



WESTMINSTER
COLORADO

March 17, 2003
7:00 P.M.

CITY COUNCIL AGENDA

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

Members of the audience are invited to speak at the Council meeting. Citizen Communication (item 5) and Citizen Presentations (item 12) are reserved for comments on items not contained on the printed agenda.

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

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

8. Consent Agenda
 - A. Special Legal Counsel Contract re regulation of cellular communication towers
 - B. Replacement Ambulance Bid Award
 - C. Standley Lake Regional Park Phase 1B Construction Contract Award
 - D. 2003 Right-of-Way Mowing Contract
 - E. Purchase of 18 Acres at W 100th Avenue and Alkire Street for Open Space and Park Purposes
 - F. Software maintenance contract for the Police/Fire CAD System
 - G. Bid awards for Fire Station #2 and Irving Street Library and Park projects
 - H. CB No. 10 re 4th Quarter 2002 Supplemental Appropriation (Dittman-Dixon)

9. Appointments and Resignations

10. Public Hearings and Other New Business

Term Limits

- A. Public Hearing re the Proposed Mandalay Gardens Urban Renewal Plan
- B. Resolution No. 9 re Mandalay Gardens Urban Renewal Plan
- C. Councillor's Bill No. 11 re Establishing New Precincts for City Elections
- D. Resolution No. 10 re Land Exchange with Beau and Allen, LLC
- E. Councillor's Bill No. 12 re Historic Preservation
- F. Councillor's Bill No. 13 re Amusement Centers Code Amendments
- G. Councillor's Bill No. 14 re Peddlers and Solicitors Code Amendments
- H. Resolution No. 11 re 2003 MCC Lobbyist Dues

11. Old Business and Passage of Ordinances on Second Reading

12. Citizen Presentations (longer than 5 minutes) and Miscellaneous Business

- A. City Council
- B. Executive Session

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.

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, MARCH 17, 2003 AT 7:00 P.M.

PLEDGE OF ALLEGIANCE

Girl Scout Troop 310 presented colors and led the Staff and audience in the Pledge of Allegiance. This troop was also recognized for their adopt a platoon program with troops in Afghanistan

ROLL CALL

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

CONSIDERATION OF MINUTES

Councillor Dittman moved, seconded by Dixon to approve the minutes of the meeting of February 24, 2003 with no corrections or additions. The motion carried unanimously.

CITY MANAGER COMMENTS

Brent McFall, City Manager, stated it is great to get this snow pack and the City snow removal crews are ready.

CITY COUNCIL COMMENTS

Councillor Dixon wished all a Happy St Patrick's day.

Councillor Hicks commented on the National League of Cities conference and the classes he attended.

Councillor Kauffman recognized the Ranum Lady Raiders Basketball team for winning the Class 4A state championship.

Mayor Moss commented on CSU Basketball team, the Fire Department Burn Victim Fund raiser at Rock Bottom on Thursday at 6 PM and recognized Megan Barajas of the Ranum Raiders Girls Basketball team. He also announced that Councillor Chris Dittman has been designated a delegate to attend the Air War Museum

Councillor Dittman commented on the University of Colorado Basketball team.

CONSENT AGENDA

The following items were considered as part of the Consent Agenda: Special Legal Counsel Contract re regulation of cellular communication towers; with Kissinger and Fellman, P.C. in an amount not to exceed \$1750; Replacement Ambulance Bid Award to EMD equipment, in the amount of \$68,720, and authorize the expenditure of an additional \$30,900 in required ancillary equipment; ; Standley Lake Regional Park Phase 1B Construction Contract Award with Aquatic and Wetland Company in the amount of \$301,354.25 with a contingency of \$30,135.43 to construct the campground and necessary supporting infrastructure at Standley Lake Regional Park; 2003 Right-of-Way Mowing Contract to TruGreen Landcare in the amount of \$57,127; Purchase of 18 Acres at W 100th Avenue and Alkire Street for Open Space and Park Purposes, execute the necessary closing documents required for the acquisition of this parcel, and authorize that funds from the City's Park Maintenance Building Fund and the Open Space Land Purchases Account be used for the purchase; Software maintenance contract for the Police/Fire CAD System; with Intergraph Public Safety Systems (IPS) for software maintenance Police and Fire Department's Computer Aided Dispatch, Records Management and Mobile Field Reporting systems including automatic annual renewal, subject to City Council approval of budgeted funds, with a 5% cap on cost increases; Bid awards for Fire Station #2 and

Irving Street Library and Park projects with FCI Constructors Inc. for \$1,518,657 for Fire Station No. 2 with a project contingency of \$200,000; for \$2,639,904 for the Irving Street Library with a project contingency of \$270,000; for \$681,071 for Irving Street Park construction with a project contingency of \$80,000. In addition, authorize expenditures not to exceed \$314,897 for the Fire Station No. 2 project; \$555,920 for the Irving Street Library and \$105,973 for the Irving Street Park project for costs relating to tap fees, gas and electric service, building wiring and cabling, fixtures, furniture, equipment, and other owner costs excluding design costs and owners' representative costs previously approved by City Council; CB No. 10 re 4th Quarter 2002 Supplemental Appropriation

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

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

TERM LIMITS

Councillor McNally moved, seconded by Hicks to authorize a City election to be held in June or July, 2003 with the following question "No City Councillor shall serve more than two consecutive terms of office except that any City Councillor with six year or less of consecutive service as an elected City Councillor may serve an additional term of office." The motion carried with dissenting votes from Dittman, Kauffman and Moss.

Councillor Dixon moves, seconded by Atchison to place a second question on the Special Election ballot to eliminate term limits. The motion and second were withdrawn and this item will be discussed at a Study Session to determine what additional questions will be placed on the ballot for the Special Election.

PUBLIC HEARING RE MANDALAY GARDENS URBAN RENEWAL PLAN:

At 7:46 P.M. the public hearing was opened on Mandalay Gardens Urban Renewal Plan. Dave Shinneman, Planning Director, entered the following information into the record: a copy of the Agenda Memorandum, and other related items. John Carpenter, Director of Community Development, Malcolm Murray, Special Counsel on Urban Renewal projects for the City and Terrance Ware, HNTB consultant who prepared the Blight Study address Council. No one spoke in opposition. The public hearing was declared closed at 8:02 P.M.

RESOLUTION NO. 9 RE MANDALAY GARDENS URBAN RENEWAL PLAN

Councillor Atchison moved, seconded by Hicks to adopt Resolution No. 9 approving the Mandalay Gardens Urban Renewal Plan and finding the Mandalay Gardens Urban Renewal area is a blighted area, designating such area as appropriate for an Urban Renewal project pursuant to the Urban Renewal Plan, and finding that the acquisition, clearance, rehabilitation, conservation, development, redevelopment or a combination thereof of such area is necessary in the interest of the public health, safety, morals, and welfare of the citizens of the City of Westminster. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 11 RE PRECINCTS AND POLLING PLACES:

Councillor Dittman moved, seconded by Dixon to pass Councillor's Bill No. 11 on first reading establishing new precincts and polling places for future City conducted polling place elections. Upon roll call vote, the motion carried unanimously.

RESOLUTION NO. 10 RE LAND EXCHANGE WITH BEAU AND ALLEN, LLC:

Councillor Dixon moved, seconded by Kauffman to adopt Resolution No. 10 authorizing the transfer of \$100,000 from the City's General Fund Contingency account to the Economic Development Division Contractual Service Account. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 12 RE HISTORIC PRESERVATION:

Councillor Hicks moved, seconded by McNally to pass Councillor's Bill No. 12 on first reading establishing a program for identification, preservation and use of City landmarks. Bill Teeter, 7996 Bradburn Boulevard addressed Council in favor of this ordinance. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 13 RE AMUSEMENT CENTERS CODE AMENDMENTS

Mayor Pro Tem Atchison moved, seconded by McNally to pass Councillor's Bill No. 13 amending Chapter 5 of Title 9 of the Westminster Municipal Code concerning regulating amusement centers. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 14 RE PEDDLERS AND SOLICITORS CODE AMENDMENTS:

Councillor Kauffman moved, seconded by Atchison to pass Councillor's Bill No. 14 on first reading amending Title 5, Chapter 6, of the Westminster Municipal Code concerning peddlers and solicitors. Upon roll call vote, the motion carried with a dissenting vote from Hicks.

RESOLUTION NO. 11 RE US 36 MCC LOBBYIST DUES:

Councillor Dixon moved, seconded by McNally to adopt Resolution No. 11 authorizing the transfer of \$20,000 from the City's General Fund Contingency account for participation in US 36 Mayors' and Commissioners' Coalition lobbying efforts to garner state and federal funding for US 36 transportation improvements. Upon roll call vote, the motion carried unanimously.

ADJOURNMENT:

The meeting was adjourned at 8:13 P.M.

ATTEST:

City Clerk

Mayor



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
March 17, 2003



SUBJECT: Special Legal Counsel Contract

Prepared By: Sharon Widener, Assistant City Attorney

Recommended City Council Action

Authorize the City Manager to sign a contract for legal services with Kissinger and Fellman, P.C. for special services in connection with the preparation and adoption of an ordinance concerning the regulation of cellular communication towers, in an amount not to exceed \$1750.

Summary Statement

- Ken Fellman of Kissinger and Fellman. P.C. has previously provided services in the preparation of an ordinance regulating cellular towers and researching the legal parameters of a city within the federal and state laws controlling placement of towers and regulating the operation of telecommunication facilities.
- Mr. Fellman will conduct a final review of the proposed ordinance, and be available to the City to answer questions and explain the interaction of local, state, and federal regulations.

Expenditure Required: Not to exceed \$1750

Source of Funds: General Fund Planning Division Budget

Policy Issue

Should the City hire Mr. Fellman for special legal services in connection with final review of an ordinance regulating cellular tower facilities?

Alternative

Do not hire special legal counsel and proceed with the proposed ordinance based on Staff's current draft. This is not recommended as Mr. Fellman's expertise would not be available to assure that any City regulation is in conformance with the complex state and federal laws that regulate telecommunication facilities.

Background Information

Federal law preempts most aspects of telecommunication, including cellular communication. In addition, state law covers some aspects of telecommunication facilities, including the use of rights of way for telecommunication towers. However, municipalities do have some opportunities to regulate placement of facilities under zoning regulations. City Staff recommends regulation that will encourage telecommunication companies to provide services to residents of the City and also encourage placement and construction of facilities that are compatible with surrounding neighborhoods, aesthetically pleasing, and that preserve view corridors and open space.

Under the zoning code, the City would seek to balance the desire of residents for effective telecommunication services and the need for careful placement of facilities to preserve the City's open space, views, and pleasant neighborhoods. Mr. Fellman's expertise would be valuable in striking the necessary balance and avoiding legal pitfalls, given the complexity of telecommunication law.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

CONTRACT FOR LEGAL SERVICES

THIS AGREEMENT is made this ___ day of _____, 2003, by and between Kissinger and Fellman, P.C., Attorneys at Law (the "Firm") and the City of Westminster, Colorado (the "City").

RECITALS

1. The City is desirous of contracting with the Firm for legal services.
2. The Firm and its attorneys are authorized to practice law in the State of Colorado.

AGREEMENT

1. The Firm shall furnish the following special legal services to the City

SCOPE OF SERVICES

The Services to be provided involve review of proposed City ordinances addressing placement of wireless telecommunications facilities, discussions with Staff regarding revisions to the proposed ordinance, and drafting a memorandum advising of issues of federal law relating to regulation of telecommunication facilities, goals of the proposed ordinance, and potential challenges. If deemed necessary by the City, appearance before a study session of the City Council will be included in the Services to be provided.

2. Kenneth S. Fellman of the Firm shall be principally responsible for the Services.
3. The Firm is acting as an independent contractor; therefore, the City will not be responsible for FICA taxes, health or life insurance, vacation, or other employment benefits.
4. The City shall pay for the Services at the rates set forth in Exhibit "A."
5. This Contract may be terminated by the City with or without cause.
6. No payments to the Firm shall be made prior to approval of this Contract by the Westminster City Council.
7. Payments pursuant to this Contract shall not exceed One Thousand Seven Hundred Fifty Dollars (\$1,750.00) without further written authorization by the City.

This Agreement is expressly contingent upon the approval of the City of Westminster's City Council of all of the terms set forth herein. In the event this Agreement is not approved in its entirety by City Council, neither Party shall be bound to the terms of this Agreement.

KISSINGER & FELLMAN, P.C.

By: _____
Kenneth S. Fellman, Vice President

CITY OF WESTMINSTER, COLORADO

By: _____

EXHIBIT A
Kissinger and Fellman, P.C.

BILLING POLICIES

Our regular hourly charges for professional services of each attorney in the firm are as follows:

Kissinger	\$250 per hour
Fellman	\$175 per hour (reduced rate)
Albrecht	\$200 per hour
Chardavoyne	\$110 per hour
Riley	\$110 per hour
Paralegal/Law Clerk	\$ 60 per hour
Jaros	Quoted on an individual project basis

Adjustments in the Firm's rates and charges do occur from time to time, and we endeavor to notify all our then active clients of any changes at the time they are to take place. Nonetheless we still encourage all client inquiries concerning the rates in effect at the beginning of each project and will provide an updated copy of these Billing Policies upon every request.

If there are services which can be performed by our law clerks or paralegals, this time will be charged at \$60 per hour. Billing will reflect all time expended on clients' matters, such as: office conferences, legal research, telephone calls, correspondence, travel time, drafting, court or hearing preparation and appearances, etc. Direct costs or expenses relating to clients' work (i.e., photocopies, postage, long distance telephone calls, mileage, parking, etc.) will be billed in addition to our hourly charges for professional services rendered.

Billing will normally be between the 20th and the last day of the month covering the services and expenses incurred prior to the 20th of the current month. On matters which are not ongoing, a final billing may be made at the conclusion of the matter.

Our terms are payment in full within 30 days of the date of billing. If payment is not received timely, services and expense advances may be discontinued by the firm until satisfactory arrangements can be made to reinstate any past due account. **Interest** shall accrue at the rate of 1.5% per month on all amounts overdue and unpaid. If collection efforts become necessary on any unpaid amounts, the client shall be responsible for costs and legal fees related thereto.

* * * * *



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
(March 17, 2003)



SUBJECT: Replacement Ambulance Bid Award

PREPARED BY: Bill Work, Deputy Chief of Administration
Ron McCuiston, Battalion Chief

Recommended City Council Action

Award the bid for a replacement ambulance to the low bidder, EMD equipment, in the amount of \$68,720, and authorize the expenditure of an additional \$30,900 in required ancillary equipment.

Summary Statement

- The 2002 Fire Department budget included \$105,000 for the purchase of a replacement ambulance and related medical equipment. The ambulance funding was part of the phased spending plan and was put on hold in the second quarter of 2002. The ambulance purchase was later replaced in the 2002 budget with 2001 carryover funds.
- Staff will be bringing forward to City Council a carryover request for the funds originally budgeted in the Fire Department's budget for this purchase for approval in June or July after the audit is substantially complete. Rather than further delaying the replacement until later this year, Staff recommends purchase approval by City Council now using fund balance from the General Capital Outlay Replacement Fund (GCORF). Staff would still bring the carryover request in June or July to City Council for approval; if those funds are approved at that time, then they would replace fund balance used in the GCORF.
- The new ambulance will replace Unit #5202, a 1996 McCoy Miller reserve ambulance. The reserve unit will be traded in for a \$30,000 reduction on the purchase of a new ambulance.
- Formal bids in accordance with the City Charter bidding requirements were solicited from seven vendors located both locally and nationally. Bids were received from five vendors of different makes of ambulances. Fire Department staff then conducted a careful review of the bids to assure that the selected bidder met or exceeded the City's specification requirements.

Expenditure Required: \$99,620 (includes purchase of the ambulance and associated equipment, less the trade in for the 1996 ambulance)

Source of Funds: General Capital Outlay Replacement Fund (GCORF) fund balance

Policy Issues

Should the ambulance replacement proceed and not be delayed further by using GCORF money now until the carryover request for the budgeted 2002 money is approved?

Alternatives

- Delay the approval for the awarding of the bid until the carryover requests are approved later in the year (anticipated in June or July 2003 when the audit is complete). This could delay the actual ambulance replacement until next year.
- Award the bid to another vendor that submitted a bid meeting the City’s specifications. This alternative action would cost the City additional funds. The City currently has three ambulances manufactured by the low bidder, which have all proved to be reliable, well-built ambulances and well accepted by the workforce. All other bids, with the same associated required equipment, would be over the \$105,000 approved budget amount.

Background Information

Formal bids were sent to seven ambulance vendors who have a proven reputation for quality construction, strong safety features and reliability. The bids were sent out on December 3, 2002 and were opened in front of the vendors on January 15, 2003. Five vendors submitted bids and after careful review, all five vendors were determined to meet or exceed the City’s required specifications.

Vendor	Bid	Trade In Allowance	Total Vehicle Price
EDM Equipment(Road Rescue Ambulance)	\$98,720	\$30,000	\$68,720
Wheeled Coach	\$93,684	\$8,950	\$84,734
Front Range Fire Equipment (Med Tec Ambulance)	\$99,341	\$14,000	\$85,341
American Transport and Equip Co (Marque Ambulance)	\$99,511	\$7,800	\$91,711
Rocky Mountain Emergency Vehicles (Lifeline Ambulance)	\$105,266	\$11,500	\$93,766

The required equipment and installation costs to put the ambulance in service are detailed below and should be added to the cost of the vehicle bid.

- Portable defibrillator/monitor \$21,300
- Radio and Computer equipment \$2,000
- Paint and striping package \$2,000
- Full body vacuum Splint \$600
- Miscellaneous paramedic equipment and supplies \$5,000
- **Total associated equipment and installation costs: \$30,900**

Ambulances are heavily utilized in a frequent and strenuous manner that impacts on their “life expectancy.” The projected life expectancy of an ambulance is five years, with three years of frontline service and two years as a reserve unit. This new ambulance would be placed into frontline service at Fire Station Three, located at 90th Avenue and Wadsworth Parkway. Ambulances are part of the twenty-year vehicle replacement schedule established by Fleet Maintenance and the Fire Department. This ambulance would replace the 1996 McCoy Miller ambulance currently used as a reserve unit. Staff has evaluated the trade-in value offered by the low bidder (EDM Equipment) of \$30,000 and has found it to be more than expected in light of the condition and serviceability of the 1996 unit being replaced.

Staff has submitted a carryover request for the money budgeted in 2002 for this ambulance purchase. The ambulance purchase was part of the Phased Spending Plan in 2002 and was put on hold in the second quarter of 2002 due to revenue shortfalls. The ambulance purchase was later replaced in the 2002 budget with 2001 carryover funds. Further delay in purchasing this ambulance can be avoided by using funds from the General Capital Outlay Replacement Fund (GCORF). These funds would then be replaced when the carryover request is approved. The new GCORF created in the 2003 Budget has adequate money within the fund balance to cover this expenditure. Staff is not recommending that carryover be acted upon by City Council at this time until the audit is substantially completed by the Finance Department, which is anticipated to occur in June. Staff is confident that adequate funds will be available for this item via carryover action that will be brought before City Council in June or July. City Council could wait until they receive the official action in June or July to proceed with the purchase of this ambulance or utilize fund balance in the GCORF to proceed. While Staff does not normally recommend utilizing this method, in this instance, Staff believes it to be the most prudent method to proceed with the acquisition of the ambulance to avoid further delays in its replacement.

Respectfully submitted,

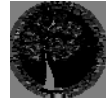
J. Brent McFall
City Manager



**WESTMINSTER
COLORADO**

Agenda Memorandum

City Council Meeting
March 17, 2003



SUBJECT: Standley Lake Regional Park Phase 1B Construction Contract Award

Prepared By: Brad Chronowski, Landscape Architect II

Recommended City Council Action

Authorize the City Manager to enter into a contract with Aquatic and Wetland Company in the amount of \$301,354.25 with a contingency of \$30,135.43 to construct the campground and necessary supporting infrastructure at Standley Lake Regional Park.

Summary Statement

- The Standley Lake Dam and Spillway Renovation Project is underway.
- As part of the dam project, a majority of the existing campground has been eliminated.
- This campground was originally built as part of the 2000 Standley Lake Regional Park Phase I construction project and was classified as “temporary” to be used until future dam improvements were begun. Portions of this campground (approximately 25 sites) will remain and are programmed to be used for Day Use Camping.
- On July 22, 2002, City Council passed Councillor’s Bill Number 34, appropriating \$350,000 for the construction of the campground.
- The City has acquired the services of DHM Design, Inc. for design services for this project.
- The City received nine qualified bids for this project. The bid tabulation follows:

The base bid plus bid alternate prices received are as follows:

Aquatic & Wetland	\$ 301,354.25
Goodland Construction	\$ 349,500.00
Pioneer Sand	\$ 371,198.00
Brighton Landscaping	\$ 371,130.81
Valley Crest	\$ 404,441.00
Urban Farmer	\$ 412,738.00
Colorado Designsapes	\$ 422,446.00
JHL Constructors	\$ 435,141.00
American Civil Contractors	\$ 447,210.00

- The consulting landscape architect’s estimate for this project was \$350,000.
- The construction will be completed by summer 2003.
- This construction activity will not interfere with the normal operations of the Standley Lake Regional Park.

Expenditure Required: \$331,489.68

Source of Funds: 2003 Utility Capital Improvement Fund

Policy Issue

Does City Council wish to proceed with the Standley Lake Regional Park – Phase IB Campground Construction Project?

Alternatives

1. City Council could reject the bids and require that staff re-bid the campground project. Staff would not recommend this alternative, as the bids received were lower than expected and will thus allow Staff to fully implement the improvements, including tree planting, drip irrigation and electrical service.
2. Council could reject Aquatic and Wetland Company's bid and negotiate with the second lowest bidder.

Background Information

In 1998, Jefferson County Open Space (JCOS) and the Farmers Reservoir and Irrigation Company (FRICO) finalized several years of negotiations and reached an agreement in the purchase of the land and recreational rights surrounding Standley Lake. JCOS then deeded the property to the City of Westminster for the purpose of upgrading and maintaining Standley Lake as a regional park and also contributed \$2,463,733 to be used in the Phase I improvements.

The Phase I improvements were completed in June of 2000 and include a boat ramp, campground, restroom facility, fish cleaning station, nature center/ranger station, access road, and trail system. These improvements have turned Standley Lake into a regional park and have increased the annual usage of the park and ability to collect revenues because it's now open year round and offers additional low-impact activities such as hiking, fishing and wildlife viewing. The increased use has elevated the maintenance operations associated with a high-quality water-based recreational park in the forms of additional trash removal, public contact, restroom maintenance, and law enforcement.

During design of the Standley Lake Phase I Project, it was determined that future dam work could impact the campground location to some degree. Staff felt it was important to provide a camping experience for this phase of the project as camping has been a staple of the Standley Lake experience since the 1960's. As such, the original campground was constructed with minimal expense (gravel roads and RV pads) and with the understanding that the site fixtures (tables, grills, etc.) could be reused at another location.

As a part of the Standley Lake Dam Renovation Project, approximately 75% of the existing campground has been eliminated, with approximately 20 camping sites still remaining at this location once the dam construction is complete. To restore the remainder of the camping facility (approximately 70 additional sites) Council appropriated \$350,000 for the development of the proposed new campground (Eagle Gulch) located west of the existing camping facilities. This appropriation occurred per City Council Agenda Item 8H, dated July 22, 2002. Construction for the scheduled improvements would be completed during the summer of 2003.

Aquatic and Wetland Company has expanded their services to include excavation and utility construction in addition to landscaping, irrigation and restoration. This firm intends to subcontract only the electrical work related to the improvements. They own and maintain all heavy equipment required for the work. Staff has researched their references and is comfortable working with this firm for the improvements at Standley Lake

Respectfully submitted,

J. Brent McFall
City Manager

Attachment



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
March 17, 2003



SUBJECT: 2003 Right-of-Way Mowing Contract

PREPARED BY: Rod Larsen, Open Space Supervisor

Recommended City Council Action:

Authorize the City Manager to award the bid for right-of-way mowing services to TruGreen Landcare in the amount of \$57,127.

