



WESTMINSTER

Staff Report

TO: The Mayor and Members of the City Council

DATE: July 14, 2010

SUBJECT: Study Session Agenda for July 19, 2010

PREPARED BY: J. Brent McFall, City Manager

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

Looking ahead to next Monday night's Study Session, the following schedule has been prepared:

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

CITY COUNCIL REPORTS

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

PRESENTATIONS

6:30 P.M.

1. Lao Hmong Memorial at City Park (Attachment)
2. Semi-Annual Report from the Municipal Court
3. Miscellaneous Residential Permit Fees (Attachment)
4. Procedure for collection of use taxes on infrastructure and projects undertaken and managed by the Utility Enterprise
5. Proposed Amendments to Title IV of the Westminster Municipal Code concerning Tax Administration (Attachment)

EXECUTIVE SESSION

1. Discuss Specific taxpayer returns and receive legal advice from the City Attorney concerning potential changes to the City's sales and use tax code, pursuant to WMC 1-11-3(C)(5) and (8) and CRS 24-6-402 (4)(b) and (c)
2. Discuss strategy and progress on the sale, acquisition, trade or exchange of property for the South Westminster Revitalization Project, pursuant to WMC Section 1-11-3 (C)(2), (7) and (8) and CRS 24-6-402 (4)(a) and (e) (*Verbal*)

INFORMATION ONLY ITEMS – Does not require action by City Council

1. Communication Efforts on Focused Workweek Trial (Attachment)

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

Minutes from June 21, 2010 Study Session



WESTMINSTER

Staff Report

City Council Study Session Meeting
July 19, 2010



SUBJECT: Lao Hmong Memorial at City Park
PREPARED BY: Becky Eades, Landscape Architect II

Recommended City Council Action:

Requested to review conceptual plans and hear an update from Staff regarding the development of a memorial honoring the service and sacrifice of the Hmong people of Laos who fought for the United States during the Vietnam War and direct Staff on whether or not to move forward to develop an agreement with the Lao-Hmong Memorial Foundation.

Summary Statement

- Staff has presented a previous update to City Council on this project, but due to a considerable time lapse in the progress of the fundraising efforts on the part of the Lao Hmong Foundation, Staff believes it would be beneficial to review the status of the project before a formal agreement is brought before City Council for approval.
- Colonel Bob Resling first contacted the City on behalf of the Lao-Hmong Memorial Foundation in November of 2006 with a request to possibly include a tribute to the Hmong people as part of the City's Armed Forces Tribute Garden (AFTG) located at 6001 W 104th Avenue.
- After reviewing the proposal with Mr. Resling and members of the Lao Hmong Memorial Foundation, Staff determined that the desire to honor a worthy group, such as the Hmong, did not fit in with the intent of the AFTG. Additionally, the design of the AFTG was too far along to look at modifications for the purpose of honoring the Hmong sacrifices during the Vietnam War.
- The Lao-Hmong Memorial Foundation has remained in contact with Staff. Working together, a more appropriate location for a Hmong Memorial (not far from the Tribute Garden) has been determined.
- The Lao-Hmong Foundation has verbally committed to raising all funds for the design and construction and ongoing maintenance of the memorial.
- City Staff will serve as project manager for the memorial project overseeing design and construction.
- No portion of the project, design or construction, will be initiated without all funds being secured ahead of time by the Lao-Hmong Memorial Foundation.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Does Council wish to enter into an agreement with the Lao-Hmong Memorial Foundation to permit the inclusion of a privately-funded memorial to a specific cultural group at City Park?

Alternative

Council could direct Staff to not move forward with the agreement at this time.

Background Information

In November of 2006, Colonel Bob Resling began discussing with City Staff his interest in building a memorial to the Hmong honoring their service and sacrifice in support of US interests during the Vietnam War. His initial interest was having the memorial be a part of the City's Armed Forces Tribute Garden (AFTG). Staff believed that specifically including the Hmong service during the Vietnam War did not support the overall purpose of the AFTG, which is to pay tribute to the commitment and patriotism of members of the armed forces, past, present, and future. Since the dedication of the AFTG, Staff has continued a dialog with representatives of the Lao-Hmong Memorial Foundation who remain as committed as ever to creating a permanent memorial.

Staff has suggested the location shown on the attached map as a suitable site within the City Park complex and has been working with the Lao-Hmong Foundation on a draft agreement. The Foundation is working with sculptor Ed Dwight and has prepared some very conceptual designs for what the memorial might look like. With Council's authorization, Staff will move forward with the agreement. Once the Lao-Hmong Memorial Foundation has raised sufficient funds to cover design expenses, Staff will work with the foundation to hire a landscape architect to work with Ed Dwight on what the ultimate memorial site will look like. Staff will return to Council with design plans as they are finalized.

