



## 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 7) 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. Report of City Officials
  - A. City Manager's Report
5. City Council Comments
6. Presentations
  - A. Proclamation Recognizing Eleanor Scott as Colorado Mother of the Year
  - B. Proclamation re Mental Health Month – Community Reach & JeffCo Mental Health will attend
  - C. Proclamation re Public Works Week
7. Citizen Communication (5 minutes or less)

The "Consent Agenda" is a group of routine matters to be acted on with a single motion and vote. The Mayor will ask if any 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. Stratford Lakes Reclaimed Water Line Contract
  - B. 2004 Chipseal Project Award
  - C. Special Legal Counsel for Personnel Board
  - D. Special Legal Counsel for Fire and Police Defined Benefits Analysis
  - E. Huron Street Demolition Contract (NEC 136<sup>th</sup> & Huron)
  - F. CB No. 24 re Annexation for Asbury Acres Subdivision (Hicks-Dittman)
  - G. CB No. 25 re CLUP re Asbury Acres Subdivision (Hicks – Dixon)
  - H. CB No. 26 re Zoning for Asbury Acres Subdivision (Hicks - Dixon)
  - I. CB No. 27 re JRBM Business Assistance Package (Kauffman – Dittman)
  - J. CB No. 28 re Synchroness, Inc Business Assistance Package (Dixon – Price)
  - K. CB No. 29 re Lafarge North America Inc Business Assistance Package (McNally – Dixon)
9. Appointments and Resignations
  - A. Metro Wastewater Reclamation District Board of Directors Re-appointment of Curtis Aldstadt
  - B. Resolution No. 34 Resignation & Appointment to Human Services Board
10. Public Hearings and Other New Business
  - A. TABLED Councillor's Bill No. 23 re Lease with Community Reach
  - B. Public Hearing re CLUP Amendment 1<sup>st</sup> Amended PDP for Hyland Office Park Pappadeaux Rest
  - C. Councillor's Bill No. 30 re Comprehensive Land Use Plan Amendment for Pappadeaux Restaurant
  - D. 1<sup>st</sup> Amended Preliminary Development Plan for Pappadeaux Restaurant
  - E. Resolution No. 33 re I-25/144<sup>th</sup> Avenue Annexation Petition Compliance
11. Business and Passage of Ordinances on Second Reading
12. Citizen Presentations (longer than 5 minutes) and Miscellaneous Business
  - A. City Council
13. Adjournment

## **GENERAL PUBLIC HEARING PROCEDURES ON LAND USE MATTERS**

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

CITY OF WESTMINSTER, COLORADO  
MINUTES OF THE CITY COUNCIL MEETING  
HELD ON MONDAY, MAY 10, 2004 AT 7:00 P.M.

PLEDGE OF ALLEGIANCE

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

ROLL CALL

Mayor Pro-Tem McNally, Councillors Dittman, Dixon, Hicks, Kauffman and Price were present at roll call. Steve Smithers, Assistant City Manager; Martin McCullough, City Attorney; and Michele Kelley, City Clerk, were also present. Mayor Moss arrived at 7:25 P.M. Absent none.

CONSIDERATION OF MINUTES

Councillor Kauffman moved, seconded by Dixon to approve the minutes of the meeting of April 26, 2004 as corrected. The motion carried unanimously.

CITY MANAGER COMMENTS

Steve Smithers, Assistant City Manager, commented on Community Pride Day next Saturday, anticipating over 1,000 volunteers helping to clean up the City.

CITY COUNCIL COMMENTS

Councillor Kauffman commented on the Business Showcase event held last Friday.

Councillor Dixon commented on the COG meeting at Big Dry Creek Reclaimed Water facility and the Council Breakfast last Thursday.

Mayor Pro-Tem McNally commented on the US 36 EIS meeting at FRCC on Tuesday from 4:30-8:00.

PROCLAMATION RECOGNIZING ELEANER SCOTT AS COLORADO MOTHER OF THE YEAR

Mayor Pro-Tem McNally presented a proclamation to Eleanor Scott in recognition of her designation as Colorado Mother of the Year award and extends Westminster's congratulations and best wishes on this prestigious statewide award.

PROCLAMATION RE MENTAL HEALTH MONTH

Councillor Dixon presented a certificate proclaiming the month of May as Mental Health Month and present a proclamation to Jefferson Center for Mental Health representative Vicki Rodgers, Practice Manager and Community Reach Executive Director Rick Doucet.

PROCLAMATION RE PUBLIC WORKS WEEK

Councillor Kauffman presented a certificate to Mel Holmes, Senior Maintenance Worker in Public Works and Utilities, proclaiming the week of May 16-22 as Public Works Weeks.

CONSENT AGENDA

The following items were considered as part of the consent agenda: Award for Construction of Stratford Lakes Reclaimed Water Line with Tetra Tech Construction Services Inc for \$121,245; 2004 Chipseal Project Award with A-1 Chipseal Company for \$1,449,959; Special Legal Counsel for City Personnel Board with John Hayes not to exceed \$10,000; Special Legal Counsel for Fire and Police Defined Benefit Pension Analysis with Sherman & Howard not to exceed \$8,000; Huron Street Demolition Contract with Fiore &

Sons for \$81,142; CB No. 24 re Annexation of Asbury Acres Subdivision; CB No. 25 re CLUP Amendment for Asbury Acres Subdivision; CB No. 26 re Zoning for Asbury Acres Subdivision; CB No. 27 re JRBM Inc. Business Assistance Package; CB No. 28 re Synchroness Inc. Business Assistance Package; and CB No. 29 re LaFarge America Inc. Business Assistance Package.

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

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

#### METRO WASTEWATER RECLAMATION DISTRICT BOARD OF DIRECTORS REAPPOINTMENT

Mayor Pro-Tem McNally moved, seconded by Dittman to reappoint Curtis Aldstadt to the Metro Wastewater Reclamation District's Board of Directors, with a term of office effective through June 30, 2006. The motion carried unanimously.

#### RESOLUTION NO. 34 RE HUMAN SERVICES BOARD RESIGNATION AND APPOINTMENT

Councillor Hicks moved, seconded by McNally to adopt Resolution No. 34, accepting the resignation of Teresa Valerio Parrot and appointing Tanya Ishikawa to the Human Services Board, with the term of office to expire on December 31, 2004. Upon roll call vote, the motion carried unanimously.

#### TABLED COUNCILLOR'S BILL NO. 23 RE LEASE WITH COMMUNITY REACH CENTER

Councillor Kauffman moved, seconded by Hicks to remove this item from the TABLE. The motion carried unanimously.

Councillor Kauffman moved, seconded by Hicks to pass Councillor's Bill No. 23 on first reading approving a Lease with the Community Reach Center for their use of the former 76<sup>th</sup> Avenue Library Building. Upon roll call vote, the motion carried unanimously.

#### PUBLIC HEARING RE HYLAND OFFICE PARK PUD FOR PAPPADEAUX RESTAURANT

At 7:28 p.m. the public hearing was opened on the Hyland Office Park, PUD for Pappadeaux's Restaurant, John H. Quinn, Planner II, gave a power point presentation and entered a copy of the Agenda Memorandum and other related items into the record. Dave Richards of Pappadeaux Restaurant was present and spoke in favor of this development. There was no opposition. The public hearing was declared closed at 7:39 p.m.

#### COUNCILLOR'S BILL NO. 30 RE CLUP AMENDMENT FOR PAPPADEAUX RESTAURANT

Councillor Dittman moved, seconded by Dixon to pass Councillor's Bill No. 30 on first reading amending the Comprehensive Land Use Plan changing the designation from Office to Retail Commercial. This recommendation is based on the following findings set forth in the Westminster Comprehensive Land Use Plan: the proposed amendment is in need of revision as proposed; the amendment is in conformance with the overall purpose and intent and the goals and policies of the Plan; the proposed amendment is compatible with existing and planned surrounding land uses; the proposed amendment would not result in excessive detrimental impacts to the City's existing or planned infrastructure systems. Upon roll call vote, the motion carried unanimously.

#### FIRST AMENDED PRELIMINARY DEVELOPMENT PLAN FOR PAPPADEAUX RESTAURANT

Councillor Dittman moved, seconded by Dixon to approve the First Amended Preliminary Development Plan (PDP) within the Hyland Office Park Planned Unit Development. This recommendation is based on a determination that the findings set forth in Section 11-5-14 of the Westminster Municipal Code have been met. The motion carried unanimously.

RESOLUTION NO. 33 RE I-25/144<sup>TH</sup> AVENUE RIGHT-OF-WAY ANNEXATION

Mayor Pro-Tem McNally moved, seconded by Hicks to adopt Resolution No. 33 accepting the annexation petition submitted by the Colorado Department of Highways, and make the findings required by State Statute on the sufficiency of the petition, and setting the date of June 14, 2004, for the annexation hearing. Upon roll call vote, the motion carried unanimously.

ADJOURNMENT:

The meeting was adjourned at 7:45 P.M.

ATTEST:

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City Clerk

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Mayor



## Agenda Item 6 A

**WESTMINSTER**  
**COLORADO**

### Agenda Memorandum

City Council Meeting  
May 10, 2004

**SUBJECT:** Proclamation re Eleanor Scott, Colorado Mother of the Year

**Prepared By:** Michele Kelley, City Clerk

### Recommended City Council Action

City Council present a proclamation to Eleanor Scott in recognition of her designation as Colorado Mother of the Year award and extend Westminster's congratulations and best wishes on this prestigious statewide award.

### Summary Statement

- City Council is requested to present a Proclamation to Eleanor Scott to recognize her recent designation as Colorado Mother of the Year for 2004.
- Nominees for Colorado Mother of the Year are sought yearly on the state level with recommendations coming from the mother's outside contacts such as a church groups, choral groups, PTA organizations, local businesses etc. Family members are not allowed to nominate.
- Nominees are well respected, devoted mothers who interact in a positive manner on a family, spiritual, community and civic basis. Eleanor has been a stay at home mother, very involved as a volunteer in school, church, and community activities for over forty years.

**Expenditure Required:** \$0

**Source of Funds:** N/A

**Policy Issue(s)**

There are no policy issues identified.

**Alternative(s)**

None identified.

**Background Information**

Eleanor Scott was selected as the Colorado Mother of the Year at the state meeting held at the Double Tree Hotel in Westminster, on Saturday, April 17<sup>th</sup>, 2004.

The national convention for Mother of the Year was recently held in San Juan Puerto Rico on April 27<sup>th</sup> through May 2<sup>nd</sup>.

Eleanor has been a volunteer of many Westminster community activities. The following is a list of a few of the activities she has been actively serving:

- Member of City of Westminster Graffiti Committee
- Member of City of Westminster Visions Committee
- Vice Chairman of Westminster Area Community Awareness Action Team
- Red Ribbon campaign
- Just Say No flag raising
- Program Director of the Drug Free Communities Support Program

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

WHEREAS, Eleanor Kay Scott was born in North Platte, Nebraska, and her family history has been traced to the Mayflower on her mother's side, and to Anne Hutchinson, a courageous advocate of religious freedom in the American colonies in the 1600's on her father's side; and

WHEREAS, Eleanor Scott has been very involved as a volunteer with Holy Trinity Church since 1963, working on many projects over the years including presenting a drug awareness workshop for families in a cooperative project with the Holy Trinity Religious Education Department in 1984; and

WHEREAS, Eleanor Scott has also been very involved as a volunteer with Adams County School District 50 over the past 24 years, helping to create and chairing the Westminster Area Community Awareness Action Team (CAAT) from 1982 to 1989; served on the School/Community Committee with representatives from 25 local schools and law enforcement officers, and is currently the Program Chairman. In 1989 this group received the "Communities for a Drug Free Colorado Outstanding Parent Program" Award from Governor Roy Romer; and

WHEREAS, Eleanor Scott worked on the School District 50 Strategic Planning Committee, Superintendent/Parent Advisory Council, Tobacco-Free Committee; and teaching refusal skills curriculum to students; wrote and received a grant and produced "Drug Facts-Ready Reference Manual for 3000 educators and parents; and

WHEREAS, Eleanor Scott has received many other prestigious awards over the years including Westminster Grange Community Citizen Award 1998; Rocky Mountain 'Just Say No' Award 1983; Northwest Chamber of Commerce Woman of the Year 1991; Westminster Elks Citizen of the Year, 1989 and Westminster Rotary Working with Youth Award 1983; and will be awarded the National Garden Clubs Colorado Award of Honor For Over All Excellence in 2004; and

WHEREAS, Eleanor Scott has served since 1965 judging horticulture and floral design, Chaired Garden Therapy projects for seniors and hospital patients, helped the Junior Garden Club; organized a junior garden club for children's Camp Fire Group that organized a Standard Youth Flower Show that received a National Garden Club Award; and

WHEREAS, Eleanor Scott has also been involved with the Greater Westminster Quality of Life Coalition, serving as president from 1994-1996; served on the homeless resource search committee, assisted in creation of Adams County Interfaith Hospitality Network, a church network community response for homeless families; and

WHEREAS, City Council finds that Eleanor Scott's appointment as Colorado Mother of the Year is a distinct honor not only for Eleanor, but also for her family and the Westminster Community.

NOW THEREFORE, I, Ed Moss, Mayor of the City of Westminster, on behalf of the entire City Council and Staff, do hereby congratulate Eleanor Scott on her award as Colorado Mother of the Year, 2004 and wish her much success during the year getting her message out to all in supporting the Literacy Program. Drug Prevention and Collecting Books endeavor.

Signed this 10<sup>th</sup> day of May, 2004.

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Ed Moss, Mayor





**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
May 10, 2004

**SUBJECT:** Proclamation re Mental Health Month

**Prepared by:** Michele Kelley, City Clerk

**Recommended City Council Action**

Council proclaim the month of May as Mental Health Month and present a proclamation to Jefferson Center for Mental Health representative Vicki Rodgers, Practice Manager and Community Reach Executive Director Rick Doucet.

**Summary Statement**

- Jefferson Center for Mental Health, and Community Reach have requested that the City proclaim the month of May as Mental Health Month in Westminster.
- The City has been very supportive of these mental health organizations through the City's Human Services funding each year.
- The City has provided the Walker Building at 76th and Irving to Community Reach for use as their Westminster Clinic since 1974. Now that the new Irving Street Library has been completed, Community Reach is planning to move its offices to the previous 76<sup>th</sup> Avenue Library building under their terms of the agreement before City Council elsewhere on the Council Agenda this evening..
- Vicki Rodgers representing Jefferson Center for Mental Health and Rick Doucet, Executive Director representing Community Reach will be in attendance Monday evening to accept the proclamation.

**Expenditure Required:** \$0

**Source of Funds:** N/A

**Policy Issue**

There are no policy issues associated with this proclamation.

**Alternative**

None identified.

**Background Information**

Community Reach and Jefferson Center for Mental Health have requested that the month of May be recognized as Mental Health month in Westminster in order to increase community awareness that persons with mental illness can be treated and can be productive citizens.

During 2004, the City is providing \$10,000 to Jefferson Center for Mental health and \$24,000 to Adams Community Mental Health as part of the Human Services Agency Funding. The City has also supported Adams Community Mental Health through the use of the City's Walker Building for a nominal cost. In February, 2001, Council directed City Staff to reduce the scope of a remodel project at the Walker Building and to use the balance of the project funds for the remodel of the 76<sup>th</sup> Avenue Library for the Center's Westminster offices. It is anticipated that the Library building will be available for the Mental Health Center Staff later this year.

Representatives of Adams Community Mental Health and Jefferson Center for Mental Health will be in attendance to accept the Proclamation.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

**WHEREAS, In 2003, President Bush's New Freedom Commission declared that mental health disorders and mental health problems, including addictive disorders, affect people of all backgrounds and all stages of life, and that no one is immune; and**

**WHEREAS The President's New Freedom Commission calls for a transformed mental health system In which: Americans understand mental health is essential to overall health, mental health care is consumer and family driven; disparities in mental health services are eliminated; early mental health screening, assessment, and referral to services are common practice; excellent mental health care is delivered and research is accelerated; and technology is used to access mental health care and information; and**

**WHEREAS, Mental health is essential to the overall health and emotional well-being of Colorado's children, youth, adults, and families; and**

**WHEREAS, People who have mental illness can recover and lead full, productive lives; and**

**WHEREAS, An estimated two-thirds of young people and adults who have mental health disorders are not receiving the help they need; and**

**WHEREAS, The cost of untreated and mistreated mental illnesses and addictive disorders to American businesses, governments, and families has grown to \$113 billion annually; and**

**WHEREAS, The City of Westminster has made a commitment to community based systems of mental health care in which all residents can receive high-quality and consumer-responsive services; and**

**NOW, THEREFORE, I, Ed Moss, Mayor of the City of Westminster, Colorado, on behalf of the entire City Council and Staff, do hereby proclaim the month of May, 2004 as**

### **MENTAL HEALTH MONTH**

**In the City of Westminster and call upon all Westminster citizens, government agencies, public and private institutions, businesses and schools to recommit our community to increasing awareness and understanding of mental illness and the need for appropriate and accessible services for all people with mental illnesses.**

**Signed this 10<sup>th</sup> day of May, 2004**

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**Ed Moss, Mayor**



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
May 10, 2004



**SUBJECT:** Proclamation of Public Works Week

**Prepared By:** Sam LaConte, Street Operations Manager

**Recommended City Council Action**

Proclaim the week of May 16-22 as Public Works Weeks in the City of Westminster.

**Summary Statement**

- The National American Public Works Association and state Chapters dedicate one week each year to inform and educate citizens of the importance of public works.
- The theme this year is “24/7: Focused on Our Community.”
- Efforts are made to educate the citizenry on public improvements such as safe, well-maintained streets, the treatment of drinking water, and the management of wastewater.
- Channel 8 will be broadcasting a program on how Public Works and Utilities operations affect daily life.
- Poster displays and brochures will be available at City Hall, City recreation centers, City libraries, and the Westminster Mall.
- On Monday and Tuesday, May 17 and 18, a booth and the graffiti removal equipment will be set up in Westminster Mall and manned by Street Operations and Utilities Operations Divisions field personnel.
- Equipment will be displayed at the Municipal Service Center for interested groups or individuals to inspect.
- An e-mail invitation will be extended to all City employees and City Council members to stop by the Municipal Service Center on Thursday, May 20, between 11 a.m. and 1:30 p.m. to view the display and enjoy a free hot dog. This year there will be a “Car Show” to spotlight City employees’ cars.
- Street Operations Division Maintenanceworker Mel Holmes will be in attendance at Monday night’s City Council meeting to receive the proclamation on behalf of the Department of Public Works and Utilities.

**Expenditure Required:** \$0

**Source of Funds:** N/A

**Policy Issue**

No policy Issues identified

**Alternative**

No alternatives identified

**Background Information**

Public works professionals throughout the United States and Canada will celebrate National Public Works Week, May 16-22.