Summary Statement:

- In 2000, funds were approved through the budget process to hire a private contractor to perform mowing services on 85 acres of right-of-way and open space lands.
- The Parks, Recreation and Libraries Department has determined that using an outside contractor is an acceptable alternative to accomplish the mowing objectives on rights-of-way and open space.
- To comply with bidding requirements, the Department received the following bids for this work:

TruGreen Landcare	\$57,127
American Civil Contractors	\$61,498
L. I. D.	\$64,141
Schultz Industries	\$95,085
Mueller's Turf Mtc.	\$96,549

- Staff believes the low bid is a good bid. TruGreen Landcare is an established company in the metro area. They have done contract work for the City of Westminster in the past and have a good work record.

Expenditure Required: \$57,127

Source of Funds: Parks, Recreation and Libraries 2003 Operating Budget

Policy Issues

Does the City wish to continue to use an outside contractor to perform the mowing services on City-owned right-of-way and open space land?

Alternatives

City Council could elect to not accept private contractor maintenance and use the available funds to hire City Staff to maintain the designated areas. Staff does not recommend this alternative because the cost of purchasing the specialized mowing equipment along with the needed manpower and logistics of crew travel time would exceed the costs of the current low bid.

Background Information

In 2000, funds were approved through the budget process to allow all the right-of-way and open space mowing to be accomplished by private contractors. Up until this time, a crew of 1 FTE and 3 seasonal employees were assigned to do this work on a full-time basis through the summer months. There were many problems with accomplishing these services in-house. Due to the fact that the rights-of-way and open space areas are on undeveloped terrain, the wear and tear of equipment was unusually high. Equipment was in for repair on a regular basis and this type of use had a negative impact on their life expectancy.

The right-of-way/open space mowing services have been contracted out since 2000 with positive results. These areas are mowed on a 3-week cycle during the growing season. The citizen complaints have been minimal during this time and the contractor has been quick to respond when there have been callback problems. The contracting of these services has enabled staff to concentrate on other areas of importance in open space maintenance. The current hiring freeze has had an impact on the staffing levels available to conduct these services. The open space/right-of-way crew has two unfilled positions, which have cut the staffing level in half. The remaining staff concentrates on maintaining trails, fencing, weed control, and wildlife management.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
March 17, 2003



SUBJECT: Purchase of 18 Acres at W. 100th Avenue and Alkire Street for Open Space and Park Purposes

Prepared By: Lynn Wodell, Open Space Coordinator

Recommended City Council Action

Authorize the City Manager to execute the Purchase and Sale Agreement for the 18 acres of land located at West 100th Avenue and Alkire Street, execute the necessary closing documents required for the acquisition of this parcel, and authorize that funds from the City's Park Maintenance Building Fund and the Open Space Land Purchases Account be used for the purchase.

Summary Statement

- City Staff has negotiated for the purchase of approximately 18 acres plus improvements.
- The property is located at W. 100th Avenue and Alkire Street surrounded by Colorado Hills Open Space.
- Acquisition of this site is recommended to expand the Colorado Hills Open Space, eliminate an in holding within the open space and provide office, crew work area and storage for Parks, Recreation and Libraries and preserve the views from Standley Lake Regional Park.

Expenditure Required: \$ 950,000

Source of Funds: \$710,000 from the General Fund Parks maintenance Building Project and \$240,000 from the Open Space Land Purchases

SUBJECT: 18 Acres at W. 100th Avenue and Alkire Street for Open Space and Park Purposes – Page 2

Policy Issue

Should City funds be used for the preservation of this property and acquisition of the improvements for office, crew work and storage facilities for the City?

Alternatives

1. Authorize the acquisition of this property.
2. Decide not to acquire this property at this time. Staff does not recommend this alternative because this is the last opportunity to preserve the entire 18 acres within Colorado Hills Open Space.
3. Ask staff to continue to negotiate the terms and conditions of this acquisition. Staff does not recommend this alternative because the price of \$950,000 is \$45,000 less than the offer and contract the landowners had received for the property.

Background Information

City staff has attempted to negotiate the purchase of the 18 parcel located at W. 100th Avenue and Alkire Street for the past few years to preserve the area and eliminate the in holding within Colorado Hills Open Space. This property has been a desirable open space acquisition objective, however, the presence of the significant improvements including a log home and Quonset building, made the acquisition costly. The original asking price was \$1.3 Million. It came to the City's attention that the property was put under contract to a buyer who wished to acquire the property for \$995,000 over 5 years and divide the property into 3 or more home sites.

The City staff took one more field trip out to the site to determine the feasibility of acquiring the property and using the improvements to possibly 1) relieve some the crowding at the MSC, 2) use the house for office space for the open space and parks crews, 3) use the quonset building for crew work space and storage and 4) allow the City to reduce the size of the new maintenance facility planned for City Park. With those uses in mind, staff made an offer to acquire the property for \$900,000 and accepted a counter of \$950,000 with closing to be held on May 15.

The acquisition of this property has been a high priority of the Open Space Advisory Board. It is a valuable addition to the Colorado Hills Open Space and will help provide additional facilities for the City to use.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
March 17, 2003



Deleted: ¶

SUBJECT: Software maintenance contract for the Police and Fire Department's Computer Aided Dispatch, Records Management and Mobile Field Reporting System.

Prepared By: Carol Workman, Communications Supervisor

Recommended City Council Action

Authorize the City Manager to execute a contract with Intergraph Public Safety Systems (IPS) for software maintenance for the Police and Fire Department's Computer Aided Dispatch, Records Management and Mobile Field Reporting systems (CAD/RMS) that includes an automatic annual renewal, subject to City Council approval of budgeted funds, with a 5% cap on cost increases.

Summary Statement

On July 10, 2000, City Council approved the purchase from IPS of a new integrated CAD/RMS and Mobile Computer System for the Police and Fire Departments. The total system cost was \$2,547,885. In that same action, Council also approved the first year's cost for extended warranty maintenance on the system. The extended warranty period is complete and the system must now move over to an on-going software maintenance contract. This is a proprietary system to IPS and they are the sole source supplier of this software maintenance contract. The original contract with IPS allowed for an automatic yearly renewal of a maintenance contract, subject to availability of funds, with a 5% cap on a cost increase.

Expenditure Required: \$106,189 (current year), 5% cap on annual increase thereafter

Source of Funds: Police and Fire Department annual operational budget accounts.

Policy Issues

Whether or not to approve an on-going maintenance contract with IPS with an automatic annual renewal containing a 5% increase cap.

Alternative(s)

- Do not approve on-going software maintenance costs. Staff does not recommend this alternative as this computer system is critical to the delivery of public safety services.
- Pay hourly rates to the vendor for maintenance to system and yearly upgrade costs for software. Funds would need to be budgeted for this alternative as well and based on known costs for hourly rates and software upgrades, Staff believes that the City could spend more on this alternative that with a maintenance contract.

Background Information

On July 10, 2000, City Council approved the purchase of a new integrated CAD/RMS, and Mobile Computer System for the Police and Fire Departments. The total system cost was \$2,547,885. This cost included software modules for receipt and processing of incoming 911 calls, modules to track waiting calls, officer and firefighter status, a mapping component which includes vehicle locators on all patrol cars and fire/rescue vehicles, a field reporting system, case status module used by Investigations, a module for receipt, inventory and tracking of evidence, and a records management system for police and fire. With that same action Council also approved the first year cost for extended warranty maintenance on the system. This extended warranty period has expired and it is now necessary to transfer the system to an on-going maintenance contract.

This maintenance contract will include software support on all modules of the system, 24 hours a day, seven days a week, yearly software version updates and Oracle software upgrades. Being a truly integrated software application that needs to remain available for use by public safety personnel at all times, it would not be feasible to attempt to split out modules that could be covered less hours of the day or by a time and materials type of contract.

Funds for the expense of a software maintenance contract are included in the annual operational budgets for the Police Department and Fire Department. The CAD/RMS system is a proprietary system to IPS, therefore, software maintenance services from other companies are not available. This computer system is just as critical of a component in public safety service delivery as the 800Mhz two-way radio system and the 911 telephone system that are also under on-going maintenance contracts.

Respectfully submitted,

J. Brent McFall
City Manager



**WESTMINSTER
COLORADO**

Agenda Memorandum

City Council Meeting
March 17, 2003



SUBJECT: Bid award for Fire Station No. 2 and Irving Street Library and Park Capital Improvement projects

Prepared By: Janice Kraft, Neighborhood Services Administrator
Alan Miller, Special Projects Director

Recommended City Council Action

Authorize the City Manager to execute contracts with FCI Constructors Inc. for \$1,518,657 for Fire Station No. 2 with a project contingency of \$200,000; for \$2,639,904 for the Irving Street Library with a project contingency of \$270,000; for \$681,071 for Irving Street Park construction with a project contingency of \$80,000. In addition, authorize expenditures not to exceed \$314,897 for the Fire Station No. 2 project; \$555,920 for the Irving Street Library and \$105,973 for the Irving Street Park project for costs relating to tap fees, gas and electric service, building wiring and cabling, fixtures, furniture, equipment, and other owner costs excluding design costs and owners' representative costs previously approved by City Council.

Summary Statement

- Twenty general contractors responded to the City's request for qualifications process in January 2003 and six of the most qualified firms were selected to participate in a constructability review of the construction drawings and specifications. Those firms were, FCI Constructors Inc., JHL Constructors, Hyder Construction, Swinerton Builders, Pinkard Construction, and Rhoades Construction. Rhoades Construction was eliminated from the final bid list due to the poor quality and effort applied to the constructability review.
- Competitive combined bids were received for the Fire Station No. 2 and Irving Street Library and Park projects on February 19, 2003 with FCI Constructors Inc. being the apparent low bidder at \$4,839,632 for both projects.

Expenditure Required: \$ 6,366,422

Source of Funds: General Fund Capital Improvement Budget Accounts
Fire Station No. 2 Project and Irving Street Library and Park Projects

Policy Issue

Whether or not to approve the contract with FCI Constructors Inc. for the construction of the Fire Station No. 2 and Irving Street Library and Park, and authorize the expenditures indicated for project contingency and other owner's expenses.

Alternatives

Do not approve the contracts with FCI Constructors Inc., selecting one of the other bids received. Staff does not recommend this alternative as FCI Constructors was the low qualifying bid on the project and took no exceptions to the project as bid.

Do not approve the contracts with FCI Constructors Inc., delaying the start of the projects to some future date. Staff does not recommend this alternative as the bids reflect a currently very competitive bidding climate and the projects came in under projected estimates.

Background Information

Of the \$4,839,632 bid from FCI Constructors, the following amounts are allocated to each of the two projects:

- | | |
|-----------------------|-------------|
| Fire Station No. 2 | \$1,518,657 |
| Irving Street Library | \$2,639,904 |
| Irving Street Park | \$ 681,071 |
- Project contingencies have been established as follows:

Fire Station No. 2	\$200,000
Irving Street Library	\$270,000
Irving Street Park	\$ 80,000
 - Project costs relating tap fees, electric and gas service, building wiring and phone systems, fixtures, furniture, equipment and other owner costs, excluding design costs previously approved, have an established budget as follows:

Fire Station No. 2	\$314,897
Irving Street Library	\$555,920
Irving Street Park	\$105,973
 - Total project budgets are:

Fire Station No. 2	\$2,033,554
Irving Street Library	\$3,465,824
Irving Street Park	\$ 867,044
 - There should be a cost savings to the City for these projects of approximately \$380,000 for the Fire Station No. 2 project and \$350,000 for the Park project based on original project estimates.

The project architects, Bennet Wagner Grody (Irving Street Library and Park) and Dauer Haswell (Fire Station No. 2) along with Architectural Resource Consultants (ARC), owner's representative for both projects, developed a pre-qualification process for contractors. This process netted a group of five qualified contractors from a field of twenty that submitted qualification documents. The five contractors qualified to bid on these projects were FCI Constructors, Inc., Hyder Construction, JHL Constructors, Pinkard Construction, and Swinerton Builders.

Bids were released according to City of Westminster bidding requirements and were structured such that an individual bid was received for each project and a combined bid was received for both projects. A public bid opening was held on February 19, 2003 with the following bid results:

FCI Constructors Inc.	\$4,839,632
JHL Constructors	\$5,089,440
Hyder Construction	\$5,187,423
Swinerton Builders	\$5,421,321
Pinkard Construction	\$6,307,761

FCI Constructors Inc. is the apparent low bidder and took no exceptions to the scope of work as defined in the construction drawings or specifications.

All combined bids received from the bidding contractors were less than individual bids added together. In the case of the FCI Constructors bid, it was a cost savings of almost \$33,000 by accepting their combined bid for both projects. ARC provided an analysis of the bids, per their contract with the City, and recommended awarding the bid to the low bidder, FCI Constructors Inc. Both architectural firms and ARC have worked with FCI on other projects and had positive comments about their performance and work product. A project contingency has been established for each project that is approximately 12% of the construction costs.

Outside of the budget for the construction are additional owner's expenses for items such as providing gas and electric service to the building, water and sewer tap fees, furniture, moving expenses, audio visual equipment, building wiring and telephone systems, and miscellaneous equipment. ARC and City Staff went through a very thorough process, developed by ARC, for identifying all of these expenses and assigning a cost to each item. These expenses will involve vendors and companies outside of the contract with FCI Constructors. Staff will follow City bidding requirements for any of these expenses and will return to City Council for required authorizations and approvals as necessary.

Construction is anticipated to begin on both projects prior to the end of March 2003 and would be completed by the end of the year.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
March 17, 2003



SUBJECT: Second Reading of Councillor's Bill No. 10 re 2002 Budget Supplemental Appropriation

Prepared By: Karen Creager, Internal Auditor

Recommended City Council Action:

Pass Councillor's Bill No. 10 on second reading providing for supplementary appropriations to the 2002 budget of the General Fund, Utility, Open Space and General Capital Improvement Funds.

Summary Statement

- City Council action is requested to pass the attached Councillor's Bill on second reading, which authorizes a supplemental appropriation to the 2002 budget of the General, Utility, Open Space and General Capital Improvement Funds.
- This Councillor's Bill was passed on first reading on February 24, 2003.
- General Fund amendments total \$16,898.
- Utility Fund amendments total \$250,000.
- Open Space Fund amendments total \$500.
- General Capital Improvement Fund amendments total \$1,716,816.

Expenditure Required: \$1,984,214

Source of Funds: The funding sources for these expenditures include various grants, fees, donations, sales taxes, bond proceeds, reimbursements and interest earnings.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO. **3013**

COUNCILOR'S BILL NO. **10**

SERIES OF 2003

INTRODUCED BY COUNCILLORS

Dittman - Dixon

A BILL

FOR AN ORDINANCE INCREASING THE 2002 BUDGETS OF THE GENERAL, UTILITY, OPEN SPACE AND GENERAL CAPITAL IMPROVEMENT FUNDS AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2002 ESTIMATED REVENUES IN THESE FUNDS.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2002 appropriation for the General Fund initially appropriated by Ordinance No. 2913 in the amount of \$69,324,181 is hereby increased by \$16,898 which, when added to the fund balance as of the City Council action on February 24, 2003 will equal \$79,018,397. The actual amount in the General Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. This increase is due to the appropriation of donations and reimbursements received by the City.

Section 2. The \$16,898 increase in the General Fund shall be allocated to City Revenue and Expense accounts, which shall be amended as follows:

Description	Current Budget	Increase	Final Budget
REVENUES			
General Misc - Library			
1000.43060.0034	\$1,165	\$2,965	\$4,130
General – Contributions			
1000.43100.0000	36,000	1,000	37,000
Recreation Programs – Youth Scholarships			
1000.41030.0528	0	998	998
General Misc			
1000.43060.0000	174,064	<u>11,935</u>	185,999
Total Change to Revenues		<u>\$16,898</u>	
EXPENSES			
Library Materials			
10050620.71600.0000	\$378,665	\$1,000	\$379,665
Temp Salaries – Library			
10050620.60600.0000	50,500	2,965	53,465
Special promotions – Youth Scholarship			
10050760.67600.0528	5,923	998	6,921
PD Investigations Overtime			
10020300.60400.0000	168,189	<u>11,935</u>	180,124
Total Change to Expenditures		<u>\$16,898</u>	

Section 3. The 2002 appropriation for the Water Portion of the Utility Fund, initially appropriated by Ordinance No. 2913 in the amount of \$25,286,775 is hereby increased by \$250,000 which, when added to the fund balance as of the City Council action on February 24, 2003 will equal \$51,805,557. The actual amount in the Water Portion of the Utility Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. This increase is due to the appropriation of additional bond proceeds from the 2002 Water/Wastewater Revenue Bonds.

Section 4. The \$250,000 increase in the Water Portion of the Utility Fund shall be allocated to City Revenue and Expense accounts, which shall be amended as follows:

Description	Current Budget	Increase	Final Budget
REVENUES			
Bond Proceeds			
2000.46020.0216	\$7,000,000	<u>\$250,000</u>	\$7,250,000
Total Change to Revenues		<u>\$250,000</u>	
EXPENSES			
Northwest Water Treatment Plant			
80220035076.80400.8888	\$7,000,000	<u>\$250,000</u>	\$7,250,000
Total Change to Expenses		<u>\$250,000</u>	

Section 5. The 2002 appropriation for the Open Space Fund, initially appropriated by Ordinance No. 2913 in the amount of \$4,761,666 is hereby increased by \$500 which, when added to the fund balance as of the City Council action on February 24, 2003 will equal \$7,997,786. The actual amount in the Open Space Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. This increase is due to the appropriation of a donation from Wal-Mart.

Section 6. The \$500 increase in the Open Space Fund shall be allocated to City Revenue and Expense accounts, which shall be amended as follows:

Description	Current Budget	Increase	Final Budget
REVENUES			
Contributions			
5400.43100.0000	\$0	\$500	\$500
Total Change to Revenues		<u>\$500</u>	
EXPENSES			
Land Purchases			
54010900.76600.0000	\$7,164,254	<u>\$500</u>	\$7,164,754
Total Change to Expenditures		<u>\$500</u>	

Section 7. The 2002 appropriation for the General Capital Improvement Fund, initially appropriated by Ordinance No. 2913 in the amount of \$10,305,000 is hereby increased by \$1,716,816 which, when added to the fund balance as of the City Council action on February 24, 2003 will equal \$20,112,751. The actual amount in the General Capital Improvement Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. This increase is due to the appropriation of interest earnings, ADCO road sales taxes and a contribution received by the City.

Section 8. The \$1,716,816 increase in the General Capital Improvement Fund shall be allocated to City Revenue and Expense accounts, which shall be amended as follows:

Description	Current Budget	Increase	Final Budget
REVENUES			
Transportation Sales Tax			
7500.40470.0000	\$0	\$1,700,000	\$1,700,000
Contributions			
7500.43100.0000	2,000	5,000	7,000
Interest Income - 2001 COP's			

7500.42520.0215	101,956	<u>11,816</u>	113,772
Total Change to Revenues		<u>\$1,716,816</u>	
EXPENSES			
Savory Farms Water Tower			
80275030536.80400.8888	\$22,200	\$5,000	\$27,200
Huron Street 129 th /144th			
80175030069.80400.8888	800,000	1,700,000	2,500,000
Public Safety Building			
80175020086.80400.8888	3,409,368	<u>11,816</u>	3,421,184
Total Change to Expenditures		<u>\$1,716,816</u>	

Section 9. – 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 10. This ordinance shall take effect upon its passage after the second reading.

Section 11. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED AND PUBLISHED this 24th day of February, 2003.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 17th day of March, 2003.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
March 17, 2003



SUBJECT: Term Limits

PREPARED BY: Stephen P. Smithers, Assistant City Manager
Martin R. McCullough, City Attorney

Recommended City Council Action

Provide City Staff with direction on how to proceed with the City Council term limit issue.

Summary Statement

- In 1994 Colorado voters approved a constitutional amendment that limited state and local elected officials' terms of office. This amendment became effective in 1995.
- The Term Limits amendment provides that no local elected official may serve more than two consecutive terms of office except that for terms of office which are two years or shorter, no elected official may serve more than three consecutive terms of office.
- In addition, the amendment sets forth a provision for state and local voters to partially or fully opt out of term limits.
- Westminster's current City Council members were elected under City Charter provisions that provided for two and four-year terms of office depending on vote totals.
- City Council directed Staff at its March 3 Study Session to bring this item back to City Council at the March 17 meeting to consider establishing a special election in 2003 to partially or fully opt out of term limits.
- The alternatives section of this agenda memorandum lays out some of the alternatives City Council may want to consider in making a decision on this issue.

Expenditure Required: \$ -- Will vary depending on what specific action City Council chooses

Source of Funds: To be determined

Policy Issues

Should the City establish a special or regular election to ask Westminster voters to opt out of term limits? If the City is going to proceed with an election, what form should the opt out of term limits take?

Alternatives

1. Hold a special election in June or July and ask the voters to choose one or more of the following amendments to City Charter sec. 3.2 (f):

Option 1:

The voters of the City shall have the right to elect the Mayor and Councillors for as many terms of office as the voters may deem appropriate, notwithstanding the term limitations of Article XVIII, Section 11 of the state constitution.

Option 2:

Neither the Mayor nor any Councillor shall serve more than three consecutive terms of office.

Option 3:

No City Councillor shall serve more than two consecutive terms of office except that any City Councillor with six year or less of consecutive service as an elected City Councillor may serve an additional term of office.

2. Same as the options discussed in alternative 1, except hold the election at the regularly scheduled election in November of 2003.
3. Pursue one of the legal options previously laid out for City Council and don't proceed with a term limits opt out election.

Background Information

Staff is providing an attachment that provides additional background on this issue. It is a summary of the City election results from the original term limits vote in 1994 and several subsequent votes on various term limit measures.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

Agenda Memorandum

City Council Meeting
March 17, 2003



SUBJECT: Public Hearing and Resolution No. 9 re Mandalay Gardens Urban Renewal Plan

Prepared By: John Carpenter, Director of Community Development

Recommended City Council Action

- Hold Public Hearing regarding the proposed Mandalay Urban Renewal Plan.
- Adopt Resolution No. 9 approving the Mandalay Gardens Urban Renewal Plan and finding that the Mandalay Gardens Urban Renewal area is a blighted area, designating such area as appropriate for an Urban Renewal project pursuant to the Urban Renewal Plan, and finding that the acquisition, clearance, rehabilitation, conservation, development, redevelopment or a combination thereof of such area is necessary in the interest of the public health, safety, morals, and welfare of the citizens of the City of Westminster.

Summary Statement

- Westminster Economic Development Authority (WEDA) has commissioned a proposed urban renewal plan to be drafted and provided to City Council. On behalf of the City Council, Staff submitted the Urban Renewal Plan (URP) plan to the Planning Commission for a recommendation on whether the URP is in conformance with the City's Comprehensive Land Use Plan (CLUP). The Commission concluded that the plan is in conformity with the CLUP.
- A blight study was prepared that concluded that Mandalay Gardens was blighted in accordance with the criteria outlined in state law. Copies of both the Urban Renewal Plan and Blight Study were previously sent to City Council.
- The proposed Mandalay Gardens Urban Renewal Plan if adopted, would facilitate redevelopment of the area.

Expenditure Required: \$ 0

Source of Funds: N/A

Policy Issues

Is the Mandalay Gardens area blighted in accordance with the criteria outlined in Colorado state law? Should an Urban Renewal Plan be adopted to facilitate redevelopment of the area?

Alternative

Do not adopt the Urban Renewal Plan. This alternative is not recommended as this would prevent the Mandalay development plans from moving forward.

