

May 18, 1998
7:00 PM

Notice to Readers: City Council meeting packets are prepared several days prior to the meetings. Timely action and short discussion on agenda items does not reflect lack of thought or analysis on the City Council's part as issues have been discussed by Council previously. Council may defer final action on an item to a future meeting. Members of the audience are invited to speak at the Council meeting. Citizen Communication (item 5) and Citizen Presentations (item 12) are reserved for comments on items not contained on the printed agenda.

1. **Pledge of Allegiance**
2. **Roll Call**
3. **Consideration of Minutes of Preceding Meetings**
4. **Presentations**
None
5. **Citizen Communication (5 minutes or Less in Length)**
6. **Report of City Officials**
 - A. City Manager's Report
7. **City Council Comments**

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

8. **Consent Agenda**
 - A. Countryside Pump Station Change Order
9. **Appointments and Resignations**
 - A. Resolution No. 25 re Special Permit & License Board
10. **Public Hearings and Other New Business**
 - A. Resolution No. 28 re Reimbursements for Capital Facilities Financing
 - B. Bond and Special Counsel for Reimbursement for Capital Facilities
 - C. Councillor's Bill No. 15 re Westmoor Technology Park/Golf Course Transfer
 - D. Councillor's Bill No. 16 re Supplemental Approp for Cable Equipment
 - E. Resolution No. 29 re Video Equipment for Channel 8
 - F. Contract for Video Equipment for Channel 8
 - G. Federal Heights Wholesale Water Contract Amendment
 - H. Resolution No. 30 re Open Space Property Acquisition
11. **Old Business and Passage of Ordinances on Second Reading**
None
12. **Citizen Presentations (5 Minutes + in Length) & Miscellaneous Business**
 - A. Financial Report for April, 1998
 - B. City Council
 - C. Request for Executive Session
13. **Adjournment**

CITY OF WESTMINSTER, COLORADO
MINUTES OF THE CITY COUNCIL MEETING
HELD ON MONDAY, MAY 18, 1998 AT 7:00 P.M.

PLEDGE OF ALLEGIANCE:

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

ROLL CALL:

Present at roll call were Mayor Heil, Mayor Pro Tem Merkel and Councillors Allen, Atchison, Dixon and Smith. Also present were Alan Miller, Assistant City Manager; Martin McCullough, City Attorney; and Michael Allen, Deputy City Clerk. Absent was Councillor Scott.

CONSIDERATION OF MINUTES:

A motion was made by Dixon and seconded by Atchison to accept the minutes of the meeting of May 11, 1998 with no additions or corrections. The motion carried unanimously.

CITIZEN COMMUNICATION:

Dusty Richardson addressed Council concerning handicapped parking signs and spaces at City Hall.

CITY COUNCIL COMMENTS:

Councillor Dixon commented on the Hyland Hills Parks and Recreation District Ice Show, Bike Safety Day and Rodeo held at City Hall, Mortgage Assistance Program fund availability, and thanked the firefighters that assisted Joanna Padilla with the Cinco de Mayo celebration when she was burned.

CONSENT AGENDA:

The following item was considered as part of the Consent Agenda: **Countryside Pump Station Change Order** - Authorize the City Manager to execute a change order with Western Summit Constructors, Inc., in the amount of \$225,543 for the design and construction of 1,600 feet of 12-inch 108th Avenue water line and valving and connections for the existing design/build contract with Western Summit Constructors, Inc., for the construction of the Countryside Pump Station with expenses to be charged to the Countryside Pump Station Project account.

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

A motion was made by Merkel and seconded by Allen to adopt the consent agenda item as presented. The motion carried unanimously.

APPOINTMENTS AND RESIGNATIONS:

A motion was made by Atchison to adopt Resolution No. 25 accepting the resignation of Phillip Auth from the Special Permit and License Board and appointing Tim Kauffman as a regular member and James Wood as an alternate member to fill the vacancy with the terms of office to expire December 31, 1999. The motion failed for lack of a second.

A motion was made by Dixon and seconded by Smith to adopt Resolution No. 25 accepting the resignation of Phillip Auth from the Special Permit and License Board and appointing Tim Kauffman as a regular member and Frank Jaime as an alternate member to fill the vacancy with the terms of office to expire December 31, 1999. Upon roll call vote, the motion carried with 5 aye votes and a dissenting vote by Atchison.

A motion was made by Dixon and seconded by Atchison to move to Item 10H, Resolution No. 30 re Open Space Property Acquisition. The motion carried unanimously.

RESOLUTION NO. 30 - OPEN SPACE PROPERTY ACQUISITION:

A motion was made by Atchison and seconded by Dixon to adopt Resolution No. 30 authorizing the City Manager and City Attorney to proceed with the acquisition of additional property for open space, trail, park, earthwork borrow site and other municipal purposes, including through eminent domain, if necessary and charge the expenses to the Open Space Fund. Bill Kearney, representing R. Dean Hawn Interests, addressed Council opposing the property acquisition. Open Space Coordinator Bob Lienemann was present to address questions from Council. Upon roll call vote, the motion carried unanimously.

RESOLUTION NO. 28 - REIMBURSEMENTS FOR CAPITAL FACILITIES FINANCING:

A motion was made by Merkel and seconded by Allen to adopt Resolution No. 28 expressing the intent of the City to issue tax-exempt obligations in the amount of \$19,000,000 to finance various planned public improvements; and authorizing the officers, employees and agents of the City to proceed and continue with steps preliminary to the issuance of such obligations. Upon roll call vote, the motion carried unanimously.

BOND AND SPECIAL COUNSEL FOR REIMBURSEMENT FOR CAPITAL FACILITIES:

A motion was made by Merkel and seconded by Allen to approve fees for Sherman & Howard to act as Bond and Special Counsel to the City at a fee of \$12,000 to be paid for out of the proposed capital facilities financing; approve fees for Kutak Rock to act as Disclosure Counsel at a fee of \$12,000 to be paid for out of the proposed capital facilities financing; and authorize the City Manager to execute agreements with Sherman & Howard and Kutak Rock accordingly. The motion carried unanimously.

COUNCILLOR'S BILL NO. 15 - WESTMOOR TECHNOLOGY PARK/GOLF COURSE:

A motion was made by Allen and seconded by Dixon to pass Councillor's Bill No. 15 on first reading authorizing the transfer of \$243,000 to the Heritage at Westmoor Golf Course construction budget from the General Fund Contingency. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 16 - CABLE EQUIPMENT SUPPLEMENTAL APPROPRIATION:

A motion was made by Smith and seconded by Dixon to pass Councillor's Bill No. 16 on first reading providing a supplemental appropriation of TCI added revenue to the budget in the amount of \$37,000 and allocating the funds to the appropriate Public Information Capital Outlay account. Upon roll call vote, the motion carried unanimously.

