



## 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. Friends of the Westminster Public Library Volunteer Recognition
  - B. Colorado Environmental Leadership Program Bronze Achievement Award
7. Citizen Communication (5 minutes or less)

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

8. Consent Agenda
  - A. Financial Report for November 2007
  - B. Purchase of Disposable Medical Supplies over \$50,000
  - C. Purchase/Installation of Dump Body & Snow Removal Equipment for Four New Tandem Trucks
  - D. 2008 Wastewater Collection System Maintenance Program
  - E. Renewal of IGA with Adams County for Jim Baker Reservoir Recreation
  - F. Reimbursement of the Parks, Open Space and Trails (POST) Fund for Acquisition of Rights-of-Ways
9. Appointments and Resignations
10. Public Hearings and Other New Business
  - A. Resolution No. 51 re City of Westminster 2008 Legislative Policy Statement
  - B. 2007 Amended and Restated Distributor's Contract with Federal Heights
  - C. Resolution No. 52 re Federal Heights Wholesale Water Rate
  - D. Resolution No. 53 re Application to Rejoin the Rocky Mountain Rail Authority
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 – Consultation with City Attorney concerning *Jorgensen v. City* pursuant to W.M.C. 1-11-7(C)(3) and (8) and C.R.S. 24-6-402(4)(b) and (e)
13. Adjournment

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

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

CITY OF WESTMINSTER, COLORADO  
MINUTES OF THE CITY COUNCIL MEETING  
HELD ON MONDAY, DECEMBER 17, 2007 AT 7:00 P.M.

PLEDGE OF ALLEGIANCE

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

ROLL CALL

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

CONSIDERATION OF MINUTES

Councillor Kaiser moved, seconded by Dittman, to approve the minutes of the regular meeting of December 10, 2007, as presented. The motion passed unanimously.

CITY MANAGER'S REPORT

Mr. McFall announced that this was Council's final meeting of 2007. City offices would be closed December 25 and January 1. He thanked Council for the opportunity to work with them in 2007 and wished everyone the best of holidays.

Mr. McFall reported that Council would convene meetings of the Westminster Economic Development Authority and the 136<sup>th</sup> Avenue and Mandalay Town Center General Improvement Districts at the conclusion of this meeting. Then City Council would convene in executive session to consult with the City Attorney concerning pending litigation.

CITY COUNCIL COMMENTS

Councillor Winter reported having attended her first diversion meeting. This preventative program was to ensure the youth of the community was keeping out of the criminal justice system through individual and family counseling. The program was successful with a 21% recidivism rate, far better than other communities.

Councillor Dittman complimented staff of the City Manager and City Attorneys Offices on their organization of the City's Annual Holiday Party for employees. Over 450 employees had attended and enjoyed the evening. Their pride and affection for the City had been apparent.

Councillor Briggs reported having attended the Open Space Advisory Board's Christmas Dinner. Having been a member of this Board since its inception, he was pleased he would be continuing his involvement as Council's liaison to the Board. Councillor Briggs complimented staff on the Christmas display in the courtyard of City Hall. Children and adults equally enjoyed Santa's sleigh, the train, Santa's workshop, the lights and the music. He concluded by wishing all happy holidays.

Mayor McNally reported having attended numerous festivities in recent weeks. One common thread she observed was the generosity of Westminster residents. From the Wal-Mart Express, to the Fire Department's collections of toys and gifts, to the partnership between Valente's Deli and Have a Heart, the needs of the less fortunate were being met. She was proud of the community's giving nature and noted that citizens had made a difference in the lives of many others this year.

PRESENTATIONS

Mayor McNally called the Friends of the Public Library Volunteers to come forward and accept a certificate of appreciation from the Council and staff. The Friends had raised approximately \$150,000 to benefit numerous

Library programs and events. The next book sale would be on January 18. Speaking on behalf of the group was Carl Ruby who pointed out that the Friends' success was achieved a nickel and a quarter at a time through the sale of used books.

Lynette Myers of the Colorado Department of Public Health and Environment presented the Colorado Environmental Leadership Program Bronze Achievement Award to Mayor McNally, Tom Settle, and Rick Clark. The award was in recognition of the City's efforts to reduce the cost and energy use associated with pumping drinking water from the two water treatment plants to customers.

#### CONSENT AGENDA

The following items were submitted for Council's consideration on the consent agenda: acceptance of the November 2007 Financial Report; authority to purchase disposable medical supplies from BondTree Medical for an amount not to exceed \$70,000 for 2007; based on the City Manager's recommendation, find that the public interest would best be served by accepting the proposal from O. J. Watson Company, Inc. for the purchase and installation of four dump bodies, snowplows, v-box sanders, and central hydraulic systems at a cost of \$273,373 to be mounted on four tandem dump trucks; authority for the City Manager to execute a \$636,234 contract with Quality Pipe Services for the 2008 Wastewater Collection System Maintenance Program, and authorize a 10% contingency of \$63,624; authority for the Mayor to sign an Intergovernmental Agreement with Adams County regarding a 10-year renewal of the existing agreement for public access to Jim Baker Reservoir for recreational purposes; and authority for expenditures to reimburse the City's Parks, Open Space and Trails Fund for road and other rights-of-way granted over City open space property prior to July 1, 2004 totaling approximately 375,000 square feet from funds appropriated in the Capital Improvement Program budget in the amount of \$100,000 for 2007 and \$150,000 for 2008, with the balance of \$610,000 to be paid, subject to annual appropriation, over the fiscal years 2009-2011 through the General Capital Improvement Fund for a total amount of \$860,000.

Mayor McNally asked if any Councillor wished to remove an item from the consent agenda for individual consideration. There was no reply.

It was moved by Mayor Pro Tem Dittman and seconded by Major to approve the consent agenda as presented. The motion passed unanimously.

#### RESOLUTION NO. 51 RE CITY OF WESTMINSTER 2008 LEGISLATIVE POLICY STATEMENT

Councillor Major moved to adopt Resolution No. 51 establishing the City of Westminster 2008 Legislative Policy Statement. The motion was seconded by Councillor Lindsey and passed unanimously on roll call vote.

#### 2007 AMENDED AND RESTATED DISTRIBUTOR'S CONTRACT WITH FEDERAL HEIGHTS

It was moved by Councillor Lindsey and seconded by Dittman to authorize the City Manager to execute the 2007 Amended and Restated Distributor's Contract with the City of Federal Heights in substantially the same form as the agreement distributed with the agenda memorandum. The motion passed unanimously.

#### RESOLUTION NO. 52 RE FEDERAL HEIGHTS WHOLESALE WATER RATE

Upon a motion by Councillor Lindsey, seconded by Mayor Pro Tem Dittman, the Council voted unanimously at roll call to adopt Resolution No. 52 authorizing a new wholesale water rate for Federal Heights commencing January 1, 2008.

RESOLUTION NO. 53 RE APPLICATION TO REJOIN ROCKY MOUNTAIN RAIL AUTHORITY

It was moved by Councillor Briggs, seconded by Major, to adopt Resolution No. 53 approving an Addendum to the Establishing Contract for the Rocky Mountain Rail Authority and the First Amendment to that Contract, thus fulfilling requirements to make application for the City to rejoin the Authority. The motion passed unanimously at roll call.

ADJOURNMENT

There was no further business to come before the City Council, and the Mayor adjourned the meeting at 7:19 p.m.

ATTEST:

\_\_\_\_\_  
Mayor

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



## Agenda Item 6 A

**WESTMINSTER**  
**COLORADO**

### Agenda Memorandum

City Council Meeting  
December 17, 2007



**SUBJECT:** Friends of the Westminster Public Library Volunteer Recognition

**Prepared By:** Chuck Huey, Library Services Coordinator

### Recommended City Council Action

Mayor Nancy McNally will present a certificate of appreciation to members of the Friends of the Westminster Public Library.

### Summary Statement

- The Friends group provides financial support to the College Hill and Irving Street Libraries through quarterly book sales and the proceeds of the Library Friends Gift Shop. This is a group of kindred spirits who help promote reading and raise funds to enhance the Westminster Library.
- The Friends group has been in existence since 1993 and over the years, the Friends group has raised approximately \$150,000 that has benefitted numerous Library programs and events.
- The Friends of the Westminster Public Library are to be commended for their expert organization, teamwork, and people power that result in their ability to generate funds to support library programs and resources.
- All Friends members past and present are to be commended, including Gerald Arguello, Emily Bowen, Ann Merkel, Cheryl Patrick, Ann Pinfield, Elizabeth Price, Carl Ruby, Dori Walter and Martha Wilson distinctly noted today.

**Expenditure Required:** \$0

**Source of Funds:** N/A

**Policy Issue**

None identified

**Alternative**

None identified

**Background Information**

The Friends of the Westminster Library annually contribute all of the funds for the summer reading program for children, young adults and adults. Their donations provide books, prizes and programming fees for the essential core library services. The City's popular summer reading program brings thousands of people to the library each summer, encouraging literacy and recreational reading.

The Friends contributions fully support the English Conversation groups by providing dictionaries and supplies to the group facilitators. Over the years, the Friends have supported such projects as the redesigned teen area at College Hill, the Head Start Book Project, the castle in the children's room at College Hill, the décor in the children's room at Irving Street, and a variety of donations to the City's old 76<sup>th</sup> Avenue Library.

This presentation to the Friends of the Library supports the City's Strategic Plan Goals of "Financially Sustainable City Government" and "Beautiful City."

Respectfully submitted,

Brent McFall  
City Manager

Attachment



## Agenda Item 6 B

**WESTMINSTER**  
**COLORADO**

### Agenda Memorandum

City Council Meeting  
December 17, 2007



**SUBJECT:** Presentation of the Colorado Environmental Leadership Program Bronze Achievement Award

**Prepared By:** Tom Settle, Water Treatment Superintendent

### Recommended City Council Action

Mayor McNally will receive the Colorado Environmental Leadership Program Bronze Achievement Award from Colorado Department of Public Health and Environment representative, Lynette Myers.

### Summary Statement

- The City of Westminster's Department of Public Works and Utilities was presented the Colorado Environmental Leadership Program Bronze Achievement Award on October 3 at the Annual Colorado Environmental Awards Recognition Event.
- The City of Westminster was selected for the award based on its efforts to reduce the cost and energy use associated with pumping drinking water from the City's two water treatment plants, through the water distribution system, to the City's water customers.
- This is the first time that the City of Westminster has received an award through the Colorado Environmental Leadership Program.
- Mayor McNally will receive the award.

**Expenditure Required:** \$ 0

**Source of Funds:** N/A



**Policy Issue**

None identified

**Alternative**

None identified

**Background Information**

The Environmental Leadership Program is a statewide environmental recognition and reward program administered by the Colorado Department of Public Health and Environment's (CDPHE) Sustainability Program. The Environmental Leadership Program offers benefits and incentives to members that voluntarily go beyond compliance with state and federal regulations and are committed to continual environmental improvement. It encourages and rewards superior environmental performers that go beyond the requirements of environmental regulations and move toward the goal of sustainability. The program is open to all Colorado businesses, industries, offices, educational institutions, municipalities, government agencies, community, not-for-profit and other organizations. Currently, the program consists of three tiers, Bronze, Silver and Gold. An additional tier, Platinum, is under development.

The Colorado Drinking Water Excellence Program nominated the City of Westminster's Public Water System for achievements in reducing energy usage associated with drinking water treatment operations. Since 2001, Westminster has been taking measures to reduce the cost and energy use associated with pumping drinking water from the City's two water treatment plants, through the water distribution system, to the City's water customers. This approach resulted in a significant reduction in energy use over the past six years. These improvements demonstrate the City of Westminster's innovative approach to environmental leadership and they set an excellent example for other Colorado public water systems.

In 2001 and 2002, measures were taken to manage peak energy demand associated with distribution system pumping and, therefore, demand charges. Use of multiple pumps was reduced and other measures were put into place to minimize peak use. Additionally, some pumps were modified for improved efficiency. These measures reduced the annual energy cost of pumping water from \$216,992 in 2001 to \$181,206 in 2002. In 2003, additional operational changes further reduced the demand on water pumps and improved efficiency. The annual energy cost for 2003 decreased to \$133,230.

In terms of reduction in energy demand (from 2001 to 2004), the City's Wandering View pump station had reduced energy demand in June (the highest monthly usage for the year) from 383 kilowatts (kw) in 2001 to 78 kw in 2004. The City's Northridge pump station exhibited comparable reduction in energy demand in June (also representing peak monthly usage) from 459 kw in 2001 to 130 kw in 2004.

This award was presented to the City on October 3 at the Annual Colorado Environmental Awards Recognition Event at the Denver Museum of Nature and Science.

Lynette Meyers, Manager of the Environmental Leadership Program at CDPHE will be present on Monday evening to present this award to City Council and staff.

Respectfully submitted,

J. Brent McFall  
City Manager



**WESTMINSTER  
COLORADO**

**Agenda Memorandum**

**Agenda Item 8 A**

City Council Meeting  
December 17, 2007



**SUBJECT:** Financial Report for November 2007  
**Prepared By:** Tammy Hitchens, Finance Director

**Recommended City Council Action**

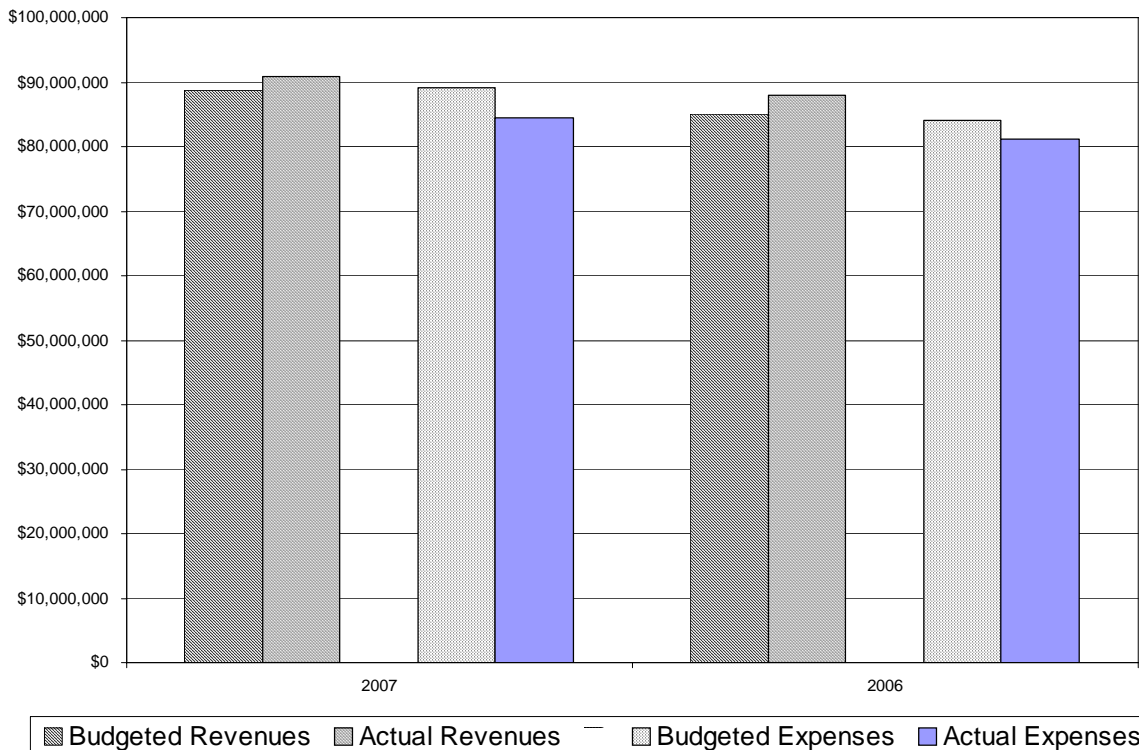
Accept the Financial Report for November as presented.

**Summary Statement**

City Council is requested to review and accept the attached monthly financial statement. The Shopping Center Report is also attached. Unless otherwise indicated, “budget” refers to the pro-rated budget. Revenues also include carryover where applicable. With the exception of the Sales and Use Tax Fund, the revenues are pro-rated based on 10-year historical averages. The Sales and Use Tax Fund pro-rated revenue has been changed to reflect the pattern of 2006 and expected pattern of 2007. This pattern has changed over time and a 10-year trend is no longer an appropriate comparison. Expenses are also pro-rated based on 5-year historical averages.

The General Fund revenues and carryover exceed expenditures by \$6,528,000. The following graph represents Budget vs. Actual for 2006 – 2007. The \$32,944,900 Refunding Certificates of Participation, Series 2007 has been omitted from the graph in order to more accurately reflect operations and to reflect a more appropriate comparison to 2006.

