



WESTMINSTER

Staff Report

TO: The Mayor and Members of the City Council

DATE: November 10, 2004

SUBJECT: Study Session Agenda for Monday, November 15, 2004

PREPARED BY: J. Brent McFall, City Manager

Please Note: Study Sessions and Post City Council meetings are open to the public, and individuals are welcome to attend and observe. However, these meetings are not intended to be interactive with the audience, as this time is set aside for City Council to receive information, make inquiries, and provide Staff with policy direction.

Looking ahead to next Monday night's Study Session, the following schedule has been prepared:

A light dinner will be served in the Council Family Room 6:00 P.M.

CONSENT AGENDA

None at this time.

PRESENTATIONS

6:30 P.M.

1. Revisions to the Parks and Recreation Master Plan
2. 2005 Proposed Community Development Block Grant (CDBG) and HOME Projects
3. Metro Service District Policies and Procedures - Attachment

CITY COUNCIL REPORTS

1. Report from Mayor
2. Reports from City Councillors

EXECUTIVE SESSION

1. Holly Park Redevelopment Recommendation (WEDA)

INFORMATION ONLY

1. Monthly Residential Development Report - Attachment

Additional items may come up between now and Monday night. City Council will be apprised of any changes to the Study Session meeting schedule.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER

Staff Report

City Council Study Session Meeting
November 15, 2004



SUBJECT: Revisions to the Master Parks and Recreation Plan

PREPARED BY: Bill Walenczak, Director of Parks, Recreation and Libraries

Recommended City Council Action:

Review the attached draft plan and provide comments and input to City Staff at the Study Session scheduled for Monday, November 15, 2004. If consensus from Councillors is reached after any recommended revisions are made, City Council is to direct Staff to place this item on a regular City Council agenda for formal approval.

Summary Statement

The current Master Parks and Recreation Plan was adopted by City Council in December 1997 and was intended to be a guide for park and recreation development until build out of the City.

However, as that Plan clearly stated, many things can change in the life of a community that can significantly affect the course of a master plan. Therefore, in its goals and objectives plan for 2004, City Council made revising the Parks and Recreation Master Plan a priority.

As a result, City Staff has evaluated the priorities and assumptions from the previous plan to determine if they are still valid today. This has resulted in Staff developing a first draft of the attached document for City Council review and comment. The plan is formatted in similar fashion to the City's Comprehensive Land Use Plan for easier understanding and consistency. Due to several new planning approaches employed in this document, it might be appropriate to rename it a "Parks and Recreation Strategic Plan."

Appropriate Staff will be in attendance at the November 15, 2004, Study Session to present key elements of the new plan for City Council's review and input. City Council will be provided adequate time to further review the Plan before this item is brought back for official action.

Expenditure Required: \$40,000

Source of Funds: The General Fund Capital Improvement Fund

Policy Issue

Does City Council wish to approve an update to the Master Parks and Recreation Plan?

Alternative

City Council could decide not to approve the attached document and go back to using the original Master Plan adopted in 1997. This is not recommended as the 1997 Plan is out of date and the modifications recommended in the new plan more accurately reflect current conditions and future needs.

Background Information

A taskforce of Parks, Recreation and Libraries staff has been working on a revised Master Parks and Recreation Plan to update the original plan to today's priorities and trends, as well as present day economic realities.

The Plan divides the City into four Community Areas; Northeast, Central, West, and Southeast; similar to the City's Comprehensive Land Use Plan. All parks, facilities, trails, and open space sites are then inventoried and a GIS map is provided for each facility. A maintenance schedule, replacement schedule, and future development recommendations are then evaluated for each site.

National Parks and Recreation Association standards have been the mechanism by which the previous Master Plan was developed. However, significant revisions have been made to these standards recognizing the fact that each community has its own unique set of criteria for providing leisure services. Therefore, those standards have been now changed to guidelines that assist communities in determining individual community needs through a variety of criteria. Staff has developed a set of criteria for the City that in some cases recognizes the old standards as still valid for things such as land area requirements for different park categories. However, other categories such as the need for additional youth and adult sports fields are now calculated according to current-day participants as well as future anticipated growth in those programs. Staff is confident that this new approach to standards is a better way to project current and future needs.

Staff would like to share the following highlights and conclusions that are drawn from the new plan.

Recommended Priorities:

1. **Maintenance and Upkeep** – Maintenance and upkeep of all parks and facilities will continue to be a top priority and will continue to be addressed in the City's biennial budget.
2. **Renovation and Further Development of Existing Parks** – This has been identified as another top priority in the Master Plan. Substantial capital improvement funds will be recommended to be allocated in the Five-Year CIP in the City's biennial budget to this priority. In many cases, the renovation of existing parks will take precedence over new park development.
3. **Sports Fields** – The Master Plan identifies the need to develop additional soccer (6), little league (4), softball (4) and practice little league (4) fields. These will be a priority for Staff and will be pursued as funds become available. The addition of these facilities to new and existing parks will be recommended when feasible.

4. **Undeveloped Parks** – There are currently ten undeveloped neighborhood and community parks in the City. The development schedule for these parks with the highest priority for available funds will be listed in the five-year Capital Improvement Plan (CIP) in the City's biennial budget. Before any new parks can be developed, adequate funds for maintenance must be identified.
5. **Park Land Acquisition** – Following is a needs summary of each land category:
 - **Neighborhood Parks** – The City meets suggested standards in this category and will maintain the desired level at build out. However, there are some areas of the City that could still have justification for neighborhood parks due to population density and service distance. Staff suggests evaluating opportunities for additional acquisitions on a case-by-case basis; however, minimum size should not be less than five acres.
 - **Community Parks** – Based on suggested desired levels of service, the City will be approximately 77 acres deficient in this category. This is critical due to the fact that community parks typically provide athletic fields for our youth and adult sports programs, which also are below desired service levels.
 - **Citywide Parks** – The City meets desired levels of service in this category beyond build out and no further acquisitions are necessary. However, it is recommended that further development according to the approved City Park Master Plan be completed as funds become available.
 - **Regional Parks** – The City meets desired levels of service in this category beyond build out and no further acquisitions are necessary. However, it is recommended that further development according to the approved Standley Lake Master Plan be completed as funds become available.
 - **Open Space** – The City currently meets suggested national levels of service in this category. However, the City has set a standard that is one and one-half times greater than the suggested national guidelines. Parks, Recreation and Libraries Staff suggest that this goal be evaluated to determine if an alternative approach would be feasible to convert portions of park land at Standley Lake to open space to more accurately reflect the use of this land.
 - **Trails** – There are approximately 90 miles of connecting trails within the City. Staff estimates an additional five miles of new trails are needed to complete the system of our main trail corridors.
 - **Special Use/Golf Courses** – The City currently meets the desired level of service in this category. However, if an opportunity presents itself to add on to the Heritage Golf Course to enhance revenues, an evaluation should be seriously pursued. In addition, if other opportunities for golf are presented along with incentives for economic development a thorough evaluation should be made and, if feasible, pursued.
6. **Recreation Facilities** –
 - **Citywide Leisure Centers** – No additional facilities of this type are needed. However, improvements to existing facilities are suggested in the Central Community Area summary.
 - **Community Recreation Centers** – One new community recreation center is recommended for the Northeast Community Area as funds become available for both construction and ongoing operating costs. Improvements to the Swim and Fitness Center and the West View Recreation Center have been noted in the appropriate section summaries.
 - **Special Use Facilities** – No other special use facilities are needed at this time, although the possibility of creating small branch libraries within recreation centers is a concept that Staff believes is worth evaluating.