Since 1960, the annual observance has been an opportunity to increase public awareness of the role that Public Works plays in everyone's daily lives. The 2004 events are being coordinated in Colorado by the Colorado Chapter of the American Public Works Association.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

WHEREAS, Public works and utilities services provided in our community are an integral part of our citizen's lives; and

WHEREAS, Support of an understanding and informed citizenry is vital to the efficient operation of Public Works and Utilities and programs concerning the maintenance of water, sewers, streets and highways, public buildings, solid waste collection, and snow removal operations; and

WHEREAS, The health, safety, and comfort of this community greatly depends on these facilities and services; and

WHEREAS, The quality and effectiveness of these facilities, as well as their planning, design, and construction, are vitally dependent upon the efforts and skill of public works officials; and

WHEREAS, The efficiency of the qualified and dedicated personnel who staff public works and utilities departments is materially influenced by the people's attitude and understanding of the importance of the work they perform,

NOW, THEREFORE, I, Ed Moss, Mayor of the City of Westminster, on behalf of the entire Westminster City Council and Staff, do hereby proclaim the week of May 16 through 22, 2004, as

### **PUBLIC WORKS WEEK**

in the City of Westminster and call upon all citizens and civic organizations to acquaint themselves with the problems involved in providing our public works and utilities and to recognize the contributions which public works and utilities officials make every day to our health, safety, and comfort.

Signed this 10<sup>th</sup> day of May, 2004

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Ed Moss, Mayor



**WESTMINSTER**  
**COLORADO**  
Agenda Memorandum

City Council Meeting  
May 10, 2004



**SUBJECT:** Award for Construction of Stratford Lakes Reclaimed Water Line

**Prepared By:** Richard A. Clark, Utilities Operations Manager  
Diane Phillips, Capital Projects Coordinator

**Recommended City Council Action**

Authorize the City Manager to execute a contract with Tetra Tech Construction Services, Inc., in the amount of \$105,430 along with a project contingency of 15% in the amount of \$15,815 for the construction of the Stratford Lakes Reclaimed water line.

**Summary Statement**

- Installation of approximately 1,100 feet of 4 inch and 8-inch reclaimed water line is needed in Federal Boulevard north of 112<sup>th</sup> Avenue to provide reclaimed water service for the Stratford Lakes Park and Ranch Reserve subdivision.
- Martin/Martin Consulting Engineers was retained to design this reclaimed water line.
- Competitive bids were received from six construction firms for the Stratford Lakes Reclaimed water line project. Tetra Tech Construction Services, Inc., was the lowest responsible bidder.
- Funds were budgeted and are available for this project expense, in the Reclaimed Customer Connections portion of the Utility Fund CIP.

**Expenditure Required:** \$121,245

**Source of Funds:** Utility Fund Capital Improvement Project budget

**Policy Issue**

Should the City contract with Tetra Tech Services, Inc., to build the Stratford Lakes Reclaimed water line?

**Alternative**

The City could delay the construction of this line; however, the cost would likely increase. The City could re-bid the project, but staff does not expect the bid proposals to significantly change.

**Background Information**

The reclaimed master plan recommends servicing all large parks and private greenbelts possible with reclaimed water so as to conserve raw water supplies. This project is designed to service the Stratford Lakes park area west of Federal Boulevard and the Ranch Reserve Subdivision’s public landscaped areas east of Federal Boulevard. The southerly portion of the alignment was constructed in conjunction with the intersection improvements to Federal and 112<sup>th</sup> Avenue.

The project was bid with alternatives for conventional open cut excavation (Alt. A) or directional drilling (Alt. B) parallel to Federal. Both alternatives require a casing bore under Federal to carry a service line across the roadway to the Stratford Lakes Park area. Only one contractor bid on the directional drilled option and was not the low bidder.

The City received six bids from contractors for the construction of the Stratford Lakes Reclaimed Water Line project. The engineer’s estimate was \$93,370 (Alt A) and \$103,345 (Alt B).

<b>Company Name</b>	<b>Alternative A Bid Amount</b>	<b>Alternative A Bid Amount</b>
Tetra Tech Services, Inc.	\$105,430	
BT Construction, Inc.	\$147,173	\$110,533
Fiore & Sons	\$113,244	
Tierdael Construction	\$114,096	
DeFalco-Lee Construction	\$124,906	
T. Lowell Construction	\$120,000	

Tetra Tech Services, Inc. was formerly known as D.E.A. Their references have been checked by the design engineer for Martin and Martin. The design engineer is recommending that the City proceed with Tetra Tech Services Inc.

A contingency amount equal to 15% of the project bid is being requested for this project due to the complexities of the existing utilities in the area as well as the casing bore and potential complications with Colorado Department of Transportation, since Federal Boulevard is a state roadway.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment



# Stratford Lakes Reclaimed Waterline



## Legend

- Reclaim
- - - New reclaim lines
- buildings
- water bodies
- Openspace
- Parks
- parcels





**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
May 10, 2004



**SUBJECT:** 2004 Chipseal Project Award

**Prepared By:** Ron Elrod, Infrastructure Construction Coordinator

**Recommended City Council Action**

Based on the recommendation of the City Manager, the City Council finds that the public interest would be best served by awarding this work to A-1 Chipseal Company as the sole source for the work. Authorize the City Manager to sign a contract for the 2004 Chipseal Project to the sole source contractor, A-1 Chipseal Company, in the amount of \$1,399,959; and authorize a \$50,000 contingency amount. Charge the expense to the appropriate 2004 Department of Public Works and Utilities, Infrastructure Improvements Division and General Fund Capital Improvement budget Accounts.

**Summary Statement**

City Council action is requested to authorize the City Manager to sign a sole source contract with A-1 Chipseal Company for the 2004 Chipseal Project.

- City Staff negotiated project costs with A-1 Chipseal Company for 252,501 square yards of conventional chipseal to be applied on 96 Westminster residential and collector streets and another 295,999 square yards of 7/8" thick double bonded hot applied chipseal resurfacing on five arterial and five major collector streets.
- A-1 Chipseal has successfully completed chipseal projects in the City of Westminster for the past seven years (1997 – 2003) without another company bidding.
- 2004 negotiated unit prices for chipseal will not increase over the 2003 bid prices.
- 2004 project includes Capital Improvement Funds for Sheridan Boulevard, 88<sup>th</sup> Place to 113<sup>th</sup> Avenue –

**Expenditure Required:** \$ 1,449,959

**Source of Funds:** \$999,959 plus \$50,000 contingency General Fund – Public Works and Utilities Infrastructure Improvements Division Operating Budget. \$400,000 General Capital Improvement Fund – Arterial Roadway Rehabilitation.

## **Policy Issue**

Should the City accept the negotiated costs with A-1 Chipseal Company? A-1 Chipseal Company has been and remains the sole contractor in the metropolitan area for chipseal construction.

## **Alternatives**

1. Bid the chipseal work with the annual Street Reconstruction/Resurfacing Project.
  - A double profit margin would be realized once A-1 Chipseal becomes a sub-contractor
  - Costs would increase by an estimated 15%
  - Only one contract would be necessary
  - A-1 Chipseal Company would still be performing the work
2. Resurface these streets with a thin overlay of hot-mix asphalt (HMA). With this alternative, the cost would increase by 175% and the strength of the pavement structure would increase by less than 5%. The pavement's flexibility would not increase as it does with the polymerized asphalt used with a sealcoat. Thus, within two to three years, the pavement surface would need a sealcoat, due to oxidation.

## **Background Information**

The 2004 Chipseal Project represents a total of 77.9 lane miles of pavement surface improvements to 106 street segments throughout the City of Westminster. The double bonded hot applied chipseal resurfacing was successfully applied last year on 9 lane miles of arterial roadway. The extended pavement life is 8 – 10 years for both applications and the double bonded hot applied chipseal resurfacing results in a 60% cost savings over hot mix asphalt overlay. This chipsealing project is recommended by Staff after each street segment was carefully analyzed through the computerized Pavement Management process. It was determined that these preventative maintenance strategies would be the most cost effective.

In an effort to respond to citizen concerns, Staff will again be sending a letter to affected residents explaining the process of the chipseal application and what to expect during the curing period. Special attention will be given to consistent and timely inspection during the construction process and sweeping will be scheduled the day after the chipseal is applied. Once sweeping is done, a fogseal will be applied over the surface to seal loose rock from the top down. The fogseal finish has upgraded the quality of construction and has been done successfully for the past 11 years.

The sole contractor, A-1 Chipseal Company, has successfully completed chipseal projects over the past seven years in Westminster and the cities of Denver, Aurora, Frederick, Lakewood, Arvada, Golden, Northglenn, Loveland, Estes Park, Adams County, Douglas County, Jefferson County, Elbert County, and the Colorado Department of Transportation (CDOT). A-1 Chipseal's owner has been in the business since 1981 and the City of Westminster has been chipsealing City streets since 1976.

The chipseal unit price of \$1.28 per square yard is not increased from the 2003 price. Also included is the 7/8" thick double hot applied chipseal application price of \$3.05 per square yard, that is not increased from the 2003 price, along with the repainting of all traffic control lane lines, crosswalks and pavement markings whenever applicable following the chipseal process. All 106 streets will be patched and cracksealed by City Street Maintenance crews to prepare them to receive the chipseal application.

Respectfully submitted,

J. Brent McFall  
City Manager  
Attachment

	<u>Description</u>
1.	Brentwood Way- Independence Drive to Independence Drive
2.	97 <sup>th</sup> Place - Independence Drive to 8445 – 97 <sup>th</sup> Place
3.	Carr Circle - 9892 – 97 <sup>th</sup> Place to 9892 – 97 <sup>th</sup> Place
4.	94 <sup>th</sup> Avenue - Independence Drive to Larkbunting Drive
5.	94 <sup>th</sup> Avenue - 8504 to 8574
6.	94 <sup>th</sup> Avenue - 8503 to 8563
7.	94 <sup>th</sup> Place - 94 <sup>th</sup> Avenue to 95 <sup>th</sup> Drive
8.	93 <sup>rd</sup> Place - 94 <sup>th</sup> Avenue to 8611 – 93 <sup>rd</sup> Place
9.	Cody Drive- 94 <sup>th</sup> Avenue to West End
10.	Cody Drive - 94 <sup>th</sup> Avenue to 94 <sup>th</sup> Place
11.	95 <sup>th</sup> Drive - 8697 to 94 <sup>th</sup> Avenue East
12.	Dover Way - 95 <sup>th</sup> Drive to Cody Drive
13.	Brentwood Street - 95 <sup>th</sup> Drive to 94 <sup>th</sup> Avenue
14.	Brentwood Way - 94 <sup>th</sup> Avenue to Brentwood Street
15.	Carr Street - Independence Drive to 96 <sup>th</sup> Drive
16.	96 <sup>th</sup> Drive - Carr Street to Independence Drive
17.	Garrison Court, 96 <sup>th</sup> Drive to South End
18.	Garland Court - 96 <sup>th</sup> Drive to South End
19.	Flower Street, 96 <sup>th</sup> Drive to Independence Drive
20.	Field Court - 96 <sup>th</sup> Drive to South End
21.	Everett Court - 96 <sup>th</sup> Drive to South & North End
22.	Dudley Drive - 96 <sup>th</sup> Drive to Independence Drive
23.	Carr Street - Independence Drive to Larkbunting Drive
24.	95 <sup>th</sup> Avenue - Carr Street to Independence Drive
25.	Flower Street - Independence Drive to South End
26.	95 <sup>th</sup> Avenue - Independence Drive to Southwest End
27.	Garrison Court - Independence Drive to 94 <sup>th</sup> Avenue
28.	94 <sup>th</sup> Place - Garrison Court to West End
29.	94 <sup>th</sup> Avenue - Independence Drive to East End
30.	Hoyt Street - 93 <sup>rd</sup> Avenue to South End
31.	Holland Court - 93 <sup>rd</sup> Avenue to South End
32.	Holland Street - 93 <sup>rd</sup> Avenue to South End
33.	Garland Street, 93 <sup>rd</sup> Avenue to South End
34.	93 <sup>rd</sup> Avenue, Independence Drive to Garrison Street
35.	93 <sup>rd</sup> Avenue - Garrison Street to Larkbunting Drive
36.	92 <sup>nd</sup> Avenue, 93 <sup>rd</sup> Avenue to Everett Street
37.	92 <sup>nd</sup> Place, 93 <sup>rd</sup> Avenue to Cody Lane
38.	Cody Lane - 92 <sup>nd</sup> Place to East End
39.	Garrison Drive - 92 <sup>nd</sup> Place to Larkbunting Drive
40.	Garrison Drive - Larkbunting Drive to 93 <sup>rd</sup> Avenue
41.	Dover Way - Garrison Drive to South End
42.	Dudley Way - Garrison Drive to South End
43.	Estes Lane - Garrison Drive to South End
44.	Everett Court - Garrison Drive to South End
45.	Field Lane - Garrison Drive to South End
46.	Flower Street - Garrison Drive to South End
47.	Flower Court - Garrison Drive to South End
48.	Garrison Street - 93 <sup>rd</sup> Avenue to 90 <sup>th</sup> Place
49.	92 <sup>nd</sup> Avenue, Independence Drive to Garrison Street
50.	Garland Street - 90 <sup>th</sup> Place to 92 <sup>nd</sup> Avenue
51.	91 <sup>st</sup> Avenue - Garland Street to West End
52.	91 <sup>st</sup> Place - Garland Street to Hoyt Street
53.	Holland Street - 91 <sup>st</sup> Place to 90 <sup>th</sup> Place
54.	Holland Street - 90 <sup>th</sup> Place to South End

55.	Hoyt Street - 90 <sup>th</sup> Place to 92 <sup>nd</sup> Avenue
56.	90 <sup>th</sup> Place - Independence Drive to Field Street
57.	Carr Court - 91 <sup>st</sup> Place to 91 <sup>st</sup> Avenue
58.	91 <sup>st</sup> Avenue - Carr Court to Cody Street
59.	Cody Street - 91 <sup>st</sup> Place to South End
60.	Cody Court - 91 <sup>st</sup> Place to South End
61.	Dover Street - 91 <sup>st</sup> Place to 91 <sup>st</sup> Avenue
62.	Dover Street - 91 <sup>st</sup> Place to 92 <sup>nd</sup> Place
63.	Dudley Street - 91 <sup>st</sup> Place to South End
64.	Estes Street - 91 <sup>st</sup> Place to South End
65.	Flower Street, 91 <sup>st</sup> Place to 91 <sup>st</sup> Avenue
66.	Field Street - 91 <sup>st</sup> Place to South End
67.	Flower Court, 90 <sup>th</sup> Place to 91 <sup>st</sup> Place
68.	91 <sup>st</sup> Place, Flower Court to Everett Street
69.	Everett Street, 91 <sup>st</sup> Avenue to 93 <sup>rd</sup> Avenue
70.	91 <sup>st</sup> Place, Everett Street to Carr Court
71.	91 <sup>st</sup> Avenue - Field Street to Flower Court
72.	Cody Circle - Cody Street to Cody Street
73.	90 <sup>th</sup> Place, Dudley Street to West end
74.	Dudley Street, 91 <sup>st</sup> Avenue to Dover Street
75.	Dover Street, 91 <sup>st</sup> Avenue to Dudley Street
76.	Estes Street - 91 <sup>st</sup> Avenue to South End
77.	Cody Court - Cody Street to 89 <sup>th</sup> Drive
78.	89 <sup>th</sup> Drive - Cody Court to Carr Court
79.	Carr Circle - 89 <sup>th</sup> Drive to North End
80.	Carr Court - 90 <sup>th</sup> Avenue to 89 <sup>th</sup> Drive
81.	90 <sup>th</sup> Place - 90 <sup>th</sup> Avenue to 90 <sup>th</sup> Avenue
82.	Ammons Court - 90 <sup>th</sup> Place to South End
83.	Balsam Court - 90 <sup>th</sup> Place to South End
84.	Allison Court - 90 <sup>th</sup> Place to 90 <sup>th</sup> Drive
85.	Zephyr Court - 90 <sup>th</sup> Drive to South End
86.	90 <sup>th</sup> Drive - Yarrow Street to West End
87.	90 <sup>th</sup> Drive - Yarrow Street to East End
88.	Ammons Street - 92 <sup>nd</sup> Avenue to 93 <sup>rd</sup> Way
89.	93 <sup>rd</sup> Circle, 93 <sup>rd</sup> Way to Balsam Street
90.	93 <sup>rd</sup> Way – 93 <sup>rd</sup> Circle to Brentwood Street
91.	Brentwood Street - 93 <sup>rd</sup> Way to North End
92.	93 <sup>rd</sup> Place - Brentwood Street to Balsam Street
93.	Balsam Court - 93 <sup>rd</sup> Place to North End
94.	Balsam Street - 94 <sup>th</sup> Avenue to 93 <sup>rd</sup> Way
95.	90 <sup>th</sup> Court - Field Street to West End
96.	89 <sup>th</sup> Court Field Street to West end
97.	Sheridan Boulevard, 88 <sup>th</sup> Place to 112 <sup>th</sup> Avenue
98.	88 <sup>th</sup> Avenue, Harlan Street to 200 ft. east of Sheridan Boulevard
99.	Pierce Street, 88 <sup>th</sup> Avenue North 1,040 ft.
100.	90 <sup>th</sup> Avenue, Wadsworth Parkway to Carr Street
101.	Cody Street, 90 <sup>th</sup> Avenue to 91 <sup>st</sup> Avenue
102.	91 <sup>st</sup> Avenue, Cody Street to Field Street
103.	Field Street, 91 <sup>st</sup> Avenue to 88 <sup>th</sup> Avenue
104.	84 <sup>th</sup> Avenue, Federal Boulevard to Zuni Street
105.	100 <sup>th</sup> Avenue, Wadsworth Parkway to Simms Street
106.	Church Ranch Boulevard, Wadsworth Boulevard to Wadsworth Parkway



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
May 10, 2004



**SUBJECT:** Special Legal Counsel for City Personnel Board

**Prepared By:** Matt Lutkus, Deputy City Manager for Administration  
Leslie Annand, Assistant City Attorney

**Recommended City Council Action**

Designate attorney John Hayes of the law firm of Hayes, Phillips, Hoffman and Carberry, P.C. as special legal counsel to the City's Personnel Board on an as needed basis at the per hour cost of \$140.

**Summary Statement**

- Special legal counsel must be retained to represent the Personnel Board in hearings involving appeals by City employees because the City Attorney's office may not represent both the Board and the City Department which imposed the discipline at the same time.
- The City Attorney's Office is regularly consulted in matters involving possible suspension, demotion or dismissal of City employees. As a result, the City Attorney's Office continues to represent the department management staff who took the disciplinary action, if there is an appeal of that action.
- In recent years, the City has contracted with John Hayes of Hayes, Phillips, Hoffman and Carberry, P.C. to provide legal counsel to the Personnel Board during the Board's preparation for the hearings, pre-hearing conferences, the conduct of the hearings themselves and the preparation of the Board's recommendation to the City Manager. Mr. Hayes has considerable experience in municipal law and specifically in the area of personnel management.
- The rate negotiated by the City with Mr. Hayes is \$140 per hour.

