



WESTMINSTER
COLORADO

January 13, 2003
7:00 P.M.

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 5) 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. Presentations
 - A. Westminster Soccer Recognition – Kyle Critchfield
5. Citizen Communication (5 minutes or less)
6. Report of City Officials
 - A. City Manager's Report
7. City Council Comments

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. Ice Centre Intergovernmental Agreement Amendment
 - B. IGA for Continuation of the Community Transit Program in Adams County
 - C. 2003 Capital Improvement Technical Support Services
 - D. Westminster Boulevard Extension—Final Contract Amendment
 - E. Excess Workers' Compensation Insurance
 - F. CB No. 74 re Amendment of 1-30 WMC re settling claims (Dixon-Hicks)
 - G. CB No. 75 re Vacation of easement in Meade St ROW (Atchison-Dittman)
9. Appointments and Resignations
 - A. Resignation of Associate Judge Hilary Holland
 - B. Rocky Flats Coalition of Local Governments Appointments
10. Public Hearings and Other New Business
 - A. Councillor's Bill No. 1 re Ball Corporation Business Assistance Package
 - B. Councillor's Bill No. 2 re Safeway Business Assistance Agreement Amendment
 - C. Councillor's Bill No. 3 re Summit Square Shopping Center Business Assistance Package
 - D. Resolution No. 1 re 2003 Community Senior Center Use Fees
 - E. Councillor's Bill No. 4 re Vacation of Stuart Street Right-of-Way in the Maple Place Subdivision
 - F. Councillor's Bill No. 5 Supplemental Appropriation 136th/I-25 Sales and Use Tax Revenue Bond
11. Old Business and Passage of Ordinances on Second Reading
12. Citizen Presentations (longer than 5 minutes) and Miscellaneous Business
 - A. City Council
 - B. Executive Session
 1. Renegotiated Land Agreement
13. Adjournment

CITY OF WESTMINSTER, COLORADO
MINUTES OF THE CITY COUNCIL MEETING
HELD ON MONDAY, JANUARY 13, 2003 AT 7:00 P.M.

PLEDGE OF ALLEGIANCE

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

ROLL CALL

Mayor Moss, Mayor Pro-Tem Atchison, Councillors Dittman, Dixon, Hicks, Kauffman, and McNally were present at roll call. Brent McFall, City Manager; Martin McCullough, City Attorney; and Michele Kelley, City Clerk, were also present. Absent none.

CONSIDERATION OF MINUTES

Mayor Pro Tem Atchison moved, seconded by McNally to approve the minutes of the meeting of December 23, 2002 with no corrections or additions. The motion carried unanimously.

PRESENTATIONS

Mayor Moss recognized the outstanding athletic achievement of Kyle Critchfield, a former Westminster recreation soccer player and current player for the competitive Westminster Football Club, by presenting him with a certificate of achievement.

CITY MANAGER COMMENTS

Brent McFall, City Manager, commented on this being the beginning of the City's first 2-year budget. The City is waiting for year-end sales tax returns, and we are optimistic. He also stated there would be an additional executive session item discussing an attorney-client privileged item.

CITY COUNCIL COMMENTS

Councillor Hicks recognized the citizens from the Silo Subdivision.

Councillor Dixon commented on Rocky Flats Cold War Museum, and they are looking for input on what the citizens would like to see in the museum. She also commented on the upcoming Martin Luther King observance.

Councillor Dittman recognized the Silo Homeowner, Sunset Ridge Elementary School students and Boy Scouts attending the meeting.

Councillor McNally commented on January being School Board Appreciation month, and members of City Council will be attending the 3 local school board meetings to present them with a proclamation from the City.

CONSENT AGENDA

The following items were considered as part of the Consent Agenda: Ice Centre Intergovernmental Agreement Amendment; IGA for Continuation of the Community Transit Program in Adams County for \$13,207; 2003 Capital Improvement Technical Support Services with RG Consulting Engineers for up to \$150,000; Westminster Boulevard Extension—Final Contract Amendment with SEMA Construction for \$87,845; Excess Workers' Compensation Insurance from Safety National Casualty Corporation for \$82,797; CB No. 74 re Amendment of 1-30 of WMC re settling claims; CB No. 75 re Vacation of Easement in Meade Street ROW.

The Mayor 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.

Mayor Pro Tem Atchison moved, seconded by Dixon to adopt the consent agenda items as presented. The motion carried unanimously.

RESIGNATION OF ASSOCIATE JUDGE HILARY HOLLAND

Mayor Pro-Tem Atchison moved, seconded by Hicks to accept the resignation of Hilary Holland as Municipal Associate Judge effective February 4, 2003. The motion carried unanimously.

ROCKY FLATS COALITION OF LOCAL GOVERNMENTS

Councillor Hicks moved, seconded by Councillor Dittman to re-appoint City Councillor Samantha Dixon as the City's representative to the Rocky Flats Coalition of Local Governments Board of Directors, Herb Atchison as the 1st Alternate, and Director of Public Works and Utilities Ron Hellbusch as the 2nd Alternate. The motion carried unanimously.

COUNCILLOR'S BILL NO. 1 RE BALL CORPORATION BUSINESS ASSISTANCE PACKAGE

Councillor Kauffman moved, seconded by Councillor Dixon to pass Councillor's Bill No. 1 on first reading authorizing the City Manager to execute the business assistance agreement with Ball Corporation, in the amount of \$50,000, which includes \$10,400 in permit fee rebates, \$26,250 in construction use tax rebates, \$7,500 in equipment use tax rebates at move-in and \$5,850 in equipment use tax rebates over the first two years of operation. Mr. Harold Sohn, Vice president of corporate relations, addressed Council. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 2 AMENDMENT TO SAFEWAY BUSINESS ASSISTANCE AGREEMENT

Councillor Dittman moved, seconded by Atchison to pass Councillor's Bill No. 2 on first reading authorizing the City Manager to execute an amendment to the Westminster Plaza Safeway Business Assistance Agreement. Mr. Dan Clayton Director of Real Estate for Safeway, addressed Council. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 3 RE SUMMIT SQUARE SHOPPING CENTER BUSINESS ASSISTANCE

Councillor Dixon moved, seconded by Atchison to pass Councillor's Bill No. 3 on first reading authorizing the City Manager to execute and implement a business assistance agreement with Summit Square Investments LP, a Colorado limited partnership of Starr Realty, which totals \$214,800, and includes \$6,450 in permit fee rebates, \$15,000 in construction use tax rebates, \$18,000 in equipment use tax at move-in, and \$175,350 in incremental sales tax rebates over the first five years of operation for Summit Square Shopping Center. Paul Lubber, President of Star Realty property owner of Summit Square Shopping Center addressed Council. Upon roll call vote, the motion carried unanimously.

RESOLUTION NO. 1 re 2003 COMMUNITY SENIOR CENTER USE FEES

Councillor McNally moved, seconded by Atchison to adopt Resolution No. 1 authorizing the Department of Parks, Recreation and Libraries to adjust the use fees at the Community Senior Center for 2003. Upon roll call vote, the motion carried with a dissenting vote from Dixon.

COUNCILLOR'S BILL NO. 4 RE VACATION OF STUART STREET ROW

Councillor McNally moved, seconded by Atchison to pass Councillor's Bill No. 4 on first reading to accomplish the vacation of the unnecessary portion of the Stuart Street public right-of-way located within the boundaries of the Maple Place Subdivision, Filing No. 2. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 5 RE SUPPLEMENTAL APPROPRIATION 136TH/I-25 S&U TAX BONDS

Mayor Pro-Tem Atchison moved, seconded by Dittman to pass Councillor's Bill No. 5 on first reading appropriating \$12,913,231 in proceeds from the sale of Sales and Use Tax Revenue Bonds, Series 2002 for the construction of the interchange and associated road improvements for 136th Avenue at I-25. Upon roll call vote, the motion carried unanimously.

EXECUTIVE SESSION

The Mayor stated there would be an executive session to discuss a renegotiated land agreement and an attorney-client privileged item.

ADJOURNMENT:

The meeting was adjourned at 7:35 P.M.

ATTEST:

City Clerk

Mayor



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 13, 2003

SUBJECT: Westminster Soccer Recognition – Kyle Critchfield

Prepared By: Sean Layfield, Recreation Programs Specialist

Recommended City Council Action

The Mayor and City Council are requested to recognize the outstanding athletic achievement of Kyle Critchfield, a former city of Westminster recreation soccer player and current player for the competitive Westminster Football Club, by presenting him with a certificate of achievement at the City Council Meeting.

Summary Statement

- Kyle Critchfield participated in the City of Westminster's soccer program for ten seasons and now plays competitive soccer for Westminster Football Club (Westminster F.C.).
- On October 18, 2002, Kyle Critchfield competed in the Pepsi-Major League Soccer Dribble, Pass and Score National Championship in Boston and placed third overall in the under-12-year-old group.

Expenditure Required: \$ 0

Source of Funds: N/A

Policy Issue

There are no policy issues associated with this presentation.

Alternative

There are no alternatives associated with this presentation.

Background Information

Kyle won a local competition sponsored by Westminster Football Club May 18 at City Park Soccer Fields. Kyle advanced to the regional level and competed once again. On August 19, he qualified for the 5th Annual Colorado Rapids Team Championship at Invesco Fields. He won first place for the Championship and the possibility to go to the National Competition. In order to qualify for the National Championship, his score from the Team Championship had to be among the top four nationwide. A total of 150,000 players competed nationwide.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 13, 2003



SUBJECT Ice Centre Intergovernmental Agreement Amendment

Prepared By: Mary Ann Parrot, Finance Director

Recommended City Council Action

Approve the “Third Amendment to Second Intergovernmental Agreement Between the City of Westminster and Hyland Hills Park and Recreation District,” and authorize the City Manager to sign the agreement.

Summary Statement

The City and Hyland Hills wish to revise sections 8.2 and 8.3 of the Intergovernmental Agreement concerning the Operations and Combined Obligations Reserve Fund (OCOR) and Equipment and Capital Reserve Fund for the Westminster Promenade Ice Centre.

- In 1998, when the IGA between the City and Hyland Hills Park and Recreation District was adopted, the IGA contained provisions for two reserve funds in the Ice Centre financial management provisions: an operating reserve and a capital reserve.
- The Operations and Combined Obligations Reserve (OCOR) was originally established at one year’s debt service (\$1.035 million), with the intent of covering shortfalls in the Ice Centre revenues for paying operational costs and COP payments.
- The OCOR was drawn down in 1999 from \$1.035 million to approximately \$72,000, with the approval of the City Council and the Hyland Hills Board of Directors. It was necessary to draw down this reserve to pay for the additional costs of building the Ice Centre, which were approximately an additional \$1.0 million.
- Based on operational experience of three full years (1999-2001), it is not necessary to keep OCOR at the current required level (\$1.035 million), as the Ice Centre is paying its way, including servicing the COP payments.
- The OCOR currently stands at \$81,000.
- Staff is recommending the OCOR be revised to \$300,000, and that the IGA be revised to reflect this reduced amount. This should be adequate to cover operational shortfalls or shortfalls in the ability of the Ice Centre to service the COP payments.

Expenditure Required: \$ 0

Source of Funds: N/A

Policy Issues

Should the City agree to amend the Intergovernmental Agreement by reducing the Operations and Combined Obligations Reserve Fund (OCOR) from 1.00 times the average annual Rental Obligations remaining on the Ice Arena financing (approximately \$1.035 million) to a fixed amount of \$300,000 and establishing the date of January 1 of each budget year that the amount of each party's 50 percent contribution to the Equipment and Capital Replacement Fund shall be made?

Alternatives

1. Not approve the Third Amendment to the Intergovernmental Agreement. This is not recommended, as the size of the OCOR was established at the beginning of the operations of the Ice Centre and it was not known at the time how large this operating reserve needed to be. In the past three years of Ice Centre operations, the Ice Centre has "broken even," making revenues to meet its operating and debt service costs, as well as provide significant funds to needed capital improvements. Staff believes it will be adequate to reduce the operating reserve to \$300,000.
2. Approve the amendment for an amount higher than \$300,000 for the OCOR, and a specific amount for the Capital Project Reserve. This alternative is also not recommended at this time, as Staff has evaluated the need for operating reserves and believes \$300,000 is adequate. The Ice Centre is currently funding selected capital improvements and replacement from operating funds, and Staff believes this amount is justifiably a management recommendation to be made based on the annual budgeting process.

Background Information

The City and Hyland Hills entered into an Intergovernmental Agreement dated January 1998, setting forth the basic terms under which they agreed to construct and finance the Sun Microsystems Ice Centre. The Agreement was further amended to create an operations and combined obligations reserve fund (OCOR) to cover any shortfalls in the operations and debt repayment of the Promenade Ice Centre. In addition, an equipment and capital reserve fund was established to provide an ongoing source of funds for capital replacement and major building system maintenance and replacement.