7. **Accelerated Park Development** – As noted earlier in the summary sections of this report, there are over 20 park development, park expansion, or facility expansion projects listed in this Plan. Many comments received from public input sessions ask when certain projects are going to begin. Based upon this input, it might be worthwhile to evaluate the possibility of a ballot measure for a park and open space bond issue to complete the projects in a timely manner.
8. **Additional Park Amenities** – An extensive list of desired park amenities has been developed (see level of service comparisons). These items such as playgrounds, court games, outdoor swimming pools, etc., will be addressed in master planning for new parks and further developing existing parks. Funding for these items will be reflected in the Five-Year CIP in the biennial budget.
9. **Recreation Programs** – Programs will be evaluated based upon service demand and revenue recovery.
10. **Joint Ventures** – Staff will continue to seek joint venture partnerships with private business and other governmental entities to maximize resources and eliminate duplication.
11. **School IGAs** – The City currently has intergovernmental agreements with all three school districts within the City. This allows the City to utilize school gymnasiums for certain City programs as well as classrooms for the City’s after school program. The City has contributed funds to improve the gyms at Arapahoe Elementary School and Crown Pointe Charter Academy. These arrangements allow the City guaranteed use of those facilities where City programs cannot be “bumped” for school activities. City Staff is currently negotiating a similar arrangement with Jefferson County Schools for the new Wayne Carl Middle School at Standley Lake. Staff will continue to seize on these types of opportunities as they come up.

Overall, the City of Westminster is in very good shape in terms of the total amount of park and open space land. Total park acreage (3,440.52 acres) plus open space acreage (2,473.60 acres) equals 5,914.12 acres in park and open space land. With a current-day population estimate of 106,000 City of Westminster residents, the ratio of park/open space land to population is 55.8 acres per 1,000 residents. This ratio far exceeds any recommended national standard or guideline.

Staff is very confident that the plan put forth for consideration balances a variety of leisure needs for the City and develops a realistic roadmap for attaining the goals and objectives set forth in the plan. The plan makes it clear that all recommendations depend on available resources to not only develop new amenities for our park and recreation system, but to also be able to provide adequate operations and maintenance once those facilities are developed.

Appropriate Staff will be in attendance at the November 15, 2004, Study Session to present highlights of the plan and answer any questions City Council may have about the recommendations made.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment



Staff Report

City Council Study Session Meeting
November 15, 2004



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

PREPARED BY: Tony Chacon, Senior Projects Coordinator

Recommended City Council Action:

Direct Staff to place the recommended CDBG and HOME allocations and projects for 2005 on the next regular meeting agenda for formal City Council consideration and approval.

Summary Statement:

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

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

Staff Report – 2005 Proposed Community Development Block Grant (CDBG) and HOME
Projects

November 15, 2004

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

Source of Funds: HUD CDBG Program
HUD HOME Program

Policy Issue

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

Alternative

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

Background Information

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

2004 CDBG Program Administration	\$134,800
Lowell Boulevard Streetscape Improvements (Phase 1 Construction)	\$439,200
Human Service Advisory Board Recommendations	\$100,000
TOTAL:	\$674,000

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

2004 CDBG Program Administration

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

Lowell Boulevard. Streetscape Enhancement Construction Phase I

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

utilities. The project was provided 2002 and 2003 CDBG funds for the preparation of construction plans.

Human Service Advisory Board Recommendation

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

Adams County Housing Authority \$16,000

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

Community Reach Center \$24,000

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

Alternatives to Family Violence \$13,500

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

Family Tree, Inc \$13,000

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

Jefferson Center for Mental Health \$10,000

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

The Senior Hub \$12,000

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

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

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

Adams County Interfaith Hospitality Network \$5,000

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

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

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

Housing Rehabilitation Program \$130,000

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

Homebuyer Down Payment Assistance Programs \$70,000

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

HOME Program Administration \$20,000

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

Staff will be present Monday evening to provide additional information and respond to City Council questions.

Respectfully submitted,

J. Brent McFall
City Manager



Staff Report

City Council Study Session Meeting
November 15, 2004



SUBJECT: Policy for Metropolitan Special District Formation

PREPARED BY: Mary Ann Parrot, Finance Director
John Carpenter, Community Development Director
Marty McCullough, City Attorney

Recommended City Council Action

Provide Staff with direction in regard to policies concerning the creation of Metropolitan Special Districts within the City, and direct Staff to bring this policy back for official City Council adoption at an upcoming City Council meeting.

Summary Statement

- Metropolitan Districts, also referred to as Metropolitan Special Districts or “MSD’s”, are enabled under CRS Title 32, Special District Act.
- These districts are formed by developers to finance, construct and maintain public improvements related to a proposed development. The districts have the power to levy ad valorem property taxes and to charge fees. MSD’s can be used to tax-exempt finance the costs of constructing and financing the improvements they are building and the taxes they assess can be used to reimburse the developer for these costs.
- The City currently has five MSD’s within its boundaries (the mill levies shown are the maximums):
 - Countrydale MSD for the Westmoor Business Park (Commercial, formed in 1998) – 50 mills.
 - NBC (Circle Point Business Park – Commercial - Year 2000) – 50 mills.
 - Bradburn Village (Commercial and Residential – Year 2000) – 50 mills commercial, 30 mills residential.
 - Huntington Trails (Residential – Year 2000) – 25 mills.
 - 144th Avenue MSD (Commercial – Year 2004) – mill levy not yet established.
- City Staff has identified several issues of concern over the past four years, as a result of the City’s recent experience involving these kinds of districts:
 - The City may or may not benefit from the improvements constructed, whereby the developer may benefit beyond the point of public interest of the citizens.
 - There are definite differences between commercial and residential districts, especially given the nature of the property owners – commercial tenants vs. homeowners – and the expertise each group has or does not have with regard to taxing districts.
 - Residents of metro districts paying up to 25 mills to a metro district often do not understand why they have to pay this tax when the vast majority of Westminster residents do not.
 - Increased tax burdens on the residents of these districts may or may not come to the attention of the residents and tenants of these districts at the time of purchase.
 - A distressed MSD could result in unreasonable mill levy burdens and/or closure of businesses.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue(s)

Does City Council desire to adopt a formal policy concerning the creation of MSD's?

Alternative(s)

1. Delay or reject approval of the draft policy. This is not recommended, as Staff believes that the absence of a policy leads to ad hoc decision-making and uncertainty in the development review process.
2. Adopt a policy, which is more permissive with regard to approving districts, mill levies, etc. This is also not recommended, as Staff believes that this is not in the best interests of the City or its taxpayers.

Background Information

Staff has operated under policy direction given to Staff on a verbal basis over the past several years. Staff has reviewed policies from several other cities and drafted the attached policy, based on past policy direction from City Council and in part on the procedures used by other cities, which have proven useful and practical. A summary of the policy issues is as follows:

- In general, there can be a use for Title 32 Metropolitan Districts, especially where improvements are involved that will benefit the taxpayers and citizens of Westminster.
- Staff is recommending that City Council implement conditions, restrictions and requirements with regard to the formation and substance of these districts that go beyond what is contained in State Statute.

Objectives in establishing this policy are as follows:

1. Articulate the types of benefits that are expected to inure to the City and its citizens generally in the proposed formation of a special district
2. Avoid having indebtedness of special districts affect the credit rating of the City of Westminster
3. Preserve the financial integrity of the City and its citizens
4. Prevent the shifting of development risk to non-developers
5. Attempt to minimize and insulate the City from risks and controversies that may arise in relation to special districts
6. Attempt to minimize excessive tax burdens upon City residents in special districts
7. Prevent the costs of any such district from being shifted to citizens who are not within the geographic boundaries of the District or receiving benefit from it

In particular, the policy perspective on two types of MSD's will differ depending on whether the district is a residential district or commercial. This is primarily because residents do not typically use property taxes as a determining factor when buying a house to the extent that office and other commercial users do. And in the event that the residential taxpayer does investigate property taxes, the system is complicated and can be very confusing. In the case of office and retail, this confusion is reduced because the taxes are passed through in the leases on the spaces rented. The City has taken a more protective approach to residential citizens than those occupying commercial establishments. The policy perspective is presented below for each type of district: residential or commercial.

