



CITY COUNCIL AGENDA

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

Members of the audience are invited to speak at the Council meeting. Citizen Communication (Section 7) and Citizen Presentations (Section 12) are reserved for comments on any issues or items pertaining to City business except those for which a formal public hearing is scheduled under Section 10 when the Mayor will call for public testimony. Please limit comments to no more than 5 minutes duration except when addressing the City Council during Section 12 of the agenda.

1. Pledge of Allegiance
2. Roll Call
3. Consideration of Minutes of Preceding Meetings
4. Report of City Officials
 - A. City Manager's Report
5. City Council Comments
6. Presentations
 - A. Employee Service Awards Presentation
 - B. Police Department Participation at Democratic National Convention Proclamation
 - C. Fire Prevention Month 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. Financial Report for August 2008
 - B. 2009 Property and Liability Excess Insurance Renewal
 - C. Change Order for Additional 2008 Roadway Improvements
 - D. US 36 and Federal Boulevard Interchange Gateway and Landscape Contract
 - E. First Amendment to the IGA re the Jefferson County-wide Dog Licensing Program
 - F. Second Reading of Councillor's Bill No. 34 re Dover Street and West 110th Avenue Rights-of-Way Vacation
 - G. Second Reading of Councillor's Bill No. 35 re Fit Physical Therapy Lease Agreement

9. Appointments and Resignations

10. Public Hearings and Other New Business

- A. Councillor's Bill No. 36 re Lease of Open Space Property
- B. Resolution No. 48 re Support for the Jefferson County Schools 3A and 3B Ballot Measures

11. Old Business and Passage of Ordinances on Second Reading

12. Citizen Presentations (longer than 5 minutes), Miscellaneous Business, and Executive Session

- A. City Council
- B. Executive Session -

Discussion of Personnel Matter (City Manager's Performance Evaluation) pursuant to WMC Section 1-11-3(C)(1) and CRS 24-6-402(4)(f)

13. Adjournment

GENERAL PUBLIC HEARING PROCEDURES ON LAND USE MATTERS

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

- B.** Any person wishing to speak other than the applicant will be required to fill out a “Request to Speak or Request to have Name Entered into the Record” form indicating whether they wish to comment during the public hearing or would like to have their name recorded as having an opinion on the public hearing issue. Any person speaking may be questioned by a member of Council or by appropriate members of City Staff.

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

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

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

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

- G.** The property owner or representative(s) present slides and describe the nature of the request (maximum of 10 minutes);

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

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

- J.** Final comments/rebuttal received from property owner;

- K.** Final comments from City Staff and Staff recommendation.

- L.** Public hearing is closed.

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

CITY OF WESTMINSTER, COLORADO
MINUTES OF THE CITY COUNCIL MEETING
HELD ON MONDAY, SEPTEMBER 8, 2008 AT 7:00 P.M.

PLEDGE OF ALLEGIANCE

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

ROLL CALL

Mayor Nancy McNally, Mayor Pro Tem Chris Dittman, and Councillors Bob Briggs, Mark Kaiser, Mary Lindsey, Scott Major, and Faith Winter were present at roll call. J. Brent McFall, City Manager, Martin McCullough, City Attorney, and Linda Yeager, City Clerk, also were present.

CONSIDERATION OF MINUTES

Councillor Kaiser moved, seconded by Dittman, to approve the minutes of the regular meeting of August 25, 2008, as presented. The motion passed unanimously.

CITY MANAGER'S REPORT

Mr. McFall announced that dedication of the Big Dry Creek Park at 128th Avenue and Pecos Street would be the evening September 10. All were invited to attend and encouraged to wear blue and orange, as the Denver Broncos, their cheerleaders, and mascot would attend to thank Westminster fans for their support. The 911 Public Safety Recognition Banquet would be on September 11 in appreciation of those who put their lives on the line to protect Westminster residents daily. Mr. McFall thanked public safety officials for their actions during the Democratic National Convention in Denver. Many police officers had united with the Denver Police Department to provide security during the event while the balance of the staff worked within the City to ensure the peace and safety of residents. The Fire Department had been on a heightened level of security, and all public safety staff showed their professionalism. Finally, City employees enjoyed Employee Appreciation Week and the gift, breakfast, barbecue, and jean day events to celebrate the occasion. By week's end, all employees knew how much they were valued.

CITY COUNCIL COMMENTS

Councillor Briggs reported having attended the Grand Opening of Sun Edison's headquarters earlier in the day. Mayor Pro Tem Dittman gave a presentation and did a fine job representing the City. As September 11 approached, he was reminded of the risk public safety officials faced on a daily basis and thanked them for the peace they brought to the community.

Councillor Winter reported it had been exciting to welcome Sun Edison to the community earlier in the day. The public was encouraged to stop by the new facility and see the many solar products available to help conserve energy and reduce costs. On September 13 she would join the Mayor and other City officials by participating in a Soup Social to benefit the Women's Bean Project. The event would be held at The Orchard and everyone was invited to attend.

PRESENTATION

Mayor McNally presented a proclamation to Mike Jones, recipient of the Colorado Intergovernmental Risk Sharing Agency (CIRSA) 2007 Safety Champion Award. Mr. Jones was selected from employees throughout CIRSA's membership for his commitment to an active loss prevention program designed to help reduce accidents, injuries and claims. Mayor McNally thanked Mr. Jones for his dedication and service to fellow employees in Public Works & Utilities.

Councillor Winter read a proclamation declaring September 20, 2008, to be Kids Day America/International. She presented the proclamation to Dr. Michelle Mathiesen and invited children and families to participate in activities to be held at the Brentcross Shopping Center.

CONSENT AGENDA

The following items were submitted for Council's consideration on the consent agenda: authority for the City Manager to enter into agreements, total compensation collectively not to exceed \$135,000, with Malcolm Murray, Barbara Banks, Dee Wisor, and Ken Kramer for work related to the Westminster Mall redevelopment, Westminster Conference Center sale, Axis project, Westin Hotel Conference Center possessory interest issue, and other related economic and redevelopment projects; authority for the City Manager to sign a contract for legal services with Brownstein Hyatt Farber Schreck P.C. for special legal services in connection with advice pertaining to and preparation of legal documents to amend the City's pension plans and deferred compensation plan; based on the City Manager's report and recommendation, City Council found that the public interest would best be served by authorizing the City Manager to execute a professional services agreement in an amount not to exceed \$160,000 with Deere & Ault Consultants, Inc. as the sole source for producing preliminary design and grading plans for a reclaimed water open storage facility; and final passage of Councillor's Bill No. 33 providing for supplementary appropriations to the 2008 budget of the General, Water, Storm Drainage, and General Capital Improvement Funds.

Mayor McNally asked if Councillors wished to remove any items from the consent agenda for discussion purposes or separate vote. None did.

It was moved by Councillor Major, seconded by Councillor Kaiser, to approve the consent agenda, as presented. The motion passed unanimously.

PUBLIC HEARING ON 2009 AND 2010 CITY BUDGET

At 7:20 p.m. the Mayor opened a public hearing and Mr. McFall summarized salient features of the projected revenues and expenditures for the 2009 and 2010 City Budget. This would be the citizenry's last opportunity to comment on the document prior to Council's budget retreat.

Mayor McNally invited public comment. Tom Roemersberger of Neighbors for Countryside reiterated the desire of residents within Countryside to have a sidewalk constructed on the east side of Countryside Drive for improved safe access of students walking to and from Wayne Carle Middle School. His suggested source of funding the construction was in-lieu school fees collected by the City from developers in Jefferson County. Barbara Reddington of Meadow View Estates Homeowners Association (HOA) said that a roundabout at the entrance to the subdivision was ineffective but slowed some traffic and the HOA would not support removal of the roundabout unless an acceptable alternative replaced it. A resident of the neighborhood had designed an alternative and the design was handed to Mr. McFall for staff consideration. Further, a retirement community was being built in the neighborhood and the HOA asked that a traffic signal be installed at 107th Avenue and Simms to provide safe access. Terrance Ramirez asked that the budget include funding for an on-street bike lane network study to provide alternate transportation to residents wanting to bike to work. If the study was delayed to the 2011-2012 budget, a network could not be created until later; one was needed now.

No others wished to speak and the Mayor closed the hearing at 7:57 p.m.

COUNCILLOR'S BILL NO. 34 VACATING PORTIONS OF DOVER ST/110TH AVE RIGHTS-OF-WAY

It was moved by Councillor Kaiser and seconded by Mayor Pro Tem Dittman to pass Councillor's Bill No. 34 on first reading, vacating a portion of Dover Street and 100th Avenue within the Olson Technological Park Subdivision. At roll call, the motion passed unanimously.

COUNCILLOR’S BILL NO. 35 RE RECREATION CENTER LEASE TO FIT PHYSICAL THERAPY

Upon a motion by Councillor Lindsey, seconded by Councillor Major, the Council voted unanimously at roll call to pass Councillor’s Bill No. 36 on first reading, authorizing the City Manager to sign a lease agreement with Fit Physical Therapy, LLC for office space at the City Park Recreation Center.

RESOLUTION NO. 47 RE OPEN SPACE PURCHASE OF 4.46-ACRE FELDMAN PROPERTY

Mayor Pro Tem Dittman moved to adopt Resolution No. 47 authorizing the purchase of a 4.46-acre parcel located at 128th Avenue and Pecos Street for \$605,000 and authorizing the City Manager to execute all documents required to close on the purchase of the property. Councillor Winter seconded the motion, and it passed unanimously on roll call vote.

ADJOURNMENT

There being no further business to come before the City Council, the Mayor adjourned the meeting at 8:04 p.m.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
September 22, 2008



SUBJECT: Presentation of Employee Service Awards

Prepared By: Debbie Mitchell, Human Resources Manager
Dee Martin, Human Resources Administrator

Recommended City Council Action

Present service pins and certificates of appreciation to employees celebrating 20, 25 and 30 years of service with the City, and provide special recognition to the City's 25-year employees with the presentation of a \$2,500 bonus.

Summary Statement

- City Council is requested to present service pins and certificates of appreciation to those employees who are celebrating their 20th, 25th and 30th anniversaries of employment with the City.
- In keeping with the City's policy of recognition for employees who complete increments of five years of employment with the City, and City Council recognition of employees with 20 years or more of service, the presentation of City service pins and certificates of appreciation has been scheduled for Monday night's Council meeting.
- In 1986, City Council adopted a resolution to award individuals who have given 25 years of service to the City with a \$2,500 bonus to show appreciation for such a commitment. Under the program, employees receive \$100 for each year of service, in the aggregate, following the anniversary of their 25th year of employment. The program recognizes the dedicated service of those individuals who have spent most, if not all, of their careers with the City.
- The 20, 25, and 30 year group for third quarter 2008 will be celebrated tonight.
 - Mayor Pro Tem Dittman will present the 30-year certificate.
 - Mayor McNally will present the 25-year certificates.
 - Councillor Major will present the 20-year certificates.

Expenditure Required: \$ 5,000

Source of Funds: General Fund -City Attorney's Office \$2,500
-City Manager's Office \$2,500

Policy Issue

None identified

Alternative

None identified

Background Information

The following 20-year employees will be presented with a certificate and service pin:

Bernard Vonfeldt	Senior Police Officer	Police
Robert B Wood	Senior Police Officer	Police

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

Tami Cannon	Legal Administrator	City Attorney’s Office
Carol Jones	Public Information Specialist	City Manager’s Office

The 30-year employee, Karen Sexton, will be presented with a certificate and service pin. Karen was recognized during the 2nd Quarter presentation on May 19 but due to an illness, was not able to attend the City Council Meeting for her recognition. At this time, we would like to recognize her for her 30 years of service with the City.

Karen Sexton	Secretary	Police
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On September 24, 2008, the City Manager will host an employee awards luncheon at which time 6 employees will receive their 15 year service pin, 9 employees will receive their 10 year service pin, and 12 employees will receive their 5 year service pin, while recognition will also be given to those who celebrate their 20th, 25th, and 30th anniversary. This is the third luncheon for 2008 to recognize and honor City employees for their service to the public.

The aggregate City service represented among this group of employees for the third quarter is 330 years of City service. The City can certainly be proud of the tenure of each of these individuals and of their continued dedication to City employment in serving Westminster citizens. Background information on each individual being recognized is attached.

The recognition of employee’s years of service addresses Council’s Strategic Plan goal of Financially Sustainable City Government as part of the overall recognition program developed to encourage and recognize employee commitment to the organization. Recognition efforts have long been recognized as an important management practice in organizations striving to develop loyalty, ownership and effectiveness in their most valuable resource – employees.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
September 22, 2008



SUBJECT: Proclamation re Police Department Participation at Democratic National Convention

Prepared By: Lee Birk, Chief of Police
Tim Carlson, Deputy Chief of Police

Recommended City Council Action

Mayor McNally is requested to present the attached Proclamation recognizing the employees of the Westminster Police Department for their participation in the Democratic National Convention (DNC) held August 25 through August 28, 2008.

Summary Statement

- The City Council is recognizing all of the police department employees for their successful participation in the Democratic National Convention from August 22 through August 29, 2008 (the operational time period for the police department), while simultaneously continuing to provide quality police services to the citizens of Westminster.
- Mayor Nancy McNally will present the proclamation to Lee Birk, Chief of Police and Tim Carlson, Deputy Chief, who have been invited to attend Monday evening's meeting to accept the proclamation on behalf of the Police Department employees.
- The overall success and positive outcome for the City and County of Denver and the surrounding metropolitan area can be attributed to the professionalism and dedication of everyone involved with this event.

Expenditure Required: \$ 0

Source of Funds: N/A

Policy Issue

None identified

Alternative

None identified

Background Information

Lee Birk, Chief of Police and Tim Carlson, Deputy Chief of Police, will be present Monday evening to accept the proclamation from the City Council on behalf of all the Police Department employees.

The preparation for the City of Westminster's participation in the DNC began late in 2007. The police department began preparations by sending command staff officers to a week long Command School hosted by the Department of Homeland Security that provided training on managing civil disorder. The police department then hosted several week long, first line, riot control training courses where 165 first line officers attended and were trained in the techniques of crowd management, as well as legal and constitutional issues. The officers received additional training from the Westminster City Attorney's office on first and fourth amendment issues regarding protestors and crowd management. Training continued for officers specifically assigned to the Pepsi Center and Invesco venues as the department approached the DNC event and Westminster's assignments were announced. Most sworn officers of the police department received a minimum of 50 additional hours of training in the months leading up to the convention that was specifically related to civil disorder, protestor rights, and constitutional guidelines.

The process of refining the Intergovernmental Agreement (IGA) with the City and County of Denver. involved the Police Department, City Attorney's Office, Risk Management and the City Manager's Office to ensure that Westminster officers and the City were appropriately covered on issues of liability and workers compensation with no adverse financial impact on the City of Westminster. An IGA with the City and County of Denver was approved by City Council and signed by the Mayor in July 2008.

For the operational time period at the DNC (August 22-29, 2008), 46 officers were deployed to the venue sites of the DNC. This included the Pepsi Center and the last minute move to Invesco Field for Senator Obama's official acceptance speech. Officers were assigned posts inside the perimeter fencing at both venues and maintained watch on the fence line to ensure there were no breaches from those participants who attempted to violate the secured areas. Officers assigned to the venue sites worked 14 to 17 hour days for six days in a row. Many of the officers slept at the police department between their shifts. During the final day at Invesco Field, the officers were asked specifically by the event planners from the Secret Service and the Denver Police Department to secure the stage area of the event and provide additional security for the dignitaries in attendance. Westminster officers assigned to the DNC were complimented and praised for their professionalism and work ethic by both the Denver venue commander and the Secret Service agent in charge of venue security.

A priority from the outset of DNC preparations was to ensure adequate and proper police coverage for the City of Westminster and our citizens during this time period. The department formed a 36 officer Mobile Field Force that was specifically designed to be able to respond to and deal with any crowd management or protest activities that might arise within the City limits and also the surrounding jurisdictions in a mutual aide capacity. Fortunately, their services were not needed in this capacity. This team worked additional hours during the week providing extended patrol services to the City. Finally, officers from every section of the department were moved to patrol shifts where they served to answer routine calls for service during the entire operational period. Patrol shifts were staffed to full levels and calls for service, both emergency and routine, were handled with the same level of service as provided to our citizens under normal circumstances. Employees did not take vacations during this time period and many employees willingly changed shifts, work hours and assignments to fill both DNC related assignments and backfill duties.

As reported by the media and from police department sources throughout the week, disruptions and problems at the DNC were minimal. Westminster officers, in conjunction with officers from 52 additional law enforcement agencies, provided needed security and law enforcement services vital for a successful convention throughout the Denver area. Police services for the citizens of Westminster were never interrupted or compromised and no significant events unfolded in Westminster outside of normal activity levels.

In addition to the Police Department, many other City Departments were involved and provided support and assistance. The City Managers Office, City Attorneys Office and Risk Management were involved in legal matters, policy issues and in drafting of the IGA. The Fire Department provided paramedics for deployment with the Mobile Field Force for emergency medical care of officers during a potentially serious event. This included sending paramedics to police in-service training sessions. The Fire Department also supplied the Mobile Field Force and DNC officers with individual emergency first aid bags. The Parks, Recreation and Libraries Department supplied the police department with vans for daily transportation to and from the DNC, and a bus for delivery of the Mobile Field Force in case of an emergency deployment. The Finance Department is assisting with reimbursements from Denver authorized under the IGA. This was truly a team effort.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

WHEREAS, the Democratic National Convention was held in the Denver Metropolitan area during the week of August 25-28, 2008, and

WHEREAS, the Westminster Police Department deployed 46 officers working 14 to 17 hours each day for six days at the Pepsi Center and Invesco Field in the City and County of Denver to provide needed security to the Democratic National Convention event. The police department also formed, trained and deployed an emergency response Mobile Field Force team of 36 officers and supervisors for possible contingencies and

WHEREAS, the City of Westminster provided continuing and professional police services to the Westminster community while simultaneously deploying personnel for the DNC, by expanding shift hours, providing for contingencies, shifting duties and responsibilities to essential police functions, and

WHEREAS, Lee Birk, Chief of Police and Tim Carlson, Deputy Chief of Police, will be present at City Council to accept the Proclamation.

NOW, THEREFORE, I, Nancy McNally, Mayor of the City of Westminster, Colorado, on behalf of the entire City Council and Staff do hereby issue this proclamation to honor

**CITY OF WESTMINSTER
POLICE DEPARTMENT EMPLOYEES**

and publicly thank them for their commitment to and participation in the Democratic National Convention the week of August 22 through August 29, 2008. The professionalism and dedication to providing a safe and positive atmosphere allowed for a positive outcome for the Democratic National Convention and the City and County of Denver and the surrounding metropolitan area.

Signed this 22nd day of September, 2008.

Nancy McNally, Mayor



Agenda Item 6 C

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
September 22, 2008



SUBJECT: Proclamation re Fire Prevention Month

Prepared By: Sherrie L. Leeka, Public Education Specialist

Recommended City Council Action

Councillmember Major to present the proclamation designating October as Fire Prevention Month.

Summary Statement

- Annually the President of the United States proclaims the week of October 9th as Fire Prevention Week. This designation always occurs during the week that includes October 9th, the anniversary of the Great Chicago Fire.
- National Fire Protection Association designates the theme for National Fire Prevention Week every year. The theme for 2008 is “Prevent Home Fires!”
- In order to provide a safe and secure community the City of Westminster extends the celebration of Fire Prevention Week for the entire month of October. The Westminster Fire Department promotes the campaign with fire safety presentations at schools throughout the community, a fire safety coloring contest for third grade children in the City, and a number of community events with local businesses regarding public safety.
- Tours and programs will also be held at the City's fire stations. Throughout the month, several thousand citizens are expected to take advantage of these special programs. Westminster citizens will be encouraged to participate in the NFPA Fire Prevention theme, “Prevent Home Fires!”
- Public Education Specialist Sherrie L. Leeka and Fire Marshal Gary Pedigo will be present to accept the Proclamation on behalf of the Fire Department.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

None identified

Alternative

None identified

Background Information

Fire Service professionals throughout the United States will celebrate Fire Prevention Week, October 5-11, 2008. Fire Prevention Week was established to commemorate the Great Chicago Fire, the tragic 1871 conflagration that killed more than 250 people. In 1920, President Woodrow Wilson issued the first National Fire Prevention Day proclamation and since 1922 Fire Prevention Week has been observed on the Sunday through Saturday period in which October 9 falls.

During Fire Prevention Month, the Westminster Fire Department will promote the “Prevent Home Fires” theme throughout the community. This theme encourages families to think about preventing the leading causes of home fires - cooking, heating, electrical and smoking. And the best way to start is to ask people a simple question: Do you regularly check for home fire hazards?

This safety information will be shared at community activities like educational programs in local schools, a coloring contest for 3rd graders, a safety event at Home Depot on Oct. 4, the Fire Station 4 Open House on Oct. 18, a booth at the City Park Halloween event and during fire station tours.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

WHEREAS, in 2007 the United States had 3,430 fire fatalities, 17,675 injuries, and over 14.6 billion dollars in property loss due to structure fires; and,

WHEREAS, in 2007 the City of Westminster Fire Department responded to 7,883 emergency alarms, including 84 fire calls, and the City had \$962,400 in building and content loss due to structure fires; and,

WHEREAS, Fire Prevention should be of concern to every Westminster citizen; and,

WHEREAS, the City of Westminster believes that a "Safe and Secure Community" depends on the joint commitment and effort involving all citizens as well as firefighters; and,

WHEREAS, the Westminster Fire Department has established a public education program that works to educate citizens on the hazards of fire & life safety; and,

WHEREAS, the 2008 Fire Prevention Week theme, "Prevent Home Fires" effectively serves to remind us all of the simple actions we can take to stay safer from fire during Fire Prevention Week and year-round,

NOW, THEREFORE, I, Nancy McNally, Mayor of the City of Westminster, Colorado, on behalf of the entire City Council and Staff, do hereby proclaim the month of October, 2008 as

FIRE PREVENTION MONTH

in the City of Westminster, and urge all citizens to heed the important safety messages of Fire Prevention Month 2008, and to support the many public safety activities and efforts of the City of Westminster's Fire Department.

