



CITY COUNCIL AGENDA

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

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

1. Pledge of Allegiance
2. Roll Call
3. Consideration of Minutes of Preceding Meetings
4. Report of City Officials
 - A. City Manager's Report
5. City Council Comments
6. Presentations
 - A. Proclamation for Albert Sack, Farmers Reservoir and Irrigation Company
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. Intergraph Public Safety Software Maintenance Payment
 - B. Negotiated Custodial Services Contract
 - C. City Property Condition Evaluation and Physical Needs Analysis Contract
 - D. Legal Services Agreement with Carlson, Hammond and Paddock for Special Water Counsel Services
 - E. IGA between the City of Westminster, the 136th Avenue GID and WEDA re 2002 Sales Tax Revenue Bonds
 - F. Second Reading Councillor's Bill No. 68 re Liquor License Ordinance and Alcohol-Related Offenses
9. Appointments and Resignations
10. Public Hearings and Other New Business
 - A. Resolution No. 66 re 2007 Jefferson County Joint Venture Grant Application for Kensington Park
 - B. Resolution No. 67 re Service Commitment Allocations for 2007
 - C. Resolution No. 68 re Public Art Amendments to Commercial Design Guidelines
 - D. Councillor's Bill No. 71 re Economic Development Agreement with Lynx Aviation, Inc.
11. Old Business and Passage of Ordinances on Second Reading
12. Citizen Presentations (longer than 5 minutes), Miscellaneous Business, and Executive Session
 - A. City Council
 - B. Executive Session – Obtain direction from City Council re proposed economic development agreement amendment with Forest City pursuant to WMC 1-11-3(c)(4), WMC 1-11-3(c)(7) and CRS 24-6-402(4)(e).
13. Adjournment

WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY MEETING (separate agenda)

136th AVENUE GENERAL IMPROVEMENT DISTRICT MEETING (separate agenda)

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, DECEMBER 11, 2006 AT 7:04 P.M.

PLEDGE OF ALLEGIANCE

Mayor McNally, along with three boy scouts from Troop 835, led the Council, Staff, and audience in the Pledge of Allegiance.

ROLL CALL

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

CONSIDERATION OF MINUTES

Councillor Price moved, seconded by Major, to approve the minutes of the regular meeting of November 27, 2006, as written and presented. The motion passed unanimously.

CITY MANAGER'S REPORT

Mr. McFall reminded the public that the last Council meeting of the year had been rescheduled from December 25, Christmas Day, to December 18. City Council would not conduct study sessions on January 1 or 18 because of New Year's Day and Martin Luther King, Jr. Day, however, regular meetings would be held on the normal dates in January. A study session was being tentatively scheduled on January 29. Mr. McFall reported that Council would convene in executive session after this meeting. That meeting would be followed by an executive session of the Westminster Economic Development Authority.

CITY COUNCIL COMMENTS

Mayor McNally recognized Mr. McFall for receiving the 7:10 Rotary Club "Vocational Service Award". This is a prestigious leadership award for high ethical standards.

Mayor Pro Tem Kauffman commented that the 7:10 Rotary Club hosted five Russian delegates here in Westminster for one week. They covered many facets from government to recreation. On November 29th, Council hosted the State's Legislators and presented Westminster's current issues and concerns to them.

Mayor McNally stated that Council had just returned from attending the National League of Cities conference. Northglenn Mayor, Kathy Novak, was elected 2nd Vice President, will then be President in three years, which is a great honor and help for the State of Colorado.

PRESENTATIONS

Mayor McNally read a proclamation honoring Albert Sack, who had recently retired from the Farmers Reservoir and Irrigation Company's Board of Directors after 30 years of service. Mr. Sack's positive attitude, work ethic, commitment, and dedication had gained him the respect and admiration of City employees, government leaders, and colleagues. He would be remembered for his innovation and cooperation with the City on developing Standley Lake into a safe reliable long-term water supply reservoir. The Mayor presented the proclamation of recognition and the City Council's gratitude for his years of service to Mr. Sack.

CITIZEN COMMENT

Linda Barber, 8937 Wagner Lane, voiced her concerns about the increase in boat permit fees at Standley Lake and did not feel the lottery system was the best alternative for issuing boat permits.

Charlie Andrews, 11041 Wolff Way, also did not approve of the increase in boat permit fees and the lottery system. He asked if there could be a larger variety of passes issued to allow more boaters to have access to Standley Lake.

Mr. McFall responded that revenue was needed to cover expenses and the City was limited to 550 passes per agreements with other entities to ensure water quality at the lake.

CONSENT AGENDA

The following items were submitted for Council's consideration on the consent agenda: authority to pay \$135,753.92 to Intergraph Public Safety for yearly software maintenance; find, based on the City's Manager's report, that the public interest would best be served by waiving City bid requirements and executing a \$54,569 contract with DiTirro Building Service to provide custodial services at Swim & Fitness Center, Community Senior Center, and Municipal Court, and authority for the City Manager to execute the contract; based on the City Manager's report that the public interest would best be served by accepting the second lowest bid, authority for the City Manager to execute a \$48,600 contract with BornEngineering, Inc. for the City Facility Property Condition Evaluation and authorize a \$8,500 contingency; based on the report and recommendation of the City Manager, determine that the public interest would best be served by authorizing the City Manager to execute a two-year fee agreement with Carlson, Hammond and Paddock, LLC for special water counsel services in an amount not to exceed \$250,000 for 2007 and not to exceed \$250,000 in 2008; authority for the Mayor to execute an Intergovernmental Agreement with the Westminster Economic Development Authority and the 136th Avenue General Improvement District for the release of property tax collections to the City to help pay debt service obligations associated with the 2002 Sales Tax Revenue Bonds that had been issued to build the 136th Avenue interchange in substantially the same language distributed in the agenda packet; and final passage of Councillor's Bill No. 68 amending the Westminster Municipal Code as it relates to various changes in the liquor licensing and alcohol-related Code sections.

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

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

RESOLUTION NO. 66 RE 2007 JEFFERSON COUNTY JOING VENTURE GRANT APPLICATION

Upon a motion by Councillor Dittman, seconded by Councillor Lindsey, the Council voted unanimously at roll call to adopt Resolution No. 66 authorizing the Department of Parks, Recreation and Libraries to apply for a \$50,000 Jefferson County Joint Venture Grant for the 2007 funding cycle.

RESOLUTION NO. 67 RE 2007 SERVICE COMMITMENT ALLOCATIONS

It was moved by Mayor Pro Tem Kauffman, seconded by Major, to adopt Resolution No. 67 allocating Service Commitments for the year 2007 to the various categories of the Growth Management Program including Service Commitments for residential competitions for new single-family detached, single-family attached, multi-family, senior housing, and traditional mixed use neighborhood developments. At roll call the motion passed unanimously.

RESOLUTION NO. 68 RE PUBLIC ART AMENDMENTS TO COMMERCIAL DESIGN GUIDELINES

It was moved by Councillor Major, seconded by Price, to adopt Resolution No. 68 amending the City’s Commercial Design Guidelines to expand the provision of public art in commercial development projects in the City of Westminster. At roll call the motion passed unanimously.

COUNCILLOR’S BILL NO. 71 RE LYNX AVIATION, INC. ECONOMIC DEVELOPMENT AGREEMENT

It was moved by Councillor Price, seconded by Dittman, to adopt Councillor’s Bill No. 71 as an emergency ordinance authorizing the City Manager to execute and implement an Economic Development Agreement with Lynx Aviation, Inc. At roll call the motion passed unanimously.

ADJOURNMENT

There was no further business to come before the City Council, and the Mayor adjourned the meeting at 7:32 p.m.

ATTEST:

Mayor

Deputy City Clerk



Agenda Item 6 A

WESTMINSTER COLORADO

Agenda Memorandum

City Council Meeting
December 11, 2006



SUBJECT: Proclamation for Albert Sack, Farmers Reservoir and Irrigation Company

Prepared By: Dan Strietelmeier, P.E., Water Resources Engineering Coordinator

Recommended City Council Action

Present a proclamation to Albert Sack, who recently retired from the Farmers Reservoir and Irrigation Company Board of Directors. The proclamation will be presented by Mayor Nancy McNally.

Summary Statement

- Albert Sack served on the Farmers Reservoir and Irrigation Company (FRICO) Board since 1973, serving as president for sixteen of those years.
- FRICO is a mutual ditch company that owns and operates an extensive network of water rights, reservoirs and canals to provide water for irrigation and municipal use in Adams, Boulder and Weld Counties.
- The City of Westminster is a major shareholder in the Standley Lake Division of FRICO, and the FRICO shares together with the storage in Standley Lake are an essential component of the City's water supply.
- Albert served as FRICO President soon after the signing of the 1979 Four-Way Agreement and was instrumental in ensuring the Agreement's plan for operation and maintenance of Standley Lake Dam was followed, which eventually led to the completion of the 2002-2004 Standley Dam Renovation Project.
- Albert was always consistent and fair in directing the FRICO Board on policy decisions related to Standley Lake.
- Over the years, Albert became an ally for Westminster, supporting decisions regarding Standley Lake operations and the protection of water quality.
- Albert was also instrumental in completion of the FRICO land sale to Jefferson County and Westminster, which led to the development of the Standley Lake Regional Park.
- Albert mentored several aspiring Water Resources and Treatment Division employees during his career, while these City employees served on the FRICO Board and Standley Lake Operating Committee.
- Westminster owes a debt of gratitude to Albert for his service and cooperation with the City in developing Standley Lake as a reliable and safe water storage reservoir.
- Albert retired from the FRICO Board of Directors on November 14, 2006.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

None identified

Alternative

None identified

Background Information

Albert Sack is a lifetime Adams County resident and farmer, and used FRICO Standley Lake water for irrigation on his farm. Albert began serving on the FRICO Board in 1973 and his tenure at FRICO covered nearly the entire period of Westminster's ownership interest in FRICO and Standley Lake. The Cities of Northglenn and Thornton also began the process of finding permanent storage in Standley Lake during Albert's time on the Board. Albert was serving on the FRICO Board during the signing of the historic Four-Way Agreement in 1979, which established the operation and cost sharing for maintenance of Standley Lake that the Standley Lake Cities and FRICO follow today.

A number of cooperative intergovernmental agreements involving FRICO and Westminster were negotiated and developed under Albert's guidance including the Four-Way Agreement, Clear Creek Watershed Agreement, and the Standley Lake Land Sale Agreement. Albert also supported recommendations for improving the safety of Standley Lake Dam. His efforts and support were instrumental in the successful completion of the Standley Lake Dam Renovation project that ensured the long term safety and continued use of Standley Lake. As Standley Lake became a municipal water supply, Albert supported the water quality protection efforts of the Cities and FRICO also became an ally with Westminster on many water rights protection issues.

Through Albert's leadership, FRICO has become a successful and influential ditch and reservoir company in Colorado. FRICO is currently responsible for maintenance of four large reservoirs and hundreds of miles of canals. Albert is a respected water industry leader in the State and also gained the confidence of the shareholders of FRICO as evidenced by his thirty plus years of being elected to the Board.

This proclamation recognizes all of Albert's service, dedication and cooperation with Westminster in developing an integral part of the City's water supply.

Respectfully submitted,

Stephen P. Smithers
Acting City Manager

Attachment

WHEREAS, Albert Sack retired from the Farmers Reservoir and Irrigation Company on November 14, 2006 after over 30 years of serving on the Board, 16 of those years as President; and

WHEREAS, Albert Sack's positive attitude, work ethic, commitment, and dedication over the years, have gained him the respect and admiration of City employees, government leaders and colleagues; and

WHEREAS, Albert Sack will be remembered for his innovation and cooperation with the City on developing Standley Lake into a safe reliable long term water supply reservoir; and

WHEREAS, Albert Sack was consistently thorough and professional in his representation of the Farmers Reservoir and Irrigation Company.

NOW, THEREFORE, I, Nancy McNally, Mayor of the City of Westminster, Colorado, on behalf of the entire City Council and Staff, do hereby recognize

ALBERT SACK

for his dedication, hard work and cooperation with the City of Westminster and wish him good luck and best wishes in all his future endeavors.

Signed this 11th day of December, 2006.

Nancy McNally, Mayor



Agenda Item 8 A

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
December 11, 2006



SUBJECT: Intergraph Public Safety Software Maintenance Payment

Prepared By: Carol Workman, Senior Management Analyst

Recommended City Council Action

Authorize the payment of \$135,753.92, to Intergraph Public Safety (IPS) for yearly software maintenance.

Summary Statement

- The City of Westminster purchased an integrated Computer Aided Dispatch (CAD), Police Records Management System (RMS), Fire Records Management System and Mobile application from Intergraph Public Safety (IPS). This system is heavily relied on by police and fire personnel for entering call data from the public, entering in police and fire offense reports and incident reports and provides a tool for field units to receive dispatch data and handle calls in the field. Funds were specifically budgeted in the Police and Fire Departments and approved by City Council for this expense in 2007.
- It is necessary that the systems remain operational at all times and that problems in the system be addressed in a timely manner. Additionally, the yearly maintenance provides for upgrades in existing software to ensure that the applications have current functionality and any mid-year fixes or updates (the cost of on site installation is not included). The Information Technology Department has also requested that departments keep current with any software applications and maintain a current software maintenance contract with their vendor to avoid any system problems.

Expenditure Required: \$135,753.92

Source of Funds: 2007 General Fund - Police and Fire Departments' Operating Budgets

Policy Issue

Should the City of Westminster pay IPS for yearly software maintenance and support on the current CAD, Police RMS, Fire RMS and Mobile system?

Alternative

Do not pay for yearly software maintenance and support for the outlined applications and pay IPS an hourly rate to include emergency after hour costs to troubleshoot and/or fix the system if the application(s) should go down or have problems. Staff does not recommend this alternative because by doing this, it could be cost prohibitive and the City would also not receive any software upgrades without additional cost, thus falling behind in keeping this critical software current.

