



WESTMINSTER

Staff Report

TO: The Mayor and Members of the City Council
DATE: February 18, 2010
SUBJECT: Briefing and Post-City Council Briefing Agenda for February 22, 2010
PREPARED BY: J. Brent McFall, City Manager

Please Note: Study Sessions and Post City Council briefings are open to the public, and individuals are welcome to attend and observe. However, these briefings are not intended to be interactive with the audience, as this time is set aside for City Council to receive information, make inquiries, and provide Staff with policy direction.

Looking ahead to Monday night's Briefing and Post-City Council meeting briefing, the following schedule has been prepared:

Dinner	6:00 P.M.
Council Briefing (<i>The public is welcome to attend.</i>)	6:30 P.M.
CITY COUNCIL MEETING	7:00 P.M.
POST BRIEFING (<i>The public is welcome to attend.</i>)	

PRESENTATIONS

None at this time

CITY COUNCIL REPORTS

1. Report from Mayor (5 minutes)
2. Reports from City Councillors (10 minutes)

EXECUTIVE SESSION

1. Consultation with City Attorney concerning negotiations and possible settlement of a contract dispute and obtaining Council direction thereon, pursuant to Section 1-11-3(C)(7) and 1-11-3(C)(8) of the Westminster Municipal Code and CRS 24-6-402(4)(e)

INFORMATION ONLY

1. Westminster Economic Development Authority 9101 Benton Street, Former Trail Dust Restaurant
2. Internet Taxation Update
3. Monthly Residential Development Report (Attachment)

Items may come up between now and Monday night. City Council will be apprised of any changes to the post-briefing schedule.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER

Staff Report

Information Only Staff Report
February 22, 2010



SUBJECT: 9101 Benton Street, Former Trail Dust Restaurant

PREPARED BY: Aaron B. Gagné, Capital Projects Coordinator

Summary Statement:

This report is for City Council information only and requires no action by City Council.

Since the acquisition of the former Trail Dust property at 9101 Benton Street on December 27, 2009, staff has sought to both maximize the value of the property as well as to move forward with the demolition and clearance of the site. Value has been realized by the use of the facility by the Westminster Police and Fire Departments for over 1,000 man-hours of training, as well offering to the Hyland Hills Recreation District certain fixtures and furniture to be re-used at recreation facilities in the City of Westminster. Demolition bids have been received and the clearance of the site should commence on or about March 01, 2010.

Background Information

The Westminster Economic Development Authority acquired the former Trail Dust restaurant in an arms-length transaction on December 27, 2009. The demolition request for bids was issued on January 15, 2010, with bids due back on February 8, 2010. Four complete bids were received, with the low bid of \$38,313 being submitted by Alpine Demolition, Inc. of Arvada. The demolition is expected to start on or shortly after March 1, 2010, and by contract will not exceed a total of 45 days. Alpine Demolition intends to divert approximately 80% of demolition materials from the waste stream.

At the same time that the request for bids was issued, plans for the use of the building for public safety training were developed. SWAT, K-9, other Police Department operations and extensive Fire Department operational training has been taking place in the building in the past several weeks, with over 1,000 individual training hours being accrued. This site has been particularly valuable for the training activities as there have been no limitations on the use of the structure.

Finally, in coordination with the City Department of Parks, Recreation and Libraries, certain fixtures and furniture, ranging from ceiling fans to tables and chairs, were salvaged by staff from the Hyland Hills Parks and Recreation District for use at their facilities in Westminster.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER

Staff Report

Information Only Staff Report
February 22, 2010



SUBJECT: Internet Taxation Update

PREPARED BY: Barb Dolan, Sales Tax Manager
Josh Pens, Audit Supervisor

Summary Statement:

This report is for City Council information only and requires no action by City Council.

