



REVISED CITY COUNCIL AGENDA

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

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

1. Pledge of Allegiance
2. Roll Call
3. Consideration of Minutes of Preceding Meetings
4. Report of City Officials
 - A. City Manager's Report
5. City Council Comments
6. Presentations
 - A. Proclamation Recognizing CIRSA 2007 Safety Champion Award Winner, Mike Jones
 - B. Kids Day America/International Proclamation
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. Special Real Estate and Redevelopment Legal Counsel
 - B. Special Legal Services for Retirement Plan Review
 - C. 2008 Reclaimed Water Open Storage Pre-design and Grading Plans
 - D. Second Reading of Councillor's Bill No. 33 re 2008 2nd Quarter Budget Supplemental Appropriation
9. Appointments and Resignations
10. Public Hearings and Other New Business
 - A. Public Hearing on 2009 and 2010 City Budget
 - B. Councillor's Bill No. 34 Vacating Portions of Dover St/110th Ave R-O-W – Olson Technological Park Subdivision
 - C. Councillor's Bill No. 35 re Fit Physical Therapy Lease Agreement
 - D. Resolution No. 47 re Purchase of 4.46-Acre Feldman Property at 128th Avenue & Pecos Street for Open Space
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

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.

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- 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;

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- 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.

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- K.** Final comments from City Staff and Staff recommendation.

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CITY OF WESTMINSTER, COLORADO
MINUTES OF THE CITY COUNCIL MEETING
HELD ON MONDAY, AUGUST 25, 2008 AT 7:00 P.M.

PLEDGE OF ALLEGIANCE

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

ROLL CALL

Mayor Nancy McNally, Mayor Pro Tem Chris Dittman, and Councillors Bob Briggs, Mark Kaiser, Mary Lindsey, Scott Major, and Faith Winter were present at roll call. J. Brent McFall, City Manager, Martin McCullough, City Attorney, and Linda Yeager, City Clerk, also were present.

CONSIDERATION OF MINUTES

Councillor Kaiser moved, seconded by Dittman, to approve the minutes of the regular meeting of August 11, 2008, as presented. The motion passed unanimously.

CITY MANAGER'S REPORT

Mr. McFall reported that the 18th Annual Westminster Faire and the Holy Cow Stampede were both regrettably canceled because of inclement weather. Due to the size of both events they could not be rescheduled and would not be held this year. Staff and many volunteers had devoted hundreds of hours in preparation of both events and were just as disappointed, if not more, as those who had planned to participate in a day of fun-filled activities.

Mr. McFall reminded everyone that Monday, September 1, was Labor Day. City Hall would be closed in observance of the holiday and City Council would not meet.

At the conclusion of this meeting, a post meeting would convene in the Council Board Room. It would be followed by an executive session to discuss strategy, determine positions, and obtain instruction relative to a South Westminster Redevelopment Area economic development matter where disclosure of financial data or proposed incentives would seriously jeopardize the City's ability to secure the development.

CITY COUNCIL COMMENTS

Councillor Winter reported that an injured Albino Hawk captured in Westminster was recovering nicely at a Birds of Prey facility. It had lost its mate but should fully recover and be released from captivity.

Mayor McNally announced that the Big Dry Creek Park would be dedicated between 5:30 and 7:30 p.m. on September 10. The Denver Broncos would be attending the dedication as a special treat to Westminster fans and everyone was urged to wear orange and blue to show support of the team. Council had been at The Orchard over the weekend to meet and greet residents and talk about their concerns and suggestions. Despite the downpour on Saturday that forced cancellation of the Faire and the Holy Cow Stampede, filming of Channel 4's "Fit for 4" upcoming fitness and wellness feature presentation proceeded. She and others walked the 1K and showed off Westminster's trail system.

Mayor McNally welcomed Darian Saunders, a local Boy Scout who was attending the meeting to earn his citizenship badge.

PRESENTATION

Mayor McNally proclaimed September 1 through 5 as City of Westminster Employee Appreciation Week. She presented the proclamation on behalf of the City Council to members of the Employee Advisory Committee and the Employee Recognition Action Team and asked that they convey Council's sincere appreciation to all employees and distribute gifts from Council at the annual employee appreciation breakfast. This year's theme was "Celebrate."

CITIZEN COMMUNICATION

Vicky Marshall, 7580 Xavier Street, encouraged continued partnerships between the City and School District 50 and was thankful for the accomplishments governmental entities serving Westminster residents had achieved over the years. School District statistics mirrored those of the City with regard to the proximity of liquor-licensed establishments to school facilities. With elimination of the distance requirements in the Westminster Municipal Code that the Council was enacting, School District 50 requested courtesy letters of notification on pending applications in proximity to its schools.

CONSENT AGENDA

The following items were submitted for Council's consideration on the consent agenda: acceptance of the July 2008 Financial Report; authority for the City Manager to execute a \$49,303 contract with American West Construction, LLC for construction of the Dry Creek Valley Ditch Secondary Drainage System project and authorize a \$5,000 construction contingency; based on the City Manager's recommendation, the City Council found that the public interest would be best served by a negotiated contract with Spaces and authorized the City Manager to execute a \$351,924 contract with that firm for the purchase and installation of office furniture in the remodeled Administration and Operations Buildings at the Municipal Service Center and authority for a 10% contingency of \$35,192; authority for the City Manager to sign a purchase agreement with Mile High Wetlands Group, LLC for the purchase of wetland replacement credits in an amount not to exceed \$131,580; final passage of Councillor's Bill No. 31 annexing portions of the Wadsworth Boulevard/98th Avenue right-of-way and adjacent City-owned property; and final passage of Councillor's Bill No. 32 amending the Westminster Municipal Code to eliminate spacing requirements for liquor-licensed establishments.

Mayor McNally asked if Councillors wished to remove any items from the consent agenda for discussion purposes or separate vote. None did.

It was moved by Councillor Major, seconded by Councillor Kaiser, to approve the consent agenda, as presented. The motion passed unanimously.

RESOLUTION NO. 43 MAKING APPOINTMENTS TO FILL BOARDS' & COMMISSION'S VACANCIES

Mayor Pro Tem Dittman moved, seconded by Councillor Lindsey, to adopt Resolution No. 43 to fill vacancies on the Election Commission, the Open Space Advisory Board, and the Special Permit and License Board. At roll call, the motion passed with all Council members voting affirmatively.

PUBLIC HEARING TO DESIGNATE PENGUIN BUILDING A LOCAL HISTORIC LANDMARK

At 7:16 p.m., the Mayor opened a public hearing to consider designating the Penguin Building, 7265-7269 Lowell Boulevard, a local historic landmark. Vicky Bunsen, Community Development Programs Coordinator, summarized the application in a PowerPoint presentation that showed the features qualifying this 57-year old structure as a landmark. She entered the agenda memorandum and attachments into the record. The public notification process dictated by the Westminster Municipal Code had been fulfilled and the landmark nomination had been submitted by Mary Lou Nielsen, co-owner of the building since its construction. Ms. Nielsen was in attendance.

Mayor McNally opened the hearing to public testimony. Penny Quinn, 4541 West 36th Avenue in Denver and a Nielsen family member, thanked Ms. Bunsen for her help in completing the nomination process. No others wished to speak. Council had no questions and the Mayor closed the hearing at 7:27 p.m.

RESOLUTION NO. 44 DESIGNATING THE PENGUIN BUILDING A LOCAL HISTORIC LANDMARK

Upon a motion by Councillor Briggs, seconded by Councillor Major, the Council voted unanimously at roll call to adopt Resolution No. 44 to designate the Penguin Building, 7265-7269 Lowell Boulevard, a local historic landmark.

RESOLUTION NO. 45 RE 2008 PRIVATE ACTIVITY BOND CARRY FORWARD BALANCE ALLOCATION

Councillor Major moved to adopt Resolution No. 45 approving the carry forward of the City of Westminster's 2008 Private Activity Bond allocation in the amount of \$4,537,513 for the qualified purposes set forth in the resolution and authorizing the Mayor to execute the documents necessary to preserve this allocation. The motion, seconded by Councillor Kaiser, passed unanimously on roll call vote.

RESOLUTION NO. 46 RE R-O-W ACQUISITION FOR MCKAY LAKE OUTFALL DRAIN IMPROVEMENTS

It was moved by Mayor Pro Tem Dittman, seconded by Councillor Kaiser, to adopt Resolution No. 46 authorizing City Staff to proceed with the acquisition of rights-of-way and easements necessary for the McKay Lake Outfall Drainage Improvements project, including the use of eminent domain in Thornton and Adams County, if necessary; and to authorize a total of \$810,000 for the expenses to acquire the necessary property interests, including title work, negotiation services and real property appraisals. At roll call, the motion passed unanimously.

COUNCILLOR'S BILL NO. 33 RE 2008 2ND QUARTER BUDGET SUPPLEMENTAL APPROPRIATION

Upon a motion by Councillor Briggs, seconded by Councillor Major, the Council voted unanimously on roll call vote to pass Councillor's Bill No. 33 on first reading providing for supplementary appropriations to the 2008 budget of the General, Water, Storm Drainage, and General Capital Improvement Funds.

ADJOURNMENT

There being no further business to come before the City Council, Councillor Kaiser moved, seconded by Major, to adjourn, which motion passed unanimously. The meeting adjourned at 7:31 p.m.

ATTEST:

Mayor

City Clerk



Agenda Item 6 A

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
September 8, 2008



SUBJECT: Proclamation Recognizing CIRSA 2007 Safety Champion Award Winner, Mike Jones

Prepared By: Martee Erichson, Risk Management Officer

Recommended City Council Action

Mayor McNally is requested to present the attached proclamation recognizing Mike Jones, the Colorado Intergovernmental Risk Sharing Agency's 2007 Safety Champion Award winner, for his dedicated service to the safety and health of City of Westminster employees and citizens.

