



## CITY COUNCIL AGENDA

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

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

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

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

8. Consent Agenda
  - A. Fire Aerial Ladder Truck Purchase
  - B. Biosolids Farm Tractor Purchase
  - C. Water Treatment Chemicals Purchase
  - D. Big Dry Creek Park Construction Spending
  - E. Median Rehabilitation Contract Award
  - F. Westminster Sports Center Contract Awards
  - G. Negotiated Remodel Contract for the Former Westminster Police Department Building
  - H. Second Reading Councillor's Bill No. 32 re Pension Plan Amendments
  - I. Second Reading Councillor's Bill No. 33 re Appropriation of FY2006 Carryover Funds into FY2007
  - J. Second Reading Councillor's Bill No. 34 re Westminster Sports Center Supplemental
  - K. Second Reading Councillor's Bill No. 35 re 2007 CDBG Fund Appropriation
  - L. Second Reading Councillor's Bill No. 36 with Amendments re Compensation Package for PW&U Director

### 9. Appointments and Resignations

### 10. Public Hearings and Other New Business

- A. Public Hearing re Richter and Catt Annexation/Rezoning – Church Ranch Crossing CLUP, PDP and ODP
- B. Councillor's Bill No. 37 re Richter and Catt Properties Annexation
- C. Councillor's Bill No. 38 re CLUP Amendment for the Church Ranch Crossing
- D. Councillor's Bill No. 39 re Rezoning of the Richter and Catt Properties and Adjacent Brentwood Way
- E. Preliminary Development Plan re Church Ranch Crossing
- F. Official Development Plan re Church Ranch Crossing re 1<sup>st</sup> amended Mini Storage & 2<sup>nd</sup> amended Car Wash
- G. Councillor's Bill No. 40 re Public Hearing Notice Procedures for Land Development Approvals

### 11. Old Business and Passage of Ordinances on Second Reading

### 12. Citizen Presentations (longer than 5 minutes), Miscellaneous Business, and Executive Session

- A. City Council

### 13. Adjournment

**WESTMINSTER HOUSING AUTHORITY MEETING (separate agenda)**

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**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, JULY 9, 2007 AT 7:00 P.M.

PLEDGE OF ALLEGIANCE

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

ROLL CALL

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

CONSIDERATION OF MINUTES

Councillor Dittman moved, seconded by Major, to approve the minutes of the regular meeting of June 25, 2007, as written and presented. The motion passed unanimously.

CITY MANAGER'S REPORT

Mr. McFall reported on the success of the 4<sup>th</sup> of July celebration at City Park. He thanked the City Staff and the City's Partners, Hyland Hills and School District 50, for their hard work and support. Mr. McFall announced that a meeting for the Westminster Housing Authority would follow right after the adjournment of the Council meeting.

CITY COUNCIL COMMENTS

Councillor Dittman also commented on how great the City's 4<sup>th</sup> of July fireworks and celebration turned out.

Councillor Price reported that along with Mayor McNally, Councillors Lindsey and Major, she attended the Colorado Municipal League Conference in Snowmass the last week of June.

Councillor Major also stated that Staff did an excellent job with all the 4<sup>th</sup> of July events organized by the City. He attended and reported on the results of the Fishing Derby at City Park. In regards to attending the CML Conference, he commented on how impressed he and other attendees were with the presentations put on by members of Westminster's City Staff.

Mayor McNally reported on several 4<sup>th</sup> of July events. She attended the Fishing Derby at City Park and the Mayor's Raft Race in Northglenn. She was proud to display the 1<sup>st</sup> place trophy won by her team with a time of 1:55:40.

CITIZEN COMMUNICATION

Karen Smardo, 1327 W. 133<sup>rd</sup> Circle, spoke to Council about her concern that the shooting off of illegal fireworks was out of control in her neighborhood and that it is a year round problem. She noted that the Police Department does respond quickly when called but felt that perhaps greater fines and control of sales would be a better solution.

CONSENT AGENDA

The following items were submitted for Council's consideration on the consent agenda: authorize the City Manager to sign a contract with Front Range Fire Apparatus in an amount not to exceed \$723,450 for purchase of a 2007 Pierce Velocity custom 105' aerial ladder truck, and authorize the trade in of a 1991 Pierce Engine (unit 5113) to be credited toward the purchase price of the new aerial ladder truck; award the bid for the purchase of a Model 8530 Tractor for \$175,995 to John Deere, Inc.; award the bid for the purchase of Ferric Chloride to PVS Technologies, Inc. at the unit price indicated on the bid tabulation on an as-needed basis in an

amount not to exceed \$74,790; authorize the purchase of the play equipment for the Big Dry Creek Park from GameTime in the amount of \$85,919; authorize Staff to proceed with the purchase of plant material for the park from various nurseries, not to exceed the total dollar amount of \$100,000; authorize the purchase of a poured-in-place safety surface in the amount of \$56,909 from Imagination Playground Surfacing; authorize the City Manager to execute a contract with T2 Construction, Inc. in the amount of \$150,000 for median rehabilitation; authorize the City Manager to execute a contract with Athletica in the amount of \$152,800 for purchase and installation of dasher boards, benches and netting, authorize the City Manager to execute a contract with Rhino Sports in the amount of \$79,772 for the purchase and installation of the synthetic turf and multi-use floor surfacing, and authorize a total contingency amount of \$23,257 for a total budget request for the above work of \$255,829; based on a report of the City Manager find that the public interest would best be served waiving City bid requirements and authorize the City Manager to execute a contract for the remodel of the former Police Department building to Adams Mendel & Allison Construction Company for \$862,489, and authorize a contingency amount of \$86,200 to cover the potential for unexpected costs during this remodel project; final passage of Councillors Bill No. 32 amending the Westminster Municipal Code concerning the General Employee and Police Pension Plans; final passage of Councillor's Bill No. 33 appropriating FY2006 carryover funds into the FY2007 budgets of the General, General Capital Outlay Replacement, General Capital Improvement, Utility, Storm Drainage, and Open Space Fleet, Sales and Use Tax, and Conservation Trust Funds; final passage of Councillor's Bill No. 34 approving the supplemental appropriation in the amount of \$55,000 to fund the 2007 operating expenses for the Westminster Sports Center; final passage of Councillor's Bill No. 35 appropriating 2007 Community Development Block Grant (CDBG) funds in the amount of \$575,303; and final passage of Councillor's Bill No. 36 as amended providing an exception to Section 1-24-4 of the Westminster Municipal Code related to accrual of General Leave by City employees and amending the City's Pay Plan to provide for a City-paid deferred compensation contribution for the new Public Works and Utilities Director.

Mayor McNally asked if Councillors wished to remove any items from the consent agenda for discussion purposes or separate vote. There were no requests to amend the consent agenda, and Councillor Major moved to approve the consent agenda as presented. Councillor Price seconded the motion and it passed unanimously.

#### PUBLIC HEARING RE RICHTER & CATT ANNEX/REZONE, CHURCH RANCH CROSSING PDP/ODP

At 7:16 p.m., Mayor McNally opened a public hearing to consider the annexation of the Richter and Catt parcels, Comprehensive Land Use Amendment, Church Ranch Crossing Preliminary Development Plan, Church Ranch Crossing Official Development Plan, First Amended Official Development Plan Church Ranch Crossing Mini Storage, and Second amended Official Development Plan Church Ranch Crossing Lot 6 – Car Wash. David Shinneman, Planning Manager, introduced the public hearing. The Church Ranch Crossing development properties total 13.81 acres located at 100<sup>th</sup> Avenue/Church Ranch Blvd and Brentwood Way. As prescribed by the Westminster Municipal Code, notice of this hearing had been published in the *Westminster Window*, the property had been posted, and written notice of the hearing date had been mailed to all property owners and homeowner's associations within 300 feet of the subject property. Mr. Shinneman entered the agenda memorandum and attendant documentation into the record and advised that the Planning Commission had reviewed this proposal voting unanimously to recommend approval.

Tim Hadjis of Church Ranch Crossing LLC provided a power point presentation. After Council's questions were answered, the Mayor invited public testimony. No other persons spoke. The public hearing was declared closed at 7:33 p.m.

#### COUNCILLOR'S BILL NO. 37 RE RICHTER AND CATT PROPERTIES ANNEXATION

It was moved by Councillor Dittman and seconded by Councillor Major to pass Councillor's Bill No. 37 as an emergency ordinance annexing the Richter and Catt properties and adjacent Brentwood Way right-of-way, and adjacent railroad right of way to the City of Westminster. At roll call, the motion passed unanimously.

COUNCILLOR’S BILL NO. 38 RE CLUP AMENDMENT FOR THE CHURCH RANCH CROSSING

Upon a motion by Councillor Dittman, seconded by Councillor Lindsey, the Council voted unanimously on roll call vote to pass Councillor’s Bill No. 38 as an emergency ordinance approving the Comprehensive Land Use Plan amendment for the Church Ranch Crossing properties changing the designation from Northeast Comprehensive Land Use Plan and District Center to Retail Commercial.

COUNCILLOR’S BILL NO. 39 RE REZONING RICHTER & CATT PROPERTIES & BRENTWOOD WAY

It was moved by Councillor Dittman and seconded by Councillor Price to pass as an emergency ordinance approving the rezoning of the Richter and Catt properties and adjacent Brentwood Way, and adjacent railroad right-of-way from Jefferson County A-1 to City of Westminster Planned Unit Development. On roll call vote, the motion passed unanimously.

CHURCH RANCH CROSSING PRELIMINARY DEVELOPMENT PLAN

Councillor Dittman moved, seconded by Lindsey to approve the Church Ranch Crossing Preliminary Development Plan within the Church Ranch Crossing Planned Unit Development. The motion carried unanimously.

ODP RE CHURCH RANCH CROSSING RE 1<sup>ST</sup> AMENDED MINI STORAGE & 2<sup>ND</sup> AMENDED CAR WASH

Councillor Dittman moved, seconded by Price to approve the Church Ranch Crossing Official Development Plan, the First Amended ODP Church Ranch Crossing Mini Storage and the Second Amended ODP Church Ranch Crossing Lot 6 – Car Wash within the Church Ranch Crossing Planned Unit Development. The motion carried unanimously.

COUNCILLOR’S BILL NO. 40 RE PUBLIC HEARING NOTICE PROCEDURE FOR LAND DEVELOPMENT

It was moved by Councillor Major and seconded by Councillor Dittman to pass Councillor’s Bill No. 40 on first reading amending the Westminster Municipal Code regarding public hearing notice procedures for land development approvals. At roll call the motion passed unanimously.

ADJOURNMENT

There was no further business to come before the City Council, and the Mayor adjourned the meeting at 7:37 p.m.

ATTEST:

\_\_\_\_\_  
Mayor

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



**WESTMINSTER  
COLORADO**

**Agenda Memorandum**

City Council Meeting  
July 9, 2007



**SUBJECT:** Fire Aerial Ladder Truck Purchase

**Prepared By:** Bill Work, Deputy Fire Chief  
Jennifer Galli, Management Intern  
Tim Burandt and Mike Lynch, Fire Lieutenant

**Recommended City Council Action**

Authorize the City Manager to sign a contract with Front Range Fire Apparatus in an amount not to exceed \$723,450 for purchase of a 2007 Pierce Velocity custom 105' aerial ladder truck, and authorize the trade in of a 1991 Pierce Engine (unit 5113) to be credited toward the purchase price of the new aerial ladder truck.

**Summary Statement**

- ◆ City Council allocated \$100,000 in the 2007 Fire Department budget as a down payment to replace a 1991 Pierce Lance fire engine. The remaining cost of this apparatus was to be funded through a seven year lease agreement. \$73,000 has been budgeted in 2008 for lease payments that may need to be supplemented due to the increased cost of the proposed replacement unit.
- ◆ The contract for purchase of this fire apparatus was negotiated with Front Range Fire Apparatus located in Boulder, Colorado. City Council originally approved negotiating prices with a sole vender, Pierce Manufacturing, for fire apparatus, first in 1996 and more recently in 2006. This sole vendor approval is valid for a period of five years contingent upon satisfaction with the product and the price remaining competitive based on comparable unit pricing. Staff is satisfied that Pierce Manufacturing remains a leader in construction of quality fire apparatus and that Front Range Fire Apparatus is giving the City fair competitive pricing.
- ◆ The City intends to trade in the 1991 Pierce fire engine to Front Range Fire Apparatus with the proceeds to be credited toward the final purchase price. It is anticipated that the trade-in value will reduce the total cost by a guaranteed \$20,000 and possibly by \$25,000 if sold by the time of delivery.
- ◆ Delivery of this new apparatus is anticipated to occur in the spring of 2008. This new ladder truck will replace the current 75' "Ladder 3" which will move to "reserve" status for five years, providing the City with an aerial ladder reserve unit that it currently lacks.
- ◆ The replacement of Ladder 3 has been moved up two years earlier than originally planned due to on going maintenance issues and costs identified by Fleet Maintenance.
- ◆ This new aerial ladder truck will have a 105' steel ladder, which will provide an additional 30 feet of reach in comparison to current Westminster aerial ladder trucks. Aerial ladder capabilities are particularly critical in high angle rescue situations and in providing elevated water streams for large defensive attacks on fires.

**Expenditure Required:** \$703,450 (\$698,450 if trade-in is sold prior to delivery)

**Source of Funds:** Fire Department Budget and Trade-in of 1991 Pierce Engine

**Policy Issue**

Does City Council wish to proceed with the purchase of an aerial ladder fire apparatus to replace the 1991 Pierce fire engine scheduled for replacement in 2007?

**Alternatives**

- 1) City Council could direct Staff to purchase a fire engine without aerial capabilities, thus reducing the overall purchase price and replacing the reserve apparatus with a like unit. The cost difference is approximately \$200,000. This action is not recommended due to the significant maintenance costs and potential safety issues already being experienced with the current Ladder 3.
- 2) City Council could direct Staff to take bids on this replacement apparatus from a variety of vendors instead of using the sole vendor agreement with Pierce Manufacturing. This action is not recommended as the City has had excellent experience with Pierce Manufacturing and Staff believes the City is getting a fair price.
- 3) City Council could direct Staff not to trade-in the 1991 Pierce Lance custom fire engine to Front Range Fire Apparatus and instead send the apparatus to auction. This action is not recommended due to the uncertainty of price the 1991 Pierce Lance engine would attract at auction. Typically the selling price at auction for fire apparatus is in the \$5,000 to \$10,000 range. Front Range Fire Apparatus is guaranteeing a minimum value of \$20,000.

**Background Information**

Typically when a fire apparatus purchase is made the newly acquired unit replaces a reserve apparatus that is similar in capabilities. The new unit goes into frontline service, moving the oldest like frontline unit to reserve status for approximately five years. The reserve fire apparatus that is being replaced is then either sold or traded in and is removed from the City's fleet inventory. In this situation, City Council is being asked to authorize purchase of an aerial ladder truck when the reserve apparatus to be replaced is a fire engine. If approved, the newly acquired aerial ladder truck will be immediately utilized as a frontline fire apparatus. Upon delivery of the new unit, Ladder 3 (unit 5123) will be removed from frontline duty and assigned to reserve status for up to five years. A 1991 Pierce Lance fire engine (unit 5113) will be traded in during the purchase of the new unit and will be removed from the City's fleet inventory.

Ladder 3 was not originally scheduled for replacement until 2009. Staff has determined that frontline replacement of this unit should be accelerated due to significant and costly maintenance issues. While this unit has experienced the deteriorating effects of frontline operations, the need for early replacement can be primarily attributed to suspension issues. The current Ladder 3 has a single rear axle, which for the weight and duty required of this truck has proven to be deficient. Numerous broken leaf springs and suspension problems have caused significant down-time and repair costs. These suspension problems also cause a significant safety concern in terms of both driving and firefighter safety. Fire Department and Fleet Staff are confident that the unit can serve safely in reserve status since it will be spared the additional wear and tear of daily use.

Assigning Ladder 3 to reserve status will provide the City with a reserve apparatus that has aerial capabilities. The City currently has three frontline aerial apparatus, but does not have a single reserve aerial apparatus. Having an aerial apparatus on reserve status will increase the safety of the Westminster community by allowing the Fire Department to maintain distributed aerial capabilities throughout the City when a frontline aerial apparatus has to be temporarily taken out of duty for maintenance.

The 2007 Pierce Velocity 105' aerial ladder truck that City Council is being asked to approve would be the tallest/longest reaching ladder truck in the Fire Department fleet. Two of the City's three aerial fire apparatus have 75' ladders, while the remaining aerial apparatus, a Skyboom, has a 61' lighter duty ladder. With a 30' longer reach than the next tallest/longest aerial apparatus in the Fire Department's fleet, the Pierce Velocity 105' aerial ladder truck would improve the Fire Department's aerial rescue and fire attack capabilities.

Staff has performed a comprehensive price comparison with Pierce Manufacturing to determine the selling price for recently purchased similar units in three different cities. The cities surveyed were Sacramento, California; Gladstone, Oregon; and Harrison, Ohio. After a comprehensive review of the components listed for each purchase and an analysis to create an equal comparison based on variations of those components, Staff found that the price Pierce Manufacturing is offering to the City for the 2007 Pierce Velocity 105' aerial ladder truck is consistent, fair, and competitive. The figures below indicate the findings of the price comparison completed by Staff after factoring in differences in specified components for each purchase in order to give an equivalent "same type unit" comparison.

<u>Agency</u>	<u>Equivalent Price</u>
Harrison, Ohio Fire Department	\$775,133
Gladstone, Oregon Fire Department	\$747,338
Sacramento, California Fire Department	\$726,950
Westminster, Colorado Fire Department	\$723,421

Staff has also estimated the impact on the lease payment budget for this apparatus based on the increased cost to purchase an aerial ladder over a fire engine. The 2007 Fire Department Operating Budget includes a down payment of \$100,000. The approved 2008 lease payment budget is \$73,000. Using 5% and 6% lease finance rates on a balance of \$603,450 would require an annual lease payment of between \$102,704 and \$106,208. Due to an anticipated deliver date of Spring 2008, only three lease payments would occur in 2008. With \$73,000 budgeted for 2008, between \$4,008 and \$6,656 may have to be added to the current 2008 budgeted amount in order to cover the lease payments. The actual lease interest rate will depend on the market at the time of final delivery. Staff has presented a "worse case" scenario so as to not underestimate the potential costs.

This request supports the City Strategic Plan Goal of a Safe and Secure Community. Specifically, this request is in line with the objective "Public Safety Departments: well equipped and fully staffed with quality personnel."

Respectfully submitted,

Stephen P. Smithers  
Assistant City Manager



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
July 9, 2007



**SUBJECT:** Purchase of a Biosolids Farm Tractor

**Prepared By:** Carl F. Pickett, Purchasing Officer

**Recommended City Council Action**

Award the bid for the purchase of a Model 8530 Tractor for \$175,995 to John Deere, Inc.

**Summary Statement**

- City Staff is recommending the purchase of a John Deere 8530 tractor to replace the 1982 Floater biosolids injector machine at the Strasburg farm. The tractor will pull a tanker/injector with greater capacity than the Floater had, and give the City greater versatility by being able to use the tractor for other uses, such as moving snow on the farm.
- City Council action is requested to award this vehicle purchase based on the Multiple Assemble of Procurement Officials (MAPO) price agreement for farm equipment. The City saves considerable dollars by purchasing this vehicle through the MAPO Bid.
- The tractor being recommended for purchase has been previously approved and is within the amount authorized by City Council in the 2007 Budget.

**Expenditure Required:** \$175,995

**Source of Funds:** Utility Fund - Wastewater Plant Operating Budget

**Policy Issue**

Should the City proceed with the replacement of a Utilities Division biosolids tractor?

**Alternative**

Do not replace the tractor at this time. This is not recommended as the daily use of this piece of equipment is essential to the timely handling of biosolids at the City’s farm.

**Background Information**

As part of the 2007 Budget, City Council approved the purchase of the replacement of a piece of equipment manufactured by a company called Floater. It is a specially built piece of agriculture equipment used for very specific purposes. This equipment is utilized on a daily basis to inject biosolids in farm fields at the 3000 acre Strasburg Natural Resource Farm (SNRF). Staff determined that replacement of the Floater, was cost prohibitive. Further investigation determined that a John Deere tractor and a tank wagon designed specifically for biosolids application would allow better control of biosolids applications. The proposed equipment is simpler to operate and maintain allowing more versatility in the application of biosolids and farming operations. The application of biosolids is regulated and approved by the Colorado Department of Public Health & Environment, and allows a beneficial use for the biosolids as a fertilizer and soil conditioner.

The vehicle currently used in this operation, Unit #9292, has reached a point that it is no longer economically reasonable to maintain it in service. Information regarding this vehicle replacement is as follows:

			<b>VEHICLE MAINTENANCE COSTS LIFE TO DATE (LTD)</b>
<b>UNIT #</b>	<b>YEAR</b>	<b>MAKE</b>	
9292	1982	Floater	\$96,284.95

The present age, condition and maintenance history of this vehicle would make it impractical to continue to operate it in regular service based on Fleet Maintenance replacement recommendations.

The MAPO price agreement in place for John Deere farm equipment for \$175,995 meets all specifications and requirements set by the City, and is \$66,971.24 less than list price for this piece of equipment. The 28% discount off of list is greater than the discounts offered by AGCO and Massey Ferguson for agricultural equipment.

Respectfully submitted,

Stephen P. Smithers  
Assistant City Manager



## Agenda Item 8 C

**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
July 9, 2007



**SUBJECT:** Purchase of Water Treatment Chemicals

**Prepared By:** Carl F. Pickett, Purchasing Officer

**Recommended City Council Action**

Award the bid for the purchase of Ferric Chloride to PVS Technologies, Inc. at the unit price indicated on the bid tabulation on an as-needed basis in an amount not to exceed \$74,790.

**Summary Statement**

- Funds for the purchase of water treatment chemicals were included in the approved 2007 Utility Fund Water Resources Division Budget. This request fits within the funds authorized.
- Three chemicals will be purchased in large quantities in 2007 and were brought before Council for approval in January, 2007. They are: Ferric Chloride, Caustic Soda, and Sodium Hypochlorite.
- In May 2007, MAPO re-bid Ferric Chloride. The new low bid is being recommended for the purchase of Ferric Chloride.

**Expenditure Required:** Not to exceed \$74,790

**Source of Funds:** Utility Fund - Water Resources Division Operating Budget

**Policy Issue**

Should the City accept the MAPO bids for Water Treatment Chemicals or seek bids separately for the City of Westminster?

**Alternative**

Reject the MAPO bid and re-bid this chemical. This is not recommended as the bids received through MAPO are valid bids that the City would most likely not to be able to improve upon.

**Background Information**

As part of the 2007 Budget, City Council approved the purchase of water treatment chemicals for the City’s water supply. Information regarding this chemical and its approximate usage left for the year and bid price follows:

CHEMICAL	APPROXIMATE QUANTITY	PRICE	EXTENDED PRICE	VENDOR
Ferric Chloride	135 tons	\$554 ton	\$74,790	Kemiron Companies

Ferric Chloride is used for coagulation/clarification in the treatment process at the Semper Water Treatment Facility. The usage numbers are approximate since factors such as weather and demand are unpredictable. The approximate usage figure is based on last year’s actual usage.

This bid was put out on behalf of MAPO, a cooperative of state, municipal, county, special district, school district and other local government agencies. This is a competitive bid and offers greater volume and lower prices to the City than the City can obtain on its own. Westminster City Code 15-1-4-A1 specifically states that this is an acceptable form of purchasing for the City.

Forty-three chemicals were put out on the MAPO bid. Twenty-one water chemical vendors responded to the bid notification. They were American Pride; Baker Tanks; Basic Chemical Solutions; BHS Marketing; Cal Pacific Carbon; Carus Chemical Corp; DPC Industries; Dimmitt Sulfur Products Ltd; Industrial Chemicals; Interstate Chemical; General Chemical Performance Products, LLC; Harcros Chemicals; Kemiron North America; Mississippi Lime; Nalco Company; NORIT; Peak Polymer; Polydyne; Thatcher Company; Treatment Tech.; and Univar.

The low bid for Ferric Chloride to PVC Industries, Inc. in the approximate amount of \$74,790, meets all specifications and requirements set by the City.

The estimated cost of the Ferric Chloride is within the amount previously approved by City Council for this expense.

Respectfully submitted,

Stephen P. Smithers  
Assistant City Manager



## Agenda Item 8 D

**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
July 9, 2007



**SUBJECT:** Big Dry Creek Park Construction Spending

**Prepared By:** Richard Dahl, Park Services Manager

**Recommended City Council Action**

Authorize the purchase of the play equipment for the Big Dry Creek Park from GameTime in the amount of \$85,919; authorize Staff to proceed with the purchase of plant material for the park from various nurseries, not to exceed the total dollar amount of \$100,000; authorize the purchase of a poured-in-place safety surface in the amount of \$56,909 from Imagination Playground Surfacing.