- Recent efforts by several states to impose a sales tax collection requirement upon remote dealers are gaining popularity. The Colorado Department of Revenue is expected to adopt regulations creating similar requirements for sales within the state. Staff thought it would be worthwhile to brief City Council on these efforts.
- Affiliate nexus is a new approach to obligating remote sellers to collect local taxes by virtue of contracts with local affiliates. For example, if enough Westminster businesses and residents referred customers to Amazon.com in exchange for a commission on the resulting sales, Amazon.com would be presumed to have substantial nexus and would be obligated to collect sales tax on all sales to Westminster customers.
- In January, HB10-1193 was introduced in the Colorado General Assembly to add an affiliate nexus presumption to the *Colorado Revised Statutes*. Amendments adopted since its introduction have reduced the bill to require a physical presence in Colorado. Moreover, the bill is no longer imposing a collection requirement, but is merely requiring retailers to notify their purchasers and the Department of Revenue regarding purchases delivered into the state. The bill has passed in the House and the Senate and the House is now considering the Senate amendments.
- Staff is monitoring legislation and litigation related to affiliate nexus laws for potential opportunities to collect sales tax on Internet sales within Westminster.

Background Information

The loss of tax revenues on goods purchased from Internet retailers is an issue of perennial concern for state and local governments. Previous forecasts by Staff estimate that Westminster may be losing in excess of \$3 million annually in sales tax revenue. Despite persistent myths to the contrary, goods purchased from Internet retailers are subject to sales and use tax; however, collection of use taxes from individual households is highly impractical. As a result, state and local governments have undertaken various efforts to require Internet retailers to collect sales tax along with other initiatives to mitigate these significant revenue losses.

One approach gaining popularity was adopted by the State of New York in 2008. New York slightly modified its definition of “vendor” in its tax code to include remote sellers with contractual affiliates within the state. These local affiliates are compensated for referring customers to remote sellers via their websites. New York’s law propounds that such a relationship establishes the substantial nexus with the state necessary to require the remote seller to collect sales taxes.

Two days after the governor signed the bill into law, retailer Amazon.com LLC filed suit against the state alleging that the change was unconstitutional. The trial court dismissed the case last January, but an appeal is pending. In May 2008, retailer Overstock.com, Inc. suspended its relationship with affiliates in New York and filed a similar suit. The trial court also dismissed this complaint and an appeal is pending.

In 2009, at least 7 states introduced similar bills. These bills were met with threats by Internet retailers to cease programs in states adopting affiliate nexus laws. Hawaii Governor Linda Lingle vetoed an affiliate nexus bill in her state and California Governor Arnold Schwarzenegger threatened to do the same. In the end, only North Carolina and Rhode Island successfully adopted bills. Both Amazon and Overstock have since terminated their affiliate programs in those states.

With states continuing to experience significant revenue shortfalls, affiliate nexus will likely continue to be of interest. Notwithstanding previous actions by Amazon and Overstock, Staff believes it is unlikely that Internet retailers will completely eliminate affiliate programs should similar nexus laws or interpretations be widely adopted.

In Colorado, the General Assembly introduced HB10-1193 to add an affiliate nexus presumption to the *Colorado Revised Statutes*. Since its introduction the bill has been amended to apply only to a “controlled group of corporations” which has a “component member” who is a retailer with a physical presence in Colorado. Simply having contractual affiliates in this state will not subject remote retailers to this change. Moreover, the bill is no longer imposing a collection requirement, but is merely requiring these retailers to notify purchasers of the obligation to pay use tax to the state and further requiring retailers to file a statement of Colorado purchases with the Department of Revenue. The bill has passed in the House and the Senate and the House is now considering the Senate amendments.

Though not a comprehensive solution to the problem of Internet tax revenue losses, the concept of affiliate nexus has potential to recover significant revenues previously lost. Staff will continue to

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February 22, 2010
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monitor both legislative developments and related ongoing litigation. If Staff believes that opportunities exist for the City to similarly enforce its tax, Staff will make recommendations accordingly.

Respectfully submitted,

J. Brent McFall
City Manager



Staff Report

Information Only Staff Report
February 22, 2010



SUBJECT: Monthly Residential Development Report

PREPARED BY: Walter G. Patrick, Planner I

Summary Statement:

This report is for City Council information only and requires no action by City Council.

- The following report updates 2010 residential development activity per subdivision (please see attachment) and compares 2010 year-to-date (January) totals with 2009 year-to-date (January) figures.
- Residential development activity in January 2010 reflects increases in single-family detached (2 versus 0 in 2009) and single-family attached (3 versus 0 in 2009), and no changes in multi-family or senior housing development when compared to the January totals in 2009 (0 for both years).