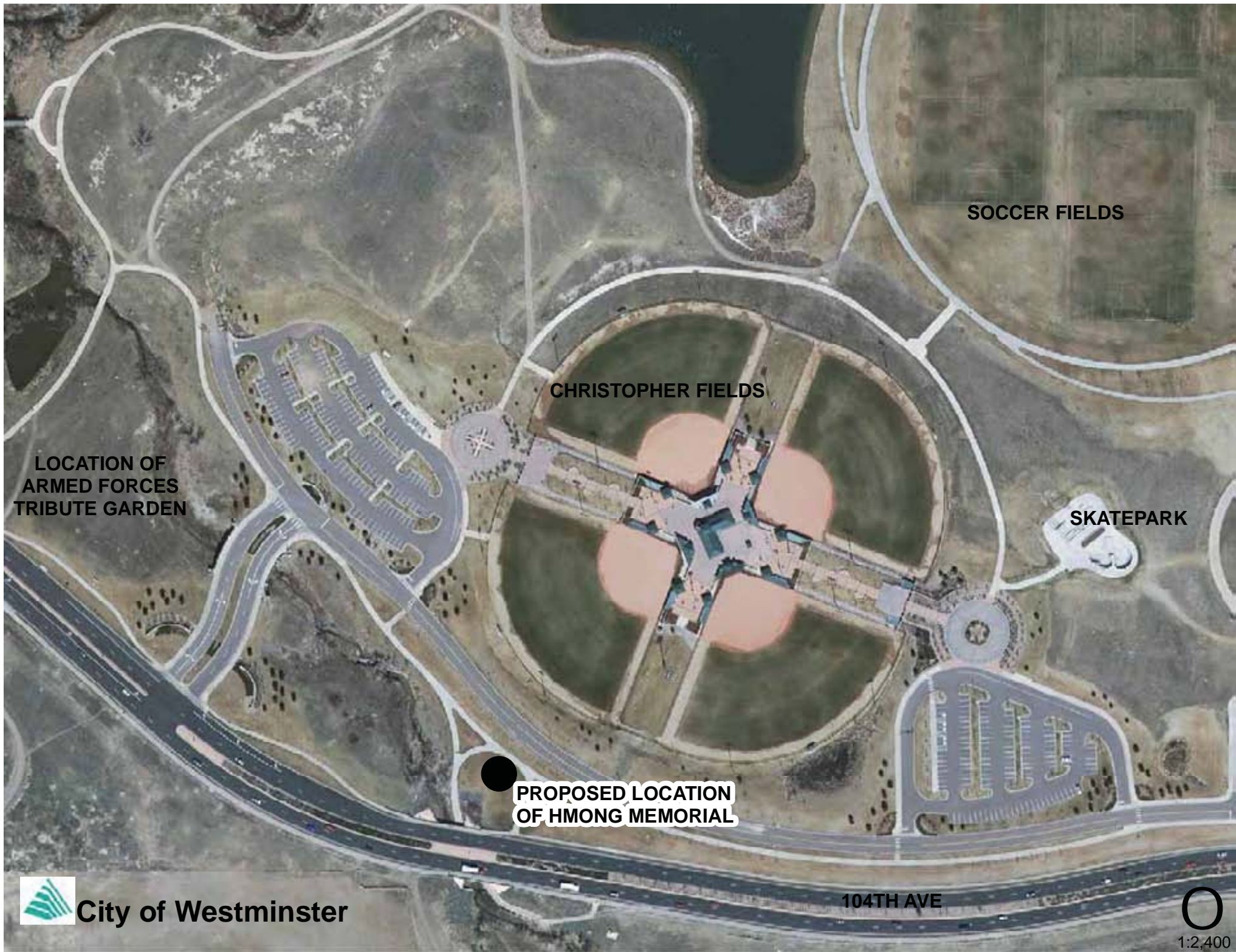
Staff will be present at the Study Session with the initial design as prepared by Ed Dwight to answer any questions. This project meets the City's Strategic Plan goals of "Financially Sustainable City Government Providing Exceptional Services," "Vibrant Neighborhoods and Commercial Areas," and "Beautiful and Environmentally Sensitive City."

Respectfully submitted,



J. Brent McFall
City Manager

Map Attachment



SOCCER FIELDS

CHRISTOPHER FIELDS

**LOCATION OF
ARMED FORCES
TRIBUTE GARDEN**

SKATEPARK

**PROPOSED LOCATION
OF HMONG MEMORIAL**

104TH AVE

MEMORANDUM

TO: Mayor and City Council

FROM: John A. Stipech, Presiding Judge

DATE: July 19, 2010

SUBJECT: Semi-Annual Report

This is a summary of the Court's activities for January through June, 2010.