Summary Statement

- The City Council is recognizing Mike Jones, who was recently named the Colorado Intergovernmental Risk Sharing Agency's (CIRSA's) 2007 Safety Champion Award winner. Mike is a Utilities Technician in the City's Public Works and Utilities Department, Utility Operations Division.
- Mike Jones has served the employees and citizens of Westminster in many capacities with integrity and enthusiasm.
- Mayor Nancy McNally will present the proclamation recognizing Mr. Jones' accomplishments.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

None identified

Alternative

None identified

Background Information

In late 2007, Mike Jones was nominated by his work group for the City's annual Safety V.I.P. Award along with several other worthy employees throughout the City. Mike was chosen as the winner of the 2007 award and his division received \$1,000 in safety incentive money to spend toward furthering their safety goals. To further recognize Mike's efforts in keeping his fellow employees and citizens of Westminster safe, the City's Risk Management staff nominated Mike for the annual CIRSA Safety Champion Award. This award annually recognizes individual employees and groups among all CIRSA members who demonstrate a commitment to an active loss prevention program designed to help reduce accidents, injuries and claims.

Mike has volunteered to assume the responsibility for chairing the Utilities Division Safety Committee for over 10 years and in that role has kept that committee going strong. He has also gone above and beyond that role by pursuing his Advanced Safety Certification through the Colorado Safety Association. Mike is a strong member and contributor to the Citywide Safety Committee, and he continues to look for new ways to encourage the Utilities staff and all employees to believe in, as well as participate in, good safety practices.

Through Mike's persistent leadership, the Utilities Division Safety Program has developed and implemented several loss control initiatives that have proven to be successful in limiting incidents and lost-time injuries. Some of the programs Mike has established include setting annual goals for the Utilities Division Safety Committee, job safety analysis, near-miss reporting and follow-up program, safety incentive/reward program, and follow-up with Division investigations of safety issues following employee work-related accidents.

Westminster and its employees have benefited substantially from Mike Jones' involvement with safety within his work group and beyond, and the City takes pride in acknowledging his receipt of the 2007 CIRSA Safety Champion Award. The Risk Management program addresses Council's Strategic Plan goals of Financially Sustainable City Government and Safe and Secure Community by working to mitigate the cost of claims to the City and maintaining a loss control program to keep our city streets and facilities safe for the general public.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

WHEREAS, Mike Jones has served the employees of Public Works and Utilities Department with loyalty and integrity with his commitment to their safety on the job; and

WHEREAS, Mike Jones, through example, inspires others to participate in safety and loss control efforts throughout the City; and

WHEREAS, Mike Jones has chaired the Utilities Division Safety Committee for over 10 years; and

WHEREAS, Mike Jones has voluntarily earned his Advanced Safety Certification through the Colorado Safety Association; and

WHEREAS, Mike Jones has established numerous successful loss control programs within the Utilities Division that have enabled his division to go years without a lost time injury; and

WHEREAS, Mike Jones has been a member of the Citywide Safety Committee for many years and has always participated wholeheartedly with thoughtfulness and innovation; and

WHEREAS, the City of Westminster wishes to publicly recognize Mike Jones' outstanding record of inspiration and commitment to the betterment of the lives of his fellow employees; and

WHEREAS, Mike Jones is being recognized by the Colorado Intergovernmental Risk Sharing Agency (CIRSA) as the 2007 CIRSA Safety Award Champion.

NOW, THEREFORE, I, Nancy McNally, Mayor of the City of Westminster, Colorado, on behalf of the entire City Council and Staff, do hereby issue this proclamation to honor

MIKE JONES

by publicly thanking him for his years of public service to the employees and citizens of Westminster and congratulate him for deservedly being named CIRSA's 2007 Safety Champion.

Signed this 8th day of September, 2008.

Nancy McNally, Mayor



Agenda Item 6 B

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
September 8, 2008



SUBJECT: Kids Day America/International Proclamation

Prepared By: Linda Yeager, City Clerk

Recommended City Council Action

Councillor Winter will present a proclamation to Dr. Michelle Mathiesen of I Get It Chiropractic, as the organizer of “Kids Day America/International” in Westminster on Saturday, September 20, 2008.

Summary Statement

- “Kids Day America/International” is a special day set aside to address health, safety and environmental issues that affect everyone as individuals and as a community. This event was founded for the purpose of educating families and the communities about these important social concerns. It is supported by chiropractic offices in communities throughout the world.
- In Westminster, Kids Day activities will take place on September 20 from noon to 3 p.m. at the Brentcross Shopping Center located at 92nd & Wadsworth Boulevard. There will be a variety of activities and displays available for families including health screenings; ID cards prepared along with fingerprinting; a Westminster Police Department K-9 Unit presentation; a display on the environment and recycling; a demonstration by Mad Science; live music and a jumping castle for the children.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

None identified

Alternative

None identified

Background Information

Over 2,000 communities have participated in Kid's Day America/International and over 3 million children and their families have enjoyed this day throughout the world. This year marks the 14th anniversary of the event. With the help and support of thousands of local police/sheriff's offices, fire departments, and photographers who volunteer their time, Child Safety ID cards have been completed for millions of children. This event is free to the community and this year's event will benefit the World Children's Wellness Foundation.

This program supports Council's strategic goal for a Safe and Secure Community by providing Safety ID cards with pictures of the children who participate in the events and by making the younger generation aware of health, safety, and environmental issues.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

WHEREAS, the health and well-being of children is our responsibility; and,

WHEREAS, the Safety of our children is a significant concern for parents, community leaders, and health care givers; and,

WHEREAS, the environmental welfare is of universal concern and deserves the utmost attention; and,

WHEREAS, if started in childhood, proper health, safety, and environmental habits can be maintained for a lifetime, producing a valued member of society and enhancing our community; and

WHEREAS, Kids Day America/International events are being sponsored by chiropractic offices in many communities to promote children's health and safety and provide education on social and environmental issues.

NOW, THEREFORE, I, Nancy McNally, Mayor of the City of Westminster, Colorado, on behalf of the entire City Council and Staff, do hereby proclaim the 20th of September, 2008, as

“Kids Day America/International TM”

in Westminster and urge that this day be dedicated to the efforts of Doctors of Chiropractic in helping educate all citizens on the importance of health, safety, and environmental issues affecting our community.

Signed this 8th day of September, 2008.

Nancy McNally, Mayor



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
September 8, 2008



SUBJECT: Special Real Estate and Redevelopment Legal Counsel

Prepared By: Steve Smithers, Assistant City Manager
Martin R. McCullough, City Attorney

Recommended City Council Action:

Authorize the City Manager to enter into agreements with Malcolm Murray, Barbara Banks, Dee Wisor, and Ken Kramer for work related to the Westminster Mall redevelopment, Westminster Conference Center sale, Axis project, Westin Hotel Conference Center possessory interest issue, and other related economic and redevelopment projects. The total compensation to be paid to the above counsel shall not exceed \$135,000, collectively.

Summary Statement

- Mr. Murray has served as special legal counsel in the past in connection with the City's various urban renewal projects. Ms. Banks assisted with the negotiation and renegotiation of the various real estate documents related to the Westin Hotel and Conference Center. Mr. Wisor has served as the City's and WEDA's bond counsel including the tax increment financings for the 144th Avenue Interchange Project and the South Sheridan Urban Renewal Project.
- Staff is also recommending that the City Council authorize the City Manager to execute a legal services agreement with Ken Kramer of Berenbaum, Weinshienk & Eason, P.C., for assistance with the possessory interest issue in connection with the Westin Hotel Conference Center.
- When negotiating some of the more complex agreements involving private developers and their lenders, it can be very important to have someone with the appropriate knowledge to respond to representations that something is either required by or objectionable to the owner's lender or is not commercially "reasonable." In addition, some of the increasingly complex and time-sensitive transactions in which the City is finding itself lately often require more than one attorney to handle the project.
- City Council has previously found merit in approving special legal counsel to assist the City Attorney's Office as needed, rather than expanding staff.
- Funds in the amount of \$55,000 for this expense were previously approved by Council as part of the 2008 Carryover and are available in the General Fund, Central Charges Professional Services account. The remaining \$80,000 is available within the City Center Redevelopment CIP account.

Expenditure Required: Not to exceed \$135,000

Source of Funds: General Fund - Central Charges Budget
General Capital Improvement Fund – City Center Redevelopment Project

Policy Issue

Should the City retain special legal counsel to assist in various economic development and real estate projects?

Alternative

Not retain this type of special legal counsel assistance or seek such assistance from another source. This alternative is not recommended given the need for specialized legal services in some of the complex economic development and real estate projects on the horizon during 2009 and 2010.

Background Information

Ms. Banks is an experienced attorney specializing in real estate law. Ms. Banks is a current member and past chairperson of the Real Estate Section of the Colorado Bar Association. She has written and presented papers on a wide variety of complex real estate issues, including such matters as lender law and “mortgageable ground leases.”

Ms. Banks was instrumental in completing the joint development agreement, the “condominiumizing agreement” and the conference center lease for the Westin Hotel project. It is anticipated that her assistance will be of significant value in the timely negotiation and completion of the documents necessary for the sale of the Westin Westminster Conference Center and the unwinding of the large number of documents previously put into place in connection with the lease of the Conference Center and the Pavilion Catering Center.

Mr. Murray’s expertise is in redevelopment projects pursuant to the Colorado urban renewal law. Mr. Murray assisted the City in the negotiation of the Redevelopment Agreements for the Orchard Town Center and the Walnut Creek Town Center Projects.

