



W E S T M I N S T E R  
C O L O R A D O

November 11, 2002

7:00 P.M.

**CITY COUNCIL AGENDA**

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

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

1. **Pledge of Allegiance**
2. **Roll Call**
3. **Consideration of Minutes of Preceding Meetings**
4. **Presentations**

- A. Employee Service Awards
- B. NRPA Healthy Community Award

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. Revised Employment Agreement with City Attorney Martin McCullough
- B. 2003 Community Development Block Grant Projects
- C. 75' Aerial Apparatus Purchase
- D. Disposition Of Used Dispatch Console Furniture
- E. Sanitary Sewer Manhole Rehabilitation Contract
- F. Construction of 16-inch Waterline in Community Center Drive
- G. CB No. 53 re Sign Code Revisions (Atchison-Dixon)
- H. CB No. 54 re Amending the Salary for the Municipal Judge (Dixion-Atchison)
- I. CB No. 55 re 2002 Budget Supplemental Appropriation (Dittman-Hicks)
- J. CB No. 56 re City Water System Security Assessment (Atchison-Dixon)

9. **Appointments and Resignations**

10. **Public Hearings and Other New Business**

- A. Councillor's Bill No. 57 re GE Access Business Assistance Package
- B. Councillor's Bill No. 58 re New Plan Excel Realty Trust Business
- C. Councillor's Bill No. 59 re H&H Enterprises Business Assistance Package
- D. Councillor's Bill No. 60 re SunCorp Corporate Credit Union Business Assistance
- E. Councillor's Bill No. 61 re Un-appropriation of Capital Improvement Program Projects
- F. Councillor's Bill No. 62 re Vacation of Easements West 81<sup>st</sup> Place & Sheridan P.U.D. Subdivision
- G. Resolution No. 52 re Protection of Standley Lake Water Quality
- H. Membership as an ex-officio member in the Jefferson Parkway Nonprofit Corporation
- I. Resolution No. 51 re Contingency Funds for ex-officio member of the Jefferson Parkway

11. **Old Business and Passage of Ordinances on Second Reading**

- A. Councillor's Bill No. 43 re Solid Waste Code (Hicks-McNally)

12. **Citizen Presentations (longer than 5 minutes) and Miscellaneous Business**

- A. City Council
- B. Executive Session
1. Westminster Position re Lambertson Farm PUD

13. **Adjournment**



CITY OF WESTMINSTER, COLORADO  
MINUTES OF THE CITY COUNCIL MEETING  
HELD ON MONDAY, NOVEMBER 11, 2002 AT 7:00 P.M.

PLEDGE OF ALLEGIANCE

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

ROLL CALL

Mayor Moss, Mayor Pro-Tem Atchison, Councillors Dittman, Dixion, 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 28, 2002 with no corrections or additions. The motion carried unanimously.

PRESENTATIONS

Mayor Moss recognized Michelle Shjandemaar for 20 years; Lonnie Coxsey for 25 years; and George Barnett and Jack Rudey for 30 years of service.

Mayor Moss and Cindy Phelps, Fitness Coordinator, accepted the Healthy Community Award from Barb Wisney, President of the Colorado Parks and Recreation Association.

CITIZEN COMMUNICATION

Kathy Dawson, 16869 W 55<sup>th</sup> Drive, Becky Deck, 8809 W Friend Ave, of Prairie Dog Specialists; and Deborah Jones, 11307 Quivas Way, and JoAnn Reince, 1473 W 135<sup>th</sup> Pl, thanked Council on the FRCC open space agreement.

CITY MANAGER COMMENTS

J. Brent McFall, City Manager, announced that there is a Westminster Housing Authority meeting after the Council meeting, and that Police and Fire Personnel will be moving into the New Public Safety Center Thanksgiving weekend.

COUNCIL COMMENTS

Councillor Hicks commented on the City's bond rating of AA and being one of only six cities in the State with this high of a rating.

Councillor Dixion commented on Veterans Day and the 10<sup>th</sup> Anniversary of the Women's Veterans Memorial.

Councillor Dittman thanked the voters for approving the Debrucing and for changing the Council terms of office on the November ballot.

Councillor McNally commented on the Halloween party at City Park Recreation Center.

CONSENT AGENDA

The following items were considered as part of the Consent Agenda: Revised Employment Agreement with City Attorney Martin McCullough; 2003 Community Development Block Grant Projects; Purchase of 75' Aerial Apparatus from Front Range Fire Apparatus for \$582,039; Disposition of Used Dispatch Console

Furniture; Contract with Levi Construction for Sanitary Sewer Manhole Rehabilitation for \$75,095 with at 10% contingency; Payment of \$146,282 for construction of 16-inch waterline in Community Center Drive with at 15% contingency; CB No. 53 re Sign Code Revisions; CB No. 54 re Amending the Salary of the Municipal Judge; CB No. 55 re 2002 Budget Supplemental Appropriation; CB No. 56 re City Water System Security Assessment.

The Mayor asked if there was any member of Council or anyone from the audience who would like to have any of the consent agenda items removed for discussion purposes or separate vote. Councillor Hicks asked that CB No. 53 re Sign Code Revisions be removed for separate discussion.

Councillor Hicks moved, seconded by Dittman to adopt the remaining 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 McNally to pass Councillor's Bill No. 53 on second reading approving certain revisions to Title 11, Chapter 11 of the Westminster Municipal Code, regarding sign regulations. Upon roll call vote, the motion carried with dissenting votes from Dittman and Hicks.

#### COUNCILLOR'S BILL NO. 57 RE GE ACCESS BUSINESS ASSISTANCE PACKAGE

Councillor Dixion moved, seconded by Kauffman to pass Councillor's Bill No. 57 on first reading authorizing the City Manager to execute and implement the business assistance agreement with GE Access to be located at 11300 Westmoor Circle, the value of which totals \$226,500, and includes \$24,000 in permit fee rebates, \$63,000 in construction use tax rebates and \$49,500 in equipment use tax at move-in, and \$90,000 in equipment use tax rebates over the first three years of operation. Mr. James Walker, CFO, was present and addressed Council. Upon roll call vote, the motion carried unanimously.

#### COUNCILLOR'S BILL NO. 58 RE NEW PLAN EXCEL REALTY BUSINESS ASSISTANCE PACKAGE

Councillor Kauffman moved, seconded by Dixion to pass Councilor's Bill No. 58 on first reading authorizing the City Manager to execute and implement the business assistance agreement with New Plan Excel Realty Trust to be located at the Westminster City Center Marketplace Shopping Center, which totals \$598,400, and includes \$4,800 in permit fee rebates, \$9,700 in construction use tax rebates, and \$10,900 in equipment use tax at move-in, and \$573,000 in sales tax rebates over the first five years of operation. Rick Froese Jr, Regional Director of Real Estate, was present and addressed Council. The motion carried unanimously.

#### COUNCILLOR'S BILL NO. 59 RE H&H ENTERPRISES BUSINESS ASSISTANCE PACKAGE

Councillor Dittman moved, seconded by McNally to pass Councillor's Bill No. 59 on first reading authorizing the City Manager to execute and implement the business assistance agreement with H&H Enterprises to be located at 7131 Irving Street, in the amount of \$7,300, which includes permit fee rebates, construction use tax rebates and equipment use tax at move-in. Kathy Huff, President, was present and addressed Council. Upon roll call vote, the motion carried unanimously.

#### COUNCILLOR'S BILL NO. 60 RE SUNCORP CORP. CREDIT UNION ASSISTANCE PACKAGE

Mayor Pro-Tem Atchison moved, seconded by Dixion to pass Councillor's Bill No.60 on first reading authorizing the City Manager to execute and implement the business assistance agreement with SunCorp Corporate Credit Union to be located at CirclePoint Corporate Center, in the amount of \$15,300, which includes permit fee rebates, construction use tax rebates and equipment use tax at move-in. Mr. Brandt Peterson, Executive VP and COO, was present and addressed Council. Councillor Kauffman requested to abstain from voting on this issue because it is his employer. Upon roll call vote, the motion carried with Councillor Kauffman abstaining.

COUNCILLOR'S BILL NO. 61 RE UN-APPROPRIATION OF CAPITAL IMPROVEMENT PROJECTS

Councillor Dittman moved, seconded by McNally to pass Councillor's Bill No. 61 on first reading unappropriating \$1,365,000 in the General Capital Improvement Fund for eight projects in order to address Sales and Use Tax Fund revenue shortfalls being experienced in 2002. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 62 RE VACATION OF EASEMENTS 81<sup>ST</sup> PL & SHERIDAN PUD

Councillor McNally moved, seconded by Atchison to pass Councillor's Bill No. 62 on first reading, vacating a portion of a certain easement with the First Replat of the West 81<sup>st</sup> Place and Sheridan Subdivision P.U.D. Upon roll call vote, the motion carried unanimously.

RESOLUTION NO. 52 RE PROTECTION OF STANLEY LAKE WATER QUALITY

Councillor Dixion moved, seconded by Dittman to adopt Resolution No. 52 establishing Westminster City Council's position related to development activity and water quality protection in the Standley Lake watershed. Upon roll call vote, the motion carried unanimously.

JEFFERSON COUNTY PARKWAY NONPROFIT CORPORATION

Mayor Pro-Tem Atchison moved, seconded by Kauffman to authorize the membership as an ex-officio member in the Jefferson Parkway Nonprofit Corporation for membership as an ex-officio member in the Jefferson Parkway Nonprofit Corporation. The motion carried unanimously.

RESOLUTION NO. 51 RE JEFFERSON PARKWAY NONPROFIT CORPORATION

Mayor Pro-Tem Atchison moved, seconded by Kauffman to adopt Resolution No. 51 authorizing the transfer of \$50,000 from the City' General Fund Contingency account. Upon roll call vote, the motion carried unanimously.

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

Councillor Hicks moved, seconded by Atchison to remove this item from the Table.

Councillor Hicks moved, seconded by Atchison to pass Councillor's Bill No. 43 on second reading revising the Solid Waste Collection Code and the powers and duties of the Special Permit and License Board as amended. Carole Pool, representing Waste Management, addressed Council. Upon roll call vote, the motion carried unanimously.

EXECUTIVE SESSION

The Mayor stated there would be an executive session to discuss Westminster's position re a land development PUD.

ADJOURNMENT:

The meeting was adjourned at 7:40 P.M.

ATTEST:

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City Clerk

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Mayor



## Agenda Item 4 A

### W E S T M I N S T E R C O L O R A D O

#### Agenda Memorandum

City Council Meeting  
November 11, 2002

**Subject:** Presentation of Employee Service Awards

**Prepared by:** Michele Kelley, City Clerk

#### **Recommended City Council Action:**

Present service pins and certificates of appreciation to employees celebrating 20, 25 and 30 years of service with the City, and provide special recognition to our 25 year employee with the presentation of a \$2,500 bonus.

#### **Summary Statement:**

- City Council is requested to present service pins and certificates of appreciation to those employees who are celebrating their 30<sup>th</sup>, 25<sup>th</sup> and 20<sup>th</sup> anniversary of employment with the City.
- In keeping with the City's policy of recognition for employees who complete increments of five years of employment with the City, and City Council recognition of employees with 20 years or more of service, the presentation of City service pins and certificates of appreciation has been scheduled for Monday night's Council meeting.
- In 1986, City Council adopted a resolution to award individuals who have given 25 years of service to the City with a \$2,500 bonus to show appreciation for such a commitment. Under the program, employees receive \$100 for each year of service, in the aggregate, following the anniversary of their 25th year of employment. The program recognizes the dedicated service of those individuals who have spent most, if not all, of their careers with the City.
- There is one employee celebrating 25 years of service, and he will be presented with a check for \$2,500, less income tax withholding.

**Expenditure Required:** \$2,500

**Source of Funds:** Public Works & Utilities Operating Budget Account

**Policy Issue**

No policy issues identified.

**Alternative**

No alternatives identified.

**Background Information**

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

Michelle Shjandemaar      Information Technology Department      Help Desk Technician

The following 25-year employee will be presented with a certificate, service pin and check for \$2,500, minus amounts withheld for Federal and State income taxes:

Lonnie Coxsey      Public Works & Utilities Department      Plant Operator IV

Lonnie started his career with the City of Westminster in September of 1977 as a Plant Operator 2. He was trained in the operations of England Water Plant and Semper Water Treatment Plant. Lonnie was awarded a Colorado Class A Operators Certification in May of 1979. Seems so long ago!

During the early part of Lonnie's employment with the City, he cross-trained several times at the Big Dry Creek Wastewater Treatment Facility. In September 1988, Lonnie received the American Water Works Association Colorado Operator of the Year Award. In his 25 years with the City, Lonnie has seen many changes and has had the opportunity to watch the City's water treatment division grow into what many consider to be one of the more proficient water treatment systems up and down the Front Range. And now Lonnie looks forward to being a part of the cutting edge of technology with the opening of the Northwest Water Treatment Facility.

Lonnie has enjoyed the privilege of being a part of it all. But as he will always say, "I would rather be hunting elk or fly fishing on the Roaring Fork or weight training at the local recreation center. God has blessed me with a good life."

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

George Barnett      Public Works & Utilities Department      Meter Programs Specialist  
Jack Rudey      Public Works & Utilities Department      Utility Supervisor

On November 20<sup>th</sup>, the City Manager will host an employee awards luncheon at which time 9 employees will receive their 15 year service pin, 4 employees will receive their 10 year service pin and 18 employees will receive their five year service pins, while recognition will also be given to those who are celebrating their 20<sup>th</sup>, 25<sup>th</sup> and 30<sup>th</sup> anniversary. This is the fourth luncheon for 2002 to recognize and honor City employees for their service to the public.

The aggregate City service represented among this group of employees is 370 years of City service. The City can certainly be proud of the tenure of each of these individuals and of their continued dedication to City employment in serving Westminster citizens.

Respectfully submitted,

J. Brent McFall  
City Manager



**W E S T M I N S T E R**  
**C O L O R A D O**

**Agenda Item 4 B**

**Agenda Memorandum**

City Council Meeting  
November 11, 2002

**SUBJECT:** NRPA Healthy Community Award Presentation

**Prepared By:** Karen Layfield, Management Assistant

**Recommended City Council Action**

Mayor Moss and Cindy Phelps, Fitness Coordinator, accept the Healthy Community Award on behalf of the City from Barb Wisney, Colorado Parks and Recreation Association President.

**Summary Statement**

- The National Recreation and Parks Association (NRPA) American Park and Recreation Society (APRS) Healthy Community Award was presented to the City of Westminster at the NRPA Annual Congress. Winners are recognized for comprehensive efforts of an agency to establish community-wide focus on fitness and wellness issues.
- Of five classifications, Westminster is the 2002 winner of Class II, population size 100,000 to 200,000.

**Expenditure Required:** \$ 0

**Source of Funds:** N/A

**Policy Issue:**

There are no policy issues associated with the acceptance of this award.

**Background Information**

Established in 1992 by the APRS Fitness and Wellness Division of NRPA, the Healthy Community Award honors a public agency that has positively impacted the fitness and wellness agenda on the local, state and national level through collaborative initiatives and leadership. Competition criteria for the Healthy Community Award includes facilities, programs offerings, registration levels, budgets, special events and resources used to promote health and fitness opportunities. It also considers how the agency incorporates health and fitness into direct services; how it supports, collaborates or facilitates other community resources to promote health and fitness; how it has been a community catalyst for educating the public for efforts and coalitions; and the efforts and means taken to network, outreach and establish community partners.

Respectfully submitted,

J. Brent McFall  
City Manager



## Agenda Item 8 A

**W E S T M I N S T E R**  
**C O L O R A D O**  
Agenda Memorandum

City Council Meeting  
November 11, 2002

**Subject:** Revised Employment Agreement with City Attorney Martin McCullough

**Prepared by:** Matt Lutkus, Deputy City Manager for Administration

**Recommended City Council Action**

Approve the revised employment agreement with Martin McCullough serving in the position of City Attorney for calendar years 2003 and 2004 and authorize the Mayor to execute the agreement on behalf of City Council.

**Summary Statement**

Each year, the employment contracts for the City Attorney, the City Manager and the Presiding Judge are reviewed and revised based on the results of the Council's performance evaluation of these positions. This year's evaluation of the City Attorney was completed on October 21. City Council action is requested to extend this contract for the calendar years 2003 and 2004 in substantially the same form as attached.

The compensation included in the attached agreement reflects Council's positive appraisal of Mr. McCullough's work performance and Council's review of salary survey data for the Greater Denver area. The salary and deferred compensation included in this agreement are similar to the prevailing rate of compensation provided to like positions in comparable cities.

**Expenditure Required:** \$126,402 plus benefits, plus \$1,264 if projected 2% mid-year across-the-board salary increase for employees generally is approved.

**Source of Funds:** CAO Salaries Account (2003 General Fund Approved Budget)

**Policy Issue**

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

**Alternative**

Do not approve the agreement as proposed.

**Background Information**

Council has previously discussed the 2003 salary for Mr. McCullough. The compensation that Council directed be included in the attached agreement reflects Council's favorable appraisal of Mr. McCullough's job performance during the past twelve months. In addition, the Council gave careful consideration to salary survey data from comparable cities in the greater Denver metro area.

Martin McCullough was appointed City Attorney on February 10, 1986, after holding the position of Acting City Attorney since September 1985. Prior to such positions, he was an attorney with the municipal law firm of Calkins, Kramer, Grimshaw and Harring. Marty holds a B.A. from the University of Virginia, an M.S. from Florida State University and graduated magna cum laude from the University of Houston School of Law in 1982. He is admitted to practice law in Texas and Colorado and is a member of the National Institute of Municipal Law Officers and the Colorado and Denver Bar Associations. Marty has served as president of the Attorneys Section of the Colorado Municipal League, is past president of the Metro City Attorney's Association, and is a member and past chairperson of the Local Government Committee of the Colorado Bar Association. Marty is also a past recipient of the Metro City Attorney's Association's "City Attorney of the Year" and "Leadership" awards.

At the time Council appointed Marty McCullough as City Attorney in February 1986, an employment agreement was formally approved by the Council to reflect the terms and conditions of his employment.

