



WESTMINSTER
COLORADO

September 9, 2002
7:00 P.M.

CITY COUNCIL AGENDA

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

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

1. Pledge of Allegiance
2. Roll Call
3. Consideration of Minutes of Preceding Meetings
4. Presentations
 - A. Presentation by Habitat for Humanity
 - B. Proclamation re Yellow Ribbon Youth Suicide Awareness and Prevention Week
5. Citizen Communication (5 minutes or less)
6. Report of City Officials
 - A. City Manager's Report
7. City Council Comments

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

8. Consent Agenda
 - A. Quarterly Insurance Report April – June 2002
 - B. CB No. 41 re 2002 Budget Supplemental Appropriation
 - C. CB No. 42 re 2002 City Ballot Language
9. Appointments and Resignations
10. Public Hearings and Other New Business
 - A. Public Hearing on 2003 and 2004 City Budget
 - B. Councillor's Bill No. 43 re Solid Waste Collection Code
 - C. Councillor's Bill No. 44 re Amending Regulations and Procedures for Water Shortage or Drought
 - D. Councillor's Bill No. 45 re Vendor's Fee on Sales/Admissions/Accommodations Taxes
 - E. Councillor's Bill No. 46 re 2002 Carryover
 - F. \$200,000 EPA Supplemental Brownfields grant
 - G. \$1,000,000 Revolving Loan Fund" grant from EPA
 - H. Councillor's Bill No. 47 re Supplemental appropriation of \$240,000 to Brownfields CIP account
 - I. Resolution No. 44 re Findings for Lao Buddhist Temple (west side of Dover Street at 107th Avenue)
11. Old Business and Passage of Ordinances on Second Reading
12. Citizen Presentations (longer than 5 minutes) and Miscellaneous Business
 - A. City Council
 - B. Executive Session
13. Adjournment

GENERAL PUBLIC HEARING PROCEDURES ON NON-LAND USE MATTERS:

Persons 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, may do so whether in favor or opposed. No specified order of those in favor or in opposition will be used. (Amended Res 45, 2000)

The presiding officer shall conduct the hearing in such manner as to provide for freedom of speech and expression of opinion of all persons speaking, subject only to the limits of courtesy and respect to other persons and their opinion as long as the subject is related to the public hearing notwithstanding the presiding officer has the authority to limit debate to a reasonable length of time to be equal for both positions.

Any person speaking may be questioned by members of Council or by the City Administration.

The presiding officer shall rule upon all disputed matters of procedure, unless, on motion duly made, he is overruled by a majority vote of Council members present. (Res. 39, 1984, 84, 1997)

CITY OF WESTMINSTER, COLORADO
MINUTES OF THE CITY COUNCIL MEETING
HELD ON MONDAY, SEPTEMBER 9, 2002 AT 7:00 P.M.

PLEDGE OF ALLEGIANCE

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

ROLL CALL

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

CONSIDERATION OF MINUTES

Councillor Dittman moved, seconded by McNally to accept the minutes of the meeting of August 26, 2002 with no additions of corrections. The motion carried unanimously.

PRESENTATIONS

Lori Vaclavik, Executive Director for Habitat for Humanity made a presentation to Council.

Councillor Dittman presented a proclamation to Dale, Dar, and Becka Emme for September 15-21 as "Yellow Ribbon Youth Suicide Awareness and Prevention Week."

CITY MANAGER COMMENTS

Brent McFall, City Manager, stated that City Staff will be engaged in an Integrated Emergency Management training to deal with emergencies as well as recovery. FEMA is paying for this training that will be held in Mt. Weather, Virginia.

COUNCIL COMMENTS

Councillor Dittman commented on Westminster being recognized as one of the top 10 cities for Planning and congratulated staff on this accomplishment.

Councillor Dixon also thanked City staff and congratulated Front Range Community College for their 35th anniversary.

Mayor Moss commented on the Greeley Water Court ruling against Golden.

CONSENT AGENDA

The following items were considered as part of the Consent Agenda: Quarterly Insurance Report for April – June 2002; CB No. 41 re 2002 Budget Supplemental Appropriation; and CB No. 42 re City Ballot Language.

The Mayor asked if there was any member of Council or anyone from the audience who would like to have any of the consent agenda items removed for discussion purposes or separate vote. Councillor Hicks asked that there be a separate vote on second reading on both Councillor's Bills.

Councillor Hicks moved, seconded by McNally to adopt the Quarterly Insurance Report as presented. The motion carried unanimously.

COUNCILLOR'S BILL NO. 41 RE 2002 BUDGET SUPPLEMENTAL APPROPRIATION

Councillor Dittman moved, seconded by Dixon to pass Councillor's Bill No. 41 on second reading providing for supplementary appropriation to the 2002 budget of the General, General Capital Improvement and Utility Funds. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 42 RE CITY BALLOT LANGUAGE

Councillor Dixon moved, seconded by Atchison to pass Councillor's Bill No. 42 on second reading to approve the ballot language for the two proposed issues to be placed on the November 5th election ballot. Upon roll call vote, the motion carried **with a dissenting vote from Councillor Hicks**.

2003 AND 2004 BUDGET

Brent McFall, City Manager gave a brief introduction to Council and the public on the 2003 and 2004 budget process. Lori Hanegan, 11585 Quivas Way addressed Council requesting landscaping on 120th Avenue from Huron to Tejon. Charles Vanstrom, President of the Ranch #4 Homeowners Association, 2263 Country Club Loop, addressed Council. Jeff Adrian, 4482 W 110th Cir, addressed Council on the skatepark.

COUNCILLOR'S BILL NO. 43 RE SOLID WASTE COLLECTION CODE

Councillor Hicks moved, seconded by McNally to pass Councillor's Bill No. 43 on first reading revising the Solid Waste Collection and Title II, Chapter 5 related to the powers and duties of the Special Permit and License Board. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 44 AMENDING REGULATIONS/PROCEDURES RE WATER SHORTAGE

Councillor Kauffman moved, seconded by Dixon to pass Councillor's Bill No. 44 as an emergency ordinance approving the amendments to the Water Shortage or Drought Ordinance. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 45 VENDORS FEES SALES/ADMISSIONS/ACCOMMODATION TAXES

Mayor Pro-Tem Atchison moved, seconded by Dittman to pass Councillor's Bill No. 45 on first reading approving amendments to Title IV of the Westminster Municipal Code pertaining to Sales, Use, Admissions and Accommodations Taxes. Bob Schwartz, American Furniture, JoAnn Groff, President of the Retail Council, 8121 Meade St, and Mary Lou Chapman, President of Rocky Mountain Food REtailers, 9525 W 71st Ave addressed Council. Mayor Pro-Tem Atchison moved, seconded by Dittman that this item be revisited in preparation for the 2004 budget in September of 2003. Upon roll call vote, the motion as amended carried unanimously.

COUNCILLOR'S BILL NO. 46 RE ALLOCATION OF 2001 CARRYOVER REVENUES

Councillor McNally moved, seconded by Hicks to pass Councillor's Bill No. 46 on first reading allocating the 2001 Carryover Revenues as detailed in the Councillor's Bill. Upon roll call vote, the motion carried unanimously.

ACCEPTANCE OF \$200,000 SUPPLEMENTAL BROWNSFIELD GRANTS FROM EPA

Councillor Dittman moved, seconded by Atchison to accept a \$200,000 EPA Supplemental Brownsfield Grant and authorize the City Manager to execute a cooperative agreement with EAP relative to use of the funds. The motion carried unanimously.

ACCEPTANCE OF A \$1,000,000 REVOLVING LOAN FUND GRANT FROM EPA

Councillor Dittman moved, seconded by Atchison to accept a \$1,000,000 "Revolving Loan Fund" grant from EPA, and authorize the City Manager to execute a memorandum of agreement with the Colorado Brownsfield Revolving Loan Fund making the City a participating member and providing the City access to no less than \$1 million in low-interest revolving loan funds to clean up contaminated properties. The motion carried unanimously.

COUNCILLOR'S BILL NO. 47 RE APPROPRIATION OF GRANT FUNDS TO THE 2002 BUDGET

Councillor Dittman moved, seconded by Atchison to pass Councillor's Bill No. 47 on first reading authorizing a supplemental appropriation of \$240,000 (\$200,000 supplemental grant and \$40,000 loan fund grant) to the 2002 budget of the General Capital Improvement Fund for the Brownsfield CIP account. Upon roll call vote, the motion carried unanimously.

RESOLUTION NO. 44 RE FINDINGS ON ANNEXATION OF LAO BUDDHIST TEMPLE

Councillor Hicks moved, seconded by Dixon to adopt Resolution No. 44 accepting the annexation petition submitted by Bon Senepoomy as Executive President of the Lao Buddhist Church, and make the findings required by State Statute on the sufficiency of the petition. This resolution also sets the date of October 14, 2002 for the annexation hearing. Upon roll call vote, the motion carried unanimously.

ADJOURNMENT:

The meeting was adjourned at 8:40 P.M.

ATTEST:

City Clerk

Mayor



Agenda Item 4 A

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
September 9, 2002

SUBJECT: Presentation by Habitat for Humanity

Prepared By: Michele Kelley, City Clerk

Recommended City Council Action

Listen to Presentation by Habitat for Humanity.

Summary Statement

- Lori Vaclavik, Executive Director of Habitat for Humanity will be present at Monday night's City Council meeting to make a short presentation to City Council.

Expenditure Required: \$0

Source of Funds: n/a

SUBJECT:

Presentation by Habitat for Humanity

Page 2

Policy Issues

There are no policy issues identified

Alternatives

There are no alternatives identified

Background Information

Mayor Moss has invited Habitat for Humanity to come to a City Council meeting and make a presentation to both the City Council and the public pertaining to the organization and their goals and objectives.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
September 9, 2002

SUBJECT: Proclamation re Yellow Ribbon Youth Suicide Awareness and Prevention Week

Prepared by: Michele Kelley, City Clerk

Recommended City Council Action

Council present a proclamation to Dale Emme proclaiming September 15-21, 2002 as Yellow Ribbon Youth Suicide Awareness and Prevention Week in the City of Westminster.

Summary Statement

- City Council is requested to proclaim the week of September 15-21, 2002 as Yellow Ribbon Youth Suicide Awareness and Prevention Week in the City of Westminster.
- This week has helped bring awareness about suicide and has helped people of all ages ask for help in their most desperate time.
- This week also allows survivors to be with others and remember loved ones lost to suicide.
- Dale Emme, Executive Director of the Yellow Ribbon Suicide Prevention Program will be present to accept this proclamation.

Expenditure Required: \$0

Source of Funds: n/a

SUBJECT: Proclamation re Yellow Ribbon Youth Suicide Awareness and Prevention Week Page 2

Policy Issues

There are no policy issues identified

Alternatives

There are no alternatives identified

Background Information

The number of youth suicides in our nation is staggering. The Yellow Ribbon Suicide Prevention Program and their partners are working to save lives through this community-based direct, inexpensive and effective program.

The Yellow Ribbon Suicide Prevention Program is accepted and used worldwide, achieving successful results with over 1,500 lives saved.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

WHEREAS, Youth suicide is one of the most disruptive and tragic events a family and a community can experience, and is occurring at a national rate of over 5,000 suicides annually; and

WHEREAS, Youth suicide is the fastest growing killer of youth today; and

WHEREAS, Colorado is one of the leading states for youth suicides with at least one youth suicide every week. Suicide kills youth 3 to 6 times more than homicide. Research shows that almost all youth suicides are preventable; and

WHEREAS, The issue of youth suicide and how to prevent it is of extreme importance and must be recognized as an immediate need for awareness and prevention; and

WHEREAS, Statistics show that awareness, education and action do save lives. Heightened community awareness will encourage communities to develop strategies to prevent youth suicides; and

WHEREAS, The Yellow Ribbon is rapidly becoming recognized internationally as the symbol for the awareness and prevention of youth suicide. It is recognized and used by suicide prevention groups, crisis centers, schools, churches, youth centers/hospitals, counselors, teachers, parents and especially youth themselves.

NOW, THEREFORE, I, Ed Moss, Mayor of the City of Westminster on behalf of the entire City Council and staff do hereby proclaim September 15-21, 2002 as

YELLOW RIBBON YOUTH SUICIDE AWARENESS AND PREVENTION WEEK

in the City of Westminster, and urge all citizens to work to prevent youth suicide, wear a yellow ribbon and to raise awareness and tolerance around all people affected by this tragedy.

Signed this 9th day of September, 2002.

Ed Moss, Mayor



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
September 9, 2002

SUBJECT: Quarterly Insurance Report: April - June, 2002

Prepared By: Martee Erichson, Risk Management Officer

Recommended City Council Action

Staff is not recommending any action at this time.

Summary Statement

- The information provided on each claim includes the City claim number, date of loss, claimant's name and address and a brief summary of the claim and the claim's status. Since all claims represent a potential liability to the City, Risk Management Staff works closely with the City Attorney's Office to make sure that the interests of both the City and the citizen are addressed in each instance. The listing of the claims in this report is provided in accordance with Westminster Municipal Code 1-30-3.
- In accordance with Code provisions, the Risk Management Officer acting as the City Manager's designee has the authority to settle claims of less than \$15,000. However, under our contract with the Colorado Intergovernmental Risk Sharing Agency (CIRSA), CIRSA acts as the City's claims adjuster and settlements of claims proceed with the concurrence of both CIRSA and the Risk Management Officer. The City retains the authority to reject any settlement recommended by CIRSA, but does so at the risk of waiving its insurance coverage for such claims.

Expenditure Required: None

Source of Funds: NA

Background Information

Information on the status of each claim received during the past quarter is provided on the attached spreadsheet.

