



## CITY COUNCIL AGENDA

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

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

1. Pledge of Allegiance
2. Roll Call
3. Consideration of Minutes of Preceding Meetings
4. Report of City Officials
  - A. City Manager's Report
5. City Council Comments
6. Presentations
7. Citizen Communication (5 minutes or less)

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

8. Consent Agenda
  - A. Financial Report for October 2010
  - B. Special Real Estate Legal Counsel
  - C. Second City Council Meeting in December
  - D. 2010 PVC Water Pipe Purchase
  - E. Little Dry Creek Dog Park Contract
  - F. Osceola & Perry Project Contract Change Orders
  - G. Meadowlark and Transit Oriented Development Waterline Construction and Design Contracts
  - H. Colorado Safe Routes to School Funding Grant Application
  - I. 72<sup>nd</sup> Avenue/Little Dry Creek Bridge Funding Grant Application
  - J. 2011 Department of Homeland Security Regional Grant Application
  - K. 2011 Proposed Community Development Block Grant and HOME Projects
  - L. Wildlife and Natural Resource Management Plan for Open Space Properties
  - M. Second Reading of Councillor's Bill No. 59 re WMC Sect. 11-4-11 re Use of City Property by Telecomm Companies
9. Appointments and Resignations
  - A. Resolution No. 41 re Appointing Alternates to Fill Vacancies on Boards and Commissions
10. Public Hearings and Other New Business
  - A. Resolution No. 42 re 2011 Jefferson County Grant Application for Kings Mill and Westbrook Park Renovations
  - B. Councillor's Bill No. 60 re 2010 3<sup>rd</sup> Quarter Budget Supplemental Appropriation
  - C. Councillor's Bill No. 61 re 2010 Refunding Certificates of Participation Budget Appropriation – Ice Centre Project
  - D. Councillor's Bill No. 62 re Proposed Economic Development Agreement with LGS Innovations
  - E. Councillor's Bill No. 63 re Proposed Economic Development Agreement with The Bedrin Organizaiton for Murdochs
  - F. Councillor's Bill No. 64 re Amend WMC Title V and Title XI re Rental Property Fees and Licensing Program
11. Old Business and Passage of Ordinances on Second Reading
12. Citizen Presentations (longer than 5 minutes), Miscellaneous Business, and Executive Session
  - A. City Council
13. Adjournment

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

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

CITY OF WESTMINSTER, COLORADO  
MINUTES OF THE CITY COUNCIL MEETING  
HELD ON MONDAY, NOVEMBER 8, 2010 AT 7:00 P.M.

PLEDGE OF ALLEGIANCE

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

ROLL CALL

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

CONSIDERATION OF MINUTES

Councillor Major moved, seconded by Councillor Kaiser, to approve the minutes of the regular meeting of October 25, 2010, as written. The motion passed unanimously.

CITY MANAGER'S REPORT

Mr. McFall reported that City Hall would be closed in observance of Thanksgiving on November 25.

Following tonight's meeting Council would convene in executive session to discuss strategy and progress on potential acquisition of certain real property by the Westminster Economic Development Authority pursuant to §24-6-402(4)(a) and (e).

COUNCIL REPORTS

Mayor Pro Tem Dittman congratulated Parks and Recreation staff for organizing and hosting an outstanding Halloween Carnival.

Councillor Major reported having participated with over 70 volunteers in removing Russian olive trees from open space along Big Dry Creek near 128<sup>th</sup> Avenue. He thanked REI for a grant that helped purchase indigenous trees to plant where invasive trees were removed.

Councillor Kaiser extended kudos to the Fire Department for prompt response to a situation over the weekend that avoided a catastrophe.

Councillor Briggs announced that the first event leading off the City's 100<sup>th</sup> Anniversary celebration was around three weeks away, as the book of the First 100 Years would be off the press and ready for purchase. The books could be purchased and autographed by one or several of the 100 history makers who would be honored at a December 16 reception being held at the City Park Recreation Center.

Mayor McNally also commended Parks and Recreation staff for the Halloween Carnival. Further, she reported that the American Legion had hosted a celebration for veterans on Saturday. She used the opportunity to make those in attendance aware of the bricks at the Armed Forces Tribute Garden that could be purchased to honor veterans.

EMPLOYEE SERVICE AWARDS

Mayor McNally presented certificates, pins and stipends to David Puntteney and Bob Maxeiner for 25 years of service to the City. Councillor Kaiser presented certificates and pins to Dave Downing and Jo Meissner for 30 years of service to the City.

PROCLAMATION

Mayor McNally presented proclamations to Dana Rinderknecht of Community First Foundation and Bob Deuschle of FirstBank for Colorado Gives Day on December 8. Colorado Gives Day would provide a 24-hour window to

“Give Where You Live” online with GivingFirst.org. The goal was to raise \$1 million in one day for Colorado nonprofits, and the Mayor urged citizens to give to their favorite local charity.

### CONSENT AGENDA

The following items were submitted for Council’s consideration on the consent agenda: increase the City’s 2011 Sewer Tap Fees by \$290 on January 1, 2011 to reflect a planned 2011 sewer tap fee increase by the Metro Wastewater Reclamation District; authorize Staff to increase park pavilion reservation fees for 2011 and approve changes to the scheduling of park pavilion reservations; authorize the City Manager to purchase waterworks materials in the amount of \$120,458 from Dana Kepner, the low bidder, and in the amount of \$65,477 from Mountain States Pipe and Supply, the low bidder, for a total cost of \$185,935; based on the City Manager’s recommendation, find that the public interest would best be served by authorizing the City Manager to proceed with the purchase of replacement water quality process instrumentation from the Hach Company in an amount not to exceed \$108,000; based on the City Manager’s recommendation, find that the public interest would be best served by authorizing the City Manager to execute a sole source purchase with Municipal Treatment Equipment, Inc. for the purchase of sixty-six valve controllers and ninety-two valves with a scheduled partial delivery date in 2011 in the amount of \$221,906 and the final delivery in 2012 in the amount of \$224,962 for a total expenditure of \$446,868 to replace aging equipment at the Semper Water Treatment Facility; find that the Western States Contracting Alliance pricing satisfied City Charter bidding requirements and authorize Staff to proceed with 2010 calendar year purchases of network switches, transceivers, maintenance and consulting through 24/7 Networks, Incorporated in an amount not to exceed \$105,000; based on the City Manager’s recommendation, find that the public interest would be best served by awarding a contract to the firm of BKD, LLP for independent, professional auditing services for the City’s annual financial audit for the fiscal year 2010 with an option to renew for four years, subject to annual appropriation; authorize the City Manager to enter into a \$135,205 contract with National Coatings, Inc., the low bidder, for painting services at the Semper Water Treatment Facility and authorize a 15% contingency in the amount of \$20,280 for a total budget of \$155,485; approve the Stipulation and Plan for exclusion of recently annexed territory from the North Metro Fire Rescue District; and final passage on second reading of Councillor’s Bill No. 58 to appropriate funds granted by the State Historical Fund in the amount of \$71,033 for the City’s stabilization of the Shoenberg Farm concrete silo.

Councillor Major moved, seconded by Councillor Lindsey, to approve all items on the consent agenda except Item 8C. The motion carried.

### 2010 CONSTRUCTION CREW UTILITY MATERIALS PURCHASE (AGENDA ITEM 8C)

It was moved by Councillor Major, seconded by Mayor Pro Tem Dittman, to authorize the City Manager to purchase waterworks materials in the amount of \$120,458 from Dana Kepner, the low bidder, and in the amount of \$65,477 from Mountain States Pipe and Supply, the low bidder, for a total cost of \$185,935. The motion passed by a 6:1 margin with Councillor Kaiser abstaining based on a potential conflict of interest.

### RESOLUTION NO. 38 EXCLUDING CERTAIN PROPERTIES FROM NORTH METRO FIRE DISTRICT

Upon a motion by Mayor Pro Tem Dittman, seconded by Councillor Lindsey, the Council voted unanimously on roll call vote to adopt Resolution No. 38 approving the exclusion of recently annexed properties from the North Metro Fire Rescue District.

### RESOLUTION NO. 39 ADOPTING THE CITY’S 2011 LEGISLATIVE POLICY STATEMENT

Councillor Briggs moved to adopt Resolution No. 39 approving the City’s 2011 Legislative Policy Statement. Councillor Major seconded the motion, and it passed unanimously at roll call.

RESOLUTION NO. 40 ADOPTING THE CITY'S 2010 NATURAL HAZARDS MITIGATION PLAN

It was moved by Councillor Winter and seconded by Councillor Kaiser to adopted Resolution No. 40 approving the City of Westminster 2010 Natural Hazards Mitigation Plan. On roll call vote, the motion passed unanimously.

COUNCILLOR'S BILL NO. 59 AMENDING TELECOMMUNICATION COMPANIES CITY PROPERTY USE

Mayor Pro Tem Dittman moved to pass on first reading Councillor's Bill No. 59 amending Westminster Municipal Code Section 11-4-11 to separate the process for reviewing the use of private property for telecommunication uses from the process for reviewing the use of City-owned property and facilities by private telecommunication companies, and authorizing the City Manager to charge such fees as the City Manager might deem reasonable for the processing and review of the latter requests, including any consulting fees that the City might incur. The motion was seconded by Councillor Kaiser and passed unanimously.

LEGAL SERVICES FOR TELECOMMUNICATION COMPANIES CITY PROPERTY USE REQUESTS

It was moved by Mayor Pro Tem Dittman and seconded by Councillor Kaiser to authorize the City Manager to execute an agreement with the law firm of Kissinger and Fellman, in substantially the same form as distributed with the agenda packet, for consulting and negotiating services related to the review of requests by private telecommunication companies to use public property and facilities for telecommunication purposes. The motion carried with all Council members voting affirmatively.

PROCESS TO REVIEW TELECOMMUNICATION COMPANIES USE OF CITY PROPERTY/FACILITIES

Upon a motion by Mayor Pro Tem Dittman, seconded by Councillor Kaiser, the Council voted unanimously to direct the City Manager and Staff to implement the process described in the agenda memo (Item 10 D-F) for the processing and review of requests for the use of public property and facilities by private telecommunication companies and to modify and supplement such procedures as the City Manager may, in the future, deem necessary.

ADJOURNMENT

There being no further business to come before the City Council, it was moved by Dittman and seconded by Major to adjourn. The motion carried and the meeting adjourned at 7:29 p.m.

ATTEST:

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City Clerk

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Mayor



WESTMINSTER  
COLORADO

Agenda Memorandum

City Council Meeting  
November 22, 2010



**SUBJECT:** Financial Report for October 2010  
**Prepared By:** Tammy Hitchens, Finance Director

**Recommended City Council Action**

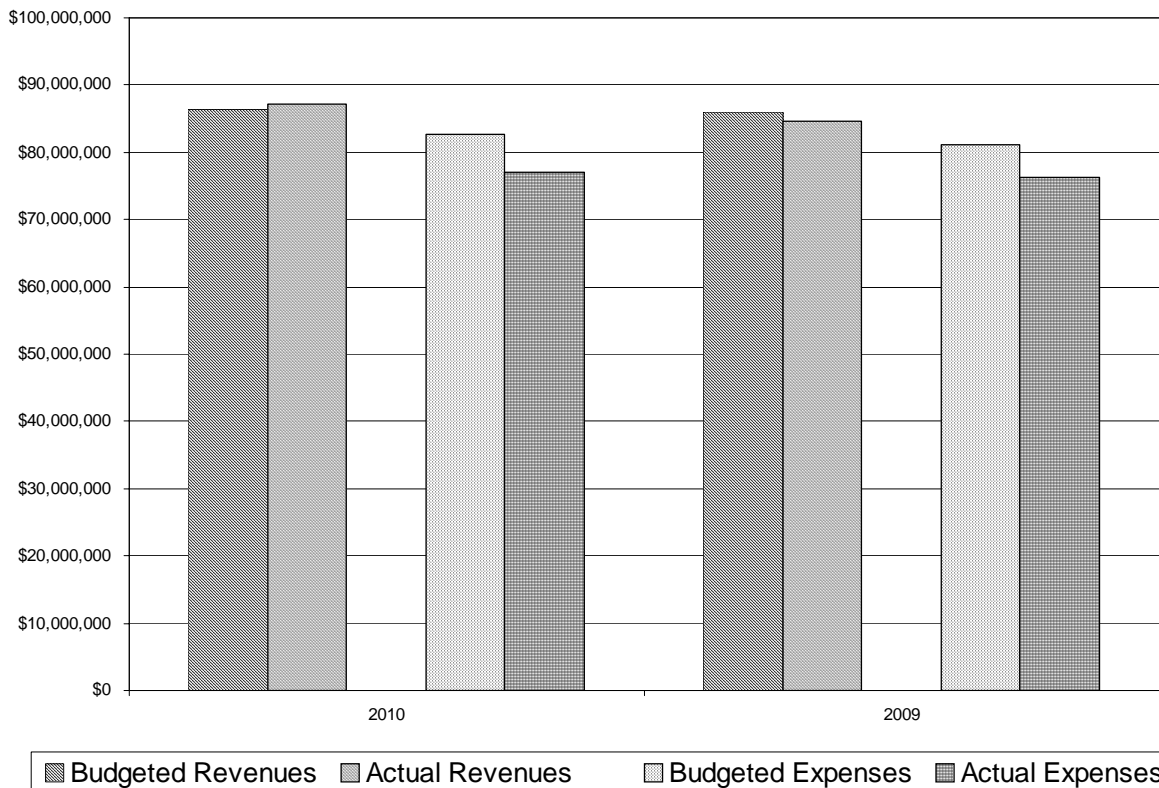
Accept the Financial Report for October as presented.

**Summary Statement**

City Council is requested to review and accept the attached monthly financial statement. The Shopping Center Report is also attached. Unless otherwise indicated, “budget” refers to the pro-rated budget. Revenues also include carryover where applicable. The revenues are pro-rated based on 10-year historical averages. Expenses are also pro-rated based on 9-year historical averages.

The General Fund revenues exceed expenditures by \$10,119,086. The following graph represents Budget vs. Actual for 2009-2010.

**General Fund  
Budget vs Actual**

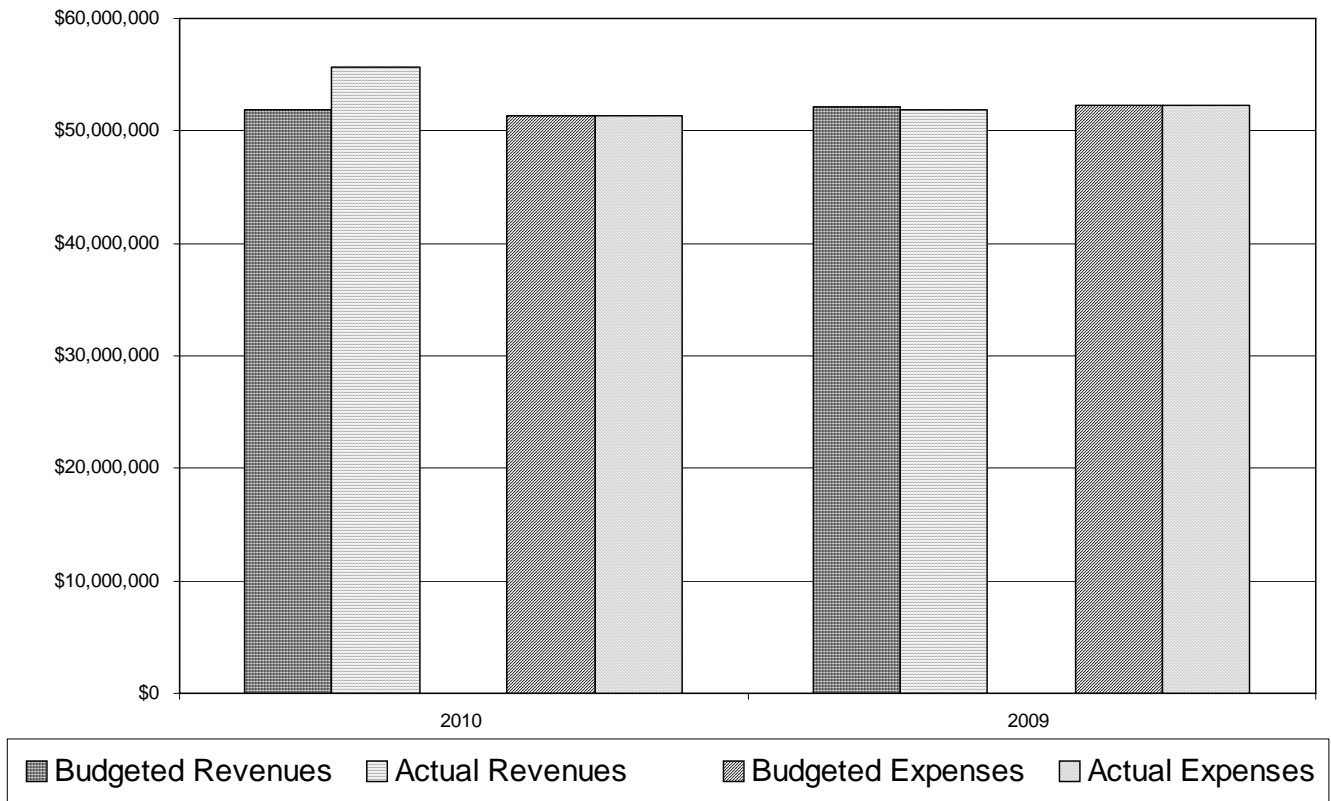


2010 actual revenue and expenditures do not reflect the refunding of the 2001 Certificates of Participation in the amount of \$13.5 million. The budget appropriation for the refunding will be reflected in November.

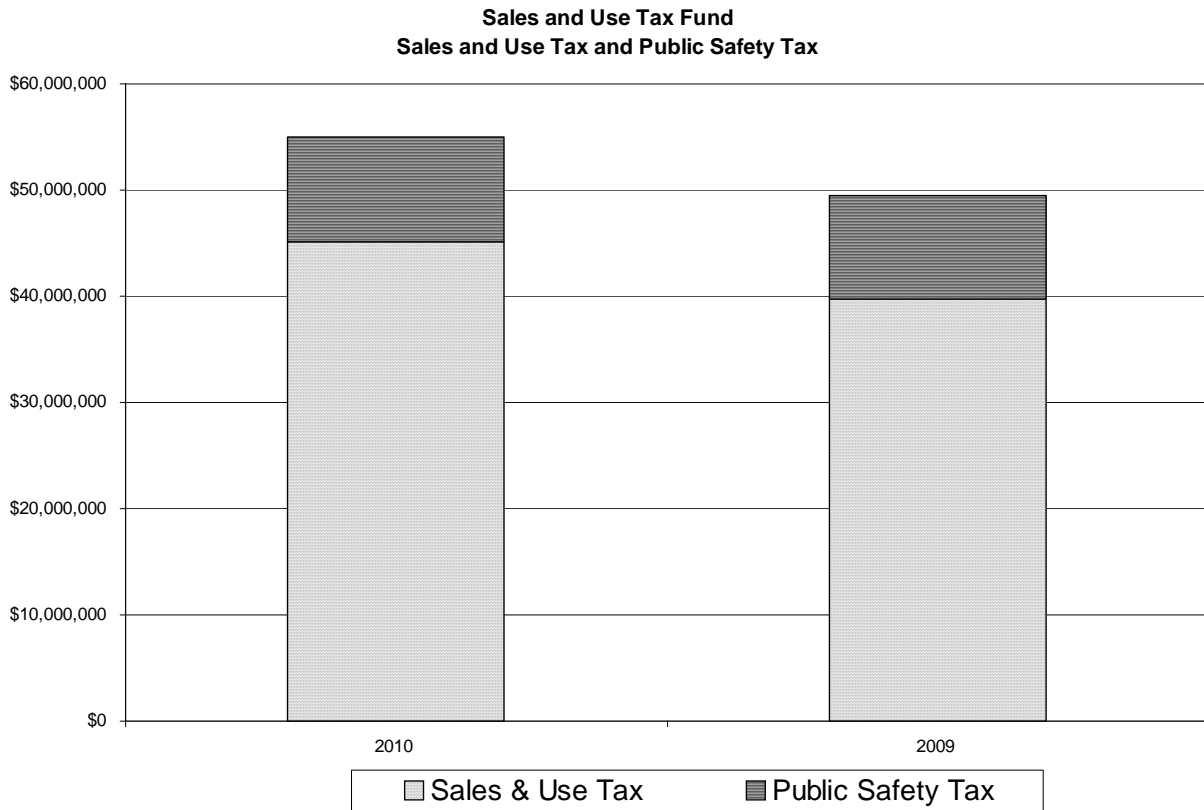
The Sales and Use Tax Fund revenues and carryover exceed expenditures by \$4,344,182.

- On a year-to-date cash basis, sales and use tax returns are up 10.1% from 2009.
- On a year-to-date basis, across the top 25 shopping centers before including urban renewal area adjustments, total sales and use tax receipts are down 1.5% from the prior year. With the urban renewal area adjustments, sales and use tax receipts are up 11.5%.
- Sales and use tax receipts from the top 50 Sales Taxpayers, representing about 62% of all collections, are up 11.0% after urban renewal area adjustments.
- Urban renewal areas make up 42.1% of gross sales tax collections. After urban renewal area and economic development assistance adjustments, 16.2% of this money is available for General Fund use.
- The Westminster Mall is down 33.0% on a year-to-date basis.
- Building use tax is up 31.4% year-to-date from 2009.
- Audit and Enforcement revenue includes one large audit of \$1.7 million.

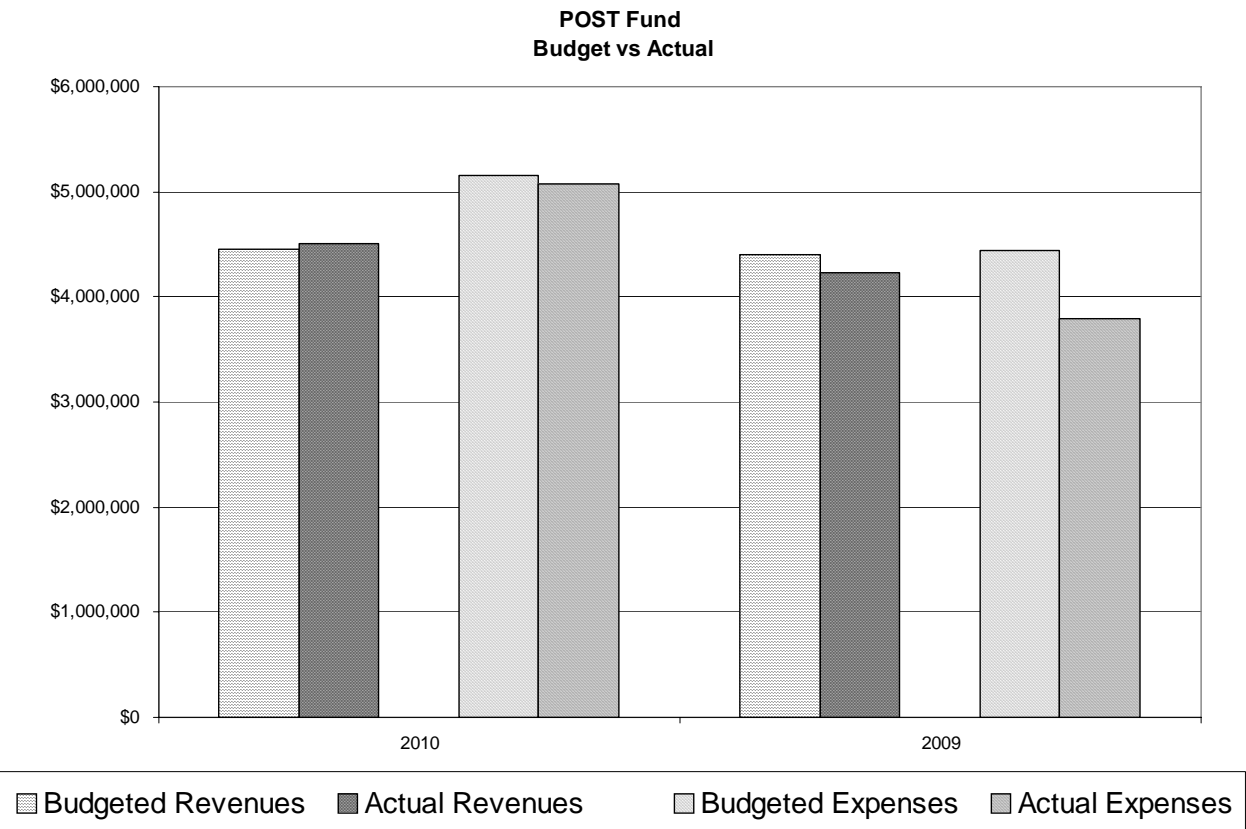
**Sales & Use Tax Fund  
Budget vs Actual**



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



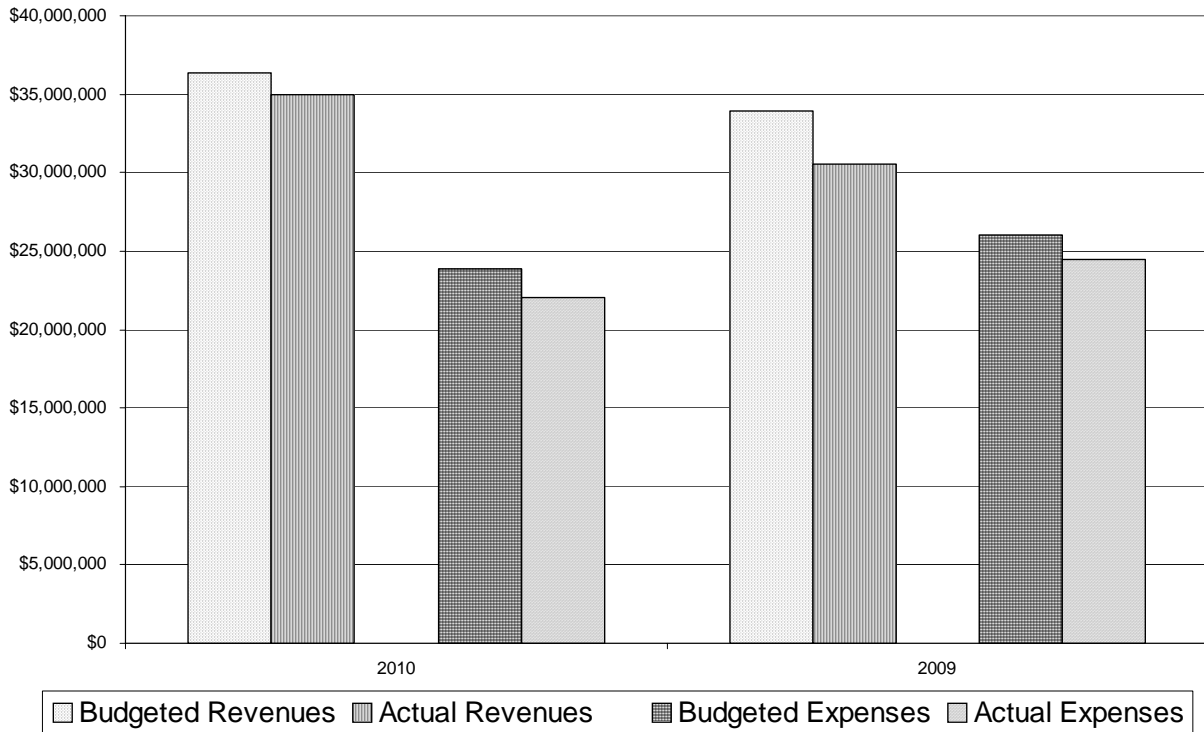
The Parks Open Space and Trails Fund expenditures exceed revenues by \$571,917.





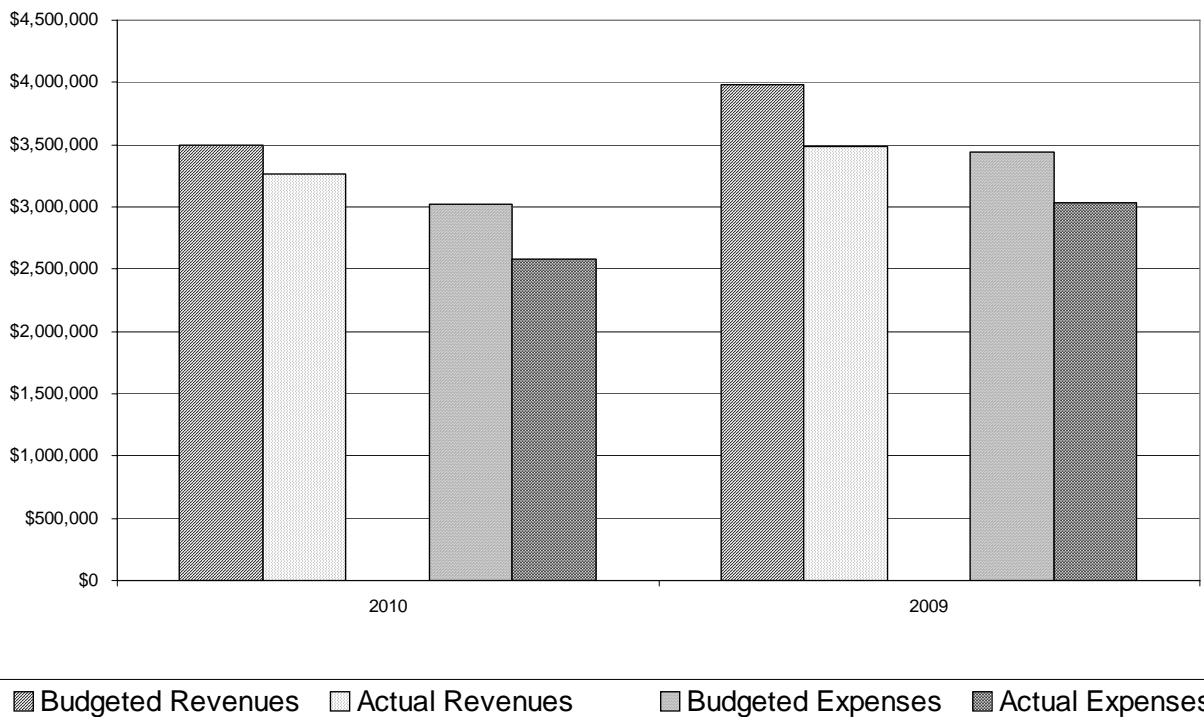
The combined Water & Wastewater Fund revenues exceed expenses by \$34,823,697 which includes \$29,505,000 in revenue bond proceeds. Operating revenues exceed expenses by \$12,914,885. \$29,581,232 is budgeted for capital projects and reserves.

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



The combined Golf Course Fund revenues exceed expenses by \$544,761.

**Golf Course Enterprise  
Operating Budget vs Actual**



**Policy Issue**

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

**Alternative**

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

**Background Information**

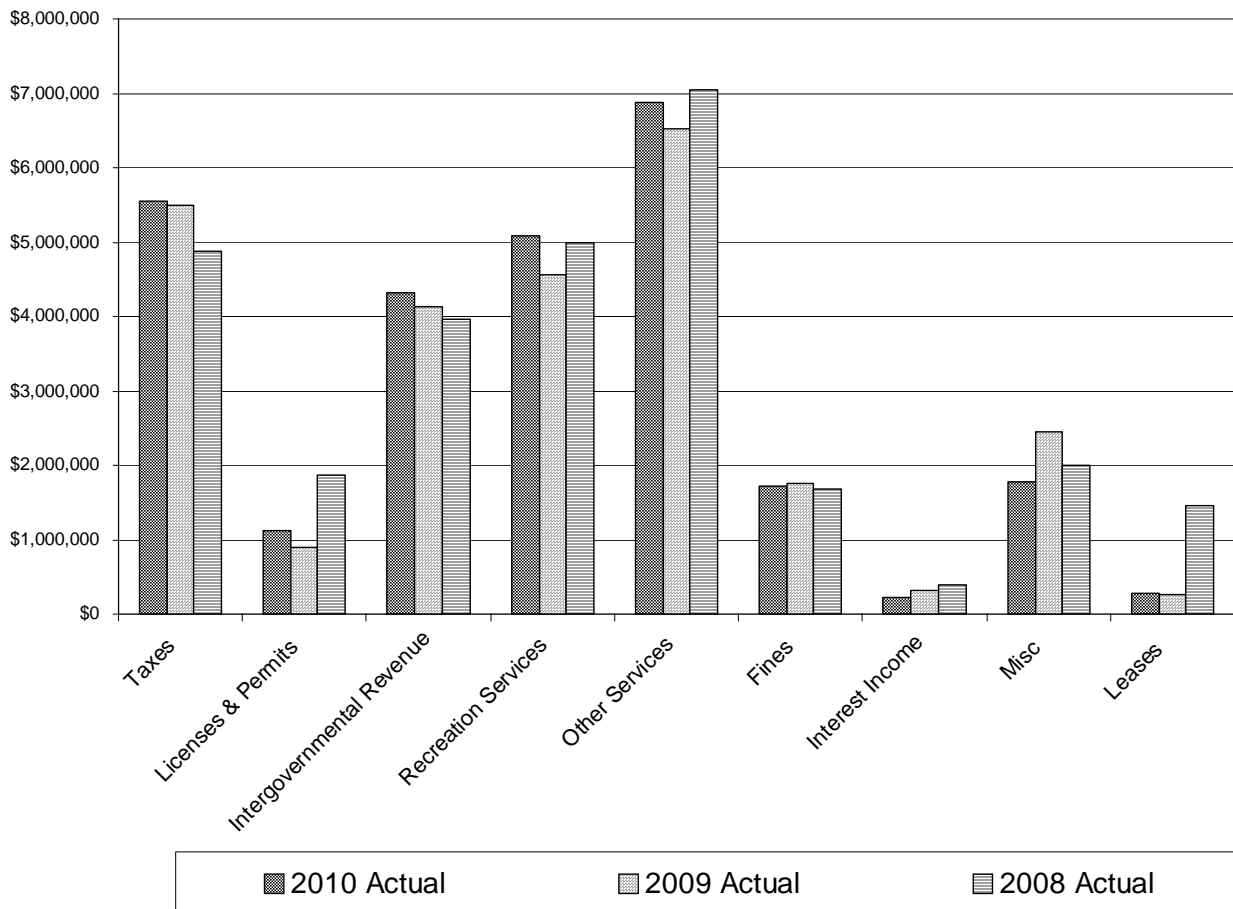
This section includes a discussion of highlights of each fund presented.

**General Fund**

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

The following chart represents the trend in actual revenues from 2008 – 2010 year-to-date.