Signed this 22nd day of September, 2008

Nancy McNally, Mayor



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
September 22, 2008



SUBJECT: Financial Report for August 2008
Prepared By: Tammy Hitchens, Finance Director

Recommended City Council Action

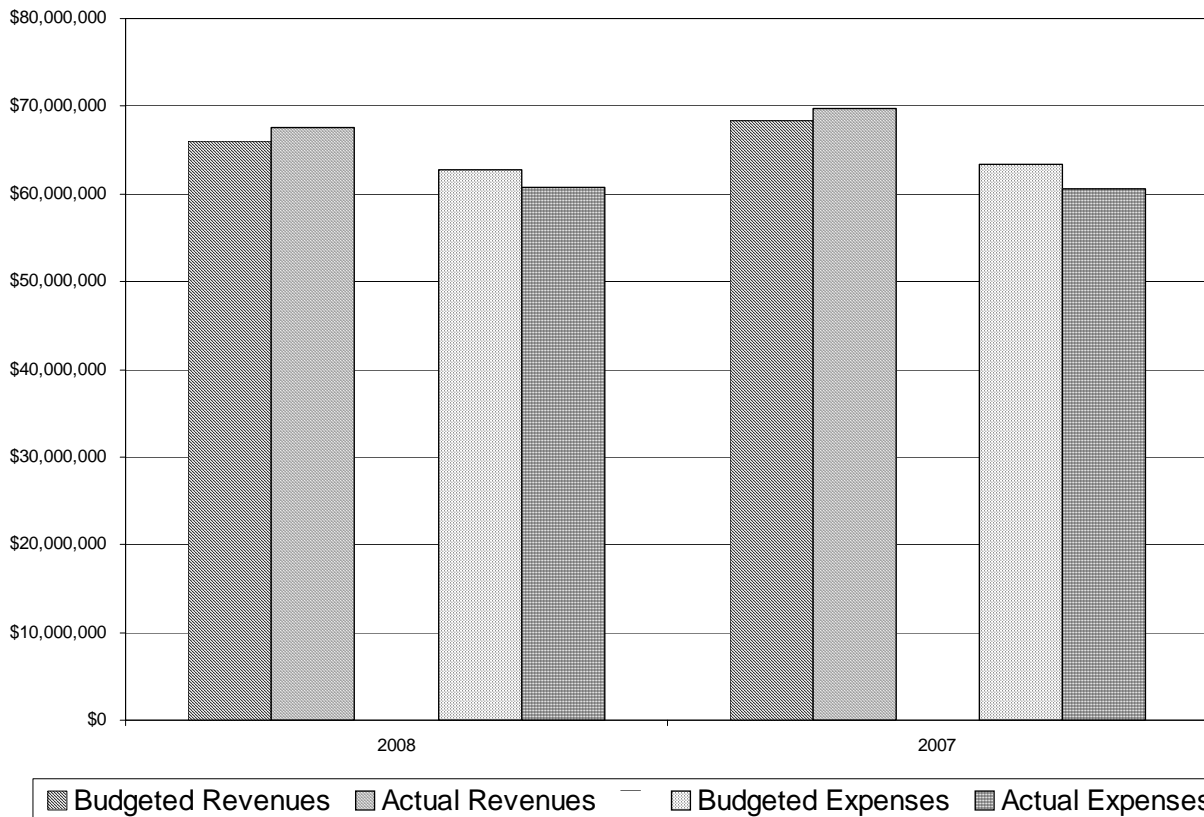
Accept the Financial Report for August as presented.

Summary Statement

City Council is requested to review and accept the attached monthly financial statement. The Shopping Center Report is also attached. Unless otherwise indicated, “budget” refers to the pro-rated budget. Revenues also include carryover where applicable. The revenues are pro-rated based on 10-year historical averages. Expenses are also pro-rated based on 5-year historical averages.

The General Fund revenues and carryover exceed expenditures by \$6,906,640. The following graph represents Budget vs. Actual for 2007 – 2008.

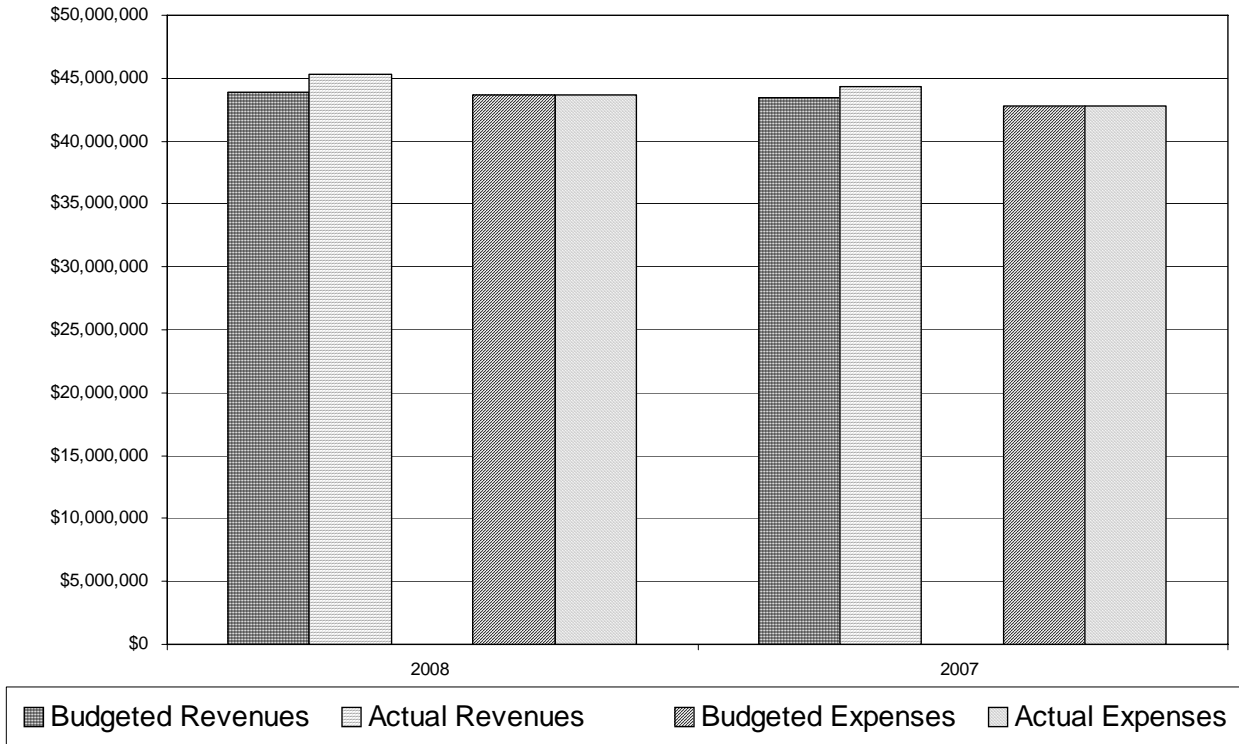
**General Fund
Budget vs Actual**



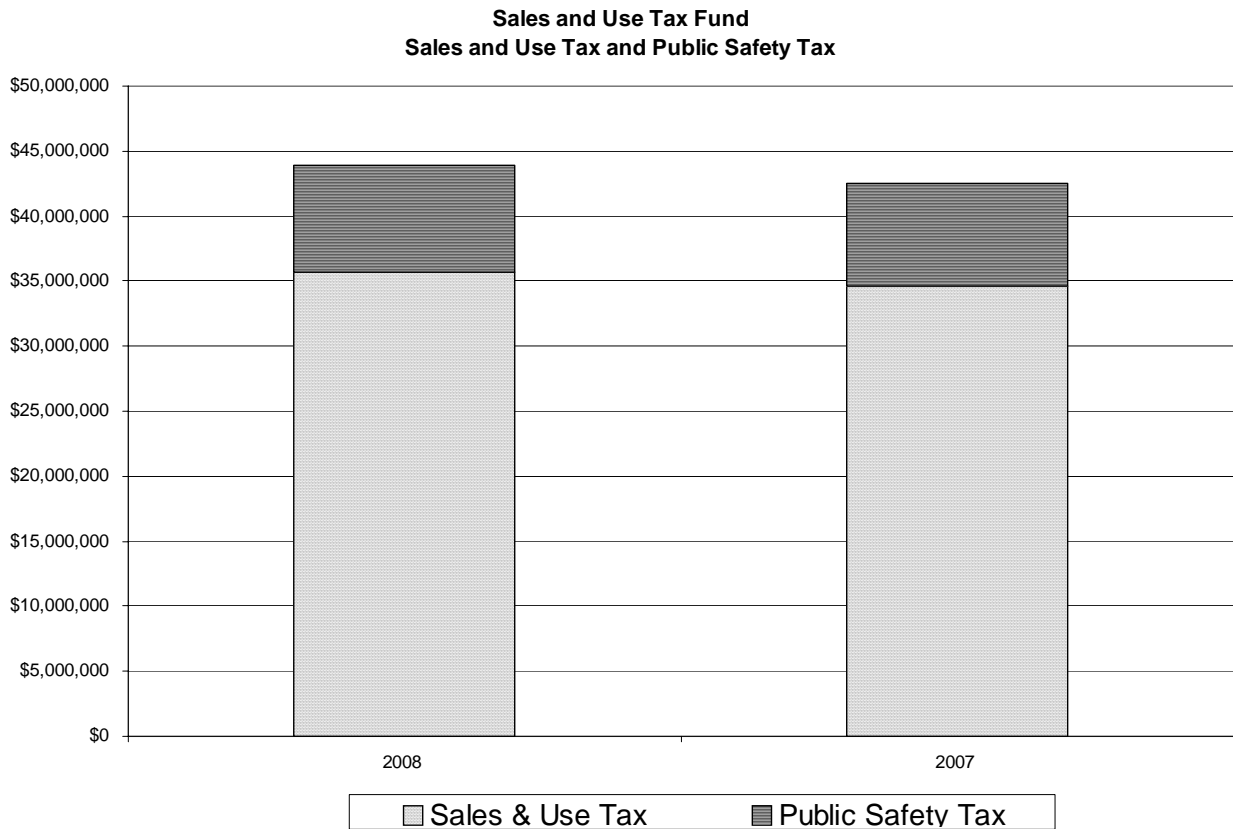
The Sales and Use Tax Fund revenues and carryover exceed expenditures by \$1,675,271.

- On a year-to-date cash basis, sales & use tax returns are up 6.1% over 2007.
- On a year-to-date basis, across the top 25 shopping centers, total sales & use tax receipts are up 4.1% from the prior year. This includes Urban Renewal Area money that is not available for General Fund use. Without Urban Renewal money, total sales and use tax receipts are up 0.6%.
- The top 50 Sales Taxpayers, who represent about 62% of all collections, were up .7% after adjusting for Urban Renewal Area money that is not available for General Fund use.
- The Westminster Mall is down 20% on a year-to-date basis.
- Building Use Tax is down 5.6% year-to-date from 2007.

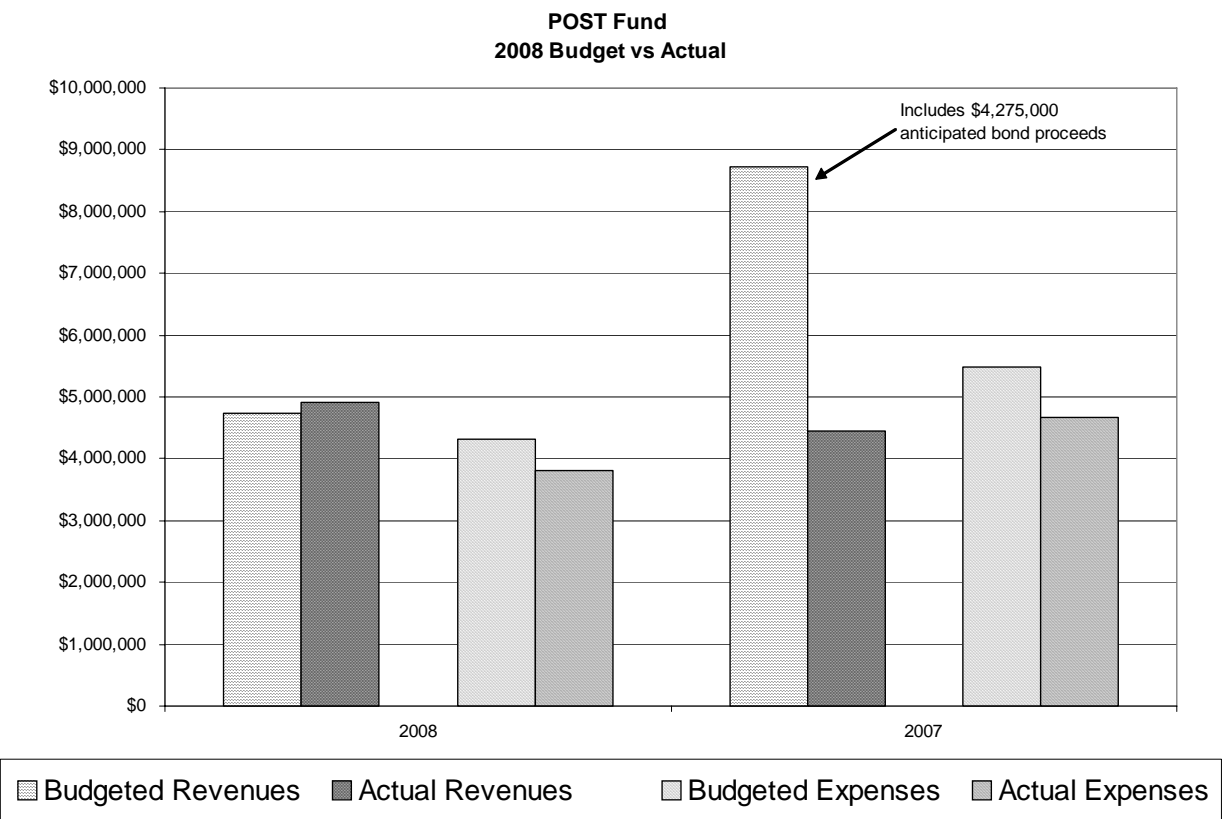
**Sales & Use Tax Fund
Budget vs Actual**



The graph below reflects the contribution of the Public Safety Tax to the overall Sales and Use Tax revenue.

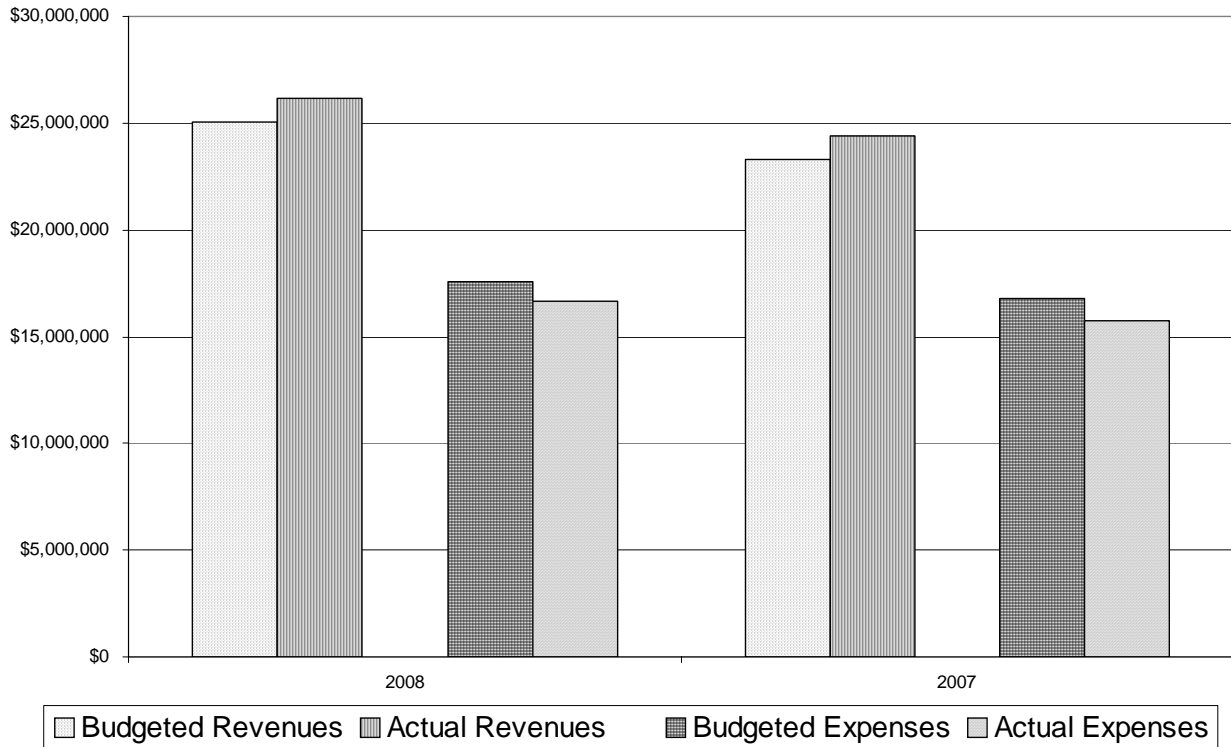


The Parks Open Space and Trails Fund revenues exceed expenditures by \$1,103,634.



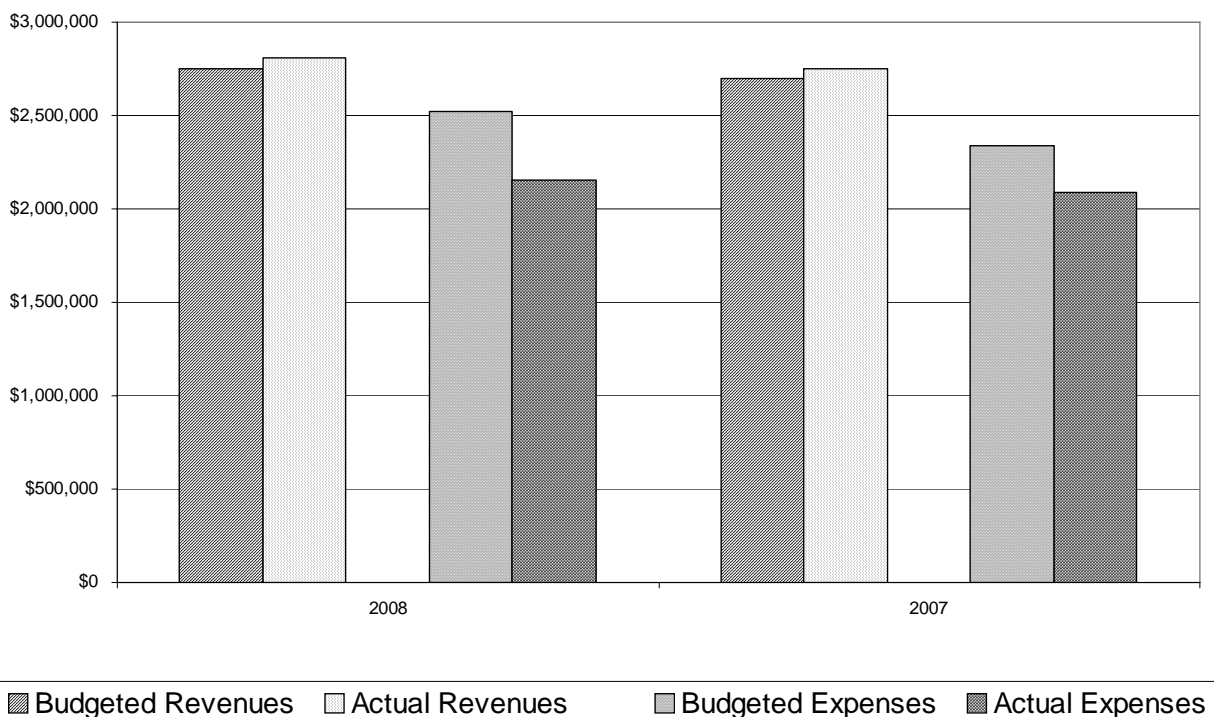
The combined Water & Wastewater Fund revenues and carryover exceed expenses by \$26,022,258. \$25,298,993 is budgeted for capital projects and reserves.

**Combined Water and Wastewater Funds
2008 Operating Budget vs Actual**



The combined Golf Course Fund revenues exceed expenditures by \$656,004.

**Golf Course Enterprise
Budget vs Actual**



Policy Issue

A monthly review of the City’s financial position is the standard City Council practice; the City Charter requires the City Manager to report to City Council on a quarterly basis.

Alternative

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

Background Information

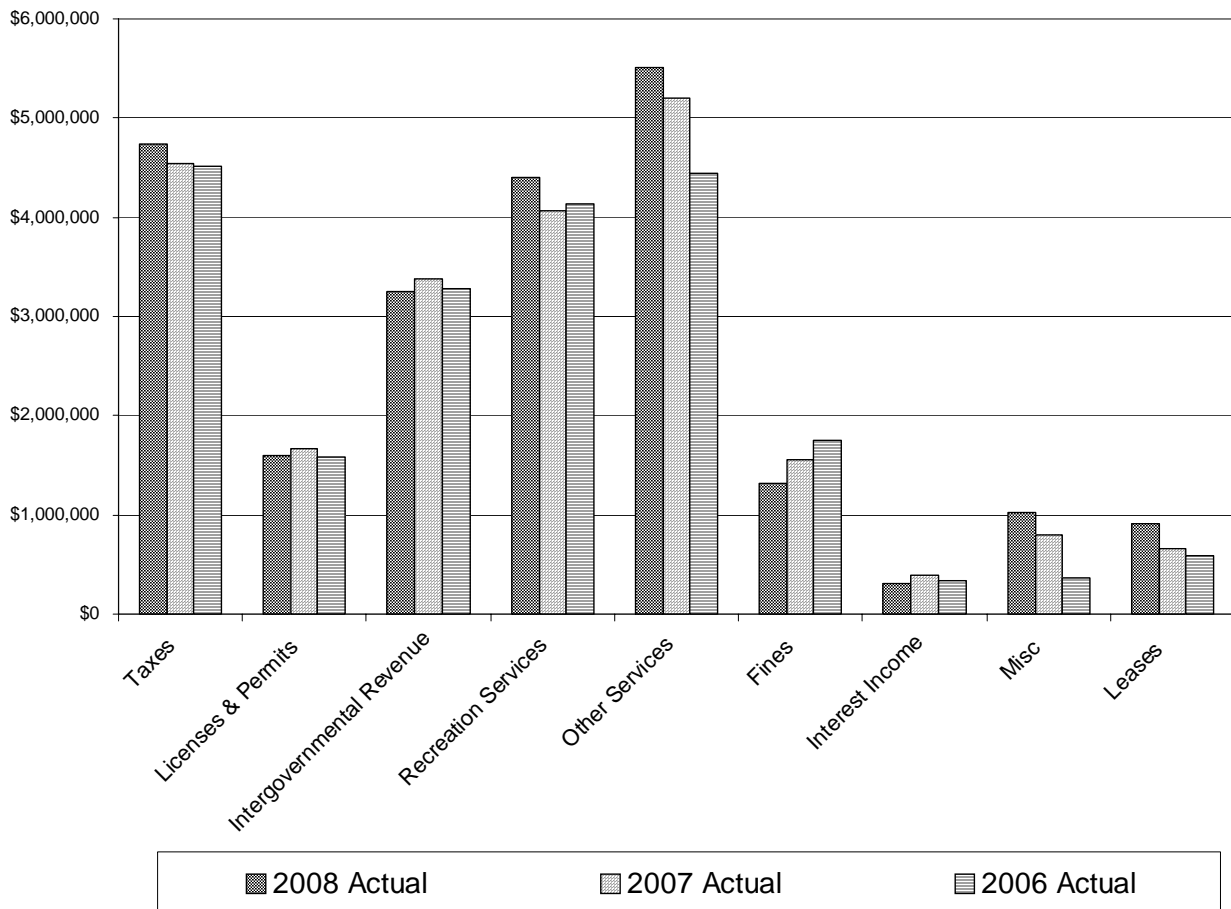
This section includes a discussion of highlights of each fund presented.

General Fund

This fund reflects the results of the City’s operating departments: Police, Fire, Public Works (Streets, etc.), Parks Recreation and Libraries, Community Development, and the internal service functions; City Manager, City Attorney, Finance, and General Services.

The following chart represents the trend in actual revenues from 2006 – 2008 year-to-date.