Residential MSD's:

In general the City is opposed to the creation of MSD's to fund capital construction of residential developments for the following reasons:

1. Virtually all existing Westminster residential development was funding without MSD's. In other words, the lack of having these districts clearly has not adversely affected Westminster residential development.
2. Creation of a residential MSD creates a differential property tax structure among similar residential developments where the MSD resident is paying significantly more property tax without any commensurate public benefit – up to 6 to 7 times the City mill levy.
3. Buyers of homes in MSD projects are generally unaware of the higher property taxes in their development but can become upset when they later discover this. Residents may be surprised to find out the price of their home did not include the price of streets and utilities in their development that they repay over a 30 or more year period through their property taxes versus the vast majority of Westminster homes where this is not the case.
4. There would be an arguable public benefit if home prices were lower in MSD projects, reflecting the developers lower capital cost. Studies have shown that this is not the case.

In summary, there is generally not a compelling public purpose and benefit to form residential districts. In very limited and unique circumstances, the City may support a residential MSD.

Examples include:

1. For the purposes of annexing a highly desirable parcel into the City of Westminster.
2. For a large scale regional retail and mixed use project (at least 100 acres in size) that provides significant sales tax revenues to the City and includes high quality residential product integrated into the regional retail area in a new urbanism design.
3. Construction of a unique new urbanism project such as Bradburn, which incorporates a significant retail commercial area, office buildings, office and retail units over retail space and a variety of housing types including single-family detached and attached products along with significant recreational amenities (pool, clubhouse, etc.), private parks and public parks and open space.
4. As an incentive for redevelopment.
5. To ensure an operating mill levy for long-term maintenance of improvements, when there is no effective HOA in place.

The process of determination that the formation of such a district is compelling, special and unique is a two-step process described below under the section titled "Review Procedures." If and when they are considered and/or approved, the mill levy cap is proposed at 25 mills.

1. This mill levy will cover debt service and operating expenditures.
2. The debt service portion of the mill levy will disappear when the bonds are redeemed.
3. The operating portion of the mill levy will be encouraged, if not required. It will be reviewed to see if it provides for maintenance of the capital infrastructure to be maintained by the district. In addition, it will be reviewed for reasonableness regarding fees paid to the district, its consultants, or other parties. A district cannot levy this operational mill levy until after Staff reviews the uses for it, and it is approved by City Council.
4. This will be fixed mill levy, with no peel-off provision allowed and no other derivations associated with the mill levy.

Commercial MSD's

These types of districts will be viewed differently and will be reviewed for what they can do for the City. These districts can be beneficial to the City and the tenants for the following reasons:

1. They can help to attract a business park to the City. Many high quality business parks in the metropolitan Denver area have created MSD's to support a higher quality of business park amenities
2. They may be critical to attracting an economic development project
3. They could be used to support a redevelopment project

The mill levy cap is proposed at 50 mills and peel off provisions for mill levies will be reviewed but not necessarily approved. (Peel off provisions allow the removal of mill levy caps in certain circumstances when the ratio of debt to assessed value reaches certain levels, or with other formulae as specified in the MSD Service Plan.)

1. This mill levy will cover debt service and operating expenditures.
2. The debt service portion of the mill levy will disappear when the bonds are redeemed.
3. The operations mill levy will be reviewed to see if it provides for maintenance of the capital infrastructure to be maintained by the district. In addition, it will be reviewed for reasonableness regarding fees paid to the district, district consultants and/or other parties.
4. The City reserves the right to impose an operating mill levy to continue past the term of the bonds.

Review procedures

Procedures are spelled out for two levels of review:

1. Criteria for deciding whether to accept a proposal for review or not. If a developer's proposal does not meet the criteria outlined above, Staff will recommend to City Council that the proposal be rejected. City Council would have the prerogative to accept the developer's proposal or reject it after Staff has given them their recommendation.
2. Criteria for review after a proposal has been accepted include required submittals such as approved PDPs and ODPs, compliance with City standards for financing in these districts, time necessary for review, etc.

Staff recommends the attached Draft Policy statement be adopted.

Respectfully submitted,

J. Brent McFall

City Manager

Attachment(s)

CITY OF WESTMINSTER

POLICIES AND PROCEDURES

FOR

TITLE 32 DISTRICT FORMATION

NOVEMBER 2004

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1. Purpose of Policies and Procedures

Under appropriate circumstances, financing districts, including metropolitan districts organized under the Title 32 of the CRS, Special District Act ("Districts") provide an economic alternative to the development of municipal infrastructure at the expense and risk of the City. The City has previously authorized Districts within its corporate limits for the sole purpose of development of infrastructure within their respective service areas. Through its approving resolutions and intergovernmental agreements with the Districts, the City has restricted the authority and autonomy of the Districts by limiting the Districts' powers to the construction, financing and maintenance of capital infrastructure.

Certain Districts in the Denver metropolitan area have undertaken capital development financed with District bonds exceeding the ability of the Districts to retire such indebtedness and the ability of the local unit of government to maintain and fund replacement of the facilities within the constraints of available municipal resources. It is necessary to coordinate the development of capital facilities between the City and Districts to achieve the most efficient and cost effective delivery of municipal services.

The purpose of establishing these policies are to accomplish the following objectives:

- Have the district pay for infrastructure or other public improvements that the City would normally install,
- Articulate the types of benefits that are expected to inure to the City and its citizens generally in the proposed formation of a special district,
- Avoid having indebtedness of special districts affect the credit rating of the City of Westminster,
- Preserve the financial integrity of the City and its citizens,
- Prevent the shifting of development risk to non-developers,
- Attempt to minimize and insulate the City from risks and controversies that may arise in relation to special districts,
- Attempt to minimize excessive tax burdens upon City residents in special districts,
- Disallow the costs of any such district to be shifted to citizens who are not within the geographic boundaries of the District or receiving benefit from it.

It is the intention of the City of Westminster to accomplish the following objectives if and when a Title 32 Metropolitan Special District is considered and/or approved by the City:

- Achieve improvements that would benefit the City taxpayers by enabling the City to avoid the costs of selected public improvements, whereby the district will finance these improvements either through developer-financed infrastructure or through the public sale of financing bonds. This will help to keep the high quality services high without the increased burden on the City's funds. In addition, those property owners and tenants will be the ones to share in the costs of these improvements and they are the ones benefiting directly by the improvements.
- Impose conditions, restrictions and requirements on the development by existing and future Districts. Restrictions will apply to additional capital infrastructure and the issuance and refunding of indebtedness, in order to preserve the public purpose of the district, the financial integrity of the City and the health, safety, prosperity, security and general welfare of all of the residents and citizens of the City, including the residents and citizens of the Districts. The City of Westminster takes a more protective stand toward the use of special district financing in a residential setting, than in a commercial setting. Research has shown the price of homes in high-end housing developments bears no relation to the tax burden on the residents. In other words, in this area of the Denver metropolitan area, taxpayers do not comparison-shop property taxes when buying a home. On the other

hand, property taxes in a commercial/business environment are routinely included as a factor in the businessperson's search for competitive lease and rental rates.

The City of Westminster finds that the Special District Act and the existing intergovernmental agreements between the City and the Districts in certain respects do not adequately address the local concerns and interests of the City in regulating the Districts' development of capital facilities and incurring of debt to finance such development, both of which ultimately have a direct financial consequence to the City.