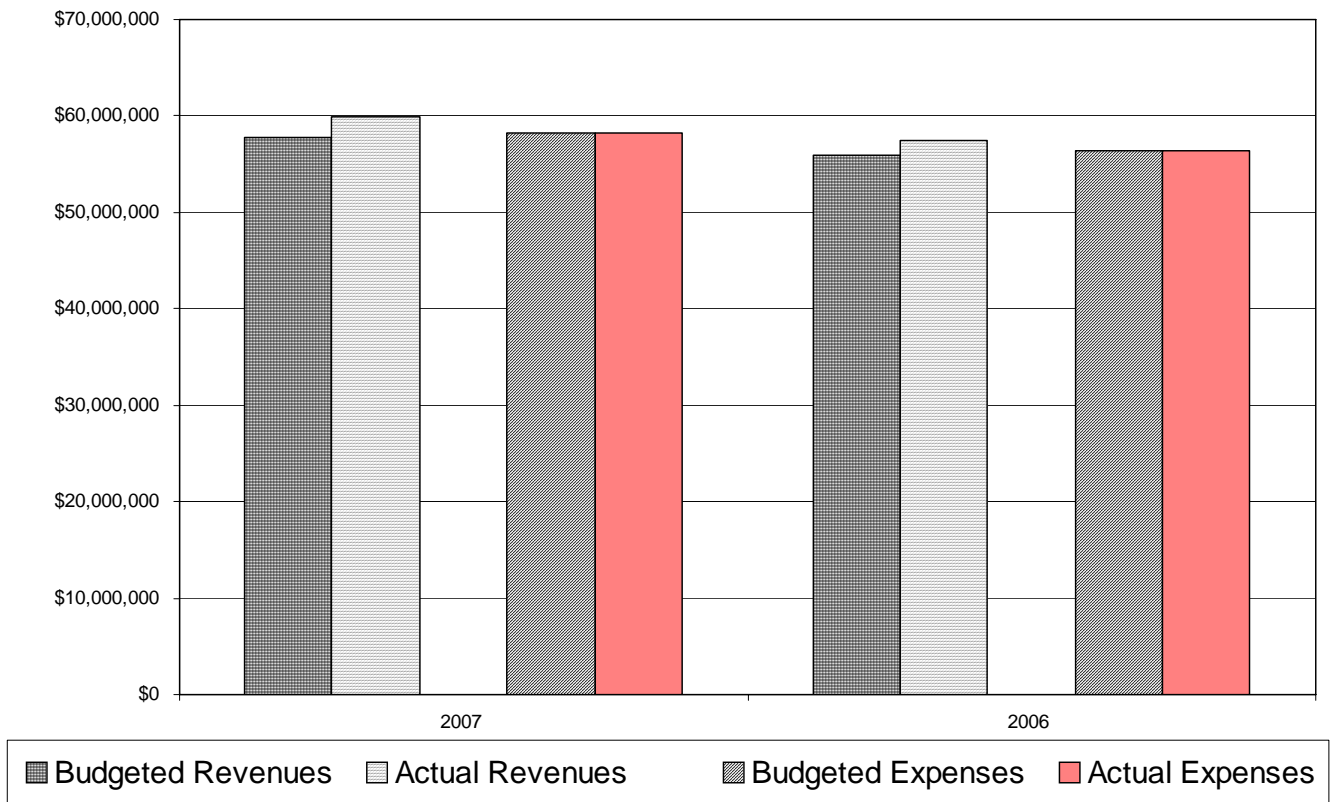
**General Fund  
Budget vs Actual**



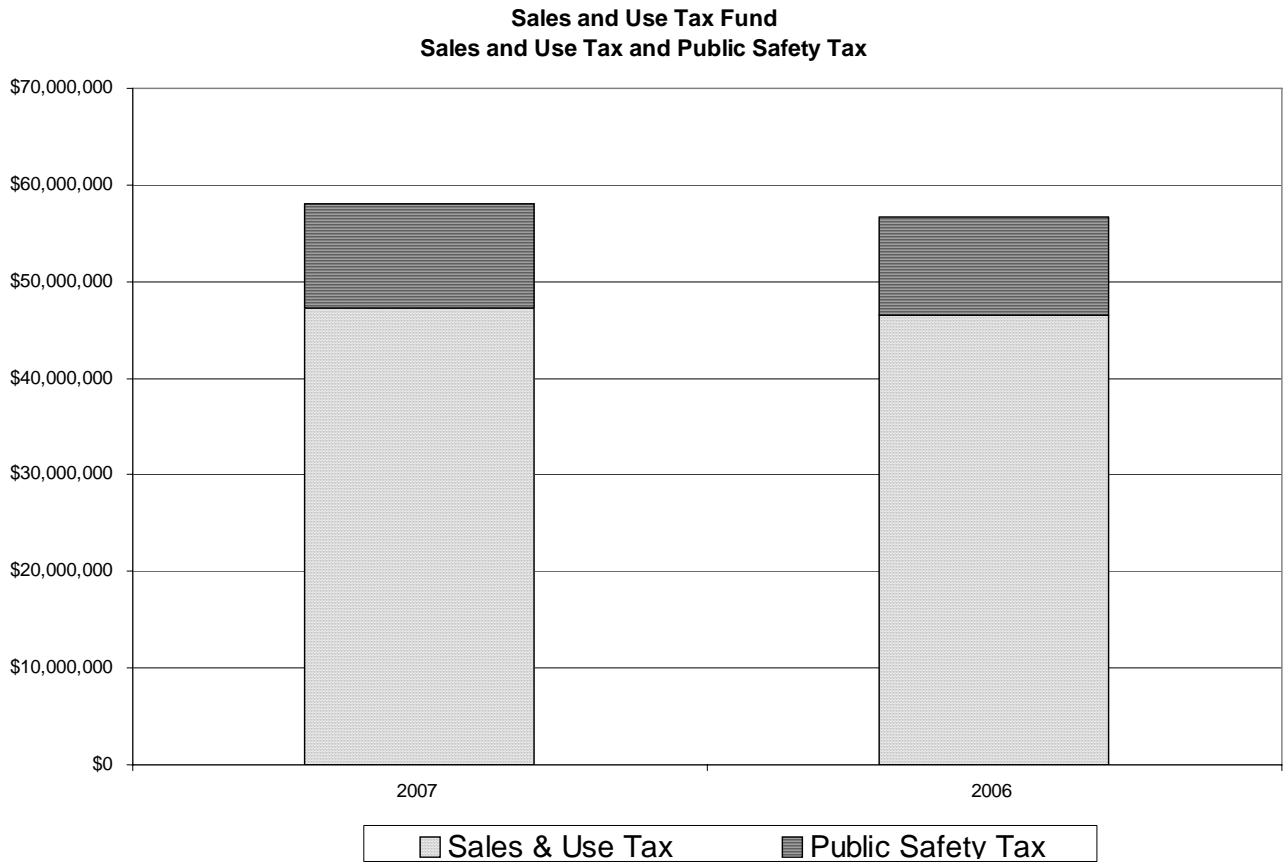
The Sales and Use Tax Fund's revenues and carryover exceed expenditures by \$1,725,000.

- On a year-to-date cash basis, sales & use tax returns are down 2.5%.
- On a year-to-date basis, across the top 25 shopping centers, total sales & use tax receipts are up 9.4% from the prior year. Included in the Shopping Center report is \$455,000 of audit revenue from 2 different audits. It also includes Urban Renewal Area (URA) money that is not available for General Fund use. Without Urban Renewal money, total sales and use tax receipts are down 3.4%. This reflects the significant contribution to Sales Tax the URA's are making.
- The top 50 Sales Taxpayers, who represent about 58% of all collections, were down 2.4% after adjusting for one time audit revenue and Urban Renewal Area money.
- The Westminster Mall is down 11% on a year-to-date basis. This includes an audit payment of \$138,000.
- Building Use Tax is down 0.2% year-to-date over 2006.

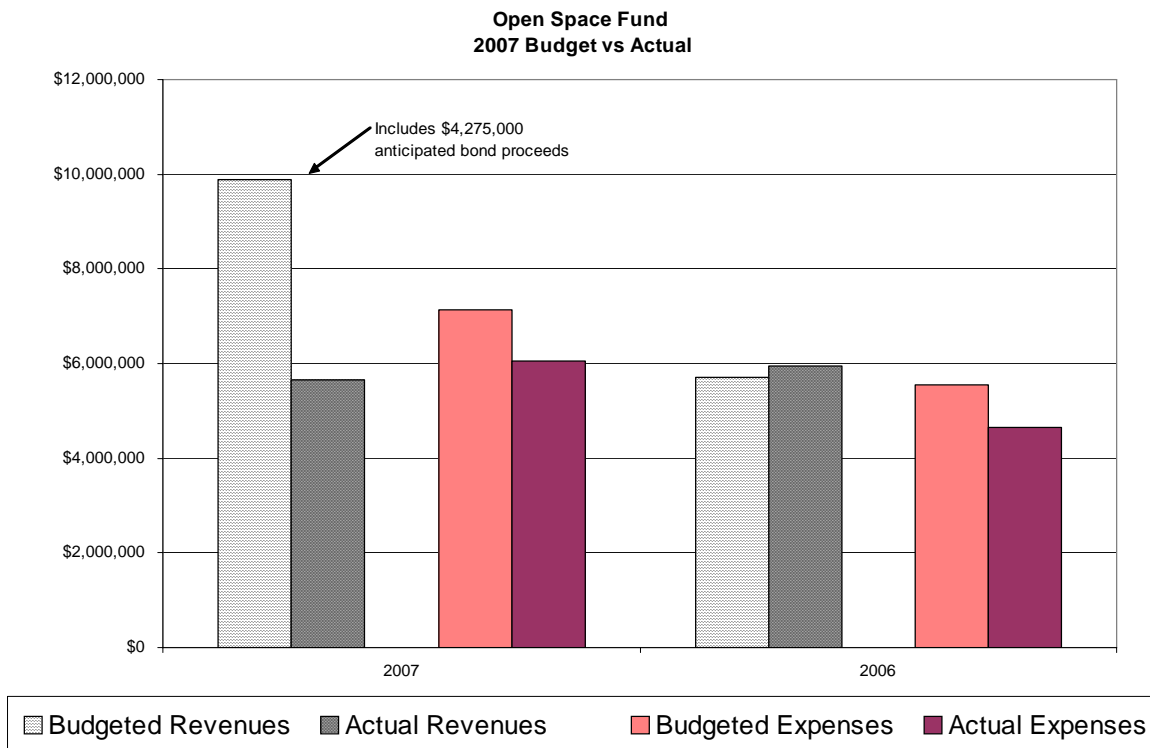
**Sales & Use Tax Fund  
Budget vs Actual**



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

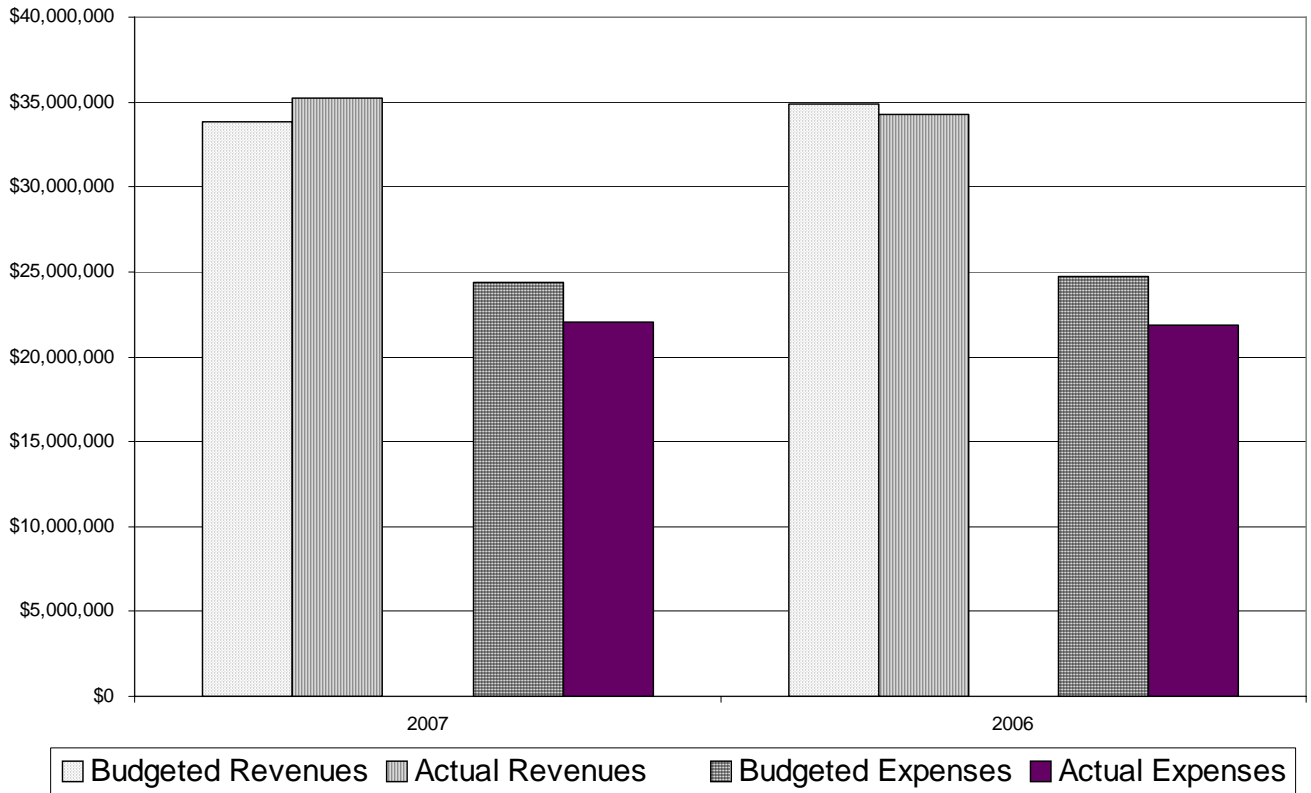


The Open Space Fund expenditures exceed revenues by \$397,000. This reflects the utilization of the expected bond proceeds through the reimbursement resolution. It is anticipated that the bonds will be issued in December.



The combined Water & Wastewater Funds' operating revenues and carryover exceed operating expenses by \$23,290,000. \$18,898,000 is budgeted for capital projects and reserves. Year-to-date, the City has collected \$4,452,000 less in tap fees than in 2006.

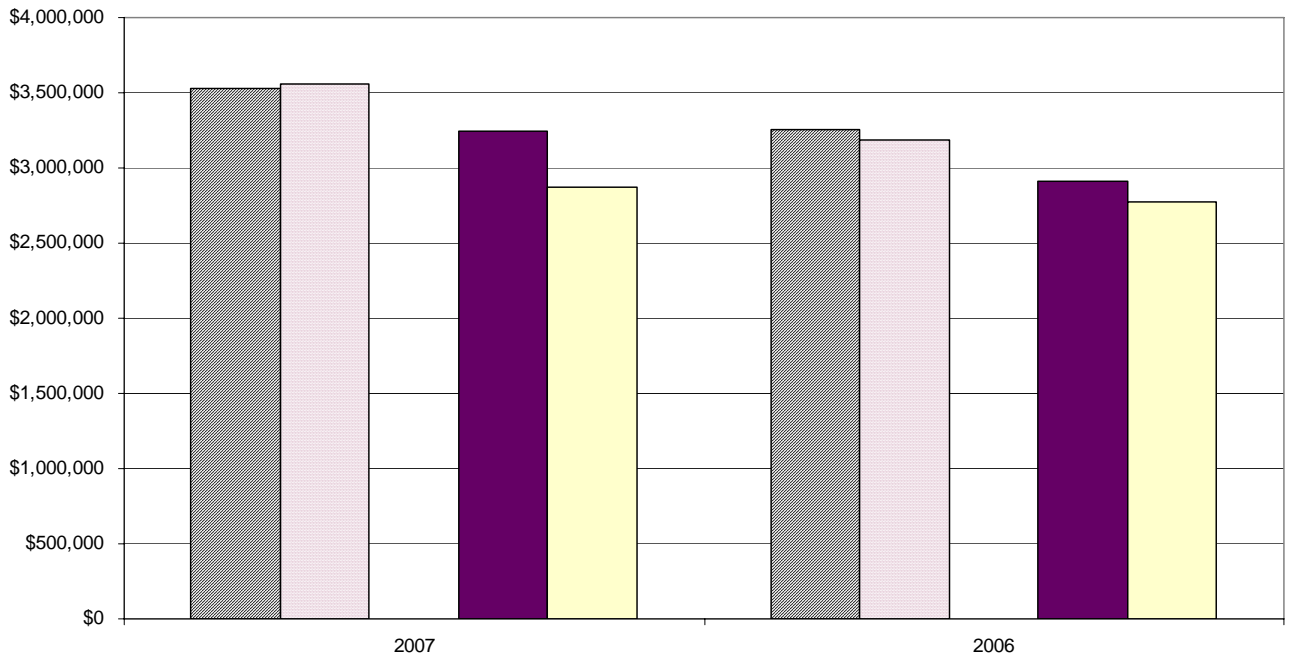
**Combined Water and Wastewater Funds  
2007 Operating Budget vs Actual**



The combined Golf Course Funds' revenues exceed expenditures by \$687,000. Year to date revenues for Charges for Services are \$213,000 higher than 2006. The following transactions have been omitted in order to reflect a more appropriate comparison between years and results of operations.

Account	Purpose	2007	2006
Other Financing Source & Use	Legacy Maintenance Equip	547,000	
Other Financing Source & Use	Heritage Golf Carts		582,144
Transfers In	Reduce Negative Cash	700,000	750,000

**Golf Course Enterprise  
Budget vs Actual**



**Policy Issue**

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

**Alternative**

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

**Background Information**

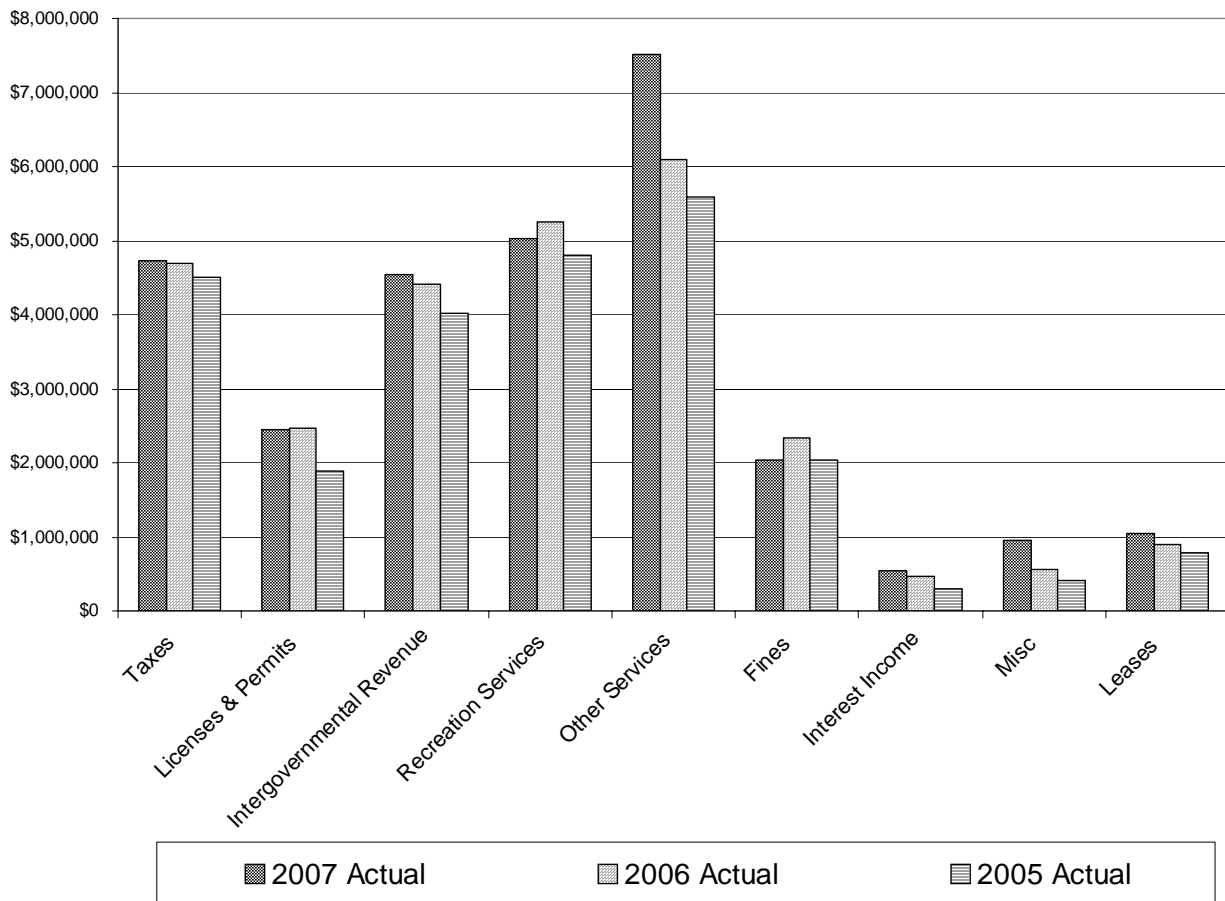
This section includes a discussion of highlights of each fund presented.

