the City must be approved and ratified by ordinance under Section 13.4 of the City’s Charter.
- Staff is pleased with the performance of ABC Entertainment and believes the Kids Nite Out Program is very beneficial for the community.
- This Councillor’s Bill was passed on first reading on August 24, 2015.

Expenditure Required: \$0

Source of Funds: N/A

Respectfully submitted,

Donald M. Tripp
City Manager

Attachment: Councillor’s Bill with Exhibit A Lease

BY AUTHORITY

ORDINANCE NO. **3801**

COUNCILLOR'S BILL NO. **44**

SERIES 2015

INTRODUCED BY COUNCILLORS
Seitz - Garcia

**A BILL
FOR AN ORDINANCE APPROVING AND RATIFYING A LEASE AGREEMENT WITH
ABC ENTERTAINMENT, L.L.C. TO OPERATE THE 'KIDS NITE OUT' PROGRAM
WITHIN THE CITY PARK RECREATION CENTER**

WHEREAS, the City owns the City Park Recreation Center, located at 10455 Sheridan Boulevard; and

WHEREAS, it is in the City's best interest to maximize the income generated from such operation by collecting rental income from space located in the City Park Recreation Center.

NOW, THEREFORE, THE CITY OF WESTMINSTER ORDAINS:

Section 1. Pursuant to City Charter Section 13.4, the Lease Agreement attached hereto as Exhibit A is hereby approved and ratified.

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

Section 3. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The lease agreement attached hereto as Exhibit A shall be executed by the lessee prior to consideration of this ordinance 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 24th day of August, 2015.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 14th day of September, 2015.

Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

City Clerk

City Attorney's Office

Exhibit A

LEASE AGREEMENT

This Lease is made and entered into by and between the **CITY OF WESTMINSTER, COLORADO**, a Colorado home-rule municipality, referenced hereinafter as “Lessor” and **ABC Entertainment, L.L.C.**, a Colorado corporation, referenced hereinafter as “Lessee.”

In consideration of the mutual covenants and agreements set forth in this Lease, and other good and valuable consideration, Lessor does hereby demise and Lease to Lessee, and Lessee does hereby Lease from Lessor, certain portions of the City Park Recreation Center located at 10455 Sheridan Boulevard, Westminster, Jefferson County, Colorado (“the Premises”), more particularly described in Exhibit “A” attached to this Lease. These Premises are referenced in this Lease as “the Premises” or “the Leased Premises.”

ARTICLE 1. TERM

1.01. Term of Lease. The term of this Lease shall be for each Friday during the one (3) year period commencing at six o’clock p.m. on September 1, 2015, and ending at 12 o’clock midnight on the Saturday following the last Friday of May 31, 2018 (the “Expiration Date”), unless sooner terminated as provided in this Lease.

1.02 Hours of Lease. During the term of this Lease, Lessee shall have exclusive use of certain portions of the Leased Premises between the times of six o’clock p.m. of each Friday until twelve o’clock midnight. Specific areas/usage hours are 5:30 p.m.-7:00 p.m.- set-up, 7:00 p.m.-12:00 midnight -program usage and cleaning of upper level, 7:00 p.m.-11:00 pm – program usage and cleaning of lower level.

1.02. Extension.

- a. Lessor and Lessee may agree to extend this Lease beyond the Expiration Date provided in 1.01 above, for one (1) additional three-year period, on terms the Parties may negotiate. Such extension shall be for a period of three (3) years, with the additional term to begin on the Friday following the Expiration Date of the Lease term specified in 1.01 above. Any such extension shall be subject to the approval of Lessor’s City Council.
- b. Lessee shall notify Lessor of its desire to extend this Lease or to allow the Lease to expire without extension not later than thirty (30) days prior to the Expiration Date of the Lease term. Notice shall be in writing and sent to Lessor by registered mail or facsimile transmission to Lessor at the address provided in this Lease. If Lessee fails to provide notice to Lessor, the Lease shall automatically expire on the Expiration Date.

1.03. Lessor’s Right to Cancel. Lessor shall have the right, at its discretion, to cancel Lessee’s use of the Premises on a specific date without cause and without recourse against Lessor upon written notice to Lessee no later than one (1) month in advance of the date to be canceled.

ARTICLE 2. RENT

2.01. Rent. For the initial three (3) year term of this Lease, Lessee agrees to pay to Lessor the sum of 20% of admission revenues received by Lessee from users of the Premises, on or before the Friday of each week. The rent for any extended term pursuant to section 1.01 shall be adjusted by agreement of the Parties. Should Lessee choose to use the aquatics area, Lessee also agrees to pay Lessor \$135 for the use of the aquatics area and locker room from the times of 7:00 p.m. to 9:00 p.m.

ARTICLE 3. USE OF PREMISES

3.01. Permitted Use. Lessee shall operate the Leased Premises as a Youth Activity Center during the term of this agreement and shall use the Premises for no other purpose.

3.02. Youth Activity Center Defined. The term “Youth Activity Center” as used in this Lease (also known as “Kids Nite Out”) means that the Leased Premises shall be used for activities on Friday nights for persons from and including the ages 7 through 14, for, but not limited to, the following activities:

- i. Game Activities: consisting of, for example, games such as volleyball, basketball, racquetball, wallyball, dancing, ping pong, video games, and the like, including any activities which may be available but not listed stemming from the uniqueness of the Leased Premises;
- ii. Audio and Video Activities: including, but not limited to, performances of person(s) to coordinate and direct the playing of records, videos, laserdiscs and the like. Lessee shall be solely responsible for obtaining any necessary licenses and for paying any applicable royalties or penalties in connection with its use of any copyrighted audio or video works;
- iii. Food, Drink, and Concession Activities: including the sale of soft drinks, sandwiches, chips, candy bars, banners, T-shirts, and;
- iv. All advertising and marketing promotions related to the Youth Activity Center.

3.03. Manner of Operation. During the term of this Lease and any extensions, Lessee shall keep Leased premise reasonably stocked with concession merchandise, including soft drinks and food, and reasonably staffed to adequately serve the patrons. Lessee must operate the Youth Activity Center on the Leased Premises in a diligent and efficient manner. Lessee must keep the Leased Premises open for business from 7:00 p.m. to 10:30 p.m. on each Friday of the month during the term of this Lease, except Lessee is not required to operate its business on legal holidays, nor during any time when such operations must be suspended because of casualty loss to the Leased Premises or the building in which the Leased Premises are located, strike, insurrection, or other cause beyond the control of the Lessee. Lessee will require either a parent or responsible adult to sign in all youth attendees. Lessee will not allow a parent or responsible adult to enter the program without being accompanied by a Kids Nite Out staff member.

3.04. Preparation and Clean-up. Preparation of the Leased Premises and clean-up of the Leased Premises shall be the sole responsibility of the Lessee during the term of the Lease. Lessee agrees that it shall have sufficient staff available on the Leased Premises to assure proper and efficient preparation and clean-up.

3.05. Nuisance and Illegal Activity. Lessee shall not use, or permit the use of, the Leased Premises in any manner that results in waste of the Leased Premises or constitutes a nuisance. Nor shall Lessee use, or permit the use of the Leased Premises for any illegal purpose. Lessee will comply, and will cause its officers, employees, agents, patrons, and other invitees to comply, with all applicable laws and ordinances and with all applicable rules and regulations of governmental agencies concerning the use of the Leased Premises.

3.06. Security. Lessee shall hire at least one (1) off-duty Westminster police officer to provide security. The officer shall be on the Premises during the hours Lessee is open for business.

3.07. Supervision. Lessee shall provide adequate supervision at all times. All supervisors shall be at least eighteen (18) years of age. Lessee shall staff supervisors at a ratio of not less than one (1) supervisor to every twenty-five (25) Youth Activity Program participants. A background investigation including a police record check must be performed on all employees assigned to work at City Park Recreation Center. A complete copy of the results of the background investigation must be provided to the City and approved by the City before the employee is assigned to work at City Park Recreation Center.

3.08. Conduct. Any guests who conduct themselves in an unbecoming manner or become a nuisance to Kids Nite Out, or other guests, may be suspended or expelled from Kids Nite Out. Thereupon, all privileges of such guest shall be automatically terminated without proration or refund. At that time, the suspended guest will wait for a parent(s) or a responsible adult to be notified to pick up their youth immediately. All participants and staff members are to conduct themselves in a manner deemed appropriate as agreed upon between Lessor and Lessee. Kids Nite Out staff will closely monitor behavior and dress code.

3.09. Injury or Accident. Kids Nite Out staff will immediately notify City Park Recreation Center staff and police officers if any injury or accident occurs during the operation of the program.

ARTICLE 4. MAINTENANCE AND SURRENDER

4.01 Maintenance by Lessor. Lessor shall, at its own expense and risk, maintain the Leased Premises including but not limited to maintenance of the roof, foundation, plumbing, heating and air conditioning systems, fire protection sprinkling systems, structural soundness of the exterior walls (including all windows, window glass, plate glass, and doors), parking lots, walkways surrounding the Leased Premises or the building in which the Leased Premises are located, stairways, and elevators, including repairs and all necessary replacements of these items.

4.02 Wear and Tear. Except as provided in 4.01, Lessee shall maintain the Leased Premises and keep them free from waste or nuisance throughout the Lease term and any extension. Lessee is responsible for damages incurred by participants. At the termination of the Lease, Lessee shall surrender and deliver the Leased Premises to Lessor in as good a state of repair and condition as they were in at the time Lessor delivered possession to Lessee, reasonable wear and tear and damage by fire, tornado, or other casualty excepted. Lessee and Lessor recognize that ordinary wear and tear may include stains from food, drinks, candy, and gum. Lessee will make a good faith effort to clean up such stains but shall not be required to undertake major capital expenditures for removal of such stains nor any structural repairs which may be caused by such stains.

4.03 Failure to Perform. In event either party fails to perform its obligation to repair or maintain as set forth in 4.01 and 4.02 above after notice from the other party of the need for such repair or maintenance and the passage of a reasonable amount of time for performance after such notice, the other party may terminate this Lease or, at its option, suspend business operations until such repairs or maintenance are completed.

ARTICLE 5. TAXES AND ASSESSMENTS

5.01 Personal Property Taxes. Lessee shall pay and fully discharge all taxes, special assessments, and governmental charges of every character imposed during the term of this Lease on the business activities or personal property placed by Lessee in, on, or about the Leased Premises. These taxes include but are not limited to Lessor's sales and use tax.

5.02 Real Property Taxes. Lessor shall pay and fully discharge all property taxes, special assessments, and governmental charges of every character imposed on the Leased Premises during the term of this Lease, including any special assessments imposed on or against the Leased Premises for the construction or improvement of public works.

