



CITY COUNCIL AGENDA

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

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

1. Pledge of Allegiance
2. Roll Call
3. Consideration of Minutes of Preceding Meetings
4. Report of City Officials
 - A. City Manager's Report
5. City Council Comments
6. Presentations
 - A. Recognition of Fellow in Local Government Law Recertification of Marty McCullough, City Attorney
7. Citizen Communication (5 minutes or less)

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

8. Consent Agenda
 - A. Financial Report for October 2009
 - B. 2010 Citywide Street Sweeping Services Contract
 - C. 2010 Asphalt Pavement Crackseal Project Contract
 - D. 2010 Proposed Community Development Block Grant and HOME Projects
 - E. Golf Courses' Cumulative Purchases Over \$50,000 in 2009
 - F. Change the Date of Second City Council Meeting in December
 - G. IGA re Use of the Flatrock Regional Training Center at Adams County
 - H. Supervisory Control and Data Acquisition Systems Communications Enhancements Project
 - I. Long-Term Lease of Treated Water and Commitment to Provide Sewer Service to Property Outside of the City
 - J. Big Dry Creek Wastewater Treatment Facility Project Contract Amendment for Owner's Representative Services
 - K. Second Reading of Councillor's Bill No. 38 re 2009 3rd Quarter Supplemental Appropriation
 - L. Second Reading of Councillor's Bill No. 39 re DePalma Open Space Acquisition Grant Supplemental Appropriation
9. Appointments and Resignations
10. Public Hearings and Other New Business
 - A. Councillor's Bill No. 40 re Police Department Supplemental Appropriation
 - B. Councillor's Bill No. 41 re Medical Marijuana Dispensaries
11. Old Business and Passage of Ordinances on Second Reading
12. Citizen Presentations (longer than 5 minutes), Miscellaneous Business, and Executive Session
 - A. City Council
13. Adjournment

GENERAL PUBLIC HEARING PROCEDURES ON LAND USE MATTERS

- A.** The meeting shall be chaired by the Mayor or designated alternate. The hearing shall be conducted to provide for a reasonable opportunity for all interested parties to express themselves, as long as the testimony or evidence being given is reasonably related to the purpose of the public hearing. The Chair has the authority to limit debate to a reasonable length of time to be equal for both positions.
- B.** Any person wishing to speak other than the applicant will be required to fill out a “Request to Speak or Request to have Name Entered into the Record” form indicating whether they wish to comment during the public hearing or would like to have their name recorded as having an opinion on the public hearing issue. Any person speaking may be questioned by a member of Council or by appropriate members of City Staff.
- C.** The Chair shall rule upon all disputed matters of procedure, unless, on motion duly made, the Chair is overruled by a majority vote of Councillors present.
- D.** The ordinary rules of evidence shall not apply, and Council may receive petitions, exhibits and other relevant documents without formal identification or introduction.
- E.** When the number of persons wishing to speak threatens to unduly prolong the hearing, the Council may establish a time limit upon each speaker.
- F.** City Staff enters a copy of public notice as published in newspaper; all application documents for the proposed project and a copy of any other written documents that are an appropriate part of the public hearing record;
- G.** The property owner or representative(s) present slides and describe the nature of the request (maximum of 10 minutes);
- H.** Staff presents any additional clarification necessary and states the Planning Commission recommendation;
- I.** All testimony is received from the audience, in support, in opposition or asking questions. All questions will be directed through the Chair who will then direct the appropriate person to respond.
- J.** Final comments/rebuttal received from property owner;
- K.** Final comments from City Staff and Staff recommendation.
- L.** Public hearing is closed.
- M.** If final action is not to be taken on the same evening as the public hearing, the Chair will advise the audience when the matter will be considered. Councillors not present at the public hearing will be allowed to vote on the matter only if they listen to the tape recording of the public hearing prior to voting.

CITY OF WESTMINSTER, COLORADO
MINUTES OF THE CITY COUNCIL MEETING
HELD ON MONDAY, NOVEMBER 9, 2009 AT 7:00 P.M.

PLEDGE OF ALLEGIANCE

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

ROLL CALL

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

CONSIDERATION OF MINUTES

Councillor Major moved, seconded by Kaiser, to approve the minutes of the regular meeting of October 26, 2009, as distributed. The motion passed unanimously.

CITY MANAGER'S REPORT

Mr. McFall reported there would be two Council meetings tonight: the first of the seated Council; and the second of the carryover Council members and newly elected officials, who would be sworn into office at 8 p.m. in accordance with the City Charter. He congratulated the newly elected officials, all of whom were incumbents, and indicated he looked forward to continuing to work for them during the next four years.

City Hall would be closed November 26 and 27 in observance of the Thanksgiving holiday and since there were five Mondays in November, the Council would not be meeting on November 30, the fifth Monday.

In conclusion, on Saturday, December 5, City Council would be meeting with Lyle Sumek in the banquet room of the Heritage Golf Course to discuss protocols defining core services in advance of preparing the 2011-2012 budget

CITY COUNCIL COMMENTS

Councillor Briggs congratulated Mayor McNally and Councillors Major, Lindsey, and Kaiser on being re-elected to City Council for the next four years. Additionally, he reported having attended and enjoyed a Talent Program for which Mayor Pro Tem Dittman had been the Master of Ceremonies.

Mayor McNally thanked all veterans, including those in the audience, who had served the country during their lifetimes and protected the freedom of Americans.

PRESENTATIONS

Councillor Major recognized and congratulated the Information Technology Department's Network Team on being named the Colorado Information Management Association (CIMA) IT Team of the Year. The award had been presented at the CIMA Fall Awards Banquet on October 2 and acknowledged the innovative, secure, and low-cost strategy used to deploy wireless services to City facilities. Members of the team were Scott Magerfleisch, John Neiberger, and Dan Hord.

PROCLAMATIONS

Mayor McNally proclaimed the week of November 16, 2009 to be Business Appreciation Week. Accepting the proclamation were Mike Corbett of Avaya and Nancy Rezac of the Orchard Town Center. Both thanked Council and Staff for the support given to local businesses.

Councillor Briggs presented a proclamation to Larry Mugler of the Census Bureau. The proclamation outlined the City's commitment to partnering with the U.S. Census Bureau to help ensure a full and accurate count in 2010. The census count was used in allocating funding to communities, in determining the number of seats each state had in the U.S. House of Representatives, and in redistricting state legislatures, county and city councils and voting districts.

CITIZEN COMMUNICATION

Sam Dixon congratulated incumbents on being re-elected and thanked them for their representation, knowing how hard Council members worked and how little they were paid.

CONSENT AGENDA

The following items were submitted for Council's consideration on the consent agenda: authorize the City Manager to execute a contract with Ruth Cornfeld Becker, LLC in an amount not to exceed \$15,000 for special legal counsel concerning the acquisition of tax-qualified conservation easements; authorize the submittal of grant applications to the Colorado Department of Transportation for Colorado Safe Routes to School grant program to fund improved pedestrian facilities in the vicinity of Mesa Elementary School (9100 Lowell Boulevard) and Mandalay Middle School (9651 Pierce Street); authorize Staff to submit the five-year capital improvement and maintenance project requests to the Urban Drainage and Flood Control District for financial participation in City drainage projects; authorize the purchase of the approximately 4.3-acre parcel located at the southwest corner of 108th Avenue and Wadsworth Parkway in an amount not to exceed \$900,000 plus closing costs not to exceed \$5,000, and authorize the City Manager to execute all documents required to close on the purchase of the property; and final passage of Councillor's Bill No. 37 on second reading amending the salary of the Municipal Judge for 2010.

Mayor McNally asked if Councillors wished to remove any items from the consent agenda for discussion purposes or separate vote. None did and Councillor Kaiser moved to approve the consent agenda as presented. The motion was seconded by Councillor Lindsey and carried.

RESOLUTION NO. 48 ESTABLISHING ATHLETIC FIELD RENTAL FEES

It was moved by Mayor Pro Tem Dittman, seconded by Councillor Kaiser, to adopt Resolution No. 48 establishing rental fees for usage of the City's athletic fields, excluding Christopher Fields, and authorizing the City Manager to approve increases in fees for athletic field rentals up to 10% annually. The motion carried with all Council members voting affirmatively at roll call.

COUNCILLOR'S BILL NO. 38 RE 3RD QUARTER BUDGET SUPPLEMENTAL APPROPRIATION

It was moved by Councillor Major, seconded by Mayor Pro Tem Dittman, to pass Councillor's Bill No. 38 on first reading providing for supplemental appropriation of funds to the 2009 budget of the General, Utility, Parks Open Space & Trails, and General Capital Improvement Funds. At roll call, the motion passed unanimously.

COUNCILLOR'S BILL NO. 39 APPROPRIATING GRANT FUNDS TO PURCHASE DEPALMA PROPERTY

Councillor Lindsey moved to pass Councillor's Bill No. 39 on first reading appropriating funds received from Adams County in the amount of \$540,000 for the City's acquisition of the DePalma property for open space. Councillor Winter seconded the motion and it passed unanimously at roll call.

ADJOURNMENT

There being no further business to come before the Council, it was moved by Councillor Kaiser, seconded by Major, to adjourn. The motion passed unanimously, and the meeting adjourned at 7:29 p.m.

ATTEST:

City Clerk

Mayor

CITY OF WESTMINSTER, COLORADO
MINUTES OF THE CITY COUNCIL MEETING
HELD ON MONDAY, NOVEMBER 9, 2009 AT 8:00 P.M.

CALL TO ORDER

Mayor McNally called the meeting to order at 8 p.m.

SWEARING IN OF MAYOR

Judge Paul Basso administered the Oath of Office to Nancy McNally, who had been re-elected Mayor for an additional four-year term on November 3, 2009.

SWEARING IN OF CITY COUNCILLORS

Judge Paul Basso administered the Oath of Office to Scott Major, Mary Lindsey, and Mark Kaiser. Each individual had been re-elected to four-year terms as City Councillors on November 3, 2009.

The newly elected officials took their seats on the dais and were congratulated by the City Manager and fellow Council members.

SELECTION OF MAYOR PRO TEM:

Mayor McNally called for written ballot for the selection of Mayor Pro Tem. The first ballot showed a majority vote for Chris Dittman. Mayor Pro Tem Dittman was sworn into office for a two-year term by Judge Paul Basso.

ADJOURNMENT:

There being no further business to come before the newly seated City Council, the meeting was adjourned at 8:14 p.m.

ATTEST:

City Clerk

Mayor



Agenda Item 6 A

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
November 23, 2009

SUBJECT: Recognition of Fellow in Local Government Law Recertification of Marty McCullough, City Attorney

Prepared By: Tami Cannon, Legal Administrator

Recommended City Council Action

Councillor Kaiser to present the recognition plaque to City Attorney Marty McCullough.

Summary Statement

- City Council is requested to present the International Municipal Lawyers Association (IMLA) plaque to City Attorney Marty McCullough in recognition of his recertification as a Fellow for his demonstrated excellence in the area of local government law.
- Marty was originally designated as a Fellow in 2004. At that time, only 41 attorneys had met the rigorous requirements to receive the IMLA designation.
- The recertification plaque was formally presented at IMLA's national conference in Miami, Florida in October, 2009, although Marty was not in attendance at the conference to accept the award.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

None identified

Alternative

None identified

Background Information

The IMLA Local Government Fellows Program recognizes local government attorneys as legal specialists in the field of local government. The program targets experienced attorneys who must complete a thorough application, including numerous professional references, to be considered. Applicants must also pass a written examination and submit a publishable article or paper to receive the Fellows designation.

“Achieving the Fellows designation is a rigorous and demanding task, and rightfully so,” said Henry Underhill, Jr., IMLA’s executive director and general counsel. “The designation will help identify to the public those attorneys who practice local government law and who possess the special knowledge, skills and proficiency to be appropriately designated as certified local government lawyers.”

Certification is for a period of five (5) years, after which time recertification is required according to standards set by IMLA. Those standards include a satisfactory showing of continuous and substantial involvement in the field of local government law throughout the period since the date of certification, completion of at least fifteen (15) hours of continuing legal education expected to enhance the proficiency of lawyers in the area of local government law since the date of certification, and submittal as references three (3) lawyers who are familiar with the applicant’s practice and who can attest to the applicant’s reputation for special competence and substantial involvement in the field of local government law. In addition to achieving Fellow recertification, Marty was also appointed Colorado IMLA State Chair by Mr. DeWitt McCarley, the 2009-2010 IMLA President.

Mr. McCullough has been the Westminster City Attorney since 1986. Marty is a graduate of the University of Virginia and received his law degree with honors from the University of Houston in 1982. He also holds a master’s degree in analytical chemistry from Florida State University and worked five years for Dow Chemical prior to attending law school.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
November 23, 2009



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

Recommended City Council Action

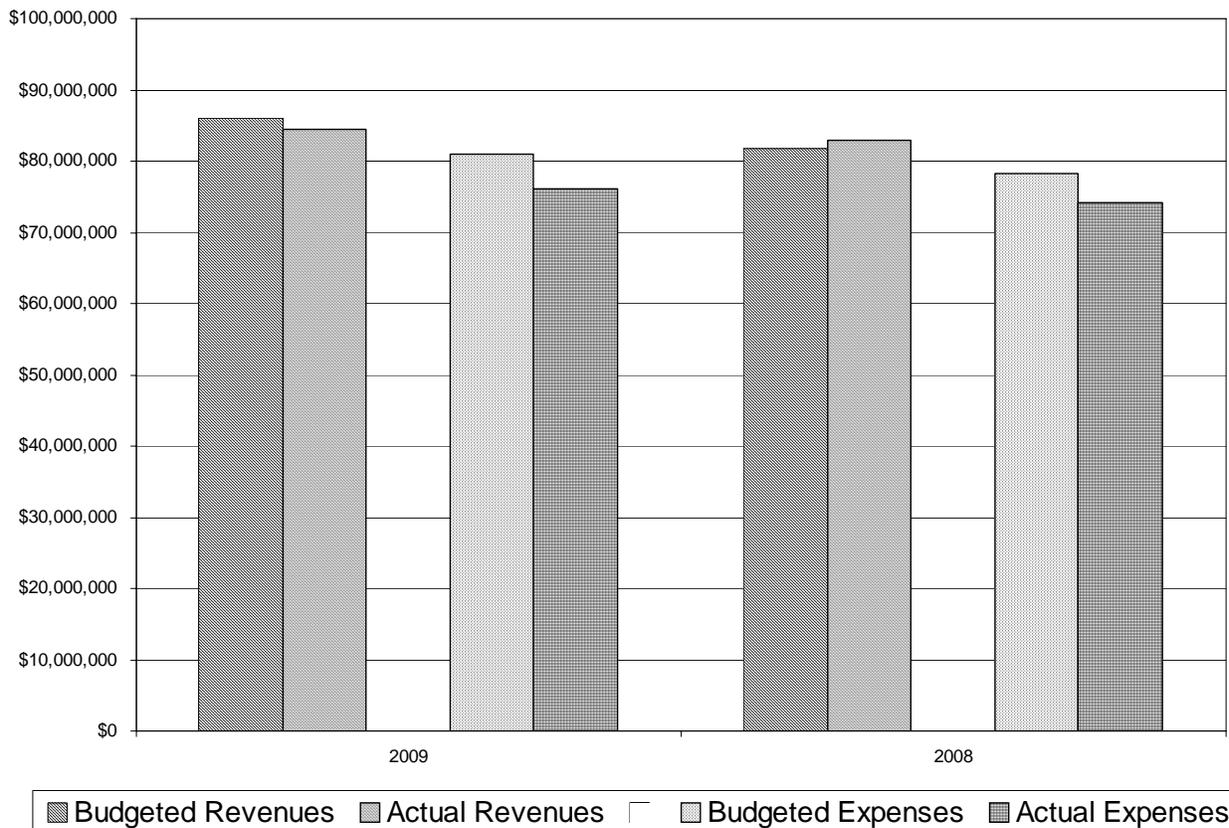
Accept the Financial Report for October as presented.

Summary Statement

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

The General Fund revenues and carryover exceed expenditures by \$8,329,796. The following graph represents Budget vs. Actual for 2008 – 2009.

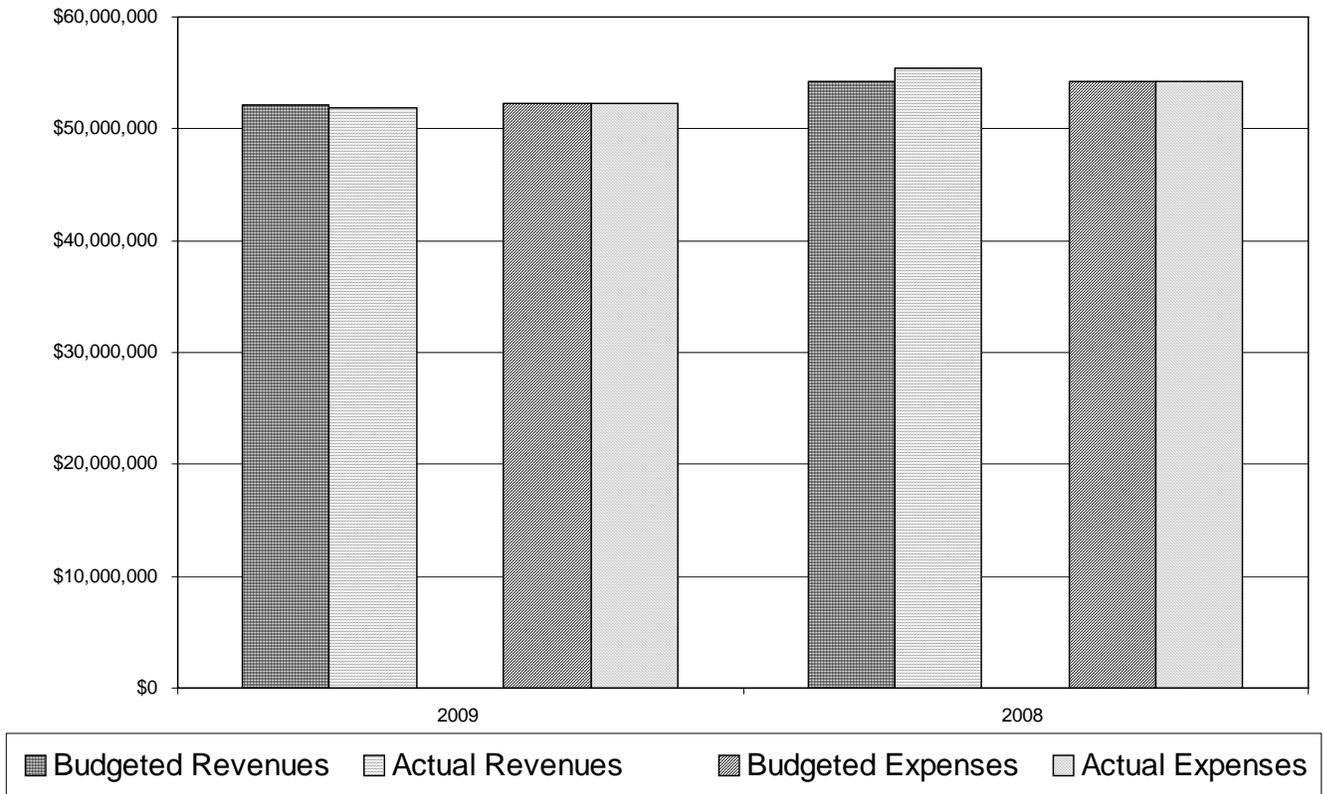
**General Fund
Budget vs Actual**



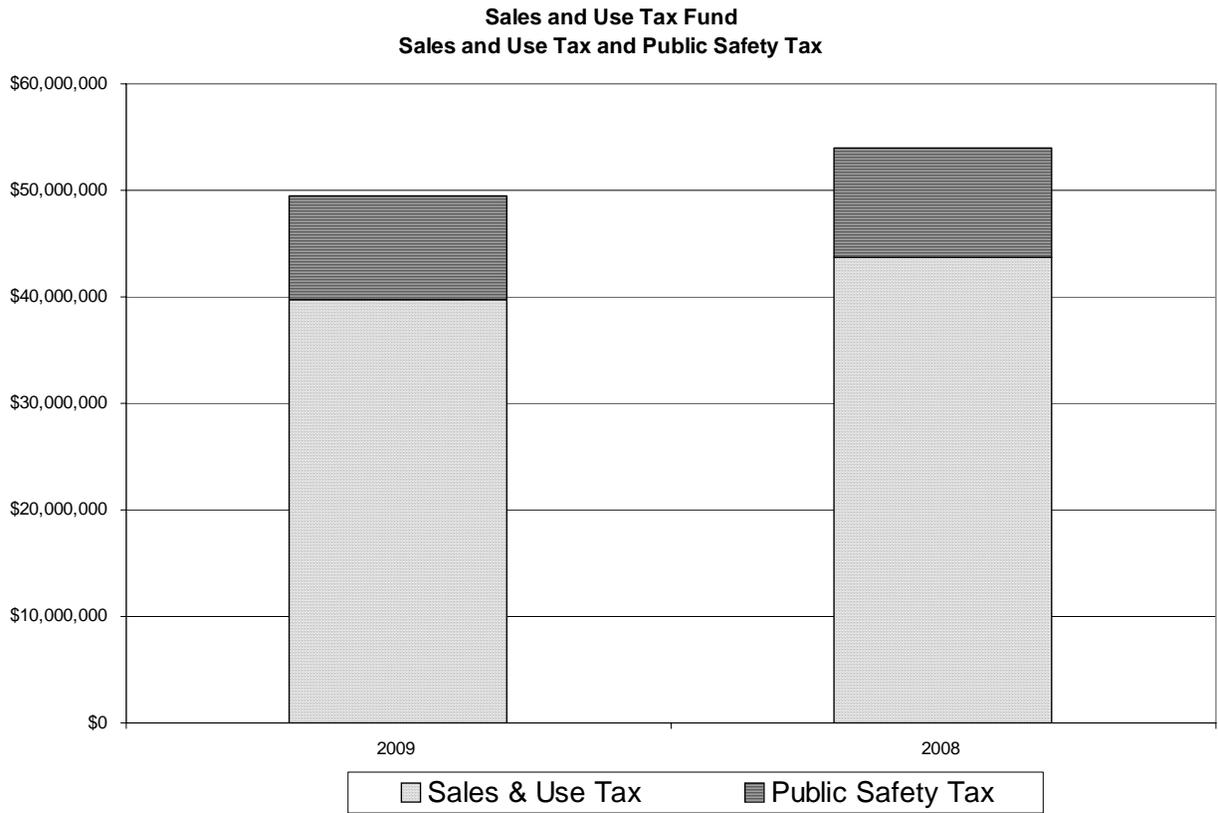
The Sales and Use Tax Fund revenues and carryover are less than expenditures by \$347,793.

