



CITY COUNCIL AGENDA

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

Members of the audience are invited to speak at the Council meeting. Citizen Communication (item 7) and Citizen Presentations (item 12) are reserved for comments on items not contained on the printed agenda.

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

The "Consent Agenda" is a group of routine matters to be acted on with a single motion and vote. The Mayor will ask if any citizen wishes to have an item discussed. Citizens then may request that the subject item be removed from the Consent Agenda for discussion separately.

8. Consent Agenda
 - A. November 2004 – Financial Report
 - B. Colorado Municipal League Annual Dues Authorization
 - C. Deicing Materials Purchase
 - D. Ratification of Purchase of Excess Workers' Compensation Insurance
 - E. Engineering Services for Upgrade and Expansion of Big Dry Creek Wastewater Treatment Facility
 - F. Second Reading Councillor's Bill No. 98 re FY 2004 Budget Amendment (Davia-Dixon)
9. Appointments and Resignations
 - A. Rocky Flats Coalition of Local Governments Appointments
 - B. Resolution No. 1 re Appointments and Reappointments to Boards and Commissions
10. Public Hearings and Other New Business
 - A. Councillor's Bill No. 1 re Amended and Restated Business Assistance Agreement for the Marriott Hotel
 - B. Resolution No. 2 re Assignment of 2004 Private Activity Bonds Relative to Toscana Apartments
11. Old Business and Passage of Ordinances on Second Reading
12. Citizen Presentations (longer than 5 minutes) and Miscellaneous Business
 - A. City Council
13. Adjournment

CITY OF WESTMINSTER, COLORADO
MINUTES OF THE CITY COUNCIL MEETING
HELD ON MONDAY, JANUARY 10, 2005 AT 7:00 P.M.

PLEDGE OF ALLEGIANCE

After a moment of silence, in recognition of the tsunami victims and families, the Mayor led Council, Staff and the audience in the Pledge of Allegiance.

ROLL CALL

Mayor McNally, Mayor Pro-Tem Kauffman and Councillors Dittman, Dixon, and Price were present at roll call. Councillor Hicks arrived at 7:09 p.m. J. Brent McFall, City Manager, Martin McCullough, City Attorney, and Michele Kelley, City Clerk, were also present. Absent none.

CONSIDERATION OF MINUTES

Councillor Dittman moved, seconded by Davia to approve the minutes of the meeting of December 20, 2004 as amended under Citizen Communication. The motion carried unanimously.

CITY MANAGER COMMENTS

Brent McFall, City Manager, commented that City Hall will be closed on January 17th for the holiday.

CITY COUNCIL COMMENTS

Councillor Dixon commented that RFCLOG is in the process of selecting a consultant to report back to RFCLOG on the soil conditions at Rocky Flats.

Councillor Hicks arrived at 7:09 p.m.

Councillor Davia acknowledged John Carpenter and Staff on their work on the Lowe's Grand Opening.

Councillor Dittman commented on the wonderful Christmas Tree Lighting Program and acknowledged the Youth Advisory Panel for their assistance.

Mayor McNally recognized a scout in the audience.

CONSENT AGENDA

The following items were considered as part of the consent agenda: November Financial Report; Authorized \$51,477 for 2005 Colorado Municipal League dues; Purchase of 1,800 tons of "Ice Slicer" from the sole source supplier Envirotech Services, Inc., not to exceed \$113,400, and purchase of 1,800 tons of rock salt from, Transloaders, Inc., not to exceed \$61,722; Ratify the purchase of Workers' Compensation Excess insurance for \$82,785 from Midwest Employers Casualty Company ; Authorize an engineering services contract with Camp, Dresser & McKee Inc. in the amount of \$1,085,975 for additional design services re Big Dry Creek Wastewater Treatment Facility; Second Reading Councillor's Bill No.98 re FY 2004 Budget Amendment.

Mayor McNally asked if there was any member of Council or anyone from the audience who would like to have any of the consent agenda items removed for discussion purposes or separate vote. There was no request.

Councillor Dixon moved, seconded by Hicks to adopt the consent agenda items as presented. The motion carried unanimously.

ROCKY FLATS COALITION OF LOCAL GOVERNMENTS APPOINTMENTS

Councillor Hicks moved, seconded by Davia to re-appoint City Councillor Samantha Dixon as the City's representative to the Rocky Flats Coalition of Local Governments (RFCLOG) Board of Directors, re-appoint Councillor Jo Ann Price as the 1st Alternate, and re-appoint Rocky Flats Coordinator Ron Hellbusch as the 2nd Alternate. The motion carried unanimously.

RESOLUTION NO. 1 RE BOARDS AND COMMISSIONS

Councillor Kauffman moved, seconded by Price to adopt Resolution No. 1 accepting the resignations of Ian Walsworth (alternate member) Board of Adjustment; David Davia Human Services Board, and Bruce Vezina (alternate member) Transportation Commission.

The following reappointments were made. Board of Adjustment: Chris Beal, Tim McClung and George Werkmeister, Board of Building Code Appeals: Greg Cullison, Delbert Ragland and Steve Wickens, Environmental Advisory Board: Tom Acre, Carol DiGiacomo, Steve Marlin and Kathy Reynolds, Historic Landmark Board: Kaaren Hardy, April Luber and Bill Teter, Human Services Board: Tanya Ishikawa and Jean Pruitt, Library Board: Marilyn Flachman, Catherine Payne and Hal Smith, Open Space Advisory Board: Bob Briggs, Charles Jacoby and Randal Whorton, Parks and Recreation Advisory Board: Stephanie Bingham, Ken Claussen and Ron Dickerson, Personnel Board: John Brann, Margaret Rivera and Betty Whorton, Planning Commission: Donald Anderson, Martha Brundage, Michael Crocker, Jerry English and Rex Wiederspahn, Special Permit and License Board: Michael Borchlewicz, Bill Nordberg, David Tracy and John Velasquez, Transportation Commission: Jerry Cunningham, and Doug Young, with all terms to expire December 31, 2006.

The following new appointments were made. Board of Adjustment: Henry Sand with term to expire December 31, 2006, Historic Landmark Board: Sarah Rothwell with term to expire December 31, 2006, Human Services Board: Ida Whitelaw Pandit with term to expire December 31, 2006, Library Board: Gary Scofield with term to expire December 31, 2006, Special Permit and License Board: Emil Rinaldi (Alternate) with term to expire December 31, 2005, Transportation Commission: Scott Major with term to expire December 31, 2006, Luke Richards (Alternate) with term to expire December 31, 2005. With an amendment to the Resolution appointing Sam Biller as an alternate member to the Board of Adjustment with a term to expire December 31, 2005. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 1 RE BAP FOR THE MARRIOTT HOTEL

Councillor Dittman moved, seconded by Dixon to adopt Councillor's Bill No. 1 on first reading authorizing the City Manager to execute the amended and restated business assistance package (BAP) between the City of Westminster and Church Ranch Hotel Company I, LLC (CRHC) and Church Ranch Hotel Company II, LLC (CRHC II) for the Marriott Hotel project in substantially the same form as the attached amended and reinstated agreement. Upon roll call vote, the motion carried unanimously.

RESOLUTION NO. 2 RE 2004 PRIVATE ACTIVITY BONDS TOSCANA APARTMENTS

Councillor Davia moved, seconded by Price to adopt Resolution No. 2 assigning \$500,000 of the City's 2004 Private Activity Bond (PAB) allocation of \$4,160,440 to the Adams County Housing Authority (ACHA), for the purpose of refinancing existing taxable rate bond debt relative to the Toscana Apartments at Sheridan Boulevard and 84th Avenue, a qualified affordable housing project. Upon roll call vote, the motion carried unanimously.

EXECUTIVE SESSION

It was announced that two Executive Session items would be discussed, an economic development matter and a legal matter.

ADJOURNMENT:

The meeting was adjourned at 7:18 P.M.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

Agenda Item 8 A

City Council Meeting
January 10, 2005



SUBJECT: Financial Report for November 2004

Prepared By: Tammy Hitchens, Acting Finance Director

Recommended City Council Action

Accept the Financial Report for November 2004 as presented.

Summary Statement

City Council is requested to review and accept the attached monthly financial statement and monthly revenue report. The Shopping Center Report is also attached to this monthly financial report. Staff has revised this report to account for additional payments from several sources, and the numbers below reflect these changes.

- Across all shopping centers, adjusted total sales & use tax receipts are up 6.7% over the one-month period of November 2003. Last month this figure was up 1%. (The report itself shows an increase of 10%, but this needs to be adjusted as described above.)
- On a year-to-date basis, adjusted receipts are up 1.9% compared to the eleven-month period last year. Last month this figure was up 1%.
- The Westminster Mall is up 14% for November, compared to November of last year; adjusted, this figure is down 5%. Last month this figure was down 2%. Year-to-date the Mall is down 2%; last month this figure was down 3%.
- Public Safety Tax (PST) receipts for the month of November were \$789,814

Key features of the monthly financial report for November are as follows:

- At the end of November, eleven months of the year have passed, or 92% of the calendar year.
- The table attached shows the Sales and Use Tax Fund revenues are currently \$2,343,801 over pro-rated budget for the year. The November figures reflect the sales in October, tax receipts received in November. This is due, in large part, to receipt of PST taxes, but is also due to excess revenues as Business Assistance Packages are retired, as well as a general upturn in the economy.
- Without the new PST, adjusted Sales Tax Returns (returns only and adjusted for early and late returns) are up for November 2004 compared to November 2003 by 5.8%, an increase of \$168,116 over November 2003. In other words, economic activity increased for the month.
- For the month of November, the entire fund is 0.1% behind November 2003. Last month this figure was down 1.6%. This is an improvement, but at the same time, the impact of internet sales on sales tax receipts can easily be seen in these "flat" sales tax return figures.
- Looking at year-to-date figures without the PST, analysis shows the following:
 - For the eleven months ending in November, Sales Tax Returns (only) are 4.1% ahead of 2003 year-to-date, or an increase of \$1,434,746. For the eleven months ending in November the fund is 2.2% ahead of 2003 year-to-date. Last month this figure was 2.4%.
 - Use taxes are still lower than this time last year and staff is investigating the reasons for this decline.
- The General Fund revenue is currently 100.8% of pro-rated budget for eleven months.
- This report is presented at the January 10th meeting due to the holiday season and the cancellation of the December 27th City Council meeting. The December 2004 report will be presented to City Council at the January 24th City Council meeting.

Policy Issue

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

Alternative

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

Background Information

This section is broken down into a discussion of highlights of each fund presented.

For revenues, a positive indicator is a pro-rated budget percentage at or above 100%. For expenditures, a positive indicator is a pro-rated budget percentage that is below 100%. If a fund is on schedule for the year regarding revenues and/or expenditures, the percentage will be 100% of pro-rated budget figures.

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

At the end of November, the General Fund is in the following position regarding both revenues and expenditures:

- Revenues are over pro-rated budget by \$555,183, (100.8% of pro-rated budget). Last month this variance was 100.4%. The difference is due to the following:
 - Recreation Center revenues are still below pro-rated budget by \$247,642 for the month of November, but this variance is shrinking from \$479,668 in October. Several specific revenue sources for these items include: admission revenues, passes to all facilities and programs at all facilities.
 - The pro-rated revenues for Intergovernmental Revenues are under budget by \$229,564, somewhat increased over last month's figure of \$189,874. Several of the sub-categories are under budget compared to 2003. For example, the pace of HUTF Revenues collections within the category of Intergovernmental Revenues for 2004 has not kept up with historical collections. A 10-year history shows the City has traditionally collected 84% of HUTF by this time of year. However, for last year and this year, collections have reached only 77% of budget. Staff will evaluate year-end figures in this entire category to determine the cause for this variance.
 - This is offset by "Other Charges for Services," which pro-rated revenues are over budget by \$314,051, an improvement over last month's over-budget figure of \$206,334. Franchise Fees from Public Service Co. and Comcast revenues are the primary reasons for this variance.
- Expenditures are under budget by \$7.7 million (90% of pro-rated budget), due to under-spending in several departments, and the fact that very limited contingency funds have been spent to date. Spending does not occur evenly throughout the year in many departments, particularly with regard to insurances in Central Charges and spending on contract services in several other departments. Public Safety Tax expenditures to date are largely reflected in the Police and Fire Department operating budgets, which are 90% and 87% of pro-rated budgets, respectively. As of mid-December, the Police had hired 26 new officers under Ballot 2A, the Fire had hired 22 officers under Ballot 2A, for a total of 48 new hires. This does not include promotions or hiring to fill vacancies.

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

These funds are the repositories for the 3.85% City Sales & Use Tax for the City. The Sales & Use Tax Fund provides monies for the General Fund, the Capital Project Fund and the Debt Service Fund. The Open Space Sales & Use Tax Fund revenues are pledged to meet debt service on the POST bonds, buy open space, and make park improvements on a pay-as-you-go basis. The Public Safety Tax was approved

by the voters in the November 2003 election, and is a 0.6% sales and use tax to be used to fund public safety-related expenses. At the end of November, the position of these funds is as follows:

- Sales & Use Tax Fund revenues are over pro-rated budget by \$2,343,801 (105% of pro-rated budget). These numbers include all year-to-date PST receipts and year-to-date income due to retired business assistance packages.
- On the basis of Actual Revenues year-to-date, the 2004 Sales Tax Fund is 2.2% ahead of last year. The City budgeted the Sales Tax Fund to be 2.2% greater than last year. Due to the recent slowing of revenues for the past several months, Staff expects to meet this budget figure, but Staff does not anticipate exceeding it.
- Sales & Use Tax Fund expenditures are even with pro-rated budget because of the transfers to the General Fund, Debt Service Fund and General Capital Improvement Fund.
- Open Space Sales & Use Tax Fund revenues are over pro-rated budget by \$207,760 (103% of pro-rated budget).
- Open Space Sales & Use Tax Fund expenditures are under pro-rated budget by \$1.7 million (75% of pro-rated budget); planned land acquisitions are pending, but not all of them were completed during November.

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

This fund reflects the operating results of the City's water, wastewater and storm water systems. It is important to note that net operating revenues are used to fund capital projects. At the end of November, the enterprise is in a positive position.

- Combined Water & Wastewater revenues are under pro-rated budget by \$224,757 (99% of budget), a significant improvement over last month's figure of under budget by \$1.37 million:
 - Water revenues over pro-rated budget by \$754,136 (103% of pro-rated budget), an improvement over last month's figure of \$259,433 under pro-rated budget. The primary reasons for this are two: first is the increase in tap fees for the month by \$806,267. Second is a reimbursement of \$326,011 from Huntington Trails for reclaimed water infrastructure improvements. Water revenues from rates and charges are under pro-rated budget by \$1,951,121 or 90% of budget, (a slight improvement from last month's under budget figure of 2,050,291 when they stood at 89% of pro-rated budget). Tap fees are over pro-rated budget by \$2,864,875 (177% of budget).
 - Wastewater revenues under pro-rated budget by \$978,896 (91% of budget), an improvement over last month's under budget figure of \$1,107,225, due to tap fee revenues of \$299,495 for the month.
 - Storm water Drainage revenues slightly over pro-rated budget by \$13,218 (102% of pro-rated budget).
- Combined Water & Wastewater expenses are under budget by \$5,409,829 (79% of budget):
 - Water expenses under pro-rated budget by \$3,678,083 (80% of budget) due to lower contracted service and capital outlay expenses than budgeted year to date.
 - Wastewater expenses under pro-rated budget by \$1,731,746 (76% of budget) for the same reason – lower contracted service costs and capital outlay.
 - Storm Drainage expenses under pro-rated budget by \$89,001 (59% of budget).

