

CITY COUNCIL AGENDA

January 25, 1999

7:00 P.M.

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. Board and Commission Member Recognition
- 5. Citizen Communication (5 minutes or Less in Length)**
- 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. Property and Liability Excess Insurance from CIRSA for \$130,845
 - B. Mosquito Control Contract services for 3 years to Colorado Mosquito Control, Inc
 - C. Fire Station 3, 4, 5 and 6 Auto Disconnect Vehicle Exhaust System for \$71,676
 - D. Bids re Lease Purchase of SCBA Equipment
 - E. Bids for Excavator replacement to Universal Tractor for \$126,010
 - F. CB No. 1 on second reading re Animal Control Amendments re Spay/Neuter (Smith-Merkel)
 - G. CB No. 2 on second reading re Comprehensive Land Use Plan Amendments (Dixon-Scott)
 - H. CB No. 3 on second reading re Cost Recoveries for 101st/100th Avenue Extension (Merkel-Atchison)
 - I. CB No. 4 on second reading re Supplemental Appropriation re American Multi-Cinema Maintenance Services (Dixon-Merkel)
 - J. CB No. 5 re Merger of TCI/AT&T approval by the City (Dixon-Atchison)

9. Appointments and Resignations

- A. Resolution No. 2 re Board and Commission Reappointments to Human Services, Library, Open Space, Parks and Recreation, Personnel and Planning
- B. Resolution No. 3 re New Appointments to Human Services. Library, Parks and Recreation Personnel Boards and Planning Commissions

10. Public Hearings and Other New Business

- A. TABLED - Intergovernmental Agreement with City of Arvada addressing issues of Northwest Parkway, cleanup of Rocky Flats, annexation boundaries, revenue sharing and Standley Lake Regional Park
- B. Intergovernmental Agreement with City of Broomfield regarding Kohl Department Store to be located south of 120th Avenue and West of Sheridan Boulevard.
- C. Federal Heights Wholesale Water Contract Amendment water rate of \$2.11 PTG for 1999
- D. Councillor's Bill No. 6 re Westmoor Supplemental Appropriation adding \$1,000,000 received from Westmoor Metropolitan Special District
- E. Resolution No. 4 re Hazardous Materials Route Designation of I-25
- F. Councillor's Bill No. 7 re Westminster/Children's Sensory Park Supplemental Appropriation of \$65,000 to construct a playground for disabled children within Walnut Creek Open Space
- G. Resolution No. 5 re Great Outdoors Colorado Grant for the Westminster/Children's Sensory Park
- H. Semper Water Treatment Facility Rehabilitation Change Order for \$129,432 for High Service Pump Station
- I. Resolution No. 6 re Open Cable System supporting a Cable System open to Competition

11. Old Business and Passage of Ordinances on Second Reading

None

12. Citizen Presentations (5 Minutes + in Length) & Miscellaneous Business

- A. Financial Report for December, 1998
- B. Quarterly Insurance Report
- C. City Council
- D. Request for Executive Session
 - 1. Hotel Negotiations
 - 2. Contract Negotiations with Pepsi Cola
 - 3. Possible Litigation re JeffCo Airport Issues

13. Adjournment

CITY OF WESTMINSTER, COLORADO
MINUTES OF THE CITY COUNCIL MEETING
HELD ON MONDAY, JANUARY 25, 1999 AT 7:00 P.M.

PLEDGE OF ALLEGIANCE:

Members of Boy Scout Troop #385 led Council, Staff and the audience in the Pledge of Allegiance.

ROLL CALL:

Present at roll call were Mayor Heil, Mayor Pro Tem Merkel and Councillors Atchison, Dixon, Scott and Smith. Also present were William Christopher, City Manager; Martin McCullough, City Attorney; and Michele Kelley, City Clerk. Absent was Councillor Allen.

CONSIDERATION OF MINUTES:

A motion was made by Scott and seconded by Atchison to accept the minutes of the meeting of January 11, 1999 with no additions or corrections. The motion carried unanimously.

PRESENTATIONS:

Mayor Heil presented a Certificate of Appreciation to Simmons Bunting in recognition of dedicated to the City while serving on the Planning Commission.

CITIZEN COMMUNICATION:

Doris DePenning, 9285 Blue Mountain Drive, representing Concerned Citizens of Blue Mountain and the Coal Creek Community; David DePenning, Richard Walls and Tom Hoffman, Coal Creek Improvement District; Bill McKee, Golden District 1 Councilman; Webb Aldridge, Golden City Council and LeAnn Williams, President and CEO of the Northwest Metro Chamber of Commerce all addressed City Council about the Northwest Parkway alignment.

CITY COUNCIL COMMENTS:

Mayor Pro Tem Merkel attended the Saint Anthony's North celebration recognizing the Hospital's placement as one of the top 100 hospitals for two years in a row. Councillor Dixon reported on the CML Leadership workshop she attended and that she has been elected as Vice Chair for the Energy Alliance Conference.

CONSENT AGENDA:

The following items were considered as part of the consent agenda: Property and Liability Excess Insurance - Authorize the City Manager to enter into an agreement with the Colorado Inter-Governmental Risk Sharing Agency for the purchase of excess insurance, authorizing expenditure of \$130,845 for the City's 1999 property and liability excess coverage and charge this expense to the property and liability self-insurance fund; Mosquito Management Program Agreement - Authorize the City Manager to enter into an agreement with the Colorado Mosquito Control Inc. for mosquito control services and authorize expenditure not to exceed \$33,375 for 1999 with a 3% price increase for 2000 and 2001, with expenses charged to the appropriate Parks, Recreation and Libraries General Fund account; Fire Stations 3, 4, 5 and 6 Exhaust System Purchase and Installation - Authorize the City Manager to sign an agreement with Mountain Energy and Resources Inc. in the amount of \$77,224 for the purchase and installation of auto-disconnect vehicle exhaust systems for Fire Stations 3, 4, 5 and 6 because it is in the best interest of the City and charge expense to the appropriate Fire Department project account in the General Capital Improvement Fund;

Bids for Lease Purchase Financing of Self Contained Breathing Apparatus – Authorize the Finance Director to execute a seven year lease purchase agreement with Norwest Investment Services Inc. in an amount not to exceed \$150,628, plus interest costs, and charge expense to the appropriate budget account in the Fire Department budget; Bids for Excavator – Award the bid for one replacement excavator to the low bidder, Universal Tractor, in the amount of \$126,010, which includes the trade-in of the 1986 excavator and charge the expense to the appropriate 1999 Public Works and Utilities budget account; Councillor's Bill No. 1 re Animal Control Amendments; Councillor's Bill No. 2 re Comprehensive Land Use Plan Amendments; Councillor's Bill No. 3 re 101st/100th Avenue Cost Recoveries; Councillor's Bill No. 4 re American Multi-Cinema Maintenance Services Appropriation; and Councillor's Bill No. 5 re Merger of TCI/AT&T.

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.

A motion was made by Atchison and seconded by Smith to adopt the Consent Agenda items as presented. The motion carried unanimously.

BOARDS AND COMMISSIONS APPOINTMENTS AND REAPPOINTMENTS:

A motion was made by Atchison and seconded by Dixon to Table Resolution No. 2 making reappointments, and Resolution No. 3 making new appointments to the various Boards and Commissions. The motion carried unanimously.

INTERGOVERNMENTAL AGREEMENTS WITH CITIES OF ARVADA AND BROOMFIELD:

A motion was made by Scott and seconded by Atchison to Table the Intergovernmental Agreement with the City of Arvada and the City of Broomfield. The motion carried unanimously.

FEDERAL HEIGHTS WHOLESALE WATER CONTRACT AMENDMENT:

A motion was made by Merkel and seconded by Atchison to approve the amendment to the contract with Federal Heights, confirming the water rate for January 1, 1999 through December 31, 1999 at \$2.11 Per Thousand Gallons, and authorize the Mayor and City Manager to sign the amendment on behalf of the City. The motion carried unanimously.

COUNCILLOR'S BILL NO. 6 – WESMOOR SUPPLEMENTAL APPROPRIATION:

A motion was made by Smith and seconded by Scott to pass Councillor's Bill No. 6 on first reading providing for a supplemental appropriation to the 1999 General Capital Improvement Fund. Upon roll call vote, the motion carried unanimously.

RESOLUTION NO. 4 – RETENTION OF I-25 AS A DESIGNATED HAZMAT ROUTE:

A motion was made by Dixon and seconded by Atchison to adopt Resolution No. 4 requesting the State Patrol retain I-25 and certain portions of I-70 as designated hazardous waste routes through Colorado and that certain portions of C-470 and I-76 be added as additional hazardous material transportation routes to provide alternative routing when necessary. The motion carried unanimously.

COUNCILLOR'S BILL NO. 7 – WESTMINSTER/CHILDREN'S SENSORY PARK APPROP:

A motion was made by Smith and seconded by Dixon to pass Councillor's Bill No. 7 on first reading appropriating \$65,000 into the General Capital Improvement Fund for construction of Westminster/Children's Sensory Park project. Upon roll call vote, the motion carried unanimously.

RESOLUTION NO. 5 –GOCO GRANT FOR WESTMINSTER/CHILDREN'S SENSORY PARK:

A motion was made by Smith and seconded by Dixon to adopt Resolution No. 5 authorizing the City Manager to sign a contract with GOCO regarding the City's obligations for the Westminster/Children's Sensory Park. Upon roll call vote, the motion carried unanimously.

SEMPER WATER TREATMENT FACILITY REHABILITATION:

A motion was made by Atchison and seconded by Dixon to authorize the City Manager to sign a Change Order with CH2M-HILL in the amount of \$117,432, plus \$12,000 contingency for a total of \$129,432 for the contract administration, shop drawing review, and part time inspection services for the masonry construction related to the high service pump station. Charge the expense to the Semper Water Treatment Facility Rehabilitation Capital Improvement Project Account; Authorize the City Manager to negotiate and approve a time and materials contract with Lillard and Clark Construction or Mortonson for the rehabilitation of the Chemical Storage Building in an amount not to exceed \$960,000; Authorize the City Manager to sign a contract with Black & Veatch for continued project management in an amount not to exceed \$122,000 plus a contingency of \$12,200 for a total of \$134,200; and Authorize the transfer of existing funds in the amount of \$1,589,796 from existing Water and Wastewater Capital Project Accounts to the Semper Water Treatment Facility Rehabilitation Capital Project Account. The motion carried unanimously.

RESOLUTION NO. 6 – OPEN CABLE SYSTEM:

A motion was made by Merkel and seconded by Atchison to adopt Resolution No. 6 which advises TCI/AT&T of the City's desire for a cable system that is open to competition and directs City Staff to work toward the requirement of an open cable system with the FCC. Upon roll call vote, the motion carried unanimously.

MISCELLANEOUS BUSINESS:

The Mayor introduced Jonathan, who is shadowing Council members for the evening and recognized the Standley Lake High School students who were in attendance at the meeting.

Council reviewed the Financial Report for December 1998 and the Quarterly Insurance Report.

The Mayor stated there would be an Executive Session to discuss Hotel Negotiations, Contract negotiations with Pepsi Cola, Possible litigation regarding Jefferson County Airport Issues, and Contract negotiations concerning possible litigation.

ADJOURNMENT:

The meeting was adjourned at 8:05 P.M.

ATTEST:

Mayor

City Clerk

Date: January 25, 1999

Subject: Recognition of Former Board and Commission Members

Prepared by: Michele Kelley, City Clerk

Introduction

The City Council is requested to present a Certificate of Appreciation in recognition of time dedicated to the City by Simmons Bunting, who has recently resigned from the Planning Commission.

Summary

Recently, Simmons Bunting resigned from the Planning Commission. A Certificate of Appreciation recognizing the time and efforts of Simmons has been prepared to be presented on behalf of the Mayor and entire Council.

Staff Recommendation

Present certificate of appreciation for dedicated service to Simmons Bunting.

Background Information

Simmons Bunting was appointed to the Planning Commission on February 9, 1998. He resigned on October 26, 1998 because he moved out of the City of Westminster.

Simmons has indicated that he will be present at Monday night's Council meeting to accept this certificate.

Respectfully submitted,

William M. Christopher
City Manager

Date: January 25, 1999
Subject: Property and Liability Excess Insurance
Prepared by: Pierrette E. Ray, Risk Manager

Introduction

City Council action is requested to authorize an expenditure for the 1999 contribution to the Colorado Intergovernmental Risk Sharing Agency (CIRSA) for property and liability insurance. Funds are available in the 1999 property and liability fund budget for this expense.

Summary

The City annually purchases insurance to cover its assets (building, vehicles, equipment, open space, and parks) and to protect itself from liability exposure resulting from claims brought against the City and its employees. This insurance is purchased through the Colorado Intergovernmental Risk Sharing Agency (CIRSA). The quote from CIRSA for 1999 is \$130,845, which represents a premium of \$181,911, minus \$40,184 in credit for Westminster's share of the CIRSA fund surplus from closed claim years, and a loss control credit of \$10,882 for a total credit of \$51,066. Funds are budgeted in the property and liability excess self-insurance funds for this expense.

