



WESTMINSTER

Staff Report

TO: The Mayor and Members of the City Council

DATE: May 30, 2007

SUBJECT: Study Session Agenda for June 4, 2007

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

1. Modification to the Public Hearing Notice Procedures for Land Development Approvals
 2. Changes to Pension Ordinance
 3. Adams County Open Space Policies - **Verbal**
- 6:30 P.M.

EXECUTIVE SESSION

None at this time.

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
June 4, 2007



SUBJECT: Modification to the Public Hearing Notice Procedures for Land Development Approvals

PREPARED BY: Terri Hamilton, Planner III

Recommended City Council Action:

Direct Staff to proceed with a Councillor's Bill modifying the Westminster Municipal Code (WMC) regarding public hearing notice procedures for land development approvals.

Summary Statement

- The WMC requires mailed public notice to occur by certified first-class mail. This requires the mailing's recipient to be present when the notice is delivered, or the mailing's recipient has to pick up the notice at the post office if they are not home at the time of mail delivery. Staff has received complaints from residents about the inconvenience that sending these notices by certified mail creates for them.
- The WMC requires the applicant to use a title company to prepare the list of property owners to be mailed notification of the public hearing. This requirement has become obsolete as fewer title companies provide this service and the applicant can easily obtain this information from the County Assessor's Office and prepare the required documentation themselves.
- Staff is recommending that the WMC be modified to eliminate the existing requirement for public notices to be mailed by certified first class mail (notices would be send via first class mail) and to eliminate the requirement that a title company prepare the list of property owners who receive notice. This is in response to complaints from Westminster residents, and applicants requesting land development approvals that require public hearings and notice.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Should the City modify the WMC requirement regarding public hearing notice procedures for land development approvals?

Alternative

Do not modify the public hearing notice procedures. Staff does not recommend this alternative. The proposed modifications are recommended to address concerns raised by businesses and residents, which Staff believe are better practices than current procedures.

Background Information

Staff believes that the current Westminster Municipal Code (WMC) requirements regarding the mailing and preparation of public notice, required with public hearings for land development approvals, are in need of updating and improvement. Staff is recommending that mailed public notices be mailed using first class mail instead of the current WMC requirement for certified first class mail. This would eliminate the need for many residents who are not home at the time of mail delivery, to make trips to the post office - one trip for a public hearing notice required for a Planning Commission hearing and another trip for the notice for a City Council hearing. City Staff periodically receives complaints about this from Westminster residents. This will also reduce the cost and complexity in the preparation of mailed public notices.

Another requirement of the WMC is that the list of property owners to receive notice be prepared by a title company. Fewer title companies provide this service and City Staff has received complaints from the applicants for land development approvals that this is both unnecessary and inefficient. Therefore, with the proposed WMC modification, the applicant is now proposed to be the party responsible to prepare and certify this information. City staff will continue to check this information as part of the development review process.

A Proposed Bill showing the revisions to Section 11-5-13(A) 6 and 7, regarding the preparation and mailing of public notices, has been prepared for consideration by City Council and is attached to this staff report.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO.

SERIES OF 2007

INTRODUCED BY COUNCILLORS

**A BILL
FOR AN ORDINANCE AMENDING THE WESTMINSTER
MUNICIPAL CODE CONCERNING PUBLIC HEARINGS FOR LAND DEVELOPMENT
APPROVALS**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Section 11-5-13, subsection (A) W.M.C., is hereby AMENDED BY REVISING CERTAIN REQUIREMENTS CONTAINED THEREIN to read as follows:

11-5-13: PUBLIC HEARINGS FOR LAND DEVELOPMENT APPROVALS: (2534)

(A) The following public hearing procedure shall apply to any PDP, amended PDP, ODP, or amended ODP required in this Chapter to be reviewed and approved by the Planning Commission or City Council.