- For the quarter to date, Staff has noted the following from the report attached:
 - Six of the 12 claims reported in the second quarter of 2002 have been paid or denied.
 - Total claims for the quarter breakdown by department as follows:

2nd Qtr 2002			
Department	Total Claims	Open	Closed
Police	2	1	1
PR&L	2	1	1
PWU - Streets	4	1	3
PWU - Utilities	4	3	1
	12	6	6

- Claim type summary for last three years and current year-to-date:

TYPE	1999			2000			2001			YTD 2002		
	OPEN	CLOSED	TOTAL	OPEN	CLOSED	TOTAL	OPEN	CLOSED	TOTAL	OPEN	CLOSED	TOTAL
Liability	0	65	65	2	48	50	6	43	49	7	4	11
Auto Physical Damage										0	1	1
Auto Collision (City property)	0	1	1	0	4	4	2	13	15	11	1	12
Auto Liability	0	14	14	0	19	19	4	26	30	4	4	8
Errors & Omissions	0	0	0	0	1	1	0	0	0	0	0	0
Buildings	0	1	1	0	0	0	2	4	6	2	5	7
Police Liab.	1	9	10	6	22	28	6	6	12	2	2	4
Landscape							1	1	2	2	0	2
TOTALS	1	90	91	8	94	102	21	93	114	28	17	45

* This report includes claims the Risk Management office has made on the City's behalf, against third parties. During the 2nd quarter 2002 Risk Management submitted 13 claims against third parties. Total incurred on these claims is \$14,475, total the City has paid to date on these claims is \$4,980 and total recovered to date is \$3,542.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

City of Westminster
Liability Claims Filed
2nd Quarter 2002

CASE NO.	DATE OF LOSS	CLAIMANT / SUSPECT	ADDRESS	DESCRIPTION OF INCIDENT	INCURRED	PAID	STATUS	NOTES
2002-25	04/03/02	Joanna/Leszek Jankowski	9535 W 104th Ct, Westminster	Utilities construction crew had "loaded" the water main the night of 4/2/02 from a tie-in at 104th Ct. and 104th Way. They flushed the line to get dirt and air out of the line and blew off the lines in both cul de sac's for approximately 20-25 minutes. The next day the claimants complained that their water purifier was no longer working. Utilities states it was probably due to the valves that were turned that night.	\$241.50	\$241.50	C	
2002-24	04/10/02	Lawrence Haddow	9301 Lamar St, Westminster	Claimant struck unsecured manhole cover and damaged gas tank to his car.	\$0.00	\$0.00	C	<i>No activity as of 6/28/02, CIRSA will close</i>
2002-28	04/17/02	Juanita Passarelli	9385 Utica St, Westminster	Tools placed on top of box blew out of City truck and hit claimant's car	\$256.00	\$256.00	C	
2002-30	04/19/02	Elizabeth Heald	1035 Detroit, Denver	Claimant ran over stop sticks police had appropriately placed in the road in an attempt to stop a suspect.	\$0.00	\$0.00	C	<i>CIRSA denied the claim on 5/17/02 based on the GIA.</i>
2002-26	04/19/02	Jim Green	267 Greenway Cr W, Broomfield	Claimant hit a manhole cover, he claims was not level, with his car and damaged two tires. No other damage reports from that location were received.	\$0.00	\$0.00	C	<i>CIRSA denied the claim on 7/23/02 based on the GIA.</i>
2002-29	04/22/02	Don Gassaway	4245 Fern Ave, Broomfield	Claimant drove over a change in the road surface where new asphalt met old and damaged two tires. Discussed claim with asphalt contractor and agreed that the claimant's specialized tires and speed he was going were the cause of the damage. No other damage reports from that location were received.	\$0.00	\$0.00	C	<i>CIRSA denied the claim on 5/16/02 based on the GIA.</i>
2002-32	05/11/02	Edward Ballard	10084 Allison St, Westminster	Claimant states loose water meter cover in his lawn caused damages to his lawnmower	\$100.00	\$0.00	O	
2002-37	05/16/02	Torrey Peaks HOA	5855 Wdswth St 100 Bldg B, Arvada	Claimant alleges that vibration from construction near their complex caused brick entrance monument to tumble and damaged flower beds. Upon inspection, internal City staff claim the damage is long-term and not due to one sudden incident.	\$0.00	\$0.00	P	



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
September 9, 2002

SUBJECT: Second Reading of Councillor's Bill No. 41 re 2002 Budget Supplemental Appropriation

Prepared By: Karen Creager, Internal Auditor

Recommended City Council Action

Pass Councillor's Bill No. 41 on second reading providing for supplementary appropriations to the 2002 budget of the General, General Capital Improvement and Utility Funds.

Summary Statement

- City Council action is requested to pass the attached Councillor's Bill on second reading that authorizes a supplemental appropriation to the 2002 budget of the General, General Capital Improvement and Utility Funds.
- This Councillor's Bill was passed on first reading on August 26, 2002.
- General Fund amendments total \$21,933.
- General Capital Improvement Fund amendments total \$35,147.
- Utility Fund amendments total \$11,000.

Expenditure Required: \$ 68,080

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

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILOR'S BILL NO. **41**

SERIES OF 2002

INTRODUCED BY COUNCILLORS

A BILL

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

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2002 appropriation for the General Fund initially appropriated by Ordinance No. 2913 in the amount of \$69,324,181 is hereby increased by \$21,933 which, when added to the fund balance as of the City Council action on August 26, 2002 will equal \$75,055,964. The actual amount in the General Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. This increase is due to the appropriation of various grants and reimbursements received by the City.

Section 2. The \$21,933 increase in the General Fund shall be allocated to City Revenue and Expense accounts, which shall be amended as follows:

Description	Current Budget	Increase	Final Budget
REVENUES			
Jeffco Grants 1000.40640.0020	\$0	\$1,000	\$1,000
Adco Grants 1000.40640.010	0	250	250
General – Miscellaneous 1000.43060.0000	161,875	7,828	169,703
PD Training 1000.41360.0000	10,000	<u>12,855</u>	22,855
Total Change to Revenues		<u>\$21,933</u>	
EXPENSES			
Investigations - Career Development 10020300.61800.0000	\$8,500	\$1,250	\$9,750
Investigations – Overtime 10020300.60400.0000	156,000	7,828	163,828
PD Training – Career Development 10020050.61800.0612	9,500	<u>12,855</u>	22,355
Total Change to Expenditures		<u>\$21,933</u>	

Section 3. The 2002 appropriation for the General Capital Improvement Fund, initially appropriated by Ordinance No. 2913 in the amount of \$10,305,000 is hereby increased by \$35,147 which, when added to the fund balance as of the City Council action on August 26, 2002 will equal \$16,311,607. The actual amount in the General Capital Improvement Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. This increase is due to the appropriation of interest earnings on the 2001 Certificates of Participation.

Section 4. The \$35,147 increase in the General Capital Improvement Fund shall be allocated to City Revenue and Expense accounts, which shall be amended as follows:

Description	Current Budget	Increase	Final Budget
REVENUES			
Interest Income - 2001 COP's 7500.42520.0215	\$44,847	<u>\$35,147</u>	\$79,994
Total Change to Revenues		<u>\$35,147</u>	
EXPENSES			
Public Safety Building 80175020086.80400.8888	\$3,352,259	<u>\$35,147</u>	\$3,387,406
Total Change to Expenditures		<u>\$35,147</u>	

Section 5. The 2002 appropriation for the Water Portion of the Utility Fund, initially appropriated by Ordinance No. 2913 in the amount of \$25,286,775 is hereby increased by \$11,000 which, when added to the fund balance as of the City Council action on August 26, 2002 will equal \$42,025,557. The actual amount in the Water Portion of the Utility Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. This increase is due to the appropriation additional grants from DOE and EPA.

Section 6. The \$11,000 increase in the Water Portion of the Utility Fund shall be allocated to City Revenue and Expense accounts, which shall be amended as follows:

Description	Current Budget	Increase	Final Budget
REVENUES			
Federal Grants 2000.40610.0000	\$50,000	<u>\$11,000</u>	\$61,000
Total Change to Revenues		<u>\$11,000</u>	
EXPENSES			
Environmental Grants 80120035189.80400.8888	\$166,350	<u>\$11,000</u>	\$177,350
Total Change to Expenditures		<u>\$11,000</u>	

Section 7. – 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 8. This ordinance shall take effect upon its passage after the second reading.

Section 9. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED AND PUBLISHED this 26th day of August, 2002. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 9th day of September, 2002.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
September 9, 2002

SUBJECT: Second Reading of Councillor's Bill No. 42 re 2002 City Ballot Language

Prepared By: Steve Smithers, Assistant City Manager

Recommended City Council Action

Pass Councillor's Bill No. 42 on second reading to approve the ballot language for the two proposed issues to be placed on the November 5th election ballot.

Summary Statement

- City Council action is requested to pass the attached Councillor's Bill on second reading that authorizes the ballot language for two issues: 1) the de-Brucing amendment, and 2) a change to the City's Charter making all City Council terms of office 4 years.
- This Councillor's Bill was passed on first reading on August 26, 2002.

Expenditure Required: \$ 0

Source of Funds: n/a

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO. **2970**

COUNCILLOR'S BILL NO. **42**

SERIES OF 2002

INTRODUCED BY COUNCILLORS

Dittman-McNally

A BILL FOR AN ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF WESTMINSTER AT THE GENERAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 5, 2002, CERTAIN ISSUES PURSUANT TO ARTICLE X, SECTION 20, OF THE COLORADO CONSTITUTION AND A BALLOT QUESTION REGARDING A PROPOSED AMENDMENT TO THE CHARTER OF THE CITY OF WESTMINSTER.

THE CITY OF WESTMINSTER ORDAINS:

WHEREAS, it is necessary and appropriate that the City Council review the City's Home-Rule Charter from time to time to assure that its provisions are consistent with the contemporary needs of the City and current legal requirements;

WHEREAS, pursuant to the terms of the Constitution of the State of Colorado, the Charter and ordinances of the City, and Part 2 of Article 2 of Title 31 of the Colorado Revised Statutes, the City Council has identified and determined that the proposed amendment to the home-rule Charter of the City of Westminster as set forth herein below shall be submitted to a vote of the City's registered electors at the general election to be held on November 5, 2002; and

WHEREAS, Article X, Section 20, of the Colorado Constitution requires voter approval prior to spending revenues in excess of certain limited calculated amounts unless voters approval is obtained to retain and spend these funds; and

WHEREAS, a general election will be held on November 5, 2002.

Section 1. At the general election to be held on November 5, 2002, there shall be submitted to the registered electors of the City the following issues pursuant to Article X, Section 20 of the Colorado Constitution:

ISSUE 2A

WITHOUT ANY NEW TAXES OR TAX RATE INCREASES, FOR THE PURPOSE OF MAINTAINING THE QUALITY OF THE CITY'S POLICE, FIRE AND OTHER ESSENTIAL MUNICIPAL SERVICES, SHALL THE CITY BE AUTHORIZED TO COLLECT, RETAIN AND SPEND ALL REVENUES RECEIVED IN THE YEAR TWO THOUSAND AND THEREAFTER AS A VOTER APPROVED REVENUE CHANGE PURSUANT TO COLORADO CONSTITUTION ART X, SECTION 20?

_____ **FOR** _____ **AGAINST**

Section 2. At the general election to be held on November 5, 2002, there shall be submitted to the registered electors of the City the following question:

QUESTION 2B

In order to achieve consistency with the provisions of the State Constitution concerning term limitations, shall the Westminster City Charter be amended so that all Councillors shall be elected to terms of four years and any time a vacancy in a Councillor position occurs, it shall be filled for the remainder of such term?

_____ **FOR** _____ **AGAINST**

ACTUAL WORDING FOR PROPOSED AMENDMENT:

Section 3.2. Elective Officers and Terms of Office.

(c) At each regular City election, BEGINNING IN 2003, there shall be elected THREE (3) ~~four (4)~~ Councillors. ~~(three (3) at the election in which the Mayor is elected), and such additional number as may be required to fill vacancies pursuant to the provision of section 5.7.~~ The three (3) CANDIDATES ~~(two (2) at the election in which the Mayor is elected)~~ receiving the highest number of votes shall each be elected for a term of office of four (4) years. ~~the one (1) receiving the fourth highest number of votes (third highest number at the election in which the Mayor is elected) shall be elected for a term of office of two (2) years two (2) years., and a number equal to the number of vacancies being filled (if any) who shall receive the next highest numbers of votes in order. shall each be elected for a term of office of two years.~~

Section 5.7. Filling vacancies in Elective Office.

(a) Any vacancy which occurs in the Council ~~more than ninety (90) days before the next regular City election~~ shall be filled within thirty (30) days by a majority vote of the remaining members of the Council, said appointee to hold office ~~until the Monday following such election, at which election such vacancy shall be filled as provided in Section 3.2 for any balance of the unexpired term.~~ Any vacancy which occurs in the Council ninety (90) days or less before the next regular City election may not be filled.

Section 3. The City Clerk is hereby directed to take such actions as may be required or permitted by law in connection with the election.

Section 4. The officers and employees of the City are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this ordinance.

Section 5. If any section, paragraph, clause or provision of this ordinance shall for any reason be held invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this ordinance.

Section 6. All acts, orders and resolutions, and parts thereof, inconsistent with this ordinance be, and the same hereby are, repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any act, order or resolution, or part thereof, heretofore repealed.

Section 7. This ordinance shall take effect upon its passage after second reading.

Section 8. 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 _____ day of _____, 2002.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this _____ day of _____, 2002.

Mayor

ATTEST:

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
September 9, 2002

SUBJECT: Public Hearing on 2003 and 2004 City Budget

Prepared By: Barbara Gadecki, Assistant to the City Manager

Recommended City Council Action

Hold a public hearing on the 2003 and 2004 City Budget and receive citizen comments.

Summary Statement

Development and review of the 2003 and 2004 City Budget has been completed by the City Manager's Office. Public meetings regarding the 2003 and 2004 Budget were held on June 10 and July 8.

September 9 is the final public hearing before the City Council Budget Retreat, affording citizens one more opportunity to comment and provide feedback on the 2003 and 2004 City Budget.

In accordance with the City Charter, City Council must adopt the budget no later than the October 28th City Council meeting.

Expenditure Required: \$ 0

Source of Funds: N/A

Policy Issue

Listen to citizen requests, comments and suggestions as it pertains to the 2003 and 2004 budgets.

Alternative

No alternatives identified for this item.

Background Information

City Council is scheduled to hold a public hearing to receive input on the 2003 and 2004 City Budget at the Monday, September 9, City Council meeting. Staff will make a brief presentation at Monday night's City Council meeting on the Proposed 2003 and 2004 Budget. This public hearing is intended to receive citizen requests, comments and suggestions for both of these budget years.

In April, City Council identified the goals for 2003 and 2004. The City Council Goals are listed below:

- Financially Sound City Government
- Balanced, Sustainable Local Economy
- Revitalized Aging Neighborhoods and Commercial Areas
- Beautiful City – Attractive Developments, Green Spaces and Vistas
- Safe and Secure Community

The direction provided by City Council through these goals assists City Staff as they review and modify the preliminarily approved 2003 City Budget and prepare the 2004 City Budget. Other considerations that go into developing a comprehensive budget are department priorities that strive to maintain existing service levels and citizen or neighborhood input.

City Council preliminarily approved the 2003 Budget with the formal adoption of the 2002 Budget in October 2001. Departments review and make minor modifications to the preliminarily approved 2003 Budget as well as submit 2004 budgets, working to revise their proposed budgets to reflect the current economic downturn, which has significantly impacted revenues and will impact City services. The Departments' efforts culminate in the distribution of the Proposed 2003/2004 Budgets to City Council. After reviewing the Proposed Budget for several weeks, City Council is scheduled to meet September 28 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 will allow the City Council to adopt a formal two-year budget. Staff has been preparing a two-year budget for the last several years; however, previously City Council could only officially adopt the first year of the two-year budget. In February 2002, City Council concurred with Staff to pursue an officially adopted two-year budget with the development of the 2003/2004 Budget. Staff is pleased to submit to City Council the first two-year budget for official adoption.

A Proposed 2003/2004 Budget document is available to the public in the City Clerk's Office. Monday's public hearing was advertised in the *Westminster Window*, *Westsider*, and *City Edition*; on cable Channel 8 and the City's website; and at various public meetings.