**General Fund**

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

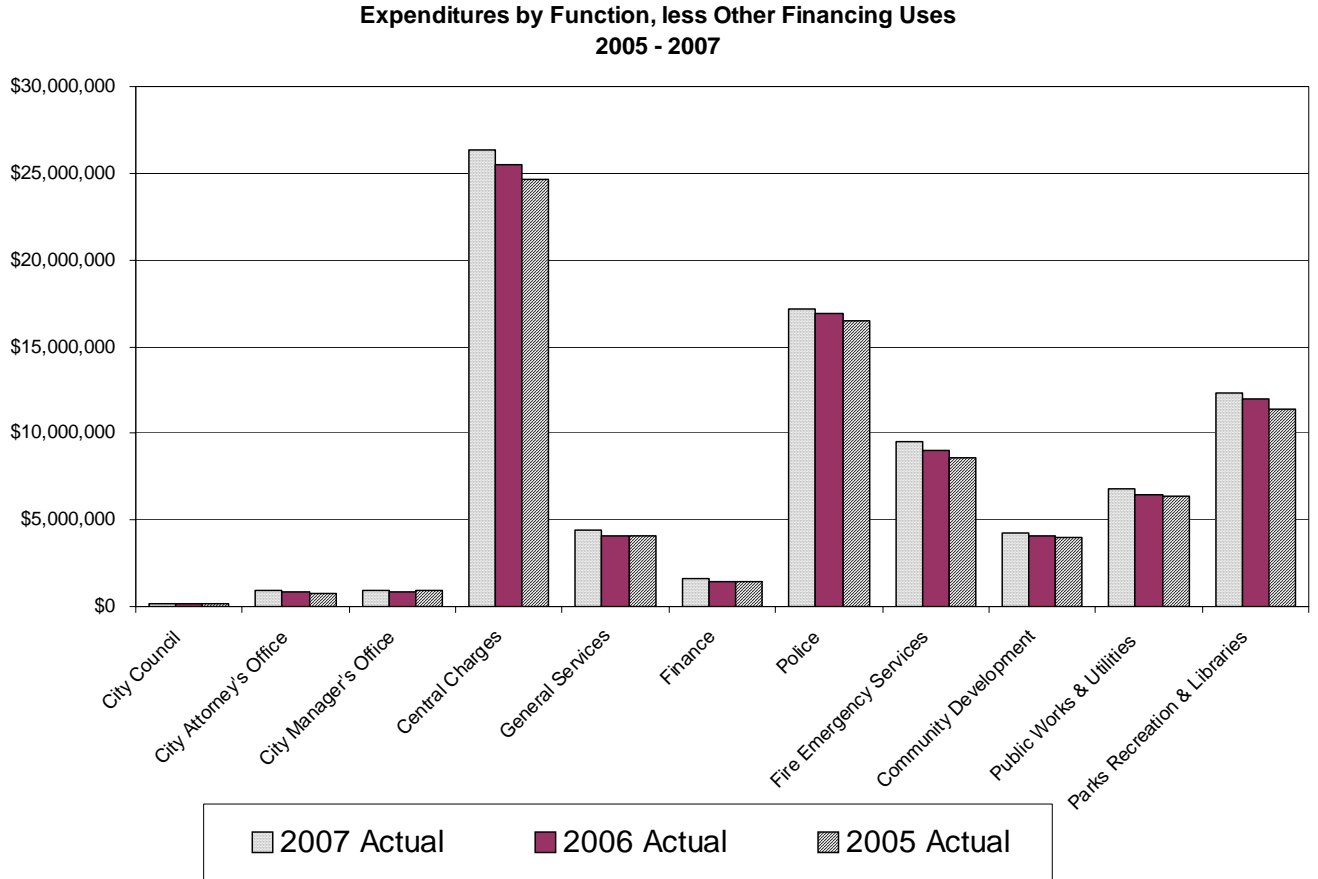
The following chart represents the trend in actual revenues from 2005 – 2007 year-to-date.

**General Fund Revenues without Transfers, Carryover, and Other Financing Sources  
2005 - 2007**



The increase in Other Services reflects the Infrastructure fee. As reflected in the Licenses & Permits of the Financial Report, commercial building permits are up significantly, causing a positive variance. Intergovernmental revenues are also up compared to the budget amount. This is primarily due to the Federal Emergency Management Agency (FEMA) reimbursement and an increase in road & bridge taxes from both counties and grant revenue. Leases are lower than anticipated due to the delay in getting the former police building leased.

The following chart identifies where the City is focusing its resources. The chart shows year-to-date spending for 2005 –2007.



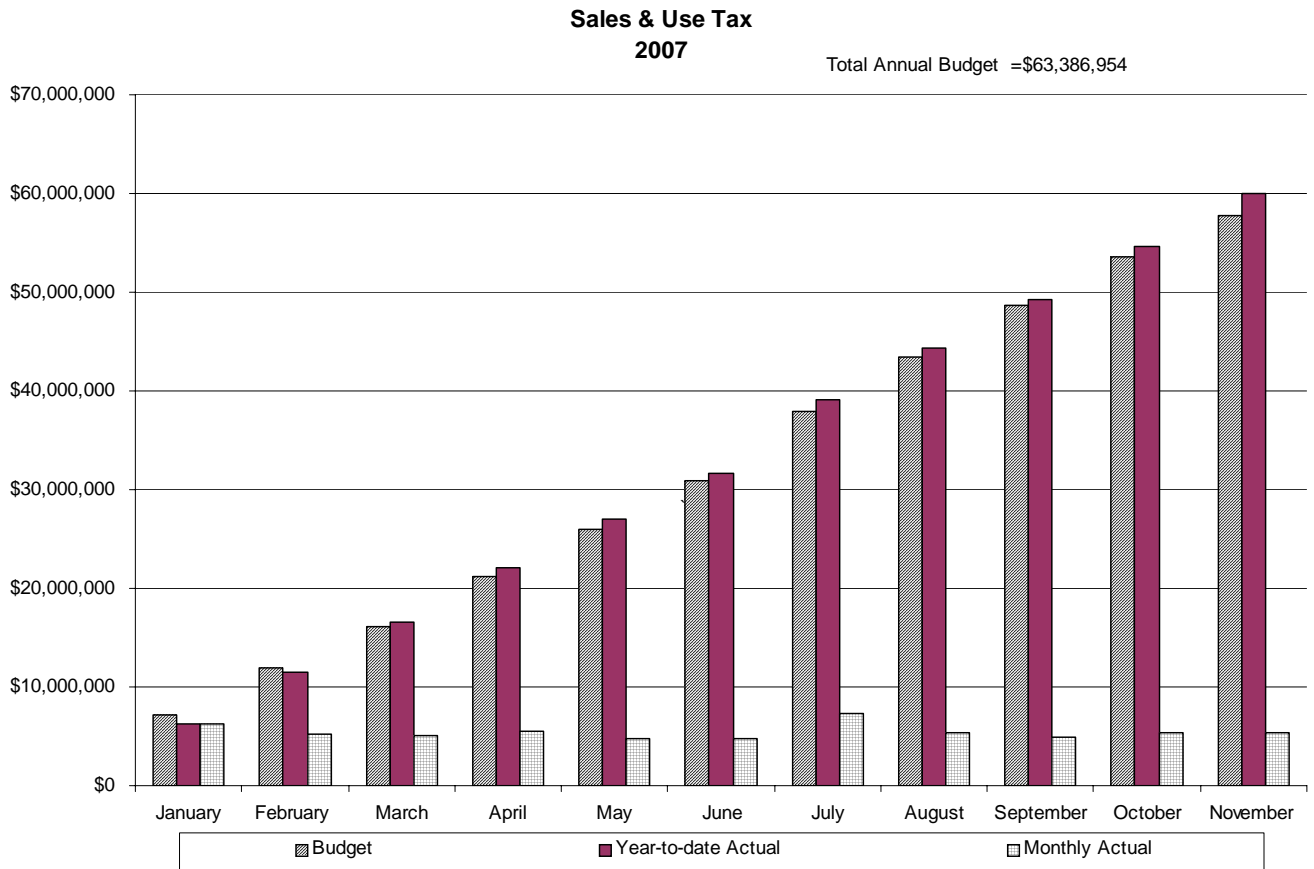
The positive variance seen on the attached spreadsheets (page 1) in CMO is mostly related to salary savings. Although one particular area does not stand out, City Council's budget reflects a positive variance due to overall less spending.



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

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

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

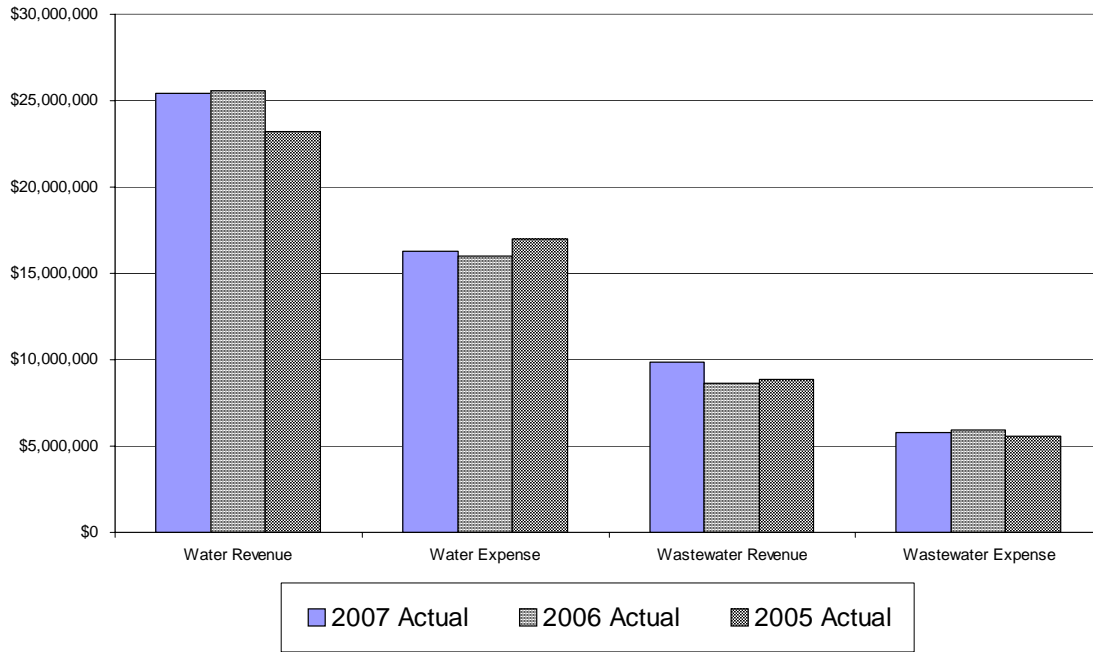


**Water, Wastewater and Storm Water Drainage Funds (The Utility Enterprise)**

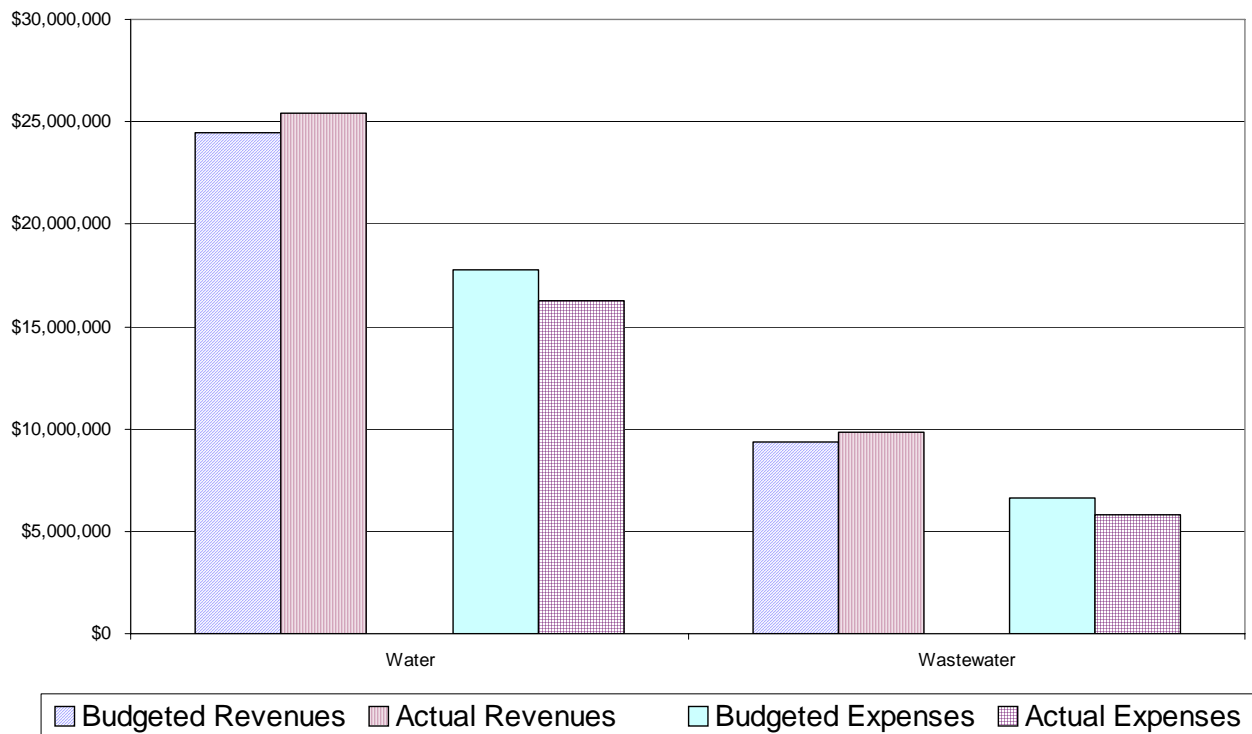
This fund reflects the operating results of the City’s water, wastewater and storm water systems. It is important to note that net operating revenues are used to fund capital projects. The variance between 2006 and 2007 can be attributed to an unusually high 2006 and a slightly low 2007.

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

**Water and Wastewater Funds  
Operating Revenue and Expenses 2005-2007**



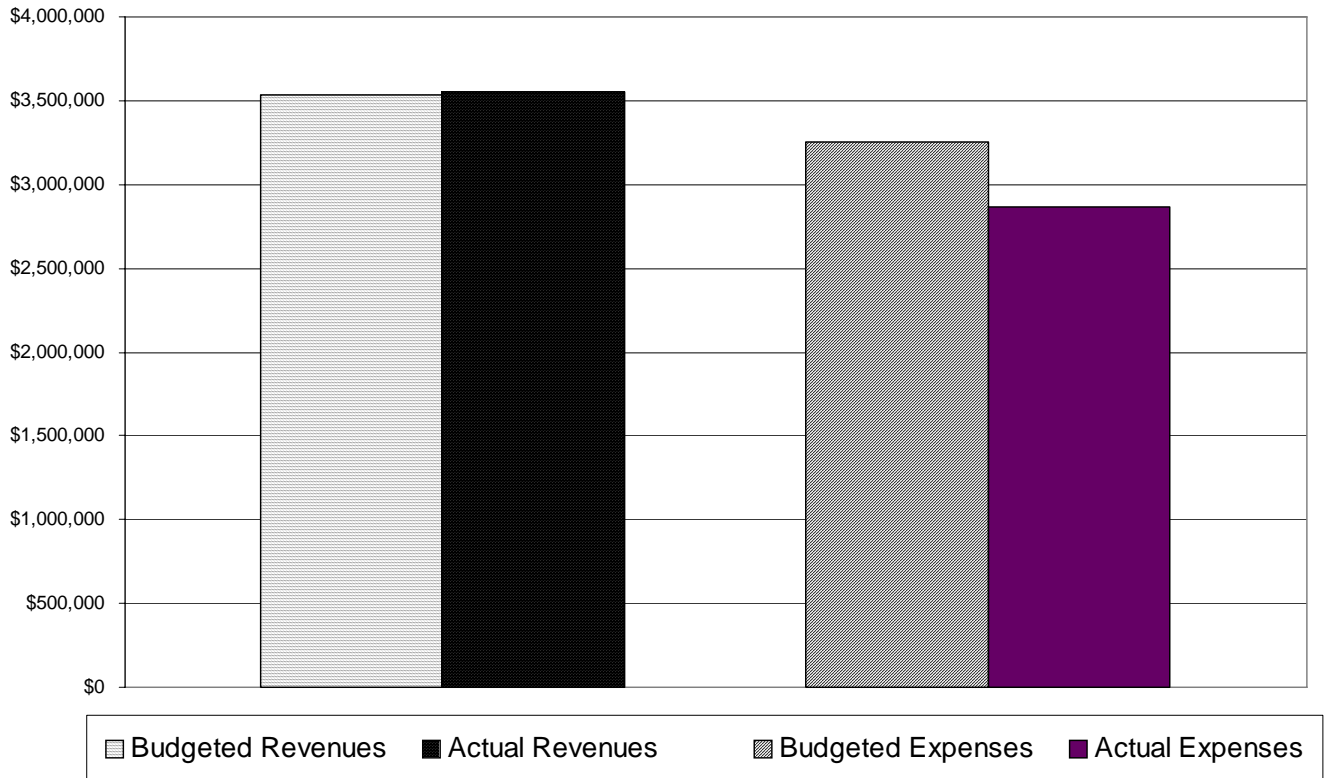
**Water and Wastewater Funds  
2007 Operating Budget vs Actual**



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

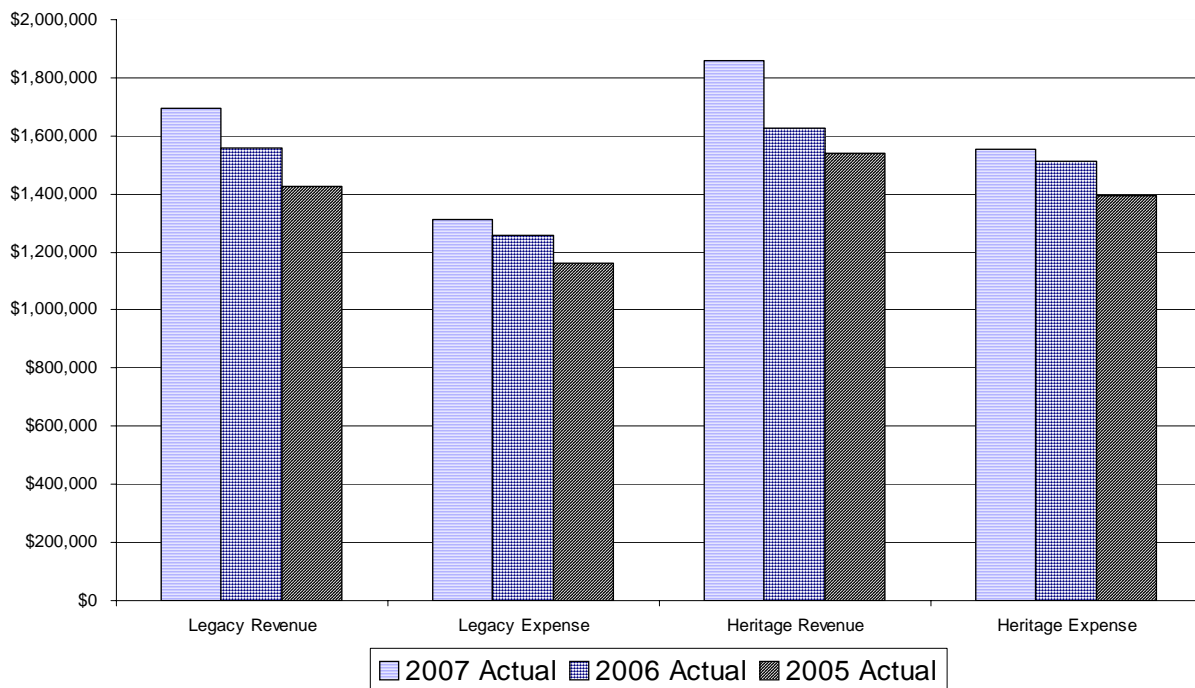
This enterprise reflects the operations of the City's two municipal golf courses.

