



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 (item 7) and Citizen Presentations (item 12) are reserved for comments on items not contained on the printed agenda.

1. Pledge of Allegiance Boy Scout Troop #835
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
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 citizen wishes to have an item discussed. Citizens then may request that the subject item be removed from the Consent Agenda for discussion separately.

8. Consent Agenda
 - A. October Financial Report
 - B. Document Management Purchase Contract
 - C. Big Dry Creek Trail, Huron to I-25 Phase I Construction Award
 - D. CDBG and Home Funding Budgets
 - E. 2004 Capital Improvement Technical Staff Support Services Contract Amendment
 - F. Second Reading Councillor's Bill No. 80 re Municipal Court Judge Salary for 2005 (Davia – Dixon)
 - G. Second Reading Councillor's Bill No. 81 re Easement Vacation in Prospector's Point (Price – Davia)
9. Appointments and Resignations
10. Public Hearings and Other New Business
 - A. Councillor's Bill No. 82 re Lease with Westminster Historical Society
 - B. Resolution No. 70 re Review of Tax Credit Applications for Landmarked Historic Homes
 - C. Resolution No. 71 re Service Commitment Allocations
 - D. Councillor's Bill No. 83 Refunding of Oasis/Wexford (Camden Arbors) IDR
 - E. Sale Agreement with Hyland Hills Park and Recreation District
 - F. Councillor's Bill No. 84 re Supplemental Appropriation re Sale Agreement with Hyland Hills
 - G. Councillor's Bill No. 85 re Wayne Carl Middle School Supplemental Appropriation
 - H. Resolution No. 72 re 2005 Jefferson County Joint Venture Grant Application
 - I. Councillor's Bill No. 86 re Exception to Open Containers of Alcoholic Beverages
11. Old Business and Passage of Ordinances on Second Reading
12. Citizen Presentations (longer than 5 minutes) and Miscellaneous Business
 - A. City Council
 - B. Executive Session
13. Adjournment

CITY OF WESTMINSTER, COLORADO
MINUTES OF THE CITY COUNCIL MEETING
HELD ON MONDAY, NOVEMBER 22, 2004 AT 7:00 P.M.

PLEDGE OF ALLEGIANCE

Boy Scout Troop 835 led Council, Staff and the audience in the Pledge of Allegiance.

ROLL CALL

Mayor McNally, Mayor Pro-Tem Kauffman and Councillors Dittman, Dixon, and Price were present at roll call. J. Brent McFall, City Manager, Martin McCullough, City Attorney, and Michele Kelley, City Clerk, were also present. Councillor Hicks arrived at 7:10 P.M.,..

CONSIDERATION OF MINUTES

Councillor Dittman moved, seconded by Price to approve the minutes of the meeting of November 8, 2004. The motion carried unanimously.

CITY MANAGER COMMENTS

Brent McFall, City Manager, commented on the Thanksgiving holiday, with City offices closed on both Thursday and Friday. The recreation centers will be open on Friday. The Christmas lighting ceremony will be held on Sunday, December 5th at 5 P.M.

CITY COUNCIL COMMENTS

Councillor Sam Dixon commented on the numerous Rocky Flats meetings and the 50th Anniversary of the United Methodist Church held last Sunday.

Councillor Davia commented on his recent graduation from the Citizens Police Academy, and congratulated Mary Ann Parrot for her Finance Officer of the Year award.

Councillor Price commented on the Westminster Historical Society Christmas tree ceremony on December 2nd at Fire Station No. 1, 73rd and Newton at 6:30 P.M.

Mayor McNally commented on the Wayne Carl School ground breaking at 100th Avenue and Countryside Drive.

CITIZEN COMMUNICATION:

Linda Cherrington, representing the Westminster Historical Society thanked City Council for the lease of the building at 4350 West 76th Avenue. The use of this building will allow the historical Society to be able to store photos, abstracts, maps and histories and will allow for more display area at the Bowles Museum.

CONSENT AGENDA

The following items were considered as part of the consent agenda: October Financial Report; Document Management Purchase Contract with Scorp for document management hardware and software not to exceed \$331,000 plus contingency \$49,650 (15%); Big Dry Creek Trail, Huron to I-25 Phase I Construction Award to T2 Construction for \$117,944 for first phase construction of and authorize \$11,794 contingency fund; CDBG and Home Funding Budgets 2005 CDBG Program Administration, \$134,800; Lowell Boulevard Streetscape Improvements (Phase 1 Construction) \$439,200; Human Service Advisory Board Recommendations, \$100,000; TOTAL: \$674,000; 2004 Capital Improvement Technical Staff Support Services Contract Amendment with RG Consulting Engineers, Inc. for additional engineering services and authorize \$30,000 to cover these costs, bringing the total contract amount to \$150,000; second Reading Councillor's Bill No. 80 re Municipal Court Judge Salary for 2005, and second Reading Councillor's Bill No. 81 re Easement Vacation in Prospector's Point

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

Councillor Dixon moved, seconded by Price to adopt the consent agenda items as presented. The motion carried unanimously.

COUNCILLOR'S BILL NO. 82 RE LEASE WITH WESTMINSTER HISTORICAL SOCIETY

Councillor Dittman moved, seconded by Davia to pass Councillor's Bill No. 82 on first reading authorizing the Mayor to execute a one-year lease for the Westminster Historical Society to occupy approximately 1,080 square feet of the former District 50 ambulance building at 4350 West 76th Avenue. Upon roll call vote, the motion carried unanimously.

RESOLUTION NO. 70 REVIEW OF TAX CREDIT APPLICATIONS FOR LANDMARKED HOMES

Councillor Price moved, seconded by Dixon to adopt Resolution No. 70 allowing local review of state income tax credit applications for qualified rehabilitation costs incurred by owners of landmarked historic homes. Upon roll call vote, the motion carried unanimously.

RESOLUTION NO. 71 RE SERVICE COMMITMENT ALLOCATIONS

Councillor Kauffman moved, seconded by Dittman to adopt Resolution No. 71 allocating Service Commitments for the year 2005 to the various categories of the Growth Management Program including Service Commitments for residential competitions for new single-family detached, single-family attached, multi-family, senior housing, and traditional mixed use neighborhood developments. Upon roll call vote, the motion carried unanimously.

CB NO. 83 IDR B REFUNDING OASIS/WEXFORD CAMDEN ARBORS)

Councillor Price moved, seconded by Dittman to pass Councillor's Bill No. 83 as an emergency ordinance approving the refunding indenture, financing agreement, intercreditor agreement and bond purchase agreement necessary to refund the above-referenced Bonds in the amount of \$14,010,000 and authorizing the Mayor, City Clerk, City Manager and City Attorney to execute documents as necessary to finalize the transaction. Upon roll call vote, the motion carried unanimously.

SALE AGREEMENT WITH HYLAND HILLS PARK AND RECREATION DISTRICT

Councillor Davia moved, seconded by Dixon to authorize the City Manager to execute an agreement for the sale of approximately 31 acres to the Hyland Hills Park and Recreation District and to execute closing documents for the transaction. The motion carried unanimously.

COUNCILLOR'S BILL NO. 84 RE SALE AGREEMENT WITH HYLAND HILLS

Councillor Hicks moved, seconded by Dixon to pass Councillor's Bill No. 84 on first reading authorizing a supplemental appropriation to the 2004 budget of the Utility Fund in the amount of \$521,730. These funds will be appropriated into the Thornton Water Replacement Fund as a result of the sale of surplus property to Hyland Hills. . Upon roll call vote, the motion carried unanimously.

COUNCILLOR’S BILL NO. 85 RE WAYNE CARL SCHOOL SUPPLEMENTAL APPROP:

Councillor Dittman moved, seconded by Hicks to pass Councillor’s Bill No. 85 on first reading authorizing a supplemental appropriation to the 2004 budget of the General Capital Improvement Fund and the Open Space Fund in the amount of \$700,000 and \$250,000, respectively. Upon roll call vote, the motion carried unanimously.

RES NO. 72 RE 2005 JEFFERSON COUNTY JOINT VENTURE GRANT APPLICATION

Councillor Dixon moved, seconded by Hicks to adopt Resolution No. 72 authorizing the Department of Parks, Recreation and Libraries to apply for a 2005 Jefferson County Joint Venture Grant application for the 2005 grant cycle. Upon roll call vote, the motion carried unanimously.

COUNCILLOR’S BILL NO. 86 RE EXCEPTION TO OPEN CONTAINERS

Councillor Davia moved, seconded by Price to pass Councillor’s Bill No. 86 on first reading amending the Westminster Municipal Code to make an exception to the City’s ordinance concerning open containers of alcoholic beverages to allow “corked” wine bottles as a result of recent state legislation. Upon roll call vote, the motion carried unanimously.

EXECUTIVE SESSION:

The City Manager stated there would be an executive session item.

ADJOURNMENT:

The meeting was adjourned at 7:21 P.M.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

Agenda Item 8 A

City Council Meeting
November 22, 2004



SUBJECT: Financial Report for October 2004

Prepared By: Mary Ann Parrot, Finance Director

Recommended City Council Action

Accept the Financial Report for October 2004 as presented.

Summary Statement

City Council is requested to review and accept the attached monthly financial statement and monthly revenue report. The Shopping Center Report is also attached to this monthly financial report.

- Across all shopping centers, total sales & use tax receipts are up 1% over the one-month period of October 2003. Last month this figure was down 3%. This difference from one month to the next is due to timing differences that made September 2004 look artificially low.
- On a year-to-date basis, receipts are up 1% compared to the ten-month period last year. Last month this figure was also 1%.
- The Westminster Mall is down 2% for October, compared to October of last year. Last month this figure was up 15% due to receipt of a major audit payment from one of the anchor stores. Year-to-date the Mall is down 3%; last month this figure was also down 3%.
- Public Safety Tax (PST) receipts for the month of October were \$816,796; last month this figure was \$805,963.

Key features of the monthly financial report for October are as follows:

- At the end of October, ten months of the year have passed, or 83.3% of the calendar year.
- The table attached shows the Sales and Use Tax Fund revenues are currently \$2,124,628 over pro-rated budget for the year. The October figures reflect the sales in September, tax receipts received in October. This is due, in large part, to receipt of PST taxes, but is also due to excess revenues as Business Assistance Packages are retired, as well as a general upturn in the economy.
- Without the new PST, Sales Tax Returns (returns only and adjusted for early and late returns) are down for October 2004 compared to October 2003 by 1.2%, a decrease of \$39,496 over October 2003. Income from retired business assistance packages increased by \$26,772 compared to this time last year. In other words, economic activity slowed for the month.
- Looking at year-to-date figures without the PST, analysis shows the following:
 - For the ten months ending in October, Sales Tax Returns (only) are 4.0% ahead of 2003 year-to-date, or an increase of \$1,274,216. For the ten months ending in October the fund is 2.4% ahead of 2003 year-to-date. Last month this figure was 2.9%.
- For the month of October, the entire fund is 1.6% behind October 2003. Last month this figure was 0.8%. The reasons for this difference are as follows:
 - Sales Tax Returns (only) are down \$39,496 for October compared to September's increase of \$1,591.
 - Use taxes in total are down \$75,957 from October 2003. Within the category of Use Taxes in general, auto use taxes were down \$109,415 compared to October 2003. Use tax flows are volatile and reflect purchases of large-ticket items.
- The General Fund revenue is currently 100.4% of pro-rated budget for ten months.

Policy Issue

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

Alternative

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

Background Information

This section is broken down into a discussion of highlights of each fund presented.

For revenues, a positive indicator is a pro-rated budget percentage at or above 100%. For expenditures, a positive indicator is a pro-rated budget percentage that is below 100%. If a fund is on schedule for the year regarding revenues and/or expenditures, the percentage will be 100% of pro-rated budget figures.

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

At the end of October, the General Fund is in the following position regarding both revenues and expenditures:

- Revenues are over pro-rated budget by \$288,669, (100.4% of pro-rated budget). Last month this variance was 101.5%. The difference is due to the following:
 - Recreation Center Admissions slowed for the month.
 - The Hyland Hills Ice Center payment was delayed one month.
 - The pace of HUTF revenue collections within the category of Intergovernmental Revenues for 2004 has not kept up with historical collections. A 10-year history shows the City has traditionally collected 75% of HUTF by this time of year. However, for last year and this year, collections have reached only 69% to 70% of budget. Even though total collections for 2004 are greater than 2003, this means that either the pace of collections has slowed, the budget has been increased more than past historical experience, or a combination of both. Staff will review further by the end of the year.
 - The pro-rata collections for Federal Grants within the category of Intergovernmental Revenues was increased to 100% for the 4th quarter. This will skew the collections for the month of October
- Expenditures are under budget by \$8.0 million (89% of pro-rated budget), due to under-spending in several departments. Spending does not occur evenly throughout the year in many departments, particularly with regard to insurances in Central Charges and spending on contract services in several other departments. Public Safety Tax expenditures to date are largely reflected in the Police and Fire Department operating budgets, which are 91% and 87% of pro-rated budgets, respectively.

Sales and Use Tax Funds (Sales & Use Tax Fund and Open Space Sales & Use Tax Fund): These funds are the repositories for the 3.85% City Sales & Use Tax for the City. The Sales & Use Tax Fund provides monies for the General Fund, the Capital Project Fund and the Debt Service Fund. The Open Space Sales & Use Tax Fund revenues are pledged to meet debt service on the POST bonds, buy open space, and make park improvements on a pay-as-you-go basis. The Public Safety Tax was approved by the voters in the November 2003 election, and is a 0.6% sales and use tax to be used to fund public safety-related expenses. At the end of October, the position of these funds is as follows:

- Sales & Use Tax Fund revenues are over pro-rated budget by \$2,124,628 (105% of pro-rated budget). These numbers include all year-to-date PST receipts and year-to-date income due to retired business assistance packages.

- On the basis of Actual Revenues year-to-date, the 2004 Sales Tax Fund is 2.4% ahead of last year. The City budgeted the Sales Tax Fund to be 2.2% greater than last year. At this time, due to the recent slowing of revenues for the past several months, Staff expects to meet this budget figure, but Staff does not anticipate exceeding it.
- Sales & Use Tax Fund expenditures are even with pro-rated budget because of the transfers to the General Fund, Debt Service Fund and General Capital Improvement Fund.
- Open Space Sales & Use Tax Fund revenues are over pro-rated budget by \$272,599 (104% of pro-rated budget). The reason for the improvement over last month was the receipt of \$250,000 from Jefferson County School District for the Brauch property which was purchased by the City earlier this year.
- Open Space Sales & Use Tax Fund expenditures are under pro-rated budget by \$2.3 million (63% of pro-rated budget); planned land acquisitions are pending, but were not completed during October.

Water, Wastewater and Storm Water Drainage Funds (The Utility Enterprise): This fund reflects the operating results of the City's water, wastewater and storm water systems. It is important to note that net operating revenues are used to fund capital projects. At the end of October, the enterprise is in a positive position.

- Combined Water & Wastewater revenues are under pro-rated budget by \$1,366,657 (96% of budget):
 - Water revenues under pro-rated budget by \$259,433 (99% of pro-rated budget). This is an improvement over last month's figures due to higher water consumption and tap fee sales in October than in prior months. Water revenues from rates and charges are under pro-rated budget by \$2,050,291 (89% of pro-rated budget), which is less than last month's under budget figure of \$2,313,029. Tap fees are over pro-rated budget by \$2,310,408 (166% of budget), an increase over last month's figures.
 - Wastewater revenues under pro-rated budget by \$1,107,225 (89% of pro-rated budget), due in part to revenues for monthly rates and charges being lower during this quarter than historical averages and due in part to the reversal of the unrealized gain in interest income.
 - Storm water Drainage revenues slightly over pro-rated budget by \$6,484 (101% of pro-rated budget).
- Combined Water & Wastewater expenses are under budget by \$4,898,464 (79% of budget):
 - Water expenses under pro-rated budget by \$3,376,746 (80% of budget) due to lower contracted service and capital outlay expenses than budgeted year to date.
 - Wastewater expenses under pro-rated budget by \$1,521,719 (77% of budget) for the same reason – lower contracted service costs and capital outlay.
 - Storm Drainage expenses under pro-rated budget by \$69,442 (65% of budget).

Golf Course Enterprise (Legacy and Heritage Golf Courses)

This enterprise reflects the operations of the City's two municipal golf courses. The enterprise as a whole is in a net negative position on a pro-rated basis, with net income currently \$641,745 under pro-rated budget for the year. On October 11, 2004, City Council approved a four-point program to provide relief to the golf courses over the coming years.

