



CITY COUNCIL AGENDA

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

Members of the audience are invited to speak at the Council meeting. Citizen Communication (Section 7) and Citizen Presentations (Section 12) are reserved for comments on any issues or items pertaining to City business except those for which a formal public hearing is scheduled under Section 10 when the Mayor will call for public testimony. Please limit comments to no more than 5 minutes duration except when addressing the City Council during Section 12 of the agenda.

1. Pledge of Allegiance
2. Roll Call
3. Consideration of Minutes of Preceding Meetings
4. Report of City Officials
 - A. City Manager's Report
5. City Council Comments
6. Presentations
 - A. Employee Service Awards
 - B. Meritorious Service Award
 - C. 2007 Metropolitan Mayors' and Commissioners' Youth Awards
7. Citizen Communication (5 minutes or less)

The "Consent Agenda" is a group of routine matters to be acted on with a single motion and vote. The Mayor will ask if any Council member wishes to remove an item for separate discussion. Items removed from the consent agenda will be considered immediately following adoption of the amended Consent Agenda.

8. Consent Agenda
 - A. Financial Report for January 2007
 - B. Quarterly Insurance Report: October – December 2006
 - C. Purchase of Excess Workers' Compensation Insurance
 - D. Pressure Zone 14 Booster Pump Station Consultant Contract Award
 - E. Sale of the City's Signal Reservoir Property and Signal Ditch Company Shares in Adams County
 - F. Second Reading Councillor's Bill No. 5 re Inclusion of Property within the 136th Avenue GID
 - G. Second Reading Councillor's Bill No. 6 re Ordinance Changes re Property Standards and Administrative Penalties
 - H. Second Reading Councillor's Bill No. 7 re 2006 4th Quarter Budget Supplemental Appropriation
9. Appointments and Resignations
 - A. Resolution No. 7 re Appointments to Boards and Commissions
10. Public Hearings and Other New Business
 - A. Public Hearing re Crystal Lake Subdivision Filing No. 1 for Block 2, Lot 1
 - B. Councillor's Bill No. 11 re CLUP Amendment for Crystal Lake Subdivision Filing No. 1 for Block 2, Lot 1
 - C. Crystal Lakes Subdivision Filing No. 1, Block 2, Lot 1 – Waiver for Underground Utility Relocations
 - D. Resolution No. 8 re IGAs with the State of Colorado re Historic Preservation Grants
 - E. Resolution No. 9 re Tanglewood Creek Adams County Open Space Grant Application
 - F. Resolution No. 10 re Spring 2007 Adams County Open Space Grant Application
11. Old Business and Passage of Ordinances on Second Reading
 - A. Remove from the Table re Emergency Expenditures for Snowstorms
 - B. Emergency Expenditures for Snowstorms
12. Citizen Presentations (longer than 5 minutes), Miscellaneous Business, and Executive Session
 - A. City Council
 - B. Executive Session –

Discuss strategy and progress on potential sale, acquisition, trade or exchange of certain City owned real property (Dover Street property) and the City's position relative thereto, pursuant to WMC 1- 11-3(C)(2) and C.R.S. 24-6-402(4)(a).
13. Adjournment

GENERAL PUBLIC HEARING PROCEDURES ON LAND USE MATTERS

- A.** The meeting shall be chaired by the Mayor or designated alternate. The hearing shall be conducted to provide for a reasonable opportunity for all interested parties to express themselves, as long as the testimony or evidence being given is reasonably related to the purpose of the public hearing. The Chair has the authority to limit debate to a reasonable length of time to be equal for both positions.
- B.** Any person wishing to speak other than the applicant will be required to fill out a “Request to Speak or Request to have Name Entered into the Record” form indicating whether they wish to comment during the public hearing or would like to have their name recorded as having an opinion on the public hearing issue. Any person speaking may be questioned by a member of Council or by appropriate members of City Staff.
- C.** The Chair shall rule upon all disputed matters of procedure, unless, on motion duly made, the Chair is overruled by a majority vote of Councillors present.
- D.** The ordinary rules of evidence shall not apply, and Council may receive petitions, exhibits and other relevant documents without formal identification or introduction.
- E.** When the number of persons wishing to speak threatens to unduly prolong the hearing, the Council may establish a time limit upon each speaker.
- F.** City Staff enters a copy of public notice as published in newspaper; all application documents for the proposed project and a copy of any other written documents that are an appropriate part of the public hearing record;
- G.** The property owner or representative(s) present slides and describe the nature of the request (maximum of 10 minutes);
- H.** Staff presents any additional clarification necessary and states the Planning Commission recommendation;
- I.** All testimony is received from the audience, in support, in opposition or asking questions. All questions will be directed through the Chair who will then direct the appropriate person to respond.
- J.** Final comments/rebuttal received from property owner;
- K.** Final comments from City Staff and Staff recommendation.
- L.** Public hearing is closed.
- M.** If final action is not to be taken on the same evening as the public hearing, the Chair will advise the audience when the matter will be considered. Councillors not present at the public hearing will be allowed to vote on the matter only if they listen to the tape recording of the public hearing prior to voting.

CITY OF WESTMINSTER, COLORADO
MINUTES OF THE CITY COUNCIL MEETING
HELD ON MONDAY, FEBRUARY 26, 2007 AT 7:00 P.M.

PLEDGE OF ALLEGIANCE

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

ROLL CALL

Mayor McNally, Mayor Pro Tem Kauffman and Councillors Dittman, Kaiser, Lindsey, Major, and Price were present at roll call. J. Brent McFall, City Manager, Martin McCullough, City Attorney, and Carla Koeltzow, Deputy City Clerk, also were present.

CONSIDERATION OF MINUTES

Councillor Dittman moved, seconded by Price, to approve the minutes of the regular meeting of February 12, 2007, as written and presented. The motion passed unanimously.

CITY MANAGER'S REPORT

Mr. McFall advised that at the conclusion of tonight's meeting Staff was requesting that Council hold an executive session to discuss negotiations with respect to potential sale of City property. He also addressed citizen concerns made over the weekend about possible administrative changes to the official development plan for the Wal-Mart at 72nd Avenue and Sheridan Boulevard. Mr. McFall stated that Staff will review any Wal-Mart requests and follow the processes outlined in the City code. He advised that the only changes at this time were that the existing car wash is remaining and that the construction of access points would need to be revised due to the car wash staying and one access point not being approved by the Colorado Department of Transportation. He assured Council that every effort is being made to get the project constructed in accordance with the approved plans.

CITY COUNCIL COMMENTS

Mayor Pro Tem Kauffman shared that in the last few weeks he had the opportunity to participate in two elementary school mock congressional hearings held here at City Hall. One hearing was with Semper Elementary and one with Sheridan Green Elementary.

Councillor Dittman reported that he, along with Councillor's Kaiser and Lindsey, attended the 98th birthday party for Jim Hague who has been a Westminster resident since 1951. Mr. Hague was instrumental in the City's charter movement and served for a long time on the Library Board.

Councillor Lindsey reported that she was present last Thursday when the Mayor cut the ribbon at the opening of the Electric Cowboy at 88th and Harlan. She felt it was a nice establishment that provided a variety of music. She also wanted to pass along that the owners stated that they were happy to be in Westminster and that the City's representatives were good to work with.

Mayor McNally commented on the opening of the Electric Cowboy and 123 Fitness. She also attended the DRCOG retreat where James Johnson was the speaker. He spoke on the Browning and Graying of America which she found very enlightening and planned to share what she learned with Council and Staff.

EMPLOYEE SERVICE AWARDS

Councillor Major presented certificates and pins for 20 years of service to Greg Biggers, Ron Elrod, Stacy Koenig, Dave Sagel and Mark VanDenAbbeele. Mayor McNally presented certificates, pins, and monetary stipends for 25 years of service to Joe Hastings, Steve McDonald, Ken Watkins and Tim Woodard. Councillor Dittman presented a certificate and 30-year service pin to David Marquez. Councillor Price presented a certificate and 35 year service pin to Matt Raia.

PRESENTATIONS

On behalf of City Council, Mayor McNally presented the Meritorious Service Award to Laurie Rutledge, Jinny Jasper, Lane Recker, Paul Clements and Greg Starkel for their act of compassion and heroism in their efforts to save the life of Daniel Bott, a guest at the West View Recreation Center. After a standing ovation, Mr. Bott who is doing well and was present, gave his thanks and appreciation to the citizens receiving the award. He also thanked the Fire Department for having the foresight to place the life saving automated external defibrillators at the City's recreation centers.

2007 METROPOLITAN MAYORS' AND COMMISSIONER'S YOUTH AWARDS

On behalf of City Council, Mayor McNally recognized and presented certificates of achievement to Katherine "Annie" Burky from Standley Lake High School and Kyle Bodor from Pomona High School. This award recognizes teenagers between the ages of 13 and 19 who have overcome personal adversity and created positive change in their environments.

CITIZENS COMMENT

Noel Busck, 4487 East 117th Ave, Thornton, advised counsel that he has been contracted by Adams County School District 12 as a community liaison. He is hoping to build on the good relationship the school district has with the City and will be available to address any issues or concerns the City may have.

CONSENT AGENDA

The following items were submitted for Council's consideration on the consent agenda: Financial Report for January 2007; the 4th Quarter 2006 Insurance Report; based on the report and recommendation of the City Manager, authorize the purchase of workers' compensation excess insurance for \$73,989 from Midwest Employers Casualty Company; authorize the City Manager to execute a contract with Farnsworth Group Consulting Engineers in the amount of \$79,529 to provide the engineering design and construction administration services of the new pressure zone 14 booster pump station and authorize a contingency of \$10,000; authorize the City Manager to execute an agreement for the sale of approximately 82 acres and 31.75 Signal Ditch Company shares to the Todd Creek Farms Metropolitan District No. 1 for \$1,193,000; second reading of Councillor's Bill No. 5 to include the Ramirez Properties, LLC within the City of Westminster 136th Avenue General Improvement District; second reading of Councillor's Bill No. 6 amending the Westminster Municipal Code as it relates to changes affecting property maintenance standards, and adopting an administrative penalty citation program including changes to the jurisdiction of the Board of Adjustment and Appeals; and second reading of Councillor's Bill No. 7 providing for supplementary appropriations to the 2006 budget of the General, General Capital Improvement, Water, Wastewater and Open Space Funds

Mayor McNally asked if Councillors wished to remove any items from the consent agenda for discussion purposes or separate vote. There was no request. It was moved by Councillor Dittman and seconded by Councillor Price to approve the consent agenda as presented. The motion passed unanimously.

RESOLUTION NO. 7 RE APPOINTMENTS TO BOARDS AND COMMISSIONS

A motion was made by Mayor Pro Tem Kauffman to adopt Resolution No. 7 to fill vacancies on various Boards and Commissions with one amendment. The following individuals appointed to regular membership are as follows: James C. Black to the Board of Building Code Appeals, term to expire 12/31/08; Nick Pizzuti to the Environmental Advisory Board, term to expire 12/31/07; Richard E. Cohan to the Human Services Board, term to expire 12/31/08; and Wendi Garland to the Parks, Recreation & Libraries Advisory Board, term to expire 12/31/08. The following individuals appointed to alternate memberships with terms expiring 12/31/07 are as follows: Sergio D. Aradillas to the Historic Landmark Board; Jeff Konrade-Helm to the Human Service Board; Michael Angel to the Parks, Recreation & Libraries Advisory Board; and Michael Litzau (1st alternate) and Donna Alengi (2nd alternate) to the Planning Commission. The amendment added Mildred DeSmet as an

appointee to the Special Permit and License Board as an alternate member with a term to expire 12/31/07. Councillor Major seconded the motion and upon roll call vote, the motion passed unanimously.

PUBLIC HEARING RE CRYSTAL LAKE SUBDIVISION FILING NO. 1 FOR BLOCK 2, LOT 1

At 7:45 p.m. a public hearing was opened to consider a Comprehensive Land Use Plan amendment for Crystal Lake Subdivision Filing No. 1 for Block 2, Lot 1 changing the designation from Private Parks/Open Space to R-3.5 Residential. The property owner intends to develop the 0.5 acre vacant parcel for two single-family detached lots. Each lot is proposed to be larger than 10,000 square feet and will need to meet the City's Single Family Detached Residential Design Guidelines and Landscape Regulations. The loss of private park/open space land is to be mitigated by providing the City with park development fees and a cash-in-lieu payment for the public land dedication requirement in the amount of ten thousand dollars. David Shinneman, Planning Manager, provided background information and entered the agenda memorandum and attached documents into the record. Mr. Shinneman reported that notice of this hearing had been published in the newspaper, posted on the property and written notice was mailed by first-class certified mail to property owners and homeowner's associations registered with the City within 300 feet of the subject property. The Planning Commission had reviewed the proposal and recommended Council approval.

Mayor McNally invited public comment. Mark McDonald, a resident who lives on 72nd Place in front of the property advised Council that there were several houses for sale in this area and that the nearby Albertsons Store was going out of business. No others wished to speak and the Mayor closed the hearing at 7:50 p.m.

COUNCILLOR'S BILL NO. 11 RE CLUP AMENDMENT FOR CRYSTAL LAKE SUBDIVISION

Mayor Pro Tem Kauffman moved, seconded by Major, to pass Councillor's Bill No. 11 on first reading approving a Comprehensive Land Use Plan amendment for Crystal Lake Subdivision Filing No. 1 for Block 2, Lot 1 changing the designation from Private Parks/Open Space to R-3.5 Residential. Upon roll call vote, the motion carried unanimously.

CRYSTAL LAKES SUBDIVISION RE WAIVER FOR UNDERGROUND UTILITY RELOCATIONS

Councillor Dittman moved, seconded by Major, to waive the City Code requirement for underground relocations of the existing overhead utility line along the southern property line of the Crystal Lakes Subdivision Filing No. 1 for Block 2, Lot 1. The motion passed unanimously.

RESOLUTION NO. 8 RE IGAs WITH STATE OF COLORADO RE HISTORIC PRESERVATION GRANTS

A motion was made by Councillor Major and seconded by Councillor Price to adopt Resolution No. 8 authorizing the City Manager to execute two intergovernmental agreements with the State of Colorado concerning the use of State Historical Fund grant funds awarded to the City of Westminster for (1) the Rodeo Market Facade Restoration Construction Documents, and (2) Shoenberg Farm Historic Structure Assessments. Upon roll call vote, the motion carried unanimously.

RESOLUTION NO. 9 RE TANGLEWOOD CREEK ADAMS COUNTY OPEN SPACE GRANT

A motion was made by Councillor Lindsey and seconded by Councillor Dittman to adopt Resolution No. 9 authorizing the City to submit a grant application for up to \$465,000 to the Adams County Open Space Program to build trails from 123rd Avenue to 128th Avenue and a pedestrian underpass at 128th Avenue, just west of I-25. Upon roll call vote, the motion carried unanimously.

RESOLUTION NO. 10 RE SPRING 2007 ADAMS COUNTY OPEN SPACE GRANT

A motion was made by Councillor Price and seconded by Councillor Major to adopt Resolution No. 10 authorizing the department of Parks, Recreation and Libraries to pursue grants with Adams County Open Space

during the 2007 spring cycle for the development of Cheyenne Ridge Park and Big Dry Creek Park. Upon roll call vote, the motion carried unanimously.

EMERGENCY EXPENDITURES FOR SNOWSTORMS - REMOVED FROM TABLE

Councillor Major moved to remove the emergency expenditures for snowstorms item from the table. Councillor Price seconded the motion, and it passed unanimously.

EMERGENCY EXPENDITURES FOR SNOWSTORMS

Based on the report and recommendation of the City Manager, Councillor Dittman moved to award emergency snow removal contracts to the following vendors: Brannan Sand and Gravel Company - \$73,095; West Valley Construction - \$119,179; Integrated Solutions - \$61,443; Tom Calabrese Trucking Inc. - \$52,055; and Envirotech Inc. - \$79,000. Expenditures/purchases were to be ratified and payments authorized for invoices not previously paid to these firms. Councillor Kaiser seconded the motion, and it passed unanimously.

CITIZEN PRESENTATIONS

Mark McDonald, resident of Westminster and student at Metropolitan State University, asked several questions of Council regarding agenda structure and meeting procedures. Council and Mr. McFall responded.

ADJOURNMENT

There was no further business to come before the City Council, and the Mayor Pro Tem adjourned the meeting at 8:10 p.m.

ATTEST:

Mayor

City Clerk



**WESTMINSTER
COLORADO**

Agenda Memorandum

City Council Meeting
February 26, 2007



SUBJECT: Presentation of Employee Service Awards

Prepared By: Debbie Mitchell, Human Resources Manager
Dee Martin, Human Resources Administrator

Recommended City Council Action

Present service pins and certificates of appreciation to employees celebrating 20, 25, 30 and 35 years of service with the City, and provide special recognition to the City's 25-year employees with the presentation of a \$2,500 bonus.

Summary Statement

- City Council is requested to present service pins and certificates of appreciation to those employees who are celebrating their 20th, 25th, 30th and 35th anniversaries of employment with the City.
- In keeping with the City's policy of recognition for employees who complete increments of five years of employment with the City, and City Council recognition of employees with 20 years or more of service, the presentation of City service pins and certificates of appreciation has been scheduled for Monday night's Council meeting.
- In 1986, City Council adopted a resolution to award individuals who have given 25 years of service to the City with a \$2,500 bonus to show appreciation for such a commitment. Under the program, employees receive \$100 for each year of service, in the aggregate, following the anniversary of their 25th year of employment. The program recognizes the dedicated service of those individuals who have spent most, if not all, of their careers with the City.
- There are seven employees celebrating 25 years of service, and they will each receive a check for \$2,500, less income tax withholding following their 25th anniversary date.
 - Councillor Price will present the 35-year certificate.
 - Councillor Dittman will present the 30-year certificate.
 - Mayor McNally will present the 25-year certificates.
 - Councillor Major will present the 20-year certificates.

Expenditure Required: \$ 17,500

Source of Funds:	General Fund	-Fire Department \$10,000
		-Police Department \$5,000
	Water Fund	-Public Works & Utilities Department \$2,500

Policy Issue

None identified

Alternative

None identified

Background Information

The following 20-year employees will be presented with a certificate and service pin:

Greg Biggers	Police	Code Enforcement Officer
Tim Carlson	Police	Police Commander
Kevin Dooley	Fire	Fire Engineer
Ron Elrod	Parks, Recreation & Libraries	Parksworker II
Stacy Koenig	Parks, Recreation & Libraries	Electromechanic Specialist
Ed MacDonald	Parks, Recreation & Libraries	Crewleader
Joni McCulloch	Parks, Recreation & Libraries	Facility Assistant
Dave Sagel	Fire	Fire Lieutenant
Mark VanDenAbbeele	Fire	EMS Field Coordinator

The following 25-year employees will be presented with a certificate, service pin and check for \$2,500, minus amounts withheld for Federal and State income taxes after his or her anniversary date:

Joe Hastings	Police	Senior Police Officer
Gary Knapp	Fire	Firefighter II
Steve McDonald	Police	Sergeant
Steve Norwood	Fire	Fire Engineer
Ken Watkins	Fire	Deputy Chief
Rich Welz	Fire	Fire Captain
Tim Woodard	Public Works & Utilities	Plant Superintendent

The following 30-year employee will be presented with a certificate and service pin:

David Marquez	Public Works & Utilities	Plant Operator IV
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The following 35-year employee will be presented with a certificate and service pin:

Matt Raia	Police	Police Commander
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On February 28, 2007, the City Manager will host an employee awards luncheon at which time 6 employees will receive their 15 year service pin, 14 employees will receive their 10 year service pin, and 9 employees will receive their 5 year service pin, while recognition will also be given to those who are celebrating their 20th, 25th, 30th, and 35th anniversary. This is the first luncheon for 2007 to recognize and honor City employees for their service to the public.

The aggregate City service represented among this group of employees is 695 years of City service. The City can certainly be proud of the tenure of each of these individuals and of their continued dedication to City employment in serving Westminster citizens. Biographies of each individual being recognized are attached.

Respectfully submitted,

J. Brent McFall
City Manager
Attachment



Agenda Item 6 B

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
February 26, 2007



SUBJECT: Meritorious Service Award

Prepared By: Bill Walenczak, Director of Parks, Recreation and Libraries

Recommended City Council Action

Mayor McNally will present the Meritorious Service Award to Laurie Rutledge, Jinny Jasper, Lane Recker, Paul Clements and Greg Starkel for their act of compassion and heroism in their efforts to save the life of Daniel Bott, a guest at the West View Recreation Center.

Summary Statement

- On February 3, 2007, at 4 p.m., Daniel Bott, age 42, was playing wallyball at West View Recreation Center with friends when he began having chest pains. As he served the ball, he suddenly collapsed. His teammates rushed to his side; Lane Recker and Paul Clements began administering CPR as another ran to notify Staff. Guest Relations Clerk Jinny Jasper called 911 as Facility Assistant Laurie Rutledge grabbed the AED (automatic external defibrillator) and went to assess the situation. Daniel's heart was fighting hard, but then suddenly neither Laurie nor his teammates could feel a pulse and he began to turn blue. Laurie, with the help of Greg Starkel, attached and activated the AED. When Westminster Fire Department paramedics arrived less than 5 minutes after the 911 call, Daniel was stable.
- Due to Laurie, Jinny, Lane, Paul and Greg's valiant efforts, Mr. Bott is well on his way to recovery and has returned to West View Recreation Center to continue with his workouts.

Expenditure Required: \$ 0

Source of Funds: N/A

Policy Issue

None identified

Alternative

None identified

Background Information

The Meritorious Citizen Service Award recognizes action that results in the saving of a life in which extraordinary efforts were used. Laurie Rutledge, Jinny Jasper, Lane Recker, Paul Clements and Greg Starkel remained calm and acted heroically in a life-threatening situation.

Automated external defibrillators (AEDs) analyze the heart's rhythm for any abnormalities and, if necessary, direct the rescuer to deliver an electrical shock to the victim. This shock, called defibrillation, may help the heart to reestablish an effective rhythm of its own. When someone is a victim of sudden cardiac death, a rescuer can attach the machine via electrodes and the machine will analyze the victim's heart rhythm. If the machine reads a rhythm that can potentially be corrected by electric shock, it will charge the system to the appropriate amount of electricity. After charging, the rescuer must initiate the shock. The machine will only shock patients suffering from correctable heart rhythms. The availability of the AED units in City facilities can save valuable time in administering such a shock to a victim of cardiac arrest without having to wait for paramedics to arrive. Approximately 50 City employees were trained to use the devices this summer.

This program was started through the efforts the Fire Department. Fire Captain Randy Peterson and Chief Cloud proposed this idea to Parks, Recreation and Libraries Staff who in turn applied to the Legacy Foundation for a grant to place the devices in city recreation centers and other facilities. In 2004, AEDs were placed in eight City of Westminster locations thanks to the Legacy Foundation grant. The AED unit that is currently installed at West View Recreation Center was funded through a donation to the Legacy Foundation from Ball Corporation, whose employees often use this City facility.

Last summer, AED units funded by the American Heart Association were installed at City Park Recreation Center and the MAC (formerly the Community Senior Center). This coming July, the City of Westminster will install four new lifesaving devices in City facilities, thanks to a second contribution from the Westminster Legacy Foundation. The City has identified 14 sites as potential locations for AEDs in the future, and the donation of these four units will be an excellent start. These devices serve as a little extra peace of mind for residents or visitors to our City facilities, and under circumstances such as those experienced at West View Recreation Center they save lives.

Respectfully submitted,

J. Brent McFall
City Manager



Agenda Item 6 C

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
February 26, 2007



SUBJECT: Recognition of 2007 Metropolitan Mayors' and Commissioners' Youth Award (MMCYA) Recipients

Prepared By: Aric Otzelberger, Management Analyst

Recommended City Council Action

1. Recognize the youth selected to receive the 2007 Metropolitan Mayors' and Commissioners' Youth Award (MMCYA).
2. Recognize and present certificates of achievement to:
Katherine "Annie" Burky, Standley Lake High School, nominator wishes to remain anonymous
Kyle Bodor, Pomona High School, nominated by Al Villani

Summary Statement

- Two Westminster youth have been nominated through the Metropolitan Mayors' and Commissioners' Youth Award program for municipal-level recognition.
- City Council is requested to recognize these youth publicly during the February 26 Council meeting.

Expenditure Required: \$ 0

Source of Funds: N/A

Policy Issue

None identified

Alternative

None identified

Background Information

The Metropolitan Mayors and Commissioners Youth Award (MMCYA) was established in 1986 by Family Tree, Inc. and the Denver Commission on Youth. Today, the program serves nine metropolitan counties. The mission of the program is to recognize teenagers between the ages of 13 and 19 who have overcome personal adversity and created positive change in their environments. The awards program provides business, community and civic leaders the opportunity to actively demonstrate their belief in and support for the young people in our communities. All of the nominees are honored by their respective municipalities. Additionally, if a nominee is selected to continue in the awards process, he or she may also be honored by his or her county and by the entire metropolitan area.

Letters and nomination forms were sent to local schools, non-profit organizations, and churches in Westminster. Staff also marketed the award program through Weekly Edition, the City Web site, and Channel 8. The Youth Advisory Panel, PR&L Staff, and School Resource Officers were also solicited for nominations. Adams School District 50 assigned an administrative employee to solicit and collect nominations within the District. However, no nominations were received from District 50.

Adams County Commissioners will hold a banquet honoring youths who were selected for county-level recognition on March 16. The City of Westminster did not receive any nominations for students attending school in Adams County. The Jefferson County recognition event has not been scheduled yet, but Katherine "Annie" Burky and Kyle Bodor will be eligible to compete for recognition at that event. The metro area recognition will be held sometime in April.

The youths being recognized Monday night by City Council have faced trauma with courage, and have overcome emotional and physical health ailments with determination. During the recognition ceremony, a description of the award and its criteria will be conveyed, and each nominee's name, age, school and nominator's name will be read as they receive their certificate. Due to the sensitive nature of the nominees' backgrounds, the adversity that each nominee has overcome will be treated in a careful manner. Finally, each nominee's interests and future plans will be highlighted.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
February 26, 2007



SUBJECT: Financial Report for January 2007

Prepared By: Tammy Hitchens, Finance Director

Recommended City Council Action

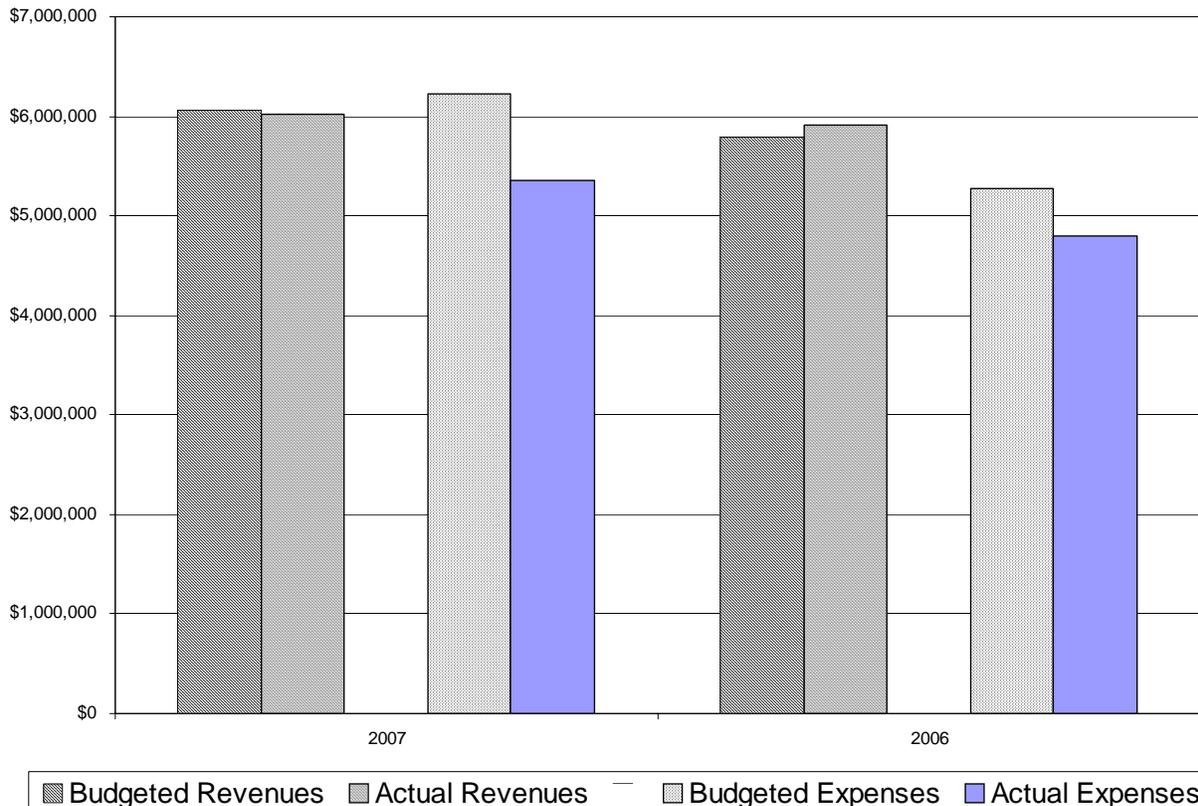
Accept the Financial Report for January as presented.

Summary Statement

City Council is requested to review and accept the attached monthly financial statement. The Shopping Center Report is also attached. Unless otherwise indicated, “budget” refers to the pro-rated budget. Revenues also include carryover where applicable. The revenues are pro-rated based on 10-year historical averages. Expenses are also pro-rated based on 5-year historical averages.

The General Fund revenues and carryover exceed expenditures by \$664,000. The following graph represents Budget vs. Actual for 2006 – 2007.

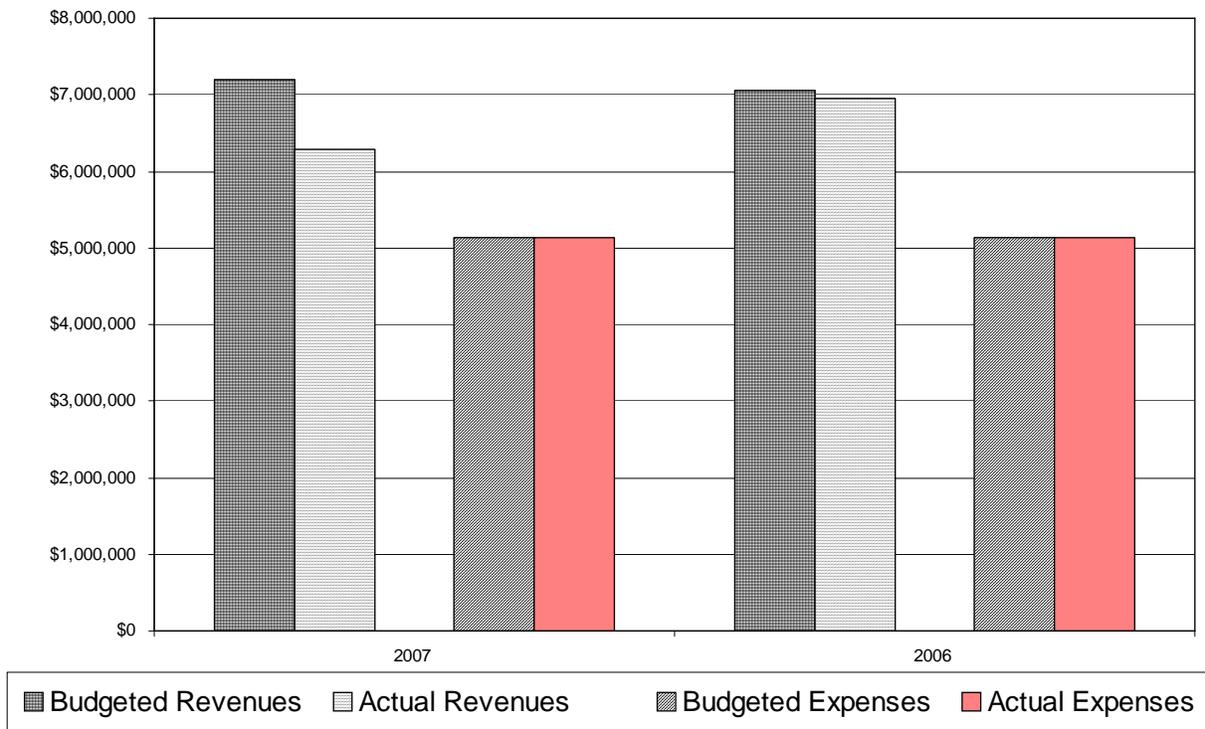
**General Fund
Budget vs Actual**



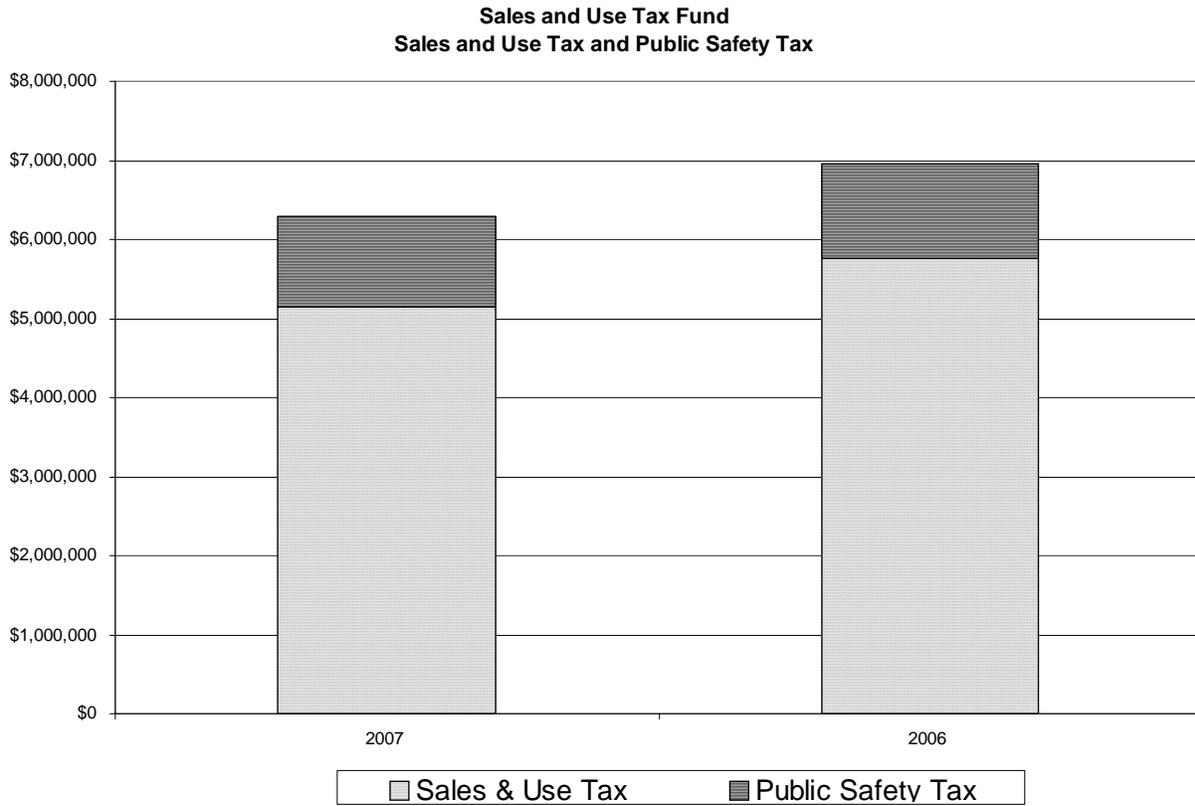
The Sales and Use Tax Fund's revenues and carryover exceed expenditures by \$1,157,000. However, at this point in the year we are \$907,403 below anticipated revenues due to the impact of the snow storms.