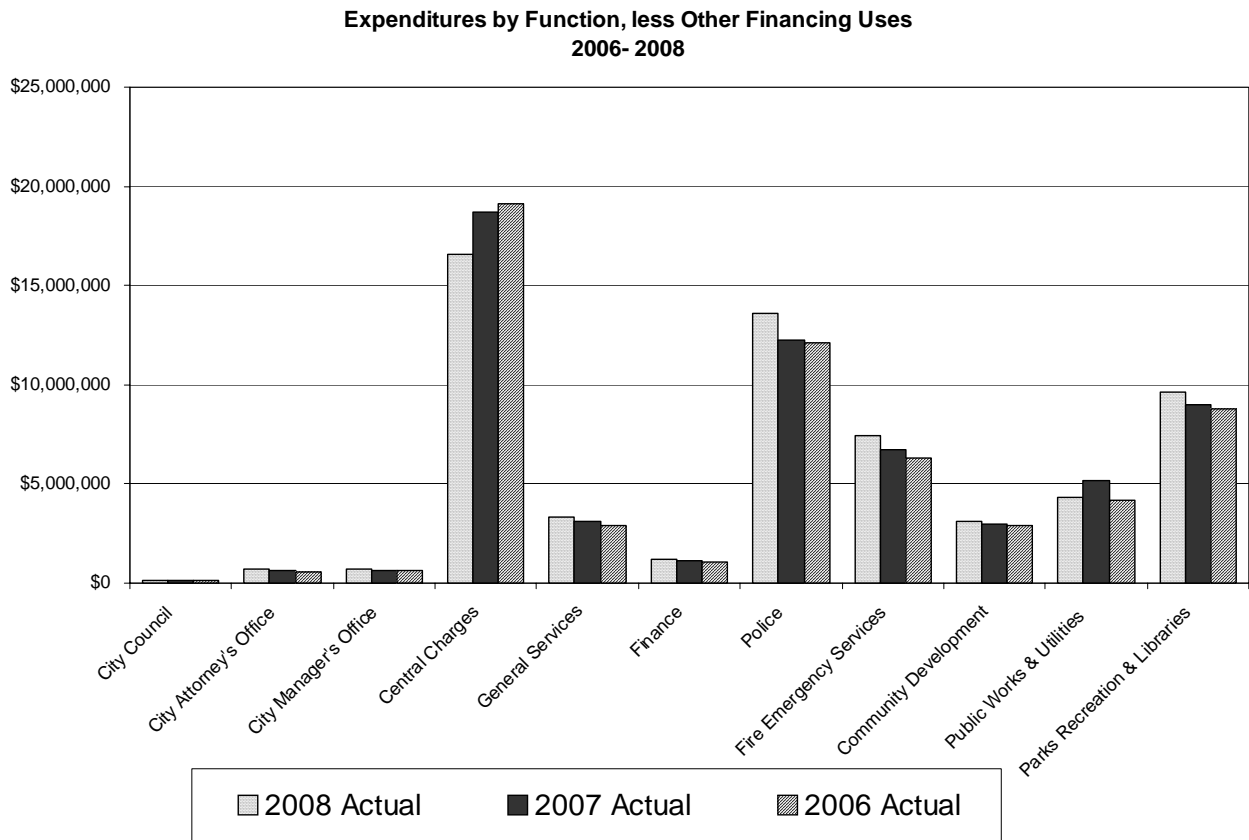
**General Fund Revenues without Transfers, Carryover, and Other Financing Sources
2006 - 2008**



Increases in General Fund revenue categories are explained as follows:

- Taxes reflects a timing difference between years for property tax distributions by Adams County
- Recreation Services reflects seasonal flows for summer activities at City recreation facilities
- Miscellaneous reflects a reimbursement from Thornton relating to the 144th Avenue bridge construction IGA
- Leases reflects rental income for the former police building at 88th Avenue and Sheridan Boulevard

The following chart identifies where the City is focusing its resources. The chart shows year-to-date spending for 2006 –2008.

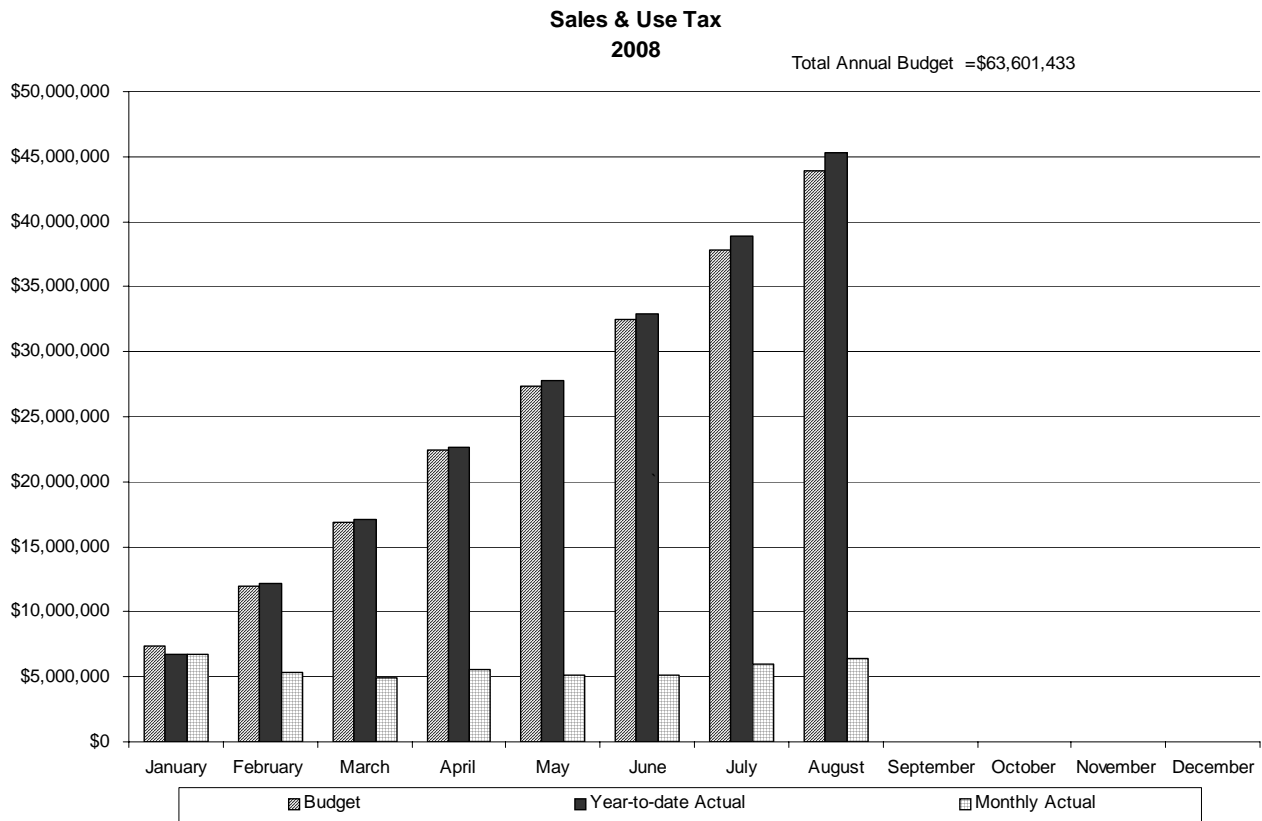


In 2008, Central Charges expenditures were less than in prior years due to a variance in the annual carryover appropriation of transfers to the General Capital Improvement Fund. Police and Fire expenditures are higher than normal in part because of personnel services relating to the Democratic National Convention and other special assignments (most of which the City will be reimbursed).

Sales and Use Tax Funds (Sales & Use Tax Fund and Parks Open Space and Trails Sales & Use Tax Fund)

These funds are the repositories for the 3.85% City Sales & Use Tax for the City. The Sales & Use Tax Fund provides monies for the General Fund, the General Capital Improvement Fund, the Debt Service Fund and the Heritage Golf Course Fund. The Parks, Open Space, and Trails Sales & Use Tax Fund revenues are pledged to meet debt service on the POST bonds, buy open space land, and make park improvements on a pay-as-you-go basis. The Public Safety Tax (PST) is a 0.6% sales and use tax to be used to fund public safety-related expenses.

This chart indicates how the City’s Sales and Use Tax revenues are being collected on a monthly basis. This chart does not include Open Space Sales & Use Tax.

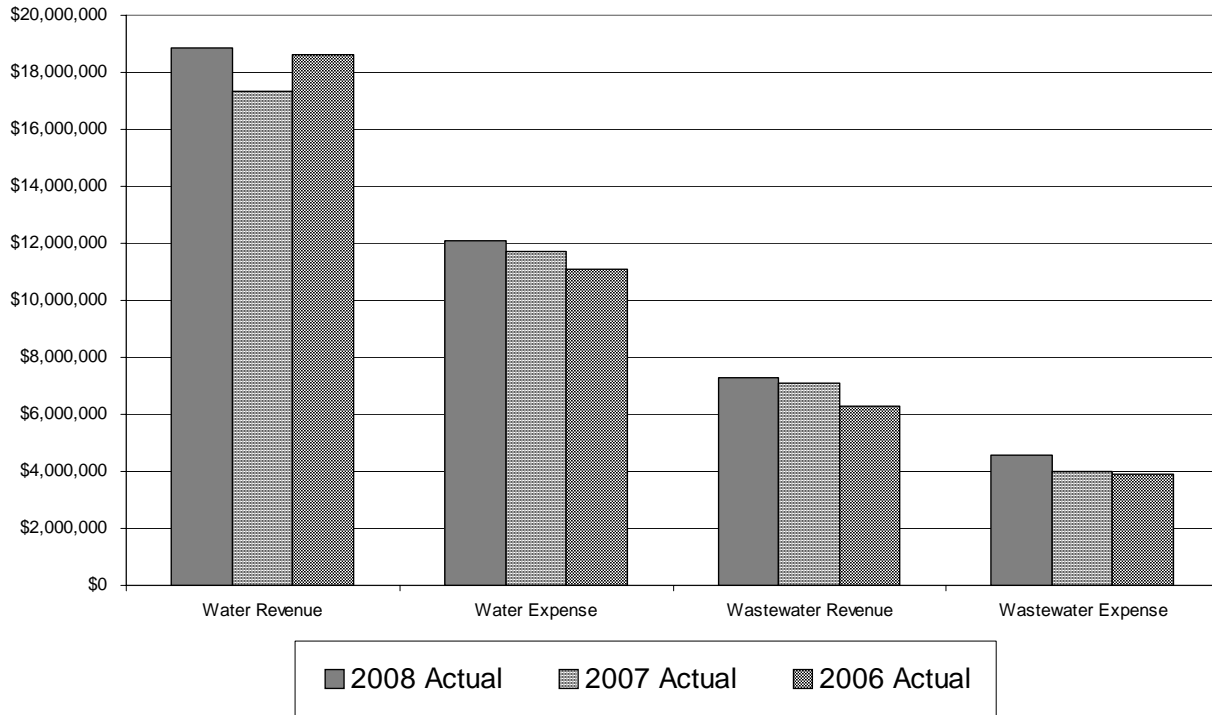


Water, Wastewater and Storm Water Drainage Funds (The Utility Enterprise)

This fund reflects the operating results of the City’s water, wastewater and storm water systems. It is important to note that net operating revenues are used to fund capital projects and reserves.

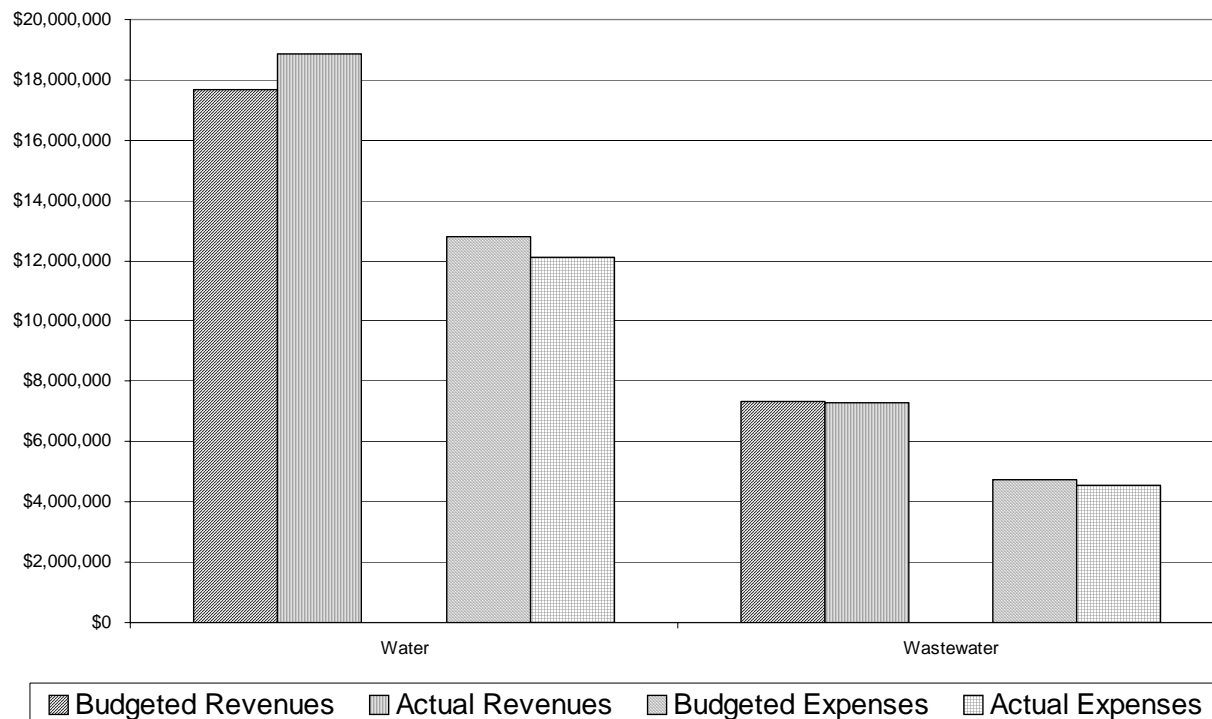
These graphs represent the segment information for the Water and Wastewater funds.

**Water and Wastewater Funds
Operating Revenue and Expenses 2006-2008**



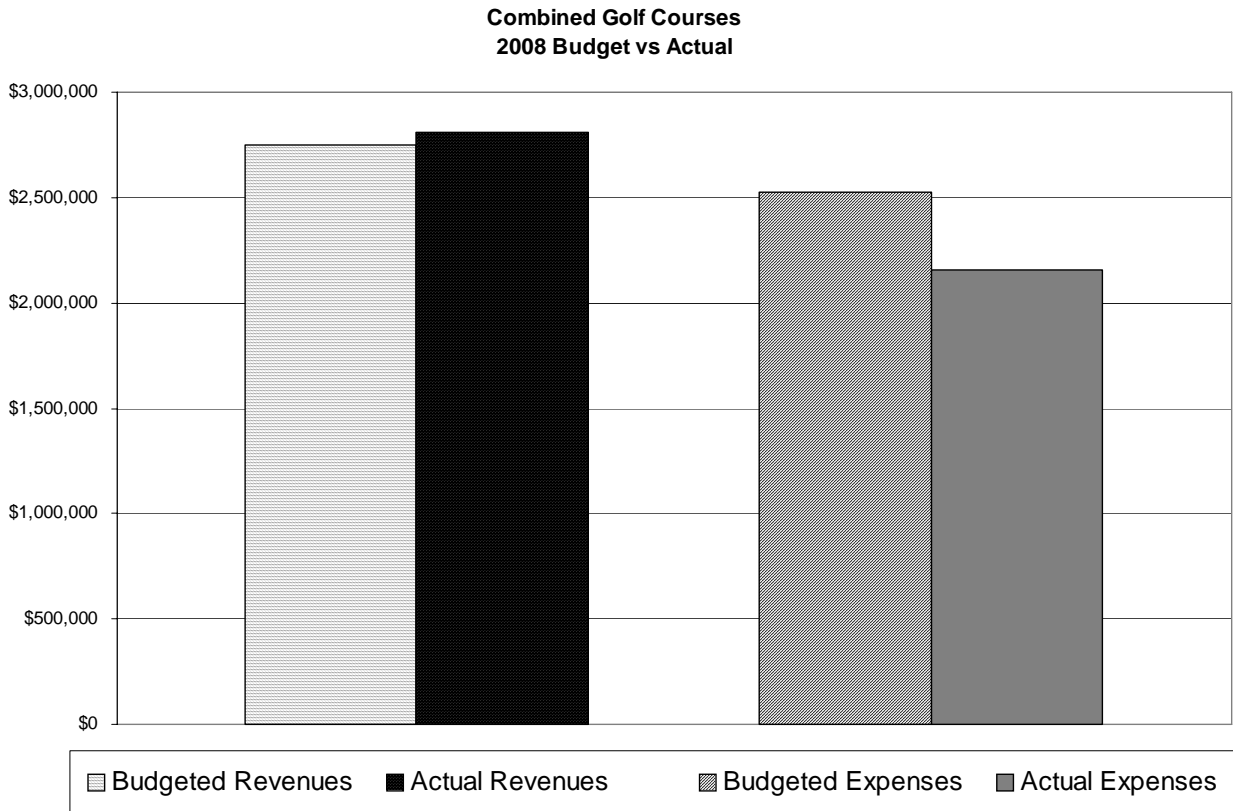
Fluctuation in water revenue between years reflects the effect of weather variations on water consumption.

**Water and Wastewater Funds
2008 Operating Budget vs Actual**

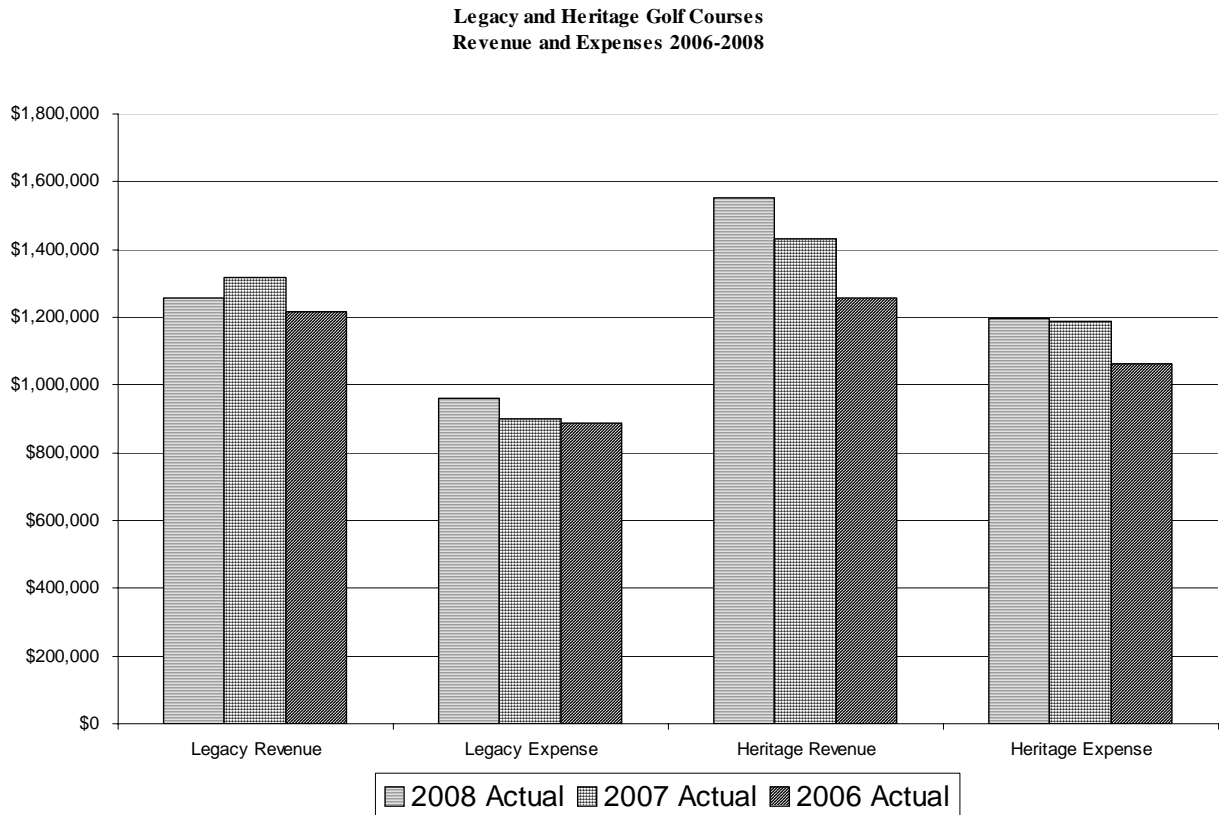


Golf Course Enterprise (Legacy and Heritage Golf Courses)

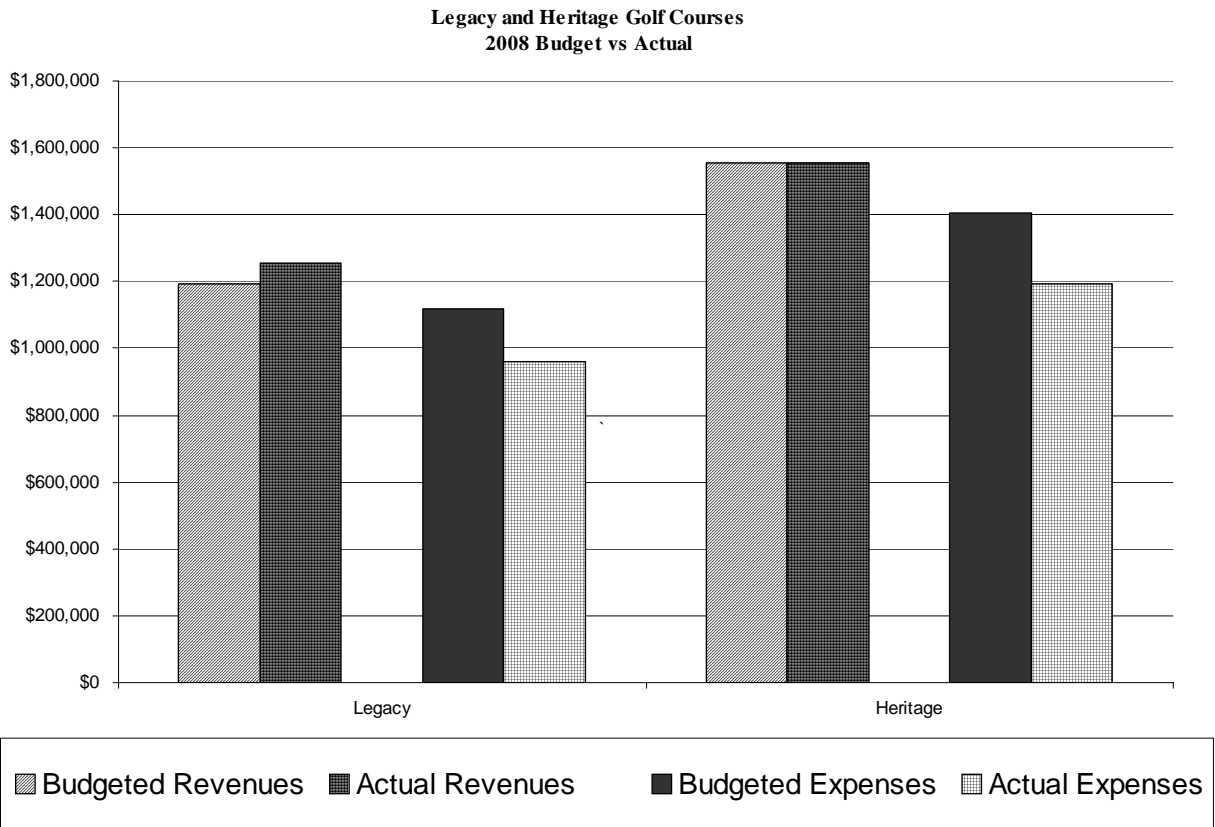
This enterprise reflects the operations of the City's two municipal golf courses.



The following graphs represent the information for each of the golf courses.



