



# WESTMINSTER

## Staff Report

TO: The Mayor and Members of the City Council

DATE: June 2, 2004

SUBJECT: Study Session Agenda for Monday, June 7, 2004

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.

### CONSENT AGENDA

None at this time.

### CITY COUNCIL REPORTS

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

### PRESENTATIONS

6:30 P.M.

1. Renewal of Underwriter Contract with Stifel Nicolaus & Co., Inc., Hanifen Imhoff Division
2. Non-Potable Water Ordinance
3. Regulation of Telecommunication Towers, Facilities and Antennas
4. Possible Charter Amendments and Ballot Questions for November 2004

### EXECUTIVE SESSION

1. Redevelopment Assistance Package for Shoenburg-Tepper Property
2. CLUP Discussion (*Verbal*)

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 7, 2004



**SUBJECT:** Renewal of Underwriter Contract with Stifel Nicolaus & Co., Inc., Hanifen Imhoff Division

**PREPARED BY:** Mary Ann Parrot, Finance Director

#### **Recommended City Council Action:**

Direct Staff to bring back for official City Council action a contract with Hanifen, Imhoff Inc., in substantially the same form as attached, to provide Bond Underwriter services for a period of three years effective June 28, 2004.

#### **Summary Statement**

The existing financial services and bond underwriter contract with Hanifen, Imhoff Inc., which has been in place for the past three years, will expire on June 27, 2004. The rationale for extending the contract is summarized below.

- Hanifen Imhoff has added value to the City's business by the following activities since the last renewal:
  - Assistance with two successful elections: de-Brucing in 2002 and Public Safety Tax in 2003. This is the first time the City used professional consultants; Staff also believes this was a contributing reason that the ballot measures passed in 2002 and 2003.
  - Successful search for Letter of Credit banks for the Mandalay and North I-25 borrowings. These two large borrowings moved the City and WEDA to a different level in the banking and underwriting market. In addition, when the Letter of Credit Bank for the Mandalay Gardens bond issue decided to exit the municipal market, Mr. Bell proceeded to find the City an alternate letter of credit bank, with which the City has conducted one successful borrowing at favorable rates to the City.
- Because of David Bell's work this past three years, Staff was able to reduce the costs of borrowing and the costs of fees from prior contracts. Staff expects this practice of competitive fees to continue.
- Staff recommends not going out to the market with an RFP for Underwriter Services at this time because of the excellent services provided by Hanifen, Imhoff Inc., and the need to preserve its focus on other key priorities, which will require much staff time over the next few months. These priorities include the following:
  - Structuring large new-money issues in the 3<sup>rd</sup>-4<sup>th</sup> Quarters of this year for North I-25 and South Westminster, as well as Big Dry Creek expansion.
  - Assembling a presentation for the ratings agencies and insurers for September 2004, with a focus on a comprehensive presentation of the City's urban renewal authority

**Expenditure Required:** \$ 0

**Source of Funds:** Not Applicable

### **Policy Issue(s)**

1. Should the City renew the underwriter contract without going out to the market in a competitive request for proposals?
2. Is it in the best interests of the City to award a three-year contract to Hanifen Imhoff without going out for bid?

### **Alternative(s)**

Alternatives for consideration are summarized as follows:

1. Submit the Underwriter function for competition. This is not recommended, as it creates significant disruption for Staff, who need to focus on bond issuance and ratings agency presentations. It also creates discontinuity on the finance team at a time when the City's need for stability on the team is significant. On a positive note, it is in the City's best interests to retain Hanifen, Imhoff as Underwriter of choice on many negotiated sales, as they know the City better than other firms, have strong sales and professional staffs, can sell the City's bonds effectively in the marketplace and have negotiated and will continue to negotiate competitive fees. Lastly, the City has included in the contract a provision that will allow the City to select alternative firms/personnel should the City need to change to team members, due to expertise or access to capital markets.
2. Select an alternate underwriter who has worked with the City on past WEDA issues. This is not recommended, although the firm does quality work. The primary reason for this is that the fees quoted by this firm are in the range of \$5.00 to \$7.50 per bond, whereas Hanifen has regularly quoted fees of \$2.25 to \$3.75 per bond. It is in the City's best interests to retain Hanifen as the quality of work is very high and the cost is more competitive.
3. Do nothing; allow the contract to expire and hire underwriters on a case-by-case basis. This is not recommended, as it would cause the same disruption and lack of continuity at a time when the primary focus must be the issuance of several bond issues and the formation of several special taxing districts. In addition, the City has preserved a contract provision to allow the selection of alternative firms/personnel when necessary. At this time, the City needs a lead underwriter; it is in the best interests of the City to retain Hanifen, Imhoff, at competitive rates, without having to search out alternative providers.

### **Background Information**

City Council is requested to renew the contract with Hanifen, Imhoff Inc., as Underwriter for the City's financings for a three-year period of time June 28, 2004 through June 27, 2007. Fees for Underwriter Services are budgeted in bond issuance costs to pay for the firm's services; therefore, no budget revisions are necessary.

Under the former contracts, Hanifen, Imhoff Inc. served as both Financial Advisor and Underwriter for the City. Under the current construct, Hanifen, Imhoff Inc. has served as Underwriter only. The function of Financial Advisor was segregated, put out for competition and contracted for separately in 1999. This has worked well for the City in two key areas:

- Financing costs have been reduced in two critical areas: interest costs (the coupons on the bonds) and fees (underwriter discount)
  - Interest Costs have been reduced because of the expertise the Financial Advisor has demonstrated in structuring the bond issue. In one case, the Financial Advisor structured several bonds in a "serial" fashion, at lower coupons, rather than a "term

bond” at a single coupon; this saved the City \$67,400 over and above the fees the Financial Advisor charged for this issue.

- Underwriter Discounts have been reduced to competitive levels. On the recent WEDA bond for Mandalay Gardens (now The Shops at Walnut Creek) the fee of \$3.75 per bond was competitive when reviewing national fees. The City’s Financial Advisor also determined this fee was at or below other fees received by other Denver-based underwriters on recently published issues. Lastly, these fees are well below those charged by another firm who has helped the City in past years, as well as those fees recently quoted on an upcoming South Westminster issue.

Other items preserved in the proposed renewal of the contract include the following:

- Under the proposed contract, Hanifen, Imhoff Inc. can elect to participate as a co-Financial Advisor on bond issues if the City chooses. They would be reimbursed accordingly. This arrangement serves to guarantee high-quality services to the City, which were certainly needed when issuing the complex financings over the past several years.
- The City reserves the right to determine whether bond sales would be conducted on a negotiated basis with the Underwriter or sold competitively in the market. This will guarantee the lowest interest cost to the City and comprises the bulk of costs when the City issues bonds. If an issue is sold on a competitive basis, Hanifen, Imhoff Inc. has the ability to compete for the underwriting. This also serves to hold costs down.

This arrangement described above serves four purposes:

- It is in the best interests of the City to retain advisors who have experience with the City’s financial history, philosophy, and practices, especially when this can be done and still ensure issuing the bonds at competitive rates and costs based on national survey data available on underwriter fees.
- It preserves the continuity on the “finance team” and allows Staff and the team to focus on other priorities.
- It conforms to recommendations by the Municipal Securities Rulemaking Board (MSRB), the Government Finance Officers’ Association (GFOA), and will resolve the conflicts that have arisen in the past, wherein the Underwriter has also served as Financial Advisor.
- The City has been able to achieve competitive rates with an important service provider without having to go through the lengthy, time-consuming and complicated process of a formal RFP process.

The City enjoys a productive working relationship with several principals in the firm, who would continue to service the City's account. Staff believes it is important to continue a close working relationship with Hanifen, Imhoff and realize the many benefits from their knowledge, skills and working relationships with bond rating agencies, bond insurance companies and others. Representatives from Hanifen, Imhoff Inc. will be present at the June 7 Study Session to answer any questions City Council may have regarding a new contract.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment(s)

## CONTRACT

This Contract is entered into this 28<sup>th</sup> day of June, 2004, by and between the City of Westminster, a Colorado home-rule municipality (the "City"), and Stifel Nicolaus & Co., Inc., Hanifen Imhoff Division (the "Underwriter").

WHEREAS, the City has a need for bond underwriting services and financial advisory services from time to time;

WHEREAS, the City has had a long standing relationship with the Underwriter; and

WHEREAS, the parties are desirous of entering into a new contract, this would continue their positive working relationship for an additional three years.

NOW THEREFORE, in consideration of the above premises, the mutual covenants set forth below, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

### Section 1. Capital Financing

Underwriter shall perform the following functions as underwriter:

- (a) Financing Alternatives. The Underwriter, in consultation with the City officials, auditor, engineering consultants, financial advisor and municipal bond counsel, shall recommend financing alternatives for specific capital projects. Such financing alternatives will be based on revenue projections and the existing corporate, financial, and legal structure of the City. The Underwriter shall assist the City in evaluating the financing alternatives and make recommendations concerning general obligation and revenue bond financing, lease-purchase and installment purchase financing, participation in federally sponsored programs, and the utilization of insurance guaranty programs and other cost effective financing methods, both long and short term. In addition, the Underwriter shall make recommendations concerning the need for short or intermediate-term financing prior to or in conjunction with long-term financing.
- (b) Bond Financing. The Underwriter shall assist in recommending to the City the method of sale, which will be in the best interest of the City. In the case of general obligation bonds, revenue bonds, or other municipal securities, the recommendations shall include recommendations concerning the advisability of selling the proposed municipal securities either by competitive or negotiated sale. The Underwriter shall assist the City in the following tasks in connection with the issuance of bonds or other debt securities by the City:
  - (1) Determination of the structure of such financing, including sources of payment, security, maturity schedule, rights of redemption prior to maturity, and other matters concerning the features of the bonds;
  - (2) Obtaining public support for the bond issue, if a bond election is required, including assisting the City and its citizen committees to effectively present the City's proposal to the electorate in an organized, thoughtful, and concise manner;

- (3) Preparation and presentation of applications and detailed information about the City and the proposed bond issue to appropriate rating agencies, where advisable;
  - (4) Acquisition of municipal bond insurance where advisable;
  - (5) Assistance in the review and preparation of an official statement to be distributed to prospective bond purchasers;
  - (6) Printing of the bonds; and
  - (7) Coordination of the legal proceedings recommended by bond counsel, any temporary investment of sale proceeds, and all other necessary arrangements in connection with the delivery of the bonds by the City.
- (c) Competitive Bids. In the event the City elects to solicit bids for the bonds through a public sale, the Underwriter may compete in the sale to purchase, directly or indirectly, from the City, all or any portion of the bonds sold at competitive bid either as principal alone or as a participant in a syndicate or other similar account. If the Underwriter has also been acting as Co-Financial Advisor to the City, as described below in Section 2, the Underwriter shall resign, in writing, as Co-Financial Advisor to the City prior to the competitive sale.
- (d) Negotiated Sales. In the event of a negotiated sale of a bond issue by the City to the Underwriter, the Underwriter will underwrite the issue. In connection therewith, the Underwriter shall prepare financial plans and price the issue. In addition, prior to the negotiated sale taking place, the Underwriter shall resign, in writing, as Co-Financial Advisor to the City, as described below in Section 2.
- (e) The City reserves the right to substitute another firm and/or such banking personnel as the City deems best addresses the City's needs, on an issue-by-issue basis.
- (f) The Underwriter shall at all times comply with applicable requirements and regulations of the Securities and Exchange Commission ("SEC") and the Municipal Securities Rulemaking Board ("MSRB").

## Section 2: Underwriter as Co-Financial Advisor

In addition to the above function as Underwriter, the firm may, upon mutual agreement of the parties, act as Co-Financial Advisor to the City. The Underwriter will not be acting as primary Financial Advisor to the City, but may from time to time participate as a Co-Financial Advisor to the City. The Co-Financial Advisor functions are described below in Section 2a (Fiscal Analysis) and Section 2b (Financial Planning).

### Section 2a. Fiscal Analysis

The Underwriter, in its capacity as Co-Financial Advisor to the City, shall, at its own option, and at no cost to the City, inform itself of, and, at the City's request, review and evaluate the City's fiscal resources. Such review may include analysis of the existing corporate, financial, and legal structure of the City, including the City's Charter, financial policies, operating budgets, audits, existing debt levels and applicable covenants, and other available financial documentation.

