

December 16, 1996

7:00 PM

**Notice to Readers:** City Council meeting packets are prepared several days prior to the meetings. Timely action and short discussion on agenda items does not reflect lack of thought or analysis on the City Council's part as issues have been discussed by Council previously. Council may defer final action on an item to a future meeting. 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 Meeting**
4. **Presentations**
  - A. Soccer Award Presentation
  - B. 25 Year Service Award Presentation
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. CB No. 79 re 112th & 128th Avenues Projects (Allen-Dixion)
  - B. CB No. 80 re Cost Recovery for Navajo St Sewer (Harris-Dixion)
  - C. CB No. 81 re Fund Transfer to Golf Course Fund (Dixion-Scott)
  - D. CB No. 82 re Diesel Fuel Cleanup Reimbursement (Harris-Allen)
  - E. CB No. 83 re 1997 Appropriations (Allen-Dixion)
9. **Appointments and Resignations**
  - A. Library Board Resignation (Marc Lee)
  - B. Resolution No. 61 re Reappointments to Boards/Commissions
10. **Public Hearings and Other New Business**
  - A. Employment Contract with Municipal Court Judge Stipech
  - B. Councillor's Bill No. 84 re Municipal Court Judges Salaries
  - C. Resolution No. 62 re Municipal Court Judge Salary Changes
  - D. Public Hearing re Promenade
  - E. Official Development Plan for Westminster Promenade
  - F. Resolution No. 63 re Westminster Promenade Service Commitments
  - G. Employment Contract with City Attorney Martin McCullough
  - H. Confirmation of New Finance Director
  - I. Councillor's Bill No. 85 re Comprehensive Land Use Plan
  - J. Councillor's Bill No. 86 re Extension of Parks/Open Space Tax
  - K. Resolution No. 64 re Year End Contingencies
  - L. Councillor's Bill No. 87 re Rights-Of-Way Vacation
  - M. Councillor's Bill No. 88 re Summit Point Easement Vacation
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
    1. Westminster Promenade Update
    2. 72nd Avenue Project ROW/Signage Negotiations
    3. Proposed Public Parking Lot in South Westminster
    4. Westcliff Park/Open Space Sites Acquisition

### **13. Adjournment**

CITY OF WESTMINSTER, COLORADO  
MINUTES OF THE CITY COUNCIL MEETING  
HELD ON MONDAY, DECEMBER 16, 1996 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 Dixon and Councillors Allen, Harris, Merkel, Scott and Smith. Also present were William Christopher, City Manager; Martin McCullough, City Attorney; and Michele Kelley, City Clerk. Councillor Smith was excused from the meeting at 7:26 P.M.

CONSIDERATION OF MINUTES:

A motion was made by Allen and seconded by Dixon to accept the minutes of the meeting of November 25, 1996 with no additions or corrections. Councillor Merkel requested to abstain as she was not present at the meeting. The motion carried with Councillor Merkel abstaining.

PRESENTATIONS:

Mayor Heil presented certificates to the Coaches and team members of the Westminster Wolverines Under 12 Girls intermediate soccer team in recognition of their first place victory in the 1996 Pepsi-Cup Tournament.

Mayor Heil presented Captain Matt Raia a \$2,500 check in recognition of his 25 years of service to the City.

REPORT OF CITY OFFICIALS:

City Manager Bill Christopher stated that the next regular City Council meeting will be December 23.

CITY COUNCIL COMMENTS:

Mayor Heil reported that the crystal dish gift she received from St. Anthony's Hospital will be put in the trophy case at City Hall.

Mayor Pro Tem Dixon thanked the employees who organized this year's Employee Christmas Party and reported on the Adams County Mental Health Association meeting she attended Saturday.

Councillor Smith was excused from the meeting at 7:26 P.M.

CONSENT AGENDA:

The following items were considered as part of the consent agenda: Councillor's Bill No. 79 re 112th & 128th Avenues projects; Councillor's Bill No. 80 re Cost Recovery for Navajo Street Sewer; Councillor's Bill No. 81 re Fund Transfer to Golf Course Fund; Councillor's Bill No. 82 re Diesel Fuel Cleanup Reimbursement; and Councillor's Bill No. 83 re 1997 Appropriations. 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 Harris and seconded by Dixon to adopt the Consent Agenda items as presented with the recommendation stated on the Council agenda memorandums. The motion carried unanimously.

APPOINTMENTS AND RESIGNATIONS:

A motion was made by Merkel and seconded by Dixon to accept the resignation of Marc Lee from the Library Board. The motion carried unanimously.

A motion was made by Allen and seconded by Harris to adopt Resolution No. 61 making the following reappointments to the City's Boards and Commissions with all terms to expire on December 31, 1998: Board of Adjustment: Gregg Greenstein, Stephen McLaughlin, Betty Roan and James Smithwick; Board of Building Code Appeals: John Brann, Greg Cullison and Delbert Ragland; Environmental Advisory Board: Ben Beaty, David Navarro and Denise Villani; Human Services Board: Carmen Carrillo, Jo Ann Shipp and Ed Thwaites; Library Board: Tommie Ann Gard, Catherine Payne, Bette Tellier and Dori Walter. Upon roll call vote, the motion carried unanimously.

EMPLOYMENT AGREEMENT WITH MUNICIPAL COURT JUDGE JOHN STIPECH:

A motion was made by Dixon and seconded by Merkel to authorize the Mayor to execute an amended employment agreement with John A. Stipech for his services as Presiding Judge at an annual salary of \$78,000 effective January 1, 1997. The motion carried unanimously.

COUNCILLOR'S BILL NO. 84 - MUNICIPAL COURT JUDGES SALARIES:

A motion was made by Dixon and seconded by Merkel to pass Councillor's Bill No. 84 on first reading regarding salary changes for the Presiding Judge and Associate Judge. Councillor Scott stated that Councillor Smith wanted it stated in the record that he would have abstained from voting due to a conflict of interest. Upon roll call vote, the motion carried unanimously.

RESOLUTION NO. 62 - MUNICIPAL COURT JUDGE SALARY CHANGES:

A motion was made by Dixon and seconded by Merkel to adopt Resolution No. 62 regarding a contingency transfer of \$12,600 to provide funding for the compensation increases as approved by Council for Judges Stipech and Holland. Upon roll call vote, the motion carried unanimously.

PUBLIC HEARING RE WESTMINSTER PROMENADE ODP:

At 7:34 P.M. the meeting was opened to a public hearing on the Official Development Plan for the Westminster Promenade, located at the northeast corner of U.S. 36 and 104th Avenue. Planning Manager Larry Hulse entered a copy of the Agenda Memorandum, Planning Commission recommendation and other related items as exhibits. George Smith, coordinating architect and planner, Dan Hummelberg, designer architect and Alan Benjamin, AMC Theatres representative, gave a brief slide presentation on the project. Merl Grogan, 6620 W. 108th Avenue and Mark Hanne, 11021 Otis Street, spoke in favor of the proposal. No one spoke in opposition. At 8:35 P.M. the public hearing was closed.

OFFICIAL DEVELOPMENT PLAN FOR WESTMINSTER PROMENADE:

A motion was made by Harris and seconded by Scott to approve the ODP for the Westminster Promenade based on a finding that the ODP is in substantial compliance with the latest approved amendment to the Northpoint PDP, the Draft Comprehensive Land Use Plan and Sections 11-2-2 and 11-2-3 of the Westminster Municipal Code. The motion carried unanimously.

RESOLUTION NO. 63 - WESTMINSTER PROMENADE SERVICE COMMITMENTS:

A motion was made by Harris and seconded by Scott to adopt Resolution No. 63 approving the allocation of 157 service commitments from Category C, non-residential. Upon roll call vote, the motion carried unanimously.

EMPLOYMENT AGREEMENT WITH CITY ATTORNEY MARTIN MCCULLOUGH:

A motion was made by Dixon and seconded by Merkel to approve a revised employment agreement with Martin McCullough serving in the position of City Attorney for calendar years 1997 and 1998, and authorize the Mayor and City Clerk to execute the agreement on behalf of City Council. The motion carried unanimously.

CONFIRMATION OF NEW FINANCE DIRECTOR:

A motion was made by Scott and seconded by Dixon to confirm the appointment of Mary Ann Parrot as the new Finance Director for the City of Westminster, Colorado. The motion carried unanimously.

COUNCILLOR'S BILL NO. 85 - COMPREHENSIVE LAND USE PLAN:

A motion was made by Allen and seconded by Merkel to pass Councillor's Bill No. 85 on first reading, requiring that the use of a property must conform to the land uses, standards, and policies set forth in the Comprehensive Plan before any rezoning or development approval would be granted, and setting forth procedures for notice and public hearings.

A motion was made by Dixon and seconded by Heil to amend section 11-2.5-2(B) to add the following as the next to last sentence: "The City Manager or his designee shall consult with the City Attorney's office prior to the informal meeting." The amendment carried unanimously. Upon roll call vote, the main motion as amended carried unanimously.

COUNCILLOR'S BILL NO. 86 - EXTENSION OF PARKS/OPEN SPACE TAX:

A motion was made by Harris and seconded by Dixon to pass Councillor's Bill No. 86 on first reading amending the Westminster Municipal Code to extend the Sales and Use Tax for Parks, Open Space, and Trails through December 31, 2016, as approved by voters on November 5, 1996. Upon roll call vote, the motion carried unanimously.

RESOLUTION NO. 64 - YEAR END CONTINGENCY TRANSFERS:

A motion was made by Scott and seconded by Dixon to adopt Resolution No. 64 authorizing the transfer from the General Fund contingency into the various operating budgets as described in the Agenda Memorandum. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 87 - RIGHTS-OF-WAY VACATION:

A motion was made by Merkel and seconded by Allen to pass Councillor's Bill No. 87 on first reading vacating all right-of-way for Pierce Street and Eaton Street shown on and previously dedicated with the Northpoint Center Filing No. 1, First Replat. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 88 - SUMMIT POINTE EASEMENT VACATION:

A motion was made by Allen and seconded by Dixon to pass Councillor's Bill No. 88 on first reading vacating a portion of a 24-foot wide utility/access easement and a 10-foot by 19-foot utility easement within the Summit Pointe Filing No. 1 Subdivision.