Public meetings regarding the 2003 and 2004 Budget were held on June 10 and July 8. September 9 is the final public hearing before the City Council Budget Retreat, affording citizens one more opportunity to comment and provide feedback on the 2003 and 2004 City Budget.

Final adoption of the 2003 and 2004 Budget is required by October 28 per City Charter requirements. Staff will make a brief presentation at Monday night's City Council meeting on the Proposed 2003 and 2004 Budget.

Respectfully submitted,

J. Brent McFall, City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
September 9, 2002

SUBJECT: Councillor's Bill No. 43 re Solid Waste Collection Code

Prepared By: Rachel Harlow-Schalk, Environmental Services Coordinator

Recommended City Council Action

Pass Councillor's Bill No. 43 on first reading implementing the revised Title V, Chapter 7 of the Westminster Municipal Code related to Solid Waste Collection and Title II, Chapter 5 related to the powers and duties of the Special Permit and License Board.

Summary Statement

The Environmental Advisory Board has completed revisions to the Solid Waste Collection Code based on direction given by City Council at the April 11, 2001 and August 19, 2002 Study Sessions. These recommendations include a requirement for trash collectors to provide annual recycling reports to the City for review by the Board for conformance with the Code, requirements that trash set out for collection must be collected, and a requirement that recyclables properly prepared by customers must be recycled by the collector. The Board conducted research, received input from various City Staff, as well as from licensed trash collectors, prior to completing the final set of recommended changes to the Code. Recommended changes include an update to the powers and duties of the Special Permit and License Board under Chapter 5 to clarifying that this Board will hold public hearings on appeals from the decision of the City Manager to deny a license, a license renewal or suspend or revoke a trash collector's license based on a violation of the Solid Waste Collection Code.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issues

Does City Council want to establish a process for monitoring the compliance of trash collectors' adherence to the recommended recycling requirements outlined in the Solid Waste Collection Code?

Alternatives

1. Make no modification to the current Code regarding Solid Waste Collection and the powers and duties of the Special Permit and License Board. Staff believes that the recommended changes to the Code reflect the consensus of all involved parties and that these changes will improve the service provided to Westminster citizens.
2. Make the recommended changes to Title V, Chapter 7 regarding the Solid Waste Collection program and decrease fees charged per vehicle from \$250 to \$50. Although this change would reflect the fee schedule that is more typical in other cities surveyed, Staff believes the current fee schedule provides revenue to help offset the cost of street maintenance incurred as a result of trash collection vehicle usage on City streets, and discourages the use of more collection vehicles than are necessary to provide trash removal services within the City.

Background Information

In early 1999, City Council reviewed the responsibilities of the Environmental Advisory Board (EAB). During this time, Westminster residents expressed concerns on how recyclables were being handled by trash collectors. City Council requested the EAB to perform an evaluation of trash collectors to verify that they were appropriately handling recyclables. As a result of this evaluation, the EAB established that there was insufficient communication between the City and the trash collectors to establish whether improper procedures were being used for recycling. Based on this finding, the EAB determined that changing the Solid Waste Collection Code (Title V, Chapter 7) would provide a means for improved communication between the trash collectors and the City. The Board made recommended changes to the Code and then presented these changes to Staff requesting their input. As a result, Staff recommended changes to the Code in addition to the recycling requirements and recommended that the EAB be responsible for conducting hearings on trash collector business license denials, revocations, and suspensions.

On April 11, 2001, Staff provided City Council with an update on Board activities and asked them to review and offer comments regarding proposed changes to the Code by the Board. As a result of this review and input, the Board expanded their recommended changes to the Code and increased the EAB follow-up to include:

- a) Seeking input from the Special Permit and License Board regarding their continued responsibility for review of trash collector business license denials, revocations, and suspensions;
- b) Contacting the following organizations to obtain additional information on solid waste pick up and recycling practices:
 - City homeowner associations to determine if they are under contract for trash collection/recycling within their entire neighborhood,
 - Other cities both locally and nationally to find out:
 - i. If other cities inspect disposal facilities to ensure proper recycling,
 - ii. If other cities restrict days of week waste is collected,
 - iii. If there are additional fees for citizens to use the recycling services, and
 - iv. If other cities mediate customer service issues between the collector and the citizens.

- c) Soliciting input on proposed Code changes from:
 - Trash collectors and
 - Code Enforcement Staff
- d) Adding following items to the proposed ordinance:
 - The trash collector must dispose of refuse set out for disposal by citizens
 - Revocation of a license goes to appeal before City Council prior to going to District Court

After a discussion with Staff and the Special Permit and License Board members, the EAB removed the change requiring that the EAB conduct hearings regarding trash collector business license denials, revocations, and suspensions. The EAB believes that the Special Permit and License Board is the proper authority to conduct such hearings and does not wish to take on this responsibility. At their July 17, 2002 meeting, the Special Permit and License Board members reviewed the changes proposed by the EAB to the Solid Waste Collection Code, and concurred that the Special Permit and License Board should retain the responsibility of hearing trash collector business license denials, revocations, and suspensions.

On May 15, 2002, Wendy Sukeena, then Chair of the EAB, sent a letter to all 13 trash collectors holding business licenses in the City requesting their written input on the suggested changes to the Code by June 3, 2002. On June 5, 2002, those companies that did not respond were contacted and asked to provide their input by June 10, 2002. These companies were advised that if no response were received by June 10, the City would assume they had no comment. Of the 13 licensed trash collectors, only 4 responded; 3 with comments and 1 with an official no comment. Attached you will find the comments made by the 3 collectors. The most significant request of the collectors was a reduction in the collection vehicle licensing fees. Many of the suggestions made by collectors were incorporated into the proposed changes to the Code (see attached recommended Code changes).

The EAB spoke with homeowner associations within the City and asked whether they are under contract with a trash collector for their entire neighborhood. As a result of these discussions, the Board found that management companies manage most homeowner associations. Those associations are under contracts with trash collectors that mandate recyclables be picked up and mandate the days of week that waste may be picked up. Under City Code these contracts are considered commercial waste collection; therefore, the City does not restrict the days that waste can be picked-up in the neighborhood. However, the EAB found that the homeowner association neighborhoods restrict the number of days waste collection occurs through their contracts with the trash collectors.

The EAB conducted additional research by speaking with regional and local cities. The Board spoke with the cities of Arvada, Aurora, Boulder, Fort Collins, Lakewood, Littleton, and Englewood for local comparisons and spoke with the cities of Sunnyvale, California; Kent, Washington; Bellevue, Washington; Tempe, Arizona; and Scottsdale, Arizona for regional comparisons. The local and regional cities chosen were selected because they are cities Westminster has found to have similar structures and reputations for being innovative. Spreadsheets outlining the results from discussions with these two groups of cities are attached.

In summary, most cities allow trash collection Monday through Friday while Westminster only allows residential trash to be picked upon on Monday, Tuesday, and Friday. Again, these restrictions do not apply to commercial pick-ups, which include neighborhoods under contract for pick-up through their homeowners association. Throughout the region, the same recyclables taken by collectors in Westminster are recycled (aluminum, newspaper, junk mail, plastic, and glass). A common citizen complaint is that recycling through the trash collector is not free. Although the City has no control over the costs that are charged to citizens by trash collectors for recycling, additional fees for recycling are consistent with all cities contacted.

Recommended changes to the Solid Waste Collection Code are based on City Council and EAB input as well as suggestions from Environmental Services Staff, Code Enforcement, City Attorney's Office, the City Clerks Office, some of the thirteen licensed trash collectors, and the Special Permit and License Board. On August 19, 2002, City Council was provided with the EAB's recommended revisions to the Code. As a result of this meeting, the Staff made additional edits to the Code specific to reducing redundancies and clarified sections where Council had questions. Also, Staff made recommended changes to the powers and duties of the Special Permit and License Board under Title II, Chapter 5, to ensure continuity with the recommended changes to the Solid Waste Code.

Highlights of specific changes made to the Solid Waste Collection Code and the reasoning used to support the changes are as follows:

5-7-3 LICENSE APPLICATION: The EAB removed the specific items that must be included on the application for the collection license and stated instead that the application must be filled out in its entirety. This will allow for changes to be made to the application as necessary in the future without having to change the Code. The Special Permit and License Board pointed out that the original wording in section (C)1 was confusing. As a result, the wording was changed to clarify the intent of why the City would consider the character of the applicant prior to granting a license. Specifically, the recommended wording states that criminal convictions and previous license violations will be considered prior to granting a license to a collector. Staff added section (C)4 was added to provide the EAB the responsibility of reviewing the collector's annual recycling report to determine whether the report meets the requirements of the Code.

5-7-4: LICENSE ADMINISTRATION: Currently, when a collector licenses a vehicle, the application states that the final license must be available for inspection if requested. Staff added a sentence to item (A) creating consistency between this license application requirement and the Code.

5-7-6: TERM OF LICENSE RENEWAL: The EAB added a requirement that a trash collection company must provide a recycling program description to the City when renewing their business license. The intent is to increase the amount of recycling information on each company. This will help the City respond to complaints regarding companies that may not be recycling.

5-7-7: LICENSE DENIAL, CANCELLATION, SUSPENSION OR REVOCATION: At the April 11, 2001 Study Session, Council requested that they hear appeals of a trash collector's license denial, cancellation, suspension, or revocation prior to the appeal going to a court of competent jurisdiction. This change was made to the Code to reflect the request of Council.

5-7-8: RECYCLING REQUIREMENT: Item (C)1 states that a collector may not dispose of recyclables by any means that would result in the materials not being recycled. This requirement is in response to the many concerns the City previously received from citizens that the materials they properly prepared for recycling were not being taken to a recycling facility by the trash collector.

5-7-9: DESIGNATION OF RECYCLABLE MATERIALS: In addition to licensed trash collectors, the EAB added that they be allowed to provide consultation to the City Manager on the list of items that shall be designated for recycling. This will allow the City to utilize the Board to research possible new markets for recyclables that trash collectors may accept. The Board also added community recycling concerns to the list of criteria for determining recyclables due to possible demand by citizens in the future including, for example, grass clipping recycling.

5-7-12: RECORDS AND REPORTS: The EAB will update the license application form that the collectors must complete to meet requirements of the Code changes. As a result, the Board removed from the Code the specific requirements of what must be on the license to accommodate possible changes necessary in the future. Also, the Board requested that an annual report of recycling efforts by each collector be provided to the City. In an effort to ensure data consistency, the Board will prepare a form that each collector must complete for the annual report. Two collectors mentioned that some data may be confidential that might be on their report and requested that their reports be held in confidence. In response, Staff added that the City would honor a request for confidentiality by a collector if this request were made in writing. The City to the extent authorized by the Colorado Open Records Act, will honor confidentiality as requested by a collector. However, the EAB believes they will be able to work with collectors to ensure that the collected data is not proprietary in nature, but still provides the City with useful information.

The EAB also added that they will review the collector's annual recycling report to ensure its compliance with the Code and provide recommendations for consideration by the City Manager when considering the approval or denial of a license application, renewal, suspension or revocation.

5-7-13: DISPOSAL OF SOLID WASTE: The previous edition of the Code did not require that a collector pick-up trash. The EAB added item (D) to include this requirement as part of the changes recommended. Staff moved item (C) and (D) from section 5-7-14, Violations and Penalties, up to item (B) and (C) in this section as these two items are specific to disposal of solid waste collected.

5-7-14: VIOLATIONS AND PENALTY: In response to a request from the Board, Code Enforcement deleted the specific fine structure to allow the Municipal Court to determine the applicable fine structure.

As a result of the recommended changes made to the Solid Waste Collection Code, Staff recommends that the Special Permit and License Board powers and duties be updated. Specifically, Staff recommends that item 2-5-2 (C) be added to ensure that this Board will hold hearings on appeals of denying business license applications, renewals, or suspending or revoking licenses to operate as a solid waste or recyclable materials collector pursuant to the Solid Waste Collection Code recommended changes.

Council is requested to pass Councillor's Bill No. on first reading implementing the revised Title V, Chapter 7 of the Westminster Municipal Code related to Solid Waste Collection and Title II, Chapter 5 related to the powers and duties of the Special Permit and License Board. Staff believes these recommended changes reflect the consensus of all involved parties and that these changes will improve the service provided to Westminster citizens.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **43**

SERIES OF 2002

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AMENDING THE SOLID WASTE COLLECTION CODE AND
SPECIAL PERMIT AND LICENSE BOARD DUTIES

THE CITY OF WESTMINSTER ORDAINS:

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

5-7-1: DEFINITIONS: The following words, terms and phrases, when used in this Chapter, shall have the following meanings:

(B) "Commercial customers" shall mean any premise utilizing collection service where a commercial, industrial or institutional enterprise is carried on, including, without limitation, restaurants, hospitals, schools, day care centers, office buildings, nursing homes, clubs, churches and public facilities, AND MULTI-FAMILY CUSTOMERS.

(F) "Recyclable materials" shall mean materials which have been separated from solid waste and can be recovered as useful materials and are properly prepared for the purpose of recycling, provided that such materials have been designated by the City Manager as recyclable, PER SECTION 5-7-9 (A) OF THIS CHAPTER.

5-7-3: LICENSE APPLICATION:

(A) Any person desiring to obtain a license to engage in the business of solid waste or recycling materials collection shall make written application to the City Clerk on forms provided by the City. The application MUST BE COMPLETED IN ITS ENTIRETY.

(C) In determining whether to grant or deny a license, the City Manager shall take into consideration:

1. The character of the applicant or its officers or directors, ESPECIALLY ANY PREVIOUS LICENSE VIOLATIONS OR CRIMINAL CONVICTIONS;
2. Whether licenses granted for the City are adequate to meet the reasonable needs of the community;
- ~~3. If the applicant has previously done business in the City, the number of complaints received from citizens concerning the applicant's operations; AND~~
- ~~4. THE REVIEW AND CONCLUSION, IF ANY, OF THE ENVIRONMENTAL ADVISORY BOARD.~~

5-7-4: LICENSE ADMINISTRATION:

(A) Every license issued by the City shall indicate the business name and address, the mailing address, and the license fee paid by the licensee. THE LICENSEE IS REQUIRED TO HAVE THE CITY LICENSE FOR EACH VEHICLE AVAILABLE FOR INSPECTION IN THE VEHICLE.

5-7-6: TERM OF LICENSE AND RENEWAL:

(A) All licenses issued hereunder shall expire on December 31 after the date of issuance, unless PREVIOUSLY cancelled, or revoked, and MAY be renewed upon SUBMISSION OF A COMPLETED application for renewal and payment of the required fee. THE APPLICATION SHALL INCLUDE A CURRENT DESCRIPTION OF THE BUSINESS' RECYCLING PROGRAM AND ANY EFFORTS THE APPLICANT HAS MADE TO INCREASE CUSTOMER RECYCLING. Licenses are not transferable.

