

October 13, 1997
7:00 PM

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

1. **Pledge of Allegiance**
2. **Roll Call**
3. **Consideration of Minutes of Preceding Meetings**
4. **Presentations**
 - A. ICMA Award for Program Excellence
5. **Citizen Communication (5 minutes or Less in Length)**
6. **Report of City Officials**
 - A. City Manager's Report
7. **City Council Comments**

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

8. **Consent Agenda**
 - A. Promenade East Landscape Design Contract
 - B. Countryside Pump Station Replacement Project
 - C. Stream Monitoring Agreement
 - D. Little Dry Creek Trail at 64th Avenue Change Order
 - E. CB No. 60 re Foney Annexation #1 (Merkel-Scott)
 - F. CB No. 61 re Foney Annexation #2 (Merkel-Scott)
 - G. CB No. 62 re Dry Creek Animal Hosp Annex (Scott-Smith)
 - H. CB No. 63 re NTA Business Assistance (Dixon-Merkel)
 - I. CB No. 64 re Park Centre Vacation (Scott-Dixon)
 - J. CB No. 65 re Silo North Vacation (Scott-Dixon)
 - K. CB No. 66 re Dry Creek Animal Hospital Zoning (Scott-Smith)
9. **Appointments and Resignations**

None
10. **Public Hearings and Other New Business**
 - A. TABLED - Resolution No. 52 re RTD Guide the Ride Ballot Issue
 - B. Resolution No. 54 re Support of Adams County Jail Ballot Issue
 - C. Resolution No. 55 re Support of JeffCo R-1 School Bond Issue
 - D. John Stipech Employment Agreement
 - E. Councillor's Bill No. 67 re Municipal Judge Salary
 - F. Change dates of December Council meetings
 - G. Set Date for Special Council meeting
 - H. Big Dry Creek Park and Open Space Purchase
 - I. Resolution No. 56 re Westminster Plaza Economic Development Project
 - J. Resolution No. 57 re Promenade East Economic Development Project
 - K. Resolution No. 58 re 1998 Mill Levy and Adoption of Budget
 - L. Resolution No. 59 re Adoption of 1998 Pay Plan
 - M. Councillor's Bill No. 69 re General Leave Benefits
 - N. Employment Contract with Martin McCullough, City Attorney
11. **Old Business and Passage of Ordinances on Second Reading**

None
12. **Citizen Presentations (5 Minutes + in Length) & Miscellaneous Business**
 - A. City Council
 - B. Request for Executive Session
 1. Federal Heighs Water Contract Negotiations
 2. Ice Arena Contract Negotiations

13. Adjournment

CITY OF WESTMINSTER, COLORADO
MINUTES OF THE CITY COUNCIL MEETING
HELD ON MONDAY, OCTOBER 13, 1997 AT 7:00 P.M.

PLEDGE OF ALLEGIANCE:

Mayor Pro Tem Dixon led Council, Staff and the audience in the Pledge of Allegiance.

ROLL CALL:

Present at roll call were Mayor Pro Tem Dixon and Councillors Allen, Merkel, Scott and Smith. Also present were William Christopher, City Manager; Martin McCullough, City Attorney; and Michele Kelley, City Clerk. Absent was Mayor Heil and Councillor Harris.

CONSIDERATION OF MINUTES:

A motion was made by Merkel and seconded by Scott to accept the minutes of the meeting of September 22, 1997 with no additions or corrections. The motion carried unanimously.

PRESENTATIONS:

Mayor Pro Tem Dixon recognized the students from Ranum High School and Standley Lake High School who were in attendance and stated the Youth in Government programs for Ranum High School will be held October 29 and for Standley Lake High School on October 22 and 23 and encouraged the audience to attend..

City Manager Bill Christopher presented Mayor Pro Tem Dixon and City Council with the ICMA Award for Program Excellence which was awarded to the City recognizing the City's commitment to intergovernmental cooperation, regarding the Standley Lake Protection Project. Mayor Pro Tem Dixon recognized the efforts of Public Works and Utilities Director Ron Hellbusch and Dave Kaunisto for their work and the success of the Standley Lake Protection Project.

The Mayor Pro Tem presented a Proclamation to Colorado Rapids General Manager Dan Counce, Assistant Coach Rene Miramontes and Ben Grossman proclaiming October 15 as Colorado Rapids Day in the City.

REPORT OF CITY OFFICIALS:

The City Manager stated that Candidate information and the Candidate Forum that was held October 8 can be viewed on Channel 8, and commented on the Paleteers Art Club art display that is being shown in the City Hall lobby.

The Mayor Pro Tem recognized Witt Elementary School 3rd Grader Amanda Thompson who was in attendance at the meeting.

CONSENT AGENDA:

The following items were considered as part of the consent agenda: Promenade East Landscape Design Contract - Authorize the City Manager to sign a design services contract with DHM Design Corporation in the amount of \$291,653 and also authorize a contingency of \$30,000 for unanticipated design requirements and charge the expense to the appropriate project account in the General Capital Improvement Fund; Countryside Pump Station Replacement Project - Authorize the City Manager to execute a contract with Western Summit Constructors, Inc., in the amount of \$1,393,000 for design and construction of the replacement Countryside Pump Station and approve a design/construction contingency of \$139,000. Charge the cost associated with this work to the Utilities Water Project Capital Improvement Account in the Utility Fund; Stream Monitoring Agreement - Authorize the City Manager to sign a Stream Monitoring Agreement to allow Westminster to participate in continued group stream monitoring activities on the Big Dry Creek; Little Dry Creek

Trail at 64th Avenue Change Order - Authorize City Manager to sign a change order with Randall and Blake, Inc. (RBI) in the amount of \$63,182 for the construction of the Little Dry Creek Trail at 64th Avenue and charge this expense to both the Little Dry Creek Trail account for \$48,182 and Trail Development account for \$15,000 in the 1997 General Capital Improvement Fund; Councillor's Bill No. 60 re Foney Annexation #1; Councillor's Bill No. 61 re Foney Annexation #2; Councillor's Bill No. 62 re Dry Creek Animal Hospital Annexation; Councillor's Bill No. 63 re NTA Business Assistance; Councillor's Bill No. 64 re Park Centre Vacation; Councillor's Bill No. 65 re Silo North Vacation and Councillor's Bill No. 66 re Dry Creek Animal Hospital Zoning.

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

A motion was made by Allen and seconded by Dixon to adopt the Consent Agenda items as presented. The motion carried unanimously.

RESOLUTION NO. 52 - RTD GUIDE THE RIDE PROGRAM BALLOT ISSUE:

A motion was made by Allen and seconded by Merkel to remove Resolution No. 52 from the Table. The motion carried with aye votes from Allen, Dixon and Merkel and dissenting votes from Scott and Smith.

A motion was made by Allen and seconded by Merkel to adopt Resolution No. 52 endorsing the Regional Transportation District Guide the Ride funding proposal which has been placed on the fall 1997 election. Upon roll call vote, the motion carried with aye votes from Allen, Dixon and Merkel and dissenting votes by Scott and Smith.

RESOLUTION NO. 54 - SUPPORT OF ADAMS COUNTY JAIL BALLOT ISSUE:

A motion was made by Scott and seconded by Merkel to adopt Resolution No. 54 which formally states the City of Westminster's support for the extension of the existing 1/2 of 1% Adams County tax for the expansion of the Adams County Detention facility through December 31, 2001, as proposed for the November 4, 1997 ballot. Upon roll call vote, the motion carried unanimously.

RESOLUTION NO. 55 - SUPPORT OF JEFFERSON COUNTY SCHOOLS BOND ISSUE:

A motion was made by Allen and seconded by Scott to adopt Resolution No. 55 which formally states the City of Westminster's support for the issuance of \$265 million in bonds for the improvement and expansion of school facilities in Jefferson County as proposed for the November 4, 1997 ballot. Upon roll call vote, the motion carried unanimously.

JOHN STIPECH EMPLOYMENT AGREEMENT:

A motion was made by Merkel and seconded by Scott to authorize the Mayor to execute an amended employment agreement with John A. Stipech for his services as Presiding Judge with an annual salary of \$80,340 effective January 1, 1998. The motion carried unanimously.

COUNCILLOR'S BILL NO. 67 - MUNICIPAL JUDGE SALARY:

A motion was made by Merkel and seconded by Scott to pass Councillor's Bill No. 67 on first reading regarding a change to the salary for the Presiding Judge and the deletion of the section related to the Associate Judge's salary. Upon roll call vote, the motion carried unanimously.

CHANGE OF DATES FOR DECEMBER COUNCIL MEETINGS:

A motion was made by Allen and seconded by Merkel to change the date of the first Council meeting in December from December 8th to December 1st, and change the date of the second Council meeting in December from December 22nd to December 15th. The motion carried unanimously.

SET DATE FOR SPECIAL CITY COUNCIL MEETING:

A motion was made by Scott and seconded by Merkel to set the date of October 20, 1997 at 7:00 P.M. for a Special City Council meeting for the purpose of (1) conducting a public hearing and consideration of the Preliminary Development Plan for Promenade East; (2) Federal Heights water contract amendment and (3) Councillor's Bill re Refunding of Cascade Village tax exempt bonds. The motion carried unanimously.

BIG DRY CREEK LAND PURCHASE FOR PARK AND OPEN SPACE:

A motion was made by Merkel and seconded by Scott to authorize the City Manager to purchase for Park and Open Space, approximately 33 acres of land at a cost of \$22,000 per acre from Tejon 128 LLC, charge the expense to the Open Space Fund, with reimbursement of the Open Space Fund to occur in the future prior to park development. The motion carried unanimously.

RESOLUTION NO. 56 - WESTMINSTER PLAZA ECONOMIC DEVELOPMENT PROJECT:

A motion was made by Allen and seconded by Merkel to adopt Resolution No. 56 designating the Westminster Plaza redevelopment as an economic development project for the City of Westminster. Upon roll call vote, the motion carried unanimously.

RESOLUTION NO. 57 - PROMENADE EAST ECONOMIC DEVELOPMENT PROJECT:

A motion was made by Scott and seconded by Merkel to adopt Resolution No. 57 designating the Westminster Promenade East as an economic development project for the City of Westminster. Upon roll call vote, the motion carried unanimously.

1998 BUDGET, 1998 PAY PLAN AND GENERAL LEAVE BENEFITS:

A motion was made by Smith and seconded by Scott to Table Resolution No. 58 re Adoption of 1998 City Budget, Resolution No. 59 re Adoption of 1998 Pay Plan and Councillor's Bill No. 69 re General Leave Benefits until the October 27 City Council meeting so all member of Council can be present. The motion carried unanimously.

EMPLOYMENT AGREEMENT WITH MARTIN MCCULLOUGH, CITY ATTORNEY:

A motion was made by Scott and seconded by Allen to approve a revised employment agreement with Martin McCullough serving in the position of City Attorney for calendar years 1998 and 1999, and authorize the Mayor and City Clerk to execute the agreement on behalf of City Council. The motion carried unanimously.

MISCELLANEOUS BUSINESS:

Mayor Pro Tem Dixon stated there would be an Executive Session regarding the Federal Heights Water Contract and the Ice Arena Contract negotiations.

ADJOURNMENT:

The meeting was adjourned at 7:55 P.M.

ATTEST:

Mayor Pro Tem

City Clerk

Date: October 13, 1997

Subject: Presentation of ICMA Award for Program Excellence

Prepared by: Bill Christopher, City Manager

Introduction

The City of Westminster and City Manager Bill Christopher were recipients of an International City/County Management Association (ICMA) Award for Program Excellence at this year's international conference held in Vancouver British Columbia, Canada in September. The award recognizes the City's focus and commitment to intergovernmental cooperation, with particular recognition of the Standley Lake Protection Project.

Summary

Each year, the International City/County Management Association presents awards to members who have distinguished themselves in the field of City and County management. At this year's awards luncheon, held in conjunction with the annual conference, the City of Westminster and City Manager Bill Christopher were recognized for Westminster's emphasis on intergovernmental cooperation. The City currently has over 100 intergovernmental agreements (IGA's) in effect. In particular, this ICMA Award highlights the Standley Lake Protection Project.