The first six months of this year have been very hectic and full of changes for both the City and the Court staff.

The following statistical information compares the filings in the Municipal Court for the first six months of the 2010 calendar year with the same statistical information for the calendar year 2009.

As indicated below, all case filings, except Domestic Violence and No Proof of Insurance violations are down. With the current economic pressures, and the reduction in current work forces, we expect that figures will more than likely continue to decline.

CASES FILED	YTD	YTD	Percent	Number
	Jun-10	Jun-09	Diff	Diff
Municipal Ord (aka Criminal)	1,554	1,761	-12%	(207)
Domestic Violence	177	176	1%	1
Total Criminal	1,731	1,937	-11%	(206)
No Proof of Insurance	909	772	18%	137
Traffic Mandatory (aka Criminal)	149	192	-22%	(43)
Traffic Payable (aka Infraction)	4,611	4,668	-1%	(57)
Total Traffic without parking	5,669	5,632	1%	37
Total Criminal & Traffic w/o parking	7,400	7,569	-2%	(169)
Parking	434	710	-39%	(276)
Court Grand Total	7,834	8,279	-5%	(445)

CASES DISPOSED	YTD	YTD	Percent	Number
	Jun-10	Jun-09	Diff	Diff
Municipal Ord (aka Criminal)	2,598	2,881	-10%	(283)
Domestic Violence	330	308	7%	22
Total Criminal	2,928	3,189	-8%	(261)
No Proof of Insurance	944	801	18%	143
Traffic Mandatory (aka Criminal)	166	225	-26%	(59)
Traffic Payable (aka Infraction)	4,507	4,565	-1%	(58)
Total Traffic without parking	5,617	5,591	0%	26
Total Criminal & Traffic w/o parking	8,545	8,780	-3%	(235)
Parking	833	865	-4%	(32)
Court Grand Total	9,378	9,645	-3%	(267)

SECURITY

Goal: Screen all customers to ensure a safe and secure environment.		
Measures:	YTD 2009	YTD 2010
Total customers per year	19,698	22,335
Hand Scans per year	4,681	4,922
Total confiscated or returned items per year.	1,236	2,194

- There were 2,637 more customers (13%) that came to the Court building for the six months year to date. Year to date, we average approximately 3,723 customers per month.
- Hand scans are up 241 (5%) year-to-date. All citizens are required to be hand-scanned when the metal detector is set off.
- Confiscated or returned items are up 958 (78%). The highest increase in this six month period is the number of firearms and ammunition that was attempted to be brought in. All of the weapons belonged to police officers and/or investigators that were appearing on personal business not related to a court appearance. The ammunition number correlates mainly to the weapons carried by the officers who are carrying multiple magazines; however, there was a defendant who had seven blank 9mm bullets on his person. Some of the handcuffs and handcuff keys belonged to the officers with the weapons or bail bondsman.

The following information is a breakdown by category of the different types of items that were confiscated or returned to the customer's vehicle.

Knives	223	Handcuffs	11
Scissors	35	Handcuff keys	39
Screwdrivers	12	Firearms	9
Razors	41	Ammunition	146
Mace Canisters	21	Cameras	183
Tools or clubs	114	Audio / Video Recorders	17
Chains	102	Other prohibited items (nail files, combs, hair picks, sharpies, alcohol, glass, knitting needles, etc.)	1241

FOCUSED WORK WEEK

In April, several City-wide meetings were held and information was disseminated by City Manager Brent McFall to employees regarding the possibility of a 10 hour, 4-day "Focused Work Week" – Monday through Thursday. On April 6 and 8, two meetings were held at the Court with all of the employees at the building to discuss the Focused Work Week option, and to solicit feedback and discuss all issues, ideas, thoughts and concerns of this consideration and the impact it would have on staff and Court operations. Employees attending the meetings at the Court were very participative and shared their thoughts, ideas and concerns.

A compressed courtroom calendar was developed and new calendars are being input into the Record Management System. The Court Administrator met with many of the Westminster Police Department (WPD) staff regarding coordination of the Court calendars and the dissemination of the information to the police officers. The Focused Work Week schedule has presented many challenges and changes for us. The administrative staff is very busy changing and creating new forms, several of which have been sent to the printer for reprinting; changes in scheduling are being made in the RMS and the Jury System module; and signage is being coordinated with the PIO for the Court to begin the Focused Work Week on Monday, August 30.