## Section 2b. Financial Planning

- (a) Indebtedness. The Underwriter as Co-Financial Advisor shall advise the City regarding its debt levels and the covenants relating thereto. When asked to do so by the City and, if the information is available, the Underwriter as Co-Financial Advisor shall compare the City's indebtedness with debt medians for cities of comparable size throughout the country. The Underwriter as Co-Financial Advisor will advise the City on matters affecting bond financing by the City, including the effects of Amendment 1 and other financially related State constitutional amendments.
- (b) Refunding of Outstanding Debt. In the course of monitoring the City's fiscal status and debt levels and at the request of the City, the Underwriter as Co-Financial Advisor will evaluate the feasibility of refunding outstanding debt and make recommendations concerning a refunding plan, where advisable.
- (c) Cash Management. The Underwriter as Co-Financial Advisor will evaluate and make recommendations concerning alternative investment vehicles for the investment of City funds. Such recommendations shall be consistent with statutory requirements for the investment of public funds and shall take into account the City's concerns for safety, liquidity, diversification, and return.

## Section 3. Compensation and Terms of Payment

- (a) For negotiated sales, the City and the Underwriter will negotiate the Underwriter's discount for the financing.
- (b) For the Underwriter to act as Co-Financial Advisor, the City and the Underwriter will negotiate a Co-Financial Advisor fee relative to each financing issue. The fee will be negotiated in advance of the work on the financing and will reflect the secondary position to the Financial Advisor on the financing.
- (c) Other financing expenses as authorized by the City through the City Manager in connection with a negotiated sale, including, without limitation, bond counsel, rating agency, and printing expenses, shall be paid by the City.
- (d) No fees shall be charged for general financial advice rendered by the Underwriter as Co-Financial Advisor unless the City agrees in writing.
- (e) No fees shall be charged by the Underwriter as Co-Financial Advisor in the event of an unsuccessful bond election or an inability to consummate a sale of the City's securities. Other financing expenses as authorized by the City Manager, including but not limited to third party expenses (i.e. bond counsel) and out-of-state travel, incurred before an unsuccessful election or a failed sale, shall be paid by the City.
- (f) The approximate underwriting spread for a negotiated sale shall be agreed on by both parties after consideration of similar issues, competitive or negotiated.
- (g) The fees for performing the financial advisory services pursuant to Section 4 hereof (except for additional services described therein) shall be \$2,500 per inducement application. Such fees for additional services shall be as agreed between the Underwriter as Co-Financial Advisor and the City.

#### Section 4. Industrial Development Revenue Bonds (IDRBs)

Upon request of the City, the Underwriter as Co-Financial Advisor will endeavor to assist the City in reviewing requests and actions related to previously issued bonds of the City including IDRBs.

Upon request of the City, the Co-Financial Advisor shall provide financial advisory services for industrial development revenue bond ("IDRB") inducement requests for which an Underwriter other than the Co-Financial Advisor has been arranged. The Co-Financial Advisor, in addition to reviewing and evaluating the financial aspects of the IDRB inducement request, shall examine the submitted documents for obvious conflicts or discrepancies and shall bring such matters to the attention of the City. The Co-Financial Advisor, shall, to the best of his ability and only pursuant to a supplementary written memorandum setting forth the Co-Financial Advisor's responsibilities, undertake such further investigation and evaluation of the IDRB as set forth in the memorandum. In no event will the Co-Financial Advisor be required to provide any opinion with regard to compliance with the anti-fraud provisions of the Federal Securities laws (i.e., Section 10b-5 opinions), but the Co-Financial Advisor shall review such opinions as provided by bond counsel, disclosure (underwriter's) counsel and applicant's counsel for comprehensiveness. At the request and cost of the City, the Co-Financial Advisor shall arrange for any due diligence investigation necessary to provide the City with any opinion in addition to those provided by such counsel.

#### Section 5. Contract Term

Unless this Contract is terminated, pursuant to Section 6, it shall be in effect for a term of three (3) years. However, the Contract shall be subject to review by the City Council on or about each annual anniversary date hereof. At the end of the three (3) year term, both parties shall review the Contract for further renewal.

#### Section 6. Termination

Either party may terminate this Contract upon providing fifteen (15) days written notice to the other party.

#### Section 7. Assignability

The Underwriter or Underwriter as Co-Financial Advisor shall not assign any interest in this Contract and shall not transfer any interest therein without the prior written consent of the City.

#### Section 8. Work Product and Confidentiality

The products of this Contract shall be the sole and exclusive property of the City upon completion or other termination of this Contract. The Underwriter or Underwriter as Co-Financial Advisor shall deliver to the City all copies of any and all materials pertaining to this Contract. No reports, information or data given to or prepared by the Underwriter acting as Underwriter or Co-Financial Advisor under this Contract shall be made available to any individual or organization by the Underwriter without the prior written approval of the City.

#### Section 9. Completeness of the Contract; Amendment

This document contains all terms and conditions of this Contract, and any amendment, modification, or alteration shall be invalid unless made in writing, signed by both parties, and incorporated as an amendment to this Contract. There are no understandings, representations, or agreements, written or oral, other than those incorporated herein.



Section 10. Severability

In the event any provision of this Contract shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provisions hereof, and such remaining provisions shall remain in full force and effect. The parties hereto hereby agree that they would have entered into this Contract and each part hereof notwithstanding the invalidity or unenforceability of any other part of parts hereof.

Section 11. Governing Law

This Contract shall be governed and construed in accordance with the laws of the State of Colorado. This Contract shall be subject to, and construed in strict accordance with, the Westminster City Charter and the Westminster Municipal Code in effect as of the date this Contract is signed.

Section 12. Prior Contracts

This Contract supersedes the Contract between the parties hereto, for similar services, dated June 28, 2001.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be signed and sealed as of the day and year first above written.

CITY OF WESTMINSTER, COLORADO

By: \_\_\_\_\_  
Title: \_\_\_\_\_

(CITY SEAL)

Approved by Westminster  
City Council on \_\_\_\_\_

Attest:

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

APPROVED AS TO FORM:

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

STIFEL NICOLAUS & CO., INC., HANIFEN IMHOFF  
DIVISION

By: \_\_\_\_\_  
Title: \_\_\_\_\_



W E S T M I N S T E R

## Staff Report

City Council Study Session Meeting  
June 7, 2004



**SUBJECT:** Non-Potable Water Ordinance

**PREPARED BY:** Kipp Scott, Water Quality Administrator  
Mike Happe, Water Resources and Treatment Manager

### Recommended City Council Action

Direct Staff to prepare the changes to the Municipal Code and budget amendment to the Staffing Plan to support enhanced implementation of the Reclaimed Water Utility.

### Summary Statement

- The Reclaimed water system was constructed as a cost effective alternative to developing raw water to help meet the ultimate demand of the City of Westminster. The investment in this utility is approximately 60 million dollars.
- The 2003 Reclaimed Water Master Plan, reconfirmed the premise of the system, which was a customer base to utilize 2,600 acre feet of irrigation demand, thereby reducing raw water demand. The potential to under utilize the reclaimed system has been identified if the City is not aggressive in developing new customers on the system.

- Operational experience over the last three years has identified areas of improvement necessary in the Municipal Code that regulates the use of reclaimed water and in staffing levels necessary to fully utilize the reclaimed system to provide 2,600 acre feet of supply for the buildout of the City.
- Staff is recommending that the Municipal Code be updated to require the use of reclaimed water for new development that meets specific criteria.
- As originally established, the reclaimed water system included one FTE to address maintenance tasks of the new facility, and seasonal staff was added to address sampling tasks. Existing Staff assumed all other functions, including customer development/support, and regulatory compliance.
- To effectively utilize Staff in areas of high priority, the Capital Projects Coordinator has been re-assigned to Reclaimed Water System Coordinator.
- The addition of one full-time reclaimed system specialist is requested to facilitate new customer development and customer support.

**Expenditure required:** \$50,000 for one additional FTE and \$10,000 in computer and miscellaneous expenses.

**Source of Funds:**

Funds are available in the 2004 Utility Fund Operations Budget from savings due to reduction in the purchase of treated water from the City of Thornton.

### **Policy Issues**

- Should the Municipal Code be updated to allow the City to require new development to use reclaimed water for irrigation, if available, address new state regulations, and other housekeeping issues?
- Should one new FTE be added in the 2004 personnel schedule to the Water Resources and Treatment Staffing Plan to address the development and support of the reclaimed water system?

### **Alternatives**

Do not update the City Code, to require connection to the reclaimed water system if available, to update State regulatory changes and to perform housekeeping changes. Staff does not recommend this course of action, as the City's long-term water needs make taking a more proactive approach to the reclaimed water system a prudent and timely move.

Do not add an additional FTE to address reclaimed system development and support. The lack of positions focused on the reclaimed system could potentially result in under utilization of the reclaimed system and the \$60 million investment, or greatly increase costs of connecting customers in the future that were not connected at the time the development occurred.

### **Background Information**

In 2002, the City of Westminster implemented the full reclaimed irrigation water system in the critical drought year to reduce demand on the treated water supply resulting in more water available for the buildout of the City. The reclaimed water system was operated by existing staff due to immediate drought water supply demands. This included a 6 MGD treatment facility, one-half million gallons of storage, and approximately 95,000 feet of transmission pipe. The initial system was started up with 11 customers and supplied 750 acre-feet in its first full year of operation (2001). Beginning in 2004 the transmission system has been expanded to approximately 102,000 feet of transmission pipe, which supplies water to 24 users. Production for 2004 is anticipated to be 1,300 acre-feet based on a “normal” (average weather patterns) irrigation season. The goal for buildout of the system has currently been defined as 2,600 acre-feet. Reaching this goal will require: a 4 MGD expansion of the treatment facility to 10 MGD total, approximately 9 million gallons of storage, and 62,000 feet of additional transmission lines. The customer base at buildout is anticipated to include more than 125 irrigation users including golf courses, multi-family complexes, homeowners associations, parks, and commercial properties. Single-family residential irrigation is not anticipated at this time due to the economics of expanding the transmission lines to individual residents, the ability to meet full demand with large irrigation customers, and State of Colorado regulations that do not allow single-family parcel irrigation.

The 2003 Reclaimed Master Plan re-confirmed a firm supply of 2,600 acre-feet of reclaimed water and a subsequent user base for that 2,600 acre-feet. The Master Plan also identified the cost effectiveness of extending infrastructure prior to development rather than retrofitting existing customers, although, many existing irrigation customers are identified

for conversion to the reclaimed system. The 2002 drought heightened the interest in the reclaimed water system creating a customer demand that needs to be managed in a fair and equitable manner. In 2003 it was identified that reducing the purchase of Thornton treated water was cost effective as long as the supply was replaced. Expanding the reclaimed water irrigation system past the initial 2,600 acre-feet goal is identified as one of several options that would be cost effective in replacing the Thornton Treated Water Supply.

The combination of three years of operational history, heightened customer interest, completion of the Master Plan, and lingering implications of the drought provided the impetus to evaluate the reclaimed water irrigation system in 2003. This evaluation identified needed improvements in the Municipal Code and in staffing levels that would be necessary to fully implement the reclaimed water irrigation system in a reasonable and cost effective time frame. The following is a brief summary of the proposed changes.

**City Code Changes to Code Chapter 12 Reclaimed Water Regulations:**

Re-title the chapter from Reclaimed Water Regulations to Non-Potable Water Regulations. This is in anticipation of an irrigation system in the southern portion of the City that would not use reclaimed water as its source of supply but would utilize raw water. The regulations are being amended to encompass all supplies of irrigation water other than potable water.

The recommendation is to amend the code to make non-potable irrigation water the first choice for new development as opposed to potable water. This essentially requires new development to be evaluated for irrigation water on a case-by-case basis rather than



assuming they automatically would be irrigated with potable water. The code change requires the default to be non-potable and the exception to be potable water for irrigation.

Staff would evaluate any new development and make the appropriate recommendation for irrigation service based on location to current infrastructure and availability of supply.

Code changes are recommended to incorporate changes in State regulations that include new definitions of terms, terms of compliance, and requirements for notification to the State for new users.