Background Information

The Mandalay area was annexed by the City in December of 2002. WEDA has recently sent out a request for proposals in order to find a developer who will work with WEDA in the development of the project. The goal of WEDA is to remove all of the existing structures, excluding the BP/Amoco station, in order to present a potential developer with a clean site. WEDA hired the firm of Downing, Thorp and James (DTJ) to assist in the creation of a master plan for the area.

In order to make the project feasible, an urban renewal area is desirable to permit WEDA to issue bonds and undertake the necessary obligations. The approval of the proposed URP is part of that process. State statute requires WEDA to prepare a draft urban renewal plan for City Council to consider. Staff, on behalf of City Council, sent the proposed plan to the Planning Commission. The Planning Commission is required by state statute to review the proposed plan and to make a recommendation to the City Council regarding its conformance with the City's Comprehensive Land Use Plan. The Planning Commission concluded that the URP is in conformance with the CLUP at its February 25th meeting.

The Urban Renew Plan objectives are as follow:

1. Reduce traffic congestion and enhance mobility for bus and rail connections.
2. Redevelop outdated residential and commercial buildings.
3. Enhance the aesthetic appearance of the area.
4. Assemble vacant and developed parcels as needed to facilitate redevelopment.
5. Increase tax revenues and property values.

The implementation steps as enumerated in the in the URP include the following steps:

1. Demolition of existing structures and reconstruction of public infrastructure.
2. Assemblage of the parcels into a single redevelopment parcel.
3. Relocation, if necessary, of any businesses in the area.
4. Public assistance to the developer where necessary to create a more attractive atmosphere for investment.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

RESOLUTION

RESOLUTION NO. **9**

INTRODUCED BY COUNCILLORS

SERIES OF 2003

Atchison-Hicks

A RESOLUTION

FOR APPROVAL OF THE MANDALAY GARDENS URBAN RENEWAL PLAN AND FINDING THAT THE MANDALAY GARDENS URBAN RENEWAL AREA IS A BLIGHTED AREA, DESIGNATING SUCH AREA AS APPROPRIATE FOR AN URBAN RENEWAL PROJECT PURSUANT TO THE URBAN RENEWAL PLAN, AND FINDING THAT THE ACQUISITION, CLEARANCE, REHABILITATION, CONSERVATION, DEVELOPMENT, REDEVELOPMENT OR A COMBINATION THEREOF OF SUCH AREA IS NECESSARY IN THE INTEREST OF THE PUBLIC HEALTH, SAFETY, MORALS, AND WELFARE OF THE CITIZENS OF THE CITY OF WESTMINSTER.

WHEREAS, an urban renewal plan for the Mandalay Gardens Area has been submitted to the City Council of the City of Westminster for appropriate action pursuant to Part 1 of Article 25 of Title 31, C.R.S.; and

WHEREAS, the Mandalay Gardens Area, which is subject to the Mandalay Gardens Urban Renewal Plan, is described in Exhibit A to this Resolution; and

WHEREAS, the City Council of the City of Westminster adopted the Westminster Comprehensive Land Use Plan on June 23, 1997, as amended, which is the general plan for the development of the City of Westminster; and

WHEREAS, the Mandalay Gardens Urban Renewal Plan has previously been submitted to the Westminster Planning Commission for its review and recommendations as to conformity with the Westminster Comprehensive Land Use Plan pursuant to C.R.S. §31-25-107(2); and

WHEREAS, the Westminster Planning Commission has determined that the Mandalay Gardens Urban Renewal Plan does conform to the Westminster Comprehensive Land Use Plan; and

WHEREAS, no property in the Mandalay Gardens Urban Renewal Area has been included in an urban renewal plan previously submitted to the City Council of the City of Westminster; and

WHEREAS, the City Clerk of the City Westminster has published the notice of the time, place, and purpose of the public hearing to consider the adoption of the Mandalay Gardens Urban Renewal Plan in the Rocky Mountain News in conformance with C.R.S. §31-25-107(3); and

WHEREAS, the City Clerk of the City Westminster has provided written notice of the public hearing to consider the adoption of the Mandalay Gardens Urban Renewal Plan to all property owners, residents, and business owners within the proposed Mandalay Gardens Urban Renewal Area at their last known addresses in conformance with C.R.S. §31-25-107(4)(c); and

WHEREAS, the Jefferson County Commissioners have received notification of and copies of the Mandalay Gardens Urban Renewal Plan as well as such additional information as is required by C.R.S. §31-25-107(3.5); and

WHEREAS, the Jefferson County School District has received notification of and copies of the Mandalay Gardens Urban Renewal Plan and has been given an opportunity to participate in an advisory capacity; and

MUR\58179\432486.01

WHEREAS, the City Council of the City of Westminster has considered the Mandalay Gardens Area Blight Survey prepared by HNTB Corporation and the proposed Mandalay Gardens Urban Renewal Plan; and

WHEREAS, City Council of the City of Westminster has conducted a public hearing and considered the public testimony received.

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

1. Blight, as defined by C.R.S. §31-25-103(2), is present in the Mandalay Gardens Urban Renewal Area as documented by the Mandalay Gardens Area Blight Survey prepared by HNTB Corporation and based on evidence presented at the public hearing. The following blight factors are present in the Mandalay Gardens Urban Renewal Area: slum, deteriorated or deteriorating structures; predominance of defective or inadequate street layout; faulty lot layout; unsanitary or unsafe conditions; deterioration of site or other improvements; unsafe or unhealthy buildings; and inadequate public improvements or utilities..

2. Mandalay Gardens Urban Renewal Area is a blighted area and is appropriate for an urban renewal project pursuant to Part 1 of Article 25 of Title 31, C.R.S.

3. The boundaries of the Mandalay Gardens Urban Renewal Area have been drawn as narrowly as feasible to accomplish the planning and development objectives for the Mandalay Gardens Urban Renewal Area.

4. The Mandalay Gardens Urban Renewal Area does not consist of an area of open land.

5. The Mandalay Gardens Urban Renewal Plan conforms to the Westminster Comprehensive Land Use Plan, which is the general plan for the development of the City of Westminster.

6. The Mandalay Gardens Urban Renewal Plan is hereby approved.

7. There exist feasible methods for the relocation of individuals and families and business concerns in accommodations or areas suitable for their relocation.

8. The Mandalay Gardens Urban Renewal Plan will afford maximum opportunity, consistent with the sound needs of the City of Westminster as a whole, for the rehabilitation or redevelopment of the Westminster Comprehensive Land Use Area by private enterprise.

9. The acquisition, clearance, rehabilitation, conservation, development or redevelopment of a combination thereof of the Mandalay Gardens Urban Renewal Area pursuant to the Mandalay Gardens Urban Renewal Plan is necessary in the best interests of the public health, safety, morals, and welfare of the citizens of the City of Westminster.

Passed and adopted this 17th day of March, 2003.

ATTEST:

Mayor

City Clerk

MUR\58179\432486.01

MANDALAY GARDENS

URBAN RENEWAL PLAN

WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY

MARCH 2003

TABLE OF CONTENTS

I.	INTRODUCTION	2
1.1	Preface.....	2
1.2	Background.....	2
1.3	Definitions.....	3
2.	LEGISLATIVE FINDINGS	3
2.1	Qualifying Conditions.....	3
2.2	Urban Renewal Projects.....	4
2.3	Planning Approval	4
2.4	Public Hearing	4
2.5	Boundaries of the Mandalay Gardens Urban Renewal Area.....	5
2.6	Other Findings	5
3.	DESCRIPTION OF PLAN OBJECTIVES	5
4.	PLAN IMPLEMENTATION	6
4.1	Redevelopment and Rehabilitation Actions.....	6
4.2	Property Acquisition and Land Assemblage.....	6
4.3	Relocation Assistance and Payments.....	6
4.4	Demolition, Clearance and Site Preparation.....	6
4.5	Public Improvements and Facilities.....	6
4.6	Property Disposition	7
4.7	Redevelopment Agreements	7
4.8	Interagency Cooperation.....	7
4.9	Additional Powers.....	7
5.	PROJECT FINANCING.....	7
5.1	Tax Increment Financing	7
5.2	Additional Taxing Entities.....	9
5.3	Participating Interest in Projects	9
6.	AMENDMENTS TO THIS URBAN RENEWAL PLAN	9

MANDALAY GARDENS URBAN RENEWAL PLAN

MARCH 2003

I. INTRODUCTION

1.1 Preface

This Mandalay Gardens Urban Renewal Plan ("Urban Renewal Plan") has been prepared by the Westminster Economic Development Authority ("WEDA") for adoption by the City Council of the City of Westminster pursuant to provisions of the Urban Renewal Law of the State of Colorado, Article 25 of Title 31, Colorado Revised Statutes. This Urban Renewal Plan is prepared and adopted to satisfy the requirements of § 31-25-107, C.R.S., that an urban renewal plan be adopted by the governing body of the municipality before an urban renewal authority undertakes an urban renewal project. The administration of this project and the enforcement and execution of this Urban Renewal Plan shall be performed by WEDA.

1.2 Background

The Mandalay Gardens area is an approximately 70-acre site located at the northwest corner of U.S. 36 and Church Ranch Boulevard. The recently annexed site is bounded by U.S. 36, Church Ranch Boulevard, the City's Walnut Creek open space, Wadsworth Boulevard and the Burlington Northern Santa Fe railroad. To the north of the site is the Lower Church Lake.

The site has excellent visibility from U.S. 36 and Church Ranch Boulevard; yet, paradoxically, it is not accessible from either one. Rather, access is currently very circuitous from Wadsworth Boulevard via a gravel road.

The site has over 20 separate property ownerships of many sizes and dimensions. The "quilt work" of land ownerships has discouraged development in the past. Developers have been unwilling to attempt to assemble the site with so many owners, any one of whom could thwart assembly efforts.

Historically, the City has discouraged the annexation of existing individual parcels. Rather, City Staff has indicated support for annexation only if all the parcels were annexed and if the majority of the property owners were willing to sell their land for redevelopment. During 2002, the majority of the property owners petitioned the City for annexation and have placed their properties under option to a developer. In December, 2002, the City Council approved the annexation of the Mandalay Gardens area.

The City hired the firm of Downing, Thorpe and James to prepare a land use plan for the Mandalay site. The Staff did this as a means to achieve consensus on the preferred land use plan for the proposed redevelopment project. The plan is designed to create a "main street" type retail project on the eastern 2/3 of the site. The western part of the site is reserved for a large big box retailer.

Some of the noteworthy aspects of the plan include:

- Direct vehicular access to the site from Church Ranch Boulevard.
- A vehicular underpass under U.S. 36 connecting Mandalay to Promenade Drive and the Westminster Promenade project.
- An underpass and street under U.S. 36 connecting Mandalay to the Circle Point Business Park.

- A “main street” with retail store fronts located close to the street with diagonal parking.
- A small pond and waterfall to provide a focal point for restaurants and the entire project.
- A hotel or an office building overlooking the small pond and Lower Church Lake.
- An RTD Park n Ride that would serve a proposed commuter rail station as well as a proposed bus station along U.S. 36.
- Additional land that would be added to the Walnut Creek open space corridor.
- A railroad underpass beneath the BNSF railroad line is proposed to connect Mandalay Gardens to the eventual trail around Lower Church Lake.

To achieve the redevelopment, most of the existing structures (most of which are blighted) would be demolished. The individual parcels would be assembled into one parcel suitable for a redevelopment project. Any needed environmental remediation would occur. The result would be vibrant pedestrian-oriented retail project with synergistic connections to the Westminster Promenade.

Definitions

Cooperation Agreement: Any agreement between WEDA and the City of Westminster or any other public body regarding action taken pursuant to any of the powers set forth in the Urban Renewal Law, or in any other provision of Colorado law, for the purpose of facilitating public undertakings deemed necessary or appropriate by WEDA under this Urban Renewal Plan.

Redevelopment Agreement: An agreement between WEDA and a developer or developers respecting the redevelopment or rehabilitation of property within the Urban Renewal Area.

Mandalay Gardens Urban Renewal Area: The property described in Section 2.5 of this Urban Renewal Plan which has been found to be blighted and for which the undertaking of urban renewal projects is declared to be necessary.

LEGISLATIVE FINDINGS

1.3 Qualifying Conditions

Based on the Mandalay Gardens Area Blight Study prepared by HNTB Corporation, dated March 17, 2003, and evidence presented at the public hearing, the City Council finds that there exists blight, as defined by § 31-25-103(2), C.R.S., in the Mandalay Gardens Urban Renewal Area.

The Mandalay Gardens Area Blight Study found that blight conditions were prevalent throughout the area. The conditions found to exist include:

Slum, deteriorated or deteriorating structures: A significant number of structures exhibit sagging roofs or holes in the roof, damaged siding, or structural failure. Many structures have seriously dilapidated exteriors indicating substantial neglect.

- a) Defective and inadequate street layout: Street system is inadequate for emergency purposes and fails to service at least two of the lots altogether.
- b) Faulty lot layout: Lots are irregularly shaped and sized and do not provide adequate arrangement for redevelopment for commercial uses.
- c) Unsanitary or unsafe conditions that endanger life or property: There are no street lights in the area making vehicular or pedestrian travel at night dangerous. Streets are largely unpaved and there are no sidewalks. Drainage structures are inadequate or nonexistent causing damage to building foundations and streets. Trash, debris, and weeds are present on almost every parcel with a number of abandoned vehicles in the area.
- d) Deterioration of site improvements: Parking areas and driveways are unpaved and undefined. Fences are largely of barbed wire and most are in serious disrepair. Billboards and other large signs are present in the area.

Unsafe or unhealthy buildings: Several structures, including one residence and several sheds are in danger of collapse. Several other structures show evidence of structural instability.

- e) Inadequate public improvements: Urban public improvements are entirely lacking such as paved streets, curb and gutter, street lighting, and sidewalks.

The City Council finds that the presence of these factors substantially impairs or arrests the sound growth of the City of Westminster, retards the provision of housing accommodations, constitutes an economic and social liability and is a menace to the public health, safety, morals and welfare of the City of Westminster.

1.4 Urban Renewal Projects

The Mandalay Gardens Urban Renewal Area is appropriate for one or more Urban Renewal projects and other undertakings of WEDA as authorized by the Urban Renewal Law.

1.5 Planning Approval

A general plan for the City of Westminster, known as the Comprehensive Land Use Plan ("CLUP"), has been adopted by the City Council. This Urban Renewal Plan has been submitted to the Planning Commission for review and recommendations as to its conformity with the CLUP. The Planning Commission met on February 25, 2003, and has submitted its written recommendations to the City Council. This Urban Renewal Plan has also been submitted to the Boards of County Commissioners of Jefferson County as required by the Urban Renewal Law.

1.6 Public Hearing

The City Council of the City of Westminster has held a public hearing to consider this Urban Renewal Plan after public notice thereof in compliance with the Urban Renewal Law in the Rocky Mountain News, describing the time, date, and purpose of the public hearing, identifying the Mandalay Gardens Urban Renewal Area and outlining the general scope of the projects being considered for implementation pursuant to this Urban Renewal Plan. Notice of the public hearing was sent to owners, residents, and business owners in the Mandalay Gardens Urban Renewal Area at their last know address at least 30 days before the date of the public hearing.

1.7 Boundaries of the Mandalay Gardens Urban Renewal Area

The boundaries of the Mandalay Gardens Urban Renewal Area shall be as set forth in Figure 1 attached hereto. The City Council finds that the boundaries of the Mandalay Gardens Urban Renewal Area have been drawn as narrowly as feasible to accomplish the planning and development objectives of this Urban Renewal Plan.

1.8 Other Findings

One or more of the projects will require the demolition and clearance, subject to other restrictions, of certain property within the Mandalay Gardens Urban Renewal Area as provided in this Urban Renewal Plan. Such actions may be necessary to eliminate unhealthy, unsanitary, and unsafe conditions, eliminate obsolete and other uses detrimental to the public welfare, and otherwise remove and prevent the spread of deterioration.

- 1.8.1 In order to eliminate or reduce the qualifying conditions currently existing within the Mandalay Gardens Urban Renewal Area, as well as those qualifying conditions which may be reasonably anticipated to develop within the Mandalay Gardens Urban Renewal Area in the absence of public action, it is the intent of the City Council in adopting this Urban Renewal Plan that WEDA exercise all powers authorized to be exercised by WEDA under the Urban Renewal Law and which are necessary, convenient or appropriate to accomplish the objectives of this Urban Renewal Plan. It is the intent of this Urban Renewal Plan that except as otherwise provided herein, WEDA shall exercise all such powers as may now be possessed or hereafter granted to WEDA for the elimination of qualifying conditions within the Mandalay Gardens Urban Renewal Area. Acquisition of property or any interest in property by WEDA within the Mandalay Gardens Urban Renewal Area may be undertaken by any means authorized by WEDA, including condemnation.
- 1.8.2 A feasible method exists for the relocation of individuals, families, and business concerns that may be displaced by an urban renewal project through the adoption of a relocation policy by WEDA insuring that decent, safe and sanitary dwelling accommodations and business locations can be made available.
- 1.8.3 The powers conferred by the Urban Renewal Law are for public uses and purposes for which public money may be expended and the police powers exercised, and this Urban Renewal Plan is in the public interest and necessity, such finding being a matter of legislative determination by the City Council.
- 1.8.4 WEDA may, in its discretion, issue bonds, including revenue bonds or other obligations, to the extent permitted by law.

DESCRIPTION OF PLAN OBJECTIVES

The Urban Renewal Plan is an important tool to address the problems confronting the Mandalay Gardens area. The Plan helps to further the goals for the area previously outlined in the CLUP. The objectives for the Plan include the following:

Reduce the traffic congestion and enhance mobility in the area.

Renovate or redevelop the deteriorated and/or outdated residential and commercial buildings.

Enhance the aesthetic appearance of the area to make it more appealing.

Assemble vacant and developed parcels as needed to facilitate redevelopment.

Increase sales and property tax revenues collected from the area.

Improve property values in the area.

2. PLAN IMPLEMENTATION

In order to accomplish the objectives of this Urban Renewal Plan and to fully implement this Urban Renewal Plan, WEDA shall be authorized to undertake the following activities:

2.1 Redevelopment and Rehabilitation Actions

Redevelopment and rehabilitation actions within the Mandalay Gardens Urban Renewal Area may include such undertakings and activities as are in accordance with this Urban Renewal Plan and the Urban Renewal Law, including without limitation: demolition and removal of buildings and improvements as set forth herein; installation, construction and reconstruction of public improvements as set forth herein; elimination of unhealthful, unsanitary or unsafe conditions; elimination of obsolete or other uses detrimental to the public welfare; and other actions to remove or to prevent the spread of deterioration or to provide land for needed public facilities. WEDA is authorized to solicit interest from developers in redevelopment projects and to negotiate with landowners, developers, and investors regarding appropriate projects throughout the Urban Renewal Area.

Property Acquisition and Land Assemblage

It is the principal intent of this Urban Renewal Plan that property for projects in the Mandalay Gardens Urban Renewal Area be acquired by private individuals and entities. While WEDA is authorized to acquire real property or any interest in real property by purchase, gift, donation, lease or other conveyance, this principal intent is the foundation upon which this Urban Renewal Plan has been developed. If necessary, WEDA is authorized to acquire property or interests in property by condemnation as provided in Article 1 and Article 7 of Title 38 of the Colorado Revised Statutes.

Relocation Assistance and Payments

In the event it is necessary to relocate or displace any business or other commercial establishments as a result of any property acquisition, WEDA may adopt relocation policies for payment of relocation expenses. Such expenses may include moving expenses, actual direct losses of property for business concerns, and goodwill and lost profits that are reasonably related to relocation of the business, resulting from its displacement for which reimbursement or compensation is not otherwise made.

2.2 Demolition, Clearance and Site Preparation

With respect to property acquired by WEDA, it may demolish and clear, or contract to demolish and clear, those buildings, structures and other improvements from property pursuant to this Urban Renewal Plan if in the judgment of WEDA such buildings, structures and other improvements are not to be rehabilitated in accordance with this Urban Renewal Plan.

2.3 Public Improvements and Facilities

WEDA may undertake certain actions which would make the Urban Renewal Area more attractive for private investment. These actions may include street and traffic

improvements, streetscape improvements, landscaping, park and recreation facilities, utility improvements, open space acquisition, stormwater improvements, and public art projects and other improvements necessary for carrying out the objectives of the Urban Renewal Law as it may be amended from time to time.

Property Disposition

WEDA may sell, lease, or otherwise transfer real property or any interest in real property subject to such covenants, conditions and restrictions, including architectural and design controls, time restrictions on development, and building requirements, in addition to zoning and building code regulations. Real property or interests in real property may be either sold, leased or otherwise transferred for uses in accordance with this Urban Renewal Plan.

2.4 Redevelopment Agreements

WEDA is authorized to enter into one or more Redevelopment Agreements with developer(s) and such other entities as are determined by WEDA to be necessary or desirable by WEDA to carry out the purposes of this Urban Renewal Plan. Such Redevelopment Agreements may contain such terms and provisions as shall be deemed necessary or appropriate by WEDA for the purpose of undertaking the activities contemplated by this Urban Renewal Plan or the Urban Renewal Law, and may further provide for such undertakings by WEDA, including financial assistance, as may be necessary for the achievement of the objectives of this Urban Renewal Plan or as may otherwise be authorized by the Urban Renewal Law.

2.5 Interagency Cooperation

WEDA may enter into one or more Cooperation Agreements with the City of Westminster or other public bodies pursuant to the Urban Renewal Law. Cooperation Agreements may provide, without limitation, for financing, for construction of public improvements, for administration, for technical assistance and for other purposes.

Additional Powers

WEDA is authorized to perform any function or exercise any power authorized by the Urban Renewal law as it may be amended from time to time in carrying out the purposes of this Mandalay Gardens Urban Renewal Plan.

PROJECT FINANCING

2.6 Tax Increment Financing

The primary method of financing the projects undertaken in furtherance of this Urban Renewal Plan shall be the use of sales tax and property tax increment financing pursuant to Section 31-25-107(9), C.R.S., which is by this reference incorporated herein as if set forth in its entirety. If there is any conflict between the Urban Renewal Law and this Urban Renewal Plan, the provisions of the Urban Renewal Law shall control. All property and sales taxes collected within the Mandalay Gardens Urban Renewal Area shall be divided as follows:

That portion of property and sales taxes equal to the amount collected within the boundaries of the Mandalay Gardens Urban Renewal Area in the twelve-month period ending on the last day of the month prior to the effective date of the approval of this Urban Renewal Plan shall be paid into the funds of each such public body as are all other taxes collected by or for such public body.

- a) Except as WEDA may legally provide otherwise under the Urban Renewal Law, the portion of such property and sales taxes in excess of the amounts described in paragraph a), above, shall be allocated to and, when collected, paid into a special fund to fund WEDA's obligations with respect to any project within the Mandalay Gardens Urban Renewal Area, including payment of the principal of, the interest on, and any premiums due in connection with the bonds, loans or advances to, or indebtedness incurred by (whether funded, refunded, assumed, or otherwise) WEDA for financing or refinancing, in whole or in part, the Urban Renewal projects in the Mandalay Gardens Urban Renewal Area.
- b) When such bonds, loans, advances, and indebtedness, if any, including interest thereon and any premiums due in connection therewith, have been paid, but in no event later than 25 years following the adoption of this Urban Renewal Plan for the construction of the projects' improvements, any excess property and sales tax collections not allocated pursuant to this paragraph or any Cooperation Agreement between WEDA and City or other taxing jurisdiction, shall be paid into the funds of said jurisdiction or public body. Unless and until the total property and sales tax collections in the Mandalay Gardens Urban Renewal Area exceed the base year property and sales tax collections in the Mandalay Gardens Urban Renewal Area, as provided in paragraph a), above, all such property and sales tax collections shall be paid into the funds of the appropriate public body. WEDA reserves the right to enter into Cooperation Agreements with select taxing jurisdictions relative to allocation of incremental tax revenues.
- c) The adoption of this Urban Renewal Plan shall be deemed an adoption of a provision that taxes, if any, levied after the effective date of the approval of this Urban Renewal Plan upon taxable property in the Mandalay Gardens Urban Renewal Area shall be divided among WEDA and various taxing entities for a period of 25 years thereafter or such lesser period as provided in Section 31-25-107(9), C.R.S., as exists on the date hereof, or in any Cooperation Agreement between WEDA and a county, the City or a special district. Municipal sales taxes collected in the Mandalay Gardens Urban Renewal Area each year or the municipal portion of taxes levied upon taxable property within the Mandalay Gardens Urban Renewal Area, or both such taxes, may be allocated as described in this Section 5.1 for a period in excess of 25 years after the effective date of adoption of this Urban Renewal Plan if the existing bonds are in default or about to go into default.
- d) WEDA and the City may, by Cooperation Agreement or other agreement, provide for the method by which sales tax increments shall be allocated and paid to WEDA pursuant to the provisions of this Urban Renewal Plan and the Urban Renewal Law. Such agreements, and similar agreements between WEDA and other public bodies, may provide for additional assistance by the City and cooperation between WEDA and the City in

support of the projects as may be more fully set forth in the provisions of such Cooperation Agreement or other agreement.