The City Attorney's employment agreement has typically followed substantially the same format and covered essentially the same terms and conditions as the City Manager's employment contract. The existing contract between Mr. McCullough and the City is scheduled to expire December 31, 2003.

Under the revised agreement:

- The City Attorney's total salary will increase to \$126,402 effective January 1, 2003, and to \$128,930 effective June 30, 2003, if the City funds the projected 2% across-the-board raise for City employees generally, inclusive of deferred compensation.
- The City Attorney may elect to receive a portion of his salary in the form of deferred compensation up to the maximum allowed by law.
- The proposed agreement would become effective as of January 1, 2003 and would expire on December 31, 2004.

City Council was previously provided with a salary survey of other area City Attorneys' compensation packages. The average salary of the cities surveyed indicated a median 2002 compensation of \$122,130 and an average of \$124,436, inclusive of deferred compensation, but exclusive of any end of year adjustments for 2003. This compares to the 2002 annual salary and deferred compensation for the Westminster City Attorney in the amount of \$122,720.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

## **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" as party of the first part, and MARTIN R. McCULLOUGH, hereinafter called "EMPLOYEE," as party of the second part, both of whom understand as follows:

WHEREAS, the CITY desires to continue employing the services of MARTIN R. McCULLOUGH, as City Attorney of the City of Westminster as provided by City Charter, Chapter IV, Section 4.13; 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

WHEREAS, EMPLOYEE previously accepted employment as City Attorney of said CITY.

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

### **SECTION 1. DUTIES:**

A. CITY hereby agrees to continue the employment of EMPLOYEE as City Attorney of CITY to perform the duties and functions specified in Section 4.13 of the City Charter, Chapter 16 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 prepare and submit a proposed budget for the City Attorney's Office 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.

C. EMPLOYEE shall supervise the staff of the City Attorney's Office as may be authorized by the City Council. All employees of the City Attorney's Office shall be employed by the City Attorney in accordance with the provisions of section 1-16-3 of the City Code.

### **SECTION 2. TERMS:**

A. During the term of this Agreement, EMPLOYEE agrees to remain in the exclusive employ of CITY. EMPLOYEE will serve as City Attorney for calendar years 2003 and 2004. EMPLOYEE agrees neither to seek, to accept, nor to become employed by any other employer until said termination date, unless said termination date is effected as hereinafter provided.

The term "employed" shall not be construed to include occasional 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. Each renewal of the Agreement shall be for a specified time. If this Agreement is not renewed, or terminated, as set forth in the Agreement, and the Agreement expires, EMPLOYEE shall continue to work under the terms of the last executed Agreement until a new Agreement is executed or EMPLOYEE is terminated after receiving four (4) months' written notice of termination.

#### 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 City Attorney, 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 four (4) months, 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 four (4) months' 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. Effective January 1, 2003, the CITY agrees to pay EMPLOYEE for his services rendered pursuant hereto an annual salary of \$126,402. Effective June 30, 2003, EMPLOYEE'S salary shall increase to \$128,930 if the City approves the projected mid-year 2% across-the-board raise for employees generally. EMPLOYEE'S salary shall be payable in installments at the same time as other employees of the CITY are paid, except that the EMPLOYEE may elect to receive a portion of this salary in the form of a lump sum amount of deferred compensation up to the then current maximum allowed by law.

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.

## SECTION 5. HOURS OF WORK:

A. 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.

B. EMPLOYEE shall not spend more than ten (10) hours per week in teaching, consulting, or other non-City connected business without the expressed prior approval of the Council. Provided, that such consulting or other non-City connected business does not constitute a conflict of any nature with EMPLOYEE'S work as City Attorney. City Council shall be the sole judge of such conflicts whose determination shall be final.

## 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 Colorado Bar Association, NIMLO, the Colorado Municipal League, and continuing legal education courses and seminars related to the practice of municipal law. 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 a monthly car allowance in the amount of \$300 per month and all benefits as are extended to all Department Head level employees, except that when such benefits are in conflict with this Agreement, said Agreement shall control.

## 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.

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 Agreement is entered into and shall be governed by the laws of the State of Colorado.
- F. Nothing in this Agreement shall be construed as creating any multiple fiscal year obligation on the part of the City within the meaning of Colorado Constitution Article X, Section 20.

IN WITNESS WHEREOF, the City of Westminster, Colorado, has caused this Agreement to be signed and executed on its behalf by its Mayor, and duly attested by its City Clerk, and EMPLOYEE has signed and executed this Agreement both effective as of the day and year first above written.

Approved by Westminster City Council this 11<sup>th</sup> day of November, 2002.

ATTEST:

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Ed Moss, Mayor

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City Clerk

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Martin R. McCullough



**W E S T M I N S T E R**  
**C O L O R A D O**

**Agenda Item 8 B**

**Agenda Memorandum**

City Council Meeting  
November 11, 2002



**SUBJECT:** 2003 Community Development Block Grant Projects

**Prepared By:** Robin Byrnes, Community Development Programs Coordinator

**Recommended City Council Action:** Approve the 2003 Community Development Block Grant projects totaling \$692,000.

**Summary Statement:**

- The City of Westminster receives an annual allocation of Community Development Block Grant funds (CDBG) from the United States Department of Housing and Urban Development (HUD). HUD has indicated the City will receive \$692,000 in 2003. In 2002, the City received \$692,000.
- The City is required by HUD to submit an Annual CDBG Action Plan that outlines its proposed uses for the funding. The CDBG Action Plan is due to HUD on January 15th of each year in order for the City to receive its allocation at the start of the CDBG program year, which is March 1<sup>st</sup>.
- Prior to submission of the CDBG Action Plan to HUD on January 15<sup>th</sup>, 2003, the City will submit the CDBG Action Plan to Adams County on December 15, 2002, for a 30-day review and public comment period. The City and Adams County signed an Intergovernmental Agreement to become part of the Adams County HOME program consortium that began on March 1, 2002. By joining the Adams County HOME program consortium the City is able to access \$200,000 annually for the provision of Down Payment Assistance and Housing Rehabilitation Loan Program services.
- The CDBG funds are to be used for projects and programs that primarily benefit the City's low to moderate-income populations and address blight conditions.
- Eligible project activities may include economic development/redevelopment, public facility and infrastructure improvements, and affordable housing activities.
- The following are the proposed 2003 CDBG projects:

2003 CDBG Program Administration	\$138,400
Lowell Boulevard Streetscape Improvements (Design)	\$50,000
Bradburn Boulevard Streetscape Improvements (Design)	\$50,000
Westminster Grange Restoration (Architectural Design)	\$75,000
Meade Street Streetscape Improvements (Construction)	\$278,600
<u>Human Service Advisory Board Recommendations</u>	\$100,000
<b>TOTAL</b>	<b>\$692,000</b>

**Expenditure Required:** \$692,000

**Source of Funds:** 2003 Community Development Block Grant (CDBG) Funds

**Policy Issues**

Does City Council concur with the project priorities that Staff is recommending?

**Alternatives**

City Council can alter the projects and the funding allocations. Staff recommends the proposed list of 2003 CDBG projects be approved as presented, because they address south Westminster revitalization efforts and provide construction and final design funding for projects funded with 2002 CDBG funds.

**Background Information**

The 2003 CDBG budget and projects were developed from input provided by Westminster residents, City Staff, and independent organizations operating in the City. Public notices and citizen comment periods were also used to solicit community input on the development of the 2003 CDBG Action Plan. The following is a summary of each proposed project.

<i>2003 CDBG Program Administration</i>	<i>\$138,400</i>
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The program administration funds would cover the salaries of the Community Development Programs Coordinator and one full-time Secretary totaling approximately \$90,000. HUD allows grantees to utilize up to 20% of the CDBG funding for administration and planning expenses. HUD has requested that the City increase the administration/planning budget to build program and compliance capacity. Administrative costs associated with the administration of the CDBG program would be funded to include: professional/consultant fees, meeting expenses, professional training, supplies/materials, studies, environmental reviews, etc. Per HUD requirements, the City is required to provide a number of services that require expenditure of administrative funds beyond staffing. Those duties include submission of the 5 year Consolidated Plan, preparation of the annual action and performance reports, hosting citizen participation activities and community meetings, developing an Impediments to Fair Housing plan, monitoring minority business contract reports, preparation of a monitoring plan, conducting environmental reviews, compliance within the Davis Bacon wage act, lead based paint evaluations, national objective and eligibility review, contracting and procurement regulatory procedures.

<i>72<sup>nd</sup> Avenue to 80<sup>th</sup> Avenue on Bradburn Boulevard Streetscape Enhancements (Design)</i>	<i>\$50,000</i>
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The project will provide funding to prepare final construction documents for the streetscape enhancements along Bradburn Boulevard between 73<sup>rd</sup> Avenue and 80<sup>th</sup> Avenue. The construction documents will include street and sidewalk improvements and landscaping along Bradburn Boulevard. The project was provided 2002 CDBG funds for design and architectural rendering documents that are to be completed in early 2003.

<i>72<sup>nd</sup> Avenue to 80<sup>th</sup> Avenue Lowell Boulevard. Streetscape Enhancement (Design)</i>	<i>\$50,000</i>
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The project will provide funding to prepare final construction documents for the streetscape enhancements along Lowell Blvd. between 73<sup>rd</sup> Avenue and 80<sup>th</sup> Avenue. The construction documents will include street and sidewalk improvements and streetscaping along Lowell Blvd. The project was provided 2002 CDBG funds for design and architectural rendering documents that are to be completed in early 2003.

*Westminster Grange Restoration Architectural Design of Improvements* **\$75,000**

The project will provide funding for final architectural construction documents and provide matching funds with which to pursue restoration grants (\$200,000 - \$300,000) from the Historical Society of Colorado to initiate improvements to the Westminster Grange building. The project was provided 2002 CDBG funds to undertake an architectural assessment of the Westminster Grange, which is currently underway and will be completed in the winter of 2003.

*Meade Street Streetscape Improvements* **\$278,600**

The project will provide funding for construction documents and physical improvements to include curb, gutter, sidewalk, street lighting and landscaping improvements to Meade Street between 72<sup>nd</sup> Avenue and 73<sup>rd</sup> Avenue in conjunction with the Meade Street Townhouse redevelopment project. The project will complete street improvements to this area and complement the 73<sup>rd</sup> Avenue Street Reconstruction project on 73<sup>rd</sup> Avenue between Bradburn Boulevard and Lowell Boulevard that will be completed in the spring of 2003.

*Human Service Advisory Board Recommendation* **\$100,000**

The following programs and projects, totaling \$100,000, were previously approved by City Council during the adoption of the 2003-2004 City budget process.

- Access Housing, Inc        \$9,000

To partially pay the staff salary of the Emergency Service Coordinator for the provision of services associated with the delivery of homeless services that includes: Homeless Prevention, Emergency Shelter, Adult Education, Transitional Housing, and Motel Vouchering programs.

- Adams County Housing Authority        \$19,500

To pay for costs associated with the delivery of services under the Housing Counseling Program. Housing Counseling Program services includes: homeless prevention, utility assistance, home ownership, foreclosure/eviction prevention, rental subsidy, reverse mortgage counseling and certification, money management, and post-counseling to ensure continued housing retention.

- Adams County Mental Health Center        \$28,000

To pay for costs associated with the delivery of outpatient counseling services that include 24-hour crisis telephone service, day treatment programs, and programs that provide education and training to prepare individuals for independent living and employment.

- Alternatives to Family Violence        \$17,000

To pay for costs associated with the provision of housing for battered women, 24 hour crisis counseling, information, referral and advocacy, individual and group counseling for women, children and adolescents.

- Colorado Homeless Families        \$12,000

To pay for costs associated with the provision of transitional housing units for homeless families. Families receive housing, case management, counseling, education, support groups, English classes, and computer training. Colorado Homeless Families also provides food, clothing and furniture.

- Family Tree, Inc        \$14,500

**SUBJECT:**

2003 Community Development Block Grant Projects

Page 4

To pay for costs associated with the provision of emergency housing and support services for victims of domestic violence. Services provided include: crisis intervention, legal advocacy, food, shelter, children's counseling, case management, and family therapy.

Respectfully submitted,

J. Brent McFall  
City Manager



## Agenda Item 8 C

### W E S T M I N S T E R C O L O R A D O

#### Agenda Memorandum

City Council Meeting  
November 11, 2002



**SUBJECT:** 75' Aerial Apparatus Purchase

**Prepared By:** Jim Cloud, Fire Chief

#### Recommended City Council Action

Authorize the City Manager to sign a contract with Front Range Fire Apparatus in an amount not to exceed \$582,039 for one Pierce 75' Heavy Duty Ladder apparatus and authorize a down payment of \$110,000 with the expense to be paid from the appropriate 2002 Fire Department budget account with the balance of the cost to be provided by a lease purchase agreement.

#### Summary Statement

- City Council allocated funds into the 2002 Fire Department budget from the 2001 General Fund Carry Over for the replacement of a 1988 Pierce Tele-squirt Fire Pumper. The new apparatus will be used as a front line service unit assigned to the new Fire Station 2, 9050 Lowell Boulevard.
- The contract for this replacement piece of fire apparatus was negotiated with Front Range Fire Apparatus out of Boulder, Colorado. City Council originally approved negotiating a price with a sole vendor for fire apparatus, Pierce Manufacturing, in 1996 and again in 2001. This approval is good for a period of five years as long as the product remains superior in quality, engineering, workmanship, utilization of technology, and price remain competitive based on comparable unit pricing. Staff has reviewed all of these areas of concern and is satisfied that Pierce Manufacturing remains the leader in the construction of quality fire apparatus. Staff has also completed a cost analysis on similar apparatus purchased by other communities within the nation and are satisfied that the bid price is fair.
- The Fire Department will make a down payment of \$110,000 at contract signing and utilize the City's master lease program for the remaining costs. The current interest rate for the master lease program is around 3.5%. The Fire Department has included in the approved 2004 budget \$85,000 to cover these lease payments. This amount on a yearly basis will be sufficient to cover a lease interest rate of up to 6.8% over a seven -year period.
- Delivery for this piece of apparatus will be the fourth quarter of 2003. When received, the unit will respond to calls including building, grass and car fires, rescue and medical calls, and hazardous materials alarms. Additionally, the apparatus will be used for business inspections, preplan development, home safety surveys, public education, and firefighter training. The projected life expectancy for this apparatus is 15 to 20 years, with 12 to 15 years of front line service and three to five years as a reserve unit.

**Expenditure Required:** \$582,039

**Source of Funds:** Down payment of \$110,000 from the 2002 General Fund Fire Department budget. The remaining costs will be lease purchased through the City master lease agreement.

**Policy Issues**

- 1) Does City Council want to proceed with the purchase of this replacement fire apparatus and maintain the Fire Department major apparatus replacement schedule?
- 2) Does City Council want the Fire Department to proceed with the sole vendor decision of 2001 designating Pierce Manufacturing as the vendor of choice for fire apparatus?

**Alternatives**

- 1) City Council could direct Staff to take bids on this replacement apparatus and return for future approval.
- 2) City Council could direct Staff to delay the purchase of this replacement apparatus.

**Background Information**

A 1988 65-foot Pierce Tele-squirt is scheduled for replacement by the Fire Department in 2003. This unit is currently used as one of two reserve units by the Fire Department to replace front line units that are out of service for repairs or preventive maintenance. This tele-squirt unit will have been in service for 15 years upon the arrival of the replacement apparatus.

The tele-squirt, while still serviceable as a reserve unit, has logged over 133,000 miles and nearly 5,000 hours of motor/pump service to the community. Cabinet rusting, ongoing brake wear problems, and maintenance issues make the unit undesirable for front line service use. These issues are not significant if the unit is maintained as a reserve unit, particularly in light of the fact that \$32,000 was spent in 2001 to rebuild the engine and transmission.

Staff has completed an analysis and is recommending that rather than replace the tele-squirt with another tele-squirt that the unit be replaced with a 75-foot aerial ladder unit. An aerial ladder provides all of the service components of a tele-squirt plus a serviceable 75-foot ladder that would facilitate rescue and firefighter ingress/egress. The proposed aerial apparatus would also add 10 foot to the serviceable height capacity of the existing unit, which will prove valuable when the unit is needed to provide emergency service to the multi-story developments that have occurred in the City during the 1990's.

Staff is currently working with the City Manager's Office on the final disposition of the existing tele-squirt. Considerations include trading the unit in on the purchase of the new unit or keeping the unit for another couple of years thus increasing the reserve fleet to three units. Pierce Manufacturing has indicated that they would guarantee a \$27,000 trade-in for the 1988 tele-squirt. Fire Department and Fleet Maintenance Staff are interested in increasing the reserve fire apparatus to three for two reasons. First, on at least two occasions over the last year, the City had only five of the six front line fire apparatus in service due to repair issues indicating a need to increase the number of reserve units from two to three. Secondly, as the City continues to plan for the addition of a seventh front line fire apparatus and staff to serve the community, which is now tentatively scheduled for 2005, an additional reserve unit is warranted. The downside of increasing the reserve fleet is the cost associated with maintaining an additional unit, which has been estimated at \$8,000 a year.

The Fire Department has reviewed four similar fire apparatus units purchased within the last six months. These units were purchased by the Dallas-Fort Worth Airport (Texas), the Longboat Key Fire Rescue Department (Florida), the Washington Volunteer Fire Corporation (Apollo, Pennsylvania), and the Union Road Volunteer Fire Department (Gastonia, North Carolina). These units were similarly equipped to the proposed Westminster purchase. A summary of the amount paid by these jurisdictions is as follows:

DFW Airport	\$ 630,474
Longboat Key Fire Rescue	\$ 597,507
Washington TWP VFC #1	\$ 555,618
Union road VFD	\$ 570,523
Proposed Westminster Unit	\$ 564,149

A more detailed analysis of these comparison purchases is provided in Attachment #1.