A one time Other Financing Source and use of \$582,144 for a lease purchase of golf carts, was omitted from 2006 Heritage revenues and expenses for comparison purposes. One time inter-fund transfers from the General Fund for the write off of inter-fund loans in the amounts of \$521,678 and \$228,322 for Heritage and Legacy, respectively, have been omitted from 2006 revenues for comparison purposes.



Respectfully submitted,

J. Brent McFall
City Manager

Attachments

**City of Westminster
Financial Report
For Eight Months Ending August 31, 2008**

Description General Fund	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Revenues and Carryover						
Taxes	5,012,710	4,764,856		4,740,225	-24,631	99.5%
Licenses & Permits	1,575,000	1,090,815	(1)	1,599,779	508,964	146.7%
Intergovernmental Revenue	4,842,280	3,164,609		3,252,833	88,224	102.8%
Recreation Services	5,689,173	3,844,683		4,400,367	555,684	114.5%
Other Services	8,574,968	5,218,406		5,515,301	296,895	105.7%
Fines	2,353,275	1,555,515		1,310,924	-244,591	84.3%
Interest Income	500,000	333,333		314,591	-18,742	94.4%
Misc	1,742,029	633,008	(2)	1,024,829	391,821	161.9%
Leases	1,697,251	894,001		912,929	18,928	102.1%
Interfund Transfers	60,167,072	40,148,094		40,148,094	0	100.0%
Sub-total Revenues	<u>92,153,758</u>	<u>61,647,320</u>		<u>63,219,872</u>	<u>1,572,552</u>	<u>102.6%</u>
Carryover	4,420,614	4,420,614		4,420,614	0	100.0%
Revenues and Carryover	<u>96,574,372</u>	<u>66,067,934</u>		<u>67,640,486</u>	<u>1,572,552</u>	<u>102.4%</u>
Expenditures						
City Council	208,772	132,526		124,407	-8,119	93.9%
City Attorney's Office	1,105,473	756,853		733,006	-23,847	96.8%
City Manager's Office	1,191,924	795,409		723,790	-71,619	91.0%
Central Charges	28,220,015	16,963,169		16,573,649	-389,520	97.7%
General Services	5,357,775	3,508,110		3,344,501	-163,609	95.3%
Finance	1,897,729	1,292,786		1,193,083	-99,703	92.3%
Police	20,699,495	14,076,388		13,604,428	-471,960	96.6%
Fire Emergency Services	11,379,921	7,706,591		7,451,119	-255,472	96.7%
Community Development	4,723,775	3,207,094		3,087,750	-119,344	96.3%
Public Works & Utilities	7,170,255	4,491,277		4,301,266	-190,011	95.8%
Parks, Recreation & Libraries	14,619,238	9,796,855		9,596,847	-200,008	98.0%
Total Expenditures	<u>96,574,372</u>	<u>62,727,058</u>		<u>60,733,846</u>	<u>-1,993,212</u>	<u>96.8%</u>
Revenues and Carryover Over(Under) Expenditures	<u>0</u>	<u>3,340,876</u>		<u>6,906,640</u>	<u>3,565,764</u>	

(1) Reflects commercial building permit activity in the North Huron Urban Renewal Area

(2) Reflects reimbursement from the City of Thornton for 144th Avenue Bridge IGA

**City of Westminster
Financial Report
For Eight Months Ending August 31, 2008**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Sales and Use Tax Fund						
Revenues and Carryover						
Sales Tax						
Sales Tax Returns	41,420,167	28,332,669		28,520,776	188,107	100.7%
Sales Tx Audit Revenues	684,000	513,498		469,551	-43,947	91.4%
S-T Rev. STX	<u>42,104,167</u>	<u>28,846,167</u>		<u>28,990,327</u>	144,160	100.5%
Use Tax						
Use Tax Returns	8,811,551	5,358,157		5,965,309	607,152	111.3%
Use Tax Audit Revenues	761,782	537,056		705,497	168,441	131.4%
S-T Rev. UTX	<u>9,573,333</u>	<u>5,895,213</u>		<u>6,670,806</u>	775,593	113.2%
Total STX and UTX	<u><u>51,677,500</u></u>	<u><u>34,741,380</u></u>		<u><u>35,661,133</u></u>	919,753	102.6%
Public Safety Tax						
PST Tax Returns	11,647,649	7,730,956		8,033,973	303,017	103.9%
PST Audit Revenues	126,284	81,789		234,873	153,084	287.2%
Total Rev. PST	<u>11,773,933</u>	<u>7,812,745</u>		<u>8,268,846</u>	456,101	105.8%
Total Interest Income	150,000	100,000		146,247	46,247	146.2%
Carryover	1,238,917	1,238,917		1,238,917	0	100.0%
Total Revenues and Carryover	<u>64,840,350</u>	<u>43,893,042</u>		<u>45,315,143</u>	1,422,101	103.2%
Expenditures						
Central Charges	<u>64,840,350</u>	<u>43,639,872</u>		<u>43,639,872</u>	0	100.0%
Revenues and Carryover Over(Under) Expenditures	<u>0</u>	<u>253,170</u>		<u>1,675,271</u>	<u>1,422,101</u>	

**City of Westminster
Financial Report
For Eight Months Ending August 31, 2008**

Description POST Fund	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Revenues and Carryover						
Sales & Use Tax	4,897,190	3,260,238		3,446,849	186,611	105.7%
Interest Income	60,000	40,000		32,663	-7,337	81.7%
Sale of Assets	150,000	150,000		150,000	0	100.0%
Miscellaneous	88,832	59,221		56,444	-2,777	95.3%
Sub-total Revenues	<u>5,196,022</u>	<u>3,509,459</u>		<u>3,685,956</u>	<u>176,497</u>	<u>105.0%</u>
Carryover	<u>1,234,737</u>	<u>1,234,737</u>		<u>1,234,737</u>	<u>0</u>	<u>100.0%</u>
Total Revenues and Carryover	<u>6,430,759</u>	<u>4,744,196</u>		<u>4,920,693</u>	<u>176,497</u>	<u>103.7%</u>
Expenditures						
Central Charges	6,091,667	4,088,908		3,608,113	-480,795	88.2%
Park Services	339,092	225,057		208,946	-16,111	92.8%
	<u>6,430,759</u>	<u>4,313,965</u>		<u>3,817,059</u>	<u>-496,906</u>	<u>88.5%</u>
Over(Under) Expenditures	<u>0</u>	<u>430,231</u>		<u>1,103,634</u>	<u>673,403</u>	

**City of Westminster
Financial Report
For Eight Months Ending August 31, 2008**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Water and Wastewater Fund-Combined						
Operating Revenues						
License & Permits	70,000	46,667	(1)	65,990	19,323	141.4%
Rates and Charges	37,661,877	24,771,873		25,896,086	1,124,213	104.5%
Miscellaneous	311,414	207,610		214,866	7,256	103.5%
Total Operating Revenues	38,043,291	25,026,150		26,176,942	1,150,792	104.6%
Operating Expenses						
Central Charges	5,735,227	3,823,484		3,750,412	(73,072)	98.1%
Finance	649,035	408,243		389,341	(18,902)	95.4%
Public Works & Utilities	19,648,959	11,540,495		10,814,043	(726,452)	93.7%
Information Technology	2,727,474	1,767,403		1,698,101	(69,302)	96.1%
Total Operating Expenses	28,760,695	17,539,625		16,651,897	(887,728)	94.9%
Operating Income (Loss)	9,282,596	7,486,525		9,525,045	2,038,520	
Other Revenue and Expenses						
Tap Fees	9,925,000	6,646,775	(1)	7,999,315	1,352,540	120.3%
Interest Income	1,550,000	1,033,333		1,133,616	100,283	109.7%
Interfund Transfers	10,160,069	8,019,710		8,019,710	0	100.0%
Sale of Assets	0	0		1,157,902	1,157,902	N/A
Carryover	2,632,317	2,632,317		2,632,317	0	100.0%
Debt Service	(6,308,662)	(2,503,320)		(2,503,320)	0	100.0%
Reserve Transfer	(1,942,327)	(1,942,327)		(1,942,327)	0	100.0%
Total Other Revenue (Expenses)	16,016,397	13,886,488		16,497,213	2,610,725	118.8%
Increase (Decrease) in Net Assets	25,298,993	21,373,013	(2)	26,022,258	4,649,245	

(1) Reflects significant development activity in the North Huron Urban Renewal Area

(2) Increase in Net Assets available for Capital Projects and Reserves

**City of Westminster
Financial Report
For Eight Months Ending August 31, 2008**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Water Fund						
Operating Revenues						
License & Permits	70,000	46,667	(1)	65,990	19,323	141.4%
Rates and Charges	26,597,850	17,449,537		18,588,768	1,139,231	106.5%
Miscellaneous	301,414	200,943		214,853	13,910	106.9%
Total Operating Revenues	26,969,264	17,697,147		18,869,611	1,172,464	106.6%
Operating Expenses						
Central Charges	3,997,052	2,664,701		2,634,472	(30,229)	98.9%
Finance	649,035	408,243		389,341	(18,902)	95.4%
Public Works & Utilities	12,870,063	7,940,064		7,380,415	(559,649)	93.0%
Information Technology	2,727,474	1,767,403		1,698,101	(69,302)	96.1%
Total Operating Expenses	20,243,624	12,780,411		12,102,329	(678,082)	94.7%
Operating Income (Loss)	6,725,640	4,916,736		6,767,282	1,850,546	
Other Revenue and Expenses						
Tap Fees	7,500,000	4,958,900	(1)	5,942,473	983,573	119.8%
Interest Income	900,000	600,000		790,882	190,882	131.8%
Interfund Transfers	8,887,770	7,171,511		7,171,511	0	100.0%
Sale of Assets	0	0		1,157,902	1,157,902	N/A
Carryover	1,616,781	1,616,781		1,616,781	0	100.0%
Debt Service	(4,801,939)	(1,893,526)		(1,893,526)	0	100.0%
Reserve Transfer	(1,554,259)	(1,554,259)		(1,554,259)	0	100.0%
Total Other Revenues (Expenses)	12,548,353	10,899,407		13,231,764	2,332,357	121.4%
Increase (Decrease) in Net Assets	19,273,993	15,816,143	(2)	19,999,046	4,182,903	

(1) Reflects significant development activity in the North Huron Urban Renewal Area

(2) Increase in Net Assets available for Capital Projects and Reserves

**City of Westminster
Financial Report
For Eight Months Ending August 31, 2008**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Wastewater Fund						
Operating Revenues						
Rates and Charges	11,064,027	7,322,336		7,307,318	(15,018)	99.8%
Miscellaneous	10,000	6,667		13	(6,654)	0.2%
Total Operating Revenues	<u>11,074,027</u>	<u>7,329,003</u>		<u>7,307,331</u>	<u>(21,672)</u>	<u>99.7%</u>
Operating Expenses						
Central Charges	1,738,175	1,158,783		1,115,940	(42,843)	96.3%
Public Works & Utilities	6,778,896	3,600,431		3,433,628	(166,803)	95.4%
Total Operating Expenses	<u>8,517,071</u>	<u>4,759,214</u>		<u>4,549,568</u>	<u>(209,646)</u>	<u>95.6%</u>
Operating Income (Loss)	<u>2,556,956</u>	<u>2,569,789</u>		<u>2,757,763</u>	<u>187,974</u>	
Other Revenue and Expenses						
Tap Fees	2,425,000	1,687,875	(1)	2,056,842	368,967	121.9%
Interest Income	650,000	433,333		342,734	(90,599)	79.1%
Interfund Transfers	1,272,299	848,199		848,199	0	100.0%
Carryover	1,015,536	1,015,536		1,015,536	0	100.0%
Debt Service	(1,506,723)	(609,794)		(609,794)	0	100.0%
Reserver Transfer	(388,068)	(388,068)		(388,068)	0	100.0%
Total Other Revenues (Expenses)	<u>3,468,044</u>	<u>2,987,081</u>		<u>3,265,449</u>	<u>278,368</u>	<u>109.3%</u>
Increase (Decrease) in Net Assets	<u>6,025,000</u>	<u>5,556,870</u>	(2)	<u>6,023,212</u>	<u>466,342</u>	

(1) Reflects signifiant development activity in the North Huron Urban Renewal Area

(2) Increase in Net Assets available for Capital Projects and Reserves

**City of Westminster
Financial Report
For Eight Months Ending August 31, 2008**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Storm Drainage Fund						
Revenues and Carryover						
Charges for Services	1,840,000	1,226,667		1,298,621	71,954	105.9%
Interest Income	0	0		54,858	54,858	N/A
Miscellaneous	0	0		4,562	4,562	N/A
Sub-total Storm Drainage Revenues	<u>1,840,000</u>	<u>1,226,667</u>		<u>1,358,041</u>	<u>131,374</u>	<u>110.7%</u>
Carryover	<u>258,636</u>	<u>258,636</u>		<u>258,636</u>	<u>0</u>	<u>100.0%</u>
Total Revenues and Carryover	<u>2,098,636</u>	<u>1,485,303</u>		<u>1,616,677</u>	<u>131,374</u>	<u>108.8%</u>
Expenses						
General Services	96,860	39,519		30,368	(9,151)	76.8%
Community Development	123,740	81,545		80,773	(772)	99.1%
Park Services	178,000	118,667		99,285	(19,382)	83.7%
Public Works & Utilities	<u>360,400</u>	<u>208,311</u>		<u>153,950</u>	<u>(54,361)</u>	<u>73.9%</u>
Total Expenses	<u>759,000</u>	<u>448,042</u>		<u>364,376</u>	<u>(83,666)</u>	<u>81.3%</u>
Increase (Decrease) in Net Assets	<u>1,339,636</u>	<u>1,037,261</u>	(1)	<u>1,252,301</u>	<u>215,040</u>	

(1) Increase in Net Assets available for Capital Projects and Reserves

**City of Westminster
Financial Report
For Eight Months Ending August 31, 2008**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Golf Courses Combined						
Revenues						
Carryover	0	0		0	0	N/A
Charges for Services	3,226,101	2,436,771		2,442,544	5,773	100.2%
Interest Income	0	0		15,669	15,669	N/A
Interfund Transfers	467,150	311,433		351,404	39,971	112.8%
Total Revenues	<u>3,693,251</u>	<u>2,748,204</u>		<u>2,809,617</u>	<u>61,413</u>	<u>102.2%</u>
Expenses						
Central Charges	210,500	137,559		127,905	(9,654)	93.0%
Recreation Facilities	2,982,436	2,243,675		1,883,050	(360,625)	83.9%
Total Expenses	<u>3,192,936</u>	<u>2,381,234</u>		<u>2,010,955</u>	<u>(370,279)</u>	<u>84.5%</u>
Operating Income (Loss)	500,315	366,970		798,662	431,692	
Debt Service Expense	500,315	142,658		142,658	0	100.0%
Revenues Over(Under) Expenditures	<u>0</u>	<u>224,312</u>		<u>656,004</u>	<u>431,692</u>	

**City of Westminster
Financial Report
For Eight Months Ending August 31, 2008**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Pro rated Budget	% Budget
Legacy Ridge Fund						
Revenues						
Carryover	(117,732)	(78,488)		(78,488)	0	100.0%
Charges for Services	1,661,452	1,272,672		1,319,374	46,702	103.7%
Interest Income	0	0		15,669	15,669	N/A
Total Revenues	1,543,720	1,194,184		1,256,555	62,371	105.2%
Expenses						
Central Charges	107,700	70,328		62,575	(7,753)	89.0%
Recreation Facilities	1,436,020	1,048,295		896,755	(151,540)	85.5%
Total Expenses	1,543,720	1,118,623		959,330	(159,293)	85.8%
Revenues Over(Under) Expenditures	0	75,561		297,225	221,664	

**City of Westminster
Financial Report
For Eight Months Ending August 31, 2008**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Heritage at Westmoor Fund						
Revenues						
Carryover	117,732	78,488		78,488	0	100.0%
Charges for Services	1,564,649	1,164,099		1,123,170	(40,929)	96.5%
Interfund Transfers	467,150	311,433		351,404	39,971	112.8%
Total Revenues	<u>2,149,531</u>	<u>1,554,020</u>		<u>1,553,062</u>	<u>(958)</u>	<u>99.9%</u>
Expenses						
Central Charges	102,800	67,231		65,330	(1,901)	97.2%
Recreation Facilities	1,546,416	1,195,380		986,295	(209,085)	82.5%
Sub-Total Expenses	<u>1,649,216</u>	<u>1,262,611</u>		<u>1,051,625</u>	<u>(210,986)</u>	<u>83.3%</u>
Operating Income	500,315	291,409		501,437	210,028	
Debt Service Expense	<u>500,315</u>	<u>142,658</u>		<u>142,658</u>	<u>0</u>	<u>100.0%</u>
Revenues over (under) Expenditures	<u>0</u>	<u>148,752</u>		<u>358,780</u>	<u>210,028</u>	

CITY OF WESTMINSTER
 GENERAL RECEIPTS BY CENTER
 MONTH and YEAR-TO-DATE AUGUST 2008

Center Location Major Tenant	/----- Current Month -----/			/----- Last Year -----/			/--- %Change ---/		
	General Sales	General Use	Total	General Sales	General Use	Total	Sales	Use	Total
WESTFIELD SHOPPING CENTER NW CORNER 92ND & SHER WALMART	356,199	4,698	360,897	386,889	1,571	388,460	-8	199	-7
THE ORCHARD 144TH & I-25 JC PENNEY	231,210	44,291	275,501	101,608	1,303	102,911	128	3298	168
INTERCHANGE BUSINESS CENTER SW CORNER 136TH & I-25 WALMART 136TH	227,032	1,499	228,532	186,341	986	187,327	22	52	22
WESTMINSTER MALL 88TH & SHERIDAN 4 DEPARTMENT STORES	218,678	2,456	221,134	260,783	3,601	264,383	-16	-32	-16
BROOKHILL I & II N SIDE 88TH OTIS TO WADS HOME DEPOT	200,833	2,138	202,972	207,360	808	208,168	-3	165	-3
CITY CENTER MARKETPLACE NE CORNER 92ND & SHERIDAN CIRCUIT CITY	196,963	2,070	199,033	222,199	1,974	224,173	-11	5	-11
SHOPS AT WALNUT CREEK 104TH & REED TARGET	192,032	2,189	194,221	164,681	2,074	166,755	17	6	16
SHOENBERG CENTER SW CORNER 72ND & SHERIDAN WALMART 72ND	175,655	216	175,870	241	29	270	72874	638	65052
PROMENADE SOUTH/NORTH S/N SIDES OF CHURCH RANCH BLVD SHANE/AMC	133,746	16,188	149,934	151,871	20,813	172,684	-12	-22	-13
SHERIDAN CROSSING SE CORNER 120TH & SHER KOHL'S	106,627	1,271	107,898	104,576	1,372	105,948	2	-7	2
NORTH PARK PLAZA SW CORNER 104TH & FEDERAL KING SOOPERS	104,996	407	105,403	94,228	478	94,706	11	-15	11
VILLAGE AT THE MALL S SIDE 88TH DEPEW-HARLAN TOYS 'R US	99,341	314	99,656	93,613	447	94,060	6	-30	6
STANDLEY SHORES CENTER SW CORNER 100TH & WADS KING SOOPERS	68,206	220	68,426	62,070	108	62,178	10	105	10
NORTHWEST PLAZA SW CORNER 92 & HARLAN COSTCO	44,941	21,230	66,172	346,713	792	347,505	-87	2580	-81
WESTMINSTER CROSSING 136TH & I-25	61,557	120	61,677	68,771	929	69,700	-10	-87	-12

CITY OF WESTMINSTER
 GENERAL RECEIPTS BY CENTER
 MONTH and YEAR-TO-DATE AUGUST 2008

Center Location Major Tenant	/----- Current Month -----/			/----- Last Year -----/			/--- %Change ---/		
	General Sales	General Use	Total	General Sales	General Use	Total	Sales	Use	Total
LOWE'S ROCKY MOUNTAIN PLAZA SW CORNER 88TH & SHER GUITAR STORE	58,162	259	58,422	60,385	1,015	61,400	-4	-74	-5
CHURCH RANCH CORPORATE CENTER CHURCH RANCH BOULEVARD LA QUINTA	11,041	42,091	53,133	11,575	11,171	22,746	-5	277	134
STANDLEY LAKE MARKETPLACE NE CORNER 99TH & WADSWORTH SAFEWAY	48,829	193	49,022	54,187	115	54,302	-10	67	-10
WILLOW RUN 128TH & ZUNI SAFEWAY	46,772	197	46,969	50,753	54	50,808	-8	262	-8
VILLAGE AT PARK CENTRE NW CORNER 120TH & HURON CB & POTTS	44,318	2,371	46,689	41,774	1,907	43,682	6	24	7
LUCENT/KAISER CORRIDOR 112-120 HURON - FEDERAL LUCENT TECHNOLOGY	6,276	33,902	40,178	6,977	23,645	30,622	-10	43	31
WESTMINSTER PLAZA FEDERAL-IRVING 72ND-74TH SAFEWAY	38,285	336	38,621	55,288	264	55,552	-31	28	-30
SUMMIT SQUARE NE CORNER 84TH & FED SAFEWAY	36,279	1,209	37,488	22,823	67	22,890	59	1718	64
ELWAY/DOUGLAS CORRIDOR NE CORNER 104TH & FED ELWAY MOTORS	35,521	341	35,862	28,729	526	29,255	24	-35	23
FEDERAL STRIP W SIDE FEDERAL 68TH-72ND BOVAS	27,160	2,688	29,848	29,762	17	29,779	-9	15629	0
	2,770,663	182,894	2,953,557	2,814,199	76,066	2,890,264	-2	140	2

CITY OF WESTMINSTER
 GENERAL RECEIPTS BY CENTER
 MONTH and YEAR-TO-DATE AUGUST 2008

Center Location Major Tenant	/----- YTD 2008 -----/			/----- YTD 2007 -----/			/--- %Change ---/		
	General Sales	General Use	Total	General Sales	General Use	Total Sales	Use	Total	
WESTFIELD SHOPPING CENTER NW CORNER 92ND & SHER WALMART	3,230,665	19,912	3,250,578	3,361,518	16,669	3,378,187	-4	19	-4
WESTMINSTER MALL 88TH & SHERIDAN 4 DEPARTMENT STORES	2,337,125	51,917	2,389,042	2,968,957	29,795	2,998,752	-21	74	-20
SHOPS AT WALNUT CREEK 104TH & REED TARGET	1,730,323	13,356	1,743,679	1,472,174	15,412	1,487,585	18	-13	17
INTERCHANGE BUSINESS CENTER SW CORNER 136TH & I-25 WALMART 136TH	1,720,596	81,234	1,801,830	1,072,267	50,525	1,122,792	60	61	60
CITY CENTER MARKETPLACE NE CORNER 92ND & SHERIDAN CIRCUIT CITY	1,693,266	19,136	1,712,402	1,999,796	13,442	2,013,239	-15	42	-15
THE ORCHARD 144TH & I-25 JC PENNEY	1,586,846	248,476	1,835,322	958,514	11,357	969,872	66	2088	89
BROOKHILL I & II N SIDE 88TH OTIS TO WADS HOME DEPOT	1,537,593	17,145	1,554,739	1,509,894	14,100	1,523,994	2	22	2
NORTHWEST PLAZA SW CORNER 92 & HARLAN COSTCO	1,534,567	25,718	1,560,285	1,729,579	8,949	1,738,528	-11	187	-10
PROMENADE SOUTH/NORTH S/N SIDES OF CHURCH RANCH BLVD SHANE/AMC	1,070,317	240,959	1,311,276	1,459,427	126,532	1,585,959	-27	90	-17
SHERIDAN CROSSING SE CORNER 120TH & SHER KOHL'S	978,547	25,216	1,003,763	1,058,548	10,508	1,069,056	-8	140	-6
NORTH PARK PLAZA SW CORNER 104TH & FEDERAL KING SOOPERS	896,330	4,824	901,153	806,818	12,772	819,590	11	-62	10
VILLAGE AT THE MALL S SIDE 88TH DEPEW-HARLAN TOYS 'R US	837,643	4,613	842,256	818,068	2,579	820,647	2	79	3
STANDLEY SHORES CENTER SW CORNER 100TH & WADS KING SOOPERS	580,795	6,205	587,000	550,858	1,824	552,682	5	240	6
WESTMINSTER CROSSING 136TH & I-25 LOWE'S	520,092	2,421	522,513	556,186	5,806	561,992	-6	-58	-7
SHOENBERG CENTER SW CORNER 72ND & SHERIDAN	513,377	4,934	518,311	4,066	37	4,103	12526	13166	12532