2.7 Additional Taxing Entities

WEDA recognizes that tax increment financing is the primary tool for funding redevelopment activities. However, Colorado law allows the creation of additional political subdivisions within a municipality to provide services within a defined area. These entities include metropolitan and other special districts as well as business improvement districts. These districts have available certain taxing powers that can generate revenues in addition to those generated by tax increment financing.

WEDA is committed to exploring a variety of strategies and mechanisms to complement tax increment financing. WEDA recognizes that it is imperative that financing mechanisms be flexible and creative to provide necessary assistance to a broad range of redevelopment activities.

2.8 Participating Interest in Projects

WEDA may require a participating interest in private development projects for which it provides financial assistance. Public assistance is frequently needed for redevelopment projects in order to fill the gap between traditional equity and debt financing and the additional costs of a redevelopment project. In the event the project generates revenues at or greater than market return, the public should share in the success of the project. The terms of the participating interest will be specified in the Redevelopment Agreement at a level and on terms appropriate for each project.

AMENDMENTS TO THIS URBAN RENEWAL PLAN

This Urban Renewal Plan may be amended or modified pursuant to provision of the Urban Renewal Law as provided in § 31-25-107, C.R.S.



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
March 17, 2003

SUBJECT: Councillor's Bill No. 11 re Establishing New Precincts for City Elections

Prepared By: Michele Kelley, City Clerk

Recommended City Council Action

Pass Councillor's Bill No. 11 on first reading establishing new precincts and polling places for future City conducted polling place elections.

Summary Statement

- The State has completed a revision of state legislature boundaries, and all Counties have completed a revision of their precinct boundaries to reflect the state legislative boundaries.
- The current City precinct boundaries do not coincide with the newly adopted County boundaries.
- City Council requires City precinct boundaries and polling places will be reviewed by the Election Commission after the State process of redistricting and the County process of reprecincting.
- The last time the City precincts were reviewed and adjusted was July of 1991.
- The Westminster Election Commission has proposed changes to reflect the County precinct changes and has recommended polling places for each precinct.

Expenditure Required: \$ 0

Source of Funds: n/a

SUBJECT: Councillor's Bill re Establishing New Precincts for City Elections – Page 2

Policy Issue

Whether City Council approves of the reprecincting and polling place changes being proposed by the Election Commission.

Alternative

Council could reject the proposed precinct reconfiguration and polling places or amend the reconfiguration.

Background Information

The Election Commission met this past week and reviewed the new County precincts and has proposed the precinct changes and polling places indicated in the attached Councillor's Bill, and as shown on the attached map.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **11**

SERIES OF 2003

INTRODUCED BY COUNCILLORS

A BILL
FOR AN ORDINANCE AMENDING CITY OF WESTMINSTER PRECINCTS AND POLLING
PLACES

THE CITY OF WESTMINSTER ORDAINS:

Section 1: Title 7, Chapter 1, Section 2 of the Westminster Municipal Code is hereby amended as follows:

7-1-2: WARDS; PRECINCTS; POLLING PLACES:

(A) The City shall consist of one ward.

(B) There is hereby established and there shall be ~~nineteen~~ TWENTY-TWO (~~19~~ **22**) precincts within the City as follows:

Precinct 1 shall consist of ~~that area within the City lying north of 77th Avenue, west of Bradburn Boulevard, south of the Denver Boulder Turnpike east of Sheridan Boulevard to approximately 88th Avenue on the north~~ ADAMS COUNTY PRECINCTS 231350102, 231350103, AND 231350104.

Precinct 2 shall consist of ~~that area within the City lying south of 77th Avenue, west of Bradburn Boulevard extended to the City limits on the south, east of Sheridan Boulevard.~~ ADAMS COUNTY PRECINCTS 2313501011, 2313501016 AND 7313501009 WITHIN THE CITY LIMITS.

Precinct 3 shall consist of ~~that area within the City lying north of the Denver Boulder Turnpike, west of Lowell Boulevard, south of 88th Avenue, east of Sheridan Boulevard~~ ADAMS COUNTY PRECINCTS 2313501019 AND 2313501023.

Precinct 4 shall consist of ~~that area within the City lying east of Lowell Boulevard, north of the Denver Boulder Turnpike, west of Zuni Street and south of 88th Avenue~~ ADAMS COUNTY PRECINCTS 2313501020 AND 2313501024 WITHIN THE CITY LIMITS.

Precinct 5 shall consist of ~~that area within the City lying east of Federal Boulevard, south of the Denver Boulder Turnpike, west of Zuni Street, to the City limits on the south~~ ADAMS COUNTY PRECINCTS 2313501021, 2313501025 AND 2313501026 WITHIN THE CITY LIMITS.

Precinct 6 shall consist of ~~that area within the City lying east of Bradburn Boulevard, west of Lowell Boulevard and south of the Denver Boulder Turnpike to the City limits on the south~~ ADAMS COUNTY PRECINCTS 2233501030 AND 223501031.

Precinct 7 shall consist of ~~that area within the City lying east of Lowell Boulevard, west of Federal Boulevard, south of the Denver Boulder Turnpike to the City limits on the south~~ ADAMS COUNTY PRECINCTS 2313501027, 2313501028 AND 2233501029 WITHIN THE CITY LIMITS

Precinct 8 shall consist of ~~that area within the City lying east of Lowell Boulevard, west of Federal Boulevard, north of 88th Avenue and south of 104th Avenue~~ ADAMS COUNTY PRECINCTS 2233401050 AND 2233401051.

~~Precinct 9 shall consist of that area within the City lying east of Sheridan Boulevard, west of Lowell Boulevard, north of 88th Avenue and south of 104th Avenue ADAMS COUNTY PRECINCTS 2233501032 AND 2233501033.~~

~~Precinct 10 shall consist of that area within the City lying north of 96th Avenue, east of Alkire Street, along the City limits on the north to Simms Street, then north along Simms Street then south along Countryside Drive to Oak Street to the City limits on the south ADAMS COUNTY PRECINCTS 2233401034,2233401035,AND 2233401038.~~

~~Precinct 11 shall consist of that area within the City lying north of 104th Avenue, south of 120th Avenue, east of Sheridan Boulevard and west of the eastern City limits at 104th Avenue, then north to 112th Avenue, then west along 112th Avenue to Federal Boulevard, then north along Federal Boulevard to 120th Avenue ADAMS COUNTY PRECINCTS 2233401036, 2233401037, AND 2233401039~~

~~Precinct 12 shall consist of that area within the City lying north of 120th Avenue, east of Lowell Boulevard, south of the northern city limits and west of Interstate 25 ADAMS COUNTY PRECINCTS 2233301070, 2233301071, AND 2233301072.~~

~~Precinct 13 shall consist of that area within the City lying south of 100th Avenue, north of 88th Avenue and west of Colorado Highway 121 ADAMS COUNTY PRECINCTS 2233301073 AND 2233301074.~~

~~Precinct 14 shall consist of that area within the City lying east of Colorado Highway 121, south of 112th Avenue, west of the Denver Boulder Turnpike and north of 88th Avenue ADAMS COUNTY PRECINCTS 2233301075, 2233301076, 2233301077, 2233301078 AND 2233301079 WITHIN THE CITY LIMITS.~~

~~Precinct 15 shall consist of that area within the City lying south of 112th Avenue, east of Simms Street to Countryside Drive, south along Countryside Drive to Oak Street, south on Oak Street to 100th Avenue, east along 100th Avenue to Colorado Highway 121, north on Colorado Highway 121 to 112th Avenue, east along 112th Avenue to the Denver/Boulder Turnpike, north to 120th Avenue JEFFERSON COUNTY PRECINCTS 2192930021 AND 2192930022.~~

~~Precinct 16 shall consist of that area within the City lying east of the Denver Boulder Turnpike, south of 120th Avenue, west of Sheridan Boulevard and north of 88th Avenue JEFFERSON COUNTY PRECINCTS 219293007, 219293015, 219293018 AND 219293019 WITHIN THE CITY LIMITS.~~

~~Precinct 17 shall consist of that area within the City lying west of Interstate 25, south of 120th Avenue, east of Federal Boulevard and north of 112th Avenue JEFFERSON COUNTY PRECINCTS 219293002, 219293011 AND 2192930013 WITHIN THE CITY LIMITS.~~

~~Precinct 18 shall consist of that area within the City lying west of Sheridan Boulevard, south of 80th Avenue, east of Pierce Street and north of the City limits JEFFERSON COUNTY PRECINCTS 2192930016 AND 2192930020.~~

~~Precinct 19 shall consist of that area within the city lying west of Wadsworth Boulevard, north of the southern city limits along West 86th Avenue; north along the western city limits along the east side of Standley Lake to the Niver Canal; east along the Niver Canal to the foot path, south along the foot path to West 93rd Avenue, east on West 93rd Avenue to Garrison Street, south on Garrison Street to West 90th Place, southwest on West 90th Place to Independence Street, southeast on Independence Street to Farmers Highline Canal, east along Farmers Highline Canal to Field Street, north on Field Street to West 91st Avenue; east on West 91st Avenue to Cody Street; southeast on Cody Street to the fence line of Farmers Highline Canal; east along the Farmers Highline Canal to Wadsworth Boulevard JEFFERSON COUNTY PRECINCTS 2192930009, 2192930014 AND 2192930017~~

~~PRECINCT 20 SHALL CONSIST OF JEFFERSON COUNTY PRECINCTS 2192930006, 2192930010 AND 2192930012.~~

PRECINCT 21 SHALL CONSIST OF JEFFERSON COUNTY PRECINCTS 219293001, 219293004 AND 219293005 WITHIN THE CITY LIMITS.

PRECINCT 22 SHALL CONSIST OF JEFFERSON COUNTY PRECINCTS 219293003 AND 2192930008 WITHIN THE CITY LIMITS

(C) The following places in each precinct are hereby designated as the official polling places at which elections are to be held:

1. ~~Precinct 1: Westminster Hills Elementary School, 4105 West 80th Ave~~
2. ~~Precinct 2: St. Martha's Episcopal Church, 7615 Bradburn Blvd~~
3. ~~Precinct 3: Advent Lutheran Church, 3740 West 80th Avenue~~
4. ~~Precinct 4: First Southern Baptist Church, 7979 Lowell Blvd~~
5. ~~Precinct 5: Skyline Vista School, 7395 Zuni Street~~
6. ~~Precinct 6: Westminster Presbyterian Church, 7390 Bradburn Blvd~~
7. ~~Precinct 7: Westminster Elementary School, 7482 Irving Street~~
8. ~~Precinct 8: Sunset Ridge Elementary School, 9455 Hooker Street~~
9. ~~Precinct 9: Westminster City Hall, 4800 West 92nd Avenue~~
10. ~~Precinct 10: Countryside Recreation Center, 10470 Oak Street~~
11. ~~Precinct 11: Cotton Creek Elementary School, 11100 Vrain Street~~
12. ~~Precinct 12: Casa Estates Mobile Home Clubhouse, 860 West 132nd Ave~~
13. ~~Precinct 13: Zerger Elementary School, 9050 Field Street~~
14. ~~Precinct 14: Mandalay Junior High School, 9651 Pierce Street~~
15. ~~Precinct 15: Witt Elementary School, 10255 West 104th Drive~~
16. ~~Precinct 16: Sheridan Green Elementary School, 10951 Harlan St~~
17. ~~Precinct 17: The Ranch Country Club, 11887 Tejon Street~~
18. ~~Precinct 18: Thomson Elementary School, 7750 Harlan Street~~
19. ~~Precinct 19: Moore Junior High School, 8455 West 88th Avenue~~

- PRECINCT 1: 76TH AVENUE LIBRARY, 3031 WEST 76TH AVENUE
PRECINCT 2: FIRE STATION NO. 1, 3948 WEST 73RD AVENUE
PRECINCT 3: WESTMINSTER HILLS ELEMENTARY SCHOOL, 4105 WEST 80TH AVE
PRECINCT 4: GREGORY HILL PRESCHOOL, 8030 IRVING STREET
PRECINCT 5: HIGHVIEW MOBILE HOME CLUBHOUSE, 8601 ZUNI ST
PRECINCT 6: SUNSET RIDGE ELEMENTARY SCHOOL, 9451 HOOKER STREET
PRECINCT 7: WESTMINSTER CITY HALL, 4800 WEST 92ND AVENUE
PRECINCT 8: ROCKY MOUNTAIN ELEMENTARY SCHOOL, 3350 WEST 99TH AVENUE
PRECINCT 9: HYLAND HILLS RESTAURANT, 9650 SHERIDAN BOULEVARD
PRECINCT 10: FIRE STATION NO. 4, 4580 WEST 112TH AVENUE
PRECINCT 11: COLLEGE HILL LIBRARY, 3705 WEST 112TH AVENUE
PRECINCT 12: THE RANCH COUNTRY CLUB, 11887 TEJON STREET
PRECINCT 13: FIRE STATION NO. 6, 999 WEST 124TH AVENUE
PRECINCT 14: RECLAIMED WATER TREATMENT FACILITY, 13070 HURON ST
PRECINCT 15: KAISER HEALTH PLAN, 7701 SHERIDAN BOULEVARD
PRECINCT 16: MANDALAY MIDDLE SCHOOL, 9651 PIERCE STREET
PRECINCT 17: SHERIDAN GREEN ELEMENTARY SCHOOL, 10951 HARLAN STREET
PRECINCT 18: VICTORY CHURCH, 11700 SHERIDAN BOULEVARD
PRECINCT 19: MOORE MIDDLE SCHOOL, 8455 WEST 88TH AVENUE
PRECINCT 20: LUCAS ELEMENTARY SCHOOL, 9650 WEST 97TH AVENUE
PRECINCT 21: WEST VIEW RECREATION CENTER, 10747 WEST 108TH AVENUE
PRECINCT 22: WITT ELEMENTARY SCHOOL, 10255 WEST 104TH DRIVE

(D) In the event of future annexations to the City, the area annexed will become a part of the precinct to which it is annexed; except that, when such area shall be contiguous to two (2) or more precincts, the City Council by resolution shall designate the precinct in which the annexed area shall be located.

(E) When a City of Westminster election is held concurrently with a County conducted election, the designated precincts and polling places will be designated by the County; provided that the polling place for persons who are qualified electors as defined in the Westminster Charter, but not registered to vote, shall be Westminster City Hall.

(F) City precinct boundaries and polling places will be reviewed by the Election Commission after the State process of redistricting and the County process of reprecincting HAS BEEN COMPLETED.

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 17TH day of March, 2003

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 24th day of March, 2003.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
March 17, 2003



SUBJECT: Resolution No.10 re Land Exchange with Beau and Allen, LLC

Prepared By: Becky Johnson, Economic Development Program Coordinator

Recommended City Council Action:

Adopt Resolution No. 10 authorizing the transfer of \$100,000 from the City's General Fund Contingency account to the Economic Development Division Contractual Service Account.

Summary Statement:

- On February 24, 2003 Council authorized the City Manager to execute a Land Exchange Agreement and development cost reimbursement agreement with Beau and Allen, LLC, execute the necessary closing documents required for the land exchange, and authorized the expenditure of funds from the General Fund Contingency Account to cover the City's closing and reimbursement costs.
- Funds from General Fund Contingency may be transferred any time during the year by a resolution adopted by Council. A resolution was not included with the agenda memo on February 24, 2003. In order for the contingency funds to be transferred, the attached resolution must be adopted.

Expenditure Required: \$100,000

Source of Funds: General Fund Contingency

Policy Issues

Should Council adopt the attached resolution?

Alternatives

An alternative would be to not adopt the attached resolution authorizing the transfer of General Fund Contingency. If funds were not transferred, the City would not have the opportunity to close on the land exchange transaction would most likely complicate future development of the Mandalay Gardens area.

Background Information

Beau and Allen purchased a 4.55-acre parcel at 7453 West 105th (near the middle of the Mandalay Gardens neighborhood) with plans to construct a veterinary clinic in May 2001. Broadway Animal Medical Hospital (BAM) began the development process in preparation of constructing the clinic in the Mandalay Gardens area.

Concurrently, the City was moving forward with a master plan for development of the entire Mandalay Gardens site. Staff approached Beau and Allen to propose a possible land exchange for City property along Church Ranch Boulevard, with the purpose of securing the property in Mandalay Gardens for future development.

In July 2001, Beau & Allen agreed to the land exchange; however, they have asked that the City reimburse them for their attorney's fees, planning costs already incurred by Beau and Allen, as well as other costs related to the land exchange. A number of studies have been completed on both the City's property and the Beau and Allen property; including environmental assessments, surveys, and appraisals in preparation of the land exchange.

Final terms of the Land Exchange Agreement and development cost reimbursement agreement reached between the City of Westminster and Beau and Allen include the exchange of land and payment by the City of \$83,445 in reimbursements to Beau and Alan, plus closing costs of approximately \$15,000 for the property exchange. The approximate \$100,000 needed to pay Beau and Allen is to be transferred from the General Fund Contingency into the Economic Development Contractual Services account for payment. It is expected that at the time that WEDA acquires the BAM property from the City for the Mandalay Gardens project, that the City will be reimbursed by WEDA.

Adoption of the attached resolution is required to transfer funds from the General Fund Contingency to the Economic Development Account to pay the necessary costs of this agreement.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

RESOLUTION

RESOLUTION NO. **10**

INTRODUCED BY COUNCILLORS

SERIES OF 2003

Dixon-Kauffman

WHEREAS, City Staff has negotiated a land exchange for a 3.243 acre parcel of City-owned property at the southeast corner of 8600 West and Church Ranch Boulevard for a 4.55 acre parcel at 7453 West 105th Avenue in Mandalay Gardens, owned by Beau & Allen; and

WHEREAS, The acquisition of the Beau and Allen property is necessary to preserve this site for future development of the master plan for Mandalay Gardens; and

WHEREAS, On February 24, 2003, City Council authorized the City Manager to execute a Land Exchange Agreement and development cost reimbursement agreement with Beau and Allen, execute the necessary closing documents required for the land exchange; and

WHEREAS, Staff is requesting a total authorization of up to a maximum of \$100,000 for all of these costs.

WHEREAS, the General Fund contingency balance is \$1,200,000.

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

\$100,000 be transferred from the General Fund Contingency to the Economic Development Contractual Services account.

Passed and adopted this 17th day of March 2003.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
March 17, 2003



SUBJECT: Councillor's Bill No.12 re Historic Preservation Ordinance

Prepared By: Vicky Bunsen, Assistant City Attorney

Recommended City Council Action:

Pass Councillor's Bill No. 12 on first reading establishing a program for identification, preservation and use of City landmarks.

Summary Statement:

Staff has prepared a proposed ordinance that, if enacted, would:

- Allow the appointment of a qualified historic landmark board that is authorized to designate local historic landmarks.
- Allow voluntary applications to be submitted to a board for the landmarking of historically significant properties in the City.
- Provide for board review of alterations, demolition and other actions on landmarked properties.
- Satisfy one of the requirements for the City to become a "certified local government" (CLG), and thereby gain access to other grant funding opportunities that could be used to enhance landmarked properties in the City.
- Allow private property owners to become eligible for certain income tax credits for eligible expenses related to the landmarked property, if the City becomes a CLG.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issues

Does the City Council want to enact legislation and provide Staff support with currently available resources for a program that would allow local designation of historic landmarks in order to qualify the City of Westminster as a "certified local government," as defined in state and federal law, thereby making the City eligible for certain grant funding for historic preservation projects and potentially allowing local homeowners to obtain a credit against their state income taxes for expenditures made on qualified historic preservation projects?

Alternatives

1. Do not enact the proposed historic preservation ordinance, or
2. Do not enact the ordinance, but provide some financial assistance to private historic preservation groups, on a case-by-case basis.

Background Information

Staff reviewed with City Council at the May 6, 2002, Study Session the economic benefits of developing a local historic preservation program, including:

1. Obtaining potential grant funding for City projects such as the rehabilitation of the Westminster Grange Hall, the Savory Mushroom Farm Tower, the Wesley Cemetery improvements, and repairs to the Bowles House;
2. Providing the opportunity for private homeowners and business owners to become eligible for federal and state income tax credits;
3. Providing education and incentives that would support preservation, restoration and rehabilitation work in the City, thereby supporting the local economy.

Ordinance Provisions

The draft ordinance, if enacted, would satisfy one of the requirements toward becoming a certified local government or "CLG" under the state and federal preservation legislation. The ordinance provides for the following:

- Establishment of a board of five to seven members, with up to two alternates. The board would be composed of both professional and lay members with a demonstrated interest, competence or knowledge in historic preservation, and forty percent must be professionals in preservation-related disciplines, such as architecture, landscape architecture, architectural history, archaeology, history, and planning, or related disciplines such as building trades, real estate, law, cultural geography or cultural anthropology.
- Voluntary applications to landmark property. The applications would be considered by the board pursuant to the criteria set forth in the ordinance.
- Once a property is "landmarked," alterations, demolition, or moving would need to be reviewed by the board to determine the "appropriateness" of the action pursuant to historic preservation standards set forth by the U.S. Secretary of Interior. The principles in the ordinance are prescribed in federal and state law; however, the manner and detail in which they are applied are interpreted locally by the board. The board would be able to develop more detailed standards and guidelines that are appropriate to the Westminster context and desires of the citizens.

Creation of this board is authorized by section 4.17 of the City Charter which allows a new board to be created "for any activity which by statute is required to be so administered" and in a "quasi-judicial . . . permitting" and "advisory" capacity. The proposed historic landmark board would serve all of these functions. While the City Council may create this board without regard to the qualifications mentioned in state law, if the City Council wishes for the City to participate in the CLG program, then the board must meet certain qualifications prescribed by state law, which include a demonstrated interest in the subject matter and 40 percent of the members must satisfy certain professional qualifications. Other than these qualifications, this board would be otherwise governed by the City Charter, including the provision that board members will only be removed for cause.

Implementation of the Ordinance

If City Council enacts the ordinance, one of the first tasks would be to appoint qualified board members. The State Historical Fund will assist in providing training to the new board members so that they gain competence in the tasks required by the ordinance. Once they gain knowledge, they can decide on a work plan, which may include tasks such as reviewing applications from homeowners for state tax credits, establishing priorities for various projects that they wish to undertake or for which they want to provide assistance, educational programs, and applications for financial assistance for projects. After they have a chance to work with the ordinance and communicate with the interested public, they may have suggestions for improvements to the ordinance so that it can address more specifically the needs of this community.

Designation of the Westminster Grange Hall

The City has been working with the Westminster Grange Association over the past year to assess the rehabilitation needs of the Grange Hall with the goal of applying for State Historical Fund (SHF) grant money to fund these needs. As a result of the State of Colorado budget shortfall, SHF money is being diverted to fund expenses that were previously funded by the State general fund and a substantial portion of the annual SHF revenue is being used to fund deferred maintenance and repairs at the State Capitol. The result is that funding of local projects is being reduced and the standards for funding local projects have become more stringent.