Attachment #2 provides the detail of the proposed Westminster purchase including staff recommended options. Non-factory supplied items such as the mobile data terminal, radio equipment, and on board David Clark radio system is contracted by Front Range Fire Apparatus with local vendors. A summary of the total cost of the unit is as follows:

Base Price	\$ 532,668
Options	40,248
Less Factory Discounts	(8,767)
Factory Total	\$ 564,149
MDT, Radio, David Clark System	17,890
Total	\$ 582,039

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments (2)

Attachment # 1		DWF	Longboat	Washington	Union	Westminste r					
<b>Comparisons of Pierce HD Ladders</b>											
	<b>Cost</b>										
Dash Cab	Included in Base	Yes	Yes	Yes	Yes	Yes					
Independent Front Suspension	\$7,183	Yes	No	Yes	No	Yes					
Dynalastic Rear Suspension	\$3,003	Yes	No	Yes	Yes	Yes					
Air Conditioning	\$6,193	Yes	No	Yes	Yes	Yes					
Pressure Governor	Included in Base	Yes	Yes	Yes	Yes	Yes					
Pump	Included in Base	Yes	Yes	Yes	Yes	Yes					
Quint/Ground Ladders	Included in Base	Yes	Yes	Yes	Yes	Yes					
Tandem Axle	Included in Base	Yes	Yes	Yes	Yes	Yes					
Transmission Retarder	\$6,081	Yes	No	No	No	No					
Texas Style Hose Load	Included in Base	Yes	Yes	Yes	Yes	Yes					
Motor Meets Emission Standards	\$6,675	No*	No*	No*	No*	Yes					
Aluminum Wheels	\$4,149	Yes	No	No	Yes	Yes					
Ladder Tip Controls	\$5,573	No	No	Yes	Yes	Yes					
Breathing Air to Ladder Tip	\$6,340	Yes	No	Yes	No	No					
110 AC to Tip	\$1,145	Yes	Yes	Yes	Yes	Yes					
Generator Upgrade	\$7,000	Yes	Yes	Yes	Yes	Yes					
Extendable Scene Lighting	\$1000 each	Yes (4)	Yes (3)	Yes (7)	Yes (5)	Yes (5)					
Roll Out Trays & Shelving	\$300-500 each	Yes (10)	Yes (7)	Yes (9)	Yes (5)	Yes (5)					
Cord Reel	\$2,800	Yes	Yes	Yes	Yes	Yes					
Compressed Air Foam System	\$40,000	No	No	Yes	No	No					
Non CAFS Foam System	Included in Base	Yes	Yes	No	No	No					
Extrication Hose & Reel	\$2,386	Yes	No	No	No	Yes					
Air Bottle Storage in Fender Wells	\$308 each	Yes (8)	Yes (7)	Yes (8)	Yes (5)	Yes (8)					
Little Giant Ladder including Storage	\$900	No	No	No	No	Yes					
Full Height Medical Storage Compartment	\$1,019	No	No	No	Yes	Yes					
Vogel Lubrication System	\$3,003	No	Yes	No	No	Yes					
<b>Apparatus Cost from Factory</b>		\$630,474	\$579,507	\$555,618	\$570,523	\$564,149					
* Motors were purchased before new emission standards which equates to a savings of \$6,675.											

Attachment # 2	
<b>Heavy Duty Ladder Price Breakdown</b>	
<b>Base Price</b>	\$ 532,668.00
<b>Factory Options</b>	
Vogel Automatic Lubrication System	\$ 2,875.00
Air Bottle Compartments - 8 Total	\$ 2,466.00
Little Giant Ladder Instorage Compartment	\$ 900.00
Aluminum Wheels (front and rear)	\$ 4,149.00
Air-conditioning - front and rear of cab	\$ 6,193.00
Full Height Medical Compartment	\$ 1,299.00
Aluminum Cab Floor	\$ 264.00
10" Raised Roof in Rear Crew Area	\$ 1,951.00
Independent Front Suspension	\$ 7,183.00
Hydraulic Hose Reel w/ 100' of hose	\$ 2,386.00
Equipment Contingency	\$ 5,000.00
Folding Seat	\$ 329.00
Lift Eye - Rope Rescue	\$ 252.00
Back Board Storage in Torque Box	\$ 344.00
Back -up Alarm Override	\$ 102.00
Pull Strip for Lift Up Doors (2)	\$ 80.00
Keyed Locks - Cab Doors	\$ 272.00
Generator Remote Start at Pump Panel	\$ 255.00
Stainless Steel Scuff Plates (10)	\$ 1,022.00
Aerial Tip Floodlights & Spotlights	\$ 1,070.00
Driver Control Differential Lock	\$ 1,856.00
<b>Sub-Total</b>	\$ 572,916.00
<b>Factory Discounts</b>	
\$110,000 Downpayment at Contract Signing	\$ 6,233.00
COD Payment @ Factory Upon Acceptance	\$ 2,534.00
<b>Sub-Total</b>	\$ 564,149.00
<b>Non-Factory Equipment &amp; Installation</b>	
MDT/Dave Clark System	\$ 15,814.00
Radio	\$ 2,076.00
<b>Total</b>	\$ 582,039.00



W E S T M I N S T E R  
C O L O R A D O

Agenda Memorandum

City Council Meeting  
November 11, 2002



**SUBJECT:** Disposition Of Used Dispatch Console Furniture

**Prepared By:** Vicki Pickett, Communications Supervisor  
Dan Montgomery, Police Chief

**Recommended City Council Action**

Authorize the Police Department to donate the used Watson dispatch console furniture from the communications center to the Colorado City, Arizona, Dispatch Center.

**Summary Statement**

- After approval was granted by City Council for the purchase of new replacement dispatch console furniture for the Public Safety Center, Council requested that a public safety agency receive the used equipment, rather than disposing of it via auction.
- The furniture has been advertised for sale for three months in two public-safety related publications with no responses being received.
- City Council action is requested to approve the donation of the used Watson dispatch console furniture and waive normal auction requirements.

**Expenditure Required:** \$0

**Source of Funds:** Not Applicable

**Agenda Item 8 D**

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**Policy Issue**

Should the City donate some of the console furniture to another public safety agency or dispose of it through auction?

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**Alternative**

Send the used equipment to auction to yield what is anticipated to be a small recovery of funds.

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**Background Information**

On July 11, 2002, City Council approved the purchase of new Watson dispatch console furniture for the Communications Center in the new Public Safety Center. At that time, Council requested that Staff locate a public safety dispatch center that could benefit from the City's used equipment, either from a sale or donation, rather than disposing of this property in the usual manner of sending used equipment to auction.

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The furniture was posted available in the APCO/NENA (Association of Public Safety Communications Officers/National Emergency Number Association) publication in their August/September issue, and also for three months on the "for sale" page in the CCIC (Colorado Crime Information Center) computer system, each asking interested parties to submit a bid without any specific price listed. Both of these resources are readily available in most public safety communication centers, however no responses were received. The vendor supplying the new dispatch equipment provided Staff with the name of a dispatch center that needed used console furniture, the Colorado City, Arizona, Dispatch Center.

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The Colorado City Dispatch Center is a 911 center that dispatches for approximately 250 square miles of rural area in northern Arizona and southern Utah. They dispatch for seven Fire Departments and two Police Departments. They just recently qualified for state funding to replace their 20-year old 911 telephone system and will be moving into a Police Department building from their current location at a fire station. They will not be able to move their existing 20-year old countertop and cabinet-style furniture and have no budget for new or used console furniture.

The City of Westminster's vendor for the new Watson equipment estimates the value of the old consoles at \$1,000 for the position with hydraulic controls and \$500 each for the other four on-mechanized consoles, for a total value of \$3,000. Since Staff has received no bids at any price for the purchase of this old equipment and the Communications Center in Colorado City, Arizona, has expressed an interest and has demonstrated a need, City Council can be assured the donation would be fully utilized and appreciated if such transfer is authorized.

Respectfully submitted,

J. Brent McFall  
City Manager

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## Agenda Item 8 E

**W E S T M I N S T E R**  
**C O L O R A D O**

### Agenda Memorandum

City Council Meeting  
November 11, 2002



**SUBJECT:** Sanitary Sewer Manhole Rehabilitation Contract

**Prepared By:** Richard A. Clark, P.E., Utilities Operations Manager  
Andy Mead, Utilities Operations Coordinator

#### Recommended City Council Action:

Authorize the City Manager to execute a contract with Levi Construction to complete the specified work as described in the project specifications; authorize a project budget of \$75,095 with a 10% contingency budget of \$7,500, and charge the appropriate budget account within the Utilities Division Wastewater Operations Budget.

#### Summary Statement:

- This project consists of the improvements to approximately 200 sanitary sewer manholes.
- The specific project work includes: staking/marketing manholes that are located in remote areas such as in open space locations, installation of new manhole rings and covers, raising/lowering manholes to grade, and locking down manholes for security reasons.
- Formal bids were issued and a bid opening took place on October 22. A total of six contractors bid on this project.
- Funds were budgeted for this expenditure in the 2002 Utilities Division Operations Budget.
- The lowest responsible bid was received from Levi Construction, a contractor that has been utilized for similar water/wastewater projects in the past.
- City Council is requested to approve the project contract with Levi Construction in the amount of \$75,095 plus a 10% contingency of \$7,500.

**Expenditure Required:** \$82,595

**Source of Funds:** Utilities Operations Wastewater Division Budget

**Policy Issue**

Should the City utilize Utility Fund monies to complete the needed sewer manhole rehabilitation project using an outside contractor as specified in the contract documents?

**Alternative**

Delay this manhole rehabilitation project until sometime in the future and continue to respond to problems caused by illegal access to manholes and subsequent vandalism or inflow of surface water to the sewer system through poorly sealed manholes.

**Background Information**

The project consists of exterior rehabilitation of approximately 200 sanitary sewer manholes. These manholes are located throughout the City in both the Big Dry Creek outfall (north area) and the Little Dry Creek outfall (south area). A substantial portion of the manholes are in the western portion of the City – north of 88<sup>th</sup> Avenue and west of Wadsworth Boulevard.

The sanitary sewer manhole rehabilitation project was advertised and a public bid opening was held October 22, 2002. Six bids were received and read at that time. Levi Construction was the lowest responsible bidder. The City has utilized Levi Construction for past utility projects and is satisfied with their quality of work.

The results of the submitted bids are as follows:

<b>Contractor</b>	<b>Bid Amount</b>
Levi Construction	\$ 75,095
Ricor, Inc.	\$ 75,360
AquaSource	\$ 76,765
T. Lowell Construction	\$134,900
New Design Construction	\$164,445
Crossroads Underground	\$220,003

The sanitary sewer manhole rehabilitation project is being performed to decrease the inflow of surface water into the manholes, to lock down manholes that are located in remote areas or in open space land, to minimize the damage caused by vandalism, and to clearly mark out manholes that are difficult to locate. This project should be completed by the end of this year.

Respectfully submitted,

J. Brent McFall  
City Manager



**W E S T M I N S T E R**  
**C O L O R A D O**

**Agenda Item 8 F**

**Agenda Memorandum**

City Council Meeting  
November 11, 2002



**Subject:** Construction of 16-inch Waterline in Community Center Drive

**Prepared by:** Diane M. Phillips, Capital Improvement Projects Coordinator

:

**Recommended City Council Action**

Authorize payment of \$146,282 to the City of Northglenn for the construction and construction management of the Westminster 16-inch water that is being built in Community Center Drive by the City of Northglenn and to set aside a 15% contingency in the amount of \$22,000.

**Summary Statement**

- City Council approved an amended Intergovernmental Agreement (IGA) with the City of Northglenn for a Westminster Water Storage Tank Site on October 28, 2002.
- Per section 4 of the amended IGA, Westminster will make payment to Northglenn for the construction and construction management of a 16-inch Westminster waterline to be built in Northglenn's Community Center Drive when it is constructed.
- Bids were received at the City of Northglenn on October 30, 2002. A total of nine contractors bid on this project.
- The lowest responsible bid was received from HBG/Flatiron Construction.
- Sear Brown Engineering designed the waterline for Westminster as well as the roadway for Northglenn and will provide construction management for both projects. The cost for construction management for the waterline is \$20,500.
- Funds for this project are available in the Utility Fund Capital Improvement Budget.
- City Council is requested to approve payment to the City of Northglenn in the amount of \$146,282 to cover the HBG/Flatiron construction contract of \$146,282 and to cover the Sear Brown construction management contract of \$20,500 and to set aside a contingency of \$22,000.

**Expenditure Required:** \$188,782

**Source of Funds:** Utility Fund Capital Improvement Budget

**Policy Issue**

Should the City approve payment to the City of Northglenn for the construction and construction management of the 16-inch waterline in Community Center Drive.

**Alternative**

The City could reject all bids and delay construction of the waterline at this time but future construction would be more expensive once the road was built.

**Background Information**

The Treated Water Master Plan indicates that a water storage tank should be built on the north side of the City and that a 16-inch waterline is needed to serve this tank. The City of Northglenn is constructing a roadway that directly impacts Westminster's ability to build the 16-inch waterline and the line should be built now with the construction of the roadway.

City Council approved an amended Intergovernmental Agreement (IGA) with the City of Northglenn for a Westminster Water Storage Tank Site on October 28, 2002. Per section 4 of the amended IGA, Westminster will make payment to Northglenn for the construction and construction management of a 16-inch Westminster waterline to be built in Northglenn's Community Center Drive when it is constructed.

Westminster staff has worked with Northglenn staff to design the 16-inch waterline to be installed with the construction of the Northglenn roadway and Sear Brown Engineering designed both projects. City staff negotiated the cost that Sear Brown Engineering will provide construction management for the waterline in the amount of \$20,500.

Bids for construction of the waterline were received at the City of Northglenn on October 30, 2002 and are listed below. The engineer's estimate for this project is \$300,000.

<b>Contractor</b>	<b>Bid Amount</b>
HBG/Flatiron Construction	\$146,282
Tarco Inc Construction	\$173,700
Hamon Construction Inc	\$174,740
Sema Construction	\$176,195
American Civil Construction	\$188,986
Asphalt Specialties Company	\$199,975
Lawrence Construction	\$201,571
Edward Kramer & Sons, Inc	\$204,607
Defalco & Lee Construction	\$224,571

HBG/Flatiron Construction provided the lowest responsible bid and has completed several successful projects for the City.

Respectfully submitted,

J. Brent McFall  
City Manager



## Agenda Item 8 G

W E S T M I N S T E R  
C O L O R A D O

### Agenda Memorandum

City Council Meeting  
November 11, 2002



**SUBJECT:** Second Reading of Councillor's Bill No. 53 re Sign Code Revisions for 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 second reading approving certain revisions to Title 11, Chapter 11 of the Westminster Municipal Code, regarding sign regulations.

### Summary Statement

- City Council action is requested to pass the attached Councillor's Bill on second reading that makes revisions to Title 11, Chapter 11 of the City Code, regarding sign regulations for menu board signs, projection signs and election and political signs.
- This Councillor's Bill 53 was passed on first reading on October 28, 2002.
- At the October 28, 2002 City Council meeting, Council requested Staff to prepare a revision to the Sign Code to allow for electronic changeable copy signs for gasoline pricing and to address the legal aspects of such a change. Staff is presently drafting Code language and researching the legal aspects of such a change. This amendment will be brought forward to City Council for action within the next two months.

**Expenditure Required:** \$ 0

**Source of Funds:** N/A

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO.  
SERIES OF 2002

COUNCILLOR'S BILL NO. 53

INTRODUCED BY COUNCILLORS

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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 28<sup>th</sup> day of October, 2002.

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

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Mayor

ATTEST:

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City Clerk



## Agenda Item 8 H

W E S T M I N S T E R  
C O L O R A D O

### Agenda Memorandum

City Council Meeting  
November 11, 2002



**SUBJECT:** Second Reading of Councillor's Bill No. 54 re Amending the Salary for the Municipal Judge

**Prepared By:** Matt Lutkus, Deputy City Manager for Administration

#### Recommended City Council Action:

Pass Councillor's Bill No. 54 on second reading regarding the change to the salary for the Presiding Judge.

#### Summary Statement

- City Council action is requested to pass the attached Councillor's Bill on second reading, which approves a revised employment agreement with John A. Stipech for services as a Presiding Judge.
- This Councillor's Bill was passed on first reading on October 28, 2002.
- 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 three percent or \$3,025 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 (bring 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.
- If approved by City Council, the previously approved agreement and salary change will go into effect January 1, 2003.

**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

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO. **2980**

COUNCILLOR'S BILL NO. **54**

SERIES OF 2002

INTRODUCED BY COUNCILLORS

**Dixion-Atchison**

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 \$11,000 \$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:

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Mayor

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City Clerk



**W E S T M I N S T E R**  
**C O L O R A D O**

**Agenda Item 8 I**

**Agenda Memorandum**

City Council Meeting  
November 11, 2002



**SUBJECT:** Second Reading of 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 second reading providing for supplemental appropriations to the 2002 budget of the General Fund and General Capital Improvement Fund.

**Summary Statement**

- City Council action is requested to pass the attached Councillor's Bill on second reading, which authorizes a supplemental appropriation to the 2002 Budget of the General Fund and General Capital Improvement Fund.
- This Councillor's Bill was passed on first reading on October 28, 2002.
- General Fund amendments total \$56,576.
- General Capital Improvement Fund amendments total \$32,962.

**Expenditure Required:** \$89,538

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

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO.  
SERIES OF 2002

COUNCILOR'S BILL NO. **55**  
INTRODUCED BY COUNCILLORS

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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
<b>REVENUES</b>			
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
<b>REVENUES</b>			
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>	
<b>EXPENSES</b>			
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:

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Mayor

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City Clerk



**W E S T M I N S T E R**  
**C O L O R A D O**

**Agenda Item 8 J**

**Agenda Memorandum**

City Council Meeting  
November 11, 2002



**SUBJECT:** Second Reading of Councillor's Bill No. 56 re City Water System Security Assessment

**Prepared By:** Abel Moreno, Projects Coordinator

**Recommended City Council Action**

Pass Councilor's Bill No. 56 on second reading appropriating \$115,000 from the USEPA Vulnerability Assessment Grant to the 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. [Formatted: Bullets and Numbering]
- 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. [Formatted: Bullets and Numbering]
- 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. [Formatted: Bullets and Numbering]
- Formal proposals were solicited from eight consultants, with seven returning qualified proposals. City Council action awarded the contract to RMC at the October 28, 2002 City Council meeting. RMC met 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. [Deleted: and]
- City Council passed this Councillor's Bill on first reading on October 28, 2002.