One of the biggest challenges in the implementation of this compressed schedule is making sure all of the Court staff, as well as all of the police officers, become familiar with the new dates and times to schedule hearings. This is crucial to our operation as well as a customer service issue for the citizens. The WPD has been receptive and is willing to work with us on all of the changes the officers will have to become familiar with. A copy of the compressed courtroom calendars and the new officer arraignment calendars for the last two weeks in July and the month of August are attached.

REVISED SUMMONSES

The Court Administrator has been working diligently for over the past year with WPD staff to revamp both the Municipal Court Summons and the Parking Summons. The first print of the revised Municipal Summonses was distributed to officers in early March. The Court Administrator and WPD staff are still in the process of refining the Summonses with the anticipation that they will be implemented by early fall.

The revised Parking Summonses are ready to go to print. We developed a three tier fine structure versus the multitude of different fines levied. We are in a holding pattern at this time pending further discussions regarding the fine schedule.

Both Summonses will have to be reprinted this year which is an added cost for the WPD. Both Summonses contain inaccurate information (old phone number, PO Box mailing address for traffic violations, hours of operation, etc.) and they are outdated.

REVISED FINE SCHEDULE

The Court Administrator and I are reviewing the existing fine schedule and are anticipating receipt of a survey of adjacent community fine schedules soon. Any revisions or modification in fines have to be coordinated with the WPD, new Records Management System tables comprised of over 585 charges have to be input and reviewed by the Court Administrator and tested by staff. A new Court Order setting out all of the fines in specific categories has to be drafted, reviewed and signed. Once the Court Order is signed, the Court Administrator will work closely with the WPD staff in revising their officer "cheat sheets" to ensure accuracy. The new information then has to be disseminated to all of the police officers, along with all of the Court staff and City Prosecutor staff. This is a very labor intensive project that requires considerable coordination, communication and synchronization between the Court and WPD. We hope to implement a revised fine schedule by the end of the year or beginning of 2011.

MODEL TRAFFIC CODE REVISIONS

The City Attorney's Office is currently reviewing the revisions to the 2010 Model Traffic Code. The last adoption by the City of the Code was in 2003. Any revisions or adoptions by Council will necessitate the creation of another revised fines table within the Records Management System. We would request that we only have to create one revision to the fines and fees tables.

WPD DISPOSITION REPORT

The Court Administrator and IT staff created a report that is now utilized by the WPD Evidence Technicians to provide a disposition on all cases with a police reference number and to assist them in releasing evidence at the end of the required holding period. The Court Administrator generates the report around the 10th of the month and saves the reports to a protected file. This report eliminates one page of the summons.

EMPLOYEE RECOGNITIONS

LEADERSHIP PROGRAM

On January 13, Deputy Court Clerk Vanessa Hamilton graduated from the City's first Leadership Development Certification Program. Applicants were put through a process ordinarily reserved for upper management. The program covered several aspects of leadership such as Leadership Effectiveness, Communication, Leadership Strategies, Conflict Resolution, Building Partnerships, Innovation, Transitioning to Supervisor, Policy and Procedure Essentials, Inspiring Leadership, Accountability, Ethics and Integrity. The graduating class of 21 included employees from all departments of the City.

LENGTH OF SERVICE AWARDS

The City hosts luncheons to recognize employees who have reached 5, 10, 15+ years of service with the City. At the luncheon, each department head recognizes employees in their department with a short recap of what they have accomplished at the City and the individuals' hobbies and interests outside of work. All employees receive a certificate and a pin designating the number of years they have been with the City. In January, Probation Supervisor Brian Poggenklass attended his 10 Year Length of Service luncheon.

TEAMS IN ACTION

In April, two of the Court's staff were recognized by the Teams in Action Committee for their participation in Club Español. The ability of Court staff to assist our Hispanic defendants is an invaluable service to us and the citizens, and we appreciate the dedication and hard work of the two employees who continue to increase their bilingual skills.

WESTMINSTER FIRE DEPARTMENT CITIZEN ACADEMY

On May 27, Court Administrator Carol Barnhardt and Deputy Court Clerks Gail Reynolds and Vanessa Hamilton successfully completed and graduated from the 13 week Fire Department Citizen Academy. The three employees reported regularly at our staff meetings about their trainings and thoroughly enjoyed the challenges and the new learning experiences.

SPIRIT AWARD

On June 15, Probation Clerk Glenda Thompson, Probation Supervisor Brian Poggenklass, and Court Administrator Carol Barnhardt attended a luncheon where several City employees were recognized for their demonstration of SPIRIT. Glenda was nominated for her exemplification of SPIRIT by Probation Officer and co-worker Kim Lif.