RESOLUTION NO. 29 - PURCHASE OF VIDEO EQUIPMENT FOR CHANNEL 8:

A motion was made by Dixon and seconded by Allen to adopt Resolution No. 29 authorizing the transfer of \$14,000 from the General Fund contingency to the appropriate Public Information Capital Outlay account for the purchase of video equipment. Upon roll call vote, the motion carried unanimously.

CONTRACT FOR VIDEO EQUIPMENT FOR CHANNEL 8:

A motion was made by Dixon and seconded by Merkel to authorize the City Manager to sign a contract with CEAVCO in the amount of \$108,000 to purchase video equipment because it is in the City's best interests and charge the expense to the appropriate 1998 budget accounts. Public Information Officer Katie Harberg was present to address Council. The motion carried unanimously.

FEDERAL HEIGHTS WHOLESAL WATER CONTRACT AMENDMENT:

A motion was made by Allen and seconded by Merkel to approve the amendment to the contract with Federal Heights, confirming the rate for July 1 through December 31, 1998 at \$2.02 per thousand gallons, and authorize the Mayor and City Manager to sign the amendment on behalf of the City. The motion carried unanimously.

MISCELLANEOUS BUSINESS:

Council reviewed the Financial Report for April, 1998.

The Mayor stated there would be an Executive Session regarding a land acquisition matter.

ADJOURNMENT:

The meeting was adjourned at 8:10 P.M.

ATTEST:

Mayor

City Clerk

Date: May 18, 1998

Subject: Change Order for Countryside Pump Station Contract

Prepared by: Alex Iacovetta, Utilities Operations Manager
Diane M. Phillips, Utilities Projects Engineer

Introduction

City Council action is requested to authorize the City Manager to sign a change order to the existing design/build contract with Western Summit Constructors, Inc., for the construction of the Countryside Pump Station Project, in the amount of \$225,543 for additional design and construction services. Additional services include those necessary for the design and installation of 1,600 feet of 12-inch water line, valving, and pipe connections along West 108th Avenue west of Wadsworth Parkway to the Westmoor Technology Park. The current design/build contract with Western Summit Constructors, Inc., includes both engineering design services to be provided by Richard P. Arber Associates in conjunction with construction services being provided by Western Summit Constructors, Inc. The total cost of \$225,543, for this change order includes \$37,516 for engineering design services and \$188,027 for construction.

The total project cost of the original contract amount, \$1,393,000, combined with the change order amount, \$225,543, will now be \$1,618,543. The new project cost provides engineering design and analysis services at 14 percent of the total cost. Typical design services for projects of a similar nature are generally 8 percent to 15 percent of the total project cost depending on the level of engineering design and analysis involved. Funds are available in the Utilities Water Projects Capital Improvement Account for this expense.

Summary

The current design/build contract with Western Summit Constructors, Inc., includes both engineering design services to be provided by Richard P. Arber Associates in conjunction with construction services being provided by Western Summit Constructors, Inc.

The total project cost of the original contract amount, \$1,393,000, combined with the change order amount, \$225,543, will now be \$1,618,543. The new project cost provides engineering design and analysis services at 14 percent of the total cost. The engineering design for the pipeline is 9 percent. The additional five percent of the engineering services provided additional evaluation and analysis. This additional engineering evaluation and analysis determined that, in fact, a second portion of 12-inch pipeline that was recommended in the Water Master Plan would not need to be installed. By identifying that we could eliminate the need to install this approximately 1400 feet of water line, the City realized a savings of approximately \$200,000. Typical design services for projects of a similar nature are generally 8 percent to 15 percent of the total project cost depending on the level of engineering design and analysis involved.

City Council authorized the City Manager to sign a contract for \$1,393,000 with Western Summit Constructors, Inc., to design and construct the new Countryside Pump Station on October 13, 1997. During the final draft of the Water Master Plan, it was determined that this 108th Avenue line is needed. If Western Summit provides these additional services, the July service date to provide full water service to the new Westmoor Business development area can still be met.

Staff has thoroughly reviewed and evaluated the additional fee and services that will be provided under this change order and find them to be competitive.

Staff Recommendation

Authorize the City Manager to execute a change order with Western Summit Constructors, Inc., in the amount of \$225,543 for the design and construction of 1,600 feet of 12-inch 108th Avenue water line and valving and connections for the existing design/build contract with Western Summit Constructors, Inc., for the construction of the Countryside Pump Station with expenses to be charged to the Countryside Pump Station Project account.

Background Information

As the Westmoor Business Park came to the forefront in development activity, Staff believed that the impacts to the water distribution system must be more closely evaluated. A detailed analysis of the area was provided by the City's consulting engineer and it was concluded that a new pump station would be needed to provide service to the area. This study also identified the need for additional piping to service the area and after construction of the pump station began, future evaluation identified the need for this piping to be installed in conjunction with the start-up operation of the pump station to assure adequate domestic and fire flow supply.

The recently completed comprehensive Water System Master Plan confirms the need for the West 108th Avenue extension to connect both the future water treatment facility at West 104th Avenue and Wadsworth Parkway to the north area distribution system and to assure required water service to the new Westmoor Business Park, as well as developing residential and commercial sites between Wadsworth Parkway and U.S. 36.

The pipeline size and routing involved for this change order was not included in the original contract because the demands for the Westmoor Business Park had not been determined at that time and the Water System Master Plan had not been completed. However, it was necessary to begin construction of the pump station to assure Project completion when supply would be needed for development in Westmoor Business Park. It was known at the time that the waterline component would come after starting the pump station.

This project will include the installation of check valves to provide alternative water supply from lower to higher pressure areas. It will also include several pipe connections between existing transmission and distribution pipes to facilitate the operation of the water system. The City's capital project consultant, RG Consulting Engineers, Inc., has reviewed the cost for this design/build work. RG Consulting Engineers, Inc., chose other current design/build projects in the metropolitan area that included pipeline and valve installations and evaluated the cost for this project with the other similar projects.

RG Consulting Engineers, Inc., also reviewed the cost for design evaluation and analysis services on this project with other current services being provided in the metropolitan area and found that the costs for these services were comparable to similar design services where system analysis services were provided as is the case on this project.