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

**Source of Funds:** United States EPA Vulnerability Assessment Grant

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.  
SERIES OF 2002

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

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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
<b>REVENUES</b>			
Federal Grants 2000.40610.0000	\$61,000	<u>\$115,000</u>	\$176,000
Total Change to Revenues		<u>\$115,000</u>	
<b>EXPENSES</b>			
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 28<sup>th</sup> day of October, 2002.

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

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk



## Agenda Item 10 A

W E S T M I N S T E R  
C O L O R A D O

### Agenda Memorandum

City Council Meeting  
November 11, 2002



**SUBJECT:** Councillor's Bill No. 57 re GE Access Business Assistance Package

**Prepared By:** Becky Johnson, Economic Development Program Coordinator

#### Recommended City Council Action

Pass Councilor's Bill No. 57 on first reading authorizing the City Manager to execute and implement the business assistance agreement with GE Access the value of which totals \$226,500, and includes \$24,000 in permit fee rebates, \$63,000 in construction use tax rebates and \$49,500 in equipment use tax at move-in, and \$90,000 in equipment use tax rebates over the first three years of operation.

#### Summary Statement

- City Council action is requested to pass the attached Councillor's Bill that authorizes the execution of the attached business assistance agreement with GE Access.
- This assistance package is based upon the City's goal to attract quality companies to vacant space within the community.

**Expenditure Required:** \$ 0

**Source of Funds:** N/A

### **Policy Issues**

Does Council desire to provide assistance to GE Access to promote the company's relocation to Westmoor Techonology Park?

### **Alternatives**

Do Nothing: One alternative to offering the recommended business assistance package is to offer nothing to this company. The City may lose the project if assistance is not provided, and not attract the resulting quality jobs.

Provide Less: Another alternative is to provide less assistance than what is recommended. The recommended assistance would not be considered competitive in today's market.

Provide More: A third alternative would be to provide a greater amount of assistance than recommended. Staff is recommending an assistance package that is 45% of the total 5-year projected revenue. It is staff's opinion that additional assistance is not needed.

### **Background Information**

GE Access is negotiating a lease to locate their corporate headquarters from 1426 Pearl Street in Boulder, to 11300 Westmoor Circle in Westminster. The company is planning to sublease approximately 80,000 square feet in building 9 in Westmoor Technology Park from SunMicrosystems. GE Access, formerly known as Access Graphics, is a technical distributor of complex computer products, solutions and services. This company is a division of MRA Systems, Inc. which is a wholly owned subsidiary of General Electric Company. The purpose of the relocation is to consolidate their current facilities into one building.

Based upon City Council's desire to attract quality companies to Westminster to fill existing vacant space, staff is proposing a business assistance package for this company. The average wage paid by this company is about \$75,000 per year. With employment at approximately 400 employees, the resulting annual payroll is approximately \$29 million. GE Access projects an annual increase of five percent in employment over the next five years with an annual payroll of \$32.8 million by 2006.

It is anticipated that GE Access will generate over \$508,280 of new revenue directly to the City in the first five years of operation. This is based on \$4.2 million in tenant finish and new equipment purchases of \$3.3 million at move-in, and \$10 million (\$2 million per year) in equipment purchases over the next five years. Based on a 5-year projection of direct and indirect City tax and fee revenue, Staff recommends the following business assistance package:

<b>Proposed Assistance</b>	<b>Approximate Value</b>
<u>Building Permit-Fee Rebate</u> 100% of the building related fees (excluding water & sewer tap fees) will be rebated ( $\$24,053 \times 100\% = \$24,053$ )	\$24,000
<u>Building Use Tax Rebate</u> 100% of the General Use Tax (excludes the City's .25% Open Space Tax) on construction materials for this project will be rebated ( $\$63,000 \times 100\% = \$63,000$ )	\$63,000

Use Tax on Furniture and Fixtures Rebate \$49,500  
*At move-in*

For the period 3 months prior and the 3 months after GE Access obtains the Certificate of Occupancy for the new Westminster facility, the City will rebate 50% of the General Use Tax (excludes the City's .25% Open Space Tax) collected on the furnishings and equipment purchased to operate the new facility (\$3.3 million new equipment x 3% Use Tax x 50% = \$49,500)

*Annual Rebate for the first three years of operation* \$90,000

The City will rebate 50% of the General Use Tax (excludes the City's .25% Open Space Tax) collected on the furnishings and equipment purchased to furnish the new facility over the first three years of operation (\$2 million new equipment x 3% Use Tax x 50% x 3 years = \$90,000)

**Total Proposed Assistance Package Not to Exceed \$226,500**

As Council will note, the assistance being proposed is 45% (\$226,500 total assistance divided by \$508,280 Projected Revenue = 45%) of the total direct general use tax and fee revenue projected from the project in the first 5 years of operation. The City will be made whole on this investment within the first 12 months (\$186,000 projected revenue at move-in, \$64,445 projected revenue the first year of operation, totaling \$250,445 in the first twelve months) of operation following the time of the Certificate of Occupancy. This assistance package is based upon the City's goals to attract quality companies, creation of new jobs to Westminster, and fill existing vacant space. Staff believes that GE Access will help attract future technology service corporations looking to locate in the City.

Respectfully submitted,

J. Brent McFall  
City Manager

## Attachments

**ASSISTANCE AGREEMENT FOR  
GE ACCESS IN THE CITY OF WESTMINSTER**

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2002, between the CITY OF WESTMINSTER (the "City"), and GE Access.

WHEREAS, the City wishes to provide certain assistance to GE Access in connection with the company's relocation to and the tenant finish of 80,000 square feet of existing space in Westmoor Technology Park in Westminster (the project); and

WHEREAS, GE Access expects the project to be completed by August 31, 2003; and

WHEREAS, GE Access plans to provide additional primary job creation within the City; and

WHEREAS, City Council finds the execution of this Agreement will serve to provide benefit and advance the public interest and welfare of the City and its citizens by securing the location of this economic development project within the City.

In consideration of the mutual promises set forth below, the City and GE Access agree as follows:

1. Building Permit Fee Rebates. The City shall rebate to GE Access, 100% of the building related permit fees for the project, required under W.M.C. Section 11-10-3 (E), excluding water and sewer tap fees.

2. Use Tax Rebate- Construction. The City shall rebate to GE Access 100% of the Building Use Tax on the construction material for the project, required under W.M.C. sections 4-2-9 and 4-2-3.

3. Use Tax Rebates

(a) Use Tax Rebate- Furniture and Fixtures. For purchases of items other than construction materials for the project made during 3 months prior and 3 months after the issuance of the Certificate of Occupancy for GE Access, the City shall rebate 50% of the General Use Tax remitted to the City of Westminster by GE Access on its use tax return. Such rebate shall be payable exclusively from those revenues actually collected by the City from the new GE Access facility and attributable to the imposition, of the City's 3.0% general use tax (exclusive of the City's .25% Open Space Tax).

(b) Use Tax Rebate-Operations. For purchases of items for the Westminster facility made during the first three years of operation, the City shall rebate to GE Access, 50% of the General Use Tax remitted to the City of Westminster on its use tax return. Such rebate shall be payable exclusively from those revenues actually collected by the City from the project and attributable to the imposition against GE Access facility of the 3.0% general use tax (exclusive of the City's .25% Open Space Tax).

(c) The total rebate as described in Paragraphs 3a and 3b of this agreement shall not exceed \$139,500.

(d) Payment of Rebates. The rebates shall be paid by the City in quarterly installments from the revenue actually collected and received by the City from GE Access. The payment of each quarterly installments shall be made within 20 days following the close of each calendar quarter. Payment will be submitted electronically to GE Access' designated financial institution.

4. Entire Agreement. This instrument shall constitute the entire agreement between the City and GE Access and supersedes any prior agreements between the parties and their agents or representatives, all of which are merged into and revoked by this Agreement with respect to its subject matter.

5. Termination. This Assistance Agreement shall terminate and become void and of no force or effect upon the City if GE Access has not moved into its new building by November 30, 2003; or should GE Access fail to comply with any City code.

6. Business Termination. In the event GE Access ceases business operations within the City within three (3) years after the new operations commence, then in such event GE Access shall pay to the City the total amount of fees and taxes which were due and payable by GE Access to the City but were rebated by the City, as well as reimburse the City for any funds provided to GE Access pursuant to this Agreement.

7. Subordination. The City's obligations pursuant to this Agreement are subordinate to the City's obligations for the repayment of any current or future bonded indebtedness and are contingent upon the existence of a surplus in sales and use tax revenues in excess of the sales and use tax revenues necessary to meet such existing or future bond indebtedness. The City shall meet its obligations under this Agreement only after the City has satisfied all other obligations with respect to the use of sales tax revenues for bond repayment purposes. For the purposes of this Agreement, the terms "bonded indebtedness," "bonds," and similar terms describing the possible forms of indebtedness include all forms of indebtedness that may be incurred by the City, including, but not limited to, general obligation bonds, revenue bonds, revenue anticipation notes, tax increment notes, tax increment bonds, and all other forms of contractual indebtedness of whatsoever nature that is in any way secured or collateralized by sales and use tax revenues of the City.

8. Annual Appropriation. Nothing in this Agreement shall be deemed or construed as creating a multiple fiscal year obligation on the part of the City within the meaning of Colorado Construction Article X, Section 20, and the City's obligations hereunder are expressly conditional upon annual appropriation by the City Council.

9. Governing Law: Venue. This Agreement shall be governed and construed in accordance with the laws of the State of Colorado. This Agreement shall be subject to, and construed in strict accordance with, the Westminster City Charter and the Westminster Municipal Code. In the event of a dispute concerning any provision of this agreement, the parties agree that prior to commencing any litigation, they shall first engage in a good faith the services of a mutually acceptable, qualified, and experienced mediator, or panel of mediators for the purpose of resolving such dispute. The venue for any lawsuit concerning this agreement shall be in the District Court for Jefferson County, Colorado.

**GE ACCESS**

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James Walker, Chief Financial Officer

ATTEST:

**CITY OF WESTMINSTER**

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J. Brent McFall  
City Manager

ATTEST:

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Title Michele Kelley  
City Clerk

**Adopted by Ordinance No. 2985**

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. 57

SERIES OF 2002

INTRODUCED BY COUNCILLORS

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A BILL

FOR AN ORDINANCE AUTHORIZING AN ASSISTANCE AGREEMENT WITH GE ACCESS FOR THE OCCUPANCY OF EXISTING SPACE AT WESTMOOR TECHNOLOGY PARK IN WESTMINSTER

WHEREAS, the successful attraction and retention of high quality development to the City of Westminster provides employment opportunities and increased revenue for citizen services and is therefore an important public purpose; and

WHEREAS, it is important for the City of Westminster to attract quality jobs and remain competitive with other local governments in creating assistance for occupancy of existing space in the City; and

WHEREAS, GE Access plans to lease 80,000 square feet of existing office space at Westmoor Technology Park in Westminster, and

WHEREAS, a proposed Assistance Agreement between the City and GE Access is attached hereto as Exhibit "A" and incorporated herein by this reference.

NOW, THEREFORE, pursuant to the terms of the Constitution of the State of Colorado, the Charter and ordinances of the City of Westminster, and Resolution No. 53, Series of 1988:

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Manager of the City of Westminster is hereby authorized to enter into an Assistance Agreement with GE Access in substantially the same form as the one attached as Exhibit "A", and upon execution of the Agreement to fund and implement said Agreement.

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

Section 3. 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 11th day of November 2002.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 25th day of November 2002.

ATTEST:

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Mayor

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City Clerk



## Agenda Item 10 B

### W E S T M I N S T E R C O L O R A D O

#### Agenda Memorandum

City Council Meeting  
November 11, 2002



**SUBJECT:** Councillor's Bill No. 58 re Excel Realty Trust Business Assistance Package

**Prepared By:** Becky Johnson, Economic Development Program Coordinator

#### Recommended City Council Action

Pass Councilor's Bill No. 58 on first reading authorizing the City Manager to execute and implement the business assistance agreement with Excel Realty Trust (Excel) which totals \$598,400, and includes \$4,800 in permit fee rebates, \$9,700 in construction use tax rebates, and \$10,900 in equipment use tax at move-in, and \$573,000 in sales tax rebates over the first five years of operation.

#### Summary Statement

- City Council action is requested to pass the attached Councillors Bill which authorizes the execution of the attached business assistance agreement with Excel Realty Trust, Inc. to help attract Gordmans clothing store to the Westminster City Center Marketplace Shopping Center.
- This assistance package is based upon the City's goal to generate additional sales tax revenue and support the filling of existing retail space.
- The addition of Gordmans will contribute to the vitality of City Center Marketplace.

**Expenditure Required:** \$ 0

**Source of Funds:** The business assistance package to Excel will be funded through revenue received from permit fees, construction use tax, equipment use tax, and sales tax directly generated from Gordmans tenant finish and occupancy in Westminster City Center Marketplace Shopping Center.

**SUBJECT:** Councillor's Bill No. 58 re Excel Excel Realty Trust Business Assistance Package - Page 2

### **Policy Issue**

Does Council desire to provide assistance to Excel to promote the location of Gordmans to Westminster City Center Marketplace Shopping Center?

### **Alternative**

Do Nothing: One alternative to offering the recommended business assistance package is to offer nothing to this company. Though City may lose the project if assistance is not provided, the result would be that the City's value of attracting quality companies and filling existing vacant space would not be supported.

Provide Less: Another alternative is to provide less assistance than what is recommended. The recommended assistance package is considered competitive in today's market.

Provide More: A third alternative would be to provide a greater amount of assistance than recommended. As noted above, Staff has recommended an assistance package that is 39% of the total 5-year projected revenue.

### **Background Information**

Staff have been working with Excel Excel Realty Trust, owners of the Westminster City Center Marketplace Shopping Center at the northeast corner of 94<sup>th</sup> Avenue and Sheridan Boulevard, to fill vacant space in the center, formerly occupied by Home Place. As a result, Excel is working with Gordman's to lease over 53,000 square feet. This lease will result in bringing this center back to full occupancy. In an effort to remain competitive in the market and fill this vacant space, Excel Excel requested a business assistance package from the City, using revenue generated from Gordmans, to offset some of the costs in securing the tenant. As stated in the attached letter, Gordmans supports rebate assistance going to the building owner and will not seek further assistance from the City.

Based upon City Council's desire to fill existing vacancies in large retail centers and generate new sales tax revenue, staff is proposing a business assistance package for Excel Excel using revenue from Gordmans. Gordmans carries name brand clothing, accessories, a variety of soft goods and home fashions at discounted prices. This would be their first store in the City of Westminster. Gordmans estimates sales of over \$10 million per year at this location. It is anticipated that Gordmans will generate over \$1,497,730 of new revenue directly to the City in the first five years of operation. This is based on \$1.6 million in tenant finish and new equipment purchases of \$910,000 at move-in, \$50,000 in equipment purchases over five years, and \$47,775,000 in gross sales over the next 5 years. Staff recommends the following business assistance package:

<b>Proposed Assistance</b>	<b>Approximate Value</b>
<u>Building Permit-Fee Rebate</u> 40% of the building related fees (excluding water & sewer tap fees) would be rebated (\$12,088 x 40% = \$4,835)	\$4,800
<u>Building Use Tax Rebate</u> 40% of the General Use Tax (excludes the City's .25% Open Space Tax) on construction materials for this project would be rebated (\$24,342 x 40% = \$9,736)	\$9,700

**SUBJECT:** Councillor's Bill No. 58 re Excel Excel Realty Trust Business Assistance Package - Page 3

Use Tax on Furniture and Fixtures Rebate \$10,900

For the period 3 months prior and the 3 months after Gordmans obtains the Certificate of Occupancy at City Center Marketplace, the City would rebate 40% of the General Use Tax (excludes the City's .25% Open Space Tax) collected on the furnishing and equipment purchased to furnish the new facility (\$910,000 new equipment x 3% Use Tax x 40% = \$10,920)

Sale Tax Rebate \$573,000

40% of the Sales Tax collected in the first five years of operation would be rebated (excludes the City's .25% Open Space Tax). This amount shall not exceed \$573,000 or continue past 5 years of operation.

**Total Proposed Assistance Package Not Exceed over 5 years \$598,400**

As Council will note, the assistance being proposed is 39% (\$598,400 total assistance divided by \$1,497,730 Projected Revenue = 39%) of the total direct sales and general use tax and fee revenue projected from the project in the first 5 years of operation. The City will be made whole on this investment within 18 to 24 months of operation (\$89,222 projected revenue during the construction phase, \$255,000 in revenue during year one, and \$277,500 in revenue during year two, totaling \$621,722 in the first 24 months of operation).

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments

**ASSISTANCE AGREEMENT FOR  
EXCEL WESTMINSTER MARKETPLACE, INC.  
IN THE CITY OF WESTMINSTER**

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2002, between the CITY OF WESTMINSTER (the "City"), and Excel Westminster Marketplace, Inc. "Excel", including Gordmans tenant finish needs and requirement

WHEREAS, the City wishes to provide certain assistance to Excel to aid in locating Gordmans, a retail clothing and soft good store, to 53,000 square feet of existing space in Westminster City Center Marketplace Shopping Center; and

WHEREAS, Excel expects that the Gordmans tenant finish needs and requirements to be completed by September 30, 2003; and

WHEREAS, City Council finds the execution of this Agreement will serve to provide benefit and advance the public interest and welfare of the City and its citizens by securing the location of this economic development project within the City.

In consideration of the mutual promises set forth below, the City and Excel agree as follows:

1. Building Permit Fee Rebates. The City shall rebate to Excel 40% of the building related permit fees for a 53,000 square foot Gordmans store in City Center Marketplace, required under W.M.C. Section 11-10-3 (E), excluding water and sewer tap fees. The rebate shall not exceed \$4,800.

2. Use Tax Rebate- Construction. The City shall rebate to Excel 40% of the Building Use Tax on the construction materials, resulting from tenant finish on the 53,000 square foot Gordmans in City Center Marketplace, required under W.M.C. sections 4-2-9 and 4-2-3. The rebate shall not exceed \$9,700.