ARTICLE 6. UTILITIES AND GARBAGE REMOVAL

6.01 Utility Charges. Lessor shall pay all utility charges for water, electricity, heat, gas, and telephone service used in and about the Leased Premises during the term of the Lease, all such charges to be paid by Lessor directly to the utility company or municipality furnishing the same before the same shall be delinquent.

6.02 Garbage Removal. Lessor shall pay for the removal of all garbage and rubbish from the Leased Premises during the term of the Lease.

ARTICLE 7. ALTERATIONS, ADDITIONS, AND IMPROVEMENTS

7.01 Consent of Lessor. Lessee shall not make any alterations, additions, or improvements to the Leased Premises without the prior written consent of Lessor.

ARTICLE 8. SIGNS

8.01 Signs. Lessee may erect signs on portions of the Leased Premises and portions of the building in which the Leased Premises are located, subject to the approval of the City Recreation Services Manager as to the number, size, and placement of the signs.

ARTICLE 9. INSURANCE AND INDEMNITY

9.01 Property Insurance. Lessor shall, at its own expense, during the term of this Lease, keep all buildings, structures, improvements, fixtures, and equipment, which are not part of the Leased Premises but are required for access or enjoyment of the Leased Premises, insured against loss or damage by fire or theft.

9.02 Liability Insurance. Lessee shall, at its own expense, obtain general commercial liability insurance. Such insurance shall provide liability coverage, at a minimum, in the amount of One Million Dollars (\$1,000,000). Lessor shall be named as an additional insured on the policy.

9.03 Lessee Hold Harmless Clause. Lessee agrees to indemnify and hold Lessor harmless against any and all claims, demands, damages, costs, and expenses, including reasonable attorney's fees for the defense of such claims and demands, arising from the conduct or management of Lessee's business on the Leased Premises or from its use of the Leased Premises, or from any breach on the part of Lessee of any conditions of the Lease, or from any act or negligence of Lessee, its agents, contractors, employees, subtenants, concessionaires, or licensees in or about the Leased Premises.

ARTICLE 10. DEFAULT

10.01. Default by Lessee. If Lessee shall allow the rent to be in arrears more than fourteen (14) days after written notice of such delinquency, or shall remain in default under any of the other conditions of this Lease for a period of twenty (20) days after written notice from Lessor, Lessor may, without notice to Lessee, immediately terminate this Lease, re-enter and take possession of the Leased Premises and remove all persons and property without being deemed guilty of any manner of trespass, and re-let the Premises, or any part of the Premises, for all or any part of the remainder of the Lease term to a party satisfactory to Lessor, and at such monthly rental as Lessor may with reasonable diligence be able to secure. Should Lessor be unable to re-let after reasonable efforts to do so or, should such monthly rental be less than the rental Lessee was obligated to pay under this Lease, Lessee shall pay to Lessor the expense of re-letting plus the amount of any deficiency in the rent.

10.02 Default by Lessor. If Lessor defaults in its performance of any term, covenant, or condition required to be performed by it under this agreement, Lessee may terminate this Lease on giving ten (10) days' notice to Lessor of such intention. The Lease will be terminated on the date designated in Lessee's notice, unless Lessor has cured the default prior to the expiration of the ten (10) day period.

10.03 Waiver of Breach. A waiver by either Lessor or Lessee of a breach of this Lease by the other party does not constitute a continuing waiver or waiver of any subsequent breach of the Lease.

ARTICLE 11. INSPECTION BY LESSOR

11.01 Access by Lessor. Lessee shall permit Lessor and Lessor’s agents, representatives, and employees to enter into and on the Leased Premises at all reasonable times for the purpose of inspection, maintenance, making repairs or alterations to the Premises, or any other purpose necessary to protect Lessor’s interest in the Premises or to perform Lessor’s duties under this Lease so long as such access does not interfere with the quiet use and enjoyment by Lessee of the Leased Premises.

ARTICLE 12. ASSIGNMENT AND SUBLEASE

12.01 Assignment and Subletting by Lessee. Lessee may not sublet, assign, or otherwise transfer this Lease or any right or interest in this Lease, or in the Leased Premises or the improvements on the Leased Premises, without the prior written consent of Lessor. Any such sublet, assignment, or transfer shall not relieve Lessee of any of its obligations under this Lease.

ARTICLE 13. MISCELLANEOUS

13.01 Notice and Addresses. All notice required under this Lease must be given by certified mail or registered mail, addressed to the proper party, at the following address:

Lessor: Name: City of Westminster
 Attn: Chris Johnson
 Address: 4800 West 92nd Avenue
 City Westminster, CO 80031
 Telephone No.: (303) 658-2834
 FAX No.: (303) 438-0320

Lessee: Name: ABC Entertainment, L.L.C.
 Attn: Amanda Lau
 Address: 2019 Monte Vista Circle
 City: Loveland, CO 80538
 Telephone No.: (970) 308-0439

Either party may change the address for notice, in whole or in part, by giving the other party written notice of the new address.

13.02 Parties Bound. This agreement shall be binding upon, and inure to the benefit of, the parties to this Lease and their respective heirs, executors, administrators, legal representatives, successors, and assigns when permitted by this agreement.

13.03 Colorado Law to Apply. This agreement shall be construed under, and in accordance with, the laws of the state of Colorado.

13.04 Legal Construction. In case any one or more of the provisions contained in this agreement shall for any reason be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of the agreement, and this agreement shall be construed as if the invalid, illegal, or unenforceable provision had never been included in the agreement.

13.05 Prior Agreements Superseded. This agreement constitutes the sole and only agreement of the parties and supersedes any prior understandings or written or oral agreements between the parties respecting the subject matter of same.

13.06 Attorney's Fees and Costs. If, as a result of a breach of this agreement by a party hereto, the other party employs an attorney or attorneys to enforce its rights under this Lease, then the prevailing party shall be paid by the other party the reasonable attorney fees and costs incurred to enforce the Lease.

13.07 Force Majeure. Neither Lessor nor Lessee shall be required to perform any term, condition, or covenant in this Lease so long as performance is delayed by Force Majeure, which shall mean acts of God, strikes, lockouts, material or labor restrictions by any governmental authority, civil riots, floods, and any other cause not reasonably within the control of Lessor or Lessee and which by the exercise of due diligence Lessor is unable, wholly or in part, to prevent or overcome.

13.08 Rights and Remedies Cumulative. The rights and remedies provided by this Lease are cumulative, and use of any one right or remedy by a party shall not preclude or waive its right to use any or all other remedies. These rights and remedies are given in addition to any other rights provided by law, statute, ordinance, or otherwise.

13.09 Time of Essence. Time is of the essence of this agreement.

The undersigned Lessor and Lessee agree that this agreement shall be effective as of the first day of September, 2015, regardless of when executed.

LESSOR: CITY OF WESTMINSTER

LESSEE: ABC Entertainment, L.L.C.

By: _____
Title: _____
Date: _____

By: _____
Title: _____
Date: _____

ATTEST: _____
City Clerk

APPROVED AS TO LEGAL FORM:

City Attorney



Agenda Memorandum

City Council Meeting
September 14, 2015



SUBJECT: Second Reading of Councillor's Bill No. 45 - Metzger Farm South Trail Grant Supplemental Appropriation

Prepared By: Heather Cronenberg, Open Space Coordinator

Recommended City Council Action

Pass Councillor's Bill No. 45 on second reading appropriating funds received from the Adams County Open Space Grant Program in the amount of \$400,000 for the Metzger Farm South Trail grant.

Summary Statement

- City Council action is requested to adopt the attached Councillor's Bill on second reading, authorizing an appropriation to the General Capital Improvement Fund in the amount of \$400,000.
- Council previously authorized the Parks, Recreation, and Libraries Department to pursue a grant in the amount of \$400,000 from the Adams County Open Space grant program for assistance with constructing the Metzger Farm South Trail between Lowell Boulevard and Federal Parkway along 120th Avenue (see attached map). Adams County awarded the grant to Westminster in the requested amount of \$400,000. The City provided a match of \$1,015,000 using funds already budgeted on the Ranch Creek Trail and Underpass project.
- City Council action is needed to appropriate these grant funds.
- This Councillor's Bill was approved on first reading on August 24, 2015.

Expenditure Required: \$400,000

Source of Funds: Adams County Open Space Grant

Respectfully submitted,

Donald M. Tripp
City Manager

Attachment: Ordinance

BY AUTHORITY

ORDINANCE NO. **3802**

COUNCILLOR'S BILL NO. **45**

SERIES OF 2015

INTRODUCED BY COUNCILLORS
Briggs – De Cambra

**A BILL
FOR AN ORDINANCE AMENDING THE 2015 GENERAL CAPITAL IMPROVEMENT FUND
BUDGET AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2015
ESTIMATED REVENUES IN THE FUNDS**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2015 appropriation for the General Capital Improvement Fund initially appropriated by Ordinance No. 3737 is hereby increased by \$400,000. This appropriation is due to the receipt of Adams County grant funds.

Section 2. The \$400,000 increase shall be allocated to City Revenue and Expense accounts as described in the City Council Agenda Item #10 D, dated August 24, 2015 (a copy of which may be obtained from the City Clerk) increasing City fund budgets as follows:

General Capital Improvement Fund	<u>\$400,000</u>
Total	<u>\$400,000</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 24th day of August, 2015.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 14th day of September, 2015.

ATTEST:

Mayor

City Clerk



Agenda Item 10 A

Agenda Memorandum

City Council Meeting
September 14, 2015



SUBJECT: Public Meeting on the Adopted 2016 City Budget

Prepared By: Barbara Opie, Assistant City Manager

Recommended Board Action

Hold a public meeting on the Adopted 2016 City Budget and receive citizen comments.

Summary Statement

- The 2016 Budget was adopted in October 2014 with the official adoption of the two-year budget by City Council. As part of the two-year budget process, the public is provided an opportunity to receive a financial update and make requests prior to moving into the second year of a two-year adopted budget. At Monday night's meeting, Staff will present a brief update on the City's finances and an overview of the Adopted 2016 Budget to be followed by any citizen comments and/or requests.
- Public meetings regarding the 2015 and 2016 Budget were held on June 9 and July 28, 2014. A public hearing on the 2015 and 2016 Budget was held on September 8, 2014.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

None identified

Alternative

City Council could choose not to conduct a public meeting on the 2016 budget since the budget is already adopted by City Council. Staff does not recommend that based on the original parameters agreed to with City Council to ensure the public continues to have the ability to provide feedback concerning the second year's budget and the fact that City Council will be considering an amendment to the Adopted 2016 Budget based on the review to be conducted on September 21.

Background Information

Council officially adopted the 2015 and 2016 Budgets in October 2014. As part of the two-year budget process, a financial update/budget review is to be conducted in September 2015 to review any recommended modifications to the 2016 Adopted Budget, review any new citizen requests, and address any miscellaneous financial issues that Staff or Council wishes to raise.

