



CITY COUNCIL AGENDA

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

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

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

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

8. Consent Agenda
 - A. Financial Report for August 2009
 - B. Heavy Rescue Truck Purchase
 - C. 2010 Traffic Signal Maintenance Contract
 - D. 2010 Property and Liability Excess Insurance Renewal
 - E. Semper Water Treatment Facility Electrical Improvements Project Contract
 - F. Strasburg Natural Resource Farm Maintenance Building Expansion Construction Contract and Budget Revision
 - G. Second Reading of Councillor's Bill No. 28 re CLUP Amendment for Property at 12000 Zuni Street
 - H. Second Reading of Councillor's Bill No. 29 re 2009 Community Development Block Grant Fund Appropriation
 - I. Second Reading of Councillor's Bill No. 30 re Amending Title V, Chapter 14 re Art Gallery Permits
9. Appointments and Resignations
10. Public Hearings and Other New Business
 - A. Councillor's Bill No. 34 re Lease Agreement for the Kids Nite Out Program
 - B. Resolution No. 43 re Snow and Ice Control / Major Snow Emergency Policy
11. Old Business and Passage of Ordinances on Second Reading
12. Citizen Presentations (longer than 5 minutes), Miscellaneous Business, and Executive Session
 - A. City Council
 - B. Executive Session - Discussion of personnel matter (City Manager's performance evaluation) pursuant to WMC section 1-11-3(C)(1) and CRS 24-6-402(4)(f)
13. Adjournment

GENERAL PUBLIC HEARING PROCEDURES ON LAND USE MATTERS

- A.** The meeting shall be chaired by the Mayor or designated alternate. The hearing shall be conducted to provide for a reasonable opportunity for all interested parties to express themselves, as long as the testimony or evidence being given is reasonably related to the purpose of the public hearing. The Chair has the authority to limit debate to a reasonable length of time to be equal for both positions.

- B.** Any person wishing to speak other than the applicant will be required to fill out a “Request to Speak or Request to have Name Entered into the Record” form indicating whether they wish to comment during the public hearing or would like to have their name recorded as having an opinion on the public hearing issue. Any person speaking may be questioned by a member of Council or by appropriate members of City Staff.

- C.** The Chair shall rule upon all disputed matters of procedure, unless, on motion duly made, the Chair is overruled by a majority vote of Councillors present.

- D.** The ordinary rules of evidence shall not apply, and Council may receive petitions, exhibits and other relevant documents without formal identification or introduction.

- E.** When the number of persons wishing to speak threatens to unduly prolong the hearing, the Council may establish a time limit upon each speaker.

- F.** City Staff enters a copy of public notice as published in newspaper; all application documents for the proposed project and a copy of any other written documents that are an appropriate part of the public hearing record;

- G.** The property owner or representative(s) present slides and describe the nature of the request (maximum of 10 minutes);

- H.** Staff presents any additional clarification necessary and states the Planning Commission recommendation;

- I.** All testimony is received from the audience, in support, in opposition or asking questions. All questions will be directed through the Chair who will then direct the appropriate person to respond.

- J.** Final comments/rebuttal received from property owner;

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

- L.** Public hearing is closed.

- M.** If final action is not to be taken on the same evening as the public hearing, the Chair will advise the audience when the matter will be considered. Councillors not present at the public hearing will be allowed to vote on the matter only if they listen to the tape recording of the public hearing prior to voting.

CITY OF WESTMINSTER, COLORADO
MINUTES OF THE CITY COUNCIL MEETING
HELD ON MONDAY, SEPTEMBER 14, 2009 AT 7:04 P.M.

PLEDGE OF ALLEGIANCE

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

ROLL CALL

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

CONSIDERATION OF MINUTES

Councillor Kaiser moved, seconded by Dittman, to approve the minutes of the regular meeting of August 24, 2009, as distributed. The motion passed unanimously.

CITY MANAGER'S REPORT

Mr. McFall reported that City Council's Community Service Day on September 12 had been successful with a large number of volunteers participating. Trees and fences were removed, and crusher fines hauled and spread at the McKay Lake open space. It was a good event, hard work, and lots of fun.

Mr. McFall announced a Candidate Forum would be held in Council Chambers beginning at 6 p.m. on September 30. While the Mayor and Council candidates would be invited to participate in other forums around the community, this forum was in City Hall and was filmed for frequent rebroadcast on Channel 8. Sponsors of the forum were the metro North Chamber of Commerce and Metro North Newspapers.

Tonight's meeting offered an opportunity for public comment on the 2010 adopted Budget and proposed changes to it. Following the Council meeting, the Westminster Housing Authority and the Orchard Park Place North General Improvement District Boards of Director would meet.

CITY COUNCIL COMMENTS

Councillor Briggs reported that Council had attended the Public Safety Banquet on September 9. This annual event, normally held on Patriots' Day, presented an opportunity to honor the men and women of the Westminster Police and Fire Departments who had exceeded the call of duty. He commended those officers who had been recognized for their acts of heroism.

Councillor Winter reported that the first Art Gallery Walk in South Westminster had been a success. Traditionally in the art gallery world, the first Friday and Saturday of each month were opportunities for gallery walks. South Westminster was now home to three art galleries, making monthly walks a possibility. It was exciting to see one of the visions for South Westminster come to fruition.

Councillor Major reported that Council's community service day at McKay Lake open space provided first-hand experience of the hard physical work that Westminster Open Space Volunteers donated on a regular basis. In addition to removing Russian olive trees and old fencing, 40 tons of crusher fines had been moved by wheelbarrow. Additionally, he reported that the Public Safety Banquet had been filled with moving stories of local heroes' life-saving efforts. This banquet had become a tradition in Westminster since the terrorist attacks of September 11, 2001, and was inspirational to attend.

PRESENTATIONS

Councillor Briggs welcomed Federal Heights Mayor Joyce Thomas and other members of the Daughters of the American Revolution, who were present to accept a proclamation naming September 17 through 23, 2009, as

Constitution Week. He read the proclamation and Mayor Thomas announced activities being held to celebrate the 222nd anniversary of the signing of the United States Constitution.

CONSENT AGENDA

The following items were submitted for Council's consideration on the consent agenda: award the bid for the purchase of PVC water line pipe to Mountain States Pipe and Supply in the amount of \$91,990; based on the City Manager's recommendation, find that the public interest would be best served by a negotiated contract with a single vendor, Front Range Fire Apparatus, for the purchase of a replacement ambulance, award the contract to Front Range Fire Apparatus, and authorize the City Manager to execute the contract in an amount not to exceed \$118,500; determine that the public interest would be best served by approving Fleet Maintenance cumulative purchases in 2009 with Detroit Transmission Company and TCI Tire Centers for purchases not to exceed \$75,000 for each of the two vendors; passage of Councillor's Bill No. 25 on second reading transferring \$7,390,196 from the Utility Capital Project Reserve Fund in accordance with the adopted budget authorization; passage of Councillor's Bill No. 26 on second reading authorizing a supplemental appropriation in the amount of \$47,604 reflecting the Police Department's receipt of a Colorado Auto Theft Prevention Authority grant; and passage of Councillor's Bill No. 27 on second reading providing for supplemental appropriation of funds to the 2009 budget of the General, Parks Open Space & Trails, and General Capital Improvement funds.

Mayor McNally asked if Councillors wished to remove any items from the consent agenda for discussion purposes or separate vote. There was no request. Councillor Major moved to approve the consent agenda as presented. The motion was seconded by Councillor Lindsey and carried.

PUBLIC MEETING ON THE 2010 ADOPTED BUDGET

Mr. McFall provided a financial update and an overview of the 2010 adopted Budget, which was followed by an opportunity for the public to comment on the second year of the two-year adopted budget. Requests from citizens would be reviewed and researched by Staff. The Council's Budget Review would be on September 21 and would include Staff recommended changes. Amendments resulting from the Budget Review would be presented to Council for final consideration on October 12.

Graphs were shown to track the collection of sales/use taxes from 2001 through July 2009. 2001 had been the largest sales/use tax collection year in the City's history, and in developing the 2009-2010 budget it had been projected that sales/use tax revenues in would be recaptured and finally equal 2001 levels by 2010. However, September 2008 had marked the beginning of the worst recession since the Great Depression. Sales/use tax was the foundation of the General Fund, providing 65 percent of all revenue in the fund. In 2008 sales/use tax revenues totaled approximately \$35.6 million; realistic projections for 2009 were \$32 million: a 10% reduction in revenues coupled with a projected 2.8% increase in revenues over 2008. Graphs were shown to demonstrate the volatility of sales/use tax collections from September 2008 to present. After reviewing General Fund expenditures and the revenue projections and expenditures of the Utility and CIP Funds, Mr. McFall explained the steps that had been taken to ensure that expenditures stayed within revenue means. Economic recovery was not expected for some time, and Staff would be making recommendations to adjust the 2010 Adopted Budget in the document to be reviewed on September 21.

The Mayor invited public comment. Appearing on behalf of Senior Hub were Howard Yeoman and Renee Dees. The City had provided funding to the Senior Hub for a number of years and a variety of services, including Meals on Wheels, were available to Westminster senior citizens as a result. This year, the application to request funding had been prepared in advance but not filed by deadline with the City. Mr. Yeoman requested consideration of the Senior Hub's funding request if possible and regretted the agency's failure to file the application in a timely manner.

No others wished to speak. There was no action of Council needed at this time.

PUBLIC HEARING RE THE REGISTRY PUD CLUP AND PDP AMENDMENTS

At 7:34 p.m. the Mayor opened a public hearing to consider changing the land use designation of approximately 10.5 acres located at 12000 Zuni Street from Business Park to Public/Quasi-Public. The Arabian Trust, Nancy Ciancio Trustee, and City were owners of the property (approximately 40 acres) within The Registry Preliminary Development Plan (PDP). The proposed Amended PDP included a mapping correction that would reduce the area to approximately 32.3 acres by removing the open space and Federal Parkway right-of-way purchased by the City in 2006. If approved, a private school allowing a maximum of 600 preschool and K-12 students would be established on a portion of the property. Mac Cummins, Planning Manager, entered the agenda memorandum and attendant attachments into the record, as well as the public hearing notice, posting of the property, and notifications mailed to property owners within 300 feet of the subject parcel.

Blake Carlson of Carlson Associates, the developer, provided slide pictures of the property and described the planned layout of the private school to be known as the Cornerstone Christian Academy.

Mike Byrne, 2391 Ranch Reserve Ridge, represented the Purebred Arabian Trust and himself as a long-time resident of the area. He favored the development plan and the addition of a Christian school to the neighborhood.

Mr. Cummins advised that the Planning Commission had considered this application on August 25 and had voted to recommend approval.

Responding to questions from Council, City Engineer Dave Downing confirmed that a traffic signal at 120th Avenue and Zuni Street had been approved by the Colorado Department of Transportation, but he had not received information about design of the signal. The signal would be installed due to existing traffic generated at that location whether a school was developed at the proposed location or not.

The hearing was closed at 7:46 p.m.

COUNCILLOR’S BILL NO. 28 TO APPROVE THE REGISTRY PUD CLUP AMENDMENT

Mayor Pro Tem Dittman moved to pass Councillor’s Bill No. 28 on first reading to approve a Comprehensive Land Use Plan Amendment changing the land use designations from “Business Park” to “Public/Quasi-Public” for an approximately 10.5-acre property located at 12000 Zuni Street on the northeast corner of 120th Avenue and Zuni Street based on a finding that the proposed amendment would be in the public good; the Plan was in need of revision; the amendment was in conformance with the overall purpose and intent and the goals and policies of the Plan; the proposed amendment was compatible with existing and planned surrounding land uses; and the proposed amendment would not result in excessive detrimental impacts to the City’s existing or planned infrastructure systems. Councillor Major seconded the motion and it passed unanimously.

SECOND AMENDED PDP TO THE REGISTRY PUD

It was moved by Mayor Pro Tem Dittman, seconded by Councillor Major, to approve the Second Amended Preliminary Development Plan to The Registry Planned Unit Development based on finding that the criteria set forth in Section 11-5-14 of the Westminster Municipal Code had been met. The motion carried with all Council members voting affirmatively.

PUBLIC HEARING ON AMENDED PDP FOR WESTMINSTER VILLAGE ADDITION

At 7:49 p.m. Mayor McNally opened a public hearing to consider amendment of the Preliminary Development Plan for Westminster Village Addition to add a “thrift/used merchandise” use category. Mac Cummins entered into the record the agenda memorandum and attached documents, the notice of hearing published in the *Westminster Window*, posting of the property, and written notice sent to property owners within 300 feet of the subject property. The property owner, MGAC Associates, proposed to lease the former Linens N Things location at 5880 West 88th

Avenue to a thrift store company headquartered in Ventura, California. Used merchandise/thrift was not an allowed use on the Preliminary Development (PDP), and Staff was not in support of a request to allow the use and amend the PDP, as the proposed changes were not in compliance with the goals and policies of the City with regard to commercial development/uses in the area. Mr. Cummins reviewed Staff's evaluation of the application and the criteria contained in Section 11-5-14 of the Westminster Municipal Code. Slide pictures of thrift stores in two other Denver metropolitan municipalities operated by the same tenant proposed in this instance were displayed. Mr. McCullough noted that Council had received a revised agenda memorandum that inserted the specific applicable sections of the Westminster Municipal Code rather than paraphrasing them, noting that the revised memorandum was the document entered into the record by Mr. Cummins.

Sarah Piccione of MGAC Associates, the applicant, provided tax revenue projections per year and for 5, 10, and 15 years of operation as a used merchandise/thrift store. Nationally during the current recession, demand was high and sales at thrift stores were up 29 percent. Though located near 88th Avenue and Sheridan Boulevard, the nearest thrift store location was not visible from this property. The proposed use would create 50 new jobs in the City and fill one of eight empty big box properties. Staff's concerns about unsightly drop-offs at other stores and overnight parking of delivery trucks in the parking lot had been heard and mitigated through modifications to the lease. If amendment of the PDP were approved, it was anticipated the new thrift store would open November 15. MGAC Associates' property was not part of the Westminster Center Urban Reinvestment Property, but was shown on a Regional Transportation District FasTracks Map as the location of a parking lot for the Westminster/88th Avenue Station. Ms. Piccione distributed a packet of information containing the information she presented. She argued that redevelopment in the area was not imminent and MGAC Associates should have use of its property.

Mr. Cummins advised that the Planning Commission had considered this application in public hearing on August 25 and had voted 4:3 to recommend approval of the requested PDP amendment.

Jeff Hill of M & M Management in Ventura, California, the proposed tenant, advised that this family-operated company had been in business for 56 years, had been operating Red White & Blue Thrift Stores in the Denver area for 30 years, and had 23 stores in 7 states. He and the landlord had worked to mitigate concerns raised by Staff.

Quentin Butcher of the Vietnam Veterans of America in Silver Spring, Maryland explained that the organization he represented was in partnership with M & M Management and derived 75 to 80 percent of its income from the resale of household items at the thrift stores.

Steve Hewson of KW Commercial Real Estate voiced concern about the number of vacant big boxes in the City and the need to fill them and keep commercial areas vibrant. The proposed use would produce significant sales tax revenue to the City, create jobs, and help reduce landfill waste by recycling goods and merchandise it sold while helping veterans. He urged Council's support.

Kirk Casner and Wes Casner of 6739 West 70th Avenue in Arvada favored the used merchandise/thrift store use, the jobs it would create, the competition it would bring, and the veterans' organization that would benefit.

Jim Borgel of Holland & Hart was legal counsel for the applicant. He asserted that while this area was in transition, the use of the subject property across the street from the Westminster Urban Reinvestment Property would not have a huge impact. The landlord had few options because of move-in costs associated with most tenants who might be interested in leasing the building. The use needed to be a transitional use, and M & M Management was committed to doing a quality job. If the use was not approved, it would be very difficult to find another tenant and it could be several years before RTD was in a position to purchase or condemn the property for redevelopment. Mr. Borgel entered in the record the packet of information Ms. Piccione had distributed to Council during her testimony.

Before the hearing was closed, Mr. Cummins noted that a number of things the applicant had stated were relative to the amendment of the Official Development Plan (ODP) rather than the PDP. Further, Staff had no objection to competition, but rather focused objections on concentration of the use since another thrift store was within 1800 feet of the subject property. The hearing was closed at 8:32 p.m.

FIRST AMENDED PDP FOR WESTMINSTER VILLAGE ADDITION DENIED

Councillor Major moved, seconded by Mayor Pro Tem Dittman, to deny the First Amended Preliminary Development Plan for Westminster Village Addition based on a finding that criteria set forth in Section 11-5-14(1), (4), (5) and (6) of the Westminster Municipal Code had not been met. Following comments from Councillors, the motion passed by a 4:3 margin with Councillors Briggs, Kaiser, and Winter voting no.

PUBLIC HEARING ON AMENDED ODP FOR THE WESTMINSTER VILLAGE ADDITION PUD

At 8:37 p.m. the Mayor opened a public hearing. Mr. Cummins entered into the record the notice of public hearing published in the *Westminster* Window, the property posting, and the agenda memorandum and its attachments. The purpose of this hearing was to consider the City Manager's appeal of a Planning Commission decision to approve the Amended Official Development Plan (ODP) for the Westminster Village Addition Planned Unit Development. Staff recommended denial of the amended ODP based on a finding that the criteria set forth in Section 11-5-15(5), (6), (7), (8) and (14) of the Westminster Municipal Code had not been met.

Mr. McCullough advised that the Westminster Municipal Code provided that a use be consistent with the adopted PDP to amend an ODP for a development. Given Council's action on the previous consideration and the evidence presented, he suggested this hearing be closed and action taken unless someone had additional comment.

Jim Borgel requested that Council reconsider its action on the previous matter so that MGAC Associates could move forward with the thrift store use. The property could not be moved and he understood that if RTD was not going to take it in the future, the City would. The applicant understood the City's vision, but was in an untenable position given Council's previous action.

Mr. McCullough recalled no evidence suggesting that the City was going to take this property through condemnation or any other means. The applicant had presented evidence of plans that were not uncommon for governmental entities to make, but it was a significant leap to suggest that if this application was not approved, the property would be taken. MGAC Associates' property had very good existing zoning, and while they presented reasons why they thought the zoning was not workable for them, there was nothing to support a conclusion that the property owner had no options and the City was going to take the property.

Rachel Vezna suggested there were other viable green, transitional uses for this space, such as a garden center or community garden.

No others wished to speak and there were no questions from Council. The hearing was closed at 8:46 p.m.

FIRST AMENDED ODP FOR WESTMINSTER VILLAGE ADDITION PUD DENIED

It was moved by Mayor Pro Tem Dittman and seconded by Councillor Major to deny the First Amended Official Development Plan for Westminster Village Addition based on finding that the criteria set forth in Sections 11-5-15(5), (6), (7), (8), and (14) of the Westminster Municipal Code had not been met. The motion passed by a 4:3 margin with Councillors Briggs, Kaiser, and Winter voting no.

RESOLUTION NO. 42 RE GRANT APPLICATION FOR BOWLES HOUSE PORCH AND WALL REPAIR

Upon a motion by Councillor Winter, seconded by Councillor Lindsey, the Council voted unanimously on roll call vote to adopt Resolution No. 42 authorizing the Department of Community Development to apply for a competitive grant from the State Historic Fund by October 1, 2009, for 75% of the cost to repair the east porch and a cracked wall at the Bowles House located at 3924 West 72nd Avenue.

COUNCILLOR’S BILL NO. 29 APPROPRIATING 2009 CDBG GRANT FUNDING

It was moved by Councillor Briggs and seconded by Councillor Kaiser to pass Councillor’s Bill No. 29 on first reading appropriating funds received from the United States Department of Housing and Urban Development, Community Development Block Grant Program, in the amount of \$150,438, which was awarded under the American Recovery and Reinvestment Act. At roll call the motion passed unanimously.

COUNCILLOR’S BILL NO. 30 AMENDING TITLE V, CHAPTER 14, RE ART GALLERY PERMITS

Councillor Lindsey moved to pass Councillor’s Bill No. 30 on first reading amending Title V, Chapter 14, to allow the issuance of art gallery permits to qualifying entities in the City per State law and to set local fees for the permits. Mayor Pro Tem Dittman seconded the motion and it passed unanimously on roll call vote.

COUNCILLOR’S BILL NO. 31 TO LEASE STRASBURG NATURAL RESOURCE FARM

Mayor Pro Tem Dittman moved, seconded by Councillor Major, to pass Councillor’s Bill No. 31 as an emergency ordinance authorizing the City Manager to enter into a one-year lease, renewable annually for four additional one-year terms, for dry-land farming of the Strasburg Natural Resource Farm for one third of the gross revenue of the crop sales. At roll call, the motion passed unanimously.

COUNCILLOR’S BILL NO. 32 CREATING THE ORCHARD PARK PLACE NORTH GID

It was moved by Councillor Briggs and seconded by Councillor Winter to pass Councillor’s Bill No. 32 as an emergency ordinance creating the City of Westminster Orchard Park Place North General Improvement District. At roll call, the motion passed unanimously.

LEGAL EXPENSES OF SHERMAN AND HOWARD LLC AUTHORIZED

Councillor Briggs moved to authorize legal expenses with the law firm of Sherman and Howard LLC in an amount not to exceed \$5,000. Councillor Winter seconded the motion and it carried with all Council members voting affirmatively.

COUNCILLOR’S BILL NO. 33 RE MEDICAL MARIJUANA BUSINESS TEMPORARY MORATORIUM

Councillor Winter moved to pass Councillor’s Bill No. 33 as an emergency ordinance imposing a 90-day moratorium on the submission, acceptance, processing and approval of any application to the City of Westminster for any permit, license, plan approval, or other type of approval related to the operation of a business that acquires, processes, cultivates, manufactures, produces, uses, sells, distributes, dispenses or transports medical marijuana pursuant to the authority granted by Article 18, Section 14 of the Colorado Constitution, to allow for the review and development of possible amendments to the City’s Business License process and criteria by City Staff. The motion was seconded by Councillor Kaiser and passed unanimously on roll call vote.

ADJOURNMENT

There being no further business to come before the Council, it was moved by Councillor Kaiser, seconded by Major, to adjourn. The motion passed unanimously, and the meeting adjourned at 8:52 p.m.

ATTEST:

City Clerk

Mayor



Agenda Item 6 A

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
September 28, 2009



SUBJECT: Presentation of Employee Service Awards

Prepared By: Debbie Mitchell, Human Resources Manager
Dee Martin, Human Resources Administrator

Recommended City Council Action

Present service pins and certificates of appreciation to employees celebrating 20 or more years of service with the City and in five year increments thereafter.