**Expenditure Required:** Not to exceed \$10,000

**Source of Funds:** General Fund Central Charges Account

**Policy Issue**

Should special legal counsel be appointed to assist the Personnel Board in its hearings and deliberations on employees' disciplinary appeals?

**Alternatives**

1. Council could decide not to appoint legal counsel for the Board. This alternative is not recommended due to the quasi-judicial nature of the Personnel Board's hearing responsibilities and the fact that Board members may not have the legal background and experience required to ensure that these hearings are conducted in accordance with applicable statutes and case law.
2. Direct Staff to solicit proposals for the Personnel Board's legal counsel. This alternative is not recommended given Mr. Hayes' considerable background and familiarity with the City's personnel practices and procedures and with personnel law generally. In addition, Staff annually surveys and is thus well aware of the going rates for outside municipal attorneys and Mr. Hayes' quoted fee of \$140 per hour is very reasonable for this type of legal work.

**Background Information**

The City of Westminster City Charter and Municipal Code provides a hearing process before a City Council-appointed Personnel Board when employees choose to appeal a dismissal, suspension or demotion administered by their Department Head or Division Manager. In its capacity as an appeal review panel, the Board acts in a quasi-judicial capacity and, as such, must comply with the applicable Federal and state law related to public employment. Hearings must also be consistent with the City Charter, the Westminster Municipal Code and the Board's own written procedures. Moreover, the employee has the right to be represented by legal counsel. The resulting hearing process is in many ways similar to the process used in a court trial with the rules of evidence, examination and cross examination of witnesses and other procedures and protocols that would be present in a trial setting. Given the nature of this hearing process and the applicability of various statutes and court decisions, it is appropriate for the City to provide the Personnel Board with legal guidance and other assistance through these processes. Even in those cases where the employee and the City's representative, usually a department head, are not represented by legal counsel, it is still in the City's best interests to have legal counsel available for the Personnel Board throughout the appeal process.

There have been several years when the Personnel Board has not heard an appeal on a disciplinary action. However, on average, the City can expect one appeal per year where the Board will need to convene. The cost for legal counsel to the Board has ranged anywhere from \$1,000 to \$4,000, depending on the complexity of each case and the amount of time spent in hearings.

For the past several years, the City has used the services of John Hayes, an attorney at the law firm of Hayes, Phillips, Hoffman and Carberry, P.C. Mr. Hayes has considerable experience in employment law and in the conduct of administrative hearings and has an excellent working relationship with Board members. Given the fact that he is providing legal services to the City, City Staff has been remiss in not requesting that Mr. Hayes be approved as special legal counsel. The proposed City Council action is in compliance with the City Charter and will authorize the Staff to utilize the services of Mr. Hayes as needed on matters before the Personnel Board.

Respectfully submitted,

J. Brent McFall  
City Manager



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
May 10, 2004



**SUBJECT:** Special Legal Counsel for Fire and Police Defined Benefit Pension Analysis

**Prepared By:** Matt Lutkus, Deputy City Manager for Administration  
Leslie Annand, Assistant City Attorney

**Recommended City Council Action**

Authorize the City Manager to sign a contract for legal services with Sherman & Howard, LLC for legal counsel services not to exceed \$8,000 for work related to the possible conversion of the Police and Fire Defined Contribution Plans to the Fire and Police Pension Association (FPPA) Defined Benefit System and the review and possible amendment of the City's 457 Deferred Comp Plan.

**Summary Statement**

- On April 12, City Council adopted a non-binding resolution that formally initiated the conversion process of the City's Fire Pension Plan to the FPPA's Defined Benefit Plan System. City Staff is currently working on a number of steps that must occur prior to Fire employees actually voting on whether or not to join the FPPA Plan and City Council's consideration of the final decision on plan conversion.
- The City task force working on this project has had a number of questions related to Internal Revenue Service Rules with regard to the transfer of 401(h) contributions.
- Given the specialized nature of this research into the Internal Revenue Service Code, an attorney who specializes in tax law should be retained.
- City Staff has contacted Kathleen Odle at Sherman & Howard who has conducted some preliminary research for the City on this issue.
- Ms. Odle has also agreed to review and amend the City's 457 Deferred Comp Plan to comply with the recent tax legislation including the Economic Growth and Tax Relief Reconciliation Act of 2001.
- Ms. Odle's hourly rate is \$315. It is estimated that her work on this project will be limited to 25 hours.

**Expenditure Required:** Not to exceed \$8,000

**Source of Funds:** 2004 General Fund Central Charges Budget



**Policy Issue**

Whether to retain special legal counsel to assist in the review of the possible conversion of the City's Police and Fire Pension Plans to the Defined Benefit Plan offered by FPPA.

**Alternative**

Do not continue the use of special legal counsel for the review of the tax issues related to pension plan conversion. This alternative is not recommended given the potential risk and tax consequences for the City and employees who would be eligible for this conversion.

**Background Information**

The City's current employee retirement plan is a money purchase or defined contribution plan in which the City's and employees' contributions are invested in a number of investment options selected by the employees. Employees are fully vested in the plan from the start of their employment and, thus, when they leave City employment they receive the amounts contributed by them and the City and any fund earnings less administrative expenses. In June, 1999, the City took advantage of an IRS provision that allowed employees to contribute up to 25% of their City and mandatory employee contributions into a 401(h) account. After an employee separates from the City, the dollars in the 401(h) account can only be used for approved medical-related expenses. When the funds are withdrawn for this purpose, they are not taxable.

As City Council is aware, City Staff is currently in the process of pursuing a possible conversion of the Fire Defined Contribution Pension Plan to the FPPA Defined Benefit Plan System.

The FPPA Plan will likely include the provision for employees to contribute 1% of their salary into a 401(h) account. This plan will, upon their retirement, provide a reimbursement for post-retirement medical insurance. There is currently no mechanism available, however, for 401(h) monies previously contributed by City Fire Pension Plan participants to be transferred into the FPPA 401(h) account.

Given the complexities involved in making a determination on how these 401(h) dollars in the City Pension Plan should be treated, and the tax implications, if any, Staff believes it is in the best interests of both the City and employees to retain special legal counsel with an expertise in tax issues. City Staff have contacted Kathleen Odle at Sherman & Howard based on recommendations from other entities that have used Sherman & Howard for this type of tax law analysis and advice. Based on the need to obtain some initial preliminary analysis, Staff has already had Ms. Odle provide some tax law analysis for this study.

Ms. Odle has also recommended that the City's 457 Deferred Comp Plan be reviewed and amended to comply with all recent tax law legislation. Among other possible amendments, the 457 Plan will be amended to allow the City's Fire Plan participants to use their 457 Plan balances to purchase service credits upon their conversion to the FPPA Plan.

Ms. Odle has agreed to discount her standard rate of \$350 per hour by 10% to \$315 per hour. It is Staff's intent to utilize this outside legal counsel service to the minimum extent possible. Staff is anticipating a maximum of 25 hours for this work.

Respectfully submitted,

J. Brent McFall  
City Manager



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
May 10 2004



**SUBJECT:** Huron Street Demolition Contract

**Prepared By:** Stephen C. Baumann, Assistant City Engineer

**Recommended City Council Action**

Authorize the City Manager to sign a contract with Fiore and Sons, Inc. in the amount of \$79,254 for demolition work in the vicinity of Huron Street and 136<sup>th</sup> Avenue; authorize a total of \$91,142 for the construction contract, including a 15% contingency, and charge this expense to the 136<sup>th</sup> Avenue and I-25 Project Account.

**Summary Statement**

- The improvement of Huron Street between 128<sup>th</sup> Avenue and 140<sup>th</sup> Avenue is expected to get underway in late June 2004. Preparatory work to make that possible has been going on for some months, including undergrounding and relocation of utilities. In addition to these efforts, the buildings and trees on the property at the northeast corner of Huron Street and 136<sup>th</sup> Avenue must be cleared to make way for the street improvements.
- Four contractors submitted proposals on the demolition work with bids ranging from \$79,254 to \$162,238. The low bidder, Fiore and Sons, Inc. is a long-time Denver area demolition contractor, experienced in this type of work. Fiore's bid is reasonable and they are expected to meet all other necessary qualifications. Staff is recommending that Fiore be awarded the contract..

**Expenditure Required:** \$91,142

**Source of Funds:** General Capital Improvement Fund - 136<sup>th</sup> Avenue and I-25 Project Account

**Policy Issue**

Shall the City award a contract to Fiore and Sons, Inc. as a result of their being the lowest of four bidders on the Huron Street Demolitions project?

**Alternatives**

- Two primary alternatives exist. One would be to discard all bids and not do the demolition work at all. This would preclude doing the Huron Street improvements between 128<sup>th</sup> Avenue and 140<sup>th</sup> Avenue, essentially delaying that project. This alternative is not recommended since the Huron Street improvement has been a priority transportation project for several years and the effort has advanced to the point where those improvements can be started in late June of 2004, which is critical to development activities along this corridor.
- A second alternative would be to award the contract to a contractor other than Fiore and Sons, Inc. City Council has the authority to take this approach, but it is not recommended. Fiore is a firm that has many years of experience in demolition and clearing work. They are the lowest of four bidders and have met the requirements the City prescribed in the bid documents prepared to solicit those bids. Fiore is also expected to meet the bonding and insurance requirements without difficulty.

**Background Information**

The project to improve Huron Street from 128<sup>th</sup> Avenue to 140<sup>th</sup> Avenue continues to move forward. Relocation of a major water main at Huron Street and Big Dry Creek was recently completed and utility undergrounding by Xcel and other utility providers is in progress. The remaining piece of work in advance of the roadway improvements is the demolition and clearing of structures and trees within the new Huron Street right-of-way north of 136<sup>th</sup> Avenue along the east side of existing Huron Street (see vicinity map). The clearing and demolition work will take approximately thirty days just before the roadway project, now scheduled to begin in late June or early July of 2004. The City now has legal possession of this right-of-way, a portion of the Foster family ownership. Several residential structures and machine sheds will need to be removed along with a stand of trees. One of the structures has asbestos-containing materials, but the demolition work is relatively straightforward.

The City’s consultant prepared bid documents and advertised the project for bid. Four proposals were received and are listed here:

<b>Bidder</b>	<b>Bid Amount</b>
Fiore and Sons, Inc.	\$ 79,253.73
Eagle Wrecking Company	\$ 93,366.83
DeFalco-Lee	\$138,500.93
ESA	\$162,238.00
Engineer’s Estimate	\$132,135.75

Fiore and Sons, Inc. is a grading and demolition contractor with many years of experience in the Denver area on projects with very similar characteristics. The Huron Street demolition work is a relatively small job by their standards and Fiore should have no trouble completing the contract in the allotted time. Fiore has met all of the requirements prescribed in the bidding documents and is expected to be able to provide the bonds and insurance needed to secure the contract.

**SUBJECT:** Huron Street Demolition Contract

Page 3

Staff is recommending that the contract be awarded to Fiore in the amount of \$79,254. In addition, a contingency of \$11,888 is also recommended due to unknowns associated with demolition work. The area to be cleared needs to be made suitable for roadway construction and hidden conditions may necessitate additional work. In all, authorization of a total of \$91,142 is requested.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment



**WESTMINSTER  
COLORADO**

**Agenda Memorandum**

City Council Meeting  
May 10, 2004



**SUBJECT:** Second Reading of Councillor’s Bill No. 24, 25 and 26 re the Annexation, Comprehensive Land Use Plan Amendment and Zoning for the Asbury Acres Subdivision

**Prepared By:** Dave Falconieri, Planner III

**Recommended City Council Action:**

1. Pass Councillor’s Bill No. 24 on second reading annexing the Asbury Acres property to the City of Westminster.
2. Pass Councillor’s Bill No. 25 on second reading amending the Comprehensive Land Use Plan changing the designation for the Asbury Acres property from Northeast Comprehensive Development Plan to Single Family Residential – Medium Density. This recommendation is based on the following findings set forth in the Comprehensive Land Use Plan:
  - a. The proposed amendment is needed as proposed; and
  - b. The amendment is in conformance with the overall purpose, intent, goals and policies of the plan; and
  - c. The proposed amendment is compatible with existing and planned surrounding land uses; and
  - d. The proposed amendment would not result in excessive detrimental impacts to the City’s existing or planned infrastructure systems.
3. Pass Councillor’s Bill No. 26 on second reading rezoning the Asbury Acres property from Jefferson County A-2 to Westminster Planned Unit Development (PUD). This recommendation is based on the finding that the standards set forth in Section 11-5-3 of the Westminster Municipal Code have been satisfied.

**Summary Statement:**

- The Asbury Acres property is located at the southeast corner of Wadsworth Boulevard and 94<sup>th</sup> Place, and consists of 2.75 acres. (See vicinity map.)
- In accordance with the provisions of the Northeast Comprehensive Land Use Plan, the minimum lot size is proposed to be 12,500 square feet. That would permit approximately 6 lots for single-family residential development. Asbury Homes has completed 3 other similar developments in this area.
- The developer is dedicating land for the future widening of Wadsworth Boulevard.
- These requests were approved on first reading by City Council on April 26, 2004.

**Expenditure Required:** \$ 0

**Source of Funds:** N/A

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO.

COUNCILOR'S BILL NO. **24**

SERIES OF 2004

INTRODUCED BY COUNCILLORS

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A BILL

FOR AN ORDINANCE APPROVING AND ACCOMPLISHING THE ANNEXATION OF CONTIGUOUS UNINCORPORATED TERRITORY IN A PARCEL OF LAND LOCATED IN SECTION 23, TOWNSHIP 2 SOUTH, RANGE 69 WEST, 6TH P.M., COUNTY OF JEFFERSON, STATE OF COLORADO.

WHEREAS, pursuant to the laws of the State of Colorado, there was presented to and filed with the Council of the City of Westminster a written petition for annexation to and by the City of Westminster of the hereinafter-described contiguous, unincorporated territory situate, lying and being in the County of Jefferson, State of Colorado; and

WHEREAS, City Council has been advised by the City Attorney and the City Manager that the petition and accompanying maps are in substantial compliance with Section 31-12-101, et.seq., Colorado Revised Statutes, as amended; and

WHEREAS, City Council has held the required annexation hearing in conformance with all statutory requirements; and

WHEREAS, City Council has heretofore adopted Resolution No. making certain findings of fact and conclusions regarding the proposed annexation as required by Section 31-12-110, C.R.S., and now finds that the property proposed for annexation under the Annexation Petition may be annexed by ordinance at this time; and

WHEREAS, the Council of the City of Westminster has satisfied itself concerning the conformance of the proposed annexation to the annexation policy of the City of Westminster.

NOW, THEREFORE, the City of Westminster ordains:

Section 1. That the annexation is hereby accomplished by and to the City of Westminster, State of Colorado, of the following described contiguous unincorporated territory situate, lying and being in the County of Jefferson, State of Colorado, to wit:

A parcel of land located in Section 23, Township 2 South, Range 69 West of the 6<sup>th</sup> Principal Meridian, being all of Block 28, except the north 5 feet thereof and the east 275.5 feet thereof, of Greenlawn Acres and Reservoir, a plat on file and recorded in the office of the Jefferson County Clerk and Recorder, County of Jefferson, State of Colorado, more particularly described as follows:

Commencing at the north one-quarter corner of said Section 23; thence S00°00'10"E and along the west line of the northeast one-quarter of Section 23, a distance of 984.07 feet; thence N89°19'25"E, a distance of 30.00 feet to a point on the east right-of-way of Wadsworth Boulevard, said point being the point of beginning; thence continuing N89°19'25"E, a distance of 362.39 feet; thence S00°00'25"W, a distance of 330.23 feet to a point on the north line of Cambridge Farm Subdivision, a plat on file and recorded in the office of the Jefferson County Clerk and Recorder; thence S89°08'48"W and along said north line, a distance of 362.35 feet to a point on the east right-of-way line of Wadsworth Boulevard; thence N00°00'10"W and along said east right-of-way line of Wadsworth Boulevard, a distance of 331.35 feet to the point of beginning.

Said parcel containing 2.752 acres.

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 26th day of April, 2004.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 10th day of May, 2004.

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

Asbury Acres Annexation

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **25**

SERIES OF 2004

INTRODUCED BY COUNCILLORS

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A BILL

FOR AN ORDINANCE AMENDING THE WESTMINSTER COMPREHENSIVE LAND USE PLAN

WHEREAS, the City maintains a Comprehensive Land Use Plan which regulates land uses within the City; and

WHEREAS, the City Council has annexed new properties to the City specifically described below; and

WHEREAS, an amendment of the Plan is necessary to provide a land use designation for the annexed property and to keep the Plan up to date; and

WHEREAS, the Planning Commission has reviewed the proposed amendment and has recommended approval to the City Council.

NOW THEREFORE, the City Council hereby finds that the required procedures for amending the Comprehensive Land Use Plan as delineated in the Westminster Municipal Code have been satisfied.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council authorizes City Staff to make the necessary changes to the maps and text of the Westminster Comprehensive Land Use Plan which are necessary to alter the designation of the Asbury Acres annexation property, legally described as follows:

A parcel of land located in Section 23, Township 2 South, Range 69 West of the 6<sup>th</sup> Principal Meridian, being all of Block 28, except the north 5 feet thereof and the east 275.5 feet thereof, of Greenlawn Acres and Reservoir, a plat on file and recorded in the office of the Jefferson County Clerk and Recorder, County of Jefferson, State of Colorado, more particularly described as follows:

Commencing at the north one-quarter corner of said Section 23; thence S00°00'10"E and along the west line of the northeast one-quarter of Section 23, a distance of 984.07 feet; thence N89°19'25"E, a distance of 30.00 feet to a point on the east right-of-way of Wadsworth Boulevard, said point being the point of beginning; thence continuing N89°19'25"E, a distance of 362.39 feet; thence S00°00'25"W, a distance of 330.23 feet to a point on the north line of Cambridge Farm Subdivision, a plat on file and recorded in the office of the Jefferson County Clerk and Recorder; thence S89°08'48"W and along said north line, a distance of 362.35 feet to a point on the east right-of-way line of Wadsworth Boulevard; thence N00°00'10"W and along said east right-of-way line of Wadsworth Boulevard, a distance of 331.35 feet to the point of beginning.

Said parcel containing 2.752 acres.

The properties described above shall be changed from Northeast Comprehensive Development Plan, to Single Family Detached-Medium Density, as shown on the attached "Exhibit A".

Section 2. Severability: If any section, paragraph, clause, word or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part deemed unenforceable shall not affect any of the remaining provisions.

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



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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 26<sup>th</sup> of April, 2004.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 10<sup>th</sup> day of May, 2004.

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

BY AUTHORITY

ORDINANCE NO.