Golf Course Enterprise (Legacy and Heritage Golf Courses)

This enterprise reflects the operations of the City's two municipal golf courses. The enterprise as a whole is in a net negative position on a pro-rated basis, with net income currently \$613,588 under pro-rated budget for the year. On October 11, 2004, City Council approved a four-point program to provide relief to the golf courses over the coming years.

- Legacy – Revenues are under pro-rated budget by \$439,894 (79% of pro-rated budget).
- Legacy – Operating expenses are under pro-rated budget by \$198,713 (88% of pro-rated budget).
- Heritage – Revenues are under pro-rated budget by \$669,150 (69% of pro-rated budget).
- Heritage – Operating expenses are under pro-rated budget by \$296,743 (83% of pro-rated budget).

Staff will attend the January 10th City Council meeting.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

**City of Westminster
Financial Report
For the Eleven Months Ending November 30, 2004**

Description General Fund	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget Pro-Rated	% Pro-Rated Budget
Revenues						
Taxes	4,402,309	4,414,683	(1)	4,447,554	32,871	101%
Licenses & Permits	1,725,000	1,706,000	(2)	2,215,873	509,873	130%
Intergovernmental Revenue	5,105,099	4,387,399	(3)	4,157,835	(229,564)	95%
Charges for Services						
Recreation Services	5,139,500	4,460,550	(4)	4,212,908	(247,642)	94%
Other Services	5,460,500	4,707,740	(4)	5,021,791	314,051	107%
Fines	1,876,500	1,707,615	(5)	1,808,588	100,973	106%
Interest Income	400,000	366,667		157,507	(209,160)	43%
Misc	306,629	281,077	(6)	449,883	168,806	160%
Leases	775,000	581,250	(7)	631,250	50,000	109%
Refunds	(75,000)	(68,750)	(8)	(3,775)	64,975	5%
Interfund Transfers	53,318,198	48,867,540	(9)	48,867,540	(0)	100%
Other Financing Sources	1,573,827	1,573,827	(12)	1,573,827	0	100%
Sub-total Revenues	<u>80,007,562</u>	<u>72,985,598</u>		<u>73,540,781</u>	<u>555,183</u>	<u>101%</u>
Carryover	6,631,645	0	(10)	0	0	
Revenues	<u>86,639,207</u>	<u>72,985,598</u>		<u>73,540,781</u>	<u>555,183</u>	<u>101%</u>
Expenditures						
City Council	188,260	172,572		159,282	(13,289)	92%
City Attorney's Office	902,887	827,646		743,626	(84,020)	90%
City Manager's Office	1,035,082	948,825		856,190	(92,636)	90%
Central Charges	27,035,632	24,782,663		21,949,265	(2,833,397)	89%
General Services	4,847,169	4,443,238		3,854,941	(588,298)	87%
Finance	1,563,473	1,433,184		1,268,510	(164,673)	89%
Police	17,624,460	16,155,755		14,531,446	(1,624,309)	90%
Fire Emergency Services	9,486,989	8,696,407		7,556,782	(1,139,624)	87%
Community Development	4,421,620	4,053,152		3,827,254	(225,898)	94%
Public Works & Utilities	6,909,037	6,333,284		6,294,908	(38,376)	99%
Parks Recreation & Libraries	12,624,598	11,572,548		10,659,769	(912,779)	92%
Total Expenditures	<u>86,639,207</u>	<u>79,419,274</u>	(11)	<u>71,701,973</u>	<u>(7,717,299)</u>	<u>90%</u>
Revenue Over(Under) Expend	<u>0</u>	<u>(6,433,676)</u>		<u>1,838,808</u>	<u>8,272,482</u>	

(1) Property Taxes at 100%-101% in October; Admissions Taxes average 89%
Qwest at 75% by this time of year.

(2) Licenses 75%, Comm'l Permits 84%, Res'l Permits 98%.

(3) Cig Tax 68%, HUTF 76%, AutoOwnr 76%, Veh Regis 74%,
Road & Bridge(Adco) 100%, Road & Bridge(Jeffco) 92%.

(4) Recreation 85% (except Ice Ctr-qtrly), PubSvc 78%, COMCAST 68%, CAM & EMS billings 79%, all others 79%.

(5) Fines historically at 83%

(6) Miscellaneous, General Reimbursements, Contributions, and Westminster Faire Receipts. Generally 10/12

(7) Timing delays of lease payments can occur; billed 1st Qtr, received 2nd Qtr - recorded
during 1st Qtr with no delay.

(8) Refund payments generally apply to recreation charges in general.

(9) Transfers from Sales Tax Fund, Sheridan Crossing GID, Water, and Waste Water.

(10) Carryover from Year 2003 is always budgeted for the next year; included here to render
correct balanced budget perspective.

Carryover (Actual) represents use of prior year fund balance, as budgeted.

(11) Expenditures are based on even 10/12 per month or 8.33% per month.

(12) Lease proceeds

**City of Westminster
Financial Report
For the Eleven Months Ending November 30, 2004**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget Pro-rated	% Pro-Rated Budget
Sales and Use Tax Fund						
Revenues						
Sales Tax						
Sales Tax Returns	38,439,143	35,059,618	(1)	36,275,831	1,216,212	103%
Sales Tx Audit Revenues	545,000	516,265		721,564	205,299	140%
S-T Rev. STX	<u>38,984,143</u>	<u>35,575,883</u>		<u>36,997,395</u>	<u>1,421,511</u>	104%
Use Tax						
Use Tax Returns	8,900,000	7,816,500	(1)	7,710,463	(106,037)	99%
Use Tax Audit Revenues	500,000	445,000		201,330	(243,670)	45%
S-T Rev. UTX	<u>9,400,000</u>	<u>8,261,500</u>		<u>7,911,793</u>	<u>(349,707)</u>	96%
Total STX and UTX	<u>48,384,143</u>	<u>43,837,383</u>		<u>44,909,188</u>	<u>1,071,804</u>	102%
Public Safety Tax						
PST Tax Returns	8,433,000	6,676,461	(3)	7,925,304	1,248,843	119%
PST Audit Returns	0	0		54,839	54,839	
Total Rev. PST	<u>8,433,000</u>	<u>6,676,461</u>		<u>7,980,143</u>	<u>1,303,682</u>	120%
Total Interest Income	<u>50,000</u>	<u>45,833</u>		<u>14,149</u>	<u>(31,685)</u>	31%
Carryover	0		(2)			
Total Revenues	<u>56,867,143</u>	<u>50,559,677</u>		<u>52,903,480</u>	<u>2,343,801</u>	105%
Expenditures						
Central Charges	<u>56,867,143</u>	<u>52,128,214</u>	(4)	<u>52,128,214</u>	<u>(0)</u>	100%
Revenues Over(Under) Expenses	<u>0</u>	<u>(1,568,537)</u>		<u>775,266</u>	<u>2,343,801</u>	

(1) At end of October, historical averages are as follows: Returns 83.6%, Audit 88.1%,
Use Tax Returns 85.6%, Building Use Tax 84.3%, Auto Use Tax 74.6%, Use Tax Audit 78.9%.

(2) Carryover from prior year is always budgeted for the next year; included here to render correct
balanced budget perspective.

Carryover (Actual) represents use of prior year fund balance, as budgeted.

(3) Public Safety Sales Tax returns 70.2% Use tax returns 71.3%, Bldg tax returns 84.3%, Auto returns 74.6%.

(4) Expenditures are fund transfers to General Fund, GCIP, and Debt Service.

**City of Westminster
Financial Report
For the Eleven Months Ending November 30, 2004**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget Pro-rated	% Pro-Rated Budget
Open Space Fund						
Revenues						
Sales & Use Tax	4,280,828	3,867,608	(1)	3,878,238	10,629	100%
Intergovernmental Revenue	0	0		0	0	
Interest Income	25,000	22,917	(2)	24,315	1,398	106%
Sale of Assets	2,916,803	2,916,803		3,102,453	185,650	106%
Miscellaneous	44,000	44,000		54,083	10,083	123%
Sub-total Revenues	<u>7,266,631</u>	<u>6,851,328</u>		<u>7,059,089</u>	<u>207,760</u>	<u>103%</u>
Carryover	330,000	0	(3)	0	0	
Total Revenues	<u>7,596,631</u>	<u>6,851,328</u>		<u>7,059,089</u>	<u>207,760</u>	<u>103%</u>
Expenditures						
Central Charges	<u>7,596,631</u>	<u>6,963,578</u>		<u>5,249,807</u>	<u>(1,713,771)</u>	<u>75%</u>
Revenues Over(Under) Expend	<u>0</u>	<u>(112,250)</u>		<u>1,809,282</u>	<u>1,921,531</u>	

(1) Open Space Sales Taxes 83.4%; Open Space Use Tax 78.6%.

(2) These numbers reflect the reversal of the unrealized gain recorded for FYE 2003, as required by the Governmental Accounting Standards Board.

(3) Carryover from prior year is budgeted for the next year; included here to render correct balanced budget perspective.

Carryover (Actual) represents use of prior year fund balance, as budgeted.

**City of Westminster
Financial Report
For the Eleven Months Ending November 30, 2004**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget Pro-rated	% Pro-Rated Budget
Water and Wastewater Fund-Combined						
Revenues						
License & Permits	70,000	64,167		87,395	23,228	136%
Intergovernmental Revenue	25,000	22,917		0	(22,917)	0%
Charges for Services						
Rates and Charges	30,715,275	28,862,833	(1)	26,052,557	(2,810,276)	90%
Tap Fees	6,050,000	5,462,975	(1)	8,539,436	3,076,461	156%
Interest Income	1,590,000	1,466,220	(2)	705,950	(760,270)	48%
Miscellaneous	410,000	375,833	(3)	644,850	269,017	172%
Interfund Transfers	515,000	515,000		515,000	0	100%
Sub-total Water/Wastewater Revenues	<u>39,375,275</u>	<u>36,769,945</u>		<u>36,545,188</u>	<u>(224,757)</u>	<u>99%</u>
Carryover	8,096,647	-	(4)	-		
Total Revenues	<u>47,471,922</u>	<u>36,769,945</u>		<u>36,545,188</u>	<u>(224,757)</u>	<u>99%</u>
Expenditures						
Central Charges	11,750,893	6,840,961	(5)	5,897,580	(943,381)	86%
Finance	545,285	499,845		438,086	(61,759)	88%
Public Works & Utilities	17,640,354	16,170,325		12,051,303	(4,119,022)	75%
Information Technology	2,364,699	2,167,641		1,881,974	(285,667)	87%
Total Operating Expenses	<u>32,301,231</u>	<u>25,678,772</u>		<u>20,268,943</u>	<u>(5,409,829)</u>	<u>79%</u>
Revenues Over(Under) Expenses	<u>15,170,691</u>	<u>11,091,173</u>		<u>16,276,245</u>	<u>5,185,072</u>	

- (1) (a) Water: Res Sales 95.5%, Commr Sales 96.7%, Wholesale Sales 93.3%, Meter Svc Fees 90.2%, Reclaimed Charges projected at 11/12, until more data is available, Res Taps 86%, Commr Taps 93.9%.
(b) Wastewater: Res'l Sales 91%, Comm'l Sales 90.5%, Res'l Taps 90.5%, Comm'l Taps 122.2%.
- (2) Interest Income historically is at 91% for water and 93.8% for wastewater at this time of year; this variance is due in part to reversal of FYE unrealized gain from 2003, required per the Governmental Accounting Standards Board.
- (3) Includes Misc Income only.
- (4) Carryover from prior year is budgeted for the next year; included here to render correct balanced budget perspective. Carryover (Actual) represents use of prior year retained earnings, as budgeted.
- (5) Debt Service is due June 1 (Interest only) and Dec 1 (Prin + Int) and has been pro-rated in the Budget Pro-Rated column.

**City of Westminster
Financial Report
For the Eleven Months Ending November 30, 2004**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget Pro-Rated	% Pro-Rated Budget
Water Fund						
Revenues						
License & Permits	70,000	64,167		87,395	23,228	136%
Intergovernmental Revenue	25,000	22,917		0	(22,917)	0%
Charges for Services						
Rates and Charges	21,295,676	20,312,424	(1)	18,361,303	(1,951,121)	90%
Tap Fees	4,275,000	3,737,725	(1)	6,602,600	2,864,875	177%
Interest Income	900,000	819,000	(2)	383,757	(435,243)	47%
Miscellaneous	400,000	366,667	(3)	641,981	275,314	175%
Interfund Transfers	465,000	465,000		465,000	0	100%
Sub-total Water Revenues	<u>27,430,676</u>	<u>25,787,900</u>		<u>26,542,036</u>	<u>754,136</u>	<u>103%</u>
Carryover	2,556,114	-	(4)	-	-	
Total Revenues	<u>29,986,790</u>	<u>25,787,900</u>		<u>26,542,036</u>	<u>754,136</u>	<u>103%</u>
Expenses						
Central Charges	9,659,609	5,214,931	(5)	4,503,342	(711,589)	86%
Finance	545,285	499,845		438,086	(61,759)	88%
Public Works & Utilities	11,514,197	10,554,681		7,935,613	(2,619,068)	75%
Information Technology	2,364,699	2,167,641		1,881,974	(285,667)	87%
Total Operating Expenses	<u>24,083,790</u>	<u>18,437,098</u>		<u>14,759,015</u>	<u>(3,678,083)</u>	<u>80%</u>
Revenues Over(Under) Expenses	<u>5,903,000</u>	<u>7,350,802</u>		<u>11,783,021</u>	<u>4,432,219</u>	

- (1) Res Sales 95.5%, Commr Sales 96.7%, Wholesale Sales 93.3%, Meter Svc Fees 90.2%, Reclaimed Charges projected at 11/12, until more data is available, Res Taps 86%, Commr Taps 93.9%.
- (2) Interest Income historically at 91% at this time of year; this variance is due in part to reversal of FYE unrealized gain from 2003, required per the Governmental Accounting Standards Board.
- (3) Includes Misc Income only.
- (4) Carryover from prior year is included to present total budget perspective; Carryover (Actual) represents use of prior year retained earnings, as budgeted.
- (5) Debt Service is due June 1 (Interest only) and Dec 1 (Prin + Int) and has been pro-rated.

**City of Westminster
Financial Report
For the Eleven Months Ending November 30, 2004**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget Pro-rated	% Pro-Rated Budget
Wastewater Fund						
Revenues						
Charges for Services						
Rates and Charges	9,419,599	8,550,409	(1)	7,691,253	(859,156)	90%
Tap Fees	1,775,000	1,725,250	(1)	1,936,836	211,586	112%
Interest Income	690,000	647,220	(2)	322,193	(325,027)	50%
Miscellaneous	10,000	9,167		2,868	(6,299)	31%
Interfund Transfers	50,000	50,000		50,000	0	100%
Sub-total Water Revenues	<u>11,944,599</u>	<u>10,982,046</u>		<u>10,003,150</u>	<u>(978,896)</u>	<u>91%</u>
Carryover	5,540,533	-	(3)	-	-	
Total Revenues	<u>17,485,132</u>	<u>10,982,046</u>		<u>10,003,150</u>	<u>(978,896)</u>	<u>91%</u>
Expenditures						
Central Charges	2,091,284	1,626,030	(4)	1,394,238	(231,792)	86%
Public Works & Utilities	6,126,157	5,615,644		4,115,690	(1,499,954)	73%
Total Operating Expenses	<u>8,217,441</u>	<u>7,241,674</u>		<u>5,509,928</u>	<u>(1,731,746)</u>	<u>76%</u>
Revenues Over(Under) Expenses	<u>9,267,691</u>	<u>3,740,372</u>		<u>4,493,222</u>	<u>752,850</u>	

(1) Res'l Sales 91%, Comm'l Sales 90.5%, Res'l Taps 90.5%, Comm'l Taps 122.2%.