5-7-7: LICENSE DENIAL, CANCELLATION, SUSPENSION OR REVOCATION:

(B) A license may be DENIED, cancelled, denied renewal, suspended or revoked BY THE CITY MANAGER. THE LICENSEE SHALL HAVE THE RIGHT TO A HEARING BEFORE THE SPECIAL PERMIT AND LICENSE BOARD, AFTER NOTICE. The notice shall set forth the reasons for the proposed action, in writing and shall be given by personal delivery to the licensee or mailed to the address contained on the license, postage prepaid, or as provided in Chapter 1 of this Title. Said notice shall be given no less than ten (10) days prior to a hearing to be scheduled before the Special Permit and License Board.

(D) The Special Permit and License Board shall conduct A HEARING ON an appeal of the denial of a new license, OR THE NON-RENEWAL, SUSPENSION, OR REVOCATION OF A LICENSE PURSUANT TO CHAPTER 2 OF TITLE 5. The Special Permit and License Board shall deliver its decision in writing within thirty (30) days.

(E) Decisions of the Special Permit and License Board MAY BE APPEALED TO THE CITY COUNCIL PURSUANT TO CHAPTER 1 OF THIS TITLE. THE DECISION OF THE CITY COUNCIL SHALL BE DEEMED FINAL FOR PURPOSES OF JUDICIAL REVIEW.

5-7-8: RECYCLING REQUIREMENT:

(C) All licensed collectors of recyclable materials and solid waste operating within the City shall have the following duties and rights:

1. Except for materials which customers have not properly prepared for recycling, collectors may not dispose of recyclable materials set out by recycling customers by any means that may result in the materials not being recycled OR OTHERWISE IMPROPERLY DISPOSED OF.

2. The collector shall establish such POLICIES AND PROCEDURES as are necessary to provide for the orderly collection of recyclable materials, including requirements regarding the preparation of materials for collection, the collection of recyclable materials and requirements for source separation.

3. In the event that a collector elects to perform collection of solid waste or recyclable materials through subcontractors or agents, such agency relationship shall not relieve the collector of responsibility for compliance with the provisions of this Code and the rules promulgated hereunder.

4. All recyclable materials placed for collection shall be owned by and be the responsibility of the customer until the materials are collected by the collector. The material then shall become the property and the responsibility of the collector.

5-7-9: DESIGNATION OF RECYCLABLE MATERIALS:

(A) The City Manager shall, PERIODICALLY, after consultation with representatives of the licensed collectors operating within the City AND THE ENVIRONMENTAL ADVISORY BOARD, determine which items shall be designated for recycling collection based upon the following criteria:

1. Local, state and federal laws and regulations;
2. Potential for waste stream reduction;
3. Availability of markets;
4. Market price;
5. COMMUNITY RECYCLING CONCERNS;
6. Safety factors and risks of transportation; and
7. Risks of commingling of liquid wastes.

THE LIST OF DESIGNATED RECYCLABLES SHALL BE KEPT ON FILE FOR PUBLIC INSPECTION IN THE CITY CLERK'S OFFICE.

5-7-12: RECORDS AND REPORTS:

(A) All collectors shall report to the City BY MARCH 31ST OF EACH YEAR AN ANNUAL RECYCLING REPORT, FOR THE PREVIOUS YEAR, on forms to be provided by the City. A COLLECTOR MAY REQUEST, IN WRITING, THAT SECTIONS OF THE REPORT BE HELD IN CONFIDENCE. SUCH REQUESTS SHALL BE HONORED BY THE CITY TO THE EXTENT AUTHORIZED BY THE COLORADO OPEN RECORDS ACT, AS DETERMINED BY THE CITY IN ITS SOLE DISCRETION.

(B) THE ENVIRONMENTAL ADVISORY BOARD SHALL REVIEW A BUSINESS' ANNUAL RECYCLING REPORT FOR COMPLIANCE WITH THE RECYCLING REQUIREMENTS OF THIS CHAPTER. THE REVIEW AND ANY RECOMMENDATIONS OF THE BOARD SHALL BE SUBMITTED TO THE CITY MANAGER, WHO MAY CONSIDER THE RECOMMENDATIONS WHEN DECIDING TO APPROVE OR DENY LICENSE APPLICATIONS, RENEWAL, SUSPENSION, OR REVOCATION PURSUANT TO THIS CHAPTER.

5-7-13: DISPOSAL OF SOLID WASTE:

(A) All persons holding licenses pursuant to this Chapter and engaged in the business of the collection of solid waste shall dispose of all such solid waste at any disposal site which is approved by the State. No solid waste shall be disposed of at any other location either inside or outside of the City.

(B) NO PERSON OTHER THAN THE CUSTOMER OR THE COLLECTOR OF RECYCLABLE MATERIALS SHALL TAKE PHYSICAL POSSESSION OF ANY RECYCLABLE MATERIALS PLACED FOR COLLECTION. A SEPARATE OFFENSE SHALL BE DEEMED COMMITTED AT EACH ADDRESS FROM WHICH RECYCLABLE MATERIALS ARE TAKEN IN VIOLATION OF THIS PARAGRAPH.

(C) NO PERSON SHALL OPERATE ANY VEHICLE IN SUCH A MANNER AS TO DEPOSIT ON, OR LITTER, ANY PUBLIC WAY WITH SOLID WASTE.

(D) ALL PERSONS HOLDING LICENSES PURSUANT TO THIS CHAPTER ARE REQUIRED TO PICK-UP SOLID WASTE PROPERLY PREPARED FOR DISPOSAL BY THE CUSTOMER PURSUANT TO ANY AGREEMENT BETWEEN THE COLLECTOR AND THE CUSTOMER.

Section 2. Title II, Chapter 5 of the Westminster Municipal Code is hereby amended as follows:

2-5-2: POWERS AND DUTIES:

(C) THE SPECIAL PERMIT AND LICENSE BOARD SHALL CONDUCT PUBLIC HEARINGS ON APPEALS FROM THE DECISION OF THE CITY MANAGER, DENYING LICENSE APPLICATIONS, DENYING RENEWAL OF LICENSES, OR SUSPENDING OR REVOKING LICENSES TO OPERATE AS A SOLID WASTE OR RECYCLABLE MATERIALS COLLECTOR PURSUANT TO CHAPTER 7 OF TITLE 5 OF THIS CODE. APPEALS FROM THE DECISIONS OF THE BOARD MAY BE MADE TO THE CITY COUNCIL.

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.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 9th day of September, 2002. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 23rd day of September, 2001.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
September 9, 2002

SUBJECT: Councillor's Bill No. 44 re Amending Regulations and Procedures for Water Shortage or Drought

Prepared By: Stuart Feinglas – Water Resource Analyst
Bob Krugmire – Water Resource Engineer
Kelly DiNatale – Water Resource and Treatment Manager
Jeff Betz – Assistant City Attorney

Recommended City Council Action

Pass Councillor's Bill No. 44 as an emergency ordinance approving the amendments to the Water Shortage or Drought Ordinance.

Summary Statement

- An amendment to the Water Shortage or Drought Ordinance is necessary to give the City Manager authority to assess fines up to a maximum penalty of up to \$1,000 and/or the installation of a flow restrictor device to limit usage, for violations of mandatory restrictions imposed as a result of a water shortage or drought. This maximum is intended for use with customers within the non-residential sector. The maximum penalty for residential customers is to be set at \$500 and/or the installation of a flow restrictor device to limit usage for the fourth violation.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issues

Should City Council adopt recommended amendments to the Water Shortage or Drought Ordinance, giving the City Manager authority to assess fines up to a maximum penalty of up to \$1,000 and/or the installation of a flow restrictor device to limit usage?

Alternatives

One alternative would be not to adopt the proposed maximum penalty levels for violations issued of the City's mandatory water restriction program.

An additional option would be to adopt maximum penalties of different levels or structures other than the one being proposed.

Background Information

Water sources relied upon by the City of Westminster is currently yielding historically low flows into the City's water storage system. Current water consumption by Westminster's customers exceeds the ability of the City of Westminster, as water provider, to maintain sufficient reserve.

While the vast majority of customers within the system are complying with current mandatory water use restrictions, there are some customers, mainly within the non-residential sector, who continue not to follow the mandatory water use restrictions. Non-residential customers generally use water amounts significantly higher than residential customers and pay significantly higher bills. The existing penalty structure does not provide adequate incentive to motivate these customers to comply with the restrictions.

The fine schedule imposed on non-residential customers under the existing mandatory water use restrictions is not resulting in the desired reduction of water consumption. It is anticipated that an increase in the maximum penalty to be assessed will have the effect of increased compliance with the established water use restrictions especially within the non-residential sector.

Other penalty structures were researched in the preparation of this ordinance modification. One option reviewed was the possibility of imposing a penalty in an amount equal to the highest water bill within the last twelve-month period for any non-residential customer. It was found that 70 percent of non-residential customers were billed between \$500 and \$1,000 as their high water bill within the last year. Our highest category of non-residential monthly water bills, were over \$15,000. In an effort to assure both fairness and substantial penalties, and to minimize the City's exposure to lawsuits, the \$1,000 maximum is recommended at this time.

In addition to the modified fine structure, the following changes are being made to the overall watering restrictions (and will be effective on September 10, 2002): no watering will be allowed on Sundays through September 30th, watering time will be limited to 10 minutes per zone or area with an overall maximum of 2 hours, watering must occur between 5:00 a.m. and 9:00 a.m. or 6:00 p.m. and 10:00 p.m., and washing of vehicles at private residences will no longer be allowed. As an additional measure, which matches the action of most municipalities in the Denver metro area, no lawn watering will be allowed after September 30th. Finally, no sod or seed may be installed until further notice.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **44**

SERIES OF 2002

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AMENDING REGULATIONS AND PROCEDURES FOR WATER SHORTAGE OR DROUGHT...

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Title VIII, Chapter 7, Section 24, is hereby amended by the addition of the following:

8-7-24: WATER SHORTAGE OR DROUGHT:

(C) ANY PERSON, CORPORATION, PARTNERSHIP OR ASSOCIATION WHO VIOLATES ANY OF THE PROVISIONS, OF A LONG TERM WATER CONSERVATION PLAN AS ADOPTED BY RESOLUTION, SHALL BE PUNISHED BY A FINE OR PENALTY NOT TO EXCEED ONE THOUSAND DOLLARS (\$1000) AND OR THE INSTALLATION OF A FLOW RESTRICTOR DEVICE TO LIMIT USAGE.

(D) ANY PERSON SUBJECT TO A CHARGE FOR VIOLATION OF THIS PROVISION MAY APPEAL ON A FORM DESIGNED BY THE CITY OF WESTMINSTER. THE CITY MANAGER OR SUCH OTHER DECISION MAKER AS MAY BE APPOINTED BY THE CITY MANAGER SHALL CONDUCT THE HEARING.

Current water consumption by Westminster's customers exceeds the ability of the City of Westminster as water provider to maintain sufficient reserve and the fine schedule imposed under the mandatory water use restrictions is not resulting in the desired reduction of water consumption and 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 September 9, 2002, 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 2: This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, READ IN FULL AND PASSED AND ADOPTED AS AN EMERGENCY ORDINANCE this 9th day of September, 2002.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
September 9, 2002

SUBJECT: Councillor's Bill No. 45 re Vendor's Fee on Sales, Admissions and Accommodations Taxes and Other Housekeeping Changes

Prepared By: Marty McCullough, City Attorney
Barb Dolan, Sales Tax Manager

Recommended City Council Action

Pass Councillor's Bill No. 45 on first reading, approving amendments to Title IV of the Westminster Municipal Code pertaining to Sales, Use, Admissions and Accommodations Taxes.

Summary Statement

- The City's vendor's fee rate has been unchanged since 1973. The current fee of 2.5% is significantly more generous than that of many other municipalities and states. City Council recently directed Staff to bring an action item to adjust the vendor's tax collection fee to include a cap on the amount of the fee paid to \$100 per tax return filed.
- Approximately 325 of the City's largest businesses will see their fee reduced to the \$100 limit on one or more returns filed. The remaining 3,900 businesses will be unaffected.
- The cost savings to the City from the \$100 cap will be approximately \$670,000. These funds would allow the City to address critical public safety staffing needs and will provide some very limited additional revenues in the General Fund.
- Information regarding the proposed change has been provided to retail businesses via a number of sources, including a direct mailing to all retail businesses and personal contacts by Staff. To date, Staff has received minimal response from businesses.
- A handful of additional housekeeping changes to Title IV are also being recommended, including amendments required to bring the Code into compliance with the new federal "Mobile Telecommunications Sourcing Act."

Expenditure Required: \$0

Source of Funds: N/A

Policy Issues

Does City Council want to adjust the vendor's fee to bring it closer to what other comparable cities are paying, and to create savings that will address Public Safety staffing needs offset a small portion of the General Fund revenue shortfall.

Alternatives

There are a number of possible alternatives to the proposed \$100 cap. Council could look at a lower or higher reduction in the vendor's fee, resulting in lower or higher dollar savings to the City. Given where the City stands in relation to other cities on the vendor's fee rate, Staff is comfortable that a \$100 cap is both reasonable and fair. This would mean that smaller businesses could keep up to \$100 in tax revenues, thus off-setting their costs of collecting and remitting the taxes.

Another alternative would be to make no change to the vendor's fee. This is not recommended, as Staff has determined that the current vendor's fee needs to be updated. Westminster's fee rate is currently the highest without some type of cap among metro area cities surveyed. Additionally, no cost savings would be realized.

Background Information

Licensed businesses that collect and remit City Sales, Admissions and Accommodations taxes are allowed to retain 2.5% of the tax as a "vendor's fee" for acting as a collection agent for the City. There are a number of reasons for recommending a cap on the fee at this time.

- Westminster's vendor's fee has not changed since 1973. Over the years, a number of cities have taken action to reduce, cap or eliminate their own vendor's fee. A survey of surrounding cities indicated that Westminster currently has the highest fee without some type of a cap.
- Under the current structure, beneficiaries of the greatest portion of the vendor's fee are large businesses, yet the effort and expense of collecting the City tax are not commensurate to the amount of tax collected.
- Improvements in technology over the years have increased the efficiency with which businesses collect and remit local taxes.
- Businesses that collect City sales tax have the use of the City's funds from 20 to 51 days before remitting it. Thus, the businesses are also indirectly compensated for collecting the tax.
- The proposed \$100 cap would affect approximately 325 of the largest sales tax remitters. The remaining 3,900 licensed businesses, most of them small business owners, would be unaffected.

The proposed cap of \$100 would result in over \$670,000 of cost savings for the City and affect approximately 325 businesses. City sales and use tax revenues through July 2002 are down by over 10%. Sales tax revenues in 2003-2004 are projected to show only minimal increases. Reducing the collection expense would allow these additional funds to flow from the Sales and Use Tax Fund to the General Fund. This additional funding would be utilized to address Public Safety staffing needs as follows:

- > Four new Police Officers at an estimated cost of \$330,000
- > Three new Firefighters at an estimated cost of \$230,000

SUBJECT: Councillor's Bill re Vendor's Fee on Sales, Admissions and Accommodations Taxes and
Other Housekeeping Changes Page 3

These costs include all benefit, overtime, equipment and training costs associated with hiring new public safety personnel. The remaining estimated \$115,000 would be used to address other shortfalls in the General Fund, such as street maintenance.