Finally, code changes are being recommended to reflect updates that are being made or have been made in other City of Westminster codes including the Landscape regulations, water regulations, and utilities regulations. These are primarily housekeeping in nature to assure the various regulations are consistent.

**Staff Reassignment:**

In 2003 an internal City workshop was conducted to evaluate the reclaimed water system based on the operational experience that had been gained over the first three years of operating a new utility. Two issues were identified as being impediments to fully utilizing the 2,600 acre-feet of available reclaimed water supply. The first was lack of a focus person working on reclaimed customer development. Staff had been added initially to address the maintenance and water quality regulatory compliance issues, but all other duties of the new system were absorbed into current Staff positions. Heightened interest in the system and increased rate of development has identified a need to have a Staff person that

can focus on essential new customer development. This is identified in the 2003 Master Plan as being an economical course of action because it is less expensive to install infrastructure prior to development rather than retrofits. Based on this need, Staff has evaluated the current staffing available in Public Works and Utilities and are refocusing the Capital Projects Coordinator efforts to the reclaimed irrigation system development. Other Staff in the Water Resources and Treatment and Utilities Divisions will absorb the capital projects duties.

**Addition of Staff:**

As a part of the 2003 workshop, a time study was conducted to evaluate person-hours that were required to support the reclaimed water system. Two major areas were identified. The first was customer development, which includes identifying new customers, interfacing with perspective reclaimed users, designing infrastructure improvements to serve the new users, designing upgrades to individual user systems, tracking construction of the infrastructure and/or system upgrades, and interfacing with other City of Westminster departments and divisions including Community Development, Utilities, Wastewater Treatment and Water Quality. Each new reclaimed water user has been identified to require 50 to 60 staffing hours per user to connect to the system.

The Second category was Customer Support. The tasks identified here include interfacing with the customers on the unique nature of non-potable irrigation, including the fact that it has requirements more stringent than irrigation with potable water. This includes getting permission from the State of Colorado to be a reclaimed user, proper signage, annual

inspections, reporting of non-compliance issues, and user education. These tasks have been identified as requiring 40 to 45 staffing hours per user on an annual basis.

The accumulation of hours based on the 2,600 acre-feet goal for customer development and customer support is 4,500 staffing hours per year. This anticipates more than 125 individual users, as identified in the 2003 Master Plan, as being connected to the system. As more customers are brought on-line, customer development will decrease but customer support will increase. The 4,500 person hours per year translate to two full-time FTE's, therefore the re-assignment of one FTE and the request to add a second FTE.

Staff will make a presentation outlining these issues at the June 7 Study Session and seek City Council's direction.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

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

SERIES OF 2004

INTRODUCED BY COUNCILLORS

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A BILL

FOR AN ORDINANCE AMENDING THE WESTMINSTER MUNICIPAL CODE  
CONCERNING NON-POTABLE WATER REGULATIONS

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Title VIII, Chapter 12, W.M.C., is hereby AMENDED to read as follows:

**CHAPTER 12**

**~~RECLAIMED~~ NON-POTABLE WATER REGULATIONS**

8-12-1: DEFINITIONS

8-12-2: APPROPRIATE USES

~~8-12-3: TAP PERMIT REQUIRED-APPLICABILITY~~

~~8-12-4: UTILITY PERMIT REQUIRED~~

~~8-12-4 8-12-5: TAP FEE CALCULATION~~

~~8-12-5 8-12-6: SPECIFICATIONS~~

~~8-12-6 8-12-7: WATER RATE SCHEDULE~~

~~8-12-7 8-12-8: COMPUTATION OF RATES~~

~~8-12-8 8-12-9: DELINQUENT PAYMENT AND SERVICE CHARGES~~

~~8-12-9 8-12-10: TAMPERING OR A BYPASS PROHIBITED~~

~~8-12-10 8-12-11: DUTY OF CONSUMER~~

~~8-12-11 8-12-12: USING WATER FROM ANOTHER CONNECTION PROHIBITED~~

~~8-12-12 8-12-13: CREDIT FOR OVERCHARGE~~

~~8-12-13 8-12-14: WATER SHORTAGE OR DROUGHT~~

~~8-12-14 8-12-15: WATER TAP FEE CREDITS~~

8-12-16: WASTE OF WATER

**8-12-1: DEFINITIONS:** (2767) For the purpose of this chapter certain words and terms used herein are defined as follows:

~~(A) CONSUMER: any person, city facility, firm or corporation receiving water from the city reclaimed waterworks.~~

~~(B)~~ (A) MAINS: the main pipes and connections forming a part of the city reclaimed NON-POTABLE waterworks.

~~(C)~~ (B) METER: the device, appropriate to the premise served, installed to measure the amount of water passing through it, with an accuracy of between ninety five percent (95%) and one hundred one percent (101%) of actual quantities delivered. ~~the term shall also include detector devices for water passing through fire service lines.~~

~~(D)~~ (C) METER SERVICE CHARGE: the fee for maintaining the meter, reading the meter, periodically billing the account, and processing payments.

(D) NON-POTABLE WATER: WATER USED FOR PURPOSES OTHER THAN HUMAN CONSUMPTION THAT IS NOT TREATED TO POTABLE WATER STANDARDS. THIS INCLUDES WATER FROM DITCHES, LAKES, PONDS, OR THE RECLAIMED TREATMENT SYSTEM.

(E) RECLAIMED WATER: that water, which originates from the city's reclaimed water treatment facility and is distributed through the reclaimed water distribution system for the express purpose of non-potable uses.

(F) SERVICE COMMITMENT: the average ANNUAL water service provided to one single family detached dwelling unit (CURRENTLY 140,000 GALS./YR.).

(G) SERVICE PIPE: a branch pipe with its fittings and connections through which water is taken.

(H) STREET: any street, avenue, alley, lane or other thoroughfare.

(I) TAP: an opening or connection in the mains through which water is taken.

(J) USER: the owner of the property upon which the ~~reclaimed~~ NON-POTABLE water is to be utilized.

(K) (K) HIGH WATER LANDSCAPE: LANDSCAPE THAT REQUIRES GREATER THAN 9 GALLONS PER SQUARE FOOT ANNUALLY.

(L) LOW WATER LANDSCAPE: LANDSCAPE THAT REQUIRES 9 GALLONS OF WATER PER SQUARE FOOT OR LESS ANNUALLY AND IS WATERED USING WATER SAVING IRRIGATION TECHNOLOGIES SUCH AS DRIP, MICRO SPRAY, OR SUBSURFACE.

(M) AGRONOMIC RATE MEANS THE RATE OF APPLICATION OF NUTRIENTS TO PLANTS THAT IS NECESSARY TO SATISFY THE PLANTS' NUTRITIONAL REQUIREMENTS WHILE STRICTLY MINIMIZING THE AMOUNT OF NUTRIENTS THAT RUN OFF TO SURFACE WATERS OR WHICH PASS BELOW THE ROOT ZONE OF THE PLANTS.

(N) COMMERCIAL USER MEANS A PERSON WHO USES NON-POTABLE WATER IN THE OPERATION OF A BUSINESS. PATRONIZED BY THE PUBLIC, OR WHO PROVIDES SERVICES TO THE PUBLIC.

(O) DIRECT REUSE MEANS THE USE OF RECLAIMED DOMESTIC WASTEWATER, WHICH, AFTER TREATMENT, HAS NOT BEEN DISCHARGED INTO WATERS OF THE STATE.

(P) INDUSTRIAL USER MEANS A PERSON WHO USES RECLAIMED WATER FOR INDUSTRIAL PROCESSES OR IN THE CONSTRUCTION PROCESS.

(Q) IRRIGATION SYSTEM MEANS THE FACILITIES, PIPING AND OTHER EQUIPMENT USED BY A LANDSCAPE IRRIGATION USER.

(R) LANDSCAPE IRRIGATION MEANS IRRIGATION OF AREAS OF GRASS, TREES, AND OTHER VEGETATION THAT ARE ACCESSIBLE TO THE PUBLIC INCLUDING BUT NOT LIMITED TO PARKS, GREENBELTS, GOLF COURSES, AND COMMON AREAS AT APARTMENT, TOWNHOUSE, COMMERCIAL/BUSINESS PARKS, AND OTHER SIMILAR COMPLEXES.

(S) LANDSCAPE IRRIGATION USER MEANS A PERSON WHO USES NON-POTABLE WATER FOR THE PURPOSE OF LANDSCAPE IRRIGATION.

(T) PERSON MEANS AN INDIVIDUAL, CORPORATION, PARTNERSHIP, ASSOCIATION, STATE OR POLITICAL SUBDIVISION THEREOF, FEDERAL AGENCY, STATE AGENCY, MUNICIPALITY, COMMISSION, OR INTERSTATE BODY.

(U) POINT OF COMPLIANCE MEANS A POINT IDENTIFIED BY THE TREATER IN THE NON-POTABLE WATER TREATMENT OR TRANSMISSION SYSTEM AFTER ALL TREATMENT HAS BEEN COMPLETED PRIOR TO DILUTION AND BLENDING.

(V) RECLAIMED WATER IS WASTEWATER THAT HAS RECEIVED SECONDARY TREATMENT BY A DOMESTIC WASTEWATER TREATMENT FACILITY AND SUCH ADDITIONAL TREATMENT TO ENABLE THE WASTEWATER TO MEET THE STANDARDS FOR APPROVED USES, EITHER RESTRICTED OR UNRESTRICTED USE.

(W) RESTRICTED ACCESS MEANS CONTROLLED AND LIMITED ACCESS TO THE AREAS WHERE RECLAIMED WATER IS BEING USED AND MEETS THE CATEGORY 1 STANDARDS AS DEFINED IN THE COLORADO CODE OF REGULATIONS (“C.C.R.”) SECTION 84.7. RESTRICTED USE MEANS



LANDSCAPE IRRIGATION WITH RECLAIMED DOMESTIC WASTEWATER THAT MEETS THE REQUIREMENTS OF C.C.R. SUBSECTIONS 84.6.B., 84.7, AND 84.8.

(X) TRANSMISSION SYSTEM MEANS THE TREATER'S FACILITIES THAT TRANSPORT TREATED NON-POTABLE WATER BETWEEN THE TREATER AND USERS.

(Y) TREATER MEANS A PERSON WHO TREATS AND PROVIDES RECLAIMED WATER TO AN APPLICATOR/USER FOR THE PURPOSE OF LANDSCAPE IRRIGATION, COMMERCIAL OR INDUSTRIAL USE. THE TREATER AND THE APPLICATOR/USER MAY BE THE SAME ENTITY.

(Z) UNRESTRICTED ACCESS MEANS UNCONTROLLED ACCESS TO THE AREAS WHERE RECLAIMED WATER IS BEING USED AND MEETS THE CATEGORY 2 STANDARDS AS DEFINED IN C.C.R. SECTION 84.7. UNRESTRICTED USE MEANS LANDSCAPE IRRIGATION WITH RECLAIMED DOMESTIC WASTEWATER THAT MEETS THE REQUIREMENTS OF C.C.R. SUBSECTIONS 84.6.A AND 84.7.

(AA) USER MEANS A PERSON, WHO USES NON-POTABLE WATER FOR LANDSCAPE IRRIGATION, COMMERCIAL, OR INDUSTRIAL USES.

(BB) USER PLAN TO COMPLY MEANS THE INFORMATION AND DOCUMENTATION A USER OF RECLAIMED WATER IS REQUIRED TO SUBMIT TO THE DIVISION UNDER C.C.R. SECTIONS 84.9 AND 84.10 OF THIS REGULATION.

**8-12-2: APPROPRIATE USES: (2767)**

(A) ~~Reclaimed~~ NON-POTABLE water will be made available for ~~irrigation~~ ALLOWABLE purposes on commercial/industrial sites, parks, golf courses and ~~large~~-common areas within residential developments, as allowed by the Colorado Department of Public Health and Environment, C.C.R. SECTION 84. ~~that are within 2000 feet of the reclaimed water distribution system.~~ It RECLAIMED WATER will not be available for individual, single-family residential use.

