

December 14, 1998

7:00 PM

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

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

- 1. Pledge of Allegiance**
- 2. Roll Call**
- 3. Consideration of Minutes of Preceding Meetings**
- 4. Presentations**
  - A. Citizen's Commendation to Randy Williams - in recognition of his work as Campus Monitor at Westminster High School for 7 years
  - B. Meritorious Citizen Service Award to Dyland and Grant Cruise for calling 911
  - C. Distinguished Service Awards to Sergeant Mike Collier, Senior Police Officer Gene Sharla and Senior Police Officer Mat Rippy; Meritorious Service Award to Police Office Paul Goodwin and Valorous Service Award to Senior Police Office Gayle Geraci
  - D. Crown Point Academy - Kindergarten thru grade 3 students from the Charter Academy will address Council
  - E. Conveyance of Dolphins Sculpture by Jim Sullivan
- 5. Citizen Communication (5 minutes or Less in Length)**
- 6. Report of City Officials**
  - A. City Manager's Report
- 7. City Council Comments**

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

- 8. Consent Agenda**
  - A. Capital Improvement Program Technical Assistance Services Contract with RG Consulting to provide management assistance
  - B. Street Sweeping Contract with Alpha Brooming Company Inc
  - C. Purchase of Open Space along Farmers' High Line Canal 4 acres located south of 104th Avenue and east of Wolff Street
  - D. Purchase of Open Space and Additional Land Along Big Dry Creek 54 acres southwest of 120th Avenue and Federal Boulevard
  - E. Construction Contract with TARCO for Big Dry Creek improvements at I-25 and Huron Street for \$963,524.50
  - F. Ambulance Purchase Contract from EDM Equipment Company for \$91,500
  - G. Construction Inspection Services for Big Dry Creek Sewer Interceptor Phase III for \$101,991
  - H. Bids re Replacement Self Contained Breathing Apparatus to Wheatland Fire Equipment Company \$50,000 down payment and \$150,628 lease purchase agreement
  - I. Councillor's Bill No. 72 on second reading re Church Ranch Business Center Assistance Package at SWC of 103rd Ave and Church Ranch Blvd (Atchison-Smith)
  - J. Councillor's Bill No. 73 on second reading re City Personnel Policies and Rules amendments for appeal rights to part-time employees pursuant to City Charter change (Smith-Atchison)

**9. Appointments and Resignations**

None

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

- A. Councillor's Bill No. 74 re Media One Group Inc Business Assistance Package for \$20,000
- B. Public Hearing re Second Amended Preliminary Development Plan and Third Amended Official Development Plan for West 81st Place and Sheridan Planned Unit Development for a mini storage facility, a restaurant and retail uses
- C. Approval of Second Amended Preliminary Development Plan and Third Amended Official Development Plan for West 81st Place and Sheridan Planned Unit Development
- D. Councillor's Bill No. 75 re West 81st Place and Sheridan Boulevard Easement Vacations for sanitary sewer and water line easements
- E. Public Hearing re Rezoning and Preliminary/Official Development Plan for Hollypark Planned Unit Development for 70 Condominium units
- F. Councillor's Bill No. 76 re Rezoning for Hollypark Planned Unit Development for 70 Condominium units
- G. Approval of Preliminary/Official Development Plan for Hollypark Planned Unit Development for 70 Condominium units
  
- H. Councillor's Bill No. 77 re revisions to the City's Growth Management Program providing for a category for projects that connect to the City's reclaimed water system
- I. Resolution No. 74 re allocating 1999 Service Commitments to various categories within the Growth Management Program
- J. Resolution No. 75 re Amending the Multi-Family Residential Design Guidelines
- K. Resolution No. 76 re Green Knolls Park Service Commitments re Reclaimed Water Service Commitment
- L. Authorize expenditure of \$39,550 for the 1 1/2" tap fee for the Green Knolls Park located at 108th Place and Balsam Street
- M. Resolution No. 77 re Supporting Proposed Changes to State Clean Air Act Regulations
- N. Councillor's Bill No. 78 re 1998 Budget Supplemental Appropriations
- O. Councillor's Bill No. 79 re Supplemental Appropriation re Capital Facilities Financing
- P. Resolution No. 78 re Year End Contingency Transfers authorizing various transfers
- Q. Councillor's Bill No. 80 re 1999 Appropriations for 1999 Operating Budget
- R. Retention of Special Legal Counsel for claims against Public Service Company of Colorado

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

None

**12. Citizen Presentations (5 Minutes + in Length) & Miscellaneous Business**

- A. City Council
- B. Request for Executive Session

**13. Adjournment**

CITY OF WESTMINSTER, COLORADO  
MINUTES OF THE CITY COUNCIL MEETING  
HELD ON MONDAY, DECEMBER 14, 1998 AT 7:00 P.M.

PLEDGE OF ALLEGIANCE:

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

ROLL CALL:

Present at roll call were Mayor Heil, Mayor Pro Tem Merkel and Councillors Allen, Atchison, Dixon, Scott and Smith. Also present were William Christopher, City Manager; Martin McCullough, City Attorney; and Michele Kelley, City Clerk. Absent none.

CONSIDERATION OF MINUTES:

A motion was made by Allen and seconded by Merkel to accept the minutes of the meeting of November 23, 1998 with no additions or corrections. Councillor Dixon requested to abstain as she was not present at the meeting. The motion carried with 6 aye votes and Councillor Dixon abstaining.

A motion was made by Allen and seconded by Merkel to accept the minutes of the special meeting of December 11, 1998 with no additions or corrections. Councillor's Atchison and Scott requested to abstain as they were not present at the meeting. The motion carried with 5 aye votes and Councillors Atchison and Scott abstaining.

PRESENTATIONS:

Crown Pointe Academy Director Kay May thanked Council for their contribution to the school and introduced Staff and students from the Charter Academy. The students sang Christmas songs and presented a Christmas card to the Mayor and City Council.

Mayor Heil, Chief of Police Dan Montgomery and Police Officer Mat Rippy recognized Mr. Randy Williams, Campus Monitor at Westminster High School, for his support and assistance to the Police Department, and the positive influence he lends to the school's environment. Westminster High School Principal Chris Ditman was in attendance for the presentation.

Mayor Heil and Fire Chief Jim Cloud presented the Meritorious Citizen Service Award to Dylan and Graham Cruise for their act of heroism in saving the life of their Grandmother.

Mayor Heil, Chief of Police Dan Montgomery and City Manager Bill Christopher presented the Distinguished Service Award to Sergeant Mike Collier and Senior Police Officers Gene Sharla and Mat Rippy; Meritorious Service Award to Police Officer Paul Goodwin; and the Valorous Service Award to Senior Police Officer Gayle Geraci.

James M. Sullivan, Manager of Westminster City Center Marketplace, RLLLP, presented a deed for the "Dolphins in Flight" sculpture, located at the northeast corner of 92nd Avenue and Sheridan Boulevard, valued at \$150,000 and a deed for the land and improvements the sculpture is on, valued at \$744,000, as a gift to the City of Westminster.

CITIZEN COMMUNICATION:

Elizabeth Line, 8671 W. 93rd Place, addressed Council requesting to know the prairie dog population within the City limits.

REPORT OF CITY OFFICIALS:

City Manager Bill Christopher announced that there would be a Special City Council meeting on January 4, 1999 to consider a proposed intergovernmental agreement with the City of Arvada, and that the next regular City Council meeting is scheduled for December 21 at 6:00 P.M.

CITY COUNCIL COMMENTS:

Councillor Dixon reported on the DARE Graduations that are taking place this coming week.

CONSENT AGENDA:

The following items were considered as part of the consent agenda: Capital Improvement Program Technical Assistance Services Contract - Authorize the City Manager to execute a contract with RG Consulting Engineers, Inc. to provide technical assistance for the Capital Improvements Program for 1999 in an amount not to exceed \$90,000 and charge the expense associated for the services to the Utility Capital Improvement Projects Account; Street Sweeping Contract - Authorize the City Manager to execute a Street Sweeping Contract with Alpha Brooming Company, Inc. in accordance with their proposal; Purchase of Open Space Along Farmers' High Line Canal - Authorize the City Manager to acquire by purchase and donation approximately four acres of open space at a cost of \$226,000 from Embassy Homes, Inc. and charge the expense to the Open Space Fund; Purchase of Open Space and Additional Land along Big Dry Creek - Authorize the City Manager to purchase for Open Space and other purposes, approximately 54 acres of land at a cost of \$2,200,000 from the Foster family, charge the expense to the Open Space Fund, and reimburse the Open Space Fund from a future sale(s) if it occurs; Construction Contract for Big Dry Creek at I-25/Huron Street - Authorize the City Manager to execute a contract with TARCO Inc. for \$963,524.50 for the construction of improvements of Big Dry Creek between Huron Street and Interstate 25 with a contingency of \$145,000 with expenses for this project to be charged to the appropriate Capital Project account in the Utility Fund; Ambulance Purchase Contract - Award a contract to EDM Equipment Company in the amount of \$91,500 for the purchase of an ambulance and charge the expense to the appropriate 1999 Capital Outlay account in the Fire Department Budget; Construction Inspection Services for Big Dry Creek Sewer Interceptor Phase III - Authorize City Manager to execute an addendum to the existing design contract with Black & Veatch, LLP, in the amount of \$101,991 for inspection and management services during construction of the Big Dry Creek Sewer Interceptor Phase III, and charge expense associated for the services to the appropriate Utility Fund Capital Improvement Projects Account; Bids for Replacement Self Contained Breathing Apparatus - Authorize the City Manager to sign a contract with Wheatland Fire Equipment Company in the amount of \$200,628 because it is in the best interests of the City, and authorize a down payment of \$50,000 from the appropriate 1999 Fire Department budget account with the balance of the cost to be provided by a lease purchase agreement and charge the expense to the appropriate 1999 Fire Department budget account; Councillor's Bill No. 72 re Church Ranch Business Assistance Package; and Councillor's Bill No. 73 re City Personnel Policies and Rules Amendments.

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

A motion was made by Scott and seconded by Dixon to adopt the Consent Agenda items as presented. The motion carried unanimously.

COUNCILLOR'S BILL NO. 74 - MEDIA ONE GROUP ASSISTANCE PACKAGE:

A motion was made by Dixon and seconded by Smith to pass Councillor's Bill No. 74 on first reading authorizing the City Manager to execute, fund, and implement a Business Assistance Agreement with Media One Group for the establishment of research and development facilities in Westmoor Technology Park. Upon roll call vote, the motion carried unanimously.

PUBLIC HEARING ON AMENDED PDP/ODP FOR 81ST PLACE AND SHERIDAN PUD:

At 7:58 P.M. the meeting was opened to a public hearing on the proposed Second Amended Preliminary Development Plan and Third Amended Official Development Plan for the West 81st Place and Sheridan PUD, generally located at the northeast corner of West 81st Place and Sheridan Boulevard. Planning Manager Dave Shinneman entered a copy of the Agenda Memorandum, Planning Commission recommendation and other related items as exhibits. Noel Lane, property owner and applicant, presented slides. No one spoke in opposition to the proposal. At 8:24 P.M. the public hearing was declared closed.

AMENDED PDP AND ODP FOR 81ST PLACE AND SHERIDAN PUD:

A motion was made by Atchison and seconded by Dixon to approve the Second Amended Preliminary Development Plan and Third Amended Official Development Plan for the West 81st Place and Sheridan Planned Unit Development with the recommendation based on a finding that the Amended Preliminary and Official Development Plans meet the requirements of Title 11 of the Westminster Municipal Code and would be in conformance with the Westminster Comprehensive Land Use Plan. The motion carried unanimously.

COUNCILLOR'S BILL NO. 75 - WEST 81ST AVE AND SHERIDAN EASEMENT VACATIONS:

A motion was made by Atchison and seconded by Dixon to pass Councillor's Bill No. 75 on first reading vacating a sanitary sewer and a water line easements within the West 81st Place and Sheridan PUD. Upon roll call vote, the motion carried unanimously.

PUBLIC HEARING FOR REZONING/PDP/ODP FOR HOLLYPARK PUD:

At 8:26 P.M. the meeting was opened to a public hearing on the proposed rezoning of property to Planned Unit Development and the proposed Preliminary/Official Development Plan for the Hollypark PUD, located at the northwest corner of 96th Avenue and Federal Boulevard.

Planning Manager Dave Shinneman entered a copy of the Agenda Memorandum, Planning Commission recommendation and 2 letters submitted as exhibits. Bob Godio, of Frontier Development gave a slide presentation in favor of this development.

The following people spoke with questions or concerns: Tom Walden, Jerry Sanchez, 9561 Green Court; Jack Knowles, 3220 West 96th Avenue, George Hovorka, representing St Mark's Church Building Committee; Andrea Lyons of PICA, Bonnie Kailey, 9581 Green Court and Marcie Woods, 3040 West 96th Avenue. At 9:32 P.M. the public hearing was declared closed.

COUNCILLOR'S BILL NO. 76 - REZONING FOR HOLLYPARK PUD:

A motion was made by Allen and seconded by Smith to pass Councillor's Bill No. 76 on first reading rezoning the property from RE (Single-Family Detached) to Planned Unit Development. Upon roll call vote, the motion carried with a dissenting vote by Councillor Atchison.

PRELIMINARY AND OFFICIAL DEVELOPMENT PLAN FOR HOLLYPARK PUD:

A motion was made by Allen and seconded by Merkel to approve the proposed Preliminary/Official Development Plan for the Hollypark Planned Unit Development based on a finding that the proposed re-zoning is in conformance with the Westminster Comprehensive Land Use Plan, and the proposed Preliminary/Official Development Plan would meet the requirements of Title XI of the Westminster Municipal Code, and would be in conformance with the Westminster Comprehensive Land Use Plan.

A friendly amendment was made by Heil, and approved by the maker and second of the motion that a change in the fencing be investigated and taken care of by Staff. The amendment was voted on and carried with a dissenting vote from Atchison. The main motion as amended carried with a dissenting vote from Atchison.

GROWTH MANAGEMENT PROGRAM REVISIONS:

A motion was made by Smith and seconded by Atchison to pass Councillor's Bill No. 77 on first reading revising Chapter 3 of Title XI of the Westminster Municipal Code pertaining to the City's Growth Management Program; Adopt Resolution No. 74 allocating 1999 Service Commitments to the various categories of the Growth Management Program; and Adopt Resolution No. 75 amending the Multi-Family Residential Design Guidelines. Upon roll call vote, the motion carried unanimously.

RESOLUTION NO. 76 - GREEN KNOLLS PARK SERVICE COMMITMENTS AND TAP FEE PAYMENT:

A motion was made by Atchison and seconded by Allen to adopt Resolution No. 76 allocating 5.8 Category R Water Service Commitments to Green Knolls Park; and authorize the expenditure of \$39,550 from the Green Knolls construction account in the General Capital Improvement Fund for the payment of tap fees. Upon roll call vote, the motion carried unanimously.

RESOLUTION NO. 77 - PROPOSED CHANGES TO STATE CLEAN AIR REGULATIONS:

A motion was made by Scott and seconded by Smith to adopt Resolution No. 77 in support of both proposed revisions to the State of Colorado's Clean Fuel Fleet Program and a provision which would give the City partial credit for its Compressed Natural Gas Vehicle conversions. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 78 - 1998 BUDGET SUPPLEMENTAL APPROPRIATIONS:

A motion was made by Allen and seconded by Merkel to pass Councillor's Bill No. 78 on first reading providing for supplementary appropriations to the 1998 budget. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 79 - APPROPRIATION OF CAPITAL FACILITIES FINANCING:

A motion was made by Dixon and seconded by Atchison to pass Councillor's Bill No. 79 on first reading appropriating \$17,700,000 received by the City from the sale of certain assets to the Westminster Building Authority and reallocating \$17,700,000 from certain "pay as you go" projects in the General Capital Projects Fund to the Promenade Conference Center project and the City Park Fitness Center project. Upon roll call vote, the motion carried unanimously.

RESOLUTION NO. 78 - YEAR END CONTINGENCY TRANSFERS:

A motion was made by Dixon and seconded by Atchison to adopt Resolution No. 78 authorizing the transfer from the General (\$413,000) and Utility (\$108,463) Funds contingency accounts into the various operating budgets as described. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 80 - 1999 APPROPRIATIONS:

A motion was made by Smith and seconded by Merkel to pass Councillor's Bill No. 80 on first reading appropriating funds for the 1999 budget. Upon roll call vote, the motion carried unanimously.

RETENTION OF SPECIAL LEGAL COUNSEL RE PUBLIC SERVICE COMPANY:

A motion was made by Scott and seconded by Dixon to authorize the City Manager to execute a fee agreement with Mr. Steven Denman with the law firm of Denman and Corbetta, P.C., for special counsel related to the City of Westminster v. Public Service Company of Colorado litigation with a top set amount of \$3,000. The motion carried unanimously.

MISCELLANEOUS BUSINESS:

Mayor Heil stated there would be an Executive Session to discuss negotiations with the City of Arvada regarding an Intergovernmental Agreement.

ADJOURNMENT:

The meeting was adjourned at 9:54 P.M.

ATTEST:

\_\_\_\_\_  
Mayor

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

**Date:** December 14, 1998

**Subject:** Citizen's Commendation to Randy Williams

**Prepared by:** Mat Rippy, School Resource Officer and  
Dan Montgomery, Chief of Police

### **Introduction**

City Council is being asked to recognize Mr. Randy Williams for his unwaivering support and assistance to the Westminster Police Department. Mr. Williams has been employed as the Campus Monitor at Westminster High School for seven years.

### **Summary**

Mr. Randy Williams has been employed as a Campus Monitor at Westminster High School for seven years. During this time, he has provided unwaivering assistance and support to the Police Department and the students of Westminster High. The Police Department would like to take this opportunity to thank Mr. Williams for his assistance and support, as well as the positive effect he has on the students and Westminster High School.

### **Staff Recommendation**

Formally recognize Mr. Randy Williams for his support and assistance to the police department, and the positive influence he lends to the school's environment.

### **Background Information**

Mr. Randy Williams has been employed as the Campus Monitor at Westminster High School for seven years. During this time, he has assisted the police department in hundreds of investigations. Mr. Williams' ability to resolve issues of a confrontational matter in a safe, peaceful manner is an asset to the school, community and police department. His actions have earned him the respect of the faculty and the students at Westminster High.

The School Resource Officer, Mat Rippy, has worked closely with Mr. Williams for the past two years and has witnessed his abilities to build a rapport with the students, and provide them with an environment that will promote a positive and meaningful high school experience. The help and understanding he provides to troubled students results in long-term positive effects for them, the school and the community.

Along with his assistance to the students, he provides his time and skills to the School Resource Officer with a positive and energetic attitude. His unique knowledge of the student body, ability to identify students, and the trust the students have in him have saved the police department countless hours of investigation.

Respectfully submitted,

William M. Christopher  
City Manager



**Date:** December 14, 1998

**Subject:** Meritorious Citizen Service Award to Dylan and Grant Cruise

**Prepared by:** Tim Burandt, Fire Lieutenant

### **Introduction**

The Mayor, on behalf of City Council and with the assistance of members of the Westminster Fire Department, is requested to present the Meritorious Citizen Service Award to Dylan and Graham Cruise.

### **Summary**

On October 5, 1998, Dylan and Graham's 68 year old Grandmother fell down a flight of stairs. The Grandmother was lying unconscious and barely breathing. She was watching the boys and there was no other adult supervision in the house at the time. These young boys, ages 7 and 11, very calmly called 911 for help. When the Westminster Fire Department arrived Grandma had still not moved and her condition was the same or deteriorating. She was transported to Saint Anthony Central for possible head and neck injuries. Although Grandma was kept in the hospital for an extended stay for observation of a head injury she survived the fall with only a broken wrist.

The Fire Department credits these young boys for quick thinking and calm presence in the face of an emergency which resulted in saving their Grandmother's life.

### **Staff Recommendation**

The Mayor is requested to present the Meritorious Citizen Service Award to Dylan and Graham Cruise for their act of heroism in saving the life of their Grandmother.

### **Background Information**

The Meritorious Citizen Service Award recognizes action by a citizen which result in the saving of a life, or the attempted saving of a life, in which extraordinary efforts were used. These boys demonstrated a great deal of calm action under extremely stressful circumstances for children aged seven and eleven.

According to the recorded tapes of the 911 call, answered by dispatcher Tim Guthrie, seven year old Dylan initiated the call to Dispatch and eleven year old brother Graham explained in greater detail the condition of their Grandmother. Westminster Police Officer Jacki Tallman was first on scene followed shortly thereafter by Westminster Fire Department Ladder 3 and Ambulance 1.

Respectfully submitted,

William M. Christopher  
City Manager

**Date:** December 14, 1998  
**Subject:** Distinguished Service, Meritorious Service and Valorous Service Awards  
**Prepared by:** Matt Raia, Police Captain and Dan Montgomery, Chief of Police

### **Introduction**

Police Chief Dan Montgomery requests the assistance of Mayor Nancy Heil and City Manager Bill Christopher in presenting the following awards:

Distinguished Service Award: Sergeant Mike Collier, Senior Police Officer Gene Sharla and Senior Police Officer Mat Rippey

Meritorious Service Award: Police Officer Paul Goodwin

Valorous Service Award: Senior Police Officer Gayle Geraci

### **Summary**

The nomination of these officers was submitted to the Police Department's Awards Review Board for their review and approval. The Board concluded that the actions taken by Sergeant Mike Collier, Senior Police Officer Gene Sharla, and Senior Police Officer Mat Rippey involved significant risk of death or serious bodily injury and was performed with distinguished duty. The actions taken by Police Officer Paul Goodwin involved an attempt on the part of the officer to save a life by extraordinary efforts, involved personal risk, and was performed with meritorious duty. The actions taken by Senior Police Officer Gayle Geraci placed her life in extreme risk and were performed valorously.