This Third Amendment reflects the parties' agreement to reduce the amount of the OCOR to the more reasonable level of \$300,000 and to agree on the process and timing for funding the equipment and capital reserve fund. Hyland Hills' Board approved this amendment on November 5, 2002.

The Capital Replacement Reserve has not been funded. Instead, capital replacements are being funded out of current operating revenues. However, both the City and Hyland Hills recognize that in the future, capital replacements will need to be planned and financed with a sinking fund, and the capital replacement reserve needs to be built up over time.

As with other capital financing decisions, the amount and timing of this reserve should be a policy decision, and factored in with the annual operations of the Ice Centre.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

**THIRD AMENDMENT
TO THE SECOND INTERGOVERNMENTAL
AGREEMENT
BETWEEN THE CITY OF WESTMINSTER AND
HYLAND HILLS PARK AND RECREATION DISTRICT
CONCERNING
THE WESTMINSTER PROMENADE ICE ARENA**

THIS THIRD AMENDMENT TO THE SECOND INTERGOVERNMENTAL AGREEMENT (the "Agreement") is made and entered into this ___ day of _____, 2003, by and between the **CITY OF WESTMINSTER**, a Colorado home-rule municipality, the **HYLAND HILLS PARK AND RECREATION DISTRICT**, and the **HYLAND HILLS PARK AND RECREATION DISTRICT ENTERPRISE**.

WHEREAS, the parties did enter into a Second Intergovernmental Agreement dated January 29, 1998, setting forth the basic terms under which they agreed to construct and finance the Sun Microsystems Ice Centre, and

WHEREAS, the parties wish to amend some of the terms set forth in the Second Intergovernmental Agreement, and

WHEREAS, Section 11.4 of the Second Intergovernmental Agreement provides for amendments and modifications in writing and duly executed by all parties.

NOW THEREFORE, in consideration of the above premises, the mutual covenants set forth below, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree that the Second Intergovernmental Agreement is amended as follows:

3.17 Ice Centre: "Ice Centre" means the new Ice Centre as generally described in paragraphs 2.1 and 4 to be constructed on the Site as described herein.

8.2 Operations and Combined Obligations Reserve Fund. An Operations and Combined Obligations Reserve Fund shall be established outside of and separate from the Hyland Hills Enterprise. The Operations and Combined Obligations Reserve Fund shall be funded by equal yearly contributions from both the City and the Hyland Hills Enterprise, each in an amount equal to fifty percent (50%) of the yearly Ice Arena Net Revenues, until the amounts deposited in the Operations and Combined Obligations Reserve Fund equal Three Hundred Thousand Dollars (\$300,000). Such yearly contributions, if any, shall be due and payable no later than June 30 of each succeeding year. The purpose of the Operations and Combined Obligations Reserve Fund shall be (a) to cover Cost of Construction, and (b) to cover any Shortfalls in Ice Arena Gross Revenues to cover Operation and Maintenance Expenses or the annual Combined Obligations of the parties. This reserve is not intended to fund shortfalls resulting from Diversions. Hyland Hills Enterprise or Hyland Hills District will fund Diversions from the Diversion Reserve or other legally available funds unrelated to the Ice Arena. Any time the amount in the Operations and Combined Obligations Reserve Fund drops below Three Hundred Thousand Dollars (\$300,000), the parties shall contribute additional monies equivalent to their respective share of Ice Arena Net Revenues into the Operations and Combined Obligations Reserve Fund until said Fund is replenished to Three Hundred Thousand Dollars (\$300,000). The parties anticipate that revenue from sponsorships will accelerate the replenishment of the Operations and Combined Obligations Reserve Fund. Monies in the Operations and Combined Obligations Reserve Fund shall not be invested to violate paragraph 8.5.

8.3 Equipment and Capital Reserve Fund. An Equipment and Capital Reserve Fund shall be established outside of and separate from the Hyland Hills Enterprise and shall be included as part of the annual operating budget of the Enterprise to provide an ongoing source of funds for capital replacement and major building system maintenance and replacement. The amount of the Equipment and Capital Replacement Fund shall be determined annually as part of the budget process. Each party shall contribute fifty percent (50%) of such annual amount to the Equipment and Capital Reserve Fund by June 30 of the succeeding year. The annual allocation of the contributions to the Operations and Combined Obligations Reserve Fund and the Equipment and Capital Reserve Fund shall be decided administratively by mutual agreement of the 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

HYLAND HILLS PARK AND RECREATION DISTRICT

By _____
J. Brent McFall
City Manager

By _____
Donald Van Arsdale
President

ATTEST:

ATTEST:

Michele Kelley
City Clerk

Glenn Axelson
Assistant Secretary

Approved as to form:

Approved as to form:

City Attorney

HYLAND HILLS ENTERPRISE

By _____
Donald Van Arsdale
President

ATTEST:

Glenn Axelson
Assistant Secretary

Approved as to form:



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
March 29, 2004



Subject: Intergovernmental Agreement for Continuation of the Community Transit Program in Adams County

Prepared by: Matt Lutkus, Deputy City Manager for Administration

Recommended City Council Action

Authorize the Mayor to sign an Intergovernmental Agreement with Adams County for the purpose of continuing to provide special transit services for senior and disabled citizens residing in the Adams County portion of Westminster.

Summary Statement

- City Council action is requested to approve an intergovernmental agreement (IGA) with Adams County that would allow the continuation of special transit services for senior and disabled residents within urban areas of the County. City councils in four other Adams County cities are being asked to approve the same agreement.
- The Adams County Special Transit Program, which later became known as the ALift, officially became a reality in January 2000. Under this program, door-to-door transportation is provided through a contract with the Seniors' Resource Center to eligible residents for medical-related appointments, trips to nutrition sites, and grocery shopping trips.
- As part of the 2003-2004 Budget, City Council approved funds for the City's continued participation in the program. The City's 2004 contribution is projected to be \$26,420.

- The new Intergovernmental Agreement is very similar to the agreements that Council approved for 2000, 2001, 2002 and 2003. The major difference in the 2004 agreement is that it will be removed automatically unless the City Manager notifies the County of the City's desire to discontinue its participation.

- A comparable service is provided to Westminster Jefferson County residents by the Senior Resources Center. The City also contributes to this program through an annual contribution, currently \$15,000 per year.

Expenditure Required: \$26,420

Source of Funds: Central Charges budget in the General Fund

Policy Issue

Should the City continue to participate with Adams County and other Adams County cities in this special transit program?

Alternatives

City Council could decide to discontinue its involvement in this program that provides subsidized transit services for seniors and those with disabilities, or it could direct Staff to pursue an alternative means for providing such services. Given the success of the Community Transit Program to date, City Staff is not recommending that either of these options be pursued.

Background Information

Up until April 1998, Metro Mobility provided transportation services to senior citizens and persons with disabilities in Adams County. However, at that time the agency discontinued operations due to financial and management issues. Later in 1998, the Adams County Commissioners created a Special Transportation Task Force, which completed preliminary planning and hired McDonald Transit Associates, Inc., a transportation-consulting firm from Fort Worth, to determine the level of need for transportation services in the County, develop service and organizational alternatives in meeting the transportation need and recommend an equitable funding model. Using these recommendations, the Task Force developed a transit program for seniors and the disabled population within the urban areas of the County. The participants in this effort initially identified a goal of meeting 5% of the unmet need. This goal was later reduced to 3% so that most of the interested entities would be able to participate at an affordable or “baseline” level. Under the model proposed by the consultant, a broker agency would be hired to administer the program under guidelines provided by a policy advisory group.

In the summer of 1999, Westminster City Council, the County, and other city governments within the County approved a plan for providing a special transportation system for senior citizens and disabled residents and appointed representatives to serve on the Community Transit Policy Council. The Policy Council subsequently utilized an RFP process to obtain the services of a transportation broker. As a result of this process, the Senior Resource Center (SRC) based in Wheat Ridge was selected. SRC has done an excellent job of providing ride brokerage and administrative services since the Program's inception. As a result, the Policy Council has approved a contract with SRC to provide these services through 2004.

The funding for the Community Transit Program has consisted of the County and City contributions, Title III Grant dollars available through DRCOG, a one-time grant from RTD of \$250,400, and additional monies through DRCOG and from other funding sources. The availability of outside funding sources allowed the Policy Council to continue the program through 2002 with no additional contributions being needed from the County and the participating municipalities. Additional County and City funding will be required in 2003.

The total usage of the service for 2003 was approximately 14,000 rides and it is anticipated that this will increase to 17,000 in 2004. The projected increase is due to both the public's increasing awareness of the program and the loss of Federal and State funding for medical trips for Medicaid-eligible individuals. On average, approximately 230 rides are being provided for Westminster Adams County residents each month. Starting late last year an A-Lift vehicle began operating from the Westminster Community Senior Center. The drivers are City of Westminster volunteers.

Currently, the Policy Council is made up of representatives from Adams County and the member cities, Commerce City, Federal Heights, Thornton, Northglenn, and Westminster. Representatives from DRCOG, RTD, the Senior Hub, and the Colorado Department of Transportation periodically participate in Council meetings. Westminster's representative, Deputy City Manager for Administration Matt Lutkus was recently re-elected as the chairperson of the Council for a fourth one-year term.

The attached intergovernmental agreement authorizing the City's participation in the program is very similar to three of the IGA's that Council passed previously. The only change of significance is the elimination of the reference to the current year's contributions. This will make it possible to have the IGA in place on a continuing basis without requiring the approvals of the Commissions and City Councils every year. The agreement will be automatically renewed each year unless the City Manager provides notice that the City will not participate in the upcoming year. The document has been reviewed by City Staff, the City Attorney's Office, the Adams County Attorney's Office, and the Policy Advisory Council of Community Transit.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 13, 2003



SUBJECT: 2003 Capital Improvement Technical Support Services

PREPARED BY: Diane M. Phillips, Capital Improvement Project Coordinator

Recommended City Council Action

Authorize the City Manager to execute a continuation contract with RG Consulting Engineers, Inc. to provide technical assistance for the Capital Improvement Projects Program for 2003 in an amount not to exceed \$150,000.

Summary Statement

- Public Works and Utilities Capital Improvement Projects (CIP) Program is under the general direction of the CIP Coordinator and technical engineering and management support is provided by private outside sources.
- Public Works and Utilities has found it is cost effective to have a broad depth of skills provided by an outside consulting firm for CIP staff support services.
- Last year Requests for Proposals were sent to twelve various project management and engineering consulting firms and three firms submitted proposals. Formal proposals have been solicited every other year to assure the City has skilled CIP services available. The contract last year entered into with RG Consulting Engineers was for one year with a one-year renewal at the City's option.
- RG Consulting Engineers, Inc. (then the City's existing technical support consultant) proposed the lowest cost and provided the most direct experience.
- RG Consulting Engineers, Inc. has done a thorough job of providing technical and management CIP staff assistance in the past; and last year through competitive bid showed that they are the lowest cost firm for these services.
- It is recommended that the City contract with RG Consulting Engineers, Inc. in 2003 to provide Public Works and Utilities CIP Program technical staff support services.

Expenditure Required: up to \$150,000

Source of Funds: 2003 Utility CIP Fund Account

Policy Issue

Should the City award a not to exceed contract to RG Consulting Engineers, Inc. (RGCE) for the Capital Improvement Support Services in the amount of \$150,000 in 2003.

Alternative

The City could add additional staff positions to assist with the management of the Capital Program. By using an outside consulting firm, the City can eliminate the need for varied technical permanent positions. In addition, there is a cost savings by only calling for the contract services when a capital project demands support.

Background Information

The Public Works and Utilities Department Capital Projects are under the general direction of the Capital Improvement Projects Coordinator. The 2003 budget for capital projects is \$7,622,300. In addition to the budgeted projects, the England and Community Center/Northglenn waterlines will be built, the design will be finalized and construction begun on the Big Dry Creek Plant expansion, the Silo Pump Station will be designed and constructed, the Reclaimed system will be expanded and the Treated, Reclaimed and Wastewater Master Plans and Models will be completed.

Public Works and Utilities Department retained the services of RGCE on a trial basis in 1998 to assist with the Capital Improvement Program. At that time RGCE was the only firm contacted that would agree to the condition imposed by the City that the firm chosen would not be allowed to propose for the design of the capital projects due to an obvious conflict of interest. In 1999, 2000 and 2001 RGCE worked under contract and successfully provided technical and management assistance. In 2002 RFP's were sent to twelve various project management and consulting firms and three firms accepted the City's requirement of no design work allowed from the proposing firms. Of the three firms that proposed, RGCE had the lowest cost and the most direct experience with technical and management skills.