(B) ALL NEW DEVELOPMENTS WILL BE REQUIRED TO SUBMIT AN APPLICATION FOR REVIEW FOR CONNECTION TO THE NON-POTABLE WATER SYSTEM. THIS APPLICATION WILL BE SUBMITTED TO THE DEPARTMENT OF PUBLIC WORKS AND UTILITIES AS PART OF THE PRELIMINARY/OFFICIAL DEVELOPMENT PLAN (PDP/ODP) PROCESS. IT SHALL BE AT THE SOLE DISCRETION OF THE CITY MANAGER OR HIS DESIGNEE TO DECIDE IF A NEW DEVELOPMENT WILL UTILIZE NON-POTABLE OR RECLAIMED WATER FOR LANDSCAPE IRRIGATION PRACTICES BASED ON CITY OF WESTMINSTER CRITERIA. THE CRITERIA MAY INCLUDE, BUT NOT BE LIMITED TO;

1. THE AVAILABILITY OF NON-POTABLE OR RECLAIMED WATER DISTRIBUTION/TRANSMISSION LINES IN THE AREA OF THE DEVELOPMENT AND/OR PROJECT.
2. AVAILABILITY OF SUFFICIENT IRRIGATED AREA FOR USE OF NON-POTABLE OR RECLAIMED WATER.
3. CONFORMANCE WITH STATE AND FEDERAL REGULATIONS.
4. NO USE OF NON-POTABLE WATER WILL COMMENCE WITHOUT THE PRIOR APPROVAL OF THE CITY.

(C) USERS WITH EXISTING IRRIGATION SYSTEMS. WHEN NON-POTABLE WATER BECOMES AVAILABLE TO A PROPERTY, THE CITY MANAGER OR HIS DESIGNEE SHALL PROVIDE WRITTEN NOTICE TO THE POTENTIAL CUSTOMER(S) LOCATED ON THAT PROPERTY OF SUCH AVAILABILITY. USERS WITH EXISTING IRRIGATION SYSTEMS USING POTABLE WATER WHO DESIRE TO CONVERT TO NON-POTABLE WATER, MUST APPLY FOR NON-POTABLE WATER IN ACCORDANCE WITH THE APPLICATION PROCEDURES SPECIFIED IN THIS ARTICLE. APPROVED USERS MUST DISCONNECT IRRIGATION SYSTEMS FROM THE POTABLE WATER SYSTEM AND CONNECT TO THE NON-POTABLE WATER SYSTEM WITHIN NINETY (90) DAYS OF SUCH WRITTEN NOTICE OF APPROVAL.

(D) USERS WITH NEW OR REDEVELOPED IRRIGATION TAPS. ALL NEW IRRIGATION SYSTEMS CONSTRUCTED AFTER THE EFFECTIVE DATE OF THIS ARTICLE AND APPROVED APPLICATION PROCESS MUST CONNECT TO THE NON-POTABLE WATER SYSTEM AT CONSTRUCTION, IF NON-POTABLE WATER IS AVAILABLE TO THE PROPERTY. SUCH CONNECTION MUST BE MADE PRIOR TO, OR CONTEMPORANEOUSLY WITH CONNECTION OF OTHER IMPROVEMENTS ON THE PROPERTY TO THE POTABLE WATER SYSTEM. IF NON-POTABLE WATER IS NOT AVAILABLE TO A PROPERTY AT THE TIME OF CONSTRUCTION OF AN IRRIGATION SYSTEM, CONNECTION TO THE NON-POTABLE WATER SYSTEM MUST BE MADE WITHIN NINETY (90) DAYS OF NOTICE OF AVAILABILITY FROM THE CITY. THE CITY MANGER OR HIS DESIGNEE MAY APPROVE TEMPORARY CONNECTIONS TO THE POTABLE SYSTEM. ONCE NON-POTABLE WATER BECOMES AVAILABLE THE USER WILL HAVE 90 DAYS TO CONNECT TO THE NON-POTABLE SYSTEM.

**8-12-3: APPLICABILITY:**

(A) THESE REGULATIONS APPLY TO THE USE OF NON-POTABLE WATER FOR LANDSCAPE IRRIGATION, INDUSTRIAL USES, AND COMMERCIAL USES. NO UNAPPROVED USE OF RECLAIMED WATER IS PERMITTED, EXCEPT THAT THESE REGULATIONS DO NOT APPLY TO REUSE OF TREATED WASTEWATER FOR: ON-SITE LANDSCAPE IRRIGATION BY WASTEWATER TREATMENT PLANTS, AGRICULTURAL USE, OR INDUSTRIAL USE OR TO WASTEWATER THAT HAS BEEN TREATED AND RELEASED TO STATE WATERS. THESE REGULATIONS APPLY THE USE OF RECLAIMED WATER FOR INDIVIDUAL TREATERS AND USERS, AS DEFINED BELOW, UPON THE ISSUANCE OF A NOTICE OF AUTHORIZATION BY THE WATER QUALITY CONTROL DIVISION.

(B) THESE REGULATIONS ONLY APPLY TO USERS OF THE CITY'S NON-POTABLE AND RECLAIMED WATER SYSTEMS.

**~~8-12-3: TAP PERMIT REQUIRED:~~ (2767) 8-12-4: UTILITY PERMIT REQUIRED:**

(A) ~~No reclaimed~~ A NON-POTABLE water tap shall NOT be made on any ~~reclaimed~~ NON-POTABLE water main, either public or private, or any other portion of the waterworks of the city without first securing AN APPROVED UTILITY PERMIT ~~approval therefor~~. The application for a ~~reclaimed water tap~~ NON-POTABLE UTILITY permit shall be made in writing upon a form furnished by the city and shall clearly state the tap size, IRRIGATED AREA BY HYDROZONE, address, and person applying for tap and any other information as the city may reasonably require.

(B) ~~Reclaimed~~ NON-POTABLE service lines and meter vaults may be installed as part of water main construction, if prior WRITTEN approval has been received from the city. The installations of these service lines and meter vaults

are subject to inspection and approval by the city and shall be in accordance with adopted city standards and specifications.

(C) Payment of the tap fee when the construction requires a building permit shall be made no earlier than the date ~~upon which a building~~ OF APPROVAL OF BUILDING permit ~~is issued~~ and no later than the date upon which the ~~certificate of occupancy for the property connecting to the city water system~~ WATER METER is ~~issued~~ INSTALLED. Payment of the ~~reclaimed~~ NON-POTABLE water tap fee for an irrigation system, or for any other installation or construction not requiring issuance of a building permit, shall be at the time of ~~water tap~~ UTILITY permit application. The amount of such fee shall be calculated according to the city's service commitment calculation formulas and the fee schedule in effect at the time payment is made.

(D) For existing facilities, which do not require a certificate of occupancy, and that have an existing irrigation tap or use an existing tap for irrigation purposes, a ~~reclaimed water tap~~ UTILITY permit will be required but will have no additional tap fee charged if the taps are the same size, when the existing potable connection is exchanged for a ~~reclaimed~~ NON-POTABLE water connection. Prior to ~~reclaimed~~ NON-POTABLE water meter being installed, THE existing potable water tap must be abandoned IN ACCORDANCE WITH APPLICABLE CITY STANDARDS AND SPECIFICATIONS.

(E) Where any unit currently having a ~~reclaimed~~ NON-POTABLE water tap is demolished, and a building permit for reconstruction purposes is issued AND NO CHANGE IN WATER USE IS ANTICIPATED within one year of the date of demolition, no new tap fee shall be required and the new unit shall be regarded as being served by the tap in service prior to demolition of the unit. Failure to satisfy the above criteria shall constitute an abandonment of the ~~reclaimed~~ NON-POTABLE water tap and the service commitment and any subsequent construction shall be done in

conformance with the city code of the City of Westminster. ANY INCREASE IN NON-POTABLE WATER USE WILL REQUIRE EVALUATION OF TAP FEE AND WILL BE ADJUSTED IF WARRANTED.

(F) Where any ~~unit currently having a reclaimed water tap is vacant~~ NON-POTABLE WATER TAP REGISTERS NO USE for more than thirty-six (36) consecutive months, it shall constitute an abandonment of the water tap and service commitment and the meter shall be removed by the city. Any subsequent occupation of that unit shall be done in conformance with the city code of the City of Westminster AND SHALL REQUIRE A NEW UTILITY PERMIT APPLICATION AND PAYMENT OF THE APPLICABLE TAP FEE.

~~8-12-4~~ **8-12-5: TAP FEE CALCULATION:**

(A) The ~~reclaimed~~ NON-POTABLE water tap applicant will submit plans:

1. identifying the proposed irrigated area ~~and its~~
2. THE total square footage/acreage PER WATER USE CATEGORY
3. PROPOSED LANDSCAPE PLAN AND
4. AN IRRIGATION PLAN SIGNED BY AN IRRIGATION ASSOCIATION CERTIFIED DESIGNER.

This information will be used to calculate a projected water demand for the purpose of determining the equivalent NON-potable tap size. The applicant shall then pay 80% of the POTABLE WATER TAP fees set forth in 8-7-3, water tap fee, the total of which shall be known as the ~~reclaimed~~ NON-POTABLE water tap fee, which shall be paid upon issuance of the ~~tap~~ UTILITY permit or as otherwise required by section 8-12-2.

(B) Provision of materials and work: for all ~~reclaimed~~ NON-POTABLE water taps, the applicant shall furnish all labor and work, and all materials as specified ~~by the city except as provided by this paragraph~~. SEE CITY OF WESTMINSTER UTILITY SPECIFICATIONS FOR DETAILS. The city shall provide the applicant with a list of required materials and approved suppliers, at the time of application.

~~8-12-5~~ **8-12-6: SPECIFICATIONS:** (2767)

(A) The City will specify all materials that the applicant is to furnish pursuant to adopted city standards and specifications. ~~Reclaimed~~ NON-POTABLE water use will be metered through a single vault for each customer site. Meter vaults shall be located only within public rights of way, public easements, or city easements. Location and grade shall be subject to approval of the city. Once installed and approved, all ~~reclaimed~~ NON-POTABLE metering equipment becomes the property of the city.

(B) Authorization to install any tap or meter may be withheld by the city if the applicant IS IN ARRERS FOR ANY CURRENT WATER ACCOUNT FOR THAT PROPERTY, is in violation of any law of the city OR STATE AND FEDERAL REGULATIONS or in default in any agreement with the city. It shall be unlawful to use, or permit to be used, any ~~reclaimed~~ NON-POTABLE water tap installation until the meter has been approved or set by the city, UNLESS SPECIFIC WRITTEN AUTHORIZATION HAS BEEN GRANTED BY THE CITY. ~~Upon approval, the entire meter installation shall become the property of the city.~~

(C) Each ~~reclaimed~~ NON-POTABLE water tap shall be assigned a service address and billing account in the name of the property owner or manager.

~~(D) Separate irrigation water taps and meters shall be required for all new non-residential developments if the irrigated area exceeds 40,000 square feet of turf, other high water use landscaping, or combination thereof, as determined by the city manager or his designee.~~ ANY ADDITION OF IRRIGATED AREA OR CHANGE OF LANDSCAPE TYPE FROM LOW WATER TO HIGH WATER WILL RESULT IN THE IMPOSITION OF ADDITIONAL TAP FEES AT THE CURRENT RATE APPLICABLE AT THE TIME OF ADDITION OR CHANGE.

(E) ALL NON-POTABLE WATER PIPING AND APPURTENANCES SHALL BE CLEARLY IDENTIFIED AS NON-POTABLE WATER FACILITIES.

1. NON-POTABLE WATER SERVICE PIPE AND TUBING SHALL BE PURPLE (PANTONE PURPLE 522C) OR IDENTIFIED WITH A PURPLE STRIPE WITH THE WORDS NON-POTABLE OR RECLAIMED WATER AT 8-INCH INTERVALS. ALL IRRIGATION BOXES, CONTROL VALVES, APPURTENANCES, AND SPRINKLER HEADS SHALL BE CONSTRUCTED OF PURPLE MATERIALS AND LABELED AS NON-POTABLE WATER.

2. COVERS FOR ALL VALVE BOXES, METER AND SERVICE BOXES, AND OTHER BELOW GROUND DEVICES SHALL BE PAINTED PURPLE AND/OR SHALL BE PERMANENTLY EMBOSSED “NON-POTABLE WATER” OR “RECLAIMED WATER”.