City Council is scheduled to hold a public meeting to receive input on the 2016 Adopted Budget at the City Council meeting on Monday, September 14. Staff will make a brief presentation at Monday night's City Council meeting on the 2016 Adopted Budget and the City's current financial status. This public meeting is intended to receive citizen requests, comments and suggestions for 2016.

In July 2015, City Council adopted the 2015 Strategic Plan, which identifies specific goals, objectives, and actions. The Adopted 2015 Strategic Plan goals are listed below:

- Visionary Leadership, Effective Governance and Proactive Regional Collaboration
- Vibrant, Inclusive and Engaged Community
- Beautiful, Desirable, Safe and Environmentally Responsible City
- Dynamic, Diverse Economy
- Financially Sustainable Government Providing Excellence in City Services
- Ease of Mobility

The direction provided by City Council through these goals assisted City Staff when they prepared the amendment to the Adopted 2016 City Budget; extra effort has been made to clearly link the proposed modifications to the budget to the Strategic Plan. Other considerations that go into developing a comprehensive budget are department priorities that strive to maintain core services and existing service levels and citizen/neighborhood input.

In November of 2000, Westminster voters approved a City Charter amendment that allows the City Council to adopt a formal two-year budget. Staff prepared a two-year budget for several years prior to this Charter amendment; however, City Council could only officially adopt the first year of the two-year budget. With the adoption of the 2003/2004 Budget, City Council officially adopted the City's first two-year budget. The Adopted 2015/2016 Budget represents the City's seventh officially adopted two-year budget.

The Adopted 2015/2016 Budget document has been available to the public in the City Clerk's Office since January 1, 2015. The proposed amendments to the 2016 Budget have been available to the public since September 2, 2016. Monday's public meeting was advertised in the *Westminster Window* and *The Weekly*; on cable Channel 8 and the City's website; and at various public meetings.

SUBJECT: Public Meeting on the Adopted 2016 City Budget

Page 3

City Council's action on this item addresses all six Strategic Plan goals.

Respectfully submitted,

Donald M. Tripp
City Manager



Agenda Memorandum

City Council Meeting
September 14, 2015



SUBJECT: Councillor's Bill No. 46 Amending Chapter 16-1, Public Utility Regulation, to comply with the Public Utility Commission's newly adopted data privacy rules

Prepared By: Jane Greenfield, Assistant City Attorney
Ben Goldstein, Senior Management Analyst

Recommended City Council Action:

Pass Councillor's Bill No. 46 on first reading amending Section 16-1-6, Franchise Controls, to provide consistency with the Colorado Public Utilities Commission's data privacy rules.

Summary Statement

- The City of Westminster ("City") entered into a franchise agreement ("franchise") with Xcel Energy dba Public Service Company of Colorado ("Company") in March, 2010, allowing the Company the use of City streets, utility easements, and other rights-of-way for the provision of gas and electric service to city residents.
- In exchange for the rights granted, the Company pays the city a three percent (3%) franchise fee on all Gross Revenues collected within the city limits and also reserves an undergrounding fund that represents one percent (1%) of the preceding year's Electric Gross Revenues. The franchise provides for a three-year audit cycle for these funds.
- The City has requested the audit reports of both funds but the Company has denied the same on the basis that the Public Utility Commission (PUC) had adopted customer data privacy rules that prohibited the Company from complying with the City's request.
- The PUC has recently amended its rules to provide local governments access to customer data for the purpose of conducting municipal audits pursuant to their franchise agreements.
- This code revision will conform the City's rules for data privacy to those conditions imposed by the new PUC rules.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Should the City Council amending Chapter 16-1, Public Utility Regulation, to comply with the Public Utility Commission's newly adopted data privacy rules?

Alternative

Do not adopt the proposed Councillor's Bill. This alternative is not recommended. In order to insure that the City's request to the Company for the vital financial information contained in these audits will be honored without further delay, adoption of this ordinance is necessary.

Background Information

In March 2010, after extensive negotiations, the City renewed its franchise agreement with the Company. As part of the franchise, the Company was obligated to provide audits of its franchise fee payments and audits of its reserved undergrounding fund every three years commencing on the third anniversary of the franchise. The audits needed to be provided in sufficient detail that the City's internal reviewers could evaluate the audits' accuracy. Since May 2013, the City has been requesting this audit information. After repeated City requests, the Company notified the City in August 2014 that the Company felt it could not comply without violating the PUC's customer data privacy rules.

As the PUC was in the process of amending its rules regulating electric and gas utilities, the City intervened in that proceeding, requesting that the Commission adopt a rule, which would allow the utility companies to meet their franchise obligations without running awry of the existing customer data access and privacy rules. This proceeding was recently concluded and the rules have been amended to permit local governments access to customer data when necessary for the completion of an audit pursuant to a franchise agreement. The new rules require that local governments comply with the PUC rule's conditions regarding nondisclosure and customer privacy. The rules are scheduled to be published in the Colorado Register on September 10, and will go into effect on September 30, 2015. Adoption of this ordinance will allow the City staff to immediately renew their audit requests, which are now 2 ½ years old.

This action supports the strategic objectives of *Visionary Leadership, Effective Governance and Proactive Regional Collaboration* and *Financially Sustainable Government Providing Excellence in City Services* by ensuring that the correct amount of city revenues are received and that the undergrounding funds to which it is entitled are accounted for correctly.

Respectfully submitted,

Donald M. Tripp
City Manager

Attachment: Proposed Councillor's Bill

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **46**

SERIES OF 2015

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AMENDING CHAPTER 16-1, SECTION 16-1-6 OF THE WESTMINSTER MUNICIPAL CODE CONCERNING FRANCHISE CONTROLS

THE CITY OF WESTMINSTER ORDAINS:

Section 1: Section 16-1-6, W.M.C., is hereby AMENDED as follows:

16-1-1: FRANCHISE CONTROLS: (1879 3370)

(A) To the extent that any franchise lawfully granted by the City is inconsistent with the provisions of this Chapter, such franchises shall control.

(B) To the extent that any franchise lawfully granted by the City provides for the receipt of audits or other financial information from the franchisee, the City will insure that any customer data, as that term is defined by the Colorado Public Utility Commission rules, will be subject to the following:

(1) The franchisee will not disclose any customer data that is otherwise prohibited by a final Commission decision;

(2) All audit or other financial information shall only be disclosed to a designated City auditor or auditor's office, who is either an employee or agent of the City;

(3) The City's auditor will collect and use the customer data solely for the purpose of reviewing or conducting the audit and is prohibited from disclosing or using the customer data for a purpose not related to the audit;

(4) The City will implement and maintain data security procedures and practices to protect the customer data from unauthorized access, destruction, use, or modification;

(5) The City will destroy or return to the franchisee any customer data no longer necessary for the purpose for which it was transferred unless state law or the City's state-mandated retention schedule requires otherwise;

(6) The City will not permit access to the data by anyone that is not agreed to abide by the terms pursuant to which the data was provided by the utility, under its franchise agreement. This includes, but is not limited to, all interns, subcontractors, staff, other workforce members, and consultants; and

(7) The City acknowledges that it does not claim any right, title or interest in any of the data provided by the franchisee.

Section 2: This ordinance shall take effect upon its passage after second reading. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 14th day of September, 2015.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 28th day of September, 2015.

ATTEST:

City Clerk

Mayor

APPROVED AS TO LEGAL FORM:

City Attorney's Office



Agenda Item 10 C

Agenda Memorandum

City Council Meeting
September 14, 2015



SUBJECT: Resolution No. 28 Amending City Council's Rules and Regulations

Prepared By: Linda Yeager, City Clerk
Hilary Graham, Deputy City Attorney

Recommended City Council Action:

Adopt Resolution No. 28 revising the City Council's Rules and Regulations.

Summary Statement

- City Council's Rules and Regulations are formally adopted by resolution and set out important practices and procedures that govern how City Council conducts its business.
- The Rules and Regulations are an important internal document providing certainty, consistency, and order to City Council meetings and conduct.
- The last minor revision of the Rules and Regulations occurred in 2012, but a comprehensive review of the document to ensure it conforms to current practice has not occurred recently.
- Per Section 1-14-2(A), Westminster Municipal Code (W.M.C.), it is the City Clerk who acts as Clerk of Council and who, in large part, administers and applies the Rules and Regulations.
- Having an up-to-date version of this document will be critically important as the City prepares to welcome a new City Clerk in 2016.
- In 2015, it was necessary for Council to fill a vacancy, and the Rules and Regulations controlling that process were found to be out-of-step with the current Council's desire for greater transparency.
- At the August 17, 2015, study session (the "Study Session"), Council reviewed the proposed revisions and provided guidance about the proposed draft. Council's comments have been incorporated into the version presented here.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Should the City revise City Council's Rules and Regulations?

Alternatives

1. Make no change to the current Rules and Regulations, which were last revised in 2012. Staff does not recommend this alternative because, as an internal governing document, the Rules and Regulations should be carefully maintained to reflect the Council's current needs and desires.
2. Make different or additional changes to the Rules and Regulations. Upon direction of Council, Staff is willing to prepare different or additional revisions for adoption.

Background Information

City Council's Rules and Regulations (the "Rules") are formally adopted by resolution and set out important practices and procedures that govern how City Council conducts its business. The Rules are an important internal document providing certainty, consistency, and order to City Council meetings and conduct. Creation of the document is authorized by the City of Westminster Home Rule Charter, Section 7.7, and Section 1-11-6, W.M.C.

The Rules have been revised from time to time, most recently in 2012, but there has not been a comprehensive look at the document in some time. As a result, many procedures no longer reflect current practice, such as the reference to personal delivery at each Councillor's home for notice of a special meeting (Part I, Section 2); the mandated language for introduction and passage of ordinances (Part III, Section 2); and the use remaining in a few places of only the masculine pronoun.

The proposed revisions will permit email notice as a form of personal service for the calling of special meetings¹, conform the Rules to the current wording used in motions for adoption of ordinances, and make all pronoun references gender-neutral. Other proposed revisions include revising the "order of business" for agendas to place "Citizen Communication" before "City Council Comments" (Part II, Section 1)²; making the packet deadline match the current Wednesday deadline (Part II, Section 2); and eliminating reference to an unused form in public hearing procedures (Part VII, Sections 22 and 23). Also as to hearing procedures, it is proposed that the section applying to non-land-use public hearings be augmented by several of the same basic requirements mandated for land use public hearings. (Part VII, Section 23.)

Council will recall the appointment of Councillor De Cambra to fill a vacancy early this year and the desire to conduct that process in a transparent fashion. As a result, it is proposed that Part VII, Section 24, be revised to require a roll call vote during voting for an appointment to Council to fill a vacancy. Discussion at Study Session led to an additional proposed revision incorporated in this version to reduce the number of rounds of voting required before restoring all candidates to the ballot from seven (7) to three (3). The

¹ Based on discussion at the Study Session, language requiring the City Clerk "immediately, on written request, to make diligent effort to notify each member of the Council and other persons specified in person, either by telephone or otherwise" of the special meeting is being retained. Part I, Section 2.