RGCE has over 15 years of experience working with Parker, Edgewater, Superior, City and County of Denver, Castle Rock and other similar organizations and it is recommended that the City contract with them in 2003 for technical and management support services.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 13, 2003



SUBJECT: Westminster Boulevard Extension—Final Contract Amendment

Prepared By: Stephen Baumann, Assistant City Engineer

Recommended City Council Action

Authorize the City Manager to sign Change Order Number Three with SEMA Construction, Inc. for final payment under the contract for construction of the Westminster Boulevard Extension; authorize the expenditure of \$87,845 from the project contingency, previously approved for this purpose.

Summary Statement

- The City awarded a contract to SEMA Construction Company for construction of the Westminster Boulevard Extension in July of 2000 in the amount of \$6,523,033. Because bids were lower than the project estimates, the City moved to incorporate additional improvements into the contract in a contract amendment worth \$375,000, approved by City Council in April 2001. A second amendment of the contract in the amount of \$206,241 was also approved to cover the cost of unanticipated work and quantities of several work items that exceeded the estimated amounts.
- The proposed third amendment of \$87,845 will finalize the contract amount at \$7,192,118 and is necessary to reconcile the final, in-place quantities of all items in the bid schedule and work added by the City over the course of the contract. When taken together with the previous two contract amendments, the total of these changes exceeds ten percent of the original contract amount, an expenditure that must be approved by City Council.

Expenditure Required: \$87,845

Source of Funds: Westminster Boulevard Capital Project Account

Policy Issues

No policy issues have been identified.

Alternatives

Alternatives to this action are limited since the contract terms control changes to the work and the determination of compensation for them.

Background Information

In July 2000, City Council awarded a contract to SEMA Construction Inc. for construction of the Westminster Boulevard Extension, the first phase of arterial street improvements linking Harlan Street at 95th Avenue to the intersection of 104th Avenue and Westminster Boulevard. In general the contract called for the construction of just two lanes of what would need to be a four-lane arterial in the future. The \$6,523,033 contract included the ultimate configuration for bridges over US-36 and Big Dry Creek. The bids were favorable to the City, and a contingency of \$1,080,000 was set aside for the project.

Once the work was underway and the project budget confirmed to be adequate, City Council authorized a package of additional improvements in the project, utilizing some of the contingency funds to widen to full-width portions of Westminster Boulevard that adjoined City open space. This allowed what would ultimately be the City's cost responsibility (as adjoining property owner) to be absorbed in the present project when funds were available rather than at some point in the future when funding might not be available. This City-ordered amendment increased the contract amount by \$375,000 (5.8% of the original contract amount) in April of 2001.

Later in the project, a second contract amendment of \$206,241 (3.2%) was approved administratively to cover the cost of small changes to the project scope and increased quantities of several items, notably asphalt, steel piling and caisson drilling for the two bridges, and the cost of asbestos removal from one of the houses that had to be demolished for the project.

The proposed third contract amendment is \$87,845 (1.3%) and will finalize the contract with SEMA at a total amount of \$7,192,118, which is 10.26% above the original contract amount. Since the collective changes exceed ten percent, City Council must approve the amendment. The amendment reconciles the final quantities and costs of the over 124 separate items that make up the contract with SEMA, including quantities of structural steel, embankment material and fencing that exceeded the amounts calculated in the bid documents. It also applies to unanticipated but necessary additional work, the value of which was negotiated during the course of the contract. Significant among these items were the addition of a sidewalk connection from Westcliff Parkway to the pedestrian underpass just north of the Farmers' High Line Canal and the increased cost of traffic control needed to build the bridge over US-36.

Discounting the cost of the City's requested additional work in the first contract amendment, the project exceeded the bid amount by less than 4.5%, well within the amount of the project contingency. Staff is recommending that Council approve the final change order in the amount of \$87,845, finalizing the contract with SEMA Construction Inc. for the Westminster Boulevard Extension.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 13, 2003



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 \$82,797 from Safety National Casualty Corporation and charge this expense to the 2003 Workers' Compensation Self Insurance Fund.

Summary Statement

- City Council action is requested to ratify the expenditure for the 2003 annual premium for excess workers' compensation insurance effective January 1, 2003.
- 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 Safety National Casualty Corporation. The accepted quote for 2003 for excess workers' compensation coverage is \$82,797.
- The cost of coverage in 2002 was \$63,290. The quote for 2003 of \$82,797 represents an increase in premium of \$19,507 (approximately 31%) from 2001. The increase in premium is due to significant increases in the insurance market in general.

Expenditure Required: \$ 82,797

Source of Funds: Workers' Compensation Self Insurance Fund

Policy Issues

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

Alternatives

No alternatives identified.

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 our loss control and safety programs. This type of self-insured program also allows the City to avoid some of the dramatic changes currently affecting the insurance industry.

The Risk Management Staff completed and submitted the application for excess workers' compensation coverage to Marsh USA Inc. in October 2002. Marsh USA Inc., acting as insurance broker on behalf of the City, sought proposals on the open insurance market for this coverage. They received four responses and submitted their renewal proposal to the City's Risk Management Officer on December 24, 2002. 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, 2002. 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	NOTES
Employers Re	NA	\$25,000,000	\$500,000	Declined to quote due to police/fire exposure
Hanover (Republic Western)	NA	NA	NA	
Midwest Employers Casualty Company	\$114,029	Statutory	\$350,000	
Midwest Employers Casualty Company	\$105,980	Statutory	\$400,000	
Safety National Casualty Corporation	\$82,797	Statutory	\$350,000	
Safety National Casualty Corporation	\$72,667	Statutory	\$400,000	

The Risk Management Staff requires this policy to have a "statutory" limit that would cover payments for any disaster, no matter how great and will not accept a dollar limit to be imposed. The quote from Employers Re was not acceptable due to the dollar limits they would place on the coverage. The Risk Management Staff has also 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 10 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.

Ramifications from significant changes that occurred in the insurance marketplace during 2000 and 2001 continued on into 2002. Financial losses to the insurance industry from the single event of September 11, 2001 are estimated at \$70 billion. Due to underwriting losses and decreased investment income, many insurance carriers continue to operate at a loss. Underwriters continue to request increases averaging from 150-200% on accounts with favorable loss experience, with even higher increases for those with larger losses. The losses and decreased financial ratings of the insurance companies, especially the reinsurance community, are being passed on to the insureds. Many insurance carriers are no longer offering statutory limit coverage to public entities (see quote from Employers Re) and many are not interested in taking on the risk of police and fire exposures (see quote from Hanover). Those insurance carriers that are submitting quotes are driving prices higher and in some cases restricting certain coverages.

Respectfully submitted,

J. Brent McFall
City Manager



**WESTMINSTER
COLORADO**

Agenda Memorandum

City Council Meeting
January 13, 2003



SUBJECT: Second Reading of Councillor’s Bill No. 74 Amending Chapter 30 of Title I of Westminster Municipal Code re Settling Claims and Lawsuits Brought by and Against the City

Prepared By: Marty McCullough, City Attorney
Matt Lutkus, Deputy City Manager for Administration

Recommended City Council Action

Pass Councillor’s Bill No. 74 on second reading amending Chapter 30 of Title I of the Westminster Municipal Code concerning settling claims and lawsuits brought by and against the City.

Summary Statement

- The procedures for settling claims and lawsuits brought by and against the City are contained in Chapter 30 of Title I of the Westminster Municipal Code.
- It has been many years since this section of the Code has been reviewed. City Staff believes there are a number of updates that are warranted at this time. Staff is proposing the following:
 - Make the dollar limit for the City Manager’s authority to settle claims and lawsuits brought against the City the same as the dollar limit for the approval of contracts;
 - For claims and lawsuits brought by the City, clarify that the determination of whether a proposed settlement is within the authority of the City Manager shall be based upon the original estimated value of the City’s claim (as reasonably determined by the City Attorney’s Office), and not the amount of the proposed payment to the City;
 - Clarify that this section of the Code does not apply to the payment of routine, undisputed claims submitted by City employees for health insurance benefits and similar benefit programs;
 - Clarify that this section of the Code does not apply to the negotiation and settlement of pre-authorized condemnation cases nor to workers compensation claims or unemployment compensation claims for which funds have been previously budgeted;
 - Provide clarification that the Governmental Immunity Act requires that any notice of claim against the City based on state law must be filed with either the City Council or the City Attorney; and
 - Clarify that separate reports are not necessary for claims above, and below, the amount of the City Manager’s settlement authority, and that a single report shall suffice.
 - This Councillor’s Bill was passed on first reading on December 23, 2002.

Expenditure Required: None

Source of Funds: N/A

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **74**

SERIES OF 2002

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AMENDING TITLE I, CHAPTER 30 OF THE WESTMINSTER MUNICIPAL CODE RELATED TO CLAIMS BROUGHT BY AND AGAINST THE CITY

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Section 1-30-2 of the Westminster Municipal Code is hereby amended as follows:

1-30-2: NOTICE OF CLAIM.

Any notice of claim ~~may~~ SHALL be filed with the ~~City Clerk,~~ City Attorney, or City Manager.

Section 2. Section 1-30-3 of the Westminster Municipal Code is hereby amended as follows:

1-30-3: ~~COMPROMISE SETTLEMENT AND PAYMENT OF CLAIMS;~~ NOTIFICATION OF COUNCIL.

(A) NOTIFICATION OF COUNCIL. AT LEAST QUARTERLY, ~~the~~ City Council shall be ~~notified in~~ PROVIDED AT A regular or special meeting A SUMMARY of all claims ~~exceeding \$15,000~~ filed against the City. The City Council shall take no formal action on such claims but any matter concerning a claim may be addressed in attorney-client session. ~~At least quarterly the City Manager shall prepare for City Council and forward to a public City Council meeting~~ THE summary listing of all claims filed against the City ~~stating the~~ SHALL INCLUDE EACH claimant'S NAME, amount of the claim and brief description of the claim.

(B) CLAIMS AGAINST THE CITY. ~~All claims of less than \$15,000 against the City may be compromised and settled by and on behalf of the City by the City Manager after receiving the advice of the City Attorney.~~ THE CITY MANAGER, AFTER RECEIVING THE ADVICE OF THE CITY ATTORNEY, SHALL HAVE THE AUTHORITY TO SETTLE AND AUTHORIZE PAYMENT OF ANY CLAIM TO THE EXTENT THE AMOUNT OF PAYMENT IS WITHIN THE AMOUNT OF THE CITY MANAGER'S AUTHORITY TO APPROVE CONTRACTS AS PROVIDED FOR IN CHAPTER I OF TITLE 15 OF THE WESTMINSTER MUNICIPAL CODE, AS MAY BE AMENDED FROM TIME TO TIME. WITH RESPECT TO THE SETTLEMENT OF PROPERTY AND LIABILITY CLAIMS INVOLVING THE CITY'S SELF-INSURANCE PROGRAM, THE CITY MANAGER MAY DELEGATE HIS OR HER AUTHORITY TO THE CITY'S RISK MANAGER. ~~All claims against the City exceeding \$15,000 may be compromised and settled by the City Manager with the consent of the City Council after receiving the advice of the City Attorney.~~ THE SETTLEMENT AND APPROVAL OF ALL OTHER CLAIMS AGAINST THE CITY MAY BE APPROVED BY THE CITY MANAGER AFTER RECEIVING THE CONSENT OF THE CITY COUNCIL WITH THE ADVICE OF THE CITY ATTORNEY.

(C) CLAIMS BY THE CITY. ~~All claims brought by the City against third parties may be compromised and settled by the City Manager with the consent of the City Council after receiving the advice of the City Attorney.~~ THE CITY MANAGER SHALL HAVE THE AUTHORITY TO SETTLE ON BEHALF OF THE CITY ANY CLAIMS OR LAWSUITS THAT WERE BROUGHT BY THE CITY AGAINST ANY THIRD PARTY TO THE EXTENT THE ORIGINAL VALUE OF SUCH CLAIM OR LAWSUIT WAS WITHIN THE AMOUNT OF THE CITY MANAGER'S AUTHORITY TO APPROVE CONTRACTS AS PROVIDED FOR IN CHAPTER 1 OF TITLE 15 OF THE WESTMINSTER MUNICIPAL CODE.

THE SETTLEMENT OF CLAIMS OR LAWSUITS ABOVE THIS AMOUNT MAY BE APPROVED BY THE CITY MANAGER AFTER RECEIVING THE CONSENT OF THE CITY COUNCIL WITH THE ADVICE OF THE CITY ATTORNEY. THE ORIGINAL VALUE OF ANY CLAIM OR LAWSUIT SHALL BE BASED UPON THE REASONABLE DETERMINATION OF THE CITY ATTORNEY.

(D) Notwithstanding the other provisions of this Section, the Director of Finance is authorized to abate taxes as provided by Title IV of this Code.

Section 3 Title I, Chapter 30, of the Westminster Municipal Code is hereby amended by the addition of the following new subsection:

1-30-5: EXCLUSIONS.

