

**AGENDA**

**CITY OF WESTMINSTER DOWNTOWN  
GENERAL IMPROVEMENT DISTRICT  
MEETING**

**MONDAY, AUGUST 24, 2015**

**AT 7:00 P.M.**

1. **Roll Call**
2. **Minutes of Previous Meeting (N/A)**
3. **New Business**
  - A. Resolution No. 1 re City of Westminster Downtown General Improvement District Special Election
4. **Adjournment**

# City of Westminster Downtown GID Agenda Item 3 A

## Agenda Memorandum

City of Westminister Downtown General Improvement District Meeting  
August 24, 2015



**SUBJECT:** Resolution No. 1 re City of Westminister Downtown General Improvement District Special Election

**Prepared By:** Tammy Hitchens, Finance Director  
Robert Byerhof, Treasury Manager  
Karen Creager, Special District Accountant

### Recommended Board Action

Adopt Resolution No. 1 calling for a special election for the City of Westminister Downtown General Improvement District to be held in November 2015.

### Summary Statement

By adopting the attached Resolution calling for a special election this November, City Council, as the ex-officio Board of the General Improvement District (GID), authorizes the ballot language to be presented to electors within the City of Westminister Downtown GID (District). The ballot language to be approved includes two questions:

- Mill Levy/TABOR (deBrucing) Question: To authorize the GID to levy property taxes against the property owners up to 50 mills, to assist in paying for public infrastructure and ongoing operating and maintenance costs within the District and exempts the property tax revenues and expenditures for the improvements and ongoing operations and maintenance from the TABOR calculations required by cities each year, as a part of the requirements of the 1992 constitutional amendment.
- Obligation Question: To authorize the GID to enter into multi-year obligations and intergovernmental agreements with the City of Westminister, Westminister Economic Development Authority (WEDA), or any other political subdivision for the purpose of jointly financing public improvements and services.

**Expenditure Required:** \$0

**Source of Funds:** N/A

**Policy Issue**

Should the GID Board call a special election for this November and approve the specific language to be voted on by the District's electors?

**Alternative**

Do not proceed with the November election. This is not recommended, as this will prevent the questions from appearing on the 2015 election ballot. The petition to form the District along with the reasoning for the mill levy has been accepted by the Petitioner. By not approving the ballot language, the ability to efficiently develop and sustain a viable Downtown Westminster development with a rational and prudent revenue stream may be jeopardized. The revenues from the District mill levy will be used to fund ongoing operating costs as well as capital improvements associated with the Downtown Westminster development.

**Background Information**

On August 10, 2015, Council approved on first reading the creation of the Westminster Downtown GID on a 6:1 vote, and Staff anticipates that Council will approve the creation ordinance on second reading at the Council meeting held prior to this meeting. A petition by a property owner within the GID boundaries facilitated the formation of the District, which is anticipated to be expanded to include property owned by the Westminster Economic Development Authority ("WEDA") at a later date. Since only tax paying property owners can petition the formation a GID, the inclusion of tax exempt property can be added only after the District has been approved.

Now that the GID has been established, the next step is for the GID Board to authorize a special election and the ballot language needed to levy a property tax on current and future owners of taxable property. Given the significant projected costs to build the public infrastructure along with the associated operating and maintenance costs, it is prudent to establish a sustainable property tax revenue stream to support Council's vision of a successful Downtown Westminster development.

Although the final build-out of Downtown Westminster is years from completion, Staff projected a build-out based on the development standards and intensity established within the Downtown Westminster Specific Plan adopted by Council in November 2014. Based on this pro forma, a 50 mill levy rate will produce a revenue stream that will ramp as the project develops from a projected initial phase of \$685,000 to \$5.88 million annually at build out to pay for the estimated annual maintenance and operating costs of \$3 million. The remaining funds would be used for other project priorities including capital improvement needs.