COUNCILOR'S BILL NO. **26**

SERIES OF 2004

INTRODUCED BY COUNCILLORS

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A BILL

FOR AN ORDINANCE AMENDING THE ZONING LAW AND ESTABLISHING THE ZONING CLASSIFICATION OF CERTAIN DESCRIBED PROPERTY IN A PARCEL OF LAND LOCATED IN SECTION 23, TOWNSHIP 2 SOUTH, RANGE 69 WEST, 6TH P.M., COUNTY OF JEFFERSON, STATE OF COLORADO.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council finds:

- a. That an application for the zoning of the property described below from Jefferson County A-2 to City of Westminster Planned Unit Development (PUD) zoning has been submitted to the City for its approval pursuant to Westminster Municipal Code Section 11-5-1.
- b. That Council has completed a public hearing on the requested zoning pursuant to the provisions of Chapter 5 of Title XI of the Westminster Municipal Code.
- c. That based on the evidence produced at the public hearing, the City Council finds that the proposed zoning complies with all requirements of City Code, including, but not limited to, the provisions of Westminster Municipal Code Section 11-5-3.
- d. That the proposed zoning is compatible with existing zoning and land uses of adjacent properties in the general vicinity of the property proposed for zoning.
- e. That the proposed zoning is consistent with all applicable general plans and policies concerning land use and development relative to the property proposed for zoning.

Section 2. The Zoning District Map of the City is hereby amended by reclassification of the property described herein from Jefferson County A-2 to City of Westminster Planned Unit Development (PUD). A parcel of land located in Section 23, Township 2 South, Range 69 West, 6th P.M., County of Jefferson, State of Colorado, more particularly described as follows:

A parcel of land located in Section 23, Township 2 South, Range 69 West of the 6<sup>th</sup> Principal Meridian, being all of Block 28, except the north 5 feet thereof and the east 275.5 feet thereof, of Greenlawn Acres and Reservoir, a plat on file and recorded in the office of the Jefferson County Clerk and Recorder, County of Jefferson, State of Colorado, more particularly described as follows:

Commencing at the north one-quarter corner of said Section 23; thence S00°00'10"E and along the west line of the northeast one-quarter of Section 23, a distance of 984.07 feet; thence N89°19'25"E, a distance of 30.00 feet to a point on the east right-of-way of Wadsworth Boulevard, said point being the point of beginning; thence continuing N89°19'25"E, a distance of 362.39 feet; thence S00°00'25"W, a distance of 330.23 feet to a point on the north line of Cambridge Farm Subdivision, a plat on file and recorded in the office of the Jefferson County Clerk and Recorder; thence S89°08'48"W and along said north line, a distance of 362.35 feet to a point on the east right-of-way line of Wadsworth Boulevard; thence N00°00'10"W and along said east right-of-way line of Wadsworth Boulevard, a distance of 331.35 feet to the point of beginning.

Said parcel containing 2.752 acres.

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 26<sup>th</sup> day of April, 2004.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 10<sup>th</sup> day of May, 2004.

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

Asbury Acres Zoning



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
May 10th, 2004



**SUBJECT:** Second Reading of Councillor's Bill No. 27 re JRBM Inc. Business Assistance Package

**Prepared By:** Becky Johnson, Economic Development Program Coordinator

**Recommended City Council Action**

Pass Councillor's Bill No. 27 on second reading, authorizing the City Manager to execute a Business Assistance Package (BAP) with JRBM Inc. in the amount of \$28,450. The BAP includes \$1,000 in permit fee rebates, \$825 in construction use tax rebates, and \$26,625 in equipment use tax rebates.

**Summary Statement**

- City Council action is requested to pass the attached Councillor's Bill on second that authorizes the execution of the attached business assistance package with JRBM Inc.
- JRBM Inc. is a start up company founded by Jack McDonnell, founder of McData.
- JRBM Inc. is a Boulder based information technology company that builds storage software and service products.
- JRBM Inc. currently leases temporary space in Regus Business Center, in Westmoor Technology Park. This company is expanding into 15,000 square feet at 11000 Westmoor Circle at Westmoor Technology Park.
- JRBM Inc. will employ 16 people at move-in, with average salaries of \$94,000 and anticipates growth up to 300 people over of the first five years of operation.
- Assistance is based upon the expansion and retention of quality, high paying jobs to Westminster and filling vacant space.

**Expenditure Required:** \$28,450 (Rebates of Permit Fees and Use Tax)

**Source of Funds:** The business assistance package with JRBM Inc. will be funded through the rebate of permit fees, construction use tax, and equipment use tax directly generated from the expansion and relocation of JRMB Inc. to 11000 Westmoor Circle in Westmoor Technology Park.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments

## Exhibit A

### BUSINESS ASSISTANCE PACKAGE FOR JRBM INC. IN THE CITY OF WESTMINSTER

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2004, between the CITY OF WESTMINSTER (the "City"), and JRBM INC.

WHEREAS, the City wishes to provide certain assistance to JRBM Inc. to aid in the retention and expansion to vacant space in the City; and

WHEREAS, JRBM Inc. plans to occupy 15,000 square feet in Building Ten at Westmoor Technology Park, thus providing additional primary job creation within the City; and

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

In consideration of the mutual promises set forth below, the City and JRBM Inc. agree as follows:

1. Building Permit Fee Rebates. The City shall rebate to JRBM Inc. 50% of the building related permit fees, required under W.M.C. Section 11-10-3 (E), excluding water and sewer tap fees, collected from JRBM Inc. in connection with the finish and occupancy of 15,000 square feet of space in Building Ten at Westmoor Technology Park, with a projected move-in date of third quarter 2004. The permit fee rebate shall not exceed \$1,000.

2. Use Tax Rebate- Construction. The City shall rebate to JRBM Inc. 50% of the Building Use Tax on the construction materials, collected from JRBM Inc. in connection with the tenant finish of the 15,000 square foot facility in Building Ten at Westmoor Technology Park in Westminster, required under W.M.C. sections 4-2-9 and 4-2-3, to JRBM Inc. The rebate shall not exceed \$825.

3. Use Tax Rebate- Furniture and Fixtures. For purchases of items for the new offices made 6 months prior to JRBM obtaining the Certificate of Occupancy for the new facility, and for the first three years of operation, the City will rebate 50% of the General Use Tax remitted to the City of Westminster by JRBM Inc. on the use tax return for the new offices. The total rebate pursuant to this paragraph shall not exceed \$26,625 (the "Rebate"). Such Rebate shall be payable exclusively from those revenues actually collected by the City from JRBM Inc. and attributable to the imposition against JRBM Inc., of the City's 3.0% general use tax (excludes the City's .25% Open Space Tax and .6% Public Safety Tax).

4. Payments of Rebates. Rebates will be paid to JRBM Inc. by the City in quarterly installments from revenue actually collected and received by the City from JRBM Inc. Payments of each quarterly installment shall be made within 20 days of the calendar quarter end and will be submitted electronically. Payments will begin with the calendar quarter during which the Certificate of Occupancy is issued.

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

6. Termination. This Business Assistance Package shall terminate and become void and of no force or effect upon the City if JRBM Inc. has not moved into 11000 Westmoor Circle in Westmoor Technology Park by December 31, 2004 or should JRBM Inc. not comply with the City regulations or code.

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

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

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

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

**JRBM INC.**

**CITY OF WESTMINSTER**

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\_\_\_\_\_

J. Brent McFall  
City Manager

ATTEST:

ATTEST:

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\_\_\_\_\_

Title Michele Kelley  
City Clerk

**Adopted by Ordinance No. 3114**

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **27**

SERIES OF 2004

INTRODUCED BY COUNCILLORS

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A BILL

FOR AN ORDINANCE AUTHORIZING A BUSINESS ASSISTANCE PACKAGE WITH JRBM INC. TO AID IN THE EXPANSION AND RELOCATION OF JRBM INC. TO BUILDING TEN AT WESTMOOR TECHNOLOGY PARK IN WESTMINSTER

WHEREAS, the successful attraction and retention of high quality development to the City of Westminster provides employment opportunities and increased revenue for citizen services and is therefore an important public purpose; and

WHEREAS, it is important for the City of Westminster to remain competitive with other local governments in creating assistance for high quality development to locate in the City; and

WHEREAS, JRBM Inc. plans to occupy 15,000 square feet in 11000 Westmoor Circle in Westmoor Technology Park, in Westminster, and

WHEREAS, a proposed Business Assistance Package between the City and JRBM Inc. is attached hereto as Exhibit "A" and incorporated herein by this reference.

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

THE CITY OF WESTMINSTER ORDAINS:

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

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

Section 3. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 26<sup>th</sup> day of April 2004.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 10th day of May 2004.

ATTEST:

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Mayor

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City Clerk



**WESTMINSTER  
COLORADO**

**Agenda Memorandum**

City Council Meeting  
May 10, 2004



**SUBJECT:** Second Reading of Councillor's Bill No. 28 re Synchroness, Inc. Business Assistance Package

**Prepared By:** Becky Johnson, Economic Development Program Coordinator

**Recommended City Council Action**

Pass Councillor's Bill No. 28 on second reading, authorizing the City Manager to execute a Business Assistance Package (BAP) with Synchroness, Inc. in the amount of \$10,500. The BAP includes \$2,100 in permit fee rebates, \$2,025 in construction use tax rebates, and \$6,375 in equipment use tax rebates.

**Summary Statement**

- City Council action is requested to pass the attached Councillor's Bill on second reading that authorizes the execution of the attached business assistance package with Synchroness, Inc.
- Synchroness Inc. has been in business in Westminster for six years and currently leases space at 5005 West 81<sup>st</sup> Place. They plan to purchase approximately 5,280 square feet of condominiumized office/warehouse space in Walnut Creek Business Park, at 108<sup>th</sup> Avenue and Wadsworth Parkway.
- Synchroness Inc. is a product development firm. They design products ranging from aerospace design, aircraft modification, automotive design, and consumer products like the baby changing stations trademarked by Koala. Their customer base includes Ball Aerospace, Coherent Technologies, and Koala.
- The company will employ 14 people at move-in, with average salaries of \$68,500 and anticipates growth up to 25 people over the first five years of operation.
- Assistance is based upon the retention of quality, high paying jobs to Westminster and the purchase of existing vacant space. Additional assistance consideration was given because Synchroness Inc. will be purchasing a facility in the City.

**Expenditure Required:** \$10,500 (Rebates of Permit Fees and Use Tax)

**Source of Funds:** The business assistance package with Synchroness, Inc. will be funded through the rebate of permit fees, construction use tax, and equipment use tax directly generated from the relocation of Synchroness Inc. to Walnut Creek Business Park.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments



## Exhibit A

### BUSINESS ASSISTANCE PACKAGE FOR SYNCRONESS, INC. IN THE CITY OF WESTMINSTER

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2004, between the CITY OF WESTMINSTER (the "City"), and SYNCRONESS, INC.

WHEREAS, the City wishes to provide certain assistance to Synchroness, Inc. to aid in the retention and expansion of this company to vacant space in the City; and

WHEREAS, Synchroness, Inc. plans to purchase 5,280 square feet in the single story office space at Walnut Creek Business Center, thus providing additional primary job retention and creation within the City; and

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

In consideration of the mutual promises set forth below, the City and Synchroness, Inc. agree as follows:

1. Building Permit Fee Rebates. The City shall rebate to Synchroness, Inc. 75% of the building related permit fees, required under W.M.C. Section 11-10-3 (E), excluding water and sewer tap fees, collected from Synchroness, Inc. in connection with the finish and occupancy of 5,280 square feet of single story space at 108<sup>th</sup> Avenue and Wadsworth Parkway in Walnut Creek Business Park, with a projected move-in date of third quarter 2004. The permit fee rebate shall not exceed \$2,100.

2. Use Tax Rebate- Construction. The City shall rebate to Synchroness, Inc. 75% of the Building Use Tax on the construction materials, collected from Synchroness, Inc. in connection with the tenant finish of the 5,280 square foot facility in Walnut Creek Business Park in Westminster, required under W.M.C. sections 4-2-9 and 4-2-3, to Synchroness, Inc. The rebate shall not exceed \$2,025.

3. Use Tax Rebate- Furniture and Fixtures. For a period of 6 months prior to Synchroness, Inc. obtaining the Certificate of Occupancy for the new Westminster facility, and for the first four years of operation, the City will rebate 50% of the General Use Tax (excludes the City's .25% Open Space Tax and .6% Public Safety Tax) collected on the furnishing and equipment purchased to furnish the new facility (\$25,000 new equipment at move-in x 3% = \$750 Use Tax x 50% = \$375 + \$100,000 new equipment per year x 3% = \$3,000 x 50% = \$1,500 per year for 4 years = \$6,000 for a total of \$6,375 ). The rebate shall not exceed \$6,375.

4. Payments of Rebates. Rebates will be paid to Synchroness, Inc. by the City in quarterly installments from revenue actually collected and received by the City from Synchroness, Inc. Payments of each quarterly installment shall be made within 20 days of the calendar quarter end and will be submitted electronically. Payments will begin with the calendar quarter during which the Certificate of Occupancy is issued.

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

6. Termination. This Business Assistance Package shall terminate and become void and of no force or effect upon the City if Synchroness, Inc. has not moved into Walnut Creek Business Park by December 31, 2004 or should Synchroness, Inc. not comply with the City regulations or code.

7. Business Termination. In the event Synchroness, Inc. ceases business operations within the City within five (5) years after the new operations commence, then Synchroness, Inc. shall pay to the City the total amount of fees and taxes that were due and payable by Synchroness, Inc. to the City but were rebated by the City, as well as reimburse the City for any funds provided to Synchroness, Inc. pursuant to this Agreement.

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

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

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

**SYNCRONESS, INC.**

**CITY OF WESTMINSTER**

\_\_\_\_\_  
Mark Henault  
President

\_\_\_\_\_  
J. Brent McFall  
City Manager

ATTEST:

ATTEST:

\_\_\_\_\_  
Title Michele Kelley  
City Clerk

**Adopted by Ordinance No. 3115**

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **28**

SERIES OF 2004

INTRODUCED BY COUNCILLORS

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A BILL

FOR AN ORDINANCE AUTHORIZING A BUSINESS ASSISTANCE PACKAGE WITH SYNCRONESS INC. TO AID IN THE RETENTION AND EXPANSION OF SYNCRONESS INC. TO WALNUT CREEK BUSINESS PARK IN WESTMINSTER

WHEREAS, the successful retention and expansion of high quality development to the City of Westminster provides employment opportunities and increased revenue for citizen services and is therefore an important public purpose; and

WHEREAS, it is important for the City of Westminster to remain competitive with other local governments in creating assistance for high quality development to locate in the City; and

WHEREAS, Synchroness, Inc. plans to purchase 5,280 square feet in the single story office building at Walnut Creek Business Park, at 108<sup>th</sup> Avenue and Wadsworth Parkway in Westminster, and

WHEREAS, a proposed Business Assistance Package between the City and Synchroness, Inc. is attached hereto as Exhibit "A" and incorporated herein by this reference.

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

THE CITY OF WESTMINSTER ORDAINS:

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

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

Section 3. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 26th day of April 2004.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 10th day of May 2004.

ATTEST:

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Mayor

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City Clerk



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
May 10, 2004



**SUBJECT:** Second Reading of Councillor's Bill No. 29 re Lafarge North America Inc. Business Assistance Package

**Prepared By:** Becky Johnson, Economic Development Program Coordinator

**Recommended City Council Action**

Pass Councillor's Bill No. 29 on second reading, authorizing the City Manager to execute a Business Assistance Package (BAP) with Lafarge North America, Inc. in the amount of \$24,320. The BAP includes \$7,145 in permit fee rebates, \$12,750 in construction use tax rebates, and \$4,425 in equipment use tax rebates at move-in.

**Summary Statement**

- City Council action is requested to pass the attached Councillor's Bill on second reading that authorizes the execution of the attached business assistance package with Lafarge North America Inc.
- Lafarge North America Inc. is the largest diversified supplier of construction materials such as ready-mixed concrete and asphalt and concrete products in the United and Canada. The company's offices are currently located at 1400 West 64<sup>th</sup> Avenue in Adams County, Colorado.
- Lafarge North America Inc. is considering locating its Western Division Regional Headquarters to the four-story building at Church Ranch Corporate Center.
- Lafarge North America Inc. western regional office will employ 190 people at move-in, with average salaries of \$68,110.
- Assistance is based upon the attraction of quality, high paying jobs to Westminster and filling existing vacant space.

**Expenditure Required:** \$24,320 (Rebates of Permit Fees and Use Tax)

**Source of Funds:** The business assistance package with Lafarge North America Inc. will be funded through the rebate of permit fees, construction use tax, and equipment use tax directly generated from the relocation of Lafarge North America Inc. to Church Ranch Corporate Center.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments

**BUSINESS ASSISTANCE PACKAGE FOR  
LAFARGE NORTH AMERICA INC. IN THE CITY OF WESTMINSTER**

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2004, between the CITY OF WESTMINSTER (the "City"), and LAFARGE NORTH AMERICA INC.

WHEREAS, the City wishes to provide certain assistance to Lafarge North America Inc. to aid in the relocation of a portion of the company to vacant space in the City; and

WHEREAS, Lafarge North America Inc. west regional division plans to occupy 42,000 square feet in the four-story office space at Church Ranch Corporate Center, thus providing additional primary job creation within the City; and

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

In consideration of the mutual promises set forth below, the City and Lafarge North America Inc. agrees as follows:

1. Building Permit Fee Rebates. The City shall rebate to Lafarge North America Inc. 50% of the building related permit fees, required under W.M.C. Section 11-10-3 (E), excluding water and sewer tap fees, collected from Lafarge North America Inc. in connection with the finish and occupancy of approximately 42,000 square feet of in the four-story building at Church Ranch Corporate Center, with a projected move-in date of third quarter 2004. The permit fee rebate shall not exceed \$7,145.

2. Use Tax Rebate- Construction. The City shall rebate to Lafarge North America Inc. 50% of the Building Use Tax on the construction materials, collected from Lafarge North America Inc. in connection with the tenant finish of approximately 42,000 square foot facility in Church Ranch Corporate Center in Westminster, required under W.M.C. sections 4-2-9 and 4-2-3, to Lafarge North America Inc. The rebate shall not exceed \$12,750.

3. Use Tax Rebate- Furniture and Fixtures. For purchases of items for Lafarge North America Inc. for the new offices made during 6 months prior and the 6 months after Lafarge North America Inc. obtain the Certificate of Occupancy, the City shall rebate 50% of the General Use Tax remitted to the City of Westminster by Lafarge North America Inc. on the use tax return for the new offices. The total rebate pursuant to this paragraph shall not exceed \$4,425 (the "Rebate"). Such Rebate shall be payable exclusively from those revenues actually collected by the City from Lafarge North America Inc. and attributable to the imposition against Lafarge North America Inc. of the City's 3.0% general use tax (excludes the City's .25% Open Space Tax and .6% Public Safety Tax).

