

HYLAND HILLS PARKS AND RECREATION DISTRICT
SPECIAL MEETING

THURSDAY, JANUARY 29, 1998 AT 6:00 P.M.

1. Pledge of Allegiance
2. Roll Call
3. New Business
 - A. Intergovernmental Agreement with City of Westminster re Ice Centre
 - B. Recognition of Hyland Hills Champion Figure Skaters
4. Adjournment

SPECIAL WESTMINSTER CITY COUNCIL MEETING

THURSDAY, JANUARY 29, 1998 AT 6:00 P.M.

1. Roll Call
2. Purpose of Special Meeting:
 - A. Intergovernmental Agreement with Hyland Hills Park & Recreation District re Ice Centre
 - B. Resolution No. 5 re Supporting Legislation re Charter Schools Sunset Legislation
3. Adjournment

January 28, 1998

To All Members of City Council:

A special meeting of the City Council has been set for Thursday, January 29, 1998 at 6:00 P.M. in the multipurpose room at City Hall for the following purposes:

Intergovernmental Agreement with Hyland Hills Park & Recreation District re Ice Centre

Resolution No. 5 re Supporting Legislation re Charter Schools Sunset Legislation

Sincerely,

Michele Kelley, CMC
City Clerk

January 27, 1998

Michele Kelley, City Clerk
City of Westminster
4800 West 92nd Avenue
Westminster, CO 80030

Dear Michele:

Please call a special meeting of the City Council for Thursday, January 29, 1998 at 6:00 P.M. to be held in the Multi Purpose Room at City Hall for the following purposes:

Intergovernmental Agreement with Hyland Hills Park & Recreation District re Ice Centre

Resolution No. re Supporting Legislation re Charter Schools Sunset Legislation

Sincerely,

Ann Merkel, Mayor Pro Tem

Councillor Sam Dixon

Date: January 29, 1998

Subject: Ice Centre Intergovernmental Agreement

Prepared by: Bill Walenczak, Director of Parks, Recreation and Libraries
Bill Christopher, City Manager

Introduction

City Council action is requested to authorize the Mayor and other appropriate City Officials to sign the attached Intergovernmental Agreement (IGA), between the City of Westminster and the Hyland Hills Park and Recreation District for the construction, financing, and operation of the new "Ice Centre at the Promenade" ice arena.

Summary

Staff members from the City of Westminster and Hyland Hills Park and Recreation District have been negotiating an IGA for the financing, construction, and operation of a new three rink ice arena to be located at the Westminster Promenade East. These negotiations have lasted several months due to the complexity of the financing package and Hyland Hills existing bond covenants. At the Council Study Session of January 12, City Council reviewed the details of the agreement and reached consensus on concurring with the provisions of the final document.

City Staff has diligently represented the City's best interests in the negotiations and is satisfied that the final draft is fair to both the City and the District. Staff is, therefore, recommending approval of this intergovernmental agreement.

Staff Recommendation

Authorize the Mayor and other appropriate City Officials to sign the Intergovernmental Agreement between the City of Westminster and Hyland Hills Park and Recreation District for the financing, construction, ongoing operations and maintenance of the proposed "Ice Centre at the Promenade" ice arena project.

Background Information

On August 26, 1996, the City of Westminster and Hyland Hills Park and Recreation District signed an IGA to proceed with plans to build a joint ice arena project whereby both entities would be equal partners in the venture. The original concept was to build a two rink facility in order to accommodate the increased demand from users in hockey, figure skating, and open skate sessions for families and youth who were just learning to ice skate. Hyland Hills has operated a single rink ice arena since the early 1970s and due to the increasing popularity of ice skating at all levels, identified a need to either expand their current facility or build a new facility.

As this joint partnership began to move forward, the City engaged the services of VSC Sports, Inc., of Sherman Oaks, California to develop an operational proforma for the new facility. The results of the proforma were very positive and it was concluded that a two rink facility was definitely a feasible undertaking. However, Hyland Hills staff noted that even with two ice rinks, certain user groups would still be left short of needed ice time. These groups included youth and adult hockey leagues and figure skaters. It also meant reducing opportunities for open public skating sessions, which were severely limited at the existing arena.