- Legacy – Revenues are under pro-rated budget by \$401,444 (80% of pro-rated budget).
- Legacy – Operating expenses are under pro-rated budget by \$156,505 (89% of pro-rated budget).
- Heritage – Revenues are under pro-rated budget by \$602,184 (71% of pro-rated budget).
- Heritage – Operating expenses are under pro-rated budget by \$205,378 (87% of pro-rated budget).

Respectfully submitted,

J. Brent McFall, City Manager

Attachments

**City of Westminster
Financial Report
For the Ten Months Ending October 31, 2004**

Description General Fund	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget Pro-Rated	% Pro-Rated Budget
Revenues						
Taxes	4,402,309	4,330,070	(1)	4,389,341	59,271	101%
Licenses & Permits	1,725,000	1,566,250	(2)	2,045,895	479,645	131%
Intergovernmental Revenue	5,078,129	4,006,329	(3)	3,816,455	(189,874)	95%
Charges for Services						
Recreation Services	5,139,500	4,258,575	(4)	3,778,907	(479,668)	89%
Other Services	5,453,500	4,241,415	(4)	4,447,759	206,344	105%
Fines	1,876,500	1,557,495	(5)	1,655,642	98,147	106%
Interest Income	400,000	333,333		139,303	(194,030)	42%
Misc	292,991	244,159	(6)	444,268	200,109	182%
Leases	775,000	581,250	(7)	631,250	50,000	109%
Refunds	(75,000)	(62,500)	(8)	(3,775)	58,725	6%
Interfund Transfers	53,318,198	44,426,881	(9)	44,426,882	0	100%
Other Financing Sources	1,573,827	1,573,827	(12)	1,573,827	0	100%
Sub-total Revenues	<u>79,959,954</u>	<u>67,057,084</u>		<u>67,345,754</u>	<u>288,669</u>	<u>100.4%</u>
Carryover	6,631,645	0	(10)	0	0	
Revenues	<u>86,591,599</u>	<u>67,057,084</u>		<u>67,345,754</u>	<u>288,669</u>	<u>100.4%</u>
Expenditures						
City Council	188,260	156,883		151,565	(5,319)	97%
City Attorney's Office	902,887	752,406		680,792	(71,614)	90%
City Manager's Office	1,035,082	862,568		776,749	(85,820)	90%
Central Charges	27,035,632	22,529,693		18,915,321	(3,614,372)	84%
General Services	4,843,706	4,036,422		3,499,630	(536,792)	87%
Finance	1,563,473	1,302,894		1,158,191	(144,703)	89%
Police	17,593,715	14,661,429		13,278,059	(1,383,370)	91%
Fire Emergency Services	9,484,289	7,903,574		6,893,800	(1,009,774)	87%
Community Development	4,412,245	3,676,871		3,499,628	(177,243)	95%
Public Works & Utilities	6,909,037	5,757,531		5,431,776	(325,755)	94%
Parks Recreation & Libraries	12,623,273	10,519,394		9,868,820	(650,574)	94%
Total Expenditures	<u>86,591,599</u>	<u>72,159,665</u>	(11)	<u>64,154,331</u>	<u>(8,005,336)</u>	<u>89%</u>
Revenue Over(Under) Expend	<u>0</u>	<u>(5,102,581)</u>		<u>3,191,423</u>	<u>8,294,005</u>	

- (1) Property Taxes at 100%-101% in October; Admissions Taxes average 89%
Qwest at 75% by this time of year.
- (2) Licenses 75%, Comm'l Permits 84%, Res'l Permits 98%.
- (3) Cig Tax 68%, HUTF 76%, AutoOwnr 76%, Veh Regis 74%,
Road & Bridge(Adco) 100%, Road & Bridge(Jeffco) 92%.
- (4) Recreation 85% (except Ice Ctr-qtrly), PubSvc 78%, COMCAST 68%, CAM & EMS billings 79%, all others 79%.
- (5) Fines historically at 83%
- (6) Miscellaneous, General Reimbursements, Contributions, and Westminster Faire Receipts. Generally 10/12
- (7) Timing delays of lease payments can occur; billed 1st Qtr, received 2nd Qtr - recorded during 1st Qtr with no delay.
- (8) Refund payments generally apply to recreation charges in general.
- (9) Transfers from Sales Tax Fund, Sheridan Crossing GID, Water, and Waste Water.
- (10) Carryover from Year 2003 is always budgeted for the next year; included here to render correct balanced budget perspective.
Carryover (Actual) represents use of prior year fund balance, as budgeted.
- (11) Expenditures are based on even 10/12 per month or 8.33% per month.
- (12) Lease proceeds



WESTMINSTER
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Agenda Memorandum

City Council Meeting
November 22, 2004



SUBJECT: Document Management System Contract

Prepared By: David Puntteney, Information Technology Director

Recommended City Council Action

Find that the GSA pricing meets City Charter bidding requirements and authorize the City Manager to sign a contract with Scorp to provide document management hardware and software in an amount not to exceed \$331,000 plus a contingency amount \$49,650 (15%) for a total authorized amount of \$380,650.

Summary Statement

- Council previously authorized funds in the General Capital Improvement Fund budget for the purchase and installation of a citywide document management system to provide for electronic document scanning, storage, retrieval and management.
- Staff has evaluated several products and has determined that the Laserfiche software will best meet the short term and long term document management requirements for the City.
- Laserfiche software is used by more than 21,000 public and private sector organizations around the world.
- Staff successfully negotiated with Scorp, an authorized Laserfiche software vendor in the Denver area, to achieve prices lower than those reflected in the Federal General Services Administration (GSA) schedule.
- City Council action is requested to award the purchase of document management software, scanners, and first year support for the document management project.

Expenditure Required: \$380,650

Source of Funds: General Capital Improvement Fund
Document Management Capital Improvement Project budget

Policy Issue

Should the City award the contract for document management hardware and software to Scorp?

Alternatives

Continue to use the antiquated, unsupported Canofile document imaging system to scan and store critical City documents. This alternative is not recommended since the Canofile system was purchased in 1992 and is no longer capable of meeting the needs of the City. The current Canofile uses proprietary image formats, and is not network capable, so it is impossible to achieve multi-user access to scanned documents. The Canofile system also lacks the functionality available in new document management solutions, and replacement parts for the 12-year-old system are no longer available.

Delay or abandon the purchase of a new document management system. This alternative is not recommended because the City needs to efficiently store, search, retrieve and share critical documents. This alternative would also eliminate the productivity gains that would be achieved through efficient document management.

Background Information

In 1992, the City purchased several Canofile stand alone document-scanning stations. The Canofile enabled the City to scan and save critical document on optical disks. While this system did meet the needs of the City in 1992, the system is no longer able to meet the City's requirements and it lacks the ability to share electronic documents. In addition, parts needed to repair hardware are no longer available.

In 2004, the City formed a task force consisting of representatives from all departments to discuss document retention and retrieval requirements and to identify the features that are needed in a document management system. The City established the following general goals for the document management system:

- Provide a secure method of accessing documents via the Web browser for authorized staff.
- Provide the ability to use high-speed scanning, indexing, faxing and routing.
- Enable Westminster employees the ability to manage hundreds of thousands of documents and efficiently retrieve the one(s) needed.
- Provide the ability to share documents with other employees while protecting confidential information.
- Be easy to use by the casual user that needs to search and retrieve files and by the advanced user responsible for scanning and indexing the documents.
- Allow easy e-mailing or faxing of stored documents.
- Integrate with the Microsoft Office environment to provide easy storage of office documents to the document management repository.
- Provide the ability to retrieve documents from multiple sources through one search function.
- Use Microsoft Internet Explorer and standard Windows operating system tools to allow for retrieval and viewing of stored documents.
- Provide for ease of technical administration and not require that the City hire additional technical or user support staff to manage the solution.
- Use an industry standard database and file format to ease future integration with various City applications.

- Provide an easy way to share and collaborate on documents with others.
- Conform to the way employees already work and not require employees to learn how to use new or complex software.
- Provide a way to capture multiple types of documents and forms and handle all sizes up to e-sized (34 x 44”).
- Provide ability to convert existing Canofile electronic documents to the new document management system.

The task force evaluated several products that would meet the general goals and specific functionality requirements. The task force identified Laserfiche as the product with the best functionality and technical fit for the City’s environment.

During the research period, staff learned that the Laserfiche software has been successfully implemented in more than 21,000 public and private sector organizations around the world. In addition to meeting the general goals and user functionality requirements, other major benefits identified with Laserfiche include:

- Simplified retention schedule management
- Lower price as compared to other vendors
- Rapid installation and implementation
- Intelligent, fast document search and retrieval
- Scalable, networkable architecture to expand with the needs of the City
- Smooth integration with existing applications, including the City’s Geographic Information System, Court Administration and others

Staff visited two major Cities who previously selected and implemented Laserfiche as their document management solution. Staff traveled to Lakewood, Colorado and Wichita, Kansas to meet with representatives and learn about their evaluation, selection, negotiation and implementation process. In addition, Westminster staff was able to gain insights from Wichita on how they were able to successfully integrate Laserfiche with other City applications. Representatives from both cities expressed a high level of satisfaction with the Laserfiche software and product support.

The site visits confirmed earlier research, and helped staff to finalize the decision to recommend Laserfiche as the best document management solution for the City.

Following the site visits, Staff met with Scorp, the local value added reseller of Laserfiche software, to negotiate a pricing model that entitles the City to purchase Laserfiche software at a price less than standard GSA pricing. This pricing meets the City’s bidding requirements.

Based on the research and findings, staff is confident that Laserfiche and Scorp will be successful in meeting current and future City document management requirements

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
November 22, 2004



SUBJECT: Big Dry Creek Trail, Huron to I-25 Phase I Construction Award

Prepared By: Brad Chronowski, Landscape Architect II

Recommended City Council Action

Authorize the City Manager to execute a contract with T2 Construction in the amount of \$117,944 for the first phase of construction of the Big Dry Creek Trail (Huron Street to I-25), and authorize an \$11,794 contingency fund for a total amount of \$129,738 and charge the expense to the Capital Improvement Project Account designated for Trail Construction.

Summary Statement

- The Department of Parks, Recreation and Libraries hired Charles Keim and Associates, civil engineers, to prepare construction drawings for this work.
- The City received a grant in the amount of \$250,000 from Adams County Open Space to assist with the total scope of this project.
- This project was designed in conjunction with the improvements now underway north of 128th Avenue along Huron Street.
- This trail connection will provide the final link of the Big Dry Creek trail system from Standley Lake, under I-25, into the City of Thornton's existing trail system.
- The scheduled improvements will be completed during the winter months of 2004 and the spring months of 2005.
- This trail project will also connect to the recently completed Quail Creek Trail that extends northwest to 134th Avenue and Huron Street.

Expenditure Required: \$129,738

Source of Funds: General Capital Improvement Fund - Trail Development Project

Policy Issue

Should the City continue with construction of the Big Dry Creek Regional trail from Huron Street to Interstate 25?

Alternatives

City Council could choose to not authorize the construction bid for this section of the Big Dry Creek trail. Staff does not recommend this option, as the grant money would be forfeited if the improvements are not completed.

City Council could require that staff re-bid the construction of the designed improvements. Staff does not recommend this action, as the bids received are bona-fide and competitive.

Background Information

This project, coupled with the 128th to Huron section, represents the final trail segment along Big Dry Creek that connects Westminster to Thornton. This section is approximately 0.6 miles in length and also includes a pedestrian bridge that connects the Big Dry Creek Trail to the Quail Creek trail.

The second phase of this project is expected to be constructed in 2005 pending proper authorization from the Colorado Department of Transportation. The bridge installation and final connection to I-25 are included in Phase II. The completion of both trail sections and the Huron Street bridge that is currently under construction will provide approximately 10 miles of automobile traffic-free trail use with the exception of Old Wadsworth, which is currently a surface crossing.

The base bids received are as follows:

T2 Construction	\$117,944.00
GL Hoff Construction	\$155,369.03
AJI Construction	\$160,595.45

The bid from T2 Construction is a good bid that meets the City's specifications. Staff is confident that T2 can complete this project in a very satisfactory manner.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

Big Dry Creek Trail, Huron to I-25

City of Westminster



Vicinity Map



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
November 22, 2004



SUBJECT: 2005 Proposed Community Development Block Grant (CDBG) and HOME Projects

Prepared By: Tony Chacon, Senior Projects Coordinator

Recommended City Council Action

Approve the allocation of 2005 Community Development Block Grant (CDBG) and HOME funds to the projects and programs as proposed.

Summary Statement

- The City of Westminster receives an annual allocation of Community Development Block Grant funds (CDBG) from the United States Department of Housing and Urban Development (HUD);
- The 2005 CDBG allocation is anticipated to be approximately \$674,000.
- The funds must be used towards programs and projects meeting eligibility requirements established by HUD that primarily benefit low to moderate income populations and areas. The City may use up to 20% of the allocation towards CDBG-related administration.
- The City’s Human Service Advisory Board recommended \$100,000 in funding to the following agencies: Adams County Housing Authority; Community Reach Center; Alternatives to Family Violence; Family Tree, Inc.; Jefferson Center for Mental Health; Senior Hub; and, Clinica Campesina Family Health Services, Inc. Funding is limited to no more than 15% of the City’s annual allocation.
- The balance of 2005 CDBG funds is proposed to provide adequate funding to complete Phase I of the Lowell Boulevard improvement project. The budget for the project based upon engineering estimates of construction plans is about \$800,000, whereas the funding approved to date totals about \$375,000. The balance of \$439,200 of 2005 CDBG funds is proposed to be allocated to the Lowell Boulevard improvement project to provide sufficient funding to complete Phase I of the project.
- As a member of the Adams County HOME consortium, a HUD approved funding entity; the City receives an annual allocation of about \$220,000 through the County to be used on low-income housing projects and programs. These proceeds have previously been used to provide down payment assistance to low-income households looking to purchase a home and the county housing rehabilitation program providing low interest loans to income eligible households.
- Staff is recommending that the HOME funds be allocated as follows:

County Administration	\$ 20,000
Down Payment Assistance	\$ 70,000
Housing Rehabilitation	\$130,000

Expenditure Required: \$674,000 CDBG
\$220,000 HOME Housing Program

Source of Funds: HUD CDBG Program
HUD HOME Program

Policy Issue:

Should the City accept the CDBG and HOME funds knowing that expenditure of funds must adhere to Federal requirements and conditions?

Alternative:

The Council may choose to not accept the funds. Staff recommends that such an alternative not be considered as the CDBG and HOME funds have provided significant benefit to Westminster residents and have provided needed funds for capital projects in south Westminster.

Background Information

The City of Westminster receives an annual allocation of Community Development Block Grant funds (CDBG) from the United States Department of Housing and Urban Development (HUD). The 2005 CDBG allocation is anticipated to be about \$674,000. The CDBG funds are to be used for projects and programs that primarily benefit the City's low to moderate-income populations and address blight conditions. Eligible project activities may include economic development/redevelopment, public facility and infrastructure improvements, and affordable housing activities. Based upon eligibility criteria and the limited level of funding, Staff is recommending that the following projects be funded in 2005:

2005 CDBG Program Administration	\$134,800
Lowell Boulevard Streetscape Improvements (Phase 1 Construction)	\$439,200
Human Service Advisory Board Recommendations	\$100,000
TOTAL:	\$674,000

The proposed 2005 CDBG budget and projects were developed from input provided by Westminster residents, City Staff, and independent organizations operating in the City. Public notices, citizen comment periods and two administrative public hearings were also used to solicit community input on the development of the 2005 CDBG Action Plan. The following is a summary of each proposed project.

2005 CDBG Program Administration

The program administration funds would cover the salaries of the Community Development Programs Coordinator and one full-time Secretary. HUD allows grantees to utilize up to 20% of the CDBG funding for administration and planning expenses. The City has regularly budgeted the full 20% towards administrative expenses, most of which is applied to salaries. Administrative costs associated with the administration of the CDBG program would be funded to include: professional/consultant fees, meeting expenses, professional training, supplies/materials, studies, environmental reviews, etc. Administration expenses also provide for the submission of the 5 year Consolidated Plan, preparation of the annual action and performance reports, hosting citizen participation activities and community meetings, developing an Impediments to Fair Housing plan, monitoring minority business contract reports, implementation of the City's CDBG monitoring plan, conducting environmental reviews, compliance within the Davis Bacon wage act, lead based paint evaluations, national objective and eligibility review, contracting and procurement regulatory procedures.