**Summary Statement**

- Big Dry Creek Park is located at 128<sup>th</sup> Avenue and Big Dry Creek (see attached plan). On February 26, 2007, City Council reviewed the master plan for the park and directed Staff to apply for an Adams County Joint Venture Grant. A total of \$500,000 was recommended by the Adams County Open Space Advisory Board and was approved by the Adams County Commissioners.
- Arrow- J Landscape and Design was awarded the construction bid on May 21, 2007, by City Council and construction is currently underway. The contract excluded some in-house staff work such as the playlot, playlot surfacing and landscaping.
- Staff will save approximately \$140,000 by purchasing and installing the play equipment with in-house construction crews.
- GameTime play equipment and Imagination Playground Surfacing have been used with great success at Sherwood Park and most recently Westfield Village Park.
- To save expense and to get a quality product, the City Forester will select and purchase all plant material and the contractor will install it. The total cost is anticipated to be no greater than \$100,000. Competitive quotes will be solicited before plant material is purchased from any one nursery.
- Construction of this project is currently underway and it is expected to be completed in the Fall of 2007 with the park being available for recreational play in the Fall of 2008.

**Expenditure Required:** \$242,828

**Source of Funds:** General Capital Improvement Fund - Big Dry Creek Park Project

**Policy Issue**

Should the City proceed with the purchases and cost-saving measures by using in-house forces?

**Alternative**

City Council could choose to not authorize the purchase and installation of the play equipment by Staff and have the contractor purchase and install the equipment, and thereby accepting the liability for construction. However, Staff has installed GameTime equipment before, the City has Certified Playground Safety Inspectors on staff, and this process will save the City approximately \$140,000.

**Background Information**

The Big Dry Creek Park is adjacent to the Home Farm neighborhood on the east and south of 128<sup>th</sup> Avenue.

Hyland Hills Park and Recreation District is contributing \$500,000 towards the Big Dry Creek Park project as part of the Hyland Hills bond issue that was approved by voters in 2002. Adams County Open Space awarded a \$500,000 grant to the City in May of 2007 toward this project. A total of \$700,000 of the City's Park and Open Space Bond funds has been approved by City Council as well as \$950,000 from the Parks Capital Improvement Fund. Expenses in addition to the construction costs identified in this memorandum are for design, consulting fees, testing, Arrow-J Landscape and Design Contract, Xcel Energy costs, water taps, wildlife mitigation and other miscellaneous items that bring the total budget for the project to \$2,650,000.

Professional landscape architectural services were obtained to design the park, which will feature two shelters, a play area, an off-leash dog area, two soccer fields, two ball fields, a restroom enclosure, a self-contained parking lot and a trail system. The sports park was designed to serve as a community park with athletic fields and to also serve the surrounding neighborhoods. This park will be warm and inviting, while accommodating a diverse array of users and uses as well as providing a rest stop for trail users on the Big Dry Creek Trail.

This project meets City Council's Strategic Plan Goal of "Beautiful City" by increasing the City's park system and of "Financially Sound City Government" by maintaining effective cost containment.

Respectfully submitted,

Stephen P. Smithers  
Assistant City Manager

Attachment



# Big Dry Creek Park

Schematic Site Plan

City of Westminster      Shalkey & Team, Inc.  
May 9, 2006



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
July 9, 2007



**SUBJECT:** Median Rehabilitation Contract Award

**Prepared By:** Richard Dahl, Park Services Manager

**Recommended City Council Action**

Authorize the City Manager to execute a contract with T2 Construction, Inc. in the amount of \$150,000 for median rehabilitation.

**Summary Statement**

- The Parks, Recreation and Libraries Department has identified several existing medians in the City that are in need of rehabilitation. The medians identified for this proposed contract are Yates Business Park; Sheridan Boulevard, between 92<sup>nd</sup> Avenue and 100<sup>th</sup> Avenue; and 104<sup>th</sup> Avenue and Church Ranch Boulevard, between US36 and Wadsworth Boulevard.
- Bids were solicited from four reputable landscape construction companies with T2 Construction, Inc. being the low bidder.
- T2 Construction has successfully completed both new construction and renovation landscape projects for the City in the past.
- A total of \$150,000 has been designated in the General Capital Improvement Program Median Renovation Account for landscape repairs in 2007.
- Median landscape planting will begin in the summer of 2007.
- All median landscape repairs will use drought-tolerant plant materials.

**Expenditure Required:** \$ 150,000

**Source of Funds:** General Capital Improvement Fund – Median Renovation Project

**Policy Issue**

Should the City continue to contract out landscape repairs on medians that have begun to show signs of decline?

**Alternative**

City Council could choose not to authorize the median rehabilitation bid and leave the medians in their current condition until a later date. Staff recommends pursuing the rehabilitation of the medians to help with plant maintenance and survivability problems.

**Background Information**

The City of Westminster’s landscaped median development has increased over the past ten years as various street beautification projects have been completed. While new construction and street improvements have added medians in the City, the older medians (some date back to the early 1980’s) have suffered from plant dieback (especially after this past winter), traffic accidents, accumulation of salts/sand, and irrigation system failures.

The median rehabilitation program takes into consideration medians in the City based on past plant performance, drought tolerance and visibility in the City. Most trees within the medians will remain if they are in good health or will be replaced with another tree species. All shrub replacements will be low-growing junipers, ornamental shrubs and/or perennials. Repairs to the irrigation system will also be performed, if needed. Over the years, Staff has documented the survivability of numerous plant materials (trees, shrubs, groundcovers, perennials) and these will be selected based on the hardiest species for each renovation area.

Currently, the General Capital Improvement Program has \$150,000 dedicated for median rehabilitation. It is Staff’s intent to complete as many medians as possible with the available funds. A request for bids was sent out to four landscape construction companies for median rehabilitation and bids were received as follows:

T2 Construction, Inc.	\$3.91 per square foot
Arrow J Landscape	\$4.20 per square foot
TruGreen	\$4.40 per square foot
Coloco	\$4.79 per square foot

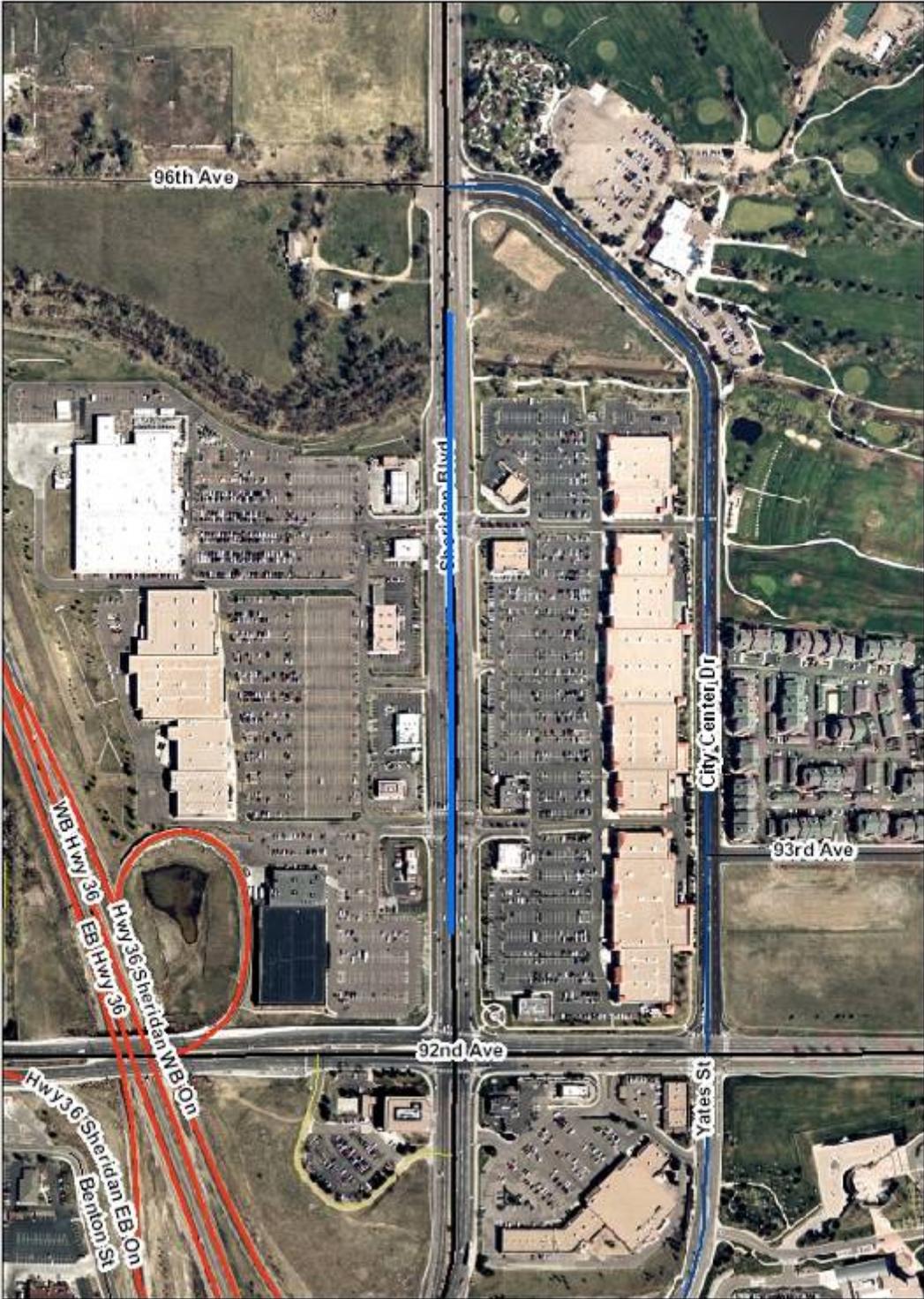
These costs include basic items such as mulch, weed fabric, soil preparation, and steel edger. The Median Rehabilitation Project supports both City Council’s “Beautiful City” and “Vibrant Neighborhoods and Commercial Areas” Strategic Plan Goals.

Respectfully submitted,

Stephen P. Smithers  
Assistant City Manager

Attachments

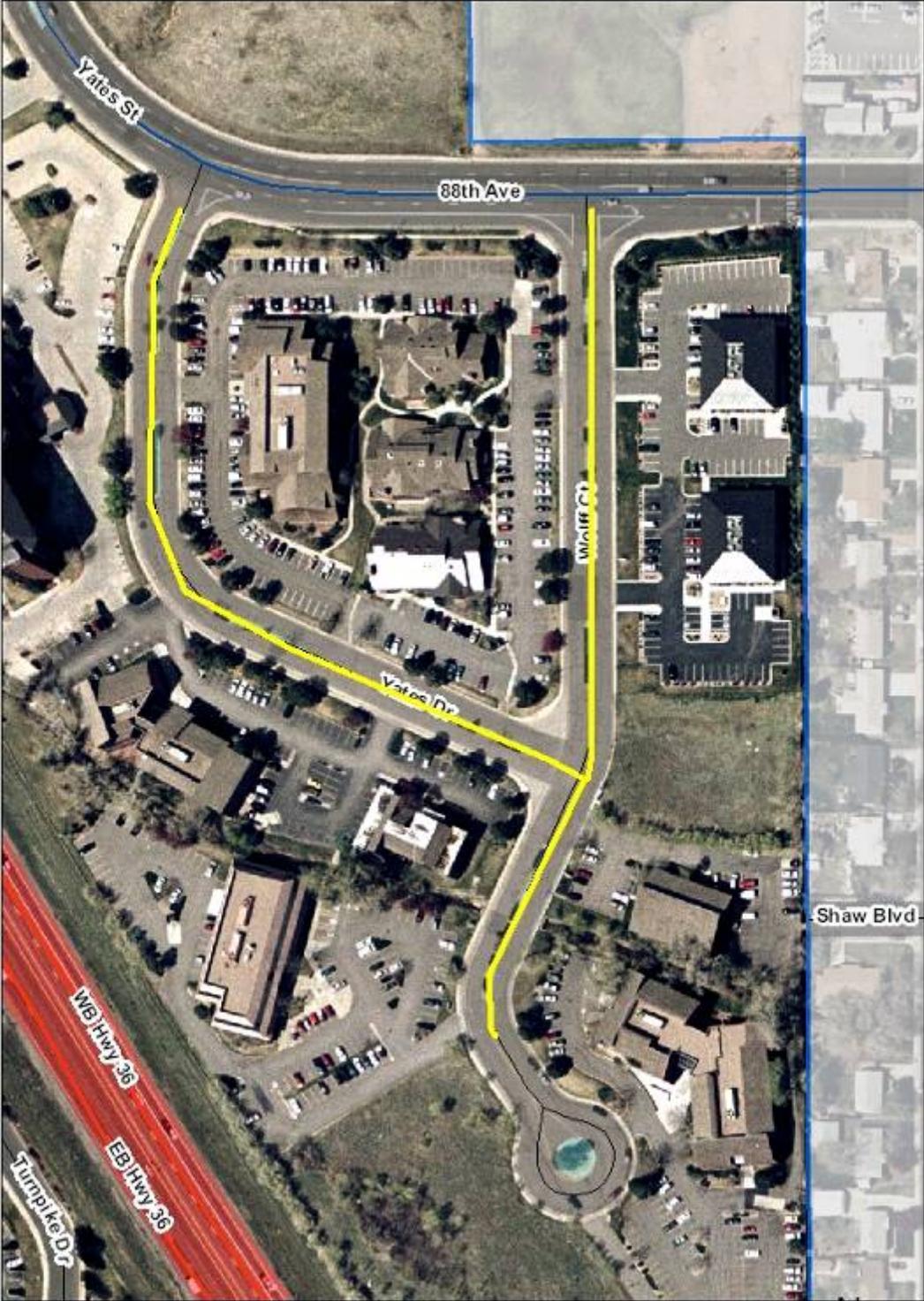
# Sheridan Blvd Median Rehabilitation



Blue Line indicates miscellaneous tree and shrub removal and cobble/mulch replacement



# Yates Business Area Median Rehabilitation



Yellow Line indicates miscellaneous tree and shrub removal and cobble replacement



# Church Ranch Blvd Median Rehabilitation



Yellow Line indicates miscellaneous tree  
and shrub removal and cobble/mulch replacement

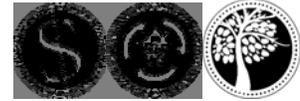




**WESTMINSTER  
COLORADO**

**Agenda Memorandum**

City Council Meeting  
July 9, 2007



**SUBJECT:** Westminster Sports Center Contract Awards

**Prepared By:** Peggy Bocard, Recreation Services Manager

**Recommended City Council Action**

Authorize the City Manager to execute a contract with Athletica in the amount of \$152,800 for purchase and installation of dasher boards, benches and netting, authorize the City Manager to execute a contract with Rhino Sports in the amount of \$79,772 for the purchase and installation of the synthetic turf and multi-use floor surfacing, and authorize a total contingency amount of \$23,257 for a total budget request for the above work of \$255,829.

**Summary Statement**

- The Westminster Sports Center, located at 6051 W. 95<sup>th</sup> Avenue, is a City-owned indoor soccer facility that was formerly leased and operated by a private entity, Colorado Soccer LLC.
- In February 2007, City Council gave City Staff the approval to take over the operations of the Westminster Sports Center.
- On May 21, 2007, Colorado Soccer vacated the premises and the facility was turned over to the City of Westminster.
- On June 25, 2007, City Council adopted Resolution No. 23 permitting reimbursement to the City of soft and hard costs incurred for capital project and land purchases out of the bond proceeds from the Parks, Open Space, and Trails (POST) Revenue Bonds anticipated to be issued in December 2007.
- The dasher boards (arena walls), field turf, lights, etc., were all owned by the lessee and were removed from the site.
- Bids were solicited to install new dasher boards, netting, synthetic turf, and multi-use floor surface, with Athletica submitting the most complete bid for the dasher boards and netting and Rhino Sports submitting the lowest qualified bid for the synthetic turf and the multi-use floor surface.
- Construction of this project is scheduled to be completed during the Summer/Fall of 2007 and the target date to reopen the facility is late October 2007. This timeframe is projected to allow league play to begin in mid-November.

**Expenditure Required:** \$255,829

**Source of Funds:** Parks and Open Space Bonds

**Policy Issue**

Should the City proceed with renovation of the Westminster Sports Center?

**Alternatives**

1. City Council could choose to not authorize the renovation of the Westminster Sports Center and decide to invest that money on another project. Staff does not recommend this because of the value that this type of facility has for a large segment of the community.
2. City Council could direct Staff to develop a Request For Proposals (RFP) to seek a new lessee for the building. Staff does not recommend this option because it believes a City-operated facility can better address the customer service needs of its residents.

**Background Information**

The City of Westminster acquired a 33,000-square-foot metal building from The Trend Company, a residential developer, in 1993. A needs assessment conducted at that time revealed there were 700 youth soccer players registered with the City’s developmental league. In November of 1994, Staff recommended City Council sign a seven-year lease agreement with AMAYA Soccer and Sports Inc. requiring them to pay \$4,000 per month to the City for the purpose of operating an indoor soccer arena. The lease was renewed in 2001 with AMAYA Soccer and Sports Inc. d/b/a as Colorado Soccer at \$5,000 per month for an additional seven years, expiring in November 2008. The City exercised its option to terminate the lease early in March of 2007 due to unsatisfactory customer feedback and lack of focus given to Westminster teams.

There are currently approximately 7,500 registered youth soccer players in the north metro area (Westminster, Broomfield, Thornton, Northglenn, and Arvada). Staff has developed a pro forma that demonstrates that the facility can be operated at a net profit. The focus will be on securing youth and adult sports leagues, and providing youth sports programs, sport camps, and other activities to the local community.

Two companies bid on the dasher board system with Becker Arena Products being the apparent low bid by \$1,423. However, during their review Staff determined that the bid from Athletica better addresses the City’s long term needs. Athletica’s bid includes players’ benches, a larger playing surface and uses anodized aluminum frames that require less maintenance. Becker Arena Products did not include players’ benches, had a much smaller playable area on the multi-court game arena and was powder coated steel, which eventually would scratch and not hold up as well as the anodized aluminum frames. The bids are broken down as follows:

Becker Arena Products	\$151,377
Athletica	\$152,800

The bids for the synthetic turf are broken down as follows:

Rhino Sports	\$52,808
Pro Green	\$59,520
Academy Sports Turf	\$62,250
Fieldturf Tarkett	\$73,100

Rhino Sports was the only company to bid on the multi-use flooring with a bid of \$26,964, which is below Staff’s estimate for this product.

**SUBJECT:**

Westminster Sports Center Contract Award

Page 3

This project meets City Council's Strategic Plan Goals of "Beautiful City" and "Vibrant Neighborhoods and Commercial Areas" by providing the City with a renovated well-design and maintained private development as well as "Financially Sustainable City Government" by providing the means to operate a revenue-generating facility.

Respectfully submitted,

Stephen P. Smithers  
Assistant City Manager



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
July 9, 2007



**SUBJECT:** Negotiated Remodel Contract for the Former Westminster Police Department Building

**Prepared By:** Jerry Cinkosky, Facilities Manager

**Recommended City Council Action**

Based on a report of the City Manager find that the public interest would best be served waiving City bid requirements and authorize the City Manager to execute a contract for the remodel of the former Police Department building to Adams Mendel & Allison Construction Company for \$862,489, and authorize a contingency amount of \$86,200 to cover the potential for unexpected costs during this remodel project.

**Summary Statement**

- City Staff has been working with the State of Colorado Department of Corrections (CDOC) and the Colorado Department of Transportation (CDOT) on a lease agreement for the former Westminster Police Department for the past two years.
- In April 2007, the CDOC was notified by the owner of the facility where their offices were located that he found a new tenant and would be terminating the lease with the CDOC effective May 30, 2007. City Staff was contacted by the CDOC to request the City's assistance with moving the remodeling project forward during lease negotiations in an effort to keep office space available in Westminster for approximately 35 CDOC staff members.
- A team consisting of project managers from the CDOC, AMA Construction, Studio DH Architecture, and City Staff were assembled and began working on space needs, design and construction documents that would be needed for submittal to the City's Building Division for review and the building permit process.
- In June 2007, negotiations having been completed, City Council authorized a lease agreement with the CDOC for the occupancy of the former Westminster Police Department beginning October 1, 2007.
- To date, under direction of the City's Building Division and before construction could begin, minimum building code issues had to be corrected. Staff has been working with AMA Construction to complete the necessary code requirements that included removal and replacement of all ceiling insulation throughout the building, removal of all non fire rated wiring from space above the ceiling, minor roof repairs, and asbestos abatement. In addition, in order to keep the project moving forward, Staff contracted with AMA Construction for the demolition phase of the project in the amount of \$42,242 so immediate tenant finish could begin upon authorization by City Council of a remodel contract. The demolition portion of the project was invoiced and paid for by the CDOC.

**Expenditure required:** \$948,689

**Source of Funds:** General Capital Improvement Fund – Building, Operations and Maintenance Project  
2005 and 2006 Carryover Funds  
Cash Funding from Colorado Department of Corrections

**Policy Issue**

Should City Council approve a negotiated contract with Adams, Mendel & Allison Construction for the purpose of remodeling for the former Westminster Police Department facility?

**Alternatives**

1. Do not approve the method of negotiating a construction contract with AMA Construction. Staff does not recommend this action based on the short turnaround time needed to complete the remodel project and accomplish a newly established deadline of October 1, 2007 for occupancy as required by the recently approved lease agreement with the CDOC.
2. Direct Staff to open the project for bids. Staff is not recommending this action based on the fact that AMA Construction Co. uses a process of hard bidding all aspects of the remodel project with a minimum of three companies, thus ensuring the City is receiving the lowest competitive pricing from AMA Construction subcontractors.

**Background Information**

For the past two years, City Staff has been negotiating with the CDOC and CDOT on a lease agreement between the three entities that will allow for the CDOT to take occupancy of the former Westminster Police Department facility. While negotiations were underway the CDOC was working with their architect to design space plans and to put together preliminary cost estimates documents for the purpose of remodeling and tenant finish of the former Westminster Police Department facility.

In April 2007, the CDOC was notified by their current landlord that their existing lease for office space would not be renewed when it expired on May 30, 2007. Also in April 2007, the CDOC was notified by their architectural firm that they no longer had the time or resources to continue working on the remodel tenant finish project for the police building. The CDOC immediately contacted City Staff requesting assistance with expediting the lease negotiations to try and accomplish an occupancy date of July 1, 2007 of the former Police Department facility.

In addition to the request for expediting lease negotiations for an early move in date, the CDOC requested the City's assistance in hiring a new architect and construction company who could immediately start the design and construction process in an attempt to complete the project by July 1, 2007. The request for the assistance was needed to avoid a double move for the CDOC and to keep approximately 35 CDOC staff working in the Westminster area.

The City immediately contacted the firms of Studio DH Architectural and AMA Construction, both of which had successfully worked together on two similar remodel projects for the City within the past three years. A team consisting of project managers from the CDOC, AMA Construction, Studio DH Architecture, and City of Westminster representatives from the Building Operations & Maintenance Division, Building Division and the City's Purchasing Agent was assembled to begin working on space needs, design, code requirements, and construction documents to expedite the remodeling project. In June 2007, the City's Building Division approved construction plans and issued a building permit for the remodel of the former Police Department for occupancy by the CDOC.

To date, AMA Construction has gone out to bid with their subcontractors to complete work on the remodeling project and has identified long lead items that need to be immediately ordered to complete the remodel. Even with the expedited orders on materials, the lead time required has caused the projected occupancy date to be moved back from July 1 to October 1, as specified in the recently signed lease agreement between the City and CDOC.

The lease agreement between the City and CDOC requires CDOC to reimburse the City within the first five years through increased monthly payments for a major portion of the City's expenses for the remodel project. To date, the CDOC has requested and been invoiced for over \$300,000 that will be applied to the overall lease buy-down, initial cost for architectural services, total payment of leasing agent fees, and the demolition costs associated with the work completed to date on the remodel project.

With City Council's approval of a negotiated construction contract with AMA Construction, the remodel and tenant finish of the former Police Department facility would begin the week of July 9 with a target occupancy date by CDOC of October 1, 2007.

Respectfully submitted,

Stephen P. Smithers  
Assistant City Manager



## Agenda Item 8 H

**WESTMINSTER**  
**COLORADO**

### Agenda Memorandum

City Council Meeting  
July 9, 2007



**SUBJECT:** Second Reading of Councillor's Bill No. 32 re Pension Plan Amendments

**Prepared By:** Gordon Tewell, Pension Administrator

### Recommended City Council Action

Pass Councillors Bill No. 32 on second reading amending the Westminster Municipal Code concerning the General Employee and Police Pension Plans.