An alternative to proceeding with the above recommendation would be to open the pipeline installation project up to a competitive design and construction bidding process. This process would take several months to complete and could significantly impact water supply delivery in the area and Westmoor Business Park until the construction was complete, plus the re-mobilization cost would increase the construction cost by approximately \$20,000.

The second alternative is to delay construction of this portion of pipeline indefinitely. The construction of a new City recreation center is scheduled to begin in 1999 and service from this line will be needed at that time for this facility. Any delay could compromise fire fighting water supply delivery if a major fire were to occur in the mean time.

Administrative Memorandum 95-2 states that any change order that exceeds 5 percent of the original project agreement should be presented to City Council for approval. This change order at \$225,543 will represent approximately 16 percent of the original contract amount.

Respectfully submitted,

William M. Christopher
City Manager

Attachment: Map

Date: May 18, 1998
Subject: Resolution No. re Special Permit and License Board
Prepared by: Michele Kelley, City Clerk

Introduction

City Council action is requested to accept the resignation of Phillip Auth from the Special Permit and License Board and make an appointment of a new member.

Summary

Phillip Auth has submitted his resignation from the Special Permit and License Board effective June 26, 1998. Phillip will be moved out of the state to pursue a MBA from Texas A&M. (See attached letter of resignation.)

Phillip was originally appointed to the Special Permit and License Board on September 8, 1997 and has served since that time as a regular member.

Currently there are 21 individuals within the "pool". A copy of the matrix indicating each individuals preference for Boards and Commissions is attached.

Tim Kauffman is currently an alternate member of the Special Permit and License Board, and Staff is recommending appointing Tim as a regular member and a new member from the "pool" as an alternate member to this Board.

Staff Recommendation

Adopt Resolution No. accepting the resignation of Phillip Auth from the Special Permit and License Board and appointing a new member to this Board.

Background Information

A Resolution has been prepared for Council to formally accept the resignation of Phillip Auth from the Special Permit and License Board, move Tim Kauffman from an alternate member to a regular member and appoint a new alternate member from the current "pool" of 21 applicants.

Respectfully submitted,

William M. Christopher
City Manager

Attachments

RESOLUTION

RESOLUTION NO.

INTRODUCED BY COUNCILLORS

SERIES OF 1998

CITY OF WESTMINSTER SPECIAL PERMIT AND LICENSE BOARD APPOINTMENT

WHEREAS, A resignation has been received from Phillip Auth from the Special Permit and License Board; and

WHEREAS, Currently there is a vacancy on the Special Permit and License 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 hereby accept the resignation of Phillip Auth from the Special Permit and License Board and appoint the following individuals to the City of Westminster Special Permit and License Board as listed below with the term of office to expire as stated.

<u>NAME</u>	<u>BOARD/COMMISSION</u>	<u>TERM EXPIRE</u>
Tim Kauffman Moved from Alternate Member to Regular Member	Special Permit and License Board	12-31-99
Frank Jaime Alternate Member	Special Permit and License Board	12-31-99

Passed and adopted this 18th day of May, 1998.

ATTEST:

Mayor

City Clerk

Date: May 18, 1998

Subject: Resolution No. re Reimbursement for Capital Facilities Financing

Prepared by: Mary Ann Parrot, Finance Director

Introduction

City Council action is requested to adopt the attached resolution to allow the City to reimburse appropriate internal funds from the forthcoming financing proceeds for expenditures over the past few months, and for the next one to two years, for a variety of capital improvement projects.

City Council is also requested to approve fees for the attorneys for this financing, as follows: \$12,000 for Sherman & Howard, as Bond and Special Counsel to the City, and \$12,000 for Kutak Rock, as Disclosure Counsel to the City.

Summary

The attached Reimbursement Resolution for \$19,000,000 is to allow the City to reimburse costs of capital projects currently under construction and/or planned for 1998-1999 financed from the General Capital Improvement Fund. It is Staff's recommendation to finance the various projects with the issuance of Certificates of Participation (COP), not to exceed \$19,000,000. The funds raised by the financings will then be used to reimburse the City General Capital Improvement Fund for costs to date for these projects, with the balance set aside for the continuation of capital projects. Because these projects are "essential" and appeal to a broad spectrum of investors, the costs of this financing will be minimized.

In addition, as with all past financings, the attorneys fees are subject to approval by the City Council, in accordance with City Charter requirements. Sherman & Howard has acted on several past financings as Bond and Special Counsel for the City; fees have ranged from \$12,000 to \$17,000, depending on the size and complexity of the issue. Kutak Rock has also acted on several past financings as Disclosure Counsel for the City; fees have ranged from \$10,000 to \$17,000, also dependent on the size and complexity of the issue. These fees will be paid out of the issuance costs for this COP financing.

Staff Recommendation

1. Adopt Resolution No. expressing the intent of the City to issue tax-exempt obligations in the amount of \$19,000,000 to finance various planned public improvements; and authorizing the officers, employees and agents of the City to proceed and continue with steps preliminary to the issuance of such obligations.
2. Approve fees for Sherman & Howard to act as Bond and Special Counsel to the City at a fee of \$12,000 to be paid for out of the proposed capital facilities financing. Approve fees for Kutak Rock to act as Disclosure Counsel at a fee of \$12,000 to be paid for out of the proposed capital facilities financing, and authorize the City manager to execute agreements with Sherman & Howard and Kutak Rock accordingly.

Background Information

Discussions among the City's financial advisors and staff about the up-coming financings necessary for the remainder of the year have included the financing needed for the various capital improvements throughout the City. These include street improvements (widening, design for Harlan Street Flyover), storm drainage, Police Department and Fire Department improvements, and certain park improvements throughout the City.

The reimbursement resolution is a necessary and customary action, taken by City councils, to allow for the smooth execution of capital projects, prior to capital financing being available. Having just completed the Ice Centre financing and the supplemental financing for the Reclaimed Water Project, Staff is now able to turn their attention to the other financings needed for the year: Heritage Golf Course at Westmoor and the other capital infrastructure improvements in the City.

Staff has consulted with the City's financial advisors about the structure of this financing, and the use of the capital improvement monies it will raise. It is the recommendation of Staff and advisors that the Certificates of Participation approach is the least-cost, most expedient method of financing available to the City at this time. This approach involves the Building Authority using a sale-leaseback construct. This approach is in conformance with TABOR and State Statues.

Alternatives include delaying the financing. This is not recommended due to the timetables developed for these projects, and the conducive cost of capital in today's market.