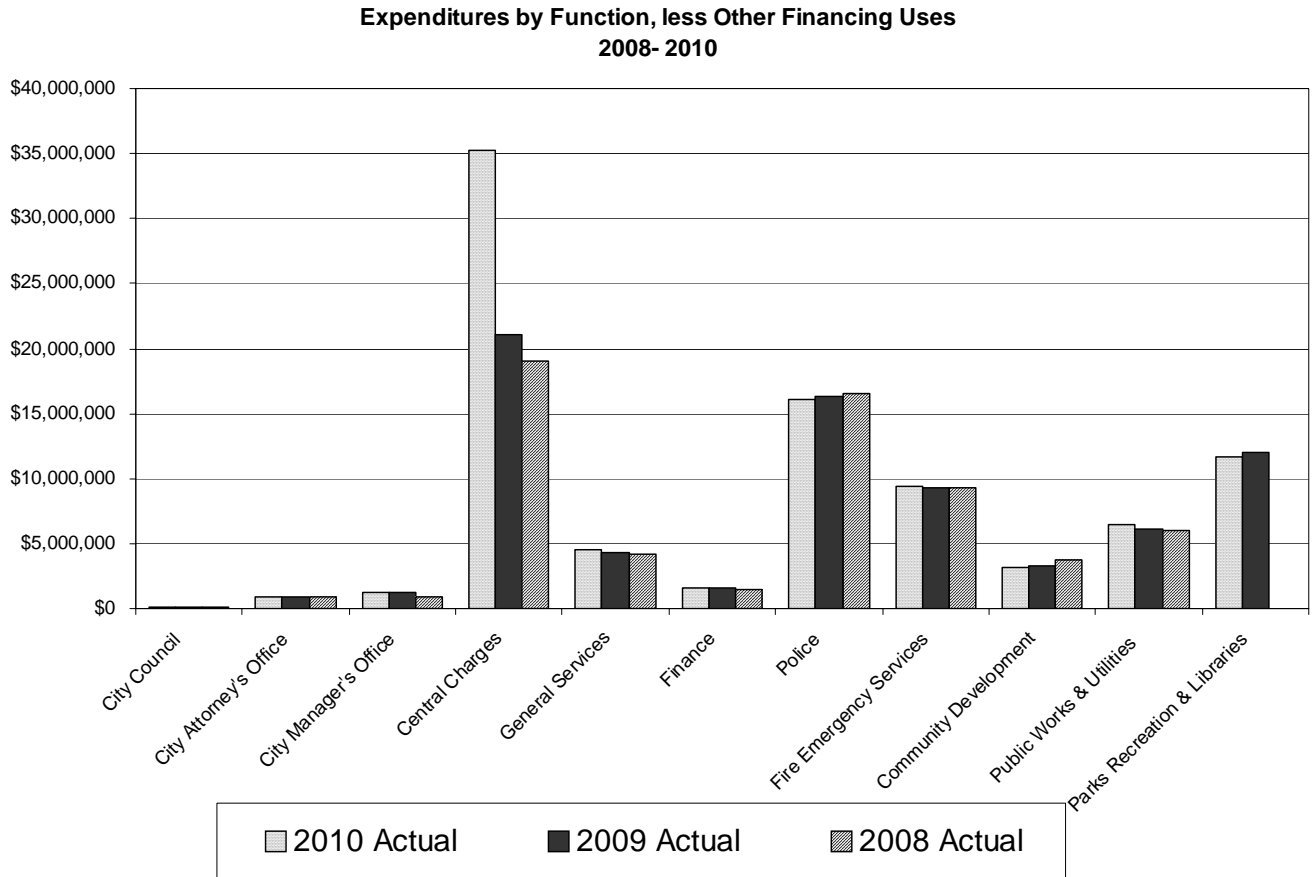
**General Fund Revenues without Transfers, Carryover, and Other Financing Sources  
2008-2010**



Significant differences between years in General Fund revenue categories are explained as follows:

- Recreation Services is up due mostly to facility pass and admission fees.
- Other Services is up due mostly to franchise, emergency management service and street cut fees.
- Miscellaneous revenue is down mostly as a result of variances in reimbursements from the prior year.

The following chart identifies where the City is focusing its resources. The chart shows year-to-date spending for 2008 –2010.



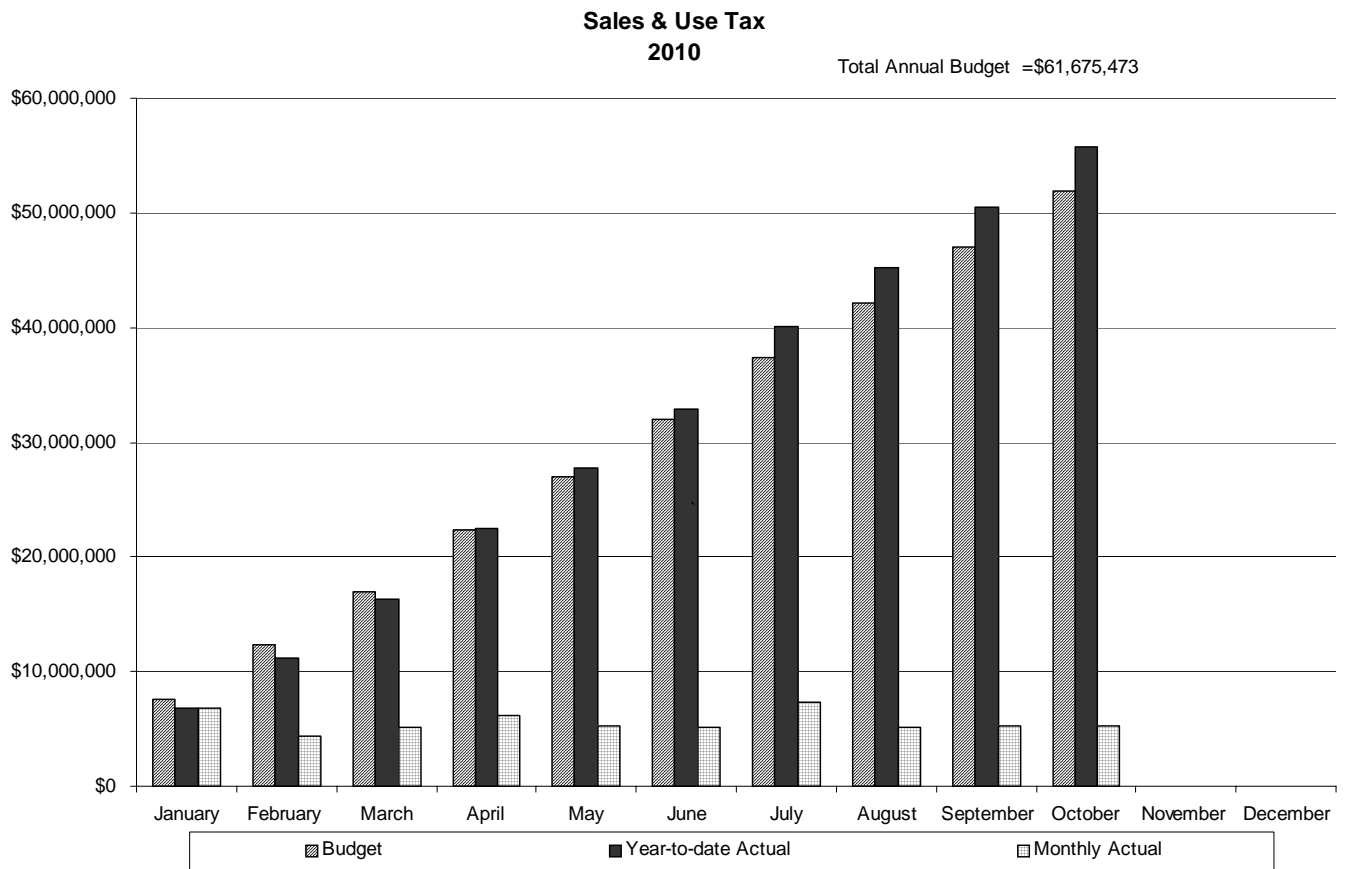
Significant differences between years in General Fund expenditure categories are explained as follows:

- Central Charges expenditures is up due to an increase in equipment rental capital replacement fees, transfers of energy audit lease proceeds to the General Capital Improvement Fund, and a refinancing of 2001 Certificates of Participation in the amount of \$13.1 million.

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

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

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

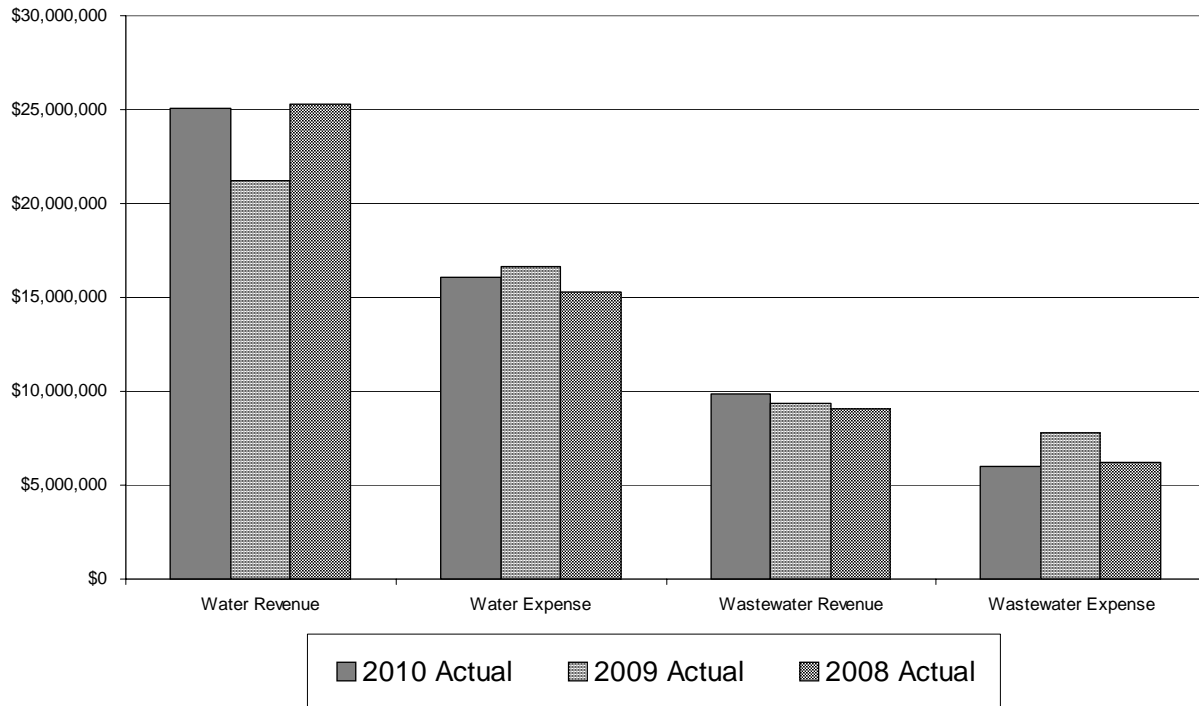


**Water, Wastewater and Storm Water Drainage Funds (The Utility Enterprise)**

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

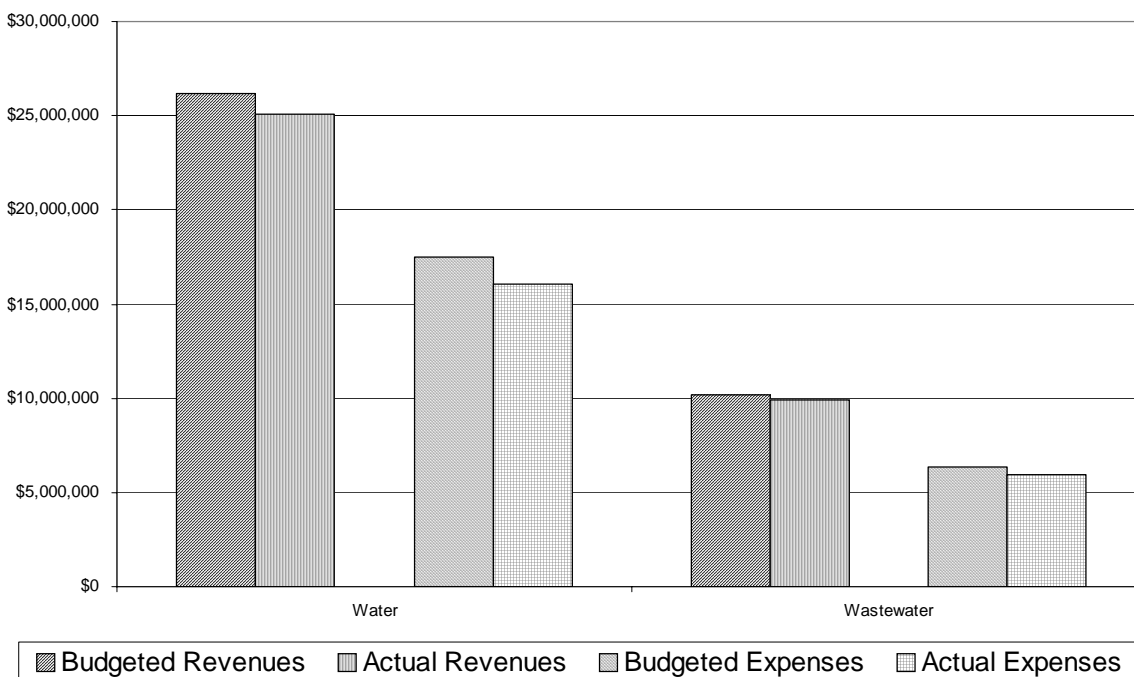
These graphs represent the segment information for the Water and Wastewater funds.

**Water and Wastewater Funds  
Operating Revenue and Expenses 2008-2010**



The water revenue annual variance is due to the effect of climatic variations on water consumption, billing rates, and an intergovernmental sale of effluent water. A one-time payment to decommission the 94<sup>th</sup> and Quitman lift station is reflected in the 2009 Wastewater Fund expense.

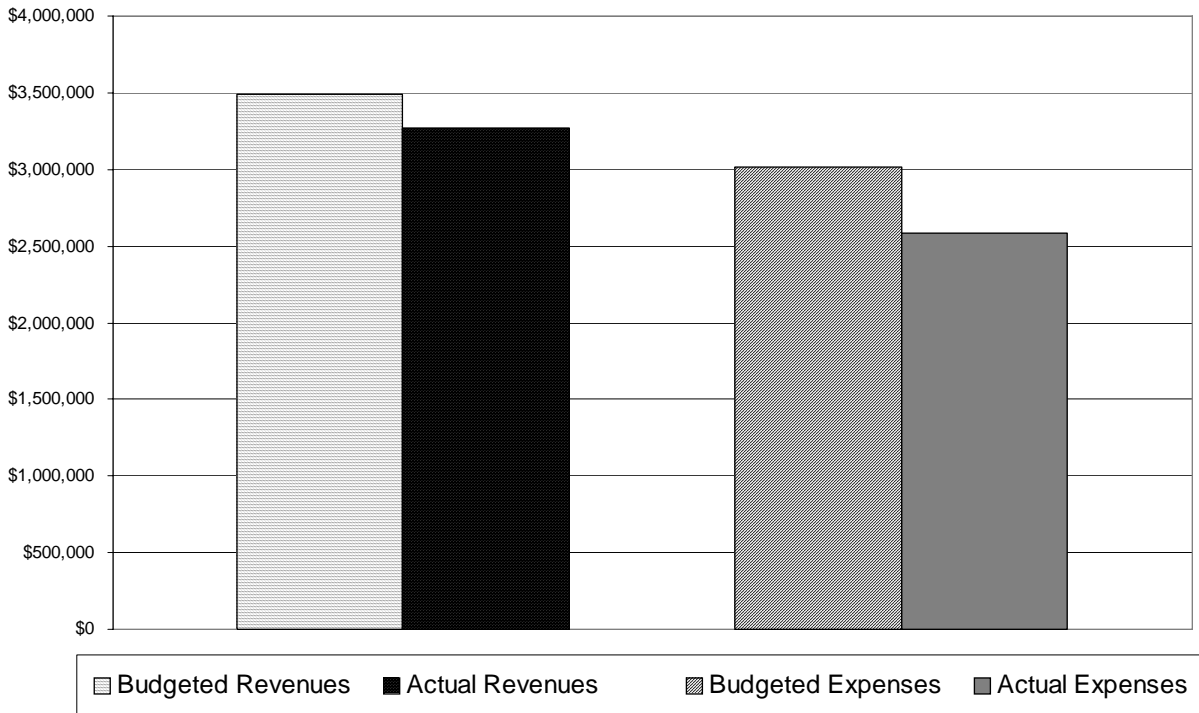
**Water and Wastewater Funds  
2010 Operating Budget vs Actual**



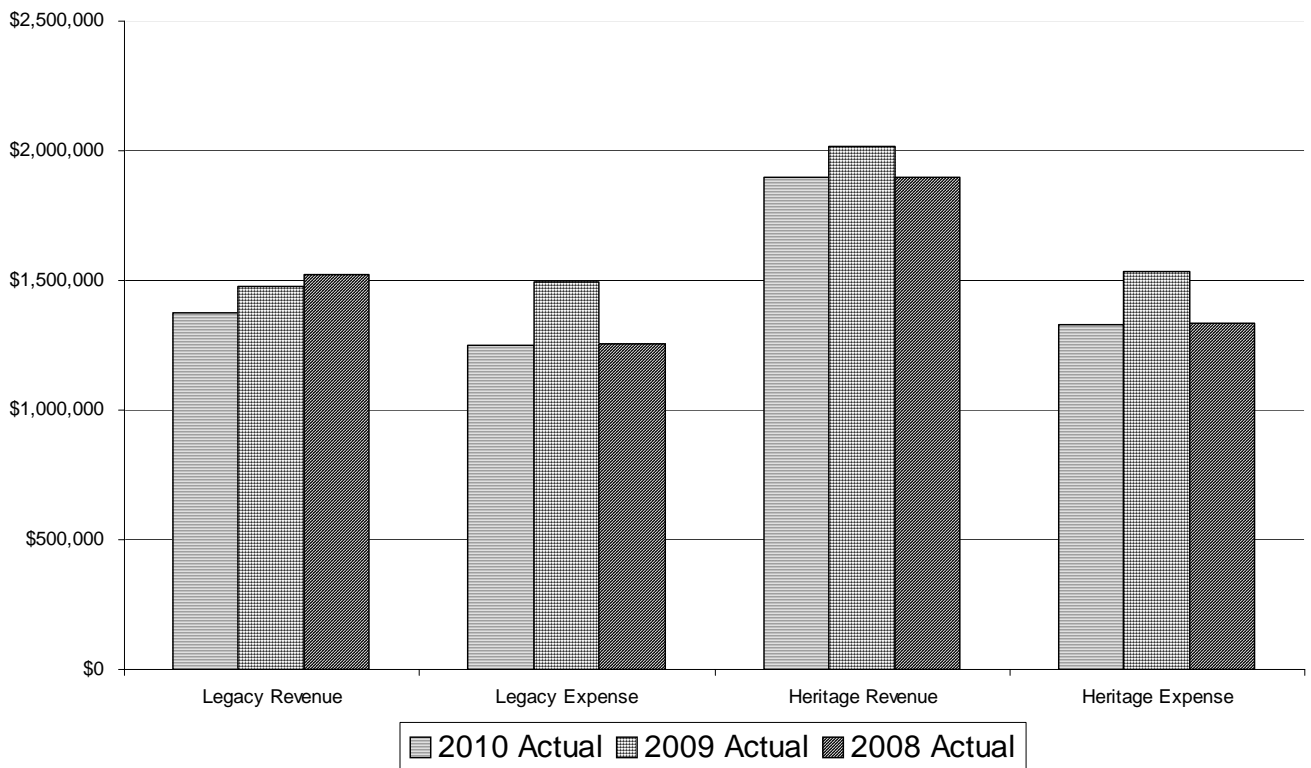
**Golf Course Enterprise (Legacy and Heritage Golf Courses)**

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

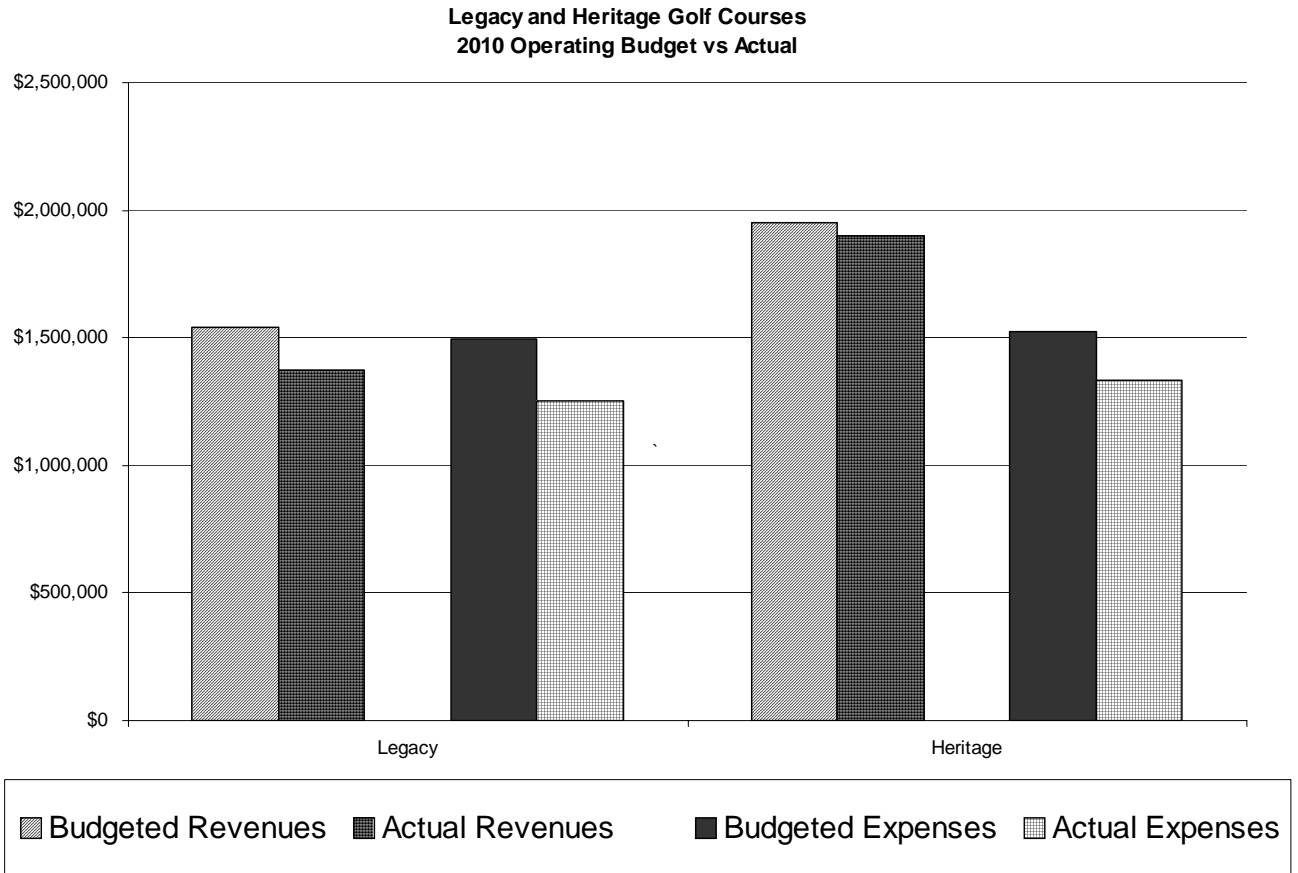
**Combined Golf Courses  
2010 Operating Budget vs Actual**



**Legacy and Heritage Golf Courses  
Operating Revenue and Expenses 2008-2010**



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



Respectfully submitted,

J. Brent McFall  
City Manager

Attachments

**City of Westminster  
Financial Report  
For Ten Months Ending October 31, 2010**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
<b>General Fund</b>						
<b>Revenues</b>						
Taxes	5,678,400	5,484,799		5,544,076	59,277	101.1%
Licenses & Permits	1,371,178	1,159,204		1,119,220	(39,984)	96.6%
Intergovernmental Revenue	5,278,812	4,094,218		4,326,931	232,713	105.7%
Charges for Services						
Recreation Services	6,219,206	4,910,217		5,087,753	177,536	103.6%
Other Services	8,760,147	6,712,272		6,884,969	172,697	102.6%
Fines	2,262,105	1,921,788		1,715,533	(206,255)	89.3%
Interest Income	425,000	301,245		227,275	(73,970)	75.4%
Misc	1,625,161	1,335,127		1,778,037	442,910	133.2%
Leases	328,023	288,701		288,701	0	100.0%
Interfund Transfers	64,517,612	53,764,677		53,764,677	0	100.0%
Other Financing Sources	2,579,386	2,575,190	(1)	16,111,832	13,536,642	625.7%
Sub-total Revenues	<u>99,045,030</u>	<u>82,547,438</u>		<u>96,849,004</u>	<u>14,301,566</u>	<u>117.3%</u>
Carryover	3,817,820	3,817,820		3,817,820	0	100.0%
Revenues	<u>102,862,850</u>	<u>86,365,258</u>		<u>100,666,824</u>	<u>14,301,566</u>	<u>116.6%</u>
<b>Expenditures</b>						
City Council	222,312	182,408		160,309	(22,099)	87.9%
City Attorney's Office	1,156,960	968,949		906,674	(62,275)	93.6%
City Manager's Office	1,611,334	1,338,854		1,192,345	(146,509)	89.1%
Central Charges	31,499,443	22,338,051	(1)	35,246,792	12,908,741	157.8%
General Services	5,937,816	4,824,612		4,504,998	(319,614)	93.4%
Finance	2,037,876	1,709,823		1,574,814	(135,009)	92.1%
Police	20,869,814	17,664,423		16,132,361	(1,532,062)	91.3%
Fire Emergency Services	11,876,889	9,948,724		9,425,917	(522,807)	94.7%
Community Development	4,302,220	3,584,519		3,195,491	(389,028)	89.1%
Public Works & Utilities	7,798,534	6,509,057		6,481,719	(27,338)	99.6%
Parks, Recreation & Libraries	15,549,652	13,581,570		11,726,318	(1,855,252)	86.3%
Total Expenditures	<u>102,862,850</u>	<u>82,650,990</u>		<u>90,547,738</u>	<u>7,896,748</u>	<u>109.6%</u>
Revenues Over(Under)						
Expenditures	<u>0</u>	<u>3,714,268</u>		<u>10,119,086</u>	<u>6,404,818</u>	

(1) Other Financing Source revenue and Central Charges expenditures reflects the refunding of the 2001 Certificates of Participation at \$13.5 million. The budget appropriation for the refunding will be reflected in November.



**City of Westminster  
Financial Report  
For Ten Months Ending October 31, 2010**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
<b>Sales and Use Tax Fund</b>						
<b>Revenues and Carryover</b>						
Sales Tax						
Sales Tax Returns	40,321,375	34,112,858		35,943,868	1,831,010	105.4%
Sales Tx Audit Revenues	711,876	605,197		2,040,049	1,434,852	337.1%
S-T Rev. STX	<u>41,033,251</u>	<u>34,718,055</u>		<u>37,983,917</u>	<u>3,265,862</u>	109.4%
Use Tax						
Use Tax Returns	7,010,205	5,677,787		5,895,997	218,210	103.8%
Use Tax Audit Revenues	785,000	687,660		1,220,632	532,972	177.5%
S-T Rev. UTX	<u>7,795,205</u>	<u>6,365,447</u>		<u>7,116,629</u>	<u>751,182</u>	111.8%
Total STX and UTX	<u><u>48,828,456</u></u>	<u><u>41,083,502</u></u>		<u><u>45,100,546</u></u>	<u><u>4,017,044</u></u>	109.8%
Public Safety Tax						
PST Tax Returns	11,616,517	9,717,724		9,395,172	(322,552)	96.7%
PST Audit Revenues	315,500	242,868		477,624	234,756	196.7%
Total Rev. PST	<u>11,932,017</u>	<u>9,960,592</u>		<u>9,872,796</u>	<u>(87,796)</u>	99.1%
Total Interest Income	235,000	195,833		87,068	(108,765)	44.5%
Carryover	680,000	680,000		680,000	0	100.0%
Total Revenues and Carryover	<u>61,675,473</u>	<u>51,919,927</u>		<u>55,740,410</u>	<u>3,820,483</u>	107.4%
<b>Expenditures</b>						
Central Charges	<u>61,675,473</u>	<u>51,396,228</u>		<u>51,396,228</u>	0	100.0%
Revenues and Carryover Over(Under) Expenditures	<u>0</u>	<u>523,699</u>		<u>4,344,182</u>	<u>3,820,483</u>	

**City of Westminster  
Financial Report  
For Ten Months Ending October 31, 2010**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
<b>POST Fund</b>						
<b>Revenues</b>						
Sales & Use Tax	4,865,857	4,080,648		4,185,200	104,552	102.6%
Intergovernmental Revenue	2,770,900	0		0	0	
Interest Income	55,000	45,833		58,233	12,400	127.1%
Miscellaneous	83,977	76,979		6,376	(70,603)	8.3%
Interfund Transfers	371,622	162,622		162,622	0	100.0%
Sub-total Revenues	<u>8,147,356</u>	<u>4,366,082</u>		<u>4,412,431</u>	<u>46,349</u>	<u>101.1%</u>
Carryover	93,478	93,478		93,478	0	100.0%
Total Revenues	<u>8,240,834</u>	<u>4,459,560</u>		<u>4,505,909</u>	<u>46,349</u>	<u>101.0%</u>
<b>Expenditures</b>						
Central Charges	7,891,646	4,898,165		4,920,401	22,236	100.5%
Park Services	349,188	261,767		157,425	(104,342)	60.1%
	<u>8,240,834</u>	<u>5,159,932</u>		<u>5,077,826</u>	<u>(82,106)</u>	<u>98.4%</u>
Over(Under) Expenditures	<u>0</u>	<u>(700,372)</u>		<u>(571,917)</u>	<u>128,455</u>	

**City of Westminster  
Financial Report  
For Ten Months Ending October 31, 2010**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
<b>Water and Wastewater Funds - Combined</b>						
<b>Operating Revenues</b>						
License & Permits	75,000	62,500		86,290	23,790	138.1%
Intergovernmental Revenue	4,727	1,973		1,973	0	100.0%
Rates and Charges	41,600,438	35,887,206		33,988,790	(1,898,416)	94.7%
Miscellaneous	439,826	366,522	(1)	903,720	537,198	246.6%
<b>Total Operating Revenues</b>	<b>42,119,991</b>	<b>36,318,201</b>		<b>34,980,773</b>	<b>(1,337,428)</b>	<b>96.3%</b>
<b>Operating Expenses</b>						
Central Charges	6,051,028	5,042,523		5,014,616	(27,907)	99.4%
Finance	705,372	563,592		523,684	(39,908)	92.9%
Public Works & Utilities	20,141,577	15,846,202		14,337,436	(1,508,766)	90.5%
Parks, Recreation & Libraries	147,979	123,316		88,122	(35,194)	71.5%
Information Technology	2,844,464	2,318,238		2,102,030	(216,208)	90.7%
<b>Total Operating Expenses</b>	<b>29,890,420</b>	<b>23,893,871</b>		<b>22,065,888</b>	<b>(1,827,983)</b>	<b>92.3%</b>
<b>Operating Income (Loss)</b>	<b>12,229,571</b>	<b>12,424,330</b>		<b>12,914,885</b>	<b>490,555</b>	
<b>Other Revenue and Expenses</b>						
Tap Fees	3,193,061	2,815,966		2,546,458	(269,508)	90.4%
Interest Income	1,450,000	1,208,334		644,529	(563,805)	53.3%
Sale of Assets	0	0		34,007	34,007	
Other Financing Sources	27,915,455	27,915,455		29,509,585	1,594,130	105.7%
Carryover	2,867,251	2,867,251		2,867,251	0	100.0%
Debt Service	(6,757,592)	(2,376,504)		(2,376,504)	0	100.0%
Reserve Transfer	(11,316,514)	(11,316,514)		(11,316,514)	0	100.0%
<b>Total Other Revenue (Expenses)</b>	<b>17,351,661</b>	<b>21,113,988</b>		<b>21,908,812</b>	<b>794,824</b>	<b>103.8%</b>
	<b>29,581,232</b>	<b>33,538,318</b>		<b>34,823,697</b>	<b>1,285,379</b>	

(1) Miscellaneous revenue includes the sale of effluent water based on an intergovernmental agreement.

**City of Westminster  
Financial Report  
For Ten Months Ending October 31, 2010**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
<b>Water Fund</b>						
<b>Operating Revenues</b>						
License & Permits	75,000	62,500		86,290	23,790	138.1%
Intergovernmental Revenue	4,727	1,973		1,973	0	100.0%
Rates and Charges	29,360,461	25,734,639		24,124,682	(1,609,957)	93.7%
Miscellaneous	425,000	354,167	(1)	892,397	538,230	252.0%
<b>Total Operating Revenues</b>	<b>29,865,188</b>	<b>26,153,279</b>		<b>25,105,342</b>	<b>(1,047,937)</b>	<b>96.0%</b>
<b>Operating Expenses</b>						
Central Charges	4,258,103	3,548,419		3,550,439	2,020	100.1%
Finance	705,372	563,592		523,684	(39,908)	92.9%
Public Works & Utilities	13,811,268	10,969,909		9,822,308	(1,147,601)	89.5%
PR&L Standley Lake	147,979	123,316		88,122	(35,194)	71.5%
Information Technology	2,844,464	2,318,238		2,102,030	(216,208)	90.7%
<b>Total Operating Expenses</b>	<b>21,767,186</b>	<b>17,523,474</b>		<b>16,086,583</b>	<b>(1,436,891)</b>	<b>91.8%</b>
<b>Operating Income (Loss)</b>	<b>8,098,002</b>	<b>8,629,805</b>		<b>9,018,759</b>	<b>388,954</b>	
<b>Other Revenue and Expenses</b>						
Tap Fees	2,600,000	2,312,200		2,163,209	(148,991)	93.6%
Interest Income	800,000	666,667		503,932	(162,735)	75.6%
Sale of Assets	0	0		34,007	34,007	
Other Financing Sources	27,915,455	27,915,455		29,509,585	1,594,130	105.7%
Carryover	2,857,168	2,857,168		2,857,168	0	100.0%
Debt Service	(5,253,788)	(1,817,059)		(1,817,059)	0	100.0%
Reserve Transfer	(10,896,431)	(10,896,431)		(10,896,431)	0	100.0%
<b>Total Other Revenues (Expenses)</b>	<b>18,022,404</b>	<b>21,038,000</b>		<b>22,354,411</b>	<b>1,316,411</b>	<b>106.3%</b>
<b>Increase (Decrease) in Net Assets</b>	<b>26,120,406</b>	<b>29,667,805</b>		<b>31,373,170</b>	<b>1,705,365</b>	

(1) Miscellaneous revenue includes the sale of effluent water based on an intergovernmental agreement.