3. Use Tax Rebate- Furniture and Fixtures. For purchases other than constructions materials for Gordmans project made during the 3 months prior and 3 months after the issuance of the Certificate of Occupancy for Gordmans, the City shall rebate to Excel 40% of the General Use Tax remitted to the City of Westminster on Gordmans use tax return. Such Rebate shall be payable exclusively from those revenues actually collected by the City from Gordmans and attributable to the imposition, of the City's 3.0% general use tax (exclusive of the City's .25% Open Space Tax). The rebate shall not exceed \$10,900.

4. Sales Tax Rebate. The City shall rebate to Excel 40% of the amount of sales tax collected from Gordmans, located in Westminster City Center Marketplace Shopping Center, for the first five years (60 months) of operation. Such rebate shall be payable exclusively from sales tax revenue collected by the City from the Gordmans store and attributable to the imposition of the City's 3.0% general sales tax (exclusive of the City's .25% Open Space Tax). The total mount of the sales tax rebate shall not exceed \$573,00 or continue past five years of operation.

5. Payment of Rebates. The rebates shall be paid to Excel by the City in quarterly installments from revenue actually collected and received by the City from Gordmans. The payment of each quarterly installment shall be made within 20 days following the close of each calendar quarter. Payments will be submitted electronically to Excel's designated financial institution.

6. Entire Agreement. This instrument shall constitute the entire agreement between the City and Excel and supersedes any prior agreements between the parties and their agents or representatives, all of which are merged into and revoked by this Agreement with respect to its subject matter.

7. Termination. This Assistance Agreement shall terminate and become void and of no force or effect upon the City if Excel has not moved Gordmans into its new building by September 30, 2003; or should Excel or Gordmans fail to comply with any City code.

8. Business Termination. In the event Excel or Gordmans ceases business operations within the City within five years after the new operations commence, Excel shall reimburse the City for any amounts rebated to or otherwise provided to Excel pursuant to this Agreement.

9. Subordination. The City's obligations pursuant to this Agreement are subordinate to the City's obligations for the repayment of any current or future bonded indebtedness and are contingent upon the existence of a surplus in sales and use tax revenues in excess of the sales and use tax revenues necessary to meet such existing or future bond indebtedness. The City shall meet its obligations under this Agreement only after the City has satisfied all other obligations with respect to the use of sales tax revenues for bond repayment purposes. For the purposes of this Agreement, the terms "bonded indebtedness," "bonds," and similar terms describing the possible forms of indebtedness include all forms of indebtedness that may be incurred by the City, including, but not limited to, general obligation bonds, revenue bonds, revenue anticipation notes, tax increment notes, tax increment bonds, and all other forms of contractual indebtedness of whatsoever nature that is in any way secured or collateralized by sales and use tax revenues of the City.

10. Annual Appropriation. Nothing in this Agreement shall be deemed or construed as creating a multiple fiscal year obligation on the part of the City within the meaning of Colorado Construction Article X, Section 20, and the City's obligations hereunder are expressly conditional upon annual appropriation by the City Council.

11. Governing Law: Venue. This Agreement shall be governed and construed in accordance with the laws of the State of Colorado. This Agreement shall be subject to, and construed in strict accordance with, the Westminster City Charter and the Westminster Municipal Code. In the event of a dispute concerning any provision of this agreement, the parties agree that prior to commencing any litigation, they shall first engage in a good faith the services of a mutually acceptable, qualified, and experience mediator, or panel of mediators for the purpose of resolving such dispute. The venue for any lawsuit concerning this agreement shall be in the District Court for Adams County, Colorado.

**EXCEL WESTMINSTER MARKETPLACE, INC      CITY OF WESTMINSTER**

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Name:  
Title:

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J. Brent McFall  
City Manager

ATTEST:

ATTEST:

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Title Michele Kelley  
City Clerk

**Adopted by Ordinance No. 2986**

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **58**

SERIES OF 2002

INTRODUCED BY COUNCILLORS

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**A BILL**

**FOR AN ORDINANCE AUTHORIZING AN ASSISTANCE AGREEMENT  
WITH NEW PLAN EXCEL REALTY TRUST, INC.  
FOR THE OCCUPANCY OF GORDMANS IN EXISTING SPACE AT  
WESTMINSTER CENTER MARKETPLACE SHOPPING CENTER**

WHEREAS, the successful attraction and retention of high quality retail development to the City of Westminster provides employment opportunities and increased revenue for citizen services and is therefore an important public purpose; and

WHEREAS, it is important for the City of Westminster to generate additional sales tax revenue and remain competitive with other local governments in creating assistance for occupancy of existing retail space in the City; and

WHEREAS, New Plan Excel Realty Trust, Inc. plans to lease 53,000 square feet of existing retail space to Gordmans at Westminster City Center Marketplace Shopping Center, and

WHEREAS, a proposed Assistance Agreement between the City and New Plan Excel Realty Trust, Inc. is attached hereto as Exhibit "A" and incorporated herein by this reference.

NOW, THEREFORE, pursuant to the terms of the Constitution of the State of Colorado, the Charter and ordinances of the City of Westminster, and Resolution No. 53, Series of 1988:

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Manager of the City of Westminster is hereby authorized to enter into an Assistance Agreement with New Plan Excel Realty Trust, Inc. in substantially the same form as the one attached as Exhibit "A", and upon execution of the Agreement to fund and implement said Agreement.

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

Section 3. 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 11th day of November 2002.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 25<sup>th</sup> day of November 2002.

ATTEST:

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Mayor

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City Clerk



## Agenda Item 10 C

### W E S T M I N S T E R C O L O R A D O

#### Agenda Memorandum

City Council Meeting  
November 11, 2002



**SUBJECT:** Councillor's Bill No. 59 re H&H Enterprises Business Assistance Package

**Prepared By:** Becky Johnson, Economic Development Program Coordinator

#### Recommended City Council Action

Pass Councilor's Bill No. 59 on first reading authorizing the City Manager to execute the implement the business assistance agreement with H&H Enterprises, in the amount of \$7,300, which includes permit fee rebates, construction use tax rebates and equipment use tax at move-in.

#### Summary Statement

- City Council action is requested to pass the attached Councilors Bill which authorizes the execution of the attached business assistance agreement with H&H Enterprises.
- This assistance package is based upon the City's goal to retain quality companies within the community and validate the City's commitment to job retention.
- H&H Enterprises is located in south Westminster at 7131 Irving Street. The primary purpose of this assistance package is to encourage the expansion of this business and provide basic employment growth in south Westminster.
- Staff has worked with Adams County Economic Development and is proposing an additional assistance package from the County based upon retaining H&H Enterprises in the City of Westminster and Adams County

#### Expenditure Required: \$ 0

**Source of Funds:** The business assistance package to H&H Enterprises will be funded through permit fees, construction use tax, and equipment use tax directly generated from H&H Enterprises construction of their new facility at 71<sup>st</sup> and Irving in south Westminster.

### **Policy Issue**

Does Council desire to provide assistance to H&H enterprises to promote the expansion of their existing facility?

### **Alternative**

Do Nothing: One alternative to offering the suggested business assistance package is to offer nothing to this company. The City may lose the project if assistance is not provided, the result would be that the City's value of "retaining quality businesses" is not supported. A positive relationship is desirable with existing business particularly in south Westminster.

Provide Less: Another alternative is to provide less assistance than what is recommended. The recommended assistance package is considered very modest.

Provide More: A third alternative would be to provide a greater amount of assistance than recommended. Staff has recommended an assistance package that is 23% of the total 5-year projected revenue. There is room for additional funding. However, it is staff's opinion that additional assistance is not needed.

### **Background Information**

H&H Enterprises, Inc. has been in the City over 22 years, and is currently located at 7131 Irving Street, in south Westminster. H&H Enterprises is an architectural metal subcontractor that fabricates, sells, and installs decorative metal for application on commercial buildings, as well as markets pre-engineered buildings. The business has grown substantially and additional warehouse space is needed. Thus, H&H Enterprises is considering constructing 7,500 square feet of additional warehouse space at the current location, or relocating elsewhere. Other areas being considered for an expansion/relocation are Wheatridge, Arvada, and Broomfield.

Based upon City Council's desire to retain quality companies in Westminster and specifically aid development in south Westminster, staff is proposing a business assistance package to retain this company. It is staff's hope that H&H Enterprises will continue its growth and expansion within the City. Staff has worked with Adams County Economic Development to provide assistance from the county.

It is anticipated that H&H Enterprises, Inc. will generate over \$30,165 of new revenue directly to the City in the first five years of operation. This is based on a building valuation of \$300,000 and new equipment purchases of \$75,000 at move-in. To assist a smaller business with expansion in south Westminster, staff is proposing a higher percentage of rebate. Therefore, based on a 5-year projection of direct and indirect City tax and fee revenue, Staff recommends the following business assistance package:

<b>Proposed Assistance</b>	<b>Approximate Value</b>
<u>Building Permit-Fee Rebate</u> 70% of the building related fees (excluding water & sewer tap fees) will be rebated ( $\$3,550 \times 70\% = \$2,485$ ) not to exceed \$2,500	\$2,500
<u>Building Use Tax Rebate</u> 70% of the General Use Tax (excludes the City's .25% Open Space Tax) on construction materials for this project will be rebated ( $\$4,500 \times 70\% = \$3,150$ ) not to exceed \$3,200	\$3,200

<u>Use Tax on Furniture and Fixtures</u>	\$7,300
For the period 3 months prior and the 3 months after H&H Enterprises, Inc. obtains the Certificate of Occupancy for the new Westminster addition, the City will rebate 70% of the General Use Tax (excludes the City's .25% Open Space Tax) collected on the furnishing and equipment purchased to furnish the new facility (\$75,000 new equipment x 3% Use Tax x 70% = \$1,575) not to exceed \$1,600	
<b>Total Proposed Assistance Package Is Not to Exceed</b>	<b>\$7,300</b>

As Council will note, the assistance being proposed is 24% (\$7,300 total assistance divided by \$30,165 Projected Revenue = 23%) of the total direct general use tax and fee revenue projected from the project in the first 5 years of operation. The City will be made whole on this investment at the time of the Certificate of Occupancy.

Respectfully submitted,

J. Brent McFall  
City Manager

## Attachments

**ASSISTANCE AGREEMENT FOR  
H&H ENTERPRISES, INC. IN THE CITY OF WESTMINSTER**

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2002, between the CITY OF WESTMINSTER (the "City"), and H&H Enterprises, Inc.

WHEREAS, the City wishes to provide certain assistance to H&H Enterprises, Inc. to aid an existing Westminster business in its expansion efforts, while keeping it in the City; and

WHEREAS, H&H Enterprises plans to construct a 7,500 square feet warehouse facility at 71<sup>st</sup> and Irving in south Westminster, for its business expansion, thus providing additional primary job creation within the City; and

WHEREAS, City Council finds the execution of this Agreement will serve to provide benefit and advance the public interest and welfare of the City and its citizens by securing the location of this economic development project within the City.

In consideration of the mutual promises set forth below, the City and H&H Enterprises, Inc. agree as follows:

1. Building Permit Fee Rebates. The City shall rebate 70% of the building related permit fees, required under W.M.C. Section 11-10-3 (E), excluding water and sewer tap fees, to H&H Enterprises, Inc. which will result in construction of 7,500 square feet in south Westminster, expected to be completed by June 30, 2003. The permit fee rebate shall not exceed \$2,500.

2. Use Tax Rebate- Construction. The City shall rebate 70% of the Building Use Tax on the construction materials, which are to be used in construction of 7,500 square feet of space in south Westminster, required under W.M.C. sections 4-2-9 and 4-2-3, to H&H Enterprises, Inc. The rebate shall not exceed \$3,200.

3. Use Tax Rebate- Furniture and Fixtures. For purchases of items for the Westminster facility made during 3 months prior to the issuance of the Certificate of Occupancy for H&H Enterprises, Inc., the City shall rebate 70% of the General Use Tax remitted to the City of Westminster on its use tax return. The total rebate pursuant to this paragraph shall not exceed \$1,600 (the "Rebate"). Such Rebate shall be payable exclusively from those revenues actually collected by the City from the new H&H Enterprises, Inc. facility and attributable to the imposition against H&H Enterprises facility, of the City's 3.0% general use tax (excludes the City's .25% Open Space Tax). .

4. Entire Agreement. This instrument shall constitute the entire agreement between the City and H&H Enterprises, Inc. and supersedes any prior agreements between the parties and their agents or representatives, all of which are merged into and revoked by this Agreement with respect to its subject matter.

5. Termination. This Assistance Agreement shall terminate and become void and of no force or effect upon the City if H&H Enterprises, Inc. has not moved into its new building by June 30, 2003 or should H&H Enterprises, Inc. not comply with the City regulations or code.

6. Business Termination. In the event H&H Enterprises ceases business operations within the City within three (3) years after the new operations commence, then in such event H&H Enterprises shall pay to the City the total amount of fees and taxes which were due and payable by H&H Enterprises to the City but were rebated by the City, as well as reimburse the City for any funds provided to H&H Enterprises pursuant to this Agreement.

7. Subordination. The City's obligations pursuant to this Agreement are subordinate to the City's obligations for the repayment of any current or future bonded indebtedness and are contingent upon the existence of a surplus in sales and use tax revenues in excess of the sales and use tax revenues necessary to meet such existing or future bond indebtedness.

The City shall meet its obligations under this Agreement only after the City has satisfied all other obligations with respect to the use of sales tax revenues for bond repayment purposes. For the purposes of this Agreement, the terms "bonded indebtedness," "bonds," and similar terms describing the possible forms of indebtedness include all forms of indebtedness that may be incurred by the City, including, but not limited to, general obligation bonds, revenue bonds, revenue anticipation notes, tax increment notes, tax increment bonds, and all other forms of contractual indebtedness of whatsoever nature that is in any way secured or collateralized by sales and use tax revenues of the City.

8. Annual Appropriation. Nothing in this Agreement shall be deemed or construed as creating a multiple fiscal year obligation on the part of the City within the meaning of Colorado Construction Article X, Section 20, and the City's obligations hereunder are expressly conditional upon annual appropriation by the City Council.

9. Governing Law: Venue. This Agreement shall be governed and construed in accordance with the laws of the State of Colorado. This Agreement shall be subject to, and construed in strict accordance with, the Westminster City Charter and the Westminster Municipal Code. In the event of a dispute concerning any provision of this agreement, the parties agree that prior to commencing any litigation, they shall first engage in a good faith the services of a mutually acceptable, qualified, and experience mediator, or panel of mediators for the purpose of resolving such dispute. The venue for any lawsuit concerning this agreement shall be in the District Court for Adams County, Colorado.

**H&H ENTERPRISES**

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Kathy C. Huff, President

**CITY OF WESTMINSTER**

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J. Brent McFall  
City Manager

ATTEST:

ATTEST:

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Title Michele Kelley  
City Clerk

**Adopted by Ordinance No. 2987**

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **59**

SERIES OF 2002

INTRODUCED BY COUNCILLORS

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**A BILL  
FOR AN ORDINANCE AUTHORIZING AN ASSISTANCE AGREEMENT  
WITH H&H ENTERPRISES, INC. FOR THE CONSTRUCTION OF A NEW WAREHOUSE  
FACILITY IN SOUTH WESTMINSTER**

WHEREAS, the successful attraction and retention of high quality development to the City of Westminster provides employment opportunities and increased revenue for citizen services and is therefore an important public purpose; and

WHEREAS, it is important for the City of Westminster to remain competitive with other local governments in creating assistance for high quality development to locate in the City; and

WHEREAS, H&H Enterprises, Inc. plans to lease 7,500 square feet of warehouse at 71<sup>st</sup> and Irving in south Westminster, and

WHEREAS, a proposed Assistance Agreement between the City and H&H Enterprises, Inc. is attached hereto as Exhibit "A" and incorporated herein by this reference.

NOW, THEREFORE, pursuant to the terms of the Constitution of the State of Colorado, the Charter and ordinances of the City of Westminster, and Resolution No. 53, Series of 1988:

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Manager of the City of Westminster is hereby authorized to enter into an Assistance Agreement with H&H Enterprises, Inc. in substantially the same form as the one attached as Exhibit "A", and upon execution of the Agreement to fund and implement said Agreement.

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

Section 3. 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 11th day of November 2002.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 25<sup>th</sup> day of November 2002.

ATTEST:

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Mayor

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City Clerk



## Agenda Item 10 D

WESTMINSTER  
COLORADO

### Agenda Memorandum

City Council Meeting  
November 11, 2002



**SUBJECT:** Councillor's Bill No. 60re SunCorp Corporate Credit Union Business Assistance Package

**Prepared By:** Becky Johnson, Economic Development Program Coordinator

### Recommended City Council Action

Pass Councilor's Bill No.60 on first reading authorizing the City Manager to execute the implement the business assistance agreement in the amount of \$15,300, which includes permit fee rebates, construction use tax rebates and equipment use tax at move-in, with SunCorp Corporate Credit Union.

### Summary Statement

- City Council action is requested to pass the attached Councilors Bill which authorizes the execution of the attached business assistance agreement with SunCorp.
- This assistance package is based upon the City's goal to attract quality companies to vacant space within the community.

### Expenditure Required: \$ 0

**Source of Funds:** The business assistance package to SunCorp will be funded through permit fees, construction use tax, and equipment use tax directly generated from tenant finish and occupancy in CirclePoint Corporate Center.

## **Policy Issue**

Does Council desire to provide assistance to SunCorp to promote the company's relocation to CirclePoint Corporate Center?

### **Alternative**

Do Nothing: One alternative to offering the recommended business assistance package is to offer nothing to this company. Though the City may lose the project if assistance is not provided, the result would be that the City's value of attracting quality companies and filling existing vacant space would not be supported.

Provide Less: Another alternative is to provide less assistance than what is recommended. The recommended assistance package is considered very modest.

Provide More: A third alternative would be to provide a greater amount of assistance than recommended. Staff is recommending an assistance package that is 19% of the total 5-year projected revenue. There is room for additional funding. However, it is staff's opinion that additional assistance is not needed.