CITY OF WESTMINSTER
 GENERAL RECEIPTS BY CENTER
 MONTH and YEAR-TO-DATE AUGUST 2008

Center Location Major Tenant	/----- YTD 2008 -----/ General Sales	----- General Use ----- General Use	Total	/----- YTD 2007 -----/ General Sales	----- General Use ----- General Use	Total Sales	/--- %Change ---/ Use Total		
WALMART 72ND ROCKY MOUNTAIN PLAZA SW CORNER 88TH & SHER GUITAR STORE	490,438	2,585	493,023	485,976	5,026	491,002	1	-49	0
WESTMINSTER PLAZA FEDERAL-IRVING 72ND-74TH SAFEWAY	424,718	26,116	450,834	428,982	1,830	430,812	-1	1327	5
STANDLEY LAKE MARKETPLACE NE CORNER 99TH & WADSWORTH SAFEWAY	414,312	1,724	416,035	430,816	1,919	432,735	-4	-10	-4
WILLOW RUN 128TH & ZUNI SAFEWAY	377,833	2,808	380,641	417,659	1,554	419,213	-10	81	-9
VILLAGE AT PARK CENTRE NW CORNER 120TH & HURON CB & POTTS	342,907	9,706	352,613	321,953	13,985	335,938	7	-31	5
ELWAY/DOUGLAS CORRIDOR NE CORNER 104TH & FED ELWAY MOTORS	240,248	4,236	244,484	234,311	15,434	249,745	3	-73	-2
STANDLEY PLAZA SW CORNER 88TH & WADS WALGREENS	204,235	4,423	208,658	201,372	7,650	209,022	1	-42	0
BROOKHILL IV E SIDE WADS 90TH-92ND HANCOCK FABRICS	202,202	6,131	208,333	125,605	1,466	127,072	61	318	64
BOULEVARD SHOPS 94TH & WADSWORTH CORRIDOR AMERICAN FURNITURE WAREHOUSE	199,879	978	200,857	213,472	3,616	217,088	-6	-73	-7
NORTHVIEW 92ND AVE YATES TO SHERIDAN SALTGRASS	198,726	20,699	219,425	266,159	5,755	271,914	-25	260	-19
	23,863,578	845,474	24,709,052	23,452,975	378,544	23,831,519	2	123	4



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
September 22, 2008



SUBJECT: 2009 Property and Liability Excess Insurance Renewal

Prepared By: Martee Erichson, Risk Management Officer

Recommended City Council Action

Authorize the City Manager to enter into an agreement with the Colorado Intergovernmental Risk Sharing Agency for the purchase of excess stop loss insurance, and for claims management and other administrative services in the amount of \$451,148 along with a 10% contingency amount (\$45,000) in the event the final quote comes in higher.

Summary Statement

- City Council action is requested to authorize the annual expenditure for the 2009 contribution to the Colorado Intergovernmental Risk Sharing Agency (CIRSA) for property and liability insurance coverage and related services.
- The City annually purchases insurance to cover assets (buildings, vehicles, equipment, and parks) and to protect itself from liability exposure resulting from claims brought against the City and its employees. This insurance is purchased through CIRSA. The preliminary quote from CIRSA for 2009 for property and liability coverage is \$451,148, which represents a contribution of \$459,644 minus a Loss Control Standards Audit credit of \$8,496.
- The final cost of coverage in 2008, before credits, was \$479,538. The preliminary quote for next year of \$459,644 represents a decrease in contribution of \$19,894 (4%). In general the reduction is due to the benefits of pooling. CIRSA is closer to reaching its target surplus balance to cover any catastrophic losses the pool might experience and it continues to be a favorable insurance market for land-locked properties. Another factor in the decrease in premium is the City's good individual loss experience.
- As has been past practice, City Council is being asked to authorize this preliminary quote from CIRSA and continuation in the pool so that CIRSA can determine final contributions based on membership response in time for the start of the 2009 policy period.
- Earlier this year, the City retained the firm of Poms and Associates to conduct a review of both the City's property and liability coverages available through CIRSA and, more generally, the City's overall risk management efforts. Based on its review, the consultant is recommending that the City continue its participation in the CIRSA property and liability insurance pool.

Expenditure Required: Not to exceed \$496,148

Source of Funds: Property and Liability Self Insurance Fund

Policy Issue

Should the City continue to use a municipal insurance pool for placement of its property and liability coverage?

Alternative

City Council could reject Staff's recommendations to utilize CIRSA for this insurance coverage and direct Staff to seek proposals on the open insurance market. Staff does not recommend this action at this time based on the results of the thorough study of the City's current insurance program conducted by a contracted risk management consultant.

Background Information

The City of Westminster has been a member of the Colorado Intergovernmental Risk Sharing Agency (CIRSA) since its inception in 1982. Since that time, this intergovernmental risk sharing pool has grown from its original 18 cities to 232 members in 2008. CIRSA provides property and liability coverage that is tailored to meet municipal exposures. On January 1, 1988, the City implemented a large deductible program, electing to pay the first \$100,000 of each property claim and the first \$150,000 of each liability claim. This self insured retention was increased to \$200,000 per line of coverage in 2004 and to \$250,000 in 2007 to save on contribution costs. A reserve fund insures that funds are available to cover expenses under the deductible level in the event of a catastrophic year or a year in which multiple, large claims occur that fall within the deductible. The City's audited Property and Liability Fund balance at the end of 2007 was \$2,339,811.

The City has continued to purchase its excess property and liability coverage from CIRSA for several reasons:

- CIRSA has provided competitive quotes for its insurance
- CIRSA was established by municipalities specifically to provide insurance that meets the unique needs of Colorado cities and towns
- Unlike all brokers or private insurance companies, CIRSA does not charge commissions

The services provided by CIRSA include all claims handling, loss control, administrative services and the following excess coverage:

- Property coverage in excess of \$250,000 to \$500,500,000 (limits shared with all pool members)
- \$1,000,000 per occurrence/aggregate business interruption coverage
- Public Officials Liability coverage from \$250,000 to \$5,000,000 per occurrence and \$10,000,000 per aggregate
- Limited Police Professional Liability insurance from \$250,000 to \$5,000,000 per occurrence/aggregate
- Motor vehicle physical damage from \$250,000 to \$1,000,000 per occurrence
- Motor vehicle liability coverage from \$250,000 to \$1,500,000 per claim/occurrence
- General Liability Insurance coverage from \$250,000 to \$5,000,000 per claim/occurrence

Earlier this year, Risk Management Staff selected Poms and Associates as the consultant that would undertake a study of the City's current Property and Liability program. The consultant presented its findings to City Staff on September 9. Poms and Associates determined that although there are risks involved with being one of the largest members of an insurance pool and a few shortcomings with some lines of coverage, the City's best option at this time is to remain with CIRSA. Some of the shortcomings outlined by the consultant were limited coverage under CIRSA's Police Liability policy and the absence of an Employers Professional Liability that would cover the City for employment acts such as wrongful discharge. Risk Management Staff will be working with CIRSA to address these shortfalls or will seek supplemental coverage on the commercial insurance market. Taking the City's whole Property and Liability insurance program to the market would be costly and the consultant has assured Staff that the City is getting a very good price for the coverage CIRSA provides.

Currently, through on-going employee safety training and other loss control practices initiated by the individual departments and the Risk Management staff, the efforts of the Citywide Safety Committee and the City's effective working relationship with CIRSA claims adjusting staff, Staff continues to improve on the success of the loss control program. As noted earlier, these efforts have been recognized by the loss control credit the City received on the 2009 quote. The City's loss control activities include:

- Safety inspections of facilities
- Annual Defensive Driving, Risk Management 101, Risk Management for Supervisors and Safety 101 training classes
- Citywide Safety Committee review and analysis of all Workers' Compensation Injury Report forms involving safety failures
- The annual snowplow rodeo and training sponsored by the Public Works and Utilities Department
- Safety SPIRIT Awards incentive program

The quote for the 2009 property and liability insurance contribution is preliminary at this time. CIRSA members are being asked to approve the contribution and continuation of membership at this time so that CIRSA can calculate final contribution quotes based on all members responses. It is anticipated that final contribution quotes will be distributed in December. To avoid having to return to City Council in the event the final contributions come in higher than this preliminary quote, Staff's recommended action includes a 10% contingency factor of approximately \$45,000 with the total final contribution not to exceed \$496,148. Funds for the requested increase are available in the City's Property and Liability Fund.

The Risk Management program addresses Council's Strategic Plan goals of Financially Sustainable City Government by working to mitigate the cost of insurance to the City by maintaining a loss control program to continually improve the City's loss history and monitor the industry for more cost effective means of insuring the City's assets.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
September 22, 2008



SUBJECT: Change Order for Additional 2008 Roadway Improvements

Prepared By: Dave Cantu, Acting Street Operations Manager

Recommended City Council Action

Authorize the City Manager to execute a change order with Keene Concrete Inc. in an amount not to exceed \$300,000 for concrete replacement on arterial and major collector roadways planned for street improvements in 2009.

Summary Statement

- On March 17, 2008, City Council authorized a contract with Keene Concrete Inc. for the 2008 Concrete Replacement Project in the amount of \$636,257.
- City Council approved appropriation of fiscal year 2007 carryover funds into the fiscal year 2008 General Fund Capital Improvement Project Budget for Roadway Improvements in the amount of \$300,000 at the July 28, 2008, City Council Meeting, Item 10B.
- The change order will fund replacement of an additional 8,600 linear feet of deteriorated curbs, gutters, and sidewalks on arterial and major collector roadways scheduled for street improvements in 2009.
- Keene Concrete has agreed to perform the additional work at original bid prices.
- Deterioration of curbs, gutters, and sidewalks has accelerated over the past two severe winters.
- Performing concrete replacement now is deemed by Street Division Staff as being in the best interest of the City, in lieu of expending funds on Asphalt Pavement Rehabilitation phases of work at this time. This is due to increased oil costs associated with asphalt production of over 27% since bidding and award of contract for this type of work in April. The low bid contractor for Pavement Rehabilitation work is unable to hold original pricing for any additional work beyond the original contract and pricing is currently subject to change on a monthly basis.

Expenditure Required: \$300,000

Source of Funds: General Capital Improvement Fund – Arterial Roadway Improvements

Policy Issue

Should City Council authorize a change order to Keene Concrete Inc. for an additional 8,600 linear feet of concrete replacement on arterial and major collector streets scheduled for street improvements in 2009?

Alternative

The City could choose not to increase the 2008 Concrete Replacement Project contract for an additional 8,600 linear feet of concrete replacement and carryover CIP funding to the 2009 Roadway Improvements Projects. Staff recommends proceeding with additional concrete work now because the City can take advantage of 2008 pricing on concrete replacement already bid.

Background Information

- City Council appropriated an additional \$300,000 into the fiscal year 2008 General Fund Capital Improvement Project Budget for Roadway Improvements from fiscal year 2007 carryover funds. Street Division Staff recommends expenditure of additional CIP funding for an additional 8,600 linear feet of concrete replacement on the following arterial and major collector streets scheduled for 2009. 112th Avenue – Sheridan Boulevard to Federal Boulevard, Bradburn Boulevard – 72nd Avenue to Turnpike Drive, Stratford Lakes Drive – 112th Avenue to Federal Boulevard, Independence Drive – 88th Avenue to Wadsworth Parkway, Johnson Street – 108th Avenue to 104th Avenue, and 104th Avenue – Wadsworth Parkway to Johnson Street.
- Extreme winter conditions during the 2006/2007 and 2007/2008 winters have accelerated deterioration of curbs, gutter, and sidewalks throughout the City.
- Expending the carryover funding on concrete replacement of the described arterial and major collector street listing now, in advance of the planned 2009 projects will allow for direct start up on residential streets in 2009 and free up funds to accomplish more residential work.
- The Project manager from Keene Concrete has agreed to complete the additional work at original bid prices.
- The cost of Asphalt Pavement Rehabilitation phases of work has increased dramatically since the City's bidding and award of contract for this type of work. Current pricing is over 27% higher than original bid pricing and subject to change month to month. Availability is also an issue as is a dwindling window of ideal weather conditions for paving operations.

City Council's approval is required on this change order since the change order is greater than 5 percent and cumulative change orders are greater than 10 percent per the City's purchasing requirements, as stated in Westminster Municipal Code 15-1-7 (A).

The proposed Council action supports City Council's goals and objectives of financially sustainable city government by providing well maintained city infrastructure and facilities through road improvements; vibrant neighborhoods and commercial areas by maintaining and improving neighborhood infrastructure and housing.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
September 22, 2008



SUBJECT: US 36 and Federal Boulevard Interchange Gateway and Landscape Contract

Prepared By: Kathy Piper, Landscape Architect II
Rich Dahl, Park Services Manager

Recommended City Council Action

Authorize the City Manager to execute a contract with the low bidder, T2 Construction, in the amount of \$281,915 for the US 36 and Federal Boulevard Interchange Gateway and Landscaping and authorize a construction contingency in the amount of \$28,000 for a total project budget of \$309,915.

Summary Statement

- In 2000, the City hired the landscape architectural firm, Terrasan, to design and provide construction documents for the final landscape interchange improvements on US 36 at Federal Boulevard. These proposed landscape improvements were done in coordination with Colorado Department of Transportation's (CDOT) US 36 interchange and bridge improvements project. Community Enhancement funds were used for the design and construction drawings.
- An Intergovernmental Agreement (IGA) with CDOT was authorized by City Council in 2005. The key elements of the IGA, as they apply to portions of the project being built by the City, are maintenance of architectural features, which includes the gateway monument; maintenance of lighting for the gateway sign; and maintenance of irrigation and landscaping within the medians and interchanges.
- Bids were solicited from three reputable landscape construction companies, with T2 Construction being the lowest bidder.
- T2 Construction has successfully completed both new construction and landscape renovation landscape projects for the City in the past, most recently completing the new 92nd Avenue medians, between Sheridan Boulevard and Vance Street, and the 128th Avenue and Zuni Street medians.
- A total of \$310,000 has been designated in the General Capital Improvement Program's Community Enhancement Gateways account in 2008.
- Gateway construction and landscape work will begin in the fall of 2008. All landscape will use drought-tolerant plant materials.

Expenditure Required: \$309,915

Source of Funds: General Capital Improvement Fund -
Community Enhancement Program Gateway Funds

Policy Issue

Should the City proceed with the construction of the US 36 and Federal Boulevard Gateway?

Alternatives

1. City Council could choose to not authorize the construction bid and leave the interchanges in their current condition until a later date. Staff recommends pursuing the construction of the gateway and landscaping of the interchanges to enhance the appearance of a heavily-traveled entrance into the City.
2. City Council could choose to direct Staff to rebid the projects to try and receive a lower price. Staff does not recommend this as the firms solicited for this project have previously worked on similar City gateway projects and have a proven track record.

Background Information

The South Westminster Urban Renewal Plan, adopted by City Council in 1988, recommended significant upgrades to Federal Boulevard and its interchange with US 36. Due primarily to the insufficiency of the Federal Boulevard bridge, the Colorado Department of Transportation (CDOT) reconstructed the entire interchange. The work included a new bridge, widening and realignment of US 36 to accommodate High Occupancy Vehicle (HOV) lanes to the west of Federal Boulevard and modifications of the entry/exit ramps. In addition to these basic improvements by CDOT, an Intergovernmental Agreement was negotiated to include architectural enhancements for the new Federal Boulevard Bridge, upgrading the inadequate storm sewer that crosses underneath US 36, and upgrading the pedestrian facilities along the bridge. City Staff sought these upgrades to provide the area with a cohesive look for future redevelopment of the Westminster Square Shopping Center, provide consistency with other Westminster bridges along US 36, and improve the overall image along Westminster’s southern boundaries.

As part of the Intergovernmental Agreement developed with the City, the State also set up a \$100,000 force account for landscape improvements at the interchange. These improvements go beyond the native seeding that the State would normally do with a project of this type. The IGA also gave the City the responsibility for developing a landscape plan for the entire US 36 and Federal Boulevard interchange. The \$100,000 force account was then used to complete the portion of the plan that included the concrete medians along Federal Boulevard, grading for future gateway signage, and providing taps and mainline irrigation throughout the site.

The Intergovernmental Agreement with CDOT requires the City to maintain the improvements that the City has designed and constructed. Phase I, which was completed in the spring of 2005, consisted of installing drip irrigation in the medians at Federal Boulevard and planting drought-resistant plant material. Phase II landscaping consists primarily of planting trees along the interchanges and shrubs adjacent to the sound wall. It also includes the construction of a large 80-foot gateway sign in the northwest quadrant of the interchange. These improvements will complete the City’s capital obligation for the project.

A competitive bid was sent out to three landscape construction companies for the gateway improvements and bids were received as follows:

T2 Construction	\$281,915
Arrow J. Landscape Inc.	\$324,746
Goodland Construction	\$336,425

This project meets City Council’s Strategic Plan Goals of “Financially Sustainable City Government Providing Exceptional Services,” “Vibrant Neighborhoods and Commercial Areas,” and “Beautiful and Environmentally Sensitive City.”

Respectfully submitted,

J. Brent McFall
 City Manager
 Attachment

US36 and Federal Gateway and Landscaping





WESTMINSTER

COLORADO

Agenda Memorandum

City Council Meeting
September 22, 2008



SUBJECT: First Amendment to the Intergovernmental Agreement re the Jefferson County-wide Dog Licensing Program

Prepared By: Mike Cressman, Deputy Chief of Police
Lee Birk, Police Chief

Recommended City Council Action

Authorize the City Manager to sign a First Amendment to the Intergovernmental Agreement with Jefferson County and the cities of Westminster, Arvada, Golden, Wheat Ridge and Lakewood concerning the County-wide Dog Licensing Program in substantially the same form as the attached amendment.

Summary Statement

- Jefferson County and the above-referenced cities have operated under an Intergovernmental Agreement (IGA) since June 2007 concerning the County-wide Dog Licensing Program. The IGA and Dog Licensing program include those parts of Arvada and Westminster within Adams County.
- The purpose of the IGA was to provide County-wide tracking of dogs to increase the number of dogs returned to their owners and to provide increased funding for the construction of a new facility for Table Mountain Animal Center (TMAC).
- Article IV of the above-mentioned IGA states that the Agreement may be amended at any time in writing by agreement of two-thirds of the parties to the Agreement, subject to approval of the various governing bodies.
- The existing IGA provides that revenue collected in excess of target minimum compliance rates for dog licenses will be returned to the parties of the IGA proportionally.
- An amendment to the IGA has been proposed that would allow excess revenues generated from dog licenses to be applied to the maintenance and operating costs of the current and new TMAC facility.
- The City Attorney's Office has reviewed the proposed First Amendment.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Should the City of Westminster enter into a First Amendment to the Intergovernmental Agreement with Jefferson County and the cities of Arvada, Golden, Wheat Ridge and Lakewood concerning the Jefferson County-wide Dog Licensing Program changing the disbursement of licensing revenues in excess of minimum compliance rates?

Alternative

Do not authorize the City Manager to sign the First Amendment to the IGA concerning the County-wide Dog Licensing Program. Staff is not recommending this action as future maintenance and operating costs of Table Mountain Animal Center (TMAC) would have to be absorbed by the City in order to maintain their services.

Background Information

On May 14, 2007, City Council approved Councillor's Bill No. 16 on second reading which adopted an ordinance requiring Westminster citizens to license their dogs, effective July 1, 2007. The City adopted the dog licensing ordinance in part so that it could participate in the new Jefferson County-wide Dog Licensing Program. One purpose of that program is to provide a funding source for the construction of a new TMAC facility. In June 2007, Council authorized the City Manager to enter into an IGA with the cities of Westminster, Arvada, Golden Wheat Ridge and Lakewood concerning the County-wide Dog Licensing Program. The IGA was a necessary companion to the dog licensing ordinance because it governed the generation and distribution of revenue from the Jefferson County-wide Dog Licensing Program. The dog licensing program is administered by Jefferson County and applies to both Jefferson County and Adams County portions of Westminster and Arvada.

With respect to the generation of revenue, the fundamental principle of the IGA is that a participating entity and its citizens should contribute to the funding of a new TMAC facility in proportion to its jurisdiction's dog population relative to the total dog population of the IGA participants. The IGA achieves this goal by establishing minimum compliance levels for each jurisdiction proportional to its dog population that must be received each year to ensure an adequate baseline revenue stream is generated. For each program year, all fees paid by the citizens to license their dogs are deposited into a dog licensing fund administered by Jefferson County. If the total amount of the dog license fees collected for that program year from Westminster citizens does not meet the minimum contribution requirement, then the City will have to pay the difference to Jefferson County for deposit into the dog licensing fund. If the minimum contribution requirement is exceeded, the City is refunded the amount exceeding the minimum contribution requirement.

The first reporting period under the IGA was July 1, 2007, to June 30, 2008, and the Minimum Compliance rate for this time period was 10% of the estimated dog population in Westminster. Actual licensing compliance was 14% which realized revenue of \$17,340 in excess of minimum compliance rates. Under the First Amendment to the IGA, this \$17,340 would be retained by the County for operational and maintenance costs of the existing and new TMAC facility. The Minimum Compliance Rate increases to 20% for the reporting period July 1, 2008, to June 30, 2009, so excess revenues are expected to decline in future years. The proposed Amendment only affects the excess revenues. These monies would not be returned to the parties but would be applied to the maintenance and operating costs of the current and new TMAC facility.

With respect to the distribution of revenue, the IGA establishes that Jefferson County is entitled first to recoup its staff and administrative costs incurred in the operation of the Jefferson-County Dog Licensing Program. The remaining monies are then to be used for the construction of the new TMAC facility, or capital improvement or maintenance of the current facility.

Should the City elect to terminate its participation in the IGA, the City would have to pay its share of the minimum contribution requirement for that program year prior to termination of the agreement. In addition, if a loan was taken out for the construction of the new TMAC facility, the City would have to pay its share of the loan prior to termination of the agreement. Alternatives to TMAC have been researched and explored in the past and identifiable practical and affordable options have not been identified.