### **Staff Recommendation**

Present the Distinguished Service Award to Sergeant Mike Collier, Senior Police Officer Gene Sharla, and Senior Police Officer Paul Goodwin.

Present the Meritorious Service Award to Police Officer Paul Goodwin.

Present the Valorous Service Award to Senior Police Officer Gayle Geraci.

### **Background Information**

#### **Meritorious Service Awards:**

**Paul Goodwin:** On February 27, 1998, Officer Paul Goodwin was dispatched to a call of a man having difficulty breathing. When Officer Goodwin arrived, he found a male on the floor, unconscious, not breathing, and blood coming from a hole in his neck from a trachial tube. Officer Goodwin immediately initiated CPR on the victim, and directed the son of the victim on how to assist with the CPR.

When the Westminster Fire Department paramedics arrived, Officer Goodwin continued CPR in order to allow the paramedics to attend to the victims' medical needs.

Officer Goodwin's actions directly resulted in saving this individual's life on the scene and allowed the Fire Department to transport a living heart attack victim to the hospital for treatment.

**Distinguished Service Awards:**

**Sergeant Mike Collier and Senior Police Officer Gene Sharla:** On June 25, 1998, officers were dispatched to a residence on a report of a man with a gun. The officers were informed that a domestic disturbance had taken place and the male subject threatened to kill his wife, children, and any police officers who attempted to interfere. The officers were advised that the man was intoxicated and armed with a shotgun, a .22 caliber rifle, and a handgun.

Responding officers took positions around the exterior of the house in order to observe the interior of the residence. Sergeant Mike Collier and Senior Police Officer Gene Sharla were able to see into the front door and observed the subject lying on the couch. Another officer was able to see through a window and reported that the subject was laying on the couch and had a shotgun in his right hand, pointing to the front door. He would then point the gun toward the ceiling and pull the trigger causing the hammer to drop--but the gun would not fire. Three times he took this action and the gun did not fire. The subject then laid back down on the couch and placed the revolver on his abdomen pointing it toward the front door.

Several times the subject would get up and walk into the kitchen area or the bedroom where he was out of sight of the officer. The subject returned to the living room and stood facing the front door with his hands behind his back as if waiting for the officers to enter. He yelled out at the officers "I'm not stupid," and then walked into the kitchen area again. It was unknown whether the subject had placed the revolver in his waistband or had hidden it somewhere closeby, waiting to retrieve it when the officers entered. The subject re-entered the living room area, carrying his shoes. It was at that time that Sergeant Collier made the decision to rush the subject while he was attempting to put on his shoes. Sergeant Collier and Officer Sharla, with duty weapons down, rushed into the residence yelling at the subject "Police Officers, keep your hands where we can see them." Sergeant Collier grabbed the subject's right hand and pinned him against the back of the couch. At the same time, Officer Sharla grabbed the subject's left arm in an attempt to pin it against the couch. However, the subject grabbed Officer Sharla's duty weapon and a struggle for the weapon ensued between Officer Sharla, Sergeant Collier, and the subject. The subject was training the barrel of the gun toward himself and Sergeant Collier. Sergeant Collier was able to distract the subject's attention from Officer Sharla briefly, which enabled Officer Sharla to regain control of his weapon with the assistance of other officers who had entered the residence. Sergeant Collier and Officer Sharla were able to take the subject to the floor where he continued to kick and strike out at the officers. He was eventually taken into custody.

Officer Sharla and Sergeant Collier were at extreme risk to their lives while struggling with an armed, intoxicated subject. The officers performed with Distinguished Service and merit the Police Department's Distinguished Service Award.

**Senior Police Officer Mat Rippy:** On the night of August 2, 1998 at 10:53 p.m., Senior Police Officer Mat Rippy observed a vehicle west bound on 88th Avenue at a high rate of speed. Officer Rippy pulled his patrol vehicle in behind the subject vehicle and activated the patrol vehicle emergency equipment, signalling the driver to pull over. The driver pulled the vehicle off the roadway into the parking lot of PharMor Drug and attempted evasive actions, but eventually coming to a stop in the northwest corner of the lot.

Officer Rippy, feeling that the driver's actions were suspicious, requested officer backup and approached the vehicle from the passenger side. Officer Rippy observed the male driver looking in the left side mirror, expecting Officer Rippy to approach from the left side, not the right. Officer Rippy observed a handgun in a holster on the right side of the driver. Officer Rippy backed up from the passenger window and yelled at the driver that he knew he was armed and to place his hands on the steering wheel where he could see them. As Officer Rippy was yelling commands to the driver, the driver opened the left front door of the vehicle, got out, and ran west from the vehicle. Officer Rippy pursued the subject on foot into the parking lot of the Brookhill Shopping Center. Officer Rippy continued to yell at the subject to stop. During the pursuit, Officer Rippy lost site of the subject for 5-6 seconds as the subject rounded the corner of a building.

Officer Rippy continued his foot pursuit of the subject and was approximately 25 yards behind the subject when the subject stopped, began turning toward Officer Rippy, at the same time making a motion as if drawing his weapon from its holster. At this point, fearing he was about to be shot, Officer Rippy stopped running and fired his service weapon at the subject without striking him. The subject then turned and started to run away from the officer. The subject ran several hundred feet further through the Brookhill Center parking lot until additional officers responded cutting off his escape path. When taken into custody, the subject was wearing a gun holster, but had no gun. The gun was later found on the roof of the business where the subject was arrested. The vehicle the subject had abandoned was stolen, and it was determined that it had been stolen 15-20 minutes prior to Officer Rippy's encounter with the subject. Investigation of the incident lead to the discovery that the subject was from California, had several prior arrests for auto theft and burglary and had served more than one prison term. At the time of his arrest, the subject had a blood alcohol content of .132.

**Valorous Service Award:**

**Senior Police Officer Gayle Geraci:** On August 20, 1998 at 11:20 a.m., officers of the Westminster Police Department and the Westminster Fire Department were dispatched to a traffic collision, on U.S. Highway 36, involving a caisson drilling truck that had overturned and exploded into flames. There were multiple explosions and the scene was very chaotic. When Senior Police Officer Gayle Geraci arrived on the scene, she found the drilling truck blocking the eastbound side of U.S. 36, just east of Federal Blvd. The truck was engulfed in intense flames, and was exploding as she exited her police car. Officer Geraci observed individuals at the far side of the truck attempting to get her attention. She ran to them and discovered that they had succeeded in pulling one of the occupants from the truck, and were now attempting to free another. The subject was on fire, crawling on the ground, and his burning clothing was adhering to the asphalt. Officer Geraci took charge of the victim and attempted to provide him comfort and aid. The citizens were unable to free the occupant they had been attempting to save and ran from the burning vehicle to safety.

While comforting the burn victim who had crawled away from the burning vehicle, Officer Geraci was able to find out from him that there were two other occupants of the vehicle. Officer Geraci tried to coordinate rescue efforts, but they were unsuccessful because of the intense heat and flames.

During the time Officer Geraci was with the victim, she was approximately 15 feet from the burning and exploding truck. In spite of the immediate danger, Officer Geraci remained with the victim, shielding him with her body from exploding, burning debris and flames; all the while enduring the screams for help from those trapped in the burning vehicle and the victim she was with, the odor of burning flesh, intense heat from the flames, and a shower of burning debris from the explosions. Officer Geraci remained with this victim until rescue personnel could get to her location and render aid to him.

Officer Geraci's actions by attempting to rescue victims from the burning, exploding vehicle and by using her body to shield a victim from the intense heat, flames, and burning debris raining down on them, placed her life in extreme risk and were performed valorously.

Respectfully submitted,

William M. Christopher  
City Manager

**Date:** December 14, 1998  
**Subject:** Citizen Communication - Crown Pointe Academy  
**Prepared by:** Lynne Torgerson, Executive Secretary to the City Manager

### **Introduction**

Students from Crown Pointe Academy have requested an opportunity to address City Council at Monday night's meeting.

### **Summary**

Crown Pointe Academy Director Kay May will bring several students from the Charter Academy to City Hall on Monday evening. The children represent grades K through three. The children will sing two Christmas songs for City Council and also present a thank you card to the Mayor and City Councillors for the City's continued support of the charter academy.

### **Staff Recommendation**

Listen to the children sing and accept the thank you card.

### **Background Information**

Crown Pointe Academy opened its doors in the fall of 1997 as a charter school. There are currently 175 children enrolled at the academy representing grades K through 6th. Plans are underway to add 7th grade next year pending approval by the school board.

Kay May has indicated that the presentation will take approximately 10 minutes.

Respectfully submitted,

William M. Christopher  
City Manager

**Date:** December 14, 1998

**Subject:** Conveyance of Dolphins Sculpture by Jim Sullivan

**Prepared by:** Bill Christopher, City Manager

### **Introduction**

City Council is recommended to accept on behalf of the City, the conveyance of the dolphins sculpture, improvements associated with the statue and the land as a gift from James M. Sullivan, Manager of the Westminster City Center Marketplace, RLLLP.

### **Summary**

Jim Sullivan, who developed the high quality Westminster City Center Marketplace retail development, located at the northeast corner of 92nd Avenue and Sheridan Boulevard, is desirous of providing as a gift to the City the dynamic dolphin sculpture which was created by renowned sculptor George Lundeen of Loveland, Colorado. Included in the conveyance, would be the sculpture, the accompanying improvements that are in place including the water feature and the land on which the sculpture is displayed. This significant generous gift by Mr. Sullivan is something that he has planned to do for sometime to show his appreciation of the City of Westminster and contribute to the community's focus on public art.

The necessary deeds to accomplish this gift conveyance have been reviewed by the City Attorney's Office and all documents are in proper form and order for the conveyance.

### **Staff Recommendation**

City Council accept the gift of "Dolphins in Flight" which was sculpted by artist George Lundeen along with the improvements including the water feature and the land which the sculpture is located from Mr. James M. Sullivan, Manager of Westminster City Center Marketplace, RLLLP.

### **Background Information**

Retail developer Jim Sullivan has consistently demonstrated his support and appreciation of the arts by donating sculpture pieces to the City of Westminster as well as including them in the Westminster City Center Marketplace. He contributed to the City's public art program with the conveyance of "Promise of the Prairie" by George Lundeen which is located adjacent to the City Hall carillon, as well as "Challenge" the large elk statue located on the east side of Yates Street by the City Hall entrance. In conjunction with the Westminster City Center Marketplace retail center development, Mr. Sullivan commissioned George Lundeen, to sculpt five dolphins which are know as "Dolphins in Flight" which were placed in a prominent location at 92nd Avenue and Sheridan Boulevard for the enjoyment of the public and the enhancement of the retail center. Included with the dolphins is a water feature, sidewalk and flower bed improvements, and other related improvements which he is now desirous of contributing to the City at no cost. He also purchased and installed the clever sculpture depicting an embarrassing encounter by an indian boy with a huge bear located by the Farmers' High Line Canal trail at the north end of this retail development.

Mr. Sullivan has also been a major contributor to the ten additional bells that were added earlier this year to the City Hall carillon which in turn provides a full compliment of 24 bells. His interest and support in the arts has certainly added to Westminster's quality of life and provides ongoing visual enjoyment for the general public who frequent the City Hall area, as well as Westminster City Center Marketplace retail center.

Mr. Sullivan wishes to convey the dolphin sculpture, related improvements and the land known as Tract B, Westminster City Center Filing 3, Adams County, Colorado which has an appraised value of \$744,000 for the land and improvements plus the subject art at an appraised value of an additional \$150,000.

The provisions of the conveyance require the Westminster City Center Marketplace retail owner to provide any ongoing maintenance of the statue and related improvements.

Mr. Sullivan will be present at Monday night's City Council meeting to make his presentation and complete the contribution to the City.

Respectfully submitted,

William M. Christopher  
City Manager

Attachments



Date: December 14, 1998

Subject: Capital Improvement Program Technical Assistance Services Contract

Prepared by: Ron Hellbusch, Director of Public Works and Utilities  
Diane M. Phillips, Capital Improvement Projects Coordinator

### **Introduction**

City Council action is requested to authorize the City Manager to sign a contract with RG Consulting Engineers, Inc. (RGCE) to provide management assistance for the Capital Improvement Projects Program for 1999. RGCE functions as an extension of City Staff to provide a variety of technical and management assistance with all phases of the Capital Improvement Program. Funds for this expense are available in the Utility Fund Capital Improvement Projects Account.

### **Summary**

The Public Works and Utilities Department underwent a reorganization during 1998 whereby all Water Resources and Utilities Capital Projects were placed under the new Capital Improvement Projects Coordinator position that is held by Diane Phillips. The Water Resources and Utilities Capital Improvement Projects budget for 1999 is \$6,900,000.

Public Works and Utilities retained the services of RGCE on a trial basis during 1998 to assist with the management of the Capital Improvement Program. The Department believes that this method of providing technical assistance has worked well, is cost efficient and provides a depth of technical services and skills to the City Staff.

### **Staff Recommendation**

Authorize the City Manager to execute a contract with RG Consulting Engineers, Inc. to provide technical assistance for the Capital Improvements Program for 1999 in an amount not to exceed \$90,000. The expense associated for the services will be charged to the Utility Fund Capital Improvement Projects Account.

### **Background Information**

The Public Works and Utilities Department's reorganization during 1998 centralized all Water Resources and Utilities Capital Projects under the new Capital Improvement Projects Coordinator position. The projects are managed by using a team concept that includes individuals in the Water Resources and Utilities Operations that are familiar with the project; and the technical assistance of an outside engineering firm that serves as an extension of the City Staff. RGCE was retained on a successful trial basis to provide the needed assistance and support on the Capital Improvement Program during 1998.

Staff interviewed other consulting firms and chose RCGE because they are able to provide the technical experience that is needed by the City and because they accepted the condition imposed by the City, that the firm chosen to provide CIP assistance would not be allowed to propose for the design of capital projects. Other firms that were contacted were not interested because they wanted the latitude to propose on design of capital projects.

Staff believes at this time it is prudent and cost effective to continue with this approach to assist in the CIP during 1999. There are many complex programs which RGCE has familiarity with including the \$17 million reclaimed water project. The reclaimed water supply construction project in itself is a large, demanding project which will be complete in the spring of 2000.

As an alternative to using outsourced services provided by a consulting firm, the City could add one additional City full-time staff position and various part-time technical services to assist in the management of the the Capital Improvement Program. By using a consulting firm, the City can eliminate the cost of permanent positions. In addition, there is a cost savings by only calling for contract services when a capital project demands support assistance.

Respectfully submitted,

William M. Christopher  
City Manager

**Date:** December 14, 1998  
**Subject:** Street Sweeping Contract  
**Prepared by:** Sam LaConte, Street Operations Manager

### **Introduction**

City Council action is requested to approve a one-year contract (with option for four one-year renewals) for Street Sweeping services with Alpha Brooming Company, Inc.

### **Summary**

In November 1998, a Request for Proposal (RFP) was sent to five Street Sweeping contractors interested in bidding on the City's Full City Sweeping Contract. Three contractors submitted proposals while two declined to respond. The City received the following bids for Full City Sweeping Contract per curb mile based on 630 monthly miles:

Alpha Brooming Company	\$32.47 per mile-\$245,473.32 annually
Interstate Sweeping	\$34.00 per mile-\$257,040.00 annually
Armstrong Sweeping, Inc.	\$41.78 per mile-\$315,856.80 annually

Funds have been approved and are available in the 1999 Public Works and Utilities Street Division budget for this expense. The current annual contract is \$303,800.

### **Alternative recommendations include:**

1. Return to in-house street sweeping by purchasing three new sweepers at a cost of \$100,000 each and the hiring of two fulltime equipment operators at a cost of \$28,000 each.
2. Extend the present sweeping contract with Interstate Sweeping Company who is currently sweeping our City streets. However, the current cost is 9% higher than the bid being recommended.

### **Staff Recommendation**

Authorize the City Manager to execute a Street Sweeping Contract with Alpha Brooming Company, Inc., in accordance with their proposal.

### **Background Information**

In 1985 the City entered into a half of City Sweeping Contract with the private sector while the other half was swept by in-house crews. The results deemed that it was more cost effective and better frequency and rotation time was accomplished by the contractor. To provide the best service to our citizens, it was determined to go Full Private Contract City Sweeping in 1986. This service has been contracted out to the private sector ever since. The price per curb mile for sweeping has remained stable over the last twelve years. The cost per mile in 1986 was \$30.00 and the bid price for 1999 is \$32.47, which is 9% lower than the current 1998 price of \$35.70 per curb mile.

Staff has made an inspection of the Alpha Brooming facilities and inspected their equipment, concluding that the company does have sufficient equipment, operators and office facilities to carry out this contract. If this contract is renewed each year, the contractor shall increase or decrease the per mile cost in accordance to the previous year Denver/Boulder Wage Earners and Clerical Consumer Price Index.

Respectfully submitted,

William M. Christopher  
City Manager

**Date:** December 14, 1998

**Subject:** Purchase of Open Space Along Farmers' High Line Canal

**Prepared by:** Bob Lienemann, Open Space Coordinator

### **Introduction**

City Council action is requested to authorize the City Manager to acquire by purchase and donation approximately four acres of open space along the Farmers' High Line Canal, located south of 104th Avenue and east of Wolff Street (see attached map). Open Space funds are available for this acquisition.

### **Summary**

The Open Space Advisory Board has recommended that a small open space and trail connection be preserved along the Farmers' High Line Canal, south of 104th Avenue and east of Wolff Street, across from Legacy Ridge Parkway. Acquiring this property would allow residents south of 104th Avenue to use the existing trail underpass at 104th Avenue to reach City Park and the larger trail system. It would also preserve the canal, adjacent trees and wildlife cover, and provide a "window" to previously acquired open space along the canal.

In early 1997, the landowner and developer were awarded water Service Commitments, and began planning their Vista Ridge project. At that time (prior to adoption of the Comprehensive Land Use Plan) their land was zoned for a combination of Commercial and Apartment uses. Planning and Open Space Staff met with the owner and developer to express the City's interests.

Regarding land use, the landowner and developer agreed to not pursue any Commercial development, and lowered the residential density to a single-family detached residential townhome project. Regarding open space, they also reduced the size of their project from 55 to 36 dwelling units, did not pipe the canal and remove trees as originally intended, and agreed to negotiate a sale of the eastern portion of the property to the City. City Council approved the smaller development, also known as Hyland Greens Filing No. 11, earlier this year. Construction has begun.

Staff and the landowner have negotiated to a proposed value of \$240,000 for the approximate four acre remainder. The owner is willing to donate a part of the value, reducing the proposed cash price to \$226,000. The landowner and developer also recently dedicated approximately .7 acre of open space along the canal with their development, and have built a section of the trail at their cost. Given that this combined effort deleted a commercial use, lowered residential density, conformed with the new Comprehensive Land Use Plan, gave back 19 Service Commitments, and preserves open space, Staff recommends these terms as a "win/win" example, and acknowledges the flexibility of landowner and developer in adjusting their plans for the benefit of the community.

### Alternatives to the Proposed Action:

1. Do not acquire the property. However, this would leave a "gap" in the canal trail and open space system. The City currently has an open space corridor along the Farmers' High Line Canal south of this property, and 104th Avenue construction included the trail underpass, assuming that this property would be acquired and the trail connected. The landowner and developer adjusted their plans in good faith, anticipating a sale, but wished to delay closing until 1999.

They have already dedicated portions of their property and constructed a section of the trail to make this connection. The neighborhood was very supportive of preserving this area as open space during the public meetings held for this development.

2. Attempt to delay purchase until some future date. However, the owners are motivated now, to close a sale early in 1999. Both land and funding are available now, but may not be available in the future.

In light of the benefits of acquiring this property, Staff does not recommend the alternatives.

### **Staff Recommendation**

Authorize the City Manager to acquire by purchase and donation approximately four acres of open space at a cost of \$226,000 from Embassy Homes, Inc., and charge the expense to the Open Space Fund.

### **Background Information**

The proposed acquisition fits the Criteria for the selection of Open Space sites very well, as follows:

**AESTHETICS:** This land lies along the Farmers' High Line Canal, preserves views along the canal, is highly visible from 104th Avenue, and would provide a "window" to the open space corridor already preserved along the canal.

**PROTECTION AND PRESERVATION:** Acquiring the property would protect the environmentally sensitive features of the canal and adjacent trees and native areas, and preserve wildlife habitat.

**LOCATION:** This property along the Farmers' High Line Canal is an important link in a natural corridor throughout the City. It also provides a break in development along 104th Avenue, and demonstrates the value that the City of Westminster places on open space preservation.

**USE POTENTIAL:** This acquisition will provide a key link in the City-wide open space and trail corridor along the canal. It will allow residents south of 104th Avenue to safely access City Park and the larger trail system, using the existing underpass at 104th Avenue.