Mr. Wisor is a nationally rated bond attorney who has served as bond counsel in connection with various City and WEDA financings.

It is anticipated that the above legal counsel will play a significant role in accomplishing the Westminster Mall Redevelopment Project. This project will require a significant amount of legal work related to the negotiation and drafting of a redevelopment agreement with the mall ownership and the redeveloper, addressing the various leasehold interests in the Mall, and creating a marketable title to the project which is free and clear of objectionable covenants, restrictions, and easements.

Mr. Kramer is one of the few attorneys in the Denver area who specializes in the protesting of *ad valorem* property tax valuations and the litigation of property tax refunds and abatements. The City previously filed a challenge with the Jefferson County Assessor concerning the method of valuing the possessory interest in the City’s Conference Center that the City by contract is obligated to pay. The City Attorney and the Assistant City Manager are also working with Mr. Kramer and the City’s property tax consultant on a petition for the abatement and refund of portions of the possessory interest tax previously assessed by Jefferson County and paid for by the City. The approval of these special counsel agreements will further City Council’s Strategic Plan goals of Financially Stable City Government Providing Exceptional Services, Vibrant Neighborhoods and Commercial Areas, and Strong, Balanced Local Economy.

The City Charter requires City Council approval of all outside legal counsel agreements. The City Attorney has determined that the hourly rates of the above special legal counsel are reasonable and competitive with other legal counsel performing similar services. Often, only relatively brief consultations with outside counsel are required, and these types of arrangements afford the opportunity to

SUBJECT: Special Real Estate and Redevelopment Legal Counsel

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obtain the necessary advice without holding up progress on the negotiations and structuring of the overall transaction.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
September 8, 2008



SUBJECT: Special Legal Services for Retirement Plan Review

Prepared By: Kim McDaniel, Retirement Administrator

Recommended City Council Action

Authorize the City Manager to sign a contract for legal services with Brownstein Hyatt Farber Schreck P.C. for special legal services in connection with advice pertaining to and preparation of legal documents to amend the City's pension plans and deferred compensation plan.

Summary Statement

- The IRS requires government pension plan documents to be amended to comply with the Pension Protection Act of 2006. Amendments to plans and forms covering the Pension Protection Act of 2006 must be filed with the IRS by January 31, 2009.
- Retirement staff requests the services of an attorney specializing in pension law to review the amended plan documents to ensure the Plans conform to laws as modified by the Pension Protection Act of 2006.
- Retirement staff requests the services of an attorney to review the proposed Group Fixed and Variable Deferred Annuity contract to ensure investment options offered within the deferred compensation plan are eligible for exemption under the federal securities laws.
- Staff recommends the City hire the firm Brownstein Hyatt Farber Schreck P.C. as special legal counsel to provide legal consultation for the Pension Plans and Deferred Compensation Plan, as well as, prepare and file the correct legal documents with the IRS on behalf of the Pension Plans.

Expenditure Required: Not to exceed \$12,000

Source of Funds: General Fund - Central Charges Pension Account

Policy Issue

Should the City hire Brownstein Hyatt Farber Schreck P.C. to review, prepare, and submit legal documents to the IRS to amend the pension plan documents to comply with laws passed known collectively as the Pension Protection Act of 2006 and review the deferred compensation plan annuity contract?

Alternatives

1. Not hire outside legal counsel and proceed without the benefit of a legal opinion concerning possible plan disqualification if the pension plan documents are not reviewed and filed timely or correctly. In addition, not hire outside legal counsel and proceed without the benefit of a legal opinion on the Deferred Compensation Plan Group Fixed and Variable Annuity contract. This alternative is not recommended as it is important that the City verify the legal basis of its pension plans.
2. Seek other legal assistance or opinions in lieu of hiring Brownstein Hyatt Farber Schreck P.C. Brownstein is a widely recognized expert on the topic of pensions and staff is very confident in recommending them for this work.

Background Information

The IRS Code is often changed and updated following the passage of new laws by Congress. The IRS requires pension plans to update their plan documents in accordance with the legal changes related to pension plans and submit applications to the IRS for approval of the required amendments to the plan documents. Further, the IRS requires pension plans to submit plan amendments by a certain time. Those plans that do not submit proper amendments within the required time can potentially lose their status as “tax qualified” meaning that contributions to the plan would become taxable.

Because the consequences of not filing timely or correctly in accordance with IRS requirements could be substantial for plan participants, staff requests the assistance of outside legal counsel well versed in reviewing and filing the required documents.

The firm of Brownstein Hyatt Farber Schreck P.C. has extensive experience with pension law and working with the IRS. Staff requests their services be employed in reviewing the Plan documents and filing of the Pension Protection Act of 2006.

The Deferred Compensation Plan currently offers three model portfolios that include investment options available to participants on a stand alone basis. Based on the Deferred Compensation Plan’s investment consultant study, adding different investment options to the model portfolios generally reduces volatility while maintaining the target rate of return due to exposure to different asset classes. The proposed Group Fixed and Variable Deferred Annuity contract would allow the Plan to include new asset classes for the model portfolios while not offering them to participants on a stand alone basis. Some asset classes can be more risky if not properly mixed with other asset classes, which can be difficult for some participants to grasp.

Under federal securities laws, rules and regulations, model portfolios including investment options not available on a stand alone basis to participants must be registered. However, model portfolios offered through a group variable annuity contract qualifies as a federal securities registration exemption. The Deferred Compensation Plan currently is contracted under a Group Fixed Deferred Annuity contract.

SUBJECT: Special Legal Services for Retirement Plan Review

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The firm of Brownstein Hyatt Farber Schreck P.C. has extensive experience in reviewing Third Party Administrator contracts. Staff requests their services be employed in reviewing the proposed Deferred Compensation Plan Group Fixed and Variable Deferred Annuity contract to ensure it qualifies as a federal securities registration exemption for the model portfolios.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
September 8, 2008



SUBJECT: 2008 Reclaimed Water Open Storage – Pre-design & Grading Plans

Prepared By: Jenny Fifita, Reclaimed Water System Analyst

Recommended City Council Action

Based on the report and recommendation of the City Manager, City Council finds that the public interest will best be served by authorizing the City Manager to execute a professional services agreement with Deere & Ault Consultants, Inc. as the sole source for producing preliminary design and grading plans for a reclaimed water open storage facility in an amount not to exceed \$160,000.

Summary Statement

- The Extended Reclaimed Water Master Plan, completed by HDR Engineering, Inc. in 2006, identified that the City would need to construct a facility to store at least 175 AF of treated effluent (reclaimed water) in order to meet an average year demand of 3,500 AF. This facility would store excess reclaimed water in the spring and fall when the volume of available effluent used to produce reclaimed water exceeds reclaimed customer irrigation demand.
- The City recently completed a study with Deere and Ault Consultants to assess the feasibility of a number of different sites for constructing the reclaimed water open storage facility. A piece of property owned by the City, located between the Big Dry Creek Wastewater Treatment Facility and Wal-Mart located on 136th Avenue and Orchard Parkway, was identified as the preferred location.
- The construction of the reservoir will require that the City export 290,000 cubic yards of fill from the reservoir site to another location.
- City Staff is in the process of negotiating a mutually beneficial agreement with the Erickson Senior Housing Project located directly south of the Reclaimed Water Treatment Facility regarding the use of fill material from this future reservoir site for use at the Erickson site.
- Erickson would commit to relocate approximately 150,000 cubic yards of fill dirt from the reservoir site to the border between the Erickson property and the reclaimed water treatment facility property. Erickson would remove approximately half of the fill dirt required for the eventual construction of the reservoir, the value of which is in the neighborhood of \$338,000.
- This benefits Erickson by allowing them to build up and level out the final grade of their site to accommodate all of the planned buildings, while avoiding construction of a series of expensive retaining walls.
- The pre-design and grading plans are required to identify what areas of the reservoir site should be excavated to remove fill. This work is a necessary first step to completing the full design of the reclaimed open water storage facility. The rest of the full design for the reservoir will be completed when/if funds become available in 2009.
- City Staff negotiated the project cost and is confident that the fees are reasonable.

Expenditure Required: Not to exceed \$160,000

Source of Funds: Utility Fund – Reclaimed Water Treatment Plant Expansion Study
Capital Improvement Account

Policy Issue

Should the City award a sole source negotiated contract to Deere & Ault Consulting for completing the pre-design and grading plans on the construction of a reclaimed water open storage facility?

Alternatives

As an alternative to awarding the contract to Deere & Ault Consultants, the City could solicit proposals from several engineering firms. If another firm were selected, they would not be familiar with the work that Deere & Ault Consultants did on the Reclaimed Water Open Storage Reservoir Feasibility Study. Deere and Ault Consultants are familiar with the details of the project, including the initial geotechnical and environmental surveys of the site. This project is a natural extension of the work they have already performed for the City. Erickson Senior Development is trying to move forward and is planning to begin moving fill dirt this winter; therefore, timing is critical on this project. Selecting another firm and familiarizing them with the project would take time that could be spent producing the grading plans.

A second alternative would be to complete the analysis at a later date. This would not provide Erickson the grading plans showing them where to excavate before they need to begin work. If the analysis is not completed this winter, the City will miss the opportunity of having Erickson relocate the fill. The relocation of the fill is valued at approximately \$338,000. This option is not recommended.

Background Information

In 2000, the City put the Reclaimed Water Treatment Facility into operation. The Facility was designed to produce six million gallons per day and meet a 2,600 AF average year demand. The plant was built to be easily expanded to produce ten million gallons a day and meet an average annual demand of 3,500 AF. In 2006, the Extended Reclaimed Water Master Plan was completed. The master plan identified that it would be necessary to construct 175 AF of reclaimed water open storage to maximize the functionality of the system and to serve 3,500 AF of average annual demand.