Staff Recommendation

City Manager Bill Christopher presents the ICMA award to Mayor Pro Tem Sam Dixon and the City Council.

Background Information

The International City/County Management Association, which consists of approximately 8,200 members, from throughout the world, holds an international conference each year. This year's conference (83rd annual) was held in Vancouver British Columbia, Canada. As part of the annual conference, the ICMA annual awards program is held to celebrate excellence in local government. There are 20 different categorical awards that are presented to members in the field of public administration to recognize them and their respective cities. This year, the City of Westminster and City Manager Bill Christopher were recognized with an Award for Program Excellence in Intergovernmental Cooperation.

The panel of judges noted the significance of the Standley Lake Protection Project. ICMA commented that as a result of the cooperation between the local governments for which Standley Lake provides drinking water, and seven Federal, State, and local agencies, the new Woman Creek Reservoir and pipeline system was installed to protect the lake from potential contamination from the Rocky Flats Plant, a former nuclear weapons manufacturing facility. Thanks to the willingness of many government agencies to forge a multi jurisdictional solution to a shared problem, the Standley Lake Protection Project will safeguard the environment and benefit residents and wildlife in each of the participating jurisdictions for many years to come.

Each award recipient receives two award plaques, with one honoring the City and the other recognizing the ICMA member. Presentation of the plaque presented to the City of Westminster has been scheduled on Monday night's City Council agenda. City Manager Bill Christopher will be presenting the plaque to the City in recognition of the City's ongoing commitment to intergovernmental cooperation.

It is important to note the leading role which Ron Hellbusch and Dave Kaunisto played in the Standley Lake Protection Project. They were especially responsible for its success and providing leadership, administrative support, and technical coordination with the various Federal, State, and local governmental entities.

Respectfully submitted,

William M. Christopher
City Manager

Date: October 13, 1997
Subject: Proclamation for Colorado Rapids
Prepared by: Patrick Goff, Management Intern

Introduction

City Council is requested to proclaim October 15, 1997 as Colorado Rapids day in the City of Westminster.

Summary

On October 8, 1997, the Colorado Rapids defeated the Kansas City Wizards, the Western Conference champions, in the conference semifinal series. The Rapids' 3-2 victory over Kansas City advanced the Colorado Rapids to the Western Conference championship series with the Dallas Burn. The Rapids defeated the Burn in the first game of a three game series on Sunday, October 12. Due to the fact that Westminster is the training home of the Colorado Rapids, it is appropriate for the City of Westminster to recognize the Team's accomplishment and congratulate them.

Staff Recommendation

City Council present a proclamation to Dan Counce, General Manager and Rene Miramontes, Assistant Coach of the Colorado Rapids, proclaiming October 15, 1997 as Colorado Rapids Day in Westminster.

Background Information

Major League Soccer (MLS) made its debut in the American sports scene in 1996. The Colorado Rapids began their training on March 4, 1996 and play their games at Mile High Stadium in Denver. In partnership with the City of Westminster, the Rapids established their official training facilities at Westminster City Park. Quite recently, the Rapids and the City announced plans for the permanent facility for the Rapids which will be included in the companion fitness center next door to City Park Recreation Center.

In their initial season, the Rapids did not qualify for post-season play. However, this year, the Rapids have not only qualified for post-season play, they have proved their doubters wrong by sweeping the Western Conference champions, the Kansas City Wizards, to advance to the Western Conference finals.

Yesterday, the Rapids defeated the Dallas Burn in the first game of a best-of-three game series. The Rapids return to Denver this Wednesday, October 15, to play the Burn for the Western Conference Championship. One more win for the Rapids advances the team to play the champion of the Eastern Conference for the MLS Cup.

Proclamation for Colorado Rapids

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The City of Westminster is excited about the success of the team and the proclamation will hopefully cheer them onto win the MLS Cup.

Respectfully submitted,

William M. Christopher
City Manager

Attachment: Proclamation

WHEREAS, Major League Soccer made its debut in the American sports scene in 1996; and

WHEREAS, the Westminster City Park Recreation Center is the official home for the training facility of the Colorado Rapids; and

WHEREAS, the Colorado Rapids have qualified for post-season play; and

WHEREAS, the Colorado Rapids swept the the Western Conference champions, the Kansas City Wizards, to advance to the Western Conference finals; and

WHEREAS, the Colorado Rapids defeated the Dallas Burn on Sunday and will play the Burn on Wednesday at Mile High Stadium for the Western Conference Championship; and

WHEREAS, the City of Westminster is immensely proud of the Colorado Rapids which call the City of Westminster its official training home; and

WHEREAS, the City Council and City Administration extend best wishes and are cheering the Rapids to win the MLS Cup.

NOW, THEREFORE I, Sam Dixon, Mayor Pro Tem of the City of Westminster, on behalf of the entire Westminster City Council and staff, do hereby proclaim Wednesday, October 15, 1997 as

COLORADO RAPIDS DAY

in the City of Westminster, in recognition of their accomplishments in the 1997 Major League Soccer season. The City would like to wish the Colorado Rapids continued success in the 1997 post-season as well as in the years to come as Westminster residents.

Sam Dixon, Mayor Pro Tem

Date: October 13, 1997

Subject: Promenade East Landscape Design Contract

Prepared by: Alan Miller, Assistant City Manager

Introduction

City Council action is requested to authorize the City Manager to sign a contract with DHM Design Corporation in the amount of approximately \$291,000 to provide landscape architectural design services for the Promenade East Project. Funds are available in the Promenade East Project budget in the General Capital Improvement Fund for this expense.

Summary

The City selected DHM Design Corporation to provide preliminary design services for Promenade East and those services have now been completed. DHM performed their work in an exemplary manner and Staff is very pleased with the caliber of work and level of cooperation exhibited by DHM in achieving the Promenade East preliminary landscape design.

The pace of the project is now quickening with the hiring of the hotel architect by Inland Pacific and the City needs to proceed to the final design and construction drawing phase of the landscape architecture needed on Promenade East. The landscape services include the linear park area, landscaping the parking lot areas, landscaping areas along the loop road and providing the construction drawings and design for all of the Promenade work itself. The total fee negotiated with DHM for Promenade East is \$291,653 which represents design costs of about 5.7% of estimated construction costs. This is an extremely favorable proposal for the City since normal design costs are typically closer to 7% of estimated construction costs.

Staff Recommendation

Authorize the City Manager to sign a design services contract with DHM Design Corporation in the amount of \$291,653 and also authorize a contingency of \$30,000 for unanticipated design requirements and charge the expense to the appropriate project account in the General Capital Improvement Fund.

Background Information

The Westminster Promenade East project is proceeding through the design phase that is beginning to accelerate with the construction of the Ice Centre already underway. Design of the office buildings and hotel/conference center complex are now beginning. The Promenade East project encompasses approximately 40 acres of development. It includes a significant level of landscaping in parking lot areas, in the buffer linear park area south of Sheridan Green, along Promenade East loop road and providing landscape and construction document services for the actual Promenade that includes shelter structures, concrete pavers, planter boxes, landscape areas and the like.

The preliminary design work has been completed and it is appropriate to begin the more detailed design drawings so the project may stay on schedule.

It is anticipated that the design phase of the Promenade East project will continue through the winter with actual construction to commence in the spring of 1998 although some overlot grading is occurring at this time as it relates to the Ice Centre project which is being called Promenade East Phase I.

DHM Design Corporation is also the design firm for Westminster City Park Phase III which includes the softball field complex. Having the same firm on both projects will achieve solid coordination and understanding of the overall plan.

Respectfully submitted,

William M. Christopher
City Manager

Date: October 13, 1997
Subject: Countryside Pump Station Replacement Project Contract
Prepared By: Alex Iacovetta, Utilities Manager
Tom Settle, Water Quality Coordinator

Introduction

City Council action is requested to authorize the City Manager to sign a contract with Western Summit Constructors, Inc., in the amount of \$1,393,000 with a project contingency of \$139,300 for the design and construction of the Countryside Replacement Water Pumping Station. Funds are available in the Utilities Water Projects Capital Improvement Account in the Utilities Fund for this expense.

Summary

The Countryside Pump Station, located at 100th Avenue and Simms Street, provides water supply to the western side of the Countryside subdivision. This area was evaluated for future needs in late 1996, as discussion of development in the Countrydale Business Park progressed. The conclusion of the evaluation was that the entire Countrydale area would need to be included in the service area of the existing pump station. It was also concluded that the existing station did not have the capacity currently, nor the expansion capability needed to serve the area.

A recommendation was made that the City consider a design/build approach for the project in the interest of time-savings. Requests for Proposals for design/build of a new pumping station were sent to Western Summit Constructors, Inc.; Black & Veatch; Camp, Dresser, and McKee; HDR Engineering; and Burns and McDonnell. The following is a listing of the cost proposals from the four firms that submitted proposals:

Western Summit Constructors	\$1,393,500
Black & Veatch	\$1,422,413
Camp, Dresser & McKee	\$1,639,500
Burns and McDonnell	\$1,658,360

Western Summit Constructors and Black & Veatch were short-listed for interviews. The City's interview team consisted of Alex Iacovetta, Utilities Operations Manager; Diane Phillips, Utilities Projects Coordinator; and Tom Settle, Water Quality Coordinator. Through the interview process, Staff is now very comfortable in recommending the low bidder for this project, Western Summit Constructors, Inc.

An important component requested by Staff in the proposals was sharing of cost savings. The facility design will be developed through a three-way partnership of City Staff, engineer and constructor. This will provide the maximum level of ability for identifying cost saving possibilities. The proposal from Western Summit Constructors will return 80% of all cost savings to the City.

Alternatives to proceeding with the recommendations above include:

1. Direct Staff to re-issue the Request For Proposals for the replacement pump station.

Comment: The time line for this project becomes increasingly important as delays in land acquisition have already pushed the project back 6-8 weeks and initial construction in the Countrydale area are anticipated by early Summer of 1998.

2. Select Black and Veatch to perform the design/build project.

Comment: The selection team carefully reviewed all proposals, conducted the additional interview, and believe Western Summit is best qualified for the project.

3. Do not proceed with design of the replacement pump station.

Comment: The Countrydale Business Park can not be adequately served by the existing facility or be provided proper fire protection.

Staff Recommendation

Authorize the City Manager to execute a contract with Western Summit Constructors, Inc., in the amount of \$1,393,000 for design and construction of the replacement Countryside Pump Station and approve a design/construction contingency of \$139,000. Charge the cost associated with this work to the Utilities Water Project Capital Improvement Account in the Utility Fund.

Background Information

As the Countrydale Business Park came to the forefront in development activity, Staff believed that the impacts to the water distribution system must be more closely evaluated. HDR Engineering was requested to expand on the work being done on the Treated Water Master Plan and provide a more detailed analysis of the needs of the area served by the Countryside Pump Station. This work was completed in December 1996, and updated in August 1997.

The evaluation concluded that the new Countrydale area would need to be included in the Zone 5 water distribution area. Zone 5 is in the extreme west portion of the Countryside area and extends north to 108th Avenue, meeting the southwest corner of Countrydale. The existing pump station, located at 100th Avenue and Simms Street, will not be capable of handling the additional demands of the new construction proposed for the Countrydale area.

The evaluation also demonstrated a potential for improving the delivery of water to the zone and simplifying the pipe network needed. The proposal identified re-locating the pump station site to the east side of the zone and using existing large diameter piping to feed the zone.

Five engineering firms were provided with a Request For Proposals for a design/build approach to constructing the replacement station. Each of the respondents provided slightly different approaches to the project, either as engineer/constructor teams or as engineering/construction management groups.

Western Summit Constructors, Inc., has teamed with Richard P. Arber and Associates for engineering to complete the project. Black and Veatch, the second low bidder, is an engineering firm offering to construct the project through their own construction subsidiary, Black and Veatch Construction, Inc.

Respectfully submitted,

William M. Christopher
City Manager

Date: October 13, 1997

Subject: Stream Monitoring Agreement

Prepared by: Dave Cross, Utilities Systems Specialist

Introduction

City Council action is requested to authorize the City Manager to sign a Stream Monitoring Agreement between the Cities of Westminster, Broomfield and Northglenn, and the United States Department of Energy (DOE), Rocky Flats Field Office.