3. THE PUBLIC SHALL BE NOTIFIED OF THE USE OF RECLAIMED WATER BY POSTING ADVISORY SIGNS DESIGNATING THE NATURE OF THE WATER USE EITHER NON-POTABLE OR RECLAIMED.



- a. SIGNAGE SHALL BE PLACED, AS APPROPRIATE, AT ENTRANCES TO RESIDENTIAL NEIGHBORHOODS WHERE NON-POTABLE WATER IS USED, AND AT PROMINENT LOCATIONS AT ALL COMMERCIAL SITES, INCLUDING MULTI-FAMILY DEVELOPMENTS, OFFICE PARKS, SCHOOLS, CHURCHES, RECREATIONAL DEVELOPMENTS, AND GOLF COURSES.
  
- b. NOTIFICATION FOR GOLF COURSES SHALL INCLUDE NOTIFICATION AT ENTRANCE AND THE FIRST AND TENTH TEES AS WELL AS NOTES ON SCORECARDS.
  
- c. ADVISORY SIGNS SHALL BE POSTED ADJACENT TO LAKES OR PONDS USED TO STORE NON-POTABLE WATER.

(F) CROSS CONNECTION CONTROL. ALL CUSTOMERS RECEIVING NON-POTABLE WATER WILL BE REQUIRED TO INSTALL A REDUCED PRESSURE PRINCIPAL TYPE BACKFLOW PREVENTION DEVICE DOWNSTREAM OF THE NON-POTABLE WATER METER. NO CROSS CONNECTION BETWEEN THE NON-POTABLE SYSTEM AND THE POTABLE WATER SYSTEM SHALL BE ALLOWED.

(G) ALL CONSTRUCTION SHALL BE IN COMPLIANCE WITH AMERICAN WATER WORKS ASSOCIATION (AWWA) MANUAL OF WATER SUPPLY PRACTICES FOR DUAL WATER SYSTEMS M-24, AND ALL APPLICABLE CITY SPECIFICATIONS.

(H) IRRIGATION SYSTEMS.

1. LANDSCAPED MEDIANS OR STRIPS LESS THAN 8' IN WIDTH SHALL BE IRRIGATED WITH SUB SURFACE, DRIP OR MICRO-SPRAY IRRIGATION.

~~2. SEPARATE IRRIGATION WATER TAPS AND METERS SHALL BE REQUIRED FOR ALL RESIDENTIAL DEVELOPMENTS OTHER THAN SINGLE FAMILY DETACHED. SEPARATE IRRIGATION WATER TAPS AND METERS ALSO SHALL BE REQUIRED FOR ALL NON RESIDENTIAL DEVELOPMENTS IF THE IRRIGATED AREA EXCEEDS 40,000 SQUARE FEET. AN IRRIGATION WATER TAP SHALL BE USED ONLY FOR IRRIGATION PURPOSES.~~

3. IRRIGATION DESIGN MUST TAKE INTO ACCOUNT IRRIGATION TIME LIMITATIONS OF 8 HOURS OF IRRIGATION EVERY OTHER DAY.

4. ALL IRRIGATION TIME CLOCK CONTROLLERS SHALL HAVE THE CAPABILITY TO ALLOW FOR SEASONAL ADJUSTMENTS, INCLUDING GLOBAL WATER BUDGET CONTROLS. ALL CONTROLLERS SHALL ALLOW FOR MULTIPLE PROGRAMS AND START TIMES, 2-3-4-5-7-14 DAY SCHEDULES, AND SHALL ALLOW INDIVIDUAL TIME SETTINGS DOWN TO THE MINUTE. IRRIGATION CONTROLLERS, OTHER THAN SINGLE-FAMILY DETACHED, SHALL USE EVAPOTRANSPIRATION OR SOIL MOISTURE BASED PROGRAMMING INCLUDING EITHER LOCAL SENSORS, REMOTE OR HISTORIC EVAPOTRANSPIRATION BASED SCHEDULING, OR APPROPRIATE SOIL MOISTURE SENSORS. IRRIGATION SYSTEMS SHALL INCLUDE AUTOMATIC RAIN SHUTOFF DEVICES.

5. ALL LANDSCAPE AREAS MUST BE DESIGNED AND IRRIGATED WITH TECHNIQUES THAT RESTRICT OVERSPRAY ONTO PAVEMENT AREAS AND SIDEWALKS, UNLESS OTHERWISE APPROVED BY THE CITY.

6. PRESSURE REDUCTION VALVES (PRV) OR PRESSURE REDUCTION SPRINKLER HEADS SHALL BE INSTALLED IF WATER PRESSURE WITHIN THE IRRIGATION SYSTEM IS ABOVE THE COMPONENT MANUFACTURERS RECOMMENDATIONS.

7. A COPY OF THE IRRIGATION AUDIT, PERFORMED BY AN IRRIGATION ASSOCIATION CERTIFIED AUDITOR, AND THE AS-BUILT IRRIGATION PLANS SHALL BE POSTED FOR THE OWNER OR MANAGER AT EACH TIME CLOCK CONTROLLER.

8. AS SHOWN BY THE AUDIT, AN IRRIGATION SCHEDULE SHALL BE DEVELOPED PROVIDING AT LEAST INDIVIDUAL SPRING, SUMMER AND FALL SCHEDULES, AND THE TOTAL ANNUAL WATER APPLICATION IN INCHES (MAXIMUM 29 INCHES). MINIMUM ACCEPTABLE IRRIGATION SYSTEM DISTRIBUTION UNIFORMITIES SHALL BE 55 PERCENT FOR POP UP OR SPRAY ZONES AND 70 PERCENT FOR ROTOR ZONES.

9. WITHIN 6 WEEKS OF THE INSTALLATION OF NEW LANDSCAPING, THE IRRIGATION SYSTEM INSTALLER SHALL RESET THE TIME CLOCK CONTROLLERS TO THE NORMAL SEASONAL WATERING SCHEDULE.

10. ODP AND LANDSCAPE DRAWINGS SHALL LIST THE TOTAL SQUARE FOOTAGE OF IRRIGATED AREA BY LOW AND HIGH HYDROZONES.

(I) SOIL AMENDMENT SHALL BE INSTALLED AT THE RATE OF FIVE CUBIC YARDS PER THOUSAND SQUARE FEET AND TILLED INTO THE SOIL TO A DEPTH OF EIGHT INCHES. SOIL PREPERATION MATERIAL SHALL BE COMPOSTED ORGANIC MATTER. TOP SOIL SHALL NOT BE CONSIDERED APPROPRIATE SOIL AMENDMENT.

(J) APPROPRIATE PLANTS. NON-POTABLE IRRIGATION WATER IS HIGHER IN TOTAL DISSOLVED SOLIDS (TDS) AND SODIUM LEVLES THAN POTABLE WATER APPROPRIATE CARE SHOULD BE TAKEN TO SELECT SPECIES OF PLANTS THAT ARE SUITABLE FOR THE CONDTOINS. SUITABLE PLANT SPECIES LIST ARE AVAILABLE FROM THE CITY OF WESTMINSTER OR THE COLORADO STATE UNIVERSITY COOPERATIVE EXTENSION SERVICE.

**~~8-12-6~~ 8-12-7: WATER RATE SCHEDULE: (2767)**

(A) All ~~reclaimed~~ NON-POTABLE water delivered from the city ~~reclaimed~~ NON-POTABLE water system shall be metered, and the charge therefore shall be set at 80% of the existing commercial POTABLE water rates as set forth in 8-7-9.

(B) Continuance of customer charges: monthly customer charges shall be assessed in all cases during the irrigation season including where no water is consumed until such time as city personnel are specifically requested to discontinue ~~reclaimed~~ NON-POTABLE water service at the meter. Monthly customer charges will not be assessed in the months when ~~reclaimed~~ NON-POTABLE water is not available for delivery from the system.

**~~8-12-7~~ 8-12-8: COMPUTATION OF RATE: (2767)**

(A) The schedule of water rates shall be applied to water used or consumed as determined by the water meter readings that are made by the city, as provided in section 8-12-5.

(B) ~~Reclaimed~~ NON-POTABLE water meters are to be read to the last full thousand (1,000) gallons counted. Any meter reading containing a portion of one thousand (1,000) gallons shall be rounded down to the nearest one thousand (1,000) gallons.

(C) Tests of ~~reclaimed~~ NON-POTABLE water meters, by customer request, will be performed at actual cost. This fee will be waived if the meter is over-registering. If the meter is over-registering, the customer will receive a credit for excess charges on the prior twelve (12) months consumption. If city records indicate a meter change or accuracy test during the twelve (12) months, the credit will apply from the date of the meter change or test.

~~8-12-8~~ **8-12-9: DELINQUENT PAYMENTS AND SERVICE CHARGES:** (2767)

(A) The City shall have all remedies available as described in 8-7-7.

~~8-12-9~~ **8-12-10: TAMPERING OR A BYPASS PROHIBITED:** (2767)

(A) It shall be unlawful for any person to tamper with any meter or to install or use any bypass or other device whereby water may be drawn from a service pipe without being registered by the meter.

(B) All meters shall be kept in good repair by the city, and shall be and remain the property of the city and under its control. No meter shall be set so that there shall be more than two feet (2') of exposed unmetered service pipe.

~~8-12-10~~ **8-12-11: DUTY OF CONSUMER USER:** (2767)

(A) All ~~reclaimed~~ NON-POTABLE water meter vaults shall be placed and maintained so that the vaults are readily accessible to ~~water~~ utility personnel, away from trees and bushes and outside of fences.

(B) No person owning or possessing OR CONTROLLING the property on which a ~~reclaimed~~ NON-POTABLE water meter vault is located shall obstruct the vault in any manner so that access to the meter is prevented. If such obstruction is not removed within the period of time prescribed in the notice required in subsection (F) below, the owner or possessor shall be deemed to have consented to the city's entry onto the property for the purpose of removing the obstruction and gaining access to the meter. All costs incurred in the removal of the obstruction shall be charged to the water consumer, owner or possessor as prescribed in subsection (G).

(C) No person owning or possessing OR CONTROLLING the property on which a ~~reclaimed~~ NON-POTABLE water meter pit is located shall fail to maintain landscaping around the meter pit to provide at least three feet (3') of unobstructed access to the meter from the public right of way and at least five feet (5') of vertical clearance above the meter pit.

(D) No person owning or possessing OR CONTROLLING the property on which a ~~reclaimed~~ NON-POTABLE water meter pit is located shall place a fence in such location that the fence will obstruct access to the meter pit from the public right of way.

(E) No person owning or possessing OR CONTROLLING the property on which a ~~reclaimed~~ NON-POTABLE water meter pit is located shall fail to assure that landscape materials taller than four inches (4") are no closer than

six inches (6") to the meter pit nor shall any such person allow any landscaping material to cover any part of the meter pit lid.

(F) If the City Manager or his designee finds that any person has failed to comply with any of the requirements of subsections ~~(b), (c), (d), (e)~~ (B), (C), (D), (E), of this section, the ~~manager~~ CITY shall notify the ~~reclaimed~~ NON-POTABLE water consumer, owner or possessor OR CONTROLLER of the property by hand delivery or certified mail that he shall be required to comply within fifteen (15) days of the date of delivering or mailing the notice.

(G) If the person so notified fails to comply with the requirements of the notice, the ~~manager~~ CITY may cause the work to be done and charge the costs thereof, together with an amount of ~~twenty-five dollars (\$25.00)~~ FIFTY DOLLARS (\$50.00) for administrative costs, to the person so notified. Such costs shall be added to the charges for water service, and failure to pay such cost shall warrant and authorize the city in shutting off the water.

(H) All users of reclaimed water will be required to submit a certification statement signed by the user or legal representative of the user, that it has been provided with a copy of the state regulations and has agreed to comply with the applicable requirements of the regulations, in particular the conditions for application of reclaimed ~~domestic wastewater~~ WATER meeting unrestricted use standards, and to allow access to the site to perform monitoring and analysis, as required by the Colorado Department of Public Health and Environment.