² The proposed revision to "order of business" was requested at the Study Session. In drafting that change, it also seemed appropriate to include additional flexibility to make future amendments to the "order of business" upon majority vote of Council. Without revision, a motion to suspend the rules would be required to change the agenda order, or the Rules and Regulations themselves would need to be revised again. That change to allow the agenda order to be altered by simple motion and majority vote has been incorporated in Part II, Section 1.

Study Session discussion led to one additional proposed change, in Part VII, Section 26, to eliminate reimbursement for Councillor's spouses' conference registration fees.

Updating the Rules to reflect current practice and this Council's particular desire for additional transparency and heightened community participation helps achieve City Council's Strategic Plan Goals of "Visionary Leadership, Effective Governance and Proactive Regional Collaboration," "Vibrant, Inclusive and Engaged Community," and "Financially Sustainable Government Providing Excellence in City Services."

Respectfully submitted,

Donald M. Tripp
City Manager

Attachment: Resolution
City Council's Rules and Regulations

RESOLUTION

RESOLUTION NO. 28

INTRODUCED BY COUNCILLORS

SERIES OF 2015

A RESOLUTION ADOPTING REVISED CITY COUNCIL RULES AND REGULATIONS

WHEREAS, Creation of City Council Rules and Regulations is authorized by the City of Westminster Home Rule Charter, Section 7.7, and the Westminster Municipal Code, Section 1-11-6; and

WHEREAS, from time to time the Rules and Regulations require revision to reflect the current practices of the Council.

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

1. The City Council hereby adopts the following revisions to the City Council Rules and Regulations.

Part I, Section 2, shall be amended to read as follows:

PART I – COUNCIL MEETINGS

2. **SPECIAL MEETINGS: (CITY CHARTER SECTION 7.2 - 7.3)**

Special Meetings shall be called by the Clerk on the written request of the Mayor, or any two (2) members of the Council or by motion of the Council during a Council meeting. The City Clerk shall prepare a notice of the special session, stating time, place and topic. ~~and this notice shall be served emailed considered to personally upon served when emailed to each member of the Council, and other officers of the City as specified, or left at their usual places of residence, at least twenty-four (24) hours before the time of the meeting. This notice and shall also be posted on the bulletin board in the City Hall lobby.~~ It shall also be the duty of the City Clerk, immediately, on written request, to make diligent effort to notify each member of the Council and other persons specified in person, either by telephone or otherwise. Special Meetings may be held on shorter notice if all members of the Council are present or have waived notice thereof in writing. (Res 84, 1997)

Part II, Section 1, and Section 2 (subsections A, C and D), shall be amended to read as follows:

PART II – COUNCIL PROCEDURES

1. **THE ORDER OF BUSINESS:**

The order of business at all regular meetings of the Council, as reflected by the printed agenda, shall be transacted in the following order, unless the Council, by a vote of a majority of ~~the those~~ members present, shall suspend the rules to change the order.

1. Pledge of Allegiance
2. Roll Call
3. Consideration of Minutes of Preceding Meeting
4. Citizen Communication
5. Report of City Officials
 - A. City Manager's Report
- ~~5~~6. City Council Comments
- ~~7~~6. Presentations
 - ~~7. Citizen Communication~~
8. Consent Agenda
9. Appointments and Resignations
10. Public Hearings and Other New Business
11. Old Business and Passage of Ordinances on Second Reading
12. Miscellaneous Business and Executive Session
13. Adjournment

(Resolutions 55, 1987; 41, 1990; 17, 1992; 61, 1993; 51, 1994; 31, 2004; 16, 2006; 5, 2011)

Reading of the minutes of the previous meeting shall be dispensed with unless requested by a Council member. The Mayor, or presiding officer, shall ask for additions and/or corrections to the minutes and shall then call for a vote of approval.

City Staff shall open and tabulate bids prior to the Council meeting and shall provide a written recommendation to Council regarding the lowest qualified bid and acceptance or rejection of bids. (Res. 39, 1984)

2. **AGENDA PROCEDURES**

A.

On the ~~Thursday~~ Wednesday before each regular Council Meeting, the City Clerk shall cause to be given to each Council member:

1. An itemized copy of the agenda of the meeting, stating therein each matter to be discussed or debated by the Council by title, description and/or synopsis.
2. A copy in its latest form or edition of each ordinance, resolution, order or other written or printed document to be presented at the meeting.
3. A written memorandum on each item appearing on the Agenda, which provides background information and analysis including alternative actions when applicable, submitted by the City Manager including recommendations to City Council when applicable.
4. A copy of the minutes of the previous meeting(s).

C.

Any City Official, City Employee, City Board or Commission or member thereof desiring to bring a matter before the Council shall be required to file the same with the City Clerk by 1:00 P.M. on the Tuesday prior to the meeting. This procedure does not in any way negate the opportunity for any of the above listed individuals to speak at the City Council meeting.

~~Any matter not so presented shall be the last order of business unless it is determined by the Mayor to be an emergency in which case it shall be included with the proper item of business on the agenda.~~

D.

Citizen Communication: Citizens wishing to address the City Council on any issue pertaining to City

business, including items appearing on the Council agenda may do so for a maximum of five minutes under ~~“7. Citizen Communication,” except Comments will not be heard~~ for matters that are subject to a public hearing appearing under ~~“10. Public Hearings and Other New Business.”~~ Citizen comments related to a matter that is subject to a public hearing shall be made at the time that public comment is called by the Mayor during the public hearing.

Prior notice of a citizen’s intent to speak under ~~agenda item 7~~ “Citizen Communication” is not required. However, if citizens wish to have printed materials distributed to City Council in the Council agenda packet, such materials must be received by the City Clerk no later than the close of business on Tuesday prior to the City Council meeting. ~~Citizens speaking on the agenda under “7. Citizen Communication” will be allowed a maximum of five minutes to speak.~~ (Res. 55, 1987, 84, 1997; 16, 2006; 5, 2011)

Part III, Sections 2 and 3, shall be amended to read as follows:

PART III – COUNCILLOR'S BILLS, ORDINANCES AND RESOLUTIONS

2. READING:

The reading of a Councillor's Bill ~~either on introduction or passage~~ shall be dispensed with, as each Council member has been furnished with a copy prior to the meeting.

In moving for the ~~introduction~~ passage of a Councillor's Bill on first reading, the following language will be used:

"I move ~~that to pass~~ Councillor's Bill No. , Series of _____, relating to (capsule title) ~~be introduced and passed on first reading this day of , 20.~~"

Councillor's Bills which City Council unanimously passes on first reading shall be listed on the Consent Agenda for consideration on second reading. ~~If the A~~ Councillor's Bill that was not passed unanimously on first reading, shall be listed on the agenda under Old Business and Passage of Ordinances on Second Reading. ~~The~~ following language will be used for passage of a Councillor's Bill on second reading:

"I moved ~~to pass that~~ Councillor's Bill No. , Series of _____, relating to (capsule title) on second reading be passed and adopted on second reading this day of , 20."

(Res. 9, 1985; year changed to “20__” by editorial license 10/05)

3. AMENDMENTS:

A bill for an Ordinance may be amended by the addition or deletion of words, and the paragraph or sentence shall be re-read in full as amended.

Part V, Section 2, shall be amended to read as follows:

PART V – OFFICERS AND EMPLOYEES

2. SERGEANT-AT-ARMS:

The Chief of Police, or ~~his~~ the Chief's representative, shall upon request of the Mayor or Council, maintain the peace in the Council Chambers.

Part VII, Sections 1; 12; 13; 19; 22 (subsections (B), (G), (M) and (N)); 23 (subsections A – G); 24; 25 (changing numbered subsections to lettered subsections and amending (E)); and 26 shall be amended to read as follows:

PART VII – MISCELLANEOUS

1. THE COUNCIL CHAMBERS:

The Council Chambers shall be under the supervision and control of the City Clerk when Council is not in ~~the~~ session. It shall be used solely for the transaction of public business of the City; or as authorized within the intent of Council policy on the use of the Council Chambers as adopted by Resolution. (Res. 84, 1997)

12. RIGHT OF APPEAL:

Any member may appeal to the Council from a ruling of the presiding officer. If the appeal is seconded, the member making the appeal may briefly state ~~his~~ ~~the member's~~ reason for the same, and the presiding officer may briefly explain ~~his~~ ~~the~~ ruling; but there shall be no debate on the appeal and no other member shall participate in the discussion. The presiding officer shall then put the question, "Shall the decision of the chair be sustained?" If majority of the members present vote "Yes," the ruling of the chair is sustained; otherwise, it is overruled.

13. VOTING: (CITY CHARTER SECTION 7.7)

Every member present when a question is put shall vote either "Yes" or "No," unless Council shall, for reasons stated in the Charter, excuse ~~him~~ ~~the member~~ from voting.

Application to be excused from voting must be made before the votes are called for by the presiding officer. The member having briefly stated the reason for ~~his~~ ~~the~~ request, the decision thereon shall be made without debate.

19. EMERGENCY ORDINANCES:

If an emergency ordinance ~~or resolution~~ fails to receive ~~an affirmative vote of two-thirds~~ the required votes, such measure shall cease to be before the Council as an emergency measure and shall immediately have the standing that ~~a~~ the measure would have had if it had not been read as an emergency measure.

22. GENERAL PUBLIC HEARING PROCEDURES ON LAND USE MATTERS:

B.

Any person wishing to speak other than the applicant, will be required to state his or her name and address, which information, along with the person's comment fill out a "Request to Speak or Request to Have Name Entered into the Record" form indicating whether they wish to comment during the public hearing or would like to have their name ~~will be~~ recorded as ~~having an opinion on part of~~ the public hearing ~~issue~~. Any person speaking may be questioned by a member of Council or by appropriate members of City Staff. (Amended Resolution No. 45, 2000)

G.

The property owner or representative(s) presents ~~slides~~ evidence and describes the nature of the request (maximum of 10 minutes).

M.

If final action is not to be taken on the same evening as the public hearing, the Chair will advise the audience when the matter will be considered. Councillors not present at the public hearing will be allowed to vote on the matter only if they listen to the tape recording of the public hearing prior to voting. (Res. 84, 1997)

N.

The following statement ~~shall~~may be read by the Chair at the outset of the public hearing:

We welcome your input. Because we will strive to proceed through the public hearing in a timely manner, we require that all persons observe the following rules with respect to comments and testimony:

When you are recognized to speak, approach the podium, state your name and address for the record. All comments and testimony shall be made from the podium, no comments or testimony shall be shouted from the audience.