Upon roll call vote, the motion carried unanimously.

MISCELLANEOUS BUSINESS:

A motion was made by Harris and seconded by Scott to formally adopt a Resolution accepting the DRCOG 20/20 Vision Plan with the exception on the Sharing of Revenue which Council should oppose except for present and future City Council revenue sharing plans. A motion was made by Dixon and seconded by Merkel to call for the question. The motion carried with dissenting votes by Harris and Scott. The main motion failed with dissenting votes by Allen, Dixon, Heil and Merkel.

Mayor Heil stated there would be an Executive Session for an update on the Westminster Promenade, 72nd Avenue Project ROW/Signage Negotiations, Proposed Public Parking Lot in South Westminster, Westcliff Park/Open Space Sites Acquisition, and a personnel matter.

ADJOURNMENT:

The meeting was adjourned at 9:20 P.M.

ATTEST:

\_\_\_\_\_  
Mayor

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

**Date:** December 16, 1996  
**Subject:** Soccer Award Presentation  
**Prepared by:** Sean Layfield, Recreation Specialist

### **Introduction**

The Mayor, on behalf of City Council, is requested to recognize the Westminster Wolverines Under 12 Girls intermediate soccer team for their first place victory in the 1996 statewide Pepsi-Cup Tournament. Plaques will be presented to each team member and coaches.

### **Summary**

The Westminster Wolverines Under 12 Girls intermediate soccer team captured first place in the 1996 Pepsi-Cup Tournament, November 2 and 3 at Fort Logan field complex in Denver. The Pepsi-Cup is a statewide tournament held each year that allows recreation teams from all around Colorado to compete in their respective age groups. The tournament is sponsored by the Colorado State Youth Soccer Association (CSYSA) and it attracts over 600 teams totaling 9,600 players. The Wolverines finished first in their division, posting a 4-0 record, beating the Aurora Storm team 3-2 in the double overtime championship game.

### **Staff Recommendation**

The Mayor is requested to recognize the Westminster Wolverines and coaches and present plaques for outstanding efforts throughout the Fall soccer season and for their first place victory in the Pepsi-Cup Tournament.

### **Background Information**

The Wolverines are coached by Charlie Knapp, who is assisted by Lee Birk and Joe Boles. This team finished second overall in league play with a 6-1-1 record. Intermediate soccer is the highest level of recreational soccer offered, and eight of the fourteen girls are playing one year up in age.

This team has been built around the philosophy of "Athletes first; Winning Second" and is an ideal representative of how success can be achieved in a developmentally centered, fun environment.

The following individuals were involved in this effort:

Charlie Knapp, Coach; Lee Birk and Joe Boles, Assistant Coaches; Christa Boles, Whitney Paige Burnham, Jaime Gonzales, Lauren Hoguta, Lindsey Holl, Katie Holloman, Jessica Knapp, Melissa Knight, Leah McCormick, Stacia Pitcher, Amanda Porter, Rachel Schetrom, Aspen Schmidt, and Mallory Starr.

Respectfully submitted,

William M. Christopher  
City Manager

**Date:** December 16, 1996  
**Subject:** Presentation of 25 Years of Service Award  
**Prepared by:** Dan Montgomery, Chief of Police

### **Introduction**

City Council action is requested to present a \$2,500 check to Police Captain Matt Raia, in recognition of his 25 years of service to the City of Westminster. Funds have been specifically allocated in the 1996 General Fund Budget for this expense.

### **Summary**

Captain Raia began his career in Westminster on December 27, 1971, when he became employed as a police officer. The purpose of this agenda memorandum is to recognize his 25 years of outstanding service to the City of Westminster.

### **Staff Recommendation**

Mayor present a \$2,500 check to Captain Matt Raia for his 25 years of service to the City of Westminster.

### **Background Information**

On December 27, 1971, Matt Raia became employed as a Westminster Police Officer. He was promoted to the position of Police Sergeant on October 11, 1976 and then, on January 1, 1979 he was elevated to Police Lieutenant. On October 1, 1980, Matt was promoted to the position of Police Captain.

During his 25-year career with the City, Captain Raia has worked in and commanded virtually every division within the police department. At the present time, he is the Captain of the Investigation Services Division. In addition to his police duties, Matt is involved in a variety of activities:

1. Running, bowling, and golf.
2. Past-Worshipful Master of the Edgewater Masonic Lodge, #159 AF&AM
3. Member of the El Jebel Shrine of Denver
4. Member of the Denver Consistory of Scottish Rite Masons, Jefferson-Highlands Commandry #30, Knights Templar of Colorado, Golden Chapter #5 Royal Arch Masons, Jefferson Council #24 Cryptic Masons, and Kincora Council #8 Knight Masons.
5. Member of the Jefferson County Adult Diversion Council.
6. Chairman, Board of Directors, Westminster Federal Credit Union.
7. Member of the Economic Development Task Force.

8. Secretary/Treasurer of the Rocky Mountain Chapter of the FBI National Academy Association.

In 1986, City Council passed a Resolution to award individuals who have given 25 years of service to the City with a \$2,500 check. Under the program, employees receive \$100 for each year of service, in the aggregate, following the anniversary of their 25th year of employment.

As stated in the Resolution, the program recognizes the dedicated service of those individuals who have spent most, if not all, of their career with the City.

Respectfully submitted,

William M. Christopher  
City Manager

**Date:** December 16, 1996  
**Subject:** Library Board Resignation  
**Prepared by:** Michele Kelley, City Clerk

**Introduction**

City Council action is requested to accept the resignation of Marc Lee from the Library Board at this time.

**Summary**

Marc Lee has submitted a letter of resignation from the Library Board effective immediately. A copy of his letter of resignation is attached.

It is recommended that Council delay making an appointment at this time, since Council is currently in the process of reappointing Board and Commission members where terms will be expiring on December 31st of 1996.

**Staff Recommendation:**

Accept the resignation of Marc Lee from the Library Board.

**Background Information:**

Marc Lee was originally appointed to the Library Board on September 25, 1995.

Respectfully submitted,

William M. Christopher  
City Manager

Attachment

**Date:** December 16, 1996

**Subject:** Resolution No. re Appointments to Boards and Commissions

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

### **Introduction**

City Council action is requested to consider the first set of reappointments to the various Boards and Commissions where terms of office will expire on December 31, 1996.

### **Summary**

In 1993, Council implemented a performance feedback system in conjunction with the consideration of reappointment of individual Board and Commission members when terms of office were to expire.

The Chairperson and Vice Chair of each Board were requested to give performance feedback to Council. This information has previously been submitted to City Council.

Beginning in 1994, Council has considered the various appointments over several Council meeting periods and the second half of the reappointments will be scheduled for December 23rd Council meeting.

At this time, Council is considering reappointments to the Board of Adjustment, Board of Building Code Appeals, Environmental Advisory Board, Human Services Board and Library Board. Each individual whose term will expire in 1996 was contacted and asked if they were interested in being reappointed to the Board, if Council so desires. The new appointments are for two years.

### **Staff Recommendation**

Adopt Resolution No. making reappointments to the Board of Adjustment, Board of Building Code Appeals, Environmental Advisory Board, Human Services Board and Library Board with all terms to expire on December 31, 1998.

### **Background Information**

The terms of office of four of the Board of Adjustment members will expire on December 31, 1996. Gregg Greenstein, Stephen McLaughlin, Betty Roan and James Smithwick have all indicated they are interested in being reappointed to the Board.

The terms of office of three of the Board of Building Code members will expire on December 31, 1996. John Brann, Greg Cullison and Delbert Ragland are all interested in being reappointed to the Board.

The terms of office of four of the Environment Advisory Board members will expire on December 31, 1996. Ben Beaty, David Navarro and Denise Villani are all interested in being reappointed to the Board. John Godzac does not wish to be reappointed.

Appointments to Boards

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The terms of office of three of the Human Services Board members will expire on December 31, 1996. Carmen Carrillo, Jo Ann Shipp and Ed Thwaites are all interested in being reappointed to the Board if Council so desires.

The terms of office of four of the existing Library Board members will expire on December 31, 1996. Tommie Ann Gard, Catherine Payne, Bette Tellier and Dori Walter are all interested in being reappointed to the Board.

Currently the City has 48 citizens within the 1996 "pool" to fill vacancies on the various Boards and Commissions. It is recommended that Council only make reappointments at this time. After all reappointments have been made, new appointments can be scheduled using the existing pool of citizens who are seeking appointment.

Respectfully submitted,

William M. Christopher  
City Manager

Attachment

RESOLUTION

RESOLUTION NO.

INTRODUCED BY COUNCILLORS

SERIES OF 1996

CITY OF WESTMINSTER BOARD AND COMMISSION APPOINTMENTS

WHEREAS, The City Council has established a review process for members of the various Boards and Commissions prior to expiration of the current term of office; and

WHEREAS, City Council has reviewed evaluations of the current Board and Commission members for the Board of Adjustment, Board of Building Code Appeals, Environmental Advisory Board, Human Services Board and Library Board; and

WHEREAS, City Council has also reviewed attendance records for each of the Board of Adjustment, Board of Building Code Appeals, Environmental Advisory Board, Human Services Board and Library Board meetings; and

WHEREAS, Each member whose term is to expire on December 31, 1996 has been contacted and asked if they wish to be reappointed to the Board where they are currently serving; and

WHEREAS, It is important to have each City Board or Commission working with its full complement of authorized appointees to carry out the business of the City of Westminster.

NOW THEREFORE, be it resolved that the City Council of the City of Westminster does hereby reappoint the following individuals to the City of Westminster Board or Commission listed below with the terms of office to expire December 31, 1998.

| <u>NAME</u>        | <u>BOARD/COMMISSION</u>        |
|--------------------|--------------------------------|
| Gregg Greenstein   | Board of Adjustment            |
| Stephen McLaughlin | Board of Adjustment            |
| Betty Roan         | Board of Adjustment            |
| James Smithwick    | Board of Adjustment            |
| John Brann         | Board of Building Code Appeals |
| Greg Cullison      | Board of Building Code Appeals |
| Delbert Ragland    | Board of Building Code Appeals |
| Ben Beaty          | Environmental Advisory Board   |
| David Navarro      | Environmental Advisory Board   |
| Denise Villani     | Environmental Advisory Board   |
| Carmen Carrillo    | Human Services Board           |
| Jo Ann Shipp       | Human Services Board           |
| Ed Thwaites        | Human Services Board           |
| Tommie Ann Gard    | Library Board                  |
| Catherine Payne    | Library Board                  |
| Bette Tellier      | Library Board                  |
| Dori Walter        | Library Board                  |

Passed and adopted this 16th day of December, 1996.