(2) Interest Income historically at 93.8% at this time of year; this variance is due in part to reversal of FYE unrealized gain from 2003, required per the Governmental Accounting Standards Board.

(3) Carryover from prior year is budgeted for the next year; included here to render correct balanced budget perspective. Carryover (Actual) represents use of prior year retained earnings, as budgeted.

(4) Debt Service is due June 1 (Interest only) and Dec 1 (Prin + Int) and has been pro-rated in the Budget-Pro-rated column.

**City of Westminster
Financial Report
For the Eleven Months Ending November 30, 2004**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget Pro-rated	% Pro-Rated Budget
Storm Drainage Fund						
Revenues						
Business Fees						
Charges for Services	875,000	802,083		792,016	(10,067)	99%
Interest Income	0	0	(1)	23,285	23,285	
Total Revenues	<u>875,000</u>	<u>802,083</u>		<u>815,301</u>	<u>13,218</u>	<u>102%</u>
Expenses						
Central Charges	0	0		1,773	1,773	
Organization Support Services	100,000	91,667		31,303	(60,364)	34%
Engineering	39,000	35,750		11,537	(24,213)	32%
Street Maintenance	100,000	91,667		85,470	(6,196)	93%
Total Expenses	<u>239,000</u>	<u>219,084</u>		<u>130,083</u>	<u>(89,001)</u>	<u>59%</u>
Revenues Over(Under) Expenses	<u>636,000</u>	<u>582,999</u>	(2)	<u>685,218</u>	<u>102,219</u>	

(1) These numbers reflect the reversal of the unrealized gain recorded for FYE 2003, as required by the Governmental Accounting Standards Board.

(2) These funds are budgeted in Storm Drainage Capital Improvements.

**City of Westminster
Financial Report
For the Eleven Months Ending November 30, 2004**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget Pro-rated	% Pro-Rated Budget
Golf Courses Combined						
Revenues						
Charges for Services	3,934,702	3,857,932	(1)	2,756,814	(1,101,118)	71%
Interest Income	0	0		(7,926)	(7,926)	
Other Financing Sources	399,642	399,642	(1), (5)	399,642	0	0%
Total Revenues	<u>4,334,344</u>	<u>4,257,574</u>		<u>3,148,530</u>	<u>(1,109,044)</u>	<u>74%</u>
Expenses						
Central Charges	191,441	178,544	(2)	154,724	(23,820)	87%
Other Financing Use	399,642	399,642	(2), (5)	399,642	0	100%
Recreation Facilities	2,752,379	2,814,744	(2)	2,343,108	(471,636)	83%
Total Expenses	<u>3,343,462</u>	<u>3,392,930</u>		<u>2,897,474</u>	<u>(495,456)</u>	<u>85%</u>
Operating Income (Loss)	990,882	864,644		251,056	(613,588)	
Debt Service Expense	990,882	613,661	(3),(4)	613,661	0	100%
Revenues Over(Under) Expenditure	<u>0</u>	<u>250,983</u>		<u>(362,605)</u>	<u>(613,588)</u>	

- (1) Revenues pro-rated based on a 7yr history for Legacy and a 5 yr history for Heritage of revenues per month. Based on this history, Charges for Services are projected at 98.1% for Legacy and 98% for Heritage and "Other Financing Source" is projected at 100% for both Legacy and Heritage for November.
- (2) Expenses are pro-rated per month based on a 5 yr history, excluding year-end entries. Based on this history, "Central Charges" is projected at 91.4% for Legacy and 95% for Heritage, "Recreation Facilities" is projected at 97.9% for Legacy and 1.064% for Heritage and "Other Financing Use" is projected at 100% for both Legacy and Heritage for November. Due to year end adjustments made in the golf course funds, Heritage's expenses appear to be over budget in November when in fact they aren't. In December when the adjustments are entered, the expenses equal 100% of budget.
- (3) Legacy's scheduled debt service payments due in Year 2004 are \$493,729. For Legacy, 1/12 of the debt service is transferred to the Debt Service fund each month. This transfer is reflected in the budget figures above. Heritage's debt service is \$497,153 for the year. For Heritage, the debt service is payable in June and December and will be reflected in the pro-rated budget at that time. This presentation should give the reader a clearer picture of the results of operations.
- (4) Because the 1997A Sales and Use Tax Revenue Bonds are not a legal liability of the Golf Course Fund, the principal and interest that was recorded in Legacy Ridge was removed and recorded in the General Long Term Debt Account Group. However, Legacy is making monthly transfers to the Debt Service Fund as noted above to assist in the payment of principal and interest. In order for the reader to get a clear picture of golf course operation without the Debt Service Fund transfers, the report will show Operating Income (without the budgeted debt service) and Revenues Over (Under) Expenditures (with debt service as budgeted).
- (5) Other Financing Source and Other Financing Use resulted from the appropriation and recording of the lease for the new golf carts.

**City of Westminster
Financial Report
For the Eleven Months Ending November 30, 2004**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget Pro-rated	% Pro-Rated Budget
Legacy Ridge Fund						
Revenues						
Charges for Services	1,924,776	1,888,205	(1)	1,451,412	(436,793)	77%
Interest Income	0	0		(3,101)	(3,101)	0%
Other Financing Sources	199,821	199,821	(1), (5)	199,821	0	0%
Total Revenues	2,124,597	2,088,026		1,648,132	(439,894)	79%
Expenses						
Central Charges	92,376	84,432	(2)	78,266	(6,165)	93%
Other Financing Use	199,821	199,821	(2), (5)	199,821	0	100%
Recreation Facilities	1,338,671	1,310,559	(2)	1,118,012	(192,547)	85%
Sub-Total Expenses	1,630,868	1,594,812		1,396,099	(198,713)	88%
Operating Income(Loss)	493,729	493,214		252,033	(241,181)	
Debt Svc STX Bonds Expense	493,729	452,585	(3)(4)	452,585	0	100%
Revenues Over(Under) Expenditures	0	40,629		(200,552)	(241,181)	

- (1) Revenues pro-rated based on a 7 yr history of revenues per month. Based on this history, "Charges for Services" is projected at 98.1% and "Other Financing Source" is projected at 100% for November.
- (2) Expenses are pro-rated per month based on a 5 yr history, excluding year-end entries. Based on this history, "Central Charges" is projected at 91.4%, "Recreation Facilities" is projected at 97.9% and "Other Financing Use" is projected at 100% for November.
- (3) Legacy's debt service for the year is \$493,729. 1/12 of the total debt service is transferred to the Debt Service Fund each month.
- (4) Because the 1997A Sales and Use Tax Revenue Bonds are not a legal liability of the Golf Course Fund, Long Term Debt Account Group. However, Legacy is making monthly transfers to the Debt Service Fund picture of golf course operation without the Debt Service Fund transfers, the report will show Operating Income a clear picture of golf course operation without the Debt Service Fund transfers, the report will show Operating Income (without the budgeted debt service) and Revenues Over (Under) Expenditures (with debt service as budgeted).
- (5) Other Financing Source and Other Financing Use resulted from the appropriation and recording of the lease for the new golf carts.

**City of Westminster
Financial Report
For the Eleven Months Ending November 30, 2004**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget Pro-rated	% Pro-Rated Budget
Heritage at Westmoor Fund						
Revenues						
Charges for Services	2,009,926	1,969,727	(1)	1,305,402	(664,325)	66%
Interest Income	0	0		(4,825)	(4,825)	
Other Financing Sources	199,821	199,821	(1), (4)	199,821	0	0%
Total Revenues	2,209,747	2,169,548		1,500,398	(669,150)	69%
Expenses						
Central Charges	99,065	94,112	(2)	76,458	(17,654)	81%
Other Financing Use	199,821	199,821	(2), (4)	199,821	0	100%
Recreation Facilities	1,413,708	1,504,185	(2)	1,225,096	(279,089)	81%
Sub-Total Expenses	1,712,594	1,798,118		1,501,375	(296,743)	83%
Operating Income	497,153	371,430		(977)	(372,407)	
Debt Service Expense	497,153	161,076	(3)	161,076	0	0%
Revenues Over(Under) Expenses	0	210,354		(162,053)	(372,407)	

- (1) Revenues pro-rated based on a 5 yr history of revenues per month. Based on this history, "Charges for Services" is projected at 98% and "Other Financing Source" is projected at 100% for November.
- (2) Expenses are pro-rated per month based on a 5 yr history, excluding year-end entries. Based on this history, "Central Charges" is projected at 95%, "Recreation Facilities" is projected at 1.064% and "Other Financing Use" is projected at 100% for November. Due to year end adjustments made in the golf course funds, Heritage's expenses appear to be over budget in November when in fact they aren't. In December when the adjustments are entered, the expenses equal 100% of budget.
- (3) Heritage's debt service is \$497,153 for the year. For Heritage, the debt service is payable in June and December and will be reflected in the pro-rated budget at that time. This presentation should give the reader a clearer picture of the results of operations.
- (4) Other Financing Source and Other Financing Use resulted from the appropriation and recording of the lease for the new golf carts.



Agenda Memorandum

City Council Meeting
January 10, 2005



SUBJECT: Colorado Municipal League Annual Dues Authorization

Prepared By: Barbara Opie, Assistant to the City Manager

Recommended City Council Action

Authorize the payment of \$51,477 for the City's 2005 Colorado Municipal League dues and charge the expense to the appropriate Central Charges budget account in the 2005 Budget.

Summary Statement

City Council is requested to authorize the payment of \$51,477 for the City's 2005 membership and dues to the Colorado Municipal League. Funds for this membership have been appropriated in the Central Charges portion of the 2005 City Budget.

The Colorado Municipal League (CML) provides services to 265 cities and towns throughout the state. The annual membership dues to CML include subscriptions to the bimonthly magazine, *Colorado Municipalities*, and the biweekly CML Newsletter for community officials. Other League services include municipal information services, municipal conferences and workshops, legislative and legal services, administrative agency services, sample ordinances, research and publications. The CML is the main voice of municipalities at the State Legislature and has been important to cities and towns in advocating and protecting municipal interests.

The City of Westminster's 2005 dues, which are based on population, assessed valuation, and sales tax collections, total \$51,477, an increase of \$2,451 (or 5%) over the 2004 dues. These funds have been included in the 2005 budget that was previously approved and adopted by City Council in October 2004. Since these annual membership dues now exceed \$50,000, City Council authorization is required, per Section 15-1-2 of the Municipal Code.

This is the first year since 2002 that CML has raised dues.

Expenditure Required: \$51,477

Source of Funds: General Fund, Central Charges budget

Policy Issue

- Does City Council wish to continue the City's membership in the Colorado Municipal League?

Alternative

- Discontinue City membership with the Colorado Municipal League, reallocate the funds budgeted for the City membership with CML and utilize the funds for other City events throughout the year. This is not recommended by Staff as CML provides important services, as outlined in this memorandum, that assist the City in many ways.

Background Information

The City of Westminster actively participates in CML meetings and workshops, and extensively utilizes the various services offered by the League. CML lobbies legislation on behalf of municipalities throughout the State, distributes numerous publications that provide information on timely topics and trends, hosts workshops and meetings on important municipal issues, and performs research as requested by member jurisdictions.

265 cities and towns are members of CML and pay dues on an annual basis. CML's formula for arriving at a municipality's dues payment is based on a per capita charge using Department of Local Affairs population estimates, a fraction of the assessed valuation figures from the State Division of Property Taxation, and a fraction of state sales tax collections for the previous calendar year.

As in previous years, the annual CML dues are included in the City Budget. City Council action is required because the expense is over \$50,000 in accordance with 15-1-2 of the Municipal Code. This is the first year since 2002 that CML has increased their dues (2002-2003-2004 dues = \$49,026/year).

Respectfully submitted,

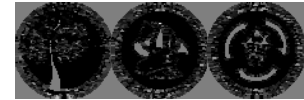
J. Brent McFall
City Manager



**WESTMINSTER
COLORADO**

Agenda Memorandum

City Council Meeting
January 10, 2005



SUBJECT: Deicing Materials Purchase

Prepared By: Sam LaConte, Street Operations Manager

Recommended City Council Action

Based on the recommendation of the City Manager, the City Council finds that the public interest would be best served by the purchase of 1,800 tons of "Ice Slicer" from the sole source supplier Envirotech Services, Inc., for a cost not to exceed \$113,400, and authorize the purchase of 1,800 tons of rock salt from the low quote, Transloaders, Inc., for a cost not to exceed \$61,722.

Summary Statement

Ice Slicer

- Ice Slicer, which is mined in Utah, is a complex chloride-based solid chemical deicer used to keep roads safe during winter months. The City began using Ice Slicer during the 1999/2000 snow season.
- Ice Slicer is an approved product by the Regional Air Quality Council and the Colorado Department of Public Health and Environment in meeting the PM 10 Standards set forth for the Metro area as a measure to reduce the "brown cloud" effect associated with street sanding.
- Ice Slicer is the primary product used by most cities and counties throughout the Metro area.
- Envirotech Services, Inc. is the sole supplier in the Rocky Mountain Region of Ice Slicer.

Salt

- Salt is also purchased as a de-icing product to ensure safer travel for the motoring public. Staff mixes the salt and Ice Slicer to provide greater deicing strength during the winter driving conditions.
- The quotes for salt were acquired through the City Purchasing Agent and are as follows:

Transloaders, Denver, Colorado	\$34.25 per ton
TriState Commodities, Greeley, Colorado	\$45.00 per ton
Independent Salt, Kanopolis, Kansas	no bid*

* Independent Salt, in Kanopolis, Kansas is the Multiple Assembly of Procurement Officials (MAPO) awarded vendor for salt, and if the City were able to utilize them this year the cost of salt would be around \$2 per ton less. However, since it is mid-season for the salt industry, Independent Salt could not accommodate the City's request for salt, which is why they are listed as a "no quote." Staff will be sure to participate in the MAPO bid for the 2005-2006 winter season.

Expenditure Required: Not to exceed \$ 175,122

Source of Funds: Public Works and Utilities 2005 Street Operations Budget

Policy Issue

Should City Council authorize the purchase of up to 1,800 tons of Ice Slicer from the sole source supplier, Envirotech Services, Inc., in an amount not to exceed \$113,400 and up to 1,800 tons of salt from the low quote, Transloaders, Inc., in an amount not to exceed \$61,722?

Alternative

One alternative is to not purchase deicing materials, which is not recommended as keeping the streets safe for the motoring public during the winter months is of the highest priority.

A second alternative is to re-bid the salt purchase. However, this alternative is not recommended since Staff does not believe the unit cost of salt will decrease.

