



WESTMINSTER
COLORADO

October 28, 2002
7:00 P.M.

CITY COUNCIL AGENDA

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

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

1. Pledge of Allegiance – Girl Scout Troop #310
2. Roll Call
3. Consideration of Minutes of Preceding Meetings
4. Presentations
5. Citizen Communication (5 minutes or less)
6. Report of City Officials
 - A. City Manager's Report
7. City Council Comments

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

8. Consent Agenda
 - A. Financial Report for September 2002
 - B. Bids for the 2003 Traffic Signal Maintenance
 - C. Amended IGA with Northglenn re Water Storage Tank Site
 - D. CB No. 50 re 2003 and 2004 Appropriations (McNally-Dixon)
 - E. CB No. 51 re Annexation of Lao Buddhist Temple (Dittman-Dixon)
 - F. CB No. 52 re Zoning of Lao Buddhist Temple (Dittman-Dixon)
9. Appointments and Resignations
10. Public Hearings and Other New Business
 - A. TABLED CB No. 43 re Solid Waste Code
 - B. Councillor's Bill No. 53 re Sign Code Revisions
 - C. Revised Employment Agreement with John A. Stipech
 - D. Councillor's Bill No. 54 re Amending the Salary for Municipal Judge
 - E. Exclusion of Properties From North Metro Fire Rescue District
 - F. Resolution No. 49 re Exclusion From North Metro Fire Rescue District
 - G. Resolution No. 50 re Xcel Energy Easement for Westminster Boulevard Right-of-way
 - H. Councillor's Bill No. 55 re 2002 Budget Supplemental Appropriation
 - I. Councillor's Bill No. 56 re City Water System Security Assessment
11. Old Business and Passage of Ordinances on Second Reading
12. Citizen Presentations (longer than 5 minutes) and Miscellaneous Business
 - A. City Council
 - B. Executive Session
 1. Business Assistance Packages
13. Adjournment

CITY OF WESTMINSTER, COLORADO
MINUTES OF THE CITY COUNCIL MEETING
HELD ON MONDAY, OCTOBER 28, 2002 AT 7:00 P.M.

PLEDGE OF ALLEGIANCE

Girl Scout Troop #310 led Council, Staff and the audience in the Pledge of Allegiance and folded pocket flags to send to soldiers overseas.

ROLL CALL

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

CONSIDERATION OF MINUTES

Mayor Pro-Tem Atchison moved, seconded by McNally to approve the minutes of the meeting of October 14, 2002 with no corrections or additions. The motion carried unanimously.

CITIZEN COMMUNICATION

State Representative Lois Tochtrop, addressed Council on the Sign Code and asked to have political signs eliminated from the right-of-ways.

COUNCIL COMMENTS

Councillor Dixon commented on the walk-in early voting. She also commented on the Community Artist Series Ink Spots concert held last weekend, and the Energy Community Alliance conference in Los Alamos.

Councillor Dittman commented on the Business Appreciation Luncheon held at the Westin Hotel last Friday.

Mayor Pro-Tem Atchison commented that 24 applicants have applied for the 2003 pool for the Boards & Commissions. Interviews will be conducted on November 9.

Councillor Hicks commented on the Business Appreciation Luncheon.

Councillor Kauffman commented on the different companies that are moving into Westminster.

CONSENT AGENDA

The following items were considered as part of the Consent Agenda: Financial Report for September 2002; Bids for the 2003 Traffic Signal Maintenance; Amended IGA with Northglenn re Water Storage Tank Site; CB No. 50 re 2003 and 2004 Appropriation; CB No. 51 re Annexation of Lao Buddhist Temple; and CB No. 52 re Zoning of Lao Buddhist Temple.

The Mayor asked if there was any member of Council or anyone from the audience who would like to have any of the consent agenda items removed for discussion purposes or separate vote. There was no request.

Councillor McNally moved, seconded by Atchison to adopt the consent agenda items as presented. The motion carried unanimously.

COUNCILLOR'S BILL NO. 53 RE SIGN CODE REVISIONS

Mayor Pro-Tem Atchison moved, seconded by Dixon to pass Councillor's Bill No. 53 on first reading approving certain revisions to Title 11, Chapter 11 of the Westminster Municipal Code, regarding sign regulations.

Councillor Hicks moved, seconded by Dittman to amend the wording in the policy issues portion of the agenda memorandum to prohibit campaign election signs in rights-of-way. The motion was withdrawn by the maker and second.

Councillor Hicks moved, seconded by Dittman to amend the Councillor's Bill and delete Title 11, Chapter 11, Section 6 C (7) pertaining to election signs. The motion was withdrawn by the maker and second.

Dan Clayton, 6715 W 97th Cir, representing Safeway, and Paul Luebber, 3406 W 111th Drive, representative of Summit Square ownership, addressed Council on remote signs at gas stations.

Councillor Hicks moved, to table action on this item. The motion failed for lack of a second.

Upon roll call vote on the motion to pass Councillor's Bill No. 53 on first reading approving certain revisions to Title 11, Chapter 11 of the Westminster Municipal Code, regarding sign regulations, the motion carried unanimously.

Councillor Dixon moved, seconded by Hicks to direct Staff to work on changes to the Councillor's Bill to allow remote controlled electronic gas signs for consideration at second reading. The motion carried unanimously.

Councillor Hicks moved, seconded by Dittman to direct Staff to work on changes to the Councillor's Bill to prohibit election signs in rights-of-way. The motion failed with dissenting votes from Atchison, Dixon, Kauffman, McNally and Moss.

REVISED EMPLOYMENT AGREEMENT WITH JOHN A. STIPECH

Councillor Dixon moved, seconded by McNally to authorize the Mayor to execute a revised employment agreement with John A. Stipech for his services as Presiding Judge for 2003 and 2004 with an effective date of January 1, 2003. The motion carried unanimously.

COUNCILLOR'S BILL NO. 54 RE AMENDING THE SALARY FOR MUNICIPAL JUDGE

Councillor Dixon moved, seconded by Atchison to pass Councillor's Bill No. 54 on first reading regarding a change to the salary for the Presiding Judge. Upon roll call vote, the motion carried unanimously.

EXCLUSION OF PROPERTIES FROM NORTH METRO FIRE RESCUE DISTRICT

Councillor Dittman moved, seconded by Atchison to approve the Stipulation and Plan for exclusion of recently annexed properties from the North Metro Fire Rescue District and authorize its execution by the Mayor and City Manager on behalf of the City. The motion carried unanimously.

RESOLUTION NO. 49 RE EXCLUSION FROM NORTH METRO FIRE RESCUE DISTRICT

Mayor Pro-Tem Atchison moved, seconded by Dittman to adopt Resolution No. 49 approving the exclusion of recently annexed properties from the North Metro Fire Rescue District. Upon roll call vote, the motion carried unanimously.

RESOLUTION NO. 50 XCEL ENERGY EASEMENT FOR WESTMINSTER BLVD RIGHT-OF-WAY

Councillor Kauffman moved, seconded by Dittman to adopt Resolution No. 50 authorizing the City Manager to sign documents granting a non-exclusive easement to Xcel Energy in the right-of-way for Westminster Boulevard between 95th Avenue and 104th Avenue. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 55 RE 2002 BUDGET SUPPLEMENTAL APPROPRIATION

Councillor Dittman moved, seconded by Hicks to pass Councillor's Bill No. 55 on first reading providing for supplementary appropriation to the 2002 budget appropriation in the General and General Capital Improvement Funds. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 56 RE CITY WATER SYSTEM SECURITY ASSESSMENT

Mayor Pro-Tem Atchison moved, seconded by Dixon to pass Councillor's Bill No. 56 on first reading appropriating \$115,000 from the USEPA Vulnerability Assessment Grant to the Water Capital Improvement Project account; authorize the City Manager to sign a contract with the most qualified proposer, Tetra Tech Rocky Mountain Consultants (RMC) in the amount of \$115,000 and charge the expense to the appropriate Department of Public Works and Utilities, Water Capital Improvement Project account. Upon roll call vote, the motion carried unanimously.

EXECUTIVE SESSION

The Mayor stated there would be an executive session to discuss Jefferson County Parkway, and Business Assistance Packages.

ADJOURNMENT:

The meeting was adjourned at 7:55 P.M.

ATTEST:

City Clerk

Mayor



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
October 28, 2002

SUBJECT: Financial Report for September 2002

Prepared By: Mary Ann Parrot, 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 and monthly revenue report. The Shopping Center Report is also attached to this monthly financial report; this reflects August sales tax receipts received in September.

- Across all shopping centers, total receipts are down 7% over the nine-month period from last year (Sales and Use Taxes). Sales Tax receipts (only) are down 5% year to date from the same period last year.
- The Westminster Mall is down 10% for September and down 13% year to date, compared to last year.
- These figures are either the same as or improved over last month's figures as follows:
 - Shopping center receipts were down 7% year to date and Sales Tax receipts (only) were down 5%, the same as last month's report.
 - The mall was down 25% for the month of August and 14% year to date. September's report is better.

Key features of the monthly financial report for September are as follows:

- At the end of September, nine of 12 months, or 75%, of the year has passed. In many cases, actual revenues do not flow evenly at 8.3% per month. Pro-rated revenues will reflect expected revenue flows based on history. Expenditures are pro-rated at 8.3%, reflecting even flows. The Sales and Use Tax Fund is currently \$3,777,256 under the pro-rated budget for the year. The September figures reflect the sales in August, tax receipts received in September. Returns are down for September 2002 compared to September 2001 by 7.01%, and by 9.15% year to date (for nine months January-September) due to the pressures of the recession in the metropolitan area and unusually large sales tax collections in April and August of 2001. These are improved slightly from last month (13.3% for August and 9.6% year to date).
- If the current trend continues for the year, the Sales and Use Tax Fund will be under budget by \$5.0 to \$6.0 million.
- The General Fund currently is at 99% of revenues pro-rated for seven months. This reflects the reduction in the transfer of sales taxes to the General Fund since month-end July of \$833,333 per month. Since June, the funding of the General Fund has gone from 102% of pro-rated budget to 99% of pro-rated budget. However, recurring annual revenues such as Property Tax collections, Intergovernmental Revenues, Charges for Other Services and Miscellaneous are all over pro-rated budget and will help to offset the shortfall in sales tax collections to some extent. In March Staff deployed a plan to maintain the integrity of the General Fund through a variety of measures: carrying forward funds from last year, delaying selected capital projects, reducing General Fund expenditures across all departments and, lastly, implementing a selective hiring freeze for the remainder of this year.

Policy Issues

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.

Alternatives

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 is broken down into a discussion of highlights of each fund presented.

For revenues, a positive indicator is a pro-rated budget percentage at or above 100%. For expenditures, a positive indicator is a pro-rated budget percentage that is below 100%. The term "pro-rated," when used with revenues and expenditures, in this report, refers to the expected revenues collected or expenditures incurred by a certain date in time based on historical trends.

General Fund

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

At the end of September, the General Fund is in the following position regarding both revenues and expenditures, although it is still somewhat early to predict end-of-the-year results:

- Under pro-rated budget in revenues by \$603,558 (99% of pro-rated budget). This reflects the reduced sales tax collections for the past two months of \$833,333. By year-end, the sales tax transfers to the General Fund will be reduced by \$5 million, unless there is a turn around in the economy, which Staff does not expect.
- Under pro-rated budget in expenditures by \$5.6 million (91% of pro-rated budget); lease payments due in December will reduce this figure.

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. At the end of August, the Enterprise is in a positive position.

- Combined Water & Wastewater over pro-rated budgeted revenues by a combined \$6.073 million:
 - Water revenues over pro-rated budget by \$5.408 million (126% of pro-rated budget), due primarily to positive variances in rates and charges and interest earnings, a developer paying \$2.3 million for residential tap fees in February, and a reimbursement for Standley Lake spillway construction expenditures in April. The build up of revenues in this fund will finance capital replacement and necessary expansion over the long term, as planned.
 - Wastewater revenues over pro-rated budget by \$665,855 (109% of pro-rated budget), due mostly to collections for the month from monthly customers and tap fees from builders. Again, these reserves will finance capital replacement and expansion over the long term.
 - Stormwater Drainage revenues over pro-rated budget by \$31,934 (105% of pro-rated budget).
- Combined Water & Wastewater under pro-rated budget in expenditures by a combined \$3.268 million. The major reasons for this is that debt service payments due in December have not yet been made or accrued, and utility construction and repairs are seasonal expenditures:
 - Water under pro-rated expenditures budget by \$1.756 million (88% of pro-rated

- budget).
- Wastewater under pro-rated expenditures budget by \$1.512 million (80% of pro-rated budget).
- Stormwater Drainage under pro-rated expenditures budget by \$148,503 (20% of pro-rated budget).