Summary

Authorization to participate in this agreement will allow the Cities of Westminster, Broomfield, and Northglenn, and the United States Department of Energy (DOE), (the Parties) to form a group that will be able to perform comprehensive monitoring of Big Dry Creek and the associated watershed, and is necessary to receive an United States Environmental Protection Agency (EPA) grant in the amount of \$47,000 to be used to support the monitoring activities. Monitoring of the Big Dry Creek is beneficial to each of the Parties, because each member has the ability to discharge their wastewater effluent to the Creek. Each of the entities can be impacted by the information collected through future stream standard Hearings that will review the collected data to set discharge standards.

Informally coordinated Creek sampling has been done by Westminster, Broomfield, and Northglenn for 5 years and has resulted in increased efficiency and greater overall coverage when compared to the individual sampling programs previously done by each City. Recently, the group was made aware of an EPA grant program that could supply funding to further the water quality interests of the Cities, as well as the interests of DOE. The Parties applied for and received grant funding contingent upon the establishment of a formal agreement between the individual members.

Staff Recommendation

Authorize the City Manager to sign a Stream Monitoring Agreement to allow Westminster to participate in continued group stream monitoring activities on the Big Dry Creek.

Background Information

Each municipality has individually monitored the Big Dry Creek for a number of years. For the past 5 years, the Cities have coordinated their monitoring activities to avoid duplication of work and to more completely describe the water quality of the Big Dry Creek. The benefit of this monitoring is an increased understanding of the Creek and the impacts on it from the Cities' wastewater discharges or from other sources throughout the watershed. An increased understanding of the Creek has and will continue to benefit the Parties during State reviews of existing and proposed stream standards. The Colorado Department of Public Health and Environment (CDH) performs a triennial review of the water quality standards for the Big Dry Creek.

During these reviews, proposed stream standard changes are considered and ruled upon. Often, changes are made based on general data and observations made by the CDH and do not incorporate data specific to the individual stream being considered. This can result in unnecessarily strict standards being set. Strict stream standards will result in a greater compliance burden being placed on each wastewater treatment plant's discharge.

The EPA grant's focus is to encourage formation of a watershed group to study the Big Dry Creek watershed and to identify and involve additional stakeholders in the further study and management of the watershed basin. This is a new approach that has been endorsed by the EPA as an effective way to manage and improve the overall quality of individual watersheds.

Should the City of Westminster choose not to participate in the formal monitoring agreement, Westminster would forfeit its ability to share in the direction of the EPA grant funds and could be excluded from participating in the coordinated monitoring of the Creek.

Execution of the agreement will insure that Westminster will continue to have an equal voice in the decisions affecting the monitoring and eventual management of the Big Dry Creek and its associated watershed, and will continue to fully benefit from the data collected on the Creek.

Respectfully submitted,

William M. Christopher
City Manager

Attachment

Date: October 13, 1997

Subject: Little Dry Creek Trail at 64th Avenue

Prepared by: Philo Shelton, Park Project Engineer

Introduction

City Council action is requested to authorize the City Manager to sign a change order with Randall and Blake, Inc. (RBI) in the amount of \$63,182 for the construction of the Little Dry Creek Trail at 64th Avenue. The City received a Great Outdoors Colorado (GOCO) grant to construct this portion of the Little Dry Creek Trail. Funds for this expense are available in both the Little Dry Creek Trail account for \$48,182 and the Trail Development account for \$15,000 in the General Capital Improvement Fund.

Summary

The Little Dry Creek Trail, ISTEA Grant Project deleted the 64th Avenue segment of trail due to a lack of funding. Staff applied for a GOCO grant to build this missing segment of trail and received a \$50,000 grant from GOCO. Since the City had designed and permitted the project based on the full scope of the ISTEA Grant project, this project can be accomplished through a change order to RBI, the contractor for the ISTEA Grant project. RBI was the low bidder and is using the November 1996 unit bid prices for this change order work.

Staff Recommendation

Authorize City Manager to sign a change order with Randall and Blake, Inc. (RBI) in the amount of \$63,182 for the construction of the Little Dry Creek Trail at 64th Avenue and charge this expense to both the Little Dry Creek Trail account for \$48,182 and Trail Development account for \$15,000 in the 1997 General Capital Improvement Fund.

Alternative

Place this project out to bid to receive prices from other contractors to compare with RBI's unit bid prices. However, this would delay the project by a few months and would require Staff to reapply for wetland permits. In addition, RBI's November 1996 unit bid prices were competitive, since six bids were received on the ISTEA Grant Project that ranged from RBI's low bid of \$1,001,057 to \$1,278,043.

Background Information

The City of Westminster was awarded an Intermodal Surface Transportation Efficiency Act (ISTEA) grant in 1992 in the amount of \$957,330 from the Denver Regional Council of Governments (DRCOG) for construction of Little Dry Creek Trail from England Park to the confluence of Clear Creek. This amount of funding was not enough to complete the design and construction of the project and Staff applied for this GOCO grant to help complete the remaining section of trail along Little Dry Creek that connects to 64th Avenue and Clear Creek Trail.

In December 1996, City Council awarded a contract with Randall and Blake to construct the major portion of the Little Dry Creek Trail, which is now complete, funded by the ISTEA grant. The grant of \$50,000 will be used to complete the missing section of trail at 64th Avenue, install lighting of the Lowell underpass by Public Service Company, install trail signs, and pay for supplies for a volunteer project.

A majority of the proposed Little Dry Creek Trail project is outside of the City of Westminster boundary, which ends at Lowell Boulevard. An Intergovernmental Agreement (IGA) between City of Westminster and Adams County was approved and completed on October 24, 1994. In summary, the IGA states that each governmental entity (the City of Westminster and Adams County) will be responsible for maintenance, law enforcement, and public liability for the portions of trail located in their jurisdiction. Staff has also been coordinating with Adams County and the Urban Drainage and Flood Control District for future drainage and flood control issues, and Burlington Northern for two railroad bridge underpasses on Little Dry Creek, which will also be used as an underpass for the Little Dry Creek Trail.

As a budget overview, the Little Dry Creek Trail project original budget developed in 1991, to secure the ISTEA grant, was estimated at \$1.2 million for design, right of way (ROW) acquisitions, and construction (\$99,000 for design, \$151,000 for ROW acquisitions, and \$950,000 for construction). However, over a period of five years, costs have increased due to regulatory guidelines established by the federal government and implemented by CDOT within the ISTEA grant. Current design and construction costs, and ROW acquisitions/easements expenses have also increased. The new cost estimate for design, ROW acquisitions and construction is \$1.6 million, which is \$300,000 higher than the 1991 projection.

In April 1996, City Council adopted a resolution to authorize the City Manager to sign a contract with CDOT for \$1,196,663 (the ISTEA grant portion is \$957,330 and the City's portion is \$239,333). In May 1996, City Council approved the use of Open Space funds of approximately \$300,000 for acquiring the right of way for the trail. Finally, \$67,000 was taken from the Trail Development CIP fund to pay for approximately 2,200 linear feet of trail east of Federal Boulevard to Zuni Street, which completed the ISTEA portion of the Little Dry Creek Trail. In addition, the \$67,000 of Trail Development funds were used as the matching portion of funds for the \$50,000 GOCO grant.

Staff will request a reimbursement of only the actual expenses for construction of the Little Dry Creek Trail project once construction has been completed. The ISTEA grant portion of the Little Dry Creek Trail is complete. The GOCO grant of \$50,000 will be reimbursed after construction of the missing section of trail at 64th Avenue and Clear Creek, installation of lighting of the Lowell underpass by Public Service Company, installation of trail signs, and completion of a volunteer project.

Respectfully submitted,

William M. Christopher
City Manager

Attachment: Project map

Date: October 13, 1997

Subject: TABLED - Resolution No. 52 re RTD Guide the Ride Program

Prepared by: John Carpenter, Director of Community Development

Summary

City Council tabled consideration of action on a resolution endorsing the Regional Transportation District's "Guide the Ride" transit funding program which is being submitted to voters in the fall 1997 election. This tabling action was at the request of City Councillor Allen to allow him time to further study the RTD proposal. This program includes several projects of benefit to Westminster residents and would provide alternative transportation choices to the single occupant vehicle.

Staff Recommendation

1. Remove Resolution No. 52 from the Table.
2. Adopt Resolution No. 52 endorsing the Regional Transportation District Guide the Ride funding proposal which has been placed on the fall 1997 election.

Background Information

The Regional Transportation District (RTD) has developed a comprehensive 20-year program to improve transit services within the Denver Metropolitan area. The program includes a number of capital improvement projects such as commuter rail, high occupancy vehicle (HOV) lanes, Park-n-Rides, as well as purchase of buses for increased bus routes to support intra-suburban travel.

The Guide the Ride plan would be funded by increasing the RTD sales tax from .4% to 1.0% and from the issuance of bonds. This funding package must be approved by the voters this fall for the plan to proceed. The Plan is expected to be completed in the year 2015, although this time frame may vary depending upon the actual sales tax collection revenues and the actual cost of construction and land acquisition. RTD will also seek other federal and state funds to finance the transit enhancements.

Rapid Transit

Some of the proposed projects more directly benefiting Westminster include the following: A Major Investment Study is underway to determine the most desirable ways to provide transit service to the north (I-25) and northwest (US 36) corridors. These alternates include high occupancy vehicle (HOV) lanes, light rail transit, and commuter rail, among others. Guide the Ride funds would be used to construct the preferred alternative.

Alternative Service Program

RTD designed the Alternative Service Program to provide small bus service that is flexible and addresses many mobility needs that traditional "fixed route" transit services do not serve well.

It is designed to be carried out rapidly if the Guide The Ride plan is approved by voters and will provide a variety of alternative community-based services. The following improvements would directly benefit Westminster residents:

- 1) Thornton/Westminster: A new Route 104 would provide cross-town service between the Thornton Recreation Center at 112th Avenue and Colorado Boulevard and approximately 100th Avenue and Wadsworth Parkway, with stops along 104th Avenue, including Northglenn Mall, the Westminster Recreation Center, the Butterfly Pavilion, and the Westminster Promenade.

In addition, a new, summer-only "Fun Bus" would provide access to area recreation centers, parks, and entertainment. Service would be provided by reservation only, with door-to-door service from home to the desired facility. Service hours will be 9:00 A.M. to 4:00 P.M. weekdays only, during the summer.

- 2) Westminster Center: A shuttle service would operate in the vicinity of the Westminster Mall providing service during normal business hours. The shuttle would operate from the Westminster Center park-n-Ride to the Westminster Mall, Brookhill Shopping Center, Wadsworth Boulevard, 104th Avenue, the Westminster Promenade, the Butterfly Pavilion, and Sheridan Boulevard and back to the park-n-Ride. Service would be provided every 15 minutes weekdays and Saturdays from 9:00 A.M. to 9:00 P.M.
- 3) Arvada/Northglenn/Westminster/Federal Heights: Three new routes would provide access between the Westminster Center, Wagon Road, Broomfield, and Boyd's Crossing park-n-Rides. The route between Wagon Road and Westminster Center park-n-Rides would run on 92nd Avenue, Lowell Boulevard, NorthPark Avenue, 100th Avenue, Ura Lane, 104th Avenue, Melody Drive, and Huron Street. This would provide service between Northglenn Mall and Westminster Mall.

park-n-Ride

Several new park-n-Ride facilities, or expansions to existing facilities would result from the Guide The Ride. The existing Westminster park-n-Ride would be expanded from 673 parking spaces to over 1,100 parking spaces. A new park-n-Ride will be constructed at 104th Avenue and US 36. Finally, a new park-n-Ride would be constructed in conjunction with the location and construction of a new interchange north of 120th Avenue. The location of this interchange will be the subject of an interchange feasibility study which was started in the summer of 1997.

Bus Redeployment

With the construction of the various rapid transit corridors, much of RTD's current Express and Regional bus service would be replaced with light rail or commuter rail or made more efficient through the construction and extension of Bus/HOV lanes. The bus miles and hours saved because of these improvements would be redeployed to increase service to various areas within RTD. The result is increased geographic coverage, improved service on many routes, and extended hours of service in some areas.