In 2007, Erickson Senior Housing Development, located directly south of the Reclaimed Water Treatment Facility, approached the City to discuss purchasing a portion of the Reclaimed Water Treatment Facility's property on which the City had intended to build the reservoir. At that time, the City contracted with Deere & Ault Consultants to evaluate the feasibility of a number of different sites for locating the reclaimed water open storage reservoir, as well as to assess the financial impact of relocating the potential storage site. This study determined that a better location for the reservoir would be on the City's Utility owned land between the Big Dry Creek Wastewater Treatment Facility and the Wal-mart located on 136th Avenue and Orchard Parkway.

As negotiations with Erickson developed, it became apparent that their site goals could be accomplished without purchasing additional land if they could fill in a portion of the hillside between their property and the reclaimed water treatment facility. Since relocating the planned reservoir site, the City had intended to relocate the fill from the reservoir site onto the reclaimed water treatment facility property during future reservoir construction. A mutually beneficial agreement is being negotiated, which would allow Erickson to excavate dirt from the reservoir site for use as fill on the hillside between the Erickson Senior Housing Property project and the Reclaimed Water Treatment Facility, saving the City the future cost of excavation and transport, estimated at \$338,000. This analysis will provide the minimum amount of pre-design work necessary to create grading plans and to identify where fill should be removed from the City's property. The remainder of the Open Storage Reservoir design will be completed if/when the budget for this is approved in 2009.

Staff recommends that City Council approve Deere & Ault Consultant's proposal for engineering work to conduct the Reclaimed Water Open Storage Pre-Design and Grading Plans. Deere & Ault Consulting is recommended for a sole source contract because this is a natural extension of the work they are currently doing for the City. They are qualified for the work and do not need to be familiarized with the project.

Transition from the work on the feasibility study to work on the pre-design and grading plans should be seamless allowing the work to be completed in a quicker, more cost effective manner. City staff have reviewed the scope of work and negotiated a fee structure with Deere and Ault Consultants. Staff is confident that the fees are competitive and reasonable.

This project meets the City's goals for Financially Sustainable City Government because it helps to provide efficient and cost-effective services and to secure and develop a long term water supply. It also creates a beautiful and environmentally sensitive City by promoting environmentally sensitive operations.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
September 8, 2008



SUBJECT: Second Reading of Councillor’s Bill No. 33 re 2008 2nd Quarter Budget Supplemental Appropriation

Prepared By: Gary Newcomb, Accountant

Recommended City Council Action

Pass Councillor’s Bill No. 33 on second reading providing for supplementary appropriations to the 2008 budget of the General, Water, Storm Drainage, and General Capital Improvement Funds.

Summary Statement

- City Council action is requested to adopt the attached Councillor’s Bill on second reading authorizing a supplemental appropriation to the 2008 budget of the General, Water, Storm Drainage, and General Capital Improvement Funds.
 - General Fund amendments total: \$158,109
 - Water Fund amendments total: \$1,207,901
 - Storm Drainage amendments total: \$4,000
 - General Capital Improvement Fund amendments total: \$83,512
- This Councillor’s Bill was passed on first reading August 25, 2008.

Expenditure Required: \$1,453,522

Source of Funds: The funding sources for these expenditures include interest earnings, reimbursements, sale proceeds, program revenues, and grants.

Respectfully submitted,

J. Brent McFall
City Manager
Attachment

BY AUTHORITY

ORDINANCE NO. **3428**

COUNCILLOR'S BILL NO. **33**

SERIES OF 2008

INTRODUCED BY COUNCILLORS
BRIGGS - MAJOR

A BILL

**FOR AN ORDINANCE AMENDING THE 2008 BUDGETS OF THE GENERAL, WATER,
STORM DRAINAGE, AND GENERAL CAPITAL IMPROVEMENT FUNDS AND
AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2008 ESTIMATED
REVENUES IN THE FUNDS**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2008 appropriation for the General, Water, Storm Drainage, and General Capital Improvement Funds, initially appropriated by Ordinance No. 3316 are hereby increased in aggregate by \$1,453,522. This appropriation is due to the receipt of interest earnings, reimbursements, sale proceeds, program revenues, and grants.

Section 2. The \$1,453,522 increase shall be allocated to City Revenue and Expense accounts as described in the City Council Agenda Item 10E dated August 25, 2008 (a copy of which may be obtained from the City Clerk) increasing City fund budgets as follows:

General Fund	\$158,109
Water Fund	1,207,901
Storm Drainage Fund	4,000
General Capital Improvement Fund	<u>83,512</u>
Total	<u>\$1,453,522</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 25TH day of August, 2008.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 8TH day of September, 2008.

ATTEST:

Mayor

City Clerk



Agenda Item 10 A

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
September 8, 2008



SUBJECT: Public Hearing on 2009 and 2010 City Budget

Prepared By: Barbara Opie, Budget & Special Projects Manager

Recommended City Council Action

Hold a public hearing on the 2009 and 2010 City Budget and receive citizen comments.

Summary Statement

- Development and review of the 2009 and 2010 City Budget has been completed by the City Manager's Office. The draft budget has been distributed to City Council and has been made publicly available on the City's website, in the City Clerk's Office, and at City Libraries.
- Public meetings regarding the 2009 and 2010 Budget were held on June 9 and July 28 to receive citizen input.
- September 8 is the final public hearing before the City Council Budget Retreat, affording citizens one more opportunity to comment and provide feedback on the 2009 and 2010 City Budget.
- In accordance with the City Charter, City Council must adopt the budget no later than the October 27th City Council meeting.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Listen to citizen requests, comments and suggestions as they pertain to the 2009 and 2010 Budget.

Alternative

Council could choose to not conduct a public hearing at this time. This is not recommended as providing citizens an opportunity for input early on in the budget process plays an important role in assuring that the budget reflects community needs. In addition, a public hearing on the budget is required by the City Charter.

Background Information

City Council is scheduled to hold a public hearing to receive input on the 2009 and 2010 City Budget at the Monday, September 8, City Council meeting. Staff will make a brief presentation at Monday night's City Council meeting on the Proposed 2009 and 2010 Budget. This public hearing is intended to receive citizen requests, comments and suggestions for both of these budget years.

In April, City Council revisited the goals for 2009 and 2010. The City Council Goals are listed below:

- Safe and Secure Community
- Financially Sustainable City Government Providing Exceptional Services
- Vibrant Neighborhoods and Commercial Areas
- Strong, Balanced Local Economy
- Beautiful and Environmentally Sensitive City

The direction provided by City Council through these goals assists City Staff as they develop the 2009 and 2010 City Budgets. Other considerations that go into developing a comprehensive budget are department priorities that strive to maintain existing service levels, and citizen or neighborhood input.

The Departments' efforts culminate in the distribution of the City Manager's Proposed 2009/2010 Budgets to City Council. After reviewing the Proposed Budget for four weeks, City Council is scheduled to meet on Saturday, September 27 at the Budget Retreat to deliberate on final funding decisions on staffing levels, programs, services and capital projects.

In November of 2000, Westminster voters approved a City Charter amendment that allows the City Council to adopt a formal two-year budget. The 2003/2004 Budget was the first officially adopted two-year budget. Staff is pleased to submit to City Council the fourth two-year budget for official adoption.

A copy of the Proposed 2009/2010 Budget document is available to the public in the City Clerk's Office and both City libraries. A copy of the proposed budget is also available on the City's website www.cityofwestminster.us under City Government, City Manager's Office, Budget.

Monday's public hearing was advertised in the *Westminster Window*, *Westsider*, *Weekly Edition* and *City Edition*; on cable Channel 8 and the City's website; and at various public meetings.

Public meetings regarding the 2009 and 2010 Budget were held on June 9 and July 28. September 8 is the final public hearing before the City Council Budget Retreat, affording citizens one more opportunity to comment and provide feedback on the 2009 and 2010 City Budget.

Final adoption of the 2009 and 2010 Budget is required by October 27 per City Charter requirements. Staff will make a brief presentation at Monday night's City Council meeting on the Proposed 2009 and 2010 Budget.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
September 8, 2008



SUBJECT: Councillor's Bill No. 34 re Vacation of Portions of Dover Street and 110th Avenue Rights-of-Way within the Olson Technological Park Subdivision

Prepared By: Tiffany Ewing, Civil Engineer

Recommended City Council Action

Pass Councillor's Bill No. 34 on first reading, vacating a portion of Dover Street and 110th Avenue within the Olson Technological Park Subdivision.

Summary Statement

- MIE Properties, the owner of Lot 1, Lot 1A, Lot 2, Lot 3 and Lot 4B, Olson Technological Park Subdivision, is requesting the vacation (shown on Exhibit A, attached) since these previously platted roadways have not been developed and will not be needed for the proposed Fourth Amended Official Development Plan (ODP) for Olson Technological Park.
- The portions of Dover Street and 110th Avenue remaining as dedicated public streets after this proposed vacation is accomplished and will provide adequate access to the lots within this development. The City of Westminster does not need the portions of the roadways that are proposed to be vacated because they do not connect to any other developed roadways in the City.
- State statutes require that the vacation of all right-of-way be approved by City Council.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Should the City vacate previously dedicated street rights-of-way located within Olson Technology Park as has been requested by the developer of this site?

Alternative

Do not vacate the rights-of-way. This alternative is not recommended because the subject portions of the rights-of-way are not needed by the City and will not serve the general public.

Background Information

The Fourth Amended Official Development for Olson Technology Park is a planned unit development for an office/industrial park designed to provide an attractive environment compatible with adjacent uses.