Background Information

Ice Slicer meets the Regional Air Quality Council and the Colorado Department of Public Health and Environment PM 10 Standards for air quality control. It also eliminates the use of sand, which, in turn, reduces additional street sweeping during winter months.

Envirotech Services, Inc. is the sole supplier in the Rocky Mountain Region of Ice Slicer. During the winter months, delivery can take up to three weeks, as all cities and counties in the Denver metro area use Ice Slicer and Envirotech Services. Ordering Ice Slicer now and receiving early delivery assures the City of Westminster's snow removal program continues to set the standard in the Metro area.

The low quote from Transloaders, Inc. bears no problems as the City has done business with them for the past 20 years as they are reliable in obtaining salt on an as-needed basis. Salt is purchased in conjunction with Ice Slicer as it is blended at a ratio of 50% to be effective in assuring safe driving conditions.

These expenditures are within the approved 2005 Public Works and Utilities Street Operations Division budgeted amount for these items.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Item 8 D

Agenda Memorandum

City Council Meeting
January 10, 2005



SUBJECT: Ratification of Purchase of Excess Workers' Compensation Insurance

Prepared By: Martee Erichson, Risk Management Officer

Recommended City Council Action

Ratify the purchase of Workers' Compensation Excess insurance for \$82,785 from Midwest Employers Casualty Company and charge this expense to the 2005 Workers' Compensation Self Insurance Fund.

Summary Statement

- City Council action is requested to ratify the expenditure for the 2005 annual premium for excess workers' compensation insurance effective January 1, 2005.
- The City annually purchases specific stop loss insurance to cover catastrophic on-the-job injuries to employees that would exceed the City's self insured amount. This insurance is purchased through a broker, Marsh USA Inc., who purchased the coverage for the City through Midwest Employers Casualty Company. The accepted quote from Marsh for 2005 for excess workers' compensation coverage is \$82,785.
- The cost of coverage in 2004 was \$95,414. The quote for 2005 of \$82,785 represents a decrease in premium of \$12,629 (approximately 13%) from 2004. This quote reflects improvements taking place in the workers' compensation market place and the City's history of not having experienced excess claims.

Expenditure Required: \$ 82,785

Source of Funds: Workers' Compensation Self Insurance Fund

Policy Issue

Should the City continue to self-insure its workers' compensation coverage, purchasing excess insurance to cover any catastrophic issues?

Alternatives

- (1) Consider fully insuring the City's Workers' Compensation Insurance Program. This alternative is not recommended due to the almost certain increase in expense and the reduction in the City's ability to manage claims.
- (2) Increase the City's self-insured retention from \$350,000 to \$400,000. Staff believes that the current self-insured retention is appropriate when considering the risk vs. savings in premium cost.

Background Information

The City currently self-insures the first \$350,000 of each workers' compensation claim. This type of program allows for more control over claims handling and payment and reaps immediate rewards from the City's loss control and safety programs. By self-insuring the City also avoids some of the increases in premiums still affecting the insurance industry.

Aggregate stop loss coverage, i.e. for multiple claims, is not available in the excess insurance market. Thus, the City will need to continue to fund the full cost of each claim up to the self-insured retention amount regardless of the number of claims and the aggregate amount of those claims during a year.

The Risk Management Staff completed and submitted the application for excess workers' compensation coverage to Marsh USA Inc. in late September 2004. Marsh USA Inc., acting as insurance broker on behalf of the City, then sought proposals on the open insurance market for this coverage. They received three responses and submitted their renewal proposal to the City's Risk Management Officer on December 14, 2004. The delayed proposal was due to the general condition of the marketplace and the City's insurance broker's desire to get the best quote for the City's program. The City's current policy expired on January 1, 2005. Because of this delay and expiration date, Risk Management had to bind coverage prior to seeking City Council's approval.

The quote responses were as follows:

CARRIER	PREMIUM	LIMITS	RETENTION
Midwest Employers Casualty Company	\$82,785	Statutory	\$350,000
Midwest Employers Casualty Company	\$72,698	Statutory	\$400,000
Midwest Employers Casualty Company	\$67,858	Statutory	\$350,000/\$500,000 *
Employers Re	\$125,987	Statutory	\$400,000
Safety National Casualty Corporation	\$84,924	Statutory	\$350,000

*\$350,000 for general employees/\$500,000 for police and fire employees

The Risk Management Staff has chosen not to increase the City's retention limit from \$350,000 to \$400,000. Although the City has not had a workers' compensation claim reach the excess levels of coverage for the past 12 years, the savings in premiums is not offset by the risk of losses to the City's current workers' compensation reserves resulting from one or more large claims. Midwest Employers also offered an option with a different retention amount (\$500,000) on all police and fire claims and the current \$350,000 retention on all other employees. Since the risk of an excess claim coming out of police and/or fire operations is greater than the general employee population, Risk Management staff does not recommend this action.

The insurance industry has experienced numerous changes during the last four years. The industry was realizing tremendous gains from investments and therefore, making up for any underwriting losses. With the economic decline that began in 2000, investment income was no longer able to offset the losses and insurance carriers began increasing premiums. The events of 2001 were further disastrous for the insurance industry resulting in increased prices and greater limits on coverage being passed on to the consumers. Many carriers withdrew from certain specialty lines of business, such as excess workers' compensation, and many others simply did not survive. By the end of 2003 and into early 2004, brokers saw some improvements in the marketplace. Given the current market conditions and a 6.5% increase to the City's payroll over the 2004 policy period, Risk Management staff is very pleased with the renewal terms. According to our broker, Marsh USA Inc., the City has received one of the best renewal quotes they saw for 2005.

Respectfully submitted,

J. Brent McFall
City Manager



Agenda Item 8 E

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 10, 2005



SUBJECT: Engineering Services for Upgrade and Expansion of the Big Dry Creek Wastewater Treatment Facility

Prepared By: Kent W. Brugler, Senior Engineer, Public Works & Utilities

Recommended City Council Action

Authorize the City Manager to execute an amendment to the engineering services contract with Camp, Dresser & McKee Inc. in the amount of \$1,085,975 for additional design services related to the upgrade and expansion of the Big Dry Creek Wastewater Treatment Facility.

Summary Statement

- The Big Dry Creek Wastewater Treatment Facility (BDCWWTF) must be expanded to accommodate growth in the Big Dry Creek service area of the City and the resulting increased wastewater flow, and some of the older treatment processes and equipment need to be replaced.
- The City entered into an engineering services agreement with Camp, Dresser & McKee in August 2003 for final design and construction related services. The final design is approximately 75% completed.
- The BDCWWTF's discharge permit requirements are anticipated to become more stringent in the upcoming years, requiring more advanced treatment of the wastewater.
- City Staff and its engineering consultant evaluated the impacts of this additional biological nutrient removal treatment, and recommend that it be incorporated into the current project scope, saving \$4-5 million compared to constructing it later, when specifically required by environmental regulations.
- Additional project elements, to improve the operation and safety of the facility, have been identified during the final design process and are also recommended to be included in this design amendment.
- City Staff and its Owner's Representative has reviewed the additional design fee request and have found it to be representative of the scope of work to be performed and reasonable for the magnitude of the estimated construction value of the project.

Expenditure Required: \$ 1,085,975

Source of Funds: Utility Fund Big Dry Creek Wastewater Treatment Project Capital Improvement Budget

Policy Issue

Should the City proceed with the design and construction of the biological nutrient removal components to meet increased treatment requirements, and amend the engineering services contract to include these additional facilities?

Alternative

The City could choose to postpone the design and construction of the biological nutrient removal facilities for several years when specifically required by the EPA. Staff does not recommend this alternative as it is estimated to cost \$4-5 million more to construct them later. In addition, including biological nutrient removal capability now will place the plant on more certain regulatory footing.

Background Information

The Big Dry Creek Wastewater Treatment Facility (BDCWWTF) was originally constructed in 1974 with a capacity of 2.0 million gallons per day (MGD), and has been expanded several times since then, most significantly in 1982 and 1995, to its current capacity of 7.5 MGD average daily flow. Most of the original structures and equipment are still in use today and show signs of wear and deterioration. The BDCWWTF serves the northern half of the City, representing approximately 60% of the wastewater flow from the entire City. The Metro Wastewater District serves the southern section of the City, within the Little Dry Creek drainage basin.

The state permit for the discharge from the BDCWWTF requires that once the flow into the facility reaches 80% of the facility's maximum monthly flow capacity (9.2 MGD), the design process must begin for the expansion of the facility (the maximum monthly flow of 9.2 MGD is greater than the average daily flow of 7.5 MGD, reflecting larger peak flows in certain months). This level of flow, or 7.4 MGD, was exceeded in 2001 and triggered the need to complete the preliminary design work in 2002. The permit also requires that construction be started prior to the flows reaching 95% of the permitted capacity, or 8.7 MGD. This flow is anticipated to be reached in late 2005. The Wastewater Master Plan concluded that the build-out capacity for the facility would need to be 11.9 MGD maximum monthly flow. This final design phase will allow the facility to be expanded to treat this capacity by 2007.

The preliminary design phase, which was completed in early 2003, included a thorough evaluation of: the build-out capacity facility flow requirements; all existing structures and processes at the facility; odor control options; a security assessment; improved automation methods; biosolids processing and handling options; all related permit coordination; and a recommendation of the most effective waste treatment method that should be followed in the final design phase.

The final design process began in August 2003 and has focused on reviewing and confirming the recommendations made during the preliminary design phase. Several additional alternatives were evaluated and a more detailed analysis of the recommended improvements was completed. Site access improvements were addressed as they relate to the Huron Street widening project that will eliminate all existing access driveways into the plant, and additional odor assessments were completed that form the basis for the design of the proposed odor control facilities. Another significant component of the project is the replacement of the gas chlorination system with an ultraviolet disinfection system, eliminating the hazard of a chlorine gas leak and improving the safety of the facility and the surrounding community. A similar project to eliminate the hazard of chlorine gas was completed in 2003 at the Semper Water Treatment Facility.

During this final design process, the Colorado Department of Public Health and Environment has indicated its intention to modify the stream standards for Big Dry Creek, thereby impacting the City's discharge permit requirements beginning in 2007. City Staff and the design consultants have evaluated the overall impact of these more stringent discharge requirements, and recommend that additional biological nutrient removal processes be designed and constructed at this time. This advanced level of treatment will not only prepare the facility for more stringent discharge permit requirements, but will also improve the quality of the water supply to the reclaimed water system. Delaying this work several years would cost the City an estimated \$4-5 million in additional construction costs.

This final design process has also identified several additional items of work that must be completed that were not included in the original scope of engineering services. These items will improve the operation of the facility and will enhance the safety and security of the entire plant. The design costs for these items are included in the amendment to the design services contract.

The scope of work that Camp, Dresser & McKee Inc. will be performing under this design services amendment includes the design of the biological nutrient removal process components (estimated construction value of \$10.5 million) and several additional project elements discussed above. The \$1,085,975 for this contract amendment raises the total approved for engineering design and construction services for the entire project to \$3,058,420. City Staff has reviewed the scope of services and the fee for the design amendment, and has found them both to be reasonable and representative for the work involved and the magnitude of the estimated construction value.

The City intends to fund a portion of the project construction costs with a loan from the Colorado Water Resources and Power Development Authority. This financing was initially scheduled to take place in October 2004. However, since the overall project schedule has been delayed during this treatment process evaluation and a final project cost estimate will not be available until April 2005, this financing is expected to take place in May 2005. The remainder of the project will be financed from accumulated cash in the Utility Fund.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 10, 2005



SUBJECT: Second Reading of Councillor's Bill No. 98 re FY2004 Budget Amendment

Prepared By: Barbara Opie, Assistant to the City Manager

Recommended City Council Action:

Pass Councillors Bill No. 98 on second reading amending the FY2004 budgets of the General and Fleet Maintenance Funds.

Summary Statement

- This action is being requested as part of the year-end balancing of the General Services' Fleet Maintenance Division accounts. Funds are available in the General Fund accounts of the General Services Department (\$50,000) and are requested to cover unanticipated expenses incurred during 2004 in the Fleet Division, which is budgeted in the Fleet Maintenance Fund. In addition, General Fund contingency totaling \$33,000 is requested to be transferred to the Fleet Maintenance Fund as part of this action. A total of \$83,000 is requested for approval on second reading to be transferred from the General Fund (from the General Services Department and contingency) into the Fleet Maintenance Fund.
- City Council action is requested to pass the attached Councillors Bill on second reading.
- This Councillor's Bill was passed on first reading on December 20, 2004.

Expenditure Required: \$83,000

Source of Funds: General Fund General Services and Contingency Accounts

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO. **3186**

COUNCILLOR'S BILL NO. **98**

SERIES OF 2004

INTRODUCED BY COUNCILLORS

Davia-Dixon

A BILL

FOR AN ORDINANCE INCREASING THE 2004 BUDGET OF THE FLEET MAINTENANCE FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2004 ESTIMATED REVENUES IN THIS FUND.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2004 appropriation for the General Fund does not change with this ordinance. However, the changes in the expense accounts are shown here for informational purposes.

Section 2. The Expense accounts shall be amended as follows:

DESCRIPTION	ACCOUNT NUMBER	CURRENT BUDGET	INCREASE (DECREASE)	FINAL BUDGET
Expenses				
Contingency	10010900.79900.0000	\$902,499	(\$33,000)	\$869,499
Employee Recruitment	10012060.61600.0000	30,275	(10,000)	20,275
Career Development	10012060.61800.0000	14,105	(10,000)	4,105
Election Expense	10012070.67900.0000	19,000	(15,000)	4,000
Maint/Repair Infra Cust Svc	10012110.66200.0702	447,402	(8,000)	439,402
Maint/Repair Equipment	10012130.66100.0000	37,500	(7,000)	30,500
Transfer to Fleet	10010900.79800.0300	0	83,000	83,000
Total change to expenses			<u>\$0</u>	

Section 3. The 2004 appropriation for the Fleet Fund, initially appropriated by Ordinance No. 2977 in the amount of \$1,161,031 is hereby increased by \$83,000 which, when added to the fund balance as of the City Council action on December 20, 2004 will equal \$1,875,805. The actual amount in the Fleet Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. This increase is due to an increase in the transfer from the General Fund.

Section 4. The \$83,000 increase in the Fleet Fund shall be allocated to City Revenue and Expense accounts, which shall be amended as follows:

DESCRIPTION	ACCOUNT NUMBER	CURRENT BUDGET	INCREASE (DECREASE)	FINAL BUDGET
Revenue				
Transfer from General Fund	3000.45000.0100	\$0	<u>\$83,000</u>	\$83,000
Total change to revenues			<u>\$83,000</u>	
DESCRIPTION	ACCOUNT NUMBER	CURRENT BUDGET	INCREASE (DECREASE)	FINAL BUDGET
Expenses				
Maint Repair – Rolling Stock	30012460.68800.0000	\$53,074	\$10,000	\$63,074
Parts	30012460.73600.0000	192,246	30,000	222,246
Fuel & Lubricants	30012460.74000.0000	337,323	<u>43,000</u>	380,323
Total change to expenses			<u>\$83,000</u>	

Section 5 – Severability. The provisions of this Ordinance shall be considered as severable. If any section, paragraph, clause, word, or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part shall be deemed as severed from this ordinance. The invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect the construction or enforceability of any of the remaining provisions, unless it is determined by a court of competent jurisdiction that a contrary result is necessary in order for this Ordinance to have any meaning whatsoever.