**City of Westminster  
Financial Report  
For Ten Months Ending October 31, 2010**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
<b>Wastewater Fund</b>						
<b>Operating Revenues</b>						
Rates and Charges	12,239,977	10,152,567		9,864,108	(288,459)	97.2%
Miscellaneous	14,826	12,355		11,323	(1,032)	91.6%
Total Operating Revenues	<u>12,254,803</u>	<u>10,164,922</u>		<u>9,875,431</u>	<u>(289,491)</u>	97.2%
<b>Operating Expenses</b>						
Central Charges	1,792,925	1,494,104		1,464,177	(29,927)	98.0%
Public Works & Utilities	6,330,309	4,876,293		4,515,128	(361,165)	92.6%
Total Operating Expenses	<u>8,123,234</u>	<u>6,370,397</u>		<u>5,979,305</u>	<u>(391,092)</u>	93.9%
Operating Income (Loss)	<u>4,131,569</u>	<u>3,794,525</u>		<u>3,896,126</u>	<u>101,601</u>	
<b>Other Revenue and Expenses</b>						
Tap Fees	593,061	503,766		383,249	(120,517)	76.1%
Interest Income	650,000	541,667		140,597	(401,070)	26.0%
Carryover	10,083	10,083		10,083	0	100.0%
Debt Service	(1,503,804)	(559,445)		(559,445)	0	100.0%
Reserve Transfer	(420,083)	(420,083)		(420,083)	0	100.0%
Total Other Revenues (Expenses)	<u>(670,743)</u>	<u>75,988</u>		<u>(445,599)</u>	<u>(521,587)</u>	-586.4%
Increase (Decrease) in Net Assets	<u>3,460,826</u>	<u>3,870,513</u>		<u>3,450,527</u>	<u>(419,986)</u>	

**City of Westminster  
Financial Report  
For Ten Months Ending October 31, 2010**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
<b>Storm Drainage Fund</b>						
<b>Revenues</b>						
Charges for Services	2,000,000	1,666,667		1,626,948	(39,719)	97.6%
Interest Income	80,000	66,667		59,665	(7,002)	89.5%
Miscellaneous	0	0		2,963	2,963	
Sub-total Storm Drainage Revenues	<u>2,080,000</u>	<u>1,733,334</u>		<u>1,689,576</u>	<u>(43,758)</u>	97.5%
Carryover	323,434	323,434		323,434	0	100.0%
Total Revenues	<u>2,403,434</u>	<u>2,056,768</u>		<u>2,013,010</u>	<u>(43,758)</u>	97.9%
<b>Expenses</b>						
General Services	92,000	73,324		70,745	(2,579)	96.5%
Community Development	147,000	121,422		107,228	(14,194)	88.3%
PR&L Park Services	200,000	166,667		58,220	(108,447)	34.9%
Public Works & Utilities	291,000	220,287		167,271	(53,016)	75.9%
Total Expenses	<u>730,000</u>	<u>581,700</u>		<u>403,464</u>	<u>(178,236)</u>	69.4%
Increase (Decrease) in Net Assets	<u>1,673,434</u>	<u>1,475,068</u>		<u>1,609,546</u>	<u>134,478</u>	

**City of Westminster  
Financial Report  
For Ten Months Ending October 31, 2010**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
<b>Golf Course Funds - Combined</b>						
<b>Operating Revenues</b>						
Charges for Services	2,970,719	2,821,959		2,532,930	(289,029)	89.8%
Interest Income	0	0		3,631	3,631	
Interfund Transfers	804,591	670,493		732,638	62,145	109.3%
Total Revenues and Carryover	<u>3,775,310</u>	<u>3,492,452</u>		<u>3,269,199</u>	<u>(223,253)</u>	93.6%
<b>Operating Expenses</b>						
Central Charges	230,085	192,605		180,872	(11,733)	93.9%
Recreation Facilities	3,047,135	2,826,274		2,401,699	(424,575)	85.0%
Total Operating Expenses	<u>3,277,220</u>	<u>3,018,879</u>		<u>2,582,571</u>	<u>(436,308)</u>	85.5%
Operating Income (Loss)	498,090	473,573		686,628	213,055	145.0%
<b>Other Revenues and Expenses</b>						
Other Financing Sources	0	0		4,820,000	4,820,000	
Debt Service	(498,090)	(498,090)	(1)	(4,961,867)	4,463,777	996.2%
Total Other Revenues and (Expenses)	<u>(498,090)</u>	<u>(498,090)</u>		<u>(141,867)</u>	<u>356,223</u>	28.5%
Increase (Decrease) in Net Assets	<u>-</u>	<u>(24,517)</u>		<u>544,761</u>	<u>569,278</u>	-2222.0%

(1) Debt Service reflects the refunding of the 1998 Golf Course Revenue Bonds. The budget appropriation for the refunding will be reflected in November's financial statement.

**City of Westminster  
Financial Report  
For Ten Months Ending October 31, 2010**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
<b>Legacy Ridge Fund</b>						
<b>Operating Revenues</b>						
Charges for Services	1,597,500	1,516,028		1,344,025	(172,003)	88.7%
Interest Income	0	0		3,631	3,631	
Interfund Transfers	29,433	24,528		24,528	0	100.0%
Total Operating Revenues	<u>1,626,933</u>	<u>1,540,556</u>		<u>1,372,184</u>	<u>(168,372)</u>	89.1%
<b>Operating Expenses</b>						
Central Charges	122,030	101,407		95,609	(5,798)	94.3%
Recreation Facilities	1,504,903	1,393,540		1,154,642	(238,898)	82.9%
Total Operating Expenses	<u>1,626,933</u>	<u>1,494,947</u>		<u>1,250,251</u>	<u>(244,696)</u>	83.6%
Increase (Decrease) in Net Assets	<u>0</u>	<u>45,609</u>		<u>121,933</u>	<u>76,324</u>	



**City of Westminster  
Financial Report  
For Ten Months Ending October 31, 2010**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
<b>Heritage at Westmoor Fund</b>						
<b>Operating Revenues</b>						
Charges for Services	1,373,219	1,305,931		1,188,905	(117,026)	91.0%
Interfund Transfers	775,158	645,965		708,110	62,145	109.6%
Total Revenues and Carryover	<u>2,148,377</u>	<u>1,951,896</u>		<u>1,897,015</u>	<u>(54,881)</u>	97.2%
<b>Operating Expenses</b>						
Central Charges	108,055	91,198		85,263	(5,935)	93.5%
Recreation Facilities	1,542,232	1,432,734		1,247,057	(185,677)	87.0%
Total Operating Expenses	<u>1,650,287</u>	<u>1,523,932</u>		<u>1,332,320</u>	<u>(191,612)</u>	87.4%
Operating Income	<u>498,090</u>	<u>427,964</u>		<u>564,695</u>	<u>136,731</u>	131.9%
<b>Other Revenues and Expenses</b>						
Other Financing Sources	0	0		4,820,000	4,820,000	
Debt Service	(498,090)	(498,090)	(1)	(4,961,867)	4,463,777	996.2%
	<u>(498,090)</u>	<u>(498,090)</u>		<u>(141,867)</u>	<u>356,223</u>	28.5%
Increase (Decrease) in Net Assets	<u>0</u>	<u>(70,126)</u>		<u>422,828</u>	<u>492,954</u>	

(1) Debt Service reflects the refunding of the 1998 Golf Course Revenue Bonds. The budget appropriation for the refunding will be

CITY OF WESTMINSTER  
GENERAL RECEIPTS BY CENTER  
MONTH OF OCTOBER 2010

Center Location Major Tenant	/----- Current Month -----/			/----- Last Year -----/			/--- %Change ---/		
	General Sales	General Use	Total	General Sales	General Use	Total	Sales	Use	Total
BROOKHILL I & II N SIDE 88TH OTIS TO WADS HOME DEPOT	268,621	81,623	350,244	165,012	467	165,479	63	17366	112
THE ORCHARD 144TH & I-25 JC PENNEY/MACY'S	317,503	16,415	333,918	285,630	5,807	291,437	11	183	15
WESTFIELD SHOPPING CENTER NW CORNER 92ND & SHER WALMART 92ND	305,762	635	306,397	326,034	1,470	327,505	-6	-57	-6
SHOPS AT WALNUT CREEK 104TH & REED TARGET	220,446	1,279	221,725	217,145	5,051	222,196	2	-75	0
NORTHWEST PLAZA SW CORNER 92 & HARLAN COSTCO	171,844	534	172,378	172,671	314	172,985	0	70	0
SHOENBERG CENTER SW CORNER 72ND & SHERIDAN WALMART 72ND	167,934	687	168,621	160,854	470	161,324	4	46	5
SHERIDAN CROSSING SE CORNER 120TH & SHER KOHL'S	160,166	1,768	161,934	154,866	2,496	157,362	3	-29	3
INTERCHANGE BUSINESS CENTER SW CORNER 136TH & I-25 WALMART 136TH	147,165	708	147,872	202,667	476	203,143	-27	49	-27
PROMENADE SOUTH/NORTH S/N SIDES OF CHURCH RANCH BLVD SHANE/AMC	102,126	22,778	124,904	91,429	9,530	100,959	12	139	24
WESTMINSTER MALL 88TH & SHERIDAN 3 DEPARTMENT STORES	120,753	892	121,645	157,409	1,854	159,263	-23	-52	-24
CITY CENTER MARKETPLACE NE CORNER 92ND & SHERIDAN BARNES & NOBLE	111,332	1,449	112,781	103,464	1,143	104,607	8	27	8
NORTH PARK PLAZA SW CORNER 104TH & FEDERAL KING SOOPERS	97,695	875	98,570	94,909	2,405	97,314	3	-64	1
WESTMOOR NW OF 108TH AND WADSWORTH GE ACCESS	5,149	85,526	90,675	7,045	6,057	13,101	-27	1312	592
VILLAGE AT THE MALL S SIDE 88TH DEPEW-HARLAN TOYS 'R US	79,887	317	80,204	26,728	205	26,933	199	54	198
STANDLEY SHORES CENTER SW CORNER 100TH & WADS KING SOOPERS	73,689	945	74,635	67,043	259	67,302	10	264	11

CITY OF WESTMINSTER  
 GENERAL RECEIPTS BY CENTER  
 MONTH OF OCTOBER 2010

Center Location Major Tenant	Current Month			Last Year			%Change		
	General Sales	General Use	Total	General Sales	General Use	Total	Sales	Use	Total
WESTMINSTER CROSSING 136TH & I-25 LOWE'S	71,743	109	71,851	16,210	36	16,246	343	203	342
ROCKY MOUNTAIN PLAZA SW CORNER 88TH & SHER GUITAR STORE	63,394	334	63,728	54,920	174	55,094	15	92	16
CHURCH RANCH CORPORATE CENTER CHURCH RANCH BOULEVARD LA QUINTA	13,401	33,284	46,685	11,934	21,589	33,522	12	54	39
WESTMINSTER PLAZA FEDERAL-IRVING 72ND-74TH SAFEWAY	44,127	679	44,806	44,075	904	44,979	0	-25	0
STANDLEY LAKE MARKETPLACE NE CORNER 99TH & WADSWORTH SAFEWAY	40,596	125	40,721	40,874	4,501	45,375	-1	-97	-10
VILLAGE AT PARK CENTRE NW CORNER 120TH & HURON CB & POTTS	40,248	424	40,673	37,001	106	37,107	9	301	10
WILLOW RUN 128TH & ZUNI SAFEWAY	35,287	153	35,440	33,962	125	34,087	4	22	4
LUCENT/KAISER CORRIDOR 112-120 HURON - FEDERAL LUCENT TECHNOLOGY	3,362	29,892	33,254	3,495	30,481	33,977	-4	-2	-2
RANCHO PLAZA SE CORNER 72ND & FEDERAL RANCHO LIBORIO	28,244	0	28,244	33,462	0	33,462	-16	*****	-16
STANDLEY PLAZA SW CORNER 88TH & WADS WALGREENS	24,765	684	25,448	20,923	618	21,542	18	11	18
	2,715,239	282,114	2,997,353	2,529,762	96,540	2,626,302	7	192	14

CITY OF WESTMINSTER  
GENERAL RECEIPTS BY CENTER  
OCTOBER 2010 YEAR-TO-DATE

Center Location Major Tenant	/----- General Sales	YTD 2010 General Use	-----/ Total	/----- General Sales	YTD 2009 General Use	-----/ Total Sales	/--- %Change	---/ Use	---/ Total
WESTFIELD SHOPPING CENTER NW CORNER 92ND & SHER WALMART 92ND	3,432,837	52,715	3,485,552	3,522,504	52,618	3,575,122	-3	0	-3
THE ORCHARD 144TH & I-25 JC PENNEY/MACY'S	3,279,685	217,902	3,497,587	2,927,385	149,827	3,077,211	12	45	14
SHOPS AT WALNUT CREEK 104TH & REED TARGET	2,241,166	65,218	2,306,384	2,122,355	46,425	2,168,780	6	40	6
INTERCHANGE BUSINESS CENTER SW CORNER 136TH & I-25 WALMART 136TH	2,077,985	4,579	2,082,564	2,318,064	18,513	2,336,576	-10	-75	-11
NORTHWEST PLAZA SW CORNER 92 & HARLAN COSTCO	2,062,060	7,835	2,069,894	2,037,197	10,443	2,047,640	1	-25	1
SHOENBERG CENTER SW CORNER 72ND & SHERIDAN WALMART 72ND	1,877,911	4,459	1,882,370	1,790,648	7,141	1,797,789	5	-38	5
BROOKHILL I & II N SIDE 88TH OTIS TO WADS HOME DEPOT	1,799,318	96,052	1,895,370	1,700,228	17,820	1,718,048	6	439	10
SHERIDAN CROSSING SE CORNER 120TH & SHER KOHL'S	1,578,827	7,062	1,585,889	1,542,709	19,561	1,562,270	2	-64	2
WESTMINSTER MALL 88TH & SHERIDAN 3 DEPARTMENT STORES	1,381,269	11,843	1,393,113	2,076,061	13,567	2,089,628	-33	-13	-33
CITY CENTER MARKETPLACE NE CORNER 92ND & SHERIDAN BARNES & NOBLE	1,155,083	7,819	1,162,903	1,637,634	13,724	1,651,358	-29	-43	-30
PROMENADE SOUTH/NORTH S/N SIDES OF CHURCH RANCH BLVD SHANE/AMC	1,147,533	322,797	1,470,330	1,151,099	147,592	1,298,691	0	119	13
NORTH PARK PLAZA SW CORNER 104TH & FEDERAL KING SOOPERS	1,055,029	4,529	1,059,558	1,068,043	6,737	1,074,780	-1	-33	-1
VILLAGE AT THE MALL S SIDE 88TH DEPEW-HARLAN TOYS 'R US	845,144	2,535	847,679	800,501	3,908	804,408	6	-35	5
STANDLEY SHORES CENTER SW CORNER 100TH & WADS KING SOOPERS	749,629	4,522	754,151	718,066	3,009	721,075	4	50	5
WESTMINSTER CROSSING 136TH & I-25 LOWE'S	678,464	917	679,381	607,863	6,011	613,875	12	-85	11

CITY OF WESTMINSTER  
GENERAL RECEIPTS BY CENTER  
OCTOBER 2010 YEAR-TO-DATE

Center Location Major Tenant	YTD 2010			YTD 2009			%Change		
	General Sales	General Use	Total	General Sales	General Use	Total	Sales	Use	Total
ROCKY MOUNTAIN PLAZA SW CORNER 88TH & SHER GUITAR STORE	664,790	4,905	669,695	584,841	2,654	587,495	14	85	14
WESTMINSTER PLAZA FEDERAL-IRVING 72ND-74TH SAFEWAY	456,856	13,817	470,672	474,040	4,641	478,681	-4	198	-2
STANDLEY LAKE MARKETPLACE NE CORNER 99TH & WADSWORTH SAFEWAY	411,544	2,209	413,753	450,881	8,719	459,599	-9	-75	-10
VILLAGE AT PARK CENTRE NW CORNER 120TH & HURON CB & POTTS	405,033	3,887	408,920	406,341	2,093	408,434	0	86	0
WILLOW RUN 128TH & ZUNI SAFEWAY	343,885	4,037	347,923	409,787	2,583	412,371	-16	56	-16
RANCHO PLAZA SE CORNER 72ND & FEDERAL RANCHO LIBORIO	315,117	1,111	316,228	281,602	24,750	306,352	12	-96	3
MISSION COMMONS W SIDE WADSWORTH 88-90TH BIG 5 SPORTS	247,016	1,128	248,144	238,200	1,359	239,559	4	-17	4
NORTHVIEW 92ND AVE YATES TO SHERIDAN SALTGRASS	245,818	1,901	247,719	236,013	48,557	284,570	4	-96	-13
BOULEVARD SHOPS 94TH & WADSWORTH CORRIDOR AMERICAN FURNITURE WAREHOUSE	230,730	2,050	232,780	228,908	2,299	231,207	1	-11	1
ELWAY/DOUGLAS CORRIDOR NE CORNER 104TH & FED ELWAY MOTORS	226,930	4,440	231,370	254,229	5,565	259,793	-11	-20	-11
	<u>28,909,657</u>	<u>850,270</u>	<u>29,759,927</u>	<u>29,585,198</u>	<u>620,114</u>	<u>30,205,312</u>	<u>-2</u>	<u>37</u>	<u>-1</u>



**WESTMINSTER  
COLORADO**

**Agenda Memorandum**

City Council Meeting  
November 22, 2010



**SUBJECT:** Special Real Estate Legal Counsel

**Prepared By:** Martin R. McCullough, City Attorney  
Steve Smithers, Assistant City Manager

**Recommended City Council Action**

Authorize the City Manager to enter into an agreement with Ms. Barbara Banks for special legal counsel services in an amount not to exceed \$30,000 for work related to the Westminster Urban Reinvestment Project, the South Westminster Transit-Oriented Development and general real estate legal advice.

**Summary Statement**

- Staff is recommending that the City Council authorize the City Manager to execute a legal services agreement with Ms. Barbara Banks, of Banks and Imatani, for assistance on non-routine real estate law issues that arise from time to time in the course of negotiating and preparing more complex agreements relative to such projects as the Westminster Urban Reinvestment Project, the South Westminster Transit Oriented Development (TOD), and further real estate transactions related to future retail proposals.
- When negotiating some of the more complex agreements involving private owners and their lenders, it can be very important to have someone with the appropriate knowledge to respond to representation that something is either required by or objectionable to the owner’s lender or is not commercially “reasonable.” In addition, some of the increasingly complex and time-sensitive transactions in which the City is finding itself lately often require more than one attorney to handle the project.
- City Council has previously found merit in approving special legal counsel to assist the City Attorney’s Office as needed, rather than expanding staff.
- Funds for this expense are available in the General Fund, Central Charges Professional Services account.

**Expenditure Required:** Not to exceed \$30,000

**Source of Funds:** General Fund - Central Charges Operating Budget  
WEDA – WURP Project Account

**Policy Issue**

Should the City retain special legal counsel to assist in the negotiating and drafting of various agreements involving non-routine real estate law issues?

**Alternative**

City Council could elect not to retain this type of special legal counsel assistance or seek such assistance from another source. Staff believes this outside assistance is critical to the timing and success of several significant current and future developments in the City.

**Background Information**

Ms. Banks is an experienced attorney specializing in real estate law. Ms. Banks is a current member and past chairperson of the Real Estate Section of the Colorado Bar Association. She has written and presented papers on a wide variety of complex real estate issues, including such matters as lender law and “mortgageable ground leases.”

Ms. Banks has previously assisted the City in the negotiations attendant to the acquisition of the ICON property, acquisition and lease-back of the JH Barnum property, and was instrumental in completing the joint development agreement, the “condominiumizing agreement” and the conference center lease for the Westin Hotel project. Under the proposed agreement, Ms. Banks is willing to continue her current discounted rate to the City of \$265 per hour.

The City Charter requires City Council approval of all outside legal counsel agreements. Often, only relatively brief consultations are required, and these types of arrangements afford the opportunity to obtain the necessary advice without holding up progress on the negotiations and structuring of the overall transaction.

Respectfully submitted,

J. Brent McFall  
City Manager

## **CONTRACT FOR LEGAL SERVICES**

THIS AGREEMENT is made this 22nd day of November, 2010, by and between BANKS & IMATANI, P.C., Attorneys at Law (the "Firm") and the CITY OF WESTMINSTER, COLORADO (the "City").

### **RECITALS**

1. The City is desirous of contracting with the Firm for legal services.
2. The Firm and its attorneys are authorized to practice law in the State of Colorado.

### **AGREEMENT**

1. The Firm shall furnish special legal services as needed for general real estate legal advice.
2. Barbara Banks of the Firm shall be principally responsible for the Services.
3. The Firm is acting as an independent contractor; therefore, the City will not be responsible for FICA taxes, health or life insurance, vacation, or other employment benefits.
4. The City shall pay for the Services at an hourly rate not to exceed \$265.00 per hour.
5. This Contract may be terminated by the City with or without cause.
6. No payments to the Firm shall be made prior to the approval of this Contract by the Westminster City Council.
7. Payments pursuant to this Contract shall not exceed \$30,000.00 without further written authorization by the City.
8. The Westminster City Council authorized this contract on November 22, 2010.
9. To the extent this Agreement constitutes a public contract for services pursuant to C.R.S. § 8-17.5-101 et seq., the following provisions shall apply: The Firm shall not knowingly employ or contract with an illegal alien to perform work under this Agreement. In addition, the Firm shall not enter into a contract with a subcontractor that fails to certify to the Firm that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement. If the Firm obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, the Firm shall notify the subcontractor and the City within three (3) days that the Firm has actual knowledge that the subcontractor is employing or contracting with an illegal alien. Furthermore, the Firm shall terminate such subcontract with the subcontractor if, within three (3) days of receiving the notice required pursuant to this paragraph, the subcontractor does not stop employing or contracting with the illegal alien. Except that the Firm shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

The Firm certifies that, prior to executing this Agreement, it has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement through participation in either the E-verify program administered by the United States Department of Homeland Security and the Social Security Administration (the "E-verify Program"), or the employment verification program administered by the Colorado Department of Labor and Employment (the "Colorado Verification Program"). The Firm shall not use either the E-verify Program or the Colorado Verification Program procedures to undertake preemployment screening of job applicants while performing this Agreement.



The Firm shall comply with all reasonable requests by the Colorado Department of Labor and Employment made in the course of an investigation undertaken pursuant to the authority established in C.R.S. § 8-17.5-102(5).

To the extent required by C.R.S. § 8-17.5-102(1), by submitting a bid, the Firm certifies that at the time of bid submission it did not knowingly employ or contract with an illegal alien who will perform work under this Agreement, and that the Firm will participate in the E-verify Program or the Colorado Verification Program in order to verify the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement.

**BANKS & IMATANI, P.C.**

By \_\_\_\_\_

**CITY OF WESTMINSTER, COLORADO**

By \_\_\_\_\_

Approved as to legal form:

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



## Agenda Item 8 C

**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
November 22, 2010

**SUBJECT:** Second City Council Meeting in December

**Prepared By:** Linda Yeager, City Clerk

**Recommended City Council Action**

Change the date of the second regularly scheduled City Council meeting in December from December 27 to December 20.

**Summary Statement**

- City Council normally conducts regular meetings on the second and fourth Mondays of each month. This year the fourth Monday of December is the first day after the Christmas holiday weekend. To minimize impact on Councillor's and Staff's ability to travel over the holiday and to insure the best possibility of a quorum, Staff recommends that the meeting normally held on the fourth Monday be rescheduled to the third Monday of December.
- If approved, City Council will conduct a study session on December 6 and regular meetings on December 13 and 20.

**Expenditure Required:** \$0

**Source of Funds:** N/A

**Policy Issue**

None identified

**Alternative**

Council could decide to leave the December 27 regular meeting date unchanged.

**Background Information**

Occasionally, conflicts arise with dates of regularly scheduled Council meetings and the dates of holidays, important civic events, and/or conferences that the City Council traditionally attends, and the Council's schedule of meetings is changed to accommodate the occurrence. The second meeting in December frequently conflicts with the Christmas holiday, and Council has changed the date of that meeting so that the business of the City can be addressed in a timely manner without interfering with the family holiday.

The public is aware that regular Council meetings and study sessions are held on Mondays, thus it makes sense to reschedule meetings to a different Monday of the month when conflicts arise.

Respectfully submitted,

J. Brent McFall  
City Manager



## Agenda Item 8 D

**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
November 22, 2010



**SUBJECT:** 2010 PVC Water Pipe Purchase

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

**Recommended City Council Action**

1. Authorize the City Manager to purchase water line pipe from Dana Kepner Company, Inc. in the amount of \$94,332.
2. Authorize cumulative purchases from Dana Kepner Company in an amount not to exceed \$285,000 for 2010.

**Summary Statement**

- The purchasing officer issued formal bids through Demand Star for the purchase of PVC water line pipe on October 28, 2010.
- There were three bids received and opened on November 8, 2010, with the lowest responsive bid received from Dana Kepner Company, Inc.
- Dana Kepner Company, Inc. is the low bidder and is currently providing utilities materials to the City. The cumulative purchases authorization amount with Dana Kepner Company, Inc. is recommended to be increased by \$95,000, on the bid amount, for a total authorization not to exceed \$285,000.
- Adequate funds were budgeted in the Utilities Operations Budget and are available for this purchase.

**Expenditure Required:** \$94,332

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

**Policy Issue**

Should the City accept the bid submitted by Dana Kepner Company, Inc. for the 8-inch PVC and 6-inch ductile iron water line pipe?

**Alternative**

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

**Background Information**

The PVC water pipe will be utilized by the Utilities Operations Division Construction Crew for the water line replacement program. The Utilities Operations Division construction crew replaces approximately 18,000 feet (3.4 miles) of deteriorated ductile and cast iron pipe per year with new PVC pipe in order to reduce the frequency and number of water line failures that customers experience.

The 2010 PVC Pipe purchase bid included 13,000 feet of PVC water pipe, 480 feet of 8-inch PVC restrained joint pipe and 400 feet of 6-inch ductile iron pipe. The 2010 8-inch PVC pipe was bid at \$6.39 per foot; in 2009 the cost per foot for the 8-inch pipe was \$6.07; in 2008 the cost for 8-inch pipe was \$7.35 per foot. The restrained joint pipe is used for directional drilling applications only, due to the higher per foot cost. The 6-inch ductile iron pipe is used solely for fire hydrant connection lines.

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

	H.D. Supply Waterworks	Dana Kepner Company Inc.	Mountain States Pipe & Supply
Total Bid Price:	\$99,352	\$ 94,332	\$103,510
13,000 ft. 8-inch PVC pipe	\$86,840	\$83,070	\$91,050
480 ft. 4-inch PVC RJ pipe	\$8,112	\$7,070	\$7,910
400 ft. 6-inch ductile pipe	\$4,400	\$4,192	\$4,079

At the November 8, 2010, Council Meeting the Utilities Operations Division was authorized to make cumulative purchases from Dana Kepner Company with an upper limit of \$190,000 for 2010. At this time, the Utilities Operations Division requests authorization to make cumulative purchases from Dana Kepner Company in an amount not to exceed \$285,000 for 2010. At the time of the November 8, 2010, agenda preparation, bids for water pipe had not been opened. With Dana Kepner Company as the low bid on water pipe, the cumulative purchases authorization is recommended to be increased to cover the bid price of the water pipe.

This purchase helps achieve the City Council’s Strategic Plan Goal of “Financially Sustainable City Government” by contributing to the objective of well-maintained City Infrastructure and Facilities.

Respectfully submitted,

J. Brent McFall  
City Manager



**WESTMINSTER  
COLORADO**

**Agenda Memorandum**

City Council Meeting  
November 22, 2010



**SUBJECT:** Little Dry Creek Dog Park Contract

**Prepared By:** Kathy Piper, Landscape Architect II

**Recommended City Council Action**

Authorize the City Manager to execute a contract with the low bidder, Urban Farmer, in the amount of \$144,789 for construction of a new off leash dog park at Lowell Boulevard and 69<sup>th</sup> Place, which includes a parking lot, drip irrigation, trees, dog water stations, and two mini shelters, authorize \$35,154 for fencing with Fence Consulting Services and authorize a 10 percent contingency in the amount of \$17,994 for a total project budget of \$197,937.

**Summary Statement**

- Bids were solicited from several reputable landscape construction companies with Urban Farmer submitting the lowest bid.
- Urban Farmer has completed both new construction and renovation landscape projects in the past and has also done median renovation work for the City.
- Construction will begin in the winter of 2010 and be completed by late spring 2011.
- The dog area is located within the 100 year flood plain requiring a specialized fence design to allow for water to pass through the area unimpeded.
- This project was awarded an Adams County Open Space grant in the amount of \$70,000.

**Expenditure Required:** \$197,937

**Source of Funds:** General Capital Improvement Fund  
- Little Dry Creek Dog Park Project

**Policy Issue**

Should the City move forward with construction of this project or use the funds for another project?

**Alternatives**

1. City Council could choose not to authorize the construction bid and leave the site in its current condition until a later date. Staff recommends pursuing this construction project since the City has received grant funding and the project will satisfy a demand for a dog park in south Westminster.
2. City Council could choose to direct Staff to rebid the projects in an attempt to obtain a lower bid. Staff does not recommend this as Urban Farmer submitted a competitive bid; they have previously worked on City projects and have a proven track record.

**Background Information**

With the popularity of the City’s Westminster Hills and Big Dry Creek dog parks, several citizen requests have been received by Staff to locate an off leash dog park in the south part of Westminster. The site location for the dog park is at 69<sup>th</sup> Place and Lowell Boulevard, centrally located off of 72<sup>nd</sup> Ave and Lowell Boulevard, which offers easy access by car. The Little Dry Creek Trail also provides an alternative pedestrian route to the site.

The site plan would include two separate fenced areas for large and small dogs, a central entrance area, dog watering, tree plantings with drip irrigation, benches and signage. Community Development and Parks, Recreation and Libraries Staff have worked together on parking and fencing constraints for this site since the entire area will be within the 100-year flood plain. A new road alignment is also in the planning stages for 69<sup>th</sup> Avenue that may allow for on-street parking in the future. As a temporary measure, a 20-car parking lot will be built to accommodate dog park visitors.

A competitive request for proposals was sent out for the new dog park and three bids were received as follows for general contractor services:

T2 Construction	\$172,817.17
Goodland Construction	\$167,196.90
Urban Farmer	\$144,788.71

The City utilizes Fence Consulting Services to handle various fence construction needs. Three bids were solicited and received from qualified fencing contractors through Fence Consulting Services. The results are as follows:

Greater Western Fence	\$35,154.00
R & P Fence Co	\$36,750.00
Moyer Fence Co	\$39,150.00

Staff has identified Fence Consulting Services as having received aggregate amounts exceeding \$50,000 with this purchase; therefore, Council approval is being sought for the additional funding.

This project supports both City Council’s “Vibrant Neighborhoods and Commercial Areas” and “Beautiful and Environmentally Sensitive City” Strategic Plan Goals.

Respectfully submitted,

J. Brent McFall  
City Manager

Little Dry Creek Dog Park  
November 22, 2010

73rd Ave

Newton St

Meade St

Lowell Blvd

73rd Ave

72nd Ave

Julian Way

71st Pl

Julian St

Irving St

Newton St

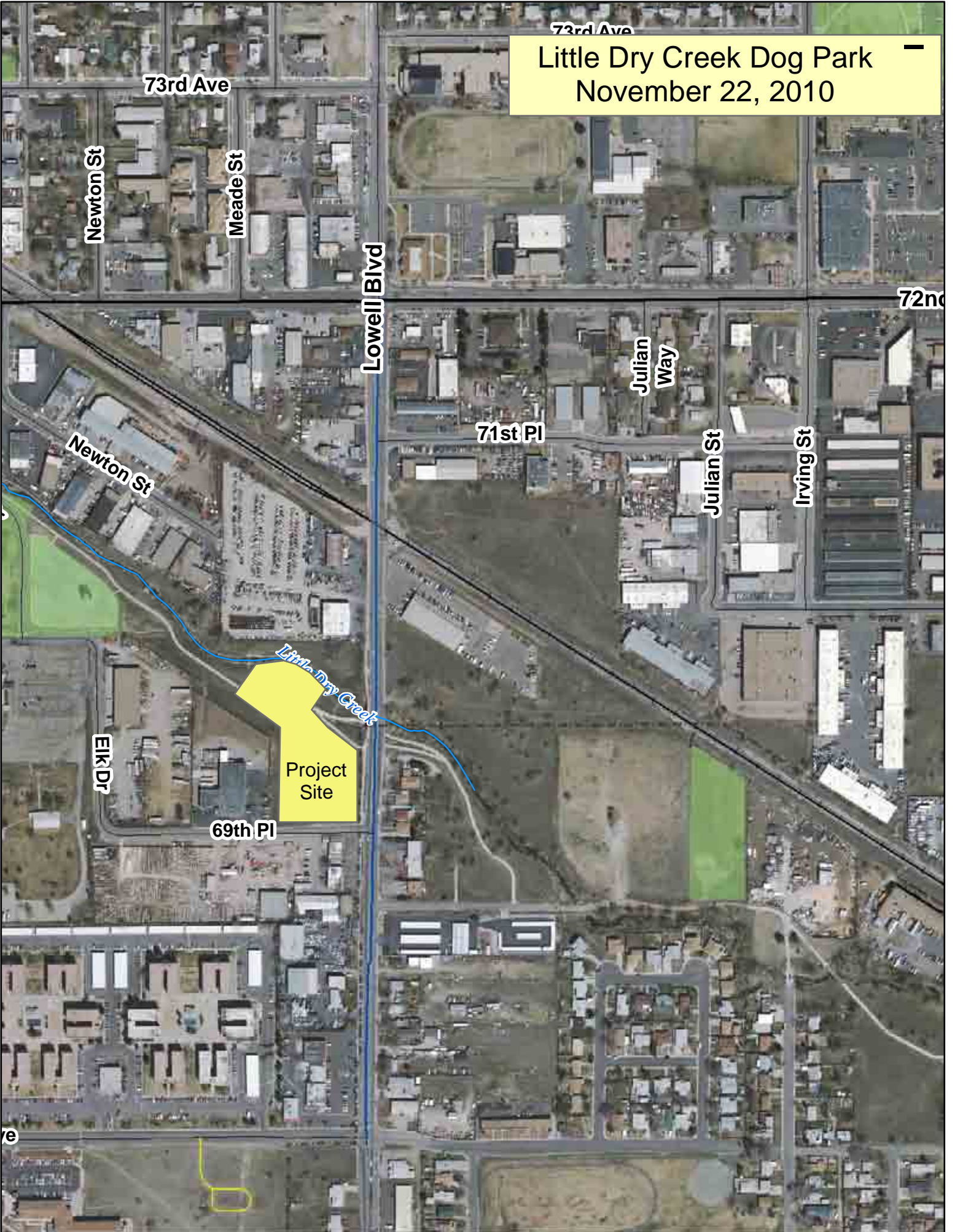
Little Dry Creek

Project Site

EIK DR

69th Pl

ve







**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
November 22, 2010



**SUBJECT:** Osceola & Perry Project Contract Change Orders

**Prepared By:** Michael Wong, Senior Engineer, Utilities Planning and Engineering  
Steve Grooters, Senior Projects Engineer, Utilities Planning and Engineering

**Recommended City Council Action**

Authorize the City Manager to execute total Change Orders to the contract with New Design Construction in the amount of \$46,096.

**Summary Statement**

- The Osceola and Perry Sewer Replacement project was designed to improve sewer capacity, minimize operation and maintenance costs and eliminate risk to the public due to sewage backups. The project included installation of approximately 2,200 feet of 10-inch PVC sewer pipe, manholes and appurtenances in a fully developed residential area.
- On March 22, 2010, City Council awarded a construction contract in the amount of \$380,875 to the low bidder, New Design Construction, and approved a 15 percent project contingency due to the complex nature of the construction.
- Utilization of twelve percent of the contingency was required to successfully complete the project.
- City purchasing policies require City Council approval when project changes cumulatively exceed 10 percent. Council approval is now requested.