MIE Properties, the owner of Lot 1, Lot 1A, Lot 2, Lot 3 and Lot 4B, Olson Technological Park Subdivision, has requested that the City vacate a portion of Dover Street and 110th Avenue so that the land covered by these rights-of-way can revert back to their ownership and be used for private development purposes. Staff has determined that the requested portions of rights-of-way can be vacated because these streets are not developed and will not connect to any other developed City streets.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **34**

SERIES OF 2008

INTRODUCED BY COUNCILLORS

A BILL

**FOR AN ORDINANCE VACATING PORTIONS OF DOVER STREET AND 110TH AVENUE
GENERALLY LOCATED IN OLSON TECHNOLOGICAL PARK SUBDIVISION,
JEFFERSON COUNTY, COLORADO**

WHEREAS, MIE Properties, the owner of property located at Lot 1A, Lot 1, Lot 2, Lot 3, and Lot 4B Olson Technological Park Subdivision, Westminster, Colorado has requested the City vacate two sections of platted streets that are currently unimproved; and

WHEREAS, THE City Council finds that all requirements for roadway vacation contained in the Westminster Municipal Code and applicable state statutes have been met.

NOW, THEREFORE, THE CITY OF WESTMINSTER ORDAINS:

Section 1. City Council determines that no present or future public access need exists for the area proposed for vacation.

Section 2. The area described in Exhibit A, attached hereto and incorporated herein by this reference, is hereby vacated.

Section 3. This ordinance shall take effect upon its passage after second reading. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

Section 4. 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 8th day of September, 2008.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 22nd of September, 2008.

Mayor

ATTEST:

City Clerk

APPROVED AS TO LEGAL FORM:

City Attorney's Office

OLSON TECHNOLOGICAL PARK
DOVER STREET RIGHT-OF-WAY VACATION

A PORTION OF A PARCEL OF LAND PREVIOUSLY DEDICATED AS DOVER STREET PER THE PLAT OF OLSON TECHNOLOGICAL PARK (RECEPTION NO. 88049420) AND LOCATED IN THE NORTHEAST QUARTER OF SECTION 10, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF WESTMINSTER, COUNTY OF JEFFERSON, STATE OF COLORADO, BEING MORE PARTICULARLY AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE EASTERLY RIGHT-OF-WAY LINE OF SAID DOVER STREET AND THE NORTHERLY RIGHT-OF-WAY LINE OF WEST 110TH AVENUE ALSO DEDICATED BY SAID PLAT OF OLSON TECHNOLOGICAL PARK; THENCE LEAVING SAID RIGHT-OF-WAY LINES S88°46'00"W, 60.00 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF SAID DOVER STREET; THENCE ALONG SAID WESTERLY LINE N01°14'00"W, 176.83 FEET; THENCE ALONG THE WESTERLY AND NORTHERLY LINE OF SAID DOVER STREET BEING A NON-TANGENT CURVE TO THE RIGHT 225.55 FEET, HAVING A RADIUS OF 50.00 FEET, A CENTRAL ANGLE OF 258°27'44", AND A CHORD WHICH BEARS N49°32'07"E, 77.46 FEET TO A POINT OF TANGENCY; THENCE ALONG THE EASTERLY RIGHT-OF-WAY LINE OF SAID DOVER STREET S01°14'00"E, 225.27 FEET TO THE POINT OF BEGINNING. SAID PARCEL OF LAND CONTAINS 18,961 SQUARE FEET (0.435 ACRES), MORE OR LESS.

BASIS OF BEARING: BEARINGS ARE BASED UPON THE EAST LINE OF THE NORTHEAST QUARTER OF SECTION 10, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, BEARING N00°00'00"E AND MONUMENTED PER ATTACHED EXHIBIT "B".

PREPARED BY WAYNE W. HARRIS, P.E., P.L.S.
FOR AND ON BEHALF OF
MARTIN/MARTIN, INC.
12499 WEST COLFAX AVENUE
LAKEWOOD, COLORADO 80215
AUGUST 3, 2007



Wayne W. Harris
7-31-07

LOCATION: G:\HARRIS\OLSON TECH PARK\LOTS 1 2 3\EXHIBIT\ROW-A.dwg TAB:01 SAVED BY:kelly on Jul 31, 2007 at 9:46am

EXHIBIT "A"
OLSON TECHNOLOGICAL PARK, DOVER STREET
RIGHT-OF-WAY VACATION

LOT 3
REC. NO. 2005009218

D=258'27"44"
R=50.00'
L=225.55'
CH=N49°32'07"E
77.46'

NORTH EAST CORNER,
SECTION 10, FOUND 2 1/2"
PIPE AND CAP AS SHOWN



LOT 2
REC. NO. 88049420

N01°14'00"W 176.83'

18943 S.F.
0.435 ACRES

S01°14'00"E 225.27'

P.O.B.

N45°59'47"W 13.89'

S89°20'00"W 648.42'

BASIS OF BEARINGS EAST LINE NE 1/4
SECTION 10, & 25, R69W

S00°00'00"W 2018.14'

LOT 4B
REC. NO. 2005009218

W 110TH AVE
60' R-O-W

S88°46'00"W 60.00'

S00°00'00"E 1000.10'

POINT OF COMMENCEMENT
EAST 1/4 CORNER,
SECTION 10, FOUND
2 1/2" CAP AS SHOWN



DOVER STREET
REC. NO. 88049420

LOT 1

LOT 5C

60.00'

AUGUST 03, 2007

THIS EXHIBIT DOES NOT REPRESENT A
MONUMENTED SURVEY. IT IS INTENDED ONLY
TO DEPICT THE ATTACHED DESCRIPTION.



SCALE 1" = 50'



MARTIN / MARTIN
CONSULTING ENGINEERS

12499 WEST COLFAX AVE.
P.O. Box 151500
LAKEWOOD, CO 80215
303.431.6100
FAX 303.431.4028

OLSON TECHNOLOGICAL PARK
WEST 110TH AVENUE RIGHT-OF-WAY VACATION

A PORTION OF A PARCEL OF LAND PREVIOUSLY DEDICATED AS WEST 110TH AVENUE PER THE PLAT OF OLSON TECHNOLOGICAL PARK (RECEPTION NO. 88049420) AND LOCATED IN THE NORTHEAST QUARTER OF SECTION 10, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF WESTMINSTER, COUNTY OF JEFFERSON, STATE OF COLORADO, BEING MORE PARTICULARLY AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE NORTHERLY RIGHT-OF-WAY LINE OF SAID WEST 110TH AVENUE AND THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 10; THENCE ALONG SAID EAST SECTION LINE AND THE EASTERLY RIGHT-OF-WAY LINE OF SAID WEST 110TH AVENUE S00°00'00"W, 60.00 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID WEST 110TH AVENUE; THENCE LEAVING SAID SECTION LINE AND ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE S89°20'00"W, 254.33 FEET; THENCE LEAVING SAID SOUTHERLY RIGHT-OF-WAY LINE N00°40'00"W, 60.00 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF SAID WEST 110TH AVENUE; THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE N89°20'00"E, 255.03 FEET TO THE POINT OF BEGINNING. SAID PARCEL OF LAND CONTAINS 15,280 SQUARE FEET (0.351 ACRES), MORE OR LESS.

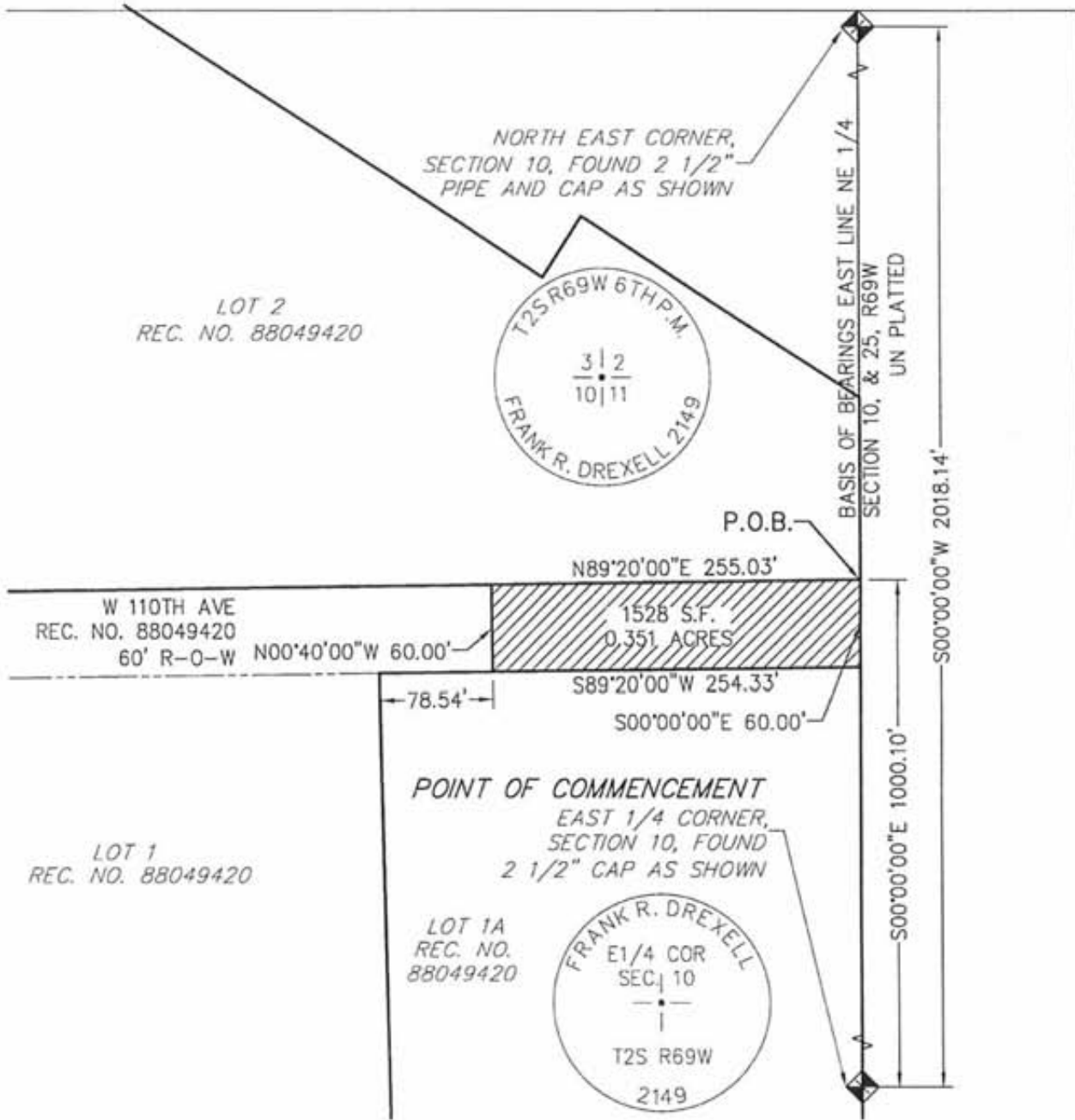
BASIS OF BEARING: BEARINGS ARE BASED UPON THE EAST LINE OF THE NORTHEAST QUARTER OF SECTION 10, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, BEARING N00°00'00"E AND MONUMENTED PER ATTACHED EXHIBIT "B".