**Combined Golf Courses  
2007 Budget vs Actual**



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

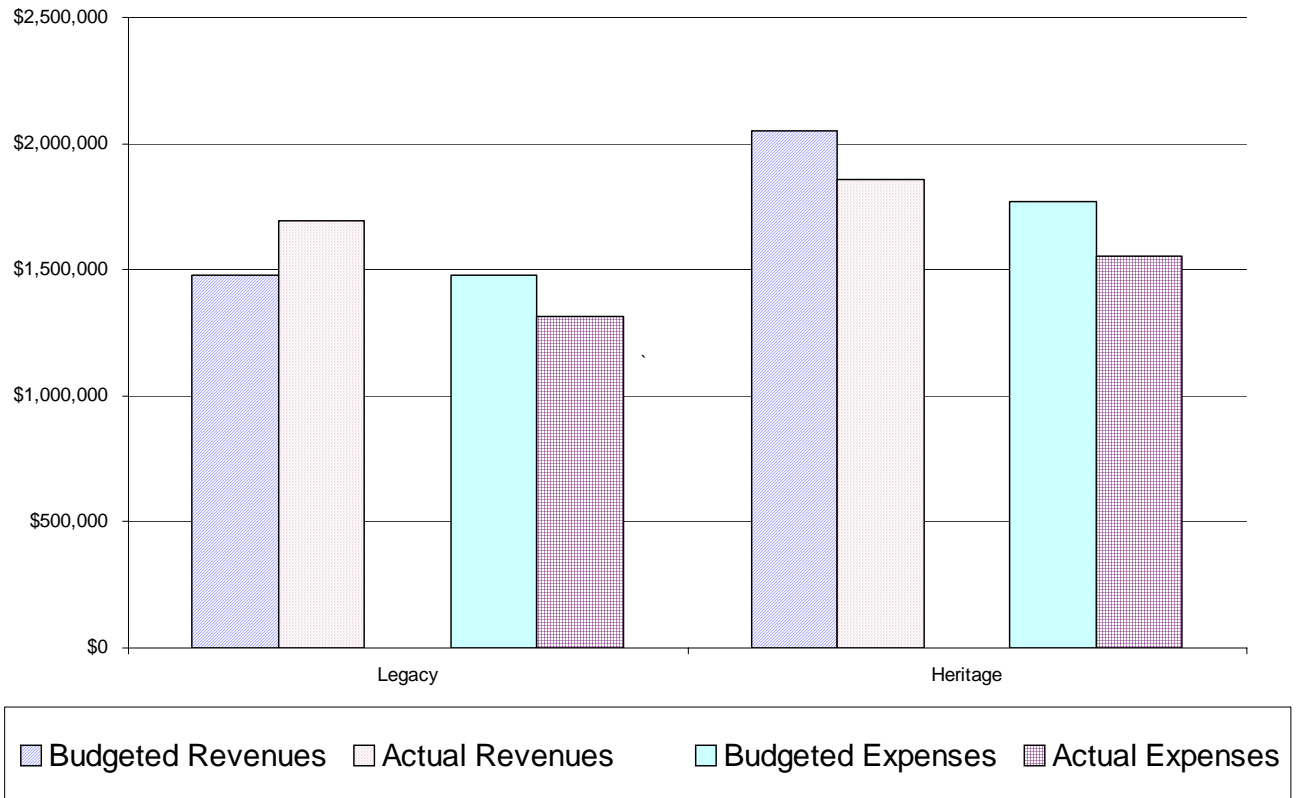
**Legacy and Heritage Golf Courses  
Revenue and Expenses 2005-2007**



Heritage's expenses reflect the lease payments that were started in July of 2006. A one time Other Financing Source and Use of \$547,000, which was a lease purchase of maintenance equipment, is omitted from 2007. A one time Other Financing Source and Use of \$582,144, which was a lease purchase of golf carts, is omitted from 2006 Heritage Revenue and Expense for comparison purposes. The increase in revenue can be attributed to the sale of corporate passes and an increase in transfers in. The Heritage does have a debt service payment of approximately \$350,000 due on December 1<sup>st</sup>.

The financial statements reflect a positive variance in Recreation Facilities versus the budget. This is primarily due to salary and utility savings.

**Legacy and Heritage Golf Courses  
2007 Budget vs Actual**



Respectfully submitted,

J. Brent McFall, City Manager

Attachments -  
Statements  
Receipts

**City of Westminster  
Financial Report  
For Eleven Months Ending November 30, 2007**

Description General Fund	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
<b>Revenues and Carryover</b>						
Taxes	4,870,787	4,864,088		4,727,600	(136,488)	97.2%
Licenses & Permits	1,675,000	1,589,710		2,453,316	863,606	154.3%
Intergovernmental Revenue	4,827,322	3,875,242		4,537,449	662,207	117.1%
Recreation Services	5,666,336	4,890,038		5,031,419	141,381	102.9%
Other Services	8,420,624	7,347,576		7,507,673	160,097	102.2%
Fines	2,311,250	2,124,039		2,042,799	(81,240)	96.2%
Interest Income	374,875	343,635		536,112	192,477	156.0%
Misc	727,652	420,733		960,981	540,248	228.4%
Leases	1,564,170	1,212,989		1,047,752	(165,237)	86.4%
Interfund Transfers	58,637,996	53,751,496		53,783,874	32,378	100.1%
Other Financing Sources	46,634	46,634	(1)	40,626	(6,008)	87.1%
Sub-total Revenues	<u>89,122,646</u>	<u>80,466,180</u>		<u>82,669,601</u>	<u>2,203,421</u>	<u>102.7%</u>
Carryover	8,278,290	8,278,290		8,278,290	0	100.0%
Revenues and Carryover	<u>97,400,936</u>	<u>88,744,470</u>		<u>90,947,891</u>	<u>2,203,421</u>	<u>102.5%</u>
<b>Expenditures</b>						
City Council	205,023	185,547		145,751	(39,796)	78.6%
City Attorney's Office	1,064,790	978,936		930,933	(48,003)	95.1%
City Manager's Office	1,171,996	1,072,036		930,665	(141,371)	86.8%
Central Charges	31,007,926	28,209,275	(1)	26,352,228	(1,857,047)	93.4%
General Services	5,084,431	4,620,263		4,387,185	(233,078)	95.0%
Finance	1,814,924	1,667,077		1,592,094	(74,983)	95.5%
Police	19,936,602	18,293,613		17,143,695	(1,149,918)	93.7%
Fire Emergency Services	10,675,644	9,786,916		9,559,990	(226,926)	97.7%
Community Development	4,672,743	4,273,248		4,211,931	(61,317)	98.6%
Public Works & Utilities	7,795,132	7,266,145		6,806,843	(459,302)	93.7%
Parks, Recreation & Libraries	13,971,725	12,740,550		12,358,580	(381,970)	97.0%
Total Expenditures	<u>97,400,936</u>	<u>89,093,606</u>		<u>84,419,895</u>	<u>(4,673,711)</u>	<u>94.8%</u>
Revenues and Carryover Over(Under) Expenditures	<u>0</u>	<u>(349,136)</u>		<u>6,527,996</u>	<u>6,877,132</u>	

(1) Other financing sources and & uses of \$32,944,900 relate to refunding of the 1998 & 1999 COPs. They have been omitted from this statement in order to better reflect results of operations.

# CITY OF WESTMINSTER

## GENERAL RECEIPTS BY CENTER - SUMMARY (CC) MONTH OF NOVEMBER 2007

Center Location Major Tenant	General Sales	Current Month General Use	Total	General Sales	Last Year General Use	Total Sales	Use Total	%Change
WESTFIELD SHOPPING CENTER NW CORNER 92ND & SHER WALMART	378,799	1,472	380,271	357,205	12,928	370,134	6 -89	3
WESTMINSTER MALL 88TH & SHERIDAN	265,324	2,814	268,138	293,904	6,376	300,280	-10 -56	-11
4 DEPARTMENT STORES WESTMINSTER CROSSING 136TH & I-25	227,952	22,233	250,185	48,012	651	48,663	375 3314	414
LOWE'S CITY CENTER MARKETPLACE NE CORNER 92ND & SHERIDAN	216,623	1,267	217,890	228,609	2,283	230,892	-5 -44	-6
COMP USA/CIRCUIT CITY BROOKHILL I & II N SIDE 88TH OTIS TO WADS HOME DEPOT	191,932	3,797	195,729	189,835	1,944	191,779	1 95	2
NORTHWEST PLAZA SW CORNER 92 & HARLAN COSTCO	185,028	513	185,541	210,571	371	210,942	-12 38	-12
SHOPS AT WALNUT CREEK 104TH & REED TARGET	168,228	4,449	172,677	148,643	2,279	150,922	13 95	14
PROMENADE SOUTH/NORTH S/N SIDES OF CHURCH RANCH BLVD SHANE/AMC	133,148	19,115	152,262	125,274	19,892	145,167	6 -4	5
SHERIDAN CROSSING SE CORNER 120TH & SHER	118,002	1,091	119,093	142,603	909	143,513	-17 20	-17
THE ORCHARD 144TH & I-25 JC PENNEY	110,383	1,392	111,775	102,806	12,260	115,067	7 -89	-3
NORTH PARK PLAZA SW CORNER 104TH & FEDERAL KING SOOPERS	91,516	336	91,852	84,052	272	84,324	9 23	9
VILLAGE AT THE MALL S SIDE 88TH DEPEW-HARLAN TOYS 'R US	73,714	52	73,766	80,409	179	80,588	-8 -71	-8
STANDLEY SHORES CENTER SW CORNER 100TH & WADS KING SOOPERS	64,902	183	65,085	57,316	604	57,920	13 -70	12
ROCKY MOUNTAIN PLAZA SW CORNER 88TH & SHER GUITAR STORE	61,598	282	61,879	59,099	196	59,295	4 43	4
LUCENT/KAISER CORRIDOR 112-120 HURON - FEDERAL	25,704	30,931	56,635	8,693	32,880	41,573	196 -6	36

CITY OF WESTMINSTER

GENERAL RECEIPTS BY CENTER - SUMMARY (CC)  
MONTH OF NOVEMBER 2007

Center Location Major Tenant	Current Month General Sales	Current Month General Use	Total	General Sales	Last Year General Use	Total Sales	Use Total	%Change
LUCENT TECHNOLOGY WESTMINSTER PLAZA	53,706	113	53,819	50,205	256	50,460	7	-56
FEDERAL-IRVING 72ND-74TH SAFEWAY	53,424	186	53,610	53,171	157	53,328	0	18
STANDLEY LAKE MARKETPLACE NE CORNER 99TH & WADSWORTH SAFEWAY	49,235	176	49,411	54,049	313	54,362	-9	-44
WILLOW RUN 128TH & ZUNI SAFEWAY	46,515	264	46,779	30,995	38	31,033	50	590
MISSION COMMONS W SIDE WADSWORTH 88-90TH BIG 5 SPORTS	44,606	313	44,919	42,724	1,457	44,181	4	-79
VILLAGE AT PARK CENTRE NW CORNER 120TH & HURON CB & POTTS	32,107	222	32,330	27,551	470	28,020	17	-53
ELWAY/DOUGLAS CORRIDOR NE CORNER 104TH & FED ELWAY MOTORS	26,914	166	27,080	24,269	287	24,556	11	-42
STANDLEY PLAZA SW CORNER 88TH & WADS WALGREENS	23,045	131	23,176	45,159	3,410	48,569	-49	-96
NORTHVIEW S SIDE 92ND YATES-SHER	22,248	182	22,431	23,569	207	23,776	-6	-12
MEADOW POINTE NE CRN 92ND & OLD WADS CARRABAS	21,011	407	21,418	19,911	164	20,075	6	148
SUMMIT SQUARE NE CORNER 84TH & FED SAFEWAY	2,685,664	92,087	2,777,751	2,508,634	100,786	2,609,420	7	-9





CITY OF WESTMINSTER

GENERAL RECEIPTS BY CENTER - SUMMARY YTD (CC)  
MONTH OF NOVEMBER 2007

Center Location Major Tenant	YTD 2007 General Sales	YTD 2007 General Use	Total	YTD 2006 General Sales	YTD 2006 General Use	Total Sales	Total Sales	Use Total	%Change
SAFWAY	615,250	2,918	618,167	611,521	1,921	613,442	1	52	1
STANDLEY LAKE MARKETPLACE									
NE CORNER 99TH & WADSWORTH									
SAFWAY	599,453	2,243	601,696	647,594	2,482	650,076	-7	-10	-7
WILLOW RUN									
128TH & ZUNI									
SAFWAY	447,816	15,153	462,969	470,220	11,102	481,322	-5	36	-4
VILLAGE AT PARK CENTRE									
NW CORNER 120TH & HURON									
CB & POTTS									
MISSION COMMONS	377,698	2,470	380,168	375,270	2,770	378,041	1	-11	1
W SIDE WADSWORTH 88-90TH									
BIG 5 SPORTS	338,454	6,582	345,036	468,505	8,835	477,340	-28	-26	-28
NORTHVIEW									
S SIDE 92ND YATES-SHER									
ELWAY/DOUGLAS CORRIDOR	335,143	17,079	352,222	324,187	7,871	332,059	3	117	6
NE CORNER 104TH & FED									
ELWAY MOTORS									
BOULEVARD SHOPS	279,058	4,091	283,149	210,389	6,172	216,561	33	-34	31
94TH & WADSWORTH CORRIDOR									
AMERICAN FURNITURE WAREHOUSE									
STANDLEY PLAZA	278,821	9,888	288,709	271,893	7,704	279,597	3	28	3
SW CORNER 88TH & WADS									
WALGREENS									
SUMMIT SQUARE	250,498	1,558	252,056	238,652	1,663	240,314	5	-6	5
NE CORNER 84TH & FED									
SAFWAY	236,173	899	237,072	257,951	6,803	264,754	-8	-87	-10
FEDERAL STRIP									
W SIDE FEDERAL 68TH-72ND									
BOVAS									
	32,225,864	555,152	32,781,016	29,298,571	655,441	29,954,011	10	-15	9



## Agenda Item 8 B

**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
December 17, 2007



**SUBJECT:** Purchase of Disposable Medical Supplies over \$50,000

**Prepared By:** Randy Peterson, Emergency Medical Services Coordinator  
Bill Work, Deputy Chief of Operations

**Recommended City Council Action**

Authorize the purchase of disposable medical supplies with BoundTree Medical not to exceed \$70,000 for 2007.

**Summary Statement**

- On June 28, 2004, City Council approved a split bid award to BoundTree Medical and Tri-Anim Medical Products to purchase disposable medical items through 2007.
- Fire Department staff believed they had already received approval for exceeding the \$50,000 limit with a single vendor in 2007 during previous Council action. In retrospect, the language in previous Agenda Memos was not as clear as it should have been.
- A recent audit of the disposable medical supply account confirms that \$54,000 has already been spent in 2007 with BoundTree Medical for emergency medical supplies.
- There is a need to purchase additional supplies to meet this year's demand. Cumulative purchases will not exceed \$70,000 for 2007 with BoundTree Medical.

**Expenditure Required:** Not to exceed \$70,000

**Source of Funds:** Fire Department Operating Budget for 2007

**Policy Issue**

City policy requires City Council approval for purchases in excess of \$50,000. After the fact, City Council is being asked to authorize BoundTree Medical for the purchase of emergency medical supplies in excess of \$50,000. The Fire Department has already spent \$54,000 with BoundTree Medical in 2007 and anticipates spending up to an additional \$16,000 before year end.

**Alternative**

Approve the current amount that has been spent, but direct Staff to purchase the remaining year's disposable medical supplies from other vendors. This is not recommended as Staff believes BoundTree provides the most competitive pricing and superior customer service.

**Background Information**

In 2003, the Fire Department began stocking disposable medical supplies needed to accommodate the operation of the emergency medical and ambulance transport business due to changes in Federal regulations that prohibited hospitals from supplying these items. As a result of these changes, the Fire Department created a purchasing and stocking system to allow ambulance personnel to restock directly from the fire station after treatment of each patient. In July 2003, the Fire Department established a disposable medical supply fee that is billed directly to the patient as part of their ambulance bill to help offset these costs.

Staff realized that the annual cost for disposable medical supplies would be significant, so in February 2004, a formal bid process was completed by the Emergency Medical Coordinator and the City Purchasing Officer with Council awarding a bid. In February of 2006, Council reapproved the spending of over \$50,000 annually with a single vendor in accordance with City policy. However, language in the 2006 agenda memo, included in the "Policy Issues" and "Background Information" sections, referred to the need to exceed the \$50,000 limit in 2007. Specific language should have been included in the "Recommended City Council Action" section to make the recommended action more clear. The cost of these disposable medical supplies has exceeded the \$50,000 amount annually since 2004.

Respectfully submitted,

J. Brent McFall  
City Manager



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
December 17, 2007



**SUBJECT:** Purchase/Installation of Dump Body and Snow Removal Equipment for Four New Tandem Trucks

**Prepared By:** Judy Workman, Fleet Manager  
Rick Clark, Utilities Operations Manager  
Ray Porter, Street Operations Manager

**Recommended City Council Action**

Based on the recommendation of the City Manager, find that the public interest would best be served by accepting the proposal from O.J. Watson Company, Inc. for the purchase and installation of four dump bodies, snowplows, v-box sanders, and central hydraulic systems at a cost of \$273,373 to be mounted on four tandem dump trucks.

**Summary Statement**

- Funding for the equipment to be mounted on four tandem dump trucks was approved by City Council in the 2008 General Capital Outlay Replacement Fund and in the 2008 Utility Fund.
- Formal bids were not solicited for this equipment due to the critical need for standardization and the past track record of success with this equipment and this installer.
- This is essential emergency equipment utilized for snow and ice control operations making standardization an important factor in providing this critical service.
- Standardizing this equipment decreases the probability of operator errors and accidents; facilitates repairs, replacements and downtime.
- On October 22, 2007 City Council approved the purchase of four Sterling tandem dump truck cabs and chassis from Transwest Trucks. These trucks have been ordered and will be delivered to O.J. Watson Company, Inc. for installation of this equipment.

**Expenditure Required:** \$ 202,761 (General Capital Outlay Replacement Fund)  
\$ 70,612 (Utility Fund)  
 \$ 273,373 Total

**Source of Funds:** General Capital Outlay Replacement Fund Utility Fund

### **Policy Issues**

Should the City proceed with the purchase of this truck equipment for installation on the four previously approved and ordered tandem dump trucks?

### **Alternatives**

1. Reject the Staff recommendation and direct Staff to formally bid this equipment. Staff does not recommend this due to the decline in service level for snow and ice control and the increased long term costs for maintaining these truck components.
2. Do not purchase the proposed equipment. This is not recommended by the Fleet Maintenance Division because the age and condition of these existing truck components make it impractical to keep them in service.

### **Background Information**

In the 2008 adopted budget, City Council approved the replacement of three tandem dump trucks with snow removal equipment to be assigned to the Street Division and one new tandem dump truck with snow removal equipment to be assigned to the Utilities Division. City Council approved the purchase of the four tandem truck cabs and chassis on October 22, 2007. Staff is now requesting authorization to purchase four dump bodies, snowplows, deicing material spreaders and central hydraulic systems to be installed by O.J. Watson Company, Inc., the sole supplier of this standardized equipment.

Staff has determined that Crysteel dump bodies, Monroe plows, Monroe spreaders and Force American hydraulic systems have outstanding proven performance for Westminster's fleet and O.J. Watson Company is the supplier for all of these components. O.J. Watson Company has a reputable proven track record over the past several years with the City of Westminster Fleet Division as well as other metropolitan entities such as; Denver International Airport, Aurora, Denver, Boulder, Longmont, Boulder County and Jefferson County. These entities have similar standardized specifications that ensure consistency in the dump body design, functional operations, decreased parts inventory and easier operator training.

Standardized equipment is an integral part to providing Westminster's high level of emergency snow and ice services. Standardization decreases the probability of operator errors and accidents; facilitates replacements and repairs and provides overall flexibility for assigning and training operators to specific equipment. Decreased downtime for equipment equates to a higher level of service on the road.

The O.J. Watson Company, Inc. proposal of \$67,857 per replacement vehicle and \$70,612 for the new additional vehicle is competitive when compared to what other entities with similar specifications are paying. The cost for the Utilities' vehicle includes an additional charge of \$2,755 for furnishing and installing to accommodate a pup trailer and hydraulic package.

This purchase and installation process helps achieve the City Council's Strategic Plan Goals of "Safe and Secure Community" by ensuring reliable equipment to provide safe streets during snow and ice emergencies and "Financially Sustainable City Government" by considering the life cycle costs of this equipment.

Respectfully submitted,

J. Brent McFall  
City Manager



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
December 17, 2007



**SUBJECT:** 2008 Wastewater Collection System Maintenance Program

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

**Recommended City Council Action**

Authorize the City Manager to execute a contract with Quality Pipe Services, Inc. in the amount of \$636,234 for the 2008 Wastewater Collection System Maintenance Program, and authorize a 10 percent contingency of \$63,624 for a total budget of \$699,858.