**Expenditure Required:** \$46,096

**Source of Funds:** Utility Fund Capital Improvement  
– Sewer Line Open Cut Replacement Project

**Policy Issue**

Should City Council authorize expenditures that exceed 10 percent of the original construction contract with New Design Construction?

**Alternatives**

The City could choose to reject the recommendation to authorize these project expenditures. However, the work associated with these expenditures was time sensitive and it was in the best interest of the City to proceed and complete the additional work as part of the project. In addition, based on the 15 percent contingency previously approved for this project, sufficient funds existed to resolve these issues as part of the project.

Staff does not recommend this alternative since the contractor's price was competitive, their availability was timely for the work, the work has been completed, and there is adequate project funding to cover the cost.

**Background Information**

The Osceola and Perry Sewer Replacement project was initiated after the completion of the 94<sup>th</sup> and Quitman Lift Station Elimination project to complete sewer improvements in the areas north of City Hall. The specific purpose of the project was to improve sewer capacity, minimize operation and maintenance costs and eliminate the risk of sewage backups. Project construction began in June and was completed in September, 2010. A follow-up survey conducted in October 2010 indicated that the citizens were very satisfied with the project.

Four change orders were submitted during the course of the project. They included changes to pipe material (\$961), costs associated with de-mobilization to avoid conflicts with a local softball tournament (\$3,709), costs associated with core drilling an existing manhole (\$6,413) and additional City-requested pavement repairs along Osceola and Perry streets (\$35,013). The total of all change orders was \$46,096, or 12 percent of the project amount.

The majority of the cost associated with project changes was due to additional City-requested pavement repairs. The repairs were requested to fix existing pavement in areas of Osceola and Perry Streets. Because the repairs were adjacent to areas already planned for repaving as part of pipeline work it was cost-efficient to include them as part of the project. In addition, delaying pavement repairs leads to disproportionately higher repair costs in the future. Overall, it was in the best interest of the City to implement these street repairs at this time and to extend new paving over the full width of the street. An additional benefit was this provided the neighborhood residents with a more attractive street view and an even higher level of customer service.

The Osceola and Perry Sewer Replacement project helps achieve the City Council's Strategic Plan goals of "Safe and Secure Community" by improving public health and Staff safety; and the "Financially Sustainable City Government Providing Exceptional Services" goal by contributing to the objective of well-maintained City facilities.

Respectfully submitted,

J. Brent McFall  
City Manager



# Agenda Item 8 G

## WESTMINSTER COLORADO

### Agenda Memorandum

City Council Meeting  
November 22, 2010



**SUBJECT:** Meadowlark and Transit Oriented Development Waterline Construction and Design Contracts

**Prepared By:** Dan Strietelmeier, Senior Engineer, Utilities Planning and Engineering  
Steve Grooters, Senior Projects Engineer, Utilities Planning and Engineering

### Recommended City Council Action

Authorize the City Manager to:

1. Enter into a contract with the low bidder BT Construction, Inc. in the amount of \$1,817,490 for construction of new waterlines and appurtenances in the Meadowlark and Transit Oriented Development areas and authorize a 10 percent construction contingency in the amount of \$181,749 for a total construction budget of \$1,999,239; and
2. Execute a contract amendment of \$22,985 for construction management services with Burns & McDonnell Engineers; and
3. Authorize the transfer of \$356,185 from the Southern Pressure Zone One Water Pipeline Capital Improvement Budget into the Transit Oriented Development Meadowlark Waterline Capital Project account.

### Summary Statement

- This project replaces waterlines in two areas: the Meadowlark subdivision near the intersection of West 104<sup>th</sup> Avenue and Bryant Street and the Transit Oriented Development (TOD) area along West 71<sup>st</sup> Avenue and Irving Street. Pipe replacement in both areas is necessary due to existing pipe age and excessive break history. The TOD area pipe replacement is also necessary to accommodate future flow demands anticipated with new development and to stay ahead of planned street repairs.
- The City solicited bids for the project from eight qualified contractors and received five bids on October 21, 2010. BT Construction, Inc. presented the lowest qualified bid in the amount of \$1,817,490.
- The City contracted with Burns & McDonnell Engineers in May 2010 to provide design, bidding and construction phase services for the project in the amount of \$263,961 and a contingency of \$26,396. Due to an increased level of effort required for both design and construction services, Staff is requesting a contract amendment of \$22,985, for a total contract amount of \$313,342.
- Capital funding for this project was originally identified during the 2009 and 2010 budget process, however based on the bids received, increased engineering requirements, and an estimated \$70,000 in street impact fees, additional funds are required to complete this project. Savings in the amount of \$356,185 from the completed Southern Pressure Zone 1 project are available for use for the project needs.

**Expenditure Required:** \$2,092,224

**Source of Funds:** Meadowlark Water Lines Capital Improvement Account  
Southern Pressure Zone 1 Capital Improvement Account

**Policy Issues**

1. Should the City execute a contract with the low bidder BT Construction, Inc. for the replacement of waterlines in the TOD and Meadowlark areas?
2. Should the City authorize a contract amendment for Burns and McDonnell's engineering services agreement?
3. Should City Council authorize the transfer of savings from a completed project to fund this project?

**Alternatives**

1. The City could choose to replace these waterlines at a later date. However, due to existing pipe capacity limitations, poor pipe conditions and the corresponding risk of a disruption in water service, Staff recommends their replacement at this time. In addition, implementing this project now allows pipeline replacement to occur in advance of scheduled 2011 street repairs.
2. The City could choose to delay the TOD area pipeline portion of the project to limit current expenditures and avoid transferring funds between accounts. This is not recommended as the current bid climate is very competitive and delaying this project could result in disproportionately higher construction costs. In addition, this new pipeline is needed to support anticipated near-term development in the area.
3. The City could choose to not authorize a contract amendment to Burns and McDonnell. This option is not recommended. Given the size, scope and complexity of the water line construction for this project, Staff anticipates that additional construction phase services from Burns and McDonnell may be required.
4. City Council could choose not to authorize the transfer of funds to finance construction of this project. Without transferring capital budget savings from other projects into this project account, there are insufficient funds for construction and the Burns and McDonnell contract amendment. Transfer funds in the amount of \$356,185 are available from savings in the recently completed South Pressure Zone 1 Water Pipeline project, and this project is the highest priority use of these funds.

**Background Information**

The 2006 Utility System Infrastructure Master Plan recommended various improvements to the City's potable water distribution system. This project consists of replacements of the existing local water mains in two areas of the City: 1) The TOD area of the City, and 2) The Meadowlark Subdivision, Filing No.1. Replacement of these pipelines is considered a priority due to their age, condition, break history and inability to support required fire flows and the higher water demands associated with anticipated redevelopment. In addition, near-term pipeline replacements in these areas are required to stay ahead of planned street repairs for 2011. By improving waterlines in the project areas in advance of planned street improvements, the City will reduce overall system costs and future utility-related impacts to residents and businesses.

Phase 1 of the project will occur in the TOD area of the City. The project will replace approximately 2,700 feet of existing waterlines to improve water flow and pressures in advance of the proposed TOD construction. Large scale TOD related redevelopment is proposed, and a new 12-inch waterline is needed in Irving Street and in West 71<sup>st</sup> Avenue to provide the required fire flow and peak day demands to this area. The attached maps show a layout of the proposed waterline alignments. Provisions will be made so the West 71<sup>st</sup> Avenue waterline can be extended across Federal Boulevard to serve future development. The project also includes provisions for future connections to customers currently served by the Crestview Water and Sanitation District that are located within the Westminster city limits.

Phase 2 of the project will occur in the Meadowlark Subdivision, Filing No. 1. The Meadowlark area waterline project consists of constructing approximately 5,000 feet of mostly eight inch diameter pipe.

The schedule for this work is timely as it will occur in advance of planned 2011 street repairs. See the attached map for a layout of the new waterlines in this area. Included in the Meadowlark area will be construction of a segment of a larger (12 inch) waterline within Decatur Street and replacement of the temporary Pressure Relief Valve (PRV) installed at West 106<sup>th</sup> Avenue and Decatur Street. A larger, higher quality and more sophisticated PRV vault will be installed at this location. In addition, new fire hydrants and main line isolation valves will be installed to enhance the overall operation of the water distribution system in this area.

The City sent a Request for Bids to eight qualified contractors on October 5, 2010, and received five bids on October 21, 2010. The following is a summary of the bids received:

<u>Contractor Name</u>	<u>Bid Amount</u>
BT Construction, Inc.	\$ 1,817,490
Nelson Pipeline Co.	\$ 1,862,262
Northern Colorado Constructors, Inc.	\$ 1,966,947
Brannan Construction Co.	\$ 2,051,221
New Design Construction Co.	\$ 2,625,527
Engineer's Opinion of Probable Cost	\$ 1,900,000

After review of all bids received, BT Construction, Inc.'s bid was determined to be valid and the dollar amount reasonable for the scope of the work. BT Construction, Inc. has successfully completed other water and sewer line replacement projects for the City and is qualified to complete this project. For reference, their bid is 4 percent less than the engineer's estimate. This indicates a favorable bid climate for the City and supports the notion that these bids are competitive. For these reasons, Staff recommends executing a contract with BT Construction, Inc. for construction of this project, as well as a contingency amount of 10 percent. Construction will commence following award of the contract with completion anticipated by July 31, 2011.

The Burns & McDonnell design and construction management contract for \$263,961 was approved by the City on April 26, 2010. Also approved was a project contingency amount of 10 percent or \$26,396. During design, unforeseeable conditions associated with large storm utilities and existing Crestview water pipelines resulted in the need for additional work and the use of contingency. This work included additional field excavation (i.e., "potholing") along the waterline alignments to verify the location of the numerous existing utilities in the proposed pipeline alignment. This additional potholing will help to avoid utility conflicts during construction and overall is more cost-effective than changes made in the field during construction. Additional City-requested design services were needed to add drawings and details to the construction documents to support future connections of existing Crestview Water and Sanitation District customers to the City's water distribution system in the TOD area. Given the size, scope, heavy utility congestion and complexity of the water line construction for this project, Staff anticipates that additional construction phase engineering services from Burns and McDonnell may be required. As a result, Staff is requesting a contract amendment of \$22,985 to address this increased level of effort.

Staff is requesting a transfer of funds to cover construction costs, increased engineering costs with Burns & McDonnell, and street impact fees estimated to be \$70,000. This transfer is also necessary because bids received by the City indicate project costs will be higher than originally anticipated due to five factors:

1. The relatively high congestion of utilities discovered during design,
2. The relatively stringent City-requested requirements for daily construction site clean up in the Meadowlark residential area,
3. Extensive traffic control requirements for narrow streets in the Meadowlark area,
4. The pipeline corrosion protection added to the waterline project to compensate for highly corrosive soil conditions discovered during design, and
5. The additional city-requested waterline stub-outs in the TOD areas for future connection of Crestview Water and Sanitation District customers.

A summary of the project budget is listed below:

<u>Project Component</u>	<u>Amount</u>
BT Construction Contract plus Contingency	\$ 1,999,239
Burns and McDonnell Amended Engineering Design Services Contract plus Contingency	\$ 313,342
Street Cut Impact Fees	\$ 70,000
<hr/>	
Total Project Cost	\$ 2,382,581
Original Project Budget	\$ 2,026,396
Total Project Shortfall	(\$356,185)
Proposed Transfer	\$ 356,185

Construction and Contingency savings in the Southern Pressure Zone One Water Pipeline Capital account are sufficient to fully fund this project.

This project helps achieve three of the City Council’s Strategic Plan Goals: achieving a “Financially Sustainable City Government” by contribution to the objective of well-maintained and operated City facilities, contributing to a “Beautiful and Environmentally Sensitive City” by enhancing the reliability of the City’s water distribution system and preventing patch work on newly paved streets and achieving a “Safe and Secure Community” by increasing the reliability of the water system to meet fire flow demands.

Respectfully submitted,

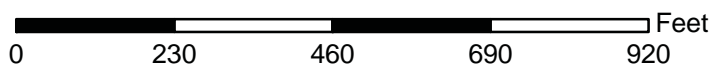
J. Brent McFall  
City Manager

Attachments: Maps (2)

# Meadowlark Area New Waterlines



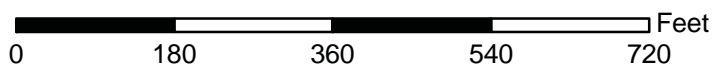
City of Westminster



# TOD Area New Waterline Alignment



City of Westminster







**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
November 22, 2010



**SUBJECT:** Colorado Safe Routes to School Funding Grant Application

**Prepared By:** Michael Normandin, Transportation Engineer

**Recommended City Council Action**

Authorize the submission of a grant application to the Colorado Department of Transportation for the Colorado Safe Routes to School grant program to fund sidewalk construction in the vicinity of Semper Elementary School (9600 Wadsworth Boulevard).

**Summary Statement**

- The Colorado Department of Transportation (CDOT) is soliciting applications for the 2011 funding cycle for Safe Routes to Schools (SRTS). The program is intended to make walking and bicycling to school safe and more appealing. The SRTS Program is 100% federally funded and is managed through CDOT. Grants range from \$50,000 to \$250,000 and are awarded on a state-wide competitive process in proportion to the geographic distribution of the student population, kindergarten through 8th grades.
- Staff is proposing a project to construct a sidewalk on Wadsworth Boulevard from 93<sup>rd</sup> Avenue to 96<sup>th</sup> Avenue for Semper Elementary School. Staff is estimating a cost of \$150,000 for the Semper Elementary School sidewalk, which could be funded entirely by SRTS funds as the estimated cost is below the \$250,000 maximum.
- Applications are due to CDOT no later than December 3, 2010. Applicants will be notified of project application rankings in April 2011.

**Expenditure Required:** \$0

**Source of Funds:** N/A

**Policy Issue**

Should the City of Westminster pursue federal funding for enhanced pedestrian facilities in the vicinity of Semper Elementary School?

**Alternative**

Do not submit a project application to CDOT for Safe Routes to School funding. Staff does not recommend this alternative. The SRTS program is 100% federally funded for projects less than \$250,000. The Semper Elementary School sidewalk construction falls into this category. Staff believes that this proposed project would enhance pedestrian safety.

**Background Information**

Safe Routes to School was established 1) to enable and encourage children, including those with disabilities, to walk and bicycle to school; 2) to make walking and bicycling to school safe and more appealing; and 3) to facilitate the planning, development and implementation of projects that will improve safety and reduce traffic, fuel consumption and air pollution in the vicinity of schools.

The Colorado Department of Transportation (CDOT) is soliciting applications for the 2011 funding cycle for Safe Routes to Schools (SRTS). The SRTS Program is 100% federally funded and managed through CDOT. Grants range from \$50,000 to \$250,000 and are awarded on a state-wide competitive process in proportion to the geographic distribution of the student population, kindergarten through 8th grades.

Staff is proposing the following project application:

Wadsworth Boulevard sidewalk construction – 93rd Avenue to 96th Avenue – There is no sidewalk on the east side of Wadsworth Boulevard between 93rd Avenue and 96th Avenue. This project would construct an 8- foot wide sidewalk which would greatly enhance pedestrian safety in this area. Currently, the school children are required to walk in the narrow streets within the adjacent neighborhood as these streets do not have sidewalks.

One of the requirements of the program is that the applicant obtains support from the affected school. Staff has met with the principal of Semper Elementary and has secured support for the proposed improvements at Semper Elementary School. Cost estimates are being refined for the project application, and a total of \$150,000 of SRTS funds for the project is thought to be necessary.

Grant applications will be reviewed by a volunteer advisory committee representing various entities, including: bicyclists, pedestrians, parents, teachers, law enforcement and rural and urban transportation planners. The project applications are due no later than December 3, 2010. The applicants will be notified on the ranking of the projects in April 2011. Design and bid package preparation would occur during the remainder of 2011 with bid solicitation and construction during the summer of 2012 when school is not in session.

This authorization for grant submittals meets Council’s Strategic Plan goals of Safe and Secure Community, Financially Sustainable City Government and Vibrant Neighborhoods In One Livable Community by providing safe pedestrian facilities and securing outside funding sources.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment – Location Map



**WADSWORTH BLVD., 93RD PL. TO 96TH AVE.  
SAFE ROUTES TO SCHOOL PROJECT**





**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
November 22, 2010



**SUBJECT:** 72<sup>nd</sup> Avenue/Little Dry Creek Bridge Funding Grant Application

**Prepared By:** Michael Normandin, Transportation Engineer

**Recommended City Council Action**

Authorize the submission of a grant application by the Department of Community Development to the Special Highway Committee for federal funding in the amount of \$882,400 in federal fiscal years 2013-2014 to be applied to the replacement of the drainage structure carrying 72<sup>nd</sup> Avenue over Little Dry Creek.

**Summary Statement**

- In 2009, the City submitted a grant application to the Special Highway Committee to apply toward the estimated \$2.48 million replacement cost of the structure carrying 72<sup>nd</sup> Avenue over Little Dry Creek. This resulted in the award of a grant of \$1.1 million for fiscal year 2013. The funding was made available under the Colorado Off-System Bridge Program and required that the structure qualify by having a sufficiency rating of less than 50 (on a scale of 100). The structure in question was assigned a rating of 33 until just very recently when it was lowered to 8. A local funding match of at least 20% was also required, and the City must pay for the administration of the project by the Colorado Department of Transportation (CDOT) in an amount of approximately 2% of the total cost of replacement.
- Recently, the Colorado Municipal League (CML) and Colorado Counties, Inc. invited cities to apply for funding under the same program in 2010. There is an estimated \$6.3 million available in the fund in years 2011-2014. CML and CDOT have confirmed that nothing in the program guidelines precludes a request to add to a previous years' grant. Staff is recommending that an application for additional funding for the project be submitted in response to the invitation. Applications are due December 3, 2010. City staff expects to be notified of the results of the competition by the end of this year.
- If this proposed second application is also successful, the total amount of City funding that would be necessary to match the Colorado Off-System Bridge Funding would equal \$545,160.

**Expenditure Required:** \$545,160 in year 2013

**Source of Funds:** General Capital Improvement Fund  
– Bradburn Boulevard Realignment Project

**Policy Issue**

Should the City of Westminster pursue federal funding for the replacement of the structure carrying 72<sup>nd</sup> Avenue at Little Dry Creek?

**Alternative**

City Council could choose to not compete for these funds. At \$6.3 million available for all qualifying municipal bridges in the entire state, and given that the City has already received some funding under a previous years' application, the odds of success with this second application are not high. However, the sponsoring agencies have confirmed there is nothing that prevents a follow-up application, and it should receive consideration on its own merits. The need to replace this structure grows with each year, and any opportunity to augment the City's resources for doing so should be pursued.

**Background Information**

Recently, the Special Highway Committee, working in conjunction with the Colorado Municipal League and Colorado Counties, Inc., solicited project applications for bridge funds for the rehabilitation or replacement of substandard bridges. The Special Highway Committee is comprised of four county and four municipal representatives from various locations in the State. The funding pool for municipalities in this 2010 offering is \$6.3 million. The funds are from federal sources and are related to the Colorado Off-Systems Bridge Program, administered by the Colorado Department of Transportation (CDOT). CDOT regularly inspects qualifying, non-state-owned bridges in Colorado counties and municipalities and assigns them a sufficiency rating (0 to 100), a measure of their overall condition and a way of prioritizing rehabilitation/replacement projects.

In 2009, the City made application for \$2.48 million of funding under this program to replace the structure carrying 72<sup>nd</sup> Avenue over Little Dry Creek and was successful in securing \$1.1 million in fiscal year 2013. At the time, this structure had a sufficiency rating of 33. According to the most recent inspection (November 2010), the rating has dropped to 8. Engineering Staff have examined the bridge and confirmed that it is safe for continued use. Staff is recommending that the City reply to the 2010 invitation and request an additional \$882,400 for the project. Applications are due December 3, 2010 and applicants should be notified by the end of this year.

Replacement of the structure in a stand-alone project is estimated to cost \$2.48 million. The bridge replacement program is set up to require 20% local matching funds, so if the application is successful, the proposed project funding would be summarized as follows:

Confirmed grant funding for 2013	\$1,100,000
2010 grant application	882,400
City matching funds required in 2013	495,600
Total	\$2,478,000

In addition, the City would be responsible for CDOT's costs to administer the project, estimated to be 2% (\$49,560) of the overall project cost. If the application is approved as submitted, the City's share of the cost for the replacement project would be approximately \$545,160 in 2013.

As result of a planning study for the 72<sup>nd</sup> Avenue corridor in 2008/2009, City staff and an engineering consultant are now performing preliminary engineering analysis to check the feasibility and cost to realign Bradburn Boulevard from its present intersection with 72<sup>nd</sup> Avenue to Raleigh Street. This potential project would have to deal with the 72<sup>nd</sup> Avenue structure at Little Dry Creek, and combining the structure replacement project with the realignment is expected to yield cost savings and other efficiencies. In anticipation of the future realignment of Bradburn Boulevard, a project account has been

established and Council has already appropriated sufficient funds into that account that could serve as the City's match for any size of Colorado Off-System Bridge Funding grant that may reasonably be awarded.

Given the successful application in 2009 and the relatively low amount of Bridge Program funds available to municipalities across the entire state, the odds of being successful again in the proposed 2010 application are low. However, the program sponsors have confirmed that requesting additional funding is allowed and the structure's condition rating has fallen in recent years, so the request may be persuasive. Pursuing these funds is also aligned well with City Council's strategic plan, specifically, the goal of Financially Sound City Government. Securing funding from outside sources allows the City to make the most of its own resources during trying financial times, a basic element of sound fiscal policy. Improving neighborhood infrastructure is also a component of the strategic plan, under the goal of Vibrant Neighborhoods in One Livable Community, and this grant would improve and possibly accelerate the opportunity to do so in the South Westminster area. With Council's approval, the application will be prepared and submitted as described.

Respectfully submitted,

J. Brent McFall  
City Manager



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
November 22, 2010



**SUBJECT:** 2011 Department of Homeland Security Regional Grant Application

**Prepared By:** Lee Birk, Chief of Police  
Russell Bowers, Public Safety Communications Administrator

**Recommended City Council Action**

Ratify the Police Department pursuing a 2011 Department of Homeland Security Regional Grant in the amount of \$5.5 million in partnership with the City of Arvada for the purpose of replacing, enhancing and modernizing the radio system that is shared by both cities.

**Summary Statement**

- In 2011, the radio system the City shares with the City of Arvada will be 19 years old and it uses the same proprietary radio protocol and system designed and implemented in 1992. This Radio system serves both emergency and non-emergency radio users in both cities, to include Police, Fire, EMS, Public Works and Utilities, Community Development, and Parks, Recreation and Libraries. Eventually, the radio system and equipment will reach an end of life status and will not be replaceable because of technology enhancement and the unavailability of replacement parts.
- The radio system will eventually need to be replaced and the cost of such replacement makes the pursuit of grants an attractive option to address the costs. On October 25, 2010, the Urban Area Security Initiative (UASI) and the North Central Region (NCR) of the State of Colorado posted the 2011 Department of Homeland Security Regional Grant documents. This grant is offered through the Governor’s Office of Homeland Security in conjunction with the UASI and the NCR of the State of Colorado. Department of Homeland Security (DHS) grant funding for 2011 will require matching funds projected to be 10%. The Westminster Police and Fire Departments are members of both the UASI and NCR regions.
- Historically, based on the number of entities applying for DHS grants, the dollars available and the fact that many of the funded projects require multiple year implementations it would be very unusual that an entity applying for a significant DHS Grant could expect funding in the first year of a grant request. Entities normally re-apply for grants of this nature in successive years and as projects are funded and completed, the requesting agency can reasonably expect to move up the priority list. In this specific case, staff does not anticipate receiving grant funding in 2011, but more realistically a few years down the road. However, as explained, it is important to establish a grant request history and to hopefully move up the priority list over time.
- The grant submittal deadline was November 17, 2010 and, due to the short turnaround time, the grant application was submitted before City Council could be briefed on this issue. Should City Council direct staff to withdraw the application that can still be accomplished. With authorization from City Council, staff will continue to pursue this grant opportunity and intends to resubmit the grant application annually.

**Expenditure Required:** Not to exceed \$300,000 (Westminster portion of the local match)

**Source of Funds:** General Fund – Departmental Operating Budget

## **Policy Issue**

Should the City of Westminster, in conjunction with the City of Arvada, continue with their submission of an application for the 2011 DHS Regional Grant to fund the replacement and upgrade of our joint radio system?

## **Alternative**

Direct Staff to withdraw the submission of the 2011 DHS Regional Grant. This option is not recommended because it will require the continued servicing of a rapidly aging and soon to be obsolete radio system and will ultimately force the City to find alternative funding for the replacement of the radio system.

## **Background Information**

On October 25, 2010, the UASI and NCR of the State of Colorado posted the 2011 DHS Regional Grant documents. This grant is offered through the Governor's Office of Homeland Security in conjunction with the UASI and NCR of the State of Colorado. The Westminster Police and Fire Departments are members of both the UASI and NCR regions.

As an active member of both the UASI and NCR, the City of Westminster has the ability to apply for DHS funding offered by the Governor's Office of Homeland Security. A core mission of the DHS is to enhance the ability of State, local and tribal governments to prepare, prevent and respond to terrorist attacks and other disasters. The DHS preparedness grant programs are the funding mechanisms for building and sustaining national preparedness capabilities. The UASI and NCR Regions have regional committees that are organized and are responsible for the capability areas providing stakeholder input and assessing critical personnel, planning, organization, equipment and training deficiencies. The Committees' tasks are to evaluate the needs of the Region within their capability area and recommend sub-projects to the UASI Working Group and the NCR Board of Directors to determine the framework for regional grant project/funding requests under the DHS.

The DHS Grant Program is comprised of several separate grant programs. These grants fund a range of preparedness activities, including personnel, planning, organization, equipment purchase, training, exercises, and management/administration costs. The funding priorities for the 2011 DHS Regional Grant is to address first responder safety and enhancing regional communications interoperability. Staff has determined that the City's grant request items are aligned with these funding priorities and that the 2011 DHS Regional Grant is an avenue that allows the City to address the aging radio system issue.

As a member of UASI and NCR, it has been the department's experience that it could take multiple years to be granted Homeland Security funds because of the grant requirements and amount requested. Once grant funds are awarded, it may take an additional year to receive the equipment based on UASI and NCR purchasing protocol. The grant process is highly competitive and it is important that the City apply for consideration at this time in order to secure the possibility of receiving grant funding in the near future. It is important to note that replacement of the current system would entail new and improved technology to encompass improved interoperability (P25 technology) and a simulcast transmission system. These enhancements represent state of the art and best practice radio technology to ensure that multiple radio users with diverse radio systems and equipment can effectively communicate with each other. It also addresses the issue of "radio dead zones" that are currently being experienced by emergency and non-emergency personnel who are unable to receive or transmit radio communications. Besides the obvious inefficiencies, these dead zones can pose lack of communication scenarios that can be life threatening. The P25 simulcast radio system is also a requirement for DHS grant funding as the UASI and NCR sub-committees do not want to invest grant funds into old technology systems. The City's current system is



approaching end of life status with vendors and our radio coverage is also becoming a critical safety issue for all of the users due to the growth of Westminster and Arvada. The best solution for these anticipated radio issues is to migrate to a P25 system within the next three to five years. The City could still support the system through third party vendors beyond that time. However, it is evident that this technology will eventually go away and the City must prepare for the transition to a P25 system.

Based on the preliminary estimates, the cost to acquire a P25 system is \$5.5 million. DHS funding for 2011 requires matching funds, which is estimated to be 10%. The anticipated 10% match of \$550,000 would be split among the two participating cities equally (\$275,000 each). Funds are available in the General Fund Operating Budget to meet matching requirements. If the grant were to be awarded, funds currently budgeted for replacement and repair of existing equipment would not be needed for brand new, under warranty equipment and could be applied to match requirements. The grant proposal must meet specific criteria such as risk level, alignment with State strategy, priority planning scenarios, project sustainment, capability impact/improvement, priority capability areas and multijurisdictional collaboration. At this time, the proposal includes the Cities of Westminster and Arvada.

UASI funds are limited in the amount that can be awarded in any given year. Because of funding limitations and the scope of a radio system replacement and upgrade, it is likely that the grant funding and project implementation would occur over a two to three year cycle. This not only facilitates actual implementation and logistics of the project, but also spreads out matching funds requirements over a multi-year period.

Respectfully submitted,

J. Brent McFall  
City Manager



**WESTMINSTER  
COLORADO**

**Agenda Memorandum**

City Council Meeting  
November 22, 2010



**SUBJECT:** 2011 Proposed Community Development Block Grant and HOME Projects

**Prepared By:** Vicky Bunsen, Community Development Programs Coordinator

**Recommended City Council Action**

Approve the allocation of Community Development Block Grant and HOME funds as set forth in this agenda memorandum for 2011.

**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 2011 CDBG allocation is anticipated to be approximately \$600,000.
- 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. For 2011, this is estimated to equal \$120,000.
- Based on input from City Council, City Staff and the public, it is proposed that \$50,000 of the CDBG grant be used for emergency and minor home repairs for low-income homeowners.
- Based on input from City Council, City Staff and the public, it is proposed that \$430,000 of the CDBG grant be used for the construction documents needed to realign Bradburn Boulevard at 72<sup>nd</sup> Avenue to create a four-legged intersection with Raleigh Street. This is the second year of work in what will be a multi-year project.
- As a member of the Adams County HOME consortium, a HUD-approved funding vehicle, the City receives an annual allocation of about \$220,000 through the County to be used on affordable housing projects and programs. These proceeds have previously been used to assist affordable housing development, to provide down-payment assistance to low and moderate-income households wishing 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
New Development Fund	\$150,000
Housing Rehabilitation	\$ 50,000

**Expenditure Required:** \$600,000 (CDBG)  
\$220,000 (HOME)

**Source of Funds:** HUD CDBG and HOME Programs

**Policy Issue**

Should the City allocate the CDBG and HOME funds as recommended in this agenda memorandum?

**Alternatives**

1. 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 benefits to Westminster residents and have provided needed funds for capital projects and other critical programs.
2. Council may choose to allocate the funds in a different manner. Staff believes the allocations identified in this agenda memorandum will serve Westminster residents well, meeting a number of critical needs in the community.

**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 2011 CDBG allocation is anticipated to be about the same as in 2010, which was \$604,991.

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, certain public facility and infrastructure improvements, and affordable housing activities. Based upon eligibility criteria and the limited level of funding, Staff recommends that the following projects be funded in 2011:

CDBG Program Administration:	\$120,000
Emergency & Minor Home Repair:	\$50,000
Bradburn Realignment:	\$430,000

The proposed 2011 CDBG budget and projects are based on discussion and input from the community, from City Council, and based on the number of phone calls and emails that Staff receives requesting home repair assistance. Community input is summarized in Attachment 1.

*Program Administration*

HUD allows grantees to utilize up to 20% of the CDBG funding for administration and planning expenses. This funding pays the salary of the CDBG Technician and part of the salary of one employee who works on revitalization programs and projects in south Westminster. In 2011, the program administration portion of the grant will be about \$120,000.

*Emergency and Minor Home Repairs*

Staff receives calls regularly from low- and moderate-income homeowners who need financial assistance with an urgent home repair need. Often these requests are not covered by the HOME program administered by Adams County. Also, home rehab projects funded by HOME require the entire home to be improved to meet building code requirements. Homeowners are often in need of an emergency repair and cannot wait for a major rehabilitation project to be conducted by the County.

The Emergency & Minor Home Repair program is starting this fall, using 2010 CDBG funds, and Staff recommends that a similar level of CDBG funding be allocated in 2011. There is ample demand for this service by homeowners who are struggling to maintain their homes on fixed or reduced incomes. Recipients of these small grants (not to exceed \$5,000) have incomes at or below 80% of area median income. A family of four who earns \$60,700 in 2010 is at the 80% AMI income level.

*Bradburn Boulevard Realignment*

The Bradburn Boulevard Realignment project will realign Bradburn Boulevard so that it intersects 72<sup>nd</sup> Avenue at the traffic signal at Raleigh Street. This accomplishes several goals including reconstruction of an aging culvert where Little Dry Creek passes under 72<sup>nd</sup> Avenue, increasing traffic safety by moving Bradburn Boulevard to a signalized intersection and away from a hill that has limited sight distance, facilitating better access to the new Westminster High School, and providing improved connectivity between neighborhoods north and south of 72<sup>nd</sup> Avenue. 2010 CDBG funds have been spent on preliminary design and costs related to right-of-way acquisition. Unspent funds are currently available for property acquisitions that are being negotiated.

The Engineering Division successfully applied for a grant from the State's Off-System Bridge Program, gaining \$1,100,000 that will be available in 2013 to rebuild the culvert/bridge where 72<sup>nd</sup> Avenue crosses Little Dry Creek. Staff is applying for an additional \$882,000 in 2010. This realignment and crossing reconstruction cannot be built in phases, but will need to be built all at once, starting in 2013 or as soon as feasible thereafter, depending on funding. It is not possible to accumulate sufficient CDBG funds to pay for the entire project due to the HUD requirement that the City spend down its grant so that no more than 150% of an annual grant is on hand. The recently approved 2011-2015 City Capital Improvement Program (CIP) includes \$950,000 in CIP funds for this project. Also approximately \$225,000 in surplus funds from the recently completed Utica Street and 68<sup>th</sup> Avenue reconstruction project will be available for the Bradburn Boulevard Realignment Project. While the total cost of this project is not yet known, Staff anticipates that additional funds will be needed for this project.

It is proposed that \$430,000 of the 2011 CDBG grant be used to prepare final construction documents for this project.

*Variations in Ultimate CDBG Allocation in 2010*

The actual amount allocated to the City is never known until about halfway into a calendar year. If the actual 2010 CDBG allocation varies from the amounts stated herein, adjustments to the projects will need to be made.

*HOME Program*

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 eligible affordable housing projects. In recent years, the annual grant has been divided between major home rehabilitation for low-income homeowners and down-payment assistance for homebuyers. Ten percent of the grant is kept by Adams County for program administration.

There has been little demand for the down-payment assistance funded by HOME money. There are other types of down-payment assistance programs offered through several organizations, including the Colorado Housing and Finance Authority (CHFA), Community Resources & Housing Development Corporation (CRHDC), which is headquartered in Westminster, and Adams County Housing Authority (ACHA). It is recommended that the City not use HOME funds to offer down-payment assistance in 2011.

The City has directed about \$100,000 annually to fund home rehabilitation projects. It is recommended that this allocation be reduced to \$50,000 because the City is now offering \$50,000 in CDBG money to fund minor home repairs. The combination of these two amounts would total \$100,000 with one-half earmarked for small projects that cannot be completed with HOME funds, due to various regulations associated with that program.

It is recommended that \$150,000 of the City's HOME allocation be reserved as a new development fund. This type of funding is needed for upcoming projects, including ACHA's land acquisition for affordable rental housing in the south Westminster TOD area and Growing Home's desire to acquire more property on Newton Street for affordable and transitional housing.