PREPARED BY WAYNE W. HARRIS, P.E., P.L.S.
FOR AND ON BEHALF OF
MARTIN/MARTIN, INC.
12499 WEST COLFAX AVENUE
LAKEWOOD, COLORADO 80215
AUGUST 3, 2007



LOCATION: G:\HARRIS\OLSON TECH PARK\LOTS 1 2 3\EXHIBIT\ROW-B.dwg TAB:02 SAVED BY:kelly on Jul 31, 2007 at 9:46am

OLSON TECHNOLOGICAL PARK, W 100TH AVE.
RIGHT-OF-WAY VACATION



AUGUST 03, 2007

THIS EXHIBIT DOES NOT REPRESENT A
MONUMENTED SURVEY. IT IS INTENDED ONLY
TO DEPICT THE ATTACHED DESCRIPTION.



MARTIN / MARTIN
CONSULTING ENGINEERS

12499 WEST COLFAX AVE.
P.O. BOX 151500
LAKEWOOD, CO 80215
303.431.6100
FAX 303.431.4028



WESTMINSTER

COLORADO

Agenda Memorandum

City Council Meeting
September 8, 2008



SUBJECT: Councillor's Bill No 35 re Fit Physical Therapy Lease Agreement

Prepared By: Peggy Boccard, Recreation Services Manager

Recommended City Council Action

Pass Councillor's Bill No. 35 on first reading authorizing the City Manager to sign a lease agreement with Fit Physical Therapy, LLC, for office space at the City Park Recreation Center.

Summary Statement

- The portion of the City Park Fitness Center that previously housed the Colorado Rapids is currently vacant.
- City Staff has negotiated a lease agreement with Fit Physical Therapy LLC for use of approximately 1,000 square feet of office space. The initial term of the lease is for five years, with an option to renew for another five years if the parties reach agreement on the rent for the extended term. The City Attorney's Office has drafted the lease agreement.
- The rent for the initial term is \$1,308.33 per month for year one, increasing to \$1,500 per month by year four. The initial term rent includes a \$1,500-per-year payback to the City for the tenant finish the City will be doing prior to commencing the lease. This totals a little over \$15 per square foot.
- Staff has recently surveyed the surrounding area and this rate is very competitive with other comparable office space lease rates in the area.
- Leasing of property owned by the City must be approved and ratified by ordinance under Section 13.4 of the City's Charter.

Expenditure Required: \$ 0

Source of Funds: N/A

Policy Issue

Should the City of Westminster enter into a lease agreement with Fit Physical Therapy, LLC at the City Park Fitness Center?

Alternatives

1. The City could choose to lease the office to other tenants. Staff does not recommend this as the proposed lessee, Fit Physical Therapy LLC, is a well-respected business that has successful practices in several other recreation facilities in the Denver Metro area.
2. The City could choose to not lease the office and leave that portion of the facility vacant. Staff does not recommend this because the City would not benefit by the rental income that will be realized as a result of entering into this lease agreement.

Background Information

When the Colorado Rapids moved from City Park Fitness Center, Staff took the opportunity to assess current programming and facility usage needs. It was determined that the primary purpose of the City Park Recreation complex is to provide quality and affordable facilities and programming to Westminster residents. Offering Physical Therapy creates a balance of service that benefits our programs and guests. Fit Physical Therapy LLC has a proven track record with both the City of Lakewood and Foothills Park and Recreation District of providing complimentary services at their recreation centers.

This project meets City Council's Strategic Plan Goal of "Financially Sustainable City Government" by providing the City with additional revenues.

Respectively submitted,

J. Brent McFall
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO.
SERIES OF 2008

COUNCILLOR'S BILL NO. **35**
INTRODUCED BY COUNCILLORS

**A BILL
FOR AN ORDINANCE APPROVING AND RATIFYING A LEASE AGREEMENT WITH FIT
PHYSICAL THERAPY LLC FOR SPACE IN THE CITY'S CITY PARK FITNESS CENTER**

WHEREAS, the City owns the City Park Fitness Center, located at 10475 Sheridan Boulevard;
and

WHEREAS, it is in the City's interest to maximize the income generated from such operation by
collecting rental income from the office space located in the City Park Fitness Center.

NOW, THEREFORE, THE CITY OF WESTMINSTER ORDAINS:

Section 1. Pursuant to City Charter Section 13.4, the Lease Agreement attached hereto as Exhibit
A is hereby approved and ratified.

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 lease agreement attached hereto as Exhibit A shall be executed by the lessee prior to
consideration of this ordinance 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 8th day of September, 2008.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED
this 22nd day of September, 2008.

Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

City Clerk

City Attorney's Office

EXHIBIT A
LEASE AGREEMENT

THIS LEASE AGREEMENT is made this _____ day of _____, 2008, between the CITY OF WESTMINSTER, a Colorado home rule municipality (the "Lessor"), and Fit Physical Therapy LLC whose business address is 6612 South Ward Street, Littleton, CO 80127 (the "Lessee").

In consideration of the payment of the rent and the keeping and performance of the mutual promises set forth below, the Lessor hereby agrees to lease to the Lessee the premises described in Exhibit "A" attached hereto and incorporated herein, consisting of approximately 1000 square feet marked "Fit P.T." (the "Premises"). The Premises are within the building known as the City Park Fitness Center, 10475 N. Sheridan Blvd., Westminster, Colorado (the "Facility").

A. TERM OF LEASE

1. Initial Term. Lessor leases to Lessee the described Premises, for an initial term of five (5) years commencing on _____, 2008, and terminating on _____, 2013 (the "Expiration Date"). Rent shall be prorated based on the date of delivery of the Premises to Lessee.

2. Extended Term.

a. At the end of the Initial Term, the Lease may be renewed by Lessee for an Extended Term of five (5) years. The Extended Term shall be subject to the same terms and conditions applicable to the Initial Term pursuant to this Lease, except that the monthly rent for the Extended Term shall be mutually agreed to by the parties. In the event the parties are unable to agree upon a rental schedule for the Extended Term prior to the Expiration Date, this Lease shall automatically expire on the Expiration Date.

b. Lessee shall notify Lessor of its desire to extend this lease or to allow the lease to expire without extension, not later than thirty (30) days prior to the Expiration Date. Notice shall be in writing and sent to Lessor by registered mail or facsimile transmission to Lessor at the address provided in this lease. If Lessee fails to provide notice to Lessor, the lease shall automatically expire on the Expiration Date.

B. RENTAL PAYMENTS

1. Initial Term Rent. The monthly rent for Year 1 of the Initial Term shall be \$1,308.33; \$1,508.33 for Year 2 of the Initial Term; \$1,708.33 for Year 3 of the Initial Term; and \$1,500 Year 4 and 5 of the Initial Term.

2. Extended Term Rent. The monthly rent for the Extended Term shall be determined in accordance with the provisions of paragraph A.2, above.

3. Due Date. Lessee agrees to pay Lessor all rent due under this Lease in monthly installments, which shall be due and payable in advance on or before the first day of each month, at the City Hall of the Lessor at 4800 West 92nd Avenue, Westminster, Colorado, 80031. Payments not received by the first day of the month shall be subject to a late fee, until such payment is received, equal to 1.25% of the amount unpaid per month.

4. Re-Letting. If Lessee for any reason before the end of the Term ceases to pay rent to Lessor as provided in this Lease, Lessor may, at its option and without notice, and using such force as may be necessary, enter said Premises, remove any equipment, fixtures, personal effects of Lessee therefrom, and re-let the same, or any part thereof, as it may see fit, for the account of Lessee, without thereby avoiding or terminating this Lease, and for the purpose of such re-letting, Lessor is authorized to make any repairs, changes, alterations or additions in or to said Premises, as may, in the opinion of Lessor, be necessary or desirable for the purpose of such re-letting, and if a sufficient sum shall not be realized from such re-letting each month to equal the monthly installments agreed to be paid by Lessee under the provisions of this Lease, then Lessee agrees to pay such deficiency each month. However,

Lessor shall have no obligation to re-let the Premises. Lessee shall remain obligated to continue Lease payments for the full Initial Term, or Extended Term, as applicable. In the event Lessee fails to pay rent when due, the foregoing remedy shall not be deemed or construed as Lessor's exclusive remedy, and Lessor and Lessee agree that in such event, Lessor shall have all other rights and remedies available at law or in equity.