**NEED FOR IMMEDIATE ACTION and ACQUISITION CONSIDERATION:** The proposed purchase has been negotiated along with the adjacent development. The owners are willing sellers, the price they ask for the property at this time is very reasonable, and funds are available for the purchase.

Respectfully submitted,

William M. Christopher  
City Manager

Attachment

**Date:** June 8, 1998

**Subject:** Councillor's Bill No. re Cost Recovery for Big Dry Creek Trail

**Prepared by:** Philo Shelton, Park Project Engineer

### **Introduction**

City Council action is requested on the attached Councillor's Bill regarding the establishment of cost recoveries due to the City for costs incurred in constructing the Big Dry Creek Trail from Westcliff Parkway to the confluence of Big Dry Creek and Walnut Creek. The areas that will be subject to the proposed ordinance are shown on the attached Exhibit C.

### **Summary**

- > This project included the construction of Big Dry Creek Trail from Old Wadsworth Blvd. to the confluence of Big Dry Creek and Walnut Creek and was completed in the spring of 1997.
- > The actual total construction cost of the project was \$89,728.05
- > Staff is proposing that cost recoveries for Big Dry Creek Trail Capital Improvement Project be established to compensate the City for a portion of the costs as provided for in the City Code.

### **Staff Recommendation**

Pass Councillor's Bill No. on first reading which establishes cost recoveries on the City's Big Dry Creek Trail Improvements from Westcliff Parkway to the confluence of Big Dry Creek and Walnut Creek.

### **Background Information**

The City Code provides for a means for the City to collect a portion of the cost for the installation of public improvements that may benefit future developers of property in the vicinity of the improvements. On trail projects where development occurs next to a trail identified on the City's trails masterplan, the general formula defined in the Code allows the City to assess recovery costs against adjacent, undeveloped parcels. These recovery costs are collected at such time that a developer or property owner requests the approval of a subdivision plat or a building permit on an abutting, undeveloped parcel. Recovery costs are not assessed against owners of currently developed land.

The attached Councillor's Bill sets the unit recovery costs to be assessed against the future developers of the properties adjacent to the Big Dry Creek Trail from Westcliff Parkway to the confluence of Walnut Creek and Big Dry Creek for a total length of 2300 feet. The recovery costs for Area 1 (see Exhibit C) are \$39.01 per linear foot of frontage plus interest.

With the adoption of Ordinance No. 1430, Series of 1984, the City Code requires that cost recoveries on City projects be established by ordinance. This fact necessitates City Council action on the attached Councillor's Bill regarding the establishment of cost recoveries for the project mentioned above.

The attached Councillor's Bill summarizes the overall costs of this project and the formulas for determining the apportioning of these costs.

Respectfully submitted,

William M. Christopher  
City Manager

Attachments



BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO.

SERIES OF 1997

INTRODUCED BY COUNCILLORS

\_\_\_\_\_

A BILL

FOR AN ORDINANCE ESTABLISHING RECOVERIES DUE THE CITY FOR COSTS INCURRED ON CITY CAPITAL IMPROVEMENT PROJECT BIG DRY CREEK TRAIL

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Improvements for the Big Dry Creek Trail, Westcliff Parkway to the confluence of Walnut Creek and Big Dry Creek.

A. "Schedule of Construction Costs" shall be \$89,728.05 in accordance with Exhibit A, attached hereto and incorporated herein by reference.

B. "Schedule of Participation Costs" shall be \$89,728.05 for trail construction in accordance with Exhibit A.

C. "Schedule of Recoverable Costs" for Area 1 of attached Exhibit C shall be \$39.01 per linear foot abutting Big Dry Creek Trail plus interest. Interest shall be calculated from the date of Second Reading at the rate established annually by City Council.

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 8th day of June, 1998.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this \_\_\_\_\_ day of June, 1998.

ATTEST:

\_\_\_\_\_  
Mayor

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

EXHIBIT "A"

IMPROVEMENTS FOR: WESTMINSTER COLORADO - BIG DRY CREEK TRAIL

Big Dry Creek Trail: Beginning at Westcliff Parkway and Big Dry Creek, then following Big Dry Creek in a north-eastern direction to Walnut Creek Confluence for a total length of 2300 linear feet.

A. "Schedule of Trail Construction Costs" shall be as shown on Exhibit "B."

B. "Schedule of Trail Recoverable Costs" shall be:

Total Trail Construction Costs divided by the total length of trail or;

$\$89,728.05/2300$  Linear Feet = \$39.01 per Linear Feet abutting the line plus interest at the rate established annually by City Council

The interest is calculated from the date of second reading and shall accumulate up to a maximum of 50% of the total principal amount.

IN WITNESS WHEREOF, the parties hereto have caused this Exhibit to be executed on this \_\_\_\_ day of \_\_\_\_\_, 1998

(SEAL)  
COLORADO

CITY OF WESTMINSTER

Attest: \_\_\_\_\_ By: \_\_\_\_\_  
Michele Kelley William Christopher  
City Clerk City Manager

**Date:** December 14, 1998  
**Subject:** Construction Contract for Big Dry Creek at I-25/Huron Street  
**Prepared by:** Sheila Beissel, Senior Civil Engineer

**Introduction**

City Council action is requested to authorize the City Manager to execute a contract in the amount of \$963,524.50 with TARCO, Inc. for the construction of improvements to Big Dry Creek at Interstate 25 and east of Huron Street, and to authorize a contingency of \$145,000. Funds for the project are available in the 1998 Utility Fund (\$629,600) and the 1999 Utility Fund (\$500,000).

**Summary**

Channel improvements were designed for Big Dry Creek from Huron Street to Interstate 25 in order to remove the existing waste water treatment plant (WWTP) and future expansions from the Big Dry Creek floodplain and floodway. The proposed improvements include lowering the flowline of Big Dry Creek at I-25 by three feet, paving the bridge invert, installing riprap along the downstream channel, widening Big Dry Creek from the east side of Huron Street to the east side of the WWTP, riprap along the north channel bank to prevent further erosion toward the WWTP, and a bench along the south side of the creek for a future trail. The combination of these improvements remove the majority of the WWTP from the floodplain and floodway. Huron Street will still be overtopped during heavy storms until future roadway improvements are constructed.

Bids were opened for the Big Dry Creek improvements at Interstate 25 and east of Huron Street on November 23, 1998. Seven contractors submitted bids for the project with the results listed below:

TARCO	\$963,524.50
RBI	\$993,342.00
L&M Enterprises	\$1,039,768.00
Cat Construction	\$1,291,420.30
Asphalt Specialties:	\$1,299,992.00
New Design Constructions	\$1,490,046.74
CDM Engineers and Contractors	\$1,799,311.94

The Sear-Brown Group, the City's engineer consultant, has reviewed the results of the bidding procedure and has completed an investigation of the low bidder, TARCO, Inc., including a reference check for the proposed sub-contractors. Both City Staff and the design consultant are familiar with TARCO and believe that this company is very capable of performing this project. City Staff recommends awarding the contract to TARCO, Inc.

**Staff Recommendation**

Authorize the City Manager to execute a contract with TARCO, Inc. for \$963,524.50 for the construction of improvements on Big Dry Creek between Huron Street and Interstate 25 with a contingency of \$145,000 with expenses for this project to be charged to the appropriate Capital Project account in the Utility Fund.

### **Background Information**

The WWTP is located within the 100-year floodplain and floodway as defined by the Federal Emergency Management Agency (FEMA). The City is a participant in the National Flood Insurance Program (NFIP). As a participant in the NFIP, the City must abide by the rules and regulations of the program which require that no new buildings be built within the floodway and all new building within the floodplain be flood-proofed.

Preliminary design of the improvements to Big Dry Creek was initiated at the end of 1996. The intent of the design is to remove the existing WWTP from the floodplain and floodway and reduce the floodplain and floodway as much feasible to allow for future plant expansions. Several alternatives were evaluated. The final design consists of widening the Big Dry Creek channel east of Huron Street to increase its conveyance capacity, erosion protection along the north bank, lowering the invert of the Interstate 25 bridge, concrete paving the invert, and downstream erosion protection. Both areas incorporate a trail corridor. The project includes incorporating a trail location along the creek between I-25 and Huron Street.

The construction of these improvements would remove the WWTP from the Big Dry Creek floodplain and floodway. However, Huron Street will still be overtopped during heavy storm events creating some flooding in the WWTP parking lot. A future project to enlarge the Huron Street creek crossing will eliminate this problem.

The construction of the improvements would be completed within four months so that the contractor is not working in Big Dry Creek during the spring rains. As a option, the construction of these improvements can be delayed for another year, if necessary; however, the construction must be done during the winter season. The project can also be divided into two phases with Phase 1 being the improvements to Interstate 25 and Phase 2 being the channel widening east of Huron Street. Phase 1 can be completed this year with Phase 2 to follow in 1999. The total construction cost, however, would increase due to the need to mobilize twice. Delaying the projects more than a year would require some re-permitting. It is highly recommended that Council authorize the work to be performed immediately.

Respectfully submitted,

William M. Christopher  
City Manager

**Date:** December 14, 1998

**Subject:** Ambulance Purchase Contract Approval

**Prepared By:** Jim Cloud, Fire Chief  
Doug Hall, Emergency Medical Services Coordinator

### **Introduction**

City Council action is requested to authorize the ordering of an ambulance for purchase in 1999.

### **Summary**

The 1999 Fire Department Budget includes \$100,000 for the purchase of a new ambulance and related equipment. The new ambulance will be added to the existing fleet enabling the Fire Department to have three advanced life support ambulances in service with two in reserve. The addition of this ambulance will enable the City to place a third ambulance in service when staffing is available.

Formal bids in accordance with the City Charter bidding requirements were solicited from ambulance vendors in September, 1998. City Council awarded a bid on October 12, 1998 to EDM Equipment Company for the purchase of an ambulance as provided in the 1998 budget. EDM Equipment has guaranteed the 1998 bid price through the first quarter of 1999. Staff would like to take advantage of this opportunity and order a second ambulance from EDM Equipment Company. The Agenda Memorandum regarding the 1998 purchase and bid process is attached for reference.

### **Staff Recommendation**

Award a contract to EDM Equipment Company in the amount of \$91,500 for the purchase of an ambulance and charge the expense to the appropriate 1999 capital outlay account in the Fire Department Budget.

### **Background Information**

The 1998 ambulance bid process included communication to vendors that the City might purchase a second ambulance under the same bid proposal. Growth and increased service calls in the community warrant a three ambulance operation. Additionally, on-going maintenance of the existing ambulance fleet indicates a need to expand the City ambulance fleet from three units to five.

Two alternatives are available to City Council with respect to this matter. A discussion of these alternatives is as follows:

1. Authorize the purchase utilizing the existing 1998 bid process.

#### Pros:

- Reduces Staff time required to process bid documents and proposals.
- The bid specification remains acceptable to the Fire Department.
- Delivery of the second unit will nearly coincide with the delivery of the unit ordered in October, 1998. (March, 1999)

- Enables the City to take advantage of 1998 purchase price. Estimated savings is between \$3,000 and \$7,000.

Cons:

- May be perceived as a means of circumventing the bid process.

2. Direct Staff to re-bid the ambulance and return to City Council in 1999 for approval.

Pros:

- Nullifies the perception of circumventing bid process.

Cons:

- Staff time required to re-bid the purchase.
- Delivery time will be delayed four to six months.
- Potential price increase due to 1999 rates.

Respectfully submitted,

William M. Christopher  
City Manager

Attachment

Date: December 14, 1998

Subject: Construction Inspection Services for the Big Dry Creek Sewer Interceptor Phase III Project

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

### **Introduction**

City Council action is requested to authorize the City Manager to sign an addendum to the current engineering design contract with Black and Veatch, LLP, specifically for construction inspection services on the Big Dry Creek Sewer Interceptor Phase III, in the amount of \$101,991. These services include those necessary to provide inspection and construction management services from the project design engineer, Black and Veatch, LLP, as the sewer interceptor moves into construction. Funds for this expense are available in the Utility Fund Capital Improvement Projects Account.

### **Summary**

The current engineering services and design contract with Black and Veatch, LLP, dated February 18, 1998, provides only for all engineering services related to the design of the Big Dry Creek Sewer Interceptor Phase III. The project consists of installing approximately 9,800 feet of 30-inch diameter sewer line. Construction will start in December and will be completed in the spring of 1999.

City Council action on November 9, 1998, approved the contract for construction of the Sewer Interceptor with ERS Constructors who will construct the sewer. City Council action is now requested to approve an addendum to the design contract with Black and Veatch, LLP, to provide inspection and management services during construction of the project.

### **Staff Recommendation**

Authorize the City Manager to execute an addendum to the existing design contract with Black and Veatch, LLP, in the amount of \$101,991 for inspection and management services during construction of the Big Dry Creek Sewer Interceptor Phase III. The expense associated for the services will be charged to the appropriate Utility Fund Capital Improvement Projects Account.

### **Background Information**

The contract for design of the Big Dry Creek Sewer Interceptor Phase III, dated February 18, 1998, provides that Black and Veatch, LLP, will provide all design related services for the project. This contract did not address construction related services since they were to be negotiated at the time that the project went to bid for construction.

Staff requested and received a proposal for providing the construction phase services. Black and Veatch, LLP, submitted a proposal to provide these services for \$101,991 with a full time resident representative.

The cost of inspection and management services is 8% of the total project construction cost of \$1,289,780. Recently, the Public Works and Utilities Department completed the construction of the Northridge Pump Station at a construction cost of \$2 million and the construction phase engineering services provided by the design engineer, Burns & McDonnell, were \$107,054, which is 5% of the project construction cost. Similarly, on the recent expansion at the Big Dry Creek Water Reclamation Facility, the construction costs for the project were \$5.5 million and the cost for construction phase engineering services was \$408,667, which was 7% of the construction cost.

As an alternative to using the project design firm, Black and Veatch, LLP, to carry out the construction phase engineering services, would be to select another firm. The project staff worked with the City's Attorney's Office to investigate other options to manage the construction of the project by using an engineering firm that specializes in construction management services and supplement these services with City staff. This option could result in a savings, but could open up the possibility of unclear lines of responsibility and accountability during inspection on the project resulting in possible project conflicts, construction slowdown, unclear point of contractor responsibility and legal entanglements. To assure clear accountability and legally supportable direction by the City, Staff recommends utilizing the design firm.

The City historically utilizes the same firm for both project design, and inspection and management services on large scale projects. Maintaining consistency in consultant accountability in both design and construction inspection and management, will minimize the City's exposure to multi-party conflicts and delayed construction schedule.

Respectfully submitted,

William M. Christopher  
City Manager



**Date:** December 14, 1998

**Subject:** Bid re Replacement Self Contained Breathing Apparatus

**Prepared by:** Jim Cloud, Fire Chief  
Tracy Haze, Fire Engineer

### **Introduction**

City Council is requested to award a purchase contract to Wheatland Fire Equipment Company for replacement self contained breathing apparatus (SCBA). A down payment of \$50,000 on the purchase price is available in the 1999 Fire Department budget with the remainder of the cost to be financed through a lease purchase agreement.

### **Summary**

City Council allocated funds in the 1999 Fire Department budget for the replacement of self contained breathing apparatus. The equipment to be replaced varies in age with some units as old as 17 years and no longer meets the safety guidelines established for the fire service by the National Fire Protection Association.

Through an extensive evaluation process, which involved 25 Fire Department personnel, the Scott Air-Pak 50 self contained breathing apparatus was recommended.

Formal bids in accordance with City Charter bidding requirements were obtained from vendors of Scott SCBA for this purchase. Wheatland Fire Equipment Company was the low bidder.

### **Staff Recommendation**

Authorize the City Manager to sign a contract with Wheatland Fire Equipment Company in the amount of \$200,628 because it is in the best interests of the City, and authorize a down payment of \$50,000 from the the appropriate 1999 Fire Department budget account with the balance of the cost to be provided by a lease purchase agreement and charge the expense to the appropriate 1999 Fire Department budget account.

### **Background Information**

#### Equipment to be Replaced

Self contained breathing apparatus are a vital piece of Firefighter safety equipment. The new self contained breathing apparatus will replace existing equipment that is currently being used by the Fire Department on a daily basis. Justification for replacement include the following:

- > Current equipment is up to 17 years old.
- > Age related breakage has become a problem.
- > Current equipment does not meet current safety requirements as set forth by the National Fire Protection Association.

- > Parts for older models are no longer available, which necessitates the purchase of costly upgrade kits when repairs or maintenance is needed.
- > Lack of redundant back up and safety systems could contribute to Firefighter injury or death.

Manufacturer Review Process

Staff evaluated all available brands of self contained breathing apparatus, which included Cairnsair, Draeger, Interspiro, ISI, MSA, North, Scott, and Survivair. Through interviews with users of the different brands of SCBA and demonstrations by local dealers, Staff found three brands, Scott, Survivair, and MSA, that met all of the criteria that had been established to meet the needs of the Westminster Fire Department. These three brands were then evaluated on a head to head basis. A test course consisting of specific job functions was set up and 25 Fire Department evaluators went through the course three times each, once with each brand of self contained breathing apparatus. A score sheet was completed by each evaluator for each brand of SCBA. The final scores for each brand are as follows:

<u>MSA</u>	<u>Scott</u>	<u>Survivair</u>
1440	2174	1680

Based on all of the data gathered, and the results of the head to head evaluation, Staff decided to limit the bid process to the purchase of the Scott Air Pak 50 SCBA. The following are additional reasons for this recommendations:

- > Scott SCBA had the highest rating of all brands among the Fire Departments that were surveyed.
- > The recommended service interval for Scott SCBA would provide the lowest annual maintenance cost.
- > Scott SCBA meets all of the criteria established by staff.
- > Built in safety and back-up systems would contribute to increased Firefighter safety.

Bid Process

Staff then developed a detailed specification document for the Scott Air Pak 50 self contained breathing apparatus and all items necessary for use and maintenance. Bidders were also asked to provide either a trade-in value or to identify assistance in marketing the Fire Department's old self contained breathing apparatus.

Formal bids in accordance with the City Charter bidding requirements were solicited from dealers of this brand and type of equipment. Bids were returned by Wheatland Fire Equipment Company, Western Fire Department Supply Company, and Shur-Sales & Marketing, Inc. Wheatland Fire Equipment Company provided the low bid. In addition, Wheatland was the only bidder to provide a trade-in offer on the old SCBA. A summary of the bid proposal from Wheatland Fire Equipment Company is as follows:

56 Scott Air Pak 50 SCBA @ \$2025 each	\$113,400
56 Scott Pak-Alert, factory installed @ \$376 each	\$21,056
100 Scott 30 minute air cylinders @ \$547 each	\$54,700
50 Scott facepieces @ \$124 each	\$6,200

Bid re Replacement Self Contained Breathing Apparatus

Page 3

25 Scott AV-2000 Voice Amplifiers @ \$193 each	\$4,285
1 Biosystems PosiChek 3 test console @ \$7,187	\$7,187
Less Trade-In of old equipment	(\$6,200)

**Total Cost** **\$200,628**

Bid amounts for Western Fire Department Supply and Shur-Sales & Marketing were \$220,739.40 and \$305,140 respectively.

Lease Purchase Estimates

The 1999 Fire Department Budget includes \$50,000 for a down payment on this equipment with the remaining portion of the cost to be paid by a lease purchase agreement. The purchase of this self contained breathing apparatus utilizing lease purchase is consistent with past City policy. Although an interest rate for this lease purchase cannot be determined at this time since the lease will not take place for approximately two months, Staff has calculated the quarterly payments based on a six percent interest rate for seven years to be \$6,628. This rate is based on a review of lease purchase interest rates received by the City over the recent past. Staff believes interest rates will remain favorable and are projecting the lease rate to be around 6.0%. The lease purchase will be competitively pursued at the proper time and brought to City Council for approval. Lease purchase payment money has been included in the 1999 Fire Department budget.

Delivery and Assignment

Delivery time for this equipment is six to eight weeks after the order is placed. After thorough training of all Fire Department personnel in their use, the self contained breathing apparatus will be placed on all Fire Department apparatus. Typical uses will include structure fires, car fires, grass and field fires, confined space rescue, and hazardous materials incidents. Additionally, the SCBA will be used in training exercises. The projected life expectancy for this self contained breathing apparatus is 15 to 20 years.

Alternatives

One alternative to this purchase would be for the Fire Department to continue to use the existing self contained breathing apparatus.

In order to do this, 21 SCBA would need to be upgraded at an estimated cost of \$18,670. This would still not bring these SCBA up to current National Fire Protection Association safety guidelines. No parts are available that would upgrade the existing SCBA to meet current standards.

A second alternative is to phase in the new self contained breathing apparatus. This however would present compatibility issues between the different types of SCBA. Components such as air cylinders and facepieces are not interchangeable between the different types of SCBA.

Respectfully submitted,

William M. Christopher  
City Manager

**Date:** December 14, 1998

**Subject:** Councillor's Bill No. re Media One Group Assistance Package

**Prepared by:** Becky Johnson, Economic Development Specialist

### **Introduction**

City Council action is requested to pass the attached Councillor's Bill on first reading approving a business assistance package totaling \$20,000 for Media One Group, the facilities of which are to be located at 10355 Westmoor Drive in the Westmoor Technology Park. Media One Group does research and development in the area of analog and digital video, high speed cable transmissions, cable network upgrades to broadband status, as well as, telephone and high speed internet access services. Funds for this expense are anticipated to be transferred from the General Fund Contingency account sometime during 1999 as the exact costs and timing become known.