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

These funds are the repositories for the 3.25% City Sales & Use Tax for the City. The Sales & Use Tax Fund provides monies for the General Fund, the Capital Projects Fund and the Debt Service Fund. The Open Space Sales & Use Tax Fund revenues are pledged to meet debt service on the POST bonds, buy open space, and make park improvements on a pay-as-you-go basis. At the end of September, the position of these funds is as follows:

- Sales & Use Tax Fund - Under pro-rated budget in revenues by \$3,777,256 million (90.5% of pro-rated budget). If this continues, the Sales Tax Fund will be under budget for the year by approximately \$5 to \$6 million.
- Sales & Use Tax Fund – Under budgeted expenditures by \$2,499,999 (93.9% of pro-rated budget) because of the reduced transfers from the Sales & Use Tax Funds. This transfer will continue to reflect an additional reduction of \$833,333 per month, totaling \$5 million by December 31 for the year.
- Open Space & Use Tax Fund - Over pro-rated budget in revenues by \$470,515 (114% of pro-rated budget), for the following reason: interfund transfers from the General Capital Improvement Fund were made as scheduled, according to the December 2001 appropriation of Year 2000 funds from excess Jeffco and Adco Attributable Shares for Open Space and also to recognize interest earnings on bond proceeds.
- Open Space Sales & Use Tax Fund - Under pro-rated budget in expenditures by \$1,200,471 (79% of pro-rated budget).

Golf Course Funds (Legacy and Heritage- the Golf Course Enterprise)

These funds reflect the operations of the City's two municipal golf courses.

- Legacy - Under pro-rated budget in revenues by \$125,259 (92% of pro-rated budget). This is somewhat improved from last month, when revenues were at 90% of budget.
- Legacy - Under pro-rated budget in expenses by \$90,170 (93% of pro-rated budget). This variance is operations only and excludes the impact of the debt service payments that will be due in December.
- Heritage - Under pro-rated budget in revenues by \$275,184 (83% of pro-rated budget). Again, this is slightly improved over last month's report, when revenues were 81% of budget.
- Heritage - Over pro-rated budget in expenditures by \$88,831 (107% of pro-rated budget). Again, this excludes the impact of the debt service payments due in December, and is improved from last month's report when expenditures reached 111% of budget.

Staff will attend the October 28th City Council Meeting to address any questions.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Agenda
October 28, 2002

SUBJECT: Bids for the 2003 Traffic Signal Maintenance

Prepared By: Greg Olson, Transportation Systems Coordinator

Recommended City Council Action

Authorize the City Manager to execute a contract with Integrated Electric, Inc. in the amount of \$104,535 for traffic signal maintenance in calendar year 2003.

Summary Statement

- The City utilizes the services of a private contractor to perform maintenance of the City's traffic signals.
- The current contract expires on December 31, 2002.
- A total of three bids were received and opened on August 8, 2002.
- City Council action is requested to award the 2003 traffic signal maintenance contract to the lowest bidder, Integrated Electric, Inc.
- The contract amount is within the amount budgeted within the Department of Community Development for this expense.

Expenditure Required: \$104,535

Source of Funds: 2003 Department of Community Development operating budget for traffic signal maintenance

Policy Issues

Does City Council wish to continue the practice of outsourcing traffic signal maintenance to a private contractor?

Alternatives

One alternative is to not enlist the services of a private contractor. This alternative would require the City to hire a minimum of two full-time employees and invest in the equipment necessary to perform traffic signal maintenance. At this point in time, City Staff does not recommend performing the traffic signal maintenance “in-house.” Staff believes that the number of traffic signals in the City does not justify the investment the City would be required to make to provide for traffic signal maintenance activities.

Background Information

The City utilizes the services of a traffic signal maintenance contractor to perform maintenance on traffic signals at 79 intersections and on 10 pedestrian crossing signals (total of 89 installations). The 2002 traffic signal maintenance contract, which was awarded to W.L. Contractors, Inc. in October 2001, expires December 31, 2002.

City Staff solicited and received formal bids from three qualified contractors for the 2003 traffic signal maintenance. The results of the August 8th bid opening are as follows:

<u>Contractor</u>	<u>Bid Amount</u>
Integrated Electric, Inc.	\$104,535
W.L. Contractors, Inc.	\$108,745
Sturgeon Electric, Inc.	\$133,676

The low bidder, Integrated Electric, Inc., formed in mid-2001 and has not previously performed traffic signal maintenance or construction in the City. The company is currently under contract with the City of Arvada for traffic signal maintenance and has performed exceptionally well according to Arvada Staff. City Staff believes that in 2003, Integrated Electric Inc. would be able to provide the high level of service that the City expects for traffic signal maintenance activities. The next lowest bidder, W.L. Contractors, Inc., is the City’s current contractor for traffic signal maintenance, and their performance has been excellent.

The 2003 bid documents utilize a conservative, estimated annual amount of labor and equipment hours for performance of all traffic signal maintenance items. There are two general categories of work activities that provide the basis for the estimated hours of equipment and labor unit prices in the traffic signal maintenance contract: annual preventive (routine) maintenance and additional traffic signal (occasional) maintenance.

Annual preventive maintenance: The first section of the contract addresses annual preventive maintenance at each of the traffic signal locations. The estimated hours of equipment and labor do not cover material costs associated with any repairs made as the result of the annual preventive maintenance inspection. These material costs are paid from the balance of the City’s traffic signal maintenance account. The components of annual preventive maintenance include the following:

1. Clean signal controller cabinets and components.
2. Check all field wiring for inadequacies (i.e., proper grounding etc.).
3. Check critical controller settings (i.e., amber time) with a stopwatch to insure adequate operation.
4. Check for adequate power levels in the communications cable, which links the signals in the computerized signal system.

5. Check and calibrate vehicle loop detectors to insure proper operation. (Vehicle loop detectors are wires embedded in the roadway, which detect the presence of a vehicle, which trigger a change in the traffic signal.)
6. Check signal heads, signal poles and associated hardware for damage and make repairs as necessary.
7. Check and record incoming voltage at all intersections to prevent excessive wear on the signal control equipment.
8. Quarterly inspection at each signal location.
9. "Troubleshoot" and maintain the computerized signal system components to insure proper operation.
10. Maintain emergency vehicle preemption equipment to insure proper operation. (Emergency vehicle preemption equipment consists of an electric component, which preempts the traffic signal to allow a green signal indicator for fire equipment.)
11. Based on the activities listed above, provide the City with a prioritized list of items in need of repair.

Additional Traffic Signal Maintenance Items: The remaining section of the contract reflects estimated labor and equipment costs for additional traffic signal maintenance items. It should be noted that this section of the contract does not include material costs, with the exception of light bulbs, as it is difficult to estimate the type and amount of materials needed for emergency trouble calls and unscheduled maintenance items. Again, these material costs are paid for from the balance of the City's traffic signal maintenance account. Additional traffic signal maintenance items include emergency trouble calls, unscheduled maintenance items, the annual light bulb replacement program and an estimated cost for loop detector replacements. The contract also assures the City that the contractor will be available to perform emergency or other repairs as required. Therefore, it is necessary that the City have a firm available seven days a week, 24 hours a day to respond to any emergency signal work that may arise.

The bids are based on a conservative, estimated amount of labor and equipment hours so that each bidder would provide unit prices based upon the same assumption. Staff typically estimates on the low side the number of labor and equipment hours that will be necessary so that the contractor will not rely on a higher workload than may be experienced.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
October 28, 2002

SUBJECT: Amended Intergovernmental Agreement with the City of Northglenn re Water Storage Tank Site

Prepared By: Andy Mead, Utilities Operations Coordinator

Recommended City Council Action

Authorize the City Manager to sign the amended Intergovernmental Agreement (IGA) with the City of Northglenn as it relates to Westminster's water storage tank site located at 112th Avenue and Cherokee Street.

Summary Statement

- The original IGA between the City of Westminster and the City of Northglenn was entered into on December 12, 1996.
- The IGA stipulated that Westminster could purchase up to 1.2 acres of property from Northglenn to be used as a future site for a 2 million gallon elevated water storage tank. Since that time, Westminster acquired approximately 0.70 acres of property and dedicated its use for a water storage tank to be constructed at an undetermined date.
- During this summer, City Staff was informed about a major roadway project being planned by the City of Northglenn, which included extending Community Center Drive/112th Avenue, west over I-25 to connect to Huron Street. This project would have direct impact on Westminster's ability to construct the necessary water line to the future tank site.
- Upon investigating the proposed roadway site in relation to the needed Westminster water line alignment, Staff discovered that the City of Northglenn was in the process of constructing a water tank at an adjacent site as well. Further study showed that the Northglenn tank was constructed approximately 30 feet on the Westminster tank site property.
- City Staff has negotiated an amended IGA with Northglenn that provides for additional property to be deeded to Westminster to allow a future water storage tank to be constructed, a permanent water line construction easement, and a temporary construction easement on Northglenn's property for future water tank construction.

Expenditure Required: N/A

Source of Funds: N/A

Policy Issue

Should the City agree to the provisions set forth in the amended IGA with the City of Northglenn, in regards to the Water Storage Tank Site.

Alternative

Do not approve the amended IGA, and continue discussions with Northglenn regarding finding another available site for the Westminster storage tank.

Background Information

In December 1996, the City of Westminster entered into an Intergovernmental Agreement (IGA) with the City of Northglenn to allow Westminster to purchase property from Northglenn at the 112th Avenue and Cherokee Street tank farm site to use for a future 2 million gallon elevated water storage tank. In October 1998, the City closed on 0.70 acres of land at the approved site.

Over the past few months, City Staff was made aware of a major roadway project being considered by the City of Northglenn that would extend Community Center Drive over I-25 westerly to Huron Street. This project directly impacts Westminster's ability to construct a 16-inch water line from Huron Street to the tank site located on the property acquired in 1998. Upon checking the site of the proposed project, Staff became aware of the construction of a water storage tank being built by the City of Northglenn on property adjacent to the site Westminster acquired in 1998.

During this past summer, staff from both cities initiated meetings to outline details and information related to both the roadway project and the water tank being built on the Westminster site. It was determined that Northglenn had constructed their water tank on approximately 30 feet of property owned by Westminster. At this point, it was decided that an amended IGA was necessary to address the situation and provide additional property to Westminster for the future water tank.

After several meetings between both cities' Staff, negotiations resulted in the proposed amended IGA, that provides for Westminster and Northglenn to exchange small parcels for property at the water tank site that will allow Westminster to still construct a water tank at this location. Also included with these amendments are the water line easements for the water line from Huron Street to the new tank site and a construction easement at this site to be utilized when Westminster does build a new 2MG water storage tank. The City Attorney's Office has reviewed the amended IGA documents.

Both Cities have verbally agreed to the stated provisions of the amended IGA and will continue to work together during the construction project to ensure that Westminster's interests are upheld and that there will not be any problems with constructing a new water storage tank at the approved site. Northglenn will be taking action on the IGA on October 24.

After City Council action is taken on this proposed amended IGA, the related 16-inch water line project construction and funding approval will be presented for Council review and action. This is tentatively scheduled to appear on the City Council agenda for November 11.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

**MODIFICATIONS TO INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITIES OF
WESTMINSTER AND NORTHGLENN REGARDING CONSTRUCTION OF A
WESTMINSTER WATER TANK IN THE CITY OF NORTHGLENN**

This Modifications Agreement is entered into this ___ day of _____, 2002 by and between the City of Westminster, Colorado, a municipal corporation, hereafter referred to as “Westminster” and the City of Northglenn, Colorado, a municipal corporation, hereafter referred to as “Northglenn” and hereafter referred to collectively as “Parties.”

Whereas, on December 12, 1996, the Parties entered into an Intergovernmental Agreement (copy attached hereto) concerning the purchase of a Northglenn property by Westminster and the construction of an elevated water storage tank on this property; and

Whereas, Westminster has purchased this property and obtained a Permitted Use Permit (Case No. P-3-98) from the Northglenn Planning Commission to construct a two million gallon (2MG) elevated water storage tank on the property; and

Whereas, due to topographic conditions and other factors, a new three million gallon (3MG) water storage tank being constructed by Northglenn on adjacent property encroaches onto the Westminster tank property by approximately 30 feet as illustrated on the attached Exhibit 1; and

Whereas, it is the desire of the Parties to resolve this encroachment problem by making certain adjustments to the boundaries of the Westminster tank property and by Northglenn providing other considerations to Westminster.

Now, therefore, in consideration of the mutual promises herein contained, the Parties hereto agree as follows:

1. Modifications to Control. If there exist any conflicts between this Modifications Agreement and the original Intergovernmental Agreement (copy attached hereto), the terms and provisions of this Modifications Agreement shall control. Except as specifically modified hereby, however, the terms and provisions of the original Intergovernmental Agreement are hereby ratified and affirmed.
2. Westminster will:
 - a. Convey to Northglenn by Special Warranty Deed approximately 0.12 acres of its water tank property as illustrated on Parcel A, on Exhibit 1, attached hereto.
 - b. Repair at its expense any landscape improvements within the Community Center Drive right-of-way damaged as a result of construction activity associated with the construction of the Westminster water tank.
3. In return, Northglenn will:
 - a. Convey to Westminster by Special Warranty Deed approximately 0.06 acres of its Community Center Drive right-of way located directly north of and adjacent to the north line of the Westminster water tank property as illustrated on Parcel B, on Exhibit 1, attached hereto.
 - b. Convey to Westminster a 20-foot wide permanent easement for the construction and maintenance of a 16-inch water pipeline within Northglenn’s Community Center Drive right-of-way between the intersection of 112th Avenue and Huron Street and the Westminster water tank property. The pipeline shall be located in the center of the easement wherever possible.