The ballot language shown in the attached resolution provides for the ability of the Board to apply a mill levy rate of up to 50 mills to pay for operating and public infrastructure needs within the Westminster Downtown GID and authorize the GID to enter into multi-year obligations and intergovernmental agreements, foremost with the City of Westminster and Westminster Economic Development Authority (WEDA) for the purpose of jointly paying for public improvements and services that are directly incurred within the District. The language includes an estimate of first year GID revenues of up to \$1,000,000. While it is unlikely that the GID will generate this level of revenues, it is important to be transparent for the potential revenue, and to ensure the District gets to keep and productively use all the revenue it generates.

The existing property owner within the GID boundaries is aware of the necessity for the election to generate this crucial revenue stream to pay for capital and operating costs that directly benefit owners within the GID. The ballot will be voted on this November and is necessary to be in compliance with the State's Taxpayers Bill of Rights (TABOR) Amendment requiring a vote of the constituents on tax related issues.

The action requested in this agenda memorandum relates to the City's Strategic Plan goal of Visionary Leadership, Effective Governance and Proactive Regional Collaboration and to a Financially Sustainable Government Providing Excellence in City Services by creating a governmental entity to oversee the ongoing needs to fund a financially sustainable Downtown Westminster development.

Respectfully submitted,

Stephen P. Smithers  
Acting Executive Director

Attachment: Resolution

RESOLUTION

RESOLUTION NO. **1**

INTRODUCED BY COUNCILLORS

SERIES OF 2015

**A RESOLUTION CALLING A SPECIAL ELECTION IN THE CITY OF  
WESTMINSTER DOWNTOWN GENERAL IMPROVEMENT DISTRICT; AND  
PROVIDING OTHER DETAILS RELATING THERETO**

WHEREAS, the City of Westminster Downtown General Improvement District (the “District”) is a public improvement district and a quasi-municipal corporation duly organized pursuant to Part 6, Article 25, Title 31, Colorado Revised Statutes, and Ordinance of the City of Westminster, Colorado (the “City”) adopted by the Council of the City (the “City Council”) on August 24, 2015; and

WHEREAS, the members of the City Council have been duly elected and qualified and serve ex officio as the Board of Directors of the District (the “Board”); and

WHEREAS, Article X, Section 20 of the Constitution (“TABOR”) requires voter approval for incurring debt, the creation of any tax, and for spending certain moneys above limits established thereby; and

WHEREAS, Section 31-25-611(n), C.R.S. authorizes the District to conduct an election in accordance with Title 31, Article 10, C.R.S. (the “Municipal Election Code”) for any purpose the Board deems necessary or required; and

WHEREAS, TABOR requires that ballot issues (as defined in TABOR) be submitted to the electors of the District (as so defined in Section 31-26-602(2), the “Electors”) on limited election days before action can be taken on such ballot issues; and

WHEREAS, November 3, 2015, is a date scheduled for a general election in the State of Colorado, and is one of the election dates at which ballot issues and spending questions may, under TABOR, be submitted to the District electors; and

WHEREAS, the Board hereby determines that it is necessary to submit to the Electors of the District at an independent mail ballot election to be held on November 3, 2015 (the “Election”) (i) a question regarding the imposition of ad valorem taxes on the taxable property within the District to finance improvements and services set forth in the petition submitted to the City requesting the creation of the District (the “Improvements” and “Services”) and to pay the annual administrative expenses of the District; and (ii) a question allowing the District to enter into multiple fiscal year financial obligations with respect to any Improvements or Services as described in the petition; and

WHEREAS, the Board elects to utilize the provisions of the Municipal Election Code of 1965, Title 31, Article 10, C.R.S., as amended (the “Municipal Election Code”), to conduct the Election; and

WHEREAS, the City Clerk of the City (“City Clerk”) will conduct the Election as an independent mail ballot election; and

WHEREAS, it is necessary to set the language for the mail ballot and to set forth certain procedures concerning the conduct of the Election.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WESTMINSTER, COLORADO, AS THE *EX OFFICIO* BOARD OF DIRECTORS OF THE CITY OF WESTMINSTER DOWNTOWN GENERAL IMPROVEMENT DISTRICT, AS FOLLOWS:

1. All action heretofore taken (consistent with the provisions of this resolution) by the District and the officers thereof, directed toward the election and the objects and purposes herein stated is hereby ratified, approved and confirmed.