Section 6. This ordinance shall take effect upon its passage after the second reading.

Section 7. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED AND PUBLISHED this 20th day of December, 2004.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 10th day of January, 2005.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 10, 2005



SUBJECT: Rocky Flats Coalition of Local Governments Appointments

Prepared By: J. Brent McFall, City Manager

Recommended City Council Action

Re-appoint City Councillor Samantha Dixon as the City's representative to the Rocky Flats Coalition of Local Governments (RFCLOG) Board of Directors, re-appoint Councillor Jo Ann Price as the 1st Alternate, and re-appoint Rocky Flats Coordinator Ron Hellbusch as the 2nd Alternate.

Summary Statement

- In accordance with paragraph 7 of the Intergovernmental Agreement establishing the Rocky Flats Coalition of Local Governments (RFCLOG) and Article II of the Coalition's Bylaws, the City needs to appoint three designated representatives to serve on RFCLOG.
- The appointments will be effective beginning February 1, 2005. This appointment will expire on January 31, 2006.
- City Councillor Samantha Dixon, Councillor Jo Ann Price and Rocky Flats Coordinator Ron Hellbusch are being recommended to continue on the RFCLOG Board of Directors as the City's representatives due to their past experience and knowledge and desired continued involvement in the cleanup and closure oversight activities of the Rocky Flats Environmental Technology Site (RFETS).
- The Board of Directors of RFCLOG will consist of seven members, each with one equal vote. A Director and two alternates are to be designated by each local government per the terms of the Intergovernmental Agreement that was renewed in November 2003. Alternates may serve in lieu of Directors in the event of absence, resignation or removal of directors.
- Councillor Samantha Dixon, Councillor Jo Ann Price and the City's Rocky Flats Coordinator Ron Hellbusch, have been serving as the elected and staff representatives for the City of Westminster. Upon confirmation by City Council, Staff will draft a letter to the Coalition designating elected and staff representatives for the City.

Expenditure Required: \$ 0

Source of Funds: N/A

Policy Issue

Should City Council formally appoint a City Councillor and two alternates to the Board of Directors of RFCLOG per the terms of the IGA renewed in November 2003?

Alternative

City Council can appoint other City Councillors or Staff members to serve as the City's Director and its two alternates on the RFCLOG Board of Directors.

Background Information

The Rocky Flats Coalition of Local Governments is made up of elected officials and Staff representing the seven local governments that are contiguous to the Rocky Flats Environmental Technology Site. The seven local governments are the cities of Westminster, Arvada, Boulder, Boulder County, Jefferson County, the City and County of Broomfield, and the Town of Superior.

The purpose of RFCLOG is to provide an effective mechanism for local governments in the vicinity of Rocky Flats and their citizens to work together on issues of mutual concern relative to the safe, prompt and effective cleanup and closure of Rocky Flats; its future use and long term protection; and to serve as a focal point for local government communication and advocacy with state and federal agencies regarding Rocky Flats issues.

Local government staff representatives will meet and work with RFCLOG Staff to prepare agendas, develop work plans, prepare recommendations for the Board's approval as well as keep the elected official current on Rocky Flats activities and concerns. Council will be kept apprised by the City's designees of RFCLOG's activities and of any recommendation requiring a formal position from the City.

The Intergovernmental Agreement forming RFCLOG sets forth that the agreement will be reviewed every fifth calendar year (the effective date of the agreement is November 23, 2003). As part of this review the parties agreed to consider whether to continue the coalition's existence. In addition, an annual report is prepared at the end of each year of operation in order to evaluate the effectiveness of RFCLOG.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 10, 2005



Subject: Resolution No. 1 re Appointments and Reappointments to Boards and Commissions

Prepared by: Michele Kelley, City Clerk

Recommended City Council Action:

Adopt Resolution No. 1 making appointments and reappointments to the Board of Adjustment, Board of Building Code Appeals, , Environmental Advisory Board, Historic Landmark Board, Human Services Board; Library Board; Open Space Advisory Board, Parks and Recreation Advisory Board, Personnel Board; Planning Commission, Special Permit and License Board, and Transportation Commission.

Summary Statement:

- City Council action is requested to consider the re-appointments to the Board of Adjustment, Board of Building Code Appeals, Environmental Advisory Board, Human Services Board, Library Board, Open Space Advisory Board, Parks and Recreation Advisory Board, Personnel Board, Planning Commission, Special Permit and License Board, and Transportation Commission where terms of office expired on December 31, 2004.
- In addition, new appointments to the Board of Adjustment, Historic Landmark Board, Human Services Board, Library Board, Special Permit and License Board and Transportation Commission are requested.
- Each individual whose term expired on December 31, 2004 was contacted and asked if they were interested in being re-appointed to the Board, if Council so desires. These reappointments are for two-year terms.
- City Council recently interviewed the 13 candidates for the 2005. In addition there are 9 applicants from 2004 that are being carried over to 2005 for a total of 22 applicants.

Expenditure Required: \$0

Source of Funds: n/a

Policy Issue:

Does City Council want to fill vacancies on the Boards and Commissions at this time?

Alternative:

No alternative identified.

Background Information:

The terms of office of four members on the Board of Adjustment expired on December 31, 2004. Chris Beal, Tim McClung, and George Werkmeister are all interested in being reappointed to the Board of Adjustment. Jim Hall does not wish to be reappointed. In addition, Ian Walsworth (alternate member) has recently moved out of the City, and this position needs to be filled.

The terms of office of three of the Board of Building Code Appeals members expired on December 31, 2004. Greg Cullison, Delbert Ragland and Steve Wickens are interested in being reappointed to the Board of Building Code Appeals.

The terms of office of four of the Environmental Advisory Board members expired on December 31, 2004. Tom Acre, Carol DiGiacomo, Steve Marlin and Kathy Reynolds are interested in being reappointed to the Environmental Advisory Board.

The terms of office of four of the Historic Landmark Board members expired on December 31, 2004. Kaaren Hardy, April Luber and Bill Teter are interested in being reappointed. Henry Sand does not wish to be reappointed but would like to serve on another board.

The terms of office of two of the Human Services Board members expired on December 31, 2004. Tanya Ishikawa and Jean Pruitt are interested in being reappointed. There is also a vacancy that was created by the resignation of David Davia when he was appointed to City Council.

The terms of office of four members of the Library Board expired on December 31, 2004. Marilyn Flachman, Catherine Payne and Hal Smith are all interested in being reappointed. Ted Fleagle does not wish to be reappointed.

The terms of office of three members of the Open Space Advisory Board expired on December 31, 2004. Bob Briggs, Chuck Jacoby and Randal Whorton are interested in being reappointed to the Board.

The terms of office of four of the Parks and Recreation Advisory Board members expired on December 31, 2004. Stephanie Bingham, Ken Claussen, and Ronald Dickerson are interested in being reappointed to the Parks and Recreation Advisory Board.

The terms of office of three of the Personnel Board members expired on December 31, 2004. John Brann, Margaret Rivera and Betty Whorton are interested in being reappointed.

The terms of office of five members of the Planning Commission expired on December 31, 2004. Donald Anderson, Martha Brundage, Michael Crocker, Jerry English and Rex Wiederspahn are all interested in being reappointed.

The terms of office of four members of the Special Permit and License Board expired on December 31, 2004. Michael Borchlewicz, Bill Nordberg, David Tracy and John Velasquez are interested in being reappointed to the Board. In addition, Bill DeVoe (alternate member) has moved out of Westminster, and this position needs to be filled.

Subject: Resolution re Appointments to Boards and Commissions

Page 3

The terms of office of three of the Transportation Commission members expired on December 31, 2004. Jerry Cunningham and Doug Young are interested in being reappointed. Bob Belote does not wish to be reappointed. In addition, Bruce Vezina (alternate member) has recently resigned, and this position needs to be filled

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

RESOLUTION

RESOLUTION NO. 1

INTRODUCED BY COUNCILLORS

SERIES OF 2005

Kauffman - Dittman

CITY OF WESTMINSTER BOARD AND COMMISSION REAPPOINTMENTS
AND NEW APPOINTMENTS

WHEREAS, Each member whose term expired on December 31, 2004 has been contacted and asked if they wish to be re-appointed to the Board where they are currently serving; and

WHEREAS, It is important to have each City Board or Commission working with its full complement of authorized appointees to carry out the business of the City of Westminster.

WHEREAS, Resignations have been received from Ian Walsworth (alternate member) of the Board of Adjustment who has recently moved out of the City; David Davia from the Human Services Board, who was recently appointed to City Council and Bruce Vezina (alternate member) of the Transportation Commission.

NOW THEREFORE, be it resolved that the City Council of the City of Westminster does hereby reappoint the following individuals to the City of Westminster Board or Commission listed below with the terms of office to expire December 31, 2006.

BOARD/COMMISSION	NAMES
Board of Adjustment	Chris Beal, Tim McClung and George Werkmeister
Board of Building Code Appeals	Greg Cullison, Delbert Ragland and Steve Wickens
Environmental Advisory Board	Tom Acre, Carol DiGiacomo, Steve Marlin and Kathy Reynolds
Historic Landmark Board	Kaaren Hardy, April Luber and Bill Teter
Human Services Board	Tanya Ishikawa and Jean Pruitt
Library Board	Marilyn Flachman, Catherine Payne and Hal Smith
Open Space Advisory Board	Bob Briggs, Charles Jacoby and Randal Whorton
Parks and Recreation Advisory Board	Stephanie Bingham, Ken Claussen and Ron Dickerson
Personnel Board	John Brann, Margaret Rivera and Betty Whorton
Planning Commission	Donald Anderson, Martha Brundage, Michael Crocker, Jerry English and Rex Wiederspahn
Special Permit and License Board	Michael Borchlewicz, Bill Nordberg, David Tracy and John Velasquez
Transportation Commission	Jerry Cunningham, and Doug Young

The following appointments are being made to fill current vacancies:

BOARD/COMMISSION	NAMES	TERM EXPIRES
Board of Adjustment	Henry Sand	December 31, 2006
	Samuel Biller (Alternate)	December 31, 2005
Historic Landmark Board	Sarah Rothwell	December 31, 2006
Human Services Board	Ida Whitelow Pandit	December 31, 2006
Library Board	Gary Scofield	December 31, 2006
Special Permit and License Board	Emil Rinaldi (Alternate)	December 31, 2005
Transportation Commission	Scott Major	December 31, 2006
	Luke Richards (Alternate)	December 31, 2005

Passed and adopted this 10th day of January, 2005 as amended.

ATTEST:

Mayor

City Clerk

BOA Ian Walsworth (alternate member) has recently moved out of the City,. and this position needs to be filled

Trans Bruce Vezina (alternate member) has recently resigned, and this position needs to be filled

There is also a vacancy that was created by the resignation of David Davia when he was appointed to City Council



Agenda Item 10 A

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 10, 2005



SUBJECT: Councillor's Bill No. 1 re Amended and Restated Business Assistance Agreement for the Marriott Hotel Project

Prepared By: Becky Johnson, Economic Development Program Coordinator
Marty McCullough, City Attorney

Recommended City Council Action

Pass Councillor's Bill No. 1 on first reading authorizing the City Manager to execute the amended and restated business assistance package (BAP) between the City of Westminster and Church Ranch Hotel Company I, LLC (CRHC) and Church Ranch Hotel Company II, LLC (CRHC II) for the Marriott Hotel project in substantially the same form as the attached amended and reinstated agreement.

Summary Statement

- City Council action is requested to pass the attached Councillor's Bill that authorizes the execution of the amended and restated business assistance agreement with CRHC and CRHC II.
- The purpose of the amendment is to extend by four years the construction commencement and completion deadlines on the full service hotel (identified in the agreement as Project I). The amendment states that CRHC (the full service hotel developer) must commence construction before March 1, 2009 and complete construction and initiate operation of the full service (Marriott) hotel and conference center by March 31, 2011.
- This agreement will also require that water and sewer tap fees be based on the current rate at the time of permitting for the hotel. Previous agreements had water and sewer tap fees based upon 1998 rates.
- There is no change in the dollar amount of the total assistance from previous agreements originally entered into in 1998.
- In addition, CRHC agrees to pay the City a \$50,000 per year non-refundable extension fee upon City Council's approval of this amendment. The fee will be applied against the tap fees for the project if the hotel is completed and operational by March 31, 2011.
- This agreement has been restated in order to avoid the need to reference previous amendments. In addition, the agreement preserves the business assistance package for the Marriott Springhill Suites project that was completed by CRHC II in 2002.

Expenditure Required: \$ 0

Source of Funds: N/A

Policy Issue

Does Council desire to approve the amended and restated business assistance package with CRHC and CRHC II which includes an extension of the date for constructing and completing the full service hotel portion of this development for four years?

Alternatives

Do Nothing: One alternative is to not approve the amendment to the business assistance package. This would require that CRHC be under construction of the full service hotel by March 1, 2005, or the current BAP would expire. Given poor market conditions in the hotel industry, this could eliminate the construction of a full service hotel at this location.

Provide Less: Another alternative is to amend the business assistance package to extend the construction and the completion date for only 6 months and/or increase the extension fee. It is unknown whether the hotel market conditions will change in that time period. This result could be bringing amendments back each year. CHRC has agreed to add the \$50,000 extension fee, per year, to cover costs for the City property to remain off the market.

Provide More: A third alternative is to amend the agreement to extend the construction and completion date for a longer time period and/or decrease the extension fee. Again, CHRC has agreed to add the \$50,000 extension fee, per year, to cover costs for the City property to remain off the market. The extension fee is considered "fair" for keeping the City property off the market.

Background Information

The City of Westminster originally entered into a BAP with Church Ranch Hotel Company in September 1998. The agreement was amended in September 1999 to include the construction of two products, a Marriott full service hotel (Project I) and a Marriott Spring Hill Suites (Project II). CRHC is the entity created to develop the Marriott full service hotel. CRCH II is the entity created to development the Marriott Springhill Suites. The agreement was further amended in November 2000 to allow for the construction of Project II, prior to Project I, while linking the two projects together to insure that both would be built. On June 9, 2003, Council passed a first amendment to the agreement, extending the construction date to March 1, 2005.

Given the current economic climate and the effect on the hotel industry, CRHC and Marriott have determined that it is not good business to construct and open a full service hotel, thereby adding an additional 350 first class rooms on the US 36 corridor by March 2007. This could create higher vacancy rates for existing Westminster hotels, who are already struggling in an economic downturn.

CRHC & II approached the City requesting a four year extension on the construction commencement date and completion date of Project I. Staff recommended a four-year extension date with the addition of a \$50,000 non-refundable extension fee per year, due upon approval of the amendment, for keeping the City property off the market for the additional time. In the event that Project I meets the construction and completion date deadlines, the total amount collected would be applicable to City water and sewer tap fees.

Finally, previous agreements had set water and sewer tap fees based upon the City's 1998 fee schedule. This amendment will bring all water and sewer tap fees current at the time of building permitting. This amendment combines the previous suites and hotel BAPs into one and will supersede previous agreements.