4. Payments of Rebates. Rebates will be paid to Lafarge North America Inc. by the City in quarterly installments from revenue actually collected and received by the City from Lafarge North America Inc. Payments of each quarterly installment shall be made within 20 days of the calendar quarter end and will be submitted electronically. Payments will begin with the calendar quarter during which the Certificate of Occupancy is issued.

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

6. Termination. This Business Assistance Package shall terminate and become void and of no force or effect upon the City if Lafarge North America Inc. has not moved into Church Ranch Office Building by December 31, 2004 or should Lafarge North America Inc. not comply with the City regulations or code.

7. Business Termination. In the event Lafarge North America Inc. ceases business operations within the City within five (5) years after the new operations commence, then Lafarge North America Inc. shall pay to the City the total amount of fees and taxes that were due and payable by Lafarge North America Inc. to the City but were rebated by the City, as well as reimburse the City for any funds provided to Lafarge North America Inc. pursuant to this Agreement.

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

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

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

**LAFARGE NORTH AMERICA INC.**

**CITY OF WESTMINSTER**

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J. Brent McFall  
City Manager

ATTEST:

ATTEST:

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Title Michele Kelley  
City Clerk

**Adopted by Ordinance No. 3116**

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **29**

SERIES OF 2004

INTRODUCED BY COUNCILLORS

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A BILL

FOR AN ORDINANCE AUTHORIZING A BUSINESS ASSISTANCE PACKAGE WITH LAFARGE NORTH AMERICA INC. TO AID IN THEIR RELOCATION OF LAFARGE NORTH AMERICA INC. TO CHURCH RANCH CORPORATE CENTER IN WESTMINSTER

WHEREAS, the successful attraction and retention of high quality development to the City of Westminster provides employment opportunities and increased revenue for citizen services and is therefore an important public purpose; and

WHEREAS, it is important for the City of Westminster to remain competitive with other local governments in creating assistance for high quality development to locate in the City; and

WHEREAS, Lafarge North America Inc. west regional division offices plans to occupy 42,000 square feet in the four-story office building at Church Ranch Corporate Center, off of US 36 and Church Ranch Boulevard in Westminster, and

WHEREAS, a proposed Business Assistance Package between the City and Lafarge North America Inc. is attached hereto as Exhibit "A" and incorporated herein by this reference.

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

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Manager of the City of Westminster is hereby authorized to enter into and execute a Business Assistance Package with Lafarge North America Inc. in substantially the same form as the one attached as Exhibit "A", and upon execution of the Agreement to fund and implement said Agreement.

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

Section 3. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 26th day of April 2004.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 10th day of May 2004.

ATTEST:

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Mayor

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City Clerk



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
May 10, 2004



**SUBJECT:** Metro Wastewater Reclamation District Board of Directors Re-Appointment

**Prepared By:** Tim Woodard, Big Dry Creek Wastewater Treatment Superintendent  
Ron Hellbusch, Director Public Works and Utilities

**Recommended City Council Action**

Reappoint Curtis Aldstadt to the Metro Wastewater Reclamation District's Board of Directors, with a term of office effective through June 30, 2006.

**Summary Statement:**

- City Council action is requested to reappoint Curtis Alstadt to the Metro Wastewater Reclamation District Board of Directors.
- The Metro District Bylaws and State Statute require that in order to become a member of the Board of Directors, one must live within the member municipality and within the Metro District service area.
- At this time, there is not a City Staff member to fill the vacancy based on these bylaws. Therefore, the recommendation of Staff is to fill the vacancy with Curtis Aldstadt a City resident and business owner who currently works closely with the Department of Public Works and Utilities on a variety of issues and has represented Westminster's interest extremely well.
- Charles Ragsdale is currently the City's other representative. Mr. Ragsdale's term of office will expire on June 30, 2005.

**Expenditure Required:** \$0

**Source of Funds:** N/A



**Policy Issue**

Metro Wastewater Reclamation District policy requires the elected body of each connector jurisdiction appoint board of director representatives to the District governing board. Does Council wish to reappoint Mr. Aldstadt or open up the recruitment to fill this seat?

**Alternative**

As an alternative, Staff could solicit additional names of interested citizens who may wish to represent the City on the Metro Wastewater Reclamation Board. The value of Mr. Aldstadt's appointment is that he is currently involved with the Department of Public Works and Utilities on a number of projects that make him a valuable asset to this Department's team. In addition, Mr. Aldstadt's involvement in the water and wastewater industry provides the City with a citizen who will protect its interest on the Metro Board of Directors and ensure representation of the City.

**Background Information**

The Metro Wastewater Reclamation District treats approximately 45 percent of the total wastewater generated in Westminster, with the District serving the area south of approximately 97th Avenue.

Over the past five years since Mr. Aldstadt's appointment to the Metro Wastewater Reclamation District Board of Directors he has kept City Staff informed of pertinent activities occurring at the Metro District, while also representing the City's interests very well with the Metro District.

The Metro Wastewater Reclamation District Board of Directors meets at 7:00 p.m. on the third Tuesday of each month. In addition, all Board Members serve on one operations committee, which meets monthly either in the morning or at noon. Mr. Aldstadt currently is the chairperson of the Future Committee and also serves on the Executive Committee.

Respectfully submitted,

J. Brent McFall  
City Manager

**APPOINTMENT**

I Ed Moss, Mayor of the City of Westminster, do hereby certify that the Westminster City Council does hereby appoint **CURTIS ALDSTADT** as the City of Westminster representative on the Board of Directors of the Metro Wastewater Reclamation District, to serve a term of two years, beginning July 1, 2004 and ending June 30, 2006, in accordance with the laws of the State of Colorado and the By-laws of the Metro Wastewater Reclamation District.

Approved by the Westminster City Council this 10<sup>th</sup> day of May, 2004.

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Mayor

**WESTMINSTER CITY COUNCIL  
APPROVAL OF APPOINTMENT**

It was moved by Mayor Pro Tem McNally and seconded by Councillor Dittman; that the City of Westminster appoint **CURTIS ALDSTADT** to serve a term of two years, beginning July 1, 2004 and ending June 30, 2006, as the City of Westminster representative on the Board of Directors of the Metro Wastewater Reclamation District be and the same hereby is approved. The motion carried unanimously.

STATE OF COLORADO  
COUNTY OF ADAMS

§

**CERTIFICATE**

I, Michele Kelley, City Clerk of the City of Westminster, do hereby certify that the Westminster City Council appointed **CURTIS ALDSTADT** as said City's representative on the Board of Directors of the Metro Wastewater Reclamation District and that the foregoing "Appointment" is an excerpt from the minutes of the regular meeting of the Westminster City Council held on the 10th day of May, 2004, and that said motion of approval is part of the official minutes of said meeting; and that a quorum was present at all times during the meeting.

Dated this 10<sup>th</sup> day of May, 2004.

\_\_\_\_\_  
City Clerk

(SEAL)

**Added to Agenda on 5-10-04**

**RESOLUTION**

**RESOLUTION NO. 34**

**INTRODUCED BY COUNCILLORS**

SERIES OF 2004

\_\_\_\_\_

**CITY OF WESTMINSTER BOARD AND COMMISSION REAPPOINTMENTS**

WHEREAS, The City has received the resignation of Teresa Valerio Parrot from the Human Services Board; and

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

NOW THEREFORE, be it resolved that the City Council of the City of Westminster does hereby accept the resignation of Teresa Valerio Parrot from the Human Services Board and appoint the following individual to the City of Westminster Human Services Board to fill this vacancy.

<b>BOARD/COMMISSION</b>	<b>NAME</b>	<b>TERM EXPIRATION</b>
Human Services Board	Tanya Ishikawa	December 31, 2004

Passed and adopted this 10<sup>th</sup> day of May, 2004.

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
May 10, 2004



**SUBJECT:** TABLED Councillor's Bill No. 23 re Lease with Community Reach Center

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

**Recommended City Council Action:**

Remove this item from the TABLE and pass Councillor's Bill No. 23 on first reading approving a Lease with the Community Reach Center for their use of the former 76<sup>th</sup> Avenue Library Building.

**Summary Statement**

- At the April 12, 2004, City Council meeting, Council tabled action on a proposed Lease with the Community Reach Center related to its use of the former 76<sup>th</sup> Avenue Library Building as its Westminster Clinic. Council directed Staff to revise the agreement to incorporate language that would be used in a standard commercial lease.
- The attached draft Lease shows the changes that were made to the original lease and the new language prepared by the City Attorney. The changes were reviewed with Council in a previous Staff Report.
- City and Mental Health Center Staff are currently in the process of selecting a contractor to recommend to City Council for the remodel project. If Council approves the proposed Lease, Staff will ask Council to take formal action to approve a contractor in the next few weeks.

**Expenditure Required:** \$105,000

**Source of Funds:** General Capital Improvement Fund and General Services Operations Funds

**Policy Issues**

Does the City Council wish to lease the vacated 76<sup>th</sup> Avenue Library to the Community Reach Center to operate their Westminster clinic?

**Alternatives**

Do not lease the former 76<sup>th</sup> Avenue Library building to the Community Reach Center and continue to lease the organization its current space in the City's Walker Building. Staff does not recommend this alternative since it does not address the Center's desire to expand its facilities in Westminster to serve Westminster area residents.

Identify another location where the Community Reach Center's Westminster Clinic could be officed. City Staff believes that given the accessibility of the former library building and its current availability, this would provide an excellent facility for the Mental Health Center offices.

**Background Information**

Since 1974, the Community Reach Center, previously known as Adams Community Mental Health Center, has operated its Westminster office out of the City-owned former residence known as the Walker Building located adjacent to the City's Swim and Fitness Center at 3200 West 76<sup>th</sup> Avenue. Westminster citizens have benefited by having one of several Mental Health Center clinics in close proximity. In addition, over the years City Staff has had a very good working relationship with Community Reach Center Staff. In addition to providing use of the Walker Building at a nominal cost, the City has contributed to the Center each year through its Human Services funding. For 2004, this contribution is \$24,000.

In the late 1990's, it became obvious that the Walker residence had deteriorated to the point where major remodel work was necessary. In addition, changes were needed to improve accessibility to disabled persons and improve the efficiency of space for offices. The remodel project was budgeted at approximately \$181,300. It was anticipated that the Mental Health Center Foundation would pay for \$50,000 of the project with the balance funded with 1999 carryover dollars.

At approximately the same time that Staff was making final plans to award the bids and begin the project, Council was giving preliminary consideration to relocating the 76<sup>th</sup> Avenue Library to a new site. At City Council's direction, Staff approached the Mental Health Center Staff with the idea of reducing the scope of the remodel project to make just the repairs necessary to make the building usable on an interim basis and converting the library building to Mental Health Center offices. The Center Staff were very pleased with this alternative since it provided both a much more desirable facility for its clinical offices and the space to expand its services. The Mental Health Center's move from the Walker Building also provides the City with the option of removing the Walker Building from the site to allow for a potential expansion of the Swim and Fitness Center.

The remodel project cost was subsequently reduced by approximately half, leaving \$90,000 available for the City's share of the future remodel of the library building. The remodel work on the Walker Building was completed in 2000.

In anticipation of the building being vacated by City Staff and its remodel as clinical offices, City and Center Staff retained services of Lewis Himes Associates, Inc., to design office space that would be conducive to the Center's operations. The architect has provided a design that is very workable for the Center for an estimated construction cost of \$140,000 to \$170,000, depending on the final design and the results of the bid process.

The key components of the proposed lease agreement are a 20-year term where the Community Reach Center would be responsible for all interior and exterior maintenance, repairs, and replacements during the term (including the roof, HVAC and all plumbing and electrical systems) except that the City would be responsible for the sidewalks, driveways, concrete stairs, lawns and shrubbery, and snow removal. The Community Reach Center will be responsible for all utilities costs and for providing liability insurance. The lease cost would be a nominal \$1 for the term of the lease.

This item was tabled by City Council on April 12, 2004, to allow Staff to address concerns raised by Council with the form of the lease. The revisions make it clear that, in the event of damage to or destruction of the premises, the City will never have any obligation to rebuild the facility or repair any damages, and the Center's sole remedy will be to terminate the lease. The relative responsibilities of the City and the Center have also been clarified, and the responsibility for mold and mildew remediation has been specifically assigned to the Center. The Center will be required to maintain property and personal injury liability insurance. The building itself is insured under the City's asset and property insurance.

City Staff believes that the revised proposed Lease will continue the excellent relationship that the City has had with the Community Reach Center and that it will provide a very worthwhile use of the former library building.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments

## LEASE

This **Lease** is made between the **CITY OF WESTMINSTER**, a Colorado home-rule municipality (hereinafter called “Lessor” or “City”), and **COMMUNITY REACH CENTER**, a Colorado nonprofit corporation (hereinafter called “Lessee” or “Center”).

Lessor hereby agrees to lease to Lessee, and Lessee hereby agrees to lease from Lessor, the Premises described in Paragraph 1 below, subject to the terms, conditions, and agreements set forth hereinbelow:

**1. Premises.** The Premises consist of the main level and the downstairs lounge area of the former 76<sup>th</sup> Avenue Library located at 3030 West 76th Avenue in Westminster, Colorado, County of Adams, State of Colorado.

**2. Term and Rent.** Lessor demises the above Premises for a term of 20 years, commencing 12:00 p.m. on July 1, 2004, or upon the completion of the tenant finish work pursuant to Paragraph 23 below, whichever occurs later, and terminating 12:00 p.m. on July 1, 2024, or sooner as provided herein (hereinafter, the “Term”), for a nominal rent payment for the Term of One Dollar (\$1.00), and for other good and valuable consideration described below.

**3. Use.** Lessee shall use and occupy the Premises for outpatient mental health services only. The Premises shall be used for no other purpose. Lessor represents that the Premises may lawfully be used for such purpose.

**4. Care and Maintenance of Premises.**

a. Lessee’s responsibilities: Lessee acknowledges and accepts the Premises in their as-is condition. Lessee shall, at its own expense and at all times during the Term of this Lease, maintain the Premises in good and safe condition, and shall surrender the same, at termination hereof, in as good condition as received, normal wear and tear excepted. Except as set forth in subparagraph 4.b. below, Lessee, in consideration of the nominal rent being charged for the Term of this Lease for the Premises, shall be responsible during the Term of this Lease for all interior and exterior maintenance, repairs, and replacements required to maintain the Premises as commercially competitive professional office space, meeting or exceeding all applicable local, state and federal codes, laws and regulations. Without intending to limit the generality of the foregoing, Lessee’s responsibilities under this paragraph include, but are not limited to, the roofing structure, covering and related materials and components; the HVAC system (heating, ventilation and air conditioning); mold and mildew removal and prevention as necessary; sinks, toilets, bath, water fountains and all other plumbing related fixtures, lines and systems (water, sewer and wastewater); electrical service facilities, wiring, switches, fixtures, light bulbs and ballasts; all windows, glass and window coverings; all doors, locks, and door windows; drywall, baseboard, interior paint and wall coverings (including wall tile and mirrors); carpet, tiles and other floor coverings; garbage disposal devices and trash compactors; sump pumps; water heater; appliances; and any other system or equipment upon the Premises.

b. Lessor’s responsibilities: Lessor shall be responsible only for the maintenance, repair and replacement of the sidewalks, driveways, concrete stairs, and lawn and shrubbery on the Premises, and shall provide snow removal services at the Premises comparable to the snow removal services provided by Lessor at its other public facilities.

**5. Alterations.** Lessee shall not, without first obtaining the written consent of Lessor, make any alterations, additions, or improvements, in, to or about the Premises, provided, however, that Lessee shall have the right to increase the size of its present signage subject to the provisions of the City’s sign code and regulations in effect at the time that the City’s approval of the increase is requested.

**6. Ordinances and Statutes.** Lessee shall comply with all statutes, ordinances and requirements of all municipal, state and federal authorities now in force, or which may hereafter be in force, pertaining to the Premises, occasioned by or affecting the use thereof by Lessee.



**7. Assignment and Subletting.** Lessee shall not assign this Lease or sublet any portion of the Premises without prior written consent of the Lessor, which shall be granted or refused in Lessor's sole and unfettered discretion. Any such assignment or subletting without Lessor's consent shall be void and, at the option of the Lessor, grounds for Lessor's forthwith termination of this Lease.

**8. Utilities.** All applications and connections for necessary utility services for the demised Premises shall be made in the name of Lessee only, and Lessee shall be solely liable for utility charges as they become due, including those for sewer, water, gas, electricity, cable, Internet and telephone services.

**9. Entry and Inspection.** Lessee shall permit Lessor or Lessor's agents to enter upon the Premises at reasonable times and upon reasonable notice, for the purpose of inspecting the same, and will permit Lessor at any time within sixty (60) days prior to the expiration of this Lease, to place upon the Premises any usual "To Let" or "For Lease" signs, and permit persons desiring to lease the same to inspect the Premises thereafter.

**10. Possession.** If Lessor is unable to deliver possession of the Premises at the commencement hereof, Lessor shall not be liable for any damage caused thereby. Lessee may terminate this Lease if possession is not delivered on or before September 1, 2004.

**11. Indemnification of Lessor.** Lessor shall not be liable for any damage or injury to any person or property occurring on the demised Premises during the Term of this Lease. Lessee agrees to indemnify and save and hold Lessor harmless from any claims for such damage or injury, no matter how caused, except to the extent such damage or injury was the direct and proximate result of Lessor's negligent act or omission, provided, however, that nothing herein shall be deemed or construed as a waiver by Lessor of any of the protections or limitations against liability to which Lessor may be entitled under the Colorado Governmental Immunity Act. Lessee may satisfy its obligations pursuant to this paragraph by assuming the defense of and liability, if any, for any such claim brought against the Lessor, and retaining for such defense qualified legal counsel reasonably acceptable to the City.

**12. Insurance.**

a. Lessee, at its expense, shall maintain comprehensive commercial liability insurance, including coverage for bodily injury and property damage, insuring Lessee and naming Lessor as an additional insured with minimum coverage as follows: \$1,000,000 per occurrence. The insurance shall include coverage for contractual liability. Additional insurance shall be obtained in the event any aggregate limitations result in per occurrence coverage of less than \$1,000,000.

b. Prior to taking possession of the Premises pursuant to this Lease, Lessee shall provide Lessor with a Certificate of Insurance showing Lessor as additional insured. The Certificate shall provide for a ten-day written notice to Lessor in the event of cancellation or material change of coverage. To the maximum extent permitted by insurance policies which may be owned by Lessor or Lessee, Lessee and Lessor, for the benefit of each other, waive any and all rights of subrogation which might otherwise exist.

**13. Eminent Domain.** If the Premises or any part thereof or any estate therein, or any other part of the building materially affecting Lessee's use of the Premises, shall be taken by eminent domain, this Lease shall terminate on the date when title vests pursuant to such taking.

