



## CITY COUNCIL AGENDA

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

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

1. Pledge of Allegiance
2. Roll Call
3. Consideration of Minutes of Preceding Meetings
4. Report of City Officials
  - A. City Manager's Report
5. City Council Comments
6. Presentations
  - A. Employee Service Awards
  - B. 3CMA Savvy Award for COW Talk
  - C. Adams County Fair Celebrity Beef Contest 1<sup>st</sup> Place Award
  - D. Starburst Conservation Award
  - E. Excellence in Design and Development Awards for 2005
7. Citizen Communication (5 minutes or less)

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

8. Consent Agenda
  - A. Quarterly Insurance Report: July – September 2006
  - B. Wackenhut Renewal Contract for Security at Municipal Court
  - C. Purchase of PVC Water Pipe
  - D. Purchase of Two Crackseal Machines
  - E. Library Materials Budget Expenditures
  - F. Metro Mayors Caucus Energy Efficiency and Conservation Agreement (MOU)
  - G. Bond and Disclosure Counsel Service Agreements re \$20 Million Open Space Sales and Use Tax Revenue Bonds
  - H. Construction Engineering Services Agreements re W. 104<sup>th</sup> Ave. and Sheridan Blvd Intersection Improvements
  - I. Second Reading Councillor's Bill No. 63 re Rezoning for S & R Art and Antiques from M-1 to C-1
  - J. Second Reading Councillor's Bill No. 64 re 2006 3<sup>rd</sup> Quarter Budget Supplemental Appropriation

### 9. Appointments and Resignations

### 10. Public Hearings and Other New Business

- A. Public Hearing re Electric Franchise with United Power, Inc.
- B. Councillor's Bill No. 65 re Electric Franchise with United Power, Inc.
- C. Public Hearing re LIFE Property 14.79 acres at 115<sup>th</sup> Avenue and Sheridan Boulevard
- D. Councillor's Bill No. 66 re CLUP Amendment re Northern LIFE Property
- E. Councillor's Bill No. 67 re Rezoning the Northern LIFE Property
- F. Second Amended Preliminary Development Plan within the LIFE Planned Unit Development
- G. Second Amended Official Development Plan within the LIFE Planned Unit Development
- H. Resolution No. 60 re Brigham Young University-Idaho Open Space Property at 100<sup>th</sup> Avenue and Simms Street

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

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

- A. City Council
- B. Executive Session – Obtain direction from City Council re proposed economic development agreement with a transportation company pursuant to WMC 1-11-3(c)(4), WMC 1-11-3(c)(7) and CRS 24-6-402(4)(e).

### 13. Adjournment

**GENERAL PUBLIC HEARING PROCEDURES ON LAND USE MATTERS**

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

CITY OF WESTMINSTER, COLORADO  
MINUTES OF THE CITY COUNCIL MEETING  
HELD ON MONDAY, NOVEMBER 13, 2006 AT 7:00 P.M.

PLEDGE OF ALLEGIANCE

Mayor McNally and three boy scouts from two area troops led the Council, Staff, and audience in the Pledge of Allegiance.

ROLL CALL

Mayor McNally, Mayor Pro Tem Kauffman and Councillors Dittman, Kaiser, Lindsey, Major, and Price were present at roll call. J. Brent McFall, City Manager, Martin McCullough, City Attorney, and Carla Koeltzow, Deputy City Clerk, also were present.

CONSIDERATION OF MINUTES

Councillor Price moved, seconded by Kaiser, to approve the minutes of the regular meeting of October 23, 2006, as written and presented. The motion passed unanimously.

CITY MANAGER'S REPORT

Mr. McFall was glad to report that Ballot Issue 2A the Open Space, Parks, Recreation and Trails Tax Extension, was approved by a margin of 71%. Also Question 2B, Charter amendments, was affirmed by 67% of the voters. He requested that Council remove Item 8C from the consent agenda, purchase of PVC Water Pipe, indefinitely. He also noted that there would be an executive session following the council meeting to address an economic development matter.

CITY COUNCIL COMMENTS

Councillor Dittman thanked the Citizens for their support of the Open Space, Parks, Recreation and Trails Tax Extension and for prior support of the Public Safety Tax.

Councillor Major recognized the Open Space Staff for a great job in finishing the fence at Semper.

Councillor Price was happy to announce that she, along with Councillors Major and Lindsey, were now graduates of the Westminster Police Department's Citizen Academy.

Mayor McNally complemented Staff for the great Halloween Event at the City Park Recreation Center. The Westminster Westin was one of the sites for the 9 Cares Colorado Shares last Saturday. That also was a great and successful event. The Mayor also expressed thanks to the voters for their support of 2A and 2B.

EMPLOYEE SERVICE AWARDS

Councillor Major presented certificates and pins for 20 years of service to Jeanne Bury, Darrin Bacca, Judy Dick, and Dave Loseman.

Mayor McNally presented a certificate, pin and monetary stipend for 25 years of service to Rod Larsen.

Councillor Dittman presented certificates and pins for 30 years of service to Rick Barker and Mark Spellman.

PRESENTATIONS

Mayor McNally recognized the members of the COW Talk Board of Contributors for winning the Savvy Award for Best Internal Newsletter from the City-County Communications and Marketing Association. Three of the COW Talk Board Members were present with the award in hand.

Mayor McNally accepted the \$250 prize for her champion cow “Fiona” from Tom McBride, from the Adams County CSU Extension Office. The Mayor then presented the \$250 check to Bill Walenczak and requested the donation be directed to the City’s Armed Forces Tribute Garden.

Linh Truong, from the Colorado Lottery, presented Council with the 2006 Starburst Conservation Award for the excellence in the use of Lottery funds for the Metzger Farm acquisition.

John Quinn, Planner II in Community Development, announced recipients of this year’s Excellence in Design and Development Awards and Excellence in Site Planning Design Awards. He showed slides of each project recognized while the Mayor and Councillors presented the awards to the developers and architects of each winning project.

CONSENT AGENDA

Councillor Major moved, seconded by Price to approve consent agenda items A and B and D through J only.

The following items were submitted for Council’s consideration on the consent agenda, as modified: accept the 3rd Quarter 2006 insurance report; award the contract for \$91,104 to The Wackenhut Corporation for Municipal Court security services; authorize the purchase of two replacement crackseal machines and to enter into an agreement with Vance Brothers, Inc. whereby the 2006 rental amount of \$16,200 for these two machines is applied to the purchase price of \$87,790, for a total 2007 purchase price of \$73,590; award a contract to Baker & Taylor for the purchase of library books up to a maximum of \$145,000 in 2006 and ratify the purchases and authorize the City Manager to pay any past invoices not previously authorized to this firm; authorize the Mayor to sign the Metro Mayors Caucus Energy Efficiency and Conservation Agreement Memorandum of Understanding on behalf of the City of Westminster; authorize the City Manager to execute the following agreements for special legal counsel services in connection with the proposed issuance of \$20 million Open Space Sales and Use Tax Revenue Bonds in a form acceptable to the City Attorney’s Office; authorize the City Manager to sign a contract with Burns & McDonnell for Construction Engineering services for the West 104th Avenue and Sheridan Boulevard intersection improvement project in an amount not to exceed \$ 170,675 and authorize a contingency in the amount of \$10,000; final passage of Councillor’s Bill No. 63 for the rezoning for the proposed S & R Art and Antiques property from M-1 (Industrial) to C-1 (Commercial); final passage of Councillor’s Bill No. 64 for a supplemental appropriation to the 2006 budget of the General, General Capital Improvement, and Open Space Funds.

Mayor McNally asked if Councillors wished to remove any other item from the consent agenda for discussion purposes or separate vote. There was no request.

The Mayor called for a vote to adopt the consent agenda items as presented, excluding Item 8C. The motion carried unanimously.

Councillor Major moved, seconded by Lindsey to postpone the vote on Item 8C, the purchase of PVC Water Pipe, indefinitely. The motion passed unanimously.

PUBLIC HEARING ON THE ELECTRIC FRANCHISE WITH UNITED POWER, INC.

At 7:50 p.m., Mayor McNally opened a public hearing to consider extending the current franchise for electric power that serves a small portion of the City in the extreme northeast quadrant, to United Power, Inc. for a term of twenty

years commencing January 1, 2007. Notice of this hearing had been published in the *Westminster Window*. City Manager McFall stated that staff was available for questions. Troy Whitmore and Keith Emerson spoke on behalf of United Power, Inc. and expressed pleasure in having a great working relationship with the City.

Mayor McNally invited public comment, but no one wished to speak. The hearing closed at 7:53 p.m.

COUNCILLOR'S BILL NO. 65 RE ELECTRIC FRANCHISE WITH UNITED POWER, INC.

Councillor Dittman moved, seconded by Kauffman, to pass Councillor's Bill No. 65 on first reading granting an electric franchise to United Power, Inc., for a term of twenty years commencing January 1, 2007. Upon roll call vote, the motion carried unanimously.

PUBLIC HEARING ON THE LIFE PROPERTY AT 115<sup>TH</sup> AVENUE AND SHERIDAN BOULEVARD

At 7:54 p.m., a hearing was opened to consider the amendments and rezoning for the LIFE Planned Unit Development. Dave Shinneman, Planning Manager, began the public hearing and reported background information. The applicant, LIFE Church, has purchased a 4.98 parcel of land directly to the north of the existing church for expansion of the church. An existing home will be demolished as part of the improvements, along with additional parking and associated landscaping included. The request requires CLUP, PDP, and ODP amendments, as well as rezoning of the acquired parcel. Jon Van Benthem from ABE Designworks, LLC also presented information and addressed Council's concerns. Questions were also answered by LIFE Church's Pastor, Ed Bulkley. Mr. Shinneman entered the agenda memorandum and associated documentation. Notice of this hearing had been published in the *Westminster Window*, posted on the property, and mailed to property owners within 300 feet of the property.

Mayor McNally invited public comment. Erin Quest of 4810 W 116<sup>th</sup> Court advised Council that City Staff had adequately addressed her concerns about trees blocking her view. Doug Meyers also on 116<sup>th</sup> Court stated that he felt the proposed plan was a good improvement to the area. The Planning Commission had reviewed this proposal and had voted unanimously to recommend approval. The hearing closed at 8:19 p.m.

COUNCILLOR'S BILL NO. 66 RE CLUP AMENDMENT RE NORTHERN LIFE PROPERTY

It was moved by Councillor Dittman, seconded by Major, to pass Councillor's Bill No. 66 on first reading approving the Comprehensive Land Use Plan amendment for the northern LIFE property changing the designation from R-3.5 Residential to Public/Quasi-Public. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 67 RE REZONING THE NORTHERN LIFE PROPERTY

Councillor Dittman moved, seconded by Major, to pass Councillor's Bill No. 67 on first reading approving the rezoning of the northern LIFE property from O-1 (Open) to Planned Unit Development (PUD). Upon roll call vote, the motion carried unanimously.

2<sup>ND</sup> AMENDED PDP WITHIN THE LIFE PLANNED UNIT DEVELOPMENT

Councillor Dittman moved to approve the Second Amended Preliminary Development Plan within the LIFE Planned Unit Development. Councillor Major seconded the motion, and it passed unanimously.

2<sup>ND</sup> AMENDED ODP WITHIN THE LIFE PLANNED UNIT DEVELOPMENT

Councillor Dittman moved to approve the Second Amended Official Development Plan within the LIFE Planned Unit Development. Councillor Major seconded the motion, and it passed unanimously.

RESOLUTION NO. 60 RE BRIGHAM YOUNG UNIVERSITY-IDAHO OPEN SPACE PROPERTY

It was moved by Councillor Major and seconded by Councillor Price to adopt Resolution No. 60 authorizing the purchase of an approximately 11 acre parcel at the northwest corner of 100th Avenue and Simms Street for \$1,320,000, with the City of Westminster and Jefferson County each paying 50% of the purchase price (\$660,000 per entity); and authorizing the City Manager to execute all documents required to close on the purchase of the property. Upon roll call vote, the motion carried unanimously.

ADJOURNMENT

There was no further business to come before the City Council, and the Mayor adjourned the meeting at 8:25 p.m.

ATTEST:

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

\_\_\_\_\_  
Mayor



WESTMINSTER  
COLORADO

Agenda Memorandum

City Council Meeting  
November 13, 2006



**SUBJECT:** Presentation of Employee Service Awards

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

**Recommended City Council Action**

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

**Summary Statement**

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

**Expenditure Required:** \$ 2,500

**Source of Funds:** General Fund – Parks, Recreation and Libraries Department

**Policy Issue**

None identified

**Alternative**

None identified

**Background Information**

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

Darrin Bacca	Police Department	Records Supervisor
Jeanne Bury	Parks, Recreation & Libraries Department	Facility Assistant
Judy Dick	Parks, Recreation & Libraries Department	Guest Relations Clerk II
Dave Loseman	Community Development	Sr. Projects Engineer
Lisa Walls	Parks, Recreation & Libraries Department	Secretary

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

Rod Larsen	Parks, Recreation & Libraries Department	Park Supervisor
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The following 30-year employees will be presented with a certificate and service pin:

Rick Barker	Fire Department	Fire Lieutenant
Mark Spellman	Fire Department	Fire Lieutenant

On November 15, 2006, the City Manager will host an employee awards luncheon at which time 3 employees will receive their 15 year service pin, 3 employees will receive their 10 year service pin, and 15 employees will receive their 5 year service pin, while recognition will also be given to those who are celebrating their 20<sup>th</sup>, 25<sup>th</sup> and 30<sup>th</sup> anniversary. This is the fourth luncheon for 2006 to recognize and honor City employees for their service to the public.

The aggregate City service represented among this group of employees is 335 years of City service. The City can certainly be proud of the tenure of each of these individuals and of their continued dedication to City employment in serving Westminster citizens. Biographies of each individual being recognized are attached.

Respectfully submitted,

J. Brent McFall  
City Manager  
Attachment



CITY OF WESTMINSTER, COLORADO  
MINUTES OF THE CITY COUNCIL MEETING  
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PLEDGE OF ALLEGIANCE

Mayor McNally and three boy scouts from two area troops led the Council, Staff, and audience in the Pledge of Allegiance.

ROLL CALL

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CONSIDERATION OF MINUTES

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CITY MANAGER'S REPORT

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CITY COUNCIL COMMENTS

Councillor Dittman thanked the Citizens for their support of the Open Space, Parks, Recreation and Trails Tax Extension and for prior support of the Public Safety Tax.

Councillor Major recognized the Open Space Staff for a great job in finishing the fence at Semper.

Councillor Price was happy to announce that she, along with Councillors Major and Lindsey, were now graduates of the Westminster Police Department's Citizen Academy.

Mayor McNally complemented Staff for the great Halloween Event at the City Park Recreation Center. The Westminster Westin was one of the sites for the 9 Cares Colorado Shares last Saturday. That also was a great and successful event. The Mayor also expressed thanks to the voters for their support of 2A and 2B.

EMPLOYEE SERVICE AWARDS

Councillor Major presented certificates and pins for 20 years of service to Jeanne Bury, Darrin Bacca, Judy Dick, and Dave Loseman.

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## Agenda Item 6 B

**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
November 13, 2006



**SUBJECT:** 3CMA Savvy Award for COW Talk

**Prepared By:** Joe Reid, Public Information Specialist

**Recommended City Council Action**

Provide recognition to the members of the COW Talk Board of Contributors for winning the Savvy Award for Best Internal Newsletter from the City-County Communications and Marketing Association.

**Summary Statement**

- The City of Westminster's employee newsletter, COW Talk, was recently honored with a Savvy Award from the City-County Communications and Marketing Association.
- COW Talk won in the internal newsletter category for communities with populations from 100,000 to 1,200,000.
- COW Talk bested finalists from two counties in Florida to take top honors in the category.

**Expenditure Required:** \$ 0

**Source of Funds:** N/A

**Policy Issue**

None identified

**Alternative**

None identified

**Background Information**

COW Talk, the city employee newsletter, underwent a major redesign in 2005 to a brighter, more colorful format that showcases photos along with funny and insightful stories about city employees.

The Savvy Awards are the highest honor from 3CMA, an organization founded in 1988 that has more than 825 governmental entities as members. This year's Savvy Awards had more than 800 entries from across the country.

COW Talk was entered in the "Best Internal Newsletter" category for printed publications. It competed against entries from communities with populations ranging from 100,000 to 1.2 million.

COW Talk took first place in the category, winning out against two other finalists from Florida.

Judges remarked on the colorful use of photos and design, as well as the amazing variety of interesting stories from city employees. They even called COW Talk "udderly delightful."

Members of the COW Talk Board of Contributors will be present Monday night to accept the recognition.

Respectfully submitted,

J. Brent McFall  
City Manager



## Agenda Item 6 C

**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
November 13, 2006



**SUBJECT:** Presentation of Adams County Fair Celebrity Beef Contest 1<sup>st</sup> Place Award

**Prepared By:** Mary Joy Barajas, Executive Secretary to the City Manager

**Recommended City Council Action**

Mayor Nancy McNally will accept the \$250 prize for her champion cow “Fiona” from Tom McBride, from the Adams County CSU Extension Office.

**Summary Statement**

- Mayor McNally participated in the third annual Adams County Fair Celebrity Beef show, held August 6, 2006.
- All Adams County legislators, elected County officials, and elected city officials are invited to participate.
- Mayor McNally and “Fiona” took first place in the competition.
- Mayor McNally will receive a \$250 donation to the charity of her choice. She requested the donation be directed to the City’s Armed Forces Tribute Garden.

**Expenditure Required:** \$ 0

**Source of Funds:** N/A

**Policy Issue**

None identified

**Alternative**

None identified

**Background Information**

The Adams County Fair Celebrity Beef show was held on Sunday, August 6, 2006. The celebrity participants are matched up with an Adams County 4-H beef exhibitor. The 4-H member works with his/her partner to teach him/her how to show his/her animal. The showmanship contest is then held among all the participants.

Mayor McNally with her cow "Fiona" took the top honor in this summer's fair. The prize is a \$250 donation to a charity of the Mayor's choice. Mayor McNally chose the City's Armed Forces Tribute Garden to donate the prize money to. The Mayor was doubly pleased to learn that "Fiona" would be traveling back to have calves instead of a trip to the butcher!

Tom McBride, the Adams County Extension Director, will be present at Monday night's meeting to present the check.

Respectfully submitted,

J. Brent McFall  
City Manager



## Agenda Item 6 D

**WESTMINSTER**  

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**COLORADO**

### Agenda Memorandum

City Council Meeting  
November 13, 2006



**SUBJECT:** Presentation of Starburst Conservation Award

**Prepared By:** John Carpenter, Community Development Director

#### Recommended City Council Action

Accept award from the Colorado Lottery for the Starburst Conservation Award for the Metzger Farm acquisition.

#### Summary Statement

- The Colorado Lottery announced its 2006 Starburst Conservation Awards for excellence in the use of Lottery funds for conservation projects on September 21, 2006 at the Colorado Open Space Alliance annual conference.
- The City of Westminster and the City and County of Broomfield received an award for acquisition of the Metzger Farm, in the category of awards of \$300,000-\$600,000 in lottery funds.
- The Colorado Lottery provided a grant of \$500,000 to the City of Westminster that was part of the funding for the Metzger Farm acquisition.
- Ms. Linh Truong from the Colorado Lottery will present the award to City Council.

**Expenditure Required:** \$0

**Source of Funds:** N/A

**Policy Issue**

None identified

**Alternative**

None identified

**Background Information**

Through the Great Outdoors Colorado Trust, the Colorado Lottery awarded \$500,000 in funding for the Metzger Farm acquisition. The Colorado Lottery created the Starburst Conservation awards to recognize excellence in use of lottery funds. Judging criteria were 1) creative use of Lottery funds; 2) long-term/permanent value to preserving the natural resources of the State; 3) open space values protected; 4) public benefits from the project; and 5) partnerships forged.

Entry categories were determined by the total Lottery dollar contributions to the project. There were five categories, ranging from lottery funds up to \$100,000 to lottery funds of more than \$1,000,000. Awards were also distributed for five different regions of the State. The \$500,000 contribution by GOCO to the City of Westminster placed the grant in the third entry category: lottery funds of \$300,000-\$600,000. The Metzger Farm award was for the Denver metro region. The City of Westminster and the City and County of Broomfield were recognized for their forethought and cooperation in preserving the beautiful Metzger Farm. The City and County of Broomfield will be receiving its Starburst Conservation Award at an upcoming Broomfield City Council meeting.