- c. Convey to Westminster a temporary construction easement on Northglenn's property located directly east of the Westminster water tank property as illustrated on Parcel C, on Exhibit, 1 attached hereto. Said temporary construction easement shall terminate one year after completion of Westminster's water tank construction. The purpose of this easement is to accommodate construction materials and equipment during the construction of the water tank. Access to the temporary construction easement area will be available from the curb cut in the Community Center Drive roadway as illustrated on Exhibit 1. The City of Northglenn shall not build any structures on this site that will encumber Westminster's tank construction until the tank is completed or until December 31, 2008, whichever occurs first. If necessary, additional annual renewals beyond December 31, 2008, may be negotiated between Westminster and Northglenn.
- d. Have legal descriptions prepared by a Registered Land Surveyor for the parcels to be conveyed by Special Warranty Deed.
- e. Acknowledge that the new location of the Westminster elevated water storage tank is in substantial conformity within the tank site with the previously approved site plan for this tank (Permitted Use Permit – Case No. P-3-98) and that no additional zoning approvals will be required prior to the issuance of a building permit for construction of the tank. The tank's dimensions are approximately 125' tall and 100' ± in diameter, and will store approximately 2 MG of finished water.

4. Westminster Waterline Project

- a. **Responsibility of the City of Northglenn** – Northglenn will construct a 16" diameter D.I.P. water main in the Community Center Drive right-of-way in accordance with the construction plans prepared by Sear-Brown, dated August 2002. The work shall be done in conjunction with the construction of Community Center Drive by the Northglenn. Northglenn shall administer and coordinate the work with the Contractor, and also provide Westminster with open review of all contractor bid information upon request.
- b. **Responsibility of the City of Westminster** – Westminster will provide Northglenn with a set of approved construction plans to bid the project, and will allocate funds in accordance with Paragraph 4-c as set forth below. Westminster will provide an onsite representative to observe the work and have authority from Northglenn to make determinations and decisions as to the waterline construction.
- c. **Payment** - Westminster shall provide Northglenn an amount not to exceed \$370,000, which will be placed in a special Westminster account to be drawn from when making payments to the contractor and the construction manager. Payments to Northglenn will be made upon the Westminster representative being invoiced by Northglenn and received by Westminster. Westminster agrees to pay invoices within 30-days of receipt of the invoice. The authorized representative of Westminster shall determine whether the specifications of the work to be completed have been met.

Northglenn's obligation under this Agreement is expressly conditional on the receipt of the above amount. Northglenn shall have no obligation unless and until such funds are received.

- d. **Authorized Representatives** - Northglenn hereby designates Dennis Crock, Engineering Manager, as its authorized representative. Westminster hereby designates Diane Phillips, CIP Coordinator, as its authorized representative.
- e. **Cooperation** - Northglenn and the Westminster will cooperate in scheduling of the work, and in supervision and review when applicable.

- f. **Warranty** - The parties agree that any contracts awarded for the performance of the work specified in Northglenn's Contract Document for the Waterline Project shall require that the work be warranted by the contractor for two years and that surety be provided for enforcement of this warranty in the form of bid bonds and performance and payment bonds.
- g. **Third Party Claims or Suits** - Westminster and Northglenn agree that in the event any claim or suit is brought against either or both entities by any third party as a result of the operation of this Agreement, that both parties will cooperate with each other, and with the insuring entities of both Northglenn and Westminster, in defending such claim or suit.
- h. **Termination** - This agreement shall terminate upon the completion of the water line work and payment therefore, and one year after the completion of the Westminster water storage tank project.
- i. **Amendment** - This instrument contains amendments to the original IGA Agreement between the parties, and no statement, promises, or inducements made by either party or agent of either party that is not contained in this written amended IGA Agreement or the original IGA Agreement shall be valid or binding; this agreement may not be modified except in writing, signed by the parties and endorsed on this Agreement.

IN WITNESS WHEREOF, the parties have hereto set their hand and seal on the dates so indicated.

City of Westminster

City of Northglenn

By _____
J. Brent McFall, City Manager

By _____
Kathleen M. Novak, Mayor

Attest:

Attest:

Michele Kelley, City Clerk

Diane L. Lentz, CMC, City Clerk

Approved as to Legal Form

Approved as to Legal Form

City Attorney

Herbert C. Phillips, City Attorney



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
October 28, 2002

SUBJECT: Second Reading of Councillor's Bill No. 50 re 2003 and 2004 Appropriations

Prepared By: Barbara Gadecki, Assistant to the City Manager

Recommended City Council Action:

Pass Councillor's Bill No. 50 on second reading appropriating funds for the 2003 and 2004 budgets.

Summary Statement

- City Council action is requested to pass the attached Councillors Bill on second reading that passes the Appropriations Ordinance for 2003 and 2004, setting forth the amounts of estimated revenue and expenditures by each separate fund of the City for calendar years/fiscal years 2003 and 2004. This action is in compliance with City Charter Budget Provisions.
- This Councillor's Bill was passed on first reading on October 14, 2002.

Expenditure Required:

2003 = \$125,268,831, plus \$14,151,130 in reserves and \$2,861,715 in contingency accounts; and
2004 = \$130,248,999, plus \$14,363,391 in reserves and \$2,417,581 in contingency accounts.

Source of Funds:

General, Utility, General Reserve, Utility Reserve, Golf Course, Fleet Maintenance, General Capital Outlay Replacement, Sales & Use Tax, Open Space, Conservation Trust, General Capital Improvement, and Debt Service Funds

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO.
SERIES OF 2002

COUNCILLOR'S BILL NO. 50
INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE MAKING APPROPRIATIONS TO PAY THE EXPENSE OF CONTINUING THE PUBLIC BUSINESS FOR THE YEAR 2003 AND 2004 AND OTHER PURPOSES REQUIRED BY THE CHARTER AND BY ANY OTHER LAW.

THE CITY OF WESTMINSTER ORDAINS:

Section 1: Non-emergency reserve as of December 31, along with revenue for the calendar and fiscal year are combined and reflected as the total in each of the following funds:

	Fiscal Year 2003	Fiscal Year 2004
a. General Fund	\$67,576,244	\$71,828,317
b. Utility Fund	37,814,744	39,156,200
c. General Capital Improvement Fund	8,923,000	9,036,000
d. Fleet Maintenance Fund	1,149,638	1,161,081
e. General Capital Outlay Replacement Fund	1,163,431	1,056,481
f. General Debt Service Fund	8,413,453	7,603,664
g. Conservation Trust Fund	625,000	625,000
h. Sales and Use Tax Fund	51,144,188	53,035,009
i. Open Space Fund	4,486,775	4,663,797
j. General Reserve Fund	7,290,745	7,400,100
k. Utility Reserve Fund	6,860,385	6,963,291
l. Golf Course Fund	<u>3,720,675</u>	<u>3,934,702</u>
Total Funds Available	\$199,168,278	\$206,463,642
Less Transfers	<u>-56,886,602</u>	<u>-59,433,671</u>
GRAND TOTAL	\$142,281,676	\$147,029,971

Section 2: The following amounts are hereby appropriated for expenditure by fund to be expended by the City Manager in accordance with the City Charter.

	Fiscal Year 2003	Fiscal Year 2004
a. General Fund	\$67,576,244	\$71,828,317
b. Utility Fund	37,814,744	39,156,200
c. General Capital Improvement Fund	8,923,000	9,036,000
d. Fleet Maintenance Fund	1,149,638	1,161,081
e. General Capital Outlay Replacement Fund	1,163,431	1,056,481
f. General Debt Service Fund	8,413,453	7,603,664
g. Conservation Trust Fund	625,000	625,000
h. Sales and Use Tax Fund	51,144,188	53,035,009
i. Open Space Fund	4,486,775	4,663,797
j. General Reserve Fund	7,290,745	7,400,100
k. Utility Reserve Fund	6,860,385	6,963,291
l. Golf Course Fund	<u>3,720,675</u>	<u>3,934,702</u>
Total Funds Available	\$199,168,278	\$206,463,642
Less Transfers	<u>-56,886,602</u>	<u>-59,433,671</u>
GRAND TOTAL	\$142,281,676	\$147,029,971

This ordinance shall become effective January 1, 2003.

INTRODUCED AND PASSED on first reading this 14th day of October, 2002.
PASSED AND ADOPTED on second reading this 28th day of October, 2002.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
October 28, 2002

SUBJECT: Second Reading of Councillor's Bill No. 51 and 52 re Annexation and Zoning of the Lao Buddhist Temple

Prepared By: David Falconieri, Planner III

Recommended City Council Action

1. Pass Councillor's Bill No. 51 on second reading annexing the Lao Buddhist Temple property to the City of Westminster.
2. Pass Councillor's Bill No. 52 on second reading zoning the Lao Buddhist Temple property as Planned Unit Development (PUD).

Summary Statement

- The Lao Buddhist Temple property is located at 10685 Dover Street. The temple property consists of 4.3 acres, 1.7 acres of which are unincorporated. The proposed annexation would include the 1.7 acres of unincorporated property and the adjacent Dover Street right-of-way. The total area of the annexation including the right-of-way is 1.97 acres.
- The temple owns two parcels of land, one of which is vacant and already located within the City. The parcel on which the temple building stands is unincorporated. The applicants wish to have their entire development located within a single jurisdiction.
- The property to be annexed is governed by the provisions of the Northeast Comprehensive Development Plan and is therefore already incorporated within the City's Comprehensive Land Use Plan.
- The Councillor's Bill were passed on a first reading on October 14, 2002.

Expenditure Required: \$0

Source of Funds: N/A

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO.

COUNCILOR'S BILL NO. 51

SERIES OF 2002

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE APPROVING AND ACCOMPLISHING THE ANNEXATION OF CONTIGUOUS UNINCORPORATED TERRITORY IN A PARCEL OF LAND LOCATED IN SECTION 10, TOWNSHIP 2 SOUTH, RANGE 69 WEST, 6TH P.M., COUNTY OF JEFFERSON, STATE OF COLORADO.

WHEREAS, pursuant to the laws of the State of Colorado, there was presented to and filed with the Council of the City of Westminster a written petition for annexation to and by the City of Westminster of the hereinafter-described contiguous, unincorporated territory situate, lying and being in the County of Jefferson, State of Colorado; and

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

WHEREAS, City Council has held the required annexation hearing in conformance with all statutory requirements; and

WHEREAS, City Council has heretofore adopted Resolution No. making certain findings of fact and conclusions regarding the proposed annexation as required by Section 31-12-110, C.R.S., and now finds that the property proposed for annexation under the Annexation Petition may be annexed by ordinance at this time; and

WHEREAS, the Council of the City of Westminster has satisfied itself concerning the conformance of the proposed annexation to the annexation policy of the City of Westminster.

NOW, THEREFORE, the City of Westminster ordains:

Section 1. That the annexation is hereby accomplished by and to the City of Westminster, State of Colorado, of the following described contiguous unincorporated territory situate, lying and being in the County of Jefferson, State of Colorado, to wit:

A parcel of land situated in a portion of Tract 11-B, Mandalay Gardens Subdivision, as recorded in Book 336, Page 237 of the Jefferson County Clerk and Recorder's Office and a portion of Dover St., said parcel lying in the southeast quarter of Section 10, Township 2 South, Range 69 West, 6th P.M. described as follows:

Commencing at the southeast corner of said Section 10; thence N89°28'13"W, 1297.06 feet, along the south line of said Section 10; thence N00°42'22"E, 1958.14 feet to the northwest corner of Tract 11-A, of said Mandalay Gardens Subdivision; thence S89°42'58"E, 665.97 feet along the north line and the easterly prolongation thereof to the east right of way line of Dover St., as shown on Mandalay Gardens Subdivision and to the true point of beginning; thence S00°46'37"W, 291.82 feet, along the east right of way of said Dover St. to the easterly prolongation of the south line of said Tract 11-B; thence N89°40'24"W, 253.64 feet, along the easterly prolongation of the south line of said Tract 11-B and the south line of said Tract 11-B to the existing boundary of the City of Westminster, as recorded at Rec. No. 85012854; thence N00°46'37"E, 291.63 feet, along said boundary line to a point on the north line of said Tract 11-B and to the existing

boundary of the City of Westminster, as recorded as Rec. No. 85012854; thence S89°42'58"E, 253.64 feet along said boundary line to the true point of beginning.

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 14th day of October, 2002.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 28th day of October, 2002.

ATTEST:

Mayor

City Clerk

BY AUTHORITY

ORDINANCE NO.
SERIES OF 2002

COUNCILOR'S BILL NO. 52
INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AMENDING THE ZONING LAW AND ESTABLISHING THE ZONING CLASSIFICATION OF CERTAIN DESCRIBED PROPERTY IN A PARCEL OF LAND LOCATED IN SECTION 10, TOWNSHIP 2 SOUTH, RANGE 69 WEST, 6TH P.M., COUNTY OF JEFFERSON, STATE OF COLORADO.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council finds:

- a. That an application for the zoning of the property described below from Jefferson County R-1 and A-2 to City of Westminster Planned Unit Development (PUD) zoning has been submitted to the City for its approval pursuant to Westminster Municipal Code Section 11-5-1.
- b. That Council has completed a public hearing on the requested zoning pursuant to the provisions of Chapter 5 of Title XI of the Westminster Municipal Code.
- c. That based on the evidence produced at the public hearing, the City Council finds that the proposed zoning complies with all requirements of City Code, including, but not limited to, the provisions of Westminster Municipal Code Section 11-5-3.
- d. That the proposed zoning is compatible with existing zoning and land uses of adjacent properties in the general vicinity of the property proposed for zoning.
- e. That the proposed zoning is consistent with all applicable general plans and policies concerning land use and development relative to the property proposed for zoning.