**Summary Statement**

- Funds have been approved and allocated in the 2008 Utilities Division Operating Budget for the wastewater collection system maintenance contract (\$735,000).
- On November 28, 2007 a formal bid opening was held at City Hall with four contractors submitting bids on the annual wastewater collection system maintenance contract. Bids were received from Quality Pipe Services, Inc.; RnR Enterprises, Inc.; Guildner Pipeline Maintenance, Inc; and Ace Pipe Cleaning, Inc. Quality Pipe Services Inc. was determined to be the low bidder for this maintenance contract.
- Since the low bid contractor, Quality Pipe Services, Inc. is new to the City, references were thoroughly checked in order to determine satisfaction with their work with other clients. Agencies included in the reference check were the Parker Sanitation District, Castle Pines Sanitation District, City of Colorado Springs, and Insituform Inc. All reported that Quality Pipe Services Inc. was performing similar wastewater system maintenance work for their agencies and doing an outstanding job.

**Expenditure Required:** \$699,858

**Source of Funds:** Utility Fund - Utilities Division Operating Budget

**Policy Issue**

Should the City enter into a contract with Quality Pipe Services Inc. for the wastewater collection system maintenance contract to be completed throughout 2008?

**Alternative**

Prepare bid documents and project specifications and re-advertise the 2008 maintenance contract for additional bid submittals, or add FTE's to the Utilities Division along with the required sewer maintenance equipment to perform this work in-house. These alternatives are not recommended.

**Background Information**

Over the past ten years the Utilities Division has utilized an outside maintenance contractor to perform the wastewater collection system maintenance program on an annual basis. One-third of the City is scheduled to be cleaned each year, along with selected "hotspots," where more frequent maintenance is required. During this time period Utilities Division Staff has competitively bid this project at various times to ensure the most efficient and effective means of completing the yearly wastewater maintenance program.

Over the past three years, the City has utilized the services of the same maintenance contractor because they held prices at similar levels over this time period and provided their services in a satisfactory manner. However, with additional competition in the sewer maintenance field this year, Staff was able to consider various vendors that submitted bids and that can provide the required sewer maintenance work at very competitive prices. These advantages in the marketplace resulted in the City receiving very cost effective bids from various contractors. The four bids received were from Quality Pipe Services Inc. for \$636,234; RnR Enterprises Inc. for \$681,666; Ace Pipe Cleaning Inc. for \$707,808 and Guildner Pipeline Maintenance, Inc. for \$719,466. City Council may recall that in the past three years, Ace Pipeline Cleaning, Inc. has provided the sewer maintenance services for the City.

Included in the bid tabulation is item 4A that is for storm sewer inlet cleaning, which is handled by the Street Division. This item amount was subtracted from the total bid submitted and will be addressed by the Street Division in their 2008 program. The prices received from two other bidders for this portion of the project were significantly lower than Quality Pipeline Services, Inc. prices on this item. Separation of the portion of the work was a contingency that was part of the bid documents. The storm sewer inlet cleaning will be awarded to one of the other bidders by separate action of the City.

Staff has met with representatives from Quality Pipeline Services Inc. to determine the company's stability, experience, and capabilities in performing the required sewer maintenance work for the City. Based on these meetings and other inquiries, Staff is very satisfied with the operations and expertise of this company. Quality Pipeline Services Inc. will establish a local office in our area and will be accessible to the City as needed throughout the contract period. The Utilities Division staff is looking forward to working with this company given their related experience in the sewer system maintenance field, their willingness to respond to any concerns in a timely manner from their local facility, and the attractive cost pricing structure for their services.

The area of scheduled maintenance to be completed in 2008 is the northeast portion of the City in the Big Dry Creek drainage basin – northeast area. The contract includes 690,000 feet of sanitary sewer line high-pressure cleaning and television inspection, grease trap and interceptor inspections, and new subdivision and customer service inspections. Due to the completion of new development in the city, the total footage in the 2008 maintenance contract has increased by 100,000 feet. This area is approximately one-third of the total pipeline footage in the three maintenance areas that encompass the entire City.

This annual wastewater system maintenance contract helps to achieve the City Council's Strategic Plan Goals of "Financially Sustainable City Government, Safe and Secure Community and Vibrant Neighborhoods and Commercial Areas" by meeting the following objectives:

- Well-maintained City infrastructure and facilities
- Citizens are safe anywhere in the City
- Maintain and improve neighborhood infrastructure and housing

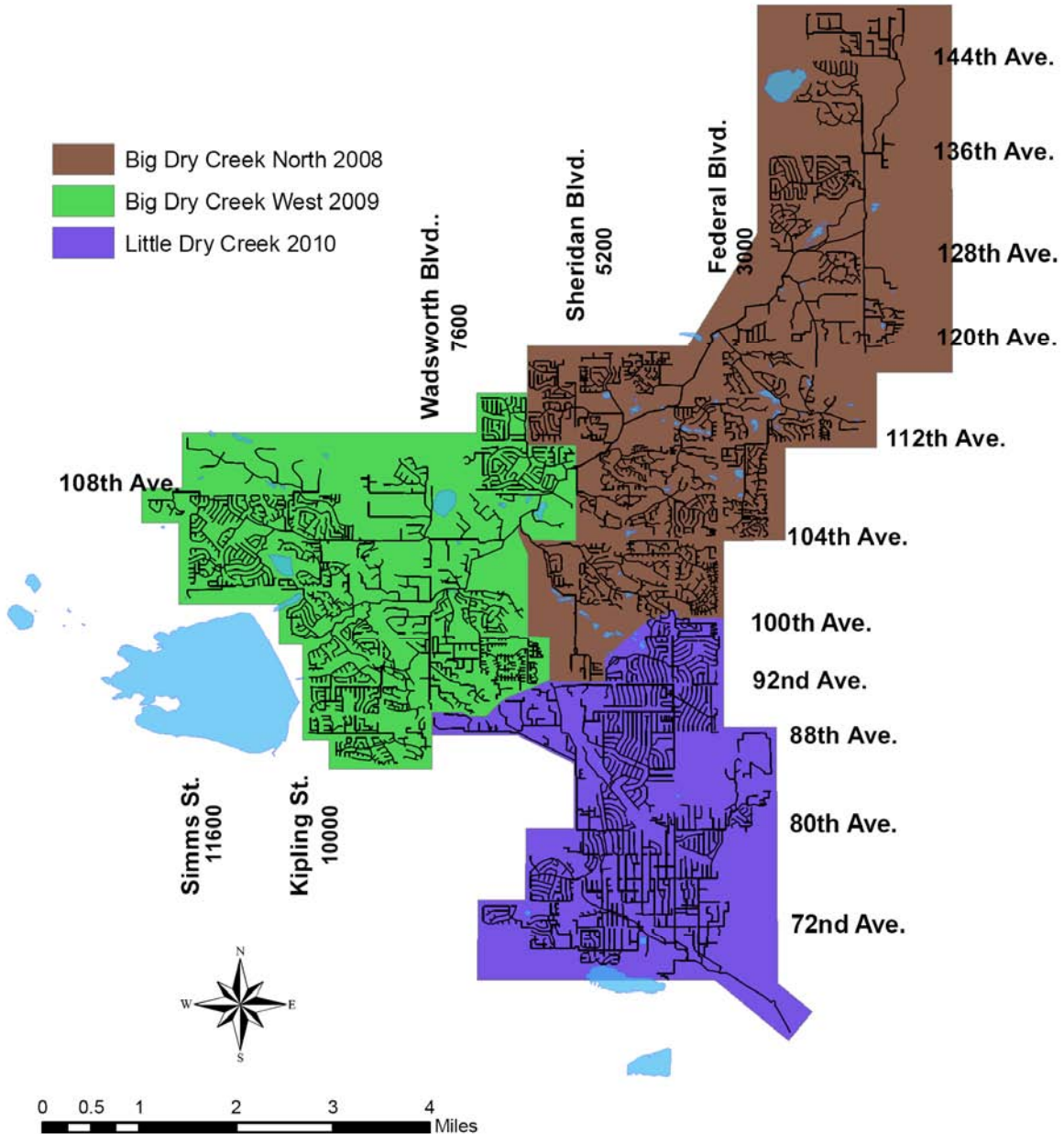
Respectfully submitted,

J. Brent McFall  
City Manager

Attachments



# Wastewater Cleaning Schedule January 2008



**2008 Wastewater Collection System Maintenance Program  
Tabulation of Bids**

	COMPANY	Quality Pipe Services, Inc.		RnR Enterprise, Inc.		Guildner Pipeline Maintenance, Inc.		ACE Pipe Cleaning, Inc.	
ITEM NUMBER	QUANTITIES	UNIT COST	COST	UNIT COST	COST	UNIT COST	COST	UNIT COST	COST
1A	690,000	\$ 0.34	\$ 234,600.00	\$ 0.36	\$ 248,400.00	\$ 0.36	\$ 248,400.00	\$ 0.36	\$ 248,400.00
	14,000	\$ 0.38	\$ 5,320.00	\$ 0.40	\$ 5,600.00	\$ 0.40	\$ 5,600.00	\$ 0.85	\$ 11,900.00
1B	85,000	\$ 0.34	\$ 28,900.00	\$ 0.36	\$ 30,600.00	\$ 0.37	\$ 31,450.00	\$ 0.36	\$ 30,600.00
1C	10,000	\$ 0.70	\$ 7,000.00	\$ 0.97	\$ 9,700.00	\$ 0.62	\$ 6,200.00	\$ 0.97	\$ 9,700.00
1D	18,000	\$ 0.34	\$ 6,120.00	\$ 0.36	\$ 6,480.00	\$ 0.37	\$ 6,660.00	\$ 0.37	\$ 6,660.00
1E	1,788	\$ 12.00	\$ 21,456.00	\$ 13.00	\$ 23,244.00	\$ 14.50	\$ 25,926.00	\$ 13.00	\$ 23,244.00
1F	20	\$ 225.00	\$ 4,500.00	\$ 215.00	\$ 4,300.00	\$ 250.00	\$ 5,000.00	\$ 250.00	\$ 5,000.00
1G	100	\$ 150.00	\$ 15,000.00	\$ 135.00	\$ 13,500.00	\$ 165.00	\$ 16,500.00	\$ 125.00	\$ 12,500.00
1H	10,000	\$ 0.31	\$ 3,100.00	\$ 0.72	\$ 7,200.00	\$ 0.85	\$ 8,500.00	\$ 2.00	\$ 20,000.00
2A	690,000	\$ 0.35	\$ 241,500.00	\$ 0.36	\$ 248,400.00	\$ 0.39	\$ 269,100.00	\$ 0.37	\$ 255,300.00
	14,000	\$ 0.34	\$ 4,760.00	\$ 0.40	\$ 5,600.00	\$ 0.41	\$ 5,740.00	\$ 0.37	\$ 5,180.00
2B	30,000	\$ 0.35	\$ 10,500.00	\$ 0.42	\$ 12,600.00	\$ 0.43	\$ 12,900.00	\$ 0.42	\$ 12,600.00
2C	20,000	\$ 0.35	\$ 7,000.00	\$ 0.42	\$ 8,400.00	\$ 0.43	\$ 8,600.00	\$ 0.42	\$ 8,400.00
2D	25,000	\$ 0.35	\$ 8,750.00	\$ 0.42	\$ 10,500.00	\$ 0.43	\$ 10,750.00	\$ 0.42	\$ 10,500.00
2E	100	\$ 125.00	\$ 12,500.00	\$ 125.00	\$ 12,500.00	\$ 145.00	\$ 14,500.00	\$ 110.00	\$ 11,000.00
3A	2,092	\$ 11.50	\$ 24,058.00	\$ 16.00	\$ 33,472.00	\$ 20.00	\$ 41,840.00	\$ 17.00	\$ 35,564.00
3B	90	\$ 13.00	\$ 1,170.00	\$ 13.00	\$ 1,170.00	\$ 20.00	\$ 1,800.00	\$ 14.00	\$ 1,260.00
4A	300	\$ 170.00	\$ 51,000.00	\$ 125.00	\$ 37,500.00	\$ 85.00	\$ 25,500.00	\$ 85.00	\$ 25,500.00
			\$ 687,234.00		\$ 719,166.00		\$ 744,966.00		\$ 733,308.00

Rank	1	2	4	3
<b>Subtotal Minus 4A</b>	<b>\$ 636,234.00</b>	<b>\$ 681,666.00</b>	<b>\$ 719,466.00</b>	<b>\$ 707,808.00</b>
Rank	1	2	4	3



## Agenda Item 8 E

**WESTMINSTER**  
**COLORADO**

### Agenda Memorandum

City Council Meeting  
December 17, 2007



**SUBJECT:** Renewal of Intergovernmental Agreement with Adams County for Jim Baker Reservoir Recreation

**Prepared By:** Bob Krugmire, Water Resources Engineer

### Recommended City Council Action

Authorize the Mayor to sign an Intergovernmental Agreement with Adams County regarding a 10-year renewal of the existing agreement for public access to Jim Baker Reservoir for recreational purposes.

### Summary Statement

- The City of Westminster and Adams County entered into a 10-year IGA, dated May 20, 1996, for public recreational access at Jim Baker Reservoir.
- Jim Baker Reservoir is located in unincorporated Adams County.
- The 10-year term of the IGA has expired, and both parties wish to extend the IGA for an additional ten years.
- The original agreement specifies that recreation is limited to shoreline fishing and use of the trail around the reservoir. No boating or swimming is allowed on the reservoir.
- All terms and conditions of the original IGA are to be maintained during the 10-year renewal period.

**Expenditure Required:** \$0

**Source of Funds:** N/A

**Policy Issue**

Should the City enter into a 10-year renewal of the existing IGA with Adams County regarding public access to Jim Baker Reservoir for recreational purposes?

**Alternatives**

1. The City of Westminster could elect not to continue recreational activities at Jim Baker Reservoir. The park facilities at Jim Baker Reservoir have been successfully operated by Adams County for the past ten years, becoming a very popular area amenity, with no impact to Westminster's water rights exchange operations.
2. The City of Westminster could elect not to enter into the IGA with Adams County, instead taking over management of the recreational park activities internally. Since the reservoir is located outside of the City, within unincorporated Adams County, recreational use of the reservoir benefits residents of the County more directly than residents of the City.

**Background Information**

Jim Baker Reservoir, located in unincorporated Adams County, was developed primarily for the purpose of operating a series of water right exchanges to provide additional water to, and help protect the water quality of, Standley Lake. In 1996, the City of Westminster and Adams County entered into a 10-year IGA allowing public access for recreational use of Jim Baker Reservoir. Staff from Westminster and Adams County have negotiated to complete the lease renewal. However, due to other priorities, renewal of this lease was delayed until fourth quarter of 2007.

The original agreement specifies that recreation is limited to shoreline fishing and use of the trail around the reservoir. No boating or swimming is allowed at the reservoir. Under the agreement, all non-park related activities are handled by Westminster, including all landscape and reservoir specific maintenance including maintenance of the wetlands mitigation area. Additionally, Westminster manages operations of the reservoir. Adams County, under the terms of the agreement, assumes all costs, liability and responsibility for public access to the reservoir site. The 10-year renewal IGA retains all of the specific terms of the original IGA.

Under the auspices of the agreement, Adams County has constructed various improvements related to the park operations including picnic and restroom facilities as well as a handicap fishing structure.

Extension of the IGA meets the goal of continuing to maintain both the existing infrastructure of Jim Baker Reservoir as an important component of Westminster's water supply as well as preserving the open space and park amenity as green space for both Westminster and Adams County residents.

Respectfully submitted,

J. Brent McFall  
City Manager

ADDENDUM NO. 1 TO INTERGOVERNMENTAL AGREEMENT BETWEEN ADAMS COUNTY AND THE CITY OF WESTMINSTER REGARDING RECREATIONAL USE OF THE JIM BAKER RESERVOIR

THIS ADDENDUM No. 1 is made as of this \_\_\_\_ day of \_\_\_\_\_, 2007, by and between the Board of County Commissioners of Adams County (“County”), Colorado, located at 450 S. 4<sup>th</sup> Avenue, Brighton, Colorado, 80601, and the City of Westminster (“Westminster”), located at 4800 W. 92<sup>nd</sup> Avenue, Westminster, Colorado 80031, concerning changes to an intergovernmental agreement (“IGA”) between County and Westminster regarding public recreational use of the Jim Baker Reservoir.

WHEREAS, the Parties entered into an IGA dated May 20, 1996, concerning public recreational use of the Jim Baker Reservoir; and,

WHEREAS, the ten-year term of the IGA has expired; and,

WHEREAS, the Parties wish to extend the IGA for an additional ten years.

NOW, THEREFORE, for consideration set forth herein, the County and Westminster agree as follows:

1. Pursuant to Section II(G)(2) of the IGA, the IGA is renewed for an additional ten-year term, commencing on the date this Addendum No. 1 is fully executed.
2. Except as modified by this Addendum No. 1, the terms of the IGA remain in effect.

IN WITNESS WHEREOF, the parties have caused their names to be affixed hereto.

BOARD OF COUNTY COMMISSIONERS  
ADAMS COUNTY, COLORADO

\_\_\_\_\_  
Chair Date

ATTEST  
KAREN LONG  
CLERK AND RECORDER

APPROVED AS TO FORM:

\_\_\_\_\_  
Adams County Attorney’s Office

\_\_\_\_\_  
Deputy Clerk

CITY OF WESTMINSTER, COLORADO

\_\_\_\_\_  
Mayor Date

ATTEST:

APPROVED AS TO FORM:

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

\_\_\_\_\_  
City Attorney’s Office



**WESTMINSTER  
COLORADO**

**Agenda Memorandum**

City Council Meeting  
December 17, 2007



**SUBJECT:** Authorize Expenditure to Reimburse the Parks, Open Space and Trails Fund for Acquisition of Rights-of-Way

**Prepared By:** Heather Cronenberg, Open Space Coordinator  
Barbara Opie, Budget and Special Projects Manager

**Recommended City Council Action**

Authorize the expenditure to reimburse the City’s Parks, Open Space and Trails Fund for road and other rights-of-way granted over City open space property prior to July 1, 2004 totaling approximately 375,000 square feet from funds appropriated in the Capital Improvement Program (CIP) budget in the amount of \$100,000 for 2007 and \$150,000 for 2008, with the balance of \$610,000 to be paid, subject to annual appropriation, over the fiscal years 2009-2011 through the General Capital Improvement Fund for a total amount of \$860,000.

**Summary Statement**

- City Code requires reimbursement of the Parks, Open Space and Trails Fund when open space properties are used for purposes other than open space.
- Prior to July 2004, the City acquired portions of eight open space properties for use as rights-of-way (ROW) with agreement to repay the POST Fund at a future date. The City has agreed to reimburse the POST Fund for these rights-of-way for a total amount of \$860,000 over five years starting in 2007, provided funds are available.
- City Council authorization is requested for this expenditure pursuant to the City Code (15-1-2-B) requirement that purchases exceeding \$50,000 must be approved by City Council. Funds were appropriated in 2007 and 2008 in the General Capital Improvement Fund (GCIF) by City Council for this payment and offsetting revenues were budgeted within the POST Fund in anticipation of this action.

**Expenditure Required:** \$860,000 to be paid by the following schedule:

- 2007: \$100,000
- 2008: \$150,000
- 2009: \$180,000
- 2010: \$215,000
- 2011: \$215,000

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

**Policy Issue**

Does City Council approve reimbursements for rights-of-way on properties purchased with open space funds prior to July 1, 2004 from the CIP program in 2007, 2008, 2009, 2010, and 2011 for a total of \$860,000 over five years starting in 2007, provided funding is available?

**Alternative**

City Council could choose not to authorize the reimbursement to open space for rights-of-way on properties purchased with open space funds. Staff does not recommend this option because City Code requires such reimbursement when properties purchased with open space funds are used for other purposes.