The alternative to renewing insurance coverages with CIRSA would be to seek quotes from the insurance marketplace. This would most likely cost the City more both because of the limited numbers of companies that write governmental entity insurance and because of the commission that would be paid to the broker. Renewing with CIRSA is cost effective and provides the City with insurance protection designed to meet its needs.

Staff Recommendation

Authorize the City Manager to enter into an agreement with the Colorado Inter-Governmental Risk Sharing Agency for the purchase of excess insurance authorizing expenditure of \$130,845 for the City's 1999 property and liability excess coverage and charge this expense to the property and liability self-insurance fund.

Background Information

The City of Westminster has been a member of CIRSA since its inception in 1982. Since that time the pool has grown from its original 18 cities to 148 members of the property and liability pool. CIRSA provides property and liability coverages that are tailored to meet the municipal exposures. On January 1, 1988, the City implemented a large self-insured retention electing to pay the first \$100,000 of each property claim and the first \$150,000 of each liability claim. A Reserve Fund ensures that funds are available to cover deductible expenses in the event of a catastrophic year or a year in which multiple, large claims occur. Adequate reserves have been generated by transferring money remaining in the property and liability fund at year-end into this reserve fund.

The benefit of this process has been to allow for accumulation of reserves through the normal budgeting process without the need to tap contingency funds. In October 1998, the City's Risk Manager obtained the services of the Tillinghast-Tower Perrin Company to update the actuarial study of the City's property and liability funds that was done in 1997. The study reviewed the City's past loss history, current claims and claim reserves, and compares these figures with several different ratios used in the insurance industry to evaluate practices and claim history. The results of the study show the reserves the City has are "reasonable and even conservative when compared to the reserve levels implied by the industry/public sector benchmarks". With the continued growth of the City, Staff is recommending the current reserving program be continued as is. The unaudited fund balance at the end of 1998 was \$3,623,164.

The CIRSA quote for 1999 is \$130,845 after receiving a credit of \$10,882 based on the City's loss control audit score and a surplus credit authorized by the CIRSA board of directors of \$40,184. The net contribution represents an increase over last year's quote of \$13,021 and is the result of the addition of new buildings and open space properties and the increase in the value of existing properties.

Additional open space acquired by the City includes the open space area around Standley Lake, land acquired to develop Westmoor/Walnut Creek Golf Course, land at 128th and Tejon Part II open space, and property along the Little Dry Creek Trail. Buildings which the City added to its list of insured properties include the fire training tower, buildings related to the Semper Water Treatment Plant expansion, College Hill Library, and buildings related to the Big Dry Creek Wastewater Treatment Plant expansion

The City has continued to purchase its excess property and liability coverages from CIRSA for several reasons:

- CIRSA has provided favorable quotes for its insurance;
- CIRSA was established by municipalities specifically to provide insurance that meets the unique needs of Colorado cities and towns;
- Unlike all brokers or private insurance companies, CIRSA does not charge commissions;
- CIRSA provides extensive loss control services, including training and a film library that are available at no extra cost to all its members.

The services provided by CIRSA include all-claims handling, loss control, administrative services, and the following excess coverages:

- Property coverage in excess of \$100,000 to \$201,000,000 (limits shared with all pool members);
- \$1,000,000 per occurrence/aggregate business interruption coverage;
- Public Officials Liability coverage from \$150,000 to \$5,000,000 per occurrence/aggregate;
- Police Professional Liability insurance from \$150,000 to \$5,000,000 per occurrence/aggregate;
- Motor vehicle physical damage from \$100,000 to \$600,000 per occurrence;
- Motor vehicle liability coverage from \$150,000 to \$600,000 per occurrence;
- General Liability coverage from \$150,000 to \$600,000 per occurrence.

Additional coverages were authorized by the CIRSA board of directors in 1998 and will be continued in 1999. These coverages are listed below and are offered with no deductible to any member:

- Criminal defense reimbursement coverage will provide reimbursement of defense costs to public officials charged with criminal activities once they are exonerated. The limits would be \$5,000 per occurrence/\$20,000 aggregate per member;
- Herbicide/pesticide coverage provides for third-party claims arising out of the member's use of herbicides and pesticides. The limits of this coverage are \$5,000 per occurrence/aggregate per member;

- Rule 106 claims coverage provides for defense of claims for relief of administrative rulings. This is for defense costs, which the City is told to pay due to an administrative decision. The limits of coverage are \$5,000 per occurrence/\$15,000 aggregate per member;
- First party pollution clean-up costs. This coverage provides for pollution clean-up on a member's premises as a result of a covered loss. For example, if there was a tornado and it blew over a tank with gasoline in it, this coverage would pay for the clean up of the gas. The limits of coverage are \$10,000 per occurrence/aggregate per member.

The success of the City's self-insured property liability program can be attributed to several factors, including on-going employee safety training and other loss control practices initiated by the individual departments and the risk management staff, the efforts of the City's Safety Employee Committee, and the City's effective working relationship with CIRSA claims adjusting staff. Loss control activities include regular off-site inspections of facilities, annual defensive driver's training, and the annual snowplow training and Roadeo, sponsored by the Public Works and Utilities Department. By maintaining a strong focus on loss control, staff believes that the benefits of the higher self-insured retention continue to outweigh the risks involved over the long term.

Respectfully submitted,

William M. Christopher
City Manager

Date: January 25, 1999
Subject: Mosquito Management Program Agreement
Prepared by: Richard Dahl, Park Services Manager

Introduction

City Council action is requested to authorize the City Manager to enter into an agreement with Colorado Mosquito Control, Inc., (CMC) to provide mosquito control services within the City of Westminster for the next three years. Funds are specifically budgeted in the 1999 Parks, Recreation and Libraries operating account for the first year of this contract. Subsequent renewals of this contract will be approved if budget funds are available.

Summary

For 1999, nine agencies (Westminster, Thornton, Broomfield, Northglenn, Lafayette, Louisville, Lakewood, Hyland Hills Park and Recreation District, and Boulder County) are participants in the North-Metro Mosquito Management Program. This brings the total service area to 250 miles, serving a population of over 500,000.

CMC will continue to be the operation management firm for the North-Metro Mosquito Management Program. Staff is unaware of any other mosquito abatement contractors in the Denver Metro area. The firm has proven to be a highly professional and scientifically based organization committed to the success of the Program.

Westminster's 1999 share for joining the program is \$33,375, which represents a 3% increase over the 1998 contract. The additional cost (\$975) is a direct result of increased biological product costs due to EPA restrictions on available products and the expansion of new subdivisions and open space in the northeast part of the city. An automatic price escalator of 3% per year for 2000 and 2001 is included in the contract. Staff believes the cost of participating in the program is very reasonable and represents a significant savings and service delivery over performing the operation with City forces. Funds were allocated and are available in the 1999 General Fund budget for year one of this expenditure.

Staff Recommendation

Authorize the City Manager to enter into an agreement with the Colorado Mosquito Control, Inc., for mosquito control services and authorize expenditure not to exceed \$33,375 for 1999 with a 3% price increase for 2000 and 2001, with expenses charged to the appropriate Parks, Recreation and Libraries General Fund account.

Background Information

In 1987, the City of Westminster and the Colorado Mosquito Control, Inc., (CMC) formed the North-Metro Mosquito Management Program. The intent of the program was to provide quality service at a reasonable cost while adhering to environmentally safe and effective control measures. A secondary, but no less important, objective was to promote the advantages of the Cooperative Management Program to surrounding municipalities/agencies and encourage the entities to join.

This, in turn, would assist in “buffering” Westminster beyond the City’s boundaries and provide a level of service far greater than the cost of belonging to the District.

In 1998, the North-Metro Management Program completed its twelfth year of a cost-shared biological approach to the mosquito control. This environmentally friendly program, known as Integrated Pest Management (IPM), utilizes an array of bio-rational methods integrated into a single program designed to inhibit the development of adult mosquitos. The native fish, *Fundulus zebrinus*, is actively used to control the larva stage of mosquitos in conjunction with a naturally occurring bacteria know as *Bacillus* (Bti). Combined with constant monitoring by CMC staff and aided by a computerized mapping system, the adult biting mosquito population has been substantially lower in the control area than in outlying areas. The year 1998 was sufficiently wet to create “temporary” breeding areas which had not been mapped in previous years. These breeding areas are defined as slight depressions or containers (cans, pools, old tires, etc.) that hold water for the 14 day incubation period and then dry up until the next substantial rainfall. The temporary breeding sites will be the target of CMC staff in 1999 and monitored by increased field surveillance and longer term bio-control products to gain control of the problem. Adult mosquito suppression is handled by “target” fogging with chemicals in areas that have high concentrations (measured by CO₂ field light traps) of adult mosquitos and by biological methods such as encouraging bat populations whose favorite meal is the adult mosquito.

Respectfully submitted,

William M. Christopher
City Manager

Date: January 25, 1999

Subject: Fire Station 3, 4, 5 and 6 Exhaust System Purchase and Installation

Prepared by: Steve Pacifico, Deputy Chief of Administration
Jim Houlihan, Firefighter

Introduction

City Council action is requested to authorize the City Manager to sign an agreement for the purchase and installation of an auto-disconnect vehicle exhaust system for Fire Stations 3, 4, 5 and 6. from Mountain Energy & Resources Inc.

Summary

City Council allocated funds in the 1999 Capital Improvement Program for the purchase and installation of auto-disconnect vehicle exhaust systems at Fire Stations 3, 4, 5 and 6.

Staff conducted a formal bid process in October of 1997 for the purchase and installation of auto-disconnect vehicle exhaust systems for all six fire stations. After careful review of all bids by Staff, Mountain Energy & Resources Inc. was selected as the vendor for the purchase and installation of the exhaust systems for the amount of \$77,224. The purchase and installation of the vehicle exhaust system for Fire Station 1 was initiated in late 1997 utilizing funds available in the Fire Department Operating Budget. A second system was purchased and installed in early 1998 utilizing funds allocated in the 1998 Fire Department Operating Budget. The installation of systems at Fire Stations 3, 4, 5 and 6 will result in all stations having an auto-disconnect vehicle exhaust system. The Adams /Jeffco Hazardous Materials Authority has agreed to reimburse the City \$5598 for the specific portion of the ventilation system at Fire Station 5 that will be utilized by the Hazardous Materials response vehicle that is housed there. The total net cost to the City after reimbursement would be \$71,676

Staff Recommendation

Authorize the City Manager to sign an agreement with Mountain Energy & Resources Inc. in the amount of \$77,224 for the purchase and installation of auto-disconnect vehicle exhaust systems for Fire Stations 3, 4, 5 and 6 because it is in the best interest of the City and charge the expense to the appropriate Fire Department project account in the General Capital Improvement Fund.

Background

In 1997 Staff began researching potential vehicle exhaust systems, qualified vendors and cost estimates for such systems in an effort to be in accordance with the City's philosophy regarding providing and maintaining a safe work environment. During this research Staff discovered that there were several federal agencies, including the National Fire Protection Association, that had adopted regulations which required fire departments to prevent exhaust emissions exposure to firefighters or of living and sleeping areas. Staff was of the opinion that a potential problem existed in all of the fire stations due to the excessive smoke stains on the apparatus bay walls and ceilings. In addition, several desktop computers located in the living/office areas in some of the stations, had recently malfunctioned.

Information Technologies Staff discovered during repairs that the computers had been contaminated with diesel exhaust and subsequently required extensive maintenance prior to them being placed back in the stations. The aforementioned items led Staff to the conclusion that there was indeed an exposure problem and that the current system for removing vehicle exhaust was not adequate. The systems currently in Stations 3, 4, 5 and 6 remove only 5% of the exhaust fumes from the vehicles. The new auto-disconnect system will remove 99% of the exhaust fumes, which is in accordance with the OSHA threshold limits for diesel exhaust exposure.

Staff originally solicited bids for the auto-disconnect vehicle exhaust systems in October of 1997 and selected Mountain Energy & Resources Inc. as the vendor based on type of system, system quality and cost (they were the lowest bidder). After installing auto-disconnect vehicle exhaust systems at Fire Stations 1 and 2, Staff directed Mountain Energy & Resources to re-bid the remaining fire stations in October of 1998. After careful evaluation of the more recent bid (that included a 1.5% price increase), the performance of the auto-disconnect vehicle exhaust systems already installed at Fire Stations 1 and 2, and the advantages of having identical systems in all six fire stations, Mountain Energy & Resources Inc. is recommended as the vendor to complete the installation in the remaining fire stations. Staff believes that having similar systems in all stations will reduce maintenance costs and out of service time when repairs are required.

The carcinogenic effects of exposure to diesel exhaust have been known or suspected for some time. Tests conducted by NIOSH have concluded that there is a direct correlation between exposure to diesel exhaust and lung cancer. It has also been suggested that diesel exhaust can also be associated with congestive obstructive pulmonary disease and asthma as well as other types of cancer.

Alternatives:

1. Approve Staff's recommendation of the low bidder, Mountain Energy & Resources Inc., for the purchase and installation of auto-disconnect vehicle exhaust systems for Fire Stations 3, 4, 5 and 6.
2. Direct Staff to have the project re-bid.