Background Information

The IPS system was purchased in 2000. The system includes a CAD (Computer Aided Dispatch) system, Police RMS (records management system), Fire RMS (records management system), Mobile Application and various system interfaces to include E911 and Automatic Vehicle Locating. The system was designed to integrate all applications and components together to allow for a seamless transmission of data. Communications staff input "service events" into a database and in turn, field units are able to receive those service events through their mobile data computers and consequently submit on line offense reports into the Police RMS. The Police RMS is a repository for police crime reports, arrest data, impounded evidence and stolen property. It allows for the department to generate monthly and annual crime statistics that are required to be reported to the Federal Bureau of Investigations. The Fire RMS component is used for tracking building inspections, EMS reporting and National Fire Incident Reporting (NFIRS).

Yearly maintenance allows all components of the system to have coverage by the vendor IPS. This includes not only the applications but also the Oracle Software. The CAD system is on a 24 X 7 (24 hours a day, seven days a week) maintenance plan due to the critical nature of the application. The remaining applications are on a normal weekday plan unless the situation is urgent.

Support by IPS allows customers several options; the first is to have immediate response to a problem by calling a telephone service support line that provides software support to requests. The support line is answered by IPS support engineers for product specific technical needs and problems. The second response generally used for non-emergent requests is to submit on-line help via the service request. Additionally, the yearly maintenance provides for upgrades in existing software to ensure that the applications have current functionality and any mid year fixes or updates (the cost of on site installation is not included). The Information Technology Department has also requested that departments keep current with any software applications and maintain a current software maintenance contract with their vendor to avoid any system problems.

The cost of the yearly software maintenance is shared by both the Police and Fire Departments with the Police Department paying \$90,670.28 of the cost and the Fire Department paying the remaining \$45,083.64.

Respectfully submitted,

Stephen P. Smithers
Acting City Manager



Agenda Item 8 B

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
December 11, 2006



SUBJECT: Negotiated Custodial Services Contract

Prepared By: Jerry Cinkosky, Facilities Manager

Recommended City Council Action

Based on a report of the City Manager find that the public interest would be best served by waiving City bid requirements and executing a \$54,569 contract with DiTirro Building Service to provide custodial services at Swim & Fitness Center, Community Senior Center, and Municipal Court, and authorize the City Manager to execute this contract.

Summary Statement

- In October 2005, City Council authorized the City Manager to execute contracts with three separate custodial service companies to provide cleaning services in 16 City facilities.
- Custodial contracts were signed with KG Clean Inc., Carnation Building Services, and DiTirro Building Service for a period of one year with the option of extending the original contract for two additional one year periods provided that service levels had been met the previous year.
- The benefit of contracting with three custodial firms to provide custodial services insures the availability of custodial services should any of the contracted companies prove unable to fulfill their contractual obligations.
- Based on last year's performance and the high number of cleaning-related complaints by both citizens and City Staff members, as well as the amount of staff time to address these concerns, Staff has decided not to renew the custodial services contract with Carnation Building Services for 2007 at the Swim and Fitness Center, Community Senior Center, and the Municipal Court.
- With a limited time frame before the renewal period starts on January 1, 2007, Staff contacted KG Clean, Inc. and DiTirro Building Service to inquire about their interest in providing cleaning services for these three facilities. KG Clean, Inc. was not interested in negotiating a lower price than they had submitted for these additional facilities in 2005. DiTirro Building Service was contacted and was very enthusiastic about negotiating a price and having the opportunity to take on additional City facilities.
- The negotiations resulted in DiTirro Building Service agreeing to assume the custodial services contract at the same amount as Carnation Building Services had been charging, plus a 3% cost of living adjustment. Staff is confident in DiTirro Building Service's ability to provide these additional services.

Expenditure required: \$54,569

Source of Funds: General Fund - 2007 General Services, Building Operations and Maintenance Division Operating Budget

Policy Issue

Should City Council negotiate a custodial services contract with DiTirro Building Service?

Alternative

Direct Staff to proceed with opening a competitive bid process for custodial services. Staff does not recommend this approach due to time constraints in securing custodial services for each of the affected facilities by January 1. Moreover, with the minimum wage increase approved on the November ballot, Staff does not anticipate the price for custodial services decreasing in the future.

Background Information

For the past 18 years, the City has contracted with the private sector to provide custodial services in City facilities. It is estimated this practice has saved the City approximately \$100,000 to \$150,000 per year.

In October 2005 Staff sent out a request for proposals for custodial services in 16 City facilities. Contracts were awarded to three custodial firms, K-G Clean, Inc., Carnation Building Services, and DiTirro Building Service. Staff's intent was to award custodial services for a period of one year with the option of two one year renewals to the existing contract. Staff's decision to renew for the additional one year period would be based on the previous year's performance, and adherence to custodial cleaning specifications.

Over the past year, Carnation Building Services has continued to have difficulty in adhering to cleaning specifications at Swim & Fitness Center, Municipal Court, and the Community Senior Center. These difficulties have resulted in numerous complaints from citizens and Staff members alike. Both Building Operations & Maintenance Staff who oversees the contract custodial services as well as Staff from each of the three facilities see no benefit in renewing the custodial services contract with Carnation Building Services for the upcoming year.

After successful performance at the other City facilities that Carnation Building Services provides custodial services for, Staff intends to renew the custodial service contract for an additional one year period effective January 1, 2007. These facilities are West View Recreation Center, Heritage Golf Course, Northwest Water Treatment Plant, Municipal Service Center, and Semper Water Treatment Plant.

DiTirro Building Service has been successful in providing quality custodial services in the following City facilities:

- Irving Street Library
- Countryside Recreation Center
- Kings Mill Pool
- Colorado Soccer Association (Sports Center)

Staff is confident that DiTirro Building Service will be able to extend this same level of service to the three additional facilities in south Westminster.

Respectfully submitted,

Stephen P. Smithers
Acting City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
December 11, 2006



SUBJECT: City Property Condition Evaluation and Physical Needs Analysis Contract

Prepared By: Jerry Cinkosky, Facilities Manager

Recommended City Council Action

Authorize the City Manager to execute a contract with BornEngineering, Inc. in the amount of \$48,600 for the City Facility Property Condition Evaluation, and authorize a contingency of \$8,500. This recommendation is based on the report of the City Manager that the public interest would best be served by accepting the 2nd lowest bid from BornEngineering, Inc. for the property condition evaluation.

Summary Statement

- In June 2006, City Council approved \$190,000 in carry over funds for use in developing a comprehensive facility needs assessment and long-term Citywide facility maintenance plan with the emphasis on facility infrastructure for all City facilities.
- In October 2006 an invitation to bid was sent to five engineering firms for the purpose of providing costs associated with the property condition evaluation project. All five engineering firms attended a pre bid meeting and tour of facilities to review the scope of the project. On November 17, four of those firms submitted bids for this project.
- The following bids were received for the facilities outlined in the City’s request for proposal:

WJE	\$45,800
BornEngineering	\$48,600
FEA	\$56,000
DCS	\$75,537
- The criteria used in evaluating the bids consisted of the following:
 - Superior quality and adherence to specifications
 - Firm’s reputation and statement of qualifications
 - Cost of original proposed scope of work
 - Hourly rate for additional testing and investigative services
 - Past performance working with the City of Westminster
- Staff reviewed each firm’s statement of qualifications and found that all the firms have performed similar projects and are capable of providing the City of Westminster a quality product. Using the remaining criteria of the lowest base bid price, additional hourly rate, superior quality, and adherence to specifications Staff rated BornEngineering’s bid as the best proposal to meet the City’s needs.
- The proposed study is anticipated to be completed by July of 2007.
- Funds are available for this expenditure in the Building Operations and Maintenance Division’s Major Maintenance Capital Improvement Project budget for 2006.

Expenditure required: \$57,100

Source of Funds: Building Operations & Maintenance Capital Improvement Project Funds

Policy Issue

Should City Council award a contract to the 2nd lowest bidder based on it's higher overall ratings?

Alternative

Award the Property Condition Evaluation contract to the firm submitting the lowest base bid. Staff does not recommend this action based on their assessment that the 2nd lowest bidder, BornEngineering, submitted a proposal that better meets the City's needs.

Background Information

As part of the City's emphasis being placed on future organizational sustainability, Staff was asked to review the current infrastructure and physical needs of all City facilities for future budget planning. With the assistance of the selected outside independent engineering firm, the Building Operations and Maintenance Division will be working on a long term, Citywide major maintenance plan and document to identify today's deficiencies as well as future needs and funding that will be needed for the next 20 years. With an aging inventory of facilities, this working document will assist in identifying and correcting problems to increase the life cycle of City facility infrastructures.

In June of 2006 City Council approved \$190,000 in carry over funds to be used for the purpose of creating a Citywide facility needs analysis. In response to a request for proposals, City Staff received four bids for this project. The bids are summarized in the following chart:

CONTRACTOR	BASE BID PRICE	ADDITIONAL HOURLY RATE	PAST PERFORMANCE WORKING WITH THE CITY
WJE	(5) \$45,800	(3) Variable schedule of salaries	(3) City Hall HVAC project, City Park mechanical, City Hall foundation and structural review
BornEngineering	(4) \$48,600	(4) \$85.00 per hour	(5) Court needs assessment, Community Development plot plan landscape drainage review, City Park Roof replacement
FEA	(3) \$56,000	(3) Variable schedule of salaries	No history
DCS	(2) \$75,537	(3) Variable schedule of salaries	No history

In the City's Request for Proposal and subsequent pre bid meeting, Staff requested an hourly rate for any additional testing and investigational work that may be necessary once the project gets underway. This request for an hourly rate assisted Staff in comparing bids and identifying the total cost to complete the project.

BornEngineering was the only firm to submit both an exact hourly cost for additional services as well as a "not to exceed figure" in their proposal. Additionally BornEngineering's bid proposal identified the need for annual review and they have offered their firm's assistance for the next three years at no additional cost. This will allow the City to use BornEngineering's computer software and web based server to add an updated completion of Capital Improvements, adjust funding levels, and provide the ability to review the work plan progress.

The three other firms submitting bids provided a schedule for salaries including both professional Staff and professional support Staff. These hourly staff rates ranged from \$50 - \$210 per hour. This method of providing a variable schedule of hourly costs for additional services made it extremely difficult to compare costs for any additional work that may be required.

City Staff's experience with BornEngineering, Inc. has been very positive. In early 2006, the City contracted the firm to provide a physical needs assessment at the City's Municipal Court. This document evaluated the mechanical, structural, electrical, fire protection, and the building envelope, which includes roofing needs and requirements. The report provided life cycle information and costs for each component and system within the facility for the upcoming 20 years at 5 year increments. The result of BornEngineering's analysis and evaluation resulted in over \$300,000 in improvements completed at the Municipal Court in 2006. Staff found BornEngineering's report to be very informative and helpful in both identifying existing deficiencies and for Capital Improvement Budget justification.

Respectfully submitted,

Stephen P. Smithers
Acting City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
December 11, 2006



SUBJECT: Legal Services Agreement with Carlson, Hammond and Paddock

Prepared By: Josh Nims, Water Resources Engineer
Michael Happe, P.E., Water Resources and Treatment Manager

Recommended City Council Action

Based on the report and recommendation of the City Manager, determine that the public interest will best be served by authorizing the City Manager to execute a two year fee agreement with Carlson, Hammond and Paddock, L.L.C. (CHP) for special water counsel services in an amount not to exceed \$250,000 for 2007 and will not exceed \$250,000 for 2008.

Summary Statement

- The Attorneys at CHP have effectively and successfully represented the City of Westminster in water matters since 1977 and have developed a very thorough knowledge of Westminster water supply and water quality issues.
- Over this time, CHP has become an integral part of the Public Works and Utilities Water Resources and Treatment team that is charged with developing and protecting Westminster's water supply.
- CHP's average billing rate to the City of Westminster is lower than the average for water rights attorneys representing large Colorado water users, based on a recent survey of major Colorado water users.
- Westminster's water supply is an extremely valuable asset that requires constant protection from water quality and water quantity degradation.
- Colorado's water rights system requires judicial action for many water matters, thus the City needs expert legal counsel specializing in water rights and water quality.
- Increasing development pressure requires vigilance in numerous water quality forums in the State in order to protect the water quality of Standley Lake and its tributary basins.
- CHP is extremely qualified and competent in water rights and water quality issues.
- It is anticipated that actual spending for CHP's legal services will be lower than the do not exceed amount of \$250,000. Funds are budgeted for this expense in the 2007 and 2008 budget approved by City Council.

Expenditure Required: Not to Exceed \$250,000 in 2007 and \$250,000 in 2008

Source of Funds: 2007 and 2008 Utility Fund –
Water Resources and Treatment Division Operating Budget

Policy Issue

Whether to retain Carlson, Hammond and Paddock as special water counsel on behalf of the City in connection with water matters for 2007 and 2008.

Alternative

Do not retain special water counsel, or seek new special water counsel to handle water matters for the City. The City could hire additional full-time attorneys to handle the City's water rights and water quality matters; however, this would reduce the amount of flexibility the City currently has with adjusting to meet changing work load requirements and would increase the City's long term commitment to full-time employees. The City could alternatively seek out new special water counsel, but given the good work, long-term relationship and low costs of the representation from Carlson, Hammond and Paddock, this alternative does not appear attractive.

Background Information

The City of Westminster has a long history of representation on water matters from the principal members of the Carlson, Hammond and Paddock firm. In 1977, the City retained Holland and Hart to handle water matters for the City. John Carlson, Charlie Elliot and Mary Hammond were the principal attorneys working on Westminster issues for Holland and Hart. In 1985, John Carlson, Charlie Elliot and Mary Hammond left Holland and Hart to start their own firm. The City chose to stay with Carlson, Elliot and Hammond as the City's special water counsel instead of staying with Holland and Hart. Charlie Elliot passed away in 1985 and John Carlson passed away in 1992. Now Mary Hammond and Lee Johnson are the principal attorneys representing the City on water matters. Mary Hammond and Lee Johnson have been working on Westminster water matters for 29 years and 18 years, respectively.