Respectfully submitted,

J. Brent McFall  
City Manager



## Agenda Item 6 E

**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
November 13, 2006



**SUBJECT:** Excellence in Design and Development Awards Presentation for 2005

**Prepared By:** John Quinn, AICP, Planner II

**Recommended City Council Action**

View the PowerPoint presentation of the projects selected to receive the annual “Excellence in Design and Development” and “Excellence in Site Planning Design” awards and present the awards to the developer/builder and architect of each winning project.

**Summary Statement**

- The twentieth annual “Awards for Excellence in Design and Development” is a program to formally recognize outstanding architectural design, site planning and development taking place in Westminster. Due to the high rate of building activity in 2005, the judging committee reviewed photographs of over 375 projects (residential and non-residential buildings) eligible for consideration. The judges are not required to select projects in every category and could select more than one project in any category. Following the field review of the projects, the judging committee chose to present awards to nine projects listed in the Background Section of this memorandum. The judging team consisted of: John York, Studio Works Design, an architect; Jeff Keast, Keast Architects; and David Boschert, Bosch Land Group, a developer.
- Mayor McNally and Councillors are asked to step to the front of the Council dais to present the awards.

**Expenditure Required:** \$ 0

**Source of Funds:** N/A



**Policy Issue**

None identified

**Alternative**

None identified

**Background Information**

Every year, as part of the Excellence in Design and Development Awards program, the City recognizes developers and architects of new projects that reflect the type of design and development the City encourages. To qualify for design award consideration, projects must be completed (issued a Certificate of Occupancy) during the design award year. Projects eligible for consideration for the awards presented this year were completed in the year 2005. Starting in early fall, after most of the projects have been fully landscaped, Staff photograph all eligible projects and invites a judging team of architects and developers familiar with the City to view the PowerPoint presentation and select the design award recipients. The judges are not required to select projects in every category and could select more than one project in any category. This was the case this year with multiple awards in the commercial and custom home categories. The judges made a short list of those projects they believed warranted further review and wanted to see in the field. After discussing the merits and weaknesses of each of the projects, the judges selected the following nine projects to receive awards this evening.

**Excellence in Design and Development Awards Presentation for 2005**

Project: Hacienda Colorado Restaurant in the Shops at Walnut Creek Town Center  
Address: 10422 Town Center Drive  
Category: Commercial  
Developer: Hacienda II Partners, LLC  
Architect: Bennett, Wagner & Grody

Judges Comments: The architectural style is indigenous to Colorado. The blending of the restaurant entry into the patio area is inviting and presents a visually pleasant, open experience. The landscape plant materials were well chosen for the development and appear to be native to the high plains area.

Project: Romano's Macaroni Grill Restaurant in the Shops at Walnut Creek Town Center  
Address: 10411 Town Center Drive  
Category: Commercial  
Developer: Brinker Restaurant Corporation  
Architects: GHA

Judges Comments: This building has a strong street presence and fits well in the overall commercial development. The selection of construction materials adds to the character of the building and harmonizes with the building materials used in the Walnut Creek Town Center. The use of tall grasses in the landscaping provided a feeling that the structure was on the plains.

Project: Academy of Charter Schools  
Address: 11800 Lowell Boulevard  
Category: Institutional  
Developer: Academy of Charter Schools  
Architect: SLATERPAULL

Judges Comments: The project displays good site planning and "fits" into the community. The student/faculty parking area is hidden by locating it to the rear of the site and depressed below the sight line of the adjacent streets, Lowell Boulevard and 120<sup>th</sup> Avenue. The play areas were well separated between the smaller children and the active play areas of the older students. The large mass of the building is broken up by the use of different colors and construction materials. The building is centered on the axis of 118<sup>th</sup> Place, and serves as a termination point of the street and view to the east.

Project: Lennar Homes Model202 FRB in the Legacy Ridge West Development  
Address: 10640 Yates Drive  
Category: Residential Category 3 (2000 – 2500 S.F.)  
Developer: Lennar Homes  
Architect: Bloodgood, Sharp, Buster

Judges Comments: The entry courtyard is spacious and useable as an outdoor space. The building massing shows good proportion and scale. The building materials, colors and detailing are well chosen for the home. The impact of the three car garages is diminished due to one of the garages being side loaded in front of the home. This partially screens the porch and entry from the adjacent street creating a usable private area on the front of the house.

Project: Custom Residential in the Bradburn Development  
Address: 11742 Newton Street  
Category: Residence Category 5 (Semi-Custom and Custom)  
Developer: S.D. Barrow  
Architect: Terra Verde

Judges Comments: The site planning for this home is well done especially considering the lot is long and narrow. An interesting selection of construction materials was used on the exterior. The paint colors provide distinctive character to the home and added interest to the streetscape.

Project: Custom Residence in the Bradburn Development  
Address: 11737 Newton Drive  
Category: Residential Category 5 (Semi-Custom and Custom)  
Developer: S.D. Barrow  
Architect: Terra Verde

Judges Comments: This home demonstrates a creative site plan for a triangular corner lot. The location of the home on the lot permits the corner to be opened up and allows for a large wrap around porch. The depth of the setbacks and construction detailing on the porch prevent the structure from overwhelming this difficult site.

Project: Custom Residence in the Bradburn Development  
Address: 11780 Perry Street  
Category: Residential Category 5 (Semi-Custom and Custom)  
Developer: Pacific West Development  
Architect: Studio Works Design

Judges Comments: This home is constructed on a small narrow lot. The proportions of the house fit the lot without overpowering the site. The building displays outstanding four sided architecture. The tower/entry element is an elegant detail that provides the house with a strong identity on the street.

Project: Custom Residence in the Ranch Reserve Development  
Address: 2510 Ranch Reserve Ridge  
Category: Residential Category 5 (Semi-Custom and Custom)  
Developer: West Brothers Custom Homes  
Architect: Jeffrey Abrams

Judges Comments: This large home has many different and interesting roof forms. The site plan for the house uses innovative design techniques to hide and lessen the impact of providing for a four car garage. The exterior of the building has good balance and proportion with the use of richly detailed bay windows and dormers. The construction materials consist of a blended color tile roof with rock and stucco walls that complement the overall design of the home.

**SUBJECT:** Excellence in Design and Development Awards Presentation for 2005

Page 4

Project: Custom Residence in the Ranch Reserve Development  
Address: 11387 Eliot Court  
Category: Residential Category 5 (Semi-Custom and Custom)  
Developer: DRH Builders  
Architect: Whitten Design Group

Judges Comments: This large house has a simple elegance in design and is understated in its appearance. The site plan for the house is well thought out and takes maximum advantage of the views to the west. The garages are set back away from the entry area and do not dominate the front of the house. The building materials fit with the design of the home and are nicely detailed.

City staff will be on hand to make a presentation.

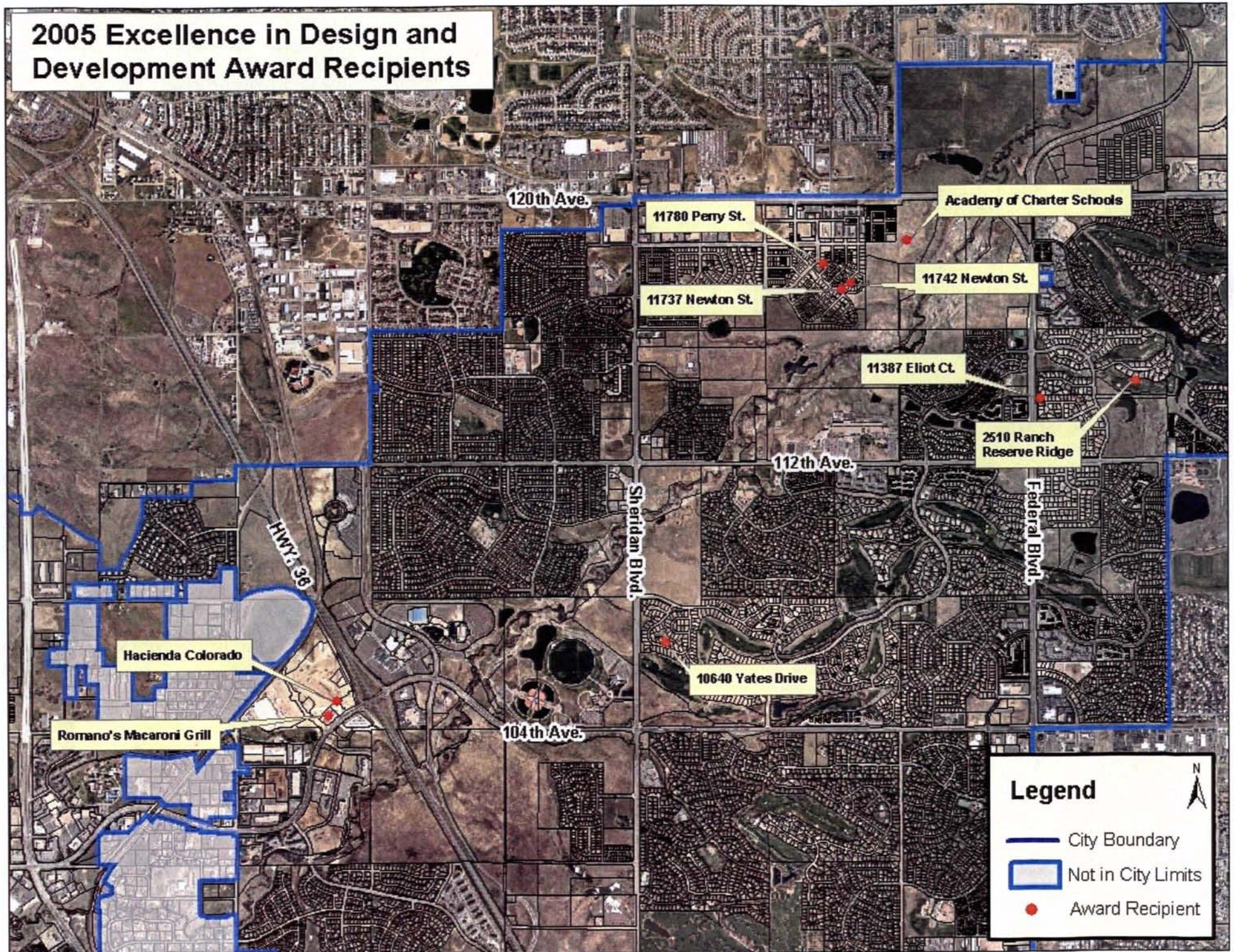
Respectfully submitted,

J. Brent McFall  
City Manager

Attachment  
- Location Map



# 2005 Excellence in Design and Development Award Recipients







## Agenda Item 8 A

**WESTMINSTER**

**COLORADO**

### Agenda Memorandum

City Council Meeting  
November 13, 2006



**SUBJECT:** Quarterly Insurance Report: July - September 2006

**Prepared By:** Martee Erichson, Risk Management Officer

#### **Recommended City Council Action**

Accept the 3rd Quarter 2006 Insurance Report.

#### **Summary Statement**

- The attached report provides detailed information on each claim including the City's claim number, date of loss, claimant's name and address, a summary of the claim, and the claim's status. Since all claims represent a potential liability to the City, Risk Management Staff works closely with the City Attorney's Office to make sure that the interests of both the City and the citizen are addressed in each instance. The listing of the claims in this report is provided in accordance with Westminster Municipal Code 1-30-3.
- In accordance with Code provisions, the Risk Management Officer, acting as the City Manager's designee, has the authority to settle claims of less than \$30,000. However, under our contract with the Colorado Intergovernmental Risk Sharing Agency (CIRSA), CIRSA acts as the City's claims adjuster and settlement of claims proceed with the concurrence of both CIRSA and the Risk Management Officer. The City retains the authority to reject any settlement recommended by CIRSA, but does so at the risk of waiving its insurance coverage for such claims.

**Expenditure Required:** \$ 0

**Source of Funds:** N/A

**Policy Issue**

None identified

**Alternative**

None identified

**Background Information**

Information on the status of each claim received during the 3rd quarter of 2006 is provided on the attached spreadsheet. All Incident Report forms are signed and reviewed by appropriate supervisors, Safety Committee Representatives and Department Heads. Follow up action, including discipline if necessary, is taken on incidents where City employees are at fault.

For the 3rd quarter of 2006, Staff has noted the following summary information:

- 12 of the 15 claims reported in the 3rd quarter of 2006 are closed at this time.
- Total claims for the quarter and year-to-date breakdown by department as follows:

Department	3rd Qtr 2006			YTD
	Total Claims	Open	Closed	Total
CD	0	0	0	2
Fire	2	0	2	3
Police	4	1	3	12
PR&L	3	1	2	4
PWU - Streets	1	0	1	2
PWU - Utilities	5	1	4	12
<b>TOTAL</b>	<b>15</b>	<b>3</b>	<b>12</b>	<b>35</b>

The attached report provides detailed information on each claim made during the third quarter of 2006.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

**Quarterly Insurance Report  
July - September 2006**

Claim Number	Date	Dept	Claimant	Address	Claim Description	Payment	Status	Notes
2006-298	7/4/2006	PWU - St.	Robert Pacheco	8065 Irving St., Westminster CO	Claimant drove his vehicle into a field to watch fireworks and ran over a previously damaged street sign pole, causing damage to the underside of his vehicle	\$0.00	Closed	Claim denied based on Colorado Governmental Immunity Act and investigation found the City had no notice of the downed sign pole.
2006-321	7/23/2006	PWU - Util	Harry & Donna Hughes	9293 92 <sup>nd</sup> Ave., Westminster CO	Leak in a main water line followed a service line into the claimant's house causing basement flooding.	\$12,758.97	Closed	
2006-323	7/25/2006	PRL	Rosemarie Leyba	7555 Clay St., Westminster CO	Claimant alleges she was walking across the swimming pool deck at the Swim and Fitness Center and slipped and fell hitting her head.	\$0.00	Closed	Claim denied based on Colorado Governmental Immunity Act and investigation found no evidence of negligence on the part of the City.
2006-326	7/26/2006	PWU - Util	Kathy Young	6630 W 111 <sup>th</sup> Ave., Westminster CO	Claimant alleges a water main break in front of 3830 W 73 <sup>rd</sup> St. caused flooding to the apartment complex she owns at that same address.	\$0.00	Closed	Claim denied based on Colorado Governmental Immunity Act and investigation found no evidence of negligence on the part of the City.
2006-328	7/19/2006	PD	Anthony Perez	3420 W 96 <sup>th</sup> Ave., Westminster CO	Claimant alleges his cell phone was missing after his arrest.	\$0.00	Closed	Claim denied based on Colorado Governmental Immunity Act and investigation found no evidence of negligence on the part of the City.
2006-345	8/7/2006	FD	Desirae Diehl	5975 Brooks Dr., Arvada CO	Claimant's vehicle was damaged when Fire Department staff hit it with a pram they were transporting into a building.	\$348.66	Closed	
2006-346	8/6/2006	PRL	Jim Clark	8131 Raleigh Pl., Westminster CO	Claimant's boat ladder was damaged when a Park employee backed a City vehicle into it.	\$371.92	Closed	
2006-349	8/9/2006	PD	Merree Sidles	9841 W 105 <sup>th</sup> Ave., Westminster CO	Claimant was riding her bicycle down the side of a street when an employee opened the driver side door of his parked vehicle into her.	\$8,435.00	Closed	
2006-356	8/12/2006	FD	Michael Sullivan	13860 Milwaukee St., Thornton CO	An unknown child climbed into the cab of the parked Seagraves parade truck and released the parking brake allowing the vehicle to roll into the display tent belonging to the claimant.	\$299.00	Closed	
2006-362	7/25/2006	PWU - Util	Ann Latham	4039 W 104 <sup>th</sup> Pl., Westminster CO	Claimant alleges she had flood damage to her home due to work being done on the main in front of her house.	\$0.00	Closed	Claim denied based on Colorado Governmental Immunity Act and investigation found no evidence of negligence on the part of the City.

Claim Number	Date	Dept	Claimant	Address	Claim Description	Payment	Status	Notes
2006-365	8/17/2006	PRL	Stacy Bradshaw	3712 Canada Ct., W. Lafayette, IN	Claimant alleges her nine year old son was injured while playing on the clutter bridge located at Oakhurst Park	\$0.00	Closed	Claim denied based on Colorado Governmental Immunity Act and investigation found no evidence of negligence on the part of the City.
2006-386	8/22/2006	PWU – Util	Ralph Moffat	7996 Chase Cr., Arvada CO	Employee driving a City vehicle hit and damaged another employee's personal vehicle that was appropriately parked.	\$254.44	Closed	
2006-395	8/17/2006	PD	Steve Schneider	P O Box 423, Arvada CO	While using his patrol car to push the claimant's inoperable vehicle out of traffic, the police officer damaged the claimant's vehicle bumper	\$435.98	Closed	
2006-404	9/2/2006	PWU – Util	James Holtzclaw, Jr.	3300 W 71 <sup>st</sup> Ave., Westminster CO	While repairing a water line, employees accidentally pulled a 2" private water line resulting in water damage to claimant's business	\$2,039.52	Closed	
<b>CLAIMS SUBMITTED IN 3<sup>rd</sup> QUARTER WITH OCCURRENCE DATES PRIOR TO 3<sup>rd</sup> QUARTER 2006:</b>								
2006-382	5/19/2006	PD	Ricky Martin & Madison Wilkins	7495 Lowell Blvd., Westminster CO	Claimants allege they suffered damages as a result of an incident that occurred at their apartment complex involving the police. It is unclear exactly what their damages are.	\$0.00	Open	Awaiting consideration by the Court on the City's Motion for Judgment and dismissal of the claim.
					<b>GRAND TOTAL</b>	<b>\$24,943.49</b>		





## Agenda Item 8 B

**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
November 13, 2006



**SUBJECT:** Wackenhut Renewal Contract for Security at Municipal Court

**Prepared By:** Matt Lutkus, Deputy City Manager  
Carol J. Barnhardt, Municipal Court Administrator

**Recommended City Council Action**

Based on the recommendation of the City Manager, the City Council finds that the public interest will best be best served by awarding the contract for Municipal Court Security Services to The Wackenhut Corporation.

Award this contract for \$91,104 to The Wackenhut Corporation and charge the expense to the General Fund Municipal Court account.

**Summary Statement:**

- The Municipal Court currently uses the services of The Wackenhut Corporation to screen the public entering the Court building for weapons and to provide a variety of other security-related services.
- City Council previously concluded that this type of service is more appropriately obtained through a negotiated agreement.
- Staff is recommending that the current contract be renewed and that Staff utilize a negotiated agreement with The Wackenhut Corporation to continue Court security services.
- The City uses the negotiated bid approach particularly when using consultants and in those areas where there are a limited number of contractors who are able to provide the quality of services required. Such a process is allowed under the City Charter and the Municipal Code.

**Expenditure Required:** \$91,104 for 2007

**Source of Funds:** General Fund

**Policy Issue**

Should City Council continue the prior practice of approving a negotiated bid approach for security services for the Municipal Court or direct Staff to pursue a competitive process?

**Alternative**

Proceed with the development of a new request for proposal (RFP) and a competitive bid process for the purpose of selecting a firm to provide the services. This approach is not recommended because of the nature of security services work where there is a wide range of qualifications and capabilities of the firms currently in the market. Based on the Staff's research, The Wackenhut Corporation has the requisite qualifications to perform the level of services needed at the Municipal Court.

**Background Information**

As part of the 2007/2008 Budget, Council authorized funds for Court security services utilizing the services of a private security firm. The firm is required to provide 80 security guard hours weekly for screening all visitors to the building and assisting Court Officers working in the Court with prisoner supervision and courtroom security. The Wackenhut Corporation currently provides these services. A Wackenhut Representative met with the Court Administrator and for 2007, proposed to extend the existing contract with the City under the same rates and conditions as those in the existing contract. Although the Court security guards do not have the same scope of day to day duties as Westminster Police Officers assigned as Court Officers, the level of responsibility required for these individuals is substantially greater than that normally associated with security personnel. The selection criteria for the contracted agency has included training in the handling of firearms for the guards and the firm's prior experience working in a court or similar setting.

The current contract and the contract that Staff would continue to recommend, is a one-year contract that is renewable for up to three years. The Wackenhut Corporation has been providing security services for the Municipal Court since 1998. The agreement requires that the City provide a 30 day notice if services are not to be continued.