Lowell Boulevard. Streetscape Enhancement Construction Phase I

The proposed funding would be used in conjunction with \$274,000 of 2004 CDBG funds to provide the full construction funding necessary to complete Phase I of the project, beginning at 73rd Avenue and ending at either 75th or 76th Avenues dependant upon contractor's bids. The funds will be used to provide streetscape improvements including street reconstruction and repaving, decorative pedestrian street lighting, sidewalks, incorporating an 8 foot wide sidewalk along the east side of the street to accommodate an off-street bicycle trail, landscaping improvements, and the undergrounding of overhead utilities. The project was provided 2002 and 2003 CDBG funds for the preparation of construction plans.

Human Service Advisory Board Recommendation

The following programs and projects, totaling \$100,000, were previously approved by City Council during the adoption of the 2005 City budget process as follows:

Adams County Housing Authority \$16,000

To pay for costs associated with the delivery of services under the Housing Counseling Program. The Housing Counseling Program services include homeless prevention, utility assistance, home ownership, foreclosure/eviction prevention, rental subsidy, reverse mortgage counseling and certification, money management, and post-counseling to ensure continued housing retention.

Community Reach Center \$24,000

To pay for costs associated with the delivery of outpatient counseling services that include 24-hour crisis telephone service, day treatment programs, and programs that provide education and training to prepare individuals for independent living and employment.

Alternatives to Family Violence \$13,500

To pay for costs associated with the provision of housing for battered women, 24 hour crisis counseling, information, referral and advocacy, individual and group counseling for women, children and adolescents.

Family Tree, Inc \$13,000

To pay for costs associated with the provision of emergency housing and support services for victims of domestic violence. Services provided include: crisis intervention, legal advocacy, food, shelter, children's counseling, case management, and family therapy.

Jefferson Center for Mental Health \$10,000

To pay for costs associated with the provision of mental health services including outpatient counseling, 24-hour emergency services, hospital-alternative programs, residential care, case management, vocational assistance, etc.

The Senior Hub \$12,000

To pay for costs associated with the provision of respite care to senior caregivers, the RSVP program that recruits and places senior volunteers in the public and non-profit sectors, and the Meals on Wheels program that delivers hot meals to homebound Westminster residents.

Clinica Campesina Family Health Services, Inc. \$6,500

To pay the costs associated with the provision of medical care and health promotion services to the medically underserved, low-income households, and minority persons on a sliding fee scale basis.

Adams County Interfaith Hospitality Network \$5,000

To pay the costs associated with the delivery of homeless services to families, case management, information and referral, community garden project, and children's outreach coordinator services.

In addition to the CDBG allocation, the City is scheduled to receive \$220,000 in HOME program dollars from HUD. HOME funds are distributed to eligible communities to assist in the development and provision of housing to low-income households and targeted populations (e.g. seniors, persons having disabilities, homeless, etc.) The City of Westminster alone does not meet the minimum population requirements to receive the funds as an entitlement. However, by having joined the HUD authorized Adams County HOME Program Consortium, the City receives an allocation of about \$220,000 annually providing funding for such eligible low-income housing endeavors.

Per an existing agreement with Adams County, the proceeds have been appropriated to the following activities and programs: Administration, housing rehabilitation and homeowner down-payment assistance. While funds have been allocated to support these endeavors, the agreement permits the City to redirect funds as necessary to support other HOME eligible programs and projects, such as affordable senior housing. Given past assignments and having the flexibility to redirect funds as necessary, Staff is recommending the 2005 HOME funds be appropriated as follows:

Housing Rehabilitation Program \$130,000

The program provides low-interest loans to income qualified Westminster homeowners to address infrastructure improvements and mitigate health, safety and sanitary issues. The program is set up to provide funds to fix or improve a home so as to protect the health and safety of the household. The loans are typically for furnaces, water heaters, roofs, and foundation stabilization. Typical maintenance items such as paint or siding are not eligible for funding. Applicants must meet low-income thresholds established by HUD, and repayment terms are based upon income. Some loans may be completely forgiven in the event of extremely low-incomes and the household's longevity in residing in the home following the rehabilitation work. These funds replaced the use of the City's CDBG funds for rehabilitation, thus allowing the City to redirect CDBG funds to other eligible projects.

Homebuyer Down Payment Assistance Programs \$70,000

The program provides down payment assistance grants and loans to income qualified prospective homebuyers purchasing a home in Westminster. Income eligible homebuyers and first-time buyers are eligible to receive up to \$10,000 in down-payment assistance.

HOME Program Administration \$20,000

This allocation is used to pay Adams County employees for administrative costs incurred by the Adams County Office of Community Development relative to implementation of the HOME programs.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
November 22, 2004



SUBJECT: 2004 Capital Improvement Technical Staff Support Services Amendment

Prepared By: Richard A. Clark, Utilities Operations Manager

Recommended City Council Action

Authorize the City Manager to sign an amendment to the agreement with RG Consulting Engineers, Inc. for additional engineering services requested for the City for the 2004 Public Works and Utilities Capital Improvement Program and authorize \$30,000 to cover these costs, bringing the total contract amount to \$150,000.

Summary Statement

- \$150,000 for the Capital Improvement Technical Staff Support Services program was budgeted in the 2004 Utility Fund CIP budget.
- In December 2003, the City Council authorized a contract with RG Consulting Engineers, Inc. to provide Public Works and Utilities CIP Program technical staff support services for 2004. The contract was at that time limited not to exceed \$120,000. City staff administers the CIP Program and RG Consulting Engineers provides engineering & technical staff support services.
- The scope of work for the original design contract was comprehensive; however, several additional issues have arisen that require an amendment of the agreement with RG Consulting Engineers, Inc. The North Huron Reclaimed Line Extensions, the Silo Pump Station, the Pierce Street Retaining Wall and the England Waterline are all key projects that have taken an unanticipated amount of the consultant's staff time.
- The Department of Public Works and Utilities reorganized its capital improvement project program mid-year by reassigning the CIP Coordinator as the Reclaimed System Coordinator thereby decreasing the available direct staff oversight of the CIP program. The reorganization required the Department to rely more heavily on outside technical staff support services. The reorganization has allowed the City to move forward on additional projects to convert irrigation customers to reclaimed water.
- The additional \$30,000 requested will increase the total expenditures to the 2004 budget of \$150,000.
- This item is being brought to City Council for action because the increase from change orders in the contract amount exceeds 10%

Expenditure Required: \$30,000

Source of Funds: 2004 Utility CIP Fund Account

SUBJECT: 2004 Capital Improvement Technical Staff Support Services AmendmentPage 2

Policy Issue

Should the City amend the RG Consulting Engineers (RGCE) contract in the amount of \$30,000 for additional engineering services?

Alternative

City Council could decide to leave the scope of design as originally defined. This is not recommended since the added services are critical to the completion of the current projects under design and construction.

Or, second, the Reclaimed Coordinator could be reassigned back to Capital Projects and do the work of the consultant; however, this would under staff the reclaimed water extensions projects.

Background Information

Public Works and Utilities has found it is cost effective to have a broad depth of skills provided by an outside consulting firm for CIP staff support services. In December 2003, the City Council authorized a contract with RG Consulting Engineers, Inc. to provide Public Works and Utilities CIP Program technical staff support services for 2004. The contract was at that time limited not to exceed \$120,000, although the budget line item is \$150,000.

The 2004 budgeted capital improvement technical staff support services covers an hourly rate contract for all types of technical skills including computer modeling, highly technical engineering design evaluation, surveying, project planning, and operation and maintenance and construction trouble shooting experience; and management skills including agency and City Staff coordination, construction management oversight, budgeting and bidding process experience.

Public Works and Utilities retained the services of RGCE on a trial basis during 1998 to assist with the Capital Improvement Program. At that time RGCE was the only firm contacted that would agree to the condition imposed by the City that the firm chosen to provide CIP assistance would not be allowed to propose for the design of capital projects due to an obvious conflict of interest. From 1999 through 2003 RGCE worked under contract and successfully provided CIP assistance.

RGCE has provided similar on-call client services of this type for over 15 years to Parker, Edgewater, Superior, Lafayette, City and County of Denver, Black Hawk, Castle Rock and other organizations. RGCE is familiar with the City's policies, procedures, staff and utility systems and has proven that they have technical staff and can do a very good job at providing Capital Improvement Staff Support Services to the City.

Need for Additional Professional Service Funding

The Department of Public Works and Utilities implemented a mid-year reorganization of its capital improvement project program by reassigning the CIP Coordinator to the position of Reclaimed System Coordinator, thereby decreasing the available direct oversight hours provided by the City. This reorganization has resulted in the need to rely more heavily on outside technical staff support services.

In addition, with the scope growth of several projects, an increased construction program, and the addition of several generations of project cost estimates, the estimate of hours for RG Consulting Engineers has been exceeded. The program will require an estimated additional \$30,000 to complete.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
November 22, 2004



SUBJECT: Second Reading of Councillor's Bill No. 80 re Municipal Judge Salary

Prepared By: Matt Lutkus, Deputy City Manager for Administration

Recommended City Council Action:

Adopt Councillor's Bill No. 80 on second reading establishing the compensation paid to John A. Stipech for his services as Presiding Judge effective January 1, 2005.

Summary Statement

- City Council previously approved a revised employment agreement with John A. Stipech for services as Presiding Judge for a one-year period beginning January 1, 2005, contingent upon the approval of the Councillor's Bill amending the Judge's salary. The agreement will automatically be renewed for 2006 unless it is terminated by City Council no later than October 31, 2005.
- Judge Stipech's 2005 combined salary and deferred compensation will be \$109,164, which represents a three percent increase over his annual compensation for 2004. His annual compensation will be comprised of a salary of \$91,164 and a lump sum City-aid deferred compensation amount of \$18,000.
- The City Charter requires that the Presiding Judge's salary be approved by Ordinance.
- In addition to the increase in annual compensation for 2005, City Council has indicated they will provide Judge Stipech with a \$3,000 bonus in the current year in recognition of his job performance during the past 12 months. The authorization for this bonus is also included in the Councillor's Bill.
- Councillor's Bill No. 80 was passed on first reading on November 8, 2004.

Expenditure Required: \$3,000 (2004) \$109,164 plus the cost of fringe benefits as described in the attached employment agreement (2005)

Source of Funds: General Fund, Municipal Court Division Budget

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **80**

SERIES OF 2004

INTRODUCED BY COUNCILLORS

A BILL
FOR AN ORDINANCE AMENDING THE SALARY OF THE MUNICIPAL JUDGE
THE CITY OF WESTMINSTER ORDAINS:

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

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

~~\$89,984~~ \$91,164 per annum payable bi-weekly plus ~~\$16,000~~ \$18,000 in City-paid deferred compensation.

IN ADDITION, THE JUDGE SHALL RECEIVE A BONUS OF \$3,000 PAYABLE AS A LUMP SUM IN 2004.

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

Section 3. This ordinance shall take effect on January 1, 2005.

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 22nd day of November 2004.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

Council Meeting
November 22, 2004



SUBJECT: Second Reading of Councillor's Bill No. 81 Re Vacation of Easement within Prospector's Point Subdivision

Prepared By: Melanie Walter, Senior Civil Engineer

Recommended City Council Action:

Adopt Councillors Bill No. 81 on second reading vacating a portion of a sanitary sewer easement for Block 3 of the plat for Prospector's Point Subdivision.

Summary Statement

- City Council action is requested to adopt Councillor's Bill No. 81 on second reading to vacate a portion of a certain easement located within Block 3 of Prospector's Point .
- A 20-foot wide sanitary sewer easement was granted to the City by the final plat for Prospector's Point on September 5, 1979.
- A public sanitary sewer was constructed in this easement for the use of the residents within the development.
- The current property owner has relocated a portion of the sanitary sewer in order to construct parking and landscape islands for the last two buildings to be constructed on this site. A new easement has been provided for the relocated portion of the main.
- City Staff has determined that the subject easement is no longer needed by the City.
- This Councillor's Bill was passed on first reading on November 8, 2004

Expenditure Required: \$0

Source of Funds: N/A

Respectfully submitted,

J. Brent McFall
City Manager

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **81**

SERIES OF 2004

INTRODUCED BY COUNCILLORS

**A BILL
FOR AN ORDINANCE VACATING A PORTION OF A SANITARY SEWER EASEMENT
WITHIN BLOCK 3 OF PROSPECTOR'S POINT**

WHEREAS, certain easement was dedicated on the final plat for Prospector's Point Map No. 556, File No. 14, and Reception No. B220982, in the County of Adams; and

WHEREAS, this portion of sanitary sewer easement is not necessary for maintaining the City of Westminster's sanitary sewer lines; and

WHEREAS, the vacation is necessary since the sanitary sewer lines constructed within this portion of the easement were recently relocated and no utility lines will be constructed within the subject easement in the future.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. City Council finds and determines that the public convenience and welfare require the vacation of the portion of sanitary sewer easement in Sections 2 and 3 hereof.

Section 2. Legal Description of Utility Easements: See attached legal description for Easement A.

Section 3. This ordinance shall take effect upon its passage after second reading. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 8th day of November, 2004. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 22nd day of November, 2004.

ATTEST:

Mayor

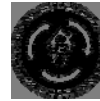
City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
November 22, 2004



SUBJECT: Councilor's Bill No. 82 re Westminster Historical Society Lease of Former District 50 Ambulance Building at 4350 West 76th Avenue

Prepared By: Vicky Bunsen, Assistant City Attorney
Matt Lutkus, Deputy City Manager for Administration

Recommended City Council Action

Pass Councilor's Bill No. 82 on first reading authorizing the Mayor to execute a one-year lease for the Westminster Historical Society to occupy approximately 1,080 square feet of the former District 50 ambulance building at 4350 West 76th Avenue.

Summary Statement

- City Council is requested to approve a lease between the City and the Westminster Historical Society (WHS) for the office portion of the City-owned property at 4350 West 76th Avenue. The WHS will use the space for offices and to store and archive museum accessions, photographs and documents. The lease amount is proposed to be \$1.00 per year.
- The estimated expense for the City will be approximately \$2,000 per year plus major maintenance of the building. The City will provide utilities to the building except telecommunications services.
- The lease agreement would be automatically renewed annually but may be terminated at any time with six months prior notice.

Expenditure Required: \$2,000 ongoing annual expense for utilities

Source of Funds: General Fund Central Charges,

Policy Issue

Should the City lease the office portion of 4350 West 76th Avenue to the non-profit Westminster Historical Society for \$1.00 per year and provide water, sewer, heat, electrical utilities and major maintenance to the leased premises?

Alternative(s)

- Do not lease the premises to the WHS.
- Lease the premises to the WHS with different financial terms.

Background Information

The Westminster Historical Society (WHS) has operated the Bowles House for fifteen years as a City-owned museum and has occupied a very small upstairs office for all of their business operations. The WHS has been receiving a large quantity of donated historical items, including photographs, documents and clothing. Many of these museum items must be stored in members' homes due to lack of storage space at the Bowles House. It is necessary to provide storage for these items in a place that does not have extremes in temperature or humidity.

The WHS also has invested in computers and peripheral hardware to assist with their accessioning procedures, to keep track of their inventory, to scan photos and for a variety of other purposes necessary for museum operation. Finally, much of the WHS work requires a work surface, such as a large table, which they lack at the Bowles House.

The WHS requested that they be allowed to use space at the District 50 Ambulance Building when the Fire Department relocated their storage facilities to the former Fire Station #2. The vehicle bays in the former District 50 Ambulance Building will likely be used by the Parks, Recreation and Libraries Department for storage, while the 1,080 square foot office area meets the needs of the WHS for work stations, work surfaces, and climate-controlled storage area. It is separated from the vehicle bays and may be keyed separately in order to isolate the WHS area from the City area.

The City has been paying for building utilities since the District 50 Ambulance Building came into City ownership and it is proposed that the City continue to cover all utility costs for the building, except the telecommunication services that the WHS may choose to use, including telephone lines, cable services, alarm system monitoring and Internet service. It is also proposed that the lease payment be \$1.00 per year.

The WHS is a non-profit organization run entirely by community volunteers. It receives some SCFD grant funding which it uses for annual programs and investment into equipment such as their computer system. The WHS operates the Bowles House as a Westminster City museum and provides a number of other annual programs for the enjoyment and education of Westminster residents and visitors.