### **Summary**

Media One Group is leasing approximately 50,000 square feet of office space at 10355 Westmoor Drive in the Westmoor Technology Park. Tenant finish for this project which is nearing completion, is estimated to cost \$1.7 million. As proposed, this business assistance package will provide \$10,000 moving assistance and \$10,000 of job training funds. The total package of \$20,000 is only 11% of the \$181,860 permit fees, building use tax, equipment use tax, and property tax revenue projected from this project during the first 3 years of operation.

There were three alternatives considered in presenting the business package to Media One Group. The alternatives are as follows:

- 1) Provide no assistance to Media One Group. Though the City will not lose the project if assistance is not provided, the result may be that the City will not be strategically positioned for consideration for future Media One Group expansions. A positive relationship is desirable for future development.
- 2) Provide only a portion of the recommended assistance. Again, it would not drive the company away, but the assistance being recommended is already modest.
- 3) Approve the recommended assistance package that has been agreed to by Media One Group. As agreed, the developer will have moving assistance dollars and job training dollars for future investment in the Westminster facility.

### **Staff Recommendation**

Pass Councillor's Bill No. on first reading authorizing the City Manager to execute, fund, and implement in substantially the same form, a Business Assistance Agreement with Media One Group for the establishment of research and development facilities in Westmoor Technology Park.

### **Background Information**

Staff began working with representatives of Media One Group in July 1998 concerning the relocation of its research and development group from Boulder.

They are currently located in space shared with US West Communications. Media One Group, has now leased 50,000 square feet of office space in Building 4 at Westmoor Technology Park. They plan to occupy the space in January 1999.

The average wage is anticipated to be \$70,000 per year for an annual payroll of \$8 million. Employment will be about 85, but is expected to grow to 134 in 5 years. Media One Group is projected to generate approximately \$181,860 in building permit fees, property tax, building use tax, and equipment use tax in the first three years of operation.

Recommended Assistance

City Staff recommends an assistance package in the amount of \$20,000 for this project. This assistance will help defray moving costs and provide training dollars for new employees at the Westminster facility. Staff recommends that the assistance be provided to this project as follows:

<u>Moving Assistance</u>	\$10,000
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Within 30 days of the time the Certificate of Occupancy is issued for the facility, the City will provide \$10,000 to Media One Group to assist in moving into the Westminster facility.

<u>Job Training Dollars</u>	\$10,000
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The City will provide a maximum of \$5,000 per year for the first 2 years of operation, for customized training for new employees at the Westminster facility.

<b>Total Assistance</b>	<b>\$20,000</b>
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Media One Group is a high-tech company in the growing telecommunications and information technologies industries. They are providing high salaries and are anticipating growth. The City's small "investment" in this company will reap much greater long-term benefits for the City.

Respectfully submitted,

William M. Christopher  
City Manager

Attachments

ASSISTANCE AGREEMENT  
FOR THE RELOCATION OF MEDIA ONE GROUP  
IN THE CITY OF WESTMINSTER

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 1998, between the CITY OF WESTMINSTER (the "City"), and MEDIA ONE GROUP,

WHEREAS, the City wishes to provide certain assistance to Media One Group, to aid in the relocation costs and provide job training funds for new employees within the City ; and

WHEREAS, the proposed space is projected to generate over \$181,860 in fees and tax revenues over the first 3 years of operation; and

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

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

1. The City shall provide \$10,000 cash to Media One Group within 30 days of the issuance of the Certificate of Occupancy, to assist in defraying the cost of moving.

2. The City shall provide a maximum of \$5,000 per year for customized training, for the first two years of operations. Media One Group shall provide documentation as required by the City of how the funds were used each year. The payment of each annual installment shall be made within 20 days following the close of each calendar year.

3. This Assistance Agreement shall terminate and become void and of no force or effect upon the City if Media One Group does not lease and move-in to space at Westmoor Technology Park, by June 1, 1999.

4. In the event Media One Group ceases business operations within the City within three (3) years after the new operations commence, Media One Group shall pay to the City the total amount of all funds provided to Media One Group pursuant to this Agreement.

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

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

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

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

MEDIA ONE GROUP CITY OF WESTMINSTER

By \_\_\_\_\_  
Rick McPherson  
Media One Group

\_\_\_\_\_  
William Christopher  
City Manager  
4800 West 92nd Avenue  
Westminster, CO 80030

ATTEST:

ATTEST:

\_\_\_\_\_  
Title

\_\_\_\_\_  
Michele Kelley  
City Clerk

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO.

SERIES OF 1998

INTRODUCED BY COUNCILLORS

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A BILL

FOR AN ORDINANCE AUTHORIZING AN ASSISTANCE AGREEMENT WITH MEDIA ONE GROUP:

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

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

WHEREAS, Media One Group has indicated an interest in leasing office space in the City of Westminster; and

WHEREAS, Media One Group will lease approximately 50,000 square feet of office space with an estimated project cost of \$1.7 million; and

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

NOW, THEREFORE, pursuant to the terms of the Constitution of the State of Colorado, the Charter and ordinances of the City of Westminster, and Resolution No.53, Series of 1988, the members of the City Council of the City of Westminster direct and authorize the following actions by the City Staff:

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

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

Section 3. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 14th day of December, 1998.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this            day of December, 1998.

ATTEST:

\_\_\_\_\_  
Mayor

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



**Date:** December 14, 1998

**Subject:** Public Hearing re 2nd Amended PDP and 3rd Amended ODP for West 81st Place and Sheridan PUD

**Prepared by:** Margo Schultz

**Introduction:**

City Council is requested to hold a public hearing and take action on the proposed Second Amended Preliminary Development Plan and Third Amended Official Development Plan for the West 81st Place and Sheridan Planned Unit Development. (See attached vicinity map).

**Summary:**

The currently approved Official Development Plan for the site allows automotive retail/service uses and a fast food restaurant. The applicants are proposing to amend the currently approved uses to provide for the construction of a mini-storage facility on the east half of the site (Lot 3A), a restaurant on the more northerly pad site (Lot 3B), and a retail use on the pad at the corner of West 81st Place and Sheridan Boulevard (Lot 1). In recommending approval on the proposal, Staff has taken into consideration that the mini-storage would be built of high quality, earth-toned materials, would be set back 250 ft. from Sheridan Boulevard, and would be buffered from the street with landscaping. In recommending approval of the requested location for the Sonic Restaurant, Staff has taken into consideration that the restaurant architects have made every effort to insure that the building appearance is not garish and glaring, is in keeping with the other proposed buildings, and that the proposed restaurant building would be 300 ft. from the closest residential apartment units located to the north.

Applicant/Property Owner

Noel Lane and Gerry Starika

Location

Northeast corner of West 81st Place and Sheridan Boulevard.

Size of Site

6 acres

Description of Proposed Uses

Lot 1 - (Video Store Lot) All uses allowed in the Municipal Code for C1 zone district except the following: auto/boat/camper leasing; auto gas/service station/car wash; agricultural uses; restaurants of any kind. A combined convenience store/restaurant gas station/car wash could be considered if lots 1 & 2 were combined into one lot and functioned as one facility.

Lot 2 - (Existing Total Gas Station Lot) Same as Lot 1, except gas station/car wash use is allowed.

Lot 3A - (Mini-Storage Lot) Mini-Storage and related office-residence.

Lot 3B - (Sonic Restaurant Lot) All uses allowed in the Municipal Code for C1 use district except the following: Auto/boat/camper leasing; auto gas/service station/car wash; agricultural uses. Future fast food restaurants with drive-through other than the Sonic shall be allowed subject to approval of an administrative amendment to the ODP.

### Comprehensive Land Use Plan Designation and Current Zoning

The Westminster Comprehensive Land Use Plan shows a Retail/Commercial land use designation for this site. The current zoning for the property is Planned Unit Development. There is an existing Official Development Plan for the site including automotive retail/service center and fast food restaurant uses.

### Major Issues

The existing Official Development Plan for this six acre site was approved in 1987, when the Total Station was constructed. In addition to the Total Station, the plan anticipated an L-shaped automotive retail/service center development for the remainder of the site, with a fast food restaurant to be located on a pad at the corner of 81st Place and Sheridan Boulevard. Gerry Starika, the property owner, has indicated that although he has tried to market the property with this development plan over the last ten years, he has had no success. The applicants have indicated their intention to build and oversee the management of the mini-storage facility. They have also indicated that there is a firm commitment from the Sonic Restaurant for location on Lot 3B. The development of the video store on Lot 1 is uncertain at this time.

Over the last five years, the City Staff has received numerous proposals and pre-application inquiries concerning mini-storage uses in and around the Westminster City Center area. Through the marketing research presented to Staff by various mini-storage applicants, it is apparent that there is still a significant need for self storage facilities in this proximity; both for residential and business storage uses.

The City's Commercial Standards require that single buildings within a complex be stylistically consistent and work together to express a single theme. Through the review process, the applicants have attempted to meet the City Staff commercial design guidelines which encourage that the exterior building designs, (including roof style, materials and colors, architectural forms and detailing), be consistent among all the buildings in the complex, to achieve design harmony and continuity. As proposed, the overall project intent is to have common building materials, colors and styles for the retail, Sonic and mini-storage buildings. The parchment tan color stucco, reddish-brown brick and medium tan roof colors to be used on the three buildings, have been reviewed and approved by City Staff. The mini-storage desert tan doors and trim colors have also been reviewed and approved by City Staff. The owners of the existing Total gas station have agreed to repaint the existing building to match the color selected by the developer in conjunction with City Staff for the stucco portions of the retail, Sonic and mini-storage buildings.

### **Neighborhood Meetings**

A formal meeting was held by the applicants with surrounding property owners three years ago regarding this proposal, with City Staff members in attendance. Five surrounding properties were represented at the meeting, including the Sandpiper Apartments to the north, and the Woodstone Village Apartments to the east and several of the surrounding office buildings. All of the owners/owner representatives expressed support for the proposal, with the exception of the Woodstone Village Apartments.

The president of the Woodstone Village Management Company subsequently followed up with a letter (see attached) to City Staff indicating concern that the proposed mini-storage would not further the goal of preserving and enhancing a sense of community in the neighborhood, and would have a deleterious effect on the values of surrounding properties. The letter did however, suggest possible mitigating measures that could be taken should the City permit the development to go forward. It is the City Staff's feeling that the applicants have endeavored very carefully to integrate these mitigating measures into the design of the facility. The applicant has also followed up informally by telephone or in person, with all of the surrounding property owners who were in attendance at the original meeting, to inform them of the present proposal.

### **Planning Commission Recommendation**

The manager of the Woodstone Village Apartments spoke in opposition to the mini-storage facility saying that the visibility of the apartments from Sheridan Boulevard would be blocked by the facility, and that a retail development at this location would better serve the community. The manager also added that if the mini-storage is approved, the closest building should be set back a minimum of 20' from the shared property line, and a double row of trees should be planted to screen the view from the apartments.

1. Planning Commission voted unanimously to forward a recommendation of approval to City Council on the Second Amended Preliminary Development Plan and Third Amended Official Development Plan for the West 81st and Sheridan Planned Unit Development.
2. The recommendation is based on a finding that the Amended Preliminary and Official Development Plans meet the requirements of Title 11 of the Westminster Municipal Code and would be in conformance with the Westminster Comprehensive Land Use Plan.

### **Staff Recommendation**

1. Hold a public hearing
2. Approve the Second Amended Preliminary Development Plan and Third Amended Official Development Plan for the West 81st Place and Sheridan Planned Unit Development. The recommendation is based on a finding that the Amended Preliminary and Official Development Plans meet the requirements of Title 11 of the Westminster Municipal Code and would be in conformance with the Westminster Comprehensive Land Use Plan.

### **Alternatives**

1. Deny the Second Amended Preliminary Development Plan and Third Amended Official Development Plan, and continue support of the automotive retail/service and fast food uses as shown on the currently approved Preliminary/Official Development Plan.
2. Deny the Second Amended Preliminary Development Plan and Third Amended Official Development Plan, and allow the developer to resubmit a plan which meets the 50 ft. building setbacks that are required in the Commercial Standards when a commercial building is adjacent to a residential property line.
3. Deny the Second Amended Preliminary Development Plan and Third Amended Official Development Plan, and allow the applicant to resubmit a plan that places the fast food restaurant on the northeast corner of 81st Place and Sheridan Boulevard.

4. Approve the Second Amended Preliminary Development Plan and Third Amended Official Development Plan, subject to specific conditions. Conditions to be determined at the Public Hearing.

## **Background Information**

### Discussion of Major Issues

The Westminster Comprehensive Land Use Plan indicates a "Retail/Commercial" use designation for this site. The uses recommended under this category include retail stores, shops, eating establishments, banks, super markets and other similar uses.

The Comprehensive Land Use Plan indicates that mini-storage and drive through restaurants may be prohibited or limited depending on the proximity to residential development. The closest units of the Sandpiper Apartments, located to the north of the subject site, are setback approximately 100 ft. from the proposed mini-storage and 300 ft. from the proposed Sonic Restaurant. The owners/managers of the Sandpiper Apartments have expressed support for the proposed development, and are negotiating a landscaping agreement with the developers which benefits both parties. The closest units of the Woodstone Village Apartments, located to the east of the subject site, are setback approximately 75 ft. from the proposed mini-storage. The owners/managers of the Woodstone Village Apartments have expressed objection to the mini-storage in the past, indicating their concern that the facility would block the view of the apartment complex from Sheridan Boulevard, making it less noticeable, and that the facility would not contribute to or tie into the existing neighborhood in any way. The owners/managers have negotiated with the developers to make some improvements in and around the shared property line should the project be approved by the City. The developers have agreed to replace the fence owned by the apartments in one area, and remove it in another area. The developers also appear to have made a strong effort to provide a densely landscaped area between the five apartments and apartment parking lot, and the mini-storage wall. Additionally, the wall would be constructed of a stucco material with 2 ft. wide brick columns every 25 ft. apart.

### Architectural/Building Materials

Sonic - The proposed Sonic building will be a stucco building with a brick veneer. The canopy will be limited to a maximum 16 in. height and will consist of a fabricated canopy fascia material with a textured finish which resembles stucco. The textured finish will be similar to the "Parchment" paint color approved for the building stucco. The red "racing stripe" normally installed on the gutter of the Sonic canopies has been eliminated. The lighting design of the canopy will consist of metal halogen fixtures mounted 3-1/2 ft. down from the canopy underside on the columns, facing upward toward the canopy underside. This type of light is not an internally illuminated canopy system, and projects no light outside of the canopy area. All rooftop equipment would be screened by a parapet wall. At the direction of City Staff, the applicants have made a concerted effort to work with the Sonic architects to insure that the restaurant facility is in keeping with the other buildings in the complex and in the surrounding area, and is not garish and glaring.

Video Store - The proposed retail store would be a combination of brick and stucco materials, as agreed to by City Staff. All rooftop equipment would be screened by a parapet wall.

Mini-Storage - As proposed, the mini-storage buildings would be surrounded by an 8 ft. tall tan stucco wall with a brick cap, and 2 ft. wide brick pillars every 25 ft. apart. The mini-storage buildings are to be a to be a tan colored siding material on the sides of the building. The metal doors will be a desert tan color with 1 ft. 4 in. masonry piers in-between the doors.

The proposed roof would be a light brown composition shingle roof, as approved by City Staff. The roof design and colors are intended to be residential in appearance. The mini-storage buildings are 17 ft. tall to the highest point of the roof, with only 1 ft. of the metal doors showing above the 8 ft. tall wall surrounding the buildings. A wrought iron fence and landscaping provide a buffer between the buildings and private drive as the buildings face Sheridan Boulevard. The buildings on this side of the facility will have a brick face separating the metal doors and above the metal doors.

### Access and Circulation

The existing, platted, private road currently located on the site will be used to provide access to all of the lots from both West 81st Place and Sheridan Boulevard. The Sheridan Boulevard access will continue to be a right-in, right-out access only. Access easements will be granted to all of the lots at the time of platting, and maintenance of the road will be by the business association. In recommending approval of the mini-storage use, Staff has taken into consideration that the use would have a far less significant impact on the traffic in this area than the previously approved automotive retail/service center.

### Site Design

The site design of the mini-storage facility has been carefully reviewed and approved by the Westminster Fire Department to insure adequate turning radii and access for emergency vehicles. The proposed retail (Video) site and Sonic site meet all of the requirements for landscaping and parking. City Staff has agreed to the proposed building setbacks.

The Commercial Guidelines used by City Staff for commercial development, indicate a 50 ft. setback for commercial buildings when adjacent to residential uses. Staff recognizes that as proposed, the south and east walls of the mini-storage buildings could function as a wall, and could feasibly be located closer to the adjacent residential property lines than the suggested 50 ft. As proposed, the building faces would be stucco with brick pillars every 25 ft. on the sides which are adjacent to the residential apartments. The site plan submitted by the applicants shows a 10 ft. setback from the mini-storage building to the Sandpiper Apartments property line on the north, and a 13 ft. setback to the Woodstone Village Apartments property line on the east. Although Staff has expressed concern with the close proximity of the mini-storage buildings to the adjacent residential developments, the applicants have negotiated with the surrounding property owners to attempt to form an acceptable buffer/separation as follows:

1. The applicants have negotiated with the Sandpiper Apartments owners/managers to landscape, irrigate and maintain 7 ft. of the apartment property in conjunction with 10 ft. of their own, to form a 17 ft. landscape area between the two properties. The owners/managers have indicated that this separation, in conjunction with the stucco and brick building face and dense landscape proposed, will form an adequate buffer between the parking lot of the apartments and the mini-storage facility.
2. Although they have not expressed support for the mini-storage proposal, the Woodstone Village Apartment owners/managers have negotiated an agreement with the developers for treatment of the shared property line, should the development be approved by City Council. The applicants have negotiated with the owners/managers to remove an old fence which separates the two properties and is in disrepair. The applicants have agreed to install a new fence to replace it in one location, and to allow the stucco/brick building face to function as a wall in another location.

As proposed, the wall and dense landscaping would provide a buffer between the proposed mini-storage facility and one of the parking lots for the apartments.

Signage

As proposed, a low profile sign will be located at the Sheridan Boulevard entrance to the facility. The individual buildings will have wall signs, as allowed by the Westminster Municipal Code.

Service Commitment Category

Category C

Surrounding Zoning

To the north: R-3 (Sandpiper Apartments)

To the south: PUD - (office)

To the east: R-3 (Woodstone Village Apartments)

To the west: Sheridan Boulevard, and Arvada Commercial Cntr.

Respectfully submitted,

William M. Christopher  
City Manager

Attachments

**Date:** December 14, 1998

**Subject:** Councillor's Bill No. re West 81st Place and Sheridan Boulevard Easement Vacations

**Prepared by:** Mikele Wright, Senior Civil Engineer

### **Introduction**

City Council action is requested to adopt the attached Councillor's Bill to vacate sanitary sewer and water line easements within the West 81st Place and Sheridan Planned Unit Development, located at the northeast corner of West 81st Place and Sheridan Boulevard (see attached maps).

### **Summary**

The Third Amended Official Development Plan (ODP) for the West 81st Place and Sheridan Subdivision has revised building locations from the previously approved ODP. The proposed building locations are in conflict with an existing sanitary sewer easement and an existing water line easement previously dedicated to the public. A new sanitary sewer line and water line will be constructed and new easements will be dedicated by a final plat.

City Staff is in agreement with the owner's request that the sanitary sewer and water line easements be vacated after the following conditions have been met: 1) new utility easements be dedicated to the public; 2) the new sanitary sewer line has been constructed and accepted by the City; 3) the new water lines have been constructed and accepted by the City; and 4) the "old" sanitary sewer line and water line have been removed. The City Charter mandates that Council must approve vacations via ordinance, and the attached ordinance includes language making the subject easement vacations conditional upon the receipt of the new easements.

### **Staff Recommendation**

Pass Councillor's Bill No. on first reading vacating a sanitary sewer and a water line easements within the West 81st Place and Sheridan PUD.

### **Background Information**

#### **Exhibit A:**

The existing sanitary sewer easement was dedicated to the public as part of the requirements set forth in the Official Development Plan for West 81st Place and Sheridan Subdivision. A 15-inch sanitary sewer line was installed to provide service to the Total Gas Station development.

The existing 15-inch sanitary sewer line and easement dedicated per the earlier ODP for West 81st Place and Sheridan Subdivision is in conflict with the proposed building layout for the Third Amended Official Development Plan for West 81st Place and Sheridan Boulevard. The owner has requested that this easement be vacated. Staff has determined that the original easement can be vacated after the dedication of a new easement, completion of the construction of the new sanitary sewer line, and the removal of the existing sanitary sewer line.

**Exhibit B:**

The existing water line easement was dedicated to the public as part of the requirements set forth in the Official Development Plan for West 81st Place and Sheridan Boulevard Subdivision. A 6-inch water line was installed to provide a looped water system for the Total Gas Station project.

The existing 6-inch water line and easement dedicated per the earlier ODP for West 81st Place and Sheridan Boulevard Subdivision is in conflict with the proposed building layout for the Third Amended Official Development Plan for West 81st Place and Sheridan Boulevard. The owner has requested that this easement be vacated. Staff has determined that the original easement can be vacated after the dedication of a new easement, completion of the construction of the new water line, and the removal of the existing water line.