Comments and testimony are to be directed to the Chair. Dialogue and inquiries from the person at the podium to members of Staff or the seated audience is not permitted. Inquiries which require Staff response will be referred to Staff by the Chair through the City Manager.

It is our desire to give everyone an opportunity to speak and be heard in a timely manner and within an atmosphere of respect and diplomacy. These rules are meant to foster that atmosphere. Thank you for your cooperation, and we look forward to hearing your comments. (Res 84, 1997)

23. NON-LAND USE PUBLIC HEARINGS, THE FOLLOWING RULES SHALL APPLY:

A.

Persons wishing to speak other than the applicant will be required to state his or her name and address, which information, along with the person's comment fill out a "Request to Speak or Request to Have Name Entered Into the Record" form indicating whether they wish to comment during the public hearing or would like to have their name will be recorded as having an opinion on part of the public hearing issue, may do so whether in favor or opposed. No specified order of those in favor or in opposition will be used. (Amended Res 45, 2000)

B.

The presiding officer shall conduct the hearing in such manner as to provide for freedom of speech and expression of opinion of all persons speaking, subject only to the limits of courtesy and respect to other persons and their opinion as long as the subject is related to the public hearing notwithstanding the presiding officer has the authority to limit debate to a reasonable length of time to be equal for both positions.

C.

Any person speaking may be questioned by members of Council or by ~~the City Administration~~Staff.

D.

The presiding officer shall rule upon all disputed matters of procedure, unless, on motion duly made, he is overruled by a majority vote of Council members present. (Res. 39, 1984, 84, 1997)

E.

The ordinary rules of evidence shall not apply, and Council may receive petitions, exhibits and other relevant documents without formal identification or introduction.

F.

When the number of persons wishing to speak threatens to unduly prolong the hearing, the Council may establish a time limit upon each speaker.

G.

The following statement may be read by the Chair at the outset of the public hearing:

We welcome your input. Because we will strive to proceed through the public hearing in a timely manner, we require that all persons observe the following rules with respect to comments and testimony:

When you are recognized to speak, approach the podium, state your name and address for the record. All comments and testimony shall be made from the podium, no comments or testimony shall be shouted from the audience.

Comments and testimony are to be directed to the Chair. Dialogue and inquiries from the person at the podium to members of Staff or the seated audience is not permitted. Inquiries which require Staff response will be referred to Staff by the Chair through the City Manager.

It is our desire to give everyone an opportunity to speak and be heard in a timely manner and within an atmosphere of respect and diplomacy. These rules are meant to foster that atmosphere. Thank you for your cooperation, and we look forward to hearing your comments.

24. APPOINTMENTS MADE BY COUNCIL:

Positions on Boards and Commission shall be appointed by Council from applicants who have completed the appropriate application form and interview process. Appointments shall be reviewed by Council at a Study Session or post-meeting and then acted upon as part of the agenda at the next City Council meeting with a Resolution drafted as referred by the interview team for the specific Board vacancy. (Res. 39, 1984, 42, 1995, 84, 1997)

Vacant positions on the City Council shall be appointed by Council from applicants who have completed the appropriate application form and interview process. Appointments shall be by ~~written ballot~~ roll call ~~unless this method is suspended by unanimous Council vote.~~ A majority vote is necessary to finalize an appointment. If no single applicant obtains a majority vote after the first ballot ~~roll call~~, all persons receiving no votes, and the person receiving the smallest number of votes will be removed from ~~nomination~~ consideration. This process will be repeated after each ballot ~~vote~~ until a majority vote is received by one applicant. After ~~seven-three (73) ballots~~ roll call votes with no one person appointed, the Council will consider all candidates again and begin the process of elimination of candidate names after every ~~seven-three ballots~~ votes. (Res. 39, 1984, 42, 1995, 84, 1997, 16, 1999)

25. PROCEDURES TO FILL VACANCIES ON CITY ADVISORY BOARDS AND COMMISSIONS:

A.

City Council shall from time to time schedule interviews of all interested Westminster citizens who are eligible and interested in serving on the various City Advisory Boards and Commissions. Interested citizens are to complete a standard application form provided by the City with the citizen indicating his/her top three preference(s) of boards and commissions he/she wishes to be considered for appointment. (Res 84, 1997)

B.

City Council shall set a deadline for receiving said applications with said deadline to be published in the appropriate newspapers and City publications. An interview schedule will be established with the Council conducting individual interviews. The interview schedule will be formulated to provide for an efficient approach to achieving the desired interviews.

C.

Said applications will be placed on file with the City Clerk and will be considered for a period of one

year. These applications will provide a "pool" of applicants for City Council's consideration whenever a vacancy takes place on the Advisory Boards and Commissions.

D.

All applicants will be contacted at the end of each cycle to determine if they are interested in having their name considered for vacancies, which might occur during the next cycle period. (Res 8, 1986, 41, 1990)

E.

The City Council ~~shall may utilize~~ use a rotation plan involving appointed Board and Commission members to assure a variety of perspectives and allow as many interested citizens to participate in serving on City advisory boards/commissions. (Res. 84, 1997)

F.

Board and Commission members currently serving on a Board or Commission, may submit an application to the City Clerk's Office to move to another Board or Commission. Board and Commission members may not serve on more than one Board at one time. (Res. 100, 1999)

26. CITY COUNCIL TRAVEL POLICY (Amended Resolution No. 45, 2000, Resolution No. 23, 2001 Resolution 32, 2002; Resolution No. 14, 2012)

EXPENSE COVERAGE

Travel With Spouse: ~~If Councillors are attending a conference where it is common for the spouse to accompany, and which has a program for the spouse, the spouse conference registration will be reimbursable.~~ All other expenses of the spouse will be the personal expense of the Councillor, and shall not be charged to the Councillor's purchasing card.

2. All other provisions of the Rules and Regulations not amended herein shall remain in full force and affect.

PASSED AND ADOPTED this 14th day of September, 2015.

Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

City Clerk

City Attorney

CITY OF WESTMINSTER

COLORADO

CITY COUNCIL

RULES AND REGULATIONS

Updated _____ 2015

TABLE OF CONTENTS

PART I COUNCIL MEETINGS	SECTION	PAGE
Regular Council Meetings	1	4
Special Meetings	2	4
Adjourned Meetings	3	4
Meetings to be Public	4	4
Quorum: Adjournment of Meeting	5	4
PART II COUNCIL PROCEDURES	SECTION	PAGE
The Order of Business	1	5
Agenda Procedures	2	5
PART III COUNCILLOR'S BILLS, ORDINANCES AND RESOLUTIONS	SECTION	PAGE
Introduction	1	7
Reading	2	7
Amendments	3	7
Review	4	7
PART IV PRESIDING OFFICER	SECTION	PAGE
The Mayor	1	8
Mayor Pro-Tem	2	8
Temporary Chairman	3	8
PART V OFFICERS AND EMPLOYEES	SECTION	PAGE
Attendance	2	9
Sergeant-At-Arms	3	9
PART VI COMMITTEES	SECTION	PAGE
Committees – How Appointed	1	10
Reports	2	10

PART VII MISCELLANEOUS**SECTION****PAGE**

The Council Chambers	1	11
Board and Commissions	2	11
Limitation of Debates	3	11
Dissents and Protests	4	11
Procedure in Absence of Rule	5	11
Recess	6	11
Statement of Motion	7	11
Decorum and Order	8	11
Amendment of Rules	9	11
Seating Arrangement	10	12
Right of Floor	11	12
Right of Appeal	12	12
Voting	13	12
Demand for Roll Call	14	12
Personal Privilege	15	12
Excusal During Meeting	16	12
Withdrawal of Motions	17	12
Division of Question	18	12
Emergency Ordinances	19	13
Anonymous Communications	20	13
Tie Vote	21	13
General Public Hearing Procedures on Land Use Matters	22	13
Non-Land Use Public Hearings	23	14
Appointments Made by Council	24	15
Procedures to Fill Vacancies on Advisory Boards & Commissions	25	15
City Council Travel Policy	26	16

These Council Rules and Procedures were adopted and amended by Resolution 27 of 1981, Resolution No. 34 of 1981, Resolution No. 1 of 1984, Resolution No. 7 of 1984, Resolution No. 39 of 1984, Resolution No. 9 of 1985, Resolution No. 8 of 1986, Resolution 55 of 1987, Resolution No. 41, 1990, Resolution No. 17, 1992 Resolution No. 61, 1993, Resolution No. 51, 1994, Resolution No. 9, 1995, Resolution No 42, 1995, Resolution No. 84, 1997, Resolution No. 100, 1999; Resolution No. 45, and 89, 2000, Resolution 23; Resolution No. 37, Resolution No. 41, 2001, Resolution No. 32, 2002, Resolution No. 31, 2004, Resolution No. 43, 2005, Resolution No. 16, 2006, Resolution No. 5, 2011; Resolution No. 14, 2012; and Resolution No. __, 2015.

PART I - COUNCIL MEETINGS

1. REGULAR COUNCIL MEETINGS: (CITY CHARTER SECTION 7.1) The Council shall meet in regular session each second and fourth Monday evening of each month in the Westminster City Council Chambers at 7:00 P.M. In the event it becomes necessary to change the place of the meeting, public notice shall be given in the most expedient manner and by posting such change upon the Council Chambers. When Monday is a holiday, the regular meeting shall be held on the Tuesday following at the same hour unless otherwise provided by motion. The Council may, by motion, dispense with any regular meeting provided that two meetings are held each month. Persons having scheduled business with Council shall be notified. Meetings may be cancelled by the City Clerk upon written notice to all Council members, and by posting a notice on the front door of City Hall to advise citizens of the cancelled meeting. (Revised 12-13-93)

2. SPECIAL MEETINGS: (CITY CHARTER SECTION 7.2 - 7.3) Special Meetings shall be called by the Clerk on the written request of the Mayor, or any two (2) members of the Council or by motion of the Council during a Council meeting. The City Clerk shall prepare a notice of the special session, stating time, place and topic. This notice shall be considered personally served when emailed to each member of the Council, and other officers of the City as specified, at least twenty-four (24) hours before the time of the meeting. This notice shall also be posted on the bulletin board in the City Hall lobby. It shall also be the duty of the City Clerk, immediately, on written request, to make diligent effort to notify each member of the Council and other persons specified in person, either by telephone or otherwise. Special Meetings may be held on shorter notice if all members of the Council are present or have waived notice thereof in writing. (Res 84, 1997)

No business shall be transacted at any special meeting of the Council unless the same has been stated in the notice of such meeting. However, any business which may lawfully come before a regular meeting may be transacted at a special meeting if all the members of the Council present consent thereto and all the members absent file their written consent.

3. ADJOURNED MEETINGS: (CITY CHARTER SECTION 7.5) Any meeting, regular or special, of the Council may be adjourned from day to day, or for more than one day, but no adjournment shall be for a longer period than until the next regular meeting thereafter.