Allocation of CDBG and HOME funds meets two City Strategic Plan goals: Financially Sustainable City Government Providing Exceptional Services and Vibrant Neighborhoods in One Livable Community.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments

- Attachment 1 – Public Comment of the use of 2011 CDBG Funds
- Attachment 2 – Bradburn Boulevard Realignment Plan

## Public Comment on Use of 2011 CDBG Funds

Public comment on use of CDBG in 2011 was solicited several ways. Notices were published in Weekly Edition in September and October, as well as on the City website. A survey was distributed at the south Westminster Progressive Homeowners Association meeting in September. This resulted in one email from a longtime homeowner with a disabled spouse. They needed home rehab services and modifications to accommodate a wheelchair. They were directed to the home rehab program at Adams County (funded by City HOME allocation), Brothers Redevelopment Inc. and Rebuilding Together, all of which help with some home maintenance and repair as well as accessibility projects. The City's minor home repair program was not yet available to offer to them.

The Progressive HOA meeting produced 19 completed surveys. A year ago, the two projects that rated highest were the concept of realigning Bradburn Boulevard to join Raleigh Street (which is currently being designed) and the proposed Grange-Rodeo addition and improvements. The Bradburn project was the subject of more discussion last year because of the opening of the new high school and the need for improved traffic circulation. This year, the Bradburn realignment project was rated of medium importance, while the Grange-Rodeo project (19 out of 19) and adjacent outdoor space (18 out of 19) was rated high by almost all participants. Pursuing additional streetscape improvements on Bradburn and other neighborhood streets was also rated high. Here is a summary of the results:

### 2011-2015 CDBG Funds Survey Progressive HOA September Meeting Summary of Surveys (19 Participants)

Project Proposals & Ideas:	Level of Importance:				
	High	Medium	Neutral	Low	None
Bradburn Realignment	1	10	2	6	
Bradburn Streetscape	5	10	3	1	
Grange/Rodeo Addition	19				
Harris Town Park (Rodeo outdoor space)	18	1			
Minor Home Repair	6	10	2	1	
Other Streetscapes	10	7	2		
Other (write-in):					
Light Rail @ 70 <sup>th</sup> & Irving	4				
Buy properties that are for sale on 73 <sup>rd</sup> for future development	1				

### Attachment 1



**Bradburn Boulevard Realignment Plan**

Attachment 2



## Agenda Item 8 L

**WESTMINSTER**  
**COLORADO**

### Agenda Memorandum

City Council Meeting  
November 22, 2010



**SUBJECT:** Wildlife and Natural Resource Management Plan for Open Space Properties

**Prepared By:** Rod Larsen, Open Space Supervisor

### Recommended City Council Action

Adopt the Wildlife and Natural Resource Management Plan for Open Space Properties.

### Summary Statement

- With almost 3,000 acres of open space preserved in the City of Westminster, it has become necessary for the City to adopt a management plan that addresses wildlife and natural resource management issues.
- The Plan is a comprehensive open space management plan that also incorporates the coyote, beaver, and prairie dog plans that have been previously adopted by City Council as well as recommendations for natural resource management.
- The natural resource component addresses the management of grasslands, trees, wetlands and noxious weed control.
- City Council reviewed the Plan and provided Staff with comments during the October 4, 2010, Study Session and directed Staff to place it on a regular City Council agenda for formal adoption.

**Expenditure Required:** Open Space On-going Expenses

**Source of Funds:** Open Space Operating Budget



## **Policy Issue**

Should the Wildlife and Natural Resource Management Plan for Open Space Properties be adopted as a management document?

## **Alternatives**

1. City Council could choose not to adopt this management plan and direct staff to continue to approach open space issues through the existing wildlife plans. Staff recommends that this plan is adopted in order to have a comprehensive, pro-active approach to open space issues that is codified in a single document.
2. City Council could choose to alter the current document to a simpler plan. Staff recommends that the current document covers the main management issues in a simple format.

## **Background Information**

With almost 3,000 acres of open space preserved in the City of Westminster, it has become necessary for the City to adopt a management plan that addresses wildlife and natural resource management issues. This attached document is a comprehensive open space wildlife management plan that incorporates the coyote, beaver, and prairie dog plans that have been previously adopted by City Council as well as recommendations for natural resource management. The natural resource component addresses the management of grasslands, trees, wetlands and noxious weed control.

The Wildlife and Natural Resource Management Plan for Open Space Properties addresses a wide range of management issues on open space properties. This document gives a brief history for wildlife found in the Westminster area and lists management options. Grassland and wetland ecosystems are also found in this document with management strategies for both. The State of Colorado Noxious Weed Act addresses the need by staff to follow proper management guidelines. It should be noted that this plan is relatively general in nature and leaves room for staff to use other management options that may not be listed. A copy of the Plan was distributed to City Council in the October 4, 2010, Study Session packet. The Plan is available on the City's website at <http://www.ci.westminster.co.us/46.htm>.

This project supports the City's Strategic Plan Goals of "Financially Sustainable City Government Providing Exceptional Services," "Safe and Secure Community," and "Beautiful and Environmentally Sensitive City."

Respectfully submitted,

J. Brent McFall  
City Manager



WESTMINSTER  
COLORADO

Agenda Item 8 M

Agenda Memorandum

City Council Meeting  
November 22, 2010



**SUBJECT:** Second Reading of Councillor’s Bill No. 59 re Use of City Owned Property and Facilities by Private Telecommunication Companies

**Prepared By:** Mac Cummins, AICP, Planning Manager  
Marty McCullough, City Attorney

**Recommended City Council Action**

Pass Councillor’s Bill No. 59 on second reading amending the Westminster Municipal Code section 11-4-11 to separate the process for reviewing the use of private property for telecommunication uses from the process for reviewing the use of City owned property and facilities by private telecommunication companies, and authorizing the City Manager to charge such fees as the City Manager may deem reasonable for the processing and review of the latter requests, including any consulting fees that the City may incur.

**Summary Statement**

- The City has been permitting certain City owned facilities to be used by cell phone companies for some time now. The Department of Community Development currently works with the cell phone companies on their requests. With the elimination of the position within Community Development that oversaw this effort, staff has sought alternatives for meeting the community needs for good cellular phone service and generating revenue for the City, while recognizing that the City does not currently have any staff trained or available to broker these somewhat technical agreements. At the heart of staff’s proposal is staff’s belief that the business of renting City property and buildings to telecommunication companies is not a City core service. The proposal is to contract with an outside negotiator with telecommunications expertise, who will follow the City’s policy objectives concerning the licensing of public property for private use, and the City will charge a fee sufficient to cover his/her costs. In addition to this, the City will generate revenue from the program when it permits private telecom companies to use City property.
- The code changes in this ordinance are mostly clarification in nature, and making it explicit that requests to utilize City owned property will not be subject to an Official Development Plan requirement. The proposed changes include authority for the City Manager to charge such fees as the City Manager may deem reasonable in connection with the City’s processing and review of requests to use City property by private telecommunication companies.
- This Councillor’s Bill was approved on first reading by the City Council on November 8, 2010.

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

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment  
- Ordinance

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **59**

SERIES OF 2010

INTRODUCED BY COUNCILLORS

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**A BILL  
FOR AN ORDINANCE AMENDING SECTIONS 11-4-11 AND 11-4-12  
OF THE WESTMINSTER MUNICIPAL CODE CONCERNING  
TELECOMMUNICATIONS**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Section 11-4-11, W.M.C., is hereby AMENDED to read as follows:

**11-4-11: ANTENNAS, TOWERS AND TELECOMMUNICATION FACILITIES:** (2534 3135)

(A) **INTENT AND PURPOSE:** In order to accommodate the communication needs of residents and businesses while protecting the public health, safety, and general welfare of the community, the City Council finds that these regulations are necessary to:

- (1) Establish a local policy concerning telecommunications providers and services;
- (2) Promote competition in the provision of telecommunications services;
- (3) Facilitate the provision of wireless telecommunications services to the residents and businesses of the city;
- (4) Minimize adverse visual effects of towers through careful design and siting standards;
- (5) Encourage and maximize the use of existing and approved towers, buildings, and other structures to accommodate new wireless telecommunications antennas in order to reduce the number of towers needed to serve the community; and
- (6) Secure fair and reasonable compensation to the city and its residents for the use of any appropriate public property for use as a site for wireless telecommunications facilities.

(B) **APPLICABILITY:**

(1) The provisions of this ~~Section~~**Chapter** shall apply throughout the City of Westminster, except as noted herein, and it shall be unlawful for a tower, antenna, or telecommunications facility to be placed except in compliance with these provisions.

(2) The following facilities are not subject to the requirements of subsections (D) through (H) below:

(a) Antennas or towers up to the maximum height specified for principal structures in the applicable zoning district or ODP which are used by FCC-licensed amateur radio operators shall be permitted in any zoning district up to the maximum height specified for principal structures for

~~that district, subject to the requirements of this Section.~~ In PUD districts, ~~t~~he operator applicant must apply for an Official Development Plan (ODP), ODP amendment, or ODP waiver to establish permissible structure heights if ~~the~~an ODP fails to specify height limitations for that district.

~~(b)~~-Television or radio antennas, located on single family dwellings or duplexes, less than five feet above the highest point of the existing principal structure, ~~shall not be subject to subsections (D) through (H) below.~~

(c) Telecommunications facilities located on City-owned property.

~~(4)~~(3) The ~~requirements~~limitations of this Section may be waived by the City Manager in the case of ~~a structure~~telecommunications facilities owned or operated by a governmental entity or public utility if it is demonstrated that the public good cannot be adequately served within the limitations of this Section.

#### (C) DEFINITIONS:

(1) ALTERNATIVE TOWER STRUCTURE means man-made trees, clock towers, bell steeples, light poles, buildings, and similar alternative design mounting structures that are compatible with the natural setting and surrounding structures, and camouflages or conceals the presence of antennas or towers. This term also includes any antenna or antenna array attached to the alternative tower structure.

(2) ANTENNA means any exterior transmitting or receiving device mounted on a tower, building, or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunication signals or other communication signals.

(3) CO-LOCATION means the placement of antennas or other telecommunications facilities by two or more telecommunications providers in the same location or on the same tower or alternative tower structure.

(4) LANDOWNER means a natural person or persons, partnership, company, corporation or other legal entity recorded, in the records of the Adams or Jefferson County Clerk and Recorder, as the owner of the real property upon which the telecommunications facility is located or proposed to be located. For the purposes of a telecommunications facility located on a building or other existing structure that is owned by a different legal entity than the owner of the real property, both the real property owner and the owner of the building or structure will be considered to be landowners.

(5) SCREEN WALL means an opaque structure, typically located on top of, but integrated with the design of, a building that conceals mechanical, telecommunications or other equipment from view from the surrounding rights-of-ways and properties.

(6) TELECOMMUNICATIONS FACILITIES or FACILITY means the plant, equipment, and personal property, including but not limited to, cables, wires, conduits, ducts, pedestals, antenna, towers, alternative tower structures, electronics and other appurtenances used to transmit, receive, distribute, provide, or offer telecommunication services.

(7) TELECOMMUNICATIONS PROVIDER means a person, partnership, company, or corporation that constitutes the business entity who owns or will own, once constructed, the telecommunications facilities that are proposed for review and approval under this Section.

~~(5)~~(8) TELECOMMUNICATIONS SUPPORT FACILITIES means support building structures, and equipment cabinets containing electrical and mechanical equipment and devices used for the reception of or transmission of voice, data, image, graphic and video programming information between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities.

~~(6)~~(9) TOWER ~~shall~~ means any structure designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, and monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, and other similar structures. This term also includes any antenna or antenna array attached to the tower structure.

(D) REVIEW AND APPROVAL PROCESS:

(1) Except as provided in Subsection (J) below, a use of land for a telecommunication facility must be approved in an Official Development Plan (ODP), amended ODP, or ODP waiver, including facilities located on public ~~property, or~~ rights of way. If the applicable ODP does not include a height limitation for the principal structure, an ODP amendment or waiver to specify the permitted height for the facility shall be required.

(2) A telecommunication facility must receive a building permit, and be in compliance with the building code adopted by the city.

(3) An application ~~may be approved~~shall be reviewed by the City Manager or his designee(s); with the exception of telecommunication facilities proposed to be located above-ground on public rights-of-way, which must be approved at a public hearing before the ~~city~~ Planning Commission pursuant to the procedures set forth in Title 11, Chapter 5.

(E) PREREQUISITES FOR APPROVAL: No ODP, ODP amendment, or ODP waiver relating to a telecommunications facility shall be approved unless the following findings have been met:

(1) Such facility is necessary to provide adequate services to locations that the ~~telecommunications provider applicant~~ is not able to serve with existing approved facilities;

(2) The ~~telecommunications provider~~applicant certifies that the facility conforms to all applicable regulations promulgated by the federal communications commission (FCC), the federal aviation administration (FAA), and any other federal agency with jurisdiction;

(3) The facility will be designed and constructed in a manner which minimizes visual impact and preserves view corridors;

(4) The location of the facility is the most appropriate site among those available within the technically feasible area for the location of a telecommunication facility;

(5) The ~~telecommunications applicant~~provider has considered whether co-use is possible or permissible, based on legal, financial, and technical consideration in order to avoid the need for additional structures; and

(6) The ~~telecommunications provider~~applicant has satisfactorily addressed the design standards herein.

(F) APPLICATION: ~~An application for a telecommunication facility shall follow~~ The procedures and requirements, ~~as~~ set forth in Title 11, Chapter 5 of the Westminster Municipal Code, will apply to any application for a telecommunications facility. In addition, the application shall contain the following:

(1) (a) Certification by the telecommunications provider that the telecommunication facility is or will be in compliance with the current standards and regulations of the FAA, the FCC, and any other agency of the federal government with authority to regulate telecommunications facilities; and

(b) A written agreement from the ~~telecommunications provider owner~~ that, if such standards and regulations are changed, the ~~owners of the~~ telecommunication provider facilities shall bring such facilities into compliance and that the facilities will be brought into compliance within the time frame mandated by the controlling federal agency. The ~~telecommunications provider owner~~ also will agree in writing, that if the facility causes interference with public safety communications, ~~it~~ the owner will correct this interference at ~~its~~ the owner's expense. The ~~telecommunications provider owner~~ will further agree in writing that failure to do so shall authorize the City to shut down the facility until compliance is demonstrated.

(2) A written agreement by the ~~telecommunications provider owner~~ that ~~it~~ the owner of a tower shall ensure that any tower is maintained in compliance with standards contained in applicable local building codes, as amended from time to time. Evidence may consist of a structural report by a Colorado licensed professional engineer demonstrating that the tower or alternative tower structure facility will comply with applicable structural standards.

(3) An acknowledgment binding the ~~applicant~~ telecommunications provider, the ~~property~~ land owner (if other than the ~~applicant~~ telecommunications provider) and both of their applicant's and owner's successors in interest to properly maintain the exterior appearance of and to ultimately remove the tower, antenna and other telecommunications facilities in compliance with the provisions of this Chapter and the applicable ODP.

(4) An acknowledgment by the land owner of the property and the telecommunications provider that the city may enter up on the property and the telecommunications facility and undertake any maintenance or removal activities so long as if: the

~~(a)~~ — The city has provided the ~~applicant~~ telecommunications provider with written notice requesting the work needed to comply with this Chapter and providing the telecommunications provider applicant at least forty-five days to complete it. Such notice shall be sent to the address provided by the telecommunications provider on the ODP; and

~~(b)~~ — The city shall not be required to provide advance notice if there is a significant risk to the public health and safety requiring immediate remedial measures.

(5) For applications to place a telecommunications facility in the public right of way, a An agreement to post a performance bond, letter of credit or other financial guarantee as listed in Section 11-6-4(A)(2), W.M.C., at the time a permit is issued, in an amount to be set by the city, reasonably

related to the costs that the city may incur should the telecommunications provider~~applicant~~ fail to comply with any of its obligations pursuant to subsection (IH) (concerning removal of abandoned facilities). The bond, letter of credit, or other financial guarantee shall remain in effect ~~for a period of ten years from the date of permit issuance. Or in the case of facilities located in a public right of way,~~ until such facilities are removed.

(6) An acknowledgement by the landowner~~If the applicant seeks a permit to locate on leased property, applicant shall obtain and submit a written statement of the landlord~~ indicating that the landowner~~lord~~ is not precluded by contract or otherwise from~~permitted to~~ entering into leases of the same property with other telecommunications providers.

(7) The ~~identity and legal status of the applicant with the~~ names, addresses, and telephone numbers of the land~~property~~-owner and the telecommunications provider, and any authorized officer, agent, or employee responsible for the application and with whom communications may be exchanged.

(8) Information sufficient to determine that the telecommunications provider~~applicant~~ has received or has applied for any operating license or other approvals required by the FCC to provide telecommunications services or facilities within the city.

(9) A site plan, to scale, meeting the design standards of subsection (G) below, that shows the relative shape, size, and location of the proposed telecommunications facilities, which shall include:

- (a) A design description, including height above grade, materials, and color for the proposed antenna on a tower or alternative tower structure;
- (b) A landscaping and visual mitigation plan, detailing how screening from the public view will be accomplished, and how design characteristics will have the effect of reducing or eliminating visual obtrusiveness, how the landscaping will be maintained, and who is responsible for the maintenance;
- (c) Proposed ingress and egress;
- (d) Proximity of the tower or other telecommunications facility to residential structures and residential district boundaries;
- (e) Nature of uses on adjacent and nearby properties within two hundred (200) feet of cellular facility;
- (f) Surrounding topography; and
- (g) Tree coverage within two hundred (200) feet of cellular facility.

(G) DESIGN STANDARDS: An application shall be reviewed to determine that all required information has been submitted and that the following standards have been met. The applicant must demonstrate that the following minimum standards have been met;~~has the burden of persuasion on each issue.~~

(1) At least ten feet of horizontal clearance must exist between any antenna and any power lines; more clearance may be required to meet Colorado Public Utilities Commission standards.

(2) No guy wires employed may be anchored within the area in front of any primary structure on a parcel.

(3) Setbacks.

(a) All telecommunication facilities and telecommunications support facilities must be designed or sited so that they are set back a minimum of two hundred (200) feet from the nearest residential use or residentially zoned property ~~line~~ and do not pose a potential hazard to nearby residences or surrounding properties or improvements.

(b) Telecommunication facilities adjacent to non-residential uses shall be set back, at a minimum, a distance equal to at least the height of the tower from any adjoining lot line.

(c) All parts of the structure, including but not limited to supports, fences, and guy wires, shall be set back from the property line, at a minimum, the same distance that is required for a principal structure under this Code or the applicable ODP and shall not be closer to the front property line than the front of the existing principal structure on the property, if any. If the applicable ODP does not specify setbacks, an ODP amendment or waiver shall be obtained specifying the setbacks for the structure.

(d) Additional setback may be required to contain on-site all ice fall or debris from tower failure and/or to preserve privacy of adjoining residential and public property. Additionally, telecommunication facilities shall be constructed so as to minimize the potential safety hazards and located in such a manner that if the facility should fall, it will remain within the property boundaries and avoid habitable structures, public rights-of-way, utility lines and other telecommunication facilities.

(e) If the applicable zoning district setback requirements are greater than the height of the tower, the more restrictive setback must be met. Guy anchors and accessory buildings must satisfy the minimum zoning setback requirements.

(4) Towers, telecommunications facilities, telecommunications support facilities, alternative tower structures, landscaping, fencing, etc. ~~s~~shall be maintained in accord with the ODP.

(5) All structures and equipment shall be screened and protected by a fence or wall not less than six (6) feet in height from ground level, unless other screening methods are approved or waived through the ODP process. Such fence or wall shall be ~~either constructed from~~ (i) masonry or (ii) vinyl fencing ~~if may be~~ used with brick, stone, stucco, or masonry columns. The fence or wall must effectively screen the telecommunication structure and equipment.

(6) At a tower site, the design of the buildings and related telecommunications facilities shall use materials, colors, textures, screening, and landscaping that will blend the facilities ~~with~~ the natural setting and ~~to~~ the built environment. If the built environment is anticipated to change significantly during the usable life of the tower or alternative tower structure, such as within an urban renewal district, the tower or structure shall be compatible with the anticipated future built environment

(7) Equipment installed on a rooftop shall be concealed by a screen wall. Such screen wall shall be designed to appear integrated into the building architecture.

~~(7)~~(8) If an antenna is installed on a structure other than a tower, the antenna and supporting telecommunications facilities must be of a neutral color that is identical to or closely compatible with the color of the supporting structure so as to make the antenna and related facilities as visually unobtrusive as possible.



~~(8)~~(9) For telecommunication facilities, including alternative tower structures, to be located above-ground and located adjacent to the traveled portions of streets or sidewalks, the setback must be, at a minimum, equal to the height of the proposed facility, and shall not exceed the height of standard utility poles in the vicinity.

~~(9) All parts of the structure, including supports, fences, and guy wires, shall be set back from the property line the same distance as is required for a principal structure under this Code or the applicable ODP and shall not be closer to the front property line than the front of the existing principal structure on the property, if any. If the applicable ODP does not specify setbacks, an ODP amendment or waiver shall be obtained specifying the setbacks for the structure.~~

~~(10) Additional setback may be required to contain on site all ice fall or debris from tower failure and/or to preserve privacy of adjoining residential and public property. Additionally, telecommunication facilities shall be constructed so as to minimize the potential safety hazards and located in such a manner that if the facility should fall, it will remain within the property boundaries and avoid habitable structure, public rights of way, utility lines and other telecommunication facilities.~~

~~(11)~~(10) Landscaping shall be accomplished with a buffer of plant materials that effectively screens the view of the telecommunications support facility from adjacent property and in accordance with city landscaping standards. All vegetation shall be maintained in a living condition. Automatic irrigation shall be provided to ensure the on-going maintenance of the landscaping.

~~(12)~~(11) The use of any portion of a telecommunications facility for signs for promotional or advertising purposes, including but not limited to company name, phone numbers, banners, streamers, and balloons is prohibited. The city may require the installation of signage with safety and contact information.

~~(13)~~(12) Towers shall not be artificially lighted, unless required by the FAA or other applicable authority.

~~(14)~~(13) No portion of any antenna array may extend beyond the property line.

~~(15)~~(14) Sufficient anti-climbing measures must be incorporated into each facility to reduce potential for trespass and injury. By way of example, and not of limitation, security fencing together with a lack of pegs of the bottom portion of the tower, shall be considered sufficient anti-climbing measures. There shall be no permanent climbing pegs within fifteen feet of the ground. Motion-activated or staff-activated security lighting around the base of a tower or accessory structure entrance may be provided if such lighting does not project off-site.

~~(16)~~ (15) In addition to the foregoing standards, the

~~The decision maker may shall consider if, if applicable, the following criteria in determining whether to approve an ODP or ODP amendment pursuant to this Section, the:~~

~~(a) Aesthetic impacts, including design and appearance of the structure and obstruction of view corridors, outweigh the benefits to the public of improved wireless service;~~

~~(b) Quality and effectiveness of any landscaping and screening of the base of the structure;~~

~~(c) Whether co-use of the structure by governmental agencies and other persons is possible or permissible, based on legal, financial and technical considerations, in order to avoid the need for additional structures; and~~

~~(d) Whether alternative sites are reasonably available, taking into consideration lease terms and conditions based upon industry and market standards.~~

(H) CO-LOCATION: The shared use of existing towers or other alternative tower structures shall be preferred to the construction of new facilities. The application for any ODP or ODP amendment shall include evidence that reasonable efforts have been made to co-locate within an existing telecommunication facility or upon an existing alternative tower structure within a reasonable distance, regardless of municipal boundaries, of the site. The ~~telecommunications provider~~ applicant must demonstrate that the proposed telecommunication facility cannot be accommodated on existing telecommunications facilities due to one or more of the following reasons:

(1) The planned equipment would exceed the structural capacity of existing and approved telecommunications facilities or other alternative tower structures, considering existing and planned use for those facilities;

(2) The planned equipment, if co-located, would cause radio frequency interference with other existing or planned equipment, or exceed radio frequency emission standards which cannot be reasonably prevented;

(3) Existing or approved telecommunications facilities or other alternative tower structures do not have space on which proposed equipment can be placed so it can function effectively and reasonably;

(4) Other technical reasons make it impracticable to place the proposed equipment ~~proposed by the applicant~~ on existing facilities or structures;

(5) The land-owner or owner of the existing telecommunication facility or other alternative tower structure refuses to allow such co-location or requests an unreasonably high fee for such co-location compared to current industry rates;

(6) No existing towers or alternative tower structures are located within the geographic area required to meet the ~~telecommunications provider~~ applicant's engineering requirements;

(7) Existing towers or alternative tower structures are not of sufficient height to meet the ~~telecommunication provider~~ applicant's engineering requirements;

(8) Existing towers or alternative tower structures do not have sufficient structural strength to support ~~the applicant's~~ proposed antennas and related equipment; and

~~(9) Any other reason, in the reasonable discretion of the City Manager or his designee.~~

(I) ABANDONMENT; REPAIR; REMOVAL:

(1) At the time of submission of the application for a telecommunication facility, the ~~telecommunications provider and the landowner~~ applicant shall execute an agreement in a form acceptable to the city, to remove all antennas, driveways, structures, buildings, equipment sheds, lighting, utilities, fencing, gates, accessory equipment or structures, as well as any tower or structure used as a telecommunications facility if such facility becomes technologically obsolete or ceases to perform its originally intended function for more than one hundred and eighty (180) days. Upon removal, the land shall be restored and re-landscaped, at the operator's expense, to the level of finish of the adjacent landscaped area.

(2) If upon inspection, the city concludes that a telecommunications facility fails to comply with the approved ODP or constitutes a danger to persons or property, then upon notice being provided to the representative as listed on the ODP of a telecommunications facility, the ~~telecommunications provider~~owner, shall have thirty days to bring such telecommunications facility into compliance with the ODP. If the ~~owner~~telecommunications provider fails to bring such facility into compliance within said thirty (30) days, the city may remove the facility at the ~~owner~~telecommunications provider's expense.

(3) Any telecommunication facility that is not operated for a continuous period ~~of~~of one hundred and eighty (180) days shall be considered abandoned. The city, in its sole discretion, may require an abandoned tower, antenna, or any other ancillary telecommunications equipment to be removed within ninety (90) days of receipt of notice from the city notifying the ~~owner~~telecommunications provider and the landowner of such abandonment. Upon removal, the site shall be restored or re-vegetated to blend with the surrounding environment. If such removal is not completed within said ninety days, the city may remove and dispose of the same at the ~~owner~~telecommunications provider's or the landowner's expense. If there are two or more users of a single tower or alternative tower structure, then this provision shall not become effective until all users cease using the tower.

(4) Any telecommunication facility placed in a public right of way shall be removed within one hundred and twenty (120) days after notification by the city that the right of way is needed by the city for the expansion, construction, or reconstruction of a street or highway or other use by the city for any city project. Such removal shall be at the sole expense of the ~~owner~~telecommunications provider and if ~~owner~~telecommunications provider fails to remove the facility within the said one hundred and twenty (120) days, the city may remove and destroy the facility and charge the costs to the ~~owner~~telecommunications provider.

(J) LOCATIONS ON CITY PROPERTY: When it is in the interest of the city, the City Manager or his designee may, but is not required to, negotiate ~~and enter into~~ an agreement with a telecommunications services provider for the use of city-owned property (except public rights-of-way) for the location of towers, alternative tower structures, antennas, and other telecommunications facilities. Any such agreement must be approved by the City Council by ordinance, prior to the installation of any telecommunications facility on City-owned property. When so located, proposals to place telecommunications facilities on City-owned property may be considered by the City Manager without meeting the preceding requirements of this section.~~the agreement may be reviewed administratively.~~ The City Manager is authorized to adopt reasonable rules and regulations for the review of such facilities, including establishing such fees as may be reasonably necessary to adequately reimburse the City for its costs in evaluating and processing such requests.

Section 2. Section 11-4-12, subsection (I), W.M.C., is hereby AMENDED to read as follows:

**11-4-12: SATELLITE EARTH STATIONS: (2534)**

(I) VARIANCES:

(1) Any person may seek ~~to vary a variance from~~ the provision of subsection (D)(2) of this Section by applying to the ~~Planning Manager~~Chief Building Official or his designee. The decision of the ~~Planning Manager~~Chief Building Official may be appealed to the ~~Planning Commission~~Board of Adjustment and Appeals.

(2) All ~~variance~~ requests to vary the setback requirements of subsection (D)(2) shall be made in writing on a form provided by the City of Westminster.

(3) Special circumstances or conditions, such as the following, may justify the granting of a variance:

(a) Existence of buildings, topography, vegetation, satellite structures, or other matters on adjacent lots or within the adjacent public right-of-way which would substantially restrict the effectiveness of the satellite earth station. Such special circumstances or conditions must be peculiar to the particular residence, business, or enterprise of the applicant and not applicable generally to all residences, businesses, or enterprises.

(b) The variance, if authorized, will weaken neither the general purpose of the satellite earth station ordinance nor the regulations prescribed for the zoning district on which the satellite earth station is located.

(c) The variance, if authorized will not alter the essential character of the zoning district in which the satellite earth station is located.

(d) The variance, if authorized, will not substantially or permanently injure the appropriate use of adjacent conforming property.

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 8th day of November, 2010.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 22nd day of November, 2010.

\_\_\_\_\_  
Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

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

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



## Agenda Item 9 A

**WESTMINSTER**  
**COLORADO**

### Agenda Memorandum

City Council Meeting  
November 22, 2010



**SUBJECT:** Resolution No. 41 re Appointing Alternates to Fill Vacancies on Boards and Commissions

**Prepared By:** Linda Yeager, City Clerk

### Recommended City Council Action

Adopt Resolution No. 41 to appoint alternate members to fill vacancies on the Environmental Advisory Board and the Historic Landmark Board.

### Summary Statement

- The Westminster Municipal Code establishes the membership composition of each City Board and Commission and in some instances sets forth expertise requirements for membership where professional experience is valuable to the Board's role.
- Resignations were received recently from regular members appointed to the Environmental Advisory Board and the Historic Landmark Board.
- If adopted, the attached resolution officially appoints the alternate members on each of the referenced Boards to fill the balance of the terms of the regular members who have resigned.

**Expenditure Required:** \$0

**Source of Funds:** N/A

**Policy Issue**

Does City Council wish to fill vacancies on the Environmental Advisory Board and the Historic Landmark Board so the Boards can continue to conduct business?

**Alternative**

None identified

**Background Information**

Bill Teter, who has served as a member of the Historic Landmark Board the past six years, recently submitted his resignation citing increased workload that restricts his ability to continue serving on the Board. Chris Meschuk was recently appointed the alternate member to this Board and has the qualifications needed to satisfy the Code's criteria for membership as a professional. If adopted, the attached resolution appoints Mr. Meschuk as a regular member to fill the balance of Mr. Teter's unexpired term, which will expire December 31, 2010.

A similar situation has occurred on the Environmental Advisory Board. M. Shawn Wallace submitted his resignation with regrets, indicating that his school schedule prevents him from attending regular meetings. The current alternate, William Lange, was appointed in June of this year. He will be appointed to complete Mr. Wallace's unexpired term through December 31, 2010, if the attached resolution is adopted.

Members of all Boards and Commissions whose terms expire December 31, 2010, will be contacted in the next few weeks to determine their interest in being reappointed to another two year term. Additionally, the annual recruitment of Westminster citizens interested in serving on one of the City's advisory groups will begin in early December with the deadline to submit an application being January 10, 2011.

The Environmental Advisory Board has embarked on a project to evaluate trash collection and recycling services in support of City Council's strategic goal of a Beautiful and Environmentally Sensitive City. Through Council's objective to preserve and restore historic assets, the Historic Landmark Board supports the strategic goal of Vibrant Neighborhoods in One Livable Community.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

RESOLUTION

RESOLUTION NO. **41**

INTRODUCED BY COUNCILLORS

SERIES OF 2010

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**A RESOLUTION FOR CITY OF WESTMINSTER  
BOARD AND COMMISSION APPOINTMENTS**

WHEREAS, vacancies exist on two of the City's Boards and Commissions because of resignations received in October; and

WHEREAS, it is important to have each City Board or Commission working at capacity to carry out the business of the City of Westminster with citizen representation; and

WHEREAS, alternates on each of the two Boards can be appointed to fill the vacancies in regular membership created by the referenced resignations.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WESTMINSTER that the following currently appointed alternate members are hereby appointed to regular membership on the City of Westminster Board or Commission and term of office expiration date listed below.

<b><u>BOARD/COMMISSION</u></b>	<b><u>APPOINTEE</u></b>	<b><u>TERM EXPIRATION DATE</u></b>
Historic Landmark Board	Chris J. Meschuk	December 31, 2010
Environmental Advisory Board	William Lange	December 31, 2010

PASSED AND ADOPTED this 22<sup>nd</sup> day of November, 2010.

ATTEST:

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Mayor

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City Clerk

APPROVED AS TO LEGAL FORM:

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City Attorney



**WESTMINSTER  
COLORADO**

**Agenda Memorandum**

City Council Meeting  
November 22, 2010



**SUBJECT:** Resolution No. 42 re 2011 Jefferson County Joint Venture Grant Application for the Kings Mill and Westbrook Park Renovations

**Prepared By:** Becky Eades, Landscape Architect II  
Sarah Washburn, Landscape Architect II  
Rich Dahl, Parks Services Manager

**Recommended City Council Action**

Adopt Resolution No. 42 authorizing the Department of Parks, Recreation and Libraries to pursue two Jefferson County Joint Venture Grants during the 2011 cycle not to exceed \$150,000 for the Kings Mill Park Expansion and \$110,000 for the Westbrook Park Renovation.

**Summary Statement**

- The Department of Parks, Recreation and Libraries wishes to pursue two grants from the Jefferson County Joint Venture Program for funding assistance with the expansion of Kings Mill Park and the renovation of Westbrook Park.
- Jefferson County cities are allowed to submit two Joint Venture Grant applications per cycle.
- Matching funds for the expansion of Kings Mill Park were approved in the 2009 Carryover Appropriation for 2010, which was passed by City Council on second reading on September 13, 2010.
- Matching funds for the renovation of Westbrook Park are included in the 2011 CIP budget for park renovations.
- If the grants are awarded, both projects could begin in 2011.

**Expenditure Required:** \$310,000 (City matching funds)

**Source of Funds:** General Capital Improvement Fund  
- Kings Mill (\$200,000)  
- Westbrook Projects (\$110,000)



**Policy Issue**

Should the City attempt to seek assistance for the Kings Mill Park expansion and the Westbrook Park renovation by pursuing grant monies from the Jefferson County Joint Venture Grant Program?

**Alternative**

Council could choose not to pursue additional funding for these projects; however, this additional funding would increase the project budgets while reducing the Cities financial responsibility for both projects and would provide a better overall product to the citizens of Westminster.

**Background Information**

The Department of Parks, Recreation and Libraries has been successful in applying for and receiving grants for the development of parks, trails, and open space from a variety of sources in the past. The City has developed a strong partnership with Jefferson County in its successful use of these grant funds. Recent Jefferson County Joint Venture Grants received by the City include a 2010 grant in the amount of \$150,000 for the City Park Playground; a 2009 grant in the amount of \$300,000 for renovation of the aquatics area of the City Park Recreation Center; a 2008 grant for \$250,000 for the renovation of the Westminster Sports Center; and a \$41,407 grant for the Heritage Golf Course restrooms.