The estimated expense of \$2,000 annual cost for utilities for the office portion of the building will be absorbed in the 2005 Central Charges Budget in the General Fund. If this lease is approved by City Council, this cost will be specifically identified and included in future City Budgets.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO.
SERIES OF 2004

COUNCILLOR'S BILL NO. **82**
INTRODUCED BY COUNCILLORS

A BILL
FOR AN ORDINANCE APPROVING WESTMINSTER HISTORICAL SOCIETY LEASE OF
4350 WEST 76th AVENUE

WHEREAS, the City owns property 4350 West 76th Avenue, which includes vehicle bays and about 1,080 square feet of office space; and

WHEREAS, the Westminster Historical Society (WHS) is a volunteer, non-profit organization that operates the City-owned Bowles House Museum and provides other public services to the citizens of and visitors to the City of Westminster; and

WHEREAS, the WHS has a great need for additional office, storage and work space to support its museum services and other activities,

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The Mayor is hereby authorized to execute the form of lease attached hereto, or in a form substantially similar and as approved by the City Attorney's Office, leasing the office space at 4350 West 76th Avenue, containing approximately 1,080 square feet, to the Westminster Historical Society.

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

Section 3. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The 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 22TH DAY OF NOVEMBER, 2004.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED THIS 13TH DAY OF DECEMBER, 2004

ATTEST:

Mayor

City Clerk

LEASE

This **Lease** is made between the **CITY OF WESTMINSTER**, a Colorado home-rule municipality (hereinafter called "Lessor" or "City"), and **THE WESTMINSTER HISTORICAL SOCIETY**, a Colorado nonprofit corporation (hereinafter called "Lessee").

Lessor hereby agrees to lease to Lessee, and Lessee hereby agrees to lease from Lessor, the Premises described in Paragraph 1 below, subject to the terms, conditions, and agreements set forth hereinbelow:

1. Premises. The Premises consist of the office and meeting room area of the former District 50 Ambulance Building located at 4350 West 76th Avenue in Westminster, Colorado, County of Adams, State of Colorado. A sketch of the leased area is attached hereto as Exhibit 1.

2. Term and Rent. Lessor demises the above Premises for a term of one year, commencing 12:00 p.m. on December 14, 2004, terminating 12:00 p.m. on November 30, 2005, or sooner as provided herein (hereinafter, the "Term"), for a nominal rent payment for the Term in the sum of One Dollar (\$1.00), and for other good and valuable consideration described below. The term shall automatically renew from year to year, unless terminated by either party upon six month's prior written notice which notice may be given at any time.

3. Use. Lessee shall use and occupy the Premises for offices, meeting space and storage for the Lessee. Such uses shall be limited to activities and functions specifically related to the purpose and mission of The Westminster Historical Society. The Premises shall be used for no other purpose. Lessor represents that the Premises may lawfully be used for such purpose.

4. Care and Maintenance of Premises.

a. Lessee's responsibilities: Lessee acknowledges and accepts the Premises in their as-is condition. Lessee shall, at its own expense and at all times during the Term of this Lease, maintain the Premises in good and safe condition, and shall surrender the same, at termination hereof, in as good condition as received, normal wear and tear excepted. Lessee shall be responsible for the routine care and maintenance of the interior of the Demised Premises of a housekeeping nature including custodial and janitorial services, normal and reasonable cleaning and the replacement of all consumable or expendable items such as light bulbs, cleaning, bathroom and office supplies and all items brought into the Demised Premises by the Lessee.

b. Lessor's responsibilities: Except as otherwise specifically provided above, the Lessor shall be responsible for the operation and maintenance of the Demised Premises, including but not limited to grounds maintenance, snow removal, and structural repair and maintenance including repair and maintenance of the building structure, all plumbing, mechanical and electrical systems within the Demised Premises, and the periodic refurbishing of the interior of the Demised Premises, including the floors, walls and ceiling thereof, as the City may deem is reasonably necessary to maintain the appearance of the Demised Premises against the effects of normal wear and tear. Any such refurbishing shall be scheduled by the agreement of the parties.

5. Alterations. Lessee shall not, without first obtaining the written consent of Lessor, make any alterations, additions, or improvements, in, to or about the Premises, provided, however, that Lessee shall have the right to increase the size of its present signage subject to the provisions of the City's sign code and regulations in effect at the time that the City's approval of the increase is requested.

6. Ordinances and Statutes. Lessee shall comply with all statutes, ordinances and requirements of all municipal, state and federal authorities now in force, or which may hereafter be in force, pertaining to the Premises, occasioned by or affecting the use thereof by Lessee.

7. Assignment and Subletting. Lessee shall not assign this Lease or sublet any portion of the Premises without prior written consent of the Lessor, which shall be granted or refused in Lessor's sole and unfettered discretion. Any such assignment or subletting without Lessor's consent shall be void and, at the option of the Lessor, grounds for Lessor's forthwith termination of this Lease.

8. Utilities. The City shall provide and pay for utility charges as they become due, including those for heat, electricity, water and sewer. All applications and connections for other services desired by Lessee for the Demised Premises shall be made in the name of Lessee only, and Lessee shall be solely liable for such charges as they become due, including those for cable, Internet, alarm and telephone services.

9. Entry and Inspection. Lessee shall permit Lessor or Lessor's agents to enter upon the Premises at reasonable times and upon reasonable notice, for the purpose of inspecting the same, and will permit Lessor at any time within sixty (60) days prior to the expiration of this Lease, to place upon the Premises any usual "To Let" or "For Lease" signs, and permit persons desiring to lease the same to inspect the Premises thereafter.

10. Possession. If Lessor is unable to deliver possession of the Premises at the commencement hereof, Lessor shall not be liable for any damage caused thereby.

11. Indemnification of Lessor. Lessor shall not be liable for any damage or injury to any person or property occurring on the Demised Premises during the Term of this Lease. Lessee agrees to indemnify and save and hold Lessor harmless from any claims for such damage or injury, no matter how caused, except to the extent such damage or injury was the direct and proximate result of Lessor's negligent act or omission, provided, however, that nothing herein shall be deemed or construed as a waiver by Lessor of any of the protections or limitations against liability to which Lessor may be entitled under the Colorado Governmental Immunity Act. Lessee may satisfy its obligations pursuant to this paragraph by assuming the defense of and liability, if any, for any such claim brought against the Lessor, and retaining for such defense qualified legal counsel reasonably acceptable to the City.

12. Insurance.

a. Lessee, at its expense, shall maintain comprehensive commercial liability insurance, including coverage for bodily injury and property damage, insuring Lessee and naming Lessor as an additional insured with minimum coverage as follows: \$1,000,000 per occurrence. The insurance shall include coverage for contractual liability. Additional insurance shall be obtained in the event any aggregate limitations result in per occurrence coverage of less than \$1,000,000.

b. Prior to taking possession of the Premises pursuant to this Lease, Lessee shall provide Lessor with a Certificate of Insurance showing Lessor as additional insured. The Certificate shall provide for a ten-day written notice to Lessor in the event of cancellation or material change of coverage. To the maximum extent permitted by insurance policies which may be owned by Lessor or Lessee, Lessee and Lessor, for the benefit of each other, waive any and all rights of subrogation which might otherwise exist.

13. Eminent Domain. If the Premises or any part thereof or any estate therein, or any other part of the building materially affecting Lessee's use of the Premises, shall be taken by eminent domain, this Lease shall terminate on the date when title vests pursuant to such taking.

14. Destruction of Premises. In the event that the Premises or any part of the building in which the Demised Premises may be situated is damaged or destroyed by any cause to an extent that renders the Premises unsafe or unusable for Lessee's purposes, either Lessee or Lessor may terminate this Lease forthwith. In no event shall the Lessor have any obligation to repair or replace the Premises in the event of any such damage or destruction and Lessee's sole and exclusive remedy in the event of such damage to or destruction of the Premises or the building in which it is located is the termination of this Lease.

15. Lessor's Remedies on Default. If Lessee defaults in the performance of any of the covenants or conditions hereof, Lessor may give Lessee notice of such default and if Lessee does not cure any such default within ten (10) days, after the giving of such notice (or if such other default is of such nature that it cannot be completely cured within such period, if Lessee does not commence such curing within such ten (10) days and thereafter proceed with reasonable diligence and in good faith to cure such default), then Lessor may terminate this Lease on not less than twenty (20) days' notice to Lessee. On the date specified in such notice, the Term of this Lease shall terminate, and Lessee shall then quit and surrender the Premises to Lessor, without extinguishing Lessee's liability.

If this Lease shall have been so terminated by Lessor, Lessor may at any time thereafter resume possession of the Premises by any lawful means and remove Lessee or other occupants and their effects. No failure to enforce any Term shall be deemed a waiver.

16. Taxes. Lessee shall be solely responsible for the payment of any property or other taxes that may arise as a result of Lessee's use of the Premises. The Lessee covenants and warrants to Lessor that Lessee is exempt from all federal, state and local taxes and further, that Lessee shall take no action to cause the loss of its exemption from said taxes. Lessee further covenants and agrees with the Lessor that in the event Lessee shall lose its exemption from taxes for any reason, Lessee shall timely pay all and any taxes accruing as a result thereof. Lessee further covenants and agrees to indemnify and hold Lessor harmless against any claims or judgments for unpaid taxes resulting from Lessee's use of the Premises.

17. Attorneys' Fees. In case suit should be brought for recovery of the Premises, or for any sum due hereunder, or because of any act which may arise out of the possession of the Premises, by either party, the prevailing party shall be entitled to all costs incurred in connection with such action, including reasonable attorneys' fees. For any controversy or claim arising out of or relating to this Lease, or the breach thereof, the parties agree to attempt to mediate any such disputes in good faith prior to filing any action against the other.

18. Waiver. No failure of Lessor to enforce any Term hereof shall be deemed to be a waiver.

19. Heirs, Assigns, Successors. This Lease is binding upon and shall inure to the benefit of the heirs, assigns and successors in interest to the parties.

20. Subordination. This Lease is and shall be subordinated to all existing and future liens and encumbrances against the property.

21. Entire Agreement. This Lease constitutes the entire agreement between the parties concerning the Premises and may be modified only by a written amendment signed by both parties.

22. Survival. Paragraphs 8, 11, and 15 through 20 inclusive shall survive any termination of this Lease by either Lessee or Lessor.

Signed as of this ___ day of _____, 2004.

CITY OF WESTMINSTER

THE WESTMINSTER HISTORICAL SOCIETY

By: _____
Nancy McNally, Mayor

By: _____
Printed Name: _____
Title: _____

Attest: _____
Michele Kelley, City Clerk

Attest: _____
Printed Name: _____

APPROVED BY:

APPROVED BY:

Martin R. McCullough, City Attorney

Printed Name: _____

26'

OPEN KITCHEN AREA



FIRE PREVENTION BUREAU

FIRE REVIEW NO. 94-829

REVIEWED BY: Mark [Signature]

DATE APPROVED: 8-15-94

Mark [Signature] DFM

FIRE MARSHAL

CALL 428-3434 TO MAKE ARRANGEMENTS FOR INSPECTION

Interior Home Strobes
(Required)

BEST ROOM

SHOWER

STAIRS DOWN
TO GARAGE

FAP

OFFICE
NOT ACCESSABLE
TO HSI

Detector Required
for Remote Area

FRONT
ENTRY

(S)

(S)

16/2
F.A. CABLE

14/2
FA CABLE

14/2
F.A. CABLE

16/2
F.A. CABLE

F



NOT TO SCALE



Agenda Item 10 B

WESTMINSTER

COLORADO

Agenda Memorandum

City Council Meeting
November 22, 2004



SUBJECT: Resolution No. 70 Allowing Local Review of State Income Tax Credit Applications for Qualified Rehabilitation Costs Incurred By Owners of Landmarked Historic Homes

Prepared By: Vicky Bunsen, Assistant City Attorney

Recommended City Council Action

Approve Resolution No. 70 allowing local review of state income tax credit applications for qualified rehabilitation costs incurred by owners of landmarked historic homes.

Summary Statement

State law permits a certified local government (CLG) to review applications for state tax credits related to rehabilitation costs incurred with respect to locally landmarked historic homes. The City Council created the Historic Landmark Board this year, which has received training on how to review these applications. State law requires the CLG governing body to pass a resolution annually allowing the Board to review these applications.

Expenditure Required: Unknown at this time

Source of Funds: Application fees will be charged to help defray any extra expenses

SUBJECT: Resolution Allowing Local Review of State Income Tax Credit Applications for Qualified Rehabilitation Costs Incurred By Landmarked Historic Home Owners Page 2

Policy Issue

Should the City Council allow the Historic Landmark Board to review applications from owners of locally landmarked historic homes for state income tax credits for qualified expenditures incurred to rehabilitate their homes?

Alternative

Do not allow the Historic Landmark Board to perform this function. This is not recommended as this state income tax credit will benefit the City by promoting historic preservation amongst Westminster homeowners.

Background Information

The City Council passed the historic preservation ordinance in 2003, which authorized appointment of the Historic Landmark Board. The Board was created and has received training to support its various duties, including the review of state income tax credit applications.

The City achieved certified local government (CLG) status under state historic preservation law in 2004. The CLG status allows the Board to review state tax credit applications submitted by owners who are working on approved rehabilitation projects on locally landmarked historic homes. Homeowners are not able to apply for this tax credit for locally landmarked historic homes unless they live in a CLG, so this is a special financial benefit that the City can provide to its citizens that would not otherwise be available without the CLG program.

In order to allow Board review of these applications, the City Council is required by state law to pass a resolution each year stating whether review of state tax credit applications is authorized for the upcoming year. Approval of this resolution would allow the Board to accept and review these applications in 2005.

The Board is aware of one possible tax credit application in 2005. Others may be forthcoming as homeowners learn the benefit of applying for local landmark status for their homes and the tax credit opportunity for qualified expenditures.

The tax credit program may be implemented by a homeowner by applying to landmark their home pursuant to the landmarking criteria set out in W.M.C. § 11-13-5. The landmark designation application is reviewed and a decision made by the Historic Landmark Board. After landmarking, the owner must apply for a Certificate of Historic Appropriateness before making changes to the exterior of the building other than normal maintenance and repair. The proposed changes are reviewed by the Board in order to determine that the work would not detrimentally alter, destroy, or adversely affect any feature that was found by the board in the original designation to contribute to the designation of the property as a landmark. Similar criteria are applied to the review of a state tax credit application, so the certificate of appropriateness and the tax credit application can be processed and reviewed together by the Board.

If approved, the tax credit is equal to 20 percent of the qualified expenditures to rehabilitate the home. The rehabilitation expenses may include interior as well as exterior work and are not limited only to restoration expenses. This is true for tax credit applications even though the Board does not review interior work for historic appropriateness.

SUBJECT: Resolution Allowing Local Review of State Income Tax Credit Applications for Qualified Rehabilitation Costs Incurred By Landmarked Historic Home Owners Page 3

For example, replacement of an antiquated heating system with a modern HVAC system may be a qualified expense for purposes of the tax credit. The tax credit may not exceed \$50,000 on one property (a total of \$250,000 in qualified rehabilitation expenses), and an application may not be filed for projects costing less than \$5,000 in qualified expenses. Each tax credit application may cover work to be done within a two-year period, so multiple applications may be filed over time until the maximum tax credit has been used by the owner. State law mandates a \$250 application fee which is required to be put into a “preservation fund” to be used for the Board’s expenses in reviewing the applications.