1. A public hearing before the Planning Commission shall be scheduled by the City.
2. Notice of public hearings scheduled before Planning Commission shall be published and posted at least ten days prior to such hearing.
3. Notice of public hearings scheduled before City Council shall be published and posted at least four days prior to such hearing.
4. Notice of the public hearing shall be published by the City by one publication in the official newspaper of the City.
5. The Notice of the public hearing shall also be posted on the property by the City using at least one sign with a minimum area of 30 square inches with lettering not less than 1-1/4 inches in height at an appropriate location which is reasonably visible to vehicular and pedestrian traffic passing adjacent to the site.
6. Mailed notice of the public hearing shall be given by the ~~City~~ APPLICANT by sending such notice by first-class mail to all owners within the area covered by the PDP, ODP, or PDP or ODP amendment, and any owners and any homeowner's associations registered with the City within 300' of the subject property, provided, however, the City may extend this distance beyond 300' based on the location and configuration of adjacent properties, neighborhoods and business areas.
7. It shall be the responsibility of the applicant to:
 - a. Prepare the list of property owners who are required to receive notice. Such list shall ~~be provided in the form of an ownership report issued by a title company acceptable to the City~~ CONTAIN THE NAME AND MAILING ADDRESS OF PROPERTY OWNERS FROM THE COUNTY'S RECORDS, KEYED TO THE APPROPRIATE LOT AND BLOCK NUMBER ON THE COUNTY ASSESSOR'S MAPS.
 - b. Prepare a map USING COUNTY ASSESSOR'S MAPS identifying the SUBJECT SITE, AND THE location and LOT AND BLOCK NUMBER ~~addresses~~ of the ~~property owners~~ PROPERTIES TO BE NOTIFIED.
 - c. The items listed above shall be delivered by the applicant to the Planning Manager, IN A FORMAT ACCEPTABLE TO THE PLANNING MANAGER, at least fifteen days prior to the date of hearing.
 - d. At least ten (10) days prior to the date of the hearing, the applicant shall mail, by ~~certified~~ first class mail, the individual notices to the listed property owners. The applicant shall also provide the Planning Manager prior to the hearing, a certification that the required notices were mailed and the date of such mailing(s).
8. The City shall prepare the form of the notice to be issued. At the public hearing, the Planning Manager shall verify that the required notices were issued. Any person with actual notice of the public hearing shall have no standing to object to the commencement or conduct of the

public hearing, even if such person failed to receive one or more of the forms of notice prescribed above.

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 ___ day of ____, 2007.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this ___ day of ____, 2007.

Mayor

ATTEST:

City Clerk

APPROVED AS TO LEGAL FORM:

City Attorney



WESTMINSTER

Staff Report

City Council Study Session Meeting

June 4, 2007



SUBJECT: Changes to Pension Ordinance

PREPARED BY: Gordon Tewell, Pension Administrator

Recommended City Council Action:

Direct Staff to prepare an ordinance for Council action to amend Title XIV of the Westminster Municipal Code as it relates to the City's Pension Plans.

Summary Statement:

During 2006, the U.S. Congress passed the Pension Protection Act of 2006 (PPA). The PPA includes several provisions that are beneficial to defined contribution plans like the City of Westminster Police and General Employee Pension Plans (Plans). In order for plan participants to receive the full benefit of the changes allowed by the PPA these provisions must be affirmatively adopted by the Plans. As Title XIV of the Westminster Municipal Code is the plan document for the Plans, the Municipal Code must be amended for these provisions to be available to plan participants.

While most of the recommended changes to Title XIV are required to implement provisions of the PPA, Title XIV also currently includes language which is administratively cumbersome or unnecessary as required by Internal Revenue Code. The primary changes are as follows: modify language to reflect operational procedures; change provisions for distributions to non-spouse beneficiaries; eliminate the early retirement age and modify normal retirement age so public safety employees may take advantage of provisions of the PPA; allow in-service distributions for employees who attain the age of 62 and have a reduction in compensation of at least 25%; and eliminate the limit on after-tax voluntary contributions.

The IRS requires pension plan documents be amended to comply with changes to the Internal Revenue Code as the result of laws passed by Congress. Amendments to the Plans are required in order for the Plans to conform to law as modified by the PPA. The plan must be amended and filed with the IRS no later than January 31, 2009.

Outside counsel has been retained to provide guidance and assistance in amending the Plans. Other than the cost for outside counsel there are no costs related to updating the Plans.