**14. Destruction of Premises.** In the event that the Premises or any part of the building in which the demised Premises may be situated is damaged or destroyed by any cause to an extent that renders the Premises unsafe or unusable as a mental health center, either Lessee or Lessor may terminate this Lease forthwith. In no event shall the Lessor have any obligation to repair or replace the Premises in the event of any such damage or destruction and Lessee's sole and exclusive remedy in the event of such damage or destruction of the Premises or the building in which it is located is the termination of this Lease.

**15. Lessor's Remedies on Default.** If Lessee defaults in the performance of any of the covenants or conditions hereof, Lessor may give Lessee notice of such default and if Lessee does not cure any such default within ten (10) days, after the giving of such notice (or if such other default is of such nature that

it cannot be completely cured within such period, if Lessee does not commence such curing within such ten (10) days and thereafter proceed with reasonable diligence and in good faith to cure such default), then Lessor may terminate this Lease on not less than twenty (20) days' notice to Lessee. On the date specified in such notice, the Term of this Lease shall terminate, and Lessee shall then quit and surrender the Premises to Lessor, without extinguishing Lessee's liability. If this Lease shall have been so terminated by Lessor, Lessor may at any time thereafter resume possession of the Premises by any lawful means and remove Lessee or other occupants and their effects. No failure to enforce any Term shall be deemed a waiver.

**16. Taxes.** Lessee shall be solely responsible for the payment of any property or other taxes that may arise as a result of Lessee's use of the Premises. The Lessee covenants and warrants to Lessor that Lessee is exempt from all federal, state and local taxes and further, that Lessee shall take no action to cause the loss of its exemption from said taxes. Lessee further covenants and agrees with the Lessor that in the event Lessee shall lose its exemption from taxes for any reason, Lessee shall timely pay all and any taxes accruing as a result thereof. Lessee further covenants and agrees to indemnify and hold Lessor harmless against any claims or judgments for unpaid taxes resulting from Lessee's use of the Premises.

**17. Attorney's Fees.** In case suit should be brought for recovery of the Premises, or for any sum due hereunder, or because of any act which may arise out of the possession of the Premises, by either party, the prevailing party shall be entitled to all costs incurred in connection with such action, including a reasonable attorney's fee. For any controversy or claim arising out of or relating to this Lease, or the breach thereof, the parties agree to attempt to mediate any such disputes in good faith prior to filing any action against the other.

**18. Waiver.** No failure of Lessor to enforce any Term hereof shall be deemed to be a waiver.

**19. Heirs, Assigns, Successors.** This Lease is binding upon and shall inure to the benefit of the heirs, assigns and successors in interest to the parties.

**20. Subordination.** This Lease is and shall be subordinated to all existing and future liens and encumbrances against the property.

**21. Entire Agreement.** This Lease constitutes the entire agreement between the parties concerning the Premises and may be modified only by a written amendment signed by both parties.

**22. Survival.** Paragraphs 8, 11, and 15 through 20 inclusive shall survive any termination of this Lease by either Lessee or Lessor.

**23. Additional Terms, Conditions and Agreements.** This Lease is subject to the following additional terms, conditions and agreements:

a. **Tenant Finish.** Subject to paragraph 10 above, this Lease shall not commence until Lessor has completed the remodeling and tenant finish associated with Lessee's intended use of the Premises. The City shall contribute \$90,000 towards the cost of such remodeling, plus an additional amount equal to one-half the cost of replacing the building roof, such additional amount not to exceed \$15,000. Lessee shall be responsible for the balance of such costs.

b. **Continuation of Services.** The Center agrees to continue to operate the Center's Westminster Office from the Premises until such time as the Lease is terminated.

Signed as of this \_\_\_ day of \_\_\_\_, 2004.

**CITY OF WESTMINSTER**

**COMMUNITY REACH CENTER**

By: \_\_\_\_\_  
Ed Moss, Mayor

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Attest: \_\_\_\_\_  
Michelle Kelley, City Clerk

Attest: \_\_\_\_\_  
Printed Name: \_\_\_\_\_

APPROVED BY:

APPROVED BY:

\_\_\_\_\_  
Martin R. McCullough, City Attorney

\_\_\_\_\_  
Printed Name: \_\_\_\_\_

~~**{LEASE AGREEMENT} [LEASE ]**~~

~~{BETWEEN THE CITY OF WESTMINSTER AND  
COMMUNITY REACH CENTER  
FOR USE OF THE 76TH AVENUE LIBRARY BUILDING~~

~~THIS AGREEMENT is made and entered this \_\_\_\_\_ day of \_\_\_\_\_ 2004, by and } [This Lease is made ]between the CITY OF WESTMINSTER, a Colorado home[-]rule municipality {("the City")}{(hereinafter called "Lessor" or "City")}, and COMMUNITY REACH CENTER{("the Center")}, a public, non-profit corporation. }[, a Colorado nonprofit corporation (hereinafter called "Lessee" or "Center").]~~

~~{Recitals: }[Lessor hereby agrees to lease to Lessee, and Lessee hereby agrees to lease from Lessor, the Premises described in Paragraph 1 below, subject to the terms, conditions, and agreements set forth hereinbelow:]~~

~~{WHEREAS, Adams Community Mental Health, now known as the Community Reach Center has operated its Westminster clinic in a City-owned building since 1974; and} [1. Premises. The Premises consist of the main level and the downstairs lounge area of the former 76<sup>th</sup> Avenue Library located at 3030 West 76th Avenue in Westminster, Colorado, County of Adams, State of Colorado. ]~~

~~{WHEREAS, the City and Center desire to continue to have the Community Reach Center operate a satellite office in Westminster; and~~

~~WHEREAS, many citizens of Westminster benefit by having such a facility within close proximity; and~~

~~WHEREAS, the City and Center both desire to remodel the former 76TH Avenue Library for use as the Community Reach Center Westminster Office; and~~

~~WHEREAS, the City and the Center wish to set forth mutually acceptable terms to address the use of the facility by the Center and conditions that will assure ongoing maintenance of this building,~~

~~NOW, THEREFORE, in consideration of the above premises, the mutual promises set forth below}~~  
[2. Term and Rent. Lessor demises the above Premises for a term of 20 years, commencing 12:00 p.m. on July 1, 2004, or upon the completion of the tenant finish work pursuant to Paragraph 23 below, whichever occurs later, and terminating 12:00 p.m. on July 1, 2024, or sooner as provided herein (hereinafter, the "Term"), for a nominal rent payment for the Term of One Dollar (\$1.00)], and for other good and valuable consideration~~{, the City and Center hereby agree to the following:~~

~~That}~~ [described below.

3. Use. Lessee shall use and occupy the Premises for outpatient mental health services only. The Premises shall be used for no other purpose. Lessor represents that the Premises may lawfully be used for such purpose.

4. Care and Maintenance of Premises.

a. Lessee's responsibilities: Lessee acknowledges and accepts the Premises in their as-is condition. Lessee shall, at its own expense and at all times during the Term of this Lease, maintain the Premises in good and safe condition, and shall surrender the same, at termination hereof, in as good condition as received, normal wear and tear excepted. Except as set forth in subparagraph 4.b. below, Lessee,] in consideration of the [nominal rent being charged for the Term of this Lease for the Premises, shall be responsible during the Term of this Lease for all interior and exterior maintenance, repairs, and replacements required to maintain the Premises as commercially competitive professional office space, meeting or exceeding all applicable local, state and federal codes, laws and regulations. Without intending to limit the generality of the foregoing, Lessee's responsibilities under this paragraph include, but are not limited to, the roofing structure, covering and related materials and components; the HVAC system (heating, ventilation and air conditioning); mold and mildew removal and prevention as necessary; sinks, toilets, bath, water fountains and all other plumbing related fixtures, lines and systems (water, sewer and wastewater); electrical service facilities, wiring, switches, fixtures, light] ~~{payment of the rent and the keeping and performance of the covenants and agreements by the Center hereinafter set forth, the City hereby leases to the Center the main level and the downstairs lounge area of the following described premises situated in the County of Adams and State of Colorado, to wit:~~

~~SECT, TWN, RNG: 32-2-68 DESC: BEG AT SW COR OF SE4 SE4 NW4 SEC 32 TH E ALG S LN 346/78 FT TH NLY ON ANG 89D 32M TO LEFT 449/45 FT M/L TO SLY BDRY LN DENVER BOULDER TURN PIKE TH NWLY ALG SLY BDRY LN 405/4 FT M/L TO INTERSEC OF SD BDRY LN WITH N LN OF SD SE4 SE4 NW4 TH W 6/3 FT M/L TO NW COR OF SE4 SE4 NW4 TH S 660/94 FT TO POB 4/80A (Otherwise known as 3031 West 76th Avenue, Westminster, Colorado)~~

~~This lease shall become effective at 12:00 o'clock noon of the first day of May 2004, until 12:00 o'clock noon of the first day of May 2024, for a rental for the full term aforesaid of One Dollar (\$1.00) payable in advance.~~

~~Financial Contributions~~

~~The City shall contribute \$90,000 toward the building remodel plus one half of the expense of replacing the building roof.~~

~~The Center shall fund the balance of the costs of remodeling the former 76th Avenue Library.  
Building Use~~

~~In return for the use of the main level and the lower level of the 76th Avenue Library and the City's contribution toward the remodel, the Center agrees to continue to operate the Mental Health Center's Westminster office from this facility for the term of the Agreement unless this Agreement is terminated sooner in accordance with Section VI and VIII.~~

The City agrees to provide the use of the building by the Center on an ongoing basis for the length of this Agreement unless this Agreement is terminated sooner in accordance with Section VI and VIII.

The Center shall have the right to increase the size of its present signage in accordance with current City ordinances and regulations.

#### Maintenance

A. ~~The City shall maintain, at the City's expense, exterior paint, windows, exterior doors, concrete stairs, hand rails, driveways, and sidewalk; and provide lawn care, irrigation, and snow removal.~~

B. ~~The Center shall at the Center's expense provide maintenance after the completion of the remodel, repair or replace as necessary: the roof, appliances,} bulbs and ballasts; {interior paint, drywall, baseboard, carpet and tile, interior doors and hardware, locks, window coverings, and mirrors; and valves, washers and internal water closet parts and hardware; and shall provide for all custodial services and shall provide all ongoing HVAC repair and preventative maintenance; shall maintain garbage disposal, the sump pump, and water heater; shall service all circuit wiring, the electrical panel, switches, outlets, and light fixtures.~~

#### V. Conditions of Use

A. ~~Upon termination of this Agreement, the Center agrees to surrender and deliver up said premises in as good order and condition as when the same were entered upon, loss by fire, inevitable accident, or ordinary wear excepted.~~

B. ~~The Center agrees not to sublet any part of said premises, and not to assign this lease or any interest herein, without the prior written consent of the City.~~

C. ~~The Center shall not use the premises for any purpose prohibited by the laws of the United States or the State of Colorado, or the ordinances of the City of Westminster, or any improper or questionable purpose whatsoever.~~

D. ~~The Center shall not permit the premises or the walls or floors thereof to be endangered by overloading or the premises to be used for any purpose which renders the insurance thereon void, or the insurance risk more hazardous.~~

E. ~~The Center shall make no major alterations or changes in or upon or about the premises without the written consent of the City.~~

F. ~~The Center shall allow the City at any reasonable hour of the day to enter upon and view the premises.~~

G. ~~The Center shall pay for all charges for gas, electricity, water, sewer, heating, air conditioning, and lighting.~~

H. ~~The Center will neither hold or attempt to hold the City liable for any injury or damage, including those occurring in the course of making repairs or alternations, except when such injury or damage is caused by the negligence of City, nor will the Center hold or attempt to hold the City liable for the negligence or default of occupants of the Premises or any other persons, nor will the Center hold or attempt to hold the City liable for any injury or damage occasioned by defective electric wiring or the breaking or stoppage of plumbing or sewerage upon said premises or upon adjacent premises, whether said breaking or stoppage results from freezing or otherwise.~~

VI. ~~Destruction of the Building. If the building is destroyed or substantially damaged by fire or other calamity to the extent that the building is no longer usable for the purposes of the Agreement, the City may terminate this lease and neither party shall have any further obligations to the other party. However, the funds paid by the Center for purposes of remodeling shall be refunded to the Center, depreciated on a straight line basis over twenty years. The City shall have absolute discretion to decide whether the building is no longer usable.~~

~~VII. Insurance/Indemnification. The Center shall maintain liability insurance coverage on the premises in the amount of \$1,000,000 combined single limit, and shall indemnify and hold the City harmless from any liability to any person, firm or corporation for any cause arising out of Center's use of said premises, including the administration of mental health treatment or counseling to any person, or for any other reason.~~

~~VIII. Termination. This Agreement may be terminated prior to the end of the terms of the lease Agreement upon mutual agreement of the parties.~~

#### ~~IX. Dispute Resolution~~

~~If either party should retain counsel for the purpose of enforcing or preventing the breach of any provisions of this Agreement or for any other judicial remedy relating to it, then the prevailing party shall be entitled to reimbursement by the losing party for all costs, expenses and witness fees so incurred by the prevailing party, including but not limited to reasonable attorney fees and costs.~~

~~For any controversy or claim arising out of, or relating to this Agreement,} [all windows, glass and window coverings; all doors, locks, and door windows; drywall, baseboard, interior paint and wall coverings (including wall tile and mirrors); carpet, tiles and other floor coverings; garbage disposal devices and trash compactors; sump pumps; water heater; appliances; and any other system or equipment upon the Premises.~~

**b. Lessor's responsibilities: Lessor shall be responsible only for the maintenance, repair and replacement of the sidewalks, driveways, concrete stairs, and lawn and shrubbery on the Premises, and shall provide snow removal services at the Premises comparable to the snow removal services provided by Lessor at its other public facilities.**

**5. Alterations. Lessee shall not, without first obtaining the written consent of Lessor, make any alterations, additions, or improvements, in, to or about the Premises, provided, however, that Lessee shall have the right to increase the size of its present signage subject to the provisions of the City's sign code and regulations in effect at the time that the City's approval of the increase is requested.**

**6. Ordinances and Statutes. Lessee shall comply with all statutes, ordinances and requirements of all municipal, state and federal authorities now in force, or which may hereafter be in force, pertaining to the Premises, occasioned by or affecting the use thereof by Lessee.**

**7. Assignment and Subletting. Lessee shall not assign this Lease or sublet any portion of the Premises without prior written consent of the Lessor, which shall be granted or refused in Lessor's sole and unfettered discretion. Any such assignment or subletting without Lessor's consent shall be void and, at the option of the Lessor, grounds for Lessor's forthwith termination of this Lease.**

**8. Utilities. All applications and connections for necessary utility services for the demised Premises shall be made in the name of Lessee only, and Lessee shall be solely liable for utility charges as they become due, including those for sewer, water, gas, electricity, cable, Internet and telephone services.**

**9. Entry and Inspection. Lessee shall permit Lessor or Lessor's agents to enter upon the Premises at reasonable times and upon reasonable notice, for the purpose of inspecting the same, and will permit Lessor at any time within sixty (60) days prior to the expiration of this Lease, to place upon the Premises any usual "To Let" or "For Lease" signs, and permit persons desiring to lease the same to inspect the Premises thereafter.**

**10. Possession. If Lessor is unable to deliver possession of the Premises at the commencement hereof, Lessor shall not be liable for any damage caused thereby. Lessee may terminate this Lease if possession is not delivered on or before September 1, 2004.**

**11. Indemnification of Lessor.** Lessor shall not be liable for any damage or injury to any person or property occurring on the demised Premises during the Term of this Lease. Lessee agrees to indemnify and save and hold Lessor harmless from any claims for such damage or injury, no matter how caused, except to the extent such damage or injury was the direct and proximate result of Lessor's negligent act or omission, provided, however, that nothing herein shall be deemed or construed as a waiver by Lessor of any of the protections or limitations against liability to which Lessor may be entitled under the Colorado Governmental Immunity Act. Lessee may satisfy its obligations pursuant to this paragraph by assuming the defense of and liability, if any, for any such claim brought against the Lessor, and retaining for such defense qualified legal counsel reasonably acceptable to the City.

**12. Insurance.**

a. Lessee, at its expense, shall maintain comprehensive commercial liability insurance, including coverage for bodily injury and property damage, insuring Lessee and naming Lessor as an additional insured with minimum coverage as follows: \$1,000,000 per occurrence. The insurance shall include coverage for contractual liability. Additional insurance shall be obtained in the event any aggregate limitations result in per occurrence coverage of less than \$1,000,000.

b. Prior to taking possession of the Premises pursuant to this Lease, Lessee shall provide Lessor with a Certificate of Insurance showing Lessor as additional insured. The Certificate shall provide for a ten-day written notice to Lessor in the event of cancellation or material change of coverage. To the maximum extent permitted by insurance policies which may be owned by Lessor or Lessee, Lessee and Lessor, for the benefit of each other, waive any and all rights of subrogation which might otherwise exist.

**13. Eminent Domain.** If the Premises or any part thereof or any estate therein, or any other part of the building materially affecting Lessee's use of the Premises, shall be taken by eminent domain, this Lease shall terminate on the date when title vests pursuant to such taking.

**14. Destruction of Premises.** In the event that the Premises or any part of the building in which the demised Premises may be situated is damaged or destroyed by any cause to an extent that renders the Premises unsafe or unusable as a mental health center, either Lessee or Lessor may terminate this Lease forthwith. In no event shall the Less[or]{ee} have any obligation to repair or replace the Premises in the event of any such damage or destruction and Lessee's sole and exclusive remedy in the event of such damage to or destruction of the Premises or the building in which it is located is the termination of this Lease.

**15. Lessor's Remedies on Default.** If Lessee defaults in the performance of any of the covenants or conditions hereof, Lessor may give Lessee notice of such default and if Lessee does not cure any such default within ten (10) days, after the giving of such notice (or if such other default is of such nature that it cannot be completely cured within such period, if Lessee does not commence such curing within such ten (10) days and thereafter proceed with reasonable diligence and in good faith to cure such default), then Lessor may terminate this Lease on not less than twenty (20) days' notice to Lessee. On the date specified in such notice, the Term of this Lease shall terminate, and Lessee shall then quit and surrender the Premises to Lessor, without extinguishing Lessee's liability. If this Lease shall have been so terminated by Lessor, Lessor may at any time thereafter resume possession of the Premises by any lawful means and remove Lessee or other occupants and their effects. No failure to enforce any Term shall be deemed a waiver.

**16. Taxes.** Lessee shall be solely responsible for the payment of any property or other taxes that may arise as a result of Lessee's use of the Premises. The Lessee covenants and warrants to Lessor that Lessee is exempt from all federal, state and local taxes and further, that Lessee shall take no action to cause the loss of its exemption from said taxes. Lessee further covenants and agrees with the Lessor that in the event Lessee shall lose its exemption from taxes for any reason, Lessee shall timely pay all and any taxes accruing as a result thereof. Lessee further covenants and agrees to

indemnify and hold Lessor harmless against any claims or judgments for unpaid taxes resulting from Lessee's use of the Premises.