COURT STAFF RETREAT

In April, the first (and hopefully annual) Court Staff Retreat was held at the MAC with all of the court clerks and probation officers attending. The three supervisors remained at the Court to keep the operation running smoothly. The judges were at their annual CMJA Conference. The theme of the retreat was "Teamwork." The Court Administrator reviewed the Court's Strategic Plan for 2010. The Court's SPIRIT Team introduced the new SPIRIT program through an innovative PowerPoint. Team building exercises were led by City staff Carol Gifford (EDT) and Steve Thomas (MAC Facility Assistant). Comments received back from our staff were very positive, and overall, everyone enjoyed the team building exercises and the retreat.

AUDITS

The Open File Audit was completed on February 5 with 6,031 files reviewed over a period of seven weeks. There were 126 issues found and corrected to ensure files are accurate and complete.

The Open Collection Audit was completed on February 19. Over 3,100 cases were reconciled with the collection agency.

During the month of December 2009 and the first three months of this year, one of the City's Financial Auditors reconciled the Court's holding accounts from 2001 through 2010. This was a labor intensive, time consuming project for the Financial Auditors as well as the Court Administrator. The Court Administrator worked diligently with several of the Finance Department staff to revamp, coordinate and reduce paper flow between the two Departments and to refine financial processes and procedures. Some of the changes implemented were to laserfiche monthly financial transmittals and to save the reports in a shared and restricted folder. This process eliminates numerous duplication of paper ("go green"). Daily transmittal paperwork was also streamlined and reduced ("go green").

On June 30, a surprise cash audit was conducted by one of the City's Internal Auditors. We are pleased to report that "no exceptions were noted" and we meet and exceed the City's financial reporting and accountability expectations.

PUBLIC DEFENDER

Public Defender services are provided to indigent defendants. In the fall of 2009, an RFP was developed and posted. Three bids were received. A five person oral board interviewed the candidates. In February, Council awarded the new contract to David Rockwell. He officially assumed his duties April 1, 2010. The Judges and Court Staff are pleased with the services of Mr. Rockwell and his professionalism shown to his clients and the staff.

JURY TRIALS

Through the end of June, we conducted 27 Jury Trials of which 13 were Domestic Violence cases.

RECORDS MANAGEMENT SYSTEM

The Court Administrator, the three supervisors and IT staff have been discussing the anticipated 2011 upgrade from the FullCourt system to the FullCourt Enterprise system. The Court Administrator and two of the supervisors spent one day with Fort Collins staff to gain more insight on the upgraded Enterprise system. The time spent with the Fort Collins staff was enlightening and extremely helpful for staff. Plans are to implement the upgrade in late 2011.

GRAFFITI AND OTHER INCIDENTS

Since the first of the year, there were three reported incidents of graffiti inside the courthouse, along with one automobile hitting a handicap sign, one backing into a light post and another accident involving two vehicles backing out and colliding with each other in the parking lot. We continue to have problems with graffiti especially in the men's public restroom.

LASERFICHE

The scanning project continues with over one million documents scanned since its inception in January 2005. This is a monumental accomplishment.

COURTROOM CALENDARS - MODIFIED FOR A 4 DAY WORK WEEK

	Monday	Tuesday	Wednesday	Thursday	Friday
<p>COURTROOM A</p> <p>PAUL BASSO</p> <p>32 HOUR COURTROOM JUDGE</p> <p>8 hours 4 days each week</p> <p>7:30a – 4:30p</p>	<p>7:30 Arr M-Z(100) Arr 2nd (25) Bond Return (5) Bond Ret/Arr (25)</p> <p>7:45 Dispo Hrgs (5) Warr Surr (20)</p> <p>9:30 In Custody (15)</p> <p>10:30 Prob Rev Hrg (15)</p> <p>1:00 PD Eligibility (10)</p> <p>1:30 Motion Hrg (5) Mot to Rev Pend (5) Trials (5)</p>	<p>7:30 Bond Return (5) Motion Hrg (6) Sent (2)</p> <p>7:45 Dispo Hrgs (5) Warr Surr (20)</p> <p>9:30 In Custody (15) DV Arr (10)</p> <p>1:00 Protect Order Hrg (5)</p> <p>1:30 Bond Forf Hrg (3) Bond Ret (5) Def Mot Hrg (6) Parking Hrg (3)</p> <p>2:00 Rest hrg/sent (3) Review Hrg (60) Warr Surr (20)</p>	<p>7:30 Arr M-Z(100) Arr 2nd (25) Bond Return (5) Bond Ret/Arr (25)</p> <p>7:45 Dispo Hrgs (5) Warr Surr (20)</p> <p>8:30 Pretrials (4)</p> <p>9:00 Pretrials (4)</p> <p>9:30 DV Arr (10) In-Custody (15)</p> <p>1:00 Every Other Wednesday JSC (4)</p> <p>1:00 - Every Wednesday Trials (5) Mot to Rev Pend (5)</p>	<p>Every Other Thursday 7:30 Jurors report</p> <p>8:00 Jury Trials (4) Mot to Revoke Pend (3)</p> <p>9:30 *** Every Thursday IC (15) DVArr (10)</p> <p>*****</p> <p>Every Other Thursday opposite Jury dates 7:30 Def Dispo Hrg (20) Review Hrgs (60)</p> <p>8:00 Motion Hrg (13) Parking Hrg (3) Sent (4)</p> <p>9:30 IC (15) DVArr (10)</p> <p>1:00 Trials (4) Motion to Rev Pend (4)</p>	<p style="background-color: yellow; color: black; padding: 5px;">CLOSED</p>