- On a year-to-date cash basis, sales and use tax returns are down 7.2% from 2008.
- On a year-to-date basis, across the top 25 shopping centers, total sales and use tax receipts are down 1.2% from the prior year. This includes Urban Renewal Area money that is not available for General Fund use. Without Urban Renewal money, total sales and use tax receipts are down 5.3%.
- The top 50 Sales Tax payers, who represent about 62% of all collections, were down 3.2% after adjusting for Urban Renewal Area money that is not available for General Fund use.
- The Westminster Mall is down 27.0% on a year-to-date basis.
- Building Use Tax is down 59.4% year-to-date from 2008.

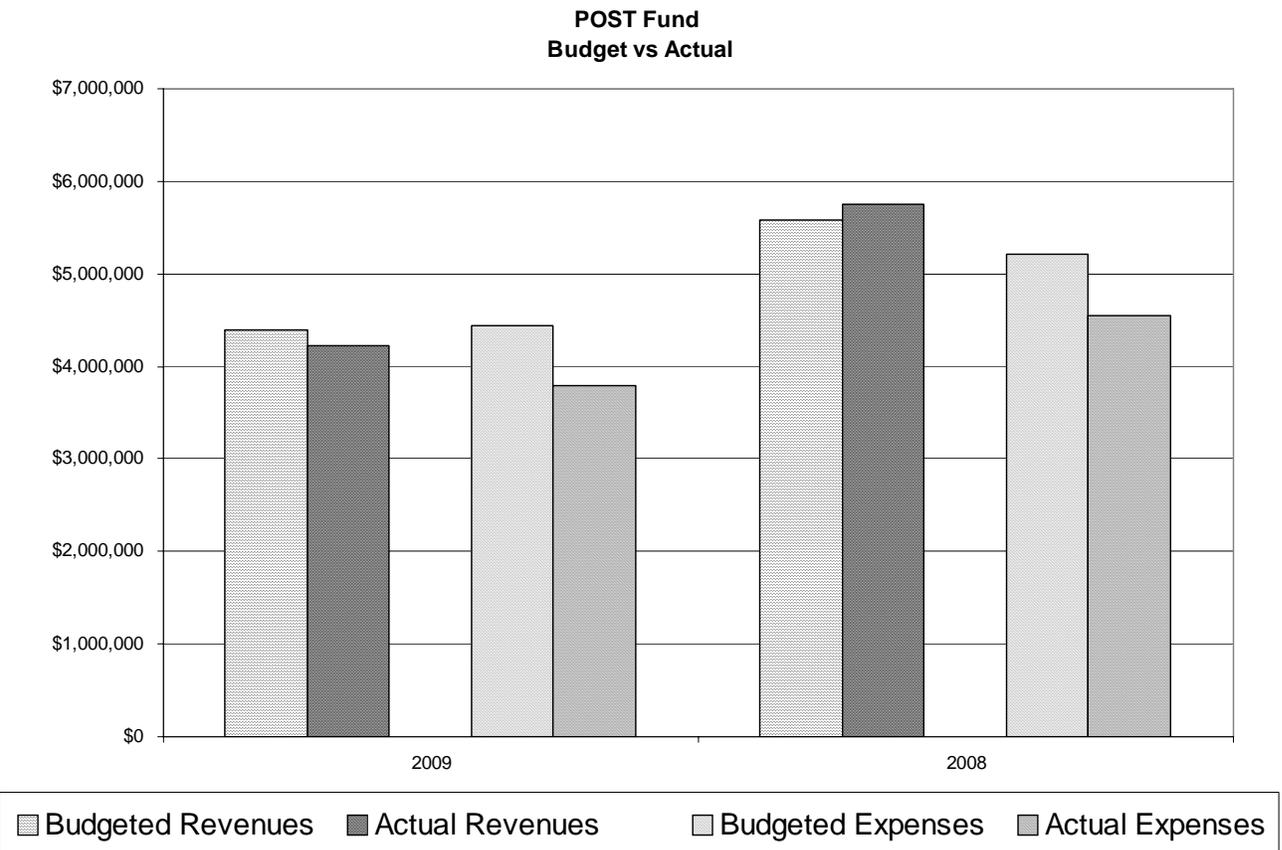
**Sales & Use Tax Fund
Budget vs Actual**



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

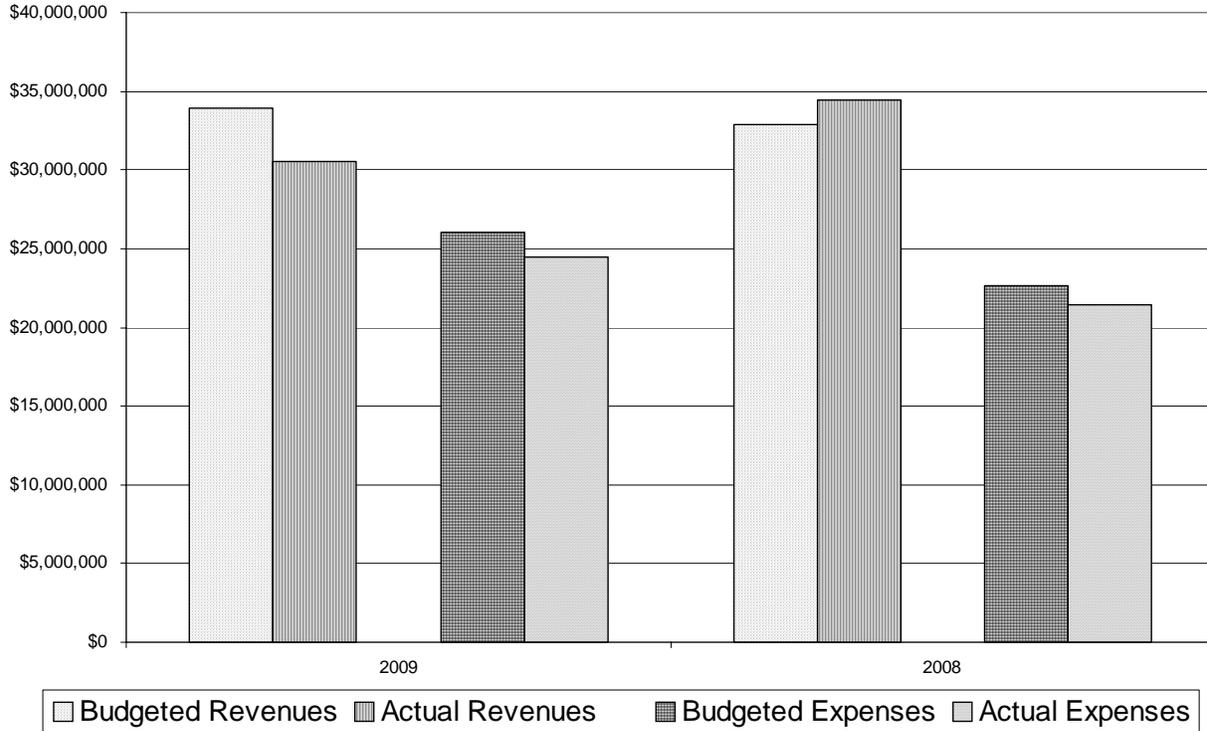


The Parks Open Space and Trails Fund revenues exceed expenditures by \$435,932.



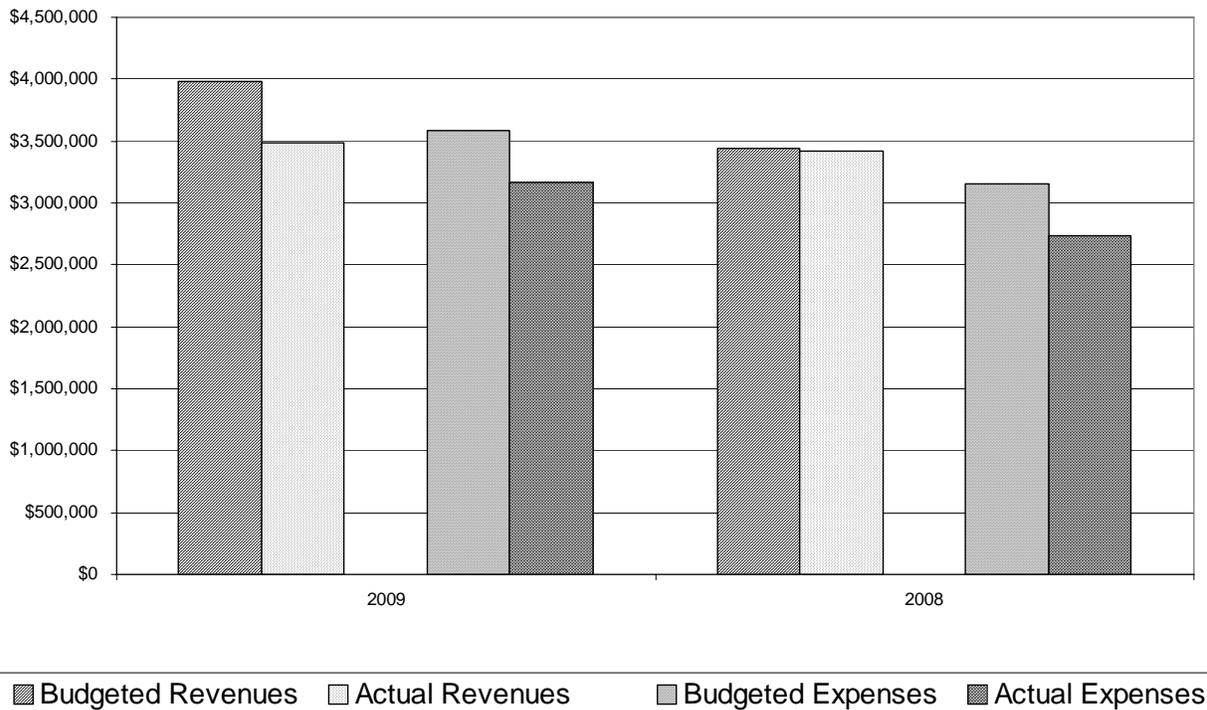
The combined Water & Wastewater Fund revenues and carryover exceed expenses by \$27,018,272. \$31,743,665 is budgeted for capital projects and reserves.

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



The combined Golf Course Fund revenues exceed expenses by \$325,248.

**Golf Course Enterprise
Budget vs Actual**



Policy Issue

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

Alternative

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

Background Information

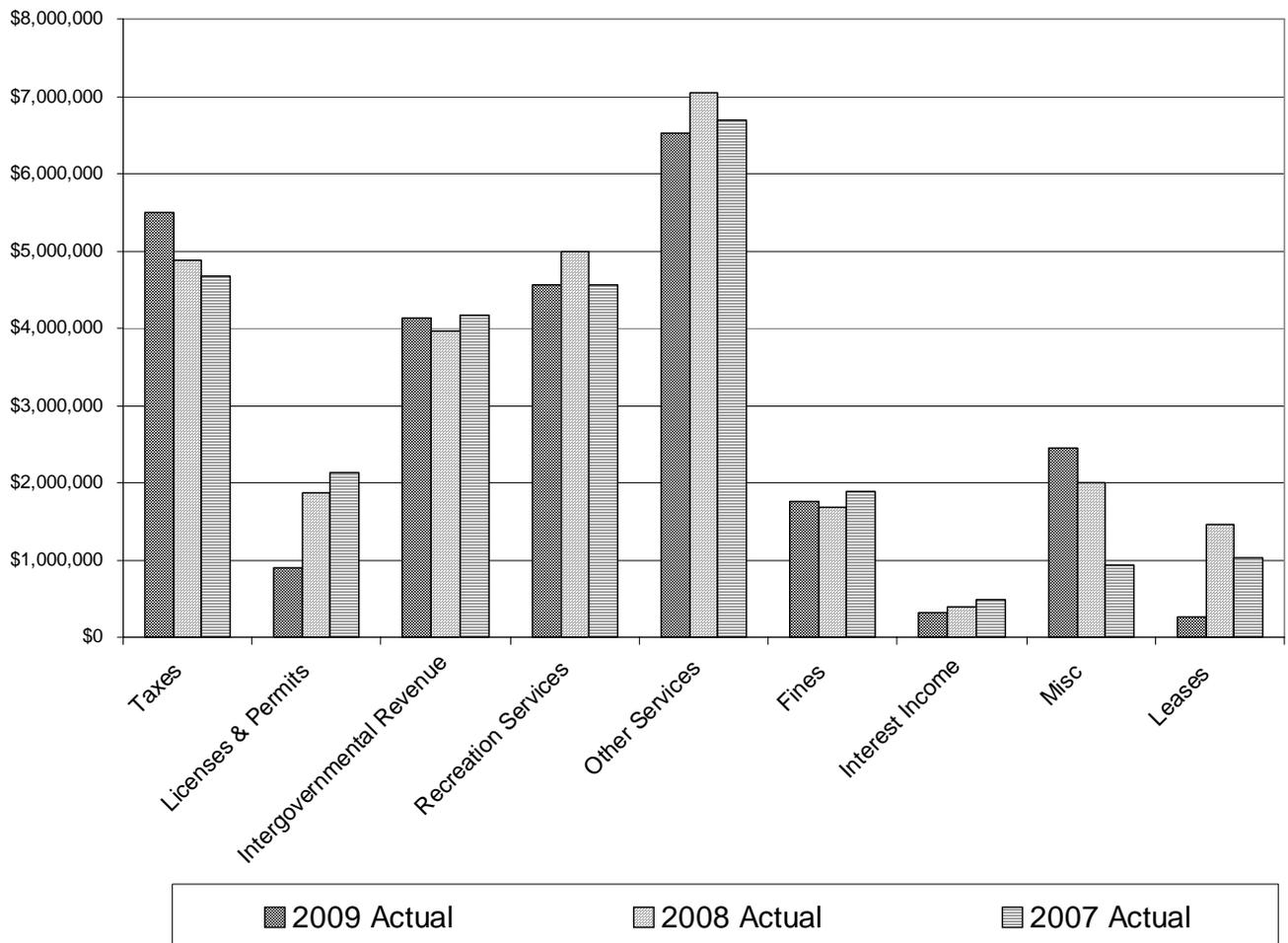
This section includes a discussion of highlights of each fund presented.

General Fund

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

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

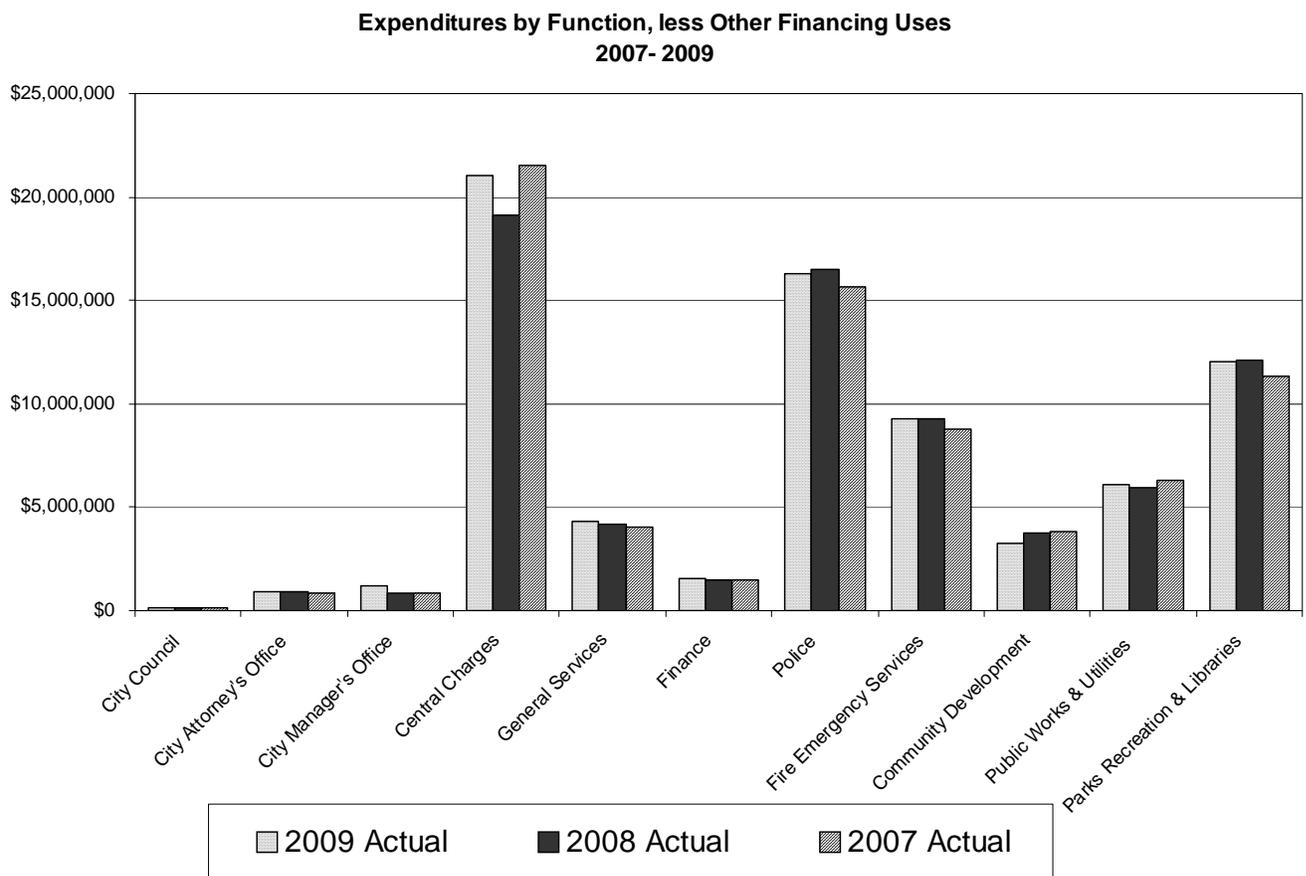
**General Fund Revenues without Transfers, Carryover, and Other Financing Sources
2007 - 2009**



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

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

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



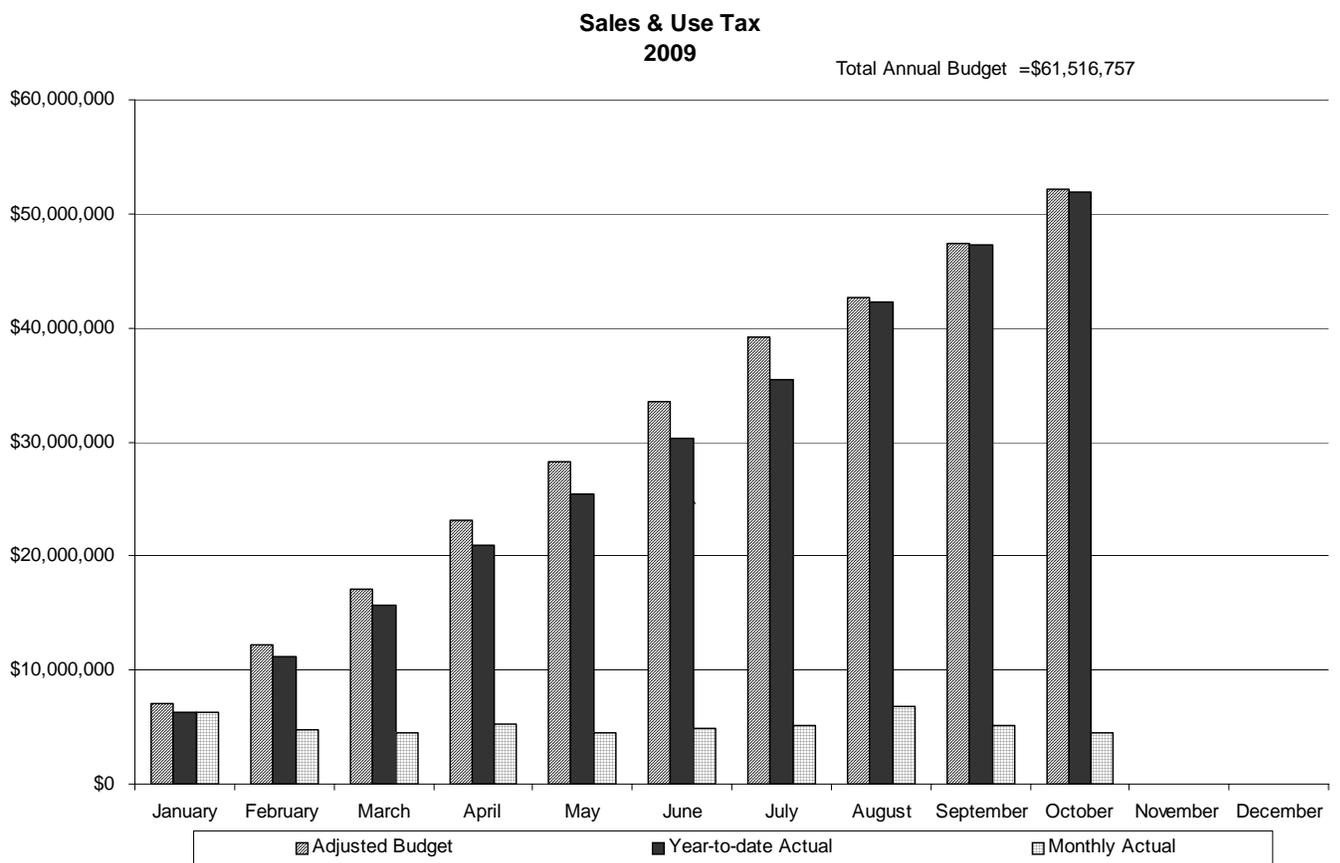
Significant variances in General Fund departmental expenditure categories are explained as follows:

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

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

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

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

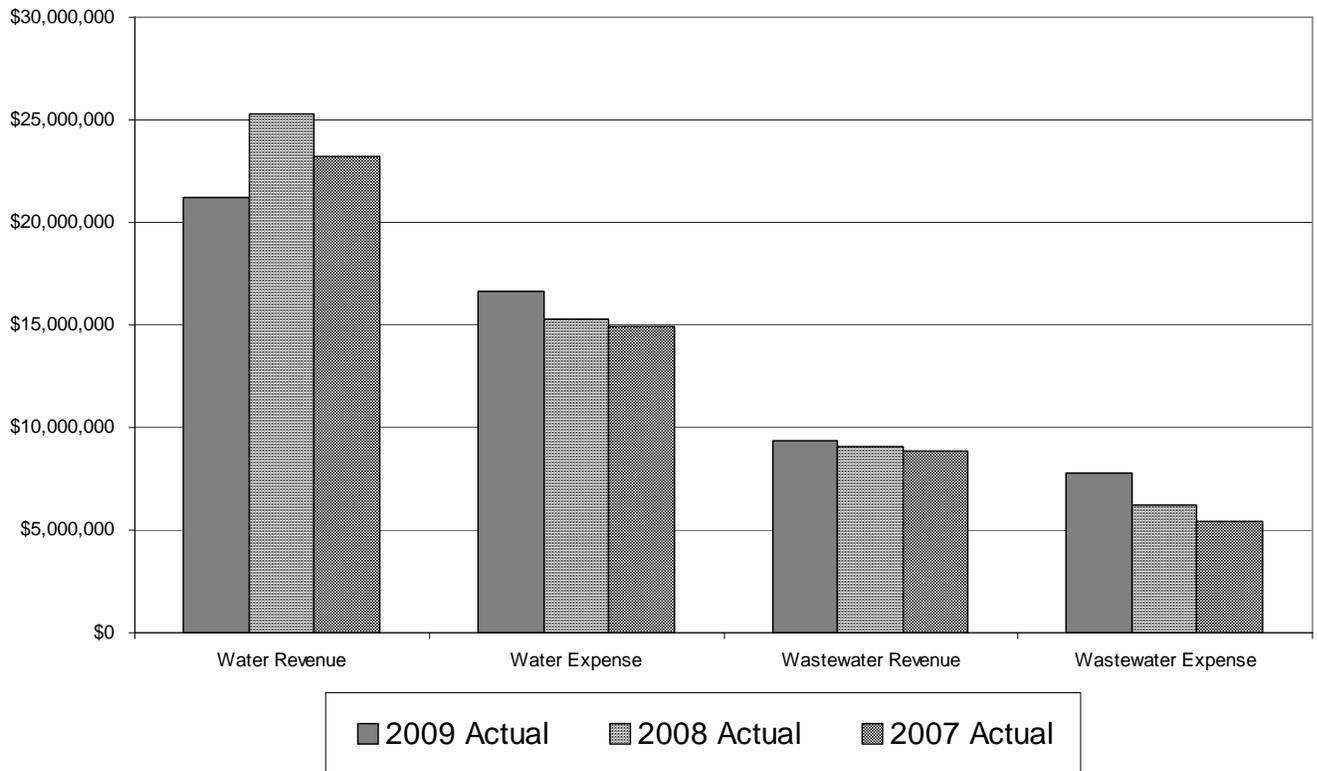


Water, Wastewater and Storm Water Drainage Funds (The Utility Enterprise)

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

These graphs represent the revenue and expense information for the Water and Wastewater funds.

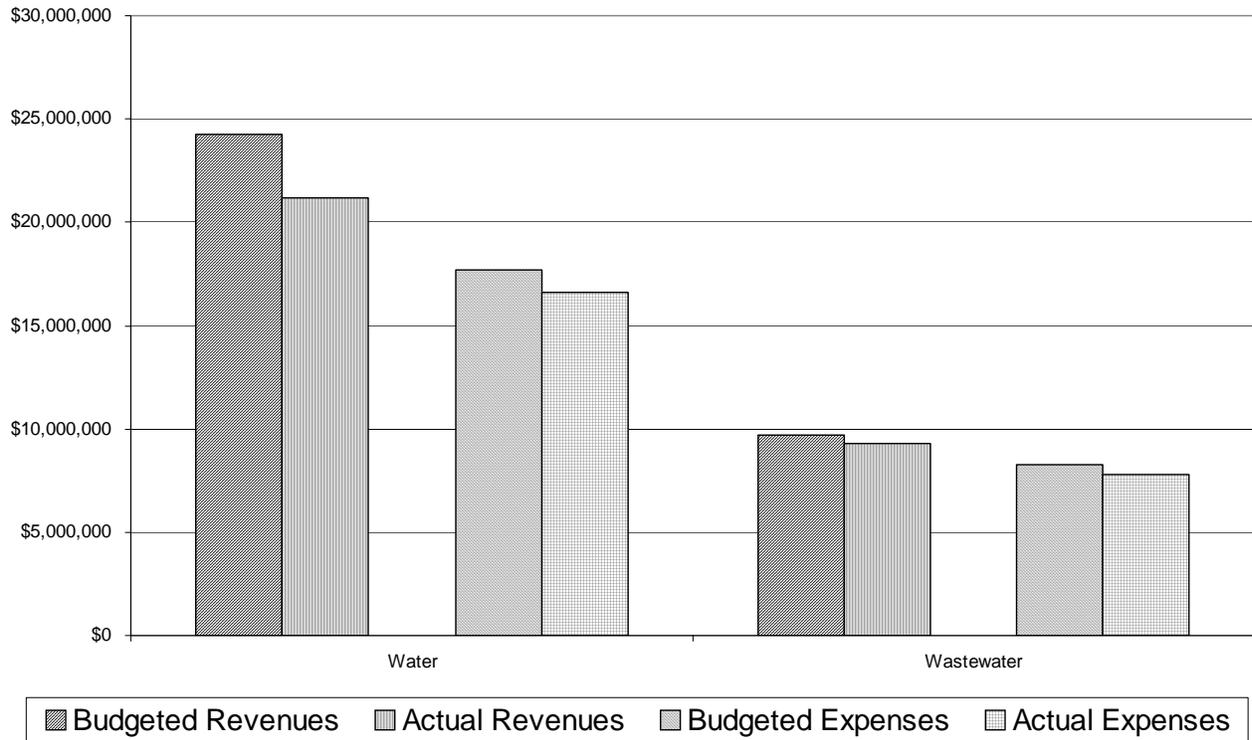
**Water and Wastewater Funds
Operating Revenue and Expenses 2007-2009**



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

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

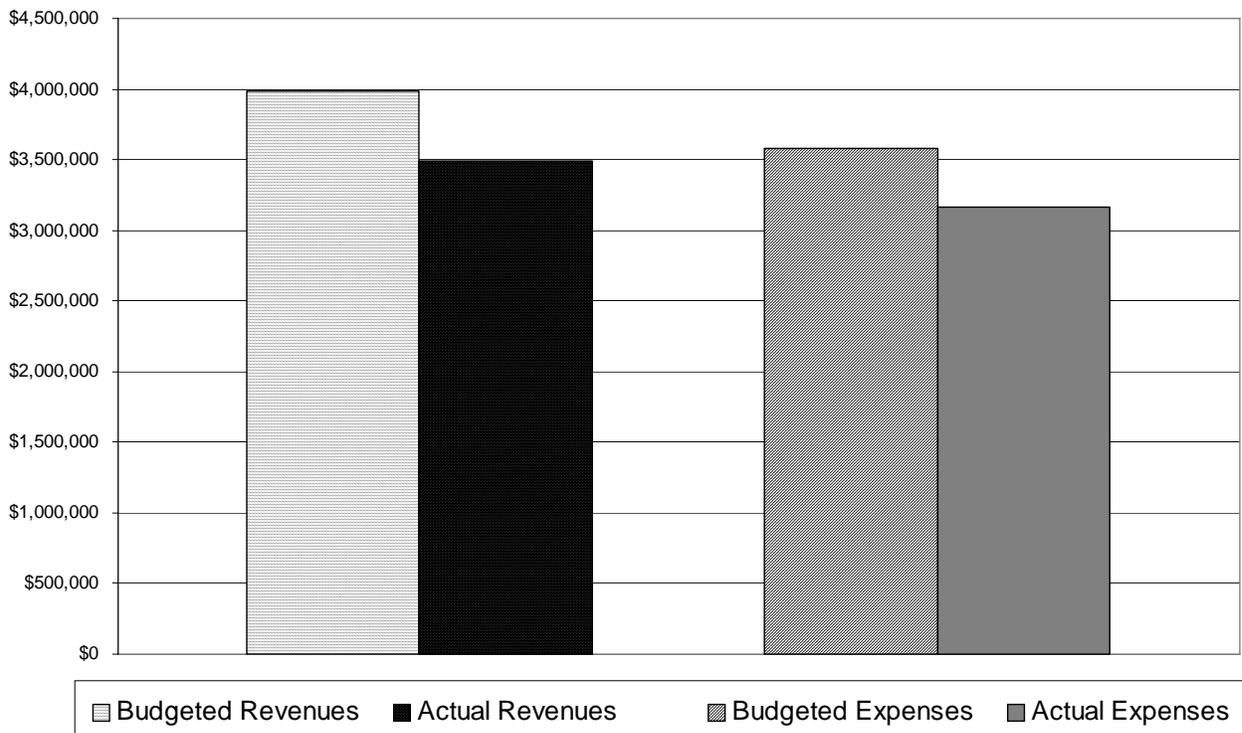
**Water and Wastewater Funds
2009 Operating Budget vs Actual**



Golf Course Enterprise (Legacy and Heritage Golf Courses)

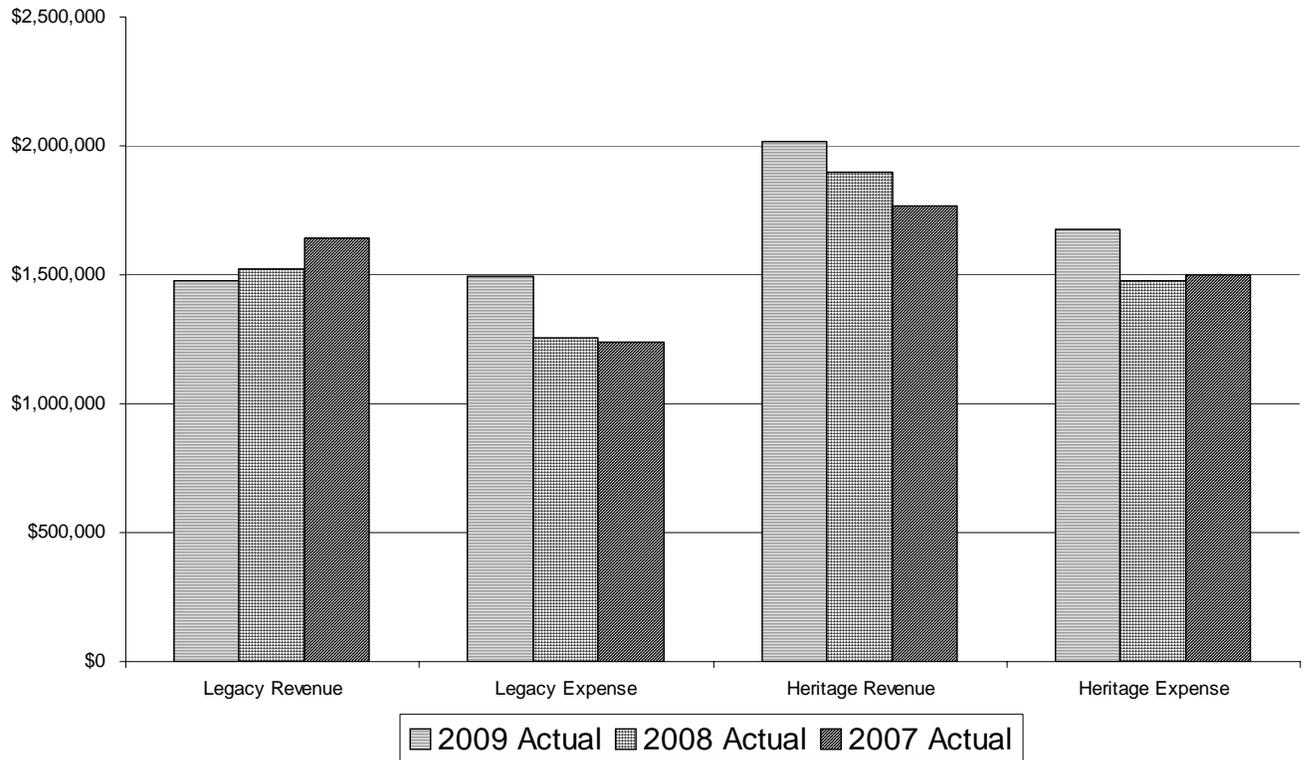
This enterprise reflects the operations of the City's two municipal golf courses.

**Combined Golf Courses
2009 Budget vs Actual**



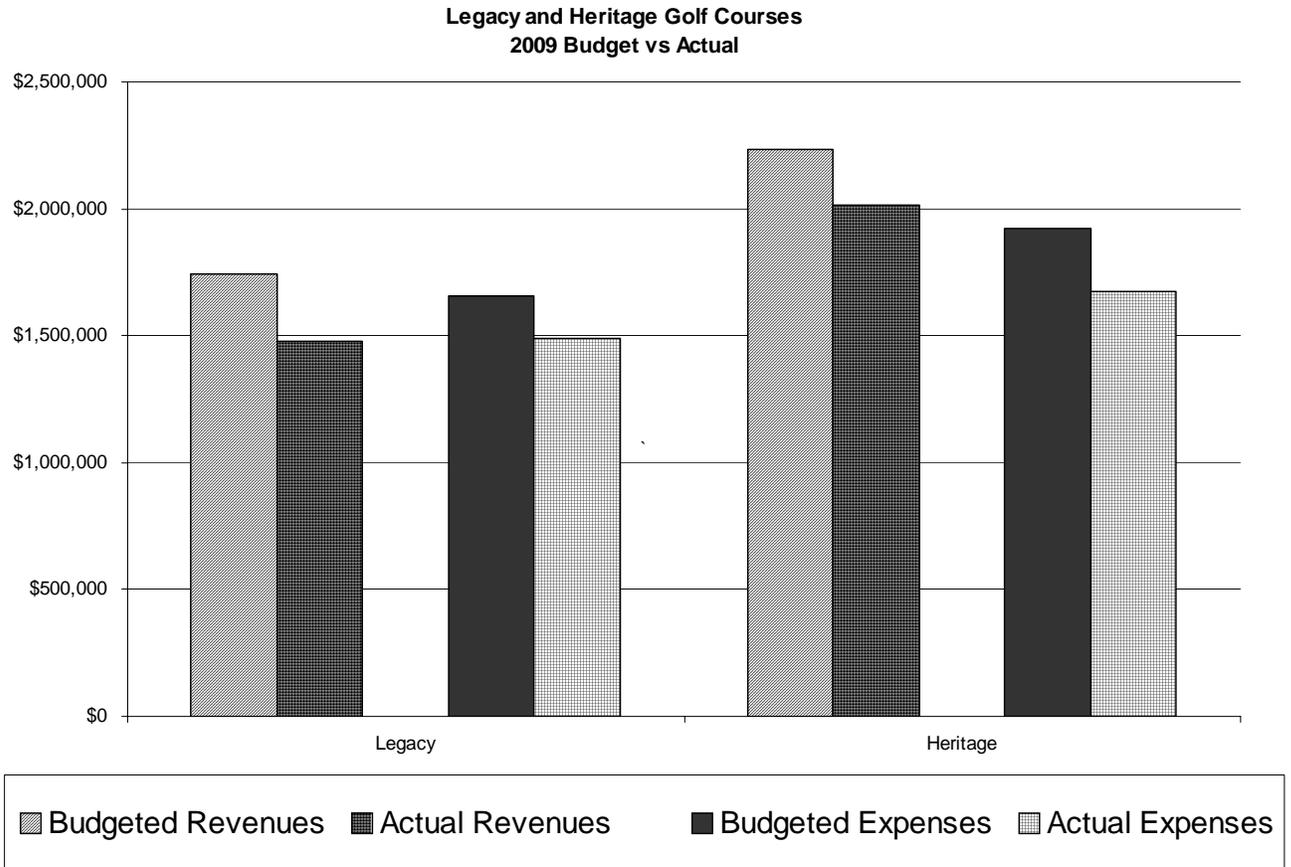
The following graphs represent the information for each of the golf courses.

**Legacy and Heritage Golf Courses
Revenue and Expenses 2007-2009**



Allocation of \$160,260 in carryover from Legacy to Heritage, a transfer that Heritage receives to help pay outstanding bonds and lease financing of a new golf cart fleet impacts this revenue representation. Elimination of these items would indicate a decrease in operating revenues from 2008 of \$201,968 at Legacy and \$168,868 at Heritage.

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



Respectfully submitted,

J. Brent McFall
City Manager

Attachments

**City of Westminster
Financial Report
For Ten Months Ending October 31, 2009**

Description General Fund	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Revenues and Carryover						
Taxes	6,089,541	5,780,799		5,497,474	(283,325)	95.1%
Licenses & Permits	1,597,600	1,350,777		902,959	(447,818)	66.8%
Intergovernmental Revenue	5,122,131	4,215,865		4,135,954	(79,911)	98.1%
Charges for Services						
Recreation Services	5,910,792	4,860,893		4,568,671	(292,222)	94.0%
Other Services	9,254,939	7,453,281		6,517,986	(935,295)	87.5%
Fines	2,211,050	1,884,525		1,765,647	(118,878)	93.7%
Interest Income	515,000	429,167		315,257	(113,910)	73.5%
Misc	1,709,560	1,614,013	(1)	2,447,801	833,788	151.7%
Leases	295,925	246,604		260,488	13,884	105.6%
Interfund Transfers	59,601,420	50,581,898	(2)	50,609,909	28,011	100.1%
Other Financing Sources	584,990	584,990		562,530	(22,460)	96.2%
Sub-total Revenues	<u>92,892,948</u>	<u>79,002,812</u>		<u>77,584,676</u>	<u>(1,418,136)</u>	<u>98.2%</u>
Carryover	6,951,071	6,951,071		6,951,071	0	100.0%
Revenues and Carryover	<u>99,844,019</u>	<u>85,953,883</u>		<u>84,535,747</u>	<u>(1,418,136)</u>	<u>98.4%</u>
Expenditures						
City Council	183,819	141,351		141,252	(99)	99.9%
City Attorney's Office	1,170,579	985,293		939,986	(45,307)	95.4%
City Manager's Office	1,669,730	1,372,866		1,227,278	(145,588)	89.4%
Central Charges	28,298,349	21,610,520		21,028,609	(581,911)	97.3%
General Services	5,844,397	4,742,793		4,324,234	(418,559)	91.2%
Finance	1,975,712	1,654,580		1,564,291	(90,289)	94.5%
Police	21,202,502	17,767,402		16,318,946	(1,448,456)	91.8%
Fire Emergency Services	11,771,442	9,856,414		9,287,760	(568,654)	94.2%
Community Development	4,351,650	3,651,186		3,281,666	(369,520)	89.9%
Public Works & Utilities	7,523,153	6,094,854		6,072,194	(22,660)	99.6%
Parks, Recreation & Libraries	15,852,686	13,169,440		12,019,735	(1,149,705)	91.3%
Total Expenditures	<u>99,844,019</u>	<u>81,046,699</u>		<u>76,205,951</u>	<u>(4,840,748)</u>	<u>94.0%</u>
Revenues and Carryover Over(Under) Expenditures	<u>0</u>	<u>4,907,184</u>		<u>8,329,796</u>	<u>3,422,612</u>	

(1) The Miscellaneous revenue variance reflects the receipt of a prior year Thornton revenue sharing agreement receivable

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

**City of Westminster
Financial Report
For Ten Months Ending October 31, 2009**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Sales and Use Tax Fund						
Revenues and Carryover						
Sales Tax						
Sales Tax Returns	41,057,421	34,735,553		32,787,965	(1,947,588)	94.4%
Sales Tx Audit Revenues	697,800	606,604		376,361	(230,243)	62.0%
S-T Rev. STX	<u>41,755,221</u>	<u>35,342,157</u>		<u>33,164,326</u>	<u>(2,177,831)</u>	93.8%
Use Tax						
Use Tax Returns	4,784,874	3,890,663		5,327,899	1,437,236	136.9%
Use Tax Audit Revenues	777,018	643,371		1,310,398	667,027	203.7%
S-T Rev. UTX	<u>5,561,892</u>	<u>4,534,034</u>		<u>6,638,297</u>	<u>2,104,263</u>	146.4%
Total STX and UTX	<u><u>47,317,113</u></u>	<u><u>39,876,192</u></u>		<u><u>39,802,623</u></u>	<u><u>(73,568)</u></u>	99.8%
Public Safety Tax						
PST Tax Returns	11,482,915	9,613,707		9,321,711	(291,996)	97.0%
PST Audit Revenues	128,840	100,945		337,225	236,280	334.1%
Total Rev. PST	<u>11,611,755</u>	<u>9,714,652</u>		<u>9,658,936</u>	<u>(55,716)</u>	99.4%
Total Interest Income	230,000	191,667		82,079	(109,588)	42.8%
Carryover	2,357,889	2,357,889		2,357,889	0	100.0%
Total Revenues and Carryover	<u><u>61,516,757</u></u>	<u><u>52,140,400</u></u>		<u><u>51,901,527</u></u>	<u><u>(238,872)</u></u>	99.5%
Expenditures						
Central Charges	<u>61,516,757</u>	<u>52,249,320</u>		<u>52,249,320</u>	0	100.0%
Revenues and Carryover Over(Under) Expenditures	<u><u>0</u></u>	<u><u>(108,920)</u></u>		<u><u>(347,793)</u></u>	<u><u>(238,872)</u></u>	