- Residential MSDs: In general the City is opposed to the creation of MSD's to fund capital construction of residential developments for the following reasons:
 1. Virtually all existing Westminster residential development was funded without MSD's. So the lack of these districts has not adversely affected Westminster residential development.
 2. Creation of a residential MSD creates a differential property tax structure among similar residential developments where the MSD resident is paying significantly more property tax without any commensurate public benefit.
 3. The higher mill levy in MSD projects may make these residents less inclined to support property tax increases.
 4. Buyers of homes in MSD projects are generally unaware of the higher property taxes in their development but can become upset when they later discover this. Residents may be surprised to find out the price of their home did not include the price of streets and utilities in their development which they repay over a 30 or more year period through their property taxes versus the vast majority of Westminster homes where this is not the case.
 5. There would be an arguable public benefit if home prices were lower in MSD projects, reflecting the developers lower capital cost. Studies have shown that this is not the case.
- In summary, there is generally not a compelling public purpose and benefit to form residential districts. In very limited and unique circumstances, the City may support a residential MSD. Examples include:
 1. For the purposes of annexing a highly desirable parcel into the City of Westminster.
 2. For a large scale regional retail and mixed use project (at least 100 acres in size) which provides significant sales tax revenues to the City and includes high quality residential product integrated into the regional retail area in a new urbanism design.
 3. Construction of a unique new urbanism project such as Bradburn that incorporates a significant retail commercial area, office buildings, office and retail units over retail space and a variety of housing types including single family detached and attached products along with significant recreational amenities (pool, clubhouse, etc.), private parks and public parks and open space.
 4. As an incentive for redevelopment.
- The process of determination of a compelling, special and unique project is a two-step process described in Section 4 below. If and when they are considered and/or approved, the mill levy cap will be 25 mills. This mill levy will cover debt service and operating expenditures. The debt service portion of the mill levy will terminate when the bonds are redeemed. The operating portion of the mill levy will be encouraged, if not required. The operating levy will be reviewed to see if it provides for maintenance of the capital infrastructure to be maintained by the district. In addition, it will be reviewed for reasonableness regarding fees paid to the district, its consultants, or other parties. A district cannot levy this operational mill levy until after Staff reviews the uses for it. This will be a fixed mill levy, with

no peel-off provision allowed and no other derivations associated with the mill levy.

- Commercial Districts:
 - In general, the City will consider the formation of commercial districts, especially if there are demonstrated benefits to the citizens, residents in general or the City of Westminster.
 - The mill levy cap for commercial districts will be 50 mills for commercial and/or non-owner occupied residential, except for the “Gallergherizing” of the mill levy cap. There will be no exceptions to this cap; derivative products may or may not be considered.
- In General: The City will not support such districts if the costs of establishing the district, including fees paid to consultants, either directly, or through the issuance of bonds, are outside the public purpose intent of the district formation. The City will make this determination on a case-by-case basis, and will make this decision based on the public purpose and benefit or detriment to the public purpose. Examples of these kinds of costs include but are not limited to: remuneration to developers, underwriting or financial advisory fees at excessive levels. This determination will be made by the City Staff and its consultants.

The City of Westminster further determines that it is necessary and advisable to specify the events and conditions which, under the Special District Act; likely constitute material modifications to an approved District service plan, in the context of the particular business and legal relationship between the City and Districts.

The provisions of this document are also intended to provide procedures for the processing and review of proposals for formation of new Districts, and to define the restrictions and limitations that may be imposed by the City as a condition to the approval of such Districts consistent with the policy and intent of this Document.

The adoption of this document is necessary, requisite and proper for the government and administration of local and municipal matters under the City's home rule powers granted by Article XX, Section 6 of the Constitution of the State of Colorado.

2. Definitions

- A. *Board* means the Board of Directors of a Title 32 Metropolitan Special District.
- B. *District* means a special district organized under the Special District Act whose service area is located wholly or partially within the corporate limits of the City of Westminster. *MSD* will be used for the term *Metropolitan Special District*.
- C. *Petitioners* or *Applicant(s)* means any person(s) proposing a service plan or an amendment to an approved service plan.
- D. *Service Plan* is the service plan required under 32-1-202 of the Special District Act.
- E. *Special District Act* means Article 1 of Title 32, C.R.S.
- F. Certain other terms are defined in the text of this document and shall have the meaning so indicated.

3. Service Plan Considerations

The following sections shall govern the acceptance, processing, review and consideration of service plans, for new Districts. These provisions shall also apply to the consideration of service plan amendments (with the exception of Section 6 on Service Plan Contents).

4. Criteria for Accepting Applications

The City will use certain criteria in determining whether to accept a draft service plan to review for any given MSD:

- Prospective petitioners shall initiate a special district discussion by meeting with a designated City staff representative to discuss the procedures and requirements for a service plan. The City representative shall explain the administrative process, and provide information to assist petitioners in the orderly processing of the proposed service plan. The purpose of the discussion is to allow Staff the opportunity to determine whether the City would entertain the addition of a special district to the existing tax base in the City.
- The City is more concerned about residential MSDs due to the differences in levels of expertise of buyers (residential vs. office) and the practices of shopping for property taxes when shopping for residential purchase prices. Prospective homeowners do not tend to research levels of property taxes, whereas office tenants are usually careful to look at this, especially when triple-net leases are involved. There must be a compelling reason for the City staff to agree to review a residential MSD application. Applications for Residential MSDs will not be accepted unless there is a very special reason, which Staff will determine and communicate to City Council.
- The proposed development shall be in conformity to existing land use and city growth management guidelines.
- There shall be special circumstances and benefits to the City that dictate the use of this type of district and its associated financing, as opposed to the developer using privately financed infrastructure improvements.
- Prospective petitioners shall use the Exhibits A-C to comply with the City's review process:
 1. Exhibit A: Service Plan Table of Contents and Outline. The organization of the Service Plan must include a table of contents with appropriate page numbers and must comply with this outline.
 2. Exhibit B: Improvements Matrix, completed to the best of the petitioner's ability.
- Staff shall maintain their discretion on their availability and the timing to conduct the review or time to contract and manage the review process.
- If Staff accepts an application for further review, Staff shall notify the City Manager's office of acceptance, along with the estimated time for review.
- If Staff rejects an application for further review, Staff shall notify the City Council and the City Manager's office of rejection, and the reasons for such rejection. The notification shall be in the form of a Staff Report sent to the City Council.

5. Criteria for Reviewing Applications

If a project is accepted for review, the City will use the following guidelines in reviewing the service plan:

- Petitioners shall file a complete proposed service plan with the office of the City's Finance Director, with the clear covering statement that both PDP and ODP have been approved and the date of such approval. The proposed service plan shall substantially comply with the format of Exhibit A: Model Service Plan Outline maintained on file with the City of Westminster. A copy of the proposed petition to be filed with the district court must be included with the proposed service plan filed with the City. Five (5) copies of the proposed service plan must be submitted to the Finance Director at the time of application and distributed as follows:

- Finance Department (1 copy)
 - Community Development (2 copies)
 - City Attorney (1 copy)
- The following timetable will be observed in submitting service plans for consideration. (A more detailed timetable is attached as Exhibit C.) Submission of modified applications may set back or re-start the review period.
- The deadline for submittal of a complete service plan has been determined to be the end of May, based on the following deadlines, in reverse order:
 - Ballot language must be certified in September of even numbered years.
 - This requires that City Council approve the service plan in August, at the latest by the 2nd Council meeting in August (4th Monday in August).
 - Staff will need a minimum of three months to review the service plan, negotiate changes and finalize the service plan with the developer
 - A complete service plan must be submitted no later than mid-May for City Council approval in August.
 - For even-numbered years when May elections are allowed, the calendar outlined above should be adjusted by approximately 5 months to accommodate a submittal deadline of end-December in time for the May special election.
 - The service plan submitted MUST be complete. If it is not complete, it will be rejected. It may be re-submitted, but if it is beyond the deadline of mid-May for re-submittal, it will not be reviewed and will be returned to the developer for the next year's calendar.
- City Staff shall be provided at least three months to conduct the entire review once a complete application is submitted. The application outline and contents to be included are included in Exhibit A. All applications must conform to this outline.
- Fees and Remuneration to the City:
 - The application and processing fee for a service plan shall be **ten thousand dollars (\$10,000.00)**. In addition the City Manager may impose additional fees to reimburse the City for reasonable direct costs related to such special review.
 - In addition to the processing fee, the Petitioners shall also pay the expenses of additional consultants hired by the City to conduct the review.
 - An annual fee of 0.25% of outstanding par of bonds will be paid to the City for annual review.
 - In addition to the fees above, if the City maintains any of the infrastructure, the City will receive an annual fee assessed as a mill levy, sufficient to allow the City to defray the cost of infrastructure maintenance and repair, either constructed by the City or constructed by the District and deeded or donated to the City.
 - Lastly, on any plan amendment or refunding review, the City will receive an administrative fee of \$10,000.