### Summary Statement

- This Councillor's Bill was passed on first reading on June 25, 2007.
- During 2006, the U.S. Congress passed the Pension Protection Act of 2006 (PPA). The PPA includes several provisions that are beneficial to defined contribution plans like the City of Westminster Police and General Employee Pension Plans (Plans). In order for plan participants to receive the full benefit of the changes allowed by the PPA these provisions must be affirmatively adopted by the Plans. As Title XIV of the Westminster Municipal Code is the plan document for the Plans, the Municipal Code must be amended for these provisions to be available to plan participants. While most of the recommended changes to Title XIV are required to implement provisions of the PPA, Title XIV also currently includes language that is administratively cumbersome or unnecessary as required by Internal Revenue Code. The ordinance reflects changes recommended by Staff.
- The IRS requires pension plan documents be amended to comply with changes to the Internal Revenue Code as the result of laws passed by Congress. Amendments to the Plans are required in order for the Plans to conform to law as modified by the PPA. The plan must be amended and filed with the IRS no later than January 31, 2009.
- Outside counsel has been retained to provide guidance and assistance in amending the Plans. Other than the cost for outside counsel there are no costs related to updating the Plans, and since Westminster manages defined contribution pension plans there are no costs to the pension plans for these changes.

**Expenditure Required:** \$0

**Source of Funds:** N/A

Respectfully submitted,

Stephen P. Smithers  
Assistant City Manager  
Attachment

BY AUTHORITY

ORDINANCE NO. **3360**

COUNCILLOR'S BILL NO. **32**

SERIES OF 2007

INTRODUCED BY COUNCILLORS  
**Dittman - Kaiser**

**A BILL**

**FOR AN ORDINANCE AMENDING TITLE XIV OF THE WESTMINSTER MUNICIPAL  
CODE CONCERNING THE POLICE AND GENERAL EMPLOYEE PENSION PLANS**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Section 14-1-2, W.M.C., is hereby amended BY THE ADDITION OF NEW SUBSECTIONS (G), (H), (K) AND (S) to read as follows AND ALL OTHER SUBSECTIONS TO BE RE-LETTERED ACCORDINGLY:

**14-1-2: DEFINITIONS:** When used herein, the following words shall have the following meanings unless the context clearly indicates otherwise and further provided that the masculine gender shall include the feminine, and the singular shall include the plural:

(G) "CURRENT ANNUAL BASE SALARY" COMPENSATION ANNUALIZED FOR THE CURRENT CALENDAR YEAR.

(H) "ELIGIBLE RETIRED PUBLIC SAFETY OFFICER" A POLICE OFFICER WHO IS SEPARATED FROM SERVICE WITH THE CITY AS A PUBLIC SAFETY OFFICER BY REASON OF DISABILITY OR IS SEPARATED FROM SERVICE WITH THE CITY AS A PUBLIC SAFETY OFFICER AND SEPARATED FROM SERVICE AFTER NORMAL RETIREMENT AGE.

(K) "HIGHEST ANNUAL BASE SALARY" THE LARGEST AMOUNT OF COMPENSATION AS CALCULATED FOR ANY CALENDAR YEAR OF EMPLOYMENT.

(S) "QUALIFIED HEALTH INSURANCE PREMIUMS" PREMIUMS FOR COVERAGE OF THE ELIGIBLE RETIRED PUBLIC SAFETY OFFICER, HIS SPOUSE, AND DEPENDENTS, BY AN ACCIDENT OR HEALTH INSURANCE PLAN OR QUALIFIED LONG-TERM CARE INSURANCE CONTRACT AS DEFINED IN CODE SECTION 7702B(B).

Section 2. Section 14-1-4, subsections (C)(2) and (D), W.M.C., are hereby AMENDED to read as follows:

**14-1-4: CONTRIBUTIONS BY THE CITY, THE STATE OF COLORADO AND PARTICIPANTS:**

(C) Contributions by Contributing Participants.

(2) Voluntary Contributions::

(a) Subject to the provisions of Section 14-1-5(B), each Contributing Participant may elect to contribute to the Trust Fund an amount ~~not to exceed ten percent (10%) of his compensation for each pay period in addition to~~ THAT WHEN COMBINED WITH the mandatory contributions required in paragraph (1) of this Subsection DOES NOT EXCEED THE AMOUNT DESCRIBED IN SECTION 14-1-5 (B)(1).

(b) The amount, if any, which a Contributing Participant voluntarily contributes to the Trust Fund ~~may vary from year to year and may~~ MUST be contributed through payroll deductions ~~or in one lump sum, annually, or both, provided that a lump sum contribution for any year must be paid directly by~~

~~the Contributing Participant instead of through a payroll deduction.~~ A contributing Participant may have the option of increasing, decreasing, or terminating his voluntary contribution at any time. No Participant shall have any obligation to make any voluntary contribution.

(c) For purposes of this Section, amounts representing the Participant's interest in another qualified pension plan transferred in accordance with Section 14-1-12(A), shall not be considered voluntary contributions.

(D) Retirement Medical Savings Accounts.

(1) ~~Subject to approval by the Internal Revenue Service,~~ Each Participant shall have the option of designating up to 25% of his or her combined mandatory and City contributions to be used for future medical expenses as provided for in Section 401(h) of the Federal Internal Revenue Service Code. Contributions to the medical savings accounts will not be taxed at separation from service nor upon use for medical expenses after separation from service. The retirement medical savings accounts will be subject to the rules and requirements as issued by the City Manager.

(2) Contributions designated for future health benefits under Section 401(h) of the Federal Internal Revenue Service Code as described in Subsection (1) of this Section shall be maintained in separate accounts.

Section 3. Section 14-1-6, subsection (A), W.M.C., is hereby AMENDED to read as follows:

**14-1-6: RETIREMENT DATE; DESIGNATION OF BENEFICIARY:**

(A) Retirement Date.

(1) Normal Retirement: The normal retirement age for each Participant shall be ~~sixty five (65)~~ FIFTY-FIVE (55), and on the last day of the month in which his ~~sixty fifth~~ FIFTY-FIFTH birthday occurs, he shall be entitled to retire voluntarily. The City may, if it so desires, continue a Contributing Participant in active service after he has attained his normal retirement age with the consent of such Participant, and at any time thereafter the City may, at its option, retire such Participant or such Participant may voluntarily retire. Until actual retirement, a Contributing Participant shall continue to participate in the Plan.

~~(2) Early Retirement: Any Contributing Participant who will attain the age of fifty five (55) during the year may elect to retire earlier than the normal retirement age.~~

Section 4. Section 14-1-7, W.M.C., is hereby AMENDED to read as follows:

**14-1-7: DISTRIBUTION FROM TRUST FUND:**

(A) When Interests Become Distributable and Effect Thereof. When a Participant dies, suffers total disability, retires or terminates his employment for any other reason, his interest shall thereupon become distributable. When a Participant's interest shall have become distributable, such Participant's interest shall remain a part of the Trust Fund until it is distributed.

(B) Information to be Furnished to Board. For the purpose of enabling the Board to determine the Participant's distributable interest in the Trust Fund, the Board shall be entitled to rely upon information provided to the Board by the City with respect to the date of the Participant's termination of employment and other such information as is needed and requested.

(C) Distribution of Interests.

(1) Insurance: If there has been an investment in life insurance for the benefit of any Participant whose interest becomes distributable for any reason other than death, such Participant may, subject to any limitation set forth elsewhere in this Plan, obtain an absolute assignment of any such life insurance by

informing the Board of his election. If said election is not exercised within thirty (30) days after the termination of employment, and the conversion election provided for is not made, the Board shall cause said contract to be surrendered no later than the end of the policy year and shall add the proceeds of such surrender to the interest of said Participant. After December 31, 1996, no new life insurance contracts may be adopted as pension investments.

(2) Election to Defer Benefits: A Participant may elect to defer the commencement of distribution of his or her benefit, but in no event shall the commencement of distribution be later than the required distribution commencement date specified in subsection ~~(E)~~ (F) of this Section. No election to change the method of payment may be made more than once every six months once payments have commenced.

(3) Distribution of Contributions: Any other provision of this Subsection (C) to the contrary notwithstanding, a Participant, in the event of the termination of his employment for any reason, shall be entitled to receive payment in one lump sum of his interest in the Trust Fund provided he makes written demand therefor upon the Board.

(4) Benefits payable from the 401(h) account:

(a) Benefits are payable from the retirement medical savings account only upon retirement, separation of service, death or total disability.

(b) Benefits payable from a 401(h) account shall include only payments or reimbursements for medical care [as defined in code section 213(d)(1)].

(c) Medical care payments shall only be paid pursuant to a reimbursement application.

(d) No refunds of contributions shall be made. All contributions remain in the 401(h) account until used for medical care payments.

(e) Reimbursements may not be made for any expense for which the retired Participant or his or her spouse or dependents receive, or are eligible to receive, payment or reimbursement from another source.

(f) In order to receive benefits from the 401(h) account, the retired Participant must agree to provide appropriate documentation of the expenditure.

(D) Transfers between Qualified Plans:

(1) In General. The trustee and the plan custodian, upon their mutual agreement, are authorized to receive and add to the interest of any Participant the Participant's vested interest in the assets held under any other qualified employee retirement plan or individual retirement account if such transfer satisfies the requirements under law for transfers between qualified plans or rollover contributions. In such event, the assets so received shall be fully vested and shall be held in a separate account and shall be administered and distributed pursuant to the provisions of this Plan and Trust, concerning employer contributions. The trustee is also authorized, at the direction of the plan custodian and at the request of the Participant, to transfer such Participant's vested interest which has become distributable under Subsection (A) hereof, directly to another qualified plan or an individual retirement account for the benefit of such Participant, provided such transfer satisfied the requirements under law for such transfers.

(2) For Distributions Made on or After January 1, 1993. Notwithstanding any provision of the plan to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect, at the time and in the manner prescribed by the plan administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(3) For distributions made after December 31, 2001. An eligible retirement plan shall also mean an annuity contract described in section 403(b) of the code and an eligible plan under section 457(b) of the code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a

qualified domestic relation order, as defined in section 414(p) of the code. The Plan shall be permitted to accept rollovers from any type of eligible retirement plan except to the extent limited in Section 14-2-7.

(4) Definitions.

(1) Eligible Rollover Distribution. An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: (I) any distribution that is one of a series of substantially equal period payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; (II) any distribution to the extent such distribution is required under section 401(a)(9) of the code; (III) any hardship distribution as described in section 401(k)(2)(b)(I)(iv) of the code (applicable only to distributions after December 31, 1999); and (IV) the portion of any distribution that is not includable in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities). Any amount that is distributed on account of hardship shall not be an eligible rollover distribution and the distributee may not elect to have any portion of such a distribution paid directly to an eligible retirement plan. A portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includable in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in section 408(a) or (b) of the code, or to a qualified defined contribution plan described in section 401(a) or 403(a) of the code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includable in gross income and the portion of such distribution which is not so includable. The Plan shall not accept a rollover of after-tax employee contributions unless specifically elected in the adoption agreement or a supplement thereto.

(2) Eligible Retirement Plan. An eligible retirement plan is an individual retirement account described in section 408(a) of the code, an individual retirement annuity described in section 408(b) of the code, an annuity plan described in section 403(a) of the code, or a qualified trust described in section 401(a) of the code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.

(3) Distributee. A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the code, are distributees with regard to the interest of the spouse or former spouse.

(4) Direct Rollover. A direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee.

(E) WITHDRAWALS WHILE EMPLOYED: A PARTICIPANT WHO HAS ATTAINED AGE SIXTY-TWO (62) MAY ELECT TO BEGIN DISTRIBUTIONS FROM THE TRUST FUND ACCORDING TO THE RULES DESCRIBED IN THIS SECTION 14-1-7 IF THE PARTICIPANT'S CURRENT ANNUAL BASE SALARY AT THE TIME OF ELECTION IS AT LEAST TWENTY-FIVE PERCENT (25%) LESS THAN THE PARTICIPANT'S HIGHEST ANNUAL BASE SALARY.

~~(F)~~(F) Required Distribution Commencement Date: Distribution of a Participant's interest must begin no later than the April 1 of the calendar year following the later of the year the Participant attains the age of seventy and one half (70 1/2) or the year the Participant retires.

~~(G)~~(G) Spendthrift Provisions:

(1) General Rule: Except as otherwise provided in this Chapter, all amounts payable pursuant to this Chapter by the Trustee shall be paid only to the person or persons entitled thereto, and all such payments shall be paid directly into the hands of such person or persons and not into the hands of any other person or corporation whatsoever, and such payments shall not be liable for the debts, contracts or

engagements of any such person or persons, or taken in execution by attachment or garnishment or by any other legal or equitable proceedings; nor shall any such person or persons have any right to alienate, anticipate, commute, pledge, encumber or assign any such payments or the benefits, proceeds or avails thereof.

(2) Qualified Domestic Relations Order: Paragraph (1) of this Subsection shall not apply to the creation, assignment or recognition of a right to any benefit payable with respect to a Participant or alternate payee pursuant to a qualified domestic relations order setting forth the agreement of the parties with respect to the division of benefits pursuant to Colorado Revised Statutes, Section 14-10-113. A lump sum distribution will be made pursuant to such an order within one hundred and twenty (120) days after the date on which a certified court order approving such an agreement permitting such a distribution has been submitted to and received by the Board.

The Board shall establish such reasonable procedures as are necessary to determine the compliance of a domestic relations order with the requirements of Colorado Revised Statutes, Section 14-10-113 and to administer distributions under such qualified orders. Such procedures may be at the discretion of the Board, including standardized forms to be used for such marital agreements and orders. A person who obtains a right to a benefit payable to a Participant pursuant to a qualified domestic relations order shall not have rights to vote in elections held pursuant to this Plan.

~~(G)~~(H) Manner of Distribution: A Participant's interest may be distributed by one or more of the following methods:

(1) Lump Sum Distribution: The Participant's interest may be paid to the Participant or his Beneficiary by the distribution of the total balance of his account in one lump sum. The Participant, or his Beneficiary in the event of the Participant's death, shall have the right to have the distribution made in a lump sum by filing a written election with the trustee within such time as the Board shall prescribe.

(2) Installments: The Participant's interest may be paid to the Participant or his Beneficiary in substantially equal periodic installments over a period of time not to exceed the joint life expectancy of the Participant and his beneficiary (or until the account is exhausted) and not in installment frequency greater than monthly. The maximum period shall be determined under the applicable IRS Tables at the time the initial monthly installment payment becomes payable. The Participant, or his Beneficiary in the event of the Participant's death, shall have the right to have the distribution made in this manner by filing a written elective with the trustee within such time as the Board shall prescribe. In no instance shall any changes in this type of distribution be allowed more than once every six months.

(3) Other Methods: Notwithstanding the foregoing provisions, any interest which has become distributable for any reason may be distributed at such time or times, in such amount or amounts, and in such manner, as the Board and the recipient of such distribution may mutually determine, including a transfer to another qualified plan or individual retirement account.

~~(H)~~(I) Limitation on Duration of Payments:

(1) No distribution shall be made over a period exceeding the joint life expectancy of the Participant and his beneficiary. To the extent distribution is made after the Participant attains the age of seventy and one-half (70 1/2), if not paid in a lump sum, the distribution must be made in substantially equal periodic installments at least annually over the period prescribed in this Subsection subject to a once yearly change that may accelerate payment at the election of the Participant or Beneficiary. The present value of the benefits payable solely to the Participant under any elected method must exceed fifty percent (50%) of the total benefits payable to the Participant and his Beneficiaries, unless distribution is in the form of a qualified joint and survivor annuity.

(2) NOTWITHSTANDING ANYTHING IN THIS CHAPTER TO THE CONTRARY, ALL DISTRIBUTIONS FROM THE PLAN SHALL CONFORM TO THE FINAL REGULATIONS ISSUED UNDER INTERNAL REVENUE CODE SECTION 401(A)(9), INCLUDING THE INCIDENTAL DEATH BENEFIT PROVISIONS OF INTERNAL REVENUE CODE SECTION 401(A)(9)(G).

~~(H)~~(J) Withdrawals: A Participant may not at any time withdraw any part of his interest in the Trust Fund, except upon death, disability, retirement or termination of service as provided in this Chapter.

~~(H)~~(K) Special Rules for Distributions after the Participant's Death:

(1) Distributions Commencing Prior to Death: If distribution of a Participant's interest has commenced prior to the Participant's death in accordance with Subsection ~~(H)~~ (I) of this Section, the remaining interest of the Participant shall be distributed at least as rapidly as under the method of distribution being used as of the date of his death.

(2) Distributions Commencing After Death: If distribution of a Participant's interest did not commence prior to his death, the entire interest of the Participant shall be distributed within five (5) years after the death of the Participant, provided that a distribution commencing within one (1) year after the Participant's death to or for the benefit of a designated Beneficiary over the longer of the life or the life expectancy of the designated Beneficiary will be treated as having been distributed within such five (5) year period. If the surviving spouse of the Participant is the designated Beneficiary, distribution is not required to commence until the date on which the Participant would have attained the age of seventy and one-half (70-1/2) and, if distribution had not commenced as of the date of death of such surviving spouse, the provisions of this paragraph shall be applied as if such spouse were the Participant.

(3) Beneficiaries: If a Participant should die after receiving some part, but not all, of his account, the remaining balance thereof shall be distributed to his Beneficiary in a manner determined pursuant to this Subsection. If the Beneficiary of the Participant should die, cease to exist, or disclaim his interest prior to the completion of distribution of the Participant's interest, the remaining distribution shall be made to the contingent Beneficiary designated by the Participant, if any. If any contingent Beneficiary should die or disclaim his interest, distribution of the remainder of the Participant's interest shall be distributed in a manner determined pursuant to this Subsection to the recipient determined pursuant to Section 14-1-6.

(4) ~~RMSA Distributions after Death:~~

~~(a) Should a Participant with a balance in the retirement medical savings account (RMSA) die prior to exhausting the balance in the RMSA, the account may be used for the benefit of the Participant's spouse and dependents under the terms of section 14-1-7(c)(4).~~

~~(b) Should a Participant with a balance in the retirement medical savings account die prior to exhausting the balance in the RMSA and without a spouse or dependent, the Participant's designated beneficiary, if any named, shall be eligible to receive the remaining benefits.~~

DISTRIBUTION TO IRA OF NONSPOUSE BENEFICIARY: A PARTICIPANT'S NONSPOUSE BENEFICIARY MAY ELECT PAYMENT OF ANY PORTION OF THE DECEASED PARTICIPANT'S ACCOUNT IN A DIRECT TRUSTEE TO TRUSTEE TRANSFER TO AN INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY DESCRIBED IN SECTION 402(C)(8)(B)(I) OR (II) OF THE CODE THAT IS ESTABLISHED TO RECEIVE THE PLAN DISTRIBUTION ON BEHALF OF THE BENEFICIARY. FOR PURPOSES OF THIS SECTION, A TRUST MAINTAINED FOR THE BENEFIT OF ONE OR MORE DESIGNATED BENEFICIARIES MAY BE THE BENEFICIARY TO THE EXTENT PROVIDED IN RULES PRESCRIBED BY THE SECRETARY OF TREASURY. IF THE PARTICIPANT DIES AFTER THE PARTICIPANT'S REQUIRED BEGINNING DATE AS DEFINED IN SECTION 14-1-7(F), THE REQUIRED MINIMUM DISTRIBUTION IN THE YEAR OF DEATH MAY NOT BE TRANSFERRED ACCORDING TO THIS SECTION. THE REQUIREMENTS OF SECTION 402(C)(11) OF THE CODE APPLY TO DISTRIBUTIONS UNDER THIS SECTION.

(L) PAYMENT FOR QUALIFIED HEALTH INSURANCE PREMIUMS: A PARTICIPANT WHO HAS SEPARATED FROM SERVICE AS A PUBLIC SAFETY OFFICER WITH THE CITY DUE TO DISABILITY OR ATTAINMENT OF NORMAL RETIREMENT AGE MAY ELECT TO HAVE AMOUNTS NOT YET PAID FROM THE PLAN PAID DIRECTLY TO A PROVIDER OF AN

ACCIDENT OR HEALTH INSURANCE PLAN OR A QUALIFIED LONG TERM INSURANCE CONTRACT TO COVER THE COST OF UP TO \$3,000 PER YEAR OF "QUALIFIED HEALTH INSURANCE PREMIUMS" FOR THE PARTICIPANT AND THE PARTICIPANT'S SPOUSE AND DEPENDENTS, IN ACCORDANCE WITH SECTION 402(L) OF THE CODE. THE REQUIREMENTS OF SECTION 402(L) OF THE CODE APPLY TO PAYMENTS UNDER THIS SECTION.

Section 5. Section 14-2-2, W.M.C., is hereby amended BY THE ADDITION OF NEW SUBSECTIONS (G) and (J) to read as follows AND ALL OTHER SUBSECTIONS TO BE RE-LETTERED ACCORDINGLY:

**14-2-2: DEFINITIONS:** When used herein, the following words shall have the following meanings unless the context clearly indicates otherwise and further provided that the masculine gender shall include the feminine, and the singular shall include the plural.

(G) "CURRENT ANNUAL BASE SALARY" COMPENSATION ANNUALIZED FOR THE CURRENT CALENDAR YEAR.

(J) "HIGHEST ANNUAL BASE SALARY" THE LARGEST AMOUNT OF COMPENSATION AS CALCULATED FOR ANY CALENDAR YEAR OF EMPLOYMENT.

Section 6. Section 14-2-4, subsections (B)(2) and (C), W.M.C., are hereby AMENDED to read as follows:

**14-2-4: CONTRIBUTIONS BY THE CITY AND PARTICIPANTS:**

(B) Contributions by Contributing Participants.

(2) Voluntary Contributions::

(a) Subject to the provisions of Section 14-2-5(B), each Contributing Participant may elect to contribute to the Trust Fund an amount ~~not to exceed ten percent (10%) of his compensation for each pay period in addition to~~ THAT WHEN COMBINED WITH the mandatory contributions required in paragraph (1) of this Subsection DOES NOT EXCEED THE AMOUNT DESCRIBED IN SECTION 14-2-5 (B)(1).

(b) The amount, if any, which a Contributing Participant voluntarily contributes to the Trust Fund ~~may vary from year to year and may~~ MUST be contributed through payroll deductions ~~or in one lump sum, annually, or both, provided that a lump sum contribution for any year must be paid directly by the Contributing Participant instead of through a payroll deduction.~~ A contributing Participant may have the option of increasing, decreasing, or terminating his voluntary contribution at any time. No Participant shall have any obligation to make any voluntary contribution.

(c) For purposes of this Section, amounts representing the Participant's interest in another qualified pension plan transferred in accordance with Section 14-2-12(A), shall not be considered voluntary contributions.

(C) Retirement Medical Savings Accounts.

(1) ~~Subject to approval by the Internal Revenue Service,~~ Each Participant shall have the option of designating up to 25% of his or her combined mandatory and City contributions to be used for future medical expenses as provided for in Section 401(h) of the Federal Internal Revenue Service Code. Contributions to the medical savings accounts will not be taxed at separation from service nor upon use for medical purposes after separation from service. The retirement medical savings accounts will be subject to the rules and requirements issued by the City Manager.

(2) Contributions designated for future health benefits under Section 401(h) of the Federal Internal Revenue Service Code as described in Subsection (C)(1) of this Section shall be maintained in separate accounts.

Section 7. Section 14-2-6, subsection (A), W.M.C., is hereby AMENDED to read as follows:

**14-2-6: RETIREMENT DATE; DESIGNATION OF BENEFICIARY:**

(A) Retirement Date.

(1) Normal Retirement: The normal retirement age for each Participant shall be ~~sixty-five (65)~~ SIXTY (60), and on the last day of the month in which his ~~sixty-fifth~~ SIXTIETH birthday occurs, he shall be entitled to retire voluntarily. The City may, if it so desires, continue a Contributing Participant in active service after he has attained his normal retirement age with the consent of such Participant, and at any time thereafter the City may, at its option, retire such Participant or such Participant may voluntarily retire. Until actual retirement, a Contributing Participant shall continue to participate in the Plan.

~~(2) Early Retirement: Any Contributing Participant who will attain the age of fifty-five (55) during the year may elect to retire earlier than the normal retirement age.~~

Section 8. Section 14-2-7, subsections (E) through (J), W.M.C., are hereby AMENDED to read as follows:

**14-2-7: DISTRIBUTION FROM TRUST FUND:**

(E) WITHDRAWALS WHILE EMPLOYED: A PARTICIPANT WHO HAS ATTAINED AGE SIXTY-TWO (62) MAY ELECT TO BEGIN DISTRIBUTIONS FROM THE TRUST FUND ACCORDING TO THE RULES DESCRIBED IN THIS SECTION 14-1-7 IF THE PARTICIPANT'S CURRENT ANNUAL BASE SALARY AT THE TIME OF ELECTION IS AT LEAST TWENTY-FIVE PERCENT (25%) LESS THAN THE PARTICIPANT'S HIGHEST ANNUAL BASE SALARY.