Summary Statement

- In keeping with the City's policy of recognition for employees who complete increments of five years of employment with the City, and City Council recognition of employees with 20 years or more of service, the presentation of City service pins and certificates of appreciation has been scheduled for Monday night's Council meeting.
- In the fifth grouping of 2009, employees with 20 and 30 years of service will be celebrated tonight.
 - Mayor Pro Tem Dittman will present the 30-year certificate
 - Mayor McNally will present the 20-year certificates

Expenditure Required: \$ 0

Source of Funds: N/A

Policy Issue

None identified

Alternative

None identified

Background Information

The following 20-year employees will be presented with a certificate and service pin:

Jeri Elliott	Sr. Management Analyst	Police Department
Linda Brown	Police Records Technician	Police Department

The following 30-year employees will be presented with a certificate and service pin:

Rita DeFrancesco	Secretary	Police Department
Laura Magnetti	Management Assistant	Parks, Recreation & Libraries
Harvey Morris	Code Enforcement Officer	Community Development

On September 23, 2009, the City Manager hosted an employee awards luncheon. During that time, 3 employees received their 15 year service pin, 3 employees received their 10 year service pin, and 13 employees received their 5 year service pin. Recognition was also given to those celebrating their 20th and 30th anniversaries. This was the fifth luncheon in 2009 to recognize and honor City employees for their service to the public.

The aggregate City service represented among this group of employees for the fifth luncheon was 270 years of City service. The City can certainly be proud of the tenure of each of these individuals and of their continued dedication to City employment in serving Westminster citizens. Background information on each individual being recognized is attached.

The recognition of employee's years of service addresses Council's Strategic Plan goal of Financially Sustainable City Government Providing Exceptional Services as part of the overall recognition program developed to encourage and recognize employee commitment to the organization. Recognition efforts have long been recognized as an important management practice in organizations striving to develop loyalty, ownership and effectiveness in their most valuable resource – employees.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
September 28, 2009



SUBJECT: Financial Report for August 2009
Prepared By: Tammy Hitchens, Finance Director

Recommended City Council Action

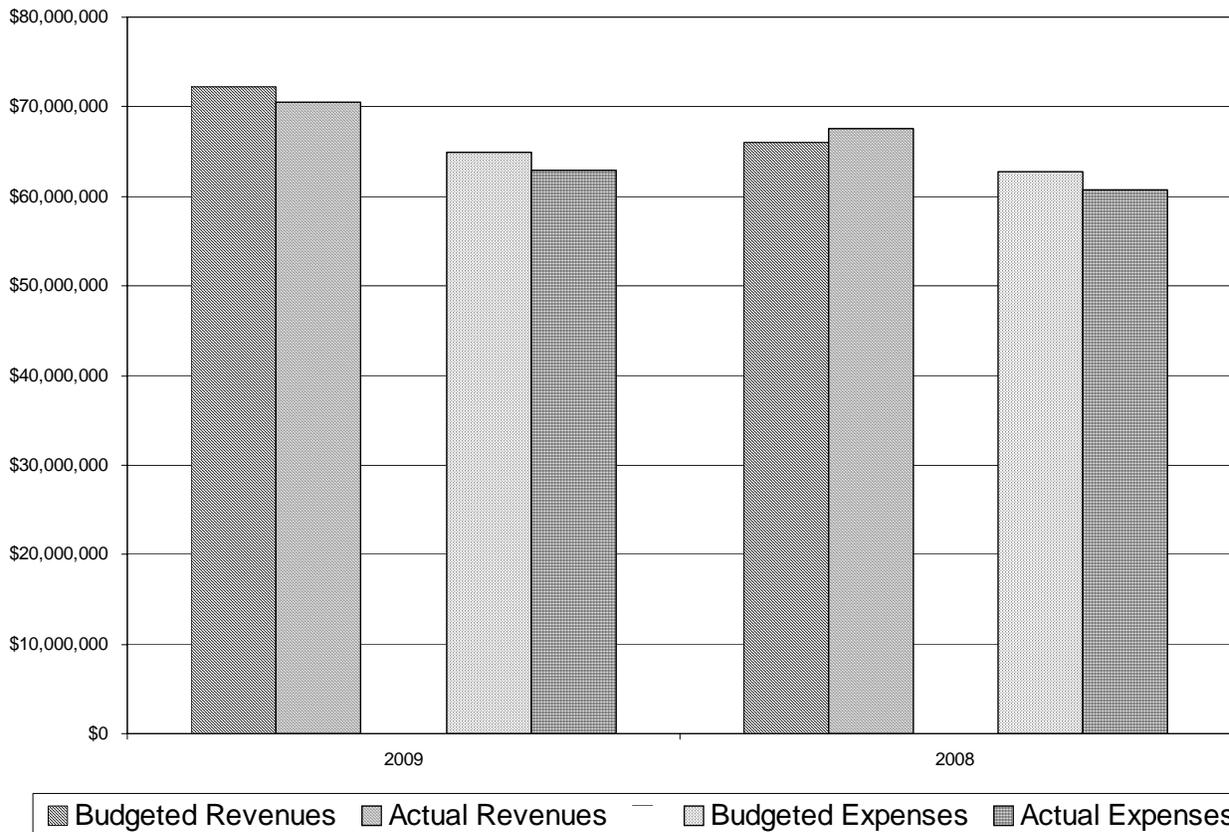
Accept the Financial Report for August as presented.

Summary Statement

City Council is requested to review and accept the attached monthly financial statement. The Shopping Center Report is also attached. Unless otherwise indicated, "budget" refers to the pro-rated budget. Revenues also include carryover where applicable. The revenues are pro-rated based on 10-year historical averages. Expenses are also pro-rated based on 5-year historical averages.

The General Fund revenues and carryover exceed expenditures by \$7,624,813. This figure includes carryover and does not reflect the significant impact the economy has had on overall General Fund revenues. The following graph represents Budget vs. Actual for 2008 – 2009.

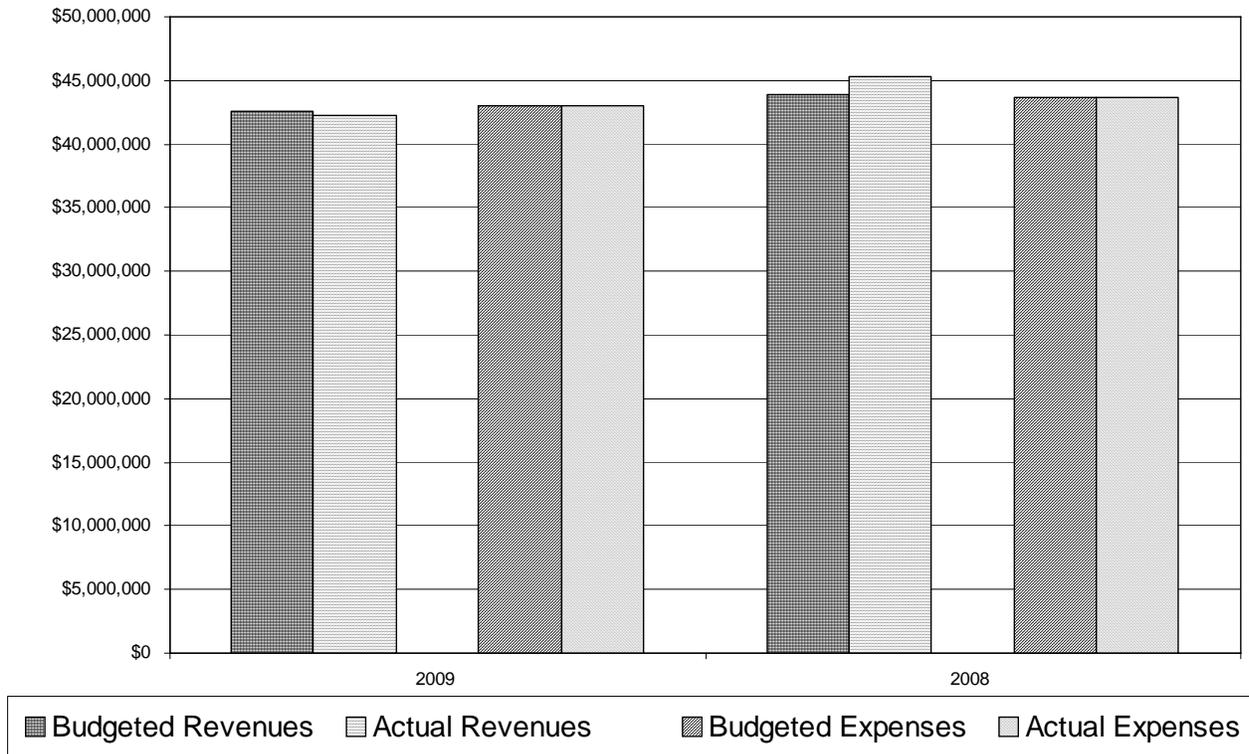
**General Fund
Budget vs Actual**



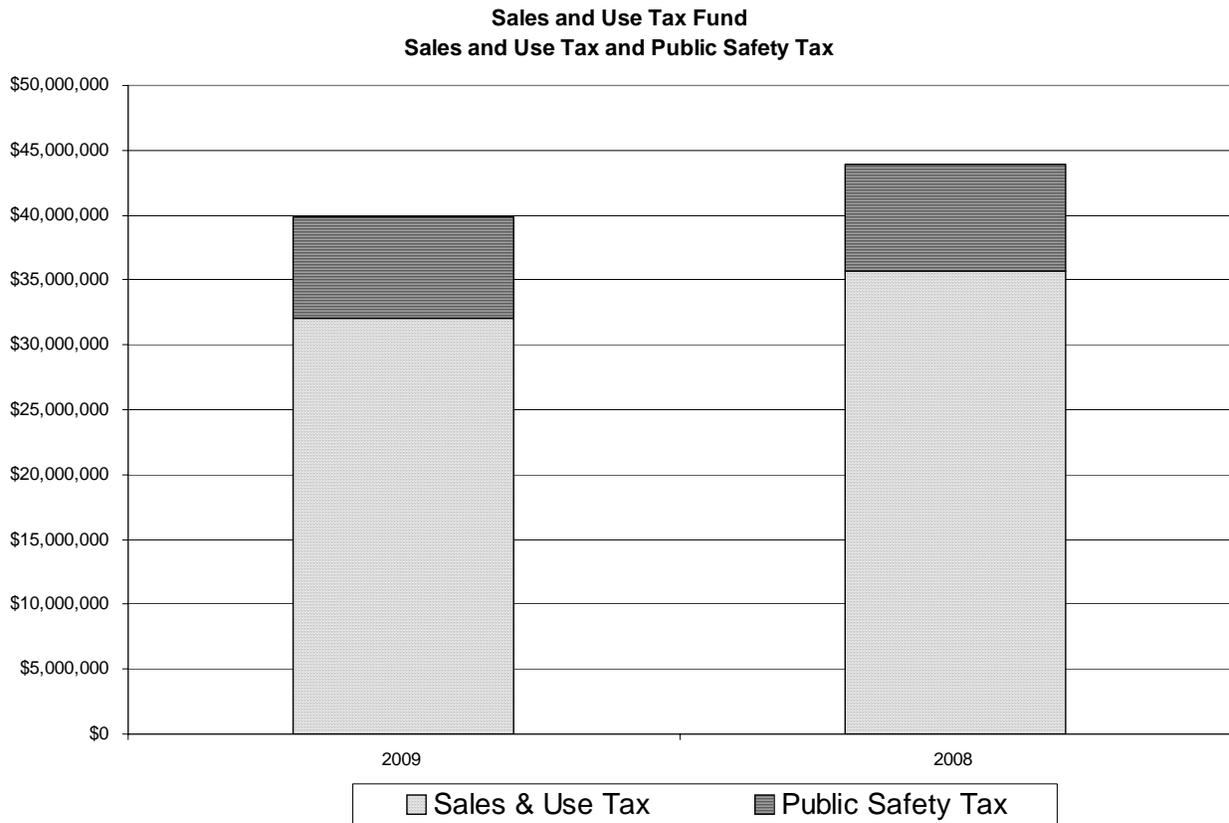
The Sales and Use Tax Fund revenues and carryover are less than expenditures by \$720,351.

- On a year-to-date cash basis, sales and use tax returns are down 7.0% from 2008.
- On a year-to-date basis, across the top 25 shopping centers, total sales and use tax receipts are up 0.9% from the prior year. This includes Urban Renewal Area money that is not available for General Fund use. Without Urban Renewal money, total sales and use tax receipts are down 4.5%.
- The top 50 Sales Tax payers, who represent about 62% of all collections, were down 2.0% after adjusting for Urban Renewal Area money that is not available for General Fund use.
- The Westminster Mall is down 27.0% on a year-to-date basis.
- Building Use Tax is down 64.7% year-to-date from 2008.

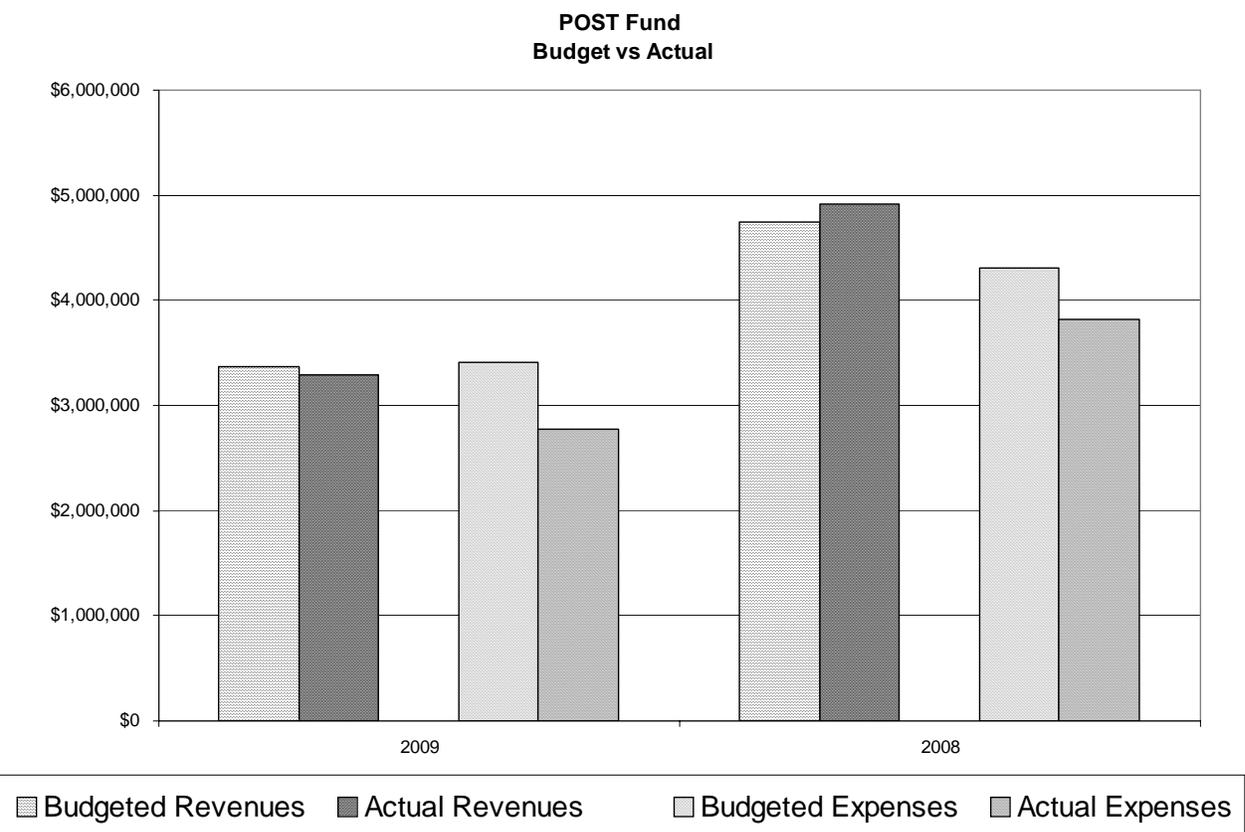
**Sales & Use Tax Fund
Budget vs Actual**



The graph below reflects the contribution of the Public Safety Tax to the overall Sales and Use Tax revenue.

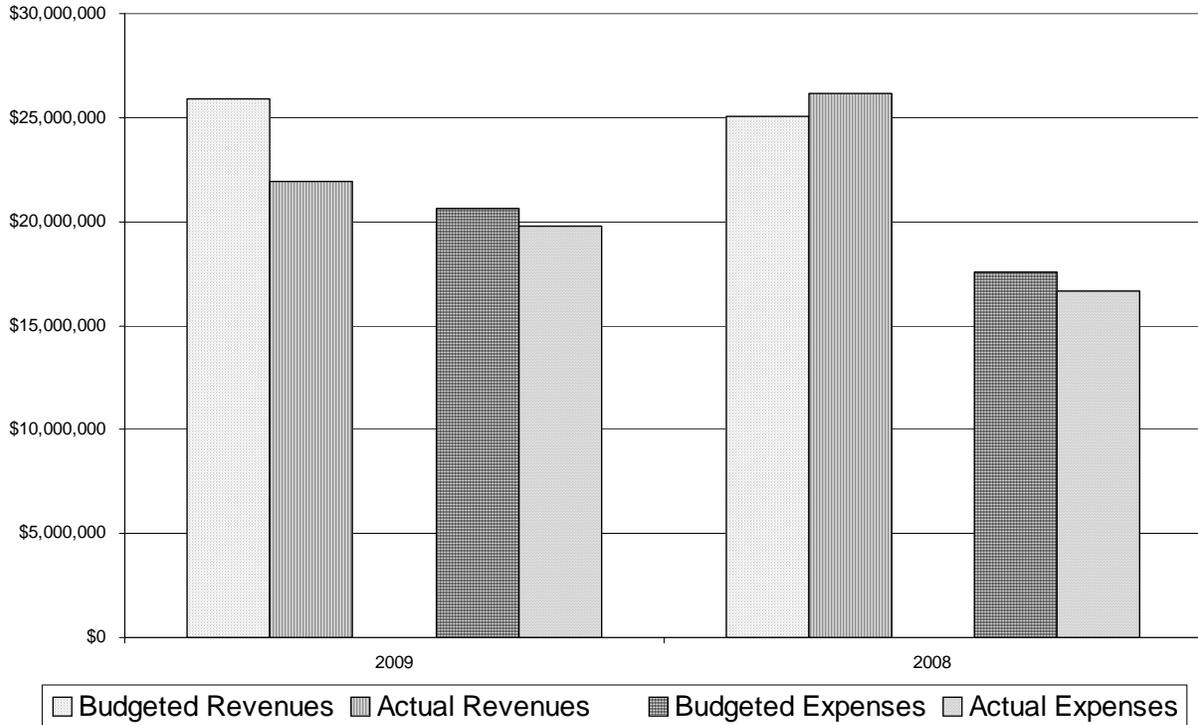


The Parks Open Space and Trails Fund revenues exceed expenditures by \$508,348.



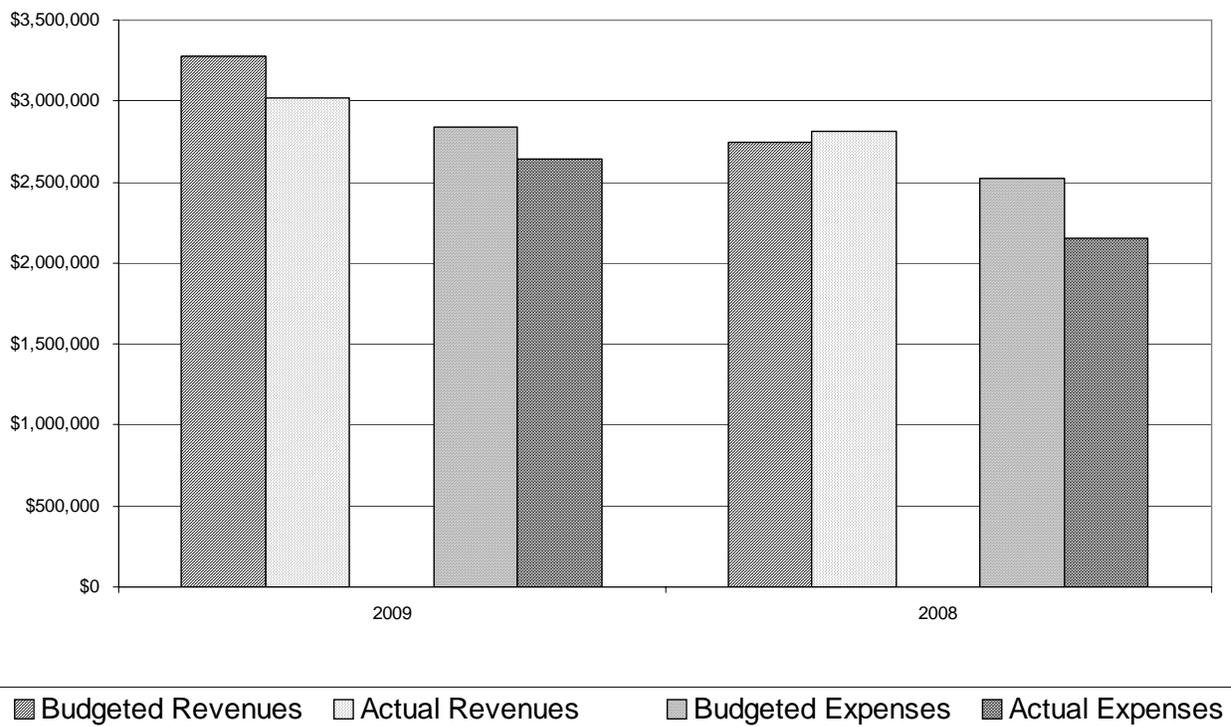
The combined Water & Wastewater Fund revenues and carryover exceed expenses by \$13,640,064. This figure includes carryover and does not reflect the significant impact on revenues from slower tap fee and water sales. \$24,283,469 is budgeted for capital projects and reserves.

**Combined Water and Wastewater Funds
Operating Budget vs Actual**



The combined Golf Course Fund revenues exceed expenses by \$375,277.

**Golf Course Enterprise
Budget vs Actual**



Policy Issue

A monthly review of the City’s financial position is the standard City Council practice; the City Charter requires the City Manager to report to City Council on a quarterly basis.

Alternative

Conduct a quarterly review. This is not recommended, as the City’s budget and financial position are large and complex, warranting a monthly review by the City Council.

Background Information

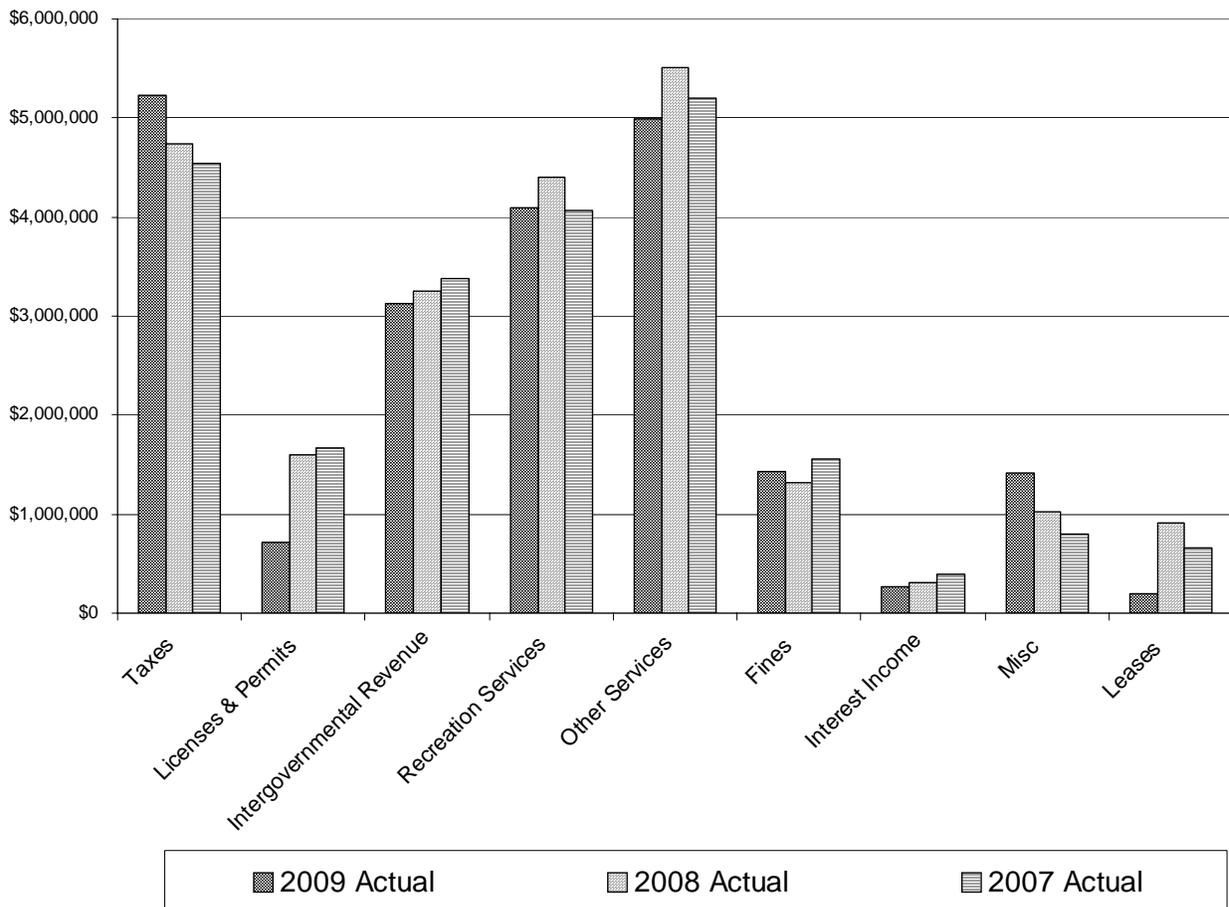
This section includes a discussion of highlights of each fund presented.

General Fund

This fund reflects the result of the City’s operating departments: Police, Fire, Public Works (Streets, etc.), Parks Recreation and Libraries, Community Development, and the internal service functions: City Manager, City Attorney, Finance, and General Services.

The following chart represents the trend in actual revenues from 2007 – 2009 year-to-date.

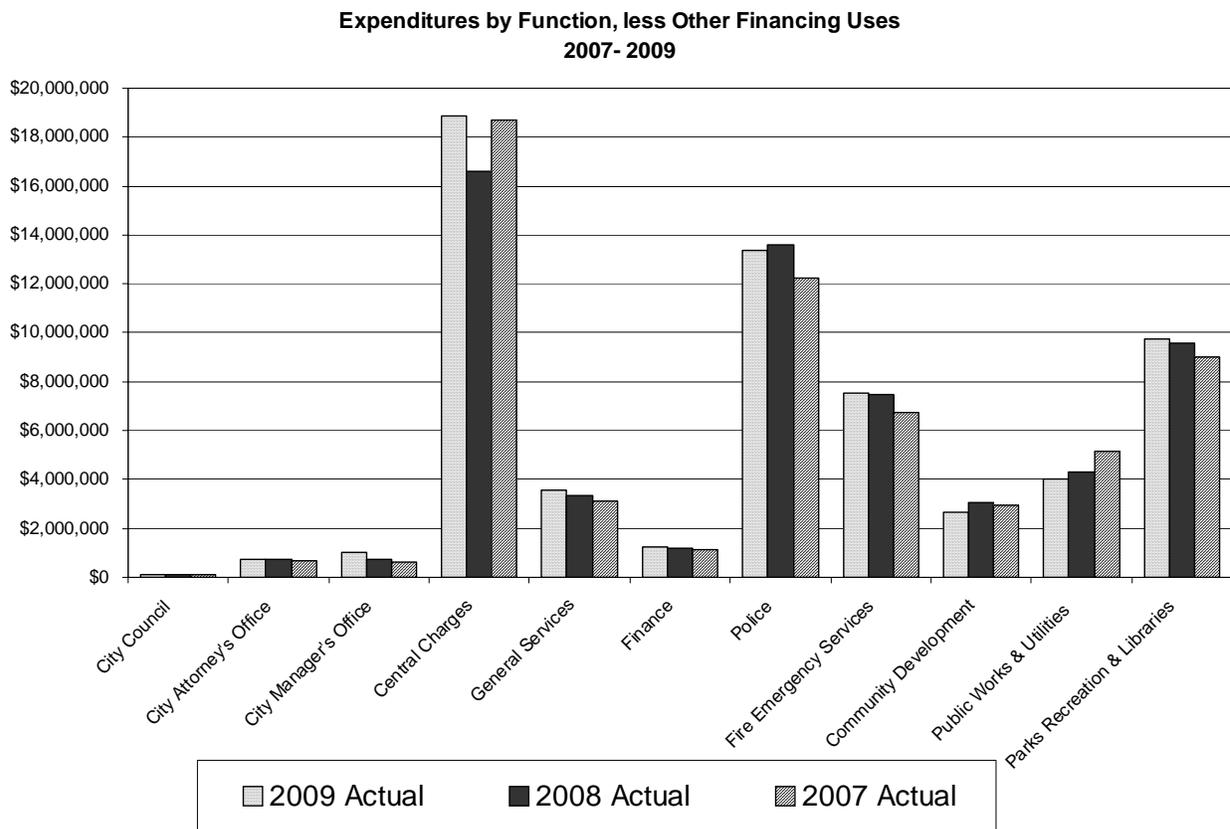
**General Fund Revenues without Transfers, Carryover, and Other Financing Sources
2007 - 2009**



Significant variances in General Fund revenue categories are explained as follows:

- Increase in Taxes reflects Accommodations Tax previously recorded in the General Capital Improvement Fund, now recorded in the General Fund, as well as increases in Admissions and Property taxes.
- Decrease in License and Permit revenue reflects commercial and residential building permit activity.
- Decrease in Intergovernmental Revenue is primarily attributable to Highway Users Tax, Auto Ownership Tax and grant revenue.
- Decrease in Recreation Services revenue is largely due to activity at the City Park Recreation Center.
- Decrease in Other Services revenue reflects in large part Xcel franchise fees.
- Increase in Miscellaneous revenue reflects reimbursements received from Thornton relating to the 144th Avenue bridge construction IGA.
- Decrease in Lease revenue is due mostly to the Conference Center and Pavillion leases which were terminated in 2008.

The following chart identifies where the City is focusing its resources. The chart shows year-to-date spending for 2007 –2009.



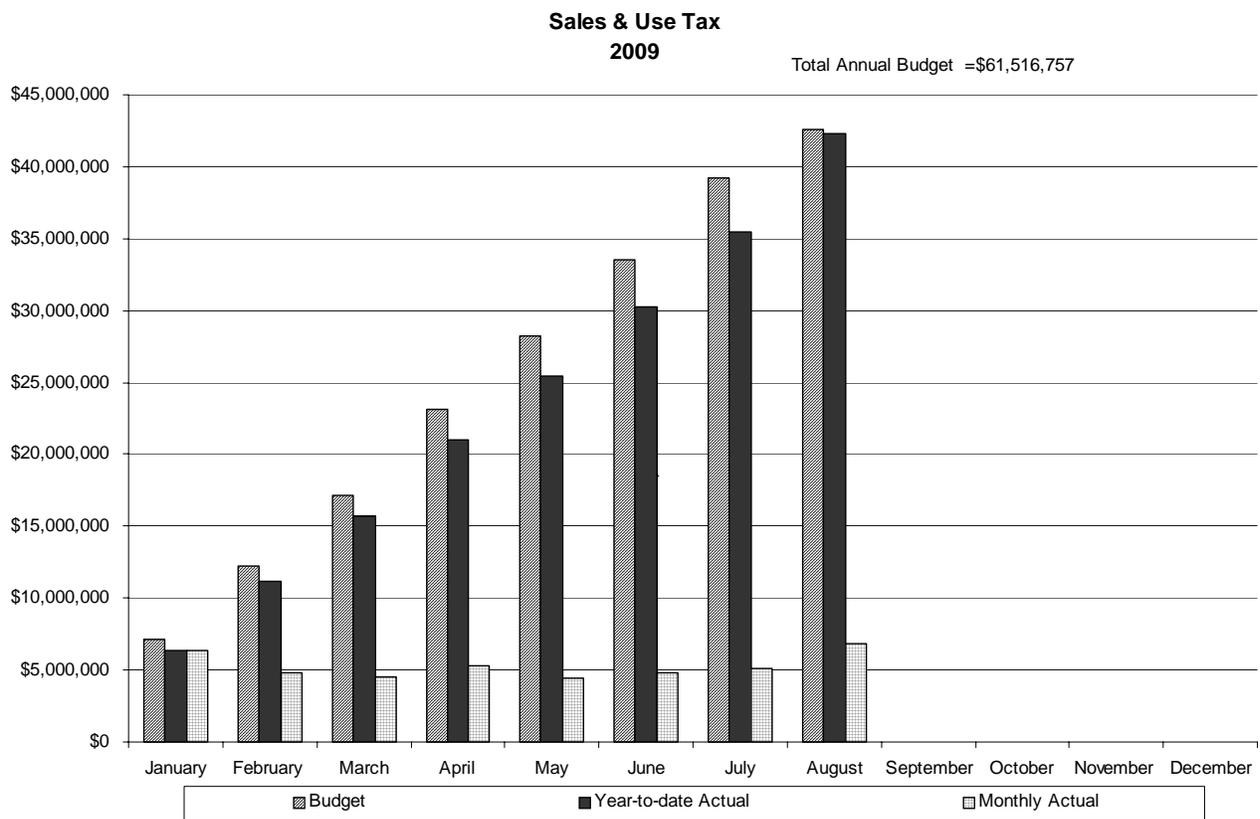
Significant variances in General Fund departmental expenditure categories are explained as follows:

- The increase in Central Charges is primarily due to the transfer made to establish the General Fund Stabilization Reserve.

Sales and Use Tax Funds (Sales & Use Tax Fund and Parks Open Space and Trails Sales & Use Tax Fund)

These funds are the repositories for the 3.85% City Sales & Use Tax for the City. The Sales & Use Tax Fund provides monies for the General Fund, the General Capital Improvement Fund, the Debt Service Fund and the Heritage Golf Course Fund. The Parks, Open Space, and Trails Sales & Use Tax Fund revenues are pledged to meet debt service on the POST bonds, buy open space land, and make park improvements on a pay-as-you-go basis. The Public Safety Tax (PST) is a 0.6% sales and use tax to be used to fund public safety related expenses.

This chart indicates how the City's Sales and Use Tax revenues are being collected on a monthly basis. An appropriation of Carryover in the amount of \$2,357,889 is included in this depiction. This chart does not include Open Space Sales & Use Tax.

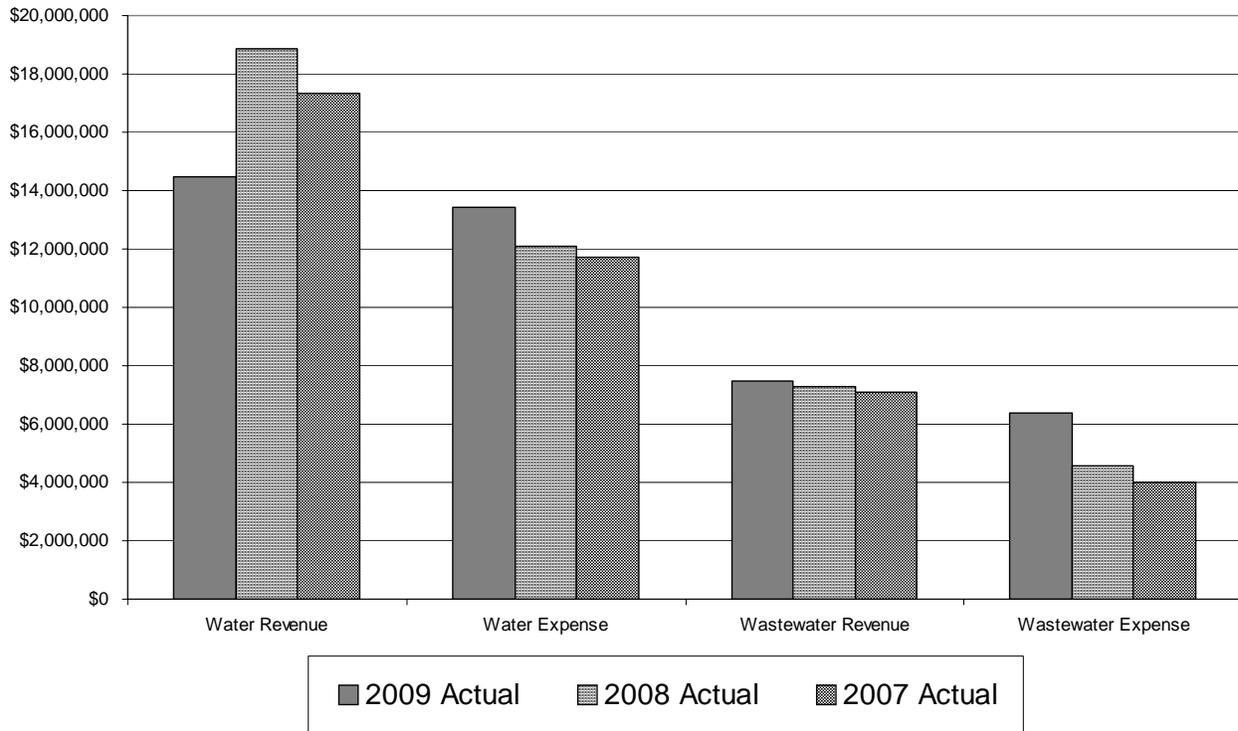


Water, Wastewater and Storm Water Drainage Funds (The Utility Enterprise)

This fund reflects the operating results of the City’s water, wastewater and storm water systems. It is important to note that net operating revenues are used to fund capital projects and reserves.

These graphs represent the segment information for the Water and Wastewater funds.

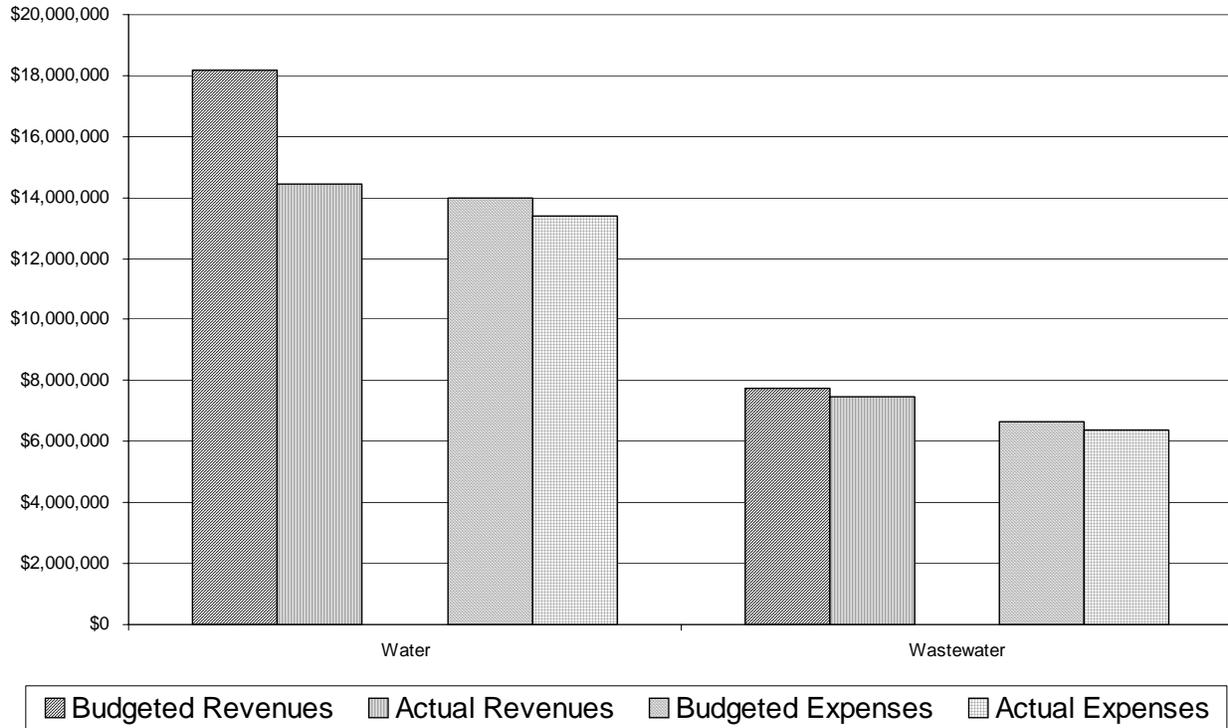
**Water and Wastewater Funds
Operating Revenue and Expenses 2007-2009**



Fluctuation in Water revenue between years reflects the effect of weather variations on demand. The Water expenditure increase in 2009 is the effect of costs related to employee benefits, energy payments, contract services charges and Zebra Mussel control efforts.

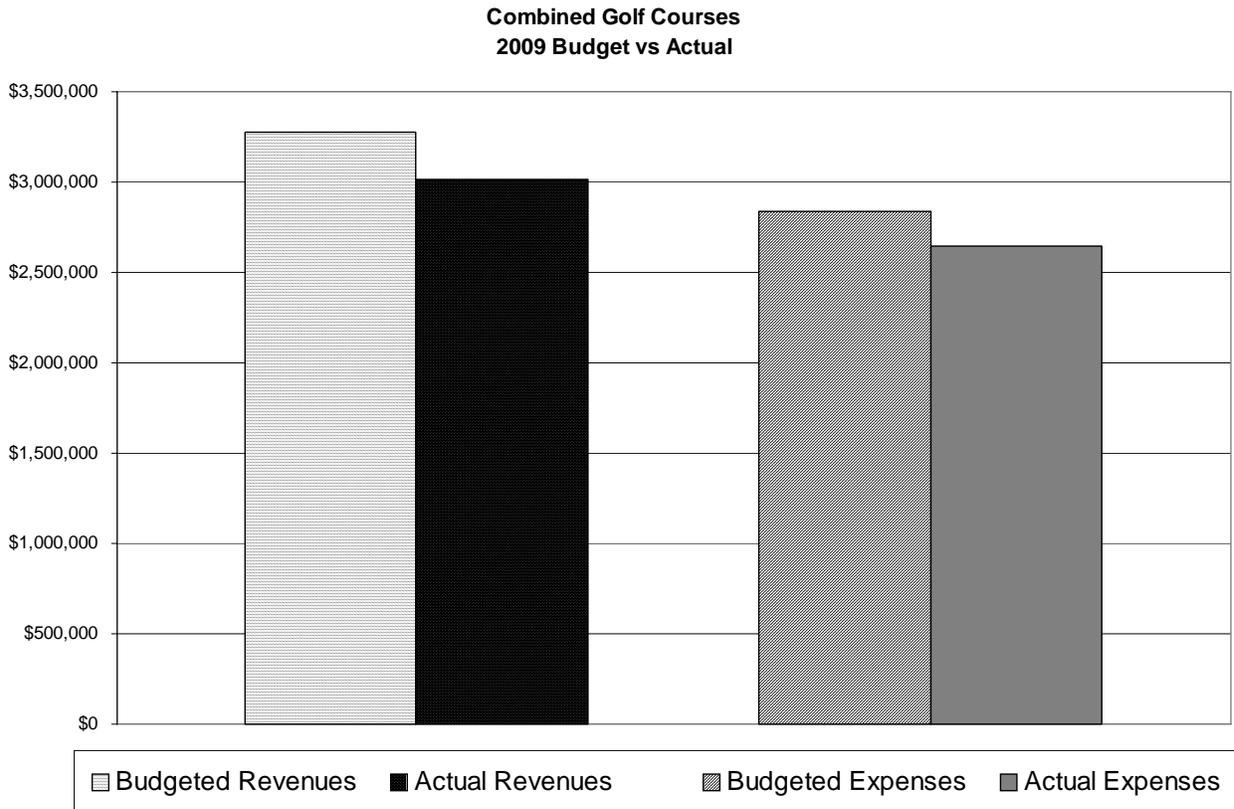
Expenses in the Wastewater Fund reflect a \$1.9M payment to Metro Wastewater Reclamation District to bring wastewater treatment in-house as approved by Council in March

**Water and Wastewater Funds
2009 Operating Budget vs Actual**

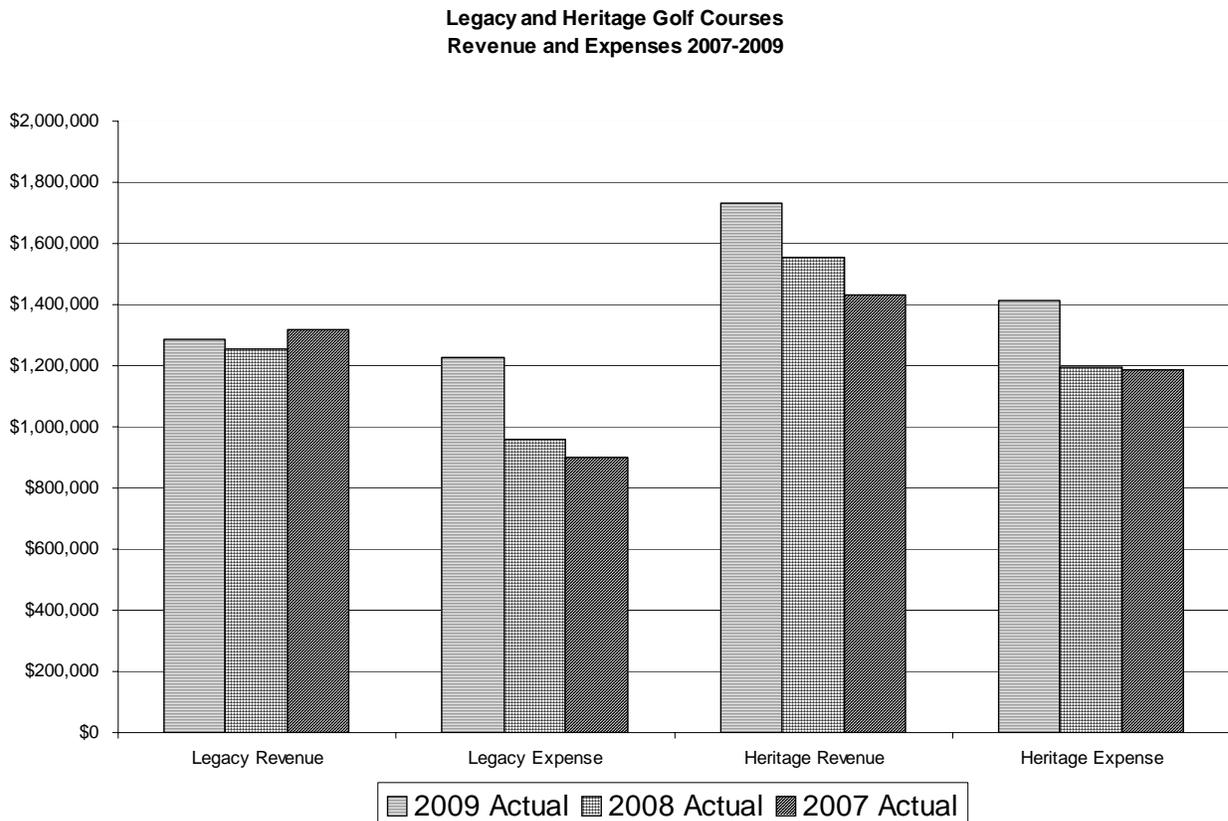


Golf Course Enterprise (Legacy and Heritage Golf Courses)

This enterprise reflects the operations of the City's two municipal golf courses.

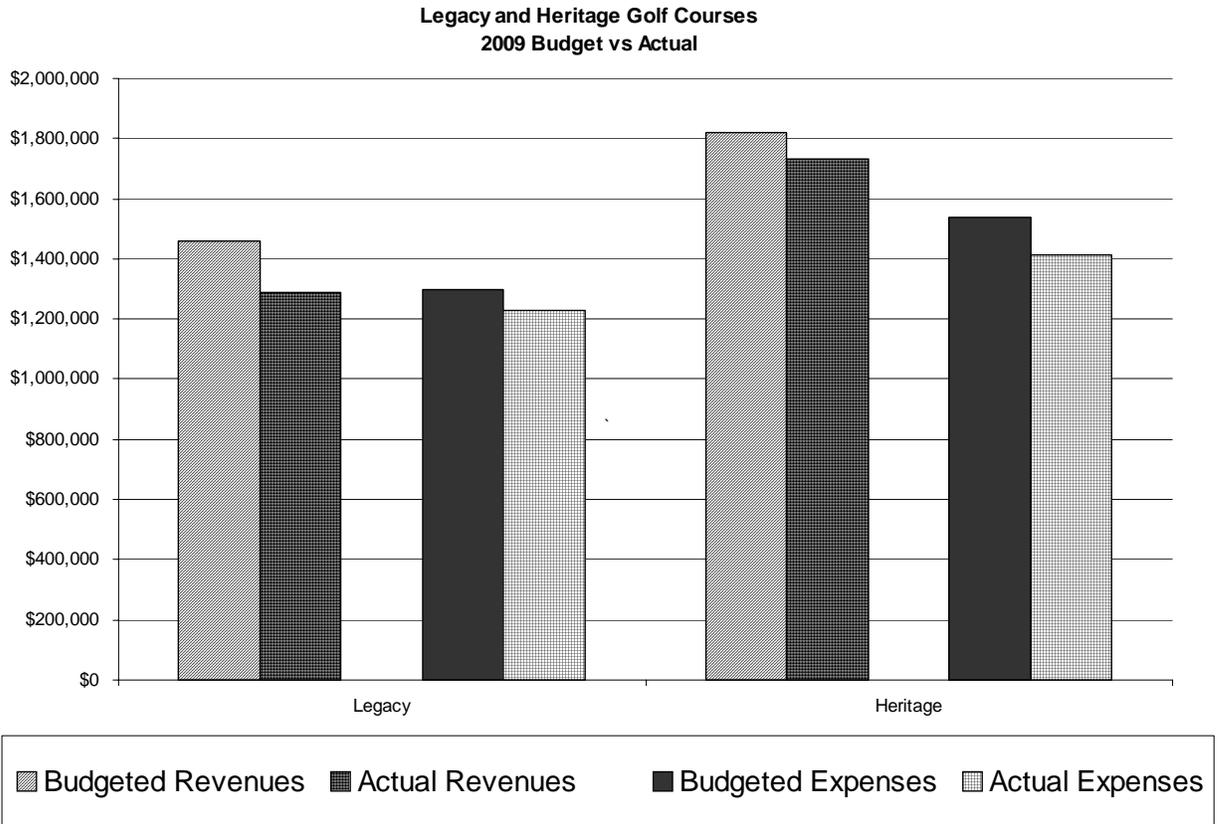


The following graphs represent the information for each of the golf courses.



Allocation of \$128,208 in carryover from Legacy to Heritage, a transfer that Heritage receives to help pay outstanding bonds and lease financing of a new golf cart fleet impacts this revenue representation. Elimination of these items would indicate a decrease in operating revenues from 2008 of \$138,075 at Legacy and \$98,971 at Heritage.

Legacy and Heritage expenses reflect the lease purchase of golf cart equipment totaling \$439,745.



Respectfully submitted,

J. Brent McFall
City Manager

Attachments

**City of Westminster
Financial Report
For Eight Months Ending August 31, 2009**

Description General Fund	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Revenues and Carryover						
Taxes	6,089,541	5,465,927		5,226,172	-239,755	95.6%
Licenses & Permits	1,597,600	1,045,380		719,442	-325,938	68.8%
Intergovernmental Revenue	5,039,622	3,416,873		3,126,644	-290,229	91.5%
Charges for Services						
Recreation Services	5,910,792	4,146,759		4,088,220	-58,539	98.6%
Other Services	9,236,959	5,862,877		4,990,901	-871,976	85.1%
Fines	2,211,050	1,494,151		1,429,101	-65,050	95.6%
Interest Income	515,000	312,897		263,399	-49,498	84.2%
Misc	1,698,745	1,248,548		1,410,367	161,819	113.0%
Leases	295,925	197,283		190,841	-6,442	96.7%
Interfund Transfers	59,601,420	41,562,376	(1)	41,588,236	25,860	100.1%
Other Financing Sources	584,990	584,990		584,990	0	100.0%
Sub-total Revenues	<u>92,781,644</u>	<u>65,338,061</u>		<u>63,618,313</u>	<u>-1,719,748</u>	<u>97.4%</u>
Carryover	6,951,071	6,951,071		6,951,071	0	100.0%
Revenues and Carryover	<u>99,732,715</u>	<u>72,289,132</u>		<u>70,569,384</u>	<u>-1,719,748</u>	<u>97.6%</u>
Expenditures						
City Council	183,819	114,566		125,654	11,088	109.7%
City Attorney's Office	1,170,579	761,996		763,915	1,919	100.3%
City Manager's Office	1,669,730	1,062,439		993,350	-69,089	93.5%
Central Charges	28,298,349	19,018,401		18,894,533	-123,868	99.3%
General Services	5,844,397	3,694,347		3,549,810	-144,537	96.1%
Finance	1,975,712	1,281,590		1,255,774	-25,816	98.0%
Police	21,129,716	13,717,518		13,399,264	-318,254	97.7%
Fire Emergency Services	11,750,224	7,601,486		7,519,478	-82,008	98.9%
Community Development	4,334,350	2,818,180		2,689,015	-129,165	95.4%
Public Works & Utilities	7,523,153	4,642,844		4,012,384	-630,460	86.4%
Parks, Recreation & Libraries	15,852,686	10,272,390		9,741,394	-530,996	94.8%
Total Expenditures	<u>99,732,715</u>	<u>64,985,757</u>		<u>62,944,571</u>	<u>-2,041,186</u>	<u>96.9%</u>
Revenues and Carryover Over(Under) Expenditures	<u>0</u>	<u>7,303,375</u>		<u>7,624,813</u>	<u>321,438</u>	

(1) The Interfund Transfers variance reflects an unbudgeted payment from the 144th Avenue GID

**City of Westminster
Financial Report
For Eight Months Ending August 31, 2009**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Sales and Use Tax Fund						
Revenues and Carryover						
Sales Tax						
Sales Tax Returns	41,057,421	28,249,081		26,684,993	-1,564,088	94.5%
Sales Tx Audit Revenues	697,800	511,180		303,369	-207,811	59.3%
S-T Rev. STX	<u>41,755,221</u>	<u>28,760,260</u>		<u>26,988,362</u>	<u>-1,771,899</u>	<u>93.8%</u>
Use Tax						
Use Tax Returns	4,784,874	2,998,651		4,083,786	1,085,135	136.2%
Use Tax Audit Revenues	777,018	579,655		999,091	419,436	172.4%
S-T Rev. UTX	<u>5,561,892</u>	<u>3,578,306</u>		<u>5,082,877</u>	<u>1,504,571</u>	<u>142.0%</u>
Total STX and UTX	<u>47,317,113</u>	<u>32,338,566</u>		<u>32,071,239</u>	<u>-267,328</u>	<u>99.2%</u>
Public Safety Tax						
PST Tax Returns	11,482,915	7,695,465		7,502,065	-193,400	97.5%
PST Audit Revenues	128,840	85,171		260,393	175,222	305.7%
Total Rev. PST	<u>11,611,755</u>	<u>7,780,635</u>		<u>7,762,458</u>	<u>-18,178</u>	<u>99.8%</u>
Total Interest Income	230,000	153,333		69,946	-83,387	45.6%
Carryover	2,357,889	2,357,889		2,357,889	0	100.0%
Total Revenues and Carryover	<u>61,516,757</u>	<u>42,630,424</u>		<u>42,261,532</u>	<u>-368,893</u>	<u>99.1%</u>
Expenditures						
Central Charges	<u>61,516,757</u>	<u>42,981,883</u>		<u>42,981,883</u>	<u>0</u>	<u>100.0%</u>
Revenues and Carryover Over(Under) Expenditures	<u>0</u>	<u>-351,459</u>		<u>-720,351</u>	<u>-368,893</u>	

**City of Westminster
Financial Report
For Eight Months Ending August 31, 2009**

Description POST Fund	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Revenues						
Sales & Use Tax	4,973,386	3,324,998		3,233,483	-91,515	97.2%
Interest Income	31,000	20,667		41,799	21,132	202.3%
Miscellaneous	88,832	29,124		12,274	-16,850	42.1%
Interfund Transfers	180,000	0		0	0	N/A
Total Revenues	<u>5,273,218</u>	<u>3,374,788</u>		<u>3,287,556</u>	<u>-87,233</u>	<u>97.4%</u>
Expenditures						
Central Charges	4,932,989	3,179,400		2,612,775	-566,625	82.2%
Park Services	340,229	225,800		166,433	-59,367	73.7%
	<u>5,273,218</u>	<u>3,405,201</u>		<u>2,779,208</u>	<u>-625,992</u>	<u>81.6%</u>
Over(Under) Expenditures	<u>0</u>	<u>-30,412</u>		<u>508,348</u>	<u>538,759</u>	

**City of Westminster
Financial Report
For Eight Months Ending August 31, 2009**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Water and Wastewater Fund-Combined						
Operating Revenues						
License & Permits	75,000	50,000		65,100	15,100	130.2%
Intergovernmental Revenue	21,965	5,872		5,872	0	100.0%
Rates and Charges	38,724,370	25,573,444		21,683,641	(3,889,803)	84.8%
Miscellaneous	435,000	290,000		166,027	(123,973)	57.3%
Total Operating Revenues	39,256,335	25,919,316		21,920,640	(3,998,676)	84.6%
Operating Expenses						
Central Charges	6,013,371	4,008,914		4,102,370	93,456	102.3%
Finance	671,815	425,259		420,524	(4,735)	98.9%
Public Works & Utilities	22,421,266	14,269,471		13,431,068	(838,403)	94.1%
Parks, Recreation & Libraries	157,226	104,817		73,119	(31,698)	69.8%
Information Technology	2,808,228	1,822,540		1,754,973	(67,567)	96.3%
Total Operating Expenses	32,071,906	20,631,001		19,782,054	(848,947)	95.9%
Operating Income (Loss)	7,184,429	5,288,315		2,138,586	(3,149,729)	
Other Revenue and Expenses						
Tap Fees	7,020,000	4,783,776		1,987,415	(2,796,361)	41.5%
Interest Income	1,600,000	1,066,667		787,452	(279,215)	73.8%
Interfund Transfers	14,394,824	10,714,333		10,714,333	0	100.0%
Sale of Assets	0	0		12,740	12,740	N/A
Carryover	4,895,770	4,895,770		4,895,770	0	100.0%
Debt Service	(6,303,419)	(2,388,097)		(2,388,097)	0	100.0%
Reserve Transfer	(4,508,135)	(4,508,135)		(4,508,135)	0	100.0%
Total Other Revenue (Expenses)	17,099,040	14,564,314		11,501,478	(3,062,836)	79.0%
Increase (Decrease) in Net Assets	24,283,469	19,852,629	(1)	13,640,064	(6,212,565)	

(1) Increase in Net Assets available for Capital Projects and Reserves

**City of Westminster
Financial Report
For Eight Months Ending August 31, 2009**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Water Fund						
Operating Revenues						
License & Permits	75,000	50,000		65,100	15,100	130.2%
Intergovernmental Revenue	21,965	5,872		5,872	0	100.0%
Rates and Charges	27,006,370	17,839,564		14,228,863	(3,610,701)	79.8%
Miscellaneous	425,000	283,333		161,939	(121,394)	57.2%
Total Operating Revenues	27,528,335	18,178,769		14,461,774	(3,716,995)	79.6%
Operating Expenses						
Central Charges	4,268,956	2,845,971		2,940,031	94,060	103.3%
Finance	671,815	425,259		420,524	(4,735)	98.9%
Public Works & Utilities	13,839,429	8,791,050		8,221,758	(569,292)	93.5%
Parks, Recreation & Libraries	157,226	104,817		73,119	(31,698)	69.8%
Information Technology	2,808,228	1,822,540		1,754,973	(67,567)	96.3%
Total Operating Expenses	21,745,654	13,989,637		13,410,405	(579,232)	95.9%
Operating Income (Loss)	5,782,681	4,189,132		1,051,369	(3,137,763)	
Other Revenue and Expenses						
Tap Fees	5,739,000	3,886,047		1,617,618	(2,268,429)	41.6%
Interest Income	900,000	600,000		589,369	(10,631)	98.2%
Interfund Transfers	10,859,076	7,702,384		7,702,384	0	100.0%
Sale of Assets	0	0		12,740	12,740	N/A
Carryover	4,158,733	4,158,733		4,158,733	0	100.0%
Debt Service	(4,798,025)	(1,782,519)		(1,782,519)	0	100.0%
Reserve Transfer	(3,777,996)	(3,777,996)		(3,777,996)	0	100.0%
Total Other Revenues (Expenses)	13,080,788	10,786,649		8,520,329	(2,266,320)	79.0%
Increase (Decrease) in Net Assets	18,863,469	14,975,781	(1)	9,571,698	(5,404,083)	

(1) Increase in Net Assets available for Capital Projects and Reserves

**City of Westminster
Financial Report
For Eight Months Ending August 31, 2009**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Wastewater Fund						
Operating Revenues						
Rates and Charges	11,718,000	7,733,880		7,454,778	(279,102)	96.4%
Miscellaneous	10,000	6,667		4,088	(2,579)	61.3%
Total Operating Revenues	<u>11,728,000</u>	<u>7,740,547</u>		<u>7,458,866</u>	<u>(281,681)</u>	<u>96.4%</u>
Operating Expenses						
Central Charges	1,744,415	1,162,943		1,162,339	(604)	99.9%
Public Works & Utilities	8,581,837	5,478,421		5,209,310	(269,111)	95.1%
Total Operating Expenses	<u>10,326,252</u>	<u>6,641,364</u>		<u>6,371,649</u>	<u>(269,715)</u>	<u>95.9%</u>
Operating Income (Loss)	<u>1,401,748</u>	<u>1,099,183</u>		<u>1,087,217</u>	<u>(11,966)</u>	
Other Revenue and Expenses						
Tap Fees	1,281,000	897,729		369,797	(527,932)	41.2%
Interest Income	700,000	466,667		198,083	(268,584)	42.4%
Interfund Transfers	3,535,748	3,011,949		3,011,949	0	100.0%
Carryover	737,037	737,037		737,037	0	100.0%
Debt Service	(1,505,394)	(605,578)		(605,578)	0	100.0%
Reserver Transfer	(730,139)	(730,139)		(730,139)	0	100.0%
Total Other Revenues (Expenses)	<u>4,018,252</u>	<u>3,777,665</u>		<u>2,981,149</u>	<u>(796,516)</u>	<u>78.9%</u>
Increase (Decrease) in Net Assets	<u>5,420,000</u>	<u>4,876,848</u>	(1)	<u>4,068,366</u>	<u>(808,482)</u>	

(1) Increase in Net Assets available for Capital Projects and Reserves

**City of Westminster
Financial Report
For Eight Months Ending August 31, 2009**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Storm Drainage Fund						
Revenues and Carryover						
Charges for Services	1,900,000	1,266,667		1,332,555	65,888	105.2%
Interest Income	0	0		53,885	53,885	N/A
Miscellaneous	0	0		1,488	1,488	N/A
Sub-total Storm Drainage Revenues	<u>1,900,000</u>	<u>1,266,667</u>		<u>1,387,928</u>	<u>121,261</u>	<u>109.6%</u>
Carryover	298,413	298,413		298,413	0	100.0%
Total Revenues and Carryover	<u>2,198,413</u>	<u>1,565,080</u>		<u>1,686,341</u>	<u>121,261</u>	<u>107.7%</u>
Expenses						
General Services	92,000	39,192		38,716	(476)	98.8%
Community Development	140,000	94,500		65,674	(28,826)	69.5%
Park Services	200,000	133,333		55,407	(77,926)	41.6%
Public Works & Utilities	396,000	214,632		174,683	(39,949)	81.4%
Total Expenses	<u>828,000</u>	<u>481,657</u>		<u>334,480</u>	<u>(147,177)</u>	<u>69.4%</u>
Increase (Decrease) in Net Assets	<u>1,370,413</u>	<u>1,083,423</u>	(1)	<u>1,351,861</u>	<u>268,438</u>	

(1) Increase in Net Assets available for Capital Projects and Reserves

**City of Westminster
Financial Report
For Eight Months Ending August 31, 2009**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Golf Courses Combined						
Revenues and Carryover						
Carryover	0	0		0	0	N/A
Charges for Services	3,336,142	2,529,292		2,206,519	(322,773)	87.2%
Interest Income	0	0		14,648	14,648	N/A
Interfund Transfers	467,272	311,515		357,573	46,058	114.8%
Other Financing Sources	439,745	439,745		439,745	0	100.0%
Total Revenues and Carryover	<u>4,243,159</u>	<u>3,280,552</u>		<u>3,018,485</u>	<u>(262,067)</u>	<u>92.0%</u>
Expenses						
Central Charges	197,920	130,231		145,938	15,707	112.1%
Recreation Facilities	3,545,674	2,572,821		2,359,987	(212,834)	91.7%
Total Expenses	<u>3,743,594</u>	<u>2,703,052</u>		<u>2,505,925</u>	<u>(197,127)</u>	<u>92.7%</u>
Operating Income (Loss)	499,565	577,500		512,560	(64,940)	
Debt Service Expense	<u>499,565</u>	<u>137,283</u>		<u>137,283</u>	<u>0</u>	<u>100.0%</u>
Increase (Decrease) in Net Assets	<u>0</u>	<u>440,217</u>		<u>375,277</u>	<u>(64,940)</u>	

**City of Westminster
Financial Report
For Eight Months Ending August 31, 2009**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Pro rated Budget	% Budget
Legacy Ridge Fund						
Revenues and Carryover						
Carryover	(192,312)	(128,208)		(128,208)	0	100.0%
Charges for Services	1,782,013	1,366,804		1,182,320	(184,484)	86.5%
Interest Income	0	0		14,648	14,648	N/A
Other Financing Sources	219,873	219,873		219,873	0	100.0%
Total Revenues and Carryover	<u>1,809,574</u>	<u>1,458,469</u>		<u>1,288,633</u>	<u>(169,836)</u>	<u>88.4%</u>
Expenses						
Central Charges	98,780	64,997		77,762	12,765	119.6%
Recreation Facilities	1,710,794	1,235,193		1,151,676	(83,517)	93.2%
Total Expenses	<u>1,809,574</u>	<u>1,300,190</u>		<u>1,229,438</u>	<u>(70,752)</u>	<u>94.6%</u>
Increase (Decrease) in Net Assets	<u>0</u>	<u>158,279</u>		<u>59,195</u>	<u>(99,084)</u>	

**City of Westminster
Financial Report
For Eight Months Ending August 31, 2009**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Heritage at Westmoor Fund						
Revenues and Carryover						
Carryover	192,312	128,208		128,208	0	100.0%
Charges for Services	1,554,129	1,162,488		1,024,199	(138,289)	88.1%
Interfund Transfers	467,272	311,515		357,573	46,058	114.8%
Other Financing Sources	219,872	219,872		219,872	0	100.0%
Total Revenues and Carryover	<u>2,433,585</u>	<u>1,822,083</u>		<u>1,729,852</u>	<u>(92,231)</u>	<u>94.9%</u>
Expenses						
Central Charges	99,140	65,234		68,176	2,942	104.5%
Recreation Facilities	1,834,880	1,337,628		1,208,311	(129,317)	90.3%
Sub-Total Expenses	<u>1,934,020</u>	<u>1,402,862</u>		<u>1,276,487</u>	<u>(126,375)</u>	<u>91.0%</u>
Operating Income	499,565	419,221		453,365	34,144	
Debt Service Expense	<u>499,565</u>	<u>137,283</u>		<u>137,283</u>	0	100.0%
Increase (Decrease) in Net Assets	<u>0</u>	<u>281,938</u>		<u>316,082</u>	<u>34,144</u>	

CITY OF WESTMINSTER
 GENERAL RECEIPTS BY CENTER
 MONTH and YEAR-TO-DATE AUGUST 2009

Center Location Major Tenant	/----- Current Month -----/			/----- Last Year -----/			/--- %Change ---/		
	General Sales	General Use	Total	General Sales	General Use	Total	Sales	Use	Total
WESTFIELD SHOPPING CENTER NW CORNER 92ND & SHER WALMART 92ND	371,441	1,219	372,660	356,199	4,698	360,897	4	-74	3
THE ORCHARD 144TH & I-25 JC PENNEY/MACY'S	261,852	25,966	287,817	234,615	44,291	278,906	12	-41	3
INTERCHANGE BUSINESS CENTER SW CORNER 136TH & I-25 WALMART 136TH	234,018	447	234,465	227,032	1,499	228,532	3	-70	3
SHOPS AT WALNUT CREEK 104TH & REED TARGET	193,328	17,304	210,632	192,032	2,189	194,221	1	691	8
SHERIDAN CROSSING SE CORNER 120TH & SHER KOHL'S	185,386	3,268	188,654	106,627	1,271	107,898	74	157	75
SHOENBERG CENTER SW CORNER 72ND & SHERIDAN WALMART 72ND	183,001	331	183,332	175,655	216	175,870	4	53	4
NORTHWEST PLAZA SW CORNER 92 & HARLAN COSTCO	181,867	266	182,133	46,935	19,139	66,074	287	-99	176
BROOKHILL I & II N SIDE 88TH OTIS TO WADS HOME DEPOT	177,114	743	177,857	199,457	2,138	201,595	-11	-65	-12
CITY CENTER MARKETPLACE NE CORNER 92ND & SHERIDAN BARNES & NOBLE	153,695	554	154,249	196,963	2,070	199,033	-22	-73	-23
WESTMINSTER MALL 88TH & SHERIDAN 3 DEPARTMENT STORES	148,077	2,644	150,721	219,536	2,456	221,992	-33	8	-32
PROMENADE SOUTH/NORTH S/N SIDES OF CHURCH RANCH BLVD SHANE/AMC	117,862	19,371	137,234	133,746	16,188	149,934	-12	20	-8
NORTH PARK PLAZA SW CORNER 104TH & FEDERAL KING SOOPERS	97,173	446	97,619	105,094	407	105,500	-8	10	-7
VILLAGE AT THE MALL S SIDE 88TH DEPEW-HARLAN TOYS 'R US	76,797	193	76,990	99,341	314	99,656	-23	-38	-23
STANDLEY SHORES CENTER SW CORNER 100TH & WADS KING SOOPERS	66,364	635	66,999	68,206	220	68,426	-3	188	-2
121ST & MARIPOSA W SIDE 121ST & MARIPOSA POLCOM	6,951	54,498	61,449	2,308	1,062	3,370	201	5031	1724

CITY OF WESTMINSTER
 GENERAL RECEIPTS BY CENTER
 MONTH and YEAR-TO-DATE AUGUST 2009

Center Location Major Tenant	Current Month			Last Year			%Change		
	General Sales	General Use	Total	General Sales	General Use	Total	Sales	Use	Total
WESTMINSTER CROSSING 136TH & I-25 LOWE'S	61,098	41	61,138	61,557	120	61,677	-1	-66	-1
ROCKY MOUNTAIN PLAZA SW CORNER 88TH & SHER GUITAR STORE	57,112	174	57,286	58,162	259	58,422	-2	-33	-2
LUCENT/KAISER CORRIDOR 112-120 HURON - FEDERAL LUCENT TECHNOLOGY	9,311	38,922	48,233	6,276	33,902	40,178	48	15	20
WESTMINSTER PLAZA FEDERAL-IRVING 72ND-74TH SAFEWAY	45,706	273	45,979	52,190	1,308	53,499	-12	-79	-14
STANDLEY LAKE MARKETPLACE NE CORNER 99TH & WADSWORTH SAFEWAY	42,829	397	43,226	48,829	193	49,022	-12	106	-12
VILLAGE AT PARK CENTRE NW CORNER 120TH & HURON CB & POTTS	40,423	84	40,507	44,318	2,371	46,689	-9	-96	-13
ELWAY/DOUGLAS CORRIDOR NE CORNER 104TH & FED ELWAY MOTORS	35,820	881	36,701	35,521	341	35,862	1	159	2
RANCHO PLAZA SE CORNER 72ND & FEDERAL RANCHO LIBORIO	36,098	0	36,098	0	0	0	*****	*****	*****
WILLOW RUN 128TH & ZUNI SAFEWAY	34,524	73	34,597	46,772	197	46,969	-26	-63	-26
FEDERAL STRIP W SIDE FEDERAL 68TH-72ND BOVAS	26,192	38	26,230	27,160	2,688	29,848	-4	-99	-12
	<u>2,844,040</u>	<u>168,769</u>	<u>3,012,809</u>	<u>2,744,532</u>	<u>139,537</u>	<u>2,884,069</u>	<u>4</u>	<u>21</u>	<u>4</u>

CITY OF WESTMINSTER
 GENERAL RECEIPTS BY CENTER
 MONTH and YEAR-TO-DATE AUGUST 2009

Center Location Major Tenant	/----- YTD 2009 -----/			/----- YTD 2008 -----/			/--- %Change ---/		
	General Sales	General Use	Total	General Sales	General Use	Total	Sales	Use	Total
WESTFIELD SHOPPING CENTER NW CORNER 92ND & SHER WALMART 92ND	2,850,785	49,710	2,900,495	3,230,665	19,912	3,250,578	-12	150	-11
THE ORCHARD 144TH & I-25 JC PENNEY/MACY'S	2,311,511	135,617	2,447,128	1,590,251	248,476	1,838,727	45	-45	33
INTERCHANGE BUSINESS CENTER SW CORNER 136TH & I-25 WALMART 136TH	1,875,062	17,583	1,892,645	1,720,596	81,234	1,801,830	9	-78	5
WESTMINSTER MALL 88TH & SHERIDAN 3 DEPARTMENT STORES	1,741,319	10,602	1,751,920	2,341,478	51,917	2,393,395	-26	-80	-27
SHOPS AT WALNUT CREEK 104TH & REED TARGET	1,700,858	38,564	1,739,422	1,730,323	13,356	1,743,679	-2	189	0
NORTHWEST PLAZA SW CORNER 92 & HARLAN COSTCO	1,689,594	9,552	1,699,146	1,535,669	23,625	1,559,293	10	-60	9
SHOENBERG CENTER SW CORNER 72ND & SHERIDAN WALMART 72ND	1,440,289	6,443	1,446,733	513,377	4,934	518,311	181	31	179
CITY CENTER MARKETPLACE NE CORNER 92ND & SHERIDAN BARNES & NOBLE	1,391,274	11,961	1,403,235	1,693,266	19,136	1,712,402	-18	-38	-18
BROOKHILL I & II N SIDE 88TH OTIS TO WADS HOME DEPOT	1,374,688	15,716	1,390,404	1,527,976	17,145	1,545,121	-10	-8	-10
SHERIDAN CROSSING SE CORNER 120TH & SHER KOHL'S	1,241,250	16,458	1,257,707	978,547	25,216	1,003,763	27	-35	25
PROMENADE SOUTH/NORTH S/N SIDES OF CHURCH RANCH BLVD SHANE/AMC	961,937	124,925	1,086,862	1,070,317	240,959	1,311,276	-10	-48	-17
NORTH PARK PLAZA SW CORNER 104TH & FEDERAL KING SOOPERS	876,971	4,115	881,087	897,319	4,826	902,146	-2	-15	-2
VILLAGE AT THE MALL S SIDE 88TH DEPEW-HARLAN TOYS 'R US	706,376	2,908	709,284	837,643	4,613	842,256	-16	-37	-16
STANDLEY SHORES CENTER SW CORNER 100TH & WADS KING SOOPERS	583,781	2,136	585,917	580,795	6,205	587,000	1	-66	0
WESTMINSTER CROSSING 136TH & I-25 LOWE'S	527,602	5,954	533,556	520,092	2,421	522,513	1	146	2

CITY OF WESTMINSTER
 GENERAL RECEIPTS BY CENTER
 MONTH and YEAR-TO-DATE AUGUST 2009

Center Location Major Tenant	/----- YTD 2009 -----/			/----- YTD 2008 -----/			/--- %Change ---/		
	General Sales	General Use	Total	General Sales	General Use	Total	Sales	Use	Total
ROCKY MOUNTAIN PLAZA SW CORNER 88TH & SHER GUITAR STORE	470,373	2,132	472,505	490,438	2,585	493,023	-4	-18	-4
WESTMINSTER PLAZA FEDERAL-IRVING 72ND-74TH SAFEWAY	385,323	3,141	388,464	438,623	27,088	465,712	-12	-88	-17
STANDLEY LAKE MARKETPLACE NE CORNER 99TH & WADSWORTH SAFEWAY	368,848	3,793	372,640	414,312	1,724	416,035	-11	120	-10
WILLOW RUN 128TH & ZUNI SAFEWAY	340,518	2,342	342,860	377,833	2,808	380,641	-10	-17	-10
VILLAGE AT PARK CENTRE NW CORNER 120TH & HURON CB & POTTS	330,413	1,916	332,329	342,907	9,706	352,613	-4	-80	-6
RANCHO PLAZA SE CORNER 72ND & FEDERAL RANCHO LIBORIO	212,386	24,750	237,136	0	0	0	*****	*****	*****
ELWAY/DOUGLAS CORRIDOR NE CORNER 104TH & FED ELWAY MOTORS	201,737	4,120	205,857	240,260	4,236	244,497	-16	-3	-16
MISSION COMMONS W SIDE WADSWORTH 88-90TH BIG 5 SPORTS	194,572	896	195,468	176,006	2,293	178,299	11	-61	10
NORTHVIEW 92ND AVE YATES TO SHERIDAN SALTGRASS	191,045	47,499	238,544	198,726	20,699	219,425	-4	129	9
BOULEVARD SHOPS 94TH & WADSWORTH CORRIDOR AMERICAN FURNITURE WAREHOUSE	188,672	1,774	190,446	199,879	978	200,857	-6	81	-5
	24,157,183	544,607	24,701,790	23,647,296	836,095	24,483,391	2	-35	1



**WESTMINSTER
COLORADO**

Agenda Memorandum

City Council Meeting
September 28, 2009



SUBJECT: Heavy Rescue Truck Purchase

Prepared By: Bill Work, Deputy Fire Chief
Tim Burandt & Mike Lynch, Fire Lieutenants

Recommended City Council Action

1. Authorize the City Manager to execute a contract in substantially the same form as attached for the purchase of a Pierce Saber Rescue truck from Front Range Fire Apparatus in an amount not to exceed \$375,000.
2. Authorize the \$100,000 down payment for this vehicle from the GCORF Public Safety Tax fund balance.

Summary Statement

- Funds were allocated in the 2009 operating budget for a \$100,000 down payment for the replacement of a 1980 Indiana squad/rescue truck (#5104) that has been out of service since 2008 with a broken frame.
- Funds were originally budgeted within the Fire Department’s Lease Payment to Others account in the General Fund operating budget for this down payment. Staff identified this as a potential savings for 2009 given the uncertain economy and moved funds in the General Fund into a budget hold account and identified the GCORF fund balance as a means to cover the down payment in 2009. The GCORF PST fund balance stands at \$1,886,530 as of September 10, 2009.
- City Council approved sole vendor status for Pierce Manufacturing, Inc. in 2006. Staff remains pleased with the quality, value and service Pierce Manufacturing, Inc. has provided since 1994.
- Formal bids were not requested from other manufactures. Staff conducted a comparative cost analysis of this rescue truck design with several other fire departments that recently took delivery of similar units. Staff found that the Front Range Fire Apparatus quote to be competitive and fair.
- This purchase price of \$375,000 was originally quoted to the City in late 2008. There have been several price increases by the manufacture since that time including a \$3,000 price increase to meet 2009 NFPA requirements. Front Range Fire Apparatus has worked with Pierce Manufacturing to hold the original 2008 quoted price.
- This vehicle will better accommodate the specialized equipment and tools that are needed for serious auto accidents, and the unique technical rescue situations that can occur.
- This unit will be cross-staffed with current personnel.
- This Heavy Rescue will pull the current rescue trailers and will have a built-in air compressor reducing the need to replace the current air trailer.

Expenditure Required: \$375,000

Source of Funds: \$100,000 down payment (GCORF)
\$275,000 financed through future lease payments

Policy Issues

Does City Council want to accept the Front Range Fire Apparatus quote using the single source status for Pierce apparatus?

Does City Council want to approve the \$100,000 down payment to come out of the GCORF Public Safety Tax fund balance?

Alternatives

1. City Council could direct staff to go out to bid. Staff does not recommend this alternative for several reasons. Staff has been very pleased with Pierce fire apparatus. The true value when comparing fire apparatus is not just in the purchase price. Quality of product, the ability to meet specifications, and the value to Fleet Maintenance and Fire Department personnel to have consistency and standardization in the type of emergency apparatus they work with, have all been considered. Additionally, the fact that Pierce Manufacturing is willing to honor the 2008 price quote despite recent cost increases enhances the value of this purchase.
2. City Council could choose to not take the \$100,000 down payment out of the GCORF fund balance and instead choose to pay the down payment out of the General Fund operating budget. Staff does not recommend taking the down payment money from the General Fund in that this money has been identified as General Fund savings that will help to balance the 2009 operating budget due to the current decrease in 2009 revenues.

Background InformationFunction and Design:

This new Heavy Rescue truck will replace a 1980 lighter weight Indiana squad/rescue truck (#5104) that has been on the apparatus replacement list for years. The current 1980 vehicle has been out-of-service since 2008 with a broken frame that was deemed not worth fixing. As a result, the Fire Department has had to disperse the equipment that was carried on this vehicle to several other apparatus. This equipment is now not readily available on one unit, which slows the ability to have the equipment arrive in a timely fashion when needed. In addition, the loss of the 1980 vehicle resulted in losing the primary vehicle to pull/tow the associated rescue trailers that carry additional technical rescue supplies such as shoring equipment.

The purchase of the Heavy Rescue truck will accomplish a number of objectives that will enhance the Fire Department's ability to respond to serious auto accidents and special/technical rescue situations that require specialized tools and equipment. Tools and equipment will be able to be centrally located on one vehicle versus the three to four vehicles the current tools and equipment are located on. This new vehicle will have a better capacity to pull the Special Rescue Trailer (SRT) as well as any of the other trailers the Fire Department owns. This new Heavy Rescue will come equipped with an air compressor and self contained breathing apparatus (SCBA) refill station that will greatly enhance the Fire Department's ability to fill air bottles on an emergency scene. This new air compressor assembly will reduce the need to replace the current air trailer when it reaches the end of its useful life.

Current planning calls for this new truck to be crossed-staffed by existing personnel located at Fire Station Two. This vehicle would respond to any heavy rescue, technical rescue, collapse situation, major auto accident especially as they relate to the two major highways (US 36 & I-25) in the City, as well as other major events where this specialized truck and equipment could be used.

This vehicle will have a light tower capable of lighting up large area emergency scenes. This vehicle will have a powerful generator (44KW) capable of powering the air compressor and a number of special extrication tools and rescue equipment. This vehicle will have an increased seating capacity (5) as compared to the old vehicle (2). This rescue truck can even serve as a makeshift rehab unit at large fires and/or on extreme weather days to get personnel out of the elements. It is anticipated that the use of this vehicle could reduce the need to send Ladder Two to auto accidents on the major highways, thus reducing the exposure to potential wear and tear as well as possible vehicle damage from other vehicles while on those highways.

Delivery is expected in seven to nine months after contract signing. Delay in purchasing this vehicle in 2009 could result in a significant price increase (estimated to be as high as \$20,000) due to the 2010 emissions requirements for diesel engines and the modification costs that will apply.

Price Comparisons:

Staff conducted price comparisons with several fire departments that had recently purchased a similar designed heavy rescue truck. Heavy rescue type vehicles are usually very specialized in terms of design and specifications, depending on the needs of each fire department making equivalent comparisons difficult.

2009 Westminster proposed Heavy Rescue: \$375,000

(Actual contract price is \$380,718 minus the down payment discount at time of signing of \$5,719)

2008 Platteville, Wisconsin Heavy Rescue: \$390,034

2008 North Las Vegas, Nevada Heavy Rescue: \$379,726

Pierce Manufacturing is asking for a signed contract by September 30, 2009 (the end of their fiscal year) in order to accommodate the hold of all price increases.

Single Source Status:

The City has a history of sole vendor (single source) status with Pierce Manufacturing, Inc. The City has been buying Pierce fire apparatus since 1988. The first sole vendor status was established in 1994. The most recent renewal of this sole vendor relationship was approved by City Council in 2006. The Pierce product has proven to provide a higher quality product that has an excellent reputation in terms of quality, reliability, engineering, customer service and satisfaction.

Sole vendor status has several direct benefits for the City. Having fire apparatus from a sole source vendor has allowed the City to stock a number of Pierce parts. Having these parts in-stock at Fleet Maintenance allows for faster turn around time on a number of repairs. Several of the City's mechanics have developed their skills in very specific areas and developed their expertise as it relates to the Pierce products. Fleet Maintenance has also invested in the hardware and software needed to accommodate diagnostic testing on the engine, transmission, and anti-lock braking systems of Pierce vehicles. Fire Department operators/drivers have also benefitted by having like apparatus to work with. Driving, handling, operating, and routine maintenance, have all been improved with the standardization of our fleet.

SUBJECT:

Replacement Heavy Rescue Truck

Page 4

Funds:

Funds for this vehicle were originally budgeted within the Fire Department's Lease Pay to Others account in the General Fund operating budget. Staff identified the 2009 down payment money as a potential savings for 2009 given the uncertain economy and as such moved the funds in the General Fund into a budget hold account and identified the GCORF fund balance as a means to cover the down payment in 2009. As a result of delaying purchase to the third quarter of 2009, and the fact that delivery will take up to nine months, there will be additional savings in the Lease Pay to Others account for 2010 due to the fact the originally budgeted number accounted for four lease payments, were only one lease payments will now be needed.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment – Pierce Contract



CONTRACT

THIS AGREEMENT, made by and between Pierce Manufacturing Inc., Appleton, WI, first party, and the City of Westminster, by its authorized representative, second party

WITNESSETH:

First. The said first party hereby agrees to furnish the apparatus and equipment according to the specifications hereto attached and made a part of this contract, and to deliver the same as hereinafter provided.

Second. The first party agrees that all material and workmanship in and about said apparatus and equipment shall comply with said specifications. In the event there is any conflict between Customer Specifications and the Pierce Proposal, the Pierce Proposal will prevail. The standard Pierce Warranty will apply.

Third. This contract for fire apparatus conforms with all Federal Department of Transportation (DOT) rules and regulations in effect at the time of contract signing, and with all National Fire Protection Association (NFPA) Guidelines for Automotive Fire Apparatus as published at the time of contract signing, except as modified by customer specifications. Any increased costs incurred by first party because of future changes in or additions to said DOT or NFPA standards will be passed along to the customer as an addition to the price set forth below.

Fourth. The said apparatus and equipment shall be ready for delivery from Appleton, Wisconsin after July 1, 2010 and before July 31, 2010, after the receipt and acceptance of this contract. The first party shall not be deemed in default for any causes beyond its reasonable control and not occasioned by its negligence, including, but not limited to, civil wars, insurrections, strikes, riots, acts of terrorism, fires, storms, floods, other acts of nature, explosions, earthquakes, accidents, any act of government, delays in transportation, inability to obtain necessary labor, supplies or manufacturing facilities, allocation regulations or orders affecting materials, equipment, or failure of vendors to perform their contractual obligations. The said apparatus and equipment shall be delivered to said party of the second part at Westminster Municipal Service Center, 6777 W. 88th Avenue, Westminster, Colorado 80031.

Fifth. A competent serviceman shall upon request, be furnished by first party to demonstrate said apparatus for second party and to give its employees the necessary instructions in the operation and handling of said apparatus.

Sixth. The second party hereby purchases and agrees to pay for said apparatus and equipment, the sum of Three Hundred Eighty Thousand, Seven Hundred and Eighteen Dollars (\$ 380,718.00)

The City will make a \$100,000.00 down payment at time of signed contract and acceptance of this contract by Pierce. For this down payment, City shall receive a \$5,719.00 discount to be credited against City's final payment.

The Tenth, Eleventh, and Twelfth Sections are per the attached addendum.

Seventh. In case the second party desires to test the apparatus, such test shall be made within ten (10) days after arrival at destination, and a written report of such test forthwith delivered to the first party at its principal office at Appleton, Wisconsin. If no such test be made, or if no such report be made by the second party within ten (10) days after arrival, then said apparatus and equipment shall be considered as fully complying with contract specifications.

Eighth. It is agreed that the Manufacturer's Statement of Origin ("MSO") for the apparatus and equipment covered by this contract shall remain in the possession of the first party until the entire contract price has been paid, but if more than one piece of apparatus is covered by this contract, then the MSO for each piece shall remain in the possession of the first party until the above listed price for such piece has been paid in full, and, in case of any default in payment, the first party may take full possession of the apparatus and equipment, or of the piece or pieces upon which default has been made, and any payments that have been made shall be applied as payment for the use of the apparatus and equipment up to date of taking possession.

Ninth. This contract to be binding must be signed and approved by an officer of Pierce Manufacturing Inc., or someone authorized by it to do so. This contract and specifications take precedence over all previous negotiations and no representations are considered as entering into this contract except as are contained herein or in the specifications attached hereto. This contract cannot be altered or modified except by mutual agreement signed by the parties.

IN WITNESS WHEREOF, the said parties have caused these presents to be executed and the second party has caused its seal to be affixed, and attested by its authorized representatives on this ____ day of _____, 2009.

PIERCE MANUFACTURING INC.

CITY OF WESTMINSTER

BY: _____

By: _____

Date of Acceptance: _____

J. Brent McFall
City Manager

ADENDUM TO CONTRACT
PIERCE MANUFACTURING INC.
CITY OF WESTMINSTER

Tenth. The proposals, specifications, warranties, certifications technical information, service center information, literature, drawings and all other documents submitted by Pierce's authorized representative Duane Doucette in connection with the bid for this apparatus and equipment are hereby incorporated here in by this reference and made part of this contract.

Eleventh. This contract and any issues related there to shall be governed by the laws of the State of Colorado, and any actions related there to shall be brought and adjudicated in the State of Colorado.

Twelfth. Pursuant to Colorado Constitution article X, section 20, nothing herein shall be deemed or construed as creating a multiple fiscal year obligation on the part of the City, and the parties agree that this contract is subject to appropriation by City Council of the funds needed for payment of the balance of the Agreement in July of 2010. The City agrees to exercise utmost good faith in making such appropriation. In the event of nonappropriation, however, the City may, upon ten (10) days notice of such nonappropriation to Pierce, cancel this Contract without penalty and the City's down payment shall be refunded to the City.



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
September 28, 2009



SUBJECT: 2010 Traffic Signal Maintenance Contract

Prepared By: Greg Olson, Transportation Systems Coordinator

Recommended City Council Action

Authorize the City Manager to execute a contract with W.L. Contractors, Inc. in the amount of \$234,456 for traffic signal maintenance for calendar year 2010, with an option for a one year renewal.

Summary Statement

- The City utilizes the services of a private contractor to perform maintenance of the City's traffic signals. The current contract expires on December 31, 2009.
- Two proposals were received on September 3, 2009 for the contract for signal maintenance in 2010. The supply of firms engaged in this type of business within the Denver-metropolitan area is very limited; Staff is aware of only one other qualified, local firm, and that company chose not to submit a proposal. City Council action is requested to award the 2010 traffic signal maintenance contract to W.L. Contractors, Inc. based upon the superior quality of this company's proposal.
- The contract amount is within the amount budgeted in the 2010 operating budget of the Department of Community Development for traffic signal maintenance activities.

Expenditure Required: \$234,456

Source of Funds: 2010 General Fund - Community Development Operating Budget

Policy Issue

Should the City continue the practice of outsourcing traffic signal maintenance to a private contractor?

Alternative

An alternative is to not enlist the full-time services of a private contractor. This alternative would require the City to hire a minimum of one full-time employee and invest in the equipment necessary to perform basic traffic signal maintenance. The part time services of a contractor would still be required to provide assistance for major emergency repairs and share with the after-hours maintenance responsibility. Staff continues to annually investigate the feasibility of performing in-house traffic signal maintenance. The result of that analysis this year is that there would be no cost savings at this time and, therefore, Staff does not recommend performing the traffic signal maintenance “in-house” in 2010.

Background Information

The City utilizes the services of a traffic signal maintenance contractor to perform maintenance on traffic signals at 102 intersections and seven pedestrian crossings (total of 109 installations). The 2009 traffic signal maintenance contract, which was awarded to WL Contractors, Inc. in November 2008, expires December 31, 2009.

In years past, traffic signal maintenance contractors were solicited using the standard request for bids with the qualified contractor submitting the lowest bid receiving the contract award. Due to the inherent safety and increasingly complicated technical aspects of the City’s traffic signals and communications network, it has become apparent that a selection process that emphasizes quality of service via a Request for Proposal (RFP) format is appropriate. The RFP process requires the contractor to explain in detail exactly how he would provide the services in addition to defining the cost for those services. For the 2010 Traffic Signal Maintenance contract, a RFP review panel comprised of City staff and outside professional engineering representatives was utilized. The review panel independently reviewed the proposals and calculated a total score for each contractor. The contractor’s proposal receiving the highest score is being submitted to City Council for approval. The results of the panel’s review of the submitted proposals are as follows:

Contractor	Fee Schedule	Panel Score
W. L. Contractors, Inc.	\$234,456	117
Sturgeon Electric, Inc.	\$253,695	77

The proposal receiving the highest panel score of 117 points was submitted by W.L. Contractors, Inc. This company has satisfactorily performed the City’s traffic signal maintenance during 2009. City Staff is confident that W.L. Contractors will continue to provide the high level of service that the City expects for traffic signal maintenance activities in 2010. Coincidentally, W.L. Contractors also proposed the lower of the two fee schedules for this work.

The 2010 Traffic Signal Maintenance contract is based upon a conservative, estimated annual amount of labor, equipment hours, and materials for performance of all traffic signal maintenance functions. There are two general categories of work activities that provide the basis for the estimated hours of equipment and labor unit prices in the traffic signal maintenance contract: annual preventive (routine) maintenance and additional traffic signal (occasional) maintenance.

SUBJECT: 2010 Traffic Signal Maintenance Contract

Page 3

The RFP required the contractors to submit their proposed fee schedule for the year 2010 with the option to renew for one additional year at the City's sole discretion. A 2011 contract renewal would only be exercised if the contractor's performance warrants it and City Council has appropriated adequate funding.

Respectfully submitted,

J. Brent McFall
City Manager



**WESTMINSTER
COLORADO**

Agenda Memorandum

City Council Meeting
September 28, 2009



SUBJECT: 2010 Property and Liability Excess Insurance Renewal

Prepared By: Martee Erichson, Risk Management Officer

Recommended City Council Action

Authorize the City Manager to enter into an agreement with the Colorado Intergovernmental Risk Sharing Agency for the purchase of excess stop loss insurance, and for claims management and other administrative services in the amount of \$424,545 along with a 10% contingency amount (\$42,000) in the event the final quote comes in higher.

Summary Statement

- City Council action is requested to authorize the annual expenditure for the 2010 contribution to the Colorado Intergovernmental Risk Sharing Agency (CIRSA) for property and liability insurance coverage and related services.
- The City annually purchases insurance to cover assets (buildings, vehicles, equipment, and parks) and to protect itself from liability exposure resulting from claims brought against the City and its employees. This insurance is purchased through CIRSA. The preliminary quote from CIRSA for 2010 for property and liability coverage is \$424,545, which represents a contribution of \$464,917 minus a Loss Control Standards Audit credit of \$15,418 and a Member Equity Account Adjustment of \$24,954.
- The final cost of coverage in 2009, before credits, was \$462,931. The preliminary quote for next year of \$464,917 represents an increase in contribution of \$1,986 (less than .5%). In general, the increase is due to an increase in value of the City's insurable assets.
- As has been past practice, City Council is being asked to authorize this preliminary quote from CIRSA and continuation in the pool so that CIRSA can determine final contributions based on membership response in time for the start of the 2010 policy period.
- Adequate funds were budgeted and are available in the Property and Liability Self Insurance Fund for this expense.

Expenditure Required: Not to exceed \$466,545

Source of Funds: Property and Liability Self Insurance Fund

Policy Issue

Should the City continue to use a municipal insurance pool for placement of its property and liability coverage?

Alternative

City Council could reject Staff's recommendations to utilize CIRSA for this insurance coverage and direct Staff to seek proposals on the open insurance market. Staff does not recommend this action at this time based on the results of the study of the City's current insurance program conducted by a risk management consultant in late 2008.

Background Information

The City of Westminster has been a member of the Colorado Intergovernmental Risk Sharing Agency (CIRSA) since its inception in 1982. Since that time, this intergovernmental risk sharing pool has grown from its original 18 cities to 231 members in 2009. CIRSA provides property and liability coverage that is tailored to meet municipal exposures. On January 1, 1988, the City implemented a large deductible program, electing to pay the first \$100,000 of each property claim and the first \$150,000 of each liability claim. This self insured retention was increased to \$200,000 per line of coverage in 2004 and to \$250,000 in 2007 to save on contribution costs. A reserve fund insures that funds are available to cover expenses under the deductible level in the event of a catastrophic year or a year in which multiple, large claims occur that fall within the deductible. The City's audited Property and Liability Fund balance at the end of 2008 was \$2,505,437.

The City has continued to purchase its excess property and liability coverage from CIRSA for several reasons:

- CIRSA has provided competitive quotes for its insurance
- CIRSA was established by municipalities specifically to provide insurance that meets the unique needs of Colorado cities and towns
- Unlike all brokers or private insurance companies, CIRSA does not charge commissions

The services provided by CIRSA include all claims handling, loss control, administrative services and the following excess coverage:

- Property coverage in excess of \$250,000 to \$500,500,000 (limits shared with all pool members)
- \$1,000,000 per occurrence/aggregate business interruption coverage
- Public Officials Liability coverage from \$250,000 to \$5,000,000 per occurrence and \$10,000,000 per aggregate
- Limited Police Professional Liability insurance from \$250,000 to \$5,000,000 per occurrence/aggregate
- Motor vehicle physical damage from \$250,000 to \$1,000,000 per occurrence
- Motor vehicle liability coverage from \$250,000 to \$1,500,000 per claim/occurrence
- General Liability Insurance coverage from \$250,000 to \$5,000,000 per claim/occurrence

Currently, through on-going employee safety training and other loss control practices initiated by the individual departments and the Risk Management Staff, the efforts of the Citywide Safety Committee and the City's effective working relationship with CIRSA claims adjusting staff, Staff continues to improve on the success of the loss control program. As noted earlier, these efforts have been recognized by the loss control credit the City received on the 2010 quote.

The City's loss control activities include:

- Safety inspections of facilities
- Annual Defensive Driving, Risk Management 101, Risk Management for Supervisors and Safety 101 training classes
- Citywide Safety Committee review and analysis of all Workers' Compensation Injury Report forms involving safety failures
- Quarterly review of loss reports with the Department Head team
- The annual snowplow rodeo and training sponsored by the Public Works and Utilities Department
- Safety SPIRIT Awards incentive program

In addition, CIRSA recognizes the financial hardships many of its members are going through and has therefore, approved the use of a portion of each member's Equity Account to buy down the contribution for 2010. CIRSA Member Equity Accounts consist of what remains of a member's annual contribution to CIRSA after payment of claims and expenses each year and include interest earned. These funds are held by CIRSA to cover catastrophic claims and/or increases in each member's insured exposures that each member may not be able to fund in any given year. Acceptable Equity Account levels for each member are determined through an actuarial study. Westminster has been approved to use \$24,954 of the City's Member Equity Account toward the 2010 contribution to CIRSA.

The quote for the 2010 property and liability insurance contribution is preliminary at this time. CIRSA members are being asked to approve the contribution and continuation of membership at this time so that CIRSA can calculate final contribution quotes based on all members responses. It is anticipated that final contribution quotes will be distributed in December. To avoid having to return to City Council in the event the final contributions come in higher than this preliminary quote, Staff's recommended action includes a 10% contingency factor of approximately \$42,000 with the total final contribution not to exceed \$466,545. Funds for the requested increase are available in the City's Property and Liability Fund.

The Risk Management program addresses Council's Strategic Plan goals of Financially Sustainable City Government by working to mitigate the cost of insurance to the City by maintaining a loss control program to continually improve the City's loss history and monitor the industry for more cost effective means of insuring the City's assets.

Respectfully submitted,

J. Brent McFall
City Manager



Agenda Item 8 E

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
September 28, 2009



SUBJECT: Semper Water Treatment Facility Electrical Improvements Project Contract

Prepared By: Mike Happe, Water Resources and Treatment Manager
Tom Settle, Water Treatment Superintendent

Recommended City Council Action

Authorize the City Manager to execute a contract with CES Industrial LLC, Inc., in the amount of \$72,096 for electrical improvements at the Semper Water Treatment Facility, and authorize a fifteen percent contingency in the amount of \$10,800, for a total project budget of \$82,896.

Summary Statement

- As part of the 2008 Capital Improvement Program, the Public Works and Utilities Department began a process of identifying aging electrical components in the Semper Water Treatment Facility (Semper WTF). An electrical service company was hired to inspect and test the system to identify weak and failing components. Additional scope of work was compiled to address a variety of weaknesses in the plant control system that makes it susceptible to water treatment process upsets during power failures.
- The project will standardize the back-up power systems to maintain/improve filter operations during power failures, replace aging electrical components in the Semper WTF and insure overall reliability of the facility electrical system.
- Bids were sought from six major electrical contractors who had performed satisfactory work at the treatment facilities and/or were qualified for the scope of work. Four responses were received.
- CES Industrial, LLC, Inc. provided the lowest cost bid, while meeting all the requirements of the bid request.
- The recommended bidder meets all requirements and represents the lowest bid for the designated Tasks.
- A fifteen percent contingency is requested as the project has the potential for encountering some unforeseeable costs.
- Adequate funds were budgeted and are available for these expenses in the 2009 Capital Project budget.

Expenditure Required: Not to Exceed \$82,896

Source of Funds: Utility Fund – SWTF Electrical Improvements CIP

Policy Issue

Should the City proceed with the electrical improvements to the Semper WTF at this time and award the contract for the construction to CES Industrial LLC, Inc.?

Alternative

The City could choose to postpone the improvements to the Semper WTF. This alternative is not recommended for the following reasons: 1) The aging nature of the electrical components slated for replacement increases the probability of an electrical fire that could damage the primary electrical equipment of the treatment facility and disable it, and 2) delaying the work will leave the facility with an incomplete back-up power system for operating through extended power failures caused by severe storms or power grid break-downs.

Background Information

The Semper WTF was originally constructed in 1969 and has undergone a series of major expansions through 1996 to achieve its current configuration for treating 44 million gallons per day of potable water. With the original construction occurring in 1969, a significant portion of the facility's electrical system is now 40 years old. The insulation and protective elements of high voltage wiring and electrical controls over 20 years old can degrade rapidly and present significant safety risks for maintenance and operations staff, as well as putting the facility operability at risk. Aging wiring and control components will fail without warning, and parts availability is suspect in many cases. The 2006 URS Water and Sewer Infrastructure Master Plan identified a series of improvements that were needed at the Semper WTF to maintain effective operations and included recommendations for updating components of the electrical system.

As part of the 2008 Utilities Capital Improvement Project (CIP) program, the Department of Public Works and Utilities budgeted \$150,000 to conduct the process of evaluating and updating the electrical system at the Semper WTF. The initial stage of the project was an inspection, evaluation and testing process of the major wiring and electrical distribution panels in the plant. This provided a list of components that were shown to be weak or producing excess heat and at risk of failure. Staff had also compiled a list of process control components that had not been added to emergency generator circuits in previous expansion projects.

This project began to identify key electric control systems in need of rehabilitation in 2008 and to develop a plan to update them to current electrical code standards. The project will:

- Add new circuits to the generator system to power filter effluent meters and water quality instruments (Task 100).
- Replace several failing electrical circuit breakers that are generating excess heat and increasing fire risk (Task 200).
- Replace a 24-year old automatic transfer switch that directs generator power into the plant electrical system for operation of all flow control valves in the facility and update related electric feed components, as needed (Task 300).

Two tasks from the bid process were set aside for the time being due to budget limitations and to further evaluate alternatives that were presented during the bid process. The tasks not being awarded include:

- Add electrical components to include a second pump selection for reserve pumping capacity in the event of extended power failures (Task 400).
- Upgrade the motor control panels on two 450 HP motors for the main plant discharge pumps to reduce the torque load on the pumps and the resulting wear and tear (Task 500).

Staff solicited bids from electrical contractors that had worked in the water treatment facilities or had been recommended for the type of work needed. Six firms were invited to bid on the project. CES Industrial, LLC, Inc. provided the lowest cost bid, while meeting all the requirements of the bid request. The results of the bids are as follows:

Company	Amount
Eckstine Electric	\$80,620
Ludvik Electric	\$86,249
Master Electric	\$83,000
CES Industrial	\$72,096
MC2 Electric	No Bid
Roy Jackson Electric	No Bid

This is a form of “remodeling” work that may encounter unknown electrical component degradation, capacity limitations or obsolete elements that must be replaced. Authorization for a 15 percent contingency amount of \$10,800 is requested to allow flexibility to deal with these types of issues in the project.

This authorization for the Semper WTF Electrical Improvements Project Contract meets Council’s Strategic Plan goals of Safe and Secure Community and Financially Sustainable City Government by keeping the City’s water treatment facility electrical system in good operational condition.

Respectfully submitted,

J. Brent McFall
City Manager



**WESTMINSTER
COLORADO**

Agenda Memorandum

City Council Meeting
September 28, 2009



SUBJECT: Strasburg Natural Resource Farm Maintenance Building Expansion Construction Contract and Budget Revision

Prepared By: Michael C. Wong, Senior Engineer

Recommended City Council Action

1. Authorize the City Manager to execute a contract for the construction of the Strasburg Natural Resource Farm Maintenance Building Expansion with Vision Quest Construction Solutions in the amount of \$92,733 and authorize a 10% contingency of \$9,273.
2. Authorize the transfer of \$70,000 from the 2009 Big Dry Creek Wastewater Treatment Facility operating budget into the Strasburg Natural Resources Farm Building Utilities Capital Project account.

Summary Statement

- City Council is being requested to approve a contract with the lowest responsive and responsible bidder, Vision Quest Construction Solutions for the construction of the Strasburg Natural Resource Farm Maintenance Building Expansion.
- The work includes adding a 30-ft building extension to the south end of the existing maintenance shop to provide adequate indoor heated storage space for the biosolid spreader equipment, electrical and mechanical upgrade to meet current building codes, and general improvements including insulation to the maintenance shop to conserve energy.
- Contract documents were prepared by the City's design consultant J&T Consulting, Inc.
- Capital funding of \$55,000 was originally identified during the 2009 and 2010 budget process. Based on bids received on September 1, 2009 this amount is insufficient to complete the project.
- Savings have been realized in the Big Dry Creek Wastewater Treatment Facility (BDCWWTF) operating budget and are available to apply towards this building expansion project.
- Staff is requesting that operating fund savings in the amount of \$70,000 be transferred into the capital account to fund the project.

Expenditure Required: \$102,006

Source of Funds: Utility Fund Capital Improvement
– Strasburg Natural Resources Farm Building

Policy Issues

Should City Council authorize a contract with Vision Quest Construction Solutions?

Should City Council authorize the transfer of funds from the operating budget to the capital budget to fund the project?

Alternatives

The City could choose from the following alternatives:

1. Reject all bids and rebid the project. The City received bids from three construction companies, and it is unlikely that new bids would be less costly or the City would receive additional qualified bids.
2. Reject staff recommendation to enter into a contract with Vision Quest Construction Solutions. The existing maintenance building does not have adequate indoor heated storage space for the biosolid spreader equipment. There are also electrical deficiencies and lack of insulation throughout the building. Continuing to operate the existing maintenance shop under current conditions will risk staff safety and waste heating energy.
3. City Council could choose not to authorize the transfer of operating funds to finance this project. Without transferring operating budget savings into the capital project account, there would be insufficient funds to complete the building expansion project.

Staff does not recommend any of these alternatives since the bids are competitive, and the transferring of operating budget savings into the capital account will allow the building expansion project to be fully funded.

Background Information

The Strasburg Natural Resource Farm Maintenance Building located in the vicinity of 88th Avenue and Strasburg Road, five miles north of the town of Strasburg, has been operating as a maintenance facility serving the Strasburg Natural Resources Farm since 1998.

The existing maintenance shop does not have adequate indoor heated storage space for the biosolid spreader equipment for winter months. The spreader truck is parked outside the maintenance shop and an engine block heater is used to keep the truck's engine warm during the winter. Electrical deficiencies and lack of insulation throughout the existing metal building do not meet current building codes.

The proposed building expansion will provide the required indoor heated storage space for the fully-equipped spreader truck during winter months. The spreader truck will be ready for operation at all times. The electrical upgrade, heating upgrade and insulation will make the building safe and conserve energy.

A sole source contract was awarded to J&T Consulting for the design and construction phase services in July 2009. Seven prequalified contractors who specialized in this type of building construction were invited to submit bids. A mandatory prebid conference was held on August 19, 2009 to stress the importance of work safety and project schedule, particularly the completion of the building expansion prior to the winter of 2009. Bids were publicly opened and read on September 1, 2009. Three qualified bids were received. The following is a tabulation of the bids and the Engineer's estimate:

<u>Contractors</u>	<u>Lump Sum Bid</u>
Vision Quest Construction Solutions	\$92,733
JHL Constructor Inc.	\$96,930
BT Construction	\$123,540
Engineer's Estimate	\$ 100,000

After a thorough review of the statement of qualifications and other references provided by Vision Quest Construction Solutions, Staff is confident that the contractor is qualified for the Strasburg Natural Resource Farm Maintenance Building Expansion project. Although Vision Quest has not worked for the City of Westminster in the past, the contractor has been in this type of building construction and renovation for over 20 years.

During the 2009-2010 budget process, \$55,000 was budgeted for this project. Based on the three bids received by the City the total project cost is now estimated at \$125,000. The reason for the increase is in part due to underestimation of the project cost in the budget process and partly due to the increase of scope of work in order to bring the maintenance shop into compliance with building codes and energy conservation. The following is a breakdown of the total project cost:

Table 1 Project Cost Breakdown

Construction Contract	\$92,733
Contingency (10%)	\$9,273
Design (J&T Consulting)	\$18,000
Building Permit Fees	\$2,494
Materials Testing	<u>\$2,500</u>
Total	\$125,000

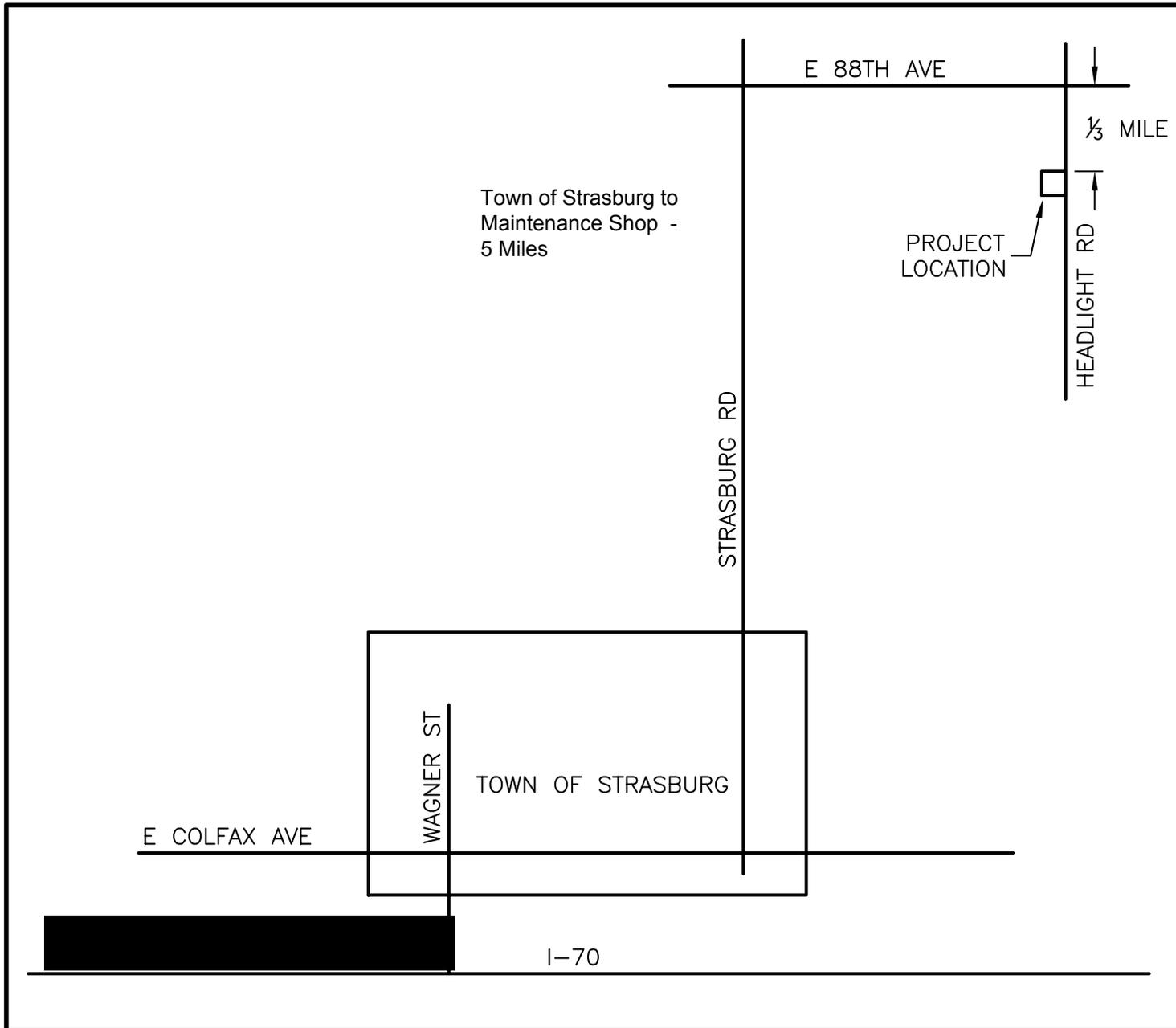
Reduced operating costs have resulted in savings in the 2009 BDCWWTF operating budget. Staff is requesting a transfer of \$70,000 from this savings into the capital project account to fully fund the building expansion project.

The Strasburg Natural Resource Farm Maintenance Building Expansion helps achieve the City Council's Strategic Plan goals of "Safe and Secure Community" by improving staff safety and security to the City's outdated maintenance shop; "Financially Sustainable City Government" by contributing to the objective of well-maintained City facilities; and "Beautiful City" by enhancing the Strasburg Natural Resources Farm sites.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment: Location Map of Strasburg Natural Resource Farm Maintenance Building



PROJECT LOCATION





WESTMINSTER
COLORADO
Agenda Memorandum

City Council Meeting
September 28, 2009



SUBJECT: Second Reading of Councillor’s Bill No. 28 re a Comprehensive Land Use Plan Amendment Designation Change from Business Park to Public/Quasi-Public for an Approximately Ten and One-Half Acre Property Located at 12000 Zuni Street

Prepared By: Patty McCartney, Planner III

Recommended City Council Action

Pass Councillor’s Bill No. 28 on second reading approving the Comprehensive Land Use Plan Amendment requesting a change in the land use designations from “Business Park” to “Public/Quasi-Public” for an approximately ten and one-half acre property located at 12000 Zuni Street on the northeast corner of 120th Avenue and Zuni Street. This recommendation is based on a finding that the proposed amendment will be in the public good and:

- a) The proposed amendment is in need of revision; and
- b) The amendment is in conformance with the overall purpose and intent and the goals and policies of the Plan; and
- c) The proposed amendment is compatible with existing and planned surrounding land uses; and
- d) The proposed amendment would not result in excessive detrimental impacts to the City’s existing or planned infrastructure systems.

Summary Statement

- The Comprehensive Land Use Plan (CLUP) designation for the site is Business Park. The CLUP amendment would change the “Business Park” designation to “Public/Quasi-Public” for approximately 10.5 acres (“The Registry”) generally located at the northeast corner of 120th Avenue and Zuni Street.
- Councillor’s Bill No. 28 was approved on first reading by City Council on September 14, 2009.

Expenditure Required: \$0

Source of Funds: N/A

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

- Ordinance (Comprehensive Land Use Plan)
- Exhibit A -Comprehensive Land Use Plan Map

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **28**

SERIES OF 2009

INTRODUCED BY COUNCILLORS

Dittman - Major

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

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council finds:

a. That an application for an amendment to the Westminster Comprehensive Land Use Plan has been submitted to the City for its approval pursuant to W.M.C. §11-4-16(D), by the owner(s) of the properties described below, incorporated herein by reference, requesting a change in the land use designations from "Business Park" to "Public/Quasi-Public" for an approximately ten and one-half acre property located at 12000 Zuni Street on the northeast corner of 120th Avenue and Zuni Street.

b. That such application has been referred to the Planning Commission, which body held a public hearing thereon on August 25, 2009, after notice complying with W.M.C. §11-4-16(B) and has recommended approval of the requested amendments.

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

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

e. That the owners have met their burden of proving that the requested amendment will further the public good and will be in compliance with the overall purpose and intent of the Comprehensive Land Use Plan, particularly in providing an educational facility that will serve surrounding existing residential and new neighborhoods and promotes neighborhood revitalization through creative infill development.

Section 2. The City Council approves the requested amendments and authorizes City Staff to make the necessary changes to the map and text of the Westminster Comprehensive Land Use Plan to change the designation of the property more particularly described as follows:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 33, THEN N00°20'00"E ALONG THE WEST LINE OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 33 A DISTANCE OF 50.00 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF WEST 120TH AVENUE, SAID POINT BEING THE POINT OF BEGINNING; THENCE N00°20'00"E AND ALONG THE WEST LINE OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 33 A DISTANCE OF 679.89 FEET; THENCE S89°29'30"E AND ALONG A LINE OF 729.89 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 33 A DISTANCE OF 676.37 FEET; THENCE S00°20'00"W AND ALONG A LINE 676.37 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 33 A DISTANCE OF 679.89 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF WEST 120TH AVENUE; THENCE N89°29'30"W AND ALONG A LINE 50.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 33, ALSO BEING THE NORTH RIGHT-OF-WAY LINE OF WEST 120TH AVENUE, A DISTANCE OF 676.37 FEET TO THE POINT OF BEGINNING, CONTAINING 10.5568 ACRES.

to "Public/Quasi-Public", as depicted on the map attached as Exhibit A.

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

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

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 14th day of September, 2009.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 28th day of September, 2009.

ATTEST:

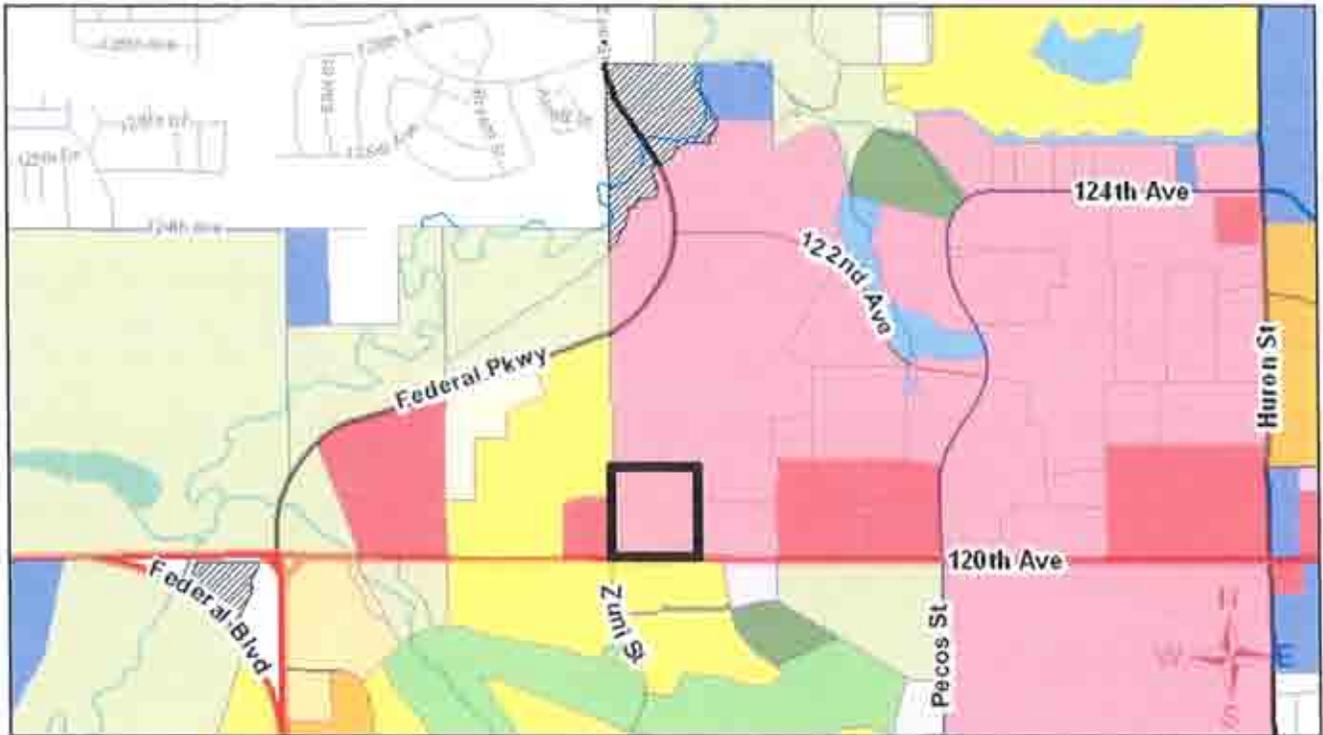
Mayor

City Clerk

APPROVED AS TO LEGAL FORM:

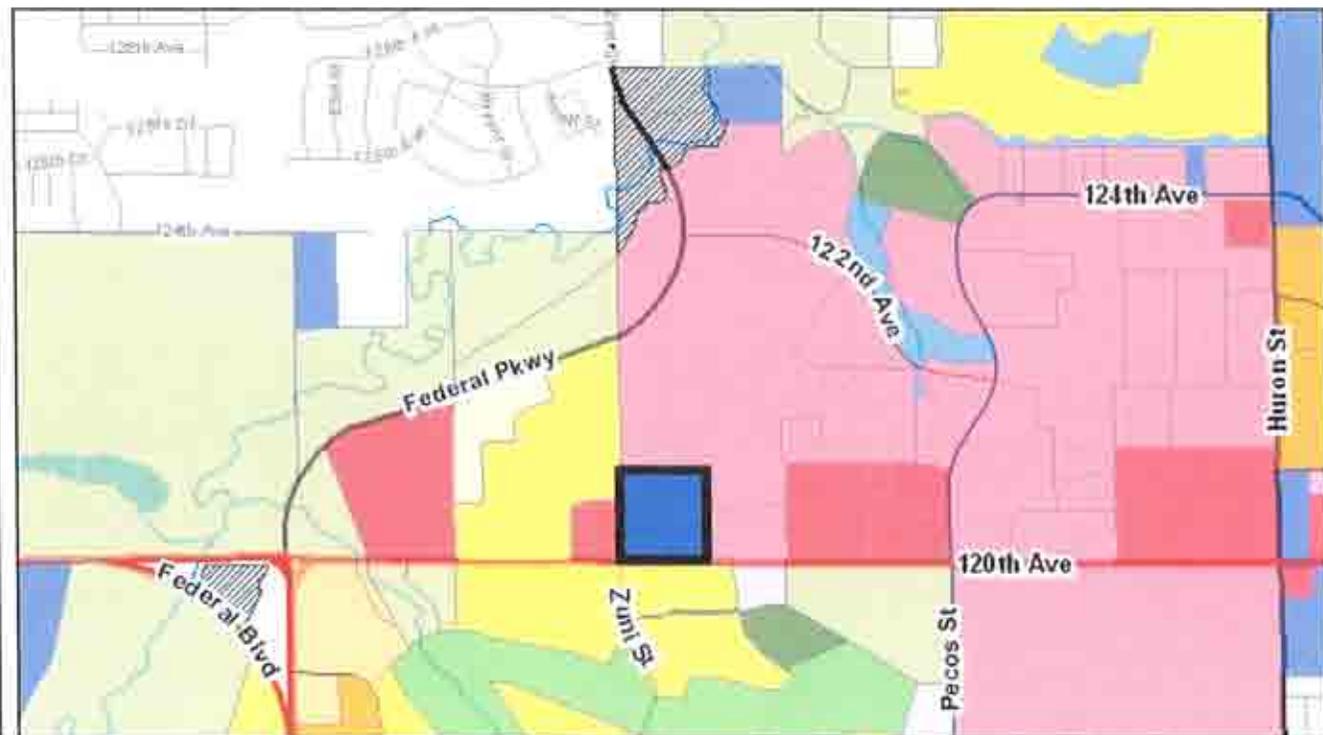
City Attorney's Office

Change from Business Park to Public/Quasi-Public



Legend

CompPlan_Layer	R-35	Retail Commercial	Office/Residential	Public Parks	NE Comprehensive Land Use Plan
CP_DESIG	R-6	Office	District Center	Private Parks/Open Space	Major Creek Corridor Non Public
R-1	R-8	Industrial	Traditional Mixed Use	Golf Courses	
R-25	R-18	Business Park	City Owned Open Space	Public/Quasi Public	





Agenda Item 8 H

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
September 28, 2009



SUBJECT: Second Reading of Councillor's Bill No. 29 re 2009 Community Development Block Grant Fund Appropriation for American Recovery and Reinvestment Act Grant

Prepared By: Vicky Bunsen, Community Development Programs Coordinator

Recommended City Council Action

Pass Councillor's Bill No. 29 on second reading appropriating 2009 Community Development Block Grant (CDBG-R) funds in the amount of \$150,438, which were awarded under the American Recovery and Reinvestment Act.

Summary Statement

- This Councillor's Bill was passed on first reading on September 14, 2009.
- The 2009 CDBG-R allocation was designated to fund Lowell Boulevard enhancements and CDBG-R program administration pursuant to City Council approval on May 18, 2009.
- This funding was granted pursuant to the American Recovery and Reinvestment Act of 2009.

Expenditure Required: \$150,438

Source of Funds: 2009 Community Development Block Grant Funds

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **29**

SERIES OF 2009

INTRODUCED BY COUNCILLORS

Briggs - Kaiser

A BILL

FOR AN ORDINANCE INCREASING THE 2009 BUDGET OF THE COMMUNITY DEVELOPMENT BLOCK GRANT FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2009 ESTIMATED REVENUES IN THIS FUND

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2009 appropriation for the CDBG Fund, initially appropriated by Ordinance No. 3432 is hereby increased by \$150,438. This appropriation is amount approved by the U.S. Department of Housing and Urban Development (HUD) for the City for 2009.

Section 2. The \$150,438 increase in the CDBG Fund shall be allocated to City revenue and expense accounts as described in the City Council Agenda Item 10 J, dated September 14, 2009 (a copy of which may be obtained from the City Clerk) increasing City fund budgets as follows:

CDBG Fund	<u>\$150,438</u>
Total	<u>\$150,438</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 14th day of September, 2009

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 28th day of September, 2009.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
September 28, 2009



SUBJECT: Second Reading of Councillor’s Bill No. 30 re Amending Title V, Chapter 14,
re Art Gallery Permits

Prepared By: Linda Yeager, City Clerk
Martin McCullough, City Attorney

Recommended City Council Action

Pass Councillor’s Bill No. 30 on second reading amending Title V, Chapter 14, to allow the issuance of art gallery permits to qualifying entities in the City per State law and to set local fees for the permits.

Summary Statement

- The Colorado Liquor Code was amended in July 2008 to create art gallery permits that allow qualifying entities to offer complimentary alcoholic beverages for consumption on premise. Qualifying entities include establishments whose primary purpose is to exhibit and offer for sale works of fine art or precious or semiprecious metals or stones, as defined in State Statutes. The permit allows alcoholic beverages to be served for a period not to exceed four hours each on 15 dates during each permit year.
- The owners of recently established art galleries in South Westminster have inquired about serving complimentary wine on special occasions, such as evening showings and gallery walks. In addition to art galleries, these permits can be issued to qualifying jewelry stores, although no local interest has been expressed to date.
- As stated in the City’s open container law, it is unlawful for any person to drink, possess or have under his/her control any alcoholic beverage in an open container in any public place, which includes private property open to the general public, without a license or permit to do so. State law prohibits consumption of malt, vinous, or spirituous beverages in any public place except a premise licensed or permitted for said purpose.
- State and local approval of the permit is required, as is annual renewal. The combined fee for the permit is \$175.
- The proposed ordinance also includes miscellaneous technical clean up amendments to this section of the Code. Art gallery permits were discussed with City Council at the August 17, 2009 study session.
- This Councillor’s Bill was passed on first reading by City Council on September 14, 2009.

Expenditure Required: \$0

Source of Funds: N/A

Respectfully submitted,

J. Brent McFall
City Manager
Attachment

A BILL

FOR AN ORDINANCE AMENDING SECTIONS 5-14-4 AND 5-14-5 OF THE WESTMINSTER MUNICIPAL CODE CONCERNING FERMENTED MALT BEVERAGE AND ALCOHOLIC BEVERAGE LICENSE AND SPECIAL EVENTS PERMITS

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Section 5-14-4, subsection (A), W.M.C., is hereby AMENDED to read as follows:

5-14-4: LICENSE APPLICATIONS:

(A) The following licenses and permits may be issued by the Licensing Authority in accordance with the provisions of the Colorado Beer Code and the Colorado Liquor Code;

(1) Fermented malt beverage licenses:

- (a) Sales for consumption off the premises of the licensee;
(b) Sales for consumption on the premises of the licensee;
(c) Sales for consumption both on and off the premises of the licensee.

(2) Malt, vinous and spirituous liquor licenses:

(a) Retail liquor store;

(b) Liquor-licensed drugstore;

(c) Beer and wine;

(d) Hotel and restaurant;

(e) Tavern;

(f) Brew Pub

(g) Club;

(h) Arts;

(i) Racetrack;

(j) Optional premises.

(k) Optional premises permit for a hotel and restaurant license; and

(l) Vintner's restaurant.

(3) Other licenses and permits:

(a) Bed and breakfast permit;

(b) Art gallery permit;

(c) Special event permit;

(d) Transfer of ownership;

(e) Consent to changing, altering or modifying any licensed premises.

(4) Administrative Approvals. The City Clerk is authorized to administratively approve the following applications in accordance with the provisions of the Colorado Beer Code and the Colorado Liquor Code:

(a) Temporary permit pending the approval of applications for transfers of ownership

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(e) . Temporary License for the continuance of the sale of fermented malt beverages by a licensee whose license has expired where the licensee has applied for a permanent license;
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12. . Temporary License for the continuance of the sale of alcoholic beverages by a licensee whose license has expired where the licensee has applied for a permanent license;¶
13. . Special events permit;¶
14. . Brew Pub License;¶
15. . Bed and Breakfast Permit, and¶
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(b) Transfer of ownership, unless the City Clerk determines in the Clerk's discretion that there is probable cause to believe that grounds exist for denying the transfer under C.R.S. section 12-47-303, as the same may from time to time be amended or recodified

(c) Waiver, for good cause, of the time requirement for the filing of an application for renewal of an existing license

(d) Renewal of an existing license, unless the City Clerk determines in her reasonable discretion that there is probable cause to believe that grounds exist for denying the application for renewal under C.R.S. section 12-47-307, as the same may from time to time be amended or recodified

(e) Consent to changing, altering or modifying any licensed premises, unless the City Clerk determines in the Clerk's discretion that the premises, as changed, altered or modified, will not meet all of the pertinent requirements of the Colorado Liquor or Beer Codes and the regulations promulgated thereunder, including, but not limited to, those requirements set forth in C.C.R. 203-2, Regulation 47-302, as the same may from time to time be amended or recodified

Section 2. Section 5-14-4, W.M.C., subsections (I), (J), and (K), are hereby REPEALED IN THEIR ENTIRETY.

Section 3. Section 5-14-5, subsection (A), W.M.C., is hereby amended BY THE ADDITION OF A NEW SUBSECTION (9) to read as follows:

5-14-5: FEES:

(A) Each application for a license or transfer of a license shall be accompanied by the following application fees:

(9) Art gallery permit, one hundred three and 75/100 dollars (\$103.75).

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 14th day of September , 2009.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 28th day of September, 2009.

Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

City Clerk

City Attorney's Office



Agenda Item 10 A

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
September 28, 2009



SUBJECT: Councillor's Bill No. 34 re Lease Agreement for the Kids Nite Out Program with Dakota & Amanda Enterprises L.L.C.

Prepared By: Gina Barton, Recreation Supervisor
Peggy Boccard, Recreation Services Manager

Recommended City Council Action

Pass Councillor's Bill No. 34 on first reading authorizing the City Manager to sign a three year lease agreement with Dakota & Amanda Enterprises, L.L.C. for the continuation of the Kids Nite Out Program in substantially the same form as the attached lease.

Summary Statement

- The lease agreement for the Kids Nite Out Program currently being offered at the City Park Recreation Center has expired.
- The original lease was for three years, with one, three-year renewable option.
- The new lease agreement with Dakota & Amanda Enterprises L.L.C. would be for three years running through 2012.
- This privately-run program offers a variety of activities in a safe, highly supervised and controlled environment for youth from 7 to 14 years old.
- The program operates from the hours of 7 to 10:30 p.m. on Friday nights during the school year, September through May.
- Activities offered include a disc jockey with dancing, organized games, swimming, and concessions.
- This program generates up to \$35,000 per year of revenue for the City.
- Leasing of property owned by the City must be approved and ratified by ordinance under Section 13.4 of the City's Charter.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Does City Council wish to continue the Kids Nite Out Program?

Alternatives

1. Request that Staff investigate other options besides the Kids Nite Out program to address safe and secure alternative activities for children in the 7 to 14 age group. Staff does not recommend this alternative as Staff has explored additional options in the past and has found few, if any, recreation programs being offered by municipal agencies that are as successful as the Westminster Kids Nite Out Program.
2. Council could choose not to renew this lease and no program would be offered in its place. Staff does not recommend this option as this has been a positive program for the youth in the City and is revenue producing as well.

Background Information

Kids Nite Out is an established program that leases existing recreation facilities to offer a safe and fun opportunity for the youth in many local communities. City Staff has developed a successful working relationship with the owner and operator, Mr. Mivshek. Mr. Mivshek has operated this program for over 16 years and has successfully expanded the Kids Nite Out franchising to other agencies in the Denver-Metro area.

Rent is paid weekly based on the number of program participants. Kids Nite Out charges a \$10 admission fee, of which 20 percent of the admissions is paid to the City, along with an additional \$90 fee for use of the pool. The Kids Nite Out Program has use of the City Park Recreation Center's gymnasium, pool, locker rooms, community room, and classrooms. The City Park Recreation Center aquatic and locker areas are under construction, placing some short term limitations on the Kids Nite Out program. Supervision is required at all times while these areas are in use. The City requires the Lessee to hire at least one off-duty City of Westminster police officer to provide security for the program and facility.

Under the terms of the lease, the City may cancel the right of the Lessee (Dakota & Amanda Enterprises L.L.C.) to use the premises (City Park Recreation Center) upon written notice no later than one month in advance of the date to be cancelled.

The Kids Nite Out Program has been well received by participants, parents, and City employees. Staff recommends the continuation of this program.

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

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **34**

SERIES OF 2009

INTRODUCED BY COUNCILLORS

**A BILL
FOR AN ORDINANCE APPROVING AND RATIFYING A LEASE AGREEMENT WITH
DAKOTA & AMANDA ENTERPRISES, L.L.C. TO OPERATE THE "KIDS NITE OUT"
PROGRAM WITHIN THE CITY PARK RECREATION CENTER**

WHEREAS, the City owns the City Park Recreation Center, located at 10455 Sheridan Boulevard; and

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

NOW, THEREFORE, THE CITY OF WESTMINSTER ORDAINS:

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

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

Section 3. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The lease agreement attached hereto as Exhibit A shall be executed by the lessee prior to consideration of this ordinance on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 28th day of September, 2009.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 12th day of October, 2009.

Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

City Clerk

City Attorney's Office

EXHIBIT A

LEASE AGREEMENT

This Lease is made and entered into by and between the **CITY OF WESTMINSTER, COLORADO**, a Colorado home-rule municipality, referenced hereinafter as "Lessor" and **DAKOTA & AMANDA ENTERPRISES, L.L.C.**, a Colorado corporation, referenced hereinafter as "Lessee."

In consideration of the mutual covenants and agreements set forth in this Lease, and other good and valuable consideration, Lessor does hereby demise and Lease to Lessee, and Lessee does hereby Lease from Lessor, certain portions of the City Park Recreation Center located at 10455 Sheridan Boulevard, Westminster, Jefferson County, Colorado ("the Premises"), more particularly described in Exhibit "A" attached to this Lease. These Premises are referenced in this Lease as "the Premises" or "the Leased Premises."

ARTICLE 1. TERM

1.01. Term of Lease. The term of this Lease shall be for each Friday during the one (3) year period commencing at six o'clock p.m. on September 1, 2009, and ending at 12 o'clock midnight on the Saturday following the last Friday of May 2012 (the "Expiration Date"), unless sooner terminated as provided in this Lease.

1.02 Hours of Lease. During the term of this Lease, Lessee shall have exclusive use of certain portions of the Leased Premises between the times of six o'clock p.m. of each Friday until twelve o'clock midnight. Specific areas/usage hours are 6:00 p.m.-7:00 p.m.- set-up, 7:00 p.m.-12:00 midnight -program usage and cleaning of upper level, 7:30 p.m.-12:00 midnight – program usage and cleaning of lower level.

1.02. Extension.

- a. Lessor and Lessee may agree to extend this Lease beyond the Expiration Date provided in 1.01 above, for one (1) additional three-year period, on terms the Parties may negotiate. Such extension shall be for a period of three (3) years, with the additional term to begin on the Friday following the Expiration Date of the Lease term specified in 1.01 above. Any such extension shall be subject to the approval of Lessor's City Council.
- b. Lessee shall notify Lessor of its desire to extend this Lease or to allow the Lease to expire without extension not later than thirty (30) days prior to the Expiration Date of the Lease term. Notice shall be in writing and sent to Lessor by registered mail or facsimile transmission to Lessor at the address provided in this Lease. If Lessee fails to provide notice to Lessor, the Lease shall automatically expire on the Expiration Date.

1.03. Lessor's Right to Cancel. Lessor shall have the right, at its discretion, to cancel Lessee's use of the Premises on a specific date without cause and without recourse against Lessor upon written notice to Lessee no later than one (1) month in advance of the date to be canceled.

ARTICLE 2. RENT

2.01. Rent. For the initial three (3) year term of this Lease, Lessee agrees to pay to Lessor the sum of 20% of gross revenues received by Lessee from users of the Premises, on or before the first Friday of each month, as rent for succeeding month. The rent for any extended term pursuant to section 1.01 shall be adjusted by agreement of the Parties. Should Lessee choose to use the aquatics area, Lessee also agrees to pay Lessor \$90 for the use of the aquatics area and locker room from the times of 7:00 p.m. to 9:00 p.m.

ARTICLE 3. USE OF PREMISES

3.01. Permitted Use. Lessee shall operate the Leased Premises as a Youth Activity Center during the term of this agreement and shall use the Premises for no other purpose.

3.02. Youth Activity Center Defined. The term "Youth Activity Center" as used in this Lease (also known as "Kids Nite Out") means that the Leased Premises shall be used for activities on Friday nights for persons from and including the ages 7 through 14, for, but not limited to, the following activities:

- i. Game Activities: consisting of, for example, games such as volleyball, basketball, racquetball, wallyball, dancing, ping pong, video games, and the like, including any activities which may be available but not listed stemming from the uniqueness of the Leased Premises;
- ii. Audio and Video Activities: including, but not limited to, performances of person(s) to coordinate and direct the playing of records, videos, laserdiscs and the like. Lessee shall be solely responsible for obtaining any necessary licenses and for paying any applicable royalties or penalties in connection with its use of any copyrighted audio or video works;
- iii. Food, Drink, and Concession Activities: including the sale of soft drinks, sandwiches, chips, candy bars, banners, T-shirts, and;
- iv. All advertising and marketing promotions related to the Youth Activity Center.

3.03. Manner of Operation. During the term of this Lease and any extensions, Lessee shall keep Leased premise reasonably stocked with concession merchandise, including soft drinks and food, and reasonably staffed to adequately serve the patrons. Lessee must operate the Youth Activity Center on the Leased Premises in a diligent and efficient manner. Lessee must keep the Leased Premises open for business from 7:00 p.m. to 10:30 p.m. on each Friday of the month during the term of this Lease, except Lessee is not required to operate its business on legal holidays, nor during any time when such operations must be suspended because of casualty loss to the Leased Premises or the building in which the Leased Premises are located, strike, insurrection, or other cause beyond the control of the Lessee. Lessee will require either a parent or responsible adult to sign in all youth attendees. Lessee will not allow a parent or responsible adult to enter the program without being accompanied by a Kids Nite Out staff member.

3.04. Preparation and Clean-up. Preparation of the Leased Premises and clean-up of the Leased Premises shall be the sole responsibility of the Lessee during the term of the Lease. Lessee agrees that it shall have sufficient staff available on the Leased Premises to assure proper and efficient preparation and clean-up.

3.05. Nuisance and Illegal Activity. Lessee shall not use, or permit the use of, the Leased Premises in any manner that results in waste of the Leased Premises or constitutes a nuisance. Nor shall Lessee use, or permit the use of the Leased Premises for any illegal purpose. Lessee will comply, and will cause its officers, employees, agents, patrons, and other invitees to comply, with all applicable laws and ordinances and with all applicable rules and regulations of governmental agencies concerning the use of the Leased Premises.

3.06. Security. Lessee shall hire at least one (1) off-duty Westminster police officer to provide security. The officer shall be on the Premises during the hours Lessee is open for business.

3.07. Supervision. Lessee shall provide adequate supervision at all times. All supervisors shall be at least eighteen (18) years of age. Lessee shall staff supervisors at a ratio of not less than one (1) supervisor to every twenty-five (25) Youth Activity Program participants.

3.08. Conduct. Any guests who conduct themselves in an unbecoming manner or become a nuisance to Kids Nite Out, or other guests, may be suspended or expelled from Kids Nite Out. Thereupon, all privileges of such guest shall be automatically terminated without proration or refund. At that time, the suspended guest will wait for a parent(s) or a responsible adult to be notified to pick up their youth immediately. All participants and staff members are to conduct themselves in a manner deemed appropriate as agreed upon between Lessor and Lessee. Kids Nite Out staff will closely monitor behavior and dress code.

3.09. Injury or Accident. Kids Nite Out staff will immediately notify City Park Recreation Center staff and police officers if any injury or accident occurs during the operation of the program.

ARTICLE 4. MAINTENANCE AND SURRENDER

4.01 Maintenance by Lessor. Lessor shall, at its own expense and risk, maintain the Leased Premises including but not limited to maintenance of the roof, foundation, plumbing, heating and air conditioning systems, fire protection sprinkling systems, structural soundness of the exterior walls (including all windows, window glass, plate glass, and doors), parking lots, walkways surrounding the Leased Premises or the building in which the Leased Premises are located, stairways, and elevators, including repairs and all necessary replacements of these items.

4.02 Wear and Tear. Except as provided in 4.01, Lessee shall maintain the Leased Premises and keep them free from waste or nuisance throughout the Lease term and any extension. At the termination of the Lease, Lessee shall surrender and deliver the Leased Premises to Lessor in as good a state of repair and condition as they were in at the time Lessor delivered possession to Lessee, reasonable wear and tear and damage by fire, tornado, or other casualty excepted. Lessee and Lessor recognize that ordinary wear and tear may include stains from food, drinks, candy, and gum. Lessee will make a good faith effort to clean up such stains but shall not be required to undertake major capital expenditures for removal of such stains nor any structural repairs which may be caused by such stains.

4.03 Failure to Perform. In event either party fails to perform its obligation to repair or maintain as set forth in 4.01 and 4.02 above after notice from the other party of the need for such repair or maintenance and the passage of a reasonable amount of time for performance after such notice, the other party may terminate this Lease or, at its option, suspend business operations until such repairs or maintenance are completed.

ARTICLE 5. TAXES AND ASSESSMENTS

5.01 Personal Property Taxes. Lessee shall pay and fully discharge all taxes, special assessments, and governmental charges of every character imposed during the term of this Lease on the business activities or personal property placed by Lessee in, on, or about the Leased Premises. These taxes include but are not limited to Lessor's sales and use tax.

5.02 Real Property Taxes. Lessor shall pay and fully discharge all property taxes, special assessments, and governmental charges of every character imposed on the Leased Premises during the term of this Lease, including any special assessments imposed on or against the Leased Premises for the construction or improvement of public works.

ARTICLE 6. UTILITIES AND GARBAGE REMOVAL

6.01 Utility Charges. Lessor shall pay all utility charges for water, electricity, heat, gas, and telephone service used in and about the Leased Premises during the term of the Lease, all such charges to be paid by Lessor directly to the utility company or municipality furnishing the same before the same shall be delinquent.

6.02 Garbage Removal. Lessor shall pay for the removal of all garbage and rubbish from the Leased Premises during the term of the Lease.

ARTICLE 7. ALTERATIONS, ADDITIONS, AND IMPROVEMENTS

7.01 Consent of Lessor. Lessee shall not make any alterations, additions, or improvements to the Leased Premises without the prior written consent of Lessor.

ARTICLE 8. SIGNS

8.01 Signs. Lessee may erect signs on portions of the Leased Premises and portions of the building in which the Leased Premises are located, subject to the approval of the City Recreation Services Manager as to the number, size, and placement of the signs.

ARTICLE 9. INSURANCE AND INDEMNITY

9.01 Property Insurance. Lessor shall, at its own expense, during the term of this Lease, keep all buildings, structures, improvements, fixtures, and equipment, which are not part of the Leased Premises but are required for access or enjoyment of the Leased Premises, insured against loss or damage by fire or theft.

9.02 Liability Insurance. Lessee shall, at its own expense, obtain general commercial liability insurance. Such insurance shall provide liability coverage, at a minimum, in the amount of One Million Dollars (\$1,000,000). Lessor shall be named as an additional insured on the policy.

9.03 Lessee Hold Harmless Clause. Lessee agrees to indemnify and hold Lessor harmless against any and all claims, demands, damages, costs, and expenses, including reasonable attorney's fees for the defense of such claims and demands, arising from the conduct or management of Lessee's business on the Leased Premises or from its use of the Leased Premises, or from any breach on the part of Lessee of any conditions of the Lease, or from any act or negligence of Lessee, its agents, contractors, employees, subtenants, concessionaires, or licensees in or about the Leased Premises.

ARTICLE 10. DEFAULT

10.01. Default by Lessee. If Lessee shall allow the rent to be in arrears more than fourteen (14) days after written notice of such delinquency, or shall remain in default under any of the other conditions of this Lease for a period of twenty (20) days after written notice from Lessor, Lessor may, without notice to Lessee, immediately terminate this Lease, re-enter and take possession of the Leased Premises and remove all persons and property without being deemed guilty of any manner of trespass, and re-let the Premises, or any part of the Premises, for all or any part of the remainder of the Lease term to a party satisfactory to Lessor, and at such monthly rental as Lessor may with reasonable diligence be able to secure. Should Lessor be unable to re-let after reasonable efforts to do so or, should such monthly rental be less than the rental Lessee was obligated to pay under this Lease, Lessee shall pay to Lessor the expense of re-letting plus the amount of any deficiency in the rent.

10.02 Default by Lessor. If Lessor defaults in its performance of any term, covenant, or condition required to be performed by it under this agreement, Lessee may terminate this Lease on giving ten (10) days' notice to Lessor of such intention. The Lease will be terminated on the date designated in Lessee's notice, unless Lessor has cured the default prior to the expiration of the ten (10) day period.

10.03 Waiver of Breach. A waiver by either Lessor or Lessee of a breach of this Lease by the other party does not constitute a continuing waiver or waiver of any subsequent breach of the Lease.

ARTICLE 11. INSPECTION BY LESSOR

11.01 Access by Lessor. Lessee shall permit Lessor and Lessor's agents, representatives, and employees to enter into and on the Leased Premises at all reasonable times for the purpose of inspection, maintenance, making repairs or alterations to the Premises, or any other purpose necessary to protect Lessor's interest in the Premises or to perform Lessor's duties under this Lease so long as such access does not interfere with the quiet use and enjoyment by Lessee of the Leased Premises.

ARTICLE 12. ASSIGNMENT AND SUBLEASE

12.01 Assignment and Subletting by Lessee. Lessee may not sublet, assign, or otherwise transfer this Lease or any right or interest in this Lease, or in the Leased Premises or the improvements on the Leased Premises, without the prior written consent of Lessor. Any such sublet, assignment, or transfer shall not relieve Lessee of any of its obligations under this Lease.

ARTICLE 13. MISCELLANEOUS

13.01 Notice and Addresses. All notice required under this Lease must be given by certified mail or registered mail, addressed to the proper party, at the following address:

Lessor:	Name:	City of Westminster
	Attn:	Peggy Bocard
	Address:	4800 West 92 nd Avenue
	City:	Westminster, CO 80031
	Telephone No.:	(303) 658-2211
	FAX No.:	(303) 706-3926
Lessee:	Name:	Dakota & Amanda Enterprises, L.L.C.
	Attn:	Joe Mivshek
	Address:	850 Napa Valley Drive
	City:	Ft. Collins, CO 80525
	Telephone No.:	(970) 282-9582

Either party may change the address for notice, in whole or in part, by giving the other party written notice of the new address.

13.02 Parties Bound. This agreement shall be binding upon, and inure to the benefit of, the parties to this Lease and their respective heirs, executors, administrators, legal representatives, successors, and assigns when permitted by this agreement.

13.03 Colorado Law to Apply. This agreement shall be construed under, and in accordance with, the laws of the state of Colorado.

13.04 Legal Construction. In case any one or more of the provisions contained in this agreement shall for any reason be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of the agreement, and this agreement shall be construed as if the invalid, illegal, or unenforceable provision had never been included in the agreement.

13.05 Prior Agreements Superseded. This agreement constitutes the sole and only agreement of the parties and supersedes any prior understandings or written or oral agreements between the parties respecting the subject matter of same.

13.06 Attorney's Fees and Costs. If, as a result of a breach of this agreement by a party hereto, the other party employs an attorney or attorneys to enforce its rights under this Lease, then the prevailing party shall be paid by the other party the reasonable attorney fees and costs incurred to enforce the Lease.

13.07 Force Majeure. Neither Lessor nor Lessee shall be required to perform any term, condition, or covenant in this Lease so long as performance is delayed by Force Majeure, which shall mean acts of God, strikes, lockouts, material or labor restrictions by any governmental authority, civil riots, floods, and any other cause not reasonably within the control of Lessor or Lessee and which by the exercise of due diligence Lessor is unable, wholly or in part, to prevent or overcome.

13.08 Rights and Remedies Cumulative. The rights and remedies provided by this Lease are cumulative, and use of any one right or remedy by a party shall not preclude or waive its right to use any or all other remedies. These rights and remedies are given in addition to any other rights provided by law, statute, ordinance, or otherwise.

13.09 Time of Essence. Time is of the essence of this agreement.

The undersigned Lessor and Lessee agree that this agreement shall be effective as of the first day of September, 2009, regardless of when executed.

LESSOR: CITY OF WESTMINSTER

**LESSEE: DAKOTA & AMANDA
ENTERPRISES, L.L.C.**

By: _____
Title: _____
Date: _____

By: _____
Title: _____
Date: _____

ATTEST: _____
City Clerk

APPROVED AS TO LEGAL FORM:

City Attorney



**WESTMINSTER
COLORADO**

Agenda Memorandum

City Council Meeting
September 28, 2009



SUBJECT: Resolution No. 43 re Snow and Ice Control/Major Snow Emergency Policy

Prepared By: Ray Porter, Street Operations Manager

Recommended City Council Action

Adopt Resolution No. 43 establishing a formal policy and priorities during snowstorms and major snow emergencies.

Summary Statement

- Westminster's goal during any snowstorm is to keep primary and secondary streets open and safe for the motoring public. In addition to primary and secondary streets, priorities are given to streets adjacent to hospitals, police, fire/rescue squad stations, schools, RTD bus routes, and dangerous intersections, hills, or curves on residential streets. All remaining residential streets only receive service after the above priorities are attended to, and snow accumulations are greater than 8 inches.
- Major Snow Emergency (Category 4) – a major snowstorm greater than 8 inches of snow, possible closures due to drifting and blizzard conditions. Concentration is given to primaries and emergency facilities. Priorities to secondary and residential streets are plowed and salt/sanded as soon as possible thereafter. The acceptable level of service for residential roadways is to provide a navigable surface; this is, the street may have snow or packed ice on it but plowing and material application allows a vehicle to travel the street safely on at least one center lane. When plowing is required, windrows of snow across driveways are created and opening of driveways are the responsibility of the property owner.
- Adoption of this Resolution provides direction for consistency when communicating and educating Westminster citizens and the motoring public prior to and during snow and ice control operations.

Expenditure Required: \$ 0

Source of Funds: N/A

Policy Issue

Should City Council pass Resolution to establish formal policy pertaining to Snow & Ice Control/Major Snow Emergency Operations?

Alternative

Do not pass the resolution. This action is not recommended. It is critical that Westminster’s Snow Management Team has clear direction for providing this service. By passing the resolution, City Council, City Administration and City Staff convey to Westminster citizens and the motoring public clear direction regarding snow and ice control operations.

Background Information

Westminster’s goal during any snowstorm is to keep primary and secondary streets open and safe for the motoring public. In addition to primary and secondary streets, priorities are given to: streets adjacent to hospitals, police, fire/rescue squad stations, schools, RTD bus routes, and dangerous intersections, hills, or curves on residential streets.

All remaining residential streets only receive service after the above priorities are attended to, and snow accumulations are greater than 8 inches.

Please refer to the attached map for an outline of primary and secondary routes.

- Priority 1. Primary Routes** - All arterials and major collector streets considered to be the minimum network that must be kept open to provide a transportation system covering the major traffic volume streets and providing access to hospitals, police stations, fire stations and rescue squad units.
- Priority 2. Secondary Routes** - Collector streets and select residential providing access to emergency stations, schools and bus routes.
- Priority 3. Residential Areas** – Dangerous intersections, hills, and curves.

Storm Categories

Category 1: 1 inch or less of snow resulting in icy conditions throughout the city. All primary, secondary, hazardous stops, hills and emergency facilities are salt/sanded.

Category 2: 2 inches of snow resulting in slick, slushy conditions throughout the city. Primary and secondary streets, plus hazardous stops, hills and all emergency facilities are salt/sanded and plowed.

Category 3: Greater than 2 inches of snow with wind causing blizzard conditions. All primaries are plowed, salt/sanded until the storm subsides, then secondary and residential affected by drifting are plowed and salt/sanded.

Category 4: A major snowstorm greater than 8” of snow, possible closures due to drifting and blizzard conditions. Concentration is given to primaries and emergency facilities. Priorities to secondary and residential streets are plowed and salt/sanded as soon as possible thereafter. The acceptable level of service for residential roadways is to provide a navigable surface; this is, the street may have snow or packed ice on it but plowing and material application allows a vehicle to travel the street safely on at least one center lane. When plowing is required, windrows of snow across driveways are created and opening of driveways are the responsibility of the property owner.

Major Snow Emergency (Category 4) Declared

Stage 1 - Blizzard conditions – average duration 12-18 hours

- City Hall Emergency Coordination Center (City Hall ECC) opened
- MSC Street Operations Emergency Center (MSC EOC) opened
- Call Center at MSC EOC is staffed 24 hours a day until post storm operations are completed.
- Contractual assistance is deployed
- Primary roadways and emergency facilities maintained

Stage 2 – Snow / Wind Ends – average duration 12 hours

- Widen primaries
- Service secondary
- Plow/De-ice residentials
- Residential streets may remain hard packed but accessible until snow melts

Stage 3 – Post Storm – (simultaneous with Stage 2) – average duration 12 hours

- Hauling operations
- Intersection cleanup
- Bus shelters and cluster mailboxes cleaned up
- Storm drains serviced as necessary

Staff will place 27 contractor's machines with operators on standby 24 hours in advance of a predicted imminent storm. 18 pieces of contractual equipment and operators will be deployed for Stage 1 and 2 to assist Snowfighters and Public Safety personnel during blizzard operations and plowing operations once the snow/wind ends. An additional 9 pieces of contractual equipment will be deployed for Stage 3 operations.

Every effort will be made to respond to citizen's requests once Stage 1 Emergency Operations have ended.

As soon as Stage 2 Operations commence residential plowing will begin in an effort to plow streets sooner and minimize hard pack as much as possible.

The Snow and Ice Control Program supports City Council's goal and objective of a "Safe and Secure Community" by providing navigable roadways during the winter months for the motoring public.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

RESOLUTION

RESOLUTION NO. **43**

INTRODUCED BY COUNCILLORS

SERIES OF 2009

**A RESOLUTION ADOPTING A POLICY AND SETTING PRIORITIES FOR SNOW
REMOVAL AND MAJOR SNOW EMERGENCY OPERATIONS**

WHEREAS, the City of Westminster, Colorado (the “City”) is a legal and regularly created, established, organized and existing corporation under the provisions of Article XX of the Constitution of the State of Colorado and the City Charter; and

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

WHEREAS, the City’s goal during any snow storm is to keep primary and secondary streets open and safe for the motoring public; and

WHEREAS, it is desirable to formalize a Snow and Ice Control Policy; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WESTMINSTER:

The City’s snow removal and ice control resources shall be deployed in accordance with the following priorities:

I. Routes

- Priority 1. Primary Routes** - All arterials and major collector streets considered to be the minimum network that must be kept open to provide a transportation system covering the major traffic volume streets and providing access to hospitals, police stations, fire stations and rescue squad units.
- Priority 2. Secondary Routes** - Collector streets and select residential providing access to emergency stations, schools and bus routes.
- Priority 3. Residential Areas** – Intersections, hills, and curves deemed to be potentially hazardous based on current conditions and information.

All remaining residential streets may receive service after the above priorities are attended to, and snow accumulations are greater than 8 inches.

II. Storm Conditions

Category 1: One (1) inch or less of snow resulting in icy conditions throughout the City. All primary, secondary, hazardous stops, hills and emergency facilities are salt/sanded.

Category2: Two (2) inches of snow resulting in slick, slushy conditions throughout the City. Primary and secondary streets, plus hazardous stops, hills and all emergency facilities are salt/sanded and plowed.

Category 3: Greater than 2 inches of snow with wind causing blizzard conditions. All primaries are plowed, salt/sanded until the storm subsides, then secondary and residential affected by drifting are plowed and salt/sanded.

Category 4: A major snowstorm greater than 8” of snow, possible closures due to drifting and blizzard conditions. Concentration is given to primaries and emergency facilities. Priority is given to secondary and residential streets are plowed and salt/sanded as soon as possible thereafter. The acceptable level of service for residential roadways is to provide a navigable surface; this is, the street may have snow or packed ice on it but plowing and material application allows a vehicle to travel the street safely on at least one center lane. When plowing is required, windrows of snow across driveways are created and opening of driveways are the responsibility of the property owner.

III. Major Snow Emergencies

Stage 1 - Blizzard conditions

- City Hall Emergency Coordination Center (City Hall ECC) opened
- MSC Street Operations Emergency Center (MSC EOC) opened
- Call Center at MSC EOC is staffed 24 hours a day until post-storm operations are completed
- Contractual assistance is deployed
- Primary roadways and emergency facilities maintained

Stage 2 – Snow / Wind Ends

- Widen primaries
- Service secondary
- Plow/De-ice residential
- Residential streets may remain hard packed but accessible until snow melts

Stage 3 – Post-Storm

- Hauling operations
- Intersection cleanup
- Bus shelters and cluster mailboxes cleaned up
- Storm drains serviced as necessary

Staff will place contractor’s machines with operators on standby 24 hours in advance of a predicted imminent storm. Contractual equipment and operators will be deployed for Stage 1 and 2 to assist Snowfighters and Public Safety personnel during blizzard operations and plowing operations once the snow/wind ends. Additional contractual equipment will be deployed for Stage 3 operations.

Every effort will be made to respond to citizen’s requests, once Stage 1 Emergency Operations have ended.

As soon as Stage 2 Operations commence, residential plowing will begin in an effort to plow streets sooner and minimize hard pack as much as possible.

PASSED AND ADOPTED this 28th day of September, 2009.

Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

City Clerk

City Attorney



Snow & Ice Control Map

City of Westminster Streets

— Primary Routes

— Secondary Routes

Streets not maintained by City of Westminster

— Colorado Dept. of Transportation

— Adams County

— City of Arvada

— City & County of Broomfield

— City of Northglenn

— City of Thornton