(I) All ~~reclaimed~~ NON-POTABLE water users will have clearly visible signage posted on the site which calls attention to the fact that ~~reclaimed water is utilized for irrigation~~ THE WATER IS NOT SAFE FOR HUMAN CONSUMPTION. Wording used will be, or similar to, "NON-POTABLE ~~IRRIGATION~~ WATER – DO NOT DRINK." THE SIGNAGE SHALL BE POSTED IN THE DOMINANT LANGUAGE(S) EXPECTED TO BE SPOKEN AT THE SITE.

(J) Irrigation Control. User shall control the use of ~~reclaimed~~ NON-POTABLE water to those areas indicated in the permit application. THE OWNER, APPLICANT, OR USER IS RESPONSIBLE FOR CONTROLLING OVER SPRAY RUN OFF ON NEW SYSTEMS OR SYSTEMS REQUESTING CONVERSION.

1. Irrigation shall be controlled to minimize ponding and runoff of ~~reclaimed~~ NON-POTABLE water.
2. Direct and windblown spray shall be confined to the area designated and approved for ~~reclaimed~~ NON-POTABLE water irrigation, to the extent possible.
3. Precautions shall be taken so that ~~reclaimed~~ NON-POTABLE water is not sprayed on any facility or area not designated for ~~reclaimed~~ NON-POTABLE water irrigation, such as passing vehicles, FENCES, buildings, potable water fountains and other dispensers, or food handling areas.
4. ~~the~~ NON-POTABLE irrigation systemS shall be configured and secured in a manner that only permits operation by authorized personnel.
5. There shall be no hose bib connections ACCESSIBLE to THE PUBLIC AT any existing or new piping connected to the ~~reclaimed~~ NON-POTABLE water system.
6. There shall be no spraying of ~~reclaimed~~ NON-POTABLE water over outdoor drinking water fountains in public areas.



7. There shall be no connection between the potable water supply and any piping containing ~~reclaimed~~ NON-POTABLE water. Supplementing ~~reclaimed~~ NON-POTABLE water with potable water shall not be allowed except through an air-gap separation. ~~Potable~~ NON-POTABLE water supplementation WITH POTABLE WATER is only available for "pond storage" customers with an air-gap separation. For "~~direct to reuse~~" NON-POTABLE customers, there shall be no connection whatsoever between a temporary or supplemental system and the ~~reclaimed~~ NON-POTABLE system, either upstream or downstream of the point of delivery, at any time.

~~(K) general provisions. the following general provisions also apply to the use of reclaimed water for irrigation:~~

1)8. Tank trucks and other equipment which are used to distribute ~~reclaimed~~ NON-POTABLE water ~~should~~ SHALL be clearly identified with warning signs.

2) 9. Adequate measures shall be taken to prevent the breeding of insects and other vectors of health significance.

3) 10. FOR ALL NON-POTABLE SYSTEMS, the user shall maintain as-built plans AND PROVIDE A COPY TO THE CITY of the use area showing all buildingS, potable and ~~reclaimed~~ NON-POTABLE water facilities, the ~~sewage~~ SANITARY WASTEWATER collection system, etc.

4) 11. Inspection, supervision, and employee training should be provided by the user to assure proper operation of the ~~reclaimed~~ NON-POTABLE water system IN ACCORDANCE WITH COLORADO DEPARTMENT OF HEALTH AND ENVIRONMENT REGULATIONS.

~~8-12-11~~ **8-12-12: USING WATER FROM ANOTHER CONNECTION PROHIBITED:** (2767) It shall be unlawful for any consumer to permit ~~reclaimed~~ NON-POTABLE water to be taken through his service pipe for the use of any person whose premises are not connected for the use of ~~reclaimed~~ NON-POTABLE water from the city's mains.

~~8-12-12~~ **8-12-13: CREDIT FOR OVERCHARGE:** (2767) The City Finance Director or Finance staff may give credit to any utility customer that has been overcharged. The credit must not exceed the intent of this ordinance.

~~8-12-13~~ **8-12-14: WATER SHORTAGE OR DROUGHT:** (2767) In the event of a water shortage or drought emergency that requires the reduction of the use of water from the ~~reclaimed~~ NON-POTABLE water utility, the City Manager shall have the authority to immediately require and implement mandatory reductions as he deems necessary for the protection of the public as described in section 8-7-24. Such reductions or water restrictions shall be in effect until such time as the City Council or the City Manager removes them. In the event of a prolonged drought or other water shortage emergency that may require water restrictions or limitations for more than fifteen (15) days, the City Council may adopt, by resolution, a long term water conservation plan as described in section 8-7-24.

~~8-12-14~~ **8-12-15: WATER TAP FEE CREDITS:** (2767)

(A) If a parcel of land has an existing water tap in service and the owner proposes to change the irrigation portion of the water use to ~~reclaimed~~ NON-POTABLE water, ~~then~~ THEN no additional tap fee will be charged for connection to the ~~reclaimed~~ NON-POTABLE water system.

(B) If any tap is installed and completed without receiving proper inspection and approval by the City, no tap fee credit shall be given.

(C) ABANDONMENT. If a demolition or vacation of a unit results in an abandonment of a ~~reclaimed~~ NON-POTABLE water tap, no cash refund shall be granted for any taps released from service, and no tap fee credit shall be granted at the time a new ~~tap~~ UTILITY permit is issued.

**8-12-16: WASTE OF WATER (2767)**

(A) WASTE OF WATER IS PROHIBITED. WASTE OF WATER IS DEFINED AS THE INTENTIONAL OR NON-INTENTIONAL USE OF WATER FOR A NON-BENEFICIAL PURPOSE, AND INCLUDES CONTINUOUS APPLICATION OF WATER TO ANY LAWN, TURF, SODDED, OR LANDSCAPED AREA RESULTING IN THE POOLING OR FLOWING OF WATER INTO DRAINAGE OR STORM DRAINAGE FACILITIES, FAILURE TO REPAIR ANY IRRIGATION SYSTEM THAT IS LEAKING, AND THE USE OF HOSES FOR WASHING OF VEHICLES AND OTHER OUTDOOR USES OTHER THAN IRRIGATION, NOT EQUIPPED WITH A SHUTOFF VALVE THAT IS NORMALLY CLOSED AND NECESSITATES HAND PRESSURE ON THE VALVE TO PERMIT THE FLOW OF WATER.

NOTWITHSTANDING THE ENFORCEMENT PROVISIONS SET FORTH IN THIS SECTION, THE CITY MANAGER, OR HIS DESIGNEE, MAY ORDER A SHUT OFF OF WATER SERVICE TO A PROPERTY IF THE CITY MANAGER, OR HIS DESIGNEE, REASONABLY FINDS THAT AN EXTREME WASTE OF WATER IS OCCURRING ON THE PREMISES.

(B) THE DIRECTOR OF PUBLIC WORKS AND UTILITIES IS HEREBY AUTHORIZED TO ENFORCE THIS SECTION. THE PERSON BILLED FOR WATER SERVICE TO A PROPERTY, WHETHER OWNER OR OCCUPANT, SHALL BE RESPONSIBLE FOR COMPLIANCE WITH SECTION (A) AND (B), WITHIN 10 DAYS OF THE VIOLATION NOTICE, UNLESS OTHERWISE SPECIFIED BY THE DIRECTOR OF PUBLIC WORKS AND UTILITIES, AND SHALL BE SUBJECT TO THE FOLLOWING ACTIONS AND PENALTIES:

(1) UPON A FIRST VIOLATION, THE PERSON BILLED WILL BE ADVISED IN WRITING OF THE VIOLATION AND ISSUED A WARNING FOR THE VIOLATION. THE WARNING SHALL BE IN EFFECT FOR A PERIOD OF ONE (1) YEAR FROM THE DATE OF ISSUE.

(2) A SECOND VIOLATION WITHIN A ONE (1) YEAR PERIOD SHALL RESULT IN THE PERSON BILLED BEING ADVISED IN WRITING OF THE VIOLATION AND A CHARGE OF \$50.00 WILL BE ADDED TO THE WATER BILL FOR THE PROPERTY. ADVISEMENT SHALL INCLUDE THE PROCEDURE TO SCHEDULE A HEARING IF REQUESTED.

(3) A THIRD OR ADDITIONAL VIOLATION WITHIN A ONE (1) YEAR PERIOD SHALL RESULT IN THE PERSON BILLED BEING ADVISED IN WRITING OF THE VIOLATION AND A CHARGE OF \$100.00 WILL BE ADDED TO THE WATER BILL FOR THE PROPERTY. ADVISEMENT SHALL INCLUDE THE PROCEDURE TO SCHEDULE A HEARING IF REQUESTED. IN ADDITION, THE CITY MANAGER, OR HIS DESIGNEE, MAY ORDER A SUSPENSION OF SERVICE TO THE PROPERTY UNTIL ALL OUTSTANDING FINES ARE PAID. RESTORATION OF SERVICE SHALL OCCUR AS DETAILED IN 8-7-9.

(4) UPON ANY NOTICE(S) OF VIOLATION OF THIS SECTION, A COPY OF SUCH NOTICE SHALL ALSO BE MAILED TO THE OWNER(S) OF THE REAL PROPERTY SERVED, IF THE OWNER'S ADDRESS DIFFERS FROM THE SUBJECT PROPERTY ADDRESS.

(C) IF A HEARING IS REQUESTED IT SHALL BE SCHEDULED AS SOON AS PRACTICAL BEFORE THE CITY MANAGER OR HIS DESIGNEE.

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 \_\_\_\_\_, 2004.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this \_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_

City Clerk



## Staff Report

City Council Study Session Meeting  
June 7, 2004



SUBJECT: Regulation of Telecommunication Towers, Facilities, and Antennas

PREPARED BY: Sharon Widener, Assistant City Attorney  
Dan Osborn, Planner II

### Recommended City Council Action:

Review the revised telecommunication ordinance and direct Staff to bring the ordinance for official City Council action at the next regular City Council meeting.

### Summary Statement

- The City has received, and will continue to receive, numerous requests for the construction and installation of cellular towers, facilities, and antennas. This ordinance will revise the City's existing regulations in order to respond to the need for such facilities and to respond to applications in a timely fashion. The intent of the revised regulations is to provide for the necessary telecommunications facilities while addressing issues as to the aesthetic appeal, safety, and maintenance of the site and structures.
- The ordinance will provide formal standards for the placement of telecommunication facilities in the City. Telecommunication facilities have generally been approved using the standards for Official Development Plan approvals. This ordinance includes specialized definitions and additional requirements applicable to telecommunication facilities.
- The proposed approval process incorporates site development requirements and additional requirements such as assurance of structural stability for towers, assurance of compliance with federal regulations, and financial assurances for potential maintenance, safety standards, and the possible abandonment of equipment.
- The proposed ordinance encourages:
  - Co-location of antennas instead of the proliferation of towers.
  - "Stealth" locations for antennas such as towers, steeples, and existing structures.
  - The use of alternate sites rather than public rights-of-way.
- Applications can generally be approved administratively. If the application is denied, the applicant may appeal to the City Planning Commission. The proposed ordinance would authorize the City Manager to negotiate the use of City-owned sites so that the City controls placement facilities and receives potential rental income.
- The format for the proposed ordinance was compiled by staff from a variety of sources including: the City's current antenna and tower ordinance; the City of Lakewood cellular ordinance; the Greater Metro Telecommunications Consortium model ordinance; the Pinellas County, Florida cellular ordinance; and, input from attorney Ken Fellman.

**Expenditure Required: \$0**

**Source of Funds: N/A**

### **Policy Issue**

Should the City adopt a more formal method and standards for the approval and location of telecommunication facilities?

### **Alternative**

Direct Staff to continue the present practice of reviewing and approving applications using the standards for development plans. This procedure has worked well to date and there have been few controversies with applicants. However, requests for these facilities continue to rise and new requests come forward for facilities within City rights-of-way, there will be a need for clearer regulations in regards to facilities within rights-of-way. The existing regulations (11-4-11) are silent as to whether or not a cell tower would be allowed within City rights-of-way.