~~(F)~~(F) Required Distribution Commencement Date. Distribution of a Participant's interest must begin no later than the April 1 of the calendar year following the later of the year the Participant attains the age of seventy and one half (70 1/2) or the year the Participant retires.

~~(G)~~(G) Spendthrift Provisions.

(1) General Rule. Except as otherwise provided in this Chapter, all amounts payable pursuant to this Chapter by the Trustee shall be paid only to the person or persons entitled thereto, and all such payments shall be paid directly into the hands of such person or persons and not into the hands of any other person or corporation whatsoever, and such payments shall not be liable for the debts, contracts or engagements of any such person or persons, or taken in execution by attachment or garnishment or by any other legal or equitable proceedings; nor shall any such person or persons have any right to alienate, anticipate, commute, pledge, encumber or assign any such payments or the benefits, proceeds or avails thereof.

(2) Qualified Domestic Relations Order. Paragraph (1) of this Subsection shall not apply to the creation, assignment or recognition of a right to any benefit payable with respect to a Participant or alternate payee pursuant to a qualified domestic relations order setting forth the agreement of the parties with respect to the division of benefits pursuant to Colorado Revised Statutes, Section 14-10-113. A lump sum distribution will be made pursuant to such an order within one hundred twenty (120) days after the date on which a certified court order approving such an agreement permitting such a distribution has been submitted to and received by the Board.

The Board shall establish such reasonable procedures as are necessary to determine the compliance of a domestic relations order with the requirements of Colorado Revised Statutes, Section 14-10-113 and to administer distributions under such qualified order. Such procedures may be at the discretion of the

Board, including standardized forms to be used for such marital agreements and orders. A person who obtains a right to a benefit payable to a Participant pursuant to a qualified domestic relations order shall have no rights to vote in elections held pursuant to this Plan.

~~(G)~~(H) Manner of Distribution. A Participant's interest may be distributed by one or more of the following methods:

(1) Lump Sum Distribution. The Participant's interest may be paid to the Participant or his Beneficiary by the distribution of the total balance of his account in one lump sum. The Participant, or his Beneficiary in the event of the Participant's death, shall have the right to have the distribution made in a lump sum by filing a written election with the trustee within such time as the Board shall prescribe.

(2) Installments. The Participant's interest may be paid to the Participant or his Beneficiary in substantially equal periodic installments over a period of time not to exceed the joint life expectancy of the Participant and his beneficiary (or until the account is exhausted) and not in installment frequency greater than monthly. This maximum period shall be determined under the applicable IRS Tables at the time the initial monthly installment payment becomes payable. The Participant, or his Beneficiary in the event of the Participant's death, shall have the right to have the distribution made in this manner by filing a written elective with the trustee within such time as the Board shall prescribe. In no instance shall any changes in this type of distribution be allowed more than once every six months.

(3) Other Methods. Notwithstanding the foregoing provisions, any interest which has become distributable for any reason, may be distributed at such time or times, in such amount or amounts, and in such manner, as the Board and the recipient of such distribution may mutually determine, including a transfer to another qualified plan or individual retirement account.

~~(H)~~(I) Limitation on Duration of Payments.

(1) No distribution shall be made over a period exceeding the joint life expectancy of the Participant and his beneficiary. To the extent distribution is made after the Participant attains the age of seventy and one-half (70 1/2), if not paid in a lump sum, the distribution must be made in substantially equal periodic installments at least annually over the period prescribed in this Subsection subject to a once yearly change that may accelerate payment at the election of the Participant or Beneficiary. The present value of the benefits payable solely to the Participant under any elected method must exceed fifty percent (50%) of the total benefits payable to the Participant and his Beneficiaries, unless distribution is in the form of a qualified joint and survivor annuity.

(2) NOTWITHSTANDING ANYTHING IN THIS CHAPTER TO THE CONTRARY, ALL DISTRIBUTIONS FROM THE PLAN SHALL CONFORM TO THE FINAL REGULATIONS ISSUED UNDER INTERNAL REVENUE CODE SECTION 401(A)(9), INCLUDING THE INCIDENTAL DEATH BENEFIT PROVISIONS OF INTERNAL REVENUE CODE SECTION 401(A)(9)(G).

~~(I)~~(J) Withdrawals. A Participant may not at any time withdraw any part of his interest in the Trust Fund, except upon death, disability, retirement or termination of service as provided in this Chapter.

~~(J)~~(K) Special Rules for Distributions after the Participant's Death.

(1) Distributions Commencing Prior to Death. If distribution of a Participant's interest has commenced prior to the Participant's death in accordance with subsection ~~(H)~~ (I) of this Section, the remaining interest of the Participant shall be distributed at least as rapidly as under the method of distribution being used as of the date of his death.

(2) Distributions Commencing After Death. If distribution of a Participant's interest did not commence prior to his death, the entire interest of the Participant shall be distributed within five (5) years after the death of the Participant, provided that a distribution commencing within one (1) year after the Participant's death to or for the benefit of a designated Beneficiary over the longer of the life or the life expectancy of the designated Beneficiary will be treated as having been distributed within such five (5)

year period. If the surviving spouse of the Participant is the designated Beneficiary, distribution is not required to commence until the date on which the Participant would have attained the age of seventy and one-half (70-1/2) and, if distribution had not commenced as of the date of death of such surviving spouse, the provisions of this paragraph shall be applied as if such spouse were the Participant.

(3) Beneficiaries. If a Participant should die after receiving some part, but not all, of his account, the remaining balance thereof shall be distributed to his Beneficiary in a manner determined pursuant to this Subsection. If the Beneficiary of the Participant should die, cease to exist, or disclaim his interest prior to the completion of distribution of the Participant's interest, the remaining distribution shall be made to the contingent Beneficiary designated by the Participant, if any. If any contingent Beneficiary should die or disclaim his interest, distribution of the remainder of the Participant's interest shall be distributed in a manner determined pursuant to this Subsection to the recipient determined pursuant to Section 14-2-6.

~~(4) RMSA Distributions after Death:~~

~~(a) Should a Participant with a balance in the retirement medical savings account (RMSA) die prior to exhausting the balance in the RMSA, the account may be used for the benefit of the Participant's spouse and dependents under the terms of section 14-2-7(c)(4).~~

~~(b) Should a Participant with a balance in the retirement medical savings account die prior to exhausting the balance in the RMSA and without a spouse or dependent, the Participant's designated beneficiary, if any named, shall be eligible to receive the remaining benefits.~~

DISTRIBUTION TO IRA OF NONSPOUSE BENEFICIARY: A PARTICIPANT'S NONSPOUSE BENEFICIARY MAY ELECT PAYMENT OF ANY PORTION OF THE DECEASED PARTICIPANT'S ACCOUNT IN A DIRECT TRUSTEE TO TRUSTEE TRANSFER TO AN INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY DESCRIBED IN SECTION 402(C)(8)(B)(I) OR (II) OF THE CODE THAT IS ESTABLISHED TO RECEIVE THE PLAN DISTRIBUTION ON BEHALF OF THE BENEFICIARY. FOR PURPOSES OF THIS SECTION, A TRUST MAINTAINED FOR THE BENEFIT OF ONE OR MORE DESIGNATED BENEFICIARIES MAY BE THE BENEFICIARY TO THE EXTENT PROVIDED IN RULES PRESCRIBED BY THE SECRETARY OF TREASURY. IF THE PARTICIPANT DIES AFTER THE PARTICIPANT'S REQUIRED BEGINNING DATE AS DEFINED IN SECTION 14-2-7(F), THE REQUIRED MINIMUM DISTRIBUTION IN THE YEAR OF DEATH MAY NOT BE TRANSFERRED ACCORDING TO THIS SECTION. THE REQUIREMENTS OF SECTION 402(C)(11) OF THE CODE APPLY TO DISTRIBUTIONS UNDER THIS SECTION.

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

Section 10. 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 25<sup>th</sup> day of June, 2007.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 9<sup>th</sup> day of July, 2007.

\_\_\_\_\_  
Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

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

\_\_\_\_\_  
City Attorney



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
July 9, 2007



**SUBJECT:** Second Reading of Councillor's Bill No. 33 re Appropriation of FY2006 Carryover Funds into FY2007

**Prepared By:** Steve Smithers, Assistant City Manager  
Aric Otzelberger, Management Analyst

**Recommended City Council Action**

Pass Councillor's Bill No. 33 on second reading, appropriating FY2006 carryover funds into the FY2007 budgets of the General, General Capital Outlay Replacement, General Capital Improvement, Utility, Storm Drainage, and Open Space Fleet, Sales and Use Tax, and Conservation Trust Funds.

**Summary Statement**

- The City Council annually reviews and appropriates carryover funds from the previous year's budget into the current year budget for the following:
  - those items and services included in the previous year's budget but not received or provided until the current year's budget;
  - new items and services not included in the previous year's budget and funds were identified as available for these new priorities in late 2006, but the items or services were not received or provided until the current year's budget;
  - existing or new capital projects and key operating priorities for which funds are needed and carryover funds are available.
- The total proposed carryover appropriation is \$37,080,916 and comes from unrestricted revenues and unexpended 2006 funds in the various amounts identified.
- Given the continuing challenge the City faces with Sales and Use Tax revenue collections, Staff is recommending leaving \$1.4 million of 2006 carryover funds in the Sales and Use tax fund to protect against any potential shortfall in 2007.
- This Councillor's Bill was passed on first reading on June 25, 2007.

**Expenditure Required:** \$37,080,916

**Source of Funds:** General, General Capital Improvement, General Capital Outlay Replacement, Utility, Storm Drainage, Open Space, Fleet, Sales and Use Tax and Conservation Trust Funds

Respectfully submitted,

Stephen P. Smithers  
Assistant City Manager

BY AUTHORITY

ORDINANCE NO. **3361**

COUNCILLOR'S BILL NO. **33**

SERIES OF 2007

INTRODUCED BY COUNCILLORS  
**Major – Kaiser**

**A BILL**

**FOR AN ORDINANCE INCREASING THE 2007 BUDGET OF THE GENERAL, UTILITY, STORM DRAINAGE, FLEET, GENERAL CAPITAL OUTLAY REPLACEMENT, SALES & USE TAX, PARKS OPEN SPACE, CONSERVATION TRUST, AND GENERAL CAPITAL IMPROVEMENT FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2007 ESTIMATED REVENUES IN THIS FUND**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2007 appropriation for the General, Utility, Storm Drainage, Fleet, General Capital Outlay Replacement, Sales & Use Tax, Parks Open Space, Conservation Trust, and General Capital Improvement Fund, initially appropriated by Ordinance No. 3316 is hereby increased by \$37,080,916. This appropriation is due to the appropriation of 2006 carryover.

Section 2. The \$37,080,916 increase in the General, Utility, Storm Drainage, Fleet, General Capital Outlay Replacement, Sales & Use Tax, Parks Open Space, Conservation Trust, and General Capital Improvement Fund shall be allocated to City revenue and expense accounts as described in the City Council Agenda Item 10E dated June 25, 2007 (a copy of which may be obtained from the City Clerk) increasing City fund budgets as follows:

General Fund	\$7,859,356
Utility Fund	13,288,268
Storm Drainage Fund	443,140
Fleet Fund	284,321
General Capital Outlay Replacement Fund	689,724
Sales & Use Tax Fund	1,741,700
Parks Open Space Fund	1,092,269
Conservation Trust Fund	363,198
General Capital Improvement	<u>11,318,940</u>
Total	<u>\$37,080,916</u>

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

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 25<sup>th</sup> day of June, 2007.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 9<sup>th</sup> day of July, 2007.

ATTEST:

\_\_\_\_\_  
Mayor

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



**WESTMINSTER  
COLORADO**

**Agenda Memorandum**

City Council Meeting  
July 9, 2007



**SUBJECT:** Councillor's Bill No. 34 re Westminster Sports Center Supplemental Appropriation

**Prepared By:** Peggy Bocard, Recreation Services Manager

**Recommended City Council Action**

Pass Councillor's Bill No. 34 on second reading approving the supplemental appropriation in the amount of \$55,000 to fund the 2007 operating expenses for the Westminster Sports Center.

**Summary Statement**

- This Councillor's Bill was passed on first reading on June 25, 2007.
- The expense for this appropriation will be paid for from revenues projected from programs at the Sports Center and other recreation program surplus revenues.
- On May 21, 2007, Colorado Soccer vacated the premises and the facility was turned over to the City of Westminster.
- As the dasher boards, field turf, lights, etc., were all owned by the lessee, the facility will be closed for several months so that Staff can replace the items previously owned by Colorado Soccer. The target date to reopen the facility is late October 2007, which will allow league play to begin in November.
- Included in this budget is a new, temporary 1.0 Recreation Aide position for 2007. This position will be brought forward to Council as a 2008 budget request. Funding for the new Recreation Aide will be covered entirely from the revenues at this center. The remainder of the salaried staffing costs will be absorbed by transferring existing program Staff to operate the facility.

**Expenditure Required:** \$ 55,000

**Source of Funds:** General Fund - Recreation Programs Revenue

Respectfully submitted,

Stephen P. Smithers  
Assistant City Manager

Attachment

BY AUTHORITY

ORDINANCE NO. **3362**

COUNCILLOR'S BILL NO. **34**

SERIES OF 2007

INTRODUCED BY COUNCILLORS  
**Kaiser - Dittman**

**A BILL  
FOR AN ORDINANCE INCREASING THE 2007 BUDGET OF THE GENERAL FUND AND  
AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2007 ESTIMATED  
REVENUES IN THIS FUND.**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2007 appropriation for the General Fund, initially appropriated by Ordinance No. 3316 is hereby increased by \$55,000. This appropriation is due to the City directly operating the Sports Center.

Section 2. The \$55,000 increase in the General Fund shall be allocated to City revenue and expense accounts as described in the City Council Agenda Item 10E, dated , June 25, 2007, (a copy of which may be obtained from the City Clerk) increasing City fund budgets as follows:

General Fund	<u>\$55,000</u>
Total	<u>\$55,000</u>

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

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 25<sup>th</sup> day of June, 2007.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 9<sup>th</sup> day of July, 2007.

ATTEST:

\_\_\_\_\_  
Mayor

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



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
July 9, 2007



**SUBJECT:** Second Reading of Councillor's Bill No. 35 re 2007 CDBG Fund Appropriation

**Prepared By:** Vicky Bunsen, Community Development Programs Coordinator

**Recommended City Council Action**

Pass Councillor's Bill No. 35 on second reading appropriating 2007 Community Development Block Grant (CDBG) funds in the amount of \$575,303.

**Summary Statement**

- The 2007 CDBG allocation of \$575,303 was designated to fund the 2007 CDBG projects, pursuant to City Council approval on November 27, 2006.
- CDBG funding has been decreasing for four years, from \$696,000 in 2003, to \$575,303 in 2007, a reduction of \$120,697.
- This Councillor's Bill was passed on first reading on June 25, 2007.

**Expenditure Required:** \$575,303

**Source of Funds:** 2007 Community Development Block Grant Funds

Respectfully submitted,

Stephen P. Smithers  
Assistant City Manager

Attachment

BY AUTHORITY

ORDINANCE NO. **3363**

COUNCILLOR'S BILL NO. **35**

SERIES OF 2007

INTRODUCED BY COUNCILLORS  
**Price - Lindsey**

**A BILL  
FOR AN ORDINANCE INCREASING THE 2007 BUDGET OF THE COMMUNITY  
DEVELOPMENT BLOCK GRANT FUND AND AUTHORIZING A SUPPLEMENTAL  
APPROPRIATION FROM THE 2007 ESTIMATED REVENUES IN THIS FUND**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2007 appropriation for the CDBG Fund, initially appropriated by Ordinance No. 3316, is hereby increased by \$575,303. This appropriation is the amount approved by the U.S. Department of Housing and Urban Development (HUD) for the City for 2007.

Section 2. The \$575,303 increase in the CDBG Fund shall be allocated to City revenue and expense accounts as described in the City Council Agenda Item 10 F dated June 25, 2007 (a copy of which may be obtained from the City Clerk) increasing City fund budgets as follows:

CDBG Fund	<u>\$575,303</u>
Total	<u>\$575,303</u>

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

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 25<sup>th</sup> day of June, 2007.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 9<sup>th</sup> day of July, 2007.

ATTEST:

\_\_\_\_\_  
Mayor

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



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
July 9, 2007



**SUBJECT:** Second Reading of Councillor's Bill No. 36 with Amendments re Compensation Package for Public Works and Utilities Director

**Prepared By:** Matt Lutkus, Deputy City Manager

**Recommended City Council Action**

Pass Councillor's Bill No. 36 on second reading as amended providing an exception to Section 1-24-4 of the Westminster Municipal Code related to accrual of General Leave by City employees and amending the City's Pay Plan to provide for a City-paid deferred compensation contribution for the new Public Works and Utilities Director.

**Summary Statement**

- The City Manager recently concluded a recruitment and selection process for the vacant Public Works and Utilities Director position. The position has been filled on an interim basis by former long-term Director Ron Hellbusch since Jim Arndt resigned to accept a position in California in April.
- The City Manager has selected Michael Smith who is currently the Utilities General Manager in Fort Collins, Colorado. Mr. Smith has more than 30 years of utilities-related work in Fort Collins and Colorado Springs.
- In order to provide Mr. Smith with a compensation package that takes into account his current salary and benefits as a department head in Fort Collins, it is necessary to augment the compensation available in the City's salary and benefit package. This exception to the usual practice is justified by the fact that the City will be obtaining an experienced and very capable director to fill this very important position in the City organization.
- The attached Councillor's Bill will provide for a City contribution for deferred compensation totaling \$24,000 paid in 2007, 2008 and 2009. The employer contribution to the City's Pension Plan does not start until the 23<sup>rd</sup> month of employment thereby creating the necessity to contribute equivalent funds to a deferred compensation plan. In addition, the ordinance provides an exception to the City Code that will allow Mr. Smith to accrue General Leave at the rate of 12.58 hours per pay period versus the 8.9 hours per pay period that is normally available to new employees.
- Inadvertently, a previous draft copy of the ordinance was submitted to Council for consideration on first reading. Staff is now asking Council to pass the correct version as amended on second reading. A copy of that proposed ordinance is attached. The previous agenda memorandum accurately described the provisions of the correct ordinance.

**Expenditure Required:** \$7,000 (2007)  
\$8,000 (2008)  
\$9,000 (2009)

**Source of Funds:** Utility Fund - Public Works and Utilities Administration Operating Budget

Respectfully submitted,

Stephen P. Smithers  
Assistant City Manager  
Attachment

BY AUTHORITY

ORDINANCE NO. **3364**

COUNCILLOR'S BILL NO. **36**

SERIES OF 2007

INTRODUCED BY COUNCILLORS  
**Dittman - Major**

**A BILL**

**FOR AN ORDINANCE APPROVING CERTAIN EXCEPTIONS TO THE CITY'S PAY PLAN AND GENERAL LEAVE POLICY IN CONNECTION WITH THE EMPLOYMENT OF MICHAEL SMITH AS THE CITY'S PUBLIC WORKS AND UTILITIES DIRECTOR**

WHEREAS, the City Manager has conducted a selective recruitment for a well-qualified City Public Works and Utilities Director ("Director");

WHEREAS, the City Manager wishes to employ Mr. Michael Smith as the City's new Director;

WHEREAS, Mr. Smith is the current General Manager of Utilities for the City of Fort Collins with a compensation package commensurate with his over 30 years of experience in Public Works and Utilities and his exceptional record with the City of Fort Collins as a member of the City's upper level management team; and

WHEREAS, Council finds that in order to secure Mr. Smith's employment, it is appropriate to approve certain exceptions to the City's Pay Plan and general leave policy that would otherwise apply to less experienced and/or entry level directors.

**NOW, THEREFORE, THE CITY OF WESTMINSTER ORDAINS:**

1. City Council hereby authorizes the City Manager to extend to Mr. Smith an offer of compensation above that provided for in the City's 2007, 2008, and 2009 Pay Plans, subject to the following conditions:

- (a) Mr. Smith's base salary shall be within the pay range for the Director position;
- (b) In addition to Mr. Smith's base salary, Mr. Smith may be paid an annual amount of deferred compensation in a lump sum equal to \$7,000, payable upon the commencement of employment: \$8,000 payable on January 1, 2008, and \$9,000 payable on January 1, 2009; and
- (c) The amounts provided for in subparagraph (b) may be made even if the resulting total compensation in any given year exceeds that provided for in the Pay Plan for that year.

Section 2. For the purposes of determining the rate of accrual for general leave for Mr. Smith, the accrual rate provided for employees with over 20 years of continuous municipal service in Section 1-24-4 (B)(1) of the Westminster Municipal Code shall be used, and other leave benefits identified in other sections of the Code and the City's Personnel Rules and Policies shall be similarly calculated using an over-20-years-of-continuing-service basis.

Section 3. The benefits intended by this ordinance shall be terminated upon the resignation, termination, or other separation from service of Mr. Smith as the City's Public Works & Utilities Director.

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

Section 5. This 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 25th day of June, 2007.

PASSED, ENACTED AS AMENDED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 9<sup>th</sup> day of July, 2007.

\_\_\_\_\_  
Mayor

APPROVED AS TO LEGAL FORM:

ATTEST

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

\_\_\_\_\_  
City Attorney



WESTMINSTER

COLORADO

Agenda Memorandum

Agenda Item 10 A-F

City Council Meeting  
July 9, 2007



**SUBJECT:** Continued Public Hearing and Action for the Richter and Catt Annexation, Comprehensive Land Use Amendment, Church Ranch Crossing Preliminary Development Plan, Church Ranch Crossing Official Development Plan, First Amended Official Development Plan Church Ranch Crossing Mini Storage, and Second Amended Official Development Plan Church Ranch Crossing Lot 6 – Car Wash

**Prepared By:** Patrick Caldwell, Planner II

**Recommended City Council Action**

1. Hold a public hearing.
2. Pass Councillor’s Bill No. 37 as an emergency ordinance annexing the Richter and Catt properties and adjacent Brentwood Way right-of-way, and adjacent railroad right of way to the City of Westminster.
3. Pass Councillor’s Bill No. 38 as an emergency ordinance approving the Comprehensive Land Use Plan (CLUP) amendment for the Church Ranch Crossing properties changing the designation from Northeast Comprehensive Land Use Plan and District Center to Retail Commercial. This recommendation is based on a finding that the proposed amendment will be in the public good and that:
  - a) There is justification for the proposed change and the Plan is in need of revision as proposed; and
  - b) The amendment is in conformance with the overall purpose and intent and the goals and policies of the Plan; and
  - c) The proposed amendment is compatible with existing and planned surrounding land uses; and
  - d) The proposed amendment would not result in excessive detrimental impacts to the City’s existing or planned infrastructure systems.
4. Pass Councillor’s Bill No. 39 as an emergency ordinance approving the rezoning of the Richter and Catt properties and adjacent Brentwood Way, and adjacent railroad right-of-way from Jefferson County A-1 to City of Westminster Planned Unit Development (PUD). This recommendation is based on a finding that the criteria set forth in Section 11-5-14 of the Westminster Municipal Code have been met.
5. Approve the Church Ranch Crossing Preliminary Development Plan (PDP) within the Church Ranch Crossing PUD. This recommendation is based on a finding that the criteria set forth in Section 11-5-14 of the Westminster Municipal Code have been met.
6. Approve the Church Ranch Crossing Official Development Plan (ODP), the First Amended ODP Church Ranch Crossing Mini Storage and the Second Amended ODP Church Ranch Crossing Lot 6 – Car Wash within the Church Ranch Crossing PUD. This recommendation is based on a finding that the criteria set forth in Section 11-5-15 of the Westminster Municipal Code have been met.

**Summary Statement**

- The properties to be annexed are an assemblage of 10.57 acres in unincorporated Jefferson County that includes existing single family homes, public right-of-way and railroad right-of-way.
- 3.24 acres of vacant City owned land that currently are within the Wallace Village PUD, will be combined with the 10.57 acres to be annexed to form the Church Ranch Crossing development.
- The properties, totaling 13.81 acres, are located as shown on the attached vicinity map.
- Commercial and retail uses are proposed for part of the site abutting Church Ranch Boulevard across from the existing Standley Lake Marketplace retail development.
- Mini storage and auto related uses are proposed for part of the site that has frontage on Brentwood Way next to the railroad. A part of the mini storage will have frontage on Church Ranch Boulevard.
- The proposed uses are designed to be compatible with adjacent uses and to preserve some of the existing trees and shrubs at the north part of the site near Church Ranch Boulevard.