Staff believes that significant benefits would accrue to Westminster citizens and benefits from the Guide the Ride program include the following:

- 1) The program would greatly increase transit capacity helping to attract existing motorists to use transit, thus helping to reduce traffic congestion.
- 2) The expanded Westminster park-n-Ride and new park-n-Rides at US 36/104th Avenue and on north I-25 would help to increase transit ridership and reduce traffic congestion on I-25 and US 36.
- 3) The Plan provides funding which otherwise does not exist to fund commuter rail for the Westminster Rail.
- 4) Based upon experiences in other metropolitan areas, commuter rail stations help to attract economic development opportunities. Such a station in Westminster would likely create similar economic development opportunities.
- 5) The potential rail routes along US 36 and the Burlington Northern Railroad both pass by several areas of Westminster economic activity, including south Westminster, Westminster Mall, and the Westminster Promenade.
- 6) Guide the Ride was assumed to be a "given" in the Jefferson County Transportation Plan. If it is not approved, additional road construction will need to occur to provide the needed vehicular capacity.
- 7) The new intra-suburban bus routes will provide enhanced transit access to Westminster residents for "cross town" trips.

In summary, Guide the Ride would provide many benefits to the City of Westminster.

Respectfully submitted,

William M. Christopher
City Manager

Attachment

RESOLUTION

RESOLUTION NO.

INTRODUCED BY COUNCILLORS

SERIES OF 1997

SUPPORTING THE RTD GUIDE THE RIDE BALLOT ISSUE

WHEREAS, the City of Westminster supports the implementation of measures which decrease traffic congestion, improve mobility, improve air quality and provide alternatives to the single occupancy vehicle; and

WHEREAS, the Regional Transportation District (RTD), representing citizens of the six county Denver-metropolitan area, has requested the authority to increase the RTD sales tax share from 0.6 percent to 1.0 percent, which is projected to raise approximately \$90 million in additional revenue annually; and

WHEREAS, the additional revenue will support the District's Guide the Ride Plan which proposes more than \$4 billion in regional transportation improvements; and

WHEREAS, the Plan contains elements that will benefit the citizens of Westminster, including a Major Investment Study in the U.S. 36 corridor, an expansion of the Westminster Center Park-n-Ride, a new park-n-ride at West 104th Avenue and U.S. 36 and programs for better utilization of bus service; and

WHEREAS, the elements of the Guide the Ride Plan are intended to benefit Westminster' citizens in the form of reduced traffic congestion, increased opportunities for transit alternatives to the passenger car and improved mobility both in the City and the region;

NOW, THEREFORE, be it resolved that the City of Westminster supports legislation authorizing the RTD Board of Directors to place a sales tax initiative on the November 1997 Ballot, allowing citizens of the District to vote on the measure. IT IS FURTHER RESOLVED that the City of Westminster supports the objectives and program elements of RTD's Guide the Ride Plan and the use of the additional sales tax revenue to implement the Plan elements.

Passed and adopted this 13th day of October, 1997.

ATTEST:

Mayor Pro Tem

City Clerk

Date: October 13, 1997

Subject: Resolution No. re Adams County Detention Facility Expansion Sales Tax Proposal

Prepared By: Barbara Gadecki, Assistant to the City Manager

Introduction

City Council action is requested to adopt the attached Resolution stating City Council's support of the Adams County Detention Facility expansion. This sales tax extension proposal will appear on the November 4 ballot.

Summary

The Adams County Board of County Commissioners has placed the proposal to extend the existing countywide sales tax for the expansion of the Adams County Detention facility on the November ballot.

Staff Recommendation

Adopt Resolution No. which formally states the City of Westminster's support for the extension of the existing 1/2 of 1% Adams County sales tax for the expansion of the Adams County Detention facility through December 31, 2001, as proposed for the November 4, 1997, ballot.

Background Information

The Board of Adams County Commissioners submitted a request for authorization to temporarily extend the existing 1/2 of 1% countywide sales tax for the purpose of expanding, equipping, operating, and maintaining the Adams County Detention facility. This extension would continue the current sales tax through December 31, 2001.

Current facilities are experiencing overcrowding resulting with early inmate releases. The current facility contains 943 beds of which the City of Westminster is allocated 9 beds. To avoid or minimize early inmate releases, Adams County has proposed an expansion for the Adams County Detention facility. The proposed expansion will increase the number of beds by 768 for a total of 1,711 beds with no bed caps on municipalities. However, sufficient funding does not exist to construct, equip, and maintain the proposed expansion without the continuation of the 1/2 of 1% sales tax throughout the County.

The City of Westminster's Municipal Court has been impacted by the overcrowding in the Adams County Jail. Constraints in Adams County Jails and the increase in domestic violence offenders requiring jail sentences has resulted with an increase in the City's use of the Clear Creek County Jail. The 1997 budget included an allocation of \$72,000 for Clear Creek Jail use; however, due to the continued constraints at Adams County Jail, the City has utilized Clear Creek Jail more than what was originally planned. In August of this year, the City Council authorized a General Fund Contingency transfer of \$22,000 to cover additional expenses incurred by housing prisoners at the Clear Creek County Jail.

The 1998 proposed City Budget includes the base \$72,000 for Clear Creek County Jail plus an additional \$36,300 for a total of \$108,300.

Respectfully submitted,

William M. Christopher
City Manager

Attachments

RESOLUTION

RESOLUTION NO.

INTRODUCED BY COUNCILLORS

SERIES OF 1997

"SUPPORT ADAMS COUNTY DETENTION FACILITIES"

WHEREAS, the Board of County Commissioners of Adams County has identified the need to expand the Adams County Detention Facility to address overcrowding issues; and

WHEREAS, sufficient funds are not available in the treasury of Adams County to cover the expansion costs of the Detention Facility; and

WHEREAS, the Board has proposed extending the existing 1/2 of 1% countywide sales tax through December 31, 2001, to pay for expanding, equipping, operating, and maintaining the Detention Facility,

NOW, THEREFORE, be it resolved by the City Council of the City of Westminster that:

The Westminster City Council expresses its support for this sales tax extension for the expansion of the Adams County Detention Facility and urges Westminster voters who reside in Adams County to vote YES authorizing the County to continue the 1/2 of 1% sales tax through December 31, 2001.

Passed and adopted this 13th day of October, 1997.

ATTEST:

Mayor Pro Tem

City Clerk

Date: October 13, 1997
Subject: Resolution No. RE Jefferson County Schools Bond Issue
Prepared by: Barbara Gadecki, Assistant to the City Manager

Introduction

City Council action is requested to adopt the attached Resolution stating City Council's support of the Jefferson County Schools Bond Issue which will appear on this November's ballot.

Summary

The Jefferson County School Board has placed on the November ballot a \$265 million bond issuance proposal for the improvement and addition of school buildings in the Jefferson County school system.

Staff Recommendation

Adopt Resolution No. which formally states the City of Westminster's support for the issuance of \$265 million in bonds for the improvement and expansion of school facilities in Jefferson County as proposed for the November 4, 1997, ballot.

Background Information

The Jefferson County School District is attempting to address the serious capital improvement and expansion needs currently facing the schools as the result of aging facilities and an increasing student population. Of the proposed improvements and expansions, two elementary schools within the City of Westminster will receive major infrastructure improvements. In addition, students residing within the City will experience the benefits of these improvements as two senior highs and one middle school serving Westminster students will receive additions to existing schools or experience major infrastructure improvements. Also, a new middle school is proposed in the Standley Lake area.

The \$265 million proposed in bonds will fund the following:

- a) Additions for existing school facilities, including new senior high and elementary schools;
- b) Upgrades and improvements to existing school buildings;
- c) Asbestos abatement in existing school buildings; and
- d) New school buildings, including new senior high and middle schools as well as facilities for alternative programs.

Respectfully submitted,

William M. Christopher
City Manager

Attachment

RESOLUTION

RESOLUTION NO.

INTRODUCED BY COUNCILLORS

SERIES OF 1997

"SUPPORT JEFFERSON COUNTY SCHOOLS"

WHEREAS, the City of Westminster recognizes the need to continually improve school facilities to provide the best environment to facilitate learning, and

WHEREAS, during the last five years, more school buildings within Jefferson County have reached the age of 35 years necessitating substantial upgrades, and

WHEREAS, the student population has increased by approximately 5,000 students over the past five years and continues to grow;

NOW, THEREFORE, be it resolved by the City Council of the City of Westminster that:

The Westminster City Council expresses its support for this bond issuance for Jefferson County Schools and urges Westminster voters who reside in Jefferson County to vote FOR THE BONDS authorizing the County to sell bonds for school capital improvements.

Passed and adopted this 13th day of October, 1997.

ATTEST:

Mayor Pro Tem

City Clerk

Date: October 13, 1997

Subject: John Stipech Employment Agreement

Prepared by: John Stipech, Presiding Judge
Matt Lutkus, Deputy City Manager for Administration

Introduction

City Council is requested to approve an employment agreement with John A. Stipech for services as Presiding Judge and to pass a Councillor's Bill to authorize the change in his salary.

Summary

Since January 1, 1996, City Council has had an employment agreement with John A. Stipech for his services as full-time Presiding Judge. As a followup to Council's recent performance review meeting with the Judge, the Council has indicated they wish to increase his annual compensation by three percent to \$80,340. The attached proposed agreement with John Stipech is identical to the current employment agreement with the exception of the revised salary and the change in the effective dates for the contract.

In accordance with City Charter provisions, Council is also asked to pass a Councillor's Bill changing the Judge's compensation. The proposed Councillor's Bill will also delete the reference to the salary for the Associate Judge in line with Staff's recommendation that a salary range for this position be included in the City's Pay Plan.

Staff Recommendation

1. Authorize the Mayor to execute an amended employment agreement with John A. Stipech for his services as Presiding Judge with an annual salary of \$80,340 effective January 1, 1998.
2. Pass Councillor's Bill No. on first reading regarding a change to the salary for the Presiding Judge and the deletion of the section related to the Associate Judge's salary.

Background Information

Since July 1991, City Council has used an employment contract for Presiding Judge services. This approach is consistent with the practice of having employment contracts with the City Manager and the City Attorney who also serve at the pleasure of City Council.

The contract with the Presiding Judge addresses the overall duties of the position, the term of the agreement, compensation and benefits, professional development, and termination and separation provisions.

The proposed employment agreement with John A. Stipech mirrors the agreement with Judge Stipech which Council approved in December 1995, with the exception of the change in salary. The revised agreement calls for the Judge's salary to increase by three percent or \$2,340 from the current level of \$78,000 to \$80,340 effective January 1, 1998.

Similar to the Council's employment agreements with the City Manager and the City Attorney, this agreement would again cover a two year period, 1998 and 1999, with the provision that the salary be reviewed annually.

Section 16.2 of the Westminster City Charter requires that the Council set the Presiding Judge's salary by ordinance. The attached Councillor's Bill addresses this requirement by updating the salary to reflect the amount listed in the proposed employment agreement.

In previous years, the Associate Judge's salary was also set by ordinance. Since the City Charter does not require this step, it is Staff's opinion that the section related to the Associate Judge's salary be deleted from the Code and that the salary for the Associate Judge position be included as part of the City's Pay Plan. This change, which is reflected in the proposed Pay and Classification Plan also being considered by City Council Monday evening, will allow for Council's review of the salary at the same time it reviews all other salaries of positions not appointed by City Council. It thereby achieves some consistency with similar type positions and eliminates a separate review of this position each year. The salary included in the 1998 Pay Plan for the Associate Judge reflects the three percent across-the-board increase being recommended for most Unclassified employee pay ranges.

Respectfully submitted,

William M. Christopher
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO. COUNCILLOR'S BILL NO. __

SERIES OF 1997 INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AMENDING THE SALARY OF THE MUNICIPAL JUDGE

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Title 1, Chapter 7 of the Westminster Municipal Code is hereby amended as follows:

1-7-2: MUNICIPAL JUDGE: The salary of the Municipal Judge shall be as follows:

~~\$78,000~~ \$80,340 per annum payable bi-weekly

~~1-7-3: ASSOCIATE JUDGE: The salaries of the Associate Judge shall be as follows:~~

~~Associate Judge \$35.00 per hour payable bi-weekly~~

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

Section 3. This ordinance shall take effect on January 1, 1998.