The impact on the Grange Hall project is that it must be designated as a local historic landmark before April 1, 2003, in order for the City to apply for grant funding for the rehabilitation. The proposed ordinance allows the City Council to act as the landmarking board until a qualified citizen board is appointed. If City Council passes the ordinance on first reading on March 17, and it is passed on second reading on March 24, a public hearing will also be scheduled for March 24 for the City Council to consider the local designation of the Grange Hall as a local landmark. If the ordinance is passed and the Grange Hall is designated as a local landmark, Staff will apply for a SHF grant on April 1 to fund the first phase of the Grange Hall rehabilitation.

Conclusion

Enactment of a historic preservation ordinance is necessary for the City to qualify as a CLG. By taking the steps necessary to become a CLG, the City would be creating the opportunity for state gambling funds to be obtained to support historic preservation projects in Westminster. These are funds that are not otherwise available to supplement the City's resources. Also, by becoming a CLG, owners of homes that are designated as local landmarks will be able to take advantage of state tax credits of up to \$50,000 for qualified expenditures on home rehabilitation projects. These financial resources that are brought to the community may also result in indirect economic benefits for business and City sales and property tax revenues.

SUBJECT: Councillor's Bill re Historic Preservation Ordinance

Page 4

In addition to the financial benefits of such a program, a preservation program could have a significant impact on the beauty, civic interest and pride in a number of areas of the City. The intangible benefits could contribute significantly to revitalization efforts in older parts of the City, as well as supporting interesting projects that may be created around places such as the Wesley Cemetery.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. 12

SERIES OF 2003

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE ESTABLISHING A PROGRAM FOR IDENTIFICATION, PRESERVATION
AND USE OF CITY LANDMARKS

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Chapter 13 of Title XI of the Westminster Municipal Code is hereby adopted to read as follows:

11-13-1: DECLARATION OF POLICY AND PURPOSE:

(A) The Council finds that the pressures of population growth and development may result in the destruction, impairment or drastic alteration of the buildings, structures and areas important to the City's social, cultural, historic and architectural heritage. It is further found that the prevention of such destruction and impairment and the attendant preservation of the City's social, cultural, historic and architectural heritage is essential to the public health, safety and welfare.

(B) The purpose of this chapter is to promote the public health, safety and welfare through:

1. The protection, enhancement, perpetuation and use of buildings, structures, sites and areas that are reminders of past eras, events and persons important in local, state or national history, or which provide significant examples of architectural styles of the past, or which are unique and irreplaceable assets to the City and its neighborhoods, or which provide for this and future generations examples of the physical surroundings in which past generations lived;

2. The development and maintenance of appropriate settings and environments for such buildings and structures, and in such sites and areas;

3. The enhancement of property values, the stabilization of neighborhoods and areas of the City, the increase of economic and financial benefits to the City and its inhabitants, and the promotion of visitor trade and interest;

4. The preservation and enhancement of a City of varied architectural styles, reflecting the distinct phases of its history: cultural, social, economic, political and architectural;

5. The enrichment of human life in its spiritual, educational and cultural dimensions by fostering knowledge of the living heritage of the past; and

6. The provision of educational opportunities and to increase the appreciation of local and state history.

(C) The intent of this chapter is to create a reasonable balance between private property rights and the public interest in preserving Westminster's unique historic character and culture. It is also the intent of this chapter not to preserve every old building in the City, but rather to provide incentives to preserve historic and architecturally significant sites, buildings, structures, neighborhoods and districts by providing guidelines for the appropriate use of land and the moving, demolition, reconstruction, restoration or alteration of such buildings, sites and structures that comply with state and federal historic preservation laws, thereby making certain tax credits available to private property owners and making other benefits and incentives available for preservation projects.

11-13-2: DEFINITIONS:

As used in this chapter, the following words and terms are defined as follows:

ALTERATION: Any act or process that changes either one or more of the exterior architectural features of a structure; or one or more of the physical features of a site or district, except color or paint.

BOARD: The City's historic landmark board as created in this chapter.

CERTIFICATE OF HISTORIC APPROPRIATENESS: A certificate issued by the City showing approval of plans for construction, demolition, moving, reconstruction, restoration or alteration of any structure in a historic landmark district or designated as a historic landmark.

CONTRIBUTING STRUCTURES: Those structures or physical features within a site or district that help to define the historic significance of that site or district.

CULTURAL LANDSCAPE: A geographic area (including both cultural and natural resources and the wildlife or domestic animals therein) associated with a historic event, activity, or person or exhibiting other cultural or aesthetic values.

DEMOLITION: Any act or process which destroys, in part or in whole, any historic landmark.

DESIGNATED LANDMARK OR DISTRICT: A structure, site or district officially included in the State of Colorado or National Register of Historic Places, or designated pursuant to this chapter as a historic landmark.

DIRECTOR: The City's Director of Community Development or his or her designee.

EXTERIOR ARCHITECTURAL FEATURES: The architectural style and general arrangement of the exterior of the structure including type and texture of the building materials and including all windows, doors, siding, roofs, lights, signs and other fixtures appurtenant thereto, if such physical component is visible from a public way or adjoining properties.

HISTORIC DESIGNATION: The formal recognition of a historic structure, site, or district by the City pursuant to this chapter.

HISTORIC LANDMARK: Any resources of this City either public and private, including buildings, homes, replicas, structures, objects, properties, cultural landscapes or sites that have importance in the history, architecture, archeology, or culture of this City, state or nation, as determined by the board and having received a historic designation because of its significance and importance to the community.

HISTORIC LANDMARK DISTRICT: A geographically definable area including a concentration, linkage or continuity of subsurface sites, cultural landscapes, buildings, structures, and/or objects. A district is related by a pattern of either physical elements or social activities. A term "district" may include, but is not limited to, neighborhoods, agricultural or commercial districts.

HISTORIC LANDMARK BOARD: The City Council or a citizen committee appointed by the City Council to make recommendations to the Council on the designation of historic landmarks and historic districts and to administer the City's historic landmark program, and hereinafter referred to as the "board." The board shall perform the various functions and duties provided for it in this chapter.

HISTORIC SITE: A landscape significant for its association with a historic event, activity or person.

HISTORIC SIGNIFICANCE: That which has a special historic or aesthetic interest or value as part of the development, heritage, cultural or historic character of the City, region, state or nation.

MAINTENANCE AND REPAIR: Any work, for which a building permit is not required by law, where the purpose and effect of such work is to correct any deterioration, decay of, or damage to a structure or any architecturally significant part thereof, and to restore or replace, as nearly as may be practicable, to its condition prior to the occurrence of such deterioration, decay or damage, and which work does not effect a significant change in the external appearance of the structure.

OVERWHELMING HISTORICAL SIGNIFICANCE means:

1. Possessing such unusual or uncommon significance that any structure's potential demolition or major alteration would diminish the character and sense of place in the City; or
2. Possessing superior or outstanding examples of the architecture, social or geographic historic significance criteria outlined in the standards and criteria set forth in this chapter. The term "superior" shall mean excellence of its kind and the term "outstanding" shall mean marked by eminence and distinction.

OWNER: The person or persons listed in the records of the county clerk and recorder or county assessor as owner of a subject property.

PRESERVATION: The act or process of applying measures necessary to sustain the existing form, integrity, and materials of a historic landmark.

RECONSTRUCTION: The act or process of depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location.

REHABILITATION: The act or process of making a compatible use for a property through repair, alterations, and additions while preserving those portions or features that convey its historic, cultural or architectural values.

RESTORATION: The act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from other periods in its history.

SIGNIFICANT CHANGE: An alteration or modification in the external appearance that has or is likely to have influence or effect on the historic or architectural merit of a structure or site, including, but not limited to all activities for which a building permit is required.

11-13-3: HISTORIC LANDMARK BOARD CREATED:

(A) There is hereby created a historic landmark board, which shall have the principal responsibility for matters involving historic landmarks as set forth in this chapter. The City Council may act as the board pursuant to this chapter until it appoints a qualified citizen board as provided herein.

(B) The board shall consist of five (5) to seven (7) members, appointed by the City Council, who have a demonstrated interest, competence or knowledge in historic preservation. The City Council may appoint up to two (2) alternate members, who shall attend meetings and participate fully in the activities, programs, and duties of the board. An alternate shall serve as a voting member of the board in the absence of a regular member, including the abstention of a member due to a conflict of interest. The board shall be composed of both professional and lay members and at least 40 percent shall be professionals in preservation-related disciplines, such as architecture, landscape architecture, architectural history, archaeology, history, and planning, or related disciplines such as building trades, real estate, law, cultural geography or cultural anthropology.

(C) Initial appointments shall be made for one (1) and two (2) year terms, in order to stagger the expiration of terms, and thereafter members shall be appointed for two (2) year terms.

(D) From among its regular members, the board shall select a chair and vice-chair at the first meeting of each calendar year.

(E) The board shall meet at least quarterly, unless applications or other requests for action are pending, in which case, the board shall meet at least monthly. All board meetings shall be open to the public with exceptions for executive sessions as provided for the City Council in this Code and as provided by any preservation-related state and federal law.

(F) A majority of the number of currently appointed regular board members shall constitute a quorum. An alternate may substitute for a regular board member to create a quorum. If a quorum is not present, then the chair of the board may set a new date for a special hearing or the matters scheduled for that hearing shall be heard on the next regularly scheduled hearing date.

(G) The board shall adopt bylaws and other administrative guidelines to govern the conduct of its meetings, which shall be made available to the public.

11-13-4: POWERS AND DUTIES OF THE HISTORIC LANDMARK BOARD:

Within available staff, volunteer and financial resources, the historic landmark board shall:

(A) Adopt criteria for review of historic resources and for review of proposals to alter, demolish, or move designated resources, that are in addition to and consistent with the criteria set forth in this chapter.

(B) Review properties nominated for designation as a historic landmark or a historic landmark district, and make recommendations to the City Council regarding historic designations.

- (C) Encourage owners of historic properties to maintain them in good repair, and advise and assist owners of historic properties concerning physical and financial aspects of preservation, renovation, rehabilitation, and restoration, including nomination to the national and state registers of historic places.
- (D) Develop and assist in public education programs including, but not limited to, school programs, walking tours, brochures, a marker program for historic properties, interpretive sites and programs, lectures, and conferences about the history of the local and regional community, the value of preserving historic properties, and the materials and methods of preservation.
- (E) Review applications for and issue certificates of historic appropriateness pursuant to this chapter.
- (F) Conduct surveys of historic properties, structures and areas in order to define those of historic significance, for the purpose of creating a preservation plan of historic properties and districts.
- (G) Pursue financial assistance for preservation and history-related programs.
- (H) Maintain records and files on all board actions and provide documentation as necessary to the State Historical Fund.
- (I) Develop and modify as needed a checklist of activities critical to the maintenance of a historic landmark to be completed as a requirement for receiving a tax rebate.
- (J) Identify and implement other incentives for owners of historic properties.
- (K) Authorize and implement such steps as it deems desirable to recognize the merit of and to encourage the protection, enhancement, perpetuation, and use of any historic landmark or historic landmark district by, without limitation, issuing certificates of recognition and authorizing plaques to be affixed to the exteriors of such structures.
- (L) Pursue these duties and any others required by state and federal law in order to qualify the City as a certified local government under applicable historic preservation laws.
- (M) Foster civic pride and awareness of the unique heritage of the City.

11-13-5: CRITERIA FOR DESIGNATION: The board will consider the following criteria in reviewing nominations of properties for designation:

- (A) Properties receiving historic designations shall be at least fifty (50) years old except as otherwise provided herein and possess architectural, social, or geographical/environmental importance by meeting one or more of the following:
 1. Exemplifies specific elements of an architectural style or period;
 2. Is an example of the work of an architect or builder who is recognized for expertise nationally, statewide, regionally, or locally;
 3. Demonstrates superior craftsmanship or high artistic value;
 4. Represents an innovation in construction, materials or design;
 5. Represents a style particularly associated with the Westminster area;
 6. Represents a built environment of a group of people in an era of history;
 7. Represents a pattern or grouping of elements representing at least one of the above criteria;
 8. Has undergone significant historic remodel;
 9. Is the site of historic event that had an effect upon society;
 10. Exemplifies cultural, political, economic or social heritage of the community;
 11. Represents an association with a notable person or the work of a notable person;
 12. Represents a typical example/association with a particular ethnic group;
 13. Represents a unique example of an event in history;
 14. Enhances sense of identity of the community;
 15. Is an established and familiar natural setting or visual feature of the community.

(B) Additional Criteria For Historic Landmark Districts: A district is related by a pattern of either physical elements or social activities. Significance is determined by applying criteria in this chapter to the patterns and unifying elements. District designations will not be considered unless the application contains written approval of all property owners within the district boundaries. Properties that do not contribute to the significance of the historic landmark district may be included within the boundaries, as long as the noncontributing elements do not noticeably detract from the district's sense of time, place and historic development. Noncontributing elements will be evaluated for their magnitude of impact by considering their size, scale, design, location, and/or information potential.

(C) Any site listed on the State or National Register of Historic Places shall be deemed to qualify for local designation under this Chapter, but shall not be locally designated until an application for designation is filed and processed pursuant to this chapter.

11-13-6: PROCEDURES FOR NOMINATION OF HISTORIC LANDMARKS AND DISTRICTS:

(A) Who May Nominate: The board, City Council, or the Westminster Historical Society may nominate a property, area or structure for designation as a historic landmark or historic landmark district or a property owner may nominate his or her own property. If a nomination is received from a party other than the property owner, the nominating party shall contact the owner or owners of such historic property, outlining the reasons for and the effects of designation as a historic property, and shall secure the consent of the owner or owners to such designation before the nomination is accepted as complete for review.

(B) The nominating party shall file an application with the director on forms prescribed by the board, and shall include the names of all owners of property included in the proposed designation, and shall be accompanied by all information required by the board. The director shall transmit copies of the application to relevant City departments and the Westminster Historical Society for comment. If the nominating party is not the property owner, the director shall keep the owner informed of all steps in the designation proceedings and provide copies of documents that are filed with the City.

(C) Nomination Contents: Each such nomination shall include a description of the characteristics of the proposed historic landmark that justify its designation pursuant to this chapter, a description of the particular features that should be preserved, and shall include a legal description of the location and boundaries of the historic property. Any such designation shall be in furtherance of and in conformance with the purposes and standards of this chapter.

11-13-7: PROCEDURES FOR DESIGNATION OF HISTORIC LANDMARKS AND HISTORIC DISTRICTS:

(A) Application:

1. Any completed application for designation, once reviewed by the director, shall be promptly referred to the board. The board shall hold a public hearing on the proposal not less than thirty (30) days nor more than sixty (60) days after the filing of the application to consider the adoption of the designation resolution. The hearing may be held less than thirty (30) days after submission of the application, upon mutual consent of the applicant and the board.

2. Notice of the public hearing shall be published and posted at least ten (10) days prior to the hearing.

3. The director shall review the proposed designation with respect to: a) its relationship to the comprehensive plan; b) the effect of the designation on the surrounding neighborhood; c) the criteria set forth in this chapter; and d) such other planning considerations as may be relevant to the proposed designation. The director shall provide written comments and recommendations regarding the proposed designation to the board no less than seven (7) days before the hearing.

(B) Public hearings shall be conducted as quasi-judicial hearings, following procedures comparable to those used by City Council, unless specific procedures are provided by board bylaw.

(C) The board recommendation to the City Council shall be made after the board has heard all interested parties and relevant evidence. With the consent of the nominating party, the board may continue the hearing from time to time as necessary to gather all relevant evidence to make its recommendation. The board shall consider the conformance or lack of conformance of the proposed designation with the purposes, standards and criteria of this chapter. The board shall either recommend approval, modification and approval, or disapproval of the proposal and shall promptly refer the proposal, with a copy of its report and recommendations, to the Council. If the landowner is not satisfied with the recommendation to the Council, the landowner may withdraw the application, or withdraw consent to the application made by another nominating party, prior to the Council's action on the proposed designation.

(D) Proceedings Before The Council:

1. Within thirty (30) days after the date of any referral from the board, the Council shall hold a public hearing on the proposed designation. Notice of the public hearing shall be published and posted at least four (4) days prior to the hearing.

2. The Council shall, by resolution, approve, modify and approve, or disapprove the proposed designation and shall issue written findings in accordance with and after considering the criteria as set forth for historic landmarks and historic landmark districts. Such designating resolution shall include a description of the characteristics of the site that justify its designation and a description of the features that should be preserved or enhanced, and shall include a legal description of the location and boundaries of the historic landmark. The designating resolution may also indicate alterations that would have a significant impact upon, or be potentially detrimental to, the historic landmark. The owner(s) of the property nominated shall be notified of Council's decision. Once designated, the landmark shall be required to display appropriate signage as determined by the board, notifying the public of such designation.

(E) Recording The Designation:

1. The historic designation resolution of the City Council shall be recorded within the real estate records of the county in which the property is located as soon as possible after the effective date of the resolution.

2. Within fifteen (15) days after recording of the historic designation, the director shall send a copy of the resolution to the owner.

(F) A property designated as a historic landmark shall retain that designation in perpetuity, unless the property has lost its historic character as determined pursuant this chapter.

11-13-8: REVOCATION OF DESIGNATION:

(A) If a structure or physical feature on a designated historic landmark site was lawfully removed or demolished, the owner may apply to the board for revocation of designation. The board shall recommend revocation of a historic landmark designation if it determines that without the demolished structure or physical feature the site as a whole no longer meets the purposes and standards of this chapter and the board's review standards for designation.

(B) Upon the board's recommendation to revoke a designation, the director shall cause to be prepared a resolution including the legal description of the affected property stating notice of the revocation, and schedule the item for City Council review. Upon adoption by the City Council, the resolution shall be recorded within the real estate records of the county in which the property is located.

(C) The City Council may revoke designation of a historic landmark if the public benefits of alteration, removal or demolition of the landmark outweigh the public benefits of maintaining the designation.

11-13-9: SPECIAL DUTIES AND OBLIGATIONS OF OWNERS OF HISTORIC PROPERTIES:

(A) It shall be unlawful for owners of historic landmarks to allow:

1. The deterioration of exterior walls or other vertical supports;
2. The deterioration of roofs or other horizontal members;

3. The deterioration of external chimneys;
4. The deterioration or crumbling of exterior plasters, mortars, brick, stone or wood siding;
5. The ineffective waterproofing of exterior walls, roof, and foundations, including windows and doors;
6. The peeling of paint, rotting, holes and other forms of decay;
7. The lack of maintenance of surrounding environment, e.g., fences, gates, sidewalks, steps, signs, accessory structures and landscaping to produce a detrimental effect on a historic landmark;
8. The deterioration of any feature so as to create or permit the creation of any hazardous or unsafe condition or conditions.

(B) Before an owner is cited for failure to maintain the historic landmark or structure in a historic landmark district, the board shall notify the property owner, lessee, or occupant of the need to repair or maintain, and shall assist the owner, lessee, or occupant in determining how to preserve the property, and shall give the owner a reasonable time to perform such work, which time shall not exceed one hundred twenty (120) days. The board may grant extensions of the time period for good cause.

11-13-10: CERTIFICATE OF HISTORIC APPROPRIATENESS:

(A) A certificate of historic appropriateness shall be required for any work other than maintenance and repair on a property subject to a historic designation. It shall be unlawful for any person to perform any work, other than maintenance and repair without having first obtained a certificate of historic appropriateness.

(B) The director shall maintain a current record of: (1) designated historic landmarks; (2) historic landmark districts; and (3) all pending proposed designations.

(C) Upon any application for a permit to carry out any construction, alteration, removal or demolition of a building or other designated feature to a historic landmark or in a historic landmark district, which would materially alter the exterior of such a building, site or structure, or that involves more than ordinary maintenance and repair, the Department of Community Development shall not issue the requested permits until approved as provided herein, and shall promptly forward such application to the board.

(D) The board shall review any permit applications so forwarded to it to determine whether a certificate of historic appropriateness for the work proposed should be issued.

(E) Applications shall contain such information as is required by the board, so as to assure full presentation of pertinent facts for proper consideration of the application. The application shall be accompanied by plans and specifications showing the proposed exterior appearance, including color, texture of materials and architectural design and detail. Drawings or photographs showing the property in the context of its surroundings shall also be required. In addition, the applicant shall file with his/her application the names and addresses of abutting property owners, including properties across the street from the property.

(F) An application shall be promptly referred to the board. The board shall hold a public hearing on the proposal not less than thirty (30) days, nor more than sixty (60) days after the filing of the application to consider the adoption of the designation resolution. The hearing may be held less than thirty (30) days after submission of the application, upon mutual consent of the applicant and the board.

(G) Notice of the public hearing shall be published and posted at least ten (10) days prior to the hearing.

(H) In determining whether to issue a certificate of historic appropriateness the board shall consider:

1. The effect of the proposed change on the general architectural and/or historic character of the structure or district;
2. The architectural style, arrangement, textures and materials used on existing and proposed structures and their relation to other structures in the district, if applicable;
3. The uniqueness of the structure and how it ties in with the history of the area;

4. The size of the structure, its setbacks, its site, location, and the appropriateness thereof, when compared to existing nearby structures and the site;
 5. The effects of the proposed work in creating, changing, destroying or otherwise affecting the exterior architectural features of the structure upon which such work is done;
 6. The effect of the proposed work on the protection, enhancement, perpetuation and use of the structure, area or district;
 7. The condition of existing improvements and whether they are a hazard to the public health or safety;
 8. The economic viability of maintaining the structure or area as is;
 9. Whether the property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment;
 10. Whether the historic character of a property is being retained and preserved;
 11. Visual compatibility with designated historic structures located on the property in terms of design, finish, material, scale, mass and height. When the subject site is within a historic landmark district, the board must also find that the proposed development is visually compatible with the development on adjacent properties. For the purposes of this chapter, the term "compatible" shall mean consistent with, harmonious with, and/or enhances the mixture of complementary architectural styles either of the architecture of an individual structure or the character of the surrounding structures.
- (I) Limitations On Alterations: The following criteria shall apply to all alterations or changes:
1. Distinctive features, finishes and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
 2. The removal or alteration of any historical material or distinctive features shall be avoided when possible.
 3. Deteriorated historic features shall be repaired rather than replaced when possible. When the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical or pictorial evidence.
 4. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
 5. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
 6. New additions, exterior alterations or related new construction shall not destroy historic materials that characterize the property and shall be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic landmark and its environment would be unimpaired. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale and architectural features to protect the historic integrity of the property and its environment.
 7. All historic or contributing buildings, structures, and sites shall be recognized as products of their own time and place. Changes that may have taken place in the course of time are evidence of the history and development of a building, structure, site or environment. These changes may have acquired significance in their own right, and shall be retained and preserved. Alterations that have no historical basis and which seek to create an earlier or non-local appearance shall be discouraged.
 8. Every reasonable effort shall be made to provide a compatible use for a property that requires minimal alteration to the defining characteristics, as identified in the application for designation, of the building, structure, or site and its environment, or to use the property for its originally intended purpose.

(J) Board Action: The board shall approve or disapprove the application in whole or in part. Any decision of the board approving or disapproving a certificate of historic appropriateness shall be final in thirty (30) days. The board shall issue a Certificate of Historic Appropriateness for any proposed work on a designated historical landmark only if the board can determine that the proposed work would not detrimentally alter, destroy, or adversely affect any feature that was found by the board in the original designation to contribute to the designation of the property as a landmark.