The Custom Protection Division of The Wackenhut Corporation specializes in court security. In addition to the Westminster Municipal Court, the firm currently provides Court facility security at Englewood Municipal Court, Littleton Municipal Court, Longmont Municipal Court, Thornton Municipal Court, and the Douglas County Court and Administrative Buildings. The results of a survey of several counties and cities is attached for review and information as Attachment A. Wackenhut Custom Protection Officers do a full field background investigation, and complete testing and screening of applicants and provides an extensive training program for its employees. Given the advantages of utilizing Wackenhut Corporation's services, Staff's recommendation is to execute a negotiated contract with The Wackenhut Corporation.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

**AGREEMENT TO FURNISH SECURITY SERVICES  
TO THE CITY OF WESTMINSTER**

**THIS AGREEMENT**, made and entered into on this \_\_\_ day of \_\_\_\_\_, 2006, between the **CITY OF WESTMINSTER**, hereinafter called the "City", and **The Wackenhut Corporation**, hereinafter called "TWC", is as follows:

WHEREAS, the City wishes to obtain security services at the Municipal Court Building; and

WHEREAS, the City desires to engage TWC to provide these services as described in this Agreement and TWC is qualified and willing to perform such services; and

WHEREAS, sufficient authority exists in charter and statute, sufficient funds have been budgeted for these purposes and are available, and other necessary approvals have been obtained.

NOW THEREFORE, in consideration of the mutual understandings and agreements set forth, the City and TWC agree as follows:

1. TWC will provide two (2) qualified security guards trained in the use of firearms and in the use of force to provide security services for the City of Westminster Municipal Court as described herein.
2. TWC will provide approximately eighty (80) hours of security service per week. The number of hours each day and other scheduling matters shall be determined by the Municipal Court Administrator.
3. Security service will be charged at \$21.89 per hour for Guard 1 and \$21.11 per hour for Guard 2. It is estimated that the yearly cost for 2007 will not exceed \$91,104 based on an eighty (80) hour week and excluding the City's nine official holidays. If TWC provides overtime or additional hours of work in any week, the City may reduce the hours of service for the following week. Should this agreement be renewed as provided in paragraph 12 below, the City Manager may increase the per hour rate by a percentage increase each year of the most current Consumer Price Index for Denver as provided by the Department of Labor, Bureau of Labor Statistics.
4. The primary responsibility of TWC's personnel will be the screening of all persons entering the Municipal Court building. Other duties will include assistance to the Court Officers as needed, such as escorting defendants, detaining individuals until the police department arrives, and administrative duties such as report writing, citizen information, and telephone contacts, or other tasks as requested by the Municipal Court Administrator.
5. TWC personnel will be responsible to TWC, but shall be supervised on the job by the Municipal Court Administrator.
6. TWC will provide all wages and benefits to its personnel assigned to the Municipal Court, and such personnel shall at all times be employees of TWC and not the City. TWC will supply all necessary equipment to its personnel, including a uniform, handheld metal detector, and firearm.
7. During the term of this Agreement, as described in paragraph 12, TWC shall at all times be licensed as required by W.M.C. section 5-13-2.
8. TWC will provide all necessary training, including training appropriate to the performance of security guard services, including public relations skills, and as a minimum, training in the handling of firearms.
9. If a TWC employee regularly assigned to Municipal Court is on vacation, sick leave or is otherwise unavailable, TWC will provide an equally trained and qualified substitute.

10. The City will provide a walk-through metal detector.
11. TWC shall submit invoices to the City for services rendered during the preceding month, such invoice to be in such form and detail as shall reasonably be required by the City. The City agrees to pay TWC within thirty (30) days of receipt of properly documented invoices.
12. The term of this agreement shall commence on January 1, 2007 and shall remain in force for a period of one (1) year unless terminated sooner under Paragraph 13 below. Subject to paragraph 3 above, the City, at its sole discretion and subject to the appropriation of funds, may renew this Agreement for an additional term of one (1) year at the conclusion of the first year and for an additional one (1) year term at the end of the second year, by notifying TWC of its intent to renew not less than sixty (60) days prior to the expiration date. TWC shall notify the City within ten (10) days of its acceptance of the renewed agreement for the following year.
13. (a) This agreement may be terminated by either party upon thirty (30) days prior written notice to the other party in the event of a substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party.  
  
(b) This agreement may be terminated by the City for its convenience upon thirty (30) days prior written notice to TWC.  
  
(c) In the event of termination as provided in this paragraph, the City shall pay TWC in full for services performed from the date of notice of termination plus any services the City deems necessary during the notice period.
14. During the course of the services, TWC shall maintain Worker's Compensation Insurance in accordance with the Worker's Compensation laws of the State of Colorado, Automobile Liability of \$5,000,000, and Commercial General Liability of \$5,000,000. The City will be an additional insured under TWC's Automobile and Commercial General Liability coverages. TWC shall provide certificates of insurance to the City indicating compliance with this paragraph.  
  
TWC's naming of the City as an additional insured in its liability policies pursuant to this contract shall afford coverage only for the negligent performance of activity by TWC for the City pursuant to this contract, be limited by the terms and conditions appearing in such contract, and in no event be construed for any purpose so as to make TWC or its insurer liable for the acts or omission of the City, its agents, servants or employees.
15. In connection with the execution of this Agreement, TWC shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, or national origin. Such actions shall include, but not be limited to the following: employment; upgrading demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
16. (a) TWC agrees that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. TWC further agrees that in the performance of this Agreement, no person having any such interests shall be employed.  
  
(b) No official or employee of the City shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.
17. In the performance of the services under this contract, TWC shall act as an independent contractor and nothing herein shall be deemed or construed as creating an employer-employee relationship between the City and TWC or any of its personnel.
18. TWC's books and records with respect to its services to the City shall be kept in accordance with recognized accounting principles and practices, consistently applied, and will be made available for the City's inspection at all reasonable times at the places where the same may be kept.

19. TWC shall indemnify, defend and hold harmless the City and its agents and employees from and against all claims, damages, losses and expenses, including but not limited to reasonable attorneys' fees, arising out of or resulting from the performance of services, provided that any such claim, damage, loss or expense that: (1) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property including the loss of use resulting therefrom, and (2) is caused in whole or in part by any negligent act or omission of TWC, any subcontractor of TWC, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this paragraph 19.
20. In the event it becomes necessary for the City to bring an action to enforce any provision of this Agreement or to recover any damages the City may incur as a result of the breach of this Agreement, and the City prevails in such litigation, TWC shall pay the City its reasonable attorney fees as determined by the Court.
21. All written notices and communications required or permitted hereunder shall be delivered personally to the respective representatives of the City and TWC set forth below or their successors shall be mailed by registered mail, postage prepaid, return receipt requested to the parties at their addresses shown herein. Notices hereunder shall be effective three (3) days after mailing.
22. TWC shall not assign this Agreement in whole or in part, including the right to receive compensation hereunder, without the prior written consent of the City; provided, however, that such consent shall not be unreasonably withheld with respect to assignments to TWC affiliated or subsidiary companies, and provided further, that any such assignment shall not relieve TWC of any of its obligations under this Agreement. This restriction on assignment includes, without limitation, assignment of TWC's right to payment to its surety or lender, if any.
23. This Agreement, and all questions concerning the execution, validity or invalidity, capacity of the parties, and the performance of this Agreement, shall be interpreted in all respects in accordance with the Charter and Code of the City of Westminster and the laws of the State of Colorado.
24. Remedies. Consultant agrees that the economic loss rule as set forth in *Town of Alma v. Azco Construction, Inc.*, 10 P.3d 1256 (Colo. 2000) shall not serve as a limitation on the City's right to pursue tort remedies in addition to other remedies it may have against Consultant. Such rights and remedies shall survive the Project or any termination of this Agreement.
25. Illegal Aliens. TWC shall not knowingly employ or contract with an illegal alien to perform work under this Agreement. In addition, TWC shall not enter into a contract with a subcontractor that fails to certify to TWC that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement. If TWC obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, TWC shall notify the subcontractor and the City within three (3) days that TWC has actual knowledge that the subcontractor is employing or contracting with an illegal alien. Furthermore, TWC shall terminate such subcontract with the subcontractor if, within three (3) days of receiving the notice required pursuant to this paragraph, the subcontractor does not stop employing or contracting with the illegal alien. Except that TWC shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

TWC certifies that, prior to executing this Agreement, it has verified or attempted to verify through participation in the basic pilot program administered by the United States Department of Homeland Security (the "Basic Pilot Program") that it does not employ any illegal aliens. If TWC is not accepted into the Basic Pilot Program prior to executing this

Agreement, TWC shall apply to participate in the Basic Pilot Program every three (3) months until TWC is accepted or this Agreement has been completed, whichever is earlier. TWC shall not use the Basic Pilot Program to undertake pre-employment screening of job applicants while performing this Agreement. This paragraph shall not be effective if the Basic Pilot Program is discontinued.

TWC shall comply with all reasonable requests by the Colorado Department of Labor and Employment made in the course of an investigation undertaken pursuant to the authority established in C.R.S. § 8-17.5-102(5). If TWC fails to comply with any requirement of the above provisions relating to illegal aliens or C.R.S. § 8-17.5-101, et seq., the City may terminate this Agreement for breach and TWC shall be liable for actual and consequential damages to the City.

26. Entire Agreement. This Agreement shall constitute the entire agreement between the parties hereto and shall supersede all prior contracts, proposals, representations, negotiations and letters of intent, whether written or oral, pertaining to the Services for the Project.
27. Subcontracting. Except subcontractors clearly identified and accepted in TWC's proposal, TWC may employ subcontractors to perform the Services only with City's express prior written approval. TWC is solely responsible for any compensation, insurance, and all clerical detail involved in employment of subcontractors.

The person or persons signing and executing this Agreement on behalf of each Party, do hereby warrant and guarantee that he/she or they have been fully authorized to execute this Agreement and to validly and legally bind such Party to all the terms, performances and provisions herein set forth.

INSURANCE CERTIFICATES REQUIRED BY THIS AGREEMENT SHALL BE SENT TO MUNICIPAL COURT, ATTENTION: CAROL BARNHARDT, COURT ADMINISTRATOR.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers on the date first appearing above.

THE WACKENHUT CORPORATION

CITY OF WESTMINSTER

BY: \_\_\_\_\_

BY: \_\_\_\_\_

Address:  
4200 Wackenhut Corporation  
Palm Beach Garden, FL 33410

Address:  
4800 West 92<sup>nd</sup> Avenue  
Westminster, CO 80031

ATTEST:

ATTEST:

\_\_\_\_\_

\_\_\_\_\_

City Clerk

Title \_\_\_\_\_

APPROVED AS TO LEGAL FORM

\_\_\_\_\_  
City Attorney's Office

Attachment A

CITY	COURT SECURITY YES / NO	POLICE OR PRIVATE	NAME OF COMPANY	FULL OR PT SVS	WHEN SERVICE IS PROVIDED	COSTS	OTHER
Adams County Courthouse	Yes	Sheriff's Deputies		Full time	5 days p/week		Deputies screen at entrance, are in courtrooms as bailiffs, transport prisoners.
Jefferson County Courthouse	Yes	Sheriff's Deputies		Full time	5 days p/week		Sheriffs work days, screen at front, act as bailiff, at individual courtrooms, transport if necessary.
Boulder County	Yes	Sheriff's Deputies		Full time	5 days p/week		
Wheat Ridge	Yes	Private	Am-Gard	1 guard - AmGard provides security during court sessions, screening people thru metal detectors, guarding entrance, passing documents to judge	Only when court is in session - Mon/Wed/Thurs as needed; screen at entrance, maintain order in ctroom, present tocs to judge, assist clerks as needed	About \$21 p.hr; budget about \$22,500 includes jury trials	Use Court Marshalls to assist with transports and security. Do RFP every 4-5 years. RFP to Wackenhut and Arm-Gard
Commerce City	Yes	Private	E & H Professional Security		Only when court is in session	\$20 p/hr; \$157 p/day	Only hallway to courtroom has security
Littleton	Yes	Private	Wackenhut	Full time		\$22.80 p/hr - 23.36 in 2007;	No front screening at all. Bailiff in courtroom only and acts as bailiff to call session, jury duty, detain if necessary. Panic Buttons in Clerk's Office and Courtroom
Englewood	Yes	Private	Wackenhut	Full time		\$60,000 p/year	Armed guard at metal detector; panic buttons in court areas

CITY	COURT SECURITY YES / NO	POLICE OR PRIVATE	NAME OF COMPANY	FULL OR PT SVS	WHEN SERVICE IS PROVIDED	COSTS	OTHER
Westminster	Yes	Private	Wackenhut	Full time	5 days p/week	\$21.89 p/officer or approx \$92,000 p/year for 2	
Longmont	Yes	Private	Wackenhut	Full time	5 days p/week		
Thornton	Yes	Private	Wackenhut	Full time	5 days p/week	2 guards - \$19 and \$22 p/hr; budget about \$90,000	Pay depends on duties; scanner paid less, courtroom guard more. Bid every few years but mainly renew Wackenhut Contract.
Douglas County Court and Admin Bldg	Yes	Private	Wackenhut	Full time			Court - 190 hrs p/week, 3 people, 10 hr shifts. Adm Bld - 97 hrs total
Broomfield Combined Courts	Yes	Police Officers		Full time	5 days p/week	Under Police Dept. wages vary depending on where officer is in system	4 Police officers and 1 CSO, provide all screening and act as bailiffs in courtrooms, don't transport. Provide service for all 3 courts, muni/city/county. 3 courtrooms upstairs
Parker	Yes	Police Officer Off-duty			Only when court is in session		
Aurora	Yes	Police Court Marshals			Present any time people in building including after hours functions as well as bld maintenance conducted on weekends	2006 budget \$619,184	Marshals posted at entrance, metal detector at entrance; staff have security pass keys for employee entrance, cameras in place
New Castle	Yes	Police Court Marshals					On duty Police Officer



CITY	COURT SECURITY YES / NO	POLICE OR PRIVATE	NAME OF COMPANY	FULL OR PT SVS	WHEN SERVICE IS PROVIDED	COSTS	OTHER
Lakewood	Yes	Police Court Marshals		Full time	5 days p/week	7.5 court marshals at \$500,000 of court budget	Court marshals, post certified, do transports, collections, warrant entry, liason for video arraignments, screen public
Denver	Yes	Police - Court Marshals		24/7		\$18 per hour p/guard	Posted at every entrance, employees have ID badge and go thru employee entrance.
Black Hawk	No						Panic button at Judge's desk
Durango	No						No security at all, PD across street
Fountain	No						No security at all
Grand Junction	No						No security, contact PD if necessary. Panic buttons in court room.
Canon City	No						None, share lobby with PD.
Steamboat	No						Panic Button for judge. Can request an officer if needed. No security measures in place.
Aspen	No						No security at all
Monte Vista	No						No security at all
Erie	No						Use Police Officers and hand scanner
Golden	No						No security other than panic button in courtroom
Evans	No						Panic Buttons only



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
November 13, 2006



**SUBJECT:** Purchase of PVC Water Pipe

**Prepared By:** Richard A. Clark, P.E., Utilities Operations Manager  
Andy Mead, Utilities Operations Coordinator

**Recommended City Council Action**

Authorize the City Manager to execute a contract for the purchase of PVC water pipe to the low qualified bidder, H.D. Waterworks, Inc., for the amount of \$99,410.

**Summary Statement**

- The Purchasing Division issued formal bids for PVC water line pipe in October, 2006.
- There were three bids received, with the lowest responsible bid from H.D. Waterworks, Inc.
- Adequate funds were budgeted in the 2006 Utilities Operations Budget and are available for this purchase.

**Expenditure Required:** \$99,410

**Source of Funds:** 2006 Utility Fund, Public Works and Utilities Department, Utilities Division Operating Budget

**Policy Issue**

Should the City accept the bid submitted by H.D. Waterworks, Inc. for the 8 inch and 12 inch PVC water pipe?

**Alternative**

The alternative would be not to purchase the PVC water pipe at this time, and delay needed water line replacements. This would increase the risk of pipe failures and increase customer water supply interruptions and is not recommended.

**Background Information**

The PVC water pipe will be utilized by the Utilities Division Construction Crew for the water line replacement program. This program was established in order to reduce the frequency and number of water line failures that customers experience in the City’s water distribution system. The Utilities Division construction crew replaces approximately 18,000 feet (3.4 miles) of deteriorated ductile and cast iron pipe per year with the PVC pipe, which performs much better in the soil conditions found in the City.

This bid was for 11,300 feet of PVC water pipe, which included 10,000 feet of 8 inch, Class 200, DR14 PVC pipe and 1,300 feet of 12 inch, Class 200, DR14 PVC pipe. This equates to a cost per foot for the 8 inch pipe of \$7.77 per foot, and the 12 inch pipe cost per foot of \$16.70. The last PVC pipe purchase occurred in March of this year. The price per foot paid for 8 inch pipe at that time was \$8.89 per foot. The reduction in the cost per foot (\$1.12) for the oil based PVC pipe is mainly due to the fluctuating oil prices in the market. Prices have recently declined and staff is able to take advantage of this in purchasing the PVC pipe at this time.

The low bidder was H.D. Waterworks, Inc. which was formally National Waterworks, Inc.

Bids were received from three vendors. These vendors/bids included:

<b>VENDORS:</b>	<b>H.D. Waterworks</b>	<b>Dana Kepner</b>	<b>Mountain States</b>
<b>Total Bid Price:</b>	<b>\$99,410</b>	\$ 101,187	\$100,444
10,000 ft. 8 inch PVC pipe	\$77,700	\$79,100	\$78,500
1,300 ft. 12 inch PVC pipe	\$21,710	\$22,087	\$21,944

The proposal from H.D. Waterworks, Inc. meets the specifications and requirements set by the City. The PVC water pipe purchase includes 10,000 feet of 8 inch and 1,300 feet of 12 inch Class 200, DR14, C900 PVC pipe.

Respectfully submitted,

J. Brent McFall  
City Manager



## Agenda Item 8 D

**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
November 13, 2006



**SUBJECT:** Purchase of Two Crackseal Machines

**Prepared By:** Pat Sexton, Street Division Supervisor  
Ray Porter, Street Operations Manager

**Recommended City Council Action**

Authorize the purchase of two replacement crackseal machines and to enter into an agreement with Vance Brothers, Inc. whereby the 2006 rental amount of \$16,200 for these two machines is applied to the purchase price of \$87,790, for a total 2007 purchase price of \$73,590.

These funds have been approved in the 2007 budget, and the machines will be purchased January 1, 2007.

**Summary Statement**

- The Street Division is currently renting two Cimline crackseal machines at a cost of \$2,700/month for each machine.
- In an agreement with Vance Brothers, the 2006 rental costs will be applied towards the purchase price of two new crackseal machines in 2007.
- The pay-off after the rental costs are applied to the purchase price is \$36,795 for each machine totaling \$73,590.
- Street Division staff is renting these machines because the current crackseal machines are inoperable and unsafe to use and were taken out of service.
- Vance Brothers, Inc. was awarded the State bid for the crackseal machine and the price is reflective of their bid.

**Expenditure Required:** \$73,590

**Source of Funding:** 2007 General Fund Appropriations  
Public Works and Utilities Budget - Street Division

**Policy Issue**

Should the City Council commit to authorize the allocation of funds for the purchase of two Cimline crackseal machines?

**Alternative**

One alternative to purchasing these crackseal machines would be to continue to rent at a cost of \$2,700 per machine per month for a period of six months (\$32,400 per year to rent). Additionally, there are no guarantees that the equipment would be available to rent when needed.

**Background Information**

The Street Division's 1997 and 1999 Stepp crackseal machines have both been troubled with ignition, hose and pump problems resulting in high maintenance costs. Additionally, Street Division staff and Fleet Maintenance have taken these machines out of service because they are unsafe due to two incidents where they have caused minor injuries to employees from ignition problems. The Cimline rental crackseal machine has proven to be 30% more efficient than the older Stepp machines. By purchasing these machines, a 60% increase in productivity will be realized for the Street Division's two crews and the crews can keep up with the chip seal/slurry seal program preparations and be able to re-establish a citywide preventative maintenance program. Street Division crews rented Cimline machines in early 2006 and have determined that these machines are of high quality and have a proven performance record. Additionally, the two new machines have built-in compressors, which will eliminate the need for a pickup/compressor and operator on each crackseal crew allowing for these two individuals to be assigned to other maintenance tasks. Staff believes it is in the best interest of the City to enter into this agreement to purchase these two crackseal machines, January 1, 2007.