Respectfully submitted,

J. Brent McFall. City Manager
Attachments

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. 1

SERIES OF 2005

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AUTHORIZING AN AMENDMENT AND RESTATEMENT OF THE BUSINESS ASSISTANCE AGREEMENT BETWEEN THE CITY OF WESTMINSTER AND CHURCH RANCH HOTEL I LLC AND CHURCH RANCH HOTEL COMPANY II LLC FOR THE COOPERATIVE DEVELOPMENT AND CONSTRUCTION OF A HOTEL AND A SUITES HOTEL

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

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

WHEREAS, the Church Ranch Hotel Company II (CRHC II) has constructed a Marriott Spring Hill Suites Hotel at Church Ranch; and

WHEREAS, Church Ranch Hotel Company I (CRHC) would build a 240 room first class hotel, expanding to 350 rooms, with an approximately 10,000 square foot conference center in Church Ranch Corporate Center ("Hotel"); and

WHEREAS, a proposed Amendment Agreement between the City and CRHC and CRHC II is attached.

NOW, THEREFORE, pursuant to the terms of the Constitution of the State of Colorado, the Charter and ordinances of the City of Westminster, and Resolution No.53, Series of 1988, the members of the City Council of the City of Westminster direct and authorize the following actions by the City Staff:

Section 1. The City Manager of the City of Westminster is hereby authorized to enter into the Amendment Agreement between the City of Westminster and Church Ranch Hotel Company I LLC and Church Ranch Hotel Company II LLC, in substantially the same form as the one attached as Exhibit "A," and upon execution of the amended Agreement to fund and implement said Agreement.

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 10th day of January, 2005.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 24th day of January, 2005.

ATTEST:

Mayor

City Clerk

**THE AMENDED AND RESTATED
BUSINESS ASSISTANCE AGREEMENT BETWEEN
THE CITY OF WESTMINSTER AND CHURCH RANCH HOTEL COMPANY I LLC
AND CHURCH RANCH HOTEL COMPANY II LLC
FOR THE COOPERATIVE DEVELOPMENT AND CONSTRUCTION
OF A HOTEL AND A SUITES HOTEL**

This Agreement (the "Agreement") is made and entered into this ____ day of January, 2005 by and between the CITY OF WESTMINSTER, a Colorado home-rule municipality ("City"), CHURCH RANCH HOTEL COMPANY I LLC, a Colorado limited liability company ("CRHC"), and CHURCH RANCH HOTEL COMPANY II LLC, a Colorado limited liability company ("CRHC II").

WHEREAS, City is a Colorado home-rule municipality with all the authority granted to home-rule municipalities pursuant to Colorado Constitution Article XX, Section 6, and its City Charter adopted pursuant thereto;

WHEREAS, CRHC and CRHC II are Colorado limited liability companies with whom City has previously entered into certain prior agreements for the development and construction of a 240 to 260 room, expandable to 350 rooms, first class full service hotel and an approximately 10,000 gross square foot conference center in Church Ranch Corporate Center ("Hotel") and the development and construction of a 164 room suites hotel in Church Ranch Corporate Center ("Suites Hotel"), both to be located south and east of Church Ranch Boulevard and north of 103rd Avenue, said prior agreements are dated September 28, 1998, September 13, 1999, November 15, 2000 and July 3, 2003 (collectively the "Prior Agreements");

WHEREAS, Hotel and Suites Hotel will be referred to collectively as "Projects";

WHEREAS, CRHC II has completed construction of the Suites Hotel and the parties hereto mutually agree that the obligations of CRHC II relative to said construction of the Suites Hotel have been satisfied;

WHEREAS, CRHC and CRHC II have ongoing obligations pursuant to this Agreement; and

WHEREAS, the parties to the Prior Agreements now desire to replace the Prior Agreements and the parties hereto mutually agree that this Agreement replaces the Prior Agreements for any and all purposes.

NOW THEREFORE, in consideration of the above premises and the promises and covenants set forth below, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, City, CRHC and CRHC II agree as set forth below:

I. DEVELOPER'S OBLIGATIONS

1.1 CRHC shall develop and cause the Hotel to be constructed, equipped, and furnished per the Hotel Official Development Plan ("Hotel ODP") as defined in Section 1.1.1. The City and CRHC agree that the hotel franchisor shall be Marriott, or an equivalent full service, first-class hotel as described in Exhibit A attached hereto and by this reference incorporated herein.

1.1.1 CRHC has the right to request an amendment to the First Amendment to the Official Development Plan, Church Ranch Home Place, Filing No. 9 recorded at Reception No. F1265044 on June 28, 2001 (the "Hotel ODP") per the City ODP process.

1.1.2 CRHC II has constructed, equipped and furnished and opened for business a 164 room Marriott SpringHill Suites Hotel (“Suites Hotel”) per the Hotel ODP. The Suites Hotel is owned by CRHC II.

1.1.3 In the event CRHC desires to amend the Hotel ODP then the City and CRHC shall work together on the positioning of the Hotel in a manner consistent with maintaining the continuity of the area. The Hotel to be constructed by CRHC shall be built as a fully integrated facility, and the Hotel shall be owned by CRHC or an affiliate thereof. The Hotel shall include an attached restaurant or a restaurant in a separate building as specified in the Hotel ODP and as mutually agreed upon by City and CRHC.

1.2 The Hotel shall be operated, managed and maintained in a manner consistent with how first-class, full-service hotels and first-class conference facilities are operated, managed and maintained. CRHC and CRHC II are responsible for all capital improvements, repairs and maintenance for the Projects. The initial operations manager of the Projects shall be White Lodging Services Corporation.

1.3 As part of the management and operation of the Projects, CRHC and CRHC II shall remit to City, City’s accommodations tax at the then current rate, as well as a separate Conference Center Fee in an amount equal to two percent (2%) of the Hotel’s and Suites Hotel’s room rate charged to and collected from its guests by the hotel franchisee. The Conference Center Fee shall be collected only for the duration of the Business Assistance Rebate contained in Section 2.6 below.

1.4 CRHC and CRHC II shall at their expense, as provided in this Agreement, obtain all entitlements necessary for the development and construction of the Projects, subject to the terms contained elsewhere herein.

1.5 The responsibility for paying all property taxes, other taxes, annual fees, and fees and taxes levied, by the state, county, or other taxing authority for the Projects shall be the exclusive responsibility of CRHC and CRHC II or the successors or transferees thereof.

1.6 CRHC and CRHC II shall be responsible for providing, at their expense, all normal site improvements and utilities, including water, sewer, electric, gas, telephone, cable TV, optic and/or data transmission lines, and the parking areas and landscaping for the Projects.

1.7 CRHC will be responsible for paying the customary domestic water and sanitary sewer tap fees (“Tap Fees”) for the Hotel based upon the City sewer and water tap fee schedule current as of the date of building permit application for the Hotel. If a restaurant is built in a building separate from the Hotel and/or needs additional sewer or water taps, such cost shall also be borne solely by CRHC. CHRC II has paid the applicable water and sewer tap fees for the Suites Hotel.

1.8 CRHC will design the Hotel building interior and exterior based on a first-class full-service hotel. The Hotel design shall be consistent with the level of quality and detail incorporated in the Westin Westminster Hotel located at 10600 Westminster Boulevard .

1.8.1 The approved Hotel ODP has satisfied the requirements under this Agreement for design and materials for the Suites Hotel. Prior to application for the Hotel building permit CRHC shall be required to meet all applicable design and construction standards of the City and pay all applicable fees in effect at the time of application pursuant to this Agreement. If necessary, CRHC shall submit an application for an amendment to the approved Hotel ODP for the Hotel as required to incorporate such applicable new or updated City design and construction standards.

1.9 CRHC II has constructed the Suites Hotel and the City issued a certificate of occupancy for the Suites Hotel on April 22, 2002.

II. CITY OBLIGATIONS

2.1 For and in consideration of CRHC's development, construction, furnishing, and equipping of the Hotel, City has conveyed on December 27, 2000 by warranty deed as recorded at Reception No. F1162592 to CRHC Lot 1 and Tract B Church Ranch Home Place - Filing No. 9 to be utilized as a portion of the site for the Hotel ("City Parcel"). City has paid the assessment for the 104th Avenue Special Improvement District with respect to the City Parcel only. CRHC shall be responsible for paying any other property taxes due on the City Parcel. City has provided CRHC an ALTA title insurance policy on the City Parcel.

2.1.1 The Hotel Project Site consists of the City Parcel, less the 27.50 feet of right-of-way for Church Ranch Blvd. as dedicated by Final Plat, Church Ranch Home Place – Filing No. 9 as recorded March 14, 2001 at Reception No. F1199958 (the "Final Plat") and Lot 2 of the Final Plat. The Hotel site is defined on the Hotel ODP and Final Plat.

2.1.2 CRHC has acquired Lot 2 of the Hotel site ("CRHC Parcel") from Church Ranch Land Co. LLC ("CRLC").

2.1.3 The deed for the City Parcel contains a possibility of reverter subject to exercise upon fifteen (15) days prior notice to CRHC in the event CRHC fails to commence construction of the Hotel, on or before March 1, 2009. At the option of CRHC, the deed for the CRHC Parcel transferred from CRLC may also include a possibility of reverter in substantially the same form as that contained in the deed for the City Parcel.

2.1.4 CRHC II has acquired the site for the Suite Hotel ("Suites Hotel Site") from CRLC. The Suites Hotel Site is defined as Lot 3 and Tract A per the Final Plat.

2.2 CRHC shall design and build at its expense the onsite improvements required for the Hotel. City staff will review and approve the onsite improvements in an expedient manner, as mutually agreed, consistent with normal city policy, procedures, and practices. These improvements shall include, but not be limited to, all onsite walkway improvements for the Hotel, including, without limitation, sidewalks, circulation roads, the Hotel parking lot paving and lighting, curb cuts, landscaping, storm water facilities (including water quality), and water, sewer, natural gas, electric and telephone utilities for servicing the Hotel including public common areas.

2.3 CRHC shall also be responsible, at its cost, for constructing, or causing to be constructed, all reasonably necessary off-site improvements for the Hotel, pursuant to normal City code requirements and policies. As of the date of this Agreement there are no off-site improvements required as part of the Hotel. In addition, CRHC and CRHC II have no obligation to reimburse or payback the City or any other party for public improvements installed adjacent to or in the proximity of the City Parcel, CRHC Parcel and Suites Hotel Site.

2.4 City staff shall assist CRHC in obtaining all approvals and entitlements necessary for construction of the Hotel consistent with normal City standard practices, policies and procedures.

2.5 Other than the Tap Fees for the Hotel as specified in Section 1.7, the payment of which is the sole responsibility of CRHC, the City shall waive during the construction period of the Hotel for CRHC, or their assigns, any and all one-time fees and assessments normally charged by City as a condition to building permit issuance for the Hotel, including, without limitation, design or plan review fees, impact fees, building permit fees, building inspection fees, submittal fees and building material use taxes and the like. Any third party construction or other plan review and approval fees, if any, shall be split by City and CRHC with each paying one-half thereof.

2.5.1 City agrees that no other fee, assessment, or charge shall be levied against the Projects other than as set forth in this Agreement. However, nothing in this Agreement shall be construed as prohibiting City from assessing, levying or increasing any fees, charges or taxes against the Hotel or Suites Hotel to the extent such fees, charges or taxes are assessed and paid by all like businesses in the City.

2.5.2 Nothing in this Section 2.5 shall be construed as exempting CRHC or CRHC II from the responsibility to pay normal annual taxes such as property tax, business license, and applicable federal, state and county fees and taxes.

2.6 For and in consideration of CRHC's and CRHC II's construction, furnishing and equipping of the Projects, and the overall economic and financial benefits to the community at large as a result of locating such facilities within the City of Westminster, City shall provide CRHC and CRHC II a "Business Assistance Rebate."

2.6.1 The Business Assistance Rebate shall be paid by City to CRHC or CRHC II in quarterly installments equal to the sum of (a) those revenues attributable to City's accommodations tax from the Hotel operation and the Suite Hotel operation for the preceding quarter, plus (b) those revenues attributable to the two percent (2%) Conference Center Fee for the previous quarter, plus (c) those revenues attributable to City's Sales and Use Tax at the then current rate generated by the Projects (including food and beverage taxes) for the previous quarter, exclusive of (i) City's parks, open space and trails tax at 0.25% ("Open Space Tax") and (ii) City's public safety tax at 0.6% ("Public Safety Tax") and (iii) any future voter approved sales or use tax, the use of which is restricted by the voters to specific, limited purposes.

2.6.1.1 As such time as the aggregate amount of the quarterly installments of the Business Assistance Rebates equals \$9,800,000 present value for the Hotel, using a discount rate of eight percent (8%) per annum, or upon City's rebate of sixty (60) quarterly installments for the Hotel then the Business Assistance Rebates for the Hotel shall cease. The first quarterly installment of the Business Assistance Rebate for the Hotel shall be made within fifteen (15) days after the last day of the first quarter after the Hotel receives a certificate of occupancy.

2.6.1.2 At such time as the aggregate amount of the quarterly installments of the Business Assistance Rebates equals \$3,275,000 present value for the Suite Hotel, using a discount rate of eight percent (8%) per annum, or upon City's rebate of sixty (60) quarterly installments for the Suites Hotel then the Business Assistance Rebates for the Suites Hotel shall cease.

2.6.2 In the event the first rebate is prorated for either the Hotel or Suites Hotel, the last payment shall include the additional days not included in the first rebate to provide sixty (60) full quarterly installments. The Business Assistance Rebates for the Hotel and Suites Hotel are independent and shall be calculated and paid separately for the Hotel and for the Suites Hotel as noted hereinabove.

2.6.3 City's obligations pursuant to this Section 2.6 shall be subject to annual appropriation consistent with the requirements of Colorado Constitutional Amendment X, Section 20, provided, however, that the City agrees to exercise its best efforts and utmost good faith in making funds available to meet its obligation under Section 2.6.

2.6.4 City warrants and represents that no other person or entity has any right, title or claim against the specific rebate items included in the Business Assistance Rebate specified in this Agreement other than sales and use tax bond covenants.

2.6.5 Subordination. For the purpose of protecting the City's bonding capacity and credit worthiness, it should be known that the City's obligations pursuant to this Agreement are subordinate to the City's obligations for the repayment of any current or future bonded indebtedness and are contingent upon the existence of a surplus in sales and use tax revenues in excess of the sales and use tax revenues necessary to meet such existing or future bond indebtedness. The City shall meet its obligations under this Agreement only after the City has satisfied all other obligations with respect to the use of sales tax revenues for bond repayment purposes. For the purposes of this Agreement, the terms "bonded indebtedness," "bonds," and similar terms describing the possible forms of indebtedness include all forms of indebtedness that may be incurred by the City, including, but not limited to, general obligation bonds, revenue bonds, revenue anticipation notes, tax increment notes, tax increment bonds, and all other forms of contractual indebtedness of whatsoever nature that is in any way secured or collateralized by sales and use tax revenues of the City. This Section 2.6.5 however does not refer to or include the revenue generated by these Projects from Accommodation Tax or the Conference Center Tax.

2.6.6 This Agreement shall be governed and construed in accordance with the laws of the State of Colorado. This Agreement shall be subject to, and construed in strict accordance with, the City Charter and the City Municipal Code.

III. FURTHER AGREEMENTS AND COMMITMENTS

3.1 City, CRHC and CRHC II agree to exercise utmost good faith in negotiating and completing such additional or further agreements that may be required to accomplish the ultimate goal of the parties of realizing the construction and commencement of the operation of the Projects contemplated by this Agreement. City, CRHC and CRHC II hereby assume the mutual duty of "agreeing to agree" on such further agreements or actions that may be necessary to realize their overriding objective in executing this Agreement. Any omission or ambiguity in this Agreement shall not be considered cause for non-performance of the parties of this Agreement.