A copy of both the original IGA and the proposed First Amendment are attached to this agenda memorandum for City Councils reference.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

INTERGOVERNMENTAL AGREEMENT
BETWEEN JEFFERSON COUNTY, THE CITY OF ARVADA, THE CITY OF LAKEWOOD, THE
CITY OF WHEAT RIDGE, THE CITY OF GOLDEN, AND THE CITY OF WESTMINSTER FOR
THE IMPLEMENTATION OF A COUNTY-WIDE DOG LICENSING PROGRAM

THIS AGREEMENT, dated for reference purposes only this 20 day of June, 2007, is made and entered into by and between the **COUNTY OF JEFFERSON, STATE OF COLORADO**, a body politic and corporate (the "County"); the **CITY OF ARVADA**, a municipal corporation ("Arvada"); the **CITY OF LAKEWOOD**, a municipal corporation ("Lakewood"); the **CITY OF WHEAT RIDGE**, a municipal corporation ("Wheat Ridge"); the **CITY OF GOLDEN**, a municipal corporation ("Golden"); and the **CITY OF WESTMINSTER**, a municipal corporation ("Westminster");

WITNESSETH

WHEREAS, C.R.S. Section 30-15-101(1) authorizes the board of county commissioners of each county to provide for licensing of dogs and other animals; and

WHEREAS, C.R.S. Section 30-15-101(2) authorizes counties and municipalities to enter into an intergovernmental agreement to provide for the control, licensing, impounding, or disposition of pet animals or to provide for the accomplishment of any other aspect of a county or municipal dog control or pet animal control licensing resolution or ordinance; and

WHEREAS, C.R.S. Section 31-15-401(m)(I) and Colorado Constitution Article XX, Section 6 authorize municipalities to regulate and control animals within the municipality including, but not limited to, licensing, impoundment, and disposition of impounded animals; and

WHEREAS, Part 2 of Article 1 of Title 29, C.R.S. permits and encourages governments to make the most efficient and effective use of their powers and responsibilities by cooperating and contracting with other governments; and

WHEREAS, Part 2 of Article 1 of Title 29, C.R.S. authorizes governments to contract with one another to provide any function, service, or facility lawfully authorized to each of the contracting units through the establishment of a separate legal entity; and

WHEREAS, the above-referenced parties entered into an intergovernmental agreement dated January 1, 1998, that established a separate legal entity known as the Table Mountain Animal Center ("TMAC").

WHEREAS, it would be in the best interest of all of the above-referenced parties to participate in a county-wide licensing program in order to provide county-wide tracking of dogs to increase the number of dogs returned to their owners and to provide increased funding for the construction of a new facility for TMAC after coverage of administrative costs; and

WHEREAS, the entities agree that each jurisdiction and its residents should contribute toward the funding of the TMAC in equal proportion to the number of dogs in their jurisdiction;

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties hereinafter contained, the receipt and sufficiency of which are hereby confessed, it is understood and agreed as follows:

I. COUNTY-WIDE LICENSING PROGRAM

A. **ORDINANCE ADOPTION.** Each party shall adopt an ordinance which establishes a dog licensing program and penalties within its jurisdiction. The dog licensing ordinances adopted by the parties shall be consistent with the County ordinance concerning licensing of dogs; however, each jurisdiction has discretion to

adopt its own penalties.

B. ENFORCEMENT. Each jurisdiction shall be responsible for enforcement of the penalties for its dog licensing ordinance within their own jurisdiction. Each jurisdiction agrees to actively pursue enforcement of said ordinance.

C. DELEGATION OF AUTHORITY. The parties hereby delegate authority to the County to issue licenses and collect fees for said dog licenses on behalf of all parties. The dog licenses shall all be identified as "County Dog Licenses."

II. FUNDS AND OPERATIONS

A. DESIGNATION OF FUNDS. The County agrees that all monies paid to the County for the licensing of dogs within the jurisdictions of all parties, shall be placed into a designated fund (the "Dog Licensing Fund") except the funds due to the County as provided in Article II, Section B.

B. COUNTY'S ADMINISTRATIVE COSTS. On August 1st of each year this Agreement is in effect, the County shall provide each party with a statement of the County's administrative costs directly attributable to the operation of the County-Wide Dog Licensing Program from July 1st through June 30th of each year, and the projected administrative costs for the upcoming year. The County shall then transfer the amount of the County's administrative costs to the County general fund to reimburse the County for its administrative costs. The County shall be entitled to payment for the cost of, at a maximum, two full-time employees including salary, benefits and overhead. The County employee positions shall be Administrative Specialist I or II positions as currently defined by the County or equivalent positions. The County shall also be entitled to the cost of tags, mailers (for new tags and renewals), postage, printing, maintenance/updates of dog licensing software and miscellaneous office supplies, and any other costs directly attributable to the operation of the County-Wide Dog Licensing Program.

C. DISBURSEMENT OF FUNDS. Except for the funds paid to the County general fund as provided in Article II, Section B, the funds contained in the Dog Licensing Fund shall be retained by the County to be used for the construction of a new facility for the TMAC which replaces the existing facility at 4105 Youngfield, Wheat Ridge, Colorado, or capital improvements or maintenance of the current facility. This includes but is not limited to roof, plumbing or ventilation repair and cages, kennels or equipment required to comply with Pet Animal Care Facility Act regulations. Upon completion of a new facility and final payment of all costs for the design and construction of the new facility, the parties shall amend this Agreement to provide for permissible uses of future revenues. If no agreement is reached as to the use of future revenues within three (3) months, the revenue, except for the County's Administrative Costs as provided in Article II, Section B, shall be returned to the parties as provided in Article II, Section E, Surplus Revenues, without the requirement of approval of the other parties.

D. FUNDING DETERMINATIONS/LOAN LIMITS/WEIGHTED VOTING. Except as provided in Article II, Section B and C, funds shall not be disbursed from the Dog Licensing Fund for any purpose unless approved by a majority of the parties' City Managers and the County Administrator or their designees (hereinafter "Manager or Managers"). Further the parties agree that no loans shall be obtained obligating the funds raised from the County-Wide Licensing Program to be used for payments on the loan or to secure the loan without the unanimous consent of the parties' Managers. If the Managers approve the use of the funds in the Dog Licensing Fund to secure or make payments on a loan, the parties agree that this Agreement shall not be terminated or any party's participation terminated until the loan has been paid in full or that party's share of the loan has been paid in full. A party's share of the loan shall be directly proportional to ratio of its Estimated Dog Population to the total Estimated Dog Population, as that term is defined in Subparagraph IV.A.2. of this Agreement. Any such loan shall comply with the requirements of Colorado Constitution Article X, Section 20. If there are other funds available for the construction of the facility, such as the TMAC capital improvement fund, such funds should be considered in any future funding of a facility.

Each Manager shall have one vote unless any Manager requests a weighted vote. For weighted voting, each manager's vote would be weighted based on the number of households in each jurisdiction relative to the total

number of households in all of the parties' jurisdictions. Arvada's and Westminster's jurisdictions shall include the area within their respective jurisdictions that is within Adams County and Jefferson County. Weighted voting shall not be used to alter the revenue formulas as provided in Articles IV and V.

E. REVENUES. The County may return any revenues generated by the County-Wide Licensing Program to the respective parties hereto in the same proportion that said parties' residents and the parties contributed to the Dog Licensing Fund if approved by a majority of the parties as provided in Article II, Section D.

III. BOOKS AND RECORDS

RECORD KEEPING. The County shall maintain adequate and correct accounts of the funds, which accounts shall be open to inspection at any reasonable time by the parties hereto, their attorneys, or their agents.

IV. REPORTS

A. DEFINITIONS.

1. *Compliance Rate* shall mean the rate calculated by dividing
 - a. the number of licenses issued for dogs residing in a jurisdiction during a one year period by
 - b. the Estimated Dog Population in each jurisdiction for the same period.

The first reporting period shall be from July 1, 2007, or the date the County begins issuing dog licenses under the terms of this Agreement, until June 30, 2008, and the remaining periods shall be from July 1st to June 30th of each subsequent year. The number of licenses issued for dogs residing in Westminster and Arvada shall include the households in their respective jurisdictions that are within Adams County and Jefferson County.

2. *Estimated Dog Population* means
 - a. the percentage of households harboring one or more dogs, obtained from the most current U.S. Pet Ownership and Demographic Source Book published by the American Veterinarian Medical Association (currently 43.5%); multiplied by
 - b. the number of households in a jurisdiction, as reported in the most current publication by the State Demographer's Office (the calculation of estimated households for Westminster and Arvada shall include the households in their respective jurisdictions which are within Adams County and Jefferson County); multiplied by
 - c. the average number of dogs per household for each household with a dog, obtained from the most current U.S. Pet Ownership and Demographic Source Book (currently 1.52).

B. ANNUAL REPORT. By August 1st of each year, the County shall prepare and present to the respective City Councils and the Board of County Commissioners of Jefferson County an annual report of the number of animals licensed during the prior year in each party's jurisdiction, the estimated household population of each jurisdiction as reported in the most current publication by the State Demographer's Office, the Compliance Rate for each jurisdiction and the funds collected during the prior year. A sample of the report format is attached as Exhibit A.

C. REPORTS REQUESTED BY THE PARTIES. The County shall also render to the parties hereto, at reasonable intervals, such reports and accountings as the parties hereto may from time to time request.

V. REVIEW OF REVENUES AND JURISDICTION COMPLIANCE

A. REVIEW OF REVENUES AND COMPLIANCE BY JURISDICTION. If during the reporting period ending June 30, 2008, there is less than ten per cent (10%) compliance by the residents in a jurisdiction, the respective jurisdiction shall pay to the County for placement in the Dog Licensing Fund an amount equal to the

difference between the funds that the Dog Licensing Fund would have received if there was ten per cent (10%) compliance at the spayed dog licensing rate and the amount of dog license fees actually collected from the residents of that jurisdiction. If during the second full reporting period (July 1, 2008 to June 30, 2009), there is less than twenty per cent (20%) compliance by the residents in a jurisdiction, the respective jurisdiction shall pay to the County for placement in the Dog Licensing Fund an amount equal to the difference between the funds that the Dog Licensing Fund would have received if there was twenty per cent (20%) compliance at the spayed dog licensing rate and the amount of dog licensing fees actually collected from the residents of that jurisdiction.

The ten percent (10%) and twenty percent (20%) Compliance Rates set forth above shall be defined as the Minimum Compliance Rates for the first and second year this Agreement is in effect respectively. When the annual report is distributed at the end of the second full year and every year thereafter, a new Minimum Compliance Rate shall be set for the following year. If all the parties' jurisdictions exceed a Minimum Compliance Rate of twenty percent (20%) according to the annual report, the new Minimum Compliance Rate for the following year shall be the lowest Compliance Rate of all the parties in the Annual Report. If any party's jurisdiction fails to meet the Minimum Compliance Rate set for a reporting period, the party shall pay to the County for placement in the Dog Licensing Fund an amount equal to the difference between the funds that the Dog Licensing Fund would have received if the Minimum Compliance Rate was met at the spayed dog licensing rate, and the amount of dog license fees actually collected from the residents of that jurisdiction.

Any party whose jurisdiction has a Compliance Rate above the Minimum Compliance Rate during any reporting period shall be reimbursed for the amount of funds the County received from the residents of their jurisdiction which exceeded the amount of funds the County would have received if the Minimum Compliance Rate was met but not exceeded during that reporting period.

B. **APPROPRIATION AND PAYMENT OF FUNDS.** The parties agree to pay the amounts set forth in Article V, Section A, to the County for placement in the Dog Licensing Fund by January 31st of the year following which the Annual Report determined a party failed to meet the Compliance Rate, provided, however, that all payments to the Dog Licensing Fund pursuant to this Agreement are subject to annual appropriation by the County and municipal parties hereto in the manner required by statute. It is the intention of the parties that no multiple-year fiscal debt or other obligation be created by this Agreement.

VI. POWER TO CONTRACT WITH NON-PARTIES

It is mutually agreed that the County shall have the authority to contract with other cities or towns to provide dog licensing services. The funds collected from the other cities or towns shall be placed in the Dog Licensing Fund and used in accordance with the terms of this Agreement. The County shall have the discretion to require said city or town to comply with the Minimum Compliance Rate provisions set forth in Article V. Nothing herein permits a non-party contracting with the County for dog licensing services to use TMAC facilities unless specifically authorized by the Intergovernmental Agreement creating TMAC dated January 1, 1998, or approved by a majority of the Managers.

VII. DEFAULT IN PERFORMANCE

In the event any party fails to make the payments to the County when due as provided by Article V, or to perform any of its covenants and undertakings under this Agreement, the County shall cause written notice to be given to the governing body of the defaulting party of the termination of the party's participation in the Agreement, unless such default is cured within thirty (30) days from the date of such notice. Upon failure to cure said default within said thirty (30) day period, the defaulting party shall no longer be a party to the Agreement. The County shall no longer provide licensing services to said defaulting party and said defaulting party shall thereafter have no voting rights as provided in Article II, Section D. The defaulting party whose participation is terminated under this section of this Agreement shall forfeit all right, title, and interest in and to any funds in the Dog Licensing Fund which said party may otherwise have been entitled upon the dissolution of this Agreement. If a party is in default of this Agreement for any reason other than nonappropriation of funds for payment to the County for placement in the Dog Licensing Fund, termination of the defaulting party's participation in the Agreement shall not relieve the defaulting

party of the obligation to make the payments to the County for placement in the Dog Licensing Fund as provided in Article V that were due prior to the defaulting party's termination. This Section is not intended to limit the right of any party under this Agreement to pursue any or all other remedies it may have for breach of this Agreement. A party who fails to make the payments required by Article V for any reason other than nonappropriation of funds shall be obligated to pay all costs of collection of said payment, including reasonable attorneys' fees.

Upon termination of the defaulting party, the other parties may terminate this Agreement by a majority vote of the Managers as provided in Article II, Section D.

VIII. TERM, RENEWAL AND TERMINATION OF AGREEMENT

A. **TERM AND RENEWAL OF AGREEMENT.** This Agreement shall be in full force and effect on the date that all parties have executed this Agreement and the last of all the parties has adopted a licensing ordinance. The County shall begin issuing licenses and collecting fees for all parties upon written notice by each party that it has executed the Agreement and adopted a dog licensing ordinance. This Agreement shall automatically renew for a one (1) year term on July 1 of each subsequent year unless any party gives notice of its intent to terminate this Agreement before April 1st of the year the party seeks to terminate the Agreement. Termination of this Agreement for any reason other than a party's failure to appropriate funds shall not relieve the parties of their obligation to make the payments to the County for placement in the Dog Licensing Fund as provided in Article V for the time periods prior to the termination of this Agreement. Funds shall be due for the failure to meet the Compliance Rate for all years prior to termination including the final year prior to termination.

B. **TERMINATION BY WRITTEN NOTICE.** Notwithstanding Article VIII, Section A, a party may terminate its participation in this Agreement with or without cause after ninety (90) days notice to each of the other parties. Termination of the Agreement for any reason other than nonappropriation of funds shall not relieve the terminating party of the obligation to make the payments to the County for placement in the Dog Licensing Fund as provided in Article V. The amount owed shall be prorated for the percentage of the one-year term the terminating party was a party to this Agreement.

C. **DISBURSEMENT OF FUND UPON TERMINATION.** If this Agreement is terminated, the County shall retain any funds held in the County Wide Licensing Funds which funds shall be disbursed by the County as provided in Article II, Section B, C, D and E. This provision and the provisions of Article II, Section B, C, D and E, shall survive termination of this Agreement.

IV. AMENDMENT

This Agreement may be amended at any time in writing by agreement of two-thirds of the parties to this Agreement subject to the approval of the various governing bodies.

X. SEVERABILITY CLAUSE

If any provisions of this Agreement or the application thereof to any party or circumstances are held invalid, such invalidity shall not affect other provisions or applications of the Agreement which can be given effect without the invalid provision or application, and to this end, the provisions of the Agreement are declared to be severable.

XI. COUNTERPARTS

This Agreement may be signed in counterparts, and each counterpart shall be deemed an original, and all the counterparts taken as a whole shall constitute one and the same instrument. The Agreement shall not be effective until executed by all parties.

XII. NO THIRD PARTY BENEFICIARIES

Except as otherwise stated herein, this Agreement is intended to describe the rights and responsibilities of and between the parties and is not intended to, and shall not be deemed to, confer rights upon any persons or entities not named as parties, limit in any way governmental immunity and other limited liability statutes for the protection of the parties, nor limit the powers and responsibilities of any other entity not a party hereto. Nothing contained herein shall be deemed to create a partnership or joint venture between the parties with respect to the subject matter hereof.

XIII. NO GENERAL OBLIGATION INDEBTEDNESS

Because this Agreement will extend beyond the current fiscal year, the parties understand and intend that the obligation of the parties to pay any funds hereunder constitutes a current expense of the parties payable exclusively from the parties' funds and shall not in any way be construed to be a general obligation indebtedness of the parties within the meaning of any provision of Article XI of the Colorado Constitution, or any other constitutional or statutory indebtedness. None of the parties has pledged the full faith and credit of the state, or the parties to the payment of the charges hereunder, and this Agreement shall not directly or contingently obligate the parties to apply money from, or levy or pledge any form of taxation to, the payment of any funds.

XIV. NONAPPROPRIATION

The payment of parties' obligations in fiscal years subsequent to the current year are contingent upon funds for this Agreement being appropriated and budgeted. If funds for this Agreement are not appropriated and budgeted in any year subsequent to the fiscal year of execution of this Agreement, the nonappropriating party's participation in this Agreement shall terminate. The parties' fiscal years are currently the calendar year.

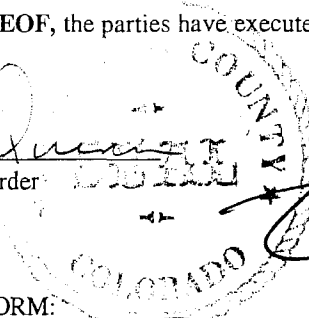
XV. GOVERNING LAW AND VENUE

This Agreement shall be governed by the laws of the State of Colorado and venue shall be in the County of Jefferson, State of Colorado.

IN WITNESS WHEREOF, the parties have executed this Agreement.

ATTEST:

Wendy D...
Deputy Clerk and Recorder



JEFFERSON COUNTY,
STATE OF COLORADO

Jim Congrove
Jim Congrove, Chairman
Board of County Commissioners
Date: _____

APPROVED AS TO FORM:

Gay B. Ummel
Gay B. Ummel
Assistant County Attorney

ATTEST:

CITY OF ARVADA,
STATE OF COLORADO

City Clerk

By _____
Name & Title: _____
Date: _____

APPROVED AS TO FORM:

Office of the City Attorney

IN WITNESS WHEREOF, the parties have executed this Agreement.

ATTEST:

JEFFERSON COUNTY,
STATE OF COLORADO

Deputy Clerk and Recorder

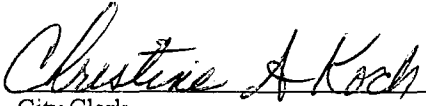
By _____
Jim Congrove, Chairman
Board of County Commissioners
Date: _____

APPROVED AS TO FORM:

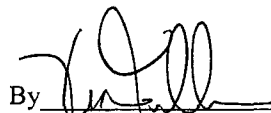
Gay B. Ummel
Assistant County Attorney

ATTEST:

CITY OF ARVADA,
STATE OF COLORADO

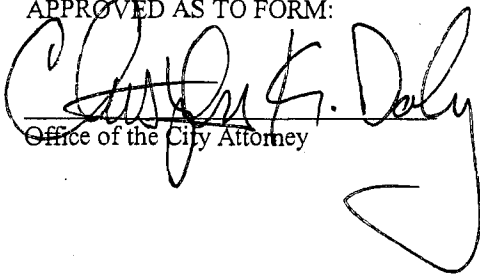


Christine A. Koch
City Clerk

By 

Name & Title: Ken Fellman, Mayor
Date: June 4, 2007

APPROVED AS TO FORM:



Christopher K. Daly
Office of the City Attorney



ATTEST:



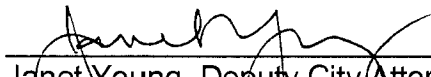
Margy Greer, City Clerk

CITY OF LAKEWOOD



Mike Rock, City Manager


APPROVED AS TO FORM

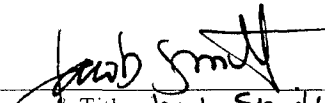


Janet Young, Deputy City Attorney
Office of the City Attorney

ATTEST:

CITY OF GOLDEN
STATE OF COLORADO


City Clerk

By 
Name & Title: Jacob Smith, Mayor Pro Tem
Date: June 7, 2007

APPROVED AS TO FORM:


Office of the City Attorney

ATTEST:

CITY OF WHEAT RIDGE
STATE OF COLORADO

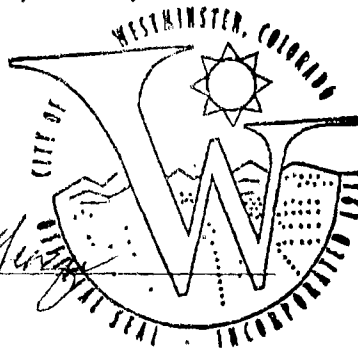
City Clerk

By _____
Name & Title: _____
Date: _____

APPROVED AS TO FORM:

Office of the City Attorney

ATTEST:



CITY OF WESTMINSTER
STATE OF COLORADO

Linda Garcia
City Clerk

By *J. Brent McFall*
Name & Title: J. Brent McFall, City Manager
Date: June 12, 2007

APPROVED AS TO FORM:

Eugene Mei
Office of the City Attorney

ATTEST:

CITY OF WHEAT RIDGE
STATE OF COLORADO



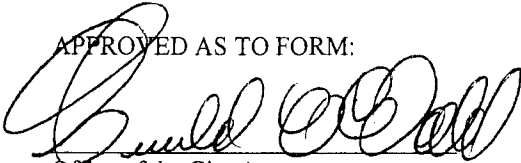
City Clerk

By 

Name & Title: JERRY DITTMAN, Mayor

Date: 6/14/07

APPROVED AS TO FORM:



Office of the City Attorney



FIRST AMENDMENT TO THE
INTERGOVERNMENTAL AGREEMENT
BETWEEN JEFFERSON COUNTY, THE CITY OF ARVADA, THE CITY OF
LAKWOOD, THE CITY OF WHEAT RIDGE, THE CITY OF GOLDEN, AND
THE CITY OF WESTMINSTER FOR THE IMPLEMENTATION OF A
COUNTY-WIDE DOG LICENSING PROGRAM

THIS AMENDMENT, dated for reference purposes only this 29th day of August, 2008, is made and entered into by and between the **COUNTY OF JEFFERSON, STATE OF COLORADO**, a body politic and corporate (the "County"); the **CITY OF ARVADA**, a municipal corporation ("Arvada"); the **CITY OF LAKEWOOD**, a municipal corporation ("Lakewood"); the **CITY OF WHEAT RIDGE**, a municipal corporation ("Wheat Ridge"); the **CITY OF GOLDEN**, a municipal corporation ("Golden"); and the **CITY OF WESTMINSTER**, a municipal corporation ("Westminster") sometimes referred to as the "Parties";

WITNESSETH

WHEREAS, the Parties entered into an Agreement dated June 20, 2007 entitled an Intergovernmental Agreement between Jefferson County, the City of Arvada, the City of Lakewood, the City of Wheat Ridge, the City of Golden, and the City of Westminster for the implementation of a county-wide dog licensing program (the "Agreement"); and,

WHEREAS, Article IV of the Agreement states that the Agreement may be amended at any time in writing by agreement of two-thirds of the parties to the Agreement subject to the approval of the various governing bodies; and,

WHEREAS, the Parties wish to amend the Agreement to clarify the purpose for which excess revenues, as defined in the Agreement, shall be expended;

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties hereinafter contained, the receipt and sufficiency of which are hereby confessed, it is understood and agreed as follows:

1. Section C of Article II of the Agreement is amended to read as follows:

C. **DISBURSEMENT OF FUNDS.** Except for the funds paid to the County general fund as provided in Article II, Section B, the funds contained in the Dog Licensing Fund shall be retained by the County to be used for the construction of a new facility for the TMAC which replaces the existing facility at 4105 Youngfield, Wheat Ridge, Colorado, including revenues pledged to service any debt associated with construction of the new facility, including capital improvements and maintenance and, if there are revenues in excess of that amount, said revenues shall be expended on operations of the new facility. Additionally, the funds may be used for

capital improvements or maintenance of the current facility. This includes but is not limited to roof, plumbing or ventilation repair and cages, kennels or equipment required to comply with Pet Animal Care Facility Act regulations.