Respectfully submitted,

J. Brent McFall  
City Manager



## Agenda Item 8 E

**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
November 13, 2006



**SUBJECT:** Library Materials Budget Expenditures

**Prepared By:** Mary Grace Barrick, Library Services Manager

**Recommended City Council Action**

Based on the recommendation of the City Manager, determine that the public interest will be best served by awarding a contract to Baker & Taylor (B&T) for the purchase of Library books up to a maximum of \$145,000 in 2006 and ratify the purchases and authorize the City Manager to pay any past invoices not previously authorized to this firm.

**Summary Statement**

- The Westminster Municipal Code requires that all purchases over \$50,000 be authorized by City Council. Staff has taken a conservative approach in interpreting this requirement to include transactions where the cumulative total purchases of similar commodities or services from one vendor in a calendar year exceeds \$50,000.
- This is a negotiated contract with Baker & Taylor, formal bidding was not used.
- Funds were previously appropriated in the 2005-2006 Budget and are available in the General Fund for the purchases.

**Expenditure Required:** \$145,000

**Source of Funds:** General Fund Operating Budget - Parks, Recreation & Libraries Department

**Policy Issue**

Should Council waive formal bidding requirements and approve the purchase of library materials that total over \$50,000 in 2006?

**Alternative**

Do not approve the purchase as recommended. While it could be argued that each transaction represents a separate purchase, City Staff believes that a more conservative and prudent approach is to treat the smaller transactions as larger purchases that are subject to Council approval.

**Background Information**

Library materials purchases from B&T constitute 45% of the library materials budget expenditures. This vendor consistently provides the City with good customer service. Their procedures coordinate well with the City's procedures, so using them improves staff efficiency. One of the biggest advantages of using this vendor is that they enclose invoices with the materials being shipped; this is not true of several other vendors. The discounts that B&T offers the City are competitive in most cases. When Staff receives a better discount from a different vendor, materials are ordered from the other vendor. The City receives the majority of its standing orders from B&T for the same reasons. In addition, B&T maintains an interactive website that staff can use to manage the City's standing orders. Ingram, another large library materials vendor that specializes in public and school libraries, does not offer an interactive website.

Each year the Library compares pricing and services among the large library vendors of Baker & Taylor, Ingram, Amazon and Midwest Tapes. Services reviewed are: the ease of online ordering, technological coordination with the City's database, and shipment practices that include invoicing and turn-around time. Pricing considerations are noted for overall discount prices. Baker & Taylor continues to offer the deepest discounts across the board in terms of format and discounts, which can be up to 40%. Staff is requesting ratification of purchases made in 2006 up to a maximum of \$145,000.

Respectfully submitted,

J. Brent McFall  
City Manager



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
November 13, 2006



**SUBJECT:** Metro Mayors Caucus Energy Efficiency and Conservation Agreement (MOU)

**Prepared By:** Aric Otzelberger, Management Analyst

**Recommended City Council Action**

Authorize the Mayor to sign the Metro Mayors Caucus Energy Efficiency and Conservation Agreement Memorandum of Understanding (MOU) on behalf of the City of Westminster.

**Summary Statement**

- At the January 2006 Metro Mayors Caucus (MMC) retreat, energy efficiency and conservation was voted a top priority.
- The MMC convened an Energy Efficiency and Conservation Committee, which drafted a Memorandum of Understanding (MOU) to identify voluntary actions that municipalities may take to promote energy efficiency and conservation.
- The MOU is not a mandate, but rather a menu of possible programs that signing jurisdictions might choose to implement. The Mayor's requested signature on behalf of the City of Westminster is voluntary.

**Expenditure Required:** \$0

**Source of Funds:** N/A



**Policy Issue**

Should City Council authorize the Mayor to sign the Metro Mayors Caucus Energy Efficiency and Conservation Agreement Memorandum of Understanding (MOU) with the purpose of promoting voluntary actions to pursue energy efficiency and conservation?

**Alternative**

Do not authorize the Mayor to sign the MOU.

**Background Information**

In January 2006, the Metro Mayor Caucus voted energy efficiency and conservation as a top priority. The MMC convened an Energy Efficiency and Conservation Committee, which met with representatives of the Colorado Public Utilities Commission, Xcel Energy, the National Renewable Energy Laboratories and others to identify best practices, common issues, and areas of opportunity around individual and collaborative municipal action on energy efficiency and conservation. Following these meetings, the Committee developed a Memorandum of Understanding (MOU) to espouse the economic and environmental benefits of energy efficiency and conservation while also committing to actively pursue energy efficiency and conservation within their communities through a menu of voluntary options.

The Metro Mayors Caucus is requesting the voluntary signature of all Metro Mayors Caucus Members on the MOU. The MOU does not mandate specific energy conservation goals or actions. Rather, the MOU provides a menu of possible voluntary actions or programs that municipalities might choose to implement. City Council and the City of Westminster have already taken purposeful steps to promote energy efficiency and conservation, including the approval and execution of the Siemens Energy Performance Contract. This MOU would present another opportunity to show the City's commitment to energy efficiency and conservation.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment



**THIS MEMORANDUM OF UNDERSTANDING** is made and entered into this \_\_\_\_\_ day of November 2006, by and among the local governments in the Denver Colorado metropolitan area, bodies politic organized under and existing by virtue of the laws of the State of Colorado.

**WHEREAS**, the Metro Mayors Caucus has previously adopted strong policy resolutions calling for municipalities to protect and enhance the quality of life in the metro area; and

**WHEREAS**, energy efficiency and conservation provide measurable environmental benefits in the form of reduced pollutant emissions and decreased consumption of finite energy resources while offering the opportunity for substantial cost savings to local governments, industry and taxpayers and creating high quality local jobs and boosting local economic development; and

**WHEREAS**, through application of best practices and available technology, the United States can produce the same amount of gross domestic product as currently produced, using significantly less energy and without lowering our current quality of life; and

**WHEREAS**, the Metro Denver Economic Development Corporation identifies energy efficiency programs as an important opportunity for the Denver Metro Area to realize substantial economic and environmental benefits and to assume a national leadership position in the area of energy efficiency; and

**WHEREAS**, in November 2004, Colorado's voters voiced solid support for reducing Colorado's dependency on non-renewable energy sources by passing Amendment 37; and

**WHEREAS**, local governments are in a unique position to provide consumer education and access to information and other resources which are crucial first steps in attaining the economic and environmental benefits of increased energy efficiency, as well as preserving and enhancing our quality of life;

**NOW, THEREFORE, BE IT RESOLVED** that the undersigned mayors (hereinafter referred to as we) endorse and uphold the principles of stewardship and our fiduciary responsibilities. To further these principles, we intend to take voluntary actions, individually or collectively. Such actions may include, but are not limited to, the following:

***1. To Improve Our Municipal Operations....***

- a. Assessing energy efficiency opportunities in municipal operations and in the community, setting energy efficiency targets and creating an action plan;
- b. Retrofitting municipal facilities with energy efficient technologies and urging employees to practice energy conservation;
- c. Purchasing *Energy Star* equipment and appliances for municipal use, and encouraging our citizens to do the same;

- d. Evaluating opportunities to increase pump efficiency in water and wastewater systems and recovering wastewater treatment methane for energy production;
- e. Recovering landfill methane for energy production;
- f. Increasing precycling and recycling rates in municipal operations and in the community;
- g. Incorporating energy efficiency in municipal operations wherever feasible and cost effective, including but not limited to the following: (a) in the retrofit of existing buildings, include improvements in design, lighting, and heating/cooling systems; (b) replacement of traditional street lighting and traffic signals with more efficient light fixtures and traffic signal synchronization; (c) incorporation of energy efficiency features in new government buildings;
- h. Implementing alternatives wherever feasible and cost effective, that will reduce fuel consumption in municipal operations, including but not limited to the following: increasing average fuel economy of municipal fleet vehicles; launching an employee education program, including anti-idling messages; converting diesel vehicles to alternate fuels; and exploring early adoption of emerging technologies such as plug-in hybrids and alternatively fueled vehicles.

## ***2. To Educate Our Citizens...***

- a. Leading or assisting citizen, school, institutional, professional, business and industry educational campaigns about the benefits of energy efficiency and conservation;
- b. Facilitating dissemination of information on the availability and cost-effectiveness of energy efficient products and services, and how businesses and individuals may participate in energy efficiency programs;
- c. Coordinating programs and services that connect individuals and businesses to energy efficiency resources at the national, state and local levels;
- d. Promoting alternative transportation options such as walking and cycling, and use of transit;

## ***3. To Collaborate with Others...***

- a. Working with agencies such as the Regional Transportation District and the Denver Regional Council of Governments to promote commuter trip reduction programs, and incentives for car pooling and use of transit;
- b. Working with others to establish educational programs, websites and other methods for providing information on energy efficiency, permit requirements, incentives, rebates and services;
- c. Encouraging government agencies, utilities, developers and others to implement programs that offer opportunities and incentives for the efficient use of energy, such as (a) efficient lighting, (b) energy-saving design and construction of new buildings and homes, (c) analysis and renovation of existing buildings and homes to optimize performance and reduce energy requirements, and (d) replacement on an as-needed basis of energy inefficient equipment and lighting;
- d. Encouraging utilities to establish rate structures and incentives that encourage energy efficiency;
- e. Working in cooperation with other jurisdictions to promote the concept of sustainability in multi-jurisdictional projects and initiatives;

**4. To Establish Programs and Policies...**

- a. Making energy efficiency a priority within the community through building code improvements;
- b. Supporting the use of waste-to-energy technology;
- c. Providing free or low-cost services, such as free lighting assessment or design assistance for individuals or small businesses;
- d. Promoting the use of life-cycle cost analysis in development and landscaping practices, including mitigating market impediments;
- e. Promoting sustainable residential, commercial and industrial building practices using recognized standards and certification programs;
- f. Amending regulations, fee structures, permitting procedures and planning decisions to promote energy efficient technologies and standards;
- g. Supporting efforts to pass or strengthen legislation that (1) promotes energy efficiency and conservation, and (2) provides incentives for investment in efficient and clean energy technologies.

***Execution in Counterparts.*** This Agreement may be executed in counterparts, each of which shall be effective and which together shall constitute one and the same instrument.

Signed on \_\_\_\_\_



## Agenda Item 8 G

**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
November 13, 2006



**SUBJECT:** Bond and Disclosure Counsel Service Agreements for the \$20 Million Open Space Sales and Use Tax Revenue Bonds

**Prepared By:** Martin R. McCullough, City Attorney

**Recommended City Council Action**

Authorize the City Manager to execute the following agreements for special legal counsel services in connection with the proposed issuance of \$20 million Open Space Sales and Use Tax Revenue Bonds in a form acceptable to the City Attorney's Office:

1. An agreement with Sherman & Howard, for bond counsel services, for a total fee not to exceed \$20,000, plus actual expenses not to exceed \$1,000.
2. An agreement with Kutak Rock, for disclosure counsel services, for a fee of \$25,000 plus costs not to exceed \$500.

**Summary Statement**

All special counsel agreements are subject to approval by the City Council in accordance with City Charter requirements. Sherman & Howard has acted as bond and special counsel for the City on several past financings, including the COP issue for the City's Capital Facilities Financing, and the City's previous Park, Open Space, and Trails (P.O.S.T.) bond issue. Kutak Rock has also acted on several past financings as disclosure counsel for the City, including the City's Capital Facilities Financing and the previous P.O.S.T. bond issue. The proposed fees are well within the range of fees experienced for similar financings in the past, and will be included as part of the issuance cost for this financing.

**Expenditure Required:** \$45,000, plus expenses not to exceed \$1,500.

**Source of Funds:** Bond proceeds

**Policy Issue**

Whether or not to retain bond and disclosure counsel on behalf of the City for the upcoming issuance of the City's \$20 million Open Space Sales and Use Tax Revenue Bonds.

**Alternative**

Do not retain special legal counsel for this transaction. This is not recommended because the bond issue cannot be closed without an opinion of bond counsel and an Official Statement prepared by disclosure counsel.

**Background Information**

City Council has previously authorized a question to be placed on the November 2006 election ballot that would extend the City's current 0.25% sales tax for parks, open space, and trails (P.O.S.T.) to the year 2032, together with authorization to sell bonds payable from these revenues. The current P.O.S.T. sales tax expires in 2016, and currently there is no authorization for the City to issue bonds for these purposes. Extending the tax to the year 2032, and obtaining voter authorization for the City to sell bonds, would enable the City to secure several significant open space parcels that have been previously identified as high priorities by the City's Open Space Advisory Board, but which have heretofore been unobtainable without the ability to finance their acquisition over time. It has been estimated that with the sales tax extension, the City would be able to issue up to \$20 million in sales and use tax revenue bonds for parks, open space, and trail purposes. Voter approval of this sales tax extension is required under TABOR.

As with all public, tax-exempt financings, this financing will require an opinion from a nationally recognized law firm regarding certain tax-related matters. Mr. Dee Wisor of Sherman & Howard has served as the City's bond counsel on numerous other issues and is thoroughly familiar with the City's Charter, ordinances, and outstanding bond covenants.

In addition, federal securities laws require the City to issue an Official Statement in connection with this financing. Kutak Rock is a recognized expert in disclosure matters under the federal securities laws. This firm has acted in this capacity on numerous other bond issues and financings, and is familiar with the City's financial position, the general economic condition of the City, the City's detailed financial information, and other material facts related to the City pertinent to the preparation of a satisfactory Official Statement in connection with this bond issuance.

The fees quoted by the recommended firms are reasonable and in line with past financings, and the familiarity of these firms with the City and its financial and legal documents is very valuable. The efficiencies in retaining these firms are significant and will help assure an expeditious closing of this very important financing. Staff is of the current belief that if voter approval is obtained, the proposed bonds would not be issued until December of 2007, concurrent with the retirement of the City's 1999 P.O.S.T. bond issue.

Respectfully submitted,

J. Brent McFall  
City Manager



**WESTMINSTER  
COLORADO**

**Agenda Memorandum**

City Council Meeting  
November 13, 2006



**SUBJECT:** Construction Engineering Services Agreement for the West 104th Avenue and Sheridan Boulevard Intersection Improvement Project

**Prepared By:** David W. Loseman, Senior Projects Engineer

**Recommended City Council Action:**

Authorize the City Manager to sign a contract with Burns & McDonnell for Construction Engineering services for the West 104th Avenue and Sheridan Boulevard intersection improvement project in an amount not to exceed \$ 170,675 and authorize a contingency in the amount of \$10,000. Funds for these expenses are available in the appropriate project account in the General Capital Improvement Fund.

**Summary Statement:**

- The West 104th Avenue and Sheridan Boulevard intersection has been experiencing significant increases in left-turn movements for northbound and southbound Sheridan Boulevard traffic wanting to turn onto West 104th Avenue for several years. Peak left-turn movements of over 300 vehicles per hour indicate a need to install double left-turn lanes for these movements. In addition, three through lanes for north-bound Sheridan Boulevard and east-bound West 104th Avenue are planned to better alleviate congestion approaching the intersection in these directions. The project will also improve the severely degraded Middle Branch of Hyland Creek on the south side of West 104th Avenue.
- This project is a federal aid project being administered by the City with project oversight from the Colorado Department of Transportation. Additional funding is being provided by the Urban Drainage and Flood Control District (UDFCD). The federal funding (\$1,532,000) and the UDFCD funding (\$300,000) have been secured for the construction phase of this project.
- Burns & McDonnell are the design engineers for this project and have completed this effort. The project is now ready to be advertised in November with construction to start in early 2007.
- Five Engineering firms responded to a request for proposal for construction engineering services for this project. After reviewing all of the proposals for completeness and each firm's capability of adequately providing the requested services, staff selected three of these firms for further consideration.
- The criteria used in the final review of these proposals included the firm's capability to perform the work, experience in providing the requested services, the ability to staff a full time Professional Engineer to act as the project resident engineer during construction, and the proposed fee of each firm. Of these firms, only Burns & McDonnell proposed providing a full time Professional Engineer. Because of this, an adjustment was made in evaluating the proposed fees from the other two firms, to equally compare all of the firms proposed fees. In addition, a fee adjustment was made to account for hiring one of the other firms which would require the City to execute a separate agreement with Burns & McDonnell to review shop drawings and answer requests for information as the design engineer of record. After these adjustments, the results are as follows:

FIRM	ADJUSTED FEE PROPOSAL
Burns & McDonnell	\$ 170,675
J.F.Sato	\$ 171,689
Wilson and Company	\$ 217,451

- Because of their strong familiarity with the project, their experience in performing the work, their ability to review contract documents since they are the design engineer of record and their very competitive fee, Staff is recommending that Burns & McDonnell be selected as the construction engineering firm for this project.

**Expenditure Required:** \$ 170,675

**Source of Funds:** General Capital Improvement Fund

**Policy Issue**

Should the City hire Burns & McDonnell for the construction engineering services on the West 104th Avenue and Sheridan Boulevard Intersection improvement project?

**Alternatives**

- One alternative includes postponing or abandoning the construction of this project. Given the amount of federal funding in this project (\$1,532,000) and the participation from the UDFCD (\$300,000), both of which would be lost if the City does not proceed with this project, this alternative is not recommended.
- Another alternative would be to send another request for proposal to other engineering firms. This alternative is also not recommended because the proposal process was fair and the fee proposed by Burns & McDonnell is about 7.1% of the anticipated cost of construction. This percentage compares very favorably with the cost percentage of similar projects such as the 112<sup>th</sup> Avenue, Sheridan Boulevard widening project in which a fee percentage for Construction Engineering services of 7.6% was paid.

**Background Information**

Of the proposed widening of Sheridan Boulevard approximately 600 feet north and south of West 104th Avenue and the widening of the south side of West 104th Avenue approximately 1000-feet west of the intersection will improve left turns from Sheridan Boulevard onto West 104th Avenue and the through movements through the intersection. Recent development along West 104th Avenue including the Westminster Promenade, The Shops at Walnut Creek, City Park Recreation Center additions and filings of the Legacy Ridge Development are increasing the number of vehicles turning from Sheridan Boulevard onto West 104th Avenue as well as going through the intersection. As a rule of thumb, when turning movements exceed 300 vehicles per hour, double left turn lanes should be considered. Current peak left turn movements of over 300 vehicles per hour indicate the need for double left turn lanes at this location. Installing these double left turn lanes will not only improve motorists' ability to turn onto West 104th Avenue, but will also improve the through movements on Sheridan Boulevard since the queuing of turning vehicles would no longer "back-up" into the through lanes.

In addition, the project includes improvements that will allow for three through lanes through the intersection for north-bound Sheridan Boulevard and east-bound West 104th Avenue. Finally, the project includes improvements to the Middle Branch of Hyland Creek that parallels West 104th Avenue on the south side of the road. This channel has severely degraded over the years to the point that the road could be negatively impacted in the future. The Urban Drainage and Flood Control District has agreed to contribute \$300,000 towards the cost of rehabilitating this channel so it becomes an amenity rather than a liability.

The design of this project was recently completed by Burns & McDonnell and the project will now be advertised for bids in November in preparation for construction in early 2007. Construction should be completed by August of 2007. The project requires the services of a construction engineering firm to provide full time construction observation, testing and environmental monitoring. Five firms submitted proposals for this construction engineering work with Burns & McDonnell submitting the most qualified proposal. Since Burns & McDonnell are the design engineers of record on the project, the City will not have to execute a separate contract with them to review shop drawings and answer requests for information that would be required by CDOT if the City hired one of the other firms. Because of these reasons, staff is recommending that Burns & McDonnell be awarded the contract for Construction Engineering services for this project.

Respectfully submitted,

J. Brent McFall  
City Manager





**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
November 13, 2006



**SUBJECT:** Second Reading of Councillor's Bill No. 63 re Rezoning for S & R Art and Antiques (3698 W. 72<sup>nd</sup> Avenue) from M-1 (Industrial) to C-1 (Commercial)

**Prepared By:** Hazel Cho, Planner II

**Recommended City Council Action**

Pass Councillor's Bill No. 63 on second reading for the rezoning for the proposed S & R Art and Antiques property from M-1 (Industrial) to C-1 (Commercial). This recommendation is based on a finding that the criteria set forth in Section 11-5-3 of the Westminster Municipal Code have been met.