ATTEST:

\_\_\_\_\_  
Mayor

City Clerk

**Date:** December 16, 1996

**Subject:** Employment Agreement with John Stipech and Municipal Court Judge Salaries

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

### **Introduction**

City Council is requested to: (1) approve an employment agreement with John A. Stipech for services as Presiding Judge; (2) take formal action on the proposed compensation for Municipal Court Judges; and (3) approve a transfer from the General Fund Contingency Account to fund the proposed pay changes.

### **Summary**

Since January 1, 1996, City Council has had an employment agreement with John A. Stipech for his services as full-time Presiding Judge. As a followup to the Council's recent performance review meeting with Judge Stipech, Council has indicated that they wish to increase his annual compensation by 4% to \$78,000. The attached proposed agreement with Judge Stipech is identical to the current employment with the exception of the updated term of the contract and the revised salary.

Council is also being asked to approve an ordinance which would change the method of paying associate judges from an annual salary basis to an hourly compensation rate and to set this hourly salary at \$35 per hour. Judge Stipech and City Staff believe that this will be a more cost effective means for compensating associate judges since the compensation will be based on the actual number of hours worked. Judge Stipech is also asking that Judge Hilary Holland receive half time benefits as a .5 FTE employee.

Since the proposed increases in compensation for the Presiding and Associate Judge are not being determined until after the budget is approved, the increases have not been included in the approved Municipal Court budget for 1997. A contingency transfer is therefore being requested.

### **Staff Recommendation**

1. Authorize the Mayor to execute an amended employment agreement with John A. Stipech for his services as Presiding Judge at an annual salary of \$78,000 effective January 1, 1997.
2. Pass Councillor's Bill No.     on first reading regarding salary changes for the Presiding Judge and Associate Judge.
3. Adopt Resolution No.     regarding a contingency transfer of \$12,600 to provide funding for the compensation increases as approved by Council for Judges Stipech and Holland.

## **Background Information**

Since July 1991, City Council has used an employment contract for presiding judge services. This approach is consistent with the practice of having employment contracts with the City Manager and the City Attorney since they also serve at the pleasure of City Council. The contract with the Presiding Judge has addressed the overall duties of the position, the term of the contract, termination and severance provisions, salary, benefits, and City paid professional-related expenses.

In December 1995, the Council approved an employment agreement with John A. Stipech, the City's first full-time Presiding Judge.

The remainder of the .6 FTE allocated for Municipal Court Judges was shared equally by Judge Frederic Rodgers and Judge Hilary Holland. With the recent departure of Judge Rodgers, Presiding Judge Stipech has been utilizing Judge Holland as the sole associate judge. It is anticipated that she will be scheduled to work a .5 FTE during 1997. In the capacity as a 20 hour per week employee, Judge Holland would be eligible for pro-rated City benefits.

The salaries approved for Associate Judges for 1996 were: \$22,181 per annum for the First Associate Judge (Judge Rodgers) and \$19,335 per annum for the Second Associate Judge (Judge Holland). The corresponding hourly rate for these annual salaries is \$35.45 per hour for Judge Rodgers and \$30.90 per hour for Judge Holland. Judge Stipech is recommending that Council set the associate judge salary on an hourly rather than an annual basis. The advantage of changing to an hourly basis would be that an associate judge would receive compensation only for those hours in which the judge is required to be in court or performing other judicial duties. The current arrangement, in essence, guarantees a set salary regardless of the number of hours actually worked.

Judge Stipech is also recommending that the hourly rate for the associate judge be set at \$35 per hour. This amount is slightly less than the salary previously authorized for Judge Rodgers and a 13.3% increase over the \$30.90 per hour rate currently provided to Judge Holland. In addition, Judge Stipech is recommending that the substitute judges which are retained to fill in during absences of the presiding and associate judges receive the same hourly compensation as the associate judge. This would represent an increase of 16.7% over the \$30 hourly rate currently provided to these attorneys.

As stated above, it is Judge Stipech's intent to utilize Judge Holland as a .5 FTE. The dollars available as a result of the additional .1 FTE that has been included in the Municipal Court staffing for 1997 would be used to augment funds available for substitute judges.

The proposed changes in judicial compensation, if approved, would represent a total increase of \$12,600. The breakdown for this total is: \$3,000 for the 4% increase for Judge Stipech, \$2,300 for the increase in the associate judge salary, and \$7,300 for employment benefits to be provided to Associate Judge Holland. Since these additional funds were not included in the approved 1997 City budget, a contingency transfer of this amount is being requested. The 1997 contingency account balance prior to the transfer for increases for Municipal Court Judge salaries and benefits is \$1,122,856.

The attached Councillor's Bill will implement the requested salary changes for the Judges while the attached Resolution authorizes the contingency transfer required to fund these expenses.

Respectfully submitted,

William M. Christopher  
City Manager

Attachments

RESOLUTION

RESOLUTION NO.

INTRODUCED BY COUNCILLORS

SERIES OF 1996

\_\_\_\_\_

INCREASE IN COMPENSATION FOR MUNICIPAL COURT JUDGES

WHEREAS, City Council has determined that pay adjustments for the Municipal Court Judges are warranted, and

WHEREAS, the Council has authorized an increase in the compensation for Judges Stipech and Holland, and

WHEREAS, Judge Holland will be appointed to a .5 FTE status and thereby is eligible for half-time benefits requiring an additional expenditure of \$7,300 per year, and

WHEREAS, monies were not allocated in the approved 1997 Budget for judicial compensation changes, and

WHEREAS, the balance of the 1997 General Fund Contingency Account is \$1,122,856.

NOW, THEREFORE, be it resolved that the Westminster City Council authorizes a transfer of \$12,600 from the General Fund Contingency account to the appropriate Municipal Court and General Fund Central Charges accounts to provide for expenses related to changes in the Municipal Court Presiding Judge and Associate Judge's compensation.

Passed and adopted this 16th day of December, 1996.

ATTEST:

\_\_\_\_\_  
Mayor

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

BY AUTHORITY

ORDINANCE NO.  
SERIES OF 1996

COUNCILLOR'S BILL NO. \_\_\_\_\_  
INTRODUCED BY COUNCILLORS  
\_\_\_\_\_

A BILL  
FOR AN ORDINANCE AMENDING THE MUNICIPAL COURT JUDGES SALARIES

THE CITY OF WESTMINSTER ORDAINS:

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

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

~~\$75,000~~ \$78,000 per annum payable bi-weekly.

**1-7-3: ASSOCIATE JUDGE:** The salaries of the Associate Judge shall be as follows:

~~First~~ Associate Judge ~~\$22,484~~ \$35.00 per HOUR ~~annum~~ payable bi-weekly

~~Second~~ Associate Judge ~~\$19,335 per annum payable bi-weekly~~

Section 2. Severability: If any section, paragraph, clause, word or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part deemed unenforceable shall not affect any of the remaining provisions.

Section 3. The provisions of this ordinance shall take effect on January 1, 1997.

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 16th day of December, 1996.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED THIS \_\_\_\_\_ day of \_\_\_\_\_, 1997.

ATTEST:

\_\_\_\_\_  
Mayor

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

## EMPLOYMENT AGREEMENT

THIS AGREEMENT, effective as of the 1st day of January, 1997, by and between the City of Westminster, State of Colorado, a municipal corporation, hereinafter called "CITY," and JOHN A. STIPECH, hereinafter called "EMPLOYEE," both of whom understand as follows:

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

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

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

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

### SECTION 1. DUTIES:

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

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

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

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

### SECTION 2. TERMS:

A. During the term of this Agreement, EMPLOYEE agrees to remain in the exclusive employ of CITY. Subject to the provisions of Section 2.D. and Section 3 of this Agreement, EMPLOYEE will serve as Presiding Municipal Judge for calendar years 1997 and 1998. EMPLOYEE is employed as a full-time employee and shall be compensated based upon his devoting normal business hours to his duties as Presiding Municipal Judge.

The term "employed" shall not be construed to include other judicial service, private law practice, teaching, writing, consulting work or other related activities performed on EMPLOYEE'S time off.

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

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

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

SECTION 3. TERMINATION, NOTICE AND SEVERANCE PAY:

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

B. In the event the CITY at any time during the employment term reduces the salary or other financial benefits of EMPLOYEE in a greater percentage than an applicable across the board reduction for all City employees, or in the event the CITY refuses, following written notice to comply with any other provisions benefiting EMPLOYEE herein, or the EMPLOYEE resigns following a formal suggestion by the City Council that he resign, then, and in that event, EMPLOYEE may, at his option, be deemed to be "terminated" at the date of such reduction, such refusal to comply or such resignation, within the meaning and content of the thirty (30) days' severance pay provisions herein.

C. In the event EMPLOYEE voluntarily resigns his position with the CITY before expiration of the aforesaid term of employment, then EMPLOYEE shall give the CITY four (4) months notice in advance in writing.

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

SECTION 4. SALARY:

A. The CITY agrees to pay EMPLOYEE for his services rendered pursuant hereto an annual base salary of seventy-eight thousand dollars (\$78,000) effective January 1, 1997, payable in installments at the same time as other employees of the CITY are paid.

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

SECTION 5. HOURS OF WORK:

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

SECTION 6. DUES AND SUBSCRIPTIONS:

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

SECTION 7. PROFESSIONAL DEVELOPMENT:

CITY agrees to budget and to pay registration, travel and subsistence expenses of EMPLOYEE for professional and official travel to meetings and occasions related to the professional development of EMPLOYEE and to official and other functions as a representative of the City, including, but not limited to, the American Bar Association, the Colorado Bar Association, the Colorado Municipal Judges Association, and continuing legal education courses and seminars related to topics of the judiciary. In addition to reasonably funding educational/training programs for EMPLOYEE's professional staff, sufficient funds shall be budgeted to permit EMPLOYEE to attend at least one national, one statewide, and one local educational/training program each year.