- On a year-to-date cash basis, sales & use tax returns are down 10.0%.
- On a year-to-date basis, across the top 25 shopping centers, total sales & use tax receipts are up 0.4% from the prior years. This includes Urban Renewal Area money that is not available for General Fund use. Without Urban Renewal money, total sales and use tax receipts are down 6.8%.
- The top 50 Sales Taxpayers, who represent about 63% of all collections, were down 11.0% after adjusting for one time audit revenue and Urban Renewal Area money that is not available for General Fund use.
- The Westminster Mall is down 24% on a year-to-date basis.
- The December blizzard had a significant one time impact on sales and use tax collections.
- Building Use Tax is down 28.1% year-to-date over 2006.

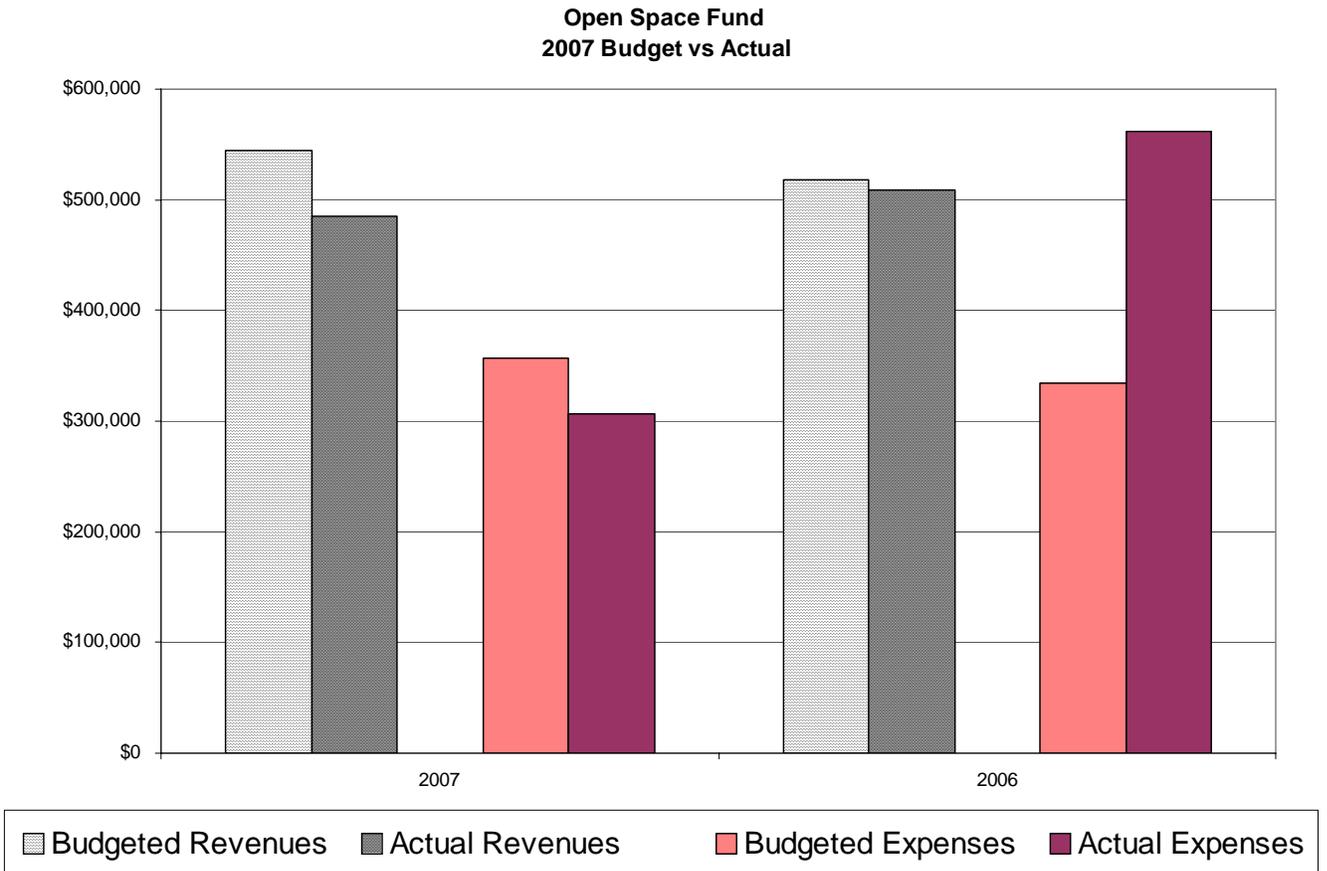
**Sales & Use Tax Fund
Budget vs Actual**



The graph below reflects the contribution of the Public Safety Tax to the overall Sales and Use Tax revenue.

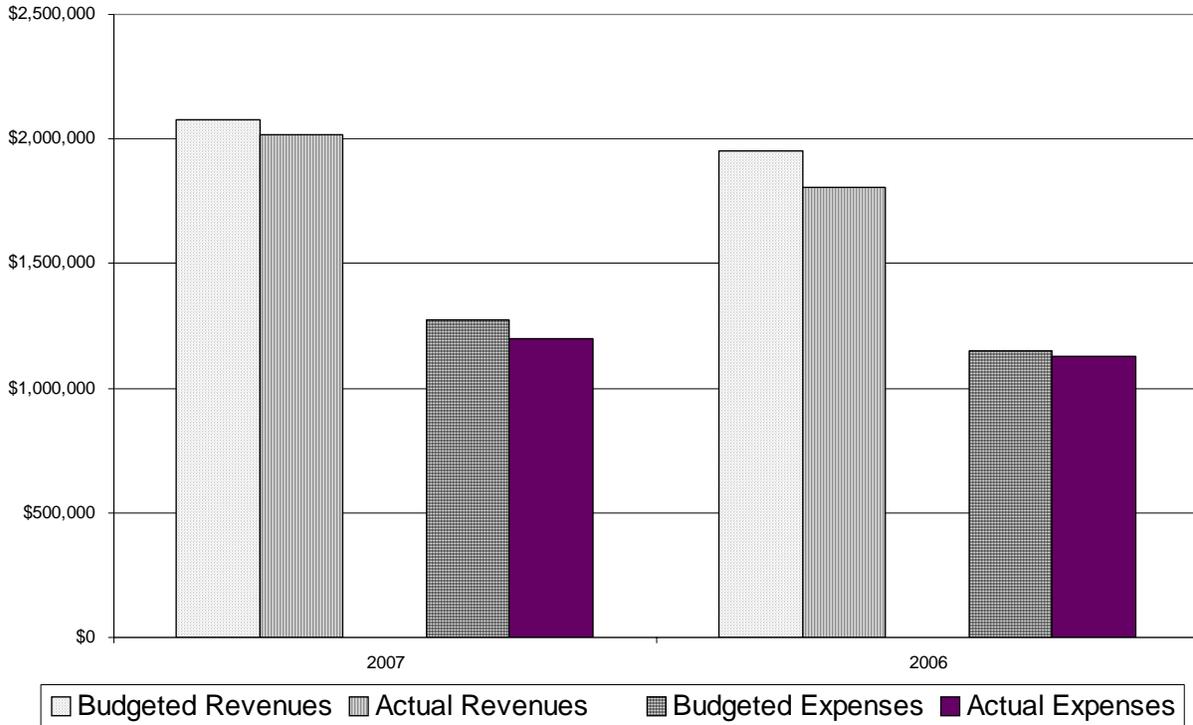


The Open Space Fund revenues exceed expenditures by \$178,000.



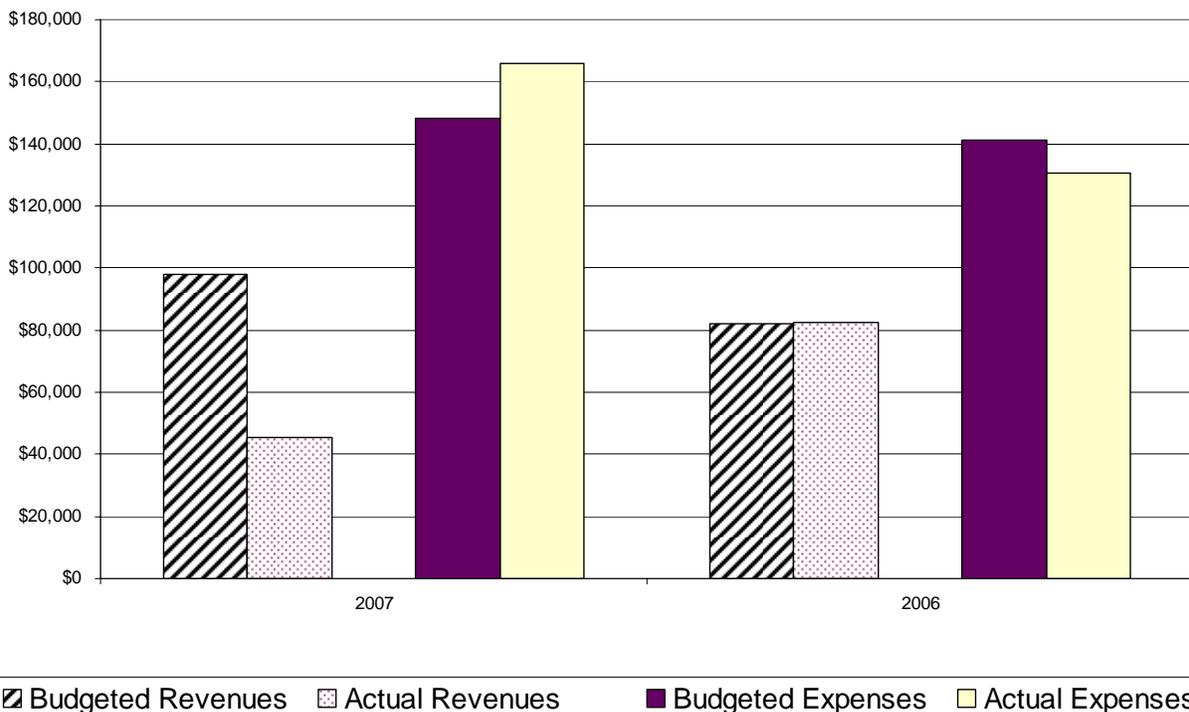
The combined Water & Wastewater Funds' revenues and carryover exceed expenses by \$1,763,000. \$18,523,000 is budgeted for capital projects and reserves.

**Combined Water and Wastewater Funds
Operating Budget vs Actual**



The combined Golf Course Funds' expenditures exceed revenues by \$120,000. Revenues are down more than normal due to the abnormal snow storms.

**Golf Course Enterprise
2007 Budget vs Actual**



Policy Issue

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

Alternative

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

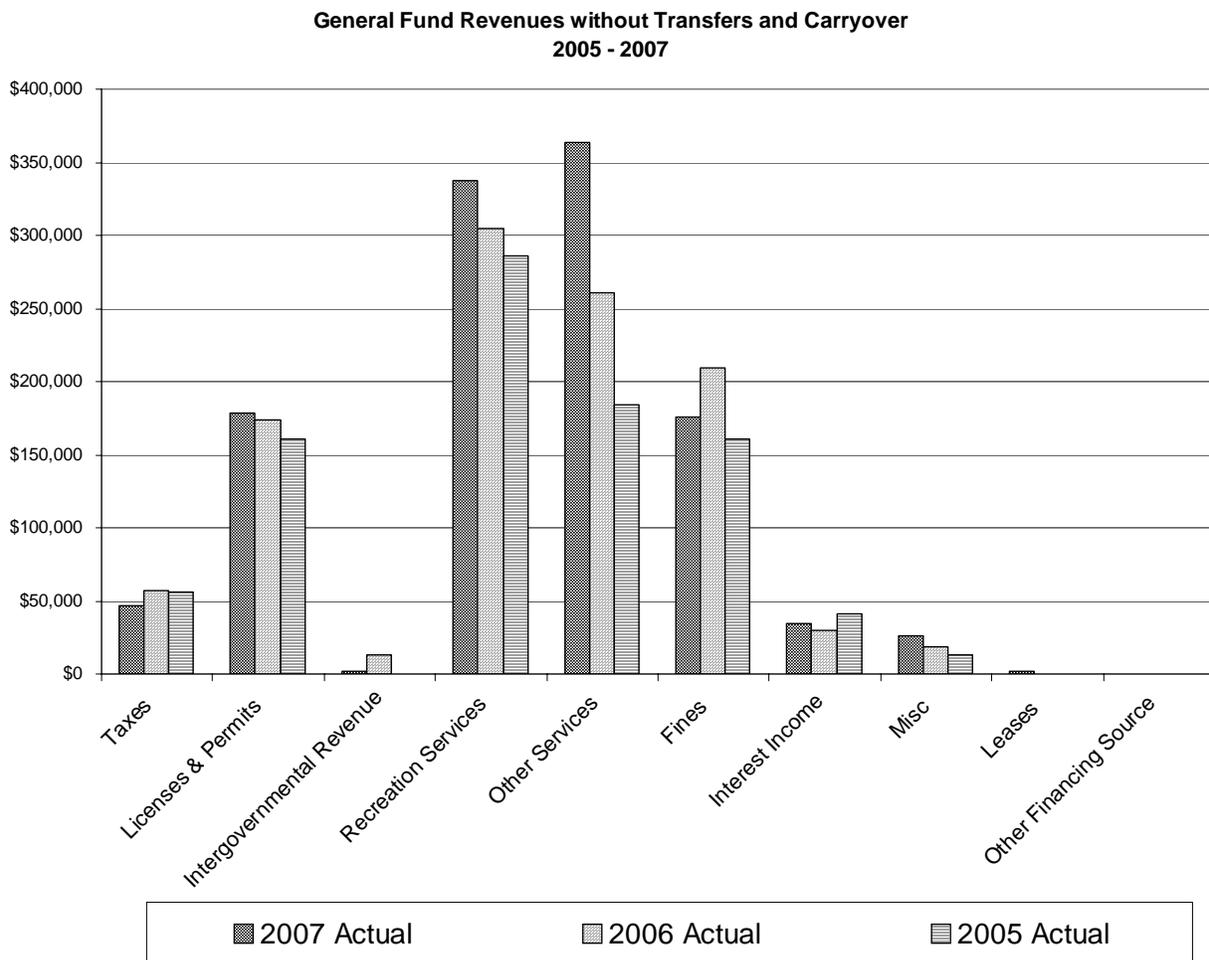
Background Information

This section includes a discussion of highlights of each fund presented.

General Fund

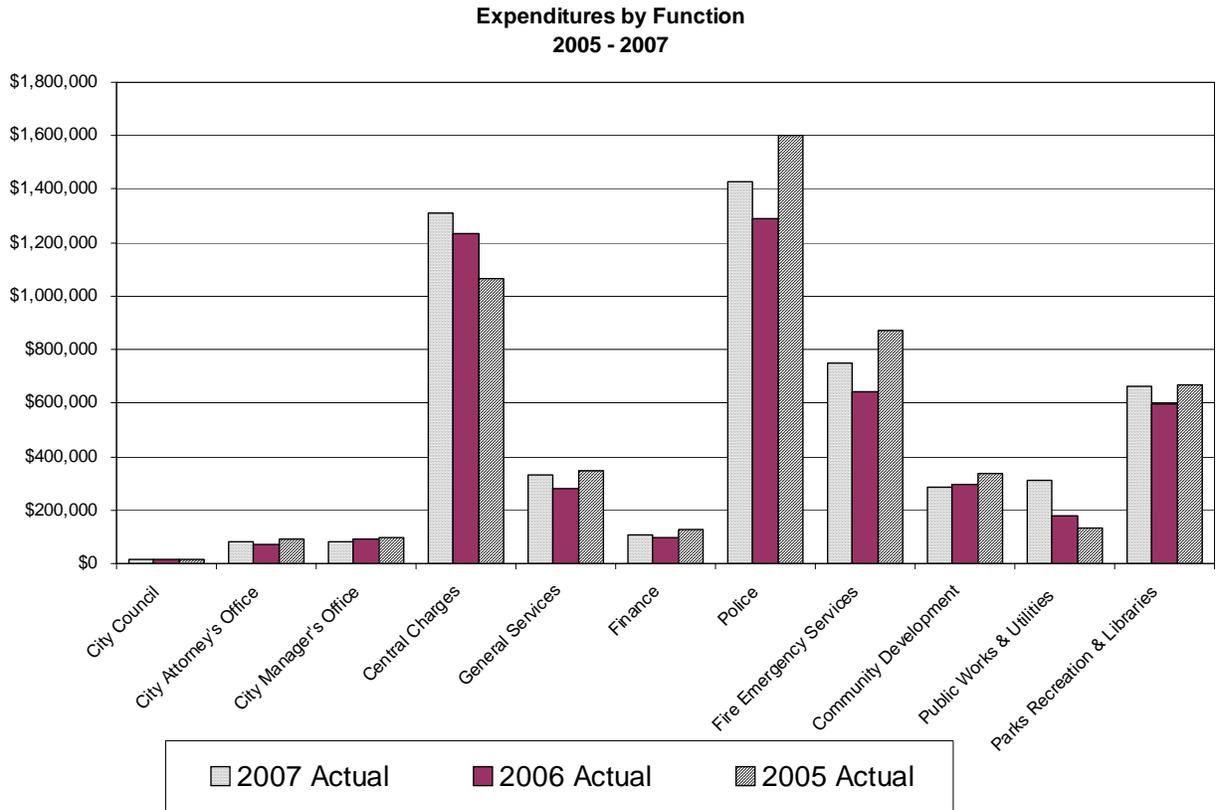
This fund reflects the results of the City’s operating departments: Police, Fire, Public Works (Streets, etc.), Parks Recreation and Libraries, Community Development, and the internal service functions; City Manager, City Attorney, Finance, and General Services.

The following chart represents the trend in actual revenues from 2005 – 2007 year-to-date.



The increase in Other Services reflects the Infrastructure fee.

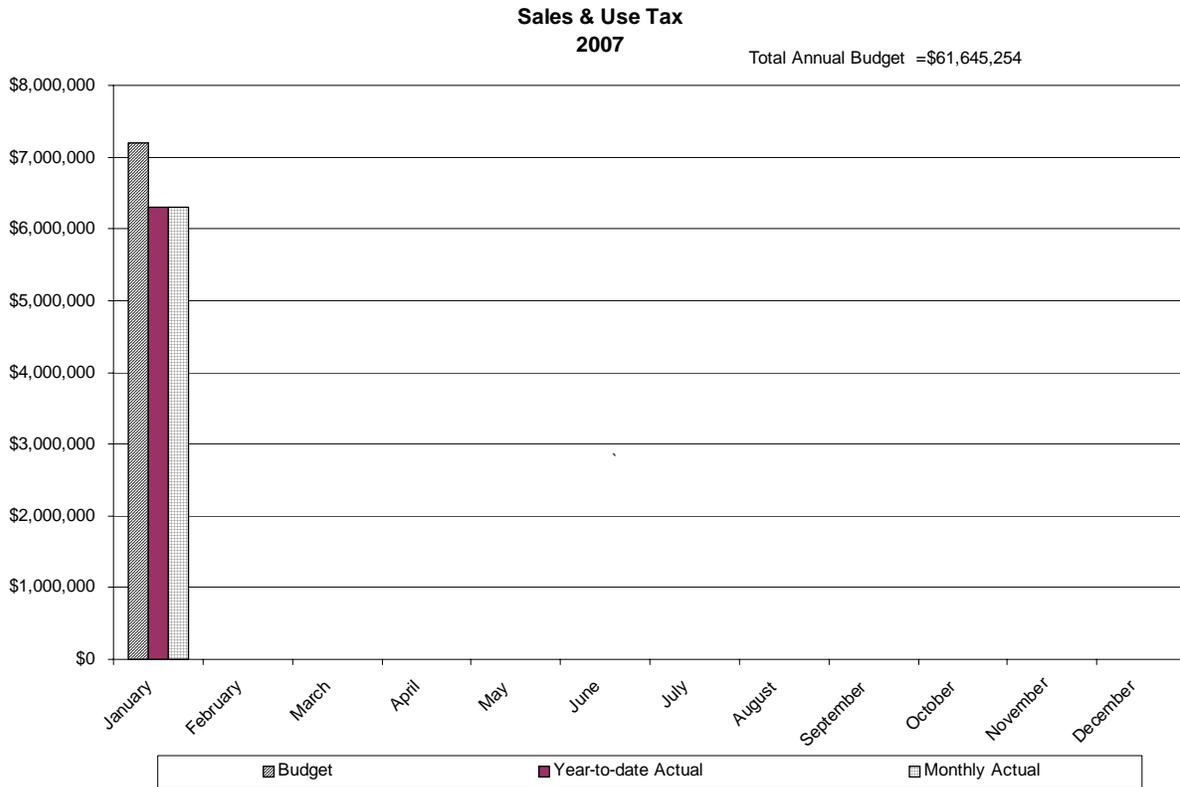
The following chart identifies where the City is focusing its resources. The chart shows year-to-date spending for 2005 –2007.



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

These funds are the repositories for the 3.85% City Sales & Use Tax for the City. The Sales & Use Tax Fund provides monies for the General Fund, the Capital Project Fund and the Debt Service Fund. The Open Space Sales & Use Tax Fund revenues are pledged to meet debt service on the POST bonds, buy open space, and make park improvements on a pay-as-you-go basis. The Public Safety Tax (PST) is a 0.6% sales and use tax to be used to fund public safety-related expenses.

This chart indicates how the City's Sales and Use Tax revenues are being collected on a monthly basis. This chart does not include Open Space Sales & Use Tax.

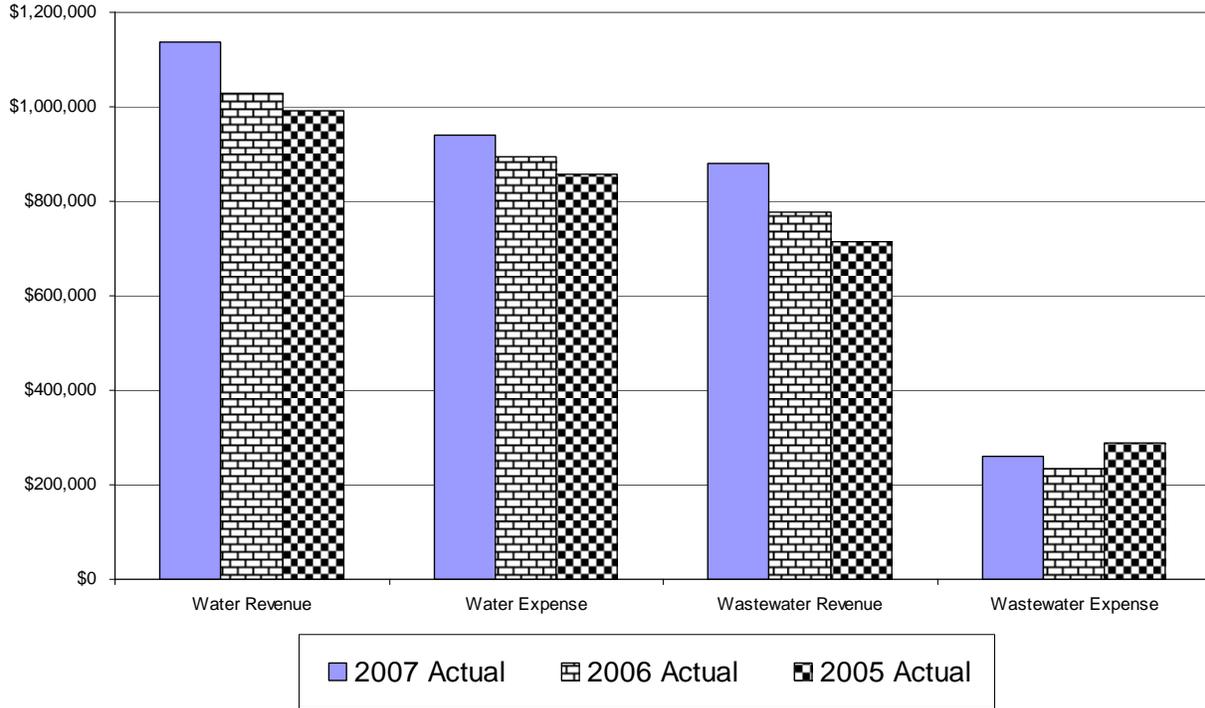


Water, Wastewater and Storm Water Drainage Funds (The Utility Enterprise)

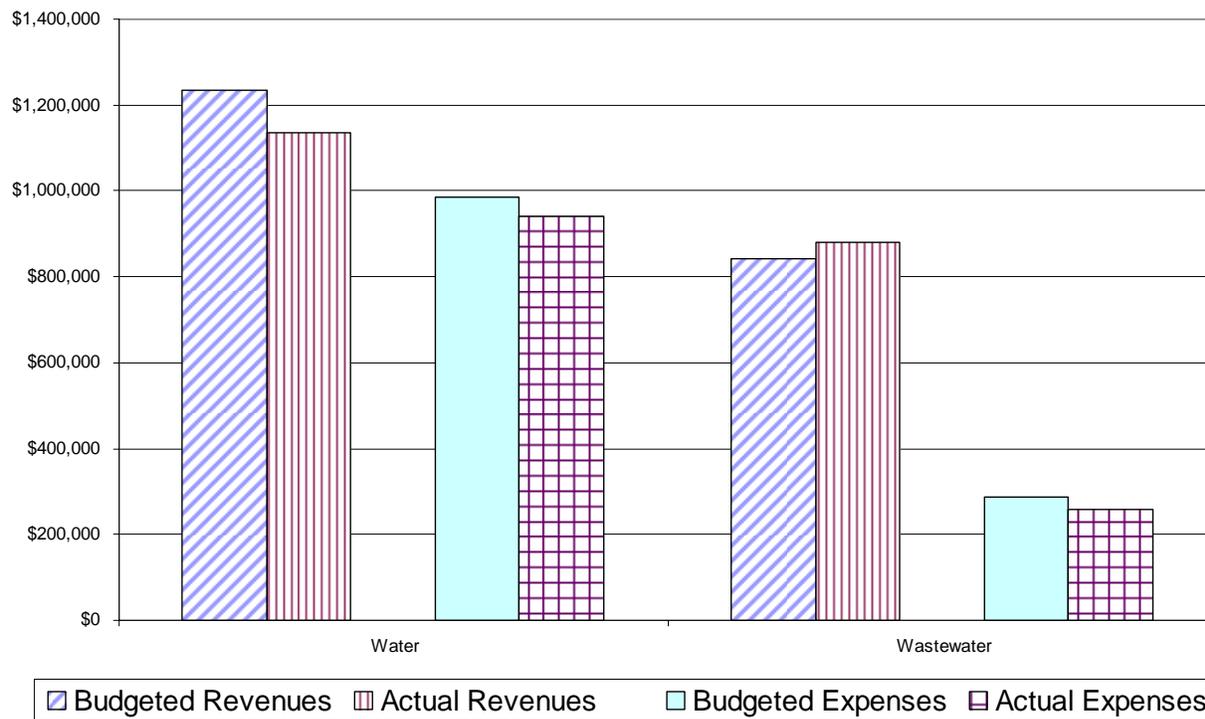
This fund reflects the operating results of the City’s water, wastewater and storm water systems. It is important to note that net operating revenues are used to fund capital projects.

These graphs represent the segment information for the Water and Wastewater funds.

**Water and Wastewater Funds
Operating Revenue and Expenses 2005-2007**



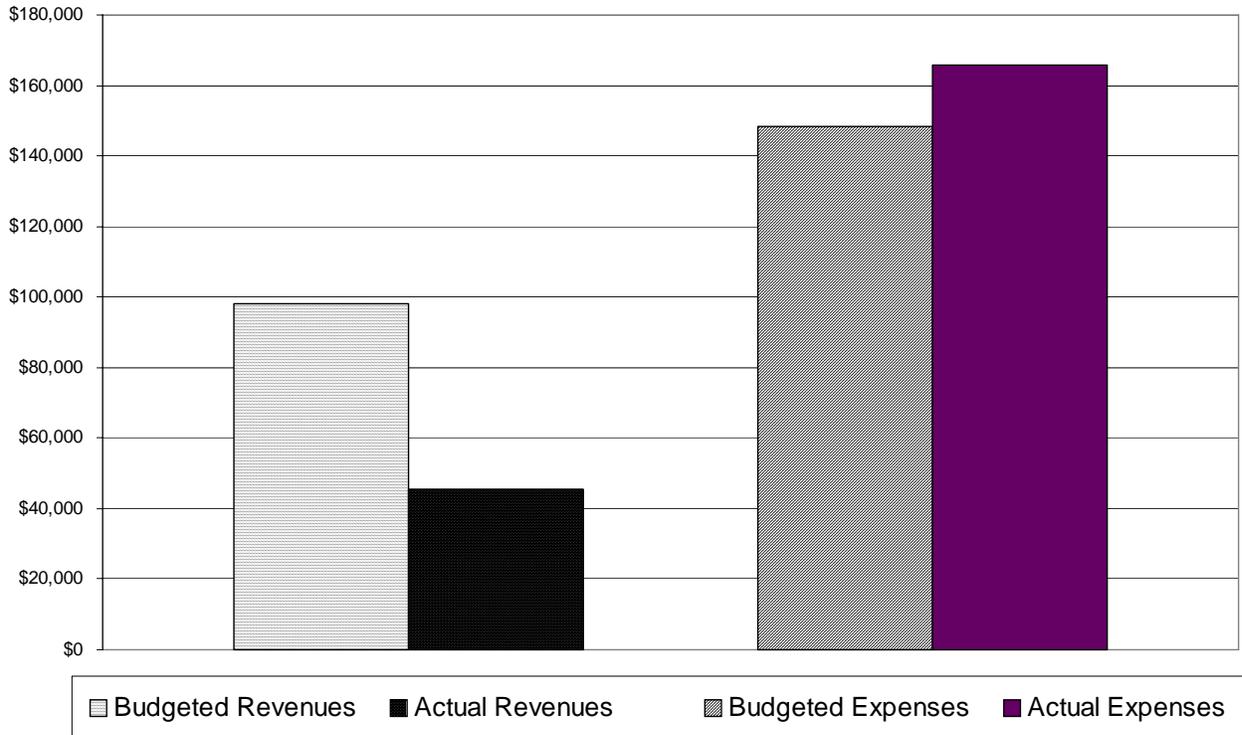
**Water and Wastewater Funds
2007 Operating Budget vs Actual**



Golf Course Enterprise (Legacy and Heritage Golf Courses)

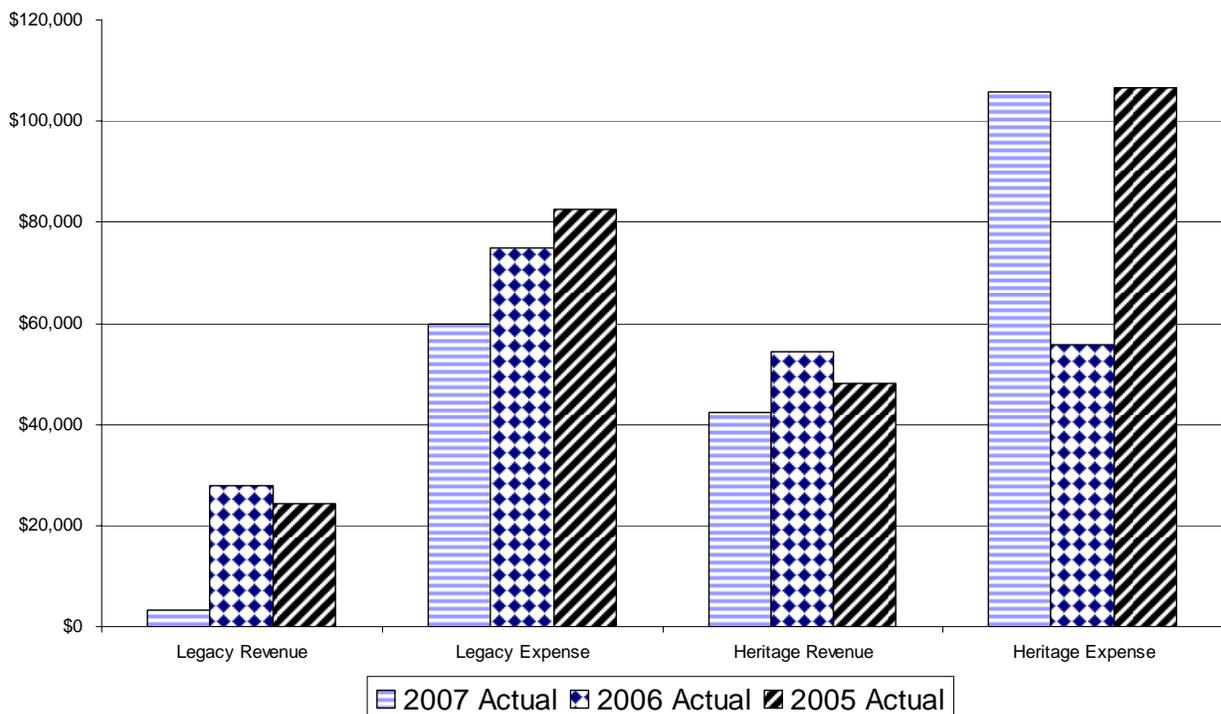
This enterprise reflects the operations of the City's two municipal golf courses.