Landmarking a home adds some complexity to the review of construction projects. Not only are appropriate building permits required, but Board review of the historic appropriateness of the work is also mandated. The rewards of the program, however, are the tangible and intangible benefits to land value and neighborhood integrity as well as the significant tax benefits available to the owner if he or she chooses to participate in the City’s historic preservation program.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

RESOLUTION

RESOLUTION NO. **70**

INTRODUCED BY COUNCILLORS

SERIES OF 2004

A RESOLUTION OF THE WESTMINSTER CITY COUNCIL AGREEING TO ACT AS A REVIEWING ENTITY FOR THE STATE INCOME TAX CREDIT PROGRAM FOR QUALIFYING REHABILITATION PROJECTS UNDER COLORADO HOUSE BILL 90-1033 (C.R.S. § 39-22-514, AS AMENDED)

WHEREAS, the Westminster Historic Landmark Board and the City Council support the creation of incentives to assist in the preservation and protection of historically significant resources; and

WHEREAS, Colorado House Bill 90-1033 (C.R.S. § 39-22-514, as amended) was signed into law April 20, 1990, establishing tax credits for historic structures throughout the state; and

WHEREAS, the City of Westminster, as a Certified Local Government, pursuant to the provisions of 16 U.S.C. § 470 (a) (C) (1), as amended, is eligible to review such rehabilitation tax credit projects as a reviewing entity as defined by C.R.S. § 39-22-514 (12) (1); and

WHEREAS, the provisions of C.R.S. § 39-22-514 (10) (a) require that each Certified Local Government adopt annually a resolution stating whether such Certified Local Government will act as a reviewing entity during the following twelve (12) months; and

WHEREAS, the Historic Landmark Board, as the City of Westminster's official review board for historic resources, endorses rehabilitation project reviews at the local level, which provide an increased level of preservation service to our community.

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

The City of Westminster, through its Historic Landmark Board, hereby agrees to act as a reviewing entity for the purposes of subsections (3) and (6) of C.R.S. § 39-22-514 for calendar year 2005. The City will maintain the "preservation fund" as required by C.R.S. § 39-22-514 (11) (a), for use in administering the program and to provide information and education to the community within the context of historic preservation.

PASSED AND ADOPTED this 22nd day of November, 2004.

Mayor

ATTEST:

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
November 22, 2004



SUBJECT: Resolution No. 71 re: Service Commitment Allocations

Prepared By: Shannon Sweeney, Planning Coordinator

Recommended City Council Action

Adopt Resolution No. 71 allocating Service Commitments for the year 2005 to the various categories of the Growth Management Program including Service Commitments for residential competitions for new single-family detached, single-family attached, multi-family, senior housing, and traditional mixed use neighborhood developments.

Summary Statement

- At the November 1, 2004, City Council Study Session, City Council directed Staff to draft the resolution necessary to proceed with the recommended Service Commitment (SC) allocations for 2005 as detailed in the table in the Background Information section.
- The potable water allocation of 1,613 includes 82 SCs to be awarded on a competitive basis in 2005 in the five residential competition categories as shown below:
 - 20 SCs (20 new units in 2005) for one new single-family detached (SFD) project
 - 18 SCs (25 new units in 2005) for one new single-family attached (SFA) project
 - 13 SCs (25 new units in 2005) for one new multiple-family (MF) project
 - 25 SCs (25-50 new units in 2005 depending on unit types) for one new traditional mixed use neighborhood development (TMUND)
 - 6 SCs (15 new units in 2005) for one new senior housing project
- The total recommended allocation from the reclaimed water system is 137 SCs.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Should the City allocate Service Commitments to the various Growth Management Program categories as detailed in this report?

Alternative

Do not adopt the attached resolution allocating Service Commitments to the various Growth Management Program categories for use in 2005. These allocations are necessary on an annual basis to serve the needs of new development in the upcoming year. Because these allocations must be in place for any new development to proceed in 2005, this option would cause delays for new development (including City projects).

Background Information

At this time each year, City Staff completes projections of new development in the upcoming year and develop recommendations for City Council regarding Service Commitment allocations to serve the demand in the following year for all of the various Growth Management categories. With the exception of the new residential competition categories, these Service Commitment allocation recommendations have been based on estimated demand for new commercial, office, parks and other public projects, outside City contracts, active residential projects, and those residential projects accommodated by the City's Growth Management Program (such as infill, South Westminster residential, and build-out developments).

The number of new residential subdivisions is managed through the competition process. "Active" residential (Categories A and L) refers to projects that are under construction, have previous binding agreements with the City (such as Legacy Ridge), meet build-out and infill development criteria, are approved projects awarded in previous competitions, and new South Westminster residential projects. These projects are awarded on a first-come, first-served basis (up to any limits placed on the original competitive awards). New residential (Category B) projects must compete for available Service Commitments through competitions. Service Commitments for single-family detached projects are calculated at one Service Commitment per unit, 0.7/unit for single-family attached, 0.5/unit for multi-family and 0.35/unit for senior housing. This equates to the relative amounts of water used annually by each of these types of dwelling units.

The intent of the Service Commitment competitions is for a limited number of new residential projects to proceed to the City's development review process. Each of the five competitions (SFD, SFA, MF, Senior Housing, and Traditional Mixed Use Neighborhood Development) is based on the City's adopted residential design guidelines for that category, and all projects must meet all of the minimum requirements in the design guidelines. With the exception of the TMUND competition (judged by a jury), projects receive points by providing "incentive" items the applicants choose. These incentive items are listed and detailed in the guidelines. The competitions typically begin in January each year, and depending on the number of projects submitted, Service Commitments are awarded to individual projects by City Council resolution in March or April.

As detailed in the November 1, 2004, City Council Staff Report, Staff is recommending Service Commitment allocations as detailed in the table below. The total recommended allocation is 1,613 Service Commitments from the potable water supply and 137 Service Commitments from the reclaimed water system. Any Service Commitments allocated to any of the categories that are not awarded during the year are returned to the water supply figures for use in future years.

2005 SERVICE COMMITMENT ALLOCATIONS

<u>CATEGORY</u>	<u>DESCRIPTION</u>	<u>PROPOSED ALLOCATIONS</u>
	<u>Potable Water Supply</u>	
A and L	All Active and Legacy Ridge Residential	679
B-1	New Single-Family Detached	20
B-2	New Single-Family Attached	18
B-3	New Multi-Family	13
B-4	New Traditional Mixed Use Neighborhood (residential)	25
C	Non-Residential (new development)	714
D	Outside City Contracts	25
E	Senior Housing	42
F	Public and Contingency	<u>77</u>
	Total Potable Water Supply	1613
	<u>Non-Potable</u>	
R	Reclaimed	<u>137</u>
	Total Non-Potable (Reclaimed)	137

According to figures supplied by the City’s Water Resources Staff, in the Department of Public Works and Utilities, there were approximately 10,195 Service Commitments available in the potable water supply at the beginning of 2004. With the 700 Service Commitments awarded in 2004 as of November 1, this leaves approximately 9,500 treated water Service Commitments for future new development. This estimate of Service Commitments is for a water supply sufficient to provide full water service during a drought as severe as the one in the 1950’s. If, in the future, the City decides to change its planning assumptions, the number of Service Commitments available could change. Please keep in mind, that even though the supply would accommodate this number of new Service Commitments, the City would be unable to serve such development at this point from an infrastructure standpoint. Distribution system improvements would be necessary to serve that many more customers.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

RESOLUTION

RESOLUTION NO. **71**

INTRODUCED BY COUNCILLORS

SERIES OF 2004

ALLOCATING SERVICE COMMITMENTS FOR THE YEAR 2005 PURSUANT TO THE CITY'S GROWTH MANAGEMENT PROGRAM AS SET FORTH IN CHAPTER 3, TITLE XI OF THE WESTMINSTER MUNICIPAL CODE

WHEREAS, the City of Westminster has adopted by Ordinance a Growth Management Program through 2010; and

WHEREAS, the City's Growth Management Program as set forth in Chapter 3, Title XI of the Westminster City Code calls for the periodic determination of the availability of Service Commitments and allocation of such Service Commitments among various categories of potential users; and

WHEREAS, the City Council of the City of Westminster has, with the aid of detailed factual reports and expert opinions from its Staff and consultants, examined the raw water supply, the sewage treatment capacity, the water treatment capacity, and other factors affecting the availability of Service Commitments; and

WHEREAS, the City Council of the City of Westminster has previously determined, in connection with its adoption of Chapter 3 of Title XI of the Westminster Municipal Code, that the City's ability to award Service Commitments is restricted; and

WHEREAS, the demand of different land uses on the City's ability to provide utilities and other services vary due to density and intensity of the particular use; and

WHEREAS, City Council has previously determined that the Comprehensive Land Use Plan shall assist the City in making future decisions concerning the desired mix of land uses at build-out of the City; and

WHEREAS, it is the intent of City Council to recognize the many factors influencing demand for new water and sewer service, while remaining cognizant of the large capital investments in land and public improvements made by developers with projects that are already started, and recognizing the efficiencies inherent in encouraging the completion of existing development projects that can use existing public capital facilities before approving new ones.

NOW, THEREFORE, be it resolved that the City Council of Westminster, in accordance with Sections 11-3-4 and 11-3-5 of the Official Code of the City of Westminster, the City Council hereby determines that:

1. Based on all of the information available to the City Council on this date, for the period beginning January 1, 2005 through December 31, 2005, the City can make available 679 Service Commitments ("SCs") to Categories A (A-1, A-2, and A-3) and L (L-1, L-2, and L-3), 20 SCs to Category B-1, 18 SCs to Category B-2, 13 SCs to Category B-3, 25 SCs to Category B-4, 714 SCs to Category C, 25 SCs to Category D, 42 SCs to Category E, 77 SCs to Category F, and 137 SCs to Category R without adverse effect on existing water users and without in any way endangering the health, safety, and welfare of the citizens of Westminster and of other persons dependent upon the operation of a safe and efficient public water and sanitation system by the City.
2. This Resolution supersedes and replaces all previous allocation resolutions by City Council.

Passed and adopted this 22nd day of November, 2004.

ATTEST:

City Clerk

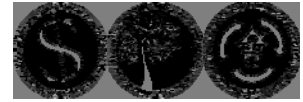
Mayor



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
November 22, 2004



SUBJECT: Councillor’s Bill No. 83 re Proposed \$14,010,000 Multifamily Housing Revenue Refunding Bonds (Camden Arbors Apartments Project)

Prepared By: Mary Ann Parrot, Finance Director
Martin R. McCullough, City Attorney

Recommended City Council Action

Pass Councillor's Bill No. 83 as an emergency ordinance approving the refunding indenture, financing agreement, intercreditor agreement and bond purchase agreement necessary to refund the above-referenced Bonds in the amount of \$14,010,000 and authorizing the Mayor, City Clerk, City Manager and City Attorney to execute documents as necessary to finalize the transaction.

Summary Statement

- The Oasis-Wexford Project is located at the southeast corner of Huron Street and 123rd Avenue in the City of Westminster. The Project consists of 358 apartment units contained in 25 two- and three-story buildings. The Project includes a leasing office/recreation building containing approximately 2,700 square feet with an adjacent pool and deck area.
- These apartments were originally financed with tax-exempt multi-family housing revenue bonds (also known as Industrial Development Revenue Bonds or IDR B’s) approved by the City in 1985 in the original amount of \$19,700,000. These bonds were refinanced by the City in 1995 in the amount of \$16,235,000. The outstanding amount of Bonds on the proposed refunding date (1/3/05) will be \$14,010,000.
- The owner of the project, ORI Wexford, a wholly owned subsidiary of Camden Property Trustee, a publicly trade Real Estate Investment Trust, (the “Owner”), is requesting the City authorize the issuance of refunding bonds. The refunding is expected to reduce the interest cost to the Owner allowing it to continue to maintain affordable rents (20% of units are required to be rented to low and middle income tenants)..
- The City has no legal or moral obligations for repayment of the Bonds. In addition, the bonds shall never constitute debt for the City, nor a multiple-year fiscal obligation. The Bonds are being issued as “conduit bonds” and are currently credit enhanced and will continue to be credit enhanced by Fannie Mae. In addition, the owner is not extending the term of the bonds, in compliance with City policies.
- The current credit enhancement of AAA is being maintained by the issuance of Fannie Mae AAA/A-1+ (the highest long and short term rating available by Standard & Poor’s, the Rating Agency) direct pay credit enhancement instrument.
- Similar terms of the original financing, including the protections afforded the City and the bondholders will be included in the new, refunding financing.
- The City’s fees will be paid as follows: The developer shall pay all costs, fees and expenses of the refunding including the City’s bond counsel and financial advisor fees, and the City’s Industrial Development Revenue Bonds (IDRB) review fee of 0.25% of the principal amount being refunded and the City’s \$500 application fee.

Expenditure Required: \$0
Source of Funds: N/A

Policy Issue

Should the City agree to refund the bonds for this project to accommodate the Owner's desire to reduce its interest cost?

Alternative

Do not approve the refunding of the bonds. This is not recommended because the fees to be paid to the City will be adequate to cover the City's expenses, and this refunding complies with City policy to ensure there is no increase in the amount of outstanding bonds, and no increase in the maturity dates (term) of the bonds. In addition, the protections afforded the City in the indemnification provisions in the bond documents ensure the same protections to the City as in past refundings. All of this translates into no increase in risk to the City as the issuer of the refunding bonds. The Borrower is securing credit enhancement from Fannie Mae therefore procuring the highest possible rating on the Bonds. The City has supported similar refundings in the past.

Background Information

The Oasis-Wexford Bonds were originally issued in 1985 to finance the construction of the Project. In 1994 the Project was sold to ORI Wexford. ORI Wexford was a wholly owned entity of Oasis Residential, a publicly traded REIT. Oasis Residential was sold to Camden Property Trust in 1999. In 1995, the existing credit enhancement was replaced with Fannie Mae and the bonds were refunded as fixed rate Bonds. The bonds are callable with a 1% prepayment penalty to bondholders as of December 1, 2004.

The Borrower would like to refund the Bonds into 7-day variable rate demand bonds therefore reducing the current fixed rate from approximately 5.35% to the 7-day variable rate of 1.75%. In addition, the Borrower has secured reduced credit enhancement costs from approximately 1.20% to 0.525%. The borrower has agreed to terms in order to minimize risk to the City:

- The term of the bonds is not being increased.
- The outstanding par amount of bonds is not being increased on the refunding date and is remaining the same at \$14,010,000.
- The indemnification provisions in the bond documents afford the City the same protection as with past refundings, especially from costs incurred if the bonds are audited by the IRS for arbitrage compliance.
- The Bonds are currently and will continue to be secured by Fannie Mae. Fannie Mae carries the highest short and long term rating from Standard & Poor's (as well as Moody's) of A-1+/AAA respectively. Fannie Mae's credit enhancement is structured as a direct pay credit enhancement instrument whereby the Bondholders are essentially paid by Fannie Mae and the Borrower reimburses Fannie Mae directly for interest and principal as they come due. Fannie Mae is probably the largest provider of credit enhancement for multifamily housing bonds in the nation. Fannie Mae is committing to provide the requisite credit enhancement for the remaining term of the Bonds.

The City's Financial Advisor, James Manire of James Capital Advisors, Inc., has reviewed the transaction, in compliance with past City practice dictates, and concurs with the approach being proposed.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO. _____

COUNCILLOR'S BILL NO. **83**

SERIES OF 2004

INTRODUCED BY COUNCILLORS

A BILL

FOR AN EMERGENCY ORDINANCE AUTHORIZING THE ISSUANCE OF CITY OF WESTMINSTER, COLORADO, MULTIFAMILY HOUSING REVENUE REFUNDING BONDS (CAMDEN ARBORS APARTMENTS PROJECT), SERIES 2005, IN THE AGGREGATE PRINCIPAL AMOUNT OF \$14,010,000, AND AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN AGREEMENTS IN CONNECTION THEREWITH.

WHEREAS, the City of Westminster, Colorado (the "Issuer"), is authorized by part 1 of article 3 of title 29, Colorado Revised Statutes, as amended (the "Act"), to issue revenue bonds for the purpose of financing or refinancing projects to the end that more adequate residential housing facilities for low- and middle- income families and persons may be provided and to enter into agreements with others for the purpose of providing revenues for and further securing the payment of such bonds; and

WHEREAS, the Issuer has heretofore issued its Multifamily Housing Revenue Refunding Bonds (Oasis Wexford Project), Series 1995, dated November 1, 1995, in the original aggregate principal amount of \$16,235,000 (the "Prior Bonds"); and

WHEREAS, Prior Bonds in the aggregate principal amount of \$14,010,000 remain outstanding; and

WHEREAS, the outstanding Prior Bonds are subject to optional redemption, in whole or in part, on the first day of any month on or after December 1, 2004, at a price equal to 101% of the principal amount of the outstanding Prior Bonds plus accrued interest thereon to the redemption date; and

WHEREAS, ORI Wexford, Inc. (the "Owner") has requested the Issuer to call the outstanding Prior Bonds for redemption and to issue City of Westminster, Colorado, Multifamily Housing Revenue Refunding Bonds (Camden Arbors Apartments Project), Series 2005, in the aggregate principal amount of \$14,010,000 (the "Bonds") for such purpose; and

WHEREAS, the following documents have been submitted to the City Council (the "Council") and filed in the office of the City Clerk (the "Clerk") and are there available for public inspection:

(a) the Financing Agreement, dated as of January 1, 2005 (the "Financing Agreement"), among the Issuer, U.S. Bank, National Association, as trustee (the "Trustee") and the Owner; and

(b) the Indenture of Trust, dated as of January 1, 2005 (the "Indenture"), between the Issuer and the Trustee; and

(c) the Amended and Restated Tax Regulatory Agreement, dated as of January 1, 2005 (the "Tax Regulatory Agreement"), among the Issuer, the Trustee and the Owner; and

(d) the Bond Purchase Agreement, dated as of December 31, 2004 (the "Bond Purchase Agreement") among the Issuer, the Owner and Red Capital Markets, Inc. (the "Underwriter"); and

(e) the Assignment and Intercreditor Agreement, dated as of January 1, 2005 (the "Assignment"), among the Issuer, the Trustee and Fannie Mae; and

(f) the Official Statement (the "Official Statement"), relating to the Bonds; and

WHEREAS, the Council desires to authorize the issuance of the Bonds and to approve the form and authorize the execution and delivery of the aforementioned agreements.