Section 2. The Zoning District Map of the City is hereby amended by reclassification of the property described herein from Jefferson County R-1 and A-2 to City of Westminster PUD. A parcel of land located in Section 10, Township 2 South, Range 69 West, 6th P.M., County of Jefferson, State of Colorado, more particularly described as follows:

A parcel of land situated in a portion of Tract 11-B, Mandalay Gardens Subdivision, as recorded in Book 336, Page 237 of the Jefferson County Clerk and Recorder's Office and a portion of Dover St., said parcel lying in the southeast quarter of Section 10, Township 2 South, Range 69 West, 6th P.M. described as follows:

Commencing at the southeast corner of said Section 10; thence N89°28'13"W, 1297.06 feet, along the south line of said Section 10; thence N00°42'22"E, 1958.14 feet to the northwest corner of Tract 11-A, of said Mandalay Gardens Subdivision; thence S89°42'58"E, 665.97 feet along the north line and the easterly prolongation thereof to the east right of way line of Dover St., as shown on Mandalay Gardens Subdivision and to the true point of beginning; thence S00°46'37"W, 291.82 feet, along the east right of way of said Dover St. to the easterly prolongation of the south line of said Tract 11-B; thence N89°40'24"W, 253.64 feet, along the easterly prolongation of the south line of said Tract 11-B and the south line of said Tract 11-B to the existing boundary of the City of Westminster, as recorded at Rec. No. 85012854; thence N00°46'37"E, 291.63 feet, along said boundary line to a point on the north line of said Tract 11-B and to the existing

boundary of the City of Westminster, as recorded as Rec. No. 85012854; thence S89°42'58"E, 253.64 feet along said boundary line to the true point of beginning.

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 14th day of October, 2002.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 24th day of October, 2002.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
October 28, 2002

SUBJECT: Councillor's Bill No. 53 Sign Code Revisions re Menu Boards, Projection Signs, and Election and Political Signs.

Prepared By: Terri Hamilton, Planner III

Recommended City Council Action

Pass Councillor's Bill No. 53 on first reading approving certain revisions to Title 11, Chapter 11 of the Westminster Municipal Code, regarding sign regulations.

Summary Statement

Based on City Council direction at the September 23, 2002 Study Session, Staff has prepared the attached ordinance that reflects three minor changes to the City's Sign Code.

- The first revision occurs primarily within the category of Menu Boards, and proposes to incorporate a small order confirmation board for restaurant or other drive-through pick up activities, which can contain electronic copy. Because this sign typically contains electronic changeable copy, which is generally prohibited by the Sign Code, this sign will be excluded from the Prohibited Signs section.
- The second revision occurs within the category of Prohibited Signs, and proposes to clarify a projection type of sign as a prohibited sign. Because projection signs are not specifically permitted by the Code, they are currently prohibited. Listing the sign as prohibited will simplify regulation and interpretation.
- The third revision occurs within the category of Election and Political signs, and proposes that all election signs be removed within ten days following an election – no longer excluding signs for successful primary candidates that run for office during the subsequent general election.

Expenditure Required: \$0

Source of Funds: \$0

Policy Issues

1. Should the City allow Menu Board Order Confirmation Signs that incorporate the use of electronic changeable copy?
2. Should the City support a housekeeping alteration to the Sign Code for prohibited signs to clarify the prohibition of signs achieved by light projection on a building surface?
3. Should the City require that all election signs be removed within ten days following an election, including those signs for a successful primary candidate that will run for general election?

Alternatives

Following are alternatives to the City Staff recommended Sign Code revisions:

1. Menu Board Order Confirmation Signs
Do not allow these signs. Staff does not recommend this alternative because almost all existing drive-through restaurants have installed these signs, not knowing they are technically prohibited. Also, these signs are small in size, with minimal visual impact.
2. Projection Signs
Direct City Staff to do research on projection type signs and propose a Sign Code amendment to allow this type of sign. City Staff does not recommend this alternative due to concern about nighttime visual impact and the negative aesthetic impacts these signs have on the community. Further the size would be difficult to enforce and impacts (light projections) could spread to adjacent properties.
3. Election and Political Signs
Do not revise the existing regulations that currently allow a successful primary candidate to leave their signs up until ten days after a general election or run-off election. The current regulation results in approximately four additional weeks for the erection of these signs, compared to the proposed revision.

Background Information

1. Menu Board Order Confirmation Signs

Although these signs incorporate electronic changeable copy, so that a customer can visually validate their verbal order, these signs are relatively small signs that have minimal off-site visual impact. A visual survey of numerous drive through restaurants in Westminster, indicated that the vast majority of these establishments already have this sign in place, apparently unaware that they are currently, technically prohibited due to the electronic changeable copy. Currently, signs with electronic changeable copy are allowed only on monument signs for institutional uses such as churches, time/temperature/date signs, and gauges and dials necessary to display correct measurement. The proposed Sign Code revision will allow this sign with limitations of location, sign area, height, and also excludes this sign as an otherwise Prohibited Sign. (See pages 2 and 4 of the attached Ordinance).

2. Projection Signs

City Staff notified the Westin Hotel to discontinue use of a projection type sign, as this type of sign is prohibited by City Code. City Staff has recommended against a Code amendment to allow this type of sign. Staff believes that such signs are distracting, present an undesirable image for the City and will have negative off-site impacts. Regulating projection signs would also be difficult as the projectors can easily be moved to increase or decrease the size of the projected image. The proposed Sign Code revisions to the section regulating Prohibited Signs, is a housekeeping measure that specifically identifies this type of sign as prohibited, except for holiday decoration, and will assist in future regulation and interpretation. (See page 3 of the attached Ordinance).

3. Election and Political Signs

The current sign regulations require that election signs be removed within 10 days of the election, except those signs of a successful candidate from a primary election that can remain in place until ten days after the general election. This exception results in extending the period of signs for successful primary election candidates for approximately four weeks, prior to the 45 days that signs for the general election can be erected. Cumulatively, existing regulations allow signs for the successful primary candidate to stay in place for over 18 weeks. The proposed Sign Code revision will require all signs from a primary election to be removed within 10 days, and maintains the forty-five day timeframe that signs may be erected prior to an election. (See page 3 and 4 of the attached Ordinance).

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **53**

SERIES OF 2002

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AMENDING THE MUNICIPAL CODE PERTAINING TO SIGN REGULATIONS

Whereas, it is the intent of the regulations herein set forth to recognize that signs are a necessary means of visual communication for the convenience of the public and to insure the right of those concerned to identify businesses, services, and other activities by the use of signs; and

Whereas, in order to meet this intent, it is necessary to limit those signs which are accessory and incidental to the use on the premises where such signs are located; and

Whereas, to provide a reasonable balance between the right of an individual to identify his business and the right of the public to be protected against the visual discord resulting from the unrestricted proliferation of signs and similar devices; and

Whereas, to insure that signs are compatible with adjacent land uses and with the total visual environment of the community; and

Whereas, to protect the public from hazardous conditions which result from signs that are structurally unsafe, obscure vision of motorists, and/or compete or conflict with necessary traffic signals and warning signs; and

Whereas, to promote an overall visual effect which has a minimum of overhead clutter; and

Whereas, to recognize that the size of signs which provide adequate identification in pedestrian-oriented business areas differs from that necessary in vehicular-oriented areas where traffic is heavy, travel speeds are greater, and required setbacks are greater than in pedestrian areas; and

Whereas, to encourage signs which are well-designed and compatible with their surroundings and with the buildings to which they are appurtenant; and

Whereas, to recognize that the expeditious and reasonable elimination of certain existing signs not in conformance with the provisions of this ordinance is necessary to the public health, safety, and welfare and to the protection of the visual environment as is the prohibition of new signs which would violate the provisions of this ordinance.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Title 11, Chapter 11, Section 5, Prohibited Signs, is hereby amended to read as follows:

11-11-5: PROHIBITED SIGNS: (2534 2862) The following types of signs are prohibited in all districts:

(A) Any sign not specifically permitted by the City Code.

(B) Signs Within Public Right Of Way. Any sign erected upon or over the public right of way of any street, roadway, or alley with the exception of those signs erected by a governmental entity, Signs erected in accordance with Sections 11-11-4 (A), 11-11-6 (C) and 11-11-7 (G), and those instances where existing buildings are contiguous with the right of way and a sign is to be attached to said building.

(C) Signs with visible moving, revolving, or rotating parts or visible mechanical movement or any description or other apparent visible movement achieved by electrical, electronic or mechanical means, and all animated and electronically activated changeable signs as defined in Section 11-11-2 except for time temperature date signs, traditional barber poles, ~~and except for~~ gauges and dials which may be animated to the extent necessary to display correct measurement, AND MENU BOARD ORDER CONFIRMATION SIGNS.

(D) Signs that are animated with lights or illuminations which flash, move, rotate, scintillate, blink, flicker, vary in intensity, vary in color, or use intermittent electrical pulsations.

(E) Strings of light bulbs used in connection with commercial premises for commercial purposes, other than traditional holiday decorations, pennants, streamers, balloons, and any other inflatable object or material shall also be prohibited.

(F) Imitations of Official Government Protective or Warning Signs: Any sign using the word "stop" or "danger" or which otherwise presents or implies the need or requirement of stopping, or a caution for the existence of danger, or which is a copy of, or which for any reason is likely to be confused with any municipally approved official signs, such as those signs approved and shown in the Uniform Traffic Code.

(G) Any sign that obstructs any window, door, fire escape, stairway, ladder, or openings intended to provide light, air, ingress, or egress for any building, as required by law.

(H) Portable Signs.

(1) Any sign displayed on a vehicle when said vehicle is used primarily for the purpose of displaying such sign, when used outside a building. Any advertising device used on a vehicle meeting the following criteria shall be accepted:

- (a) Such vehicle at no time remains in one visible place for more than twenty-four (24) consecutive hours; and
- (b) Such vehicle is actually used by its owner or another as a means of transportation of people or goods.
- (c) Such vehicle displays current registration and is insured to operate on public streets in the State of Colorado.

(2) Sandwich board signs

(I) Any sign that violates any provision of any law of the State of Colorado relative to outside advertising.

(J) Temporary signs attached to utility poles or utility boxes that have the intent of advertising merchandise or services for sale.

(K) Any sign which causes any direct glare into or upon any residential building or premises other than the building or premises to which the sign is attached.

(L) Exposed neon signs and lighting. All roof signs.

(M) Any attached sign projecting above the roof line of a structure.

(N) Abandoned signs as defined in Section 11-11-2. Any such sign abandoned for a period of 90 days or longer shall be considered an illegal sign. This provision shall not apply to permanent signs accessory to businesses which are open only on a seasonal basis, provided there is clear intent to continue operation of the business.

(O) Off premise advertising or directional sign, except as allowed in Sections 11-11-4 (H) 3 and 11-11-4 (L).

(P) Back-lit awnings.

(Q) Free Standing monument signs greater than 100 square feet in size.

(R) SIGNS ACHIEVED BY LIGHT PROJECTION ON A SURFACE.

Section 2. Title 11, Chapter 11, Section 6(c) hereby amended to read as follows:

(C) Election and Political Signs.

1. Permitted in all zone districts.

2. Characteristics: A sign advocating or advertising the election of any candidate for public office or any question upon which a public vote is being taken.

3. Maximum Area fifty (50) square feet in Zones T1, C1, C2, M1 and O1 and portions of Planned Unit Developments with comparable uses; six (6) square feet in all other zones and portions of Planned Unit Developments with residential uses

4. Maximum Height Six feet (6).

5. Limitation in Number No limitation.

6. A permit application for an election sign must include name, address and phone number of person responsible for maintenance and removal of signs.

7. Restrictions, Additions, Clarifications, and Exceptions:

(a) Such signs shall not be erected more than forty-five (45) days before an election. All election signs shall be removed within ten (10) days following an election. ~~Exception: Successful primary candidates may leave their signs up until ten (10) days after a general or run-off election.~~

(b) Election signs may be located in City right of way provided:

(i) They do not block or otherwise interfere with traffic visibility;

(ii) They are not located within fifty feet (50') feet of an intersection;

(iii) They do not exceed three (3) square feet in area.

8. Within any City right-of-way, no single candidate or issue sign may be located within 50 feet of any other sign for the same candidate or issue.