**City of Westminster
Financial Report
For Ten Months Ending October 31, 2009**

Description POST Fund	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Revenues						
Sales & Use Tax	4,973,386	4,149,520		4,023,480	(126,040)	97.0%
Interest Income	31,000	25,833		50,771	24,938	196.5%
Sale of Assets	142,996	142,996		143,313	317	100.2%
Miscellaneous	88,832	81,429		11,957	(69,472)	14.7%
Interfund Transfers	180,000	0		0	0	N/A
Total Revenues	<u>5,416,214</u>	<u>4,399,778</u>		<u>4,229,521</u>	<u>(170,257)</u>	96.1%
Expenditures						
Central Charges	5,075,985	4,155,509		3,584,307	(571,202)	86.3%
Park Services	340,229	281,486		209,282	(72,204)	74.3%
	<u>5,416,214</u>	<u>4,436,995</u>		<u>3,793,589</u>	<u>(643,406)</u>	85.5%
Over(Under) Expenditures	<u>0</u>	<u>(37,217)</u>		<u>435,932</u>	<u>473,149</u>	

**City of Westminster
Financial Report
For Ten Months Ending October 31, 2009**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Water and Wastewater Fund-Combined						
Operating Revenues						
License & Permits	75,000	62,500		81,300	18,800	130.1%
Intergovernmental Revenue	21,965	12,093		12,093	0	100.0%
Rates and Charges	38,724,370	33,522,063		30,272,806	(3,249,257)	90.3%
Miscellaneous	435,000	362,500		172,077	(190,423)	47.5%
Total Operating Revenues	39,256,335	33,959,156		30,538,276	(3,420,880)	89.9%
Operating Expenses						
Central Charges	6,013,371	5,011,142		5,013,865	2,723	100.1%
Finance	671,815	536,780		517,104	(19,676)	96.3%
Public Works & Utilities	22,351,266	18,042,515		16,651,552	(1,390,963)	92.3%
Parks, Recreation & Libraries	157,226	131,022		94,718	(36,304)	72.3%
Information Technology	2,808,228	2,291,514		2,148,244	(143,270)	93.7%
Total Operating Expenses	32,001,906	26,012,973		24,425,483	(1,587,490)	93.9%
Operating Income (Loss)	7,254,429	7,946,183		6,112,793	(1,833,390)	
Other Revenue and Expenses						
Tap Fees	7,020,000	6,094,530		1,973,904	(4,120,626)	32.4%
Interest Income	1,600,000	1,333,333		974,523	(358,810)	73.1%
Interfund Transfers	21,785,020	19,944,774		19,944,774	0	100.0%
Sale of Assets	0	0		12,740	12,740	N/A
Carryover	4,895,770	4,895,770		4,895,770	0	100.0%
Debt Service	(6,303,419)	(2,388,097)		(2,388,097)	0	100.0%
Reserve Transfer	(4,508,135)	(4,508,135)		(4,508,135)	0	100.0%
Total Other Revenue (Expenses)	24,489,236	25,372,175		20,905,479	(4,466,696)	82.4%
	31,743,665	33,318,358		27,018,272	(6,300,086)	

**City of Westminster
Financial Report
For Ten Months Ending October 31, 2009**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Water Fund						
Operating Revenues						
License & Permits	75,000	62,500		81,300	18,800	130.1%
Intergovernmental Revenue	21,965	12,093		12,093	0	100.0%
Rates and Charges	27,006,370	23,842,671		20,951,802	(2,890,869)	87.9%
Miscellaneous	425,000	354,167		167,589	(186,578)	47.3%
Total Operating Revenues	27,528,335	24,271,431		21,212,784	(3,058,647)	87.4%
Operating Expenses						
Central Charges	4,268,956	3,557,463		3,576,586	19,123	100.5%
Finance	671,815	536,780		517,104	(19,676)	96.3%
Public Works & Utilities	13,839,429	11,204,625		10,300,058	(904,567)	91.9%
Parks, Recreation & Libraries	157,226	131,022		94,718	(36,304)	72.3%
Information Technology	2,808,228	2,291,514		2,148,244	(143,270)	93.7%
Total Operating Expenses	21,745,654	17,721,404		16,636,710	(1,084,694)	93.9%
Operating Income (Loss)	5,782,681	6,550,027		4,576,074	(1,973,953)	
Other Revenue and Expenses						
Tap Fees	5,739,000	4,998,118		1,615,413	(3,382,705)	32.3%
Interest Income	900,000	750,000		737,273	(12,727)	98.3%
Interfund Transfers	18,249,272	16,670,926		16,670,926	0	100.0%
Sale of Assets	0	0		12,740	12,740	N/A
Carryover	4,158,733	4,158,733		4,158,733	0	100.0%
Debt Service	(4,798,025)	(1,782,519)		(1,782,519)	0	100.0%
Reserve Transfer	(3,777,996)	(3,777,996)		(3,777,996)	0	100.0%
Total Other Revenues (Expenses)	20,470,984	21,017,262		17,634,570	(3,382,692)	83.9%
Increase (Decrease) in Net Assets	26,253,665	27,567,289	(1)	22,210,644	(5,356,645)	

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

**City of Westminster
Financial Report
For Ten Months Ending October 31, 2009**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Wastewater Fund						
Operating Revenues						
Rates and Charges	11,718,000	9,679,392		9,321,004	(358,388)	96.3%
Miscellaneous	10,000	8,333		4,488	(3,845)	53.9%
Total Operating Revenues	<u>11,728,000</u>	<u>9,687,725</u>		<u>9,325,492</u>	<u>(362,233)</u>	96.3%
Operating Expenses						
Central Charges	1,744,415	1,453,679		1,437,279	(16,400)	98.9%
Public Works & Utilities	8,511,837	6,837,890		6,351,494	(486,396)	92.9%
Total Operating Expenses	<u>10,256,252</u>	<u>8,291,569</u>		<u>7,788,773</u>	<u>(502,796)</u>	93.9%
Operating Income (Loss)	<u>1,471,748</u>	<u>1,396,156</u>		<u>1,536,719</u>	<u>140,563</u>	
Other Revenue and Expenses						
Tap Fees	1,281,000	1,096,412		358,491	(737,921)	32.7%
Interest Income	700,000	583,333		237,250	(346,083)	40.7%
Interfund Transfers	3,535,748	3,273,848		3,273,848	0	100.0%
Carryover	737,037	737,037		737,037	0	100.0%
Debt Service	(1,505,394)	(605,578)		(605,578)	0	100.0%
Reserve Transfer	(730,139)	(730,139)		(730,139)	0	100.0%
Total Other Revenues (Expenses)	<u>4,018,252</u>	<u>4,354,913</u>		<u>3,270,909</u>	<u>(1,084,004)</u>	75.1%
Increase (Decrease) in Net Assets	<u>5,490,000</u>	<u>5,751,069</u>		<u>4,807,628</u>	<u>(943,441)</u>	

**City of Westminster
Financial Report
For Ten Months Ending October 31, 2009**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Storm Drainage Fund						
Revenues and Carryover						
Charges for Services	1,900,000	1,583,333		1,666,827	83,494	105.3%
Interest Income	0	0		67,949	67,949	N/A
Miscellaneous	0	0		4,081	4,081	N/A
Sub-total Storm Drainage Revenues	<u>1,900,000</u>	<u>1,583,333</u>		<u>1,738,857</u>	<u>155,524</u>	<u>109.8%</u>
Carryover	<u>298,413</u>	<u>298,413</u>		<u>298,413</u>	<u>0</u>	<u>100.0%</u>
Total Revenues and Carryover	<u>2,198,413</u>	<u>1,881,746</u>		<u>2,037,270</u>	<u>155,524</u>	<u>108.3%</u>
Expenses						
General Services	92,000	61,364		47,561	(13,803)	77.5%
Community Development	140,000	117,320		85,391	(31,929)	72.8%
Park Services	200,000	166,667		65,028	(101,639)	39.0%
Public Works & Utilities	<u>396,000</u>	<u>297,396</u>		<u>248,893</u>	<u>(48,503)</u>	<u>83.7%</u>
Total Expenses	<u>828,000</u>	<u>642,747</u>		<u>446,873</u>	<u>(195,874)</u>	<u>69.5%</u>
Increase (Decrease) in Net Assets	<u>1,370,413</u>	<u>1,238,999</u>	(1)	<u>1,590,397</u>	<u>351,398</u>	

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

**City of Westminster
Financial Report
For Ten Months Ending October 31, 2009**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Golf Courses Combined						
Revenues and Carryover						
Carryover	0	0		0	0	N/A
Charges for Services	3,336,142	3,152,882		2,596,509	(556,373)	82.4%
Interest Income	0	0		18,957	18,957	N/A
Interfund Transfers	467,272	389,393	(1)	435,451	46,058	111.8%
Other Financing Sources	439,745	439,745		439,745	0	100.0%
Total Revenues and Carryover	<u>4,243,159</u>	<u>3,982,020</u>		<u>3,490,662</u>	<u>(491,358)</u>	87.7%
Operating Expenses						
Central Charges	197,920	165,760		173,910	8,150	104.9%
Recreation Facilities	3,545,674	3,278,286		2,854,222	(424,064)	87.1%
Total Operating Expenses	<u>3,743,594</u>	<u>3,444,046</u>		<u>3,028,132</u>	<u>(415,914)</u>	87.9%
Operating Income (Loss)	499,565	537,974		462,530	(75,444)	86.0%
Other Expense						
Debt Service	499,565	137,283		137,283	(1)	100.0%
Increase (Decrease) in Net Assets	<u>0</u>	<u>400,691</u>		<u>325,248</u>	<u>(75,443)</u>	0.0%

(1) The Interfund Transfers variance reflects an unbudgeted payment from the General Capital Improvement Fund

**City of Westminster
Financial Report
For Ten Months Ending October 31, 2009**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Legacy Ridge Fund						
Revenues and Carryover						
Carryover	(192,312)	(160,260)		(160,260)	0	100.0%
Charges for Services	1,782,013	1,685,784		1,397,205	(288,579)	82.9%
Interest Income	0	0		18,957	18,957	N/A
Other Financing Sources	219,873	219,873		219,873	0	100.0%
Total Revenues and Carryover	<u>1,809,574</u>	<u>1,745,397</u>		<u>1,475,775</u>	<u>(269,622)</u>	84.6%
Operating Expenses						
Central Charges	98,780	81,987		92,903	10,916	113.3%
Recreation Facilities	1,710,794	1,577,352		1,399,142	(178,210)	88.7%
Total Operating Expenses	<u>1,809,574</u>	<u>1,659,339</u>		<u>1,492,045</u>	<u>(167,294)</u>	89.9%
Increase (Decrease) in Net Assets	<u>0</u>	<u>86,058</u>		<u>(16,270)</u>	<u>(102,328)</u>	0.0%

**City of Westminster
Financial Report
For Ten Months Ending October 31, 2009**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Heritage at Westmoor Fund						
Revenues and Carryover						
Carryover	192,312	160,260		160,260	0	100.0%
Charges for Services	1,554,129	1,467,098		1,199,304	(267,794)	81.7%
Interfund Transfers	467,272	389,393	(1)	435,451	46,058	111.8%
Other Financing Sources	219,872	219,872		219,872	0	100.0%
Total Revenues and Carryover	<u>2,433,585</u>	<u>2,236,623</u>		<u>2,014,887</u>	<u>(221,736)</u>	90.1%
Operating Expenses						
Central Charges	99,140	83,773		81,007	(2,766)	96.7%
Recreation Facilities	1,834,880	1,700,934		1,455,080	(245,854)	85.5%
Total Operating Expenses	<u>1,934,020</u>	<u>1,784,707</u>		<u>1,536,087</u>	<u>(248,620)</u>	86.1%
Operating Income	499,565	451,916		478,800	26,884	105.9%
Other Expense						
Debt Service	499,565	137,283		137,283	(1)	100.0%
Increase (Decrease) in Net Assets	<u>0</u>	<u>314,633</u>		<u>341,518</u>	<u>26,885</u>	108.5%

(1) The Interfund Transfers variance reflects an unbudgeted payment from the General Capital Improvement Fund

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

Center Location Major Tenant	/----- Current Month -----/			/----- Last Year -----/			/--- %Change ---/		
	General Sales	General Use	Total	General Sales	General Use	Total	Sales	Use	Total
WESTFIELD SHOPPING CENTER NW CORNER 92ND & SHER WALMART 92ND	326,034	1,470	327,505	330,812	2,692	333,504	-1	-45	-2
THE ORCHARD 144TH & I-25 JC PENNEY/MACY'S	285,630	5,807	291,437	250,841	21,224	272,065	14	-73	7
SHOPS AT WALNUT CREEK 104TH & REED TARGET	217,145	5,051	222,196	211,091	1,070	212,161	3	372	5
INTERCHANGE BUSINESS CENTER SW CORNER 136TH & I-25 WALMART 136TH	202,667	476	203,143	204,856	863	205,718	-1	-45	-1
NORTHWEST PLAZA SW CORNER 92 & HARLAN COSTCO	172,671	314	172,985	182,319	53	182,372	-5	492	-5
BROOKHILL I & II N SIDE 88TH OTIS TO WADS HOME DEPOT	166,287	467	166,754	163,942	7,448	171,390	1	-94	-3
SHOENBERG CENTER SW CORNER 72ND & SHERIDAN WALMART 72ND	160,854	470	161,324	152,394	580	152,974	6	-19	5
WESTMINSTER MALL 88TH & SHERIDAN 3 DEPARTMENT STORES	157,409	1,854	159,263	221,255	2,655	223,910	-29	-30	-29
SHERIDAN CROSSING SE CORNER 120TH & SHER KOHL'S	154,866	2,496	157,362	114,669	1,848	116,517	35	35	35
CITY CENTER MARKETPLACE NE CORNER 92ND & SHERIDAN BARNES & NOBLE	103,464	1,143	104,607	203,707	1,898	205,606	-49	-40	-49
PROMENADE SOUTH/NORTH S/N SIDES OF CHURCH RANCH BLVD SHANE/AMC	91,429	9,530	100,959	111,982	3,083	115,065	-18	209	-12
NORTH PARK PLAZA SW CORNER 104TH & FEDERAL KING SOOPERS	94,909	2,405	97,314	103,432	1,188	104,620	-8	102	-7
STANDLEY SHORES CENTER SW CORNER 100TH & WADS KING SOOPERS	67,043	259	67,302	66,149	119	66,267	1	118	2
ROCKY MOUNTAIN PLAZA SW CORNER 88TH & SHER GUITAR STORE	54,920	174	55,094	53,420	152	53,572	3	14	3
STANDLEY LAKE MARKETPLACE NE CORNER 99TH & WADSWORTH SAFEWAY	40,874	4,501	45,375	53,005	277	53,282	-23	1523	-15

CITY OF WESTMINSTER
 GENERAL RECEIPTS BY CENTER
 MONTH and YEAEER-TO-DATE OCTOBER 2009

Center Location Major Tenant	Current Month			Last Year			%Change		
	General Sales	General Use	Total	General Sales	General Use	Total	Sales	Use	Total
WESTMINSTER PLAZA FEDERAL-IRVING 72ND-74TH SAFEWAY	44,075	904	44,979	47,440	396	47,835	-7	128	-6
VILLAGE AT PARK CENTRE NW CORNER 120TH & HURON CB & POTTS	37,001	106	37,107	41,584	401	41,985	-11	-74	-12
WILLOW RUN 128TH & ZUNI SAFEWAY	33,962	125	34,087	47,008	112	47,120	-28	12	-28
LUCENT/KAISER CORRIDOR 112-120 HURON - FEDERAL LUCENT TECHNOLOGY	3,495	30,481	33,977	9,068	44,526	53,594	-61	-32	-37
CHURCH RANCH CORPORATE CENTER CHURCH RANCH BOULEVARD LA QUINTA	11,937	21,589	33,526	7,271	44,309	51,580	64	-51	-35
RANCHO PLAZA SE CORNER 72ND & FEDERAL RANCHO LIBORIO	33,462	0	33,462	243	0	243	13693	*****	13693
VILLAGE AT THE MALL S SIDE 88TH DEPEW-HARLAN TOYS 'R US	26,728	205	26,933	79,883	170	80,053	-67	21	-66
ELWAY/DOUGLAS CORRIDOR NE CORNER 104TH & FED ELWAY MOTORS	21,719	1,110	22,829	25,055	1,097	26,151	-13	1	-13
STANDLEY PLAZA SW CORNER 88TH & WADS WALGREENS	20,923	618	21,542	23,912	1,300	25,212	-13	-52	-15
NORTHVIEW 92ND AVE YATES TO SHERIDAN SALTGRASS	21,129	310	21,439	25,200	720	25,920	-16	-57	-17
	<u>2,550,633</u>	<u>91,868</u>	<u>2,642,501</u>	<u>2,730,538</u>	<u>138,181</u>	<u>2,868,719</u>	<u>-7</u>	<u>-34</u>	<u>-8</u>

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

Center Location Major Tenant	/----- YTD 2009 -----/			/----- YTD 2008 -----/			/--- %Change ---/		
	General Sales	General Use	Total	General Sales	General Use	Total	Sales	Use	Total
WESTFIELD SHOPPING CENTER NW CORNER 92ND & SHER WALMART 92ND	3,522,504	52,618	3,575,122	3,925,353	23,874	3,949,227	-10	120	-9
THE ORCHARD 144TH & I-25 JC PENNEY/MACY'S	2,927,385	149,827	3,077,211	2,111,556	299,840	2,411,396	39	-50	28
INTERCHANGE BUSINESS CENTER SW CORNER 136TH & I-25 WALMART 136TH	2,318,064	18,513	2,336,576	2,163,118	82,800	2,245,918	7	-78	4
SHOPS AT WALNUT CREEK 104TH & REED TARGET	2,122,355	46,425	2,168,780	2,142,884	15,840	2,158,724	-1	193	0
WESTMINSTER MALL 88TH & SHERIDAN 3 DEPARTMENT STORES	2,076,007	13,567	2,089,574	2,816,223	56,066	2,872,289	-26	-76	-27
NORTHWEST PLAZA SW CORNER 92 & HARLAN COSTCO	2,037,197	10,443	2,047,640	2,075,557	25,439	2,100,996	-2	-59	-3
SHOENBERG CENTER SW CORNER 72ND & SHERIDAN WALMART 72ND	1,790,648	7,141	1,797,789	843,938	5,743	849,681	112	24	112
BROOKHILL I & II N SIDE 88TH OTIS TO WADS HOME DEPOT	1,703,624	17,820	1,721,444	1,867,207	26,894	1,894,101	-9	-34	-9
CITY CENTER MARKETPLACE NE CORNER 92ND & SHERIDAN BARNES & NOBLE	1,637,634	13,724	1,651,358	2,072,030	22,707	2,094,737	-21	-40	-21
SHERIDAN CROSSING SE CORNER 120TH & SHER KOHL'S	1,542,709	19,561	1,562,270	1,208,721	31,351	1,240,072	28	-38	26
PROMENADE SOUTH/NORTH S/N SIDES OF CHURCH RANCH BLVD SHANE/AMC	1,151,099	147,592	1,298,691	1,296,909	258,855	1,555,764	-11	-43	-17
NORTH PARK PLAZA SW CORNER 104TH & FEDERAL KING SOOPERS	1,068,043	6,737	1,074,780	1,105,354	6,223	1,111,577	-3	8	-3
VILLAGE AT THE MALL S SIDE 88TH DEPEW-HARLAN TOYS 'R US	800,501	3,908	804,408	1,002,060	4,937	1,006,997	-20	-21	-20
STANDLEY SHORES CENTER SW CORNER 100TH & WADS KING SOOPERS	718,066	3,009	721,075	713,788	8,240	722,028	1	-63	0
WESTMINSTER CROSSING 136TH & I-25 LOWE'S	607,863	6,011	613,875	647,736	2,563	650,299	-6	135	-6

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

Center Location Major Tenant	/----- YTD 2009 -----/			/----- YTD 2008 -----/			/--- %Change ---/		
	General Sales	General Use	Total	General Sales	General Use	Total	Sales	Use	Total
ROCKY MOUNTAIN PLAZA SW CORNER 88TH & SHER GUITAR STORE	584,841	2,654	587,495	606,421	3,542	609,963	-4	-25	-4
WESTMINSTER PLAZA FEDERAL-IRVING 72ND-74TH SAFEWAY	474,040	4,641	478,681	563,483	28,499	591,982	-16	-84	-19
STANDLEY LAKE MARKETPLACE NE CORNER 99TH & WADSWORTH SAFEWAY	450,881	8,719	459,599	537,077	2,490	539,567	-16	250	-15
WILLOW RUN 128TH & ZUNI SAFEWAY	409,787	2,583	412,371	504,406	3,390	507,795	-19	-24	-19
VILLAGE AT PARK CENTRE NW CORNER 120TH & HURON CB & POTTS	406,341	2,093	408,434	426,165	10,423	436,587	-5	-80	-6
RANCHO PLAZA SE CORNER 72ND & FEDERAL RANCHO LIBORIO	281,602	24,750	306,352	462	0	462	60903	*****	66264
ELWAY/DOUGLAS CORRIDOR NE CORNER 104TH & FED ELWAY MOTORS	254,229	5,565	259,793	292,154	5,654	297,808	-13	-2	-13
NORTHVIEW 92ND AVE YATES TO SHERIDAN SALTGRASS	236,013	48,557	284,570	249,476	21,528	271,003	-5	126	5
MISSION COMMONS W SIDE WADSWORTH 88-90TH BIG 5 SPORTS	234,804	1,359	236,163	218,373	2,848	221,221	8	-52	7
BOULEVARD SHOPS 94TH & WADSWORTH CORRIDOR AMERICAN FURNITURE WAREHOUSE	228,908	2,299	231,207	241,091	1,332	242,423	-5	73	-5
	<u>29,585,144</u>	<u>620,114</u>	<u>30,205,258</u>	<u>29,631,536</u>	<u>951,079</u>	<u>30,582,615</u>	0	-35	-1



Agenda Item 8 B

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
November 23, 2009



SUBJECT: 2010 Citywide Street Sweeping Services Contract

Prepared By: Dave Cantu, Contract Maintenance Supervisor
Ray Porter, Street Operations Manager

Recommended City Council Action

Authorize the City Manager to execute a contract for 2010 with options for two additional one-year renewals (2011 and 2012) for Citywide Street Sweeping to the lowest responsible bidder, C&S Sweeping Services, Inc. in the amount of \$192,040 and authorize a contingency of \$17,010.