2. The last paragraph of Section A of Article V of the Agreement is amended to read as follows:

All funds which result from a jurisdiction having a Compliance Rate above the Minimum Compliance Rate during any reporting period shall be expended as set forth in Section C of Article II of this Agreement.

3. All other provisions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Agreement.

ATTEST:

JEFFERSON COUNTY,
STATE OF COLORADO

Deputy Clerk and Recorder

By _____
Jim Congrove, Chairman
Board of County Commissioners
Date: _____

APPROVED AS TO FORM:

Gay B. Ummel
Assistant County Attorney

ATTEST:

CITY OF ARVADA,
STATE OF COLORADO

City Clerk

By _____
Name & Title: _____
Date: _____

APPROVED AS TO FORM:

Office of the City Attorney

ATTEST:

CITY OF LAKEWOOD
STATE OF COLORADO

City Clerk

By _____
Name & Title: _____
Date: _____

APPROVED AS TO FORM:

Office of the City Attorney

ATTEST:

CITY OF GOLDEN
STATE OF COLORADO

City Clerk

By _____
Name & Title: _____
Date: _____

APPROVED AS TO FORM:

Office of the City Attorney

ATTEST:

CITY OF WHEAT RIDGE
STATE OF COLORADO

City Clerk

By _____
Name & Title: _____
Date: _____

APPROVED AS TO FORM:

Office of the City Attorney

ATTEST:

CITY OF WESTMINSTER
STATE OF COLORADO

City Clerk

By _____
Name & Title: _____
Date: _____

APPROVED AS TO FORM:

Office of the City Attorney



**WESTMINSTER
C O L O R A D O**

Agenda Memorandum

City Council Meeting
September 22, 2008



SUBJECT: Second Reading of Councillor’s Bill No. 34 re Dover Street and West 110th Avenue Rights-of-Way Vacation within the Olson Technological Park

Prepared By: Tiffany Ewing, Civil Engineer

Recommended City Council Action

Pass Councillors Bill No. 34 on second reading vacating a portion of Dover Street and West 110th Avenue within the Olson Technological Park.

Summary Statement

- City Council action is requested to pass the attached Councillor’s Bill on second reading vacating a portion of Dover Street and 110th Avenue located within the Olson Technological Park as shown on Exhibit A and Exhibit B. State statute requires that the vacation of all right-of-way be approved by City Council.
- The Developer, MIE Properties, is requesting the right-of-way vacation since the roadways are not needed for the proposed Official Development Plan and the City roadways do not connect to any streets and do not serve as a public purpose.
- Legal description of the right-of-way is included in Exhibit A and Exhibit B.
- This vacation is associated with the Fourth Amended Official Development Plan (ODP) for Olson Technological Park. Dover Street and 110th Avenue are both dead end streets and will provide adequate access to the lots within this development. The City of Westminster does not need the roadways because they do not connect to any other roadways.
- Approval is proposed to be contingent upon approval by City Staff of the final plat for Olson Technological Park.
- City Staff has determined that the subject right-of-way is no longer needed by the City.
- This Councillor’s Bill was passed on first reading on September 8, 2008.

Expenditure Required: \$ 0

Source of Funds: N/A

Respectfully submitted,

J. Brent McFall
City Manager
Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **34**

SERIES OF 2008

INTRODUCED BY COUNCILLORS

Kaiser - Dittman

A BILL

FOR AN ORDINANCE VACATING PORTIONS OF DOVER STREET AND WEST 110TH AVENUE GENERALLY LOCATED IN OLSON TECHNOLOGICAL PARK SUBDIVISION, JEFFERSON COUNTY COLORADO

WHEREAS, MIE Properties, the owner of property located at Lot 1A, Lot 1, Lot 2, Lot 3 and Lot 4B Olson Technological Park Subdivision, Westminster Colorado has requested the City vacate two sections of platted streets that are currently unimproved; and

WHEREAS, the City Council finds that all requirements for roadway vacation contained in the Westminster Municipal Code and applicable state statutes have been met.

NOW, THEREFORE, THE CITY OF WESTMINSTER ORDAINS:

Section 1. City Council determines that no present or future public access need exists for the area proposed for vacation.

Section 2. The area described in Exhibit A, attached hereto and incorporated herein by this reference, is hereby vacated.

Section 3. 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.

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

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

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 22nd day of September.

Mayor

ATTEST:

City Clerk

APPROVED AS TO LEGAL FORM:

City Attorney's Office

OLSON TECHNOLOGICAL PARK
DOVER STREET RIGHT-OF-WAY VACATION

A PORTION OF A PARCEL OF LAND PREVIOUSLY DEDICATED AS DOVER STREET PER THE PLAT OF OLSON TECHNOLOGICAL PARK (RECEPTION NO. 88049420) AND LOCATED IN THE NORTHEAST QUARTER OF SECTION 10, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF WESTMINSTER, COUNTY OF JEFFERSON, STATE OF COLORADO, BEING MORE PARTICULARLY AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE EASTERLY RIGHT-OF-WAY LINE OF SAID DOVER STREET AND THE NORTHERLY RIGHT-OF-WAY LINE OF WEST 110TH AVENUE ALSO DEDICATED BY SAID PLAT OF OLSON TECHNOLOGICAL PARK; THENCE LEAVING SAID RIGHT-OF-WAY LINES S88°46'00"W, 60.00 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF SAID DOVER STREET; THENCE ALONG SAID WESTERLY LINE N01°14'00"W, 176.83 FEET; THENCE ALONG THE WESTERLY AND NORTHERLY LINE OF SAID DOVER STREET BEING A NON-TANGENT CURVE TO THE RIGHT 225.55 FEET, HAVING A RADIUS OF 50.00 FEET, A CENTRAL ANGLE OF 258°27'44", AND A CHORD WHICH BEARS N49°32'07"E, 77.46 FEET TO A POINT OF TANGENCY; THENCE ALONG THE EASTERLY RIGHT-OF-WAY LINE OF SAID DOVER STREET S01°14'00"E, 225.27 FEET TO THE POINT OF BEGINNING. SAID PARCEL OF LAND CONTAINS 18,961 SQUARE FEET (0.435 ACRES), MORE OR LESS.

BASIS OF BEARING: BEARINGS ARE BASED UPON THE EAST LINE OF THE NORTHEAST QUARTER OF SECTION 10, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, BEARING N00°00'00"E AND MONUMENTED PER ATTACHED EXHIBIT "B".

PREPARED BY WAYNE W. HARRIS, P.E., P.L.S.
FOR AND ON BEHALF OF
MARTIN/MARTIN, INC.
12499 WEST COLFAX AVENUE
LAKEWOOD, COLORADO 80215
AUGUST 3, 2007



LOCATION: G:\HARRIS\OLSON TECH PARK\LOTS 1 2 3\EXHIBIT\ROW-A.dwg TAB:01 SAVED BY:kelly on Jul 31, 2007 at 9:46am

EXHIBIT "A"

OLSON TECHNOLOGICAL PARK, DOVER STREET RIGHT-OF-WAY VACATION

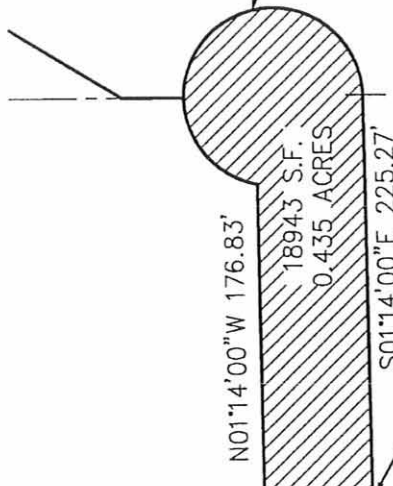
LOT 3
REC. NO. 2005009218

D=258'27'44"
R=50.00'
L=225.55'
CH=N49°32'07"E
77.46'

NORTH EAST CORNER,
SECTION 10, FOUND 2 1/2"
PIPE AND CAP AS SHOWN



LOT 2
REC. NO. 88049420



N01°14'00"W 176.83'

18943 S.F.
0.435 ACRES

S01°14'00"E 225.27'

P.O.B.

N45°59'47"W 13.89'

S89°20'00"W 648.42'

LOT 4B

REC. NO. 2005009218

W 110TH AVE

60' R-O-W

S88°46'00"W 60.00'

DOVER STREET
REC. NO. 88049420

POINT OF COMMENCEMENT
EAST 1/4 CORNER,
SECTION 10, FOUND
2 1/2" CAP AS SHOWN



LOT 1

LOT 5C

60.00'



BASIS OF BEARINGS EAST LINE NE 1/4
SECTION 10, & 25, R69W

S00°00'00"W 2018.14'

S00°00'00"E 1000.10'

AUGUST 03, 2007

THIS EXHIBIT DOES NOT REPRESENT A
MONUMENTED SURVEY. IT IS INTENDED ONLY
TO DEPICT THE ATTACHED DESCRIPTION.



SCALE 1" = 50'



 **MARTIN / MARTIN**
CONSULTING ENGINEERS

12499 WEST COLFAX AVE.
P.O. Box 151500
LAKEWOOD, CO 80215
303.431.6100
FAX 303.431.4028

OLSON TECHNOLOGICAL PARK
WEST 110TH AVENUE RIGHT-OF-WAY VACATION

A PORTION OF A PARCEL OF LAND PREVIOUSLY DEDICATED AS WEST 110TH AVENUE PER THE PLAT OF OLSON TECHNOLOGICAL PARK (RECEPTION NO. 88049420) AND LOCATED IN THE NORTHEAST QUARTER OF SECTION 10, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF WESTMINSTER, COUNTY OF JEFFERSON, STATE OF COLORADO, BEING MORE PARTICULARLY AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE NORTHERLY RIGHT-OF-WAY LINE OF SAID WEST 110TH AVENUE AND THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 10; THENCE ALONG SAID EAST SECTION LINE AND THE EASTERLY RIGHT-OF-WAY LINE OF SAID WEST 110TH AVENUE S00°00'00"W, 60.00 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID WEST 110TH AVENUE; THENCE LEAVING SAID SECTION LINE AND ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE S89°20'00"W, 254.33 FEET; THENCE LEAVING SAID SOUTHERLY RIGHT-OF-WAY LINE N00°40'00"W, 60.00 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF SAID WEST 110TH AVENUE; THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE N89°20'00"E, 255.03 FEET TO THE POINT OF BEGINNING. SAID PARCEL OF LAND CONTAINS 15,280 SQUARE FEET (0.351 ACRES), MORE OR LESS.

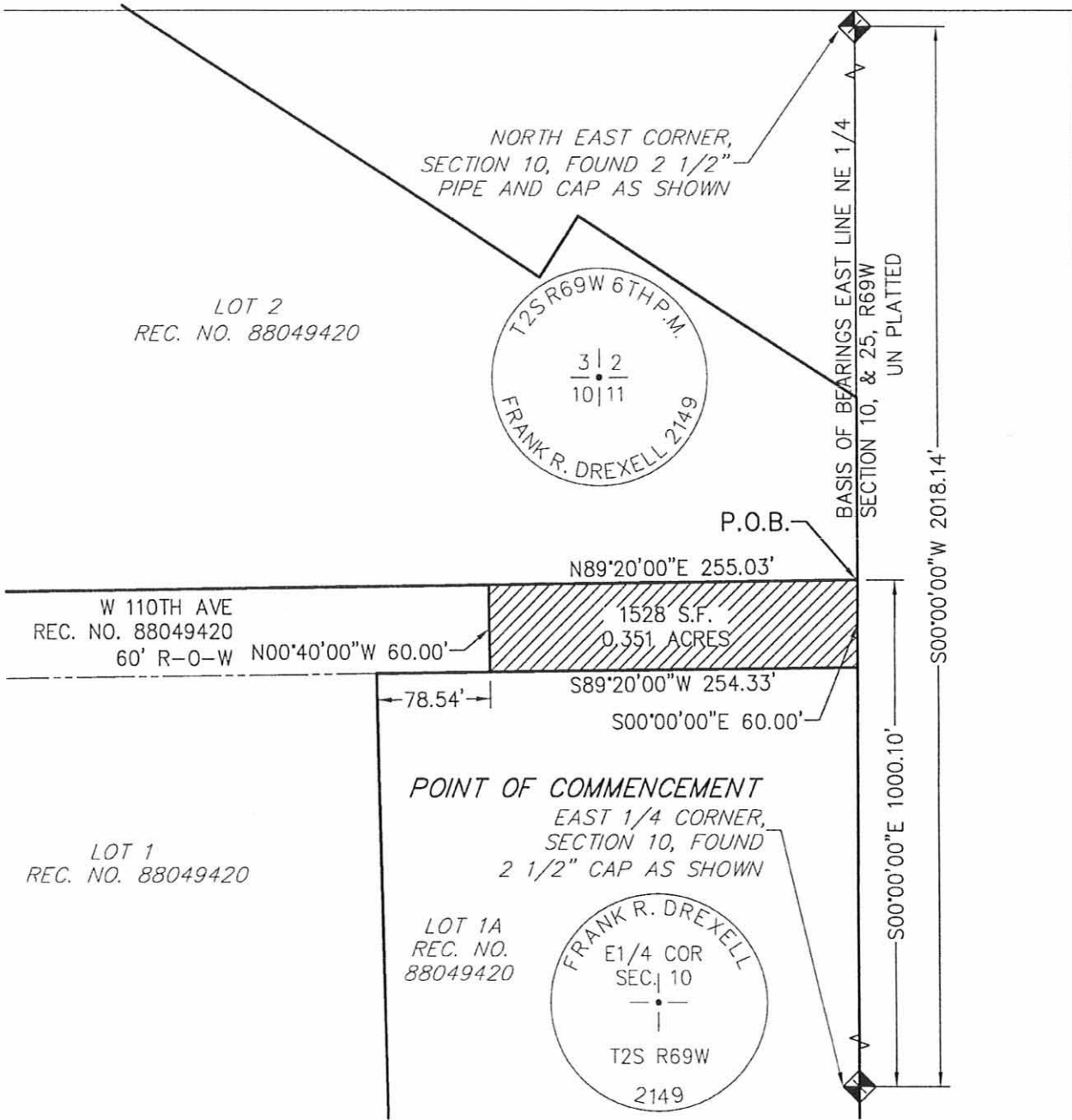
BASIS OF BEARING: BEARINGS ARE BASED UPON THE EAST LINE OF THE NORTHEAST QUARTER OF SECTION 10, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, BEARING N00°00'00"E AND MONUMENTED PER ATTACHED EXHIBIT "B".

PREPARED BY WAYNE W. HARRIS, P.E., P.L.S.
FOR AND ON BEHALF OF
MARTIN/MARTIN, INC.
12499 WEST COLFAX AVENUE
LAKEWOOD, COLORADO 80215
AUGUST 3, 2007



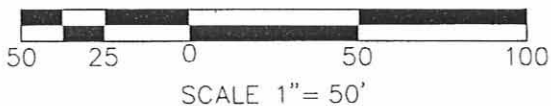
LOCATION: G:\HARRIS\OLSON TECH PARK\LOTS 1 2 3\EXHIBIT\ROW-B.dwg TAB:02 SAVED BY:kelly on Jul 31, 2007 at 9:46am

OLSON TECHNOLOGICAL PARK, W 100TH AVE.
RIGHT-OF-WAY VACATION



AUGUST 03, 2007

THIS EXHIBIT DOES NOT REPRESENT A
MONUMENTED SURVEY. IT IS INTENDED ONLY
TO DEPICT THE ATTACHED DESCRIPTION.



MARTIN / MARTIN
CONSULTING ENGINEERS

12499 WEST COLFAX AVE.
P.O. Box 151500
LAKEWOOD, CO 80215
303.431.6100
FAX 303.431.4028



WESTMINSTER

COLORADO

Agenda Memorandum

City Council Meeting
September 22, 2008



SUBJECT: Second Reading of Councillor’s Bill No. 35 re Fit Physical Therapy Lease Agreement

Prepared By: Peggy Boccard, Recreation Services Manager

Recommended City Council Action

Pass Councillor’s Bill No. 35 on second reading authorizing the City Manager to sign a lease agreement with Fit Physical Therapy, LLC, for office space at the City Park Recreation Center.

Summary Statement

- The portion of the City Park Fitness Center that previously housed the Colorado Rapids is currently vacant.
- City Staff has negotiated a lease agreement with Fit Physical Therapy LLC for use of approximately 1,000 square feet of office space. The initial term of the lease is for five years, with an option to renew for another five years if the parties reach agreement on the rent for the extended term. The City Attorney’s Office has drafted the lease agreement.
- The rent for the initial term is \$1,308.33 per month for year one, increasing to \$1,500 per month by year four. The initial term rent includes a \$1,500-per-year payback to the City for the tenant finish the City will be doing prior to commencing the lease. This totals a little over \$15 per square foot.
- Staff has recently surveyed the surrounding area and this rate is very competitive with other comparable office space lease rates in the area.
- Leasing of property owned by the City must be approved and ratified by ordinance under Section 13.4 of the City’s Charter.
- City Council passed Councillor’s Bill No. 35 on first reading September 8, 2008.

Expenditure Required: \$ 0

Source of Funds: N/A

Respectively submitted,

J. Brent McFall
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **35**

SERIES OF 2008

INTRODUCED BY COUNCILLORS
Lindsey - Major

**A BILL
FOR AN ORDINANCE APPROVING AND RATIFYING A LEASE AGREEMENT
WITH FIT PHYSICAL THERAPY LLC FOR SPACE IN THE
CITY'S CITY PARK FITNESS CENTER**

WHEREAS, the City owns the City Park Fitness Center, located at 10475 Sheridan Boulevard;
and

WHEREAS, it is in the City's interest to maximize the income generated from such operation by
collecting rental income from the office space located in the City Park Fitness 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 8th day of September, 2008.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED
this 22nd day of September, 2008.

Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

City Clerk

City Attorney's Office

EXHIBIT A
LEASE AGREEMENT

THIS LEASE AGREEMENT is made this _____ day of _____, 2008, between the CITY OF WESTMINSTER, a Colorado home rule municipality (the "Lessor"), and Fit Physical Therapy LLC whose business address is 6612 South Ward Street, Littleton, CO 80127 (the "Lessee").

In consideration of the payment of the rent and the keeping and performance of the mutual promises set forth below, the Lessor hereby agrees to lease to the Lessee the premises described in Exhibit "A" attached hereto and incorporated herein, consisting of approximately 1000 square feet marked "Fit P.T." (the "Premises"). The Premises are within the building known as the City Park Fitness Center, 10475 N. Sheridan Blvd., Westminster, Colorado (the "Facility").

A. TERM OF LEASE

1. Initial Term. Lessor leases to Lessee the described Premises, for an initial term of five (5) years commencing on _____, 2008, and terminating on _____, 2013 (the "Expiration Date"). Rent shall be prorated based on the date of delivery of the Premises to Lessee.

2. Extended Term.

a. At the end of the Initial Term, the Lease may be renewed by Lessee for an Extended Term of five (5) years. The Extended Term shall be subject to the same terms and conditions applicable to the Initial Term pursuant to this Lease, except that the monthly rent for the Extended Term shall be mutually agreed to by the parties. In the event the parties are unable to agree upon a rental schedule for the Extended Term prior to the Expiration Date, this Lease shall automatically expire on the Expiration Date.

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. 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.

B. RENTAL PAYMENTS

1. Initial Term Rent. The monthly rent for Year 1 of the Initial Term shall be \$1,308.33; \$1,508.33 for Year 2 of the Initial Term; \$1,708.33 for Year 3 of the Initial Term; and \$1,500 Year 4 and 5 of the Initial Term.

2. Extended Term Rent. The monthly rent for the Extended Term shall be determined in accordance with the provisions of paragraph A.2, above.

3. Due Date. Lessee agrees to pay Lessor all rent due under this Lease in monthly installments, which shall be due and payable in advance on or before the first day of each month, at the City Hall of the Lessor at 4800 West 92nd Avenue, Westminster, Colorado, 80031. Payments not received by the first day of the month shall be subject to a late fee, until such payment is received, equal to 1.25% of the amount unpaid per month.

4. Re-Letting. If Lessee for any reason before the end of the Term ceases to pay rent to Lessor as provided in this Lease, Lessor may, at its option and without notice, and using such force as may be necessary, enter said Premises, remove any equipment, fixtures, personal effects of Lessee therefrom, and re-let the same, or any part thereof, as it may see fit, for the account of Lessee, without thereby avoiding or terminating this Lease, and for the purpose of such re-letting, Lessor is authorized to make any repairs, changes, alterations or additions in or to said Premises, as may, in the opinion of Lessor, be necessary or desirable for the purpose of such re-letting, and if a sufficient sum shall not be realized from such re-letting each month to equal the monthly installments agreed to be paid by Lessee under the provisions of this Lease, then Lessee agrees to pay such deficiency each month. However, Lessor shall have no obligation to re-let the Premises. Lessee shall remain obligated to continue Lease payments for the full Initial Term, or Extended Term, as applicable. In the event Lessee fails to pay rent when due, the foregoing remedy shall

not be deemed or construed as Lessor's exclusive remedy, and Lessor and Lessee agree that in such event, Lessor shall have all other rights and remedies available at law or in equity.

C. OBLIGATIONS OF LESSEE

In consideration of the lease of the Premises, the Lessee covenants and agrees as follows:

1. To use the Premises exclusively for the operation and management of a physical therapy clinic.
2. To pay the rent for said Premises as provided above.
3. To use the Premises for no purpose prohibited by the laws of the United States or the State of Colorado, or the ordinances of the City of Westminster.
4. To allow the Lessor at any reasonable hour of the day to enter into and go through the Premises. Except in cases of emergency, Lessor will provide notice of entry, such notice to be reasonable under the circumstances. Lessor shall not interfere with the operations of Lessee during such entry. Notwithstanding this paragraph, Lessor shall have no duty to inspect the premises or make repairs except as provided herein.
5. Not to permit the Premises, or the walls or floors thereof, to be endangered by overloading, or the Premises to be used for any purpose that would render the insurance thereon void or the insurance risk more hazardous. Lessee shall take all such action as may be necessary to prevent the Premises from ever being occupied in excess of City and State limits of occupancy.
6. Not to make any alterations to, or modifications in or upon the Premises, including the installation or removal of attached fixtures, without first obtaining the Lessor's written consent.
7. To exercise reasonable care in the supervision of its employees, officers, directors, physical therapist, and patients at all times when they are in or upon the Premises.
8. To reimburse Lessor for any expense incurred by it in repairing any damage to the Premises caused by Lessee, its directors, officers, employees or agents, or any person in their care, or present with their permission, unless Lessee makes the repairs, to the reasonable satisfaction of Lessor.
9. To indemnify, defend, and hold harmless the Lessor from and against any claim for personal injury or property damage resulting from any negligent act or omission of Lessee or its employees or agents, to carry liability insurance covering bodily injury and property damage in the minimum amount of \$1,000,000 per occurrence, exclusive of defense costs, to make Lessor an additional insured under its policy of liability insurance, and to provide the Lessor with a certificate of insurance as evidence of coverage prior to Lessee's occupancy of the Premises.
10. To sublet no part of the Premises, nor assign this lease or any interest therein without Lessor's specific written consent, and the use is compatible with other uses of the Facility. Lessor's consent to sublet or assign shall not be unreasonably withheld.
11. Not to permit any disorderly conduct or nuisance whatever about the Premises, the building in which they are located, or on the building grounds, having a tendency to annoy, disturb or interfere with other occupants of the building.
12. At the expiration or termination of this Lease, to surrender and deliver up the Premises in as good order and condition as when the same were entered upon, loss by fire or other casualty and ordinary wear excepted.
13. To furnish and equip the space it occupies on the Premises. Lessee may remove fixtures it has installed if removal can be done so that floors, walls, or structures are in substantially the same condition as at the beginning of Lease, fire or other casualty, inevitable accident and ordinary wear excepted.