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 13TH day of October, 1997.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 27th day of October, 1997.

ATTEST:

Mayor

City Clerk

EMPLOYMENT AGREEMENT

THIS AGREEMENT, effective as of the 1st day of January, 1998, by and between the City of Westminster, State of Colorado, a municipal corporation, hereinafter called "CITY," and JOHN A. STIPECH, hereinafter called "EMPLOYEE," both of whom understand as follows:

WHEREAS, the CITY desires to employ the services of John A. Stipech, as Presiding Municipal Judge of the City of Westminster as provided by City Charter, Chapter XVI, Section 16.2; and

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

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

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

SECTION 1. DUTIES:

A. CITY hereby agrees to commence the employment of EMPLOYEE as Presiding Municipal Judge of CITY to perform the duties and functions specified in Section 16.2 of the City Charter, Chapter 22 of Title I of the City Code and such other legally and ethically permissible and proper duties and functions as the City Council shall from time to time assign.

B. EMPLOYEE shall administer the judicial component of the Municipal Court and shall be responsible for providing judicial coverage to insure efficient and expeditious hearing of all matters scheduled for hearing in the Court.

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

D. EMPLOYEE shall supervise the judicial staff of the Municipal Court as may be authorized by the City Council. EMPLOYEE shall provide advice and direction to the Court Administrator in connection with the governance of the Court staff.

SECTION 2. TERMS:

A. During the term of this Agreement, EMPLOYEE agrees to remain in the exclusive employ of CITY. Subject to the provisions of Section 2.D. and Section 3 of this Agreement, EMPLOYEE will serve as Presiding Municipal Judge for calendar years 1998 and 1999. EMPLOYEE is employed as a full-time employee and shall be compensated based upon his devoting normal business hours to his duties as Presiding Municipal Judge.

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

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

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

D. This Agreement shall be considered for renewal annually, no later than October 31 of each year to address extending the Agreement, salary, and other changes negotiated between the parties, unless written notice is given to the EMPLOYEE that such Agreement will not be renewed, and such written notice is forwarded to EMPLOYEE at least ninety (90) days prior to the scheduled expiration of this Agreement. Each renewal of the Agreement shall be for a specified time. If for any reason this Agreement expires prior to its renewal, EMPLOYEE shall continue to work under the terms of the last executed Agreement until a new agreement is executed or the Agreement is terminated in accordance with section 3 below.

SECTION 3. TERMINATION, NOTICE AND SEVERANCE PAY:

A. In the event City Council decides to terminate EMPLOYEE before expiration of the aforementioned term of employment and during such time that EMPLOYEE is willing and able to perform the duties of Presiding Municipal Judge, then and in that event, the CITY agrees to give EMPLOYEE four (4) months' written notice or to pay EMPLOYEE a lump sum cash payment equal to his base salary for the ensuing thirty (30) days. In the event the City elects to terminate this Agreement without giving EMPLOYEE four (4) months' advance written notice thereof, the EMPLOYEE shall have as his sole and Exclusive remedy the severance payment equal to thirty (30) days of EMPLOYEE'S base salary as provided in this paragraph and EMPLOYEE shall have no other rights or claims against the CITY and hereby expressly waives and releases the same, provided however, that in the event the EMPLOYEE is terminated because of his conviction of any illegal act, then, and in that event, CITY has no obligation to give notice or pay the aggregate severance sum designated in this paragraph.

B. In the event the CITY at any time during the employment term reduces the salary or other financial benefits of EMPLOYEE in a greater percentage than an applicable across the board reduction for all City employees, or in the event the CITY refuses, following written notice to comply with any other provisions benefiting EMPLOYEE herein, or the EMPLOYEE resigns following a formal suggestion by the City Council that he resign, then, and in that event, EMPLOYEE may, at his option, be deemed to be "terminated" at the date of such reduction, such refusal to comply or such resignation, within the meaning and content of the thirty (30) days' severance pay provisions herein.

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

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

SECTION 4. SALARY:

A. The CITY agrees to pay EMPLOYEE for his services rendered pursuant hereto an annual base salary of eighty thousand, three hundred and forty dollars (\$80,340) effective January 1, 1998, payable in installments at the same time as other employees of the CITY are paid.

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

SECTION 5. HOURS OF WORK:

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

SECTION 6. DUES AND SUBSCRIPTIONS:

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

SECTION 7. PROFESSIONAL DEVELOPMENT:

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

SECTION 8. GENERAL EXPENSES:

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

SECTION 9. FRINGE BENEFITS:

EMPLOYEE will be allowed all benefits as are extended to Department Head level employees, including the monthly car allowance, except that when such benefits are in conflict with this contract, said contract shall control. The EMPLOYEE's years of service with the City in an unbenefited capacity will be treated as years of continuous municipal service when the level of employee benefits is computed.

SECTION 10. OTHER TERMS AND CONDITIONS OF EMPLOYMENT:

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

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

C. EMPLOYEE is ultimately responsible for providing judicial coverage of all docketed matters in the Westminster Municipal Court.

SECTION 11. GENERAL PROVISIONS:

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

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

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

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

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

F. Effective January 1, 1998, this Agreement replaces and supercedes prior employment agreements between CITY and EMPLOYEE.

IN WITNESS WHEREOF, the City of Westminster, Colorado, has caused this Agreement to be signed and executed on its behalf by its Mayor, and duly attested by its City Clerk, and EMPLOYEE.

Approved by the Westminster City Council on October 13, 1997, contingent upon approval of the Councillor's Bill amending Municipal Judge salary.

ATTEST:

City Clerk

Mayor Pro Tem

John A. Stipech

Date: October 13, 1997
Subject: Change Date for Council Meetings in December
Prepared by: Michele Kelley, City Clerk

Introduction

City Council action is requested to change the date of both of the City Council meetings in December at this time.

Summary

The first City Council meeting of December would normally be held on Monday, December 8th. A majority of the City Council members will be at the National League of Cities meeting and therefore, it is requested to formally change the date of the first Council meeting in December to Monday, December 1st.

The second City Council meeting of December would normally be held on Monday, December 22nd. Since this is the week of Christmas, it is requested to formally change the date of the second Council meeting in December to Monday, December 15th.

Staff Recommendation

Change the date of the first Council meeting in December from December 8th to December 1st and change the date of the second Council meeting in December from December 22nd to December 15th.

Respectfully submitted,

William M. Christopher
City Manager

Date: October 13, 1997
Subject: Set Date For Special Council Meeting
Prepared By: Michele Kelley, City Clerk

Introduction

City Council action is requested to set a date for a Special City Council meeting to hold a public hearing and take action on the Preliminary Development Plan for Promenade East and other items.

Summary

The Preliminary Development Plan (PDP) for Promenade East proposal is ready for Council consideration. It is suggested that City Council set the date of Monday, October 20th for a Special City Council meeting to consider this PDP. This project is gaining momentum and it is important to continue timely actions regarding this project.

An amendment to the Federal Heights wholesale water contract will also be ready for Council's formal action.

In addition, Council is requested to consider the refunding of the Cascade Village tax exempt bonds at this special meeting.

Staff Recommendation

Set the date of October 20, 1997 at 7:00 P.M. for a Special City Council meeting for the purpose of (1) conducting a public hearing and consideration of the Preliminary Development Plan for Promenade East, (2) Federal Heights water contract amendment and (3) Councillor's Bill re refunding of Cascade Village tax exempt bonds.

Respectfully submitted,

William M. Christopher
City Manager

Date: October 13, 1997

Subject: Big Dry Creek Land Purchase For Park and Open Space

Prepared by: Bob Lienemann, Open Space Coordinator
Rich Dahl, Park Services Manager

Introduction

City Council action is requested to authorize the City Manager to purchase approximately 33 acres of land along Big Dry Creek just south of 128th Avenue (see attached map) from the Tejon 128 LLC ownership group. The land would provide for a future park (approx 23 acres) in this area, and widen the City's existing Open Space (adding approx 10 acres) along the creek at this location. Open Space funds are available to finance this acquisition. It is intended that the land be acquired now, paid for with Open Space funds, and that Parks funds would reimburse the Open Space fund for the park portion of the property in the future.

Summary

The City of Westminster acquired 23 acres of open space along Big Dry Creek (the creek and floodplain area west of the creek only) from the Tejon 128 group in 1992. At that time, the City's Open Space program was authorized for five years (1990 through 1995) with three years of funding remaining, and limited to "pay as you go" funding. Thus the minimum area necessary for a trail and a narrow open space corridor was acquired. A crushed rock trail was installed in 1996. Staff had indicated to the landowners in 1992 that if additional funding became available in the future, the City might come back to acquire additional open space along the east side of the creek.

Since that time, the City's new Comprehensive Land Use Plan, the 120th Avenue/Huron Street Planning Study, and the rapid development of the Home Farm and Amherst subdivisions suggest a significant residential population in this area (previously much of this area was zoned for Business Park). The rapidly growing residential population and the nearby Park Centre office park employees generate a need for park facilities in this area. This particular property is level ground, easily developed as a park, located along 128th Avenue for good access and visibility, at the confluence of several trails, adjacent to residential and business park areas, and seems "a natural" for a park to serve the area.

Public Land Dedication requirements for adjacent residential developments have already been satisfied, so any additional dedication at this location would not be large enough to meet these park and open space needs. Purchase of this property would widen the existing open space to include the floodplain and natural areas along both sides of the creek, resulting in a much improved wildlife and trail corridor. This acquisition would also widen the "window" to open space from 128th Avenue looking south, and better match existing open space north of 128th Avenue.

With voter approval in November 1996 of a 20 year open space program and the increased funding available, the Open Space Advisory Board (OSAB) recommends widening the Big Dry Creek corridor at this location, specifically as proposed. OSAB is very supportive of locating parks adjacent to open space to take advantage of trail connections and to have larger "open spaces" with complementary uses throughout the City.

The landowner and Staff have stayed in touch over the past few years. The owners recently approached Staff, to explain that they had received offers from developers to acquire this property for residential development, that one party wished to place the land under a sales contract, and that if the City had interest in park, open space or both, it was necessary to move ahead quickly.

The Open Space Advisory Board has just completed their review of many potential open space properties, and included a portion of this land in their recommendations to acquire. Parks, Recreation and Library Staff have determined that this property is an ideal location to provide the park facilities for this part of the City.

Staff and the landowners have negotiated a proposed sales price of \$22,000 per acre, with the exact total price to be determined by a survey of the property. This is a very reasonable price for this type of land, at this location. The rapid development of the Home Farm and Amherst developments, the new elementary school to be built one half mile north of the property, and other development pressures will likely cause land values to rise quickly. This level land should result in lower park development costs. For the reasons described above, Staff believes that the time is right to take action now to preserve these lands for park and open space use.

Alternatives to the Proposed Action

1. Do not acquire the proposed property. This alternative would still allow for a narrow open space and trail along Big Dry Creek. It is likely that the property would be sold quickly, with the intent to develop single family detached homes. This approach might yield a small Public Land Dedication of approximately 3-4 acres, which could add a little value to the open space along Big Dry Creek, but would fall short of OSAB's recommendation, and would not provide for any park uses. Development would probably include filling of floodplain areas, diminished wildlife habitat, increased flooding, and loss of the views from 128th Avenue. This land might provide room for 80 to 85 additional homes.
2. Delay purchase until some future date. In this case, it is likely that this property would be lost to development. Land values are likely to continue to climb. Both land and funding are available now, but may not be available in the future.
3. Look for other property instead of this land. A park might be acquired and developed at another location, though this property is ideally located, level, has excellent visibility and access, and is offered for sale by the developer at a reasonable cost. Other land might not be for sale, or may be fully developed. The additional open space proposed is unique to this particular location.

In light of the benefits of acquiring this property, and the increasing land values and development pressures at this location, the Open Space Advisory Board and Staff do not recommend any of the alternatives.

Staff Recommendation

Authorize the City Manager to purchase for Park and Open Space, approximately 33 acres of land at a cost of \$22,000 per acre from Tejon 128 LLC, charge the expense to the Open Space Fund, with reimbursement of the Open Space Fund to occur in the future prior to park development.