With the 2009 carryover appropriation, \$250,000 was designated for the demolition of the Kings Mill building and pool, located at 9018 Field Street, per City Council direction received on August 16, 2010. These funds are earmarked to demolish the existing structures, including the former Head Start building and the swimming pool (estimated at \$50,000 to \$60,000). These actions are necessary due to significant structural and grading costs that would be required to repair the existing facilities. The remaining funds will be utilized to work with the neighborhood to add additional park amenities to the existing tennis courts and toddler playground.

The 2011 Park Renovation CIP budget includes up to \$250,000 for the renovation of Westbrook Park, a six-acre neighborhood park located at 9750 W. 97<sup>th</sup> Avenue, constructed in 1995 with under a Joint-Venture Grant partnership with Jefferson County Open Space. This park is adjacent to Lukas Elementary School, which is part of the Jefferson County School District R-1. Elements of this park now require renovations to keep them functioning and in usable, safe condition, despite continued maintenance upkeep throughout the past 15 years. Proposed work includes tennis court and playground renovations and improvements to the site furnishings and shelters. A large portion of this park overhaul would entail refurbishing older elements as possible instead of complete replacement. This is a more sustainable approach to park renovations and was successfully completed by the Parks, Recreation and Libraries Department in 2010 with the renovation of Municipal Park. The grant request to Jefferson County is for 50 percent of the total project cost. Receipt of this grant would leverage the City's match of \$110,000 for a total project budget of \$220,000.

These grant requests and projects support the City's Strategic Plan Goals of "Financially Sustainable City Government Providing Exceptional Services" and "Beautiful and Environmentally Sensitive City."

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments

RESOLUTION

RESOLUTION NO. **42**

INTRODUCED BY COUNCILLORS

SERIES OF 2010

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**A RESOLUTION  
TO PURSUE A GRANT REQUEST FROM THE  
2011 JEFFERSON COUNTY JOINT VENTURE GRANT PROGRAM  
FOR THE KINGS MILL PARK RENOVATION AND WESTBROOK PARK RENOVATION**

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 Kings Mill and Westbrook Park renovations; and

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

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WESTMINSTER that Staff shall submit a grant application to the Jefferson County Joint Venture Grant program for the funding cycle of 2011, requesting funding not to exceed \$150,000 to enhance the expansion of Kings Mill Park and \$110,000 to enhance the renovation of Westbrook Park.

PASSED AND ADOPTED this 22nd day of November, 2010.

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Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

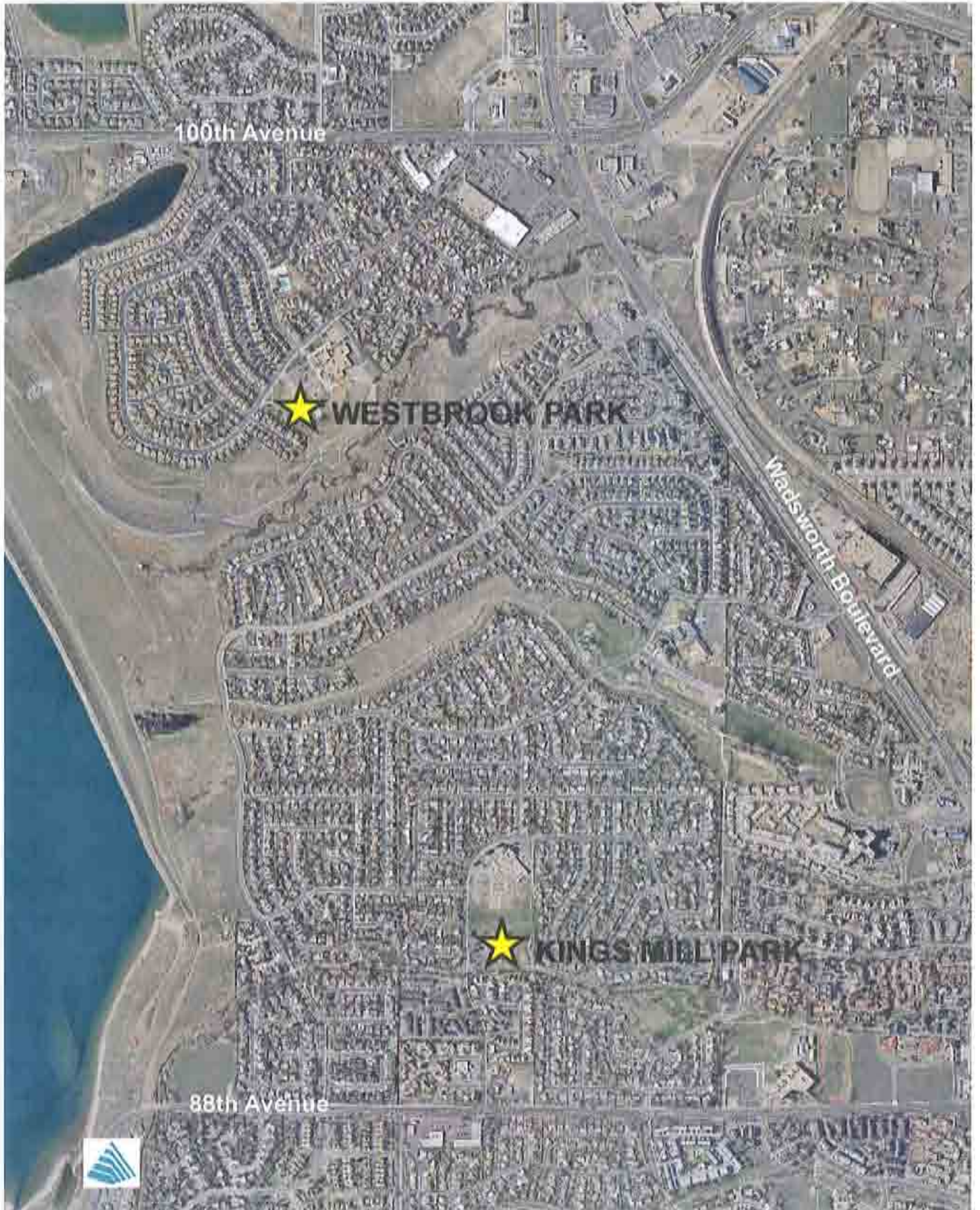
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City Clerk

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City Attorney

# 2011 Jefferson County Joint Venture Grants Location Map





## Agenda Item 10 B

**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
November 22, 2010



**SUBJECT:** Councillor's Bill No. 60 re 2010 3<sup>rd</sup> Quarter Budget Supplemental Appropriation

**Prepared By:** Gary Newcomb, Accountant

**Recommended City Council Action**

Pass Councillor's Bill No. 60 on first reading providing for supplemental appropriation of funds to the 2010 budget of the General, Utility, and General Capital Improvement Funds.

**Summary Statement**

- At the end of each quarter Staff prepares an ordinance to appropriate unanticipated revenues received during the quarter. Preparing quarterly supplemental appropriation requests is done to simplify administrative procedures and reduce paper work.
- This is the 2010 3rd quarter supplemental appropriation.
- General Fund amendments:
  - \$1,895 Scholarships
  - \$9,625 Program Revenues
  - \$64,667 Grants
  - \$68,862 Reimbursements
- Utility Fund amendments:
  - \$38,130 Grants
- General Capital Improvement Fund amendments:
  - \$5,508 Cash-in-lieu
  - \$16,654 Grants
  - \$125,809 Interest Earnings

**Expenditure Required:** \$331,150

**Source of Funds:** The funding sources for these budgetary adjustments include scholarships, program revenues, grants, reimbursements, cash-in-lieu, and interest earnings.

**Policy Issue**

Does City Council support amending the appropriations for the 2010 budget of the General, Utility and General Capital Improvement Funds?

**Alternative**

The alternative would be not to amend the 2010 budget appropriations for the General, Utility and General Capital Improvement Funds and to utilize these funds for other purposes. Staff does not recommend this alternative as the various departments have already incurred expenses and covered them with their current budget in anticipation of appropriation of these additional funds.

**Background Information**

The attached Councillor's Bill is a routine action addressing the need to adjust revenue and expenditure appropriations as a result of activities or events that were not anticipated during the normal budget process.

The City received \$9,625 in funds from various businesses who participated in the City of Westminster 2010 Business Appreciation Event as a sponsor or exhibitor. The funds are requested for appropriation to the Economic Development Special Promotions account and used to pay for design and printing of letters, invitations and programs, as well as postage, presentation services, lunch, awards, and miscellaneous items involved in running the event.

Economic Development received \$435 from the Economic Development Council of Colorado for reimbursement of a staff member's registration and lodging at the Rocky Mountain Workforce Development Association Conference. Funds are requested for appropriation to the Economic Development Career Development account in order to cover the registration and lodging expenses paid.

The Finance Department received four scholarships totaling \$567 from the Colorado Government Finance Officers Association (GCFOA). The funds are requested for appropriation to the Accounting and Treasury Career Development accounts to send Accounting and Treasury personnel to the GCFOA Annual Conference.

The City received interest payments through the first three quarters of 2010 on 2007 POST bonds in the amount of \$125,809. Issuance restrictions require the interest earnings to be appropriated for use on the respective projects or debt service. The funds are requested for appropriation to the Swim & Fitness Center Renovation CIP.

On May 10, 2010, the City Manager's Office authorized the Police Department to pursue the 2010 Bureau of Justice Assistance Edward Byrne Memorial Justice Assistance Grant (JAG) for the North Metro Task Force (NMTF) cash-in-kind payment for the 2011 NMTF Fiscal Year operating budget. The department received notification on August 4, 2010 that the grant was approved for the total amount of \$41,420. The funds are requested for appropriation to the investigative section's lease payments account providing partial funding of the obligated amount of \$78,289 to the NMTF.

The Police Department received \$2,873 for their participation in the 2010 High Visibility Impaired Driving Enforcement Campaign. The grant reimburses \$1,793 in overtime the department incurred by enforcement officers while working the Memorial Day DUI Enforcement and \$1,080 for the Prom DUI Enforcement. The funds are requested for appropriation to the department's overtime account.

The Police Department received \$1,328 from the Colorado POST (Police Officer Standards & Training) Scholarship Program for reimbursement of training received by four officers. The department received \$810 for three officers who attended the Rocky Mountain Hostage Negotiator's Conference and \$518 for an officer who attended the Colorado Association of Law Enforcement Trainers Conference. The funds are requested for appropriation to the Patrol Services Career Development account.

The Police Department was reimbursed \$7,593 from the North Metro Task Force High Intensity Drug Tracking Area (HIDTA) grant funding for overtime incurred by the Westminster Police Department's Task Force members working on Federal HIDTA cases. The reimbursement funds are requested for appropriation to the department's overtime account.

The Police Department received \$1,228 for their participation in the 2010 High Visibility Impaired Driving Enforcement Campaign. The grant reimburses the department for overtime incurred by enforcement officers while working the July 4th DUI Enforcement. The reimbursement funds are requested for appropriation to the department's overtime account.

For their participation in the Colorado 2010 Click-It or Ticket Occupant Protection Campaign – Night-time Click It or Ticket), the Police Department received \$3,778. The grant reimburses the department for overtime incurred by enforcement officers while working on the seatbelt enforcement program. The reimbursement funds are requested for appropriation to the department's overtime account.

In September, the Police Department received \$2,975 from the Jefferson County and \$1,000 from the Adams County Victim and Witness Assistance Law Enforcement Boards for the 2010 Colorado Victim Assistance (COVA) Scholarship Grant funding. The funding reimburses the department for the COVA conference expenses for the Victim Advocates who are attending the conference. The funds are requested for appropriation to the department's training account.

The Police Department received \$1,000 from the Wal-Mart Local Community Grant for the Santa Cops Program. The funding will be utilized for the purchase of gifts and food for under-privileged children residing in the City of Westminster. The gifts are distributed during the Christmas Holiday season by the Westminster Santa Cops Program. The funds are requested for appropriation to the department's supply account.

The Jefferson County Emergency Communications Authority Board approved the reimbursement of \$64,430 to the Police Department for the Computer Aided Dispatch (CAD) portion of the Intergraph Corporation software maintenance agreement. The funds are requested for appropriation to the department's Maintenance and Repair Equipment account.

The Police Department received a reimbursement of \$3,052 from the Jefferson County Emergency Communications Authority Board for the APCO Meds annual software maintenance service warranty payment. The APCO Meds software is the Emergency Medical Dispatch Program that is utilized in the Police Department's Communications Center for handling medical calls for assistance. The funds are requested for appropriation to the department's Maintenance and Repair Equipment account.

The Jefferson County Emergency Communications Authority Board reimbursed \$945 to the Police Department for the Communications Center Supervisor to attend the Intergraph Corporation Users Conference. The funds are requested for appropriation to the department's Career Development account.

On June 1, 2010, the State Historical Fund awarded the City a grant in the amount of \$16,654 to fund the preparation of construction documents for the Semper Farm Barn. This grant provides 75% of the expense to prepare these construction documents. The cash match of \$5,851 is being funded through Community Development Administration. The grant amount is requested for appropriation into the Historic Preservation CIP account.

The City received \$5,508 from Church Ranch Development LC for developer cash-in-lieu contributions toward new art requirement. The funds are requested for appropriation to the New Art Participation CIP and will be used to purchase new art for the Westminster Gateway/Quaker Steak and Lube project.

The Public Works and Utilities Department received a \$38,130 conservation planning grant from the Colorado Water Conservation Board to develop a state approved water conservation plan. These funds are requested for appropriation to the Water Supply Development CIP and will be used to pay the City's consultant for the plan.

The City received a grant for \$800 from the 9 Health Fair. The City has supported the 9 Health Fair for several years. The fair is held once a year in April at the City Park Recreation Center. Grant funds were used to offset a portion of expenses, printing, registration supplies and food for volunteers, incurred by the City for holding this event. These funds are requested for appropriation to the City Park Recreation Center’s supply account.

The City received a grant for \$2,000 from the Westminster Legacy Foundation to support the Healthy Kids Club program. The funds are requested for appropriation to the Youth Program supplies and salaries accounts and will be used to pay for supplies and instructors involved in the program.

These appropriations will amend General Fund revenue and expense accounts as follows:

**REVENUES**

Description	Account Number	Current Budget	Amendment	Revised Budget
Federal Grants	1000.40610.0000	\$66,429	\$49,013	\$115,442
State Grants	1000.40620.0000	5,398	7,879	13,277
Adco Grants	1000.40640.0010	0	1,000	1,000
Jeffco Grants	1000.40640.0020	0	2,975	2,975
Other Grants	1000.40650.0057	9,900	3,800	13,700
General	1000.43060.0000	242,354	70,757	313,111
Contributions	1000.43100.0000	5,000	9,625	14,625
Total Change to Revenues			<u>\$145,049</u>	

**EXPENSES**

Description	Account Number	Current Budget	Amendment	Revised Budget
Career Development	10005340.61800.0000	\$6,200	\$435	\$6,635
Special Promotions	10005340.67600.0000	21,900	9,625	31,525
Career Development	10015220.61800.0000	4,730	333	5,063
Career Development	10015240.61800.0000	2,750	234	2,984
Salaries OT – Inv Section	10020300.60400.0344	197,945	7,593	205,538
Career Dev – Inv Section	10020300.61800.0344	15,500	3,975	19,475
Career Dev – Com Section	10020300.61800.0345	4,400	945	5,345
Maint/Repair – Records	10020300.66100.0343	173,629	67,482	241,111
Lease Payments – Inv Sect	10020300.67700.0344	86,343	41,420	127,763
Supplies – Prof Services	10020300.70200.0341	10,000	1,000	11,000
Salaries OT – Traffic	10020500.60400.0348	63,098	7,879	70,977
Career Dev – Patrol Admin	10020500.61800.0000	2,600	1,328	3,928
Supplies – City Park	10050720.70200.0860	31,075	800	31,875
Salaries Temp – Youth Pro	10050760.60600.0529	190,479	1,200	191,679
Rec Supplies – Youth Prog	10050760.71200.0529	84,611	800	85,411
Total Change to Expenses			<u>\$145,049</u>	

These appropriations will amend Utility Fund revenue and expense accounts as follows:

**REVENUES**

Description	Account Number	Current Budget	Amendment	Revised Budget
State Grants	2000.40620.0000	\$4,727	<u>\$38,130</u>	\$42,857
Total Change to Revenues			<u>\$38,130</u>	

**EXPENSES**

Description	Account Number	Current Budget	Amendment	Revised Budget
Water Supply Development	80420035618.80400.8888	\$269,696	<u>\$38,130</u>	\$307,826
Total Change to Expenses			<u>\$38,130</u>	

These appropriations will amend General Capital Improvement Fund revenue and expense accounts as follows:

**REVENUES**

Description	Account Number	Current Budget	Amendment	Revised Budget
Cash-in-lieu Cap Projects	7500.40210.0751	\$40,000	\$5,508	\$45,508
State Grants	7500.40620.0000	72,000	16,654	88,654
Interest 2007 Post D Bond	7501.42560.0175	0	<u>125,809</u>	125,809
Total Change to Revenues			<u>\$147,971</u>	

**EXPENSES**

Description	Account Number	Current Budget	Amendment	Revised Budget
New Art Participation	80575030426.80400.8888	\$30,200	\$5,508	\$35,708
CD Grants (Historical)	80875030428.80400.8888	5,107	16,654	21,761
Swim & Fitness Renovation	80875050817.80400.8888	408,780	<u>125,809</u>	534,589
Total Change to Expenses			<u>\$147,971</u>	

These adjustments will bring the City's accounting records up-to-date to reflect the various detailed transactions.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment - Ordinance



BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **60**

SERIES OF 2010

INTRODUCED BY COUNCILLORS

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**A BILL**

**FOR AN ORDINANCE AMENDING THE 2010 BUDGETS OF THE GENERAL, UTILITY AND GENERAL CAPITAL IMPROVEMENT FUNDS AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2010 ESTIMATED REVENUES IN THE FUNDS**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2010 appropriation for the General, Utility, and General Capital Improvement Funds, initially appropriated by Ordinance No. 3432 are hereby increased in aggregate by \$331,150. This appropriation is due to the receipt of funds from scholarships, program revenues, grants, reimbursements, cash-in-lieu, and interest earnings.

Section 2. The \$331,150 increase shall be allocated to City Revenue and Expense accounts as described in the City Council Agenda Item 10 B dated November 22, 2010 (a copy of which may be obtained from the City Clerk) amending City fund budgets as follows:

General Fund	\$145,049
Utility Fund	38,130
General Capital Improvement Fund	<u>147,971</u>
Total	<u>\$331,150</u>

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

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 22<sup>nd</sup> day of November, 2010.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 13<sup>th</sup> day of December, 2010.

ATTEST:

\_\_\_\_\_  
Mayor

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



**WESTMINSTER**  
**COLORADO**

**Agenda Item 10 C**

**Agenda Memorandum**

City Council Meeting  
November 22, 2010



**SUBJECT:** Councillor's Bill No. 61 re 2010 Refunding Certificates of Participation Budget Appropriation

**Prepared By:** Rachel Price, Financial Analyst

**Recommended City Council Action**

Pass Councillor's Bill No. 61 on first reading providing for supplementary appropriations from the 2010 Refunding Certificates of Participation to the 2010 budget of the General Fund.

**Summary Statement**

- On October 11, Council authorized full refunding of the Certificates of Participation (COPs), Series 1998 (Ice Centre Project). The Refunding COPs, Series 2010, were issued on November 2, 2010.
- These funding sources need to be appropriated to properly reflect the refunding transaction on the City's books.

**Expenditure Required:** \$9,041,444 – Refunding Certificates of Participation, Series 2010

**Source of Funds:** Certificates of Participation proceeds

**Policy Issue**

Does City Council support amending the appropriations for the 2010 budget of the General Fund for the 2010 Refunding Certificates of Participation?

**Alternative**

The alternative would be not to amend the 2010 budget appropriations for the General Fund. Staff does not recommend this alternative as the City’s books would not properly reflect the refunding of the 1998 COPs.

**Background Information**

The City and Hyland Hills entered into an Intergovernmental Agreement in September, 1996, to finance, build and operate a 3-sheet ice rink located at the Promenade. Costs and net revenues, as well as repayment of the financing were to be shared equally between the two entities. In order to finance the construction of the Ice Centre, the Westminster Building Authority issued Certificates of Participation.

Given current market conditions and interest rates, Staff and the City’s underwriter, Piper Jaffray, analyzed the potential financial benefit of refunding the COPs, Series 1998 (Ice Centre Project). Refunding would lower the overall interest rate cost inclusive of all closing fees and without extending the maturity dates beyond the original issue’s horizon. By refunding the COPs, Series 1998, the City reduced future interest costs by \$826,219. The savings represents approximately 8.33% of the refunded bonds. These savings will be split evenly with Hyland Hills.

The proposed appropriation of the lease proceeds does not include the required Debt Service Reserve of \$995,000. In the unlikely event that the Debt Service Reserve is needed to make a lease payment it will be appropriated at that time. Additionally, funds previously budgeted in 2010 for lease payments on the 1998 COPs are being re-allocated to the new issue.

These appropriations will amend General Fund revenue and expense accounts as follows:

**REVENUES**

Description	Account Number	Current Budget	Amendment	Revised Budget
Lease Proceeds	1000.46005.0000	\$16,116,028	\$9,041,444	\$25,157,472
Total Change to Revenues			\$9,041,444	

**EXPENSES**

Description	Account Number	Current Budget	Amendment	Revised Budget
Other Financing Use	10010900.78800.0000	\$0	\$9,824,018	\$9,824,018
Lease Pay - 1998 Ice Centre	10010900.67700.0077	\$1,023,865	(782,574)	\$241,291
Total Change to Expenses			\$9,041,444	

These adjustments will bring the City’s accounting records up-to-date to reflect the various detailed transactions.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **61**

SERIES OF 2010

INTRODUCED BY COUNCILLORS

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**A BILL  
FOR AN ORDINANCE AMENDING THE 2010 BUDGETS OF THE GENERAL FUND AND  
AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2010 ESTIMATED  
REVENUES IN THE FUND**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2010 appropriation for the General Fund, initially appropriated by Ordinance No. 3432 is hereby increased in aggregate by \$9,041,444. This appropriation is due to the receipt of lease proceeds.

Section 2. The \$9,041,444 increase shall be allocated to City Revenue and Expense accounts as described in the City Council Agenda Item 10 C dated November 22, 2010 (a copy of which may be obtained from the City Clerk) increasing City fund budgets as follows:

General Fund	<u>\$9,041,444</u>
Total	<u>\$9,041,444</u>

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

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 22<sup>nd</sup> day of November, 2010.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 13<sup>th</sup> day of December, 2010.

ATTEST:

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Mayor

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City Clerk



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
November 22, 2010



**SUBJECT:** Councillor's Bill No. 62 re Proposed Economic Development Agreement with LGS Innovations

**Prepared By:** Becky Nelson, Economic Development Specialist

**Recommended City Council Action**

Pass Councillor's Bill No. 62 on first reading authorizing the City Manager to execute and implement an Economic Development Agreement with LGS Innovations.

**Summary Statement**

- LGS Innovations is an independent and wholly-owned subsidiary of Alcatel-Lucent and supports the U.S. Federal Government IT and telecommunications community.
- LGS is headquartered in Herndon, VA with offices in Colorado, Illinois, Maryland, New Jersey, and North Carolina.
- LGS needs to relocate from its current Westminster location and has viewed sites in Longmont, Thornton, Westminster, and Aurora.
- After much negotiating, the company plans to lease approximately 120,000 square feet of office space in Building 9 located at 11300 Westmoor Circle in Westmoor Technology Park.
- The company currently employs 230 R&D and engineering employees at the Westminster location, and expects to grow employment to 285 by 2014.
- The average annual wage is \$90,000.
- Assistance is based on the City's desire to retain one of the City's major employers in Westminster's key industry sector. The Economic Development Agreement (EDA) totals \$116,600, which includes \$34,100 in permit fee rebates, \$75,000 in construction use tax rebates, and \$7,500 in sales/use tax on equipment & furnishings. All of the assistance will be paid for from revenues generated by this business.
- Should LGS Innovations decide to move out of Westminster within 5 years of the approval of this EDA, the assistance would have to be reimbursed to the City by the company.

**Expenditure Required:** Not to exceed \$116,600 (Rebates)

**Source of Funds:** The EDA with LGS Innovations will be funded through revenue received from permit fees, construction use tax, and sales/use tax on furniture, fixtures, and equipment.

**Policy Issue**

Should the City provide assistance to LGS Innovations based on the retention of a major employer in Westminster?

**Alternatives**

Do Nothing: One alternative is to offer no assistance to this company. Though the company may not relocate outside of Westminster if assistance is not provided, the result would be that the City's value of retaining quality businesses would not be supported.

Provide Less: Another alternative is to provide less assistance than what is recommended. A 50% rebate is proposed, offering a 40% rebate is an alternative; however, Staff believes the 50% rebate is appropriate given the importance of this business to the City.

Provide More: A third alternative would be to provide a greater amount of assistance than recommended. It is staff's opinion that additional assistance is not needed.

**Background Information:**

LGS Innovations is the successor to the former Lucent and Alcatel Government Solutions business units, which were part of the original Lucent operations in Westminster before the Lucent-Avaya split. LGS is an independent and wholly-owned subsidiary of Alcatel-Lucent's North American operations. They are no longer affiliated with Avaya and are considered a competitor of Avaya. Alcatel-Lucent is a leading provider of telecommunications & networking products and services worldwide. The LGS subsidiary is the sole sales and contracting channel for all Alcatel-Lucent business supporting the U.S. Government.

The LGS Innovations Westminster location occupies 80,000 square feet in the manufacturing space on the southwest side of the Westminster Avaya building (1200 W. 120<sup>th</sup> Ave.). 230 employees are currently employed at the Westminster location. Employment is expected to grow to 285 over the next four years. The average salary at the LGS Westminster-location is \$90,000 - primarily R&D and technical support positions.

With future growth expected and lease expiration approaching, LGS has looked at larger space in Westminster, Longmont, Thornton, and Aurora. They have selected 120,000 square feet at Westmoor Technology Park in Building 9. Tenant improvements to the Westmoor site will include build out of new electronic research labs.

Staff recommends the following assistance:

	<b>Approximate Value</b>
<u>Building Permit Fee Rebate</u>	\$34,100
50% of the building related fees (excluding water and sewer tap fees) will be rebated (\$68,200 x 50% = \$34,100)	
<u>Construction Use Tax Rebate</u>	\$75,000
50% of the Use Tax (excludes City's .25% Open Space Tax and .6% Public Safety Tax) on construction materials for this project will be rebated (estimated Use Tax \$150,000 x 50% = \$75,000)	

Sales/Use Tax on Equipment & Furnishings \$7,500

Based on \$500,000 in equipment purchases over a five-year period, the City will rebate 50% of the Sales/Use Tax (excludes the City's .25% Open Space Tax and .6% Public Safety Tax) collected on the purchased equipment and furnishings. ( $\$500,000 \times 3\% = \$15,000$  Sales/Use Tax  $\times 50\% = \$7,500$ )

**Total Proposed Assistance Package** **\$116,600**

**Conclusion:**

This assistance package is based upon the City's goal to retain primary employers. LGS Innovations is an important company for the City to retain as they expect growth in the coming years and employ 230 in Westminster with an average salary of \$90,000. The proposed assistance package supports an effort to keep them in the City and meets two of the City's strategic plan goals: Financially Sustainable City Government Providing Exceptional Services; and, a Strong Balanced Local Economy.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments

- Ordinance
- Exhibit A - Agreement

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **62**

SERIES OF 2010

INTRODUCED BY COUNCILLORS

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**A BILL  
FOR AN ORDINANCE AUTHORIZING AN ECONOMIC DEVELOPMENT AGREEMENT  
WITH LGS INNOVATIONS**

WHEREAS, the successful attraction and retention of high quality development to the City of Westminster provides employment opportunities and increased revenue for citizen services and is therefore an important public purpose; and

WHEREAS, it is important for the City of Westminster to remain competitive with other local governments in creating assistance for high quality development to locate in the City; and

WHEREAS, LGS Innovations plans to occupy 120,000 square feet in Westmoor Technology Park in Westminster; and

WHEREAS, a proposed Economic Development Agreement between the City and LGS Innovations is attached hereto as Exhibit "A" and incorporated herein by this reference.

NOW, THEREFORE, pursuant to the terms of the Constitution of the State of Colorado, the Charter and ordinances of the City of Westminster, and Resolution No. 53, Series of 1988:

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Manager of the City of Westminster is hereby authorized to enter into an Economic Development Agreement with LGS Innovations in substantially the same form as the one attached as Exhibit "A," and upon execution of the Agreement to fund and implement said Agreement.

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

Section 3. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 22nd day of November, 2010.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 13th day of December, 2010.

ATTEST:

\_\_\_\_\_  
Mayor

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

APPROVED AS TO LEGAL FORM:

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



**Exhibit "A"**

**ECONOMIC DEVELOPMENT AGREEMENT**

**FOR  
LGS INNOVATIONS**

THIS ECONOMIC DEVELOPMENT AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2010, between the CITY OF WESTMINSTER (the "City"), and LGS INNOVATIONS, a Virginia corporation ("LGS").

WHEREAS, the City wishes to provide assistance to LGS to aid in the relocation and expansion of this company in the City; and

WHEREAS, LGS plans to furnish and occupy 120,000 square feet of office space in Westmoor Technology Park, thus continuing to provide primary job growth within the City; and

WHEREAS, City Council finds the execution of this Economic Development Agreement will serve to provide benefit and advance the public interest and welfare of the City and its citizens by securing the location of this economic development project within the City.

In consideration of the mutual promises set forth below, the City and LGS agree to the following:

1. Building Permit Fee Rebates. The City shall rebate to LGS Innovations 50% of the building permit fees, that are otherwise required under W.M.C. Section 11-10-3 (E) for the remodeling and tenant finish in Building 9 of Westmoor Technology Park. This rebate excludes water and sewer tap fees. The permit fee rebate will be approximately \$34,100.

2. Use Tax Rebate- Construction. The City shall rebate to LGS Innovations 50% of the Building Use Tax (excludes the City's .25% Open Space Tax and .6% Public Safety Tax) on construction materials, collected from LGS, from the remodel and tenant finish in Building 9 of Westmoor Technology Park that are otherwise required under W.M.C. Sections 4-2-9 and 4-2-3. The rebate will be approximately \$75,000.

3. Sales and Use Tax Rebate- Furniture and Fixtures. For the period of 8 months prior and 60 months after LGS obtains its Certificate of Occupancy for its facility in Building 9 of Westmoor Technology Park the City will rebate 50% of the Westminster General Sales and Use Tax (excludes the City's .25% Open Space Tax and .6% Public Safety Tax) collected from LGS on the purchased equipment and furnishings. Rebates will be based on the documentation proscribed by the City and provided by LGS which illustrates purchases or delivery of any such furnishings, fixtures, or equipment that occurred within the City of Westminster and that taxes were paid to and collected by the City. The rebate will be approximately \$7,500.

4. Payments of Rebates. The total rebate is not to exceed \$116,600. The rebates to LGS Innovations by the City shall be paid in quarterly installments from revenue actually collected and received by the City in connection with the move by LGS into the new facility. Payments of each quarterly installment shall be paid to LGS by the City within thirty (30) days following the end of each calendar quarter. All payments by the City shall be made electronically to LGS Innovation's designated financial institution or other account.

5. Entire Agreement. This Agreement shall constitute the entire agreement between the City and LGS and supersedes any prior agreements between the parties and their agents or representatives, all of which are merged into and revoked by this Agreement with respect to its subject matter.

6. Termination. This Agreement shall terminate and become void and of no force or effect upon the City if LGS has not moved into the Westmoor offices by December 31, 2011 or should LGS not comply with the City regulations or code.

7. Business Termination. In the event LGS ceases business operations within the City at any time prior to December 31, 2016, then LGS shall pay to the City the total amount of fees and taxes that were paid by or for LGS to the City and were subsequently rebated by the City to LGS pursuant to this Agreement.

8. Subordination. The City's obligations pursuant to this Agreement are subordinate to the City's obligations for the repayment of any current or future bonded indebtedness and are contingent upon the existence of a surplus in sales and use tax revenues in excess of the sales and use tax revenues necessary to meet such existing or future bond indebtedness. The City shall meet its obligations under this Agreement only after the City has satisfied all other obligations with respect to the use of sales tax revenues for bond repayment purposes. For the purposes of this Agreement, the terms "bonded indebtedness," "bonds," and similar terms describing the possible forms of indebtedness include all forms of indebtedness that may be incurred by the City, including, but not limited to, general obligation bonds, revenue bonds, revenue anticipation notes, tax increment notes, tax increment bonds, and all other forms of contractual indebtedness of whatsoever nature that is in any way secured or collateralized by sales and use tax revenues of the City.

9. Annual Appropriation. Nothing in this Agreement shall be deemed or construed as creating a multiple fiscal year obligation on the part of the City within the meaning of Colorado Constitution Article X, Section 20, and the City's obligations hereunder are expressly conditional upon annual appropriation by the City Council.

10. Governing Law; Venue. This Agreement shall be governed and construed in accordance with the laws of the State of Colorado. This Agreement shall be subject to, and construed in strict accordance with the Westminster City Charter and the Westminster Municipal Code. In the event of a dispute concerning any provision of this Agreement, the parties agree that prior to commencing any litigation, they shall first engage in good faith the services of a mutually acceptable, qualified, and experienced mediator, or panel of mediators for the purpose of resolving such dispute. The venue for any lawsuit concerning this Agreement shall be in the District Court for Jefferson County, Colorado.

**LGS INNOVATIONS**

**CITY OF WESTMINSTER**

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Its: \_\_\_\_\_

By: \_\_\_\_\_  
J. Brent McFall  
City Manager

ATTEST:

\_\_\_\_\_  
Linda Yeager  
City Clerk

APPROVED AS TO LEGAL FORM:

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

Adopted by Ordinance No.



**WESTMINSTER  
COLORADO**

**Agenda Memorandum**

City Council Meeting  
November 22, 2010



**SUBJECT:** Councillor's Bill No. 63 re Proposed Economic Development Agreement with The Bedrin Organization for a "Murdoch's" Store.

**Prepared By:** Susan F. Grafton, Economic Development Manager

**Recommended City Council Action**

Pass Councillor's Bill No. 63 on first reading authorizing the City Manager to execute and implement the Economic Development Agreement with The Bedrin Organization for a "Murdoch's" store.