**Summary Statement**

- This Councillor's Bill was passed on first reading by City Council on October 23, 2006.
- This rezoning application is City initiated for the property located at 3698 W. 72<sup>nd</sup> Avenue from M-1 (Industrial) to C-1 (Commercial).
- The property is approximately 0.5 acres with three existing building structures and a shed. The purpose of the rezoning is to facilitate the property owner's desire to use the existing stucco building on the north end of the property for art and antiques sales. All other structures are proposed to remain on the property with no changes in use.
- The proposed C-1 rezoning will comply with the City of Westminster's Comprehensive Land Use Plan that designates the property for Retail Commercial use.

**Expenditure Required:** \$ 0

**Source of Funds:** N/A

Respectfully submitted,

J. Brent McFall  
City Manager

**Attachments**

- Zoning Ordinance
- Exhibit 1 (Legal Description)

BY AUTHORITY

ORDINANCE NO. **3320**

COUNCILLOR'S BILL NO. **63**

SERIES OF 2006

INTRODUCED BY COUNCILLORS  
**Price – Major**

**A BILL  
FOR AN ORDINANCE AMENDING THE ZONING OF A PARCEL OF LAND  
APPROXIMATELY 0.5 ACRE IN SIZE LOCATED AT  
3698 WEST 72<sup>ND</sup> AVENUE, ADAMS COUNTY, COLORADO  
FROM M-1 INDUSTRIAL DISTRICT TO C-1 COMMERCIAL DISTRICT**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council finds:

a. That an application for the rezoning of the property generally located south of 72<sup>nd</sup> Avenue and Meade Street, as described in attached Exhibit 1, incorporated herein by reference, from the M-1 Industrial District zones to a C-1 Commercial District zone has been submitted to the City for its approval pursuant to W.M.C. §11-5-2.

b. That the notice requirements of W.M.C. §11-5-13 have been met.

c. That such application has been referred to the Planning Commission, which body held a public hearing thereon on October 10, 2006 and has recommended approval of the requested amendments.

d. That Council has completed a public hearing on the requested zoning pursuant to the provisions of Chapter 5 of Title XI of the Westminster Municipal Code and has considered the criteria in W.M.C. § 11-5-3(A).

e. That based on the evidence produced at the public hearing, the proposed C-1 Commercial District zoning complies with all requirements of City Code, including, but not limited to, the criteria of W.M.C §11-5-3(A), and §11-4-3, requiring compliance with the Comprehensive Land Use Plan.

Section 2. The Zoning District Map of the City is hereby amended by reclassification of the property, described in attached Exhibit 1, from the M-1 Industrial District zoning districts to the C-1 Commercial District as depicted on Exhibit 2.

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 23<sup>rd</sup> day of October, 2006.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 13<sup>th</sup> day of November, 2006.

\_\_\_\_\_  
Mayor

ATTEST:

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

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
City Attorney's Office

## **Exhibit 1**

### Legal Description

That part of the NE ¼ of Section 6, Township 3 South, Range 68 West of the 6<sup>th</sup> P.M., more particularly described as follows:

BEGINNING at a point 396.6 feet West of the NE corner of said Section 6; thence South Parallel with the East line of said Section 6, a distance of 350 feet, more or less, to the Northerly right of way line of the Colorado and Southern Railway; thence Northwesterly along said right of way, a distance of 86.5 feet; thence North parallel with the East line of said Section 6, a distance of 305 feet, more or less, to a point on the North line of said Section 6; thence East along said North line, a distance of 75 feet to the True Point of Beginning,

Except any portion thereof lying within the right of way for West 72<sup>nd</sup> Avenue, County of Adams, State of Colorado.



## Agenda Item 8 J

**WESTMINSTER**  
**COLORADO**

### Agenda Memorandum

City Council Meeting  
November 13, 2006



**SUBJECT:** Second Reading of Councillor's Bill No. 64 re 2006 3rd Quarter Budget Supplemental Appropriation

**Prepared By:** Gary Newcomb, Accountant

#### Recommended City Council Action

Pass Councillor's Bill No. 64 on second reading providing for a supplemental appropriation to the 2006 budget of the General, General Capital Improvement, and Open Space Funds.

#### Summary Statement

- City Council action is requested to pass the attached Councillor's Bill on second reading authorizing a supplemental appropriation to the 2006 budget of the General, General Capital Improvement, and Open Space Funds.
  - General Fund amendments total: • \$71,042
  - General Capital Improvement Fund amendments total: • \$335,507
  - Open Space Fund amendments total: • \$26,633
- This Councillor's Bill was passed on first reading October 23, 2006.

**Expenditure Required:** \$ 433,182

**Source of Funds:** The funding sources for these expenditures include grants, sponsor and exhibitor fees, in-lieu payments, county CIP participation, lease payments, and sale of asset revenues.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

**A BILL  
FOR AN ORDINANCE AMENDING THE 2006 BUDGETS OF THE GENERAL, GENERAL  
CAPITAL IMPROVEMENT AND OPEN SPACE FUNDS AND AUTHORIZING A  
SUPPLEMENTAL APPROPRIATION FROM THE 2006 ESTIMATED REVENUES IN THE  
FUNDS.**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2006 appropriation for the General Fund initially appropriated by Ordinance No. 3162 in the amount of \$86,209,579 is hereby increased by \$71,042 which, when added to the fund balance as of the City Council action on October 23, 2006 will equal \$92,989,199. The actual amount in the General Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. The appropriation is due to the receipt of grants, sponsor and exhibitor fees, and interest earnings.

Section 2. The \$71,042 increase in the General Fund shall be allocated to City Revenue and Expense accounts, which shall be amended as follows:

**REVENUES**

Description	Account Number	Current Budget	Amendment	Revised Budget
Federal Grants	100040610.0000	\$378,812	\$7,207	\$386,019
State Grants	1000.40620.0000	137,483	6,973	144,456
General	1000.43060.0000	232,508	23,930	256,438
Contributions	1000.43100.0000	224,832	22,750	247,582
Int Ice Center	1000.42530.0077	7,640	6,145	13,785
Int 1999 COPS	1000.42530.0276	427	2,671	3,098
Int 2001 COPS	1000.42530.0215	50	773	823
Int Capital Facilities	1000.42530.0209	46	593	639
Total Change to Revenues			<u>\$71,042</u>	

**EXPENSES**

Description	Account Number	Current Budget	Amendment	Revised Budget
Salaries OT- Inv Services	10020300.60400.0344	\$190,000	\$7,207	\$197,207
Other Equipment Traffic	10020500.76000.0347	17,000	1,528	18,528
Salaries OT Traffic	10020500.60400.0348	93,854	4,320	98,174
Career Dev – Inv Services	10020300.61800.0344	22,800	1,125	23,925
Special Promo	10025260.67600.0000	20,000	13,930	33,930
Contract Svcs	10025260.67800.0000	24,085	10,000	34,085
Special Promo	10030340.67600.0000	21,900	22,750	44,650
Lease Pay Ice Cntr	10010900.67700.0077	1,044,303	6,145	1,050,448
Lease Pay Westy Blvd	10010900.67700.0276	1,713,219	2,671	1,715,890
Lease Pay-01 COPS	10010900.67700.0215	50	773	823
Lease Pay-Cap Fac	10010900.67700.0209	1,603,772	593	1,604,365
Total Change to Expenses			<u>\$71,042</u>	

Section 3. The 2006 appropriation for the General Capital Improvement Fund initially appropriated by Ordinance No. 3162 in the amount of \$7,668,000 is hereby increased by \$335,507 which, when added to the fund balance as of the City Council action on October 23, 2006 will equal \$19,591,049. The actual amount in the General Capital Improvement Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. This appropriation is due to receipt of in-lieu payments, interest earnings and county project participation.

Section 4. The \$335,507 increase in the General Capital Improvement Fund shall be allocated to City revenue and expense accounts, which shall be amended as follows:

REVENUES

Description	Account Number	Current Budget	Amendment	Revised Budget
Cash-in-Lieu	7500.40210.0751	\$77,230	\$30,100	\$107,330
Interest 01 S&UT	7500.42520.0179	0	8,620	8,620
Interest 02 S&UT	7500.42520.0058	0	16,836	16,836
Interest 05 COPS	7500.42530.0274	194,095	160,766	354,861
Adams Cnty Revenue	7500.40640.0010	0	119,185	119,185
Total Change to Revenue			<u>\$335,507</u>	

EXPENSES

Description	Account Number	Current Budget	Amendment	Revised Budget
Tree Mitigation Proj	80575050425.80400.8888	\$0	\$30,100	\$30,100
136 <sup>th</sup> /Huron Project	80175030058.80400.8888	0	25,456	25,456
COP 144 <sup>th</sup> Interchange	80575030713.80400.8888	16,225,501	159,985	16,385,486
COP 144 <sup>th</sup> Inter. Cap I	80575030733.80400.8888	1,906,701	781	1,907,482
80 <sup>th</sup> & Federal Intersec	80475030603.80400.8888	240,000	119,185	359,185
Total Change to Expenses			<u>\$335,507</u>	

Section 5. The 2006 appropriations for the Open Space Fund initially appropriated by Ordinance No. 3162 in the amount of \$4,563,535 is hereby increased by \$26,633 which, when added to the fund balance as of the City Council action on October 23, 2006 will equal \$6,125,595. The actual amount in the Open Space Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. This appropriation is due to receipt of lease payments and sale of asset revenues.

Section 6. The \$26,633 increase in the Open Space Fund shall be allocated to City revenue and expense accounts, which shall be amended as follows:

REVENUES

Description	Account Number	Current Budget	Amendment	Revised Budget
Open Space General	5400.43060.0000	\$5,233	\$2,744	\$7,977
Sale of Assets	5400.43040.0000	0	23,889	23,889
Total Change to Expenses			<u>\$26,633</u>	

EXPENSES

Description	Account Number	Current Budget	Amendment	Revised Budget
Land Purchases	54010900.76600.0000	\$2,224,666	\$26,633	\$2,251,299
Total Change to Revenue			<u>\$26,633</u>	

Section 7 – Severability. The provisions of this Ordinance shall be considered as severable. If any section, paragraph, clause, word, or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part shall be deemed as severed from this ordinance. The invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect the construction or enforceability of any of the remaining provisions, unless it is determined by a court of competent jurisdiction that a contrary result is necessary in order for this Ordinance to have any meaning whatsoever.

Section 8. This ordinance shall take effect upon its passage after the second reading.

Section 9. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 23<sup>rd</sup> day of October, 2006.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 13<sup>th</sup> day of November, 2006.

ATTEST:

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Mayor

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City Clerk



## Agenda Item 10 A&B

**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
November 13, 2006



**SUBJECT:** Public Hearing and Consideration of Councillor's Bill No. 65 re Electric Franchise with United Power, Inc.

**Prepared By:** Dave Downing, City Engineer  
Jane W. Greenfield, Assistant City Attorney

**Recommended City Council Action**

1. Hold a public hearing.
2. Pass Councillor's Bill No. 65 on first reading granting an electric franchise to United Power, Inc., for a term of twenty years commencing January 1, 2007.

**Summary Statement**

- The City currently has a franchise for electric power with United Power, Inc., to serve a small portion of the City in the extreme northeast quadrant. The franchise has been in effect since February, 1993, and it expires on December 31, 2006.
- United Power, Inc. has applied for a renewal of that franchise for a twenty year period commencing January 1, 2007, under substantially similar terms and conditions as currently provided for in Chapter 16-5, W.M.C.
- United Power will continue to pay the City a three percent (3%) franchise fee and will increase its fund for overhead conversion from one percent (1%) of its revenues to one and one-half percent (1 ½%).

**Expenditure Required:** \$ 0

**Source of Funds:** N/A



**Policy Issue**

Should City Council adopt an ordinance granting a twenty (20) year franchise to United Power, Inc., for the provision of electricity service to that portion of the company's service area lying within the City limits of Westminster?

**Alternative**

Do not adopt the ordinance. This alternative is not recommended, as the current franchise with United Power for this portion of the City is due to expire on December 31, 2006. The City could solicit additional franchisees to provide electric service in this area; however, given the Public Utility Commission's jurisdiction over the service area boundaries of public utility providers, it is unlikely that another provider would be willing to step in and provide service to such a small area.

**Background Information**

Since the annexation of the Quail Hill Subdivision area to the City of Westminster, United Power has provided electric service to customers in this part of the City. During this initial fourteen-year franchise period, the City has not experienced any major difficulty with the service provided to customers in this area. United Power approached the City in May of 2006 requesting a renewal of the existing franchise for the maximum twenty year period permitted by the City's Charter.

An informal task force of affected City Department and Division personnel met to review the proposed franchise renewal, any service issues that might exist in that area, and to identify any issues with the current franchise proposal. The Staff team determined there were few, if any, issues with recommending a franchise renewal, particularly given the relatively few number of customers served and the limited revenues generated by this franchise. Over the last three years, franchise fee revenues have ranged from \$3,500 to \$4,000. It is not anticipated that these revenues will increase substantially, beyond the cost of inflation.

A representative of United Power will be present at the City Council's meeting to respond to any questions that the Council may have.

Respectfully submitted,

J. Brent McFall  
City Manager

**Attachments**

- Councillor's Bill No. 65
- Exhibit A – Map of Franchise Area

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **65**

SERIES OF 2006

INTRODUCED BY COUNCILLORS

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**A BILL**

**FOR AN ORDINANCE GRANTING AN ELECTRIC FRANCHISE WITH UNITED POWER, INC., FOR A TERM OF TWENTY YEARS AND REVISING THE OFFICIAL CODE OF THE CITY OF WESTMINSTER, BY AMENDING CERTAIN SECTIONS OF CHAPTER 5 OF TITLE XVI, W.M.C. ENTITLED "FRANCHISE FOR ELECTRICITY"**

WHEREAS, the City has received an application from United Power, Inc. to renew its existing franchise to provide electric power to a portion of the City; and

WHEREAS, the City has received from the applicant proof of compliance with the notice and publication requirements of §31-32-102, C.R.S.; and

WHEREAS, the City has determined it is in the best interests of the citizens of Westminster to grant a franchise to United Power, Inc. for a period of twenty years commencing January 1, 2007, subject to all requirements of Chapter XV of the Westminster Charter;

NOW, THEREFORE,

THE CITY OF WESTMINSTER ORDAINS:

Section 1. A public utility franchise to serve electricity to customers in a portion of the City, depicted on the map attached as Exhibit A hereto, is hereby granted to United Power, Inc. for a period of twenty (20) years, commencing on the first day of January in 2007.

Section 2. Section 16-5-4, W.M.C., is hereby AMENDED as follows:

**16-5-4: TERM OF FRANCHISE:**

(A) The term of this franchise shall be for ~~approximately fourteen (14)~~ TWENTY (20) years, beginning on ~~the effective date of this Ordinance~~ JANUARY 1, 2007 and expiring on December 31, ~~2006~~ 2026.

Section 3. Section 16-5-36, W.M.C., is hereby AMENDED as follows:

**16-5-36: OVERHEAD CONVERSION AT EXPENSE OF COMPANY:**

(A) As and when requested by the City, the Company shall spend one AND ONE-HALF percent (1½ %) of the preceding calendar year's electric revenues DERIVED FROM CUSTOMERS LOCATED WITHIN THE CITY to move THE COMPANY'S electric distribution lines located on public streets and public easements underground, provided that the undergrounding shall extend for a minimum distance of one block or 750 feet.

(B) Any unexpended portion of the one AND ONE-HALF percent (1½ %) of electric revenue shall be carried over to succeeding years and, in addition, upon request by the City, the Company shall anticipate amounts to be available for up to three years in advance. Any amounts advanced shall be credited against amounts to be expended in succeeding years until such advance is eliminated.

(C) The City and the Company shall consult and plan together regarding projects to be undertaken pursuant to this section. The Company shall provide nonbinding "ball park" cost estimates for planning purposes at no cost to the City. The final decision as to which projects are selected rests with the City,

subject to the provisions of this section. The specific scheduling of projects rests with the Company, which shall make every reasonable effort to complete such projects within the time requested by the City.

(D) If the PUC authorizes a system-wide program or programs of undergrounding electric distribution facilities, the Company will allocate to the program of undergrounding in the City such amount as is authorized by the PUC, but in no case less than one AND ONE-HALF percent (1½ %) of annual electric revenues DERIVED FROM CUSTOMERS LOCATED WITHIN THE CITY.

(E) In no event shall any overhead conversion expense be charged against the one AND ONE-HALF percent (1½ %) fund herein provided for unless the project to be so funded has been approved by the City to be funded pursuant to this section.

(F) No relocation expenses which the Company is required to expend pursuant to Section 16-5-13 shall be charged to this allocation.

(G) In addition to the provisions of this section, the City may require additional facilities to be moved underground at the City's expense.

(H) The establishment of this undergrounding program creates no vested right in the City to the undergrounding monies. Further, if such monies are not expended pursuant to the conditions hereof, the undergrounding monies are not convertible to cash or available for any other purposes.

Section 4. Section 16-5-55, W.M.C., is hereby AMENDED as follows:

**16-5-55: REPRESENTATIVES:**

(A) Upon request by the City, the Company shall provide annually to the City a current chain of command chart showing all managers and supervisors, along with their names, titles, telephone numbers, up to the Chief Executive Officer of the Company, who have responsibility for providing services within the City.

(B) Both parties shall designate from time to time in writing representatives for the Company and the City who will be the persons to whom notices shall be sent regarding any action to be taken under this ordinance. Notice shall be in writing and forwarded by certified mail or hand delivery to the persons and addresses as hereinafter stated, unless the names and addresses are changed at the written request of either party, delivered in person or by certified mail. Until any such change shall hereinafter be made, notices shall be sent to the City Manager and to the Company's ~~General Manager~~ CHIEF EXECUTIVE OFFICER. Currently, AS OF THE DATE OF THE COMMENCEMENT OF THIS FRANCHISE, the names and addresses are as follows:

For the City:

~~William M. Christopher~~  
J. BRENT MCFALL  
City Manager  
City of Westminster  
4800 W. 92nd Avenue  
Westminster, CO ~~80030~~ 80031

For the Company:

~~David I. Dunnell~~  
ROBERT BRODERICK  
~~General Manager~~ CHIEF EXECUTIVE OFFICER  
~~18551 East 160th Avenue~~ P.O. BOX 929  
Brighton, CO 80601

Section 5. This ordinance shall take effect upon its passage after second reading.

Section 6. 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 November, 2006.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 27th day of November, 2006.

\_\_\_\_\_  
Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

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

\_\_\_\_\_  
City Attorney's Office

CERTIFICATION OF CITY CLERK

I, Linda Yeager, City Clerk, hereby certify and attest that this ordinance was published in the Westminster Window, a weekly newspaper of general circulation in the City, on \_\_\_\_\_, 2006 and on \_\_\_\_\_, 2006.