NOW, THEREFORE, THE CITY OF WESTMINSTER ORDAINS:

DEFINITIONS, LEGAL AUTHORIZATION AND FINDINGS

Definitions

The terms used herein, unless the context hereof requires otherwise, shall have the same meanings when used herein as assigned to them in the Indenture unless the context or use thereof indicates another or different meaning or intent.

Legal Authorization

The Issuer is a political subdivision of the State of Colorado and is authorized by the Act to finance or refinance the Project and to issue and sell the Bonds for the purpose, in the manner and upon the terms and conditions set forth in the Act and this Ordinance.

Findings

It is hereby found, determined and declared that:

The Project is a "project," as defined in §29-3-103(10)(d) of the Act, in that it consists of land, buildings or other improvements or real or personal properties, including any undivided or other interest in any of the foregoing, except inventories and raw materials, whether or not in existence, suitable or used for or in connection with residential facilities intended by the owner or intended occupants thereof for use as the sole place of residence of persons and families lacking the financial ability to pay prices on rentals sufficient to induce private enterprise within the boundaries of the Issuer to build a sufficient supply of adequate, safe and sanitary dwellings without the special assistance afforded by the Act. As provided in the Tax Regulatory Agreement, 20% of the units in the Project will be required to be rented to Low or Middle Income Tenants (as defined in the Tax Regulatory Agreement) and the remaining 80% of the units in the Project may be rented without income restrictions.

The refinancing of the Project will promote the public health, welfare, safety, convenience and prosperity by providing more adequate residential housing facilities for low- and middle-income families and persons.

The Financing Agreement constitutes a "financing agreement" with a "user" (the Owner), each as defined in the Act, and requires the Owner to make payments sufficient to pay the principal of and premium, if any, and interest on the Bonds in each year in which any Bonds remain outstanding.

The amount necessary to be paid each year into any reserve funds which the Council deems advisable to establish in connection with the retirement of the Bonds and the maintenance of the Project is provided in the Financing Agreement.

The Financing Agreement provides that the Owner shall maintain the Project and carry all proper insurance with respect thereto.

The Financing Agreement requires that the Owner pay the taxes which the taxing entities specified in Section 29-3-120(3) of the Act are entitled to receive from the Owner with respect to the Project.

BONDS

Issuance and Sale of Bonds; Interest Rates

The Issuer shall issue the Bonds for the purpose, in the form and upon the terms set forth in the Bonds and the Indenture. The Bonds shall be executed as provided in the Indenture. The Bonds shall be subject to redemption as set forth in the Indenture.

The Bonds shall be numbered consecutively from "R-1" upward, shall be issued in such denominations as may be provided in the Indenture and shall be dated as of their date of delivery. Interest on the Bonds shall be payable on the interest payment dates provided in the Indenture. Each Bond shall bear interest until the principal sum thereof has been paid; provided, however, that if Bonds have been called for redemption and funds are available for the payment on the redemption date thereof in full accordance with the terms of the Indenture, the Bonds shall then cease to bear interest.

The Bonds shall mature or become subject to mandatory sinking fund redemption as provided in Section 1.3(c) hereof, and shall bear interest at the rates specified in the Indenture.

The maximum net effective interest rate authorized for the Bonds is 15% per annum. The actual net effective interest rate on the Bonds will be less than the maximum net effective interest rate on the Bonds.

The principal of and interest on the Bonds shall be payable by the Trustee or as may otherwise be provided in the Indenture.

GENERAL COVENANTS

Payment of Principal and Interest

The Issuer shall promptly pay or cause to be paid the principal of and interest on the Bonds on the dates, from the sources and in the manner provided herein, in the Indenture and in the Bonds. The principal and interest shall be payable solely from and secured by and pursuant to the Indenture and Financing Agreement and nothing in the Bonds or in this Ordinance shall be considered as assigning, pledging or otherwise encumbering any other funds or assets of the Issuer.

Performance of and Authority for Covenants

The Issuer shall faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Ordinance, the Financing Agreement, the Indenture, the Tax Regulatory Agreement, the Assignment, the Bonds and all proceedings of the Council pertaining thereto. The Issuer is duly authorized under the Constitution and laws of the State of Colorado, including particularly and without limitation the Act, to issue the Bonds, pledge the revenues and assign the Financing Agreement in the manner and to the extent set forth in this Ordinance, the Financing Agreement, the Assignment and the Indenture. All action on the part of the Issuer for the issuance of the Bonds and for the execution and delivery thereof has been duly and effectively taken, and the Bonds shall be valid and enforceable obligations of the Issuer according to the terms thereof.

Nature of Security

The Bonds shall never constitute the debt or indebtedness or any multiple-fiscal year financial obligation of the Issuer within the meaning of any provision or limitation of the Constitution or statutes of the State of Colorado or Charter of the Issuer and shall not constitute nor give rise to a pecuniary liability of the Issuer or a charge against its general credit or taxing powers. Neither the Issuer nor its agents, officers and employees shall be subject to any personal or pecuniary liability on the Bonds.

MISCELLANEOUS

Facsimile Signatures

Pursuant to the Colorado Uniform Facsimile Signature of Public Officials Act, part 1 of article 55 of title 11, Colorado Revised Statutes, as amended, the Mayor, the Clerk and the Finance Director of the Issuer shall forthwith, but in any event prior to the time the Bonds are delivered to the Underwriter, file with the Colorado Secretary of State their manual signatures, certified by them under oath.

CUSIP Numbers

CUSIP identification numbers may be imprinted on the Bonds, but such numbers shall not constitute a part of the contract evidenced by the Bonds, and no liability shall hereafter attach to the Issuer or any of the officers or agents thereof because of or on account of said numbers. Any error or omission with respect to said numbers shall not constitute cause for refusal by any person to accept delivery of and pay for the Bonds nor shall it affect the validity of such Bonds.

Authorization to Execute Agreements

The forms of the Financing Agreement, the Indenture, the Tax Regulatory Agreement, the Assignment, the Bond Purchase Agreement and the Official Statement are hereby approved in substantially the form presented to the Council, and the Mayor and the Clerk are authorized to execute and deliver the Financing Agreement, the Indenture, the Tax Regulatory Agreement, the Assignment and the Bond Purchase Agreement in the name of and on behalf of the Issuer and to execute and deliver such other documents as the City Attorney considers appropriate in connection with the issuance of the Bonds. In the event of the absence or disability of the Mayor or the Clerk, such officers of the Issuer as may act on their behalf shall without further act or authorization of the Council do all things and execute all agreements and documents required to be done or executed by such absent or disabled officers.

Authority to Correct Errors, Etc.

The Mayor and the Clerk are hereby authorized and directed to make or agree to any alterations, changes or additions in the agreements hereby approved as the City Attorney deems necessary or proper to accomplish the purposes of this Ordinance, the signatures of the Mayor and the Clerk on the instruments to be conclusive evidence of such approval; provided, however, no alteration, change or addition shall be made which shall alter the maximum net effective interest rate, maturities, interest rates or manner of execution of the Bonds or which shall increase the aggregate principal amount of the Bonds authorized by the Council or in any way give rise to a pecuniary liability of the Issuer or a charge against its general credit or taxing powers with respect to the Bonds.

Further Authority

The Mayor and the Clerk and other proper officials of the Issuer are hereby authorized to execute and deliver for and on behalf of the Issuer any and all additional certificates, documents and other papers and to perform all other acts they may deem necessary or appropriate in order to implement and carry out the matters herein authorized.

Emergency

Due to the need for prompt delivery of the Bonds to the Underwriter, an emergency exists which requires the immediate passage of this Ordinance as an emergency measure, and this Ordinance is immediately necessary for the preservation of the public peace, health or safety. This Ordinance shall therefore be exempt from referendum.

Ordinance Irrepealable

After the Bonds are issued this Ordinance shall be and remain irrepealable until the Bonds have been fully paid, satisfied or discharged.

Ratification

All action not inconsistent with the provisions of this Ordinance heretofore taken by the Issuer or its officers and directed toward the issuance of the Bonds and the execution and delivery of the agreements approved hereby is hereby ratified, approved and confirmed.

Repealer

All ordinances, resolutions, bylaws, orders and other instruments, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance, resolution, bylaw, order or other instrument, or part thereof, heretofore repealed.

Severability

If any provision of this Ordinance, except Section 3.3 hereof, shall be held or deemed to be, or shall, in fact, be, inoperative or unenforceable as applied in any particular case in any jurisdictions or in all cases because it conflicts with any provisions of any constitution or statute or rule or public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever. The invalidity of any one or more phrases, sentences, clauses or paragraphs in this Ordinance, except Section 3.3 hereof, shall not affect the remaining portions of this Ordinance or any part hereof.

Recording and Authentication

This Ordinance, as adopted by the Council, shall be numbered and recorded, and the adoption and publication shall be authenticated by the signatures of the Mayor and the Clerk and by the affidavit of the publisher, respectively.

PASSED AND ADOPTED AS AN EMERGENCY MEASURE this 22nd day of November, 2004.

CITY OF WESTMINSTER, COLORADO

By: _____
Mayor

(CITY)
(SEAL)

ATTEST:

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
November 22, 2004



SUBJECT: Sale Agreement with Hyland Hills

Prepared By: Mike Happe, Water Resource & Treatment Manager
Bob Krugmire, Water Resources Engineer

Recommended City Council Action

Authorize the City Manager to execute an agreement for the sale of approximately 31 acres to the Hyland Hills Park and Recreation District and to execute closing documents for the transaction.

Pass Councillor's Bill No. 84 on first reading authorizing a supplemental appropriation to the 2004 budget of the Utility Fund in the amount of \$521,730. These funds will be appropriated into the Thornton Water Replacement Fund as a result of the sale of surplus property to Hyland Hills.

Summary Statement

- The City of Westminster has been in negotiations with Hyland Hills for the Sale of surplus property located directly north of I-76 and directly east of Tennyson Street. The property was originally slated for development as a water exchange reservoir. Acquisition of this property was part of a larger exchange agreement with CAMAS Colorado Inc, an aggregate materials supplies
- In prior negotiations with Hyland Hills, a purchase price for the property was proposed at \$17,000 per acre, or approximately \$0.39 per square foot. The District plans to use Great Outdoors Colorado funds to purchase the property. This price was based on market analysis work that was completed at the end of 2002.
- The City Council previously endorsed Hyland Hills GOCO grant application that resulted in the grant funds now being used by Hyland Hills for the purchase.
- Appropriation of the funds from this sale to Hyland Hills would be used to replace a portion of the relatively expensive water from Thornton with another more cost effective source.

Expenditure Required: \$521,730 in revenues to the Utility Fund

Source of Funds: Sale of assets

Policy Issue

Should the City approve the sale of the property to the Hyland Hills Park and Recreation District?

Should the sale funds be appropriated into the Thornton Water Replacement Fund?

Alternatives

Do not authorize the sale of the property. This is not recommended as the sale of the property has been planned for some time and was given tentative Council approval in 2003. These funds will provide the City with additional working capital to assist in the replacement of water resulting from the Thornton treated water contract reduction.

Background Information

In 1998, the City entered into an agreement with CAMAS Colorado, Inc. ("CAMAS") and South Adams County Water and Sanitation District ("South Adams") concerning an exchange of water rights and property. Under the agreement with CAMAS, CAMAS transferred ownership of 7.5 shares of Farmers Reservoir and Irrigation Company (FRICO) in Standley Lake, 31 shares of Manhart Ditch Company water rights, 40.875 shares of the Wellington Reservoir Company, 48.715 shares of Burlington Ditch and land as noted below. In exchange, Westminster paid CAMAS \$288,500 and agreed to provide 290 acre-feet of treated effluent per year from the Metropolitan Water Reclamation Facility.

Under the agreement with South Adams, Westminster transferred ownership of the Burlington and Wellington water rights to South Adams for a payment from South Adams to Westminster of \$671,925. The remaining water rights, retained by Westminster, were projected to provide an additional 33 acre-feet of firm water supply at Standley Lake as well as 30 acre-feet of water to pay required returns.

As part of the overall agreement, the City acquired 30.69 acres of land located just north of I-76 and just east of Tennyson Street. It was the original intent of the City to construct additional storage on the site to be used in conjunction with the Jim Baker Reservoir as an exchange reservoir. However, the City has subsequently acquired and identified alternative property, near the town of Wattenberg in Weld County, to be used for exchange reservoir construction, thus negating the need to retain the CAMAS property. City Council approval of the sale of this property to Hyland Hills is required pursuant to Section 14.2 of the City Charter.

In 2002, City Council authorized the City Manager to execute an amendment to a 1982 Intergovernmental Agreement with the City of Thornton. This amendment, which was made permanent in 2003, reduced the amount of treated water delivered to Westminster by Thornton from up to 3 million gallons per day to 2 million gallons per day. At the time of the contract reduction, Westminster fully intended to move forward in the pursuit to replace this relatively expensive water from Thornton with more cost effective sources of water in the future. Funds from both the savings realized from the reduction in lease payments to the City of Thornton as well as funds from the sale of lands to Hyland Hills will be used in this water replacement effort.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO.

COUNCILOR'S BILL NO. **84**

SERIES OF 2004

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AMENDING THE 2004 BUDGET OF THE UTILITY FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2004 ESTIMATED REVENUES IN THE FUND.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2004 appropriation for the Utility Fund initially appropriated by Ordinance No. 2977 in the amount of \$38,281,200 is hereby increased by \$521,730 which, when added to the fund balance as of the City Council action on November 22, 2004 will equal \$49,037,112. The actual amount in Utility 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 sale of assets.

Section 2. The \$521,730 increase in the Utility 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
Sale of Assets	2000.43040.0000	\$0	\$521,703	\$521,703
Total Change to Revenues			\$521,703	

EXPENSES				
Description	Account Number	Current Budget	Amendment	Revised Budget
Thornton Water Replacement	80420035618.80400.8888	\$578,000	\$521,703	\$1,099,703
Total Change to Expenses			\$521,703	

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

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED AND PUBLISHED this 22nd day of November, 2004. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 13th day of December, 2004.

ATTEST:

Mayor

City Clerk _____



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
November 22, 2004



SUBJECT: Councillor's Bill No. 85 re Wayne Carl Middle School Supplemental Appropriation

Prepared By: Becky Eades, Landscape Architect II

Recommended City Council Action

Pass Councillor's Bill No. 85 on first reading authorizing a supplemental appropriation to the 2004 budget of the General Capital Improvement Fund and the Open Space Fund in the amount of \$700,000 and \$250,000, respectively.

Summary Statement

- City Council approved the acquisition of the Brauch Open Space Parcel at 100th Avenue and Alkire Street on March 17, 2003.
- Of the \$950,000 purchase price, \$240,000 was funded out of the Open Space Land Purchase Account and \$710,000 from the City Park Maintenance Facility Capital Improvement Project Account. The agreement with Jefferson County for the reimbursement of these funds stipulates slightly different payments, which Staff is in agreement with.
- On October 26, 2004, the City of Westminster, Jefferson County Open Space, and Jefferson County Public Schools closed on a land swap, which resulted in the Jefferson County School District obtaining a site from the City for the proposed Wayne Carl Middle School. As part of the land trade, the School District reimbursed the City for the Brauch Open Space Parcel and gave the City an 11-acre parcel of land located approximately at 107th and Simms Street.
- This appropriation reflects the City's receipt of \$950,000 reimbursement from Jefferson County Public Schools for the acquisition of the 18-acre Brauch Open Space Parcel.