2. Unless otherwise defined herein, all terms used herein shall have the meanings defined in Article 31, Section 10 (the "Municipal Election Code").

3. Pursuant to TABOR and the Municipal Election Code, the Board hereby determines to call a special election to be conducted on November 3, 2015, as an independent mail ballot election (the "Election"). The Board hereby determines that at the Election there shall be submitted to the eligible electors of the District the questions set forth in Section 4 hereof.

4. The Board hereby designates the City Clerk as the election official and certifies thereto the following questions in substantially the forms hereinafter set forth to be submitted to the eligible electors of the District at the Election:

**BALLOT ISSUE 5A:**

SHALL CITY OF WESTMINSTER DOWNTOWN GENERAL IMPROVEMENT DISTRICT TAXES BE INCREASED \$1,000,000 IN 2017 (FIRST FULL FISCAL YEAR) AND BY WHATEVER AMOUNTS AS MAY BE GENERATED ANNUALLY THEREAFTER BY THE IMPOSITION OF A MILL LEVY OF NOT TO EXCEED FIFTY (50) MILLS AS MAY BE NECESSARY TO PAY THE COST OF SUCH IMPROVEMENTS AND SERVICES AS THE DISTRICT IS AUTHORIZED TO PROVIDE BY LAW; AND SHALL THE PROCEEDS OF SUCH TAXES AND INVESTMENT INCOME THEREON AND ANY OTHER REVENUES BE COLLECTED AND SPENT BY THE DISTRICT AS A VOTER-APPROVED REVENUE CHANGE IN 2017 AND IN EACH YEAR THEREAFTER, WITHOUT REGARD TO ANY SPENDING, REVENUE-RAISING, OR OTHER LIMITATION CONTAINED WITHIN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION, OR ANY OTHER LAW?

**BALLOT ISSUE 5B:**

SHALL CITY OF WESTMINSTER DOWNTOWN GENERAL IMPROVEMENT DISTRICT BE AUTHORIZED TO ENTER INTO ONE OR MORE MULTIPLE FISCAL YEAR FINANCIAL OBLIGATIONS OR INTERGOVERNMENTAL AGREEMENTS WITH THE CITY OF WESTMINSTER, THE WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY, OR ANY POLITICAL SUBDIVISION OF THE STATE, FOR THE PURPOSE OF JOINTLY FINANCING THE COSTS OF ANY PUBLIC IMPROVEMENTS, FACILITIES, PROJECTS, SYSTEMS, PROGRAMS, OR SERVICES WHICH THE DISTRICT MAY LAWFULLY PROVIDE OR FOR OPERATIONS AND MAINTENANCE EXPENSES OF THE DISTRICT, WHICH AGREEMENT MAY CONSTITUTE A DEBT OR INDEBTEDNESS AND A MULTIPLE-FISCAL YEAR OBLIGATION OF THE DISTRICT TO THE EXTENT PROVIDED THEREIN AND OTHERWISE AUTHORIZED BY LAW, AND IN CONNECTION THEREWITH SHALL THE DISTRICT BE AUTHORIZED TO MAKE COVENANTS REGARDING THE ESTABLISHMENT AND USE OF AD VALOREM TAXES, RATES, FEES, TOLLS, PENALTIES, AND OTHER CHARGES OR REVENUES OF THE DISTRICT, AND COVENANTS, REPRESENTATIONS, AND WARRANTIES AS TO OTHER MATTERS ARISING UNDER THE AGREEMENTS, ALL AS MAY BE DETERMINED BY THE BOARD OF DIRECTORS OF THE DISTRICT?