Respectfully submitted,

William M. Christopher
City Manager

Date: January 25, 1999

Subject: Bids re Lease Purchase Financing of Self Contained Breathing Apparatus

Prepared by: Jim Cloud, Fire Chief
Engineer Tracy Haze

Introduction

City Council action is requested to approve execution of a seven year lease purchase agreement with Norwest Investment Services, Inc. for the purchase of replacement self contained breathing apparatus (SCBA). Funds for the down payment and the first three lease payments are contained in the 1999 Fire Department budget.

Summary

City Council previously approved the purchase of the replacement SCBA with the balance of the cost to be financed through a lease purchase agreement.

Comparative bids for the lease purchase have been received from four financial institutions.

Interest rates ranged from 4.5% to 5.645% for a seven year lease purchase.

The low bid interest rate for the seven year lease purchase was from Norwest Investment Services, Inc. Interest on the principal loan amount of \$150,628 is \$18,761.26 for a total expense of \$169,389.26. The quarterly payment amount will be \$6,318.95 with the first payment due in the second quarter of 1999.

Staff Recommendation

Authorize the Finance Director to execute a seven year lease purchase agreement with Norwest Investment Services, Inc. in an amount not to exceed \$150,628, plus interest costs and charge the expense to the appropriate budget account in the Fire Department budget.

Background

City Council previously approved the purchase and award of a bid for replacement of self contained breathing apparatus. A copy of the December 14, 1998 agenda memorandum addressing this matter is attached. As indicated in the December 14 agenda memorandum, a down payment on the purchase of the SCBA equipment in the amount of \$50,000 is available in the 1999 Fire Department budget, along with funds for the first three lease payments to be financed through a lease purchase agreement.

Bids for Lease Purchase Financing of Self Contained Breathing Apparatus

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Formal bids were solicited in accordance with City Charter bidding requirements from six financial institutions for this lease purchase with four financial institutions returning current lease purchase rates. Bid results for a lease purchase for \$150,628 over a seven year loan period to purchase SCBA equipment is as follows:

Norwest Investment Services, Inc.	4.590%
Bank One	4.744%
KeyCorp Leasing	5.15%
Baystone Financial Group	5.645%

Respectfully submitted,

William M. Christopher
City Manager

Attachments

Date: January 25, 1999

Subject Bids for Excavator

Prepared by: Jack Rudey, Utility Field Operations Supervisor
Keith Alvis, Utility Field Operations Foreman

Introduction

City Council action is requested to award the bid for an excavator. Funds are available and have been specifically allocated in the 1999 Utility Fund, Public Works and Utilities Department budget for this expenditure.

Summary

City Council previously allocated funds in the 1999 budget for the purchase of a replacement excavator. Formal bids, in accordance with City Charter bidding requirements, were obtained for this purchase. The low bid is being recommended for this purchase.

Staff Recommendation

Award the bid for one replacement excavator to the low bidder, Universal Tractor in the amount of \$126,010; which includes the trade-in of the 1986 excavator and charge the expense to the appropriate 1999 Public Works and Utilities budget account.

Background Information

City Council allocated funds in the 1999 budget for the purchase of a replacement excavator. This piece of equipment will be used by Water Field Operations crews within the Public Works and Utilities Department for the construction and maintenance of the City's water system. Due to the extensive number of water breaks being experienced in the City, the major use for this piece of equipment will be water line construction by the Utility Construction Crew. The Utilities Division is scheduled to replace four miles of deteriorating water line annually.

To meet this objective, the excavator will be used five days a week on water line construction projects. In addition, when the City experiences several water breaks at the same time or, if the lines being repaired are in excess of eleven feet in depth, this excavator will be used to assist in the repairs.

The excavator to be replaced is a 1986 model and will be used as a trade-in on the new machine. Formal bids in accordance with City charter bidding requirements were obtained from area distributors with the following results:

Universal Tractor	\$126,010
Wagner Equipment	\$139,246
Honnen Equipment	No bid
Power Motive	No bid

The low bid from Universal Tractor meets all of the City's specifications for this type of equipment, City Staff purchased the same model excavator from Universal Tractor in March 1997 and have been very pleased with its performance as well as operating costs.

The alternative to not purchasing this excavator would be to continue to use the old one, which has had excessive down time over the last 13 years, due to the age and usage. In addition, the current 1986 model is no longer manufactured and parts are hard to come by and when they are ordered, extra time is required for delivery. When one of the two excavators is not running, it cuts water line replacement production by half. In 1998, the cost to keep the current excavator on the job was in excess of \$7,500. Fleet Maintenance and Utility Field crews agree this excavator is in need of replacement.

Another alternative is to lease the necessary equipment, which is extremely costly, typically twice the per-hour use cost as compared to owning the equipment.

Respectfully submitted,

William M. Christopher
City Manager

Date: January 25, 1999
Subject: Resolution No. re Open Cable System
Prepared by: Gary Casner, Senior Telecommunication Administrator

Introduction

City Council action is requested to approve the attached resolution, which advises TCI/AT&T of the City's desire for a cable system that is open to competition. The resolution also directs City Staff to work toward the requirement of an open cable system with Federal Communications Commission.

Summary

City Council passed Councillor's Bill No.5 re Transfer of Ownership for TCI/AT&T on first reading on January 11, 1999. This bill is scheduled for second reading on January 25, 1999.

City Council has received information from Internet Service Providers and US West requesting that conditions be attached to the transfer of ownership that would allow for competition on the cable system.

Federal law and the franchise agreement only allow the City to consider whether AT&T has the technical, legal, and financial ability to comply with the existing franchise.

The attached resolution allows the City to support an open cable system, with competition, and to approve the transfer of ownership

Staff Recommendation

Adopt Resolution No. which advises TCI/AT&T of the City's desire for a cable system that is open to competition and directs City Staff to work toward the requirement of an open cable system with the FCC.

Background

City Council previously passed Councillor's Bill No. 5 on first reading. US West and other internet service providers have requested that approval of the transfer be subject to a requirement to open the cable system to other service providers. As Federal law and the current franchise agreement only allow the City to consider the technical, legal, and financial ability to comply with the obligations of the existing franchise. AT&T has answered all questions in these areas. In addition, AT&T has agreed to keep the same number of technical cable employees as currently work for TCI to insure that quality levels for cable television remain constant.

In answer to the concerns brought to City Council by US West and the other internet service providers, the attach resolution is being recommended by City Staff. The resolution advises TCI/AT&T of the City's desire for an open cable system and directs City Staff to lobby with the FCC for a requirement of an open cable system that allow for competition.

If the City were to add a requirement for an open cable system to the transfer of ownership approval, it is very possible that at least one of the following would occur: The City could be open to costly litigation, and/or internet services and local telephone service would not be offered on the cable system. The loss of internet services and local telephone services from TCI/AT&T would also be a loss of competition for citizens in the City, as US West is the only current provider of such services..

Respectfully submitted,

William M. Christopher
City Manager

Attachment

RESOLUTION

RESOLUTION NO. _____

INTRODUCED BY COUNCILLORS

SERIES OF 1999

OPEN CABLE SYSTEM REQUEST TO TCI/AT&T

WHEREAS, TCI/AT&T has a franchise to operate a cable system within the City of Westminster, and

WHEREAS, TCI/AT&T is building an expanded cable television system, which will offer expanded services, including high speed cable internet services; and

WHEREAS, the City of Westminster is desirous of an open cable system, that allows for competition, consumer choice and information diversity; and

NOW, THEREFORE, the Westminster City Council hereby resolves that TCI/AT&T open the cable system and allow competition and, the City of Westminster Staff work with the Federal Communication Commission for a requirement of open cable systems on a national basis.

Passed and adopted this 25th day of January, 1999

ATTEST

Mayor

City Clerk

Date: January 25, 1999

Subject: Resolution No. Reappointments to Boards and Commissions

Prepared by: Michele Kelley, City Clerk

Introduction

City Council action is requested to consider the first set of reappointments to the various Boards and Commissions where terms of office expired on December 31, 1998.

Summary

In 1993, Council implemented a performance feedback system in conjunction with the consideration of reappointment of individual Board and Commission members when terms of office were to expire. The Chairperson and Vice Chair of each Board were requested to give performance feedback to Council. This information has previously been submitted to City Council. Beginning in 1994, Council has considered the various reappointments over several Council meeting periods. This set of reappointments is the first group and Council will be considering the rest of the reappointments at the February 8th Council meeting.

At this time, Council is considering reappointments to the Human Services Board, Library Board, Open Space Advisory Board, Parks and Recreation Advisory Board, Personnel Board and Planning Commission.

Each individual whose term expired December, 1998 was contacted and asked if they were interested in being reappointed to the Board, if Council so desires. The reappointments are for a two year term.

Staff Recommendation

Adopt Resolution No. making reappointments to the Human Services Board, Library Board, Open Space Advisory Board, Parks and Recreation Advisory Board, Personnel Board and Planning Commission with all terms to expire on December 31, 2000.

Background Information

The terms of office of three members of the Human Services Board expired on December 31, 1998. Ariane Kirby and Ed Thwaites have indicated that they are interested in being reappointed to the Board. Carmen Carrillo does not wish to be reappointed.

The terms of office of four of the Library Boardmember terms expired on December 31, 1998. Catherine Payne and Bette Tellier have indicated that they are interested in being reappointed to the Board. Tommie Ann Gard and Dori Walter do not wish to be reappointed.

The terms of office of four of the Open Space Advisory Board members terms expired on December 31, 1998. Bob Briggs, Charles Jacoby, Bob Tschudy and Randal Whorton has all indicated that they are interested in being reappointed to the Board.

Resolution re Board and Commission Reappointments

Page 2

The terms of office of four of the Parks and Recreation Advisory Board members expired on December 31, 1998. Ron Dickerson, Jane Kober and John Polston have indicated that they are interested in being reappointed. Vicki Atkins does not wish to be reappointed.

The terms of office of three of the members of the Personnel Board expired on December 31, 1998. Janeen Branvold, Margaret Rivera and Betty Whorton are all interested in being reappointed.

The terms of office of four of the members of the Planning Commission expired on December 31, 1998. Martha Brundage, Michael Crocker and Jerry English are all interested in being reappointed. Hugh Frazier does not wish to be reappointed.

Currently the City has 15 citizens within the 1999 "pool" to fill vacancies on the various Boards and Commissions. It is recommended that Council take action on these reappointments and take separate action on new appointments to these Boards only at this time. Council will be conducting the last set of interviews of the new applicants on Monday, January 25th prior to the Council meeting.

Respectfully submitted,

William M. Christopher
City Manager

Attachment

RESOLUTION

RESOLUTION NO.

INTRODUCED BY COUNCILLORS

SERIES OF 1999

CITY OF WESTMINSTER BOARD AND COMMISSION APPOINTMENTS

WHEREAS, The City Council has established a review process for members of the various Boards and Commissions prior to expiration of the current term of office; and

WHEREAS, City Council has reviewed evaluations of the current Board and Commission members for the Human Services Board, Library Board, Open Space Advisory Board, Parks and Recreation Advisory Board, Personnel Board and Planning Commission; and

WHEREAS, Each member whose term expired on December 31, 1998 has been contacted and asked if they wish to be reappointed to the Board where they are currently serving; and

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

NOW THEREFORE, be it resolved that the City Council of the City of Westminster does hereby reappoint the following individuals to the City of Westminster Board or Commission listed below with the terms of office to expire December 31, 2000.

NAME	BOARD/COMMISSION
Ariane Kirby	Human Services Board
Ed Thwaites	Human Services Board
Catherine Payne	Library Board
Bette Tellier	Library Board
Bob Briggs	Open Space Advisory Board
Charles Jacoby	Open Space Advisory Board
Bob Tschudy	Open Space Advisory Board
Randal Whorton	Open Space Advisory Board
Ronald Dickerson	Parks and Recreation Advisory Board
Jane Kober	Parks and Recreation Advisory Board
John Polston	Parks and Recreation Advisory Board
Janeen Branvold	Personnel Board
Margaret Rivera	Personnel Board
Betty Whorton	Personnel Board
Martha Brundage	Planning Commission
Michael Crocker	Planning Commission
Jerry English	Planning Commission

Passed and adopted this 25th day of January, 1999.

ATTEST:

Mayor

City Clerk

Date: January 25, 1999
Subject: Resolution No. New Board and Commission Appointments
Prepared by: Michele Kelley, City Clerk

Introduction

City Council action is requested to make new appointments to various City Boards and Commissions where vacancies currently exist.

Summary

At the January 25th Council Meeting, City Council will be making reappointments to half of the Boards and Commissions, where terms of office expired on December 31, 1998. As part of this process, there were some Board and Commission members who did not wish to be reappointed. In addition, several resignations have been accepted by City Council, and Council determined that a new appointment would not be made until all the new applicants for the 1999 "Pool" had been interviewed.

At the premeeting on January 25th, City Council will complete the interviews with the ten 1999 applicants for the new cycle of the Boards and Commissions Pool. In addition, there are 5 applicants who wish to be considered from the 1998 "pool". A copy of the matrix of each individual's preference on appointments is attached.

Staff Recommendation

Adopt Resolution No. making appointments to the various Boards and Commissions.

Background Information

A single Resolution has been prepared to consider the following current vacancies: Carmen Carrillo of the Human Services Board, Tommie Ann Gard and Dori Walter of the Library Board, Vicki Atkins of the Parks and Recreation Advisory Board, B. David Smith (Alternate) on the Personnel Board, and Hugh Frazier of the Planning Commission.