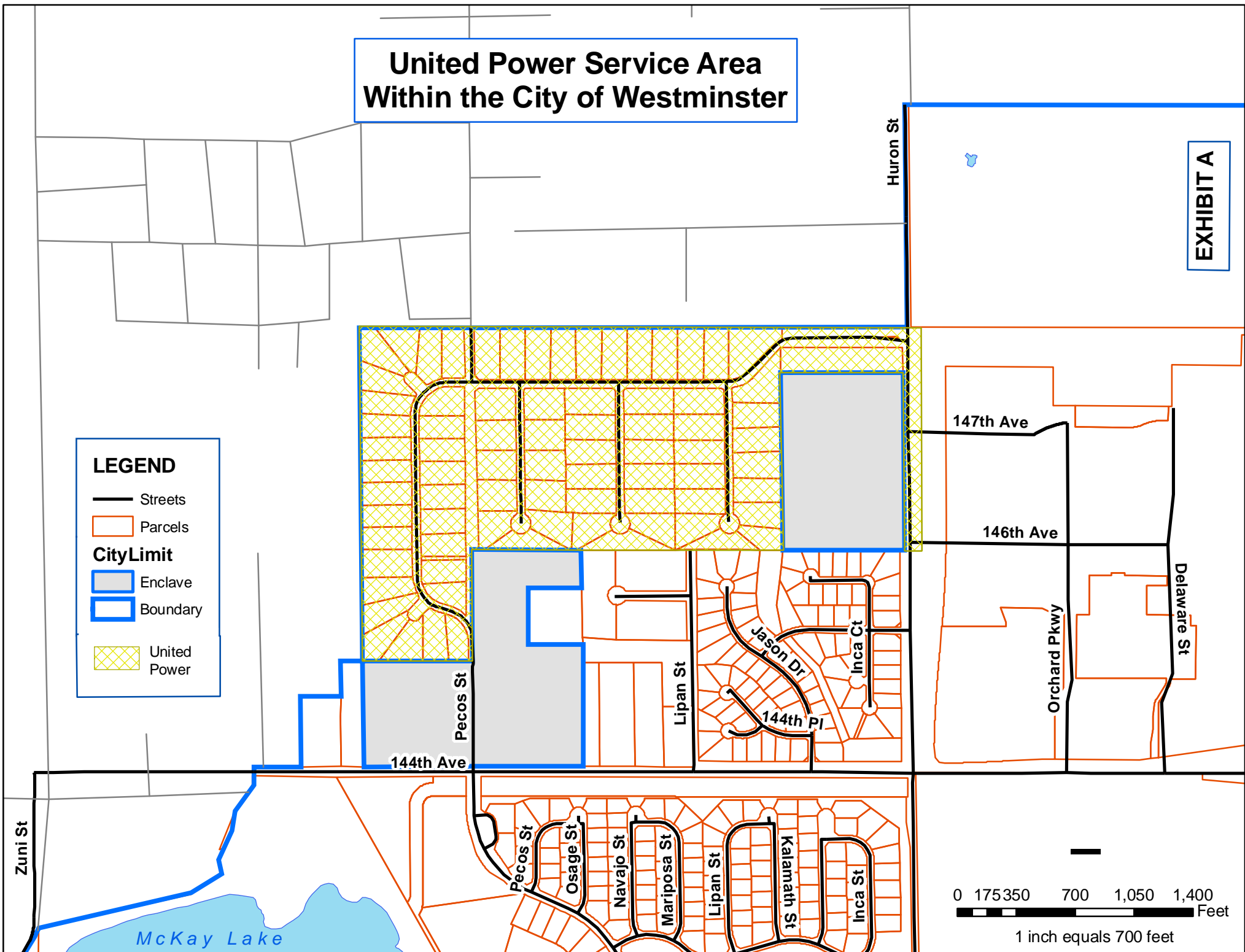
\_\_\_\_\_  
City Clerk

# United Power Service Area Within the City of Westminster

EXHIBIT A

**LEGEND**

- Streets
- ▭ Parcels
- CityLimit**
- ▭ Enclave
- ▭ Boundary
- ▨ United Power



0 175 350 700 1,050 1,400 Feet  
1 inch equals 700 feet



## Agenda Item 10 C-G

**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
November 13, 2006



**SUBJECT:** Public Hearing and Action for a Comprehensive Land Use Plan Amendment, Rezoning, Second Amended Preliminary Development Plan, and Second Amended Official Development Plan for the LIFE Planned Unit Development

**Prepared By:** Michele McLoughlin, Planner III

**Recommended City Council Action**

1. Hold a public hearing.
2. Pass Councillor's Bill No. 66 on first reading approving the Comprehensive Land Use Plan (CLUP) amendment for the northern LIFE property changing the designation from R-3.5 Residential to Public/Quasi-Public. This recommendation is based on a finding that the proposed amendment will be in the public good and that:
  - a. There is justification for the proposed change and the Plan is in need of revision as proposed; and
  - b. The amendment is in conformance with the overall purpose and intent and the goals and policies of the Plan; and
  - c. The proposed amendment is compatible with existing and planned surrounding land uses; and
  - d. The proposed amendment would not result in excessive detrimental impacts to the City's existing or planned infrastructure systems.
3. Pass Councillor's Bill No. 67 on first reading approving the rezoning of the northern LIFE property from O-1 (Open) to Planned Unit Development (PUD). This recommendation is based on a finding that the criteria set forth in Section 11-5-14 of the Westminster Municipal Code have been met.
4. Approve the Second Amended Preliminary Development Plan (PDP) within the LIFE Planned Unit Development. This recommendation is based on a finding that the criteria set forth in Section 11-5-14 of the Westminster Municipal Code have been met.
5. Approve the Second Amended Official Development Plan (ODP) within the LIFE Planned Unit Development. This recommendation is based on a finding that the criteria set forth in Section 11-5-15 of the Westminster Municipal Code have been met.

**Summary Statement**

- The existing LIFE PUD is located at 115<sup>th</sup> Avenue and Sheridan Boulevard and contains approximately 14.79 acres. The church itself is located at the northwest corner of Wolff Street and 115<sup>th</sup> Avenue.
- The church has purchased an additional 4.98 acre parcel directly to the north, 11570 Sheridan Boulevard, which is currently zoned O-1 (Open) and has a CLUP designation of R-3.5 Residential. The parcel was purchased for future expansion of the church.
- The CLUP amendment proposes to change the northern parcel from R-3.5 Residential to Public/Quasi-Public and the Amended PDP will include this parcel as part of the LIFE PUD.
- The ODP proposes a 45,000 square foot addition to include a new worship center, restrooms, and a café/fellowship area. It will also include a small area of balcony seating, to be expanded with the next phase.
- The site will be landscaped and will also include adequate parking for the new worship center.

**Expenditure Required:** \$ 0

**Source of Funds:** N/A

**Planning Commission Recommendation**

The Planning Commission reviewed this proposal on October 24, 2006, and voted unanimously (7-0) to recommend the City Council approve the following:

1. The CLUP amendment from R-3.5 Residential to Public/Quasi-Public; and
2. A rezoning from O-1 (Open) to Planned Unit Development (PUD) for the 4.98 acre parcel acquired to the north; and
3. The approval of the Second Amended Preliminary Development Plan and Second Amended Official Development Plan, as submitted.

Several individuals spoke regarding the proposal. Concerns were expressed regarding the height of the proposed building and that the additional landscaping proposed along the north side of the site would block their views to the west. Staff responded that the height was within the maximum allowable height and the building would be located over 300 feet from the closest home (this includes an approximate 42 foot wide private trail corridor on the south side of the Weatherstone subdivision), and responded to the landscaping questions by referencing the proposed plans. Further, a suggestion was made to contact the City's Landscape Architect to find out the mature height of the proposed trees along the north side of the site. Several individuals had a concern regarding the existing storage of semi-trailers/RV's and junk on the church property. The developer has included a statement on the ODP indicating these vehicles will be removed prior to a Certificate of Occupancy being issued for Phase I of the sanctuary building. Kim Grice of Best Western Management, representing the Bishop office building to the northwest, requested that the City require the church to underground the overhead utility lines on the church property and also over to Sheridan Boulevard, along the north of the church property. He also requested that the underground lines be located on the south side of the existing easement, within the church property. The City Engineer responded by stating that they will make this request of Xcel Energy but ultimately Xcel Energy has the final decision regarding undergrounding and the location of the lines within the easement.

**Policy Issues**

- Should the City approve a Comprehensive Land Use Plan amendment for the LIFE property changing the designation from R-3.5 Residential to Public/Quasi-Public?
- Should the City approve the rezoning of the northern LIFE property from O-1 (Open) to PUD?
- Should the City approve the Second Amended Preliminary Development Plan within the LIFE Planned Unit Development?
- Should the City approve the Second Amended Official Development Plan within the LIFE Planned Unit Development?

**Alternatives**

1. Deny the CLUP amendment changing the designation for the LIFE property from R-3.5 Residential to Public/Quasi-Public. This would not give the church the necessary CLUP designation to expand the church to the north.
2. Deny the rezoning of the LIFE property from O-1 (Open) to PUD. If the rezoning is not approved, the parcel of ground acquired by the church will not become part of the LIFE PUD.
3. Deny the Second Amended Preliminary Development Plan within the LIFE Planned Unit Development. Denial of the amended PDP would preclude the residential parcel from becoming part of the overall LIFE development.
4. Deny the Second Amended Official Development Plan within the LIFE Planned Unit Development. Denial of the amended ODP would deny the changes and expansion of the church.

## **Background Information**

### Nature of Request

The applicant, LIFE Church, has purchased a 4.98 parcel of land directly to the north of the existing church for expansion of the church. An existing single-family home will be demolished as part of the improvements, along with additional parking and associated landscaping included. The request requires CLUP, PDP, and ODP amendments, as well as rezoning of the acquired parcel.

### Location

The site is located at 11570 and 11500 Sheridan Boulevard. (Please see attached vicinity map.)

### Comprehensive Land Use Plan Analysis

The Westminster Municipal Code requires the owner of the property requesting an amendment to the Comprehensive Land Use Plan (CLUP) to prove the amendment in the public good and in overall compliance with the purpose and intent of the CLUP. Further, the CLUP provides four criteria to be used when considering a CLUP amendment. Staff has reviewed these criteria and has provided the following comments on each.

1. The proposed amendment must “Demonstrate that there is justification for the proposed change, and that the Plan is in need of revision as proposed.” The LIFE church currently exists at 11500 Sheridan Boulevard. In order for the church to expand, the parcel to the north was purchased. Since this parcel is designated R3.5 in the CLUP, the CLUP Amendment would make the parcel consistent with the Public/Quasi-Public land use for the existing LIFE church. The proposed development is consistent with these objectives and therefore there is justification for the proposed changes to the CLUP.
2. The proposed amendment must “Be in conformance with the overall purpose, intent, goals, and policies of the Plan.” Applicable goals are stated in Section III of the Community Goals and Policies section of the Plan. They include:
  - Goal J2 – Strengthen Westminster’s identity and livability through thoughtful design and enhancement of the community’s civic buildings, public places, and landscaping.
  - Policy J2b – Continue to develop enhanced landscape improvements along arterial streets.

Based upon these goals and policies, staff has found this proposed amendment to be in conformance with the overall purpose, intent, goals, and policies of the Plan. LIFE church has built a large landscaped fountain along Sheridan Boulevard and the ODP proposes extensive landscaping around the new church building.

3. The proposal must “Be compatible with existing and surrounding land uses.” There is an existing church to the west of the parcel LIFE is adding to their development, as well as the existing LIFE church. Westfield Village Park is directly to the east of the church property and there is a private trail corridor to the north which will buffer the church property from the adjacent residential. Access to the site is from an arterial street (Sheridan Boulevard) and a collector street (Wolff St.) and will not promote traffic through neighborhoods.
4. The proposal must “Not result in detrimental impacts to the City’s existing or planned infrastructure or provide measures to mitigate such impacts to the satisfaction of the City.” While the development will have impacts, all have been mitigated to the satisfaction of City staff as shown on the proposed ODP. 115<sup>th</sup> Avenue now connects Sheridan Boulevard to Wolff St. Wolff Street has also been extended north to connect to the Weatherstone (West 117<sup>th</sup>) development. Both of these connections provide alternate traffic routes. LIFE will be constructing an 8-foot detached sidewalk along the north side of 115<sup>th</sup> Avenue and also will be providing landscape buffering along all sides of the development. Overhead utility lines will be undergrounded, or cash in lieu paid to underground as part of this development. There is an existing homeowner association parcel north of the church property that provides further separation between the church and the houses to the north.



Public Notification

Westminster Municipal Code 11-5-13 requires the following three public notification procedures:

- **Published Notice:** Notice of public hearings scheduled before Planning Commission shall be published and posted at least 10 days prior to such hearing and at least four days prior to City Council public hearings. Notice was published in the Westminster Window on November 2, 2006.
- **Property Posting:** Notice of public hearings shall be posted on the property with one sign in a location reasonably visible to vehicular and pedestrian traffic passing adjacent to the site. Two signs were posted on the property on October 25, 2006, one along Sheridan Boulevard, and one along Wolff Street.
- **Written Notice:** At least 10 days prior to the date of the public hearing, the applicant shall mail individual notices by first-class mail to property owners and homeowner’s associations registered with the City within 300 feet of the subject property. The applicant has provided the Planning Manager with a certification that the required notices were mailed on October 13, 2006.

Applicant/Property Owner

LIFE Fellowship Family Bible Church  
11500 Sheridan Boulevard  
Westminster, Colorado 80020  
Contact: Ed Bulkley

Surrounding Land Use and Comprehensive Land Use Plan Designations

<b>Development Name</b>	<b>Zoning</b>	<b>CLUP Designation</b>	<b>Use</b>
North: Weatherstone (West 117 <sup>th</sup> ) Subdivision	PUD	Private Open Space and R3.5	Private trail corridor and Single-Family Detached Residential
West: West Creek Meadows, Bishop Subdivision, and Jehovah’s Witnesses	PUD/O-1	Private Parks/Open Space and R-3.5 Residential	Residential, Office and Church
East: Westfield Village Park	PUD	Public Park, City-owned Open Space	City-Owned Open Space/ Public Park
South: Green Acres PUD	PUD	Office/Residential and R3.5	Attached Single Family and Single-Family Detached Residential

Site Plan Information

The following site plan information provides a few examples of how the proposals comply with the City’s land development regulations and guidelines; and the criteria contained in Section 11-5-14 and 11-5-15 of the Westminster Municipal Code (attached).

- **Traffic and Transportation:** Access to the LIFE property is from Sheridan Boulevard, via 115<sup>th</sup> Avenue to the west, and Wolff Street to the east. Wolff Street has an 8-foot detached sidewalk and 115<sup>th</sup> Avenue will as a part of this development.
- **Site Design:** The site has an existing church/school building which will be expanded to the north for a worship center. Parking will be located along the south and west of the building and extensive landscaping will surround the building; landscape islands within the parking areas will break up the parking.
- **Landscape Design:** The site will be heavily landscaped with trees, shrubs, sod and turf mix around the perimeter of the site and the building, and islands within the parking areas.

- Parks/Trails/Open Space: Westfield Village Park is a newly constructed park directly to the east of the LIFE property.
- Architecture/Building Materials: The new worship center is to be constructed of masonry veneer and stucco with a metal panel roof to match the existing roof.
- Signage: The church currently has a monument sign/fountain along Sheridan Boulevard. No additional building signage is proposed.
- Lighting: The site will be lighted by parking lot lights, both single and double mounted pole lights.

Service Commitment Category

Service commitments for the expansion of the church and the additional landscaping will come from Category C for non-residential development and Category R for reclaimed water. These will be determined during the Building Construction review process as not enough information is available at this time.

Referral Agency Responses

A copy of the proposed plans was sent to the following agencies: Xcel Energy, Comcast, and Qwest. Staff received responses from Xcel Energy and their concerns regarding the provision of 10-foot utility easements have been addressed on the ODP.

Neighborhood Meeting and Public Comments

A neighborhood meeting was held on April 3, 2006. There was a lot of support from the LIFE church community and support for the expansion of the church. A concern was expressed that 115<sup>th</sup> Avenue may need a traffic signal in the future at Sheridan Boulevard. Any future traffic signal installation will be required to meet warrants for a signal.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments

- Vicinity Map
- CLUP Ordinance
- Exhibit A (CLUP Map)
- Zoning Ordinance
- Exhibit A (Zoning Map)
- Criteria and Standards for Land Use Applications

BY AUTHORITY

ORDINANCE NO.  
SERIES OF 2006

COUNCILLOR'S BILL NO. **66**  
INTRODUCED BY COUNCILLORS

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**A BILL  
FOR AN ORDINANCE AMENDING THE WESTMINSTER  
COMPREHENSIVE LAND USE PLAN**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council finds:

a. That an application for an amendment to the Westminster Comprehensive Land Use Plan has been submitted to the City for its approval pursuant to W.M.C. §11-4-16(D), by the owner of the property described below, incorporated herein by reference,

BEGINNING AT A POINT 607.30 FEET EAST OF THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 2 SOUTH, RANGE 68 WEST, OF THE 6<sup>TH</sup> PRINCIPAL MERIDAN; THENCE SOUTH 330 FEET, THENCE EAST 706.70 FEET, THENCE NORTH 330 FEET, THENCE WEST 707.70 FEET TO THE POINT OF BEGINNING, CONTAINING 4.98 ACRES, MORE OR LESS.

requesting a change in the land use designation from "R-3.5 Residential" to "Public/Quasi Public" for the property located at 11570 Sheridan Blvd, City of Westminster, County of Adams, State of Colorado, containing 4.98 acres, more or less.

b. That such application has been referred to the Planning Commission, which body held a public hearing thereon on October 24, 2006, after notice complying with W.M.C. §11-4-16(B) and has recommended approval of the requested amendments.

c. That notice of the public hearing before Council has been provided in compliance with W.M.C. § 11-4-16(B) and the City Clerk has certified that the required notices to property owners were sent pursuant to W.M.C. §11-4-16(D).

d. That Council, having considered the recommendations of the Planning Commission, has completed a public hearing and has accepted and considered oral and written testimony on the requested amendments.

e. That the owners have met their burden of proving that the requested amendment will further the public good and will be in compliance with the overall purpose and intent of the Comprehensive Land Use Plan, particularly that the parcel would become the future expansion area for the existing LIFE Fellowship church, which provides a general community service.

Section 2. The City Council approves the requested amendments and authorizes City Staff to make the necessary changes to the map and text of the Westminster Comprehensive Land Use Plan to change the designations of the property more particularly described as follows:

BEGINNING AT A POINT 607.30 FEET EAST OF THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 2 SOUTH, RANGE 68 WEST, OF THE 6<sup>TH</sup> PRINCIPAL MERIDAN; THENCE SOUTH 330 FEET, THENCE EAST 706.70 FEET, THENCE NORTH 330 FEET, THENCE WEST 707.70 FEET TO THE POINT OF BEGINNING, CONTAINING 4.98 ACRES, MORE OR LESS

to "Public/Quasi Public," as depicted on the map attached as Exhibit A.

Section 3.      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 4.      This ordinance shall take effect upon its passage after second reading.

Section 5.      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 13<sup>th</sup> of November, 2006.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 27<sup>th</sup> day of November, 2006.

ATTEST:

\_\_\_\_\_  
Mayor

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

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
City Attorney's Office

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **67**

SERIES OF 2006

INTRODUCED BY COUNCILLORS

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**A BILL  
FOR AN ORDINANCE AMENDING THE ZONING OF 11570  
SHERIDAN BLVD, WESTMINSTER, ADAMS COUNTY,  
COLORADO FROM O-1 TO PUD**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council finds:

a. That an application for the rezoning of the property generally located at 11570 Sheridan Blvd, as described below, from the O-1 zone to the PUD zone has been submitted to the City for its approval pursuant to W.M.C. §11-5-2.

b. That the notice requirements of W.M.C. §11-5-13 have been met.

c. That such application has been referred to the Planning Commission, which body held a public hearing thereon on October 24, 2006 and has recommended approval of the requested amendment.

d. That Council has completed a public hearing on the requested zoning pursuant to the provisions of Chapter 5 of Title XI of the Westminster Municipal Code and has considered the criteria in W.M.C. § 11-5-14.

e. That based on the evidence produced at the public hearing, a rezoning to the proposed PUD zoning complies with all requirements of City Code, including, but not limited to, the provisions of W.M.C §11-5-14, regarding standards for approval of planned unit developments and §11-4-3, requiring compliance with the Comprehensive Land Use Plan.

Section 2. The Zoning District Map of the City is hereby amended by reclassification of the property, described as: BEGINNING AT A POINT 607.30 FEET EAST OF THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 2 SOUTH, RANGE 68 WEST, OF THE 6<sup>TH</sup> PRINCIPAL MERIDIAN; THENCE SOUTH 330 FEET, THENCE EAST 706.70 FEET, THENCE NORTH 330 FEET, THENCE WEST 707.70 FEET TO THE POINT OF BEGINNING, CONTAINING 4.98 ACRES, MORE OR LESS.

from the O-1 (Open) zoning district to the PUD zoning district, as depicted on the map marked Exhibit A, attached hereto.

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 13<sup>th</sup> day of November, 2006.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 27<sup>th</sup> day of NOVEMBER, 2006.

ATTEST:

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

\_\_\_\_\_  
Mayor

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
City Attorney's Office

## Criteria and Standards for Land Use Applications

### *Comprehensive Land Use Plan Amendments*

- The owner/applicant has “the burden of proving that the requested amendment is in the public good and in compliance with the overall purpose and intent of the Comprehensive Land Use Plan...” (WMC 11-4-16(D.4)).
- Demonstrate that there is justification for the proposed change and that the Plan is in need of revision as proposed;
- Be in conformance with the overall purpose, intent, and policies of the Plan;
- Be compatible with the existing and surrounding land uses; and
- Not result in excessive detrimental impacts to the City’s existing or planned infrastructure systems, or the applicant must provide measures to mitigate such impacts to the satisfaction of the City (Page VI-5 of the CLUP).