(A) THE PROVISIONS OF THIS CHAPTER SHALL NOT BE APPLICABLE TO THE SETTLEMENT OR PAYMENT OF (A) ROUTINE CLAIMS SUBMITTED BY CITY EMPLOYEES FOR HEALTH INSURANCE BENEFIT AND SIMILAR BENEFIT PROGRAMS, (B) PREAUTHORIZED PROPERTY ACQUISITIONS, INCLUDING CONDEMNATIONS, FOR WHICH FUNDS HAVE BEEN PREVIOUSLY BUDGETED, AND (C) WORKERS COMPENSATION CLAIMS AND UNEMPLOYEMENT COMPENSATION CLAIMS FOR WHICH FUNDS HAVE BEEN PREVIOUSLY BUDGETED.

~~(B) NOTWITHSTANDING THE OTHER PROVISIONS OF THIS SECTION, THE DIRECTOR OF FINANCE IS AUTHORIZED TO ABATE TAXES AS PROVIDED BY TITLE IV OF THIS CODE.~~

Section 4 This ordinance shall take effect upon its passage after second reading.

Section 5 The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 23rd day of December, 2002.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 13th day of January, 2003.

Mayor

ATTEST:

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 13, 2003



SUBJECT: Second Reading of Councillor's Bill No. 75 re Vacation of 10' of the Meade Street Right-of-Way

Prepared By: Vicky Bunsen, Assistant City Attorney

Recommended City Council Action

Pass Councillor's Bill No. 75 on second reading vacating the westerly 10' of the Meade Street Right-of-Way.

Summary Statement

- City Council action is requested to pass Councillor's Bill No. 75 vacating 10' of the Meade Street right-of-way.
- City Council has approved a Development and Disposition Agreement (DDA) with Community Builders, Inc. for the Meade Street townhome development.
- The development contemplated by the DDA requires use of the westerly 10' of the Meade Street right-of-way that is contiguous to the east boundary of the townhome redevelopment parcel.
- Vacation of this section of right-of-way does not interfere with any public purposes of the street.
- This Councillor's Bill was passed on first reading on December 23, 2002.

Expenditure Required: N/A

Source of Funds: N/A

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **75**

SERIES OF 2002

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE VACATING THE WESTERLY 10' OF THE MEADE STREET RIGHT-OF-WAY

WHEREAS, City Council will be considering approval of a Development and Disposition Agreement (DDA) with Community Builders, Inc., for the Meade Street townhome development; and

WHEREAS, a term of the DDA provides that the City will contribute the westerly 10' of the Meade Street right-of-way that is contiguous to the east boundary of the townhome redevelopment parcel; and

WHEREAS, Meade Street is only one block long between West 72nd Avenue and West 73rd Avenue and the existing right-of-way is extremely wide at 74'; and

WHEREAS, since the street is unnecessarily wide, contribution of this 10' strip to the redevelopment project would be beneficial to the quality of the project and does not interfere with any of the public purposes of the street, which will remain very wide even after the vacation.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. City Council finds and determines that the public convenience and welfare require the vacation of the westerly 10' of the Meade Street right-of-way, as described herein:

A ten foot wide strip of land adjacent to lots 7 through 17 inclusive, Mahin's Subdivision of the east half of Block 42, Harris Park, City of Westminster, County of Adams, State of Colorado, described as follows:

Beginning at the northeast corner of said Lot 7: Thence east 10.00 feet along the easterly prolongation of the north line of said Lot 7; thence south along a line parallel with and 10.00 feet east, when measured at right angles, from the east line of said lots 7 through 17; thence west 10.00 feet along said prolongation to the southeast corner of said lot 17; thence north along the east line of said Lots 7 through 17 inclusive, to the point of beginning. Containing approximately 2,750 square feet.

Section 2. This ordinance shall take effect upon its passage after second reading. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 23rd day of December, 2002.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 13th day of January, 2003.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 13, 2003



SUBJECT: Resignation of Associate Judge Hilary Holland

Prepared By: Matt Lutkus
Deputy City Manager for Administration

Recommended City Council Action:

Accept the resignation of Hilary Holland as Municipal Associate Judge effective February 4, 2003.

Summary Statement:

- Associate Judge Hilary Holland recently submitted the attached letter of resignation from her position as Associate Municipal Judge. Since, in accordance with the Municipal Code, the City Council is responsible for the appointment of Associate Judges, it is appropriate that Judge Holland's resignation be formally accepted by Council.
- Judge Holland has served as an Associate Judge in Westminster Municipal Court for nearly 15 years. She was appointed by City Council at the recommendation of then Presiding Judge Fred Rodgers, having served previously with other cities.
- Judge Holland has seen the scope of the Court's jurisdiction, the caseload and, correspondingly, the size of the Court operation grow considerably during her tenure. She has established a reputation of fairness for defendants while balancing their rights and needs with the interests of both the City and Westminster citizens generally.

Expenditure Required: \$ 0

Source of Funds: N/A

SUBJECT: Resignation of Associate Judge Hilary Holland

Page 2

Policy Issues

None identified.

Alternatives

None identified.

Background Information

Section 1-22-1(c) of the Westminster Municipal Code provides that City Council shall appoint Associate Municipal Judges and that the Presiding Judge will recommend individuals for appointment. Based on this appointment authority, it is appropriate that City Council formally accept the resignation from Hilary Holland who has served as the Associate Judge since March 14, 1988.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment



WESTMINSTER
COLORADO

Agenda Memorandum



City Council Meeting
January 13, 2003

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 Board of Directors, Herb Atchison as the 1st Alternate, and Director of Public Works and Utilities 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, 2003. This appointment will expire on January 31, 2004.
- City Councillor Samantha Dixon is being recommended to continue on the RFCLOG Board of Directors as the City's representative due to her past experience and knowledge and desired continued involvement in the cleanup and closure oversight activities of the Rocky Flats Environmental Technology Site (RFETS). In 2001, Councillor Dixon was selected to chair the 2002 RFCLOG Board of Directors, which is done on a rotating basis.
- 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 signed in February, 1999. Alternates may serve in lieu of Directors in the event of absence, resignation or removal of directors.
- Councillors Samantha Dixon and Herb Atchison, and the City's Public Works and Utilities Director, Ron Hellbusch, have been serving as the elected and staff representatives for the City of Westminster. Council will need to provide a formal 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 signed in 1999.

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 (RFCLOG) is made up of elected officials and Staff representing the seven local governments that are contiguous to the Rocky Flats Environmental Technology Site (RFETS). The seven local governments are Westminster, Arvada, Boulder, Boulder County, Broomfield, Jefferson County, and Superior.

The purpose of RFCLOG is to provide an effective mechanism for local governments in the vicinity of RFETS 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 RFETS 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 RFETS 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 February 18, 1999). As part of this review the parties agreed to consider whether to continue the coalitions 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 13, 2003



SUBJECT: Councillor's Bill No. 1 re Ball Corporation Business Assistance Package

Prepared By: Becky Johnson, Economic Development Program Coordinator

Recommended City Council Action

Pass Councillor's Bill No. 1 on first reading authorizing the City Manager to execute the business assistance agreement with Ball Corporation, in the amount of \$50,000, which includes \$10,400 in permit fee rebates, \$26,250 in construction use tax rebates, \$7,500 in equipment use tax rebates at move-in and \$5,850 in equipment use tax rebates over the first two years of operation.

Summary Statement

- City Council action is requested to pass the attached Councilors Bill that authorizes the execution of the attached business assistance agreement with Ball Corporation.
- This assistance package is based upon the City's goal to retain quality companies within the community and validate the City's commitment to job creation through expansion.
- The primary purpose of this assistance package is to encourage the expansion of Ball Corporation at their Westminster campus at 108th and Wadsworth Parkway.
- Staff has worked with Jefferson Economic Council and the State of Colorado proposing additional assistance from Jefferson County and the State based upon new job creation in the City of Westminster and Jefferson County.

Expenditure Required: \$50,000 (Rebates)

Source of Funds: The business assistance package to Ball Corporation will be funded through permit fees, construction use tax, and equipment use tax directly generated from Ball Corporation expansion of the current R&D facility on their Westminster campus at 108th Avenue and Wadsworth Parkway.

Policy Issue

Does Council desire to provide assistance to Ball Corporation to promote the expansion of their existing facility to accommodate a new plastics division?

Alternatives

Do Nothing: One alternative to offering the recommended business assistance package is to offer nothing to this company. Though the City may not lose the project if assistance is not provided, the result would be that the City's value of expanding quality companies would not be supported. Further, Ball Corporation is a key corporate citizen. Not providing support for this expansion could result in lost expansions by the company in the future.

Provide Less: Another alternative is to provide less assistance than what is recommended. The recommended assistance package is considered fair.

Provide More: A third alternative would be to provide a greater amount of assistance than recommended. As noted above, Staff has recommended an assistance package that is 34% of the total 5-year projected revenue. There is room for additional funding. However, it is staff's opinion that additional assistance is not needed.

Background Information

Ball Corporation is looking to relocate its plastics division offices from Atlanta, Georgia to cut costs and to consolidate all of the company's executive offices in one general location. The relocation requires Ball Corporation to expand the current research and development facility at its Westminster campus, adding an additional 28,000 square feet to the current facility off 108th Avenue. Construction on the expansion is scheduled to begin second quarter 2003 and would be operational in 2004. "Bringing our plastic-container support staff to Colorado will enable us to take better advantage of the resources that come with having our corporate and packaging administrative functions here," said R. David Hoover, President and CEO of Ball Corporation (source: *Rocky Mountain News*). The plastic-container division is a growing area for Ball Corporation because of growing popularity of bottled water products. Sites considered were Westminster, Broomfield, or remaining in Atlanta.

Based upon City Council's desire to expand quality companies in Westminster and create opportunities for future expansions on the Ball Corporation Campus, staff is proposing a business assistance package of \$50,000 to this company. The average wage paid by this division is \$70,000 per year. The company plans to relocate up to 40 employees from Atlanta to Westminster. The result is an annual payroll of approximately is \$2.8 million. Within the next five full years of operation, Ball Corporation has projected employment for the plastic container division to grow to 50 employees with an annual payroll of \$3.6 million.

It is anticipated that Ball Corporation's will generate over \$146,587 of new revenue directly to the City in the first five years of operation. This is based on \$3.5 million building valuation, new equipment purchases of \$500,000 at move-in, and annual equipment purchases of \$300,000 per year.

Therefore, based on a 5-year projection of direct and indirect City tax and fee revenue, Staff recommends the following business assistance package:

Proposed Assistance	Approximate Value
<u>Building Permit-Fee Rebate</u> 50% of the building related fees (excluding water & sewer tap fees) will be rebated ($\$20,777 \times 50\% = \$10,388$) not to exceed \$10,400	\$10,400
<u>Building Use Tax Rebate</u> 50% of the General Use Tax (excludes the City’s .25% Open Space Tax) on construction materials for this project will be rebated ($\$52,500 \times 50\% = \$26,250$) not to exceed \$26,250	\$26,250
<u>Use Tax on Furniture and Fixtures Rebate at Move-In and over the First Two years of Operation</u> For the period 3 months prior to Ball Corp obtaining the Certificate of Occupancy for the expansion at the Westminster R&D facility and over the first two years of operation, the City will rebate 50% of the General Use Tax (excludes the City’s .25% Open Space Tax) collected on the furnishings and equipment purchased to furnish the new facility ($\$500,000$ new equipment at move-in $\times 3\%$ Use Tax $\times 50\% = \$7,500$ + $\$300,000$ annual equipment purchases $\times 3\%$ Use Tax $\times 50\% = \$4,500$) not to exceed a total of \$13,350 in use tax rebates.	\$13,350
Total Proposed Assistance Package Not To Exceed	\$50,000

As Council will note, the assistance being proposed is 34% (\$50,000 total assistance divided by \$146,587 Projected Revenue = 34%) of the total direct general use tax and fee revenue projected from the project in the first 5 years of operation. The City will be made whole on this investment at the time of the Certificate of Occupancy. In addition, Ball Corporation has requested that staff “fast track” this project to meet operational deadlines.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

**ASSISTANCE AGREEMENT FOR
BALL CORPORATION IN THE CITY OF WESTMINSTER**

THIS AGREEMENT is made and entered into this _____ day of _____, 2003, between the CITY OF WESTMINSTER (the "City"), and Ball Corporation.

WHEREAS, the City wishes to provide certain assistance to Ball Corporation to aid an existing Westminster business in its expansion efforts, while keeping it in the City; and

WHEREAS, Ball Corporation plans to construct a 28,000 square foot expansion to the existing R&D facility at the Westminster campus, thus providing additional primary job creation within the City; and

WHEREAS, City Council finds the execution of this Agreement will serve to provide benefit and advance the public interest and welfare of the City and its citizens by securing the location of this economic development project within the City.

In consideration of the mutual promises set forth below, the City and Ball Corporation agree as follows:

1. Building Permit Fee Rebates. The City shall rebate 50% of the building related permit fees, required under W.M.C. Section 11-10-3 (E), excluding water and sewer tap fees, to Ball Corporation that will result in construction of a 28,000 square foot building expansion at the current research and development facility on the Westminster campus, expected to be completed by June 30, 2004. The permit fee rebate shall not exceed \$10,400.

