



WESTMINSTER

Staff Report

TO: The Mayor and Members of the City Council

DATE: January 2, 2008

SUBJECT: Study Session Agenda for January 7, 2008

PREPARED BY: J. Brent McFall, City Manager

Please Note: Study Sessions and Post City Council meetings are open to the public, and individuals are welcome to attend and observe. However, these meetings 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 next Monday night's Study Session, the following schedule has been prepared:

A light dinner will be served in the Council Family Room 6:00 P.M.

CITY COUNCIL REPORTS

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

PRESENTATIONS

6:30 P.M.

1. FasTracks Northwest Rail Update
2. South Westminster Arts Group Lease of Former Commercial Property at 7287 Lowell Boulevard

EXECUTIVE SESSION

1. Obtain Direction from City Council re proposed Economic Development Assistance Agreement related to a new retailer in the Mission Commons Shopping Center at 88th Avenue and Wadsworth Boulevard pursuant to WMC 1-11-3(C)(4), WMC 1-11-3 (C)(7) and CRS 24-6-402(4)(e).
2. Obtain Direction from City Council re proposed Economic Development Assistance Agreement related to a new retailer in the Sheridan Crossing Shopping Center at 120th Avenue and Sheridan Boulevard pursuant to WMC 1-11-3(C)(4), WMC 1-11-3 (C)(7) and CRS 24-6-402(4)(e).

INFORMATION ONLY ITEMS – Does not require action by City Council

None at this time.

Additional items may come up between now and Monday night. City Council will be apprised of any changes to the Study Session meeting schedule.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER

Staff Report

City Council Study Session Meeting
January 7, 2008



SUBJECT: FasTracks Northwest Rail Update

PREPARED BY: Matt Lutkus, Deputy City Manager

Recommended City Council Action

Listen to the RTD Staff presentation on the Northwest Rail and provide RTD and City Staff with any feedback Councillors may have on the current direction of the FasTracks Northwest Rail Project.

Summary Statement

- The Regional Transportation District (RTD) has asked for time at the City Council's January 7 Study Session to provide Council with an update on the status of the FasTracks Northwest Rail Project. This meeting is part of a series of meetings that RTD Staff have been holding with elected officials representing counties and cities along the Northwest Corridor.
- Mayor McNally, along with a number of City Staff, have been involved on several different fronts in ongoing meetings with RTD Staff, project consultants, and other elected officials and staff representing other jurisdictions along the Northwest Corridor. These meetings have addressed the many issues related to the design and construction of the rail component of the FasTracks Transit System.
- The efforts currently underway will culminate with the completion of an Environmental Evaluation that is anticipated to be completed by RTD and its consultants in Spring 2008.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

None identified at this time.

Alternatives

None identified at this time.

Background Information

RTD Staff and a number of consultants retained by the District have been working closely with municipal government staff and elected officials on many issues related to the design and construction of the Northwest Rail component of the FasTracks Transit System. The next major milestone in this process will be the completion of the Environmental Evaluation that must be prepared for the US Army Corp of Engineers, the lead Federal Agency for this project.

As part of their efforts to maintain ongoing communications with various municipalities along the corridor, RTD Staff have requested to meet with Westminster City Council to provide a status report on the Northwest Rail Project. Their presentation Monday evening will consist of a brief history of the project, a description of how this project will tie into other transportation improvements being planned along the corridor, a discussion of noise and vibration mitigation actions that will be required, a review of the technology that will be used along the corridor, the decision-making process and the current schedule for completion at the project. The RTD Staff will also include in their presentation an explanation of quiet zone technology, discussion of issues related to fencing, a review of the local contribution options and an update on the station planning process.

Staff will brief City Council on Monday evening on several key issues that Council may wish to raise with RTD.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER

Staff Report

City Council Study Session Meeting
January 7, 2008



SUBJECT: South Westminster Arts Group Lease of Former Commercial Property at 7287 Lowell Boulevard

Prepared By: Vicky Bunsen, Community Development Programs Coordinator

Recommended City Council Action:

Review staff report and provide feedback on proposed lease for the South Westminster Arts Group to occupy former commercial property located at 7287 Lowell Boulevard.