Background Information

The portion of this land which is proposed for park use is level, easily developed, has excellent visibility and access from 128th Avenue, is accessible by trails, and the proposed park's location adjacent to the Big Dry Creek Open Space corridor adds value to both by locating the uses together. The 120th Avenue/Huron Street Planning Study and the draft Parks, Recreation and Libraries Master Plan call for a park at this location.

The portion of this land proposed for natural open space along the creek fits the Criteria for the selection of Open Space sites very well, as follows:

- < **AESTHETICS:** This land lies along Big Dry Creek, would preserve this natural view corridor, is highly visible from 128th Avenue, and would widen and improve the narrow open space corridor already preserved at this location. Trail users would not feel "squeezed" along new homes, if this land is preserved.
- < **PROTECTION AND PRESERVATION:** Acquiring the property would protect the environmentally sensitive features of the stream and adjacent wetlands, allow for more trees and native areas to grow up along the east side of the creek, expand wildlife habitat, and avoid encroachment of development into the floodplain.
- < **LOCATION:** Properties along Big Dry Creek are important links in a central natural corridor throughout the City. The proposed purchase extends uphill to the southeast, and would provide access from the Park Centre development and adjacent residential neighborhoods to Big Dry Creek trails and open space, and the proposed park.
- < **USE POTENTIAL:** The lands along Big Dry Creek provide an ideal City-wide trail corridor which will link Standley Lake, City Park, Front Range Community College, the new library and many other local parks and trails. This acquisition would provide passive enjoyment such as nature study, photography or solitude, would protect the watershed, would minimize need for expensive storm drainage improvements by generally maintaining the channel in a natural condition with room to meander, and would avoid floodplain encroachment.
- < **NEED FOR IMMEDIATE ACTION and ACQUISITION CONSIDERATION:** The landowners indicate that there is pressure to sell to a developer, and that if the City wishes to preserve the property, now is the time to do so.

The rapid development of adjacent residential projects, the approval of the new Comprehensive Land Use Plan showing Residential use for this property, and other pressures have brought development interest to this property, where there was little interest in 1992. A possible interchange at 128th Avenue and I-25 and a strong market for Residential land could raise the values considerably in the future. The Owners are willing Sellers, and the price they ask for the property at this time is very reasonable.

The proposed purchase was reviewed and strongly supported by the Open Space Advisory Board.

Respectfully submitted,

William M. Christopher
City Manager

Attachment

Date: October 13, 1997

Subject: Resolution No. re Westminster Plaza Redevelopment Project as Economic Development Project

Prepared by: Galen Requist, Management Assistant

Introduction

City Council action is requested to designate the Westminster Plaza redevelopment project as an economic development project which furthers the City's economic development goals, and which qualifies for economic assistance.

Summary

The redevelopment of the Westminster Plaza Shopping Center is viewed as a critical step in the revitalization of the original south Westminster neighborhood. Staff believes the redevelopment of the Plaza will bring "new life" to the neighborhood, and restore the economic vitality that the center once enjoyed.

The City Code allows that an Official Development Plan (ODP) for a non-residential project under 20 acres in size may be administratively approved by the City Manager if it is determined that the project furthers the economic goals of the City, or if it qualifies for economic development assistance. The redevelopment program for the Plaza includes an area 20 acres in size. Further, the project is clearly an economic development activity on the part of the City and the Westminster Economic Development Authority (WEDA), and will result in a significant economic benefit for both south Westminster and the City as a whole. Staff believes this project will provide a much-improved array of retail services to the community, and will stimulate greater private investment by other retailers and property owners in the area.

Staff Recommendation

Adopt Resolution No. designating the Westminster Plaza redevelopment as an economic development project for the City of Westminster.

Background Information

The redevelopment of the Westminster Plaza Shopping Center has been a City Council priority for a number of years. Recently, the City, in cooperation with the Westminster Economic Development Authority (WEDA), reached an agreement with Safeway to build a new 55,000 square foot store as part of a redevelopment program for the Plaza. Safeway will serve as the anchor tenant in the redeveloped center, which will also include significant new retail development. Prior to construction of the new center, much of the existing Westminster Plaza will be razed.

The developer of the new center, Hunt Properties, Inc., recently submitted an Official Development Plan (ODP) to the City Planning Division on the project.

The plan calls for redevelopment of approximately 20 acres of the existing Westminster Plaza Shopping Center. Further, the redevelopment will result in the construction of a vastly improved retail center. Staff believes the new center will generate additional economic activity, and greater private investment in the surrounding community. Given the project's importance to the economic future of south Westminster as well as benefit the entire community, Staff believes it should be designated as an economic development project which may be administratively approved by the City Manager.

Respectfully submitted,

William M. Christopher
City Manager

Attachment

RESOLUTION

RESOLUTION NO.

INTRODUCED BY COUNCILLORS

SERIES OF 1997

DECLARING THE WESTMINSTER PLAZA REDEVELOPMENT PROJECT
AS AN ECONOMIC DEVELOPMENT PROJECT

WHEREAS, the City is engaged in a redevelopment project encompassing 20 acres at the Westminster Plaza Shopping Center. The project will include a new 55,000 square foot grocery store, in-line retail shops and several new developed pad sites, and

WHEREAS, the project is being executed by the Westminster Economic Development Authority (WEDA), which was formed by City Council in 1987 to coordinate redevelopment activities in the City, and

WHEREAS, Section 11-5-8(B) of the Westminster Municipal Code allows that any Official Development Plan which involves a non-residential development of 20 acres or less and that is determined by the City Manager to further the City's economic development goals may be administratively approved, and

WHEREAS, the City believes the Westminster Plaza redevelopment to be a key component in the revitalization of the South Westminster neighborhood, and critical to the future economic vitality of the area

NOW, THEREFORE, be it resolved that the Westminster City Council resolves that the Westminster Plaza redevelopment project be recognized as an economic development activity which furthers the City's economic development goals and qualifies for economic development assistance as evidenced by the participation of the Westminster Economic Development Authority (WEDA).

Passed and adopted this 13th day of October, 1997.

ATTEST:

Mayor Pro Tem

City Clerk

Date: October 13, 1997

Subject: Resolution No. re Promenade East as Economic Development Project

Prepared by: Galen Requist, Management Assistant

Introduction

City Council action is requested to designate Westminster Promenade East as an economic development project which furthers the City's economic development goals, and which qualifies for economic assistance.

Summary

The Westminster Promenade East project is an important economic development project for the City of Westminster. The project will complete the Westminster Promenade project, and provide a shopping and entertainment destination unequalled in the Denver metro area. Significant economic impact will be realized from this project that includes 100,000 - 160,000 square feet of office, a 50,000 square foot conference center expandable to 75,000 square feet, a 367 room Westin Hotel expandable to 460 rooms, upscale restaurants and a 3 sheet Ice Centre. City revenues estimated from this project are over \$2,000,000 per year just from the spending by Conference Center attendees. This project represents a community identity and focal point for work and leisure.

The City Code allows that an Official Development Plan (ODP) for a non-residential project under 20 acres in size may be administratively approved by the City Manager if it is determined that the project furthers the economic development goals of the City, or if it qualifies for economic development assistance. The Promenade East development is composed of five different development parcels, each of which will require an individual ODP. The largest parcel is approximately 15 acres; the smallest is approximately 5 acres. Staff believes the Promenade East meets the criteria under the Westminster City Code to be considered an economic development project given its unique nature and the potential for significant sales tax revenues for the City. Allowing administrative approval is important to the financing of the project and to keep it working on a timely basis.

Staff Recommendation

Adopt Resolution No. designating the Westminster Promenade East as an economic development project for the City of Westminster.

Background Information

The Westminster Promenade East is a component of the larger Westminster Promenade project, which has been under development by the City and its developer for approximately two years. The Promenade represents a unique opportunity for Westminster in that it will be the only retail/entertainment/business complex of its kind in the Denver metro area.

The size of the project, the type of business, shopping and entertainment opportunities available, the quality of the tenants, and site design and architecture of the project all serve to make the Promenade a "one-of-a-kind" destination in the Denver metro area.

The potential economic development benefits to Westminster are significant. The Promenade will be a regional business meeting draw. However, it will offer a great diversity to residents and visitors, making it more than just an ordinary leisure and business center. Staff believes the long-term benefits to the City from Promenade revenues are significant and will serve as a lively, attractive, entertaining and vibrant focal point for residents to spend leisure time and entertain guests.

Respectfully submitted,

William M. Christopher
City Manager

Attachment

RESOLUTION

RESOLUTION NO.

INTRODUCED BY COUNCILLORS

SERIES OF 1997

DECLARING THE PROMENADE EAST DEVELOPMENT AS AN ECONOMIC DEVELOPMENT PROJECT FOR THE CITY OF WESTMINSTER

WHEREAS, the City is engaged in the development of the Promenade East, a unique, pedestrian-oriented retail/entertainment complex, and

WHEREAS, the project will result in an upscale development which will bring significant entertainment opportunities to Westminster residents, and additional sales tax revenues to the City of Westminster, and

WHEREAS, the Promenade East development will be composed of five different development parcels, each no larger than 15 acres, and

WHEREAS, Section 11-5-8(B) of the Westminster Municipal Code allows that an Official Development Plan (ODP) for a non-residential project under 20 acres in size may be administratively approved by the City Manager if it is determined that the project furthers the City's economic development goals, or if it qualifies for economic development assistance.

NOW, THEREFORE, be it resolved that the Westminster City Council resolves that the Promenade East Development be designated as an economic development project, enabling the City Manager to administratively approve the Official Development Plan for the project.

Passed and adopted this 13th day of October, 1997.

ATTEST:

Mayor Pro Tem

City Clerk

Date: October 13, 1997

Subject: Resolution No. re Adoption of 1998 City Budget

Prepared By: Barbara Gadecki, Assistant to the City Manager

Introduction

City Council is scheduled to consider adopting the 1998 City Budget at Monday night's meeting in accordance with City Charter requirements. The attached Resolution to adopt the budget is based on Staff's understanding of the City Council discussions at the Budget Retreat and the various Public Hearings and public meeting on the Budget. City Council may choose to table adopting the 1998 City Budget until the October 27th City Council meeting when all members of City Council are scheduled to be present.

Summary

Under City Charter provisions, City Council is to hold a public hearing on the proposed City Budget for the ensuing year and adopt it no later than the fourth Monday in October. A public meeting was held on June 9 and two public hearings were held on the proposed 1998 Budget on July 21 and September 8. A copy of the proposed 1998 Budget has been on file in the City Clerk's Office for citizen review since September 5 and the appropriate legal notices have been published in the official City newspaper.

The 1998 Budget reflects all City operations and services to be provided to Westminster citizens in 1998. This budget includes no tax increases or new taxes. This is the sixth year maintaining the mill levy at 3.65 mills and the second year keeping the sewer and water rates constant. In addition, no increases are proposed at this time for tap fees. A pending study of tap fees and utility projects may call for adjustment at a later date. Despite no increases in property tax, sewer and water rates, and tap fees, the City of Westminster will be able to provide quality services while proceeding with an aggressive Capital Improvement Program.

The total 1998 Proposed Budget is \$103,261,673, excluding \$6,500,000 in reserves and \$2,624,509 in contingency accounts. This budget is based upon an estimated 600 single-family housing starts which is 200 less than estimated for 1997.

A brief summary of the proposed 1998 City Budget follows:

- > General Fund operating expenditures are budgeted at \$47,998,535 (excluding contingencies) which is an increase of 5.9% over the 1997 budget for operating expenditures (\$45,308,645).
- > The General Fund will receive a transfer payment from the Sales and Use Tax Fund totalling \$33,944,922, an increase of 7.2% over the 1997 transfer payment of \$31,658,000.
- > Contingency is recommended at \$1,229,725 in the General Fund, \$1,281,702 in the Utility Fund, and \$113,082 in the Golf Course Fund. The General Reserve Fund is recommended at \$2,850,000 and the Utility Reserve Fund at \$3,650,000.