SECTION 8. GENERAL EXPENSES:

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

SECTION 9. FRINGE BENEFITS:

EMPLOYEE will be allowed all benefits as are extended to Department Head level employees, including the monthly car allowance, except that when such benefits are in conflict with this contract, said contract shall control. The EMPLOYEE's years of service with the City in an unbenefited capacity will be treated as years of continuous municipal service when the level of employee benefits is computed.

SECTION 10. OTHER TERMS AND CONDITIONS OF EMPLOYMENT:

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

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

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

SECTION 11. GENERAL PROVISIONS:

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

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

C. This Agreement becomes effective on January 1, 1997, and shall be in effect through calendar years 1997 and 1998.

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

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

F. Effective January 1, 1997, this Agreement replaces and supercedes prior employment agreements between CITY and EMPLOYEE.

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

Approved by the Westminster City Council on December 16, 1996, contingent upon approval of the Councillor's Bill amending Municipal Judge salary.

ATTEST:

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

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
John A. Stipech

**Date:** December 16, 1996  
**Subject:** The Westminster Promenade Official Development Plan  
**Prepared by:** Max Ruppeck, Planner III

## **Introduction**

City Council action is requested to hold a public hearing, and later on the agenda, take action on the Official Development Plan (ODP) for the Westminster Promenade (formerly known as Northpoint Planned Unit Development (PUD) Filing 1).

## **Summary**

The City of Westminster's vision of a focal point to the City at 104th Avenue and U.S. 36 will take another giant step forward next year with the addition of a unique, pedestrian oriented entertainment complex featuring a 24-screen AMC theatre. The project will serve as a major leisure/cultural/entertainment center for the northwest metropolitan area. The complex will be designed so a family can spend an entire evening or afternoon at a single location.

First proposed as a theatre with a few development "pad" sites by the owner and developer, the City seized upon the opportunity to create an architectural statement at this important visual entry to the City of Westminster. Stringent architectural guidelines have been developed, and call for high quality Colorado contemporary design with a pedestrian focus.

The AMC theatre, which anchors the development on the west end, will represent the new AMC prototype with oversize screens, surround-sound and high backed seating that places the viewer closer to the screen. A plaza will be located in front of the theatres leading to a promenade of shops and restaurants extending to Pierce Street (to be renamed Westminster Boulevard). This type of pedestrian oriented theatre/restaurant/shops complex is the first of its kind in the State of Colorado.

To encourage bike and pedestrian access to the project, an infrastructure of eight-foot-wide sidewalks and trails will be built, linking existing trail systems. Intersection improvements at 104th Avenue and Westminster Boulevard will accommodate the additional traffic. An RTD Park-N-Ride is also planned on the southwest corner of U.S. 36 and 104th Avenue.

Applicant/Property Owner 104th and Pierce Development LLC, Steve Gittleman and Skip Nostrand.

Location The property is located northeast corner of U.S. 36 and 104th Avenue.

Size of site 31.94 acres.

Description of Proposed Use The Westminster Promenade is a unique mix of entertainment related commercial uses including a 24-screen AMC Theater, restaurants, retail and office uses. The AMC Theater will have a capacity of 5,100 seats and will contain 90,000 square feet. The theater is scheduled for opening in November 1997. Retail uses are projected to comprise 80,000 square feet and restaurants uses will take up 50,000 square feet. Office use square footage has not been determined at this time, but the total development on the site for all types of land use will not exceed 275,000 square feet.

Access Vehicular access to the site will be provided at three points: two signalized full-turn movements off of Pierce Street (to be renamed Westminster Boulevard), and a right-in/right-out access point off of 104th Avenue. Major widening of 104th Avenue as well as intersection improvements at 104th and Westminster Boulevard are required and will be completed prior to the opening of the facility. Westminster Boulevard will be constructed by the City between 104th and 113th Avenue in 1997.

Bicycle and pedestrian access to the site will be provided by eight foot wide sidewalks along 104th Avenue and Westminster Boulevard, a future 8 foot wide trail paralleling U.S. 36, and a 20 foot wide pedestrian bridge over Westminster Boulevard which will link the Promenade to future development to the east and City Park.

A future RTD park-n-Ride will be constructed at the southwest quadrant of U.S. 36 and Sheridan Boulevard providing excellent bus service to the development. Also, a future east/west bus route along 104th Avenue is being proposed by RTD which will be contiguous across the entire City (from Wadsworth Parkway to the eastern City limits).

#### Major Issues -

The developer and their consultants have been working with City Staff for several months to develop plans for Lot 1 of the Northpoint PUD. The scope of the project has evolved from just a multiplex theater plus a few miscellaneous development pads to a total entertainment center with theaters, restaurants and other entertainment related retail/service uses.

On September 10, 1996, a presentation was made by the developer and City Staff at the City Park Recreation Center. Several hundred individual notices were mailed to Sheridan Green residents and approximately 60 persons attended. In general, questions raised by the residents included traffic volumes generated by the project, buffering of adjacent residential uses, future land uses in the complex, the scale and character of the proposed buildings and security provisions to be taken. These issues were already considered by the City and developer and will be addressed later in this Agenda Memorandum.

City Participation The City of Westminster and the landowners/developers have been involved in very complex negotiations regarding the design, construction, financing and timing of this project.

#### **Planning Commission Recommendation**

Planning Commission held a public hearing on the Westminster Promenade ODP on November 26, 1996 and unanimously recommended approval. Approximately 25 persons attended the public hearing, with four persons giving testimony.

(There were two public hearings at the November 26 meeting and it is uncertain how many persons were in attendance for this hearing.) Two people who were residents of the adjacent Sheridan Green subdivision expressed support of the proposed project, emphasizing that the 130' buffer the City is providing on the west side of the Sheridan Green subdivision is greatly appreciated by the residents. One person, a resident of the Arrowhead subdivision spoke in opposition expressing concern that there was insufficient notice and public input to the planning process, and indicated opposition to renaming Pierce Street to "Westminster Boulevard." Another area resident asked if the on-site parking lot lighting would impact the surrounding residential neighborhood. Staff responded that as Pierce Street traversed the property, its alignment shifted so that it had a different east-west position at its northern and southern points, thus justifying a different naming than "Pierce Street." With regard to the lighting, the developer will conduct photometric studies to determine the impact on surrounding areas. Light source shielding will be employed to direct light away from surrounding properties. Staff offered to meet with the resident expressing concerns about this lighting once the photometric studies are completed.

In response to the comments of insufficient public notice or input, it should be stated that the City mailed notices to more than 1,000 residents of the Sheridan Green subdivision to invite them to a presentation of the project on September 10, 1996. The 60 attendees were invited to respond and provide input to the planning of the project at the meeting or to meet with Staff at anytime subsequent to the meeting.

### **Staff Recommendation**

1. Hold a public hearing.
2. Approve of the Official Development Plan for the Westminster Promenade based on the finding that the Official Development Plan is in substantial compliance with the latest approved amendment to the Northpoint Preliminary Development Plan, the Draft Comprehensive Land Use Plan and Section 11-2-2 and 11-2-3 of the Westminster Municipal Code.
3. Approve Resolution No.    approving the allocation of 157 service commitments from Category C, non-residential.

### **Background Information**

The Westminster Promenade is an exciting new family oriented entertainment complex being planned on the Northpoint PUD in the northeast quadrant of the US 36/104th Avenue interchange. Phase I of this project, and the subject of this ODP is the development of a state-of-the-art 24-screen AMC Theater, and a 130,000 square foot retail/restaurant complex to be built adjacent to the theater. The overall design concept of the Promenade is to have the theater serve as the western "anchor" of the Promenade. A plaza will be located in front of the theaters which leads into an approximately 50 foot wide "Promenade" extending to Westminster Boulevard. The Promenade will be lined with a mixture of one and two-story shops. The architectural character of the shops is illustrated in the ODP and the design of the Promenade shops will be tightly controlled by architectural design guidelines. The design objective is to create a "turn of the century" Colorado downtown character using traditional materials (stone, brick, glass etc.) similar to downtowns like Boulder and Ft. Collins.

Custom lighting, signage, site furnishings and landscaping of the project will also be carefully designed and regulated to ensure the project's quality and consistency.

### Roads and Traffic

Simultaneous with the construction of the AMC Theater and Promenade shops, the City will build Westminster Boulevard (Pierce Street) from 104th to 113th Avenue. The City hired an independent traffic consulting firm to study the traffic demands and how these demands are to be accommodated. This new street will be a four-lane minor arterial with a raised median and will have double left and double right turns at the 104th Avenue intersection. The street will be depressed where the Promenade Bridge crosses over the street, keeping the Promenade at approximately the same level across the street.

Westminster Boulevard has been designated on the City's Comprehensive Roadway Plan as a minor arterial since 1994, and was designed to traverse the Northwest Business Park immediately north of the Promenade, when that subdivision was approved in 1974. Two signalized access points are proposed off of Westminster Boulevard into the Promenade development; one approximately 650' north of 104th Avenue and the second approximately 1200' further north. There will be no street connections from Westminster Boulevard to the existing Sheridan Green subdivision. This was the overwhelming preference of the area residents.

### Buffering

In order to minimize the negative impacts of Westminster Boulevard on the adjacent residents, a 130' bermed and planted buffer will be provided between the road curb and the rear lot line of the western most row of Sheridan Green lots. The landscaping will be installed during the first planting season after the roadway is completed (Spring of 1998).

### Future Uses

Tentative plans include an extension of the Promenade eastward from the Promenade bridge for a distance of about 1500' to Big Dry Creek. The pedestrian facility will bridge over Big Dry Creek and enter into City Park. While plans and negotiations have not been completed, some land uses along the promenade may include a two-rink ice arena, a lake, and offices. Further meetings will be held with neighborhood residents in early 1997 as these plans further develop.