The Carlson firm, or variations of it over the years, has played integral parts in a number of very noteworthy historical events involving the Westminster water supply. Here are a few examples:

1. The Four-Way Agreement between Westminster, Thornton, Northglenn and the Farmers Reservoir and Irrigation Company in 1978 that sets forth the partnership in sharing Standley Lake for water storage.
2. Successful litigation with the City of Golden in 1985, that prevented Golden from taking Westminster's clean water headed to Standley Lake and replacing it with treated effluent.
3. A comprehensive settlement with Golden and Coors over several water quality and quantity agreements that assured that Standley Lake would be permanently protected from Coors and Golden treated sewage discharges along with the settlement of a number of other water disputes among Coors, Golden, Thornton and Westminster. This 1988 agreement became known as the "Cosmic Agreement" due to its size, scope and importance.
4. The successful completion through water court of the change of use of over \$200,000,000 worth of water rights from agricultural uses to municipal uses within the City of Westminster.
5. The protection of Standley Lake from contamination from the Rocky Flats Nuclear Weapons plant through the development of the Standley Lake Protection Project, including Woman Creek Reservoir.
6. Successful litigation with the City of Golden that upheld the State Engineer's order for Golden to cease and desist the illegal diversions of Clear Creek water upstream of the Farmers' High Line Canal.

CHP has developed a very thorough knowledge of Westminster's water supply and water quality issues, and is a key player in helping develop and protect Westminster's raw water supply. The fees charged by CHP to the City are very favorable when compared with other major water suppliers in Colorado. Carlson, Hammond and Paddock is proposing to increase the rate charged for its services for all partners and associates from \$165 per hour to \$175 per hour for 2007 and to \$185 per hour for 2008. This increase is relatively small and still compares favorably to a survey completed in November of the principal water attorney rates charged to major water suppliers in Colorado. Carlson, Hammond and Paddock's rates are very competitive and still below the average of the 2006 survey.

Water Counsel Fees – November 2006 Survey			
Entity	Hourly Rate	Entity	Hourly Rate
Arapahoe County	In House	Ft. Collins	\$250/hr.
Arvada	\$195/hr.	Golden	\$275/hr.
Aurora	\$260/hr.	Greeley	In house
Boulder	\$180/hr.	Northern Colorado Water Conservancy District	\$205/hr.
Brighton	\$160/hr.	Northglenn	\$175/hr.
Broomfield	\$200/hr.	South Adams County Water and Sanitation District	\$205/hr.
Denver Water	In house.	Thornton	\$210/hr.
East Cherry Creek Valley Water and Sanitation District	\$290/hr.	Westminster (Proposed 2007 rate)	\$175/hr.
Englewood	\$230/hr.		

Based on all the factors detailed in this memorandum, Staff did not feel it was in the best interest of the City to seek bids on the City's legal services related to water rights and water quality and that the City should retain Carlson, Hammond and Paddock for 2007 and 2008.

Respectfully submitted,

Stephen P. Smithers
Acting City Manager



**WESTMINSTER
COLORADO**

Agenda Memorandum

City Council Meeting
December 11, 2006



SUBJECT: Intergovernmental Agreement between the City of Westminster, the 136th Avenue General Improvement District and Westminster Economic Development Authority for the release of property tax collections for repayment of the 2002 Sales Tax Revenue Bonds

Prepared By: Robert C. Smith, Treasury Manager
Marty McCullough, City Attorney
Robert Byerhof, Financial Analyst

Recommended Action

Authorize the Mayor to execute an Intergovernmental Agreement with the Westminster Economic Development Authority (WEDA) and the 136th Avenue General Improvement District (GID) for the release of property tax collections to the City to help pay debt service obligations associated with the 2002 Sales Tax Revenue Bonds that were issued to build the 136th Avenue interchange in substantially the same language as attached.

Summary Statement

- On August 14, 2000, the creation of the 136th Avenue GID was authorized by City Council and on November 7, 2000, the property owners within the GID approved a ballot initiative to increase debt by up to \$11,000,000 for the construction of the 136th Avenue Interchange. In doing so, the voters approved a mill levy increase in the amount of 15 mills for the repayment of any debt incurred and an additional 1 mill for administrative costs.
- On December 4, 2002, Sales Tax Revenue Bonds were issued by the City to finance the construction of the 136th Avenue Interchange.
- On January 26, 2004, City Council approved the WEDA North Huron Urban Renewal Area (URA), the boundaries of which include the 136th Avenue GID. Since the North Huron URA captures all sales and property tax increment within its boundaries, an IGA is necessary to transfer to the City the GID related property tax revenues that are captured by the URA. These revenues may then be applied by the City towards debt service for the interchange construction, all as originally contemplated in the financing plan for this project.
- City Council is requested to approve this IGA in substantially the same language as attached in order to receive property tax collections from both the GID and WEDA to help pay debt service associated with the 136th Avenue Interchange.

Expenditure Required: \$0

Source of Funds: Transfer from 136th Avenue GID

Policy Issue

Should the City approve the IGA with the GID and WEDA?

Alternative

The alternative to the recommended action is to not approve the IGA. This alternative is not recommended as the City's Debt Service Fund needs these funds to assist with debt service payments on the 2002 Sales Tax Revenue Bonds.

Background Information

The 136th Avenue GID was created to assist in the repayment of debt associated with the construction of the 136th Avenue interchange over Interstate 25. In November 2000, voters in the GID approved a 15 mill property tax increase for the repayment of debt and 1 mill for administrative costs. The GID receives the 16 mill levy on the based assessed valuation while WEDA captures the 16 mill levy on the incremental assessed valuation. In December 2002, the City issued Sales Tax Revenue Bonds for the construction of the interchange. When the North Huron URA was created in January 2004, the GID and the interchange were included in the boundaries of the URA. The URA is capturing all of the property tax increment associated with the GID. An IGA is required to release the property tax increment collected by WEDA and is necessary in order for the GID to fulfill its commitment to repay debt associated with the construction of the 136th Avenue Interchange and associated administrative costs.

Once the IGA is approved, the GID will transfer to the City all previously collected and future property tax attributable to the base assessed valuation for 136th Avenue GID as well as the incremental property tax released by WEDA. These funds will be used by the City for the debt service associated with the construction of the 136th Avenue Interchange built with bond proceeds from the 2002 Sales Tax Revenue Bonds.

Respectfully submitted,

Stephen P. Smithers
Acting City Manager

Attachment

**INTERGOVERNMENTAL COOPERATION AGREEMENT AMONG THE WESTMINSTER
ECONOMIC DEVELOPMENT AUTHORITY, THE CITY OF WESTMINSTER AND THE CITY OF
WESTMINSTER 136th AVENUE GENERAL IMPROVEMENT DISTRICT REGARDING TAX
INCREMENT REVENUES AND CONSTRUCTION OF THE 136th AVENUE INTERCHANGE**

This Intergovernmental Cooperation Agreement (the "Agreement"), dated as of _____, 2006, by and among the WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY ("WEDA"), a body corporate duly organized and existing as an urban renewal authority under the laws of the State of Colorado, the CITY OF WESTMINSTER (the City"), a home rule municipality duly organized and existing under the Constitution and laws of the State of Colorado, the CITY OF WESTMINSTER 136TH AVENUE GENERAL IMPROVEMENT DISTRICT ("District"), a quasi-municipal corporation and body corporate of the State of Colorado duly organized and existing pursuant to Title 31, Article 25, Part 6, C. R. S., as amended (collectively the "Parties").

W I T N E S S E T H;

WHEREAS, the City Council of the City has adopted an urban renewal plan known as the "North Huron Urban Renewal Plan" ("Urban Renewal Plan") under and pursuant to the Colorado Urban Renewal Law, Section 31-25-101, et. seq., C.R.S., as amended (the "Act"); and

WHEREAS, in accordance with the Urban Renewal Plan and the Act, WEDA is authorized to undertake urban renewal projects and activities and to finance such projects and activities by utilization of certain incremental increases in property and sales; and

WHEREAS, the Urban Renewal Plan defines an urban renewal area (the "Urban Renewal Area") which is generally described as property located west of the centerline of I-25, east of the centerline of North Huron, south of the centerline of 152nd Avenue and north of the centerline of 124th Avenue extended (except for three areas where the boundaries extend west of Huron Street, including the extended right-of-way of 144th Avenue); and

WHEREAS, the District was created to finance a portion of the costs of that portion of the interchange on I-25 at 136th Avenue located in the City and within the Urban Renewal Area and all other necessary, incidental, appurtenant, and convenient facilities, equipment, land and property rights ("Improvements"); and

WHEREAS, at an election held on November 7, 2000, a majority of the eligible electors of the District voting thereon approved the following question (the "Election Question"):

SHALL CITY OF WESTMINSTER 136TH AVENUE GENERAL IMPROVEMENT DISTRICT DEBT BE INCREASED \$11,000,000 WITH A REPAYMENT COST OF \$30,643,472 AND SHALL DISTRICT TAXES BE INCREASED \$1,583,472 ANNUALLY SUBJECT TO THE FOLLOWING:

(1) THE PROCEEDS OF SUCH DEBT AND TAXES SHALL BE USED FOR THE PURPOSE OF FINANCING A PORTION OF THE COSTS OF AN INTERCHANGE ON I-25 AT 136TH AVENUE AND ALL OTHER NECESSARY, INCIDENTAL, APPURTENANT, AND CONVENIENT FACILITIES, EQUIPMENT, LAND AND PROPERTY RIGHTS OR REFUNDING DEBT ISSUED FOR SUCH PURPOSES AND PAYING THE DISTRICT'S ANNUAL OPERATIONAL COSTS;

(2) SUCH TAX INCREASE SHALL BE GENERATED BY A PROPERTY TAX MILL LEVY OF NOT TO EXCEED THE SUM OF (i) 15 MILLS PLUS (ii) SUCH MILL LEVY, NOT TO EXCEED 1 MILL AS IS NECESSARY TO GENERATE UP TO \$10,000 ANNUALLY, PROVIDED THAT:

A) SUCH TAX SHALL END WITH COLLECTIONS IN THE YEAR 2021 OR WHEN THE AGGREGATE AMOUNT COLLECTED EQUALS \$11,000,000 WHICHEVER OCCURS LATER;

(B) THE MILL LEVY LIMIT MAY BE INCREASED TO OFFSET ANY PROPERTY TAX CUT WHICH IS MANDATED BY ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION, AS IT CURRENTLY EXISTS OR IS HEREAFTER AMENDED, AND THE \$1,583,472 ANNUAL TAX INCREASE SHALL BE NET OF ANY SUCH TAX CUT;

(3) THE PROCEEDS OF SUCH TAX SHALL BE USED TO PAY THE PRINCIPAL OF AND PREMIUM, IF ANY, AND INTEREST ON SUCH DEBT OR ANY REFUNDING DEBT WHEN DUE;

(4) SUCH DEBT MAY BE EVIDENCED BY BONDS, NOTES, CONTRACTS, LOAN AGREEMENTS OR OTHER FORMS OF INDEBTEDNESS BEARING INTEREST AT A MAXIMUM NET EFFECTIVE INTEREST RATE NOT TO EXCEED 12.5%;

(5) SUCH DEBT MAY BE SOLD IN ONE SERIES OR MORE, ON TERMS AND CONDITIONS AS THE BOARD OF DIRECTORS OF THE DISTRICT MAY DETERMINE, INCLUDING PROVISIONS FOR REDEMPTION OR PREPAYMENT PRIOR TO MATURITY WITH OR WITHOUT PAYMENT OF THE PREMIUM;

AND SHALL THE EARNINGS FROM THE INVESTMENT OF THE PROCEEDS OF SUCH DEBT AND TAX REVENUES BE COLLECTED AND SPENT WITHOUT LIMITATION OR CONDITION, AS A VOTER-APPROVED REVENUE CHANGE UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?

WHEREAS, the City has previously issued its Sales and Use Tax Revenue Bonds, Series 2002, in the aggregate original principal amount of \$15,090,000 to, among other things, finance that portion of the Improvements within the City; and

WHEREAS, the Improvements are located within the Urban Renewal Area and are the type of project which WEDA is authorized to undertake pursuant to the Act and the Urban Renewal Plan; and

WHEREAS, the Urban Renewal Plan provides that one of its objectives is to provide an efficient system of streets, roads and other transportation facilities necessary to support urban development; and

WHEREAS, the Parties are authorized by the Section 112 of Act to enter into cooperative agreements with respect to projects and activities and are authorized by Section 29-1-203, C.R.S. to enter into contracts to provide any function, service or facility lawfully authorized to each; and

WHEREAS, Parties desire to enter into an agreement setting forth their intent to cooperate as to the provision of the Improvements and to assure that taxes levied by the District are made available to the District for purposes of implementing paying its share of the cost of the Improvements.

NOW THEREFORE, in consideration of the foregoing recitals, and the following terms and conditions, the City, WEDA and the District hereby agree as follows:

1. Improvements; District Obligation Levy Taxes. The Parties agree that the City has already constructed the Improvements. In consideration for the City financing and constructing the Improvements and in order to reimburse the City for a portion of the costs of financing the Improvements, the District shall annually levy (beginning with tax levy year 2001) a property tax of not to exceed the sum of (i) 15 mills plus (ii) such mill levy, not to exceed 1 mill as is necessary to generate up to \$10,000 annually, provided that the total amount collected pursuant to the combined levies in any year shall not exceed \$1,538,472. The obligation to levy such tax shall end with collections in the year 2021 or when the aggregate amount collected equals \$11,000,000 whichever occurs later. This promise to levy the tax constitutes a debt for purposes of the Election Question. This debt does not bear any interest.

2. District Property Tax Revenues. In consideration for the City financing and constructing the Improvements and in order to reimburse the City for a portion of the costs of financing the Improvements, the District agrees that the revenues which it receives as a result of the District's levy of ad valorem taxes on real and personal taxable property plus applicable interest on the ad valorem taxes within the District (the "Property Tax Revenues"), shall be segregated upon receipt and shall be remitted by the District to the City annually by September 30th commencing in 2007. Property taxes previously collected in years 2002-2006 shall be transferred to the City by December 31, 2006.

3. WEDA Tax Increment Revenues. The construction of the Improvements benefits the property located within the Urban Renewal Area by providing access to and from I-25 and as a result benefits WEDA by facilitating development of the property within Urban Renewal Area. In order to assist the District in reimbursing the City for financing a portion of the cost of the Improvements, WEDA agrees that the portion of revenues which it receives as a result of tax increment revenues pursuant to Section 107(9)(II) of the Act and the Urban Renewal Plan which are attributable to the District's current and future levy of ad valorem taxes on real and personal taxable property plus applicable interest on the ad valorem taxes within the Urban Renewal Plan (the "District Tax Increment Revenues"), shall be segregated upon receipt and shall be returned by WEDA to the District annually by September 30th. The

District shall remit the incremental property tax revenue to the City annually by October 31st. The obligation of WEDA set forth herein shall constitute an obligation to the District to finance an urban renewal project within the meaning of Section 107(9) of the Act.