Respectfully submitted,

William M. Christopher
City Manager

Attachments

RESOLUTION

RESOLUTION NO.

INTRODUCED BY COUNCILLORS

SERIES OF 1999

CITY OF WESTMINSTER BOARD AND COMMISSION APPOINTMENTS

WHEREAS, Currently there are several vacancies on various Boards and Commissions; and

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

WHEREAS, Resignations have been received from Carmen Carrillo of the Human Services Board, Tommie Ann Gard and Dori Walter of the Library Board, Vicki Atkins of the Parks and Recreation Advisory Board, and Hugh Frazier of the Planning Commission.

NOW THEREFORE, be it resolved that the City Council of the City of Westminster does hereby appoint the following individuals to the City of Westminster Boards and Commissions as listed below with the terms of office to expire as stated.

<u>NAME</u>	<u>BOARD/COMMISSION</u>	<u>TERM EXPIRE</u>
	Human Services Board	12-31-00
Ted Fleagle	Library Board	12-31-00
(Moved from Alternate to Regular Member)	Library Board	12-31-99
(Alternate Member)	Library Board	12-31-99
Armene Brown	Parks and Recreation Advisory Board	12-31-00
(Moved from Alternate to Regular Member)	Parks and Recreation Advisory Board	12-31-99
(Alternate Member)	Personnel Board	12-31-99
(Alternate Member)	Planning Commission	12-31-00
Greg Lockridge	Planning Commission	12-31-99
(Moved from Alternate to Regular Member)		
(Alternate Member)		

Passed and adopted this 25th day of January, 1999.

ATTEST:

Mayor

City Clerk

1999 BOARD AND COMMISSION POOL

County	Name	Bldg Codes	BOA	Elect	Enviro Board	Human Svcs	Library	Open Space	P&R	Personnel Board	Plan Comm	Spec &LB	Permit Trans
	Adams Christopher Beal		2							3		1	
	Adams Jerry Cunningham			3	X			1	X	X	2		X
	Adams * Marilyn Flachman						1		2				
	Adams F.Keith Leach	3			X						1	X	2
	JeffCo BK Loren				2			1					
	Adams * Gary Lovato							2	1				3
	Adams * Martin McCabe	1						3				2	
	JeffCo John Nelson				3			1			2		
	Adams * Rance Nethken							1		2	3		4
	Adams Paul Nilles							1					
	JeffCo Jean Pruitt					1							
	JeffCo * Dennis Stark			1		3		2					
	JeffCo Wesley Underwood				3				X	1		2	
	JeffCo William Wierzbicki				1					2			
	JeffCo John Douglas Young										1	3	2

* Indicates carryover from 1998 Pool

Date: January 25, 1999

Subject: TABLED – Intergovernmental Agreement with City of Arvada

Prepared by: Bill Christopher, City Manager

Introduction

Staff is recommending that the Intergovernmental Agreement between the City of Westminster and City of Arvada remain tabled at this time.

Summary

City Council previously considered the Intergovernmental Agreement with the City of Arvada at its meeting on January 11 and tabled the agreement based on the recommendation of the City Manager. The reason for the tabling action was that the water quality section of the agreement had not been finalized between the two city staffs.

The final language for the water quality section of the agreement still has not been finalized. Westminster staff had submitted suggested language previously and Arvada staff is still evaluating the language. Accordingly, city staff recommends keeping the Intergovernmental Agreement on the table for the time being.

Staff Recommendation

Keep the Intergovernmental Agreement with the City of Arvada tabled at this time due to the lack of completing the water quality section of the agreement.

Background Information

The cities of Westminster and Arvada staffs have produced a recommended Intergovernmental Agreement on several contemporary issues with the most significant one pertaining to a segment of the Northwest Parkway. The details of the agreement were outlined in the January 11 City Council agenda which is attached for reference.

The water quality component of the Intergovernmental Agreement has still not been finalized and it is staff's recommendation to keep the Intergovernmental Agreement tabled until such time as the water quality component is ready for both City Councils to consider.

Respectfully submitted,

William M. Christopher
City Manager

Attachment

Date: January 25, 1999

Subject: Intergovernmental Agreement with City of Broomfield

Prepared by: Bill Christopher, City Manager

Introduction

City Council action is requested on an intergovernmental agreement (IGA) with the City of Broomfield pertaining to certain land located south of 120th Avenue and west of Sheridan Boulevard. In particular, the agreement focuses on the Kohl Department Store development site.

Summary

An IGA has been negotiated between the Cities of Westminster and Broomfield regarding cooperation on the southwest corner of Sheridan Boulevard and 120th Avenue. The agreement focuses on the Kohl Department Store site, which is in Westminster and is currently under construction. The agreement provides for certain ingress/egress movements from 120th Avenue involving the development site as well as resolving a storm drainage issue which impacts the site caused by upstream drainage flow from property in Broomfield.

The IGA calls for a revenue sharing formula involving sales tax and property tax revenues and would pertain to property both in Westminster and Broomfield.

Staff Recommendation

Approve the intergovernmental agreement between the City of Broomfield and the City of Westminster pertaining to cooperation involving land located at the southwest corner of 120th Avenue and Sheridan Boulevard and authorize the appropriate City officials to sign the agreement.

Background

The property known as the “Docheff property” located at the southwest corner of 120th Avenue and Sheridan Boulevard in Westminster has been a commercial site that previously has had unsuccessful attempts to accomplish retail development. The Kohl Department Store is the third developer to pursue retail development of the site and has encountered difficulties with the City of Broomfield pertaining to critical access off 120th Avenue into their site as well as a storm drainage issue which is causing an inequitable amount of public improvements cost due to the storm drainage flow from Broomfield being in excess of the historic rate. Both Kohl Department Store and the City of Westminster have been desirous of resolving the differences with the City of Broomfield for several months. The subject 120th Avenue CDOT highway right-of-way is within the City boundaries of Broomfield and their City has jurisdiction over the subject drainage issue.

Staff and the City Attorneys from the two respective cities have pursued discussions back and forth for several months in an attempt to resolve these issues. This past fall, the exploratory discussions included not only the Kohl Department Store situation but also the Foster property located at 136th Avenue between I-25 and Huron Street. Satisfactory terms involving both the Kohl Department Store and the Foster property were not achieved, but the two parties agreed to focus only on the Kohl site.

Accordingly, the attached Intergovernmental Agreement has finally been produced. It has the review and support of Broomfield's City Manager and City Attorney as well as Westminster's counterparts and Director of Community Development John Carpenter.

The key provisions of the contract are as follows:

- Broomfield agrees to approve a right in/right out turning movement on the south side of 120th Avenue for eastbound traffic that desires to turn into the Kohl property and approve an access to the frontage road on the south side of 120th Avenue, west of Sheridan Boulevard.
- Kohl Department Store agrees to pay the full cost of the street improvements necessary for the turning movement and frontage road access. All such improvements shall conform to the City of Broomfield standards and specifications. The Kohl Department Store shall enter into a development agreement with the City of Broomfield for the construction of the access to the Kohl property.
- The Cities of Westminster and Broomfield agree to cooperate with the Urban Drainage and Flood Control District in the preparation of a master plan for the "Broomfield City Park" drainage basin. The master plan shall assess the adequacy of existing drainage facilities and set forth the ratio of benefit of any such additional drainage for the parties. If the master plan recommends drainage facilities that will benefit both parties, the two cities shall submit a joint application to the District for funding to engineer and construct such drainage facilities. The parties agree to share the local match funds and proportion to the benefit to each party from the construction of such drainage facilities i.e., if development in Broomfield is generating 65% of the flow and Westminster is generating 35% of the flow, the same ratio would be used as far as allocating costs for the local funding.
- The two cities agree that they will use their best efforts to diligently develop, finance and implement the drainage improvements recommended in the subject master plan to resolve storm drainage problems within the basin as it flows along 120th Avenue to Sheridan Boulevard.
- The two cities agree to share all sales tax and property tax revenues that each party collects within the revenue sharing area as described on Exhibit C. Basically this encompasses the Kohl site as well as property in Broomfield located south of 120th Avenue for a specified distance to the west. The revenue sharing will be on a 75/25% basis with the City in which the revenue is being generated retaining 75% of such tax revenue.
- The agreement recognizes business incentive agreements, which either have been or could be entered into by either City within the subject revenue sharing area. All such revenues that would be diverted by either City to satisfy the obligations of a business incentive agreement shall be exempt from the revenue sharing provisions of the agreement until such City has been discharged from the financial obligations of the business incentive agreement which are paid by sales tax or property taxes or both. Once the obligation is paid off, the sales tax or property tax or both shall be included in subsequent revenue sharing disbursements.
- Within 90 days of the approval of this IGA, the respective City Managers of the two cities shall by memorandum of agreement provide for the administration of the collection, distribution, auditing and other accounting provisions for the revenues to be shared under the IGA.

Kohl Department Store representatives are most anxious to have the two respective cities approve the subject IGA. They are supportive of the provisions and find the agreement to be most helpful in resolving the above described development situations. Kohl Department Store intends to open five stores in the greater Denver metropolitan area on the same day later this year. It is important that Kohl be able to move forward in a timely fashion on the site improvements to assure a timely opening of the Westminster department store.

Respectfully submitted,

William M. Christopher
City Manager

Attachment

Date: January 25, 1999

Subject: Federal Heights Wholesale Water Contract Amendment

Prepared by: Mary Ann W. Parrot, Finance Director

Introduction

At the City Council Study Session of January 19, 1999, City Council and Staff discussed the results of negotiations between Federal Heights and the City of Westminster resolving the water rate for 1999 (January 1 through December 31). Council directed Staff to place on the agenda for January 25, 1999, the recommended amendment to the wholesale water contract with Federal Heights, and confirmed the Staff recommendation for a rate of \$2.11 Per Thousand Gallons (PTG).

Summary

City Council action is requested to approve the "1999 Amendment to the 'Amended and Restated Distributor's Contract' " with Federal Heights, which has been revised since Council's previous action on May 18, 1998.

Staff and attorneys from both jurisdictions are recommending a rate for the calendar year 1999. Following this revision, the two staffs will meet in 1999 to review a wholesale rate tied to the City's residential rate.

Staff Recommendation

Approve the amendment to the contract with Federal Heights, confirming the rate for January 1, 1999 through December 31, 1999 at \$2.11 Per Thousand Gallons, and authorize the City Manager to sign the amendment on behalf of the City.

Background Information

Over the past year, City Staff and Assistant City Attorney met with Federal Heights representatives to discuss several areas of mutual interest regarding water rates and the charges according to the contract. Both Staffs agree the contract is being executed correctly, but also understand there are sections in the contract which are more general than specific, which make the contract burdensome to administer, for both organizations. In addition, because of the formulae in the contract, Federal Heights has experienced significant fluctuations in rates from year to year which are problematic to them in setting their City water rates. They are interested in pursuing alternatives which would "smooth out" the fluctuations. Lastly, if a simplified formula could be agreed upon, Staff time would be saved, both in annual recalculations, as well as follow-up administration of the contract.

Staff also agreed to review the complicated underlying calculations of the Federal Heights contract, as the City has successfully done with the Shaw Heights District. In ensuing discussions, Federal Heights and City of Westminster Staffs and attorneys reviewed the rates and the underlying calculations. Together they reiterated the complexity of the calculations and the vague language in certain sections of the original 1969 contract. They also realized the need for allowing a method to “smooth out” the fluctuations in the annual rates, to enable Federal Heights to better predict and budget for the purchase of treated water from Westminster.

Because of these discussions, Staff reached agreement with Federal Heights, subject to approval by the two respective City Councils, on the rate of \$2.11 PTG for 1999, and to have Staff reconvene in 1999 to simplify the rate calculation formula. Given the fact that the contract is in perpetuity, such modifications would be most beneficial to both parties.

This amendment will set the January-December 1999 rate at \$2.11 PTG. The rate of \$2.11 PTG calculated for January-December 1999 is based on actual water usage and costs and reflects reinstatement of the method currently used, including charging for the Broomfield raw water purchase involving their Church Ditch rights accomplished in 1995. It is also reflective of reduced water consumption during 1997, which is a key component used in the rate computation for 1998. Reduced water consumption results in increased water rates, as costs are spread across less gallons of water.

Alternatives include remaining with the current contract; this is not recommended, as the calculation is fraught with ambiguities and is time consuming on the part of both cities.

In summary, Staff believes the rate recommended for January-December 1999 rate is fair and relies on the current methodology.

Respectfully submitted,

William M. Christopher
City Manager

Attachment

**1999 AMENDMENT
TO “AMENDED AND RESTATED DISTRIBUTOR’S CONTRACT”**

This 1999 Amendment (the “Agreement”) to Amended and Restated Distributor’s Contract between the **CITY OF WESTMINSTER, COLORADO** (“Westminster”) and the **CITY OF FEDERAL HEIGHTS, COLORADO** (“Federal Heights”) is dated January ____, 1999.