### Architectural/Building Materials

The 24-screen AMC Theater building will be a new AMC prototype specifically designed to meet the architectural guidelines developed for the Promenade. The building will be primarily stone, simulated stucco, steel and glass and the building will be 45 feet tall at its highest point. It will incorporate peaked elements on all four sides, and its mass will be "broken up" so as not to appear to be a large "box." The Promenade will have a turn-of-the-century Colorado "main street" appearance with a ground floor facade comprised mainly of glass windows and doors. The Promenade will be approximately 50 feet wide and will allow for outdoor eating and other activities to occur within 8 feet of the building facade line. The Promenade will also incorporate site furnishings including a performance stage, fountain, seating, shelters, pedestrian signage and planters. It will have a unique paving pattern to integrate the entire length of the Promenade from the theater to City Park.

### Safety and Security

At the Neighborhood meeting held on September 10, 1996, several residents expressed concern about the safety and security of the project. AMC and the property owner stated that it is in their vital interest to have an entertainment center that people of all ages can enjoy safely. The developers will augment City policing with their own security personnel.

### Public Land Dedication, Parks/Trails

The developer will dedicate the necessary land for the widening of 104th Avenue as well as easements for sidewalks and trails along Westminster Boulevard, 104th Avenue and US 36. No dedications are required for parks or open space.

### Signage

A comprehensive sign program is being jointly developed by the City and the developer which will be in accordance with the City code provisions for signage in planned unit developments. The optimal free-standing project sign oriented to US 36 shall be limited to 25' (the ODP shows the maximum height to be 40') until such time that:

1. The sign is deemed to be necessary.
2. The optimal height of the sign is determined by specific site analysis.

### Service Commitment Category

One hundred and fifty-seven (157) service commitments will be taken from Category C, non-residential.

### Surrounding Zoning

The parcels immediately south (across 104th Avenue) and northeast (across Westminster Boulevard) are part of the Northpoint PUD. The southern portion of Northpoint allows hotel and commercial/retail uses. The land across Westminster Boulevard currently allows office and residential uses and "Public Uses" (The public use portion is currently owned by the City. This land was originally acquired from RTC by the City for the aquarium project which has since committed to Denver.) The land immediately to the north is within unincorporated Jefferson County.

Respectfully submitted,

William M. Christopher  
City Manager

attachments

RESOLUTION

RESOLUTION NO.

INTRODUCED BY COUNCILLORS

SERIES OF 1996

\_\_\_\_\_

CATEGORY C SERVICE COMMITMENT AWARD FOR THE WESTMINSTER  
PROMENADE FILING NO. 1, LOT 2, NORTHPOINT CENTER  
PLANNED UNIT DEVELOPMENT

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 C, Non-Residential Developments; and

WHEREAS, Category C is the category which is appropriate for the Westminster Promenade Filing No. 1, Lot 2, Northpoint Center Planned Unit Development; and

WHEREAS, there are 228.7 Service Commitments available for award in Category C; and

WHEREAS, the City Council has approved the Official Development Plan for the Westminster Promenade Filing No. 1, Lot 2, Northpoint Center Planned Unit Development.

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

1. An award of 157.0 Service Commitments is hereby made for use in the Westminster Promenade Filing No. 1, Lot 2, Northpoint Center Planned Unit Development.
2. A reduction of 157.0 Service Commitments is hereby made to the total number of Service Commitments available in Category C.
3. This award shall be valid for a period ending December 16, 1998.
4. This shall constitute the resolution required under Section 11-5-4 of the City Code.

Passed and adopted this 16th day of December, 1996.

ATTEST:

\_\_\_\_\_  
Mayor

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

**Date:** December 16, 1996

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

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

### **Introduction**

City Council consideration is requested pertaining to the attached revised Employment Agreement with City Attorney Martin McCullough.

### **Summary**

At the time City Council appointed Martin McCullough as City Attorney in February, 1986, an employment agreement was formally approved by the Council to reflect the terms and conditions of his employment. Each year, the employment contract is reviewed and revised based on the results of the Council's performance evaluation of the City Attorney. This year's evaluation was completed on November 18. City Council action is requested to extend this contract for the calendar years 1997 and 1998 in substantially the same form as attached. A salary adjustment is being suggested based on salary survey data of other City Attorney positions in the Denver metropolitan area generated by the Department of General Services, as well as the salary survey of public officials published annually by the Colorado Municipal League.

### **Staff Recommendation**

Approve a revised employment agreement with Martin McCullough serving in the position of City Attorney for calendar years 1997 and 1998, and authorize the Mayor and City Clerk to execute the agreement on behalf of City Council.

### **Background Information**

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

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

The City Attorney's employment agreement has typically followed substantially the same format and covered essentially the same terms and conditions as the City Manager's employment contract. The existing contract between Marty and the City is scheduled to expire December 31, 1997. The only changes in the revised agreement compared to the existing agreement are as follows:

> The City Attorney's total salary will increase 5.2% to \$91,500.

> The increased compensation is to be divided between base salary and deferred compensation. The annual base salary will become \$88,000 plus \$3,500 as deferred compensation. The first base salary installment will include a \$1,000 advance against the total \$88,000 base salary.

All other provisions of the contract would remain the same. The proposed agreement would become effective as of January 1, 1997. The salary adjustment is consistent with the 3.5% across-the-board adjustment for other City employees as part of the 1997 Pay Plan previously approved by Council.

City Council was previously provided with a salary survey of other area city attorneys' compensation packages. The average and median salary of the nine cities surveyed indicated a median 1996 compensation of \$86,580 and an average of \$87,846, which includes any deferred compensation for 1996. This compares to the 1996 annual salary and deferred compensation for the Westminster City Attorney in the amount of \$86,940.

Respectfully submitted,

William M. Christopher  
City Manager

Attachment

## EMPLOYMENT AGREEMENT

THIS AGREEMENT, effective as of the 1st day of January, 1997, by and between the City of Westminster, State of Colorado, a municipal corporation, hereinafter called "CITY" as party of the first part, and MARTIN R. McCULLOUGH, hereinafter called "EMPLOYEE", as party of the second part, both of whom understand as follows:

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

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

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

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

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

### SECTION 1. DUTIES:

A. CITY hereby agrees to continue the employment of EMPLOYEE as City Attorney of CITY to perform the duties and functions specified in Section 4.13 of the City Charter, Chapter 16 of Title I of the City Code and such other legally and ethically permissible and proper duties and functions as the City Council shall from time to time assign.

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

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

### SECTION 2. TERMS:

A. During the term of this Agreement, EMPLOYEE agrees to remain in the exclusive employ of CITY. EMPLOYEE will serve as City Attorney for calendar years 1997 and 1998. EMPLOYEE agrees neither to seek, to accept, nor to become employed by any other employer until said termination date, unless said termination date is effected as hereinafter provided.

The term "employed" shall not be construed to include occasional teaching, writing, consulting work or other related activities performed on EMPLOYEE'S time off.

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

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

D. This Agreement shall be considered for renewal annually, no later than October 31 of each year to address extending the Agreement, salary, and other changes negotiated between the parties. Each renewal of the Agreement shall be for a specified time. If this Agreement is not renewed, or terminated, as set forth in the Agreement, and the Agreement expires, EMPLOYEE shall continue to work under the terms of the last executed Agreement until a new Agreement is executed or EMPLOYEE is terminated after receiving four (4) months' written notice of termination.

SECTION 3. TERMINATION, NOTICE AND SEVERANCE PAY:

A. In the event City Council decides to terminate EMPLOYEE before expiration of the aforementioned term of employment and during such time that EMPLOYEE is willing and able to perform the duties of City Attorney, then and in that event, the CITY agrees to give EMPLOYEE four (4) months' written notice or to pay EMPLOYEE a lump sum cash payment equal to his base salary for the ensuing four (4) months, provided however, that in the event the EMPLOYEE is terminated because of his conviction of any illegal act, then, and in that event, CITY has no obligation to give notice or pay the aggregate severance sum designated in this paragraph.

B. In the event the CITY at any time during the employment term reduces the salary or other financial benefits of EMPLOYEE in a greater percentage than an applicable across the board reduction for all City employees, or in the event the CITY refuses, following written notice to comply with any other provisions benefiting EMPLOYEE herein, or the EMPLOYEE resigns following a formal suggestion by the City Council that he resign, then, and in that event, EMPLOYEE may, at his option, be deemed to be "terminated" at the date of such reduction, such refusal to comply or such resignation, within the meaning and content of the four (4) months' severance pay provisions herein.

C. In the event EMPLOYEE voluntarily resigns his position with the CITY before expiration of the aforesaid term of employment, then EMPLOYEE shall give the CITY four (4) months notice in advance in writing.

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

SECTION 4. SALARY:

A. The CITY agrees to pay EMPLOYEE for his services rendered pursuant hereto an annual base salary of \$88,000, plus annual deferred compensation of \$3,500, effective January 1, 1997, payable in installments at the same time as other employees of the CITY are paid. The first installment of EMPLOYEE'S base salary will include a \$1,000 advance against the total \$88,000 base salary.

B. CITY agrees to review the EMPLOYEE'S performance annually, no later than October 31 of each year. Salary evaluation each year shall be at the discretion of the CITY.

SECTION 5. HOURS OF WORK:

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

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

SECTION 6. DUES AND SUBSCRIPTIONS:

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

SECTION 7. PROFESSIONAL DEVELOPMENT:

CITY agrees to budget and to pay registration, travel and subsistence expenses of EMPLOYEE for professional and official travel to meetings and occasions related to the professional development of EMPLOYEE and to official and other functions as a representative of the City, including, but not limited to, the Colorado Bar Association, NIMLO, the Colorado Municipal League, and continuing legal education courses and seminars related to the practice of municipal law. In addition to reasonably funding educational/training programs for EMPLOYEE's professional staff, sufficient funds shall be budgeted to permit EMPLOYEE to attend at least one national, one statewide, and one local educational/training program each year.

SECTION 8. GENERAL EXPENSES:

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

SECTION 9. FRINGE BENEFITS:

EMPLOYEE will be allowed all benefits as are extended to all other Department Head level employees, including a monthly car allowance in the amount of \$300 per month, except that when such benefits are in conflict with this Agreement, said Agreement shall control.