**Combined Golf Courses
2007 Budget vs Actual**



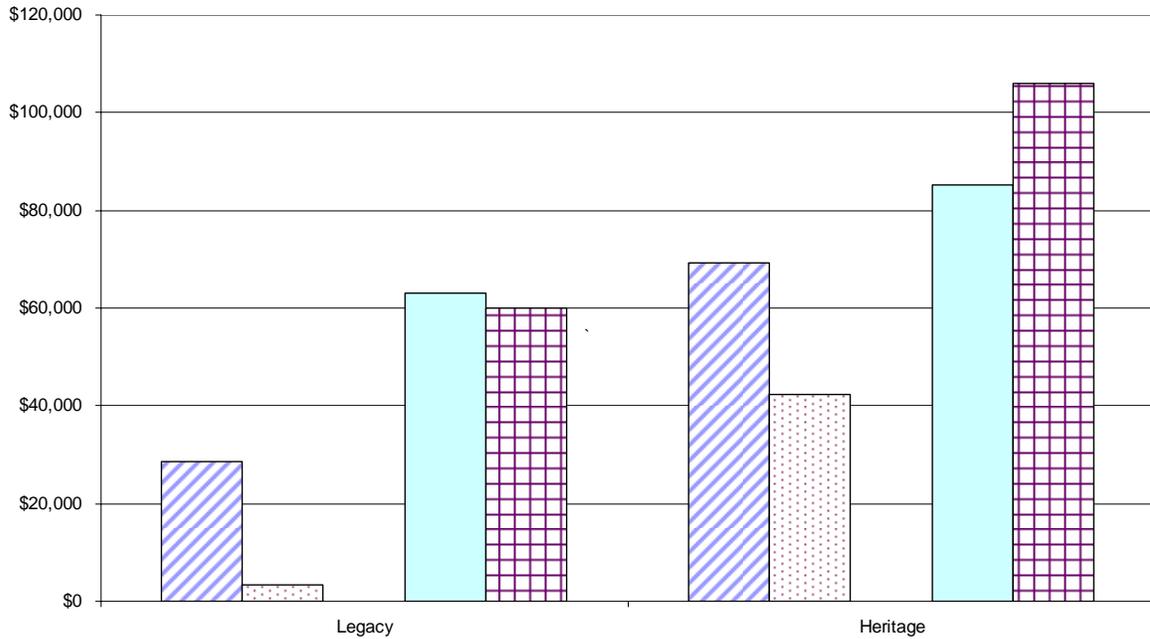
The following graphs represent the information for each of the golf courses.

**Legacy and Heritage Golf Courses
Revenue and Expenses 2005-2007**



Heritage's expenses reflect the lease payments that were started in July of 2006, as well as a timing difference in the Jefferson County Airport lease payment. That payment was made in February of 2006.

**Legacy and Heritage Golf Courses
2007 Budget vs Actual**



Legend: Budgeted Revenues (Blue Diagonal Lines), Actual Revenues (Dotted), Budgeted Expenses (Cyan), Actual Expenses (Purple Grid)

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

**City of Westminster
Financial Report
For One Month Ending January 31, 2007**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Wastewater Fund						
Operating Revenues						
Rates and Charges	10,292,118	839,815		880,676	40,861	104.9%
Miscellaneous	10,000	833		-	(833)	N/A
Total Operating Revenues	<u>10,302,118</u>	<u>840,648</u>		<u>880,676</u>	<u>40,028</u>	<u>104.8%</u>
Operating Expenses						
Central Charges	1,748,212	145,684		132,706	(12,978)	91%
Public Works & Utilities	6,220,050	141,281		126,293	(14,988)	89%
Total Operating Expenses	<u>7,968,262</u>	<u>286,965</u>		<u>258,999</u>	<u>(27,966)</u>	<u>90%</u>
Operating Income (Loss)	<u>2,333,856</u>	<u>553,683</u>		<u>621,677</u>	<u>67,994</u>	<u>112%</u>
Other Revenues and Expenses (2)						
Tap Fees	2,374,995	141,552		135,240	(6,312)	96%
Interest Income	700,000	58,333		110,000	51,667	189%
Interfund Transfers	333,564	27,797		27,797	-	100%
Debt Service	(1,506,415)	-		-	-	N/A
Total Other Revenues and Expenses	<u>1,902,144</u>	<u>227,682</u>		<u>273,037</u>	<u>45,355</u>	<u>120%</u>
Increase (Decrease) in Net Assets (1)	<u>4,236,000</u>	<u>781,365</u>		<u>894,714</u>	<u>113,349</u>	

(1) Increase in Net Assets available for Capital Projects and Reserves

(2) Staff has changed the format of this page to separate non-operating revenues and expenses from operating revenues and expense:

CITY OF WESTMINSTER

GENERAL RECEIPTS BY CENTER - SUMMARY (CC)
MONTH OF JANUARY 2007

Center Location Major Tenant	Current Month			Last Year			%Change		
	General Sales	General Use	Total	General Sales	General Use	Total	Sales	Use	Total
WESTMINSTER MALL 88TH & SHERIDAN 4 DEPARTMENT STORES	700,843	3,815	704,657	919,494	4,474	923,968	-24	-15	-24
WESTFIELD SHOPPING CENTER NW CORNER 92ND & SHER WALMART	626,282	1,858	628,140	601,942	1,812	603,754	4	3	4
CITY CENTER MARKETPLACE NE CORNER 92ND & SHERIDAN COMP USA/CIRCUIT CITY	378,409	2,474	380,882	353,458	988	354,447	7	150	7
SHOPS AT WALNUT CREEK 104TH & REED TARGET	265,863	651	266,514	191,703	1,176	192,879	39	-45	38
NORTHWEST PLAZA SW CORNER 92 & HARLAN COSTCO	261,797	1,706	263,503	245,695	828	246,522	7	106	7
SHERIDAN CROSSING SE CORNER 120TH & SHER ALBERTSONS	227,178	1,725	228,903	224,813	1,236	226,048	1	40	1
BROOKHILL I & II N SIDE 88TH OTIS TO WADS HOME DEPOT	214,908	1,192	216,099	247,888	1,971	249,859	-13	-40	-14
PROMENADE SOUTH/NORTH S/N SIDES OF CHURCH RANCH BLVD SHANE/AMC	189,141	12,466	201,607	191,863	19,671	211,534	-1	-37	-5
NORTH PARK PLAZA SW CORNER 104TH & FEDERAL KING SOOPERS	170,411	9,943	180,354	155,447	570	156,018	10	1643	16
VILLAGE AT THE MALL S SIDE 88TH DEPEW-HARLAN TOYS 'R US	168,629	300	168,928	180,844	1,045	181,888	-7	-71	-7
THE ORCHARD 144TH & I-25 JC PENNEY	154,797	461	155,257	0	0	0	*****	*****	*****
STANDLEY SHORES CENTER SW CORNER 100TH & WADS KING SOOPERS	121,298	716	122,014	120,552	820	121,373	1	-13	1
ROCKY MOUNTAIN PLAZA SW CORNER 88TH & SHER GUITAR STORE	70,259	222	70,481	74,853	465	75,318	-6	-52	-6
STANDLEY LAKE MARKETPLACE NE CORNER 99TH & WADSWORTH SAFEWAY	63,327	719	64,046	66,963	516	67,479	-5	39	-5
WILLOW RUN 128TH & ZUNI	62,388	330	62,718	61,508	531	62,039	1	-38	1

CITY OF WESTMINSTER

GENERAL RECEIPTS BY CENTER - SUMMARY (CC) MONTH OF JANUARY 2007

Center Location Major Tenant	Current Month			Last Year		%Change			
	General Sales	General Use	Total	General Sales	General Use	Total Sales	Use Total		
SAFEWAY WESTMINSTER PLAZA FEDERAL-IRVING 72ND-74TH	56,490	553	57,043	55,736	1,905	57,640	1	-71	-1
SAFEWAY WESTMINSTER CROSSING 136TH & I-25	56,265	41	56,306	0	0	0	*****	*****	*****
LOWE'S NORTHVIEW S SIDE 92ND YATES-SHER	49,881	2,367	52,248	38,663	333	38,996	29	611	34
ALBERTSONS MISSION COMMONS W SIDE WADSWORTH 88-90TH	46,534	189	46,722	45,118	202	45,320	3	-7	3
BIG 5 SPORTS LUCENT/KAISER CORRIDOR 112-120 HURON - FEDERAL	17,196	27,973	45,169	33,764	108,714	142,478	-49	-74	-68
LUCENT TECHNOLOGY VILLAGE AT PARK CENTRE NW CORNER 120TH & HURON	35,827	8,899	44,726	42,035	1,342	43,376	-15	563	3
CB & POTTS HIDDEN LAKE NE CORNER 72 & SHERIDAN	36,821	408	37,229	30,943	169	31,112	19	142	20
ALBERTSONS STANDLEY PLAZA SW CORNER 88TH & WADS	28,097	1,288	29,385	30,128	601	30,729	-7	114	-4
WALGREENS MEADOW POINTE NE CRN 92ND & OLD WADS	25,777	88	25,864	21,663	73	21,737	19	19	19
CARRABAS WESTMINSTER SQUARE NW CORNER 74TH & FED	25,048	474	25,522	30,764	1,092	31,856	-19	-57	-20
ARC THRIFT STORE									
	4,053,464	80,855	4,134,318	3,965,838	150,534	4,116,372	2	-46	0



Agenda Item 8 B

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
February 26, 2007



SUBJECT: Quarterly Insurance Report: October - December 2006

Prepared By: Martee Erichson, Risk Management Officer

Recommended City Council Action

Accept the 4th Quarter 2006 Insurance Report.

Summary Statement

- The attached report provides detailed information on each claim including the City's claim number, date of loss, claimant's name and address, a 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. The listing of the claims in this report is provided in accordance with Westminster Municipal Code 1-30-3.
- In accordance with Code provisions, the Risk Management Officer, acting as the City Manager's designee, has the authority to settle claims of less than \$30,000. However, under our contract with the Colorado Intergovernmental Risk Sharing Agency (CIRSA), CIRSA acts as the City's claims adjustor and settlement of claims proceed with the concurrence of both CIRSA and the Risk Management Officer. The City retains the authority to reject any settlement recommended by CIRSA, but does so at the risk of waiving its insurance coverage for such claims.

Expenditure Required: \$ 0

Source of Funds: N/A

Policy Issue

None identified

Alternative

None identified

Background Information

Information on the status of each claim received during the 4th quarter of 2006 is provided on the attached spreadsheet. All Incident Report forms are signed and reviewed by appropriate supervisors, Safety Committee Representatives and Department Heads. Follow up action, including discipline if necessary, is taken on incidents where City employees are at fault.

For the 4th quarter of 2006, Staff has noted the following summary information:

- 11 of the 21 claims reported in the 4th quarter of 2006 are closed at this time.
- Total claims for the quarter and year-to-date breakdown by department as follows:

Department	4th Qtr 2006			YTD
	Total Claims	Open	Closed	Total
CD	0	0	0	2
Fire	2	0	2	5
GS – BO&M	1	1	0	1
Police	4	1	3	16
PR&L	1	0	1	5
PWU - Streets	11	5	6	13
PWU - Utilities	3	3	0	15
N/A	1	1	0	1
TOTAL	23	11	12	58

The attached report provides detailed information on each claim made during the fourth quarter of 2006.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

**Quarterly Insurance Report
October - December 2006**

Claim Number	Date	Dept.	Claimant	Address	Claim Description	Payment	Status	Notes
2006-454	10/4/2006	PRL	Shana Cohen	175 W 3rd Ave Dr., Broomfield, CO 80020	Claimant alleges that as she was driving her vehicle westbound on 104th between Sheridan and Westminster Blvd, a rock was thrown up into her windshield by a City employee operating a weed-eater on the side of the road.	\$0.00	Closed	Claim denied based on Colorado Governmental Immunity Act and investigation found no evidence of negligence on the part of the City.
2006-469	10/25/2006	PD	David Finley	7402 Ames St., Westminster, CO 80003	Officers were in pursuit of a felony suspect who was believed to be armed and dangerous when one officer drove his marked police car into the claimant's fence in order to better apprehend the suspect who had fled his vehicle and jumped the fence.	\$90.00	Closed	Claim denied based on Colorado Governmental Immunity Act and investigation found no evidence of negligence on the part of the City employees. Claimant was offered \$90 "good neighbor" settlement per agreement between Police and Risk Management.
2006-500	11/6/2006	PWU - Util.	Charles & Ann Ragsdale	8120 Osceola St., Westminster, CO 80031	A coupling used to hold two water main pipes together came apart causing water to flood the pump station building. The resulting water pressure within the building caused the south wall of the structure to explode out, discharging water down the hill and into the claimants' residence.	\$4,926.64	Open	Damages continue to be identified and evaluated
2006-500	11/6/2006	PWU - Util.	Tenny & Lenita Lindholm	3795 W 81st Ave., Westminster, CO 80031	A coupling used to hold two water main pipes together came apart causing water to flood the pump station building. The resulting water pressure within the building caused the south wall of the structure to explode out, discharging water down the hill and into the claimants' residence.	\$4,853.60	Open	Damages continue to be identified and evaluated
2006-506	11/10/2006	PWU - St.	Stacey Bouthillette	13860 Meadowbrook Dr., Broomfield, CO 80020	Claimant alleges she was driving westbound on 136th when her vehicle ran over a loose water meter lid in the roadway causing damage to her vehicle.	\$0.00	Closed	Claim denied based on Colorado Governmental Immunity Act and investigation found no evidence of negligence on the part of the City.
2006-537	11/23/2006	PD	Adams County School District 50	4476 W 68th Ave., Westminster, CO 80030	The Police Department SWAT team utilized two District 50 school buses for a training exercise on bus assaults. During the training the front loading door of one of the buses was damaged.	\$640.40	Closed	
2006-543	12/20/2006	PWU - St.	Harry Barth	8120 Meade St., Westminster, CO 80030	PWU employee attempting to plow snow on Lowell using a City front end loader, slid into the claimant's vehicle that had been left stuck in the street	\$0.00	Open	CIRSA Investigating
2006-556	12/20/2006	FD	Neil Rosenberger	10472 Twin Spruce, Golden, CO 80403	Claimant's vehicle was parked in a City facility parking lot when an employee attempting to plow the parking lot hit the claimant's vehicle with the City vehicle	\$1,994.63	Closed	
2006-570	12/20/2006	PWU - St.	Glenn Kingsley	9320 W. 94th Ave., Westminster, CO 80021	Claimant was in his vehicle and stopped at a stoplight when his vehicle was hit by a snowplow being operated by a City employee.	\$0.00	Open	CIRSA Investigating
2006-541	12/21/2006	PWU - St.	Daniel Sonka	6870 W. 91st Ct. Apt. 9303, Westminster, CO 80021	PWU employee hit the claimant's parked car with the City snowplow he was operating.	\$0.00	Open	CIRSA Investigating
2006-544	12/21/2006	PWU - St.	Lyndsay Fritchell	7320 Newton St., Westminster, CO 80030	City snowplow that was being towed from where it was stuck by an employee operating a front end loader, slid into the claimant's parked vehicle.	\$0.00	Open	CIRSA Investigating

Claim Number	Date	Dept.	Claimant	Address	Claim Description	Payment	Status	Notes
2006-558	12/21/2006	PWU - St.	Helen Rome	7991 Stuart St., Westminster, CO 80031	Claimant alleges a City employee operating a snowplow damaged landscaping in her yard.	\$0.00	Open	CIRSA Investigating
2006-581	12/21/2006	PWU - St.	Jack Templeton	9205 Raleigh St., Westminster, CO 80031	Claimant alleges a City employee operating a snowplow damaged the fence in his front yard.	\$672.50	Closed	
2006-562	12/26/2006	FD	Adam Ambrose	2901 W. 81st Ave. #H, Westminster, CO 80031	911 caller gave dispatch the wrong address to respond to a possible injured party. FD personnel were unable to gain access to the claimant's home so the door was forced open. Upon entering the claimant's home FD personnel discovered it was the wrong address.	\$600.00	Closed	Claim denied based on Colorado Governmental Immunity Act and investigation found no evidence of negligence on the part of the City employees. Claimant was offered \$600 "good neighbor" settlement per agreement between Fire and Risk Management.
2006-563	12/27/2006	PWU - St.	Dan Scherzer	10549 Quail Ct., Westminster, CO	Claimant alleges a City employee operating a snowplow swiped the side mirror off his truck	\$0.00	Closed	Claim denied when investigation found no evidence of negligence on the part of the City.
2006-580	12/29/2006	PWU - St.	Scott Ireland	13816 Lexington Pl., Westminster, CO 80020	Citizen claims a City employee operating a snowplow damaged landscaping in his yard.	\$0.00	Open	CIRSA Investigating
2006-569	12/30/2006	PWU - St.	Patrick Salyers	6358 W. 115th Ave., Westminster, CO 80020	Claimant chose to drive his truck through a large pile of snow and ice that he alleges a City snowplow plowed into his driveway, causing damage to the front end of his vehicle.	\$0.00	Closed	Claim denied as the damage was caused by the claimant's own actions.
CLAIMS SUBMITTED IN 4th QUARTER WITH OCCURRENCE DATES PRIOR TO 4th QUARTER 2006:								
2006-505	5/27/2004	PWU	Hamon Contractors	5670 Franklin St., Denver, CO 80216	Claimant alleges they incurred damages as a result of the City concealing material information from them regarding the addition of a 16 inch waterline prior to the claimant's bid on the Huron Street Widening Phase I Project.	\$0.00	Open	CIRSA and CAO Investigating
2006-057	2/14/2006	PD	Robert Schempff	7776 Vallejo St., Denver, CO 80221	Police officer driving a City vehicle rear-ended claimant's vehicle	\$580.55	Closed	
2006-460	3/13/2006	N/A	Ken Morfit	6812 Wadsworth Blvd., Arvada, CO 80003	Hyland Hills Park & Recreation District put the City on notice regarding a Notice of Claim they received from an attorney representing the claimant who alleges he was assaulted (on the ice) by a District employee during an adult men's hockey game at the Ice Center at the Promenade	\$0.00	Open	
2006-435	4/8/2006	PWU - St.	Mr. & Mrs. Dennis McGrath	7821 W. 95th Ave., Broomfield, CO 80021	Claimant alleges he lost control of his bicycle due to cracked pavement in the street and suffered injuries as a result.	\$0.00	Closed	Claim was denied as the City does not own, operate or maintain the area where the accident occurred.
2006-504	5/5/2006	PD	The Estate of Jason Michael Rohrback, Gina & Dylan Rohrback	29030 Fish Market Rd., Macomb, OK 74852	The claimants allege that their family suffered injuries and damages when Mr. Rohrback was shot and killed by Westminster Police.	\$0.00	Open	CIRSA and CAO Investigating
2006-419	9/19/2006	GS - BO&M	Jennifer Reed	2604 100 th Pl., Federal Heights, CO 80260	Claimant alleges she suffered injuries and damages when a trailer released from a traveling City truck and collided with her vehicle.	\$4,916.35	Open	Property damage paid; CIRSA Investigating bodily injury claim
GRAND TOTAL						\$19,274.67		



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
February 26, 2007



SUBJECT: Purchase of Excess Workers' Compensation Insurance

Prepared By: Martee Erichson, Risk Management Officer

Recommended City Council Action

Based on the report and recommendation of the City Manager, determine that the public interest will be best served by authorizing the purchase of Workers' Compensation Excess insurance for \$73,989 from Midwest Employers Casualty Company.

Summary Statement

- City Council action is requested to authorize the expenditure for the 2007 annual premium for excess workers' compensation insurance effective March 1, 2007.
- The City annually purchases specific stop loss insurance to cover the cost of catastrophic on-the-job injuries to employees that would exceed the City's self insured amount. This insurance is purchased through a broker, Marsh USA Inc., who will purchase the coverage for the City through Midwest Employers Casualty Company. The recommended quote from Marsh for 2007 for excess workers' compensation coverage is \$73,989.
- The cost of coverage in 2006 was \$74,741. The quote for 2007 of \$73,989 represents a decrease in premium of \$752 (approximately 1%) from 2006. This quote reflects no change from 2006 in our excess coverage program as well as the City's history of not having experienced excess claims.

Expenditure Required: \$73,989

Source of Funds: Workers' Compensation Self Insurance Fund

Policy Issue

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

Alternatives

1. Accept the quote of \$72,307 given by Safety National Casualty Company for a decrease of \$2,434, or 3%, from the City's 2006 premium. This alternative is not recommended due to better coverage and services being offered by Midwest Employers Casualty Company.
2. Consider fully insuring the City's Workers' Compensation Insurance Program. This alternative is not recommended due to the almost certain increase in expense and the reduction in the City's ability to manage claims.

Background Information

The Risk Management Staff completed and submitted the application for excess workers' compensation coverage to Marsh USA Inc. in late January 2007. Marsh USA Inc., acting as insurance broker on behalf of the City, then sought proposals on the open insurance market for this coverage. They received responses from only two carriers and submitted their renewal proposal to the City's Risk Management Officer on February 13. The City's current policy expired on February 1, 2007, but a one month extension of the policy was purchased to allow Council time to review the proposal.

The City currently self-insures the first \$350,000 of each workers' compensation claim with an additional corridor deductible of \$100,000. This high retention type of program allows for more control over claims handling and payment and reaps immediate rewards from the City's loss control and safety programs. By self-insuring the City also avoids some of the increases in premiums that continue to affect the government entity insurance market.

The City's broker received two quotes on behalf of the City: Midwest Employers Casualty Company at a flat bid from last year of \$74,741 and Safety National Casualty Company at a bid of \$72,307. Following standard insurance industry procedures, the City's broker accepted these bids from the two insurance carriers and after determining which carrier the City should go with, negotiated with that carrier for a lower quote. The City's broker recommended the City remain with the incumbent carrier, Midwest Employers, based on the reasons provided below. Midwest Employers' underwriters came back with a 1% decrease from their original bid. The City's broker and Staff recommend continuing with Midwest Employers for several reasons:

- Developing a relationship with one carrier can benefit the City on future year's quotes. The City has been with Midwest Employers for only two years.
- When comparing the Midwest policy to the Safety National policy, Staff notes that the Midwest policy includes a blanket waiver of subrogation. This means that they permit the City to relinquish any rights the City might have to collect from another party for damages when it is required by contract.
- The Midwest policy does not include a commutation clause and the Safety National policy does. Commutation is the right of a carrier to value an open claim after the policy expires and pay that amount to the insured, thereby releasing the carrier from any further liability for the claim.
- The Midwest policy includes a Cash Flow Endorsement which, in the case of a catastrophic claim, would allow the City to spread its payments out over time with the excess carrier assisting with cash advances.
- Midwest Employers also offers the City several loss control resources such as on-line training and Best Practice seminars that Staff has found very helpful over the last two year.

SUBJECT: Purchase of Excess Workers' Compensation Insurance

Page 3

In 2006 the City added a corridor deductible of \$100,000 to the self-insured program. This deductible would be payable by the City if any claims exceed the City's current retention limit but would be aggregate on all claims. Once the first \$100,000 over \$350,000 was paid it would be satisfied for the year and the excess carrier would pick up dollar one over \$350,000. The City has been self insured since 1986 and since then has only experienced one claim that went over the City's self-insured retention limit.

Given the current market conditions and a 3.5% increase to the City's payroll over the 2006 policy period, Risk Management Staff is very pleased with the renewal terms. According to our broker, Marsh USA Inc., once again the City has received one of the best renewal quotes they have seen.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
February 26, 2007



SUBJECT: Pressure Zone 14 Booster Pump Station Consultant Contract Award

Prepared By: Stephanie Bleiker, PE, Senior Engineer
Abel Moreno, Capital Projects and Budget Manager

Recommended City Council Action

Based on the recommendation of the City Manager, the City Council finds that the public interest would best be served by accepting the proposal of Farnsworth Group Consulting Engineers for the identified work. Authorize the City Manager to execute a Contract with Farnsworth Group Consulting Engineers in the amount of \$79,529 to provide engineering design and construction administration services of the new pressure zone 14 booster pump station and authorize a contingency of \$10,000.

Summary Statement

- The Utility System Infrastructure Master Plan that was conducted by URS Corporation identified the creation of a new pressure zone 14 in the southwest part of the City in the Farms Subdivision in order to boost residual water pressure.
- During the 2007/2008 Budget Process Staff received comments from concerned citizens in this community regarding the low water pressure.
- The authorized budget for the project's design and construction is \$500,000.

Expenditure Required: \$89,529

Source of Funds: Utility Fund Capital Improvement Funds- Pressure Zone 14 Booster Pump Station Project

Policy Issue

Should the City authorize the Contract with Farnsworth Group for the amount of \$79,529 with a contingency of \$10,000?

Alternative

The City could choose not to approve the Contract, and either place the project on hold, or solicit other engineering proposals to execute the work. This is not recommended since it would delay the design and construction of the booster pump station resulting in prolonged water pressure problems in the general vicinity of the Farms Subdivision. Another option is to award the contract to one of the other four engineering firms that the City accepted proposals from. This is not recommended since Staff believes that Farnsworth Group provided the most qualified technical proposal.

Background Information

The Farms Subdivision was identified by the Utilities System Infrastructure Master Plan that was conducted by URS Corporation as an area where residual water pressures are low enough to justify providing a booster pump station. Also, during the public hearing process for the 2007-2008 budget process, City Council received a request from concerned citizens to address the low water pressure in this area.

The Farms Subdivision is a fully developed residential subdivision that is located in the southwest part of the City. The City’s Faversham Park is located on the east side of the subdivision. The Farms Subdivision is bound by 72nd Avenue on the south, 74th Avenue on the north, Depew Street to the east, and Pierce Street to the west. The Subdivision is adjacent to the City of Arvada on parts of three sides. The western portion of this particular subdivision lies at a higher elevation than the surrounding Westminster residential property, resulting in lower residual water pressures to the residences. In addition to the higher elevation of the western portion of the Farms Subdivision, the proximity of the City of Arvada property and Faversham Park partially isolates the existing water distribution system that serves the Farms Subdivision. The isolated nature of the Farms Subdivision’s water distribution system further contributes to its existing water pressure problems.

In the process of developing the RFP for the project, Staff determined that the booster pump station will require a back-up generator for emergency power to operate the fire pump in the event of a power outage and that the 480-volt 3-phase service required to power the booster pump station is located approximately 2,300-feet from the most likely location of the future booster pump station site. The requirements for a back-up generator and to run the electrical service could potentially require additional budget authorizations to complete the project.

The City sent out a Request for Proposal to five (5) Engineering firms. The Engineering firms are as follows:

Engineering Firm	Engineering Fee
Jacobson Stachell	\$77,890
Farnsworth Group	\$79,529
The Engineering Company	\$101,557
JR Engineering	\$150,175
Merrick & Company	\$168,415

These five firms were among those identified as being qualified for this type of design work. The short list of engineering firms qualified for this type of work was based on the review of 63 Engineering firms who submitted Statements of Qualification (SOQs) to the City for upcoming PWU CIP projects. They are generally categorized by engineering specialty.

After conducting pre-proposal meetings with each of these firms, Staff conducted follow-up interviews with the two Engineering firms whom we believed were most qualified to complete the project on time and within budget. The City is recommending Farnsworth Group based upon their understanding of the project, project team, and Engineering fee.

Initially it will be necessary for Farnsworth Group to complete a pre-design of the booster pump station. The pre-design will include a hydraulic analysis to better determine the boundary of the new pressure zone and to develop alternative site locations for the booster pump station. The pre-design will also include above ground and below ground booster pump station alternatives as well as preliminary construction cost opinions.

Once the pre-design is complete and the preferred booster pump station location and lay-out have been identified, Farnsworth Group will begin the design phase work, generating the Engineer's Cost Opinion and Construction Phase Documents for the project.

A preliminary estimate of the Construction Phase Engineering services, based on a four (4) month construction period, was included in Farnsworth's fee. Due to some of the uncertainties associated with this project the City determined that it may be necessary to re-negotiate the final Construction Phase services after Farnsworth has completed the design phase services. The following is a breakdown of the Farnsworth Group cost proposal by task:

Design Phase Services:	\$56,573
Bidding Phase Services:	\$2,860
Construction Phase Services:	\$20,096

Respectfully submitted,

J. Brent McFall
City Manager

Attachment





WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
February 26, 2007



SUBJECT: Sale of the City’s Signal Reservoir Property and Signal Ditch Company Shares in Adams County

Prepared By: Josh Nims, Senior Water Resources Engineer
Dan Strietelmeier, P.E., Senior Engineer

Recommended City Council Action

Authorize the City Manager to execute an agreement for the sale of approximately 82 acres and 31.75 Signal Ditch Company shares to the Todd Creek Farms Metropolitan District No. 1 for \$1,193,000.

Summary Statement

- In April, 1985, the City acquired the Signal Reservoir and Irrigation Company for approximately \$3 million.
- Included with the acquisition were 32.25 shares of Farmers High Line Canal and Reservoir Company (FHL), 31.75 Signal Ditch Company shares, storage rights in two reservoirs and approximately 82 acres of land including the reservoir acreage.
- The purpose of the 1985 acquisition was to acquire the large block of FHL shares and to possibly use the reservoirs for storage of augmentation water. The reservoir property is located near the South Platte River in unincorporated Adams County (see attached map).
- The lower dam of Signal Reservoir No.1 is currently under an order from the Colorado State Engineers Office to have the spillway enlarged, and is also being kept at a zero storage hold order.
- The upper lake or Signal Reservoir No. 2 was subject to a First Right of Refusal that has expired. A portion of the storage rights in that reservoir will remain with adjoining farming interests until 2010.
- Staff has extensively analyzed the potential utilization of these reservoirs in Westminster’s water supply system and concluded there would be little or no benefit to continued ownership.
- The maintenance costs, estimated cost of the spillway improvements and cost to convey water back to the South Platte River system are high enough that it is no longer economical for the City to consider using these reservoirs for storage of augmentation or exchange water.
- The main benefit of the 1985 acquisition was the substantial amount of water supply represented by the 32.25 FHL shares at a low cost per acre foot.
- The Signal Ditch Company shares that are included in the sale represent carrying capacity only in the Signal Ditch, for which the City no longer has a use.
- The Todd Creek Farms Metropolitan District No. 1 plans to enlarge the spillway and repair the dams for use as a water supply for their development in the area.

Expenditure Required: \$ 0 (\$1,193,000 to be returned to Utility Fund Capital Project Reserve)

Source of Funds: N/A

Policy Issue

Should the City approve the sale of the property to Todd Creek Farms Metropolitan District No. 1?

Alternatives

1. Not authorize the sale of the property. This is not recommended as continued ownership will require expensive spillway improvements for Signal Reservoir No. 1 or breach of the dam. The City is also exposed to potential liability issues with continued ownership of the dams and the surrounding unimproved property.
2. Delay the sale of the property and continue to negotiate the terms or market the property to other buyers. This alternative is not recommended as other potential buyers have submitted lower or no offers.