RECITALS

- A. Westminster and Federal Heights entered into a contract entitled “Distributor’s Contract” dated February 12, 1968, which provided for the sale of treated water by Westminster to Federal Heights. That contract was amended by the parties by a document entitled “Distributor’s Contract Amendment”, dated November 1, 1982.
- B. In 1985, Westminster and Federal Heights executed an “Amended and Restated Distributor’s Contract,” which contract amended, restated and superseded the 1968 Contract. The 1985 Contract was amended on December 26, 1989, by a document entitled “1989 Amendment to Amended and Restated Distributor’s Contract.”
- C. In 1992, the Contract was again amended by a document entitled “1992 Amendment to Amended and Restated Distributor’s Contract.” The Amended and Restated Distributor’s Contract as amended in 1989 and 1992 is the operative contract under which Westminster has been selling treated water to Federal Heights (the “Contract”).
- D. In October 1996, Westminster and Federal Heights began discussions for a revised contract because of difficulties in establishing a rate from year to year. Westminster and Federal Heights reached agreement for the rate to be charged from February 3, 1997, to December 31, 1997, and from January 1, 1998, to June 30, 1998, later extended to December 31, 1998.
- E. Westminster and Federal Heights have agreed that further discussions are necessary to achieve a revised contract addressing all the issues between the parties, especially a restructuring of the method of calculating the rate to be charged Federal Heights. The parties agree to continue such negotiations in good faith, and in a timely manner.
- F. Until the parties agree on more extensive changes to the contract, the parties have reached an interim agreement on a rate for the year 1999. The parties therefore agree as follows:

INTERIM AGREEMENT FOR CALENDAR YEAR 1999

1. For the period beginning January 1, 1999, and continuing until December 31, 1999, the rate shall be \$2.11 PTG.
2. The parties agree to continue negotiation in good faith for the rate for the period beginning January 1, 2000.
3. The parties agree to continue negotiations in good faith to reach agreement on the method of calculating the rate and related issues, to be incorporated in an amendment or restatement of the Contract.
4. This Agreement supersedes and replaces the method of rate calculation for the base rate contained in section 1.B. of this Contract.
5. Federal Heights hereby waives the requirement of notice from Westminster for the rate to become effective on January 1, 1999.
6. All other provisions of the Contract shall remain in full force and effect.
7. This Agreement shall be valid until December 31, 1999.

CITY OF WESTMINSTER

CITY OF FEDERAL HEIGHTS

Nancy M. Heil
Mayor

Mayor

Attest:

City Clerk

City Clerk

Approved as to form:

Approved as to form:

City Attorney

City Attorney

Date: January 25, 1999

Subject: Councillor's Bill No. re Westmoor Supplemental Appropriation

Prepared by: Tammy Hitchens, Accounting Manager

Introduction

City Council action is required to pass the attached Councillor's Bill on first reading amending the 1999 budget appropriation in the General Capital Improvement Fund and the General Fund. These changes are due to the City receiving \$1,000,000 from the Westmoor Metropolitan Special District.

Summary

The City entered into an agreement with Westfield Development Company, Inc. on July 28, 1997 with respect to the development of the property commonly known as Westmoor Business Park. That agreement was subsequently amended on April 13, 1998. The agreement called for the Developer to reimburse the City \$1,000,000 from the proceeds of bonds issued by the Westmoor Metropolitan Special District. The bonds have been issued and the City has received the \$1,000,000. In the Second amendment to the Developer Agreement, the City borrowed \$757,000 from Westfield Development Company at a rate equal to the Developer's cost of funds and \$243,000 from the General Fund Contingency. \$507,000 of the \$757,000 was budgeted for and will be paid in accordance with the agreement. Staff recommends paying both the remaining \$250,000 (plus interest from January 31, 1999) due Westfield Development Company, Inc. and the \$243,000 borrowed from the General Fund. This will leave approximately \$507,000 to be appropriated at a later date. The following schedule summarizes the borrowing and repayment transactions prior to the recommended repayment.

	Westfield Development	General Fund	Total
Amount Borrowed	\$757,000	\$243,000	\$1,000,000
Principal Repaid 1-31-99	<u>(507,000)</u>	<u>-0-</u>	<u>(507,000)</u>
Balance Due @ 1-31-99	\$250,000	\$243,000	\$493,000

Staff recommends paying the \$493,000, leaving excess funds on hand of \$507,000 to be appropriated at a later date.

Payment from Westmoor Metropolitan Special District	\$1,000,000
Recommended Repayment	<u>493,000</u>
Balance to be appropriated at a later date	\$507,000

Alternative 1 - Appropriate only \$250,000 and payoff only the Westfield Development outstanding balance. This alternative is not recommended because it does not pay back the General Fund. The payback was specifically outlined in Council Action on May 18, 1998 when the money was originally borrowed.

Alternative 2 - Appropriate only \$243,000 and payoff only the General Fund. This alternative is not recommended because the City will incur additional interest expense at a rate greater than can be earned on the money.

Alternative 3 – Appropriate nothing and wait until another use of the \$1,000,000 is identified. This alternative is not recommended because another use has not been identified, the obligations are still outstanding and the City will incur additional interest costs.

Staff Recommendation

Pass Councillor's Bill No. _____ on first reading providing for a supplemental appropriation to the 1999 General Capital Improvement Fund.

Background

The City entered into an agreement with Westfield Development Company, Inc. on July 28, 1997 with respect to the development of the property commonly known as Westmoor Business Park. That agreement was subsequently amended on April 13, 1998.

The original agreement obligated the City to reimburse Westfield Development Company, Inc. for the construction of the spine road and spine road improvements. The total to be reimbursed over the construction period was \$1,764,000. The 1998 budget recognized these required expenditures and identified sources to make the reimbursement to Westfield. One identified source was \$1,000,000 from the proceeds of bonds issued by the Westmoor Metropolitan Special District.

The timing of the formation of the District and the issuance of the bonds did not correspond with the required payments. The City entered into an amendment to the original agreement where the City borrowed \$757,000 from Westfield Development Company at a rate equal to the Developer's cost of funds and \$243,000 from the reserve fund.

The bonds have now been issued and the City has received the \$1,000,000. \$507,000 of the \$757,000 was budgeted for in 1999 and will be paid in accordance with the amended agreement. Staff is recommending the remaining \$250,000 (plus interest from January 31, 1999 and scheduled to be paid back on January 31, 2000) due Westfield Development Company, Inc. be paid off as well as the reserve fund. This will save the City from paying the additional interest of approximately \$22,000 on the \$250,000. This will leave approximately \$500,000 to be appropriated at a later date.

Respectfully submitted,

William M. Christopher
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO.

COUNCILOR'S BILL NO. _____

SERIES OF 1999

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AUTHORIZING A SUPPLEMENTAL APPROPRIATION TO INCREASE THE 1999 BUDGET OF THE GENERAL CAPITAL IMPROVEMENT FUND AND THE GENERAL FUND.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 1999 appropriation for the General Capital Improvement Fund, initially appropriated by Ordinance No. 2654 in the amount of \$14,159,000 is hereby increased by \$493,000 which, when added to the fund balance as of the City Council action on February 8, 1999 will equal \$14,652,000. 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 receipt of \$1,000,000 from Westmoor Metropolitan Special District pursuant to a developer agreement approved in 1997.

Section 2. The \$493,000 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			
Contributions 75-1108-000	\$0.	<u>\$493,000</u>	\$493,000.
Total Change to Revenues		<u>\$493,000</u>	
EXPENSES			
Project 229	\$820,000	\$250,000	\$1,070,000
Transfer to General Fund 75-10-95-990-910	0	<u>243,000</u>	243,000
Total Change to Expenditures		<u>\$493,000</u>	

Section 3. The 1999 appropriation for the General Fund, initially appropriated by Ordinance No. 2654 in the amount of \$53,471,414 is hereby increased by \$243,000 which, when added to the fund balance as of the City Council action on February 8, 1999 will equal \$53,862,414. The actual amount in the General 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 repayment of money borrowed by the General Capital Improvement Fund in 1998.

Section 4. The \$243,000 increase in the General Fund shall be allocated to City Revenue and Expense accounts, which shall be amended as follows:

Description	Current Budget	\$ Increase	Final Budget
REVENUES			
Transfer from General Capital Improvement Fund 10-9999-750	\$0.	<u>\$243,000</u>	\$243,000.
Total Change to Revenues		<u>\$243,000</u>	
EXPENSES			
Contingency 10-10-90-999-000	\$1,200,000	<u>\$243,000</u>	\$1,443,000
Total Change to Expenditures		<u>\$243,000</u>	

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

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 25th day of January, 1999.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this ____ day of February , 1999.

ATTEST:

Mayor

City Clerk

Date: January 25, 1999

Subject: Resolution No. re Retention of I-25 as a Designated State of Colorado Hazardous Material Route

Prepared By: Mary Harlow, Rocky Flats Coordinator

Introduction

City Council consideration is requested to adopt the attached Resolution designating I-25 as a State hazardous material transportation route.

Summary

The Colorado State Patrol has received and accepted a petition from the Colorado Department of Transportation (CDOT) to add certain routes for the transportation of hazardous materials through Colorado and to remove certain other designated routes and junctions to these routes from the current Hazardous material routing system. Informal Public Conferences as required by statute were held by the State Patrol January 6 and 13, 1999 in order to provide the public with an opportunity to provide additional information that they feel needs to be taken under consideration when making a decision on the CDOT petition. The City of Aurora has indicated intent to block the removal of I-25 from the hazardous routing designation and has asked for support from surrounding jurisdictions. Captain Turner of the Colorado State Patrol Hazardous Material Section has indicated that the Patrol will take written public comments until January 29, 1999.

Removal of I-25 for hazardous materials transportation could result in a determination that I-25 cannot be used to move radioactive materials to the Waste Isolation Pilot Program (WIPP) site in Carlsbad, New Mexico from other states as well as from the Rocky Flats Environmental Technology Site. . The City of Aurora has indicated through legal counsel that it will use all means available to block the removal of I-25 and has asked other local jurisdictions for support. Removal of I-25 could result in the removal of I-25 as a radioactive materials transportation route through Colorado. The City of Denver supports the removal of I-25 and portions of US 6 from the hazardous materials routes.

Staff Recommendation

Adopt Resolution No. requesting the State Patrol retain I-25 and certain portions of I-70 as designated hazardous waste routes through Colorado and that certain portions of C-470 and I-76 be added as additional hazardous material transportation routes to provide alternative routing when necessary.

Background Information

The Colorado Department of Transportation petition submitted to the State Patrol for consideration requests that C-470 from its junction with I-25 to its junction with US 285, and I-76 from its junction with I-70 to its junction with I-25 be designated as hazardous materials transportation routes and remove I-70 from its junction with I-76 to its junction with I-25 and US 6 from its junction with I-70 to its junction with I-25 from the hazardous materials transportation routing system.

The petition further requests that I-25 either be maintained or removed from its junction with I-225 to its junction with I-76 and I-225 from its junction with I-25 to its junction with I-70 as hazardous materials transportation routes. Denver City Council strongly supports the removal of I-25 from the designated route. Only 10% of the hazardous materials moving through Denver are from out of state. The majority of hazardous materials moving through the city are local regional pickups and deliveries.

Also included as a petition item is a request that gasoline, diesel fuel and liquefied petroleum gas be included in and subject to the regulations of route designations for all State Highways, except for those located within a town, city, or city and county.

The City of Aurora has sent a letter notifying the Transportation Commission of Colorado that it will mobilize every resource available to it to see that the new petition by the Transportation Commission and CDOT does not force all Denver area hazardous waste materials traffic to I-225 and through Aurora

The City of Aurora has further requested either written or verbal support from all jurisdictions with concerns regarding the deletion of I-25 (within Denver) from the designated Hazardous Materials Routes.

I-25 is the designated route for shipments of radioactive (transuranic) waste from Idaho, Washington, as well as the Rocky Flats Environmental Technology Site to the Waste Isolation Pilot Program site in Carlsbad, New Mexico. Removal of I-25 as a designated hazardous material route could negatively impact radioactive waste movement through Colorado and could further result in a delay in the cleanup and closure of the Rocky Flats site.

The Westminster Fire Department, Westminster Police Department, and Public Works and Utilities Department including the Rocky Flats Coordinator have reviewed the petition proposal and have determined that:

- The proposed route changes will not directly impact the City of Westminster.
- The proposed route changes will have no impact on the City's Emergency Response Program.
- Primary routes should have alternate route designations so that in case of problems with a primary route, trucks carrying hazardous waste can be rerouted.
- Changes to the hazardous materials routes do not result in changes being proposed to the designated radioactive materials route which is I-25 for both types of materials.
- The Colorado Department of Transportation has requested removal of US6 from its junction with I-25 from the hazardous route system. Staff did not consider this proposal as this is a Jefferson County/Lakewood issue.
- The Fire, Police and Public Works and Utilities departments support moving the radioactive waste materials from Rocky Flats through the Westminster community and oppose the removal of I-25 as a designated route. Removal has the potential to jeopardize the movement of radioactive wastes through Colorado to the WIPP site in New Mexico. A "Not In My Backyard" attitude cannot be taken when the cleanup and movement of Rocky flats wastes from our communities requires shipping the wastes through other states.
- The amendment requesting that gasoline, diesel fuel and liquefied petroleum gas be included in and subject to the regulations of route designation for all State Highways except for those located within a town, city does not negatively affect Westminster. The City currently allows the trucks transporting gasoline, diesel fuel and liquefied petroleum gas to provide supplies as needed within the city.