**Expenditure Required:** \$ 0

**Source of Funds:** N/A

### **Planning Commission Recommendation**

The Planning Commission reviewed this proposal on June 12, 2007, and voted unanimously (6-0) to recommend that the City Council approve the following:

- 1) The annexation of the Richter and Catt properties and adjacent Brentwood Way right-of-way, and adjacent railroad right of way to the City of Westminster.
- 2) The CLUP amendment from Northeast Comprehensive Land Use Plan and District Center to Retail Commercial; and
- 3) A rezoning of the Richter and Catt properties and adjacent Brentwood Way, and adjacent railroad right-of-way from Jefferson County A-1 to City of Westminster Planned Unit Development (PUD); and
- 4) The approval of the Church Ranch Crossing PDP, Church Ranch Crossing ODP, the First Amended ODP Church Ranch Crossing Mini Storage and the Second Amended ODP Church Ranch Crossing Lot 6 – Car Wash within the Church Ranch Crossing Planned Unit Development, as submitted.

### **Policy Issues**

- 1) Should the City annex the Richter and Catt properties and adjacent Brentwood Way right-of-way, and adjacent railroad right-of-way to the City of Westminster?
- 2) Should the City approve a Comprehensive Land Use Plan amendment for the 10.57 acre Richter and Catt properties and adjacent right-of-way, and 3.24 acres already within the City boundaries changing the designation from Northeast Comprehensive Land Use Plan and District Center to Retail Commercial?
- 3) Should the City approve the rezoning of the Richter and Catt properties and adjacent right-of-way from “Jefferson County A-1” to “City of Westminster Planned Unit Development?”
- 4) Should the City approve the Church Ranch Crossing Preliminary Development Plan within the Church Ranch Crossing Planned Unit Development?
- 5) Should the City approve the Church Ranch Crossing Official Development Plan, the First Amended Official Development Plan Church Ranch Crossing Mini Storage and the Second Amended Official Development Plan Church Ranch Crossing Lot 6 – Car Wash, within the Church Ranch Crossing Planned Unit Development?

### **Alternatives**

- 1) Make a finding that there is no community of interest with the Richter and Catt properties adjacent Brentwood Way right-of-way and adjacent railroad right-of-way, and deny the annexation for the property. This alternative is not recommended by Staff because the annexation of this property would benefit the City by increasing the potential for tax revenue from the retail and commercial uses proposed for the property.
- 2) Deny the Comprehensive Land Use Plan (CLUP) amendment changing the designation from Northeast Comprehensive Land Use Plan and District Center to Retail Commercial or another appropriate designation. This alternative is not recommended by City Staff because the proposed CLUP amendment is in compliance with provisions of City Code.
- 3) Deny the rezoning of the Richter and Catt properties and adjacent right-of-way from Jefferson County A-1 to City of Westminster Planned Unit Development. This alternative is not recommended by City Staff because the proposed rezoning is in compliance with provisions of City Code regarding approval of rezonings.

- 4) Deny the Church Ranch Crossing Preliminary Development Plan within the Church Ranch Crossing Planned Unit Development. This alternative is not recommended by City Staff because the proposed Preliminary Development Plan is in compliance with provisions of City Code regarding approval of Preliminary Development Plans.
- 5) Deny the Church Ranch Crossing Official Development Plan, the First Amended Official Development Plan Church Ranch Crossing Mini Storage and the Second Amended Official Development Plan Church Ranch Crossing Lot 6 – Car Wash within the Church Ranch Crossing Planned Unit Development. This alternative is not recommended by City Staff because the proposed Official Development Plans are in compliance with provisions of City Code regarding approval of Official Development Plans and the intent of Westminster’s Commercial Design Guidelines.

## **Background Information**

### Nature of Request

The applicant is assembling several adjacent parcels totaling 13.81 acres for the proposed retail and commercial development. Several of the parcels totaling 10.57 acres (including public right-of-way and railroad right-of-way) are currently in unincorporated Jefferson County and would be annexed. The remaining 3.24 acres are in the City and in the Wallace Village PUD. The 3.24 acres will be removed from the Wallace Village PUD, contingent upon it being incorporated into the Church Ranch Crossing PUD. The request requires annexation approval as well as CLUP, PDP and ODP amendments.

### Location

The site is located generally south and east of Church Ranch Boulevard, east of Dover Street, north of 100<sup>th</sup> Avenue, south of a portion of the Mandalay Ditch and north and west of a portion of Brentwood Way and the right-of-way of the Burlington Northern Santa Fe railroad right-of-way. (Please see attached vicinity map).

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

1. The proposed amendment must, “Demonstrate that there is justification for the proposed change, and that the Plan is in need of revision as proposed.” Gasoline sales are available, but auto service retail and mini storage uses are not allowed in the Standley Lake District Center. The CLUP change from District Center to retail commercial on 3.24 acres, plus retail commercial uses on the 10.57 acres being annexed will allow general auto repair and similar uses and mini storage uses to be available to the residents in that part of the City.
2. The proposed amendment must, “Be in conformance with the overall purpose, intent, goals, and policies of the Plan.” Applicable goals are stated in Section III of the Community Goals and Policies section of the Plan. They include:
  - Goal A1 – “Growth will occur in a manner that balances the pace of development with the City’s ability to provide quality services and capital improvements.”
  - Policy A1a – “Annexation of County enclaves and adjoining lands will be considered on a case-by-case basis, taking into consideration the fiscal, social, and land use factors.”
  - Goal D1 – “Preserve, maintain, and improve a variety of shopping facilities offering all necessary goods and services to community residents and businesses.”
  - Policy D1a – “Necessary goods and services will continue to be made available within the City.”

- Policy D1b – “Emphasis will be placed on enhancing the quality and diversity of retail and office commercial developments in a manner that makes a positive contribution to the City image and business environment.”
- Goal J2 – “Strengthen Westminster’s identity and livability through thoughtful design and enhancement of the community’s civic, public places, and landscaping.”
- Policy J2b – “Continue to develop enhanced landscape improvements along arterial streets.”
- Policy J2c – “Encourage the placement of public art where appropriate.”
- Goal K1a – “coordinate with other communities and agencies in the region to plan for growth and transportation in the region.”
- Policy K1c – “The City will cooperate with surrounding communities for sound regional planning and development, including Jefferson County (Northeast Comprehensive Development Plan) and Thornton (I-25 Corridor Study).”

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

3. The proposal must, “Be compatible with existing and surrounding land uses.” The proposed retail uses will be compatible with the retail uses located west of Dover Street and northwest of Church Ranch Boulevard. The mini storage and auto repair areas of the site front on Brentwood Way next to the railroad right-of-way. The part of the mini storage site that has frontage on Church Ranch Boulevard will have the office/residence and a large stand of existing trees and shrubs to provide a buffer along Church Ranch Boulevard and the Standley Lake Marketplace shopping center across Church Ranch Boulevard.
4. The proposal must, “Not result in detrimental impacts to the City’s existing or planned infrastructure or provide measures to mitigate such impacts to the satisfaction of the City.” While the development will have impacts, all have been mitigated to the satisfaction of City Staff. The existing water and sewer lines are sized to handle the proposed development. An existing sanitary sewer line will be relocated by the developer to accommodate this development. A detention pond will be constructed for storm water runoff and water quality. A new deceleration lane on Church Ranch Boulevard will provide right in/right out access to the site from Church Ranch Boulevard. All other right-of-way has been previously dedicated to the City. Upgrades to 100<sup>th</sup> Avenue include a short stretch of curb, gutter and sidewalk on the north side and curb and gutter on the south side. For Brentwood Way improvements include wider paved surface, curb and gutter, and sidewalk on the development side (northwest side) of the project.

#### Public Notification

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

- Published Notice: The Colorado Revised Statutes 31-12-108 require that notice of any annexation be provided at least 30 days prior to the City Council hearing. For the City Council, hearing notice was published in the Westminster Window on June 7, 2007, and in three subsequent weekly editions thereafter.
- Notice of public hearings scheduled before Planning Commission shall be published and posted at least 10 days prior to such hearing and at least four days prior to City Council public hearings. This notice was published in the Westminster Window on May 31, 2007.
- Property Posting: Notice of public hearings shall be posted on the property with one sign in a location reasonably visible to vehicular and pedestrian traffic passing adjacent to the site. Two signs were posted on the property on May 31, 2007.
- Written Notice: At least 10 days prior to the date of the public hearing, the applicant shall mail individual notices by first-class mail to property owners and homeowner’s associations registered with the City which fall within 300 feet of the subject property. The applicant has provided the Planning Manager with a certification that the required notices were mailed on May 31, 2007.

Applicant/Property Owner

Applicant representing all property owners:

Tim Hadjis

John Rosen

Church Ranch Crossing, LLC

P.O. Box 261850

Littleton, Colorado 80136

City of Westminster

4800 W. 92<sup>nd</sup> Avenue

Westminster, Colorado 80031

Surrounding Land Use and Comprehensive Land Use Plan Designations

<b>Development Name</b>	<b>Zoning</b>	<b>CLUP Designation</b>	<b>Use</b>
North: Dry Creek Animal Hospital	PUD	Retail/Commercial	Veterinary Office
Southeast: Unincorporated Jefferson County	----	Northeast Comprehensive Land Use Plan	Rural residential
South: 2 <sup>nd</sup> Amendment Westbrook Subdivision	PUD	District Center	Vacant Land South of 100 <sup>th</sup> Avenue
West: 2 <sup>nd</sup> Amendment Westbrook Subdivision (Colonnades)	PUD	District Center	Retail/Commercial West of Dover Street
Northwest: 2 <sup>nd</sup> Amendment Wallace Village (Standley Lake Marketplace)	PUD	District Center	Retail/Commercial

Site Plan Information

The following site plan information provides a few examples of how the proposals comply with the City’s land development regulations and guidelines. The criteria is contained in Section 11-5-14 and 11-5-15 of the Westminster Municipal Code (attached).

- **Traffic and Transportation:** There are four access points to the site. Church Ranch Boulevard is an arterial street with 550 feet of frontage along the site. A right-in/right-out access for eastbound traffic with a new deceleration lane is proposed. The other three access points are from the local streets: 100<sup>th</sup> Avenue at the south, and Brentwood Way at the southeast side of the site. These three access points are full turn accesses. The site has frontage on Dover Street, but no direct access will be allowed there. Dover Street is a signalized full turn intersection at Church Ranch Boulevard and this development will pay a recovery on one fourth of the cost of the signal.
- **Site Design:** The site is organized with the auto repair and mini storage uses along the Brentwood Way frontage. The retail area and a portion of the mini storage will have frontage on Church Ranch Boulevard. A drive connecting Brentwood Way and Church Ranch Boulevard has been designated as the primary internal access. A 10 foot wide landscape area will be provided on both sides of this drive. The retail uses are proposed on one side of the drive with the auto repair and mini storage located on the other side of this drive. A publicly accessible tract at the western side of the site near Dover Street has been designed with a small plaza for public art. The mini storage site has been designed with one story buildings at the perimeter to provide screening of the interior of the mini storage site. Six foot high brick walls will provide screening along the perimeter where there are breaks between the buildings.

The mini storage will have an internal access from the primary internal drive. The office for the mini storage is near the entrance and customer parking is available at this location. Access to the internal area of the mini storage site is restricted and gates are operated by the site manager. After-hours access to the site is provided to both Police and Fire Departments through a Knox Box key system at the main entrance gates and to the service entrance at Brentwood Way. The car wash is located at the corner of 100<sup>th</sup> Avenue and Brentwood Way and has direct access to both streets. The bays of the car wash are oriented perpendicular to the retail lots that front Church Ranch Boulevard. The car wash lot is landscaped on three sides that includes both street frontages and along the primary internal drive.

- **Landscape Design:** The street frontages of the site will be planted with trees and ground covers on the Church Ranch Boulevard side of the mini storage. There is a large stand of deciduous and evergreen trees and shrubs, many of which will be preserved in their existing condition. These trees will provide some landscape continuity for the Church Ranch Boulevard frontage to the east where a part of the existing Mandalay Ditch and the veterinary clinic project have preserved a more natural, less manicured landscape design. The public art tract at the west part of the site will be heavily landscaped and will include some seating and trellis features. The primary internal access drive will have a 10 foot wide landscape area on each side.
- **Public Land Dedication/School Land Dedication:** The residential unit proposed for this development is an accessory to the office for the mini storage and is not considered a use that would be required to dedicate land or cash-in-lieu for parks or schools. A church parsonage or a motel manager's unit are similar uses.
- **Parks/Trails/Open Space:** There are no parks, trails or open space adjacent to this site and therefore no dedications or improvements are required.
- **Architecture/Building Materials:** The proposed building materials for all buildings in the development will include tile roofs, brick, concrete masonry units (cmu) and beige and light brown stucco colors that are similar in color to that used at other locations in the Standley Lake District Center. Standing seam metal roofs will be allowed as accent roofs or as porticos. A tower element similar in design to the mini storage and car wash tower design will be required on each building to maintain a unity of design within the development. The proposed car wash will utilize these materials and this design theme. The one story mini storage buildings at the perimeter of the site will have exterior walls of brick, stucco and decorative cmu. The roof of these edge buildings will be tile to match the other buildings in the center. Six feet high brick screen walls will span the distance between the edge buildings. The mini storage will have one building that is three stories in height in the interior of the site. This building will use a brick pattern stucco on the upper two stories to reduce the exterior wall loads above the storage doors that are on the first floor. The brick will be colored to match the brick used elsewhere on the site.
- **Signage:** For sites less than 10 acres the City Code allows one monument sign, setback 25 feet from the property line, eight feet in height and a maximum of 60 square feet in area. The development will have two monument signs on Church Ranch Boulevard. The signs are proposed to be 15 feet from the property line, ten feet in height and 100 square feet in area because of: 1) the restricted access to the site from the arterial, 2) the curve of the arterial and 3) the grade change that combine to impact the visibility into the site from Church Ranch Boulevard. All wall signage is consistent with the City Code.
- **Lighting:** The lighting in the development will be of a consistent design. Exterior pole lights will be the same color and design for all locations.

Service Commitment Category

Service Commitments shall be allocated to this site from Category C for non residential developments. The exact number of commitments required will be calculated by Staff at the time of building permit approval.

Referral Agency Responses

A copy of the proposed plans was sent to the following agencies: Xcel Energy, Jefferson County Planning, and the Mandalay Irrigation Company. Staff received responses from the Jefferson County Planning Division, and their concerns regarding the rezoning and the screening have been addressed on the ODP.

Neighborhood Meeting and Public Comments

A neighborhood meeting was held on March 8, 2007. The owner of a nearby retail building attended and stated her support for this proposed development.

Emergency Ordinance

The originally scheduled adoption of these ordinances was delayed as a result of a mis-publication of notice. The applicants would be unduly delayed if the annexation, CLUP amendment and rezoning could not be completed as originally scheduled. Renegotiation of purchase and sale agreements with all of the parties would be required. Therefore, an “emergency” ordinance has been drafted for the annexation, the CLUP and the rezoning. An “emergency” ordinance eliminates the need for a second reading.

Respectfully submitted,

Stephen P. Smithers  
Acting City Manager

Attachments

- Vicinity Map
- Annexation Ordinance
- CLUP Ordinance
- Exhibit A (Legal Description of parcel in the City)
- Exhibit B (Legal Description of annexed parcel)
- Exhibit C (CLUP Map)
- Zoning Ordinance
- Exhibit A (Rezoning)
- Exhibit B (Zoning Map)
- Criteria and Standards for Land Use Applications
- Annexation Plat
- Church Ranch Crossing Preliminary Development Plan
- Church Ranch Crossing Official Development Plan
- First Amended Official Development Plan Church Ranch Crossing Mini Storage
- Second Amended Official Development Plan Church Ranch Crossing Lot 6 – Car Wash

BY AUTHORITY

ORDINANCE NO. **3365**

COUNCILLOR'S BILL NO. **37**

SERIES OF 2007

INTRODUCED BY COUNCILLORS  
**Dittman - Major**

**A BILL  
FOR AN ORDINANCE ANNEXING A PARCEL OF LAND LOCATED IN SECTION 14,  
TOWNSHIP 2 SOUTH, RANGE 69 WEST, 6TH P.M., JEFFERSON COUNTY, COLORADO**

WHEREAS, pursuant to the laws of the State of Colorado, there was presented to the Council of the City of Westminster a petition for annexation to the City of Westminster by the owners of more than fifty percent of the hereinafter-described contiguous, unincorporated area, exclusive of public streets and alleys, being in the County of Jefferson, State of Colorado; 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. 20, Series of 2007 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 City Council has satisfied itself that the proposed annexation conforms with the Comprehensive Land Use Plan 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 situated, lying and being in the County of Jefferson, State of Colorado, to wit:

Richter and Catt annexation

A PORTION OF THE NW 1/4, SECTION 14, T. 2 S., R. 69 W., 6TH P.M., JEFFERSON COUNTY, COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE WEST 1/4 CORNER, SECTION 14;

THENCE N0°17'00"W ALONG THE WEST LINE, SAID NW 1/4, A DISTANCE OF 581.78 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF CHURCH RANCH BOULEVARD;

THENCE N39°54'53"E ALONG SAID SOUTH LINE, 155.64 FEET TO THE CENTERLINE OF THE MEANDERING DITCH AS RECORDED AT SAID COUNTY IN BOOK 1060, PAGE 380;

THENCE ALONG SAID CENTERLINE THROUGH THE FOLLOWING FOUR COURSES:

1) S83°17'00"E, 24.91 FEET;

2) S72°08'00"E, 88.80 FEET;

3) S87°36'00"E, 295.50 FEET;

4) N74°43'00"E, 108.84 FEET TO THE WEST RIGHT-OF-WAY LINE OF BRENTWOOD WAY;

THENCE N40°35'37"E ALONG SAID WEST LINE, 185.81 FEET TO THE NORTH RIGHT-OF-WAY LINE OF BRENTWOOD WAY;

THENCE S87°22'49"E ALONG SAID NORTH LINE, 38.06 FEET TO THE WEST RIGHT-OF-WAY LINE OF ZEPHYR STREET;

THENCE N40°35'37"E ALONG LAST SAID WEST LINE, 258.10 FEET;

THENCE S49°11'37"E, 180.00 FEET TO THE EAST RIGHT-OF-WAY LINE OF THE COLORADO AND SOUTHERN RAILROAD RIGHT-OF-WAY;

THENCE S40°35'37"W ALONG SAID EAST LINE, 1168.56 FEET;

THENCE N89°34'16"W, 196.29 FEET TO THE EAST RIGHT-OF-WAY LINE OF BRENTWOOD WAY;

THENCE S40°35'37"W ALONG LAST SAID EAST LINE, 26.17 FEET TO THE SOUTH LINE.

NW 1/4, SECTION 14;

THENCE N89°34'16"W ALONG LAST SAID SOUTH LINE, 95.92 FEET TO THE POINT OF BEGINNING.

Consisting of approximately 10.57 acres.

Section 2. As the originally scheduled adoption of this ordinance was delayed as a result of a mis-publication of notice and the applicants would be unduly prejudiced if the annexation could not be completed as originally scheduled, an emergency is declared to exist, and this ordinance is declared to be necessary for the immediate preservation of the public peace, health and safety. Wherefore, this ordinance shall be in full force and effect upon adoption of this ordinance on July 9, 2007, by an affirmative vote of six of the members of the Council if six or seven members of the Council are present at the meeting at which this ordinance is presented, or by an affirmative vote of four of the members of the Council if four or five members of the Council are present at the meeting at which this ordinance is presented and the signature on this ordinance by the Mayor or the Mayor Pro Tem.

Section 3: This ordinance shall be published in full within ten (10) days after its enactment.

INTRODUCED, READ IN FULL AND PASSED AND ADOPTED AS AN EMERGENCY ORDINANCE this 9th day of July, 2007.

ATTEST:

\_\_\_\_\_  
Mayor

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

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
City Attorney's Office

BY AUTHORITY

ORDINANCE NO. **3366**

COUNCILLOR'S BILL NO. **38**

SERIES OF 2007

INTRODUCED BY COUNCILLORS  
**Dittman - Lindsey**

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

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council finds:

a. That an application for an amendment to the Westminster Comprehensive Land Use Plan has been submitted to the City for its approval pursuant to W.M.C. §11-4-16(D), by the owner(s) of the properties described in attached Exhibits A and B, incorporated herein by reference, requesting a change in the land use designations from "Northeast Comprehensive Land Use Plan" and "District Center" to "Retail Commercial" for the 13.81 acres generally east of Dover Street and north of 100<sup>th</sup> Avenue and south of a portion of the Mandalay Ditch and southeast of Church Ranch Boulevard, a portion of the Brentwood Way right of way and a portion of the Burlington Northern right of way and a portion of Zephyr Street adjacent thereto.

b. That such application has been referred to the Planning Commission, which body held a public hearing thereon on June 12, 2007, after notice complying with W.M.C. §11-4-16(B) and has recommended approval of the requested amendments.

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

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

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

Section 2. The City Council approves the requested amendments and authorizes City Staff to make the necessary changes to the map and text of the Westminster Comprehensive Land Use Plan to change the designation of the properties more particularly described on attached Exhibits A and B: to "Retail Commercial", as depicted on the map attached as Exhibit C.

Section 3. Severability: If any section, paragraph, clause, word or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part deemed unenforceable shall not affect any of the remaining provisions.

Section 4. As the originally scheduled adoption of this ordinance was delayed as a result of a mis-publication of notice and the applicants would be unduly prejudiced if this approval could not be completed as originally scheduled, an emergency is declared to exist, and this ordinance is declared to be necessary for the immediate preservation of the public peace, health and safety. Wherefore, this ordinance shall be in full force and effect upon adoption of this ordinance on July 9, 2007, by an affirmative vote of six of the members of the Council if six or seven members of the Council are present at the meeting at which this ordinance is presented, or by an affirmative vote of four of the members of

the Council if four or five members of the Council are present at the meeting at which this ordinance is presented and the signature on this ordinance by the Mayor or the Mayor Pro Tem.

Section 5: This ordinance shall be published in full within ten (10) days after its enactment.

INTRODUCED, READ IN FULL AND PASSED AND ADOPTED AS AN EMERGENCY ORDINANCE this 9th day of July, 2007.

ATTEST:

\_\_\_\_\_  
Mayor

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

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
City Attorney's Office

Exhibit A  
(Description of Parcel in the City)

See Exhibit A – A portion of Tract 75, Mandalay Gardens, and a parcel of land located in the Northeast ¼ of Section 15, Township 2 South, Range 69 West of the 6<sup>th</sup> P.M., County of Jefferson, State of Colorado.

A parcel of land located in the Northeast ¼ Section 15, Township 2 South, Range 69 West of the Sixth Principal Meridian, County of Jefferson, State of Colorado, more particularly described as follows:

Commencing at the Southeast corner of the Northeast ¼ of said Section 15, whence the center section thereof bears North 89°34'16" West, a distance of 2615.38 feet;

Thence North 00°17'00" West along the East line of the Northeast ¼ of said Section 15, a distance of 30.00 feet to a point on the North line of West 100<sup>th</sup> Avenue, being the point of beginning;

Thence North 89°34'16" West along said North line, a distance of 531.00 feet to the Southerly corner of said Tract 75, Mandalay Gardens;

Thence continuing North 89°34'16" West along the South line of said Tract 75, Mandalay Gardens, a distance of 9.87 feet to the Southeast corner of Church Ranch Boulevard as recorded at Reception No. F0534405;

Thence North 27°57'21" West along the right of way of said Church Ranch Boulevard, a distance of 22.93 feet to the South corner of Church Ranch Boulevard as recorded at Reception No. F0527517;

Thence along the Southeasterly right of way line of said Church Ranch Boulevard, the following two courses:

1. Along a curve to the left having a delta of 22°07'06", a radius of 1025.43 feet, an arc length of 396.05 feet and a chord bearing North 50°58'46" East, a distance of 393.60 feet to a point of tangent;
2. North 39°54'53" East along said tangent, a distance of 378.76 feet to a point on the East line of the Northeast ¼ of said Section 15;

Thence South 00°17'00" East along said East line, a distance of 368.53 feet to the Southeast corner of said Tract 75, Mandalay Gardens;

Thence continuing South 00°17'00" East along said East line, a distance of 194.10 feet to the point of beginning, County of Jefferson, State of Colorado.