4. MEETINGS TO BE PUBLIC: (CITY CHARTER SECTION 7.4) All regular and special meetings of the Council shall be open to the public and citizens shall have a reasonable opportunity to be heard under such rules and regulations as the Council may prescribe.

5. QUORUM: ADJOURNMENT OF MEETING: (CITY CHARTER SECTION 7.5) A majority of the members of the Council in office at the time shall be a quorum for the transaction of business at all Council meetings, but in the absence of a quorum a lesser number may adjourn

any meeting to a later time or date, and in the absence of all members the Clerk may adjourn any meeting for not longer than one (1) week.

PART II - COUNCIL PROCEDURES

1. THE ORDER OF BUSINESS: The order of business at all regular meetings of the Council, as reflected by the printed agenda, shall be transacted in the following order, unless the Council, by a vote of a majority of those members present, change the order.

1. Pledge of Allegiance
2. Roll Call
3. Consideration of Minutes of Preceding Meeting
4. Citizen Communication
5. Report of City Officials
 - A. City Manager's Report
6. City Council Comments
7. Presentations
8. Consent Agenda
9. Appointments and Resignations
10. Public Hearings and Other New Business
11. Old Business and Passage of Ordinances on Second Reading
12. Miscellaneous Business and Executive Session
13. Adjournment

(Resolutions 55, 1987; 41, 1990; 17, 1992; 61, 1993; 51, 1994; 31, 2004; 16, 2006; 5, 2011)

Reading of the minutes of the previous meeting shall be dispensed with unless requested by a Council member. The Mayor, or presiding officer, shall ask for additions and/or corrections to the minutes and shall then call for a vote of approval.

City Staff shall open and tabulate bids prior to the Council meeting and shall provide a written recommendation to Council regarding the lowest qualified bid and acceptance or rejection of bids. (Res. 39, 1984)

2. AGENDA PROCEDURES: (Res. 84, 1997)

A. On the Wednesday before each regular Council Meeting, the City Clerk shall cause to be given to each Council member:

1. An itemized copy of the agenda of the meeting, stating therein each matter to be discussed or debated by the Council by title, description and/or synopsis.
2. A copy in its latest form or edition of each ordinance, resolution, order or other written or printed document to be presented at the meeting.
3. A written memorandum on each item appearing on the Agenda, which provides background information and analysis including alternative actions when applicable, submitted

by the City Manager including recommendations to City Council when applicable.

4. A copy of the minutes of the previous meeting(s).

B. Before each regular meeting, the City Clerk shall make available at City Hall a copy of the agenda for that meeting, and a copy of all agenda item memoranda, ordinances, resolutions or other documents mentioned thereon for public review.

C. Any City Official, City Employee, City Board or Commission or member thereof desiring to bring a matter before the Council shall be required to file the same with the City Clerk by 1:00 P.M. on the Tuesday prior to the meeting. This procedure does not in any way negate the opportunity for any of the above listed individuals to speak at the City Council meeting.

D. Citizen Communication: Citizens wishing to address the City Council on any issue pertaining to City business, including items appearing on the Council agenda may do so for a maximum of five minutes under "Citizen Communication." Comments will not be heard for matters that are subject to a public hearing appearing under "Public Hearings and Other New Business." Citizen comments related to a matter that is subject to a public hearing shall be made at the time that public comment is called by the Mayor during the public hearing.

Prior notice of a citizen's intent to speak under "Citizen Communication" is not required. However, if citizens wish to have printed materials distributed to City Council in the Council agenda packet, such materials must be received by the City Clerk no later than the close of business on Tuesday prior to the City Council meeting. . (Res. 55, 1987, 84, 1997; 16, 2006; 5, 2011)

E. Consent Agenda:

1. The City Manager shall determine those items to be included on the consent agenda but these items shall be limited to the renewal of existing licenses and permits and authorizations for purchases of a routine nature where the purchase has been budgeted and all normal bidding requirements have been satisfied and routine reports for Council review. (Res 9, 1985, 42, 1995, 84, 1997 and Res. No 89, 2000)

2. All Councillors' Bills which City Council passed unanimously on first reading shall be listed as part of the Consent Agenda for consideration on second reading. If for any reason the Councillor's Bill is to be removed from the Consent Agenda, it shall necessitate a "yes" and "no" vote by the City Council. (Res. 9, 1985, 42, 1995)

3. Prior to accepting a motion for the adoption of the consent agenda, the Mayor shall ask the Council if they wish to discuss and/or vote on any consent agenda item separately. An item shall be taken off the consent agenda upon the request of any Council member. The rest of the consent agenda will then be adopted with a single motion and vote process. If the vote is not unanimous, each item shall be voted on separately. Items taken off the consent agenda will be acted on after the consent agenda has been adjusted and approved. The removed item(s) will then be considered as the next item of the agenda. (Res. 9, 1985; 84, 1997; 43, 2005)

PART III - COUNCILLOR'S BILLS, ORDINANCES AND RESOLUTIONS

1. **INTRODUCTION:** Any Council member introducing a Councillor's Bill shall be responsible for the motion to enact the ordinance. In the event that both sponsors shall be absent, the Bill or Ordinance may be introduced by another member of Council who is in favor of the measure.

2. **READING:** The reading of a Councillor's Bill shall be dispensed with, as each Council member has been furnished with a copy prior to the meeting.

In moving for the passage of a Councillor's Bill on first reading, the following language will be used:

"I move to pass Councillor's Bill No. , relating to (capsule title) on first reading."

Councillor's Bills which City Council unanimously passes on first reading shall be listed on the Consent Agenda for consideration on second reading. A Councillor's Bill that was not passed unanimously on first reading, shall be listed on the agenda under Old Business and Passage of Ordinances on Second Reading. The following language will be used for passage of a Councillor's Bill on second reading:

"I move to pass Councillor's Bill No. , relating to (capsule title) on second reading ."

(Res. 9, 1985; year changed to "20__" by editorial license 10/05)

3. **AMENDMENTS:** A bill for an Ordinance may be amended by the addition or deletion of words, and the paragraph or sentence shall be re-read in full as amended.

4. **REVIEW:** All proposed ordinances shall be reviewed and approved as to form and legal content by the City Attorney's Office. The City Manager shall attach to each proposed measure an Agenda Memorandum which outlines the provisions thereof, and where it is proposed to amend an existing ordinance, such Memorandum shall indicate the change requested.

PART IV - PRESIDING OFFICER

- 1. THE MAYOR: (CITY CHARTER SECTION 4.4)** The Mayor, or in the Mayor's absence the Mayor Pro-Tem shall take the chair at the hour appointed for the Council to meet, and shall immediately call the members to order. The roll shall then be called by the Clerk, who shall enter in the minutes of the meeting the names of the members present. (Res. 84, 1997)

- 2. MAYOR PRO-TEM: (CITY CHARTER SECTION 4.4)** The Council shall choose one of its members as Mayor Pro-Tem for a two-year term. This shall be the first order of business after the new Councillors are sworn into office and it shall be by secret ballot without nomination. In case of a tie vote, the Mayor will disclose the names of the tied candidates and another ballot shall be taken, until one person has received a majority, successive ballots will be taken. The Mayor Pro Tem shall serve as Mayor during the absence or disability of the Mayor, and, in case of vacancy in the office of Mayor. (Res. 84, 1997)

- 3. TEMPORARY CHAIRMAN: (CITY CHARTER SECTION 4.4)** In case of the absence or disability of the Mayor and Mayor Pro-Tem, the Clerk shall call the Council to order and call the roll of members. If a quorum is found to be present, Council shall proceed to elect, by a majority vote of those present, a Chairman of the meeting, to act until the Mayor or Mayor Pro-Tem appears.

PART V - OFFICERS AND EMPLOYEES

1. ATTENDANCE: The City Manager, City Clerk and City Attorney, or a qualified representative appointed by such officer shall be in attendance at the Council meeting. Such representative shall assume the duties of the absent officer.

The head of any department, or any officer or employee of the City, when requested by the City Manager, shall attend any regular, adjourned, or special Council meeting.

2. SERGEANT-AT-ARMS: The Chief of Police, or the Chief's representative, shall upon request of the Mayor or Council, maintain the peace in the Council Chambers.

PART VI - COMMITTEES

1. COMMITTEES - HOW APPOINTED: The Council shall appoint from time to time such representatives as it deems appropriate to any Boards, Committees, task force, commissions, intergovernmental organizations or other bodies, including liaisons to the City's Boards and Commissions, to represent the City Council's position as may be required. No person shall act or serve as a representative of the City without Council approval. The Council may, consistent with the City Charter, establish from time to time such special or select committees as may be desired by the Council to assist or expedite the handling of the business and affairs of the City. The Council shall appoint the member who is to serve as Chairperson of the committee. The clerk or a designated assistant shall act as secretary to such special or select committees as directed by the Council.

2. REPORTS: Whenever possible upon request of Council, committee reports shall be in writing. Documents referred to the committee shall be returned with the report.

PART VII - MISCELLANEOUS

1. **THE COUNCIL CHAMBERS:** The Council Chambers shall be under the supervision and control of the City Clerk when Council is not in session. It shall be used solely for the transaction of public business of the City; or as authorized within the intent of Council policy on the use of the Council Chambers as adopted by Resolution. (Res. 84, 1997)

2. **BOARDS AND COMMISSIONS:** The City Council shall receive copies of the minutes of all meetings of City Boards and Commissions upon request. (Res. 84, 1997)

3. **LIMITATION OF DEBATES:** No Council member shall be allowed by the Presiding Officer to speak more than once upon any subject until every other member choosing to speak thereon shall have spoken.

4. **DISSENTS AND PROTESTS:** Any member shall have the right to express dissent, concern or protest any ordinance or resolution of the Council, and upon request have the reason for the dissent or protest recorded as part of the minutes.

5. **PROCEDURE IN ABSENCE OF RULE:** In the absence of a rule to govern a point or procedure, reference shall be had to Roberts Rules of Order, Revised.

6. **RECESS:**
 - A. The Presiding Officer may call a recess not to exceed twenty (20) minutes at any time during a meeting to determine a rule of order, or at the request of a majority of Council, provided no more than three recesses be called at any one meeting for this purpose. The Presiding Officer may call a recess at any time between items of business.

 - B. The Presiding Officer may call a recess for a definite period of time in the event a quorum is not present.

7. **STATEMENT OF MOTION:** When a motion is made it shall be stated by the chair before debate.

8. **DECORUM AND ORDER:** The Presiding Officer shall preserve decorum and decide all questions of order, subject to appeal to Council.

9. **AMENDMENT OF RULES:** These rules may be amended or new rules adopted by a majority vote of all members of the Council. Any such alteration or amendments shall be submitted in

writing and adopted by Resolution. This requirement shall be waived only by unanimous consent of all members of Council.