Section 3. Title 11, Chapter 11, Section 7(A)6(g) is hereby amended to read as follows:

(g) Menu Boards. Menu boards in conjunction with restaurant OR OTHER drive-through pick up activities may be allowed under the following restrictions:

- (1) Not more than two (2) such signs.
- (2) Twenty-five foot (25') setback from property lines.
- (3) Forty (40) square feet maximum area.
- (4) Six foot (6') maximum height.
- (5) May be freestanding or wall mounted.
- (6) ONE (1) ORDER CONFIRMATION BOARD MAY ALSO BE PROVIDED WITH THE FOLLOWING RESTRICTIONS:
 - (A) TWENTY-FIVE FOOT (25') MINIMUM SETBACK FROM PROPERTY LINES
 - (B) THREE (3) SQUARE FOOT MAXIMUM SIGN AREA
 - (C) FOUR FOOT (4') MAXIMUM HEIGHT
 - (D) MAY BE FREESTANDING, WALL MOUNTED, OR INCORPORATED INTO THE MENU BOARD.
 - (E) MAY BE ONE HUNDRED PERCENT (100%) ELECTRONIC CHANGEABLE COPY, AND COPY MAY BE CHANGED WITHOUT TIME RESTRICTION.
 - (F) SIGNS MUST BE SCREENED OR ORIENTED AWAY FROM PUBLIC STREETS.

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 28th day of October, 2002.

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

Mayor

ATTEST:

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
October 28, 2002

Subject: Revised Employment Agreement with John A. Stipech and
Councillor's Bill No. 54 Amending the Salary for Municipal Judge

Prepared by: Matt Lutkus, Deputy City Manager for Administration

Recommendation City Council Action

1. Authorize the Mayor to execute a revised employment agreement with John A. Stipech for his services as Presiding Judge for 2003 and 2004 with an effective date of January 1, 2003.
2. Pass Councillor's Bill No. 54 on first reading regarding a change to the salary for the Presiding Judge.

Summary Statement

- City Council is requested to approve a revised employment agreement with John A. Stipech for services as Presiding Judge and to pass the attached Councillor's Bill that authorizes the change in his salary.
- As a follow-up to Council's recent performance review meeting with the Judge, the Council has indicated they wish to increase his annual compensation by 3 percent or \$3,026 to \$103,906, including \$14,000 in City-paid deferred compensation. In addition, the Judge's salary will increase by the same percentage increase as general employees, but not to exceed two percent, if and when a mid-year across-the-board salary increase is provided (bringing his total compensation to \$104,945, if the two percent increase goes through). This amount of the increase reflects the Council's positive appraisal of the Judge's performance and maintains the salary at a level comparable to the prevailing pay rates for similar positions in the Denver metro area.
- The attached proposed agreement with John Stipech is identical to the current employment agreement with the exception of the revised compensation and the change in the effective dates for the contract.

Expenditure Required: \$104,945 plus the cost of fringe benefits as described in the attached employment agreement

Source of Funds: General Fund, Municipal Court Division Budget

Subject: Revised Employment Agreement with John A. Stipech and Councillor's Bill – Page 2

Policy Issue

Whether to continue essentially the same agreement with John A. Stipech with a salary adjustment that reflects prevailing salaries for similar positions in the greater Denver metro area.

Alternatives

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

Background Information

Since July 1991, City Council has used an employment contract for Presiding Judge services. This approach is consistent with the practice of having employment contracts with the City Manager and the City Attorney who also serve at the pleasure of City Council. The contract 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.

Judge Stipech was appointed July 1979 as an Associate Judge and as Presiding Judge January 1, 1996. He 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. He is a member of the Colorado and Adams County Bar Associations and is currently serving on the Board of Directors for the Municipal Judges' Association. Judge Stipech is an advisor to recipients of Habitat for Humanity homes, is a member of the Westminster Rotary Club, and is active in many community activities.

Two changes occurred in Court operations during 2002 that are noteworthy. The Generous Juror Program, where jurors can donate their fees to the "Have-A-Heart" Project was implemented mid-year. Also, the Court began to turn over delinquent parking ticket fines to a collection agency, with very positive results. Other programs that either are in place or will be available through the Court in 2003 are: mediation services, teen court, mock trials and moot court for local schools, and the jury shadowing program for high school students.

The proposed employment agreement with John A. Stipech mirrors the agreements with Judge Stipech that Council approved starting in October 2000, with the exception of the change in salary and the contract period. The revised agreement calls for the Judge's salary to increase by \$3,026 from the current level of \$100,880 to \$103,603, which includes a \$14,000 City payment to the Judge's deferred compensation plan effective January 1, 2003. The agreement also calls for the Judge's annualized salary increase an additional amount not to exceed two percent to reflect the mid-year increase to be provided to employees generally if this increase is approved by City Council.

This salary reflects the City Council favorable appraisal of the Judge's performance during the past 12 months. In addition, the increase in compensation addresses Council's desire to maintain the Judge's salary at a level comparable to the prevailing rates of pay for similar positions in the greater Denver metropolitan area.

Similar to the Council's employment agreements with the City Manager and the City Attorney, this agreement would again cover a two year period, 2003 and 2004, with the provision that the salary be reviewed annually.

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 addresses this requirement by updating the salary to reflect the amount listed in the proposed employment agreement.

Respectfully submitted,

J. Brent McFall
City Manager
Attachments

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **54**

SERIES OF 2002

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AMENDING THE SALARY OF THE MUNICIPAL JUDGE

THE CITY OF WESTMINSTER ORDAINS:

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

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

~~\$89,880~~ \$89,906 per annum payable bi-weekly plus \$14,000 in City-paid deferred compensation. THIS SALARY SHALL BE INCREASED BY AN AMOUNT EQUAL TO THE COUNCIL-APPROVED MID-YEAR ACROSS-THE-BOARD INCREASE BUT NOT TO EXCEED TWO PERCENT WITH THE PERCENTAGE INCREASE TO BE BASED ON THE JUDGE'S TOTAL SALARY PLUS CITY-PAID DEFERRED COMPENSATION.

Section 2. 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 3. This ordinance shall take effect on January 1, 2003.

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 28th day of October, 2002.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 11th day of November, 2002.

ATTEST:

Mayor

City Clerk

EMPLOYMENT AGREEMENT

THIS AGREEMENT, effective as of the 1st day of January, 2003, by and between the City of Westminster, State of Colorado, a municipal corporation, hereinafter called "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 to provide certain benefits, establish certain conditions of employment, and to set working conditions of said 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 due to age or disability or when 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. CITY hereby agrees to commence the employment of EMPLOYEE as Presiding Municipal Judge of 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 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.

SECTION 2. TERMS:

A. During the term of this Agreement, EMPLOYEE agrees to remain in the exclusive employ of CITY. Subject to the provisions of Section 2.D. and Section 3 of this Agreement, EMPLOYEE will serve as Presiding Municipal Judge for calendar years 2003 and 2004. EMPLOYEE is employed as a full-time employee and shall be compensated based upon his devoting normal business hours to his duties as Presiding Municipal Judge.

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 Council to terminate the services of EMPLOYEE at any time, subject only to the provisions set forth in Section 3, Paragraph A and B 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, paragraph C of this Agreement.

D. This Agreement shall be considered for renewal annually, no later than October 31 of each year to address extending the Agreement, salary, and other changes negotiated between the parties, unless written notice is given to the EMPLOYEE that such Agreement will not be renewed, and such written notice is forwarded to EMPLOYEE at least ninety (90) days prior to the scheduled expiration of this Agreement. Each renewal of the Agreement shall be for a specified time. If for any reason this Agreement expires prior to its renewal, EMPLOYEE shall continue to work under the terms of the last executed Agreement until a new agreement is executed or the Agreement is terminated in accordance with section 3 below.

SECTION 3. TERMINATION, NOTICE AND SEVERANCE PAY:

A. In the event City Council decides to terminate EMPLOYEE before expiration of the aforementioned term of employment and during such time that EMPLOYEE is willing and able to perform the duties of Presiding Municipal Judge, then and in that event, the CITY agrees to give EMPLOYEE four (4) months' written notice or to pay EMPLOYEE a lump sum cash payment equal to his base salary for the ensuing thirty (30) days. In the event the City elects to terminate this Agreement without giving EMPLOYEE four (4) months' advance written notice thereof, the EMPLOYEE shall have as his sole and exclusive remedy the severance payment equal to thirty (30) days of EMPLOYEE'S base salary 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, CITY has no obligation to give notice or pay the aggregate severance sum designated in this paragraph.

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 formal suggestion by 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, such refusal to comply or such resignation, within the meaning and content of the thirty (30) days' severance pay provisions herein.

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 four (4) months notice in advance in writing.

D. The parties may, by mutual written agreement, shorten the time required for written notification of termination or resignation set forth in paragraphs A and C of this Section 3, and paragraph D in Section 2.

SECTION 4. SALARY:

A. The CITY agrees to pay EMPLOYEE for his services rendered pursuant hereto an annual base salary of eighty-nine thousand, nine hundred six dollars (\$89,906) effective January 1, 2003, payable in installments at the same time as other employees of the CITY are paid. In addition, the City will make a lump sum payment of \$14,000 to the Employee's deferred compensation plan. If general employees are provided with an across-the-board increase during 2003, the employee shall receive this increase not to exceed two percent with the same effective date as the organization-wide across-the-board increase. At two percent, the employee's annualized salary will be \$91,984 in addition to the City's contribution to the deferred compensation plan.

B. CITY agrees to review the 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.

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.

SECTION 6. DUES AND SUBSCRIPTIONS:

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 7. PROFESSIONAL DEVELOPMENT:

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 year.

SECTION 8. GENERAL EXPENSES:

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 9. FRINGE BENEFITS:

EMPLOYEE will be allowed all benefits as are extended to Department Head level employees, including the monthly car allowance, except that when such benefits are in conflict with this contract, said contract shall control. The 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 benefits is computed.

SECTION 10. 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 or in conflict with the provisions of this Agreement, the City Charter or any other law.

B. All provisions of the City Charter and Code, and regulations and rules of the City relating to vacation and sick leave, retirement and pension system contributions, holidays, longevity pay, and other fringe benefits and working conditions as they now exist or hereafter may be amended, shall also apply to EMPLOYEE as they would to other employees of CITY in addition to said benefits enumerated specifically for the benefit of EMPLOYEE, except as herein provided.

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

SECTION 11. GENERAL PROVISIONS:

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

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

C. This Agreement becomes effective on January 1, 2003, and shall be in effect through calendar years 2003 and 2004.

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 contract is entered into and shall be governed by the laws of the State of Colorado.

F. Effective January 1, 2003, this Agreement replaces and supercedes prior employment agreements between CITY and employer.

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.

Approved by the Westminster City Council on October 28, 2002, contingent upon approval of the Councillor's Bill amending Municipal Judge salary.

ATTEST:

City Clerk

Mayor

John A. Stipech



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
October 28, 2002

SUBJECT: Exclusion of Properties From North Metro Fire Rescue District

Prepared by: Tami Cannon, Paralegal

Recommended City Council Action

Approve the Stipulation and Plan for exclusion of recently annexed properties from the North Metro Fire Rescue District (hereinafter "District") and authorize its execution by the Mayor and City Manager on behalf of the City.

Summary Statement

The City has been negotiating with the District regarding the exclusion of recently annexed properties from the District.

This Stipulation (copy attached) will allow the City to proceed in an uncontested manner in Adams County District Court for the purpose of obtaining an Order excluding the six (6) recently annexed parcels of property covered under the Stipulation. Four of the parcels are within Jefferson County and two are within Adams County.

Expenditure Required: \$0

Source of Funds: N/A

SUBJECT: Exclusion of Properties From North Metro Fire Rescue District

Page 2

Policy Issue

Whether to approve the Stipulation agreeing to provide fire protection services to properties recently annexed to the City and proposed to be excluded from the District.

Background Information

The important components of the Stipulation are as follows: (1) An agreement that the quality of fire protection service to be provided by the City will be comparable and not inferior to the fire protection service now provided by the District; (2) Existing indebtedness of the District for which the excluded properties would remain liable; (3) An agreement that the District shall have the right to levy a mill levy not to exceed 0.5 mill against the excluded properties for five consecutive years for the District's Volunteer Firemen's Pension Fund; and (4) Transfer of fire protection service responsibilities to be effective January 1, 2003. Vicinity maps showing the areas to be excluded are also attached.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

District Court, Adams County, Colorado Adams County Justice Center 1100 Judicial Center Drive Brighton, CO 80601 303-659-1161	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>Petitioners:</p> <p>THE CITY OF WESTMINSTER, COLORADO, a home-rule City, and THE MAYOR AND CITY COUNCIL OF THE CITY OF WESTMINSTER</p> <p>Defendant:</p> <p>THE BOARD OF DIRECTORS OF THE NORTH METRO FIRE RESCUE DISTRICT, and All Taxpaying Electors of the NORTH METRO FIRE RESCUE DISTRICT, as a class.</p>	
City of Westminster Sharon Widener, #12571 Assistant City Attorney 4800 West 92 nd Avenue Westminster, CO 80031 Phone: 303-430-2400 Fax: 303-650-0158 E-mail: swidener@ci.westminster.co.us	Case Number: 4825 Division: A Courtroom:
<p style="text-align: center;">STIPULATION AND PLAN FOR EXCLUSION OF CERTAIN TERRITORY FROM THE NORTH METRO FIRE RESCUE DISTRICT</p>	

COME NOW the parties hereto, by their respective counsel, and stipulate as follows:

PREAMBLE

1. This action is based upon the Petition of the City of Westminster pursuant to section 32-1-502, et seq., C.R.S., as amended, to exclude certain territory from the North Metro Fire Rescue District (hereinafter “District”) because that territory is located within the City of Westminster which also provides fire protection service. The territory sought to be excluded is described in Exhibit "A" attached hereto and incorporated herein by reference.