Legal Description prepared by:

Vigil Land Consultants  
480 Yuma Street  
Denver, CO 80204  
(303) 436-9233

Exhibit B  
(Legal Description of Annexed Parcel)

A PORTION OF THE NW ¼, SECTION 14, T. 2 S., R. 69 W., 6<sup>TH</sup> P.M., JEFFERSON COUNTY, COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE WEST ¼ CORNER, SECTION 14;  
THENCE N0°17'00" W ALONG THE WEST LINE, SAID NW ¼, A DISTANCE OF 581.78 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF CHURCH RANCH BOULEVARD;  
THENCE N39°54'53"E ALONG SAID SOUTH LINE, 155.64 FEET TO THE CENTERLINE OF THE MEANDERING DITCH AS RECORDED AT SAID COUNTY IN BOOK 1060, PAGE 380;  
THENCE ALONG SAID CENTERLINE THROUGH THE FOLLOWING FOUR COURSES:  
1) S83°17'00"E, 24.91 FEET;  
2) S72°08'00"E, 88.80 FEET;  
3) S87°36'00"E, 295.50 FEET;  
4) N74°43'00"E, 108.84 FEET TO THE WEST RIGHT-OF-WAY LINE OF BRENTWOOD WAY;  
THENCE N40°35'37"E ALONG SAID WEST LINE, 185.81 FEET TO THE NORTH RIGHT-OF-WAY LINE OF BRENTWOOD WAY;  
THENCE S87°22'49"E ALONG SAID NORTH LINE, 38.06 FEET TO THE WEST RIGHT-OF-WAY LINE OF ZEPHYR STREET;  
THENCE N40°35'37"E ALONG LAST SAID WEST LINE, 258.10 FEET;  
THENCE S49°11'37"E, 180.00 FEET TO THE EAST RIGHT-OF-WAY LINE OF THE COLORADO AND SOUTHERN RAILROAD RIGHT-OF-WAY;  
THENCE S40°35'37"W ALONG SAID EAST LINE, 1168.56 FEET;  
THENCE N89°34'16"W, 196.29 FEET TO THE EAST RIGHT-OF-WAY LINE OF BRENTWOOD WAY;  
THENCE S40°35'37"W ALONG LAST SAID EAST LINE, 26.17 FEET TO THE SOUTH LINE.  
NW ¼, SECTION 14;  
THENCE N89°34'16"W ALONG LAST SAID SOUTH LINE, 95.92 FEET TO THE POINT OF BEGINNING.

Consisting of approximately 10.57 acres.

BY AUTHORITY

ORDINANCE NO. **3367**

COUNCILLOR'S BILL NO. **39**

SERIES OF 2007

INTRODUCED BY COUNCILLORS

**Dittman - Price**

**A BILL**

**FOR AN ORDINANCE AMENDING THE ZONING OF 10.57 ACRES OF LAND GENERALLY EAST OF DOVER STREET AND NORTH OF 100<sup>TH</sup> AVENUE AND SOUTHEAST OF CHURCH RANCH BOULEVARD AND SOUTH OF A PORTION OF THE MANDALAY DITCH, AND A PORTION OF BRENTWOOD WAY RIGHT-OF-WAY AND A PORTION OF THE BURLINGTON NORTHERN RAILROAD RIGHT-OF-WAY AND A PORTION OF ZEPHYR STREET RIGHT-OF-WAY ADJACENT THERETO, ALL IN JEFFERSON COUNTY, COLORADO, FROM JEFFERSON COUNTY A-1 TO CITY OF WESTMINSTER PUD**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council finds:

a. That an application for the rezoning of the properties generally EAST OF DOVER STREET AND NORTH OF 100<sup>TH</sup> AVENUE AND SOUTHEAST OF CHURCH RANCH BOULEVARD AND SOUTH OF A PORTION OF THE MANDALAY DITCH, AND A PORTION OF BRENTWOOD WAY RIGHT-OF-WAY AND A PORTION OF THE BURLINGTON NORTHERN RAILROAD RIGHT-OF-WAY AND A PORTION OF ZEPHYR STREET RIGHT-OF-WAY ADJACENT THERETO as described in attached Exhibit A, from the Jefferson County A-1 zone to the PUD zone has been submitted to the City for its approval pursuant to W.M.C. §11-5-2.

b. That the notice requirements of W.M.C. §11-5-13 have been met.

c. That such application has been referred to the Planning Commission, which body held a public hearing thereon on June 12, 2007 and has recommended approval of the requested amendments.

d. 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 and has considered the criteria in W.M.C. § 11-5-14.

e. That based on the evidence produced at the public hearing, a rezoning to the proposed PUD zoning complies with all requirements of City Code, including, but not limited to, the provisions of W.M.C §11-5-14, regarding standards for approval of planned unit developments and §11-4-3, requiring compliance with the Comprehensive Land Use Plan.

Section 2. The Zoning District Map of the City is hereby amended by reclassification of the properties, described in Exhibit A, attached hereto and incorporated by reference, from the current Jefferson County A-1 zoning district to the PUD zoning district, as depicted on the map marked Exhibit B, attached hereto.

Section 3. As the originally scheduled adoption of this ordinance was delayed as a result of a mis-publication of notice and the applicants would be unduly prejudiced if the rezoning could not be completed as originally scheduled, an emergency is declared to exist, and this ordinance is declared to be necessary for the immediate preservation of the public peace, health and safety. Wherefore, this ordinance shall be in full force and effect upon adoption of this ordinance on July 9, 2007, by an affirmative vote of six of the members of the Council if six or seven members of the Council are present at the meeting at which this ordinance is presented, or by an affirmative vote of four of the members of the Council if four or five members of the Council are present at the meeting at which this ordinance is presented and the signature on this ordinance by the Mayor or the Mayor Pro Tem.

Section 4: This ordinance shall be published in full within ten (10) days after its enactment.

INTRODUCED, READ IN FULL AND PASSED AND ADOPTED AS AN EMERGENCY  
ORDINANCE this 9th day of July, 2007.

---

Mayor

ATTEST:

---

City Clerk

APPROVED AS TO LEGAL FORM:

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City Attorney's Office

Exhibit A  
(Rezoning)

A PORTION OF THE NW ¼, SECTION 14, T. 2 S., R. 69 W., 6<sup>TH</sup> P.M., JEFFERSON COUNTY, COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE WEST ¼ CORNER, SECTION 14;  
THENCE N0°17'00" W ALONG THE WEST LINE, SAID NW ¼, A DISTANCE OF 581.78 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF CHURCH RANCH BOULEVARD;  
THENCE N39°54'53"E ALONG SAID SOUTH LINE, 155.64 FEET TO THE CENTERLINE OF THE MEANDERING DITCH AS RECORDED AT SAID COUNTY IN BOOK 1060, PAGE 380;  
THENCE ALONG SAID CENTERLINE THROUGH THE FOLLOWING FOUR COURSES:  
1) S83°17'00"E, 24.91 FEET;  
2) S72°08'00"E, 88.80 FEET;  
3) S87°36'00"E, 295.50 FEET;  
4) N74°43'00"E, 108.84 FEET TO THE WEST RIGHT-OF-WAY LINE OF BRENTWOOD WAY;  
THENCE N40°35'37"E ALONG SAID WEST LINE, 185.81 FEET TO THE NORTH RIGHT-OF-WAY LINE OF BRENTWOOD WAY;  
THENCE S87°22'49"E ALONG SAID NORTH LINE, 38.06 FEET TO THE WEST RIGHT-OF-WAY LINE OF ZEPHYR STREET;  
THENCE N40°35'37"E ALONG LAST SAID WEST LINE, 258.10 FEET;  
THENCE S49°11'37"E, 180.00 FEET TO THE EAST RIGHT-OF-WAY LINE OF THE COLORADO AND SOUTHERN RAILROAD RIGHT-OF-WAY;  
THENCE S40°35'37"W ALONG SAID EAST LINE, 1168.56 FEET;  
THENCE N89°34'16"W, 196.29 FEET TO THE EAST RIGHT-OF-WAY LINE OF BRENTWOOD WAY;  
THENCE S40°35'37"W ALONG LAST SAID EAST LINE, 26.17 FEET TO THE SOUTH LINE.  
NW ¼, SECTION 14;  
THENCE N89°34'16"W ALONG LAST SAID SOUTH LINE, 95.92 FEET TO THE POINT OF BEGINNING.

Consisting of approximately 10.57 acres.

## Criteria and Standards for Land Use Applications

### *Comprehensive Land Use Plan Amendments*

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

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

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

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

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

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

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

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

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

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

***City Initiated Rezoning***

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

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

***Official Development Plan (ODP) Application***

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

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

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

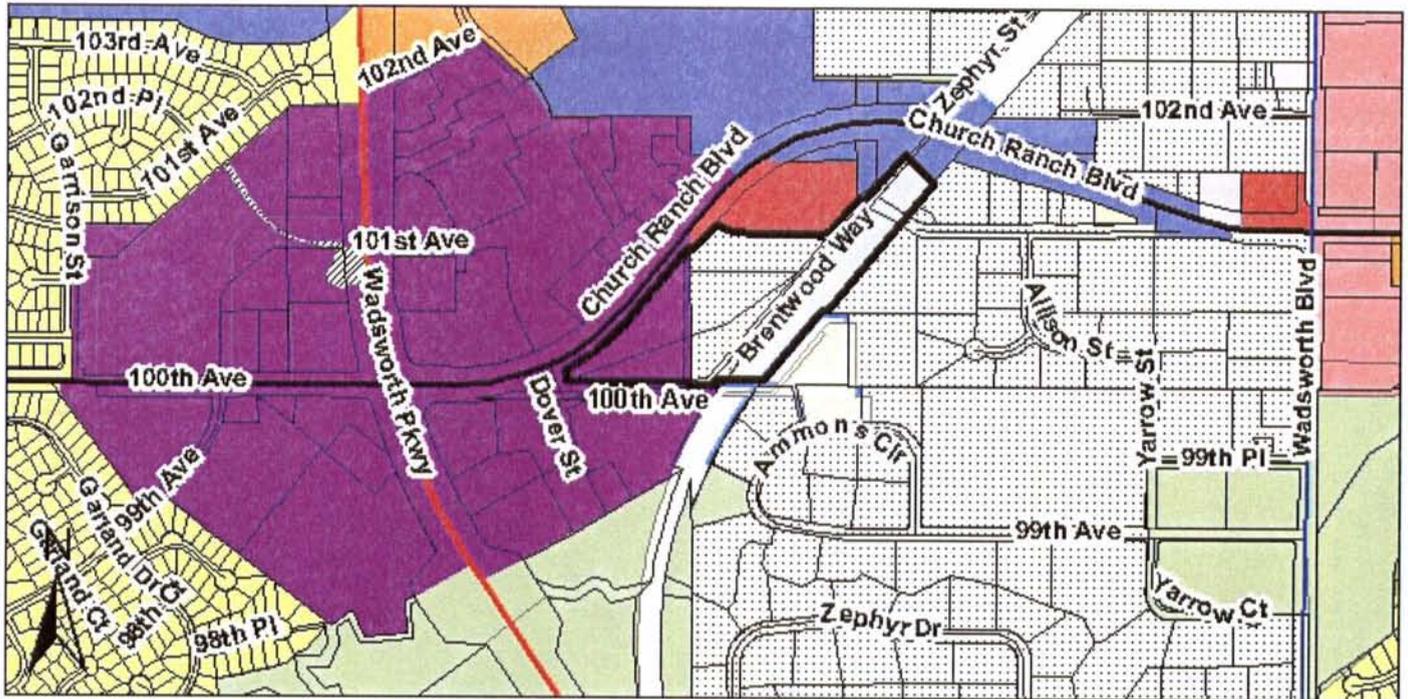
9. Building height, bulk, setbacks, lot size, and lot coverages are in accordance with sound design principles and practice.
10. The architectural design of all structures is internally and externally compatible in terms of shape, color, texture, forms, and materials.
11. Fences, walls, and vegetative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

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



# CLUP Designation

Exhibit C



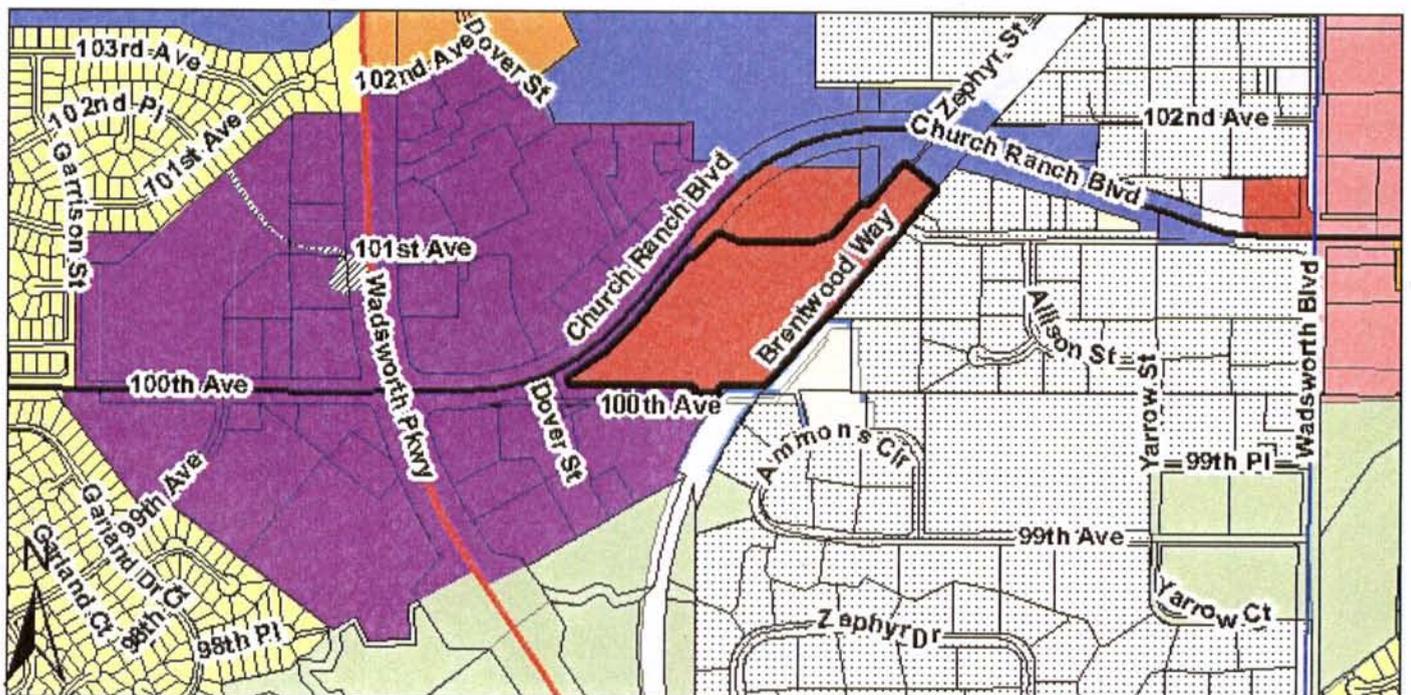
## LEGEND

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

Description of Change: District Center and Unincorporated Jefferson County to Retail Commercial



# New CLUP Designation



# Church Ranch Crossing Property Zoning Designation

# Exhibit B



**LEGEND**

 B-1	 O-1	 R-1	 R-5	 T-1
 C-1	 PUD	 R-2	 R-A	 Not in City Limits
 M-1	 R-3	 R-4	 R-E	

Description of Change: Not in City limits to PUD



# Church Ranch Crossing New Zoning Designation





**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
July 9, 2007



**SUBJECT:** Councillor's Bill No. 40 re Public Hearing Notice Procedures for Land Development Approvals

**Prepared By:** Terri Hamilton, Planner III

**Recommended City Council Action**

Pass Councillor's Bill 40 on first reading amending the Westminster Municipal Code (WMC) regarding public hearing notice procedures for land development approvals.

**Summary Statement**

- The WMC requires mailed public notice to occur by certified first-class mail. This requires the mailing's recipient to be present when the notice is delivered, or the mailing's recipient has to pick up the notice at the post office if they are not home at the time of mail delivery. Staff has received complaints from residents about the inconvenience that sending these notices by certified mail creates for them.
- The WMC requires the applicant to use a title company to prepare the list of property owners to be mailed notification of the public hearing. This requirement has become obsolete as fewer title companies provide this service and the applicant can easily obtain this information from the County Assessor's Office and prepare the required documentation themselves.
- Staff is recommending that the WMC be modified to eliminate the existing requirement for public notices to be mailed by certified first class mail (notices would be sent via first class mail) and to eliminate the requirement that a title company prepare the list of property owners who receive notice. This is in response to complaints from Westminster residents and applicants requesting land development approvals that require public hearings and notice.

**Expenditure Required:** \$ 0

**Source of Funds:** N/A

**Policy Issue**

Should the City modify the Westminster Municipal Code requirement regarding public hearing notice procedures for land development approvals?

**Alternative**

Do not modify the public hearing notice procedures. Staff does not recommend this alternative. The proposed modifications are recommended to address concerns raised by businesses and residents.

**Background Information**

Current Westminster Municipal Code (WMC) requirements regarding the mailing and preparation of public notice, required with public hearings for land development approvals, are in need of updating and improvement. Staff is recommending that the Code requirement for mailed public notices be changed to allow the use of first class mail instead of the current WMC requirement for certified first class mail. This would eliminate the need for many residents who are not home at the time of mail delivery, to make trips to the post office - one trip for a public hearing notice required for a Planning Commission hearing and another trip for the notice for a City Council hearing. City Staff periodically receives complaints about this from Westminster residents. This will also reduce the cost and complexity in the preparation of mailed public notices.

Another requirement of the WMC is that the list of property owners to receive notice be prepared by a title company. Few title companies provide this service and City Staff has received complaints from the applicants for land development approvals that this is both unnecessary and inefficient. Therefore, it is being recommended that the WMC be modified to allow the applicant to be the entity responsible for preparing and certifying this information. The applicant will obtain their information from the appropriate County Assessor's office, just as the title companies did before. City Staff will continue to double check the accuracy of this information as part of the development review process.

A proposed bill showing revisions to WMC Section 11-5-13(A) 6 and 7, regarding the preparation and mailing of public notices, has been prepared for consideration by City Council and is attached to this agenda memorandum.

Respectfully submitted,

Stephen P. Smithers  
Acting City Manager

Attachment

- Ordinance Amending the Westminster Municipal Code

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **40**

SERIES OF 2007

INTRODUCED BY COUNCILLORS

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**A BILL  
FOR AN ORDINANCE AMENDING THE WESTMINSTER  
MUNICIPAL CODE CONCERNING PUBLIC HEARINGS FOR LAND DEVELOPMENT  
APPROVALS**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Section 11-5-13, subsection (A), W.M.C., is hereby AMENDED BY REVISING CERTAIN REQUIREMENTS CONTAINED THEREIN to read as follows:

**11-5-13: PUBLIC HEARINGS FOR LAND DEVELOPMENT APPROVALS: (2534)**

(A) The following public hearing procedure shall apply to any PDP, amended PDP, ODP, or amended ODP required in this Chapter to be reviewed and approved by the Planning Commission or City Council.

1. A public hearing before the Planning Commission shall be scheduled by the City.
2. Notice of public hearings scheduled before Planning Commission shall be published and posted at least ten days prior to such hearing.
3. Notice of public hearings scheduled before City Council shall be published and posted at least four days prior to such hearing.
4. Notice of the public hearing shall be published by the City by one publication in the official newspaper of the City.
5. The Notice of the public hearing shall also be posted on the property by the City using at least one sign with a minimum area of 30 square inches with lettering not less than 1-1/4 inches in height at an appropriate location which is reasonably visible to vehicular and pedestrian traffic passing adjacent to the site.
6. Mailed notice of the public hearing shall be given by the ~~City~~ APPLICANT by sending such notice by first-class mail to all owners within the area covered by the PDP, ODP, or PDP or ODP amendment, and any owners and any homeowner's associations registered with the City within 300' of the subject property, provided, however, the City may extend this distance beyond 300' based on the location and configuration of adjacent properties, neighborhoods and business areas.
7. It shall be the responsibility of the applicant to:
  - a. Prepare the list of property owners who are required to receive notice. Such list shall ~~be provided in the form of an ownership report issued by a title company acceptable to the City~~ CONTAIN THE NAME AND MAILING ADDRESS OF PROPERTY OWNERS FROM THE COUNTY'S RECORDS, KEYED TO THE APPROPRIATE LOT AND BLOCK NUMBER ON THE COUNTY ASSESSOR'S MAPS.
  - b. Prepare a map USING COUNTY ASSESSOR'S MAPS identifying the SUBJECT SITE, AND THE location and LOT AND BLOCK NUMER addresses of the ~~property owners~~ PROPERTIES TO BE NOTIFIED.
  - c. DELIVER TO THE PLANNING MANAGER THE ~~The~~ items listed above IN A FORMAT ACCEPTABLE to the Planning Manager at least fifteen days prior to the date of hearing.
  - d. ~~At least ten (10) days prior to the date of the hearing, the applicant shall mail, Mail, by certified~~ first class mail, the individual notices to the listed property owners, AT LEAST TEN (10) DAYS PRIOR TO THE DATE OF THE HEARING. ALSO, THE ~~The~~ applicant shall ~~also~~ provide the Planning Manager prior to the hearing, a certification that the required notices were mailed and the date of such mailing(s).

8. The City shall prepare the form of the notice to be issued. At the public hearing, the Planning Manager shall verify that the required notices were issued. Any person with actual notice of the public hearing shall have no standing to object to the commencement or conduct of the public hearing, even if such person failed to receive one or more of the forms of notice prescribed above.

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 9th day of July, 2007.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 23rd day of July, 2007.

\_\_\_\_\_  
Mayor

ATTEST:

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

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
City Attorney

## Summary of Proceedings

Summary of proceedings of the regular meeting of the Westminster City Council held Monday, July 9, 2007. Mayor McNally and Councillors Dittman, Lindsey, Major, and Price were present at roll call. Mayor Pro Tem Kauffman and Councillor Kaiser were absent and excused.

The minutes of the June 25, 2007 regular meeting were approved.

Council approved the following: fire aerial ladder truck purchase; biosolids farm tractor purchase; water treatment chemicals purchase; Big Dry Creek Park construction spending; median rehabilitation contract award; Westminster Sports Center contract awards; negotiated remodel contract for the former Westminster Police Department building; final passage CB No. 32 re pension plan amendments; final passage CB No. 33 re appropriation of FY2006 Carryover Funds into FY2007; final passage CB No. 34 re Westminster Sports Center supplemental; final passage CB No. 35 re 2007 CDBG Fund appropriation and final passage CB No. 36 with amendments re compensation package for the Public Works and Utilities Director.

Council conducted a public hearing to consider the Richter and Catt annexation, CLUP amendment, Church Ranch Crossing PDP and ODP, first amended ODP Church Ranch Crossing Mini Storage, second amended ODP Church Ranch Crossing Lot 6 – Car Wash.

Council passed the following Councillors' Bill on first reading:

**A BILL FOR AN ORDINANCE AMENDING THE WESTMINSTER MUNICIPAL CODE CONCERNING PUBLIC HEARINGS FOR LAND DEVELOPMENT APPROVALS.** Purpose: amend the Westminster Municipal Code regarding public hearing notice procedures for land development approvals.

Council passed the following emergency Ordinances:

**A BILL FOR AN ORDINANCE ANNEXING A PARCEL OF LAND LOCATED IN SECTION 14, TOWNSHIP 2 SOUTH, RANGE 69 WEST, 6TH P.M., JEFFERSON COUNTY, COLORADO.** Purpose: annexing the Richter and Catt properties.

**A BILL FOR AN ORDINANCE AMENDING THE WESTMINSTER COMPREHENSIVE LAND USE PLAN.** Purpose: change the Church Ranch Crossing properties to retail commercial.

**A BILL FOR AN ORDINANCE AMENDING THE ZONING OF 10.57 ACRES OF LAND GENERALLY EAST OF DOVER STREET AND NORTH OF 100<sup>TH</sup> AVENUE AND SOUTHEAST OF CHURCH RANCH BOULEVARD AND SOUTH OF A PORTION OF THE MANDALAY DITCH, AND A PORTION OF BRENTWOOD WAY RIGHT-OF-WAY AND A PORTION OF THE BURLINGTON NORTHERN RAILROAD RIGHT-OF-WAY AND A PORTION OF ZEPHYR STREET RIGHT-OF-WAY ADJACENT THERETO, ALL IN JEFFERSON COUNTY, COLORADO, FROM JEFFERSON COUNTY A-1 TO CITY OF WESTMINSTER PUD.** Purpose: rezone the Richter and Catt properties from Jefferson County A-1 to Westminster PUD.

The meeting adjourned at 7:40 p.m.

By Order of the Westminster City Council  
Carla Koeltzow, Deputy City Clerk  
Published in the Westminster Window on July 19, 2007

**A BILL FOR AN ORDINANCE AMENDING TITLE XIV OF THE WESTMINSTER MUNICIPAL CODE CONCERNING THE POLICE AND GENERAL EMPLOYEE PENSION PLANS**  
THE CITY OF WESTMINSTER ORDAINS:

Section 1. Section 14-1-2, W.M.C., is hereby amended BY THE ADDITION OF NEW SUBSECTIONS (G), (H), (K) AND (S) to read as follows AND ALL OTHER SUBSECTIONS TO BE RE-LETTERED ACCORDINGLY:

**14-1-2: DEFINITIONS:** When used herein, the following words shall have the following meanings unless the context clearly indicates otherwise and further provided that the masculine gender shall include the feminine, and the singular shall include the plural:

(G) "CURRENT ANNUAL BASE SALARY" COMPENSATION ANNUALIZED FOR THE CURRENT CALENDAR YEAR.