Summary Statement:

- It is proposed to allow the South Westminster Arts Group (SWAG) to lease the former commercial building located at 7287 Lowell Boulevard, which is owned by the Westminster Housing Authority, so that SWAG may use the space to facilitate cultural activities such as community theatre, art shows, meetings and activities that support the growth of non-profit cultural activity.
- The estimated expense for the City will be approximately \$3,000 for utilities plus minor maintenance of the building.
- The City will not be required to do any capital upgrades to the building for this use to occur.
- The lease agreement would be for one year, with three-month extensions thereafter until the lease is terminated.
- The property is being held by the WHA for future redevelopment. The building is expected to be demolished in about one year.

Expenditure Required: \$3,000 expense for utilities

Source of Funds: General Capital Improvement Fund - South Westminster Project

Policy Issue:

Should the Westminster Housing Authority lease the vacant former commercial building at 7287 Lowell Boulevard to the non-profit South Westminster Arts Group (SWAG) for \$1.00 per year and provide water, sewer, heat, electrical utilities and minor maintenance to the leased premises?

Alternatives:

- Do not lease the premises to SWAG. This alternative is not recommended because a good opportunity to support cultural activity in the south Westminster revitalization area would be missed.
- Lease the premises to SWAG with different financial terms. This alternative is not recommended because SWAG is attempting to establish a higher level of cultural activity using only existing resources. SWAG has no established revenue source at this time.

Background Information:

In an effort to increase non-profit arts-related activity in the City, staff has worked to create arts business incubator opportunities by identifying potential spaces in which arts activities could be conducted on a temporary or permanent basis. City staff has also worked with local artists to incorporate the South Westminster Arts Group (SWAG), a community-based arts network. The mission of SWAG includes:

- Establishing a network of artists, arts supporters and art supportive businesses for communication, advocacy, and identification of needs, and progress toward solutions for the creative community.
- Promote and foster a population of creative workers by encouraging them to reside or work in the historic, established South Westminster neighborhood, in order to better meet mutual goals.
- Focusing on diversity, tolerance and inclusiveness in order to strengthen the arts community and help it serve the needs of its supporters and audience, and provides an influential voice for all facets of the community.
- Maintain a commitment to public service through education, outreach, public artistic endeavors and other means of connecting with the larger community.
- Showcase the strength and diversity of the Art community.

Both local artists and experienced community theatre organizers have indicated an interest in working with SWAG to establish community theatre and artist shows in the historic West 73rd Avenue neighborhood.

The Westminster Housing Authority acquired 7287 Lowell Boulevard in 2005 to hold for future redevelopment. It was an auto repair business for many years and has been cleaned up for a temporary re-use. It is zoned C-1, which zone permits the theatre and gallery uses proposed by SWAG. Occupancy of the building would not only support the arts efforts, but would also discourage vandalism of an otherwise vacant building. The City has been paying for utilities for the building and will continue to do so in order to keep it in good repair. Occupancy of the building is expected to increase the utility cost from \$2,000 to \$3,000 per year.

Plans are in development review for a retail and residential development on the west side of Lowell south of 73rd Avenue. The proposed developer of this block, Community Builders, has continued to invest in the neighborhood, having completed 50 townhomes on Lowell Boulevard and Meade Street, as well as the new two-story office/retail building on the northwest corner of West 73rd Avenue and Lowell Boulevard. Redevelopment of the block south of 73rd Avenue is contingent on several factors, including successful property assemblage and improvement of the housing market so that the proposed condominiums can be sold. Given the status of these contingencies, it is believed that 7287 Lowell will be vacant for at least one more year before it is slated for demolition. The proposed lease provides for termination upon three months' notice after one year.

Given the opportunity to use this large vacant space for neighborhood arts activities and as a possible arts business incubator, SWAG requested use of the building for community theatre and other neighborhood and arts uses. SWAG proposes to be responsible for scheduling the space and to provide interface between neighborhood users and the Housing Authority and City of Westminster. While the local artists will be responsible for organizing the various activities, all participants who use the buildings will be registered as City volunteers. This provides several benefits, including use of a well-organized volunteer management system, the opportunity to conduct background checks on those who are using the building, and data tracking so that the hours of volunteer effort can be used to document future grant applications to fund SWAG and the other participating arts organizations.

The proposed lease is similar to that used by the City and the Westminster Historical Society for the two facilities occupied by WHS, but also includes notice that the building is slated for demolition in about one year. No obligation is created to relocate any activities to other facilities when demolition occurs. Any expenditures for minor repairs are within the discretion of the Authority and the City. There is no obligation to complete major repairs for any reason.