SECTION 10. OTHER TERMS AND CONDITIONS OF EMPLOYMENT:

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

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

SECTION 11. GENERAL PROVISIONS:

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

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

C. This Agreement becomes effective on January 1, 1997, and shall be in effect through calendar years 1997 and 1998.

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

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

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

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

Approved by Westminster City Council this 16th day of December, 1996.

ATTEST:

\_\_\_\_\_  
Mayor

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

\_\_\_\_\_  
Martin R. McCullough

**Date:** December 16, 1996

**Subject:** Confirmation of New Finance Director

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

### **Introduction**

Formal confirmation by City Council regarding the appointment of Mary Ann Parrot as the new City Finance Director is requested per City Charter provision. Ms. Parrot has accepted the appointment after a thorough recruitment and selection process conducted on a Nationwide basis.

### **Summary**

The City Charter requires City Council confirmation of the appointment of the Director of Finance as well as the City Clerk.

Recently, the City Administration completed a nationwide recruitment for a new Finance Director to replace Susann Stubbs who retired earlier in the year. Mary Ann Parrot, currently Treasurer for the City of Sterling Heights, Michigan, has been selected as the new Westminster Finance Director. Formal confirmation action is requested by City Council at this time.

### **Staff Recommendation**

Confirm the appointment of Mary Ann Parrot as the new Finance Director for the City of Westminster, Colorado.

### **Background Information**

Susann Stubbs retired earlier this year in June, after completing a most successful 15 years as Finance Director for Westminster. A national recruitment was initiated for her replacement, which recently was successfully completed with the offer and acceptance to Mary Ann Parrot. She currently serves in the capacity of Treasurer for the City of Sterling Heights, Michigan, a Detroit suburb of approximately 120,000 population, and has served in that capacity since September 1988. The City of Sterling Heights is similar in organization size as Westminster, and offers many of the same services as Westminster. Sterling Heights employs 650 full time equivalents, and has an overall operating budget of \$95.0 million. The Treasury Office is solely responsible for the receipt, deposit, control, and disbursement of all City revenues on a daily basis. The Treasurer is responsible for management of the current debt load (approximately \$45.0 million), and an investment portfolio averaging in the \$80.0 to \$90.0 million range. Ms. Parrot reports to the Director of Finance and Administration under the Council/Manager form of government utilized there.

Her involvement and knowledge of Sales and Use Tax programs are strong as applied to both Michigan and Florida. She previously worked in the realm of municipal finance as a Financial Analyst for the City of Orlando, Florida and, prior to that, was employed by IBM. She was hired by IBM as a Systems Engineer and worked with public sector accounts transitioning to new mainframe applications.

After working three years with IBM and due to her husband's career transfer to the Washington, DC area, she temporarily worked for a defense contractor and began pursuit of her Masters of Business Administration, which was earned from Virginia Polytechnic Institute in 1982. She has served as an Adjunct Professor at Moorehead State University, and later assumed the same type of position at the University of Central Florida in Orlando.

Ms. Parrot has been married for 26 years and she and her husband have three children, all of whom are attending different colleges and demonstrating scholastic excellence. Her husband Donald manages his own consulting firm after spending 15 years in the hospital administration field. Mary Ann is very well qualified for the Westminster Finance Director position, and we are most fortunate to attract a person of her caliber. She is scheduled to start her work in Westminster on January 6.

One of the unique provisions of the Westminster City Charter, that goes back to the original 1958 Charter, requires City Council confirmation of the appointment of both the Director of Finance and the City Clerk. Section 4.6 of the City Charter states that, "All Administrative Officers of the City, except the City Manager and the City Attorney shall be appointed by the City Manager for an indefinite period, and that the appointment of the City Clerk and Director of Finance shall be subject to confirmation by the City Council. It should be noted that in a separate section of the Charter, the Presiding Municipal Judge is to be appointed by the City Council as well.

Respectfully submitted,

William M. Christopher  
City Manager

**Date:** December 16, 1996

**Subject:** Councillor's Bill No. re Comprehensive Land Use Plan

**Prepared by:** Sharon Widener, Assistant City Attorney

### **Introduction**

City Council action is requested to pass on first reading the attached Councillor's Bill establishing procedures for implementation of the Comprehensive Land Use Plan.

### **Summary**

The proposed Comprehensive Land Use Plan is nearing completion and should be ready for public hearings in early 1997 prior to adoption by City Council. It is appropriate for City Council to pass an ordinance establishing the procedures for implementation of the Plan so that the Plan can take effect immediately upon its adoption.

Council has reviewed three different implementation plans and directed that an ordinance be prepared which would require that the use of a property must conform to the land uses, standards, and policies set forth in the Comprehensive Plan before any rezoning or development approval would be granted. The ordinance would also establish procedures for notice and public hearings prior to adoption of the Plan.

### **Staff Recommendation**

Pass Councillor's Bill No. on first reading, requiring that the use of a property must conform to the land uses, standards, and policies set forth in the Comprehensive Plan before any rezoning or development approval would be granted, and setting forth procedures for notice and public hearings.

Other options for implementation include:

- > 1. Comprehensive rezoning and replanning of all property which does not match the land uses recommended in the Plan.
- > 2. Parcel-by-parcel rezoning that focuses only on a select number of parcels based on their size and strategic importance to achieve the overall policy goals of the Comprehensive Plan.

### **Background**

Staff and the City's consultants, Clarion Associates, Inc., in addition to drafting the Comprehensive Land Use Plan, have considered the various methods of implementing the Plan. In considering alternative methods of implementation, several factors have been identified: implementation should be done within a reasonable time, as the public has responded to requests for its input and is waiting for a result; implementation should result in an enforceable plan; implementation should discourage legal challenges; and implementation should be

accomplished in a manner readily understood by the public and seen as fair to property owners and the general public. Staff has recommended that an ordinance be adopted which would require conformance with the Comprehensive Land Use Plan at the time a property is developed.

After considering several options, City Council requested an ordinance requiring conformity at the time of development. The ordinance would require that the use of a property must conform to the land uses, standards, and policies set forth in the Comprehensive Plan before any rezoning or development approval would be granted. The ordinance would also set out the procedures for adoption of the Plan (notice and public hearings).

Upon adoption, the Plan would "overlay" all parcels in the City and any development plan would have to be in conformance with the Plan. Individual hearings would not be required. This approach would preserve the current Planned Unit Development process and allow development standards to be negotiated within the confines of the standards set forth in the Plan.

The advantage to the procedures established in the ordinance is that the Plan would be quickly adopted, all new development would conform to the Plan, and time-consuming individual hearings would be avoided. The development review process would be substantially similar to the current process, and would defer changes until the time a property owner applies for development, so that Council and Staff would not face a large number of complaints or challenges in a short time.

Respectfully submitted,

William M. Christopher  
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

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

SERIES OF 1996

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

A BILL

FOR AN ORDINANCE AUTHORIZING THE ADOPTION AND IMPLEMENTATION OF A COMPREHENSIVE LAND USE PLAN

THE CITY OF WESTMINSTER ORDAINS:

Whereas, the City Charter, Section 4.16, authorizes planning for the use, division and development of land for the general purpose of protecting the public health, safety and welfare; and

Whereas, a municipality is authorized by Part Two of Title 31, Chapter 23, C.R.S., to make, adopt, amend, extend, add to, or carry out a master plan for the general purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the municipality; and

Whereas, the City Council finds that the City and its present and future residents will benefit from the adoption of a comprehensive land use planning document to guide future development of the City for the wise use of limited water supplies and other municipal services and the provision of a suitable mixture of land uses in the City's remaining undeveloped property.

Section 1: Title 11 of the Westminster Municipal Code is hereby amended by the addition of a new Chapter 2.5 to read as follows:

11-2.5-1. Adoption of Comprehensive Land Use Plan.

(A) A proposed Comprehensive Land Use Plan shall be referred to the Planning Commission for consideration, and a public hearing shall be scheduled. Notice of the hearing shall be given at least ten (10) days prior to the hearing, such notice to state the date, place, and time of such hearing, and where copies of the proposed Plan may be reviewed prior to the hearing. Notice shall be published once in the official newspaper of the City.

(B) The Planning Commission may consider separate sections of the Plan at different hearings over a period of time, and such hearings may be continued from time to time to allow a thorough review by the Commission and the public.

(C) After review, the Planning Commission shall submit its written report and recommendation on the proposed Plan, or its individual sections, to the City Council.

(D) Upon receipt of the report, the City Manager shall schedule a public hearing upon the Plan or its sections before the City Council. Notice shall be given at least four (4) days prior to the hearing, in the same manner as required in Subsections (A) and (B).

The Council may consider separate sections of the Plan at different hearings over a period of time, and such hearings may be continued from time to time to allow a thorough review by the Council and the public.

(E) After public hearing and consideration of the recommendations of the Planning Commission, the City Council may, by ordinance, adopt the proposed Plan or any of its sections, or the City Council may adopt sections of the Plan and reject others, or may send the Plan or any sections of it to the Planning Commission for further review and public comment.

#### 11-2.5-2. Compliance with the Plan.

(A) On and after the effective date of the ordinance adopting the Comprehensive Land Use Plan, or any section of it, it shall be unlawful for any person to use any parcel of land in any manner not in compliance with the adopted Plan or any of its sections.

1. This Subsection shall not apply to a use established prior to the effective date of the ordinance adopting the Plan or any of its sections. "Established" prior to the effective date shall mean that structures or improvements necessary or customary for the use were complete and occupied or ready for occupancy prior to the effective date, or that the structures or improvements were substantially in construction under a valid and unexpired building permit prior to the effective date.

2. Any property owner who wishes to change the established use of a parcel shall comply with the Plan at the time such use is changed or the property is substantially redeveloped.

(B) The Planning Manager of the Department of Community Development is authorized to determine whether the use of any parcel is, or is not, in compliance with the Plan. The owner of an affected parcel may appeal the decision of the Planning Manager to the City Manager. The City Manager or his designee shall conduct an informal meeting in which the Planning Manager and the owner may express their views. The City Manager or his designee shall consult with the City Attorney's office prior to the informal meeting. The City Manager shall decide the issue within a reasonable time and notify the owner in writing.