C. OBLIGATIONS OF LESSEE

In consideration of the lease of the Premises, the Lessee covenants and agrees as follows:

1. To use the Premises exclusively for the operation and management of a physical therapy clinic.
2. To pay the rent for said Premises as provided above.
3. To use the Premises for no purpose prohibited by the laws of the United States or the State of Colorado, or the ordinances of the City of Westminster.
4. To allow the Lessor at any reasonable hour of the day to enter into and go through the Premises. Except in cases of emergency, Lessor will provide notice of entry, such notice to be reasonable under the circumstances. Lessor shall not interfere with the operations of Lessee during such entry. Notwithstanding this paragraph, Lessor shall have no duty to inspect the premises or make repairs except as provided herein.
5. Not to permit the Premises, or the walls or floors thereof, to be endangered by overloading, or the Premises to be used for any purpose that would render the insurance thereon void or the insurance risk more hazardous. Lessee shall take all such action as may be necessary to prevent the Premises from ever being occupied in excess of City and State limits of occupancy.
6. Not to make any alterations to, or modifications in or upon the Premises, including the installation or removal of attached fixtures, without first obtaining the Lessor's written consent.
7. To exercise reasonable care in the supervision of its employees, officers, directors, physical therapist, and patients at all times when they are in or upon the Premises.
8. To reimburse Lessor for any expense incurred by it in repairing any damage to the Premises caused by Lessee, its directors, officers, employees or agents, or any person in their care, or present with their permission, unless Lessee makes the repairs, to the reasonable satisfaction of Lessor.
9. To indemnify, defend, and hold harmless the Lessor from and against any claim for personal injury or property damage resulting from any negligent act or omission of Lessee or its employees or agents, to carry liability insurance covering bodily injury and property damage in the minimum amount of \$1,000,000 per occurrence, exclusive of defense costs, to make Lessor an additional insured under its policy of liability insurance, and to provide the Lessor with a certificate of insurance as evidence of coverage prior to Lessee's occupancy of the Premises.
10. To sublet no part of the Premises, nor assign this lease or any interest therein without Lessor's specific written consent, and the use is compatible with other uses of the Facility. Lessor's consent to sublet or assign shall not be unreasonably withheld.
11. Not to permit any disorderly conduct or nuisance whatever about the Premises, the building in which they are located, or on the building grounds, having a tendency to annoy, disturb or interfere with other occupants of the building.
12. At the expiration or termination of this Lease, to surrender and deliver up the Premises in as

good order and condition as when the same were entered upon, loss by fire or other casualty and ordinary wear excepted.

13. To furnish and equip the space it occupies on the Premises. Lessee may remove fixtures it has installed if removal can be done so that floors, walls, or structures are in substantially the same condition as at the beginning of Lease, fire or other casualty, inevitable accident and ordinary wear excepted.
14. To repair and maintain standard items such as carpet, flooring, paint and tile surfaces, window glass, lighting fixtures and plumbing fixtures, which are not the responsibility of Lessor as provided below.
15. Notwithstanding any provision in this Lease Agreement to the contrary, to perform all repairs of an emergency nature necessary to protect the Premises from undue and avoidable injury or damage.
16. To arrange and pay for all telephone, cable television and internet connections, alarm systems and monitoring, which Lessee deems necessary for its use and the service charges therefore.
17. To pay, and indemnify and hold harmless the Lessor against any taxes of any kind attributable to Lessee's lease and use of the Premises, including but not limited to possessory interest property taxes, personal property taxes, income taxes, and sales and use taxes.

D. OBLIGATIONS OF LESSOR

In consideration of the receipt of rent and the covenants of Lessee, the Lessor covenants and agrees as follows:

1. Lessee and its customers, suppliers, and guests may park within the public parking areas of the City Fitness and City Park Recreation Centers on a space-available basis.
2. To provide or cause to be provided, at its cost, standard water (including adequate hot water), sanitary sewer, electric and gas utility services for the Premises. Lessor will also provide adequate heating and ventilation systems for the Premises, as well as smoke alarms and fire sprinklers to the extent required by the International Building Code. The Lessor will pay all usage charges for such gas, electricity, insurance, taxes and water and sewer services used on the Premises, except as otherwise herein provided.
3. To provide reasonable access to the trash dumpsters serving the City Fitness and City Park Recreation Centers, snow removal, grounds maintenance, and exterior building maintenance.
4. To provide maintenance and repair for structural systems, heating and ventilation systems, water supply lines, waste water lines and electrical and gas systems.
5. To provide signage on the front entrance of the Facility building and near the main entrance of the parking lot designating it as "Fit Physical Therapy, LLC" with approval of the City of sign design and quality.
6. To complete, prior to the commencement of the Initial Term, the tenant finish work described on Exhibit "B," attached hereto and incorporated herein by this reference.
7. Lessee may quietly hold and enjoy the premises without any interruption by the Lessor or any person claiming under the Lessor.

E. MISCELLANEOUS TERMS

1. Lessor shall have no responsibility or liability for any loss or damage to any personal property of the Lessee or any fixtures installed by the Lessee.

2. Lessee shall store no flammable, toxic, dangerous, hazardous, biohazardous, or obnoxious materials anywhere in the Premises.
3.
 - (a) If the Premises becomes so damaged by fire, flood, act of God or any other casualty so as to render the Premises untenable, the Lessee may terminate this Lease without further obligation, unless the repairs for damage are started within ninety (90) days, in which case the Lease will continue under the existing terms and conditions.
 - (b) The rent payable under this Lease shall abate following any damage to the Premises, to the extent all or part of the Premises is rendered untenable, until such damage has been repaired by Lessor.
 - (c) Within thirty (30) days after the occurrence of the damage, Lessor shall give written notice to Lessee of Lessor's best estimate of the time that will be required to repair, the damage (without the payment of overtime or any premium). Lessor may also notify Lessee of the availability of other portions of the Facility or other temporary premises, if any. Notwithstanding the offer of alternate premises, if the estimated time to repair is more than ten (10) months, and Lessee rejects alternate premises, Lessee may terminate this Lease without further obligation. If Lessee does not so terminate, this Lease will continue under the existing terms and conditions, subject to paragraph (b) above.
 - (d) Notwithstanding the above paragraphs, if the Premises are damaged more than fifty percent (50%) of its full insurable value, as reasonably determined by Lessor, Lessor may terminate this Lease. Lessor shall give Lessee written notice of termination or Lessor's decision to continue the Lease within thirty (30) days of the occurrence of the damage. If Lessor chooses to continue the Lease, Lessee may terminate the Lease by giving notice to Lessor in writing within thirty (30) days of Lessor's notice to continue.
4. If the Premises are left vacant and Lessee ceases to pay rent to Lessor, the Lessor may, at its option, either retake possession of the Premises, terminating the Lease and Lessor's and Lessee's obligations thereunder, or it may re-rent the Premises, subject to the provisions of paragraph C.3 above.
5. If the Lessee becomes insolvent, or is declared bankrupt, the Lessor may terminate this Lease forthwith, and all rights of the Lessee hereunder shall thereupon terminate, subject to the provisions of paragraph C.3 above.
6. At the expiration of the term of this Lease, whether by passage of time or by act of the Lessor as provided in this Lease Agreement, the Lessee shall surrender and deliver up the Premises peaceably to the Lessor, and if the Lessee shall remain in possession after termination of this Lease, the Lessee shall be deemed guilty of a forcible detainer of the Premises under the statute, and shall be subject to eviction and removal in accordance with state law.
7. If default shall be made in any of the covenants or agreements contained in this Lease Agreement to be kept by Lessee, except for the payment of rent that Lessee agreed is excluded from the cure provisions of this paragraph, Lessor shall provide written notice to Lessee of the default. Lessee shall have thirty (30) days after the notice to cure the default. If Lessee fails to cure the default within said thirty days, Lessor may, but need not, declare the term ended and repossess the Premises in accordance with state law. If the nature of the default is such that it cannot be cured with reasonable diligence within thirty (30) days, then Lessee shall not be in default if it commences to cure such default within thirty (30) days and thereafter diligently prosecutes such cure.
8. No any failure to act regarding nor any assent, express or implied, to any breach of any one or more of the covenants or agreements contained in this Lease Agreement shall be deemed or taken to be a waiver of any succeeding or other breach.

9. Nothing herein contained, either in the method of computing rent or otherwise, shall create between the parties hereto, or be relied upon by others as creating any relationship of partnership, association, joint venture, or otherwise. The sole relationship of the parties hereto shall be that of Landlord and Tenant.
10. If either Party shall institute any action or proceeding against the other relating to the provisions of this Lease, or any default thereunder, the unsuccessful party in such action or proceeding agrees to reimburse the successful party its reasonable attorney fees.
11. This Lease shall be binding upon and inure to the benefit of the parties hereto, their respective successors, assigns, administrators, legal representatives and executors.
12. There are no oral agreements or representations between the parties hereto affecting this Lease, and this Lease supersedes and cancels any and all previous negotiations, arrangements, agreements or representations and understandings, if any, between the parties hereto with respect to the subject matter hereof.
13. If any provision of this Lease shall be determined to be void by any court of competent jurisdiction, then such determination shall not affect any other provision of this Lease and all such other provisions shall remain in full force and effect.
14. Except as otherwise provided in this Lease, any prevention, delay or stoppage due to strike, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes therefore, governmental restrictions, regulations or controls, enemy or hostile governmental action, civil commotion, fire or other casualty, and other causes beyond the reasonable control of the party obligated to perform, shall excuse the performance by such party for a period equal to any such prevention, delay or stoppage.
15. The following persons are hereby designated by the parties as the persons responsible for the implementation of this Lease. Should Notices need to be sent or problems arise concerning this Lease the parties agree to contact:

For the Lessee: _____

For the Lessor: _____

16. Lessee agrees to execute any and all documents subordinating this Lease as requested by Lessor.
17. This lease shall bind the Lessor and the Lessee and their respective assigns, administrators, legal representatives and executors.