Other alternatives included other forms of financing, such as revenue bonds, etc. These were eliminated for various reasons, such as interest cost, source of repayments, etc. These are also not recommended.

With regard to attorneys fees, this financing will require an opinion from a nationally-recognized law firm regarding certain tax-related matters; Sherman & Howard, and Mr. Dee Wisor, have served as the City's bond counsel on numerous other issues, are thoroughly familiar with the City's charter, ordinances and outstanding bond covenants.

If Council approves of Kutak Rock, the disclosure document, or Official Statement, will be drafted by Mr. Tom Peltz of this firm. This firm has also acted in this capacity on numerous other bond issues, and is familiar with the City's financial position, charter, ordinances and outstanding bond covenants.

Staff is recommending retaining both firms for this financing. An alternative includes retaining other attorneys. This is not recommended, as the fees quoted by the recommended firms are reasonable, in line with past financings, and their familiarity with the City and its legal documents is significant. The City will realize significant efficiencies by retaining these firms.

Respectfully submitted,

William M. Christopher
City Manager

Attachment

RESOLUTION

RESOLUTION NO.

INTRODUCED BY COUNCILLORS

SERIES OF 1998

A RESOLUTION EXPRESSING THE INTENT OF THE CITY OF WESTMINSTER TO ISSUE TAX-EXEMPT OBLIGATIONS IN AN APPROXIMATE AGGREGATE PRINCIPAL AMOUNT OF \$19,000,000 TO FINANCE PUBLIC IMPROVEMENTS; AND AUTHORIZING THE OFFICERS, EMPLOYEES AND AGENTS OF THE CITY TO PROCEED AND CONTINUE WITH STEPS PRELIMINARY TO THE ISSUANCE OF SUCH OBLIGATIONS

WHEREAS, the City of Westminster (the "City"), is a municipal corporation duly organized and existing as a home-rule municipality under Article XX of the State Constitution (the "Constitution") and laws of the State of Colorado; and

WHEREAS, the members of the City Council of the City (the "Council") have been duly elected and qualified; and

WHEREAS, the City intends and proposes to issue tax-exempt obligations (the "Obligations") in an approximate aggregate principal amount of \$19,000,000, in one or more series, to finance a streets and parking, drainage, park improvements, police, fire and other improvements, together with the costs of funding any reserve funds for the Obligations, the costs of securing the Obligations and costs incidental to the authorization, issuance and sale of the Obligations (collectively, the "Project").

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WESTMINSTER, IN THE COUNTIES OF ADAMS AND JEFFERSON, STATE OF COLORADO:

1. All action (not inconsistent with the provisions of this resolution) heretofore taken by the City Council and the officers, employees and agents of the City directed toward the Project and the issuance and sale of the Obligations therefor, is hereby ratified, approved and confirmed.

2. The City intends to issue the Obligations in the approximate aggregate principal amount of \$19,000,000 to pay the costs of the Project, including the reimbursement of certain costs incurred by the City prior to the issuance of the Obligations, upon terms acceptable to the City, as set forth in a bond ordinance or resolution to be hereafter adopted and to take all further action which is necessary or desirable in connection therewith.

3. The officers, employees and agents of the City shall take all action necessary or reasonably required to carry out, give effect to and consummate the transactions contemplated hereby and shall take all action necessary or desirable to finance the Project and to otherwise carry out the transactions contemplated by this resolution.

4. The cost of financing the Project will be paid out of the proceeds of the Obligations or other available moneys of the City.

5. The officers and employees of the City are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this resolution.

6. If any section, paragraph, clause or provision of this resolution or the question shall for any reason be held invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this resolution or the question.

7. All acts, orders and resolutions, and parts thereof, inconsistent with this resolution be, and the same hereby are, repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any act, order or resolution, or part thereof, heretofore repealed.

8. This resolution shall be in full force and effect upon its passage and approval.

PASSED AND ADOPTED this 18th day of May, 1998.

(SEAL)

ATTEST:

Mayor

City Clerk

STATE OF COLORADO)
)
COUNTIES OF ADAMS) SS.
AND JEFFERSON)
)
CITY OF WESTMINSTER)

1. The foregoing pages are a true and correct copy of a resolution (the "Resolution") passed and adopted by the City Council (the "Council") of the City at a meeting of the Council held on May 18, 1998.

2. The Resolution was duly moved and seconded and the Resolution was adopted at the meeting of May 18, 1998, by an affirmative vote of a majority of the members of the Council as follows:

Those Voting Aye: Mayor Nancy M. Heil

Mayor Pro Tem Ann Merkel

Councillor Fred Allen

Councillor Herb Atchison

Councillor Sam Dixon

Councillor Suzanne Smith

Those Voting No: None

Those Absent: Councillor Glenn Scott

3. Six (6) members of the Council were present at such meetings and voted on the passage of such Resolution as set forth above.

4. The Resolution was approved and authenticated by the signature of the Mayor, sealed with the City seal, attested by the Clerk and recorded in the minutes of the Council.

5. There are no bylaws, rules or regulations of the Council which might prohibit the adoption of said Resolution.

6. Notice of the meeting of May 18, 1998 in the form attached hereto as Exhibit A was posted at the City Hall, Westminster, Colorado, not less than 24 hours prior to the meeting in accordance with law.

WITNESS my hand and the seal of said City affixed this 26th day of May, 1998.

City Clerk

(SEAL)

EXHIBIT A

(Attach Form of Notice of Meeting)

Date: May 18, 1998
Subject: Councillor's Bill No. re Westmoor Business Park/ Heritage Golf Course Fund Transfer
Prepared by: Richard Dahl, Park Services Manager

Introduction

City Council action is requested to pass the attached Councillor's Bill to transfer funds from the General Fund Contingency to the Heritage at Westmoor Golf Course Construction Project account per the Second Amendment to the Westmoor Business Park Agreement.

Summary

At the April 13 meeting, City Council approved the Second Amendment to the Westmoor Business Park Agreement and authorized the City Manger to sign the agreement on behalf of the City. As part of the Amendment, the City is obligated to pay the cost of constructing storm sewer improvements on golf holes two and nine of the Heritage Golf Course at \$178,000 and construction of the "water feature" located at 108th Avenue and Westmoor Park Drive at \$65,000. This funding is to be repaid from the improvement district financing that is to occur in 1999.

Staff Recommendation

Pass Councillor's Bill No. on first reading authorizing the transfer of \$243,000 to the Heritage at Westmoor Golf Course construction budget from the General Fund Contingency.