Letters describing the proposed change were mailed to all retailers in early August. The Westminster Window published an article about the proposal shortly after it was discussed at the July 1st Study Session. Staff has made personal contact with a number of the City's larger taxpayers. Presentations were made to the Business Advisory Group and discussions were held with the Chamber of Commerce and the Jefferson County Economic Council. To date, Staff has received minimal opposition from the Westminster business community. In general, respondents have been supportive of the proposal to utilize the cost savings to fund Public Safety needs.

The new vendor's fee cap will apply to tax returns filed on or after January 1, 2003. The delay in the implementation of this change was done to allow adequate time for businesses and City staff to implement the change.

The attached Councillor's Bill includes amendments necessary to implement the vendor's fee cap, as well as some minor housekeeping changes that are also necessary at this time. The bill also incorporates Code changes required as a result of Congress's approval of the Mobile Telecommunications Sourcing Act. The Act establishes a standardized method for taxing cellular and other wireless phone service. The tax will be assessed based upon the "place of primary use," usually the customer's home or business address. The Act eliminates multiple jurisdictions claims to the same taxable revenue and avoids double taxation. The change is revenue neutral to the City.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **45**

SERIES OF 2002

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AMENDING TITLE IV OF THE WESTMINSTER MUNICIPAL CODE CONCERNING TAX ADMINISTRATION

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The following Sections of Title IV, Chapter 1 of the Westminster Municipal Code are hereby amended as follows:

4-1-1: ~~WORDS AND PHRASES DEFINED~~ DEFINITIONS: The following words and phrases as used in this Title shall have the following meaning unless specifically defined in another Chapter.

(Q) "**Taxpayer**" FOR THE PURPOSES OF THIS TITLE, means any person obligated to PAY, collect ~~and/or pay~~ OR REMIT tax under the terms of this Title.

(R) "TAX POLICY" MEANS, FOR THE PURPOSES OF COLORADO CONSTITUTION ARTICLE X, SECTION 20, THE PROVISIONS OF THIS TITLE THAT GOVERN THE PERSONS UPON WHOM THE CITY'S TAX IS IMPOSED AND THE TRANSACTIONS TO WHICH THE CITY'S TAX APPLIES, INCLUDING TAX EXEMPTIONS AND TAX DEDUCTIONS, BUT EXCLUDING ANY PROVISIONS CONCERNING FEES, INTEREST CHANGES, OR PENALTIES RELATED TO THE ADMINISTRATION AND ENFORCEMENT OF SAID TAX POLICY.

~~(R)~~ (S) "**Total Tax Liability**" means the total of all tax, penalties or interest owed by a taxpayer and shall include sales tax collected in excess of such tax computed on total sales.

4-1-2: EXEMPTION; BURDEN OF PROOF:

(A) The burden of proving that any retailer is exempt from collecting or ~~paying~~ REMITTING tax shall be on the retailer under such reasonable requirements of proof as the Finance Director may prescribe.

(B) The burden of proving that any consumer is exempt from ~~paying~~ REMITTING the use tax shall be on such consumer under such reasonable requirements of proof as the Finance Director may prescribe.

4-1-3: DEDUCTIONS AND CREDITS:

(B) Credits FROM TAX DUE: ~~From Tax Due: 1. Vendor's fee: A retailer's collection and remittance expense equal to two and one half percent (2 1/2%) of the sum of the tax computed and any excess tax collected may be taken as a credit against tax paid on or before the due date. This paragraph (1) shall not apply to use tax. Such vendor's fee shall be forfeited for any tax that is not reported and paid by the due date. Forfeiture of the vendor's fee shall be prima facie evidence that the taxpayer was in violation of this Title.~~

~~2.~~ Amounts previously paid pursuant to a tax levied by a municipality may be credited against the tax due on transactions or items other than construction materials used in a project for which a City building permit is required as follows:

~~(a)~~ 1. When the present owner or user has previously paid a legally imposed sales or use tax on the transaction or item; except that the amount of such credit shall not exceed the amount of tax on such transaction or item computed at the rate established by Section 4-2-3.

(b) 2. When the present owner or user of construction equipment has not previously paid a legally imposed sales or use tax attributable to any one municipality on the full price of such equipment, the credit shall be the aggregate value of all such taxes paid on such equipment up to the amount of tax due to the City on such equipment.

(C) COLLECTION FEE. FOR EACH REPORTING PERIOD, THE CITY SHALL PAY A RETAILER A COLLECTION AND REMITTANCE FEE EQUAL TO THE LESSER OF \$100 OR TWO AND ONE-HALF PERCENT (2 1/2%) OF THE SUM OF THE TAX COMPUTED AND ANY EXCESS TAX COLLECTED. A RETAILER MAY APPLY THIS FEE AS AN OFFSET AGAINST THE AMOUNT OF TAX DUE TO THE CITY AT THE TIME OF REMITTANCE. SUCH FEE SHALL BE FORFEITED FOR ANY TAX THAT IS NOT REPORTED AND PAID BY THE DUE DATE. FORFEITURE OF THE FEE SHALL BE PRIMA FACIE EVIDENCE THAT THE RETAILER WAS IN VIOLATION OF THIS TITLE. THIS PARAGRAPH SHALL NOT APPLY TO USE TAX.

4-1-4: ACQUISITION, INCEPTION OR CESSATION OF BUSINESS:

(A) Purchase of an Existing Business: 1. Seller's responsibilities: Any person engaged in business in the City who sells such business shall file a final return. The reporting period for such return shall end on the date of the transfer of ownership of the business.

2. Purchaser's responsibilities: (a) Any person who purchases an existing business shall be responsible for determining the total tax liability from that business and shall withhold from the initial purchase payment an amount sufficient to cover all such total tax liability, unless the former owner produces a receipt from the City showing that the total tax liability has been paid or a certificate from the City that there is no total tax liability.
- (b) Any amount so withheld shall be paid to the City within ten (10) days of the date of the sale of the business.
- (c) Any purchaser who fails to withhold such total tax liability or fails to ~~pay~~ REMIT to the City the amount so withheld within the ten (10) day period allowed, shall, as well as the seller, be liable for any unpaid total tax liability.

4-1-5: RETAILER RESPONSIBLE FOR COLLECTION AND PAYMENT OF TAX: Every retailer engaged in business in the City shall be liable and responsible for payment of an amount equivalent to the taxable sales multiplied by the specified rate.

(D) Disputed Tax: When a dispute arises between a retailer and a purchaser who claims that the sale is exempt from the tax, the retailer shall collect and the purchaser shall ~~pay~~ REMIT such tax. The purchaser may then submit a Claim for Refund to the City within sixty (60) days of the date of purchase. Any such tax refunded by the City will be paid directly to the purchaser.

4-1-7: FILING RETURNS; DUE DATE: (D) For good cause shown in a written request of a taxpayer, the Finance Director may extend the time for making returns and paying OR REMITTING tax due.

4-1-8: REPORTING PERIODS:

- (A) Unless otherwise required or approved, taxpayers must file returns and ~~pay~~ REMIT tax as follows:
1. A taxpayer whose monthly tax due is less than ten dollars (\$10) may file returns and ~~pay~~ REMIT tax annually, semi-annually, quarterly or monthly;
 2. A taxpayer whose monthly tax due is less than twenty dollars (\$20) may file returns and ~~pay~~ REMIT tax semi-annually, quarterly or monthly;
 3. A taxpayer whose monthly tax due is less than forty dollars (\$40) may file returns and ~~pay~~ REMIT tax quarterly or monthly; or

4. A taxpayer whose monthly tax due is forty dollars (\$40) or more shall file returns and pay REMIT tax monthly.

(E) The reporting period for a ~~vendor~~ RETAILER selling tangible personal property at a temporary location or special event inside the City who is not required to obtain a license shall end on the day the temporary location closes or special event concludes.

(H) If any taxpayer who has been granted permission to file returns and pay REMIT tax on other than a monthly basis becomes delinquent, authorization for such alternate method of reporting may be revoked by the Finance Director and immediately following notice of such revocation, the taxpayer shall file returns and pay REMIT tax on a monthly basis as if the alternate method of reporting and paying REMITTING the tax had never been granted.

4-1-10: AUTHORITY OF THE FINANCE DIRECTOR: The administration of this Title is hereby vested in the Finance Director.

~~(I) If the Finance Director determines that a person has registered or caused to be registered a motor vehicle outside the City and that such motor vehicle should have been registered at an address in the City, the Finance Director is authorized to assess a civil penalty of five hundred dollars (\$500) against the person. A written notice of the penalty assessment shall be issued, paid and protested in the same manner as a notice of assessment. The Finance Director may enforce collection of the penalty assessment in the same manner as provided in this Title for the collection of tax due. Assessment and collection of this penalty shall not preclude the collection of any tax due or fee or the imposition of any other civil or criminal penalty provided by law.~~

(J) Notices: Notices required by this Title shall be in writing and delivered in person or sent post paid by first class mail, to the last known address of the taxpayer.

4-1-12: TAX INFORMATION CONFIDENTIAL: All specific information gained under the provisions of this Title which is used to determine the total tax liability from a taxpayer, whether furnished by the taxpayer or obtained through audit, shall be treated by the City and its officers, employees or legal representatives as confidential.

(A) Except as directed by judicial order or as provided in this Section, no City officer, employee, or legal representative shall divulge any confidential information.

4. NOTHING CONTAINED IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT THE CITY'S RELEASE OF THE TERMS OF ANY BUSINESS ASSISTANCE OR OTHER AGREEMENT INVOLVING TAX REBATES OR CREDITS.

4-1-13: TIMELY PAYMENT; COMPUTATION OF DATES: (B) Any due date, payment date, or deadline for paying REMITTING the total tax liability or providing information or taking other action, which falls on a Saturday, Sunday or legal holiday recognized by either the Federal government or State of Colorado, shall be extended to the first business day following such weekend or holiday.

4-1-17: CLAIM FOR REFUND: No tax overpayment shall be refunded unless a Claim for Refund is signed and submitted to the City by the taxpayer.

(D) ~~No person shall~~ **FALSE STATEMENTS:** IT SHALL BE UNLAWFUL FOR ANY PERSON TO make any false statement in connection with a Claim for Refund.

4-1-21: PENALTIES: (A) Penalty for Late Payment REMITTANCE of Sales, Use and Accommodations Tax: A penalty of fifteen dollars (\$15.00) or ten percent (10%) of the tax deficiency, whichever is greater, shall be levied on any tax deficiency.

(B) Penalty for Late ~~Payment~~ REMITTANCE of Admissions Tax: A penalty shall be levied on any tax deficiency.

1. For transactions consummated prior to January 1, 1992, such penalty shall be twelve percent (12%) of the tax deficiency.
2. For transactions consummated on or after January 1, 1992, such penalty shall be fifteen dollars (\$15) or ten percent (10%) of the tax deficiency, whichever is greater.

(E) OTHER PENALTIES; POWER TO WAIVE: IF THE FINANCE DIRECTOR DETERMINES THAT A PERSON HAS REGISTERED OR CAUSED TO BE REGISTERED A MOTOR VEHICLE OUTSIDE THE CITY AND THAT SUCH MOTOR VEHICLE SHOULD HAVE BEEN REGISTERED AT AN ADDRESS IN THE CITY, THE FINANCE DIRECTOR IS AUTHORIZED TO ASSESS A CIVIL PENALTY OF FIVE HUNDRED DOLLARS (\$500) AGAINST THE PERSON. A WRITTEN NOTICE OF THE PENALTY ASSESSMENT SHALL BE ISSUED, PAID AND PROTESTED IN THE SAME MANNER AS A NOTICE OF ASSESSMENT. THE FINANCE DIRECTOR MAY ENFORCE COLLECTION OF THE PENALTY ASSESSMENT IN THE SAME MANNER AS PROVIDED IN THIS TITLE FOR THE COLLECTION OF TAX DUE. ASSESSMENT AND COLLECTION OF THIS PENALTY SHALL NOT PRECLUDE THE COLLECTION OF ANY TAX DUE OR FEE OR THE IMPOSITION OF ANY OTHER CIVIL OR CRIMINAL PENALTY PROVIDED BY LAW.

(F) Abatement of Penalty: Any penalty assessed in this Section may be abated by the Finance Director if the Finance Director finds good cause therefore and:

1. If the taxpayer submits a written request for such abatement on or before the payment due date of the applicable Notice of Assessment; or
2. If no assessment was issued, within 60 days after ~~payment~~ REMITTANCE of the tax.

4-1-22: INTEREST: Interest shall be levied on any tax deficiency.

(A) Interest shall be calculated for each month or portion of a month from the due date that a tax deficiency remains unpaid.

1. For transactions consummated on or after January 1, 1994, the annual rate of interest assessed shall be the rate established by the State Commissioner of Banking pursuant to Section 39-21-110.5 C.R.S.
2. For transactions ~~consummated~~ CONSUMMATED prior to January 1, 1994, the annual rate of interest assessed shall be fifteen percent (15%).

4-1-23: NOTICE OF ASSESSMENT: The Finance Director or specifically authorized agent shall issue a Notice of Assessment for any tax deficiency, penalties, or interest due

(B) The payment due date for REMITTANCE OF the total tax liability pursuant to a Notice of Assessment shall be twenty (20) days after the date of the Notice of Assessment.

4-1-32: JEOPARDY ASSESSMENT: (C) Dispute of Jeopardy Assessment: If, in the opinion of the taxpayer, the jeopardy assessment is not for the correct amount of total tax liability, the taxpayer shall ~~pay~~ REMIT the total tax liability as assessed and submit a claim for refund to the City.

4-1-33: DISTRAINT AND SALE: (A) Unless such property is exempt by State Statute from distraint and sale, the City Manager may sign and issue a warrant directed to any employee or agent of the City, or any sheriff of any county in Colorado, commanding the distraint and sale of personal property of the taxpayer on which a lien has attached for the payment of the total tax liability.

1. Such warrant may be issued if the total tax liability is not ~~paid~~ REMITTED on or before twenty (20) days from the ~~payment~~ DUE date of a Notice of Assessment and no protest of such assessment has been timely filed.

4-1-34: STATUS OF TAX DUE IN BANKRUPTCY AND RECEIVERSHIP: Whenever the business or property of any taxpayer is subject to receivership, bankruptcy or assignment for the benefit of creditors, or distrained for property taxes, the total tax liability shall be a prior and preferred lien against all the property of the taxpayer. No sheriff, receiver, assignee or other officer shall sell the property of any such taxpayer under process or order of any court, without first ascertaining from the Finance Director the amount of the total tax liability. The officer shall ~~pay~~ REMIT any total tax liability before making payment to any judgment creditor or other claimants.

4-1-37: LEGISLATIVE INTENT: ANY CHANGES TO THE CITY'S TAX POLICY RESULTING IN A NET REVENUE INCREASE TO THE CITY SHALL BE SUBJECT TO VOTER APPROVAL IN ACCORDANCE WITH THE PROVISIONS OF COLORADO CONSTITUTION ARTICLE X, SECTION 20.