Respectfully submitted,

William M. Christopher  
City Manager

Attachments



BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. \_\_\_\_\_

SERIES OF 1998

INTRODUCED BY COUNCILLORS  
\_\_\_\_\_

A BILL

FOR AN ORDINANCE VACATING EASEMENTS WITHIN THE WEST 81ST PLACE AND SHERIDAN PUD

WHEREAS, certain easements were dedicated by a final plat (Exhibits A & B); and

WHEREAS, these easements are not longer necessary due to site revisions as shown on the proposed Third Amended Official Development Plan for West 81st Place and Sheridan; and

WHEREAS, the vacation is necessary to correct the location of the easements as shown on the proposed Third Amended Official Development Plan for West 81st Place and Sheridan.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. City Council finds and determines that the public convenience and welfare require the vacation of the easements described in Sections 2 and 3 hereof.

Section 2. Sanitary Sewer Easement (Exhibit A)

A parcel of land being a part of Lot 3, Block 1, West 81st Place and Sheridan P.U.D. Subdivision as recorded on the 28th day of March, 1988, File 16, Map 719, Reception No. B805457 being located in the Northwest Quarter of the Southwest Quarter of the Southwest Quarter of Section 30, Township 2 South, Range 68 West of the Sixth Principal Meridian, City of Westminster, County of Adams, State of Colorado, more particularly described as follows:

**Easement Description**

Commencing at the northeast corner of said Lot 3; Thence S00°04'55"W, a distance of 173.55 feet along the easterly line of said Lot 3 to the northeast corner of a 20.00' sanitary sewer easement as described at Reception No. B805457 of the Adams County records and the True Point of Beginning; Thence continuing S00°04'55"W, a distance of 20.00 feet along said easterly line to the southerly line of said easement; Thence N89°57'13"W, a distance of 325.65 feet to the northerly line of said easement; Thence N00°02'47"E, a distance of 20.00 feet to the northerly line of said sanitary sewer easement; Thence S89°57'13"E, a distance of 325.67 feet, along said northerly line to the True Point of Beginning. Said Parcel contains 0.1495 acres (6,513 square feet), more or less.

Basis of Bearings: Bearings are based on the northly line of Lot 3, Block 1, West 81st Place and Sheridan P.U.D. Subdivision assumed to bear N89°37'17"E. Monumented as follows: brass survey tag set flush in sidewalk stamped LS 23528 at the Northwest Corner of said Lot 3 and a #5 rebar with cap stamped LS #2149 at the Northeast Corner of said Lot 3.

Section 3. Water Line Easement (Exhibit B)

A parcel of land being a part of Lot 1, Block 1, West 81st Place and Sheridan P.U.D. Subdivision as recorded on the 28th day of March, 1988, File 16, Map 719, Reception No. B805457 being located in the Northwest Quarter of the Southwest

Quarter of the Southwest Quarter of Section 30, Township 2 South, Range 68 West of the Sixth Principal Meridian, City of Westminster, County of Adams, State of Colorado, more particularly described as follows:

**Easement Description**

Commencing at the Northwest corner of said Lot 1; Thence S00°05'55"W, a distance of 22.89 feet along the westerly line of said Lot 1 to the northwest corner of a 20.00' waterline easement as described at Reception No. B805457 of the Adams County records and the True Point of Beginning; Thence S89°57'13E, a distance of 177.64 feet along the northerly line of said easement, parallel with and 22.89 feet southerly of the northerly line of said Lot 1; Thence S00°02'47"W, a distance of 20.00 feet, parallel with and 15.00 feet westerly of the easterly line of said Lot 1, to the southerly line of said easement; Thence N89°57'13"W, a distance of 177.66 feet, along the southerly line of said easement, parallel with and 42.89 feet southerly of the northerly line of said Lot1, to the westerly line of said Lot 1; Thence N00°05'55"E, a distance of 20.00 feet, along the westerly line of said Lot 1 to the True Point of Beginning. Said Parcel contains 0.0816 acres (3,553 square feet), more or less.

Basis of Bearings: Bearings are based on the northly line of Lot 3, Block 1, West 81st Place and Sheridan P.U.D. Subdivision assumed to bear N89°37'17"E. Monumented as follows: brass survey tag set flush in sidewalk stamped LS 23528 at the Northwest Corner of said Lot 3 and a #5 rebar with cap stamped LS #2149 at the Northeast Corner of said Lot 3.

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

Section 5. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 14th day of December, 1998.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 21st day of December, 1998.

ATTEST:

\_\_\_\_\_

Mayor

\_\_\_\_\_

City Clerk

**Date:** December 14, 1998  
**Subject:** Hollypark PUD Rezoning/Preliminary/Official Development Plan  
**Prepared by:** Margo Schultz

## **Introduction**

City Council is requested to hold a public hearing and take action on the proposed re-zoning of the property to Planned Unit Development, and the proposed Preliminary/Official Development Plan for the Hollypark Planned Unit Development.

## **Summary**

The 7.26 acre site is currently zoned RE (Single-Family Detached Residential), and is designated Single-Family Attached Residential on the Westminster Comprehensive Land Use Plan.

The applicants participated in the 1997 Single-Family Attached Residential Competition and were awarded service commitments for 70 condominiums to be located on this site. The applicants are now requesting that the property be rezoned to Planned Unit Development, and that the Preliminary/Official Development Plan be approved to allow construction of 70 condominium units.

## Applicant/Property Owner

Lester Colodny, Frontier Development

## Location

Northwest corner of 96th Avenue and Federal Boulevard - (See attached vicinity map)

## Size of Site

7.26 acres (gross)

## Description of Proposed Uses

Single-Family Attached Condominiums

## Comprehensive Land Use Designation and Existing Zoning

The Westminster Comprehensive Land Use Plan shows a Single-Family Attached land use designation for the site. The current zoning is RE (Single-Family Detached Residential). The applicants are requesting that the property be rezoned to Planned Unit Development to allow for Single-Family Attached development.

## Major Issues

Staff has worked with the applicant to insure that those incentive items committed to in the competition are included in the overall design of the condominium complex. As committed to in the competition, the development includes a slightly

greater (5 percent) landscape area than is minimally required, provides a clubhouse and swimming pool, and will include upgraded public service lighting along the street right-of-way, and special landscape up-lighting.

As committed to in the competition, there are four distinct building units proposed, all of which include a variety of horizontal offsets (staggering) to create visual interest, and all include interesting architectural detail such as a varying roof breaks and window detailing. All four sides of the proposed buildings will include in excess of 30 percent brick on the building face.

### **Planning Commission Recommendation**

Two people spoke in opposition to the project at the hearing, indicating that they had concerns about possible parking on the streets, existing traffic problems at 96th and Federal, overcrowding of schools and existing water and sewer problems in the area.

1. The Planning Commission voted unanimously to forward a recommendation of approval to the City Council on the proposed rezoning and Preliminary and Official Development Plan for the Hollypark Subdivision Planned Unit Development.
2. The recommendation is based on a finding that the proposed rezoning is in conformance with the Westminster Comprehensive Land Use Plan, and the Preliminary/Official Development Plan meets the requirements of Title 11 of the Westminster Municipal Code and would be in conformance with the Westminster Comprehensive Land Use Plan.

### **Staff Recommendation**

1. Hold a public meeting.
2. Pass Councillor's Bill \_\_\_\_\_ on first reading rezoning the property from RE (Single-Family Detached) to Planned Unit Development (PUD).
3. Approve the proposed Preliminary/Official Development Plan for the Hollypark Planned Unit Development based on a finding that the proposed re-zoning is in conformance with the Westminster Comprehensive Land Use Plan, and the proposed Preliminary/Official Development Plan would meet the requirements of Title 11 of the Westminster Municipal Code, and would be in conformance with the Westminster Comprehensive Land Use Plan.

### **Background Information**

#### Discussion of Major Issues

The applicant, Lester Colodny was the original owner/developer/builder of the Environs mixed use residential development, located to the west of the subject property. Mr. Colodny has owned the 7.26 acre Hollypark site for over 20 years, and several years ago proposed that the property be re-zoned to allow an assisted care facility. The applicant held five meetings with the neighborhood, with City Staff in attendance. Approximately twenty of the surrounding neighbors attended and indicated to the applicant that a Single-Family Attached development would be greatly preferred to the proposed assisted care facility. Recognizing that the Westminster Comprehensive Land Use Plan also indicated a Single-Family Attached land use designation for the property, the applicant participated in the 1997 Single-Family Attached competition, and was awarded service commitments for the proposed condominium project.

#### Architectural/Building Materials

The exterior building materials proposed include a combination of hardboard siding and brick veneer, with a high-profile asphalt shingle roof. Brick detailing is included around a number of the windows and garages. The proposed buildings include the upgraded vinyl windows and a variety of interesting window detail.

Covered porches are included on a majority of the units. A 1500 square foot clubhouse is proposed for the facility and will be constructed of hardboard lap siding and synthetic stucco with brick columns. A wrought iron and brick fence will surround the pool area.

#### Public Land Dedication

As required by the Westminster Municipal Code, a note has been included on the Official Development Plan that a \$75,000 fee in lieu of public land dedication will be paid. The fee is due at the time of platting.

#### Access and Circulation

The proposed development includes a public road (Green Court) running north/south which connects West 96th and West 97th Avenues.

The road will be constructed by the developer, and will provide access to the private drives within the complex.

#### Site Design

The proposed development includes landscaping islands between the driveways and throughout the private drive areas leading to the garages which will serve to break up and provide interest on the garage sides of the buildings. Interesting and intimate landscape/pedestrian areas have been created throughout the development. The proposed public street running through the development also serves to create a small, private residential feeling for the development. A 4 ft. tall concrete wall with a brick inset is proposed to be located on top of a minimum 3 ft. high berm area, to provide a noise barrier for the condominium units closest to Federal Boulevard. As proposed, the wall will include 2 ft. wide stone veneer columns every 40 ft. As proposed the development meets all of the City requirements for landscaping, building setbacks and storm water detention.

#### Signage

Low profile signs will be located at both the 96th Avenue and 97th Avenue entrances to the subdivision, and are in conformance with the Westminster Municipal Code.

#### Service Commitments

Service Commitments have been awarded for 70 condominium units at this location.

#### Surrounding Zoning

To the north: 97th Avenue and C1 zoning (Wishbone Restaurant and undeveloped land); To the south: RA (Single-Family Detached Residential); To the east: Federal Boulevard and Federal Heights C-1 property; To the west: RE zoning (St. Mark's Church)

Respectfully submitted,

William M. Christopher  
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO.

SERIES OF 1998

INTRODUCED BY COUNCILLORS

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A BILL

FOR AN ORDINANCE AMENDING THE ZONING LAW AND CHANGING THE ZONING CLASSIFICATION OF CERTAIN PROPERTY LOCATED IN HOLLYHURST SUBDIVISION IN SECTION 17, TOWNSHIP 2 SOUTH, RANGE 68 WEST, OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF ADAMS, STATE OF COLORADO

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council finds:

a. That an application for the zoning of the property described below from City of Westminster RE (Single-Family Detached Residential) to City of Westminster Planned Unit Development (PUD) has been submitted to the City for its approval pursuant to Westminster Municipal Code section 11-5-2.

b. That an application for approval of a combined Preliminary/Official Development Plan has been submitted and processed in accordance with the procedures for the approval as set forth in section 11-5-7 and 11-5-8 of the Westminster Municipal Code. And that the application for the approval of the Combined Preliminary/Official Development Plan contains all the information required for Preliminary and Official Development Plans as set forth in sections 11-5-7 and 11-5-8 of the Westminster Municipal Code.

c. That Council has completed a public hearing on the requested zoning pursuant to the provisions of Section 11-5-13 of the Westminster Municipal Code.

d. That based on the evidence produced at the public hearing the City Council finds that the proposed zoning complies with all the requirements of City Code, including, but not limited to, the provisions of Westminster Municipal Code sections 11-5-3, 11-5-14 and 11-5-15.

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

f. That the proposed zoning is consistent with the Westminster Comprehensive Land Use Plan and all applicable general plans and policies concerning land use and development relative to the property proposed for rezoning.

Section 2. The Zoning District Map of the City is hereby amended by reclassification of the property described herein from Westminster RE (Single-Family Detached Residential) to Planned Unit Development.

Lots 1 through 8 inclusive, Hollyhurst Subdivision being a part of the south half of the southwest quarter of Section 17, Township 2 South, Range 68 West, of the 6th Principal Meridian, County of Adams, State of Colorado excepting therefrom the real estate conveyed to the Department of Highways, State of Colorado, by the deeds recorded in Book 926, at page 290; Book 930, at page 434; Book 922, at page 351; and Book 922, at page 353.

The above described property contains 7.26 acres and is subject to all easements and rights-of-way now on record or existing.



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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED THIS 14th DAY OF DECEMBER, 1998.

PASSED AND ADOPTED ON SECOND READING this 21st day of December, 1998.

ATTEST:

\_\_\_\_\_  
Mayor

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

**Date:** December 14, 1998  
**Subject:** Growth Management Program Revisions  
**Prepared by:** Shannon Sweeney, Planner III

### **Introduction**

City Council action is requested to approve a series of Growth Management Program revisions. Those revisions include: adopting the attached Councillor's Bill on first reading amending the current Growth Management Program which includes a provision creating Category R for projects that connect to the City's reclaimed water system; adopting the attached Resolution allocating 1999 Service Commitments to various categories within the Growth Management Program; and adopting the attached Resolution amending the Multi-Family Residential Design Guidelines.

### **Summary**

In the November 16 City Council Staff Report, City Staff outlined some recommended changes to the current Growth Management Program. Staff has prepared the necessary Growth Management Program Ordinance and Resolutions for City Council consideration. The program, as proposed and detailed in the November 16 Staff Report, includes the following elements:

- > Amends the existing Growth Management Program ordinance to:
  - > Establish a new category (Category R) for projects that will connect to the City's reclaimed water system;
  - > Reduce the service commitment amount per single-family attached unit from .8 to .7 based on Water Resources Division data;
  - > Subdivide Category L (Legacy Ridge) into Categories L-1 (Legacy Ridge Single-Family Detached), L-2 (Legacy Ridge Single-Family Attached), and L-3 (Legacy Ridge Multi-Family) to aid in tracking the various housing types within this subdivision;
  - > Change the existing senior housing definitions to coincide with the definitions within the Senior Housing Market Study completed for the City in 1997;
  - > Clarify various requirements in several locations of the Growth Management Program ordinance.
- > Authorizes competitions in 1999 for:
  - > One to two new single-family detached (Category B-1) projects (60 new units in 1999); and
  - > One new single-family attached (Category B-2) project (30 new units in 1999); and
  - > One new multi-family (Category B-3) project (150 new units in 1999).

If authorized by Council, Staff would conduct these competitions early in 1999 and anticipates that Service Commitment award recommendations would be ready for Council consideration in March or April 1999.

> Allocates 1999 Service Commitments (SC's) to the following categories as shown below:

<u>Category</u>		<u># SC's</u>
A and L (includes all A and L subcategories)	851.0	
B-1 (New Single-Family Detached)		60.0
B-2 (New Single-Family Attached 10 du/a or less)	21.0	
B-3 (New Multi-Family greater than 10 du/a)		75.0
C (Non-Residential)		597.0
D (Outside City Contracts)		72.0
E (Senior Housing)		112.0
F (Public)		105.0
R (Reclaimed Water)		<u>254.0</u>
TOTAL		2147.0

While the total 1999 recommended allocation above matches the total detailed in the November 16 Staff Report to City Council, please note that the Category C allocation has been reduced by 200 service commitments and the Category R allocation has been increased by 200. This transfer from Category C to R represents service commitments from projects that could potentially tie into the City's reclaimed water system. For these projects, Category C service commitments would be issued for water use within the building(s) while Category R service commitments would be issued for irrigation purposes.

> Revises the multi-family residential competition criteria and guidelines in preparation for a 1999 Category B-3 competition. Because no new multi-family competition has been conducted since City Council adoption of the multi-family guidelines, no point system for the competition had been established. An incentive point system has now been included and the revised document is attached for Council review. The attached document is identical to the November 16 City Council Staff Report attachment.

**Staff Recommendation**

1. Pass Councillor's Bill No.        on first reading revising Chapter 3 of Title XI of the Westminster Municipal Code pertaining to the City's Growth Management Program.
2. Adopt Resolution No.        allocating 1999 Service Commitments to the various categories of the Growth Management Program.
3. Adopt Resolution No.        amending the Multi-Family Residential Design Guidelines.

**Background Information**

Each year, in preparation for recommending service commitment allocations to City Council, Staff reviews development activity in the current year and projects future demand for services. In analyzing this information, City Staff identified issues for Council consideration in the November 16 Staff Report to City Council. The background research given below has been updated (as of 11/18/98) and is attached for Council information.

Table I below illustrates the 1998 Service Commitment allocations approved by Council in December 1997, the number of SC's awarded to new development this year, the number available year-to-date, and the 1999 recommended allocations for each category. 1999 projections for all categories (except the new residential categories) were used to determine the recommended service commitment allocations for next year.

**TABLE I**  
**SERVICE COMMITMENT SUMMARY**

Cat.	Description	NUMBER OF SERVICE COMMITMENTS			
		1998 Allocation	'98 YTD Awards	Avail as of 11/18	Rec. '99 Allocat.
A-1	Active SFD	1164.0*	329.0	449.0	326.0
A-2	Active SFA	*	142.2		180.0
A-3	Active MF	*	44.5		49.0
L-1	Legacy Ridge SFD	*	77.0		138.0
L-2	Legacy Ridge SFA	*	15.1		58.0
L-3	Legacy Ridge MF	*	107.2		100.0
B-1	New SFD	60.0	0.0	60.0	60.0
B-2	New SFA	0.0	0.0	0.0	21.0
B-3	New MF	0.0	0.0	0.0	75.0
C	Non Residential	548.0	386.1	161.9	597.0
D	Outside Contracts	75.0	2.6	72.4	72.0
E	Senior Housing	161.0	5.25	155.8	112.0
F	Public Usage	<u>268.0</u>	<u>156.25</u>	<u>111.8</u>	105.0
R	Reclaimed Water	(N/A-this is a new category)		<u>254.0</u>	
<b>TOTAL</b>		<b>2276.0</b>	<b>1265.2</b>	<b>1010.8</b>	<b>2147.0</b>

\*1,164 service commitments were allocated for all Category A and L projects for 1998.

Year-to-date in 1998, 1,265 service commitments have been awarded for new development projects leaving an estimated total of 1,011 available for the remainder of 1998. Service commitments remaining in any of the categories at the end of 1998 will not be carried over in 1999 and will be transferred back into the water supply figures.

The Public Works and Utilities Department is currently discussing possible options to serve several of the 1999 non-residential (Category C) projects as part of the reclaimed water system. If this can be accomplished, Staff estimates that approximately 200 service commitments previously designated for Category C in 1999 would instead be deducted from Category R (Reclaimed Water). These estimates are now reflected in the 1999 recommended service commitment allocations.

The figures shown in Table I of 60 service commitments for New Single-Family Detached (B-1), 21 for New Single-Family Attached (B-2), and 75 service commitments for New Multi-Family (B-3) do not represent total 1999 projected demand in each of these categories. These figures are Staff's recommendation for 1999 allocations to allow a limited number of new residential projects to compete.

In reviewing average demand for single-family detached projects, the allocation of 60 service commitments (60 units) for Category B-1 should be sufficient to serve the development of a single-family detached project comparable to the Home Farm subdivision. Alternatively, these service commitments could serve two, smaller developments which do not require greater than 30 service commitments per year (such as the most recent filings of the Lexington and Legacy Ridge subdivisions).

The City's Water Resources Division has determined that a total of 10,305 treated water service commitments and 1,161 service commitments for reclaimed water projects will be available by the end of 1998 for future development. This includes Staffs' estimate that by the end of 1998, a total of approximately 950 service commitments will remain from the 1998 allocations to return to the water supply figures. After accounting for the proposed service commitment allocations for 1999, this would leave a total of 8,412 treated water service commitments and 907 reclaimed water service commitments for development beyond 1999. This figure would assume that no additional water is acquired in the interim.

The City is continually pursuing new sources of water. However, currently none of the new sources can be relied on as an additional source of supply at this point in time. On the demand side, the City will explore opportunities to serve new development with reclaimed water for irrigation purposes which will help reduce the demand for potable water service commitments.

Respectfully submitted,

William M. Christopher  
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. \_\_\_\_\_

SERIES OF 1998

INTRODUCED BY COUNCILLORS  
\_\_\_\_\_

A BILL

FOR AN ORDINANCE AMENDING CHAPTER 3 OF TITLE XI OF THE WESTMINSTER MUNICIPAL CODE CONCERNING THE CITY'S GROWTH MANAGEMENT PROGRAM FOR THE PERIOD JANUARY 1, 1990 THROUGH DECEMBER 31, 2000

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Section 11-3-2 (A) of the Westminster Municipal Code, is hereby AMENDED as follows:

2. Notwithstanding the foregoing, a residential development will not be deemed to be an Active Residential Development if a building permit for at least one new dwelling unit is not issued during any two successive calendar years UNLESS AN EXTENSION IS SPECIFICALLY APPROVED BY THE CITY COUNCIL BASED ON A FINDING THAT:

A. THE NEED FOR THE EXTENSION IS THE RESULT OF SOME UNUSUAL AND UNFORSEEABLE CIRCUMSTANCE REASONABLY BEYOND THE CONTROL OF THE DEVELOPER, AND

B. THE EXTENSION IS NEEDED TO AVOID UNDUE OR INEQUITABLE HARDSHIP THAT WOULD OTHERWISE RESULT IF THE EXTENSION WERE NOT GRANTED, AND

C. THERE IS NO REASON TO BELIEVE THAT THE DEVELOPER WILL NOT BE ABLE TO PROCEED WITH THE DEVELOPMENT OF THE PROJECT WITHIN THE EXTENDED TIME PERIOD.