2. This Stipulation and Plan is submitted pursuant to and in satisfaction of the requirements of section 32-1-502(2)(c) which provides that as a condition to the exclusion of the property which is the subject of this petition, the governing body of the City and the board of directors of the District shall each submit a plan for the disposition of assets and continuation of services to all areas of the District, and that said plans shall include, if applicable, provisions for the maintenance and continuity of facilities to be utilized by the territories both within and without the municipal boundaries and of services to all

territories served or previously served by the special district, and further, that if the City and the District agree upon a single plan and enter into a contract incorporating its provisions, the court shall review such contract, and if it finds the contract to be fair and equitable, the court shall approve the contract and incorporate its provisions into its exclusion order.

3. The City Council of the City of Westminster, as its governing body, has met, considered and approved all of the terms of this Stipulation and Plan.

4. The Board of Directors of the District, as its governing body, has met, considered and approved all of the terms of this Stipulation and Plan.

STIPULATION AND PLAN

5. All notice requirements of the statute and of the Colorado Rules of Civil Procedure have been fully, completely and properly complied with. No objection to the exclusion has been made by any taxpaying elector, individually or on behalf of the class designated Taxpaying Electors. The District and the City consent to the exclusion of the property described in Exhibit "A", subject to the provisions of this Stipulation and Plan.

6. The parties further stipulate that:

A. The City of Westminster has provided and is now providing the same fire protection services which the District provided in or to the territory proposed for exclusion.

B. The governing body of the City of Westminster agrees, and has agreed, by resolution, to provide the service provided by the District to the area described in the exclusion petition effective immediately upon entry of the exclusion order regardless of its later effective date.

C. The quality of fire protection service to be provided by the City of Westminster will not be inferior to the fire protection service now provided by the District in the territory proposed for exclusion and described in the Petition for Exclusion.

D. No election has been held or is required to be held pursuant to subsection (5) of section 32-1-502, C.R.S., as amended, and it is stipulated that the quality of service including, but not limited to, the fire insurance costs for the improvements within the excluded area will not be adversely affected by this exclusion.

E. The District owns no facilities or assets located within the territory which is proposed for exclusion.

F. The District has an outstanding bonded indebtedness of \$377,910.00.

7. Commencing the taxable year 2003, the District, for a period of five (5) years, shall have the right to assess and collect the proceeds of a mill levy of one-half (1/2) mill against the assessed value of the applicable excluded property, which proceeds shall be paid to and for the exclusive benefit of the District's Firemen's Pension Fund.

8. Pursuant to section 32-1-502, C.R.S., as amended, District and City agree to the following plan for disposition of assets and contribution of services to all areas of the District:

A. The District owns no real property or improvements within the territory

described in the Petition for Exclusion and the City does not seek ownership of any such assets located in any other part of the District.

B. The City does not seek ownership of any firefighting equipment or other personal property now owned by the District and the Order of Exclusion may so state.

C. The City shall provide fire protection to the territory described in the Petition and shall continue to honor any mutual aid agreement with the District applicable to any District territory not excluded.

D. All other resources of the City Fire Department will be available to respond as the circumstances of any emergency or other situation may require. This includes a total of ten (10) major pieces of firefighting equipment based at six (6) fire stations throughout the City.

E. City officers will also be responsible for safety inspections and other fire code enforcement within the territory described in the Petition.

F. Primary responsibility for fire protection in all territory of the District not proposed for exclusion shall remain with the District.

9. The City of Westminster shall assume fire protection service responsibility to the excluded area from the District effective January 1, 2003. Nothing in this Stipulation and Plan shall impair or negate the validity or effectiveness of any existing mutual aid agreement between the parties.

10. The District and its firefighters, including those residing in the excluded area, shall continue to have the right to operate District and personal vehicles and equipment as authorized emergency vehicles within said excluded area and the City of Westminster, for bona fide emergency purposes, as the District may deem necessary in fulfilling District obligations. Authorized emergency vehicles shall be those as defined by section 42-1-102, C.R.S., as amended, and shall include the right of District firefighters who reside in the excluded area to respond to emergency calls in personal vehicles and District vehicles which are operated as emergency vehicles.

11. Pursuant to section 32-1-503, C.R.S., as amended:

A. The change of boundaries of the District, which is accomplished by the Court Order, shall not impair nor affect its organizations, nor shall it affect, impair or discharge any contract, obligation, lien, or charge on which it might be liable or chargeable had such change of boundaries not been made.

B. For the taxable year 2003 and thereafter, the excluded property shall not be subject to any property tax levied by the District for operating costs.

C. For the purpose of retiring the District's outstanding indebtedness and the interest thereon existing at the effective date of the exclusion order, the applicable excluded territory shall be obligated only for that proportion of the District's outstanding indebtedness and the interest thereon existing immediately prior to January 1, 2003.

D. The excluded territory shall in no event become obligated for the payment of any bonded indebtedness created after the date of the Court's exclusion order.

12. This Court may, immediately upon presentation of this Stipulation and Plan, enter an Order

consistent herewith excluding the territory described in Exhibit "A" from the District. The Order shall become effective, as provided by statute, on January 1, 2003. The form of the Order is attached hereto as Exhibit "B" and all of the terms of said Order are hereby incorporated by reference in this Stipulation and Plan.

13. The Court's Exclusion Order shall become effective January 1, 2003.

Respectfully submitted,

IRELAND, STAPLETON, PRYOR
& PASCOE, PC

CITY OF WESTMINSTER

By: _____
Dino Ross #20965
Attorney for Respondent
1675 Broadway, Suite 2600
Denver, CO 80202
303-628-3686

By: _____
Sharon Widener #12571
Attorney for Petitioners
4800 W. 92nd Avenue
Westminster, CO 80031
303-430-2400

APPROVED:

NORTH METRO FIRE
RESCUE DISTRICT

CITY OF WESTMINSTER, a
home-rule City

By _____
President

By _____
Ed Moss, Mayor

By _____
Fire District Manager

By _____
Brent McFall
City Manager

ATTEST:

ATTEST:



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
October 28, 2002

Subject: Resolution No. 49 re Exclusion From North Metro Fire Rescue District

Prepared by: Tami Cannon, Paralegal

Recommended City Council Action

Adopt Resolution No. 49 approving the exclusion of recently annexed properties from the North Metro Fire Rescue District (hereinafter "District").

Summary

This item is related to the approval of the Stipulation and Plan for exclusion appearing previously on Council's agenda. Four of the parcels to be excluded are within Jefferson County and two parcels are within Adams County.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Whether to approve the exclusion of recently annexed properties from the District in order to avoid double taxation and duplicative fire protection services.

Background Information

In order for the City Attorney's Office to proceed with the filing of the exclusion documents, the exclusion statutes require that City Council adopt the attached Resolution indicating the City's agreement to provide the fire protection services provided by the District to the area described in the Stipulation and Plan within one year from the effective date of the exclusion Order as required by statute.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

RESOLUTION

RESOLUTION NO. **49**

INTRODUCED BY COUNCILLORS

SERIES OF 2002

EXCLUSION OF TERRITORY FROM THE NORTH METRO FIRE RESCUE DISTRICT

WHEREAS, it is in the public interest and a policy of the City of Westminster to eliminate the overlapping of services provided by local governments and the double taxation which may occur because of annexation when all or part of the territory lies within the boundaries of both the City of Westminster and a special district; and

WHEREAS, Colorado statutes provide an orderly procedure to eliminate such overlapping of services and double taxation, which procedure is found in section 32-1-502, et seq., C.R.S., as amended; and

WHEREAS, the City Council of the City of Westminster has been informed by City Staff and now finds that such a situation exists in the area described on Exhibit "A" attached hereto and incorporated herein by reference and that there is an overlapping of fire protection services by the City of Westminster and the North Metro Fire Rescue District (hereinafter "District") and double taxation resulting from the territory described in Exhibit "A" being within the boundaries of both the City and the District; and

WHEREAS, the City Council, based upon information provided by its Staff, has found that the quality of service to be provided by the City of Westminster will not be inferior to the service provided by the District in the territory described in Exhibit "A" attached hereto, based upon the Westminster Fire Department's service capability, which includes operations out of six (6) existing fire stations which are strategically located throughout the City; an extensive fleet of sophisticated firefighting and emergency medical vehicles including two attack units, four fire engines, two reserve fire engines, one Tele-Squirt, one ladder truck, three ambulances and two reserve ambulances operated by a staff of ninety (89) highly skilled and trained full-time firefighters including paramedics and emergency medical technicians; and

WHEREAS, evidence gathered in previous proceedings for exclusion from other Districts, and applicable to this proceeding also, establishes that fire insurance costs for the improvements within the excluded area will not be adversely affected by such exclusion.

WHEREAS, City officials and representatives of the District are negotiating the City's proposal to exclude from the Fire District, and are working towards a mutually acceptable exclusion agreement; and

WHEREAS, the City Council of the City of Westminster is willing to agree by this Resolution to provide the service provided by the District to the area described in Exhibit "A" within one year from the effective date of the exclusion order as required by statute, and more specifically, immediately upon the effective date of the exclusion order;

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

1. That the City proceed at once to exclude the territory described in Exhibit "A" from the

District by filing its Petition in the District Court of Adams County, pursuant to the provisions of section 32-1-502, et seq., C.R.S., as amended.

2. That the City Council of the City of Westminster agrees, by this Resolution, to provide the service provided by the District to the area described in Exhibit "A" within one year from the effective date of the exclusion order as required by statute, and specifically, immediately upon the effective date of the exclusion order.

3. That the quality of service to be provided by the City of Westminster will not be inferior to the service provided by the District in the territory described in Exhibit "A" and the fire insurance costs for the improvements within the excluded area will not be adversely affected by such exclusion.

4. That the City Attorney is instructed to petition the Court and carry out all notification requirements as contained in applicable state statutes.

PASSED AND ADOPTED this 28th day of October, 2002.

Mayor

ATTEST:

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
October 28, 2002

SUBJECT: Resolution No. 50 re Xcel Energy Easement for Westminster Boulevard Right-of-way

Prepared By: Stephen C. Baumann, Assistant City Engineer

Recommended City Council Action

Pass Resolution No. 50 authorizing the City Manger to sign documents granting a non-exclusive easement to Xcel Energy in the right-of-way for Westminster Boulevard between 95th Avenue and 104th Avenue.

Summary Statement

Westminster Boulevard was constructed on property purchased by the City from seven different owners. In some cases, remainder parcels were also acquired. The parcels intended for street right-of-way will need further designation as non-exclusive easements for use by Xcel Energy to install street lighting and other utility infrastructure.

Expenditure Required: \$0

Source of Funds: N/A

SUBJECT: Resolution re Xcel Energy Easement for Westminster Boulevard Right-of-way Page 2

Policy Issues

Shall the City allow Xcel to use the Westminster Boulevard right-of-way for their facilities, including street lighting and utility infrastructure that will serve adjacent properties in the future?

Alternatives

The City could preclude use of the street right-of-way by Xcel, but this would make installation of street lighting and other utilities impossible, and would not be in the best interest of the public.

Background Information

The Westminster Boulevard project extended Harlan Street north from 95th Avenue across US-36 and up to 104th Avenue. The project necessitated the acquisition of property from seven owners, including some remainder parcels deemed uneconomic for development. The City intends to install street lighting along Westminster Boulevard this fall and desires to define limits for where electric and other utility facilities can be placed now that the project is complete. It is important that the City restrict installation of utilities in parcels that might be used for parks and open space in the future while still allowing such installations necessary for street lighting and for system expansion that will enhance development potential along Westminster Boulevard.

To allow Xcel to install their electrical lines and street lighting, a non-exclusive easement will be prepared for the parcels upon which Westminster Boulevard was built. The Resolution attached to this memo will allow the City Manager to sign the appropriate easement form.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

RESOLUTION

RESOLUTION NO. **50**

INTRODUCED BY COUNCILLORS

SERIES OF 2002

A RESOLUTION TO CONVEY A UTILITY EASEMENT TO XCEL ENERGY IN WESTMINSTER
BOULEVARD

WHEREAS, the City has constructed Westminster Boulevard between West 95th Avenue and West 104th Avenue; and

WHEREAS, it is in the public interest for natural gas, electric and other public utilities to be installed in the right-of-way for Westminster Boulevard,

NOW, THEREFORE, it is hereby resolved by the City Council of the City of Westminster that the City Manager is hereby authorized to execute documents conveying non-exclusive easements in the legal descriptions of the parcels of real property upon which Westminster Boulevard is constructed for purposes of installation of Xcel Energy public utility facilities.

Passed and adopted this 28th day of October, 2002

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
October 28, 2002

SUBJECT: Councillor's Bill No. 55 re 2002 Budget Supplemental Appropriation

Prepared By: Karen Creager, Internal Auditor

Recommended City Council Action

Pass Councillor's Bill No. 55 on first reading providing for supplementary appropriations to the 2002 budget of the General and General Capital Improvement Funds.