The City will review the proposed millage rate with respect to its potential to jeopardize or impact City or other mill levy elections that may be needed in the future. Mill levies on operations and maintenance of improvements will be favored over mill levies for capital construction. This is because of the risk described earlier: if, due to the market, a buyer is paying the same price for property with or without an MSD mill levy, this means the buyer is paying higher than normal taxes to pay for infrastructure costs the developer is passing onto the buyers.

The City wants residential buyers to be aware of the additional tax burden to be imposed. The City mandates early, written and recorded notice of the total (overlapping) tax burden, including the special district millage, along with relevant details such as the length of the debt millage. The City will review the type and timing of the disclosure, which the Petitioners are proposing. The notice shall be recorded against all property within the District prior to the District's certification of the formation of the district to the Colorado Division of Local Government.

In addition, two major reviews will be conducted using the following criteria:

1. The Planning/Engineering Guidelines are as follows:
 - a. Detailed cost estimates shall be included along with unit prices and numbers of units in sufficient detail to enable Staff to verify estimates.
 - b. Detailed lists of all site improvements shall be included along with a designation of which improvements are to be paid for, constructed by, maintained by, dedicated to (and when conveyed) and by whom: district, developer, HOA or City.
2. The Finance Guidelines are as follows:
 - a. The IGAs and Developer Agreements will be reviewed to determine governance issues, relationships among residents/tenants and board and controls.
 - b. The City will require early, written and significant notice to be given, in writing, to prospective homeowners/tenants of the district.
 - c. Cash flows will be reviewed for all phases of the project through build-out and until debt is paid off.
 - d. Mill levies will be capped at 25-mills for owner-occupied residential, and 50-mills for commercial developments and non-owner occupied residential or retail developments.
 - e. Residential mill levy caps.
 - i. This mill levy will cover debt service and operating expenditures.
 - ii. The debt service portion of the mill levy will be eliminated when the bonds are fully retired or redeemed.
 - iii. The operating portion of the mill levy will be encouraged, if not required. It will be reviewed to see if it provides for maintenance of the capital infrastructure to be maintained by the district. In addition, it will be reviewed for reasonableness regarding fees paid to the district, its consultants or other parties. This operational mill levy cannot be imposed until after Staff reviews the specific budgeted uses for it.
 - iv. This will be a fixed mill levy, with no peel-off provisions or other "derivative" provisions attached to it.
 - f. Commercial mill levy caps.
 - v. This mill levy will cover debt service and operating expenditures.
 - vi. The debt service portion of the mill levy will disappear when the bonds are fully retired or redeemed.
 - vii. The operating portion of the mill levy will be encouraged, if not required. It will be reviewed to see if it provides for maintenance of the capital infrastructure to be maintained by the district. In addition, it will be reviewed for reasonableness regarding fees paid to the district, its consultants or other parties. This operational mill levy cannot be imposed until after Staff reviews the specific budgeted uses for it.
 - g. Leverage will be limited to a maximum of 50% of projected assessed value.
 - h. The cash flows will designate the breakout of expenses designated for debt service and operational costs, both in dollars and mills.
 - i. Bond sizing will be reviewed (size, annual debt service, structure and term, credit enhancement). Bond issues beyond 30 years will not be viewed favorably. In addition developer guarantees and the use of any or all components to improve the security of the district on behalf of the homeowner/tenant will be reviewed. The City will make the determination what additional credit enhancements are necessary to secure approval of the service plan. It may not be necessary to use all components, as each case is unique. Each situation will be reviewed on a case-by-case basis.
 - j. Material variations in the service plan will be reviewed. The City will determine what constitutes a material modification requiring approval by the City. The following paragraphs must be included in the draft service plan:
 1. On or before September 1 of each year, the district shall submit an annual report and proposed budget, including proposed debt service and O&M levies. The annual report shall explain all major actions taken during the preceding year to implement the Financing Plan and the preliminary engineering plan set forth in the service plan, together with projections for the ensuing fiscal years and such

other available information as the City may request. The District shall also file a copy of its statutorily required audit with the City.

2. The City will determine what change constitutes a “material modification” of the Service Plan. Any significant change in the Service Plan shall be submitted to the City and shall first be subject to approval by the City in accordance with the provisions of the Act. Material modifications include, but are not limited to those items listed in Section 11- Material Modifications.
 - i. Those which add property to the district
 - ii. (Other conditions to be determined by the City)
- k. Amendments will be viewed as necessary, not deleterious to the district, its board or its advisors. The City recognizes there will be changes to the district over time, especially in large, multi-phase developments, and the financing components may need to be adjusted accordingly. However, the City maintains the expectation that the District will work with the City on new and/or strengthened constraints to be imposed beyond the original ones contained in the service plan.

6. Service Plan Contents

The proposed service plan shall include the following:

- A. The information required by Title 32, The Special District Act.
- B. A map of the proposed District's boundaries, which shall have attached a legal description.
- C. An itemization of any costs, which petitioners expect to be assumed by the City for the construction of public improvements.
- D. Identification by names, addresses and phone numbers of those persons who the petitioners intend to be the nominees for the initial Board.
- E. Proof of ownership for all properties within the District, a list of encumbrances on all properties, in a form acceptable to the legal department of the City.
- F. A copy of any and all proposed enabling, controlling, contractual and/or operations documents, which would affect or be executed by the proposed District, including the form of any intergovernmental agreement among the District, the City and any other government, authority or district. Any enabling intergovernmental agreement shall contain the following provisions, unless waived by the City Council:
 1. The District's power and functions shall be limited to construction and financing of public infrastructure.
 2. The District shall be prohibited from ownership and maintenance of public facilities and shall convey to the City all facilities upon completion to City standards.
 3. A prohibition on the District owning, managing, adjudicating or developing water rights and water resources, and water and wastewater treatment and distribution facilities.
 4. Limitations on the mill levy, development exaction and other revenues pledged to service payment of indebtedness of the District and required credit enhancements for District debt in order to preclude the creation of undue financial risk to the District residents and taxpayers.
 5. Appropriate assurances that all facilities are developed by the District to City standards.
 6. Standards and parameters for imposition by the District of capital recovery fees and exaction.
 7. Limitations on the inclusion or exclusion of properties from the District.
 8. Requirements for dissolution of the District upon the accomplishment of the purposes and undertakings for which the District was formed, or for other reasons as reviewed by City Council. (See also Section 15 on Dissolution.)
 9. That a copy of the written notice of every regular or special meeting of the District will be delivered to the City Clerk at least three (3) days prior to such meeting.
 10. That the annual report will be submitted in a timely fashion in accordance with the provisions of these policies.

G. A capital plan including the following:

1. A description of the type of capital facilities to be developed by the District.
2. An estimate of the cost of the proposed facilities.
3. A *pro forma* capital expenditure plan correlating expenditures with development.