Section 2. Section 11-3-2 (B) of the Westminster Municipal Code, is hereby AMENDED as follows:

(B) ACTIVE SENIOR HOUSING DEVELOPMENT: A Senior Housing Project which meets the following specifications:

1. All of the criteria and requirements established in 11-3-4 (E) Category E, Active Senior Housing Developments, are met; and

2. The project received Official Development Plan (ODP) approval on or after January 1, 1994; or, a Preliminary Development Plan (PDP) amendment requesting senior housing land use was formally submitted for the technical review process prior to November 18, 1996 and the PDP and ODP are ultimately approved by the City Council.

Notwithstanding the foregoing, a senior housing development will not be deemed an active senior housing development if a building permit for at least one new dwelling unit is not issued during any two successive calendar years beginning January 1, 1998 UNLESS AN EXTENSION IS SPECIFICALLY APPROVED BY THE CITY COUNCIL BASED ON A FINDING THAT:

A. THE NEED FOR THE EXTENSION IS THE RESULT OF SOME UNUSUAL AND UNFORSEEABLE CIRCUMSTANCE REASONABLY BEYOND THE CONTROL OF THE DEVELOPER, AND

B. THE EXTENSION IS NEEDED TO AVOID UNDUE OR INEQUITABLE HARDSHIP THAT WOULD OTHERWISE RESULT IF THE EXTENSION WERE NOT GRANTED, AND

C. THERE IS NO REASON TO BELIEVE THAT THE DEVELOPER WILL NOT BE ABLE TO PROCEED WITH THE DEVELOPMENT OF THE PROJECT WITHIN THE EXTENDED TIME PERIOD.

Any senior housing project which does not meet the criteria listed above for active senior housing development shall be considered a new senior housing development.

Section 3. Section 11-3-2 (D) of the Westminster Municipal Code, is hereby AMENDED as follows:

(D) BUILD-OUT DEVELOPMENT: A proposed residential development which does not meet the active residential definition but does meet all of the following:

1. There is an existing, City-approved Official Development Plan and Plat for the site; and
2. The proposed land use complies with the Comprehensive Land Use Plan ~~map~~; and
3. The project is located on land within a planned unit development which is at least 75% developed; and
4. The undeveloped site for the proposed development does not exceed three (3) acres.

Each build-out development shall be subject to Staff review for compliance with the adopted residential design standards and guidelines. If the existing official development plan does not meet the design requirements, an official development plan amendment (bringing the project into compliance) and plat must be submitted for review and are subject to City Manager approval. If the project is unable to meet all of the design requirements, the project will be subject to Planning Commission review and approval or denial.

Section 4. Section 11-3-2 (H) of the Westminster Municipal Code, is hereby AMENDED as follows:

(H) SERVICE COMMITMENT: The measure of City service required is determined by the average service provided to one single family detached dwelling unit. Adequacy of a Service Commitment for a structure shall be determined in accordance with the following schedule:

Single Family Detached Dwelling Unit or Mobile Home Unit	1.0 Service Commitment
Single Family Attached Dwelling Unit	<del>0.8</del> 0.7 Service Commitment
<del>Apartment</del> MULTI-FAMILY Dwelling Unit	0.5 Service Commitment
Attached Senior Housing Unit	0.35 Service Commitment
Non-Residential - To be determined on a case by case basis, based upon the specific plan presented.	

Section 5. Section 11-3-4 (E) of the Westminster Municipal Code, is hereby AMENDED as follows:

(E) Category E: Senior Housing:

1. Government Sponsored Senior Housing and Non-Profit Senior Housing: Government sponsored senior housing projects provided by non-profit "501-C-3" organizations as defined by the Federal Government. Said programs must be approved by the City Council. Such projects shall be subject to the provisions contained in section 11-3-8(B). Service requirements for said projects shall be reviewed individually, and Service Commitments shall be awarded on an individual basis by City Council action at the time of approval of an Official Development Plan.

2. Non-government Sponsored For-Profit Senior Housing:

~~a. Long term care facility: An institution or a distinct part of an institution that is licensed or approved to provide health care under medical supervision for patients for twenty four or more consecutive hours~~SKILLED NURSING FACILITIES: FACILITIES THAT INTEGRATE SHELTER FOR THE ELDERLY WITH MEDICAL, NURSING, PSYCHOLOGICAL, AND REHABILITATION SERVICES FOR PERSONS WHO REQUIRE 24-HOUR NURSING SUPERVISION AND CARE.

~~b. Assisted living and residential health care facilities: Residences for the elderly that provide rooms, meals, personal care, housekeeping and supervision of self administered medication or health monitoring services under the supervision of a professional nurse. Recreational, social and cultural activities; financial services and transportation may also be provided~~ASSISTED LIVING: SHELTER AND SERVICES FOR FRAIL ELDERLY WHO ARE FUNCTIONALLY AND/OR SOCIALLY IMPAIRED AND IN NEED OF 24-HOUR SUPERVISION. SERVICES MUST INCLUDE AS A MINIMUM, ENVIRONMENTAL SECURITY, TRANSPORTATION, HOUSEKEEPING, SOCIAL ACTIVITIES, LAUNDRY, AND MEALS.

~~c. Independent senior living units may be included within a proposed senior housing development provided that transportation and recreational, social and cultural activities are provided for the residents of these units.~~(A2601)CONGREGATE CARE: SHELTER FOR ELDERLY WHO MAY NEED LIMITED ASSISTANCE BUT DO NOT NEED 24-HOUR SUPERVISION. SERVICES MUST INCLUDE AS A MINIMUM, ENVIRONMENTAL SECURITY, TRANSPORTATION, HOUSEKEEPING, SOCIAL ACTIVITIES, LAUNDRY, AND MEALS.

D. INDEPENDENT LIVING: ATTACHED OR MULTI-FAMILY HOUSING TARGETED SPECIFICALLY TO SENIORS WHO ARE FUNCTIONALLY AND SOCIALLY INDEPENDENT. SERVICES MUST INCLUDE AS A MINIMUM, ENVIRONMENTAL SECURITY, TRANSPORTATION, HOUSEKEEPING, AND SOCIAL ACTIVITIES.

Section 6. Section 11-3-4 (G) of the Westminster Municipal Code, is hereby AMENDED as follows:

(G) Category L: Legacy Ridge: For use by builders of existing and new residential developments within the Westminster Golf Course Community, east and west, Planned Unit Developments.

1. CATEGORY L-1: LEGACY RIDGE SINGLE-FAMILY DETACHED RESIDENTIAL DEVELOPMENTS

2. CATEGORY L-2: LEGACY RIDGE SINGLE-FAMILY ATTACHED RESIDENTIAL DEVELOPMENTS HAVING A DENSITY OF TEN (10) OR LESS DWELLING UNITS PER ACRE

3. CATEGORY L-3: LEGACY RIDGE MULTI-FAMILY RESIDENTIAL DEVELOPMENTS HAVING A DENSITY GREATER THAN 10 DWELLING UNITS PER ACRE

Section 7. Section 11-3-4 (H) of the Westminster Municipal Code, is hereby ADDED as follows:

(H) CATEGORY R: RECLAIMED WATER: FOR IRRIGATION USE BY PROJECTS THAT CONNECT TO THE CITY'S RECLAIMED WATER SYSTEM.

Section 8. Sections 11-3-5 (D) (E) (F) (H) and (K) of the Westminster Municipal Code, is hereby AMENDED as follows:



(D) At the time any building permit is issued for any Category A residential dwelling unit, the following statement must be signed by the recipient: "Service Commitments in Category A-1 and B-1 are available on a first come, first served basis. Once the allocation for any given year is exhausted, no other service commitments or building permits will be available. In any given year there may be fewer service commitments in Category A than necessary to meet the market demands for ~~single family detached residences~~ RESIDENTIAL PROJECTS." This standard statement shall also be included on any new or amended preliminary development plan or official development plan or any subdivision plat for ~~single family detached~~ residential development.

(E) Any projects eligible to compete for service commitments in Categories B-1, B-2, B-3 and new senior housing must at a minimum comply with the City's adopted Baseline Standards and Design ~~regulations~~ GUIDELINES. Nothing herein shall be construed as limiting the City's right to require a development to exceed such baseline standards as a condition to development plan approval.

(F) Categories B-1, B-2, B-3 and new senior housing service commitments shall be awarded on a competitive basis in accordance with criteria adopted periodically through resolution of City Council. City Council shall by resolution determine the weight to give to various standards and criteria based on their impact on the City's utility system and the health, safety and welfare of the community. City Council may establish a minimum number of points to be obtained in the award criteria to be eligible for a Category B OR NEW SENIOR HOUSING service commitment. UNLESS AN EXTENSION IS SPECIFICALLY APPROVED BY THE CITY COUNCIL, A SERVICE COMMITMENT AWARD FOR ANY CATEGORY B-1, B-2, B-3, OR NEW SENIOR HOUSING PROJECT SHALL EXPIRE AS SPECIFIED ON THE CITY COUNCIL SERVICE COMMITMENT AWARD RESOLUTION FOR THE PROJECT. DEVELOPERS OF CATEGORY B-3 PROJECTS MAY SUBMIT A WRITTEN REQUEST FOR CITY STAFF REVIEW AND APPROVAL TO RECEIVE CATEGORY B-3 SERVICE COMMITMENTS PRIOR TO THE EFFECTIVE DATE OF AWARD. CATEGORY B-3 SERVICE COMMITMENTS DRAWN FROM FUTURE YEAR AWARD(S) ARE SUBJECT TO AN ACCELERATED DEVELOPMENT SURCHARGE AS SPECIFIED ON THE SERVICE COMMITMENT AWARD RESOLUTION FOR THE PROJECT.

(H) Category E Service Commitments shall be allocated periodically by City Council Resolution. Said Resolution shall specify the total category E allocation and specify any amount of service commitments reserved for new senior housing development. Service commitments for new senior housing projects shall be awarded on a competitive basis in accordance with criteria adopted periodically through City Council resolutions. The remainder of the Category E allocation shall be awarded to active senior housing development on a first-come, first-served basis. New senior housing projects awarded service commitments through a competition receive active senior housing development status following issuance of one or more building permits SUBJECT TO THE ACTIVE SENIOR HOUSING DEFINITION SPECIFICATIONS AND SERVICE COMMITMENT AWARD RESOLUTION REQUIREMENTS.

(K) For any non-residential project or development approved administratively by the City Manager in accordance with Chapter 5 of this Title AND PROJECTS THAT RECEIVE FINAL APPROVAL BY THE PLANNING COMMISSION, the City Manager may in conjunction therewith authorize the issuance of service commitments for the project or development insofar as service commitments are available in the applicable category.

Section 9. Section 11-3-7 of the Westminster Municipal Code, is hereby AMENDED as follows:

**11-3-7: PERIOD OF AWARD FOR NON-RESIDENTIAL SERVICE COMMITMENTS:** All service commitments awarded by City Council for Categories C, AND D ~~and E~~ shall be valid for a period of two (2) years from the date of award, unless otherwise specified by City Council resolution.

Section 10. Section 11-3-9 of the Westminster Municipal Code, is hereby AMENDED as follows:

**11-3-9: COMPETITIVE RANKINGS:** All commitments made by an applicant and as a condition to the award of Category B-1, B-2, ~~or~~ B-3, OR NEW SENIOR HOUSING service commitments shall be reflected on all further Preliminary Development Plans and Official Development Plans.

CITY COUNCIL MAY DENY ANY APPLICATION AND MAKE NO AWARD BASED ON A FAILURE TO MEET THE INTENT AND PURPOSE OF THE AWARD CRITERIA. THE SERVICE COMMITMENT AWARD IS CONDITIONAL UPON CITY APPROVAL OF THE PROJECT AND DOES NOT GUARANTEE CITY APPROVAL OF THE PROJECT OR PROPOSED DENSITY. THE CITY OF WESTMINSTER SHALL NOT BE REQUIRED TO APPROVE ANY PRELIMINARY DEVELOPMENT PLAN, OFFICIAL DEVELOPMENT PLAN, OR REZONING ACTION NECESSARY FOR DEVELOPMENT OF PROPERTY INVOLVED IN THE SERVICE COMMITMENT AWARD NOR SHALL ANY OTHER BINDING EFFECT BE INTERPRETED OR CONSTRUED TO OCCUR IN THE CITY AS A PART OF THE SERVICE COMMITMENT AWARD. ALL PROJECTS THAT DO NOT RECEIVE CITY APPROVAL ARE NOT ENTITLED TO THE SERVICE COMMITMENT AWARDS, AND THE SERVICE COMMITMENTS SHALL BE RETURNED TO THE CITY'S WATER SUPPLY FIGURES.

Section 11. Severability: If any section, paragraph, clause, word or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part deemed unenforceable shall not affect any of the remaining provisions.

Section 12. This ordinance shall take effect upon its passage after second reading.

Section 13. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 14th day of December, 1998.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 21st day of December, 1998.

ATTEST:

\_\_\_\_\_  
Mayor

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

RESOLUTION

RESOLUTION NO.

INTRODUCED BY COUNCILLORS

SERIES OF 1998

---

ALLOCATING 1999 SERVICE COMMITMENTS PURSUANT TO THE CITY'S  
GROWTH MANAGEMENT PROGRAM AS SET FORTH IN CHAPTER 3, TITLE XI OF  
THE WESTMINSTER MUNICIPAL CODE

WHEREAS, the City of Westminster has adopted by Ordinance a Growth Management Program for the period 1990-2000; and

WHEREAS, The City's Growth Management Program as set forth in Chapter 3, Title XI of the Westminster City Code calls for the periodic determination of the availability of Service Commitments and allocation of such Service Commitments among various categories of potential users; and

WHEREAS, the City Council of the City of Westminster has, with the aid of detailed factual reports and expert opinions from its Staff and consultants, examined the raw water supply, the sewage treatment capacity, the water treatment capacity, and other factors affecting the availability of Service Commitments; and

WHEREAS, the City Council of the City of Westminster has previously determined, in connection with its adoption of Chapter 3 of Title XI of the Westminster Municipal Code, that the City's ability to award Service Commitments is restricted; and

WHEREAS, the demand of different land uses on the City's ability to provide utilities and other services vary due to density and intensity of the particular use; and

WHEREAS, City Council has previously determined that the Comprehensive Land Use Plan adopted in 1997 shall assist the City in making future decisions concerning the desired mix of land uses at build-out of the City; and

WHEREAS, it is the intent of City Council to recognize the many factors influencing demand for new water and sewer service, while remaining cognizant of the large capital investments in land and public improvements made by developers with projects that are already started, and recognizing the efficiencies inherent in encouraging the completion of existing development projects which can use existing public capital facilities before approving new ones.

NOW, THEREFORE, be it resolved by the City Council of the City of Westminster that in accordance with Sections 11-3-4, and 11-3-5 of the Official Code of the City of Westminster, the City Council hereby determines that:

1. Based on all of the information available to the City Council on this date, for the period beginning January 1, 1999 through December 31, 1999, the City can make available to Categories A (A-1, A-2, and A-3) and L (L-1, L-2, and L-3), 851 Service Commitments ("SC's"), to Category B-1 60 SC's, to Category B-2 21 SC's, to Category B-3 75 SC's, to Category C 597 SC's, to Category D 72 SC's, to Category E 112 SC's, to Category F 105 SC's, and to Category R 254 SC's without adverse effect on existing water users and without in any way endangering the health, safety, and welfare of the citizens of Westminster and of other persons dependent upon the operation of a safe and efficient public water and sanitation system by the City.

2. This Resolution supersedes and replaces all previous allocation Resolutions by City Council.
3. No Service Commitments will be allocated for new senior housing projects at this time.

Passed and adopted this 14th day of December, 1998.

ATTEST:

\_\_\_\_\_  
Mayor

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

RESOLUTION

RESOLUTION NO.

INTRODUCED BY COUNCILLORS

SERIES OF 1998

REVISED MULTI-FAMILY RESIDENTIAL DESIGN GUIDELINES

WHEREAS, in Chapter 3 of Title XI, the City of Westminster has adopted a Growth Management Program for the period 1990 through 2000; and

WHEREAS, W.M.C. 11-3-4(A) and (B) and 11-3-5 provide that Service Commitments for multi-family residential projects shall be awarded in Category A-3 and L-3 on a first-come, first-served basis and Category B-3 on a competitive basis; and

WHEREAS, the compliance with such guidelines is required by W.M.C. 11-3-5(E) for Category B Projects; and

WHEREAS, the City Council hereby determines that the attached Multi-Family Residential Design Guidelines are in the best interests of the citizens in light of the City's desire of growth and the limited land available for future growth, and are necessary for the health, safety and welfare of the community.

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

1. In accordance with Chapter 3 of Title XI of the Westminster Municipal Code, City Council hereby adopts as revised the attached Multi-Family Residential Design Guidelines for New Multi-Family Residential developments which shall govern the award of Service Commitments within Category B-3 projects as defined in W.M.C. Section 11-3-5.

2. The Multi-Family Residential Design Guidelines shall apply to all future Preliminary Development Plans (PDP's) and amendments and Official Development Plans (ODP's) and amendments for new multi-family developments.

3. Compliance with the Comprehensive Land Use Plan shall be required for new residential development through the residential competition process.

4. The Comprehensive Land Use Plan shall be used to guide future development in the City.

Passed and adopted this 14th day of December, 1998.

ATTEST:

\_\_\_\_\_  
Mayor

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

**Date:** December 14, 1998

**Subject:** Resolution No. re Green Knolls Park Service Commitments

**Prepared by:** Julie Meenan Eck, Park Landscape Architect

### **Introduction**

City Council action is requested to adopt the attached Resolution to award 5.8 Reclaimed Water Service Commitments for Green Knolls Park. The 1-1/2" tap fee is \$39,550. City Council action is also requested to authorize an expenditure of \$39,550 from the Green Knolls Park project account in the General Capital Improvement Fund for the tap fee.

### **Summary**

This winter, City Staff will begin the construction on the 4.8 acre Green Knolls Neighborhood Park, located at 108th Place and Balsam Street. Construction should be completed by spring of 1999. A 1-1/2" potable water tap is needed for 1.3 irrigated acres. The park will be irrigated with potable water for the first year and will convert to reclaimed water when the system is on-line. The service commitments are necessary for irrigation of turf and for maintaining landscape areas.

### **Staff Recommendation**

1. Adopt Resolution No. allocating 5.8 Category R Water Service Commitments to Green Knolls Park.
2. Authorize the expenditure of \$39,550 from the Green Knolls construction account in the General Capital Improvement Fund for the payment of tap fees.

### **Background Information**

The idea of a new park in the Green Knolls Neighborhood was first brought to the attention of the City in February 1994, by the Green Knolls Homeowners Association. Neither the City nor the homeowners association owned this property, and after a title search was completed in February 1997, the land was found to be owned by Jefferson County. A land transfer of the property from County ownership to City ownership was completed on April 30, 1997, which resulted in the City of Westminster acquiring Green Knolls Subdivision, Filing 2, Tracts B and C totaling (4.8) acres. Staff began the park design process in September of 1997.

After several neighborhood meetings, a master plan was developed and City Council approved the master plan on May 27, 1998. Construction documents were started in August and completed in October. The park plan designates an active park area on the west side of Balsam Street and a passive park area on the east side of the Balsam Street.

The master planning, design, and construction project budget for Green Knolls Park is \$225,000, which is detailed in the following budget summary.

Resolution re Green Knolls Park Service Commitments

Page 2

Originally a budget of \$325,000 was requested but it was decided that in-house Park Services Division Staff would construct this park, achieving a project savings of \$100,000.

1997 CIP	\$25,000
1998 CIP	<u>\$200,000</u>
Total	\$225,000

Respectfully submitted,

William M. Christopher  
City Manager

Attachments: Resolution, Project area map

RESOLUTION

RESOLUTION NO.

INTRODUCED BY COUNCILLORS

SERIES OF 1998

\_\_\_\_\_

AWARD OF SERVICE COMMITMENTS FOR GREEN KNOLLS PARK  
FROM CATEGORY R

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

WHEREAS, the City of Westminster has adopted by ordinance a Growth Management Program for the period July 1, 1990, through June 30, 2000; and

WHEREAS, within that ordinance there is a provision for an award of Service Commitments to Category R, Contingency and Public Usage; and

WHEREAS, Category R is the category which is appropriate for Green Knolls Park; and

WHEREAS, the City Council has approved the development of Green Knolls Park; and

WHEREAS, the City Council is authorized to award Service Commitments by Section 11-5-5(F) of the City Code.