Summary Statement

- City Council approved funds in the 2010 Storm Drainage Fund –Street Maintenance account for citywide street sweeping services.
- The City utilizes the services of a private contractor to perform Citywide Street Sweeping. The current contract was bid for calendar years, 2007, 2008 and 2009.
- Formal bids were solicited from eight contractors with four contractors responding.
- The first and second low bidders do not meet requirements of the bid with regard to age, size and number of required vacuum sweepers and have no ground positioning systems (GPS) / automated vehicle location (AVL) tracking systems.
- The recommended bidder is the third low bidder, meeting all bid requirements.
- Bid prices came in \$18,912 over budget; however, sufficient funds are available in the Street Maintenance Storm Drainage Fund account to cover actual bid pricing and contingency.
- As proposed, annual contract renewals for 2011 and 2012 will require agreement by both parties and any price adjustments will be based on the Consumer Price Index for all urban customers.
- A three year contract has proven to secure the lowest bid price possible over the past 23 years given the investment required by the contractor to provide the service.
- A contingency is included for potential additional sweeping during the winter months to assure that the City can meet PM-10 Air Quality Regulations.

Expenditure Required: \$ 209,050

Source of Funds: 2010 Storm Drainage Fund
– Public Works & Utilities Street Maintenance Budget

Policy Issue

Should the City award this contract for citywide sweeping services to the lowest responsible bidder, C&S Sweeping Services, Inc. for 2010, with two one-year extensions in 2011 and 2012?

Alternatives

1. Award to the low bidder, Allstate Sweeping, LLC at \$38.50/curb mile, a total cost of \$182,270 requiring \$9,142 in additional funding above the original budget. Allstate would need to upgrade its vacuum sweeper fleet to meet bid requirements. Allstate Sweeping was assigned the city sweeping in August of this year and has had difficulty in meeting monthly sweeping rotations the past two months. Allstate lost the City of Centennial contract recently due to sub-standard performance and sweeper breakdown. Allstate does not have GPS/AVL capability.
2. Award bid to the second low bidder, Armstrong Sweeping, Inc. at \$41.50/curb mile, a total cost of \$191,174 requiring \$18,046 in additional funding above the original budget. The Armstrong Sweeping bid is \$8,904 higher than Allstate Sweeping. Armstrong would need to purchase one additional vacuum sweeper within the age requirement of the bid. Armstrong has good references and is capable of handling this contract; however Armstrong does not have GPS/AVL capabilities.
3. Discontinue the full-time services of a private contractor. This alternative would require the City to hire a minimum of three full-time employees and invest in the equipment necessary to perform Citywide Street Sweeping. City Staff does not recommend performing Citywide Street Sweeping "In-House". Initial equipment outlay would be substantial, in addition, ongoing FTE, equipment maintenance, and equipment replacement expenses are not cost effective.

Background Information

The City has utilized the services of a street sweeping contractor since 1985. In 2010, \$173,128 is budgeted for citywide street sweeping services. The grand total bid from C&S Sweeping is \$192,040 requiring \$18,912 additional funding from the Storm Drainage account. During the 2010 budget preparation process in 2008, a 22% increase from \$31.06/curb mile to \$38/curb mile was used to estimate 2010 sweeping costs. C&S Sweeping's bid of \$41.69/curb mile is 9.7% higher than the 2010 projected cost of \$38/curb mile.

During the 2010 budget process street sweeping costs were reduced by \$100,000, and subsequently street sweeping frequency was also reduced. The 2010 street sweeping bid costs and available budget allow for the following citywide street sweeping frequency:

- Sweeping 4,556 curb miles, less an estimated 1,600 curb miles for post storm sweeping (post storm sweeping includes all streets receiving deicing applications after every storm October through March)
- 4 citywide rotations
 - full city rotation in April (Spring clean up)
 - full city rotation in July (mid year)
 - full city rotation in October (leaf clean up)
 - full city rotation in November (leaf clean up)
- Additional post-storm sweeping as needed.

The following bids were received:

Allstate Sweeping, LLC	\$182,270
Armstrong Sweeping, Inc.	\$191,174
C&S Sweeping Services, Inc.	\$192,040
Cannon Pacific Services, Inc.	\$233,698

Original Staff Estimate for budget: \$173,128

The recommended bidder, C&S Sweeping Services, Inc. meets all of the City bid requirements and has successfully performed street sweeping services for the Arizona Department of Transportation, the Phoenix Metro Area, the City of Tucson, Larimer County, Asphalt Paving Company, Brannan Sand & Gravel Company, and Alpha Milling. The company has been in business for 15 years and all references responded in a positive manner, having no reservation about any facet of operations.

The Contract sum for renewal periods 2011 and 2012 shall be negotiated and agreed to by both parties. Any adjustment shall not exceed the annual percent of change of the Denver-Boulder-Greeley Consumer Price Index for all urban consumers.

This contract meets Council's Strategic Plan Goals of a "Financially Sustainable City Government Providing Exceptional Services," by providing a competitively based service at a satisfactory level and cost efficient rate; and "Beautiful City," by keeping Westminster roadways clean and storm sewer inlets free from silt buildup.

Respectfully submitted,

J. Brent McFall
City Manager



**WESTMINSTER
COLORADO**

Agenda Memorandum

City Council Meeting
November 23, 2009



SUBJECT: 2010 Asphalt Pavement Crackseal Project Contract

Prepared By: Dave Cantu, Contract Maintenance Supervisor
Ray Porter, Street Operations Manager

Recommended City Council Action

Authorize the City Manager to execute a contract for the 2010 Asphalt Pavement Crackseal Project with the low bidder, A-1 Chipseal Company in the amount of \$115,375 and authorize a contingency of \$11,538 for a total project budget of \$126,913.

Summary Statement

- Formal bids were solicited in accordance with City bidding requirements for the 2010 Asphalt Pavement Crackseal Project. Requests for bids were sent to the eight contractors in the metropolitan area who do this type of pavement preventative maintenance treatment with five responding.
- The low bidder, A-1 Chipseal Company meets all of the City bid requirements and has successfully performed this process in the City of Westminster and in the Denver Metro area over the past eight years.
- Eighteen streets totaling 48 lane miles will receive the crackseal preventative maintenance treatment on streets earmarked for roadway surface improvements in 2010 and 2011 (see attached list and map).
- Contracting this work early allows the material to fully cure before resurfacing, and will reduce asphalt preparation work for the Street Division crews.
- City Council approved adequate funds for this expense in the 2010 Department of Public Works and Utilities, Street Operations Division budget.

Expenditure Required: \$126,913

Source of Funds: 2010 General Fund – Public Works and Utilities Street Operations Budget

Policy Issues

1. Should this bid for 2010 Asphalt Pavement Cracksealing be awarded to the low bidder, A-1 Chipseal Company?
2. Should the City continue the practice of crackseal preventative maintenance prior to resurfacing city streets?

Alternatives

One alternative is to discontinue the practice of cracksealing streets prior to resurfacing. Water would penetrate the pavement’s subgrade and reduce the life expectancy of the resurfacing projects by 50%. Staff does not recommend elimination of cracksealing prior to resurfacing applications.

A second alternative is to crackseal these streets in-house. Staff does not recommend this alternative. City crews would fall behind with scheduled pavement preservation and the combined use of contract/in-house labor for this service has proven to stretch resources available for annual maintenance expenditures.

Background Information

The low bidder, A-1 Chipseal Company meets all of the City bid requirements and has successfully completed this process for the City of Westminster, as well as other cities in the Denver Metro area for the past eight years.

The 2010 Asphalt Pavement Crackseal Project represents a total of 48 lane miles of asphalt pavement preventative maintenance at 18 street locations (see attached location list). Contractual cracksealing streets earmarked for 2010 and 2011 improvements allows Street Division crews to concentrate their in-house pavement preservation maintenance efforts on roadways where improvements will not be scheduled for several years.

The following sealed bids were received:

A-1 Chipseal Company	\$115,375
Coatings, Inc.	\$119,250
Precise Striping, LLC	\$128,750
Quality Resurfacing Company	\$128,750
Foothills Paving & Maintenance, Inc	\$170,000
Staff Estimate	\$125,000

The 2010 low bid crackseal application price of \$0.923 per pound is a decrease of 1% below the 2009 price for cracksealing performed in early 2009. This decrease is attributed to a favorable bidding climate.

This contract helps achieve the City Council’s Strategic Plan Goals of “Financially Sustainable City Government, Safe and Secure Community, and Vibrant Neighborhoods and Commercial Areas” by meeting the following objectives:

- Well maintained city infrastructure and facilities.
- Safe citizen travel throughout the city.
- Maintain and improve neighborhood infrastructure and housing.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

**CITY OF WESTMINSTER
DEPARTMENT OF PUBLIC WORKS & UTILITIES
STREET OPERATIONS DIVISION
2010 ASPHALT PAVEMENT CRACKSEAL PROJECT
PROJECT SCRS-10-2
LOCATIONS LIST**

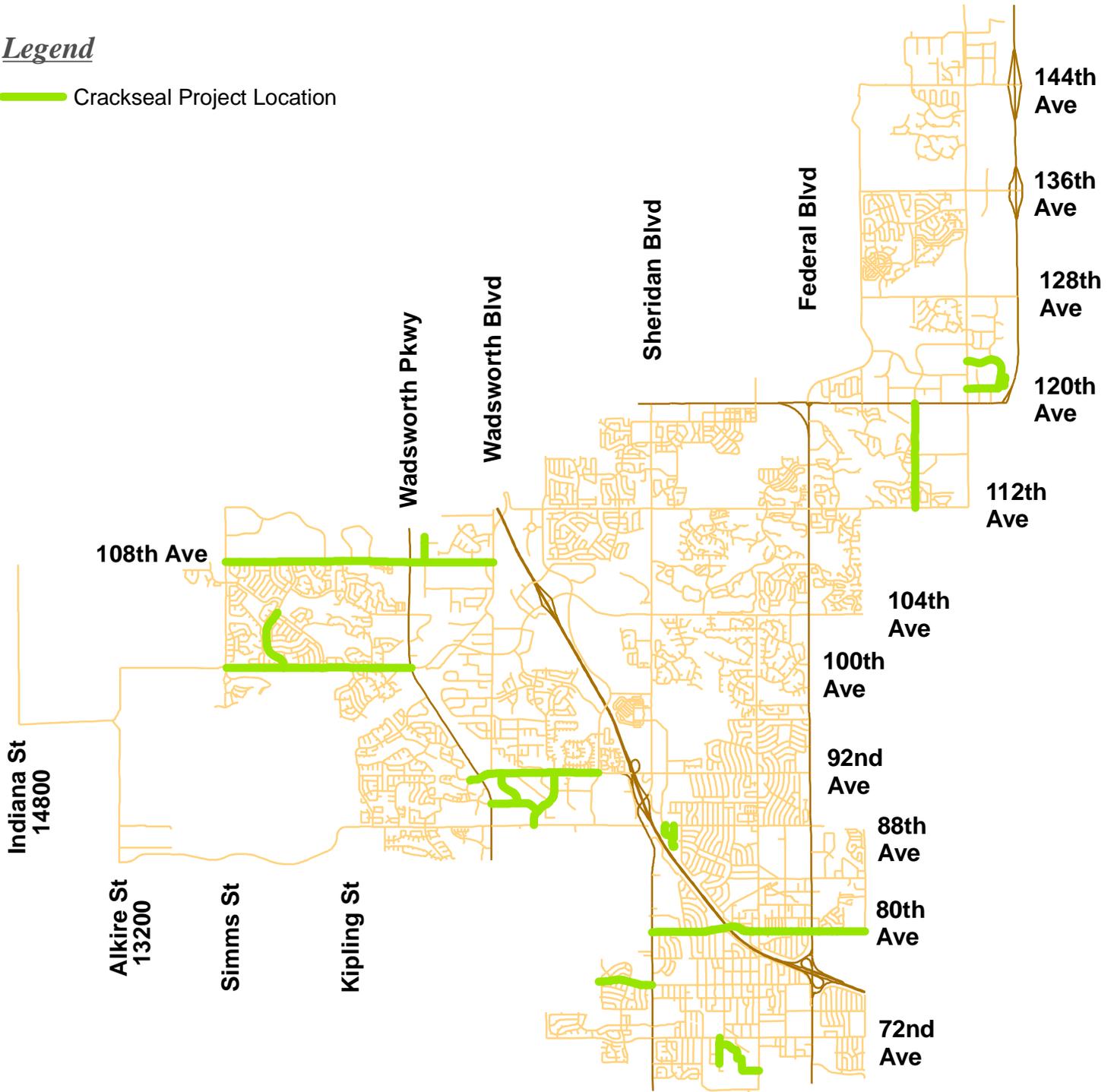
1. Pierce Street - 88th Avenue to 92nd Avenue
2. 100th Avenue – Wadsworth Parkway to Simms Street
3. Oak Street – Countryside Drive to 100th Avenue
4. 92nd Avenue - Westminster Boulevard to Yarrow Street
5. Pecos Street - 112th Avenue to 120th Avenue
6. 80th Avenue – Sheridan Boulevard to City Limit East of Federal Boulevard
7. 108th Avenue – Wadsworth Boulevard to Simms Street
8. Dover Street -108th Avenue to North End
9. 123rd Avenue - Huron Street to Bannock Street
10. Bannock Street - 123rd Avenue to 121st Avenue
11. Yates Drive - 88th Avenue to Wolff Court.
12. Wolff Court - 88th Avenue to South End
13. 90th Avenue - Pierce Street to Wadsworth Boulevard
14. Vance Street - 90th Avenue to 92nd Avenue
15. Raleigh Street - 72nd Avenue to 70th Avenue
16. 69th Place – Lowell Boulevard to Osceola Street
17. Osceola Street - 69th Place to Elk Drive
18. 76th Avenue – Sheridan Boulevard to West City limits

***Location listing shall be altered as material allows.**

***2010 Asphalt Pavement Crackseal Project
Project SCRS-10-2
Location List***

Legend

 Crackseal Project Location





**WESTMINSTER
COLORADO**

Agenda Memorandum

City Council Meeting
November 23, 2009



SUBJECT: 2010 Proposed Community Development Block Grant and HOME Projects

Prepared By: Vicky Bunsen, Community Development Programs Coordinator

Recommended City Council Action

Approve the allocation of Community Development Block Grant and HOME funds in 2010.

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).
- The 2010 CDBG allocation is anticipated to be approximately \$559,370.
- The funds must be used towards programs and projects meeting eligibility requirements established by HUD that primarily benefit low to moderate income populations and areas. The City may use up to 20% of the allocation towards CDBG-related administration. For 2010, this is estimated to equal \$111,874.
- Based on input from City Council, City Staff and the public, it is proposed that \$50,000 of the CDBG grant be used for emergency home repairs for low-income homeowners.
- Based on input from City Council, City Staff and the public, it is proposed that \$397,496 of the CDBG grant be used for the engineering design and right-of-way needed to realign Bradburn Boulevard at 72nd Avenue to create a four-legged intersection with Raleigh Street. This is the first step in what will be a multi-year project.
- As a member of the Adams County HOME consortium, a HUD-approved funding vehicle, the City receives an annual allocation of about \$220,000 through the County to be used on affordable housing projects and programs. These proceeds have previously been used to provide down-payment assistance to low and moderate-income households wishing to purchase a home and the county housing rehabilitation program providing low-interest loans to income-eligible households.
- Staff is recommending that the HOME funds be allocated as follows:

County Administration	\$ 20,000
Down Payment Assistance	\$130,000
Housing Rehabilitation	\$ 70,000

Expenditure Required: \$559,370 (CDBG)
\$220,000 (HOME)

Source of Funds: HUD CDBG and HOME Programs

Policy Issue

Should the City allocate the CDBG and HOME funds as recommended in this agenda memorandum?

Alternatives

1. The Council may choose to not accept the funds. Staff recommends that such an alternative not be considered as the CDBG and HOME funds have provided benefits to Westminster residents and have provided needed funds for capital projects and other critical programs.
2. Council may choose to allocate the funds in a different manner. Staff believes the allocations identified in this agenda memorandum will serve Westminster residents well, meeting a number of critical needs in the community.

Background Information

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). The 2010 CDBG allocation is anticipated to be about the same as in 2009, which was \$559,370. These annual allocations have usually decreased annually since 2003, when the largest grant to date of \$696,000 was allocated to the City.

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. Based upon eligibility criteria and the limited level of funding, Staff recommends that the following projects be funded in 2010:

2010 CDBG Program Administration (20% of total grant)	\$111,874
Emergency Home Repairs	50,000
Bradburn Boulevard Realignment	<u>397,496</u>
TOTAL:	\$559,370

The proposed 2010 CDBG budget and projects are based on discussion and input from the community, from City Council, and based on the number of phone calls Staff receives requesting emergency home repair. Community input is summarized in Attachment 1.

Program Administration

HUD allows grantees to utilize up to 20% of the CDBG funding for administration and planning expenses. This funding pays the salary of the CDBG Technician and part of the salary of one employee who works on revitalization programs and projects in south Westminster. In 2010, the program administration portion of the grant will be about \$111,874.

Emergency Home Repairs

Staff receives calls regularly from low-income homeowners who need financial assistance with an urgent home repair need. Often these requests are not covered by the HOME program administered by Adams County. Also, home rehab projects funded by HOME require the entire home to be improved to meet building code requirements. Homeowners are often in need of an emergency repair and cannot wait for a major rehabilitation project to be conducted by the County.

Several area cities use CDBG to fund an emergency home repair program. Staff proposes to research the most efficient way to initiate a program in Westminster in 2010, which will probably require a partnership with a public entity or non-profit housing entity that can carry out the underwriting and rehabilitation tasks related to the program. Homeowners who use the program must meet the HUD income requirements, and the administration of such a program will need to comply with all applicable HUD regulations. This program could assist households earning 80% or less of the area median income (AMI). A family of four who earns \$60,800 in 2009 is at the 80% AMI income level. It is proposed that \$50,000 be allocated toward this program in 2010, which is twice as much as the original amount of \$25,000 proposed to Council at last week's Study Session.

Bradburn Boulevard Realignment

Bradburn Boulevard intersects the north side of 72nd Avenue at the foot of a hill, which creates sight line difficulties for drivers looking easterly and creates a dip in the street that has occasionally caused damage (e.g. a City fire apparatus once lost a bumper at this location). A short distance to the west, Raleigh Street intersects 72nd Avenue from the south. The intersection of Raleigh and 72nd Avenue is frequently used by Westminster High School students, and that usage will be greater after the high school population increases with the opening of the new consolidated high school. The realignment of Bradburn Boulevard south of the railroad tracks and north of 72nd Avenue would alleviate the steep grade and allow a signalized intersection to control the traffic using both Raleigh Street and Bradburn Boulevard.

This will be a multi-phase project to be implemented over several years as funding becomes available. The project can be started by using \$397,496 of the 2010 CDBG funding to design this realignment and possibly to acquire some of the right of way that will be needed. The realignment is also affected by the potential need to rebuild the Little Dry Creek culvert under 72nd Avenue. Earlier this month, staff was advised by a representative of the Colorado Municipal League that the City will be awarded \$1.1M in federal funding in fiscal year 2013 for the replacement of this culvert. In September of this year, staff applied for \$1.98M, or 80% of the estimated replacement cost of \$2.48M, through a program sponsored by the Special Highway Committee. While the \$1.1M award would still leave a \$1.38M shortfall in the budget needed to fully fund the culvert replacement, it is anticipated that City General Capital Improvement Funds and, perhaps, Urban Drainage and Flood Control District contributions could be identified to fill this gap by 2013.

Variations in Ultimate CDBG Allocation in 2010

The actual amount allocated to the City is never known until about halfway into a calendar year. If the actual 2010 CDBG allocation varies from the amounts stated herein, adjustments to the projects will need to be made.

HOME Program

HOME funds are distributed to eligible communities to assist in the development and provision of housing to low-income households and targeted populations (e.g. seniors, persons having disabilities, homeless, etc.) The City of Westminster alone does not meet the minimum population requirements to receive the funds as an entitlement. However, by having joined the HUD-authorized Adams County HOME Program Consortium, the City receives an allocation of about \$220,000 annually, providing funding for eligible affordable housing projects.

Pursuant to an existing agreement with Adams County, the proceeds have been appropriated to program administration, housing rehabilitation and homeowner down-payment assistance. While funds have been allocated to support these endeavors, the agreement permits the City to redirect funds as necessary to support other HOME-eligible programs and projects, such as affordable housing projects and programs. Given past assignments and having the flexibility to redirect funds as necessary, Staff is recommending the 2010 HOME funds be used as follows:

Housing Rehabilitation Program \$70,000

The program provides low-interest loans to income-qualified Westminster homeowners to address infrastructure improvements and mitigate health, safety and sanitary issues. The program is set up to provide funds to fix or improve a home so as to protect the health and safety of the household. The loans are typically for furnaces, water heaters, roofs, and foundation stabilization. Typical maintenance items such as paint or siding are not eligible for funding. Applicants must meet low-income thresholds established by HUD, and repayment terms are based upon income. Some loans may be completely forgiven in the event of extremely low-incomes and the household's length of residence in the home following the rehabilitation work.

Homebuyer Down-Payment Assistance Programs \$130,000

The program provides down-payment assistance grants and loans to income-qualified prospective homebuyers purchasing a home in Westminster. Income-eligible homebuyers and first-time buyers are eligible to receive up to \$15,000 in down-payment assistance.