Background Information

Staff has been negotiating the sale of the Signal Property for several months. The price offered by Todd Creek Farms Metro District of \$1,193,000 for the approximately 82 acres or \$14,600 per acre is higher than the value determined in two appraisals, one performed by Westminster and the other by Todd Creek Farms Metro District. City Staff discussed sale of the property with other potential buyers including the City of Thornton. The City did receive one other offer at a lower price from the developer of an adjacent property.

The City investigated continued use of the reservoirs for storage of either augmentation water or exchange water. The downstream location does not allow Westminster direct use of this water. Spillway improvement costs for Signal Reservoir No. 1 are currently estimated at \$400,000 and the cost to convey the water in a pipeline back to the South Platte is estimated at \$500,000. At full capacity, these reservoirs provide approximately 300 acre-feet of storage so the \$900,000 cost of the needed improvements is not warranted due to the relatively small amount of augmentation or exchange flow storage available. Westminster's Jim Baker Reservoir and planned Wattenberg Lake project provide adequate storage for augmentation and exchange needs.

The original Signal Reservoir Company was a group of twelve farmers who owned a portion of the FHL shares and capacity in the reservoirs as well as interest in other company assets. The farmers irrigated lands in the area. The City executed a right of first refusal on the upper reservoir with one of the original shareholders. The right of first refusal pertained to purchase and sale of the upper reservoir property and use of approximately 60 acre-feet of storage space in the reservoir. The first right of refusal holders did not exercise their right regarding the purchase and sale, and the right to use storage space will continue until 2010 under the new owner.

As noted earlier, the most valuable company asset the City acquired was the water associated with the FHL shares. The purchase of the company and FHL shares by the City is one of the largest single water supply acquisitions in the City's history. The 32.25 FHL shares that were acquired for around \$3 million in 1985 are currently valued at over \$7 million. At the time of acquisition, the reservoir dams were poorly maintained and in poor condition, however the City accepted the reservoirs and property with the plan to investigate potential use of the reservoirs for storage if cost effective. If not beneficial for the City to use the storage, the reservoirs and property could be sold. The water rights associated with the storage reservoirs have since been transferred to Standley Lake by Westminster.

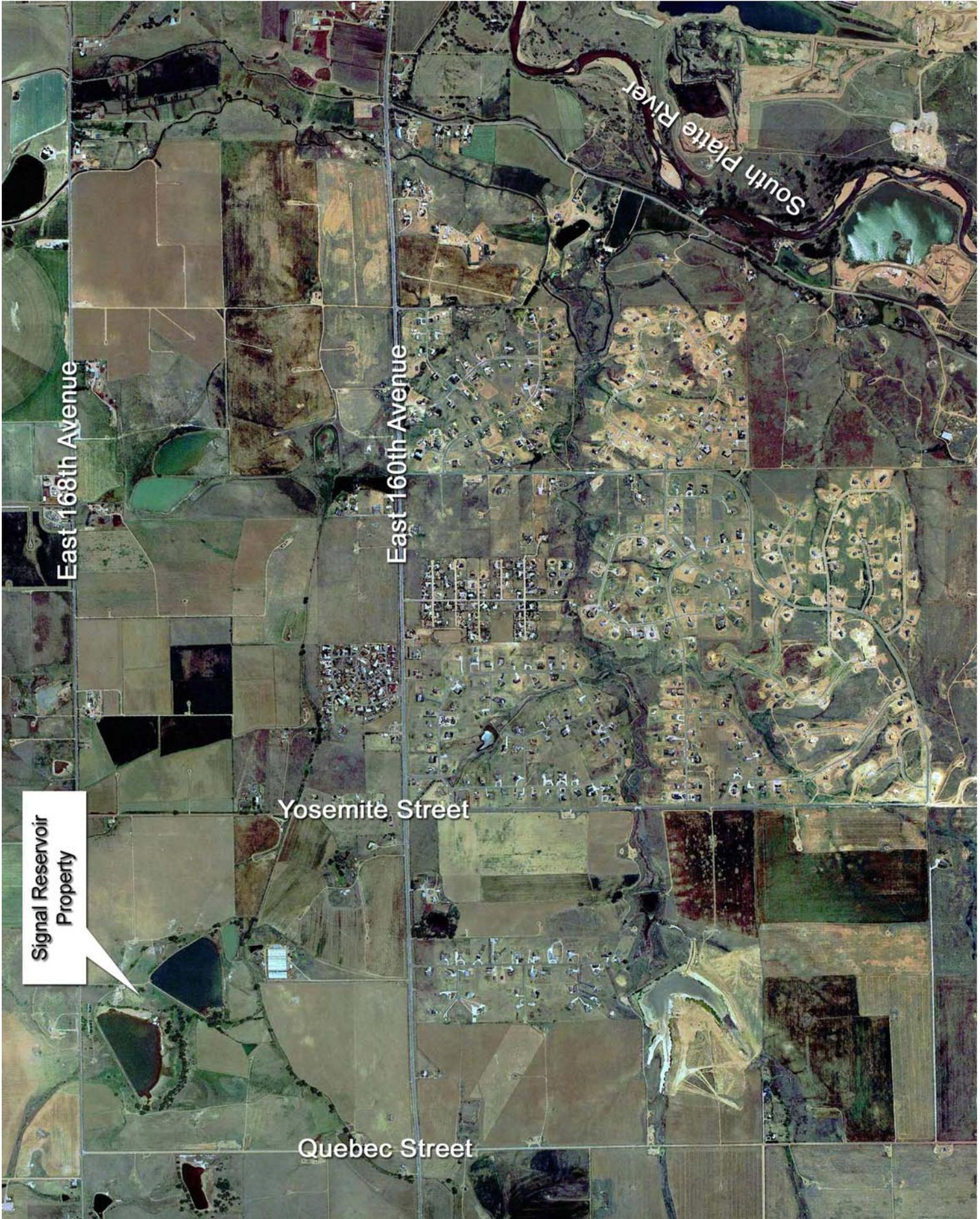
The appraisal performed by Westminster noted the property has an irregular shape with poor or limited access and no utility service. Todd Creek Farms Metro District is developing the area adjacent to the reservoir property and intends to construct improvements to the dams so the reservoirs can supply water for their development. Todd Creek Farms Metro District owns other water rights that it can deliver to the reservoirs and the location of the property benefits Todd Creek Farms Metro District more than other area developers.

The negotiated sale price is a fair and reasonable return on the City's original investment in purchasing the Signal Reservoir Company. The 82 acres of land is not wanted or needed by the City and the \$14,600 price per acre is reasonable for land without good access and in need of improvements. The sale proceeds will be deposited and Staff plans to submit to City Council for appropriation into the Capital Project Reserve Fund with the 1st Quarter Supplemental appropriation request.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment



South Platte River

East 168th Avenue

East 160th Avenue

Yosemite Street

Quebec Street

Signal Reservoir
Property



Agenda Item 8 F

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
February 26, 2007



SUBJECT: Second Reading of Councillor's Bill No. 5 re Inclusion of Property within the City of Westminster 136th Avenue General Improvement District

Prepared By: John Carpenter, Director of Community Development

Recommended City Council Action

Pass Councillor's Bill No. 5 on second reading to include property within the City of Westminster 136th Avenue General Improvement District (GID).

Summary Statement

- Ramirez Properties, LLC has signed a petition to include their 10.44-acre parcel located at the southwest corner of 136th Avenue and Huron Street within the boundaries of the 136th Avenue General Improvement District. A copy of the Petition is attached for Council's information. A public hearing on the proposed inclusion as required by C.R.S. section 31-25-618 was held on February 12, 2007.
- This Councillor's Bill was passed on first reading on February 12, 2007.

Expenditure Required: \$ 0

Source of Funds: N/A

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO. **3337**

COUNCILLOR'S BILL NO. **5**

SERIES OF 2007

INTRODUCED BY COUNCILLORS
Dittman - Major

**A BILL
FOR AN ORDINANCE INCLUDING PROPERTY
WITHIN THE CITY OF WESTMINSTER 136th AVENUE
GENERAL IMPROVEMENT DISTRICT**

WHEREAS, a Petition for the Inclusion of Property within the City of Westminster 136th Avenue General Improvement District (the "Petition") has been filed with the City Council of the City of Westminster (the "City"), sitting ex officio as the Board of Directors (the "Board") of the City of Westminster 136th Avenue General Improvement District (the "District"); and

WHEREAS, the Petition states that it has been signed by the fee title owner of the property which the petitioner seeks to have included within the boundaries of the District; and

WHEREAS, the Petition has been reviewed by the City Clerk and the City Attorney; and

WHEREAS, notice of filing of the Petition has been given and published pursuant to Section 31-25-618, Colorado Revised Statutes; and

WHEREAS, the Board has heretofore conducted a hearing at which all persons having objections to the Petition were given an opportunity to appear and show cause why the Petition should not be granted.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WESTMINSTER, COLORADO, AS THE EX OFFICIO BOARD OF DIRECTORS OF THE CITY OF WESTMINSTER 136th AVENUE GENERAL IMPROVEMENT DISTRICT:

Section 1. The Board hereby finds and determines as follows:

a. In accordance with C.R.S. section 31-25-618, the owner of the property described in Exhibit A to this ordinance (the "Property") has filed the Petition with the Board requesting that the Property be included within the boundaries of the District.

b. The Petition accurately describes the Property and such legal description has been verified by the City Clerk ex officio Secretary of the Board.

c. The Board agrees to waive the costs of the inclusion proceedings as requested in the Petition.

d. The City Clerk, as secretary of the Board (the "Secretary") has caused a notice of the filing of such Petition to be given and published, according to the requirements of the pertinent provisions of C.R.S. Title 31, Article 25, Part 6. There are no current electors within the District.

e. The notice states the filing of such Petition, the names of the petitioners, descriptions of the Property sought to be included, and the request of said petitioners. The notice notifies all persons having objections to appear at the office of the Board at the time stated in the notice and show cause why the Petition should not be granted.

f. The Board, at the time and place stated in the notice, has heard the Petition and all objections presented by any person showing cause why said Petition should not be granted and overrules any such objections.

g. The Board has determined to grant the Petition.

Section 2. Inclusion of Property. The Board hereby grants the Petition.

Section 3. Filing of Ordinance. Within ten days after final publication of this ordinance, the City Clerk ex officio Secretary of the Board shall file a certified copy of this ordinance with the County Clerk and Recorder of Adams County. Thereupon the Property shall be included within the boundaries of the District.

Section 4. Severability. If any section, subsection, paragraph, clause, or provision of this ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, subsection, paragraph, clause, or provision shall in no manner affect any remaining provisions of this ordinance, the intent being that the same are severable.

Section 5. Repealer. All orders, resolutions, bylaws, ordinances or regulations of the City, or parts thereof, inconsistent with this ordinance are hereby repealed to the extent only of such inconsistency.

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

Section 7. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 12th day of February, 2007.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 26th day of February, 2007.

CITY OF WESTMINSTER 136th AVENUE
GENERAL IMPROVEMENT DISTRICT

Mayor ex officio President

ATTEST:

APPROVED AS TO LEGAL FORM:

City Clerk ex officio Secretary

City Attorney

EXHIBIT A

A parcel of land lying in the County of Adams, State of Colorado, described as follows:

A tract of land located in the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 28, Township 1 South, Range 68 West of the 6th P.M., more particularly described as follows:

BEGINNING at the Northeast Corner of said Section 28, thence S00 00'09"E 951.94 feet along the East line of the NE $\frac{1}{4}$ of said Section 28 to a North line extended Easterly of that tract of land as described in Deed recorded in Book 2347 at Page 154 of the records of Adams County, Colorado;

Thence N89 41'21"W, 596.99 feet parallel with the North line of the NE $\frac{1}{4}$ of said Section 28 and along a North line extended Easterly and a North line of that tract of land as described in said Book 2347 at Page 154 to the West line of the East 596.98 feet of the NE $\frac{1}{4}$ of said Section 28;

Thence N00 00'09"W 951.94 feet parallel with the East line of the NE $\frac{1}{4}$ of said Section 28 and along an East line and an East line extended Northerly of that tract of land as described in said Book 2347 at Page 154 to the North line of the NE $\frac{1}{4}$ of said Section 28;

Thence S89 41'21"E, 596.99 feet along the North line of the NE $\frac{1}{4}$ of said Section 28 to the POINT OF BEGINNING.

STATE OF COLORADO)
)
COUNTY OF ADAMS) SS.
)
CITY OF WESTMINSTER 136th AVENUE)
GENERAL IMPROVEMENT DISTRICT)

I, City Clerk of the City of Westminster, Colorado (the "City") and ex officio Secretary of the City of Westminister 136th Avenue General Improvement District (the "District"), do hereby certify:

Section 1. The foregoing is a true and correct copy of an ordinance (the "Ordinance") introduced at the regular meeting of the Board of Directors of the District (the "Board") on February 12, 2007, and passed and adopted by the Board at the regular meeting of the Board on February 26, 2007. A quorum of the Board was in attendance at each meeting.

Section 2. The members of the Board voted on passage and adoption of the Ordinance on first reading on February 12, 2007, as follows:

Those Voting Aye: Dittman
Kaiser
Kauffman
Lindsey
Major
McNally
Price

Section 3. The adoption of the Ordinance was duly moved and seconded and the Ordinance was adopted by an affirmative vote of a majority of the members of the Board at the regular meeting of the Board on February 26, 2007, as follows:

Those Voting Aye: Dittman
Kaiser
Kauffman
Lindsey
Major
McNally
Price

Section 4. The Ordinance was approved and authenticated by the signature of the Mayor as ex officio President of the District, attested by the Clerk as ex officio Secretary of the District and recorded in the minutes of the Board.

Section 5. The Ordinance was posted after first reading and again after final adoption.

Section 6. Attached hereto as Exhibit B are affidavits of publication of the public hearing notice in the Westminster Window on January 25, 2007, February 1, 2007, and February 8, 2007.

Section 7. Attached hereto as Exhibit C are copies of the notices of the meetings of February 12, 2007, and February 26, 2007, each of which were posted at the City Hall not less than 24 hours in advance of the meeting.

Section 8. On _____, 2007, I filed a certified copy of the Ordinance with the Adams County Clerk and Recorder.

IN WITNESS WHEREOF, I have hereto set my hand and the seal of the City this ____ day of _____, 2007.

City Clerk ex officio Secretary of the Board

(SEAL)

PETITION

FOR THE INCLUSION OF PROPERTY WITHIN THE
CITY OF WESTMINSTER 136th AVENUE
GENERAL IMPROVEMENT DISTRICT

We, the undersigned, who are the owners of the property described in Exhibit A attached hereto (the "Property"), hereby petition the City Council of the City of Westminster, Colorado, (the "City") as the ex officio Board of Directors (the "Board") of the City of Westminster 136th Avenue General Improvement District (the "District") for the inclusion of the Property within the boundaries of the District, pursuant to section 31-25-618, Colorado Revised Statutes. In support of this petition, we state as follows:

1. The undersigned petitioners for the inclusion of the Property within the boundaries of the District are the fee title owners of the Property.
2. The legal description of the Property has been verified by the City Clerk ex officio Secretary of the Board.
3. The undersigned petitioners request the Board to waive the cost deposit contemplated by C.R.S. section 31-25-618.

WHEREFORE, we ask the Board to take all steps and procedures required by law for the inclusion of the Property within the boundaries of the District, including the publication of notice of the filing of this petition and the mailing of such notice to each elector of the District, and the adoption of an ordinance including the Property within the boundaries of the District.

FEE TITLE OWNER: RAMIREZ
PROPERTIES, LLC, a New York Limited
Liability Company

By: _____
Samuel A. Ramirez, Jr.

EXHIBIT A

A parcel of land lying in the County of Adams, State of Colorado, described as follows:

A tract of land located in the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 28, Township 1 South, Range 68 West of the 6th P.M., more particularly described as follows:

BEGINNING at the Northeast Corner of said Section 28,
thence S00°00'09"E 951.94 feet along the East line of the NE $\frac{1}{4}$ of said Section 28 to a North line extended Easterly of that tract of land as described in Deed recorded in Book 2347 at Page 154 of the records of Adams County, Colorado;
thence N89°41'21"W, 596.99 feet parallel with the North line of the NE $\frac{1}{4}$ of said Section 28 and along a North line extended Easterly and a North line of that tract of land as described in said Book 2347 at Page 154 to the West line of the East 596.98 feet of the NE $\frac{1}{4}$ of said Section 28;
thence N00°00'09"W 951.94 feet parallel with the East line of the NE $\frac{1}{4}$ of said Section 28 and along an East line and an East line extended Northerly of that tract of land as described in said Book 2347 at Page 154 to the North line of the NE $\frac{1}{4}$ of said Section 28;
thence S89°41'21"E, 596.99 feet along the North line of the NE $\frac{1}{4}$ of said Section 28 to the POINT OF BEGINNING.



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
February 26, 2007



SUBJECT: Second Reading of Councillor’s Bill No. 6 re Ordinance Changes re Property Standards and Administrative Penalties

Prepared By: Janice Kraft, Neighborhood Services Administrator
Eugene Mei, Assistant City Attorney

Recommended City Council Action

Pass Councillor’s Bill No. 6 on second reading amending the Westminster Municipal Code as it relates to changes affecting property maintenance standards, and adopting an administrative penalty citation program including changes to the jurisdiction of the Board of Adjustment and Appeals.

Summary Statement

- Staff presented information to City Council recommending a modification of existing ordinances to strengthen and enhance requirements for the maintenance of property. These changes will facilitate a process that will be more streamlined, thus shortening the compliance time for property related code violations. There are five components included in the code amendments:
 1. A consolidation of code sections commonly used by Code Enforcement Officers into one chapter titled Property Standards.
 2. Changes in requirements and additional standards for owners relating to the use and maintenance of their property.
 3. Adoption of the administrative penalty citation process.
 4. Changes to the powers and duties of the Board of Adjustment and Appeals.
 5. Other housekeeping measures to related code sections concerning nuisance abatement, rental housing maintenance and sidewalk obstructions.

- Councillor’s Bill No. 6 was passed on first reading by City Council on February 12, 2007.

Expenditure Required: \$0

Source of Funds: N/A

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO. **3338**

COUNCILLOR'S BILL NO. **6**

SERIES OF 2007

INTRODUCED BY COUNCILLORS
Kaiser – Dittman

A BILL

**FOR AN ORDINANCE AMENDING THE WESTMINSTER MUNICIPAL CODE TO CREATE
AN ADMINISTRATIVE PENALTY CITATION PROGRAM AND TO MODIFY PROPERTY
MAINTENANCE STANDARDS**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Title I, W.M.C., is hereby amended BY THE ADDITION OF A NEW CHAPTER 23 to read as follows:

CHAPTER 23

ADMINISTRATIVE PENALTY CITATIONS FOR CODE VIOLATIONS

- 1-23-1: GENERAL INTENT
- 1-23-2: DEFINITIONS
- 1-23-3: AUTHORITY
- 1-23-4: PROCEDURES FOR ISSUANCE OF AN ADMINISTRATIVE CITATION
- 1-23-5: CONTENTS OF ADMINISTRATIVE CITATION
- 1-23-6: APPEAL OF ADMINISTRATIVE CITATION
- 1-23-7: PROCEDURES AND STANDARDS AT ADMINISTRATIVE CITATION APPEAL HEARINGS
- 1-23-8: DUTIES AND POWERS OF THE APPEALS BOARD
- 1-23-9: FALSE INFORMATION OR REFUSAL PROHIBITED
- 1-23-10: FAILURE TO OBEY SUBPOENA
- 1-23-11: FAILURE TO ATTEND ADMINISTRATIVE CITATION APPEAL HEARING
- 1-23-12: FAILURE TO COMPLY WITH ADMINISTRATIVE ENFORCEMENT ORDER
- 1-23-13: PENALTIES ASSESSED
- 1-23-14: FAILURE TO PAY PENALTIES

1-23-1: GENERAL INTENT:

(A) The City Council finds that the enforcement of the Westminster Municipal Code is an important public service, and that code enforcement is vital to the protection of the public's health, safety, and quality of life. The City Council further finds that a comprehensive code enforcement system that uses a combination of judicial and administrative remedies is critical to gain compliance with these ordinances.

(B) This Chapter provides for administrative penalties that may be imposed for violation of certain sections of the Westminster Municipal Code. The section of the Westminster Municipal Code specifically affected is:

1. Title VIII, Chapter 1 – Property Standards.

(C) The purpose of this Chapter is to encourage prompt compliance with the Code and prompt payment of any penalties.

1-23-2: DEFINITIONS: When used in this Chapter, the following words and terms, unless the context indicates a different meaning, shall be interpreted as follows:

(A) **Board of Adjustment and Appeals** shall mean that Board created and authorized pursuant to Westminster Municipal Code Title II, Chapter 6.

(B) **City** shall mean the City of Westminster.

- (C) **Code** shall mean those provisions of the Westminster Municipal Code enumerated in Section 1-23-1(B).
- (D) **Enforcement official** shall mean an employee or agent of the City authorized to enforce the ordinances of the City.
- (E) **Manager** shall mean the City Manager or the Manager's designee.
- (F) **Responsible party** shall mean a person or entity who has violated the Code or, in the case of property violations, the responsible party may also be the property owner, the occupant, or an individual or an entity who, acting as an agent for or in any other legal capacity on behalf of the owner, has authority over property subject to an administrative citation under this Chapter.

1-23-3: AUTHORITY:

- (A) Any responsible party violating provisions of the Code may be issued an administrative citation by an enforcement official as provided in this Chapter.
- (B) Notwithstanding any other provision of the Code, responsible parties cited under the provisions of this Chapter shall have only the appeal rights granted herein.
- (C) Each day a violation exists or continues shall constitute a separate and distinct violation for which a separate administrative citation may be issued. However, once an administrative citation has been issued for a violation of the Code, no additional administrative citation shall be issued for the same violation for ten (10) days or, if the responsible party appeals, until after the appeal has been heard and the responsible party has not complied with an administrative enforcement order of the Board of Adjustment and Appeals ("Appeals Board") within ten (10) days of its issuance or such other time as the Appeal Boards has specified.
- (D) A civil penalty assessed by means of an administrative citation may be collected by any means allowed by law.
- (E) Enforcement actions are intended to be cumulative in nature. The City may pursue one (1) or more civil, criminal, and administrative actions, fees, fines, sentences, penalties, judgments, and remedies and may do so simultaneously or in succession. The enactment of this administrative remedy shall in no way interfere with the City's right to prosecute violations as criminal offenses.

1-23-4: PROCEDURES FOR ISSUANCE OF AN ADMINISTRATIVE CITATION:

- (A) Whenever the enforcement official determines that a violation of the Code exists, the enforcement official shall give a notice of violation and order to correct ("Notice of Violation") to the responsible party. The Notice of Violation shall be in writing and shall describe with reasonable detail the violation so that the responsible party may properly correct it. The Notice of Violation shall provide a reasonable time for correction given the circumstances of the violation, but in no case more than thirty (30) days.
- (B) The Notice of Violation shall be served as follows:
1. The enforcement official shall attempt to issue the Notice of Violation to the responsible party at the site of any violation. If the responsible party is not located, a copy of the Notice of Violation shall be left with any adult person residing or working at the site, or if no adult person is found at the site and the violation occurred on private property or on property for which the responsible party has responsibility, then a copy of the Notice of Violation shall be posted in a conspicuous place on the property of the responsible party.
 2. If the enforcement official is unable to issue the Notice of Violation to the responsible party personally, then the Notice of Violation shall be sent via first class mail to the responsible party. In the case of violations occurring on private property where the owner of such property is a responsible party, the Notice of Violation shall be sent to the address shown in the county assessor records for the county in which the property is located. In the case of violations occurring on property for which the responsible party is not the owner, the Notice of Violation shall be sent to the most recent mailing address available to the City for that responsible party.
 3. The Notice of Violation shall be deemed served on the date of receipt by the responsible party, if personally served, or upon the fifth day after mailing of the Notice of Violation.
- (C) If after service of the Notice of Violation, the Code violation is not timely corrected, an enforcement official may issue an administrative citation to a responsible party.

(D) Service of administrative citation on a responsible party shall be made in the same manner as the Notice of Violation as described in subparagraph B herein, except that the enforcement official shall attempt to obtain the signature of the person receiving the administrative citation on the administrative citation. If that person refuses or fails to sign the administrative citation, the failure or refusal to sign shall not affect the validity of the administrative and subsequent proceedings.

1-23-5: CONTENTS OF ADMINISTRATIVE CITATION:

(A) The administrative citation shall state the date and location of the violations, and the approximate time the violations were observed. Where applicable, the administrative citation shall identify the property in violation by address or legal description.

(B) The administrative citation shall state the Code sections violated and describe the violations.

(C) The administrative citation shall describe the action required to correct the violations.

(D) The administrative citation shall require the responsible party to correct the violations within a reasonable time given the circumstances, but in no case more than ten (10) days, and shall explain the consequences of failure to correct said violations.

(E) The administrative citation shall state the amount of penalty imposed for the violations.

(F) The administrative citation shall explain how the penalty shall be paid, the time period by which it shall be paid, and the consequences of failure to pay the penalty.

(G) The administrative citation shall identify the right and procedures for appealing the administrative citation.

(H) The administrative citation shall contain the signature of the enforcement official and the signature of the responsible party if it can be obtained.

1-23-6: APPEAL OF ADMINISTRATIVE CITATION:

(A) A person served with an administrative citation may file a notice of appeal in person or postmarked within ten (10) calendar days from the service of the administrative citation. Compliance with this time limit shall be a jurisdictional prerequisite to any appeal brought under this Chapter. Failure to comply with such time limit shall be deemed to waive the right to a hearing and the adjudication of the issues related to the hearing, provided that proper notice of the administrative citation has been provided.

(B) The notice of appeal shall be made in writing, filed with the City department identified on the administrative citation, and contain the following information:

1. The reasons the appellant believes the administrative citation is objectionable, incorrect or illegal.

2. The amount and type of claim or dispute involved, and the time during which it accrued or occurred.

3. The name, address and telephone number of the appellant.

4. If the appellant is to be represented by another person, the name, address and telephone number of the said representative.

5. The signature of the appellant, legal representative and/or corporate agent.

(C) A processing fee of \$35 shall be paid by cash, check or certified funds simultaneously with the filing of the notice of appeal. The processing fee is not refundable except as provided in Section 1-23-8(L).

(D) If, in the opinion of the Manager, the appeal meets all of the requirements of subparagraphs (A) – (C) of this Section, the Manager shall forward the notice of appeal to the Secretary of the Appeals Board.

(E) If, in the opinion of the Manager, the appeal does not meet all of the requirements of subparagraphs (A) – (C) of this Section, the Manager shall promptly return the appeal and notify the appellant of what requirements the appeal fails to meet.

(F) As soon as practicable after receiving the written notice of appeal, the Secretary to the Appeals Board shall schedule a date, time and location for the hearing, unless, if requested by the appellant and in the sole discretion of the Appeals Board, it is submitted on written brief and supporting material.

(G) Written notice of the date, time and location of the hearing shall be personally served upon or sent by first class mail to the responsible party at least ten (10) calendar days prior to the date of the hearing.

1-23-7: PROCEDURES AND STANDARDS AT ADMINISTRATIVE CITATION APPEAL HEARINGS:

(A) The procedure and format of the administrative citation appeal hearing shall follow procedures as set forth herein and in W.M.C. section 2-6-4.

(B) Administrative citation appeal hearings are intended to be informal in nature. Formal rules of evidence and discovery do not apply; however, an informal exchange of discovery may be required by the Appeals Board or requested by any party. The request must be in writing. Failure to request discovery shall not be a basis for a continuance.

(C) The parties to an administrative citation appeal hearing shall be the responsible party and the City.

(D) The Appeals Board, at the request of any party to the hearing, may subpoena witnesses, documents and other evidence where the attendance of the witness or the admission of evidence is deemed necessary to decide the issues at the hearing. All costs related to the subpoena, including witness fees in the amount of \$5.00 per witness, and mileage fees at the rate provided for witnesses by statute, shall be borne by the party requesting the subpoena.

(E) The City bears the burden of proof at an administrative citation appeal hearing to establish the existence of a violation of the Code. In the case of an abatement hearing the City bears the burden of proof to establish the existence of a public nuisance.

(F) The standard of proof to be used by the Appeals Board in deciding the issues at an administrative citation appeal hearing is by a preponderance of the evidence.

1-23-8: DUTIES AND POWERS OF THE APPEALS BOARD:

(A) The Appeals Board shall determine whether appeals of administrative citations are valid. In doing so the Appeals Board shall determine whether the administrative citation under appeal was issued in compliance with the requirements of the City ordinances. In each case, the Appeals Board shall be charged with performing all functions relating to the final determination and order, and entertaining petitions or motions made in writing. The Appeals Board shall perform those duties and functions necessary and incidental to determining the matter, issuing subpoenas, authorizing depositions, hearing all evidence, examining all documents, ruling on evidentiary questions, and generally conducting the hearing as a quasi-judicial proceeding.

(B) In the discretion of the Appeals Board, parties to the hearing may be required to file a pre-hearing statement before the case is set for hearing. The pre-hearing statement may include: the issues raised by the appeal; agreed and disputed facts; copies of exhibits not previously included in the record; names of witnesses with a brief statement summarizing their testimony; an estimate of the time necessary to present a party's evidence and other matters as requested by the Appeals Board.

(C) All hearings or, when an appeal is submitted for determination based on written argument and written facts and figures, all examination of such written petitions and papers shall be conducted by the Appeals Board assigned to conduct the hearing or to examine the written material submitted.

(D) The admissibility of evidence shall be encouraged and the Appeals Board shall consider all evidence of probative value. The Appeals Board may utilize its experience, technical competence, and specialized knowledge in the evaluation of evidence presented.

(E) Copies, photographs and photocopies may be admitted into evidence or substituted in evidence in place of original documents.

(F) Witnesses intended to give opinion testimony as experts must be qualified as such, and their qualifications should be submitted in advance to the Appeals Board.

(G) Whenever it appears that an appeal is not properly before the Appeals Board, or that the appellant for some other reason lacks jurisdiction or standing, the case may be dismissed on the motion of any party or the Appeals Board.

(H) Mailings, notices, computations of time, time limitations, service and filings shall conform to the requirements of particular law or ordinance involved.

(I) The written decision of the Appeals Board shall be known as an Administrative Enforcement Order.

(J) The parties may enter into a stipulated agreement which must be signed by both parties. Upon approval and acceptance by the Appeals Board, this agreement shall be entered as the administrative enforcement order. Entry of this agreement shall constitute a waiver of the right to a hearing and the right to appeal.

(K) The Appeals Board may uphold the administrative citation and all penalties, or dismiss the administrative citation and all penalties, or may waive or conditionally reduce the penalties assessed by the administrative citation. The Appeals Board may also impose conditions and deadlines to correct the violation or require payment of any outstanding penalties.

(L) If the Appeals Board dismisses the administrative citation and all penalties due to the City's failure to satisfy its obligations under this Chapter, the appellant's \$35 processing fee shall be promptly refunded.

(M) The Appeals Board has continuing jurisdiction over the subject matter of an administrative citation appeal hearing for the purposes of granting a continuance, ordering compliance by issuing an administrative enforcement order, ensuring compliance of that order, modifying an administrative enforcement order, or, where extraordinary circumstances exist, granting a new hearing. The Appeals Board may schedule subsequent review hearings as may be necessary or as requested by a party to the hearing to ensure compliance with the administrative enforcement order.

1-23-9: FALSE INFORMATION OR REFUSAL PROHIBITED: It shall be unlawful for any person to willfully make a false statement or refuse to give his or her name or address with intent to deceive or interfere with the enforcement official when in the performance of official duties under the provisions of this Chapter. Any person who willfully makes a false statement or refuses to give his or her name or address with intent to deceive or interfere with the enforcement official shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine or by confinement in jail or by both such fine and imprisonment as specified in Section 1-8-1 of this Code.

1-23-10: FAILURE TO OBEY SUBPOENA: It is unlawful for any person to refuse to obey a subpoena issued by the Appeals Board. Any person who fails to obey a subpoena shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine or by confinement in jail or by both such fine and imprisonment as specified in Section 1-8-1 of this Code.

1-23-11: FAILURE TO ATTEND ADMINISTRATIVE CITATION APPEAL HEARING: Any responsible party who fails to appear at the hearing is deemed to waive the right to a hearing and the adjudication of the issues related to the hearing, provided that proper notice of the hearing has been provided.

1-23-12: FAILURE TO COMPLY WITH ADMINISTRATIVE ENFORCEMENT ORDER: It is unlawful for a responsible party to an administrative enforcement hearing who has been served with a copy of the final administrative enforcement order to fail to comply with the order. Any person who fails to comply with a final administrative enforcement order shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine or by confinement in jail or by both such fine and imprisonment as specified in Section 1-8-1 of this Code. Prosecution for failure to comply with a final administrative enforcement order shall not commence until the time to appeal such order has lapsed.

1-23-13: PENALTIES ASSESSED:

(A) If the responsible party fails to correct the violation, subsequent administrative citations may be issued for violations of the same Code section. The penalties assessed for each administrative citation issued for violations of the same Code section or sections shall be established by the Manager, but shall not exceed the following amounts regardless of the number of violations per citation:

1. First administrative citation: One hundred fifty dollars (\$150.00).
2. Second administrative citation: Five hundred dollars (\$500.00).
3. Third or subsequent administrative citation: Nine hundred and ninety-nine dollars (\$999.00).

(B) Payment of the penalty shall not excuse the failure to correct the violations nor shall it bar further enforcement action by the City.