3.2 Without in any way limiting the foregoing, City, CRHC and CRHC II specifically agree to cooperate in resolving the following matters to the extent necessary.

3.2.1 Providing information and assistance as reasonably required by CRHC's and CRHC II's lender(s) to the extent such assistance does not result in added costs or obligations for City or release CRHC and CRHC II from obligations in this Agreement.

3.2.2 The City, CRHC and CRHC II have entered into a Golf Course Marketing Agreement dated March 25, 2003 for the Hotel and Suites Hotel.

3.3 Notwithstanding anything in this Agreement to the contrary, nothing in this Agreement shall be construed as creating a joint venture or partnership relationship between City, CRHC and CRHC II and the liabilities and responsibilities of the parties shall be the independent liabilities and responsibilities of the party charged with such liability or responsibility.

3.4 Any notice required hereunder shall be sent certified mail, return receipt requested, with faxed copies to any current address given by one party to the other or at:

City
City of Westminster
Attn: City Manager
4800 West 92nd Avenue
Westminster, Colorado 80031
Fax: (303) 430-1809

CRHC II:
Church Ranch Hotel Company II LLC
Attn: Managing Member
c/o Etkin Johnson Group
1512 Larimer Street, Suite 325
Denver, Colorado 80202
Fax: (303) 629-5451

CRHC I:
Church Ranch Hotel Company I LLC
Attn: Managing Member
c/o Etkin Johnson Group
1512 Larimer Street, Suite 325
Denver, Colorado 80202
Fax: (303) 629-5451

3.5 City Manager is authorized, consistent with City Charter and Ordinances, to enter into any further agreements, give all consents, enter into estoppel letters, amendments or the like, and do all things necessary hereunder that are consistent with this Agreement.

3.6 City staff, CRHC and CRHC II shall work together for adequate and appropriate signage for the Projects, including signage typical for comparable first-class hotel projects in the City as allowed under City Code.

3.7 The execution of this Agreement by CRHC, CRHC II and City as indicated in the signatory blocks below constitutes a representation by the respective parties that the Agreement has been duly authorized and approved by the City Council of the City of Westminster on behalf of City, and by CRHC and CRHC II in accordance with and under the authority of CRHC's and CRHC II's limited liability company agreements and state law.

3.8 Except as provided otherwise in this Agreement, anywhere in this Agreement it provides that it is the responsibility of CRHC or CRHC II, it shall be at the sole cost and expense of CRHC or CRHC II and anywhere in this Agreement it provides that it is the responsibility of City, it shall be the sole cost and expense of City.

3.9 This Agreement is severable and assignable to another legal entity subject to City's reasonable consent which will not be withheld as long as evidence satisfactory to the City in its reasonable discretion is provided that demonstrates that the successor entity has the financial wherewithal, experience and expertise to carry out the Projects and the obligations under this Agreement. However, any assignment or transfer of this Agreement other than as defined herein shall require City's approval, which shall not be unreasonably withheld. The rights and obligations hereunder shall inure to the benefit and detriment of any transferees, assigns or beneficiaries.

3.10 Except as otherwise provided in this Agreement, the City agrees that this Agreement is not cancelable by the City.

A. This Assistance Agreement shall terminate and become void and of no force or effect upon the City as to the Hotel only if CRHC fails to commence construction of the Hotel on or before March 1, 2009, or, CRHC has not completed construction and initiated operations of the Hotel by March 31, 2011; or in the event CRHC, at any time prior to completing the Hotel, makes an assignment for the benefit of creditors, applies or consents to the appointment of a receiver, trustee, conservator, liquidator of CRHC of all or a substantial part of its assets; or, a petition of relief is filed by CRHC under federal bankruptcy, insolvency, or similar laws; or, a petition in a proceeding under any bankruptcy, insolvency, or similar laws is filed against CRHC and not dismissed within sixty (60) days.

B. This Agreement shall remain in full force and effect with respect to the Suites Hotel in this event, including, but not limited to the Business Assistance Rebate for the Suites Hotel in the aggregate amount of \$3,275,000 present value per Section 2.6. However, if CRHC fails to commence construction of the Hotel on or before March 1, 2009, CRHC agrees to (1) transfer to City its interest in Lot 1, Lot 2 and Tract B of the Final Plat free and clear of liens and encumbrances, except for current property taxes and the existing lien in favor of Key Bank or its successor on Lot 2 with a release price not to exceed \$4.00 per square foot and CRHC agrees to hold harmless and indemnify the City from any liens and encumbrances in excess of the \$4.00 per square foot owed to Key Bank, or its successor on Lot 2 and (2) transfer to City its interest in any and all plans, specifications or drawings for the Hotel. If CRHC breaches the obligation to not encumber Lot 1, Lot 2 and Tract B beyond the limits specified hereinabove and if CRHC is required to transfer Lot 1, Lot 2 and Tract B to the City pursuant to this Agreement, then in that event the City has in addition to the remedies provided in Section 4 below the right to discontinue the Business Assistance Rebate payments to CRHC II on the Suites Hotel for the period of time required to reimburse the City for the amount of the encumbrance CRHC placed on Lot 1, Lot 2 and Tract B in excess of the limits specified hereinabove. In addition, CRHC agrees to pay the City additional applicable non-refundable extension fees upon City Council approval of this Agreement per the following schedule:

- i. Initial extension payment, \$25,000.00 paid to City by CRHC on July 17, 2003.
- ii. Second extension payment of \$50,000.00 due and payable to City by CRHC on March 1, 2005. Upon payment of this second extension payment the total of \$75,000.00 shall be non-refundable but shall be applied as a credit to the Tap Fees due and payable by CRHC pursuant to this Agreement if construction of the Hotel commences before March 1, 2006.
- iii. Third extension payment of \$50,000.00 due and payable to City by CRHC on March 1, 2006. Upon payment of this third extension payment the total of \$125,000.00 shall be non-refundable but shall be applied as a credit to the Tap Fees due and payable by CRHC pursuant to this Agreement if the construction of the Hotel commences before March 1, 2007.
- iv. Fourth extension payment of \$50,000.00 due and payable to City by CRHC on March 1, 2007. Upon payment of this fourth extension payment the total of \$175,000.00 shall be non-refundable but shall be applied as a credit to the Tap Fees due and payable by CRHC pursuant to this Agreement if the construction of the Hotel commences before March 1, 2008.

v. Fifth extension payment of \$50,000.00 due and payable to City by CRHC on March 1, 2008. Upon payment of this fifth extension payment the total of \$225,000.00 shall be non-refundable but shall be applied as a credit to the Tap Fees due and payable by CRHC pursuant to this Agreement if the construction of the Hotel commences before March 1, 2009.

C. In the event CRHC has not commenced construction of the Hotel on or before March 1, 2009 then the extension payments made to the City by CRHC shall be forfeited by CRHC to the City and CRHC shall have no further right nor benefit of the extension payments and the City has the right to full use of the extension payments for whatever purpose the City deems appropriate.

D. For purposes of this Agreement commencement of construction of the Hotel shall be defined as (i) payment of necessary fees pursuant to this Agreement, including but not limited to Tap Fees, (ii) obtaining necessary construction permits and (iii) mobilization of the general contractor on the Hotel Project Site.

E. CRHC agrees that it will not grant additional security interests in Lot 1, Lot 2 or Tract B securing any additional debt except for a security interest for financing for the actual construction of the Hotel, which security interest shall not attach until construction is ready to commence and a building permit has been issued for the Hotel without the prior written consent of the City. CRHC agrees to provide the City an ownership and encumbrance report evidencing CRHC compliance with this Section prior to requesting any extension herein provided for hereinabove.

3.11 In the event CRHC ceases business operations of the Hotel within three (3) years after the issuance of a certificate of occupancy by the City for the Hotel, for a period of three months or longer except in the case of force majeure, then in such event, CRHC shall pay to the City the total amount of fees and taxes that were due and payable by CRHC to the City, but were rebated or waived by the City, as well as reimburse the City for all funds provided to CRHC pursuant to the Agreement. These same refund provisions shall apply to CRHC II on the Suites Hotel in the event CRHC II ceases business operations of the Suites Hotel prior to April 1, 2009, for a period of three months or longer except in the case of force majeure.

IV. REMEDIES

4.1 In the event of a dispute concerning this Agreement, the parties agree to first attempt to negotiate a resolution of their differences. In the event of an inability to resolve their difference through negotiation, the parties agree to retain the services of a qualified professional mediator acceptable to all parties and to enter into mediation in good faith in an attempt to resolve the dispute.

4.2 In the event the parties are unable to agree upon the meaning or interpretation of any term or condition of this Agreement, the parties agree that a court of competent jurisdiction may declare the rights, duties and obligations of the parties in a declaratory judgment action and that such court may further impose upon the parties any fair and reasonable provision the court may deem appropriate to accomplish the overall objective of this parties as set forth in this Agreement. Further, in the event of such a declaratory judgment action, it is the intent of the parties that the court may receive parol evidence for the purpose of deciding such rights, obligations and duties of the parties in the event of an ambiguity.

4.3 The parties hereby waive and agree not to seek any damages from the other in connection with the enforcement of this Agreement if specific performance provides an adequate remedy. The parties may setoff any amounts due the other for any undisputed amounts, An arbitrator or court may grant setoff as an available remedy hereunder. The rights, obligations and duties of the parties may be enforced through the declaratory action referred to in Section 4.2 above, or by way of specific performance. The parties recognize that time is of the essence, and accordingly the parties shall seek any expedited proceedings to which they may be entitled. However, if any party is required to bring an action to enforce or have its rights declared under this Agreement, the prevailing party in such litigation shall be entitled to the recovery of its reasonable costs and attorney's fees. CRHC and CRHC II have the right to withdraw from this Agreement with no further obligations to the City including but not limited to the repayment of any Business Assistance Rebate payments which have been received if City commitments are not satisfied as agreed in this Agreement.

4.4 CRHC's, CRHC II's and City's obligations under this Agreement shall be deemed covenants running with the land and shall be binding upon and enforceable against the transferees, successors, assigns and purchasers of any item contained herein. For the purposes of creating constructive notice of this provision of this Agreement, a memorandum of this Agreement shall be recorded in the real estate records of the Jefferson County Clerk and Recorder's Office.

4.5 The Agreement replaces and supercedes all previous agreements and understandings and sets forth the agreement of the parties. There are no representations or warranties other than as contained herein. The documents to be entered into between the parties in the future shall become part and incorporated into this Agreement.

4.6 The Prior Agreements by and between City, CRHC and CRHC II shall be deemed replaced by this Agreement upon the execution hereof by all parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the day and year first above written.

CITY OF WESTMINSTER
home-rule municipality

**CHURCH RANCH HOTEL Colorado
COMPANY I LLC**, a Colorado
limited liability company

By: _____
J. Brent McFall, City Manager

By: _____
Bruce H. Etkin, Manager

ATTEST:

ATTEST:

By: _____
Michele Kelley, City Clerk

By: _____
Title: _____

**CHURCH RANCH HOTEL COMPANY
II LLC**, a Colorado limited liability
company

By: _____
Bruce H. Etkin, Manager

ATTEST:

By: _____
Title: _____

EXHIBIT A
Acceptable Hotel Franchisors
(attached to and made a part of the Agreement)

Hotel:

Marriott is the currently approved hotel franchise for the proposed Hotel. In the event that it becomes necessary for CRHC to select an alternate full-service hotel franchise for the Hotel, the following full-service hotels could be built as part of this Agreement if they are determined by HVS or alternate similar caliber consultant at the time the alternate franchisor is selected by CRHC and submitted to City to be a first-class, full-service hotel:

Marriott

Hilton

Wyndham

Sheraton

Crowne Plaza

Hyatt

Suites Hotel:

Marriott SpringHill Suites is the currently approved Suite Hotel franchise for the Suites Hotel.



Agenda Item 10 B

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 10, 2005



SUBJECT: Resolution No. 2 re Assignment of 2004 Private Activity Bonds Relative to Toscana Apartments

Prepared By: Tony Chacon, Senior Projects Coordinator

Recommended City Council Action

Adopt Resolution No. 2 assigning \$500,000 of the City's 2004 Private Activity Bond (PAB) allocation of \$4,160,440 to the Adams County Housing Authority (ACHA), for the purpose of refinancing existing taxable rate bond debt relative to the Toscana Apartments at Sheridan Boulevard and 84th Avenue, a qualified affordable housing project.

Summary Statement

- The City's 2004 Private Activity Bond (PAB) allocation is \$4,160,440. The PAB, allocated annually by the State of Colorado, provides municipalities the opportunity to issue or allocate tax exempt bonds to provide funding for federally eligible activities such as residential mortgage programs, urban renewal projects, and provision and retention of affordable housing.
- On August 23, 2004, City Council passed a resolution exercising its right to "carry forward" a decision relative to use of the PAB allocation until February 15, 2005, by which time the City will have had to "allocate" the PAB to projects or programs or return the allocation to the State.
- The City has not as yet assigned any portion of the allocation to any project or program, and as in previous years, Staff anticipated the allocation would be assigned for south Westminster redevelopment in the event no other eligible projects were identified by February 15, 2005.
- In July, 2004, Semper Village Apartments, LLC (SVA), a partnership of Baron Property Services and the Adams County Housing Authority, purchased and renovated the Toscana apartment complex (f.k.a. Semper Village) for \$14 million. All but \$500,000 was financed with tax exempt bonds using PAB awarded by the Colorado Division of Housing and issued by the Adams County Housing Authority, with the balance of \$500,000 being financed with the issuance of taxable rate bonds.
- SVA invested \$3.15 million on building and ground renovation, amounting to about \$12,000 per unit.
- By purchasing the complex using PAB, SVA is required to rent 100% of the units to income qualified households per State of Colorado income thresholds. The complex is required to be retained as an affordable housing project for the next 20 years.
- Given the affordability restrictions, SVA has requested the City give consideration to providing a PAB assignment of \$500,000 to ACHA so as to refinance the taxable rate bonds issued at the time of purchase. With the City PAB assignment, ACHA would be able to issue low-interest tax exempt bonds to pay off the taxable rate bonds.

Expenditure Required: \$500,000

Source of Funds: 2004 Private Activity Bonds

Policy Issue

Whether to assign a portion of the City's 2004 Private Activity Bond allocation to ACHA or retain all of the 2004 allocation for assignment to other eligible projects such as south Westminster redevelopment.

Alternative

Deny the request and wait until February 15, 2005 to make a decision on where to make an assignment(s). Staff recommends that this option not be considered. If granted, the assignment of \$500,000 would equate to a 3% contribution towards providing and retaining this affordable housing for Westminster residents over the next 20 years.