The building has been included in the WHA's insurance coverage with CIRSA since its acquisition. This proposed lease and activity do not increase the insurance costs. The City has been paying minimal utility costs for the building, which does not include telecommunications services, and would continue to do so.

It is proposed that SWAG's lease payment be \$1.00 per year. As a start-up non-profit organization, SWAG has no sources of revenue and hopes to use this collaborative use of local resources in order to generate arts activities, volunteerism, and programs that will lead to successful grant applications and revenue generation in the future. It is essentially a proposal to "bootstrap" local arts activities into being, so that a basis can be established for generating revenue and programming in the future.

The annual cost for utilities and minor repairs will be absorbed in the South Westminster account in the General Capital Improvement Fund.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments



**New office/retail building by
Community Builders, owner:
Colorado Rural Housing
Development Corp.**

**7287 Lowell Blvd,
Proposed to be leased
to SWAG**

**Adams
School
District No.
50**

LEASE AGREEMENT

This **Lease** is made between the **WESTMINSTER HOUSING AUTHORITY**, a Colorado public housing authority (hereinafter called "Lessor" or "City"), and **SOUTH WESTMINSTER ARTS GROUP**, a Colorado nonprofit corporation (hereinafter called "Lessee").

Lessor hereby agrees to lease to Lessee, and Lessee hereby agrees to lease from Lessor, the Premises described in Paragraph 1 below, subject to the terms, conditions, and agreements set forth hereinbelow:

- 1. Premises.** The Premises consist of the building and parking area located at 7287 Lowell Boulevard.
- 2. Term and Rent.** Lessor demises the above Premises for a term of one year, commencing 12:00 p.m. on January 15, 2008, terminating 12:00 p.m. on January 15, 2009, or sooner as provided herein (hereinafter, the "Term"), for a nominal rent payment for the Term in the sum of One Dollar (\$1.00), and for other good and valuable consideration described below. The term shall automatically renew for three-month terms thereafter, unless terminated by either party without cause upon three month's prior written notice which notice may be given at any time.
- 3. Use.** Lessee shall use and occupy the Premises for activities and functions specifically related to the purpose and mission of the South Westminster Arts Group. The Premises shall be used for no other purpose unless approved in writing by the Lessor.
- 4. Care and Maintenance of Premises.**
 - a. Lessee's responsibilities: Lessee acknowledges and accepts the Premises in their as-is condition. Lessee shall, at its own expense and at all times during the Term of this Lease, maintain the Premises in good and safe condition, and shall surrender the same, at termination hereof, in as good condition as received, normal wear and tear excepted. Lessee shall be responsible for the routine care and maintenance of the interior of the Premises of a housekeeping nature including custodial and janitorial services, normal and reasonable cleaning and the replacement of all consumable or expendable items such as light bulbs, cleaning, bathroom and office supplies and all items brought into the Premises by the Lessee.
 - b. Lessor's responsibilities: The Lessor shall be responsible only for minor maintenance and repair, the scheduling and expense of which shall be within the sole discretion of the Lessor. The Lessee has been informed that the Premises are expected to be demolished at the end of the Term and the Lessee will be required to vacate the premise. The Lessor has no responsibility for finding replacement premises nor for Lessee's relocation expenses.
- 5. Alterations.** Lessee shall not, without first obtaining the written consent of Lessor, make any alterations, additions, or improvements, in, to or about the Premises.
- 6. Ordinances and Statutes.** Lessee shall comply with all statutes, ordinances and requirements of all municipal, state and federal authorities now in force, or which may hereafter be in force, pertaining to the Premises, occasioned by or affecting the use thereof by Lessee.
- 7. Assignment and Subletting.** Lessee shall not assign this Lease or sublet any portion of the Premises without prior written consent of the Lessor, which shall be granted or refused in Lessor's sole discretion. Any such assignment or subletting without Lessor's consent shall be void and, at the option of the Lessor, grounds for Lessor's forthwith termination of this Lease.

8. Utilities. The Lessor shall provide and pay for utility charges as they become due, including those for heat, electricity, water and sewer. If such charges become excessive, the Lessor may take steps to control the costs, including restricting use of the utilities and asking the Lessee to help pay the costs. All applications and connections for other services desired by Lessee for the Premises shall be made in the name of Lessee only, and Lessee shall be solely liable for such charges as they become due, including those for cable, Internet, alarm and telephone services.

9. Entry and Inspection. Lessee shall permit Lessor or Lessor's agents to enter upon the Premises at reasonable times and upon reasonable notice, for the purpose of inspecting the same, and will permit Lessor at any time within sixty (60) days prior to the expiration of this Lease, to place upon the Premises any usual "To Let" or "For Lease" signs, and permit persons desiring to lease the same to inspect the Premises thereafter.

10. Possession. If Lessor is unable to deliver possession of the Premises at the commencement hereof, Lessor shall not be liable for any damage caused thereby.

11. Indemnification of Lessor. Lessor shall not be liable for any damage or injury to any person or property occurring on the Premises during the Term of this Lease. Lessee agrees to indemnify and save and hold Lessor harmless from any claims for such damage or injury, no matter how caused, except to the extent such damage or injury was the direct and proximate result of Lessor's negligent act or omission, provided, however, that nothing herein shall be deemed or construed as a waiver by Lessor of any of the protections or limitations against liability to which Lessor may be entitled under the Colorado Governmental Immunity Act. Lessee may satisfy its obligations pursuant to this paragraph by assuming the defense of and liability, if any, for any such claim brought against the Lessor, and retaining for such defense qualified legal counsel reasonably acceptable to the City.

12. Insurance.

a. Lessee, at its expense, shall maintain comprehensive commercial liability insurance, including coverage for bodily injury and property damage, insuring Lessee and naming Lessor as an additional insured with minimum coverage as follows: \$1,000,000 per occurrence. The insurance shall include coverage for contractual liability. Additional insurance shall be obtained in the event any aggregate limitations result in per occurrence coverage of less than \$1,000,000.

b. Prior to taking possession of the Premises pursuant to this Lease, Lessee shall provide Lessor with a Certificate of Insurance showing Lessor as additional insured. The Certificate shall provide for a ten-day written notice to Lessor in the event of cancellation or material change of coverage. To the maximum extent permitted by insurance policies that may be owned by Lessor or Lessee, Lessee and Lessor, for the benefit of each other, waive any and all rights of subrogation that might otherwise exist.

13. Eminent Domain. If the Premises or any part thereof or any estate therein, or any other part of the building materially affecting Lessee's use of the Premises, shall be taken by eminent domain, this Lease shall terminate on the date when title vests pursuant to such taking.

14. Destruction of Premises. In the event that the Premises or any part of the building in which the Premises may be situated is damaged or destroyed by any cause to an extent that renders the Premises unsafe or unusable for Lessee's purposes, either Lessee or Lessor may terminate this Lease forthwith. In no event shall the Lessor have any obligation to repair or replace the Premises in the event of any such damage or destruction and Lessee's sole and exclusive remedy in the event of such damage to or destruction of the Premises or the building in which it is located is the termination of this Lease.

15. Lessor's Remedies on Default. If Lessee defaults in the performance of any of the covenants or conditions hereof, Lessor may give Lessee notice of such default and if Lessee does not cure any such

default within ten (10) days, after the giving of such notice (or if such other default is of such nature that it cannot be completely cured within such period, if Lessee does not commence such curing within such ten (10) days and thereafter proceed with reasonable diligence and in good faith to cure such default), then Lessor may terminate this Lease on not less than twenty (20) days' notice to Lessee. On the date specified in such notice, the Term of this Lease shall terminate, and Lessee shall then quit and surrender the Premises to Lessor, without extinguishing Lessee's liability. If this Lease shall have been so terminated by Lessor, Lessor may at any time thereafter resume possession of the Premises by any lawful means and remove Lessee or other occupants and their effects. No failure to enforce any Term shall be deemed a waiver.

16. Taxes. Lessee shall be solely responsible for the payment of any property or other taxes that may arise as a result of Lessee's use of the Premises. The Lessee covenants and warrants to Lessor that Lessee is exempt from all federal, state and local taxes and further, that Lessee shall take no action to cause the loss of its exemption from said taxes. Lessee further covenants and agrees with the Lessor that in the event Lessee shall lose its exemption from taxes for any reason, Lessee shall timely pay all and any taxes accruing as a result thereof. Lessee further covenants and agrees to indemnify and hold Lessor harmless against any claims or judgments for unpaid taxes resulting from Lessee's use of the Premises.

17. Attorneys' Fees. In case suit should be brought for recovery of the Premises, or for any sum due hereunder, or because of any act which may arise out of the possession of the Premises, by either party, the prevailing party shall be entitled to all costs incurred in connection with such action, including reasonable attorneys' fees. For any controversy or claim arising out of or relating to this Lease, or the breach thereof, the parties agree to attempt to mediate any such disputes in good faith prior to filing any action against the other.

18. Waiver. No failure of Lessor to enforce any Term hereof shall be deemed to be a waiver.

19. Heirs, Assigns, Successors. This Lease is binding upon and shall inure to the benefit of the heirs, assigns and successors in interest to the parties.

20. Subordination. This Lease is and shall be subordinated to all existing and future liens and encumbrances against the property.

21. Entire Agreement. This Lease constitutes the entire agreement between the parties concerning the Premises and may be modified only by a written amendment signed by both parties.

22. Survival. Paragraphs 8, 11, and 15 through 20 inclusive shall survive any termination of this Lease by either Lessee or Lessor.

Signed as of this ___ day of _____, 2008.

WESTMINSTER HOUSING AUTHORITY

SOUTH WESTMINSTER ARTS GROUP

By: _____
Nancy McNally, Chairperson

By: _____
Jerry Vigil, Chair

Attest: _____
Authority Clerk

Attest: _____

**City of Westminster City Council Study Session
January 7, 2008**

Mayor Nancy McNally called the Study Session to order at 6:32PM. All Council was in attendance.

Staff present: City Manager Brent McFall, City Attorney Marty McCullough, Assistant City Manager Steve Smithers, Deputy City Manager Matt Lutkus, Community Development Director John Carpenter, City Engineer Dave Downing, Economic Development Manager Susan Grafton, Business Development Officer John Hall, Community Development Program Coordinator Vicky Bunsen, Public Information Specialist Carol Jones, and Management Intern II Phil Jones.

Guests in attendance: Chris Quinn, RTD Project Manager; Nadine Lee, RTD Engineer; Julie McKay, Consultant with CDR & Associates; Mikkel Kelly with the Westminster Window

FasTracks Northwest Rail Update

RTD staff was present to give a presentation on the Northwest Rail Environmental Evaluation. The original FasTracks plan provided a set amount of stations, with additional stations added during planning/NEPA process. One of the intents of environmental evaluation is to environmentally clear all stations (including the unbudgeted stations at 118th Avenue, East Boulder, and Westminster Center), so that if funding comes available RTD will have clearance to add stations into system. The next steps in the environmental evaluations are layout of stations and alignment issues, selection of preferred alternatives, and possible project impacts and proposed mitigations. Burlington Northern Santa Fe (BNSF) may actually construct the rail corridor, as they will continue to own it, possibly speeding up the process.

RTD staff also addressed Quiet Zones. The Responsible Rail Amendment states that RTD will work with all cities in the corridor to create quiet zones where feasible. Jurisdictions may apply for quiet zones if certain upgrades are made to at-grade crossings. RTD has \$325,000 per crossing for quiet zone improvements and assistance to cities.

In the next few years, RTD will seek inter-governmental agreements with communities for expedited plan review and permitting processes, as well as asking local entities to provide 2.5% of corridor costs. The 2.5% contribution may be in the form of Right of Way contributions, permit waivers, in-kind contributions, etc. To determine applicable jurisdictions for each corridor RTD may use corridor miles of track within each jurisdiction, number of stations within each jurisdiction, or riders projected by travel shed.

Council was appreciative of the presentation and asked questions about quiet zones, the duration of the RTD lease with BNSF and fencing of the rail lines.

South Westminster Arts Group Lease of Former Comm. Property at 7287 Lowell Blvd

City staff was on hand to present a proposal for leasing the former commercial property at 7287 Lowell Blvd to a community arts and theater group for \$1 per year, with the City paying for utilities amounting to approximately \$3,000 per year. The group leasing the space will be beneficial for that part of the city, incubating a new art culture in the space previously occupied by an auto body shop.

Council directed staff to bring back the lease of the building to the community art group to the next council meeting.

Mayor McNally adjourned the session at 8:05

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