### **Background Information**

Currently the approval and processing of applications for cellular facilities fall under the purview of three different boards of review (e.g., Board of Adjustment and Appeals, for height and setback variances, Special Permit and License Board for districts other than Planned Unit Development, and Planning and Zoning Commission for Official Development Plans). The proposed ordinance will allow cellular facilities to be reviewed by the Planning and Zoning Commission using the Official Development Plan (ODP) review process used by all other new development within the City. The review and approval process will follow the Preliminary and Official Development Plan process and the conditions contained in the proposed revision of Section 11-4-11 of the Westminster Municipal Code. An applicant must also obtain a building permit and comply with the Building Code. Approval may be obtained administratively for facilities that are not proposed in the right-of-way, meeting the industry's desire for a speedy approval process. However, applications for facilities in public rights-of-way would require a public hearing before the Planning Commission. The administrative approval option should help to encourage locations other than rights-of-way. The ability to locate in rights-of-way is now mandated, according to *City and County of Denver v. Qwest Corp.*, 18 P.3d 748 (Colo. 2001), but may not be considered desirable from land use or aesthetic considerations.

In addition to the streamlined review process, Staff is proposing:

- Expanded definitions specific to cellular facilities;
- Prerequisites for approval requiring the applicant to certify the facility is necessary for service, is co-locatable, conforms with Federal Communications Commission regulations, and provides a performance bond, letter of credit or financial guarantee for the City's use should the applicant fail to comply with any of its obligations;
- Additional application information insuring that facilities will be maintained in compliance with the ODP, Building Codes and applicable Federal regulations;
- Design Standards specific to cellular facilities to ensure thoughtful placement and design within the built environment;
- Abandonment, repair, and removal provisions.

The intent of the new regulations is to encourage techniques that would avoid unnecessary proliferation of new towers, while recognizing the need for facilities to serve the community's need and desire for modern telecommunication. Co-locations, use of "disguised" facilities such as



existing towers, steeples, light poles or buildings, and placement on or near existing structures would be encouraged.

Telecommunication facilities are governed by the Telecommunication Act of 1996 and the Federal Communication Commission that preempts some areas of regulation. Therefore, the facilities owners would be required to show that Federal requirements are met and will be required to comply with site safety rules such as stability of the structure and maximum heights when located near streets or buildings and to provide financial responsibility in case of unmet maintenance needs or abandoned equipment. Locations on City property other than rights-of-way, can still be encouraged so that the City can control the specifics of siting, aesthetics and obtain possible payments.

Currently, only the City of Boulder has a comprehensive review process for cellular facilities similar to the proposed changes. Boulder allows placement of cellular facilities within rights-of-way after a right-of-way permit and site plan have been approved in accordance with their adopted regulations. Other Cities contacted during the research phase were the Cities of Arvada, Thornton, Broomfield, Northglenn, and Federal Heights. None of these local municipalities have anticipated the need for a comprehensive ordinance and would review applications on a case-by-case basis within the existing framework of their code.

The proposed ordinance has been reviewed by the City's consultant, attorney Ken Fellman.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

- Telecommunications Facilities Ordinance

BY AUTHORITY

ORDINANCE NO.  
SERIES OF 2004

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

A BILL

FOR AN ORDINANCE REGULATING TELECOMMUNICATION FACILITIES, TOWERS,  
AND ANTENNAS

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Section 11-4-11, W.M.C., is hereby REPEALED AND REENACTED to read as follows:

11-4-11: ANTENNAS AND TOWERS AND TELECOMMUNICATION FACILITIES:

**(A) INTENT AND PURPOSE:** In order to accommodate the communication needs of residents and businesses while protecting the public health, safety, and general welfare of the community, the City Council finds that these regulations are necessary to:

1. Establish a local policy concerning telecommunications providers and service;
2. Promote competition in the provision of telecommunications services;
3. Facilitate the provision of wireless telecommunications services to the residents and businesses of the City;
4. Minimize adverse visual effects of towers through careful design and siting standards;
5. Encourage and maximize the use of existing and approved towers, buildings, and other structures to accommodate new wireless telecommunications antennas in order to reduce the number of towers needed to serve the community; and
6. Secure fair and reasonable compensation to the City and its residents for the use of any appropriate public property for use as a site for wireless telecommunications facilities.

**(B) APPLICABILITY:**

1. The provisions of this Chapter shall apply throughout the City of Westminster, and it shall be unlawful for a tower, antenna, or telecommunications facility to be placed except in compliance with these provisions.

2. Antennas or towers up to the maximum height specified for principal structures in the applicable zoning district or ODP which are used by FCC-licensed amateur radio operators shall be permitted in any district, subject to the requirements of this section. The applicant must apply for an Official Development Plan (ODP), ODP Amendment, or ODP Waiver to establish permissible structure heights if an ODP fails to specify height limitations.

3. Television or radio antennas less than five feet above the highest point of the existing principal structure shall not be subject to subsections (D) through (H) below.

4. The limitations of this section may be waived by the City Manager in the case of a structure owned or operated by a governmental entity or public utility if it is demonstrated that the public good cannot be adequately served within the limitations of this section.

(C) DEFINITIONS:

1. **ALTERNATIVE TOWER STRUCTURE** means man-made trees, clock towers, bell steeples, light poles, buildings, and similar alternative design mounting structures that are compatible with the natural setting and surrounding structures, and camouflages or conceals the presence of antennas or towers. This term also includes any antenna or antenna array attached to the alternative tower structure.

2. **ANTENNA** means any exterior transmitting or receiving device mounted on a tower, building, or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunication signals or other communication signals.

3. **CO-LOCATION** means the placement of antennas or other telecommunications facilities by two or more telecommunications providers in the same location or on the same tower or alternative tower structure.

4. **TELECOMMUNICATIONS FACILITIES** means the plant, equipment, and property, including but not limited to, cables, wires, conduits, ducts, pedestals, antenna, towers, alternative tower structures, electronics and other appurtenances used to transmit, receive, distribute, provide, or offer telecommunication services.

5. **TELECOMMUNICATIONS SUPPORT FACILITIES** means support building structures, and equipment cabinets containing electrical and mechanical equipment and devices used for the reception of or transmission of voice, data, image, graphic and video programming information between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities.

6. **TOWER** shall mean any structure designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, and monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, and other similar structures. This term also includes any antenna or antenna array attached to the tower structure.

(D) REVIEW AND APPROVAL PROCESS:

1. A use of land for a Telecommunication Facility must be approved in an Official Development Plan (ODP), amended ODP, or ODP waiver, including facilities located on public property, or rights of way. If the applicable ODP does not include a height limitation for the principal structure, an ODP amendment or waiver to specify the permitted height for the facility shall be required.

2. A Telecommunication Facility must receive a Building Permit, and be in compliance with the Building Code adopted by the City.

3. An application shall be reviewed by the City Manager or his designee(s), with the exception of telecommunication facilities proposed to be located above-ground on public rights-of-way which must be approved at a public hearing before the City Planning Commission pursuant to the procedures set forth in Title 11, Chapter 5.

(E) PREREQUISITES FOR APPROVAL: No ODP, ODP amendment, or ODP waiver relating to a Telecommunications Facility shall be approved unless the following findings have been met:

1. Such facility is necessary to provide adequate services to locations that the applicant is not able to serve with existing approved facilities;

2. The Applicant certifies that the facility conforms to all applicable regulations promulgated by the Federal Communications Commission, the Federal Aviation Administration, and any other federal agency with jurisdiction;

3. The facility will be designed and constructed in a manner which minimizes visual impact and preserves view corridors;

4. The location of the facility is the most appropriate site among those available within the technically feasible area for the location of a Telecommunication Facility;

5. The applicant has considered whether co-use is possible or permissible, based on legal, financial, and technical consideration in order to avoid the need for additional structures; and

6. The applicant has satisfactorily addressed the Design Standards herein.

(F) APPLICATION: An application for a Telecommunication Facility shall follow the procedures and requirements as set forth in Title 11, Chapter 5 of the Westminster Municipal Code. In addition, the application shall contain the following:

1. (a) Certification that the Telecommunication Facility is or will be in compliance with the current standards and regulations of the FAA, the FCC, and any other agency of the federal government with authority to regulate Telecommunications Facilities; and

(b) A written agreement from the owner that, if such standards and regulations are changed, the owners of the Telecommunication Facilities shall bring such facilities into compliance and that the facilities will be brought into compliance within the time frame mandated by the controlling federal agency. The owner also will agree in writing, that if the Facility causes interference with public safety communications, the Owner will correct this interference at the Owner's expense. The Owner will further agree in writing that failure to do so shall authorize the City to shut down the Facility until compliance is demonstrated.

2. A written agreement by the owner that the owner of a Tower shall ensure that it is maintained in compliance with standards contained in applicable local building codes, as amended from time to time. Evidence may consist of a structural report by a Colorado licensed professional engineer demonstrating that the facility will comply with applicable structural standards.

3. An acknowledgment binding the applicant, the property owner (if other than the applicant) and the applicant's and owner's successors in interest to properly maintain the exterior appearance of and to ultimately remove the Tower, Antenna and other Telecommunications Facilities in compliance with the provisions of this Chapter and the applicable ODP.

4. An acknowledgment by the owner of the property that the City may enter on the property and undertake any maintenance or removal activities if:

(a) The City has provided the applicant written notice requesting the work needed to comply with this Chapter and providing the applicant at least forty-five days to complete it. Such notice shall be sent to the address on the ODP; and

(b) The City shall not be required to provide advance notice if there is a significant risk to the public health and safety requiring immediate remedial measures.

5. An agreement to post a performance bond, letter of credit or other financial guarantee as listed in 11-6-4(A)(2), at the time a permit is issued, in an amount to be set by the City, reasonably related to the costs that the City may incur should the applicant fail to comply with any of its obligations pursuant to Subsection (H) (concerning removal of abandoned facilities). The bond, letter of credit, or other financial guarantee shall remain in effect for a period of ten years from the date of permit issuance. Or in the case of Facilities located in a public right of way, until such facilities are removed.

6. If the applicant seeks a permit to locate on leased property, applicant shall obtain and submit a written statement of the landlord indicating that the landlord is permitted to enter into leases of the same property with other telecommunications providers.

7. The identity and legal status of the applicant with the name, address, and telephone number of the officer, agent, or employee responsible for the application and with whom communications may be exchanged.

8. Information sufficient to determine that the applicant has received or has applied for any operating license or other approvals required by the FCC to provide telecommunications services or facilities within the City.

9. A site plan, to scale, that shows the relative shape, size, and location of the proposed Telecommunications Facilities, which shall include:

(a) A design description, including height above grade, materials, and color for the proposed Antenna on a Tower or Alternative Tower Structure;

(b) A landscaping and visual mitigation plan, detailing how screening from the public view will be accomplished, and how design characteristics will have the effect of reducing or eliminating visual obtrusiveness, how the landscaping will be maintained, and who is responsible for the maintenance;

(c) Proposed ingress and egress;

(d) Proximity of the Tower or other Telecommunications Facility to residential structures and residential district boundaries;

(e) Nature of uses on adjacent and nearby properties within two hundred (200) feet of cellular facility;

(f) Surrounding topography; and

(g) Tree coverage within two hundred (200) feet of cellular facility.

**(G) DESIGN STANDARDS:** An application shall be reviewed to determine that all required information has been submitted and that the following standards have been met. The applicant has the burden of persuasion on each issue.

1. At least ten feet of horizontal clearance must exist between any Antenna and any power lines; more clearance may be required to meet Colorado Public Utilities Commission standards.

2. No guy wires employed may be anchored within the area in front of any primary structure on a parcel.

3. All Telecommunication Facilities and telecommunications support facilities must be designed or sited so that they are set back a minimum of two hundred (200) feet from the nearest residential property line and do not pose a potential hazard to nearby residences or surrounding properties or improvements. Telecommunication Facilities adjacent to non-residential uses shall be set back a distance equal to at least the height of the tower from any adjoining lot line.

If the applicable zoning district setback requirements are greater than the height of the tower, the more restrictive setback must be met. Guys and accessory buildings must satisfy the minimum zoning setback requirements.

4. Towers, telecommunications facilities, telecommunications support facilities, alternative tower structures, landscaping, fencing, etc. shall be maintained in accord with the ODP.

5. All structures and equipment shall be screened and protected by a fence or wall not less than six (6) feet in height from ground level, unless other screening methods are approved or waived through the ODP process. Such fence or wall shall be constructed from masonry or vinyl fencing may be used with brick columns. The fence or wall must effectively screen the telecommunication structure and equipment.