Staff further instructed VSC Sports to do an expanded proforma for three rinks to explore the feasibility of building a three rink facility. Once again, the proforma came back positive that a three rink facility could be operated as an enterprise fund so that little or no City and District subsidy would be required. (The initial start up years may require minor supplemental subsidies.) A three rink facility would definitely meet the ice needs of Hyland Hills and Westminster user groups as well as be a regional facility for other users. This information was presented to City Council and the Hyland Hills Board of Directors and a decision was made to proceed with building a three rink facility. The staffs of both entities were instructed by their respective governing bodies to finalize an IGA for constructing, financing, and operating a three rink facility. The total cost to construct the facility is \$11.98 million. The total project cost is estimated to be approximately \$14.0 million due to the need for capitalized interest, operation and maintenance reserves, and bond issuance costs.

The negotiations between the District and the City became quite complicated due to the fact that Hyland Hills' existing bond indebtedness and the covenants associated with that debt threatened to put the new ice arena revenues in a subordinate position to the District's enterprise bond holders. That arrangement was not acceptable to the City and as a result, various safeguards were written into the agreement which Staff and our attorneys now believe protects the City's investment over the life of the arena facility.

At the same time, Staff believes the final IGA is also fair to Hyland Hills and allows the District to have financial flexibility in their other projects as well as to eventually gain one-half ownership in the Ice Centre.

NOTE: A last minute issue raised by Hyland Hills attorney pertaining to changing the operating protocols has Westminster Staff and attorneys addressing this new concern. Staff will apprise Council if the meeting for January 29 will need to be changed.

Following is a summary recap of the key provisions of the total agreement which hopefully will assist Council in focusing on the main provisions of the agreement:

- * The parties shall cooperate in the design, construction, financing and operation of approximately 140,000 square foot ice arena to be located at the Westminster Promenade site which will include three ice rinks.
- * The City will handle the construction of the facility pursuant to design/build contract with Tamminga Construction Company that will be funded through the City issuing Certificates of Participation (COP's). A Building Authority will be created for purposes of achieving the financing.

- * Hyland Hills Enterprise will sublease an undivided 50% interest in the ice arena from the City and shall be responsible for paying the City annual lease payments equal to 50% of the City's rental obligations under the lease purchase agreement.
- * Hyland Hills Enterprise will operate the facility utilizing its expertise and established clientele from the existing Hyland Hills ice arena. The existing facility will be closed and put to a different use.
- * Revenues generated from the ice arena facility will be used to retire 25 year COP's as well as paying all operating and maintenance expenses and satisfying the various reserves established by the intergovernmental agreement.
- * The principal amount of the financing shall not exceed \$14.5 million without the written agreement of both parties.
- * The City shall contribute the finished site at the Promenade for the construction of the ice arena which will include grading, parking, landscaping, and irrigation. Any site improvement costs in excess of \$1.0 million shall be shared equally between the City and the Hyland Hills Enterprise. The City shall bear the expense of providing water and sewer service to the subject site.
- * Hyland Hills Enterprise agrees to pay annual lease payments equal to 50% of the annual rental obligations for the ice arena with lease payments to be made to the trustee on a monthly basis. After parity is achieved, lease payments shall revert to being paid to the trustee on a semi-annual basis.
- * Hyland Hills Enterprise and Hyland Hills District agree not to issue any other enterprise parity revenue bonds except the issuance of special revenue refunding bonds until such time as the District's Enterprise shall designate its lease payments on the ice arena as being payable on a parity basis with all existing outstanding enterprise parity revenue bonds.
- * Hyland Hills may do construction improvement lease purchase agreements as long as they are not superior or equal to the lien of the revenue for ice arena lease payments.
- * A Diversion Reserve is required with Hyland Hills to fund it at \$180,000 level which shall be outside and separate from the Hyland Hills Enterprise. It will be used to make up lease payment and ice arena operating shortfalls. The District shall be responsible for maintaining this Diversion Reserve balance and shall replenish the reserve within 30 days of any depletion.
The failure of the District to replenish the diversion reserve in full within three months after any withdrawal from the reserve shall be deemed by the City as a default. At the time the 25 years Certificates of Participation are paid off, the City shall convey to Hyland Hills Enterprise an undivided 50% ownership interest in the Ice Arena facility. Once the certificates are all retired, each party will have a right of first refusal to purchase the other party's interest in the ice arena within 90 days of receipt of a bona fide offer to purchase such interest.
- * The day-to-day operations of the ice arena shall be managed by the Hyland Hills Enterprise pursuant to the management agreement and the ice arena operational protocols. The agreement mandates that the ice arena shall be operated and maintained at all times as a first class, high quality operation and facility and will be consistent with the overall operational and maintenance standards for the Promenade project.