4. Use of Revenues. The City agrees to apply the District Tax Increment Revenues and the Property Tax Revenues to the costs of the Improvements or the District's annual operating costs. The parties acknowledge that the District's Tax Increment Revenues have not been previously pledged, encumbered or otherwise transferred to any other party or for any other purpose. WEDA hereby covenants that so long as this Agreement is in effect, it will not pledge, encumber or otherwise transfer the revenues or the right to the District Tax Increment Revenues and paid to WEDA in accordance with the Act. The District hereby covenants that so long as this Agreement is in effect, it will not pledge, encumber or otherwise transfer the revenues or the right to the Property Tax Revenues.

5. Cooperation. The Parties covenant with each other that in any action or challenge of the Urban Renewal Plan and/or this Agreement, regarding the legality, validity or enforceability of any provision thereof, the Parties will work cooperatively and in good faith to defend and uphold each and every such provision.

6. Enforcement. WEDA agrees that it shall enforce the collection of all moneys which may qualify as District Tax Increment Revenues.

7. Effective Date; Term. This Agreement shall become effective as of the date set forth in the initial paragraph hereof. Unless sooner terminated by mutual consent of the Parties, this Agreement shall remain in full force and effect until the District has fully performed its obligations under Section 1 of this Agreement provided that WEDA's obligation under Sections 2, 3 and 5 of this Agreement shall terminate when the tax allocation provisions of the Urban Renewal Plan and the Act terminate.

8. Amendments and Waivers. No amendment or waiver of any provision of this Agreement, nor consent to any departure herefrom, in any event shall be effective unless the same shall be in writing and signed by the Parties hereto, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

9. Governing Law. This Agreement shall be governed by, and construed in accordance with the laws of the State of Colorado.

10. Headings. Paragraph headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose.

11. Severability. If any covenant, term, condition, or provision under this Agreement shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such covenant, term, condition, or provision shall not affect any other provision contained herein, the intention being that such provisions are severable.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed and delivered by their respective officers thereunto and duly authorized as of the date first above written.

WESTMINSTER ECONOMIC DEVELOPMENT
AUTHORITY

By: _____
Chairperson

ATTEST:

APPROVED AS TO FORM:

Secretary

Attorney for Authority

CITY OF WESTMINSTER

By: _____
Mayor

(SEAL)

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

CITY OF WESTMINSTER 136TH AVENUE GENERAL
IMPROVEMENT DISTRICT

By: _____
Chairperson

ATTEST:

Secretary

APPROVED AS TO FORM:

District's Attorney



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
December 11, 2006



SUBJECT: Second Reading Councillor's Bill No. 68 re Changes to Liquor License Ordinance and Alcohol-Related Offenses

Prepared By: Janice Kraft, Neighborhood Services Administrator
Eugene Mei, Assistant City Attorney

Recommended City Council Action

Pass Councillor's Bill No. 68 on second reading amending the Westminster Municipal Code as it relates to various changes to the liquor licensing and alcohol-related Code sections.

Summary Statement

- Staff presented information to City Council at a study session meeting October 2, 2006 concerning the adoption of various changes to the liquor licensing and alcohol-related Code sections.
- Council concurred with those recommended changes and Councillor's Bill No. 68 was passed on first reading by City Council on November 27, 2006.

Expenditure Required: \$0

Source of Funds: N/A

Respectfully submitted,

Stephen P. Smithers
Acting City Manager

Attachment

BY AUTHORITY

ORDINANCE NO. **3325**

COUNCILLOR'S BILL NO. **68**

SERIES OF 2006

INTRODUCED BY COUNCILLORS

Major - Kaiser

**A BILL
FOR AN ORDINANCE AMENDING THE WESTMINSTER
MUNICIPAL CODE CONCERNING LIQUOR LICENSING PROVISIONS
AND ALCOHOL-RELATED POLICE REGULATIONS**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Section 5-14-4, subsection (A), is hereby AMENDED to read as follows:

5-14-4: LICENSE APPLICATIONS:

(A) The following licenses may be issued by the Licensing Authority under this Chapter:

1. Fermented malt beverages:
 - (a) For consumption off the premises of the licensee;
 - (b) For consumption on the premises of the licensee;
 - (c) For consumption both on and off the premises of the licensee;
 - (d) Temporary Permit, for the continuance of the sale of fermented malt beverages by a transferee pending the transfer of the permanent license;
 - (e) Temporary License for the continuance of the sale of fermented malt beverages by a licensee whose license has expired where the licensee has applied for a permanent license.
2. Retail liquor store;
3. Liquor-licensed drugstore;
4. Beer and wine;
5. Hotel and restaurant;
6. Hotel and restaurant with optional premises;
7. Tavern;
8. Club;
9. Arts;
10. Racetrack; ~~and~~
11. Temporary Permit for the continuance of the sale of alcoholic beverages by a transferee pending the transfer of the permanent license;
12. Temporary License for the continuance of the sale of alcoholic beverages by a licensee whose license has expired where the licensee has applied for a permanent license;
13. Special events permit;
14. Brew Pub License; ~~and~~
15. Bed and Breakfast Permit; AND
16. VINTNER'S RESTAURANT LICENSE.

Section 2. Section 5-14-5, subsection (B), W.M.C., is hereby AMENDED to read as follows:

5-14-5: FEES:

(B) The local license fees prescribed by C.R.S. Section ~~12-46-117~~ 12-46-107 and ~~12-47-139~~ 12-47-505, as amended, shall be paid to the City annually in advance by the licensee. Such fees shall not be rebated or discounted on a proportionate basis for any license in existence or issued for less than a year. These fees shall be in addition to any license fees required to be paid directly to the State.

Section 3. Section 5-14-7, subsection (F), W.M.C., is hereby AMENDED to read as follows:

5-14-7: LICENSE DENIAL, SUSPENSION OR REVOCATION:

(F) If the Authority suspends a retail license, the licensee may, before the operative date of the suspension, petition for permission to pay a fine in lieu of having its license suspended for all or part of the suspension period. The Authority may grant the petition if the criteria and conditions of Section ~~12-47-110(3)~~ 12-47-601(3)(a) and Section 5-1-7(B), W.M.C., are met.

Section 4. Section 5-14-14, subsection (A), W.M.C., is hereby AMENDED to read as follows:

5-14-14: DISTANCE RESTRICTION ELIMINATED FOR CERTAIN SCHOOLS:

(A) The distance restriction imposed by Section ~~12-47-138(1)(d)~~ 12-47-313(1)(d), C.R.S., for hotel-restaurant licenses is hereby eliminated for institutions or facilities which serve children ~~preceeding~~ PRECEDING their entrance to the first grade in public, private or parochial schools. Such institutions or facilities include, but are not limited to, those described or known as day schools, preschools, child care centers, day care centers, day nurseries, nursery schools, kindergartens, play groups, day camps, summer camps, learning centers, child development centers, religious training programs such as Sunday schools or vacation bible schools and centers for developmentally disabled children.

Section 5. Title V, Chapter 14, W.M.C., AND THE TABLE OF CONTENTS THEREFOR is hereby amended BY THE ADDITION OF A NEW SECTION to read as follows:

5-14-16: REMOVAL OF VINOUS LIQUOR FROM LICENSED PREMISES:

(A) NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER TO THE CONTRARY, A LICENSEE DESCRIBED IN SUBSECTION (B) OF THIS SECTION MAY PERMIT A CUSTOMER OF THE LICENSEE TO RESEAL AND REMOVE FROM THE LICENSED PREMISES ONE OPENED CONTAINER OF PARTIALLY CONSUMED VINOUS LIQUOR PURCHASED ON THE PREMISES SO LONG AS THE ORIGINALLY SEALED CONTAINER DID NOT CONTAIN MORE THAN 750 MILLILITERS OF VINOUS LIQUOR.

(B) THE PROVISIONS OF THIS SECTION SHALL APPLY TO A LICENSEE:

1. THAT IS DULY LICENSED AS A MANUFACTURER'S LICENSEE UNDER SECTION 12-47-402, C.R.S., A LIMITED WINERY LICENSEE UNDER SECTION 12-47-403, C.R.S., A BEER AND WINE LICENSEE, A HOTEL AND RESTAURANT LICENSEE, A TAVERN LICENSEE, A BREW PUB LICENSEE, OR A VINTNER'S RESTAURANT LICENSEE UNDER SECTION 5-14-4, W.M.C.; AND

2. THAT HAS MEALS, AS DEFINED IN SECTION 12-47-103(20), C.R.S., AVAILABLE FOR CONSUMPTION ON THE LICENSED PREMISES.

Section 6. Section 6-9-1, W.M.C., is hereby AMENDED to read as follows:

6-9-1: DEFINITIONS: As used in this Chapter, the following words and phrases shall have the following meanings:

(A) "Public Place" shall mean any street, alley, road, highway, parking lot, public or community building, public park or sidewalk adjoining a public park; any private property open to the general public, or any place used by persons other than the owner, or owner's agent, without a special permit.

(B) "Container" shall mean any enclosing structure or vessel, including, but not limited to, a decanter, flask, bottle, jar, thermos bottle, cup, can or jug.

(C) "Seal" shall mean the regular and original seal applied by the United States government over the cap of a beer, malt, vinous or spirituous liquor.

(D) "Alcoholic Beverages" shall mean any fermented malt beverages (3.2% alcohol by weight, or less), malt vinous or spirituous liquors (3.2% alcohol by weight, or more), as defined by State law.

(E) "Open ALCOHOLIC BEVERAGE Container" shall mean any container CONTAINING ANY AMOUNT OF ALCOHOLIC BEVERAGE that is open and would allow consumption OR THE CONTENTS OF WHICH ARE PARTIALLY REMOVED, or a container of which the seal has been broken, EXCEPT FOR A CONTAINER RESEALED PURSUANT TO W.M.C. SECTION 5-14-16.

(F) "MOTOR VEHICLE" MEANS A VEHICLE DRIVEN OR DRAWN BY MECHANICAL POWER AND MANUFACTURED PRIMARILY FOR USE ON PUBLIC HIGHWAYS, BUT DOES NOT INCLUDE A VEHICLE OPERATED EXCLUSIVELY ON A RAIL OR RAILS.

(G) "PASSENGER AREA" MEANS THE AREA DESIGNED TO SEAT THE DRIVER AND PASSENGERS WHILE A MOTOR VEHICLE IS IN OPERATION AND ANY AREA THAT IS READILY ACCESSIBLE TO THE DRIVER OR A PASSENGER WHILE IN HIS OR HER SEATING POSITION, INCLUDING, BUT NOT LIMITED TO, THE GLOVE COMPARTMENT.

Section 7. Section 6-9-3, W.M.C., is hereby AMENDED to read as follows:

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

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

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

1. EXCEPT AS OTHERWISE PERMITTED IN PARAGRAPH 2. OF THIS SUBSECTION (B), A PERSON WHILE IN THE PASSENGER AREA OF A MOTOR VEHICLE THAT IS ON A PUBLIC HIGHWAY WITHIN THE CITY'S JURISDICTION OR THE RIGHT-OF-WAY OF A PUBLIC HIGHWAY WITHIN THE CITY'S JURISDICTION MAY NOT KNOWINGLY:

- (a) DRINK AN ALCOHOLIC BEVERAGE; OR
- (b) HAVE IN HIS OR HER POSSESSION AN OPEN ALCOHOLIC BEVERAGE CONTAINER.

2. THE PROVISIONS OF THIS SUBSECTION (B) SHALL NOT APPLY TO:

- (a) PASSENGERS, OTHER THAN THE DRIVER OR A FRONT SEAT PASSENGER, LOCATED IN THE PASSENGER AREA OF A MOTOR VEHICLE DESIGNED, MAINTAINED, OR USED PRIMARILY FOR THE TRANSPORTATION OF PERSONS FOR COMPENSATION.
- (b) THE POSSESSION BY A PASSENGER, OTHER THAN THE DRIVER OR A FRONT SEAT PASSENGER, OF AN OPEN ALCOHOLIC BEVERAGE CONTAINER IN THE LIVING QUARTERS OF A HOUSE COACH, HOUSE TRAILER, MOTOR HOME, AS DEFINED IN SECTION 42-1-102(57), C.R.S., OR TRAILER COACH, AS DEFINED IN SECTION 42-1-102(106)(a), C.R.S.
- (c) THE POSSESSION OF AN OPEN ALCOHOLIC BEVERAGE CONTAINER IN THE AREA BEHIND THE LAST UPRIGHT SEAT OF A MOTOR VEHICLE THAT IS NOT EQUIPPED WITH A TRUNK; OR
- (d) THE POSSESSION OF AN OPEN ALCOHOLIC BEVERAGE CONTAINER IN AN AREA NOT NORMALLY OCCUPIED BY THE DRIVER OR A PASSENGER IN A MOTOR VEHICLE THAT IS NOT EQUIPPED WITH A TRUNK.

~~(C) Exception: Subsections (A) and (B) above shall not apply to the possession or control of one opened container of vinous liquor purchased and removed from a liquor licensed hotel or restaurant, pursuant to the provisions of Section 12-47-411(3.5), C.R.S., so long as the original container did not contain more than 750 milliliters.~~

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

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

~~(E)~~ (D) ~~Notwithstanding the foregoing provisions~~ EXCEPT AS OTHERWISE PERMITTED IN PARAGRAPH 2 OF SUBSECTION (B) ABOVE, drinking alcoholic beverages in any MOTOR vehicle is hereby prohibited.

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

Section 8. Section 6-9-4, subsections (B) and (C), W.M.C., are hereby amended BY THE ADDITION OF NEW SUBSECTIONS as follows:

6-9-4: CONDUCT PROHIBITED IN LIQUOR AND BEER ESTABLISHMENTS:

(B) Prohibited Acts:

9. IT SHALL BE UNLAWFUL FOR ANY LICENSEE, MANAGER OR AGENT TO SELL, SERVE, GIVE AWAY, DISPOSE OF, EXCHANGE, OR DELIVER, OR PERMIT THE SALE, SERVING, GIVING, OR PROCURING OF, ANY ALCOHOL BEVERAGE TO A VISIBLY INTOXICATED PERSON OR TO A KNOWN HABITUAL DRUNKARD.