HOME Program Administration \$20,000

This allocation is used to pay Adams County employees for administrative costs incurred by the Adams County Office of Community Development related to implementation of the HOME programs.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

Attachment 1

Progressive Homeowner's Association COMMUNITY SURVEY For POTENTIAL PROJECTS AND PROGRAMS Utilizing Community Development Block Grant Funds

The City of Westminster receives approximately \$450,000 annually in Community Development Block Grant (CDBG) funds from the U.S. Department of Housing and Urban Development that is available to be used towards projects and programs that will benefit low to moderate income households and/or communities. To be able to use these funds, the City is required to identify and prioritize eligible projects to be included in the Consolidated Plan, which will guide CDBG expenditures for a five year period. The City of Westminster is seeking your assistance in identifying and prioritizing projects for possible CDBG funding over the next 5-years. Please take time to offer any thoughts on projects and programs that you would like to see considered for CDBG funding beginning in 2010.

Below is a list of projects that have been determined to be eligible for CDBG funding. Please rate your level of support by checking one box relative to each project.

[These cells were combined for ease of staff review.]*

PROJECT	Support or Strongly Support *	Neutral	Minimal or No Support*
Bradburn Boulevard Realignment – Provide remedy to the dangerous intersection at 72 nd and Bradburn by realigning the section of Bradburn between 72 nd and 73 rd to the west and tying back into Raleigh on the south side of 72 nd .	9	2	3
Lowell Boulevard Streetscape Improvements: U.S. 36 to 82nd – Continue progression of landscaping improvements completed to date along Lowell between 73 rd and Turnpike Drive.	11	2	1
Bradburn Pedestrian Street Lighting Underground overhead power lines and install decorative pedestrian lighting along length of Bradburn.	4	2	8
Grange/Rodeo Community Center – Continue improvements to the Westminster Grange and Rodeo buildings and adjoining park land to create a fully functional and accessible community center providing space for arts, neighborhood-based events, and private functions.	11	1	2

PROJECT	Strong Support	Favorable Support	Neutral	Minimal Support	No Support
Property acquisition for Harris Park expansion – Acquire property immediately northwest of the Westminster Grange and southwest of the Westminster Presbyterian Church to expand the area available for creation of the Harris Park.	7		1		6
76th Avenue Streetscape Improvements – Initiate landscaping improvements along 76 th that would include undergrounding of utilities, installation of decorative streetlights, and new curb, gutter and sidewalks.	7		5		3
70th Avenue/Elk Drive Realignment – Construct a street between Elk Drive (adjacent to England Park at Raleigh and 72 nd) Lowell Boulevard that will provide improved access to the planned dog park at 69 th Avenue and Lowell Boulevard. This segment would be the first phase in several phases that would tie back into 70 th at Utica.	6		4		4
Adams County Housing Authority (ACHA) Administrative Offices (71st and Federal) – ACHA is proposing to build a new 2-story building on the old “Arrow Motel” site and intends to move its operations into the upper floor of the facility. The ground floor would be lease to new businesses. The project would be the first construction in the transit development area. CDBG would be used to assist in land acquisition, utilities, public parking and streetscape improvements.	1		6		7
Land Acquisition within the Transit Development Area: (71st and Federal area) – RTD has indicated it will open a rail station in 2016. The City is interested in acquiring property adjacent to the station to eliminate blight and facilitate new development.	6		2		6
Torii Square Park Improvements – The park at 76 th and Lowell could be improved to include a children’s play area and new furnishings.	3		4		7

OTHER POTENTIAL PROJECTS/PROGRAMS:

Please provide other potential projects/programs on the Supplemental Form as provided.

Project Name: Mixed-use housing development rezoning around future 70th/Irving Fastracks hub

General Location/Address (if applicable): 70th & Irving

General Description of Project/Program: Prioritize development of walkable urban center for shopping/park combined with low-mod-high mix of AMI housing – both single family for sale, multifamily rental, as well as senior targeting

Project Name: Redevelop/ restructure use of vacant office buildings

General Location/Address (if applicable): 81st Avenue between Sheridan & Raleigh St

General Description of Project/Program: Assess and prioritize use of available land/buildings for new private/charter schools, housing, community center space, etc. libraries?

Project Name: expansion of recycling center locations

General Location/Address (if applicable): one is by S Westy fire dept off 73rd Ave

General Description of Project/Program: Accept more variety of recyclables, encourage bins program to partner with trash companies at residential homes.

Project Name: 76th Ave blighted area on north side

General Location/Address (if applicable): start with 76th & Julian, NW corner

General Description of Project/Program: house under construction for 3 yrs. Weed yards, fence lines, elm trees all over, even in the side walk.

Project Name: blight area on Irving south from 76th

General Location/Address (if applicable): middle of the block - yards

General Description of Project/Program: yards are trashy looking. City spring cleanup doesn't even help.

Project Name: Same problem all over

General Location/Address (if applicable): Just take a drive or better yet walk and see all the wonderful stuff. Sure glad I am not a mail person – see what walks & steps they have to use

General Description of Project/Program: A

Project Name: 70thAve/Elk Dr realignment

General Location/Address (if applicable):

General Description of Project/Program: It would be logical to close off the Utica to 68th “L”-shaped street so that the new Westminster High School would have access to the lake without crossing a road and routing all traffic through the new north thoroughfare.

Project Name: Lowell Blvd Streetscape Improvements to 82nd

General Location/Address (if applicable): this is a safety issue..... most of the other projects listed are for convenience

General Description of Project/Program: See attached letter requesting installation of sidewalk/bikepath along Lowell Blvd. We have written request letters during budget years since 2002. (Two letters from Cindy and Michael Jeffries are attached asking for continuous sidewalk to be built along the east side of Lowell Blvd north of U.S36.)



Agenda Item 8 E

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
November 23, 2009



SUBJECT: Golf Courses' Cumulative Purchases Over \$50,000 in 2009

Prepared By: Ken Watson, Regional Parks and Golf Manager

Recommended City Council Action

Based on the recommendation of the City Manager, determine that the public interest will be best served by awarding these contracts to the following vendors, ratify past purchases and approve future 2009 expenses with Titleist up to a maximum of \$70,000 and Nike U.S.A. Golf Division up to a maximum of \$52,000.

Summary Statement

- The Westminster Municipal Code requires that all purchases over \$50,000 be brought to City Council. Staff has taken a conservative approach in interpreting this requirement to include transactions where the cumulative total purchases of similar commodities or services from one vendor in a calendar year exceeds \$50,000.
- Funds were previously appropriated in the 2009 Budget and are available in the Golf Course Funds for the purchases.

Expenditure Required: \$122,000 maximum

Source of Funds: Golf Course Fund Operating Budget

Policy Issue

Should Council retro-actively approve the purchase of commodities that total over \$50,000 in 2009?

Alternative

Do not approve the purchases as recommended. While it could be argued that each transaction represents a separate purchase, City Staff believes that a more conservative and prudent approach is to treat the smaller transactions as larger purchases that are subject to Council approval.

Background Information

Staff has identified one vendor, Titleist, as having received aggregate amounts exceeding \$50,000 and another vendor, Nike, as potentially receiving aggregate amounts not to exceed \$52,000 by the end of 2009. Staff is seeking ratification of these past purchases and approval of future expenditures for the calendar year 2009. Funds are available in the appropriate budgets for these expenditures.

The details of these purchases are as follows:

- The City has incurred expenses from Titleist to date of \$64,500. (\$51,000 at Legacy Ridge and \$14,000 at Heritage at Westmoor). The City purchases high-quality Pinnacle Range Balls from Titleist and merchandise for resale including 60% of the golf gloves; golf balls (Pro-v, Pro-v 1x, NXT, NXT Tour and Pinnacle); and a limited number of clubs for stock in the golf shop (woods, wedges, putters). All iron purchases are done on a special-order basis with Staff providing the customer with a custom club fit for the irons. The irons are then ordered and sold with no inventory overhead.
- The City has incurred expenses from Nike USA Golf Division to date of \$47,000. The golf courses also purchase Nike USA Golf Division merchandise for resale including golf balls (Juice, Nike One Platinum and Nike One Black); 60% of the shoe inventory; and a limited number of clubs and special-order all iron sets. In 2009 and again in 2010, Staff will purchase approximately 50% of the golf shop's clothing line for resale from Nike USA Golf Division (shirts, jackets, wind shirts, socks). Titleist and Nike are two of the three best-selling brands in the golf shops. These purchases for 2010 will be brought to City Council for approval in early 2010.

These purchases support City Council's Strategic Plan Goal of "Financially Sustainable City Government Providing Exceptional Services."

Respectfully submitted,

J. Brent McFall
City Manager



Agenda Item 8 F

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
November 23, 2009

SUBJECT: Change the Date of Second City Council Meeting in December

Prepared By: Linda Yeager, City Clerk

Recommended City Council Action

Change the date of the second regularly scheduled City Council meeting in December from December 28 to December 21.

Summary Statement

- City Council normally conducts regular meetings on the second and fourth Mondays of each month. This year the fourth Monday of December is the first day after the Christmas holiday weekend. To minimize impact on Staff's and Council members' ability to travel over the holiday and to insure the best possibility of a quorum, Staff recommends that the second meeting be rescheduled to the third Monday of December.
- If approved, City Council will conduct a study session on December 7 and regular meetings on December 14 and 21.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

None identified

Alternative

Council could decide to leave the December 28 regular meeting date unchanged.

Background Information

Occasionally, conflicts arise with dates of regularly scheduled Council meetings and the dates of holidays, important civic events, and/or conferences that the City Council traditionally attends, and the Council's schedule of meetings is changed to accommodate the occurrence. The second meeting in December frequently conflicts with the Christmas holiday, and Council has changed the date of that meeting so that the business of the City can be addressed in a timely manner without interfering with the family holiday.

The public is aware that regular Council meetings and study sessions are held on Mondays, thus it makes sense to reschedule meetings to a different Monday of the month when conflicts arise.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
November 23, 2009



SUBJECT: Intergovernmental Agreement for the Use of the Flatrock Regional Training Center at Adams County

Prepared By: Lee Birk, Chief of Police
Mike Cressman, Deputy Chief of Police

Recommended City Council Action

Authorize the City Manager to sign an Intergovernmental Agreement, in substantially the same form as the attached, with Adams County concerning the use of the Flatrock Regional Training Center at Adams County.

Summary Statement

- Adams County has purchased approximately 339 acres of land within Adams County. The County plans on constructing, operating and maintaining a regional law enforcement training facility named Flatrock. Adams County will be the sole owner of the facility. Flatrock will provide facilities for firearms, emergency vehicle operations and other specialized law enforcement training needs.
- Adams County has invited local law enforcement agencies, including the City of Westminster, to become Executive Principal Users. The Executive Principal Users will benefit with priority scheduling and reduced user fees. Twelve Executive Principal Users have been identified, including the City of Westminster.
- Adams County is moving forward in good faith to obtain financing for the project. They are making application for a Department of Local Affairs (DOLA) grant for initial infrastructure and construction costs in the amount of \$2.8 million.
- In order to secure the status of Executive Principal User, participating agencies will be responsible for a one time initial operation and maintenance fee based upon the number of sworn officers in their department. In subsequent years they would be responsible for user fees on an annual basis through 2029, based upon scheduled utilization.
- Westminster Police Department's one time operation and maintenance fee due in 2010 will be \$42,817. These funds are available from 2009 Police Department operating savings that will be carried forward to 2010 to make this payment.
- The City Attorney's Office has reviewed the proposed agreement and approved it as to form.

Expenditure Required: \$42,817

Source of Funds: General Fund Carryover from 2009 Police Department Operating Budget

Policy Issue

Should the Westminster Police Department enter into an agreement with Adams County to become an Executive Principal User of the Flatrock Regional Training Center at Adams County?

Alternative

Not enter into an Agreement with Adams County to be an Executive Principal. This alternative is not recommended. While currently other options do exist for firearms and emergency vehicle training, looking long term, this secures another viable local option for training. This becomes increasingly important in a time where nationwide we have seen the closures of, and increasing pressures on, firearms and emergency vehicle training facilities. Noise, safety, environmental and encroaching residential and commercial development have resulted in closures, pressure to close, and the prohibition of building new facilities. Ironically, this is occurring in an environment where liability and professional concerns are creating more training demands on law enforcement.

Background Information

For over 30 years, the Westminster Police Department has contracted with the Adams County Sheriff's Office for the use of their firearms range. For the past several years, the City has heard rumors that the County would be closing the range due to surrounding residential construction encroaching upon the area, environmental and other concerns.

In 2007, the County informed the Police department that the range would indeed be closing in 2010. The County and all the agencies that had been using the range began searching for a new site to conduct firearms training. Adams County purchased nearly 400 acres of property at Gun Club Road and 128th Avenue, with 339 acres are to be dedicated to a training facility. The County hired Interact Business Group as project consultants and invited local law enforcement agencies to come together to discuss and develop the concept. This group, the Executive Principal Users, conducted a training needs assessment and it is from this assessment that the physical design of the facility (Flatrock) was developed. The first phase of the proposed training facility will have a classroom/pistol range, rifle range, a shoot house, emergency vehicle driving track and a driving skid pad.

The group explored a myriad of financing alternatives to pay for the \$22 million project. Ultimately, it was decided that the County would seek a dedicated stream of financing while the Executive Principals would pay a proportionate share of the initial costs for the infrastructure, operation, maintenance and user fees (based upon the actual scheduled hours of use). Originally, Westminster's initial infrastructure and construction costs would have been in excess of \$274,000 and would be due in early 2010. Due to the high costs involved, the City elected to discontinue discussions regarding becoming an Executive Principal.

In September 2009, Adams County informed the City that they had an opportunity to obtain a Department of Local Affairs (DOLA) grant. If awarded, it would cover the initial infrastructure and some of the construction costs and greatly reduce the one time operation and maintenance fee that the Executive Principal Users would need to pay. The one time fee for the City of Westminster to secure our position as an Executive Principal User, and to enjoy priority privileges and fee discounts, would be \$42,817.

Given the fact that the costs have become so much more affordable, the City reengaged in the process of becoming an Executive Principal and is recommending our participation in this project. This fee would be due at the time of the DOLA grant award in early February 2010. In subsequent years, the Police Department will pay for scheduled training hours at the prevailing rate. The 2010 facility user fees are set at \$125 per two hour block of time and are subject to an annual inflation rate set forth in the IGA.

Initially, the Police Department is not anticipating high usage of the facility due to other training options currently available and thus would likely see low user fees. It is likely the Police Department will utilize the specialized venues, such as the rifle range or shoot house on a smaller scale. Any training hours not purchased by the Executive Principals will be sold to outside agencies at a higher rate. The County plans on repaying any financial notes through utilization of the user fees collected.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment - IGA

**INTERGOVERNMENTAL AGREEMENT
FOR THE USE OF THE
FLATROCK REGIONAL TRAINING CENTER AT ADAMS COUNTY**

THIS AGREEMENT, dated this ___ day of _____, 2009, by and between **ADAMS COUNTY, COLORADO**, a political subdivision of the State of Colorado (hereinafter referred to as "Adams County"), and **CITY OF WESTMINSTER, COLORADO**, a Colorado home-rule municipality (hereinafter referred to as "Executive Principal User").

WITNESSETH:

WHEREAS, the Adams County Sheriff's Office, the Arapahoe County Sheriff's Office, the Boulder Police Department and Sheriff's Office, the Brighton Police Department, the Broomfield Police Department and Sheriff's Office, the Commerce City Police Department, the Douglas County Sheriff's Office, the Jefferson County Sheriff's Office, the Longmont Police Department, the Northglenn Police Department, the Thornton Police Department, and the Westminster Police Department recognize the need for a regional facility to conduct training, education and other law enforcement activities; and

WHEREAS, Adams County and the Adams County Sheriff's Office plans to operate and maintain the Flatrock Regional Training Center at Adams County (hereinafter referred to as the "Training Center") at 23600 W. 128th Ave Brighton, Colorado, and agrees to allow Executive Principal User to use the Training Center in accordance with the terms and conditions of this Agreement; and

WHEREAS, the Executive Principal User agrees to use the Training Center under these terms and conditions.

NOW, THEREFORE, in consideration of the above premises, the mutual promises set forth below, and for other good and valuable consideration, Adams County and the Executive Principal User hereby agree as follows:

1. Permitted Use. Adams County does hereby agree to allow the Executive Principal User to use the Training Center for the education and training of its law enforcement personnel, to include any employee or volunteer of the Executive Principal User who qualifies as a peace officer pursuant to Section 16-2.5-101 et seq, C.R.S., as well as any student enrolled in an approved law enforcement training class except, however, that Adams County reserves the right to determine, at its sole discretion, whether any particular employee, volunteer, student or law enforcement training class qualifies as such.
2. Description of Training Center. The Training Center venues include a shooting range, emergency vehicle operations center (hereinafter referred to as "EVOC"), a future administration/classroom facility, canine training center, and explosive demolition training area.

3. Ownership, Operation, and Maintenance of the Training Center.

3.1. Adams County is the sole owner of the Training Center facilities and of all fixed facilities and equipment at the Training Facilities. Termination of this Agreement will not affect County's ownership of the Training Facilities. Adams County shall, at its sole cost, perform the following:

- (a) Manage, operate, and maintain the Training Facilities;
- (b) Maintain in good condition and repair all structures, utilities, walkways, HVAC systems, electrical systems, and plumbing systems at the Training Facilities. Adams County shall maintain the Training Facilities to the same standard as other Adams County facilities are maintained. Adams County shall provide preventive maintenance consistent with industry standards and manufacturer's recommendations;
- (c) Maintain all roads, parking, landscaping, and irrigation systems associated with the Training Facilities;
- (d) Provide for all custodial functions, including cleaning, trash removal, periodic window and carpet cleaning, and other specialty cleaning as necessary. Adams County shall also provide the security services that it normally provides for its Training Facilities; and
- (e) Engineer, operate, administer and maintain all telecommunications, video, and data technology infrastructure at the Training Facilities.

3.2. The Executive Principal User's employees and students shall be entitled to park in the lots adjacent to the Training Center venues on a first-come, first-served basis at no cost during the normal operating hours of the Training Center.

4. Use of the Training Center.

(a) The Executive Principal User will have the exclusive opportunity to schedule annually the use of the Training Center venues on such date(s) and time(s) that have not been reserved by the Adams County Sheriff's Office. The Executive Principal User shall be entitled to use the Training Center during those date(s) and time(s) previously agreed to by the Adams County Sheriff's Office, subject to the terms and conditions of this Agreement. The Executive Principal User shall have priority use of the Training Center over other non-Executive Principal Users.

(b) The Executive Principal User shall provide all vehicles, ammunition, weapons, hearing/eye protection, and other safety equipment to be used by its law enforcement personnel as defined in paragraph 1 of this Agreement.

5. Payment and Construction of the Training Center. The parties understand that Adams County has previously purchased 399 acres, of which 339 is designated as a site for the

Training Center, and has incurred expenses with outside contractors for a strategic business plan, preliminary site design and estimated construction costs. Adams County will move forward in good faith with construction of first phase of the Training Center as set forth in Paragraph 5(c) of this Agreement if a dedicated revenue stream is identified and obtained. The Executive Principal User agrees to the payment schedule set forth in Paragraphs 5(a) and 5(b) of this Agreement.

(a) In consideration of its use of the Training Center for a twenty (20) year period, the Executive Principal User shall pay a one-time Operations and Maintenance (hereinafter referred to as "O&M") charge in the first year of operation. The first year O&M charge is to establish the cash flow needed to cover the first year operational costs of the Training Center. The O&M charge shall be allocated to the Executive Principal Users based on the number of total sworn staff of the Executive Principal Users as shown in Appendix A, attached hereto and incorporated herein.

(b) Starting in the first year of operation, the Executive Principal User shall pay an annual Training Center User Fee based upon the Executive Principal User's scheduled utilization of the training center. The Executive Principal User shall continue to pay an annual Training Center User Fee based on the Executive Principal User's scheduled use of the training center venues for the subsequent calendar years. The Executive Principal User shall not pay less than eighty percent (80%) of the prior year's User Fee. Should the Executive Principal User's actual User Fee be less than eighty percent (80%) of the prior year's User Fee, the Executive Principal may lose its privileges as an Executive Principal User. The Executive Principal Users shall be charged a Training Center User Fee of \$125 per two-hour block of time for use of the Training Center venues. The Training Center User Fees will be subject to the annual cost inflation rate set forth in the Denver-Boulder Consumer Price Index. In the event the Training Center is opened for less than a full year, the Training Center User Fees shall be pro-rated based on the portion of the year the facility is open and available for scheduled use.

(c) Adams County, in good faith, shall proceed with construction of the first phase of the Training Center in 2010 if a dedicated revenue stream is identified and obtained. The first phase of the construction includes the necessary on and off-site improvements (site grading, storm sewer, sanitary sewer, water, fencing, driveways), shooting range, and emergency vehicle operations center. Additional construction phases will be determined solely at the discretion of the Adams County Board of County Commissioners.

(d) The Adams County Sheriff's Office shall notify the Executive Principal User of the following year's annual Training Center User Fee no later than November 1 of each year. The Executive Principal User shall remit the annual Training Center User Fee to Adams County no later than January 30 of the following year.

6. Term. This Agreement shall be effective as of the date first written above and shall continue in effect through December 31, 2029, and shall terminate thereafter.

7. General Provisions for Use.

(a) Any on-site Fire Arms scenario-based training simulator equipment, including weapons and accessories, shall be kept locked at all times when not in use.

(b) The Executive Principal User shall abide by all additional rules posted at the Training Center.

(c) After each use, the Executive Principal User shall be responsible for cleaning and restoring the Training Center to the same condition as existed at the beginning of the use.

8. Special Provisions for Shooting Range.

(a) An Adams County Sheriff Range Officer or an authorized Executive Principal User's qualified designee shall be present at all times when the Shooting Range is in use. If, in the judgment of the Adams County Sheriff Range Officer or Executive Principal User's qualified designee, any person's use of the Shooting Range presents a safety hazard, the range officer or qualified designee may require that person to terminate his or her use of the Shooting Range or leave the premises altogether.