#### 11-2.5-3. Amendments.

(A) The City may, from time to time, initiate the amendment of the Comprehensive Land Use Plan in whole or in part. Any proposed amendment shall be reviewed and adopted, after notice and public hearing, as required in Section 11-2.5-1.

(B) 1. The owner of a parcel may request the amendment of the Comprehensive Land Use Plan as to the parcel owned by him/her. Application for such an amendment shall be made to the Planning Manager who shall arrange for notice and public hearings before the Planning Commission and the City Council, such notice and hearings to be in compliance with Section 11-2.5-1.

2. The owner shall also determine the owners of record title of all property within three hundred (300) feet of the property for which an amendment is sought, and shall prepare notice of the proposed amendment to be mailed by first class mail to such owners at the address appearing in the records of the County Treasurer. Such notices, together with addressed, stamped envelopes, a certified list of property owners to be notified, and a map identifying the location and address of the property within three hundred (300) feet shall be delivered to the the City Clerk at least ten (10) days prior to the date of hearing. On or prior to the date set for hearing, the City Clerk shall certify to the Department of Community Development that the required notices were sent. The owner shall bear the cost of the notices to be mailed and of published notice.

3. The owner shall have the burden of proving that the requested amendment will be in the public good and in compliance with the overall purpose and intent of the Comprehensive Land Use Plan, and the Council shall so find before approving an amendment. An opportunity for a more profitable use shall not, by itself, be grounds for an amendment.

11-2.5-4. Enforcement.

1. Any person in violation of this Chapter shall be guilty of a misdemeanor, and on conviction thereof, shall be punished as set forth in Section 1 of Chapter 8 of Title I of this Code.

2. After the effective date of the Plan or any of its sections, any use, or construction for such use, other than an established use as defined in section 11-2.5-2, not in compliance with the adopted Plan or any of its sections, is hereby declared to be a public nuisance which may be abated pursuant to the procedures for public nuisances established elsewhere in this Code.

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 16th day of December, 1996.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this \_\_\_\_\_ day of \_\_\_\_\_, 1996.

ATTEST:

\_\_\_\_\_  
Mayor

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

**Date:** December 16, 1996

**Subject:** Councillor's Bill No. re Extension of Parks, Open Space, and Trails Sales and Use Tax

**Prepared by:** Barb Dolan, Interim Finance Director

### **Introduction**

City Council action is requested to pass on first reading the attached Councillor's Bill which would extend the City's Parks, Open Space, and Trails Sales and Use Tax through December 31, 2016, as authorized by voters at the November 5, 1996 election. This is a housekeeping action that Staff is bringing to City Council to implement the results of the November, 1996 election.

### **Summary**

On November 5, 1996, Westminster citizens overwhelmingly approved extending the current quarter percent (.25%) Sales and Use Tax for Parks, Open Space and Trails for a twenty year period. The electorate also approved expansion of the tax to include recreational facilities and an increase in debt up to \$26 million for the purpose of acquiring open space and developing parks, trails, and recreational facilities throughout the City. The debt will be repaid using the earmarked sales and use tax.

### **Staff Recommendation**

Pass Councillor's Bill No. on first reading amending the Westminster Municipal Code to extend the Sales and Use Tax for Parks, Open Space, and Trails through December 31, 2016, as approved by voters on November 5, 1996.

### **Background Information**

The City's .25% Open Space Tax was originally approved by voters on November 5, 1985, for a five-year period. In November of 1989 and November of 1994 voters approved extending the tax for additional five-year periods and expanded its use to include development of additional park land, development and extension of trails, and enhancement of existing parks. In 1995 this tax generated \$2.8 million.

At the November 5, 1996 election, voters approved extending the tax through the year 2016 and authorizing the City to incur up to \$26 million of debt to acquire more open space and park land, develop and enhance neighborhood parks, develop and extend trails, and develop and enhance recreational facilities. The debt will be repaid using the earmarked sales and use tax.

The City's 1996 Citizens Survey showed that 75% of residents view parks and open space as the #1 priority for land use. Citizens wish to see the community enhanced and preserved. The fast pace of development in Westminster means that land to be preserved for the future needs to be acquired now.

The voter approval on this issue will allow the City to accelerate the current parks, open space and trails program and protect Westminster's beauty and quality of life.

Respectfully submitted,

William M. Christopher  
City Manager

Attachment: Councillors Bill

BY AUTHORITY

ORDINANCE NO.

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

SERIES OF 1996

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

A BILL

FOR AN ORDINANCE AMENDING CHAPTER 2 OF TITLE IV OF THE WESTMINSTER MUNICIPAL CODE EXTENDING THE SALES AND USE TAX FOR PARKS, OPEN SPACE, TRAILS, AND RECREATIONAL FACILITIES THROUGH DECEMBER 31, 2016.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The following subsections of 4-2-3 are hereby amended as follows:

4-2-3: RATE; IMPOSITION AND COLLECTION; DISTRIBUTION:

(A) Sales Tax: There is hereby levied a tax or excise upon all sales of tangible, personal property and services specified in Section 4-2-5.

1. For transactions consummated or contracts entered into on or after January 1, 1986 but prior to January 1, ~~2004~~ 2017 the rate levied shall be three and one-quarter percent (3.25%).
2. For transactions consummated or contracts entered into prior to January 1, 1986 or on or after January 1, ~~2004~~ 2017, the rate levied shall be three percent (3%).

(B) Use Tax: There is hereby levied a tax or excise upon the privilege or using, storing, distributing, or otherwise consuming in the City any article of tangible personal property or taxable services purchased, leased or rented from sources inside or outside the City, on which the City sales tax has not been paid.

1. For transactions consummated or contracts entered into on or after January 1, 1986 but prior to January 1, ~~2004~~ 2017 the rate levied shall be three and one-quarter percent (3.25%).
2. For transactions consummated or contracts entered into prior to January 1, 1986 or on or after January 1, ~~2004~~ 2017, the rate levied shall be three percent (3%).

(D) DISTRIBUTION:

2. The City shall distribute seven and sixty-nine hundredths percent (7.69%) of all sales and use tax collected at the rate of three and one-quarter percent (3.25%) to the Open Space Fund for the purpose of funding the open space acquisition program AND DEVELOPMENT AND ENHANCEMENT OF RECREATIONAL FACILITIES with up to one-half of such revenues to be used for the development of additional park land AND OPEN SPACE, trail development, ~~and~~ enhancement of existing parks AND DEVELOPMENT AND ENHANCEMENT OF RECREATIONAL FACILITIES, as approved by Westminster voters on ~~November 7, 1989 and extended by voters on November 8, 1994~~ NOVEMBER 5, 1996.

Section 2. The following subsections of 4-2-4 are hereby amended as follows:

4-2-4: TAX SCHEDULE:

(A) For transactions consummated, events occurring, or contracts entered into on or after January 1, 1986 but prior to January 1, ~~1996~~ 2017:

(B) For transactions consummated, events occurring, or contracts entered into prior to January 1, 1986 or on and after January 1, 1996~~2017~~:

Section 3. Severability: If any section, paragraph, clause, word or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part deemed unenforceable shall not affect any of the remaining provisions.

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 16th day of December, 1996.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this \_\_\_\_\_ day of \_\_\_\_\_, 199 .

ATTEST:

\_\_\_\_\_  
Mayor

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

**Date:** December 16, 1996

**Subject:** Resolution No. re Year End Contingency Transfers

**Prepared by:** Alan Miller, Assistant 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. 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 Fund Contingency account.

### **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 with in the operating budget. The transfers needed from the General Fund Contingency are as follows:

- \$5,000 Needed in the City Council budget due to higher than anticipated expenses for special promotions such as special momemtos, costs for special recognition of a state legislator and cost for a mail out election information brochure.
- \$30,000 Needed in the Central Charges operating budget due to higher than anticipated gas and electricity bills for City Hall and higher than anticipated professional services expenses for special studies related to the Westminster Mall and the Westminster Promenade projects.
- \$35,000 Needed in a variety of department operating budgets to fund higher than anticipated fuel expense as a result of higher than expected cost for non-leded fuel utilized in City vehicles.
- \$50,000 Needed in the Police Department overtime budget account due to the continuing high level of police calls for service activity in the City as well as for increased enforcement activity at the Westminster Mall and other major retail areas.
- \$53,000 Needed in the Street Division as the result of a substantial rate increase granted to the Public Service Company for street lighting costs. The rate increase granted to Public Service Company took effect after the 1996 Budget was adopted and therefore was not included or anticipated as part of the 1996 Budget.

\$144,000      Needed in the Parks Services Division for water expense as a result of much greater than normal dry weather combined with an expanding park area where there was not a previous history of water usage.

\$317,000      Total

There is currently \$417,104 available in the General Fund contingency available to fund these unanticipated expenses.

**Staff Recommendation**

Adopt Resolution No.      authorizing the transfer from the General Fund contingency into the various operating budgets as described above.

Respectfully submitted,

William M. Christopher  
City Manager

Attachment

RESOLUTION

RESOLUTION NO.

INTRODUCED BY COUNCILLORS

SERIES OF 1996

\_\_\_\_\_

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

WHEREAS, the General Fund Contingency balance is \$417,104.

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

\$317,000 be transferred from the General Fund Contingency to the appropriate Operating Budget as listed in the agenda memorandum dated December 16, 1996.

Passed and adopted this 16th day of December, 1996.

ATTEST:

\_\_\_\_\_  
Mayor

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

**Date:** December 16, 1996

**Subject:** Councillor's Bill No. re Rights-of-Way Vacation

**Prepared by:** Kevin L. Berryhill, Senior Civil Engineer

### **Introduction**

City Council action is requested on the attached Councillor's Bill to vacate the existing right-of-way located northeast of the intersection of U.S. Highway 36 and West 104th Avenue that was dedicated with the Northpoint Center Filing No. 1 First Replat. Alternative right-of-way will be dedicated to the City for what will be called Westminster Boulevard with the final plat of the Westminster Promenade Subdivision Filing No. 1, now being developed.