10. IT SHALL BE UNLAWFUL FOR ANY LICENSEE, MANAGER, OR AGENT TO HAVE IN POSSESSION OR UPON THE LICENSED PREMISES ANY ALCOHOL BEVERAGE, THE SALE OF WHICH IS NOT PERMITTED BY SAID LICENSE.

(C) Requirements and Regulations: It shall be unlawful for any licensee to fail to comply with the following requirements and regulations:

3. EACH LICENSEE SHALL DISPLAY AT ALL TIMES IN A PROMINENT PLACE A PRINTED CARD WITH A MINIMUM HEIGHT OF FOURTEEN (14) INCHES AND A WIDTH OF ELEVEN (11) INCHES WITH EACH LETTER TO BE A MINIMUM OF ONE-HALF (1/2) INCH IN HEIGHT, WHICH SHALL READ AS FOLLOWS:

WARNING

IT IS ILLEGAL TO SELL LIQUOR, WINE, OR BEER TO ANY PERSON UNDER TWENTY-ONE YEARS OF AGE AND IT IS ILLEGAL FOR ANY PERSON UNDER TWENTY-ONE YEARS OF AGE TO POSSESS OR TO ATTEMPT TO PURCHASE THE SAME.

IDENTIFICATION CARDS WHICH APPEAR TO BE FRAUDULENT WHEN PRESENTED BY PURCHASERS MAY BE CONFISCATED BY THE ESTABLISHMENT AND TURNED OVER TO A LAW ENFORCEMENT AGENCY.

IT IS ILLEGAL IF YOU ARE TWENTY-ONE YEARS OF AGE OR OLDER FOR YOU TO PURCHASE LIQUOR, WINE, OR BEER FOR A PERSON UNDER TWENTY-ONE YEARS OF AGE.

FINES AND IMPRISONMENT MAY BE IMPOSED BY THE COURTS FOR VIOLATION OF THESE PROVISIONS.

Section 9. This ordinance shall take effect upon its passage after second reading.

Section 10. 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 27th day of November, 2006.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 11th day of December, 2006.

Mayor

ATTEST:

City Clerk

APPROVED AS TO LEGAL FORM:

City Attorney



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
December 11, 2006



SUBJECT: Resolution No. 66 re 2007 Jefferson County Joint Venture Grant Application

Prepared By: Brad Chronowski, Landscape Architect II

Recommended City Council Action

Adopt Resolution No. 66 authorizing the Department of Parks, Recreation and Libraries to apply for a \$50,000 Jefferson County Joint Venture Grant for the 2007 funding cycle.

Summary Statement

- The Department of Parks, Recreation and Libraries wishes to pursue a grant from the Jefferson County Joint Venture Grant Program for the replacement of a greenbelt trail, outdoor educational amphitheatre, and fire ring at and adjacent to Kensington Park.
- Staff recommends requesting a \$50,000 grant for the construction of the listed amenities.
- The Department of Parks, Recreation and Libraries has approximately \$55,000 in budgeted funds to meet the estimated \$105,000 project cost for the scheduled replacements and improvements.
- Kensington Park is the only park in the City's inventory that exhibits a fire ring, totem poles and a small amphitheatre. Neighbors and park users have expressed their appreciation of these features. The totem poles were removed because of their deteriorated condition and are in the process of being replaced.
- The unique elements of this park and greenbelt have degraded and eroded due to use, tree growth, weather and time and require replacement and upgrading. In 2005, these improvements were placed on the park improvement schedule for 2007.
- The City's matching funds of \$55,000 will come from 2006 and 2007 capital budgets for park improvements.

Expenditure Required: \$105,000

Source of Funds: Grant Funds and General Capital Improvement Fund –
Trail Development and Park Renovation Program

Policy Issue

Should the City move forward with improvements at and near Kensington Park by pursuing grant monies from the Jefferson County Joint Venture Grant Program?

Alternatives

1. Council could choose not to pursue additional funding for the upgrades and maintain the existing features in their current state. In the interest of providing quality service to our park users and lessening the maintenance burden on the aging amenities, Staff does not recommend this alternative.
2. Council could choose to pursue another project for the 2007 Jefferson County Joint Venture Grant Program. Staff believes that this project is the most appropriate and likely to receive funding.
3. Council could choose to not pursue additional funding at this time and require the Department of Parks, Recreation and Libraries to accumulate capital funds to perform the improvements in the future.

Background Information

Kensington Park is located at a point of convergence in the Countryside neighborhood. It remains a focal point for the nearby community for its location and unique features. As a gathering place for scout and school groups, the community has a special attachment to the park and its features, including the fire ring, amphitheatre and totem poles. A totem pole carver has been hired by the City and funds for this unique artwork will be funded out of the Community Enhancement Program. These features have degraded over time and need to be upgraded and replaced. The addition of Wayne Carle Middle School has increased the neighborhood's use of the park and trail as many children can walk to the school.

The trail and park features have been in place since 1979 and are in need of replacement. The totem poles have already been removed due to the safety risk and condition. The neighbors have expressed an interest in keeping these unique features a part of their community.

Staff believes this project to be an excellent partnership between the City of Westminster and Jefferson County. City crews will be utilized to minimize the costs to the project.

Respectfully submitted,

Stephen P. Smithers
Acting City Manager

Attachments

RESOLUTION

RESOLUTION NO. **66**

INTRODUCED BY COUNCILLORS

SERIES OF 2006

GRANT REQUEST FOR THE 2007 JEFFERSON COUNTY JOINT VENTURE GRANT PROGRAM

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

WHEREAS, The City of Westminster has funds available for some improvements at Kensington Park and Trail;

WHEREAS, grant money received from Jefferson County would be necessary to pursue more improvements than the current funding will allow;

NOW, THEREFORE, the Westminster City Council hereby resolves that City of Westminster Staff submit a grant application to the Jefferson County Joint Venture Grant program for 2007, requesting funding in the amount of \$50,000 to improve Kensington Park and Trail.

PASSED AND ADOPTED this 11th day of December 2006.

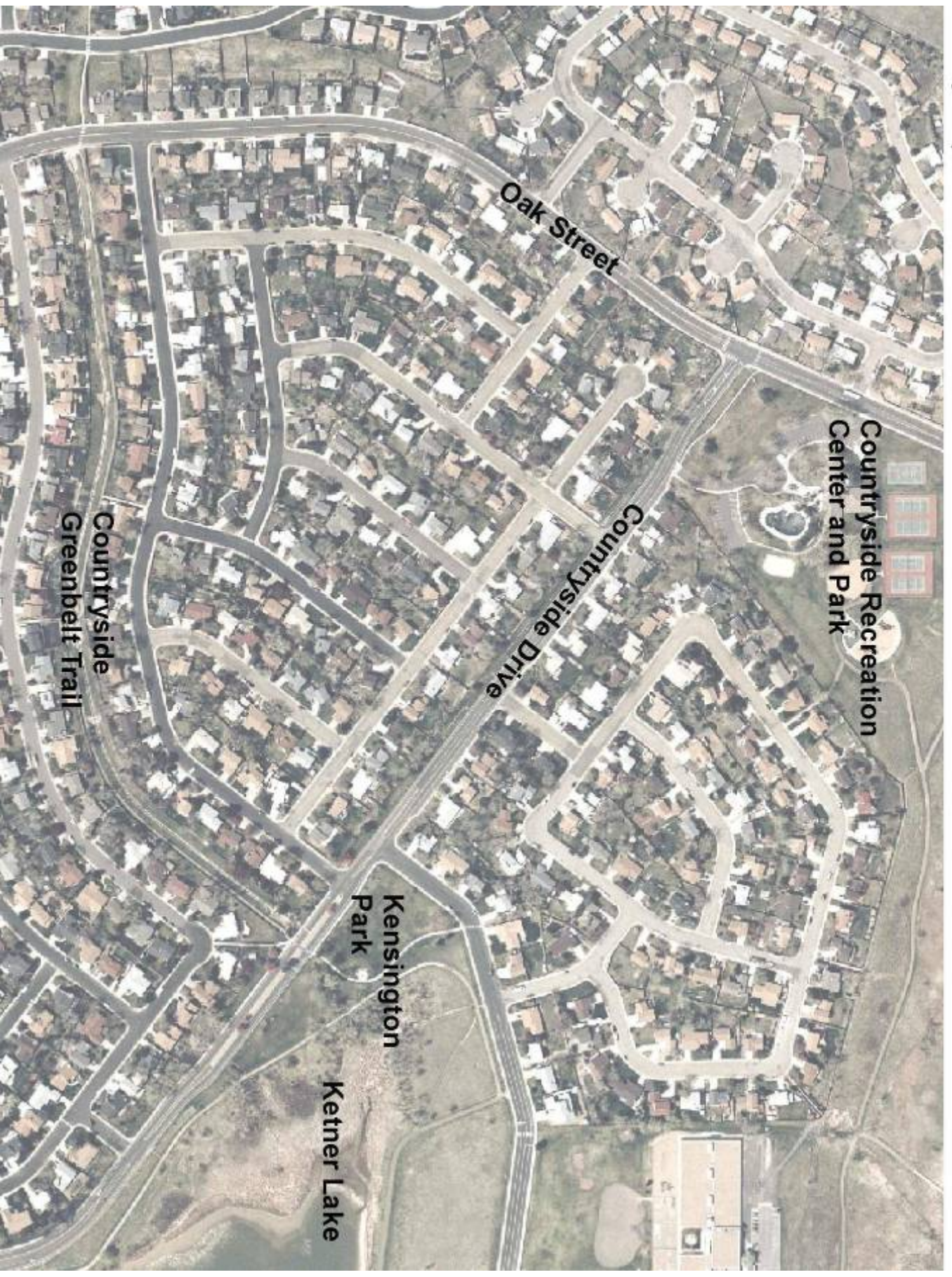
ATTEST

Mayor

City Clerk

Kensington Park & Trail Improvements

Vicinity Map





Kensington/Countryside Greenbelt Trail



Kensington Park Amphitheatre and Fire Ring



**WESTMINSTER
COLORADO**

Agenda Memorandum

City Council Meeting
December 11, 2006



SUBJECT: Resolution No. 67 re Service Commitment Allocations for 2007

Prepared By: Shannon Sweeney, Planning Coordinator

Recommended City Council Action

Adopt Resolution No. 67 allocating Service Commitments for the year 2007 to the various categories of the Growth Management Program including Service Commitments for residential competitions for new single-family detached, single-family attached, multi-family, senior housing, and traditional mixed use neighborhood developments.

Summary Statement

- Each year at this time, City Council allocates Service Commitments (SCs) to the various Growth Management Program categories to serve new development in the upcoming year. (One SC is the unit of measure for required City services for one single-family detached unit).
- The total water supply SC allocation for 2007 is 1,950 including both potable and non-potable Service Commitments. The allocation for non-potable (reclaimed) water supply is 342 SCs. Reclaimed water service commitments are a subset of, and included in, the total water supply SCs available.
- The SC Allocation table in the Background section details the recommended allocations in each category.
- The allocation includes 80.3 SCs to be awarded on a competitive basis in 2007 to one new residential project in each of the five residential competition categories. If there are no applications submitted in any of the competition categories, or if fewer SCs are needed as a result of the competitions, those remaining SCs are returned to the City's water supply figures.
- The City currently has approximately 12,200 SCs available for new development purposes in the water supply. City water supplies and treatment capacity are more than adequate to meet the recommended SC allocations for 2007. Any remaining, unused SCs at the end of each year are returned to the water supply figures.
- As a reminder, each year the reclaimed water allocation (2,015 for 2007) matches the supply figure for the system (rather than estimated demand).

Expenditure Required: \$0

Source of Funds: N/A

Policy Issues

- Should the City allocate Service Commitments to the various Growth Management Program categories as detailed in this report?
- Should the City conduct competitions next year in each of the new residential categories as outlined in this report?

Alternatives

1. Do not adopt the attached resolution allocating Service Commitments to the various Growth Management Program categories for use in 2007. These allocations are necessary on an annual basis to serve the needs of new development in the upcoming year. Because these allocations must be in place for any new development to proceed in 2007, this option would cause delays for new development (including City projects).
2. Do not authorize new residential competitions next year. This option is not recommended as the residential competition process is the mechanism the City uses to allow a small number of new residential projects to proceed to the City's development review process. In addition, the Service Commitments (SCs) set aside for the competition process constitute only five percent of the total allocation for 2007.

Background Information

Annual Allocations

The City's Growth Management Program within the Westminster Municipal Code was established in 1978 to aid the City in balancing growth with the City's ability to provide and expand services including water, water treatment, sewer, police, fire, parks and recreation, etc. At the end of each year, City Council allocates Service Commitments (SCs), the units of measure for required City services, to the various residential and non-residential categories established within the Program for use in the upcoming year. Prior to these allocations, City Staff complete projections of new development in the upcoming year and develop recommendations for City Council regarding SC allocations to serve the demand in the following year for all of the various Growth Management categories.

With the exception of the new residential competition categories (Category B) and the reclaimed water category (Category R), these SC allocation recommendations have been based on estimated demand for new development. Category C (Non-Residential) sets aside SCs for new commercial, office, and industrial projects. The City has water agreements in place for Federal Heights, the Standley Lake Water and Sanitation District, and Shaw Heights, and a small number of SCs are allocated in Category D (Outside City Contracts) to accommodate contract requirements in those areas. Category F (Public and Contingency) reserves SCs for new City projects and facilities such as park development, libraries, fire stations, etc.

The total recommended allocation as detailed below is 1,950 SCs from the water supply system, 1,608 of these SCs represent new potable water demand and 342 represent new reclaimed water demand. SCs allocated to any of the categories not awarded during the year are returned to the water supply figures for use in future years. According to figures provided by the City's Water Resources Staff in the Department of Public Works and Utilities, there are 12,200 SCs in the potable water supply, which is more than adequate to accommodate the recommended allocations for 2007.