Background Information

As part of the multifaceted financing involving the Westmoor Business Park Improvements and the Heritage Golf Course, the developer committed to forming a metropolitan district with the specific intent to issue bonds to reimburse both the City and the Developer for certain public improvements. Two of these "public improvements" include the storm drainage improvements on holes two and nine and the "water feature" on Westmoor Drive at 108th Avenue.

Westmoor Business Park Ltd., does not plan to issue bonds in the amount of \$2,000,000 at this time and will wait until there is sufficient assessed valuation to impose the mill levy to generate the necessary funds to pay the annual debt service on the subject bonds.

The delay in issuing the bonds has caused a timing problem for the City as it relates to the flow of funds for the construction of the golf course. City Staff and the Westmoor Business Park representatives have worked out an arrangement whereby the City, in the interim, will provide funds to complete the drainage and water feature improvements at the Heritage Golf Course. The costs for these improvements, \$243,000, will be repaid by the Developer as outlined in the Second Amendment to Westmoor Business Park Agreement.

Respectfully submitted,

William M. Christopher, City Manager
Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. _____

SERIES OF 1998

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE INCREASING THE 1998 BUDGET OF THE GOLF COURSE FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 1998 ESTIMATED REVENUES IN THE FUNDS

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 1998 appropriation for the Golf Course Fund initially appropriated by Ordinance No. 2566 in the amount of \$3,283,723 is hereby increased by \$243,000 which, when added to the fund balance as of the City Council action on May 18, 1998 will equal \$7,226,723. The actual amount in the Golf Course Fund the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. This increase is due to the appropriation of a transfer from the General Fund for additional construction costs of the Heritage at Westmoor Golf Course.

Section 2. The \$243,0000 increase in the Golf Course Fund shall be allocated to City Revenue and Expense accounts which shall be amended as follows:

<u>Description</u> <u>Final Budget</u>	<u>Current Budget</u>	<u>\$ Increase</u>
<u>REVENUES</u>		
Transfer from General Fund		
22-9999-360	\$0	<u>\$243,000</u>
\$243,000		
<u>EXPENSES</u>		
Heritage at Westmoor - Prj 227		
22-50-88-555-227	\$5,747,794	<u>\$243,000</u>
\$5,990,794		

Section 3. The General Fund budget will not change as a result of this ordinance but is included here for clarification purposes only.

<u>Description</u> <u>Final Budget</u>	<u>Current Budget</u>	<u>\$ Increase</u>
<u>EXPENSES</u>		
Contingency		
10-10-99-999-000	\$1,156,675	<u>\$(243,000)</u>
\$913,675		
Transfer to Golf Course Fund		
10-10-95-990-922	\$0	<u>\$243,000</u>
\$243,000		

Section 4 - Severability. The provisions of this Ordinance shall be considered as severable. If any section, paragraph, clause, word, or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part shall be deemed as severed from this Ordinance. The invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect the construction or enforceability of any of the remaining provisions, unless it is determined by a court of competent jurisdiction that a contrary result is necessary in order for this Ordinance to have any meaning whatsoever.

Section 5. This ordinance shall take effect upon its passage after the second reading.

Section 6. 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 18th day of May, 1998.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this ____ day of _____, 1998.

ATTEST:

Mayor

City Clerk

Date: May 18, 1998

Subject: Councillor's Bill No. re Supplemental Appropriation for Cable Equipment

Prepared by: Nicole Bush, Public Information Specialist

Introduction

City Council action is requested to pass the attached Councillor's Bill on first reading providing a supplemental appropriation of TCI added revenue to the budget in the amount of \$37,000 and allocate the funds to the appropriate public information capital outlay account.

Summary

TCI of Colorado recently lost a lawsuit that determined TCI was not correctly calculating their franchise fee payments, and they owed local jurisdictions the difference. The back amount owed to the City is \$37,000.

Public Information Staff are recommending that this money be allocated for the purchase of video equipment as part of an expansion in service through cable television. Due to significant staff turnover in 1997, Staff was not in a position to fully assess and anticipate the costs of cable television expansion for the 1998 budget. The TCI funds along with funds identified from other sources will allow for the purchase of video equipment in 1998 and not delay expansion any further.

Staff Recommendation

Pass Councillor's Bill No. on first reading providing a supplemental appropriation of TCI added revenue to the budget in the amount of \$37,000 and allocating the funds to the appropriate Public Information Capital Outlay account.

Background Information

When Westminster's cable franchise and other franchises in the area were negotiated with TCI of Colorado, a lawsuit in Baltimore was pending to determine how TCI should calculate the franchise fee. Their method was to deduct 5% from their gross revenue and then calculate the 5% franchise fee from the remainder. The Baltimore case ruled that the correct way to calculate the 5% franchise fee is simply 5% of TCI's total gross revenue.

Since the Baltimore case was still pending at the time of Franchise Renewal, the City of Westminster Franchise Agreement in the Definitions Section 1.29, Gross Revenues, allowed TCI to continue to use their method of franchise fee calculation until the case was resolved. Since TCI lost the case, our franchise states that TCI owes the City the difference in franchise fee payments and should immediately calculate their franchise fees based on 5% of gross revenue. The amount owed to the City is \$.07 per month per customer for the last two years.

TCI of Colorado recently reimbursed the City \$37,000 owed because of the lawsuit.

Public Information Staff are recommending that this money be allocated for the purchase of video equipment as part of an expansion in service through cable television. The Public Information Communications Plan identified cable television as a significant area of expansion, including the purchase of video equipment that will allow the City to play videos on Channel 8, as well as produce original programming about City issues and programs.

Due to significant staff turnover in 1997, Staff were not in a position to fully assess and anticipate the costs of cable television expansion for the 1998 budget. In November of 1997, Public Information Specialist Nicole Bush was hired, and is coordinating the cable television mission, objectives, guidelines, and various other items associated with the cable expansion.

Through the Communications Plan process of interviewing City Council, Department Heads, the City Manager, and the Assistant City Manager, Public Information Staff identified several projects and significant interest from various departments in the cable television program. Several departments stepped forward to support the acquisition of video equipment and identified funds from their 1998 budgets to get the cable television program off the ground. The TCI funds combined with funds from other sources will allow for the purchase of video equipment in 1998 and not delay expansion any further.