**Background Information**

The City of Westminster's open space ordinance requires reimbursement to the POST Fund when properties purchased with these funds are used for purposes other than open space. Prior to July 1, 2004, the City used portions of eight open space properties for rights-of-way with agreement to repay the POST Fund at a future date. The City has agreed to reimburse the POST Fund for these rights-of-way through the General Capital Improvement Fund (GCIF) beginning in 2007 and continuing until 2011, provided funding is available and authorized by City Council, when a total of \$860,000 has been paid according to the following schedule:

2007: \$100,000  
2008: \$150,000  
2009: \$180,000  
2010: \$215,000  
2011: \$215,000

The rights-of-way properties purchased total approximately 375,000 square feet and are as follows:

- Koleski/Big Dry Creek (located at Federal/Zuni)
- The Ranch (located at W. 120<sup>th</sup> Avenue)
- Vogel Pond (located at W 112<sup>th</sup> Avenue/Reserve Parkway)
- Martin/Big Dry Creek (located at W 112<sup>th</sup> Avenue)
- Hawn-Hewitt/Big Dry Creek (located at W 112<sup>th</sup> Avenue)
- Axtel/Rose Creek (located at Westminster Blvd; Reed Street/RTD)
- Niver Cana (located at W 92<sup>nd</sup> Avenue)

Staff began a new policy sometime ago of budgeting funds in capital projects to pay for any open space required to complete the project up front. This policy was instituted in order to assure that the City is meeting the City Code requirements and paying for open space in a timely fashion.

With City Council's authorization at this time, Staff will commence the process of repaying the POST Fund for these acquisitions, subject to annual appropriations by City Council, providing annual funding is available. City Council authorization is requested for this expenditure pursuant to the City Code (15-1-2-B) requirement that purchases exceeding \$50,000 must be approved by City Council. Funds were appropriated in 2007 and 2008 in the General Capital Improvement Fund (GCIF) by City Council for this payment and offsetting revenues were budgeted within the POST Fund in anticipation of this action.

Respectfully submitted,

J. Brent McFall  
City Manager



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
December 17, 2007



**SUBJECT:** Resolution No. 51 re City of Westminster 2008 Legislative Policy Statement

**Prepared By:** Matt Lutkus, Deputy City Manager  
Aric Otzelberger, Management Analyst

**Recommended City Council Action**

Adopt Resolution No 51 establishing the City of Westminster 2008 Legislative Policy Statement.

**Summary Statement**

- At City Council's December 3<sup>rd</sup> Study Session, City Council concurred with Staff's proposed changes to the City's State Legislative Protocol. A major addition to the protocol is the adoption of a City of Westminster Legislative Policy Statement. The goal of the proposed Legislative Policy Statement is to identify general legislative issues of interest to the City of Westminster along with the City's policy principles on these issues. Staff will utilize the proposed Legislative Policy Statement as a guiding policy when reviewing and analyzing bills that have an impact on the City's interests.
- Staff presented City Council with a draft Legislative Policy Statement for review at the December 10<sup>th</sup> Post-Council Meeting. City Council directed Staff to bring the proposed City of Westminster 2008 Legislative Policy Statement to Council for official action at the December 17, 2007 City Council Meeting.

**Expenditure Required:** \$0

**Source of Funds:** N/A



**Policy Issue**

Should City Council support the proposed City of Westminster 2008 Legislative Policy Statement?

**Alternative**

Do not adopt the proposed City of Westminster 2008 Legislative Policy Statement. This is not recommended, as the adoption of a Legislative Policy Statement is an important component of legislative protocol changes previously reviewed with City Council.

**Background Information**

At City Council's December 3<sup>rd</sup> Study Session, City Council concurred with Staff's proposed improvements to the City's State Legislative Protocol. A major component of these improvements is the adoption of a City of Westminster 2008 Legislative Policy Statement. The goal of the proposed Policy Statement is to identify general legislative issues of interest to the City of Westminster along with the City's policy principles on these issues. These issues could have been addressed in the past at the legislature, or they could be issues that are anticipated in the future. This proposed Legislative Policy Statement is consistent with City Council's Strategic Plan Goals and Objectives. Staff's goal for this proposed document is to be broad but yet as inclusive as possible to capture important issues to the City.

Staff will utilize the proposed Legislative Policy Statement as a guiding policy when reviewing and analyzing bills introduced in the General Assembly that have an impact on the City's interests. When significant legislation is identified, Staff will provide City Council with a brief summary of legislation of substance and Official City Positions that are consistent with the principles of the adopted Legislative Policy Statement. If Council does not express any concerns with the positions that Staff has taken on specific bills, Staff will communicate these positions to the City's lobbyist and update the City's legislative scorecard to communicate the City's positions to the public. If a majority of City Council expresses concerns about a specific position that Staff is presenting, discussion on the item will be scheduled for a subsequent meeting.

As State legislation can have a significant impact on the City of Westminster and its citizens, the proposed City of Westminster 2008 Legislative Policy Statement supports all five of City Council's Strategic Plan Goals.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

RESOLUTION

RESOLUTION NO. **51**

INTRODUCED BY COUNCILLORS

SERIES OF 2007

**ADOPTION OF CITY OF WESTMINSTER 2008 LEGISLATIVE POLICY STATEMENT**

WHEREAS, the City of Westminster follows legislative activity in the Colorado General Assembly very closely in order to monitor any significant impacts on the City and its citizens; and

WHEREAS, due to the fast-paced nature of the State legislative process and the ever-changing language of numerous bills of substance, it is critical that the City of Westminster maintains an effective and responsive system for taking and communicating Official City Positions on relevant legislation; and

WHEREAS, an integral part of this system is the adoption of a City of Westminster 2008 Legislative Policy Statement, which identifies general legislative issues of interest to the City of Westminster along with the City's policy principles on these issues; and

WHEREAS, Staff will utilize the City of Westminster 2008 Legislative Policy Statement as a guiding policy when reviewing and analyzing bills that have an impact on the City's interests; and

WHEREAS, the City of Westminster 2008 Legislative Policy Statement incorporates the City Council's Strategic Plan Goals and Objectives.

NOW, THEREFORE, the City Council of the City of Westminster hereby adopts the attached City of Westminster 2008 Legislative Policy Statement.

PASSED AND ADOPTED this 17<sup>th</sup> day of December, 2007.

ATTEST:

\_\_\_\_\_  
Mayor

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



WESTMINSTER

**CITY OF WESTMINSTER 2008  
LEGISLATIVE POLICY STATEMENT**

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## **OVERVIEW**

The City of Westminster 2008 Legislative Policy Statement identifies general legislative issues of interest to the City of Westminster along with the City's policy principles on these issues. The following policy statements are necessarily broad and by no means all-inclusive. Staff will utilize the 2008 Legislative Policy Statement as a guiding policy when reviewing and analyzing bills that have an impact on the City's interests. The City of Westminster will take Official City Positions on a limited number of significant bills. The City will have discretion in determining which specific bills to take Official City Positions on, and Official City Positions are not automatically assumed on bills simply due to their congruence with the policy statements contained within this document. When significant legislation is identified, Staff will provide City Council with a brief summary of legislation of substance and Official City Positions that are consistent with the principles of the 2008 Legislative Policy Statement. If Council does not express any concerns with the positions, Staff will communicate these positions to the City's lobbyist and update the City's legislative scorecard to communicate the City's positions to the public. The City will continue to contact legislators regarding Official City Positions on specific bills throughout legislative sessions.

The City of Westminster welcomes the opportunity to discuss the City's legislative positions with legislators. In addition to specific communication on specific bills, this 2008 Legislative Policy Statement provides a reference and guideline tool for legislators when considering legislation impacting the City of Westminster. For more information on the City's legislative program, please contact Matt Lutkus, Deputy City Manager, at 303-430-2400, ext. 2152 or Aric Otselberger, Management Analyst, at 303-430-2400, ext. 2004.

## **CITY OF WESTMINSTER STRATEGIC PLAN**

Every April, the City of Westminster City Council reviews and recommits the City organization to a five-year Strategic Plan. The 2007-2012 Strategic Plan identifies the City's underlying principles on which decisions are based and includes goals to be achieved through 2012. Each goal is further defined by a set of objectives and short-term actions to be taken to achieve the associated goal. The Strategic Plan reinforces long-term planning for both operating (day-to-day operations and services) and capital (long-term investment projects such as road construction, water distribution and sewer maintenance) programs. As a statement of City Council's goals and vision for the City, the Strategic Plan helps Staff successfully plan City projects and budgets to achieve this vision and associated goals. Accordingly, the City of Westminster 2008 Legislative Policy Statement is intended to be consistent with and to support City Council's Strategic Plan Goals and Objectives.

Therefore, the City of Westminster:

- Supports legislation that is consistent with and supports the achievement of the City's Strategic Plan Goals and Objectives.
- Opposes legislation that runs counter to or prevents the achievement of the City's Strategic Plan Goals and Objectives.

The following is a summary of the five major goals and corresponding objectives that are identified in the City's 2007-2012 Strategic Plan.

# City of Westminster Strategic Plan

## 2007-2012 Goals and Objectives

---

### **SAFE AND SECURE COMMUNITY**

- Citizens are safe anywhere in the city
- Public Safety Departments: well equipped and fully staffed with quality personnel
- Timely response to emergency calls
- Citizens taking responsibility for their own and community safety and well-being
- Manage disaster mitigation, preparedness, response and recovery



### **FINANCIALLY SUSTAINABLE CITY GOVERNMENT**

- Revenues to support defined city services and service levels as a mature city
- Well-maintained city infrastructure and facilities
- Effective cost containment/control measures for living within revenues and budget
- Maintain sufficient reserves: general fund and utilities funds
- Balance between core services and choice or community add-on services
- Provide efficient, cost-effective internal and external services



### **VIBRANT NEIGHBORHOODS AND COMMERCIAL AREAS**

- Maintain and improve neighborhood infrastructure and housing
- Revitalize Westminster Mall and area
- Rehabilitation of deteriorating commercial areas
- Revitalization plans: develop and implement
- Citizens taking responsibility for their neighborhoods
- Preservation and restoration of historic assets



### **BALANCED, SUSTAINABLE LOCAL ECONOMY**

- Healthy retail base, increasing sales tax receipts
- Attract new targeted businesses, focusing on primary employers and higher paying jobs
- Business-oriented mixed use development along I-25 corridor and US 36 corridor
- Retain and expand current businesses
- Multi-modal transportation system that provides access to shopping, to employment centers



### **BEAUTIFUL CITY**

- Increase green space (parks, open space, etc.)
- Preserve vistas and view corridors
- Increase public and cultural arts
- Attractive low water use landscaping
- Well-designed and maintained private developments and buildings



## **HOME RULE AND LOCAL CONTROL**

The City of Westminster believes strongly in the principles of home rule authority and local control. Article XX of the Colorado Constitution grants home rule municipalities such as Westminster “the full right of self-government in local and municipal matters.” The City of Westminster believes that home rule authority increases the effectiveness and efficiency of local government services, thereby enhancing the quality of life in the community and the value provided to local taxpayers.

Therefore, the City of Westminster:

- Encourages State legislators to respect and support home rule and Colorado’s tradition of local control.
- Supports legislative efforts to strengthen home rule authority of municipal governments.
- Opposes legislation that attempts to weaken municipal home rule authority and flexibility.
- Opposes legislation that mandates State intervention in matters of local concern, especially when that intervention unnecessarily or adversely affects the City’s ability to manage these matters pursuant to its home rule authority.

## **STATE AND FEDERAL MANDATES**

Programs and regulations mandated by the State or Federal government have the potential to stretch the financial resources of the City of Westminster. If additional costs brought about by these mandated programs or regulations are not paid by the State or Federal government, they can have a direct negative impact on the City budget. This can prevent the City of Westminster from fulfilling local, strategic needs and priorities.

Therefore, the City of Westminster:

- Supports the TABOR Constitutional requirement for the Colorado General Assembly to reimburse municipalities for the cost of State mandates and to make this requirement clear in State fiscal notes prepared for the General Assembly.
- Opposes unfunded State and Federal mandates that impose unfair financial burdens on municipalities and their citizens.

## **GOVERNMENTAL IMMUNITY**

The City of Westminster recognizes that the complexity and diversity of City operations and services required to meet the needs of citizens may expose the City, its officers, and employees to liability for damage and injury. The City strongly believes that public officers and employees need to be assured that municipal liability will not impair the lawful and proper provision of necessary services to the public.

Therefore, the City of Westminster:

- Supports legislation that protects the interests of municipalities, their officers, and their employees in the lawful and proper performance of their duties and responsibilities.
- Supports legislation that discourages baseless and frivolous claims and demands made against municipalities, their officers, and their employees.

- Supports the availability of public liability insurance at reasonable costs and the ability of municipalities to reduce these costs through self-insurance.
- Opposes legislation that expands or increases municipal liability, or, conversely, further limits municipal immunity.

## **SALES AND USE TAX**

The City of Westminster levies, administers and collects its own sales and use taxes under its home rule authority. Sales and use tax revenue is the primary source of funding for City of Westminster services and operations, comprising over 60% of general fund revenues. Appropriate actions at Federal, State and local levels should preserve or enhance this critical local revenue.

Therefore, the City of Westminster:

- Supports legislation that maintains local control over base, rates, collections and administration of sales and use taxes.
- Supports legislation that allows state and local governments to require businesses to collect state and local sales and use taxes on remote sales.
- Supports voluntary, cooperative efforts among Colorado municipalities to standardize sales and use tax practices and utilization of technology for the convenience of taxpayers, the business community, and municipalities.
- Opposes legislation that preempts local authority to impose and collect sales and use taxes.
- Opposes legislation that grants jurisdictions other than the State, cities, and counties the authority to impose sales or use taxes.

## **GENERAL FINANCE**

The City of Westminster is a full-service community. While sales and use tax revenue comprises the primary funding source for general government services, the City's wide variety of services are also funded through a balanced array of other taxes, user fees, and other financing sources. Consequently, the City of Westminster is impacted by State and Federal financial policies.

Therefore, the City of Westminster:

- Supports the continuation of existing local government financing methods and the addition of new methods for local government to support the provision of municipal services to citizens.
- Supports equitable sharing with municipalities of existing and future State revenues derived from traditional State-collected, locally shared revenues, such as the cigarette tax, Highway Users Tax Fund, and the lottery.
- Opposes State-granted exemptions or other State actions that erode municipal sales taxes, use taxes, property taxes, and other revenue sources unless the State provides adequate replacement revenues.
- Opposes State-mandated reductions to the current property tax structure without specific revenue replacement provisions.



## **LAND USE, DEVELOPMENT, AND REVITALIZATION**

The City of Westminster works constantly to achieve its Strategic Plan Goal of “Vibrant Neighborhoods and Commercial Areas.” The City feels that local control with land use planning contributes greatly to the achievement of this goal and the overall quality of life in the City of Westminster. In addition, one of the City’s Strategic Plan Objectives is to “develop and implement revitalization plans.” In order for redevelopment and revitalization efforts to succeed, the City feels very strongly that appropriate urban renewal tools need to be preserved and strengthened.

Therefore, the City of Westminster:

- Supports legislation that removes barriers to local land use planning and land development regulation.
- Supports appropriate legislation that facilitates the creation of Transit-Oriented Developments (TOD).
- Supports legislation to enable cooperative urban renewal projects between multiple jurisdictions.
- Supports appropriate legislation that encourages and facilitates historic preservation and rehabilitation.
- Opposes legislation that prescribes comprehensive land use and other community planning at the State level.
- Opposes legislation that would inappropriately limit local government authority to impose growth impact fees.
- Opposes legislation that would unreasonably restrict the use of eminent domain for redevelopment projects.

## **ECONOMIC DEVELOPMENT**

The City of Westminster strives to develop and maintain a “Balanced, Sustainable Local Economy” per its Strategic Plan. Whether it is maintaining a healthy retail base or retaining and expanding targeted businesses and primary employers, the City recognizes the importance that a healthy economic climate has to the overall quality of life in Westminster.

Therefore, the City of Westminster:

- Supports the development of a statewide economic development strategy that addresses issues of business climate and economic direction at the State level but allows for local control of economic development.
- Supports appropriate State tax policies and incentive programs, including enterprise zones, business incentive agreements, or other legislative initiatives, which encourage business expansion and retention through primary job creation, investment in capital equipment, and employer facility development.

## **WATER RESOURCES AND TREATMENT**

Since the 1950’s, the City of Westminster has invested substantial public funds into the creation and protection of an independent water supply. Westminster has an obligation to provide the highest quality water and wastewater services in a financially sound, reliable, safe, and environmentally acceptable manner. The City supports legislative measures to further this goal.

Therefore, the City of Westminster:

- Supports legislation that reasonably limits liability exposure and protects investment in water and wastewater facilities and operations.
- Supports legislation that maintains the authority delegated to the State to administer Federally mandated water and wastewater environmental regulatory programs.
- Supports water quality legislation that results in cost effective water quality control regulations and measurable water quality benefits.
- Supports the Constitutional doctrine of prior appropriation and the Constitutional priority given to domestic water use.
- Supports legislation and policies to ensure junior well depletions are fully replaced so that senior water rights are fully protected.
- Supports legislation that protects water rights as private property, and preserves the right to purchase and to change the use of water rights within the State.
- Supports appropriate water conservation efforts and sustainable water resources management practices by all users.
- Supports sufficient appropriations and adequate fee-based revenue to permit the State to continue water resources administration, protection, development and conservation.
- Supports continued Federal and State funding for water and wastewater treatment infrastructure to reduce local costs and expedite construction of necessary treatment, distribution, and collection facilities to comply with Federal and State mandates.
- Supports legislation that provides adequate Federal and State funding for mandated programs under the Safe Drinking Water and Clean Water Acts, including funding for protection of critical infrastructure while providing an equitable distribution of program costs between State general fund monies and user fees.
- Supports legislation and regulations that promote the appropriate and beneficial use of reclaimed water.
- Supports legislation and regulations that promote the beneficial use of biosolids.
- Supports the State's participation in Federal endangered species cooperative agreements and recovery programs and urges continued funding as appropriate.

## **TRANSPORTATION**

The City of Westminster believes that the movement of goods and people is vital to the continued economic success of the State of Colorado and to the maintenance of the high quality of life that Coloradans enjoy. In order to preserve these, the State Legislature must be willing to invest in the maintenance and expansion of the State's transportation network including roads, bridges, and mass transit. With the current shortfall in transportation dollars for the Colorado Department of Transportation, municipal and county governments have taken on greater construction, maintenance, and financial responsibilities. For example, the two new interchanges on I-25 at 144<sup>th</sup> Avenue and 136<sup>th</sup> Avenue were built and paid for entirely by the Cities of Westminster and Thornton. If appropriate, The City of Westminster has demonstrated that it is willing to partner on projects, but is against efforts to pass along additional State roadway construction or maintenance responsibilities to local governments without increased and adequate funds to meet these additional responsibilities.

Therefore, the City of Westminster:

- Supports an appropriate state-wide transportation plan that not only funds repair and maintenance needs, but also commits to network and mobility improvements and expansions, including actions that address congestion relief in the Denver metropolitan area.
- Supports legislation to enhance transportation funding equity within the State.
- Supports legislation and regulatory action that maintains or increases the level of funding provided by the State or passed through the State by the Federal government to transportation activities at the local level.
- Supports State and Federal assistance and funding with the planned U.S. 36 expansion.
- Supports additional funding alternatives to construct structured parking near existing and proposed FasTracks rail stations.
- Opposes legislation to transfer maintenance responsibility of State-owned roads to municipalities without adequate short and long-term funding to meet these additional responsibilities.

### **TELECOMMUNICATIONS**

The City of Westminster recognizes the importance of telecommunications services to economic development and the quality of life in the City. The City of Westminster supports increased competition in the cable and video market and has taken steps in preparation to work with companies who are interested in providing video service in our community. However, the City's view is that statewide franchising should not override the City's authority to ensure the best possible service to its citizens and to regulate the use of public right-of-way.

Therefore, the City of Westminster:

- Supports the retention of municipal franchising and regulatory authority over cable television systems.
- Supports legislation that preserves municipal control and autonomy over public rights-of-way and other assets, along with the right of local governments to receive fair and reasonable compensation for their use.
- Supports the ability of municipalities to require "reasonable" build-out for potential new video providers per the Federal Communications Commission's executive order.
- Opposes State or Federal restrictions on municipal franchising, regulatory, and taxing authority over telecommunications systems.