(b) The Shooting Range equipment shall be operated and maintained solely by Adams County Sheriff's Office, or by the Executive Principal User's qualified designee.

(c) All rounds fired shall be only the type of ammunition specified by Adams County Sheriff's Office. Such type is subject to change at the discretion of Adams County Sheriff's Office.

9. Applicable Laws. At all times herein, the Executive Principal User shall strictly adhere to all applicable federal and state laws and municipal ordinances

10. Indemnity.

(a) To the extent authorized by law, the Executive Principal User shall indemnify, save and hold harmless Adams County and the Adams County Sheriff's Office against any and all claims, damages, liability and court awards including costs, expenses and attorneys fees incurred as a result of any negligent act or omission of the User or its employees, which occurred during the performance of their duties within the scope of their employment, unless such acts or omissions are willful and wanton. Such claims shall be subject to the limitations of the Colorado Governmental Immunity Act, Section 24-10-101, C.R.S., et seq.

(b) To the extent authorized by law, Adams County and the Adams County Sheriff's Office shall indemnify, save and hold harmless the Executive Principal User against any and all claims, damages, liability and court awards including costs, expenses and attorneys fees included as a result of any negligent act or omission of Adams County or its employees, which occurred during the performance of their duties within the scope of their employment, unless such acts or omissions are willful and wanton. Such claims shall be

subject to the limitations of the Colorado Governmental Immunity Act Section 24-10-101, C.R.S., et seq.

11. Damages to Training Center.

(a) The Executive Principal User shall report any damage or disrepair it discovers during its use of the Training Center to Adams County Training Center Executive Director or the Adams County Training Center Office.

(b) Any damage caused to the facility or its contents by the Executive Principal User beyond normal wear and tear, may, at Adams County's option, be noticed for repair by the Executive Principal User or the repair completed by Adams County or its contractor with costs to be billed to and paid by the Executive Principal User.

12. Termination of the Agreement.

(a) This Agreement shall terminate if the first phase of the Training Center as provided in paragraph 5(c) is not constructed by January 1, 2013.

(b) Both Parties acknowledge that construction, operation, and maintenance of the Training Center is planned and budgeted in reliance upon each Party's full participation in the full term of this Agreement. An Executive Principal User may terminate this Agreement prior to the time set forth in Paragraph 6 by providing written notice to the Adams County Sheriff's Office no later than September 1 of the current calendar year. In the event of notice, the Executive Principal User will forfeit to Adams County any remaining value of the prepaid training fees. If Adams County voluntarily terminates this Agreement prior to the time set forth in Paragraph 6, Adams County must pay to the Executive Principal User the amortized remaining value of the prepaid training user fees.

(c) In the event of a breach or default, and prior to termination, the terminating party shall first be required to give the party alleged to be in breach or default written notice by registered or certified mail, postage prepaid and return receipt requested, specifying the nature of the default. Upon receipt of any such notice, the party alleged to be in breach or default shall have thirty (30) days to cure any alleged default. Any dispute regarding the adequacy of any cure, the parties will diligently attempt to resolve the disagreement themselves or refer the matter to mediation. In no event shall any termination be deemed to occur prior to the exhaustion of all appeals available following any such mediation. If this Agreement is involuntarily terminated, due to Executive Principal User's breach or default of the Agreement, prior to the time set forth in Paragraph 6, Executive Principal User shall forfeit to Adams County any remaining value of the prepaid Training Center User Fees. If this Agreement is involuntarily terminated, due to Adams County breach or default of the Agreement, prior to the time set forth in Paragraph 6, Adams County must pay to the Executive Principal User, the amortized remaining value of the prepaid Training Center User Fees.

(d) In the event either Party terminates this Agreement prior to the time set forth in Paragraph 6, regardless of the reason for termination, both Parties shall assure completion of any classes in session at the Training Center at the time of termination.

13. Hazardous Materials. The Executive Principal User understands that certain hazardous materials, principally airborne lead, are present in the Training Center and will take all necessary precautions to protect its employees from the risk associated with the presence of hazardous materials.

14. Notice. Any notice required by this Agreement shall be in writing. If such notice is hand-delivered or personally served, it shall be effective immediately upon such delivery or service. If given by mail, it shall be certified with return-receipt requested and addressed as follows:

Adams County
Adams County Sheriff's Office
332 North 19th Ave
Brighton, CO 80601

J. Brent McFall
City Manager
City of Westminster
4800 W. 92nd Avenue
Westminster, CO 80031

15. Miscellaneous Provisions.

(a) The parties enter into this Agreement as separate, independent governmental entities and maintain such status throughout.

(b) The parties agree that the provisions of this Agreement shall be deemed and construed as being severable. In the event any provision of this Agreement is determined to be invalid by a court of competent jurisdiction, that determination will in no way affect the validity or enforceability of any other provision herein.

(c) No modification or waiver of this Agreement or any covenant, condition or provision contained herein shall be valid unless in writing and duly executed by all parties.

(d) This Agreement shall be binding upon the parties hereto, the respective successors or assigns, and may not be assigned by any party without the express written consent of the other parties.

(e) This Agreement may be amended from time to time by a written agreement duly authorized by all the parties to this Agreement.

(f) This Agreement does not and shall not be deemed to confer upon or grant to any third party any right enforceable at law or equity arising out of any term, covenant, or condition herein or the breach thereof.

(g) This Agreement shall be governed by the laws of the state of Colorado. Venue and jurisdiction for any dispute arising from or out of this Agreement shall lie with the District Court in and for Adams County, Colorado.

(h) The Executive Principal User agrees that it shall not assign this Agreement, or grant any concession or license thereof, without obtaining written consent of Adams County.

(i) Nothing in this Agreement shall be construed or deemed as creating a multiple-year fiscal obligation of the City. All obligations of the City pursuant to this Agreement are subject to prior annual appropriation by the City Council.

(j) All exhibits attached to this Agreement are incorporated into and made a part of this Agreement.

(k) The Parties hereto understand and agree that the Parties, their officers and employees are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. 24-10-101 *et seq.*, as from time-to-time amended, or otherwise available to the Parties, their officers, or their employees.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

ADAMS COUNTY, COLORADO

CITY OF WESTMINSTER

By: _____
Name: _____
Chairman, Board of County Commissioners

By: _____
J. Brent McFall, City Manager

Attest:

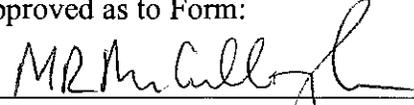
Name: _____
Title: _____

Attest:

Linda Yeager, City Clerk

Approved as to Form:

County Attorney

Approved as to Form:


City Attorney

Appendix A
Understand this will be revised.

	O&M	Estimated Annual User Fees		
	First Year One Time	Year One	Year Two	Year Three
Adams County			\$141,743	\$146,279
Arapahoe County Sheriff	\$88,643	\$19,470	\$20,093	\$20,736
Boulder Police Department	\$39,577	\$22,021	\$22,726	\$23,453
Boulder Sheriff Office	\$41,660	\$15,100	\$15,583	\$16,082
Brighton Police Department	\$12,267	\$30,345	\$31,316	\$32,318
Broomfield PD/SO	\$33,791	\$27,500	\$28,380	\$29,288
Commerce City Police Department	\$21,524	\$62,418	\$64,415	\$66,477
Douglas County Sheriff	\$68,507	\$8,500	\$8,772	\$9,053
Jefferson County Sheriff Office	\$127,294	\$250,096	\$258,099	\$266,358
Longmont Police Department	\$32,865	\$54,565	\$56,311	\$58,113
Northglenn Police Department	\$16,201	\$18,000	\$18,576	\$19,170
Thornton Police Department	\$38,420	\$66,914	\$69,055	\$71,265
Westminster Police Department	\$42,817	to be determined	to be determined	to be determined

- 1.) This shows maximum cost, may be reduced by outside user membership fees.
- 2.) Adams County will not participate in user fees or O&M in the first year.
- 3.) Training time based on inputs from Executive Principals
- 4.) User fees in year two and three includes a 3.2% inflation rate
- 5.) An inflation factor of 3.2% or the Denver Boulder Consumer Price Index, whichever is greater will be applied to annual user fees each year.
- 6.) Year one includes User Fees plus Annual Maintenance and Operations Cost.

Annual O&M Cost Estimate \$563,566



Agenda Item 8 H

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
November 23, 2009



SUBJECT: Supervisory Control and Data Acquisition Systems Communications Enhancements Project

Prepared By: Stephanie Bleiker, PE, Senior Engineer
Tom Settle, Water Treatment Facilities Superintendent

Recommended City Council Action

Based on a recommendation of the City Manager, determine that the public interest will best be served by authorizing the City Manager to execute a contract with Electrical System Consultants, Inc. (ESC), for the construction and implementation of communications improvements associated with Supervisory Control and Data Acquisition Systems (SCADA) in the amount of \$647,273 and authorize a 10% contingency of \$64,727.

Summary Statement

- Supervisory Control and Data Acquisition Systems (SCADA) is the computerized system used in the operations at Semper and Northwest Water Treatment Plants and for the remote monitoring of Water Resource and Utility Operations facilities throughout the City.
- ESC's Preliminary Design Report identified vulnerabilities in existing SCADA communications, making City utilities subject to security breaches, extended failures and gradual signal degradation associated with the City's reliance on unlicensed radio frequencies and recommended improvements to the system to address these issues.
- ESC recently completed Phase 1 SCADA upgrades at the water treatment facilities and utility field stations improving security, controls and data acquisition. They also made some essential communications improvements as a required prerequisite to the SCADA system improvements.
- These Phase 2 improvements will involve enhancing the City's radio communications systems with licensed frequencies, redundant capabilities, increased data capacity appropriate for SCADA and security measures at the City's remote field station sites and water treatment facilities.
- Staff recommends awarding the contract to ESC based on their competitive pricing, proposed scope of work and familiarity with the City's infrastructure.
- City Council previously approved a contract with Electrical System Consultants, Inc. (ESC) for pre-design and evaluation of the City's SCADA system at its October 8, 2007 City Council meeting.
- The 2009 authorized SCADA Communications budget is \$712,000.

Expenditure Required: \$712,000

Source of Funds: Utility Fund – System Wide SCADA Enhancements Project

Policy Issue

Should the City proceed with the SCADA Communications Enhancements Project by awarding this contract for engineering construction services to ESC?

Alternatives

1. The City could choose not to approve the contract and either place the project on hold or solicit other engineering proposals to execute the work. This is not recommended since it would result in delaying the SCADA communications upgrades, which are critical to the operation of the utility system.
2. The City could advertise the project for bid; however, this is not recommended as Staff believes that ESC is fully qualified to do this work and has some of the more competitive rates for work in their field. They also have gained a familiarity with the City's water treatment facilities and field stations that other engineering firms would not have.

Background Information

The City's SCADA system is the computer system that controls portions of the water and wastewater facilities, and acts as the eyes and ears of the remote field stations including water storage tanks, pump stations and lift stations. The City contracted with ESC in 2007 to complete pre-design work related to the upgrade of the City's SCADA system. The improvements identified in the pre-design were to standardize the SCADA technology in all of the City's utility facilities. Based on ESC's findings in the SCADA Pre-Design Report and the Project Cost Summary, the SCADA improvements were broken down into 2 phases. Phase 1 was constructed by ESC in a 2008 capital project, and was concluded in the summer of 2009. The Phase 2 improvements are the subject of the current proposed contract with ESC.

The 2008 Phase 1 SCADA system upgrades project replaced an old, out of date SCADA system with a newer, more secure and reliable SCADA system for City potable water treatment facilities, utilities field stations and water resources sites. Along with the new SCADA system, communications were upgraded from an analog to a digital format. These and other immediate improvements doubled the SCADA communications capacity to meet the requirements of the SCADA upgrades. In a few instances, redundant communications were provided at critical field stations.

Phase 2 will include additional improvements to the communication system. Having been expanded piecemeal over several years, the Semper Water Treat Facility's internal communications consist of a variety of equipment and technologies. With this broad range of technologies come limitations that slow the speed of communications and generate chokepoints. To correct this shortcoming, Semper's internal communications will require standardized upgrades. Additionally, many of the Utility's field stations operate on unlicensed frequencies making them vulnerable to increased levels of interference over time. Correcting this problem will require radio upgrades for the field stations to operate on licensed frequencies. In conjunction with licensed frequencies, a looped communications network was designed as part of the Phase 2 project. With a looped network, a single failure would likely have limited impact on the entire SCADA communications network. Finally, almost all of the communications at field stations are routed through one master station with a single mode of communication, UHF radio. If a communications failure occurs at the master station, virtually all communications with field stations would be lost. To address this, Phase II will include fiber optic cable connections to this critical communication hub. This location is also used by Public Safety for its communication system. When fiber is pulled through this newly installed conduit up to the master stations, both the PW&U and the Public Safety Departments will have secondary communications to their master stations.

As was recommended in the Phase 1 SCADA Improvements Project Agenda Memo, Staff recommends that the Phase 2 construction be negotiated after completion of Phase I. Staff is recommending the construction contract be awarded to ESC based on their successful completion of the Phase I project, their experienced project team and ESC's competitive billing rates. Prior to selecting ESC for the original pre-design in 2007, Staff interviewed four firms and evaluated their conceptual approach, local representation, supporting technical staff and rate structures. ESC's proposal and design team were determined to be the best qualified for the project. In early 2007, ESC's average hourly charge rate was approximately \$40/hour lower than the two other firms. Since then ESC has increased their average rates by just below two percent (approximately \$1.35/hour increase). Based on available 2009 rate comparison information, their competitors' rates also increased, remaining well above ESC's hourly rates. Staff further noted that in addition to benefitting from ESC's competitive rates, their team's familiarity with the City's infrastructure provides a measure of economy effort that any other competitor would have to compensate for in their fee. As such, Staff believes that ESC remains the most qualified firm to design and construct the project.

This project helps achieve the City Council's Strategic Plan Goal of "Financially Sustainable City Government" by contributing to the objective of well-maintained City infrastructure and facilities. It also contributes to the City achieving a "Safe and Secure Community" by improving SCADA security functions at the City's remote field station sites.

Respectfully submitted,

J. Brent McFall
City Manager



Agenda Item 8 I

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
November 23, 2009



SUBJECT: Long-Term Lease of Treated Water and Commitment to Provide Sewer Service to Property Outside of the City

Prepared By: Mike Happe, Utilities Planning and Engineering Manager

Recommended City Council Action

Deny the request by Mayham Reservoir Corporation to enter into a long-term lease for treated water to serve property contiguous to the City limits without the requirement to annex into the City; and deny the request by Mayham Reservoir Corporation for sewer service to serve property contiguous to the City limits without the requirement to annex into the City.

Summary Statement

- The Mayham Reservoir Corporation is requesting water and sewer service for property which is contiguous to the City limits, without the requirement to annex into the City.
- Section 14.3 of the City Charter provides that the City Council may require as a condition to any water lease or service outside the City limits that the owners of the property being served shall petition for annexation if property becomes eligible.
- The subject property is contiguous to the City and eligible for annexation.
- Per the City of Westminster Charter, City Council must approve entering into contracts with properties outside City limits.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issues

Does City Council wish to enter into a long-term lease of treated water and a commitment to provide sewer service to the indicated properties without a requirement to annex?

Alternative

City Council could approve entering into a long-term lease of treated water and a commitment to provide sewer service to the indicated properties without a requirement to annex. Staff does not recommend this alternative. By entering into a lease of this nature without a requirement to annex, the City would establish a precedent (1) to use the long-term leasing authority under the Charter for treated water as opposed to raw water, (2) of providing out-of-City water and sewer service to vacant land to enable development, and (3) of failing to recoup tax revenues to cover the impact of adjacent development on the City.

Background Information

The Mayham Reservoir Corporation submitted a request to the City to provide a long-term water lease of treated potable water and sanitary sewer service for a development located at 68th Avenue between Utica Street and approximately Raleigh Street, north of Hidden Lake. A copy of the request is attached to this Agenda Memorandum. The applicant has indicated that they are seeking approval of a proposed subdivision from Adams County that would consist of 14 single family residences. The property is located contiguous to the City limits and as such, available for annexation into the City.

The Mayham Reservoir Corporation had originally requested inclusion into the Crestview Water and Sanitation District. The City opposed the request based on the following reasons:

1. The City utilities are much closer to the site than extending lines from Crestview. Staff believes City lines have adequate capacity to serve a low density residential development.
2. Connecting to City utilities would cause much less damage to 68th Avenue than extending utilities one-half mile east to Lowell Boulevard to connect to Crestview facilities. The 68th Avenue right of way may not be wide enough to accommodate Crestview's lines without significant cost, difficulty, and risk to the City's existing water and sewer system.
3. The one-half mile dead-end water line could cause challenges to maintaining water quality and adequate pressure for fire fighting.
4. As with all property receiving utility service, the City would expect annexation to Westminster as a pre-condition of providing utility service since the development is contiguous to the City limits and can only be accessed by Westminster streets. Thus, Westminster is the most impacted jurisdiction.

Section 14.3 of the City Charter, *Use of Water Outside the City*, states: "The City Council may require as a condition to any water lease or service outside the City limits that the owners of the property being served shall petition for annexation if property becomes eligible." Since the property is contiguous to the City limits, it is currently eligible for annexation.

Historically, the use of long-term water leases have been limited to leases of substantial quantities of raw water to other service providers, not to individual properties. Out-of-city service contracts have been the vehicle used to serve individual residential properties with potable water. Such properties have existing residential development whose water supply has failed or whose water supplier can no longer efficiently serve for engineering reasons. In those instances, the City has conditioned service on a commitment from the property owner to annex when the property is eligible or when redevelopment to an urban intensity is proposed, which is consistent with the legislative intent set out in the Westminster Charter and with state annexation law. City Staff is unaware of any instances where the City has entered into a long-term lease of City water for the development of undeveloped property outside of the City.

Staff recommends denying the request for a long-term lease of treated water and the commitment to provide sewer service to the property without a requirement to annex into the City.

Providing services to areas both within the City of Westminster and outside of the City limits require careful consideration as their implications directly relate to City Council's goals of Financially Sustainable City Government Providing Exceptional Services, as well as achieving a "Safe and Secure Community."

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

File

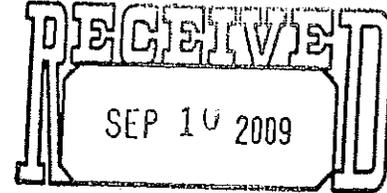
ALDERMAN BERNSTEIN

Jody Harper Alderman
720.931.2094

jha@ablawcolorado.com

September 9, 2009

J. Brent McFall
City Manager
Office of the City Manager
4800 West 92nd Avenue
Westminster, Colorado 80031



CITY ATTORNEY'S OFFICE
CITY OF WESTMINSTER

*Hand-delivered by
CMAA the am*

Re: Request for Utility Services Outside of City Boundaries

Dear Mr. McFall:

Our firm represents Mayham Reservoir Corporation, which is in the process of seeking entitlements from Adams County to develop certain property south of 68th Avenue on Hidden Lake. A legal description of the property is included with this letter. The application in Adams County seeks approval for 14 single family residences.

As you are aware, Mr. Kast requested inclusion of the property into the Crestview Water and Sanitation District, in order to obtain utility services to the property. Crestview denied the request due to the City of Westminster's objections.

At this time, Mayham Reservoir Corporation formally requests (1) a long term water lease of treated, potable water from the City of Westminster, without annexation of the property, pursuant to Section 14.3 of Westminster's City Charter; and (2) a commitment to provide sanitary sewer service from the City of Westminster, without annexation of the property. (I did not find a comparable provision in the City Charter regarding sanitary sewer service.) Both the long term water lease and the sanitary sewer service must be sufficient to serve 14 single family residences.

Please let me know if you need any additional information for City Staff and City Council to consider this request. If there is an application to be filled out for either request, please provide it.

Once the City Staff prepares its recommendation, please provide me with a copy, and let me know when this request will be scheduled to be heard by City Council.

Thank you.

Sincerely,

ALDERMAN BERNSTEIN LLC



Jody Harper Alderman

JHA/cab

cc: George Kast
Jeff Betz

Enclosure



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
November 23, 2009



SUBJECT: Big Dry Creek Wastewater Treatment Facility Upgrade and Expansion Project
Contract Amendment for Owner's Representative Services

Prepared By: Kent W. Brugler, Senior Engineer, Public Works & Utilities
Mike Happe, Utilities Planning and Engineering Division Manager

Recommended City Council Action

Authorize the City Manager to execute a contract amendment with Sorenson Engineering, Inc. in the amount of \$175,000 for additional Owner's Representative services provided during the completion of the Big Dry Creek Wastewater Treatment Facility upgrade and expansion project and in administering project close-out issues.

Summary Statement

- Sorenson Engineering, Inc. has provided Owner's Representative Services to the City during the design and construction phases of the Big Dry Creek Wastewater Treatment Facility Upgrade and Expansion project.
- The final completion of the project has been delayed approximately 16 months, causing the need for additional owner's representative services during this time, beyond the current scope of the contract in order to ensure adequate oversight of the final construction activities and close-out of the project.
- These costs will be funded by the previously appropriated project construction contingency, requiring no new appropriation of funding.

Expenditure Required: \$175,000

Source of Funds: Utility Fund Capital Improvement Program - Big Dry Creek Wastewater Treatment Facility Expansion/Renovation Construction Contingency

Policy Issue

Should the City amend the existing Owner's Representative Services contract with Sorenson Engineering, Inc. to include additional services related to the final construction and project close-out of the upgrade and expansion of the Big Dry Creek Wastewater Treatment Facility?

Alternative

The City could choose not to amend this contract for services provided during the completion of this project. Staff does not recommend this alternative as the services provided have been valuable to the completion and close-out of this project.

Background Information

City Council awarded the owner's representative contract to Sorenson Engineering, Inc. on September 13, 2004 and authorized an amendment to the contract on September 26, 2005, bringing the total value of the contract to \$709,851, to provide assistance to staff for overall project management and cost monitoring during the final design and construction phases of the Big Dry Creek Wastewater Treatment Facility Upgrade and Expansion Project. This amendment covers additional costs incurred due to the delay in closing out the project. This amendment will bring the total compensation to Sorenson Engineering, Inc. to \$884,851, an increase of \$175,000.