(C) All penalties assessed shall be payable to the City of Westminster. Payment of the full amount of the penalty must be received in person or postmarked within ten (10) calendar days of the date of issuance of the administrative citation or administrative enforcement order, or within the time specified on the administrative enforcement order.

1-23-14: FAILURE TO PAY PENALTIES:

(A) The failure of any responsible party to pay the civil penalties assessed by an administrative citation or administrative enforcement order within the time specified on the citation or order, respectively, may result in the imposition of a late fee of twenty-five dollars (\$25.00) and interest at a rate of ten (10) percent per annum.

(B) In the event of failure to pay all penalties assessed, the Manager may refer the matter for collection by whatever means are available to the City.

(C) In the case of violations associated with specific real property, the City shall have as security for the collection of such late fees, penalties, interest, and administrative costs a lien upon such real property. These amounts may be assessed and collected as specified in Title I, Chapter 31 of this Code.

(D) Any action or other process provided by law may be maintained by the City to recover or collect any amounts, including late fees, penalties, interest, and administrative costs, owing under this Article.

Section 2. Sections 2-6-2(A) and 2-6-4(E), W.M.C., are hereby AMENDED to read as follows:

2-6-2: POWERS AND DUTIES: (1222 1741 1769 1841 1883 2068 2161 2975)

(A) Appeals:

~~1. The Board may hear an appeal of a decision made by the Chief Building Official under Section 11-9-5(D) of this Code, regarding fences and retaining walls. The Board may reverse a decision of the Chief Building Official under this section only upon finding that the Chief Building Official has exceeded his jurisdiction or abused his discretion.~~ THE BOARD MAY HEAR APPEALS OF ADMINISTRATIVE CITATIONS ISSUED PURSUANT TO TITLE I, CHAPTER 23 OF THIS CODE.

2-6-4: PROCEDURE: (904 1112 1741 2068) In addition to any procedural hearing requirements the Board may adopt by rule, the Board shall conduct hearings and make decisions in accordance with the following requirements:

(E) WITH RESPECT TO APPEALS OF ADMINISTRATIVE CITATIONS ISSUED PURSUANT TO TITLE I, CHAPTER 23 OF THIS CODE, THE BOARD SHALL CONDUCT SUCH HEARINGS IN ACCORDANCE WITH THE PROCEDURES, STANDARDS AND DUTIES PROVIDED FOR IN SECTIONS 1-23-7 AND 1-23-8.

Section 3. Title VIII, Chapter 1, W.M.C., is hereby REPEALED AND REENACTED to read as follows:

**TITLE VIII
CHAPTER 1**

PROPERTY STANDARDS

- 8-1-1: GENERAL INTENT
- 8-1-2: INTERPRETATION
- 8-1-3: DEFINITIONS
- 8-1-4: COMPOST PILES
- 8-1-5: CONTAINERS
- 8-1-6: ESTABLISHMENT OF DUMPING GROUNDS
- 8-1-7: GARAGE SALES
- 8-1-8: GENERAL PROPERTY STANDARDS

8-1-9:	GRAFFITI
8-1-10:	SIDEWALKS
8-1-11:	HOUSEHOLD TRASH, JUNK OR DEBRIS
8-1-12:	PROHIBITED VEHICLES/VEHICLE ACCESSORIES
8-1-13:	PLANT MATERIALS
8-1-14:	OPEN WELLS, CISTERNS, AND EXCAVATIONS
8-1-15:	INTERFERENCE
8-1-16:	ENFORCEMENT

8-1-1: GENERAL INTENT: This Chapter has been enacted to preserve and enhance existing neighborhoods, commercial areas, businesses and the community at-large by regulating and controlling the use and maintenance of all properties within the City of Westminster. The requirements of this Chapter are intended to provide the minimum standards applicable to all properties within the City of Westminster; additional requirements for specific properties may exist, including, but not limited to, the Rental Property Maintenance Code (Title XI, Chapter 12 of this Code.)

8-1-2: INTERPRETATION: Whenever the requirements of this Chapter are at variance with any applicable development plans and restrictions including, but not limited to, zoning district restrictions, Planned Unit Development restrictions, the contents of any Preliminary Development Plan, Official Development Plan, or Final Plat, the applicable development plan and restriction shall govern. Whenever the requirements of this Chapter are at variance with any other provision of this Code the more restrictive, or that imposing the higher standards, shall govern.

8-1-3: DEFINITIONS: When used in this Chapter, the following words and terms, unless the context indicates a different meaning, shall be interpreted as follows:

BACKYARD: That portion of a lot between the back line of the structure and extending to the back property line.

BUILDING/GARAGE: A building shall consist of four solid walls and a roof, meet all City building codes and effectively shield its contents from the view of the public.

CODE ENFORCEMENT OFFICER: An employee or agent of the City authorized to enforce applicable provisions of the Code.

FRONT YARD: That portion of a lot between the front line of the structure and extending to the front property line.

PERSON: The person or entity who has violated the Code or, in the case of property violations, it may also be the property owner, the occupant, or an individual or an entity who, acting as an agent for or in any other legal capacity on behalf of the owner, has authority over property subject to this Code.

PREMISES: Any lot, grounds, site, property, plot or parcel of land including any structures or buildings thereon.

SIDEYARD: That portion of a lot between the back line and the front line of the structure.

STRUCTURE: That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

VEHICLE: Shall mean any device that is propelled or drawn on land by an engine, motor, or machinery, including automobiles, trucks, buses, motorcycles, motor homes, camping trailers, motorized campers, tractors, trailers and trains. For the purposes of this section, this term does not include any device customarily moved by human muscular power or those whose primary purpose is for recreation, such as bicycles, ski-doo's, snowmobiles, mopeds, dirt bikes, all-terrain vehicles, canoes, boats and go-carts.

8-1-4: COMPOST PILES:

(A) HOUSEHOLD TRASH: It shall be unlawful for a person to compost household trash.

(B) YARD WASTE: It shall be unlawful for a person to compost yard wastes except in a compost holding unit that:

1. Shall not exceed five (5) feet in any dimension;
2. Shall be constructed of wood, wire, metal, or plastic, excluding plastic bags;
3. May be a stationary or rotating unit;
4. Shall be located in the backyard, and shall be screened or fenced so that it is not visible from a public right-of-way;
5. Shall be maintained to minimize odors;
6. Shall not be allowed to attract rodents or to become a health or safety hazard; and
7. Shall be located a minimum of three (3) feet from any adjoining property line.

8-1-5: CONTAINERS:

(A) DUMPSTERS/ROLL-OFFS: It shall be unlawful for a person in a one or two-family dwelling to maintain trash dumpsters one (1) cubic yard or larger without prior written authorization from a Code Enforcement Officer. Persons storing or placing trash in a dumpster or roll-off shall do so in such a manner as to prevent the trash from being strewn or scattered. This Section shall not apply to one and two-family dwellings that have a valid building permit issued by the City of Westminster Building Division.

(B) MOVABLE CRATE/STORAGE UNIT: These units are defined as receptacles, used for temporary storage, which are designed to be moved from one location to another. It shall be unlawful for a person to maintain a movable crate/storage unit on a premises for a period of time exceeding thirty (30) days without prior written authorization from a Code Enforcement Officer.

(C) OUTDOOR REFRIGERATOR, FREEZER OR SELF-LOCKING CONTAINER: It shall be unlawful for any person to permit to remain outside of a building/garage any icebox, refrigerator, freezer, or self-locking container.

8-1-6: ESTABLISHMENT OF DUMPING GROUNDS: The City Manager is authorized and empowered to establish within or without the City Limits a dumping ground for the use of the City, its employees and agents.

8-1-7: GARAGE SALES: Garage sales are defined as any type of sales activity including, but not limited to, neighborhood or block sales, yard sales, estate sales, craft sales, rummage sales or clothing sales.

(A) DURATION: It shall be unlawful for a person to conduct a garage sale for a period of time exceeding three (3) consecutive days in duration.

(B) FREQUENCY: It shall be unlawful for a person to conduct more than one garage sale in any ninety (90) day period.

8-1-8: GENERAL PROPERTY STANDARDS: It shall be unlawful for a person to maintain a premises except in compliance with the following requirements:

(A) EXTERIOR MAINTENANCE:

1. The exterior finish of all structures shall be maintained in good repair, free of defect and shall be maintained prior to a time when that finish has substantially deteriorated. The exterior finish must consist of materials commonly used and meeting industry standards of acceptable construction.

2. All architectural projections such as cornices, moldings, lintels, sills and similar projections shall be maintained in good repair and free of defects.

3. All chimneys, vents, gutters, downspouts, light fixtures, roofing or building accessories shall be structurally sound, in good repair and shall be properly secured to an exterior wall or roof.

(B) **WINDOWS AND DOORS:** Windows and exterior glazing shall be sound, free from cracks and loose and broken glass and be capable of being secured in a closed position. Doors and windows shall be maintained weather tight, watertight and rodent proof. All screening and awnings shall be maintained in good repair and free from tears, holes, or other imperfections.

(C) **FENCES AND RETAINING WALLS:** All fences and retaining walls shall be in good repair, be structurally sound, in an upright position, and the exterior finish in good repair and free of defect. If the fencing contains slats, all slats must be present and complete in length.

(D) **LANDSCAPING:** All landscape areas shall be maintained in compliance with the provisions of Westminster Municipal Code Title XI Chapter 7 Site Development Standards as amended.

(E) **AUXILIARY STRUCTURES:** All auxiliary structures shall be maintained in a state of good repair or removed from the site. Such structures shall include, but not be limited to, tree houses, club houses, well houses, carports, garages, and miscellaneous sheds or structures. These structures shall be constructed of materials consistent for the use of the structure, and shall be structurally sound. Temporary tents/canopies and skateboard ramps shall be restricted to a backyard.

(F) **PARKING LOTS:** The parking lot(s) of commercial establishments or multi-family buildings shall be kept free from potholes, cracks or other deterioration. No dirt, grass or sod parking areas are allowed. All striping and signage, including, but not limited to, parking signage and fire lane or access signage shall be maintained in good condition and clearly legible.

8-1-9: GRAFFITI: Graffiti is defined as a message, symbol, inscription or drawing painted, scratched or written on any surface. It shall be unlawful for any person to fail to remove or eradicate graffiti from a premises within seven (7) days of defacement. The term "graffiti" does not apply to legally permitted signage.

8-1-10: SIDEWALKS:

(A) **REMOVAL OF SNOW OR ICE:** It shall be unlawful for any person to allow snow or ice to remain on any sidewalk open to the public and abutting or adjoining the property controlled, owned or occupied by such person after twenty-four (24) hours of the last measurable snow fall or snow drift.

(B) **OBSTRUCTIONS:** It shall be unlawful for any person to allow obstructions to remain on any sidewalk, curb or gutter open to the public and abutting or adjoining the property controlled, owned or occupied by such person. For purposes of this section, obstructions include, but are not limited to, piles of materials, vegetation, weeds, portable basketball hoops, structures, or any other physical object located within the width of the sidewalk, curb or gutter or obstructions located less than seven (7) feet above the sidewalk. An exception is made for lawfully parked motor vehicles.

(C) **CIVIL LIABILITY:** Any person who controls, owns or occupies property that abuts or adjoins any sidewalk open to the public owes a duty to all persons using such sidewalk to comply with the provisions of this Chapter. Any person injured by the breach of such duty shall have a cause of action for damages against the person who failed to comply with such duty, it being the express intent of this Section to impose civil liability on private property owners for injuries incurred on public sidewalks within the City as a result of a failure by any such private property owner to comply with this Chapter.

8-1-11: HOUSEHOLD TRASH, JUNK OR DEBRIS:

(A) **DEFINITIONS:**

1. Household trash is defined to include, but is not limited to, items such as rubbish, trash, waste, refuse, paper, tin cans, bottles, glass, containers, rags, ashes, bones, cloth, or other materials common to household use or objects which may become a breeding place for flies, mosquitoes, or vermin, or which give off unpleasant odors.

2. Junk or debris shall mean any material or object, used or new, which is not presently useable or designed to be used in their existing condition or location such as scrap metals, rubber pieces, rope, asphalt, concrete, plaster, tile, bricks, crates, cartons, barrels, boxes, tree limbs, leaves, dead plants and trees, trimmings from plants and trees, grass clippings, tools, fixtures, utensils, lumber, pipe and pipe fittings, machinery or parts thereof, appliances, vending machines, furniture, motor vehicle parts or tires, or any waste material from the premises, including building materials for or produced from remodeling or construction, and material.

(B) HOUSEHOLD TRASH CONTAINERS: It shall be unlawful for a person to maintain household trash at a premises except in compliance with the following requirements:

1. All household trash shall be stored wholly-contained and enclosed in a liquid-tight container having a tight-fitting cover.

2. Household trash containers stored outside prior to trash removal service shall be limited to eight (8) in number, and cannot be stored in a front yard, a side yard facing the street or a backyard facing a street.

3. There is no restriction to the number of household trash containers when placed out for household trash removal, provided the containers are put out no sooner than twenty-four (24) hours prior to scheduled trash removal service. Plastic bags or cardboard boxes are deemed suitable containers only for the purpose of placing household trash out the day of trash removal service. Household trash containers must be returned to their permissible storage area within twenty-four (24) hours after the scheduled trash removal service.

(C) KEEPING OF JUNK OR DEBRIS: It shall be unlawful for any person to cause, maintain or permit to remain, or store, keep or allow to be stored or kept, any junk or debris on any lot or parcel of land unless such junk or debris is kept in a building/garage, except junk or debris may be stored for a period of time not to exceed fourteen (14) days in/on a trailer or in a truck bed, fully covered and secured.

(D) UNLAWFUL DUMPING: It shall be unlawful for any person to place trash or junk in any trash receptacle located on private property which he does not own or have the legal right to possess, unless the person has written permission from the owner or lessee of the property.

8-1-12: PROHIBITED VEHICLES/VEHICLE ACCESSORIES:

(A) PROHIBITED VEHICLES:

1. It shall be unlawful to store or keep or permit to be stored or kept any vehicle, or parts thereof, that are inoperable or obviously not in a roadworthy condition, including a vehicle with a flat tire or tires, excessively leaking fluids, broken, damaged or missing head lamps, tail lamps, blinkers, windshield, rear window, windshield wipers, or not bearing proper and current registration plates unless such vehicle is stored in a building/garage.

2. It shall be unlawful for vehicles on any City street or roadway bearing proper and current license plates to remain stationary or unused for more than (15) fifteen consecutive days.

(B) RECREATIONAL USE VEHICLES:

1. Shall be defined as a motorized or non-motorized device designed for recreational purposes such as, but not limited to ski-doods, snowmobiles, mopeds, dirt bikes, all-terrain vehicles, canoes, boats and go-carts.

2. It shall be unlawful to store recreational use vehicles unless said vehicles are visibly operable, and are stored in a backyard not facing a street, in a building/garage, or on a trailer which bears proper and current license plates.

(C) CAMPER, CAMPER SHELL OR TRUCK BED TOPPER:

1. Shall be defined as any non-wheeled, detachable piece of vehicular equipment, which has no independent motor power and which is capable of being placed on a vehicle, but which is not capable of being towed.

2. It shall be unlawful for a person to store an un-mounted camper, camper shell or truck bed topper unless such items are stored in a backyard not facing a street, in a building/garage, or in a sideyard not facing a street that is paved with concrete or asphalt or is solidly rocked or graveled.

8-1-13: PLANT MATERIALS:

(A) WEEDS:

1. Shall be defined as any useless, troublesome or injurious plant, including all vegetation which has grown to maturity or to a height in excess of twelve (12) inches, but shall not include flower gardens, shrubbery, vegetable gardens, small grain plots and pastures used for feed, fodder or forage, provided the same are adequately weeded and maintained.

2. It shall be unlawful for any person to cause, maintain, or permit to remain on any premises, excluding open space property owned by the City, a County, or other public entity any accumulation of weeds on any premises, on or along the sidewalk, street, or alley adjacent to any premises, or between the property line and the curb or middle of the alley, or for ten (10) feet outside the property line if there is no curb.

(B) NOXIOUS PLANTS:

1. Shall be defined as any plant species designated or identified as noxious weeds pursuant to Colorado Revised Statute (2006), Title 35, Article 5.5, as amended.

2. It shall be unlawful for any person to cause, maintain, or permit to remain any noxious plant regardless of condition of said plant.

(C) TURF:

1. Shall be defined as a grouping of grasses that grow in very close proximity to form a living surface at the ground plane. Turf is generally an area of the ground plane intended to be/or could be walked on and when regularly mowed, forms a dense growth of leaf blades and root.

2. It shall be unlawful for any person to cause, maintain, or permit to remain any turf in excess of six (6) inches in height.

(D) It shall be unlawful for any person to cause, maintain, or permit to remain any plant material, including trees, shrubs, groundcovers, vines and turf, that does not have a one hundred percent (100%) ongoing survival rate.

8-1-14: OPEN WELLS, CISTERNS, AND EXCAVATIONS: It shall be unlawful for any person to cause, maintain, or permit to remain on any premises any excavation exceeding five (5) feet in depth, or any cistern, well or other excavation used for storage of water unless they are adequately covered with a locked lid or other covering weighing at least sixty (60) pounds, or are enclosed with a continuous secured fence to a height of at least five (5) feet. This Section shall not apply to an active construction project.

8-1-15: INTERFERENCE:

(A) It shall be unlawful for any person, by using or threatening to use, violence, force, or physical interference, or obstacle, to knowingly obstruct, impair, or hinder a Code Enforcement Officer or Peace Officer in the discharge of the duties as herein prescribed.

(B) It is no defense to a prosecution under this section that the Code Enforcement Officer or Peace Officer was acting in an illegal manner, if the officer was acting in the regular course of assigned duties and in good faith based upon surrounding facts and circumstances.

(C) It shall be unlawful for any person to refuse to reveal his/her correct name, address, and date of birth when requested to do so by a Code Enforcement Officer or Peace Officer engaged in any of the duties prescribed herein.

8-1-16: ENFORCEMENT:

(A) Violation: Any person found guilty of violating any of the provisions of this Chapter shall, upon conviction thereof, be punished by a fine pursuant to Section 1-8-1 of this Code. Each day that a violation of any of the provisions of this Chapter continues to exist shall be deemed to be a separate and distinct violation.

(B) Public nuisance: The condition of any real property in violation of Sections 8-1-4 through 8-1-14 is hereby declared to be a public nuisance which may be abated pursuant to the provisions for the abatement of nuisances established in this Code.

(C) Summary abatement:

1. The follow violations of this Chapter may be summarily abated:

- a. If a person fails to maintain any icebox, refrigerator, freezer or self-locking container as required by this Chapter;
- b. If a person fails, neglects or refuses to remove snow or ice from any public sidewalk as required by this Chapter;
- c. If a person fails, neglects or refuses to remove an obstruction from any sidewalk, curb or gutter as required this by Chapter; and
- d. If a person fails to maintain plant materials as required by this Chapter.

2. In the event that the provisions of this Chapter which may be summarily abated are violated, the City Manager or his representative may cause notice requiring compliance with the provisions of this Chapter to be served to a responsible party, either personally or by mail, or by posting of the property. Posting of the property shall be by a sign not less than eight and one half (8 1/2) inches by eleven (11) inches with letters not less than one-fourth (1/4) inch in height. Posting or written notice served personally or by mail upon a responsible party shall be deemed to comply with the notice provisions of this Chapter. In the case of violations occurring on private property where the owner of such property is a responsible party, the notice by mail shall be sent to the address shown in the county assessor records for the county in which the property is located. In the case of violations occurring on property for which the responsible party is not the owner, the notice by mail shall be sent to the most recent mailing address available to the City for that responsible party. In any case, the posting of such property by the City shall be deemed adequate notice. Notice shall be effective upon personal service or posting, or if by mail, upon the fifth day after mailing of the notice.

If the responsible party upon whom said notice is served fails, neglects, or refuses to timely correct the violation within the deadline stated in said notice, the City Manager or his representative may cause the necessary work to be performed at the expense of such responsible party, and the cost of such abatement shall be a first and prior lien on the property as provided by Title I, Chapter 31 of this Code, and may be assessed and collected pursuant to Section 8-4-5 of this Code.

3. Notwithstanding any other provision of this Chapter, trash or junk may be summarily abated from public property without notice or judicial procedure.

Section 4. Section 9-1-5, W.M.C., is hereby REPEALED AND REENACTED to read as follows:

9-1-5: OBSTRUCTION OF SIDEWALK; PUBLIC NUISANCE: Obstruction of sidewalks shall be as set forth in section 8-1-10, W.M.C.

Section 5. Title IX, Chapter 3, W.M.C., Removal of Snow and/or Ice, is hereby REPEALED IN ITS ENTIRETY.

Section 6. Section 8-4-6, W.M.C., is hereby amended BY DELETING SUBSECTION (E) and AMENDING SUBSECTION (F) to read as follows:

8-4-6: SPECIFIC NUISANCES DECLARED: Public nuisance shall include, but shall not be limited to, the following acts or conditions: (1634 1999)

~~(E) Trash, refuse, waste and junk: Trash, refuse, waste matter and junk, which by reason of its location and character is dangerous to public health, safety or welfare, unsightly, or interferes with the reasonable enjoyment of property by neighbors, detrimentally affects property values in the surrounding neighborhood or community, or which would materially hamper or interfere with the prevention or suppression of fire upon the premises. Trash, refuse, waste and junk include but are not limited to those objects and materials defined in subsections 8-3-1(B) and 8-3-1(E) 8-1-11(A) of this Code. (1634 1999)~~

~~(F)—Maintenance of property: Owning, leasing, occupying, managing or having possession of any premises in this City in such manner that any of the following conditions are found to exist thereon: (1634 1999)~~

1. The premises are a detriment to public health, safety or general welfare;

~~2. The premises are so defective, unsightly, or in such condition of disrepair that they substantially diminish the value of surrounding property or are otherwise substantially detrimental to surrounding properties. Manifestation of this condition shall include, but shall not be limited to, the keeping on, or disposing on, or the scattering over the premises, any of the following:~~

~~(a) junk, trash, or debris;~~

~~(b) abandoned, discarded or unusable objects or equipment such as furniture, stoves, hot water heaters, refrigerators, or freezers;~~

~~(c) stagnant water or an excavation;~~

~~(d) any device, decoration, design, fence, or structure which is unsightly by reason of its condition or its inappropriate location, or which is no longer in its original or upright position, or which has deteriorated due to lack of maintenance.~~

~~3.—The premises are so out of harmony or conformity with the maintenance standards of adjacent properties as to cause substantial diminution of the enjoyment, use, or property values of such adjacent properties.~~

~~4. 3. The premises are abandoned, boarded up, partially destroyed, or left unreasonably in a state of partial construction.~~

~~5. 4. Buildings have dry rot, warping, or termite infestation.~~

~~6. The premises have broken doors or a substantial number of broken windows which cause hazardous conditions and invite trespassers and malicious mischief.~~

~~7. The landscaping on premises has not been maintained as follows:~~

- ~~(a) the majority of plant materials have not been adequately irrigated and maintained and are dead or dying;~~
- ~~(b) lawns have grown over six inches or shrubs have not been trimmed and are overhanging public rights of way;~~
- ~~(c) weeds as defined in subsection 8-2-1(B) of this Code have grown over six inches and have not been removed; or~~
- ~~(d) dead or diseased plantings have not been removed or replaced;.~~

~~8. The exterior of commercial establishments or multi-family buildings has not been maintained so as to present a neat and orderly appearance as follows:~~

- ~~(a) Doors or a substantial number of windows are cracked or broken;~~
- ~~(b) painted surfaces are substantially cracked or peeling or the paint has deteriorated to the point where the bare surface is substantially exposed; or~~
- ~~(c) the building has otherwise not been substantially maintained.~~
- ~~(d) parking lots have not been repaired or cracks, potholes or other breaks in the parking lot surface have not been filled.~~

Section 7. Section 11-12-7, subsection (A), is hereby AMENDED to read as follows:

11-12-7: SITE MAINTENANCE:

(A) General. The accumulation of weeds, vegetation, junk (to include, but not be limited to, abandoned, unused or nonoperational appliances, equipment, vehicles, machinery, or household furnishings), dead organic matter, debris, garbage, stagnant water, combustible materials or similar materials or conditions shall be subject to the provisions of Title 8, Chapters 1-3 of the Westminster Municipal Code and shall be subject to abatement provisions therein.

Section 8. This ordinance shall take effect upon its passage after second reading.

Section 9. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 12th day of February, 2007.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 26th day of February, 2007.

Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

City Clerk

City Attorney's Office



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
February 26, 2007



SUBJECT: Second Reading of Councillor’s Bill No. 7 re 2006 4th Quarter Budget Supplemental Appropriation

Prepared By: Gary Newcomb, Accountant

Recommended City Council Action

Pass Councillor’s Bill No. 7 on second reading providing for supplementary appropriations to the 2006 budget of the General, General Capital Improvement, Water, Wastewater and Open Space Funds.

Summary Statement

- City Council action is requested to pass the attached Councillor’s Bill on second reading authorizing a supplemental appropriation to the 2006 budget of the General, General Capital Improvement, Water, Wastewater and Open Space Funds.
 - General Fund amendments total: \$456,961
 - General Capital Improvement amendments total: \$241,183
 - Water Fund amendments total: \$13,165
 - Wastewater Fund amendments total: (\$13,165)
 - Open Space Fund amendments total: \$3,272,491
- This Councillor’s Bill was passed on first reading February 12, 2007.

Expenditure Required: \$3,970,635

Source of Funds: The funding sources for these expenditures include interest earnings, grants, reimbursements, program revenues, building permit fees, youth scholarship funds, Special Improvement District payments and sale of asset revenues.

Respectfully submitted,

J. Brent McFall
City Manager
Attachment

BY AUTHORITY

ORDINANCE NO. **3339**

COUNCILLOR'S BILL NO. **7**

SERIES OF 2007

INTRODUCED BY COUNCILLORS
Major - Price

A BILL

FOR AN ORDINANCE AMENDING THE 2006 BUDGETS OF THE GENERAL, GENERAL CAPITAL IMPROVEMENT, WATER, WASTEWATER AND OPEN SPACE FUNDS AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2006 ESTIMATED REVENUES IN THE FUNDS

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2006 appropriation for the General, General Capital Improvement, Water, Wastewater and Open Space Funds, initially appropriated by Ordinance No. 3162 are hereby increased in aggregate by \$3,970,635. This appropriation is due to the receipt of interest earnings, grants, reimbursements, program revenues, youth scholarship funds, Special Improvement District payments and sale of asset revenues.

Section 2. The \$3,970,635 increase shall be allocated to City Revenue and Expense accounts as described in the City Council Agenda Item 10E, dated February 12, 2007 (a copy of which may be obtained from the City Clerk) increasing City fund budgets as follows:

General Fund	\$456,961
General Capital Improvement Fund	241,183
Water Fund	13,165
Wastewater Fund	(13,165)
Open Space Fund	<u>3,272,491</u>
Total	<u>\$3,970,635</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 12th day of February, 2007.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 26th day of February, 2007.

ATTEST:

Mayor

City Clerk



Agenda Item 9 A

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
February 26, 2007



SUBJECT: Resolution No. 7 re Appointments to Boards and Commissions

Prepared by: Linda Yeager, City Clerk

Recommended City Council Action

Adopt Resolution No. 7 to fill vacancies on the Board of Building Code Appeals, the Environmental Advisory Board, the Historic Landmark Board, the Human Services Board, the Parks, Recreation and Libraries Advisory Board and the Planning Commission.

Summary Statement

- City Council action is requested to appoint citizens to fill vacancies in alternate and regular memberships on seven of the City's established Boards and Commissions. The vacancies are the result of resignations received in December 2006 or the ineligibility of previous appointees to continue service due to the residency requirement.
- Having interviewed interested applicants, City Council's action will be to appoint 9 individuals to fill existing vacancies on the Board of Building Code Appeals, the Environmental Advisory Board, the Historic Landmark Board, the Human Services Board, the Parks, Recreation and Libraries Board and the Planning Commission. Interviewees who are not being appointed to serve immediately will be included in a pool of eligible applicants to fill vacancies that might occur during 2007.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Does City Council want to fill vacancies on Boards and Commissions so a full complement of members can fulfill the duties established for each Board or Commission?

Alternative

None identified

Background Information

The terms of several regular members of the City's Boards and Commissions expired December 31, 2006, and the appointees were not reappointed due to resignation or relocation from the City, creating vacancies. Details are as follows.

Greg Cullison resigned from the Board of Building Code Appeals in anticipation of a change in residency that makes him ineligible to continue serving. The attached resolution names James Black to regular membership on this Board; term to expire December 31, 2008.

Sarah Rothwell has moved from the City, creating a vacancy on the Historic Landmark Board. The alternate to the Board was appointed a regular member, and the attached resolution names Sergio Aradillas the alternate member, term to expire December 31, 2007

In 2006 the City Council created an alternate membership to the Human Services Board. To fill that position and to name a replacement for Jean Pruitt as a regular member following her December resignation, Richard Cohan is being appointed a regular member and Jeff Konrade-Helm the alternate member. Terms of office will expire December 31, 2008, and December 31, 2007, respectively, if the attached resolution is adopted.

Three members of the Parks, Recreation and Libraries Advisory Board, Roman Kohler, Marilyn Flachman and Gary Scofield, resigned in December. When Council combined the Parks and Recreation Board and the Library Advisory Board in 2006, all members of both Boards continued to serve their terms of office. Membership of the combined Board was to total seven regular and one alternate to be achieved through attrition. The three December resignations produced vacancies in a regular and an alternate membership. The attached resolution appoints Wendi Garland a regular member and Mike Angel an alternate; terms to expire December 31, 2008, and December 31, 2007, respectively.

The terms of Planning Commissioners Martha Brundage and Michael Crocker expired December 31, 2006, and both resigned following long tenure on the Commission. The alternates to the Board were appointed to regular membership in January; and the attached resolution names Michael Litzau first alternate and Donna Alengi second alternate, terms to expire December 31, 2007.

Mr. Litzau serves as a regular member of the Environmental Advisory Board, and his appointment to the Planning Commission creates a vacancy on that Board. The attached resolution fills the vacancy through the appointment of Nick Pizzuti to regular membership, term to expire December 31, 2007.

Interested citizens who applied for, but were not appointed to a Board or Commission will be included in a pool of eligible applicants to fill vacancies that might occur during 2007.

Respectfully submitted,

J. Brent McFall
City Manager
Attachment

RESOLUTION

RESOLUTION NO. **7**

INTRODUCED BY COUNCILLORS

SERIES OF 2007

Kauffman - Major

CITY OF WESTMINSTER BOARD AND COMMISSION APPOINTMENTS

WHEREAS, Members of various City Boards and Commissions whose terms expired on December 31, 2006, submitted resignations, creating vacancies in the offices where they had served; and

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

WHEREAS, City Council interviewed citizens who had applied for appointment to Boards and Commissions of interest to them personally.

NOW THEREFORE, be it resolved that the City Council of the City of Westminster does hereby appoint the following individuals to regular membership on the City of Westminster Board or Commission with terms of office to expire as listed.

BOARD/COMMISSION	APPOINTEE	TERM EXPIRATION
Board of Building Code Appeals	James C. Black	December 31, 2008
Environmental Advisory Board	Nick Pizzuti	December 31, 2007
Human Services Board	Richard E. Cohan	December 31, 2008
Parks, Recreation & Libraries Advisory Board	Wendi Garland	December 31, 2008

The following individuals are appointed to alternate memberships as listed.

BOARD/COMMISSION	NAMES OF APPOINTEES	TERM EXPIRES
Historic Landmark Board	Sergio D. Aradillas	December 31, 2007
Human Service Board	Jeff Konrade-Helm	December 31, 2007
Parks, Recreation & Libraries Advisory Board	Michael Angel	December 31, 2007
Planning Commission	Michael Litzau (1 st alternate) Donna Alengi (2 nd alternate)	December 31, 2007 December 31, 2007
Special Permit & License Board	Mildred DeSmet	December 31, 2007

PASSED AND ADOPTED this 26th day of February, 2007, as amended.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
February 26, 2007



SUBJECT: Public Hearing and Councillor’s Bill No. 11 re a Comprehensive Land Use Plan Amendment for Crystal Lake Subdivision Filing No.1 for Block 2, Lot 1

Prepared By: Hazel Cho, Planner II

Recommended City Council Action

1. Hold a public hearing.
2. Pass Councillor’s Bill No. 11 on first reading approving a Comprehensive Land Use Plan (CLUP) amendment for Crystal Lake Subdivision Filing No. 1 for Block 2, Lot 1 changing the designation from Private Parks/Open Space to R-3.5 Residential. This recommendation is based on a finding that the proposed amendment will be in the public good and that:
 - a. There is justification for the proposed change and the Plan is in need of revision as proposed; and
 - b. The amendment is in conformance with the overall purpose and intent and the goals and policies of the Plan; and
 - c. The proposed amendment is compatible with existing and planned surrounding land uses; and
 - d. The proposed amendment would not result in excessive detrimental impacts to the City’s existing or planned infrastructure systems.