2007 SERVICE COMMITMENT ALLOCATIONS

<u>CATEGORY</u>	<u>DESCRIPTION</u>	<u>PROPOSED ALLOCATIONS</u>
<u>Potable</u>		
A and L	All Active and Legacy Ridge Residential	629.5
B-1	New Single-Family Detached	20
B-2	New Single-Family Attached	17.5
B-3	New Multi-Family	12.5
B-4	New Traditional Mixed Use Neighborhood (Residential)	25
C	Non-Residential	783
D	Outside City Contracts	25
E	Senior Housing	69.3
F	Public and Contingency	<u>26</u>
	Total - Potable	1608
<u>Non-Potable</u>		
R	Reclaimed	<u>2015</u>
	Total - Non-Potable (Reclaimed)	2015

The total allocation shown for potable water supply is 1,608 SCs and is based on projected development activity of active projects under construction, those in the City’s development review process, and submittals expected in the near future. This allocation is slightly higher than the 2006 allocation of 1,563 and is due to a projected increase in the number of SCs required by new non-residential projects next year.

Residential Competitions

The total potable water allocation includes 80.3 SCs to be awarded on a competitive basis in 2007 to one new residential project in each of the five residential competition categories as shown below:

- Category B-1 – Single-Family Detached (SFD) - 20 SCs (20 new units in 2007)
- Category B-2 – Single-Family Attached (SFA) – 17.5 SCs (25 new units in 2007)
- Category B-3 – Multi-Family (MF) – 12.5 SCs (25 new units in 2007)
- Category B-4 – Traditional Mixed Use Neighborhood Development (TMUND) - 25 SCs (25-50 new units in 2007 depending on unit types)
- Category E – Senior Housing – 5.3 SCs (15 new units in 2007)

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

The intent of the SC competitions is for a limited number of new residential projects to proceed to the City’s development review process. Each of the five competitions (Single-Family Detached, Single-Family Attached, Multi-Family, Senior Housing, and Traditional Mixed Use Neighborhood Development) is based on the City’s adopted residential design guidelines for that category. With the exception of the Traditional Mixed Use Neighborhood Development competition (judged by a jury), projects receive points by providing “incentive” items the applicants choose. These incentive items are listed and detailed in the guidelines.

The competitions typically begin in January each year, and SCs are typically awarded to individual projects by City Council resolution in March or April. The recommendation in this report is to award SCs to one new residential project in each competition category. However, City Council would have the option of awarding to additional projects if desired through the competition awards next spring. The awards to individual projects through the competition process include SCs needed in subsequent years to build out each of the winning projects. As a result, it is not necessary for the winning projects to re-compete in multiple years in order to complete the same project.

Staff has been contacted by developers interested in the competition process next year and has received inquiries on several different sites at this point. Because SCs are awarded to new residential projects on a competitive basis and many developers do not want their possible competitors to know their plans in advance, Staff has not included a specific list of the potential sites for competition submittals. If there are no applications submitted in any of the competition categories, or fewer SCs are needed as a result of the competitions, those remaining SCs are returned to the City's water supply figures.

Respectfully submitted,

Stephen P. Smithers
Acting City Manager

Attachment

- 2007 Service Commitment Allocation Resolution

RESOLUTION

RESOLUTION NO. **67**

INTRODUCED BY COUNCILLORS

SERIES OF 2006

ALLOCATING SERVICE COMMITMENTS FOR THE YEAR 2007 PURSUANT TO THE CITY'S GROWTH MANAGEMENT PROGRAM AS SET FORTH IN CHAPTER 3, TITLE XI OF THE WESTMINSTER MUNICIPAL CODE

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

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

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

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

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

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

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

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

1. Based on all of the information available to the City Council on this date, for the period beginning January 1, 2007 through December 31, 2007, the City can make available 629.5 Service Commitments ("SCs") to Categories A (A-1, A-2, and A-3) and L (L-1, L-2, and L-3), 20 SCs to Category B-1, 17.5 SCs to Category B-2, 12.5 SCs to Category B-3, 25 SCs to Category B-4, 783 SCs to Category C, 25 SCs to Category D, 69.3 SCs to Category E, 26 SCs to Category F, and 2,015 SCs to Category R without adverse effect on existing water users and without in any way endangering the health, safety, and welfare of the citizens of Westminster and of other persons dependent upon the operation of a safe and efficient public water and sanitation system by the City.

2. This Resolution supersedes and replaces all previous allocation resolutions by City Council.

PASSED AND ADOPTED this 11th day of December, 2006.

ATTEST:

City Clerk

Mayor



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
December 11, 2006



SUBJECT: Resolution No. 68 re Public Art Amendments to Commercial Design Guidelines

Prepared By: Aaron B. Gagné, Senior Projects Coordinator

Recommended City Council Action

Adopt Resolution No. 68 amending the City’s Commercial Design Guidelines to expand the provision of public art in commercial development projects in the City of Westminster.

Summary Statement

- Over the past several years, the City of Westminster has been very successful at bringing public art, both through public investment and private developer participation, to the community. The total collection is approaching 60 installations citywide, ranging from murals created by local schoolchildren to major bronze sculpture installations. The City’s burgeoning program is quickly catching up to some of the more heavily publicized programs in other communities in Colorado.
- The current threshold in the Commercial Design Guidelines in determining whether or not a project is required to incorporate public art is size – namely 10 acres or more. It would be more equitable to require public art, or its pro-rata dollar equivalence, in every project, and not just those on very large sites. The proposed revision does recognize that it may not be economically feasible for the smallest of sites (less than one acre) to provide public art.
- Recent applications of the current requirements have demonstrated the difficulty in bringing about meaningful participation in the public art program – even by some of the largest developers with whom we work. As a result, it is Staff’s desire to more clearly define the requirements and expectations of the program.
- Staff has developed a revised set of public art requirements that are recommended to be incorporated in the City of Westminster Commercial Design Guidelines. These revised requirements eliminate the “project acreage” threshold for participation and more clearly define participation, including a definition of public art, site requirements and required improvements.
- The revised public art requirements provide for more clear definition of what constitutes public art, lowers the threshold of projects applicable to one acre or greater in size, defines required site improvements for the installation of public art, defines the long-term ownership of public art pieces, maintenance responsibilities and guidelines for the removal or relocation of public art, should such action be necessary.
- City Council reviewed this item at the November 6th Study Session and directed Staff to bring this item forward for official action

Expenditure Required: \$ 0

Source of Funds: N/A

Policy Issue

Should the City Council revise the public art requirements within the City of Westminster Commercial Design Guidelines, expanding their applicability to more projects, and more clearly defining the specific requirements and expectations of the program?

Alternatives

1. City Council could choose to reject the recommended changes entirely and continue with the existing requirements. Doing so would limit the number of public art installations that would occur via private development in the future.
2. City Council could direct staff to prepare an alternate set of public art requirements.

Background Information

Public art has a much broader definition than art in a gallery or a museum. In simple terms, public art is any work of art or design that is created by an artist specifically to be sited in an outdoor public space. It can tower several stories high, or it can call attention to the pavement beneath your feet. It can be cast, carved, built, assembled or painted. Whatever its form, public art attracts attention. By its presence alone public art can heighten our awareness, question our assumptions, transform a landscape, or express community values, and for these reasons it can have the power, over time to transform a city's image. Public art helps define an entire community's identity and reveal the unique character of a specific neighborhood. It is a unifying force.

Public art has two very remarkable missions: it can arouse a society's thinking and it can energize public spaces. Public art transforms the places where we live, work, and play into more welcoming and beautiful environments and creates a deeper interaction. Public art can make strangers talk, children ask questions, and calm a hurried life. It enhances the quality of life by encouraging a heightened sense of place and by introducing people to works of art that can touch them.

In addition to its enriching personal benefits, public art can become a symbol of a city's cultural maturity. Not only does it increase a community's assets, it also expresses a community's positive sense of identity and values. It helps green space thrive and it enhances roadsides, pedestrian corridors, and community gateways. Public art demonstrates a civic and corporate pride in citizenship as it affirms an educational environment. The City of Westminster now has more than fifty public art installations – a number that continues to grow every year.

The current Retail-Commercial Design Guidelines offer very little guidance for implementation, either to Staff or developers. They currently read as follows:

“Development of a project greater than 10 acres must include public art at a minimum cost of \$1,000 per acre, in a manner and design acceptable to the City. This must occur in addition to the above requirements for public outdoor space. The perpetual maintenance of any art, fountain or other amenities will be the responsibility of the owner, and noted as such in the ODP.”

The questions of what qualifies as public art, how it is sited, details of ownership and maintenance and how the requirement may or may not apply to sites of less than ten acres are currently unaddressed. The revised guidelines seek to do just that.

2005 and 2006 brought to the table a small number of projects that were subject to the 10+ acre threshold currently in place for public art requirements. The vast majority of commercial projects in that time frame were not subject to the requirements based solely on their size. This disproportionate number of projects not required to incorporate public art into their development plans led Staff to review the public

art requirements in the context of remaining large developable sites in the City of Westminster. That review confirmed that the vast majority of projects in the future will not contribute to or expand the City of Westminster public art program unless the program is modified. Even more clear was the confirmation that projects subject to the existing requirements would generally fall only in the northern areas of the City, skewing the distribution of art installations in the community.

Of the recent projects that were subject to the existing public art requirements, getting to a “finished product” has proved to be a challenge. The existing requirements are vague at best, and do not sufficiently define participation to actually achieve a decent installation. In one example, a dollar value was established by the requirements, but the developer expected that cash value to apply toward the City’s purchase of a site for public art – leaving nothing for art or improvements. The proposed revisions address not only an enhanced in-lieu contribution, but specifics regarding site ownership, site improvements, maintenance and actual ownership of the installed art.

While there is a pricetag to the revised requirements that is measurably above the existing requirements, Staff believes that it is proportionally extremely small and proportionate to the site and community benefits derived from an active public art program. A 20 acre site that could generate a total project investment by a private developer in the order of \$25 million might only be required to make a total public art program investment of \$60,000, including art and site improvements, up from a current requirement of \$20,000. This would amount to less than one quarter of one percent of the project cost. A two acre project that might have a total project cost of \$2 million might only realize an investment of less than one half of one percent, or less than \$10,000. There is currently no current public art requirement for projects of less than 10 acres.

Respectfully Submitted,

Stephen P. Smithers
Acting City Manager

Attachments: “Attachment A” – Resolution Incorporating New Requirements Into Commercial Design Guidelines
“Attachment B” – Revised Public Art Requirements

RESOLUTION

RESOLUTION NO. **68**

INTRODUCED BY COUNCILLORS

SERIES OF 2006

PUBLIC ART AMENDMENTS TO COMMERCIAL DESIGN GUIDELINES

WHEREAS, a primary means of growing the public art program in the City of Westminster are the developer-participation requirements outlined in the City's Commercial Design Guidelines ; and

WHEREAS, the requirements found in those Guidelines have historically only applied to projects of more than 10 acres; and

WHEREAS, the nature of new commercial development projects in the City of Westminster is that they are smaller in size, with very few sites of 10 acres or more available; and

WHEREAS, in order for the public art program to continue to grow, it is necessary to apply the requirements to a wider range of sites; and

WHEREAS, to clarify the requirements and simplify their administration, it is necessary to more clearly define expectations not only for the provision of public art, but also for the reservation and improvements of appropriate art locations, and ownership and maintenance of installed art.

NOW, THEREFORE, the City Council of the City of Westminster resolves that:

1. The City of Westminster Commercial Design Guidelines are hereby amended, as described in Exhibit A, attached hereto and incorporated herein by reference.
2. The amended Guidelines shall take effect immediately.

PASSED AND ADOPTED this 11th day of December, 2006.

Mayor

ATTEST:

City Clerk

Proposed Revisions to Public Art Requirements within Commercial Design Guidelines

I. Applicability – Public Art Requirement

For all non-residential and mixed-use developments of one (1) acre (gross) or more, public art shall be a design, planning and budget consideration for the subject site. The timing of installations per this requirement shall be defined in the approved Official Development Plan for the subject site.

II. Public Art – Definition

Public art or works of public art are defined as, but not limited to, the following kinds of works:

Sculptures	Site-specific installations	
Engravings	Carvings	Frescos
Mobiles	Murals	Bas-reliefs
Mosaics	Statues	

Public art or public works of art also include the creative application of skill, interpretation and taste by artists to the architectural embellishment of a building or structure. Architects and landscape architects are not considered artists under this definition. Corporate logos and sales marks are not considered public art under this definition.

III. Owner Requirements – Installed Art and Improved Art Locations

Three scenarios for the provision of installed art and improved art locations exist as follows:

- A.) Installed art plus on-site location provided – in cases where the Owner provides installed artwork as approved by the City of Westminster and a fully improved art location. Under this scenario the value of the installed public art shall, at a minimum, equal \$1,000 per gross acre of the subject property. Required site improvements are outlined in § III. below.
- B.) On-site improved location plus cash-in-lieu of installed art – in cases where the Owner provides an improved art location plus cash-in-lieu of installed public art. Under this scenario, required site improvements are outlined in § III. below. A cash-in-lieu payment equivalent to \$1,000 per gross acre of the subject property would be payable to the City of Westminster to be utilized for the purchase and installation of art on the improved location.
- C.) Cash-in-lieu of art and in-lieu of an improved site – in instances where the City deems a site inappropriate or infeasible for the installation of public art, cash-in-lieu of installed art and an improved site will be payable by the Owner to the City in the amount of \$2,000 per gross acre of the subject property.

IV. Art Location Improvement Requirements

The Owner shall be responsible for the improvement of the parcel referenced in §II(A) and §II(B) above. These improvements may include, but are not limited to, sidewalks, landscaping, hardscape, irrigation and lighting. Designs and locations for such improvements shall be determined by the City in consultation with the developer as part of the Official Development Plan (ODP) process.

Irrigation sources, electrical supply connections and other site utility requirements shall also be identified during the ODP process. Such requirements may, at the discretion of the City, include separate water taps and electric services.

Dedicated locations should have either direct public access or permanent access via a cross-access easement.

V. Art Location Ownership

Improved art locations as identified in §II(A) and §II(B) above shall be dedicated to the City of Westminster or such other entity designated by the City of Westminster, either through the filing of the final Plat or a deed transfer satisfactory to the City at no cost to the City.

VI. Ownership of Public Art

Public art installed under these requirements shall be owned by the City of Westminster. In instances where the type of art, such as a wall-mounted mural, precludes separate ownership, façade or other easements shall be granted to the City, at no cost to the City, for their protection.