Alternatives

The alternate to not adopting this resolution in support of highway routing would indicate to the Colorado State Patrol and Colorado Department of Transportation that the City of Westminster has no specific concerns about the transportation routes for hazardous materials, given the high priority the City of Westminster has placed on cleanup and removal of Rocky Flats waste material. The absence of a strong and clearly worded position resolution, as recommended and attached, would certainly weaken the City of Westminster's long-standing efforts to accommodate Rocky Flats cleanup with efficient highway access for the transportation of waste material off site and out of state. An alternative to communicating the City of Westminster's position on Rocky Flats cleanup and waste hauling could be a letter as opposed to a resolution; however a resolution carries a more formal and strong statement on behalf of the City Council and City of Westminster.

The Colorado State Patrol will review the information gathered in the public conferences and make a determination on the next step which could be a public rule making hearing. Former Lt.Gov Schoettler formally requested that if the State Patrol should hold public rule making hearings on the hazardous waste routes, that hearings on changing the radioactive materials routes be held concurrently.

Respectively Submitted,

William M. Christopher
City Manager

Attachments: Resolution
Map Routes

RESOLUTION

RESOLUTION NO.

INTRODUCED BY COUNCILLORS

SERIES OF 1999

RETENTION OF I-25 AS A DESIGNATED STATE OF COLORADO HAZARDOUS MATERIAL ROUTE WITH THE ADDITION OF ALTERNATE ROUTES C-470 AND I-76

WHEREAS, the Colorado Department of Transportation has forwarded to the City of Westminster with a copy of a resolution petitioning the Colorado State patrol to designate certain routes for the transportation of hazardous materials and to remove certain designated routes from the current hazardous materials routing system; and

WHEREAS, item #1 of the petition requests route modifications for consideration with public input that include:

1. Designating C-470 from its junction with I-25 to its junction with US 285 and I-76 from its junction with I-70 to its junction with I-25 as hazardous material transportation routes, and consider removing I-70 from its junction with I-76 to its junction with I-25 and US 6 from its junction with I-70 to its junction with I-25 from the hazardous materials transportation routing system.
2. Maintaining both I-25 from its junction with I-225 to its junction with I-76 and I-225 from its junction with I-25 to its junction with I-70 as hazardous materials transportation routes.
3. Removing I-25 from its junction with I-225 to its junction with I-76 from the hazardous materials transportation routing system; and

WHEREAS, item #2 of the petition requests that gasoline, diesel fuel and liquefied petroleum gas be included in and subject to the regulations of route designation for all State Highways, except for those located within a town, city, or city and county; and

WHEREAS; the City of Westminster believes that primary routes should have alternate route designations so that in the event of problems with a primary route, trucks carrying hazardous materials can be re-routed; and

WHEREAS; I-25 is the current designated route through Colorado for shipments of wastes from the Rocky flats Environmental Technology site as well as other states to the Waste Isolation Pilot Program; and

WHEREAS; the City of Westminster supports the movement of radioactive wastes through our community in order to facilitate Rocky Flats Cleanup and minimize the long term risk to all of our communities of storing radioactive waste at Rocky Flats; and

WHEREAS; the City of Westminster currently allows trucks transporting gasoline diesel fuel and liquefied petroleum gas to provide supplies as needed within the city,

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

1. C-470 from its junction with I-25 to its junction with US 285 and I-76 from its junction with I-70 to its junction with I-25 be added as additional alternate hazardous material transportation routes,
2. I-70 from its junction with I-76 to its junction with I-25 not be removed from the hazardous route system.

3. I-25 from its junction with I-225 to its junction with I-76 and I-225 from its junction with I-25 to its junction with I-70 be retained as the primary hazardous materials transportation routes.
4. Gasoline, diesel fuel and liquefied petroleum gas be included in and subject to the regulations of route designation for all State Highways, except for those located within a town, city, or city and county.

Passes and adopted this 25th day of January, 1999

ATTEST:

City Clerk

Mayor

Date: January 25, 1999
Subject: Westminster/Children's Sensory Park
Prepared by: Kathy Piper, Landscape Architect

Introduction

City Council action is requested to pass on first reading of the attached Councilor's Bill regarding a supplemental appropriation of \$65,000, to go into the General Capital Improvement Project Fund for construction of Westminster/Children's Sensory Park. The amount of \$35,000 comes from a 1998 Great Outdoors Colorado (GOCO) grant award and \$30,000 comes from Children's Hospital contribution. City Council action is also requested to adopt the attached Resolution authorizing the City Manager to sign a contact with GOCO regarding the City's obligation of matching funds for construction of Westminster/Children's Sensory Park. The City already has \$25,000 budgeted as matching funds for construction of the Sensory Park project.

Summary

On October 2, 1998, Staff applied for a \$35,000 Local Government Park and Outdoor Recreation Grant sponsored by GOCO for Westminster/Children's Sensory Park. The City was awarded the grant in the amount of \$35,000 on December 14, 1998, for construction of the park. There were over 115 project requests for grants, totaling \$8.8 million. The GOCO Board approved approximately \$3.8 million in grants to 58 local government parks, outdoor recreation, and environmental projects. Children's Hospital will also contribute \$30,000 into this new park project, once the design phase is completed.

Westminster/Children's Sensory Park construction funding sources are summarized below.

1999 Westminster CIP	\$25,000
1999 GOCO Grant	\$35,000
Children's Hospital	<u>\$30,000</u>
Total Funding	<u>\$90,000</u>

Staff Recommendation

1. Pass Councilor's Bill No __ on first reading appropriating \$65,000 into the General Capital Improvement Fund for construction of Westminster/Children's Sensory Park project.
2. Adopt Resolution No. __ authorizing the City Manager to sign a contract with GOCO regarding the City's obligations for the Westminster/Children's Sensory Park.

Background Information

The City was approached in February 1998 by Children's Hospital, via Charles McKay from the Church Ranch Corporate Center. Children's Hospital had recently opened a new facility at the Church Ranch Corporate Center and several parents approached Mr. McKay during the open house about the need for a playground for the disabled. Mr. McKay then suggested that the City, Children's Hospital, and he participate in providing a playground located within the Walnut Creek Open Space.

Currently, the City's parks, both renovated and new, comply with all Americans with Disabilities Act requirements. However, the idea behind this park project would be to design a playground that puts the emphasis on the physically challenged children's needs.

The setting for this park is directly across from the Children's Hospital satellite facility (see map), within the Walnut Creek Open Space. This will enable Children's Hospital staff to instruct children and their parents how to use the skills they are learning in an everyday type setting. The playground will specifically be designed to provide total access throughout the play structure and to stimulate the senses of touch, sight, smell and sound. However, no one would be excluded from the use of this park facility. The park will also service surrounding neighborhoods, as well as trail users.

Presently, Staff is working on the details of the park design and coordinating the different entities that are involved with this park project. The construction of the park will begin in late fall 1999 into spring, with completion by the end May 2000.

Respectfully submitted,

William M. Christopher
City Manager

Attachments – Resolution, Councilor's Bill and Project area maps

RESOLUTION

RESOLUTION NO.

INTRODUCED BY COUNCILLORS

SERIES OF 1999

A resolution of the City Council of the City of Westminster defining response in The State Board of the Great Outdoors Colorado Trust Fund.

WHEREAS, the City of Westminster supports the completion of Westminster/Children's Sensory Park; and

WHEREAS, the State Board of the Great Outdoors Colorado Trust Fund awarded Westminster a grant in the amount of \$35,000 in 1999 for construction of Westminster/Children's Sensory Park subject to the execution of a grant agreement; and

NOW, THEREFORE, the Westminster City Council hereby resolves that the City Manager on behalf of the City of Westminster shall enter into an agreement with the State Board of the Great Outdoors Colorado Trust Fund on a contract for Westminster/Children's Sensory Park project, and the City of Westminster shall be responsible for providing matching funds as identified in the contract for construction of Westminster/Children's Sensory Park project. This resolution to be in full force and affect from and after its passage and adoption.

Passed and adopted this 25th day of January 1999.

ATTEST:

Mayor

City Clerk

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. _____

SERIES OF 1999

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AUTHORIZING A SUPPLEMENTAL APPROPRIATION TO INCREASE THE 1999 BUDGET OF THE GENERAL CAPITAL IMPROVEMENT FUND

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 1999 appropriation for the General Capital Improvement Fund, initially appropriated by Ordinance No 2654 in the amount of \$14,159,000 is hereby increased by \$65,000 which, when added to the fund balance as of the City Council action on January 25, 1999, will equal \$14,224,000. 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 a Great Outdoors Colorado grant and a contribution from Children's Hospital for the construction of Westminster/Children's Sensory Park.

Section 2. The \$65,000 increase in the General Capital Improvement Project Fund shall be allocated to City Revenue and Expense accounts, which shall be amended as follows:

<u>Description</u>	<u>Current Budget</u>	<u>\$ Increase</u>	<u>Final Budget</u>
REVENUES			
Intergovernmental - State			
75-0478-000	\$0.	\$35,000.	\$35,000.
Business Contributions			
75-1108-000	\$0.	<u>\$30,000.</u>	\$30,000.
Total Change to Revenues		<u>\$65,000.</u>	
EXPENSES			
Children's Sensory Park Project			
75-50-88-555-065	\$25,000.	<u>\$65,000.</u>	\$90,000.
Total Change to Expenses		<u>\$65,000.</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
PUBLISHED this 25th day of January 1999.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED
this ____ day of _____ 1999.

ATTEST:

Mayor

City Clerk

Date: January 25, 1999

Subject: Semper Water Treatment Facility Rehabilitation

Prepared by: Ron Hellbusch, Director of Public Works and Utilities
Allen Moles, Utilities Project Engineer

Introduction

City Council action is requested to authorize the City Manager to sign a Change Order to the existing contract with CH2M-HILL in the amount of \$129,432 for work related to the High Service Pump Station; authorize the City Manager to negotiate and approve a time and materials contract with Lillard and Clark Construction for the rehabilitation of the Chemical Storage Building in an amount not to exceed \$880,000; authorize the City Manager to sign a contract with Black & Veatch for continued project management related to the Semper Rehabilitation Project in an amount not to exceed \$134,200; and approve the transfer of existing funds in the amount of \$1,589,796 from the existing Water and Wastewater Capital Project Accounts to the Semper Water Treatment Facility Rehabilitation Capital Project Account.

Summary

City Council action is requested to approve the following actions related to the Semper Rehabilitation Project:

1. Authorize the City Manager to sign a Change Order to the existing contract with CH2M-HILL in the amount of \$117,432, plus a \$12,000 contingency, for a total amount of \$129,432 for the contract administration, shop drawing review, and part time inspection services of the masonry construction. This will increase the total contract value with CH2M-HILL from \$187,395 to \$316,827.
2. Authorize the City Manager to negotiate and approve a time and materials contract with Lillard and Clark Construction for the rehabilitation of the Chemical Storage Building in an amount not to exceed \$880,000.
3. Authorize the City Manager to sign a contract with Black & Veatch for continued project management for an amount not to exceed \$122,000 plus a contingency of \$12,200 for a total of \$134,200.
4. Authorize the transfer of existing funds in the amount of \$1,589,796 from existing Water and Wastewater Capital Project Accounts to the Semper Water Treatment Facility Rehabilitation Capital Project Account.

Alternatives

Alternatives to approving the recommended actions include waiting until litigation and appeals are completed and the Courts have determined the funds that will be available to the City for rehabilitation. Another alternative is to bid out all of this work rather than negotiating time and material contracts. Bidding all work would require delaying the rehabilitation until this fall since this work cannot be performed during the summer. Increased summer demands require that the pump station and chemical building are fully operational during the summer high demand period. Delaying the work until the fall also fails to address worker health and safety concerns.

Waiting until the litigation and appeals are complete would result in delaying rehabilitation until next year at the earliest. This also would fail address worker health and safety concerns.

Staff Recommendation

Authorize the City Manager to sign a Change Order with CH2M-HILL in the amount of \$117,432, plus \$12,000 contingency for a total of \$129,432 for the contract administration, shop drawing review, and part time inspection services for the masonry construction related to the high service pump station. Charge the expense to the Semper Water Treatment Facility Rehabilitation Capital Improvement Project Account; Authorize the City Manager to negotiate and approve a time and materials contract with Lillard and Clark Construction for the rehabilitation of the Chemical Storage Building in an amount not to exceed \$880,000; Authorize the City Manager to sign a contract with Black & Veatch for continued project management in an amount not to exceed \$122,000 plus a contingency of \$12,200 for a total of \$134,200; and Authorize the transfer of existing funds in the amount of \$1,589,796 from existing Water and Wastewater Capital Project Accounts to the Semper Water Treatment Facility Rehabilitation Capital Project Account.