(H) "ELIGIBLE RETIRED PUBLIC SAFETY OFFICER" A POLICE OFFICER WHO IS SEPARATED FROM SERVICE WITH THE CITY AS A PUBLIC SAFETY OFFICER BY REASON OF DISABILITY OR IS SEPARATED FROM SERVICE WITH THE CITY AS A PUBLIC SAFETY OFFICER AND SEPARATED FROM SERVICE AFTER NORMAL RETIREMENT AGE.

(K) "HIGHEST ANNUAL BASE SALARY" THE LARGEST AMOUNT OF COMPENSATION AS CALCULATED FOR ANY CALENDAR YEAR OF EMPLOYMENT.

(S) "QUALIFIED HEALTH INSURANCE PREMIUMS" PREMIUMS FOR COVERAGE OF THE ELIGIBLE RETIRED PUBLIC SAFETY OFFICER, HIS SPOUSE, AND DEPENDENTS, BY AN ACCIDENT OR HEALTH INSURANCE PLAN OR QUALIFIED LONG-TERM CARE INSURANCE CONTRACT AS DEFINED IN CODE SECTION 7702B(B).

Section 2. Section 14-1-4, subsections (C)(2) and (D), W.M.C., are hereby AMENDED to read as follows:

**14-1-4: CONTRIBUTIONS BY THE CITY, THE STATE OF COLORADO AND PARTICIPANTS:**

(C) Contributions by Contributing Participants.

(2) Voluntary Contributions::

(a) Subject to the provisions of Section 14-1-5(B), each Contributing Participant may elect to contribute to the Trust Fund an amount ~~not to exceed ten percent (10%) of his compensation for each pay period in addition to~~ THAT WHEN COMBINED WITH the mandatory contributions required in paragraph (1) of this Subsection DOES NOT EXCEED THE AMOUNT DESCRIBED IN SECTION 14-1-5 (B)(1).

(b) The amount, if any, which a Contributing Participant voluntarily contributes to the Trust Fund ~~may vary from year to year and may~~ MUST be contributed through payroll deductions ~~or in one lump sum, annually, or both, provided that a lump sum contribution for any year must be paid directly by the Contributing Participant instead of through a payroll deduction.~~ A contributing Participant may have the option of increasing, decreasing, or terminating his voluntary contribution at any time. No Participant shall have any obligation to make any voluntary contribution.

(c) For purposes of this Section, amounts representing the Participant's interest in another qualified pension plan transferred in accordance with Section 14-1-12(A), shall not be considered voluntary contributions.

(D) Retirement Medical Savings Accounts.

(1) ~~Subject to approval by the Internal Revenue Service,~~ Each Participant shall have the option of designating up to 25% of his or her combined mandatory and City contributions to be used for future medical expenses as provided for in Section 401(h) of the Federal Internal Revenue Service Code. Contributions to the medical savings accounts will not be taxed at separation from service nor upon use for medical expenses after separation from service. The retirement medical savings accounts will be subject to the rules and requirements as issued by the City Manager.

(2) Contributions designated for future health benefits under Section 401(h) of the Federal Internal Revenue Service Code as described in Subsection (1) of this Section shall be maintained in separate accounts.

Section 3. Section 14-1-6, subsection (A), W.M.C., is hereby AMENDED to read as follows:

**14-1-6: RETIREMENT DATE; DESIGNATION OF BENEFICIARY:**

(A) Retirement Date.

(1) Normal Retirement: The normal retirement age for each Participant shall be ~~sixty-five (65)~~ FIFTY-FIVE (55), and on the last day of the month in which his ~~sixty-fifth~~ FIFTY-FIFTH birthday occurs, he shall be entitled to retire voluntarily. The City may, if it so desires, continue a Contributing Participant in active service after he has attained his normal retirement age with the consent of such Participant, and at any time thereafter the City may, at its option, retire such Participant or such Participant may voluntarily retire. Until actual retirement, a Contributing Participant shall continue to participate in the Plan.

~~(2) Early Retirement: Any Contributing Participant who will attain the age of fifty-five (55) during the year may elect to retire earlier than the normal retirement age.~~

Section 4. Section 14-1-7, W.M.C., is hereby AMENDED to read as follows:

**14-1-7: DISTRIBUTION FROM TRUST FUND:**

(A) When Interests Become Distributable and Effect Thereof. When a Participant dies, suffers total disability, retires or terminates his employment for any other reason, his interest shall thereupon become distributable. When a Participant's interest shall have become distributable, such Participant's interest shall remain a part of the Trust Fund until it is distributed.

(B) Information to be Furnished to Board. For the purpose of enabling the Board to determine the Participant's distributable interest in the Trust Fund, the Board shall be entitled to rely upon information provided to the Board by the City with respect to the date of the Participant's termination of employment and other such information as is needed and requested.

(C) Distribution of Interests.

(1) Insurance: If there has been an investment in life insurance for the benefit of any Participant whose interest becomes distributable for any reason other than death, such Participant may, subject to any limitation set forth elsewhere in this Plan, obtain an absolute assignment of any such life insurance by informing the Board of his election. If said election is not exercised within thirty (30) days after the termination of employment, and the conversion election provided for is not made, the Board shall cause said contract to be surrendered no later than the end of the policy year and shall add the proceeds of such surrender to the interest of said Participant. After December 31, 1996, no new life insurance contracts may be adopted as pension investments.

(2) Election to Defer Benefits: A Participant may elect to defer the commencement of distribution of his or her benefit, but in no event shall the commencement of distribution be later than the required distribution commencement date specified in subsection ~~(E)~~ (F) of this Section. No election to change the method of payment may be made more than once every six months once payments have commenced.

(3) Distribution of Contributions: Any other provision of this Subsection (C) to the contrary notwithstanding, a Participant, in the event of the termination of his employment for any reason, shall be entitled to receive payment in one lump sum of his interest in the Trust Fund provided he makes written demand therefor upon the Board.

(4) Benefits payable from the 401(h) account:

(a) Benefits are payable from the retirement medical savings account only upon retirement, separation of service, death or total disability.

(b) Benefits payable from a 401(h) account shall include only payments or reimbursements for medical care [as defined in code section 213(d)(1)].

(c) Medical care payments shall only be paid pursuant to a reimbursement application.

(d) No refunds of contributions shall be made. All contributions remain in the 401(h) account until used for medical care payments.

(e) Reimbursements may not be made for any expense for which the retired Participant or his or her spouse or dependents receive, or are eligible to receive, payment or reimbursement from another source.

(f) In order to receive benefits from the 401(h) account, the retired Participant must agree to provide appropriate documentation of the expenditure.

(D) Transfers between Qualified Plans:

(1) In General. The trustee and the plan custodian, upon their mutual agreement, are authorized to receive and add to the interest of any Participant the Participant's vested interest in the assets held under any other qualified employee retirement plan or individual retirement account if such transfer satisfies the requirements under law for transfers between qualified plans or rollover contributions. In such event, the assets so received shall be fully vested and shall be held in a separate account and shall be administered and distributed pursuant to the provisions of this Plan and Trust, concerning employer

contributions. The trustee is also authorized, at the direction of the plan custodian and at the request of the Participant, to transfer such Participant's vested interest which has become distributable under Subsection (A) hereof, directly to another qualified plan or an individual retirement account for the benefit of such Participant, provided such transfer satisfied the requirements under law for such transfers.

(2) For Distributions Made on or After January 1, 1993. Notwithstanding any provision of the plan to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect, at the time and in the manner prescribed by the plan administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(3) For distributions made after December 31, 2001. An eligible retirement plan shall also mean an annuity contract described in section 403(b) of the code and an eligible plan under section 457(b) of the code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relation order, as defined in section 414(p) of the code. The Plan shall be permitted to accept rollovers from any type of eligible retirement plan except to the extent limited in Section 14-2-7.

(4) Definitions.

(1) Eligible Rollover Distribution. An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: (I) any distribution that is one of a series of substantially equal period payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; (II) any distribution to the extent such distribution is required under section 401(a)(9) of the code; (III) any hardship distribution as described in section 401(k)(2)(b)(I)(iv) of the code (applicable only to distributions after December 31, 1999); and (IV) the portion of any distribution that is not includable in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities). Any amount that is distributed on account of hardship shall not be an eligible rollover distribution and the distributee may not elect to have any portion of such a distribution paid directly to an eligible retirement plan. A portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includable in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in section 408(a) or (b) of the code, or to a qualified defined contribution plan described in section 401(a) or 403(a) of the code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includable in gross income and the portion of such distribution which is not so includable. The Plan shall not accept a rollover of after-tax employee contributions unless specifically elected in the adoption agreement or a supplement thereto.

(2) Eligible Retirement Plan. An eligible retirement plan is an individual retirement account described in section 408(a) of the code, an individual retirement annuity described in section 408(b) of the code, an annuity plan described in section 403(a) of the code, or a qualified trust described in section 401(a) of the code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.

(3) Distributee. A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the code, are distributees with regard to the interest of the spouse or former spouse.

(4) Direct Rollover. A direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee.

(E) WITHDRAWALS WHILE EMPLOYED: A PARTICIPANT WHO HAS ATTAINED AGE SIXTY-TWO (62) MAY ELECT TO BEGIN DISTRIBUTIONS FROM THE TRUST FUND ACCORDING TO THE RULES DESCRIBED IN THIS SECTION 14-1-7 IF THE PARTICIPANT'S CURRENT ANNUAL BASE SALARY AT THE TIME OF ELECTION IS AT LEAST TWENTY-FIVE PERCENT (25%) LESS THAN THE PARTICIPANT'S HIGHEST ANNUAL BASE SALARY.

~~(E)~~(F) Required Distribution Commencement Date: Distribution of a Participant's interest must begin no later than the April 1 of the calendar year following the later of the year the Participant attains the age of seventy and one half (70 1/2) or the year the Participant retires.

~~(F)~~(G) Spendthrift Provisions:

(1) General Rule: Except as otherwise provided in this Chapter, all amounts payable pursuant to this Chapter by the Trustee shall be paid only to the person or persons entitled thereto, and all such payments shall be paid directly into the hands of such person or persons and not into the hands of any other person or corporation whatsoever, and such payments shall not be liable for the debts, contracts or engagements of any such person or persons, or taken in execution by attachment or garnishment or by any other legal or equitable proceedings; nor shall any such person or persons have any right to alienate, anticipate, commute, pledge, encumber or assign any such payments or the benefits, proceeds or avails thereof.

(2) Qualified Domestic Relations Order: Paragraph (1) of this Subsection shall not apply to the creation, assignment or recognition of a right to any benefit payable with respect to a Participant or alternate payee pursuant to a qualified domestic relations order setting forth the agreement of the parties with respect to the division of benefits pursuant to Colorado Revised Statutes, Section 14-10-113. A lump sum distribution will be made pursuant to such an order within one hundred and twenty (120) days after the date on which a certified court order approving such an agreement permitting such a distribution has been submitted to and received by the Board.

The Board shall establish such reasonable procedures as are necessary to determine the compliance of a domestic relations order with the requirements of Colorado Revised Statutes, Section 14-10-113 and to administer distributions under such qualified orders. Such procedures may be at the discretion of the Board, including standardized forms to be used for such marital agreements and orders. A person who obtains a right to a benefit payable to a Participant pursuant to a qualified domestic relations order shall not have rights to vote in elections held pursuant to this Plan.

~~(G)~~(H) Manner of Distribution: A Participant's interest may be distributed by one or more of the following methods:

(1) Lump Sum Distribution: The Participant's interest may be paid to the Participant or his Beneficiary by the distribution of the total balance of his account in one lump sum. The Participant, or his Beneficiary in the event of the Participant's death, shall have the right to have the distribution made in a lump sum by filing a written election with the trustee within such time as the Board shall prescribe.

(2) Installments: The Participant's interest may be paid to the Participant or his Beneficiary in substantially equal periodic installments over a period of time not to exceed the joint life expectancy of the Participant and his beneficiary (or until the account is exhausted) and not in installment frequency greater than monthly. The maximum period shall be determined under the applicable IRS Tables at the time the initial monthly installment payment becomes payable. The Participant, or his Beneficiary in the event of the Participant's death, shall have the right to have the distribution made in this manner by filing a written elective with the trustee within such time as the Board shall prescribe. In no instance shall any changes in this type of distribution be allowed more than once every six months.

(3) Other Methods: Notwithstanding the foregoing provisions, any interest which has become distributable for any reason may be distributed at such time or times, in such amount or amounts, and in such manner, as the Board and the recipient of such distribution may mutually determine, including a transfer to another qualified plan or individual retirement account.

~~(H)~~(I) Limitation on Duration of Payments:

(1) No distribution shall be made over a period exceeding the joint life expectancy of the Participant and his beneficiary. To the extent distribution is made after the Participant attains the age of seventy and one-half (70 1/2), if not paid in a lump sum, the distribution must be made in substantially equal periodic installments at least annually over the period prescribed in this Subsection subject to a once yearly change that may accelerate payment at the election of the Participant or Beneficiary. The present value of the benefits payable solely to the Participant under any elected method must exceed fifty percent (50%) of the total benefits payable to the Participant and his Beneficiaries, unless distribution is in the form of a qualified joint and survivor annuity.

(2) NOTWITHSTANDING ANYTHING IN THIS CHAPTER TO THE CONTRARY, ALL DISTRIBUTIONS FROM THE PLAN SHALL CONFORM TO THE FINAL REGULATIONS ISSUED UNDER INTERNAL REVENUE CODE SECTION 401(A)(9), INCLUDING THE INCIDENTAL DEATH BENEFIT PROVISIONS OF INTERNAL REVENUE CODE SECTION 401(A)(9)(G).

~~(J)~~ Withdrawals: A Participant may not at any time withdraw any part of his interest in the Trust Fund, except upon death, disability, retirement or termination of service as provided in this Chapter.

~~(K)~~ Special Rules for Distributions after the Participant's Death:

(1) Distributions Commencing Prior to Death: If distribution of a Participant's interest has commenced prior to the Participant's death in accordance with Subsection ~~(H)~~ (I) of this Section, the remaining interest of the Participant shall be distributed at least as rapidly as under the method of distribution being used as of the date of his death.

(2) Distributions Commencing After Death: If distribution of a Participant's interest did not commence prior to his death, the entire interest of the Participant shall be distributed within five (5) years after the death of the Participant, provided that a distribution commencing within one (1) year after the Participant's death to or for the benefit of a designated Beneficiary over the longer of the life or the life expectancy of the designated Beneficiary will be treated as having been distributed within such five (5) year period. If the surviving spouse of the Participant is the designated Beneficiary, distribution is not required to commence until the date on which the Participant would have attained the age of seventy and one-half (70-1/2) and, if distribution had not commenced as of the date of death of such surviving spouse, the provisions of this paragraph shall be applied as if such spouse were the Participant.

(3) Beneficiaries: If a Participant should die after receiving some part, but not all, of his account, the remaining balance thereof shall be distributed to his Beneficiary in a manner determined pursuant to this Subsection. If the Beneficiary of the Participant should die, cease to exist, or disclaim his interest prior to the completion of distribution of the Participant's interest, the remaining distribution shall be made to the contingent Beneficiary designated by the Participant, if any. If any contingent Beneficiary should die or disclaim his interest, distribution of the remainder of the Participant's interest shall be distributed in a manner determined pursuant to this Subsection to the recipient determined pursuant to Section 14-1-6.

(4) ~~RMSA Distributions after Death:~~

~~(a) Should a Participant with a balance in the retirement medical savings account (RMSA) die prior to exhausting the balance in the RMSA, the account may be used for the benefit of the Participant's spouse and dependents under the terms of section 14-1-7(c)(4).~~

~~(b) Should a Participant with a balance in the retirement medical savings account die prior to exhausting the balance in the RMSA and without a spouse or dependent, the Participant's designated beneficiary, if any named, shall be eligible to receive the remaining benefits.~~

DISTRIBUTION TO IRA OF NONSPOUSE BENEFICIARY: A PARTICIPANT'S NONSPOUSE BENEFICIARY MAY ELECT PAYMENT OF ANY PORTION OF THE DECEASED PARTICIPANT'S ACCOUNT IN A DIRECT TRUSTEE TO TRUSTEE TRANSFER TO AN INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY DESCRIBED IN SECTION 402(C)(8)(B)(I) OR (II) OF THE CODE THAT IS ESTABLISHED TO RECEIVE THE PLAN DISTRIBUTION ON BEHALF OF THE BENEFICIARY. FOR PURPOSES OF THIS SECTION, A TRUST MAINTAINED FOR THE BENEFIT OF ONE OR MORE DESIGNATED BENEFICIARIES MAY BE THE BENEFICIARY TO THE EXTENT PROVIDED IN RULES PRESCRIBED BY THE SECRETARY OF TREASURY. IF THE PARTICIPANT DIES AFTER THE PARTICIPANT'S REQUIRED BEGINNING DATE AS DEFINED IN SECTION 14-1-7(F), THE REQUIRED MINIMUM DISTRIBUTION IN THE YEAR OF DEATH MAY NOT BE TRANSFERRED ACCORDING TO THIS SECTION. THE REQUIREMENTS OF SECTION 402(C)(11) OF THE CODE APPLY TO DISTRIBUTIONS UNDER THIS SECTION.

(L) PAYMENT FOR QUALIFIED HEALTH INSURANCE PREMIUMS: A PARTICIPANT WHO HAS SEPARATED FROM SERVICE AS A PUBLIC SAFETY OFFICER WITH THE CITY DUE TO DISABILITY OR ATTAINMENT OF NORMAL RETIREMENT AGE MAY ELECT TO HAVE AMOUNTS NOT YET PAID FROM THE PLAN PAID DIRECTLY TO A PROVIDER OF AN ACCIDENT OR HEALTH INSURANCE PLAN OR A QUALIFIED LONG TERM INSURANCE CONTRACT TO COVER THE COST OF UP TO \$3,000 PER YEAR OF "QUALIFIED HEALTH INSURANCE PREMIUMS" FOR THE PARTICIPANT AND THE PARTICIPANT'S SPOUSE AND DEPENDENTS, IN ACCORDANCE WITH SECTION 402(L) OF THE CODE. THE

REQUIREMENTS OF SECTION 402(L) OF THE CODE APPLY TO PAYMENTS UNDER THIS SECTION.

Section 5. Section 14-2-2, W.M.C., is hereby amended BY THE ADDITION OF NEW SUBSECTIONS (G) and (J) to read as follows AND ALL OTHER SUBSECTIONS TO BE RE-LETTERED ACCORDINGLY:

**14-2-2: DEFINITIONS:** When used herein, the following words shall have the following meanings unless the context clearly indicates otherwise and further provided that the masculine gender shall include the feminine, and the singular shall include the plural.

(G) "CURRENT ANNUAL BASE SALARY" COMPENSATION ANNUALIZED FOR THE CURRENT CALENDAR YEAR.

(J) "HIGHEST ANNUAL BASE SALARY" THE LARGEST AMOUNT OF COMPENSATION AS CALCULATED FOR ANY CALENDAR YEAR OF EMPLOYMENT.

Section 6. Section 14-2-4, subsections (B)(2) and (C), W.M.C., are hereby AMENDED to read as follows:

**14-2-4: CONTRIBUTIONS BY THE CITY AND PARTICIPANTS:**

(B) Contributions by Contributing Participants.

(2) Voluntary Contributions::

(a) Subject to the provisions of Section 14-2-5(B), each Contributing Participant may elect to contribute to the Trust Fund an amount ~~not to exceed ten percent (10%) of his compensation for each pay period in addition to~~ THAT WHEN COMBINED WITH the mandatory contributions required in paragraph (1) of this Subsection DOES NOT EXCEED THE AMOUNT DESCRIBED IN SECTION 14-2-5 (B)(1).

(b) The amount, if any, which a Contributing Participant voluntarily contributes to the Trust Fund ~~may vary from year to year and may~~ MUST be contributed through payroll deductions ~~or in one lump sum, annually, or both, provided that a lump sum contribution for any year must be paid directly by the Contributing Participant instead of through a payroll deduction.~~ A contributing Participant may have the option of increasing, decreasing, or terminating his voluntary contribution at any time. No Participant shall have any obligation to make any voluntary contribution.

(c) For purposes of this Section, amounts representing the Participant's interest in another qualified pension plan transferred in accordance with Section 14-2-12(A), shall not be considered voluntary contributions.

(C) Retirement Medical Savings Accounts.

(1) ~~Subject to approval by the Internal Revenue Service,~~ Each Participant shall have the option of designating up to 25% of his or her combined mandatory and City contributions to be used for future medical expenses as provided for in Section 401(h) of the Federal Internal Revenue Service Code. Contributions to the medical savings accounts will not be taxed at separation from service nor upon use for medical purposes after separation from service. The retirement medical savings accounts will be subject to the rules and requirements issued by the City Manager.

(2) Contributions designated for future health benefits under Section 401(h) of the Federal Internal Revenue Service Code as described in Subsection (C)(1) of this Section shall be maintained in separate accounts.

Section 7. Section 14-2-6, subsection (A), W.M.C., is hereby AMENDED to read as follows:

**14-2-6: RETIREMENT DATE; DESIGNATION OF BENEFICIARY:**

(A) Retirement Date.

(1) Normal Retirement: The normal retirement age for each Participant shall be ~~sixty five (65)~~ SIXTY (60), and on the last day of the month in which his ~~sixty fifth~~ SIXTIETH birthday occurs, he shall be entitled to retire voluntarily. The City may, if it so desires, continue a Contributing Participant in active service after he has attained his normal retirement age with the consent of such Participant, and at any time thereafter the City may, at its option, retire such Participant or such Participant may voluntarily retire. Until actual retirement, a Contributing Participant shall continue to participate in the Plan.

~~(2) Early Retirement: Any Contributing Participant who will attain the age of fifty five (55) during the year may elect to retire earlier than the normal retirement age.~~

Section 8. Section 14-2-7, subsections (E) through (J), W.M.C., are hereby AMENDED to read as follows:

**14-2-7: DISTRIBUTION FROM TRUST FUND:**

(E) WITHDRAWALS WHILE EMPLOYED: A PARTICIPANT WHO HAS ATTAINED AGE SIXTY-TWO (62) MAY ELECT TO BEGIN DISTRIBUTIONS FROM THE TRUST FUND ACCORDING TO THE RULES DESCRIBED IN THIS SECTION 14-1-7 IF THE PARTICIPANT'S CURRENT ANNUAL BASE SALARY AT THE TIME OF ELECTION IS AT LEAST TWENTY-FIVE PERCENT (25%) LESS THAN THE PARTICIPANT'S HIGHEST ANNUAL BASE SALARY.

~~(E)~~(F) Required Distribution Commencement Date. Distribution of a Participant's interest must begin no later than the April 1 of the calendar year following the later of the year the Participant attains the age of seventy and one half (70 1/2) or the year the Participant retires.

~~(F)~~(G) Spendthrift Provisions.

(1) General Rule. Except as otherwise provided in this Chapter, all amounts payable pursuant to this Chapter by the Trustee shall be paid only to the person or persons entitled thereto, and all such payments shall be paid directly into the hands of such person or persons and not into the hands of any other person or corporation whatsoever, and such payments shall not be liable for the debts, contracts or engagements of any such person or persons, or taken in execution by attachment or garnishment or by any other legal or equitable proceedings; nor shall any such person or persons have any right to alienate, anticipate, commute, pledge, encumber or assign any such payments or the benefits, proceeds or avails thereof.

(2) Qualified Domestic Relations Order. Paragraph (1) of this Subsection shall not apply to the creation, assignment or recognition of a right to any benefit payable with respect to a Participant or alternate payee pursuant to a qualified domestic relations order setting forth the agreement of the parties with respect to the division of benefits pursuant to Colorado Revised Statutes, Section 14-10-113. A lump sum distribution will be made pursuant to such an order within one hundred twenty (120) days after the date on which a certified court order approving such an agreement permitting such a distribution has been submitted to and received by the Board.

The Board shall establish such reasonable procedures as are necessary to determine the compliance of a domestic relations order with the requirements of Colorado Revised Statutes, Section 14-10-113 and to administer distributions under such qualified order. Such procedures may be at the discretion of the Board, including standardized forms to be used for such marital agreements and orders. A person who obtains a right to a benefit payable to a Participant pursuant to a qualified domestic relations order shall have no rights to vote in elections held pursuant to this Plan.

~~(G)~~(H) Manner of Distribution. A Participant's interest may be distributed by one or more of the following methods:

(1) Lump Sum Distribution. The Participant's interest may be paid to the Participant or his Beneficiary by the distribution of the total balance of his account in one lump sum. The Participant, or his Beneficiary in the event of the Participant's death, shall have the right to have the distribution made in a lump sum by filing a written election with the trustee within such time as the Board shall prescribe.

(2) Installments. The Participant's interest may be paid to the Participant or his Beneficiary in substantially equal periodic installments over a period of time not to exceed the joint life expectancy of the Participant and his beneficiary (or until the account is exhausted) and not in installment frequency greater than monthly. This maximum period shall be determined under the applicable IRS Tables at the time the initial monthly installment payment becomes payable. The Participant, or his Beneficiary in the event of the Participant's death, shall have the right to have the distribution made in this manner by filing a written elective with the trustee within such time as the Board shall prescribe. In no instance shall any changes in this type of distribution be allowed more than once every six months.