10. SEATING ARRANGEMENT: Members shall occupy their respective seats in the Council Chamber as they shall agree, or as determined by majority vote in the event of disagreement.

11. RIGHT OF FLOOR: When recognized by the chair a member shall confine himself/herself to the question under debate, avoid personalities, and refrain from impugning the motives of any other member's argument or vote.

12. RIGHT OF APPEAL: Any member may appeal to the Council from a ruling of the presiding officer. If the appeal is seconded, the member making the appeal may briefly state the member's reason for the same, and the presiding officer may briefly explain the ruling; but there shall be no debate on the appeal and no other member shall participate in the discussion. The presiding officer shall then put the question, "Shall the decision of the chair be sustained?" If majority of the members present vote "Yes," the ruling of the chair is sustained; otherwise, it is overruled.

13. VOTING: (CITY CHARTER SECTION 7.7) Every member present when a question is put shall vote either "Yes" or "No," unless Council shall, for reasons stated in the Charter, excuse the member from voting.

Application to be excused from voting must be made before the votes are called for by the presiding officer. The member having briefly stated the reason for the request, the decision thereon shall be made without debate.

14. DEMAND FOR ROLL CALL: Upon demand of any member, made before the negative has been put, the roll shall be called upon any question before Council. It shall not be in order for members to explain their vote during roll call.

15. PERSONAL PRIVILEGE: The right of a member to address the Council on a question of personal privilege shall be limited to cases in which his or her integrity, character, or motives are assailed, questioned, or impugned.

16. EXCUSAL DURING MEETING: Council members may be excused from the remaining Council Meeting with permission from the presiding officer.

17. WITHDRAWAL OF MOTIONS: A motion may not be withdrawn by the mover without the approval of the second.

18. DIVISION OF QUESTION: If the question contains two or more divisible propositions the

presiding officer may, and, upon request of a member shall, divide the same.

19. EMERGENCY ORDINANCES: If an emergency ordinance fails to receive the required votes, such measure shall cease to be before the Council as an emergency measure and shall immediately have the standing that the measure would have had if it had not been read as an emergency measure.

20. ANONYMOUS COMMUNICATIONS: Unsigned communications shall not be introduced to Council.

21. TIE VOTE: In case of a tie in votes on any proposal, the proposal shall be considered lost.

22. GENERAL PUBLIC HEARING PROCEDURES ON LAND USE MATTERS:

A. The meeting shall be chaired by the Mayor or designated alternate. The hearing shall be conducted to provide for a reasonable opportunity for all interested parties to express themselves, as long as the testimony or evidence being given is reasonably related to the purpose of the public hearing. The Chair has the authority to limit debate to a reasonable length of time to be equal for both positions.

B. Any person wishing to speak other than the applicant will be required to state his or her name and address, which information, along with the person's comment will be recorded as part of the public hearing. Any person speaking may be questioned by a member of Council or by appropriate members of City Staff. (Amended Resolution No. 45, 2000)

C. The Chair shall rule upon all disputed matters of procedure, unless, on motion duly made, the Chair is overruled by a majority vote of Councillors present.

D. The ordinary rules of evidence shall not apply, and Council may receive petitions, exhibits and other relevant documents without formal identification or introduction.

E. When the number of persons wishing to speak threatens to unduly prolong the hearing, the Council may establish a time limit upon each speaker.

F. City Staff enters a copy of public notice as published in newspaper; all application documents for the proposed project and a copy of any other written documents that are an appropriate part of the public hearing record.

G. The property owner or representative(s) presents evidence and describes the nature of the request (maximum of 10 minutes).

H. Staff presents any additional clarification necessary and states the Planning Commission recommendation.

I. All testimony is received from the audience, in support, in opposition or asking questions. All questions will be directed through the Chair who will then direct the appropriate person to respond.

J. Final comments/rebuttal received from property owner.

K. Final comments from City Staff and Staff recommendation.

L. Public hearing is closed.

M. If final action is not to be taken on the same evening as the public hearing, the Chair will advise the audience when the matter will be considered. Councillors not present at the public hearing will be allowed to vote on the matter only if they listen to the tape recording of the public hearing prior to voting. (Res. 84, 1997)

N. The following statement may be read by the Chair at the outset of the public hearing:

We welcome your input. Because we will strive to proceed through the public hearing in a timely manner, we require that all persons observe the following rules with respect to comments and testimony:

When you are recognized to speak, approach the podium, state your name and address for the record. All comments and testimony shall be made from the podium, no comments or testimony shall be shouted from the audience.

Comments and testimony are to be directed to the Chair. Dialogue and inquiries from the person at the podium to members of Staff or the seated audience is not permitted. Inquiries which require Staff response will be referred to Staff by the Chair through the City Manager.

It is our desire to give everyone an opportunity to speak and be heard in a timely manner and within an atmosphere of respect and diplomacy. These rules are meant to foster that atmosphere. Thank you for your cooperation, and we look forward to hearing your comments. (Res 84, 1997)

23. NON-LAND USE PUBLIC HEARINGS, THE FOLLOWING RULES SHALL APPLY:

A. Persons wishing to speak other than the applicant will be required to state his or her name and address, which information, along with the person's comment will be recorded as part of the public hearing. (Amended Res 45, 2000)

B. The presiding officer shall conduct the hearing in such manner as to provide for freedom of speech and expression of opinion of all persons speaking, subject only to the limits of courtesy and respect to other persons and their opinion as long as the subject is related to the public hearing notwithstanding the presiding officer has the authority to limit debate to a reasonable length of time to be equal for both positions.

C. Any person speaking may be questioned by members of Council or by City Staff.

D. The presiding officer shall rule upon all disputed matters of procedure, unless, on motion duly

made, he is overruled by a majority vote of Council members present. (Res. 39, 1984, 84, 1997)

E. The ordinary rules of evidence shall not apply, and Council may receive petitions, exhibits and other relevant documents without formal identification or introduction.

F. When the number of persons wishing to speak threatens to unduly prolong the hearing, the Council may establish a time limit upon each speaker.

G. The following statement may be read by the Chair at the outset of the public hearing:

We welcome your input. Because we will strive to proceed through the public hearing in a timely manner, we require that all persons observe the following rules with respect to comments and testimony:

When you are recognized to speak, approach the podium, state your name and address for the record. All comments and testimony shall be made from the podium, no comments or testimony shall be shouted from the audience.

Comments and testimony are to be directed to the Chair. Dialogue and inquiries from the person at the podium to members of Staff or the seated audience is not permitted. Inquiries which require Staff response will be referred to Staff by the Chair through the City Manager.

It is our desire to give everyone an opportunity to speak and be heard in a timely manner and within an atmosphere of respect and diplomacy. These rules are meant to foster that atmosphere. Thank you for your cooperation, and we look forward to hearing your comments.

24. APPOINTMENTS MADE BY COUNCIL:

Positions on Boards and Commission shall be appointed by Council from applicants who have completed the appropriate application form and interview process. Appointments shall be reviewed by Council at a Study Session or post-meeting and then acted upon as part of the agenda at the next City Council meeting with a Resolution drafted as referred by the interview team for the specific Board vacancy. (Res. 39, 1984, 42, 1995, 84, 1997)

Vacant positions on the City Council shall be appointed by Council from applicants who have completed the appropriate application form and interview process. Appointments shall be by roll call vote. A majority vote is necessary to finalize an appointment. If no single applicant obtains a majority vote after the first roll call, all persons receiving no votes, and the person receiving the smallest number of votes will be removed from consideration. This process will be repeated after each vote until a majority vote is received by one applicant. After three (3) roll call votes with no one person appointed, the Council will consider all candidates again and begin the process of elimination of candidate names after every three votes. (Res. 39, 1984, 42, 1995, 84, 1997, 16, 1999)

25. PROCEDURES TO FILL VACANCIES ON CITY ADVISORY BOARDS AND COMMISSIONS:

A. City Council shall from time to time schedule interviews of all interested Westminster citizens

who are eligible and interested in serving on the various City Advisory Boards and Commissions. Interested citizens are to complete a standard application form provided by the City with the citizen indicating his/her top three preference(s) of boards and commissions he/she wishes to be considered for appointment. (Res 84, 1997)

B. City Council shall set a deadline for receiving said applications with said deadline to be published in the appropriate newspapers and City publications. An interview schedule will be established with the Council conducting individual interviews. The interview schedule will be formulated to provide for an efficient approach to achieving the desired interviews.

C. Said applications will be placed on file with the City Clerk and will be considered for a period of one year. These applications will provide a "pool" of applicants for City Council's consideration whenever a vacancy takes place on the Advisory Boards and Commissions.

D. All applicants will be contacted at the end of each cycle to determine if they are interested in having their name considered for vacancies, which might occur during the next cycle period. (Res 8, 1986, 41, 1990)

E. The City Council may use a rotation plan involving appointed Board and Commission members to assure a variety of perspectives and allow as many interested citizens to participate in serving on City advisory boards/commissions. (Res. 84, 1997)

F. Board and Commission members currently serving on a Board or Commission, may submit an application to the City Clerk's Office to move to another Board or Commission. Board and Commission members may not serve on more than one Board at one time. (Res. 100, 1999)

26. CITY COUNCIL TRAVEL POLICY (Amended Resolution No. 45, 2000, Resolution No. 23, 2001 Resolution 32, 2002; Resolution No. 14, 2012)

A. EXPENSE COVERAGE

City Council will establish out-of-state travel expenses for all Council members as part of the budget adoption each year. Any out of state travel beyond 2 such trips in a calendar year shall require the approval in advance of a majority of the other members of Council.

Transportation: Normally, out-of-City travel shall be by commercial airline. Air coach and special rates shall be utilized whenever possible. The City will pay for additional travel expenses associated with airline travel as appropriate. The City will pay for the first bag checked on travel and original seating assignments; special seating upgrades (such as aisle or window seating, exit row seating, early bird check-in status, etc.) shall be at the expense of the individual Councillor. If driving to a conference, using your personal car, Councillors can be reimbursed at the per mile rate in effect for employees. However, the total reimbursement shall not exceed the amount that would have been expended if the Councillors had used available airline service and economical ground transportation to the conference. Full reimbursement shall be made for round trip transportation for the Councillors' travel expense. Receipts shall be obtained when possible for taxis, rail, public transit, or other transit utilized at conferences.

Lodging: Lodging shall be fully reimbursable. If attending a formal conference, lodging will normally be at the conference or headquarters hotel, or comparable facilities, which are nearby. Reimbursements are to be for daily rental type properties such as hotels or condominiums. Properties where a Councillor has any ownership interest such as time share, time share exchanges, partial ownership, or full ownership of a house, condominium or other similar property shall not be eligible for reimbursement. If the Councillor's spouse is attending the conference, the Councillor shall be responsible for the differential on the daily room rate for double occupancy. If a Councillor elects to stay off site, any additional travel costs incurred to/from the conference shall be at the individual Councillor's expense.