Respectfully submitted,

William M. Christopher
City Manager

Attachment: Councillor's Bill

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. _____

SERIES OF 1998

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE INCREASING THE 1998 BUDGET OF THE GENERAL FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 1998 ESTIMATED REVENUES IN THE VARIOUS FUNDS

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 1998 appropriation for the General Fund, initially appropriated by Ordinance No. 2566 in the amount of \$49,228,260 is hereby increased by \$37,000 which, when added to the fund balance as of the City Council action on May 11, 1998, will equal \$49,359,271. The actual amount in the General Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. This increase is due to appropriation of additional TCI revenue for the purchase of video equipment as part of an expansion of cable television.

Section 2. The \$37,000 increase in the General Fund shall be allocated to City Revenue and Expense accounts which shall be amended as follows:

<u>Description</u> <u>Final Budget</u>	<u>Current Budget</u>	<u>\$ Increase</u>	
<u>REVENUES</u>			
Franchise Taxes - TCI			
10-0103-060	\$415,000	\$37,000	\$452,000
<u>EXPENSES</u>			
Office Equipment - Central Charges			
10-10-90-405-000	\$30,000	\$37,000	\$67,000

Section 3 - Severability. The provisions of this Ordinance shall be considered as severable. If any section, paragraph, clause, word, or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part shall be deemed as severed from this Ordinance. The invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect the construction or enforceability of any of the remaining provisions, unless it is determined by a court of competent jurisdiction that a contrary result is necessary in order for this Ordinance to have any meaning whatsoever.

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

Section 5. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 18th day of May, 1998.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this _____ day of _____, 1998.

ATTEST:

Mayor

City Clerk

Date: May 18, 1998

Subject: Resolution No. re Video Equipment for Channel 8

Prepared by: Nicole Bush, Public Information Specialist

Introduction

City Council action is requested to authorize the purchase of video equipment from CEAVCO for \$108,000. In order to fully fund this expenditure, it is necessary that City Council adopt the attached Resolution authorizing the transfer of \$14,000 from the Contingency Fund to the appropriate Public Information capital outlay account for the purchase and installation of video equipment for Channel 8. The remaining necessary funding is available in the Public Information budget and as a result of a supplementary appropriation of TCI funds requested earlier this year.

Summary

Channel 8, the Westminster local government cable channel, has been cablecasting for approximately two years. The majority of programming to date has been a "community bulletin board" created by a character generator. The purchase of video equipment is proposed to be partially funded via funds received from TCI of Colorado, funds from the 1998 budgets of various City departments, and funds from the General Fund contingency.

In order to expand the City's cable programming capability beyond the community bulletin board format, a playback system, basic camera and editing equipment are needed.

The purchase of this video equipment will allow City Staff to cablecast video programs both produced by the City and other government entities, and to produce original programming about City issues, events and accomplishments.

Alternatives to purchasing this equipment include:

- Continue to only cablecast character generated text with no video capability.
- Purchase only the playback equipment and privatize all original programming production, which is much more costly than in-house production.

Staff Recommendation

1. Adopt Resolution No. authorizing the transfer of \$14,000 from the General Fund contingency to the appropriate public information capital outlay account for the purchase of video equipment.

2. Authorize the City Manager to sign a contract with CEAVCO in the amount of \$108,000 to purchase video equipment because it is in the City's best interests and charge the expense to the appropriate 1998 budget accounts.

Background Information

Channel 8, Westminster's local government cable channel, has been cablecasting to over 20,000 cable subscribers in Westminster since 1996. Current cablecasting is limited, consisting of text information on a community bulletin board created by a character generator. Only two cablecasts have been shown (taped cablecasts produced for each of the last two City elections).

After extensive interviews with City Council, Department Heads, City Manager, and Assistant City Manager, the Public Information Staff completed a comprehensive two year Communications Plan. In addition to maintaining existing communications programs, such as City Edition and City Link, the Communications Plan calls for an expansion in service through cable television, as Staff has previously outlined to Council in a Staff Report.

Based on the Public Information Communications Plan, Staff have strategically identified objectives for a more extensive cable television program, including: Enhance civics knowledge; Enhance community identity; Enhance and augment communication support to the City's stated mission and values; Utilize the sensory dimension of the medium to tell the City's stories; and Integrate a cable television program with other communications tools as part of a comprehensive communication strategy.

In order to accomplish these objectives, and produce and cablecast additional programming concerning Westminster issues, video equipment must be obtained. Formal bids, in accordance with City Charter bidding requirements, were requested from regional suppliers. The proposals asked for recommendations of equipment that would allow for video production to be completed in-house and cablecasted by City Staff in a cost and time efficient manner.

Of the two proposals received, only one was responsive to the proposal. The proposal from CEAVCO offered recommendations and options on equipment that will allow the City to meet its goal of producing and cablecasting informational programming in a cost efficient manner. The cost of the equipment is \$108,000. Although the Waxman's Industrial Network proposal of \$65,000 offered comparable equipment, it did not offer recommendations on how to put the equipment together, training, and assessment of how the equipment would meet current and future needs, nor did this figure include the costs associated with installation, training and support. The CEAVCO proposal provided all of this information and more.

Because of Public Information Staff shortages and lack of expertise in this field, Staff did not fully anticipate the cost of this equipment in the 1998 budget.

In determining sources for funding the expanded cable television program, several departments came forward in support and have located funds from their 1998 budgets for the purchase of this video equipment for a total of \$57,000. In addition, TCI of Colorado recently reimbursed the City \$37,000 owed because of a lawsuit TCI lost that determined TCI was not correctly calculating their franchise fee payments. The franchise agreement with TCI of Colorado and the City included a provision requiring TCI of Colorado to reimburse the City this back amount if they lost the lawsuit. The remaining funds are recommended to come from the 1998 General Fund Contingency which has funds available to cover this expenditure. The General Fund Contingency account currently has a balance of \$1,156,675.

Respectfully submitted,

William M. Christopher, City Manager
Attachment

RESOLUTION

RESOLUTION NO.

INTRODUCED BY COUNCILLORS

SERIES OF 1998

WHEREAS, the need for an expanded cablecasting capacity has been identified by the City Council, City Manager, Department Heads, and Public Information Staff;

WHEREAS, the total cost of purchasing video equipment is \$108,000; and

WHEREAS, Staff has been able to locate \$94,000 in various department 1998 budgets for the purchase of this equipment.

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

1. City Council hereby authorizes the transfer of \$14,000 from the General Fund Contingency account to the appropriate Public Information capital outlay budget account for the purchase of video equipment.

Passed and adopted this 18th day of May, 1998.