VII. Maintenance

Perpetual maintenance responsibilities of installed public art and improved art locations shall remain with a developed lot so defined in the approved ODP. Installed public art and improved art locations shall be maintained in a condition consistent with that at the time of installation. Said maintenance will be a requirement of ongoing site compliance with approved ODP's, and shall be subject to the same enforcement mechanisms associated therewith. Should art be relocated from its original location per § VIII below, ongoing maintenance responsibilities may be re-evaluated and transferred as appropriate.

VIII. Removal and/or Relocation of Public Art

It is the intention of the City of Westminster to retain installed public art at its original location. If such an instance arises that would necessitate the relocation of public art, such as infrastructure expansion that could not reasonably accommodate the original location, then the City shall be free to remove or relocate any installed public art it deems necessary and appropriate. Costs of any such removal or relocation would be borne by the City of Westminster.



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
December 11, 2006



SUBJECT: Councillor's Bill No. 71 re Economic Development Agreement with Lynx Aviation, Inc.

Prepared By: Susan Grafton, Economic Development Manager

Recommended City Council Action

Pass Councillor's Bill No. 71 as an emergency ordinance authorizing the City Manager to execute and implement an Economic Development Agreement (EDA) with Lynx Aviation.

Summary Statement

- City Council action is requested to pass the attached Councillor's Bill as an emergency ordinance that authorizes the execution of the attached EDA with Lynx Aviation to assist with the location of their corporate headquarters.
- Lynx Aviation, Inc. was recently incorporated as a wholly own subsidiary of Frontier Holdings, the parent company of Frontier Airlines.
- Lynx Aviation, Inc. plans to immediately occupy approximately 5,000 square feet in Prime Center at Park Centre (northwest corner of 121st & Pecos) and move into 20,000 square feet at the same location in about four to six months when build-out of the space is completed.
- At move-in, 40 jobs will be created in Westminster.
- The \$146,638 EDA will be funded with rebates from permit fees and use tax on construction, furniture and fixtures.
- The EDA rebate shall terminate after three years.
- This action is requested to be done as an emergency ordinance in order to avoid the risk of losing this economic development opportunity if this EDA is not approved before the end of this year.

Expenditure Required: \$146,638 (Rebates)

Source of Funds: The EDA with Lynx Aviation will be funded through revenue received from permit fees and use tax on construction, furniture and fixtures directly generated from the location of Lynx Aviation at Prime Center in Park Centre.

Policy Issue

Does Council desire to provide assistance to Lynx Aviation to aid in the location of their Corporate Headquarter?

Alternatives

Do Nothing: One alternative to offering the EDA is to offer nothing to this company. The City may lose the project if assistance is not provided. As a result the City's goal of encouraging the location of this Corporate Headquarter would not be supported.

Provide Less: Another alternative is to provide less assistance than what is recommended. The recommended assistance package is considered in line with other companies that have received assistance.

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

On April 3, 2006, Frontier Airlines created Frontier Holdings. Establishing the holding company allowed Frontier the flexibility to start another airline. In September 2006, the Denver Post reported, "Frontier announced that a new division of the holding company known as Lynx Aviation would operate ten Bombardier Q 400 aircraft beginning in May 2007 as Frontier Express." Lynx Aviation, a sister company of Frontier Airlines, is a wholly owned subsidiary of Frontier Holdings. Lynx Aviation is looking to take 20,000 square feet in Prime Center at Park Centre for their new corporate headquarters. They also considered possible locations in Brighton and Aurora.

In late October, Staff met with Tom Nunn, President and COO of Lynx Aviation. The original scope of the new airline was to start with ten aircraft and to gradually grow to 15 planes in three to five years. Response to this new feeder airline and the demand for its services has been so great that they are now expecting to be at 20 to 35 aircraft within five years. They already have six gateways and four pads reserved at DIA.

As currently planned, Lynx Aviation, Inc. will immediately take approximately 5,000 square feet at Prime Center in Park Centre for temporary operations. This is to take care of immediate staff location needs until the 20,000 square foot permanent location at Prime Center is completed in four to six months. This facility will be the operation and command center for the entire Lynx fleet as well as the company's headquarters. Over \$454,268 in tax and fee revenue is projected as a result of the location of Lynx Aviation at the Prime Center in Park Centre development.

To aid with the location of the Lynx Aviation Corporate Headquarter, Staff is recommending the following economic development agreement:

Proposed Assistance	Approximate Value
<u>Building Permit-Fee Rebate</u> 75% of the building related fees (excluding water & sewer tap fees) will be rebated (\$3,942 x 75% rebate = \$2,956)	\$2,956
<u>Construction Use Tax Rebate</u> 75% of the General Use Tax (excludes the City's .25% Open Space Tax and .6% public safety tax) on construction materials for this project will be rebated (\$199,750 x 50% = \$99,875 x 3% = \$2,996 x 75% rebate = \$2,247)	\$2,247

Use Tax on Furniture and Fixtures Rebate - at Move-In \$40,185

For the period 3 months prior and 3 months after Lynx Aviation, Inc. obtains the Certificate of Occupancy for each of the new Westminster facilities, the City will rebate 75% of the Use Tax (excludes the City's .25% Open Space Tax and .6% public safety tax) on furniture, fixtures, and equipment (\$53,580 x 75% = \$40,185)

Use Tax on Furniture and Equipment Rebate -Three Years \$101,250

During the 3 years following the move-in period the City will rebate 75% of the General Use Tax (excludes the City's .25% Open Space Tax and .6% Public Safety Tax) collected on the furnishing and equipment purchased to furnish both of the new facilities (\$45,000 x 75% rebate = \$33,750 per year for three years = \$101,250)

Total Proposed Assistance Package **\$146,638**

As Council will note, the three-year assistance being proposed is 32% (\$146,638 total assistance divided by \$454,268 Projected Revenue = 32%) of the total general use tax and fee revenue projected from the project in the first 5 years of operation. The Lynx Aviation project also helps the city meet three economic development goals for the City: industry diversification, provision of new primary jobs, and filling existing office space. Staff believes that providing assistance to Lynx Aviation is a very good business decision for the City.

Respectfully submitted,

Stephen P Smithers
Acting City Manager

Attachments

BY AUTHORITY

ORDINANCE NO. **3326**

COUNCILLOR'S BILL NO. **71**

SERIES OF 2006

INTRODUCED BY COUNCILLORS

**A BILL
FOR AN ORDINANCE AUTHORIZING AN ECONOMIC DEVELOPMENT AGREEMENT
WITH LYNX AVIATION
FOR THE LOCATION OF A CORPORATE HEADQUARTER
WESTMINSTER, COLORADO**

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

WHEREAS, Lynx Aviation, Inc. plans to redevelop and fill vacant space in the Prime Center in Park Centre, and

WHEREAS, a proposed Economic Development Agreement between the City and Lynx Aviation 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 Westminister, and Resolution No. 53, Series of 1988:

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Manager of the City of Westminister is hereby authorized to enter into an Economic Development Agreement with Lynx Aviation, Inc. 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. Due to the risk of losing this economic development opportunity if this Agreement is not completed before the end of calendar year 2006, an emergency is declared to exist, and this ordinance is declared to be necessary for the immediate preservation of the public peace, health and safety. Wherefore, this ordinance shall be in full force and effect upon adoption of this ordinance on December 11, 2006, by an affirmative vote of six of the members of the Council if six or seven members of the Council are present at the meeting at which this ordinance is presented, or by an affirmative vote of four of the members of the Council if four or five members of the Council are present at the meeting at which this ordinance is presented and the signature on this ordinance by the Mayor or the Mayor Pro Tem.

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

INTRODUCED, READ IN FULL AND PASSED AND ADOPTED AS AN EMERGENCY ORDINANCE this 11th day of December, 2006.

Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

City Clerk

City Attorney's Office

EXHIBIT A

ECONOMIC DEVELOPMENT AGREEMENT WITH Lynx AVIATION

THIS AGREEMENT is made and entered into this _____ day of _____, 2006, between the CITY OF WESTMINSTER (the "City"), and Lynx Aviation; a wholly owned subsidiary of Frontier Holdings;

WHEREAS, the City wishes to provide certain assistance to Lynx Aviation to encourage the location of the Corporate Headquarter in Prime Center in Park Centre; 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 economic development project within the City.

In consideration of the mutual promises set forth below the City and Lynx Aviation agree as follows:

1. Building Permit Fee Rebates. The City shall rebate to Lynx Aviation 75% of the building related permit fees for the tenant finish of both facilities at the Prime Center in Park Centre, required under W.M.C. Section 11-10-3 (E), excluding water and sewer tap fees.

2. Use Tax Rebate - Construction. The City shall rebate to Lynx Aviation 75% of the building use tax on the construction materials (excluding the City's .25% open space tax and .6% public safety tax), resulting from both tenant finishes at Prime Center in Park Centre, required under W.M.C. sections 4-2-9 and 4-2-3.

3. Use Tax Rebate - Furnishings. For the period 3 months prior and 36 months after Lynx Aviation obtains its Certificate of Occupancy for each of its facilities at Prime Center in Park Centre, the City shall rebate to Lynx Aviation 75% of the general use tax (excluding the City's .25% open space tax and .6% public safety tax) collected on equipment and furnishings purchased to furnish the facilities.

4. Payments of Rebates. Rebates will be paid to Lynx Aviation by the City in quarterly installments from the Use Tax actually collected by the City from Lynx Aviation. Payments of each quarterly installment shall be made within 20 days of the calendar quarter end and will be submitted electronically.

5. Entire Agreement. This instrument shall constitute the entire agreement between the City and Lynx Aviation 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 Economic Development Agreement shall terminate and become void and of no force or effect upon the City if Lynx Aviation has not moved into their final location in Prime Center in Park Centre on or before June 30, 2008; or, should Lynx Aviation fail to comply with any City code and/or approval process. In the event Lynx Aviation ceases business operations within the City within three (3) years after the new operations commence, then Lynx Aviation shall pay to the City the total amount of fees and taxes that were due and payable by Lynx Aviation to the City but were rebated by the City, as well as reimburse the City for any funds provided to Lynx Aviation pursuant to this Agreement..

7. 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.

8. 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.

9. 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 Adams County, Colorado.

Lynx Aviation, Inc.

CITY OF WESTMINSTER

Thomas Nunn
Chief Operating Officer

J. Brent McFall
City Manager

ATTEST:

ATTEST:

Linda Yeager
City Clerk

Adopted by Ordinance No.

Summary of Proceedings

Summary of proceedings of the regular meeting of the Westminster City Council held Monday, December 11, 2006. Mayor McNally, Mayor Pro Tem Kauffman, and Councillors Dittman, Kaiser, Lindsey, Major, and Price were present at roll call.

The minutes of the November 27, 2006 regular meeting were approved.

Council presented a proclamation to Albert Sack in recognition of his dedication, hard work and cooperation with the City as a 30-year member of the Farmers Reservoir and Irrigation Company Board of Directors.

Council approved the following: Intergraph Public Safety Software maintenance payment; negotiated custodial services contract; City property condition evaluation and physical needs analysis contract; legal services agreement with Carlson, Hammond and Paddock for special water counsel; IGA between the City, the 136th Avenue GID and WEDA re 2002 Sales Tax Revenue Bonds; and final passage of Councillor's Bill No. 68 re liquor license ordinance and alcohol-related offenses.

Council adopted the following resolutions: Res. No. 66 re 2007 Jefferson County joint venture grant application for Kensington Park; Res. No. 67 re 2007 Service Commitment allocations; and Res. No. 68 re public art amendments to Commercial Design Guidelines.

Council passed the following emergency Ordinance:

A BILL FOR AN ORDINANCE AUTHORIZING AN ECONOMIC DEVELOPMENT AGREEMENT WITH LYNX AVIATION FOR THE LOCATION OF THEIR CORPORATE HEADQUARTERS IN WESTMINSTER, COLORADO. Purpose: to implement an Economic Development Agreement with Lynx Aviation, Inc., a wholly owned subsidiary of Frontier Holdings, the parent company of Frontier Airlines.

The meeting adjourned at 7:32 p.m.

By Order of the Westminster City Council
Carla Koeltzow, Deputy City Clerk

Published in the Westminster Window on December 21, 2006

A BILL FOR AN ORDINANCE AUTHORIZING AN ECONOMIC DEVELOPMENT AGREEMENT WITH LYNX AVIATION FOR THE LOCATION OF A CORPORATE HEADQUARTER WESTMINSTER, COLORADO

WHEREAS, the successful attraction and retention of basic employers to the City of Westminster provides employment opportunities and increased revenue for citizen services and is therefore an important public purpose; and
WHEREAS, Lynx Aviation, Inc. plans to redevelop and fill vacant space in the Prime Center in Park Centre, and

and
WHEREAS, a proposed Economic Development Agreement between the City and Lynx Aviation 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 Lynx Aviation, Inc. 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. Due to the risk of losing this economic development opportunity if this Agreement is not completed before the end of calendar year 2006, an emergency is declared to exist, and this ordinance is declared to be necessary for the immediate preservation of the public peace, health and safety. Wherefore, this ordinance shall be in full force and effect upon adoption of this ordinance on December 11, 2006, by an affirmative vote of six of the members of the Council if six or seven members of the Council are present at the meeting at which this ordinance is presented, or by an affirmative vote of four of the members of the Council if four or five members of the Council are present at the meeting at which this ordinance is presented and the signature on this ordinance by the Mayor or the Mayor Pro Tem.

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

INTRODUCED, READ IN FULL AND PASSED AND ADOPTED AS AN EMERGENCY ORDINANCE this 11th day of December, 2006.

**EXHIBIT A
ECONOMIC DEVELOPMENT AGREEMENT
WITH Lynx AVIATION**

THIS AGREEMENT is made and entered into this _____ day of _____, 2006, between the CITY OF WESTMINSTER (the "City"), and Lynx Aviation; a wholly owned subsidiary of Frontier Holdings;

WHEREAS, the City wishes to provide certain assistance to Lynx Aviation to encourage the location of the Corporate Headquarter in Prime Center in Park Centre; 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 economic development project within the City.