### **WORKERS COMPENSATION**

The City of Westminster recognizes that the Colorado Workers' Compensation Act was developed as a no-fault system established "to assure the quick and efficient delivery of disability and medical benefits to injured workers at a reasonable cost to employers, without the necessity of any litigation, recognizing that the workers' compensation system in Colorado is based on a mutual renunciation of common law rights and defenses by employers and employees alike." The City self-insures its Workers' Compensation program to ensure the most cost effective, efficient delivery of these benefits to employees. The City is concerned about any legislation that will erode the ability of an employer to control their claim costs and inhibits an employer's ability to get competitive quotes from the market for quality insurance coverage.

Therefore, the City of Westminster:

- Supports legislation that maintains the spirit of the Colorado Workers' Compensation Act, for the protection of both Colorado employers and employees.
- Opposes legislation that creates presumptive eligibility coverage within the law.
- Opposes legislation that increases insurance premium costs to employers.
- Opposes legislation that adds administrative burdens or taxes to self-insurance programs.
- Opposes legislation that promotes litigation.

## **HUMAN RESOURCES**

Employees are the City of Westminster's most important resource. The City is an equal opportunity employer and works to ensure excellent and fair salaries and benefits for employees, along with growth and development opportunities. Like with most other organizations, the City of Westminster's budget is continuously pressured by increasing compensation and benefit costs. The City constantly balances fair compensation and benefits with responsible expenditures of tax dollars.

Therefore, the City of Westminster:

- Supports legislation that maintains or reduces the employer and employee Fire and Police Pension Association (FPPA) pension and retiree health insurance costs.
- Supports continuation of State matching funds to assist in retiring unfunded liabilities that have accrued under the Fire Death and Disability Plan.
- Opposes any legislation that interferes with a municipality's ability to determine the terms and conditions of municipal employment.
- Opposes legislation that mandates collective bargaining rights for public employees.
- Opposes legislation that requires mandatory participation or participation rates in employment or benefit programs.
- Opposes mandated Social Security coverage for public employees, mandated benefit levels or funding standards for municipal employee pension plans, or other unreasonable burdens or restrictions in connection with the administration of municipal employee benefit plans.
- Opposes legislation that reduces current State funding of death and disability benefits for emergency services personnel or legislation that shifts the funding of this State responsibility to local governments.

## **OPEN SPACE**

As stated in the City's Strategic Plan, Westminster works to maintain and develop a "Beautiful City." Increasing and preserving open space is a high priority in the City of Westminster. As build-out approaches, the City is striving to achieve its goal of maintaining 15% of the City's land area as open space. Open space, along with trails, contribute greatly to the quality of life in the City of Westminster.

Therefore, the City of Westminster:

- Supports maintaining funding, and adding additional funding where appropriate, to State and Federal land conservation programs that will help to increase the amount of open space within the City, thereby helping to achieve the goal of "Beautiful City."

- Supports legislation that generally enables and empowers the use of conservation easements.
- Supports legislation that provides further incentives to preserve open space.

## **ENVIRONMENT**

For the City of Westminster, the environment is a priority as is shown in the City’s programs and services that secure clean air, water, and land. Westminster is one of the most environmentally-friendly cities in the area and has signed the U.S. Conference of Mayors Climate Protection Agreement. The City of Westminster recognizes the importance of working cooperatively with other governmental entities to implement and manage efficient, cost-effective, and scientifically-based environmental control programs. It is the intent of the City to meet or exceed compliance with all applicable environmental laws and regulations. However, the City does not support State or Federal programs that place a severe financial burden on municipalities.

Therefore, the City of Westminster:

- Supports appropriate legislation and regulations that promote pollution prevention.
- Supports legislation and regulations that provide incentives for green building and sustainable design without imposing unfunded mandates.
- Supports energy conservation efforts and appropriate legislation that accelerates the development of clean, economical energy resources and fuel-efficient technologies such as wind and solar energy, waste to energy, fuel cells, and other appropriate and effective technologies.
- Supports reasonable legislation and regulations that increase the fuel efficiency of motor vehicles.
- Opposes legislation or standards that weaken current air quality standards or regulations.
- Supports legislation that limits liability for waste cleanup costs under Federal law where the municipality demonstrates due care and absence of fault in connection with waste disposal at a site and provides an early and fair means of settlement for municipalities named as liable parties at waste cleanup sites.
- Opposes legislation that limits the ability of local government to regulate the activities of private waste or recycling collectors or to provide waste or recycling collection or processing services to citizens

## **PUBLIC SAFETY**

“Safe and Secure Community” is one of the top goals identified in the City of Westminster’s Strategic Plan. The City works diligently towards keeping citizens safe anywhere in the City. The City of Westminster recognizes the critical importance of maintaining public order, providing a safe environment, and protecting the lives and property of the citizens of Westminster. The role of the Police Department in the City of Westminster is to enforce the law in a fair and impartial manner, recognizing both the statutory and judicial limitations of police authority and the constitutional rights of all persons. The Westminster Fire Department works to minimize injuries and property losses due to fire, to provide quality emergency medical care and transport services, and to provide other services including fire inspections and emergency preparedness planning. Finally, the City of Westminster’s Municipal Court works to ensure that justice is carried out fairly and effectively.

Therefore, the City of Westminster:

## **POLICE**

- Supports legislation that facilitates the eviction of public nuisance tenants.
- Supports legislation that facilitates the use of a TASER as a safe and effective tool for law enforcement.
- Supports legislation that ensures flexibility for municipalities when implementing Federal and State criminal justice programs.
- Supports legislation providing enhanced sentences for criminal offenses committed by proven members of gangs.
- Supports legislation that enhances the integration of local and State criminal justice agency information systems in order to increase the efficiency and information sharing capacity of law enforcement agencies.
- Supports legislation that maintains and strengthens the provision of community-based mediation and other alternative dispute resolution services.
- Supports legislation that provides greater protection to victims of domestic violence.
- Supports legislation to make not wearing a seatbelt while operating a motor vehicle a primary offense.
- Opposes legislation that compromises officers' and the public's safety.
- Opposes legislation that requires criminal justice agencies to pay fees to obtain financial disclosure information from banking institutions.

## **MUNICIPAL COURT**

- Opposes legislation that limits the authority of municipalities to enforce their own ordinances in municipal courts.
- Opposes imposition of State surcharges on municipal court fines for the purpose of funding State programs.

## **FIRE AND EMERGENCY MEDICAL SERVICES**

- Supports legislation that assists in the development of interoperable communication systems for public safety.
- Supports legislation to require the installation of appropriate fire protection systems in structures to enhance life safety and property protection.
- Supports legislation that strengthens the City's ability to prohibit the use and sale of all fireworks, along with legislation that allows counties and fire districts to prohibit and otherwise control fireworks.
- Opposes legislation that restricts the City from adopting local strategies and regulations for safely addressing hazardous materials or legislation that restricts the City's ability to review and approve the location of facilities that use or store hazardous materials or hazardous waste.



**WESTMINSTER**

**COLORADO**

**Agenda Memorandum**

City Council Meeting  
December 17, 2007



**SUBJECT:** Resolution No. 52 re Federal Heights Wholesale Water Rate

**Prepared By:** Mike Happe, Water Resources and Treatment Manager  
Jane Greenfield, Assistant City Attorney

**Recommended City Council Action**

1. Authorize the City Manager to execute the 2007 “Amended and Restated Distributor’s Contract” in substantially the same form as the attached agreement.
2. Adopt Resolution No.52 (Series 2007) authorizing a new wholesale water rate for Federal Heights commencing January 1, 2008.

**Summary Statement**

- The City of Westminster provides the City of Federal Heights with wholesale water pursuant to an agreement first entered into in 1968 and amended several times since.
- Last fall, Staff apprised Council of the inequity resulting from past interpretations of the existing contract and Staff’s intent to seek a rate that reflects the cost to deliver water to Federal Heights, including a Charter compliant rate of return for the risk of providing this wholesale water delivery service.
- The City retained FCS Group to perform an analysis on a fair wholesale water rate to charge Federal Heights and Staff has subsequently entered into negotiations with Federal Heights in order to amend the contract to reflect this new rate.
- On September 24, City Council approved an Interim Amendment to the “Amended and Restated Distributor’s Contract” and set a temporary wholesale water rate of \$3.01 per thousand gallons for Federal Heights, effective October 1 through December 31. The parties agreed to continue negotiations in good faith with the intention of reaching agreement on a permanent amendment to the Distributor’s Contract by January 1, 2008. If Westminster and Federal Heights were unable to agree on a permanent amendment, then the rate would revert to an amount of \$3.45 as of January 1, 2008.
- Staff from Westminster and Federal Heights have now reached a final agreement on a proposed permanent amendment to the contract for consideration by their respective City Councils. The Federal Heights City Council will consider adoption of the new contract at their December 18 Council meeting.
- This proposed 2007 Amended and Restated Distributor Contract calls for a rate of \$3.17 per thousand gallons beginning on January 1, 2008 with that rate increasing in proportion to Westminster’s water rate increases in the future. This new agreement will avoid a complicated and controversial annual calculation, as called for under the previous agreements.
- The proposed agreement also calls for Federal Heights to begin paying tap fees at a rate to fully reimburse Westminster for providing new service connections to Federal Heights’ customers.
- Finally, the proposed agreement calls for Federal Heights to pay \$395,018 for past disputed billing amounts that were held in escrow pending resolution of the dispute. This payment will take place on January 15, 2008.

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

**Policy Issue**

Should the City enter into a new wholesale distributor contract with Federal Heights under the terms described in the memorandum?

**Alternative**

Do not authorize the new contract and stay with the existing form of agreement. This alternative is not recommended as the current contract is not generating sufficient revenue for Westminster to comply with the provisions of its Charter that require Westminster to recover all costs of providing this water service plus a reasonable rate of return. Additionally, the current agreement is very difficult and burdensome to administer.

**Background Information**

The City of Westminster provides wholesale water service to the City of Federal Heights under an agreement that was originally established in 1968, but amended several times (most recently in 1992). In the fall of 2005, the City signed a contract with the consulting firm FCS Group to complete an analysis of the water and wastewater enterprise's fiscal policies and rate structure. In addition, the firm created a long range fiscal model. As a result of the analysis, FCS confirmed Staff's concern that the current wholesale rate calculation, as interpreted by the City of Federal Heights, insufficiently recovered the cost to deliver water to them. This discrepancy was reported to City Council on September 12, 2006, who then directed Staff to complete an in-depth analysis and recommend a rate calculation that complied with the City Charter requirements for extraterritorial water service, including the recovery of operation and maintenance expenses, an amount for the payment of water debt, and a return on the City's investment in the entire water supply system.

FCS recommended that the Utility Basis method be used to calculate the wholesale water rate for Federal Heights. The Utility Basis method is often used by private utilities to set rates and is utilized in many municipal contracts for wholesale and/or industrial customers. Based on this new information, Westminster and Federal Heights Staff have been discussing the potential to amend the existing wholesale water contract to adopt the Utility Basis method for future rate calculations. A consensus has been reached by Westminster and Federal Heights Staff on a draft agreement that has the following key points:

1. The new contract completely replaces the old contract and all amendments.
2. The rate for Federal Heights will be \$3.17 per thousand gallons starting on January 1, 2008. Compared to the \$2.49 per thousand gallons rate Federal Heights had been paying, this will mean approximately \$330,000 in additional annual water sales revenues for Westminster, beginning in 2008.
3. Federal Heights rate will increase by the same percentage as Westminster's water rate increases in the future.
4. Either party can call for a recalculation of the wholesale rate charged to Federal Heights if either party feels the rate is not equitable, but no more frequently than every five years.
5. Federal Heights will be charged 81% of Westminster's tap fees for all new taps, except a few specific developments that are currently in Federal Heights' development process. Either party can call for a recalculation of the 81% figure at such time as either party believes that it is no longer equitable, however, no more frequently than every five years. The 81% figure was the result of a part of the analysis performed by FCS Group for the City and represents Federal Heights' payment of its fair share of all facilities and water rights costs Westminster will incur to provide Federal Heights with new taps.



This is not equal to 100% of Westminster's tap fee due to the fact that not all facilities used in Westminster system are necessary to provide water service to Federal Heights. Additionally, the method used to calculate Federal Heights' water rate already reimburses Westminster for a portion of some facilities. Under this method Westminster will be fully reimbursed for all water rights and facilities necessary to provide new water taps to Federal Heights.

6. Federal Heights will make a payment of \$395,018 to Westminster on January 15, 2008 for the accumulated past difference between the amount the City of Westminster has billed Federal Heights for water and the amount that Federal Heights has paid for water through the end of the year.

There will be no phasing-in of the rate as was previously reported to City Council in the September 24, City Council Agenda Memorandum. The parties decided that this concept was not worth exploring and agreed that the agreement as proposed would be the best course of action for setting Federal Heights' wholesale water rate.

This agreement is the culmination of several years of discussions and negotiations, trying to modernize and correct an agreement that was difficult to administer and was not providing Westminster sufficient revenues to cover the costs of providing Federal Heights with wholesale water service. It is Staff's opinion that this agreement will serve the City of Westminster and Federal Heights' citizens well into the future.

This agreement also furthers the City's goal of a financially sustainable City government by making sure that the Federal Heights water contract collects sufficient revenues to cover the costs of providing Federal Heights with water service into the future.

Respectfully submitted,

J. Brent McFall  
City Manager  
Attachment

RESOLUTION

RESOLUTION NO. **52**

INTRODUCED BY COUNCILLORS

SERIES OF 2007

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**A RESOLUTION AUTHORIZING A REVISED WHOLESALE  
WATER DELIVERY RATE TO FEDERAL HEIGHTS**

WHEREAS, the City of Westminster has provided outside City water service to the City of Federal Heights since 1968;

WHEREAS, pursuant to its Distributor Contract, the City may adjust the rate per 1,000 gallons no more than once a year after providing Federal Heights notice of any increase; and

WHEREAS, the City has provided Federal Heights with the required notice; and

WHEREAS, the City of Westminster engaged the services of a consultant to determine an adequate wholesale rate that complies with the City Charter for the provision of water delivery outside the City's limits; and

WHEREAS, the consultant determined that the previous wholesale rate calculation methodology inadequately recovered the City's costs to deliver water to Federal Heights; and

WHEREAS, the City of Westminster and Federal Heights have recently agreed to revisions in the methodology used to calculate the wholesale water rate for out-of-City water delivered to Federal Heights.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council determines that in compliance with the requirements of Chapter 14 of the City Charter and the Amended and Restated Distributor's Contract with the City of Federal Heights, the rate of \$3.17 per thousand gallons is established as the rate for the quantity of water sold to Federal Heights, commencing January 1, 2008; said rate to be adjusted in the future in proportion to adopted water rate increases to in-City customers.

PASSED AND ADOPTED this 17<sup>th</sup> day of December, 2007.

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Mayor

ATTEST:

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City Clerk

**DRAFT**  
**2007 AMENDED AND RESTATED DISTRIBUTOR'S CONTRACT**

This Amended and Restated Distributor's Contract between the **CITY OF WESTMINSTER, COLORADO** ("Westminster") and the **CITY OF FEDERAL HEIGHTS, COLORADO** ("Federal Heights") is entered into and effective upon the last date approved by the parties.

**RECITALS**

A. The parties initially entered into a contract entitled "Distributor's Contract," dated February 12, 1968, which provided for the sale of treated water by Westminster to Federal Heights. That contract was amended several times and was superseded in 1985 by the parties executing an "Amended and Restated Distributor's Contract."

B. In 1989 and 1992, the distributor's contract was amended again. The distributor's contract as amended in 1989 and 1992 is the operative contract ("Contract") under which Westminster has been selling treated water to Federal Heights.

C. Over the succeeding years, the parties have entered into various amendments from time to time that memorialized changes in the annual base rate under the Contract. In 2007, Westminster proposed the use of a revised rate methodology based upon Westminster's completion, in 2006, of a comprehensive rate study.

D. Westminster and Federal Heights now desire to amend and restate the Contract, as set forth herein. This 2007 Amended and Restated Distributor's Contract ("2007 A & R Contract" or "this contract") constitutes the parties' amendment to and restatement of the Contract and all prior amendments thereto and replaces and supersedes all earlier contracts.

**CONDITIONS**

This 2007 A & R Contract is made subject to the following conditions:

A. This contract is made under and conformable to the provisions of the Charter of the City of Westminster, Colorado, which controls the operation of the Westminster Municipal Water System. Insofar as applicable, said Charter provisions are incorporated herein and made a part hereof and shall supersede any apparently conflicting provision otherwise contained in this contract.

B. This contract involves the use of water outside the territorial limits of the City of Westminster from the water works system, treatment plants, water resources and facilities owned and controlled by Westminster, hereinafter referred to as "Westminster Water System," under the authority and subject to the limitations of the Charter of the City of Westminster, Section 14.3. As used in this contract "inside Westminster" refers to the area constituting the City of Westminster as it may exist at any given time, and "outside Westminster" refers to the total area not located inside the City of Westminster which is furnished potable water from the Westminster Water System at any given time, and "Federal Heights' Service Area" refers to the area constituting the City of Federal Heights as it may exist at any given time.

C. The extent to which limitation of water delivery outside Westminster may be necessary to enable it to provide adequately for users inside Westminster is a fact to be determined by Westminster in the exercise of its reasonable discretion from time to time as occasion may require, Westminster represents that it now has or will acquire adequate water resources and facilities to provide adequate potable water and service to Federal Heights. In the event of an unforeseen shortage, however, water use outside Westminster may be curtailed on the following basis, the first listed curtailment being adopted to meet the least serious situation and the succeeding curtailment being adopted in addition to prior listed curtailments, the last to meet the gravest possible situation, to-wit:

- i. Restriction of uses which can be accomplished without serious injury to person or property, and prohibition of non-essential uses.

- ii. Prohibition of irrigation, except for commercial greenhouses.
- iii. Prohibition of every use except for domestic use and for essential commercial enterprises and industry.
- iv. Prohibition of all uses outside Westminster, except domestic use.
- v. Prohibition of all uses outside Westminster.

In order to enable Westminster to provide an adequate supply of water to the people of Westminster without impairment of essential deliveries of water under this and similar contracts, Westminster will impose any restrictions or prohibitions contemplated by Items 1, 2 and 3 above uniformly inside and outside Westminster, and impose other restrictions or prohibitions contemplated above equally between Westminster and Federal Heights to the extent as may be necessary to first supply domestic and emergency requirements to both Westminster and Federal Heights. In the event Federal Heights fails to impose and enforce upon its customers the restrictions required by Westminster under this paragraph, Westminster may terminate water service to Federal Heights entirely until such restrictions are enforced by Federal Heights.

### AGREEMENT

THEREFORE, in consideration of the promises and agreements set forth herein and in consideration of the prior agreements between the parties, Westminster agrees to sell, and Federal Heights agrees to buy, the use of potable water upon the conditions set forth above which are incorporated herein by reference and limitations herein provided:

1. Term. Westminster will deliver to Federal Heights sufficient potable water to fulfill the present and future needs of Federal Heights. This contract will continue in perpetuity, unless sooner terminated by mutual agreement of the parties or terminated pursuant to provisions stated below.