Background Information

The High Service Pump Station and Chemical Building are critical facilities used for treating and pumping water from the Semper Water Treatment Facility to the distribution system. Without these facilities in service, the City will not be able to provide enough water to meet the summer demands of the distribution system. Evaluation of these facilities by staff and special consultants has revealed a number of problems related to both design and construction. Due to a concern for worker safety, temporary measures were taken to eliminate known dangers. Authorization of these contracts will allow for the rehabilitation of these facilities to eliminate design and construction defects.

Funding for the costs associated with consultants, rehabilitation of the High Service Pump Station and Chemical Storage building and additional legal fees are available from the following sources:

Waterline and Sewerline Projects that were completed by the in-house construction or eliminated in the Treated Water Master Plan as a result of construction of the replacement Countryside Pump Station or by land use decisions made in the Comprehensive Plan. Additional funds that might be required for these two efforts will be taken from the Little Dry Creek Interceptor CIP. A total of \$1,589,796 is available from these CIP accounts. In lieu of the interceptor project, a phased Infiltration/Inflow maintenance program must be performed. Funds will be budgeted in the Utilities Operations Budget in future years for the Little Dry Creek Interceptor Infiltration/Inflow maintenance program. The attached table shows the amounts to be transferred from each CIP.

Respectfully submitted,

William M. Christopher
City Manager

Attachment:

PROJECT TITLE	ORIGINAL BUDGETED AMOUNT	TOTAL REMAINING FUNDS TO BE UTILIZED FOR SEMPER REHABILITATION	REASON THAT FUNDS CAN BE TRANSFERRED
Little Dry Creek Interceptor Phase I,II,III (21-35-88-555-082)	\$1,277,938	\$677,938	In lieu of Interceptor construction, a phased I/I and maintenance program must be performed. Funds will be budgeted in Utilities Operations Budget
90th/Yukon to Carr Street Water Line (20-35-88-555-195)	\$207,000	\$32,000	Project Funds were allocated to Meter Retrofit Program. Remaining funds are insufficient to initiate this project. This project will be incorporated into long-range Zone 4 improvements
104th/Wadsworth to Countryside Tank Water Line (20-35-88-555-193)	\$743,000	\$151,213	Need for this Project was eliminated by relocation of Countryside Pump Station
Install Big Dry Creek Interceptor Phase III (21-35-88-555-336)	\$2,646,645	\$646,645	Due to Comprehensive Plan, the need for additional phases of the interceptor was eliminated.
74th Avenue/Lowell to Irving Water Line (20-35-88-555-214)	\$82,000	\$82,000	This project was constructed with the in-house construction crew.
TOTAL TO BE TRANSFERRED TO SEMPER REHABILITATION CIP		\$1,589,796	

Date: January 25, 1999
Subject: Financial Report for December 1998
Prepared by: Mary Ann Parrot, Finance Director

Introduction

City Council is requested to review the attached financial statements which reflect 1998 transactions through December, 1998. The actual YTD figures for 1997 reflect all audit adjustments. Audit adjustments for 1998 still need to be made.

Summary

There are three sections to the attached report:

1. Revenue Summary
2. Statement of Expenditures vs. Appropriations
3. Sales Tax Detail

General Fund revenues represent 101% of the total budget estimate while General Fund expenditures and encumbrances represent 93% of the 1998 appropriation.

Utility Fund revenues represent 111% of the total budget estimate. Utility fund expenditures and encumbrances represent 90% of the 1998 appropriation.

The Sales and Use Tax Fund revenues represent 111% of the total budget estimate, while expenditures and encumbrances in that fund represent 100% of the 1998 appropriation. Audit and enforcement revenues are 239% more than the budgeted amount. Total Sales and Use Tax revenues for the 25 shopping centers reported increased 11% from the same period last year and increased 16% year-to-date.

The Open Space Fund revenues represent 127% of the total budget estimate while expenditures and encumbrances in that fund represent 91% of the 1998 appropriation. The Open Space Fund has also benefited from audit and enforcement activity.

The Legacy Ridge Golf Course Fund operating revenues represent 99% of the total budget estimate while operating expenditures and encumbrances represent 97% of the 1998 appropriation. There are no operating expenses for the Heritage as all expenses being incurred by the Fund are related to the construction of the golf course.

Staff Recommendation

Accept the report as presented.

Background

Section 9.6 of the City Charter requires that the City Manager provide, at least quarterly, financial data showing the relationship between the estimated and actual revenue expenditures to date.

Respectfully submitted,

William M. Christopher
City Manager

Attachments

Date: January 25, 1999
Subject: Quarterly Insurance Report
Prepared By: Nancy Winter, Risk Management Specialist

Introduction

The following is a list of third party claims filed with the City from October 1, 1998 through December 31, 1998. No Council action is required at this time.

Summary

The information provided on each claim includes the claim number, date of loss, claimant's name and address, and a brief summary of the claim and the claim's status. Since all claims represent a potential liability to the City, Risk Management Staff works closely with the City Attorney's Office to make sure that the interests of both the City and the citizen are addressed in each instance. All of the claims listed in this report are in compliance with City Ordinance No. 1411 of 1984.

Staff Recommendation

Staff is not recommending any action at this time.

Background Information

The Risk Management Division received the following claims during the fourth quarter of 1998:

1. WS16688032 Date of Loss: August 10, 1997. All Star Secretarial, 7145 Lowell Boulevard, Westminster, CO 80030. Claimant alleges the City is responsible for damage to claimant's basement resulting from a water break caused by one of the City's contractors. CIRSA denied the claim and directed the claimant to seek relief from the contractor responsible for the damage.
2. WS12498033 Date of Loss: September 17, 1998. Jennifer Young, 9330 Estes Lane, Westminster, CO 80021. Claimant alleges the City is responsible for medical bills claimant incurred as a result of a trip and fall accident at Oakhurst Park. CIRSA denied the claim based on lack of notice to the City of any problems or unsafe conditions at the park.
3. WS10348034 Date of Loss: July 2, 1998. Nanchanh Sayavong, c/o State Farm Insurance, 3001 8th Avenue, Greeley, CO 80638. Claimant alleges the City is responsible for damage to his vehicle caused when a police officer in a patrol car hit claimant's vehicle during pursuit of a suspect. CIRSA denied the claim based on the Governmental Immunity Act.
4. WS16688035 Date of Loss: September 24, 1998. Gary Bell, 11209 Quivas Loop, Westminster, CO 80234. Claimant alleges that the cost to repair damage to a valve in his sprinkler system is the City's responsibility. CIRSA settled the claim for \$263.

5. WS10348036 Date of Loss: October 8, 1998. Steve Kurtright, 2800 West 116th Place, Westminster, CO 80234. Claimant alleges an officer in a patrol car backed into claimant's vehicle and damaged it. CIRSA settled the claim for \$1,283.
6. WS10358037 Date of Loss: November, 1995. Stephen Smith, DOC #91030, Limon Correctional Facility, P.O. Box 10,000, Limon, CO 80826. Claimant alleges Westminster police officers violated his rights by "illegally" searching his home and interrogating him without an attorney present. Claimant seeks \$100,000 in damages, as well as criminal charges against the individual police officers named. CIRSA is investigating the claim.
7. WS16688038 Date of Loss: July 30, 1998. Serafin Sanchez, 11322 West 105th Place, Westminster, CO 80030. Claimant alleges the City is responsible for the additional water bill claimant incurred when a change in water pressure caused a leak in his home. CIRSA settled the claim for \$305.
8. WS16687939 Date of Loss: October, 1998. Jeff and Tammy Galloway, 4790 West 102nd Avenue, Westminster, CO 80030. Claimants allege the City is responsible for damage done to their lawn when a sewer contractor claimants hired to do work had to dig up several areas of the lawn to find the main sewer connect. Claimants initially requested that City Utilities crews identify where the claimants' service connected to the main sewer line, and Utilities crews made claimants aware that the City does not provide this service. CIRSA denied the claim based on the City's lack of responsibility. Location of sewer service connects is not a function of City employees; the employees were taking a customer service stance in suggesting a possible location for the service connect.
9. WS06248040 Date of Loss: November 23, 1998. David Mock, 9101 Federal Boulevard, #202, Denver, CO 80221. Claimant alleges the City is responsible for damage to claimant's vehicle and for medical bills claimant incurred as a result of an automobile collision with an employee driving a Fleet Division vehicle. Claimant seeks approximately \$8,000 in the cost of car replacement, rental car fees, and medical bills. CIRSA will settle the claim for approximately \$8000.
10. WS16688041-A Date of Loss: December 2, 1998. Mr. and Mrs. Kent Wells, 1276 West 113th Circle, Westminster, CO 80234. Claimants allege the City is responsible for flooding damage in their basement caused when City crews opened a high-pressure valve by mistake. CIRSA will settle the claim for approximately \$1,300.
11. WS16688041-B Date of Loss: December 2, 1998. Michael Platt, 1595 West 148th Avenue, Westminster, CO 80020. Claimant alleges the City is responsible for plumbing damage caused when high pressure surged through their water lines as a result of work done by City crews. CIRSA will settle the claim for approximately \$605.
12. WS14628042 Date of Loss: November 25, 1998. Mindy Siders, 4741 West 109th Avenue, Westminster, CO 80030. Claimant alleges a City employee in a Streets Division vehicle backed into claimant's car, causing damage to the car. Claimant seeks \$1,720 in repair costs. CIRSA is investigating the claim.
13. WS12498043 Date of Loss: June 17, 1998. Karen Hoehner, 6087 West 84th Avenue, Arvada, CO 80003. Claimant alleges the City is responsible for medical bills incurred as a result of an automobile collision with an employee driving a Parks Division truck. Claimant seeks an unspecified amount in damages. CIRSA is investigating the claim.

14. WS10368044 Date of Loss: December 29, 1998. Vincent Seta, 8330 Zuni Street, #11B, Denver, CO 80221. Claimant alleges that the City is responsible for damage caused when a police officer in a patrol car call hit claimant's vehicle. The officer was responding to a routine call and he was not operating his vehicle's emergency equipment at the time of the collision. Claimant seeks approximately \$7,700 for damage to his vehicle, as well as the cost of a rental car. CIRSA is investigating the claim.

Respectfully submitted,

William Christopher,
City Manager

CITY OF WESTMINSTER, COLORADO

CERTIFICATE OF APPRECIATION

TO

SIMMONS BUNTIN

IN RECOGNITION OF YOUR TIME AND DEDICATION,

HAVING SERVED ON THE PLANNING COMMISSION

FROM FEBRUARY 9, 1998 TO OCTOBER 26, 1998.

PRESENTED BY THE WESTMINSTER CITY COUNCIL

THIS 25TH DAY OF JANUARY, 1999.

Nancy M. Heil, Mayor

Summary of Proceedings

Summary of Proceedings of the regular City Council meeting held Monday, January 25, 1999.

Present at roll call were Mayor Heil, Mayor Pro Tem Merkel and Councillors Atchison, Dixon, Scott and Smith. Absent was Councillor Allen.

The minutes of the meeting of, January 11, 1999 were approved with no additions or corrections.

The Mayor presented a Certificate of Appreciation to Simmons Bunting for his dedicated service on the Planning Commission.

Council Tabled action on Resolution No. 2, Boards & Commissions reappointments; Resolution No. 3, Boards & Commissions appointments; and the Intergovernmental Agreements with the Cities of Arvada and Broomfield.

Council approved the following: Property and Liability Excess Insurance purchase; Mosquito Control Contract; Fire Stations Exhaust Systems Purchase and Installation; Lease Purchase Financing for Self Contained Breathing Apparatus; Bid for Excavator purchase; Federal Heights Wholesale Water Contract amendment; and Semper Water Treatment Facility Rehabilitation project costs.

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

A BILL FOR AN ORDINANCE AUTHORIZING A SUPPLEMENTAL APPROPRIATION TO INCREASE THE 1999 BUDGET OF THE GENERAL CAPITAL IMPROVEMENT FUND AND THE GENERAL FUND. Purpose: Appropriate Westmoor Metropolitan Special District reimbursement.

A BILL FOR AN ORDINANCE AUTHORIZING A SUPPLEMENTAL APPROPRIATION TO INCREASE THE 1999 BUDGET OF THE GENERAL CAPITAL IMPROVEMENT FUND. Purpose: Appropriate funds for the Westminster/Children's Sensory Park construction.

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

A BILL FOR AN ORDINANCE REPEALING THE REQUIREMENT FOR DOG LICENSES AND REQUIRING NEUTERING/SPAYING FOR ANIMALS FOUND TO BE RUNNING AT LARGE OR VICIOUS ANIMALS.

A BILL FOR AN ORDINANCE AMENDING THE WESTMINSTER COMPREHENSIVE LAND USE PLAN.

A BILL FOR AN ORDINANCE ESTABLISHING RECOVERABLE COSTS DUE TO THE CITY FOR THE WEST 101ST/100TH AVENUE ESTENSION PROJECT.

A BILL FOR AN ORDINANCE AUTHORIZING A SUPPLEMENTAL APPROPRIATION TO INCREASE THE 1999 BUDGET OF THE GENERAL FUND.

A BILL FOR AN ORDINANCE CONSENTING TO THE TRANSFER OF THE CITY'S CABLE TELEVISION SYSTEM FRANCHISE TO AT&T CORPORATION.

The following Resolutions were adopted:

Resolution No. 4 – Retention of I-25 as a designated Hazardous Material Route.