Meals: All meal expenses shall be fully reimbursable for the Councillor during the conference or out-of-town meeting. In accordance with IRS regulations, itemized receipts shall be provided showing items purchased. Councillors may opt for a per diem under the federal per diem high-low method for meals and incidentals for the whole trip. No per diem is allowed for meals included in registration costs, hotel accommodations or meals purchased by an employee for any non-employee. In-flight service does not constitute a meal. The Finance Department may require reporting of start and end times of qualifying functions to compute eligibility for reimbursement.

Miscellaneous Expenses: Generally, any reasonable business expense incurred because a Councillor is traveling for the City shall be fully reimbursable. All Council members are expected to keep all such expenses to a reasonable level, based upon the cost of accommodations, meals and similar expenses of the particular locale being visited. Reimbursement for the purchase of personal items including but not limited to medications, toiletries, personal phone calls, movie rentals, green fees, cost for the use of a health club if it is not included in the hotel charge, gifts and alcoholic beverages are specifically prohibited.

Travel With Spouse: All expenses of the spouse will be the personal expense of the Councillor, and shall not be charged to the Councillor's purchasing card.

B. ADVANCES

Council members may draw a cash advance from the City in anticipation of expenses to be incurred, or, as an alternative, Councillors may charge the expense to their City issued purchasing card. No cash advance will exceed \$200 per individual request. No cash advances will be processed unless expense reports from all previous trips involving cash advances and credit card purchases have been cleared. Any outstanding expense advance/purchasing card purchases not cleared before the Councillor's term expires will be withheld from the final paycheck of the Councillor.

C. EXPENSE REPORTS

The Mayor and all City Councillors shall file a report for all trip related expenses within one week upon return from the trip. The completed expense report shall be submitted to the City Manager's Office for processing. Receipts for expenses of \$25.00 and greater shall be attached to the form. The Finance Department shall review all such expense reports for mathematical accuracy, and shall identify any items that do not appear to be in conformance with the City's travel policy for City employees. If any discrepancies are observed, the same will be brought to the attention of

the submitting party for correction. If the submitting party disagrees with any item identified by the Finance Department, the other members of Council shall determine the matter.

If compliance in submitting travel expenditure reports within one week upon return is not realized, the subject City Councillor shall not be allowed to travel at city expense on future trips until such time as all reports are filed, reconciled and any balances are rectified where either the Councilmember owes the City or the City Councilmember is owed reimbursement by the city.

City Councillors who use City issued purchasing cards shall not be allowed to make charges against said purchasing card when there are any outstanding City travel expenditure reports from the subject City Councillor. Use of such City purchasing cards shall be held in abeyance until all travel expenditure reports have been submitted, audited and any balance due the City by the City Councillor is resolved.

City staff shall provide a monthly summary to all members of City Council reflecting the status of travel expenditure reports that are due as well as indicating the status of audits conducted by finance department staff with any deficiencies in documentation so noted.

The Mayor Pro Tem shall approve expense reports of Councillors. The Finance Department shall audit the expense report for mathematical accuracy.

In the event Councillors travel as a group, occupy the same hotel and/or have meals together, a claim covering all expenses for all members may be filed in lieu of individual accounting.



Agenda Item 11 B

Agenda Memorandum

City Council Meeting
September 14, 2015



SUBJECT: Proposed Findings of Fact and Conclusion of Law on a Request for a Salvation Army Thrift Store

Prepared By: Dave Frankel, City Attorney

Recommended City Council Action

Adopt the Proposed Findings of Fact and Conclusion of Law on a Request for a Salvation Army Thrift Store and authorize the Mayor to sign the document.

Summary Statement

- A hearing was conducted by the Westminster City Council on August 10, 2015, concerning the application of Revesco USA Properties of Sheridan, LLP, for a Special Use Permit.
- The proposed use was for a Thrift Store 5000 ft.² or greater located at 8601 Sheridan Boulevard, within LaBelle's Plaza, Lot 2, Westminster, for use by a tenant, The Salvation Army.
- At the hearing, both Staff and the Applicant presented documentary evidence and testimony to the City Council. Members of the public, including representatives of The Salvation Army, were invited to speak at the public hearing.
- The Proposed Findings of Fact and Conclusion of Law detail the motion, findings and decision of the City Council on August 10, 2015, which resulted in a 5-2 vote to deny the Applicant's requested Special Use Permit.
- The Findings need to be formally adopted to finalize the Council's decision and also to initiate the Applicant's period for filing an appeal.

Expenditure Required: \$ 0

Source of Funds: N/A

Policy Issue

Following the hearing on Applicant’s request, the Council needs to adopt written findings of fact and conclusions of law to formally issue its decision.

Alternative

Council may adopt the findings as written, modify the findings or direct staff to prepare different findings.

Background Information

Adoption of the proposed findings supports the City of Westminster’s Strategic Plan goal of providing Visionary Leadership, Effective Governance and Proactive Regional Collaboration by applying the Code in an equitable and consistent manner through the Special Use Permitting Process.

Respectfully submitted,

Donald M. Tripp
City Manager

Attachment

BEFORE THE CITY OF WESTMINSTER
CITY COUNCIL

IN RE THE APPLICATION OF:)	FINDINGS OF FACT AND
)	CONCLUSION OF LAW ON A
Revesco USA Properties of Sheridan, LLP)	REQUEST FOR A SALVATION
for a SPECIAL USE PERMIT)	ARMY THRIFT STORE

This matter was heard before the Westminster City Council on August 10, 2015, concerning the application of Revesco USA Properties of Sheridan, LLP, a Colorado limited liability partnership (the "Applicant"), for a Use by Special Permit for a Thrift Store 5000 ft.² or greater located at 8601 Sheridan Boulevard, within LaBelle's Plaza, Lot 2, Westminster, for use by a tenant, The Salvation Army. At the hearing, both Staff and the Applicant presented documentary evidence and testimony to the City Council. Members of the public, including representatives of The Salvation Army, were invited to speak at the public hearing. The Council took testimony and received evidence on the application prior to considering the merits of the application.

Based upon the evidence presented, the Council made the following findings of fact:

1. Notice of the Application and hearing for a use permit for a thrift store 5000 ft.² or greater was posted, published and met the notice requirements of §11-5-13, Westminster Municipal Code (W.M.C.).

2. A full and complete hearing was conducted by the Council with opportunity for all interested parties to testify and present documentary evidence.

3. The August 10, 2015 hearing was conducted *de novo* at the request of Applicant following the Planning Commission's denial of Applicant's original application. The August 10, 2015 hearing was held after Applicant filed a written notice of appeal within ten (10) days of the decision of the Planning Commission. This notice included the action of the Planning Commission that is the subject of the appeal; the date of such action; the name, address and telephone number of the appellant and a statement setting forth the basis of the appellant's appeal pursuant to §11-4-8 (H), W.M.C. As a preliminary matter, the Council found that based on the above, Applicant had perfected its appeal pursuant to §11-4-8 (H), W.M.C.

4. The hearing began with a presentation from Staff followed by the Applicant's presentation. The following exhibits were admitted into the record: the Staff Agenda Memorandum, the project file, the Staff PowerPoint presentation, the Westminster Municipal Code, and all of the Applicant's exhibits. The Applicant indicated it was revising its proposal to include Exhibit 12, an amended Site Plan, which had not been presented to Staff for review before the hearing.

5. After consideration of all of the evidence presented and applying the nine (9) Special Use Permit criteria set forth in §11-4-8 (F), W.M.C., the Council found as follows:

§11-4-8 (F) (1) Impact on the character of the neighborhood: had not been met due to unresolved concerns of negative impacts to the adjacent single family neighborhood;

§11-4-8 (F) (2) Compatibility of the proposed use with existing and planned uses on adjacent properties: had not been met due to concerns regarding noise impacts, loading and traffic;

§11-4-8 (F) (3) Activities or uses on the site that generate potential adverse impacts or nuisance effects such as visual impacts, noise, vibrations, light intensity, odors, loitering, or level of police activity: had not been met due to concerns regarding noise impacts, loading and traffic;

§11-4-8 (F) (4) Amount or degree of outdoor activity: had not been met due to concerns regarding noise impacts, loading and traffic;

§11-4-8 (F) (5) Hours of operation and deliveries: had been met;

§11-4-8 (F) (6) Location and intensity of storage, loading, and delivery areas: had not been met due to concerns regarding docking facilities, loading and traffic;

§11-4-8 (F) (7) Adequacy of parking and vehicular access and circulation: had not been met due to concerns regarding docking facilities, loading and traffic;

§11-4-8 (F) (8) Traffic volume generated by the proposed use: had not been met due to concerns regarding placement of loading dock facilities;

§11-4-8 (F) (9) Pedestrian safety: had not been met due to concerns regarding proposed placement of loading dock facilities.

6. After consideration of the evidence presented and the application of the above nine (9) criteria, the Council applied the three (3) Standards of Review in §11-4-8 (G), W.M.C. to determine if the Special Use Permit should be granted, and made the following findings of fact and conclusions of law:

§11-4-8 (G) (1) The proposed use was not reasonably compatible with the surrounding neighborhood due to increased automobile traffic from the porte-cochere activity and new loading dock with door. The proximity of the adjacent residential to the proposed porte-cochere and loading dock, with roll-up door on the west side of the building, is about two-hundred feet. Currently, on the south service side of the building, truck activity is minimal due to the size of the service alley and utility poles running along the property line. The site's orientation, small service alley, rail road, property line, and proximity to residential precludes the relocation on the porte-cochere and loading dock with roll-up door to the south side of the building. As a result, there will be impacts to character of the surrounding neighborhood and the use is not reasonably compatible with the surrounding neighborhood;

§11-4-8 (G) (2) The proposed use was not in conflict with the policies of the Comprehensive Plan; and

§11-4-8 (G) (3) The proposed use does not meet the following distance limitations: (d) The location of any other Thrift Store within one thousand (1,000) feet of another such use shall preclude approval of the special use permit. The City Planning Commission recently approved another Thrift Store application in this same shopping center and there is another Thrift Store within one hundred twenty feet of the Applicant's proposed location. Therefore, the Municipal Code precludes approval of this application at this location. The distance separation requirement of 1,000 feet is intended to prevent a proliferation of negative impacts commonly associated with Thrift Stores over 5,000 square feet.

Based on the evidence presented and the above findings of fact and conclusions of law, the City Council concluded that the application did not satisfy §§ 11-4-8 (F) and (G), W.M.C. and thereafter passed a Motion to Deny the Application for a thrift store Special Use Permit on a 5-2 vote.


Dated this 14th day of September, 2015.

City of Westminster City Council

By: _____
Herb Atchison, Mayor

By: _____
City Clerk

Approved as to Legal Form & Content:

By:  _____
City Attorney