COURTROOM CALENDARS - MODIFIED FOR A 4 DAY WORK WEEK

	Monday	Tuesday	Wednesday	Thursday	Friday
<p>COURTROOM B</p> <p>JOHN STIPECH</p> <p>40 HOUR COURTROOM JUDGE</p> <p>10 hours 4 days each week</p> <p>7 a – 6 p</p>	<p>7:30 Arr A-L (100) Arr 2nd (25) Bond Ret/Arr (25)</p> <p>7:45 Dispo Hrgs (5) Warr Surr (20)</p> <p>8:00 Pretrials (4)</p> <p>8:30 Pretrials (4)</p> <p>9:30 DV Arr (10)</p> <p>1:00 Every Other Monday with Interpreter Mot/Hrg/Sent (6)</p> <p>1:30 Every other Monday opposite Trials Spanish Interpreter – (23)</p> <p>1:30 Every Other Monday Mot to Revoke Pend (4) Trials (4)</p> <p>3:00 Every Other Monday Trials (3) Mot to Revoke Pend (3)</p>	<p>7:30 Arr (210) Arr 2nd (50) Bond Ret/Arr (50)</p> <p>7:45 Dispo Hrgs (5) Warr Surr (20)</p> <p>9:45 – John at DH Mtg</p> <p>TRAFFIC DAY 1:00 Arr A-E (210) Arr 2nd (50) Bond Ret (5) Bond Ret/Arr (50)</p> <p>2:00 Arr F-K (210) Arr 2nd (50) Bond Ret/Arr (50)</p> <p>3:00 Arr L-P (210) Arr 2nd (50) Bond Ret/Arr (50)</p> <p>4:00 Arr Q-Z (210) Arr 2nd (50) Bond Ret/Arr (50)</p>	<p>7:30 Arr A-L(100) Arr 2nd (25) Bond Ret/Arr (25)</p> <p>7:30 Pre-Trials (4)</p> <p>7:45 Pre-Trials (4)</p> <p>7:45 Warr Surr (20)</p> <p>8:45 Dispo Hrgs (5)</p> <p>9:30 In Custody (15) DV Arr (10)</p> <p>10:00 PD DOCKET PD Hrg (3) PD Pretrial (5)</p> <p>1:00 PD DOCKET JSC (4) (all cases) Mot to Revoke Pend (7) PD JSC (3) PD trials (3)</p> <p>3:00 Second Wednesday each month Probation JV Court</p>	<p>7:30 Jurors report</p> <p>8:00 Jury Trials (4) Mot to Revoke Pend (4)</p> <p>9:30 *** Every DOUBLE JT Thursday IC (15) DVArr (10)</p>	<p>CLOSED</p>

July 18 – 31, 2010 MONDAY - THURSDAY

** NEW SCHEDULE **

Municipal Court Arraignment Dates

Sun	Monday	Tue	Wed	Thu	Fri	Sat
T = Traffic NT = Non-Traffic JD = Juvenile Diversion		TUESDAY ONLY TRAFFIC ARRAIGNMENTS A – E – 1:00 p.m. F – K – 2:00 p.m. L – P – 3:00 p.m. Q – Z – 4:00 p.m.	All non-traffic arraignments are to be scheduled for 7:30 a.m.	FTDV is the next available court date at 9:30 a.m. for defendant and 8:30 a.m. for VICTIM.	If a Spanish interpreter is required, please set for August 30 at 1:30 p.m.	

NEW 4 DAY WORK WEEK - MONDAY – THURSDAY

NOTE - NEW TRAFFIC DATE AND TIMES ON TUESDAYS STARTING AT 1 P.M.

NOTE - NEW NON-TRAFFIC ARRAIGNMENT TIMES – 7:30 A.M.