H. A financial plan including the following:

1. All proposed sources of revenue and projected District expenses, as well as the assumptions upon which they are based for at the term during which the bonded indebtedness remains outstanding, starting from the date of the District formation.
2. The dollar amount of any anticipated financing, including capitalized interest, costs of issuance, estimated maximum rates and discounts, and any expenses related to the organization and initial operation of the District. Bond sources and uses, amortization schedules and other relevant "bond solution" information must also accompany this portion of the submittal. A designation of the financing as "public sale", "private placement", "developer bonds", etc. must also accompany this portion of the submittal.
3. The total amount of debt issuance planned for all phases of the development period commencing with the formation of the District
4. A detailed repayment plan covering the life of any financing, including the frequency and amounts expected to be collected from all sources and containing a relatively level or flat debt service schedule after build-out.
5. The amount of any reserve fund and the expected level of annual debt service coverage, which will be maintained for any financing.
6. The provisions regarding any credit enhancement, if any, for the proposed financing, including but not limited to developers guarantees, letters of credit, sureties and insurance.
7. The total authorized debt for the District.
8. A list and written explanation of potential risks of the financing.

Exhibits shall include the following:

1. City Council Resolution of Approval
2. Legal Description
3. City of Westminster Vicinity Map
4. Boundary Map
5. Facilities Plan
6. Facilities Diagrams
7. Improvements Matrix (see Exhibit D)
8. District Election Questions
9. Underwriter Commitment Letter
10. Market Research Report and Opinion Letter (Real Estate Absorption Analysis)
11. Forecasted Statements of Sources and Uses of Cash: Full Pro-Forma Income Statements with Amounts and Mill Levies for Debt Service and Operational Costs
12. Full Bond Solutions: Sources and Uses of Bond Proceeds, Amortization Schedules including Use of Capitalized Interest, Other Statistical Information.
13. Intergovernmental Agreement between City of Westminster and District
14. Inter-District Intergovernmental Agreements
15. Such other information as may be deemed necessary or appropriate by the City Manager.

7. Administrative Review

The City has three months from the date of filing of a complete service plan (Items 6A-J) to complete its preliminary review. Such deadline may be extended for up to an additional thirty (30) days, as deemed necessary by the City Manager. Once a review has been completed, a comprehensive analysis shall be made in written Staff Report form to the City Council. The report shall evaluate the service plan and incorporate comments of the City Staff as well as consultants. The report shall set forth the recommendations made in accordance with the review criteria set forth in this Chapter.

8. Public Hearing

The City Manager upon acceptance of the Staff Report on the service plan shall schedule a public hearing at a regular City Council meeting. The Petitioners shall publish public notice in accordance with the requirements of 32-1-204(l)(1.5) of the Special District Act. The public hearing will conform to current City standards regarding procedure, protocol and content.

After the public hearing, the City Council shall take one of three actions in writing applying the criteria prescribed under Section 32-1-204.5 of the Special District Act after consideration of the service plan reports, evidence and testimony accepted or taken at the public hearing:

- A. Approve without condition,
- B. Approve conditionally (with conditions described), or
- C. Disapprove the proposed service plan or amendment.

If the service plan is approved, a resolution of approval shall be adopted.

If the service plan is conditionally approved, the amendments to be made in, or additional information relating to, the service plan, together with the reasons for such amendments, or additional information, shall also be set forth in writing. When such amendments or additional information is completed, the City will schedule a second public hearing for the review, approval or rejection of the service plan.

If the service plan is disapproved, a resolution for such disapproval shall be adopted, including the reason(s) for such disapproval. In the manner and to the extent provided in this Chapter, the City Council shall maintain continuing jurisdiction over the operations and affairs of the District, after approval of the service plan and/or amendment(s).

9. Appeal

A resolution passed by the City Council shall document the City Council's determination. No action or proceeding, at law or in equity, to review any acts or proceedings or question the validity of the City Council's determination pursuant to this Chapter, whether based upon irregularities or jurisdictional defects, shall be maintained in the district court unless commenced within thirty (30) days after the passage of the City Council's resolution. Thereafter any legal proceedings shall be barred.

10. Annual Report Required and Reviewed

Not later than September 1 of each calendar year, each District shall file an annual report (the "Annual Report") with the City Clerk at the City's administrative offices. The annual report shall reflect activity and financial events of the District through the preceding December 31 (the "report year"). The annual report shall include the following:

- A. A narrative summary of the progress of the District in implementing its service plan for the report year.
- B. Except when an exemption from audit has been granted for the report year under the Local Government Audit Law, the audited financial statements of the District for the report year including a statement of financial condition (i.e. balance sheet) as of December 31 of the report year and the statement of operations (i.e. revenues and expenditures) for the report year.
- C. Unless disclosed within a separate schedule to the financial statements, a summary of the capital expenditures incurred by the District in development of public facilities in the report year, as well as any capital improvements or projects proposed to be undertaken in the five (5) years following the report year.
- D. Unless disclosed within a separate schedule to the financial statements, a summary of the financial obligations of the District at the end of the report year, including the amount of outstanding indebtedness, the amount and terms of any new District indebtedness or long-

term obligations issued in the report year, the amount of payment or retirement of existing indebtedness of the District in the report year, the total assessed valuation of all taxable properties within the District as of January 1 of the report year, and the current mill levy of the District pledged to debt retirement in the report year.

- E. The District's budget for the calendar year in which the annual report is submitted.
- F. A summary of residential and/or commercial development, which has occurred within the District for the report year, whichever is appropriate.
- G. A summary of all fees, charges and assessments imposed by the District as of January 1 of the report year.
- H. Certification of the Board that no action, event or condition enumerated in Section 11 of these policies has occurred in the report year.
- I. The name, business address and telephone number of each member of the Board and its chief administrative officer and general counsel, together with the date, place and time of the regular meetings of the Board.
- J. In the event the annual report is not received by the City Clerk on a timely basis, notice of such default shall be given by the City Clerk to the Board of such District, at its last known address. The failure of the District to file the annual report within thirty (30) days of the mailing of such default notice by the City Clerk shall empower the City Council to impose the sanctions authorized in Section 16 of these policies. The remedies provided for noncompliance with the filing of the annual report shall be supplemental to the remedy authorized under Section 32-1-209 of the Special District Act.

11. Material Modifications

In general, the City will determine whether a change to the Service Plan constitutes a material modification of the Service Plan. The examples listed below include, but are not limited to what constitutes a material modification. The occurrence of any of the following actions, events or conditions subsequent to the date of approval of the service plan or most recent amendment thereto are presumed to be changes of a basic or essential nature of a District, requiring a service plan amendment.

- A. Revision to mill levy beyond existing caps, increased bond authorization, increase in level of bonded indebtedness beyond bond authorization.
- B. Default in the payment of principal or interest of any District bonds, notes, certificates, debentures, contracts or other evidences of indebtedness or borrowing issued or incurred by the District.
- C. Institution of a proceeding for debt adjustment or the confirmation of a plan for adjustment of debt under Chapter 9 of the Bankruptcy Code.
- D. Failure of the District to develop any capital facility proposed in its service plan when necessary to service approved development within the District.
- E. Failure of the District to realize at least seventy-five percent (75%) of the development revenues (including developer contributions, loans or advances) projected in the financial portion of the service plan during the three-year period ending with the report year. Development revenue is defined as fees and charges imposed by the District on residential and commercial development, excluding taxes, provided that the disparity between projected and realized revenue exceeds fifty thousand dollars (\$50,000.00).
- F. Refundings of any kind, including the following:
 - a. Those that extend the term of indebtedness will not be allowed.
 - b. Those which allow the reimbursement of significant fees to consultants and/or the developer, even though the mill levy is not increased will not be allowed.
 - c. Those in which the savings (present value or nominal) are not passed on to the property owners and/or tenants will not be allowed.
- G. The occurrence of any event or condition, which is defined under the service plan or intergovernmental agreement as necessitating a service plan amendment.
- H. The default by the District under any intergovernmental agreement with the City.
- I. The disconnection from the corporate limits of any property within the District's boundaries exceeding either ten percent (10%) of the service area of the District or ten (10) acres in area.