2. Use Tax Rebate- Construction. The City shall rebate 50% of the Building Use Tax on the construction materials, which are to be used in construction of a 28,000 square foot expansion to the current research and development facility on the Westminster campus, required under W.M.C. sections 4-2-9 and 4-2-3, to Ball Corporation. The rebate shall not exceed \$26,250.

3. Use Tax Rebate- Furniture and Fixtures. For purchases of items for the new expansion facility made during 3 months prior to the issuance of the Certificate of Occupancy and over the first two years of operation, the City shall rebate 50% of the General Use Tax remitted to the City of Westminster on its use tax return for the expansion facility. The total rebate pursuant to this paragraph shall not exceed \$13,350 (the "Rebate"). Such Rebate shall be payable exclusively from those revenues actually collected by the City from the new Ball Corporation expansion and attributable to the imposition against Ball Corporation, of the City's 3.0% general use tax (excludes the City's .25% Open Space Tax).

4. Payments of Rebates. Rebates paid by City in quarterly installments from revenue actually collected and received by the City from Ball Corporation. Payments of each quarterly installments shall be made within 20 days and will submitted electronically.

5. Entire Agreement. This instrument shall constitute the entire agreement between the City and Ball Corporation and supersedes any prior agreements between the parties and their agents or representatives, all of which are merged into and revoked by this Agreement with respect to its subject matter.

6. Termination. This Assistance Agreement shall terminate and become void and of no force or effect upon the City if Ball Corporation has not moved into its new building by June 30, 2004 or should Ball Corporation not comply with the City regulations or code.

7. Business Termination. In the event Ball Corporation ceases business operations within the City within three (3) years after the new operations commence, then in such event Ball Corporation shall pay to the City the total amount of fees and taxes which were due and payable by Ball Corporation to the City but were rebated by the City, as well as reimburse the City for any funds provided to Ball Corporation pursuant to this Agreement.

8. Subordination. The City's obligations pursuant to this Agreement are subordinate to the City's obligations for the repayment of any current or future bonded indebtedness and are contingent upon the existence of a surplus in sales and use tax revenues in excess of the sales and use tax revenues necessary to meet such existing or future bond indebtedness. The City shall meet its obligations under this Agreement only after the City has satisfied all other obligations with respect to the use of sales tax revenues for bond repayment purposes. For the purposes of this Agreement, the terms "bonded indebtedness," "bonds," and similar terms describing the possible forms of indebtedness include all forms of indebtedness that may be incurred by the City, including, but not limited to, general obligation bonds, revenue bonds, revenue anticipation notes, tax increment notes, tax increment bonds, and all other forms of contractual indebtedness of whatsoever nature that is in any way secured or collateralized by sales and use tax revenues of the City.

9. Annual Appropriation. Nothing in this Agreement shall be deemed or construed as creating a multiple fiscal year obligation on the part of the City within the meaning of Colorado Construction Article X, Section 20, and the City's obligations hereunder are expressly conditional upon annual appropriation by the City Council.

10. Governing Law: Venue. This Agreement shall be governed and construed in accordance with the laws of the State of Colorado. This Agreement shall be subject to, and construed in strict accordance with, the Westminster City Charter and the Westminster Municipal Code. In the event of a dispute concerning any provision of this agreement, the parties agree that prior to commencing any litigation, they shall first engage in a good faith the services of a mutually acceptable, qualified, and experience mediator, or panel of mediators for the purpose of resolving such dispute. The venue for any lawsuit concerning this agreement shall be in the District Court for Jefferson County, Colorado.

BALL CORPORATION

CITY OF WESTMINSTER

Tom Silvers, Director of Real Estate

J. Brent McFall
City Manager

ATTEST:

ATTEST:

Title Michele Kelley
City Clerk

Adopted by Ordinance No. 3004

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **1**

SERIES OF 2003

INTRODUCED BY COUNCILLORS

**A BILL
FOR AN ORDINANCE AUTHORIZING AN ASSISTANCE AGREEMENT
WITH BALL CORPORATION FOR THE CONSTRUCTION OF BUILDING ADDITION ON
THE R&D FACILITY ON THE WESTMINSTER CAMPUS**

WHEREAS, the successful attraction and retention 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 assistance for high quality development to locate in the City; and

WHEREAS, Ball Corporation plans to construct a 28,000 square foot building addition to the research and development building on the Ball Campus, off of 108th and Wadsworth Parkway in Westminster, and

WHEREAS, a proposed Assistance Agreement between the City and Ball Corporation is attached hereto as Exhibit "A" and incorporated herein by this reference.

NOW, THEREFORE, pursuant to the terms of the Constitution of the State of Colorado, the Charter and ordinances of the City of Westminster, and Resolution No. 53, Series of 1988:

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Manager of the City of Westminster is hereby authorized to enter into an Assistance Agreement with Ball Corporation in substantially the same form as the one attached as Exhibit "A", and upon execution of the Agreement to fund and implement said Agreement.

Section 2. 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 13th day of January 2003.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 27th day of January 2003.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 13, 2003



SUBJECT: Councillor's Bill No. 2 re Amendment to Safeway Business Assistance Agreement

Prepared By: Becky Johnson, Economic Development Coordinator
Vicky Bunsen, Assistant City Attorney
Barb Dolan, Sales Tax Manager

Recommended City Council Action

Pass Councillor's Bill No. 2 on first reading authorizing the City Manager to execute an amendment to the Westminster Plaza Safeway Business Assistance Agreement

Summary Statement

- The current Business Assistance Agreement with Safeway for the Westminster Plaza store includes a rebate based upon sales activity at the 84th Avenue and Federal Boulevard store (Summit Square).
- The City and Safeway agree that the 84th Avenue store should be removed from the rebate calculation because that store was adversely affected by Safeway's decision to construct a new store at 104th Avenue and Federal Boulevard in Federal Heights.
- City Council will soon be considering a separate assistance agreement for redevelopment of the Summit Square Shopping Center, which includes the Safeway grocery store remodel and exterior upgrades. It was therefore felt that this would be an opportune time to officially amend the existing Agreement to apply only to the Westminster Plaza Store.

Expenditure Required: \$ 0

Source of Funds: N/A

SUBJECT: Councillor's Bill re Amendment to Safeway Business Assistance Agreement Page 2

Policy Issues

Whether to amend the current assistance package to remove the Summit Square Safeway store from the calculation of the sales tax rebate for the Westminster Plaza store.

Alternatives

An alternative is to not approve the amendment proposed. However, the current agreement does not take into consideration the adverse impact that the new Safeway Store at 104th Avenue and Federal Boulevard has had on the 84th Avenue Store.

Background Information

On September 23, 1997 City Council approved a business assistance agreement with Safeway for the construction of a new store at Westminster Plaza. This Agreement was a cornerstone of the redevelopment of the Westminster Plaza Shopping Center. The Agreement provides for a sales tax rebate to Safeway if the total actual sales for the Plaza store plus the 84th & Federal store fall below a base amount. Safeway originally requested that the 84th & Federal store be included in the calculation because sales at that store were expected to decline somewhat due to the opening of the Plaza store.

At the time the Agreement was drafted, Safeway had no plans for any additional new stores closer than 112th Avenue. However, in May 2000 a new Safeway opened at 104th and Federal Blvd in Federal Heights. The close proximity of the store at 104th to the existing store has adversely impacted sales at 84th Avenue. Both the City and Safeway feel that the Agreement should be amended to remove the 84th Avenue store from the calculation.

City Council will soon be considering a separate assistance agreement for redevelopment of the Summit Square Shopping Center, which includes the Safeway grocery store remodel and exterior upgrades. It was therefore felt that this would be an opportune time to officially amend the existing Agreement.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

AMENDMENT TO BUSINESS ASSISTANCE AGREEMENT

This agreement is made and entered into this _____ day of _____, 2003, between the CITY OF WESTMINSTER (the "City"), a Colorado home-rule city, and SAFEWAY STORES 45, INC. ("Safeway"), a Delaware corporation.

WHEREAS, the City and Safeway have entered into a Business Assistance Agreement dated September 23, 1997, and

WHEREAS, Safeway constructed a new store on West 104th Avenue in Federal Heights, and

WHEREAS, the Federal Heights store has had the effect of drawing away business from Safeway's store located at West 84th Avenue and Federal Boulevard,

NOW, THEREFORE, in consideration of the mutual promises set forth below, the Business Incentive Agreement is hereby modified as follows:

- 1. Paragraph II(B) of the Agreement is hereby modified to read as follows:
 - B. Calculation of Rebate. Commencing on March 1, 1999, and continuing on each subsequent March 1 thereafter until the expiration or earlier termination of this Agreement in accordance with subsection C below, the City shall pay Safeway an annual sales tax rebate.
 - a. **For the rebate due in March 1999, 2000, 2001 and 2002 the rebate shall be equal to the lesser of**
 - (1) \$275,000 or
 - (2) five percent of the amount that the actual combined Sales of the Existing Store and the new Store for the previous Fiscal Year fall below the combined projected annual Sales of these two stores for the previous Fiscal Year (the "Rebate").
 - b. **For the rebate due in March 2003 and subsequent years, the rebate shall equal the lesser of**
 - (1) \$275,000 or
 - (2) **five percent of the amount that the actual Sales of the New Store for the previous Fiscal Year fall below \$16,900,000.**

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers on the date first appearing above.

SAFEWAY STORES 45, INC.

CITY OF WESTMINSTER

By _____
Assistant Vice-President

By _____
J. Brent McFall
City Manager

ATTEST:

By _____

By _____
City Clerk

APPROVED AS TO LEGAL FORM

APPROVED AS TO LEGAL FORM

By _____

By _____

ADOPTED BY ORDINANCE NO. 3005

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **2**

SERIES OF 2003

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AUTHORIZING AN AMENDMENT TO THE ASSISTANCE AGREEMENT WITH
SAFEWAY STORES 45, INC.

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 city entered into a Business Assistance Agreement with Safeway Stores 45, Inc. to assist them in the construction of a store in the Westminster Plaza redevelopment area;

WHEREAS, in May of 2000 Safeway opened a new store at 104th Ave. and Federal and this store had not been anticipated at the time the Agreement was drafted; and

WHEREAS, Safeway and the City agree that it is appropriate to amend the existing agreement to remove the 84th Ave. and Federal store from the calculation of the sales tax rebate.

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 an Amendment to the Business Assistance Agreement with Safeway Stores 45, Inc. in substantially the same form as the one attached as Exhibit "A," and upon execution of the Agreement to fund and implement said Agreement.

Section 2: This ordinance shall take effect upon its passage after second reading. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED
PUBLISHED this 13th day of January, 2003.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 27th
day of January, 2003.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 13, 2003



SUBJECT: Councillor's Bill No. 3 re Summit Square Shopping Center Business Assistance Package

Prepared By: Becky Johnson, Economic Development Program Coordinator

Recommended City Council Action

Pass Councillor's Bill No. 3 on first reading authorizing the City Manager to execute and implement the business assistance agreement with Summit Square Investments LP, a Colorado limited partnership of Starr Realty, which totals \$214,800, and includes \$6,450 in permit fee rebates, \$15,000 in construction use tax rebates, \$18,000 in equipment use tax at move-in, and \$175,350 in incremental sales tax rebates over the first five years of operation for Summit Square Shopping Center.

Summary Statement

- City Council action is requested to pass the attached Councillors Bill which authorizes the execution of the attached business assistance agreement with Summit Square Investment LP to aid in the upgrading and renovation of the Summit Square Shopping Center at the northeast corner 84th Avenue and Federal Boulevard.
- This assistance package is based upon the City's goal to generate additional sales tax revenue and retain existing retail centers.

Expenditure Required: \$214,800 (Rebates)

Source of Funds: The business assistance package with Summit Square Investments LP will be funded through revenue received from permit fees, construction use tax, equipment use tax, and incremental sales tax directly generated from the interior and exterior remodel of Safeway at Summit Square Shopping Center, as well as the improvements to the in-line space of the remainder of the shopping center.

Policy Issue

Does Council desire to provide assistance to Summit Square Investments LP to promote the upgrading and renovation of the existing Summit Square Shopping Center?

Alternative

Do Nothing: One alternative to offering the above business assistance package is to offer nothing to this company. The City may lose the upgrade and renovation to the Summit Square Shopping Center if assistance is not provided and vacant space would continue to be a problem.

Provide Less: Another alternative is to provide less assistance than what is recommended. The recommended assistance package is considered modest.

Provide More: A third alternative would be to provide a greater amount of assistance than recommended. As noted above, Staff has recommended an assistance package that is 36% of the total 5-year projected revenue, which staff believes is adequate to move this upgrade to the center forward.