Background Information

Private Activity Bonds (PAB) are tax-exempt bonds that can be issued for specific purposes. The program was started by the federal government in the 1980's to allow developers and other builders the use of lower-cost, tax-exempt financing to build projects. Qualified uses of the PAB include:

- Industrial bonds sold for construction of manufacturing facilities
- Mortgage revenue bonds sold to obtain below market rate mortgages for persons with low to moderate incomes
- Qualified redevelopment bonds sold to acquire property in blighted areas, and to prepare land for redevelopment activities
- Student loans where bond proceeds are used to provide low interest loans to eligible students
- Qualified residential rental project bonds used to finance new construction or acquisition/rehabilitation of housing for persons with low to moderate incomes
- Exempt facility bonds such as water, sewer and solid waste facilities

The State of Colorado is the agent of the federal government, which administers the allocations of bonding authority granted to the states each year. The Colorado Private Activity Bond allocation program was established by state statute to provide for the allocation of the state PAB under the federal Tax Reform Act.

Fifty percent (50%) of the state allocation is made available directly to state authorities including the Colorado Housing and Finance Authority, the Colorado Agricultural Development Authority, the Colorado Post-Secondary Education Facility Authority, the Colorado Health Facilities Authority and the Colorado Student Obligation Bond Authority. The remaining 50% of the PAB allocation is distributed to local governments on a proportional basis based on population. Those local governments whose populations warrant allocations of \$1 million or more receive a direct allocation.

The City of Westminster currently receives an annual allocation of approximately \$4.1 million in Private Activity Bonds (PAB) as determined by the Colorado State Division of Local Affairs. The allocation is available to be assigned to eligible projects by the local governments from January 1 to September 15 of each year. Any portion of a direct allocation not used for a qualified project by a local government by September 15 of each funding year reverts to the "statewide balance," unless the local government chooses to "carry forward" the allocation into the forthcoming year by resolution. If the local government chooses not to "carry forward" the PAB allocation by September 15 or does not assign it to an eligible project by February 15 of the year following the allocation, the non-assigned portion of the allocation reverts to the State for redistribution to other eligible projects.

The City has utilized its PAB allocation in the past to fund the following projects:

Year	Total PAB	Recipient	Project	Amount
1999	\$2,398,300	Metro Mayors Caucus	Mortgage Bond Program	\$ 250,000
		Westminster Economic Development Authority	Westminster Plaza redevelopment	\$2,148,300
2000	\$2,432,675	Metro Mayors Caucus	Mortgage Bond Program	\$1,000,000
		Mendel-Allison	Affordable senior housing	\$1,432,675
2001	\$3,069,281	Westminster Economic Development Authority	South Westminster Urban Renewal Projects	\$3,069,281
2002	\$3,785,250	Westminster Economic Development Authority	South Westminster Urban Renewal Projects	\$3,785,250
2003	\$3,858,938	Westminster Economic Development Authority	South Westminster Urban Renewal Projects	\$3,358,938
		Metro Mayors Caucus	Transit Oriented Development Housing	\$ 500,000

In 2004, the City received a PAB allocation of \$4,160,440. Given the City did not anticipate a need for use of the PAB before the September 15, 2004 deadline, the City Council passed a resolution authorizing a decision related to use of the funds be “carried forward” to February 15, 2005. If a project(s) was not identified by January 2005, Staff had proposed to assign the 2004 allocation, or any remaining part thereof, to the Westminster Economic Development Authority (WEDA) to help fund redevelopment projects in the future.

In early 2004, the 252 unit Toscana apartment complex at Sheridan Boulevard and 84th Avenue was listed for sale. Given its availability, the Adams County Housing Authority expressed an interest in working with a private sector partner to acquire and retain the complex as affordable housing for Westminster and Adams County residents. The Housing Authority, in association with Baron Property Services, formed Semper Village Apartments, LLC (SVA) for the purposes of purchasing and renovating the property. SVA approached the State of Colorado Division of Housing requesting an allocation of PAB to allow SVA to sell tax-exempt bonds with which to purchase and improve the complex. The State of Colorado agreed to provide a PAB assignment of \$13.5 million to be used towards the project. To close the deal, SVA was required to finance another \$500,000 by issuing taxable rate bonds. SVA closed on the purchase of the property in July 2004.

Following the closing, SVA met with Staff to discuss the possibility of an assignment of \$500,000 in 2004 City PAB permitting the refinancing of the taxable rate bond debt. Accordingly, Staff requested information pertaining to the improvements made in conjunction with the acquisition. A list of improvements provided by SVA indicates a total expenditure of \$3,146,950 of which \$994,000 was spent on external, common-area improvements. The balance of \$2,152,950 (about \$8,500 per unit) was spent on upgrading the units. The Housing inspection program of the City’s Building Division gave the SVA ownership and the apartment complex itself a favorable assessment.

SUBJECT: Resolution re 2004 Private Activity Bonds Relative to Toscana Apartments Page 4

Given the positive assessment, Staff requests that \$500,000 in 2004 PAB be assigned to ACHA on behalf of SVA for the purposes of refinancing an equal amount of taxable rate bond debt. By authorizing the assignment, the City would retain \$3,660,440 of 2004 PAB capacity to assign to other projects by February 15, 2005, including the redevelopment activities of WEDA. WEDA currently has \$7,144,188 in bonding capacity.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

RESOLUTION

RESOLUTION NO. 2

INTRODUCED BY COUNCILLORS

SERIES OF 2005

A RESOLUTION AUTHORIZING THE ASSIGNMENT OF \$500,000 OF THE CITY OF WESTMINSTER PRIVATE ACTIVITY BOND ALLOCATION FOR 2004 TO THE HOUSING AUTHORITY OF ADAMS COUNTY, STATE OF COLORADO, FOR THE TOSCANA APARTMENT PROJECT; PROVIDING OTHER DETAILS IN CONNECTION THEREWITH; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to the Private Activity Bond Ceiling Act, constituting Title 24, Article 32, Part 17, Colorado Revised Statutes (the "Allocation Act"), the City of Westminster, Colorado (the "City") has received a direct allocation of the State of Colorado's 2004 Private Activity Bond Ceiling in the amount of \$4,160,440 (the "2004 Allocation"); and

WHEREAS, the City desires to assign \$500,000 of the 2004 Allocation to the Housing Authority of Adams County, State of Colorado (the "Authority") pursuant to Section 24-32-1706 of the Allocation Act to be used to as provided in the form of Assignment of Allocation (the "Assignment") presented to City Council (the "Council") at this meeting; and

WHEREAS, the Authority has agreed to accept the 2004 Allocation on the terms set forth in the Assignment.

NOW, THEREFORE, BE IT RESOLVED BY CITY COUNCIL OF THE CITY OF WESTMINSTER, COLORADO:

Section 1. The City hereby authorizes the assignment of \$500,000 of the 2004 Allocation to the Authority for use solely in the manner described in the Assignment.

Section 2. The form, terms and provisions of the Assignment hereby are approved and the Mayor or Director of Finance of the City hereby is authorized and directed to execute and deliver the Assignment, with such necessary or desirable changes thereto as are reasonable and necessary to facilitate the transactions contemplated thereby, all as are approved by the officers of the City executing the Assignment. The execution of the Assignment shall be conclusive evidence of the approval by the City of such document in accordance with the terms hereof.

Section 3. The officers of the City shall take such other steps or actions necessary or reasonably required to carry out the terms and intent of this Resolution and the Assignment.

Section 4. 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 not affect any of the remaining provisions of this Resolution.

Section 5. All action not inconsistent with the provisions of this Resolution heretofore taken by the Council and the officers of the City directed toward the assignment of the 2004 Allocation and the authorization of the Assignment hereby are ratified, approved and confirmed.

Section 6. This Resolution shall be in full force and effect upon its passage and adoption.

ADOPTED this 10th day of January, 2005

Attest:

Mayor

City Clerk

ASSIGNMENT OF ALLOCATION

THIS ASSIGNMENT (the "Assignment") dated this ____ day of _____ 2005, is between the City of Westminster (the "Assignor"), and the Adams County Housing Authority (the "Assignee").

RECITALS

WHEREAS, the Assignor and the Assignee are authorized and empowered under the laws of the State of Colorado (the "State") to issue revenue bonds for the purpose of financing multifamily rental housing projects for low- and moderate-income persons and families; and

WHEREAS, the Internal Revenue Code of 1986, as amended (the "Code"), restricts the amount of tax-exempt bonds ("Private Activity Bonds") that may be issued in the State to finance such rental housing projects and for certain other purposes (the "State Ceiling"); and

WHEREAS, pursuant to the Code, the Colorado legislature adopted the Colorado Private Activity Bond Ceiling Allocation Act, Part 17 of Article 32 of Title 24, Colorado Revised Statutes (the "Allocation Act"), providing for the allocation of the State Ceiling among the Authority and other governmental units in the State, and further providing for the assignment of allocations from such other governmental units to the Authority; and

WHEREAS, pursuant to an allocation under Section 24-32-1706 of the Allocation Act, the Assignor has an allocation of the 2004 State Ceiling for the issuance of a specified principal amount of Private Activity Bonds (the "2004 Allocation"); and

WHEREAS, the Assignor has determined that, in order to increase the availability of adequate affordable housing by low- and moderate-income persons and families within the City of Westminster and elsewhere in the State, it is necessary or desirable to provide for the utilization of all or a portion of the 2004 Allocation; and

WHEREAS, the Assignor has determined that the 2004 Allocation, or a portion thereof, can be utilized most efficiently by assigning it to the Assignee to issue Private Activity Bonds for the purpose of financing one or more multifamily rental housing projects for low- and moderate-income persons and families ("Revenue Bonds"), and the Assignee has expressed its willingness to attempt to issue Revenue Bonds with respect to the 2004 Allocation; and

WHEREAS, the City Council of the Assignor has determined to assign to the Assignee \$500,000 of its 2004 Allocation, and the Assignee has agreed to accept such assignment, which is to be evidenced by this Assignment.

NOW, THEREFORE, in consideration of the premises and the mutual promises hereinafter set forth, the parties hereto agree as follows:

1. The Assignor hereby assigns to the Assignee \$500,000 of its 2004 Allocation, subject to the terms and conditions contained herein. The Assignor represents that it has received no monetary consideration for said assignment.

2. The Assignee hereby accepts the assignment to it by the Assignor of \$500,000 of Assignor's 2004 Allocation, subject to the terms and conditions contained herein.

3. The Assignor hereby consents to the election by the Assignee, if the Assignee in its discretion so decides, to treat all or any portion of the assignment set forth herein as an allocation for a project with a carry-forward purpose.

4. The Assignor and Assignee each agree that it will take such further action and adopt such further proceedings as may be required to implement the terms of this Assignment.

5. This Assignment is effective upon execution and is irrevocable.

IN WITNESS WHEREOF, the Assignor and the Assignee have caused this instrument to be executed to be effective as of the date and year first written above.

By: _____
Nancy McNally, Mayor as Assignor

ATTEST:

By: _____
City Clerk

ADAMS COUNTY HOUSING AUTHORITY, as Assignee

[SEAL] By: _____
Executive Director

ATTEST:

Summary of Proceedings

Summary of proceedings of the regular City of Westminster City Council meeting of Monday, January 10, 2005. Mayor McNally, Councillors Davia, Dittman, Dixon, Kauffman, and Price were present at roll call. Councillor Hicks arrived at 7:09 p.m.

The minutes of the December 20, 2004 meeting were approved as amended.

Council approved the following: November 2004 – Financial Report, Colorado Municipal League Annual Dues, Deicing Materials Purchase, Ratification of Purchase of Excess Workers' Compensation Insurance, Engineering Services for Upgrade and Expansion of Big Dry Creek Wastewater Treatment Facility, and Rocky Flats Coalition of Local Governments Reappointments.

The following Councillor's Bill was passed on first reading:

A BILL FOR AN ORDINANCE AUTHORIZING AN AMENDMENT AND RESTATEMENT OF THE BUSINESS ASSISTANCE AGREEMENT BETWEEN THE CITY OF WESTMINSTER AND CHURCH RANCH HOTEL I LLC AND CHURCH RANCH HOTEL COMPANY II LLC FOR THE COOPERATIVE DEVELOPMENT AND CONSTRUCTION OF A HOTEL AND A SUITES HOTEL Purpose: Amended Business Assistance Agreement for the Marriott Hotel.

The following Councillor's Bill was adopted on second reading:

A BILL FOR AN ORDINANCE INCREASING THE 2004 BUDGET OF THE FLEET MAINTENANCE FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2004 ESTIMATED REVENUES IN THIS FUND

The following Resolutions were adopted:

Resolution No. 1 re Appointments and Reappointments to Boards and Commissions

Resolution No. 2 re Assignment of 2004 Private Activity Bonds Relative to Toscana Apartments

At 7:18 p.m. the meeting was adjourned

By order of the Westminster City Council

Michele Kelley, CMC, City Clerk

Published in the Westminster Window on January 20, 2005

A BILL

FOR AN ORDINANCE INCREASING THE 2004 BUDGET OF THE FLEET MAINTENANCE FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2004 ESTIMATED REVENUES IN THIS FUND.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2004 appropriation for the General Fund does not change with this ordinance. However, the changes in the expense accounts are shown here for informational purposes.

Section 2. The Expense accounts shall be amended as follows:

DESCRIPTION	ACCOUNT NUMBER	CURRENT BUDGET	INCREASE (DECREASE)	FINAL BUDGET
Expenses				
Contingency	10010900.79900.0000	\$902,499	(\$33,000)	\$869,499
Employee Recruitment	10012060.61600.0000	30,275	(10,000)	20,275
Career Development	10012060.61800.0000	14,105	(10,000)	4,105
Election Expense	10012070.67900.0000	19,000	(15,000)	4,000
Maint/Repair Infra Cust Svc	10012110.66200.0702	447,402	(8,000)	439,402
Maint/Repair Equipment	10012130.66100.0000	37,500	(7,000)	30,500
Transfer to Fleet	10010900.79800.0300	0	83,000	83,000
Total change to expenses			<u>\$0</u>	

Section 3. The 2004 appropriation for the Fleet Fund, initially appropriated by Ordinance No. 2977 in the amount of \$1,161,031 is hereby increased by \$83,000 which, when added to the fund balance as of the City Council action on December 20, 2004 will equal \$1,875,805. The actual amount in the Fleet Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. This increase is due to an increase in the transfer from the General Fund.

Section 4. The \$83,000 increase in the Fleet Fund shall be allocated to City Revenue and Expense accounts, which shall be amended as follows:

DESCRIPTION	ACCOUNT NUMBER	CURRENT BUDGET	INCREASE (DECREASE)	FINAL BUDGET
Revenue				
Transfer from General Fund	3000.45000.0100	\$0	<u>\$83,000</u>	\$83,000
Total change to revenues			<u>\$83,000</u>	

DESCRIPTION	ACCOUNT NUMBER	CURRENT BUDGET	INCREASE (DECREASE)	FINAL BUDGET
Expenses				
Maint Repair – Rolling Stock	30012460.68800.0000	\$53,074	\$10,000	\$63,074
Parts	30012460.73600.0000	192,246	30,000	222,246
Fuel & Lubricants	30012460.74000.0000	337,323	<u>43,000</u>	380,323
Total change to expenses			<u>\$83,000</u>	

Section 5 – Severability. The provisions of this Ordinance shall be considered as severable. If any section, paragraph, clause, word, or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part shall be deemed as severed from this ordinance. The invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect the construction or enforceability of any of the remaining provisions, unless it is determined by a court of competent jurisdiction that a contrary result is necessary in order for this Ordinance to have any meaning whatsoever.

Section 6. This ordinance shall take effect upon its passage after the second reading.

Section 7. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED AND PUBLISHED this 20th day of December, 2004. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 10th day of January, 2005.