Summary Statement

- The CLUP amendment proposes to change Lot 1, Block 2 of Crystal Lake Subdivision Filing No. 1 from Private Parks/Open Space to R-3.5 Residential.
- The property owner intends to develop the 0.5 acre vacant parcel for two (2) single-family detached lots. Each lot is proposed to be larger than 10,000 square feet and will need to meet the City’s Single Family Detached Residential Design Guidelines and Landscape Regulations.
- The loss of private park/open space land is to be mitigated by providing the City with park development fees and a cash-in-lieu payment for the public land dedication requirement in the amount of ten thousand dollars (\$10,000).
- The City has not been able to require the developer of the Crystal Lake Subdivision (Spanish Oaks) to construct and dedicate Lot 1 as a tennis court or open space parcel; and the Spanish Oak’s HOA has expressed to City staff that they have no interest in purchasing the property nor constructing and maintaining the site for private parks/open space uses.

Expenditure Required: \$ 0

Source of Funds: N/A

Planning Commission Recommendation

The Planning Commission reviewed this proposal on February 13, 2007, and voted unanimously (6-0) to recommend the City Council approve the CLUP amendment from Private Parks/Open Space to R-3.5 Residential. No one spoke in favor of or in opposition to this proposal.

Policy Issue

Should the City approve a Comprehensive Land Use Plan amendment for Crystal Lake Subdivision Filing No. 1 for Block 2, Lot 1 changing the designation from Private Parks/Open Space to R-3.5 Residential?

Alternative

Deny the CLUP amendment or approve another appropriate designation. Denial would not allow residential development on the property and the property will likely remain vacant.

Background Information

Nature of Request

The applicant is seeking a CLUP amendment for Lot 1, Block 2 of Crystal Lake Subdivision Filing No.1. The approximate 0.5 acre lot is currently designated on the CLUP as Private Parks/Open Space and the property owner has petitioned the City to change the CLUP designation to R-3.5 Residential. The existing and previous Preliminary Development Plans (PDP) and Official Development Plans (ODP) for Crystal Lake Filing No. 1 (as early as 1983) indicated the subject parcel for development as either a tennis court with/without parking or as open space as a part of the Spanish Oaks condominium development (located to the north and east of the subject property). Prior to the completion of all fifteen Spanish Oaks buildings as approved in the Second Amended ODP for Crystal Lake Filing No. 1, the developer, Troy Davis Homes, Inc., foreclosed on property and left the subject property in its current vacant state. A new developer took over the plans to finish the project with the approval of the third amended ODP to complete Building 15 and build an additional seven unit building. The proposed CLUP amendment would allow the lot to be subdivided for single-family detached development not to exceed a density of 3.5 dwelling units per acre, which is consistent with the surrounding CLUP designation to the east and south of the property.

The property owner has submitted a development proposal to subdivide the lot into two (2) lots pending approval of the CLUP amendment. The revised development plan for Lot 1 may be approved administratively as a PDP/ODP amendment. The proposal for two (2) single-family detached lots would be at a lower density than the maximum density allowed under the proposed CLUP designation. The City has not been able to require the original developer to construct and dedicate Lot 1 as a tennis court or open space parcel. The Spanish Oak's HOA has expressed to City staff that they have no interest in purchasing the property nor constructing and maintaining the site for private parks/open space uses. The loss of Lot 1 as a private park/open space parcel and the addition of two new residential lots are to be mitigated by providing the City with a cash-in-lieu payment for the public land dedication and park development fees in the amount of \$10,000. The private park has never been developed. A separate cash-in-lieu payment for the City's school land dedication requirement will be applied at a rate of \$867 per single-family detached unit or as adopted by the Westminster City Council at the time when the final plat is recorded. Staff is in support of the CLUP amendment and recognizes this application would further the Comprehensive Land Use Plan's Community Goals and Policies as described in this report.

Location

The site is located on a vacant parcel of land at the southwest corner of 73rd Avenue and Wolff Street. (Please see attached vicinity map).

Comprehensive Land Use Plan Amendment

The Westminster Municipal Code requires the owner of the property requesting an amendment to the Comprehensive Land Use Plan (CLUP) to prove the amendment in the public good and in overall compliance with the purpose and intent of the CLUP. Further, the CLUP provides four criteria to be used when considering a CLUP amendment. Staff has reviewed these criteria and has provided the following comments on each.

1. The proposed amendment must, "Demonstrate that there is justification for the proposed change, and that the Plan is in need of revision as proposed." As the Spanish Oaks project has been completed for many years and accepted by the City, there is no one to build the private park. As the parcel is not owned by the Spanish Oaks HOA it will either remain vacant or be developed in another manner.
2. The proposed amendment must, "Be in conformance with the overall purpose, intent, goals, and policies of the Plan." Applicable goals are stated in Section III of the Community Goals and Policies section of the Plan. They include:
 - Policy A1b - The rate, amount, and timing of growth will be managed so as to meet the objectives of the City's Growth Management Program.
 - Goal B2 - Preserve existing neighborhoods, revitalize declining neighborhoods, and develop new neighborhoods that are safe and attractive, and served by public facilities and convenient commercial uses.
 - Policy B2c - Promote neighborhood revitalization through creative infill and mixed-use development.
 - Goal B3 - Enhance the older neighborhoods in South Westminster.
 - Policy B3a - The preservation and enhancement of existing residential neighborhoods will be encouraged by preserving, and building upon their unique character of South Westminster's tree-lined streets, quiet neighborhoods, and distinctive architectural styles.
 - Policy C1b - Continue to develop "high end" and "move up" housing in the City.
 - Policy F1a - Promote redevelopment in targeted areas, including Westminster Center, 72nd/Sheridan area, 80th and Sheridan, Holly Park, the Federal Boulevard Corridor, Mandalay, and South Westminster (72nd/Federal/Lowell).
 - Policy H2b - New residential development should assist in the provision of land for parks, open space or community facilities necessary for that development.

Based upon these goals and policies, staff has found this proposed amendment to be in conformance with the overall purpose, intent, goals, and policies of the Plan.

3. The proposal must, "Be compatible with existing and surrounding land uses." This application is compatible with the surrounding land uses by remaining consistent with the single family residential pattern of development south of 73rd Avenue and north of 72nd Avenue in this general area.
4. The proposal must, "Not result in detrimental impacts to the City's existing or planned infrastructure or provide measures to mitigate such impacts to the satisfaction of the City." The addition of two single-family detached lots will fit in with the established single-family detached units south of 73rd Avenue. There will be minimal impact to traffic on 73rd Avenue and the development will follow the design guidelines for single-family development.

Public Notification

Westminster Municipal Code 11-5-13 requires the following three public notification procedures:

- Published Notice: Notice of public hearing scheduled before City Council shall be published and posted at least 10 days prior to such hearing. Notice was published in the Westminster Window on February 15, 2007.

- Property Posting: Notice of public hearing shall be posted on the property with one sign in a location reasonably visible to vehicular and pedestrian traffic passing adjacent to the site. Two signs were posted on the property on February 14, 2007.
- Written Notice: At least 10 days prior to the date of the public hearing, the applicant shall mail individual notices by first-class certified mail to property owners and homeowner's associations registered with the City within 300 feet of the subject property. The applicant has provided the Planning Manager with a certification that the required notices were mailed on February 1, 2007.

Applicant/Property Owner

Troy Davis
Troy Davis Homes, Inc.
1075 Check St., Ste. 107
Wasilla, Alaska 99654

Applicant's Representative/Consultant

Gene Herbert
Land-Design Studio
PO Box 1797
Denver, CO 80201

Surrounding Land Use and Comprehensive Land Use Plan Designation

Development Name	Zoning	CLUP Designation	Use
Crystal Lake Subdivision Filing No. 1 & 3; North	PUD	R-18 Residential	Residential
Crystal Lake Subdivision Filing No. 1; West	PUD	R-18 Residential	Residential
Rosewood Subdivision; East	RA	R-3.5 Residential	Residential
Greenwood Subdivision, South	RA	R-3.5 Residential	Residential

Service Commitment Category

The proposal for two new single-family detached lots would place the development in Category A for Active Residential Development. Two Service Commitments are required based on the proposed development.

Referral Agency Responses

A copy of the proposed plans was sent to the following agencies: Xcel Energy, Comcast, Qwest, and Adams County School District 50. Staff received a response from Xcel Energy and their concerns regarding needed future easements will be addressed on the ODP and plat.

Neighborhood Meeting and Public Comments

A neighborhood meeting was held on November 28, 2006 where property owners within 300 feet of the parcel boundary and Spanish Oaks HOA were notified of the meeting. No persons came to the neighborhood meeting. One phone call was received on November 20, 2006 from a Spanish Oaks resident. The resident's concerns were for the amount of increased traffic on 73rd Avenue, inquiries on the type of housing and design to be constructed on the lots, and the effects on the Hidden Lake Shopping Center on the northeast corner of Sheridan Boulevard and 72nd Avenue with the approval of the new commercial center at the southwest corner of Sheridan Boulevard and 72nd Avenue.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

- Vicinity Map
- Comprehensive Land Use Plan Amendment Map
- Comprehensive Land Use Plan Amendment Ordinance
- Exhibit A: Map of Property Location
- Criteria and Standards for Land Use Applications

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **11**

SERIES OF 2007

INTRODUCED BY COUNCILLORS

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

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council finds:

a. That an application for an amendment to the Westminster Comprehensive Land Use Plan has been submitted to the City for its approval pursuant to W.M.C. §11-4-16(D), by the owner(s) of the properties described below, incorporated herein by reference, requesting a change in the land use designations from "Private Parks/Open Space" to "R-3.5 Residential" for the approximate 0.5 acre parcel located on the southwest corner of 73rd Avenue and Wolff Street.

b. That such application has been referred to the Planning Commission, which body held a public hearing thereon on February 13, 2007, after notice complying with W.M.C. §11-4-16(B) and has recommended approval of the requested amendments.

c. That notice of the public hearing before Council has been provided in compliance with W.M.C. § 11-4-16(B) and the City Clerk has certified that the required notices to property owners were sent pursuant to W.M.C. §11-4-16(D).

d. That Council, having considered the recommendations of the Planning Commission, has completed a public hearing and has accepted and considered oral and written testimony on the requested amendments.

e. That the owners have met their burden of proving that the requested amendment will further the public good and will be in compliance with the overall purpose and intent of the Comprehensive Land Use Plan, particularly its goals and policies on neighborhoods and redevelopment.

Section 2. The City Council approves the requested amendments and authorizes City Staff to make the necessary changes to the map and text of the Westminster Comprehensive Land Use Plan to change the designation of the property more particularly described as follows:

A parcel of land located in the Southwest One-Quarter of the Southwest One-Quarter of Section 31, Township 2 South, Range 68 West of the 6th Principal Meridian, City of Westminster, County of Adams, State of Colorado, said parcel also being Lot 1, Block 2, Crystal Lake Subdivision Filing No. 1.

to "R-3.5 Residential", as depicted on the map attached as Exhibit A.

Section 3. Severability: 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 deemed unenforceable shall not affect any of the remaining provisions.

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 26th day of February, 2007.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 12th day of March, 2007.

ATTEST:

Mayor

APPROVED AS TO LEGAL FORM:

City Clerk

City Attorney's Office

Criteria and Standards for Land Use Applications

Comprehensive Land Use Plan Amendments

- The owner/applicant has “the burden of proving that the requested amendment is in the public good and in compliance with the overall purpose and intent of the Comprehensive Land Use Plan...” (WMC 11-4-16(D.4)).
- Demonstrate that there is justification for the proposed change and that the Plan is in need of revision as proposed;
- Be in conformance with the overall purpose, intent, and policies of the Plan;
- Be compatible with the existing and surrounding land uses; and
- Not result in excessive detrimental impacts to the City’s existing or planned infrastructure systems, or the applicant must provide measures to mitigate such impacts to the satisfaction of the City (Page VI-5 of the CLUP).

Approval of Planned Unit Development (PUD), Preliminary Development Plan (PDP) and Amendments to Preliminary Development Plans (PDP)

11-5-14: STANDARDS FOR APPROVAL OF PLANNED UNIT DEVELOPMENTS, PRELIMINARY DEVELOPMENT PLANS AND AMENDMENTS TO PRELIMINARY DEVELOPMENT PLANS: (2534)

(A) In reviewing an application for approval of a Planned Unit Development and its associated Preliminary Development Plan or an amended Preliminary Development Plan, the following criteria shall be considered:

1. The Planned Unit Development (PUD) zoning and the proposed land uses therein are in conformance with the City's Comprehensive Plan and all City Codes, ordinances, and policies.
2. The PUD exhibits the application of sound, creative, innovative, and efficient planning principles.
3. Any exceptions from standard code requirements or limitations are warranted by virtue of design or special amenities incorporated in the development proposal and are clearly identified on the Preliminary Development Plan.
4. The PUD is compatible and harmonious with existing public and private development in the surrounding area.
5. The PUD provides for the protection of the development from potentially adverse surrounding influences and for the protection of the surrounding areas from potentially adverse influence from within the development.
6. The PUD has no significant adverse impacts upon existing or future land uses nor upon the future development of the immediate area.
7. Streets, driveways, access points, and turning movements are designed in a manner that promotes safe, convenient, and free traffic flow on streets without interruptions and in a manner that creates minimum hazards for vehicles and pedestrian traffic.
8. The City may require rights-of-way adjacent to existing or proposed arterial or collector streets, any easements for public utilities and any other public lands to be dedicated to the City as a condition to approving the PDP. Nothing herein shall preclude further public land dedications as a condition to ODP or plat approvals by the City.
9. Existing and proposed utility systems and storm drainage facilities are adequate to serve the development and are in conformance with overall master plans.
10. Performance standards are included that insure reasonable expectations of future Official Development Plans being able to meet the Standards for Approval of an Official Development Plan contained in section 11-5-15.
11. The applicant is not in default or does not have any outstanding obligations to the City.

(B) Failure to meet any of the above-listed standards may be grounds for denial of an application for Planned Unit Development zoning, a Preliminary Development Plan or an amendment to a Preliminary Development Plan.

Zoning or Rezoning to a Zoning District Other Than a Planned Unit Development (PUD)

11-5-3: STANDARDS FOR APPROVAL OF ZONINGS AND REZONINGS: (2534)

(A) The following criteria shall be considered in the approval of any application for zoning or rezoning to a zoning district other than a Planned Unit Development:

1. The proposed zoning or rezoning is in conformance with the City's Comprehensive Plan and all City policies, standards and sound planning principles and practice.
2. There is either existing capacity in the City's street, drainage and utility systems to accommodate the proposed zoning or rezoning, or arrangements have been made to provide such capacity in a manner and timeframe acceptable to City Council.

City Initiated Rezoning

(B) The City may initiate a rezoning of any property in the City without the consent of the property owner, including property annexed or being annexed to the City, when City Council determines, as part of the final rezoning ordinance, any of the following:

1. The current zoning is inconsistent with one or more of the goals or objectives of the City's Comprehensive Land Use Plan.
2. The current zoning is incompatible with one or more of the surrounding land uses, either existing or approved.
3. The surrounding development is or may be adversely impacted by the current zoning.
4. The City's water, sewer or other services are or would be significantly and negatively impacted by the current zoning and the property is not currently being served by the City.

Official Development Plan (ODP) Application

11-5-15: STANDARDS FOR APPROVAL OF OFFICIAL DEVELOPMENT PLANS AND AMENDMENTS TO OFFICIAL DEVELOPMENT PLANS: (2534)

(A) In reviewing an application for the approval of an Official Development Plan or amended Official Development Plan the following criteria shall be considered:

1. The plan is in conformance with all City Codes, ordinances, and policies.
2. The plan is in conformance with an approved Preliminary Development Plan or the provisions of the applicable zoning district if other than Planned Unit Development (PUD).
3. The plan exhibits the application of sound, creative, innovative, or efficient planning and design principles.
4. For Planned Unit Developments, any exceptions from standard code requirements or limitations are warranted by virtue of design or special amenities incorporated in the development proposal and are clearly identified on the Official Development Plan.
5. The plan is compatible and harmonious with existing public and private development in the surrounding area.
6. The plan provides for the protection of the development from potentially adverse surrounding influences and for the protection of the surrounding areas from potentially adverse influence from within the development.
7. The plan has no significant adverse impacts on future land uses and future development of the immediate area.

8. The plan provides for the safe, convenient, and harmonious grouping of structures, uses, and facilities and for the appropriate relation of space to intended use and structural features.
9. Building height, bulk, setbacks, lot size, and lot coverages are in accordance with sound design principles and practice.
10. The architectural design of all structures is internally and externally compatible in terms of shape, color, texture, forms, and materials.
11. Fences, walls, and vegetative screening are provided where needed and as appropriate to screen undesirable views, lighting, noise, or other environmental effects attributable to the development.
12. Landscaping is in conformance with City Code requirements and City policies and is adequate and appropriate.
13. Existing and proposed streets are suitable and adequate to carry the traffic within the development and its surrounding vicinity.
14. Streets, parking areas, driveways, access points, and turning movements are designed in a manner promotes safe, convenient, promotes free traffic flow on streets without interruptions and in a manner that creates minimum hazards for vehicles and or pedestrian traffic.
15. Pedestrian movement is designed in a manner that forms a logical, safe, and convenient system between all structures and off-site destinations likely to attract substantial pedestrian traffic.
16. Existing and proposed utility systems and storm drainage facilities are adequate to serve the development and are in conformance with the Preliminary Development Plans and utility master plans.
17. The applicant is not in default or does not have any outstanding obligations to the City.

(B) Failure to meet any of the above-listed standards may be grounds for denial of an Official Development Plan or an amendment to an Official Development Plan.

Vicinity Map



CLUP Designation



LEGEND

R-1	R-18	Office/Residential	Private Parks/Open Space
R-2.5	Retail Commercial	District Center	Golf Courses
R-3.5	Office	Traditional Mixed Use	Public/Quasi Public
R-5	Industrial	City Owned Open Space	N.E. Comprehensive Dev. Plan
R-8	Business Park	Public Parks	Major Creek Corridor Non Public

Description of Change: Private Parks/ Open Space to R 3.5



New CLUP Designation

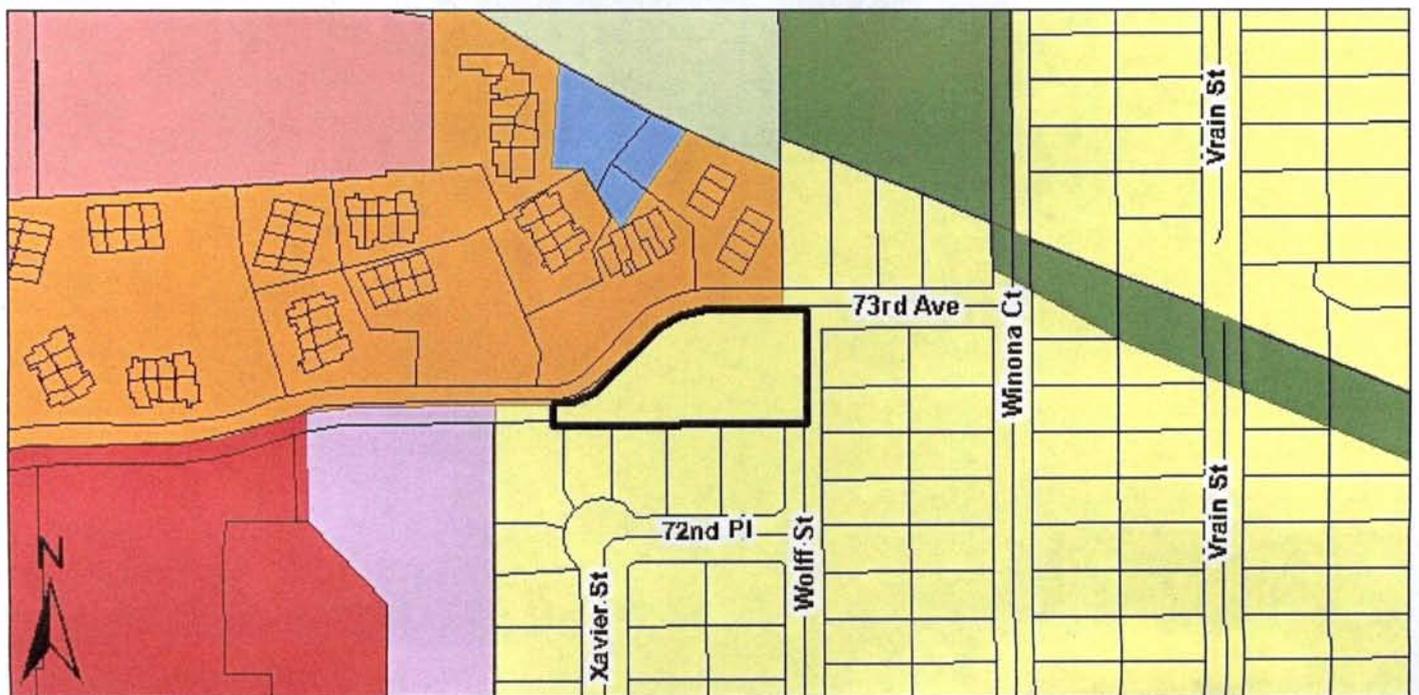
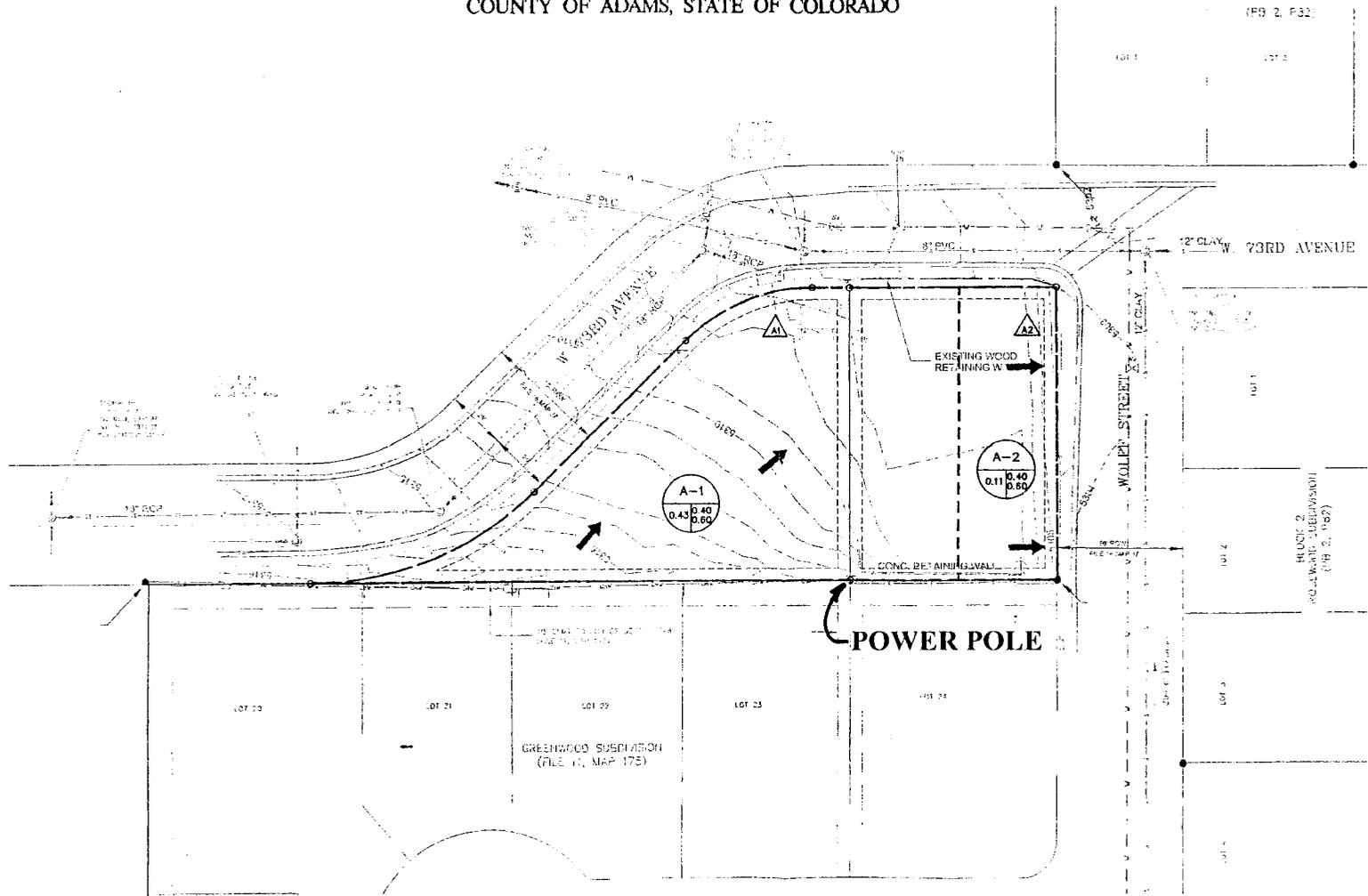




Exhibit A

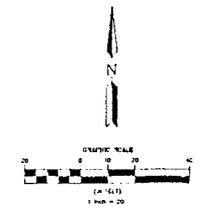
LOT 1, BLOCK 2, CRYSTAL LAKE SUBDIVISION FILING NO. 1
 LOCATED IN THE SW1/4 OF SECTION 31, TOWNSHIP 2 SOUTH, RANGE 68 WEST OF THE 6TH P.M.,
 COUNTY OF ADAMS, STATE OF COLORADO



LEGEND

- Design Point
- Basin Boundary
- Drainage Arrow
- Existing Contour
- Basin Designation
- Runoff Coefficient (2 Year)
- Runoff Coefficient (100 Year)
- Basin Area (Acres)

BASIN	DESIGN	2-YR	100-YR
A-1	0.43	0.40	0.60
A-2	0.11	0.40	0.60



<p>CALL UTILITY NOTIFICATION CENTER OF COLORADO 1-800-922-1987 24 HOURS A DAY IN ADVANCE BEFORE ANY EXCAVATION FOR THE PROTECTION OF UNDERGROUND UTILITIES</p>	<p>PREPARED FOR: TROY DAVIS HOMES, INC. 1075 CINECK STREET, SUITE 107 WASILLA, ALASKA 99654</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>DATE</th> <th>REVISION #</th> <th>COMMENTS/DESCRIPTION</th> <th>BY</th> <th>ISSUE DATE: 08/03/08</th> </tr> </thead> <tbody> <tr> <td>08/03/08</td> <td>1</td> <td>ISSUE</td> <td>MMCE</td> <td></td> </tr> </tbody> </table>	DATE	REVISION #	COMMENTS/DESCRIPTION	BY	ISSUE DATE: 08/03/08	08/03/08	1	ISSUE	MMCE		<p>SCALE: HORIZ: 20' VERT: 1"=10' DESIGNED BY: JLT CHECKED BY: CH PROJECT NUMBER: 557 FILE NAME: 557-DRI</p>		<p>MMCE ENGINEERING, INC. 2245 S. KAPLAN WAY, SUITE 240 ALBUQUERQUE, COLORADO 80511 Office: 303.671.4803 Fax: 303.671.4107 www.mmce.org email: mmce@mmce.com</p>	<p>CRYSTAL LAKE SUBDIVISION FILING NO. 1, BLOCK 2, LOT 1 DRAINAGE MAP</p>	<p>SHEET DRI</p>
DATE	REVISION #	COMMENTS/DESCRIPTION	BY	ISSUE DATE: 08/03/08													
08/03/08	1	ISSUE	MMCE														



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
February 26, 2007



SUBJECT: Crystal Lakes Subdivision Filing No. 1, Block 2, Lot 1 – Waiver for Underground Utility Relocations

Prepared By: Tiffany Ewing, Civil Engineer

Recommended City Council Action

Waive the City Code requirement for underground relocations of the existing overhead utility line along the southern property line of the Crystal Lakes Subdivision Filing No. 1 for Block 2, Lot 1.

Summary Statement

- A potential developer of Block 2, Lot 1 of Crystal Lakes Subdivision Filing No. 1, located at the southwest corner of 73rd Avenue and Wolff Street, is proposing to subdivide Lot 1 into two lots and build two single family detached homes.
- An existing overhead utility line located parallel to the southern property line of Crystal Lakes Subdivision Filing No. 1 serves five homes to the south of this subdivision (see attached map). Only a single pole is actually located upon a portion of Block 2, Lot 1. Under a strict interpretation of the Westminster Municipal Code, the developer of Block 2, Lot 1 would be obligated to pay for the underground relocation of this overhead line at a cost of \$23,016.
- The Westminster Municipal Code 11-6-3 (A) states that “except as otherwise provided below, no plat shall be approved nor shall a building permit be issued unless the developer agrees to underground existing overhead electric and communication utility lines as required by Section (B).” The Code 11-6-3 (E) also states that City Council may waive or reduce the undergrounding requirements of this section for any redevelopment or new subdivision or development where compliance with the regulations set forth in this section should result in an unusual or unnecessary hardship or would be impractical as determined by the City Council.
- The Developer has asked that this requirement be waived by City Council since this utility line is presently serving five homes that are not even located within Crystal Lakes Subdivision Filing No. 1. Even though one power pole is located on the developer’s property, the service lines for this development would be placed underground and no additional overhead lines will be installed. City Staff agrees that the underground relocation of this particular overhead line would represent an unusual hardship and recommends that City Council waive the requirement.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Should Council approve a waiver for the underground relocation of overhead utility lines?

Alternative

Deny the request and require the home builder to pay the full amount of \$23,016. This alternative is not recommended due to the unusual hardship that such a requirement would represent.

Background Information

The existing overhead utility line extends 306 feet parallel to the southern property line of Crystal Lakes Subdivision Filing No. 1. Per City Code, this line should be relocated underground (or the developer pay a cash in lieu amount to the City) unless this requirement is waived or reduced by City Council. Xcel Energy will not undertake an undergrounding project of less than 700 feet in length. Under similar circumstances where the underground relocation is impossible in the short term, developers of projects have paid a “cash in lieu” fee to the City to use for larger, future undergrounding projects. Cash in lieu fees are established at \$75 per linear foot or \$23,016 for this project.

The City Code allows the City Council to waive or reduce the undergrounding requirements where compliance would result in an unusual or unnecessary hardship or would be impractical as determined by the City Council. Staff believes that the undergrounding requirement is unusually burdensome to this developer given the small size of the proposed development.

Respectfully submitted,

J. Brent McFall
City Manager
Attachment



Agenda Item 10 D

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
February 26, 2007



SUBJECT: Resolution No. 8 re Intergovernmental Agreements with the State of Colorado
re Historic Preservation Grants

Prepared By: Vicky Bunsen, Community Development Programs Coordinator

Recommended City Council Action

Adopt Resolution No. 8 authorizing the City Manager to execute two intergovernmental agreements with the State of Colorado concerning the use of State Historical Fund grant funds awarded to the City of Westminster for (1) the Rodeo Market Façade Restoration Construction Documents, and (2) Shoenberg Farm Historic Structure Assessments.

Summary Statement

The City has applied for and has been awarded two grants from the State Historical Fund: (1) \$7,312 for the Rodeo Market Façade Restoration Construction Documents (requiring a \$2,500 cash match), and (2) \$25,000 for Shoenberg Farm Historic Structure Assessments (requiring a \$11,726 cash match). The State of Colorado requires intergovernmental agreements (IGAs) to be executed before funds are disbursed to regulate the use and accounting of the funds.

Expenditure Required: Shoenberg Farm Historic Structure Assessments: \$11,726
Rodeo Market Façade Restoration Construction Documents: \$2,500

Source of Funds: Shoenberg Farm Historic Structure Assessments:
Developer of adjacent property
Rodeo Market Façade Restoration Construction Documents:
South Westminster CIP

Policy Issue

Should the City Council authorize IGAs with the State of Colorado concerning the use of State Historical Fund grant money awarded for two City of Westminster historic preservation projects?

Alternative

Do not enter into the IGAs with the State of Colorado and decline the grant money awarded by the State Historical Fund for the City historic preservation projects. This alternative is not recommended because the funding supports pre-rehabilitation assessment and design that could not otherwise be completed without the grant money.

Background Information

Since 2002 and including the grants described in this memo, the City has been awarded a total of \$232,014 in grants from the State Historical Fund and the Colorado Historical Society Certified Local Government program. These grants have funded several archeological and structure assessments, the exterior restoration of the Westminster Grange Hall, and reconnaissance and intensive historical resource surveys throughout the City.

The State Historical Fund has awarded \$7,312, to be combined with a City-funded cash match of \$2,500, to prepare construction documents for the façade restoration of the Rodeo Super Market, a Westminster landmark located at 3715 West 73rd Avenue. When the construction documents and cost estimates are complete, an application will be filed on October 1, 2007, for additional funding to complete the restoration of the supermarket façade in 2008. This project is a step toward the completion of the community arts center at the Rodeo Super Market and the Westminster Grange Hall.

The State Historical Fund has also awarded \$25,000, to be combined with an \$11,726 cash match, to complete detailed historic structure assessments of seven buildings at the Shoenberg Farm, which is located at the northwest corner of West 72nd Avenue and Sheridan Boulevard. The cash match will be provided by the developer of the adjacent property pursuant to the two-year option agreement between the City, the developer and the landowner. The agreement provides for the developer to be reimbursed from future tax revenues from the development. Assessments of the remaining buildings are also being completed using developer and City funds to complete the work. This work will take six to nine months to complete. Upon completion, cost estimates and outlines of necessary repairs will be used to formulate rehabilitation plans for the historic Shoenberg Farm.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment:
Resolution

RESOLUTION

RESOLUTION NO. **8**

INTRODUCED BY COUNCILLORS

SERIES OF 2007

**A RESOLUTION AUTHORIZING AN IGA WITH THE STATE OF
COLORADO CONCERNING THE USE OF
GRANTS FOR HISTORIC PRESERVATION PURPOSES**

WHEREAS, the City of Westminster has been awarded the following grant from the Colorado Historical Society in support of historic preservation projects within the City:

Rodeo Super Market Façade Restoration Construction Documents	SHF Project #2007-M2-005	\$7,312
Shoenberg Farm Historic Structure Assessments	SHF Project #2007-M2-011	\$25,000

WHEREAS, the State of Colorado requires IGAs to be executed before funds are disbursed, which agreements regulate the use of funds and accounting for the grant awards.