Background Information

Staff has been meeting with Starr Realty (Summit Square Investments, LLP), owners of the Summit Square Shopping Center at 84th Avenue and Federal Boulevard, regarding a two-phased approach for façade improvements to the retail center. Phase I will consist of renovating the main portion of the center, including the Safeway grocery store and in-line space. Phase II improvements will include the pad sites along Federal Boulevard and will be completed when funds are available. Starr Realty is working with Safeway on an interior and exterior remodel to the existing grocery store, as well as adding a fuel station at this site. In an effort to upgrade Summit Square Shopping Center and continue to attract tenants to fill vacant space, Starr Realty requested a business assistance package from the City, using the sales tax increment generated from Safeway’s remodel. Safeway will also commit to keeping the full-service grocery open for the next seven years at this site. In addition, Safeway agrees to amend the business assistance package for Westminster Plaza removing Summit Square Safeway from the calculations of the rebate.

Based upon City Council’s desire to renovate and upgrade existing retail centers, retain current revenue produced by a grocery anchor, and generate new sales tax revenue, staff is proposing a business assistance package for Summit Square Shopping Center. The Business Assistance Package will be funded using fees and taxes generated from Safeway’s remodeling, as well as incremental sales tax that result from the improvements. It is anticipated that Safeway’s remodeling and upgrades to the center will generate over \$581,437 of new revenue directly to the City in the first five years of operation. This is based on \$2.5 million in remodeling costs to the grocery store, \$1.6 million for construction of the fuel station, new equipment purchases of \$1.5 million at move-in, and \$2,922,400 in annual gross sales over and above current sales. Based upon these figures, staff recommends the following business assistance package:

Proposed Assistance	Approximate Value
<u>Building Permit-Fee Rebate</u> 40% of the building related fees for the grocery store remodel (excludes fuel station fees and water & sewer tap fees) will be rebated (\$16,141x 40% = \$6,456)	\$6,450

Building Use Tax Rebate \$15,000

40% of the General Use Tax (excludes use tax on construction of the fuel station and the City's .25% Open Space Tax) on construction materials for the grocery store remodel will be rebated ($\$37,500 \times 40\% = \$15,000$)

Use Tax on Furniture and Fixtures Rebate \$18,000

For the period 3 months prior and the 3 months after Safeway grocery obtains the Certificate of Occupancy at Summit Square, the City will rebate 40% of the General Use Tax (excludes any use tax received from the fuel station and the City's .25% Open Space Tax) collected on the furnishing and equipment purchased to furnish the grocery store ($\$1.5 \text{ million new equipment} \times 3\% \text{ Use Tax} \times 40\% = \$18,000$)

Sale Tax Rebate \$175,350

40% of the Sales Tax increment collected over the base year sales tax receipts in the first five years of operation of the grocery store will be rebated (excludes any taxes received from the fuel station and the City's .25% Open Space Tax). (Based on $\$2,922,400$ in increased sales per year $\times 3\%$ use tax = $\$87,672$ sales tax per year $\times 5$ years = $\$438,360 \times 40\% = \$175,344$). This rebate shall not exceed $\$175,350$ or extend past five years of operation. The increment will be based upon sales calculated from the previous 12 months period.

Total Proposed Assistance Package Shall Not Exceed \$214,800

As Council will note, the assistance being proposed is 36% ($\$214,800$ total assistance divided by $\$581,437$ Projected Revenue = 36%) of the total direct sales and general use tax and fee revenue projected from the project in the first 5 years of operation. Council should note that revenue is projected for the fuel station, as permit fees and use tax will be collected for the construction of the new gas station. However, it has been the City's practice to not provide assistance to gas stations. As a result, no assistance has been provided for the gas station. The City will be made whole on this investment within 18 to 24 months of operation.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

**ASSISTANCE AGREEMENT FOR
SUMMIT SQUARE INVESTMENTS LP
IN THE CITY OF WESTMINSTER**

THIS AGREEMENT is made and entered into this _____ day of _____, 2003, between the CITY OF WESTMINSTER (the "City"), and Summit Square Investments LP, a Colorado limited partnership, including Safeway grocery store's tenant finish needs and requirements

WHEREAS, the City wishes to provide certain assistance to Summit Square Investments LP to aid in upgrading and renovating the Safeway grocery store and in line retail space at Summit Square Shopping Center at 84th Avenue and Federal Boulevard; and

WHEREAS, Summit Square Investments LP expects that the Safeway remodeling and upgrading needs and requirements to be completed by December 31, 2003; and

WHEREAS, City Council finds the execution of this Agreement will serve to provide benefit and advance the public interest and welfare of the City and its citizens by securing the location of this economic development project within the City.

In consideration of the mutual promises set forth below, the City and Summit Square Investments LLP agree as follows:

1. Building Permit Fee Rebates. The City shall rebate to Summit Square Investments LP 40% of the building related permit fees for the Safeway grocery store remodel including interior and exterior remodel, as well as in line façade improvements in Summit Square Shopping Center, required under W.M.C. Section 11-10-3 (E), excluding costs related to construction of the fuel station and water and sewer tap fees. The rebate shall not exceed \$6,450.

2. Use Tax Rebate- Construction. The City shall rebate to Summit Square Investments LP 40% of the Building Use Tax on the construction materials, resulting from Safeway grocery interior and exterior remodel, as well as in line façade improvements at Summit Square Shopping Center, required under W.M.C. sections 4-2-9 and 4-2-3, excluding costs related to the construction of the fuel station. The rebate shall not exceed \$15,000.

3. Use Tax Rebate- Furniture and Fixtures. For purchases other than constructions materials for Safeway grocery store (excluding the fuel station) and in line façade improvements made during the 3 months prior and 3 months after the issuance of the Certificate of Occupancy for the Safeway grocery store, the City shall rebate to Summit Square Investments LP, 40% of the General Use Tax remitted to the City of Westminster on Safeway's use tax return. Such Rebate shall be payable exclusively from those revenues actually collected by the City from Safeway for the expansion and attributable to the imposition, of the City's 3.0% general use tax (exclusive of the City's .25% Open Space Tax). The rebate shall not exceed \$18,000.

4. Sales Tax Rebate. The City shall rebate to Summit Square Investments LP 40% of the amount of the incremental sales tax collected over the base year sales tax receipts for Safeway grocery store at Summit Square Shopping Center, for the first five years (60 months) of operation. Such rebate shall be payable exclusively from incremental sales tax revenue collected by the City from the Safeway and attributable to the imposition of the City's 3.0% general sales tax (exclusive of the City's .25% Open Space Tax). The total amount of the sales tax rebate shall not exceed \$175,350 or continue past five years of operation:

- (a) Base Sales Tax Amount. Promptly following the issuance of the final Certification of Occupancy for the upgrading and renovation of Safeway at Summit Square Shopping Center, the City shall establish the Base Sales Tax Amount. The Base Sales Tax amount will be the total amount of Sales Tax collected during the Base Year by the City from the Safeway grocery store, and attributable to the imposition against retail sales of the City's 3.0% Sales Tax (excluding the City's .25% Open Space Tax and

sales from the fuel station). Summit Square Investments LP will be notified of the City's determination of the Base Sales Tax Amount at the address set forth in subsection (g) below.

- (b) Base and Assistance Years. The Base Year is defined as the period of time equivalent to the 13 reporting periods prior to opening of the remodeled Safeway grocery store. The Assistance Years are defined as each consecutive 13 reporting periods following the Base Year, or prior Assistance Year, as applicable. Reporting periods, as referred to in this paragraph, are those periods annually established by Safeway and provided to the City's Sales Tax Administrator. The end of the Base Year will be at the end of the reporting period just prior to the issuance of the Final Certificate of Occupancy for the Building Expansion.
- (c) Sales Tax Increment. The Sales Tax Increment is that amount of Sales Tax collected during an Assistance Year from Safeway that is in excess of the Base Sales Tax Amount.
- (d) Sales Tax Rebate Amount. Any rebates provided by the City to Summit Square Investments LP will be from the Sales Tax Increment from Safeway. The City shall rebate to Summit Square Investments LP 40% of the Sales Tax Increment.
- (e) Payment. Once the City has collected the Base Sales Tax Amount during an Assistance Year, then Sales Tax Rebate payments will be provided to Summit Square Investments LP. The Sales Tax Rebate amount will be paid to Summit Square Investments LP in an Annual payment, made within 30 days following the end of the applicable Assistance Year. The Sales Tax Rebate Payment will be submitted electronically to Summit Square Investments LP designated financial institution.
- (f) End of Sales Tax Rebate. The Sales Tax Rebate shall end at the point when the Sales Tax Rebate, Building Permit Fee Rebate and Use Tax Rebate equal, in total \$214,800, or five years from the time of implementation, whichever comes first.
- (g) Notification. All formal notices and correspondence shall be delivered to:
Summit Square Investments LP
C/o Starr Realty Corporation
303 17th Avenue, Suite 1110
Denver, CO 80203
Attention: Paul Luber, President
Phone: (303) 832-7500, ext. 205

5. Entire Agreement. This instrument shall constitute the entire agreement between the City and Summit Square Investments LP and supersedes any prior agreements between the parties and their agents or representatives, all of which are merged into and revoked by this Agreement with respect to its subject matter.

6. Termination. This Assistance Agreement shall terminate and become void and of no force or effect upon the City if Summit Square Investments LP has not completed the improvements to the Safeway and in-line space and received a certification of occupancy by December 31, 2003; or should Summit Square Investments LP or Safeway grocery and fuel station fail to comply with any City code and/or approval process.

7. Business Termination. In the event Summit Square Shopping Center or Safeway grocery store ceases business operations within the City within seven years after the new operations commence, Summit Square Investments LP shall reimburse the City for any amounts rebated to or otherwise provided to Summit Square Investments LP pursuant to this Agreement.

8. Subordination. The City's obligations pursuant to this Agreement are subordinate to the City's obligations for the repayment of any current or future bonded indebtedness and are contingent upon the existence of a surplus in sales and use tax revenues in excess of the sales and use tax revenues necessary to meet such existing or future bond indebtedness. The City shall meet its obligations under this Agreement only after the City has satisfied all other obligations with respect to the use of sales tax revenues for bond repayment purposes. For the purposes of this Agreement, the terms "bonded

indebtedness," "bonds," and similar terms describing the possible forms of indebtedness include all forms of indebtedness that may be incurred by the City, including, but not limited to, general obligation bonds, revenue bonds, revenue anticipation notes, tax increment notes, tax increment bonds, and all other forms of contractual indebtedness of whatsoever nature that is in any way secured or collateralized by sales and use tax revenues of the City.

9. Annual Appropriation. Nothing in this Agreement shall be deemed or construed as creating a multiple fiscal year obligation on the part of the City within the meaning of Colorado Construction Article X, Section 20, and the City's obligations hereunder are expressly conditional upon annual appropriation by the City Council.

10. Governing Law: Venue. This Agreement shall be governed and construed in accordance with the laws of the State of Colorado. This Agreement shall be subject to, and construed in strict accordance with, the Westminster City Charter and the Westminster Municipal Code. In the event of a dispute concerning any provision of this agreement, the parties agree that prior to commencing any litigation, they shall first engage in a good faith the services of a mutually acceptable, qualified, and experience mediator, or panel of mediators for the purpose of resolving such dispute. The venue for any lawsuit concerning this agreement shall be in the District Court for Adams County, Colorado.

SUMMIT SQUARE INVESTMENTS

CITY OF WESTMINSTER

A Colorado Limited Partnership

By: its agent

Starr Realty Corporation

A Delaware Corporation

Paul T. Luber, President

J. Brent McFall
City Manager

ATTEST:

ATTEST:

Adopted by Ordinance No.3006

Michele Kelley
City Clerk

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **3**

SERIES OF 2003

INTRODUCED BY COUNCILLORS

**A BILL
FOR AN ORDINANCE AUTHORIZING AN ASSISTANCE AGREEMENT
WITH SUMMIT SQUARE INVESTMENTS LP
FOR THE OCCUPANCY OF THE SAFEWAY GROCERY STORE RENOVATION
AND UPGRADING OF IN LINE SPACE AT SUMMIT SQUARE SHOPPING CENTER**

WHEREAS, the successful attraction and retention of high quality retail 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 generate additional sales tax revenue and remain competitive with other local governments in creating assistance for occupancy of existing retail space in the City; and

WHEREAS, Summit Square Investments LP plans to partner with Safeway grocery to complete an interior and exterior remodel upgrade and improve the building façade, as well as remodel the interior and exterior at the existing Safeway grocery store at Summit Square Shopping Center at 84th Avenue and Federal Boulevard, and

WHEREAS, a proposed Assistance Agreement between the City and Summit Square Investments LP is attached hereto as Exhibit "A" and incorporated herein by this reference.