Expenditure Required: \$950,000

Source of Funds: Sale of Brauch Open Space

Policy Issue

Should City Council re-appropriate the money for the land purchase into the accounts that it originally came from?

Alternative

City Council could choose to use the reimbursement for other expenses, however, the negotiation process implied that the funds would go to these uses.

Background Information

On June 14, 2004, City Council authorized the City Manager to execute an Intergovernmental Agreement between Jefferson County and Jefferson County R-1 School District to allow the construction of the Wayne Carl Middle School. This Intergovernmental Agreement allows the School District to construct the middle school on 25 acres at the northeast corner of Standley Lake Regional Park, with the School District paying \$950,000 to the City; paying \$206,854 to Jefferson County; and conveying 11.6 acres of the School Districts property in Walnut Creek and adjacent to the Colorado Hills Open Space, to the City.

The original purchase of the Brauch Open Space was approved by City Council on March 17, 2003, and the purchase was paid for with \$240,000 from the Open Space Land Purchase Account and \$710,000 from the City Park Maintenance Facility Capital Improvement Project Account. The reimbursement is being split \$700,000 to Parks, Recreation and Libraries and \$250,000 to Community Development based on the agreement regarding distribution of funds with Jefferson County Open Space. The improvements on the 18-acre parcel, including a house and quonset hut, are currently being used by City Open Space and Forestry Operations for office space and equipment storage.

Reimbursement of the \$950,000 into the specified accounts will be used for future open space land purchases by the Department of Community Development and as partial funding for constructing the City Park Maintenance Facility by the Department of Parks, Recreation and Libraries.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILOR'S BILL NO. **85**

SERIES OF 2004

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AMENDING THE 2004 BUDGET OF THE GENERAL FUND CAPITAL IMPROVEMENT FUND AND THE OPEN SPACE FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2004 ESTIMATED REVENUES IN THE FUND.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2004 appropriation for the General Capital Improvement Fund initially appropriated by Ordinance No. 2977 in the amount of \$9,036,000 is hereby increased by \$700,000 which, when added to the fund balance as of the City Council action on November 22, 2004 will equal \$20,292,662. 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. The appropriation is due to the receipt of funds from Jefferson County Schools for the Brauch Open Space Parcel.

Section 2. The \$700,000 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
Sale of Assets	7501.43040.0000	\$0	\$700,000	\$700,000
Total Change to Revenues			<u>\$700,000</u>	

EXPENSES				
Description	Account Number	Current Budget	Amendment	Revised Budget
City Park Maintenance Facility	80175050092.80400.8888	\$2,131,225	\$700,000	\$2,831,225
Total Change to Expenses			<u>\$700,000</u>	

Section 3. The 2004 appropriation for the Open Space Fund initially appropriated by Ordinance No. 2977 in the amount of \$4,663,797 is hereby increased by \$250,000 which, when added to the fund balance as of the City Council action on November 22, 2004 will equal \$7,846,631. 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. The appropriation is due to the receipt of funds from Jefferson County Schools for the Brauch Open Space Parcel.

Section 4. The \$250,000 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
Sale of Assets	5400.43040.0000	\$2,852,453	\$250,000	\$3,102,453
Total Change to Revenues			<u>\$250,000</u>	

EXPENSES				
Description	Account Number	Current Budget	Amendment	Revised Budget
Land Purchases	54010900.76600.0000	\$3,850,937	\$250,000	\$4,100,937
Total Change to Expenses			\$250,000	

Section 5. – 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 6. This ordinance shall take effect upon its passage after the second reading.

Section 7. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED AND PUBLISHED this 22nd day of November, 2004. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 13th day of December, 2004.

ATTEST:

Mayor

City Clerk



Agenda Item 10 H

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
November 22, 2004



SUBJECT: Resolution No. 72 re 2005 Jefferson County Joint Venture Grant Applications

Prepared By: Brad Chronowski, Landscape Architect II

Recommended City Council Action:

Adopt Resolution No. 72 authorizing the Department of Parks, Recreation and Libraries to apply for a 2005 Jefferson County Joint Venture Grant application for the 2005 grant cycle.

Summary Statement

- The Department of Parks, Recreation and Libraries wishes to pursue a grant from the Jefferson County Joint Venture Grant Program for the construction of the Armed Forces Tribute Garden to be located at City Park.
- Staff recommends requesting a \$200,000 grant for the Armed Forces Tribute Garden construction.
- The Department of Parks, Recreation and Libraries has approximately \$617,000 in anticipated and budgeted funds to meet the estimated \$1,325,000 project cost for the Armed Forces Tribute Garden.
- The Department of Parks, Recreation and Libraries will continue to raise funds through donations and brick/amenity sales for the Armed Forces Tribute Garden to help defray the costs of the project.

Expenditure Required: \$250,000

Source of Funds: Parks, Recreation and Libraries 2005/2006 General Capital Improvement Program (\$442,000), a contribution from Jim Sullivan (approximately \$150,000 - \$200,000), contribution from Westminster Rotary (\$13,500), contribution from the Legacy Foundation (\$2,500), brick sales and future contributions anticipated from various community groups and service clubs

Policy Issue

Should the City attempt to increase the funding for the Armed Forces Tribute Garden by pursuing grant monies from the Jefferson County Joint Venture Grant Program?

Alternatives

1. Council could choose not to pursue additional funding for the Armed Services Project and proceed with the improvements at the current budget level. However, Staff recommends attempting to secure additional funding for the project through this grant opportunity.
2. Council could choose to pursue another project for the 2004 Jefferson County Joint Venture Grant Program. However, at this time City Staff has no further recommendations for consideration.

Background Information

The Department of Parks, Recreation and Libraries has been successful in applying for and receiving grants from a variety of sources in the past. In 2004, the Jefferson County Joint Venture Grant Program assisted the City with a \$120,000 grant for the Westminster Skatepark.

The proposed Armed Forces Tribute Garden Community Project was brought to City Council in January 2003. Staff proposed to allow individuals, service clubs, non-profit groups, or community groups to participate in the project by raising funds to commission individual sculpture pieces for the park and/or help with actual construction costs to build the park. Since that time, Staff has raised approximately \$175,000 in cash donations and sponsorship commitments. The Legacy Foundation and the two Westminster Rotary Clubs have committed cash and in-kind services to the project. Staff is continuing to contact service clubs, military recruiters, corporations and individuals to procure additional funding and support.

Staff is currently in the process of hiring a design consultant to finalize the construction plans for the Armed Forces Tribute Garden. Also, the fundraising campaign continues with grant applications, brick sales and sales of other project amenities. The City has procured a major benefactor Jim Sullivan, who will also serve as the project's fundraising chairman.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

RESOLUTION

RESOLUTION NO. **72**

INTRODUCED BY COUNCILLORS

SERIES OF 2004

GRANT REQUESTS FOR THE 2005 JEFFERSON COUNTY JOINT VENTURE GRANT PROGRAM

WHEREAS, Jefferson County has established a local government grant application process to assist municipalities and special districts within the County with the development of recreation capital improvements; and

WHEREAS, The City of Westminster has budgeted for improvements for the Armed Forces Tribute Garden;

WHEREAS, grant money received from Jefferson County would significantly enhance the improvements for the above-mentioned project.

NOW, THEREFORE, the Westminster City Council hereby resolves that City of Westminster Staff submit a grant application to the Jefferson County Joint Venture Grant program for 2005, requesting funding in the amount of \$200,000 to enhance the Armed Forces Tribute Garden.

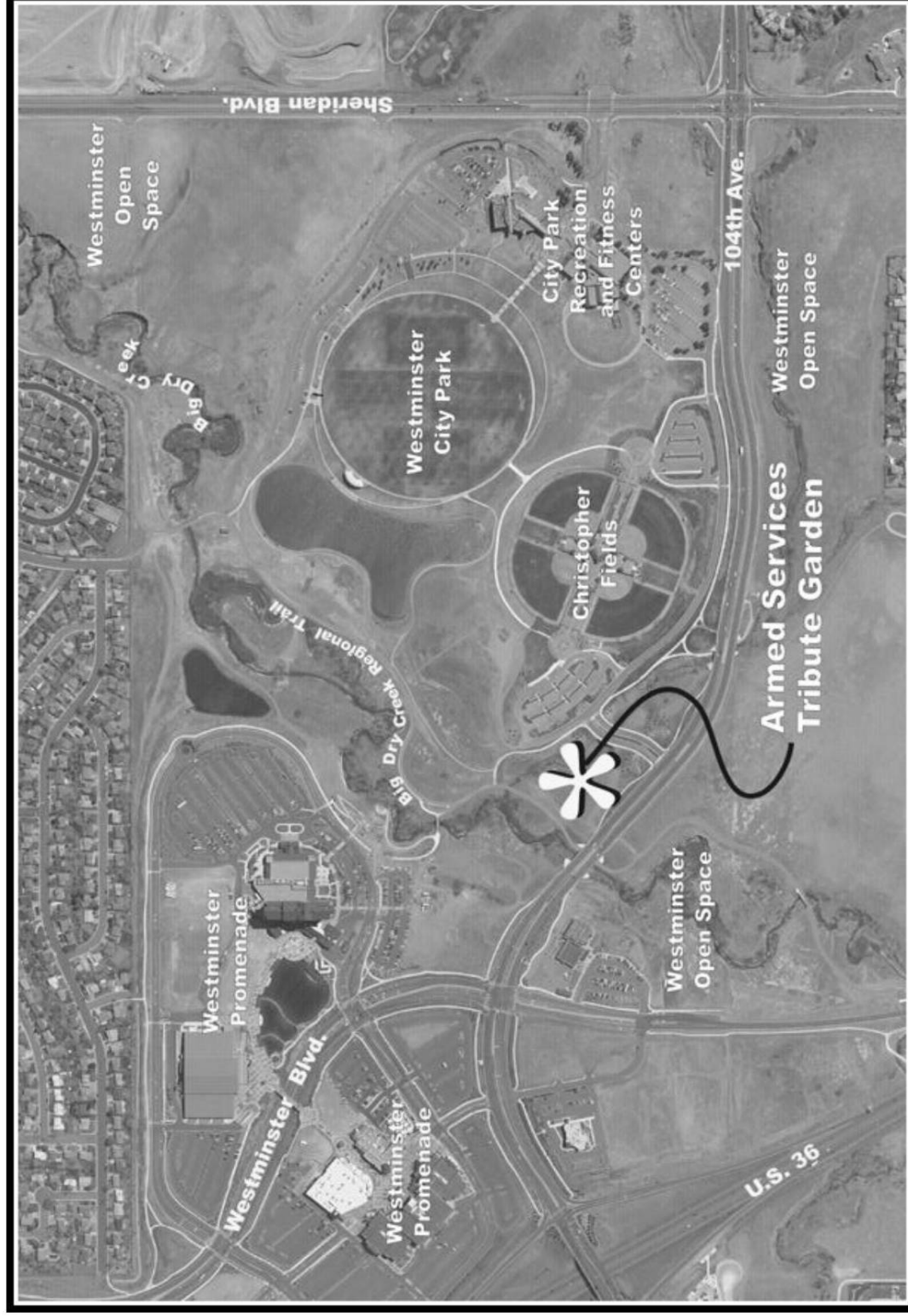
Passed and adopted this 22nd day of November 2004.

Attest:

Mayor

City Clerk

Armed Forces Tribute Garden at City Park



Vicinity Map



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
November 22, 2004



SUBJECT: Councillor's Bill No. 86 re Exception to Open Containers of Alcoholic Beverages

Prepared By: Tami Cannon, Paralegal
Sharon Widener, Assistant City Attorney

Recommended City Council Action

Pass Councillor's Bill No. 86 on first reading amending the Westminster Municipal Code to make an exception to the City's ordinance concerning open containers of alcoholic beverages to allow "corked" wine bottles as a result of recent state legislation.

Summary Statement

- Recently enacted legislation, C.R.S. section 12-47-411(3.5), allows the possession or control of one opened container of partially consumed vinous liquor purchased and removed from a liquor-licensed hotel or restaurant, so long as the original container did not contain more than 750 milliliters.
- The City's current ordinance makes it unlawful for a person to drink, possess or control any alcoholic beverage in an open container, or in a container, the seal of which is broken, in any public place or in any vehicle in a public place.
- An ordinance amendment is needed in order to prevent a conflict between the City's ordinance and the new state law to clarify that the City's ordinance does not apply to containers resealed under the provisions of the state law.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Whether City Council should adopt an ordinance making an exception to the City's open container ordinance for "corked" wine bottles consistent with recently enacted state law.

Alternative

Do not adopt the ordinance. This is not recommended, since it would result in a conflict between the City's open container ordinance and state law.

Background Information

The state legislature recently passed several new liquor laws that affect licensed liquor sales in a municipality. One of the new laws states that a hotel or restaurant may permit a customer of the hotel or restaurant to reseal and remove from the licensed premises one opened container of partially consumed vinous liquor purchased on the premises, as long as the original container did not contain more than 750 milliliters of vinous liquors. In order to prevent a conflict between the City's open container ordinance and the new state law, the City's ordinance needs to be amended to state that the ordinance does not apply to containers resealed under the provisions of the state law. Drinking the wine in a vehicle in a public place would remain a violation of the City's ordinance.

The proposed ordinance has been reviewed by the Municipal Court Judges and members of the City's Police Department. The City's Liquor Investigations Officer will include training on this ordinance for restaurant servers that choose to "recork" wine, so that the restaurants can provide information to customers leaving the premises with an open container.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **86**

SERIES OF 2004

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AMENDING THE WESTMINSTER MUNICIPAL CODE CONCERNING
OPEN CONTAINERS OF ALCOHOLIC BEVERAGES

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Section 6-9-3, W.M.C., is hereby amended BY THE ADDITION OF A NEW
SUBSECTION to read as follows:

6-9-3: OPEN CONTAINERS OF ALCOHOLIC BEVERAGES:

(A) It shall be unlawful for any person to drink, possess or have under his control, any alcoholic beverage in an open container, or in a container, the seal of which is broken, in any public place within the City, or in any vehicle in a public place.

(B) It shall be unlawful for any person, while operating a vehicle in any public place within the City, to drink, possess, have under his control or allow any alcoholic beverage within the vehicle, in any open container, or in a container, the seal of which is broken.

(C) EXCEPTION: SUBSECTIONS (A) AND (B) ABOVE SHALL NOT APPLY TO THE POSSESSION OR CONTROL OF ONE OPENED CONTAINER OF VINOUS LIQUOR PURCHASED AND REMOVED FROM A LIQUOR-LICENSED HOTEL OR RESTAURANT, PURSUANT TO THE PROVISIONS OF SECTION 12-47-411(3.5), C.R.S., SO LONG AS THE ORIGINAL CONTAINER DID NOT CONTAIN MORE THAN 750 MILLILITERS.

~~(D)~~ (D) Nothing in this Section shall prohibit drinking or having open containers of alcoholic beverages:

1. In public areas where authorized by a properly issued special event permit.
2. Pursuant to a permit issued by the Department of Parks, Recreation and Libraries.
3. On private property AUTHORIZED by the owner of such property or the guests of such owner.

~~(E)~~ (E) Notwithstanding the foregoing provisions, drinking alcoholic beverages in any vehicle is hereby prohibited.

~~(F)~~ (F) A violation of this section is a criminal offense, punishable by a fine or imprisonment, or both, as provided in Section 1-8-1 of this Code.

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

Section 3. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED
PUBLISHED this 22nd day of November, 2004. PASSED, ENACTED ON SECOND READING, AND
FULL TEXT ORDERED PUBLISHED this 13th day of December, 2004.

ATTEST:

Mayor

City Clerk

Summary of Proceedings

Summary of proceedings of the regular City of Westminster City Council meeting of Monday, November 22, 2004. . Mayor McNally, Councillors Davia, Dittman, Dixon, Kauffman, and Price were present at roll call. Councillor Hicks arrived at 7:10 P.M.

The minutes of the November 8, 2004 meeting were approved.