In consideration of the mutual promises set forth below the City and Lynx Aviation agree as follows:

1. Building Permit Fee Rebates. The City shall rebate to Lynx Aviation 75% of the building related permit fees for the tenant finish of both facilities at the Prime Center in Park Centre, required under W.M.C. Section 11-10-3 (E), excluding water and sewer tap fees.
2. Use Tax Rebate - Construction. The City shall rebate to Lynx Aviation 75% of the building use tax on the construction materials (excluding the City's .25% open space tax and .6% public safety tax), resulting from both tenant finishes at Prime Center in Park Centre, required under W.M.C. sections 4-2-9 and 4-2-3.
3. Use Tax Rebate - Furnishings. For the period 3 months prior and 36 months after Lynx Aviation obtains its Certificate of Occupancy for each of its facilities at Prime Center in Park Centre, the City shall rebate to Lynx Aviation 75% of the general use tax (excluding the City's .25% open space tax and .6% public safety tax) collected on equipment and furnishings purchased to furnish the facilities.
4. Payments of Rebates. Rebates will be paid to Lynx Aviation by the City in quarterly installments from the Use Tax actually collected by the City from Lynx Aviation. Payments of each quarterly installment shall be made within 20 days of the calendar quarter end and will be submitted electronically.

5. Entire Agreement. This instrument shall constitute the entire agreement between the City and Lynx Aviation 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 Economic Development Agreement shall terminate and become void and of no force or effect upon the City if Lynx Aviation has not moved into their final location in Prime Center in Park Centre on or before June 30, 2008; or, should Lynx Aviation fail to comply with any City code and/or approval process. In the event Lynx Aviation ceases business operations within the City within three (3) years after the new operations commence, then Lynx Aviation shall pay to the City the total amount of fees and taxes that were due and payable by Lynx Aviation to the City but were rebated by the City, as well as reimburse the City for any funds provided to Lynx Aviation pursuant to this Agreement..
7. 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.
8. 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.
9. 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 Adams County, Colorado.

A BILL FOR AN ORDINANCE AMENDING THE WESTMINSTER MUNICIPAL CODE CONCERNING LIQUOR LICENSING PROVISIONS AND ALCOHOL-RELATED POLICE REGULATIONS

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Section 5-14-4, subsection (A), is hereby AMENDED to read as follows:

5-14-4: LICENSE APPLICATIONS:

(A) The following licenses may be issued by the Licensing Authority under this Chapter:

1. Fermented malt beverages:
 - (a) For consumption off the premises of the licensee;
 - (b) For consumption on the premises of the licensee;
 - (c) For consumption both on and off the premises of the licensee;
 - (d) Temporary Permit, for the continuance of the sale of fermented malt beverages by a transferee pending the transfer of the permanent license;
 - (e) Temporary License for the continuance of the sale of fermented malt beverages by a licensee whose license has expired where the licensee has applied for a permanent license.
2. Retail liquor store;
3. Liquor-licensed drugstore;
4. Beer and wine;
5. Hotel and restaurant;
6. Hotel and restaurant with optional premises;
7. Tavern;
8. Club;
9. Arts;
10. Racetrack; ~~and~~
11. Temporary Permit for the continuance of the sale of alcoholic beverages by a transferee pending the transfer of the permanent license;
12. Temporary License for the continuance of the sale of alcoholic beverages by a licensee whose license has expired where the licensee has applied for a permanent license;
13. Special events permit;
14. Brew Pub License; ~~and~~
15. Bed and Breakfast Permit; AND
16. VINTNER'S RESTAURANT LICENSE.

Section 2. Section 5-14-5, subsection (B), W.M.C., is hereby AMENDED to read as follows:

5-14-5: FEES:

(B) The local license fees prescribed by C.R.S. Section ~~12-46-117~~ 12-46-107 and ~~12-47-139~~ 12-47-505, as amended, shall be paid to the City annually in advance by the licensee. Such fees shall not be rebated or discounted on a proportionate basis for any license in existence or issued for less than a year. These fees shall be in addition to any license fees required to be paid directly to the State.

Section 3. Section 5-14-7, subsection (F), W.M.C., is hereby AMENDED to read as follows:

5-14-7: LICENSE DENIAL, SUSPENSION OR REVOCATION:

(F) If the Authority suspends a retail license, the licensee may, before the operative date of the suspension, petition for permission to pay a fine in lieu of having its license suspended for all or part of the suspension period. The Authority may grant the petition if the criteria and conditions of Section ~~12-47-110(3)~~ 12-47-601(3)(a) and Section 5-1-7(B), W.M.C., are met.

Section 4. Section 5-14-14, subsection (A), W.M.C., is hereby AMENDED to read as follows:

5-14-14: DISTANCE RESTRICTION ELIMINATED FOR CERTAIN SCHOOLS:

(A) The distance restriction imposed by Section ~~12-47-138(1)(d)~~ 12-47-313(1)(d), C.R.S., for hotel-restaurant licenses is hereby eliminated for institutions or facilities which serve children ~~preceding~~ PRECEDING their entrance to the first grade in public, private or parochial schools. Such institutions or facilities include, but are not limited to, those described or known as day schools, preschools, child care centers, day care centers, day nurseries, nursery schools, kindergartens, play groups, day camps, summer camps, learning centers, child development centers, religious training programs such as Sunday schools or vacation bible schools and centers for developmentally disabled

children.

Section 5. Title V, Chapter 14, W.M.C., AND THE TABLE OF CONTENTS THEREFOR is hereby amended BY THE ADDITION OF A NEW SECTION to read as follows:

5-14-16: REMOVAL OF VINOUS LIQUOR FROM LICENSED PREMISES:

(A) NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER TO THE CONTRARY, A LICENSEE DESCRIBED IN SUBSECTION (B) OF THIS SECTION MAY PERMIT A CUSTOMER OF THE LICENSEE TO RESEAL AND REMOVE FROM THE LICENSED PREMISES ONE OPENED CONTAINER OF PARTIALLY CONSUMED VINOUS LIQUOR PURCHASED ON THE PREMISES SO LONG AS THE ORIGINALLY SEALED CONTAINER DID NOT CONTAIN MORE THAN 750 MILLILITERS OF VINOUS LIQUOR.

(B) THE PROVISIONS OF THIS SECTION SHALL APPLY TO A LICENSEE:

1. THAT IS DULY LICENSED AS A MANUFACTURER'S LICENSEE UNDER SECTION 12-47-402, C.R.S., A LIMITED WINERY LICENSEE UNDER SECTION 12-47-403, C.R.S., A BEER AND WINE LICENSEE, A HOTEL AND RESTAURANT LICENSEE, A TAVERN LICENSEE, A BREW PUB LICENSEE, OR A VINTNER'S RESTAURANT LICENSEE UNDER SECTION 5-14-4, W.M.C.; AND

2. THAT HAS MEALS, AS DEFINED IN SECTION 12-47-103(20), C.R.S., AVAILABLE FOR CONSUMPTION ON THE LICENSED PREMISES.

Section 6. Section 6-9-1, W.M.C., is hereby AMENDED to read as follows:

6-9-1: DEFINITIONS: As used in this Chapter, the following words and phrases shall have the following meanings:

(A) "Public Place" shall mean any street, alley, road, highway, parking lot, public or community building, public park or sidewalk adjoining a public park; any private property open to the general public, or any place used by persons other than the owner, or owner's agent, without a special permit.

(B) "Container" shall mean any enclosing structure or vessel, including, but not limited to, a decanter, flask, bottle, jar, thermos bottle, cup, can or jug.

(C) "Seal" shall mean the regular and original seal applied by the United States government over the cap of a beer, malt, vinous or spirituous liquor.

(D) "Alcoholic Beverages" shall mean any fermented malt beverages (3.2% alcohol by weight, or less), malt vinous or spirituous liquors (3.2% alcohol by weight, or more), as defined by State law.

(E) "Open ALCOHOLIC BEVERAGE Container" shall mean any container CONTAINING ANY AMOUNT OF ALCOHOLIC BEVERAGE that is open and would allow consumption OR THE CONTENTS OF WHICH ARE PARTIALLY REMOVED, or a container of which the seal has been broken, EXCEPT FOR A CONTAINER RESEALED PURSUANT TO W.M.C. SECTION 5-14-16.

(F) "MOTOR VEHICLE" MEANS A VEHICLE DRIVEN OR DRAWN BY MECHANICAL POWER AND MANUFACTURED PRIMARILY FOR USE ON PUBLIC HIGHWAYS, BUT DOES NOT INCLUDE A VEHICLE OPERATED EXCLUSIVELY ON A RAIL OR RAILS.

(G) "PASSENGER AREA" MEANS THE AREA DESIGNED TO SEAT THE DRIVER AND PASSENGERS WHILE A MOTOR VEHICLE IS IN OPERATION AND ANY AREA THAT IS READILY ACCESSIBLE TO THE DRIVER OR A PASSENGER WHILE IN HIS OR HER SEATING POSITION, INCLUDING, BUT NOT LIMITED TO, THE GLOVE COMPARTMENT.

Section 7. Section 6-9-3, W.M.C., is hereby AMENDED to read as follows:

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

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

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

1. EXCEPT AS OTHERWISE PERMITTED IN PARAGRAPH 2. OF THIS SUBSECTION (B), A PERSON WHILE IN THE PASSENGER AREA OF A MOTOR VEHICLE THAT IS ON A PUBLIC HIGHWAY WITHIN THE CITY'S JURISDICTION OR THE RIGHT-OF-WAY OF A PUBLIC HIGHWAY WITHIN THE CITY'S JURISDICTION MAY NOT KNOWINGLY:

(a) DRINK AN ALCOHOLIC BEVERAGE; OR

(b) HAVE IN HIS OR HER POSSESSION AN OPEN ALCOHOLIC BEVERAGE CONTAINER.

2. THE PROVISIONS OF THIS SUBSECTION (B) SHALL NOT APPLY TO:

(a) PASSENGERS, OTHER THAN THE DRIVER OR A FRONT SEAT PASSENGER, LOCATED IN THE PASSENGER AREA OF A MOTOR VEHICLE DESIGNED, MAINTAINED, OR USED PRIMARILY FOR THE TRANSPORTATION OF PERSONS FOR COMPENSATION.

- (b) THE POSSESSION BY A PASSENGER, OTHER THAN THE DRIVER OR A FRONT SEAT PASSENGER, OF AN OPEN ALCOHOLIC BEVERAGE CONTAINER IN THE LIVING QUARTERS OF A HOUSE COACH, HOUSE TRAILER, MOTOR HOME, AS DEFINED IN SECTION 42-1-102(57), C.R.S., OR TRAILER COACH, AS DEFINED IN SECTION 42-1-102(106)(a), C.R.S.
- (c) THE POSSESSION OF AN OPEN ALCOHOLIC BEVERAGE CONTAINER IN THE AREA BEHIND THE LAST UPRIGHT SEAT OF A MOTOR VEHICLE THAT IS NOT EQUIPPED WITH A TRUNK; OR
- (d) THE POSSESSION OF AN OPEN ALCOHOLIC BEVERAGE CONTAINER IN AN AREA NOT NORMALLY OCCUPIED BY THE DRIVER OR A PASSENGER IN A MOTOR VEHICLE THAT IS NOT EQUIPPED WITH A TRUNK.

~~(C) Exception: Subsections (A) and (B) above shall not apply to the possession or control of one opened container of vinous liquor purchased and removed from a liquor licensed hotel or restaurant, pursuant to the provisions of Section 42-47-411(3.5), C.R.S., so long as the original container did not contain more than 750 milliliters.~~

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

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

~~(E)~~ (D) Notwithstanding the foregoing provisions EXCEPT AS OTHERWISE PERMITTED IN PARAGRAPH 2 OF SUBSECTION (B) ABOVE, drinking alcoholic beverages in any MOTOR vehicle is hereby prohibited.

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

Section 8. Section 6-9-4, subsections (B) and (C), W.M.C., are hereby amended BY THE ADDITION OF NEW SUBSECTIONS as follows:

6-9-4: CONDUCT PROHIBITED IN LIQUOR AND BEER ESTABLISHMENTS:

(B) Prohibited Acts:

9. IT SHALL BE UNLAWFUL FOR ANY LICENSEE, MANAGER OR AGENT TO SELL, SERVE, GIVE AWAY, DISPOSE OF, EXCHANGE, OR DELIVER, OR PERMIT THE SALE, SERVING, GIVING, OR PROCURING OF, ANY ALCOHOL BEVERAGE TO A VISIBLY INTOXICATED PERSON OR TO A KNOWN HABITUAL DRUNKARD.

10. IT SHALL BE UNLAWFUL FOR ANY LICENSEE, MANAGER, OR AGENT TO HAVE IN POSSESSION OR UPON THE LICENSED PREMISES ANY ALCOHOL BEVERAGE, THE SALE OF WHICH IS NOT PERMITTED BY SAID LICENSE.

(C) Requirements and Regulations: It shall be unlawful for any licensee to fail to comply with the following requirements and regulations:

3. EACH LICENSEE SHALL DISPLAY AT ALL TIMES IN A PROMINENT PLACE A PRINTED CARD WITH A MINIMUM HEIGHT OF FOURTEEN (14) INCHES AND A WIDTH OF ELEVEN (11) INCHES WITH EACH LETTER TO BE A MINIMUM OF ONE-HALF (1/2) INCH IN HEIGHT, WHICH SHALL READ AS FOLLOWS:

WARNING

IT IS ILLEGAL TO SELL LIQUOR, WINE, OR BEER TO ANY PERSON UNDER TWENTY-ONE YEARS OF AGE AND IT IS ILLEGAL FOR ANY PERSON UNDER TWENTY-ONE YEARS OF AGE TO POSSESS OR TO ATTEMPT TO PURCHASE THE SAME.

IDENTIFICATION CARDS WHICH APPEAR TO BE FRAUDULENT WHEN PRESENTED BY PURCHASERS MAY BE CONFISCATED BY THE ESTABLISHMENT AND TURNED OVER TO A LAW ENFORCEMENT AGENCY.

IT IS ILLEGAL IF YOU ARE TWENTY-ONE YEARS OF AGE OR OLDER FOR YOU TO PURCHASE LIQUOR, WINE, OR BEER FOR A PERSON UNDER TWENTY-ONE YEARS OF AGE.

FINES AND IMPRISONMENT MAY BE IMPOSED BY THE COURTS FOR VIOLATION OF THESE PROVISIONS.

Section 9. This ordinance shall take effect upon its passage after second reading.

Section 10. 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 27th day of November, 2006. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 11th day of December, 2006.