The Owner's Representative provided assistance to City Staff during the completion of the final design phase, negotiated with the contractor during the development of the construction contract, and assisted with the management of the project during construction. The Owner's Representative oversaw the engineering contract and the construction contract, monitored costs and performance of both, provided a daily record of the construction activity, and reviewed the project contract documents for cost savings and constructability. It is important to continue this contract with Sorenson Engineering through the final stages of project closeout for consistency and quality control.

This project helps achieve the City Council's Strategic Plan Goal of "Financially Sustainable City Government" by contributing to the objective of well-maintained City infrastructure and facilities.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

**AMENDMENT No. 2 TO THE
AGREEMENT TO FURNISH OWNER'S REPRESENTATION SERVICES TO THE
CITY OF WESTMINSTER FOR THE UPGRADE AND EXPANSION OF THE BIG DRY
CREEK WASTEWATER TREATMENT FACILITY
DATED SEPTEMBER 16, 2004**

The City of Westminster (hereinafter referred to as "Westminster") and Sorenson Engineering, Inc. (hereinafter referred to as "Engineer") previously amended the agreement described above on September 29, 2005, and agree to further amend the Agreement described above as follows:

1. In Section IV., Consultant's Fee, amend the second sentence to read "The maximum amount billable under this Agreement shall not exceed \$884,851."
2. In Section V., Commencement and Completion of Services, amend the third sentence to read "The project is anticipated to be completed on or around March 31, 2010."
3. All other terms and conditions of this Agreement shall remain in effect.

This Amendment is dated the _____ day of November, 2009.

SORENSEN ENGINEERING, INC.

CITY OF WESTMINSTER

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

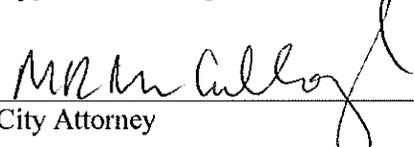
Attest: _____
Secretary

Attest: _____
City Clerk

(Corporate Seal,
if applicable)

(Seal)

Approved as to legal form and content:



City Attorney



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
November 23, 2009



SUBJECT: Second Reading of Councillor’s Bill No. 38 re 2009 3rd Quarter Budget Supplemental Appropriation

Prepared By: Gary Newcomb, Accountant

Recommended City Council Action

Pass Councillor’s Bill No. 38 on second reading providing for supplemental appropriation of funds to the 2009 budget of the General, Utility, Parks Open Space & Trails, and General Capital Improvement Funds.

Summary Statement

- City Council action is requested to adopt the attached Councillor’s Bill on Second reading authorizing a supplemental appropriation to the 2009 budget of the General, Utility, Parks Open Space & Trails, and General Capital Improvement Funds.
 - General Fund amendments total: \$130,402
 - Utility Fund amendments total: \$17,532
 - Parks Open Space & Trails Fund amendments total: (\$255,000)
 - General Capital Improvement Fund amendments total: (\$2,688,374)
- This Councillor’s Bill was passed on first reading November 9, 2009.

Expenditure Required: (\$2,795,440)

Source of Funds: The funding sources for these budgetary adjustments include grants, program revenues, reimbursements, transfers, water leases, and revised revenue projections and expense estimates for 2009.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **38**

SERIES OF 2009

INTRODUCED BY COUNCILLORS
Major - Dittman

A BILL

**FOR AN ORDINANCE AMENDING THE 2009 BUDGETS OF THE GENERAL, UTILITY,
PARKS OPEN SPACE & TRAILS, AND GENERAL CAPITAL IMPROVEMENT FUNDS AND
AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2009 ESTIMATED
REVENUES IN THE FUNDS**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2009 appropriation for the General, Utility, Parks Open Space & Trails, and General Capital Improvement Funds, initially appropriated by Ordinance No. 3432 are hereby decreased in aggregate by \$2,795,440. This appropriation is due to the receipt of funds from grants, program revenues, reimbursements, transfers, water leases, and revised revenue projections and expense estimates for 2009.

Section 2. The \$2,795,440 decrease shall be allocated to City Revenue and Expense accounts as described in the City Council Agenda Item 10 B dated November 9, 2009 (a copy of which may be obtained from the City Clerk) increasing City fund budgets as follows:

General Fund	\$130,402
Utility Fund	\$17,532
Parks Open Space & Trails Fund	(\$255,000)
General Capital Improvement Fund	<u>(\$2,688,374)</u>
Total	<u>(\$2,795,440)</u>

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

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 9th day of November, 2009.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 23rd day of November, 2009.

ATTEST:

Mayor

City Clerk



Agenda Item 8 L

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
November 23, 2009



SUBJECT: Second Reading of Councillor's Bill No. 39 re DePalma Open Space Acquisition Grant Supplemental Appropriation

Prepared By: Heather Cronenberg, Open Space Coordinator

Recommended City Council Action

Pass Councillor's Bill No. 39 on second reading appropriating funds received from Adams County in the amount of \$540,000 for the City's acquisition of the DePalma property for open space.

Summary Statement

- This Councillor's Bill was passed on first reading on November 9, 2009.
- In order to complete this acquisition, the City was required to contribute a cash match of up to \$760,000, which came from the City's Parks, Open Space and Trails bond funds.
- City Council action is needed to appropriate these grant funds to complete the funding of the DePalma Open Space purchase.

Expenditure Required: \$540,000

Source of Funds: Parks, Open Space and Trails Bond Funds - Land Purchases

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **39**

SERIES OF 2009

INTRODUCED BY COUNCILLORS

Lindsey - Winter

A BILL

FOR AN ORDINANCE AMENDING THE 2009 BUDGET OF THE PARKS, OPEN SPACE AND TRAILS FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2009 ESTIMATED REVENUES IN THE FUNDS

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2009 appropriation for the Parks, Open Space and Trails Fund initially appropriated by Ordinance No. 3432 is hereby increased by \$540,000. This appropriation is due to the receipt of Adams County grant funds.

Section 2. The \$540,000 increase shall be allocated to City Revenue and Expense accounts as described in the City Council Agenda Item 10 C, dated November 9, 2009 (a copy of which may be obtained from the City Clerk) increasing City fund budgets as follows:

Parks, Open Space and Trails Fund	<u>\$540,000</u>
Total	<u>\$540,000</u>

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

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 9th day of November, 2009.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 23rd day of November, 2009.

ATTEST:

Mayor

City Clerk



Agenda Item 10 A

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
November 23, 2009



SUBJECT: Councillor's Bill No. 40 re Police Department Supplemental Appropriation

Prepared By: Lee Birk, Chief of Police

Recommended City Council Action

Pass Councillor's Bill No. 40 on first reading authorizing a supplemental appropriation in the amount of \$45,485 reflecting the 2009 Bureau of Justice Assistance Edward Byrne Memorial Justice Assistance Grant – Local Solicitation funds.

Summary Statement

- On June 3, 2009, the City Manager's Office authorized the Police Department to pursue the 2009 Bureau of Justice Assistance Edward Byrne Memorial Justice Assistance Grant (JAG) – Local Solicitation for the North Metro Task Force (NMTF) agency contribution.
- A current Intergovernmental Agreement (IGA) establishes the NMTF as a separate legal entity with the following participating agencies: Adams County, City and County of Broomfield, and the municipalities of Brighton, Commerce City, Federal Heights, Northglenn, Thornton and Westminster.
- The NMTF operating budget relies on the annual contribution from its participating agencies as well as grants and other external revenue sources. As a participating agency, the Police Department is obligated to provide a cash-in-kind payment for the 2010 NMTF fiscal year operating budget, which is October 1, 2009 through September 30, 2010.
- The department received notification on August 28, 2009 that the grant was approved for the total amount of \$45,485. Due to the grant award amount and reporting requirements regarding obligation of funds, the police department is requesting approval to appropriate the grant funds to the appropriate expenditure account.
- The approved grant funds will provide partial funding of \$45,485 towards the City's total obligation of \$79,687 to the NMTF for the NMTF's 2010 fiscal year.

Expenditure Required: \$45,485

Source of Funds: Edward Byrne Memorial Justice Assistance Grant

Policy Issue

Does City Council support amending the appropriations for the 2009 General Fund Police Department Operating Budget?

Alternative

Council could choose not to appropriate the grant funds. However, this is not recommended because the City and the residents will benefit from these additional grant funds that will be utilized for the police department’s required obligation as a participating member of the NMTF.

Background Information

On November 14, 1991, Adams County law enforcement agencies formed a covert illegal drug investigation task force to deal with the difficult problem of narcotics and dangerous drugs in our communities. An Intergovernmental Agreement was used as the means of establishing the bylaws and operational protocols of the NMTF. The participating agencies are the Westminster Police Department (including Jefferson County portion of Westminster), along with Adams County, the City and County of Broomfield and the municipalities of Brighton, Commerce City, Federal Heights, Northglenn and Thornton. The NMTF provides a public purpose and promotes safety, security, and general welfare of the citizens of the participating counties and municipalities. Today, the NMTF consists of 23 Staff (one Commander, three Sergeants, 16 Detectives, and three civilian personnel). Currently, Westminster Police Department has a 1.0 FTE Police Sergeant and 3.0 FTE Police Detectives assigned to the NMTF.

On June 3, 2009, the City Manager’s Office authorized the Police Department to pursue the 2009 Bureau of Justice Assistance Edward Byrne Memorial Justice Assistance Grant (JAG) – Local Solicitation for the City of Westminster’s North Metro Task Force agency contribution. The purpose of the JAG grant is to support all components of the criminal justice system, such as multi-jurisdictional drug task forces like the NMTF. The JAG grant helps fund efforts to prevent and control crime, improve the effectiveness and efficiency of the criminal justice system, and to implement processes and procedures based on local needs and conditions. The department received notification on August 28, 2009 that the City’s grant request was approved for the total amount of \$45,485 to help fund NMTF operations.

The NMTF operates under a Federal fiscal year. The funding sources for the task force are through asset forfeiture seizures, grant funding, cash-in-kind funding from the participating agencies and other minor sources. Westminster’s allocation to the NMTF for the NMTF’s fiscal year 2010 (Westminster calendar years 2009/2010) is \$79,687. The grant funding will allow the police department to provide a partial payment of \$45,485 in calendar year 2009. The remaining payment of \$34,202 will be paid in the first quarter of calendar year 2010 and has been appropriated in the City’s Amended 2010 Budget.

This appropriation will amend General Fund revenue and expense accounts as follows:

REVENUES

Description	Account Number	Current Budget	Amendment	Revised Budget
Federal Grants	1000.40610.0000	\$87,425	<u>\$45,485</u>	\$132,910
Total Change to Revenues			<u>\$45,485</u>	

EXPENSES

Description	Account Number	Current Budget	Amendment	Revised Budget
Lease Payments- Investigation Section	10020300.67700.0344	\$66,343	<u>\$45,485</u>	\$111,828
Total Change to Expenses			<u>\$45,485</u>	

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **40**

SERIES OF 2009

INTRODUCED BY COUNCILLORS

**A BILL
FOR AN ORDINANCE INCREASING THE 2009 BUDGET OF THE GENERAL FUND AND
AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2009 ESTIMATED
REVENUES IN THIS FUND**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2009 appropriation for the General Fund, initially appropriated by Ordinance No. 3432 is hereby increased by \$45,485. This appropriation is due to the receipt of Federal Grant funds.

Section 2. The \$45,485 increase in the General Fund shall be allocated to City revenue and expense accounts as described in the City Council Agenda Item 10 A, dated November 23, 2009 (a copy of which may be obtained from the City Clerk) increasing City fund budgets as follows:

General Fund	<u>\$45,485</u>
Total	<u>\$45,485</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 23rd day of November, 2009

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 14th day of December, 2009.

ATTEST:

Mayor

City Clerk



Agenda Memorandum

City Council Meeting
November 23, 2009



SUBJECT: Councillor’s Bill No. 41 re Medical Marijuana Dispensaries

Prepared By: Martin R. McCullough, City Attorney
Mac Cummins, Planning Manager

Recommended City Council Action

Adopt Councillor’s Bill No. 41 on first reading expressly prohibiting any land uses that are unlawful under state or federal law.

Summary Statement

- On September 14, 2009, City Council enacted a 90-day temporary moratorium on the submission, acceptance, processing, approval or denial of any application for any permit, license or plan approval related to the business and or operation of a medical marijuana dispensary (“MMD”).
- Council requested that staff develop options for Council to consider regarding possible changes to the City Code to address the recent explosion of MMD’s and related facilities and operations in Colorado.
- The recent surge in MMD’s in Colorado follows the announcement by the Obama administration that it would not enforce federal laws prohibiting the sale and distribution of marijuana for medical use, provided the marijuana was being sold and distributed in accordance with state medical marijuana laws.
- Unfortunately, the state has yet to establish any regulations pertaining to MMD’s.
- Staff is recommending the adoption of the proposed ordinance that would expressly prohibit any land uses in the City that are unlawful under state or federal law. This would apply to MMD’s.
- MMD’s would remain unlawful in the City for so long as they remain unlawful under federal law.
- Staff believes the issue of selling and dispensing of marijuana for medical use should be addressed at the state and federal level.

Expenditure Required: \$ 0

Source of Funds: N/A

Policy Issue

Should the City Council prohibit land uses within the City that are unlawful under state or federal law?

Alternatives

At the November 16, 2009 Study Session, two other options were presented for Council's consideration, including: (1) allowing MMD's as permitted land uses, the approval of which could be applied for under substantially the same terms and conditions as other permitted land uses (such as retail sales, pharmacies and chiropractic medicine); and (2) allowing MMD's as permitted land uses but requiring them to meet certain yet-to-be developed licensing requirements, in addition to being approved as a land use. The latter option would be analogous to how liquor-related businesses are treated in Westminster and throughout Colorado. Because there is no comprehensive state code for MMDs like what exists for liquor-related businesses, the City would have to draft its own for MMDs. Staff does not recommend either option given the total lack of information available at this time concerning the potential impacts of MMD's and the lack of any state or federal guidance, data, or studies on which to base a local MMD regulatory scheme.

Background Information

Section 14 of Article XVIII of the Colorado Constitution (hereinafter referred to as the Medical Marijuana Initiative or MMI) was adopted by the voters of Colorado in 2000. There remains a lot of confusion about what the MMI did and did not do from a legal perspective. Part of the confusion stems from the fact that the MMDs contemplated by the MMI did not immediately materialize because the possession and distribution of marijuana was - and in fact, remains - illegal under federal law. However, following the announcement by the US Attorney's Office under the Obama administration that it would not enforce federal laws against state authorized MMDs, there has been a literal explosion of MMDs in Colorado and other states that have passed laws similar to Colorado's MMI.

The MMI exempts from state criminal prosecution patients, primary care-givers, and physicians meeting certain criteria related to the use of marijuana by a patient to alleviate a debilitating medical condition. A patient or primary care-giver charged with a violation of the Colorado's state criminal laws related to the patient's medical use of marijuana will be deemed to have established an affirmative defense to such allegation where:

- The patient was previously diagnosed by a physician as having a debilitating medical condition;
- The patient was advised by his or her physician, in the context of a bona fide physician-patient relationship, that the patient might benefit from the medical use of marijuana in connection with a debilitating medical condition; and
- The patient and his or her primary care-giver were in possession of amounts of marijuana only as permitted under the MMI.

The MMI does not confer a constitutional right to obtain medical marijuana or the right to operate a medical marijuana dispensary. The MMI only provides that a patient or his primary care-giver using, possessing, or prescribing medical marijuana has a defense to a criminal charge under Colorado criminal law. Currently, medical marijuana dispensaries are not regulated by the State.

Since the adoption of Colorado's MMI, there has been no attempt by the State Legislature or any state agencies to comprehensively regulate, license, or otherwise oversee the implementation of the MMI. The Colorado Department of Public Health and Environment ("CDPHE") is only responsible for creating and maintaining a confidential registry of patients who have applied for and are entitled to receive a registry identification card. CDPHE is designated to implement the confidential registry of authorized patients and enact rules to administer the program; however, there are no current rules implemented by CDPHE to regulate medical marijuana dispensaries or primary caregivers.

Without guidance from the state regarding the implementation of the MMI, local jurisdictions are left to deal with the issue of medical marijuana dispensaries and how to implement zoning and/or land use control to regulate the location of medical marijuana dispensaries, and whether to license them.

There have already been at least two burglaries at the two medical marijuana dispensaries in the City. These dispensaries began operating without disclosing to the City that they would be selling and dispensing marijuana. The Police Department has been in close contact with the Department of Community Development and the City Attorney's office regarding these burglaries. Marijuana remains a federal banned substance. Its attraction and black-market value to recreational users may create additional incentive for crime. If MMD's were allowed, the need for increased police resources could be expected. In addition, police officers would be required to differentiate between cultivation, possession, and use contemplated under the state constitutional amendment, compared with illegal cultivation, possession, and use under the federal banned substance act. While the constitutional amendment provides for a positive defense for someone consuming or possessing marijuana for medical use by a registered patient and his or her care-giver(s), distinguishing legitimate and illegitimate marijuana use and possession would require significant police resources, including training, and would expose police officers to potential legal liability if they were to arrest someone who was later determined to be protected by the MMI.

The City's Department of Community Development has one half-time Code Enforcement Officer who is responsible for enforcing the City's zoning regulations. If MMDs were to be allowed, additional zoning code enforcement officers would also be required.

Of particular concern is the corresponding development of unregulated "grow houses." The MMI provides that each qualifying "patient" is allowed to possess up to 6 marijuana plants, and purchase up to 2 ounces each time a purchase is made. One of the effects of the MMD phenomenon thus far has been that patients have been handing over their "rights" to the six marijuana plants to their primary care-giver. This "care-giver" is usually the MMD itself, meaning that the MMD might have 6 plants per patient. Some MMD's in the Denver area have up to 500 patients, which means that, in such a dispensary, the potential would exist for up to 3,000 marijuana plants to be kept on site. The potential impact of storing very large quantities of marijuana, regulating its cultivation and distribution, and assuring that the resulting distribution is consistent with the MMI are matters best suited for state regulation. Currently, growers appear to be assuming they qualify as "care providers" under the requirements of the MMI. This is highly suspect in light of a recent Court of Appeals opinion that held that, to be an authorized caregiver under the MMI, one must be doing more than supplying the user with marijuana. There are currently no regulations concerning marijuana "grow houses." Finally, most MMD's allow on-site consumption. As with on-site consumption of beer and liquor, the on-site consumption of medical marijuana needs to be addressed through regulation.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **41**

SERIES OF 2009

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AMENDING SECTION 11-1-3 OF THE WESTMINSTER MUNICIPAL CODE CONCERNING VIOLATIONS OF LAND DEVELOPMENT AND GROWTH MANAGEMENT PROCEDURES

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Section 11-1-3, W.M.C., is hereby AMENDED to read as follows:

11-1-3: VIOLATIONS:

(A) It shall be unlawful for any person or entity to:

~~(1) Use, occupy, or sell any land, or authorize or permit the use, occupancy, or sale of land under the person's control except in accordance with all applicable provisions of this Title.~~

Deleted: .

~~(2) Use, occupy, or sell any land or building or authorize or permit the use, occupancy, or sale of land or buildings except in conformance with all applicable provisions of this Title, as well as all applicable development plans and restrictions including, but not limited to, zoning district restrictions; PUD (Planned Unit Development) restrictions; the contents of any Preliminary Development Plan (PDP), Official Development Plan (ODP), or Final Plat; engineering construction drawings; building construction drawings; all public and private improvement drawings and agreements; drainage, traffic and utility studies; and the terms and conditions of any applicable duly granted variances or exceptions.~~

Deleted: .

~~(3) Construct, reconstruct or alter any building or authorize the construction, reconstruction or alteration of any building under the person's control except in accordance with all applicable provisions of this Title, as well as all applicable development plans and restrictions including, but not limited to, zoning district restrictions; PUD (Planned Unit Development) restrictions; the contents of any Preliminary Development Plan (PDP), Official Development Plan (ODP), or Final Plat; engineering construction drawings; building construction drawings; all public and private improvement drawings and agreements; drainage, traffic and utility studies; and the terms and conditions of any applicable duly granted variances or exceptions.~~

Deleted: .

~~(4) Utilize any yard or other open space provided about any building for the purpose of complying with provisions of this Title to provide a yard or other open space for any other building. No yard or other open space on one lot shall be considered as providing a yard or open space for a building on any other lot.~~

Deleted: .

~~(5) Construct, reconstruct, alter, or change the use of any building or other structure, including signage, within the City without obtaining a building permit from the Building Official or his authorized representative. No permit shall be issued unless the plans of and for the proposed construction, reconstruction, alteration, demolition, or use fully conform to the zoning regulations then in effect. No business license shall be issued by the City Clerk without being furnished a written notice from the Planning Manager and Building Official that the use of the premises proposed is in conformance with the requirements of the provisions of this Title.~~

~~(6) To establish or maintain or permit to be established or maintained, any household not in compliance with the definition of "household" established in section 11-2-9. Any member of the household may be found to be in violation of this section, including but not limited to, a person required to register as a sex offender. It shall be an affirmative defense to a violation of this section that the defendant's only violation that required registration as a sex offender was a conviction or plea of guilty to a charge that consisted only of public indecency as defined in Section 6-4-1(A)(6), W.M.C.~~

Deleted: .

~~(7) Use, occupy or authorize the use or occupancy of any land or building for any use that is unlawful under any state or federal law.~~

Deleted: .

Deleted: It shall be an affirmative defense to a violation of this action that the defendant's only violation which required registration as a sex offender was a conviction or plea of guilty to a charge which consisted only of public indecency as defined in section 6-4-1 (a) 6, W.M.C.

(B) For purposes of this section, the "use" or "occupancy" of a building or land relates to anything and everything that is done to, on, or in that building or land.

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 23rd day of November, 2009.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 14th day of December, 2009.

Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

City Clerk

City Attorney's Office