- * An Operations and Combined Obligation Reserve fund shall be established separate from the Hyland Hills Enterprise Fund and shall be included within the annual operating ice arena budget. This reserve fund shall be funded by equal contributions from the two entities until the level of the fund equals one time the average annual rental obligations payment (debt service payment). The purpose of the Combined Obligations Reserve Fund is to cover any shortfalls in the ice arena gross revenues to cover operating and maintenance expenses or the annual combined obligations of the parties.
- * There will be a separate Equipment and Capital Reserve Fund to provide ongoing funds for capital replacement and major building system maintenance and replacement. The amount of this fund shall be determined annually.
- * Use of the various reserves are spelled out under various situational scenarios including the operating revenue shortfalls. If either party fails to cover a shortfall pursuant to the agreement, the other party at its option may subsidize the shortfall of the other party and receive the non-paying party's two percent ownership interest in the ice arena for the year in question. Any party who is subsidized may within three years reacquire the lost ownership interest in the ice arena resulting in the subsidy by reimbursing the amount of the subsidy to the other party plus interest at the City's cost of funds for the subsidized period.
- * The agreement calls for the distribution of net operating revenues on a 50/50 distribution between the City and the Hyland Hills Enterprise.
- * If the City should not appropriate sufficient monies in its annual budget to pay the annual rental obligation to the Trustee on the ice arena and the Hyland Hills Enterprise is not in default of the terms of the agreement, the Hyland Hills Enterprise shall have the option to exercise its right to lease the ice arena from the trustee. If Hyland Hills Enterprise chooses to do this, they shall make annual payments to the City equal to two percent of the past year's ice arena net revenues times the number of years the City appropriated and paid the annual rental obligation.
- * The City will be conveyed an undivided one half ownership interest in Carrol Butts Park within sixty days of the date of the execution of the intergovernmental agreement. The intent is for the City and Hyland Hills to joint venture improvements to Carrol Butts Park as funds permit.
- * Hyland Hills Enterprise shall lease to the City an undivided one half interest in the existing ice arena and parking lot for a 25 year term at an annual lease payment of \$1.00. After the 25 years, Hyland Hills Enterprise will convey to the City an undivided one half interest in the real property and fixtures. If the lease is terminated for good cause in the interim, the City shall be given an percentage ownership in the facility equal to what the Hyland Hills Enterprise has earned in the new ice arena. The intent of this joint ownership is to establish a joint venture in the reutilization of the existing Hyland Hills ice arena facility. This could end up being a privatized operation such as the existing City Sports Center.
- * Default is defined and the procedures are spelled as to what happens in the case of a default.

Alternatives

- > City Council could reject approving this IGA, and instruct Staff to re-negotiate all or part of the agreement according to the wishes of various Councillors.
- > City Council could reject approving the IGA and instruct City Staff to proceed with the project as a sole City-sponsored facility.
- > City Council could reject approving the IGA and instruct Staff to negotiate a public/private partnership with a private investor.
- > City Council could reject approving the IGA, sell the property to Hyland Hills, and let the District build the facility and operate it entirely as a facility of the District.
- > City Council could reject approving the IGA, stop the project, and sell the property for alternate commercial or office use.