(3) Other Methods. Notwithstanding the foregoing provisions, any interest which has become distributable for any reason, may be distributed at such time or times, in such amount or amounts, and in such manner, as the Board and the recipient of such distribution may mutually determine, including a transfer to another qualified plan or individual retirement account.

~~(H)~~(I) Limitation on Duration of Payments.

(1) No distribution shall be made over a period exceeding the joint life expectancy of the Participant and his beneficiary. To the extent distribution is made after the Participant attains the age of seventy and one-half (70 1/2), if not paid in a lump sum, the distribution must be made in substantially equal periodic installments at least annually over the period prescribed in this Subsection subject to a once yearly change that may accelerate payment at the election of the Participant or Beneficiary. The present value of the benefits payable solely to the Participant under any elected method must exceed fifty percent (50%) of the total benefits payable to the Participant and his Beneficiaries, unless distribution is in the form of a qualified joint and survivor annuity.

(2) NOTWITHSTANDING ANYTHING IN THIS CHAPTER TO THE CONTRARY, ALL DISTRIBUTIONS FROM THE PLAN SHALL CONFORM TO THE FINAL REGULATIONS ISSUED UNDER INTERNAL REVENUE CODE SECTION 401(A)(9), INCLUDING THE INCIDENTAL DEATH BENEFIT PROVISIONS OF INTERNAL REVENUE CODE SECTION 401(A)(9)(G).

~~(J)~~ Withdrawals. A Participant may not at any time withdraw any part of his interest in the Trust Fund, except upon death, disability, retirement or termination of service as provided in this Chapter.

~~(K)~~ Special Rules for Distributions after the Participant's Death.

(1) Distributions Commencing Prior to Death. If distribution of a Participant's interest has commenced prior to the Participant's death in accordance with subsection ~~(H)~~ (I) of this Section, the remaining interest of the Participant shall be distributed at least as rapidly as under the method of distribution being used as of the date of his death.

(2) Distributions Commencing After Death. If distribution of a Participant's interest did not commence prior to his death, the entire interest of the Participant shall be distributed within five (5) years after the death of the Participant, provided that a distribution commencing within one (1) year after the Participant's death to or for the benefit of a designated Beneficiary over the longer of the life or the life expectancy of the designated Beneficiary will be treated as having been distributed within such five (5) year period. If the surviving spouse of the Participant is the designated Beneficiary, distribution is not required to commence until the date on which the Participant would have attained the age of seventy and one-half (70-1/2) and, if distribution had not commenced as of the date of death of such surviving spouse, the provisions of this paragraph shall be applied as if such spouse were the Participant.

(3) Beneficiaries. If a Participant should die after receiving some part, but not all, of his account, the remaining balance thereof shall be distributed to his Beneficiary in a manner determined pursuant to this Subsection. If the Beneficiary of the Participant should die, cease to exist, or disclaim his interest prior to the completion of distribution of the Participant's interest, the remaining distribution shall be made to the contingent Beneficiary designated by the Participant, if any. If any contingent Beneficiary should die or disclaim his interest, distribution of the remainder of the Participant's interest shall be distributed in a manner determined pursuant to this Subsection to the recipient determined pursuant to Section 14-2-6.

~~(4) RMSA Distributions after Death:~~

~~(a) Should a Participant with a balance in the retirement medical savings account (RMSA) die prior to exhausting the balance in the RMSA, the account may be used for the benefit of the Participant's spouse and dependents under the terms of section 14-2-7(c)(4).~~

~~(b) Should a Participant with a balance in the retirement medical savings account die prior to exhausting the balance in the RMSA and without a spouse or dependent, the Participant's designated beneficiary, if any named, shall be eligible to receive the remaining benefits.~~

DISTRIBUTION TO IRA OF NONSPOUSE BENEFICIARY: A PARTICIPANT'S NONSPOUSE BENEFICIARY MAY ELECT PAYMENT OF ANY PORTION OF THE DECEASED PARTICIPANT'S ACCOUNT IN A DIRECT TRUSTEE TO TRUSTEE TRANSFER TO AN INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY DESCRIBED IN SECTION 402(C)(8)(B)(I) OR (II) OF THE CODE THAT IS ESTABLISHED TO RECEIVE THE PLAN DISTRIBUTION ON BEHALF OF THE BENEFICIARY. FOR PURPOSES OF THIS SECTION, A TRUST MAINTAINED FOR THE BENEFIT OF ONE OR MORE DESIGNATED BENEFICIARIES MAY BE THE BENEFICIARY TO THE EXTENT PROVIDED IN RULES PRESCRIBED BY THE SECRETARY OF TREASURY. IF THE PARTICIPANT DIES AFTER THE PARTICIPANT'S REQUIRED BEGINNING DATE AS DEFINED IN SECTION 14-2-7(F), THE REQUIRED MINIMUM DISTRIBUTION IN THE YEAR OF DEATH MAY NOT BE TRANSFERRED ACCORDING TO THIS SECTION. THE REQUIREMENTS OF SECTION 402(C)(11) OF THE CODE APPLY TO DISTRIBUTIONS UNDER THIS SECTION.

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

Section 10. 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 25<sup>th</sup> day of June, 2007.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 9<sup>th</sup> day of July, 2007.

**A BILL FOR AN ORDINANCE INCREASING THE 2007 BUDGET OF THE GENERAL, UTILITY, STORM DRAINAGE, FLEET, GENERAL CAPITAL OUTLAY REPLACEMENT, SALES & USE TAX, PARKS OPEN SPACE, CONSERVATION TRUST, AND GENERAL CAPITAL IMPROVEMENT FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2007 ESTIMATED REVENUES IN THIS FUND**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2007 appropriation for the General, Utility, Storm Drainage, Fleet, General Capital Outlay Replacement, Sales & Use Tax, Parks Open Space, Conservation Trust, and General Capital Improvement Fund, initially appropriated by Ordinance No. 3316 is hereby increased by \$37,080,916. This appropriation is due to the appropriation of 2006 carryover.

Section 2. The \$37,080,916 increase in the General, Utility, Storm Drainage, Fleet, General Capital Outlay Replacement, Sales & Use Tax, Parks Open Space, Conservation Trust, and General Capital Improvement Fund shall be allocated to City revenue and expense accounts as described in the City Council Agenda Item 10E dated June 25, 2007 (a copy of which may be obtained from the City Clerk) increasing City fund budgets as follows:

General Fund	\$7,859,356
Utility Fund	13,288,268
Storm Drainage Fund	443,140
Fleet Fund	284,321
General Capital Outlay Replacement Fund	689,724
Sales & Use Tax Fund	1,741,700
Parks Open Space Fund	1,092,269
Conservation Trust Fund	363,198
General Capital Improvement	<u>11,318,940</u>
Total	<u>\$37,080,916</u>

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

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 25<sup>th</sup> day of June, 2007. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 9<sup>th</sup> day of July, 2007.

ORDINANCE NO. 3362  
SERIES OF 2007

COUNCILLOR'S BILL NO. 34  
INTRODUCED BY COUNCILLORS  
Kaiser - Dittman

**A BILL FOR AN ORDINANCE INCREASING THE 2007 BUDGET OF THE GENERAL FUND  
AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2007 ESTIMATED  
REVENUES IN THIS FUND**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2007 appropriation for the General Fund, initially appropriated by Ordinance No. 3316 is hereby increased by \$55,000. This appropriation is due to the City directly operating the Sports Center.

Section 2. The \$55,000 increase in the General Fund shall be allocated to City revenue and expense accounts as described in the City Council Agenda Item 10E, dated , June 25, 2007, (a copy of which may be obtained from the City Clerk) increasing City fund budgets as follows:

General Fund	<u>\$55,000</u>
Total	<u>\$55,000</u>

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

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 25<sup>th</sup> day of June, 2007. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 9<sup>th</sup> day of July, 2007.

**A BILL FOR AN ORDINANCE INCREASING THE 2007 BUDGET OF THE COMMUNITY DEVELOPMENT BLOCK GRANT FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2007 ESTIMATED REVENUES IN THIS FUND**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2007 appropriation for the CDBG Fund, initially appropriated by Ordinance No. 3316, is hereby increased by \$575,303. This appropriation is the amount approved by the U.S. Department of Housing and Urban Development (HUD) for the City for 2007.

Section 2. The \$575,303 increase in the CDBG Fund shall be allocated to City revenue and expense accounts as described in the City Council Agenda Item 10 F dated June 25, 2007 (a copy of which may be obtained from the City Clerk) increasing City fund budgets as follows:

CDBG Fund	<u>\$575,303</u>
Total	<u>\$575,303</u>

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

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 25<sup>th</sup> day of June, 2007. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 9<sup>th</sup> day of July, 2007.

**A BILL FOR AN ORDINANCE APPROVING CERTAIN EXCEPTIONS TO THE CITY'S PAY PLAN AND GENERAL LEAVE POLICY IN CONNECTION WITH THE EMPLOYMENT OF MICHAEL SMITH AS THE CITY'S PUBLIC WORKS AND UTILITIES DIRECTOR**

WHEREAS, the City Manager has conducted a selective recruitment for a well-qualified City Public Works and Utilities Director ("Director");

WHEREAS, the City Manager wishes to employ Mr. Michael Smith as the City's new Director;

WHEREAS, Mr. Smith is the current General Manager of Utilities for the City of Fort Collins with a compensation package commensurate with his over 30 years of experience in Public Works and Utilities and his exceptional record with the City of Fort Collins as a member of the City's upper level management team; and

WHEREAS, Council finds that in order to secure Mr. Smith's employment, it is appropriate to approve certain exceptions to the City's Pay Plan and general leave policy that would otherwise apply to less experienced and/or entry level directors.

NOW, THEREFORE, THE CITY OF WESTMINSTER ORDAINS:

1. City Council hereby authorizes the City Manager to extend to Mr. Smith an offer of compensation above that provided for in the City's 2007, 2008, and 2009 Pay Plans, subject to the following conditions:

- (a) Mr. Smith's base salary shall be within the pay range for the Director position;
- (b) In addition to Mr. Smith's base salary, Mr. Smith may be paid an annual amount of deferred compensation in a lump sum equal to \$7,000, payable upon the commencement of employment: \$8,000 payable on January 1, 2008, and \$9,000 payable on January 1, 2009; and
- (c) The amounts provided for in subparagraph (b) may be made even if the resulting total compensation in any given year exceeds that provided for in the Pay Plan for that year.

Section 2. For the purposes of determining the rate of accrual for general leave for Mr. Smith, the accrual rate provided for employees with over 20 years of continuous municipal service in Section 1-24-4 (B)(1) of the Westminster Municipal Code shall be used, and other leave benefits identified in other sections of the Code and the City's Personnel Rules and Policies shall be similarly calculated using an over-20-years-of-continuing-service basis.

Section 3. The benefits intended by this ordinance shall be terminated upon the resignation, termination, or other separation from service of Mr. Smith as the City's Public Works & Utilities Director.

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

Section 5. This 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 25th day of June, 2007. PASSED, ENACTED AS AMENDED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 9<sup>th</sup> day of July, 2007.

**A BILL FOR AN ORDINANCE ANNEXING A PARCEL OF LAND LOCATED IN SECTION 14,  
TOWNSHIP 2 SOUTH, RANGE 69 WEST, 6TH P.M., JEFFERSON COUNTY, COLORADO**

WHEREAS, pursuant to the laws of the State of Colorado, there was presented to the Council of the City of Westminster a petition for annexation to the City of Westminster by the owners of more than fifty percent of the hereinafter-described contiguous, unincorporated area, exclusive of public streets and alleys, being in the County of Jefferson, State of Colorado; 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. 20, Series of 2007 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 City Council has satisfied itself that the proposed annexation conforms with the Comprehensive Land Use Plan 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 situated, lying and being in the County of Jefferson, State of Colorado, to wit:

Richter and Catt annexation

A PORTION OF THE NW 1/4, SECTION 14, T. 2 S., R. 69 W., 6TH P.M., JEFFERSON COUNTY, COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE WEST 1/4 CORNER, SECTION 14;

THENCE N0°17'00"W ALONG THE WEST LINE, SAID NW 1/4, A DISTANCE OF 581.78 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF CHURCH RANCH BOULEVARD;

THENCE N39°54'53"E ALONG SAID SOUTH LINE, 155.64 FEET TO THE CENTERLINE OF THE MEANDERING DITCH AS RECORDED AT SAID COUNTY IN BOOK 1060, PAGE 380;

THENCE ALONG SAID CENTERLINE THROUGH THE FOLLOWING FOUR COURSES:

1) S83°17'00"E, 24.91 FEET;

2) S72°08'00"E, 88.80 FEET;

3) S87°36'00"E, 295.50 FEET;

4) N74°43'00"E, 108.84 FEET TO THE WEST RIGHT-OF-WAY LINE OF BRENTWOOD WAY;

THENCE N40°35'37"E ALONG SAID WEST LINE, 185.81 FEET TO THE NORTH RIGHT-OF-WAY LINE OF BRENTWOOD WAY;

THENCE S87°22'49"E ALONG SAID NORTH LINE, 38.06 FEET TO THE WEST RIGHT-OF-WAY LINE OF ZEPHYR STREET;

THENCE N40°35'37"E ALONG LAST SAID WEST LINE, 258.10 FEET;

THENCE S49°11'37"E, 180.00 FEET TO THE EAST RIGHT-OF-WAY LINE OF THE COLORADO AND SOUTHERN RAILROAD RIGHT-OF-WAY;

THENCE S40°35'37"W ALONG SAID EAST LINE, 1168.56 FEET;

THENCE N89°34'16"W, 196.29 FEET TO THE EAST RIGHT-OF-WAY LINE OF BRENTWOOD WAY;

THENCE S40°35'37"W ALONG LAST SAID EAST LINE, 26.17 FEET TO THE SOUTH LINE.

NW 1/4, SECTION 14;

THENCE N89°34'16"W ALONG LAST SAID SOUTH LINE, 95.92 FEET TO THE POINT OF BEGINNING.

Consisting of approximately 10.57 acres.

Section 2. As the originally scheduled adoption of this ordinance was delayed as a result of a mis-publication of notice and the applicants would be unduly prejudiced if the annexation could not be completed as originally scheduled, an emergency is declared to exist, and this ordinance is declared to be necessary for the immediate preservation of the public peace, health and safety. Wherefore, this ordinance shall be in full force and effect upon adoption of this ordinance on July 9, 2007, by an affirmative vote of six of the members of the Council if six or seven members of the Council are present at the meeting at which this ordinance is presented, or by an affirmative vote of four of the members of

the Council if four or five members of the Council are present at the meeting at which this ordinance is presented and the signature on this ordinance by the Mayor or the Mayor Pro Tem.

Section 3: This ordinance shall be published in full within ten (10) days after its enactment.

INTRODUCED, READ IN FULL AND PASSED AND ADOPTED AS AN EMERGENCY  
ORDINANCE this 9th day of July, 2007.

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

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council finds:

a. That an application for an amendment to the Westminster Comprehensive Land Use Plan has been submitted to the City for its approval pursuant to W.M.C. §11-4-16(D), by the owner(s) of the properties described in attached Exhibits A and B, incorporated herein by reference, requesting a change in the land use designations from "Northeast Comprehensive Land Use Plan" and "District Center" to "Retail Commercial" for the 13.81 acres generally east of Dover Street and north of 100<sup>th</sup> Avenue and south of a portion of the Mandalay Ditch and southeast of Church Ranch Boulevard, a portion of the Brentwood Way right of way and a portion of the Burlington Northern right of way and a portion of Zephyr Street adjacent thereto.

b. That such application has been referred to the Planning Commission, which body held a public hearing thereon on June 12, 2007, after notice complying with W.M.C. §11-4-16(B) and has recommended approval of the requested amendments.

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

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

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

Section 2. The City Council approves the requested amendments and authorizes City Staff to make the necessary changes to the map and text of the Westminster Comprehensive Land Use Plan to change the designation of the properties more particularly described on attached Exhibits A and B: to "Retail Commercial", as depicted on the map attached as Exhibit C.

Section 3. Severability: If any section, paragraph, clause, word or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part deemed unenforceable shall not affect any of the remaining provisions.

Section 4. As the originally scheduled adoption of this ordinance was delayed as a result of a mis-publication of notice and the applicants would be unduly prejudiced if this approval could not be completed as originally scheduled, an emergency is declared to exist, and this ordinance is declared to be necessary for the immediate preservation of the public peace, health and safety. Wherefore, this ordinance shall be in full force and effect upon adoption of this ordinance on July 9, 2007, by an affirmative vote of six of the members of the Council if six or seven members of the Council are present at the meeting at which this ordinance is presented, or by an affirmative vote of four of the members of the Council if four or five members of the Council are present at the meeting at which this ordinance is presented and the signature on this ordinance by the Mayor or the Mayor Pro Tem.

Section 5: This ordinance shall be published in full within ten (10) days after its enactment.

INTRODUCED, READ IN FULL AND PASSED AND ADOPTED AS AN EMERGENCY ORDINANCE this 9th day of July, 2007.

Exhibit A

(Description of Parcel in the City)

See Exhibit A – A portion of Tract 75, Mandalay Gardens, and a parcel of land located in the Northeast ¼ of Section 15, Township 2 South, Range 69 West of the 6<sup>th</sup> P.M., County of Jefferson, State of Colorado. A parcel of land located in the Northeast ¼ Section 15, Township 2 South, Range 69 West of the Sixth Principal Meridian, County of Jefferson, State of Colorado, more particularly described as follows: Commencing at the Southeast corner of the Northeast ¼ of said Section 15, whence the center section thereof bears North 89°34'16" West, a distance of 2615.38 feet;

Thence North 00°17'00" West along the East line of the Northeast ¼ of said Section 15, a distance of 30.00 feet to a point on the North line of West 100<sup>th</sup> Avenue, being the point of beginning;

Thence North 89°34'16" West along said North line, a distance of 531.00 feet to the Southerly corner of said Tract 75, Mandalay Gardens;

Thence continuing North 89°34'16" West along the South line of said Tract 75, Mandalay Gardens, a distance of 9.87 feet to the Southeast corner of Church Ranch Boulevard as recorded at Reception No. F0534405;

Thence North 27°57'21" West along the right of way of said Church Ranch Boulevard, a distance of 22.93 feet to the South corner of Church Ranch Boulevard as recorded at Reception No. F0527517;

Thence along the Southeasterly right of way line of said Church Ranch Boulevard, the following two courses:

1. Along a curve to the left having a delta of 22°07'06", a radius of 1025.43 feet, an arc length of 396.05 feet and a chord bearing North 50°58'46" East, a distance of 393.60 feet to a point of tangent;
2. North 39°54'53" East along said tangent, a distance of 378.76 feet to a point on the East line of the Northeast ¼ of said Section 15;

Thence South 00°17'00" East along said East line, a distance of 368.53 feet to the Southeast corner of said Tract 75, Mandalay Gardens;

Thence continuing South 00°17'00" East along said East line, a distance of 194.10 feet to the point of beginning, County of Jefferson, State of Colorado.

Legal Description prepared by:

Vigil Land Consultants

480 Yuma Street

Denver, CO 80204

(303) 436-9233

#### Exhibit B

(Legal Description of Annexed Parcel)

A PORTION OF THE NW ¼, SECTION 14, T. 2 S., R. 69 W., 6<sup>TH</sup> P.M., JEFFERSON COUNTY, COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE WEST ¼ CORNER, SECTION 14;

THENCE N0°17'00" W ALONG THE WEST LINE, SAID NW ¼, A DISTANCE OF 581.78 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF CHURCH RANCH BOULEVARD;

THENCE N39°54'53"E ALONG SAID SOUTH LINE, 155.64 FEET TO THE CENTERLINE OF THE MEANDERING DITCH AS RECORDED AT SAID COUNTY IN BOOK 1060, PAGE 380;

THENCE ALONG SAID CENTERLINE THROUGH THE FOLLOWING FOUR COURSES:

1) S83°17'00"E, 24.91 FEET;

2) S72°08'00"E, 88.80 FEET;

3) S87°36'00"E, 295.50 FEET;

4) N74°43'00"E, 108.84 FEET TO THE WEST RIGHT-OF-WAY LINE OF BRENTWOOD WAY;

THENCE N40°35'37"E ALONG SAID WEST LINE, 185.81 FEET TO THE NORTH RIGHT-OF-WAY LINE OF BRENTWOOD WAY;

THENCE S87°22'49"E ALONG SAID NORTH LINE, 38.06 FEET TO THE WEST RIGHT-OF-WAY LINE OF ZEPHYR STREET;

THENCE N40°35'37"E ALONG LAST SAID WEST LINE, 258.10 FEET;

THENCE S49°11'37"E, 180.00 FEET TO THE EAST RIGHT-OF-WAY LINE OF THE COLORADO AND SOUTHERN RAILROAD RIGHT-OF-WAY;

THENCE S40°35'37"W ALONG SAID EAST LINE, 1168.56 FEET;

THENCE N89°34'16"W, 196.29 FEET TO THE EAST RIGHT-OF-WAY LINE OF BRENTWOOD WAY;

THENCE S40°35'37"W ALONG LAST SAID EAST LINE, 26.17 FEET TO THE SOUTH LINE.

NW ¼, SECTION 14;

THENCE N89°34'16"W ALONG LAST SAID SOUTH LINE, 95.92 FEET TO THE POINT OF BEGINNING.

Consisting of approximately 10.57 acres.

(Map referenced as Exhibit C not published but available in the City Clerk's office)

**A BILL FOR AN ORDINANCE AMENDING THE ZONING OF 10.57 ACRES OF LAND  
GENERALLY EAST OF DOVER STREET AND NORTH OF 100<sup>TH</sup> AVENUE AND  
SOUTHEAST OF CHURCH RANCH BOULEVARD AND SOUTH OF A PORTION OF THE  
MANDALAY DITCH, AND A PORTION OF BRENTWOOD WAY RIGHT-OF-WAY AND A  
PORTION OF THE BURLINGTON NORTHERN RAILROAD RIGHT-OF-WAY AND A  
PORTION OF ZEPHYR STREET RIGHT-OF-WAY ADJACENT THERETO, ALL IN  
JEFFERSON COUNTY, COLORADO, FROM JEFFERSON COUNTY A-1 TO CITY OF  
WESTMINSTER PUD**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council finds:

a. That an application for the rezoning of the properties generally EAST OF DOVER STREET AND NORTH OF 100<sup>TH</sup> AVENUE AND SOUTHEAST OF CHURCH RANCH BOULEVARD AND SOUTH OF A PORTION OF THE MANDALAY DITCH, AND A PORTION OF BRENTWOOD WAY RIGHT-OF-WAY AND A PORTION OF THE BURLINGTON NORTHERN RAILROAD RIGHT-OF-WAY AND A PORTION OF ZEPHYR STREET RIGHT-OF-WAY ADJACENT THERETO as described in attached Exhibit A, from the Jefferson County A-1 zone to the PUD zone has been submitted to the City for its approval pursuant to W.M.C. §11-5-2.

b. That the notice requirements of W.M.C. §11-5-13 have been met.

c. That such application has been referred to the Planning Commission, which body held a public hearing thereon on June 12, 2007 and has recommended approval of the requested amendments.

d. 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 and has considered the criteria in W.M.C. § 11-5-14.

e. That based on the evidence produced at the public hearing, a rezoning to the proposed PUD zoning complies with all requirements of City Code, including, but not limited to, the provisions of W.M.C §11-5-14, regarding standards for approval of planned unit developments and §11-4-3, requiring compliance with the Comprehensive Land Use Plan.

Section 2. The Zoning District Map of the City is hereby amended by reclassification of the properties, described in Exhibit A, attached hereto and incorporated by reference, from the current Jefferson County A-1 zoning district to the PUD zoning district, as depicted on the map marked Exhibit B, attached hereto.

Section 3. As the originally scheduled adoption of this ordinance was delayed as a result of a mis-publication of notice and the applicants would be unduly prejudiced if the rezoning could not be completed as originally scheduled, an emergency is declared to exist, and this ordinance is declared to be necessary for the immediate preservation of the public peace, health and safety. Wherefore, this ordinance shall be in full force and effect upon adoption of this ordinance on July 9, 2007, by an affirmative vote of six of the members of the Council if six or seven members of the Council are present at the meeting at which this ordinance is presented, or by an affirmative vote of four of the members of the Council if four or five members of the Council are present at the meeting at which this ordinance is presented and the signature on this ordinance by the Mayor or the Mayor Pro Tem.

Section 4: This ordinance shall be published in full within ten (10) days after its enactment.

INTRODUCED, READ IN FULL AND PASSED AND ADOPTED AS AN EMERGENCY  
ORDINANCE this 9th day of July, 2007.