Council approved the following: October Financial Report; Document Management Purchase Contract; Big Dry Creek Trail, Huron to I-25 Phase I Construction Award; CDBG and Home Funding Budgets; 2004 Capital Improvement Technical Staff Support Services Contract Amendment, and authorize the City Manager to execute an agreement for the sale of approximately 31 acres to the Hyland Hills Park and Recreation District and to execute closing documents for the transaction.

The following Councillor's Bill was adopted as an emergency ordinance:

A BILL FOR AN EMERGENCY ORDINANCE AUTHORIZING THE ISSUANCE OF CITY OF WESTMINSTER, COLORADO, MULTIFAMILY HOUSING REVENUE REFUNDING BONDS (CAMDEN ARBORS APARTMENTS PROJECT), SERIES 2005, IN THE AGGREGATE PRINCIPAL AMOUNT OF \$14,010,000, AND AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN AGREEMENTS IN CONNECTION THEREWITH. Purpose: Refunding of Oasis/Wexford (Camden Arbors) IDR

The following Councillor's Bills were passed on first reading:

A BILL FOR AN ORDINANCE APPROVING WESTMINSTER HISTORICAL SOCIETY LEASE OF 4350 WEST 76th AVENUE Purpose: Authorizing leasing property

A BILL FOR AN ORDINANCE AMENDING THE 2004 BUDGET OF THE UTILITY FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2004 ESTIMATED REVENUES IN THE FUND. Purpose: Supplemental Appropriation re Sale Agreement with Hyland Hills

A BILL FOR AN ORDINANCE AMENDING THE 2004 BUDGET OF THE GENERAL FUND CAPITAL IMPROVEMENT FUND AND THE OPEN SPACE FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2004 ESTIMATED REVENUES IN THE FUND. Purpose: reflects receipt of \$950,000 reimbursement from JeffCo Schools for acquisition of 18-acre Open Space Parcel.

A BILL FOR AN ORDINANCE AMENDING THE WESTMINSTER MUNICIPAL CODE CONCERNING OPEN CONTAINERS OF ALCOHOLIC BEVERAGES Purpose: Exception to Open Containers of Alcoholic Beverages

The following Councillor's Bills were adopted on seconded reading:

A BILL FOR AN ORDINANCE AMENDING THE SALARY OF THE MUNICIPAL JUDGE

A BILL FOR AN ORDINANCE VACATING A PORTION OF A SANITARY SEWER EASEMENT WITHIN BLOCK 3 OF PROSPECTOR'S POINT

The following Resolutions were adopted:

Resolution No. 70 re Review of Tax Credit Applications for Landmarked Historic Homes

Resolution No. 71 re Service Commitment Allocations

Resolution No. 72 re 2005 Jefferson County Joint Venture Grant Application

At 7:21 p.m. the meeting was adjourned

By order of the Westminster City Council

Michele Kelley, CMC, City Clerk

Published in the Westminster Window on December 2, 2004

A BILL
FOR AN ORDINANCE AMENDING THE SALARY OF THE MUNICIPAL JUDGE
THE CITY OF WESTMINSTER ORDAINS:

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

1-7-2: MUNICIPAL JUDGE: The salary of the Municipal Judge shall be as follows:
~~\$89,984~~ \$91,164 per annum payable bi-weekly plus ~~\$16,000~~ \$18,000 in City-paid deferred compensation.

IN ADDITION, THE JUDGE SHALL RECEIVE A BONUS OF \$3,000 PAYABLE AS A LUMP SUM IN 2004.

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

Section 3. This ordinance shall take effect on January 1, 2005.

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 8th day of November, 2004. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 22nd day of November. 2004.

ORDINANCE NO. **3169**
SERIES OF 2004

COUNCILLOR'S BILL NO. **81**
INTRODUCED BY COUNCILLORS
Price - Davia

A BILL
FOR AN ORDINANCE VACATING A PORTION OF A SANITARY SEWER EASEMENT
WITHIN BLOCK 3 OF PROSPECTOR'S POINT

WHEREAS, certain easement was dedicated on the final plat for Prospector's Point Map No. 556, File No. 14, and Reception No. B220982, in the County of Adams; and

WHEREAS, this portion of sanitary sewer easement is not necessary for maintaining the City of Westminster's sanitary sewer lines; and

WHEREAS, the vacation is necessary since the sanitary sewer lines constructed within this portion of the easement were recently relocated and no utility lines will be constructed within the subject easement in the future.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. City Council finds and determines that the public convenience and welfare require the vacation of the portion of sanitary sewer easement in Sections 2 and 3 hereof.

Section 2. Legal Description of Utility Easements: See attached legal description for Easement A.

Section 3. This ordinance shall take effect upon its passage after second reading. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 8th day of November, 2004. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 22nd day of November, 2004.

A BILL

FOR AN EMERGENCY ORDINANCE AUTHORIZING THE ISSUANCE OF CITY OF WESTMINSTER, COLORADO, MULTIFAMILY HOUSING REVENUE REFUNDING BONDS (CAMDEN ARBORS APARTMENTS PROJECT), SERIES 2005, IN THE AGGREGATE PRINCIPAL AMOUNT OF \$14,010,000, AND AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN AGREEMENTS IN CONNECTION THEREWITH.

WHEREAS, the City of Westminster, Colorado (the "Issuer"), is authorized by part 1 of article 3 of title 29, Colorado Revised Statutes, as amended (the "Act"), to issue revenue bonds for the purpose of financing or refinancing projects to the end that more adequate residential housing facilities for low- and middle- income families and persons may be provided and to enter into agreements with others for the purpose of providing revenues for and further securing the payment of such bonds; and

WHEREAS, the Issuer has heretofore issued its Multifamily Housing Revenue Refunding Bonds (Oasis Wexford Project), Series 1995, dated November 1, 1995, in the original aggregate principal amount of \$16,235,000 (the "Prior Bonds"); and

WHEREAS, Prior Bonds in the aggregate principal amount of \$14,010,000 remain outstanding; and

WHEREAS, the outstanding Prior Bonds are subject to optional redemption, in whole or in part, on the first day of any month on or after December 1, 2004, at a price equal to 101% of the principal amount of the outstanding Prior Bonds plus accrued interest thereon to the redemption date; and

WHEREAS, ORI Wexford, Inc. (the "Owner") has requested the Issuer to call the outstanding Prior Bonds for redemption and to issue City of Westminster, Colorado, Multifamily Housing Revenue Refunding Bonds (Camden Arbors Apartments Project), Series 2005, in the aggregate principal amount of \$14,010,000 (the "Bonds") for such purpose; and

WHEREAS, the following documents have been submitted to the City Council (the "Council") and filed in the office of the City Clerk (the "Clerk") and are there available for public inspection:

(a) the Financing Agreement, dated as of January 1, 2005 (the "Financing Agreement"), among the Issuer, U.S. Bank, National Association, as trustee (the "Trustee") and the Owner; and

(b) the Indenture of Trust, dated as of January 1, 2005 (the "Indenture"), between the Issuer and the Trustee; and

(c) the Amended and Restated Tax Regulatory Agreement, dated as of January 1, 2005 (the "Tax Regulatory Agreement"), among the Issuer, the Trustee and the Owner; and

(d) the Bond Purchase Agreement, dated as of December 31, 2004 (the "Bond Purchase Agreement") among the Issuer, the Owner and Red Capital Markets, Inc. (the "Underwriter"); and

(e) the Assignment and Intercreditor Agreement, dated as of January 1, 2005 (the "Assignment"), among the Issuer, the Trustee and Fannie Mae; and

(f) the Official Statement (the "Official Statement"), relating to the Bonds; and

WHEREAS, the Council desires to authorize the issuance of the Bonds and to approve the form and authorize the execution and delivery of the aforementioned agreements.

NOW, THEREFORE, THE CITY OF WESTMINSTER ORDAINS:

DEFINITIONS, LEGAL AUTHORIZATION AND FINDINGS

Definitions: The terms used herein, unless the context hereof requires otherwise, shall have the same meanings when used herein as assigned to them in the Indenture unless the context or use thereof indicates another or different meaning or intent.

Legal Authorization: The Issuer is a political subdivision of the State of Colorado and is authorized by the Act to finance or refinance the Project and to issue and sell the Bonds for the purpose, in the manner and upon the terms and conditions set forth in the Act and this Ordinance.

Findings: It is hereby found, determined and declared that:

The Project is a "project," as defined in §29-3-103(10)(d) of the Act, in that it consists of land, buildings or other improvements or real or personal properties, including any undivided or other interest in any of the foregoing, except inventories and raw materials, whether or not in existence, suitable or used for or in connection with residential facilities intended by the owner or intended occupants thereof for use as the sole place of residence of persons and families lacking the financial ability to pay prices on rentals sufficient to induce private enterprise within the boundaries of the Issuer to build a sufficient supply of adequate, safe and sanitary dwellings without the special assistance afforded by the Act. As provided in the Tax Regulatory Agreement, 20% of the units in the Project will be required to be rented to Low or Middle Income Tenants (as defined in the Tax Regulatory Agreement) and the remaining 80% of the units in the Project may be rented without income restrictions.

The refinancing of the Project will promote the public health, welfare, safety, convenience and prosperity by providing more adequate residential housing facilities for low- and middle-income families and persons.

The Financing Agreement constitutes a "financing agreement" with a "user" (the Owner), each as defined in the Act, and requires the Owner to make payments sufficient to pay the principal of and premium, if any, and interest on the Bonds in each year in which any Bonds remain outstanding.

The amount necessary to be paid each year into any reserve funds which the Council deems advisable to establish in connection with the retirement of the Bonds and the maintenance of the Project is provided in the Financing Agreement.

The Financing Agreement provides that the Owner shall maintain the Project and carry all proper insurance with respect thereto.

The Financing Agreement requires that the Owner pay the taxes which the taxing entities specified in Section 29-3-120(3) of the Act are entitled to receive from the Owner with respect to the Project.

BONDS

Issuance and Sale of Bonds; Interest Rates: The Issuer shall issue the Bonds for the purpose, in the form and upon the terms set forth in the Bonds and the Indenture. The Bonds shall be executed as provided in the Indenture. The Bonds shall be subject to redemption as set forth in the Indenture.

The Bonds shall be numbered consecutively from "R-1" upward, shall be issued in such denominations as may be provided in the Indenture and shall be dated as of their date of delivery. Interest on the Bonds shall be payable on the interest payment dates provided in the Indenture. Each Bond shall bear interest until the principal sum thereof has been paid; provided, however, that if Bonds have been called for redemption and funds are available for the payment on the redemption date thereof in full accordance with the terms of the Indenture, the Bonds shall then cease to bear interest.

The Bonds shall mature or become subject to mandatory sinking fund redemption as provided in Section 1.3(c) hereof, and shall bear interest at the rates specified in the Indenture.

The maximum net effective interest rate authorized for the Bonds is 15% per annum. The actual net effective interest rate on the Bonds will be less than the maximum net effective interest rate on the Bonds.

The principal of and interest on the Bonds shall be payable by the Trustee or as may otherwise be provided in the Indenture.

GENERAL COVENANTS

Payment of Principal and Interest: The Issuer shall promptly pay or cause to be paid the principal of and interest on the Bonds on the dates, from the sources and in the manner provided herein, in the Indenture and in the Bonds. The principal and interest shall be payable solely from and secured by and pursuant to the Indenture and Financing Agreement and nothing in the Bonds or in this Ordinance shall be considered as assigning, pledging or otherwise encumbering any other funds or assets of the Issuer.

Performance of and Authority for Covenants: The Issuer shall faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Ordinance, the Financing Agreement, the Indenture, the Tax Regulatory Agreement, the Assignment, the Bonds and all proceedings of the Council pertaining thereto. The Issuer is duly authorized under the Constitution and laws of the State of Colorado, including particularly and without limitation the Act, to issue the Bonds, pledge the revenues and assign the Financing Agreement in the manner and to the extent set forth in this Ordinance, the Financing Agreement, the Assignment and the Indenture. All action on the part of the Issuer for the issuance of the Bonds and for the execution and delivery thereof has been duly and effectively taken, and the Bonds shall be valid and enforceable obligations of the Issuer according to the terms thereof.

Nature of Security: The Bonds shall never constitute the debt or indebtedness or any multiple-fiscal year financial obligation of the Issuer within the meaning of any provision or limitation of the Constitution or statutes of the State of Colorado or Charter of the Issuer and shall not constitute nor give rise to a pecuniary liability of the Issuer or a charge against its general credit or taxing powers. Neither the Issuer nor its agents, officers and employees shall be subject to any personal or pecuniary liability on the Bonds.

MISCELLANEOUS

Facsimile Signatures: Pursuant to the Colorado Uniform Facsimile Signature of Public Officials Act, part 1 of article 55 of title 11, Colorado Revised Statutes, as amended, the Mayor, the Clerk and the Finance Director of the Issuer shall forthwith, but in any event prior to the time the Bonds are delivered to the Underwriter, file with the Colorado Secretary of State their manual signatures, certified by them under oath.

CUSIP Numbers: CUSIP identification numbers may be imprinted on the Bonds, but such numbers shall not constitute a part of the contract evidenced by the Bonds, and no liability shall hereafter attach to the Issuer or any of the officers or agents thereof because of or on account of said numbers. Any error or omission with respect to said numbers shall not constitute cause for refusal by any person to accept delivery of and pay for the Bonds nor shall it affect the validity of such Bonds.

Authorization to Execute Agreements: The forms of the Financing Agreement, the Indenture, the Tax Regulatory Agreement, the Assignment, the Bond Purchase Agreement and the Official Statement are hereby approved in substantially the form presented to the Council, and the Mayor and the Clerk are authorized to execute and deliver the Financing Agreement, the Indenture, the Tax Regulatory Agreement, the Assignment and the Bond Purchase Agreement in the name of and on behalf of the Issuer and to execute and deliver such other documents as the City Attorney considers appropriate in connection with the issuance of the Bonds. In the event of the absence or disability of the Mayor or the Clerk, such officers of the Issuer as may act on their behalf shall without further act or authorization of the Council do all things and execute all agreements and documents required to be done or executed by such absent or disabled officers.

Authority to Correct Errors, Etc.: The Mayor and the Clerk are hereby authorized and directed to make or agree to any alterations, changes or additions in the agreements hereby approved as the City Attorney deems necessary or proper to accomplish the purposes of this Ordinance, the signatures of the Mayor and the Clerk on the instruments to be conclusive evidence of such approval; provided, however, no alteration, change or addition shall be made which shall alter the maximum net effective interest rate, maturities, interest rates or manner of execution of the Bonds or which shall increase the aggregate principal amount of the Bonds authorized by the Council or in any way give rise to a pecuniary liability of the Issuer or a charge against its general credit or taxing powers with respect to the Bonds.

Further Authority: The Mayor and the Clerk and other proper officials of the Issuer are hereby authorized to execute and deliver for and on behalf of the Issuer any and all additional certificates, documents and other papers and to perform all other acts they may deem necessary or appropriate in order to implement and carry out the matters herein authorized.

Emergency: Due to the need for prompt delivery of the Bonds to the Underwriter, an emergency exists which requires the immediate passage of this Ordinance as an emergency measure, and this Ordinance is immediately necessary for the preservation of the public peace, health or safety. This Ordinance shall therefore be exempt from referendum.

Ordinance Irrepealable: After the Bonds are issued this Ordinance shall be and remain irrepealable until the Bonds have been fully paid, satisfied or discharged.

Ratification: All action not inconsistent with the provisions of this Ordinance heretofore taken by the Issuer or its officers and directed toward the issuance of the Bonds and the execution and delivery of the agreements approved hereby is hereby ratified, approved and confirmed.

Repealer: All ordinances, resolutions, bylaws, orders and other instruments, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance, resolution, bylaw, order or other instrument, or part thereof, heretofore repealed.

Severability: If any provision of this Ordinance, except Section 3.3 hereof, shall be held or deemed to be, or shall, in fact, be, inoperative or unenforceable as applied in any particular case in any jurisdictions or in all cases because it conflicts with any provisions of any constitution or statute or rule or public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever. The invalidity of any one or more phrases, sentences, clauses or paragraphs in this Ordinance, except Section 3.3 hereof, shall not affect the remaining portions of this Ordinance or any part hereof.

Recording and Authentication: This Ordinance, as adopted by the Council, shall be numbered and recorded, and the adoption and publication shall be authenticated by the signatures of the Mayor and the Clerk and by the affidavit of the publisher, respectively.

PASSED AND ADOPTED AS AN EMERGENCY MEASURE this 22nd day of November, 2004.