**Summary Statement**

- In October of 2007, the City entered into agreement with The Bedrin Organization to facilitate a Steve and Barry's store and revitalization of Brookhill V located at the southeast corner of 92<sup>nd</sup> Avenue and Wadsworth Parkway. A year later Steve and Barry's was closed.
- During the fall of 2010, The Bedrin Organization asked for aid from the city in attracting a Murdoch's Ranch and Home Supply store to fill the vacant Steve and Barry's space.
- Murdoch's will be refinishing and moving into the former Steve and Barry's location that has been vacant since late 2008.
- The length and amount of sales tax rebate proposed for Murdoch's represents the unused balance of the assistance the City agreed to provide to The Bedrin Organization to fill the space formerly occupied by Steve and Barry's.
- The proposed assistance is based upon the City's goal to fill vacant space in existing retail centers. The Economic Development Agreement (EDA) consists of a 50% rebate of sales tax from sales at the Murdoch's store through December 31, 2012 or \$813,000, whichever occurs first.
- All of the assistance proposed will be generated by the Murdoch's store.
- Should Murdoch's cease operations within two years The Bedrin Organization shall reimburse the City of any amounts rebated.
- Murdoch's also considered sites in Brighton, Evergreen, Thornton, Lafayette, and Glenwood Springs.

**Expenditure Required:** Approximately \$813,000 (Rebates)

**Source of Funds:** The EDA with The Bedrin Organization will be funded through sales tax generated by Murdoch's.

## **Policy Issue**

Should the City provide assistance to The Bedrin Organization based on the attraction of Murdoch's to the City and the resulting additional sales tax?

## **Alternatives**

1. Do Nothing: One alternative to offering the business assistance package is to offer nothing to this company. Though the City may not lose the project if assistance is not provided, the result would be that the City's goals of attracting additional sales tax revenue and filling vacant space in existing retail centers would not be supported.
2. Provide Less: Another alternative is to provide less assistance than what is recommended. The recommended assistance package is consistent with other business assistance packages.
3. Provide More: A third alternative would be to provide a greater amount of assistance than recommended. It is Staff's opinion that additional assistance is not needed, as this package is consistent with other business assistance packages and reflects what the City previously agreed to on this site.

## **Background Information**

Staff has been working with The Bedrin Organization of New Jersey, owners of the Brookhill V Shopping Center regarding strategies for filling the vacancies in this shopping center. Ever since the closure of the Builders Square, this particular shopping center has struggled with high vacancy rates. These vacancies have not occurred because of lack of owner reinvestment or maintenance but because of retailer decisions being made nationally that affect this center (i.e., Sears Home Life, Discovery Zone, Builders Square, Media Play, and Steve and Barry's). The Bedrin Organization continues to actively pursue users for this shopping center.

In 2007, the Bedrin Organization attracted the hottest retailer in the market - Steve and Barry's. An assistance package was put in place at that time to help redevelop the center and attract Steve and Barry's to the center. Unfortunately, after the Bedrin's made a significant investment to facilitate the retailer, Steve and Barry's closed their doors after less than a year. Not only did the sales tax rebate to the Bedrin's discontinue, they also were left with the tenant's unpaid tax obligations. Since that time, the Bedrin's have very actively pursued replacement tenants. Murdoch's is one of a very few tenants looking in the market at this time.

Murdoch's is one of the most exciting retailers expanding in the Denver market. They have stores in Littleton and Longmont, in addition to other locations throughout the Rocky Mountain region. The store's products include ranch oriented clothing, hardware, supplies, children's toys and pet supplies.

The competition to get Murdoch's to Westminster was significant. Sites in Brighton, Evergreen, Thornton, Lafayette and Glenwood Springs were also under consideration. Murdoch's has begun their tenant improvements on the former Steve and Barry's space. They anticipate being open for business during the fourth quarter of 2010, just in time for the holiday shopping season.

Revitalization of and filling the vacancies in the Brookhill V Shopping Center has long been a City Council priority. Because of the losses running with this shopping center resulting from vacancies and because of the cost of attracting new tenants to the center, The Bedrin Organization asked the City to assist them in covering some of the costs of attracting Murdoch's to the shopping center. Therefore, to aid with the filling of vacant space at Brookhill V Shopping Center, staff is recommending the following business assistance package for the Bedrin's.

**Proposed Assistance**

Staff recommends the following assistance to be paid at time of tenant finish and during the first year of operation:

	<b><u>Approximate Value</u></b>
<u>Sales Tax Rebate</u> 50% of the sales tax collected from Murdoch's (excluding the City's .25% Open space tax and .6% public safety tax) commencing on the date of issuance of a certificate of occupancy for Murdoch's and ending on December 31, 2012 or at such a time as the sales tax rebate reaches \$813,000, whichever occurs first. This amount is the net remaining from the original Steve and Barry's assistance package.	\$813,000

The rebate will only be paid from dollars generated by the new Murdoch's store.

This assistance package is based upon the City's Strategic Plan goal of a Financially Sustainable City Government Providing Exceptional Services and the objective to fill vacant space in existing retail centers. Staff believes that this investment in the redevelopment of Brookhill V will aid The Bedrin Organization in its overall goal to revitalize the Brookhill V Shopping Center.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **63**

SERIES OF 2010

INTRODUCED BY COUNCILLORS

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**A BILL  
FOR AN ORDINANCE AUTHORIZING THE ECONOMIC DEVELOPMENT AGREEMENT  
WITH THE BEDRIN ORGANIZATION FOR A "MURDOCH'S" STORE**

WHEREAS, the successful attraction of new businesses that fill vacant space in existing retail centers in the City of Westminster provides increased revenue for citizen services and is therefore an important public purpose; and

WHEREAS, it is important for the City of Westminster to remain competitive with other local governments in creating assistance for new businesses to locate in the City; and

WHEREAS, The Bedrin Organization plans to lease the former Steve and Barry's space in Brookhill V in Westminster to Murdoch's Farm and Ranch Supply; and

WHEREAS, a proposed Economic Development Agreement between the City and The Bedrin Organization is attached hereto as Exhibit "A" and incorporated herein by this reference.

NOW, THEREFORE, pursuant to the terms of the Constitution of the State of Colorado, the Charter and ordinances of the City of Westminster, and Resolution No. 53, Series of 1988:

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Manager of the City of Westminster is hereby authorized to enter into an Economic Development Agreement with The Bedrin Organization in substantially the same form as the one attached as Exhibit "A," and upon execution of the Agreement to fund and implement said Agreement.

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

Section 3. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 22nd day of November, 2010.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 13th day of December, 2010.

ATTEST:

\_\_\_\_\_  
Mayor

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

APPROVED AS TO LEGAL FORM:

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

**ECONOMIC DEVELOPMENT AGREEMENT  
WITH  
THE BEDRIN ORGANIZATION  
FOR  
A "MURDOCH'S" FARM AND RANCH SUPPLY STORE**

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2010, between the CITY OF WESTMINSTER (the "City"), and THE BEDRIN ORGANIZATION; a New Jersey LLC.

WHEREAS, the City wishes to provide certain assistance to The Bedrin Organization to encourage the location of a Murdoch's Farm and Ranch Supply store in the Brookhill V Shopping Center ("Murdoch's"); and

WHEREAS, City Council finds the execution of this Agreement will serve to provide benefit and advance the public interest and welfare of the City and its citizens by securing the location of this project within the City.

In consideration of the mutual promises set forth below the City and The Bedrin Organization agree as follows:

1. Sales Tax Rebate. The City shall rebate to The Bedrin Organization 50% of the sales tax collected from Murdoch's for the period of time commencing on the date of issuance of a Certificate of Occupancy for the Murdoch's store, and ending on December 31, 2012 ("Termination Date".) Such rebate shall be payable exclusively from sales tax revenue collected by the City from Murdoch's and attributable to the imposition of the City's 3.0% general sales tax (excluding the City's .25% open space tax and .6% public safety tax). The sales tax rebate shall not continue past the Termination Date and shall be administered as follows:

- (a) Sales Tax Rebate Amount. Any rebates provided by the City to The Bedrin Organization pursuant to this agreement will be from the sales tax generated by Murdoch's. The City shall rebate to The Bedrin Organization 50% of the sales tax generated.
- (b) Payment. The sales tax rebate amount will be paid to The Bedrin Organization in quarterly payments, made within 30 days after the end of each quarter. The sales tax rebate payment will be submitted electronically to The Bedrin Organization designated financial institution.
- (c) End of Sales Tax Rebate. The sales tax rebate shall end on the Termination Date, or at such time as the sales tax rebate reaches \$813,000, whichever occurs first.

2. Entire Agreement. This instrument shall constitute the entire agreement between the City and The Bedrin Organization concerning the Murdoch's retail store and supersedes any prior agreements between the parties and their agents or representatives, all of which are merged into and revoked by this agreement with respect to its subject matter.

3. Termination. This Economic Development Agreement shall terminate and become void and of no force or effect upon the City if Murdoch's has not moved into their new space in Brookhill V on or before November 2011; or, should The Bedrin Organization or Murdoch's fail to comply with any City code and/or approval process.

4. Business Termination. In the event that Murdoch's ceases business operations in the City within two years after the new operations commence, The Bedrin Organization shall reimburse the City for any amounts rebated to or otherwise provided to The Bedrin Organization pursuant to this Agreement, unless the City approves a successor to the initial approved user within 12 months of the closing of Murdoch's, which is substantially similar in quality and sales tax production as the approved user.

5. Subordination. The City's obligations pursuant to this agreement are subordinate to the City's obligations for the repayment of any current or future bonded indebtedness and are contingent upon the existence of a surplus in sales and use tax revenues in excess of the sales and use tax revenues necessary to meet such existing or future bond indebtedness. The City shall meet its obligations under this agreement only after the City has satisfied all other obligations with respect to the use of sales tax revenues for bond repayment purposes. For the purposes of this Agreement, the terms "bonded indebtedness," "bonds," and similar terms describing the possible forms of indebtedness include all forms of indebtedness that may be incurred by the City, including, but not limited to, general obligation bonds, revenue bonds, revenue anticipation notes, tax increment notes, tax increment bonds, and all other forms of contractual indebtedness of whatsoever nature that is in any way secured or collateralized by sales and use tax revenues of the City.

6. Annual Appropriation. Nothing in this agreement shall be deemed or construed as creating a multiple fiscal year obligation on the part of the City within the meaning of Colorado Constitution Article X, Section 20, and the City's obligations hereunder are expressly conditional upon annual appropriation by the City Council.

7. Governing Law: Venue. This agreement shall be governed and construed in accordance with the laws of the State of Colorado. This agreement shall be subject to, and construed in strict accordance with, the Westminster City Charter and the Westminster Municipal Code. In the event of a dispute concerning any provision of this agreement, the parties agree that prior to commencing any litigation, they shall first engage in a good faith the services of a mutually acceptable, qualified, and experience mediator, or panel of mediators for the purpose of resolving such dispute. The venue for any lawsuit concerning this agreement shall be in the District Court for Jefferson County, Colorado.

THE BEDRIN ORGANIZATION,  
A NEW JERSEY LLC

CITY OF WESTMINSTER

\_\_\_\_\_  
Gerald Bedrin  
Managing Member

\_\_\_\_\_  
J. Brent McFall  
City Manager

ATTEST:

ATTEST:

\_\_\_\_\_  
Linda Yeager  
City Clerk

APPROVED AS TO LEGAL FORM:

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

*Adopted by Ordinance No.*





**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
November 22, 2010



**SUBJECT:** Councillor's Bill No. 64 re Rental Property Proposed Fee Structure and Licensing Program

**Prepared By:** Dave Horras, Chief Building Official  
Holly L. Clayton, Lead Housing Inspector

**Recommended City Council Action**

Pass Councillor's Bill No. 64 on first reading amending Title V of the Westminster Municipal Code concerning licensing and regulations and Title XI of the Westminster Municipal Code concerning the Rental Property Maintenance Code.

**Summary Statement**

- The proposed revisions to the Rental Property Maintenance Code will require licensing for all multi-family rental properties within the City of Westminster with a fee for the license and the required inspection. The existing Rental Property Inspection Program will remain essentially intact, providing for the systematic inspection of all multi-family rental units, with the addition of new requirements for licensing and the assessment of fees. The proposed licensing program and fee structure will help address the following issues:
  - Enable the rental housing inspection program to generate revenue from fees to support the existing program.
  - Obtaining and maintaining complete ownership information on rental properties to provide for the effective enforcement of the Rental Property Maintenance Program. The owners of the properties are ultimately responsible for the condition and use of their property, but ownership information is not always easily obtained or accurate.
- Additionally, it is proposed to establish a registration program for all other residential rental dwelling units within the City of Westminster. The registration program would apply to residential rental dwelling units that do not fall within the definition of "rental properties," meaning that fewer than four units in one property are held in common ownership. Typically, rental dwellings will not be part of a large-scale rental community. These properties would not be regularly inspected or pay any fees as part of the registration.
- There are also a number of proposed revisions to the Rental Property Maintenance Code itself. These are changes to the technical requirements of the code that will clarify or strengthen parts of the code that staff has identified as problematic in their enforcement.

**Expenditure Required:** \$170,000 (Revenue from new fees)

**Source of Funds:** General Fund

## **Policy Issue**

Should the Rental Property Maintenance Code be modified to establish a residential rental licensing program with associated license and inspection fees, as well as a rental registration program for other residential rental units?

## **Alternatives**

1. Do not institute a licensing or registration program and simply charge a fee for the existing systematic inspection program. Staff does not recommend this alternative because it does not help with identification of a responsible party and, without requiring a license, it could be difficult to collect the fees.
2. Include all residential rental units in the licensing and fee structure. This alternative would continue the rental inspection program as it is currently established with the addition of the licensing and fee requirements. Staff would continue to inspect the larger rental projects (structures of three or more units) on the systematic inspection program and inspect rental dwellings (typically single-family, duplex, townhome and condominium units) based on complaints only. This alternative adds a fee for all rental units even though the individually owned rental units would not be subject to an inspection unless there was a complaint. This alternative would spread the program costs across a larger number of units, lowering the proposed cost to the multi-family units. This alternative is not recommended because of the additional efforts and staff resources needed to assess and collect fees from owners of the rental dwellings (generally the individually owned, single-family detached and duplex units). Additionally, there would likely be a great deal of resistance from the owners of these units to pay a fee for what may be perceived as no realized value or service.
3. Establish a lower initial per unit cost for multi-family rental units and assess additional fees if the properties fail inspection. This alternative is not recommended because there would be additional staff resources needed for the additional accounting function. Owners may complain that inspections failed only because the City desired to collect additional revenue.
4. Do not implement any licensing or fee structure and discontinue the Rental Property Maintenance program. This is not recommended based on the great benefit the program delivers in terms of addressing life-safety issues in rental units.

## **Background Information**

- **Program background, scope and purpose**

The Rental Property Maintenance Code was adopted by Westminster City Council in the fall of 1997. This code was adopted with the intent of addressing the deteriorating condition of residential rental properties in the City of Westminster, particularly in the south Westminster area. The intent of the regulations was to require all owners of rental properties to operate their properties as a business and hold them responsible for the condition, appearance and maintenance of their rental units. Because of staffing levels, the initial scope of the program was limited to systematic inspection of large-scale, multi-family rental properties with three or more dwelling units. All other rental dwelling units were inspected on a complaint basis. The program was expanded in 2000 when individually-owned townhomes and condos were added to the systematic inspection program. Currently, 11,000 rental units are being systematically inspected.

In June of 2010, City Council voted to retain the Rental Property Inspection Program based on a proposal to charge fees for services associated with the program. A licensing program is the proposed mechanism to establish a way to assess the fees required to support the inspection program. The proposed licensing program would treat rental units meeting the definition of "rental properties" as businesses and owners could not operate these businesses without a proper rental license.

- **Scope of proposed program**

The proposed changes to the rental property maintenance program will add a requirement for a rental license with associated licensing and inspection fees for rental properties that will most commonly be the large-scale, multi-family rental communities. Rental dwellings that are not part of a rental property and not required to obtain a license will be required to be registered. Licensing and registration do not apply to commercial properties, hotels and motels, or any state licensed care facilities.

- **Benefits of licensing and/or registration programs**

In addition to generating revenue to offset the costs of the rental property maintenance program, the proposed licensing and registration programs would help address additional issues. Obtaining and maintaining complete ownership information on rental properties provides for more effective enforcement of the Rental Property Maintenance Program. Owners and managers of rental properties would be clearly identified so that they can be held legally responsible for the condition and maintenance of their properties. If an owner or agent lives more than 50 miles away from the rental property, the owner will have to appoint a local agent who will be responsible for the property.

By requiring a new license or registration when a rental units change ownership, staff will be able to make sure that new owners are aware of the property maintenance requirements. This may give a prospective owner a "heads up" of existing violations before the purchase of a rental unit and may also deter less than responsible owners from purchasing property in the City.

- **Rental licensing**

This proposal establishes a licensing requirement with fees, but does not change the current systematic inspection process or inspection schedule for the units, defined as "rental properties," that will still be subject to systematic inspections. A rental license will be required for all rental properties containing more than three rental units under common ownership with a licensing fee for each rental property and an inspection fee assessed for each rental unit within the rental property. It is proposed that there be a \$50 license fee for the property and a \$40 per unit inspection fee that both run concurrent with the established systematic inspection schedule. Inspection of licensed rental properties will be scheduled and conducted as they are currently, not at all or on a two year or four-year inspection schedule based on the age of the property. Units less than 6 years old are not inspected as part of the systematic program. Units between 6 and 20 years old are inspected every four years and older units are inspected every 2 years. The per unit inspection fee breaks down to \$1.67 per month based on a two-year inspection schedule or \$0.83 per month based on a four-year inspection schedule.

The \$50 licensing fee and the proposed \$40 per unit cost were determined based upon the city staff's administrative costs and the number of units subject to systematic inspection under the proposed program. Based on the anticipated average number of properties and units scheduled for inspection in any given year, the fees were calculated to recover the approximately \$170,000 annual costs of the Rental Property Inspection Program. Currently, there are 163 individual rental properties with a total of 10,031 units in the multi-family systematic inspection program. Because of the difference in inspection frequency, there is an average of 79 rental properties with a total of 4,089 units scheduled for inspection each year. The proposed fees will generate revenues sufficient to recover the annual costs of the Rental Property Maintenance program.

- **Rental Registration**

All other residential rental units not meeting the definition of “rental properties,” which will typically include single-family detached, duplex and individual townhomes and condominiums, would be required to register with the City, but would not require a systematic inspection, and not have to pay licensing or inspection fee. The registration of these units will not expire and will only need to be renewed or modified if there is a change to the owner or manager information.

Registration of these rental dwelling units, like a license, will provide the City with information on the owners and responsible parties if complaints are received. The registration process will also provide an opportunity to share with the owners and managers of these properties information and required standards for their rental units. Registration will help assure that these units can be held to the same standards as all other rental properties while not including them in the systematic inspection program and exempting them from any licensing or fee provisions. Inspection of these rental dwellings will be conducted on a complaint basis only.

When these types of units were added to the systemic inspection program in 2000, it generated a great deal of criticism and resistance to the inspection program. Owners and managers of these units generally do not consider them as business operations and many times resist inspection requests. This resistance and the time and effort to contact, schedule and inspect these units make this part of the existing program much less effective than the rest of the systematic inspection program. Additionally, these units tend to have fewer violations than the large-scale, multi-family units typical of “rental properties” because the units are individually owned, often as an investment. Removing these types of units from the systematic inspection program and instead requiring them to be registered will save a great deal of staff time and address many of the owner's concerns while still being able to respond to problem properties and hold the owners responsible.

- **Distinction between licensing and registration programs**

The distinction of requiring a license, inspection and payment of fees for “rental properties” (typically large-scale, multi-family rental communities) versus a registration and no required inspection or fees for “rental dwellings” (typically individual townhome, condominiums, single-family detached and duplex rental units) is justified. Staff has considered the fairness issue and has determined that the distinction between rental properties, that will require licensing and inspection, and rental dwellings, which will not, is supported by the following reasons:

- A practical concern that there are not enough City resources to handle inspection of both types of properties, especially because single-family houses (most often “rental dwellings”) are typically larger structures that take longer to inspect.
- A desire to focus City resources on the properties that affect the highest number of residents.
- An acknowledgement that traditional rental housing, such as large apartment complexes, see more short-term renting and higher turnover of tenants and, therefore, receive more wear and tear.
- A desire to prevent blight conditions that could quickly arise in poorly maintained high-density housing.

- **Rental Property Maintenance Code Changes**

In addition to the proposed new licensing and registration requirements of Title V, Chapter 12 of the WMC it is proposed to make some modifications to the existing rental Property Maintenance Code (Title XI, Chapter 12 WMC). Most of these proposed changes are minor and will not substantially change the intent or application of the code. However, there are a few changes that are more substantial that City Council should specifically be aware of.

It is proposed to modify the landscaping and site development requirements slightly. The standards are currently established in the existing code but the application of these standards has not been applied consistently. The proposed changes clarify the site development requirements and provide for additional time to bring properties into compliance. Owners of sites not currently in compliance with the landscaping and site development standards will be required to submit a complying site plan by January 1, 2012 and complete all the required work per the plan by January 1, 2016. If approved, these revised standards will require a substantial investment to some of the more deteriorated rental properties in the City. However, these are the type of rental properties that the code was established to address, those that have a negative affect on the community.

Another proposed change is based on a tenant's 4<sup>th</sup> Amendment rights and how inspections are scheduled and conducted. Previously, inspectors had entered rental units with management personnel after providing notice to the tenants. It is proposed that an inspection will only be conducted with a tenant's consent, either written or verbal. If a tenant's consent is not obtained, staff will have an established procedure to obtain and execute a warrant to conduct the inspection. It is anticipated that a great many of the required inspections will be conducted under the authority of a warrant.

- **Implementation plan**

Based on input received in 2001 when a licensing program was previously considered, it is anticipated that owners, managers and realtors will object to the proposed program based on what they believe is undesirable government regulation, private property rights and costs. General opposition from the owners and managers, and specifically from the owners and property managers of individual rental units within owner occupied complex, duplexes and single family units – the typical “rental dwellings” under the new definitions deterred the licensing efforts at that time.

The proposed program should not raise any justifiable new concerns with additional government regulation or private property rights because there are no substantial changes to the current inspection procedures. However, charging a fee for the inspection process which has been free since the implementation of the program will likely create concerns and generate comments. The inspection fees, even at the relatively low costs per unit per month, will most likely be passed along to the tenants.

Staff proposes that all owners of rental properties be required to file an application for a rental license and pay the \$50 license fee for their rental properties within 60 days of the effective date of the licensing program. The rental license would be set to expire based on the next schedule systematic inspection. Rental dwellings that do not require a license will be required to register with the City on or before March 1, 2011. Registration will consist of filling out an application but will not require a fee or inspection.

Staff has been contacting owners and managers individually to discuss the proposed program. It has been interesting to discover that while most all do not like the idea of having to pay a fee for a license and inspections, many have expressed support for the overall concept of the inspection program and have come to realize the benefits of the program over the years. They have expressed to staff that because the majority of the items discovered during the inspection process are tenant caused the inspection fees will be passed directly along to the tenants in the form of increased monthly rents. However, as noted previously, the monthly charges for the inspections will be less than \$2.00 a month maximum.

While only about 40% of the city's rental units will be due for inspection over the next twelve months there will not be much lead time for those owners and managers to budget for the program charges. With the relatively short lead time, especially for properties scheduled for systematic inspections early in 2010, staff plans on working with the owners and managers to allow some additional time to pay the required fees. Upon City Council adoption, Staff will work diligently to publicize the changes to the program to assure that impacted businesses and individuals are aware of the changes.

This proposal to implement a Rental Property License and Registration program and make modifications to the Rental Property Maintenance Code was reviewed with City Council at the November 15, 2010 study session. There have been a few minor changes to the Rental Property License and Registration provisions since the study session based on recommendations from the City Attorney's Office to address naming conventions in Title XI, Chapter 12 and references to Chapter 12 and to the municipal code as a whole.

The proposed enhancements to the Rental Property Maintenance Code and the Rental Inspection Program are part of the City's Strategic Plan in a number of ways. The overall goal of the program is to help provide a Safe and Secure Community by maintaining safe buildings and homes as well as the goal to help assure Vibrant Neighborhoods in One Livable Community by maintaining and improving neighborhood infrastructure and housing and by providing a range of quality homes for all stages of life (type, price) throughout the city. The proposal to assess fees fits with the goal of a Financially Sustainable City Government Providing Exceptional Services and the specific objective of focusing on core city services and service levels as a mature city with adequate resources.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment  
- Ordinance

BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_

COUNCILLOR'S BILL NO. **64**

SERIES OF 2010

INTRODUCED BY COUNCILLORS  
\_\_\_\_\_

**A BILL  
FOR AN ORDINANCE CREATING CHAPTER 12 OF TITLE V AND REPEALING AND  
REENACTING CHAPTER 12 OF TITLE XI OF THE WESTMINSTER MUNICIPAL  
CODE CONCERNING RENTAL PROPERTY LICENSES AND THE RENTAL  
PROPERTY MAINTENANCE CODE**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Title V, W.M.C., is hereby amended BY THE ADDITION OF A NEW CHAPTER 12 to read as follows:

**CHAPTER 12**

**RENTAL PROPERTY LICENSE AND REGISTRATION**

- 5-12-1: APPLICATION OF CHAPTER**
- 5-12-2: DEFINITIONS**
- 5-12-3: LICENSE REQUIRED; RENTAL PROPERTY**
- 5-12-4: REGISTRATION REQUIRED; RENTAL DWELLINGS**
- 5-12-5: LICENSE APPLICATION; TERM OF LICENSE AND RENEWAL**
- 5-12-6: APPLICATION REVIEW**
- 5-12-7: LICENSE AND REGISTRATION ADMINISTRATION**
- 5-12-8: LICENSE CANCELLATION, SUSPENSION, NON-RENEWAL, OR  
REVOCATION**
- 5-12-9: RULES AND REGULATIONS**

**5-12-1: APPLICATION OF CHAPTER:** As of January 1, 2011, and for the reasons set forth in Title 11, Chapter 12, of the Westminster Municipal Code, it shall be unlawful for any owner in the City to do either of the following:

(A) Lease for occupancy any rental property or portion thereof without first obtaining a rental property license pursuant to this Chapter; or

(B) Lease for occupancy any rental dwelling or portion thereof without first registering the rental dwelling pursuant to this Chapter.

**5-12-2: DEFINITIONS:** For purposes of this Chapter and unless the context clearly indicates otherwise, words, terms and phrases shall have the same meaning assigned to them by Title 11, Chapter 12, of the Westminster Municipal Code, the "Rental Property Maintenance Code."

**5-12-3: LICENSE REQUIRED; RENTAL PROPERTY:**

(A) On or before March 1, 2011, every owner of rental property shall file with the City Manager, acting by and through the Building Division, an application for a rental property license.

(B) A single license may be issued for the entire rental property and all units therein.

(C) A restricted license may be issued or restrictions placed on an existing license for a rental property if there is a portion of the property or certain units that do not comply with the provisions of this Chapter. Restricted licenses shall clearly identify the portion or portions of the rental property or units not in compliance with the provisions of this Chapter, and those portions shall not be rented or occupied until the City, upon reinspection pursuant to Title 11, Chapter 12, of the Westminster Municipal Code, has removed such restriction from the license.

(D) Applications for a license shall be required, and denial, non-renewal, suspension, or revocation of a license shall proceed according to this Chapter. Licensees shall have a duty to report changes as set forth in this Chapter.

**5-12-4: REGISTRATION REQUIRED; RENTAL DWELLING:**

(A) On or before March 1, 2011, every owner of a rental dwelling(s) shall register the rental dwelling(s) with the City Manager, acting by and through the Building Division, according to the application process for licensing outlined in Section 5-12-5 below.

(B) The procedures set forth in Section 5-12-5(A) and (B), Section 5-12-7, and Section 5-12-8 shall apply to registration. However, registration of rental dwellings is performed without the imposition of a fee and no renewal is required.

**5-12-5: LICENSE AND REGISTRATION APPLICATION; TERM OF LICENSE; RENEWAL:**

(A) Application. Applications for a rental property license or a rental dwelling registration shall be submitted in writing on forms furnished by the Building Division and shall provide the following information:

(1) The full name, mailing address, telephone numbers and birth date for the property owner, if the property owner is an individual.

(2) The full names, mailing addresses, telephone numbers and birth dates for the property owner(s) if the property is owned by more than one individual.

(3) The full name, mailing address and birth date of at least one officer, manager or director, if the property owner is a business entity.

(4) An affirmation that the application is complete and contains no false, misleading or fraudulent statements.

(5) An affirmation that the applicant is in good standing for any other permits or licenses granted by the City of Westminster.

(6) An affirmation that each unit of the rental property currently complies with the requirements set forth in the Rental Property Maintenance Code, Title XI, Chapter 12, of the Westminster Municipal Code.

(7) The address of all the unit(s) including individual unit numbers.

(8) The number and type of units (One (1) Bedroom, Two (2) Bedrooms, etc.) within the property.



(9) The age of the property, calculated from the date of issuance of the building's certificate of occupancy.

(10) For every rental property or rental dwelling, an owner or agent shall reside or operate within fifty (50) miles of the property. If an owner does not reside or operate within a fifty (50) mile radius of the property, the owner shall appoint an agent meeting these requirements.

(11) A site plan for or description of the property showing existing site improvements including, but not limited to structures, parking areas, and landscaping and specifying the materials used for each improvement.

(B) Notices given to an agent designated by an owner pursuant to this Chapter shall be sufficient to satisfy any requirement of notice to the owner.

(C) Term. License terms for rental properties shall be as follows:

(1) Rental properties less than six (6) years old, shall have a license term of up to the time they turn six (6) years old.

(2) Rental properties between six (6) and twenty (20) years old, shall have a license term of every four (4) years.

(3) Rental properties older than twenty (20) years old shall have a license term of every two (2) years.

(4) Upon adoption of this Chapter, the term of the initial license shall be determined by the age of the rental property and the existing City inspection schedule, as set forth in Title XI, Chapter 12, of the Westminster Municipal Code. License renewal shall take place at the time of the next regularly scheduled inspection following adoption of this Chapter.

(D) The owner or agent shall maintain the license on site and produce it upon request. Posting of the license at the rental property is not required.

(E) Renewal. Approximately sixty (60) days prior to the license expiration, the Building Division shall send the owner a notice of renewal. Applications for renewal licenses shall proceed as follows:

(1) Submit a license application as required by Section 5-12-5.

(2) Pay inspection fees as required by Section 5-12-6.

(3) Schedule the rental property inspection with the Building Division.

(4) Upon payment of the inspection fee, completion of the inspection and possible subsequent reinspections, and with the property in full compliance, a license shall be renewed for the term identified in Section 5-12-5(C) unless the Building Division reduces or increases the term of a license as permitted by Title XI, Chapter 12, of the Westminster Municipal Code. No scheduled inspection shall be extended more than two (2) years for any property and no inspection schedule shall exceed six (6) years between inspections.

(5) Renewal of a license may be denied pursuant to Section 5-12-8 of this Chapter.

**5-12-6: APPLICATION REVIEW:**

(A) Applications for rental property license and for rental dwelling registration shall be filed with the Building Division for review and approval or denial by the City Manager or authorized representative.

(B) Fees. Applicants for a new rental property license shall pay a licensing fee of \$50.00 upon submission of a license application and shall pay a rental inspection fee of \$40.00 per unit prior to the next regularly scheduled inspection, which fee amounts may be amended by subsequent resolution of City Council. Registration of rental dwellings is performed without the imposition of a fee and no renewal is required.

(C) Standards for review and approval. A license or registration application may be denied by the Building Division for any of the reasons set forth in Section 5-1-6 of the Westminster Municipal Code.

(D) Appeal right. The denial of license or registration application may be appealed pursuant to the procedures established in Chapter 1 of this Title V.

(E) Terms and conditions. As a condition of licensing and registration, an owner of rental property or of a rental dwelling shall cooperate in the inspection of the property according to the procedure outlined in Title XI, Chapter 12, of the Westminster Municipal Code.

(F) Effective date. A rental property license or rental dwelling registration shall be affective as of the date indicated in the notice provided by the City.

**5-12-7: LICENSE AND REGISTRATION ADMINISTRATION:**

(A) It shall be the duty of each owner of a rental property or a rental dwelling to provide the Building Division with notice of changes as follows:

(1) If an owner or agent legally changes the use of a structure by adding units, the owner or agent shall provide notice of the change to the Building Division no later than sixty (60) days following issuance of the certificate of occupancy for the new units and before any new units are occupied. At the time of giving notice, there shall be no additional fee assessed for the units that were added to the structure; however, when the license is next renewed the inspection fee will include the additional units.

(2) If an owner reduces the number of units within the rental property or a rental dwelling, the owner or agent shall provide notice of the change to the Building Division no later than sixty (60) days following completion of the change. The owner or agent shall not be entitled to a refund of any fee previously paid.

(3) For newly constructed property, inspections to determine compliance with the provisions of this Chapter and the associated fees are not required prior to issuance of the initial license if a license application is submitted no later than sixty (60) days following issuance of the certificate of occupancy for the rental property.

(4) The Building Division must be promptly notified, in writing, within thirty (30) days of any changes to the information provided on the license or registration application; except that the Building Division shall be notified in writing within fifteen (15) days after the change of an agent for a property and shall provide the name and mailing address of the new agent.

(B) A license or registration is non-transferable. Within thirty (30) days of the transfer of ownership of a rental property or a rental dwelling, the new owner shall submit a new license or registration application.

(C) Violation and Penalty. It shall be unlawful for any person to violate a provision of this Chapter or to obstruct an inspection being conducted pursuant to Title XI, Chapter 12, of the Westminster Municipal Code. Violators shall be subject to the penalties provided by Section 1-8-1 of the Westminster Municipal Code and the procedures set forth in Chapter 1 of this Title V. A separate offense shall be deemed committed upon each day such person is in violation of this Chapter.

**5-12-8: LICENSE CANCELLATION, SUSPENSION, NON-RENEWAL, OR REVOCATION:**

(A) A license or registration may be cancelled, suspended, revoked or non-renewed as set forth in Chapter 1 of this Title V, and any such adverse action may be appealed pursuant to the procedures established in Chapter 1 of this Title V.

(B) In rental properties containing multiple units, upon issuance of a restricted license according to Section 5-12-3(C), a revocation, suspension, denial or non-renewal may apply to any portion or portions of the property.

(C) In addition to the process set forth in Chapter 1 of this Title V, a license or registration may be summarily suspended for no more than thirty (30) days by the Building Division when required for the immediate protection of the public health, safety and welfare. Notice of the summary suspension shall be given in the manner set forth in Chapter 1 of this Title V, and a hearing thereon before the Special Permit and License Board shall be provided as soon as reasonably possible thereafter.

(D) All hearings before the Special Permit and License Board shall be conducted pursuant to the procedures established for hearings in Chapter 1 of this Title V.

**5-12-9: RULES AND REGULATIONS:** The City Manager or authorized representative is authorized to promulgate rules and regulations necessary for the implementation of this Chapter.