### *Approval of Planned Unit Development (PUD), Preliminary Development Plan (PDP) and Amendments to Preliminary Development Plans (PDP)*

11-5-14: STANDARDS FOR APPROVAL OF PLANNED UNIT DEVELOPMENTS, PRELIMINARY DEVELOPMENT PLANS AND AMENDMENTS TO PRELIMINARY DEVELOPMENT PLANS: (2534)

(A) In reviewing an application for approval of a Planned Unit Development and its associated Preliminary Development Plan or an amended Preliminary Development Plan, the following criteria shall be considered:

1. The Planned Unit Development (P.U.D.) zoning and the proposed land uses therein are in conformance with the City's Comprehensive Plan and all City Codes, ordinances, and policies.
2. The P.U.D. exhibits the application of sound, creative, innovative, and efficient planning principles.
3. Any exceptions from standard code requirements or limitations are warranted by virtue of design or special amenities incorporated in the development proposal and are clearly identified on the Preliminary Development Plan.
4. The P.U.D. is compatible and harmonious with existing public and private development in the surrounding area.
5. The P.U.D. provides for the protection of the development from potentially adverse surrounding influences and for the protection of the surrounding areas from potentially adverse influence from within the development.
6. The P.U.D. has no significant adverse impacts upon existing or future land uses nor upon the future development of the immediate area.
7. Streets, driveways, access points, and turning movements are designed in a manner that promotes safe, convenient, and free traffic flow on streets without interruptions and in a manner that creates minimum hazards for vehicles and pedestrian traffic.
8. The City may require rights-of-way adjacent to existing or proposed arterial or collector streets, any easements for public utilities and any other public lands to be dedicated to the City as a condition to approving the PDP. Nothing herein shall preclude further public land dedications as a condition to ODP or plat approvals by the City.
9. Existing and proposed utility systems and storm drainage facilities are adequate to serve the development and are in conformance with overall master plans.
10. Performance standards are included that insure reasonable expectations of future Official Development Plans being able to meet the Standards for Approval of an Official Development Plan contained in section 11-5-15.
11. The applicant is not in default or does not have any outstanding obligations to the City.

(B) Failure to meet any of the above-listed standards may be grounds for denial of an application for Planned Unit Development zoning, a Preliminary Development Plan or an amendment to a Preliminary Development Plan.

### ***Zoning or Rezoning to a Zoning District Other Than a Planned Unit Development (PUD)***

#### **11-5-3: STANDARDS FOR APPROVAL OF ZONINGS AND REZONINGS: (2534)**

(A) The following criteria shall be considered in the approval of any application for zoning or rezoning to a zoning district other than a Planned Unit Development:

1. The proposed zoning or rezoning is in conformance with the City's Comprehensive Plan and all City policies, standards and sound planning principles and practice.
2. There is either existing capacity in the City's street, drainage and utility systems to accommodate the proposed zoning or rezoning, or arrangements have been made to provide such capacity in a manner and timeframe acceptable to City Council.

### ***City Initiated Rezoning***

(B) The City may initiate a rezoning of any property in the City without the consent of the property owner, including property annexed or being annexed to the City, when City Council determines, as part of the final rezoning ordinance, any of the following:

1. The current zoning is inconsistent with one or more of the goals or objectives of the City's Comprehensive Land Use Plan.
2. The current zoning is incompatible with one or more of the surrounding land uses, either existing or approved.
3. The surrounding development is or may be adversely impacted by the current zoning.
4. The City's water, sewer or other services are or would be significantly and negatively impacted by the current zoning and the property is not currently being served by the City.

### ***Official Development Plan (ODP) Application***

#### **11-5-15: STANDARDS FOR APPROVAL OF OFFICIAL DEVELOPMENT PLANS AND AMENDMENTS TO OFFICIAL DEVELOPMENT PLANS: (2534)**

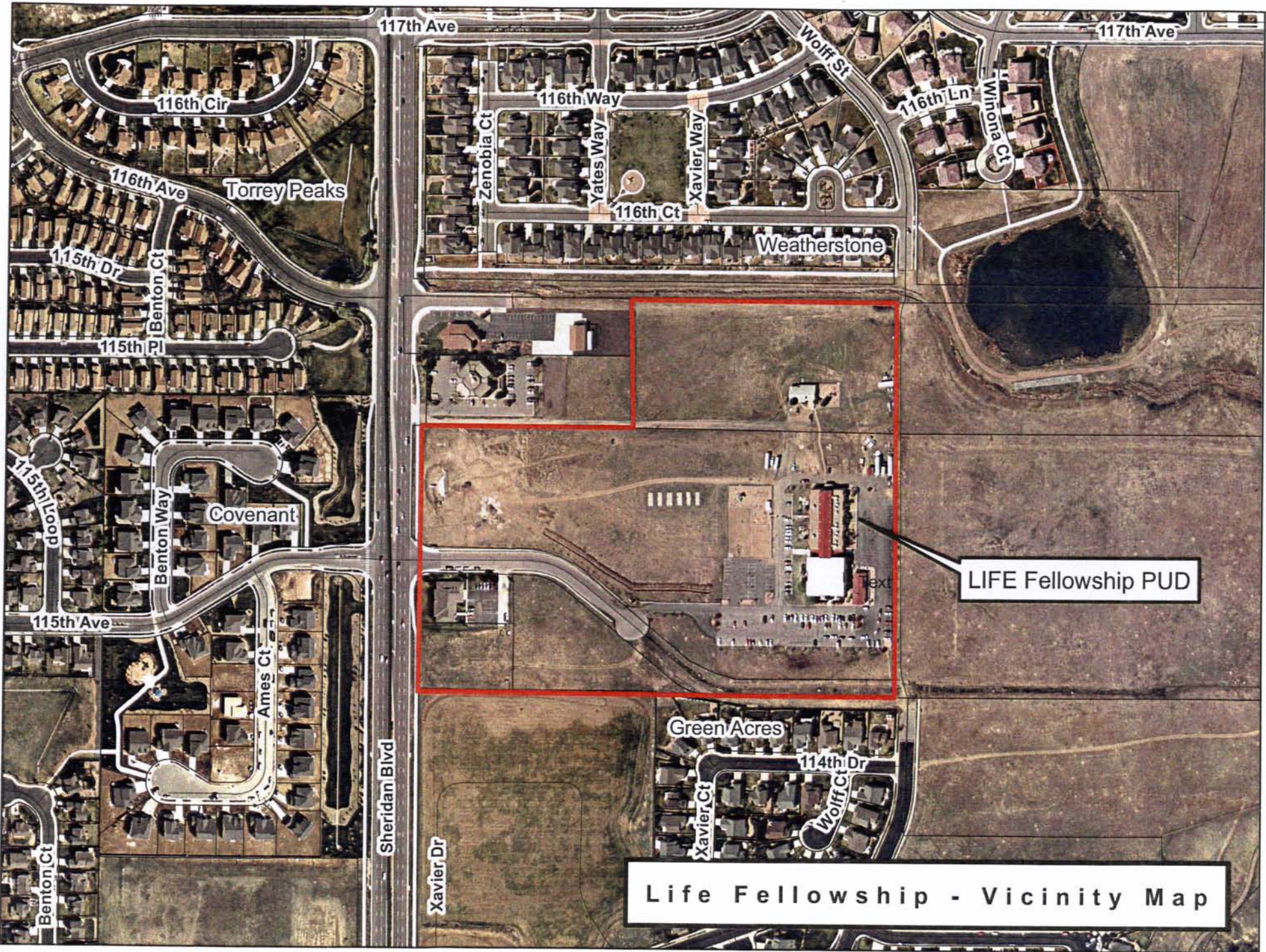
(A) In reviewing an application for the approval of an Official Development Plan or amended Official Development Plan the following criteria shall be considered:

1. The plan is in conformance with all City Codes, ordinances, and policies.
2. The plan is in conformance with an approved Preliminary Development Plan or the provisions of the applicable zoning district if other than Planned Unit Development (PUD).
3. The plan exhibits the application of sound, creative, innovative, or efficient planning and design principles.
4. For Planned Unit Developments, any exceptions from standard code requirements or limitations are warranted by virtue of design or special amenities incorporated in the development proposal and are clearly identified on the Official Development Plan.
5. The plan is compatible and harmonious with existing public and private development in the surrounding area.
6. The plan provides for the protection of the development from potentially adverse surrounding influences and for the protection of the surrounding areas from potentially adverse influence from within the development.
7. The plan has no significant adverse impacts on future land uses and future development of the immediate area.

8. The plan provides for the safe, convenient, and harmonious grouping of structures, uses, and facilities and for the appropriate relation of space to intended use and structural features.
9. Building height, bulk, setbacks, lot size, and lot coverages are in accordance with sound design principles and practice.
10. The architectural design of all structures is internally and externally compatible in terms of shape, color, texture, forms, and materials.
11. Fences, walls, and vegetative screening are provided where needed and as appropriate to screen undesirable views, lighting, noise, or other environmental effects attributable to the development.
12. Landscaping is in conformance with City Code requirements and City policies and is adequate and appropriate.
13. Existing and proposed streets are suitable and adequate to carry the traffic within the development and its surrounding vicinity.
14. Streets, parking areas, driveways, access points, and turning movements are designed in a manner promotes safe, convenient, promotes free traffic flow on streets without interruptions and in a manner that creates minimum hazards for vehicles and or pedestrian traffic.
15. Pedestrian movement is designed in a manner that forms a logical, safe, and convenient system between all structures and off-site destinations likely to attract substantial pedestrian traffic.
16. Existing and proposed utility systems and storm drainage facilities are adequate to serve the development and are in conformance with the Preliminary Development Plans and utility master plans.
17. The applicant is not in default or does not have any outstanding obligations to the City.

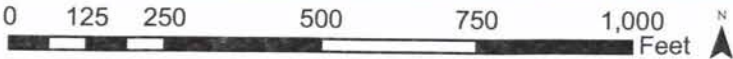
(B) Failure to meet any of the above-listed standards may be grounds for denial of an Official Development Plan or an amendment to an Official Development Plan.





LIFE Fellowship PUD

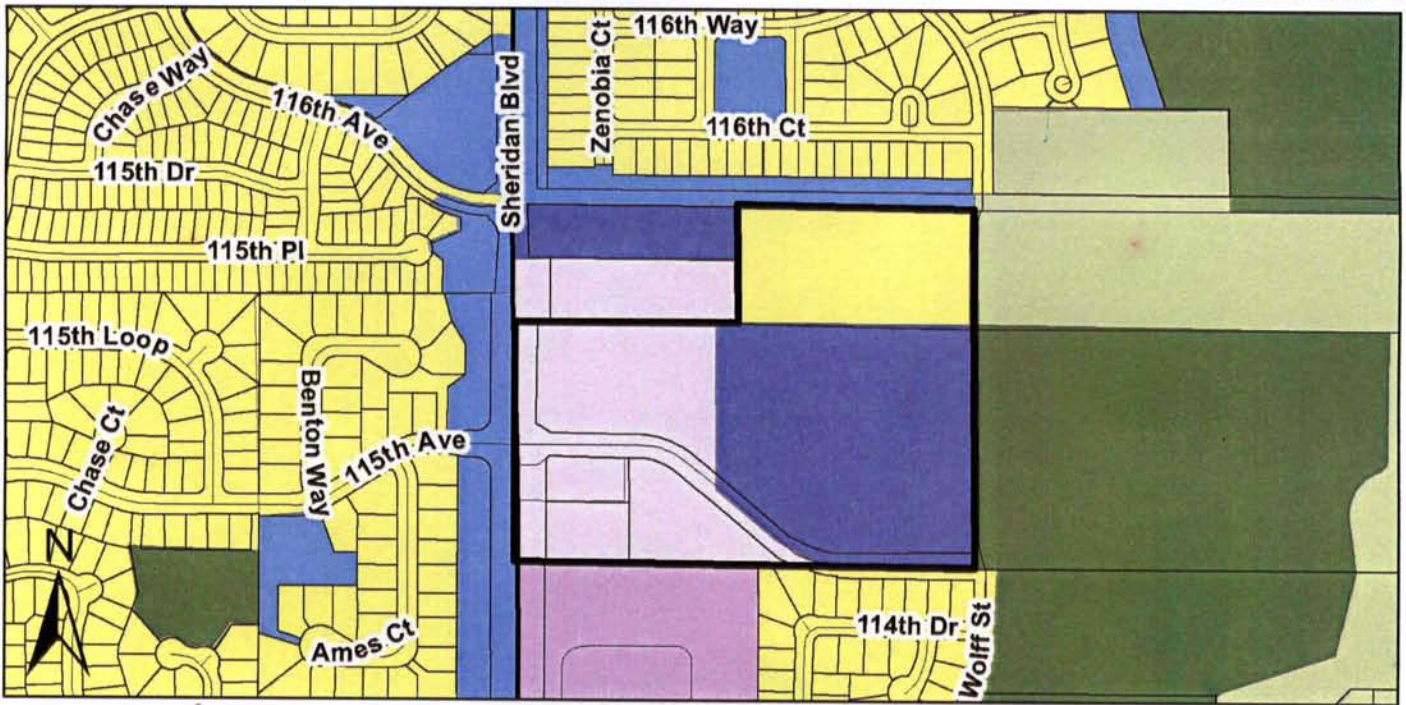
Life Fellowship - Vicinity Map





# LIFE Fellowship CLUP Designation

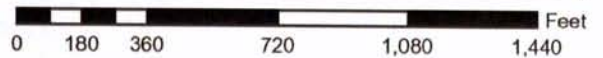
Exhibit A



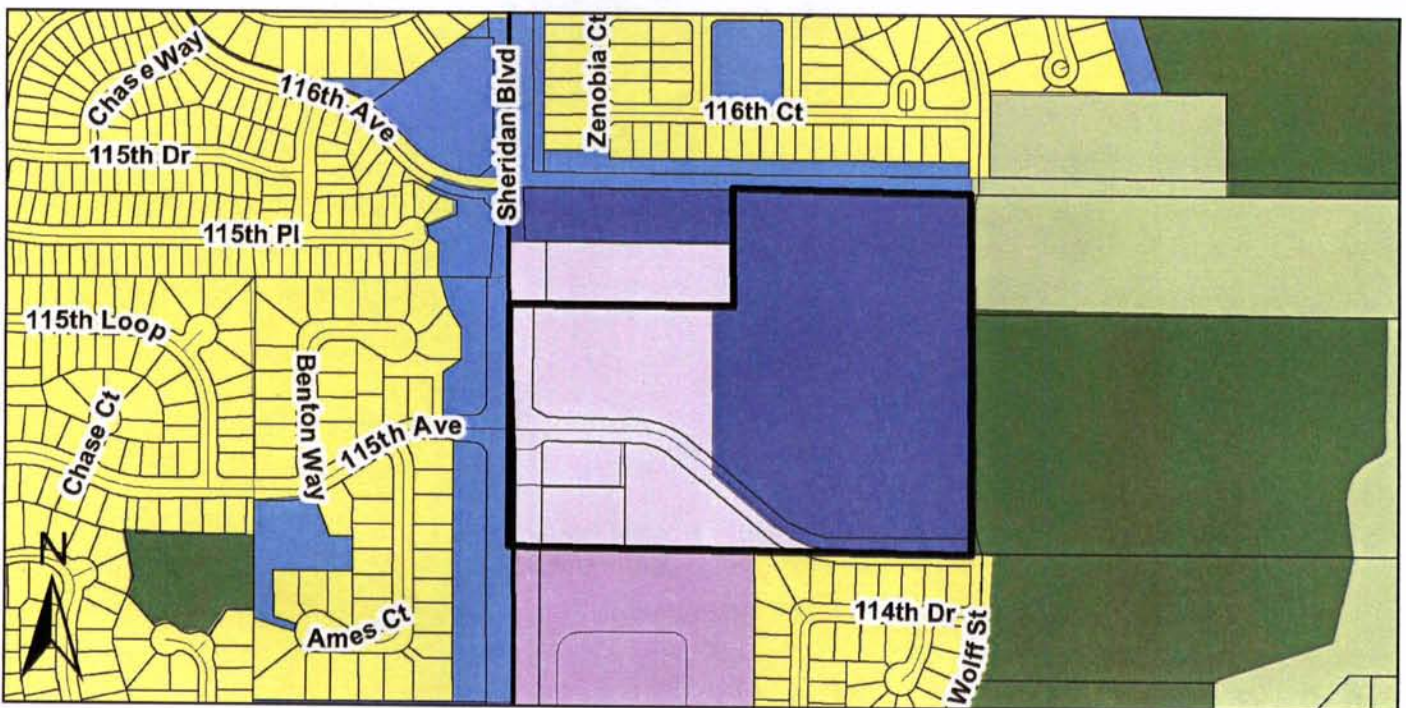
**LEGEND**

R-1	R-18	Office/Residential	Private Parks/Open Space
R-2.5	Retail Commercial	District Center	Golf Courses
R-3.5	Office	Traditional Mixed Use	Public/Quasi Public
R-5	Industrial	City Owned Open Space	N.E. Comprehensive Dev. Plan
R-8	Business Park	Public Parks	Major Creek Corridor Non Public