Section 2. The following Sections of Title IV, Chapter 2 of the Westminster Municipal Code are hereby amended as follows:

4-2-2: WORDS AND PHRASES DEFINED: Unless the context clearly indicates otherwise, the following words and phrases as used in this Chapter shall have the following meaning:

(T) "**Prescription Drugs**" means a drug which, prior to being dispensed or delivered, is required by the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Section 301, et seq., and the ~~regulations~~ REGULATIONS promulgated thereunder to be labeled with the following statement: "~~Caution~~ CAUTION: Federal law prohibits dispensing without a prescription.", and is, in fact, dispensed, delivered, or administered to a person or animal by, or pursuant to the direction of, a licensed ~~practitioner~~ PRACTITIONER of the healing arts or veterinary medicine.

4-2-5: TRANSACTIONS AND ITEMS SUBJECT TO TAX:

(A) The tax levied by Section 4-2-3(A) shall apply to the price of the following:

2. Telecommunications services, except carrier access services and interstate private communications services, AND EXCEPT AS OTHERWISE PROVIDED BY THIS SECTION FOR MOBILE TELECOMMUNICATION SERVICES, for all international, interstate and intrastate telecommunications service originating from or received on telecommunication equipment in the City if the charge for the service is billed to an apparatus, telephone or account in this City, to a customer location in this City, or to a person residing in this City without regard to where the bill for such services is actually received.

(a) MOBILE TELECOMMUNICATIONS SERVICE SHALL BE SUBJECT TO THE TAX IMPOSED BY THIS ARTICLE ONLY IF THE SERVICE IS PROVIDED BY A HOME SERVICE PROVIDER TO A CUSTOMER WHOSE PLACE OF PRIMARY USE IS WITHIN THE CITY AND THE SERVICE ORIGINATES WITHIN THE CITY; FURTHER, THE TAX SHALL BE COLLECTED IN ACCORDANCE WITH THE PROVISIONS OF THE ACT.

(b) AS USED IN THIS SUBSECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

- i. "ACT" MEANS THE FEDERAL "MOBILE TELECOMMUNICATIONS SOURCING ACT," 4 U.S.C. SECS. 116 TO 126, AS AMENDED.
- ii. "CUSTOMER" MEANS CUSTOMER AS DEFINED IN SECTION 124(2) OF THE ACT.
- iii. "HOME SERVICE PROVIDER" MEANS HOME SERVICE PROVIDER AS DEFINED IN SECTION 124(5) OF THE ACT.
- iv. "MOBILE TELECOMMUNICATIONS SERVICE" MEANS MOBILE TELECOMMUNICATIONS SERVICE AS DEFINED IN SECTION 124(7) OF THE ACT.
- v. "PLACE OF PRIMARY USE" MEANS THE PLACE OF PRIMARY USE AS DEFINED IN SECTION 124(8) OF THE ACT.

(c). THE FINANCE DIRECTOR MAY REQUIRE PAYMENT OF THE TAX ON ANY OTHER BASIS PERMITTED BY THIS CHAPTER WHEN A CUSTOMER FAILS TO PROVIDE ITS PLACE OF PRIMARY USE OR THE ACT IS DETERMINED TO BE INAPPLICABLE TO THE TAX IMPOSED BY THIS ARTICLE ON MOBILE TELECOMMUNICATIONS SERVICES.

4-2-6: EXEMPTIONS FROM SALES TAX

(A) The tax levied by Section 4-2-3(A) shall not apply to the following:

35. Insulin in all forms, dispensed pursuant to the direction of a licensed practitioner of the healing arts. This includes ~~elucose~~ GLUCOSE to be used for the treatment of insulin reactions, diabetic urine and blood testing kits and materials, and insulin measuring and injecting devices.

4-2-9: PROVISIONS RELATIVE TO BUILDING PERMITS:

(A) Except as provided by Section 4-2-6(A)(7), every person, including any charitable organization or governmental entity, who is required to obtain a City building permit shall ~~pay~~ REMIT use tax on construction materials used on that project, whether purchased from sources inside or outside the City, by one of the following methods:

1. Estimated prepayment. The estimated cost of construction materials shall be calculated by multiplying the total valuation of the construction project, entered on the building permit by the City Building Division, by fifty percent (50%). Use tax on such estimated cost of construction materials shall be paid at the time the building permit is issued. Use tax on the actual cost of materials may be subsequently determined through audit. If use tax is prepaid, interest on any tax deficiency related to construction materials shall be computed from the date of issuance of the certificate of occupancy.
2. Actual cost. The actual cost of construction materials shall be reported and paid on monthly returns. If use tax is paid on an actual cost basis, interest on any tax deficiency shall be computed from the date on which tax is due.0

4-2-13: USE TAX; METHOD OF PAYMENT: Every consumer who has not paid the sales tax to a retailer shall, unless the credit established in Section 4-1-3(B)(2) applies, complete the use tax schedule of a return and ~~pay~~ REMIT the total tax liability to the City.

4-2-14: INTERCITY CLAIMS FOR RECOVERY: The intent of this Section is to streamline and standardize procedures related to situations where tax has been remitted to the incorrect municipality. It is not intended to reduce or eliminate the responsibilities of the taxpayer ~~or vendor~~ to correctly pay, collect, and remit sales and use taxes to the City.

(B) When it is determined by the Director of Finance of the City that sales and use tax owed to the City has been reported and paid to another municipality, the City shall promptly notify the ~~vendor~~ TAXPAYER that taxes are being improperly collected and remitted, and that as of the date of the notice the ~~vendor~~ TAXPAYER must cease improper tax collections and remittances.

(C) The City may make a written Claim for Recovery directly to the municipality that received tax and/or penalty and interest owed to the City, or, in the alternative, may institute procedures for collection of the tax from the taxpayer ~~or vendor~~. The decision to make a Claim for a Recovery lies in the sole discretion of the City. Any claim for Recovery shall include a properly executed release of claim from the taxpayer ~~and/or vendor~~ releasing its claim to the taxes paid to the wrong municipality, evidence to substantiate the Claim, and a request that the municipality approve or deny in whole or in part, the claim within ninety (90) days of its receipt. The municipality to which the City submits a Claim for Recovery may, for good cause, request an extension of time to investigate the Claim, and approval of such extension by the City shall not be unreasonably withheld.

(D) Within ninety (90) days after receipt of a claim for Recovery, the City shall verify to its satisfaction whether or not all or a portion of the tax claimed was improperly received, and shall notify the municipality submitting the Claim in writing that the Claim is either approved or denied in whole or in part, including the reasons for the decision. If the Claim is approved in whole or in part, the City shall remit the undisputed amount to the municipality submitting the Claim within thirty (30) days of approval. If a Claim is submitted jointly by a municipality and a ~~vendor or~~ taxpayer, the check shall be made to the parties jointly. Denial of a Claim for Recovery may only be made for good cause.

Section 3. The following Sections of Title IV, Chapter 3 of the Westminster Municipal Code are hereby amended as follows:

4-3-1: LEGISLATIVE INTENT: It is hereby declared to be the legislative intent of the City Council that on and after the effective date of this Chapter, every person who pays to gain admission or access to a performance of a motion picture or an establishment licensed under the Colorado Beer or Liquor Codes; or any display of live animals and/or plants; or for the use of lanes and pin setters for bowling balls in a bowling alley in the City that is open to the public shall ~~pay~~ REMIT the tax imposed by this chapter, and every person, whether owner, lessee, or operator, who charges or causes to be charged admission to any such performance of a motion picture, establishment licensed under the Colorado Beer or Liquor Codes, any display of live animals and/or plants, or use of lanes and pin setters for bowling balls in a bowling alley shall collect the tax imposed by this Chapter.

4-3-2: DEFINITIONS: Unless the context clearly indicates otherwise, the following words and phrases as used in this Chapter shall have the following meaning:

(A) "**Admissions Charge**" means:

2. Any charge for the right or ~~privilege~~ PRIVILEGE to the use of bowling alleys and pin setters for bowling balls in a bowling alley open to the public, including charges for bowling by the line.

(J) "**Vendor**" means any operator as defined in Subsection ~~(C)~~(D) of this Section.

Section 4. This ordinance shall take effect on January 1, 2003. It is specifically intended that the amendments set forth herein shall apply to tax returns due on or after January 1, 2003.

Section 5. 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 September, 2002.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 23rd day of September, 2002.

Mayor

ATTEST:

City Clerk



WESTMINSTER

Agenda Memorandum

City Council Meeting
September 9, 2002

SUBJECT: Councillor's Bill No. **46** re Allocation of 2001 Carryover Revenues

Prepared By: Steve Smithers, Assistant City Manager

Recommended City Council Action:

Pass Councillor's Bill No. **46** on first reading allocating the 2001 Carryover Revenues as detailed in the background section of this agenda memo.

Summary Statement

- 2001 Carryover revenues from all funds total approximately \$11,473,003. The breakdown of these revenues by fund is included in the background section of this report.
- These carryover revenues are derived from higher than anticipated revenue collections and lower than anticipated expenditures in various City funds. Examples of the sources of the higher revenue collections include: tap fees from the continued residential and commercial growth the City has been experiencing, building use tax collections, and interest earnings in excess of what was anticipated.
- The City has historically allocated these funds to be spent on various general and utility capital improvements (as well as specific purposes where the funds are from a dedicated source of revenues). This follows the City's policy of spending one-time revenues on one-time expenses.
- In light of the continuing weak economic environment, Staff is recommending that all of the 2001 carryover funds in the Sales and Use Tax fund (\$409,745) be carried forward to 2002 as unallocated fund balance to provide additional protection against further weakening in the economy. Also, carryover of \$306,872 in the Open Space Fund and \$52,467 in the Conservation Trust Fund are not being appropriated and will carry over into future years. These funds cannot be expended until they are appropriated by City Council.

Expenditure Required: \$10,703,919

Source of Funds: 2001 Carryover Funds

Policy Issue

- Should the 2001 Carryover funds be appropriated for the various items set forth in this Ordinance?

Alternative

City Council could alter the list of projects that Staff is recommending to be funded. Staff believes the list of projects set forth in the background section of this Staff Report addresses the most critical needs that currently exist in the City. Staff spent a significant amount of time evaluating existing and future needs. In particular, Staff attempted to address key projects where significant funding pressure exists in 2002 through 2004.

Background Information

Each year the City Manager's Office and the Finance Department review the status of year-end revenue collections and expenditures for the previous year to determine what carryover funds, if any, are available for appropriation in the current year. The carryover revenues from the various funds above the projected amounts in the 2001 Budget are as follows:

- General Fund - \$3,704,369
- Fleet Fund - \$132,112
- Utility Fund - \$6,619,640
- Sales and Use Tax Fund - \$409,745 (recommended to be kept in the fund)
- General Capital Improvement Fund - \$241,366
- Open Space Fund - \$306,872 (recommended to be kept in the fund)
- Conservation Trust Fund - \$52,467 (recommended to be kept in the fund)
- Total Funds Available – \$11,473,003
- Total Funds Recommended to be Appropriated - \$10,703,919

It is recommended that that the projects listed below be funded from 2001 carryover funds.

General Capital Improvement Fund

\$1,250,000 for the Irving Street Library – This carryover allocation provides the final block of funding to complete the total project budget of approximately \$3,850,000. This project will be constructed at 74th and Irving Street and will replace the existing Library on 76th avenue. The project is anticipated to be under construction in the spring of 2003.

\$550,000 for 106th and Kipling Street Improvements - This project would include some widening of the asphalt roadway, curb, gutter and sidewalks along the south side of 106th Avenue. It will also include an investigation of traffic mitigation features to slow some of the speeding that occurs on this neighborhood street. This project is recommended to address concerns raised by residents at previous public budget hearings.

\$300,000 for Huron Street Design Work – This is the same project recommended in the 2003/2004 CIP that will provide for the design and construction of widening Huron Street between 129th and 144th Avenues to full arterial street standards, 2 through lanes in each direction plus auxiliary turning lanes with a median. The total cost of this project will be in excess of \$15 million dollars, and it is important that the City begin now to set aside funds to move the project forward.

\$500,000 for 112th Avenue: Federal Boulevard to Huron Street Improvements – This is the same project recommended in the 2003/2004 CIP that is for the improvement of 112th Avenue to minor arterial standards between Federal Boulevard and Huron Street. This additional funding will allow the City to move ahead with construction of improvements in 2003. It is anticipated that the City of Northglenn would participate in this project to improve the portions of 112th that abut the Northglenn city limits.

\$250,000 for City Hall Space Allocation Work – These funds are requested to address needed structural and other changes in City Hall to address space needs. In November of this year, Fire Administration will be moving out of City Hall to the new Public Safety Center, freeing up space for other departments to utilize. Staff currently has a space study underway, utilizing an outside consultant, to determine how to best utilize the freed up Fire space and to look at other modifications that could be made to City Hall to address space needs for department staff over the next several years. It is anticipated that some architectural/structural changes will be needed to address these space needs.

\$140,000 to Meet the Local Match for the Lowell Boulevard Bike Trail Project - The City was awarded \$500,000 in federal funding for this project that will create an enhanced pedestrian/bike connection to south Westminster along Lowell Boulevard. The City is required to provide this match in order to receive the federal funds.

\$61,366 for Security Enhancements at City Hall - This project will allow the City to establish an identification system for employees at City Hall and enhance overall security in the building for both the public and employees.

\$40,000 for Additional Improvements to the 98th Avenue Connection Project - This is a project that is proposed to move forward next year and these additional funds will allow the inclusion of better pedestrian access along the roadway. This was a request that came from citizens in the area and Staff believes that improved pedestrian access improves the functionality of this project.

General Capital Outlay Replacement Fund

In December 2001, \$533,033 was allocated to the proposed capital depreciation fund. This is a new funding mechanism that was proposed to assist the City in establishing a better method of funding vehicles and major capital equipment. An additional \$453,488 was allocated from the Coors Field rebate received in 2002. These moneys were kept in the General Fund balance until the new General Capital Outlay Replacement Fund (GCORF) was established. Now that GCORF has been created and is included within the Proposed 2003/2004 Budget, the total of \$986,481 is being recommended to be officially transferred into this new fund.

Utility Capital Improvements

\$2,119,640 to be Allocated to the Big Dry Creek Wastewater Treatment Plant (BDCWTP) Expansion - The proposed five-year capital improvement plan includes total funding in the amount of \$17,500,000 for the expansion of BDCWTP (including \$14.5 million in debt financing in 2004) to meet the growing demand for wastewater treatment in the City. Allocating these funds will allow the City to partially cash fund this project, decreasing the size of the debt issue. Staff believes this is a good financial move, particularly in light of the other debt pressures on the utility fund.