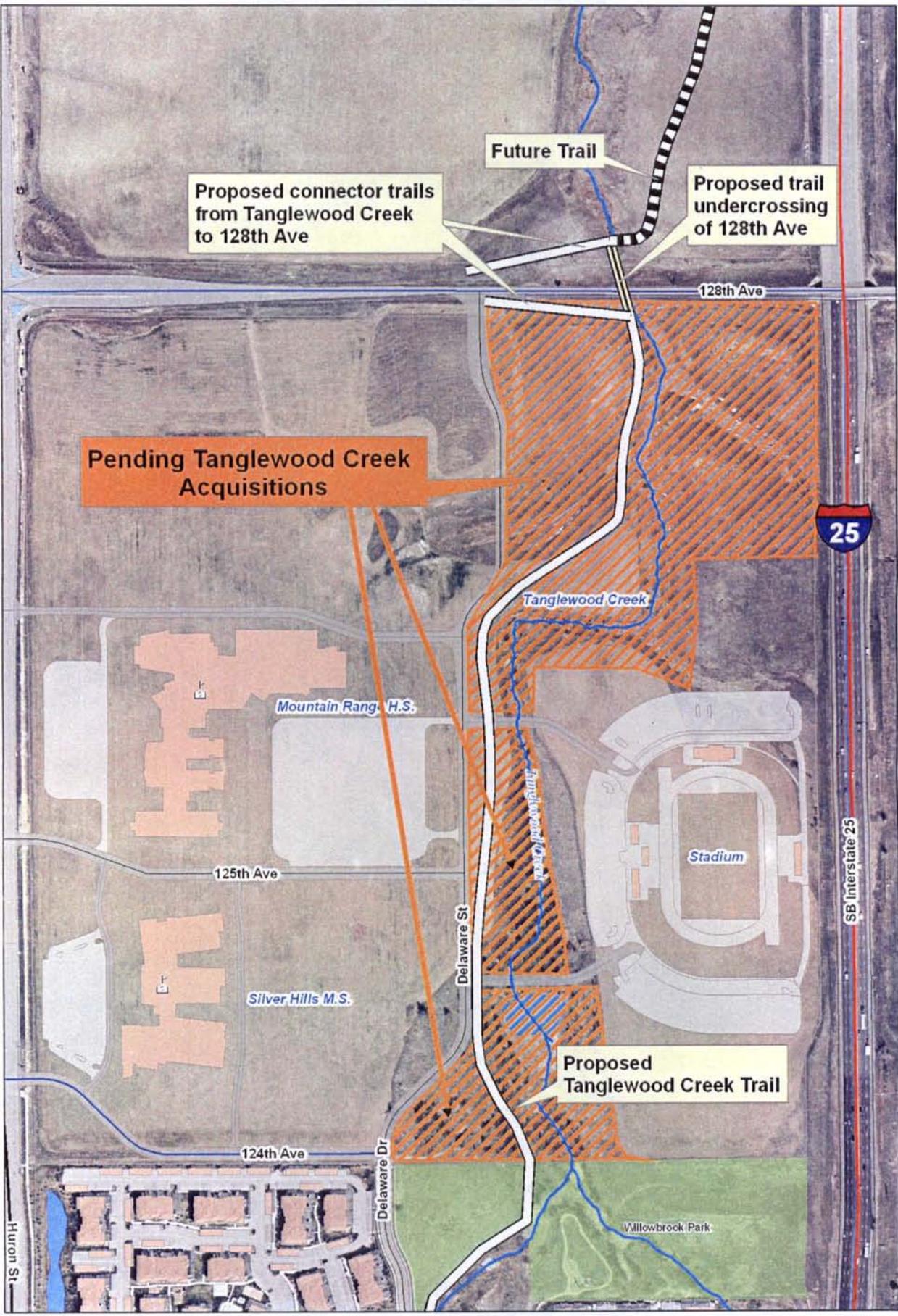
NOW, THEREFORE, the City Council of the City of Westminster resolves that the City Manager is authorized to execute and carry out the provisions of the IGAs with the State of Colorado concerning the use of grants for historic preservation purposes awarded to the City.

PASSED AND ADOPTED this 26th day of February, 2007.

Mayor

ATTEST:

City Clerk



S:\Malesky 2-16-2007 \GIS-apps\GIS-Apps\WestGIS\Department\Projects\CommDev\Openspace\Acquisitions

Proposed Tanglewood Creek Trail





Agenda Item 10 E

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
February 26, 2007



SUBJECT: Resolution No. 9 re Tanglewood Creek Adams County Open Space Grant Application

Prepared By: Heather Cronenberg, Open Space Coordinator

Recommended City Council Action

Adopt Resolution No. 9 authorizing the City to submit a grant application for up to \$465,000 to the Adams County Open Space Program to build trails from 123rd Avenue to 128th Avenue and a pedestrian underpass at 128th Avenue, just west of I-25.

Summary Statement

- In 2005, the Department of Community Development applied for and was awarded a grant from the Adams County Open Space Program in the amount of \$775,000 to acquire the Tanglewood Creek tract located in the area generally bound by I-25, 124th Avenue, 128th Avenue and Delaware Street from Adams 12 Five Star School District (the “District”).
- The City has been working with the District to purchase approximately 30 acres of this tract as Open Space and plans to close on this property within the next few months.
- City Staff recommends requesting funds from the Adams County Open Space Program to construct a 10 foot wide concrete trail through the Tanglewood Creek tract from 123rd Avenue to 128th Avenue and a pedestrian trail underpass under 128th Avenue once the property is purchased at a total cost of approximately \$930,000. This trail would be a part of the proposed Tanglewood Creek Trail that will eventually connect north to the Big Dry Creek Trail.
- The Adams County Open Space Program requires that the City Council authorize the submittal of grants by local governments.

Expenditure Required: \$465,000 for 50% match

Source of Funds: General Capital Improvement Fund – 128th Avenue/I-25 Bridge Project

Policy Issue

Should the City request grant monies from Adams County Open Space to build trails and a pedestrian underpass on the Tanglewood Creek open space property?

Alternative

Council could choose not to pursue additional funding for the Tanglewood Creek Trail construction project from Adams County. However, Staff does not recommend this option because the construction of the Tanglewood Creek Trail is a high priority for the Open Space Program.

Background Information

In 2005, the City applied for and was awarded a grant of \$775,000 by Adams County to pay for 50% of the cost to purchase approximately 40 acres of the larger 130 acre parcel owned by the District. Since the grant award, the school district completed construction of the Mountain Range High School and began construction on the middle school and the stadium. Due to the need for two access roads, a practice field next to the stadium, and right of way that the city will need for Delaware Street and 128th Avenue, the amount of acres that the City can buy for open space has been reduced to approximately 30 acres. The acquisition price has also changed due to a court settlement between the District and the original landowners, leading to a lower price per acre than the City had originally anticipated. The City will be modifying the Adams County Grant award to reflect the changes to the acreage and the purchase price.

Once the City purchases the Tanglewood Creek Open Space Tract from the District, staff would like to construct a 10 foot wide concrete sidewalk through this tract from 123rd Avenue to 128th Avenue as well as a pedestrian underpass under 128th Avenue at a total estimated cost of approximately \$930,000. The City has already budgeted the 50% matching CIP funds for this project as a part of the 128th Avenue/I-25 widening project.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

RESOLUTION

RESOLUTION NO. **9**

INTRODUCED BY COUNCILLORS

SERIES OF 2007

GRANT REQUESTS FOR THE 2007 OPEN SPACE GRANT PROGRAM

WHEREAS, Adams County has established a local government grant application process to assist municipalities and special districts within the County with the development of recreation capital improvements and open space acquisition; and

WHEREAS, The City of Westminster would like to construct trails and a pedestrian underpass along the Tanglewood Creek Open Space Tract;

WHEREAS, grant money received from Adams County would allow the City of Westminster to construct trails and a pedestrian underpass for the above-mentioned project.

NOW, THEREFORE, the Westminster City Council hereby resolves that City of Westminster Staff submit a grant application to the Adams County Open Space Grant program for the spring funding cycle of 2007, requesting funding in the amount of up to \$465,000 for the Tanglewood Creek Trail project.

PASSED AND ADOPTED this 26th day of February 2007.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
February 26, 2007



SUBJECT: Resolution No. 10 re Spring 2007 Adams County Open Space Grant Application

Prepared By: Becky Eades, Landscape Architect II
Julie Meenan Eck, Landscape Architect II

Recommended City Council Action

Adopt Resolution No. 10 authorizing the Department of Parks, Recreation and Libraries to pursue grants with Adams County Open Space during the 2007 spring cycle for the development of Cheyenne Ridge Park and Big Dry Creek Park.

Summary Statement

- The Department of Parks, Recreation and Libraries wishes to pursue grants from Adams County Open Space for funding assistance with Cheyenne Ridge Park and Big Dry Creek Park.
- Staff recommends requesting a \$150,000 grant to increase the Cheyenne Ridge Park CIP budget of \$300,000 to \$450,000 for development of this 5-acre park site to include a playground, ½ basketball court, picnic shelter and landscaping.
- The City has budgeted \$950,000 for construction of Big Dry Creek Park, and Hyland Hills will contribute \$500,000 from the 2002 General Obligation Bond as a partner for a total amount of \$1,450,000 to the Big Dry Creek CIP Account.
- Staff recommends requesting a \$977,262 grant to increase the Big Dry Creek Park CIP budget to \$2,427,262 for the construction of an 18-acre park site to include a playground, picnic shelters, restroom enclosure, parking lot, sledding hill and, if feasible, a soccer field, a little league field, and dog park.
- The City sponsored Hyland Hills Park and Recreation District for a grant for Big Dry Creek Park during the last grant cycle but was denied a grant. It was recommended by ADCO that the City take the lead if we apply again.

Expenditure Required: \$ 0

Source of Funds: N/A

Policy Issue

Should the City attempt to seek assistance for the development of these projects by pursuing grant monies from the Adams County Open Space Grant Program?

Alternative

Council could choose not to pursue additional funding for Cheyenne Ridge Park or Big Dry Creek Park and proceed with the CIP project budgets of \$300,000 and \$1,450,000, respectively. However, Staff recommends attempting to secure additional funding for these projects through this grant opportunity to allow more fully developed parks upon completion.

Background Information

The Departments of Parks, Recreation and Libraries and Community Development have been successful in applying for and receiving grants from a variety of sources in the past. In recent years, the City has received grant money from Adams County Open Space for park and trail development projects as well as open space acquisitions. The City has developed a strong partnership with Adams County in its successful use of these grant funds. Recent Adams County grants include: two grants in 2003 for \$250,000 each for the Big Dry Creek Trail and Carroll Butts Park; a 2005 grant in the amount of \$600,060 for Westfield Village Park; a 2005 grant in the amount of \$775,000 for Tanglewood Creek Open Space Acquisition; and three grants in 2003 and 2004 for the Metzger Farm Open Space Acquisition totaling \$1,502,500.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

RESOLUTION

RESOLUTION NO. **10**

INTRODUCED BY COUNCILLORS

SERIES OF 2007

GRANT REQUESTS FOR THE 2007 OPEN SPACE GRANT PROGRAM

WHEREAS, Adams County has established a local government grant application process to assist municipalities and special districts within the County with the development of recreation capital improvements and open space acquisition; and

WHEREAS, The City of Westminster has budgeted for improvements for Cheyenne Ridge Park and Big Dry Creek Park;

WHEREAS, grant money received from Adams County would significantly enhance the improvements for the above-mentioned project.

NOW, THEREFORE, the Westminster City Council hereby resolves that City of Westminster Staff submit a grant application to the Adams County Open Space Grant program for the spring funding cycle of 2007, requesting funding in the amount of \$150,000 to enhance the development of Cheyenne Ridge Park and \$977,262 to enhance the development of Big Dry Creek Park.

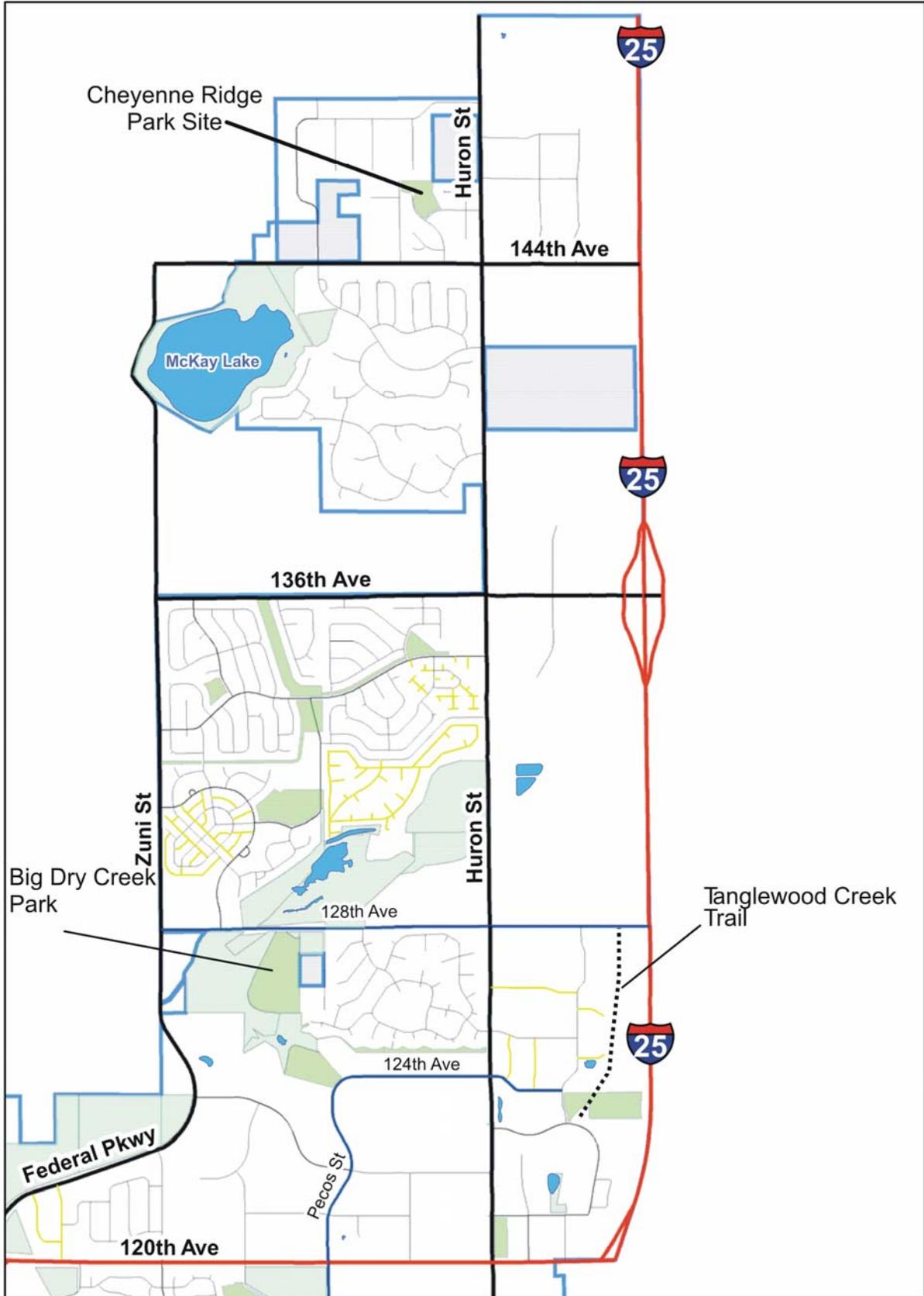
PASSED AND ADOPTED this 26th day of February 2007.

ATTEST:

Mayor

City Clerk

Adams County Grant Submittal Location Map





Big Dry Creek Park

Schematic Site Plan

City of Westminster Shalkey & Team, Inc.

May 9, 2006



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
February 26, 2007



SUBJECT: Emergency Expenditures for Snowstorms

Prepared By: Ray Porter, Street Operations Manager

Recommended City Council Action

1. Remove item from the table.
2. Based on the report and recommendation of the City Manager, determine that the public interest was best served by awarding emergency snow removal contracts to the following vendors: Brannan Sand and Gravel Company - \$73,095; West Valley Construction - \$119,179; Integrated Solutions - \$61,443; Tom Calabrese Trucking Inc. - \$52,055; and Envirotech Inc. - \$79,000. Ratify these expenditures/purchases and authorize any payments of invoices not previously paid to these firms.

Summary Statement

- The Westminster Municipal Code requires that all purchases over \$50,000 be brought to City Council for formal consideration except in an emergency.
- In a case of emergency affecting the public's safety, City council may waive all requirements for formal bidding. In such cases the City Manager may direct the appropriate department head to procure emergency needs by informal, open market procedures as expeditiously as possible.
- The December 20 blizzard of 2006 triggered a series of eight snowstorms that dictated contractual assistance through January 19, 2007.
- The above mentioned five contractors widened arterial and collector roadways, cleared snow and ice from residential streets and hauled 40,000 cubic yards of snow away from 20 arterial/major collector roadways and from all school sites prior to schools re-convening class after the Christmas/New Years break.
- A 1,000-ton order for deicing salt had to be placed with Envirotech Inc. The City's supplier, Independent Salt Company is rationing orders throughout Colorado requiring purchasing additional deicing salt from the only other available supplier.
- Funds for these expenditures have been covered within the Street Operations Division budget, which may require some relief later in the year.

Expenditure Required: \$ 384,772

Source of Funds: General Fund – Street Operations Division 2006 and 2007 budgets

Policy Issue

Should City Council retroactively approve these expenditures for snow removal services that total \$384,772?

Alternative

Do not approve the expenditures recommended. Staff does not recommend this alternative because it may establish a negative policy for major snowstorms in the future, jeopardizing public safety.

Background Information

A record series of eight storms battered Westminster commencing with the December 20 "Blizzard of 2006" and continuing through the entire month of January, 2007.

City crews and contractors worked 12-hour shifts around the clock December 20, 2006 through January 4, 2007 taking a break to be with their families only on Christmas Day and New Years Day.

Contractors (9 graders and 13 loaders) and city crews (1 grader and 4 loaders) commenced ice removal, one lane (12'-15') wide on all residential streets, on January 8, 2007 and continued this effort through January 19, 2007. This was the third attempt to clear a path on every residential street in the city. The cold, inclement weather throughout the month of January hindered this effort. Staff estimates 10% of residential streets, primarily cul-de-sacs, will have hard packed ice until warmer temperatures are experienced. City crews will monitor these streets and provide service as required.

In addition to the above-mentioned contractual work, two crews hauled 40,000 cubic yards of snow away from 20 arterial/major collector roadways over eight night shifts beginning December 26, 2006 through January 10, 2007. This contractual work is the reason Westminster's street network is above the norm compared to other Front Range cities.

A 1,000-ton order for deicing salt had to be placed with Envirotech Inc. The City's supplier, Independent Salt Company is rationing orders throughout Colorado requiring purchasing additional deicing salt from the only other available supplier.

An additional \$86,848 was expended on smaller contractual assistance (under \$50,000 per vendor) during these storms increasing the total for contractual assistance to \$471,620.

Staff will be carefully evaluating the 2007 Street Operations Division budget once this 2006-2007 winter season is done. A recommendation and method to replenish the affected accounts will be proposed at a later date.

Respectfully submitted,

J. Brent McFall
City Manager

Summary of Proceedings

Summary of proceedings of the regular meeting of the Westminster City Council held Monday, February 26, 2007. Mayor McNally, Mayor Pro Tem Kauffman, and Councillors Dittman, Kaiser, Lindsey, Major, and Price were present at roll call.

The minutes of the February 12, 2007 regular meeting were approved.

Council presented employee service awards to employees celebrating 20, 25, 30 and 35 years of service; meritorious service award to Laurie Rutledge, Jinny Jasper, Lane Recker, Paul Clements and Greg Starkel; and recognition of the 2007 Metropolitan Mayors and Commissioners Youth Award Recipients.

Council approved the following: Financial report for January, 2007; Quarterly Insurance Report for October – December, 2006; Purchase of excess worker's Compensation Insurance; Pressure Zone 14 Booster Pump Station Consultant Contract award; Sale of the City's Signal Reservoir Property and Signal Ditch Company Shares in Adams County; Second reading Councillor's Bill No. 5 re Inclusion of Property within the 136th Avenue GID; Second reading Councillor's Bill No. 6 re Ordinance Changes re Property Standards and Administrative Penalties; Second reading Councillor's Bill No. 7 re 2006 4th quarter budget supplemental appropriation; Crystal Lakes Subdivision Filing No. 1 Block 2, Lot 1 waiver for Underground Utility relocations; and approval of emergency expenditures for snow removal during snowstorms.

Council adopted the following Resolutions:

Resolution No. 7 re Appointments to Boards and Commissions.

Resolution No. 8 re IGA's with the State of Colorado re Historic Preservation Grants

Resolution No. 9 re Tanglewood Creek, Adams County Open Space Grant Application

Resolution No. 10 re Spring 2007 Adams County Open Space Grant Application

At 7:47 P.M. a public hearing was opened re Crystal Lake Subdivision Filing No. 1 for Block 2, Lot 1

The following Councillors' Bill was passed on first reading

A BILL FOR AN ORDINANCE AMENDING THE WESTMINSTER COMPREHENSIVE LAND USE PLAN. Purpose: Amendment for Crystal Lake Subdivision changing the designation from Private Parks/Open Space to R-3.5 Residential.

The following Councillors' Bills were adopted on second reading

A BILL FOR AN ORDINANCE INCLUDING PROPERTY WITHIN THE CITY OF WESTMINSTER 136th AVENUE GENERAL IMPROVEMENT DISTRICT

A BILL FOR AN ORDINANCE AMENDING THE WESTMINSTER MUNICIPAL CODE TO CREATE AN ADMINISTRATIVE PENALTY CITATION PROGRAM AND TO MODIFY PROPERTY MAINTENANCE STANDARDS.

A BILL FOR AN ORDINANCE AMENDING THE 2006 BUDGETS OF THE GENERAL, GENERAL CAPITAL IMPROVEMENT, WATER, WASTEWATER AND OPEN SPACE FUNDS AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2006 ESTIMATED REVENUES IN THE FUNDS

The meeting adjourned at 8:10 p.m.

By Order of the Westminster City Council

Carla Koeltzow, Deputy City Clerk

Published in the Westminster Window on March 8, 2007

**A BILL FOR AN ORDINANCE INCLUDING PROPERTY WITHIN THE CITY OF
WESTMINSTER 136th AVENUE GENERAL IMPROVEMENT DISTRICT**

WHEREAS, a Petition for the Inclusion of Property within the City of Westminster 136th Avenue General Improvement District (the "Petition") has been filed with the City Council of the City of Westminster (the "City"), sitting ex officio as the Board of Directors (the "Board") of the City of Westminster 136th Avenue General Improvement District (the "District"); and

WHEREAS, the Petition states that it has been signed by the fee title owner of the property which the petitioner seeks to have included within the boundaries of the District; and

WHEREAS, the Petition has been reviewed by the City Clerk and the City Attorney; and

WHEREAS, notice of filing of the Petition has been given and published pursuant to Section 31-25-618, Colorado Revised Statutes; and

WHEREAS, the Board has heretofore conducted a hearing at which all persons having objections to the Petition were given an opportunity to appear and show cause why the Petition should not be granted.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WESTMINSTER, COLORADO, AS THE EX OFFICIO BOARD OF DIRECTORS OF THE CITY OF WESTMINSTER 136th AVENUE GENERAL IMPROVEMENT DISTRICT:

Section 1. The Board hereby finds and determines as follows:

a. In accordance with C.R.S. section 31-25-618, the owner of the property described in Exhibit A to this ordinance (the "Property") has filed the Petition with the Board requesting that the Property be included within the boundaries of the District.

b. The Petition accurately describes the Property and such legal description has been verified by the City Clerk ex officio Secretary of the Board.

c. The Board agrees to waive the costs of the inclusion proceedings as requested in the Petition.

d. The City Clerk, as secretary of the Board (the "Secretary") has caused a notice of the filing of such Petition to be given and published, according to the requirements of the pertinent provisions of C.R.S. Title 31, Article 25, Part 6. There are no current electors within the District.

e. The notice states the filing of such Petition, the names of the petitioners, descriptions of the Property sought to be included, and the request of said petitioners. The notice notifies all persons having objections to appear at the office of the Board at the time stated in the notice and show cause why the Petition should not be granted.

f. The Board, at the time and place stated in the notice, has heard the Petition and all objections presented by any person showing cause why said Petition should not be granted and overrules any such objections.

g. The Board has determined to grant the Petition.

Section 2. Inclusion of Property. The Board hereby grants the Petition.

Section 3. Filing of Ordinance. Within ten days after final publication of this ordinance, the City Clerk ex officio Secretary of the Board shall file a certified copy of this ordinance with the County Clerk and Recorder of Adams County. Thereupon the Property shall be included within the boundaries of the District.

Section 4. Severability. If any section, subsection, paragraph, clause, or provision of this ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, subsection, paragraph, clause, or provision shall in no manner affect any remaining provisions of this ordinance, the intent being that the same are severable.

Section 5. Repealer. All orders, resolutions, bylaws, ordinances or regulations of the City, or parts thereof, inconsistent with this ordinance are hereby repealed to the extent only of such inconsistency.

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

Section 7. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 12th day of February, 2007. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 26th day of February, 2007.

**A BILL FOR AN ORDINANCE AMENDING THE WESTMINSTER MUNICIPAL CODE TO
CREATE AN ADMINISTRATIVE PENALTY CITATION PROGRAM AND TO MODIFY
PROPERTY MAINTENANCE STANDARDS**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Title I, W.M.C., is hereby amended BY THE ADDITION OF A NEW CHAPTER 23 to read as follows:

CHAPTER 23

ADMINISTRATIVE PENALTY CITATIONS FOR CODE VIOLATIONS

- 1-23-1: GENERAL INTENT
- 1-23-2: DEFINITIONS
- 1-23-3: AUTHORITY
- 1-23-4: PROCEDURES FOR ISSUANCE OF AN ADMINISTRATIVE CITATION
- 1-23-5: CONTENTS OF ADMINISTRATIVE CITATION
- 1-23-6: APPEAL OF ADMINISTRATIVE CITATION
- 1-23-7: PROCEDURES AND STANDARDS AT ADMINISTRATIVE CITATION APPEAL HEARINGS
- 1-23-8: DUTIES AND POWERS OF THE APPEALS BOARD
- 1-23-9: FALSE INFORMATION OR REFUSAL PROHIBITED
- 1-23-10: FAILURE TO OBEY SUBPOENA
- 1-23-11: FAILURE TO ATTEND ADMINISTRATIVE CITATION APPEAL HEARING
- 1-23-12: FAILURE TO COMPLY WITH ADMINISTRATIVE ENFORCEMENT ORDER
- 1-23-13: PENALTIES ASSESSED
- 1-23-14: FAILURE TO PAY PENALTIES

1-23-1: GENERAL INTENT:

(A) The City Council finds that the enforcement of the Westminster Municipal Code is an important public service, and that code enforcement is vital to the protection of the public's health, safety, and quality of life. The City Council further finds that a comprehensive code enforcement system that uses a combination of judicial and administrative remedies is critical to gain compliance with these ordinances.

(B) This Chapter provides for administrative penalties that may be imposed for violation of certain sections of the Westminster Municipal Code. The section of the Westminster Municipal Code specifically affected is:

- 1. Title VIII, Chapter 1 – Property Standards.

(C) The purpose of this Chapter is to encourage prompt compliance with the Code and prompt payment of any penalties.

1-23-2: DEFINITIONS: When used in this Chapter, the following words and terms, unless the context indicates a different meaning, shall be interpreted as follows:

(A) **Board of Adjustment and Appeals** shall mean that Board created and authorized pursuant to Westminster Municipal Code Title II, Chapter 6.

(B) **City** shall mean the City of Westminster.

(C) **Code** shall mean those provisions of the Westminster Municipal Code enumerated in Section 1-23-1(B).

(D) **Enforcement official** shall mean an employee or agent of the City authorized to enforce the ordinances of the City.

(E) **Manager** shall mean the City Manager or the Manager's designee.

(F) **Responsible party** shall mean a person or entity who has violated the Code or, in the case of property violations, the responsible party may also be the property owner, the occupant, or an individual or an entity who, acting as an agent for or in any other legal capacity on behalf of the owner, has authority over property subject to an administrative citation under this Chapter.

1-23-3: AUTHORITY:

(A) Any responsible party violating provisions of the Code may be issued an administrative citation by an enforcement official as provided in this Chapter.

(B) Notwithstanding any other provision of the Code, responsible parties cited under the provisions of this Chapter shall have only the appeal rights granted herein.

(C) Each day a violation exists or continues shall constitute a separate and distinct violation for which a separate administrative citation may be issued. However, once an administrative citation has been issued for a violation of the Code, no additional administrative citation shall be issued for the same violation for ten (10) days or, if the responsible party appeals, until after the appeal has been heard and the responsible party has not complied with an administrative enforcement order of the Board of Adjustment and Appeals ("Appeals Board") within ten (10) days of its issuance or such other time as the Appeal Boards has specified.

(D) A civil penalty assessed by means of an administrative citation may be collected by any means allowed by law.

(E) Enforcement actions are intended to be cumulative in nature. The City may pursue one (1) or more civil, criminal, and administrative actions, fees, fines, sentences, penalties, judgments, and remedies and may do so simultaneously or in succession. The enactment of this administrative remedy shall in no way interfere with the City's right to prosecute violations as criminal offenses.

1-23-4: PROCEDURES FOR ISSUANCE OF AN ADMINISTRATIVE CITATION:

(A) Whenever the enforcement official determines that a violation of the Code exists, the enforcement official shall give a notice of violation and order to correct ("Notice of Violation") to the responsible party. The Notice of Violation shall be in writing and shall describe with reasonable detail the violation so that the responsible party may properly correct it. The Notice of Violation shall provide a reasonable time for correction given the circumstances of the violation, but in no case more than thirty (30) days.

(B) The Notice of Violation shall be served as follows:

1. The enforcement official shall attempt to issue the Notice of Violation to the responsible party at the site of any violation. If the responsible party is not located, a copy of the Notice of Violation shall be left with any adult person residing or working at the site, or if no adult person is found at the site and the violation occurred on private property or on property for which the responsible party has responsibility, then a copy of the Notice of Violation shall be posted in a conspicuous place on the property of the responsible party.

2. If the enforcement official is unable to issue the Notice of Violation to the responsible party personally, then the Notice of Violation shall be sent via first class mail to the responsible party. In the case of violations occurring on private property where the owner of such property is a responsible party, the Notice of Violation shall be sent to the address shown in the county assessor records for the county in which the property is located. In the case of violations occurring on property for which the responsible party is not the owner, the Notice of Violation shall be sent to the most recent mailing address available to the City for that responsible party.

3. The Notice of Violation shall be deemed served on the date of receipt by the responsible party, if personally served, or upon the fifth day after mailing of the Notice of Violation.

(C) If after service of the Notice of Violation, the Code violation is not timely corrected, an enforcement official may issue an administrative citation to a responsible party.

(D) Service of administrative citation on a responsible party shall be made in the same manner as the Notice of Violation as described in subparagraph B herein, except that the enforcement official shall attempt to obtain the signature of the person receiving the administrative citation on the administrative citation. If that person refuses or fails to sign the administrative citation, the failure or refusal to sign shall not affect the validity of the administrative and subsequent proceedings.

1-23-5: CONTENTS OF ADMINISTRATIVE CITATION:

(A) The administrative citation shall state the date and location of the violations, and the approximate time the violations were observed. Where applicable, the administrative citation shall identify the property in violation by address or legal description.

(B) The administrative citation shall state the Code sections violated and describe the violations.

(C) The administrative citation shall describe the action required to correct the violations.

(D) The administrative citation shall require the responsible party to correct the violations within a reasonable time given the circumstances, but in no case more than ten (10) days, and shall explain the consequences of failure to correct said violations.

(E) The administrative citation shall state the amount of penalty imposed for the violations.

(F) The administrative citation shall explain how the penalty shall be paid, the time period by which it shall be paid, and the consequences of failure to pay the penalty.

(G) The administrative citation shall identify the right and procedures for appealing the administrative citation.

(H) The administrative citation shall contain the signature of the enforcement official and the signature of the responsible party if it can be obtained.

1-23-6: APPEAL OF ADMINISTRATIVE CITATION:

(A) A person served with an administrative citation may file a notice of appeal in person or postmarked within ten (10) calendar days from the service of the administrative citation. Compliance with this time limit shall be a jurisdictional prerequisite to any appeal brought under this Chapter. Failure to comply with such time limit shall be deemed to waive the right to a hearing and the adjudication of the issues related to the hearing, provided that proper notice of the administrative citation has been provided.