6. At a Tower site, the design of the buildings and related Telecommunications Facilities shall use materials, colors, textures, screening, and landscaping that will blend the facilities to the natural setting and to the built environment.

7. If an Antenna is installed on a structure other than a Tower, the Antenna and supporting Telecommunications Facilities must be of a neutral color that is identical to or closely compatible with the color of the supporting structure so as to make the antenna and related facilities as visually unobtrusive as possible.

8. Telecommunication Facilities, including Alternative Tower Structures, to be located above-ground and located adjacent to the traveled portions of streets or sidewalks: the setback must be a minimum equal to the height of the proposed facility, and shall not exceed the height standard utility poles in the vicinity.

9. All parts of the structure, including supports, fences, and guy wires, shall be set back from the property line the same distance as is required for a principal structure under this Code or the applicable ODP and shall not be closer to the front property line than the front of the existing principal structure on the property, if any. If the applicable ODP does not specify setbacks, an ODP amendment or waiver shall be obtained specifying the setbacks for the structure.

10. Additional setback may be required to contain on-site all ice fall or debris from tower failure and/or to preserve privacy of adjoining residential and public property. Additionally, Telecommunication Facilities shall be constructed so as to minimize the potential safety hazards and located in such a manner that if the facility should fall, it will remain within the property boundaries and avoid habitable structure, public rights-of-way, utility lines and other Telecommunication Facilities.

11. Landscaping shall be accomplished with a buffer of plant materials that effectively screens the view of the telecommunications support facility from adjacent property and in accordance with City landscaping standards. All vegetation shall be maintained in a living condition. Automatic irrigation shall be provided to ensure the on-going maintenance of the landscaping.

12. The use of any portion of a Telecommunications Facility for signs for promotional or advertising purposes, including but not limited to company name, phone numbers, banners, streamers, and balloons is prohibited. The City may require the installation of signage with safety and contact information.

13. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority.

14. No portion of any Antenna array may extend beyond the property line.

15. Sufficient anti-climbing measures must be incorporated into each facility to reduce potential for trespass and injury. By way of example, and not of limitation, security fencing together with a lack of pegs of the bottom portion of the Tower, shall be considered sufficient anti-climbing measures. There shall be no permanent climbing pegs within fifteen feet of the ground. Motion-activated or staff-activated security lighting around the base of a tower or accessory structure entrance may be provided if such lighting does not project off-site.

16. The decision maker shall consider, if applicable, the following criteria in determining whether to approve an ODP or ODP amendment pursuant to this section:

- (a) Aesthetic impacts, including design and appearance of the structure and obstruction of view corridors;
- (b) Quality and effectiveness of any landscaping and screening of the base of the structure;
- (c) Whether co-use of the structure by governmental agencies and other persons is possible or permissible, based on legal, financial and technical considerations, in order to avoid the need for additional structures; and

- (d) Whether alternative sites are reasonably available, taking into consideration lease terms and conditions based upon industry and market standards.

**(H) CO-LOCATION:** The shared use of existing Towers or other Alternative Tower Structures shall be preferred to the construction of new facilities. The application for any ODP or ODP Amendment shall include evidence that reasonable efforts have been made to co-locate within an existing Telecommunication Facility or upon an existing Alternative Tower Structure within a reasonable distance, regardless of municipal boundaries, of the site. The applicant must demonstrate that the proposed Telecommunication Facility cannot be accommodated on existing Telecommunications Facilities due to one or more of the following reasons:

1. The planned equipment would exceed the structural capacity of existing and approved Telecommunications Facilities or other Alternative Tower Structures, considering existing and planned use for those facilities;
2. The planned equipment, if co-located, would cause radio frequency interference with other existing or planned equipment, or exceed radio frequency emission standards which cannot be reasonably prevented;
3. Existing or approved Telecommunications Facilities or other Alternative Tower Structures do not have space on which proposed equipment can be placed so it can function effectively and reasonably;
4. Other technical reasons make it impracticable to place the equipment proposed by the applicant on existing facilities or structures;
5. The land owner or owner of the existing Telecommunication Facility or other Alternative Tower Structure refuses to allow such co-location or requests an unreasonably high fee for such co-location compared to current industry rates;
6. No existing Towers or Alternative Tower Structures are located within the geographic area required to meet the applicant's engineering requirements;
7. Existing Towers or Alternative Tower Structures are not of sufficient height to meet the applicant's engineering requirements;
8. Existing Towers or Alternative Tower Structures do not have sufficient structural strength to support applicant's proposed antennas and related equipment; and
9. Any other reason, in the reasonable discretion of the City Manager or his designee.

**(I) ABANDONMENT; REPAIR; REMOVAL:**

1. At the time of submission of the application for a Telecommunication Facility, the applicant shall execute an agreement in a form acceptable to the City, to remove all Antennas, driveways, structures, buildings, equipment sheds, lighting, utilities, fencing, gates, accessory equipment or structures, as well as any Tower or structure used as a Telecommunications Facility if such facility becomes technologically obsolete or ceases to perform its originally intended function for more than one hundred and eighty (180) days. Upon removal, the land shall be restored and re-landscaped, at the operator's expense, to the level of finish of the adjacent landscaped area.



2. If upon inspection, the City concludes that a Telecommunications Facility fails to comply with the approved ODP or constitutes a danger to persons or property, then upon notice being provided to the representative as listed on the ODP of a Telecommunications Facility, the Owner, shall have thirty days to bring such Telecommunications Facility into compliance with the ODP. If the Owner fails to bring such facility into compliance within said thirty (30) days, the City may remove the facility at the Owner's expense.

3. Any Telecommunication Facility that is not operated for a continuous period of 180 days shall be considered abandoned. The City, in its sole discretion, may require an abandoned Tower, Antenna, or any other ancillary telecommunications equipment to be removed within ninety days of receipt of notice from the City notifying the owner of such abandonment. Upon removal, the site shall be restored or re-vegetated to blend with the surrounding environment. If such removal is not completed within said ninety days, the City may remove and dispose of the same at the owner's expense. If there are two or more users of a single Tower or Alternative Tower Structure, then this provision shall not become effective until all users cease using the Tower.

4. Any Telecommunication Facility placed in a public right of way shall be removed within 120 days after notification by the City that the right of way is needed by the City for the expansion, construction, or reconstruction of a street or highway or other use by the City for any City project. Such removal shall be at the sole expense of the Owner and if Owner fails to remove the Facility within the said 120 days, the City may remove and destroy the Facility and charge the costs to the Owner.

**(J) LOCATIONS ON CITY PROPERTY:** When it is in the interest of the City, the City Manager or his designee may, but is not required to, negotiate and enter into an agreement with a telecommunications services provider for the use of City-owned property (except public rights-of-way) for the location of Towers, Alternative Tower Structures, Antennas, and Telecommunications Facilities. When so located, the agreement may be reviewed administratively.

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 \_\_\_\_\_, 2004.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this \_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
Mayor

ATTEST:

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

City Council Study Session Meeting  
June 7, 2004



SUBJECT: Possible Charter Amendments and Ballot Questions for November 2004 Election

PREPARED BY: Steve Smithers, Assistant City Manager

**Recommended City Council Action:**

1. Direct City Staff on what proposed charter amendments, if any, Staff should prepare for consideration by the voters in November.
2. Direct Staff on what proposed other ballot issues City Council wishes to pursue, if any, as part of the November 2004 election.

**Summary Statement**

City Council annually considers whether to place charter amendments and other issues on the ballot for Westminster citizens to consider. This year Staff has developed a list of potential charter amendments and other potential ballot issues that could be considered. This list is not meant to be all-inclusive; City Council may have other amendments and issues that should be considered.

Staff will point out that the City has gone to Westminster voters in the last two elections and been successful in removing the City from the TABOR spending and revenues caps, as well as passing a six-tenths of one percent sales and use tax increase for Public Safety related expenditures. It is also important to note that this Fall's election ballot could include: RTD FasTracks initiative, Scientific and Cultural Facilities Tax renewal, School District 12 and R-1 bond and mill levy issues, Douglas Bruce tax and fee limitation measure, Adams County Open Space renewal, State of Colorado Amendment 23/TABOR fix (either from the State Legislature or the Bighorn or Bell Policy Centers), and several referred measures from the State Legislature. Obviously, this November has the potential to be a very full and complex ballot.

**Expenditure Required:** \$0.

**Source of Funds:** n/a

**Policy Issues:**

1. Does City Council wish to place one or more charter amendments on the November, 2004 ballot?
2. Does City Council wish to place one or more financial or term limit issues on the November 2004 ballot?

**Alternatives:**

1. Direct City Staff to place one or more charter amendments on the ballot this November.
2. Direct City Staff to place one or more other financial or term limit issues on the ballot this November.
3. Direct Staff to not pursue any charter or ballot issues this November.

**Background Information**

**Charter Amendments**

1. Amend Section 4.13 (f) of the City Charter to eliminate the requirement to require City Council approval for hiring special legal counsel. In the course of normal business the City hires special legal counsel for a wide variety of purposes. This change would allow Staff to be more responsive to the day-to-day needs that arise in the City. The City is often involved in some very complex and time-sensitive negotiations. Oftentimes a quick legal opinion is required from an expert in, for example, real estate, tax or bankruptcy law, and this requirement significantly hinders the City's ability to make the decisions necessary to conclude these matters in a manner that is both timely and appropriately protective of the City's legal interests. Staff currently has the authority to contract for other professional services under \$50,000 without Council approval. If Council chooses to pursue this issue, Staff would propose that the same spending limits be applied to hiring outside legal counsel.
2. Amend Section 13.4 of the City Charter to eliminate the requirement to approve leases by ordinance. There is no public purpose that Staff can identify for treating leases differently than other real estate transactions such as purchase and sale agreements and joint development agreements. The current requirement does not allow the City to close on lease financings in a timely manner. Currently, when the leases are sold, the City must approve these leases after waiting 30 days for public comment. On the other hand, bond sales can be approved without a notice period. The current requirement for a 30-day waiting period for non-bond financings (leases) puts the City in a difficult position, wherein they must sell the leases in a public sale, but contingent on approval 30 days later, which makes the underwriting more difficult. Although the City's current underwriter has not balked, if the City contracts with other bond underwriters, this constraint could impact underwriting fees, the marketability of the lease transaction, or both, at some time in the future.
4. Amend section 4.12 of the City Charter eliminating references to the duties of the treasurer. Replace the term treasurer with the term Finance Director. The City does not have a

treasurer and the duties referred to in this section are currently handled by the Finance Director.

### **Other Ballot Issues**

1. Extension of the Open Space Tax and authorization to bond a portion of the revenue stream. The current \$.25 tax expires in approximately 12 years and the City could place itself in a more advantageous position by extending the tax to a minimum of 20 years and requesting bonding authority from the voters. This would allow the City to more aggressively pursue open space land purchases in the next few years, before prices escalate to higher levels and before desirable open space parcels are developed.
2. Request authority from the voters to bond for Community Enhancement Fund expenses using a portion of the accommodations tax as the revenue stream to pay the bonds. This would allow the City to accomplish significant community enhancements in a shorter period of time. Staff currently has underway the creation of a Community Enhancement Master Plan; however, expected completion of the plan may not be timely for this November's election.
3. Request that the voters modify state constitutionally mandated term limits in one of the ways listed below, or in another manner as agreed to by Council. The three options listed here are the same as those discussed with City Council last year.

Option 1: The voters of the City shall have the right to elect the Mayor and Councillors for as many terms of office as the voters may deem appropriate, notwithstanding the term limitations of Article XVIII, section 11 of the State Constitution.

Option 2: Neither the Mayor nor any Councillor shall serve more than three consecutive terms of office.

Option 3: No City Councillor shall serve more than two consecutive terms of office except that any City Councillor with six years or less of consecutive service as an elected City Councillor may serve an additional term of office.

City Staff is requesting City Council direction on whether to pursue any of the items listed above. Ballot language needs to be adopted by City Council and certified to the County Clerk no later than September 7, 2004.

Staff will be present at Monday night's study session to discuss this item further and receive City Council direction.

Respectfully submitted,

J. Brent McFall  
City Manager