NOW, THEREFORE, pursuant to the terms of the Constitution of the State of Colorado, the Charter and ordinances of the City of Westminster, and Resolution No. 53, Series of 1988:

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Manager of the City of Westminster is hereby authorized to enter into an Assistance Agreement with Summit Square Investments LP in substantially the same form as the one attached as Exhibit "A", and upon execution of the Agreement to fund and implement said Agreement.

Section 2. 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 13th day of January 2003.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 27th day of January 2003.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 13, 2003



SUBJECT: Resolution No. 1 re 2003 Community Senior Center Use Fees

Prepared By: Kate Amack, Recreation Supervisor – Senior Center
Greg McSwain, Recreation Programs Manager

Recommended City Council Action:

Adopt Resolution No. 1 authorizing the Department of Parks, Recreation and Libraries to adjust the use fees at the Community Senior Center (CSC) for 2003.

Summary Statement:

- The adjustment of user fees at the CSC for 2003 was reviewed at the December 16, 2002, City Council Study Session and received initial approval by City Council.
- Staff recommends that the fees for annual resident passes at this facility be raised in 2003 from \$15 to \$20 and that non-resident passes be raised from \$30 to \$40. It is also recommended that daily use fees for residents be raised from \$.75 to \$1 and from \$1.50 to \$1.75 for non-residents.
- A program is currently in place at the CSC to help those senior residents who are in need of financial assistance to obtain annual passes and access to programs.
- It is recommended that this fee adjustment go into effect in January 2003.
- The CSC opened at its current location at 72nd Avenue and Irving Street in 1994. Since then, there has been one increase in use fees and that occurred in 1999.
- The facility is co-owned by the Hyland Hills Park and Recreation District and any fee increase would also need the approval of the District's Board. Hyland Hills staff is in agreement with the proposed fee adjustments and will be presenting this issue to their board in the near future.

Expenditure Required: \$ 0

Source of Funds: N/A

Policy Issue

Does City Council wish to increase user fees for use of the Community Senior Center?

Alternatives

- City Council could decide not to increase fees for 2003.
- City Council could decide on a higher fee increase for 2003.
- City Council could decide on a lower fee increase for 2003

Background Information

In 1994, the City partnered with the Hyland Hills Park and Recreation District to renovate the old Safeway building at 72nd Avenue and Irving Street into the Community Senior Center. The facility opened in September of 1994 serving citizens age 55 years and older. At that time, City Council and the Hyland Hills Board of Directors adopted yearly passholder fees and daily admission fees for use of the facility by residents and non-residents. The annual pass, or the daily admission fee, entitles the guest to unlimited use of the weight room, billiards room, all scheduled card game activities and horseshoe pit. There are additional fees for guests wanting to participate in classes, trips, and special activities. There is no fee for guests who only want to use the walking track.

The CSC currently has an average attendance of 7,500 guests per month with approximately 68 percent of these guests using an annual pass. In 2001, the Senior Center sold 551 annual passes. As of October 31, 2002, the Center had sold 586 passes. For the year 2002 the facility will recover close to 60 percent of the City's portion of operating expenses. A comparison of pass and admission fees with other Colorado senior centers is difficult since other "stand alone" senior centers do not have a weight room, walking track, and horseshoe pit in their facilities.

City Council has previously authorized the City Manager to make annual adjustments to various Parks, Recreation and Libraries fees within established limits. Staff has requested a similar provision for fees at the CSC and City Council expressed their initial consent to such a request at their December 16, 2002, Study Session. However, given the numerous and varied fees associated with Parks, Recreation and Libraries activities and the various levels of authorization given the City Manager in adjusting some of these fees, Staff would like the opportunity to review this matter in more detail and bring a thorough and coordinated request to City Council at a future date in 2003.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

RESOLUTION

RESOLUTION NO. **1**

INTRODUCED BY COUNCILLORS

SERIES OF 2003

A RESOLUTION OF THE CITY COUNCIL ESTABLISHING NEW FEES AND POLICIES FOR THE COMMUNITY SENIOR CENTER TO RESPOND WITH MARKET CONDITIONS AND INCREASE REVENUE TO ASSIST WITH RECOVERY OF EXPENDITURES AND YEARLY MAINTENANCE COSTS.

WHEREAS, it is the intent of the City Council to adjust fee and policies to provide a fair recovery percentage and reduce the subsidy level at the Community Senior Center: and

WHEREAS, Staff recommends a target rate of 60 percent for the recovery of the City's portion of the operating expenses at the Community Senior Center for 2003; and

WHEREAS, it is the intent of the City Council to adjust fees and policies to provide fair, marketable and competitive fees at the City's recreation facilities; and

NOW, THEREFORE, be it resolved by the Westminster City Council that the fees and policies at the Community Senior Center be adjusted as described in the Agenda Memorandum entitled "2003 Community Senior Center Use Fees," dated January 13, 2003.

Passes and adopted this 13th day of January 2003.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 13, 2003



SUBJECT: Councillor's Bill No. 4 re Vacation of a portion of the Stuart Street Right-of-Way within the Maple Place Subdivision, Filing No. 2

Prepared By: David R. Downing, City Engineer

Recommended City Council Action:

Pass Councillor's Bill No. 4 on first reading to accomplish the vacation of the unnecessary portion of the Stuart Street public right-of-way located within the boundaries of the Maple Place Subdivision, Filing No. 2.

Summary Statement:

- City Council action is requested to pass the attached Councilor's Bill on first reading to accomplish the vacation of a portion of the Stuart Street public right-of-way within the boundaries of Maple Place Subdivision, Filing No. 2, which is located east of the Burlington Northern/Santa Fe Railroad right-of-way and south of west 75th Avenue.
- The Maple Place Subdivision, which was originally platted in 1948, dedicated the Stuart Street right-of-way from west 75th Avenue, along the Burlington Northern Santa Fe Railroad, and connecting with west 74th Avenue. Premier Community Homes, Ltd. has replatted the remaining undeveloped lots along the south side of the site and is requesting the vacation of a portion of Stuart Street.
- City Staff has verified that the subject portion of the Stuart Street right-of-way is no longer of use to the City and recommends that City Council proceed with the requested vacation.

Expenditure Required: \$0

Source of Funds: Not Applicable

Policy Issues

By City Code, rights-of-way must be vacated by an Ordinance of the City Council. The attached Councillor's Bill will accomplish this vacation.

Alternatives

Council is under no obligation to vacate the subject portion of the Stuart Street right-of-way. However, Staff recommends that Council proceed with the requested vacation since this portion of the right-of-way is no longer needed by the City.

Background Information

Premier Community Homes, Ltd. approached City Staff with a request to replat a portion of the Maple Place Subdivision in order to construct homes on the remaining undeveloped lots. The product that Premier wanted to build would not fit on the current lot configuration and still comply with the current standards set forth by the Westminster Municipal Code. Therefore, they requested a replat that included the vacation of a portion of Stuart Street. The Planning and Engineering Division Staffs have reviewed this plan.

Within the requested vacation area, all utilities have been removed from the current Stuart Street right-of-way and replaced in acceptable locations with property easements dedicated. Homes are currently being constructed but cannot be issued Certificates of Occupancy until the right-of-way vacation has occurred.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. 4

SERIES OF 2003

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE VACATING PUBLIC RIGHTS-OF-WAY WITHIN THE MAPLE PLACE SUBDIVISION, FILING NO. 2

WHEREAS, certain rights-of-way were dedicated to the City of Westminster by the plat of the Maple Place Subdivision, recorded with Adams County at File 9, Map 30; and

WHEREAS, the right-of-way is no longer needed to serve the public access purpose for which it was originally intended; and

WHEREAS, the vacation of the right-of-way is necessary to permit the completion of the Maple Place Subdivision, Filing No. 2 development.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council finds and determines that the public convenience and welfare require the vacation of the right-of-way described in Section 2 hereof.

Section 2. Legal Description of Right-of-Way:

A PARCEL OF LAND SITUATED IN THE SOUTHWEST ONE-QUARTER OF SECTION 31, TOWNSHIP 2 SOUTH, RANGE 68 WEST, OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF WESTMINSTER, ADAMS COUNTY, COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 31; THENCE S00°17'02"E ALONG THE EASTLINE OF SAID SOUTHWEST ONE-QUARTER A DISTANCE OF 1338.67 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING S00°17'02"E ALONG THE LAST DESCRIBED COURSE A DISTANCE OF 16.28 FEET TO A POINT LYING ON THE SOUTHERLY R.O.W. LINE OF WEST 74TH AVENUE; THENCE S89°42'59"W ALONG SAID SOUTHERLY R.O.W. LINE A DISTANCE OF 114.54 FEET TO A POINT LYING NON-TANGENT ON A CURVE ON SAID NORTHEASTERLY R.O.W. LINE; THENCE ALONG A CURVE TO THE RIGHT WHOSE CHORD BEARS N37°46'58"W A DISTANCE OF 201.61 FEET AND ALONG SAID NORTHEASTERLY R.O.W. LINE, SAID CURVE HAVING A CENTRAL ANGLE OF 04°04'42", A RADIUS OF 2832.91 FEET, AN ARC LENGTH OF 201.65 FEET; THENCE N89°01'49"E NON-TANGENT TO THE LAST DESCRIBED CURVE A DISTANCE OF 48.87 FEET TO A POINT LYING NON-TANGENT ON A CURVE AT THE NORTHWESTERLY CORNER OF LOT 9, BLOCK 3, MAPLE PLACE, AS RECORDED IN PLAT BOOK 9, MAP 9, OF THE ADAMS COUNTY, COLORADO RECORDS; THENCE ALONG A CURVE TO THE LEFT WHOSE CHORD BEARS S37°36'36"E A DISTANCE OF 126.71 FEET ALONG THE WESTERLY LINE OF LOT 89 AND LOT 9 OF SAID BLOCK 3, SAID CURVE HAVING A CENTRAL ANGLE OF 02°35'19", A RADIUS OF 2792.91 FEET, AN ARC LENGTH OF 126.18 FEET TO THE SOUTHWESTERLY CORNER OF LOT 8 OF SAID BLOCK 3; THENCE N89°42'59"E ALONG THE SOUTHERLY LINE OF LOT 8 OF SAID BLOCK 3 A DISTANCE OF 81.90 FEET TO THE SOUTHEASTERLY CORNER OF LOT 8 OF SAID BLOCK 3; THENCE S00°17'02"E ALONG THE EASTERLY LINE EXTENDED SOUTHERLY OF LOT 8 OF SAID

BLOCK 3 A DISTANCE OF 9.89 FEET; THENCE S41°40'40"E A DISTANCE OF 45.37 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 0.2885 ACRES (12,568 SQUARE FEET), MORE OR LESS

Section 3. This ordinance shall take effect upon its passage after second reading.

Section 4. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 13th day of January 2003.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 27th day of January 2003.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 13, 2003



SUBJECT: Councillor's Bill No. 5 Supplemental Appropriation for Series 2002 re 136th Ave and I-25 Interchange Sales and Use Tax Revenue Bonds

Prepared By: Karen Creager, Internal Auditor

Recommended City Council Action

Pass Councillor's Bill No. 5 on first reading appropriating \$12,913,231 in proceeds from the sale of Sales and Use Tax Revenue Bonds, Series 2002 for the construction of the interchange and associated road improvements for 136th Avenue at I-25.

Summary Statement:

- City Council is being requested to appropriate the bond proceeds received at closing on December 19, 2002.
- City Council approved the sale of the bonds at their December 9, 2002 meeting.
- The bonds were pre-sold on December 4, at a net interest cost of 4.68%, to produce proceeds of \$15,547,320.
- On December 17, 2001 \$2,600,000 of the bond proceeds were early appropriated in order to begin construction of the project. Therefore, the attached ordinance appropriates the balance of the bond issue of \$12,913,231.
- The difference of \$34,089 was received as accrued interest. Since these funds will be applied to the first interest payment in June, 2003, the funds are not included in the attached appropriation.

Expenditure Required: \$ 12,913,231

Source of Funds: Bond Proceeds

SUBJECT: Councillor's Bill re Supplemental Appropriation for Series 2002 re 136th Ave and I-25 Interchange Sales and Use Tax Revenue Bonds Page 2

Policy Issue

Does City Council want to approve the appropriation of the proceeds received from the issue of the Sales and Use Tax Revenue Bonds, Series 2002?

Alternative

Do not appropriate the bond proceeds. This alternative is not recommended, as the receipt of the proceeds of the bonds would not be recorded on the books of the City and the money could not legally be spent.

Background Information

On December 9, 2002, by emergency ordinance, Council approved the sale of \$15,090,000 Sales and Use Tax Revenue Bonds for the construction of the 136th Avenue Interchange at I-25. The bonds were pre-sold December 4, at a net interest cost of 4.68%, to produce proceeds of \$15,547,320

The majority of the proceeds, \$13,686,844, will be used to finance the construction of the interchange and associated road improvements of 136th Avenue. The proceeds will also be used to reimburse the City for \$2,600,00 advanced to the project by City Council approval of a Reimbursement Resolution on June 25, 2001, to commence early drainage improvements and construction necessary for the interchange. The balance of the proceeds, \$1,860,476, will be used to pay capitalized interest on the bonds through March 31, 2005 and to pay costs of issuance. The capitalized interest is necessary to pay debt service until adequate development occurs in this area, thus generating property and sales taxes and other fees used to meet debt service requirements on the bonds.