11-13-11: RELOCATION OF AN HISTORIC LANDMARK:

It shall be unlawful for any person to relocate a historic landmark, a contributing structure on a historic site, a building or structure within a historic landmark district; a structure onto a historic site; or a structure onto property in a historic landmark district without having first obtained a certificate of historic appropriateness. In addition to the alterations criteria in this chapter, the board shall apply the following criteria in considering applications for relocating a historic landmark, a contributing structure on a historic site, a building or structure within a historic landmark district; a structure onto a historic site; or a structure onto property in a historic landmark district:

(A) With regard to the original site, the board will review for compliance with all of the following criteria:

1. Documentation showing the structure cannot be rehabilitated or reused on its original site to provide for any reasonable beneficial use of the property;
2. Whether the structure makes a substantial contribution to its present setting;
3. Whether plans are specifically defined for the site to be vacated and have been approved by City Staff;
4. If the structure can be moved without significant damage to its physical integrity and the applicant can show the relocation activity is the best preservation method for the character and integrity of the structure;
5. Whether the structure has been demonstrated to be capable of withstanding the physical impacts of the relocation and re-siting;
6. Whether a structural report submitted by a licensed structural engineer experienced in preservation of structures adequately demonstrates the soundness of the structure proposed for relocation.

(B) With regard to the new location, the board will review for compliance with all of the following criteria:

1. The building or structure must be compatible with its proposed site and adjacent properties and if the receiving site is compatible in nature with the structure or structures proposed to be moved.
2. The structure's architectural integrity is consistent with the character of the receiving neighborhood.
3. The relocation of the historic structure would not diminish the integrity or character of the neighborhood of the receiving site.
4. A relocation plan has been submitted and approved by the City Staff, including posting a bond, to ensure the safe relocation, preservation and repair (if required) of the structure, site preparation and infrastructure connections.

11-13-12: DEMOLITION OF A HISTORIC LANDMARK:

It shall be unlawful for any historic landmark or property in a historic landmark district to be demolished without having first obtained a certificate for demolition. If a certificate for demolition is requested on any basis other than that of an imminent hazard or economic hardship, a certificate of demolition will not be issued until all criteria in subsection (A) of this section are met.

(A) Review Criteria For Total Demolition: Applicants requesting a certificate of demolition must provide data to clearly demonstrate that the situation meets all of the following criteria:

1. The structure proposed for demolition is not structurally sound despite evidence of the owner's efforts to properly maintain the structure; and
2. The structure cannot be rehabilitated or reused on-site to provide for any reasonable beneficial use of the property; and
3. The structure cannot be practically moved to another site; and
4. The applicant demonstrates that the proposal mitigates to the greatest extent practical the following:
 - (a) Any impacts that occur to the visual character of the neighborhood where demolition is proposed to occur.
 - (b) Any impact on the historic importance of the remaining structure(s) located on the property and adjacent properties.
 - (c) Any impact to the architectural integrity of the remaining structure(s) located on the property and adjacent properties.
5. In the case of archeological sites, consideration will be given to whether information can be recovered as part of the demolition process.

(B) Review Criteria For Partial Demolition:

1. The partial demolition is required for the renovation, restoration or rehabilitation of the structure; and
2. The applicant must mitigate, to the greatest extent possible:
 - (a) Impacts on the historic importance of the structure(s) located on the property.
 - (b) Impacts on the architectural integrity of the structure(s) located on the property.

11-13-13: ACTION OF BOARD UPON DENIAL OF CERTIFICATE OF HISTORIC APPROPRIATENESS:

(A) If the proposed certificate of historic appropriateness to alter, relocate or demolish is denied, the board, acting with all due diligence, shall explore with the applicant available means for substantially preserving the historic landmark that was affected by the determination. These investigations may include by way of example and not of limitation:

1. Feasibility of modification of plans.
2. Feasibility of any alternative use of the structures that would substantially preserve the original character.

(B) One year after denial of a certificate of historic appropriateness for demolition, if no feasible use or ownership is found for the structure, the owner may request a waiver of all or a part of the restraint of demolition. The board will include the following factors in their consideration of the request:

1. Documented evidence of applications and written correspondence, including written consultations, illustrating efforts made by the property owner to make necessary repairs, to find an appropriate user, or to find a purchaser for the property; and
2. The adequacy of the property owner's efforts to locate available assistance for making the property functional without demolition.

11-13-14: HARSHIP EXEMPTION:

The board may exempt a property from the requirement of obtaining a certificate of historic appropriateness if the board finds that the property owner has shown the historic designation creates or would create an undue hardship.

(A) An exemption based on non-economic hardship may be found by the board when designation creates a situation substantially inadequate to meet the applicant's needs because of specific health and/or safety issues.

(B) An exemption based on economic hardship may be found by the board applying the following standards:

1. The applicant's knowledge of the designation at the time of acquisition, or whether the property was designated subsequent to acquisition;

2. The current level of economic return on the property as considered in relation to the following:

(a) The marketability of the property for sale or lease, considered in relation to any listing of the property for sale or lease, and price asked and offers received, if any, within the previous two (2) years.

(b) The infeasibility or feasibility of alternative uses that can earn a reasonable economic return for the property.

(c) Economic incentives and/or funding available to the applicant through federal, state, city, or private programs.

10

(C) Board Determination Of Economic Hardship: The board shall hold a public hearing as soon as practical, after notice, to take final action on the application.

1. Finding Of Economic Hardship: If after reviewing all of the evidence, the historic preservation board finds that the application of the standards set forth in subsection (B) of this subsection results in economic hardship, then the board shall issue a certificate of demolition.

2. Denial Of Economic Hardship: If the board finds that the application of the standards set forth in subsection (B) of this section does not result in economic hardship, then the certificate of demolition shall be denied.

(D) Willful Or Negligent Acts: Economic hardship does not include self-created hardships, willful or negligent acts by the owner, purchase of the property for substantially more than the market value, failure to perform normal maintenance and repairs, failure to diligently solicit and retain tenants, or failure to provide normal tenant improvements.

11-13-15: UNSAFE OR DANGEROUS CONDITIONS EXEMPTED:

Nothing in this chapter shall be construed to prevent any measures of construction, alteration, removal, or demolition necessary to correct the unsafe or dangerous condition of any structure, other feature, or parts thereof where such condition is declared unsafe or dangerous by the City and where the proposed measures have been declared necessary by the chief building official to correct the condition, as long as only such work that is necessary to correct the condition is performed. Any temporary measures may be taken without first obtaining a certificate of historic appropriateness under this chapter, but a certificate is required for permanent alteration, removal, or demolition.

11-13-16: ENFORCEMENT AND PENALTIES:

(A) It shall be unlawful for any person to violate a provision of this Chapter or the terms of a certificate of historic appropriateness. Any person, either as owner, lessee, occupant, or otherwise, who violates any of the provisions of this Title, or any amendment thereof, or who interferes in any manner with any person in the performance of a right or duty granted or imposed upon him by the provisions of this Title, shall be subject to the fines provided by Section 1-8-1 of this Code.

(B) In addition:

1. Alterations to a designated historic landmark or historic landmark district without an approved certificate of historic appropriateness will result in a one-year moratorium on all building permits for the subject property.

2. Moving or demolishing or allowing demolition by neglect of a designated structure without an approved certificate of historic appropriateness will result in a five (5) year moratorium on all moving, demolition, or building permits for the structure and for the property at the structure's original location.

3. In addition to the other remedies provided in this chapter, the City Attorney may commence an action at law or equity in any court of competent jurisdiction to enforce the provisions of this chapter.

11-13-17: CITY COUNCIL REVIEW OF DESIGNATION, ALTERATION, REMOVAL AND DEMOLITION: Nothing in this Chapter shall prevent the City Council from revoking a historic landmark designation in order to carry out specified public purposes with benefits to the public that outweigh the benefits of maintaining the historic landmark designation.

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

Section 3. 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 17th day of March, 2003

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 24th day of March, 2003.

Mayor

ATTEST:

City Clerk



**WESTMINSTER
COLORADO**

Agenda Memorandum

City Council Meeting
March 17, 2003



SUBJECT: Councillor’s Bill No. 13 re Amusement Centers Code Amendments

Prepared By: Sharon Widener, Assistant City Attorney
Michele Kelley, City Clerk

Recommended City Council Action

Pass Councillor’s Bill No. 13 amending Chapter 5 of Title 9 of the Westminster Municipal Code concerning regulating amusement centers.

Summary Statement

Eric Johns, owner of Laser Storm, located at 9041 Harlan Street, came to a City Council meeting requesting a change to the hours of operation for their business so young people could participate until midnight on weekends.

A letter was received from AMC Theatres also requesting changing the hours, the number of machines allowed without a security guard, and eliminating the requirement for a public hearing if less than 13 machines are on the premises.

At Council’s direction, Staff has researched possible changes and evaluated the entire ordinance. Currently, for businesses with more than six amusement machines, the ordinance requires a public hearing before a license is granted, requires the presence of a security guard if the business has seven or more machines, and restricts hours of operation to 11 a.m. to 11:00 p.m. (unless the business has a liquor license, in which case any restrictions on hours are those of the liquor license), and prohibits the playing of the machines by persons under 16 unless a security guard is present. In addition, the City collects a fee of \$40 per amusement machine, and sales tax is paid based on the use of each machine.

This ordinance was originally created in 1975 when there appeared to be much public consternation about minors playing amusement machines, especially the then-new electronic games. In the last twenty years, the City Clerk has not received any complaints or concerns about amusement machines from the public nor has anyone appeared to express concerns at the public hearings. The Police Department has experienced no more service calls to businesses having amusement machines than other any type of business that attracts similar numbers of people for entertainment.

Staff recommends that the regulation of amusement centers be amended. The proposed amendments include eliminating the requirement of a public hearing, changing the hours of operation, and increasing the number of machines before requiring a security guard. The ability to revoke a license for extraordinary numbers or types of disturbances would be applied here in the same manner as for other businesses. A modification to the ordinance is also proposed to clarify that amusement center licenses are not transferable. Hours of operation would be amended to reflect the hours allowed under Section 6-3-11 pertaining to Nighttime Juvenile Loitering.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

If regulation of amusement centers is to be continued, should the regulations concerning hours of operation, the need for security guards, restrictions based on age of the customer, and public hearings before granting a license be modified?

Alternatives

1. Council could determine that conducting a public hearing continues to be necessary for new amusement center applicants.
2. Council could determine that a security guard continues to be necessary if seven or more machines are at any one location.

Background Information

Currently, the City has 40 businesses with amusement machines. Of the 40 businesses, eight businesses have more than six amusement machines. These eight businesses account for 390 of the 511 total amusement machines licensed in the City.

The following is a summary of the proposed changes:

1. Clarify that amusement center licenses are not transferable. (5-9-1)
2. Eliminate the requirement for public hearings before the Special Permit and License Board for a license for seven or more amusement machines and authorize the City Manager to issue amusement center licenses. (5-9-2)
3. Eliminate the application fee since the fee covered the cost of petitioning before the Special Permit and License Board hearing, which has been eliminated. (5-9-3)
4. Authorize the City Manager to suspend or revoke licenses with an appeal to the Special Permit and License Board if requested. (5-9-5)
5. Eliminate the requirement for a new license upon change in corporate structure or remodeling. (former 5-9-6)
6. Allow licensed business to open at 10 a.m. and stay open until midnight on Fridays and Saturdays. (5-9-6)
7. Allow businesses to host private events, with certain conditions, at hours later than otherwise allowed. (5-9-7)
8. Allow persons under 16 to play the devices if the business has 12 or fewer devices or has a security guard. (5-9-6)
9. Allow the business to have up to 12 devices before requiring a security guard. (5-9-7)

Police Department Staff have reviewed the proposed amendments to this ordinance and concur with the recommendations set forth in this Staff Report.

The proposed ordinance allows the City Manager to revoke a license if there are problems, and also sets forth that the Special Permit and License Board would conduct a hearing on an appeal.

These proposed ordinance changes have been reviewed by the Special Permit and License Board by means of an e-mail message. The impact to the Special Permit and License Board will be minimal since most applicants for amusement machines also include a liquor license hearing.

Respectfully submitted,

J. Brent McFall, City Manager
Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **13**

SERIES OF 2003

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AMENDING TITLE 5 OF THE WESTMINSTER MUNICIPAL CODE CONCERNING AMUSEMENT CENTERS

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Chapter 9 of Title 5, Westminster Municipal Code, is hereby amended to read as follows:.

5-9-1: LICENSE REQUIRED: It shall be unlawful for any person to operate or conduct any place of amusement or recreation offering to the public for a fee the use of any pool or billiard table or any other amusement game, without first obtaining a license therefor pursuant to this Chapter. LICENSES SHALL NOT BE TRANSFERABLE, AND UPON A CHANGE OF OWNER OR CHANGE OF LOCATION, A NEW LICENSE MUST BE OBTAINED.

5-9-2: LICENSE APPLICATION:

~~(A) Original or renewal application for premises with a total of seven (7) or more tables or games:~~

~~— (1) The applicant shall submit a verified application to the City Clerk on forms provided by the City Clerk. The application shall include complete plans and specifications for the interior of the premises to be licensed, a copy of the lease or other evidence of the applicant's right to possession of the premises, and information concerning the zoning of the location of the premises and the fee and tax required by this Chapter.~~

~~— (2) The application shall be reviewed by the City Manager, who, within ten (10) days after receipt of the application and after such additional investigation as he may deem necessary, shall schedule a public hearing before the Special Permit and License Board.~~

~~— (3) Notice of such hearing shall be mailed to the applicant by the City Clerk not less than ten (10) days before the hearing date. Notice of such public hearing shall also be given by publication in a newspaper of general circulation in the community once, not less than ten (10) days prior to the hearing date and by posting a notice of hearing upon the premises for at least ten (10) days prior to the hearing. Publication and posting shall be done by the City Clerk.~~

~~(4) The City Clerk shall propose the boundaries of the neighborhood in writing to the Special Permit and License Board with a copy to the applicant. If a majority of the Board or the applicant disputes the proposed neighborhood boundaries, the issue shall be considered by the Board at a public meeting. A dispute of the boundaries by the applicant must be filed within ten (10) days of the letter notifying the applicant of the boundaries established.~~

~~— (5) Prior to the hearing, the City or its designee shall circulate appropriate petitions to determine the needs of the community for such a facility and the desires of its citizens regarding such a facility within the neighborhood surrounding the applicant. The petition form shall be approved by the City.~~

~~— (6) At least five (5) days prior to the public hearing, the City Clerk shall send the petition and investigation results to the applicant and make them available to other interested parties.~~

~~(7) After such public hearing, the Special Permit and License Board shall grant or deny the license and may impose reasonable conditions on the license.~~

~~(8) In determining whether to grant or deny the license, the Board shall take into consideration:~~

~~(a) The character of the applicant;~~

~~(b) The applicant's prior experience and qualifications to operate such a business;~~

- ~~(c) The needs of the community for such a facility and the desires of its citizens regarding such a facility including any petitions or remonstrances evidencing such desires;~~
- ~~(d) Pedestrian safety;~~
- ~~(e) Traffic volume and adequacy of parking and access;~~
- ~~(f) Essential character of the neighborhood and the applicant's effect on the peace of the neighborhood.~~
- ~~(g) Compliance of the facility with all applicable zoning and building regulations;~~
- ~~(h) Police activity in comparable businesses;~~
- ~~(i) Architectural compatibility with the character of the neighborhood.~~

~~(9) The Special Permit and License Board may require additional security guards for applicants with more than fifty (50) tables or machines.~~

~~(B) Original or renewal application for premises with a total of six (6) tables, games or machines or less:~~

CONDITIONS FOR APPLICATIONS FOR AN ORIGINAL LICENSE OR A RENEWAL:

~~(1)(A) The applicant shall submit a verified application to the City Clerk, on forms provided by the City Clerk, and accompanied by the fee and tax required by this Chapter.~~

~~(2)(B) The application shall be reviewed by the City Manager who shall have the power to grant or deny such license, TO REQUEST AN INVESTIGATION BY THE POLICE DEPARTMENT, and to impose reasonable limitations and restrictions on any license so granted. The City Manager shall evaluate the application under the criteria set forth BELOW, AND THE RESULTS OF AN INVESTIGATION BY THE POLICE DEPARTMENT, IF ANY. in paragraph 8 of subsection (A) of this section.~~

1. THE CHARACTER OF THE APPLICANT;
2. THE APPLICANT'S PRIOR EXPERIENCE AND QUALIFICATIONS TO OPERATE SUCH A BUSINESS;
3. THE NEEDS OF THE COMMUNITY FOR SUCH A FACILITY AND THE DESIRES OF ITS CITIZENS REGARDING SUCH A FACILITY, INCLUDING ANY PETITIONS OR REMONSTRANCES EVIDENCING SUCH DESIRES;
4. PEDESTRIAN SAFETY;
5. TRAFFIC VOLUME AND ADEQUACY OF PARKING AND ACCESS;
6. ESSENTIAL CHARACTER OF THE NEIGHBORHOOD AND THE APPLICANT'S EFFECT ON THE PEACE OF THE NEIGHBORHOOD;
7. COMPLIANCE OF THE FACILITY WITH ALL APPLICABLE ZONING AND BUILDING REGULATIONS;
8. POLICE ACTIVITY IN COMPARABLE BUSINESSES;
9. ARCHITECTURAL COMPATIBILITY WITH THE CHARACTER OF THE NEIGHBORHOOD.

5-9-3: FEES AND TAXES:

~~(A) The application fee for an original license for seven (7) or more tables, games or machines shall be Four Hundred Fifty Dollars (\$450). This fee shall be non-refundable. There shall be no license fee for six (6) tables, games or machines or less. nor shall there be a license fee if the hearing for the amusement center license is held concurrently with a hearing for an application for a liquor license.~~

~~(A) (B) There shall be no APPLICATION fee for a NEW OR renewal license.~~

~~(B) (C) The licensee shall annually remit a tax or excise of Forty Dollars (\$40) per pool or billiard table or coin-operated amusement game or device, payable at the time of filing an application for an original or renewal license or when a new table or game or device is added to the premises. If a license is obtained or a pool or billiard table or coin-operated amusement game or device is added by the licensee after June 30 of a particular year, the tax or excise shall be Twenty Dollars (\$20) each.~~

5-9-4: RENEWAL:

(A) All licenses issued pursuant to this Chapter shall expire December thirty first of the year for which issued, unless cancelled, suspended or revoked, and shall be renewed annually upon application for renewal and payment of the required taxes.

(B) The renewal application shall be reviewed by the City Manager who shall have the power to grant or deny such license renewal and to impose reasonable limitations and restrictions on any license renewed. The City Manager shall evaluate the application under the criteria set forth for original applications.

(C) FAILURE TO PAY REQUIRED FEES OR TAXES SHALL BE GROUNDS TO DENY RENEWAL, AND NO RENEWAL LICENSE SHALL BE ISSUED UNTIL SUCH FEES AND TAXES ARE PAID.

5-9-5: LICENSE DENIAL, CANCELLATION, SUSPENSION OR REVOCATION:

(A) Upon HIS OWN MOTION, OR UPON COMPLAINT BY THE POLICE CHIEF, THE CITY MANAGER ~~the motion of the City Manager or, upon its own motion, the Special Permit and License Board~~ may cancel, suspend or revoke any license at any time on the grounds that it is:

1. Detrimental to the public health, safety or welfare due to the location of the amusement center,
2. Because of the proximity of said location to schools, churches, or other places where the public may congregate,
3. Based on the criteria set forth in section 5-9-2(B)2. ~~5-9-2(A)(8)~~;
4. Based on violation of the provisions of this Code or any other law.
5. Based on the provisions of Chapter 1 of this Title.

~~(B) A license may be denied, cancelled, denied renewal, suspended or revoked for any violation of the provisions of this Chapter, for any reason set forth in Chapter 1 of this Title or on the grounds that the health, safety or welfare of the community may be endangered by the continued operation of the licensee.~~

~~(C)~~ (B) A license may be cancelled, denied renewal, suspended or revoked after the licensee has been given notice ~~and hearing~~. The notice shall set forth the reasons for the proposed action, in writing, and shall be given by personal delivery to the applicant or mailed to the address contained in the license, postage prepaid, or as provided in Chapter 1 of this Title AND SHALL INFORM THE LICENSEE THAT HE MAY REQUEST, IN WRITING TO THE CITY CLERK, A HEARING BEFORE THE SPECIAL PERMIT AND LICENSE BOARD PURSUANT TO SUBSECTION (E) BELOW. Said notice shall be given no less than ten (10) days prior to a hearing to be scheduled before the Special Permit and License Board.

~~(D)~~(C) An application for a new license may be denied by the City Manager, upon the grounds listed above. The applicant may appeal a denial to the Special Permit and License Board, unless the reason for the denial is an incomplete application, nonconformance with THE ZONING OR BUILDING CODE ~~provisions of this code such as zoning or the building code~~, or failure to pay required fees. The reason for the denial of the application shall be provided to the applicant in writing.

~~(E)~~(D) A license may be summarily suspended for no more than thirty (30) days by the City Manager when required for the immediate protection of the public health, safety and welfare. A hearing shall be scheduled as soon as may be reasonably possible.

~~(F)~~(E) The Special Permit and License Board shall conduct A HEARING ON an appeal of the denial of a new license, THE CANCELLATION, DENIAL OF RENEWAL, SUSPENSION, OR REVOCATION OF A LICENSE ~~or a hearing~~ pursuant to the procedures established for hearings in Chapter 1 of this Title. The Special Permit and License Board shall deliver its decision in writing within thirty (30) days.

~~(G)~~(F) Decisions of the Special Permit and License Board are final, subject only to appeal to a court of competent jurisdiction.

~~(H)-(G)~~ Any premises licensed pursuant to this Chapter, including the parking lots and streets and sidewalks adjacent to the premises which become the location of frequent or repeated violations of the City's ordinances including but not limited to disturbances, assaults, thefts, malicious mischief and disorderly conduct is hereby declared to be a nuisance which shall be abated pursuant to the provisions specified in Chapter 4 of Title VIII of this code and the license of said premises shall be revoked.

~~5-9-6: TRANSFER; CHANGE IN NATURE OF BUSINESS:~~

~~(A) Transfer of Business or Stock:~~

~~— (1) Within (30) days after the transfer of ownership of an amusement center, or of the transfer of ownership of ten percent (10%) or more of the capital stock of the corporation, the new owner of the stock or business shall file with the City Clerk a written report of the transfer on forms provided by the City Clerk. The report shall be accompanied by an investigation fee of Two Hundred and Fifty Dollars (\$250.00).~~

~~— (2) Upon receipt of the report of transfer, the City Clerk shall report the transfer to the City Manager, after sufficient investigation by the Police Department, and the City Manager may approve the transfer or, in his sole discretion, recommend to the Special Permit and License Board that a public hearing be held regarding the transfer, at which parties in interest may be heard.~~

~~— (3) The Special Permit and License Board shall conduct the hearing after proper notice is given. Posting, publication, and notice requirements shall be the same as are required for a hearing on an original application.~~

~~— (4) At the hearing, all interested parties may appear and be heard, provided, however, that the Board shall consider only the character of the proposed new owner or owners and whether the new owner or owners comply with all requirements of the code and rules and regulations adopted pursuant to the Code.~~

~~(B) Change in Nature of Business:~~

~~— (1) At least thirty (30) days prior to the commencement of expansion, remodeling, or other change in the nature of the licensed business, the owner shall submit an application for a change in the nature of the business to the City Clerk on forms provided by the City Clerk. The application shall be reviewed by the City Manager, who, within ten (10) days shall determine whether the proposed change in the nature of the business is significant. For purposes of this subsection, "significant change" shall include, but shall not be limited to: (a) an increase or decrease in the total size or capacity of the licensed premises; (b) the sealing off, creation of or relocation of a common entryway, doorway, or passage or other means of public ingress or egress; or (c) any material change in the interior of the premises that would affect the basic character of the premises or the physical structure that existed in the plan on file with the latest prior application. The term does not include painting and redecorating of premises; the installation or replacement of electric fixtures or equipment, plumbing, refrigeration, air conditioning or heating fixtures and equipment; the lowering of ceilings; the installation and replacement of floor coverings; the replacement of furniture and equipment, and other similar changes.~~

~~(2) After investigation by the City Manager, he may approve the proposed change or, in his sole discretion, recommend to the Special Permit and License Board that a public hearing be held regarding the proposed change, at which parties in interest may be heard. The Special Permit and License Board shall conduct the hearing after proper notice is given. Posting, publication, and notice requirements shall be the same as are required for a hearing on an original application. Criteria for approval shall be as for an original application. Petitioning shall be at the discretion of the Special Permit and License Board.~~

5-9-7: 5-9-6: HOURS OF OPERATION; AGE LIMITATION:

(A) 1. Except for premises licensed for the sale of fermented malt beverages, malt, vinous or spirituous liquor for consumption on the premises, premises licensed pursuant to this Chapter shall be open to the public not earlier than TEN O'CLOCK (10:00) ~~eleven o'clock (11:00)~~ and not later than eleven o'clock (11:00) P.M ON MONDAYS THROUGH THURSDAYS AND SUNDAYS; AND ON FRIDAYS AND SATURDAYS SHALL BE OPEN TO THE PUBLIC NO EARLIER THAN TEN O'CLOCK (10:00) A.M. AND NOT LATER THAN MIDNIGHT (12:00 AM). ~~daily~~. An adult twenty one (21) years of age or older shall be present on and responsible for management of the premises during all hours of operation.