Respectfully submitted,

William M. Christopher
City Manager

Attachment

Date: January 29, 1998
Subject Resolution No. re Supporting SB 63 Continuing Charter Schools
Prepared by: Barbara Gadecki, Assistant to the City Manager

Summary

City Council is requested to approve a resolution endorsing Senate Bill 63 which eliminates the provision in the current Colorado Revised Statutes which repeals the "Charter Schools Act" on July 1, 1998. The Bill will allow this act to continue indefinitely. It passed on third reading January 26 and has been sent to the House for consideration. This Resolution has been prepared at Council's request to formalized its support.

Staff Recommendation

Adopt Resolution No. endorsing Senate Bill 63 to continue the "Charter Schools Act" and remove the repeal date of July 1, 1998.

Background Information

The "Charter Schools Act" originally established that any charter entered into prior to July 1, 1998, shall be in effect for the full term of the charter. However, the original act has a repeal date for the act of July 1, 1998, preventing any additional charters from being created after July 1, 1998. The legislation introduced by Senator Arnold repeals the provision of July 1, 1998, allowing for the "Charter Schools Act" to continue past this original deadline.

Charter schools are serving Westminster residents well in providing alternative methods of education to better serve an ever changing student population and attempts to better address the demands of the future. Crown Pointe Academy at Westminster and Jefferson Academy are good examples of the effectiveness of charter schools in the Westminster area. This bill allows for additional charter schools to be created and also allows for existing charter schools an opportunity to continue beyond the original terms of their initial charter when that time comes.

This legislation proactively serves the residents of Westminster and Colorado by allowing for alternative means of education.

The Senate passed Senate Bill 63 on Monday, January 26, and has forwarded it to the House of Representatives for consideration. Representative Jeanne Adkins is sponsoring the bill in the House of Representatives.

Respectfully submitted,

William M. Christopher
City Manager

Attachment

RESOLUTION

RESOLUTION NO.

INTRODUCED BY COUNCILLORS

SERIES OF 1998

SUPPORTING THE CONTINUATION OF THE "CHARTER SCHOOLS ACT"

WHEREAS, the City of Westminster supports the creation and educational activities of the charter schools within the City of Westminster; and

WHEREAS, Senator Ken Arnold has pursued and successfully obtained Senate support for the continuation of the "Charter Schools Act" so that additional charter schools may be created; and

WHEREAS, the continuation of the "Charter Schools Act" will also allow for current charter schools to extend their original charters beyond their original timetable; and

WHEREAS, such alternative methods of education available to our youth positively impacts not only our community but also our state;

NOW, THEREFORE, be it resolved that the City of Westminster supports legislation continuing the "Charter Schools Act" eliminating the original repeal date of July 1, 1998.

BE IT FURTHER RESOLVED that the City of Westminster supports the objectives and program elements of "Charter Schools Act".

Passed and adopted this 29th day of January, 1998.

ATTEST:

Mayor

City Clerk

CITY OF WESTMINSTER, COLORADO
SPECIAL CITY COUNCIL MEETING
THURSDAY, JANUARY 29, 1998 AT 6:00 P.M.

ROLL CALL:

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

PURPOSE OF SPECIAL MEETING:

The Mayor stated that the purpose of the special City Council meeting was to consider an Intergovernmental Agreement with Hyland Hills Parks and Recreation District for the Ice Centre and Resolution No. 5 supporting SB 63 regarding continuing Charter Schools.

ICE CENTRE INTERGOVERNMENTAL AGREEMENT:

A motion was made by Allen and seconded by Merkel to authorize the Mayor and other appropriate City Officials to sign the Intergovernmental Agreement between the City of Westminster and Hyland Hills Park and Recreation District for the financing, construction, ongoing operations and maintenance of the proposed "Ice Centre at the Promenade" ice arena project. The motion carried unanimously.

RESOLUTION NO. 5 - SUPPORT SB 63 CONTINUING CHARTER SCHOOLS:

A motion was made by Scott and seconded by Smith to adopt Resolution No. 5 endorsing Senate Bill 63 to continue the "Charter Schools Act" and remove the repeal date of July 1, 1998. Upon roll call vote, the motion carried unanimously.

ADJOURNMENT:

The meeting was adjourned at 6:35 P.M.

ATTEST:

Mayor

City Clerk