Description of Change: R-3.5 to Public/Quasi Public



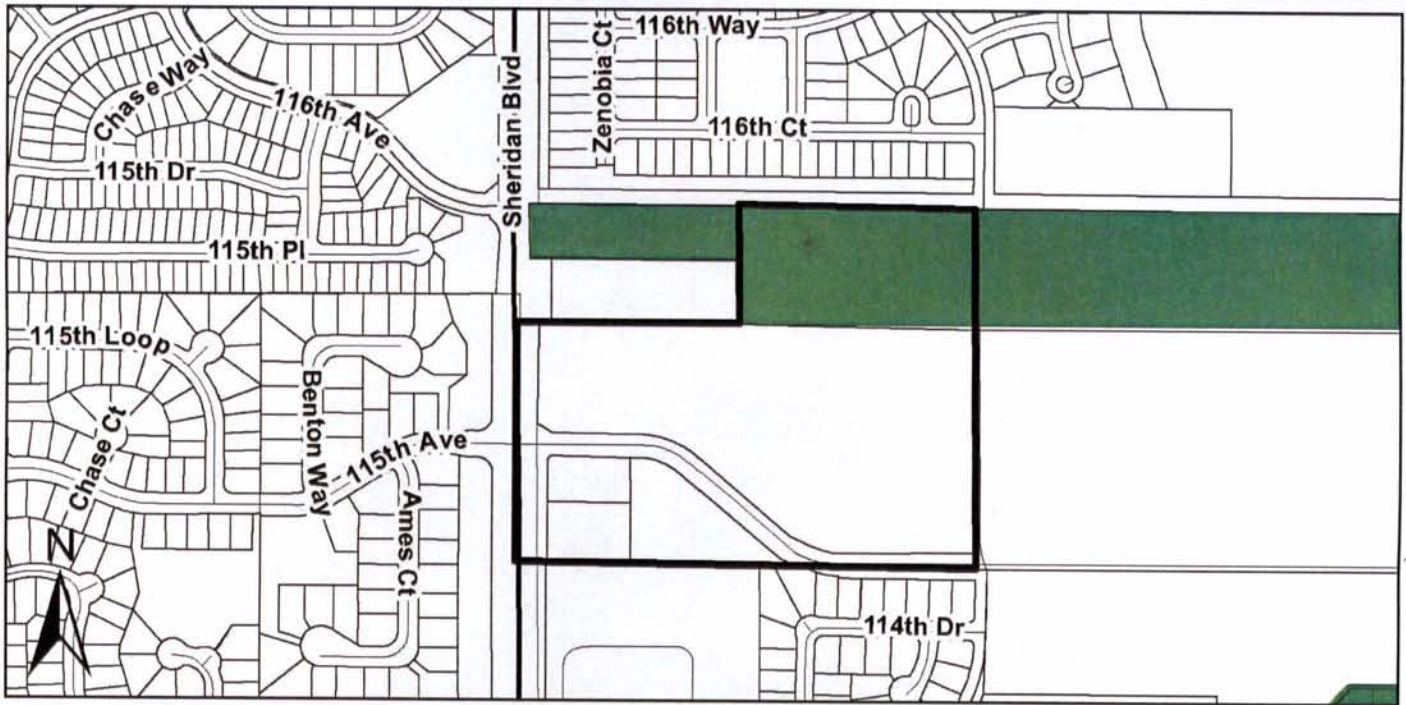
# LIFE Fellowship New CLUP Designation









# LIFE Fellowship Zoning Designation

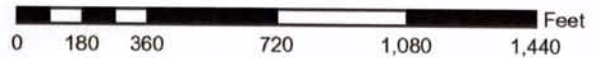
Exhibit A



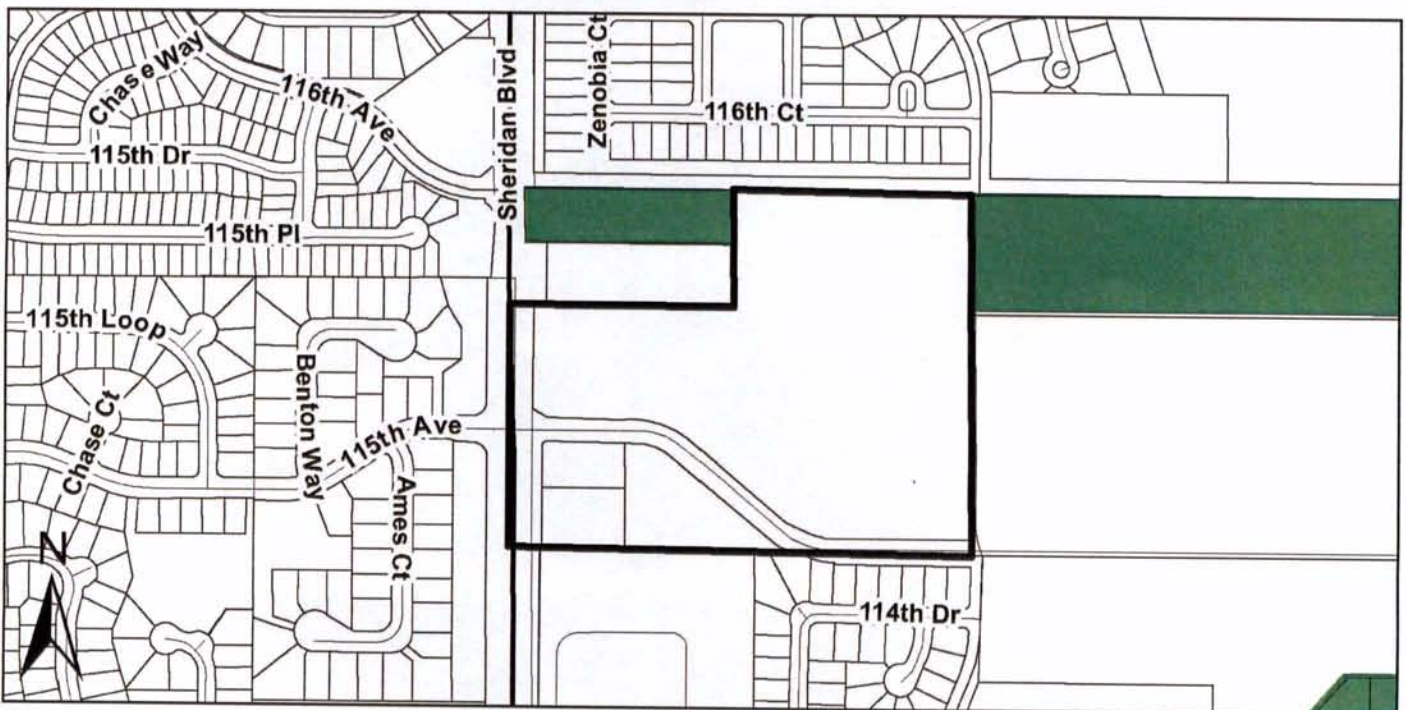
**LEGEND**

 B-1	 O-1	 R-1	 R-5	 T-1
 C-1	 PUD	 R-2	 R-A	 Not in City Limits
 M-1	 R-3	 R-4	 R-E	

Description of Change: O-1 to PUD



# LIFE Fellowship New Zoning Designation





**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
November 13, 2006



**SUBJECT:** Resolution No. 60 re 11 acre Brigham Young University-Idaho Open Space Property at the northwest corner of 100<sup>th</sup> Avenue and Simms Street

**Prepared By:** Ruth C. Becker, Open Space Coordinator

**Recommended City Council Action**

Adopt Resolution No. 60 authorizing the purchase of an approximately 11 acre parcel at the northwest corner of 100th Avenue and Simms Street for \$1,320,000, with the City of Westminster and Jefferson County each paying 50% of the purchase price (\$660,000 per entity); and authorizing the City Manager to execute all documents required to close on the purchase of the property.

**Summary Statement**

- The BYU-Idaho property is a Priority 1 acquisition for the Open Space Advisory Board
- Acquisition would allow the City to protect a prominent corner at the edge of the Westminster Hills Open Space, and also protect the bald eagle nest across the street in Standley Lake Regional Park.
- Staff has negotiated the purchase of the approximately 11 acres located at the northwest corner of 100<sup>th</sup> Avenue and Simms Street for a total purchase price of \$1,320,000 (or \$2.75 per square foot).
- The purchase is contingent on Jefferson County paying 50% of the purchase price. The City's contribution of \$660,000 is equivalent to \$1.38 per square foot.
- Jefferson County will transfer title to the property to Westminster, subject to a reversionary interest that provides the property will revert to Jefferson County if Westminster ceases to use the property for open space, park or recreational purposes.
- The Jefferson County Open Space Advisory Committee recommended approval of this acquisition and recommended that Jefferson County pay 50% of the purchase price, at its November 2, 2006 meeting.
- The Jefferson County Board of County Commissioners will review this acquisition at a meeting anticipated to be on November 14, 2006.

**Expenditure Required:** \$660,000 plus closing costs not to exceed \$5,000

**Source of Funds:** Open Space Land Purchases Account

**Policy Issue**

Does City Council approve the use of the open space funds for the purchase of the 11 acre parcel at the northwest corner of 100<sup>th</sup> Avenue and Simms Street, subject to Jefferson County's open space reverter clause?

**Alternative**

City Council could choose not to authorize the acquisition or the expenditure at this time. Staff does not recommend this option because Jefferson County is anticipated to pay 50% for the purchase price for this property. This contribution is necessary for the City to purchase this parcel. As a condition to financial participation, Jefferson County requires that the property be used only for open space, park or recreational purposes. If the City were to change the use of the property, the land would revert to Jefferson County. This is consistent with the City's desire to preserve this property as open space and staff feels this is reasonable condition for Jefferson County's substantial financial participation.

**Background Information**

The BYU-Idaho property is one of the final parcels needed to complete the assemblage of the Westminster Hills Open Space, an area of over 1,000 acres that the City has preserved on its western edge. This property is across the street from the Standley Lake Regional Park; an additional 2300 acres of preserved land. The corner at 100<sup>th</sup> Avenue and Simms Street is a crucial area to maintain the scenic vistas, wildlife habitat, shortgrass prairie and open feeling in this area. These lands are also bordered by open space lands owned by the United States, Jefferson, Broomfield and Boulder Counties, huge expanse of public lands and public investment preserving the mountain backdrop. Preservation of this site will also protect the bald eagle nest, located across the street at Standley Lake Regional Park.

BYU-Idaho received the property as a donation and is selling the property to provide funding for its educational programs. They considered selling the property for residential development, and will continue such negotiations if the City and County do not purchase the land. The designation under the Comprehensive Land Use Plan is R 2.5. The purchase price for the property is supported by an appraisal and a review appraisal that the City obtained. Land values for properties adjacent to open space are high, and the price of \$120,000 per acre or \$2.75 per square foot is a market value.

This transaction is expressly contingent on Jefferson County providing fifty percent of the funding for the purchase. The purchase agreement will be between Jefferson County and BYU-Idaho. Under the terms of the proposed transaction, Jefferson County will receive a deed for the property from BYU-Idaho. Jefferson County will then deed the property to the City of Westminster subject to a reverter clause that provides the property will revert to Jefferson County if the property ceases to be located in Jefferson County, or if any portion of the property ceases to be used for any purpose other than for public open space, park or recreational purposes. In addition, Jefferson County will require the City to execute an environmental indemnification and hold harmless agreement.

The Open Space Advisory Board reviewed this proposed acquisition at its October 25, 2006 meeting and unanimously recommended approval. Staff believes this is an important purchase to protect the scenic backdrop and significant investments the City has made in preserving the Westminster Hills Open Space.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments

RESOLUTION

RESOLUTION NO. **60**

INTRODUCED BY COUNCILLORS

SERIES OF 2006

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**PURCHASE OF THE APPROXIMATELY 11 ACRE BYU-IDAHO PROPERTY AT THE  
NORTHWEST CORNER OF 100TH AVENUE AND SIMMS STREET**

WHEREAS, Jefferson County and the City of Westminster have negotiated with Brigham Young University-Idaho to purchase the approximately 11 acre parcel at the northwest corner of 100th Avenue and Simms Street (the "Property") for \$1,320,000; and

WHEREAS, the terms of the purchase provide that the City of Westminster will pay \$660,000 towards the purchase and Jefferson County shall pay \$660,000 towards the purchase of the Property; and

WHEREAS, as a condition to its participation, Jefferson County requires that the Property be conveyed to the City of Westminster with an open space reverter clause and that the City provide an environmental indemnification and hold harmless agreement.

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

Section 1: The City Council hereby authorizes the purchase of the Property for \$1,320,000, with the City of Westminster and Jefferson County each paying fifty percent (50%) of the purchase price or \$660,000 each.

Section 2: This authorization is expressly contingent on Jefferson County's participation in this transaction at the 50% level described in Section 1, above.

Section 3: The City Council authorizes the City Manager to sign the Environmental Indemnification and Hold Harmless Agreement required by Jefferson County, authorizes the reverter provision on the Commissioner's Deed from Jefferson County, and authorizes the City Manager to execute other required documentation to complete the purchase of the Property.

Section 4: This Resolution to be in full force and effect from and after its passage and approval.

PASSED AND ADOPTED this 13th day of November, 2006.

ATTEST:

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City Clerk

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Mayor



# Proposed Brigham Young University Acquisition



0 1,700 3,400 6,800 Feet



## Summary of Proceedings

Summary of proceedings of the regular meeting of the Westminster City Council held Monday, November 13, 2006. Mayor McNally, Mayor Pro Tem Kauffman, and Councillors Dittman, Kaiser, Lindsey, Major, and Price were present at roll call.

The minutes of the October 23, 2006 regular meeting were approved.

Council presented service awards to City employees with 20, 25, and 30 years of tenure; recognized the COW Talk Board of Contributors for winning the Savvy Award for Best Internal Newsletter from the City-County Communications and Marketing Association; accepted the Starburst Conservation Award from the Colorado Lottery for the Metzger Farm acquisition; and presented the Excellence in Design and Development Awards for 2005.

Mayor McNally was presented a \$250 prize for placing 1<sup>st</sup> in the Adams County Fair Celebrity Beef Contest and donated the prize to the City's Armed Forces Tribute Garden.

Council approved the following: the 3<sup>rd</sup> Quarter Insurance Report; renewal of the Wackenhut contract for security at Municipal Court; the purchase of 2 crack seal machines; library materials budget expenditures; MOU re Metro Mayors' Caucus Energy Efficiency and Conservation Agreement; Bond and Disclosure Counsel Service Agreements re \$20 Million Open Space Sales and Use Tax Revenue Bonds; Construction Engineering Services Agreements re W. 104<sup>th</sup> Ave/Sheridan Blvd intersection improvements; final passage of Councillor's Bill No. 63 re rezoning for S & R Art and Antiques from M-1 to C-1; final passage of Councillor's Bill No. 64 re 2006 3<sup>rd</sup> Quarter Budget supplemental appropriation; second amended PDP within the LIFE PUD; and second amended ODP within the LIFE PUD.

Council postponed indefinitely the purchase of PVC Water Pipe.

Council conducted public hearings re the electric franchise with United Power Inc. and re LIFE property 4.79 acres at 115<sup>th</sup> Ave and Sheridan Blvd CLUP amendment, rezone, and seconded amended PDP and ODP within the LIFE PUD.

Council adopted Resolution No. 60 re Brigham Young University-Idaho open space property at 100<sup>th</sup> Ave and Simms Street.

Council passed the following Councillors' Bills on first reading:

**A BILL FOR AN ORDINANCE GRANTING AN ELECTRIC FRANCHISE WITH UNITED POWER, INC., FOR A TERM OF TWENTY YEARS AND REVISING THE OFFICIAL CODE OF THE CITY OF WESTMINSTER, BY AMENDING CERTAIN SECTIONS OF CHAPTER 5 OF TITLE XVI, W.M.C. ENTITLED "FRANCHISE FOR ELECTRICITY."** Purpose: To grant a 20-year electric franchise to United Power, Inc. beginning January 1, 2007.

**A BILL FOR AN ORDINANCE AMENDING THE WESTMINSTER COMPREHENSIVE LAND USE PLAN.** Purpose: CLUP amendment for northern LIFE property changing designation from R-3.5 Residential to Public/Quasi-Public.

**A BILL FOR AN ORDINANCE AMENDING THE ZONING OF 11570 SHERIDAN BLVD, WESTMINSTER, ADAMS COUNTY, COLORADO FROM O-1 TO PUD.** Purpose: Rezone of the northern LIFE property from O-1 (Open) to Planned Unit Development (PUD).

The meeting adjourned at 8:25 p.m.

By Order of the Westminster City Council

Carla Koeltzow, Deputy City Clerk

Published in the Westminster Window on November 23, 2006



ORDINANCE NO. **3320**  
SERIES OF 2006

COUNCILLOR'S BILL NO. **63**  
INTRODUCED BY COUNCILLORS

**Price – Major**

**A BILL FOR AN ORDINANCE AMENDING THE ZONING OF A PARCEL OF LAND APPROXIMATELY 0.5 ACRE IN SIZE LOCATED AT 3698 WEST 72<sup>ND</sup> AVENUE, ADAMS COUNTY, COLORADO FROM M-1 INDUSTRIAL DISTRICT TO C-1 COMMERCIAL DISTRICT**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council finds:

a. That an application for the rezoning of the property generally located south of 72<sup>nd</sup> Avenue and Meade Street, as described in attached Exhibit 1, incorporated herein by reference, from the M-1 Industrial District zones to a C-1 Commercial District zone has been submitted to the City for its approval pursuant to W.M.C. §11-5-2.

b. That the notice requirements of W.M.C. §11-5-13 have been met.

c. That such application has been referred to the Planning Commission, which body held a public hearing thereon on October 10, 2006 and has recommended approval of the requested amendments.

d. That Council has completed a public hearing on the requested zoning pursuant to the provisions of Chapter 5 of Title XI of the Westminster Municipal Code and has considered the criteria in W.M.C. § 11-5-3(A).

e. That based on the evidence produced at the public hearing, the proposed C-1 Commercial District zoning complies with all requirements of City Code, including, but not limited to, the criteria of W.M.C §11-5-3(A), and §11-4-3, requiring compliance with the Comprehensive Land Use Plan.

Section 2. The Zoning District Map of the City is hereby amended by reclassification of the property, described in attached Exhibit 1, from the M-1 Industrial District zoning districts to the C-1 Commercial District as depicted on Exhibit 2.

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 23<sup>rd</sup> day of October, 2006. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 13<sup>th</sup> day of November, 2006.

**Major - Price**

**A BILL FOR AN ORDINANCE AMENDING THE 2006 BUDGETS OF THE GENERAL, GENERAL CAPITAL IMPROVEMENT AND OPEN SPACE FUNDS AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2006 ESTIMATED REVENUES IN THE FUNDS.**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2006 appropriation for the General Fund initially appropriated by Ordinance No. 3162 in the amount of \$86,209,579 is hereby increased by \$71,042 which, when added to the fund balance as of the City Council action on October 23, 2006 will equal \$92,989,199. The actual amount in the General Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. The appropriation is due to the receipt of grants, sponsor and exhibitor fees, and interest earnings.

Section 2. The \$71,042 increase in the General Fund shall be allocated to City Revenue and Expense accounts, which shall be amended as follows:

REVENUES

Description	Account Number	Current Budget	Amendment	Revised Budget
Federal Grants	100040610.0000	\$378,812	\$7,207	\$386,019
State Grants	1000.40620.0000	137,483	6,973	144,456
General	1000.43060.0000	232,508	23,930	256,438
Contributions	1000.43100.0000	224,832	22,750	247,582
Int Ice Center	1000.42530.0077	7,640	6,145	13,785
Int 1999 COPS	1000.42530.0276	427	2,671	3,098
Int 2001 COPS	1000.42530.0215	50	773	823
Int Capital Facilities	1000.42530.0209	46	593	639
Total Change to Revenues			<u>\$71,042</u>	

EXPENSES

Description	Account Number	Current Budget	Amendment	Revised Budget
Salaries OT- Inv Services	10020300.60400.0344	\$190,000	\$7,207	\$197,207
Other Equipment Traffic	10020500.76000.0347	17,000	1,528	18,528
Salaries OT Traffic	10020500.60400.0348	93,854	4,320	98,174
Career Dev – Inv Services	10020300.61800.0344	22,800	1,125	23,925
Special Promo	10025260.67600.0000	20,000	13,930	33,930
Contract Svcs	10025260.67800.0000	24,085	10,000	34,085
Special Promo	10030340.67600.0000	21,900	22,750	44,650
Lease Pay Ice Cntr	10010900.67700.0077	1,044,303	6,145	1,050,448
Lease Pay Westy Blvd	10010900.67700.0276	1,713,219	2,671	1,715,890
Lease Pay-01 COPS	10010900.67700.0215	50	773	823
Lease Pay-Cap Fac	10010900.67700.0209	1,603,772	593	1,604,365
Total Change to Expenses			<u>\$71,042</u>	

Section 3. The 2006 appropriation for the General Capital Improvement Fund initially appropriated by Ordinance No. 3162 in the amount of \$7,668,000 is hereby increased by \$335,507 which, when added to the fund balance as of the City Council action on October 23, 2006 will equal \$19,591,049. The actual amount in the General Capital Improvement Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. This appropriation is due to receipt of in-lieu payments, interest earnings and county project participation.

Section 4. The \$335,507 increase in the General Capital Improvement Fund shall be allocated to City revenue and expense accounts, which shall be amended as follows:

REVENUES

Description	Account Number	Current Budget	Amendment	Revised Budget
Cash-in-Lieu	7500.40210.0751	\$77,230	\$30,100	\$107,330
Interest 01 S&UT	7500.42520.0179	0	8,620	8,620
Interest 02 S&UT	7500.42520.0058	0	16,836	16,836
Interest 05 COPS	7500.42530.0274	194,095	160,766	354,861
Adams Cnty Revenue	7500.40640.0010	0	119,185	119,185
Total Change to Revenue			<u>\$335,507</u>	

EXPENSES

Description	Account Number	Current Budget	Amendment	Revised Budget
Tree Mitigation Proj	80575050425.80400.8888	\$0	\$30,100	\$30,100
136 <sup>th</sup> /Huron Project	80175030058.80400.8888	0	25,456	25,456
COP 144 <sup>th</sup> Interchange	80575030713.80400.8888	16,225,501	159,985	16,385,486
COP 144 <sup>th</sup> Inter. Cap I	80575030733.80400.8888	1,906,701	781	1,907,482
80 <sup>th</sup> & Federal Intersec	80475030603.80400.8888	240,000	119,185	359,185
Total Change to Expenses			<u>\$335,507</u>	

Section 5. The 2006 appropriations for the Open Space Fund initially appropriated by Ordinance No. 3162 in the amount of \$4,563,535 is hereby increased by \$26,633 which, when added to the fund balance as of the City Council action on October 23, 2006 will equal \$6,125,595. The actual amount in the Open Space Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. This appropriation is due to receipt of lease payments and sale of asset revenues.

Section 6. The \$26,633 increase in the Open Space Fund shall be allocated to City revenue and expense accounts, which shall be amended as follows:

REVENUES

Description	Account Number	Current Budget	Amendment	Revised Budget
Open Space General	5400.43060.0000	\$5,233	\$2,744	\$7,977
Sale of Assets	5400.43040.0000	0	23,889	23,889
Total Change to Expenses			<u>\$26,633</u>	

EXPENSES

Description	Account Number	Current Budget	Amendment	Revised Budget
Land Purchases	54010900.76600.0000	\$2,224,666	\$26,633	\$2,251,299
Total Change to Revenue			<u>\$26,633</u>	

Section 7 – Severability. The provisions of this Ordinance shall be considered as severable. If any section, paragraph, clause, word, or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part shall be deemed as severed from this ordinance. The invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect the construction or enforceability of any of the remaining provisions, unless it is determined by a court of competent jurisdiction that a contrary result is necessary in order for this Ordinance to have any meaning whatsoever.

Section 8. This ordinance shall take effect upon its passage after the second reading.

Section 9. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 23<sup>rd</sup> day of October, 2006. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 13<sup>th</sup> day of November, 2006.