Section 2. Title XI, Chapter 12, W.M.C., is hereby REPEALED AND REENACTED to read as follows:

**CHAPTER 12**

**RENTAL PROPERTY MAINTENANCE CODE**

**11-12-1: GENERAL INTENT**

**11-12-2: MINIMUM STANDARDS**

**11-12-3: DEFINITIONS**

**11-12-4: SPACE AND OCCUPANCY STANDARDS**

**11-12-5: FIRE PROTECTION**

**11-12-6: EXTERIOR MAINTENANCE AND ACCESSORIES**

**11-12-7: SITE MAINTENANCE**

**11-12-8: VACANT OR ABANDONED BUILDINGS**

**11-12-9: LICENSE REQUIRED; RENTAL PROPERTY**

**11-12-10: REGISTRATION REQUIRED; RENTAL DWELLINGS**

**11-12-11: INSPECTIONS**

**11-12-12: INSPECTION PROCEDURES**

**11-12-13: NOTICE OF NON-COMPLIANCE; INSPECTION REPORT**

**11-12-14: UNLAWFUL CONDUCT; PUBLIC NUISANCE**

**11-12-15: ENFORCEMENT**

**11-12-16: APPEAL**

**11-12-17: REMEDIES**

**11-12-18: IMMINENT DANGER**

**11-12-1: GENERAL INTENT:**

(A) Title. These regulations shall be known as the Rental Property Maintenance Code of the City of Westminster, herein referred to as the "Rental Code."

(B) Purpose. The purpose of this Rental Code is to provide minimum standards to safeguard life or limb, health, property, and public welfare by regulating and controlling the use and occupancy, location, and maintenance of all residential structures available for rent within the City of Westminster. This Rental Code establishes minimum standards for basic equipment and facilities, for light, ventilation and heating; for safety from fire; for the use and amount of space for human occupancy; and for the safe and sanitary maintenance of residential rental properties.

(C) Scope. The provisions of this Rental Code shall apply to all existing residential rental buildings, and structures, excluding manufactured homes, and all existing premises, or portions thereof used, designed, or intended to be used for dwelling purposes on a rental basis as well as the site, including parking lots, driveways and landscaping, and accessory structures, such as fences, retaining walls, sheds, and other such structures. Rooming houses, congregate residences or lodging houses shall comply with all the requirements of this Rental Code. Except as provided herein, properties, including buildings, or portions thereof, equipment, devices and safeguards, which were required by the building code shall be maintained in conformance with the building code under which they were installed, provided such continued use is not dangerous to life. Where there are conflicts between the building code and this Rental Code, the provisions of this Rental Code shall apply.

(D) Non-Conforming Rights. Except for smoke detectors and carbon monoxide alarms as required by Sections 11-12-5(B) and 11-12-5(C), of this Rental Code, existing residential rental units that were constructed and approved under a previous edition of the building code shall be considered as demonstrating compliance with the construction provisions of this Rental Code, provided that the approved construction is not dangerous to life or health. Nothing in this Rental Code shall be construed to allow the degradation of those systems, devices and equipment required by the building code under which the building was constructed.

**11-12-2: MINIMUM STANDARDS:** No person shall lease to another for occupancy any structure that does not comply with the requirements of this Rental Code. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of compliance as required herein.

**11-12-3: DEFINITIONS:**

(A) The following words, terms and phrases, when used in this Rental Code, shall have the following meanings unless the context clearly indicates otherwise:

(1) "Agent" shall mean a manager or operator, or any person, agent, firm or corporation who is designated in writing by the owner to act as the representative of the owner on issues related to a rental property or rental dwelling or for receipt of notices related to a rental property or rental dwelling.

- (2) “Bedroom” shall mean any room or space used or intended to be used for sleeping purposes.
- (3) “Building” shall mean any structure used or intended for supporting or sheltering any use or occupancy.
- (4) “Building code” shall mean any of the codes currently adopted by the City as part of Title XI, Chapter 9, of the Westminster Municipal Code.
- (5) “Common authority” shall mean the status of having joint access or control over a leased premise for most purposes.
- (6) “Floor area” shall mean the area included within the surrounding exterior walls of a building or portion thereof, exclusive of vent shafts and courts. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the useable area under the horizontal projection of the roof or floor above.
- (7) “Habitable space” shall mean the space in a building for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility spaces, and similar areas are not considered habitable space.
- (8) “Imminent danger” shall mean a condition that could cause serious or life-threatening injury or death at any time.
- (9) “Infestation” shall mean the presence within or around a structure of insects, rodents, vermin or other pests of such kind, or in such numbers, as to cause a hazard to health.
- (10) “Lease” shall mean:
- (a) an agreement by which an owner gives up to a tenant, for valuable consideration, possession and use of his property or a portion thereof for a definite term, at the end of which term the owner has an absolute right to retake control and use of the property; or
  - (b) the act of an owner giving to a tenant, for valuable consideration, possession and use of his property or a portion thereof for a definite term, at the end of which term the owner has an absolute right to retake control and use of the property.
- (11) “Occupancy” shall mean the purpose for which a building or portion thereof is utilized or occupied.
- (12) “Owner” shall mean any person, agent, firm or corporation, or a designated representative of the same, having a legal or equitable interest in a rental dwelling or a rental property; or otherwise having control of such property, including the guardian of an estate and an executor or administrator of an estate when ordered to take possession of real property by a court.
- (13) “Person” shall mean any individual, partnership, corporation, association, or other type of entity capable of owning or managing property, or an agent, servant, or employee of any individual, partnership, corporation, association, or other entity capable of owning or managing property.
- (14) “Premises” shall mean a lot, plot or parcel of land including any buildings thereon.
- (15) “Property” shall mean one lot or adjacent lots under common ownership.

(16) "Rental dwelling" shall mean any building or buildings, or portion thereof, on a property under common ownership consisting of no more than three units that provides shelter for human habitation or residential purpose, any portion of which is leased by the owner for occupation by a tenant. "Rental dwelling" shall not mean hotels, motels, hospitals, State licensed residential care facilities, assisted living facilities or nursing homes.

(17) "Rental property" shall mean any building or buildings, or portion thereof, on one property under common ownership consisting of more than three units that provides shelter for human habitation or residential purposes, any portion of which is leased by the owner for occupation by a tenant. "Rental property" shall not mean hotels, motels, hospitals, State licensed residential care facilities, assisted living facilities or nursing homes.

(18) "Structure" shall mean that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

(19) "Tenant" shall mean a person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof.

(20) "Unit" shall mean a rental property or a rental dwelling, in whole or in part, that is separately available to be leased and that contains living facilities, including provisions for sleeping, eating, cooking, and sanitation, as required by the building code.

(B) Words, terms and phrases used in this Rental Code and not defined above shall have the same meaning as assigned by the building codes currently adopted by the City in Title XI, Chapter 9, of the Westminster Municipal Code.

#### **11-12-4: SPACE AND OCCUPANCY STANDARDS:**

(A) Improper Occupancy. Buildings or structures shall not be used for purposes other than those for which the building or structure was designed or intended or in violation of any other provisions of the Westminster Municipal Code or ordinances.

(B) Room Dimensions.

(1) Ceiling Heights. Habitable rooms in units shall have a ceiling height of not less than seven (7) feet. In rooms with sloped ceilings, the required ceiling height shall be provided in at least 50% of the room. No portion of any room with a ceiling height of less than 5 feet shall be considered as contributing to the minimum floor area as required in subsection (2) below.

(2) Floor Area.

(a) Every unit shall contain at least one hundred fifty (150) square feet of habitable floor space for the first occupant and an additional one hundred (100) square feet of floor space for each additional occupant. Every room used for sleeping purposes shall have at least seventy (70) square feet of floor space for the first occupant and an additional thirty (30) square feet of floor space for each additional occupant.

(b) The Building Official may waive or modify the above-stated minimums in appropriate circumstances such as the birth or adoption of additional children, a temporary need for medical care for a family member, or care of children by a non-custodial parent.

(3) Width. No room used for living or sleeping purposes shall be less than 7 feet in any dimension. Each toilet shall be installed in a clear space of at least 27 inches in width.

(C) Light and Ventilation.

(1) General. For the purpose of determining light or ventilation required by this Section, any room may be considered as a portion of an adjoining room if one half of the common wall is open and unobstructed and provides an opening of at least 10% of the floor area of the interior room.

(2) Light. Every habitable room within a unit shall be provided with windows or skylights with an area of at least 10% of the floor area. All public hallways, stairways and other exit ways shall be illuminated at all times with not less than 5 footcandles at the floor level.

(3) Ventilation.

(a) Habitable rooms within a unit shall be provided with natural ventilation by means of at least one openable exterior window or skylight with an area of not less than 1/20 of the floor area with a minimum of 5 square feet.

(b) In lieu of required exterior openings for natural ventilation, an approved mechanical ventilation system may be provided. Such system shall be capable of providing two air changes per hour in all habitable rooms and public hallways. In such case, one fifth of the required air supply shall be taken from the outside.

(c) Bathrooms, water closet compartments and similar spaces shall be provided with natural ventilation by means of openable exterior openings with an area not less than 1/20 of the floor area of such rooms with a minimum of 1 1/2 square feet.

(d) In lieu of required exterior openings for natural ventilation in bathrooms containing a bathtub or shower and similar rooms, mechanical ventilation system connected directly to the exterior capable of providing five air changes per hour shall be provided. The point of discharge of exhaust containing only a toilet or lavatory or combination thereof, and similar rooms may be ventilated with an approved mechanical recirculating fan or similar device designed to remove odors from the air.

(D) Sanitation.

(1) Units. Every unit shall be provided with a toilet, lavatory, and either a bathtub or shower. These facilities shall be located within the same building as the occupants and occupants shall not be required to go outside the building or through another dwelling unit to reach the facilities.

(2) Fixtures. All plumbing fixtures and piping shall be maintained as provided in the building code. Each plumbing fixture shall be provided with hot and cold running water necessary for its normal operation and be properly connected to an approved water and sewer system. Plumbing system waste piping shall be maintained free of all sewage obstructions and leaks. Potable water piping shall be free of leaks that cause a consistent flow of water. All plumbing fixtures shall be of smooth, impervious, easily cleanable surfaces and be maintained in safe and sanitary working condition, free of cracks, breaks, rust and leaks. All plumbing fixtures shall be of an approved glazed earthenware type or similar nonabsorbent material. All plumbing fixtures shall be adequately secured so that no strain is placed on the piping connections.

(3) Lavatory Basins. Every room containing a toilet shall have a lavatory located in the same room or in the room immediately adjacent to the room containing the toilet. Laundry tubs, kitchen sinks, or bathtubs are not acceptable substitutes for lavatory purposes.

(4) Room Separation. Every room containing a toilet, bathtub or shower shall be completely enclosed by partitions, doors, or windows from floor to ceiling and wall to wall which will afford privacy to the occupant.

(5) Bathtub and Shower Enclosures. The interior of every shower enclosure shall be watertight, maintained in sound condition, and be easily cleanable. Walls and floors of every shower enclosure shall be made of smooth, non-absorbent materials free of sharp edges and properly sloped to drain completely. Joints in any bathtub or shower enclosure shall be maintained waterproof with caulking or similar material. Repairs shall be required if more than two square feet of the enclosure wall or floor is no longer waterproof or more than two linear feet of caulking has failed or if the leak is causing an unsafe electrical condition.

(6) Kitchen Sink. Every unit shall contain a kitchen sink of seamless construction and impervious to water and grease. Where garbage disposals are provided, they shall be in working order, free of leaks, installed per manufacturer installation instructions and powered by a UL listed power cord.

(7) Openings for Piping. All exterior openings into the interior of the building, including those in a crawl space, provided for the passage of piping shall be properly sealed with snug fitting collars of metal or other material so as to be rodent and insect resistant and securely fastened in place.

(8) Environmental Health. All surfaces in and around the dwelling unit shall be maintained free of mold and mildew.

(E) Structural Requirements.

(1) General. Roofs, floors, walls, foundations, ceilings, stairs, handrails, guardrails, doors, porches, all other structural components, and all appurtenances thereto shall be capable of resisting any and all forces and loads to which they may be normally subjected, and shall be kept in sound condition and in good repair.

(2) Foundations. Every foundation shall be maintained plumb and free of open cracks and breaks, kept in sound condition and good repair, and shall be weathertight and watertight.

(3) Weather Protection. Every foundation, floor, roof, ceiling, and exterior and interior wall and all exterior doors and windows shall be weathertight and watertight and maintained free of holes, cracks or other defects that admit rain so as to provide shelter for the occupants against the elements and to otherwise exclude dampness. Windows that are designed to open vertically shall be capable of remaining open without the use of tools, props or special knowledge.

(4) Interior Maintenance. Floors, walls doors and ceilings shall be secure and free of holes, cracks, and breaks. Floor coverings shall be free from any defects that could cause tripping or would prevent the floor from being easily cleaned. Floor coverings such as carpeting, tile, linoleum, and similar material shall be repaired or replaced when more than 10% of the floor covering area is severely deteriorated or if defects create an unsafe or unsanitary condition. Floor coverings that have tears in excess of six inches that are raised above the floor surface to present a tripping hazard shall be repaired.

(5) Drainage. All rain water shall be so drained and conveyed away from every roof and away from every foundation so as to not cause dampness in basements or in walls, ceilings or floors of any building, or erosion of exterior surfaces. Water shall not be discharged in a manner that adversely affects the safety of the general public.



(F) Mechanical Requirements.

(1) Heating.

(a) Every unit shall be provided with heating facilities capable of maintaining a minimum room temperature of 68° F at a point 3 feet (3') above the floor in all habitable rooms, bathrooms, and water closet compartments. Units shall be supplied with heat during the period of October through April. Electric heating appliances that are not permanently installed, cooking appliances of any type, or decorative appliances shall not be considered heating facilities for the purpose of providing heat as required by this Section. Unvented fuel-burning heaters or decorative appliances are not permitted except as permitted and approved by the Building Division.

(b) All heating devices or appliances shall be of an approved type and installed as required in the building code and maintained in safe working condition. Required clearances to protected or unprotected combustible materials shall be maintained for heating equipment as well as sufficient clearance to permit the cleaning, maintenance, service and repair of the appliance. Required clearances are those listed on the equipment or otherwise required by the building code. Venting systems for gas-fired appliances shall be maintained in accordance with the building code.

(c) Except within an efficiency dwelling unit, gas-fired water heaters shall not be installed in any sleeping area. Water heating equipment serving any dwelling unit shall be capable of providing water at a temperature of at least 120°F at the fixture outlet and a recovery capacity of at least twenty gallons per hour for each dwelling unit. Water heaters shall be provided with an approved temperature and pressure relief valve and drain extension that terminates at an approved location.

(d) Closets containing heating equipment shall be kept free of stored items, combustibles, flammables or accelerants.

(2) Electrical.

(a) All electrical equipment, wiring and appliances shall be installed and maintained in a safe manner in accordance with the building code. All electrical equipment shall be permanently installed and be an integral part of the electrical wiring of the entire building. Electrical appliance or fixture cords shall be protected with proper coverings having no frayed or exposed wiring.

(b) Every habitable room, bathroom, kitchen, laundry room and public hallway shall have at least two convenience outlets or one convenience outlet and one electric light fixture. Every water closet compartment, furnace room and public stairway shall contain at least one electric light fixture. Electrical light fixtures should house only those bulbs approved by the manufacturer. Wattage of bulbs shall not exceed the manufacturer's maximum wattage recommendations for the fixture. Exterior fixtures shall be free of missing or broken globes that may leave the bulb exposed to the elements.

(c) Breaker panels shall be readily accessible, shall not be blocked or covered by storage or decoration, and shall not be painted shut. There shall be no unapproved openings within any electrical enclosure.

(3) Extension Cords. Extension cords shall not be used as permanent electrical wiring or required electrical outlets. No extension cords shall extend or pass from one room to another room.

No extension cord shall be placed across any doorway, through any wall or partition, or in an area where such cord is subject to physical damage.

(G) Exits.

(1) General. All buildings or structures shall be provided with exits, including stairways, handrails, and guardrails, and have access to the public way as required by the building code. All doors, windows, corridors, stairways, fire escapes or other means of egress shall be maintained free of stored or discarded materials or other obstructions or locks as to prevent or impede egress from the building or structure.

(2) Dwelling Units. Every unit or guest room shall have access directly to the exterior of the building or to a public corridor that leads to the exterior. Sleeping rooms located below the fourth story and in basements shall have at least one operable window or exterior door meeting the building code requirements for emergency escape or rescue. These required windows or doors shall be operable from the inside to provide the required full clear opening without the use of separate tools or keys and not requiring special knowledge or effort.

(H) Appliances. Appliances whether supplied by the owner or tenant, shall be maintained in good working condition, free of leaks or other defects so as not to cause any unsafe or unsanitary condition.

**11-12-5: FIRE PROTECTION:**

(A) General. Required fire rated assemblies shall be maintained as specified in the building code and the fire code adopted in Title XI, Chapter 10, of the Westminster Municipal Code. Such assemblies shall be properly repaired, restored, or replaced when damaged, altered, breached, penetrated, removed or improperly installed. Fire protection equipment, including but not limited to extinguishing systems, fire alarm systems, smoke detectors, and fire extinguishers, shall be maintained in good and safe working condition as required by the Fire Department.

(B) Smoke Detectors. Smoke detectors shall be installed in all units as required by the building codes.

(C) Carbon Monoxide Alarms. Any unit that includes fuel-fired appliances or an attached garage in which interior alterations, repairs, fuel-fired appliance replacement or additions, any of which requires a building permit to be issued, have been made, or any unit that has a change in tenant or occupancy, shall have carbon monoxide alarms installed as required by the building code.

(D) Open Flame Cooking Devices. Open flame cooking devices shall be regulated as required by the provisions of the building code and the fire code adopted in Title XI, Chapter 10, of the Westminster Municipal Code.

**11-12-6: EXTERIOR MAINTENANCE AND ACCESSORIES:**

(A) Weather protection. Buildings, or portions thereof, shall have exterior walls that are weathertight and watertight, and kept free of deterioration, holes, breaks, or loose boards or coverings. Roof surfaces shall be watertight and not have any defects that that will allow water to enter into the structure.

(B) Exterior maintenance.

(1) The exterior finish of all structures shall be maintained. If the exterior finish of a structure is paint or stain, the structure shall be painted or stained prior to a time when the exterior

finish has substantially deteriorated. Graffiti shall be removed per Title VIII, Chapter 4, of the Westminster Municipal Code.

(2) All architectural projections such as cornices, moldings, lintels, sills and similar projections shall be maintained in good repair and free of defects.

(3) All chimneys, antennae (including satellite dishes), vents, gutters and downspouts and similar projections or building accessories shall be structurally sound and in good repair. Such projections shall be properly secured, when applicable, to an exterior wall or roof.

(C) Windows and doors. Windows and exterior glazing shall be soundly and adequately glazed, free from loose and broken glass and cracks that could cause physical injury or allow the elements to enter the structure. Windows and doors are to be maintained so that they can be secured in a closed position. Exterior doors shall be maintained weathertight, watertight and rodentproof. Exterior doors of unit shall be solid core or equivalent and be provided with a deadbolt locking device that tightly secures the door. Where window mounted cooling appliances are utilized, the opening around the appliance must be sealed with materials resistant to weather.

(D) Screens. Screens shall be provided, year round, for all operable windows. All screens, including screen doors, shall be maintained in good repair and free from tears, holes, or other imperfections of either screen or frame that would admit insects such as flies, flying insects or mosquitoes. Screens with holes one square inch or larger or with tears in excess of two inches shall be repaired or replaced. Screens shall not be damaged or warped, shall fit tight in the framework of the window, and be removable for cleaning and maintenance purposes. Sliding screen doors are required wherever sliding glass doors are present.

(E) Infestation. All structures and exterior property shall be maintained free of rodent, insect or vermin infestation which creates an unsafe or unsanitary environment on the subject, or adjacent buildings or properties. All structures and exterior property shall be maintained free of conditions which may cause an unsafe or unsanitary environment.

(F) Addresses. Address numbers a minimum of 3" in height shall be provided on every occupied building or structure located so as to be visible from the street. Individual units within a building or structure shall be individually identified. Address numbers shall be of a contrasting color to their background for easy visibility.

(G) Accessory Structures. All accessory structures shall be maintained in a state of good repair or removed from the site. Such structures shall include, but not be limited to, clubhouses, offices, maintenance buildings, carports, retaining walls, fences, garages, and miscellaneous sheds or structures. These structures should be constructed of materials consistent for the use of the structure and not constructed in a makeshift or haphazard manner.

#### **11-12-7: SITE MAINTENANCE:**

(A) General. The accumulation of weeds, vegetation, junk (including, but not be limited to, abandoned, unused or nonoperational appliances, equipment, vehicles, machinery, or household furnishings), dead organic matter, debris, garbage, stagnant water, combustible materials or similar materials or conditions shall be subject to the provisions of Title VIII, Chapter 1 of the Westminster Municipal Code and shall be subject to abatement provisions therein.

(B) Parking Areas. All off street parking and access drives shall be improved with asphalt pavement or an equivalent approved surface as determined by the City. Parking areas shall be kept free from potholes, cracks or other deterioration. No dirt, grass or sod parking areas are allowed.

All striping and signage, including parking signage and fire lane or access signage shall be maintained in good condition and clearly legible.

(C) Landscaping.

(1) All landscape areas, improvements and materials shall comply with and be maintained according to the City of Westminster Landscape Regulations and the Westminster Municipal Code. All landscape areas shall be landscaped with approved landscaping, including grass, shrubs, and trees. All landscape areas shall be maintained and all dead or severely damaged plant materials shall be replaced with plant materials as required by the City of Westminster Landscape Regulations. All turf areas shall be maintained so that no turf area exceeds 6 (six) inches in height. Weeds shall not exceed twelve (12) inches in height. Landscape areas may not include tree canopy, dirt, weeds, artificial turf or paving and drive improvements. Properties with an existing Official Development Plan shall be maintained as required by such plan.

(2) Rental dwellings shall be required to have one (1) tree and three (3) shrubs in the front yard landscape area. As required by the City of Westminster Landscape Regulations, a minimum of fifty percent (50%) of each yard area adjacent to a street, or public or private park or open space shall be landscape area. Remaining lot area not landscape area may only be paving or drives as defined in the City of Westminster Standards and Specifications for the Construction of Public Improvements.

(3) Rental properties shall be required to have one (1) tree and three (3) shrubs per 1,000 square feet of landscape area. A minimum of thirty percent (30%) of the lot shall be landscape area as defined by the City of Westminster Landscape Regulations, unless an exception is made by the City for good cause. Remaining lot area not landscape area may only be paving or drives as defined in the City of Westminster Standards and Specifications for the Construction of Public Improvements.

(D) Trash. Trash enclosures shall be installed and maintained as required by the Westminster Municipal Code. All trash shall be kept inside the enclosure. Oversized trash that will not fit within the trash enclosure shall be removed from the property as required by Westminster Municipal Code.

(E) Properties not in compliance with the requirements of this Section shall become compliant by January 1, 2016. Properties determined not to be in compliance based on inspection or review of the site plan required by Section 5-15-5 of the Westminster Municipal Code shall before January 1, 2012, submit to the City a plan for property improvements detailing how the property will be timely brought into compliance.

**11-12-8: VACANT OR ABANDONED BUILDINGS:**

(A) Vacant or abandoned buildings shall be secured to prevent unauthorized entry.

(B) Exterior building maintenance and site maintenance of abandoned or vacant buildings shall be the same as required for occupied buildings.

(C) Vacant or abandoned buildings and properties shall be maintained free of accumulations of combustible or hazardous material.

**11-12-9: LICENSE REQUIRED; RENTAL PROPERTY:** Prior to leasing any rental property for occupancy, an owner shall obtain and maintain in good standing a rental property license from the City pursuant to Title V, Chapter 12, of the Westminster Municipal Code.

**11-12-10: REGISTRATION REQUIRED; RENTAL DWELLINGS:** Prior to leasing any rental dwelling for occupancy, an owner shall obtain and maintain in good standing a rental dwelling registration with the City pursuant to Title V, Chapter 12, of the Westminster Municipal Code.

**11-12-11: INSPECTIONS:**

(A) General.

(1) The City Manager, acting by and through the Building Division, shall establish a regular and orderly schedule to inspect all rental property within the City. Such schedule shall not preclude inspection of a rental property at other times based on a request of a resident, owner or manager, or other complainant.

(2) Rental dwellings shall be inspected by the City on a complaint basis or as conditions warrant with no regular inspection schedule.

(3) Any violations shall be documented and a photographic record may be made of the property or of any violations discovered on the property.

(B) Right of Entry.

(1) When necessary to make an inspection for compliance with the provisions of this Rental Code as part of scheduled inspections, or when the City has probable cause to believe that there exists upon any premises any condition that constitutes a violation of the provisions of this Rental Code, the City Manager or authorized representative, hereinafter referred to as the "Inspector," may enter a premise at all reasonable times to inspect or to perform any duty imposed on him, provided that the following procedure has been followed:

(a) If a premise is currently leased, the Inspector shall first present proper credentials and request permission to enter from a tenant or other person having common authority over the premise. If the leased premise is currently unoccupied, the Inspector shall make a reasonable effort to locate the tenant, and upon locating the tenant, shall present proper credentials and request permission to enter. If a tenant or other person having common authority over the premise cannot be located after a reasonable effort, a notice of intent to inspect shall be posted on the premises giving notice that an inspection may proceed after a court order is obtained from the Municipal Judge of the City.

(b) If a premise is not currently leased, the Inspector shall present proper credentials and request permission to enter from the owner or agent. If the owner or agent cannot be located after a reasonable effort, a notice of intent to inspect shall be posted on the premises giving notice that an inspection may proceed upon issuance of a court order by a Municipal Judge of the City.

(2) If entry is refused, or twenty-four (24) hours after the premises have been posted, the Inspector may appear before the Municipal Judge and shall request pursuant to Rule 241(b)(2) of the Municipal Court Rules of Procedure, as amended, a court order entitling the Inspector to enter upon the premises. Upon presentation of the court order and proper credentials, or possession of same in the case of unoccupied premises, the Inspector may enter upon the premises, using such reasonable force as may be necessary to gain entry.

(3) For purposes of this Section, "probable cause" for a court order exists upon a showing that the inspection is part of the systematic schedule of inspections that is a condition of licensing the

rental property and that the tenant or other person having common authority over the premise has failed or refused to grant entry to the Inspector or upon a showing that the facts and circumstances within the Inspector's knowledge are sufficient to warrant a person of reasonable caution in the belief that a violation of this Rental Code may exist. The Inspector shall not be required to demonstrate specific knowledge of the condition of the particular premises in issue in order to obtain a court order.

(C) Unlawful Resistance. It shall be unlawful for any owner, tenant, or person having common authority of a rental property or rental dwelling to deny entry of an Inspector acting pursuant to a court order that has been issued according to the procedure outlined in this Section.

#### **11-12-12: INSPECTION PROCEDURES:**

(A) Authority. The City Manager, acting by and through the Building Division, may inspect rental properties and rental dwellings, individual units thereof, and their associated properties, in order to determine compliance with the provisions of this Rental Code.

(B) Scheduled Inspections of Rental Properties.

(1) The frequency of inspections on rental properties shall be as follows:

(a) Properties less than six (6) years old shall not be scheduled for inspection.

(b) Properties between six (6) and twenty (20) years old shall be inspected every four (4) years.

(c) Properties older than twenty (20) years shall be inspected every two (2) years.

(2) Inspections may be increased in frequency upon a determination that violations of this Rental Code, revealed during an inspection, individually or in combination, demonstrate a failure to maintain the rental property in a decent, safe, and sanitary condition.

(3) Inspections may be decreased in frequency based on satisfactory results of the latest inspection of the entire rental property; however, a modification of the scheduled inspection schedule shall not be extended more than two (2) years for any property and no inspection schedule shall exceed six (6) years between inspections.

(4) Any rental property may be inspected at any time due to complaints or as conditions warrant.

(C) Notification prior to Inspections. It shall be the responsibility of the owner or agent to notify the individual tenants of the property of the scheduled inspection and to request that permission for the City to enter the premises be granted at the time of the inspection, by a tenant or person with common authority over the premise, either in person or in writing. Without such express permission to enter a unit scheduled for inspection, the City shall not proceed to inspect and shall instead obtain a court order according to the process outlined in Section 11-12-11(B). In addition to the right of entry process set forth in Section 11-12-11(B) above, regular inspections may be preceded by the following notice:

(1) A letter of intent to inspect a property based on the systematic inspection schedule mailed to the owner or agent of the property stating the proposed date and time of the inspection and given a minimum of thirty (30) days before inspection.

(2) Notice to the owner or agent at least seven (7) days in advance of the scheduled inspection to verify the time and date.

(3) If it is necessary for the City to cancel a scheduled inspection, it may send a cancellation notice to the owner or agent of the effected property at least three (3) days prior to the scheduled inspection date.

(D) Inspections of Rental Dwellings. Inspection of rental dwellings shall be on a complaint basis or as conditions warrant with no regular inspection schedule and shall proceed according to the process for right of entry set forth in Section 11-12-11(B).

**11-12-13: NOTICE OF NON-COMPLIANCE; INSPECTION REPORT:**

(A) When the City determines that non-compliance with this Rental Code exists, a notice of non-compliance and order to correct shall be issued. The notice of non-compliance shall be in writing and shall describe the violation with sufficient detail for it to be properly addressed and corrected. The notice of non-compliance shall provide a reasonable time for correction, no less than seven (7) and no more than ninety (90) days.

(B) Inspection Report. A report of inspection results, including notice of non-compliance, if any, shall be sent to the property owner or agent within ten (10) days of completion of an inspection.

(1) The inspection report shall include the results of the inspection, the period of time for correction of any non-compliant conditions, and the scheduled reinspection date and time.

(2) An inspection report containing only satisfactory results with no notice of non-compliance need not be personally served and may be mailed to the owner or agent at the address currently on file with the City as part of the licensing or registering of the property pursuant to Title V, Chapter 12, of Westminster Municipal Code.

(C) Any notice of non-compliance and order to correct and any inspection report containing a notice of non-compliance and order to correct shall be served by one of the following methods:

(1) Personally upon the owner or agent, in which case service shall be deemed complete on the date such service occurs.

(2) Notice posted on the premises and mailed to the owner or agent at the address currently on file with the City as part of the licensing or registering of the property pursuant to Title V, Chapter 12, of Westminster Municipal Code. Service by this method shall be deemed complete three days after mailing and posting, even if no acknowledgment of receipt is provided.

(D) Reinspections. Reinspections may be conducted to verify that the violations identified in a notice of non-compliance have been corrected. Violations that were not noted during the initial inspection but are discovered on the reinspection shall not be subject to correction as part of the initial notice of non-compliance, but may result in the issuance of an additional notice of non-compliance. Imminent hazards identified on a reinspection shall be subject to the provisions of Section 11-12-18.

(E) Owner Certification for Corrections. The City may accept written affirmation from the owner or agent confirming correction of any or all violations documented in the formal notice of non-compliance.

(F) Reinspection Fees. A reinspection fee may be assessed for each follow-up inspection required after the initial reinspection due to an owner's failure to correct satisfactorily the identified

violations. For each follow-up inspection required after the initial reinspection a reinspection fee of \$ 50.00 per unit and common area may be assessed, which fee amount may be amended by subsequent resolution of City Council. Reinspection fees not paid in full within thirty (30) days of assessment shall constitute a lien on the property and shall be recorded as such with the County Clerk.

(G) Extensions. If an owner cannot complete the required corrective action in the time set forth in the notice of non-compliance, the owner or agent may request an extension to the completion date, which may be granted upon a determination that substantial progress is being made to correct the violation(s). Such request shall be made in writing and shall contain the reasons that an extension is necessary and the requested length of extension. A request for extension shall be made no less than three (3) days prior to a scheduled reinspection or the required completion date, whichever is earlier.

(H) No Show Fees: If an owner or agent fails to attend an inspection or reinspection, fails to request a timely extension, or fails to provide notice to tenants of the City's request for permission to enter, a no-show fee of \$ 50.00 per missed appointment may be assessed. The fee amount may be amended by subsequent resolution of City Council.

**11-12-14: UNLAWFUL CONDUCT; PUBLIC NUISANCE:**

(A) It shall be unlawful for any owner or agent to lease or to allow the use, maintenance, or occupancy of any residential dwelling or residential property that does not comply with the requirements of this Rental Code.

(B) Securing Structures. Any residential dwelling or residential property that is abandoned or uninhabited and is dilapidated, deteriorated or has become a place frequented by trespassers or transients or has otherwise been declared as a hazard shall be deemed a public nuisance.

(C) The City Manager or authorized representative is hereby deemed a peace officer for the limited purpose of enforcing the provisions of this Rental Code, and shall have the power to issue complaints and summons for violations of these provisions, pursuant to Rule 204, Municipal Court Rules of Procedure, as amended, and Section 1-22-18 of the Westminster Municipal Code.

(D) Any person found guilty of violating any of the provisions of this Rental Code shall, upon conviction thereof, be punished by a fine or imprisonment or both, pursuant to Section 1-8-1 of the Westminster Municipal Code. Each day that a violation of any of the provisions of this Rental Code continues to exist shall be deemed to be a separate and distinct violation.

(E) A violation of any of the provisions of this Rental Code is hereby declared to be a public nuisance, and may be abated according to the procedures established in Title 8, Chapter 4, of the Westminster Municipal Code for the abatement of nuisances.

(F) In addition to all other penalties available, a violation of the provisions of this Rental Code may result in an action to revoke or suspend a rental property license or a rental dwelling registration according to the process set forth in Title V, Chapter 12, of the Westminster Municipal Code.

**11-12-15: ENFORCEMENT:** If, after notice and order to correct, an owner, fails to timely correct the violation and fails to timely appeal the notice and order, the City Manager or authorized representative may issue a complaint and summons for prosecution in Municipal Court or for abatement as a nuisance.

**11-12-16: APPEAL:**



(A) An owner may appeal a notice of non-compliance and order to correct to the Board of Building Code appeals. Any such appeal shall be filed in writing with the City Manager within thirty (30) days of the date of service of the notice of non-compliance.

(B) The Board of Building Code Appeals shall hear the appeal within a reasonable time. Procedure for the hearing shall be as established in Title II, Chapter 10, of Westminster Municipal Code. Compliance with a notice of non-compliance shall be stayed until the Board has met and issued its decision.

(C) Any appeal of the decision of the Board shall be made to the District Court. The appellant shall pay for the costs of preparing a transcript and other expenses of preparation of the record of hearing before the Board.

**11-12-17: REMEDIES: Recovery of Costs.** The cost of enforcement proceedings together with the cost of abatement, if so ordered, shall be assessed in any judgment rendered. If the costs identified are not paid they shall constitute a lien upon the property.

**11-12-18: IMMINENT DANGER:**

(A) If any structure, premise or portion thereof is found to present an imminent hazard to life or health, the premises shall be posted and the property shall be ordered vacated. Upon order to vacate, the property, or portion thereof, shall be posted as "Dangerous, Do Not Occupy" and written notification of the violations that deem the property, or portion thereof, as an imminent hazard shall be served as required in Section 11-12-13(C).

(B) It shall be unlawful for any person to remove or deface the posted notice, or to occupy the property or to enter the structure except for the purpose of repair. The violations identified as causing the property or portion thereof, to be an imminent hazard shall be corrected and reinspected before the posting is removed and the property, or portion thereof, is reoccupied.

(C) The owner or agent may appeal the order to vacate to the Board of Building Code Appeals, in the same manner as stated in Section 11-12-16, except that the duty to comply with the order to vacate shall not be stayed pending a hearing.

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 22nd day of November, 2010.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 13th day of December, 2010.

\_\_\_\_\_  
Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

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

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