17. **Attorney's Fees.** In case suit should be brought for recovery of the Premises, or for any sum due hereunder, or because of any act which may arise out of the possession of the Premises, by either party, the prevailing party shall be entitled to all costs incurred in connection with such action, including a reasonable attorney's fee. For any controversy or claim arising out of or relating to this Lease,] or the breach thereof, the parties agree [to attempt] to mediate any such disputes ~~{prior to taking any court action.}~~ [in good faith prior to filing any action against the other. ]

~~{THIS AGREEMENT shall supercede all previous agreements between the parties related to the use of the Community Reach Center and shall be binding upon the successors and assigns of the respective parties hereto.}~~ [18. **Waiver.** No failure of Lessor to enforce any Term hereof shall be deemed to be a waiver.]

~~{IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the day and year first above written.}~~ [19. **Heirs, Assigns, Successors.** This Lease is binding upon and shall inure to the benefit of the heirs, assigns and successors in interest to the parties.]

~~{ATTEST:}~~ [20. **Subordination.** This Lease is and shall be subordinated to all existing and future liens and encumbrances against the property.

21. **Entire Agreement.** This Lease constitutes the entire agreement between the parties concerning the Premises and may be modified only by a writing signed by both parties.

22. **Survival.** Paragraphs 8, 11, and 15 through 20 inclusive shall survive any termination of this Lease by either Lessee or Lessor.

23. **Additional Terms, Conditions and Agreements.** This Lease is subject to the following additional terms, conditions and agreements:

a. **Tenant Finish.** Subject to paragraph 10 above, this Lease shall not commence until Lessor has completed the remodeling and tenant finish associated with Lessee's intended use of the Premises. The City shall contribute \$90,000 towards the cost of such remodeling, plus an additional amount equal to one-half the cost of replacing the building roof, such additional amount not to exceed \$15,000. Lessee shall be responsible for the balance of such costs.

b. **Continuation of Services.** The Center agrees to continue to operate the Center's Westminster Office from the Premises until such time as the Lease is terminated by either party.

Signed as of this \_\_\_ day of \_\_\_\_, 2004.]



CITY OF WESTMINSTER, a Home Rule City  
(seal)

By \_\_\_\_\_  
\_\_\_\_\_ Ed Moss, Mayor  
City Clerk

APPROVED AS TO LEGAL FORM: \_\_\_\_\_  
City Attorney

**COMMUNITY REACH CENTER**

ATTEST:  
(seal) By \_\_\_\_\_  
Title: \_\_\_\_\_  
Secretary}

[COMMUNITY REACH CENTER

By: \_\_\_\_\_  
Ed Moss, Mayor

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Attest: \_\_\_\_\_  
Michelle Kelley, City Clerk

Attest: \_\_\_\_\_  
Printed Name: \_\_\_\_\_

APPROVED BY:

APPROVED BY:

\_\_\_\_\_  
Martin R. McCullough, City Attorney

\_\_\_\_\_  
Printed Name: \_\_\_\_\_]

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **23**

SERIES OF 2004

INTRODUCED BY COUNCILLORS

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A BILL

FOR AN ORDINANCE APPROVING A LEASE WITH THE COMMUNITY REACH CENTER FOR USE OF THE 76<sup>TH</sup> AVENUE LIBRARY BUILDING

WHEREAS, the Community Reach Center has operated its Westminster clinic in a City-owned building since 1974; and

WHEREAS, the City and the Center desire to continue to have the Community Reach Center operate a satellite office in Westminster; and

WHEREAS, many citizens of Westminster benefit by having such a facility within close proximity; and

WHEREAS, the City and the Center desire to remodel the former 76<sup>th</sup> Avenue Library for use as the Community Reach Center Westminster office; and

WHEREAS, the final form of the lease has been agreed to by the parties; and

WHEREAS, the City Charter requires such leases to be approved by ordinance.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The Lease between the City and the Community Reach Center for the lease of the 76<sup>th</sup> Avenue Library building is approved in substantially the same form as attached as Exhibit "A" and the City Manager is authorized to execute the same on behalf of the City.

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 10<sup>th</sup> day of May, 2004.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 24<sup>th</sup> day of May, 2004.

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Mayor

ATTEST:

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City Clerk



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
May 10, 2004



**SUBJECT:** Public Hearing for Hyland Office Park, PUD for Pappadeaux's Restaurant

**Prepared By:** John H. Quinn AICP, Planner II

**Recommended City Council Action:**

1. Hold a public hearing.
2. Pass Councillor's Bill No. 30 amending the Comprehensive Land Use Plan changing the designation from Office to Retail Commercial. This recommendation is based on the following findings set forth in the Westminster Comprehensive Land Use Plan:
  - a) the proposed amendment is in need of revision as proposed;
  - b) the amendment is in conformance with the overall purpose and intent and the goals and policies of the Plan;
  - c) the proposed amendment is compatible with existing and planned surrounding land uses;
  - d) the proposed amendment would not result in excessive detrimental impacts to the City's existing or planned infrastructure systems.
3. Approve the First Amended Preliminary Development Plan (PDP) within the Hyland Office Park Planned Unit Development. This recommendation is based on a determination that the findings set forth in Section 11-5-14 of the Westminster Municipal Code have been met.

**Summary Statement:**

- The Pappadeaux Restaurant site comprises 6.03 acres near the southwest corner of Sheridan Boulevard and 92<sup>nd</sup> Avenue, behind the Compass Bank and will include two restaurant pads.
- The Official Development Plan (ODP) was approved on April 13, 2004 by the Planning Commission conditioned upon the approval of the PDP by City Council.
- The decision of the Planning Commission regarding the ODP is final unless appealed within ten days of the hearing. No appeals were filed.
- The uses in this PDP and ODP are limited to two full service sit down restaurants with no drive-through facilities.

**Expenditure Required:** \$ 0

**Source of Funds:** N/A

### **Planning Commission Recommendation**

At their April 13<sup>th</sup> meeting, the Planning Commission voted unanimously (6-0) to recommend the City Council approve the Comprehensive Land Use Plan amendment and Preliminary Development Plan (PDP) for the Hyland Office Park Lot 1 Planned Unit Development (Pappadeaux's) property.

In addition, Planning Commission voted unanimously (6-0) to approve the Fourth Amended Official Development Plan within the Hyland Office Park Lot 1 Planned Unit Development, subject to approval of the PDP by City Council.

One person spoke in opposition to the proposal. The property manager for the office building (Compass Bank) stated she believes that the traffic from the restaurant will block the east drive entry/exit just east of Sheridan Boulevard and create a traffic bottleneck for the bank customers. The applicant's traffic engineer and City Engineer answered questions regarding these concerns.

### **Policy Issues**

- Should the City approve a CLUP amendment for the Hyland Office Park property changing the designation from Office to Retail Commercial?
- Should the City approve the First Amended PDP within the Hyland Office Park PUD?

### **Alternatives**

1. Deny the CLUP amendment changing the designation for the Hyland Office Park property from Office to Retail Commercial or another appropriate designation. This action would not allow for a restaurant use.
2. Deny the First Amended PDP within the Hyland Office Park PUD.

### **Background Information**

The applicant has proposed construction of the first phase of a two phased restaurant project on a 6.03-acre site located near the southwest corner of 92<sup>nd</sup> Avenue and Sheridan Boulevard. Phase I construction will consist of a single-story building of approximately 14,350 square feet containing a Pappadeaux's restaurant (no drive-through facilities) and lounge with a full-service menu. The building is located on the highest portion of the site with a sweeping mountain view. The Phase II construction will include a second restaurant (no drive-through facilities) of approximately 11,008 square feet with frontage on 92<sup>nd</sup> Avenue.

Although the ODP has been approved by the Planning Commission, City Council has been concerned about addressing the drought tolerant landscaping. On this site, many of the trees and shrubs designated on the plan have low water requirements and the US 36 ROW will have fewer materials than required and allow for the use of Buffalo Grass, which needs considerably less irrigation water than Blue Grass.

Applicant: Pappadeaux Restaurants, 642 Yale Street, Houston, Texas 77007 Contact: Craig Schuster

Property Owner: HCA – Healthone LLC, 4643 S. Ulster Street, Suite 1200, Denver, Colorado 80237  
Contact: Kevin Kucera

### **Surrounding Land Use and Comprehensive Land Use Plan Designations**

The site is bound on the west by US 36 and the Westminster Mall, zoned PUD, and designated as District Center in the Comprehensive Land Use Plan. The property to the north, adjacent to the site, is the Compass Bank building. The property is zoned PUD – Office. The CLUP designates the bank property as Office. The property to the east of Sheridan Boulevard is the Albertson's retail center, zoned PUD with a CLUP designation of Retail Commercial.

The property to the southeast of the site is zoned PUD and designated on the CLUP as Business Park for restaurant uses. The property north of 92<sup>nd</sup> Avenue is the Westfield (Gart Sports) retail area zoned PUD and designated on the CLUP as Retail Commercial.

#### Site Plan Information

The site is an irregular crescent-shaped piece of property with the high point being adjacent to the Sheridan Boulevard US 36 on-ramp, which is approximately 20 feet higher than the 92<sup>nd</sup> Avenue frontage.

Access to the site is somewhat restricted with a signalized three-quarter left turn movement for westbound traffic on 92<sup>nd</sup> Avenue with a right turn lane for eastbound traffic. The second access point is on southbound Sheridan Boulevard which permits a right turn in and out of the site. There is no access to the site from northbound traffic on Sheridan Boulevard.

The first restaurant building will be built adjacent to the Sheridan Boulevard frontage of the property. The building is rather unique in design with a "New Orleans" riverfront character and features both inside and outside seating areas. The building is oriented to maximize the mountain views for the patrons. The building architecture is eclectic and uses a variety of construction materials to create the desired architectural character. The walls are primarily brick with some smaller areas of stucco and lap siding.

#### Traffic and Transportation

The existing access points on 92<sup>nd</sup> Avenue and on Sheridan Boulevard will serve the proposed development. The access point on Sheridan Boulevard is a right turn in - right turn out. The 92<sup>nd</sup> Avenue access point provides for a signalized left-turn movement off of 92<sup>nd</sup> Avenue into the site and a right turn in - right turn out onto 92<sup>nd</sup> Avenue. The project's traffic impact study analyzed traffic flow on the surrounding roadway network for the site build out and year 2025 scenarios. The critical movement for this development is the signalized westbound left-turn movement off of 92<sup>nd</sup> Avenue. This movement is projected to have a vehicle stacking length of 125 feet 95 percent of the time. Therefore, the existing left turn storage length of 175 feet should be sufficient for this critical movement. The study estimated that the proposed development will generate approximately 3,300 daily trips, with 371 occurring during the midday peak hour and 275 occurring during the PM peak hour. The two access points serving this site will adequately accommodate the anticipated traffic volumes.

The traffic issues related to the Pappadeaux restaurant site were part of the ODP Public Hearing record by Planning Commission. Concerns as to congestion at the Compass Bank entry/exit near Sheridan Blvd. were raised by the owner's representative for the existing bank building. This concern has been addressed as part of the Traffic Study prepared for the proposed Pappadeaux restaurant site. The Traffic Study concluded that in the year 2025, a potential for a traffic conflict at the Compass Bank exit/entrance private drive/Sheridan Blvd. location might occur.

After listening to the bank building representative's personal views and concerns and evaluating the traffic engineer's report and comments, the Planning Commission determined that no changes to the ODP were warranted.

After approval of the ODP, on April 27, 2004, Mr. Kioshi Murada, owner of the bank building, submitted a plan to City Staff suggesting a second acceleration lane on Sheridan Blvd. This proposal was evaluated by Mike Normandin, the City's traffic engineer. His determination was that the addition of the second acceleration lane was not needed and could further compound any problems that may occur. Therefore, no further changes to the previously approved plans are recommended.

#### Service Commitment Category

Water usage calculations were prepared for both the restaurant and the irrigated landscape areas. The landscaped areas were broken down into a normal use and a low use category. The restaurant water use will require 20.50 Service Commitments.

The normal water use landscaping will require 6.43 Service Commitments, and the low water landscaping will require 1.74 Service Commitments. A total of 28.67 Service Commitments are required to serve this project.

Referral Agency Responses

There were no negative comments made concerning this project from outside referral agencies.

Public Meeting Comments

On November 10, 2003, at 7:00 p.m. a Neighborhood Meeting was held in Ballroom B, at the Doubletree Hotel, located at 8773 Yates Drive, Westminster, Colorado. Notices were sent to 13 property owners within 300 feet of the proposed Pappadeaux Restaurant site. One person appeared at the meeting and spoke in favor of the project. She had lived in Houston, Texas previously and spoke very highly of the food quality and interior décor of the facility.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **30**

SERIES OF 2004

INTRODUCED BY COUNCILLORS

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A BILL

FOR AN ORDINANCE AMENDING THE WESTMINSTER COMPREHENSIVE LAND USE PLAN

WHEREAS, the owner of the property described below has requested an amendment to the City's Comprehensive Land Use Plan to change the designation for said property from Office to Retail Commercial; and

WHEREAS, the Planning Commission has reviewed the proposed amendment and has recommended approval to the City Council.

NOW THEREFORE, the City Council hereby finds that the requested amendment will be in the public good and in compliance with the overall intent of the Comprehensive Land Use Plan.

Section 1. The City Council authorizes City Staff to make the necessary changes to the maps and text of the Westminster Comprehensive Land Use Plan which are necessary to alter the designation of the Hyland Office Park Lot 1 property from Office to Retail Commercial, legally described as follows:

A parcel of land being a portion of Tract A, Turnpike Commercial Subdivision Plat, recorded in Book 27 at Page 42 and being located in the southeast one quarter of Section 24, Township 2 South, Range 69 West of the 6<sup>th</sup> Principal Meridian, City of Westminster, County of Jefferson, State of Colorado and being more particularly described as follows:

Commencing at the northeast corner of the southeast one quarter of said Section 24: Thence S00°09'11"W along the east line of said southeast one quarter of Section 24 a distance of 298.01 feet; thence departing said section line N89°50'49"W, a distance of 70.26 feet, thence N87°47'38"W, a distance of 7.58 feet to a point of curvature; thence 8.85 feet along the arc of a curve to the left having a radius of 112.50 feet, a central angle of 04°30'33" and a chord which bears S88°42'14"W, a distance of 8.85 feet to a point on the westerly line of an exception parcel recorded at Reception No. 91025657, also being the true point of beginning; thence S00°57'18"E along the westerly line of said exception parcel 114.05 feet; thence continuing along said westerly line of exception parcel S04°44'31"E, a distance of 118.24 feet to a point on the westerly line of that parcel of land condemned in Civil Action No. 41 321, Division 4 in the District Court in and for the County of Jefferson, State of Colorado; thence departing said westerly line of exemption parcel and along the westerly line of said condemned parcel S16°00'45"W, a distance of 301.69 feet; thence continuing along said westerly line S45°42'23"W, a distance of 179.99 feet to the northeasterly line of a parcel of land described as Parcel No. 3, State Department of Highways, Division of Highways, State of Colorado, Project No. F036-1(14); thence departing said westerly line and along said northeasterly line of Parcel No. 3 N34°26'11"W, a distance of 562.08 feet to a point on the easterly line of an exception parcel recorded at Reception No. 1278789; thence departing said northeasterly line of Parcel 3 and along said easterly line of exception parcel N17°48'13"W, a distance of 192.69 feet; thence continuing along said easterly line N23°15'38"W, a distance of 194.06 feet to a point on the southerly line of an exception parcel recorded at Reception No. F0839814; thence departing said easterly line and along said southerly line of exception parcel N59°55'16"E, a distance of 118.92 feet; thence continuing along said southerly line S89°06'38"E, a distance of 153.11 feet to a point on a curve on the easterly line of said exception parcel; thence along said easterly line 13.87 feet along the arc of a non-tangent curve to the left having a radius of 493.49 feet, a central angle of 01°36'37" and a chord which bears N01°45'45"E, a distance of 13.87 feet to a point of compound curvature; thence continuing along said easterly line 9.77 feet along the arc of a curve to the left having a radius of 19.11 feet, a central angle of 29°16'49" and a chord which bears N13°48'26"W, a distance of 9.66 feet to a point on the southerly

right-of-way line of 92<sup>nd</sup> Avenue as recorded at Reception No. 90036784; thence departing said easterly line of exception parcel S89°02'33"E along said southerly right-of-way line, a distance of 14.96 feet; thence departing said southerly right-of-way line S00°57'27"W, a distance of 9.34 feet to a point of curvature; thence 165.23 feet along the arc of a curve to the right having a radius of 505.99 feet, a central angle of 18°42'34" and a chord which bears S10°18'44"W, a distance of 164.49 feet to a point of tangency; thence S19°40'00"W, a distance of 60.39 feet to a point of curvature; thence 111.20 feet along the arc of a curve to the left having a radius of 100.00 feet, a central angle of 63°42'39" and a chord which bears S12°11'17"E, a distance of 105.56 feet to a point of tangency; thence S44°02'33"E, a distance of 77.98 feet to a point curvature; thence 157.62 feet along the arc of a curve to the left having a radius of 100.00 feet, a central angle of 90°18'43" and a chord which bears S89°11'53"E, a distance of 141.81 feet to a point of tangency; thence N45°38'46"E, a distance of 146.57 feet to a point of curvature; thence 80.09 feet along the arc of a curve to the right having a radius of 112.50 feet, a central angle of 40°47'18" and a chord which bears N66°02'23"E, a distance of 78.41 feet to the true point of beginning; said parcel contains 6.032 acres more or less.

The properties described above shall be changed from Office to Retail Commercial, as shown on the attached "Exhibit A."

Section 2. Severability: If any section, paragraph, clause, word or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part deemed unenforceable shall not affect any of the remaining provisions.

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 10<sup>th</sup> of May, 2004.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 24<sup>th</sup> day of May, 2004.

ATTEST:

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Mayor

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City Clerk





**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
May 10, 2004



**SUBJECT:** Resolution No. 33 re I-25/144<sup>th</sup> Avenue Right-of-Way Annexation

**Prepared By:** David Falconieri, Planner III

**Recommended City Council Action**

Adopt Resolution No. 33 accepting the annexation petition submitted by the Colorado Department of Highways, and make the findings required by State Statute on the sufficiency of the petition, and setting the date of June 14, 2004, for the annexation hearing.

**Summary Statement**

- The cities of Westminster and Thornton have entered into an agreement with the Colorado Department of Transportation (CDOT) to replace the 144<sup>th</sup> Avenue overpass with a full access interchange. CDOT has identified the bridge as a sub-standard structure in need of replacement.
- The City has designated the surrounding areas as an Urban Renewal Area. In order to expend urban renewal funds on the bridge/interchange replacement, the property must be located within the municipal boundaries of Westminster.
- CDOT is petitioning to annex the west half of I-25 north of 144<sup>th</sup> Avenue as well as a portion of 144<sup>th</sup> Avenue west of I-25 to the City. If approved, the unincorporated gap that exists between the boundaries of Thornton and Westminster at this location would be eliminated.