IN WITNESS WHEREOF, the said parties have hereunto set their hands and seals this _____ day of _____, 2008.

LESSEE: FIT PHYSICAL THERAPY, LLC. LESSOR: CITY OF WESTMINSTER

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

By: _____

Printed Name: _____

Title: _____

Attest: _____
Secretary

(Corporate Seal,
if applicable)

Attest: _____
City Clerk

(Seal)

Approved as to legal form:

City Attorney



Agenda Item 10 D

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
September 8, 2008



SUBJECT: Resolution No. 47 re Purchase of the 4.46-Acre Feldman Property at 128th Avenue and Pecos Street for Open Space

Prepared By: Heather Cronenberg, Open Space Coordinator

Recommended City Council Action

Adopt Resolution No. 47 authorizing the purchase of a 4.46-acre parcel located at 128th Avenue and Pecos Street for \$605,000 and authorizing the City Manager to execute all documents required to close on the purchase of the property.

Summary Statement

- Acquisition would allow the City to expand the current Big Dry Creek open space and preserve a buffer around the new Big Dry Creek Park.
- The Feldman property is an open space acquisition priority for the City's Open Space Advisory Board. The property is currently on the market for sale and faces development pressure if the City does not purchase it for open space.
- Staff has negotiated the purchase of the 4.46-acre parcel for a total purchase price of \$605,000 (approximately \$3.11 per square foot or \$135,650 per acre).

Expenditure Required: \$605,000 plus closing costs not to exceed \$5,000

Source of Funds: Open Space Bond Funds

Policy Issue

Does City Council approve the use of the open space bond funds for the purchase of the 4.46-acre parcel located at 128th Avenue and Pecos Street for open space?

Alternative

City Council could choose not to authorize the acquisition or the expenditure at this time. Staff does not recommend this option because development of this property could impact the Big Dry Creek Open Space and the new Big Dry Creek Park to the west. Should the City not acquire this parcel now, it will be sold, most likely for residential development.

Background Information

The acquisition of the Feldman property will expand the current Big Dry Creek Open Space and prevent development from occurring directly next to the open space and the new Big Dry Creek Park. The Big Dry Creek Open Space is considered the “jewel” of the City’s Open Space program. The City has protected 10 miles of open space along Big Dry Creek and is trying to preserve at least a 1,000 foot wide corridor on each side of the creek for wildlife habitat. Purchasing this property will provide a 1,200 foot buffer on the east side of Big Dry Creek in this area.

The Feldman family has owned this parcel for 12 years. The property is currently located in unincorporated Adams County and is zoned A-3 (Agriculture). This property was farmed for hay until recently. A little less than one half of the property (2 acres) is in the floodplain and planted with native grasses. There are also many large mature trees planted around the residence that will provide wildlife habitat. The City proposes to lease back the property to the current owners for a period of up to 8 months to allow them to move out of the house and fully remove and clean up all materials located on the property. While the family is living onsite during the lease, they have agreed to pay the City \$1,000 in rent each month that they continue to reside there. Staff will present a proposed ordinance conditionally approving the lease, per City Charter requirements, prior to closing on this acquisition. The City plans to annex the property and demolish the structures on the property once it is acquired and vacated by the family.

The family has recently been working with an agent to market this property for sale. The property is located in unincorporated Adams County and is surrounded by the City of Westminster on three sides. Residential development of a portion of the parcel is a real threat and the Feldman family will continue to seek a buyer if the City does not purchase the land. The City is not seeking funds from Adams County to assist with this purchase because the Feldman family would not agree to wait to sell the property until the first round of grants is awarded in the spring of 2009. The City plans to submit three other grants to Adams County next year in the first round and feels that these three projects have a higher priority for submission.

Based on comparisons of sales prices for similar properties, Staff offered to purchase the property for \$605,000 or \$3.11 per square foot. Staff received a signed letter of intent from the Feldmans based on this offer.

The funds for this purchase are available from the POST Bond issue approved by the voters in 2006.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

- Resolution
- Vicinity Map

RESOLUTION

RESOLUTION NO. **47**

INTRODUCED BY COUNCILLORS

SERIES OF 2008

**A RESOLUTION
AUTHORIZING THE PURCHASE OF THE 4.46 -ACRE FELDMAN PROPERTY AT 128TH
AVENUE AND PECOS STREET**

WHEREAS, the City of Westminster has negotiated with the Feldman family to purchase the 4.46-acre parcel at 128th Avenue and Pecos Street (the "Property") for \$605,000.

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

1. The City Council hereby authorizes the purchase of the Property for \$605,000.
2. The City Manager is hereby authorized to acquire such property interests consistent with applicable law, including the execution of all documents necessary to complete these purchases.
3. The City Manager shall be further authorized to incur reasonable costs associated with acquiring the properties in question, including, without limitations, contractual services, the cost of title examination, title insurance, appraisal fee payments mandated by statute, normal closing costs, filings fees and charges and all other related or incidental costs or expenses customarily associated with the acquisition of property.
- 4: This Resolution to be in full force and effect from and after its passage and approval.

PASSED AND ADOPTED this 8th day of September, 2008.

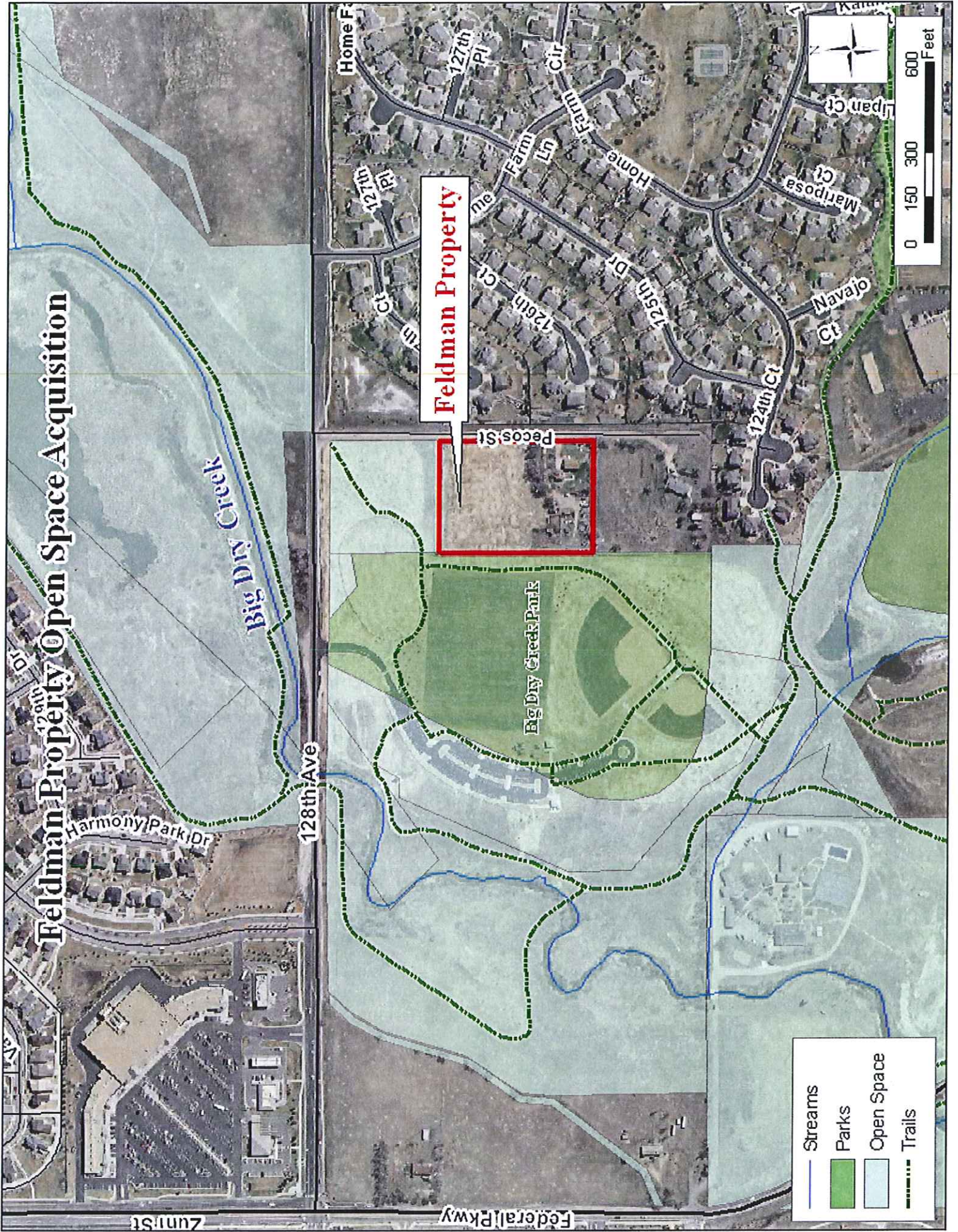
ATTEST:

Mayor Nancy McNally

APPROVED AS TO LEGAL FORM

Linda Yeager, City Clerk

City Attorney's Office



Feldman Property Open Space Acquisition

Feldman Property

- Streams
- Parks
- Open Space
- Trails