2. PRIVATE EVENTS: LICENSED AMUSEMENT CENTERS MAY CONDUCT PRIVATE EVENTS OUTSIDE THE HOURS OF OPERATION STATED IN 5-9-6(A) IN COMPLIANCE WITH THE FOLLOWING:

a. THE CENTER MAY NOT BE LICENSED FOR THE SALE OF FERMENT MALT BEVERAGES, MALT, VINOUS OR SPIRITUOUS LIQUOR, NOR MAY ANY OF THE SAME BE SOLD, SERVED, OR CONSUMED ON THE PREMISES.

b. IF MINORS ARE IN ATTENDANCE, THERE MUST BE ONE (1) ADULT SUPERVISOR FOR EVERY EIGHT (8) MINORS.

c. MINORS MUST REMAIN IN THE BUILDING AND MUST NOT BE ALLOWED TO LEAVE AND RE-ENTER DURING THE EVENT.

d. PARTICIPANTS MUST NOT BE ALLOWED TO CONGREGATE OR LOITER IN THE PARKING LOT OR NEARBY AREAS AND MUST COMPLY WITH THE REGULATION OF NIGHTTIME JUVENILE LOITERING, SECTION 6-3-11

e. THE CENTER MUST NOT ALLOW ANY FORM OF ENTERTAINMENT OTHER THAN THOSE AMUSEMENT DEVICES FOR WHICH IT IS LICENSED.

f. THE CENTER MUST REPORT THE EVENT TO THE CITY CLERK IN WRITING, WITH A COPY TO THE POLICE DEPARTMENT, AT LEAST SEVENTY-TWO (72) HOURS IN ADVANCE.

“PRIVATE EVENT” MEANS AN EVENT FOR WHICH THE CENTER HAS CLOSED THE PREMISES TO THE GENERAL PUBLIC.

(B) Unless the licensee of the premises maintains a full-time ~~City-licensed~~ security guard, OR HAS TWELVE OR LESS AMUSEMENT DEVICES, it shall be unlawful for a licensee or any other person in charge of the licensed premises to permit any pool or billiard table or coin-operated amusement games or devices to be used by any person under the age of sixteen (16) years or to allow any such persons to congregate or remain upon the licensed premises unless accompanied by a parent or legal guardian. Such security guard shall be in addition to the adult manager of the premises. This section shall not apply to premises licensed for the sale of fermented malt beverages, malt, vinous or spirituous liquor for consumption on the premises.

(C) When operating a total of ~~six (6)~~ TWELVE (12) or less of the AMUSEMENT devices referred to in THIS CHAPTER, ~~5-9-2 (B)~~, premises used principally for the conduct of another business, including, but not limited to grocery store, convenience store, drugstore, bowling alley or tavern shall not be subject to the provisions of this section.

5-9-8: 5-9-7: SECURITY GUARDS:

(A) The owner of any premises licensed pursuant to this Chapter shall maintain security guards ~~licensed pursuant to Title V, Chapter 13 of this Code~~. The number of security guards required shall be calculated as follows:

1. Premises licensed for the sale of fermented malt beverages, or malt, vinous or spirituous liquor for consumption on the premises: For THIRTEEN (13) ~~seven (7)~~ to fifty (50) tables or machines, one (1) guard on duty during all hours of operation; for more than fifty (50) tables or machines, one (1) or more additional guards may be required for such hours as the CITY MANAGER ~~Special Permit and License Board~~ may decide based on, but not limited to, the number of machines, the location and design of the premises, the number of occupants, peak hours of operation, and staffing levels.

2. All other premises: For ~~seven (7)~~ THIRTEEN (13) to fifty (50) tables or machines, one (1) guard on duty during all hours of operation; for more than fifty (50) tables or machines, one (1) or more additional guards may be required for such hours as the CITY MANAGER ~~Special Permit and License Board~~ may decide based on, but not limited to, the number of machines, the location and design of the premises, the number of occupants, peak hours of operation, and staffing levels.

(B) For premises licensed for more than fifty (50) machines or tables, any requirements for security guards in excess of one (1) security guard, imposed pursuant to subsection (A) of this section, shall be stated on the license. These conditions shall be reviewed annually by the City Manager upon application for renewal of the license or at any time at the request of the City Council, ~~the Special Permit and License Board~~, or the Chief of Police based on a finding that security measures are insufficient to protect the public health, safety and welfare. ~~Upon recommendation by the City Manager, the Special Permit and License Board~~ THE CITY MANAGER may adjust these conditions based on, but not limited to, the following factors: The number of machines, the location and design of the premises, the number of occupants, peak hours of operation, and staffing levels. The City Manager's DECISION ~~recommendation~~ regarding additional security shall be mailed to the licensee. The licensee MAY request a hearing on the matter before the Special Permit and License Board within ten (10) days after the letter is mailed to the licensee. FAILURE TO TIMELY REQUEST A HEARING SHALL BE DEEMED A WAIVER OF A HEARING. ~~the Special Permit and License Board may adopt the City Manager's recommendation without a public hearing.~~

~~5-9-9: 5-9-8: PROHIBITED ACTS:~~

(A) It shall be unlawful for any licensee or his agent knowingly to do, to encourage, to participate or to permit any of the following acts on the premises of any place licensed pursuant to this Chapter or on any parking lot, street or sidewalk adjacent to the premises:

1. Gamble or to permit gambling upon any pool or billiard table or coin-operated amusement game or device. The licensee is hereby specifically charged with knowledge of and made liable for the use of all tables, games and devices on the premises in any manner constituting a violation of this section.

2. ~~Except for those premises licensed under the Colorado Beer Code or Colorado Liquor Code, To permit any person TO USE, SELL, OR DISTRIBUTE ANY ILLEGAL OR DANGEROUS DRUG, CHEMICAL SUBSTANCE, OR NARCOTIC. ANY PREMISE LICENSED UNDER THE COLORADO BEER CODE OR COLORADO LIQUOR CODE SHALL CONFORM TO SAID CODE AND SHALL NOT ALLOW THE USE, SALE OR DISTRIBUTION OF BEER OR ALCOHOL TO ANY MINOR. under the influence of any alcoholic beverage, dangerous drug, chemical substance or narcotic to be or remain upon the premises.~~

3. Any disturbance, unlawful or disorderly act, or activity offensive to the senses of the average citizen, or to the residents of the neighborhood to be committed by any person or group of persons upon the premises.

(B) It shall be unlawful for any licensee to fail to comply with the following requirements:

1. Any licensee and its employees shall immediately report to the Police Department any unlawful or disorderly act, conduct or disturbance committed on the premises. Failure to comply with the requirements of this Section may be considered by the CITY MANAGER ~~licensing authority~~ in any action relating to revocation, suspension or nonrenewal of a license. Repeated failure to comply with the requirements of this section shall constitute prima facie grounds for the suspension, revocation or nonrenewal of a license.

2. Each licensee shall post and keep at all times visible to the public in a conspicuous place on the premises a sign to be provided by the City Clerk's Office which shall be in the following form:

"WARNING: CITY OF WESTMINSTER POLICE MUST BE NOTIFIED OF ALL DISTURBANCES IN THIS ESTABLISHMENT AND ON THE GROUNDS AND PARKING LOT WHICH ARE A PART OF THIS ESTABLISHMENT."

(C) It shall not be a defense to a prosecution under this Section that the licensee was not personally present on the premises at the time such unlawful or disorderly act, conduct or disturbance was permitted, encouraged or participated in; provided, however, that an agent, servant or employee of the licensee shall not be responsible hereunder when absent from the premises and not on duty.

~~5-9-10: 5-9-9: PENALTY:~~ It shall be unlawful for any person to violate a provision of this Chapter. Violators shall be subject to the penalties provided by Section 1-8-1 of this Code and may also be subject to civil remedies provided by Chapter 4 of Title VIII of this Code. A separate offense shall be deemed committed upon each day such person is in violation of this Chapter.

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

Section 3. 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 17th day of March, 2003.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 24th day of March, 2003.

Mayor

ATTEST:

City Clerk



WESTMINSTER
COLORADO

City Council Meeting
March 17, 2003



SUBJECT: Councillor's Bill No. 14 re Peddlers and Solicitors Code Amendments

Prepared By: Sharon Widener, Assistant City Attorney
Michele Kelley, City Clerk

Recommended City Council Action

Pass Councillor's Bill No. 14 on first reading amending Title 5, Chapter 6, of the Westminster Municipal Code concerning peddlers and solicitors.

Summary Statement

In 2002, the U.S. Supreme Court struck down a town ordinance requiring that canvassers obtain a solicitor's permit before going on any private residential property for the purpose of promoting a cause. *Watchtower Bible and Tract Society v. Village of Stratton*, 122 S.Ct. 2080 (2002).

The Court found the permit requirement violated the First Amendment, even though the permit was issued routinely and at no cost, because it required persons to identify themselves and the nature of their speech to the government before approaching any private residential property. The Court did not believe that the permit advanced any legitimate municipal interest, because it was not limited to commercial activities that the town might have regulated to discourage fraud or other crime.

The Westminster Municipal Code contains a requirement that solicitors obtain a permit that includes both commercial and non-commercial activities. Solicitation for candidates to elected office and election issues are exempted from the requirements, but there is no exemption for speech activities involving religious, political, or other types of non-commercial speech except for the election issues that are limited to city elections. The proposed amendment would eliminate the requirement for a solicitor's license. However, the amendment also makes it clear that an attempt to solicit, for whatever reason, would be unlawful where the resident has posted a sign saying "no soliciting," as the Court upheld a resident's (not the government's) right to protect his or her privacy in the home.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issues

Whether the City should amend its solicitation ordinance to delete license requirements for solicitors that might be held unconstitutional under *Watchtower Bible and Tract Society*.

Alternatives

1. Do not amend the ordinance.
2. Amend the ordinance only to make it clear that failure to obey "no solicitation" signs is a criminal violation.
3. Amend the ordinance to eliminate criminal background checks and any type of solicitor's license.
4. Amend the ordinance to eliminate solicitor's licenses for religious, political or other ideas, but retain the requirement for a solicitor's license for commercial activities.

Background Information

The proposed ordinance amendment was reviewed by the Police Department and, after reviewing the entire ordinance, the Police Department has recommended that the requirement for a solicitor license and a criminal background check be deleted. Potential solicitors who have a serious criminal background or intentions of criminal behavior at a person's door, will likely not apply for a license, nor is a license any guarantee that the person will not take advantage of an opened door. In fact, a person must open the door to check if a person has a license. Background checks are time-consuming for the police and may have little value. The Police Department would encourage persons to post "no soliciting" signs with the availability of enforcement.

Regulations for peddlers would remain in force, since peddlers, by definition, do not go door-to-door. Except for non-profit organizations, posting of a bond is required. Also under the current code, peddlers must obtain a temporary use permit for a stationary use, and payment of sales and use taxes is required for sale of goods and services.

In 2002, 37 permits were issued by the City Clerk: 27 for non-profit organizations, 7 for door-to-door sales, and 3 peddler permits for temporary sales in a commercial area.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **14**

SERIES OF 2003

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AMENDING THE REGULATION OF DOOR-TO-DOOR SOLICITORS

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Chapter 6 of Title 5, Westminster Municipal Code, is hereby amended to read as follows:

5-6-1: INTENT: THE CITY COUNCIL FINDS THAT IT IS IN THE INTEREST OF THE HEALTH, SAFETY, AND WELFARE OF THE PUBLIC TO ENHANCE PRIVACY OF PERSONS IN THEIR HOMES BY PREVENTING SOLICITORS FROM SOLICITING IN RESIDENTIAL AREAS WHERE THE RESIDENT HAS POSTED A "NO SOLICITING," "NO TRESPASS," "NO HANDBILLS" SIGN OR SIMILAR RESTRICTION.

~~5-6-1:~~ **5-6-2: DEFINITIONS:**

(A) "Nonprofit" means peddling or soliciting on behalf of a nonprofit corporation as demonstrated by the corporation's certificate of tax-exempt status. ~~If a certificate has not yet been issued, the City Clerk may accept an application for a certificate of tax exempt status as proof of the nonprofit nature of the organization, so long as the certificate is provided within a reasonable time.~~

(B) "Peddler" means any person, whether as volunteer, owner, agent, consignee or employee, who engages in a temporary business of selling and delivering amusements or goods, within the City, and who, in furtherance of such purpose, leases, uses or occupies any tent, temporary structure, stand, or outdoor location on private property, for the exhibition and sale of such goods or amusements. This definition includes all persons engaged in said activities who occupy any single location within the City for more than ten (10) minutes at a time. This definition shall not include an individual who holds a general business or home occupation license from the City and operates indoors in full compliance with the zoning code of the City.

(C) "Solicitor" means any person, whether as volunteer, owner, agent, consignee or employee, who travels by foot, wagon, motor vehicle, pushcart, or any other method of transportation from house to house or street to street selling or offering to sell services, food, beverages, goods or merchandise, distributing goods or information ABOUT SUCH SERVICES, FOOD, BEVERAGES, GOODS, OR MERCHANDISE, or soliciting funds or other forms of assistance. A person is not a solicitor unless he or she knocks on doors or otherwise attempts to contact or speak to the occupants of a private residence.

~~5-6-2:~~ **5-6-3: LICENSE REQUIRED; VIOLATION:**

(A) It shall be unlawful for any person to engage in the business of a peddler within the city limits of Westminster without first obtaining a license as provided herein.

~~(B) It shall be unlawful for any person to engage in the business of a solicitor in a residential area within the city limits of Westminster without first obtaining a license as provided herein.~~

~~(C)~~ (B) IT SHALL BE UNLAWFUL FOR ANY PERSON TO SOLICIT OR ATTEMPT TO SOLICIT OR TO INVITE OR ATTEMPT TO DISCUSS, VERBALLY OR IN WRITTEN FORM, IDEAS AND ISSUES, OR DISTRIBUTE WRITTEN INFORMATION, AT ANY PRIVATE RESIDENCE WHICH HAS BEEN POSTED WITH A SIGN STATING "NO SOLICITATIONS," "NO TRESPASS" OR A SIGN WITH SIMILAR MEANING.

~~(D)~~ (C) UPON CONVICTION, A VIOLATION OF THIS CHAPTER SHALL BE PUNISHED AS STATED IN SECTION 1-8-1 OF THIS CODE. A VIOLATION AT EACH RESIDENCE OR UPON EACH DAY SHALL BE CONSIDERED A SEPARATE VIOLATION.

(D) NOTHING IN THIS CHAPTER SHALL BE CONSTRUED TO ALTER OR AMEND SECTION 6-3-5 OF THIS CODE.

~~(C)~~(E) A peddler or solicitor shall not be relieved from complying with the provisions of this chapter merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trade, merchant or auctioneer.

~~5-6-3:~~ 5-6-4: EXEMPTIONS:

(A) ~~Solicitation on behalf of a candidate for elective public office or a measure to be placed on the ballot or which has been placed on the ballot in the next election shall be exempt from the application of this Chapter.~~ THE DISCUSSION OR INVITATION TO DISCUSS, EITHER VERBALLY OR IN WRITTEN FORM, A PUBLIC OR PRIVATE ISSUE OR POLITICAL OR RELIGIOUS IDEAS, SHALL NOT BE CONSIDERED TO BE SOLICITATION GOVERNED BY THIS CHAPTER. IT SHALL BE A VIOLATION OF THIS CHAPTER TO SOLICIT FUNDS TO BE PAID DIRECTLY TO THE PERSON ENGAGED IN DISCUSSION OF IDEAS OR ISSUES

(B) Solicitation on behalf of a governmental entity shall be exempt from the application of this Chapter.

(C) This ordinance shall not apply to yard sales, garage sales or estate sales in a residential area unless such a sale is subject to the sales and use tax provisions of this Code. This shall not be construed to allow such a sale to exceed a three-day period or to allow the sale of food, beverages or amusements in conjunction with the sale. No loud speakers, tents, public toilet facilities or other portable structures are permitted. Auctions are prohibited except where permitted by zoning. Any professional or compensated agent of the owner of the items to be sold shall be licensed pursuant to this Code. Such license shall be conditioned upon the professional or compensated agent's sale or auction for sale of property owned only by the owner of the premises at which the sale is conducted. Children selling drinks, such as lemonade, at their own homes shall be exempted from the application of this Chapter.

~~5-6-4:~~ 5-6-5: LICENSE APPLICATION:

(A) An applicant for a license under this Chapter shall file with the City Clerk a verified application in writing on a form to be furnished by the City Clerk, which shall include the following information:

- (1) The name ~~and description~~ of the applicant, ~~including date of birth of the individual.~~
- ~~(2) In the case of an applicant on behalf of a corporation or other entity, the name, address and telephone number of the agent for service of process.~~
- ~~(3)~~ (2) The residential address and telephone number of an individual applicant and the business address and telephone number.
- (43) A brief description of the nature of the business ~~or solicitation.~~
- ~~(54)~~ (4) The dates or length of time for which the right to do business is desired stated in number of days, weeks, or months, up to a maximum of one year.
- ~~(6) If a vehicle is to be used, a description of the same, together with the license number or other means of identification.~~
- ~~(7)~~ (5) The location in which the applicant will be conducting business if a license is granted and written permission from the owner of the property or, if the applicant is the owner or lessee, evidence of ownership or a lease. If the applicant is not the property owner, the name, address and telephone number of the owner shall be provided. ~~If the applicant applies for a solicitor's license, the streets or area in which this activity will be conducted shall be identified.~~

~~(8) A statement of whether the applicant has been convicted of any crime, misdemeanor or violation of any federal, state or municipal law, the nature of the offense and the punishment or penalty assessed therefor.~~

~~(9)~~ (6) A brief statement of the nature and character of the signage or advertising shall be attached to said application as exhibits thereto.

~~(10)~~ (7) When requested, a list of the individuals or employees who will be operating on behalf of the licensee within the City.

~~(11)~~ (8) Documentation of nonprofit corporate status and nonprofit tax status, if applicable.

~~(12) Such other reasonable information as to the identity or character of the applicants and person or persons managing or supervising the applicant's business as may be determined by the City Manager to be necessary for the protection of the public good.~~

~~5-6-5: 5-6-6: INVESTIGATION AND ISSUANCE:~~

(A) Upon receipt of an application FOR A PEDDLER'S LICENSE (TEMPORARY USE PERMIT), the application shall be referred to the Chief of Police and to the Department of Community Development for processing as specified by this section.

(B) The Chief of Police shall cause such investigation of the applicant and the applicant's business to be made as he deems necessary for the protection of the public and return his recommendation to the City Clerk. If the investigation discloses that the applicant has been convicted of crimes that were not disclosed on the application, the Chief of Police shall recommend denial of the application. If the applicant has disclosed convictions on the application, the Chief of Police shall make his recommendation to the City Clerk based on the nature of the offenses, the length of time since the convictions and any other information relevant to the protection of the public. The Chief of Police may also base his recommendation upon other identifiable threats to public safety.

~~(C)~~ (B) The applicant shall apply for a sales and use tax license.

~~(D) If the application is for a stationary location, approval by the Department of Community Development for a temporary use permit is required in order to do business in the proposed location. If a temporary use permit is required, then the applicant is eligible only for a peddler's license.~~

~~(E) Upon receipt and review of recommendations from the Chief of Police and the Department of Community Development, the City Manager shall approve, approve with conditions, or deny the application. The City Manager shall endorse his decision on the application and his reasons for same and shall notify the applicant of the decision and whether issuance of the license is authorized.~~

~~(C) UPON COMPLETION OF THE APPLICATION, APPROVAL BY THE DEPARTMENT OF COMMUNITY DEVELOPMENT AND POSTING OF ANY BOND REQUIRED, THE CITY CLERK SHALL ISSUE THE PEDDLER'S LICENSE.~~

~~(F) If the application is approved by the City Manager, upon posting the bond required by this Chapter and payment of the prescribed license fee by the applicant, the license shall be issued.~~

~~(G)~~ (D) Each licensee shall carry his or her license at all times while peddling or soliciting and shall display it upon request.

~~(H)~~ (E) All licenses shall be issued in the individual's name except as otherwise provided herein. Any license issued to a firm, association or corporation shall include the name of the authorized representative of the firm, association or corporation which representative's name shall appear on the application, bond, badge, and license. No license shall be transferable or used by any other person, except as provided in this section. No other representative of the same firm, association or corporation shall use the same license, except as provided in this section.

(1) If a firm, association or corporation applies for and is granted an annual license at the fee set forth in this Chapter, it shall be entitled to obtain ~~badges~~ A LICENSE for up to and including ten employees under its annual license. The business shall comply with the bonding requirement under this Chapter, but need not obtain separate bonds for each employee.

~~———— (2) For every employee over ten, or in order to process a transfer of a badge LICENSE from one employee to another, a \$5.00 fee shall be charged to issue a new individual employee badge LICENSE.~~

~~———— (3) Each individual employee badge LICENSE shall exhibit the business name as well as the individual employee's name. Each employee soliciting pursuant to a business's annual license shall carry an individual badge LICENSE in his own name at all times.~~

(4) Each business applying for an annual license and wishing to license employees pursuant to such annual license shall provide such proof as may be required by the City Manager to demonstrate that it is a bona fide business entity separate from its alleged employees.

~~(5) For purposes of the investigation conducted by the Chief of Police pursuant to this Chapter, each individual employee of a business who desires a badge shall be considered an applicant and shall be investigated.~~

~~(F)~~ (F) A nonprofit corporation need not submit a separate application for each person peddling ~~or soliciting~~ on its behalf, but shall inform the City Clerk in writing of each individual who will be acting on behalf of the nonprofit corporation within the City.

~~(G)~~ (G) Issuance of a license under this Chapter does not in any way relieve a peddler from responsibility for obtaining permission from respective property owners to set up displays and sell goods on private property.

~~(H)~~ (H) A licensee under this chapter shall comply with all applicable laws of the City of Westminster and the State of Colorado.

~~(I)~~ (I) The duties of the City Manager may be delegated to the City Clerk except that the City Manager shall review all denials of applications prior to notification to the applicant.

~~5-6-6:~~ **5-6-7: FEES:** The following fees shall be charged upon application for a license as required by this Chapter:

<u>Commercial</u>	<u>Nonprofit</u>
\$ 5.00 per 1 day period	\$5.00 per 30 day period
\$ 15.00 per 7 day period	
\$ 50.00 per 30 day period	
\$500.00 per 365 day period	

~~5-6-7:~~ **5-6-8: BOND REQUIRED:**

(A) Before any license shall be issued an applicant pursuant to this Chapter, the applicant shall file with the City Clerk a cash bond, certified funds payable to the City or a surety bond payable to the City in the sum of one thousand dollars (\$1,000.00). If a surety bond is provided it shall be executed by the applicant as principal and at least one surety upon which service of process may be made in the State of Colorado. Such bond must be approved by the City Attorney, both as to form and as to the responsibility of the surety.