\$2,000,000 to Increase the Utility Fund Reserve - Staff believes this is a prudent move at this time given the potential negative impact of a continuing drought (and the required water restriction measures) on 2003 Utility Fund revenues. The current reserve stands at approximately \$4.7 million dollars and Staff believes that this is adequate during normal water consumption periods; however, the severity of the current drought and the water restriction measures being taken to protect the City's water supply call for additional financial security measures to be taken.

\$2,500,000 to Pay Back the \$2,500,000 that was Borrowed from the Gravel Lakes Storage Project to Help Cash Fund the Standley Lake Dam Renovation Project - These funds were used earlier this summer to allow the City to avoid issuing debt for this project.

Miscellaneous Other Funds

In addition, there was a carryover of \$409,745 in the Sales and Use Tax fund that Staff is recommending stay in the fund as additional protection against any worsening of the economy and a subsequent reduction in retail sales. Staff believes this a prudent step to take given the City's reliance on sales tax as the primary revenue source for the General Fund. The carryover funds in both the Open Space Fund and the Conservation Trust Fund are also recommended to stay in these funds to provide additional assurance that these funds remain balanced.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILOR'S BILL NO. **46**

SERIES OF 2002

INTRODUCED BY COUNCILLORS

A BILL

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

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2002 appropriation for the General Fund initially appropriated by Ordinance No. 2913 in the amount of \$69,324,181 is hereby increased by \$3,836,481 which, when added to the fund balance as of the City Council action on September 9, 2002 will equal \$78,870,512. The actual amount in the General Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. This increase is due to the appropriation of 2001 carryover.

Section 2. The \$3,836,481 increase in the General Fund shall be allocated to City Revenue and Expense accounts, which shall be amended as follows:

Description	Current Budget	Increase	Final Budget
REVENUES			
Carryover 1000.40020.0000	\$6,496,477	<u>\$3,836,481</u>	\$10,332,958
Total Change to Revenues		<u>\$3,836,481</u>	
EXPENSES			
Transfer to General Capital Outlay Replacement Fund 10010900.79800.0450	\$0	\$986,481	\$986,481
Transfer to General Capital Improvement Fund 10010900.79800.0750	1,053,409	<u>2,850,000</u>	13,903,409
Total Change to Expenditures		<u>\$3,836,481</u>	

Section 3. The 2002 appropriation for the General Capital Improvement Fund, initially appropriated by Ordinance No. 2913 in the amount of \$10,305,000 is hereby increased by \$3,091,366 which, when added to the fund balance as of the City Council action on September 9, 2002 will equal \$19,367,826. The actual amount in the General Capital Improvement Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. This increase is due to the appropriation 2001 carryover.

Section 4. The \$3,091,366 increase in the General Capital Improvement Fund shall be allocated to City Revenue and Expense accounts, which shall be amended as follows:

Description	Current Budget	Increase	Final Budget
REVENUES			
Carryover 7500.40020.0000	\$2,261,186	\$241,366	\$2,502,552
Transfer from General Fund 7500.45000.0100	11,053,409	<u>2,850,000</u>	13,903,409
Total Change to Revenues		<u>\$3,091,366</u>	

Description	Current Budget	Increase	Final Budget
EXPENSES			
Security Enhancements 80275012532.80400.8888	\$0	\$61,366	\$61,366
98 th Avenue Connection 80175030007.80400.8888	410,000	40,000	450,000
Lowell Boulevard Bike Route 80275050533.80400.8888	0	140,000	140,000
Irving Street Library 80175050020.80400.8888	2,497,966	1,250,000	3,747,966
106 th Oak to Kipling 80275030501.80400.8888	50,000	550,000	600,000
City Hall Space Allocation 80275012534.80400.8888	0	250,000	250,000
Huron Street 129 th /144 th 80175030069.80400.8888	500,000	300,000	800,000
112 th Ave: Federal to Huron 80275030535.80400.8888	0	<u>500,000</u>	500,000
Total Change to Expenditures		<u>\$3,091,366</u>	

Section 5. The 2002 appropriation for the Water Portion of the Utility Fund, initially appropriated by Ordinance No. 2913 in the amount of \$25,286,775 is hereby increased by \$2,500,000 which, when added to the fund balance as of the City Council action on September 9, 2002 will equal \$44,514,557. The actual amount in the Water Portion of the Utility Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. This increase is due to the appropriation of 2001 carryover.

Section 6. The \$2,500,000 increase in the Water Portion of the Utility Fund shall be allocated to City Revenue and Expense accounts, which shall be amended as follows:

Description	Current Budget	Increase	Final Budget
REVENUES			
Carryover 2000.40020.0000	\$15,226,360	<u>\$2,500,000</u>	\$17,726,360
Total Change to Revenues		<u>\$2,500,000</u>	
EXPENSES			
Gravel Lakes Storage 80120035078.80400.8888	\$5,458,922	<u>\$2,500,000</u>	\$7,958,922
Total Change to Expenditures		<u>\$2,500,000</u>	

Section 7. The 2002 appropriation for the Wastewater Portion of the Utility Fund, initially appropriated by Ordinance No. 2913 in the amount of \$11,968,834 is hereby increased by \$4,119,640 which, when added to the fund balance as of the City Council action on September 9, 2002 will equal \$13,759,467. The actual amount in the Wastewater Portion of the Utility Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. This increase is due to the appropriation of 2001 carryover.

Section 8. The \$4,119,640 increase in the Wastewater Portion of the Utility Fund shall be allocated to City Revenue and Expense accounts, which shall be amended as follows:

Description	Current Budget	Increase	Final Budget
REVENUES			
Carryover 2100.40020.0000	\$(513,007)	<u>\$4,119,640</u>	\$3,606,633
Total Change to Revenues		<u>\$4,119,640</u>	
EXPENSES			
Transfer to Utility Fund Reserve 21010900.79800.0205	\$0	\$2,000,000	\$2,000,000
Big Dry Creek Expansion 80121035044.80400.8888	1,471,179	<u>2,119,640</u>	3,590,819
Total Change to Expenditures		<u>\$4,119,640</u>	

Section 9. The 2002 appropriation for the Utility Fund Reserve, initially appropriated by Ordinance No. 2913 in the amount of \$4,697,184 is hereby increased by \$2,000,000 which, when added to the fund balance as of the City Council action on September 9, 2002 will equal \$6,697,184. The actual amount in the Utility Fund Reserve on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. This increase is due to the appropriation of 2001 carryover.

Section 10. The \$2,000,000 increase in the Utility Fund Reserve shall be allocated to City Revenue and Expense accounts, which shall be amended as follows:

Description	Current Budget	Increase	Final Budget
REVENUES			
Transfer from Wastewater Fund 2050.45000.0210	\$0	<u>\$2,000,000</u>	\$2,000,00
Total Change to Revenues		<u>\$2,000,000</u>	
EXPENSES			
Contingency 20510900.79900.0000	\$4,697,184	<u>\$2,000,000</u>	\$6,697,184
Total Change to Expenditures		<u>\$2,000,000</u>	

Section 11. This ordinance is the initial 2002 appropriation for the General Capital Outlay Replacement Fund. The initial appropriation of \$986,481 due to City Council action on September 9, 2002 will increase the General Capital Outlay Replacement Fund balance to \$986,481. This increase is due to the appropriation of 2001 carryover.

Section 12. The \$986,481 increase in the General Capital Outlay Replacement Fund shall be allocated to City Revenue and Expense accounts, which shall be amended as follows:

Description	Current Budget	Increase	Final Budget
REVENUES			
Transfer from General Fund 4500.45000.0100	\$0	<u>\$986,481</u>	\$986,481
Total Change to Revenues		<u>\$986,481</u>	
EXPENSES			
Contingency 45010900.79900.0000	\$0	<u>\$986,481</u>	\$986,481
Total Change to Expenditures		<u>\$986,481</u>	

Section 13. – 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 14. This ordinance shall take effect upon its passage after the second reading.

Section 15. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED AND PUBLISHED this 9th day of September, 2002. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 23th day of September, 2002.

ATTEST:

Mayor

City Clerk



WESTMINSTER COLORADO

Agenda Memorandum

City Council Meeting
September 9, 2002

Subject: Acceptance of Brownfields Grants from EPA and Councillor's Bill No.47 Appropriating Grant Funds to the 2002 Budget

Prepared by: Tony Chacon, South Westminster Revitalization Projects Coordinator

Recommended City Council Action:

- Accept a \$200,000 EPA Supplemental Brownfields grant and authorize the City Manager to execute a cooperative agreement with EPA relative to use of the funds;
- Accept a \$1,000,000 "Revolving Loan Fund" grant from EPA, and authorize the City Manager to execute a memorandum of agreement with the Colorado Brownfields Revolving Loan Fund making the City a participating member and providing the City access to no less than \$1 million in low-interest revolving loan funds to clean up contaminated properties; and,
- Pass Councillor's Bill No. 47 on first reading authorizing a supplemental appropriation of \$240,000 (\$200,000 Supplemental Grant and \$40,000 Loan Fund Grant) to the 2002 budget of the General Capital Improvement Fund for the Brownfields CIP account.

Summary Statement:

- In March 1999, the City received a \$200,000 Brownfields Assessment Demonstration Pilot Project Grant from EPA, and has completed the EPA approved work program and fully expended the grant proceeds.
- The City applied for and was awarded an additional \$200,000 in Supplemental Brownfields funds to continue planning and environmental assessment work along Little Dry Creek between 72nd Avenue and Federal Boulevard within south Westminster.
- The City applied for and was awarded a \$1,000,000 grant to provide low interest loans to assist the City, property owners, and prospective developers in cleaning up contaminated property.
- Given that the EPA is requiring the "cleanup funds" be channeled to the City through the established Colorado Brownfields Revolving Loan Fund (CBRLF) coalition, the City is required to join the coalition to gain access to the grant.
- Upon joining the coalition the City would have immediate access to the awarded \$1,000,000 grant and additional loan funds accumulated by the coalition. Upon joining the coalition the City will be entitled to \$40,000 in grant proceeds to be used for administration.
- A \$240,000 supplemental appropriation to the 2002 budget (Brownfields CIP account) is required to receive and expend the grant proceeds, whereby \$200,000 is related to the Supplemental Brownfields grant and \$40,000 is associated with administration of the Brownfields Revolving Loan Fund.
- The grants do not require a match of City funds.

Expenditure Required: \$240,000

Source of Funds: The funding sources for these expenditures are a \$200,000 EPA Supplemental Brownfields grant and \$40,000 in grant proceeds from an EPA Brownfields Revolving Loan Fund grant.

Policy Issues

Should the City join the CBRLF and gain access to the \$1,000,000 in clean up funds understanding that the City shall have no independent authority to control disbursement of the loan funds, and shall give authority to the CBRLF to make such lending decisions?

Alternatives

- The Council may choose not to accept either or both grants awarded by EPA. Staff recommends that this option not be considered since the money does not require any form of matching funds from the City and provides a significant source of funds to assist in accelerating revitalization and redevelopment activity within south Westminster.
- The Council may choose to not accept the current grants and re-apply for the grants in forthcoming years. Staff recommends that this option not be pursued as the existing grant does not require a local match. All new Brownfields grant applicants are required to provide a 20% match.

Background Information

In 1998 the U.S. EPA approached the City to encourage submittal of an application relative to the EPA Brownfields Demonstration Pilot Grant program. Upon submittal of an application, the City was awarded and did accept an initial grant of \$200,000 in March 1999. Accordingly, the City hired an environmental consultant, Parsons Brinkerhoff, to implement the EPA approved work plan that included the following activities:

- Preparation of a Phase I environmental analysis for the south Westminster area;
- Preparation of Phase II environmental assessments on selected “priority” properties;
- Development and launch of a revitalization web site;
- Production of revitalization brochure and south Westminster video; and,
- Preparation of urban/community garden feasibility study.

The City completed the work program and expended all of the initial grant proceeds in the Spring of 2002. Given the high quality of work completed and full expenditure of the funds, the EPA invited the City to apply for additional funds to continue its work related to planning and cleanup activities. Per authorization of the City Council, staff proceeded to apply for a “Supplemental Brownfields” grant. The City was successful in its application and was awarded a supplemental grant of \$200,000. Per the application and discussions with EPA, the proceeds of the grant will be used generally in the following manner:

- Preparation of a conceptual redevelopment plan for the general area bounded by 72nd Avenue, 68th Avenue, Federal Boulevard and Lowell Boulevard, encompassing about 125 acres of vacant and marginally used land;
- Fiscal evaluation of the redevelopment concept plan;
- Phase I and Phase II environmental assessment of property not covered with initial grant; and,
- Preparation of clean-up plans and clearance of sites through the State’s Voluntary Clean-up program.

Given the City’s participation in the Brownfields Demonstration Pilot project, and its ability to move quickly and effectively in completing the work plan, the City became eligible to apply for a grant providing “cleanup” funds. Upon Council approval City staff applied for and was awarded a \$1,000,000 revolving loan fund grant. Per the EPA’s directive, the awarded funds are to be channeled through the Colorado Brownfields Revolving Loan Fund (CBRLF) and made available upon application to the CBRLF.

The CBRLF was established as a coalition by the EPA and Colorado Department of Health and Environment to accept and administer “clean up” funds on behalf grant recipients. The coalition is comprised of Colorado cities and counties and State agencies that are part of the EPA Brownfields project and have received revolving loan fund grants from the EPA. The coalition is currently comprised of the cities of Denver, Lakewood, Loveland, Aurora, Commerce City, and Englewood, the State of Colorado Department of Public Health and Environment, the Colorado Housing and Finance Authority (CHFA), and El Paso County. The mission of the coalition is to dispense the grant funds as low-interest loans to the recipient governmental entities, property owners and prospective developers, as required by the EPA. Having been awarded the revolving loan fund grant, the City is eligible to join the CBRLF coalition, thus giving the City full access to the \$1,000,000 and other available coalition loan funds. The City can access the loan fund only by joining the CBRLF. In addition, the City is entitled to \$40,000 of the proceeds as a grant to be used in conjunction with administration of the loan funds. In the event the City does not join the coalition, the \$1,000,000 grant will revert to EPA.

Upon joining the coalition the City will be required to apply for the use of the funds. Applications are processed by CHFA and approved by the coalition membership. To be eligible for the funds, all cleanup activities must be done in accordance with the State of Colorado Voluntary Cleanup Program (VCUP). Upon approval of the VCUP, the applying jurisdiction may submit an application to borrow the funds either directly or through a property owner or a prospective developer. The applying coalition member is responsible for negotiating with property owners and prospective developers to establish the loan rate, terms and conditions in conjunction with preparation of an application to clean-up a property on a project by project basis. The coalition will be responsible for approving the application either as submitted or with changes. Upon approval the CHFA assumes responsibility for processing the loan documents and receiving payments.

Use of the revolving loan fund is not restricted to any specific area of the City. As a coalition member, the City may apply for a low-interest loan to cleanup any contaminated property both inside and outside the City limits.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **47**

SERIES OF 2002

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE INCREASING THE 2002 BUDGET OF THE GENERAL CAPITAL IMPROVEMENT FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2002 ESTIMATED REVENUES IN THIS FUND.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2002 appropriation for the General Capital Improvement Fund, initially appropriated by Ordinance No. 2913 in the amount of \$10,305,000 is hereby increased by \$240,000 which, when added to the fund balance as of the City Council action on September 9, 2002 will equal \$16,757,826. The actual amount in the General Capital Improvement Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. This increase is due to the appropriation of an EPA Brownfield grant and an EPA revolving loan fund grant.