14. To repair and maintain standard items such as carpet, flooring, paint and tile surfaces, window glass, lighting fixtures and plumbing fixtures, which are not the responsibility of Lessor as provided below.
15. Notwithstanding any provision in this Lease Agreement to the contrary, to perform all repairs of an emergency nature necessary to protect the Premises from undue and avoidable injury or damage.
16. To arrange and pay for all telephone, cable television and internet connections, alarm systems and monitoring, which Lessee deems necessary for its use and the service charges therefore.
17. To pay, and indemnify and hold harmless the Lessor against any taxes of any kind attributable to Lessee's lease and use of the Premises, including but not limited to possessory interest property taxes, personal property taxes, income taxes, and sales and use taxes.

D. OBLIGATIONS OF LESSOR

In consideration of the receipt of rent and the covenants of Lessee, the Lessor covenants and agrees as follows:

1. Lessee and its customers, suppliers, and guests may park within the public parking areas of the City Fitness and City Park Recreation Centers on a space-available basis.
2. To provide or cause to be provided, at its cost, standard water (including adequate hot water), sanitary sewer, electric and gas utility services for the Premises. Lessor will also provide adequate heating and ventilation systems for the Premises, as well as smoke alarms and fire sprinklers to the extent required by the International Building Code. The Lessor will pay all usage charges for such gas, electricity, insurance, taxes and water and sewer services used on the Premises, except as otherwise herein provided.
3. To provide reasonable access to the trash dumpsters serving the City Fitness and City Park Recreation Centers, snow removal, grounds maintenance, and exterior building maintenance.
4. To provide maintenance and repair for structural systems, heating and ventilation systems, water supply lines, waste water lines and electrical and gas systems.
5. To provide signage on the front entrance of the Facility building and near the main entrance of the parking lot designating it as "Fit Physical Therapy, LLC" with approval of the City of sign design and quality.
6. To complete, prior to the commencement of the Initial Term, the tenant finish work described on Exhibit "B," attached hereto and incorporated herein by this reference.
7. Lessee may quietly hold and enjoy the premises without any interruption by the Lessor or any person claiming under the Lessor.

E. MISCELLANEOUS TERMS

1. Lessor shall have no responsibility or liability for any loss or damage to any personal property of the Lessee or any fixtures installed by the Lessee.
2. Lessee shall store no flammable, toxic, dangerous, hazardous, biohazardous, or obnoxious materials anywhere in the Premises.
3. (a) If the Premises becomes so damaged by fire, flood, act of God or any other casualty so as to render the Premises untenable, the Lessee may terminate this Lease without further obligation, unless the repairs for damage are started within ninety (90) days, in which case the Lease will continue under the existing terms and conditions.

(b) The rent payable under this Lease shall abate following any damage to the Premises, to the extent all or part of the Premises is rendered untenable, until such damage has been

repaired by Lessor.

- (c) Within thirty (30) days after the occurrence of the damage, Lessor shall give written notice to Lessee of Lessor's best estimate of the time that will be required to repair, the damage (without the payment of overtime or any premium). Lessor may also notify Lessee of the availability of other portions of the Facility or other temporary premises, if any. Notwithstanding the offer of alternate premises, if the estimated time to repair is more than ten (10) months, and Lessee rejects alternate premises, Lessee may terminate this Lease without further obligation. If Lessee does not so terminate, this Lease will continue under the existing terms and conditions, subject to paragraph (b) above.
 - (d) Notwithstanding the above paragraphs, if the Premises are damaged more than fifty percent (50%) of its full insurable value, as reasonably determined by Lessor, Lessor may terminate this Lease. Lessor shall give Lessee written notice of termination or Lessor's decision to continue the Lease within thirty (30) days of the occurrence of the damage. If Lessor chooses to continue the Lease, Lessee may terminate the Lease by giving notice to Lessor in writing within thirty (30) days of Lessor's notice to continue.
4. If the Premises are left vacant and Lessee ceases to pay rent to Lessor, the Lessor may, at its option, either retake possession of the Premises, terminating the Lease and Lessor's and Lessee's obligations thereunder, or it may re-rent the Premises, subject to the provisions of paragraph C.3 above.
 5. If the Lessee becomes insolvent, or is declared bankrupt, the Lessor may terminate this Lease forthwith, and all rights of the Lessee hereunder shall thereupon terminate, subject to the provisions of paragraph C.3 above.
 6. At the expiration of the term of this Lease, whether by passage of time or by act of the Lessor as provided in this Lease Agreement, the Lessee shall surrender and deliver up the Premises peaceably to the Lessor, and if the Lessee shall remain in possession after termination of this Lease, the Lessee shall be deemed guilty of a forcible detainer of the Premises under the statute, and shall be subject to eviction and removal in accordance with state law.
 7. If default shall be made in any of the covenants or agreements contained in this Lease Agreement to be kept by Lessee, except for the payment of rent that Lessee agreed is excluded from the cure provisions of this paragraph, Lessor shall provide written notice to Lessee of the default. Lessee shall have thirty (30) days after the notice to cure the default. If Lessee fails to cure the default within said thirty days, Lessor may, but need not, declare the term ended and repossess the Premises in accordance with state law. If the nature of the default is such that it cannot be cured with reasonable diligence within thirty (30) days, then Lessee shall not be in default if it commences to cure such default within thirty (30) days and thereafter diligently prosecutes such cure.
 8. No any failure to act regarding nor any assent, express or implied, to any breach of any one or more of the covenants or agreements contained in this Lease Agreement shall be deemed or taken to be a waiver of any succeeding or other breach.
 9. Nothing herein contained, either in the method of computing rent or otherwise, shall create between the parties hereto, or be relied upon by others as creating any relationship of partnership, association, joint venture, or otherwise. The sole relationship of the parties hereto shall be that of Landlord and Tenant.
 10. If either Party shall institute any action or proceeding against the other relating to the provisions of this Lease, or any default thereunder, the unsuccessful party in such action or proceeding agrees to reimburse the successful party its reasonable attorney fees.
 11. This Lease shall be binding upon and inure to the benefit of the parties hereto, their respective successors, assigns, administrators, legal representatives and executors.
 12. There are no oral agreements or representations between the parties hereto affecting this Lease, and this Lease supersedes and cancels any and all previous negotiations, arrangements, agreements or

representations and understandings, if any, between the parties hereto with respect to the subject matter hereof.

- 13. If any provision of this Lease shall be determined to be void by any court of competent jurisdiction, then such determination shall not affect any other provision of this Lease and all such other provisions shall remain in full force and effect.
- 14. Except as otherwise provided in this Lease, any prevention, delay or stoppage due to strike, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes therefore, governmental restrictions, regulations or controls, enemy or hostile governmental action, civil commotion, fire or other casualty, and other causes beyond the reasonable control of the party obligated to perform, shall excuse the performance by such party for a period equal to any such prevention, delay or stoppage.
- 15. The following persons are hereby designated by the parties as the persons responsible for the implementation of this Lease. Should Notices need to be sent or problems arise concerning this Lease the parties agree to contact:

For the Lessee: _____

For the Lessor: _____

- 16. Lessee agrees to execute any and all documents subordinating this Lease as requested by Lessor.
- 17. This lease shall bind the Lessor and the Lessee and their respective assigns, administrators, legal representatives and executors.

IN WITNESS WHEREOF, the said parties have hereunto set their hands and seals this _____ day of _____, 2008.

LESSEE: FIT PHYSICAL THERAPY, LLC.

LESSOR: CITY OF WESTMINSTER

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

By: _____

Approved as to legal form:

Printed Name: _____

 City Attorney

Title: _____

Attest: _____
 Secretary

Attest: _____
 City Clerk

(Corporate Seal,
 if applicable)

(Seal)



Agenda Memorandum

City Council Meeting
September 22, 2008



SUBJECT: Councillor's Bill No. 36 re Lease of Open Space Property

Prepared By: Heather Cronenberg, Open Space Coordinator

Recommended City Council Action

Pass Councillor's Bill No. 36 on first reading authorizing the execution of a lease agreement in substantially the same form as the attached agreement for the Barnett property located at 14390 Zuni Street, currently in unincorporated Adams County.

Summary Statement

- City Council approved the purchase of the Barnett property at the July 14, 2008 meeting. The City plans to acquire the 2.92-acre Barnett property for open space on October 14, 2008.
- The City entered into a Purchase and Sale Agreement with Julia Watson Barnett, LLC on July 18, 2008 to acquire the property. The terms of the negotiated purchase include leasing the property to Gary Barnett, a partial owner of the property, for a period of time to allow his mother to remain on the property. Gary Barnett has agreed to pay the City \$1,000 in rent per month through the lease term. The lease can be terminated with sixty (60) days notice from either party.
- Included in the City Council approval of the Barnett property purchase was the statement that Staff will present a proposed ordinance approving the lease of the property, per the City Charter requirements, prior to closing on this acquisition so the tenant can continue their current use of the property. The form of lease has been approved by the City Attorney's Office and by the tenant. The lease will not be executed until after the property closing has occurred.

Expenditure Required: \$ 0

Source of Funds: N/A

Policy Issue

Does City Council wish to authorize the execution of a lease for rental of the Barnett property?

Alternative

City Council could reject this lease approval request and direct Staff to change the terms of the purchase to not allow leasing of this property to Gary Barnett. This alternative is not recommended as the Seller negotiated the right to lease the property as a condition of the purchase.

Background Information

The City plans to purchase the 2.92-acre Barnett property for open space on October 14, 2008 as approved by City Council. The Seller negotiated as part of the purchase the right to lease the property to Gary Barnett for his mother's use for a period of time. Lucille Barnett grew up on this property and wishes to continue to remain on the property. The lease provides the ability to rent the property on a month-to-month basis and for both parties to terminate the lease with sixty (60) days notice. During the term of the lease, the public will not have access on this site. However, the City will be receiving \$1,000 per month for the lease term that will be deposited into the Open Space fund and used to purchase high priority open space properties.

The City Charter requires that leases be approved by City Council by ordinance. Staff is recommending approval by Council at this time so that the lease can be approved prior to the contractual closing.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **36**

SERIES OF 2008

INTRODUCED BY COUNCILLORS

A BILL

**FOR AN ORDINANCE APPROVING A LEASE AGREEMENT FOR THE LEASE OF THE
PROPERTY LOCATED AT 14390 ZUNI STREET, BROOMFIELD, CO 80020.**

WHEREAS, the City of Westminster will purchase the Barnett property located at 14390 Zuni Street, Broomfield, CO 80020; and

WHEREAS, Gary Barnett has requested that the City lease the property to him for his mother's use on a month to month basis with the ability to terminate the lease with sixty (60) days notice; and

WHEREAS, the tenant has been screened and determined to be suitable for the property; and

WHEREAS, the final form of the lease agreement has been agreed to by the parties; and

WHEREAS, the City Charter requires such lease be approved by ordinance,

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The Lease Agreement between Gary Barnett and the City for the property located at 14390 Zuni Street, Broomfield, CO 80020, in substantially the form attached to this Ordinance, is approved.

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 22nd day of September, 2008.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 13th day of October, 2008.

ATTEST:

City Clerk

Mayor

APPROVED AS TO LEGAL FORM:

City Attorney's Office

LEASE AGREEMENT

THIS LEASE AGREEMENT, made this 14th day of October, 2008, between the **CITY OF WESTMINSTER**, a Colorado home rule municipality (the "City"), and Gary Quentin Barnett, whose address is 35 Lark Court, Eagle-Vail, CO 81620, (the "Lessee").

WHEREAS, the City has purchased from the Lessee and Dr. Julia Watson Barnett, LLC on this date the property located at 14390 Zuni Street, Broomfield, CO 80020 and described in Exhibit "A", attached hereto and incorporated herein by this reference (the "Property"); and

WHEREAS, in conjunction with the sale of the Property to the City, Lessee has requested permission for V. Lucille Barnett, Gary Barnett's mother, to remain on the Property for a period of time pursuant to the terms of this Lease Agreement.

WITNESSETH that in consideration of the covenants and agreements by the Lessee hereinafter set forth, and for other good and valuable consideration, the City hereby leases unto the Lessee the Property situated in the County of Adams, State of Colorado at 14390 Zuni Street, Broomfield, CO 80020, subject to the following Terms and Conditions:

TERMS AND CONDITIONS OF LEASE

A. This lease will begin on October 14, 2008 and continue on a month-to-month basis provided however, that either party may terminate this lease for its convenience or for any reason upon written notice to the other at least sixty (60) days prior to the proposed date of termination.

B. In consideration of the lease of the Property, the Lessee covenants and agrees as follows:

1. Payment of Rent. Lessee agrees to pay the City as rent for the subject property \$1,000 each month, to be paid in advance on or before the first day of each and every month throughout the term of this agreement. Payments may be mailed to the address of designated representative for the City whose address information is listed below.

2. Lawful Use. To use the Property for no purpose prohibited by the laws of the United States or the State of Colorado, or the ordinances of the City of Westminster.

3. Entry by City: To allow the City access at all times to enter onto the Property.

4. Occupancy. Not to permit the Property to be used for any purpose that would render the insurance thereon void or the insurance risk more hazardous.

5. Alterations; Modifications. Not to make any alterations to, or modifications in or upon the Property without first obtaining the City's written consent. All such alterations or modifications shall be done in conformance with all applicable laws, codes, regulations, and rules of the City and the State of Colorado. All such alterations or modifications shall be done at the Lessee's expense. Further, unless the parties otherwise agree in writing, the Lessee shall be obligated to restore the Property to the original condition as entered upon if requested to do so in writing by City.

6. Duty of Care. To exercise reasonable supervision of all guests at all times when they are in or upon the Property.

7. Damage by Lessee. To reimburse the City for any expense incurred by it in repairing any damage to the Property caused by Lessee, his employees or agents, or any person in his care.

8. Indemnity. To indemnify and hold harmless the City from and against any claim for personal injury or property damage resulting from any act or omission of Lessee or its agents, to carry liability insurance covering bodily injury and property damage in an appropriate amount and to make the City, its directors, officers, employees and agents additional named insured under its policy of liability insurance, and to provide the City with a copy of such insurance policy as evidence of coverage.

9. Subletting. To sublet no part of the Property, or assign this lease or any interest therein.

10. Nuisance. Not to permit any disorderly conduct or nuisance whatever about the Property or the Property, including the buildings and the building grounds, and to not annoy, disturb or interfere with the City's or the public's use of the Property.

11. Surrender in Good Condition. At the expiration or termination of this lease to surrender and deliver up the Property in as good order and condition as when the same were entered upon, loss by fire, and ordinary wear excepted.

C. The City and the Lessee further covenant and agree that:

1. Maintenance by Lessee. Lessee shall be responsible for the total caretaking and maintenance of the exterior and interior of the Property and all items brought onto the Property by the Lessee.

2. Maintenance by the City. Lessee accepts the Property "as is" and acknowledges that the City shall have no obligation for maintenance or repair of the Property.

3. Emergency Repairs. Lessee agrees to perform all repairs of an emergency nature necessary to protect the Property from undue and avoidable injury or damage.

4. Utilities. All charges for water and water rents, for heating, and for lighting of the Property are to be paid by Lessee.

5. Telephone Charges. Lessee will be responsible for payment for all telephone installation and service charges.

6. Keys. The City will provide Lessee with a reasonable number of keys for interior and exterior doors of the buildings on the Property.

7. The City is Not Responsible for Lessee's Personal Property. The City shall have no responsibility or liability for any loss or damage to any personal property of the Lessee or any fixtures installed by the Lessee, whether Lessee has obtained insurance coverage or not.

8. Flammable, Hazardous Materials. Lessee shall store no flammable, toxic, dangerous, hazardous or obnoxious materials anywhere on the Property.

9. Live Animals. Lessee shall neither bring nor permit the bringing of any live animals into the Property, except pets to the extent permitted by the Westminster Municipal Code.

10. Untenantable Conditions. If the Property become so damaged by fire, flood, act of God or any other casualty not caused by the Lessee so as to render the Property untenantable, the Lessee may terminate this Lease without further obligation.

11. Vacancy of Property. If the Property is left vacant the City may, at its option, either retake possession of the Property, terminating the Lease and the City's and Lessee's obligations hereunder, or it may re-rent the Property.

12. Insolvency of Lessee. If the Lessee becomes insolvent, or is declared bankrupt, the City may terminate this Lease forthwith, and all rights of the Lessee hereunder shall thereupon terminate.

13. Peaceable Surrender. At the expiration of the term of this Lease, whether by passage of time or by act of the City as provided in this Lease Agreement, the Lessee shall surrender and deliver up the Property peaceably to the City, and if the Lessee shall remain in possession after termination of this lease, the Lessee shall be deemed guilty of a forcible detainer of the Property under the statute, and shall be subject to eviction and removal in accordance with state law.

14. Default. If default shall be made in any of the covenants or agreements contained in this Lease Agreement to be kept by Lessee, it shall be lawful, upon 30 days written notice, for the City to declare the term ended and to repossess the Property in accordance with state law.

15. No Waiver. No assent, express or implied, to any breach of any one or more of the covenants or agreements contained in this Lease Agreement shall be deemed or taken to be a waiver of any succeeding or other breach.

16. Designated Representatives. The following persons are hereby designated by the parties as the persons responsible for the implementation of this Lease. Should Notices need to be sent or problems arise concerning this Lease the parties agree to contact:

For the Lessee:

Gary Barnett
P.O. Box 2488
Avon, CO 81620

For the City of Westminster:

Heather Cronenberg, Open Space Coordinator
Department of Community Development
City of Westminster
4800 West 92nd Avenue
Westminster, CO 80031
303-658-2142

17. Insurance. The City will provide insurance against loss to the fixtures only due to fire or other casualty. The Lessee will be solely responsible for any loss to any personal property associated with the Property.

IN WITNESS WHEREOF the parties have executed this indenture the day and year first above written.

CITY OF WESTMINSTER

LESSEE:

By: _____
J. Brent McFall
City Manager

Gary Barnett

Attest:

By: _____
Linda Yeager
City Clerk

APPROVED AS TO LEGAL FORM:

City Attorney's Office

Exhibit "A"

SCHEDULE A

LEGAL DESCRIPTION

PARCEL A:

Beginning at the Northwest corner of Section 21, Township 1 South, Range 68 West, 6th P.M., Adams County, Colorado; thence South 00 degrees 00 minutes 00 seconds East along the West line of said Section 21 a distance of 140.00 feet; thence South 89 degrees 47 minutes 00 seconds East, a distance of 40.00 feet to the true point of beginning;
thence South 89 degrees 47 minutes 00 seconds East, a distance of 90.50 feet;
thence North 00 degrees 00 minutes 00 seconds West a distance of 100.00 feet to a point on the South Right-of-way line of 144th Avenue;
thence South 89 degrees 47 minute 00 seconds East, along said South Right-of-way line a distance of 385.08 feet;
thence South 00 degrees 00 minutes 00 seconds East a distance of 248.00 feet;
thence North 89 degrees 47 minutes 00 seconds West a distance of 475.58 feet;
thence North 00 degrees 00 minutes 00 seconds West a distance of 148.00 feet to the true point of beginning,
County of Adams, State of Colorado.

PARCEL B:

That part of the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 21, Township 1 South, Range 68 West of the 6th principal meridian, lying Northerly of and above the Right-of-way line of McKay Ditch described as follows:
Beginning at the Northwest corner of Section 21,
thence Southerly along the West line of said Section 140 feet;
thence East 130.5 feet;
thence Northerly parallel with the West line of said Section a distance of 140 feet to the North line of said Section;
thence West 130.5 feet to the true point of beginning,
County of Adams, State of Colorado.



Agenda Item 10 B

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
September 22, 2008



SUBJECT: Resolution No. 48 re Support for the Jefferson County Schools 3A and 3B
Ballot Measures

Prepared By: Philip Jones, Management Analyst

Recommended City Council Action

Adopt Resolution No. 48 supporting Jeffco Public Schools in their effort to gain voter approval for Jeffco Public Schools 3A and 3B ballot measures.

Summary Statement:

- City Council action is requested to officially support Jeffco Public Schools and their ballot measures 3A and 3B.
- Ballot measure 3A will provide a 4.4 mill increase for funding to address operating priorities for the school district, avoiding significant budget cuts.
- Ballot measure 3B seeks approval of the sale of \$350 million in bonds for improvements to schools and infrastructure throughout the district. If approved, ten schools in the City of Westminster will receive funding for capital projects.

Expenditure Required: \$ 0

Source of Funds: N/A

Policy Issue

Does City Council wish to formally support the Jeffco Public School District in their efforts to pass ballot measures 3A and 3B?

Alternative

Take no action regarding support for the efforts of the Jeffco Public School District.

Background Information

At the September 15, 2008 Study Session, Jeffco Public Schools Superintendent Cindy Stevenson presented information regarding two ballot measures for this November's general election. Measures 3A and 3B provide operating and capital dollars for the improvement of Jeffco Public Schools. Measure 3A will increase the Jeffco operating mill levy 4.4 mills, increasing property tax revenue in the district's operating budget by roughly \$34 million per year based on current property valuations in the county. This will assist in balancing the district's budget and allow for more teachers, maintaining appropriate class sizes, and keeping up-to-date with technology needs.

Measure 3B will allow the district to issue \$350 million in bonds, without any additional cost to voters. The money from 3B will fund capital improvements in the district's schools and support facilities, and fund other district-wide capital projects. Ten schools in the City of Westminster will be improved with bond proceeds, including Standley Lake High, Mandalay Middle, Moore Middle, Witt Elementary, Sheridan Green Elementary, Semper Elementary, Ryan Elementary, Lukas Elementary, Adams Elementary, and Zerger Elementary schools.

Attached is a resolution for City Council's consideration encouraging residents within Jefferson County to support the school district's efforts.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

RESOLUTION

RESOLUTION NO. **48**

INTRODUCED BY COUNCILLORS

SERIES OF 2008

**CITY OF WESTMINSTER SUPPORT
FOR JEFFCO PUBLIC SCHOOLS BALLOT MEASURES
3A AND 3B**

WHEREAS, it is important to have excellent schools as a cornerstone of a high quality of life for the residents of the City of Westminster; and

WHEREAS, Jeffco Public Schools is seeking voter approval for a bond issue and millage increase to continue its mission of exceptional education for all Jefferson County students; and

WHEREAS, the proceeds of the bond issue and millage increase will directly benefit ten schools in the City of Westminster, in turn benefitting the students and parents who rely on those schools.

NOW THEREFORE, be it resolved that the City Council of the City of Westminster does hereby give its full support to Jeffco Public Schools in their efforts to pass Ballot Measures 3A and 3B during the upcoming November, 2008 election, and encourages Jefferson County residents to support these ballot initiatives.

PASSED AND ADOPTED this 22nd day of September, 2008.

Mayor

ATTEST:

City Clerk

APPROVED AS TO LEGAL FORM:

City Attorney's Office