5. If a majority of the votes cast on the question to authorize the increase of tax submitted at the Election shall be in favor of the increase of tax as provided in such question, the Board shall be authorized to proceed with the necessary action to increase such tax in accordance with such question. Any authority to increase in tax, if conferred by the results of the Election, shall be deemed and considered a continuing authority to increase taxes so authorized at any one time, or from time to time, and neither the partial exercise of the authority so conferred, nor any lapse of time, shall be considered as exhausting or limiting the full authority so conferred.

6. Pursuant to Section 31-10-1308(2), C.R.S., any election contest arising out of a ballot issue or ballot question election concerning the order of the ballot or the form or content of the ballot title shall be commenced by petition filed with the proper court within five days after the title of the ballot issue or ballot question is set.

7. The ballot titles in Section 4 hereof are set based upon the requirements of TABOR and, pursuant to Section 31-11-102, C.R.S., are an alternative to the provisions of Section 31-11-111, C.R.S. regarding both a title and a submission clause. Pursuant to Section 1-11-203.5, C.R.S., any election contest arising out of a ballot issue or ballot question election concerning the order of the ballot or the form or content of the ballot title shall be commenced by petition filed with the proper court within five days after the title of the ballot issue or ballot question is set.

8. If any section, paragraph, clause or provision of this resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall in no manner affect any remaining provisions of this resolution.

9. All resolutions or parts of resolutions inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any resolution or part of any resolution heretofore repealed.

The effective date of this resolution shall be immediately upon adoption.

INTRODUCED, PASSED AND ADOPTED at a regular meeting of the City Council of the City of Westminster, Colorado, acting ex-officio as the Board of Directors of the City of Westminster Downtown General Improvement District, on August 24, 2015.

CITY OF WESTMINSTER DOWNTOWN  
GENERAL IMPROVEMENT DISTRICT

\_\_\_\_\_  
Mayor/Chairman of the Board of Directors

ATTEST:

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
City Clerk/District Secretary

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

STATE OF COLORADO )  
 )  
 COUNTIES OF ADAMS ) SS.  
 AND JEFFERSON )  
 )  
 CITY OF WESTMINSTER )  
 DOWNTOWN GENERAL )  
 IMPROVEMENT DISTRICT )

I, Linda Yeager, the duly elected, qualified and acting Secretary of the Board of Directors of the City of Westminster Downtown General Improvement District (the "District") do hereby certify:

1. That the foregoing pages are a true, correct, and complete copy of a resolution (the "Resolution") adopted by Board of Directors (the "Board") of the District at a regular meeting of the Board held at the Westminster City Hall on August 24, 2015.

2. The passage of the Resolution was duly moved and seconded and the resolution was approved by vote of \_\_\_ of \_\_\_ of the members of the Board as follows:

| Name            | "Yes" | "No" | Absent | Abstain |
|-----------------|-------|------|--------|---------|
| Herb Atchison   |       |      |        |         |
| Bob Briggs      |       |      |        |         |
| Bruce Baker     |       |      |        |         |
| Maria De Cambra |       |      |        |         |
| Alberto Garcia  |       |      |        |         |
| Emma Pinter     |       |      |        |         |
| Anita Seitz     |       |      |        |         |

3. The members of the Board were present at such meeting and voted on the passage of the Resolution as set forth above.

4. The Resolution has been signed by the President, sealed with the corporate seal of the District, attested by me as Secretary, and duly recorded in the books of the District; and that the same remains of record in the book of records of the District.

5. There are no bylaws, rules or regulations of the Council which might prohibit the adoption of the Resolution.

6. Notices of the meeting of August 24, 2015, in the form attached hereto as **Exhibit A**, was duly given and was posted in a designated public place no less than twenty-four hours prior to the meeting as required by law.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said City this \_\_\_\_\_ day of August, 2015.

\_\_\_\_\_  
 Secretary

(SEAL)

EXHIBIT A

(Attach Notice of Meeting)