K. Any of the events or conditions enumerated in 32-1-207(2) of the Special District Act.

In the event it is found that a material modification has taken place, the District shall submit its request for an amendment in accordance with these policies. Upon a finding that no material modification has taken place, the District shall be relieved from obtaining an amendment for the events or occurrences reviewed by the City Council. The City Council shall retain the prerogative to require an amendment thereafter if the change or deviation, on a cumulative basis, subsequently becomes material. In making its determination, the City Council shall consider, among other relevant information, whether the modification will have a probable adverse financial impact on the City.

12. Amendments

Within ninety (90) days of the occurrence of an action, event or condition enumerated above in the section on Material Modification, the Board shall forward an appropriate petition to the City Council for approval requesting a service plan amendment ("amendment"). The only exception to this procedure would be wherein the City has determined that no material modification has occurred under the hearing procedure of the section above. The petition for amendment shall include the following information:

- A. Any information or documentation required under the applicable provisions of the Special District Act.
- B. Any changes since the service plan was last reviewed and approved by the City Council to any of the information, assumptions or projects furnished in conjunction with the petition for approval of organization of a District or contained in the service plan.
- C. A detailed explanation of the activity, events or conditions which resulted in the material modification to the service plan, including what action was taken or alternatives considered, if any, by the District to avoid the action, event or condition.
- D. The impact of the material modification on the District's ability to develop the capital facilities and infrastructure necessary to meet its capital development plan.
- E. The effect of the material modification on the District's ability to retire as scheduled its outstanding financial obligations and its ability to issue and market additional indebtedness to finance additional capital expenditures.
- F. A current financial plan for the District reflecting development absorption rates anticipated within the District's service area, projected annual revenues and expenditures based upon such projected absorption rates, debt issuance and amortization schedules, and a projection of anticipated capital outlays.
- G. The financial impact of the modification on existing residents of the District.
- H. An updated five-year capital improvements plan.
- I. What alternatives or options are available to the District if the requested amendment is not approved.

All of the required information shall be supported by appropriate technical analysis, reports and supporting documents of qualified professionals and consultants. The amendment shall be processed and reviewed in the same manner as prescribed by these policies for an initial service plan. Except that the submittal requirements of this Section shall be substituted for those of the section titled Service Plan Contents. The application fee shall remain at one thousand dollars (\$1,000). This Section shall not impair the right of the City to bring an action in the district court to enjoin the activities of the District pursuant to 32-1-207(3)(b) of the Special District Act.

13. Quinquennial Review

The quinquennial review required under Section 32-1-1101.5 of the Special District Act shall be subject to the following procedures:

- A. Five (5) copies of the application shall be submitted to the City Manager together with an application fee of one thousand dollars (\$1,000).

- B. Within sixty (60) days of receipt of a complete application, the City Manager shall submit a report to the City Council including a recommendation as to the statutory findings that should be made by the City Council on the application.
- C. The application shall be reviewed and considered at a regular meeting of the City Council held within sixty (60) days of the submission of the report of the City Manager.
- D. The City Council shall consider all evidence and testimony, as it deems relevant to its consideration of the application written.
- E. A written decision on the application shall be made by resolution of the City Council within twenty (20) days of conclusion of its review and consideration of the application.

14. State Conservation Trust Fund; Greater Outdoors Colorado Grant Monies

The District shall not claim any entitlement to moneys from the State Conservation Trust Fund. The District shall remit to Westminster all moneys it may receive from this Fund.

15. Dissolution or Consolidation

In the event there is reason to believe that the purposes for which the District was created have been accomplished, a public hearing shall be conducted before the City Council to determine whether the District should be dissolved. Prior written notice of such hearing shall be provided to the Board of Directors of the District. Upon an independent determination of the City Council that the purposes for which the District was created have been accomplished, the District shall agree to file a petition in District Court for dissolution. In any event, such dissolution shall not occur until the District has provided for the payment or discharge of all of its outstanding indebtedness and other financial obligations. Provided, however, that the failure of the District to provide for the payment or discharge of all or any portion of its subordinate lien bonds shall not serve as a bar to dissolution.

The District shall not file a request with the District Court to consolidate with another title 32 district without the prior written approval of Westminster.

16. Failure to Comply with Policies and Procedures

Should any District fail to request and obtain a service plan amendment when required under the terms of these policies or otherwise fail to fully and completely comply with these policies, the City Council by resolution may impose one (1) or more of the following sanctions, as it deems appropriate:

- A. Exercise any applicable remedy under the Special District Act.
- B. Withhold the issuance of any permit, authorization, acceptance or other administrative approval necessary for the District's development of public facilities or construction.
- C. Exercise any legal remedy under the terms of any intergovernmental agreement under which the District is in default.
- D. Exercise any other legal remedy, including seeking injunctive relief against the District, to force compliance with the provisions of this Chapter.

17. Exemption

If any District has not undertaken development of capital facilities or issued any indebtedness, it may apply to the City for an exemption from compliance with these policies. The City Council shall grant an exemption if the Board submits a resolution to the City Council stating that upon issuance of the exemption, the District's authorization under the service plan and the intergovernmental agreement with the City to undertake development of capital facilities or issue any indebtedness is suspended.

With issuance of the exemption, the District shall be excluded from compliance with these policies except that the District annually, not later than September 1, shall submit financial statements from the previous year and the budget for the current year.

Prior to any District with an exempt status undertaking capital development or issuing any indebtedness authorized under its service plan or the Special District Act other than regulatory reporting, it shall fully comply with the provisions of these policies.

18. Effective Date

These policies shall take effect January 1, 2005.

Exhibit A
Service Plan Outline and Table of Contents

- I. INTRODUCTION
- II. PURPOSE OF DISTRICT
- III. PROPOSED DISTRICT BOUNDARIES/MAPS
- IV. PROPOSED LAND USE/POPULATION PROJECTIONS
- V. DESCRIPTION OF PROPOSED SERVICES
 - a. Types of Improvements
 - i. Water
 - ii. Streets
 - iii. Others
 - b. Standards of Construction/Statement of Compatibility
 - c. Facilities to Be Contracted and/or Acquired
- VI. DISSOLUTION/CONSOLIDATION
- VII. CONSERVATION TRUST FUND
- VIII. ASSESSED VALUATION
- IX. DEVELOPER REIMBURSEMENT
- X. PROPOSED AGREEMENT
- XI. ESTIMATED COSTS OF FACILITIES
- XII. OPERATION AND MAINTENANCE/ESTIMATED COSTS
- XIII. FINANCIAL PLAN/PROPOSED INDEBTEDNESS
 - a. Proposed General Obligation Indebtedness
 - b. Debt Limit
 - c. Mill Levy
 - d. Modification of Service Plan
 - e. Cost Summary and Bond Development
 - f. Economic Viability
 - g. Projections of Assessed Valuation
 - h. Operations
- XIV. FAILURE TO COMPLY WITH SERVICE PLAN
- XV. RESOLUTION OF APPROVAL
- XVI. DISCLOSURE
- XVII. ANNUAL REPORT
- XVIII. CONCLUSION

Attachments

- A. Legal Description of District Boundaries
- B. District Boundary Map
- C. Vicinity Map
- D. List of Interested Parties
- E. Description of Facilities and Costs
- F. Water Improvements
- G. Streets and Safety Protection Improvements
- H. Financial Plan
- I. Operation and Maintenance Expenses
- J. Matrix: Improvement, Built by, Donated to City of Westminster
Maintained by (District, Developer, City, etc.)