- > The total number of full-time equivalent (FTE) staffing in 1998 is 745.124 FTE, an increase of 21.2. This includes an additional 1.6 FTE in the City Attorney's Office not included at the City Council's Budget Retreat. The additional FTE will result in no funding increase in the City's overall budget; these services were previously contracted out and the funds will be reallocated from the contractual line.
- > Continuation of an aggressive Capital Improvement Program (CIP) is recommended for 1998. The total capital improvements proposed for 1998 is \$42,460,000. Of the recommended CIP for 1998, 62% will be funded on a "pay-as-you-go" basis (composing \$26,460,000 of the total); the remaining 38% will be funded through bond or loan proceeds. City streets and traffic improvements are recommended for 1998 at \$10,165,000; facilities and infrastructure improvements at \$11,900,000; park improvements at \$10,065,000; and wastewater and water improvements at \$10,330,000

Staff Recommendation

Adopt Resolution No. which sets the mill levy at 3.65 mills and formally adopts the total 1998 City budget including the staffing levels and the Five Year Capital Improvement Plan.

Background Information

City Council Focus Areas: Earlier this year, the City Council identified six focus areas to be pursued in 1998. The focus areas follow:

- > Transportation Improvements
- > Diversity Enhancements
- > Review Priorities, Narrow the Focus, and Reallocate Resources
- > Further Implementation of Original Westminster Enhancements
- > Maintain a Quality Service Level
- > Comprehensive Study on Youth and Young Adult Needs

The 1998 budget includes funding as needed for these key areas. Transportation Improvements are addressed in the General Capital Improvement Fund. Approximately 20 different projects addressing transportation issues are recommended at \$10,165,000. Additionally, the street overlay maintenance program's budget is recommended to be increased by \$200,000 bringing its total funding to \$2,200,000.

Original Westminster enhancements continue to be a priority for 1998. The redevelopment of the Westminster Plaza is a major endeavor which will serve as an enhancement and catalyst for the South Westminster area. Additional redevelopment and reinvestments in the area are evolving as a result of the 72nd Avenue improvements and the Plaza project.

A comprehensive study on youth and young adult needs is addressed in the proposed 1998 budget. Staff has budgeted funds in the Parks, Recreation, and Libraries Administration Division for contracting a consultant to conduct this study.

Several internal improvements are addressed in the proposed 1998 budget. An upgrade of a portion of the Police communication system is recommended to improve performance of the one currently in place at the Westminster Mall.

An increase in funding for fire station maintenance is included to improve stations both internally and externally. In addition, funds are included in 1998 to hire a consultant as the first phase of creating and implementing a Cost Allocation system which will allow managers to make more substantive, supportive, and accurate decisions on programs and projects. Finally, computers, vehicles, and other capital equipment are included to ensure that employees have state of the art resources necessary to perform high quality work and achieve high productivity.

Staffing: The 1998 City Budget includes a net increase of 21.2 full-time equivalent (FTE) positions to support the services currently provided to the citizens of Westminster. The largest increases in staff are for the Police Department (4 FTE Police Officers), the Fire Department (3 FTE Firefighters), and the Library Division (2.8 FTE Librarian I, 0.5 FTE Library Clerk I/II, and 0.2 FTE Library Associate I/II).

Citizen Requests: At the various hearings on the 1998 proposed budget, several residents either requested information about City projects or asked that City Council consider providing funds for specific City programs and projects. City Council had the opportunity to review these requests in more detail at the Budget Retreat and, where appropriate, funds have been included in the 1998 budget to address these projects. A summary of the requests addressed follows:

1. Sidewalk Connection in Torrey Peaks (118th Place to Sheridan Boulevard) - A citizen requested that a sidewalk connection be constructed at this location to access the new Sheridan Crossing Center. The cost for this connection is estimated at \$20,000 by Staff. The 1998 CIP Budget includes \$70,000 for sidewalk connections; Staff prioritizes sidewalk connections on an as-needed basis and will likely address this area next year.
2. Median and Greenbelt Improvement (112th Avenue between Sheridan Boulevard and Pierce Street) - A citizen requested right-of-way improvements be made at this location. The City Council recommended that Staff forward information to the citizen to apply for a Neighborhood Enhancement Program Grant which has \$50,000 budgeted in 1998.
3. Bowles House Improvements - A citizen requested that the City repair the gazebo at the Bowles House. The 1998 budget includes \$7,400 to rebuild rather than repair the gazebo due to severe wood rot.
4. Rollerblade/Hockey Area (Sheridan Green/Ryan Elementary) - A citizen presented survey results at the June 9 public hearing supporting the placement of a rollerblade/hockey area in her neighborhood; a second citizen presented a petition and survey opposing such an area. The City Council concluded at the budget retreat that other park projects were of higher priority than the rollerblade/hockey rink proposed (estimated cost \$35,000-\$50,000) and did not recommend proceeding with this project.
5. Traffic Mitigation (Northpark) - A member of the Northpark Homeowner's Association requested an increase in Police Department enforcement activities within and adjacent to the Northpark area as a stop gap measure until the Traffic Calming Study was completed and implemented.

The City Council reviewed the results of the Traffic Calming Study conducted by TransPlan Associates and Pat Noyes & Associates at the budget retreat and plan to adopt the traffic calming criteria in the near future. When the criteria is adopted, the City Council has directed Staff to proceed on a street-by-street evaluation basis and to identify those streets of highest priority to implement traffic calming measures. It is estimated that it will take from eight to twelve months to conduct a full evaluation of streets within the City of Westminster.

The Council agreed to proceed with the funding level proposed in the 1998 capital budget (\$100,000). In addition, the Council agreed to proceed in addressing the Northpark street needs pursuant to the traffic calming criteria and has directed staff to proceed in identifying appropriate traffic calming methods to implement in this pilot project area.

6. Guard Rail Installation (72nd Avenue) - A citizen requested via facsimile that a guard rail be installed along 72nd Avenue directly north of Lamar Street due to safety concerns.

Within the first two weeks of August, his back fence had been hit twice by automobiles chased by police. Since he moved into his house in 1979, his fence has been hit four times, all the result of police chases. Due to the safety issues surrounding this location, staff plans to address this project in 1997 using either General Fund contingency funds or other funds that might be identified. The City Council concurred with this plan of action.

7. Sidewalk and Wheel Chair Accessible Crosswalk and Crossing Tones (70th Avenue and Federal) - A letter from the President of Goodwill Industries was received requesting that a sidewalk and wheel chair accessible crosswalk be constructed at the corner of 70th and Federal. In addition, installation of crossing tones for the visually impaired was requested. The City Council concurred with Staff's recommendation to contact the Colorado Department of Transportation (CDOT) and pursue their cooperation in addressing this intersection due to the fact that Federal Boulevard is a state highway.

8. Sound Barrier Fence Installation (104th Avenue between Lowell Boulevard and King Street) - A citizen submitted a petition with six signatures at the September public hearing requesting a sound barrier fence be constructed at this location. The City Council concluded that the City is not in the practice of installing sound barrier fences because many neighborhoods are similarly affected as a result of being located on arterial streets, because the arterial street was in place when the residence was purchased, and due to the high cost of installing sound barrier fences.

9. Walnut Grove Park Development - A citizen representing the neighborhood of Walnut Grove requested at the September public hearing that the City Council expedite park development plans in the Walnut Grove neighborhood on the land north of 106th Avenue between Garrison Street and 105th Place. The City Council agreed to move up the development of this park and it has been included in the five year Capital Improvement Program. Design is planned for 1999 (\$50,000) with construction to occur in 2001 (\$300,000) and 2002 (\$400,000).

10. The New Club - Members of The New Club organization appealed for funding to the City Council at the September public hearing. This organization serves as a center for recovering alcohol and drug users. They applied for Human Services funding (requested \$10,000) but were not recommended for funding. The City Council chose to fund The New Club at the same level it was funded in 1997 (\$2,000).
11. Additional Code Enforcement Officer - A citizen requested at the September public hearing that the Council add a Code Enforcement Officer to handle the increasing number of code violations, especially in the older sections of Westminster.
Staff conducted a brief survey of other Denver metro area cities which concluded that, on average, cities in the surrounding area employ 3.1 Code Enforcement Officers (results ranged from one to seven such positions). The City of Westminster is above average by employing four Code Enforcement Officers plus one Code Enforcement Supervisor (supervisors were excluded from the average). Staff has recommended based upon the increase in code enforcement activities (an increase of 18.5% in 1997 from 1996) that an additional Code Enforcement Officer should be added in 1999. The City Council concurred with this preliminary recommendation.
12. 76th Avenue Water Line Replacement - At the September public hearing, a citizen requested that the City allocate sufficient funds to expedite the completion of the 76th Avenue Water Line Project. This project is now complete up to Raleigh Street and progressing towards Sheridan Boulevard.
The water line replacement project is expected to be completed by the first of November.

Miscellaneous Council Topics: At the Budget Retreat September 29, the City Council reviewed the recommendations of the Human Services Board (HSB) and addressed a few capital projects. A summary of the items addressed follow:

1. Jefferson Juvenile Assessment Center requested \$5,000 for 1998 but was not recommended for funding. The City Council chose to allocate \$1,500, the same level funded in 1997. Funding allocated by the HSB to the Jefferson Center for Mental Health was reduced by \$500 (from \$10,500 to \$10,000) due to the fact that the Juvenile Assessment Center receives some funding from the Center for Mental Health. The Center for Mental Health received \$10,000, the same amount allocated in 1997.
2. The Neighborhood Action Group requested \$8,000 but was not recommended for funding. The City Council chose to support this group at a \$1,000 level.
3. Westminster's District 50 School Board approved a pilot program for a clothing bank and food resource and referral system. The "Have a Heart Project" requested \$3,000 to pay for food and clothes for students in Westminster's District 50 schools. The City Council is providing \$1,000 to support this project.
4. A Councillor asked that the funding proposed in the out years in the capital budget for the Park Centre Recreation Center be moved up one year. Funding for this project was originally proposed to begin with design in 2000 and construction in 2002. Per Council request, Staff has moved funding for this project up one year.

However, Staff recommends that \$50,000 be included in the 1999 CIP for preliminary design and \$250,000 in 2000 for final design.

This preliminary design will allow Staff to research the possibility of a public/private partnership to complete this project. Staff does not recommend moving up the \$4.5 million construction until the nature, scope, and size of the public/private partnership is determined.

Respectfully submitted,

William M. Christopher
City Manager

Attachment

RESOLUTION

RESOLUTION NO. INTRODUCED BY COUNCILLORS

SERIES OF 1997 _____

A RESOLUTION OF THE CITY OF WESTMINSTER, COLORADO SETTING THE 1997 MILL LEVY COLLECTIBLE IN 1998, ADOPTING THE BUDGET AND FIVE YEAR CAPITAL IMPROVEMENT PROGRAM FOR THE FISCAL YEAR 1998.

WHEREAS, In accordance with Section 9.2 of the City Charter, the City Manager has prepared and submitted to the City Council a proposed budget for the fiscal year 1998; and

WHEREAS, On July 21 and September 8, 1997, public hearings on the proposed 1998 budget were held by the City Council pursuant to Section 9.4 of the City Charter.