Summary Statement

City Council action is requested to pass the attached Councillor's Bill on first reading amending the 2002 budget appropriations in the General and General Capital Improvement Funds.

- At the end of each quarter Staff prepares an ordinance to appropriate unanticipated revenues received during the quarter. Preparing quarterly supplemental appropriation requests is done to simplify administrative procedures and reduce paper work.
- This is the 2002 3rd quarter supplemental appropriation.
- General Fund amendments:
 - \$1,165 Library reimbursement from Colorado Department of Education
 - \$4,361 Police Department overtime reimbursements
 - \$1,050 Parks, Recreation and Libraries cultural program grant
 - \$50,000 Parks, Recreation and Libraries additional recreation program revenue
- General Capital Improvement Fund amendments:
 - \$9,000 Community Development Department grant from the State of Colorado Historical Society
 - \$21,962 Interest earnings on the 2001 Certificates of Participation
 - \$2,000 Community Enhancement contribution from Wal-Mart
- Appropriation of these unbudgeted funds allows the funds to be spent in 2002.

Expenditure Required: \$89,538

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

Policy Issue

Does City Council support amending the appropriations for the 2002 budget of the General and General Capital Improvement Funds?

Alternatives

The alternative would be not to amend the 2002 budget appropriations for the General and General Capital Improvement Funds and utilize these funds to increase reserves. Staff does not recommend this alternative because it is not in keeping with past policy decisions made by City Council. In addition, the various departments have already incurred expenses and covered them in their current budget in anticipation of receipt of the funds. Lastly, City Council has a policy of increasing reserves through other year-end procedures as well as through recognition of larger amounts of funds and reimbursements recognized at other times during the year.

Background Information

This agenda memo and attached Councillor's Bill is a routine action addressing the need to appropriate additional revenues and offsetting expenditures that resulted from increased activity or events that were not anticipated during the normal budget process.

The Library Division received \$1,165 as a reimbursement from the Colorado Department of Education from their Payment for Lending Program. This reimbursement is for items loaned out by the Library through the statewide interlibrary loan program, which exceeded the number of items that Westminster borrowed from other libraries throughout the program. (General Fund)

The Police Department received checks totaling \$4,361 for overtime reimbursements from the High Intensity Drug Traffic Area (HIDTA). These reimbursements were for overtime incurred by members of the Police Department while working on Federal HIDTA cases. (General Fund)

Parks, Recreation and Libraries Department received a grant for \$1,050 from the Scientific and Cultural Facilities District and the Thornton Arts, Science and Humanities Council. This grant will be used to fund a cultural program at the Senior Center. (General Fund)

The demand for recreation programming in 2002 continues to be high. Staff managed their budget to maximize the programs offered while covering expenses. Additional youth, preschool and adult recreation activities were offered, resulting in an additional \$50,000 expended in Park, Recreation & Library's Recreation Program Division for temporary salaries and professional services. Staff fully anticipated that the additional programs would generate sufficient revenues to offset the expenses and in reality, the programs generated more revenues than the additional expenditures. (General Fund)

The Department of Community Development received a grant for \$9,000 from the State of Colorado Historical Fund. These grant funds will be used to fund a historic structure assessment of the Westminster Grange Hall. (General Capital Improvement Fund)

Interest earnings of \$21,962 from the 2001 Certificates of Participation are being appropriated to the Public Safety Building project. (General Capital Improvement Fund)

The City received a \$2,000 contribution from the Westminster Wal-Mart store for the City's Community Enhancement Program. Wal-Mart has funds set aside to make contributions to worthwhile causes in the local area. This is an ongoing effort by Wal-Mart Corporation to show that it is a good "corporate citizen." (General Capital Improvement Fund)

These adjustments will bring the City's accounting records up to date to reflect the various detailed transactions.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO.

COUNCILOR'S BILL NO. **55**

SERIES OF 2002

INTRODUCED BY COUNCILLORS

A BILL

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

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2002 appropriation for the General Fund initially appropriated by Ordinance No. 2913 in the amount of \$69,324,181 is hereby increased by \$56,576 which, when added to the fund balance as of the City Council action on October 28, 2002 will equal \$79,001,499. The actual amount in the General Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. This increase is due to the appropriation of various grants, fees and reimbursements received by the City.

Section 2. The \$56,576 increase in the General Fund shall be allocated to City Revenue and Expense accounts, which shall be amended as follows:

Description	Current Budget	Increase	Final Budget
REVENUES			
General Misc – Library 1000.43060.0034	\$0	\$1,165	\$1,165
General Misc 1000.43060.0000	169,703	4,361	174,064
Misc Senior Center 1000.40850.0017	0	1,050	1,050
General Recreation 1000.41030.0503	625,000	<u>50,000</u>	675,000
Total Change to Revenues		<u>\$56,576</u>	
EXPENSES			
Library Materials 10050620.71600.0000	\$377,500	\$1,165	\$378,665
PD Investigations Overtime 10020300.60400.0000	163,828	4,361	168,189
Recreation Supplies – Senior Center 10050760.71200.00017	43,700	1,050	44,750
Temp Salaries – Adult Sports 10050670.60600.0504	70,400	15,000	85,400
Temp Salaries – Youth Activities 10050760.60600.0529	95,900	10,000	105,900
Professional Services – Adult Sports 10050760.65100.0504	58,770	15,000	73,770
Temp Salaries – Preschool 10050760.60600.0508	160,400	<u>10,000</u>	170,400
Total Change to Expenditures		<u>\$56,576</u>	

Section 3. The 2002 appropriation for the General Capital Improvement Fund, initially appropriated by Ordinance No. 2913 in the amount of \$10,305,000 is hereby increased by \$32,962 which, when added to the fund balance as of the City Council action on October 28, 2002 will equal \$19,675,935. The actual amount in the General Capital Improvement Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. This increase is due to the appropriation of interest earnings and grants received by the City.

Section 4. The \$32,962 increase in the General Capital Improvement Fund shall be allocated to City Revenue and Expense accounts, which shall be amended as follows:

Description	Current Budget	Increase	Final Budget
REVENUES			
State Grants 7500.40620.0000	\$0	\$9,000	\$9,000
Contributions 7500.43100.0000	0	2,000	2,000
Interest Income - 2001 COP's 7500.42520.0215	79,994	<u>21,962</u>	101,956
Total Change to Revenues		<u>\$32,962</u>	
EXPENSES			
South Westy Revitalization 80175030024.80400.8888	\$1,250,000	\$9,000	\$1,259,000
Community Enhancement 80175050132.80400.8888	5,767,924	2,000	5,769,924
Public Safety Building 80175020086.80400.8888	2,936,975	<u>21,962</u>	2,958,937
Total Change to Expenditures		<u>\$32,962</u>	

Section 5. – 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 6. This ordinance shall take effect upon its passage after the second reading.

Section 7. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED AND PUBLISHED this 28th day of October, 2002.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 11th day of November, 2002.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
October 28, 2002

SUBJECT: Councillor’s Bill No. 56 re City Water System Security Assessment

Prepared By: Abel Moreno, Projects Coordinator

Recommended City Council Action

Pass Councillor’s Bill No. 56 on first reading appropriating \$115,000 from the USEPA Vulnerability Assessment Grant to the Water Capital Improvement Project account; authorize the City Manager to sign a contract with the most qualified proposer, Tetra Tech Rocky Mountain Consultants (RMC) in the amount of \$115,000 and charge the expense to the appropriate Department of Public Works and Utilities, Water Capital Improvement Project account.

Summary Statement

- City Council action is requested to award a contract for the City Water System Security Assessment and appropriate the \$115,000 in grant funds received from the United States Environmental Protection Agency.
- The Department of Public Works and Utilities applied for and received a \$115,000 non-matching grant from the USEPA to conduct a vulnerability assessment, develop an emergency operations plan, and develop a master plan/design of security enhancements of the City's water system.
- Presidential Decision Directive 63, the Public Health Security and Bioterrorism Act (HR 3448) passed on June 12, 2002, by the United States House of Representatives authorized funds to conduct vulnerability assessments and upgrade emergency response plans for water systems.
- Formal proposals were solicited from eight consultants, with seven returning qualified proposals. The recommended proposer, RMC, meets the proposal requirements, has completed other projects for the City of Westminster and offered the most complete proposal and presented the best qualified team to perform the work.

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Expenditure Required: \$115,000 grant / \$0 match USEPA V/A

Source of Funds: United States EPA Vulnerability Assessment Grant

Policy Issue

Should the contract be awarded to the most qualified proposer, RMC, for the City Water System Security Assessment as specified in the contract documents for this project.

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Alternatives

An alternative to approving this contract for the City Water System Security Assessment would be to reject all of the bids received and return the funds to the United States Environmental Protection Agency. This would not relieve the City of the requirement to conduct a security assessment. Another alternative would be to award the contract to one of the other proposers or readvertise this project and attempt to receive additional proposals.

Background Information

The vulnerability assessment is a new requirement of the Safe Drinking Water Act. Per the USEPA web site:

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“Section 1433 was added to the Safe Drinking Water Act (SDWA) via Title IV of “The Public Health Security and Bioterrorism Preparedness and Response Act of 2002” (Public Law 107-188) signed on June 12, 2002. Section 1433(a) lays out requirements for community water systems including paragraph (1), which states that each community water system serving a population of greater than 3,300 persons must conduct an assessment of the vulnerability of its system to a terrorist attack or other intentional acts designed to disrupt the supply of safe drinking water. Paragraph (2) states that each community water system must certify to EPA that the system has conducted an assessment complying with paragraph (1) and submit to EPA a written copy of the assessment. In the case of systems serving a population of 100,000 or more, this certification and submission are to be made by March 31, 2003. Further, Section 1433(b) states that community water systems serving a population greater than 3,300 people are to put into place an Emergency Response Plan within 6 months after the Vulnerability Assessment is complete and to certify to EPA that the Plan has been completed“

After September 11, 2001, the Department of Public Works and Utilities conducted an internal assessment of all of its key water and wastewater facilities and operations. This assessment identified potential security threats of City water and wastewater facilities and their estimated cost to mitigate. The assessment did not place limits on what corrective measures could or should be taken to additionally secure City water and wastewater facilities and therefore several potential corrective measures were ruled out as options after further investigating the costs involved.

The main concern identified during the internal assessment was the threat of contamination to the City's water supply or distribution system and this information was leaked or intentionally given to the media to create a public outcry. Currently, Staff does not have a solid plan in place to notify the public of its validity, testing the water supply and distribution systems without creating panic, and reassuring the public that the City's water is safe to consume.

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When the opportunity arose to apply for this \$115,000 non-matching grant, the Department of Public Works and Utilities determined it would be a good opportunity to verify the conclusions of the internal study conducted, develop an emergency operations plan to assist Staff in the handling of a false report of a water supply or distribution system contamination, and to develop a master plan of priorities for security enhancements. The appropriate and realistic master plan priorities will be budgeted in accordance with the City's budgeting process.

The seven formal proposals received for this project were:

Firm	NTE Cost
ARC3	\$114,060
Eberline	\$109,337
Elert & Associates	\$ 95,478
Tetra Tech RMC	\$115,000
Telemus	\$ 86,760
URS	\$114,925
WRE	\$115,014

Tetra Tech RMC is being recommended as the most qualified proposer based on their level of water expertise, their security enhancement expertise, and their ability to complete the project in a timely and professional manner. [Tetra Tech RMC presented the most comprehensive proposal and after interviews it was the consensus of the interview team that even though Tetra Tech RMC was not the least cost, they offered the best value and would present the most useful and relevant recommendations that the City could implement.](#)

All of the consultants submitting a proposal are certified in the Risk Assessment Methodology for Water (RAM-W) or similar methodology, which is a requirement of the EPA. The RAM-W methodology covers eight components, which include determining the water system objectives; prioritizing adverse events and consequences affecting the water system and the surrounding community; defining the various malevolent acts; assessing the likelihood of such malevolent acts from defined threat sources; conducting systematic site visits of the water facilities and collecting performance data; evaluating risk of the water system; prioritizing critical acts and malevolent acts and evaluating existing security protections; and identifying the system's vulnerabilities. Another stipulation of the EPA grant is that all proposers must comply with the Federal Government's women and minority owned business enterprise requirement. RMC is sub-contracting with a local small disadvantaged business enterprise, Eagle Consulting, who will be developing the City's Emergency Operations Plan, which meets this Federal requirement.

Tetra Tech RMC is a Denver Metropolitan area company that has performed a number of projects for the City including the Standley Lake Renovation, Jim Baker Reservoir, and Wattenberg gravel lakes investigation. One of the criteria Staff used in evaluating proposals was the consultant's expertise in water supply, treatment, and distribution systems as well as its security expertise. RMC has the most relevant and broad water system experience and was deemed to provide the most for the available dollars.

The wastewater system is not included in this project since the EPA grant only covers evaluations on the water system side. However, Tetra Tech RMC has informed the City that they are willing to negotiate an additional charge for evaluating the wastewater system if the City decides to do so. At this time, Staff does not believe as much emphasis need be placed on the wastewater system since it is less of a life threatening threat to the public.