(B) The notice of appeal shall be made in writing, filed with the City department identified on the administrative citation, and contain the following information:

1. The reasons the appellant believes the administrative citation is objectionable, incorrect or illegal.
2. The amount and type of claim or dispute involved, and the time during which it accrued or occurred.
3. The name, address and telephone number of the appellant.
4. If the appellant is to be represented by another person, the name, address and telephone number of the said representative.
5. The signature of the appellant, legal representative and/or corporate agent.

(C) A processing fee of \$35 shall be paid by cash, check or certified funds simultaneously with the filing of the notice of appeal. The processing fee is not refundable except as provided in Section 1-23-8(L).

(D) If, in the opinion of the Manager, the appeal meets all of the requirements of subparagraphs (A) – (C) of this Section, the Manager shall forward the notice of appeal to the Secretary of the Appeals Board.

(E) If, in the opinion of the Manager, the appeal does not meet all of the requirements of subparagraphs (A) – (C) of this Section, the Manager shall promptly return the appeal and notify the appellant of what requirements the appeal fails to meet.

(F) As soon as practicable after receiving the written notice of appeal, the Secretary to the Appeals Board shall schedule a date, time and location for the hearing, unless, if requested by the appellant and in the sole discretion of the Appeals Board, it is submitted on written brief and supporting material.

(G) Written notice of the date, time and location of the hearing shall be personally served upon or sent by first class mail to the responsible party at least ten (10) calendar days prior to the date of the hearing.

1-23-7: PROCEDURES AND STANDARDS AT ADMINISTRATIVE CITATION APPEAL HEARINGS:

(A) The procedure and format of the administrative citation appeal hearing shall follow procedures as set forth herein and in W.M.C. section 2-6-4.

(B) Administrative citation appeal hearings are intended to be informal in nature. Formal rules of evidence and discovery do not apply; however, an informal exchange of discovery may be required by the Appeals Board or requested by any party. The request must be in writing. Failure to request discovery shall not be a basis for a continuance.

(C) The parties to an administrative citation appeal hearing shall be the responsible party and the City.

(D) The Appeals Board, at the request of any party to the hearing, may subpoena witnesses, documents and other evidence where the attendance of the witness or the admission of evidence is deemed necessary to decide the issues at the hearing. All costs related to the subpoena, including witness fees in the amount of \$5.00 per witness, and mileage fees at the rate provided for witnesses by statute, shall be borne by the party requesting the subpoena.

(E) The City bears the burden of proof at an administrative citation appeal hearing to establish the existence of a violation of the Code. In the case of an abatement hearing the City bears the burden of proof to establish the existence of a public nuisance.

(F) The standard of proof to be used by the Appeals Board in deciding the issues at an administrative citation appeal hearing is by a preponderance of the evidence.

1-23-8: DUTIES AND POWERS OF THE APPEALS BOARD:

(A) The Appeals Board shall determine whether appeals of administrative citations are valid. In doing so the Appeals Board shall determine whether the administrative citation under appeal was issued in compliance with the requirements of the City ordinances. In each case, the Appeals Board shall be charged with performing all functions relating to the final determination and order, and entertaining petitions or motions made in writing. The Appeals Board shall perform those duties and functions necessary and incidental to determining the matter, issuing subpoenas, authorizing depositions, hearing all

evidence, examining all documents, ruling on evidentiary questions, and generally conducting the hearing as a quasi-judicial proceeding.

(B) In the discretion of the Appeals Board, parties to the hearing may be required to file a pre-hearing statement before the case is set for hearing. The pre-hearing statement may include: the issues raised by the appeal; agreed and disputed facts; copies of exhibits not previously included in the record; names of witnesses with a brief statement summarizing their testimony; an estimate of the time necessary to present a party's evidence and other matters as requested by the Appeals Board.

(C) All hearings or, when an appeal is submitted for determination based on written argument and written facts and figures, all examination of such written petitions and papers shall be conducted by the Appeals Board assigned to conduct the hearing or to examine the written material submitted.

(D) The admissibility of evidence shall be encouraged and the Appeals Board shall consider all evidence of probative value. The Appeals Board may utilize its experience, technical competence, and specialized knowledge in the evaluation of evidence presented.

(E) Copies, photographs and photocopies may be admitted into evidence or substituted in evidence in place of original documents.

(F) Witnesses intended to give opinion testimony as experts must be qualified as such, and their qualifications should be submitted in advance to the Appeals Board.

(G) Whenever it appears that an appeal is not properly before the Appeals Board, or that the appellant for some other reason lacks jurisdiction or standing, the case may be dismissed on the motion of any party or the Appeals Board.

(H) Mailings, notices, computations of time, time limitations, service and filings shall conform to the requirements of particular law or ordinance involved.

(I) The written decision of the Appeals Board shall be known as an Administrative Enforcement Order.

(J) The parties may enter into a stipulated agreement which must be signed by both parties. Upon approval and acceptance by the Appeals Board, this agreement shall be entered as the administrative enforcement order. Entry of this agreement shall constitute a waiver of the right to a hearing and the right to appeal.

(K) The Appeals Board may uphold the administrative citation and all penalties, or dismiss the administrative citation and all penalties, or may waive or conditionally reduce the penalties assessed by the administrative citation. The Appeals Board may also impose conditions and deadlines to correct the violation or require payment of any outstanding penalties.

(L) If the Appeals Board dismisses the administrative citation and all penalties due to the City's failure to satisfy its obligations under this Chapter, the appellant's \$35 processing fee shall be promptly refunded.

(M) The Appeals Board has continuing jurisdiction over the subject matter of an administrative citation appeal hearing for the purposes of granting a continuance, ordering compliance by issuing an administrative enforcement order, ensuring compliance of that order, modifying an administrative enforcement order, or, where extraordinary circumstances exist, granting a new hearing. The Appeals Board may schedule subsequent review hearings as may be necessary or as requested by a party to the hearing to ensure compliance with the administrative enforcement order.

1-23-9: FALSE INFORMATION OR REFUSAL PROHIBITED: It shall be unlawful for any person to willfully make a false statement or refuse to give his or her name or address with intent to deceive or interfere with the enforcement official when in the performance of official duties under the provisions of this Chapter. Any person who willfully makes a false statement or refuses to give his or her name or address with intent to deceive or interfere with the enforcement official shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine or by confinement in jail or by both such fine and imprisonment as specified in Section 1-8-1 of this Code.

1-23-10: FAILURE TO OBEY SUBPOENA: It is unlawful for any person to refuse to obey a subpoena issued by the Appeals Board. Any person who fails to obey a subpoena shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine or by confinement in jail or by both such fine and imprisonment as specified in Section 1-8-1 of this Code.

1-23-11: FAILURE TO ATTEND ADMINISTRATIVE CITATION APPEAL HEARING: Any responsible party who fails to appear at the hearing is deemed to waive the right to a hearing and the adjudication of the issues related to the hearing, provided that proper notice of the hearing has been provided.

1-23-12: FAILURE TO COMPLY WITH ADMINISTRATIVE ENFORCEMENT ORDER: It is unlawful for a responsible party to an administrative enforcement hearing who has been served with a copy of the final administrative enforcement order to fail to comply with the order. Any person who fails to comply with a final administrative enforcement order shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine or by confinement in jail or by both such fine and imprisonment as specified in Section 1-8-1 of this Code. Prosecution for failure to comply with a final administrative enforcement order shall not commence until the time to appeal such order has lapsed.

1-23-13: PENALTIES ASSESSED:

(A) If the responsible party fails to correct the violation, subsequent administrative citations may be issued for violations of the same Code section. The penalties assessed for each administrative citation issued for violations of the same Code section or sections shall be established by the Manager, but shall not exceed the following amounts regardless of the number of violations per citation:

1. First administrative citation: One hundred fifty dollars (\$150.00).
2. Second administrative citation: Five hundred dollars (\$500.00).
3. Third or subsequent administrative citation: Nine hundred and ninety-nine dollars (\$999.00).

(B) Payment of the penalty shall not excuse the failure to correct the violations nor shall it bar further enforcement action by the City.

(C) All penalties assessed shall be payable to the City of Westminster. Payment of the full amount of the penalty must be received in person or postmarked within ten (10) calendar days of the date of issuance of the administrative citation or administrative enforcement order, or within the time specified on the administrative enforcement order.

1-23-14: FAILURE TO PAY PENALTIES:

(A) The failure of any responsible party to pay the civil penalties assessed by an administrative citation or administrative enforcement order within the time specified on the citation or order, respectively, may result in the imposition of a late fee of twenty-five dollars (\$25.00) and interest at a rate of ten (10) percent per annum.

(B) In the event of failure to pay all penalties assessed, the Manager may refer the matter for collection by whatever means are available to the City.

(C) In the case of violations associated with specific real property, the City shall have as security for the collection of such late fees, penalties, interest, and administrative costs a lien upon such real property. These amounts may be assessed and collected as specified in Title I, Chapter 31 of this Code.

(D) Any action or other process provided by law may be maintained by the City to recover or collect any amounts, including late fees, penalties, interest, and administrative costs, owing under this Article.

Section 2. Sections 2-6-2(A) and 2-6-4(E), W.M.C., are hereby AMENDED to read as follows:

2-6-2: POWERS AND DUTIES: (1222 1741 1769 1841 1883 2068 2161 2975)

(A) Appeals:

1. ~~The Board may hear an appeal of a decision made by the Chief Building Official under Section 11-9-5(D) of this Code, regarding fences and retaining walls. The Board may reverse a decision of the Chief Building Official under this section only upon finding that the Chief Building Official has exceeded his jurisdiction or abused his discretion.~~ THE BOARD MAY HEAR APPEALS OF ADMINISTRATIVE CITATIONS ISSUED PURSUANT TO TITLE I, CHAPTER 23 OF THIS CODE.

2-6-4: PROCEDURE: (904 1112 1741 2068) In addition to any procedural hearing requirements the Board may adopt by rule, the Board shall conduct hearings and make decisions in accordance with the following requirements:

(E) WITH RESPECT TO APPEALS OF ADMINISTRATIVE CITATIONS ISSUED PURSUANT TO TITLE I, CHAPTER 23 OF THIS CODE, THE BOARD SHALL CONDUCT SUCH HEARINGS IN ACCORDANCE WITH THE PROCEDURES, STANDARDS AND DUTIES PROVIDED FOR IN SECTIONS 1-23-7 AND 1-23-8.

Section 3. Title VIII, Chapter 1, W.M.C., is hereby REPEALED AND REENACTED to read as follows:

**TITLE VIII
CHAPTER 1**

PROPERTY STANDARDS

- 8-1-1: GENERAL INTENT
- 8-1-2: INTERPRETATION
- 8-1-3: DEFINITIONS

- 8-1-4: COMPOST PILES
- 8-1-5: CONTAINERS
- 8-1-6: ESTABLISHMENT OF DUMPING GROUNDS
- 8-1-7: GARAGE SALES
- 8-1-8: GENERAL PROPERTY STANDARDS
- 8-1-9: GRAFFITI
- 8-1-10: SIDEWALKS
- 8-1-11: HOUSEHOLD TRASH, JUNK OR DEBRIS
- 8-1-12: PROHIBITED VEHICLES/VEHICLE ACCESSORIES
- 8-1-13: PLANT MATERIALS
- 8-1-14: OPEN WELLS, CISTERNS, AND EXCAVATIONS
- 8-1-15: INTERFERENCE
- 8-1-16: ENFORCEMENT

8-1-1: GENERAL INTENT: This Chapter has been enacted to preserve and enhance existing neighborhoods, commercial areas, businesses and the community at-large by regulating and controlling the use and maintenance of all properties within the City of Westminster. The requirements of this Chapter are intended to provide the minimum standards applicable to all properties within the City of Westminster; additional requirements for specific properties may exist, including, but not limited to, the Rental Property Maintenance Code (Title XI, Chapter 12 of this Code.)

8-1-2: INTERPRETATION: Whenever the requirements of this Chapter are at variance with any applicable development plans and restrictions including, but not limited to, zoning district restrictions, Planned Unit Development restrictions, the contents of any Preliminary Development Plan, Official Development Plan, or Final Plat, the applicable development plan and restriction shall govern. Whenever the requirements of this Chapter are at variance with any other provision of this Code the more restrictive, or that imposing the higher standards, shall govern.

8-1-3: DEFINITIONS: When used in this Chapter, the following words and terms, unless the context indicates a different meaning, shall be interpreted as follows:

BACKYARD: That portion of a lot between the back line of the structure and extending to the back property line.

BUILDING/GARAGE: A building shall consist of four solid walls and a roof, meet all City building codes and effectively shield its contents from the view of the public.

CODE ENFORCEMENT OFFICER: An employee or agent of the City authorized to enforce applicable provisions of the Code.

FRONT YARD: That portion of a lot between the front line of the structure and extending to the front property line.

PERSON: The person or entity who has violated the Code or, in the case of property violations, it may also be the property owner, the occupant, or an individual or an entity who, acting as an agent for or in any other legal capacity on behalf of the owner, has authority over property subject to this Code.

PREMISES: Any lot, grounds, site, property, plot or parcel of land including any structures or buildings thereon.

SIDEYARD: That portion of a lot between the back line and the front line of the structure.

STRUCTURE: That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

VEHICLE: Shall mean any device that is propelled or drawn on land by an engine, motor, or machinery, including automobiles, trucks, buses, motorcycles, motor homes, camping trailers, motorized campers, tractors, trailers and trains. For the purposes of this section, this term does not include any device customarily moved by human muscular power or those whose primary purpose is for recreation, such as bicycles, ski-doods, snowmobiles, mopeds, dirt bikes, all-terrain vehicles, canoes, boats and go-carts.

8-1-4: COMPOST PILES:

(A) **HOUSEHOLD TRASH:** It shall be unlawful for a person to compost household trash.

(B) **YARD WASTE:** It shall be unlawful for a person to compost yard wastes except in a compost holding unit that:

1. Shall not exceed five (5) feet in any dimension;
2. Shall be constructed of wood, wire, metal, or plastic, excluding plastic bags;
3. May be a stationary or rotating unit;
4. Shall be located in the backyard, and shall be screened or fenced so that it is not visible from a public right-of-way;

5. Shall be maintained to minimize odors;
6. Shall not be allowed to attract rodents or to become a health or safety hazard; and
7. Shall be located a minimum of three (3) feet from any adjoining property line.

8-1-5: CONTAINERS:

(A) **DUMPSTERS/ROLL-OFFS:** It shall be unlawful for a person in a one or two-family dwelling to maintain trash dumpsters one (1) cubic yard or larger without prior written authorization from a Code Enforcement Officer. Persons storing or placing trash in a dumpster or roll-off shall do so in such a manner as to prevent the trash from being strewn or scattered. This Section shall not apply to one and two-family dwellings that have a valid building permit issued by the City of Westminster Building Division.

(B) **MOVABLE CRATE/STORAGE UNIT:** These units are defined as receptacles, used for temporary storage, which are designed to be moved from one location to another. It shall be unlawful for a person to maintain a movable crate/storage unit on a premises for a period of time exceeding thirty (30) days without prior written authorization from a Code Enforcement Officer.

(C) **OUTDOOR REFRIGERATOR, FREEZER OR SELF-LOCKING CONTAINER:** It shall be unlawful for any person to permit to remain outside of a building/garage any icebox, refrigerator, freezer, or self-locking container.

8-1-6: ESTABLISHMENT OF DUMPING GROUNDS: The City Manager is authorized and empowered to establish within or without the City Limits a dumping ground for the use of the City, its employees and agents.

8-1-7: GARAGE SALES: Garage sales are defined as any type of sales activity including, but not limited to, neighborhood or block sales, yard sales, estate sales, craft sales, rummage sales or clothing sales.

(A) **DURATION:** It shall be unlawful for a person to conduct a garage sale for a period of time exceeding three (3) consecutive days in duration.

(B) **FREQUENCY:** It shall be unlawful for a person to conduct more than one garage sale in any ninety (90) day period.

8-1-8: GENERAL PROPERTY STANDARDS: It shall be unlawful for a person to maintain a premises except in compliance with the following requirements:

(A) **EXTERIOR MAINTENANCE:**

1. The exterior finish of all structures shall be maintained in good repair, free of defect and shall be maintained prior to a time when that finish has substantially deteriorated. The exterior finish must consist of materials commonly used and meeting industry standards of acceptable construction.

2. All architectural projections such as cornices, moldings, lintels, sills and similar projections shall be maintained in good repair and free of defects.

3. All chimneys, vents, gutters, downspouts, light fixtures, roofing or building accessories shall be structurally sound, in good repair and shall be properly secured to an exterior wall or roof.

(B) **WINDOWS AND DOORS:** Windows and exterior glazing shall be sound, free from cracks and loose and broken glass and be capable of being secured in a closed position. Doors and windows shall be maintained weather tight, watertight and rodent proof. All screening and awnings shall be maintained in good repair and free from tears, holes, or other imperfections.

(C) **FENCES AND RETAINING WALLS:** All fences and retaining walls shall be in good repair, be structurally sound, in an upright position, and the exterior finish in good repair and free of defect. If the fencing contains slats, all slats must be present and complete in length.

(D) **LANDSCAPING:** All landscape areas shall be maintained in compliance with the provisions of Westminster Municipal Code Title XI Chapter 7 Site Development Standards as amended.

(E) **AUXILIARY STRUCTURES:** All auxiliary structures shall be maintained in a state of good repair or removed from the site. Such structures shall include, but not be limited to, tree houses, club houses, well houses, carports, garages, and miscellaneous sheds or structures. These structures shall be constructed of materials consistent for the use of the structure, and shall be structurally sound. Temporary tents/canopies and skateboard ramps shall be restricted to a backyard.

(F) **PARKING LOTS:** The parking lot(s) of commercial establishments or multi-family buildings shall be kept free from potholes, cracks or other deterioration. No dirt, grass or sod parking areas are allowed. All striping and signage, including, but not limited to, parking signage and fire lane or access signage shall be maintained in good condition and clearly legible.

8-1-9: GRAFFITI: Graffiti is defined as a message, symbol, inscription or drawing painted, scratched or written on any surface. It shall be unlawful for any person to fail to remove or eradicate graffiti from a

premises within seven (7) days of defacement. The term “graffiti” does not apply to legally permitted signage.

8-1-10: SIDEWALKS:

(A) REMOVAL OF SNOW OR ICE: It shall be unlawful for any person to allow snow or ice to remain on any sidewalk open to the public and abutting or adjoining the property controlled, owned or occupied by such person after twenty-four (24) hours of the last measurable snow fall or snow drift.

(B) OBSTRUCTIONS: It shall be unlawful for any person to allow obstructions to remain on any sidewalk, curb or gutter open to the public and abutting or adjoining the property controlled, owned or occupied by such person. For purposes of this section, obstructions include, but are not limited to, piles of materials, vegetation, weeds, portable basketball hoops, structures, or any other physical object located within the width of the sidewalk, curb or gutter or obstructions located less than seven (7) feet above the sidewalk. An exception is made for lawfully parked motor vehicles.

(C) CIVIL LIABILITY: Any person who controls, owns or occupies property that abuts or adjoins any sidewalk open to the public owes a duty to all persons using such sidewalk to comply with the provisions of this Chapter. Any person injured by the breach of such duty shall have a cause of action for damages against the person who failed to comply with such duty, it being the express intent of this Section to impose civil liability on private property owners for injuries incurred on public sidewalks within the City as a result of a failure by any such private property owner to comply with this Chapter.

8-1-11: HOUSEHOLD TRASH, JUNK OR DEBRIS:

(A) DEFINITIONS:

1. Household trash is defined to include, but is not limited to, items such as rubbish, trash, waste, refuse, paper, tin cans, bottles, glass, containers, rags, ashes, bones, cloth, or other materials common to household use or objects which may become a breeding place for flies, mosquitoes, or vermin, or which give off unpleasant odors.

2. Junk or debris shall mean any material or object, used or new, which is not presently useable or designed to be used in their existing condition or location such as scrap metals, rubber pieces, rope, asphalt, concrete, plaster, tile, bricks, crates, cartons, barrels, boxes, tree limbs, leaves, dead plants and trees, trimmings from plants and trees, grass clippings, tools, fixtures, utensils, lumber, pipe and pipe fittings, machinery or parts thereof, appliances, vending machines, furniture, motor vehicle parts or tires, or any waste material from the premises, including building materials for or produced from remodeling or construction, and material.

(B) HOUSEHOLD TRASH CONTAINERS: It shall be unlawful for a person to maintain household trash at a premises except in compliance with the following requirements:

1. All household trash shall be stored wholly-contained and enclosed in a liquid-tight container having a tight-fitting cover.

2. Household trash containers stored outside prior to trash removal service shall be limited to eight (8) in number, and cannot be stored in a front yard, a side yard facing the street or a backyard facing a street.

3. There is no restriction to the number of household trash containers when placed out for household trash removal, provided the containers are put out no sooner than twenty-four (24) hours prior to scheduled trash removal service. Plastic bags or cardboard boxes are deemed suitable containers only for the purpose of placing household trash out the day of trash removal service. Household trash containers must be returned to their permissible storage area within twenty-four (24) hours after the scheduled trash removal service.

(C) KEEPING OF JUNK OR DEBRIS: It shall be unlawful for any person to cause, maintain or permit to remain, or store, keep or allow to be stored or kept, any junk or debris on any lot or parcel of land unless such junk or debris is kept in a building/garage, except junk or debris may be stored for a period of time not to exceed fourteen (14) days in/on a trailer or in a truck bed, fully covered and secured.

(D) UNLAWFUL DUMPING: It shall be unlawful for any person to place trash or junk in any trash receptacle located on private property which he does not own or have the legal right to possess, unless the person has written permission from the owner or lessee of the property.

8-1-12: PROHIBITED VEHICLES/VEHICLE ACCESSORIES:

(A) PROHIBITED VEHICLES:

1. It shall be unlawful to store or keep or permit to be stored or kept any vehicle, or parts thereof, that are inoperable or obviously not in a roadworthy condition, including a vehicle with a flat tire or tires, excessively leaking fluids, broken, damaged or missing head lamps, tail lamps, blinkers, windshield, rear

window, windshield wipers, or not bearing proper and current registration plates unless such vehicle is stored in a building/garage.

2. It shall be unlawful for vehicles on any City street or roadway bearing proper and current

(B) RECREATIONAL USE VEHICLES:

1. Shall be defined as a motorized or non-motorized device designed for recreational purposes such as, but not limited to ski-doo's, snowmobiles, mopeds, dirt bikes, all-terrain vehicles, canoes, boats and go-carts.

2. It shall be unlawful to store recreational use vehicles unless said vehicles are visibly operable, and are stored in a backyard not facing a street, in a building/garage, or on a trailer which bears proper and current license plates.

(C) CAMPER, CAMPER SHELL OR TRUCK BED TOPPER:

1. Shall be defined as any non-wheeled, detachable piece of vehicular equipment, which has no independent motor power and which is capable of being placed on a vehicle, but which is not capable of being towed.

2. It shall be unlawful for a person to store an un-mounted camper, camper shell or truck bed topper unless such items are stored in a backyard not facing a street, in a building/garage, or in a sideyard not facing a street that is paved with concrete or asphalt or is solidly rocked or graveled.

8-1-13: PLANT MATERIALS:

(A) WEEDS:

1. Shall be defined as any useless, troublesome or injurious plant, including all vegetation which has grown to maturity or to a height in excess of twelve (12) inches, but shall not include flower gardens, shrubbery, vegetable gardens, small grain plots and pastures used for feed, fodder or forage, provided the same are adequately weeded and maintained.

2. It shall be unlawful for any person to cause, maintain, or permit to remain on any premises, excluding open space property owned by the City, a County, or other public entity any accumulation of weeds on any premises, on or along the sidewalk, street, or alley adjacent to any premises, or between the property line and the curb or middle of the alley, or for ten (10) feet outside the property line if there is no curb.

(B) NOXIOUS PLANTS:

1. Shall be defined as any plant species designated or identified as noxious weeds pursuant to Colorado Revised Statute (2006), Title 35, Article 5.5, as amended.

2. It shall be unlawful for any person to cause, maintain, or permit to remain any noxious plant regardless of condition of said plant.

(C) TURF:

1. Shall be defined as a grouping of grasses that grow in very close proximity to form a living surface at the ground plane. Turf is generally an area of the ground plane intended to be/or could be walked on and when regularly mowed, forms a dense growth of leaf blades and root.

2. It shall be unlawful for any person to cause, maintain, or permit to remain any turf in excess of six (6) inches in height.

(D) It shall be unlawful for any person to cause, maintain, or permit to remain any plant material, including trees, shrubs, groundcovers, vines and turf, that does not have a one hundred percent (100%) ongoing survival rate.

8-1-14: OPEN WELLS, CISTERNS, AND EXCAVATIONS: It shall be unlawful for any person to cause, maintain, or permit to remain on any premises any excavation exceeding five (5) feet in depth, or any cistern, well or other excavation used for storage of water unless they are adequately covered with a locked lid or other covering weighing at least sixty (60) pounds, or are enclosed with a continuous secured fence to a height of at least five (5) feet. This Section shall not apply to an active construction project.

8-1-15: INTERFERENCE:

(A) It shall be unlawful for any person, by using or threatening to use, violence, force, or physical interference, or obstacle, to knowingly obstruct, impair, or hinder a Code Enforcement Officer or Peace Officer in the discharge of the duties as herein prescribed.

(B) It is no defense to a prosecution under this section that the Code Enforcement Officer or Peace Officer was acting in an illegal manner, if the officer was acting in the regular course of assigned duties and in good faith based upon surrounding facts and circumstances.

(C) It shall be unlawful for any person to refuse to reveal his/her correct name, address, and date of birth when requested to do so by a Code Enforcement Officer or Peace Officer engaged in any of the duties prescribed herein.

8-1-16: ENFORCEMENT:

(A) Violation: Any person found guilty of violating any of the provisions of this Chapter shall, upon conviction thereof, be punished by a fine pursuant to Section 1-8-1 of this Code. Each day that a violation of any of the provisions of this Chapter continues to exist shall be deemed to be a separate and distinct violation.

(B) Public nuisance: The condition of any real property in violation of Sections 8-1-4 through 8-1-14 is hereby declared to be a public nuisance which may be abated pursuant to the provisions for the abatement of nuisances established in this Code.

(C) Summary abatement:

1. The follow violations of this Chapter may be summarily abated:

- a. If a person fails to maintain any icebox, refrigerator, freezer or self-locking container as required by this Chapter;
- b. If a person fails, neglects or refuses to remove snow or ice from any public sidewalk as required by this Chapter;
- c. If a person fails, neglects or refuses to remove an obstruction from any sidewalk, curb or gutter as required this by Chapter; and
- d. If a person fails to maintain plant materials as required by this Chapter.

2. In the event that the provisions of this Chapter which may be summarily abated are violated, the City Manager or his representative may cause notice requiring compliance with the provisions of this Chapter to be served to a responsible party, either personally or by mail, or by posting of the property. Posting of the property shall be by a sign not less than eight and one half (8 1/2) inches by eleven (11) inches with letters not less than one-fourth (1/4) inch in height. Posting or written notice served personally or by mail upon a responsible party shall be deemed to comply with the notice provisions of this Chapter. In the case of violations occurring on private property where the owner of such property is a responsible party, the notice by mail shall be sent to the address shown in the county assessor records for the county in which the property is located. In the case of violations occurring on property for which the responsible party is not the owner, the notice by mail shall be sent to the most recent mailing address available to the City for that responsible party. In any case, the posting of such property by the City shall be deemed adequate notice. Notice shall be effective upon personal service or posting, or if by mail, upon the fifth day after mailing of the notice.

If the responsible party upon whom said notice is served fails, neglects, or refuses to timely correct the violation within the deadline stated in said notice, the City Manager or his representative may cause the necessary work to be performed at the expense of such responsible party, and the cost of such abatement shall be a first and prior lien on the property as provided by Title I, Chapter 31 of this Code, and may be assessed and collected pursuant to Section 8-4-5 of this Code.

3. Notwithstanding any other provision of this Chapter, trash or junk may be summarily abated from public property without notice or judicial procedure.

Section 4. Section 9-1-5, W.M.C., is hereby REPEALED AND REENACTED to read as follows:

9-1-5: OBSTRUCTION OF SIDEWALK; PUBLIC NUISANCE: Obstruction of sidewalks shall be as set forth in section 8-1-10, W.M.C.

Section 5. Title IX, Chapter 3, W.M.C., Removal of Snow and/or Ice, is hereby REPEALED IN ITS ENTIRETY.

Section 6. Section 8-4-6, W.M.C., is hereby amended BY DELETING SUBSECTION (E) and AMENDING SUBSECTION (F) to read as follows:

8-4-6: SPECIFIC NUISANCES DECLARED: Public nuisance shall include, but shall not be limited to, the following acts or conditions: (1634 1999)

~~(E) Trash, refuse, waste and junk: Trash, refuse, waste matter and junk, which by reason of its location and character is dangerous to public health, safety or welfare, unsightly, or interferes with the reasonable enjoyment of property by neighbors, detrimentally affects property values in the surrounding neighborhood or community, or which would materially hamper or interfere with the prevention or suppression of fire upon the premises. Trash, refuse, waste and junk include but are not limited to those objects and materials defined in subsections 8-3-1(B) and 8-3-1(E) 8-1-11(A) of this Code. (1634 1999)~~

~~(F)~~—Maintenance of property: Owning, leasing, occupying, managing or having possession of any premises in this City in such manner that any of the following conditions are found to exist thereon: (1634 1999)

1. The premises are a detriment to public health, safety or general welfare;

~~2. The premises are so defective, unsightly, or in such condition of disrepair that they substantially diminish the value of surrounding property or are otherwise substantially detrimental to surrounding properties. Manifestation of this condition shall include, but shall not be limited to, the keeping on, or disposing on, or the scattering over the premises, any of the following:~~

~~(a) junk, trash, or debris;~~

~~(b) abandoned, discarded or unusable objects or equipment such as furniture, stoves, hot water heaters, refrigerators, or freezers;~~

~~(c) stagnant water or an excavation;~~

~~(d) any device, decoration, design, fence, or structure which is unsightly by reason of its condition or its inappropriate location, or which is no longer in its original or upright position, or which has deteriorated due to lack of maintenance.~~

~~3.~~—The premises are so out of harmony or conformity with the maintenance standards of adjacent properties as to cause substantial diminution of the enjoyment, use, or property values of such adjacent properties.

4. 3. The premises are abandoned, boarded up, partially destroyed, or left unreasonably in a state of partial construction.

5. 4. Buildings have dry rot, warping, or termite infestation.

~~6. The premises have broken doors or a substantial number of broken windows which cause hazardous conditions and invite trespassers and malicious mischief.~~

~~7. The landscaping on premises has not been maintained as follows:~~

~~(a) the majority of plant materials have not been adequately irrigated and maintained and are dead or dying;~~

~~(b) lawns have grown over six inches or shrubs have not been trimmed and are overhanging public rights-of-way;~~

~~(c) weeds as defined in subsection 8-2-1(B) of this Code have grown over six inches and have not been removed; or~~

~~(d) dead or diseased plantings have not been removed or replaced;~~

~~8. The exterior of commercial establishments or multi-family buildings has not been maintained so as to present a neat and orderly appearance as follows:~~

~~(a) Doors or a substantial number of windows are cracked or broken;~~

~~(b) painted surfaces are substantially cracked or peeling or the paint has deteriorated to the point where the bare surface is substantially exposed; or~~

~~(c) the building has otherwise not been substantially maintained.~~

~~(d) parking lots have not been repaired or cracks, potholes or other breaks in the parking lot surface have not been filled.~~

Section 7. Section 11-12-7, subsection (A), is hereby AMENDED to read as follows:

11-12-7: SITE MAINTENANCE:

(A) General. The accumulation of weeds, vegetation, junk (to include, but not be limited to, abandoned, unused or nonoperational appliances, equipment, vehicles, machinery, or household furnishings), dead organic matter, debris, garbage, stagnant water, combustible materials or similar materials or conditions shall be subject to the provisions of Title 8, Chapters 1-3 of the Westminster Municipal Code and shall be subject to abatement provisions therein.

Section 8. This ordinance shall take effect upon its passage after second reading.

Section 9. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 12th day of February, 2007. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 26th day of February, 2007.

**A BILL FOR AN ORDINANCE AMENDING THE 2006 BUDGETS OF THE GENERAL,
GENERAL CAPITAL IMPROVEMENT, WATER, WASTEWATER AND OPEN SPACE FUNDS
AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2006 ESTIMATED
REVENUES IN THE FUNDS**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2006 appropriation for the General, General Capital Improvement, Water, Wastewater and Open Space Funds, initially appropriated by Ordinance No. 3162 are hereby increased in aggregate by \$3,970,635. This appropriation is due to the receipt of interest earnings, grants, reimbursements, program revenues, youth scholarship funds, Special Improvement District payments and sale of asset revenues.

Section 2. The \$3,970,635 increase shall be allocated to City Revenue and Expense accounts as described in the City Council Agenda Item 10E, dated February 12, 2007 (a copy of which may be obtained from the City Clerk) increasing City fund budgets as follows:

General Fund	\$456,961
General Capital Improvement Fund	241,183
Water Fund	13,165
Wastewater Fund	(13,165)
Open Space Fund	<u>3,272,491</u>
Total	<u>\$3,970,635</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 12th day of February, 2007. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 26th day of February, 2007.