NOTE – NEW APPEARANCE TIME FOR DV VICTIM - BE SURE TO USE NEW FORMS WITH CORRECT APPEARANCE TIME OF 8:30 A.M.

18 T – 8/31/10 NT – 8/30/10 JD – 9/7/10	19 T – 8/31/10 NT – 8/30/10 JD – 9/7/10	20 T – 8/31/10 NT – 8/30/10 JD – 9/7/10	21 T – 8/31/10 NT – 8/31/10 JD – 9/7/10	22 T – 8/31/10 NT – 8/31/10 JD – 9/7/10	23 T – 8/31/10 NT – 9/1/10 JD – 9/7/10	24 T – 8/31/10 NT – 9/1/10 JD – 9/7/10
25 T – 9/7/10 NT – 9/7/10 JD – 9/13/10	26 T – 9/7/10 NT – 9/7/10 JD – 9/13/10	27 T – 9/7/10 NT – 9/7/10 JD – 9/13/10	28 T – 9/7/10 NT – 9/8/10 JD – 9/13/10	29 T – 9/7/10 NT – 9/8/10 JD – 9/13/10	30 T – 9/7/10 NT – 9/8/10 JD – 9/13/10	31 T – 9/7/10 NT – 9/13/10 JD – 9/13/10

August 2010 – Court Arraignment Dates

** NEW SCHEDULE ** MON - THURS

Sun	Monday	Tue	Wed	Thu	Fri	Sat
T = Traffic NT = Non-Traffic JD = Juvenile Diversion		TUESDAY ONLY TRAFFIC ARRAIGNMENTS A – E – 1:00 p.m. F – K – 2:00 p.m. L – P – 3:00 p.m. Q – Z - 4:00 p.m.	All non-traffic arraignments are to be scheduled for 7:30 a.m.	FTDV is the next available court date at 9:30 a.m. for defendant and 8:30 a.m. for VICTIM.	If a Spanish interpreter is required, please set for September 13 and 27 at 1:30 p.m.	
NOTE - NEW TRAFFIC DATE AND TIMES ON TUESDAYS STARTING AT 1 P.M. NOTE - NEW NON-TRAFFIC ARRAIGNMENT TIMES – 7:30 A.M. NOTE – NEW APPEARANCE TIME FOR DV VICTIM - BE SURE TO USE NEW FORMS WITH CORRECT APPEARANCE TIME OF 8:30 A.M.						
1 T – 9/14/10 NT – 9/13/10 JD – 9/20/10	2 T – 9/14/10 NT – 9/13/10 JD – 9/20/10	3 T – 9/14/10 NT – 9/14/10 JD – 9/20/10	4 T – 9/14/10 NT – 9/14/10 JD – 9/20/10	5 T – 9/14/10 NT – 9/14/10 JD – 9/20/10	6 T – 9/14/10 NT – 9/15/10 JD – 9/20/10	7 T – 9/14/10 NT – 9/15/10 JD – 9/20/10
8 T – 9/21/10 NT – 9/20/10 JD – 9/27/10	9 T – 9/21/10 NT – 9/20/10 JD – 9/27/10	10 T – 9/21/10 NT – 9/20/10 JD – 9/27/10	11 T – 9/21/10 NT – 9/21/10 JD – 9/27/10	12 T – 9/21/10 NT – 9/21/10 JD – 9/27/10	13 T – 9/21/10 NT – 9/22/10 JD – 9/27/10	14 T – 9/21/10 NT – 9/22/10 JD – 9/27/10
15 T – 9/28/10 NT – 9/27/10 JD – 10/4/10	16 T – 9/28/10 NT – 9/27/10 JD – 10/4/10	17 T – 9/28/10 NT – 9/27/10 JD – 10/4/10	18 T – 9/28/10 NT – 9/28/10 JD – 10/4/10	19 T – 9/28/10 NT – 9/28/10 JD – 10/4/10	20 T – 9/28/10 NT – 9/29/10 JD – 10/4/10	21 T – 9/28/10 NT – 9/29/10 JD – 10/4/10
22 T – 10/5/10 NT – 10/4/10 JD – 10/11/10	23 T – 10/5/10 NT – 10/4/10 JD – 10/11/10	24 T – 10/5/10 NT – 10/4/10 JD – 10/11/10	25 T – 10/5/10 NT – 10/5/10 JD – 10/11/10	26 T – 10/5/10 NT – 10/5/10 JD – 10/11/10	27 T – 10/5/10 NT – 10/6/10 JD – 10/11/10	28 T – 10/5/10 NT – 10/6/10 JD – 10/11/10
29 T – 10/12/10 NT – 10/11/10 JD – 10/18/10	30 T – 10/12/10 NT – 10/11/10 JD – 10/18/10	31 T – 10/12/10 NT – 10/11/10 JD – 10/18/10	10			



WESTMINSTER

Staff Report

City Council Study Session Meeting
July 19, 2010



SUBJECT: Miscellaneous Residential Permit Fees

PREPARED BY: Dave Horras, Chief Building Official

Recommended City Council Action:

Direct staff to prepare a resolution increasing the building permit fees for eleven specific types of miscellaneous residential building permits for City Council action at the next regular City Council meeting.