Section 2. The \$240,000 increase in the General Capital Improvement Fund shall be allocated to City Revenue and Expense accounts, which shall be amended as follows:

Description	Current Budget	Increase	Final Budget
REVENUES			
Federal Grants 7500.40610.0000	\$0	<u>\$240,000</u>	\$240,000
Total Change to Revenues		<u>\$240,000</u>	
EXPENSES			
Brownfields Grant 80175030188.80400.8888	\$200,000	<u>\$240,000</u>	\$440,000
Total Change to Expenditures		<u>\$240,000</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 9th day of September, 2002.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 23rd day of September, 2002.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
September 9, 2002

SUBJECT: Resolution No. 44 re Finding of Compliance for the Annexation of the Lao Buddhist Temple Located on the West side of Dover Street at 107th Avenue.

Prepared By: David Falconieri, Planner III

Recommended City Council Action

Adopt Resolution No. 44 accepting the annexation petition submitted by Bon Senephoomy as Executive President of the Lao Buddhist Church, and make the findings required by State Statute on the sufficiency of the petition. This resolution also sets the date of October 14, 2002, for the annexation hearing.

Summary Statement

- The Buddhist Temple property is located on the west side of Dover Street at 107th Avenue. The 1.4 acre property includes the temple building and associated parking. The Temple also owns the property to the west of the building that is already located in the City.
- At this time, the applicants wish only to annex the property to the City so that the entire ownership is located within a single jurisdiction.
- Staff will recommend that the property be zoned Planned Unit Development (PUD) which is consistent with the Comprehensive Land Use Plan designation for the portion of their property that is already in the City. The property to be annexed is already included in the Comprehensive Land Use Plan (CLUP) as Northeast Comprehensive Development Plan. If any other use is proposed for the site in the future, a Preliminary Development Plan (PDP) and Official Development Plan (ODP) would be required.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issues

This property is subject to the provisions of the Northeast Comprehensive Development Plan IGA with Jefferson County. The policy has been adopted through that document that states that it is desirable for the City to annex lands within the enclave when a request is made.

Alternatives

Make a finding that it is not in the best interests of the City to annex the Lao Buddhist Temple property at this time and take no further action.

Background

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

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

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

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

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

RESOLUTION

RESOLUTION NO. **44**

INTRODUCED BY COUNCILLORS

SERIES OF 2002

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

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

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

1. City Council finds the said petition and annexation map to be in substantial compliance with all state statutory requirements, including C.R.S. Section 31-12-107 (1).
2. City Council hereby establishes October 14, 2002, 7:00 p.m. at the Westminster City Council Chambers, 4800 West 92nd Avenue, for the annexation hearing required by C.R.S. Section 31-12-108 (1).
3. City Council hereby orders the City Clerk to give notice of the annexation hearing in accordance with C.R.S. Section 31-12-108 (2).

Passed and adopted this 9th day of September, 2002.

ATTEST:

Mayor

Summary of Proceedings

Summary of proceedings of the regular City of Westminster City Council meeting of Monday, September 9, 2002. Present at roll call were Mayor Moss, Mayor Pro-Tem Atchison, Councillors Dittman, Dixon, Hicks, Kauffman, and McNally. Absent none.

The minutes of the August 26, 2002 meeting were approved.

Lori Vaclavik, Executive Director for Habitat for Humanity made a presentation to Council.

Councillor Dittman proclaimed September 15-21 as "Yellow Ribbon Youth Suicide Awareness and Prevention Week."

Council approved the following: Quarterly Insurance Report for April-June 2002; Accepted a \$200,00 Brownsfield Grant; Accepted a \$1,000,000 Revolving Loan Fund Grant from the EPA.

A public hearing was held on the 2003 and 2004 City Budget.

The following Councillor's Bill was passed as an emergency ordinance:

A BILL FOR AN ORDINANCE AMENDING REGULATIONS AND PROCEDURES FOR WATER SHORTAGE OR DROUGHT purpose: amending water shortage regulations

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

A BILL FOR AN ORDINANCE AMENDING THE SOLID WASTE COLLECTION CODE AND SPECIAL PERMIT AND LICENSE BOARD DUTIES purpose: amending the solid waste code

A BILL FOR AN ORDINANCE AMENDING TITLE IV OF THE WESTMINSTER MUNICIPAL CODE CONCERNING TAX ADMINISTRATION purpose: amendments pertaining sales, use, admissions and accommodations taxes AS AMENDED

A BILL FOR AN ORDINANCE INCREASING THE 2002 BUDGETS OF THE GENERAL, GENERAL CAPITAL IMPROVEMENT, GENERAL CAPITAL OUTLAY REPLACEMENT AND UTILITY FUNDS AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2002 ESTIMATED REVENUES IN THESE FUNDS purpose: allocating 2001 carryover revenues

A BILL FOR AN ORDINANCE INCREASING THE 2002 BUDGET OF THE GENERAL CAPITAL IMPROVEMENT FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2002 ESTIMATED REVENUES IN THIS FUND purpose: supplemental appropriation of \$240,000 re Brownsfield Grant

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

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

A BILL FOR AN ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF WESTMINSTER AT THE GENERAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 5, 2002, CERTAIN ISSUES PURSUANT TO ARTICLE X, SECTION 20, OF THE COLORADO CONSTITUTION AND A BALLOT QUESTION REGARDING A PROPOSED AMENDMENT TO THE CHARTER OF THE CITY OF WESTMINSTER

The following Resolution was adopted:

Resolution No. 44 re Annexation Findings Lao Buddhist Temple (NW corner of Dover St and 107th Ave)

At 8:40 P.M. the meeting was adjourned.

By order of the Westminster City Council

Michele Kelley, CMC, City Clerk

Published in the Westminster Window on September 19, 2002.

Dixon-McNally

A BILL

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

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2002 appropriation for the General Fund initially appropriated by Ordinance No. 2913 in the amount of \$69,324,181 is hereby increased by \$21,933 which, when added to the fund balance as of the City Council action on August 26, 2002 will equal \$75,055,964. The actual amount in the General Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. This increase is due to the appropriation of various grants and reimbursements received by the City.

Section 2. The \$21,933 increase in the General Fund shall be allocated to City Revenue and Expense accounts, which shall be amended as follows:

Description	Current Budget	Increase	Final Budget
REVENUES			
Jeffco Grants 1000.40640.0020	\$0	\$1,000	\$1,000
Adco Grants 1000.40640.010	0	250	250
General – Miscellaneous 1000.43060.0000	161,875	7,828	169,703
PD Training 1000.41360.0000	10,000	<u>12,855</u>	22,855
Total Change to Revenues		<u>\$21,933</u>	
EXPENSES			
Investigations - Career Development 10020300.61800.0000	\$8,500	\$1,250	\$9,750
Investigations – Overtime 10020300.60400.0000	156,000	7,828	163,828
PD Training – Career Development 10020050.61800.0612	9,500	<u>12,855</u>	22,355
Total Change to Expenditures		<u>\$21,933</u>	

Section 3. The 2002 appropriation for the General Capital Improvement Fund, initially appropriated by Ordinance No. 2913 in the amount of \$10,305,000 is hereby increased by \$35,147 which, when added to the fund balance as of the City Council action on August 26, 2002 will equal \$16,311,607. The actual amount in the General Capital Improvement Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. This increase is due to the appropriation of interest earnings on the 2001 Certificates of Participation.

Section 4. The \$35,147 increase in the General Capital Improvement Fund shall be allocated to City Revenue and Expense accounts, which shall be amended as follows:

Description	Current Budget	Increase	Final Budget
REVENUES			
Interest Income - 2001 COP's 7500.42520.0215	\$44,847	<u>\$35,147</u>	\$79,994
Total Change to Revenues		<u>\$35,147</u>	
EXPENSES			
Public Safety Building 80175020086.80400.8888	\$3,352,259	<u>\$35,147</u>	\$3,387,406
Total Change to Expenditures		<u>\$35,147</u>	

Section 5. The 2002 appropriation for the Water Portion of the Utility Fund, initially appropriated by Ordinance No. 2913 in the amount of \$25,286,775 is hereby increased by \$11,000 which, when added to the fund balance as of the City Council action on August 26, 2002 will equal \$42,025,557.

The actual amount in the Water Portion of the Utility Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. This increase is due to the appropriation additional grants from DOE and EPA.

Section 6. The \$11,000 increase in the Water Portion of the Utility Fund shall be allocated to City Revenue and Expense accounts, which shall be amended as follows:

Description	Current Budget	Increase	Final Budget
REVENUES			
Federal Grants 2000.40610.0000	\$50,000	<u>\$11,000</u>	\$61,000
Total Change to Revenues		<u>\$11,000</u>	
EXPENSES			
Environmental Grants 80120035189.80400.8888	\$166,350	<u>\$11,000</u>	\$177,350
Total Change to Expenditures		<u>\$11,000</u>	

Section 7. – 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 8. This ordinance shall take effect upon its passage after the second reading.

Section 9. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED AND PUBLISHED this 26th day of August, 2002. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 9th day of September, 2002.

ORDINANCE NO. **2970**

COUNCILLOR'S BILL NO. **42**

SERIES OF 2002

INTRODUCED BY COUNCILLORS

Dittman-McNally

A BILL FOR AN ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF WESTMINSTER AT THE GENERAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 5, 2002, CERTAIN ISSUES PURSUANT TO ARTICLE X, SECTION 20, OF THE COLORADO CONSTITUTION AND A BALLOT QUESTION REGARDING A PROPOSED AMENDMENT TO THE CHARTER OF THE CITY OF WESTMINSTER.

THE CITY OF WESTMINSTER ORDAINS:

WHEREAS, it is necessary and appropriate that the City Council review the City's Home-Rule Charter from time to time to assure that its provisions are consistent with the contemporary needs of the City and current legal requirements;

WHEREAS, pursuant to the terms of the Constitution of the State of Colorado, the Charter and ordinances of the City, and Part 2 of Article 2 of Title 31 of the Colorado Revised Statutes, the City Council has identified and determined that the proposed amendment to the home-rule Charter of the City of Westminster as set forth herein below shall be submitted to a vote of the City's registered electors at the general election to be held on November 5, 2002; and

WHEREAS, Article X, Section 20, of the Colorado Constitution requires voter approval prior to spending revenues in excess of certain limited calculated amounts unless voters approval is obtained to retain and spend these funds; and

WHEREAS, a general election will be held on November 5, 2002.

Section 1. At the general election to be held on November 5, 2002, there shall be submitted to the registered electors of the City the following issues pursuant to Article X, Section 20 of the Colorado Constitution:

ISSUE 2A

WITHOUT ANY NEW TAXES OR TAX RATE INCREASES, FOR THE PURPOSE OF MAINTAINING THE QUALITY OF THE CITY'S POLICE, FIRE AND OTHER ESSENTIAL MUNICIPAL SERVICES, SHALL THE CITY BE AUTHORIZED TO COLLECT, RETAIN AND SPEND ALL REVENUES RECEIVED IN THE YEAR TWO THOUSAND AND THEREAFTER AS A VOTER APPROVED REVENUE CHANGE PURSUANT TO COLORADO CONSTITUTION ART X, SECTION 20?

_____ **FOR**

_____ **AGAINST**

Section 2. At the general election to be held on November 5, 2002, there shall be submitted to the registered electors of the City the following question:

QUESTION 2B

In order to achieve consistency with the provisions of the State Constitution concerning term limitations, shall the Westminster City Charter be amended so that all Councillors shall be elected to terms of four years and any time a vacancy in a Councillor position occurs, it shall be filled for the remainder of such term?

_____ **FOR**

_____ **AGAINST**

ACTUAL WORDING FOR PROPOSED AMENDMENT:

Section 3.2. Elective Officers and Terms of Office.

(c) At each regular City election, BEGINNING IN 2003, there shall be elected THREE (3) ~~four (4)~~ Councillors. ~~(three (3) at the election in which the Mayor is elected), and such additional number as may be required to fill vacancies pursuant to the provision of section 5.7.~~ The three (3) CANDIDATES ~~(two (2) at the election in which the Mayor is elected)~~ receiving the highest number of votes shall each be elected for a term of office of four (4) years. ~~the one (1) receiving the fourth highest number of votes (third highest number at the election in which the Mayor is elected) shall be elected for a term of office of two (2) years two (2) years., and a number equal to the number of vacancies being filled (if any) who shall receive the next highest numbers of votes in order. shall each be elected for a term of office of two years.~~

Section 5.7. Filling vacancies in Elective Office.

(a) Any vacancy which occurs in the Council ~~more than ninety (90) days before the next regular City election shall be filled within thirty (30) days by a majority vote of the remaining members of the Council, said appointee to hold office until the Monday following such election, at which election such vacancy shall be filled as provided in Section 3.2 for any balance of the unexpired term. Any vacancy which occurs in the Council ninety (90) days or less before the next regular City election may not be filled.~~

Section 3. The City Clerk is hereby directed to take such actions as may be required or permitted by law in connection with the election.

Section 4. The officers and employees of the City are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this ordinance.

Section 5. If any section, paragraph, clause or provision of this ordinance shall for any reason be held invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this ordinance.

Section 6. All acts, orders and resolutions, and parts thereof, inconsistent with this ordinance be, and the same hereby are, repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any act, order or resolution, or part thereof, heretofore repealed.

Section 7. This ordinance shall take effect upon its passage after second reading.

Section 8. 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.

NOTICE OF CONTRACTOR'S SETTLEMENT

Pursuant to Section 38-26-107, C.R.S., notice is hereby given that on the 1st day of November 2002, at Westminster, Colorado, final settlement will be made by the City with SEMA Construction, Inc., hereinafter called the "Contractor", for and on account of the contract for the construction of a Project described as Westminster Boulevard Extension, West 95th Avenue/Harlan Street to West 104th Avenue (Project S99-03).

1. Any person, copartnership, association of persons, company, or corporation that has furnished labor, materials, team hire, sustenance, provisions, provender, or other supplies used or consumed by such Contractor or his subcontractor, or that supplies rental machinery, tools, or equipment to the extent used in the prosecution of the work, whose claim therefor has not been paid by the Contractor or the subcontractor for the work contracted to be done, may file with the City a verified statement of the amount due and unpaid on account of such claim.
2. All such claims shall be filed with the City Attorney's Office, City of Westminster, 4800 W. 92nd Avenue, Westminster, Colorado 80031 by October 11, 2002.
3. Failure on the part of a creditor to file such statement prior to such final settlement will relieve the City from any and all liability for such claim.

Dated at Westminster, Colorado this 19th day of September, 2002.

CITY OF WESTMINSTER

/s/ Martin R. McCullough

City Attorney

Published in the Westminster Window, September 19, 2002 and September 26, 2002