NOW, THEREFORE, be it resolved that:

1. An award of 5.8 Service Commitments is hereby made for use by Green Knolls Park.
2. A reduction of 5.8 Service Commitments is hereby made to the total number of Service Commitments available in Category R.
3. This award shall be valid for a period ending November 22,1999.
4. This shall constitute the resolution required under Section 11-5-4 of the City Code.

Passed and adopted this 14th day of December 1998.

ATTEST:

\_\_\_\_\_  
Mayor

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



**Date:** December 14, 1998

**Subject:** Resolution No. re Proposed Changes to State Clean Air Act Regulations

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

### **Introduction**

City Council is being asked to adopt a resolution in support of certain changes to the State's plan for implementation of the Federal Clean Air Act Amendments of 1990.

### **Summary**

Regulation 17 is that portion of the State of Colorado's plan for implementing the provisions of the Federal Clean Air Act Amendments of 1990 that are related to the purchase of clean fuel vehicles (CFV's) by agencies having ten or more vehicles. During the past several months, changes to this regulation, which is also referred to as the Clean Fuels Fleet Program (CFFP), have been proposed to and approved by the Colorado Air Quality Control Commission. Some of these changes are beneficial to the City and to many of the public and private organizations which are affected by this regulation. The changes to the Clean Fuels Fleet Program would provide some relief from immediate compliance for those firms and public agencies meeting any one of six specific criteria.

The revised Regulation 17 referred to as "Consensus Regulation 17" is not in compliance with the Environmental Protection Agency's (EPA's) requirements for the Federal Clean Air Act. Because of this, State legislation must be requested to authorize the State's withdrawal of Regulation 17 from the State's Specific Implementation Plan (SIP). Similar State legislative action has been already taken for 16 of the 22 nonattainment areas in the United States.

One provision which was addressed by those who developed Consensus Regulation 17, which was not supported by the Air Pollution Control Division and subsequently not approved by the Air Quality Control Commission, relates to credits provided for vehicles converted to accept Compressed Natural Gas (CNG). The City is continuing to seek some credit for its 28 CNG conversions on a 5 to 1 basis.

An alternative to the proposed action would be to not take a position in support of the proposed changes to the State's Clean Fuel Fleet Program. This option would mean that the City would not be actively promoting several changes from which it will likely benefit.

### **Recommendation**

Adopt Resolution No. in support of both proposed revisions to the State of Colorado's Clean Fuel Fleet Program and a provision which would give the City partial credit for its Compressed Natural Gas vehicle conversions.

### **Background Information**

The Denver/Boulder metropolitan area was designated in the Federal Clean Air Act Amendments of 1990 as a carbon monoxide nonattainment area.

The Act requires that states with nonattainment areas enact a Clean Fuel Fleet Program and in Colorado this is addressed in the Colorado Air Quality Control Act. The specific requirements of the State's Clean Fuel Fleet Program are contained in Regulation 17 of the Colorado Air Quality Control Commission.

Colorado's Clean Fuel Fleet Program was to take effect in the Fall of 1997. Under Regulation 17, it was necessary for centrally fueled fleets of ten or more vehicles to purchase 30% of their new and used vehicle purchases as Clean Fuel Vehicles (CFV's) starting in model year 1998. A CFV is a vehicle that operates with emissions which are at or below the standards prescribed in the Clean Air Act Amendments and State Statutes. The purchase requirement increases to 50 % for subsequent model years. Because there were not sufficient CFV's built by car and truck manufacturers for 1998, the requirements at the Federal level and then the State level were delayed until model year 1999.

To its credit, the State's Air Pollution Control Division, a division of the State Department of Public Health and Environment, used the delay in the implementation of Regulation 17 as an opportunity to assess the likely impact of the Regulation and determined that some modifications would be needed to gain compliance from those affected by the new law. Early in 1998, the Air Pollution Control Division brought stakeholders, i.e., public and private fleet operators, trade associations, and alternative fuel providers (including the City of Westminster), together to assist in drafting modifications to Regulation 17 that would become known as "Consensus Regulation 17." The proposed modifications were to go to the Air Quality Control Commission (AQCC) this past July, but were postponed until October due to the lack of a quorum at the July meeting. The additional time was fortuitous because it allowed the stakeholders to further discuss their concerns. In addition to the drafting of Consensus Regulation 17, the stakeholders developed a Memorandum of Understanding to show their support for Consensus Regulation 17 to assist in its implementation. Many of the stakeholders have, as of this date, signed the Memorandum of Understanding.

The major modification to Regulation 17 was the inclusion of waivers to the vehicle purchasing requirements. Under Consensus Regulation 17, temporary waivers can be granted to fleets which meet any one of the following criteria:

- 1) In those cases where no CFV will meet the fleet's specifications.
- 2) Where fuel for a CFV cannot be obtained within a 3 mile radius of the fleet's operating location.
- 3) Where the cost of the CFV is more than 25% more than the cost of the comparable non-CFV.
- 4) Where the fleet operation cannot maintain any of the CFV's available on the market.
- 5) Where long-term purchases or lease arrangements preclude the purchase of available CFVs, or
- 6) Where manufacturers' delivery delays prevent compliance within the timeframes required under the Regulation.

Staff believes that this provision for temporary waivers would provide fleet managers i.e. City of Westminster, greater flexibility in trying to meet the intent and spirit of the Clean Air Act.

Beginning in early 1998 and throughout the review process, the City was represented by Fleet Manager Frank Grasmugg. Frank kept the stakeholders aware of the interest of the City in receiving some form of recognition for previously converted alternatively fueled vehicles. The Air Pollution Control District was and has continued to be unwilling to recognize previous conversions because these vehicles' emissions levels do not meet the CFV standards, which were developed after most of the City's conversions had been made. The City has been a "pioneer" and leader in implementing CNG conversions. Funds totaling approximately \$202,437 were spent on the 28 conversions plus the CNG fueling station. Recognition for previously converted vehicles is not included in the Consensus Regulation 17 approved by the Air Quality Control Commission. What has been proposed to the Air Pollution Control Division regarding credits for previous conversions, is a partial credit system of 5 to 1 (5 conversions to 1 purchase credit). If this proposal is ultimately approved, it would mean that the City would receive credit for 5 conversions for the 28 vehicles that were converted from 1989 to 1995.

The Air Pollution Control Division accepted as practical, the stakeholders' suggestion that the State, through legislation, remove Regulation 17 from the Specific Implementation Plan (SIP) that the State had submitted to the Region VIII Office of the EPA as a measure with which to control ozone and carbon monoxide levels. The removal of Regulation 17 from the SIP is necessary because the EPA will not accept the Consensus Regulation 17 provisions related to temporary waivers. As the next step toward implementing a Clean Fuel Fleet Program, the revisions must now be approved by the State Legislature along with the authorization to remove the regulation from the SIP. Removal of Consensus Regulation 17 from the State's SIP could allow the State to adopt the partial credits for previous conversions since Regulation 17 would then be a State-only monitored program and not subject to the more stringent EPA requirements.

While at first glance the adoption of waivers in the implementation of Consensus Regulation 17 may appear to diminish the air quality benefits of requiring the purchase of CFVs, much has changed since the original Regulation 17 was drafted. Regulation 17 is no longer as significant a part of the State's carbon monoxide and ozone mitigation strategy. Many states which have nonattainment areas have not required fleet purchase of CFVs as part of their attainment responses. Sixteen of the twenty-two nonattainment areas have now had their Clean Fuel Fleet Programs removed from their states' SIP's.

Respectfully submitted,

William M. Christopher  
City Manager

Attachment

RESOLUTION

RESOLUTION NO.

INTRODUCED BY COUNCILLORS

SERIES OF 1998

A RESOLUTION IN SUPPORT OF BOTH "CONSENSUS REGULATION 17" AND A PROVISION WHICH WOULD GIVE THE CITY PARTIAL CREDIT FOR THE CITY'S COMPRESSED NATURAL GAS VEHICLE CONVERSIONS

WHEREAS, The Federal Clean Air Act Amendments of 1990 (CAAA 1990) and subsequent regulations by the Environmental Protection included the Denver/Boulder Metropolitan area as a Carbon Monoxide nonattainment area.

WHEREAS, The State of Colorado adopted Regulation 17, otherwise known as Clean Fuel Fleet Program to provide specific purchase requirements for fleets located in the nonattainment areas, and

WHEREAS, Interested parties and stakeholders in Regulation 17 developed suggested changes to Regulation 17 to provide for a practical implementation of the Regulation, along with a Memorandum of Understanding as a demonstration of support for the changes proposed by the group; and

WHEREAS, The State's Air Quality Control Commission has approved the changes and is recommending that the State Legislature approve the removal of Regulation 17 from the State's Implementation Plan (SIP) in order that the changes can be implemented, and

WHEREAS, The City has an additional interest in seeing Regulation 17 removed from Colorado's SIP in order to allow for the potential of credits for the City's CNG conversions, which were done by the City to be proactive in the area of air quality improvements, and fuel diversification.

NOW THEREFORE, be it resolved that the Westminster City Council therefore shows its support of the changes to Regulation 17 approved by the Air Quality Control Commission and authorizes the City Manager to show support for the changes by adding his signature to the Memorandum of Understanding drafted by the interested parties. Be it further resolved that the State Legislature be encouraged to support the removal of Regulation 17 from the State's SIP, the adoption of the provisions of "Consensus Regulation 17" and the authorization of a partial waiver credit for CNG conversions by fleets in the nonattainment area.

Passed and adopted this 14th day of December, 1998.

ATTEST:

\_\_\_\_\_  
Mayor

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

**Date:** December 14, 1998  
**Subject:** Councillor's Bill No. re 1998 Budget Supplemental Appropriations  
**Prepared by:** Cherie Sanchez, Accountant

### **Introduction**

City Council action is required to pass the attached Councillor's Bill on first reading amending the 1998 budget appropriations in the General Fund, the Heritage at Westmoor segment of the Golf Course Fund, the Legacy Ridge segment of the Golf Course Fund and the Water segment of the Utility Fund. These changes are housekeeping in nature and/or reflect minimal additions to budgets.

### **Summary**

The budget in the General Fund needs to be amended to reflect \$40,310 in grants awarded to the City for the purpose of funding specific youth recreation, sport and education activities during the 1998-1999 school year.

The budgets in both the General Fund and the Heritage at Westmoor segment of the Golf Course Fund need to be amended to reflect the other financing sources received for lease purchases of a replacement fire truck and golf course maintenance equipment. Council has previously approved these lease purchases.

The budget in the Legacy Ridge segment of the Golf Course Fund also needs to be amended to reflect proceeds received from the Legacy Ridge Championship Golf Tournament which was held this summer.

The budget in the Water segment of the Utility Fund needs to be amended to reflect a contribution of \$1,087,325 received from the Shaw Heights Water District in conjunction with the Shaw Heights Water District Total Service Intergovernmental Agreement which became effective June 1, 1998. Proceeds were paid to the City by the Shaw Heights Water District to cover maintenance and replacement costs of certain water utility equipment items as specified in this intergovernmental agreement.

### **Staff Recommendation**

Pass Councillor's Bill No. on first reading providing for supplementary appropriations to the 1998 budget.

### **Background Information**

In 1998, the City was awarded grants totaling \$40,310 for the purpose of funding specific youth recreation, sport and education activities during the 1998-1999 school year. This supplemental appropriation of grant awards is comprised of the following:

1. Youth Crime Prevention and Intervention grant in the amount of \$23,032.
2. Youth Crime Prevention and Intervention grant in the amount of \$8,358.
3. Colorado Department of Transportation grant in the amount of \$4,420.
4. Westminster Rotary Club grant in the amount of \$4,500.

These grant awards are used, in part, to fund the Summer Portable Playground program, Junior Leadership program, After School program in the Adams County School District 50 middle schools and a variety of other grant supported youth and teen activities.

On June 29, 1998, City Council approved a bid with Key Bank for the lease purchase of golf course maintenance equipment not to exceed \$577,423. The lease was entered into on July 28, 1998. The 1998 budget needs to be amended to reflect this other source of funding.

On June 8, 1998, City Council approved a bid with Key Corp for the lease purchase of a replacement fire truck not to exceed \$351,504. The lease was entered into on June 23, 1998. The 1998 budget needs to be amended to reflect this other source of funding.

On July 11 and 12, 1998, Legacy Ridge held a Championship Golf Tournament. Proceeds totaling \$2,661 were received in the form of registration fees. The 1998 budget needs to be amended to reflect this tournament revenue, so the expenses associated with the tournament can be paid.

On July 13, 1998, City Council accepted a check on behalf of the City of Westminster from the Shaw Heights Water District in the amount of \$1,087,325 for the maintenance and replacement of certain water utility equipment items as indicated in the Shaw Heights Total Service Intergovernmental Agreement. This intergovernmental agreement became effective on June 1, 1998. The 1998 budget needs to be amended to reflect this intergovernmental contribution.

Respectfully submitted,

William M. Christopher  
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. \_\_\_\_\_

SERIES OF 1998

INTRODUCED BY COUNCILLORS  
\_\_\_\_\_

A BILL

FOR AN ORDINANCE AUTHORIZING A SUPPLEMENTAL APPROPRIATION TO INCREASE THE 1998 BUDGET OF THE GENERAL FUND, THE HERITAGE AT WESTMOOR SEGMENT AND THE LEGACY RIDGE SEGMENT OF THE GOLF COURSE FUND AND THE WATER SEGMENT OF THE UTILITY FUND.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 1998 appropriation for the General Fund, initially appropriated by Ordinance No. 2566 in the amount of \$49,228,260 is hereby increased by \$389,298 which, when added to the fund balance as of the City Council action on December 14, will equal \$51,872,511. The actual amount in the General Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. This increase is due to the appropriation of four grants awarded for the purpose of funding specific youth recreation, sport and education activities during the 1998-1999 school year and the appropriation of an other financing source received for the lease purchase of a replacement fire truck through Key Corp.

Section 2. The \$389,298 increase in the General Fund shall be allocated to City Revenue and Expense accounts which shall be amended as follows:

<u>Description</u> <u>Final Budget</u>	<u>Current Budget</u>	<u>\$ Increase</u>	
<u>REVENUES</u>			
Intergovernmental - Youth Activities 10-0414-000	\$0	\$40,310	\$40,310
Other Financing Source 10-1484-000	\$0	<u>\$348,988</u>	\$348,988
Total change to Revenues		<u>\$389,298</u>	
<u>EXPENSES</u>			
Recreation Supplies - Youth Activities 10-50-76-312-529	\$27,000	\$40,310	\$67,310
Other Financing Use 10-10-90-604-000	\$0	<u>\$348,988</u>	\$348,988
Total change to Expenses		<u>\$389,298</u>	

Section 3. The 1998 appropriation for the Heritage at Westmoor segment of the Golf Course Fund, initially appropriated by Ordinance No. 2566 in the amount of \$6,000,000 is hereby increased by \$553,192 which, when added to the fund balance as of the City Council action on December 14, will equal \$9,805,442. The actual amount in the Golf Course Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. This increase is due to the appropriation of an other financing source received for the lease purchase of golf course maintenance equipment through Key Bank.

Section 4. The \$553,192 increase in the Heritage at Westmoor segment of the Golf Course Fund shall be allocated to City Revenue and Expense accounts which shall be amended as follows:

<u>Description</u> <u>Final Budget</u>	<u>Current Budget</u>	<u>\$ Increase</u>	
<u>REVENUES</u>			
Other Financing Source			
23-1484-000	\$1,500,000	<u>\$553,192</u>	
\$2,053,192			
Total change to Revenues		<u>\$553,192</u>	
<u>EXPENSES</u>			
Other Financing Use			
23-10-90-604-000	\$0	<u>\$553,192</u>	\$553,192
Total change to Expenses		<u>\$553,192</u>	

Section 5. The 1998 appropriation for the Legacy Ridge segment of the Golf Course Fund, initially appropriated by Ordinance No. 2566 in the amount of \$3,283,723 is hereby increased by \$2,661 which, when added to the fund balance as of the City Council action on December 14, will equal \$1,238,884. The actual amount in the Golf Course Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. This increase is due to the appropriation of registration fee proceeds from the Legacy Ridge Championship Golf Tournament.

Section 6. The \$2,661 increase in the Legacy Ridge segment of the Golf Course Fund shall be allocated to City Revenue and Expense accounts which shall be amended as follows:

<u>Description</u> <u>Final Budget</u>	<u>Current Budget</u>	<u>\$ Increase</u>	
<u>REVENUES</u>			
Recreation Services - Gift Certificates			
22-0548-272	\$160,000	<u>\$2,661</u>	\$162,661
Total change to Revenues		<u>\$2,661</u>	
<u>EXPENSES</u>			
Professional Services - Club House Operations			
22-50-55-209-249	\$30,000	<u>\$2,661</u>	\$32,661
Total change to Expenses		<u>\$2,661</u>	

Section 7. The 1998 appropriation for the Water segment of the Utility Fund, initially appropriated by Ordinance No. 2566 in the amount of \$23,789,113 is hereby increased by \$1,087,325 which, when added to the fund balance as of the City Council action on December 14, will equal \$28,535,843. The actual amount in the Utility Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. This increase is due to an appropriation of the Shaw Heights Water District Total Service Intergovernmental Agreement contribution.

Section 8. The \$1,087,325 increase in the Water segment of the Utility Fund shall be allocated to City Revenue and Expense accounts which shall be amended as follows:

<u>Description</u> <u>Final Budget</u>	<u>Current Budget</u>	<u>\$ Increase</u>	
<u>REVENUES</u>			
Shaw Heights Contribution			
20-1183-460	\$0	<u>\$1,087,325</u>	
\$1,087,325			



Total change to Revenues

\$1,087,325

EXPENSES

Radio Readable Meters

20-35-88-513-087

\$825,000

\$350,000

\$1,175,000

Parts 20-35-50-352-000

\$10,500

\$20,000

\$30,500

Shaw Heights Project		
20-35-88-555-145	\$0	<u>\$717,325</u>
\$1,087,325		
Total change to Expenses		<u>\$1,087,325</u>

Section 9. - 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 10. This ordinance shall take effect upon its passage after the second reading.

Section 11. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 14th day of December 1998.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 21st day of December, 1998.

ATTEST:

\_\_\_\_\_  
Mayor

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

**Date:** December 14, 1998

**Subject:** Councillor's Bill No. re Supplemental Appropriation, Capital Facilities Financing

**Prepared by:** Tammy Hitchens, Accounting Manager

### **Introduction**

Council Action is requested to pass on first reading the attached Councillor's Bill re a supplemental appropriation of the proceeds provided from the sale of Certificates of Participation previously approved by City Council on November 16, 1998. Council approval of this action will also free up already-budgeted funds and allow these funds to be reallocated to the Promenade Conference Center account.

### **Summary**

The City plans called for funding several capital improvement projects through the recent COP financing (Certificates of Participation), sold on November 12, 1998, and approved by City Council and the Building Authority in separate actions on November 16, 1998. City Council approved the sale of certain City assets to the Westminster Building Authority for a total of \$17,700,000. The proceeds from this sale need to be appropriated to complete the capital facility projects that were originally budgeted as 1997-1998 "pay as you go" projects.

The funds for these capital projects will then be freed up and can be used for other purposes. This will allow Staff to re-allocate the \$17,700,000 toward the construction of the Promenade Conference Center, thus using "pay-as-you-go" monies for the construction of this facility.

### **Staff Recommendation**

Pass Councillor's Bill on first reading appropriating \$17,700,000 received by the City from the sale of certain assets to the Westminster Building Authority and reallocating \$17,700,000 from certain "pay as you go" projects in the General Capital Projects Fund to the Promenade Conference Center project and the City Park Fitness Center project.

### **Background Information**

The City has scheduled a variety of capital projects for construction over the next several years. In several cases, the funds were budgeted in 1997 and 1998 for project construction. In some cases, the projects have been begun, but in several cases, the projects will begin construction when design and engineering are completed, and the projects have been bid out. By financing the infrastructure projects with the Capital Facilities Financing approved by City Council and the Building Authority on November 16, 1998, this frees up the "pay as you go" monies to be used to construct the City's Conference Center at Promenade.

The City entered into a sale-leaseback arrangement with the Westminster Building Authority where the City sold certain assets to the Westminster Building Authority for \$17,700,000 and is leasing them back by making rental payments. The \$17,700,000 are the funds being used to construct the 1997 and 1998 infrastructure projects in the five-year capital plan.

Approval by the City Council will appropriate the COP financing proceeds to build the infrastructure projects and will also re-allocate the necessary monies toward the construction of the City's Conference Center.

An alternative action includes not approving this action. This is not recommended, as the financing has been sold and approved in a prior action, and the budget will be out of alignment with the City's ledgers.

Another action would be for City Council to direct Staff to find other means of financing the infrastructure projects and the conference center. This is not recommended, as a number of other projects are underway and complete and the funding secured in this financing is inappropriate for other projects, but necessary to carry out the projects selected. In addition, by freeing up these monies, the conference center account will contain the funds committed by the City in earlier agreements.