Summary Statement

The building permit fee schedule currently in effect was approved by City Council in the fall of 2003. The current fee schedule includes a number of fixed fees for typically simple residential projects. The current fixed fees charged for these types of miscellaneous residential projects are currently not sufficient to cover the staff costs associated with processing these permits. The current permit fee for projects such as reroofing, replacement of water heaters or furnaces or the installation of a new shed or fence is a flat fee of \$20.00. It is proposed to raise the fixed fee for these and other similar types of miscellaneous residential permits to more closely reflect the costs associated with the services provided.

Based upon a staff analysis of nine local jurisdictions fee structures, the current fees are lower than those charged in most other jurisdictions, in many instances substantially lower. This proposed increase in these fees will bring Westminster's fees for these type of permits close to the mid-range of the jurisdictions surveyed.

This proposed increase will not increase the permit fees collected for projects such as new homes, home additions or renovations or other types of projects. This proposed increase will only affect projects that include one of the eleven fixed fee permit types.

Expenditure Required: None

Source of Funds: N/A

Policy Issue

Should building permit fees be increased for eleven specific types of miscellaneous residential permits to recover more of the costs associated with providing the building permitting and inspection services?

Alternatives

- Don't increase the permit fees and keep these fees at the currently established \$20. This is not recommended because the current fees do not support the cost of the City provided services associated with the permit.
- Eliminate the fixed flat fees for specific types of miscellaneous residential building permits. If the flat fees are eliminated all building permit fees will be established by estimated construction valuation. Staff does not support this approach because flat fees for these types of relatively simple projects are much easier to budget and understand for contractors and much easier for staff to administer.

Background Information

The City of Westminster, like almost all Denver area jurisdictions, bases the costs for building permit for most projects on an estimated project cost or valuation, the more a project costs to construct, the higher the building permit fee is. The City of Westminster uses this same approach for establishing permit fees except for a handful of miscellaneous residential projects such as replacement furnaces and water heaters, reroofing projects, fences and sheds. In the case of these projects, a flat fee is charged for these permits. The reasoning behind these flat fees is that these permit types usually involve a standard review, issuance and inspection process and a flat fee is easier for all to understand and administer. The permit types that currently have a fixed fee are:

- Detached Storage Sheds
- Above Ground Pools
- Fences
- Hot Tubs/Spas
- Re-Roofing
- Re-Siding
- Water Heater Replacement
- Air Conditioner
- Furnace Replacement
- Evaporative Cooler
- Lawn Irrigation System
- Gas Logs*

*Permit fees for gas logs are waived if they are replacing a non-conforming solid fuel burning device

The fee for eleven of the twelve specific types of miscellaneous residential permits has been established at a flat \$20 since the last significant modification to the fee schedule in September 2003 when the fees were raised from \$17 to \$20. The other fixed permit fee, for above ground pools, was established at \$42.50 at that time because of the additional review procedures involved.

While it is very difficult to determine the exact cost of our services for these types of permits, it is relatively easy to conclude that the current permit fee does not cover the cost to the City for providing these services. The simplest permit process involves 10-15 minutes to

complete as there are multiple steps that need to be administered. In addition, each issued permit has to be processed by the city cashiers and the Finance Department. An inspector usually spends a minimum of 25-30 minutes on even the simplest of inspections when considering the time involved researching the permit record, traveling to the site and performing the actual inspection. Add in vehicle costs and it is easy to conclude that \$20 does not cover the 35-45 minutes of staff time and travel required for each issued building permit.

Staff has completed an analysis of the processes and time involved in the permitting and inspection processes as well as a comparison of other jurisdiction's permit costs for similar projects. The typical process associated with these types of permits usually includes an application review, a possible zoning review, permit issuance and 1 or 2 field inspections. Staff has also conducted a survey of nine local jurisdictions revealing that Westminster's permit fees for residential counter type building permits were lower than others in almost all categories, sometimes substantially. The summary of the permit fee survey is attached.

It is proposed that revised flat fees be established for eleven of the twelve existing fixed fee permit types. These fixed fees are proposed to vary from \$50 for the simplest of permits to \$100 for the more involved permit types. