



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) is 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.

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

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

8. Consent Agenda
 - A. Financial Report for September 2011
 - B. Quarterly Insurance Claims Report: July – September 2011
 - C. Reimbursement Agreement with Trust for Public Land
 - D. Swim and Fitness Center Renovation Contingency Increase
 - E. Intergraph Corporation Computer Systems Software Upgrade
 - F. 2011 Utility Capital Improvement Program Funding Modifications
 - G. Lowell Boulevard Water Main Construction Contracts
 - H. Big Dry Creek Wastewater Treatment Facility – Solids Enhancement and Optimization Project Construction Contracts
 - I. Second Reading of Councillor's Bill No. 31 re Comprehensive Land Use Plan Amendments
 - J. Second Reading of Councillor's Bill No. 32 re Amendment to the Adopted 2012 Budget

9. Appointments and Resignations

10. Public Hearings and Other New Business

- A. Resolution No. 34 re City of Westminster's Debt Policy
- B. Resolution No. 35 re 2012 Jefferson County Open Space Local Park and Recreation Grant Application
- C. Councillor's Bill No. 33 re Natural Resource Damage Funds Supplemental Appropriation
- D. Councillor's Bill No. 34 re Annual Updates to the W.M.C. re Land Use and Engineering Standards
- E. Councillor's Bill No. 35 re Amend the W.M.C. re Rental Licensing Exemption for Life Care Institutions
- F. Revised Employment Agreement with John A. Stipech
- G. Councillor's Bill No. 36 re Municipal Judge Salary

11. Old Business and Passage of Ordinances on Second Reading

12. Miscellaneous Business and Executive Session

- A. City Council

13. Adjournment

WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY MEETING (separate agenda)



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.

Strategic Plan

2011-2016
Goals and Objectives

FINANCIALLY SUSTAINABLE CITY GOVERNMENT PROVIDING EXCEPTIONAL SERVICES

- Invest in well-maintained and sustainable city infrastructure and facilities
- Secure and develop long-term water supply
- Focus on core city services and service levels as a mature city with adequate resources
- Maintain sufficient reserves: general fund, utilities funds and self insurance
- Maintain a value driven organization through talent acquisition, retention, development and management
- Institutionalize the core services process in budgeting and decision making
- Maintain and enhance employee morale and confidence in City Council and management
- Invest in tools, training and technology to increase organization productivity and efficiency



STRONG, BALANCED LOCAL ECONOMY

- Maintain/expand healthy retail base, increasing sales tax receipts
- Attract new targeted businesses, focusing on primary employers and higher paying jobs
- Develop business-oriented mixed use development in accordance with Comprehensive Land Use Plan
- Retain and expand current businesses
- Develop multi-modal transportation system that provides access to shopping and employment centers
- Develop a reputation as a great place for small and/or local businesses
- Revitalize Westminster Center Urban Reinvestment Area



SAFE AND SECURE COMMUNITY

- Citizens are safe anywhere in the City
- Public safety departments: well equipped and authorized staffing levels staffed with quality personnel
- Timely response to emergency calls
- Citizens taking responsibility for their own safety and well being
- Manage disaster mitigation, preparedness, response and recovery
- Maintain safe buildings and homes
- Protect residents, homes, and buildings from flooding through an effective stormwater management program



VIBRANT NEIGHBORHOODS IN ONE LIVABLE COMMUNITY

- Develop transit oriented development around commuter rail stations
- Maintain and improve neighborhood infrastructure and housing
- Preserve and restore historic assets
- Have HOAs and residents taking responsibility for neighborhood private infrastructure
- Develop Westminster as a cultural arts community
- Have a range of quality homes for all stages of life (type, price) throughout the City
- Have strong community events and active civic engagement



BEAUTIFUL AND ENVIRONMENTALLY SENSITIVE CITY

- Have energy efficient, environmentally sensitive city operations
- Reduce energy consumption citywide
- Increase and maintain greenspace (parks, open space, etc.) consistent with defined goals
- Preserve vistas and view corridors
- A convenient recycling program for residents and businesses with a high level of participation



Mission statement: We deliver exceptional value and quality of life through SPIRIT.

CITY OF WESTMINSTER, COLORADO
MINUTES OF THE CITY COUNCIL MEETING
HELD ON MONDAY, OCTOBER 10, 2011, AT 7:00 P.M.

PLEDGE OF ALLEGIANCE

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

ROLL CALL

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

CONSIDERATION OF MINUTES

Mayor Pro Tem Dittman moved, seconded by Councillor Kaiser, to approve the minutes of the regular meeting of September 26, 2011, as presented. The motion carried unanimously.

CITY MANAGER'S REPORT

Mr. McFall reported that the month of October had five Mondays and there would be no meeting of City Council on October 31. He reminded everyone that November 1 was Election Day, at which the races for three City Councillor offices would be decided. The public was encouraged to become informed about each candidate and to exercise the privilege of voting. The election was being conducted by mail ballot and ballots were being mailed from October 11 through 14.

At the conclusion of this City Council meeting, the Westminster Economic Development Authority Board of Directors and the Board of Directors of the City's seven General Improvement Districts would convene meetings to consider the 2012 budget of each entity. Following adjournment of those meetings, the Council would conduct a post-meeting in the Board Room to discuss FasTrack ballot language and determine the City's position. When that meeting adjourned, the Council would convene an executive session, as allowed by provisions of the Westminster Municipal Code and the Colorado Revised Statutes, to discuss the City Attorney's annual performance evaluation.

COUNCIL REPORTS

Mayor Pro Tem Dittman reported that following five days of temperatures in the mid 80s, Colorado weather turned to Alaska-type conditions on Saturday, October 8, when many outdoor events were scheduled. So much planning had gone into preparing for the Westminster Orchard Festival, the Westminster High School Homecoming Parade, and all-day festivities to celebrate the City's Centennial. It was very unfortunate that the Festival had to be cancelled, but it could not be avoided given the day of cold, rainy weather.

Councillor Briggs invited everyone to the next Centennial Lecture Series that would be held October 13 in the Ice Centre at the Promenade. The lecture would focus on the first recreation special district established in the State of Colorado, Hyland Hills Parks and Recreation District.

Mayor McNally was pleased to have attended the Gateway to Colorado event where students from Adams 12 Five Star School District and Adams 50 School District had participated in a panel discussion to relate their stories of personal challenge and how they had overcome adversity through the Gateway to Colorado program. The program was sponsored by Front Range Community College through grant assistance they had received. Without the program many of the students who had reported their successes likely would have been on the streets with no resources to change their life paths. DeVry University had celebrated 80 years and the Mayor had attended that celebration, too. Saturday evening had been the North Metro Child Advocacy Dinner. Councillor Kaiser was involved in that worthwhile organization and was instrumental in planning the event. The Mayor thanked Westminster High School for inviting the City Council to participate in the Homecoming Parade. Everyone was soaked and very cold, but Council was pleased to participate. In conclusion, Mayor McNally reported that

Mayor Pro Tem Dittman was starring as the main villain in the melodrama being presented at the Westminster Grange on October 15. There would be an afternoon and evening performance. Either performance presented an opportunity to boo and hiss the character played by the Mayor Pro Tem.

PRESENTATIONS

Councillor Kaiser read a proclamation, signed by the Mayor, to declare October 23 through 31 to be Red Ribbon Week. This year's theme was "It's Up to Me to Be Drug-free." The proclamation was accepted by Eleanor Scott of the Westminster Area Community Awareness Action Team Board of Directors, who thanked the City Council for its participation in Red Ribbon Week since 1981.

CITIZEN COMMUNICATION

Carole Pool, 11420 Quivas Way, voiced her dismay in being required to pay a \$6 fee to prove her residency and qualify for resident rates at the City Park Recreation Center. As a 30-year resident of Westminster, she was disappointed.

CONSENT AGENDA

The following actions were submitted for Council's consideration on the consent agenda: based on the report of the City Manager, City Council found that the public interest would be best served by accepting the bid for banking services from KeyBank National Association for one year at an amount not to exceed \$20,000 annually and subject to renewal for four additional one-year terms at an amount not to exceed \$20,000 per year; authorize the purchase of one replacement Ford MEDTEC ambulance from Front Range Fire Apparatus in the amount of \$124,229 and authorize Staff to proceed with the purchase from available General Capital Outlay Replacement Funds-Public Safety Tax; and authorize the City Manager to execute a contract with the low bidder, Noraa Concrete Construction Corporation, in the amount of \$72,360 for the Lexington Place Roadway Improvement Project and authorize a \$10,000 construction contingency.

No one asked to remove any item for individual consideration, and Councillor Major moved, seconded by Councillor Kaiser, to approve the consent agenda as presented. The motion carried unanimously.

PUBLIC HEARING CONCERNING HYLAND VILLAGE SUBDIVISION CONTINUED

At 7:20 p.m. the Mayor opened a public hearing to consider the Second Amended Preliminary Development Plan and Eighth Amended Official Development Plan for Hyland Village Subdivision. Mr. McFall relayed Staff's recommendation that the hearing be opened and continued to a date uncertain.

It was moved by Councillor Major, seconded by Mayor Pro Tem Dittman, to continue this public hearing to a date uncertain. The motion passed with all Councillors voting affirmatively.

PUBLIC HEARING ON AMENDMENTS TO THE COMPREHENSIVE LAND USE PLAN

At 7:32 p.m. the Mayor opened a public hearing to consider amendments to the Comprehensive Land Use Plan (CLUP) identified during Staff's annual review of the plan. Jana Easley, Principal Planner, entered into the record the agenda memorandum and attached documentation, as well as the legal notice of the public hearing. Staff had found two CLUP map updates for Council's consideration. Both pertained to City-owned properties purchased in 2010 for open space. If approved, the land use designation on CLUP maps would be changed to reflect City-owned Open Space.

Council had no questions, and the Mayor opened the hearing for public testimony. No one wished to speak, and the hearing was closed at 7:25 p.m.

COUNCILLOR'S BILL NO. 31 AMENDING THE COMPREHENSIVE LAND USE PLAN

It was moved by Mayor Pro Tem Dittman and seconded by Councillor Winter to pass on first reading Councillor's Bill No. 31 approving the Comprehensive Land Use Plan amendments as proposed based on finding that the proposed amendments would be in the public good and that: there was justification for the proposed changes and the Plan was in need of revision as proposed; the amendments were in conformance with the overall purpose and intent and the goals and policies of the Plan; the proposed amendments were compatible with existing and planned surrounding land uses; and the proposed amendments would not result in excessive detrimental impacts to the City's existing or planned infrastructure systems. At roll call, the motion passed with all Councillors voting affirmatively.

RESOLUTION NO. 32 RE HEARING ON WESTMINSTER HIGH SCHOOL PROPERTY ANNEXATION

Upon a motion by Councillor Winter, seconded by Councillor Major, the Council voted unanimously on roll call vote to adopt Resolution No. 32 reaffirming the findings required by State Statute on the sufficiency of the petition and setting a new hearing date of November 28, 2011, for the annexation hearing concerning the Westminster High School Property Annexation.

HUMAN SERVICES BOARD RECOMMENDATION FOR 2012 FINANCIAL SUPPORT

Councillor Major moved to accept the Human Services Board recommendations and to authorize payment for 2012 funding as outlined in Attachment A to the Agenda Memorandum, which identified the agencies that the City of Westminster would provide financial support to during FY2012 and the associated dollar amounts. Councillor Kaiser seconded the motion and it passed unanimously.

COUNCILLOR'S BILL NO. 32 AMENDING THE ADOPTED 2012 BUDGET

It was moved by Councillor Briggs and seconded by Councillor Kaiser to pass on first reading Councillor's Bill No. 32 amending the FY2012 budgets of the General, General Reserve, General Fund Stabilization Reserve, Utility, Utility Rate Stabilization Reserve, Utility Capital Project Reserve, Storm Drainage, Golf Course, Fleet Maintenance, General Capital Outlay Replacement, Sales & Use Tax, Parks Open Space & Trails (POST), General Capital Improvement and Debt Service Funds. At roll call, the motion passed unanimously.

RESOLUTION NO. 33 ADOPTING 2012 AMENDED PAY PLAN

Councillor Winter moved, seconded by Councillor Major, to adopt Resolution No. 33 amending the 2012 Pay Plan previously approved by Council. The motion passed unanimously on roll call vote.

2012 EMPLOYEE MEDICAL/DENTAL INSURANCE CONTRACT RENEWALS, PLANS & RATES

It was moved by Mayor Pro Tem Dittman, seconded by Councillor Kaiser, to authorize the City Manager to renew contracts with Cigna and Kaiser Permanente for healthcare and Delta Dental for dental coverage for City employees; authorize the continuation of a four-tier rate structure with the employer and employee premium rates as presented. The motion carried with all Council members voting affirmatively.

2012 EMPLOYEE LIFE, LONG-TERM DISABILITY AND SURVIVOR INCOME BENEFIT CONTRACT

Mayor Pro Tem Dittman moved, seconded by Councillor Major, to authorize the City Manager to enter into a contract with Cigna for Life, Long-term Disability and Survivor Income Benefit group insurance for benefited City employees. The motion passed unanimously.

ADJOURNMENT

There being no further business to come before the City Council, it was moved by Councillor Kaiser, seconded by Mayor Pro Tem Dittman, to adjourn. The motion carried and the meeting adjourned at 7:30 P.M.

ATTEST:

Mayor

City Clerk



Agenda Memorandum

City Council Meeting
October 24, 2011



SUBJECT: Financial Report for September 2011
Prepared By: Tammy Hitchens, Finance Director

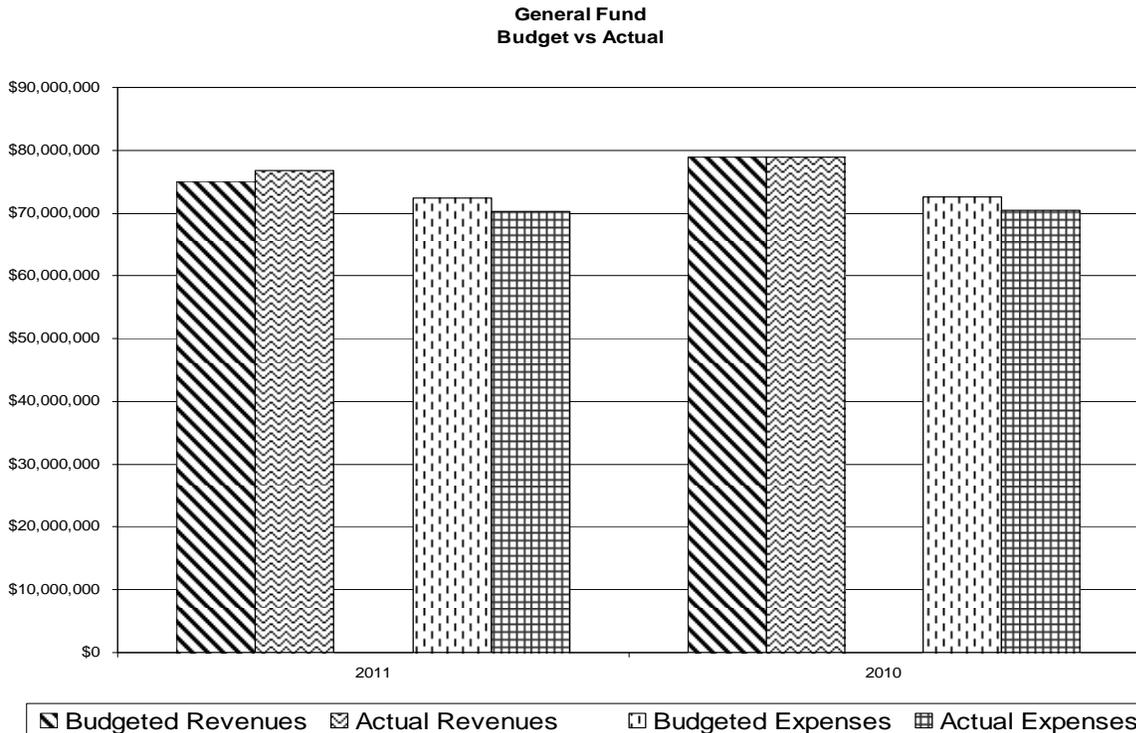
Recommended City Council Action

Accept the Financial Report for September as presented.

Summary Statement

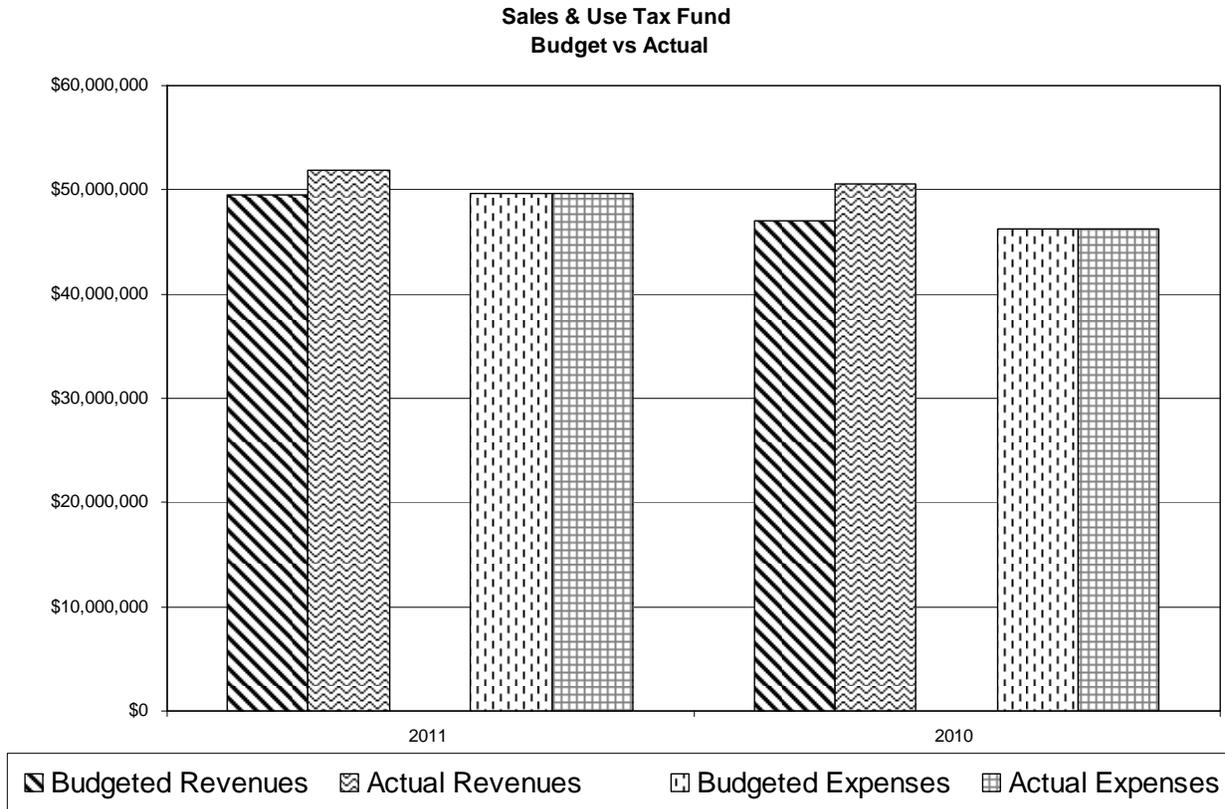
City Council is requested to review and accept the attached monthly financial statement. The Shopping Center Report is also attached. Unless otherwise indicated, "budget" refers to the pro-rated budget. Revenues also include carryover where applicable. The revenues are pro-rated based on 10-year historical averages. Expenses are also pro-rated based on 9-year historical averages.

The General Fund revenues and carryover exceed expenditures by \$6,600,689. The following graph represents Budget vs. Actual for 2010-2011.

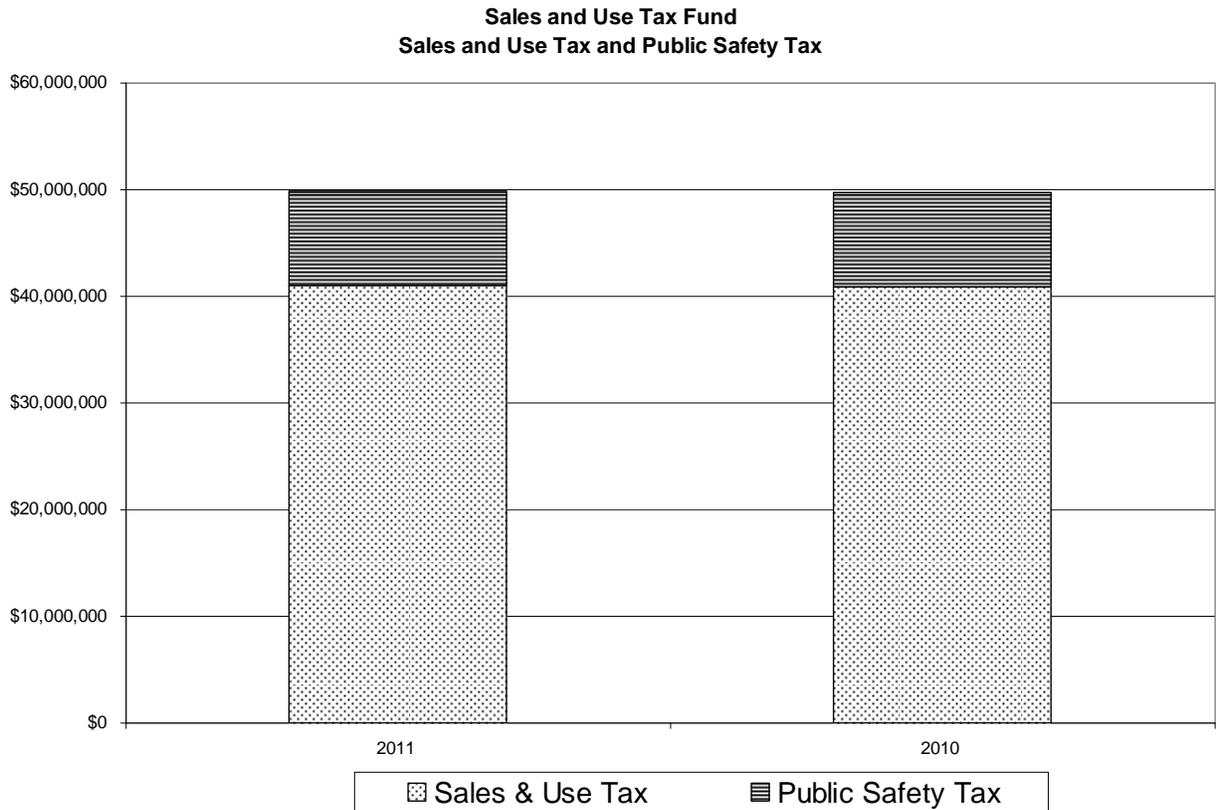


The Sales and Use Tax Fund revenues and carryover exceed expenditures by \$2,208,273. On a year-to-date cash basis, total sales and use tax is up 0.3% from 2010. Key components are listed below:

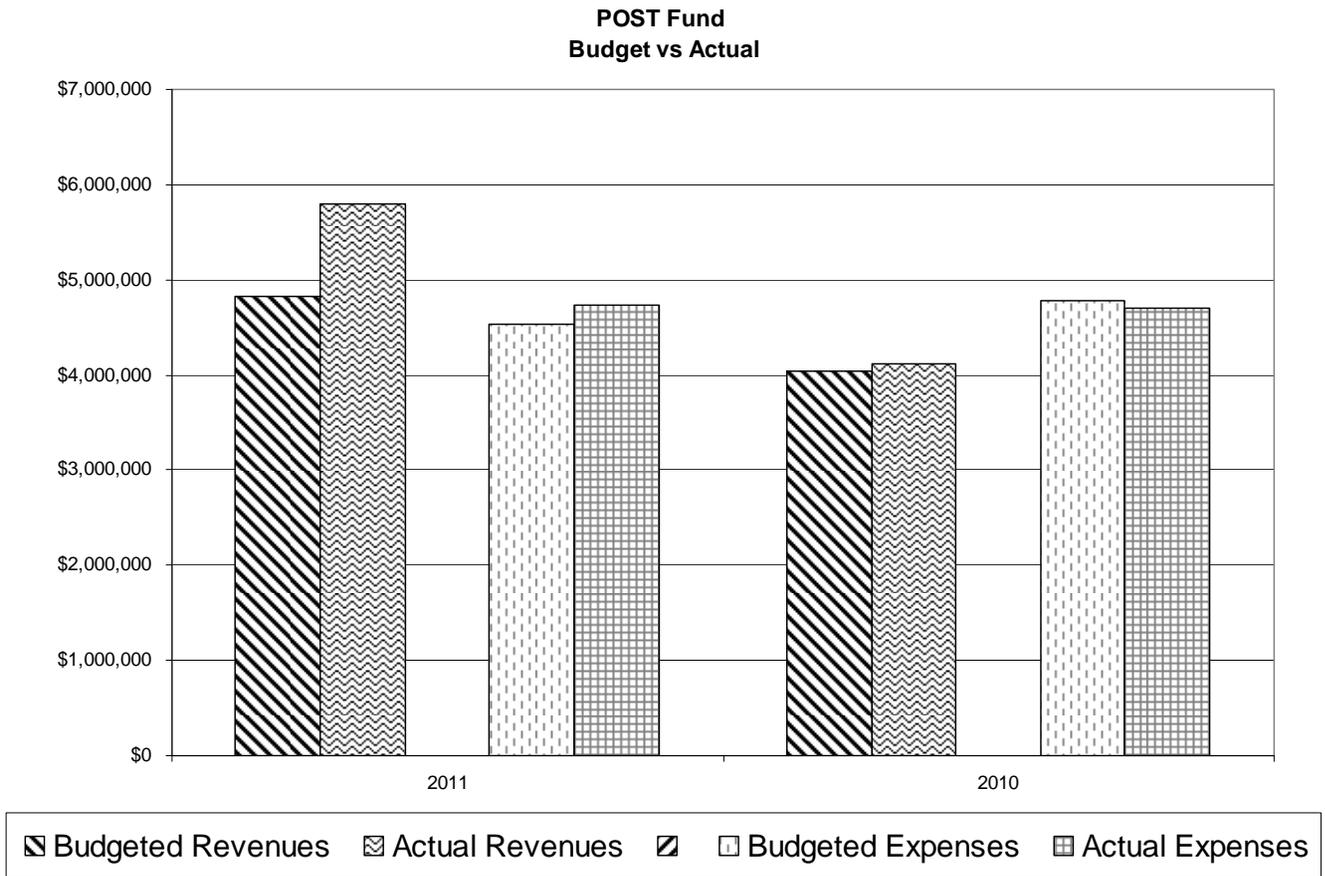
- On a year-to-date basis, across the top 25 shopping centers, total sales and use tax receipts are even with last year.
- Sales tax receipts from the top 50 Sales Taxpayers, representing about 63.2% of all collections, are up 6.89% for the month.
- Urban renewal areas make up 41.2% of gross sales tax collections. After urban renewal area and economic development assistance adjustments, 81.0% of this money is being retained for General Fund use.



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 \$1,051,970.



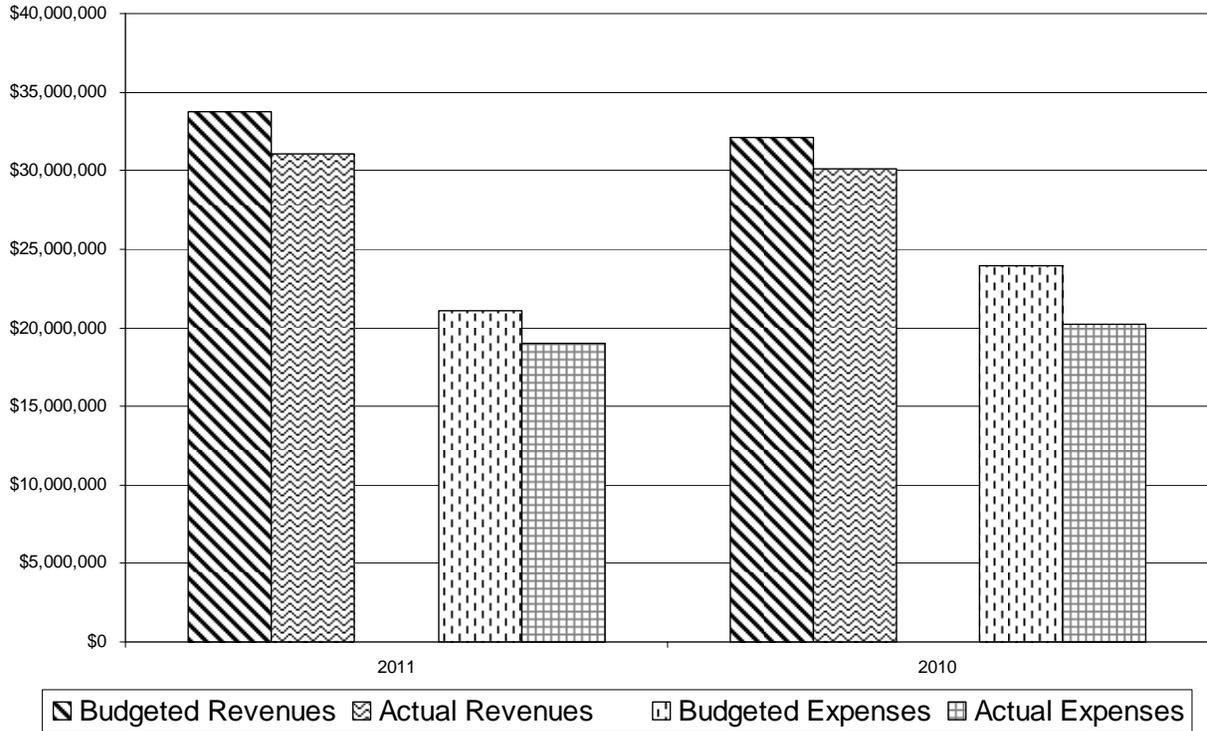
The increase in revenues in 2011 compared to 2010 is due to intergovernmental receipts and the timing of a transfer payment from the General Capital Improvement Fund for reimbursement of prior year right of way purchases, which in 2010 was not made until December.

2011 revenues significantly exceed the budget due to receipt of grant reimbursements that were budgeted in the prior year.

Expenditures exceeded budget primarily due to the spend down of anticipated grant funding not yet appropriated. The grant award is expected within the next few months and will be presented to Council for appropriation at that time.

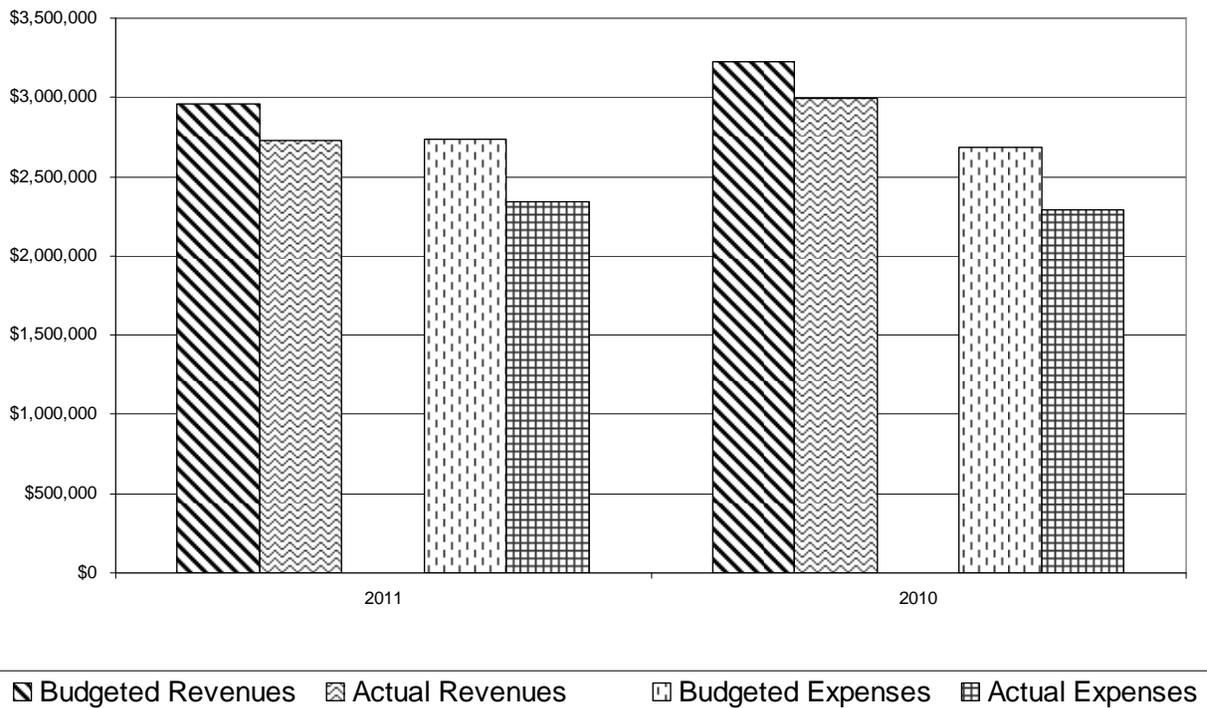
The combined Water & Wastewater Fund revenues and carryover exceed expenses by \$15,323,430. Operating revenues exceed operating expenses by \$12,066,417. \$11,952,000 is budgeted for capital projects and reserves.

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



The combined Golf Course Fund revenues exceed expenses by \$384,858.

**Golf Course Enterprise
Operating 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

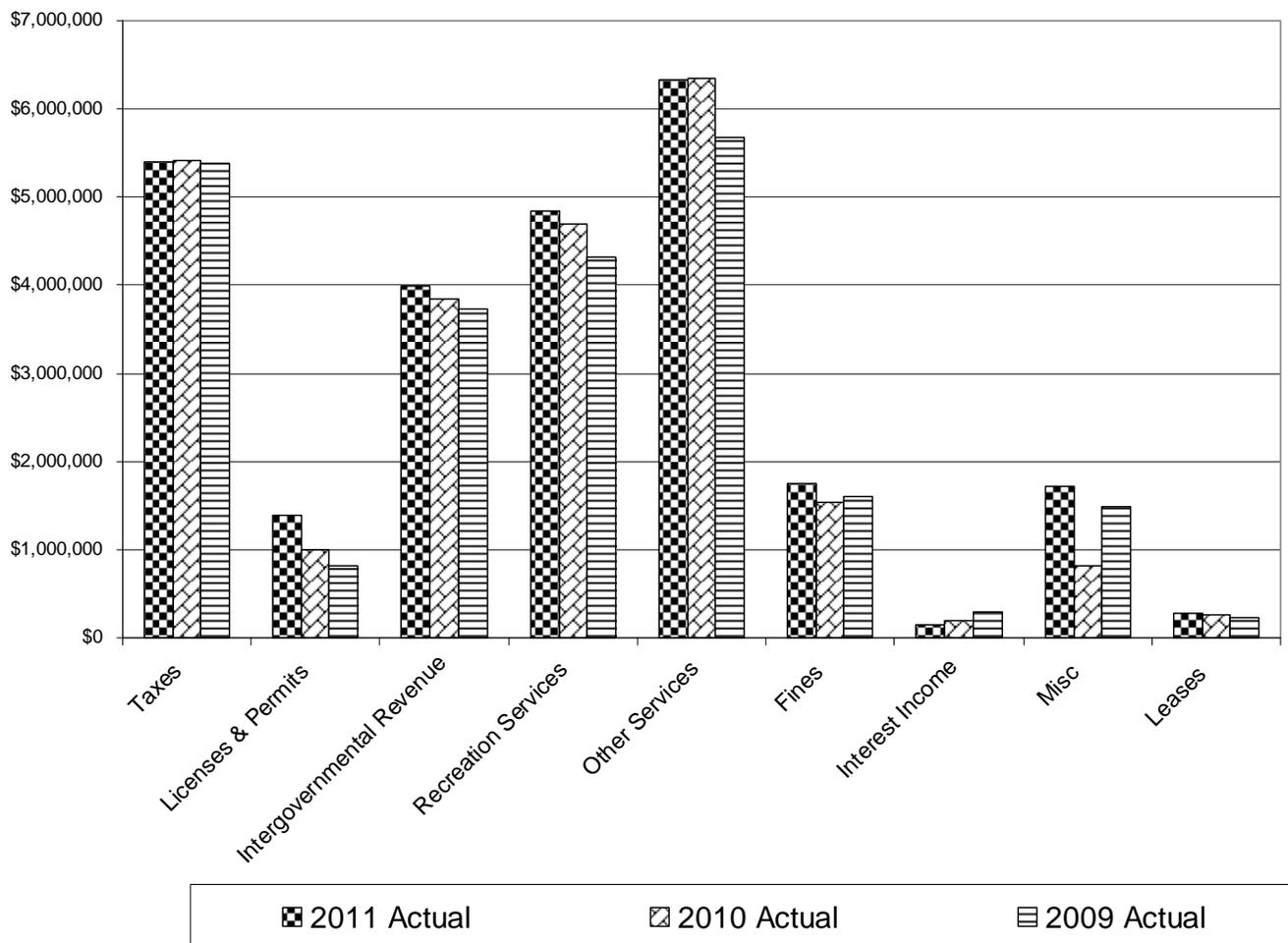
This section includes a discussion of highlights of each fund presented.

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 2009-2011 year-to-date.

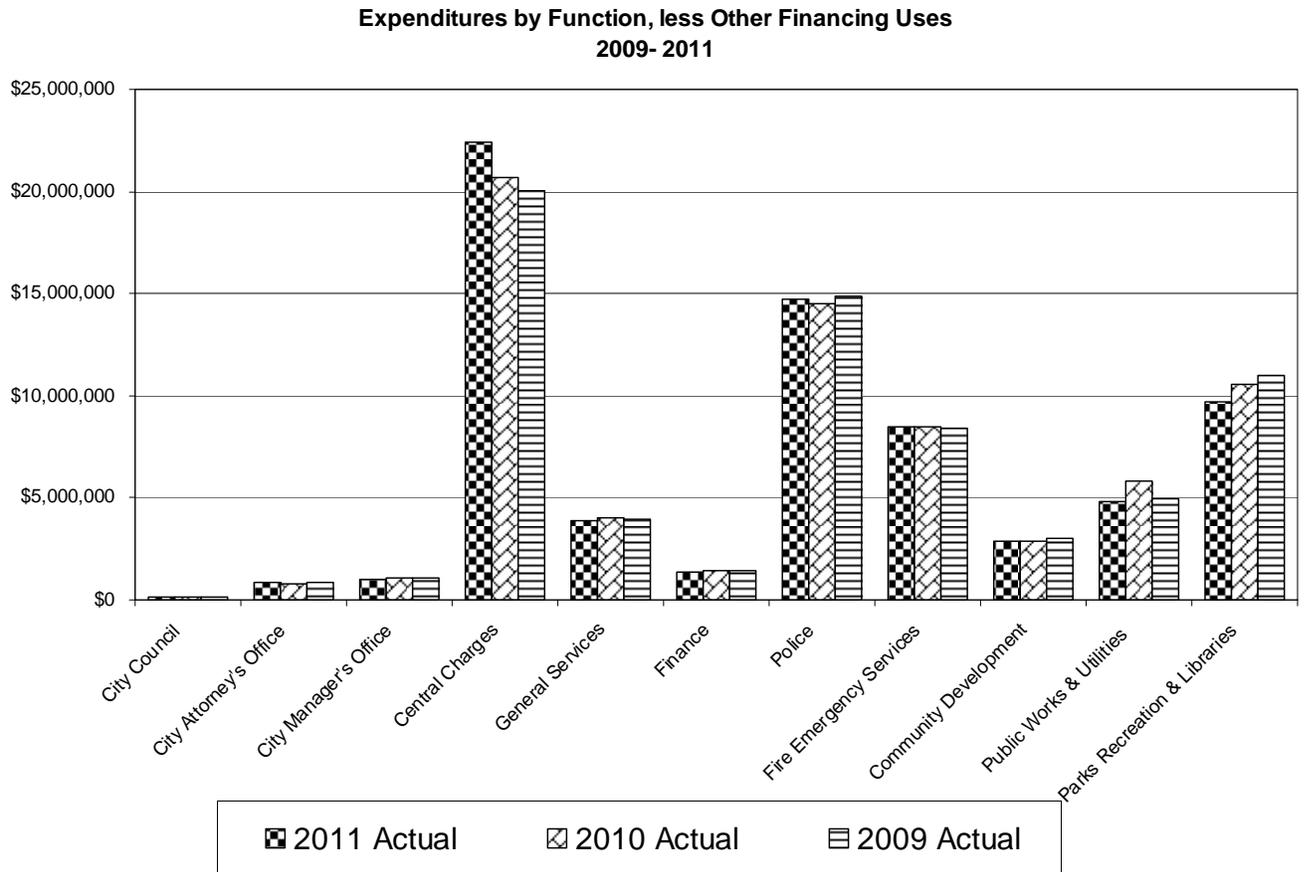
**General Fund Revenues without Transfers, Carryover, and Other Financing Sources
2009- 2011**



Significant differences between years in General Fund revenue categories are explained as follows:

- License and Permits is up primarily due to Jefferson County commercial and Adams County residential building permit revenue.
- Miscellaneous is up primarily due to the timing of a reimbursement typically not billed until October.

The following chart identifies where the City is focusing its resources. The chart shows year-to-date spending for 2009 –2011.



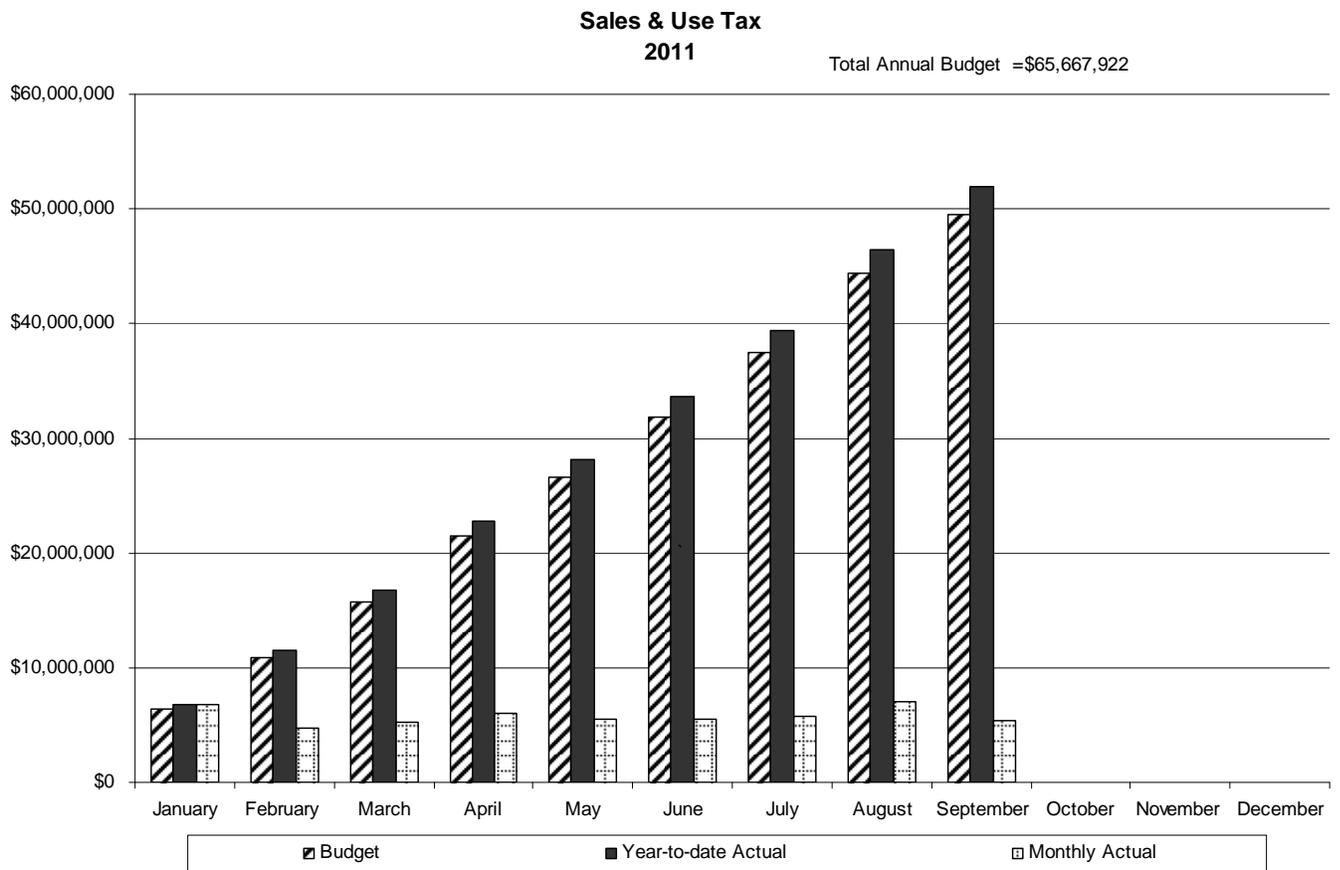
Significant differences between years in General Fund expenditure categories are explained as follows:

- 2010 Central Charges reflects a one time transfer of carryover to WEDA for the purchase of the Westminster Mall.

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, and the Debt Service Fund. The Parks, Open Space, and Trails Sales & Use Tax Fund revenues are pledged to meet debt service on the POST bonds, pay bonds related to the Heritage Golf Course, 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. This chart does not include Parks, Open Space, and Trails Sales & Use Tax.

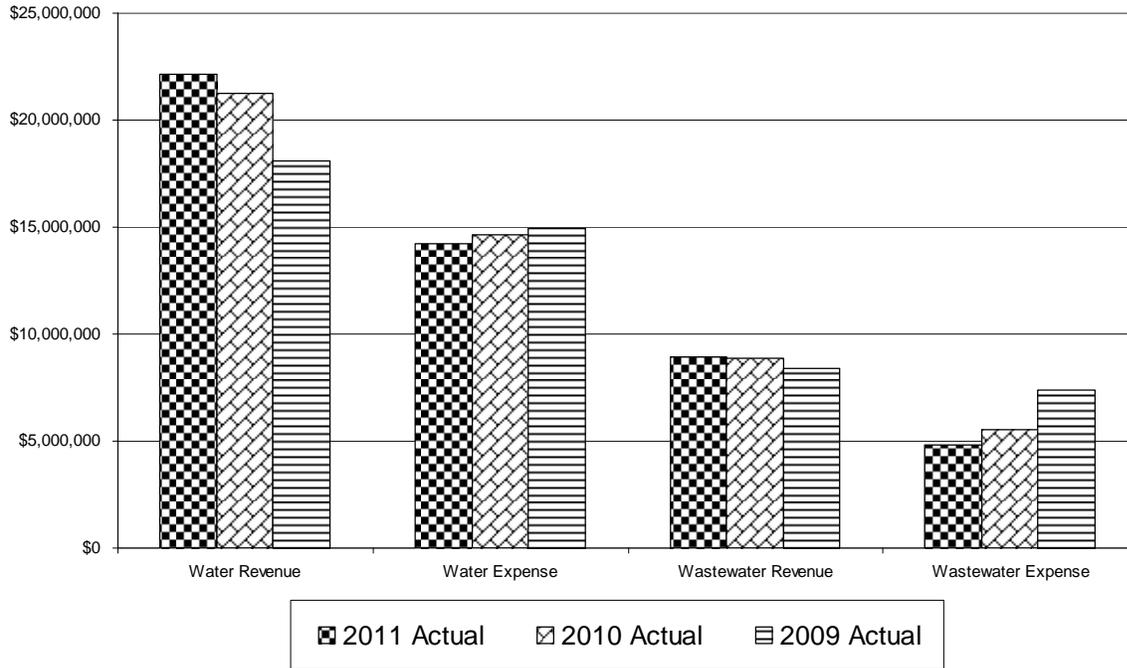


Water, Wastewater and Storm Water Drainage Funds (The Utility Enterprise)

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.

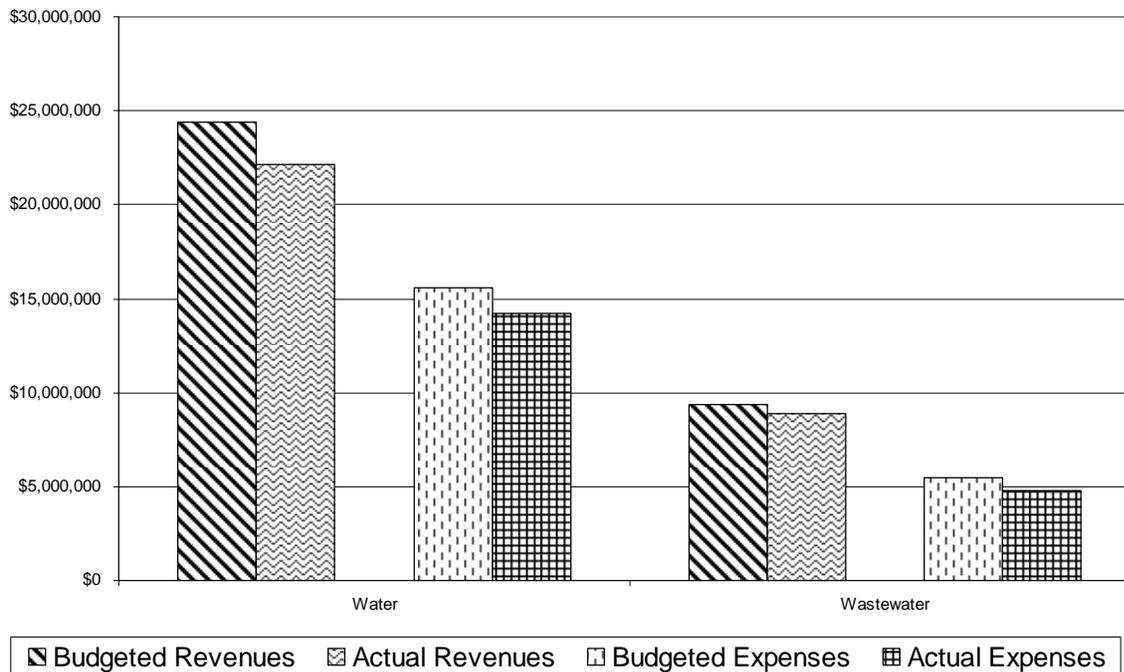
These graphs represent segment information for the Water and Wastewater funds.

**Water and Wastewater Funds
Operating Revenue and Expenses 2009-2011**



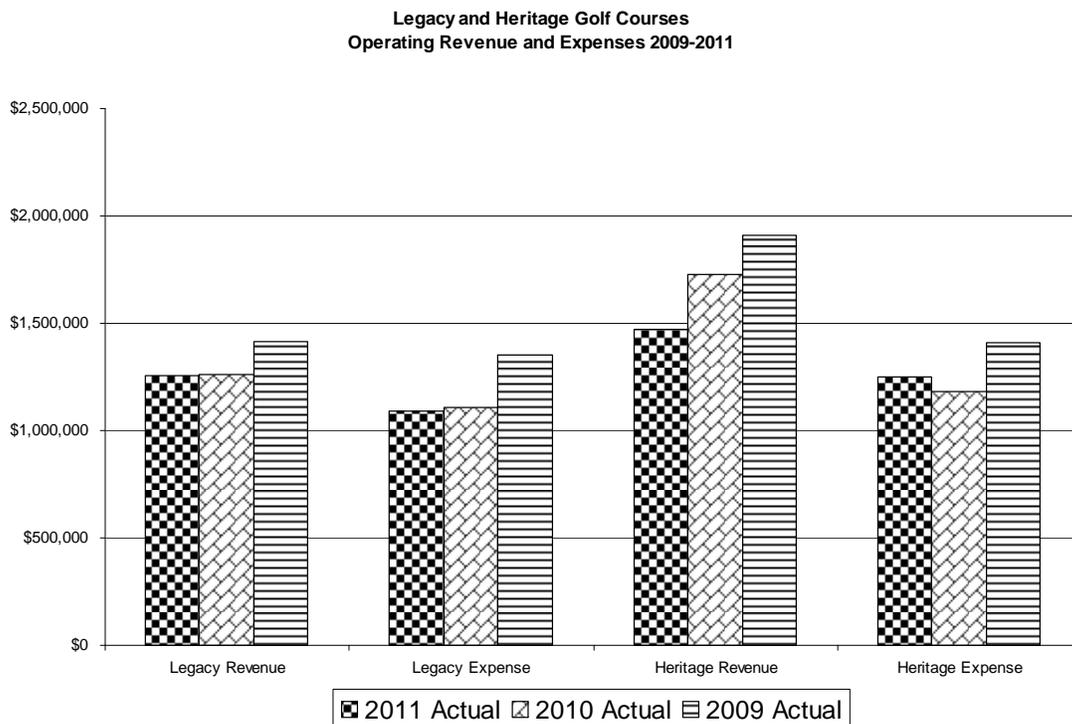
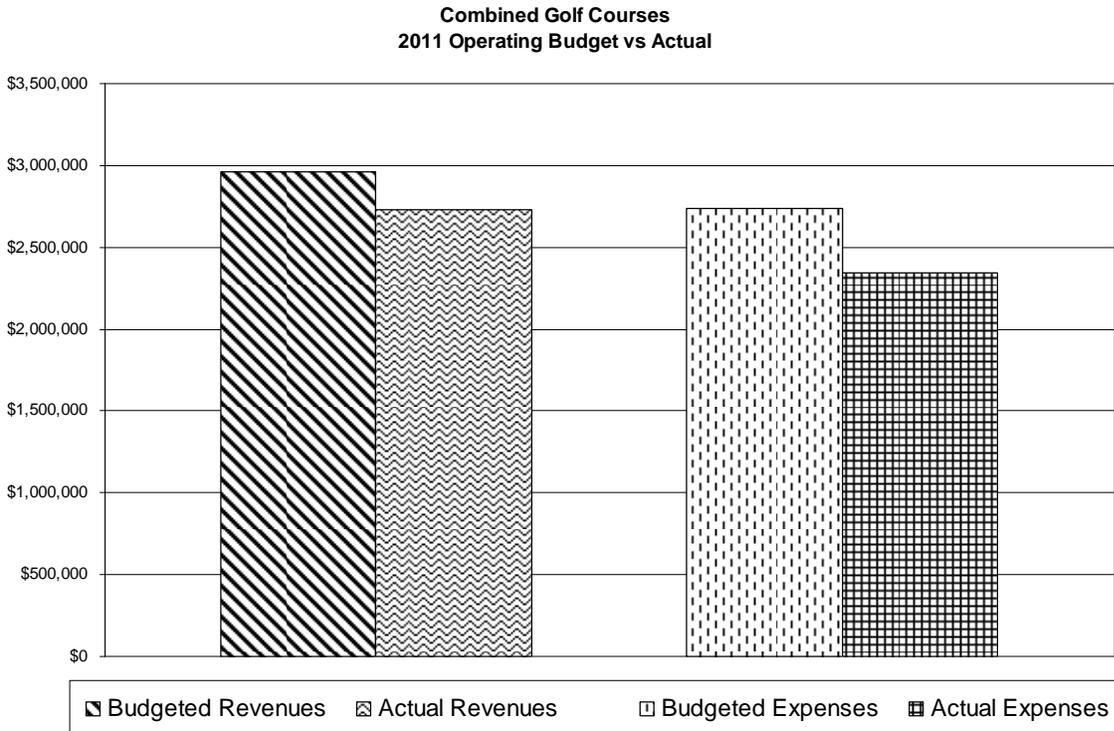
The Water Fund revenue variance between years is due to the effect of climatic variations on water consumption as well as changes in billing rates. A one-time vendor payment to decommission the 94th and Quitman lift station is reflected in the 2009 Wastewater Fund expense.

**Water and Wastewater Funds
2011 Operating Budget vs Actual**



Golf Course Enterprise (Legacy and Heritage Golf Courses)

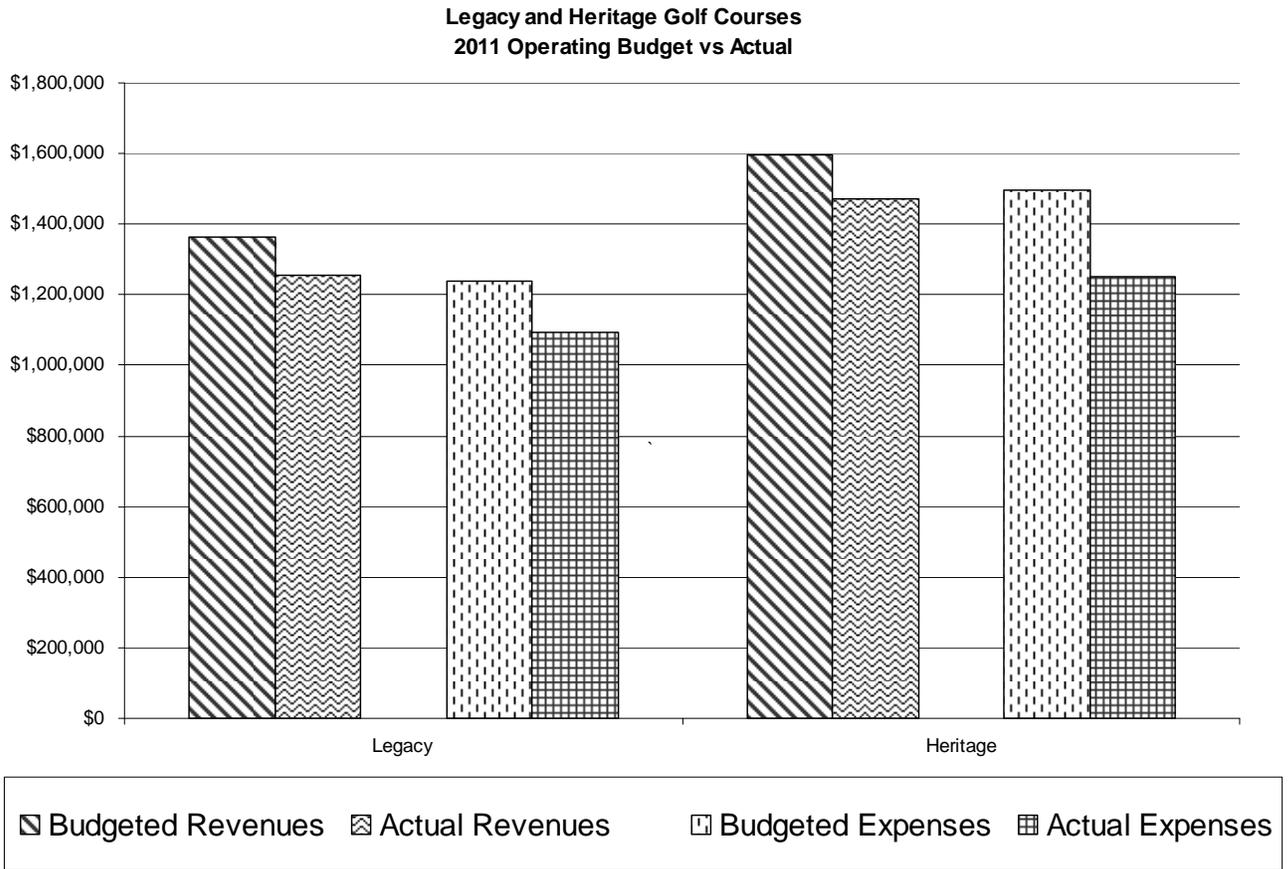
This enterprise reflects the operations of the City’s two municipal golf courses.



Capital lease financing in 2009 accounts for the variances between years in revenues and expenditures for both courses.

Heritage revenue is down from prior years due to a decrease in budgeted transfers.

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



This financial report supports City Council’s Strategic Plan Goal of Financially Sustainable City Government Providing Exceptional Services by communicating timely information on the results of City operations and to assist with critical decision making.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

- Financial Report
- General Receipts by Center Report

City of Westminster
Financial Report
For Eight Months Ending September 30, 2011

Description General Fund	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Revenues and Carryover						
Taxes	5,631,761	5,369,339		5,393,183	23,845	100.4%
Licenses & Permits	1,536,000	995,652		1,390,028	394,376	139.5%
Intergovernmental Revenue	4,913,842	3,464,357		3,967,412	523,055	115.1%
Charges for Services						
Recreation Services	6,232,983	4,594,691		4,840,795	246,104	105.4%
Other Services	9,458,827	6,268,706		6,328,391	59,685	101.0%
Fees	2,234,000	1,773,952		1,756,463	(17,489)	99.0%
Interest Income	292,900	185,707		144,112	(41,595)	77.6%
Miscellaneous	1,792,458	1,097,157	(1)	1,723,501	526,344	157.1%
Leases	369,181	271,114		271,114	0	100.0%
Interfund Transfers	52,335,994	47,001,995		47,001,995	0	100.0%
Sub-total Revenues	94,897,945	71,022,679		72,635,994	1,814,315	102.6%
Carryover	6,742,912	4,000,000		4,000,000	0	100.0%
Total Revenues and Carryover	101,440,858	75,022,679		76,635,994	1,814,315	102.4%
Expenditures						
City Council	240,119	183,044		133,551	(49,493)	73.0%
City Attorney's Office	1,186,119	845,642		878,058	32,416	103.8%
City Manager's Office	1,441,705	1,048,255		991,591	(56,664)	94.6%
Central Charges	33,600,838	22,629,171		22,299,558	(229,613)	98.0%
General Services	5,661,531	4,050,550		3,910,726	(149,824)	96.3%
Finance	1,957,452	1,437,471		1,380,446	(57,025)	96.0%
Police	21,021,429	14,826,250		14,860,156	(132,094)	99.1%
Fire Emergency Services	11,542,732	8,361,930		8,444,763	82,833	101.0%
Community Development	4,033,000	2,943,060		2,902,773	(40,287)	98.6%
Public Works & Utilities	7,560,378	5,565,275		4,838,974	(726,251)	87.0%
Parks, Recreation & Libraries	14,185,525	10,451,579		9,862,709	(768,870)	92.5%
Total Expenditures	101,442,856	72,352,177		70,236,305	(2,115,872)	97.1%
Revenues Over/(Under):						
Expenditures	0	2,670,502		6,600,689	3,930,187	

(1) The budget variance reflects a significant reimbursement typically received later in the year

**City of Westminster
Financial Report
For Eight Months Ending September 30, 2011**

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	43,674,740	32,756,055		33,947,067	1,191,012	103.6%
Sales Tax Audit Revenues	7,400	535,500		54,792	6,292	101.2%
S-T Rev. STX	<u>44,369,740</u>	<u>33,291,555</u>		<u>34,488,859</u>	<u>1,197,304</u>	<u>103.6%</u>
Use Tax						
Use Tax Returns	6,647,234	4,767,921		6,031,790	1,263,869	126.5%
Use Tax Audit Revenues	785,900	563,750		445,942	(142,808)	75.7%
S-T Rev. UTX	<u>7,432,234</u>	<u>5,356,671</u>		<u>6,477,732</u>	<u>1,121,061</u>	<u>120.5%</u>
Total STX and UTX	<u>51,820,974</u>	<u>39,648,226</u>		<u>40,965,591</u>	<u>2,318,365</u>	<u>106.0%</u>
Public Safety Tax						
PST Tax Returns	11,374,614	8,572,481		8,693,976	121,497	101.4%
PST Audit Revenues	305,500	229,125		197,471	(31,654)	86.2%
Total Rev. PST	<u>11,680,114</u>	<u>8,801,606</u>		<u>8,891,447</u>	<u>89,843</u>	<u>101.0%</u>
Interest Income	122,000	91,500		67,649	(23,951)	73.8%
Interfund Transfers	203,000	152,250		152,250	0	100.0%
Carryover	1,941,834	1,841,834		1,941,834	0	100.0%
Total Revenues and Carryover	<u>65,667,922</u>	<u>49,535,416</u>		<u>51,919,673</u>	<u>2,384,257</u>	<u>104.8%</u>
Expenditures						
General Charges	<u>65,667,922</u>	<u>49,711,400</u>		<u>49,711,400</u>	<u>0</u>	<u>100.0%</u>
Revenues Over/(Under) Expenditures	<u>0</u>	<u>175,984</u>		<u>2,208,273</u>	<u>2,384,257</u>	

City of Westminster
Financial Report
For Eight Months Ending September 30, 2011

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
POST Fund						
Revenues						
Sales & Use Tax	4,929,147	3,729,814		3,733,819	(25,995)	99.3%
Intergovernmental Revenue	852,229	771,000	(1)	1,827,379	1,056,378	237.0%
Interest Income	45,000	33,750		2,713	(51,037)	8.0%
Miscellaneous	92,337	69,253		29,801	(39,452)	43.0%
Interfund Transfers	230,000	226,250		226,250	0	100.0%
Total Revenues	6,148,713	4,830,067		5,799,961	350,894	119.9%
Expenditures						
Central Charges	5,920,477	4,311,025		4,595,385	275,368	106.4%
Park Services	328,236	227,832		151,606	(76,286)	66.5%
	6,148,713	4,538,919		4,737,991	199,874	104.4%
Revenues Over(Under) Expenditures	0	291,149		1,051,970	760,820	

(1) The budget variance reflects receipt of grant revenues appropriated in a prior year

City of Westminster
Financial Report
For Eight Months Ending September 30, 2011

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Water and Wastewater Funds - Combined						
Operating Revenues						
License & Permits	75,000	56,250		76,920	20,670	136.7%
Intergovernmental Revenue	0	0	(1)	258,630	258,630	
Rates and Charges	43,593,344	33,361,092		30,606,102	(2,754,990)	91.7%
Miscellaneous	425,000	318,750		122,040	(166,710)	41.4%
Total Operating Revenues	44,093,344	33,736,092		31,673,692	(2,562,400)	92.1%
Operating Expenses						
Central Charges	5,547,768	4,460,841		4,397,659	(53,142)	98.6%
Finance	553,269	474,612		427,749	(46,853)	90.1%
Public Works & Utilities	19,654,701	14,633,987		12,329,121	(1,704,966)	87.9%
Parks, Recreation & Libraries	132,272	119,045		75,356	(43,689)	63.3%
Information Technology	2,704,158	1,963,219		1,777,350	(186,869)	90.6%
Total Operating Expenses	29,297,168	21,651,704		19,037,275	(2,344,429)	90.3%
Operating Income (Loss)	14,796,156	12,084,388		12,636,417	(6,179,711)	
Other Revenue and Expenses						
Tap Fees	3,700,000	2,936,030		6,205,811	3,369,811	218.8%
Interest Income	1,015,000	761,250		317,489	(443,761)	41.7%
Sale of Assets	0	0		9,230	9,230	
Carryover	3,999,395	3,999,395		3,999,395	0	100.0%
Debt Service	(7,222,079)	(3,089,689)		(3,089,689)	0	100.0%
Reserve Transfer	(4,326,472)	(4,175,223)		(4,175,223)	0	100.0%
Total Other Revenue (Expenses)	(2,844,156)	321,733		3,257,013	2,935,283	
Increase (Decrease) in Net Assets	11,952,000	13,006,121		15,323,430	2,317,309	

(1) Budget variance reflects Build America Bond interest rate subsidy

City of Westminster
Financial Report
For Eight Months Ending September 30, 2011

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Water Fund						
Operating Revenues						
License & Permits	75,000	56,250		75,920	20,670	136.7%
Intergovernmental Revenue	0	0	(1)	258,530	258,530	
Rates and Charges	31,044,728	24,001,292		21,711,839	(2,289,453)	90.5%
Miscellaneous	415,000	311,250		122,355	(188,895)	39.3%
Total Operating Revenues	31,534,728	24,368,792		22,169,744	(2,199,043)	91.0%
Operating Expenses						
Capital Charges	4,204,923	3,153,892		3,112,927	(40,765)	98.7%
Finance	658,269	474,512		427,749	(46,853)	90.1%
Public Works & Utilities	13,973,108	9,866,571		8,811,889	(1,364,682)	89.5%
PR&L Stanley Lake	132,272	119,945		75,356	(43,689)	63.3%
Information Technology	2,704,159	1,963,219		1,777,350	(185,959)	90.5%
Total Operating Expenses	21,672,730	15,577,139		14,205,271	(1,371,956)	91.2%
Operating Income (Loss)	9,861,998	8,791,653		7,964,473	(927,180)	90.6%
Other Revenue and Expenses						
Tap Fees	3,000,000	2,335,490		4,748,435	2,445,035	206.1%
Interest Income	870,900	652,500		223,940	(428,560)	34.3%
Sale of Assets	0	0		9,230	9,230	
Carryover	3,409,305	3,409,305		3,409,305	0	100.0%
Debt Service	(5,717,453)	(2,497,635)		(2,497,635)	0	100.0%
Reserve Transfer	(3,459,850)	(3,405,234)		(3,405,234)	0	100.0%
Total Other Revenues (Expenses)	(1,697,998)	462,336		2,488,041	2,025,705	
Increase (Decrease) in Net Assets	7,964,000	9,253,989		10,452,514	1,198,525	

(*) Budget variance reflects Build America Bond interest rate subsidy

**City of Westminster
Financial Report
For Eight Months Ending September 30, 2011**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Wastewater Fund						
Operating Revenues						
Rates and Charges	12,548,616	9,359,800		8,694,263	(465,537)	95.0%
Miscellaneous	10,000	7,500		9,685	2,185	129.1%
Total Operating Revenues	<u>12,558,616</u>	<u>9,367,300</u>		<u>8,903,948</u>	<u>(463,352)</u>	95.1%
Operating Expenses						
Central Charges	1,742,865	1,307,149		1,284,772	(22,377)	98.3%
Public Works & Utilities	5,881,593	4,167,416		3,517,232	(650,184)	84.4%
Total Operating Expenses	<u>7,624,458</u>	<u>5,474,565</u>		<u>4,802,004</u>	<u>(672,561)</u>	87.7%
Operating Income (Loss)	<u>4,934,158</u>	<u>3,892,735</u>		<u>4,101,944</u>	<u>209,209</u>	105.4%
Other Revenue and Expenses						
Tap Fees	700,000	532,600		1,457,376	924,776	273.6%
Interest Income	145,000	108,750		93,549	(16,201)	86.0%
Carryover	580,090	580,090		580,090	0	100.0%
Debt Service	(1,504,626)	(592,054)		(592,054)	0	100.0%
Reserve Transfer	(666,622)	(769,989)		(769,989)	0	100.0%
Total Other Revenues (Expenses)	<u>(946,158)</u>	<u>(140,603)</u>		<u>768,972</u>	<u>909,575</u>	
Increase (Decrease) in Net Assets	<u>3,988,000</u>	<u>3,752,132</u>		<u>4,870,916</u>	<u>1,118,784</u>	

**City of Westminster
Financial Report
For Eight Months Ending September 30, 2011**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Storm Drainage Fund						
Revenues						
Charges for Services	2,047,000	1,535,250		1,486,426	(48,824)	96.6%
Interest Income	81,000	60,750		39,728	(21,022)	65.4%
Miscellaneous	0	0		424	424	
Carryover	25,454	25,454		25,454	0	100.0%
Total Revenues	<u>2,153,454</u>	<u>1,621,454</u>		<u>1,552,032</u>	<u>(69,422)</u>	95.7%
Expenses						
General Services	92,000	65,688		62,712	(2,976)	95.5%
Community Development	161,000	119,462		117,654	(1,608)	98.5%
PR&L Park Services	200,000	75,200		75,760	560	100.7%
Public Works & Utilities	323,000	204,782		197,121	(7,661)	95.3%
Total Expenses	<u>776,000</u>	<u>465,132</u>		<u>453,247</u>	<u>(11,885)</u>	97.4%
Increase (Decrease) in Net Assets	<u>1,377,454</u>	<u>1,156,322</u>		<u>1,098,785</u>	<u>(57,537)</u>	

**City of Westminster
Financial Report
For Eight Months Ending September 30, 2011**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Golf Course Funds - Combined						
Revenues						
Charges for Services	2,949,625	2,595,670		2,362,922	(232,748)	91.0%
Interfund Transfers	485,794	364,346		364,346	0	100.0%
Total Revenues	<u>3,435,419</u>	<u>2,960,016</u>		<u>2,727,268</u>	<u>(232,748)</u>	92.1%
Expenses						
Central Charges	239,008	181,105		145,714	(35,391)	80.5%
Recreation Facilities	3,196,411	2,554,290		2,196,696	(367,594)	86.0%
Total Expenses	<u>3,435,419</u>	<u>2,735,395</u>		<u>2,342,410</u>	<u>(392,985)</u>	86.6%
Increase (Decrease) in Net Assets	<u>0</u>	<u>224,621</u>		<u>384,858</u>	<u>160,237</u>	

**City of Westminster
Financial Report
For Eight Months Ending September 30, 2011**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Legacy Ridge Fund						
Revenues						
Charges for Services	1,551,299	1,365,143		1,254,601	(110,542)	91.9%
Total Revenues	<u>1,551,299</u>	<u>1,365,143</u>		<u>1,254,601</u>	<u>(110,542)</u>	91.9%
Expenses						
Central Charges	130,269	97,702		82,658	(15,044)	84.6%
Recreation Facilities	1,421,030	1,141,087		1,009,861	(131,226)	88.5%
Total Expenses	<u>1,551,299</u>	<u>1,238,789</u>		<u>1,092,519</u>	<u>(146,270)</u>	88.2%
Increase (Decrease) in Net Assets	<u>0</u>	<u>126,354</u>		<u>162,082</u>	<u>35,728</u>	

City of Westminster
Financial Report
For Eight Months Ending September 30, 2011

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Heritage at Westmoor Fund						
Revenues						
Charges for Services	1,398,326	1,230,527		1,108,321	(122,206)	90.1%
Interfund Transfers	485,794	354,346		354,348	0	100.0%
Total Revenues	<u>1,884,120</u>	<u>1,594,873</u>		<u>1,472,667</u>	<u>(122,206)</u>	92.3%
Expenses						
Central Charges	108,739	83,403		63,056	(20,347)	75.6%
Recreation Facilities	1,775,381	1,413,203		1,186,835	(226,368)	84.0%
Total Expenses	<u>1,884,120</u>	<u>1,496,606</u>		<u>1,249,891</u>	<u>(246,715)</u>	83.5%
Increase (Decrease) in Net Assets	<u>0</u>	<u>98,267</u>		<u>222,776</u>	<u>124,509</u>	

CITY OF WESTMINSTER
GENERAL RECEIPTS BY CENTER
MONTH OF SEPTEMBER 2011

Center Location Major Tenant	/----- Current Month -----/			/----- Last Year -----/			/--- %Change ---/		
	General Sales	General Use	Total	General Sales	General Use	Total	Sales	Use	Total
THE ORCHARD 144TH & I-25 JC PENNEY/MACY'S	377,709	9,482	387,191	337,906	15,463	353,369	12	-39	10
WESTFIELD SHOPPING CENTER NW CORNER 92ND & SHER WALMART 92ND	341,702	961	342,663	314,709	3,114	317,823	9	-69	8
SHOPS AT WALNUT CREEK 104TH & REED TARGET	226,978	1,061	228,040	206,899	1,542	208,441	10	-31	9
SHOENBERG CENTER SW CORNER 72ND & SHERIDAN WALMART 72ND	195,554	707	196,261	196,506	362	196,869	0	95	0
NORTHWEST PLAZA SW CORNER 92 & HARLAN COSTCO	189,455	685	190,141	181,969	1,018	182,987	4	-33	4
INTERCHANGE BUSINESS CENTER SW CORNER 136TH & I-25 WALMART 136TH	165,084	677	165,761	169,139	432	169,571	-2	57	-2
BROOKHILL I & II N SIDE 88TH OTIS TO WADS HOME DEPOT	163,331	1,081	164,412	161,987	1,017	163,004	1	6	1
SHERIDAN CROSSING SE CORNER 120TH & SHER KOHL'S	154,052	706	154,757	155,901	311	156,212	-1	127	-1
CITY CENTER MARKETPLACE NE CORNER 92ND & SHERIDAN BARNES & NOBLE	101,828	371	102,200	100,669	585	101,254	1	-37	1
NORTH PARK PLAZA SW CORNER 104TH & FEDERAL KING SOOPERS	99,324	627	99,951	94,392	287	94,680	5	118	6
WESTMINSTER MALL 88TH & SHERIDAN 3 DEPARTMENT STORES	88,333	630	88,963	135,997	1,285	137,282	-35	-51	-35
PROMENADE SOUTH/NORTH S/N SIDES OF CHURCH RANCH BLVD SHANE/AMC	65,826	16,674	82,499	62,138	25,761	87,899	6	-35	-6
STANDLEY SHORES CENTER SW CORNER 100TH & WADS KING SOOPERS	72,725	348	73,073	69,423	1,186	70,609	5	-71	3
ROCKY MOUNTAIN PLAZA SW CORNER 88TH & SHER GUITAR STORE	62,488	363	62,851	62,887	735	63,622	-1	-51	-1
LUCENT/KAISER CORRIDOR 112-120 HURON - FEDERAL LUCENT TECHNOLOGY	33,147	29,399	62,546	3,034	25,425	28,459	993	16	120

CITY OF WESTMINSTER
 GENERAL RECEIPTS BY CENTER
 MONTH OF SEPTEMBER 2011

Center Location Major Tenant	Current Month			Last Year			%Change		
	General Sales	General Use	Total	General Sales	General Use	Total	Sales	Use	Total
VILLAGE AT THE MALL S SIDE 88TH DEPEW-HARLAN TOYS 'R US	61,153	303	61,456	69,184	202	69,386	-12	50	-11
WESTMINSTER GATEWAY CHURCH RANCH BOULEVARD QUAKER STEAK & LUBE	52,147	3,011	55,158	42,763	101,310	144,073	22	-97	-62
WESTMINSTER CROSSING 136TH & I-25 LOWE'S	53,191	167	53,358	63,425	58	63,483	-16	188	-16
GREEN ACRES NORTH SIDE 112TH SHER-FED CONOCO/FRCC	51,622	0	51,622	44,103	0	44,103	17	*****	17
WESTMINSTER PLAZA FEDERAL-IRVING 72ND-74TH SAFEWAY	50,122	231	50,353	43,885	204	44,089	14	13	14
ELWAY/DOUGLAS CORRIDOR NE CORNER 104TH & FED ELWAY MOTORS	49,242	436	49,678	18,587	295	18,882	165	47	163
STANDLEY LAKE MARKETPLACE NE CORNER 99TH & WADSWORTH SAFEWAY	42,379	142	42,521	40,820	223	41,043	4	-36	4
VILLAGE AT PARK CENTRE NW CORNER 120TH & HURON CB & POTTS	40,615	639	41,254	40,458	281	40,739	0	127	1
WILLOW RUN 128TH & ZUNI SAFEWAY	33,266	195	33,461	32,342	200	32,543	3	-3	3
RANCHO PLAZA SE CORNER 72ND & FEDERAL RANCHO LIBORIO	30,869	0	30,869	29,309	0	29,309	5	*****	5
	2,802,145	68,895	2,871,039	2,678,432	181,296	2,859,728	5	-62	0

CITY OF WESTMINSTER
 GENERAL RECEIPTS BY CENTER
 SEPTEMBER 2011 YEAR-TO-DATE

Center Location Major Tenant	/----- YTD 2011 -----/	/----- YTD 2010 -----/	/--- %Change ---/						
	General Sales	General Use	Total	General Sales	General Use	Total Sales	Use	Total	
THE ORCHARD 144TH & I-25 JC PENNEY/MACY'S	3,323,155	146,936	3,470,091	2,962,182	201,487	3,163,668	12	-27	10
WESTFIELD SHOPPING CENTER NW CORNER 92ND & SHER WALMART 92ND	3,038,168	19,538	3,057,706	3,127,075	52,079	3,179,155	-3	-62	-4
SHOPS AT WALNUT CREEK 104TH & REED TARGET	2,047,740	39,551	2,087,291	2,020,720	63,939	2,084,659	1	-38	0
NORTHWEST PLAZA SW CORNER 92 & HARLAN COSTCO	1,958,045	10,946	1,968,991	1,890,216	7,300	1,897,516	4	50	4
SHOENBERG CENTER SW CORNER 72ND & SHERIDAN WALMART 72ND	1,736,315	4,974	1,741,289	1,709,977	3,772	1,713,748	2	32	2
BROOKHILL I & II N SIDE 88TH OTIS TO WADS HOME DEPOT	1,602,366	10,490	1,612,856	1,530,697	14,429	1,545,126	5	-27	4
INTERCHANGE BUSINESS CENTER SW CORNER 136TH & I-25 WALMART 136TH	1,454,600	9,808	1,464,408	1,930,820	3,872	1,934,691	-25	153	-24
SHERIDAN CROSSING SE CORNER 120TH & SHER KOHL'S	1,433,475	9,971	1,443,447	1,418,660	5,295	1,423,955	1	88	1
CITY CENTER MARKETPLACE NE CORNER 92ND & SHERIDAN BARNES & NOBLE	1,086,252	6,547	1,092,799	1,043,751	6,370	1,050,121	4	3	4
WESTMINSTER MALL 88TH & SHERIDAN 3 DEPARTMENT STORES	1,080,760	21,236	1,101,996	1,260,517	10,951	1,271,468	-14	94	-13
NORTH PARK PLAZA SW CORNER 104TH & FEDERAL KING SOOPERS	991,308	38,243	1,029,552	957,334	3,654	960,988	4	947	7
STANDLEY SHORES CENTER SW CORNER 100TH & WADS KING SOOPERS	752,435	7,472	759,907	675,939	3,577	679,516	11	109	12
VILLAGE AT THE MALL S SIDE 88TH DEPEW-HARLAN TOYS 'R US	714,235	3,054	717,290	765,256	2,219	767,475	-7	38	-7
PROMENADE SOUTH/NORTH S/N SIDES OF CHURCH RANCH BLVD SHANE/AMC	679,230	227,892	907,122	669,340	291,556	960,895	1	-22	-6
WESTMINSTER CROSSING 136TH & I-25 LOWE'S	575,209	2,390	577,599	606,721	809	607,530	-5	196	-5

CITY OF WESTMINSTER
 GENERAL RECEIPTS BY CENTER
 SEPTEMBER 2011 YEAR-TO-DATE

Center Location Major Tenant	YTD 2011 General Sales	YTD 2011 General Use	Total	YTD 2010 General Sales	YTD 2010 General Use	Total	Sales	%Change	Use	Total
ROCKY MOUNTAIN PLAZA SW CORNER 88TH & SHER GUITAR STORE	569,941	2,037	571,979	601,396	4,571	605,967	-5	-55	-6	
WESTMINSTER GATEWAY CHURCH RANCH BOULEVARD QUAKER STEAK & LUBE	512,197	35,880	548,077	383,426	118,752	502,179	34	-70	9	
WESTMINSTER PLAZA FEDERAL-IRVING 72ND-74TH SAFEWAY	465,832	2,700	468,532	412,728	13,138	425,866	13	-79	10	
STANDLEY LAKE MARKETPLACE NE CORNER 99TH & WADSWORTH SAFEWAY	407,430	1,585	409,015	372,805	2,389	375,194	9	-34	9	
VILLAGE AT PARK CENTRE NW CORNER 120TH & HURON CB & POTTS	361,367	7,135	368,502	364,784	3,463	368,247	-1	106	0	
WILLOW RUN 128TH & ZUNI SAFEWAY	288,488	2,455	290,942	308,598	3,884	312,483	-7	-37	-7	
ELWAY/DOUGLAS CORRIDOR NE CORNER 104TH & FED ELWAY MOTORS	259,396	4,164	263,560	203,127	3,695	206,822	28	13	27	
BROOKHILL IV E SIDE WADS 90TH-92ND MURDOCH'S	242,035	12,732	254,766	171,520	35,446	206,966	41	-64	23	
RANCHO PLAZA SE CORNER 72ND & FEDERAL RANCHO LIBORIO	232,920	30	232,950	286,872	1,111	287,984	-19	-97	-19	
BOULEVARD SHOPS 94TH & WADSWORTH CORRIDOR AMERICAN FURNITURE WAREHOUSE	231,587	3,140	234,727	211,162	1,695	212,857	10	85	10	
	26,044,489	630,905	26,675,393	25,885,625	859,451	26,745,075	1	-27	0	



Agenda Item 8 B

Agenda Memorandum

City Council Meeting
October 24, 2011



SUBJECT: Quarterly Insurance Claims Report: July - September 2011

Prepared By: Martee Erichson, Risk Management Officer

Recommended City Council Action

Accept the Third Quarter 2011 Insurance Claims Report.

Summary Statement

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

Expenditure Required: \$0

Source of Funds: N/A



Policy Issue

None identified

Alternative

None identified

Background Information

Information on the status of each claim received during the 3rd quarter of 2011 is provided on the attached spreadsheet. All Incident Report forms are signed and reviewed by appropriate supervisors, Safety Committee representatives and department heads. Follow-up action, including discipline if necessary, is taken on incidents where City employees are at fault.

For the third quarter of 2011, Staff has noted the following summary information:

- Ten of the 15 claims reported in the third quarter of 2011 are closed at this time.
- Total claims for the quarter and year-to-date breakdown by department as follows:

Department	3rd Qtr 2011			YTD
	Total Claims	Open	Closed	Total
Police	3	2	1	7
PR&L	4	2	2	9
PWU - Streets	3	0	3	4
PWU - Utilities	4	1	3	6
PWU - Water	1	0	1	4
TOTAL	15	5	10	30

The Risk Management Program addresses Council’s Strategic Plan goals of Financially Sustainable City Government and Safe and Secure Community by working to mitigate the cost of claims to the City and maintaining a loss control program to keep City streets and facilities safe for the general public.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment - Report

**Quarterly Insurance Report
July - September 2011**

Claim Number	Loss Date	Dept.	Claimant	Address	Claim Description	Payment	Status	Notes
2011-188	7/11/2011	PRL - Parks	Tim Lilly	4929 Kilburn St., Alexandria VA 22304	Claimant's young child was walking in the grass at Westminster Center Park and walked onto a metal cistern lid that was so hot it burned the child's feet and hands when the child reached down to grab his feet.	\$ -	Open	Claim denied based on Colorado Governmental Immunity Act, however, claimant will be paid under the City's "good neighbor" settlement program.
2011-213	7/17/2011	PD	Karen Bainter / American Family Mutual Insurance Co.	14562 Benton, Broomfield CO 80020	Attorney for claimant's insurance carrier alleges a Westminster Police Officer failed to give due notice when he activated his emergency lights to clear an intersection to pursue a red light violator, resulting in the Officer colliding with the claimant's vehicle in the intersection.	\$ -	Open	
2011-199	7/8/2011	PWU - Streets	Inna Shtern	9455 Webster Way, Westminster CO 80021	Claimant alleges her home has been damaged on multiple occasions during heavy rain storms due to poor drainage along Wadsworth Blvd., behind her home.	\$ -	Closed	Claim denied based on Colorado Governmental Immunity Act and investigation found no evidence of negligence on the part of the City.
2011-199	7/8/2011	PWU - Streets	Jade Sund	9475 Webster Way, Westminster CO 80021	Claimant alleges her home has been damaged on multiple occasions during heavy rain storms due to poor drainage along Wadsworth Blvd., behind her home.	\$ -	Closed	Claim denied based on Colorado Governmental Immunity Act and investigation found no evidence of negligence on the part of the City.
2011-199	7/8/2011	PWU - Streets	Trudy Trout	9485 Webster Way, Broomfield CO 80021	Claimant alleges her home has been damaged on multiple occasions during heavy rain storms due to poor drainage along Wadsworth Blvd., behind her home.	\$ -	Closed	Claim denied based on Colorado Governmental Immunity Act and investigation found no evidence of negligence on the part of the City.
2011-202	7/8/2011	PWU - Util	Ann Ragsdale	8120 Osceola St., Westminster CO 80031	Claimant alleges damage to her landscaping due to heavy rains causing excessive drainage from Gregory Hill Water tank.	\$ -	Closed	Claim denied based on Colorado Governmental Immunity Act and investigation found no evidence of negligence on the part of the City.

Claim Number	Loss Date	Dept.	Claimant	Address	Claim Description	Payment	Status	Notes
2011-255	8/17/2011	PD	Janet Stephan	5721 W 92nd Ave #82, Westminster CO 80031	Claimant's bumper of her vehicle was damaged when a Westminster Police Officer used his vehicle to push her stalled vehicle out of traffic.	\$ -	Closed	Investigation by both claimant's insurance company and the City's found 50/50 responsibility for the damages so each party will handle their own damages
2011-263	8/17/2011	PRL - Parks	Jackie Esbaugh	1780 W 129th, Westminster CO 80234	Claimant's car window was damaged when a rock was thrown up by an employee operating a weed whacker along the side of the road.	\$ 589.53	Closed	
2011-281	8/24/2011	PWU -Util	Tamra Waltemath	3843 W 73rd Ave., Westminster CO 80030	Claimant alleges damages from a sewer backup in her office because her private sewer line was not reconnected to the main during a sewer main replacement in 2009.	\$ -	Open	
2011-287	8/9/2011	PRL - Parks	Kurt Wentz	7840 Bradburn, Westminster CO 80031	Claimant's parked vehicle was damaged when it was hit by an employee driving a city vehicle.	\$ -	Open	
2011-274	9/1/2011	PWU - Util	Frank and Donna Tamburelli	4199 W 99th Pl., Westminster CO 80031	Claimants allege city employees damaged their brick mailbox when they were operating heavy equipment near their home working on a water line.	\$ -	Closed	Claim denied as the investigation found no evidence of negligence on the part of the City.
CLAIM SUBMITTED RECENTLY WITH OCCURRENCE DATE PRIOR TO 3rd QUARTER 2011:								
2011-247	2/19/2011	PD	Ricky Lee Orsborn	42 Scott Drive S., Broomfield CO 80020	Claimant's attorney filed a Notice of Claim with the City alleging the claimant suffered injuries and damages during his arrest by Westminster Police Officers.	\$ -	Open	
2011-233	5/8/2011	PWU - Water Infrastructure	James Feggestad	10561 Canosa Ct., Westminster CO 80234	Claimant's home was damaged when city staff turned water service back on after work on a water line project, causing a pressure surge that caused the claimant's pressure reducing valve to burst.	\$ 262.00	Closed	Claim denied based on Colorado Governmental Immunity Act, however, claimant was paid under the City's "good neighbor" settlement program.

Claim Number	Loss Date	Dept.	Claimant	Address	Claim Description	Payment	Status	Notes
2011-181	6/13/2011	PWU - Util	Dennis Emily/Hyland Meadows HOA	1001 Ames St., Westminster CO 80021	Claimants' electrical line for their sprinkler line was damaged during installation of a fire hydrant due to a poor locate by a locate company.	\$ 450.00	Closed	Claim denied based on Colorado Governmental Immunity Act and no negligence on the part of the city, however, claimant was paid under the City's "good neighbor" settlement program.
2011-147	6/3/2010	PRL - Parks	Alice Cook	8918 W 101st Ave., Westminster CO 80021	Claimant alleges damage to a tree in her backyard caused from chemical spraying by the city on city property behind her fence.	\$ -	Closed	Claim denied as the investigation found no evidence of negligence on the part of the City.
					TOTAL PAYMENTS	\$ 1,301.53		



Agenda Item 8 C

Agenda Memorandum

City Council Meeting
October 24, 2011



SUBJECT: Reimbursement Agreement with Trust for Public Land

Prepared By: Heather Cronenberg, Open Space Coordinator
Lauren Schevets, Open Space Technician

Recommended City Council Action

Authorize the City Manager to execute a reimbursement agreement with the Trust for Public Land in the amount up to \$70,110 for fencing costs associated with the Sisters of the New Covenant open space acquisition.

Summary Statement

- On June 27, 2011, Council approved the purchase of the 25.49-acre Sisters of the New Covenant (Sisters) property located at the northeast corner of 100th Avenue and Alkire Street for Open Space from the Trust for Public Land (TPL) for \$1,945,000, plus \$70,110 in fencing costs. The Sisters property was acquired by the City on June 30, 2011.
- The Sisters retained approximately 5 acres for continued use as a day retreat center. As a condition of the open space acquisition, the City agreed to construct a fence to delineate the new property boundary.
- TPL has offered to manage the fencing project on behalf of the City, as they have developed a strong relationship with the Sisters through the acquisitions process.

Expenditure Required: \$70,110

Source of Funds: POST Bond Funds



Policy Issue

Should the City proceed with entering into an agreement with TPL that will allow TPL to construct a fence on the City's behalf and will require the City to reimburse TPL for the costs of the project up to \$70,110?

Alternatives

Council could choose not enter into an agreement with TPL to construct a fence on the property and City staff could manage the project instead. Staff does not recommend this because TPL has a good relationship with the Sisters and has also agreed to donate \$10,000 towards the fence project, bringing the City's net cost of the fence to \$60,110.

Background Information

The City of Westminster acquired the 25.49-acre Sisters of the New Covenant property for open space on June 30, 2011 for \$1,945,000. This land acquisition was authorized by City Council on June 27, 2011. The Trust for Public Land ("TPL") negotiated the purchase on behalf of the City. TPL purchased the property from the Sisters and then sold the property to the City for the same price. TPL also covered a portion of the due diligence costs associated with this acquisition. This property was one of the last in-holdings within the 1,000-acre Westminster Hills Open Space area. Acquiring this property for open space preserved upland short-grass prairie habitat and views of the Front Range and Flatirons mountains.

The Sisters retained ownership of a 5 acre parcel where their office structure is located in order to continue their use of the property as a day retreat center. The City obtained a Right of First Refusal on this remainder property. As a condition of acquisition of the open space property, the City agreed to construct a fence to delineate the new property boundary at a cost of up to \$70,110 based on cost estimates. The fence that was agreed upon is a chain link fence to provide security to the Sisters remainder property, along with a vinyl prairie dog fence along the border to keep prairie dogs off the remainder parcel if the population rebounds in the future. The Sisters have also been working with the fence contractor to construct entrance gates to the property as a separate project. The Sisters have agreed to take over any future maintenance of the prairie dog fence and security fence.

As staff from TPL has developed a strong relationship with the Sisters throughout the acquisition process, they have offered to manage the fencing project on behalf of the City. TPL has agreed to provide funds to cover the project if the City reimburses them for the cost of the project up to \$70,110. TPL has also agreed to donate \$10,000 towards the fencing costs. Staff is asking Council to approve the transfer of these funds to TPL to reimburse them for this fence project.

This project supports the City Council Strategic Plan Goal of "Beautiful and Environmentally Sensitive City" by allowing the City to acquire this important property for open space.

Respectfully submitted,

J. Brent McFall
City Manager



Agenda Item 8 D

Agenda Memorandum

City Council Meeting
October 24, 2011



SUBJECT: Swim and Fitness Center Renovation Contingency Increase

Prepared By: Kathy Piper, Landscape Architect II-Project Manager
Peggy Bocard, Recreation Services Manager

Recommended City Council Action

Authorize the City Manager to increase the approved project contingency for the Swim and Fitness Center renovation in the amount of \$50,000, bringing the total project contingency to \$277,000.

Summary Statement

- On April 11, 2011, Council approved a Construction Manager/General Contractor (CM/GC) contract with Dohn Construction Inc. and construction started on August 22, 2011.
- Total project budget to date is \$1,938,633 from conceptual master plan through construction.
- A 15% contingency (\$227,000) was awarded for this renovation project.
- Unanticipated contingency needs have developed due to 40-year-old cast iron plumbing, wiring from three major renovations, and many unforeseen structural issues throughout the building.
- The locker rooms have never been renovated, but are linked to many of the issues that have arisen.
- Approximately 40% of the interior construction is complete.
- Construction of the outdoor water play area, which is funded through an Adams County Open Space grant, has not yet begun.
- Of the original contingency of \$227,000, approximately \$46,000 remains.
- With the remaining contingency of \$46,000, Staff is making every effort to stay within the awarded budget but believes it prudent to request additional contingency funding in an amount not to exceed \$50,000. Funds are available in the existing General Capital Improvement Fund - Recreation Facilities Account.

Expenditure Required: \$50,000

Source of Funds: General Capital Improvement Fund-Recreation Facilities Project



Policy Issue

Does Council wish to approve the use of additional contingency funding for the Swim and Fitness Center renovation to address unanticipated construction costs?

Alternative

Council could direct Staff to move forward with this project but possibly exclude the outdoor water play area/splash pad or other parts of the project. Staff does not recommend this alternative, however, as the City has received an Adams County Open Space grant in the amount of \$205,000 to help offset the cost of the proposed outdoor water play area/splash pad. Staff believes these amenities are an integral part of the renovation. There are no other components of the project that Staff believes should be eliminated.

Background Information

This Swim and Fitness Center opened in the 1970's and over the past 40 years has undergone several renovations to accommodate the changing needs of the community. The current construction renovation project includes completely building new restroom and shower facilities to include two family changing rooms and rearranging the existing circulation for better patron access to the lockers and pool area. The existing sauna, steam room and hot tub will be relocated to the north and east side of the pool area to help with user conflicts in the tot pool and front lobby. An outdoor splash pad/play area will be located on the south side of the building and has been awarded an Adams County Open Space grant.

On March 8, 2010, Council approved a contract with Sink Combs Dethlefs for architectural services for master planning of the Swim and Fitness Center and locker room renovation in the amount of \$102,874. In July of 2010, Staff received City Council's approval to submit a grant request to the Adams County Open Space Board to help fund the renovation of the Swim and Fitness Center. On November 17, 2010, the City was awarded \$205,000 for the outdoor water play area only. The total cost of the outdoor play area will be \$410,000. Staff returned to Council to amend this existing contract with Dohn Construction to include a Guaranteed Maximum Price (GMP) for construction of this project on July 25, 2011. On August 27, 2011, City Council approved the second amendment to Dohn Construction contract for \$107,580 for annual maintenance work that would typically be completed through the Building Operations and Maintenance Division.

Construction of the facility started in August 2011 on the interior of the building. As with most old buildings, several unexpected structural issues were encountered rather quickly that required use of much of the approved contingency. For example, the plumbing within the locker room area is over 40 years old, is located eight feet below the surface and is cast iron pipe. Because of its depth and location, the City's building maintenance Staff has not had the opportunity to inspect this piping. Sewage backups occurred during the demolition and it was determined using cameras that the existing line was severely "bellied" throughout the entire length of line. Lining the pipe was not an option. Contingency funds were used to replace the entire line within the locker room area with PVC piping at a depth of three feet and the old cast iron pipe was abandoned, thereby eliminating any future backup of sewage within the locker rooms and upstairs restroom. The cast iron pipe was originally thought to be in good condition and could be utilized in the new plan.

The original facility plans, with various renovations over the years, were never revised to indicate how plumbing and electrical were all linked together nor did they show as built conditions at the time of construction. During the demolition phase, unknown structural walls were discovered in the locker room and the ceiling area on the eastside of the building by the new hot tub resulting in a change of scope. Additionally, when the east wall for the new boiler room was graded out, the construction team discovered the wall resting on approximately a 12-inch footing. A grade beam was added to support the wall and new boiler room.

Most recently, over 33 conduits were discovered over the center of the new entrance into the locker rooms. Over the years as the building has been renovated, electrical lines and computer lines have been added seemingly at randomly—some in conduit, others tacked to the side of the walls, and still others embedded in the concrete, and all of which created a spider web of wires. These lines had to be relocated and traced to determine what they were and where they went. Again, contingency was needed for this unexpected issue. These are just a few of the issues that have arisen to date during construction; Staff can supply more detailed information if needed.

Staff is making every effort to keep costs down and will strive to complete the project within the awarded budget. However, with only 40% of the project complete and the outdoor water play area yet to be excavated, Staff believes that the remaining contingency funds may not be adequate to complete the project, and to be safe is recommending that \$50,000 (or 3.3% of the construction costs) in additional owner's contingency be added to the project.

These funds are available in the Recreation Facilities CIP Project account. The current balance of funds in this account is \$296,000. The transfer of the funds will not impact the ability to meet Recreation Facility capital needs.

This project meets City Council's Strategic Plan Goal of "Financially Sustainable City Government Providing Exceptional Services" and "Vibrant Neighborhoods in One Livable Community" by providing alternative funding sources for capital improvement projects.

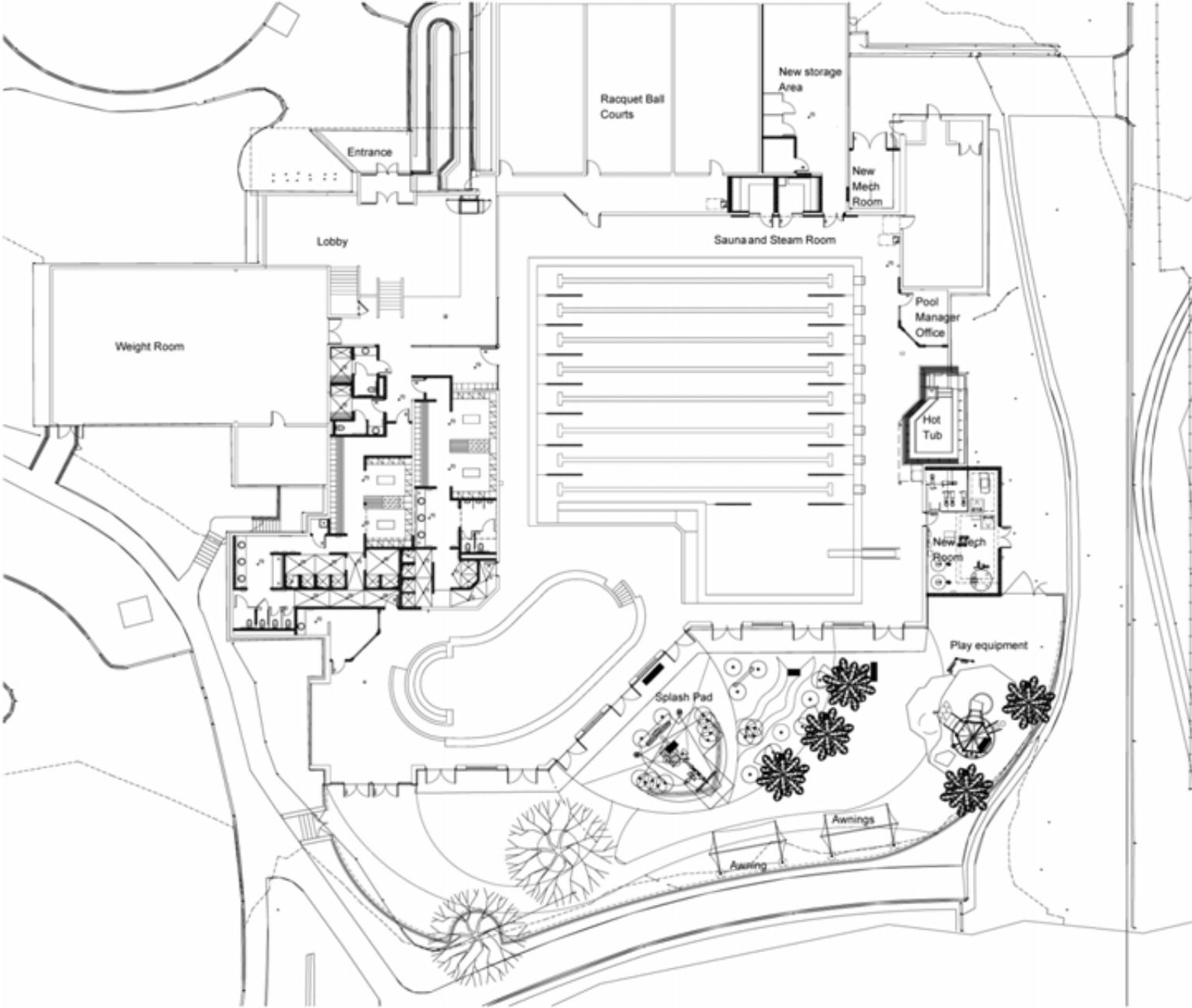
Respectfully submitted,

J. Brent McFall
City Manager

Attachment - Overall Layout Diagram

Swim and Fitness Renovation-Overall Layout

July 25, 2011





Agenda Item 8 E

Agenda Memorandum

City Council Meeting
October 24, 2011



SUBJECT: Intergraph Corporation Computer Systems Software Upgrade

Prepared By: David Puntteney, Information Technology Director
Karin Marquez, Communications Supervisor

Recommended City Council Action

Authorize the City Manager to execute a contract in the amount of \$101,765 with Intergraph Corporation for a Computer Aided Dispatch and Mobile Data Computer software upgrade.

Summary Statement

- The Police and Fire Department's Intergraph Corporation system was purchased by the City in 2000. The system includes Computer Aided Dispatch (CAD), Police Records Management System (RMS), and the Mobile computer applications, along with various system interfaces, including E911, Fire Station Alerting and Automatic Vehicle Locating.
- Version upgrades to the Intergraph systems are significant software modifications or additions that include security fixes and database application updates. Regular upgrades are based on the recommendation from Intergraph and the City's Information Technology Department to: ensure compliance with any new State or Federal guidelines; gain benefits from new functionality; prevent system errors and failures; and guarantee future vendor maintenance and support for the software.
- In early 2011, initial preparation work began with a software upgrade project. After reviewing information regarding the most current upgrade of CAD and the Mobile computer applications, it was determined by staff that it would be in the City's best interest to postpone the scheduled upgrade until 2012 when the subsequent version would be released.
- The total cost of the project is \$165,066. The E911 Board is funding \$63,301 for the CAD services portion of the project, resulting in a net expense of \$101,765 for the City.
- The scope of work and contract have been reviewed and approved by the City Attorney's Office.

Expenditure Required: \$101,765

Source of Funds: 2011 Major Software Upgrades CIP



Policy Issue

Should the City proceed with the Intergraph Corporation software upgrade that will provide enhanced and current software, as well as services and training to the Police and Fire Departments?

Alternatives

Delay or forgo the Intergraph software upgrade, and continue using the version of the software installed in 2008. This is not recommended as the upgrade will improve the operations and efficiencies within the public safety departments. Additionally, it is important to upgrade software, as Intergraph will eventually “sunset” the current version and no longer provide software support.

Background Information

In 2000, the City of Westminster purchased an integrated, comprehensive software solution from Intergraph Corporation to automate and improve efficiencies and services with the public safety departments. This solution includes Computer Aided Dispatch (CAD), Police Records Management System (RMS), Mobile Applications and various system interfaces, including E911, Fire Station Alerting and Automatic Vehicle Locating.

On July 23, 2007, Council authorized the City Manager to sign an agreement with Intergraph for a CAD, RMS and Mobile Applications Systems software upgrade that was to be implemented in 2008. Subsequently on June 8, 2009 Council authorized the City Manager to sign an agreement to upgrade the Records Management System, Computer Aided Dispatch (CAD) and complete a database transition from Oracle to Microsoft SQL.

While there have been several new releases of the software since 2009, the City has chosen to perform upgrades once every two years due to the costs and training associated with each upgrade. However, it is important for the City to maintain a regular upgrade schedule in order to benefit from the enhanced features and maintain future vendor support for the applications.

In early 2011, Intergraph Corporation released a new version (version 9.1.1) of the Computer Aided Dispatch (CAD) and mobile software, providing significantly enhanced functionality. Staff began researching the new software features and contacted several agencies that had successfully completed the upgrade to learn about their experience in the upgrade process and about their satisfaction with the new features. While staff sees significant benefit and opportunities with the new software, additional research concluded that the City would find more benefit by postponing the CAD and mobile upgrade until 2012 when the subsequent release with a new mobile application version will be released. The Records Management System (RMS) portion of the software will be upgraded in 2013 or 2014.

The new mobile application, Mobile for Public Safety, will continue to capture information and communicate with the CAD system just as the City’s current I/Mobile software does today, however, the foundation of the software will change both graphically and functionally. Staff determined that by waiting until 2012, Intergraph will have time to further enhance the product and eliminate outstanding software bugs.

Some of the added or improved features in this upgrade that will help to enhance public safety operations and efficiencies include:

- Improved the Graphic User Interface (GUI) to allow more customization by the City.
- Enhanced the address database to allow for postal standardization.
- Improved the template to enable officers to receive more comprehensive data from the State with just one inquiry.

- Enhanced the location of interest searches on apartment buildings regardless of apartment number.
- Added the ability to set different alerts for high-priority situations.
- Added the ability to add road restrictions.
- Enhanced the recommended unit capabilities.
- Incorporated alert tones into the fire station alerting module.
- Extended the Mobile capabilities to include support for Google maps, offline field reporting, ability to pre-configure buttons for transport locations and more.

Funds were budgeted by the Jefferson County Emergency Communications Authority Board (E911 Board) in 2011 to purchase extensive CAD and Mobile training for Westminster Public Safety staff. This training will help staff learn about the new software features, capabilities, and customization options and help staff become proficient in the use of the new software. The Jefferson County Authority Board will pay Intergraph Corporation \$63,301 for the CAD services training portion of this project.

The total cost of the upgrade and all services in the Statement of Work is \$165,066. With the E911 Board's funding of \$63,301 for the CAD services, the City's portion of the upgrade is \$101,765.

Executing this contract helps achieve two of City Council Strategic Plan goals, including "Safe and Secure Community" by providing timely response to emergency calls and "Financially Sustainable City Government Providing Exceptional Services" by investing in the tools, training and technology needed to increase organizational productivity and efficiency.

Respectfully submitted,

J. Brent McFall
City Manager



Agenda Item 8 F

Agenda Memorandum

City Council Meeting
October 24, 2011



SUBJECT: 2011 Utility Capital Improvement Program Funding Modifications

Prepared By: Mike Happe, Utilities Planning and Engineering Manager
Steve Grooters, Senior Projects Engineer
Christine Gray, Management Analyst

Recommended City Council Action

Authorize Staff to re-allocate 2011 Utility Fund Capital Improvement Program funds as outlined in this agenda memorandum to better address capital improvement needs.

Summary Statement

- The 2011 Capital Improvement Program was adopted by Council in October 2010. Since that time, Staff has refined the Utility Fund capital program to address the completion of more time sensitive and higher priority infrastructure projects.
- Staff recommends re-allocating part of the 2011 Utility Capital Improvement Program (CIP) budget to fund the revised project list outlined within this agenda memorandum and reviewed with City Council at the October 3rd Study Session.
- No additional funding is necessary to complete the program. Savings in existing budgeted capital accounts and funding from re-prioritized and deferred projects can sufficiently fund the proposed modified project list.
- Proposed changes outlined in this agenda memorandum align with the proposed modifications to the Utility Fund capital projects in the Adopted 2012 Budget that Council reviewed at the September 26th Post City Council meeting.

Expenditure Required: \$0

Source of Funds: N/A



Policy Issue

Should City Council authorize the re-allocation of Utility Fund capital project funding to match the proposed revised 2011 capital program?

Alternative

Council could choose not to modify the 2011 Utility Fund Capital Improvement Program (CIP) as proposed. Staff does not recommend this alternative as the 2011 Utility Fund CIP has been refined to address immediate needs and requires the funding modification for completion. Not completing the re-prioritized projects could lead to underfunding necessary high priority infrastructure improvements. Sufficient funding is available for the re-allocation.

Background Information

The Utilities Planning and Engineering Division Staff has spent the last two years realigning the utility's capital improvement program to meet the goal of addressing major repair and replacement needs within the water and wastewater systems. Staff has re-prioritized the existing capital program to address the projects that have been determined to be necessary and of a high priority. Funds from the deferred projects are available for use, and additional savings from completed projects are available to apply towards the revised capital program. Staff is not requesting any new funding to complete these projects in 2011.

Staff is proposing to re-allocate a total of \$4,165,503 from the project savings and deferred project account balances of the following projects:

1. **Pressure Zone 5 Improvements account** – This project was created in 2008 to increase water pressure and fire flows in various points of the Countryside neighborhood and to address the aging pump station. Staff successfully addressed the urgent issues through the rehabilitation of some of the existing pump station equipment and believes that existing equipment can be successfully operated for the near-term. The project savings is \$2,000,064 and the available account balance is \$2,000,064.
2. **Wadsworth Water Main Replacement account** – This project is intended to install new water mains in the Wadsworth Estates neighborhood at Ammons Circle and West 99th Avenue and replace a water main in Zephyr Drive and West 98th Avenue. The need for this project remains, but it is relatively lower in priority when compared to addressing pipe breaks within the Arrowhead Subdivision and water storage tank rehabilitation. The budgeted amount for this project is \$900,000 and the available balance is \$900,000.
3. **Utility Wide Asset Valuation Update** – This project was intended to update the utility's asset inventory by facility value, age and expected remaining service life to assist Staff with prioritizing and budgeting for large capital projects and to confirm the amount of connection fee and rate funds required to maintain the City's utility system. Staff has elected to perform the majority of this work in-house. The budgeted amount for this project is \$200,000 and the available balance is \$200,000.
4. **SCADA Hardware Installation for Raw Water System account** – This project is intended to install hardware at raw water facilities to parallel with the Utility-wide SCADA upgrade project. This hardware would add remote communication capabilities to various assets, improve reliability and efficiency of existing communications, and enhance the City's raw water firm yield. This project can be deferred until Staff completes the Raw Water Master Plan in 2012. The budgeted amount for this project is \$150,000 and the available balance is \$150,000.

5. **Water Pressure Zone Improvements (bond funded) account** – This account was funded with 2010 bond funds and was intended to address pressure zone issues throughout the City. Project savings in the account are available for use towards other projects. The budgeted amount for this project is \$144,000 and the current available account balance is \$144,000.
6. **Lift Station Improvements account** – This project is intended for construction activities identified during the Public Works and Utilities Lift Stations Group Study. This project can be deferred until Staff completes the study. The budgeted amount for this project is \$1,005,931 and the available balance is \$500,000.
7. **Critical Sewers Repairs account** – This project involved the repair of damaged sewer pipes and manholes at the Ranch and an area next to Witt Elementary School (West 105th Avenue and Moore Street). The project is now complete and a savings of \$200,000 is available.
8. **Sewer Line Trenchless Repairs account** – This is an ongoing project that involves the rehabilitation of smaller diameter sewers throughout the City. Savings of \$71,439 from previous years is available for use.

Based on further review and evaluation, the following projects are of higher priority and are more critical for work to commence. The total funding need of these revised project priorities is \$4,165,503. Savings from the previously listed completed projects and account balances from the deferred projects is proposed to fund these projects.

1. **Wandering View Tanks R&R project** – This project is intended to rehabilitate the Wandering View Water Tanks that require significant roof repairs to keep these storage tanks operational and within Colorado Department of Health and Environment (CPDHE) compliance. The total project is anticipated to cost approximately \$3,400,000. Two new Wandering View Tanks R&R accounts have been created (one cash-funded and one bond-funded) to better track the related expenditures. 2011 funds in the amount of \$2,161,782 are proposed to be transferred into the two Wandering View Tanks accounts to complete the 2011 work. A total of \$1,714,064 is proposed to be transferred into the Wandering View Tanks cash account from the following 2011 projects: \$500,000 from the existing Water Tanks Repair and Replacement cash-funded account, savings of \$1,064,064 in the Pressure Zone 5 Improvements account, and deferred project balance of \$150,000 in the SCADA Hardware Installation for Raw Water System account. A total of \$447,718 is proposed to be transferred into the Wandering View Tanks bond account from the following 2011 projects: savings of \$144,000 in the bond-funded Pressure Zone Enhancements account and existing funds of \$303,718 in the existing bond-funded Water Tanks Major R&R account. The remaining project funding of \$1,238,218 has been requested as a part of the proposed 2012 Budget Amendment, bringing the total project budget to \$3,400,000.
2. **Water Tanks Major R&R account** – This account is intended to address other related tank repairs, including rehabilitations to the Hydropillar and dry tank inspections. These project costs will total \$181,581 between 2011 and 2012 and are proposed to be funded by balances in the existing Water Tanks Major R&R accounts and project funding requested as a part of the proposed 2012 Budget Amendment. A proposed transfer of \$303,718 of bond funds into the Wandering View Tanks R&R bond account would reduce that account balance to \$31,581. As part of the proposed amendment to the Adopted 2012 Budget, project funding of \$150,000 for other tank-related repairs has been requested that will bring the total project budget to \$181,581.

3. **Pressure Zone 12 Improvements** - This project includes installation of pressure-reducing valves (PRVs) in the Arrowhead Subdivision. Staff believes that correcting the high pressure currently experienced in the neighborhood will reduce pipe break frequency and help prolong the life of the existing pipeline. The majority of the PRVs required for this work is consistent with the long-term vision for this area's infrastructure and therefore, will remain in place indefinitely. However, the pipeline in the Arrowhead Subdivision will need to be replaced within the next ten years or so. \$900,000 is proposed to be re-allocated from the deferred Wadsworth Water Main Replacement project.

4. **Lowell Boulevard Line Replacement account** - This project involves rehabilitating the existing 1958 water main that is part of the connection between the Sunset Ridge Subdivision and the Gregory Hill High Service Pump Station. The water main has reached its design life and has experienced multiple waterline breaks in recent years. Funding of \$715,380 is proposed to come from the Pressure Zone 5 Improvements account.

5. **87th Avenue and Wadsworth Boulevard Lift Station construction project** - This project is intended to replace the existing lift station, which has reached the end of its useful life. The lift station requires a parallel force main and additional storage capacity to prevent sewage overflows. At this time, Staff's best estimate of the project cost is \$3,200,000 and will be designed and constructed in 2011 and 2012. 2011 funding of \$500,000 is proposed to come from deferred projects in the Lift Station Improvements account. The balance of additional funds needed for construction has been requested as part of the proposed 2012 budget amendment.

6. **Open Cut Line Replacement account** - Funding is necessary for pipeline replacement in Turnpike Drive, West 100th Avenue and Sheridan Boulevard and design work related to the West 72nd Avenue and Bradburn Boulevard utility relocations. A total of \$420,620 of project balances from the following accounts is proposed to be re-allocated:
 - \$220,620 from savings in the Pressure Zone 5 Improvements account
 - \$200,000 from the deferred Utility Wide Asset Valuation Update project

7. **The BDCWWTF Solids Processing Master Plan account** - A portion of this project is intended to improve specific areas of the solids handling facility at the Big Dry Creek Wastewater Treatment Facility. The overall project cost for this 2011 project was originally budgeted for \$500,000 and recent cost updates forecast the project will require additional funding of \$271,439. Funding from the following accounts is proposed to be re-allocated to meet this need:
 - \$200,000 from savings in the Critical Sewers Repairs account
 - \$71,439 from savings in the Sewer Line Trenchless Rehabilitation account

The following section is what is typically found within agenda memorandum for appropriation ordinances; this section is included to document the changes recommended in this agenda memorandum. These amendments to the Water Fund will not change the total appropriations in the fund and are shown for information only:

<u>Account Description</u>	<u>Account Number</u>	<u>Available Balance</u>	<u>Proposed Amendment</u>	<u>Revised Balance</u>
Pressure Zone 5 Improvements	80820035809.80400.8888	\$2,000,065	(\$2,000,065)	\$0
Wadsworth Boulevard Water Main Replacement	81120035881.80400.8888	\$900,000	(\$900,000)	\$0
Utility Wide Asset Valuation Update	81120035872.80400.8888	\$200,000	(\$200,000)	\$0
SCADA Hardware Installation	81120035874.80400.8888	\$150,000	(\$150,000)	\$0

Water Pressure Zone Enhancements (Bond account)	80820035785.80400.8888	\$144,296	(\$144,000)	\$296
Wandering View Tanks R&R (Cash Account)	81120035982.80400.8888	\$0	\$1,214,065	\$1,214,065
Wandering View Tanks R&R (Bond Account)	81120035983.80400.8888	\$0	\$144,000	\$144,000
Pressure Zone 12 Improvements	81120035885.80400.8888	\$0	\$900,000	\$900,000
Lowell Boulevard Water Line Replacement (Cash Account)	81120035883.80400.8888	\$0	\$715,380	\$715,380
Open Cut Water Line Replacements	80720035754.80400.8888	\$839,992	\$420,620	\$1,260,612
Total change to expenses			\$0	

These amendments to the Wastewater Fund will not change the total appropriations in the fund and are shown for information only:

<u>Account Description</u>	<u>Account Number</u>	<u>Available Balance</u>	<u>Proposed Amendment</u>	<u>Revised Balance</u>
Lift Stations Improvements	80921035854.80400.8888	\$927,500	(\$500,000)	\$427,500
Critical Sewers Repairs	81021035974.80400.8888	\$283,141	(\$200,000)	\$83,141
Sewer Line Trenchless Repairs	80721035749.80400.8888	\$331,962	(\$71,439)	\$260,523
87 th and Wadsworth Lift Station Improvements	81121035801.80400.8888	\$1,467,325	\$500,000	\$1,967,325
BDCWWTF Solids Processing Master Plan	81021035957.80400.8888	\$374,560	\$271,439	\$645,999
Total change to expenses			\$0	

Re-allocating Utility Fund Capital Improvement Program monies helps achieve the City Council’s Strategic Plan Goal of “Financially Sustainable City Government Providing Exceptional Services” by maintaining a prioritized use of existing funds.

Respectfully submitted,

J. Brent McFall
City Manager



Agenda Memorandum

City Council Meeting
October 24, 2011



SUBJECT: Lowell Boulevard Water Main Construction Contracts

Prepared By: Mike Wong, Senior Engineer, Utilities Planning and Engineering
Steve Grooters, Senior Projects Engineer, Utilities Planning and Engineering

Recommended City Council Action

Authorize the City Manager to execute a contract with the low bidder, Aquarehab Drinking Water, Inc., in the amount of \$397,138 for the construction work related to the Lowell Boulevard Water Main Project and authorize a 10% contingency of \$39,713 for a total construction budget cost of \$436,851; and authorize an amendment to the Burns & McDonnell Engineering Company design contract for construction management services in the amount of \$63,866 and authorize a 10% contingency of \$6,386 for a total of \$70,252.

Summary Statement

- This project involves the rehabilitation of approximately 1,725 feet of 12-inch water main in Lowell Boulevard from West 84th Avenue to Chestnut Lane (see attached location map).
- The existing water main is a 50-year old cast iron pipe that has been prone to breaks, leaks and corrosion. Replacing this main is necessary to improve system reliability by reducing the risk of main breaks, service interruptions and street excavation/repair activities.
- Because the pipeline is located in an area that is heavily congested with underground utilities, construction will be performed using a trenchless technology to reline the existing pipe rather than open cutting the area to replace the pipeline.
- Design of the pipeline rehabilitation was completed in September and bids were solicited from eight rehabilitation construction companies.
- Aquarehab Drinking Water, Inc. (Aquarehab) presented the lowest of the three bids received; and City Council is requested to approve their contract for the rehabilitation of the water main.
- Staff negotiated a contract amendment with Burns & McDonnell Engineering Company (Burns & McDonnell) in the amount of \$63,866 to include construction phase engineering services for the project.
- Construction is scheduled to be completed by spring of 2012.
- Adequate funds are available in the project budget for these contracts and no new funds are requested.

Expenditure Required: \$507,103
Source of Funds: Utility Fund Capital Improvement
– 2010 Bond – Lowell Blvd. Waterline account



Policy Issues

1. Should City Council authorize a contract with Aquarehab?
2. Should City Council authorize an amendment to the Burns & McDonnell contract for construction management services?

Alternatives

1. The City could choose to reject all bids and rebid the project. The City received bids from three qualified construction companies, and it is unlikely that new bids would be lower or that the City would receive additional qualified bids. The low bid is below the Engineer’s estimate for the construction and Aquarehab is qualified to perform the work.
2. The City could choose to implement this project at a later date. However, the existing water main has been in services since 1958 and is close to the end of its design life. There were multiple waterline breaks in the past five years justifying the need for timely rehabilitation.
3. The City could choose to solicit proposals from other engineering consulting firms to provide construction management services for this project. Staff does not recommend this alternative as Burns & McDonnell successfully completed the project design and is intimately familiar with the project requirements. Staff believes that retaining them for the construction phase of the project will provide the best value to the City.

Background Information

The Lowell Boulevard Water Main was constructed in 1958 and is a part of the connection between Sunset Ridge Subdivision and the Gregory Hill High Services Pump Station. The water main was constructed of gray iron with mechanical joints and portions of the water line have reached the end of their useful design life. In particular, the segment between West 84th Avenue and Chestnut Lane has had multiple waterline breaks in the past five years. Due to its age and poor condition, this section of the 12-inch water main is being temporarily isolated from the system until the waterline can be rehabilitated. A project location map is attached for reference.

Work on this segment of the water main is complicated by the fact that Lowell Boulevard is heavily congested with underground utilities including waterlines, sewer line and multiple fiber optic cables. To replace the 12-inch water main by conventional open cut method would require expensive utility relocation and street pavement restoration. In addition, the open cut method would increase the risk of damage to adjacent utilities and inconveniences to area residents due to relatively longer traffic detours and street closures. For these reasons an innovative trenchless method known as the cure-in-place pipe (CIPP) lining method was selected for the Lowell Boulevard Water Main project.

Design was completed in September 2011 and request for bids sent to eight qualified contractors. Three bids were received on September 27, 2011, and are summarized in the following table:

<u>Contractors</u>	<u>Bid Price</u>
Aquarehab	\$397,138
Insituform	\$438,976
SAK	\$452,700
Engineer’s Estimate	\$510,900

After a thorough review of the bids received, Aquarehab's bid was determined to be valid and the dollar amount is reasonable for the scope of the work. Aquarehab is a Canadian based company and has completed over 20,000 feet of potable water main rehabilitation work similar in nature to the City's Lowell Boulevard Water Main project. For reference, their bid is 22% less than the engineer's estimate and 12% lower than the highest bid. This indicates a favorable bid climate for the City and supports the notion that these bids are competitive. For these reasons, Staff recommends executing a contract with Aquarehab for construction of this project, as well as a contingency amount of 10%. Construction will commence following award of the contract with completion anticipated by Spring 2012. Funding for this project will come from the proposed 2011 Utility Capital Improvements Program funding modifications that are being presented to Council on this same agenda.

City Council approved a final design contract with Burns & McDonnell on April 11, 2011. At that time, Staff indicated that an amendment for construction phase engineering services would be presented to City Council along with the construction contract award. Accordingly, Staff has negotiated a scope of work and fee with Burns & McDonnell for these services in the amount of \$63,866. Staff believes this is competitive and consistent with the project scope, but it is noted that this amount is 16% of the lowest bid for construction and is higher than the percentages associated with typical pipeline projects. Because the project is located in an area heavily congested with underground utilities and is being implemented with a trenchless technology that is relatively new to the industry staff recommends the comprehensive scope of services that has been negotiated. Retaining Burns & McDonnell for the construction phase of this project will provide the best value to the City and will be the most timely and cost-effective way to support the construction effort. For these reasons, Staff recommends executing a contract amendment with them for construction phase services for this project, as well as a contingency amount of 10%.

The Lowell Boulevard Water Main project helps achieve the City Council's Strategic Plan Goals of "Financially Sustainable City Government Providing Exceptional Services" and "Vibrant Neighborhoods In One Livable Community" by contributing to the objectives of well-maintain City infrastructure and facilities and providing water service with reduced risk of system failures.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment: Lowell Boulevard Water Main Project Location Map



LOWELL BLVD WATERMAIN
LOCATION MAP



Agenda Item 8 H

Agenda Memorandum

City Council Meeting
October 24, 2011



SUBJECT: Big Dry Creek Wastewater Treatment Facility – Solids Enhancement and Optimization Project Construction Contracts

Prepared By: Kent W. Brugler, Senior Engineer
Steve Grooters, Senior Projects Engineer

Recommended City Council Action

Authorize the City Manager to execute a contract with the low bidder Velocity Constructors, Inc. in the amount of \$374,462 for construction of solids handling improvements at the Big Dry Creek Wastewater Treatment Facility and authorize a 10% construction contingency in the amount of \$37,446, for a total construction budget of \$411,908; and based on the recommendation of the City Manager, find that the public interest would best be served by authorizing the City Manager to execute a contract amendment with Black & Veatch Corporation in the amount of \$39,709 to provide construction phase engineering services related to construction of solids handling improvements at the Big Dry Creek Wastewater Treatment Facility and authorize a 10% contingency in the amount of \$3,970, for a total construction phase engineering services budget of \$43,679.

Summary Statement

- On March 28, 2011, City Council authorized a final design contract with Black and Veatch Corporation (Black & Veatch) for the design of near-term improvements to the solids processing and handling facilities at the Big Dry Creek Wastewater Treatment Facility (BDCWWTF).
- The design of the improvements included pumps to transfer solids to/from and between digester tanks.
- The City solicited bids from six qualified contractors and received four bids on September 22, 2011. Velocity Constructors, Inc. (Velocity) presented the lowest bid in the amount of \$374,462.
- Staff negotiated a contract amendment with Black & Veatch in the amount of \$39,709 to include construction phase engineering services for the project.
- Construction completion is anticipated by Summer 2012.

Expenditure Required: \$455,587

Source of Funds: Utility Fund
- BDCWWTF Solids Processing Master Plan - Utilities Capital Account



Policy Issues

1. Should the City award the construction contract to Velocity for the construction of recommended improvements to the Big Dry Creek Wastewater Treatment Facility solids handling system?
2. Should the City approve an amendment to the engineering services agreement with Black & Veatch for construction phase engineering services?

Alternatives

1. The City could choose to award the construction contract to another contractor who submitted a bid. However, Velocity is qualified to perform the work and presented the lowest bid.
2. The City could choose to solicit proposals from other engineering consulting firms to provide construction phase services for this project. However, Black & Veatch completed the design of the project and will provide the best value to the City during construction. Additionally, Black & Veatch has a history of success on current and past projects for the City, including the current expansion of the Reclaimed Water Treatment Facility.
3. The City could choose to implement this project at a later date. This option is not recommended as the current operational constraints observed at the plant increase the risk of a wastewater spill and place an excessive demand on plant staff.

Background Information

Portions of the Big Dry Creek Wastewater Treatment Facility (BDCWWTF) Expansion Project, completed in 2009, involved capital improvements to the BDCWWTF’s solids handling facilities. Following construction, these improvements were placed into service successfully, but have since experienced operational constraints and/or challenges. These changes have led to piping bottlenecks and plugging that require significant daily manual intervention to overcome, effort that is not cost-effective or sustainable for plant staff over the long term. In addition, current conditions have increased some risks of basin overflows and wastewater spills.

On June 14, 2010, City Council authorized a project with Black and Veatch Corporation to troubleshoot the solids handling processes. A key recommendation of that effort included the installation of pumps to transfer solids to/from and between digester tanks. On March 28, 2011, City Council authorized a contract with Black & Veatch for final design of the recommended improvements. Design was completed in August 2011 and request for bids sent to six qualified contractors. Four bids were received on September 22, 2011, and are summarized in the following table:

<u>Contractor</u>	<u>Bid Amount</u>
Velocity Constructors, Inc.	\$374,462
RN Civil Construction	\$427,000
Moltz Construction, Inc.	\$434,000
Aslan Construction	\$462,700
Engineer’s Opinion of Probable Cost	\$535,000

After review of the bids received, Velocity's bid was determined to be valid and the dollar amount reasonable for the scope of the work. Velocity has successfully completed other projects for the City and is qualified to complete this project. For reference, their bid is 30% less than the engineer's estimate and 20% lower than the highest bid. This indicates a favorable bid climate for the City and supports the notion that these bids are competitive. For these reasons, Staff recommends executing a contract with Velocity for construction of this project, as well as a contingency amount of 10%. Construction will commence following award of the contract with completion anticipated by Summer 2012.

City Council approved the final design contract with Black & Veatch on March 28, 2011. At that time, Staff indicated that an amendment for construction phase engineering services would be presented to City Council along with the construction contract award. Accordingly, Staff has negotiated a scope of work and fee schedule with Black & Veatch for these services in the amount of \$39,709, which Staff believes is competitive and consistent with the project scope. Retaining Black and Veatch for the construction phase of this project will provide the best value to the City and will be the most timely and cost-effective way to support the construction effort. For these reasons, Staff recommends executing a contract amendment with Black & Veatch for construction phase services for this project, as well as a contingency amount of 10%. Funding for this project will come from the proposed 2011 Utility Capital Improvements Program funding modifications that are being presented to Council on this same agenda.

This project helps achieve two of the City Council's Strategic Plan goals: Achieving a "Financially Sustainable City Government Providing Exceptional Services" by contributing to the objective of well-maintained and operated City facilities; and contributing to a "Beautiful and Environmentally Sensitive City" by enhancing the reliability of the City's wastewater treatment system.

Respectfully submitted,

J. Brent McFall
City Manager



Agenda Item 8 I

Agenda Memorandum

City Council Meeting
October 24, 2011



SUBJECT: Second Reading of Councillor's Bill No. 31 re Amendments to the Comprehensive Land Use Plan

Prepared By: Walter Patrick, Planner I

Recommended City Council Action

Pass Councillor's Bill No. 31 on second reading approving the Comprehensive Land Use Plan amendments as proposed. This recommendation is based on a finding that the proposed amendments will be in the public good and that:

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

Summary Statement

- City staff monitors the Comprehensive Land Use Plan (CLUP) in order to assure that the Plan is up to date and free from errors. Staff brings any required changes to the Planning Commission and City Council for approval.
- This year there are two CLUP map updates. Both of these properties were purchased by the City in 2010 for Open Space use. The CLUP designation for these properties should now be amended to City Owned Open Space and reflected on the City's CLUP map.
- This Councillor's Bill was passed on first reading by City Council on October 10, 2011.

Expenditure Required: \$ 0

Source of Funds: N/A

Respectfully submitted,

J. Brent McFall
City Manager

Attachments – Ordinance with CLUP Update Maps #1 & #2



BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **31**

SERIES OF 2011

INTRODUCED BY COUNCILLORS

Dittman - Winter

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

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council finds:

a. The City has initiated amendments to the Westminster Comprehensive Land Use Plan pursuant to W.M.C. section 11-4-16(D) that are necessary to alter the designation of the following properties depicted on the attached exhibit maps, incorporated herein by reference as follows:

Map #1: From Retail/Commercial to City-Owned Open Space.

Map #2 From Business Park and Public Parks/Open Space to City-Owned Open Space.

b. Such amendments have been referred to the Planning Commission, which body held a public hearing thereon on September 27, 2011, after notice complying with section 11-4-16(B) and has recommended approval of the requested amendments.

c. Notice of the public hearing before Council has been provided in compliance with section 11-4-16(B).

d. 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. The requested amendments will further the public good and will be in compliance with the overall purpose and intent of the Comprehensive Land Use Plan, particularly the goal that encourages the enhancement of the City's open space system to preserve and protect natural areas, vistas, and view corridors, and to complete the open space and trial system.

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 designations of the property more particularly depicted in the attached Maps 1-2.

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 10th day of October, 2011.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 24th day of October, 2011.

Mayor

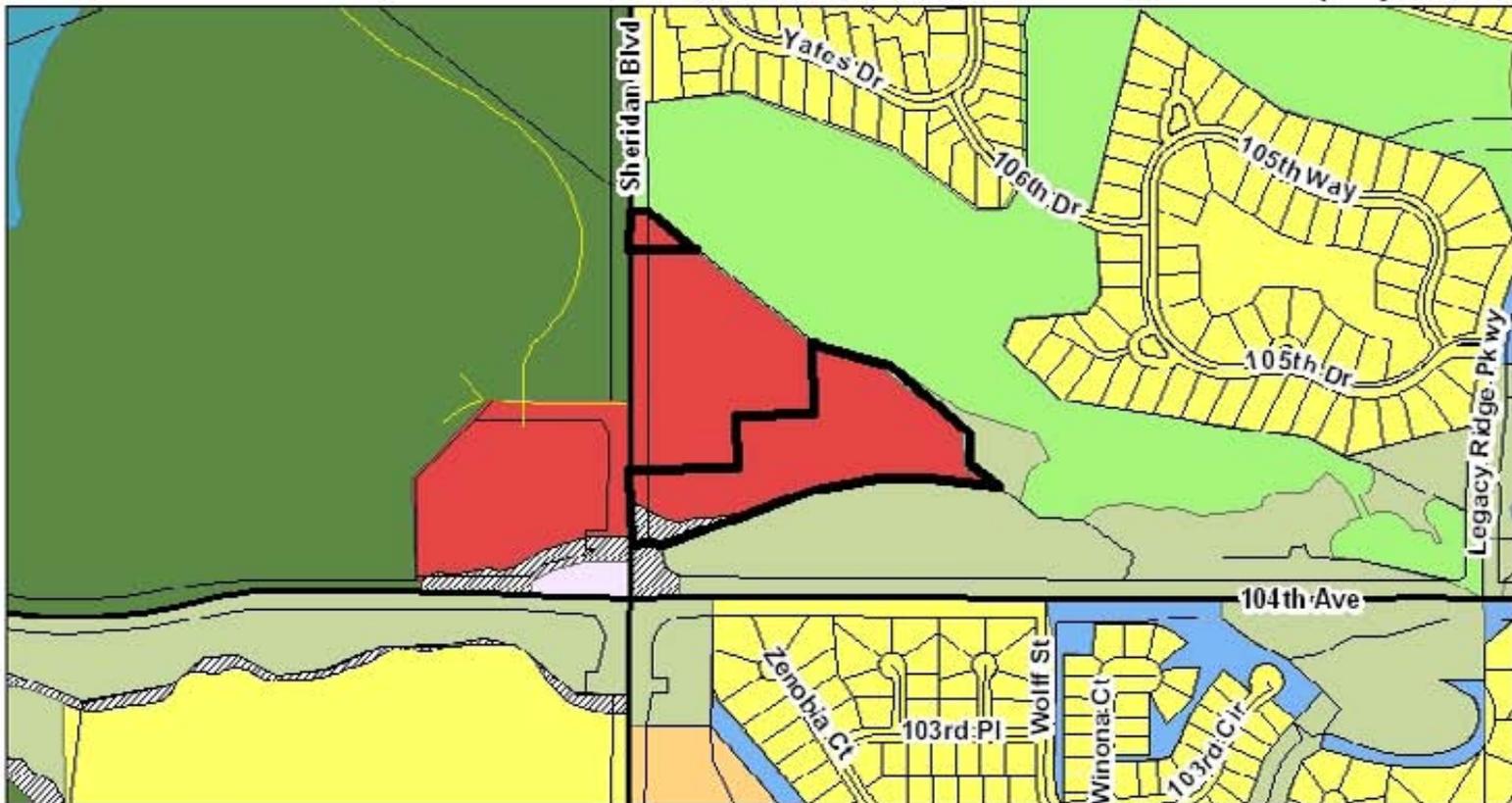
ATTEST:

APPROVED AS TO LEGAL FORM:

City Clerk

City Attorney's Office

MAP 1 - Hawn-Hewitt Property

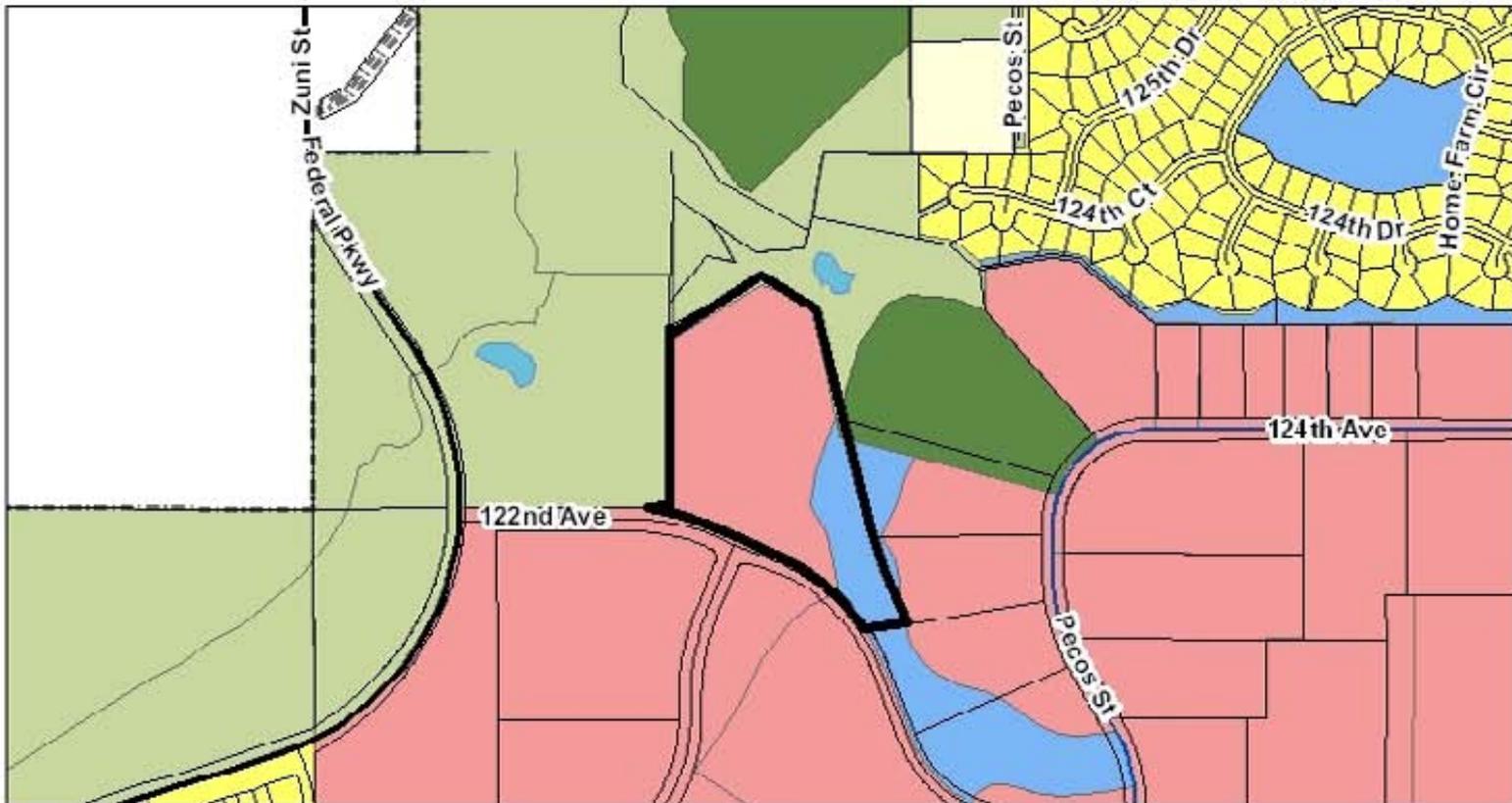


Change From: Retail/Commercial

	R-1		R-18		Office/Residential		Private Parks/Open Space
	R-2.5		Retail Comm.		District Center		Golf Courses
	R-3.5		Office		Traditional Mixed Use		Public/Quasi Public
	R-5		Industrial		City Owned Open Space		N.F. Comp. Dev. Plan
	R-8		Business Park		Public Parks		

Change To: City Owned Open Space

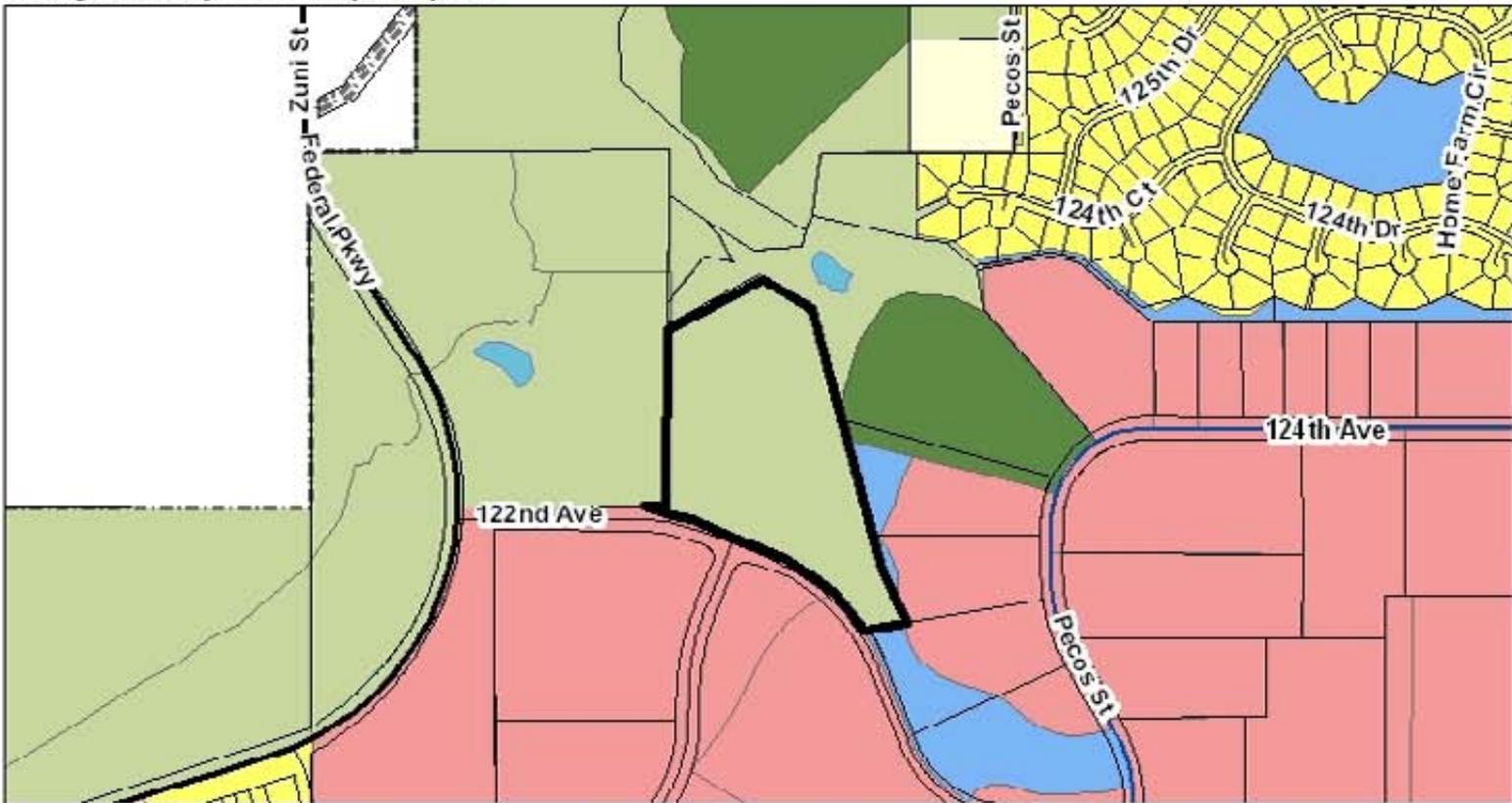
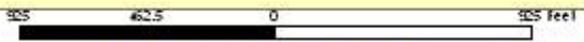




Change From: Business Park

R-1	R-18	Office/Residential	Private Parks/Open Space
R-2.5	Retail Comm.	District Center	Golf Courses
R-3.5	Office	Traditional Mixed Use	Public/Quasi Public
R-5	Industrial	City Owned Open Space	N.F. Comp. Dev. Plan
R-8	Business Park	Public Parks	

Change To: City Owned Open Space





Agenda Item 8 J

Agenda Memorandum

City Council Meeting
October 24, 2011



SUBJECT: Second Reading of Councillor's Bill No. 32 re Amendment to the Adopted 2012 Budget

Prepared By: Steve Smithers, Assistant City Manager
Barbara Opie, Budget & Special Projects Manager
Aric Otzelberger, Senior Management Analyst
Ben Goldstein, Management Analyst

Recommended City Council Action

Pass Councillor's Bill No. 32 on second reading amending the FY2012 budgets of the General, General Reserve, General Fund Stabilization Reserve, Utility, Utility Rate Stabilization Reserve, Utility Capital Project Reserve, Storm Drainage, Golf Course, Fleet Maintenance, General Capital Outlay Replacement, Sales & Use Tax, Parks Open Space & Trails (POST), General Capital Improvement and Debt Service Funds.

Summary Statement

- City Council action is requested to pass the attached Councillor's Bill on second reading amending the FY2012 budgets of the General, General Reserve, General Fund Stabilization Reserve, Utility, Utility Rate Stabilization Reserve, Utility Capital Project Reserve, Storm Drainage, Golf Course, Fleet Maintenance, General Capital Outlay Replacement, Sales & Use Tax, Parks Open Space & Trails (POST), General Capital Improvement and Debt Service Funds.
- A public meeting on the Adopted 2012 Budget was held on Monday, September 12, providing the public an opportunity to receive a financial update and make any requests of Council for the 2012 budget year. At that meeting, City Council received no requests or input.
- At the September 26 Post City Council meeting, Staff reviewed with City Council recommended modifications to the Adopted 2012 Budget and miscellaneous financial issues that Staff or City Council wished to raise.
- This Councillor's Bill was passed on first reading October 10, 2011.



SUBJECT: Second Reading of Councillor's Bill re 2012 Budget

Page 2

Expenditure Required: 2012=\$163,719,535, plus \$41,648,498 in reserves and \$1,000,000 in contingency

Source of Funds: General, General Reserve, General Fund Stabilization Reserve, Utility, Utility Rate Stabilization Reserve, Utility Capital Project Reserve, Stormwater Drainage, Golf Course, Fleet Maintenance, General Capital Outlay Replacement, Sales & Use Tax, POST, Conservation Trust, General Capital Improvement, and Debt Service Funds

Respectfully submitted,

J. Brent McFall
City Manager

Attachment - Ordinance

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **32**

SERIES OF 2011

INTRODUCED BY COUNCILLORS

Briggs - Kaiser

A BILL

FOR AN ORDINANCE AMENDING THE 2012 BUDGETS OF THE GENERAL, WATER, UTILITY CAPITAL PROJECT RESERVE, WASTEWATER, LEGACY RIDGE GOLF COURSE, HERITAGE GOLF COURSE, FLEET MAINTENANCE, GENERAL CAPITAL OUTLAY REPLACEMENT, SALES & USE TAX, PARKS OPEN SPACE & TRAILS, AND GENERAL CAPITAL IMPROVEMENT FUNDS AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION OR UN-APPROPRIATION FROM THE 2011 ESTIMATED REVENUES IN THE FUNDS.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2011 appropriation for the General, Water, Utility Capital Project Reserve, Wastewater, Legacy Ridge Golf Course, Heritage Golf Course, Fleet Maintenance, General Capital Outlay Replacement, Sales & Use Tax, Parks Open Space & Trails, and General Capital Improvement Funds initially appropriated by Ordinance No. 3550 are hereby decreased in aggregate by (\$3,828,239). This appropriation is due to a budget amendment for revised revenue projections and expense estimates for 2012.

Section 2. The (\$3,828,239) decrease shall be allocated to City Revenue and Expense accounts as described in the City Council Agenda Item 10 E&F dated October 10, 2011 (a copy of which may be obtained from the City Clerk) amending City fund budgets as follows:

General Fund	(\$818,101)
Water Fund	(3,000,277)
Utility Capital Project Reserve Fund	(409,149)
Wastewater Fund	(310,261)
Legacy Ridge Fund	(32,639)
Heritage at Westmoor Fund	(24,223)
Fleet Maintenance Fund	81,190
General Capital Outlay Replacement Fund	532,894
Sales & Use Tax Fund	523,800
Parks Open Space & Trails Fund	(253,473)
General Capital Improvement Fund	<u>(118,000)</u>
Total	<u>(\$3,828,239)</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 10th day of October, 2011.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED
this 24th day of October, 2011.

ATTEST:

Mayor

City Clerk



Agenda Item 10 A

Agenda Memorandum

City Council Meeting
October 24, 2011



SUBJECT: Resolution No. 34 re the City of Westminster's Debt Policy

Prepared By: Tammy Hitchens, Director of Finance

Recommended City Council Action

Adopt Resolution No. 34 approving the Debt Policy.

Summary Statement

- The City has issued and will continue to utilize various forms of debt to finance capital projects. To-date the issuance of debt has been guided by the provisions of the City Charter, specifically Chapter XI, - Borrowing Power and Chapter XII – Improvement Districts. It has also been influenced by debt management related best practices described in various Governmental Finance Officers Association Recommended Practices' documents and financial management guidance from the rating agencies Moody's, Standard and Poor's, and Fitch Ratings.
- Staff believes that it is time to consolidate, in one document the information the City relies on to be prudent about the use of debt financing. This will help assure that all State and Federal legal requirements are followed before and after debt is issued, and prudently manage the City's use of debt so as to maintain access to funding for capital projects while not limiting future financial flexibility to fund operations.

Expenditure Required: \$ 0

Source of Funds: N/A



Policy Issue

Should City Council adopt the attached Debt Policy to consolidate the City's debt procedure into a single adopted document?

Alternative

Do not approve the proposed Debt Policy and continue debt management without written and defined objectives and principles. This is not recommended. Establishing a debt policy provides defined guidance for all types of borrowings for current and future Staff and Council members. In addition, a written debt policy reflects sound fiscal management practices, which are favorably viewed by the rating agencies.

Background Information

As of December 31, 2010 the City had approximately \$316.8 million of debt outstanding. About \$65 million is debt issued by the City's Water/Wastewater Utility secured by usage revenues, \$106 million of WEDA debt secured by tax increment revenues from specific urban renewal areas, \$60.4 million of revenue bonds secured by either the general 3.00% sales tax or the 0.25% Open Space tax, \$82.1 million of capital leases which are subject to annual appropriations, and \$3.3 million of miscellaneous notes.

Sound financial management practice includes the prudent use of debt to finance important capital investments, which will provide long-term benefits for current and future users. This practice spreads the high cost of a project over time as the debt is repaid with the intent to mitigate the burden of financing a project entirely on current citizens or shifting an undue financial burden to future generations. Examples of large scale and high cost critical projects that the City has debt financed include constructing new water treatment plants, expanding capacity and improving treatment processes at the waste treatment plant, providing infrastructure to encourage new commercial and residential development within the City, constructing streets, and building public amenities to satisfy citizens' desire for a livable city.

In entering into and managing City indebtedness, City staff has adhered to the provisions of the City Charter, specifically Chapter XI, - Borrowing Power and Chapter XII – Improvement Districts, and complied with applicable state and federal legal requirements for municipal debt. Staff also followed guidance provided by the Government Finance Officers Association (GFOA) in their Recommended Practices for Debt Management and from the rating agencies regarding prudent financial management for municipalities. What has been missing, however, is a City policy that would consolidate in a single document all of the information concerning legal requirements and best management practices for managing the city's debt.

In drafting the proposed City of Westminster Debt Policy staff collected and reviewed other City and state governments' policies. In all staff considered 11 policies from counties, cities, and enterprises in Colorado, and 8 policies from states, cities, and enterprises outside of the state. Some policies were very detailed while others were short and concise. Staff attempted to take the best ideas from each and meld them together into a policy that would be relevant to the City of Westminster given the financial structure and needs of the City. Staff also relied on explicit guidance from all three rating agencies and the GFOA concerning best practices for financial and debt management by municipal governments. Finally the draft policy was reviewed by the City's investment banker.

The general objectives of the proposed debt policy are: 1) to assure that the City maintains access to the capital markets to be able to obtain funds as needed at a reasonable cost; 2) to pursue and maintain a high debt rating for individual types of debt consistent with the capital requirements of the City; and, 3) to ensure compliance with all bond or loan covenants, charter requirements, any Federal or State legal requirements and ongoing SEC disclosure rules.

The City has historically sought to balance the use of debt financing for capital projects with the use of cash. The Policy, therefore, is intended to be a guide for deciding the appropriate level of cash vs. debt funding for capital expenditures projected in the City's Five Year Capital Improvement Plan. It will also serve as a tool for evaluating the benefits and drawbacks of debt financing given the immediate and longer-term capital requirements of the City and the volatile nature of the economic, political and financial environments that affect capital markets.

The policy outlines factors that City staff must consider to manage the City's debt, describes the types of borrowing the City might utilize, requires that staff must follow state law and City Charter provisions that effect the use and amount of debt a Colorado municipality may issue, provides guidance on limits to debt issuance that staff believes are prudent, explains how the structures of individual debt issues will be determined, and how debt will be administered.

Creating specific guidance in the Debt Policy supports the City's goal of a financially sustainable city government providing exceptional services by providing, in a single document, guidance to help the City diversify its access to funding at a reasonable cost to finance capital projects and setting forth specific factors that will be considered when contemplating the use of debt. This will help the City maintain access to low cost capital and a strong credit rating consistent with prudent use of debt.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

- Resolution
- Attachment A – Debt Policy

RESOLUTION

RESOLUTION NO. **34**

INTRODUCED BY COUNCILLORS

SERIES OF 2011

APPROVAL OF THE CITY OF WESTMINSTER DEBT POLICY

WHEREAS, the City of Westminster desires to enact a Debt Policy that governs the borrowing decisions of public funds; and

WHEREAS, the City of Westminster abides by all City, state, and federal legal requirements regarding the issuance and disclosure of borrowings; and

WHEREAS, the City's Debt Policy sets forth objectives and defines guidelines, constraints, and responsibilities to pursue fiscally prudent debt management practices; and

WHEREAS, Staff will utilize the Debt Policy as the guiding document for all types of indebtedness that the City and its related entities might enter into including general obligation or revenue bonds, lease purchase agreements, loans or any other forms of debt; and

WHEREAS, the Debt Policy complements the City Council's Strategic Plan Goals and Objectives.

NOW, THEREFORE, the City Council of the City of Westminster hereby adopts the City of Westminster Debt Policy dated October 24, 2011, attached to this Resolution as Attachment A.

PASSED AND ADOPTED this 24th day of October, 2011.

CITY OF WESTMINSTER, COLORADO

Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

City Clerk

City Attorney

Attachment A

DEBT POLICY CITY OF WESTMINSTER, COLORADO October 2011

I. POLICY STATEMENT SUMMARY

The City's Debt Policy sets forth objectives and defines guidelines, constraints, and responsibilities to pursue fiscally prudent debt management practices to issue debt with the most cost effective means given prevailing market conditions.

The general objectives of this policy are:

1. to assure that the City maintains access to the capital markets to be able to obtain funds at a reasonable cost;
2. to maintain and pursue the highest debt rating for individual types of debt; and,
3. to ensure compliance with all bond or loan covenants, any Federal or State legal requirements and on-going SEC disclosure requirements.

Applicability: The Debt Policy applies to all types of indebtedness that the City and its related entities might enter into including general obligation or revenue bonds, lease purchase agreements, loans or any other forms of debt.

Responsibility: The Finance Department shall be responsible for and manage the process of evaluating the use of bonded and other forms of debt financing to fund City operations or capital projects and acquisitions.

The policy is also intended to be a guide for deciding whether to cash fund or debt fund capital project expenditures anticipated in the City's Five-Year CIP, and will serve as a tool to analyze the benefits and drawbacks of debt financing, which are subject to an ever changing economic, political and financial environment.

Policy Review: The policy should be reviewed annually or at the very least, whenever a decision is required regarding the use of debt financing versus cash or an event in the capital markets significantly impacts the City's debt portfolio. As such, deviations from the policy may be prudent or justified; however, deviations from the policy will be presented to Council for approval.

This policy was adopted by the City Council of the City of Westminster on October 24, 2011 (Resolution No. xx, Series 2011)

II. DEBT MANAGEMENT CONSIDERATIONS

1. Comply with all Federal, State, and City legal requirements related to issuing debt from time of issuance until the debt is retired.

2. Long-term debt, as a financing mechanism, should be used to equitably spread the capital cost of a facility or project between current and future users.
3. Issue long-term debt as appropriate for the acquisition of property or other long-term assets and for the acquisition, development, construction or renovation of capital facilities, capital projects, capital equipment, and infrastructure.
4. Issue debt strategically in conjunction with other available funding sources, such as available funds on hand, grants, and when applicable, private financing.
5. Integrate debt issuance, to the extent possible, into the City's Five-Year Capital Improvement Program.
6. Structure debt to achieve the lowest net cost given the prevailing market conditions and strategic assessment of fixed versus variable rate issuance.
7. Issue debt while ensuring that the City maintains future financial flexibility and improves its overall financial health with appropriate debt levels based on rating agency standards to attain the highest ratings possible. City Council will be notified of any pending decline of ratings that may result from the issuance of debt.
8. Monitor the total debt burden and associated risks created by long and short-term borrowings.
9. Evaluate outstanding debt periodically to determine if a current or advanced refunding might reduce total debt service over the remaining life of the debt issue.
10. Make debt service payments as required and comply with all debt covenants.
11. Comply with all ongoing market disclosure regulatory requirements imposed by the Securities and Exchange Commission or any other regulatory body then in effect.

III. TYPES OF BORROWINGS

The City's Debt Policy applies to all forms of borrowings and all funds that provide revenues to support the repayment of such obligations. Types of long-term obligations outstanding include but are not limited to the following:

- General Obligation (GO) debt
- Sales & Use Tax Revenue Bonds (General and POST);
- Enterprise Revenue Bonds and Notes;
- Lease-purchase obligations evidenced by Certificates of Participation (COPS);
- Westminster Economic Development Authority (WEDA) Bonds and Loans;
- Debt issued on behalf of the City or a subdivision, such as the Utility Enterprise's Notes with the Colorado Water Resources and Power Development Authority;
- Equipment leases as well as other short to mid-range borrowings; and,
- Conduit Debt issued on behalf of qualified entities, which is solely secured and repaid by the borrower without the pledge of any City funds.

IV. LEGAL AUTHORITY

The City will comply with the provisions of Article XI of the State Constitution and all State Statutes and amendments regarding debt issuance and debt limitations, and the provisions of the City’s Home Rule Charter that relate to City indebtedness (Chapter XI – Borrowing Power attached hereto as *Addendum A*)

V. DEBT LIMITATIONS

1. Statutory Debt Limitations

Certain debt limitations are imposed on the City by State Statutes, and State Amendments. Specifically, the overall debt inclusive of any and all outstanding General Obligation and lease/purchase contracts, such as COPS and equipment leases is limited to 3% or less of the total assessed property value (30-26-301(3) C.R.S.).

2. TABOR Debt Limitations

Further constraints on the use of debt financing are defined in the Taxpayer Bill of Rights (TABOR) amendment to the Colorado Constitution, and other Colorado law and court decisions. In particular, TABOR (Article X, Section 20) requires voter approval of any multiple-year debt obligation unless the debt is 1) issued by an Enterprise 2) a refunding to a lower interest rate below the existing rate 3) for borrowings structured as an obligation of less than one year, or 4) sufficient cash reserves are pledged irrevocably for all debt payments. Examples of borrowings exempt from the TABOR voter approval requirement include operating leases, lease-purchases, and Certificates of Participation, all of which are subject to annual appropriation and thus are not considered multiple-year debt obligations.

The provisions of the TABOR amendment state that bonded debt ballot measures shall specify the debt’s principal amount and maximum annual and total repayment cost, the principal balance of total current bonded debt and its maximum annual and remaining total repayment cost and that debt related elections can only occur during a State general election, a biennial local City election, or on the first Tuesday after the first Monday in November of odd-numbered years.

The table below summarizes debt issuance requiring voter approval:

Debt Obligation	Voter Approval Requirement
General Obligation Bonds	Yes
Sales Tax and POST Bonds	Yes
Enterprise (Utility Funds) Bonds	No
WEDA Bonds	No
COPS *	No
Equipment Leases *	No
Special District Bonds	Only by the property owners within the district

* COPS and equipment leases are subject to annual appropriation for the repayment of the obligation and are not deemed multi-year obligations.

3. Debt Issuance Limitations – Bond Covenants

a. Bond Covenants

Prior to issuing new debt Staff will review limitations of existing bond covenants and obtain guidance from the City’s underwriter and/or financial advisor relative to benchmarks incorporated into the rating agencies’ analysis of similar issues.

b. City’s Debt Policy

1) General

The issuance of debt shall take into consideration the adequacy of future revenue streams that are available to make payments of total principal and interest over the term of any debt outstanding. As such the City will consider specific revenue streams available or pledged to service the debt taken individually or in the aggregate.

2) The City’s debt policy includes more restrictive coverage guidelines than covenant requirements as a means to encourage policy discussions relative to the overall debt burden when additional debt is contemplated that may result in a rating downgrade; however, the City recognizes that under certain circumstances, such as the declaration of an emergency or financially sound business decisions, additional debt that may impact the City’s debt ratings may either mandated legally or prudent for the long-term sustainability of the City’s Strategic Goals.

The table below summarizes the minimum Maximum Annual Debt Service (MADS) coverage ratios required to issue additional debt per debt covenants and the City’s debt policy guidelines by obligation type:

Debt Obligation	Minimum MADS Requirement	City Debt Policy Guideline
Sales Tax Bonds	200 %	225 %
POST Bonds	150 %	175 %
Utility Enterprise Bonds	125 %	150 %

In addition to the coverage guidelines for revenue based obligations, Staff will review the City’s General Fund debt service obligations based on standards applied by the rating agencies. Unless authorized by Council, the debt policy will adhere to measures of debt capacity by the rating agencies which at a minimum maintain the City’s existing ratings.

A coverage guideline for WEDA bonds is not deemed relevant. These borrowings are Tax Increment Financing (TIF) instruments, which incremental property and sale tax revenues above an established base are pledged as a repayment source. Furthermore, debt provisions associated with TIF’s may be structured to pledge only a certain percentage of the sales tax collections as certain issues feature a floating sales tax pledge, which either decreases or increases based on the provisions of the issue. As such, a MADS requirement is not deemed appropriate for WEDA bonds as the coverage ratio is not based on an uniform standard.

VI. DEBT ADMINISTRATION

1. General

The Finance Director or designee shall plan for and coordinate the issuance of all forms of debt, including but not limited to the Borrowing Types list in Addendum B and submit recommendations to Council for approval prior to issuance. All long-term debt issuance will be coordinated by the Finance Department with the assistance of a Finance Team, which may include- advisors such as bond counsel, bond disclosure counsel, underwriter, financial advisor, arbitrage specialists, and feasibility consultants.

2. Use of Advisors

The City generally hires certain professionals for the debt issuing process in order to comply with any and all local, State and Federal laws and previous debt provisions/covenants, to administer all legal paperwork, and to monitor market conditions to ensure debt capital is obtained at the lowest reasonable market price in line with similarly rated municipalities and current market conditions.

3. Bond Ratings

Generally, the City's debt issues will be rated by one or more nationally recognized rating agencies, currently Fitch, Standard and Poor's, and Moody's. Where applicable a rating will be obtained for both the underlying credit and for the rating after considering the impact of any credit enhancing instrument that might be employed.

The City will keep those rating agencies, who rate City debt, informed regarding the City's overall financial condition, the financial condition of any fund whose revenues are pledged to debt service, any other operational or strategic factors that may impact the debt ratings, and any pending debt issuance. Generally face-to-face meetings to present a comprehensive review of the City's financial condition should occur every two years.

The City will be responsive to any requests for information that rating agency staff may have when they are performing periodic reviews of the City's debt issues.

Council will be apprised of any rating changes.

4. Covenant Compliance

The City will comply with bond covenants throughout the term of the obligation. Covenants define ratio standards of which must be adhered or the City may be restricted from issuing debt or receive a credit rating downgrade. There are also operational covenants such as reporting requirements, compliance with existing laws, maintenance of revenues, etc., that must be complied with.

5. Disclosure Compliance

Continuing disclosure requirements under Rule 15c2-12 issued by the Securities and Exchange Commission (SEC) apply to certain debt undertakings of the City. The City will comply with all such Federal or other State reporting requirements on a timely basis. In addition, the City will comply with the *Reporting of Material Events* as identified within the respective issue's

Continuing Disclosure Certificate on a timely basis and solicit advice from Disclosure Counsel regarding mandatory and voluntary continuing disclosure reporting.

VII. DEBT STRUCTURE

1. Term of Debt

The length of long-term financing is generally 20-25 years but never greater than the life expectancy of an asset purchased or built with the debt funding. A key outcome of a debt structure is to amortize capital costs with a fair allocation to the current and future beneficiaries.

2. Debt Service Levels

The City's practice is to structure fixed level debt payments to the extent possible and to avoid back-loading principal payments. Wrap structures may be considered if certain circumstances warrant.

3. Interest Rate Structure

a. Cost of Capital

The City will seek to minimize the true interest cost of each debt issue given the prevailing conditions in the market place at the time of issuance. Generally the City will favor issuing tax-exempt debt since Federal and State income tax rules for interest income earned by owners of such debt exempt this income from taxes, which thereby reduces the City's interest expense. However, taxable bonds also may be used in certain circumstances such as when the private content of a project funded by City debt may exceed the limits set by Federal law.

b. Use of Variable Rate Debt

Variable rate debt may be used by the City as a strategy for the debt portfolio. When deemed appropriate to stabilize the variable rate debt, Staff may recommend that certain variable rate issues convert to fixed rate either through the options available in the indenture or through the engagement of a hedging derivative agreement. Conversely, the City may investigate swapping fixed rate debt into variable rate debt.

c. Use of Capitalized Interest

For certain debt undertakings that are supported by a specific revenue stream, such as redevelopment associated with an URA, income during the initial phases of the project may be inadequate to cover debt service obligations until the project is sufficiently completed to generate revenues. In such cases capitalized interest, up to three years, may be structured into the borrowing to ensure interest payments can be made until sufficient revenues will be generated to cover debt service. The amount of capitalized interest is based on the projected period from the bond sale to the expected time when income generation will be adequate to service debt payments. The use of capitalized interest should be based on revenue projections generated by independent feasibility studies.

4. Issue cost effective debt

Issuing cost effective debt includes evaluating various components of the bond issue: how bonds are sold (competitive versus negotiated sale); credit enhancements, and assessment of market conditions by key debt advisors.

5. Premium/Discount

Reflective of market conditions and financing needs, bonds will be sold as close to par as possible. Premiums and discounts will be amortized according to generally accepted accounting principals.

6. Method of Sale

The City may issue bonds through a competitive sale, negotiated sale, or private placement. The City traditionally employs negotiated bond sales and completes a Request for Proposals (RFP) for Underwriter Services. Negotiated sales are preferred over competitive sales given the complex nature of the City's debt issues and the guidance provided during times of market volatility. The City will assess the most advantageous sale method during the preparation period of bond issuance.

7. Credit Quality

Ratings reflect not only the City's overall debt burden but are an assessment of the City's overall financial management, including but not limited to the City's philosophy, policy, and execution of strategic planning as well as the City's demographics. The primary objective of the debt policy is to maintain strong credit rating. If a rating agency has indicated that ratings are in danger of deterioration, Staff will prepare a report for Council's review, along with recommendations.

8. Credit Enhancement

In order to enhance the overall rating of the debt issue, certain debt issues may warrant the purchase of credit enhancement, such as insurance or letters of credit. Finance will consult with advisors and assess the potential benefit of purchasing a credit enhancement as well as analyzing concentration risk exposure of providers' on the City's debt portfolio. Projected debt service savings for any credit enhancement shall be greater than the cost of credit enhancement vehicle.

Some debt structures may require the City's Moral Obligation, which is a non-binding agreement on the part of the City Manager to ask the City Council to appropriate funds to make up for Reserve Fund deficiencies as defined in the bond documents. The conditions for moral obligation triggers are spelled out in Replenishment Resolutions and Cooperation Agreements, which creates a loan from the City to the issuer should the City's replenishment of the Reserve Fund be required.

9. Call Provisions

Based on market acceptance and cost premium, the City will pursue the shortest period, if any, for an optional call provision. This analysis will be completed by an investment advisor or the underwriter. Call provisions will be based on market conditions at the time of issuance as required to market the bonds at a reasonable cost.

10. Debt Reserves

Depending on the issue, a debt reserve fund may be created and funded with bond proceeds. The minimum required reserve amount will be negotiated for each issue, but generally should not exceed 10% of the original issue's principal par value. In lieu of cash funding a debt reserve two other options may be considered.

- Surety Bond – Staff will evaluate the cost effectiveness of purchasing a surety bond relative to the projected interest earnings and incremental cost of increasing the bond size to fund a reserve.
- Springing Debt Reserve – Issues with a springing reserve will require that a certain minimum Pledged Revenue to Debt Service coverage ratio be maintained, which if breached will trigger the need to fund a debt reserve. At that time the Reserve Fund may be created using cash, funded over a 12 month period, or by purchasing a surety bond.
- The City currently has the following Springing Debt Reserve covenants:
 - Sales & Use Tax Revenue Bonds – required at 10% of aggregate principal outstanding if Pledged Revenues are not at least 200% of AADS.
 - Parks Open Space Trail (POST) Special Purpose Sales & Use Tax Revenue Bonds – Springing Debt Reserve required at 10% of aggregate principal outstanding if Pledged Revenues are not at least 150% of MADS.

11. Refundings

The City will analyze refunding opportunities to determine if interest rates have declined sufficiently to be financially advantageous to refinance at the lower rates. The potential interest cost savings may be derived from a low interest rate environment or the result of lower interest rates by “rolling down the yield curve” with a shortened average life from the original issue. Per GFOA recommended practices, a refunding should only be pursued if the present value of the savings, net of bond expenses, exceeds 3% of the refunding bond’s debt service. Furthermore, it is the City’s practice not to extend the amortization period of the refunding issue beyond the final maturity of the original issue to be refunded.

All potential refundings will be analyzed by the City’s Finance Team to assess financial and legal implications both positive and negative of a particular refunding. In addition to financial advantages, there may be legal or covenant implications that may impact long term financial or operational flexibility.

a. Advanced Refunding

Under current IRS regulations an advanced refunding is only permitted once per issue. The City may refinance bonds at a lower interest rate when the outstanding bonds are callable and remain outstanding for a period of more than 90 days after the issuance of the refunding issue. Proceeds from the sale of the refunding bonds are used to purchase permissible legal securities, which are deposited into an escrow account. The escrow account shall be structured so that the principal and interest earned on the securities are sufficient to pay all principal, interest, and call premium, if any, on the outstanding bonds up to and including the call date. This structure shall be calculated and certified by a financial agent.

b. Current Refunding

A current refunding occurs when an issue is retired within 90 days after the new bonds are sold. Proceeds of the refunding issue are used to purchase the refunded bonds from

investors at the maturity date or at a call date prior to the maturity date. This type of refunding may be pursued more than once in accordance with call provisions.

12. Subordinate Debt

The use of subordinate debt is permissible after assessing the overall cost and flexibility it would have on senior debt service obligations.

13. Direct Loans

Direct Loans from banks or other financial institutions may be entered into to obtain short to medium term capital if it is more cost effective and efficient than employing long-term debt or if necessary, employed as an interim funding source until permanent long-term financing is secured.

14. Inter-fund Borrowing

This form of borrowing is a loan between two or more different funds of the City and/or its related entities and certain debt covenants may trigger inter-fund borrowing. The terms of these borrowings are detailed within the respective debt documents, such as situations where there is a moral obligation the City might have under provisions of a Reimbursement Resolution as for certain WEDA debt issues. Borrowing between funds may also be employed when it is cost effective or financing is otherwise unavailable; however, as a general rule, inter-fund borrowing is not encouraged. When applicable, this form of borrowing will state the repayment terms, and interest rate.

15. Equipment Lease Purchases

Equipment lease purchase agreements may be considered for short to mid-term borrowing needs, 0-10 years. The Finance department will research and administer all equipment leases if pay-as-you-go funding is not desirable for the purchase of equipment.

The City may enter into equipment leases for capital items such as fire trucks, golf carts, park equipment, and copiers. The City will utilize master lease agreements for these financings. Leases may be entered into for assets with useful lives of three years or more. The master lease provider is rebid per purchasing requirements at a minimum every 5 years. Leases are subject to annual appropriation and do not require voter approval. The City primarily utilizes a Master Lease agreement for equipment leases given the overall administrative and financial efficiencies to employ this type of financing. However, the City does hold the option to solicit competitive rates outside of a master lease relationship.

16. Investment of Bond Proceeds

Debt proceeds shall be invested in accordance with the City's Investment Policy but may be more restrictive per the bond ordinance and are subject to arbitrage restrictions per Federal regulations. The City will segregate bond proceeds from other invested funds in order to efficiently monitor the use of the funds and all interest earnings by holding all bond proceeds in a trust or custodial account for the purpose of efficiently calculating arbitrage reports. Prior to issuance, Treasury attempts to develop a draw-down schedule with the cooperation of project managers. The schedule is then utilized to structure investment maturities aligned with anticipated cash-flow requirements. When deemed necessary, the City will employ the services of an investment advisor to efficiently structure the portfolio and will employ the services of an

arbitrage consultant to calculate any potential rebate due the federal government from excess earnings.

ADDENDUM A – Debt Policy for the City of Westminster

City Charter , Debt Related Provisions

Chapter XI – Borrowing Power

Section 11.1. Limits of Borrowing Power.

General obligation indebtedness of the City shall be incurred and limited as provided in Article XI of the Constitution of the State of Colorado; provided that in determining the limitation of the City's power to incur indebtedness there shall not be included indebtedness for the acquisition or extension of a water system and supply, public utilities, projects, enterprises, works or ways from which the City will derive revenue; and provided further, that no general obligation indebtedness shall be incurred without the vote of the qualified electors except for water purposes and except such indebtedness as may be incurred pursuant to Section 11.3 of this Charter. Revenue bonds may be issued by the Council without the vote of the qualified electors.

In addition, without the vote of the qualified electors,

- (a) The Council shall have the power and it shall be its duty to refund all bonds and issues whenever the same is advantageous to the City.
- (b) The Council shall have the power to issue special improvement district bonds.
- (c) The Council shall have the power to issue bonds to finance the improvement or extension of a municipally owned and operated utility, or any other project, enterprise, works or ways, if said bonds shall be payable solely out of revenue to be derived from the operation of such utility, project, enterprise, works or ways. The Council shall also be empowered to combine municipally owned and operated utilities, providing for their joint operation, and having so provided, may issue revenue bonds of such jointly operated utilities, pleading for the payment thereof the joint revenue of the utilities. Such joint utilities revenue bonds may be issued to acquire, extend or improve one (1), or more, or all of the jointly operated utilities.
- (d) The Council shall have the power to issue revenue bonds for any public purpose payable in whole or in part from the revenue to be derived from the operation of facilities to be acquired, constructed or improved with the proceeds of the bonds, or payable in whole or in part from the available proceeds of sales and use taxes which may be imposed pursuant to Chapter X of this Charter or which may be imposed by the State of Colorado, or any agency thereof, and made available to the City. Such bonds shall not be considered indebtedness or general obligations of the City.
- (e) The City may borrow funds for a period not to exceed (6) months, for the payment of current debts, operating expenses and progress payments under public contracts provided that the expenditure shall have been properly budgeted and funds appropriated therefore and provided further that the source of repayment of the funds so borrowed shall be previously invested City funds awaiting the maturity of such investments. (As amended 11-4-75)

Section 11.2. Bonds-Interest, Prepayment.

(a) The terms and maximum interest rate of general obligation or revenue bonds or other like securities shall be fixed by the authorizing ordinance, and such securities shall be sold to the best advantage of the City.

(b) Any bonds may contain provisions for calling the same at designated periods prior to the final due date, with or without the payment of a prior redemption premium.

Section 11.3. {Installment, Lease Option Contracts.}

The Council may enter into installment or lease option contracts for the purchase of property or capital equipment. No such contract shall extend over a period greater than the estimated useful life of such property or capital equipment as determined by the Council, nor shall the total amounts of principal payable under all such contracts together with the total of all outstanding principal of general obligations indebtedness of the City exceed the amount limitations of this Charter applicable to general obligation indebtedness.

All such deferred payments shall be included in the budget for the year in which the installment is payable. (As amended 11-4-69, 9-24-74)

Chapter XII – Improvement Districts

Section 12.1. Power To Construct Improvements and Create Improvement Districts.

The City shall have the power to contract for, construct, or install special or local improvements of every character within designated districts of said City, and to assess the cost thereof wholly or in part upon the property especially benefited. The City Council shall by ordinance prescribe the method and manner of making such improvements, of letting contracts therefore, assessing the cost thereof; and issuing and paying bonds for costs and expenses of the organization of said districts and of construction or installation of said improvements. The creation of any local improvement district shall be subject, however, to protest by the majority of the owners of the property to be assessed, except in case the City shall pay one-half or more of the total cost of the improvements made. Nothing herein contained shall be construed to limit the power of the City Council to otherwise act in accordance with the Constitution and statutes of Colorado in carrying out such purposes.

Section 12.3. Improvement District Bonds - General Benefit.

In consideration of the general benefits conferred on the City at large from the construction or installation of improvements in special or local improvement districts, the City Council may levy annual taxes on all taxable property within the City at a rate not exceeding two (2) mills in any one (1) year, to be disbursed as determined by the City Council for the purpose of advancing money to maintain current payments of interest and equal annual payments of the principal amount of bonds issued for any special or local improvement district thereafter created. The proceeds of such taxes shall be placed in a special fund and shall be disbursed only for the purposes specified herein; provided however that in lieu of such tax levies, the City Council may annually transfer to such special fund any available money of the City, but in no event shall the amount transferred in any one (1) year exceed the amount which would result from a tax levied in such year as herein limited. In addition to the above, the Council may finance the City's share of the cost of any special improvement project, whether or not such cost is assessed against City-owned property, by the issuance of special improvement district bonds, and shall appropriate annually an amount sufficient for the payment of that portion of the share

of such costs then due. Such bonds shall not be subject to any **election** requirement or debt limitation which might otherwise exist pursuant to this Charter or other applicable law. (As amended 11-4-75)

ADDENDUM B – Debt Policy for the City of Westminster

Definitions

Long Term Debt – Debt with Final Maturity > 10 years at issuance

Short Term Debt – Debt with Final Maturity < 10 years at issuance

ABT – Additional Bonds Test

MADS – Maximum Annual Debt Service

AADS – Average Annual Debt Service

Underwriter – Is responsible for the marketing and sale of the bonds. The underwriter is integral to understanding the market conditions leading through the bond sale and preparing presentations given to the Rating Agencies.

Financial Advisor – Is employed on a case by case to help oversee the bond issuance process to ensure a smooth process through bond issuance. The advisor's role may include coordinating the finance team and other agents on key tasks as well as serving as check on the underwriter to ensure marketing of the bonds are the most cost effective structure and cost of issuance fees are in line with similar debt issues. An Underwriter may at times be hired as a Financial Advisor and visa versa. As such, neither can participate in the competing role for a minimum of six months after relinquishing that role.

General Bond Counsel – Specializing in preparing the legal binding documents incorporated in a bond offering, General Bond Counsel is a key member of the finance team to ensure that the City abides by all local, state, and federal laws.

Continuing Disclosure Counsel – This agent prepares the Preliminary and Official Statement which is given to investors as a document detailing the intent of the bond offering, outlining the risks of the investment, presenting the managerial and financial position of the City in order to provide potential investors with a clear understanding of the investment they may undertake. Continuing disclosure remains in effect throughout the term of the bonds and will apprise the City on changes to disclosure requirements and will assist the City prepare the annual Continuing Disclosure Report.

Trustee/Paying Agent – Whereas the paying agent ensures delivery of the City's debt payments, the trustee's responsibilities include oversight of certain covenant requirements detailed in the Indenture of Trust, typically seen in COP and WEDA debt issues.

Arbitrage Consultant – This specialist is hired to calculate any rebate due to the Federal government on excess earnings on the bond proceeds. The City is limited to in essence, the yield we pay on the bonds

and this consultant derives the interest earnings' calculation based on the draw down of bond funds and interest earnings against the interest rate paid on the bonds.

Bond Sale Types –

1. Negotiated Sale: Marketing and sale of bonds through one underwriter.
2. Competitive Sale: Underwriters submit a proposal to purchase all the bonds of a particular issue.
3. Private Placement: Structured specifically for one purchaser, such as a bank, insurance company, or accredited investor.

Borrowing Types -

1. General Obligation

General Obligation bonds are issued with the support of the City's taxing authority.

2. Revenue

Revenue bonds are supported by specific revenues derived either from a revenue source, such as the City Sales & Use Taxes, or the Utility or Golf Course Enterprise. This would also include tax increment financing under Title 31 of the C.R.S. where by sales tax and property tax revenues in an Urban Renewal Area may be captured by the Urban Renewal Authority, in the City's case the Westminster Economic Development Authority's (WEDA).

3. Certificates of Participation (COPS)

A long-term lease agreement structured by the Westminster Building Authority to fund an asset that is repaid by the City in the form of lease payments, which are subject to annual appropriation by City Council.

4. State or Federally subsidized loans

The Utility Enterprise has entered into several debt obligations with the Colorado Water Resources and Power Development Authority whereby the CWRPDA issues debt and uses the proceeds to lend money to water utilities in the State of Colorado. The loans from the CWRPDA are classified as subordinate debt. Such debt is utilized where it can provide a lower interest rate than what could be attained if the Utility were to issue its own debt directly to investors. While debt service on these notes is subordinate to senior lien debt, these debt service obligations shall be factored into any assessment of the total debt burden for the Utility Enterprise as well as any other City Fund or agency that may enter into a note agreement.

5. Direct Loans

Direct Loan is a form of borrowing from a bank or other financial institution.

6. Conduit Financings

This form of financing includes industrial development revenue bonds or private activity bonds. The bonds are issued by a party external to the City but utilize the City's name. The bond issuer is responsible for debt service on the bonds. It is not an obligation of the City.

7. Inter-fund Borrowing

This form of borrowing is a loan between two or more different funds of the City and/or its related entities.

8. Equipment Lease Purchases

Equipment lease purchase agreements are a form of borrowing for short to mid-term borrowing needs, generally between 0-10 years.



Agenda Item 10 B

Agenda Memorandum

City Council Meeting
October 24, 2011



SUBJECT: Resolution No. 35 re 2012 Jefferson County Open Space Local Park and Recreation Grant Application

Prepared By: Heather Cronenberg, Open Space Coordinator

Recommended City Council Action

Adopt Resolution No. 35 authorizing Staff to pursue a grant from the Jefferson County Open Space Local Park and Recreation Grant Program during the 2012 cycle for the acquisition of the Bonnie Stewart property located at 8390 West 108th Avenue for open space.

Summary Statement

- The Department of Community Development wishes to pursue a grant from the Jefferson County Open Space (JCOS) Local Park and Recreation Grant Program for funding assistance with the acquisition of the 31.87-acre Bonnie Stewart property.
- Approximately 2.61 acres will be donated to the City as right of way along 108th Avenue after the property is purchased per the Official Development Plan on the property. The City has been negotiating with the landowner to purchase the remainder of the site (29.26 acres) for \$830,000 based on an appraisal ordered by the City which values the property (net of the 2.61 acres) at \$800,000. The acquisition is contingent upon Council approval. Staff recommends requesting \$200,000 from Jefferson County for the acquisition which represents a 25% request of the appraised value. This is the amount that JCOS will consider funding. However, there are criteria that if met, will allow JCOS to award additional funds above 25% of the project cost.
- This property is one of the few undeveloped parcels of this size remaining in the Jefferson County portion of Westminster. It will also provide a critical link for future trails that will serve passive recreational and commuting purposes.
- Staff will bring a separate agenda memo to Council asking for authorization to purchase the property.

Expenditure Required: Cash matching funds in the amount of \$630,000.

Source of Funds: Open Space Bond Funds



Policy Issue

Should the City attempt to seek assistance with the acquisition of the Bonnie Stewart property from the JCOS Local Park and Recreation Grant Program?

Alternative

Council could choose not to pursue additional funding for the acquisition. This is not recommended because the City has spent the majority of the bond funds and needs assistance in order to purchase this property.

Background Information

The Jefferson County Open Space program has recently created a Local Park and Recreation grant program to provide supplemental funding to assist cities and park districts in implementing their priority land acquisitions and/or capital projects. It is estimated that the program will have approximately \$1.4M per year to award. This program replaces the current JCOS Joint venture and Conservation Trust Fund Programs. Municipalities and special districts were asked to submit up to three priority projects for land acquisitions and capital projects. Only projects on an entity's current priority list are eligible for local grants. Staff from Westminster submitted this list in July, 2012 that included the following projects: acquisition assistance with the Heritage Golf Course, Sisters of the New Covenant open space property, and the Bonnie Stewart acquisition. The Jefferson County Open Space Advisory Committee (OSAC) reviewed the priority lists and provided feedback on each priority. Of the three projects Westminster submitted, the acquisition of the Bonnie Stewart parcel received the most favorable comments. To be considered for the grant process, land acquisitions require a "go forth" Resolution from the OSAC. The Bonnie Stewart acquisition was previously presented to the OSAC and received a "go forth" resolution on February 5, 2009.

The Bonnie Stewart property is a 30-acre property located south of 108th Avenue and between Wadsworth Parkway and Wadsworth Boulevard in the City of Westminster. The property is surrounded by neighborhoods in unincorporated Jefferson County and is one of a few undeveloped parcels of this size remaining in the Jefferson County portion of Westminster. Acquisition of this property will also help to provide trail connections to the residents of this area. The City has plans to extend a trail from City Park west under the Burlington Northern and Santa Fe Railroad/US 36 overpass, around the north side of Lower Church Lake, along 108th Avenue next to the Stewart property, across Green Knolls Park and the Rocky Mountain Metropolitan Airport property, to the Heritage Golf Course and the Westmoor Business Park area (see attached map). This trail would be a popular bicycle commuting route between the relocated Church Ranch Park-N-Ride/future commuter rail station and the Westmoor Business Park. With use of current City right of way, another trail could be constructed to connect Green Knolls Park to the future Walnut Creek Trail to the south through the Bonnie Stewart property.

The City hired an appraiser who valued the property at \$800,000. The appraiser however did not take into account income from a cell tower lease that the landowner was negotiating. Staff asked the landowner to suspend negotiations with the cell phone company while the City was negotiating to purchase the property for open space as this type of use would harm the open space values. To get the landowner to agree to suspend the cell tower negotiations, City staff negotiated a value for the lease at \$30,000 and issued a Letter of Intent to purchase the property for \$830,000 based on the appraised value plus the value of the cell tower lease, contingent upon approval by Council. The JCOS grant program considers grant requests of 25% of the project cost. However, local priority projects may be eligible for additional JCOS matching funds if one or more of the following criteria are met, as determined by JCOS: partnerships, JCOS master plan values, conservation tools, outdoor recreation projects, and park districts only. Staff proposes submitting a grant request to Jefferson County for 25% of the appraised value which would be \$200,000. Staff believes, however, that this project will meet one or more of the above criteria that may result in an award greater than 25% of the project cost.

This property is a Priority 1 acquisition for the City's Open Space Advisory Board. Acquisition of this property will provide much needed open space to the residents while also providing the ability to connect to major trail corridors in this area of unincorporated Jefferson County and Westminster. Staff will bring a separate request to Council to consider approval of the acquisition of this property.

This grant request supports the City's Strategic Plan Goals of "Financially Sustainable City Government" and "Beautiful City" by increasing revenues that support defined City projects and by providing the City with increased open space and trails.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

- Resolution
- Site map

RESOLUTION

RESOLUTION NO. **35**

INTRODUCED BY COUNCILLORS

SERIES OF 2011

**A RESOLUTION
TO PURSUE A GRANT REQUEST FROM THE
2012 JEFFERSON COUNTY OPEN SPACE LOCAL PARK AND RECREATION
GRANT PROGRAM FOR THE BONNIE STEWART ACQUISITION**

WHEREAS, Jefferson County has established a local government grant application process to provide supplemental funding to assist cities and park districts within the County to implement their priority land acquisition or capital project; and

WHEREAS, the City of Westminster has budgeted for the acquisition of the Bonnie Stewart property; and

WHEREAS, grant money received from Jefferson County will assist the City in securing this property for its open space and recreation programs;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WESTMINSTER that Staff shall submit a grant application to the Jefferson County Open Space Local Park and Recreation Grant program for the 2012 cycle, requesting funding of \$200,000 towards the purchase of the Bonnie Stewart property.

PASSED AND ADOPTED this 24th day of October, 2011.

Mayor

ATTEST:

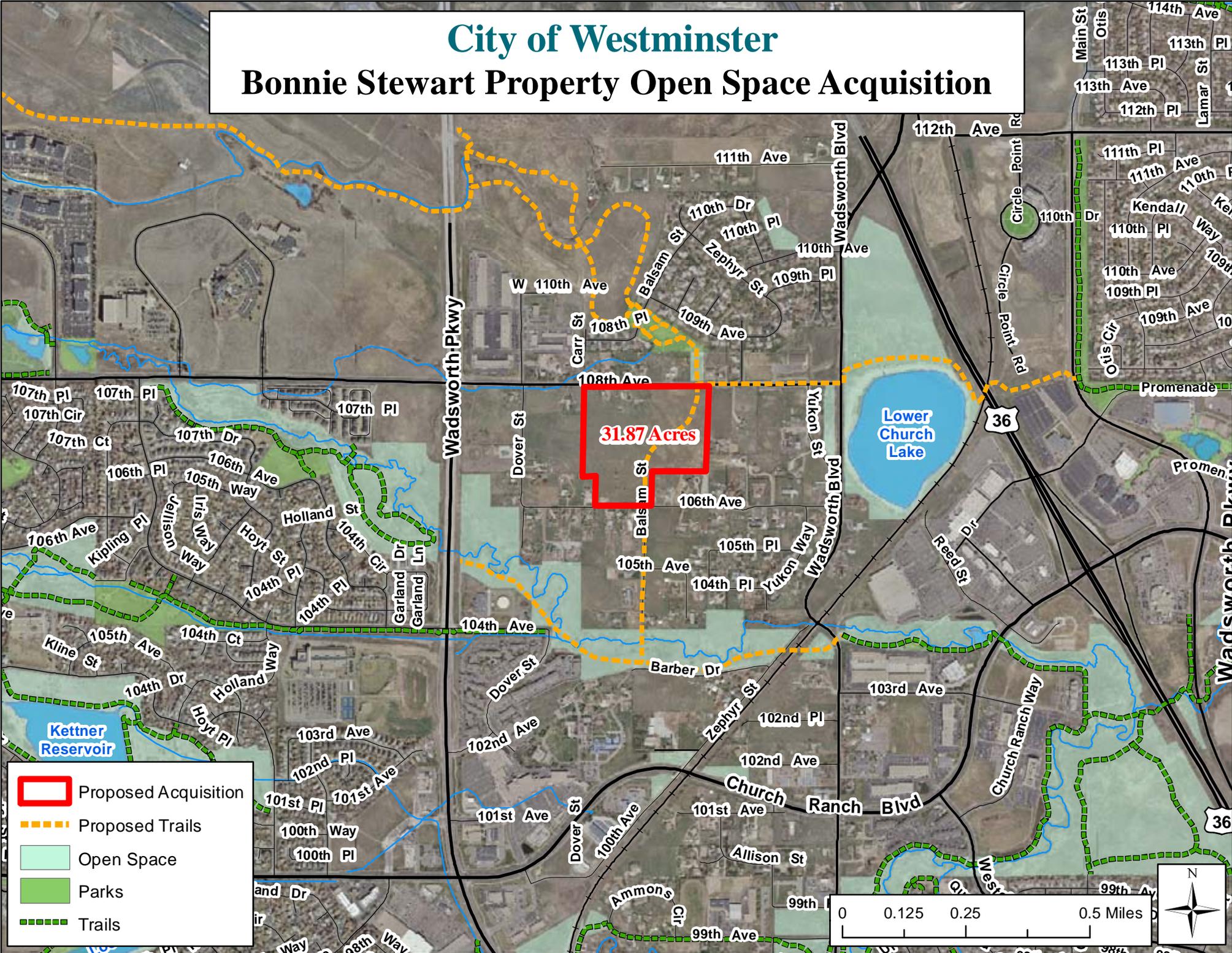
APPROVED AS TO LEGAL FORM:

City Clerk

City Attorney

City of Westminster

Bonnie Stewart Property Open Space Acquisition





Agenda Item 10 C

Agenda Memorandum

City Council Meeting
October 24, 2011



SUBJECT: Councillor's Bill No. 33 re Natural Resource Damage Funds Supplemental Appropriation

Prepared By: Heather Cronenberg, Open Space Coordinator

Recommended City Council Action

Pass Councillor's Bill No. 33 on first reading appropriating funds received from the Natural Resource Trustees in the amount of \$488,000 for the acquisition and revegetation of the Sisters of the New Covenant property for open space.

Summary Statement

- City Council previously approved the acquisition of the 25.49-acre Sisters of the New Covenant (Sisters) property located at the northeast corner of 100th Avenue and Alkire Street for \$1,945,000. Council also authorized Staff to pursue a grant in the amount of \$488,000 with the Natural Resource Trustees (Trustees) for the acquisition and restoration of the Sisters parcel. On April 28, 2009, the Trustees approved a resolution authorizing the expenditure of \$488,000 in Natural Resource Damage ("NRD") Funds to support the purchase and revegetation of the property.
- Negotiations to purchase the property were finally completed and the property was purchased by the City on June 30, 2011. Due to outstanding issues related to the negotiations and the seller's timeframe for completing the closing prior to the end of June, 2011, the NRD funds were not appropriated prior to closing. Staff felt that closing prior to appropriating the funds was acceptable due to the source and security of the funds.
- City Council action is needed to appropriate these grant funds.
- A separate grant received from Great Outdoors Colorado in the amount of \$750,000 plus \$795,000 in City Parks, Open Space and Trails Bond Funds provided the match.

Expenditure Required: \$488,000

Source of Funds: Natural Resource Damage Grant



Policy Issue

Should the Natural Resource Damage Funds be appropriated to the Parks, Open Space and Trails Fund to help pay for the acquisition and revegetation of the Sisters of the New Covenant property?

Alternative

The alternative would be to decline the Natural Resource Damage funds. Staff does not recommend this alternative as the funds were awarded to the City to assist with the acquisition and revegetation of the Sisters of the New Covenant parcel.

Background Information

City Council previously approved the acquisition of the 25.49-acre Sisters of the New Covenant property located at 100th Avenue and Alkire Street for \$1,945,000. Council also authorized Staff to pursue a grant in the amount of \$488,000 with the Natural Resource Trustees for the acquisition and revegetation of the Sisters of the New Covenant parcel. The Trustees authorized an expenditure of \$400,000 towards the acquisition of the Sisters property and \$88,000 towards the revegetation of the property. The City acquired the property on June 30, 2011. The City plans to revegetate the property using these funds during spring, 2012.

These appropriations will amend the Parks, Open Space and Trails Fund revenue and expense accounts along with the CIP revenue and expense accounts as follows:

REVENUES

Description	Account Number	Current Budget	Amendment	Revised Budget
Federal Grant Revenue	5400.40610.0000	\$0	\$400,000	\$400,000
Federal Grant Revenue	7501.40610.0000	0	<u>88,000</u>	88,000
Total Change to Revenues			<u>\$488,000</u>	

EXPENSES

Description	Account Number	Current Budget	Amendment	Revised Budget
Land Purchase	54010900.76600.0000	\$878,488	\$400,000	\$1,278,488
Revegetate Sisters Property	81175030984.80400.8888	0	<u>88,000</u>	88,000
Total Change to Expenses			<u>\$488,000</u>	

Action on this item will address two of City Council’s Strategic Plan Goals: Financially Sustainable City Government Providing Exceptional Services and Beautiful and Environmentally Sensitive City.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment - Ordinance

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **33**

SERIES OF 2011

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AMENDING THE 2011 BUDGET OF THE PARKS, OPEN SPACE AND TRAILS FUND AND THE GENERAL CAPITAL IMPROVEMENT FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2011 ESTIMATED REVENUES IN THE FUNDS

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2011 appropriation for the Parks, Open Space and Trails Fund initially appropriated by Ordinance No. 3550 is hereby increased by \$488,000. This appropriation is due to the receipt of Natural Resource Damage funds.

Section 2. The \$488,000 increase shall be allocated to City Revenue and Expense accounts as described in the City Council Agenda Item #10C, dated October 24, 2011 (a copy of which may be obtained from the City Clerk) increasing City fund budgets as follows:

Parks, Open Space and Trails Fund	\$400,000
General Capital Improvement Fund	<u>88,000</u>
Total	<u>\$488,000</u>

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

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 24th day of October, 2011.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 7th day of November, 2011.

ATTEST:

Mayor

City Clerk



Agenda Item 10 D

Agenda Memorandum

City Council Meeting
October 24, 2011



SUBJECT: Councillor's Bill No. 34 re Annual Updates to the Westminster Municipal Code re Land Use and Engineering Standards

Prepared By: Walter Patrick, Planner I

Recommended City Council Action

Pass Councillor's Bill No. 34 on first reading making revisions to the Westminster Municipal Code regarding Land Use and Engineering Standards.

Summary Statement

- Staff proposes revisions to various sections of the Westminster Municipal Code related to land use and engineering standards.
- These changes are intended to address missing or outdated information, conform Code section requirements to City practice, and correct inconsistencies between City Code and the City's Design Guidelines.
- These items were discussed in a previous City Council study session and post session.

Expenditure Required: \$ 0

Source of Funds: N/A



Policy Issue

Should the City make Code updates/revisions for 2011 to various sections of the Westminster Municipal Code regarding Planning and Engineering Standards?

Alternative

Do not support the proposed changes to the Westminster Municipal Code in 2011. This option is not supported as some changes are for clarification and the City would like to remain current with development trends and continually improve its land development codes to reflect the City's vision for future development.

Background Information

As part of the Department of Community Development's annual Code updates staff is proposing a number of code amendments this year, most are housekeeping in nature and a few are more substantive in nature. Each proposed amendment is listed below with an explanation of the proposed change. The proposed amendments were discussed in a Council study session on April 4, 2011 and in a Council Post session on September 12, 2011.

Summary of Proposed Revisions for the Year 2011

5-5-3, 9-2-1, and 9-2-8: Changes to Street Cut Fees

The Engineering Division proposes to clarify the existing code language that provides for street cut fees to be amended when the City Manager deems appropriate. Currently these fees are adjusted annually or biannually, and the changes in these three sections will clarify when and how these fees can be changed. For example, a right-of-way permit fee will be established on a yearly basis, by the City Manager upon recommendation of the City Engineer. The fee could be based on criteria such as a fee scale dependant upon the scope or location of a project or a fee reasonably related to the costs directly incurred by the City in providing services relating to the granting and administration of the permit. Further, these revisions ensure that a Class D license will be required before the pavement of a street is cut.

11-1-6(A): Planning and Engineering Review Fee Schedule

The Planning and Engineering review fee schedule is in need of an update to reflect recent changes to development review process such as removing references to the Board of Adjustments, adding fees for Special Events, clarifying that Preliminary Development Plan and Official Development Plan (PDP/ODP) review fees based on total site or lot acreage, setting the Special/Conditional Use permit fee at \$450, and other minor changes.

11-2-1: Definitions for Warehouse and Distribution Center

Staff proposes adding a definition for warehouse and distribution center. This is necessary to remove any ambiguity between these similar uses.

11-2-1: Definitions for Construction Trailer and Sales Trailer

Staff proposes adding definitions for construction trailer and sales trailer as a corollary to the Temporary Sales\Construction Trailers section being added in 11-4-6. Some of the proposed regulations will differ between construction trailers and sales trailers. Therefore, staff believes it is important to have definitions that clearly defined each type of trailer.

11-4-6(D) Minimum Setbacks

Adds a subsection to clarify how setbacks standards are applied to flag lots. For example, the front setback for a building will not be measured from the street right-of-way, but will instead be measured from the principal or accessory building to the lot line nearest and parallel to, but not coincident with, the street right-of-way line.

11-4-6 New (O): Temporary Sales/Construction Trailers

Currently, the Municipal Code does not address temporary construction trailers or sales trailers. Staff proposes adding a section of code that would include regulations addressing time limitations, siting, setbacks, maintenance, and clean-up.

11-4-6(N): Detached Garage/Accessory Structures

There are many homes in Westminster having a detached garage to meet their off-street parking requirements. As a detached garage is considered an accessory structure, these homeowners are not permitted to build a shed or similar structure, as current code allows only one accessory building per lot. Staff proposes revising this section of the Code to clarify that a detached garage, if constructed and used to meet off-street parking requirements, shall be permitted in addition to one accessory building on the lot. However, if the home has an existing attached garage, a detached garage would count as the allowed accessory structure.

This item was recently discussed at the September 12, 2011 City Council post meeting where some Councillors had questions and expressed concerns that the revisions as written may not go far enough in allowing citizens to have adequate storage. As the current proposed code revision is allowing citizens with a detached garage to have a shed (this is not permitted under current code), staff proposes approving the accessory structure code change as written, undertaking more research on this section of code, and bringing potential new modifications before City Council in a study session later this year.

11-5-7 through 10: Neighborhood Meeting Requirement

Neighborhood Notification requirements, including neighborhood meeting and informational mailing packets, for new development are currently addressed in the Department of Community Development Plan Submittal Document Guidelines. However, the City Code is silent on this requirement, which can make it difficult for staff to require a new project to complete neighborhood notification. Staff proposes adding provisions in the PDP, ODP, and PDP and ODP Amendment sections of Title XI to address the requirements for a neighborhood meeting or mailer.

11-5-10: Required Signatures for ODP Amendments

Planning staff and the City Attorney's Office (CAO) have discovered that there is a conflict in the Code provision that indicates who has "standing" to apply for an ODP amendment. In the Code, the word "owner" is used and the existing rules of construction in the Code specify that this term should be considered to be a "plural" term, meaning that in order to process an ODP amendment, all owners of land covered by that ODP would have to sign the application. Community Development staff propose changing the Code to simply clarify that individual lot owners have standing to apply for an ODP amendment, without getting all owners in an ODP to agree and sign the application.

11-5-10: Adding Approved Land Uses from a PDP to an ODP

Staff would propose adding code language that would allow the City Manager to add land uses previously approved on a PDP to be administratively approved by an ODP amendment, IF that land use is allowed on the PDP and still complies with the current land use designation in the Comprehensive Land Use Plan (CLUP). This will streamline our approval process in redevelopment areas.

11-11-7: Gasoline Pricing Signs

The regulations for gasoline pricing signs are currently included in the gasoline pricing sign definition. Staff proposes relocating the regulations for gasoline pricing signs from the definitions section to the monument and wall sign regulations section.

Staff considers the updates to the land development code to be important for achieving the City Council's Strategic Plan goals of "Promoting Vibrant Neighborhoods in One Liveable City" by maintaining and improving neighborhood infrastructure and housing; and "Safe and Secure Community" by helping to maintain safe buildings and homes.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment
- Ordinance

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **34**

SERIES OF 2011

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AMENDING SECTIONS 2-1-6, 2-2-2, 2-2-5, 5-5-3, 9-2-1, 9-2-8, 11-1-6, 11-2-1, 11-4-6, 11-5-7, 11-5-8, 11-5-9, 11-5-10 AND 11-11-7 OF THE WESTMINSTER MUNICIPAL CODE CONCERNING ANNUAL PLANNING AND ENGINEERING CODE UPDATES

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Section 2-1-6, subsection (B), W.M.C., is hereby AMENDED as follows:

2-1-6: CONDUCT OF MEETINGS: (2068 2734)

(B) Unless otherwise provided for in this Code, Notice to the public of the meetings of Boards and Commissions shall be given as may be required by the individual by-laws adopted by each Board or Commission.

Section 2. Section 2-2-2, subsection (F), W.M.C., is hereby AMENDED as follows:

2-2-2: POWERS AND DUTIES: The powers and duties of the Planning Commission shall include, but not be limited to, the following: (319 1741 1970 2068 3495 3497)

(F) The review and determination of appeals from the Planning Manager's interpretation of the Zoning Map and the Zoning District boundary lines thereon.

Section 3. Section 2-2-5, W.M.C., is hereby AMENDED as follows:

2-2-5: REFERRALS TO PLANNING COMMISSION: (319 1741 1970 2068) Unless otherwise provided for in this Code, All applications and petitions for annexations, subdivision development plan approvals, amendments to preliminary and official development plans, zonings and rezonings, plat approvals, and such other matters as the City Council or City Manager may deem pertinent shall be referred to the Planning Commission for its review and action in accordance with the provisions of Chapter 5 Section 13 of Title XI of this Code.

Section 4. Section 5-5-3, subsection (A), W.M.C., is hereby AMENDED as follows:

5-5-3: EXEMPTIONS: (1959 3563)

(A) The license requirement shall not apply to:

(1) An owner of a single-family or duplex residential property who alters, repairs, remodels, equips, moves, or wrecks the building he owns when the owner furnishes all the material and labor.

(2) An owner who builds or constructs his own residence, or a building or structure accessory thereto which is intended for his own personal use. This exemption shall be permitted only once within a period of one (1) year; otherwise, a license as a contractor shall be required.

~~(3) A property owner who is doing work which would normally require a Class D public way contractor's license, but for whom the City engineer or his designee has waived the license requirement when:~~

- ~~(a) The proposed work affects an area of two hundred (200) square feet or less, or one (1) single family dwelling; and~~
- ~~(b) The owner is performing the work in the public way immediately adjacent to his own property, and~~
- ~~(c) The owner provides a copy of his homeowner's insurance policy, which is sufficient in the opinion of the City engineer or his designee to provide liability coverage of claims by third parties resulting from the owner's work in the public right of way. This exemption shall be permitted only once within a period of one (1) year, otherwise license as a contractor shall be required.~~

Section 5. Section 9-2-1, subsections (C) and (F), W.M.C., are hereby AMENDED as follows:

9-2-1: PERMIT REQUIRED: (2100 2598)

(C) Applications for a permit shall indicate the exact location, depth, extent, nature, and purpose of the work, including a sketch or plan as necessary, and the time required for the work. Applicants shall also pay a fee to the City before the issuance of a right-of-way permit. The amount of the fee shall be ~~as specified in the Planning and Engineering Development Review Fee Schedule set forth in Section 11-1-6 established, on an annual basis, by the City Manager upon recommendation of the City Engineer, as follows:~~

- (1) The fee shall be reasonably related to the costs directly incurred by the City in providing services relating to the granting and administration of the permit, including inspection costs; and
- (2) The fee may be graduated depending upon the scale and location of the project; and
- (3) If the proposed excavation or construction project requires Construction Drawing Review, the fees related to such review as provided in section 11-1-6, W.M.C. shall be charged in addition to the right-of-way permit fee; and
- (4) Printed copies of the fee schedule, as amended from time to time, shall be on file in the Office of the City's Community Development Department.

(F) A right-of-way permit ~~may~~must be ~~obtained by~~issued to a Class D Public Way Contractor with a contract for work affecting public property or grounds, utility systems, or work within any street right-of-way, utility easement, or other public property, ~~or to a property owner satisfying the requirements of Section 5-5-3(A), W.M.C.~~

Section 6. Section 9-2-8, W.M.C., is hereby AMENDED as follows:

9-2-8: STREET CUT IMPACT FEES: (3072)

(A) In addition to ~~the right-of-way street cut~~ permit fee described in Section 9-2-1, above, and a deposit covering trench overrun and damage to appurtenances, fees to compensate the city due to the impact of long term damage caused by street cuts shall be paid by anyno person or entity shallwho cuts the pavement of any city streets prior to the payment to the City of a street impact fee, to cover the effects of long-term damage to the street pavement created over time by intermittent street cuts. Such fees shall be paid ~~before~~at the ~~time of~~ issuance of a right-of-way permit, ~~to be calculated on forms to be furnished by the City Engineer.~~

(B) The street cut impact fee will be established annually~~may be amended when deemed appropriate~~ by the City Manager, upon recommendation ofby the City Engineer, and shall be based upon~~include~~ the following factors:

- (1) Whether the cut is a longitudinal trench or a transverse trench.
- (2) Whether the street was resurfaced within the current year and the last four (4) years or seal coated within the current year and the last two (2) years.

- (3) Whether the street is earmarked for total reconstruction within the current year and the next two (2) years in the City's 5-year pavement management master plan for street improvements.

~~(C) Fee Schedule:~~

- ~~(1) \$50.00 for street cut permit~~
- ~~(2) \$1.30/square foot for longitudinal trenches.~~
- ~~(3) \$7.70/square foot for transverse trenches.~~
- (4) ~~With the exception of the fee for a street cut permit above;~~ Normally, fees will be doubled for streets that have been resurfaced within the current year and the past four calendar years, or seal coated within the current year and the past two calendar years.
- (5) ~~With the exception of the fee for a street cut permit above;~~ Normally, fees will be waived for streets scheduled for total pavement reconstruction within the current year and the following two years.

Printed copies of the fee schedule, as amended from time to time, shall be on file in the Office of the City's Community Development Department.

Section 7. Section 11-1-6, W.M.C., is hereby AMENDED as follows:

11-1-6: LAND USE AND DEVELOPMENT REVIEW FEE SCHEDULE: (2598 3031 3152 3497)

(A) An applicant for any of the following land use or development reviews shall pay in advance the corresponding fee or fees:

(1) **Review Fees:**

PDP or amendment – Concept Review	\$350 (x) sq. rt. of acres (\$350 min.)
PDP or amendment – Technical Review	\$350 (x) sq. rt. of acres (\$350 min.)
ODP or amendment – Concept Review	\$400 (x) sq. rt. of acres (\$400 min.)
ODP or amendment – Technical Review	\$400 (x) sq. rt. of acres (\$400 min.)
Combined PDP/ODP (including amendments)	
Concept Review	\$550 (x) sq. rt. of acres (\$550 min.)
Technical Review	\$550 (x) sq. rt. of acres (\$550 min.)
<u>Zoning or Rezoning</u>	\$500
Annexation	\$300
Comprehensive Land Use Plan Amendments	\$500
Minor Administrative Amendment (PDP/ODP)	\$250
<u>Minor Administrative Amendment (PDP/ODP)</u>	<u>\$75</u>
Public Hearing	\$350
ODP Waiver	\$250
Special <u>or Conditional</u> Use Permit	\$450
Temporary Use/ <u>Special Event</u> Permit	\$100
Board of Adjustment and Appeals	\$250
Conditional Use	\$250
Construction Drawing Reviews	\$750 + \$75 (x) sq. rt. of acres (\$1125 max)
(Construction Drawing Reviews <u>may</u> include, but are not limited to, Final Plats, Address Plats, Construction Drawings, <u>ROW Permits</u> and Public Improvements Agreements)	
Minor Replat (Lot Line Adjustment)	\$300
Vacations (R.O.W. and Easements)	\$300
Land Disturbance Permits	\$250
R.O.W./Street Cut Permit	\$50
Development Sign Posting Fee	\$50
<u>Variance</u>	<u>\$250</u>

(2) **Other Service Fees:**

Zoning Verification Letter	\$50
Affidavit of Correction	\$100
Recording Fees for plats and plans	\$50 + \$20/Ppage
<u>Recording Fees for letter and legal size E-filing</u>	<u>\$10/page</u>
Flood Plain Information (non-residential only)	\$20
<u>Scheduling and Conducting Public Hearing</u>	<u>\$350/hearing</u>

(3) **Document Fees:**

Plan submittal document	\$20
Comprehensive Land Use Plan	\$25
Northeast Comprehensive Development Plan	\$5
Copies of plans on file	\$5/Ppage
<u>Copies of documents (up to 20 pages) on CD</u>	<u>\$5/CD</u>

(B) Applications requiring additional or modified submittals will be considered abandoned if the required submittal or re-submittal is not made within 180 days of the last submittal date and a new application and new fee will be required.

Section 8. Section 11-2-1, subsection (A) is amended by the addition of the following definitions:

11-2-1: DEFINITIONS

CONSTRUCTION TRAILER shall mean a mobile home, manufactured home, or similar structure located on a construction site and temporarily used as office space and/or to store material and equipment for the convenience of the construction project.

.....
DISTRIBUTION CENTER shall mean a facility where goods are received and/or stored for delivery to the ultimate customer at off-site locations and such goods are not manufactured, produced, or reprocessed on-site. Said facility is characterized by a larger storage capacity and volume of traffic than a typical retail Packaging and Postal Substation.

.....
SALES TRAILER shall mean a mobile home, manufactured home, or similar structure located on a development site and temporarily used as a sales or rental office for the units in the development.

.....
WAREHOUSE shall mean a building used primarily for the storage of manufactured products, components, supplies, equipment, or materials, excluding bulk storage of materials that are flammable or explosive or that present hazards commonly recognized as offensive.

Section 9. Section 11-4-6, subsections (B), (D), (N)and (O), W.M.C., are hereby AMENDED as follows and the remaining subsections are relettered:

11-4-6: SPECIAL REGULATIONS: (2534 2841 2975 3497 3531) The following additional regulations apply as indicated below.

(B) OCCUPANCY OF DWELLING UNITS. Subject to the provisions of Chapter 12 of Title XI, "Rental Property Maintenance Code," W.M.C., no persons except the following persons shall occupy a dwelling unit:

- (1) Members of a family, together with bona fide domestic employees of such family; or
- (2) Up to four unrelated persons; or
- (3) Two persons and any of either of their children by blood, marriage, adoption, or guardianship, including foster children placed by a state institution or licensed child placement agency; or

- (4) Up to eight residents of a group home for the aged; or
- (5) Up to eight residents, plus staff, of a group home for persons with mental illness; or
- (6) Up to eight residents, plus staff, of a group home for developmentally disabled persons,

provided, further, that, except as otherwise provided by law, no more than one individual who is required to register as a sex offender under the provisions of the Colorado Sex Offender Registration Act shall occupy a dwelling unit.

Additionally, dwelling units, or portions thereof, temporarily used as model homes or sales offices in a development must be restored to residential use and occupancy within thirty days after (i) the initial sale or lease of all units in the development, or (ii) the date that no building permit for the development has been issued in 365 days, whichever occurs first.

(D) MINIMUM SETBACKS.

(1) Developed Area. In all residential areas where lots comprising 50 percent or more of the frontage on one side of a street between intersecting streets have been improved with buildings, the City may require that the average front setback of such buildings shall be the minimum front setback required for all new construction in such block.

(2) Reduction. No part of a setback required for any building for the purpose of complying with the provisions of this Chapter shall be included as a setback for another building; all setback areas shall be open and unobstructed except as otherwise provided herein.

(3) Architectural Features. Cornices, canopies, eaves, awnings, or similar architectural roofline features may extend into a required setback not more than 4 feet.

(4) Decks. Open, unenclosed and uncovered decks or patios may extend into a required setback provided they are constructed at ground level and do not conflict with any utility or other easements.

(5) Fire Escapes. Fire escapes may extend into a required setback not more than 6 feet.

(6) Flag Lots. For the purposes of measuring the setback requirements of Section 11-4-5 of this Chapter, the "pole" portion of the lot shall not be included in the measurements. For example, the front setback for a building will not be measured from the street right-of-way line, but will instead be measured from the principal or accessory building to the lot line nearest and parallel to, but not coincident with, the street right-of-way line.

(N) ACCESSORY BUILDINGS.

(1) Permitted Zone Districts: An aAccessory buildings isare permitted in all residential zone districts or residential planned unit developments in accordance with the requirements of this Code unless restricted on an approved official development plan. Accessory buildings in non residential zone districts shall require an ODP waiver or ODP amendment meeting the requirements of this Code.

(2) Number permitted: One (1) accessory building will be permitted per building lot. In residential zoning districts, one detached garage that is used to meet the off-street parking requirements of Section 11-7-4, WMC, shall be permitted in addition to one accessory building, provided that said off-street parking requirements are not currently being met by an existing attached garage.

~~(2)~~(3) Architectural character: Accessory buildings must maintain the character of the surrounding neighborhood and architecturally resemble and be constructed of like or similar materials of that used on the exterior of the existing principal building on the property. Pre-fabricated or corrugated metal, plastic, vinyl, canvas or similar material buildings are prohibited.

~~(3)~~(4) Size: For all residential zone districts and residential PUD districts, the total of any detached garage and accessory buildings shall be limited to 5% of the building lot area or 600 square feet, whichever is greater, unless a different size is provided for in the PUD district. In no case shall the accessory building be larger than 2000 square feet. For all non residential PUD zone districts, size will be determined in the ODP or ODP amendment. Maximum height of an accessory building shall be limited to fifteen (15) feet, ~~e~~except in O-1 zone districts where maximum height shall be limited to thirty-five (35) feet.

~~(4)~~(5) Setbacks: This Subsection (N) provides the setbacks for accessory buildings, except that t. The setbacks for accessory buildings in ~~residential~~ PUD zone districts shall be as specified on an approved official development plan. If setbacks are not specified in the ODP, then the setbacks shall follow the requirements of this Subsection. The O-1 district is considered a non-residential zone district for the purpose of this Subsection.

(a) Accessory buildings one hundred twenty (120) square feet or less: the front setback shall be the same as required for the principal building. The side and rear setbacks shall be a minimum of three (3) feet from the property line but may not encroach into any easements. The side or rear setback adjacent to a public road shall be fifteen (15) feet.

(b) Accessory buildings greater than one hundred twenty (120) square feet: the front setback shall be the same as required for the principal building. The side and rear setbacks shall be a minimum of five (5) feet from the property line but may not encroach into any easements. The side or rear setback adjacent to a public road shall be fifteen (15) feet.

(c) Accessory buildings in the ~~O~~1 zone district: the front setback shall be one hundred (100) feet. The side and rear setbacks shall be thirty (30) feet.

(d) Architectural features such as cornices, canopies, eaves, awnings or similar architectural roofline features may not encroach into the required side or rear setback for any accessory building.

(O) TEMPORARY CONSTRUCTION AND SALES TRAILERS:

(1) Temporary construction and sales trailers are permitted in all zoning districts, subject to the following restrictions:

(a) No person shall permit a construction trailer to remain on a site for more than 30 days after completion of construction or cessation of construction.

(b) No person shall permit a sales trailer to remain on a site past the date of the sale or lease of all dwelling units or lots within the boundaries of the development or subdivision.

(c) A construction trailer or sales trailer may be located only on the lot it serves or within the development or subdivision for which construction is occurring.

(d) A construction trailer or sales trailer shall meet the setback requirements for a principal building on a lot for the zoning district in which it is located, adequate parking and landscaping, and safe access to the site that does not impact public streets or surrounding uses.

(e) A sales trailer shall have adequate asphalt or concrete parking spaces provided.

(e) No person shall use, or permit to be used, a construction trailer or sales trailer as any type of dwelling unit.

(2) Upon removal of a construction trailer or sales trailer, the property owner is responsible for cleaning the site and restoring it to an orderly condition, which may include the removal of the asphalt or concrete parking spaces.

...

Section 10. Section 11-5-7, W.M.C., is hereby AMENDED as follows:

11-5-7: FORMAT AND APPROVAL PROCESS FOR PRELIMINARY DEVELOPMENT PLANS (PDP's): (2534 2598 2975)

(A) Application Procedures for PDP'S.

(1) Applicants shall consult with the City prior to submitting an application for approval of a PDP to discuss the project concept and to gather information regarding City policies, codes, standards and procedures.

(2) Following the initial discussion, an applicant may submit a concept plan ~~and shall submit an for review prior to formal~~ application ~~for review~~ in a format specified in the Community Development Department's guidelines for submittal, a copy of which is available in the Planning Division offices~~City's Plan Submittal Document~~.

(3) Following the concept plan review, if any, the applicant shall ~~submit a formal application for approval and~~ prepare a detailed submittal for technical review of the proposed plans in the format specified in the Community Development Department's guidelines for submittal, a copy of which is available in the Planning Division offices~~City's Plan Submittal Document~~. Comments shall be prepared and returned to the applicant. Additional submittals may be required at the option of the City. Staff review and feedback concerning a concept plan shall not be construed as a type of approval or pre-approval of any aspect of the submittal.

(4) Following the concept plan review, if any, and prior to commencing any technical review of a proposed PDP, the applicant shall complete the neighborhood notification process described in the Community Development Department's guidelines for neighborhood notification, a copy of which is available in the Planning Division offices. The City Manager or the Manager's designee may waive this requirement for neighborhood notification if the Manager determines, based upon the project's likely and foreseeable impacts on the surrounding neighborhood, that no neighborhood notification is required.

(5) Prior to any ~~technical~~ review of a proposed PDP, the applicant shall provide:

- (a) Written consent of all owners of the property ~~into~~ the proposed PDP; and
- (b) Evidence of ownership and encumbrances satisfactory to the City and such other information as may be reasonably required to evaluate the proposed development;

~~(65)~~ A non-refundable application fee as specified in the Planning and Engineering Development Review Fee Schedule set forth in Section 11-1-6 shall be paid at the time of application for ~~approval of~~ any proposed PDP. In addition, all recording fees ~~of \$20 per sheet~~ shall also be paid for all plans and plats that have been approved by the City prior to their recording.

~~(76)~~ The City may initiate and approve an application for a preliminary development plan. In the event, the requirements of this ~~S~~subsection (A) shall not be applicable. Any City initiated preliminary development plan shall meet or exceed the requirements of Section 11-5-14.

(B) Approval Process for PDP's. All original PDP's shall be subject to review and approval by the Planning Commission and City Council in accordance with the procedures set forth in ~~S~~section 11-5-13 of this Code.

Section 11. Section 11-5-8, W.M.C., is hereby AMENDED as follows:

11-5-8: FORMAT AND APPROVAL PROCESS FOR OFFICIAL DEVELOPMENT PLANS (ODP'S): (2534 2598 3027 3028)

(A) Application Procedures for ODP's.

(1) Applicants shall consult with the City prior to submitting an application for approval of an ODP to discuss the project concept and to gather information regarding City policies, codes, standards and procedures.

(2) Following the initial discussion, an applicant may submit a concept plan and shall submit an for review prior to formal application for review in a format specified in the Community Development Department's guidelines for submittal, a copy of which is available in the Planning Division offices~~City's Plan Submittal Document~~.

(3) Following the concept plan review, if any, the applicant shall ~~submit a formal application for approval and~~ prepare a detailed submittal for technical review of the proposed plans in the format specified in the Community Development Department's guidelines for submittal, a copy of which is available in the Planning Division offices~~City's Plan Submittal Document~~. Comments shall be prepared and returned to the applicant. Additional submittals may be required at the option of the City. Staff review and feedback concerning a concept plan shall not be construed as a type of approval or pre-approval of any aspect of the submittal.

(4) Following the concept plan review, if any, and prior to commencing any technical review of a proposed ODP, the applicant shall complete the neighborhood notification process described in the Community Development Department's guidelines for neighborhood notification, a copy of which is available in the Planning Division offices. The City Manager or the Manager's designee may waive this requirement for neighborhood notification if the Manager determines, based upon the project's likely and foreseeable impacts on the surrounding neighborhood, that no neighborhood notification is required.

(54) Prior to any ~~technical~~ review of a proposed ODP, the applicant shall provide:

(a) Either the written consent of all owners of the property ~~into~~ the proposed ODP or evidence otherwise satisfactory to the Planning Manager of the applicant's authority to represent the owners of the property;

(b) Evidence of ownership and encumbrances satisfactory to the City and such other information as may be reasonably required to evaluate the proposed development;

(c) A non-refundable application fee as specified in the Planning and Engineering Development Review Fee Schedule set forth in Section 11-1-6 shall be paid at the time of application for ~~approval of~~ any proposed ODP. In addition, all recording fees ~~of \$20 per sheet~~ shall also be paid for all plans and plats that have been approved by the City prior to their recording.

(65) City may initiate an application for an ODP without the consent of the property owner or owners for any redevelopment project within an Urban Renewal Area; provided, however, the approval of any such application shall be conditional and not effective until such time as all property covered by the ODP has been acquired by the Westminster Economic Development Authority or its designated redeveloper for the project. In such event, the above application procedures of this Subsection (A) shall not be applicable.

(B) Approval Process for ODP's:

(1) Administrative Approvals. The City Manager may, but shall not be required to, approve any ODP or ODP waiver, without hearing or notice, which:

(a) Does not introduce a new land use.

(b) Meets all requirements of the zoning district in which it is located, and the requirements of any PDP for the property.

(c) Does not involve a parcel or lot more than 10 acres in size, or involves a proposed non-residential development of 20 acres or less in size, exclusive of property intended for or designated for future public ownership or dedication for open space, parks, rights-of-way or other public uses, that is determined by the City Manager to further the City's economic development goals and if such development meets guidelines established by City Council to qualify for economic development assistance.

(2) ODP's Requiring Public Hearings.

(a) The City Manager may, in his sole discretion, elect to refer any ODP to Planning Commission and City Council for their consideration at a public hearing.

(b) Any ODP not administratively approved by the City Manager or not eligible for such administrative approval shall, upon the request of the applicant, be referred to the Planning Commission and City Council for consideration pursuant to the procedures set forth in [Section 11-5-13](#) of this Code.

(3) Final Approval by Planning Commission. The decision of the Planning Commission regarding an original or amended ODP shall be final unless a timely appeal of such decision is filed in accordance with [Section 11-5-13\(B\)](#).

Section 12. Section 11-5-9, W.M.C., is hereby AMENDED as follows:

11-5-9: FORMAT AND APPROVAL PROCESS FOR AMENDMENTS TO PRELIMINARY DEVELOPMENT PLANS (PDP'S): (2534)

(A) Application Procedures for PDP Amendments.

(1) The application procedures, format and fee for a PDP amendment shall be the same as for an original PDP approval as set forth in [Section 11-5-7\(A\)](#).

(2) An amendment to a PDP may be initiated by:

(a) ~~All~~[The](#) owner(s) of the property covered by the plan; or

(b) By the City when the City Council determines that:

(i) Approved land uses for the Planned Unit Development are no longer appropriate due to changed conditions in the vicinity, revisions to the City's Comprehensive Plan, any incompatibilities between an existing land use and surrounding zoning or development, or Council finds that the PDP no longer meets the requirements of [Section 11-5-14](#).

(ii) Public facilities are inadequate or do not meet current standards; or

(iii) Natural hazards or other environmental problems exist which threaten the public health, safety or welfare.

(B) Approval Procedures for PDP Amendments:

(1) Administrative Approvals. The City Manager may approve any amendment to a Preliminary Plan which does not:

(a) Add a new land use to the Preliminary Plan; or

(b) Change the land area devoted to any use by more than 10 percent; or

(c) Change the density or intensity of use by more than 10 percent; or

(d) Constitute a significant change in the PDP, in the opinion of the City Manager.

A report of any administratively approved PDP amendment shall be submitted to the Planning Commission and City Council detailing action taken by the City Manager under this procedure.

~~(2)~~ [\(2C\)](#) Amendments to PDP's Requiring Public Hearings. Any amendment to a PDP not administratively approved by the City Manager or not eligible for such administrative approval shall, upon the request of the applicant, be referred to the Planning Commission and City Council for their ~~review and determination~~[consideration](#) at a public hearing in accordance with the procedures set forth in [Section 11-5-13](#) of this Code, provided, however, the City Manager shall also have the option to refer any proposed PDP amendment otherwise eligible for administrative approval to the Planning Commission and City Council for their review and ~~determination to require or waive public notice and hearing requirements for such amendments.~~

Section 13. Section 11-5-10, W.M.C., is hereby AMENDED as follows:

11-5-10: FORMAT AND APPROVAL PROCESS FOR AMENDMENTS TO OFFICIAL DEVELOPMENT PLANS (ODP'S): (2534)

(A) Application Procedures for ODP Amendments.

~~(1) The application procedures, format and fee for an ODP amendment shall be the same as for an original ODP approval as set forth in section 11-5-8(A).~~

~~(1) Applicants shall consult with the City prior to submitting an application for approval of an ODP amendment to discuss the project concept and to gather information regarding City policies, codes, standards and procedures. Applicants may propose an amendment to an ODP for all or only a portion of the entire land area within the previously approved ODP.~~

~~(2) Following the initial discussion, an applicant may submit a concept plan and shall submit an application for review in a format specified in the Community Development Department's guidelines for submittal, a copy of which is available in the Planning Division offices.~~

~~(3) Following the concept plan review, if any, the applicant shall submit a formal application for approval and prepare a detailed submittal for technical review of the proposed plans in the format specified in the Community Development Department's guidelines for submittal, a copy of which is available in the Planning Division offices. Comments shall be prepared and returned to the applicant. Additional submittals may be required at the option of the City. Staff review and feedback concerning a concept plan shall not be construed as a type of approval or pre-approval of any aspect of the submittal.~~

~~(4) Following the concept plan review, if any, and prior to commencing any technical review of a proposed ODP amendment, the applicant shall complete the neighborhood notification process described in the Community Development Department's guidelines for neighborhood notification, a copy of which is available in the Planning Division offices. The City Manager or the Manager's designee may waive this requirement for neighborhood notification if the Manager determines, based upon the project's likely and foreseeable impacts on the surrounding neighborhood, that no neighborhood notification is required.~~

~~(4)(5) Prior to any review of a proposed ODP amendment, the applicant shall provide:~~

~~(a) Either the written consent of the owner(s) of the property in the area proposed for ODP amendment or evidence otherwise satisfactory to the Planning Manager of the applicant's authority to represent the owner(s) of such property;~~

~~(b) Evidence of ownership and encumbrances satisfactory to the City and such other information as may be reasonably required to evaluate the proposed development;~~

~~(c) A non-refundable application fee, as specified in the Planning and Engineering Development Review Fee Schedule set forth in Section 11-1-6, shall be paid at the time of application for any proposed ODP amendment. In addition, all recording fees shall also be paid for all plans and plats that have been approved by the City prior to their recording.~~

~~(2)(6) City may initiate an application for an ODP amendment without the consent of the property owner or owners for any redevelopment project within an Urban Renewal Area; provided, however, the approval of any such application shall be conditional and not effective until such time as all property covered by the ODP has been acquired by the Westminster Economic Development Authority or its designated redeveloper for the project. In such event, the above application procedures of this Subsection (A) shall not be applicable.~~

~~(27) An amendment to an ODP may be initiated by:~~

~~(a) The owner of the areaproperty covered by the proposed amendmentplan; or~~

~~(b) The City when the City Council determines:~~

~~(i) That approved land uses for the Planned Unit Development are no longer appropriate due to changed conditions in the vicinity, revisions to the City's Comprehensive Plan, any incompatibilities between an existing land use and~~

surrounding zoning or development, or Council finds that the ODP no longer meets the requirements of ~~section~~Section 11-5-15;

- (ii) That public facilities are inadequate or do not meet current standards; or
- (iii) That natural hazards or other environmental problems exist which threaten the public health, safety or welfare.