### **Background Information**

SunCorp Credit Union is looking to relocate their corporate headquarters from 4905 West 60<sup>th</sup> Avenue in Arvada to the US 36 corridor. SunCorp is a corporate credit union that acts as a central bank for all of the other credit unions in the Rocky Mountain/Great Plains region. This company currently serves 450 credit unions in the region providing wholesale investments, loans, and correspondent banking services. The purpose of the relocation is to be central to their customer base.

Based upon City Council's desire to attract quality companies in Westminster to fill existing vacant space, staff is proposing a business assistance package to this company. The average wage paid by this company is \$69,000 per year. With employment at approximately 65 employees the resulting annual payroll is approximately \$4.5 million. Within the next five full years of operation, SunCorp has projected employment to grow to 110 employees with an annual payroll of \$6.15 million.

It is anticipated that SunCorp will generate over \$77,000 of new revenue directly to the City in the first five years of operation. This is based on \$1.1 million in tenant finish and new equipment purchases of \$850,000 at move-in. Based on a 5-year projection of direct and indirect City tax and fee revenue, Staff recommends the following business assistance package:

<b>Proposed Assistance</b>	<b>Approximate Value</b>
<u>Building Permit-Fee Rebate</u> 30% of the building related fees (excluding water & sewer tap fees) will be rebated ( $\$9,213 \times 30\% = \$2,763$ ) not to exceed \$2,800	\$2,800
<u>Building Use Tax Rebate</u> 30% of the General Use Tax (excludes the City's .25% Open Space Tax) on construction materials for this project will be rebated ( $\$16,500 \times 30\% = \$4,950$ ) not to exceed \$4,900	\$4,900

<u>Use Tax on Furniture and Fixtures Rebate</u>	\$7,600
For the period 3 months prior and the 3 months after SunCorp obtains the Certificate of Occupancy for the new Westminster facility, the City will rebate 30% of the General Use Tax (excludes the City's .25% Open Space Tax) collected on the furnishing and equipment purchased to furnish the new facility (\$850,000 new equipment x 3% Use Tax x 30% = \$7,600) not to exceed \$7,600	
<b>Total Proposed Assistance Package Not To Exceed</b>	<b>\$15,300</b>

As Council will note, the assistance being proposed is 20% (\$15,300 total assistance divided by \$77,000 Projected Revenue = 20%) of the total direct general use tax and fee revenue projected from the project in the first 5 years of operation. The City will be made whole on this investment at the time of the Certificate of Occupancy.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment(s)

**ASSISTANCE AGREEMENT FOR  
SUNCORP CORPORATE CREDIT UNION  
IN THE CITY OF WESTMINSTER**

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2002, between the CITY OF WESTMINSTER (the "City"), and SunCorp Corporate Credit Union (SunCorp).

WHEREAS, the City wishes to provide certain assistance to SunCorp to aid in relocating to 30,000 square feet of existing space in CirclePoint Corporate Center in Westminster; and

WHEREAS, SunCorp plans to provide additional primary job creation within the City; and

WHEREAS, City Council finds the execution of this Agreement will serve to provide benefit and advance the public interest and welfare of the City and its citizens by securing the location of this economic development project within the City.

In consideration of the mutual promises set forth below, the City and SunCorp agree as follows:

1. Building Permit Fee Rebates. The City shall rebate 30% of the building related permit fees, required under W.M.C. Section 11-10-3 (E), excluding water and sewer tap fees, to SunCorp which will result in tenant finish of 30,000 square feet in CirclePoint Corporate Center, expected to be completed by June 30, 2003. The permit fee rebate shall not exceed \$2,800.

2. Use Tax Rebate- Construction. The City shall rebate 30% of the Building Use Tax on the construction materials, which are to be used in tenant finish of 30,000 square feet of space, required under W.M.C. sections 4-2-9 and 4-2-3, to SunCorp. The rebate shall not exceed \$4,900.

3. Use Tax Rebate- Furniture and Fixtures. For purchases of items for the Westminster facility made during 3 months prior and 3 months after the issuance of the Certificate of Occupancy for SunCorp, the City shall rebate 30% of the General Use Tax remitted to the City of Westminster on its use tax return. The total rebate pursuant to this paragraph shall not exceed \$7,600 (the "Rebate"). Such Rebate shall be payable exclusively from those revenues actually collected by the City from the new SunCorp facility and attributable to the imposition against SunCorp facility, of the City's 3.0% general use tax (excludes the City's .25% Open Space Tax).

4. Entire Agreement. This instrument shall constitute the entire agreement between the City and SunCorp and supersedes any prior agreements between the parties and their agents or representatives, all of which are merged into and revoked by this Agreement with respect to its subject matter.

5. Termination. This Assistance Agreement shall terminate and become void and of no force or effect upon the City if SunCorp has not moved into its new building by June 30, 2003; or should SunCorp fail to comply with any City code.

6. Business Termination. In the event SunCorp ceases business operations within the City within three (3) years after the new operations commence, then in such event SunCorp shall pay to the City the total amount of fees and taxes which were due and payable by SunCorp to the City but were rebated by the City, as well as reimburse the City for any funds provided to SunCorp pursuant to this Agreement.

7. Subordination. The City's obligations pursuant to this Agreement are subordinate to the City's obligations for the repayment of any current or future bonded indebtedness and are contingent upon the existence of a surplus in sales and use tax revenues in excess of the sales and use tax revenues necessary to meet such existing or future bond indebtedness. The City shall meet its obligations under this Agreement only after the City has satisfied all other obligations with respect to the use of sales tax revenues for bond repayment purposes.

For the purposes of this Agreement, the terms "bonded indebtedness," "bonds," and similar terms describing the possible forms of indebtedness include all forms of indebtedness that may be incurred by the City, including, but not limited to, general obligation bonds, revenue bonds, revenue anticipation notes, tax increment notes, tax increment bonds, and all other forms of contractual indebtedness of whatsoever nature that is in any way secured or collateralized by sales and use tax revenues of the City.

8. Annual Appropriation. Nothing in this Agreement shall be deemed or construed as creating a multiple fiscal year obligation on the part of the City within the meaning of Colorado Construction Article X, Section 20, and the City's obligations hereunder are expressly conditional upon annual appropriation by the City Council.

9. Governing Law: Venue. This Agreement shall be governed and construed in accordance with the laws of the State of Colorado. This Agreement shall be subject to, and construed in strict accordance with, the Westminster City Charter and the Westminster Municipal Code. In the event of a dispute concerning any provision of this agreement, the parties agree that prior to commencing any litigation, they shall first engage in a good faith the services of a mutually acceptable, qualified, and experience mediator, or panel of mediators for the purpose of resolving such dispute. The venue for any lawsuit concerning this agreement shall be in the District Court for Jefferson County, Colorado.

**SUNCORP CORPORATE CREDIT UNION**

**CITY OF WESTMINSTER**

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President

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J. Brent McFall  
City Manager

ATTEST:

ATTEST:

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Title Michele Kelley  
City Clerk

**Adopted by Ordinance No. 2990**

BY AUTHORITY

ORDINANCE NO.  
SERIES OF 2002

COUNCILLOR'S BILL NO. **60**  
INTRODUCED BY COUNCILLORS

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**A BILL  
FOR AN ORDINANCE AUTHORIZING AN ASSISTANCE AGREEMENT  
WITH SUNCORP CORPORATE CREDIT UNION FOR THE OCCUPANCY OF EXISTING  
SPACE AT CIRCLEPOINT CORPORATE CENTER IN WESTMINSTER**

WHEREAS, the successful attraction and retention of high quality development to the City of Westminster provides employment opportunities and increased revenue for citizen services and is therefore an important public purpose; and

WHEREAS, it is important for the City of Westminster to attract quality jobs and remain competitive with other local governments in creating assistance for occupancy of existing space in the City; and

WHEREAS, SunCorp Corporate Credit Union (SunCorp) plans to lease 30,000 square feet of existing office space at CirclePoint Corporate Center in Westminster, and

WHEREAS, a proposed Assistance Agreement between the City and SunCorp is attached hereto as Exhibit "A" and incorporated herein by this reference.

NOW, THEREFORE, pursuant to the terms of the Constitution of the State of Colorado, the Charter and ordinances of the City of Westminster, and Resolution No. 53, Series of 1988:

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Manager of the City of Westminster is hereby authorized to enter into an Assistance Agreement with SunCorp in substantially the same form as the one attached as Exhibit "A", and upon execution of the Agreement to fund and implement said Agreement.

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

Section 3. 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 11th day of November 2002.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 25<sup>th</sup> day of November 2002.

ATTEST:

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Mayor

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City Clerk



## Agenda Item 10 E

**W E S T M I N S T E R**  
**C O L O R A D O**

### **Agenda Memorandum**

City Council Meeting  
November 11, 2002



**SUBJECT:** Councillor's Bill No. 61 re Un-appropriation of Capital Improvement Program (CIP) Projects

**Prepared By:** Barbara Gadecki, Assistant to the City Manager

#### **Recommended City Council Action**

Pass Councilor's Bill No. 61 on first reading un-appropriating \$1,365,000 in the General Capital Improvement Fund for eight projects in order to address Sales and Use Tax Fund revenue shortfalls being experienced in 2002.

#### **Summary Statement**

- City Council action is requested to pass on first reading the attached Councilor's Bill, which officially reduces the projected revenues and authorized expenditures for 2002 for eight Capital Improvement Program (CIP) projects budgeted within the General Capital Improvement Fund.
- This action is necessary to address Sales and Use Tax Fund revenue shortfalls currently being experienced in 2002. By officially "un-appropriating" these projects, the transfer payment from the Sales and Use Tax Fund to the General Capital Improvement Fund will be reduced in order to maintain the current transfer payment into the General Fund for on-going operations.
- Staff presented the freeze of eight CIP projects to City Council in the May 6, 2002 Staff Report, which listed the projects that were to be frozen or budgets reduced.

**Expenditure Required:** Reduction of \$1,365,000

**Source of Funds:** Sales & Use Tax Fund and General Capital Improvement Fund

### **Policy Issue**

Does City Council wish to officially postpone or permanently eliminate these eight projects by un-appropriating them?

### **Alternative**

City Council could un-appropriate other CIP projects than those identified by Staff and previously reviewed with City Council. This is not recommended as progress has been made on other CIP projects and these eight projects have been identified as not significantly impacting citizens and/or City operations.

### **Background Information**

As part of the City's strategy to address the economic recession being experienced by the State of Colorado, Staff identified specific capital projects, or portions of capital projects, that were placed "on hold" until such time that the revenue picture improved enough to warrant their release.

Seven projects were identified for City Council in May for funding freezes totaling \$1,115,000. In addition, Staff previously set aside \$250,000 from the City Hall Plaza reconstruction project, bringing the total capital project dollars frozen to \$1,365,000.

Staff identified projects where no contractual or other obligations exist to proceed and where the immediate impact on citizens and the City is the least significant.

As previously discussed with City Council, Staff laid out a number of strategies that are being pursued to assure that the City does not find itself in an unbalanced financial position at the end of 2002. These strategies include:

- Reduced 2002 operating budgets by 2%;
- Froze \$700,000 in additional operating expenditures;
- Increased ambulance and right-of-way permit fees as well as increased recreation charges;
- Implemented a hiring freeze, effective May 14, 2002;
- Froze the second, third and fourth periods of the 2002 Phased Spending Plan for a total of \$637,127 expenditures reduced in 2002; and
- Had Departments identify additional operating savings throughout the remainder of 2002.

Staff identified seven additional capital projects in May to put on hold until the revenue situation warranted their release. Staff had already worked with City Council to reduce the scope of the City Hall Plaza Repair project, thus saving \$250,000 in that project budget. Since that time, the revenue picture has not changed and therefore it is time to officially un-appropriate these projects.

The eight projects to be un-authorized (either partially or completely) via the attached Councillors' Bill are as follows:

City Hall Plaza Repair project (reduced from \$385,000 to \$135,000)	-\$250,000
New Development Participations-various projects (reduced from \$3,890,435 to \$3,740,435) (\$150,000 is included in both the 2003 and 2004 CIP budgets adopted by Council on October 14)	-\$150,000
Sidewalk Connections-various projects (reduced from \$500,759 to \$425,759) (\$50,000 is included in both the 2003 and 2004 CIP budgets adopted by Council on October 14)	-\$75,000

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**SUBJECT:** Councillor's Bill No. 61 re Un-appropriation of Capital Improvement Program (CIP) Projects - Page 3

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98th Avenue Connection between Sheridan and Westminster Boulevard (reduced from \$410,000 to \$60,000) (\$350,000 is included in the 2003 CIP budget adopted by Council on October 14)	-\$350,000
Harmony Park/Amherst Street Connection (reduced from \$182,000 to \$92,000) (\$70,000 is included in the 2003 CIP budget adopted by Council on October 14)	-\$90,000
99th Ave Big Dry Creek Trail Connection to Wadsworth Boulevard (reduced from \$225,000 to \$0) (\$275,000 is included in the 2004 CIP budget adopted by Council on October 14)	-\$225,000
104th Ave and Sheridan Intersection Improvements (reduced from \$252,300 to \$102,300)	-\$150,000
Wesley Chapel Cemetery (reduced from \$125,000 to \$50,000)	-\$75,000
<i>Total Amount to be Reduced from the CIP</i>	<i><u>-\$1,365,000</u></i>

Staff believes these projects can be delayed without significant direct impacts on citizens or the ability of the City to conduct its business. As previously outlined with City Council, since the funds were not available by mid-summer, Staff has returned with this official action to un-appropriate the projects. Several of the projects were moved to 2003 in the five-year Capital Improvement Program that Council adopted as part of its budget deliberations this year. The projects that have funding included within the 2003 or 2004 CIP budget are noted.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILOR'S BILL NO. **61**

SERIES OF 2002

INTRODUCED BY COUNCILLORS

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A BILL

FOR AN ORDINANCE DECREASING THE 2002 BUDGETS OF THE SALES & USE TAX 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 Capital Improvement Fund initially appropriated by Ordinance No. 2913 in the amount of \$10,305,000 is hereby decreased by \$1,365,000 which, when subtracted from the fund balance as of the City Council action on November 11, 2002 will equal \$18,310,935. 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 decrease is due to the un-appropriation of funding of several capital improvement projects resulting from lower than anticipated sales tax revenues.

Section 2. The \$1,365,000 decrease 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
<b>REVENUES</b>			
Transfer from Sales & Use Tax 7500.45000.0530	\$2,500,000	<u>\$(1,365,000)</u>	\$1,135,000
Total Change to Revenues		<u>\$(1,365,000)</u>	
<b>EXPENSES</b>			
City Hall Plaza Repair 80175050021.80400.8888	\$385,000	\$(250,000)	\$135,000
New Development Participation 80175030011.80400.8888	3,890,435	(150,000)	3,740,435
Sidewalk Connection 80175030151.80400.8888	500,759	(75,000)	425,759
98 <sup>th</sup> Ave Connection 80175030007.80400.8888	450,000	(350,000)	100,000
Harmony Park/Amherst Connection 80275030502.80400.8888	182,000	(90,000)	92,000
99 <sup>th</sup> Ave Wads to Railroad 80275030503.80400.8888	225,000	(225,000)	0
104 <sup>th</sup> Ave & Sheridan Improvements 80175030198.80400.8888	252,300	(150,000)	102,300
Wesley Chapel Cemetery 80175050047.80400.8888	125,000	<u>(75,000)</u>	50,000
Total Change to Expenditures		<u>\$(1,365,000)</u>	

Section 3. The 2002 appropriation for the Sales & Use Tax Fund, initially appropriated by Ordinance No. 2913 in the amount of \$54,767,000 is hereby decreased by \$1,365,000 which, when subtracted from the fund balance as of the City Council action on November 11, 2002 will equal \$53,402,000. The actual amount in the Sales & Use Tax 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 decrease is due to the un-appropriation of sales tax revenue.

Section 4. The \$1,365,000 decrease in the Sales & Use Tax Fund shall be allocated to City Revenue and Expense accounts, which shall be amended as follows:

Description	Current Budget	Increase	Final Budget
<b>REVENUES</b>			
Sales Tax Returns 5300.40070.0000	\$44,075,000	<u>\$(1,365,000)</u>	\$42,710,000
Total Change to Revenues			
<b>EXPENSES</b>			
Transfer to GCIP 53010900.79800.0750	\$2,500,000	<u>\$(1,365,000)</u>	\$1,135,000
Total Change to Expenditures			
<u>\$(1,365,000)</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 11th day of November, 2002.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 25th day of November, 2002.

ATTEST:

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Mayor

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City Clerk



## Agenda Item 10 F

### W E S T M I N S T E R C O L O R A D O

#### Agenda Memorandum

City Council Meeting  
November 11, 2002



**SUBJECT:** Councillor's Bill No. 62 re Vacation of Easements within the West 81<sup>st</sup> Place & Sheridan P.U.D. Subdivision

**Prepared By:** Mikele Wright, Senior Engineer

#### Recommended City Council Action

Pass Councillor's Bill No. 62 on first reading, vacating a portion of a certain easement with the First Replat of the West 81<sup>st</sup> Place and Sheridan Subdivision P.U.D.

#### Summary Statement

- City Council action is requested to pass on first reading the attached Councillor's Bill to vacate two small portions of a certain easement located within the First Replat for West 81<sup>st</sup> Place & Sheridan P.U.D. Subdivision (see attached maps).
- Several utility easements were granted to the City on the final First Replat for West 81<sup>st</sup> Place & Sheridan P.U.D. Subdivision.
- After the construction of the storage units within the subdivision, it was determined by the owner that one of the buildings is encroaching within the existing water line easement.
- The property owner is requesting two partial easement vacations so that the building will no longer encroach within the City easement.
- Descriptions of these easements are included within the Background Information section of this agenda memorandum.
- City Staff has assured that the subject portions of the easement are not needed by the City for utility purposes.

**Expenditure Required:** N/A

**Source of Funds:** N/A

### **Policy Issues**

Shall the City Council vacate portions of this water line easement, which by City Code, must be vacated by an ordinance of the City Council?