2. Wholesale rate. The duration of this contract is such that the passage of time will require changes in the charges to be made for the use of water hereunder. The parties therefore mutually agree:

a. Commencing on the effective date of this contract, Federal Heights shall pay Westminster a base rate of \$3.17 per 1,000 gallons of water delivered. Westminster shall bill Federal Heights monthly. Payment shall be due on the due date shown on said bill, and shall be delinquent, twenty (20) days thereafter. Upon delinquency, a penalty of 1/2% per month shall accrue and be added to said bill, and if such bill and the penalty added thereto shall remain unpaid for an additional thirty (30) days following the date of the delinquent notice, water service shall be discontinued until such time as the original bill plus the penalty is paid.

b. The future wholesale rate charged to Federal Heights may increase from time to time when increases are adopted by the Westminster City Council by ordinance for in-City customers. Said increases shall be calculated as the percentage increase in total water fund revenues necessary to meet the City's requirements to maintain, improve, and preserve the Westminster Water System to serve the City's customers, including Federal Heights. Westminster will provide 90 days notice to Federal Heights of any such proposed ordinance adoption for rate increases.

c. In addition to any rate changes that may occur under subparagraph 2.b. above, at any time, but no more often than every five years, either party may require a recalculation to update the base wholesale rate if either party determines that an adjustment is necessary to equitably distribute the costs of providing water to Federal Heights. Said updated rate will include an appropriate credit for any additional tap fees paid by Federal Heights to Westminster, under paragraph 3. below, as well as any adjustment necessary to equitably distribute system costs consistent with then-current demand levels relative to total system capacity.

3. New taps. Except for taps for developments that are described in attached Exhibits A and A-1, for each tap connected to the water system of Federal Heights, Federal Heights shall pay Westminster an amount equal to eighty-one (81 %) percent of the retail water tap fees applied to customers inside Westminster, as those fees are calculated under the Westminster City Code, §8-7-3, Water Tap Fees and Credits, as amended from time to time. Tap fees for Federal Heights' customers will be amended automatically to reflect any change in tap fees for inside Westminster customers. Westminster will provide Federal Heights with ninety (90) days written notice of any prospective change in water tap fees. The amount of tap fees paid by Federal Heights will be based upon the date of actual connection to the Federal Heights water system and shall be paid to Westminster within 30 days after the date of connection. If the developments in Exhibit A connect to the Federal Heights water system by January 1, 2018, Federal Heights shall pay Westminster the amount specified in Exhibit B. If the developments in Exhibit A-1 connect to the Federal heights water system by January 1, 2028, Federal Heights shall pay Westminster the amount specified in Exhibit B.

Federal Heights shall furnish Westminster a monthly report of the number and size of new taps connected to Federal Heights' water system, and Westminster shall have the right to inspect, during normal business hours, Federal Heights' books and records that provide information on the number and size of all taps connected to the Federal Heights water system.

4. Annual Delivery Amount. It is expressly understood that Westminster shall in no way attempt to restrict growth within Federal Heights or to limit the actions of Federal Heights with respect to allocation of taps within the boundaries of Federal Heights. However, the parties acknowledge that the prior Contract between them provided certain limitations on the number of taps and/or the annual volume of water delivered. These limitations were based on the need for Westminster, as supplier, to be able to plan in an orderly fashion for anticipated capacity increases, which planning benefits both parties hereto. For this reason and because this contract imposes perpetual supply obligations on Westminster, the parties agree that an annual demand exceeding 2000 acre/feet will be the basis for a mandatory renegotiation of this contract, in which both parties agree to participate in good faith.

5. Escrowed funds. Federal Heights will pay the accumulated escrow amount of \$395,018.36 to Westminster by January 15, 2008. This amount represents the accumulated difference between the amount the City of Westminster has billed Federal Heights for water and the amount that Federal Heights paid for water consumed up to and including December 31, 2007.

6. System connections. Westminster shall deliver said water into the facilities now installed at Federal Heights or at such other location or locations as may hereafter be found expedient by the City of Westminster and agreed to by Federal Heights. Currently, there are three master meters installed that supply water to Federal Heights and charges for water delivered to Federal Heights shall be made as indicated by said meters. Notwithstanding the obligations of Federal Heights stated in paragraph 8. below, Westminster will own, operate, test, maintain, and repair or replace said meters as necessary to provide the required volume of flow to Federal Heights.

7. Service Area. No water delivered under this contract shall be used outside the Federal Heights' Service Area as the same may exist from time to time, and Federal Heights agrees to disconnect forthwith any tap to Federal Heights' system through which water is furnished for use outside said area. The Federal Heights' Service Area shall comprise the present corporate limits of the Federal Heights, plus any additional land which may be legally annexed hereafter to Federal Heights, except that Federal Heights shall not service any property west of Federal Boulevard from Westminster's System without the prior written consent of Westminster.

8. Federal Heights agrees to maintain their facilities, once installed, in good repair at all times and to make such replacements thereto as may be necessary to keep said facilities in proper operating condition at all times. Westminster will not perform engineering services for Federal Heights, but shall be entitled to inspect the Federal Heights' plans and installations thereunder at Westminster's expense. Federal Heights shall have full and complete discretion to allow new taps to be connected to its water system, so long as such taps are utilized for service to customers within the city limits of Federal Heights. Federal Heights may acquire additional water from its own sources of supply or may purchase

water from other water suppliers, and such acquisition of additional water shall not impair or affect the obligations under this contract.

9. Federal Heights understands and agrees that Westminster may limit the use of water outside the city limits of Westminster in times of water shortage as set forth in paragraph C above. Westminster, however, agrees to use every reasonable means to furnish a continuous supply of potable water from the Westminster water supply system at the point or points of connection between its facilities and those of Federal Heights, so as to enable Federal Heights to furnish an adequate supply of water to all users within the city limits of Federal Heights.

10. Federal Heights shall have the full right to make and enforce rules to govern uses in Federal Heights' service area. Federal Heights agrees to prevent all unnecessary or unreasonable waste of water from its distribution facilities and to impose rules, and make a reasonable effort to enforce said rules, for prevention of waste from its facilities and all connections thereto.

11. Each of the parties to this contract recognizes in the other the right to enforce its rules and the terms of this contract by turning off or disconnection of the supply of water of those who violate such rules or contract, and it is the intent of this paragraph that neither shall interfere with the other in the enforcement of its rules or this contract.

12. No liability shall attach to Westminster hereunder on account of any failure to accurately anticipate availability of water supply or because of an actual failure of water supply due to inadequate run-off or occurrence beyond the reasonable control of Westminster. Westminster agrees to construct and devote adequate facilities to make available to the Federal Heights a permanent and sufficient water supply in view of historical experience with water run-off so far as reasonably possible. Its judgment in providing safety factors shall not be questioned unless clearly unreasonable. Westminster agrees that it will not obligate itself to furnish a greater amount of water outside Westminster than it can reasonably anticipate will be available for the entire supply for which it has accepted responsibility.

13. Westminster agrees to furnish water to Federal Heights as potable as that furnished inside Westminster. No promise or guarantee of pressure is made by the City of Westminster or is to be implied from anything contained herein, except to the point of delivery to Federal Heights, and Westminster shall not be liable to Federal Heights or its customers for any damage or loss resulting from loss of pressure or any other failure or defect in the Westminster system.

14. In the event Federal Heights shall fail to keep or perform any agreement on its part to be kept and performed according to the terms and provisions of this contract and Westminster gives the Federal Heights written notice specifying the particular default or defaults, Federal Heights shall have such times as provided in said notice, which period of time shall in no event be less than one hundred eighty (180) days, in which to correct such default or defaults, except in case of failure to pay Westminster water bills which shall be subject to the provision of Paragraph 2.a. hereof. In the event that Federal Heights shall fail to correct such default or defaults within the time provided in the notice, Westminster without obligation to Federal Heights, or any person or corporation claiming by, through or under Federal Heights, may terminate delivery of water to Federal Heights. Waiver or failure to give notice of a particular default under this paragraph shall not be construed as condoning any continuing or subsequent default.

15. The benefits and obligations created by this contract shall not be modified by any amendment hereafter made to the Charter, or by ordinances, of the City of Westminster, or otherwise, unless agreed to by Westminster and Federal Heights.

16. Westminster assumes no responsibility for any facility beyond the Westminster Water System nor shall Federal Heights have any responsibility for any facility beyond the Federal Heights' water service area.

17. No assignment by Federal Heights of its rights under this contract shall be binding on Westminster unless Westminster shall have assented to such an assignment with the same formality as employed in the execution of this contract. Any agreement by Federal Heights to supply water for the

usual and necessary requirements of any person, persons, or corporation (customers) within the Federal Heights' service area shall not be deemed an "assignment" contemplated hereunder.

18. All water furnished hereunder is on a leasehold basis for the use of Federal Heights and its customers for all the various purposes for which Westminster has been decreed the right to appropriate water. It is the obligation of Federal Heights to cooperate with Westminster in seeing that water originating in the system controlled by Westminster is used without waste. It is mutually agreed that there is no obligation on Federal Heights with respect to creating any particular volume of water or of return flow from water delivered hereunder. Federal Heights expressly waives any claim to the return flow occurring from the use of the water delivered by Westminster pursuant to this contract. Federal Heights expressly retains the right to any and all return flow occurring from the use of water introduced into Federal Heights' water system from sources owned or controlled by Federal Heights or from other water suppliers.

19. Failure of either party hereto to exercise any right hereunder shall not be deemed a waiver of such party's right and shall not affect the right of such party to exercise at some future time said right or rights or any other right it may have hereunder.

20. None of Westminster's remedies provided for under this contract need be exhausted or exercised as a prerequisite to resort to further relief to which it may then be entitled. The same shall apply to Federal Heights.

21. Nothing in this contract shall be construed as a grant by Westminster of any exclusive right or privilege.

22. Federal Heights will pay for all water furnished by Westminster into the distribution system controlled by Federal Heights at the rate and upon the terms provided herein, and Westminster shall have no responsibility for collection of bills of water users in the Federal Heights' Service Area. Federal Heights shall have the right to charge customers and water users for such water and its service at such rates and upon such terms and conditions as it chooses, and may make such charges by reference to quantities or demands for water delivered to users from its system, or in such manner and terms as it may solely determine.

23. In the event of Westminster failing to furnish the total amount of water required or demanded by Federal Heights to adequately and properly supply its customers, or in the event the water supplied by Westminster to Federal Heights is of such quality or quantity as to be non potable, unsafe, or not suitable for domestic consumption as judged by Tri County Health Department and/or the State Health Department, Federal Heights shall have the right, without waiving any other right or rights it may have under the circumstances, to terminate this contract upon thirty (30) days written notice, and to seek to obtain water elsewhere if the conditions have not been corrected within this time period. Federal Heights also shall have all rights and remedies provided by the law in the event of any breach of this contract by Westminster.

24. Each provision of this contract shall be valid and enforceable to the fullest extent permitted by applicable law. The invalidity of any one or more phrases, sentences, clauses or sections contained in this contract shall not affect the remaining portions of this contract or any part thereof. If any provision of this contract is held or deemed to be or determined to be invalid, inoperative or unenforceable, the parties shall negotiate in good faith to amend this contract to implement the provisions set forth herein.

IN WITNESS WHEREOF, the parties hereto have caused the above Agreement to be executed by proper authority and duly authorized signatures below.

APPROVED BY the Westminster City Council this \_\_\_\_\_ day of December, 2007.

CITY OF WESTMINSTER

By: \_\_\_\_\_  
Its: Mayor

ATTEST:

By: \_\_\_\_\_  
Its: City Clerk

APPROVED BY:

\_\_\_\_\_  
City Attorney

APPROVED BY the Federal Heights City Council this \_\_\_\_\_ day of December, 2007.

CITY OF FEDERAL HEIGHTS

By: \_\_\_\_\_  
Its: Mayor

ATTEST:

By: \_\_\_\_\_  
Its: City Clerk



EXHIBIT A

[Insert here a list of projects for which taps are to be provided at existing rates]

EXHIBIT A-1

That property within Federal Heights commonly referred to as the “Munn” property  
which includes ten taps of 1”.

## EXHIBIT B

[The Westminster tap fee schedule, shown as Appendix B on the 1985 contract, will be attached here.]



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
December 17, 2007



**SUBJECT:** Resolution No. 53 re Application to Rejoin the Rocky Mountain Rail Authority

**Prepared By:** Dave Downing, City Engineer

**Recommended City Council Action**

Adopt Resolution No. 53 to approve an Addendum to the Establishing Contract for The Rocky Mountain Rail Authority and the First Amendment to that Contract, thus fulfilling the requirements to make an application for the City of Westminster to rejoin the Authority.

**Summary Statement**

- On March 26, 2007, the City Council authorized the expenditure of \$5,000 in 2007 and \$5,000 in 2008 for a two-year municipal membership in the Rocky Mountain Rail Authority (RMRA).
- Due to disagreement over the fee requirement and other operational procedures, the City withdrew from the RMRA last summer. The City's \$5,000 payment for 2007 membership dues was returned by the Authority.
- Council has recently expressed a desire for the City to remain active in the Authority's quest to secure federal funding for a high speed rail line along the Front Range and into the mountain areas. Furthermore, it has been ascertained that the financial requirement for a municipal member is only \$500 per year at this time.
- In addition to the \$500 annual fee, the only other current requirement for municipal membership in the RMRA is adoption of the terms of the Establishing Contract for the Authority and the First Amendment to that Contract. These documents have been reviewed and approved by the City Attorney and other key staff. The attached Resolution verifies the City's endorsement of the terms of the Establishing Contract and the First Amendment to that Contract.

**Expenditure Required:** \$500 (for 2008)

**Source of Funds:** General Fund

**Policy Issue**

Should the City rejoin the Rocky Mountain Rail Authority and remain active in this group's efforts to secure federal funding for high speed rail lines along the Front Range and into the mountain areas of Colorado?

**Alternative**

The alternative would be to not rejoin the Authority and, instead, monitor the progress of this organization from afar. In light of the fact that only a nominal annual fee is required at this time to be a member of the RMRA, it is advisable for the City to sit at the table and exercise the right of every member jurisdiction to vote on various decision points.

**Background Information**

The Rocky Mountain Rail Authority, a collection of political subdivisions of the State of Colorado, is spearheading an effort to have an Albuquerque/Denver/Cheyenne rail corridor plus a Denver International Airport/west slope rail corridor along I-70 designated as the eleventh and final High Speed Rail Corridor (HSRC) in the nation by the Federal Railroad Administration. The benefits of such a designation would be (1) the ability to receive specific federal funding, and (2) the opportunity to become part of a nationwide network of high speed rail lines in the future. The first step in attaining HSRC status is to prepare a feasibility study for the proposal. The Colorado Department of Transportation (CDOT) has appropriated \$1.246 million for this purpose, but a 20% local match (\$311,500) is required. The RMRA has been formed to receive the monies and sponsor the feasibility study. Local governments of the State have been invited to join the RMRA to gain representation on the Board of Directors.

In March of 2007, the City Council voted to join the RMRA, but confusion over the requirement of membership fees and other operational procedures caused Council to rescind this decision last summer. More recently, it has been determined that the annual membership fee is currently only \$500. Furthermore, the terms of the Establishing Contract and the First Amendment to that Contract do not commit the City to future contributions. Therefore, it is recommended that the City make an application to rejoin the Authority in order to best monitor the progress of this transportation effort and to have a voice in decisions pertaining to high speed rail corridors within the State of Colorado.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments: Resolution  
Establishing Contract For The Rocky Mountain Rail Authority  
First Amendment to the Establishing Contract For Rocky Mountain Rail Authority  
Addendum # \_\_\_\_

RESOLUTION

RESOLUTION NO. **53**

INTRODUCED BY COUNCILLORS

SERIES OF 2007

**A RESOLUTION APPROVING AN ADDENDUM TO THE ESTABLISHING CONTRACT FOR THE ROCKY MOUNTAIN RAIL AUTHORITY AND THE FIRST AMENDMENT TO THE ESTABLISHING CONTRACT FOR THE ROCKY MOUNTAIN RAIL AUTHORITY FOR THE PURPOSE OF MAKING AN APPLICATION FOR MEMBERSHIP TO THAT AUTHORITY**

WHEREAS, the Rocky Mountain Rail Authority (the "Authority") was established pursuant to a contract between Clear Creek County and the Town of Monument with an effective date of November 20, 2006, (the "Contract") and a First Amendment to the Establishing Contract For The Rocky Mountain Rail Authority; and

WHEREAS, pursuant to Section 18 of Article XIV of the Constitution of the State of Colorado and Section 29-1-203 of the Colorado Revised Statutes, the Rocky Mountain Rail Authority (the "Authority") is a separate governmental entity of the State of Colorado that is dedicated to the development of high speed rail service in the State of Colorado; and

WHEREAS, pursuant to Section 1.05 of the Contract and Section A.1.05.5.1 of the First Amendment to the Establishing Contract For The Rocky Mountain Rail Authority, political subdivisions of the State of Colorado may become Members of the Authority by execution of addenda to the Establishing Contract For The Rocky Mountain Rail Authority (the "Contract"); and

WHEREAS, the City Council of the City of Westminster wishes to become a Member of the Authority for the purpose of promoting the development of high speed rail service in the State of Colorado.

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

1. The attached Addendum to the Contract signifying agreement with the terms of the Contract and the terms of the First Amendment to the Contract is approved.
2. The Mayor is hereby authorized to execute and the City Clerk to attest the attached Addendum and any additional documents required as a Member of such Authority.

PASSED AND ADOPTED this 17th day of December, 2007.

ATTEST:

\_\_\_\_\_  
Mayor

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

**ADDENDUM # \_\_\_\_\_**

**TO ESTABLISHING CONTRACT FOR THE ROCKY MOUNTAIN RAIL AUTHORITY  
ENTERED INTO BY CLEAR CREEK COUNTY AND CITY OF MONUMENT**

Pursuant to Section 1.05 of the Contract creating the Rocky Mountain Rail Authority, entered into by Clear Creek County and the City of Monument, effective November 20, 2006 (the "Contract"), the City of Westminster ("City") hereby approves this Addendum in order to become a member of the Rocky Mountain Rail Authority, and hereby agrees to the terms of that Contract and to the First Amendment to that Contract.

The City's representative on the Rocky Mountain Rail Authority Board of Directors shall be Councillor Bob Briggs; the alternate representative shall be City Engineer Dave Downing.

The City's financial contribution to the Rocky Mountain Rail Authority shall not exceed Five Hundred Dollars (\$500.00).

Upon receipt and acceptance by the Rocky Mountain Rail Authority of this Addendum, the City will be a party to the Contract.

Dated this 17<sup>th</sup> day of December, 2007.

CITY OF WESTMINSTER, COLORADO

By: \_\_\_\_\_  
Mayor

ATTEST:

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

Addendum Accepted by:

ROCKY MOUNTAIN RAIL AUTHORITY

By: \_\_\_\_\_  
Harry Dale, Chair

## Summary of Proceedings

Summary of proceedings of the City of Westminster City Council meeting of Monday, December 17, 2007. Mayor McNally, Mayor Pro Tem Dittman, and Councillors Briggs, Kaiser, Lindsey, Major, and Winter were present at roll call.

The minutes of the regular meeting of December 10, 2007, were approved as presented.

Council recognized Friends of the Westminster Public Library Volunteers with presentation of a certificate of appreciation.

On behalf of the Council and staff, Mayor McNally joined Tom Settle and Rick Clark to accept the Colorado Environmental Leadership Program Bronze Achievement Award.

Council approved the following: November 2007 Financial Report; purchase of disposable medical supplies over \$50,000; purchase/installation of dump body & snow removal equipment for 4 new tandem trucks; 2008 Wastewater Collection System Maintenance Program; renewal of IGA with Adams County for Jim Baker Reservoir Recreation; reimbursement of the Parks, Open Space and Trails (POST) Fund for acquisition of rights-of-way; and 2007 amended and restated Distributor's Contract with Federal Heights.

Council adopted the following Resolutions: Resolution No. 51 re the City's 2008 Legislative Policy Statement; Resolution No. 52 re Federal Heights Wholesale Water Rate; and Resolution No. 53 re application to rejoin the Rocky Mountain Rail Authority.

The meeting adjourned at 7:19 p.m.

By order of the Westminster City Council  
Linda Yeager, MMC, City Clerk  
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