(B) Such bond shall be conditioned that:

(1) The applicant shall comply fully with the terms of its license, all applicable laws and regulations of the City, and state statutes regulating and concerning the applicant's business, and

(2) The City shall be indemnified against and held harmless from any liability that may be imposed upon the City by the licensee's operations within the City.

(C) In the event of a breach of the conditions of the surety bond, or in the event of a breach of this Code by a licensee who has provided a cash bond or certified funds, the entire amount shall be forfeited to the City, upon demand and without proof of actual damages, as liquidated damages to compensate the City for actual costs and delay as well as inconvenience and other harm to the City and the general public that is impossible to estimate with certainty at the time the license is issued. The City shall be entitled to collect interest and its attorney's fees related to enforcement of the surety bond.

(D) All licensees shall be personally liable to pay the City, its officials and employees, and their successors any judgments, claims, demand, losses, costs, expenses, or liabilities of any kind that the City or any of the persons above enumerated may sustain or that may be recovered from it or them, from or by reason of the issuance of a license pursuant to this Chapter or by reason of any act, neglect, or thing done under or by virtue of the authority given in the license or this Chapter.

(E) All licensees shall be responsible for all acts or omissions of any persons acting on behalf of such licensee, whether as an employee, volunteer or other agent. Any violation of this ordinance by an employee, volunteer or other agent of a licensee resulting in damage to the City shall be grounds for forfeiture of the licensee's surety bond, cash bond or certified funds.

(F) The bond requirement shall be waived if peddling ~~or solicitation~~ is conducted on behalf of a nonprofit corporation.

(G) Forfeiture or loss of such bond shall be grounds for summary suspension of a license issued pursuant to this Chapter by the City Manager until such time as a new bond is provided.

~~5-6-8:~~ 5-6-9: TEMPORARY USE PERMITS:

(A) All uses conducted pursuant to this chapter shall conform to the zoning provisions of this Code, including the sign code, unless otherwise provided herein.

(B) A temporary use permit shall be required for all peddlers.

(C) If a temporary use permit is required, it shall be granted if the proposed temporary use meets the following criteria:

- (1) The temporary outdoor use is of a seasonal or special event nature.
- (2) All structures subject to any building, construction or fire codes comply with such codes, as appropriate.
- (3) All signs comply with the applicable provisions of this Code.
- (4) The location of the use is at least ten (10) feet from any public property or right-of-way.
- (5) If customers of a peddler are required to park in order to gain access to the peddler, that sufficient parking is available without interfering with the public rights of way on sidewalks or streets and without requiring customers to park on private property without the consent of the property owner.
- (6) Safe access is available by vehicle and pedestrian traffic to the peddler's location without requiring illegal or unsafe turning movements by vehicles or trespass across private property without the consent of the property owner.
- (7) If the applicant proposes a use that will occupy private property or cause vehicles or pedestrians to use or cross private property, then written proof of the applicant's right to use such property shall be required.
- (8) No use shall be permitted that:
 - a. Impedes access to the entrance of any adjacent building or driveway,
 - b. Is located in such a manner as to interfere with a fire hydrant, fire escape, bus stop, loading zone, or driveway of a fire station, police station, hospital or handicapped parking space or access ramp.

(D) The temporary use permit shall designate the specific location for the use and the time period for which the permit is issued. Permits may not be issued for any location for more than sixty (60) days per year.

(E) Services may not be rendered in a location pursuant to a temporary use permit.

(F) This ordinance shall not be construed to require a temporary use permit for the temporary outdoor extension of regular indoor commercial activity such as a sidewalk sale.

~~5-6-9:~~ 5-6-10: CONDITIONS OF OPERATION:

~~(A) Every resident of the City shall have the right to post a notice upon his real property, business or residence, including but not limited to apartments, condominiums, mobile homes, and detached residences, to the effect that solicitors shall not solicit or attempt to solicit from the occupant or occupants thereof. It shall be unlawful to solicit from an occupant in violation of such a notice or without previous invitation so to do from the occupant thereof.~~

~~(B) All solicitation activities, whether conducted on foot or from a vehicle, shall be conducted in strict accordance with all traffic and parking laws.~~

~~(C)~~ (A) Peddlers shall be allowed to engage in their businesses between the hours of 7:00 A.M. and 10:00 P.M. unless otherwise stated in the conditions on their license. Solicitors shall be allowed to solicit in residential areas between the hours of 8:00 A.M. and 8:00 P.M.

~~(D)~~ (B) All trash or debris accumulation caused by a licensee's activities shall be collected and deposited in a proper trash container. Any accumulation of trash or debris that causes the City to incur expense in removing the accumulation shall be cause for the City to proceed against the licensee's surety bond.

~~(E)~~ (C) Sales and use taxes shall be paid upon the schedule set by this Code.

~~5-6-10:~~ 5-6-11: ENFORCEMENT; LICENSE DENIAL, SUSPENSION, CANCELLATION, OR REVOCATION:

(A) It shall be the duty of any police officer, sales tax enforcement officer or code enforcement officer of the City to require any person subject to this Chapter to produce his license and to enforce the provisions of this Chapter against any person found to be violating the same.

(B) The Chief of Police shall report to the City Clerk all violations of this chapter and of this Code by licensees and the City Clerk shall maintain a record of the reports of violation therein.

~~(C)~~ (B) A license may be denied, cancelled, denied renewal, suspended or revoked for any violation of the provisions of this Chapter, for any reason set forth in Chapter 1 of this Title, or on the grounds that the health, safety or welfare of the community may be endangered by the continued operation of the licensee.

~~(D)~~ (C) A license may be cancelled, denied renewal, suspended or revoked after the licensee has been given notice and hearing. The notice shall set forth the reasons for the proposed action, in writing and shall be given by personal delivery to the licensee or mailed to the address contained in the license, postage prepaid, or as provided in Chapter 1 of this Title. Said notice shall be given no less than ten (10) days prior to a hearing to be scheduled before the Special Permit and License Board.

~~(E)~~ (D) An application for a new license may be denied by the City Manager upon the grounds listed above. The applicant may appeal a denial to the Special Permit and License Board, unless the reason for the denial is an incomplete application, nonconformance with provisions of this Code, such as zoning or the building code, or failure to pay required fees. The reason for the denial of the application shall be provided to the applicant in writing.

~~(F)~~ (E) A license may be summarily suspended for no more than thirty (30) days by the City Manager when required for the immediate protection of the public health, safety and welfare. A hearing shall be scheduled as soon as may be reasonably possible.

~~(G)~~ (F) The Special Permit and License Board shall conduct A HEARING OF an appeal of the denial of a new license or a hearing pursuant to the procedures established for hearings in Chapter 1 of this Title. The Special Permit and License Board shall deliver its decision in writing within thirty (30) days.

~~(H)~~ (G) Decisions of the Special Permit and License Board are final, subject only to appeal to a court of competent jurisdiction.

5-6-11: 5-6-12: PENALTY: It shall be unlawful for any person to violate a provision of this Chapter. Violators shall be subject to the penalties provided by Section 1-8-1 of this Code and may also be subject to civil remedies provided by Chapter 4 of Title IX of this Code. A separate offense shall be deemed committed upon each day such person is in violation of this Chapter 6.

5-6-12: 5-6-13: LOUD SPEAKERS OR SOUND TRUCKS:

~~(A) It shall be unlawful for any person to operate, or cause to be operated, any sound truck on the public streets of the City with sound amplifying equipment in operation, except in conformance with the regulations set forth herein.~~

(B) The use of sound trucks with sound amplifying equipment in operation shall be subject to the following regulations:

1. The only sounds permitted to be amplified are music or human speech.
2. Operations are permitted for nine (9) hours each day. The permitted nine (9) hours of operation shall be between the hours of ten o'clock (10:00) A.M. and seven o'clock (7:00) P.M.
3. Sound amplifying equipment shall not be operated unless the sound truck upon which such equipment is mounted is operated at a speed of less than twelve (12) miles per hour. When stopped to make sales, said sound amplifying equipment shall not be operated.
4. Sound shall not be issued within one hundred (100) yards of hospitals, or within 100 hundred (100) yards of churches during the hours services are being held, or within five hundred feet (500') of a school during the school year.
5. The human speech and music amplified shall not be profane, lewd, indecent or slanderous.
6. The volume of sound shall be controlled so that it will not be audible for a distance in excess of one hundred (100) yards from the sound truck and so that said volume is not unreasonably loud, raucous, jarring, disturbing or a nuisance to persons within the area of audibility.
7. It shall be unlawful for any sound truck to amplify sound along any particular route more than one time during a twenty four (24) hour period.
8. It shall be unlawful for any sound truck to stop within twenty five feet (25') of an intersection when making a sale, or attempting to make a sale.
9. It shall be unlawful for any sound truck to double park, or park in a manner contrary to any ordinance relating to parking, when attempting a sale or making a sale.
10. It shall be unlawful for any sound truck to make a U turn in any block.
11. It shall be unlawful for any driver of a sound truck to drive his vehicle backward to make or attempt to make a sale.
12. It shall be unlawful for any driver of a sound truck to sell to any person who is standing in the street.
13. It shall be unlawful for any driver of a sound truck to permit any person to hang on the vehicle, or permit any person to ride in or on the vehicle, except a bona fide assistant or assistants.
14. All sound trucks must be equipped with four (4) way flashing lights, both parking and taillights. Trucks must have lights flashing while seeking or making a sale.

(C) It shall be unlawful for any person to use or cause to be used, a sound truck with its sound amplifying equipment in operation in the City without having paid an annual registration fee of \$5 per vehicle and filed a registration statement with the City Clerk in writing and having it approved by the City Manager and City Clerk. This statement shall be filed in duplicate and include the following information:

1. Name and address of the registrant,
2. Name and address of person having direct charge of the sound truck,
3. Name and address of all persons who will use or operate the sound truck,
4. The purpose for which the sound truck will be used,
5. A general statement as to the areas of the City in which the sound truck will be used,
6. The proposed hours of operation of the sound truck,
7. The number of days of proposed operation of the sound truck,

(D) DEFINITIONS:

1. "Sound truck" shall mean any vehicle, or horse-drawn vehicle, having mounted, thereon, or attached thereto, any sound amplifying equipment.

2. "Sound amplifying equipment" shall mean any machine or device for the amplification of the human voice, music or any other sound. "Sound amplifying equipment" shall not be construed as including standard automobile radios when used and heard only by the occupants of the vehicle in which installed, or warning devices on authorized emergency vehicles, or horns or other warning devices on other vehicles used only for traffic safety purposes.

~~5-6-13:~~ **5-6-14: SOLICITATION ON OR NEAR STREET OR HIGHWAY:** This chapter shall not apply to sales or solicitation on or near streets or highways. See Title IX, Chapter 4 of this Code.

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

Section 3. 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 17th day of March, 2003.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 24th day of March, 2003.

Mayor

ATTEST:

City Clerk



**WESTMINSTER
COLORADO**

Agenda Memorandum

City Council Meeting
March 17, 2003



SUBJECT: Resolution No.11 re Contingency Transfer for US 36 Transportation Improvement
Lobbying Expenses

Prepared By: Stephen P. Smithers, Assistant City Manager

Recommended City Council Action

Adopt Resolution No. 11 authorizing the transfer of \$20,000 from the City's General Fund Contingency account for participation in US 36 Mayors' and Commissioners' Coalition lobbying efforts to garner state and federal funding for US 36 transportation improvements.

Summary Statement

- The City of Westminster has been participating in the US 36 Mayors' and Commissioners' Coalition (MCC) for several years as a cooperative effort to improve transportation on US 36. The MCC includes the cities of Westminster, Boulder, Louisville, and Superior, Boulder County and the City and County of Broomfield.
- After extensive study a locally preferred alternative has been agreed to by the MCC that includes: commuter rail along the Burlington Northern railroad tracks, bus rapid transit down the center of US 36, highway lane widening and a bike lane component.
- The cost of these improvements has been estimated at between \$1.0 and \$1.4 billion.
- A significant portion of these improvements would be paid for through the FastTracks proposal being put forward by RTD, if passed by the voters of the Denver Metropolitan area. The MCC is also pursuing authorization of this project in the renewal of the federal funding program for transportation known as TEA-21, as well as state and local sources of funding.
- The MCC is moving ahead with hiring the lobbying firm of Dutko Group Companies to assist with pulling this project together and securing state and federal funding for the project.
- Each member of the MCC has been allocated a share of the total \$95,000 cost of hiring the lobbying firm based on population. The City's share of this cost is \$20,000.
- Staff believes that it is critical to keep the momentum moving on securing funding for US 36 transportation improvements. The services of the Dutko Group are key to succeeding in this effort.

Expenditure Required: \$20,000

Source of Funds: General Fund Contingency

Policy Issue

Should the City participate in the cost of hiring a lobbying firm to assist in securing support and funding for US 36 transportation improvements?

Alternative

The City could choose not to participate in these costs. This alternative is not recommended as all of the other jurisdictions in the 36 MCC are moving forward with their proportional financial commitments. If the City dropped out of this financial participation the other cities would have to either make up our \$20,000 share or not hire the lobbying firm.

Background Information

The MCC was formed several years ago in order to create a strong coalition to develop and move forward with US 36 transportation improvements. As part of this effort a two-year MIS study was undertaken to look at transportation improvement alternatives for US 36. This study provided a series of recommendations that include the following:

- Bus Rapid Transit/HOV
 - 15 miles of new BUS/HOV lanes
 - Buses every 5 to 10 minutes during peak periods
 - 6 Bus Rapid Transit stations on US 36
- Regional Rail
 - 28 miles of rail service on existing plus one new track shared with BNSF RR
 - 5 stations
 - Peak service: 20 to 30 minutes, Off Peak: 40 to 60 minutes
- Roadway Widening
 - Widen US 36 to 6 lanes from Interlocken Loop/Storage Tek Drive (96th St.) to I-25
 - Add to Accel/Decel lanes between Superior and Sheridan
 - Add Eastbound Climbing Lane on Davidson Mesa
 - Intelligent Transportation System Components
- Bikeway
 - 10-12 foot shared use paved bikeway from Boulder to Westminster

The MCC has been successful in getting the profile of this project raised to a point where the project is considered a high priority by the Colorado Department of Transportation (CDOT) and RTD. CDOT and RTD agreed last year to jointly fund a \$15 million Environmental Impact Statement for this project. The study is anticipated to take 24 months to complete.

Staff believes it is crucial to begin now to secure the funding sources to make this project a reality. The addition of a lobbyist to the US 36 MCC team will provide an added level of expertise and political influence that is necessary to secure state and federal commitments to the project.

The Dutko Group is an established lobbying firm with a strong presence in both Colorado and Washington D.C. They were selected after a series of interviews by the MCC with five lobbying firms:

- >The Dutko Group
- >Kogovsek and Associates
- >Price Howlett, Inc.
- >Patton Boggs
- >Smith, Dawson and Andrews

SUBJECT: Resolution No.11 re Contingency Transfer for US 36 Transportation Improvement
Lobbying Expenses

Page 3

The Dutko group demonstrated the greatest strength in both their Colorado and Washington D.C. offices. Staff is confident in their ability to raise the awareness of this project and to secure federal and state funding to help move US 36 transportation improvements forward.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

RESOLUTION

RESOLUTION NO. 11

INTRODUCED BY COUNCILLORS

SERIES OF 2003

Dixon-McNally

WHEREAS, the City of Westminster has been participating in the US 36 Mayors' and Commissioners' Coalition (MCC) for several years as a cooperative effort to improve transportation on US 36; and

WHEREAS, a local preferred alternative has been agreed to by the MCC that includes commuter rail along the Burlington Northern railroad tracks, bus rapid transit down the center of US 36, highway widening and a bike lane component; and

WHEREAS, the MCC is moving ahead with hiring the lobbying firm of Dutko Group Companies to assist with pulling this project together and securing state and federal funding for the project; and

WHEREAS, each member of the MCC has been allocated a share of the total cost of \$95,000 of hiring the lobbying firm based on population; and

WHEREAS, the City of Westminster's share of the cost being \$20,000; and

WHEREAS, the General Fund contingency balance is \$1,100,000.

NOW, THEREFORE, be it resolved that the City Council of Westminster

\$20,000 be transferred from the General Fund Contingency to the Central Charges Professional Services account.

Passed and adopted this 17th day of March, 2003.

ATTEST:

Mayor

City Clerk

Summary of Proceedings

Summary of proceedings of the regular City of Westminster City Council meeting of Monday, March 17, 2003. Present at roll call were Mayor Moss, Mayor Pro-Tem Atchison, Councillors Dittman, Dixon, Hicks, Kauffman and and McNally. Absent none.

The minutes of the February 24, 2003 meeting were approved.

Council approved the following: Special Legal Counsel Contract re regulation of cellular communication towers; Replacement Ambulance Bid Award; Standley Lake Regional Park Phase 1B Construction Contract Award; 2003 Right-of-Way Mowing Contract; Purchase of 18 Acres at W 100th Avenue and Alkire Street for Open Space and Park Purposes; Software maintenance contract for the Police/Fire CAD System; Bid awards for Fire Station #2 and Irving Street Library and Park projects and CB No. 10 re 4th Quarter 2002 Supplemental Appropriation

Council authorized conducting a special election

The following Public Hearing was held: At **XXXXX** p.m. on the proposed Mandalay Gardens Urban Renewal Plan.

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

A BILL FOR AN ORDINANCE AMENDING CITY OF WESTMINSTER PRECINCTS AND POLLING PLACES Purpose: Realignment of City precincts to coincide with County precincts

A BILL FOR AN ORDINANCE ESTABLISHING A PROGRAM FOR IDENTIFICATION, PRESERVATION AND USE OF CITY LANDMARKS Purpose: Identifying historic properties within the City

A BILL FOR AN ORDINANCE AMENDING TITLE 5 OF THE WESTMINSTER MUNICIPAL CODE CONCERNING AMUSEMENT CENTERS Purpose: Amending Amusement Center regulations and eliminating public hearing for new applications

A BILL FOR AN ORDINANCE AMENDING THE REGULATION OF DOOR-TO-DOOR SOLICITORS Purpose: eliminating licensing for door to door soliciting and allowing signs to be posted to prohibit soliciting

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

A BILL FOR AN ORDINANCE INCREASING THE 2002 BUDGETS OF THE GENERAL, UTILITY, OPEN SPACE AND GENERAL CAPITAL IMPROVEMENT FUNDS AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2002 ESTIMATED REVENUES IN THESE FUNDS.

The following Resolutions were adopted:

Resolution No. 9 re Mandalay Gardens Urban Renewal Plan
Resolution No. 10 re Land Exchange with Beau and Allen, LLC
Resolution No. 11 re 2003 MCC Lobbyist Dues

At **XXXX** P.M. the meeting was adjourned

By order of the Westminster City Council
Michele Kelley, CMC, City Clerk
Published in the Westminster Window on March 20, 2003

A BILL

FOR AN ORDINANCE INCREASING THE 2002 BUDGETS OF THE GENERAL, UTILITY, OPEN SPACE AND GENERAL CAPITAL IMPROVEMENT FUNDS AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2002 ESTIMATED REVENUES IN THESE FUNDS.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2002 appropriation for the General Fund initially appropriated by Ordinance No. 2913 in the amount of \$69,324,181 is hereby increased by \$16,898 which, when added to the fund balance as of the City Council action on February 24, 2003 will equal \$79,018,397. The actual amount in the General Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. This increase is due to the appropriation of donations and reimbursements received by the City.

Section 2. The \$16,898 increase in the General Fund shall be allocated to City Revenue and Expense accounts, which shall be amended as follows:

Description	Current Budget	Increase	Final Budget
REVENUES			
General Misc – Library 1000.43060.0034	\$1,165	\$2,965	\$4,130
General – Contributions 1000.43100.0000	36,000	1,000	37,000
Recreation Programs – Youth Scholarships 1000.41030.0528	0	998	998
General Misc 1000.43060.0000	174,064	<u>11,935</u>	185,999
Total Change to Revenues		<u>\$16,898</u>	
EXPENSES			
Library Materials 10050620.71600.0000	\$378,665	\$1,000	\$379,665
Temp Salaries – Library 10050620.60600.0000	50,500	2,965	53,465
Special promotions – Youth Scholarship 10050760.67600.0528	5,923	998	6,921
PD Investigations Overtime 10020300.60400.0000	168,189	<u>11,935</u>	180,124
Total Change to Expenditures		<u>\$16,898</u>	

Section 3. The 2002 appropriation for the Water Portion of the Utility Fund, initially appropriated by Ordinance No. 2913 in the amount of \$25,286,775 is hereby increased by \$250,000 which, when added to the fund balance as of the City Council action on February 24, 2003 will equal \$51,805,557. The actual amount in the Water Portion of the Utility Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. This increase is due to the appropriation of additional bond proceeds from the 2002 Water/Wastewater Revenue Bonds.

Section 4. The \$250,000 increase in the Water Portion of the Utility Fund shall be allocated to City Revenue and Expense accounts, which shall be amended as follows:

Description	Current Budget	Increase	Final Budget
REVENUES			
Bond Proceeds 2000.46020.0216	\$7,000,000	<u>\$250,000</u>	\$7,250,000
Total Change to Revenues		<u>\$250,000</u>	
EXPENSES			
Northwest Water Treatment Plant 80220035076.80400.8888	\$7,000,000	<u>\$250,000</u>	\$7,250,000
Total Change to Expenses		<u>\$250,000</u>	

Section 5. The 2002 appropriation for the Open Space Fund, initially appropriated by Ordinance No. 2913 in the amount of \$4,761,666 is hereby increased by \$500 which, when added to the fund balance as of the City Council action on February 24, 2003 will equal \$7,997,786. The actual amount in the Open Space Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. This increase is due to the appropriation of a donation from Wal-Mart.

Section 6. The \$500 increase in the Open Space Fund shall be allocated to City Revenue and Expense accounts, which shall be amended as follows:

Description	Current Budget	Increase	Final Budget
REVENUES			
Contributions 5400.43100.0000	\$0	\$500	\$500
Total Change to Revenues		<u>\$500</u>	
EXPENSES			
Land Purchases 54010900.76600.0000	\$7,164,254	<u>\$500</u>	\$7,164,754
Total Change to Expenditures		<u>\$500</u>	

Section 7. The 2002 appropriation for the General Capital Improvement Fund, initially appropriated by Ordinance No. 2913 in the amount of \$10,305,000 is hereby increased by \$1,716,816 which, when added to the fund balance as of the City Council action on February 24, 2003 will equal \$20,112,751. The actual amount in the General Capital Improvement Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. This increase is due to the appropriation of interest earnings, ADCO road sales taxes and a contribution received by the City.

Section 8. The \$1,716,816 increase in the General Capital Improvement Fund shall be allocated to City Revenue and Expense accounts, which shall be amended as follows:

Description	Current Budget	Increase	Final Budget
REVENUES			
Transportation Sales Tax 7500.40470.0000	\$0	\$1,700,000	\$1,700,000
Contributions 7500.43100.0000	2,000	5,000	7,000
Interest Income - 2001 COP's 7500.42520.0215	101,956	<u>11,816</u>	113,772
Total Change to Revenues		<u>\$1,716,816</u>	
EXPENSES			
Savory Farms Water Tower 80275030536.80400.8888	\$22,200	\$5,000	\$27,200
Huron Street 129 th /144 th 80175030069.80400.8888	800,000	1,700,000	2,500,000
Public Safety Building 80175020086.80400.8888	3,409,368	<u>11,816</u>	3,421,184
Total Change to Expenditures		<u>\$1,716,816</u>	

Section 9. – 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 10. This ordinance shall take effect upon its passage after the second reading.

Section 11. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED AND PUBLISHED this 24th day of February, 2003. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 17th day of March, 2003.