### **Alternatives**

Do not vacate the portions of this water line easement that is being encroached upon by the existing building. This alternative is not recommended because the subject portions of the easement are not needed by the City.

### **Background Information**

The Third Amended Official Development Plan (ODP) for West 81<sup>st</sup> Place & Sheridan P.U.D. Subdivision required public water and sanitary sewer lines to be constructed within the development. Easements for these public utilities were granted to the City on the final First Replat for West 81<sup>st</sup> Place & Sheridan P.U.D. Subdivision. Several of the easements abutted the proposed storage unit buildings.

After the buildings within the storage area were constructed, the owner determined that one building is encroaching within the City's easement by about six inches. The building is identified on the attached aerial map. The owner is concerned that the City could force the removal of portions of the building within the easement based on the City's requirement that all utility easements shall be for the exclusive use of the City of Westminster. The City has the right to remove any structure within the easement so that maintenance can be performed on the utility.

The owner has requested that these portions of the City's water line easement be vacated. Staff has determined that the portions of the original easement can be vacated since the City can still maintain the City's water lines within the remaining portions of the easement.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO.  
SERIES OF 2001

COUNCILLOR'S BILL NO. **62**  
INTRODUCED BY COUNCILLORS

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A BILL

FOR AN ORDINANCE VACATING PORTIONS OF A WATER LINE EASEMENT WITHIN WEST 81<sup>ST</sup> PLACE & SHERIDAN P.U.D. SUBDIVISION

WHEREAS, a certain easement was dedicated by the First Replat of West 81<sup>st</sup> Place & Sheridan P.U.D. Subdivision (Exhibit A); and

WHEREAS, these portions of water line easement are being encroached upon by Building F, built within the West 81<sup>st</sup> Place & Sheridan P.U.D. Subdivision; and

WHEREAS, these portions of water line easement are not necessary for maintaining the City of Westminster's water lines within West 81<sup>st</sup> Place and Sheridan P.U.D. Subdivision; and

WHEREAS, the vacations are necessary in order to place Building F within the West 81<sup>st</sup> Place & Sheridan P.U.D. Subdivision out of the City of Westminster's water line easements.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. City Council finds and determines that the public convenience and welfare require the vacation of the portions of water line easement in Sections 2 and 3 hereof.

Section 2. Legal Description of Utility Easements:

**Basis of Bearings:** The west line of Lot 3A, block 1, First Replat West 81<sup>st</sup> Place & Sheridan P.U.D. Subdivision, also being the east line of Lot 1A of said Block and Lot 2, Block 1, West 81<sup>st</sup> Place & Sheridan P.U.D. Subdivision, between the western angle point at the southwest corner of said Lot 3A, also being the northern angle point of the east line of said Lot 1A, being a rebar and plastic cap, illegibly marked, and the western angle point at the northwest corner of said Lot 3A, also being the northeast corner of said Lot 2, being a rebar and aluminum cap, illegibly marked, said to bear N00°02'47"E.

**Easement No. 1 (Building F, Parcel A – Encroachment)**

(See attached legal description for Easement No. 1)

**Easement No. 2 (Building F, Parcel B – Encroachment)**

(See attached legal description for Easement No. 2)

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 11<sup>th</sup> day of November 2002. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 25<sup>th</sup> day of November 2002.

ATTEST:

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Mayor

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City Clerk



## Agenda Item 10 G

### WESTMINSTER COLORADO

#### Agenda Memorandum

City Council Meeting  
November 11, 2002



**SUBJECT:** Resolution No. 52 re Protection of Standley Lake Water Quality

**Prepared By:** Dan Strietelmeier, Senior Water Resources Engineer  
Ron Hellbusch, Director Public Works and Utilities

#### Recommended City Council Action:

Adopt Resolution No. 52 establishing Westminster City Council's position related to development activity and water quality protection in the Standley Lake watershed.

#### Summary Statement:

- Arvada and Jefferson County have development plans for the area west of Standley Lake on lands that drain to the Lake.
- The Jefferson Parkway/Toll Road is also proposed to cut through the Standley Lake watershed, increasing the development pressure within the area.
- Development in the Standley Lake watershed would increase pollutant loading to the Lake, degrade water quality and present other water quality risks.
- City Council considered a Watershed Protection Ordinance in 2000 to provide Westminster with some additional regulatory control over development in the watershed.
- Adoption of the Watershed Protection Ordinance was delayed due to concerns expressed by Golden, Arvada and Jefferson County and commitments by these entities to protect Standley Lake.
- Recent discussions with Arvada and Jefferson County and Jefferson Parkway/Toll Road staff over the proposed Jefferson Parkway/Toll Road suggest that these entities may not be honoring prior commitments to ensure protection of Standley Lake water quality.
- This Resolution will declare that developers in the Standley Lake watershed shall be required to construct new, separate drainage facilities to route the storm water around Standley Lake. The Jefferson Parkway/Toll Road project must include funding and construction of facilities that ensure protection of Standley Lake from storm water inflow.

**Expenditure Required:** \$ 0

**Source of Funds:** N/A

**Policy Issues**

The Resolution will provide the City of Westminster some land use control but more specifically, how land is developed in areas outside of the City's jurisdiction. Does City Council wish to embark on land use control issues in areas outside of the City boundary and likely face strong opposition from the surrounding jurisdictions and other government agencies?

**Alternatives**

City Council could choose not to adopt this Resolution and continue to rely on cooperation from the other jurisdictions within the Standley Lake watershed to protect Standley Lake from the adverse impacts of storm water inflow or City Council could choose to adopt a more stringent Watershed Protection Ordinance.

**Background Information**

The Standley Lake direct drainage watershed comprises a mostly undeveloped area roughly bounded by Standley Lake to the east, Highway 72 to the south, Rocky Flats to the north and Highway 93 to the west. There are approximately 4,400 acres in this area that drain directly to Standley Lake. The City of Arvada is in the process of final review of several developments within the Standley Lake watershed that will negatively impact water quality. The proposed Jefferson Parkway/Toll Road alignment also crosses the drainage basin and if constructed would also impact Standley Lake water quality. It is estimated that development of the Standley Lake drainage basin will increase phosphorus loads to the Lake by approximately 1,000 pounds per year if storm water from the development reaches the Lake. Current total phosphorus loadings into the Lake are 7,000 to 12,000 pounds per year from all sources.

Representatives from the Standley Lake cities (Westminster, Thornton and Northglenn) and the City of Arvada and Jefferson County have been discussing water quality concerns from potential development within the Standley Lake direct drainage watershed for over 14 years. A proposal was introduced by Westminster to convert the Church Ditch into a storm water conveyance facility that would capture and route the first flush of storm water pollutants around Standley Lake. The Church Ditch flows around the west side of Standley Lake and delivers water to the Lake for the Cities of Northglenn, Thornton and Westminster. The five-mile section of Church Ditch west of Standley Lake is in a strategic location that, if converted to a water quality protection facility, could capture storm water and reduce risks from hazardous spills and urban runoff originating west of Standley Lake. The City of Northglenn owns two-thirds interest in the Church Ditch and Westminster owns one third. Northglenn and Westminster also operate the Church Ditch Company. Progress in implementing the Church Ditch Water Quality Project (CDWQP) has stalled due to the lack of agreement on establishing compensation for the use of the Church Ditch.

Recent discussions regarding the Jefferson Parkway/Toll Road have presented a new alternative for protecting Standley Lake. A combination of the CDWQP, storm water detention ponds, pumps and pipelines could be constructed by the Parkway project sponsors potentially using the Parkway easement for a pipeline. Storm water from the area could be conveyed up to Walnut Creek, bypassing Standley Lake. The Parkway project sponsors have targeted an alignment along the east side of Indiana, north of 96<sup>th</sup> Avenue, that would involve encroachment onto Woman Creek Reservoir Authority (WCRA) land that is managed as Open Space by the City of Westminster. Use of this land for the Jefferson Parkway/Toll Road would require approval of the WCRA. Parkway project sponsors have been investigating options to acquire easements across WCRA land.

In 2000, a draft Westminster Watershed Protection Ordinance was discussed with City Council. Prior to officially adopting the Ordinance, City Council directed Staff to discuss the Ordinance provisions with the jurisdictions upstream of Standley Lake where land use would be impacted. The discussions with Golden, Arvada and Jefferson County resulted in a plan to work out an overall Standley Lake watershed management agreement that would eventually become part of a watershed or water quality section in the North Plains Community Plan document sponsored by Jefferson County. A key component of the watershed agreement was the CDWQP described above.

There are alternatives for protecting the water quality in Standley Lake but they would require infrastructure for pumping and piping storm water up to Walnut Creek. Due to the cost implications, these alternatives would be strongly opposed by all jurisdictions involved in development west of Standley Lake. This Resolution lays out requirements that will be necessary before the development projects are supported by Westminster. A Westminster Watershed Protection Ordinance could eventually be adopted and would provide additional leverage and protection for Standley Lake. It is anticipated that Arvada and Jefferson County will lobby that adoption of a Watershed Protection Ordinance is not required.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

## **RESOLUTION**

**RESOLUTION NO. 52**

**INTRODUCED BY COUNCILLORS**

**SERIES OF 2002**

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### **PROTECTION OF STANLEY LAKE WATER QUALITY**

WHEREAS, Standley Lake serves as the drinking water supply reservoir for the City of Westminster.

WHEREAS, protecting the water quality of Standley Lake and providing high quality drinking water to the citizens of Westminster is essential for the City.

WHEREAS, impending residential, commercial and transportation corridor development in the Standley Lake watershed may impact the water quality in Standley Lake and compromise the City's ability to carry out its mission.

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

1. That the City Council will oppose any development in the Standley Lake watershed by any governmental jurisdiction or private entity if the development does not include measures to protect the water quality of Standley Lake.
2. That protection of Standley Lake will include bypassing storm water flowing from developed lands over the canals that feed Standley Lake and also bypassing storm water from developed lands west of Standley Lake up to Walnut Creek.
3. That the Standley Lake Protection Project facilities constructed to protect Standley Lake from storm water from the Rocky Flats site shall not be compromised in any way by new development.
4. That all development, including residential, commercial or transportation corridor such as the proposed Jefferson Parkway, will need to provide the funding to construct the facilities necessary to protect the water quality in Standley Lake prior to receiving support from the Westminster City Council.

Passed and adopted this 11th day of November, 2002.

**ATTEST:**

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Mayor

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City Clerk



## Agenda Item 10 H-I

### W E S T M I N S T E R C O L O R A D O

#### Agenda Memorandum

City Council Meeting  
November 11, 2002



**SUBJECT:** Jefferson Parkway Nonprofit Corporation

**Prepared By:** J. Brent McFall, City Manager

#### Recommended City Council Action:

1. Authorize the membership as an ex-officio member in the Jefferson Parkway Nonprofit Corporation.
2. Adopt Resolution No. 51 authorizing the transfer of \$50,000 from the City's General Fund Contingency account.

#### Summary Statement:

- The City of Westminster has historically had an interest in transportation issues, specifically as it relates to completion of a high-speed transportation loop or beltway, around the Denver metropolitan area.
- With the completion of the Northwest Parkway, which terminates at Interlocken Loop and Highway 121 the only remaining portion of the beltway to be constructed in the northwest quadrant.
- Jefferson County, the City of Arvada, and the Northwest Parkway Authority have formed a nonprofit corporation to explore the feasibility of constructing a toll road from the terminus of the Northwest Parkway to a point north of the City of Golden along Highway 93.
- The City of Westminster has an opportunity to become an ex-officio member of the Jefferson Parkway Nonprofit Corporation and thereby participate in discussions regarding such issues as roadway alignment, impact mitigation, and Standley Lake water quality protection.
- Staff is recommending that the City pursue ex-officio membership status in the Jefferson Parkway Nonprofit Corporation.

**Expenditure Required:** \$ 50,000

**Source of Funds:** General Fund Contingency

**Policy Issue**

Shall the City become an active participant in the discussions and negotiations regarding the potential construction of Jefferson Parkway through affiliation with the Jefferson Parkway Nonprofit Corporation as an ex-officio member?

**Alternative**

The City could choose not to participate as a member of the nonprofit corporation at which point the City would not be involved in discussions regarding such matters as roadway alignment, impact mitigation, and Standley Lake water quality protection.

**Background Information**

The City of Westminster has had an interest for a number of years in the completion of a transportation loop or beltway encircling the metropolitan Denver area. With the construction of the Northwest Parkway, which terminates at Interlocken Loop and Highway 121, the only remaining portion of the beltway to be constructed is the northwest quadrant. Jefferson County, the City of Arvada, and the Northwest Parkway Authority have formed a nonprofit corporation to review the details of a potential toll road that would extend the beltway from its terminus at Interlocken Loop and Highway 121 to a point north of Golden on Highway 93. For an investment of \$50,000, the City of Westminster can become a member of the Jefferson Parkway Nonprofit Corporation in an ex-officio status. This means that the City will have the opportunity to participate and be involved in discussions and negotiations, but will not be a voting member of the Board of Directors of the nonprofit corporation.

Because of the importance of this transportation corridor to the City of Westminster, and the important issues such as alignment, impact mitigation and protection of Standley Lake water quality, staff believes that it is important that the City be involved with the discussions regarding the proposed Jefferson Parkway. The attached resolution would transfer the necessary funds, \$50,000, from the City's 2002 Contingency account to pay the ex-officio membership fee for the Jefferson Parkway Nonprofit Corporation.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments

## RESOLUTION

RESOLUTION NO. **51**

INTRODUCED BY COUNCILLORS

SERIES OF 2002

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WHEREAS, the City of Westminster has historically had an interest in transportations issues, specifically as it relates to completion of a high-speed transportation loop or beltway around the Denver metropolitan area; and

WHEREAS, City Council supports the City becoming an ex-officio member of the Jefferson Parkway Nonprofit Corporation to enable the City to participate in discussions regarding such issues as a roadway alignment, impact mitigation and Standley Lake water quality protection; and

WHEREAS, the membership fee of \$50,000 for the Jefferson Parkway Nonprofit Corporation would come from a transfer from the General Fund contingency; and

WHEREAS, the General Fund contingency balance is \$1,300,000.

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

\$50,000 be transferred from the General Fund contingency to the General Fund Central Charges City Memberships account.

Passed and adopted this 11th day of November 2002.

ATTEST:

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Mayor

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City Clerk



**W E S T M I N S T E R**  
**C O L O R A D O**

**Agenda Item 11 A**

**Agenda Memorandum**

City Council Meeting  
November 11, 2002



**SUBJECT:** Second Reading of Councillor's Bill No. 43 re Solid Waste Collection Code

**Prepared By:** Rachel Harlow-Schalk, Environmental Services Coordinator

**Recommended City Council Action:**

- Remove this item from the Table.
- Pass Councillor's Bill No. 43 on second reading, revising the Solid Waste Collection Code and the powers and duties of the Special Permit and License Board as amended.

**Summary Statement**

- This Councillor's Bill was passed on first reading on September 9, 2002.
- The City's Solid Waste Collection Code has been amended to include a requirement for trash collectors to provide annual recycling reports to the City. On September 23, 2002, City Council was requested to pass Councillor's Bill No. 43 on second reading. However, the item was tabled at the request of a representative from Waste Management, Inc. who expressed concern that the annual recycling report that was required in the revised Code had not yet been generated by the City.
- Waste Management along with the remaining twelve companies licensed to collect solid waste in Westminster, were invited to the October 17, 2002 Environmental Advisory Board meeting. Each company was requested to review a draft Annual Recycling Report and asked to bring comments on this Report for discussion at the meeting. Waste Management, along with four additional waste collection companies licensed in Westminster, attended the Board meeting. Both the Board and the collection companies agreed on information to be reported and as a result, prepared the attached Final Solid Waste Collection Annual Recycling Report. Also, Waste Management stated at the September 23 meeting that the time period the annual recycling report would reflect was not clear. In response, section 5-7-12 (A) of proposed ordinance was revised to include the word "calendar" clarifying that the report is for the previous calendar year. This revision is reflected in bold letters in the Councillor's Bill.
- The present Councillor's Bill has been reviewed by all of the licensed solid waste collection firms who responded to the Environmental Advisory Board's request for feedback on this ordinance.

**Expenditure Required:** \$ 0

**Source of Funds:** N/A

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO. **2984**

COUNCILLOR'S BILL NO. **43**

SERIES OF 2002

INTRODUCED BY COUNCILLORS

**Hicks-McNally**

A BILL

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

THE CITY OF WESTMINSTER ORDAINS:

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

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

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

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

**5-7-3: LICENSE APPLICATION:**

(A) Any person desiring to obtain a license to engage in the business of solid waste or recycling materials collection shall make written application to the City Clerk on forms provided by the City. The application MUST BE COMPLETED IN ITS ENTIRETY. ~~shall include, without limitation, the following information:~~

- ~~1. The name and address of the applicant;~~
- ~~2. The principal place of business for the business to be conducted;~~
- ~~3. A list of vehicles owned or operated by the applicant directly in the collection of solid waste or recyclables in the City, including vehicle make, color, year, Colorado license plate number and empty tare weight, and the fees required by this Chapter;~~
- ~~4. Whether the applicant wishes to obtain a commercial or residential collection license or both.~~

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

1. ~~Whether~~ The character of the applicant or its officers or directors, ~~is such that the violation of any provisions of this Code is likely to result if a license were granted~~ ESPECIALLY ANY PREVIOUS LICENSE VIOLATIONS OR CRIMINAL CONVICTIONS;
2. Whether licenses granted for the City are adequate to meet the reasonable needs of the community; ~~and~~
3. If the applicant has previously done business in the City, the number of complaints received from citizens concerning the applicant's operations; AND
4. THE REVIEW AND CONCLUSION, IF ANY, OF THE ENVIRONMENTAL ADVISORY BOARD.

#### **5-7-4: LICENSE ADMINISTRATION:**

(A) Every license issued by the City shall indicate the business name and address, the mailing address, and the license fee paid by the licensee. THE LICENSEE IS REQUIRED TO HAVE A PROMINENTLY DISPLAYED AND AFFIXED DECAL ISSUED BY THE CITY IN ACCORDANCE WITH AND SUBJECT TO THE TERMS AND CONDITIONS PROVIDED IN THIS CHAPTER FOR THE ISSUANCE OF A LICENSE AND SUCH OTHER RULES AND REGULATIONS CONCERNING THE DISPLAY OF SUCH DECALS THAT THE CITY CLERK MAY ISSUE FROM TIME TO TIME.