### **Summary**

The development of the Westminster Promenade project necessitates the vacation of the existing rights-of-way for Pierce Street and Eaton Street as dedicated with the Northpoint Center Filing No. 1, First Replat. The existing rights-of-way will be replaced by new right-of-way for Westminster Boulevard to be dedicated with the Westminster Promenade Filing No. 1 Final Plat, which will overlay a portion of the Northpoint Center property. There are no existing roadway improvements located within the right-of-way to be vacated.

City Staff is in agreement with the owner's request that the subject easements be vacated. The City Charter mandates that Council must approve vacations via ordinance. The attached Ordinance and its exhibit describe the areas to be vacated.

### **Staff Recommendation**

Pass Councillor's Bill No. on first reading vacating all right-of-way for Pierce Street and Eaton Street shown on and previously dedicated with the Northpoint Center Filing No. 1, First Replat.

### **Background Information**

The Northpoint Center Filing No. 1, First Replat, which was recorded in 1994, dedicated right-of-way for Pierce Street and Eaton Street (see attached vicinity map). The Northpoint Center was never developed and the right-of-way dedicated was never utilized. The proposed Westminster Promenade development includes a re-alignment of Pierce Street (Westminster Boulevard) and the deletion of Eaton Street. The previously dedicated right-of-way is no longer needed and new right-of-way will be dedicated with the Westminster Promenade Filing No. 1 final plat.

Procedures for vacation of public rights-of-way are guided by State Statute and the City's Charter. Upon passage of an ordinance, the property in the public way reverts to each of the adjoining owner in halves. In the case of Pierce Street, the adjoining owners will take possession and then dedicate the replacement right-of-way for Westminster Boulevard.

For Eaton Street, the City is one of the two adjoining owners, and approximately 1.25 acres will be added to the City's ownership bounded by Eaton Street, 104th Avenue and Big Dry Creek.

The attached Councillor's Bill calls for and describes the vacation of street rights-of-way for Pierce Street and Eaton street. The vacation will take affect upon the receipt of replacement right-of-way for Westminster Boulevard from the Westminster Promenade project. Staff recommends that the ordinance be given approval allowing the Promenade project to proceed to the next step.

Respectfully submitted,

William M. Christopher  
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO.

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

SERIES OF 1996

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

A BILL

FOR AN ORDINANCE VACATING PUBLIC RIGHTS-OF-WAY WITHIN NORTHPOINT CENTER FILING NO. 1, FIRST REPLAT

WHEREAS, rights-of-way for Pierce Street and Eaton Street north of West 104th Avenue were previously dedicated with the Northpoint Center Filing No. 1, First Replat as recorded in Jefferson County Clerk and Recorder's Office in Reception No. 94182014, Book 120, Pages 58-60; and

THE CITY OF WESTMINSTER ORDAINS:

Section 1. City Council finds and determines that the public convenience and welfare require the vacation of the right-of-way described in Section 2 hereof.

Section 2. All rights-of-way for Pierce Street and Eaton Street north of West 104th Avenue as depicted by Northpoint Center Filing No. 1, First Replat, recorded at Book 120, Pages 58-60, Reception No. 94182014 of the Jefferson County Records, being a part of the Southwest Quarter of Section 12, Township 2 South, Range 69 West of the Sixth Principal Meridian, City of Westminster, County of Jefferson, State of Colorado, See Exhibit "A" for plot.

Section 3. The vacation of the rights-of-way described in Section 2 will not take affect until public right-of-way to replace Pierce Street is conveyed to the City of Westminster and the instruments of that conveyance are recorded in the appropriate public records.

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 16th day of December, 1996.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

ATTEST:

\_\_\_\_\_  
Mayor

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

**Date:** December 16, 1996

**Subject:** Councillor's Bill No. re Summit Pointe Easement Vacation

**Prepared by:** Richard G. Borchardt, Civil Engineer

### **Introduction**

City Council action is requested on the attached Councillor's Bill to vacate a portion of an existing 24-foot wide utility/access easement and a 10-foot by 19-foot utility easement located in Tract A of Summit Pointe Filing No. 1 Subdivision at the southwest corner of 82nd Place and Zuni Street.

### **Summary**

Summit Pointe Subdivision Filing No. 1 is located on the southwest corner of 82nd Place and Zuni Street. Changes shown on the proposed fourth amendment of the Preliminary Development Plan and Official Development Plan will necessitate the vacation of a portion of an existing 24-foot wide utility and emergency vehicle access easement and an existing 10-foot by 19-foot utility easement that were previously dedicated to the public. The existing easements contain utilities that will be relocated during the construction of the development. The attached vicinity map shows the location of the existing easements and the adjacent streets. New access and utility easements will be granted by easement agreements.

City Staff is in agreement with the owner's request that the subject portion of the easement be vacated. This vacation will be conditional upon the City's receipt of a new utility/access easement along the new alignment of the utilities. The City Charter mandates that Council must approve vacations via ordinance, and the attached ordinance includes language to make the subject easement vacation conditioned upon the receipt of a new utility/access easement.

### **Staff Recommendation**

Pass Councillor's Bill No. on first reading vacating a portion of a 24-foot wide utility/access easement and a 10-foot by 19-foot utility easement within the Summit Pointe Filing No. 1 Subdivision.

### **Background Information**

Summit Pointe Subdivision Filing No. 1 is a 7.8 acre multi-family development that was platted in March 1985, but only partially built out. In 1994, the City Council adopted new growth management standards that required previously platted multi-family developments to amend their Official Development Plan to meet the higher development requirements in order to remain eligible for their service commitments. The fourth amendment to the Preliminary Development Plan and Official Development Plan for Summit Pointe Subdivision, Filing No. 1 includes the higher development requirements required by the 1994 growth management standards.

The higher development standards required Summit Pointe Filing No. 1 to make revisions to their site plan, which included changes in building location and internal circulation. The changes made to the site plan necessitate the vacation of a portion of the existing utility and emergency vehicle access easement and an existing utility easement that were platted in March 1985. Utilities located within the easement areas will be replaced or relocated. These changes to the site plan require dedication of new utility and emergency access easements during the current construction plan review. Therefore, the originally dedicated easements are no longer needed.

**Respectfully submitted,**

William M. Christopher  
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO.

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

SERIES OF 1996

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

A BILL

FOR AN ORDINANCE VACATING A UTILITY/ACCESS EASEMENT WITHIN THE SUMMIT POINTE FILING NO. 1 SUBDIVISION.

WHEREAS, a certain 24-foot wide utility and access easement and a 10-foot by 19-foot utility easement located within the Summit Pointe Filing No. 1 Subdivision were previously dedicated to the public with the Summit Pointe Subdivision, Filing No. 1 Plat recorded in the Adams County Clerk and Recorder's Office in Reception No. B561341, File 16, Map 237; and

WHEREAS, changes to the Official development Plan for the subdivision eliminate the need for these easements; Therefore

THE CITY OF WESTMINSTER ORDAINS:

Section 1. City Council finds and determined that the public convenience and welfare require the vacation described in Section 2 hereof.

Section 2. A 24-foot wide utility and emergency vehicle access easement and a 10-foot by 19-foot utility easement located in Tract A of Summit Pointe Subdivision, Filing No. 1, in the southeast one-quarter of Section 29, Township 2 South, Range 68 West of the Sixth Principal Meridian, City of Westminster, County of Adams, State of Colorado, being more particularly described as follows:

Commencing at the Northwest corner of said Tract A: thence S05°15'50"W along the west line of said Tract A, 28.07 feet to the Point of Beginning; thence S88°53'20"E, 108.76 feet to a point of curve; thence along said curve to the left having a radius of 998.82 feet, a central angle of 05°53'30", 102.71 feet to the west line of an existing service and emergency vehicle access easement; thence S05°28'08"E along said west line, 14.81 feet; thence S03°23'34"E along said west line, 9.19 feet to a point on a curve; thence along said curve to the right having a radius of 1022.82 feet, a central angle of 05°52'21" (the chord of which bears S88°09'59"W, 105.09 feet), 105.13 feet to a point of tangent; thence N88°53'20"W along said tangent, 110.50 feet to the west line of said Tract A; thence N05°15'50"E along said west line, 24.06 feet to the Point of Beginning containing 0.118 acres, more or less; and

A twenty-four (24) foot wide utility and emergency vehicle easement, located in Tract A of Summit Pointe Subdivision, Filing No. 1, a subdivision located in the southeast quarter of Section 29, Township 2 South, Range 68 West of the Sixth Principal Meridian, City of Westminster, County of Adams, State of Colorado, lying twelve (12) feet each side of the following described centerline:

Commencing at the northwest corner of said Tract A; thence S05°15'50"W along the west line of said Tract A, 352.29 feet; thence S86°37'19"E, 206.90 feet; thence N84°22'11"E, 150.92 feet; thence N10°25'49"W, 82.92 feet to a point of curve; thence along said curve to the left having a radius of 37.00 feet, a central angle of 80°41'45", 52.11 feet to a point of tangent; thence S88°52'26"W along said tangent, 50.85 feet to the Point of Beginning; thence continuing S88°52'26"W, 82.61 feet to a point of curve; thence along said curve to the right having a radius of 50.00 feet, a central angle of 16°15'50", 14.19 feet to a point of tangent; thence N74°51'44"W along said tangent, 43.86 feet to the Point of Terminus.

The sidelines of said easement are to be lengthened or shortened to intersect a bearing of S03°23'34"E through the Point of Beginning; and

A ten (10) foot wide utility easement, located in Tract A of Summit Pointe Subdivision, Filing No. 1, a subdivision located in the southeast quarter of Section 29, Township 2 South, Range 68 West of the Sixth Principal Meridian, City of Westminster, County of Adams, State of Colorado, lying five (5) feet east of the following described centerline:

Commencing at the northwest corner of said Tract A; thence S05°15'50"W along the west line of said Tract A, 352.29 feet; thence S86°37'19"E, 50.00 feet; thence N03°22'41"E, 15.00 feet to the Point of Beginning; thence continuing N03°22'41"E, 19.00 feet to the Point of Terminus.

Section 3. This ordinance shall take effect upon its passage after second reading and upon the provision of a new easement for the City-owned and maintained utilities and access upon the property.

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 16th day of December, 1996.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this \_\_\_\_\_ day of \_\_\_\_\_, 199 .

ATTEST:

\_\_\_\_\_  
Mayor

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