(38) The City Manager may, in his or her sole discretion, on a case-by-case basis, waive any of the normal submittal requirements for amendments to ODP's within his or her administrative approval authority that the City Manager deems to be minor in substance and scope and reduce the fee for such minor amendments ~~to \$75.~~

(B) Approval Process for ODP Amendments:

(1) Administrative Approvals. The City Manager may, but shall not be required to, approve any amendment to an ODP, without hearing or notice, which ~~does not:~~

- (a) Does not ~~C~~change the land area devoted to any approved use by more than 10 percent, or
- (b) Does not ~~C~~change the density or intensity of any approved use by more than 10 percent, or
- (c) Does not ~~C~~constitute a significant change in the ODP in the opinion of the City Manager, or
- (d) Does not deviate from any development standard, including but not limited to setbacks and building height, by more than 10 percent, or
- (e) Adds a land use that was previously approved on the underlying PDP for the property.

A report of any administratively approved ODP amendment shall be submitted to the Planning Commission and City Council.

(2) Amendments to ODP's Requiring Public Hearings.

(a) Any amendment to an ODP not administratively approved by the City Manager or not eligible for such administrative approval shall, upon request of the applicant, be referred to the Planning Commission for their review and determination~~consideration~~ at a public hearing in accordance with the provisions of S~~s~~ection 11-5-13 of this Code, provided, however, the City Manager shall also have the option to refer any proposed ODP amendment otherwise eligible for administrative approval to the Planning Commission for its review and determination~~to require or waive public notice and hearing requirements for such amendments.~~

(b) The decision of the Planning Commission regarding an ODP amendment shall be final unless a timely appeal of such decision is filed in accordance with S~~s~~ection 11-5-13(B)(2) of this Code. The decision of the Planning Commission shall be deemed final as of the date its decision is announced.

Section 14. Section 11-11-7, subsection (A), paragraph (6), W.M.C., is hereby AMENDED BY THE ADDITION OF A NEW SUB-PARAGRAPH (j) and subsection (B), paragraph (7), W.M.C. is hereby AMENDED BY THE ADDITION OF A NEW SUB-PARAGRAPH (l) as follows:

11-11-7: PERMANENT SIGNS REQUIRING PERMITS: (2534 2567 2862 2881 2983 3328)

(A) Monument Signs.

...

(6) Restrictions, Clarifications and Exceptions:

...

(j) Automated gasoline pricing signs may use internal scrolling or magnetic mechanisms, but may not contain a light emitting diode (LED) and may not change pricing more often than twice in a twenty-four (24) hour period.

...

(B) Wall Signs.

...

(7) Restrictions, Additions, Clarifications and Exceptions:

...

(l) Automated gasoline pricing signs may use internal scrolling or magnetic mechanisms, but may not contain a light emitting diode (LED) and may not change pricing more often than twice in a twenty-four (24) hour period.

Section 15. The City Clerk is hereby authorized to adjust, remove, or replace numbering and lettering appearing before definitions in the Westminster Municipal Code to achieve consistency in formatting.

Section 16. This ordinance shall take effect upon its passage after second reading. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 24th day of October, 2011.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 7th day of November, 2011.

ATTEST:

City Clerk

Mayor

APPROVED AS TO LEGAL FORM:

City Attorney's Office



Agenda Item 10 E

Agenda Memorandum

City Council Meeting
October 24, 2011



SUBJECT: Councillor's Bill No. 35 re Amend the Westminster Municipal Code re Rental Licensing Exemption for Life Care Institutions

Prepared By: Dave Horras, Chief Building Official

Recommended City Council Action

Pass Councillor's Bill No. 35 on first reading amending Section 11-12-3(A)(18) of the Westminster Municipal Code by modifying the Rental Property Maintenance Code and exempting Life Care Institutions as regulated by the Colorado Department of Regulatory Agencies from the licensing and systematic inspection provisions of the code.

Summary Statement

- The Executive Director of Covenant Village of Colorado, William Lange, had written a letter to the City of Westminster requesting that City Council amend the Westminster Municipal Code to exclude Covenant Village of Colorado from the inspection and fee requirements of the Rental Property Maintenance Code. A copy of Mr. Lange's letter is attached.
- City Council considered this request at the September 15, 2011, City Council Study Session and requested that staff prepare a modification to the Rental Property Maintenance Code to exclude Life Care Institutions from the provision of the code for City Council consideration.
- The proposed modification, excluding Life Care Institutions from the provision of the code, will exclude Covenant Village of Colorado from the licensing and systematic provisions of the Rental Property Maintenance Code.

Expenditure Required: \$0

Source of Funds: N/A



Policy Issue

Should the Rental Property Maintenance Code be amended to exclude Life Care Institutions as regulated by the Colorado Department of Regulatory Agencies from the licensing and systematic inspection provisions of the Rental Property Maintenance Code?

Alternatives

1. Do not modify the existing provisions of the Rental Property Maintenance Code thereby not granting Covenant Village of Colorado's request to be excluded from the program. Covenant Village would be considered the same as any residential rental property in the City and be required to obtain a rental license and be inspected. Staff does not recommend this alternative because the recommended exclusion is based on a reasonable approach that identifies the unique nature of Covenant Village.
2. Modify the provisions of the Rental Property Maintenance Code by reducing the inspection fee for Life Care Institutions. City Council could reduce the inspection fee to \$20 per unit, the same fee charged to qualified income restricted properties, which is half the regular fee. Staff does not recommend this alternative because it is not what has been requested by Covenant Village and establishing a reduced fee for Life Care Institutions will likely cause other rental properties, many paying a much higher total fee than Covenant Village, to question the fairness of the rental inspection fee. Additionally, Covenant Village has indicated that their intent and interest is to not be classified as a rental property, much less a property that receives a reduced fee similar to a low-income property. Furthermore, most Covenant Village residents would not qualify as low income.

Background Information

Covenant Village of Colorado's 215 residential units have been included as part of the Rental Property Maintenance program since their first scheduled inspection in 2003. While the management of Covenant Village has not necessarily agreed that they should have been included in the program, they have cooperated with inspections over the years. The individual residential units are not required to be inspected by any other agency and over the years there have been rental code violations identified. A listing of the types of violations identified on the last rental inspection conducted in 2007 is attached. The property is generally very well maintained and the violations that were identified are very typical.

When the Rental Property Maintenance Code was revised last year to include licensing and inspection fees, Mr. William Lange, Executive Director of Covenant Village, requested that the City of Westminster reconsider the applicability of the code to their property. In January of 2011, Mr. Lange met with staff to present his reasoning why he believed Covenant Village is not a rental property. He described the occupancy requirements, presented a residency agreement, and described other characteristics that he believes differentiates their property from other rental properties in the City.

Staff initially considered the information presented by Mr. Lange and determined that, even though it is managed differently than most rental properties in the City, it is still considered a rental property as defined in the code. However, staff agrees that the management of the property is substantially different than all other rental properties in the City of Westminster. The most substantial difference is that Covenant Village residents enter into a residency agreement that provides for life care for the duration of the residents life. This residency agreement is a requirement for classification as a Life Care Institution by the Colorado Department of Regulatory Agencies (DORA). While certification as a Life Care Institution is issued by the Division of Financial Services and primarily considers the financial affairs of the facility, the residency agreement includes specific provision for ongoing maintenance and repairs.

The services provided by Covenant Village to their residents under the provision of the residency agreement include scheduled annual cleaning and maintenance of their residential units. Inspection of the mechanical, fire suppression, fire alarm systems and elevators are conducted on at least an annual basis by professional third-party agencies. Under the recommended exemption of "Life Care Institutions" from the Rental Property Maintenance Code, the individual residential units will be physically inspected by the management of the property.

If City Council approves the proposed code modification to the Rental Property Maintenance Code to exclude Life Care Institutions, Covenant Village will be exempt for the licensing and systematic inspection provision of the Rental Property Maintenance Code. This exemption will only apply to Covenant Village as there are only eight Life Care Institutions in the State of Colorado and Covenant Village is the only one in the City of Westminster.

The Rental Property Maintenance Code and the Rental Inspection Program are part of the City's Strategic Plan in a number of ways. The overall goal of the program is to help provide a Safe and Secure Community by maintaining safe buildings and homes. The program also helps to assure Vibrant Neighborhoods in One Livable Community by maintaining and improving neighborhood infrastructure and housing and by providing a range of quality homes for all stages of life (type, price) throughout the City.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

- Letter from Covenant Village dated April 20, 2011
- List of Covenant Village Violations
- Ordinance



**COVENANT
VILLAGE OF COLORADO**

A Covenant Retirement Community
9150 Yarrow Street • Westminster, CO 80021-3561
303.424.4828 phone • 303.424.0320 fax

ASSISTED LIVING
Aged Place
9221 Wedgworth Parkway
Westminster, CO 80021-0590
303.403.2500 phone
303.403.2901 fax

SKILLED NURSING
The Village Care and
Rehabilitation Center
9221 Wedgworth Parkway
Westminster, CO 80021-0590
303.403.2900 phone
303.403.2901 fax

April 20, 2011

Drew McFall
City Manager
City of Westminster
4800 W 92nd Street
Westminster, CO 80021-4561



Dear Mr. McFall:

The City of Westminster, in interpreting the inspection requirements of the W.M.C., Title VI, Chapter 12, has determined that Covenant Village of Colorado is deemed a rental property and therefore subject to inspection.

I met on January 12, 2011 with the following city officials: Dave Houas, Hilary Graham and Holly Clayton. The purpose was to explain what we believe to be a unique relationship with the residents of Covenant Village as contrasted with a rental property. Our argument for this distinction is based on the following.

- The residents enter into a residency agreement, regulated by the Insurance Commissioner of the State of Colorado, as a life care agreement, which provides services, including assisted living and nursing home care. A copy was provided and a thorough explanation of this agreement was discussed with the officials.
- Upon being approved for residency, an entrance fee is paid to the community which provides for the performance of the residency agreement and assurance that the agreement will not be terminated, following a 90 day adjustment period, except under limited circumstances by Covenant Village.
- The residents of the community have a Resident Association that interacts with Covenant Village management and advises management on matters of interest to the residents including the upkeep of the campus and amenities.
- Representatives of the resident community are full members of the community's Management Advisory Committee which has been established by the Covenant Retirement Communities governing board to oversee the management of Covenant village.
- Lastly, other retirement communities in the Westminster area understand the above distinctions and refer to themselves as rental communities in their

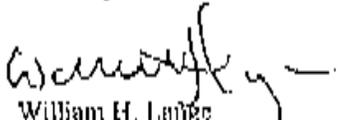
marketing materials specifically setting themselves apart from the entrance fee -
residency agreement of Covenant Village.

We ask that the City Council consider our request to amend the W.M.C., excluding
Covenant Village of Colorado from the rental inspection requirements of the Code.

I would of course be available to discuss this matter with you and our members of the
Council.

Thank you and the Council for considering this request.

Sincerely,


William H. Lange
Executive Director

cc: Donna Johnson, President, Resident Advisory Council

Covenant Village of Colorado

Violations documented in February and October 2007 (last scheduled inspection):

In the Tower Units:

- The rated fire doors on the unit entry's won't self-close and latch.
- Residents intentionally propping fire doors open.
- Missing and inoperable smoke alarms.
- Bedroom egress windows blocked by furniture.
- Extension cords being used in lieu of permanent wiring and cords not being UL listed for the appliances they're powering.
- Protective weather caps missing off electrical outlets on balconies.
- Blocked electrical panels (covered with artwork, heavy furniture, etc.)
- Penetrations in rated mechanical closet ceilings (heat pump closets).
- Cracked window.
- Appliances being utilized on the balconies (freezers etc.)
- Running toilets.
- Walls being removed so units can be combined and made larger without permits or fire dept. approval.

Common Areas:

- Penetrations in rated walls.
- Lobby fire rated doors propped open.
- Leaking fire sprinkler head.
- Missing cover plates on wall outlets.
- Improper splicing in electrical cords powering fluorescent lighting.
- Non secured outlets dangling from the ceiling.
- Storage in mechanical closets.
- Permits not being pulled or inspections conducted on installation of kiln, unit humidifiers and roof top water heaters.

Sample Inspection of single family, townhome and duplexes:

- Rated entry doors that won't self-close and latch.
- Dryer control stuck in "ON" position--overheating.
- Protective weather caps missing off exterior outlets.
- Folds developing in unit carpeting posing tripping hazards.
- Water pooling and icing up at balcony door--improper drainage.
- Several patio, balcony ceilings and soffits that are damaged.
- Toilet not secured to the floor.
- Leaking faucets.
- Running toilets.
- Missing window screens.

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **35**

SERIES OF 2011

INTRODUCED BY COUNCILLORS

**A BILL
FOR AN ORDINANCE AMENDING SECTION 11-12-3 OF THE WESTMINSTER MUNICIPAL
CODE TO EXEMPT QUALIFIED LIFE CARE INSTITUTIONS FROM RENTAL PROPERTY
LICENSING REQUIREMENTS**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Section 11-12-3(A)(18), W.M.C., is hereby AMENDED to read as follows:

(18) "Rental property" shall mean any building or buildings, or portion thereof, on one property under common ownership consisting of more than three units that provides shelter for human habitation or residential purposes, any portion of which is leased by the owner for occupation by a tenant. "Rental property" shall not mean hotels, motels, hospitals, State licensed residential care facilities, assisted living facilities, or nursing homes; or a facility qualified as Life Care Institution pursuant to C.R.S. § 12-13-101, et seq., as amended.

Section 2. This ordinance shall take effect upon its passage after second reading. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 24th day of October, 2011.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 7th day of November, 2011.

ATTEST:

Mayor

City Clerk

APPROVED AS TO LEGAL FORM:

City Attorney's Office



Agenda Item 10 F&G

Agenda Memorandum

City Council Meeting
October 24, 2011



SUBJECT: Revised Employment Agreement with John A. Stipech and
Councillor's Bill No. 36 re Municipal Judge Salary

Prepared By: Matt Lutkus, Deputy City Manager

Recommended City Council Action

1. Authorize the Mayor to execute a revised employment agreement with John A. Stipech for his services as Presiding Judge for 2012 with an effective date of January 1, 2012, and an automatic renewal for 2013 unless terminated by City Council.
2. Pass Councillor's Bill No. 36 on first reading setting the salary for the Municipal Judge for 2012.

Summary Statement

- City Council is requested to approve a revised employment agreement with John A. Stipech for services as Presiding Judge. The agreement would go into effect January 1, 2012 and would automatically be renewed for 2013 unless it is terminated by City Council no later than October 31, 2012.
- The Judge's salary has been frozen since 2009, consistent with Council's decision to freeze the salaries of the City's Administrative Officers in 2010 and 2011 as part of a series of steps to achieve expenditure reductions. Judge Stipech volunteered to temporarily reduce his salary by 5% for 2011.
- In the proposed agreement, Judge Stipech's 2012 combined salary and deferred compensation will be \$130,237. The agreement allows the Judge to designate a portion of his salary as City-paid deferred compensation to be paid as a lump sum at the beginning of 2012. The new combined salary and deferred compensation for 2012 is 2% higher than the Judge's compensation in 2010. The proposed employment agreement also provides the Judge with a \$5,000 bonus payable in January.
- The 2011 employment agreements for the Judge, City Manager and City Attorney were recently reviewed by Kendra Carberry, an attorney with Hayes, Phillips, Hoffman and Carberry, P.C. Several minor changes were made to the agreement following the review by both Ms. Carberry and City Staff.
- The attached proposed agreement with Judge Stipech is similar to the current employment agreement with the exceptions of the effective dates of the contract, the changes in compensation and a number of updates recommended by outside legal counsel and the Deputy City Manager..

Expenditure Required: 2012 - \$135,237 plus the cost of fringe benefits as described in the attached employment agreement

Source of Funds: General Fund - Municipal Court Division Budget



Policy Issue

Should City Council approve a revised employment agreement with the Presiding Judge for the continuation of his services through 2012 and 2013?

Alternative

Council could make further adjustments to the employment agreement with Judge Stipech.

Background Information

Since July 1991, City Council has used an employment agreement for Presiding Judge services. This approach is consistent with the practice of having employment agreements with the City Manager and the City Attorney who also serve at the pleasure of City Council. The agreement with the Presiding Judge addresses the overall duties of the position, the term of the agreement, compensation and benefits, professional development, and termination and separation provisions.

Presiding Judge John Stipech graduated from the University of Utah in 1967 with a Bachelor of Arts Degree and received his Juris Doctorate degree from the University of Denver Law School in 1971. In July 1979, he was appointed as an Associate Judge in Westminster's Municipal Court and has served as Presiding Judge since January 1, 1996. He is a member of the Colorado and Adams County Bar Associations and serves on the Board of Directors of the Colorado Municipal Judges' Association. Judge Stipech is a member of the Westminster Rotary Club and a member of the School District 50 Education Foundation Board of Directors.

The proposed employment agreement with Judge Stipech is similar to the current agreement that Council approved in October 2010 with the exceptions of the effective dates of the agreement, the addition of a bonus provision and several updates being recommended by outside legal counsel and the Deputy City Manager. The substantive changes that are being recommended are as follows:

- A rewording of section 3A to reflect the previous understanding that any severance paid to the Judge is comprised of both salary and a pro rata portion of his deferred compensation.
- A reduction in the employee's required notice for resignation from four months to no less than sixty days in advance of the effective date.

City Council met with Judge Stipech on October 3 to review his job performance since his last performance appraisal and to determine his compensation for the coming year. The revised agreement incorporates the direction given by Council to Staff and will provide for an increase in the Judge's 2011 combined salary and deferred compensation to \$130,237. This represents a 2% increase over the Judge's 2010 compensation level, that is, it does not take into account the Judge's voluntary 5% pay reduction in 2011. In addition, City Council has indicated that they wish to provide Judge Stipech with a \$5,000 merit bonus, payable in January 2012, in recognition of his work performance during 2011.

The employment agreement allows the Judge to designate a portion of his salary as deferred compensation up to the maximum allowed under federal law. As in previous years, the proposed employment agreement with Judge Stipech provides that, except in those cases where the agreement provides for a different benefit level, the Judge will receive the same fringe benefits as those extended to all department heads.

Funds are available in the 2012 Budget to cover the expense for the salary, bonus and fringe benefits described in the agreement.

Section 16.2 of the Westminster City Charter requires that the Council set the Presiding Judge's salary by ordinance. The attached Councillor's Bill fulfills this requirement by designating a salary in the Municipal Code that reflects the amount listed in the proposed employment agreement.

SUBJECT: Employment Agreement and Councillor's Bill re Municipal Judge

Page 3

The proposed agreement and Councillor's Bill supports City Council's Strategic Plan goal of a "Safe and Secure Community" by ensuring that a highly competent and experienced jurist continues to serve as the City's Presiding Judge.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

- Employment Agreement
- Ordinance

EMPLOYMENT AGREEMENT

THIS AGREEMENT, effective as of the 1st day of January, 2012, by and between the City of Westminster, State of Colorado, a municipal corporation, hereinafter called "the CITY," and JOHN A. STIPECH, hereinafter called "EMPLOYEE," both of whom understand as follows:

WHEREAS, the CITY desires to continue to employ the services of John A. Stipech as Presiding Municipal Judge of the City of Westminster as provided by City Charter, Chapter XVI, Section 16.2; and

WHEREAS, it is the desire of the City Council of the CITY (the "City Council") to provide certain benefits, establish certain conditions of employment, and to set working conditions of EMPLOYEE; and

WHEREAS, it is the desire of the City Council to (1) secure and retain the services of EMPLOYEE and to provide inducement for him to remain in such employment; (2) make possible full work productivity by assuring EMPLOYEE'S morale and peace of mind with respect to future security; (3) act as a deterrent against malfeasance or dishonesty for personal gain on the part of EMPLOYEE; and (4) provide a just means for terminating EMPLOYEE'S services at such time as he may be unable to fully discharge his duties or when the CITY may desire to otherwise terminate his employ; and

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

SECTION 1. DUTIES:

A. The CITY hereby agrees to continue the employment of EMPLOYEE as Presiding Municipal Judge of the CITY to perform the duties and functions specified in Section 16.2 of the City Charter, Chapter 22 of Title I of the City Code and such other legally and ethically permissible and proper duties and functions as the City Council shall from time to time assign.

B. EMPLOYEE shall administer the judicial component of the Municipal Court and shall be responsible for providing judicial coverage to insure efficient and expeditious hearing of all matters scheduled for hearing in the Municipal Court.

C. EMPLOYEE and the Court Administrator shall prepare and submit jointly a proposed budget for the Municipal Court, following guidelines established by the City Manager. This budget shall be reviewed by the City Manager's Office and submitted to the City Council for final approval as part of the City Manager's recommended City Budget. Requests for changes in the budget during the fiscal year shall also be submitted through the City Manager's Office.

D. EMPLOYEE shall supervise the judicial staff of the Municipal Court as may be authorized by the City Council. EMPLOYEE shall provide advice and direction to the Court Administrator in connection with the governance of the Court staff.

E. Except as otherwise expressly provided in this Agreement, EMPLOYEE shall be subject to the City of Westminster Personnel Policies and Rules, dated June 30, 2010, as amended ("Personnel Policies and Rules").

SECTION 2. TERM

A. It is the intent of the City Council and EMPLOYEE that EMPLOYEE will serve as Presiding Judge for calendar years 2012 and 2013. During the term of this Agreement, EMPLOYEE agrees to remain in the exclusive employ of the CITY. Further, EMPLOYEE agrees not to become employed by any other employer until this Agreement is terminated. Notwithstanding the foregoing, the term "employed" shall not be construed to include other judicial service, private law practice, teaching, writing, consulting work or other related activities performed on EMPLOYEE'S time off.

B. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the CITY to terminate the services of EMPLOYEE at any time and for any reason, subject only to the provisions set forth in Section 3 of this Agreement.

C. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of EMPLOYEE to resign at any time from his position with the CITY, subject only to the provisions set forth in Section 3 of this Agreement.

D. This Agreement is for a one-year term, but shall be automatically renewed for 2013 unless terminated no later than October 31, 2012.

SECTION 3. TERMINATION, NOTICE AND SEVERANCE PAYMENT:

A. In the event the City Council decides to terminate EMPLOYEE's employment with the CITY before expiration of the aforementioned term of employment and during such time EMPLOYEE is willing and able to perform the duties of Presiding Municipal Judge, then, and in that event, the CITY agrees to give EMPLOYEE six (6) months' prior written notice or, if no such notice is given, to pay EMPLOYEE a lump sum cash payment equal to his Base Salary for the ensuing six (6) months, plus or minus the pro rata share of deferred compensation to which EMPLOYEE is entitled based on his termination date and the amount of deferred compensation already paid to EMPLOYEE for that year (the "Severance Payment"). In the event the CITY elects to terminate this Agreement without giving EMPLOYEE six (6) months' advance written notice thereof, the EMPLOYEE shall have as his sole and exclusive remedy the Severance Payment as provided in this paragraph and EMPLOYEE shall have no other rights or claims against the CITY and hereby expressly waives and releases the same; provided, however, that in the event the EMPLOYEE is terminated because of his conviction of any illegal act, then, and in that event, the CITY has no obligation to give notice or pay the Severance Payment .

B. In the event the CITY at any time during the employment term reduces the salary or other financial benefits of EMPLOYEE in a greater percentage than an applicable across-the-board reduction for all City employees, or in the event the CITY refuses, following written notice, to comply with any other provisions benefiting EMPLOYEE herein, or the EMPLOYEE resigns following a written suggestion by at least four (4) members of the City Council that he resign, then, and in that event, EMPLOYEE may, at his option, be deemed to be "terminated" at the date of such reduction and be entitled to the Severance Payment as described in subsection A of this Section 3.

C. In the event EMPLOYEE voluntarily resigns his position with the CITY before expiration of the aforesaid term of employment, then EMPLOYEE shall give the CITY no less than sixty (60) days notice in advance in writing, and this agreement shall terminate on the effective date of the resignation.

D. The parties may, by mutual written agreement, shorten the time required for written notification of termination or resignation set forth in this Section 3.

E. In the event this Agreement is not renewed by the City Council, such non-renewal shall be considered a termination as provided for in Section 3.A hereof and shall entitle EMPLOYEE to the Severance Payment described therein.

SECTION 4. SALARY AND EVALUATIONS:

A. Effective January 1, 2012, the CITY agrees to pay EMPLOYEE for his services rendered pursuant hereto an annual gross salary ("Gross Salary") of \$130,237 which consists of a base salary ("Base Salary") and the amount EMPLOYEE elects to take in deferred compensation. EMPLOYEE may elect to receive a portion of his Gross Salary in the form of a lump sum amount of deferred compensation up to the then current maximum allowed by law. The Base Salary shall be payable in installments at the same time as other employees of the CITY are paid.

B. The CITY agrees to review EMPLOYEE'S performance annually, no later than October 31 of each year. Salary evaluation each year shall be at the discretion of the CITY. Such evaluation shall consider the salary of judges of similar municipalities.

C. Pursuant to the City Charter, the Base Salary, bonus and deferred compensation provided in this Section shall be approved by ordinance of the City Council.

D. In recognition of his job performance during 2011, EMPLOYEE shall be given a \$5,000 bonus payable no later than January 20, 2012.

SECTION 5. HOURS OF WORK:

It is recognized that EMPLOYEE must devote a great deal of his time outside normal office hours to business of the CITY, and to that end, EMPLOYEE will be allowed to take compensatory time off as he shall deem appropriate during normal office hours, in compliance with the Personnel Policies and Rules.

SECTION 6. TRANSPORTATION:

EMPLOYEE'S duties require that he have an EMPLOYEE-provided automobile. EMPLOYEE shall be responsible for paying of liability, property, maintenance, repair and regular replacement of said automobile. The CITY shall pay EMPLOYEE a monthly car allowance of \$500 to assist in compensating for these costs.

SECTION 7. DUES AND SUBSCRIPTIONS:

The CITY agrees to budget and to pay the professional dues of EMPLOYEE necessary for his continuation and full participation in national, regional, state, and local associations and organizations necessary and desirable for his continued professional participation, growth and advancement, and for the good of the CITY.

SECTION 8. PROFESSIONAL DEVELOPMENT:

The CITY agrees to budget and to pay registration, travel and subsistence expenses of EMPLOYEE for professional and official travel to meetings and occasions related to the professional development of EMPLOYEE and to official and other functions as a representative of the CITY, including, but not limited to, the American Bar Association, the Colorado Bar Association, the Colorado Municipal Judges Association, and continuing legal education courses and seminars related to topics of

the judiciary. In addition to reasonably funding educational/training programs for EMPLOYEE'S professional staff, sufficient funds shall be budgeted to permit EMPLOYEE to attend at least one national, one statewide, and one local educational/training program each calendar year.

SECTION 9. GENERAL EXPENSES:

The CITY recognizes that certain expenses of a non-personal, job-affiliated nature are incurred by EMPLOYEE, and hereby agrees to reimburse or to pay said non-personal, job-affiliated expenses. Disbursement of such monies shall be made upon receipt of duly executed expense vouchers, receipts, statements, or personal affidavit.

SECTION 10. FRINGE BENEFITS:

The CITY shall provide EMPLOYEE with all benefits that are provided to Department Head level employees by the Personnel Policies and Rules; provided that when such benefits are in conflict with this Agreement, this Agreement shall control. EMPLOYEE'S years of service with the City in an unbenefited capacity will be treated as years of continuous municipal service when the level of EMPLOYEE's benefits is computed.

SECTION 11. OTHER TERMS AND CONDITIONS OF EMPLOYMENT:

A. The City Council shall fix any other terms and conditions of employment as it may from time to time determine, relating to the performance of EMPLOYEE, provided such terms and conditions are not inconsistent with the provisions of this Agreement, the City Charter or any other law.

B. EMPLOYEE is ultimately responsible for providing judicial coverage of all docketed matters in the Westminster Municipal Court.

SECTION 12. GENERAL PROVISIONS:

A. The text herein shall constitute the entire agreement between the parties.

B. This Agreement shall be binding upon and inure to the benefit of the heirs at law and executors of EMPLOYEE.

C. This Agreement becomes effective on January 1, 2012, and, if automatically renewed, shall be in effect through December 31, 2013.

D. If any provision, or any portion hereof contained in this Agreement is held to be unconstitutional, invalid or unenforceable, the portion thereof shall be deemed severable, and the remainder shall not be affected, and shall remain in full force and effect.

E. The parties agree that this Agreement is entered into and shall be governed by the laws of the State of Colorado.

F. Effective January 1, 2012, this Agreement replaces and supersedes prior employment agreements between CITY and EMPLOYEE.

G. Nothing in this Agreement shall be construed as creating a multiple fiscal year obligation on the part of the CITY within the meaning of Colorado Constitution Article X, Section 20.

IN WITNESS WHEREOF, the City of Westminster, Colorado, has caused this Agreement to be signed and executed on its behalf by its Mayor, and duly attested by its City Clerk, and EMPLOYEE has voluntarily signed and executed this Agreement.

APPROVED by the Westminster City Council on _____, 2011, contingent upon approval of the Councillor's Bill amending the Municipal Judge salary.

ATTEST:

Nancy McNally, Mayor

City Clerk

John A. Stipech

APPROVED AS TO LEGAL FORM:

City Attorney

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **36**

SERIES OF 2011

INTRODUCED BY COUNCILLORS

**A BILL
FOR AN ORDINANCE SETTING THE SALARY OF THE MUNICIPAL JUDGE FOR 2012**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Section 1-7-2, W.M.C., is hereby AMENDED as follows:

1-7-2: MUNICIPAL JUDGE: The salary of the Municipal Judge shall be as follows:

\$130,237 per annum, effective January 1, 2012, payable bi-weekly inclusive of any amounts provided as City-paid deferred compensation. Such deferred compensation amount may, at the Municipal Judge's option, be paid as a lump sum at the beginning of the calendar year. A bonus of \$5,000 shall be payable on or before January 20, 2012.

Section 2. 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 24th day of October, 2011.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 7th day of November, 2011.

ATTEST:

Mayor

City Clerk

APPROVED AS TO LEGAL FORM:

City Attorney



WESTMINSTER

Westminster Economic Development Authority

TO: The Westminster Economic Development Authority Board Members
DATE: October 20, 2011
SUBJECT: WEDA Agenda for October 24, 2011
PREPARED BY: J. Brent McFall, Executive Director

POST WEDA BRIEFING

PRESENTATIONS

1. None at this time

EXECUTIVE SESSION - VERBAL

1. Consideration of the Authority's position relative to future negotiations related to the redevelopment of the Westminster Mall site and instructing the Authority's negotiators, as allowed by CRS 24-6-402(4)(e)

Items may come up between now and Monday night. You will be apprised of any changes to the agenda.

Respectfully submitted,

J. Brent McFall
Executive Director





WESTMINSTER

October 19, 2011

Linda Yeager, WEDA Secretary
City of Westminster
4800 West 92nd Avenue
Westminster, CO 80031

City of Westminster
Office of the
Council

4800 West 92nd Avenue
Westminster, Colorado
80031

303-658-2006
FAX 303-706-3921

Nancy McNally
Mayor

Chris Dittman
Mayor Pro Tem

Bob Briggs
Councillor

Mark Kaiser
Councillor

Mary Lindsey
Councillor

Scott Major
Councillor

Faith Winter
Councillor

Dear Linda:

I wish to call a special meeting of the Westminster Economic Development Authority (WEDA) on Monday, October 24, 2011, to begin at 7:30 p.m. or as soon thereafter following the conclusion of the 7:00 p.m. City Council meeting and to be held in the Council Board Room of City Hall, 4800 West 92nd Avenue. The purpose for this meeting is to convene an executive session to consider the Authority's position relative to future negotiations related to the redevelopment of the Westminster Mall site and instructing the Authority's negotiators, as allowed by CRS §24-6-402(4)(e).

Sincerely,

Nancy McNally
Chair

cc: WEDA Board Members
J. Brent McFall, Executive Director