Exhibit B: Improvements Matrix

Bradburn Public Improvements

<i>Improvement</i>	<i>Paid for by</i>	<i>Constructed by</i>	<i>Maintained by</i>	<i>Dedicated to</i>	<i>Date of Conveyance</i>	<i>Estimated Maintenance Cost</i>
Drainage Improvements	District	District	City	City	Final Plat	TBD
Landscape/Fence Improvements	District	District	District	Easement ⁽¹⁾	N/A	TBD
Community Entrances	Developer	Developer	District	District	Final Plat	TBD
Community Recreation Facilities	District	District	District	District	Completion	TBD
Private Open Space and Private Parks	District	District	District	District	Final Plat	TBD
Public Open Space and Public Parks	District	District	City	City	Final Plat	N/A
Alleys	District	District	TBD	TBD	TBD	TBD
Offsite Road Improvements	District	District	CDOT	CDOT	N/A	N/A
All Interior Streetscape	District	District	Property owner	Easement ⁽¹⁾	N/A	N/A
All Interior Streets	District	District	City	City	Completion	TBD
All Interior Storm Sewers	District	District	City	City	Completion	TBD
Sanitary Sewer Mains	District	District	City	City	Completion	TBD
Water Mains	District	District	City	City	Completion	TBD
Gas Mains	Developer	PSC	PSC	Easement	N/A	N/A
Electric Lines	Developer	PSC	PSC	Easement	N/A	N/A
Telecommunications	Developer	Developer		Easement	N/A	N/A
Detention Pond on Private Open Space	District	District	District	District	Final Plat	TBD
Detention Pond on Public Open Space	District	District	District	N/A	N/A	TBD
All Project Engineering and Construction Management including District Facilities	Developer	N/A	N/A	N/A	N/A	N/A
Over lot Grading – All	Developer	Developer	N/A	N/A	N/A	N/A

⁽¹⁾ District landscape maintenance on dedicated City right-of-way will be permitted by landscape maintenance easement from City.

Exhibit C – Sources Used in Drafting Westminster Policy.

1. Douglas County – Special District Service Plans Application Submittal instructions and Review Procedures, March 2002.
2. Adams County – Special District Guidelines and Regulations, July 2000.
3. Town of Castle Rock – Title 11, Special District Oversight, October 1992.
4. City of Thornton - Chapter 66 pertaining to Powers of Metropolitan Special Districts, July 2000.
5. City of Aurora – Chapter 122 regarding Title 32 Districts, Undated but we've had this in the file since Fall 2000 when we started to draft these policies.
6. Town of Firestone – Title 13 regarding Formation of Special Districts, approx. June 2003.
7. City of Colorado Springs – Resolution Establishing City Financial Policy Regarding the Use of Certain Districts Authorized under Titles 31 and 32 CRS, August, 2000.



Staff Report

Information Only Staff Report
November 15, 2004



SUBJECT: Monthly Residential Development Report

PREPARED BY: Shannon Sweeney, Planning Coordinator

Summary Statement:

This report is for City Council information only and requires no action by City Council.

- The following report updates 2004 residential development activity per subdivision...
The table below shows an overall increase (13.8%) in new residential construction for 2004 year-to-date compared to 2003 year-to-date totals.
Residential development activity so far in 2004 reflects an increase in single-family attached (69%), decreases in single-family detached (-4.2%) and multi-family (-26.1%), and no change in senior housing development when compared to last year at this time.

NEW RESIDENTIAL UNITS (2003 AND 2004)

Table with 7 columns: UNIT TYPE, OCTOBER (2003, 2004), % CHG., YEAR-TO-DATE (2003, 2004), % CHG. Rows include Single-Family Detached, Single-Family Attached, Multiple-Family, Senior Housing, and TOTAL.

Background Information

In October 2004, service commitments were issued for 56 new housing units within the subdivisions listed on the attached table. There were a total of 17 single-family detached, 39 single-family attached, and no multi-family or senior housing building permits issued in October.

The column labeled “# Rem.” on the attached table shows the number of approved units remaining to be built in each subdivision.

Total numbers in this column increase as new residential projects (awarded service commitments in the new residential competitions), Legacy Ridge projects, build-out developments, etc. receive Official Development Plan (ODP) approval and are added to the list.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment: Active Residential Development Table

ACTIVE RESIDENTIAL DEVELOPMENT

<u>Single-Family Detached Projects:</u>	Sep-04	Oct-04	2003 YTD	2004 YTD	# Rem.*	2003 Total
Asbury Park III (94th & Teller)	1	0	1	1	0	1
Asbury Acres (94th & Wadsworth Bl.)	0	2	0	2	4	0
Bradburn (120th & Tennyson)	9	2	46	43	151	64
CedarBridge (111th & Bryant)	0	0	0	4	6	0
Covenant (115th & Sheridan)	0	0	32	6	0	40
Habitat for Humanity (two locations)	0	0	2	0	0	2
Hazelwood Annexation (147th & Huron)	0	0	0	1	0	0
Huntington Trails (144th & Huron)	0	0	0	0	210	0
Legacy Ridge (108th & Leg. Ridge Pky.)	0	0	1	0	2	1
Legacy Ridge West (104th & Leg. Ridge Pky.)	5	8	70	144	62	93
Lexington (140th & Huron)	0	0	0	0	5	1
Maple Place (75th & Stuart)	0	0	0	4	0	0
Meadow View (107th & Simms)	1	0	0	4	16	0
Quail Crossing (136th & Kalamath)	0	0	17	9	0	20
Ranch Reserve (114th & Federal)	1	0	10	3	3	10
Ranch Reserve II (114th & Federal)	2	1	16	12	12	18
Ranch Reserve III (112th & Federal)	0	0	16	10	1	16
Savory Farm (112th & Federal)	0	0	14	4	0	22
Various Infill	0	0	3	3	11	3
Village at Harmony Park (128th & Zuni)	7	4	51	67	135	61
Wadsworth Estates (94th & Wads. Blvd.)	0	0	12	5	1	13
Weatherstone (118th & Sheridan)	0	0	45	0	0	45
Winters Property (111th & Wads. Blvd.)	0	0	0	0	8	0
Winters Property South (110th & Wads. Blvd.)	0	0	0	0	10	0
<i>SUBTOTAL</i>	26	17	336	322	637	410
<u>Single-Family Attached Projects:</u>						
Alpine Vista (88th & Lowell)	0	0	0	0	84	0
Bradburn (120th & Tennyson)	6	19	0	92	73	0
CedarBridge (111th & Bryant)	0	0	0	0	2	0
Cottonwood Village (88th & Federal)	0	0	0	10	72	0
Highlands at Westbury (112th & Pecos)	12	18	0	57	114	30
Hollypark (96th & Federal)	0	0	0	0	20	0
Legacy Ridge West (112th & Leg. Ridge Pky.)	0	0	28	0	0	28
Ranch Creek Villas (120th & Federal)	0	0	40	16	16	40
Summit Pointe (W. of Zuni at 82nd Pl.)	0	0	12	4	59	12
Sunstream (93rd & Lark Bunting)	0	2	0	4	24	0
Walnut Grove (108th & Wadsworth)	0	0	46	30	0	46
<i>SUBTOTAL</i>	18	39	126	213	464	156
<u>Multiple-Family Projects:</u>						
Bradburn (120th & Tennyson)	0	0	0	0	54	0
Prospector's Point (87th & Decatur)	0	0	0	17	29	0
South Westminster (East Bay)	0	0	0	0	64	0
South Westminster (3 Harris Park projects)	0	0	23	0	27	23
<i>SUBTOTAL</i>	0	0	23	17	174	23
<u>Senior Housing Projects:</u>						
Covenant Retirement Village	0	0	0	0	32	0
Crystal Lakes (San Marino)	0	0	0	0	7	0
<i>SUBTOTAL</i>	0	0	0	0	39	0
TOTAL (all housing types)	44	56	485	552	1314	589

* This column refers to the number of approved units remaining to be built in each subdivision.