Staff will be present at the October 28 City Council meeting to answer any questions.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.
SERIES OF 2002

COUNCILLOR'S BILL NO. **56**
INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE INCREASING THE 2002 BUDGETS OF THE WATER PORTION OF THE UTILITY FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2002 ESTIMATED REVENUES IN THE FUND

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2002 appropriation for the Water Portion of the Utility Fund initially appropriated by Ordinance No. 2913 in the amount of \$25,286,775 is hereby increased by \$115,000 which, when added to the fund balance as of the City Council action on October 28, 2002 will equal \$51,640,557. The actual amount in the Water Portion of the Utility Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. This increase is due to the appropriation of a USEPA Vulnerability Assessment Grant.

Section 2. The \$115,000 increase in the Water Portion of the Utility Fund shall be allocated to City Revenue and Expense accounts, which shall be amended as follows:

Description	Current Budget	Increase	Final Budget
REVENUES			
Federal Grants 2000.40610.0000	\$61,000	<u>\$115,000</u>	\$176,000
Total Change to Revenues		<u>\$115,000</u>	
EXPENSES			
Water Vulnerability Study 80220035526.80400.8888	\$0	<u>\$115,000</u>	\$115,000
Total Change to Expenditures		<u>\$115,000</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 28th day of October, 2002.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 11th day of November, 2002.

ATTEST:

Mayor

City Clerk

Summary of Proceedings

Summary of proceedings of the regular City of Westminster City Council meeting of Monday, October 28, 2002. Present at roll call were Mayor Moss, Mayor Pro-Tem Atchison, Councillors Dittman, Dixon, Hicks, Kauffman, and McNally. Absent none.

The minutes of the October 14, 2002 meeting were approved.

Council approved the following: Financial Report for September 2002; Bids for the 2003 Traffic Signal Maintenance with Integrated Electric for \$104, 535; Amended IGA with City of Northglenn re Water Storage Tank site; Revised Employment Agreement with John A. Stipech; and Exclusion of Properties from North Metro Fire Rescue District.

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

A BILL FOR AN ORDINANCE AMENDING THE MUNICIPAL CODE PERTAINING TO SIGN REGULATIONS purpose: modifications to the sign code with proposed amendments

A BILL FOR AN ORDINANCE AMENDING THE SALARY OF THE MUNICIPAL JUDGE purpose: amending the salary for the Municipal Judge for 2003

A BILL FOR AN ORDINANCE INCREASING THE 2002 BUDGETS OF THE GENERAL AND GENERAL CAPITAL IMPROVEMENT FUNDS AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2002 ESTIMATED REVENUES IN THESE FUNDS purpose: 2002 supplemental appropriations

A BILL FOR AN ORDINANCE INCREASING THE 2002 BUDGETS OF THE WATER PORTION OF THE UTILITY FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2002 ESTIMATED REVENUES IN THE FUND purpose: security assessment for the city's water system

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

A BILL FOR AN ORDINANCE MAKING APPROPRIATIONS TO PAY THE EXPENSE OF CONTINUING THE PUBLIC BUSINESS FOR THE YEAR 2003 AND 2004 AND OTHER PURPOSES REQUIRED BY THE CHARTER AND BY ANY OTHER LAW

A BILL FOR AN ORDINANCE APPROVING AND ACCOMPLISHING THE ANNEXATION OF CONTIGUOUS UNINCORPORATED TERRITORY IN A PARCEL OF LAND LOCATED IN SECTION 10, TOWNSHIP 2 SOUTH, RANGE 69 WEST, 6TH P.M., COUNTY OF JEFFERSON, STATE OF COLORADO

A BILL FOR AN ORDINANCE AMENDING THE ZONING LAW AND ESTABLISHING THE ZONING CLASSIFICATION OF CERTAIN DESCRIBED PROPERTY IN A PARCEL OF LAND LOCATED IN SECTION 10, TOWNSHIP 2 SOUTH, RANGE 69 WEST, 6TH P.M., COUNTY OF JEFFERSON, STATE OF COLORADO

The following Resolutions were adopted:

Resolution No. 49 re Exclusion from North Metro Fire Rescue District

Resolution No. 50 re Xcel Energy Easement for Westminster Boulevard Right-of-Way

At 7:55 P.M. the meeting was adjourned.

By order of the Westminster City Council

Michele Kelley, CMC, City Clerk

Published in the Westminster Window on November 7, 2002.

McNally-Dixon

A BILL

FOR AN ORDINANCE MAKING APPROPRIATIONS TO PAY THE EXPENSE OF CONTINUING THE PUBLIC BUSINESS FOR THE YEAR 2003 AND 2004 AND OTHER PURPOSES REQUIRED BY THE CHARTER AND BY ANY OTHER LAW.

THE CITY OF WESTMINSTER ORDAINS:

Section 1: Non-emergency reserve as of December 31, along with revenue for the calendar and fiscal year are combined and reflected as the total in each of the following funds:

NON-EMERGENCY RESERVE AND NEW REVENUE

	Fiscal Year 2003	Fiscal Year 2004
a. General Fund	\$67,576,244	\$71,828,317
b. Utility Fund	37,814,744	39,156,200
c. General Capital Improvement Fund	8,923,000	9,036,000
d. Fleet Maintenance Fund	1,149,638	1,161,081
e. General Capital Outlay Replacement Fund	1,163,431	1,056,481
f. General Debt Service Fund	8,413,453	7,603,664
g. Conservation Trust Fund	625,000	625,000
h. Sales and Use Tax Fund	51,144,188	53,035,009
i. Open Space Fund	4,486,775	4,663,797
j. General Reserve Fund	7,290,745	7,400,100
k. Utility Reserve Fund	6,860,385	6,963,291
l. Golf Course Fund	<u>3,720,675</u>	<u>3,934,702</u>
Total Funds Available	\$199,168,278	\$206,463,642
Less Transfers	<u>-56,886,602</u>	<u>-59,433,671</u>
GRAND TOTAL	\$142,281,676	\$147,029,971

Section 2: The following amounts are hereby appropriated for expenditure by fund to be expended by the City Manager in accordance with the City Charter.

	Fiscal Year 2003	Fiscal Year 2004
a. General Fund	\$67,576,244	\$71,828,317
b. Utility Fund	37,814,744	39,156,200
c. General Capital Improvement Fund	8,923,000	9,036,000
d. Fleet Maintenance Fund	1,149,638	1,161,081
e. General Capital Outlay Replacement Fund	1,163,431	1,056,481
f. General Debt Service Fund	8,413,453	7,603,664
g. Conservation Trust Fund	625,000	625,000
h. Sales and Use Tax Fund	51,144,188	53,035,009
i. Open Space Fund	4,486,775	4,663,797
j. General Reserve Fund	7,290,745	7,400,100
k. Utility Reserve Fund	6,860,385	6,963,291
l. Golf Course Fund	<u>3,720,675</u>	<u>3,934,702</u>
Total Funds Available	\$199,168,278	\$206,463,642
Less Transfers	<u>-56,886,602</u>	<u>-59,433,671</u>
GRAND TOTAL	\$142,281,676	\$147,029,971

This ordinance shall become effective January 1, 2003.

INTRODUCED AND PASSED on first reading this 14th day of October, 2002.
 PASSED AND ADOPTED on second reading this 28th day of October, 2002.

BY AUTHORITY

ORDINANCE NO. **2978**

COUNCILOR'S BILL NO. **51**

SERIES OF 2002

INTRODUCED BY COUNCILLORS

Dittman-Dixon

A BILL

FOR AN ORDINANCE APPROVING AND ACCOMPLISHING THE ANNEXATION OF CONTIGUOUS UNINCORPORATED TERRITORY IN A PARCEL OF LAND LOCATED IN SECTION 10, TOWNSHIP 2 SOUTH, RANGE 69 WEST, 6TH P.M., COUNTY OF JEFFERSON, STATE OF COLORADO.

WHEREAS, pursuant to the laws of the State of Colorado, there was presented to and filed with the Council of the City of Westminster a written petition for annexation to and by the City of Westminster of the hereinafter-described contiguous, unincorporated territory situate, lying and being in the County of Jefferson, State of Colorado; and

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

WHEREAS, City Council has held the required annexation hearing in conformance with all statutory requirements; and

WHEREAS, City Council has heretofore adopted Resolution No. making certain findings of fact and conclusions regarding the proposed annexation as required by Section 31-12-110, C.R.S., and now finds that the property proposed for annexation under the Annexation Petition may be annexed by ordinance at this time; and

WHEREAS, the Council of the City of Westminster has satisfied itself concerning the conformance of the proposed annexation to the annexation policy of the City of Westminster.

NOW, THEREFORE, the City of Westminster ordains:

Section 1. That the annexation is hereby accomplished by and to the City of Westminster, State of Colorado, of the following described contiguous unincorporated territory situate, lying and being in the County of Jefferson, State of Colorado, to wit:

A parcel of land situated in a portion of Tract 11-B, Mandalay Gardens Subdivision, as recorded in Book 336, Page 237 of the Jefferson County Clerk and Recorder's Office and a portion of Dover St., said parcel lying in the southeast quarter of Section 10, Township 2 South, Range 69 West, 6th P.M. described as follows:

Commencing at the southeast corner of said Section 10; thence N89°28'13"W, 1297.06 feet, along the south line of said Section 10; thence N00°42'22"E, 1958.14 feet to the northwest corner of Tract 11-A, of said Mandalay Gardens Subdivision; thence S89°42'58"E, 665.97 feet along the north line and the easterly prolongation thereof to the east right of way line of Dover St., as shown on Mandalay Gardens Subdivision and to the true point of beginning; thence S00°46'37"W, 291.82 feet, along the east right of way of said Dover St. to the easterly prolongation of the south line of said Tract 11-B; thence N89°40'24"W, 253.64 feet, along the easterly prolongation of the south line of said Tract 11-B and the south line of said Tract 11-B to the existing boundary of the City of Westminster, as recorded at Rec. No. 85012854; thence N00°46'37"E, 291.63 feet, along said boundary line to a point on the north line of said Tract 11-B and to the existing

boundary of the City of Westminster, as recorded as Rec. No. 85012854; thence S89°42'58"E, 253.64 feet along said boundary line to the true point of beginning.

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 14th day of October, 2002. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 28th day of October, 2002.

BY AUTHORITY

ORDINANCE NO. **2979**

COUNCILOR'S BILL NO. **52**

SERIES OF 2002

INTRODUCED BY COUNCILLORS

Dittman-Dixon

A BILL

FOR AN ORDINANCE AMENDING THE ZONING LAW AND ESTABLISHING THE ZONING CLASSIFICATION OF CERTAIN DESCRIBED PROPERTY IN A PARCEL OF LAND LOCATED IN SECTION 10, TOWNSHIP 2 SOUTH, RANGE 69 WEST, 6TH P.M., COUNTY OF JEFFERSON, STATE OF COLORADO.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council finds:

a. That an application for the zoning of the property described below from Jefferson County R-1 and A-2 to City of Westminster Planned Unit Development (PUD) zoning has been submitted to the City for its approval pursuant to Westminster Municipal Code Section 11-5-1.

b. That Council has completed a public hearing on the requested zoning pursuant to the provisions of Chapter 5 of Title XI of the Westminster Municipal Code.

c. That based on the evidence produced at the public hearing, the City Council finds that the proposed zoning complies with all requirements of City Code, including, but not limited to, the provisions of Westminster Municipal Code Section 11-5-3.

d. That the proposed zoning is compatible with existing zoning and land uses of adjacent properties in the general vicinity of the property proposed for zoning.

e. That the proposed zoning is consistent with all applicable general plans and policies concerning land use and development relative to the property proposed for zoning.

Section 2. The Zoning District Map of the City is hereby amended by reclassification of the property described herein from Jefferson County R-1 and A-2 to City of Westminster PUD. A parcel of land located in Section 10, Township 2 South, Range 69 West, 6th P.M., County of Jefferson, State of Colorado, more particularly described as follows:

A parcel of land situated in a portion of Tract 11-B, Mandalay Gardens Subdivision, as recorded in Book 336, Page 237 of the Jefferson County Clerk and Recorder's Office and a portion of Dover St., said parcel lying in the southeast quarter of Section 10, Township 2 South, Range 69 West, 6th P.M. described as follows:

Commencing at the southeast corner of said Section 10; thence N89°28'13"W, 1297.06 feet, along the south line of said Section 10; thence N00°42'22"E, 1958.14 feet to the northwest corner of Tract 11-A, of said Mandalay Gardens Subdivision; thence S89°42'58"E, 665.97 feet along the north line and the easterly prolongation thereof to the east right of way line of Dover St., as shown on Mandalay Gardens Subdivision and to the true point of beginning; thence S00°46'37"W, 291.82 feet, along the east right of way of said Dover St. to the easterly prolongation of the south line of said Tract 11-B; thence N89°40'24"W, 253.64 feet, along the easterly prolongation of the south line of said Tract 11-B and the south line of said Tract 11-B to the existing boundary of the City of Westminster, as recorded at Rec. No. 85012854; thence N00°46'37"E, 291.63 feet, along said boundary line to a point on the north line of said Tract 11-B and to the existing

boundary of the City of Westminster, as recorded as Rec. No. 85012854; thence S89°42'58"E, 253.64 feet along said boundary line to the true point of beginning.

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 14th day of October, 2002. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 24th day of October, 2002.