Respectfully submitted,

William M. Christopher  
City Manager

Attachment: Councillor's Bill

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. \_\_\_\_\_

SERIES OF 1998

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE INCREASING THE 1998 BUDGET OF THE GENERAL CAPITAL IMPROVEMENT FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 1998 ESTIMATED REVENUES IN THE FUND

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 1998 appropriation for the General Capital Improvement Fund, initially appropriated by Ordinance No. 2566 in the amount of \$17,405,000 is hereby increased by \$17,700,000 which, when added to the fund balance as of the City Council action on December 28, 1998, will equal \$34,738,733. The actual amount in the General Capital Improvement Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. This change and increase is due to reallocating pay as you go funds to the conference center project and appropriating funds received from the sale of assets to the Westminster Building Authority.

Section 2. The change in the General Capital Improvement Fund shall be reallocated to City Expense accounts which shall be amended as follows:

<u>Final Budget</u>	<u>Description</u>	<u>Current Budget</u>	<u>\$Increase (Decrease)</u>	
<b><u>EXPENSES</u></b>				
75-25-88-555-032	Fire Station 2	\$337,811	\$(330,000)	\$7,811
75-30-88-555-039	112TH Av/Sher to Fed	\$660,006	\$(660,000)	\$6
75-50-88-555-062	Westcliff Land Aquisit.	\$480,000	\$(480,000)	\$-0-
75-50-88-555-066	Amherst School Park	\$650,000	\$(650,000)	\$-0-
75-50-88-555-110	Stratford Lakes Park	\$250,000	\$(250,000)	\$-0-
75-50-88-555-114	Buffer Area 108th/112th	\$540,000	\$(540,000)	\$-0-
75-30-88-555-116	76th Ave Impr at Sher	\$300,000	\$(300,000)	\$-0-
75-30-88-555-118	Harris Park Parking	\$250,000	\$(250,000)	\$-0-
75-30-88-555-119	Widen Sheridan at FHC	\$350,000	\$(350,000)	\$-0-
75-30-88-555-120	Huron St 129th/144th	\$150,000	\$(150,000)	\$-0-
75-30-88-555-124	Wandering View Site	\$250,000	\$(250,000)	\$-0-
75-30-88-555-126	Harlan St. Flyover Des	\$500,000	\$(500,000)	\$-0-
75-30-88-555-142	LDC Drainage Improv	\$315,000	\$(315,000)	\$-0-
75-30-88-555-143	Misc. Storm Drain Imp.	\$401,705	\$(400,000)	\$1,705
75-20-88-555-155	Police Bldg Remodel	\$412,731	\$(400,000)	\$12,731
75-50-88-555-156	Della Vill Park Acquis	\$761,390	\$(760,000)	\$1,390
75-50-88-555-228	Community Enhancement	\$2,022,148	\$(2,020,000)	\$2,148
75-50-88-555-236	Trails Development	\$423,390	\$(420,000)	\$3,390
75-30-88-555-273	Promenade East	\$7,802,532	\$(5,086,000)	\$2,716,532
75-50-88-555-327	Cotton Creek Park Exp	\$1,299,699	\$(1,290,000)	\$9,699
75-50-88-555-391	BDC Trail/Jeffco	\$1,704,125	\$(1,704,000)	\$125
75-30-88-555-411	Greenlawn Traffic Mitig	\$595,000	\$(595,000)	\$-0-
75-50-88-555-213	Companion Facility	\$-0-	\$700,000	\$700,000
75-30-88-555-125	Promenade Conf. Center	\$-0-	<u>\$17,000,000</u>	\$17,000,000
	Net Change		<u><b>\$-0-</b></u>	

Section 3. The \$17,700,000 increase in the General Capital Improvement Fund shall be allocated to City Revenue and Expense accounts which shall be amended as follows:

	<u>Description</u> <u>Final Budget</u>	<u>Current Budget</u>	<u>\$ Increase</u>	
<b>REVENUES</b>				
75-1466-000	Sale of Assets	\$-0-	<u>\$17,700,000</u>	\$17,700,000
	Total Revenues		<u>\$17,700,000</u>	
<b>EXPENSES</b>				
75-25-88-555-032	Fire Station 2	\$7,811	\$330,000	\$337,811
75-30-88-555-039	112TH Av/Sher to Fed	\$6	\$660,000	\$660,006
75-50-88-555-062	Westcliff Land Aquisit.	\$-0-	\$480,000	\$480,000
75-50-88-555-066	Amherst School Park	\$-0-	\$650,000	\$650,000
75-50-88-555-110	Stratford Lakes Park	\$-0-	\$250,000	\$250,000
75-50-88-555-114	Buffer Area 108th/112th	\$-0-	\$540,000	\$540,000
75-30-88-555-116	76th Ave Impr at Sher	\$-0-	\$300,000	\$300,000
75-30-88-555-118	Harris Park Parking	\$-0-	\$250,000	\$250,000
75-30-88-555-119	Widen Sheridan at FHC	\$-0-	\$350,000	\$350,000
75-30-88-555-120	Huron St 129th/144th	\$-0-	\$150,000	\$150,000
75-30-88-555-124	Wandering View Site	\$-0-	\$250,000	\$250,000
75-30-88-555-126	Harlan St. Flyover Des.	\$-0-	\$500,000	\$500,000
75-30-88-555-142	LDC Drainage Imprv.	\$-0-	\$315,000	\$315,000
75-30-88-555-143	Misc. Storm Drain Imprv.	\$1,705	\$400,000	\$401,705
75-20-88-555-155	Police Bldg Remodel	\$12,731	\$400,000	\$412,713
75-50-88-555-156	Della Vill Park Acquis	\$1,390	\$760,000	\$761,390
75-50-88-555-228	Community Enhancement	\$2,148	\$2,020,000	\$2,022,148
75-50-88-555-236	Trails Development	\$3,390	\$420,000	\$423,390
75-30-88-555-273	Promenade East	\$2,716,532	\$5,086,000	\$7,802,532
75-50-88-555-327	Cotton Creek Park Exp	\$9,699	\$1,290,000	\$1,299,699
75-50-88-555-391	BDC Trail/Jeffco	\$125	\$1,704,000	\$1,704,125
75-30-88-555-411	Greenlawn Traffic Mitig	\$-0-	<u>\$595,000</u>	\$595,000
	Total Expenses		<u>\$17,700,000</u>	

Section 4 - 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 5. This ordinance shall take effect upon its passage after the second reading.

Section 6. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 14th day of December, 1998.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 21st day of December, 1998.

ATTEST:

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

\_\_\_\_\_  
Mayor

**Date:** December 14, 1998  
**Subject:** Resolution No. re Year End Contingency Transfers  
**Prepared by:** Barbara Gadecki, Assistant to the City Manager

### **Introduction**

City Council action is requested to adopt the attached Resolution which authorizes various transfers from the General Fund contingency account into a variety of General Fund operating accounts and from the Utility Fund contingency account into the Utility Fund Central Charges accounts. No contingency transfers are being requested into any other of the City's funds. These actions are part of the year-end housekeeping functions to address certain unanticipated expenses in various budget accounts. Funds for these transfers are available in the General and Utility Fund contingency accounts.

### **Summary**

The year-end contingency transfer is a routine action to address the need for some additional funds in a variety of accounts as a result of unanticipated expenses that could not be absorbed within the operating budget. Each year, contingency funds are budgeted for unanticipated expenses that cannot be absorbed within the operating budget such as the ones included in this agenda memorandum.

### **Staff Recommendation**

Adopt Resolution No. authorizing the transfer from the General (\$413,000) and Utility (\$108,463) Funds contingency accounts into the various operating budgets as described below.

### **Background Information**

This agenda memorandum and attached resolution is a routine action addressing the need for some additional funds resulting from unanticipated expenses that could not be absorbed within the operating budget.

During the budget development each year, the City Council appropriates money in several operating funds designated as contingency money. In 1998, contingency money was budgeted in the General, Utility and Golf Course Funds. Contingency is money set aside in the budget as a reserve for unanticipated expenditures. Over the course of a year, special projects, studies, weather impacts (dry summers, heavy snows, etc.) and other activities which cannot be anticipated occur, negatively impacting a department's budget. In these special occasions, City Council may authorize the use of contingency funds to cover such expenses.

At year end, departments review their respective budgets to identify where they may absorb any unanticipated expenses, if applicable; it may be that a project came in under budget or that a purchase may be delayed until the next year.



However, if, after reviewing all accounts within a department, the department finds that it cannot absorb additional costs for such unanticipated projects, the department forwards a request to the City Manager's Office to review and make recommendations to the City Council for the transfer of contingency funds to cover such expenses.

The transfers needed from the General Fund contingency are outlined below:

- \$20,000 Needed in the City Council budget due to higher than anticipated expenses for special promotions such as special momemtos and multiple sponsorships and contributions for charitable and nonprofit organizations.
- \$14,000 Needed in the City Manager's Office due to the additional costs in the overtime account associated with the scribe functions the Management Interns serve for City Council Study Sessions (\$5,000) and unanticipated travel associated with miscellaneous development projects (Westminster Mall, Westin Hotel/Promenade project, etc.) (\$9,000).
- \$16,000 Needed in the City Attorney's Office to cover the expenses associated with the contracting of Janice Louden's services while Sharon Widener was on medical leave; City Council authorized this contract on July 27, 1998. An additional \$8,000 is needed to cover computer and furniture purchases that should have been included in the carryover appropriation in early 1998 for incentive funds.
- \$14,000 Needed in the Finance Department due to additional expenses incurred with the upgrade of the Accounting Manager at the end of 1997 but was not included in the 1998 budget (\$5,000). An additional \$9,000 is needed for the imaging of old payroll documents which will free up much needed storage space.
- \$115,000 Needed for the Building Division in Community Development for higher than anticipated number of building plan review expenses. The City contracts out plan reviews for major projects and during this year, the number of building plan reviews exceeded the budget (such major projects include the Westin Hotel, Ice Arena, buildings at Westmoor, two Safeway grocery stores, Kohl's Department Store, and City Park Fitness Center reviews).
- \$30,000 Needed in the Economic Development Division in Community Development to cover unanticipated economic development studies (such as the Westminster Mall Reinvestment Study, Chamber survey, and hotel studies related to the Promenade) and higher than anticipated participation at the Showcase and Business Appreciation events.
- \$140,000 Needed for Park Services in the Parks, Recreation & Libraries Department for water used to irrigate parks and public facilities. Moisture received to date is 6.16 inches (15 inches is an average year); additionally, a number of new parks and greenways were added to the park system which has drained the irrigation budget (new parks and greenways include Skyline Vista, Cotton Creek, 112th Avenue right of way, and Waverly Acres).

\$64,000      Needed for the Street Division of Public Works & Utilities for street lighting; the City has experienced a 21% increase in street light repair costs and during the year, 272 more street lights were added which was much greater than anticipated.

\$413,000      TOTAL

Currently, the General Fund contingency account has \$770,675 available to fund these unanticipated expenses.

Only one request exists in the Utility Fund to cover expenses associated with the reclaimed water project; it follows:

\$108,463      Needed for debt service payments in Central Charges in the Utility Fund for the additional loan received from Colorado Water Resources and Power Development Authority for the reclaimed water project this year.

\$108,463      TOTAL

Currently, the Utility Fund has \$1,233,972 available to fund this unanticipated expense.

Respectfully submitted,

William M. Christopher  
City Manager

Attachment

RESOLUTION

RESOLUTION NO.  
SERIES OF 1998

INTRODUCED BY COUNCILLORS:  
\_\_\_\_\_

WHEREAS, City Council supports year end transfers from the General and Utility Fund Contingency accounts to balance various expenditure accounts due to unanticipated or additional costs, and

WHEREAS, the General Fund Contingency balance is \$770,675 and the Utility Fund Contingency balance is \$1,233,972.

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

\$413,000 be transferred from the General Fund Contingency to the appropriate Operating Budget and \$108,463 be transferred from the Utility Fund Contingency to the appropriate Central Charges accounts as follows:

10-01-01-245-000	City Council special promotions	\$20,000
10-05-05-103-000	CMO Overtime - Scribe Expenses	5,000
10-05-05-144-000	CMO Economic Development Travel	9,000
10-03-12-209-000	City Attorney's Office Contractual Attorney's Fees	8,000
10-03-12-404-000	City Attorney's Office Equipment Funds (computers/furniture)	8,000
10-15-22-100-000	Accounting Division (Finance) Accounting Manager salary upgrade	5,000
10-15-22-209-000	Accounting Division (Finance) payroll document imaging	9,000
10-30-27-209-000	Building Division (Comm Dev) plan review expenses	115,000
10-30-34-299-000	Economic Development (Comm Dev) studies and promotions expenses	30,000
10-50-55-283-000	Park Services (PR&L) irrigation expenses	140,000
10-35-45-286-000	Street Division (PW&U) street light expenses	64,000
	GENERAL FUND TOTAL	\$413,000
20-35-90-601-000	Central Charges reclaimed water debt service payments (principal)	86,128
20-35-90-602-000	Central Charges reclaimed water debt service payments (interest)	9,311

20-35-90-603-169

Central Charges reclaimed water debt  
service payments (paying agent fes)

13,024

UTILITY FUND TOTAL

\$108,463

Passed and adopted this 14th day of December, 1998.

ATTEST:

\_\_\_\_\_  
Mayor

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

**Date:** December 14, 1998  
**Subject:** Councillor's Bill No. re 1999 Appropriations  
**Prepared by:** Barbara Gadecki, Assistant to the City Manager

### **Introduction**

City Council action is requested to pass on first reading the Appropriations Ordinance for 1999, which sets forth the amounts of estimated revenue and expenditures by each separate fund of the City for calendar year and fiscal year 1999. This action is in compliance with the City Charter Budget Provisions.

### **Staff Recommendation**

Pass Councillor's Bill No. on first reading appropriating funds for the 1999 budget.

### **Background Information**

The 1999 Appropriations Ordinance reflects the budget adopted by City Council on October 19, 1998, with one modification. Staff has conducted a preliminary analysis which shows that the City has an actuarial surplus of at least \$1 million in the Property/Liability Fund (i.e., an excess of reserve). Staff proposes appropriating \$1 million to the General Reserve Fund, increasing the amount from \$2,700,000 to \$3,700,000 for 1999. Staff believes transferring these funds is prudent fiscal management in the best interests of the City. Staff is doing further analysis which may deem additional transfers appropriate in the future.

The Appropriations Ordinance does not reflect funds for those capital projects that will be financed through bonds or other debt such as the proposed Westminster Mall Reinvestment project. Funds for this project will be appropriated when the bonds are issued and funds become available.

The 1999 appropriated City Budget totals \$117,078,824, comprised of \$106,840,145 budget, \$2,538,679 contingencies, and \$7,700,000 reserves. All capital improvements, services and programs previously discussed with City Council are reflected in the budget including any adjustments made by City Council at the Budget Retreat and at the various budget public hearings.

Copies of the final printed budget will be distributed to City Council and available to others on or before December 31.

In order to have the ordinance effective January 1, 1999, the first reading of this bill should take place at this time.

Respectfully submitted,

William M. Christopher  
City Manager

Attachment: Councillors Bill

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO.

SERIES OF 1998

INTRODUCED BY COUNCILLORS

---

A BILL

FOR AN ORDINANCE MAKING APPROPRIATIONS TO PAY THE EXPENSE OF CONTINUING THE PUBLIC BUSINESS FOR THE YEAR 1999 AND OTHER PURPOSES REQUIRED BY THE CHARTER AND BY ANY OTHER LAW.

THE CITY OF WESTMINSTER ORDAINS:

Section 1: Non-emergency reserve as of December 31, 1998, along with revenue for the calendar and fiscal year 1999 are combined and reflected as the total in each of the following funds:

NON-EMERGENCY RESERVE AND NEW REVENUE

a.	General Fund		\$53,471,414
b.	Utility Fund		30,800,000
c.	General Capital Improvement Fund	14,159,000	
d.	Fleet Maintenance Fund		1,109,607
e.	General Debt Service Fund		7,547,482
f.	Conservation Trust Fund		700,000
g.	Sales and Use Tax Fund		47,325,000
h.	Open Space Fund		5,716,557
i.	General Reserve Fund		3,700,000
j.	Utility Reserve Fund		4,000,000
k.	Golf Course		<u>2,305,785</u>
	Total Funds Available		\$170,834,845
	Less Transfers		<u>-53,756,021</u>
	GRAND TOTAL		\$117,078,824

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

a.	General Fund		\$53,471,414
b.	Utility Fund		30,800,000
c.	General Capital Improvement Fund	14,159,000	
d.	Fleet Maintenance Fund		1,109,607
e.	General Debt Service Fund		7,547,482
f.	Conservation Trust Fund		700,000
g.	Sales and Use Tax Fund		47,325,000
h.	Open Space Fund		5,716,557
i.	General Reserve Fund		3,700,000
j.	Utility Reserve Fund		4,000,000
k.	Golf Course		<u>2,305,785</u>
	Total Funds Available		\$170,834,845
	Less Transfers		<u>-53,756,021</u>
	GRAND TOTAL		\$117,078,824

This ordinance shall become effective January 1, 1999.

INTRODUCED AND PASSED on first reading this 14th day of December, 1998.

PASSED AND ADOPTED on second reading this \_\_\_ day of December, 1998.

ATTEST:

\_\_\_\_\_  
Mayor

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

Date: December 14, 1998

Subject: Retention of Special Legal Counsel for City of  
Westminster v. Public Service Company of Colorado

Prepared by: Ron Hellbusch, Director, Public Works and Utilities  
Jeffrey M. Betz, Assistant City Attorney

#### Introduction

City Council action is requested to approve the retention of Mr. Steven H. Denman with the law firm of Denman and Corbetta, P.C., for the purpose of consulting with the City Attorney's Office in the prosecution of the City of Westminster's claims against Public Service Company of Colorado. Funds are available in the Central Charges account for this expense.

#### Summary

In anticipation of the completion of the High Service Pump Station, the City entered into a billing arrangement with Public Service Company of Colorado to supply electricity to that facility. The billing arrangement, which is governed by tariffs, not only charges the City for actual electrical usage, but also a demand charge which helps defray costs associated with increased capacity necessary to meet the demands of the High Service Pump Station. Due to construction and design defects, full operation of the High Service Pump Station has been delayed. Nevertheless, Public Service Company of Colorado, consistent with their tariff, continued to charge the City a demand charge. For the years 1996 and 1997, this demand charge has been in excess of \$100,000 over the actual electricity supplied to the High Service Pump Station. In an effort to recover those excessive charges, the City has filed a formal Complaint with the Public Utilities Commission of Colorado alleging that the tariff as applied has resulted in an unjust charge to the City.

The City Attorney's Office has prepared and filed a Complaint and intends to try the case before the Public Utilities Commission. However, in light of the highly specialized area of law involving public utilities and tariffs, special counsel is needed to consult with the City Attorney's Office to assist in preparing discovery and to prepare for the trial.

#### Staff Recommendation

Authorize the City Manager to execute a fee agreement with Mr. Steven Denman with the law firm of Denman and Corbetta, P.C., for special counsel related to the City of Westminster v. Public Service Company of Colorado litigation with a top set amount of \$3,000.

#### Background Information

Mr. Steven Denman is an experienced attorney specializing in the area of work before the Public Utilities Commission of Colorado,



and specifically with electric utilities. Mr. Denman's expertise in public utility law will assist the City Attorney's Office in preparation of its case against Public Service Company of Colorado. Retention of Special Legal Counsel re Public Service Company  
Page 2

Mr. Denman is proposing an hourly rate of \$210 per hour, which is within the rates charged by similar specialists in the Denver metropolitan area. A top set of \$3,000 will be contained in the agreement for these services.

Respectfully submitted,

William M. Christopher  
City Manager

Attachment

#### CONTRACT FOR LEGAL SERVICES

THIS AGREEMENT is made this \_\_\_\_\_ day of December, 1998, by and between DENMAN AND CORBETTA, P.C., Attorneys at Law, (the "Firm") and the CITY OF WESTMINSTER, COLORADO (the "City").

#### RECITALS

1. The City is desirous of contracting with the Firm for consulting with the City Attorney's Office in the prosecution of the City of Westminster's claims against Public Service Company of Colorado.
2. The Firm and its attorneys are authorized to practice law in the State of Colorado.

#### AGREEMENT

1. The Firm shall furnish special legal services (the "Services") to the City as described in Exhibit "A" in connection with the City of Westminster's claims against Public Service Company of Colorado.
2. Steven H. Denman of the Firm shall be principally responsible for the Services.
3. The Firm is acting as an independent contractor; therefore, the City will not be responsible for FICA taxes, health or life insurance, vacation, or other employment benefits.
4. The City shall pay for the Services at the rates set forth in Exhibit "A."

5. This Contract may be terminated by the City with or without cause.

6. No payments to the Firm shall be made prior to the approval of this Contract by the Westminster City Council.

7. Payments pursuant to this Contract shall not exceed Three Thousand Dollars (\$3,000.00) without further written authorization by the City.

8. This Agreement is expressly contingent upon the approval of the City of Westminster's City Council of all of the terms set forth herein. In the event this Agreement is not approved in its entirety by City Council, neither Party shall be bound to the terms of this Agreement.

CITY OF WESTMINSTER                      DENMAN AND CORBETTA, P.C.

By \_\_\_\_\_ By \_\_\_\_\_  
William Christopher      Title \_\_\_\_\_  
City Manager

Address:  
4800 West 92nd Avenue      1290 Broadway, Suite #702  
Westminster, CO 80030      Denver, CO 80203

ATTEST:                      ATTEST:

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

APPROVED AS TO LEGAL FORM:

By \_\_\_\_\_  
City Attorney