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

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

(B) The renewal application shall be reviewed by the City Manager who shall have the power to grant or deny such license renewal and to impose reasonable limitations and restrictions on any license renewed. ~~The City Manager shall evaluate the application under the criteria set forth for original applications.~~

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

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

(D) An application for a new license may be denied by the City Manager for the reasons listed above. The applicant may appeal a denial to the Special Permit and License Board, unless the reason for the denial is an incomplete application, nonconformance with provisions of this code such as zoning or the building code, or failure to pay required fees. The reason for the denial of the application shall be provided to the applicant in writing.

(E) (C) A license may be summarily suspended for no more than thirty (30) days by the City Manager when required for the immediate protection of the public health, safety and welfare. A hearing shall be scheduled as soon as may be reasonably possible.

(F) (D) The Special Permit and License Board shall conduct A HEARING ON an appeal of the denial of a new license or a hearing pursuant to the procedures established for hearings in Chapter 1 of this Title., OR THE NON-RENEWAL, SUSPENSION, OR REVOCATION OF A LICENSE PURSUANT TO CHAPTER 1 OF TITLE 5. The Special Permit and License Board shall deliver its decision in writing within thirty (30) days.

(G) (E) Decisions of the Special Permit and License Board are final, subject only to appeal to a court of competent jurisdiction. MAY BE APPEALED TO THE CITY COUNCIL PURSUANT TO CHAPTER 1 OF THIS TITLE. THE DECISION OF THE CITY COUNCIL SHALL BE DEEMED FINAL FOR PURPOSES OF JUDICIAL REVIEW.

### **5-7-8: RECYCLING REQUIREMENT:**

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

1. Except for materials which customers have not properly prepared for recycling, collectors may not dispose of recyclable materials set out by recycling customers by any means that may result in the materials not being recycled OR OTHERWISE IMPROPERLY DISPOSED OF.
2. The collector shall establish such ~~rules and regulations~~ POLICIES AND PROCEDURES as are necessary to provide for the orderly collection of recyclable materials, including requirements regarding the preparation of materials for collection, the collection of recyclable materials and requirements for source separation.

### **5-7-9: DESIGNATION OF RECYCLABLE MATERIALS:**

(A) The City Manager shall, ~~on or before the 30th day of November of each year~~ PERIODICALLY, after consultation with representatives of the licensed collectors operating within the City AND THE ENVIRONMENTAL ADVISORY BOARD, determine which items shall be designated for recycling collection based upon the following criteria:

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

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

### **5-7-10: DESIGNATED COLLECTION DAYS:**

(B) The City Manager ~~shall~~ MAY provide for exceptions based on holidays, severe weather, or inadvertently missed customers.

### **5-7-12: RECORDS AND REPORTS:**

(B) All collectors shall report to the City ~~quarterly~~ BY MARCH 31<sup>ST</sup> OF EACH YEAR AN ANNUAL RECYCLING REPORT, FOR THE PREVIOUS CALENDAR YEAR, on forms to be provided by the City. ~~The quantities of recyclable materials collected and customer participation rates.~~ A COLLECTOR MAY REQUEST, IN WRITING, THAT SECTIONS OF THE REPORT BE HELD IN CONFIDENCE. SUCH REQUESTS SHALL BE HONORED BY THE CITY TO THE EXTENT AUTHORIZED BY THE COLORADO OPEN RECORDS ACT, AS DETERMINED BY THE CITY IN ITS SOLE DISCRETION.

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

### **5-7-13: DISPOSAL OF SOLID WASTE:**

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

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

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

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

#### **5-7-14: VIOLATIONS AND PENALTY:**

(A) It shall be unlawful for any person to violate a provision of this Chapter. Violators shall be subject to the penalties provided by Section 1-8-1 of this Code and may also be subject to civil remedies provided by Chapter 4 of Title ~~I~~ VIII of this Code. A separate offense shall be deemed committed upon each day such person is in violation of this Chapter unless otherwise provided in this Chapter.

~~(B) It shall be unlawful for a licensed collector to dispose of materials designated by the City Manager as recyclable in a landfill or in a comparable manner that will result in the materials not being recycled.~~

~~(C) It shall be unlawful for any person other than the customer or the collector of recyclable materials to take physical possession of any recyclable materials placed for collection. A separate offense shall be deemed committed at each address from which recyclable materials are taken in violation of this provision.~~

~~(D) It shall be unlawful to operate any vehicle in such a manner as to deposit in or litter any public ways with solid waste.~~

~~(E) It shall be unlawful to operate a collection vehicle in the City without prominently displaying a license as described in this chapter. A violation of this subsection shall be punished by a fine as follows:~~

Solid Waste Collection Vehicle	\$250.00
Recyclable materials collection vehicle	\$ 10.00

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

#### **2-5-2: POWERS AND DUTIES:**

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 9<sup>th</sup> day of September, 2002. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 11<sup>th</sup> day of November, 2002 AS AMENDED..

ATTEST:

\_\_\_\_\_  
Mayor

City Clerk:\_\_\_\_\_



W E S T M I N S T E R  
C O L O R A D O

**SOLID WASTE COLLECTION  
ANNUAL RECYCLING REPORT  
CITY OF WESTMINSTER  
4800 WEST 92ND AVENUE  
WESTMINSTER, CO 80031  
303-430-2400 Extension 2162**

**ACCOUNT NUMBER**

BUSINESS NAME		
BUSINESS ADDRESS		ZIP CODE:
BUSINESS PHONE		MAIN OFFICE PHONE
MAILING ADDRESS		
CITY	STATE	ZIP CODE
TYPE OF LICENSE <input type="checkbox"/> RESIDENTIAL <input type="checkbox"/> COMMERCIAL <input type="checkbox"/> RESIDENTIAL/COMMERCIAL		

Reporting Period (dates): \_\_\_\_\_

For the period specified, provide the following:

1 - Number of customers served within the City of Westminster:

Residential Solid Waste Service \_\_\_\_\_ Residential Recycling Service \_\_\_\_\_  
Commercial Solid Waste Service \_\_\_\_\_ Commercial Recycling Service \_\_\_\_\_

2 - List the disposal facilities used:

**Solid Waste Disposal Facility Name and Address:** \_\_\_\_\_

Recycling Facility Name and Address: \_\_\_\_\_

3 – List estimated amounts of recyclables collected for the previous CALENDAR year in the City of Westminster. It is understood that these numbers are actual or good faith estimates based upon total Denver-Metro Area collections by your company.

Residential \_\_\_\_\_

Commercial \_\_\_\_\_

I \_\_\_\_\_ (print), as owner, officer or authorized representative of the above company or business entity, hereby certify that this report was completed by me or by a knowledgeable person under my direction, and that all the information submitted is to the best of my knowledge and belief, accurate, current and complete.

\_\_\_\_\_ (signature) Date \_\_\_\_\_

Position/Title: \_\_\_\_\_

## Summary of Proceedings

Summary of proceedings of the regular City of Westminster City Council meeting of Monday, November 11, 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 28, 2002 meeting were approved.

Council approved the following: Revised Employment Agreement with City Attorney Martin McCullough; 2003 Community Development Block Grant Projects; 75' Aerial Apparatus Purchase from Front Range Fire Apparatus for \$582,039; Disposition of used Dispatch Console Furniture; contract with Levi Construction for Sanitary Sewer Manhole Rehabilitation for \$75,095 with a 10% contingency; payment of \$146,282 to the City of Northglenn for the construction of 16-inch water line in Community Center Drive; membership as an ex-officio member in the Jefferson Parkway Nonprofit Corporation.

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

**A BILL FOR AN ORDINANCE AUTHORIZING AN ASSISTANCE AGREEMENT WITH GE ACCESS FOR THE OCCUPANCY OF EXISTING SPACE AT WESTMOOR TECHNOLOGY PARK IN WESTMINSTER** purpose: Business Assistance Agreement with GE Access

**A BILL FOR AN ORDINANCE AUTHORIZING AN ASSISTANCE AGREEMENT WITH NEW PLAN EXCEL REALTY TRUST, INC. FOR THE OCCUPANCY OF GORDMANS IN EXISTING SPACE AT WESTMINSTER CENTER MARKETPLACE SHOPPING CENTER** purpose: Business Assistance Agreement with New Plan Excel Realty Trust

**A BILL FOR AN ORDINANCE AUTHORIZING AN ASSISTANCE AGREEMENT WITH H&H ENTERPRISES, INC. FOR THE CONSTRUCTION OF A NEW WAREHOUSE FACILITY IN SOUTH WESTMINSTER** purpose: Business Assistance Agreement with H&H Enterprises

**A BILL FOR AN ORDINANCE AUTHORIZING AN ASSISTANCE AGREEMENT WITH SUNCORP CORPORATE CREDIT UNION FOR THE OCCUPANCY OF EXISTING SPACE AT CIRCLEPOINT CORPORATE CENTER IN WESTMINSTER** purpose: Business Assistance Agreement with Suncorp Corporate Credit Union

**A BILL FOR AN ORDINANCE DECREASING THE 2002 BUDGETS OF THE SALES & USE TAX AND GENERAL CAPITAL IMPROVEMENT FUNDS AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2002 ESTIMATED REVENUES IN THESE FUNDS** purpose: unappropriating funds for eight projects

**A BILL FOR AN ORDINANCE VACATING PORTIONS OF A WATER LINE EASEMENT WITHIN WEST 81<sup>ST</sup> PLACE & SHERIDAN P.U.D. SUBDIVISION** purpose: vacating waterline easement

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

**A BILL FOR AN ORDINANCE AMENDING THE MUNICIPAL CODE PERTAINING TO SIGN REGULATIONS**

**A BILL FOR AN ORDINANCE AMENDING THE SALARY OF THE MUNICIPAL JUDGE**

**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**

**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**

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

The following Resolutions were adopted:

Resolution No. 51 re Contingency Funds for ex-officio member of Jefferson Parkway

Resolution No. 52 re Protection of Standley Lake Water Quality

At 7:40 P.M. the meeting was adjourned.

By order of the Westminster City Council

Michele Kelley, CMC, City Clerk

Published in the Westminster Window on November 21, 2002.

ORDINANCE NO. **2980**

COUNCILLOR'S BILL NO. **54**

SERIES OF 2002

INTRODUCED BY COUNCILLORS  
**Dixion-Atchison**

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.

ORDINANCE NO. **2981**

COUNCILOR'S BILL NO. **55**

SERIES OF 2002

INTRODUCED BY COUNCILLORS  
**Dittman-Hicks**

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
<b>REVENUES</b>			
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>	
<b>EXPENSES</b>			
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
<b>REVENUES</b>			
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.

ORDINANCE NO. **2982**

SERIES OF 2002

COUNCILLOR'S BILL NO. **56**

INTRODUCED BY COUNCILLORS  
Atchison-Dixon

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
<b>REVENUES</b>			
Federal Grants 2000.40610.0000	\$61,000	<u>\$115,000</u>	\$176,000
Total Change to Revenues		<u>\$115,000</u>	
<b>EXPENSES</b>			
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 28<sup>th</sup> day of October, 2002. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 11th day of November, 2002.

ORDINANCE NO. **2983**

COUNCILLOR'S BILL NO. **53**

SERIES OF 2002

INTRODUCED BY COUNCILLORS  
**Atchison-Dixon**

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 28<sup>th</sup> day of October, 2002. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 11th day of November, 2002.

**A BILL**

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

THE CITY OF WESTMINSTER ORDAINS:

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

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

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

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

**5-7-3: LICENSE APPLICATION:**

(A) Any person desiring to obtain a license to engage in the business of solid waste or recycling materials collection shall make written application to the City Clerk on forms provided by the City. The application MUST BE COMPLETED IN ITS ENTIRETY. ~~shall include, without limitation, the following information:~~

- ~~1. The name and address of the applicant;~~
- ~~2. The principal place of business for the business to be conducted;~~
- ~~3. A list of vehicles owned or operated by the applicant directly in the collection of solid waste or recyclables in the City, including vehicle make, color, year, Colorado license plate number and empty tare weight, and the fees required by this Chapter;~~
- ~~4. Whether the applicant wishes to obtain a commercial or residential collection license or both.~~

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

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

**5-7-4: LICENSE ADMINISTRATION:**

(A) Every license issued by the City shall indicate the business name and address, the mailing address, and the license fee paid by the licensee. THE LICENSEE IS REQUIRED TO HAVE A PROMINENTLY DISPLAYED AND AFFIXED DECAL ISSUED BY THE CITY IN ACCORDANCE WITH AND SUBJECT TO THE TERMS AND CONDITIONS PROVIDED IN THIS CHAPTER FOR THE ISSUANCE OF A LICENSE AND SUCH OTHER RULES AND REGULATIONS

CONCERNING THE DISPLAY OF SUCH DECALS THAT THE CITY CLERK MAY ISSUE FROM TIME TO TIME.

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

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

(B) The renewal application shall be reviewed by the City Manager who shall have the power to grant or deny such license renewal and to impose reasonable limitations and restrictions on any license renewed. ~~The City Manager shall evaluate the application under the criteria set forth for original applications.~~

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

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

(D) An application for a new license may be denied by the City Manager for the reasons listed above. The applicant may appeal a denial to the Special Permit and License Board, unless the reason for the denial is an incomplete application, nonconformance with provisions of this code such as zoning or the building code, or failure to pay required fees. The reason for the denial of the application shall be provided to the applicant in writing.

(E) (C) A license may be summarily suspended for no more than thirty (30) days by the City Manager when required for the immediate protection of the public health, safety and welfare. A hearing shall be scheduled as soon as may be reasonably possible.

(F) (D) The Special Permit and License Board shall conduct A HEARING ON an appeal of the denial of a new license or a hearing pursuant to the procedures established for hearings in Chapter 1 of this Title., OR THE NON-RENEWAL, SUSPENSION, OR REVOCATION OF A LICENSE PURSUANT TO CHAPTER 2 OF TITLE 5. The Special Permit and License Board shall deliver its decision in writing within thirty (30) days.

(G) (E) Decisions of the Special Permit and License Board are final, subject only to appeal to a court of competent jurisdiction. MAY BE APPEALED TO THE CITY COUNCIL PURSUANT TO CHAPTER 1 OF THIS TITLE. THE DECISION OF THE CITY COUNCIL SHALL BE DEEMED FINAL FOR PURPOSES OF JUDICIAL REVIEW.

**5-7-8: RECYCLING REQUIREMENT:**

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

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

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

the preparation of materials for collection, the collection of recyclable materials and requirements for source separation.

**5-7-9: DESIGNATION OF RECYCLABLE MATERIALS:**

(A) The City Manager shall, ~~on or before the 30th day of November of each year~~ PERIODICALLY, after consultation with representatives of the licensed collectors operating within the City AND THE ENVIRONMENTAL ADVISORY BOARD, determine which items shall be designated for recycling collection based upon the following criteria:

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

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

**5-7-10: DESIGNATED COLLECTION DAYS:** (B) The City Manager ~~shall~~ MAY provide for exceptions based on holidays, severe weather, or inadvertently missed customers.

**5-7-12: RECORDS AND REPORTS:**

(A) All collectors shall report to the City ~~quarterly~~ BY MARCH 31<sup>ST</sup> OF EACH YEAR AN ANNUAL RECYCLING REPORT, FOR THE PREVIOUS CALENDAR YEAR, on forms to be provided by the City. ~~The quantities of recyclable materials collected and customer participation rates.~~ A COLLECTOR MAY REQUEST, IN WRITING, THAT SECTIONS OF THE REPORT BE HELD IN CONFIDENCE. SUCH REQUESTS SHALL BE HONORED BY THE CITY TO THE EXTENT AUTHORIZED BY THE COLORADO OPEN RECORDS ACT, AS DETERMINED BY THE CITY IN ITS SOLE DISCRETION.

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

**5-7-13: DISPOSAL OF SOLID WASTE:**

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

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

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

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

**5-7-14: VIOLATIONS AND PENALTY:**

(A) It shall be unlawful for any person to violate a provision of this Chapter. Violators shall be subject to the penalties provided by Section 1-8-1 of this Code and may also be subject to civil remedies provided by Chapter 4 of Title IX VIII of this Code. A separate offense shall be deemed committed upon each day such person is in violation of this Chapter unless otherwise provided in this Chapter.

~~(B) It shall be unlawful for a licensed collector to dispose of materials designated by the City Manager as recyclable in a landfill or in a comparable manner that will result in the materials not being recycled.~~

~~(C) It shall be unlawful for any person other than the customer or the collector of recyclable materials to take physical possession of any recyclable materials placed for collection. A separate offense shall be deemed committed at each address from which recyclable materials are taken in violation of this provision.~~

~~(D) It shall be unlawful to operate any vehicle in such a manner as to deposit in or litter any public ways with solid waste.~~

~~(E) It shall be unlawful to operate a collection vehicle in the City without prominently displaying a license as described in this chapter. A violation of this subsection shall be punished by a fine as follows:~~  
~~Solid Waste Collection Vehicle \$250.00~~      ~~Recyclable materials collection vehicle \$ 10.00~~

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

**2-5-2: POWERS AND DUTIES:** (C) THE SPECIAL PERMIT AND LICENSE BOARD SHALL CONDUCT PUBLIC HEARINGS ON APPEALS FROM THE DECISION OF THE CITY MANAGER, DENYING LICENSE APPLICATIONS, DENYING RENEWAL OF LICENSES, OR SUSPENDING OR REVOKING LICENSES TO OPERATE AS A SOLID WASTE OR RECYCLABLE MATERIALS COLLECTOR PURSUANT TO CHAPTER 7 OF TITLE 5 OF THIS CODE. APPEALS FROM THE DECISIONS OF THE BOARD MAY BE MADE TO THE CITY COUNCIL.

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 9<sup>th</sup> day of September, 2002. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 11<sup>th</sup> day of November, 2002 AS AMENDED.