Resolution No. 5 – GOCO Grant contract for Westminster/Children's Sensory Park construction.

Resolution No. 6 – Open Cable System.

At 8:05 P.M. the meeting was adjourned.

By order of the Westminster City Council

Michele Kelley, CMC, City Clerk

Published in the Westminster Window February 4, 1999.

TO: Mayor and Members of the City Council

DATE: January 22, 1999

SUBJECT; Proposed Changes in the Volunteer Fire Pension Retirement Benefits

PREPARED BY: Mary Ann Parrot, Finance Director
Jim Cloud, Fire Chief

Summary

Recent changes in the state statute governing the Volunteer Firefighter Pension Plan include the following:

- Removal of the cap for benefits (currently \$450 per month)
- A cap on the benefit when the volunteer firefighter program is "dissolved."
- A requirement for City Council approval of increases in monthly benefits.

The Volunteer Fire Board would like to increase the monthly benefit for the members and their spouses. They also feel a sense of urgency due to the statutory requirement regarding composition of the Board. As the volunteer program winds down it is possible that the Board will soon be below the three active volunteer firefighters required. The potential legal consequences are that actions taken by the board could be subject to legal challenge and set aside. HB98-1035 (passed earlier this year) allows for an increase in benefits if approved by the City Council. Any monies remaining in the plan after the last participant is paid revert to the City of Westminster and can be used for fire related purposes.

In addition to their concern about the proper constitution of the board, the Board is also aware when there are no longer any active members it will trigger a need to dissolve the plan. Under state law, once the plan is dissolved the maximum benefit is capped and can not be raised in the future. As a result, the Board also believes the opportunity to raise benefits at this time will be their last. This is because the plan is getting close to being dissolved and the City wishes to allow the volunteer program to unwind over time. Because of the plan dissolving in the near future (estimated Year 2000), the Board respectfully requests the monthly benefit be maximized for them and their families. This will be the last increase and will need to carry them through the next 40-60 years, or until they and their spouses are deceased.

At this time, the Board desires to bring these issues to the City Council's attention, to propose several alternatives, to request time to discuss these issues with City Council and to arrive at agreement with City Council on a recommended course of action.

Council's decisions will include the following:

- What the capped monthly volunteer fire fighters' pension benefit will be.

- When to dissolve the volunteer firefighter plan.

Staff Recommendation

The Volunteer Fire Pension Board held three work sessions in December and January to discuss and analyze various options. The Board recommendations regarding monthly benefit is as follows:

1. Request approval of a maximum monthly benefit of \$675, leaving residual assets of \$243,738 (7.96% of assets). The Board will explain the rationale to City Council.
2. If that is not acceptable to City Council, request approval of benefits in two steps:
 - a. Monthly benefit of \$625 per month, effective immediately.
 - b. Revisit prior to dissolution (estimated mid-2000), requesting approval of the maximum benefit allowed, leaving a residual of 10% of assets (\$306,076), but which benefit would not be lower than the \$625 per month approved above. Otherwise the benefit would remain at \$625 per month.

The City Attorney has determined the above action by City Council would be legal, as long as the conditional approval (step 2b above) is specific.

The Board Recommendation regarding dissolution is as follows:

Delay formal action on dissolution until Year 2000, when two of the three remaining active members have retired. Take formal action to dissolve the plan, effective with the death of the last remaining member/spouse. Direct staff to explore prudent methods to defuse the plan, thus guaranteeing benefits to be paid to members and their spouses, and ensuring the proper execution and unwinding of the plan and its obligations.

Staff recommends that the volunteer pension be raised to an amount not to exceed \$600 dollars per month. This recommendation is based on the following reasoning:

1. The Trust is made up of tax dollars. Both the State and City contributed to this retirement fund and the prudent expenditure of same is warranted.
2. State law contemplated a surplus in the Trust upon dissolution and designated these funds be provided for Fire Department use. Retired volunteers, while certainly the primary beneficiaries of the Trust, are not the only parties with an interest in the funds.
3. A \$600 dollar a month retirement would provide the equivalent of a 3.3% yearly raise through 2039. Volunteers last received a \$150 raise in 1995 to a monthly benefit of \$450.
4. The volunteer retirement plan was created to reward long term volunteer employees with a retirement benefit. This benefit was never intended to be the sole retirement program for volunteers and the majority of volunteers, if not all, are covered by Social Security, other retirement pensions, or individual retirement plans.
5. Based on an annual earnings rate of 6.5% for the fund, a \$600 a month pension would leave a residual of just over 18% to cover poor earnings years and avoid the need for the City to add additional tax dollars to the fund to cover any potential deficit.

Staff supports the recommendation regarding City Council's formal action on dissolution.

Background Information

This section will be sub-divided into the following topics:

- History of the Plan, with past increases approved and summary of issues
- Results of Survey of Local Volunteer Firefighter Plans
- Alternatives and Options

HISTORY OF THE PLAN

The City has provided a pension plan for volunteer firefighters since the 1950's. When a firefighter has volunteered for twenty years of service and reached the age of fifty, he may receive a pension payment of \$450 per month with survivor benefits of fifty percent of the pension payment. The fund currently has excess funds in it beyond the required monies to pay benefits to all retirees and their beneficiaries. Because of the surplus, the fund has required no contributions from the state or the city since 1984.

The chronology of benefits is shown in Exhibit 1. Previous benefits were reviewed and approved by the Board of the Volunteer Fire Fighters' Pension Plan and did not require approval by City Council. According to minutes of board proceedings, recent benefit increases were approved upon consideration of the financial position of the plan: the plan has been and continues to be in a "surplus" position, as determined by an independent actuary retained by the Board.

In 1963, the Board approved a graduated benefit schedule for those with 20 years of serviced, based on age, starting from \$15 per month (age 50) to \$100 per month (age 75). In 1966, the board approved a uniform benefit of \$50 per month. Periodic increases are summarized in Exhibit 1; the current benefit is \$450, approved in 1995. Benefits have increased at an average annual rate of 6.3% since January 1963. If benefits were capped at \$550, \$600, or \$650 per month, and were to remain at that level until 2039, when most of the benefits would be paid out, this represents average annual increases of 3.2% to 3.4% per year.

Because of the City's 1996 decision to support a full-time Fire Department, the Volunteer Firefighter Program is winding down. As this occurs, the active members will retire, and the retirees and their spouses will receive benefits until they and their spouses are deceased.

An increase in benefits, combined with dissolution of the volunteer fire plan and consequences of an improperly constituted Board were topics discussed in detail at the Board meeting on December 8, 1998, and at the three work sessions. The need for urgency in deciding the final benefit is due to the fact that there are only three active volunteers remaining. If any of the remaining volunteers retired or otherwise could no longer serve, the Board would not meet statutory requirements for membership composition. The latest date for the Board composition issue to be resolved is in fifteen months when one of the volunteers will retire. If one of the remaining firefighters was

hired for a paid position or left the volunteer program the composition concern would occur immediately. The unwinding of the plan due to retirement or other attrition is a real concern to the Board, and also the primary reason for the Board's request for maximizing benefits. Once the plan is dissolved by City Council, benefits are capped under the statute and cannot be increased. In short, this opportunity for increase in benefits is most likely the last opportunity the members will have prior to dissolution.

Another concern of the Board is caused when there are no longer three active volunteers on the Board. The Board's concern is the actions taken by an improperly constituted board may be invalid. The City Attorney's office has provided the opinion that the potential legal consequences of an improperly constituted Board are that actions taken by the board could be subject to legal challenge and set aside. There is no case law of this happening. Staff believes the possibility of a challenge to board action is remote. Nonetheless, it is a possibility with which the Board is concerned and should be factored into consideration.

Once the dissolution proceedings commence the amount of the monthly pension payment cannot be changed. The City Attorney's office researched and provided the opinion that once the final benefit is set it cannot include an annual cost of living adjustment since this would contravene the cap imposed by law regarding volunteer fire pension plans. The conclusion was that the final benefit should be set before the dissolution commences.

Paul Barker of The Actuarial Consulting Group, the actuary for the plan, was in attendance at the January 11 meeting to answer questions regarding the financial impact of the various options considered. A survey of other volunteer pension plans was also reviewed. The results of the survey are summarized below and also included in Exhibit 2 attached.

RESULTS OF SURVEY OF LOCAL VOLUNTEER FIREFIGHTER PLANS

Staff recently conducted a survey sixteen local volunteer programs (one was Westminster, one was Frankton, later eliminated). The results are shown in Exhibit 2, for the remaining fifteen plans. Several distinguishing characteristics deserve mention, as they imply less urgency on the other plans' part to increase benefits:

- Westminster's plan is the only one which is unwinding; the others are on-going
- Three of the plans are all-volunteer; the others are a mix of paid/volunteer, like the City's plan. The all-volunteer plans may survive longer than those volunteer plans which are combined.
- One plan (Frankton) was very small, and was eliminated from the tally
- Monthly benefits for 20-year firefighters ranged from a low of \$300 to a high of \$650, with the following distribution
 - \$185 – 1 plan
 - \$300 – 3 plans
 - \$350 – 1 plan
 - \$400 – 1 plan
 - \$450 – 6 plans (the maximum until 1998)

- \$575 – 1 plan
- \$600 – 1 plan
- \$650 – 1 plan

In addition to the above, three of the plans have raised monthly pension benefits in excess of the former limit. All plans except three are in a known surplus position, as is the City of Westminster's plan. In addition, nine of the plans say they are not considering raising the benefit, five plans are considering raising the benefit and one other did not answer the question directly. However, these plans are on-going and can change benefits in the future, unlike the City's plan, which time table for considering this issue is limited.

ALTERNATIVES AND OPTIONS

In order to discuss options with full information, the Board contracted with Paul Barker, Actuary, to request updated information on the City's plan. The plan is in a surplus position, which will allow payment of all benefits (at the current monthly benefit of \$450) to members and their surviving spouses (spousal benefit is currently the statutory maximum of \$225). Mr. Barker also calculated funds needed and the resulting surplus at various levels, starting with a benefit amount of \$550, in \$25 increments, upon request by the Board. The results are attached as Exhibit 3. In short, benefits can be paid up to a maximum of \$675, but would leave a lower margin of excess. The calculations assume the plan assets will continue to earn 6.5% interest over the horizon period, which is about 40-60 years, until the last spouse is deceased. The actuary believes the assumptions are reasonable. At the same time, Mr. Barker stated he has seen a policy in several plans of leaving a residual of 10% of the assets (\$306, 077), with the benefit to be determined afterwards. This would result in a benefit amount slightly higher than \$650 per month. Staff recommended a minimum residual of 15% of assets, leaving a benefit of approximately \$625 per month.

The board has met three times in work sessions, to develop alternatives which are prudent, fair and maximize the benefit to the members and their spouses. The options are summarized below, with the reasons for retaining or discarding the option.

Option 1: Leave the benefit at \$450. This option was discarded, as the Board wishes to increase the benefit for the benefit of the members and their spouses over the next 40-60 years, in an attempt to provide some hedge against inflation.

Option 2: Keep the benefit at \$450 and request approval of an increase in the spousal benefit above the 50% limit (to 70%). This option was discarded, because it would require enacting another portion of the statute. This section is complicated to administer and would require the purchase of insurance contracts (annuities) to guarantee payments.

Option 3: Keep the benefit at \$450 and request approval of a COLA, Cost of Living Allowance for the members' spouses. This option was discarded, because it would be against the law. The City Attorney's office provided the opinion that once the final

benefit is set it cannot include an annual cost of living adjustment since this would contravene the cap imposed by law regarding volunteer fire pension plans. The conclusion was that the final benefit should be set before the dissolution commences.

Option 4: Request a benefit of \$625 per month, revisit the subject again prior to dissolution (sometime during Year 2000). Request an increase subject to funds being available, as determined by an updated actuarial study. This option was discarded because a majority of the Board present voted against it. The reasons for voting this option down included staff recommendation for a minimum residual of 15% of funds.

Option 5: Request a benefit of \$675 per month, leaving a surplus of \$243,738 or 7.96% of assets. This option was discarded because the majority of the board present voted against it; again, one of the reasons for voting this option down was the staff recommendation for a minimum residual of 15% of funds.

Option 6: Request a benefit increase in two steps: a benefit which would leave 15% residual in assets (approximately \$625); this benefit would take effect immediately. Revisit the benefit level prior to dissolution (Year 2000), requesting an increase in benefit, leaving a residual of 10% (approximately \$650 per month.) This option was discarded prior to a vote being taken by the Board.

The proposed option for the final amount of the volunteer fire benefit per month is:

- Request approval of a maximum monthly benefit of \$675, leaving residual assets of \$243,738 (7.96% of assets). Explain to City Council the rationale.
- If that is not acceptable to City Council, request approval of benefits in two steps:
 - Monthly benefit of \$625 per month (leaving a residual of \$452,407 or 14.78% of assets), effective immediately
 - Revisit prior to dissolution (estimated mid-2000), requesting approval of the maximum benefit allowed, leaving a residual of 10% of assets (\$306,076), but which benefit would not be lower than the \$625 per month approved above.

The Board respectfully requests consideration of this option by the City Council. They will be present at the post meeting to discuss their request with City Council; Staff will be present to answer questions.