ATTEST:

Mayor

City Clerk

Date: May 18, 1998

Subject: Federal Heights Wholesale Water Contract Amendment

Prepared by: Mary Ann W. Parrot, Finance Director

Introduction

At the City Council Post meeting on May 11, 1998, City Council and Staff discussed the results of negotiations between Federal Heights and the City of Westminster toward resolving the water rate for the latter half of 1998 (July 1 through December 31). Council directed Staff to place on the agenda for May 18, the recommended amendment to the wholesale water contract with Federal Heights, and confirmed the Staff recommendation for a rate of \$2.02 per thousand gallons.

Summary

City Council action is requested to approve the "1998 Amendment to the 1997 Amendment to 'Amended and Restated Distributor's Contract'" with Federal Heights, which has been revised since Council's previous action on December 15, 1997.

Staff and attorneys from both jurisdictions recently met as previously scheduled, and are recommending a rate for the last half of 1998. Following this revision, the two staffs will meet in the summer to review a wholesale rate tied to the City's residential rate.

Staff Recommendation

Approve the amendment to the contract with Federal Heights, confirming the rate for July 1 through December 31, 1998 at \$2.02 per thousand gallons, and authorize the Mayor and City Manager to sign the amendment on behalf of the City.

Background Information

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

In December, 1997, Staff from both the Cities of Westminster and Federal Heights recommended water rates for Federal Heights of \$2.18 per thousand gallons for 1997, and a rate of \$2.02 per thousand gallons for January-June, 1998. City Council from both jurisdictions approved the joint Staff recommendations.

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

Because of these discussions, Staff has reached agreement with Federal Heights, subject to approval by the two respective City Councils, to revise the rate for the second half of 1998, and to have Staff reconvene in the Summer of 1998, to simplify the rate calculation formula. Given the fact that the contract is in perpetuity, such modification would be most beneficial to both parties.

This amendment will set the July-December 1998 rate at \$2.02 PTG. The rate of \$2.02 calculated for July-December 1998 is based on actual water usage and costs and reflects re-instatement of the method currently used, including charging for the Broomfield raw water purchase involving their Church Ditch rights accomplished in 1995. It is also reflective of increased water consumption during 1996, which is a key component used in the rate computation for 1998. Increased water consumption results in reduced water rates, as costs are spread across more gallons of water.

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

In summary, Staff believes the rate recommended for July-December, 1998 rate is fair and relies on the current methodology.

Respectfully submitted,

William M. Christopher
City Manager

Attachment:

**1998 AMENDMENT TO
1997 AMENDMENT
TO "AMENDED AND RESTATED DISTRIBUTOR'S CONTRACT"**

This 1998 Amendment to the 1997 Amendment to Amended and Restated Distributor's Contract between the **CITY OF WESTMINSTER, COLORADO** ("Westminster") and the **CITY OF FEDERAL HEIGHTS, COLORADO** ("Federal Heights") is dated May 18, 1998.

RECITALS

A. Westminster and Federal Heights have continued negotiations in good faith to determine a water rate for the period beginning July 1, 1998, and continuing until December 31, 1998, as required by the 1997 Amendment.

B. Westminster and Federal Heights have reached agreement on the rate for said period, and the parties agree as follows:

1. The base rate for water purchased by Federal Heights from Westminster shall be Two Dollars and Two Cents per thousand gallons (\$2.02 PTG).
2. All other provisions of the 1997 Amendment shall remain unchanged and in full force and effect.

CITY OF WESTMINSTER

CITY OF FEDERAL HEIGHTS

Nancy M. Heil
Mayor

Phil Stewart
Mayor

Attest:

Attest:

City Clerk

City Clerk

Approved as to form:

Approved as to form:

City Attorney

City Attorney

Approved by Westminster City Council
on Monday, May 18, 1998.

Date: May 18, 1998

Subject: Resolution No. re Open Space Property Acquisition

Prepared by: Lynn Wodell, Open Space Acquisition Agent

Introduction

City Council action is requested to adopt the attached Resolution authorizing the acquisition of additional property for open space, trail, park, earthwork borrow site and other municipal purposes (see attached map). Funds for this acquisition are currently available in the Open Space Fund. The Open Space Fund will be reimbursed if future uses include park, borrow site or other non-open space purposes.

Summary

On September 22, 1997, the Westminster City Council approved Resolution No. 50 authorizing the acquisition of several properties to preserve key portions of the Big Dry Creek Corridor. Since then, Staff has continued to evaluate the City's needs and, as a result, are proposing an addition to the original properties to be acquired.

The additional property is a 35-acre parcel on the west side of U.S. Highway 36 south of Big Dry Creek and is owned by the R. Dean Hawn Interests. This property is adjacent to the 19-acre tract previously proposed and brings the potential acquisition to a total of 55 acres in this location.

The attached Resolution authorizes the City Manager and City Attorney to continue appropriate efforts necessary to acquire this property including proceeding with condemnation of the property, if negotiations are not productive.

Alternatives to the Proposed Action

1. Do not acquire the proposed property. This alternative will not ensure that the scenic views of the mountains to the west from U.S. 36 will be preserved. The opportunity for use of this site as a potential park site and earthwork borrow site will be lost resulting in higher costs in the future. Connections to the Big Dry Creek and Walnut Creek Trail Corridors by the residents in the area will be from existing streets.
2. Do not acquire the proposed property at this time but wait for future development to take place. Development of this property may not take place for years and, if developed, the opportunity to preserve this site will be lost. If developed for residential uses, the 10% public land dedication of approximately 3.5 acres will not be large enough for a park site that would include active recreation such as ball fields.

In light of the many benefits of acquiring this property now, and with funds available for this purchase, Staff does not recommend the alternatives.

Staff Recommendation

Adopt Resolution No. authorizing the City Manager and City Attorney to proceed with the acquisition of this additional property for open space, trail, park, earthwork borrow site and other municipal purposes, including through eminent domain, if necessary and charge the expenses to the Open Space Fund.

Background Information

In the Fall of 1996, City Council accepted the Open Space Advisory Board's recommendations for open space priorities including the acquisition of land along Big Dry Creek and preservation of this view corridor. On September 22, 1997, City Council approved Resolution No. 50 authorizing the acquisition of multiple parcels along the Big Dry Creek, Walnut Creek and Hylands Creek Corridors.

The primary purpose for the acquisition of this additional property is for the preservation of the scenic view corridor from U.S. 36 of the mountain backdrop. The ability to view the mountains as one drives along U.S. 36 between Denver and Boulder is becoming increasingly rare. A great deal of focus has been placed on preserving the mountain backdrop by the City of Boulder, Jefferson County and Boulder County. It is just as critical to preserve the view corridors from strategic places in the City. The acquisition of this property would guarantee that for one mile along U.S. 36 the mountain view would be undisturbed.