Expenditure Required: \$4,000

Source of Funds: General Fund-Central Charges-Pension Account

Policy Issue:

Does City Council approve the recommendations for amendments to Title XIV of the Westminster Municipal Code to comply with laws established by the Pension Protection Act of 2006 and to make administrative changes to the operation of the plans?

Alternative:

Do not approve the amendments. Staff does not recommend this option as amendments to the plan implementing provisions of the PPA are beneficial to pension plan participants, don't result in additional financial liability to the City, and these provisions cannot be utilized by plan participants until they become a part of the Municipal Code.

Background Information:

The Pension Protection Act of 2006 is the largest overhaul of retirement plan rules and regulations since the Economic Growth and Tax Reconciliation Reform Act of 2001 (EGTRRA). While much of the PPA was directed at revamping traditional defined benefit plans, the Act did make available a number of provisions that benefit defined contribution plans like the City of Westminster Police and General Employee Pension Plans. Additionally, the PPA made permanent many provisions of EGTRRA that were due to sunset in 2010 including increased contribution limits and the Saver's Credit.

Since the passage of the PPA, pension staff has been researching and preparing to implement several provisions from the PPA. This preparation included research on the impact of the changes on the Plan and its participants and consideration of the administrative effect of implementing these provisions. Outside counsel was utilized to fully understand the changes and to ensure that the provisions will be implemented within the correct interpretation of the new tax law.

The proposed changes were discussed with both Pension Boards. The Pension Boards were in agreement with the recommended changes. Highlights of the recommended amendments follow:

- The spouse of a deceased participant may generally rollover the inherited account to an IRA. Non-spouse beneficiaries have, in the past, not been allowed to make such rollovers, requiring that a non-spouse beneficiary incur the full tax liability of receiving the inherited account within five years. Effective for distributions after 2006, the PPA allows a non-spouse beneficiary to rollover an inherited account to an IRA allowing the non-spouse beneficiary to spread the tax liability over their lifetime.
- The PPA includes a provision allowing public safety officers, who separate from service at or after the plan's normal retirement age, or on account of disability, to elect to have up to \$3,000 per year of their otherwise taxable retirement distributions from a qualified retirement plan excluded from their taxable income. In order to be eligible for the tax exclusion, the payment must be for health insurance or long-term care insurance and must be paid directly to the insurance carrier by the Plan.
- In order to be more precise with the language regarding retirement ages, it is recommended that reference to early retirement age be stricken from the plan document. Early retirement age as defined in the plan document has no operational affect on employees' retirement. Employees are allowed to retire at any desired age with their age at separation of service having no effect on their retirement benefit as the benefit for a defined contribution plan is simply the employee's account balance at the time of retirement. Retirement ages as defined

by Internal Revenue Code dictate the tax treatment of distributions from the Plans. To more realistically reflect City employees' actual retirement experience it's suggested that normal retirement age be changed to fifty-five for the Police Plan and sixty for the General Employee Plan.

- Effective for distributions in plan years beginning after January 1, 2007, the PPA provides that pension plans may make in-service distributions to employees who have attained age 62 and are still actively employed. The amendments recommended for the Plan include a new section making in-service withdrawals available to all employees under certain reasonable and non-discriminatory conditions. These conditions have been defined as a reduction in compensation of at least 25%. The availability of in-service withdrawals with these conditions can be used as a tool for the City to keep experienced knowledgeable employees in the workforce on a reduced-hours basis.
- Prior tax law changes changed the limit for contributions to retirement plans to the maximum of 100% of compensation or the dollar amount defined by Section 415 of Internal Revenue Code. City Code currently limits voluntary after-tax contributions by employees to the plan to 10%. Based on the tax law changes established by EGTRRA this limit is no longer statutorily required. Recommended changes to this section include eliminating the 10% voluntary contribution limit and streamlining the administrative process by requiring that these after-tax contributions be made through the payroll process.

The recommended changes were prepared by Staff and reviewed by Attorney Mary Brauer of Reinhart Boerner Van Deuren. Based on her expertise in complying with the changes to the Internal Revenue Code, Staff believes that the proposed amendments are required and beneficial.

Since the passage of the PPA, Internal Revenue Code has been updated. The IRS requires that pension plans update their plan documents in accordance with Code changes and submit applications to the IRS for confirmation that the plan documents comply with current Code. Those plans that do not properly amend their plan documents and submit the amended documents to the IRS by the proper IRS filing date can potentially lose their status as "tax-qualified." Approving the attached amendments will bring the City of Westminster Pension Plans into compliance with updated tax law through the Pension Protection Act of 2006 and allow staff to submit for IRS approval in a timely manner.

Those changes to the City of Westminster Police Pension Plan that are substantive in nature require approval by a vote of the members of the Police Plan. Approval by 65% of those members of the Police Plan who vote is required to implement the changes.

Respectfully submitted,

J. Brent McFall
City Manager

**City of Westminster City Council Study Session
June 4, 2007**

Mayor Pro Tem Tim Kauffman called the Study Session to order at 6:35 PM. All Council was in attendance except Mayor McNally.

City Staff in attendance included: City Manager Brent McFall; Deputy City Manager Matt Lutkus; City Attorney Marty McCullough; Finance Director Tammy Hitchens; Pension Administrator Gordon Tewell; Community Development Director John Carpenter; Planning Manager Dave Shinneman; Public Information Specialist Joe Reid; Parks, Recreation and Library Director Bill Walenczak; and Management Intern Phil Jones.

The guest in attendance was Rachel Ceccarelli with the Westminster Window.

Modification to the Public Hearing Notice Procedures for Land Development Approvals

Staff believes that the current Westminster Municipal Code (WMC) requirements regarding mailing and preparation of public notice, required with public hearings for land development approvals, are in need of updating and improvement. Staff recommended that mailed public notices be mailed using first class mail instead of the current WMC requirement for certified first-class mail. This change would eliminate the need for many residents who are not home at the time of mail delivery to make trips to the post office – one trip for a public hearing notice required for a Planning Commission hearing and another trip for the notice for a City Council hearing. City Staff periodically receives complaints about this from Westminster residents. This will also reduce the cost and complexity in the preparation of mailed public notices.

Another requirement for the WMC is that the list of property owners to receive notice be prepared by a title company. Fewer title companies provide this service and City Staff continues to receive complaints from applicants for land development approvals that this is both unnecessary and inefficient. Therefore, with the proposed WMC modification, the applicant is now proposed to be the party responsible to prepare and certify this information. City Staff will continue to check this information as part of the development review process.

A Proposed Bill was presented, showing the revisions to Section 11-5-13(A) 6 and 7, regarding the preparation and mailing of public notices.

City council discussed current and proposed requirements of the WMC, and was comfortable with this appearing on the council agenda June 11, 2007.

Changes to Pension Ordinance

The Pension Protection Act of 2006 is the largest overhaul of retirement plan rules and regulations since the Economic Growth and tax Reconciliation Reform Act of 2001 (EGTRRA). While much of the PPA was directed at revamping traditional defined benefit plans, the Act did make available a number of provisions that benefit defined contribution plans like the City of Westminster Police and General Employee Pension Plans. Additionally, the PPA made permanent many provisions of EGTRRA that were due to sunset in 2010 including increased contribution limits and the Saver's Credit.

The proposed changes were discussed with both Pension Boards. The Pension Boards were in agreement with the recommended changes. The recommended changes were prepared by Staff and reviewed by Attorney Mary Brauer of Reinhart, Boerner, Van Deuren. Approving the amendments will bring the City of Westminster Pension Plans into compliance with updated tax law through the Pension Protection Act of 2006 and allow staff to submit for IRS approval in a timely manner.

City council was supportive of the pension updates and the pension plan amendments and directed staff to continue with the update process.

Adams County Open Space Policies

John Carpenter, Bill Walenczak, and Brent McFall updated council on the current standing of Adams County Open Space policies and procedures. Grant application and use of funds was discussed, as it relates to cities and park and recreation districts within the county.

Council appreciated the update and directed staff to continue advocating for Westminster and the cities of Adams County.

Mayor Pro Tem Kauffman adjourned the Study Session at 7:40 PM.