The proceeds of the sale were received on December 19, 2002 and must be appropriated. Passage of the attached Councillor's Bill will record the financing source and proposed expenditures on the City's books.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILOR'S BILL NO. 5

SERIES OF 2003

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE INCREASING THE 2002 BUDGETS OF THE GENERAL CAPITAL IMPROVEMENT FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2002 ESTIMATED REVENUES IN THIS FUND.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2002 appropriation for the General Capital Improvement Fund initially appropriated by Ordinance No. 2913 in the amount of \$10,305,000 is hereby increased by \$12,913,231 which, when added to the fund balance as of the City Council action on January 13, 2003 will equal \$31,309,166. The actual amount in the General Capital Improvement 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 the appropriation of bond proceeds for the 136th Ave Interchange project.

Section 2. The \$12,913,231 increase in the General Capital Improvement Fund shall be allocated to City Revenue and Expense accounts, which shall be amended as follows:

Description	Current Budget	Increase	Final Budget
REVENUES			
Carryover 7500.40020.0000	\$2,587,552	\$(2,600,000)	* \$(12,448)
Bond Proceeds 7500.46020.0058	\$0	<u>\$15,513,231</u>	\$15,513,231
Total Change to Revenues		<u>\$12,913,231</u>	
*Carryover will, from time to time, show a negative balance. This is not a problem as overall fund revenues maintain a positive balance.			
EXPENSES			
136 th Ave Interchange 80175030058.80400.8888	\$3,130,000	<u>\$12,913,231</u>	\$16,043,231
Total Change to Expenditures		<u>\$12,913,231</u>	

Section 3. – 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 4. This ordinance shall take effect upon its passage after the second reading.

Section 5. 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 13 day of January 2003. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 27th day of January 2003.

ATTEST:

Mayor

City Clerk

Summary of Proceedings

Summary of proceedings of the regular City of Westminster City Council meeting of Monday, January 13, 2003. Present at roll call were Mayor Moss, Mayor Pro-Tem Atchison, Councillors Dittman, Dixon, Hicks, Kauffman, and McNally. Absent none.

The minutes of the December 23, 2002 meeting were approved.

Mayor awarded Kyle Critchfield a certificate recognizing outstanding athletic achievement.

Council approved the following: Ice Centre Intergovernmental Agreement Amendment; IGA for Continuation of the Community Transit Program in Adams County for \$13,207; 2003 Capital Improvement Technical Support Services with RG Consulting Engineers for up to \$150,000; Westminster Boulevard Extension—Final Contract Amendment with SEMA Construction for \$87,845; Excess Workers' Compensation Insurance from Safety National Casualty Corporation for \$82,797.

Council reappointed Samantha Dixon as the City's representative to the Rocky Flats Coalition of Local Governments Board of Directors, Herb Atchison as the 1st Alternate, and Director of Public Works and Utilities, Ron Hellbusch, as the 2nd Alternate.

Council accepted the resignation of Hilary Holland as Municipal Associate Judge effective February 4, 2003.

The following Councillor's Bills were passed on first reading:

A BILL FOR AN ORDINANCE AUTHORIZING AN ASSISTANCE AGREEMENT WITH BALL CORPORATION FOR THE CONSTRUCTION OF BUILDING ADDITION ON THE R&D FACILITY ON THE WESTMINSTER CAMPUS purpose: Business Assistance agreement with Ball Corporation

A BILL FOR AN ORDINANCE AUTHORIZING AN AMENDMENT TO THE ASSISTANCE AGREEMENT WITH SAFEWAY STORES 45, INC. purpose: Business Assistance agreement amendment with Safeway located at 84th & Federal

A BILL FOR AN ORDINANCE AUTHORIZING AN ASSISTANCE AGREEMENT WITH SUMMIT SQUARE INVESTMENTS LP FOR THE OCCUPANCY OF THE SAFEWAY GROCERY STORE RENOVATION AND UPGRADING OF IN LINE SPACE AT SUMMIT SQUARE SHOPPING CENTER purpose: purpose: Business Assistance agreement with Summit Square Investments

A BILL FOR AN ORDINANCE VACATING PUBLIC RIGHT-OF-WAY WITHIN THE MAPLE PLACE SUBDIVISION, FILING NO. 2 purpose: vacating ROW on Stuart Street

A BILL FOR AN ORDINANCE INCREASING THE 2002 BUDGETS OF THE GENERAL CAPITAL IMPROVEMENT FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2002 ESTIMATED REVENUES IN THIS FUND purpose: appropriating proceeds of bonds for construction for 136th Ave and I-25

The following Councillor's Bills were adopted on second reading:

A BILL FOR AN ORDINANCE AMENDING TITLE I, CHAPTER 30 OF THE WESTMINSTER MUNICIPAL CODE RELATED TO CLAIMS BROUGHT BY AND AGAINST THE CITY

A BILL FOR AN ORDINANCE VACATING THE WESTERLY 10' OF THE MEADE STREET RIGHT-OF-WAY

The following Resolutions were adopted:
Resolution No. 1 re 2003 Community Senior Center Use Fees

At 7:35 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 23, 2003

SERIES OF 2002

INTRODUCED BY COUNCILLORS
Dixon-Hicks

A BILL

FOR AN ORDINANCE AMENDING TITLE I, CHAPTER 30 OF THE WESTMINSTER MUNICIPAL CODE RELATED TO CLAIMS BROUGHT BY AND AGAINST THE CITY

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Section 1-30-2 of the Westminster Municipal Code is hereby amended as follows:
1-30-2: NOTICE OF CLAIM.
Any notice of claim ~~may~~ SHALL be filed with the ~~City Clerk,~~ City Attorney, or City Manager.

Section 2. Section 1-30-3 of the Westminster Municipal Code is hereby amended as follows:
1-30-3: **COMPROMISE SETTLEMENT AND PAYMENT OF CLAIMS; NOTIFICATION OF COUNCIL.**

(A) NOTIFICATION OF COUNCIL. AT LEAST QUARTERLY, ~~the~~ City Council shall be ~~notified in~~ PROVIDED AT A regular or special meeting A SUMMARY of all claims ~~exceeding \$15,000~~ filed against the City. The City Council shall take no formal action on such claims but any matter concerning a claim may be addressed in attorney-client session. ~~At least quarterly the City Manager shall prepare for City Council and forward to a public City Council meeting~~ THE summary listing of all claims filed against the City ~~stating the~~ SHALL INCLUDE EACH claimant'S NAME, amount of the claim and brief description of the claim.

(B) CLAIMS AGAINST THE CITY. ~~All claims of less than \$15,000 against the City may be compromised and settled by and on behalf of the City by the City Manager after receiving the advice of the City Attorney.~~ THE CITY MANAGER, AFTER RECEIVING THE ADVICE OF THE CITY ATTORNEY, SHALL HAVE THE AUTHORITY TO SETTLE AND AUTHORIZE PAYMENT OF ANY CLAIM TO THE EXTENT THE AMOUNT OF PAYMENT IS WITHIN THE AMOUNT OF THE CITY MANAGER'S AUTHORITY TO APPROVE CONTRACTS AS PROVIDED FOR IN CHAPTER I OF TITLE 15 OF THE WESTMINSTER MUNICIPAL CODE, AS MAY BE AMENDED FROM TIME TO TIME. WITH RESPECT TO THE SETTLEMENT OF PROPERTY AND LIABILITY CLAIMS INVOLVING THE CITY'S SELF-INSURANCE PROGRAM, THE CITY MANAGER MAY DELEGATE HIS OR HER AUTHORITY TO THE CITY'S RISK MANAGER. ~~All claims against the City exceeding \$15,000 may be compromised and settled by the City Manager with the consent of the City Council after receiving the advice of the City Attorney.~~ THE SETTLEMENT AND APPROVAL OF ALL OTHER CLAIMS AGAINST THE CITY MAY BE APPROVED BY THE CITY MANAGER AFTER RECEIVING THE CONSENT OF THE CITY COUNCIL WITH THE ADVICE OF THE CITY ATTORNEY.

(C) CLAIMS BY THE CITY. ~~All claims brought by the City against third parties may be compromised and settled by the City Manager with the consent of the City Council after receiving the advice of the City Attorney.~~ THE CITY MANAGER SHALL HAVE THE AUTHORITY TO SETTLE ON BEHALF OF THE CITY ANY CLAIMS OR LAWSUITS THAT WERE BROUGHT BY THE CITY AGAINST ANY THIRD PARTY TO THE EXTENT THE ORIGINAL VALUE OF SUCH CLAIM OR LAWSUIT WAS WITHIN THE AMOUNT OF THE CITY MANAGER'S AUTHORITY TO APPROVE CONTRACTS AS PROVIDED FOR IN CHAPTER 1 OF TITLE 15 OF THE WESTMINSTER MUNICIPAL CODE. THE SETTLEMENT OF CLAIMS OR LAWSUITS ABOVE THIS AMOUNT MAY BE APPROVED BY THE CITY MANAGER AFTER RECEIVING THE CONSENT OF THE CITY COUNCIL WITH THE ADVICE OF THE CITY ATTORNEY. THE ORIGINAL VALUE OF ANY CLAIM OR LAWSUIT SHALL BE BASED UPON THE REASONABLE DETERMINATION OF THE CITY ATTORNEY.

(D) Notwithstanding the other provisions of this Section, the Director of Finance is authorized to abate taxes as provided by Title IV of this Code.

Section 3 Title I, Chapter 30, of the Westminster Municipal Code is hereby amended by the addition of the following new subsection:

1-30-5: EXCLUSIONS.

(A) THE PROVISIONS OF THIS CHAPTER SHALL NOT BE APPLICABLE TO THE SETTLEMENT OR PAYMENT OF (A) ROUTINE CLAIMS SUBMITTED BY CITY EMPLOYEES FOR HEALTH INSURANCE BENEFIT AND SIMILAR BENEFIT PROGRAMS, (B) PREAUTHORIZED PROPERTY ACQUISITIONS, INCLUDING CONDEMNATIONS, FOR WHICH FUNDS HAVE BEEN PREVIOUSLY BUDGETED, AND (C) WORKERS COMPENSATION CLAIMS AND UNEMPLOYEMENT COMPENSATION CLAIMS FOR WHICH FUNDS HAVE BEEN PREVIOUSLY BUDGETED.

~~(B) NOTWITHSTANDING THE OTHER PROVISIONS OF THIS SECTION, THE DIRECTOR OF FINANCE IS AUTHORIZED TO ABATE TAXES AS PROVIDED BY TITLE IV OF THIS CODE.~~

Section 4 This ordinance shall take effect upon its passage after second reading.

Section 5 The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 23rd day of December, 2002. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 13th day of January, 2003.

ORDINANCE NO. **3003**

COUNCILLOR'S BILL NO. **75**

SERIES OF 2002

INTRODUCED BY COUNCILLORS
Atchison-Dittman

A BILL

FOR AN ORDINANCE VACATING THE WESTERLY 10' OF THE MEADE STREET RIGHT-OF-WAY

WHEREAS, City Council will be considering approval of a Development and Disposition Agreement (DDA) with Community Builders, Inc., for the Meade Street townhome development; and

WHEREAS, a term of the DDA provides that the City will contribute the westerly 10' of the Meade Street right-of-way that is contiguous to the east boundary of the townhome redevelopment parcel; and

WHEREAS, Meade Street is only one block long between West 72nd Avenue and West 73rd Avenue and the existing right-of-way is extremely wide at 74'; and

WHEREAS, since the street is unnecessarily wide, contribution of this 10' strip to the redevelopment project would be beneficial to the quality of the project and does not interfere with any of the public purposes of the street, which will remain very wide even after the vacation.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. City Council finds and determines that the public convenience and welfare require the vacation of the westerly 10' of the Meade Street right-of-way, as described herein:

A ten foot wide strip of land adjacent to lots 7 through 17 inclusive, Mahin's Subdivision of the east half of Block 42, Harris Park, City of Westminster, County of Adams, State of Colorado, described as follows:

Beginning at the northeast corner of said Lot 7: Thence east 10.00 feet along the easterly prolongation of the north line of said Lot 7; thence south along a line parallel with and 10.00 feet east, when measured at right angles, from the east line of said lots 7 through 17; thence west 10.00 feet along said prolongation to the southeast corner of said lot 17; thence north along the east line of said Lots 7 through 17 inclusive, to the point of beginning. Containing approximately 2,750 square feet.

Section 2. This ordinance shall take effect upon its passage after second reading. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 23rd day of December, 2002. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 13th day of January, 2003.