NOW, THEREFORE, be it resolved, by the City Council of the City of Westminster, Colorado that there is hereby levied for the 1997 year upon all taxable property within the City of Westminster, taxes in the amount of three and sixty-five hundredths (3.65) mills per dollar of assessed valuation in Adams and Jefferson Counties, which shall be paid into the General Fund of the City; and

NOW, THEREFORE, be it resolved by the City Council of the City of Westminster, Colorado that the annual budget of the City of Westminster for the fiscal year beginning January 1, 1998, which has been submitted by the City Manager is hereby adopted according to the attached exhibits:

FUND	EXHIBITS
General	A
Utility	B
General Capital Improvement	C
Sales & Use Tax	D
Open Space Sales & Use Tax	E
Fleet Maintenance	F
Golf Course Enterprise	G
Human Service Agency Funding	H
Five Year Capital Improvement Program	I
Staffing Summary	J
General Reserves	K
Utility Reserves	K
Debt Service	K

Be it further resolved, that the annual budget of the City of Westminster for fiscal year 1998 beginning January 1, 1998, be established with the following totals:

<u>BALANCE OF FUNDS (1-1-98):</u>	<u>1998 PROPOSED</u>
General Fund	\$1,157,338
Utility Fund	3,120,000
Fleet Maintenance Fund	0
Sales & Use Tax Fund	880,000
General Capital Improvement Fund	6,216,000
General Reserve Fund	1,900,000
Utility Reserve Fund	2,900,000
Conservation Trust Fund	0
Open Space Fund	541,000
General Debt Service Fund	182,396
Golf Course Fund	<u>0</u>

TOTAL Fund Balance

\$16,896,734

REVENUES:**1998 PROPOSED**

General Fund	\$48,070,922
Utility Fund	29,925,000
Fleet Maintenance Fund	1,343,999
Sales & Use Tax Fund	40,475,000
General Capital Improvement Fund	9,689,000
General Reserve Fund	950,000
Utility Reserve Fund	750,000
Conservation Trust Fund	575,000
Open Space Fund	3,511,000
General Debt Service Fund	7,323,372
Golf Course Fund	<u>1,783,723</u>
 TOTAL Revenues	 \$144,397,016
Total Fund Balance	<u>16,896,734</u>
 Total Funds Available	 \$161,293,750
Less Transfers	<u>(48,907,568)</u>
 Grand Total 1998	 \$112,386,182

EXPENDITURES:**1998 PROPOSED**

General Fund	\$47,998,535
Utility Fund	31,763,298
Fleet Maintenance Fund	1,343,999
Sales & Use Tax Fund	41,355,000
General Capital Improvement Fund	15,905,000
General Reserve Fund	0
Utility Reserve Fund	0
Conservation Trust Fund	575,000
Open Space Fund	4,052,000
General Debt Service Fund	7,505,768
Golf Course Fund	<u>1,670,641</u>
 TOTAL	 \$152,169,241
Less Transfers	<u>(48,907,568)</u>
 TOTAL EXPENDITURES	 \$103,261,673
Total Contingencies & Reserves	<u>9,124,509</u>
 Grand Total 1998	 \$112,386,182

Passed and adopted this 13th day of October, 1997.

ATTEST:

Mayor Pro Tem

City Clerk

Date: October 13, 1997

Subject: Resolution No. re 1998 Pay Plan and Councillor's Bill No. re General Leave Benefits

Prepared By: Debbie Mitchell, Employee Services Manager and
Matt Lutkus, Deputy City Manager for Administration

Introduction

As part of the 1998 Budget adoption process, Staff requests that City Council adopt the attached resolution which establishes the 1998 salary ranges. In addition, Council is asked to consider the attached ordinance which will allow employees to use eight (8) additional hours of their accrued General Leave (11.2 hours for Firefighting personnel) as a floating holiday. The funds needed to implement the recommended adjustments have been included in the proposed 1998 City Budget. City Council may wish to table these items until the October 27th City Council meeting when all Councillors are scheduled to be present. These items should be acted upon at the same time as when the budget is adopted.

Summary

The City Administration is recommending a 3.0% across-the-board increase for all full-time and part-time Classified and temporary positions, adjustments of approximately 3.0% at the top of the ranges for most Unclassified positions and a series of other pay range adjustments based on the annual pay plan review and salary survey conducted by the Employee Services Division.

Recommended changes to the benefit package include adding one additional floating holiday for City employees from the existing General Leave allocation. This change will not increase the number of leave hours that employees presently accrue, but rather will allow them to use General Leave hours not currently allocated for vacation or holiday leave.

Staff Recommendation

1. Adopt Resolution No. which establishes the 1998 pay ranges for City employees.
2. Pass Councillor's Bill No. on first reading regarding a change in the use of employee General Leave for holidays.

Background Information

City Staff continues to use a benchmark system whereby City positions which are relatively similar among Front Range cities are surveyed. The salaries for non-benchmark positions are linked to the salaries of benchmark positions based on their relationships in a job group and relative value to the organization. In addressing market based changes in employee salaries, half of the major job category benchmarks are surveyed each year. This year, benchmark salary surveys were conducted for police, fire, management, and business and professional occupations.

The recommended pay and classification adjustments were based on an extensive salary survey process which included eight area cities for most positions as well as special districts and private sector data where appropriate.

The cities used for comparison purposes for the majority of positions are Arvada, Aurora, Boulder, Englewood, Fort Collins, Lakewood, Littleton, and Thornton. In addition, a number of special districts are surveyed for Fire and Parks and Recreation position comparisons.

The main information resources used during this process are the Colorado Municipal League surveys, private sector data from Mountain States Employers Council as well as direct contacts with other municipalities and special districts.

Staff is recommending an across the board adjustment of 3.0% to keep pace with overall salary increases in the public and private sectors. Across-the-board increases being projected in other area cities range from 3% to 4% not including longevity or step increases. Data from Mountain States Employers Council indicates private sector companies are projecting pay increases for 1998 to be an average of 4.23% and 4.2% for government. Mountain States Employers Council estimates include merit, longevity and cost of living adjustments.

In addition to the across the board increase, the proposed 1998 Pay Plan includes fifty-nine recommended grade/classification changes. Proposed salary changes are based on the Employee Services Division's analysis of prevailing salaries for various classifications, as well as adjustments for internal relationships. A summary of all of the recommended pay plan changes and the pay plan itself are attached for Council's review.

One change is proposed in the leave benefit for all benefitted City Employees. Staff is recommending that an additional floating holiday be added in order to remain competitive with the leave benefit provided in other cities and special districts. This recommendation would not result in an increase in the accrual of General Leave hours but rather modifies the guidelines on how existing General Leave hours can be used. Because the use of General Leave for holidays is addressed in the Personnel Management Program section of the Municipal Code, a change in this benefit can only be accomplished by ordinance. Other proposed changes in the City's benefit package relate specifically to the City's health benefit program and will be reviewed with Council at the time renewal of the health benefit contracts are considered.

Since Council's review of the proposed budget packet in September, several additional changes have been made. They are included in the attached summaries and Pay Plan document. The changes to the proposed Pay Plan are as follows:

- * Upgrade of the Accounting Manager and Sales Tax Manager ranges to \$58,000 - \$65,000.
- * Addition of the Associate Judge position to the Pay Plan at a range which reflects the \$35.00/hr. previously designated in the Westminster Municipal Code, plus a 3 percent increase.

- * Addition of a total of 1.6 full time equivalents (f.t.e.) for prosecuting services in the Municipal Court as discussed with Council at their August 18 Study Session. This change includes addition of a Lead Prosecuting Attorney at .75 f.t.e., an Assistant Prosecuting Attorney I at .5 f.t.e., an Assistant Prosecuting Attorney II at .75 f.t.e., a Clerk Typist II at 1.0 f.t.e. and elimination of 1.4 f.t.e. Assistant Prosecuting Attorney. Contractual Services for prosecution have been eliminated in the 1998 budget.

Funding for all of the recommended pay and benefit changes has been included in the proposed 1998 City Budget.

Respectfully submitted,

William M. Christopher
City Manager

Attachments

RESOLUTION

RESOLUTION NO.

INTRODUCED BY COUNCILLORS

SERIES OF 1997

WHEREAS, Section 1-24-3 of the Official Code of the City of Westminster provides that the City Council, upon recommendation of the City Manager, shall by resolution establish the salary schedule for all position classifications in the municipal service, and

WHEREAS, the City Manager is recommending a 3% across the board salary increase for regular classified employees and adjustments of approximately 3% to the top of the ranges for most unclassified positions, and

WHEREAS, several reclassifications, new classifications and title adjustments are recommended as a result of organizational changes and a review of the results of the annual compensation survey,

NOW, THEREFORE, BE IT RESOLVED THAT THE WESTMINSTER CITY COUNCIL RESOLVES that the attached new salary schedule and the authorized personnel schedule are hereby adopted and approved and shall be put into effect on January 1, 1998.

Passed and adopted this 13th day of October, 1997.

ATTEST:

Mayor Pro Tem

City Clerk

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. _____

SERIES OF 1997

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AMENDING TITLE 1, CHAPTER 24, SECTION 4(D) OF THE WESTMINSTER CITY CODE RELATING TO GENERAL LEAVE FOR HOLIDAYS

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Title 1, Chapter 24, Section 4(D) of the Westminster Municipal Code shall be amended as follows:

1-24-4(D) General Leave for Holidays: Employees who do not normally work on scheduled holidays shall have each holiday charged automatically against General Leave unless the employee actually works the holiday. Holidays that shall automatically be charged against General Leave of all employees, except those normally subject to work holidays, shall be as follows:

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

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

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 13th day of October, 1997.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this _____ day of October, 1997.

ATTEST:

City Clerk

Mayor

Date: October 13, 1997

Subject: Revised Employment Contract with Martin McCullough

Prepared by: Bill Christopher, City Manager

Introduction

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

Summary

At the time City Council appointed Martin McCullough as City Attorney in February, 1986, an employment agreement was formally approved by the Council to reflect the terms and conditions of his employment. Each year, the employment contract is reviewed and revised based on the results of the Council's performance evaluation of the City Attorney. This year's evaluation was completed on September 15. City Council action is requested to extend this contract for the calendar years 1998 and 1999 in substantially the same form as attached. A salary adjustment is being suggested based on salary survey data of other City Attorney positions in the Denver metropolitan area generated by the Department of General Services, as well as the salary survey of public officials published annually by the Colorado Municipal League.

Staff Recommendation

Approve a revised employment agreement with Martin McCullough serving in the position of City Attorney for calendar years 1998 and 1999, and authorize the Mayor and City Clerk to execute the agreement on behalf of City Council.

Background Information

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

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

The City Attorney's employment agreement has typically followed substantially the same format and covered essentially the same terms and conditions as the City Manager's employment contract. The existing contract between Marty and the City is scheduled to expire December 31, 1998. The only changes in the revised agreement compared to the existing agreement are as follows:

- > The City Attorney's total salary will increase 3.8% to \$95,000.
- > The increased compensation is to be divided between base salary and deferred compensation. The annual salary will become \$90,000 plus \$5,000 as deferred compensation.

All other provisions of the contract would remain the same. The proposed agreement would become effective as of January 1, 1998. The salary adjustment is consistent with the 3.0% across-the-board adjustment for other City employees as part of the 1998 Pay Plan.

City Council was previously provided with a salary survey of other area city attorneys' compensation packages. The average and median salary of the cities surveyed indicated a median 1997 compensation of \$90,478 and an average of \$92,112, which includes any deferred compensation for 1997. This compares to the 1997 annual salary and deferred compensation for the Westminster City Attorney in the amount of \$91,500.

Respectfully submitted,

William M. Christopher
City Manager

Attachment

EMPLOYMENT AGREEMENT

THIS AGREEMENT, effective as of the 1st day of January, 1998, by and between the City of Westminster, State of Colorado, a municipal corporation, hereinafter called "CITY" as party of the first part, and MARTIN R. McCULLOUGH, hereinafter called "EMPLOYEE", as party of the second part, both of whom understand as follows:

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

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

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

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

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

SECTION 1. DUTIES:

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

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

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

SECTION 2. TERMS:

A. During the term of this Agreement, EMPLOYEE agrees to remain in the exclusive employ of CITY. EMPLOYEE will serve as City Attorney for calendar years 1998 and 1999. EMPLOYEE agrees neither to seek, to accept, nor to become employed by any other employer until said termination date, unless said termination date is effected as hereinafter provided.

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

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

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

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

SECTION 3. TERMINATION, NOTICE AND SEVERANCE PAY:

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

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

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

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

SECTION 4. SALARY:

A. The CITY agrees to pay EMPLOYEE for his services rendered pursuant hereto an annual base salary of \$90,000, plus annual deferred compensation of \$5,000, effective January 1, 1998, payable in installments at the same time as other employees of the CITY are paid.

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

SECTION 5. HOURS OF WORK:

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

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

SECTION 6. DUES AND SUBSCRIPTIONS:

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

SECTION 7. PROFESSIONAL DEVELOPMENT:

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

SECTION 8. GENERAL EXPENSES:

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

SECTION 9. FRINGE BENEFITS:

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

SECTION 10. OTHER TERMS AND CONDITIONS OF EMPLOYMENT:

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

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

SECTION 11. GENERAL PROVISIONS:

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

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

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

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

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

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

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

Approved by Westminster City Council this 13th day of October, 1997.

ATTEST:

Mayor Pro Tem

City Clerk

Martin R. McCullough