NEW RESIDENTIAL UNITS (2009 AND 2010)

UNIT TYPE	JANUARY		YEAR-TO-DATE	
	2009	2010	2009	2010
Single-Family Detached	0	2	0	2
Single-Family Attached	0	3	0	3
Multiple-Family	0	0	0	0
Senior Housing	0	0	0	0
TOTAL	0	5	0	5

Background Information

In January 2010 there were 5 new service commitments issued for new housing units.

The column labeled “# Rem.” on the attached table shows the number of approved units remaining to be built in each subdivision.

Total numbers in this column increase as new residential projects (awarded service commitments in the new residential competitions), Legacy Ridge projects, build-out developments, etc. receive Official Development Plan (ODP) approval and are added to the list.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

ACTIVE RESIDENTIAL DEVELOPMENT

Single-Family Detached Projects:

Bradburn (120th & Tennyson)
CedarBridge (111th & Bryant)
Country Club Highlands (120th & Zuni)
Countryside Vista (105th & Simms)
Huntington Trails (144th & Huron)
Hyland Village (96th & Sheridan)
Legacy Ridge West (104th & Leg. Ridge Pky.)
Lexington (140th & Huron)
Meadow View (107th & Simms)
Park Place (95th & Westminster Blvd.)
Ranch Reserve (114th & Federal)
Savory Farm Estates (109th & Federal Blvd.)
South Westminster (Shoenberg Farms)
Various Infill
Winters Property (111th & Wads. Blvd.)
Winters Property South (110th & Wads. Blvd.)

Dec-09	Jan-10	2009 YTD	2010 YTD	# Rem.*	2009 Total
1	0	0	0	51	11
0	1	0	1	3	0
0	0	0	0	99	0
0	0	0	0	9	0
0	1	0	1	126	4
0	0	0	0	107	0
0	0	0	0	4	1
0	0	0	0	3	1
1	0	0	0	1	1
0	0	0	0	40	0
0	0	0	0	0	0
0	0	0	0	24	0
0	0	0	0	47	0
0	0	0	0	3	4
0	0	0	0	8	0
0	0	0	0	10	0
2	2	0	2	535	22

Single-Family Attached Projects:

Alpine Vista (88th & Lowell)
Bradburn (120th & Tennyson)
CedarBridge (111th & Bryant)
Cottonwood Village (88th & Federal)
East Bradburn (120th & Lowell)
Eliot Street Duplexes (104th & Eliot)
Highlands at Westbury (112th & Pecos)
Hollypark (96th & Federal)
Hyland Village (96th & Sheridan)
Legacy Village (113th & Sheridan)
South Westminster (East Bay)
South Westminster (Shoenberg Farms)
Summit Pointe (W. of Zuni at 82nd Pl.)
Sunstream (93rd & Lark Bunting)

0	0	0	0	84	0
0	0	0	0	0	0
0	0	0	0	0	0
0	0	0	0	62	0
0	0	0	0	117	0
0	0	0	0	10	0
3	3	0	3	6	9
0	0	0	0	20	0
0	0	0	0	153	0
0	0	0	0	62	0
0	0	0	0	58	0
0	0	0	0	54	0
0	0	0	0	58	0
0	0	0	0	16	2
3	3	0	3	700	11

Multiple-Family Projects:

Bradburn (120th & Tennyson)
Hyland Village (96th & Sheridan)
Mountain Vista Village (87th & Yukon)
Prospector's Point (87th & Decatur)
South Westminster (East Bay)
South Westminster (Harris Park Sites I-IV)

0	0	0	0	233	0
0	0	0	0	54	0
0	0	0	0	144	0
0	0	0	0	24	0
0	0	0	0	28	1
0	0	0	0	6	6
0	0	0	0	489	7

Senior Housing Projects:

Covenant Retirement Village
Crystal Lakes (San Marino)
Legacy Ridge (112th & Federal)

0	0	0	0	0	0
0	0	0	0	7	0
0	0	0	0	168	0
0	0	0	0	175	0

SUBTOTAL

TOTAL (all housing types)

5	5	0	5	1899	40
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* This column refers to the number of approved units remaining to be built in each subdivision.