The acquisition of this property will also serve as a buffer between U.S. 36 and the residences to the south and west and will serve as a buffer between the residential uses to the south and the commercial, office park, light industrial and retail uses to the north..

This parcel also has potential as a future regional park site and as a potential earthwork borrow area should the Harlan Street Flyover project be constructed in the future. Having a source of fill material close by may result in significant savings on this project.

This additional parcel would also eliminate numerous conflicts between the public and private uses of the site including user conflicts of the crossing under U.S. 36 between trail users and livestock and potential trespassing by trail users trying to get to the Big Dry Creek and Walnut Creek Trail Corridors.

The proposed acquisition fits the criteria for the selection of Open Space properties very well, as follows:

AESTHETICS; This property lies along Big Dry Creek. Acquisition would protect this scenic view corridor, which is readily enjoyed from U.S. 36, as well as from on the site.

PROTECTION AND PRESERVATION; This acquisition would help protect the environmentally sensitive features of the Big Dry Creek including the wetlands, trees, native plants and wildlife by serving as a buffer to adjacent development.

LOCATION; This property would provide important linkages to connect many parks, schools, and open spaces throughout the City from east to west. Acquisition would provide open space enjoyment to residents. business park and retail users and employees in the area.

USE POTENTIAL; This land along Big Dry Creek provides an opportunity to preserve a large tract of land for open space and potential park purposes. The property can be used for trail connections to the Big Dry Creek and Walnut Creek Trail Corridors for the residents of Westcliff, Trendwood and Church Ranch. The property may be able to be used as a borrow area for the dirt work that would be required to build the proposed Harland Street Flyover. The property also has the potential for active recreation as a park site in addition to the passive open space uses.

NEED FOR IMMEDIATE ACTION AND ACQUISITION CONSIDERATION: It is very important that this additional property be acquired now, if the open views and other benefits are to be preserved. Rapid development is occurring along the US36 corridor, and this site could be lost to development. The voter approval in late 1996 of a 20 year extension of the Parks, Open Space and Trails sales tax, and of bonding to accelerate open space preservation ahead of development, allow the City to acquire this additional priority property now.

Respectfully submitted,

William M. Christopher
City Manager

Attachment

RESOLUTION

RESOLUTION NO.

INTRODUCED BY COUNCILLORS

SERIES OF 1998

WHEREAS, the City of Westminster has determined that it is necessary to the public health, safety and welfare to obtain the additional parcel of land shown on the attached map for open space, trail, park, earthwork borrow site and other municipal purposes in the Big Dry Creek Corridor along U.S. Highway 36, and

WHEREAS, the City desires to enter into negotiations and make an earnest good faith offer of purchase for the subject parcel; and

WHEREAS, a municipal public purpose exists to acquire the property; and

WHEREAS, legal counsel for the City of Westminster deems it to be in the best interest of the City to acquire the property by the City's right of eminent domain should normal negotiations fail; and

WHEREAS, the City finds that if acquisition by condemnation of any parcel described in this resolution is commenced, immediate possession by the City may be necessary for the public health, safety and welfare in order to reserve those lands necessary for open space, trail, park, earthwork borrow site and other municipal purposes.

NOW, THEREFORE, the City Council of the City of Westminster resolves that:

1. The City Manager is hereby authorized to establish the minimum just compensation to be offered to acquire the property.

2. City Staff is authorized to continue negotiations to acquire the property and interests identified on the attached map on the basis of the appraised value, or such other amount as may seem just and reasonable to facilitate such acquisition without the necessity of condemnation.

3. The City Manager is hereby authorized to acquire such parcel consistent with applicable law, including the execution of all documents necessary to complete the purchase.

4. The City Attorney of the City of Westminster is authorized to take all necessary legal measures to acquire the property in question, including proceeding with condemnation of the property in question against the owner or owners and any other persons or entities claiming an interest therein or thereto, and to take such other or further action as may be reasonably necessary for or incidental to the filing and diligent prosecution of any litigation or proceeding required to obtain the property should normal negotiations fail or exceed the time constraints of the overall project. In the event that acquisition by condemnation is commenced, the City Attorney is further authorized to request immediate possession of the necessary property interests if so required.

5. The City Manager shall be further authorized to incur reasonable costs associated with acquiring the property in question, including, without limitation, the cost of title examination, title insurance, appraisal fee payments mandated by statute, normal closing costs, filing fees and charges, and all other related or incidental costs or expenses customarily associated with the acquisition or condemnation of property. The costs shall be charged to the Open Space Fund as appropriate.

6. The City Manager is hereby authorized to establish the legal description of the parcel to be acquired, consistent with the attached map, and to amend the legal description of the parcel to be acquired, and the nature of the interests to be acquired, if necessary.

Passed and adopted this 18th day of May, 1998.

ATTEST:

Mayor

City Clerk

Date: May 18, 1998
Subject: Financial Report for April 1998
Prepared by: Mary Ann Parrot, Finance Director

Introduction

City Council is requested to review the attached financial statements which reflect 1998 transactions through April, 1998.

Summary

There are three sections to the attached report:

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

General Fund revenues represent 34% of the total budget estimate while General Fund expenditures and encumbrances represent 29% of the 1998 appropriation.

Utility Fund revenues represent 29% of the total budget estimate. Utility Fund expenditures and encumbrances represent 39% of the 1998 appropriation.

The Sales and Use Tax Fund revenues represent 37% of the total budget estimate, while expenditures and encumbrances in that fund represent 33% of the 1998 appropriation. Total Sales and Use Tax revenues for the 25 shopping centers reported increased 22% from the same period last year and increased 14% year-to-date.

The Open Space Fund revenues represent 41% of the total budget estimate while expenditures and encumbrances in that fund represent 31% of the 1998 appropriation.

The Golf Course Fund operating revenues represent 5% of the total budget estimate while operating expenditures represent 17% and encumbrances represent 11% of the 1998 appropriation. This year's budget increased \$3.7 million due to borrowing POST bond proceeds while financing is being arranged. Last year's figures reflect the issuance of the \$4.8M refunding bonds.

Theoretically, 33% of revenues and expenditures should be realized after four months in the budget year. However, it is recognized that both revenues and expenditures do not occur on an even 1/12 flow each month of the year.

Staff Recommendation

Accept the report as presented.

Background Information

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

Respectfully submitted,

William M. Christopher
City Manager

Attachments