**Expenditure Required:** \$0

**Source of Funds:** N/A

**Policy Issue**

Whether to annex the I-25/144<sup>th</sup> Avenue right-of-way at this time?

**Alternative**

Make a finding that it is not in the best interests of the City to annex the I-25/144<sup>th</sup> Avenue right-of-way at this time and take no further action. If this course is taken, the property in question will remain in unincorporated Adams County, and the improvements planned for the 144<sup>th</sup> Avenue overpass will not be made.

**Background**

Upon receiving a petition for annexation, the City Council is required by State Statute to make a finding of whether or not said petition is in compliance with Section 31-12-107 (1) C.R.S. In order for the petition to be found in compliance, Council must find that the petition contains the following information:

1. An allegation that the annexation is desirable and necessary.
2. An allegation that the requirements of Section 31-12-104 and 31-12-105 C.R.S have been met. (These sections are to be reviewed by the Council at the formal public hearing.)
3. Signatures and mailing addresses of at least 50% of the landowners of the land to be annexed. (In this case, the Colorado Department of Highways, signer of the petition, owns 100% of the property.)
4. The legal description of the land to be annexed.
5. The date of each signature.
6. An attached map showing the boundaries of the area.

Planning Staff has reviewed the petition and has determined that it complies with the above requirements.

If the City Council finds that the petition is in substantial compliance with these requirements, a resolution must be approved that establishes a hearing date at which time the Council will review the merits of the proposed annexation.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments

RESOLUTION

RESOLUTION NO. **33**

INTRODUCED BY COUNCILLORS

SERIES OF 2004

WHEREAS, there has been filed with the City Clerk of the City of Westminster, a petition, copies of which are attached hereto and incorporated by reference, for the annexation of certain territory therein-described to the City;

WHEREAS, the City Council has been advised by the City Attorney and the City Manager that the petition and accompanying map are in substantial compliance with Sections 31-12-101, et.seq., Colorado Revised Statutes, as amended;

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

1. City Council finds the said petition and annexation map to be in substantial compliance with all state statutory requirements, including C.R.S. Section 31-12-107 (1).
2. City Council hereby establishes June 14, 2004, 7:00 PM at the Westminster City Council Chambers, 4800 West 92nd Avenue, for the annexation hearing required by C.R.S. Section 31-12-108 (1).
3. City Council hereby orders the City Clerk to give notice of the annexation hearing in accordance with C.R.S. Section 31-12-108 (2).

Passed and adopted this 10th day of May, 2004.

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

## Summary of Proceedings

Summary of proceedings of the regular City of Westminster City Council meeting of Monday, May 10, 2004. Mayor Pro-Tem McNally, Councillors Dittman, Dixon, Hicks, Kauffman and Price were present at roll call. Mayor Moss arrived at 7:25 P.M. Absent none.

The minutes of the April 26, 2004 meeting as corrected were approved.

Eleanor Scott received a proclamation in recognition of her designation as Colorado Mother of the Year; Proclamation re May as Mental Health Month; and Proclamation re May 16-22 as Public Works Week.

Council approved the following: Award for Construction of Stratford Lakes Reclaimed Water Line with Tetra Tech Construction Services Inc for \$121,245; 2004 Chipseal Project Award with A-1 Chipseal Company for \$1,399,959; Special Legal Counsel for City Personnel Board with John Hayes not to exceed \$10,000; Special Legal Counsel for Fire and Police Defined Benefit Pension Analysis with Sherman & Howard not to exceed \$8,000; Huron Street Demolition Contract with Fiore & Sons for \$81,142; and 1<sup>st</sup> Amended Preliminary Development Plan for Pappadeaux Restaurant.

Council reappointed Curtis Aldstadt to the Metro Wastewater Reclamation District's Board of Directors, with a term of office effective through June 30, 2006, accepting the resignation of Teresa Valerio Parrot and appointment of Tanya Ishikawa to the Human Services Board.

The following Public Hearing was held: At 7:28 p.m. on the Hyland Office Park, PUD for Pappadeaux's Restaurant.

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

A BILL FOR AN ORDINANCE APPROVING A LEASE WITH THE COMMUNITY REACH CENTER FOR USE OF THE 76<sup>TH</sup> AVENUE LIBRARY BUILDING purpose: authorizing leasing former 76<sup>th</sup> Avenue Library Building to Community Reach Center

A BILL FOR AN ORDINANCE AMENDING THE WESTMINSTER COMPREHENSIVE LAND USE PLAN purpose: CLUP amendment for Pappadeaux restaurant, to be located at NWC of 92<sup>nd</sup> Avenue & Sheridan Boulevard

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

A BILL FOR AN ORDINANCE APPROVING AND ACCOMPLISHING THE ANNEXATION OF CONTIGUOUS UNINCORPORATED TERRITORY IN A PARCEL OF LAND LOCATED IN SECTION 23, TOWNSHIP 2 SOUTH, RANGE 69 WEST, 6TH P.M., COUNTY OF JEFFERSON, STATE OF COLORADO

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

A BILL FOR AN ORDINANCE AMENDING THE ZONING LAW AND ESTABLISHING THE ZONING CLASSIFICATION OF CERTAIN DESCRIBED PROPERTY IN A PARCEL OF LAND LOCATED IN SECTION 23, TOWNSHIP 2 SOUTH, RANGE 69 WEST, 6TH P.M., COUNTY OF JEFFERSON, STATE OF COLORADO

A BILL FOR AN ORDINANCE AUTHORIZING A BUSINESS ASSISTANCE PACKAGE WITH JRBM INC. TO AID IN THE EXPANSION AND RELOCATION OF JRBM INC. TO BUILDING TEN AT WESTMOOR TECHNOLOGY PARK IN WESTMINSTER

A BILL FOR AN ORDINANCE AUTHORIZING A BUSINESS ASSISTANCE PACKAGE WITH SYNCRONESS INC. TO AID IN THE RETENTION AND EXPANSION OF SYNCRONESS INC. TO WALNUT CREEK BUSINESS PARK IN WESTMINSTER

A BILL FOR AN ORDINANCE AUTHORIZING A BUSINESS ASSISTANCE PACKAGE WITH LAFARGE NORTH AMERICA INC. TO AID IN THEIR RELOCATION OF LAFARGE NORTH AMERICA INC. TO CHURCH RANCH CORPORATE CENTER IN WESTMINSTER

The following Resolutions were adopted:

Resolution No. 33 re I-25/144<sup>th</sup> Avenue Annexation Petition Compliance

Resolution No. 34 re accepting resignation and appointing new member to Human Services Board

At 7:45 p.m. the meeting was adjourned

By order of the Westminster City Council

Michele Kelley, CMC, City Clerk

Published in the Westminster Window on May 20, 2004

SERIES OF 2004

INTRODUCED BY COUNCILLORS

**Hicks - Dittman**

## A BILL

FOR AN ORDINANCE APPROVING AND ACCOMPLISHING THE ANNEXATION OF CONTIGUOUS UNINCORPORATED TERRITORY IN A PARCEL OF LAND LOCATED IN SECTION 23, TOWNSHIP 2 SOUTH, RANGE 69 WEST, 6TH P.M., COUNTY OF JEFFERSON, STATE OF COLORADO.

WHEREAS, pursuant to the laws of the State of Colorado, there was presented to and filed with the Council of the City of Westminster a written petition for annexation to and by the City of Westminster of the hereinafter-described contiguous, unincorporated territory situate, lying and being in the County of Jefferson, State of Colorado; and

WHEREAS, City Council has been advised by the City Attorney and the City Manager that the petition and accompanying maps are in substantial compliance with Section 31-12-101, et.seq., Colorado Revised Statutes, as amended; and

WHEREAS, City Council has held the required annexation hearing in conformance with all statutory requirements; and

WHEREAS, City Council has heretofore adopted Resolution No. making certain findings of fact and conclusions regarding the proposed annexation as required by Section 31-12-110, C.R.S., and now finds that the property proposed for annexation under the Annexation Petition may be annexed by ordinance at this time; and

WHEREAS, the Council of the City of Westminster has satisfied itself concerning the conformance of the proposed annexation to the annexation policy of the City of Westminster.

NOW, THEREFORE, the City of Westminster ordains:

Section 1. That the annexation is hereby accomplished by and to the City of Westminster, State of Colorado, of the following described contiguous unincorporated territory situate, lying and being in the County of Jefferson, State of Colorado, to wit:

A parcel of land located in Section 23, Township 2 South, Range 69 West of the 6<sup>th</sup> Principal Meridian, being all of Block 28, except the north 5 feet thereof and the east 275.5 feet thereof, of Greenlawn Acres and Reservoir, a plat on file and recorded in the office of the Jefferson County Clerk and Recorder, County of Jefferson, State of Colorado, more particularly described as follows:

Commencing at the north one-quarter corner of said Section 23; thence S00°00'10"E and along the west line of the northeast one-quarter of Section 23, a distance of 984.07 feet; thence N89°19'25"E, a distance of 30.00 feet to a point on the east right-of-way of Wadsworth Boulevard, said point being the point of beginning; thence continuing N89°19'25"E, a distance of 362.39 feet; thence S00°00'25"W, a distance of 330.23 feet to a point on the north line of Cambridge Farm Subdivision, a plat on file and recorded in the office of the Jefferson County Clerk and Recorder; thence S89°08'48"W and along said north line, a distance of 362.35 feet to a point on the east right-of-way line of Wadsworth Boulevard; thence N00°00'10"W and along said east right-of-way line of Wadsworth Boulevard, a distance of 331.35 feet to the point of beginning. Said parcel containing 2.752 acres.

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 26th day of April, 2004. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 10th day of May, 2004.

SERIES OF 2004

INTRODUCED BY COUNCILLORS

**Hicks - Dixon**

A BILL

FOR AN ORDINANCE AMENDING THE WESTMINSTER COMPREHENSIVE LAND USE PLAN

WHEREAS, the City maintains a Comprehensive Land Use Plan which regulates land uses within the City; and

WHEREAS, the City Council has annexed new properties to the City specifically described below; and

WHEREAS, an amendment of the Plan is necessary to provide a land use designation for the annexed property and to keep the Plan up to date; and

WHEREAS, the Planning Commission has reviewed the proposed amendment and has recommended approval to the City Council.

NOW THEREFORE, the City Council hereby finds that the required procedures for amending the Comprehensive Land Use Plan as delineated in the Westminster Municipal Code have been satisfied.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council authorizes City Staff to make the necessary changes to the maps and text of the Westminster Comprehensive Land Use Plan which are necessary to alter the designation of the Asbury Acres annexation property, legally described as follows:

A parcel of land located in Section 23, Township 2 South, Range 69 West of the 6<sup>th</sup> Principal Meridian, being all of Block 28, except the north 5 feet thereof and the east 275.5 feet thereof, of Greenlawn Acres and Reservoir, a plat on file and recorded in the office of the Jefferson County Clerk and Recorder, County of Jefferson, State of Colorado, more particularly described as follows:

Commencing at the north one-quarter corner of said Section 23; thence S00°00'10"E and along the west line of the northeast one-quarter of Section 23, a distance of 984.07 feet; thence N89°19'25"E, a distance of 30.00 feet to a point on the east right-of-way of Wadsworth Boulevard, said point being the point of beginning; thence continuing N89°19'25"E, a distance of 362.39 feet; thence S00°00'25"W, a distance of 330.23 feet to a point on the north line of Cambridge Farm Subdivision, a plat on file and recorded in the office of the Jefferson County Clerk and Recorder; thence S89°08'48"W and along said north line, a distance of 362.35 feet to a point on the east right-of-way line of Wadsworth Boulevard; thence N00°00'10"W and along said east right-of-way line of Wadsworth Boulevard, a distance of 331.35 feet to the point of beginning. Said parcel containing 2.752 acres.

The properties described above shall be changed from Northeast Comprehensive Development Plan, to Single Family Detached-Medium Density, as shown on the attached "Exhibit A".

Section 2. Severability: If any section, paragraph, clause, word or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part deemed unenforceable shall not affect any of the remaining provisions.

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 26<sup>th</sup> of April, 2004. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 10<sup>th</sup> day of May, 2004.

SERIES OF 2004

INTRODUCED BY COUNCILLORS

**Hicks - Dixon**

## A BILL

FOR AN ORDINANCE AMENDING THE ZONING LAW AND ESTABLISHING THE ZONING CLASSIFICATION OF CERTAIN DESCRIBED PROPERTY IN A PARCEL OF LAND LOCATED IN SECTION 23, TOWNSHIP 2 SOUTH, RANGE 69 WEST, 6TH P.M., COUNTY OF JEFFERSON, STATE OF COLORADO.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council finds:

- a. That an application for the zoning of the property described below from Jefferson County A-2 to City of Westminster Planned Unit Development (PUD) zoning has been submitted to the City for its approval pursuant to Westminster Municipal Code Section 11-5-1.
- b. That Council has completed a public hearing on the requested zoning pursuant to the provisions of Chapter 5 of Title XI of the Westminster Municipal Code.
- c. That based on the evidence produced at the public hearing, the City Council finds that the proposed zoning complies with all requirements of City Code, including, but not limited to, the provisions of Westminster Municipal Code Section 11-5-3.
- d. That the proposed zoning is compatible with existing zoning and land uses of adjacent properties in the general vicinity of the property proposed for zoning.
- e. That the proposed zoning is consistent with all applicable general plans and policies concerning land use and development relative to the property proposed for zoning.

Section 2. The Zoning District Map of the City is hereby amended by reclassification of the property described herein from Jefferson County A-2 to City of Westminster Planned Unit Development (PUD). A parcel of land located in Section 23, Township 2 South, Range 69 West, 6th P.M., County of Jefferson, State of Colorado, more particularly described as follows:

A parcel of land located in Section 23, Township 2 South, Range 69 West of the 6<sup>th</sup> Principal Meridian, being all of Block 28, except the north 5 feet thereof and the east 275.5 feet thereof, of Greenlawn Acres and Reservoir, a plat on file and recorded in the office of the Jefferson County Clerk and Recorder, County of Jefferson, State of Colorado, more particularly described as follows:

Commencing at the north one-quarter corner of said Section 23; thence S00°00'10"E and along the west line of the northeast one-quarter of Section 23, a distance of 984.07 feet; thence N89°19'25"E, a distance of 30.00 feet to a point on the east right-of-way of Wadsworth Boulevard, said point being the point of beginning; thence continuing N89°19'25"E, a distance of 362.39 feet; thence S00°00'25"W, a distance of 330.23 feet to a point on the north line of Cambridge Farm Subdivision, a plat on file and recorded in the office of the Jefferson County Clerk and Recorder; thence S89°08'48"W and along said north line, a distance of 362.35 feet to a point on the east right-of-way line of Wadsworth Boulevard; thence N00°00'10"W and along said east right-of-way line of Wadsworth Boulevard, a distance of 331.35 feet to the point of beginning. Said parcel containing 2.752 acres.

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 26<sup>th</sup> day of April, 2004. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 10<sup>th</sup> day of May, 2004.



SERIES OF 2004

INTRODUCED BY COUNCILLORS

**Kauffman-Dittman**

A BILL

FOR AN ORDINANCE AUTHORIZING A BUSINESS ASSISTANCE PACKAGE WITH JRBM INC. TO AID IN THE EXPANSION AND RELOCATION OF JRBM INC. TO BUILDING TEN AT WESTMOOR TECHNOLOGY PARK IN WESTMINSTER

WHEREAS, the successful attraction and retention of high quality development to the City of Westminster provides employment opportunities and increased revenue for citizen services and is therefore an important public purpose; and

WHEREAS, it is important for the City of Westminster to remain competitive with other local governments in creating assistance for high quality development to locate in the City; and

WHEREAS, JRBM Inc. plans to occupy 15,000 square feet in 11000 Westmoor Circle in Westmoor Technology Park, in Westminster, and

WHEREAS, a proposed Business Assistance Package between the City and JRBM Inc. is attached hereto as Exhibit "A" and incorporated herein by this reference.

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

THE CITY OF WESTMINSTER ORDAINS:

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

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

Section 3. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 26<sup>th</sup> day of April 2004. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 10th day of May 2004.

ORDINANCE NO. **3115**

COUNCILLOR'S BILL NO. **28**

SERIES OF 2004

INTRODUCED BY COUNCILLORS

**Dixon - Price**

A BILL

FOR AN ORDINANCE AUTHORIZING A BUSINESS ASSISTANCE PACKAGE WITH SYNCRONESS INC. TO AID IN THE RETENTION AND EXPANSION OF SYNCRONESS INC. TO WALNUT CREEK BUSINESS PARK IN WESTMINSTER

WHEREAS, the successful retention and expansion of high quality development to the City of Westminster provides employment opportunities and increased revenue for citizen services and is therefore an important public purpose; and

WHEREAS, it is important for the City of Westminster to remain competitive with other local governments in creating assistance for high quality development to locate in the City; and

WHEREAS, Synchroness, Inc. plans to purchase 5,280 square feet in the single story office building at Walnut Creek Business Park, at 1085<sup>th</sup> Avenue and Wadsworth Parkway in Westminster, and

WHEREAS, a proposed Business Assistance Package between the City and Synchroness, Inc. is attached hereto as Exhibit "A" and incorporated herein by this reference.

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

THE CITY OF WESTMINSTER ORDAINS:

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

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

Section 3. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 26th day of April 2004. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 10th day of May 2004.

ORDINANCE NO. **3116**

COUNCILLOR'S BILL NO. **29**

SERIES OF 2004

INTRODUCED BY COUNCILLORS  
**McNally-Dixon**

A BILL

FOR AN ORDINANCE AUTHORIZING A BUSINESS ASSISTANCE PACKAGE WITH LAFARGE NORTH AMERICA INC. TO AID IN THEIR RELOCATION OF LAFARGE NORTH AMERICA INC. TO CHURCH RANCH CORPORATE CENTER IN WESTMINSTER

WHEREAS, the successful attraction and retention of high quality development to the City of Westminster provides employment opportunities and increased revenue for citizen services and is therefore an important public purpose; and

WHEREAS, it is important for the City of Westminster to remain competitive with other local governments in creating assistance for high quality development to locate in the City; and

WHEREAS, Lafarge North America Inc. west regional division offices plans to occupy 42,000 square feet in the four-story office building at Church Ranch Corporate Center, off of US 36 and Church Ranch Boulevard in Westminster, and

WHEREAS, a proposed Business Assistance Package between the City and Lafarge North America Inc. is attached hereto as Exhibit "A" and incorporated herein by this reference.

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

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Manager of the City of Westminster is hereby authorized to enter into and execute a Business Assistance Package with Lafarge North America Inc. in substantially the same form as the one attached as Exhibit "A", and upon execution of the Agreement to fund and implement said Agreement.

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

Section 3. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 26th day of April 2004. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 10th day of May 2004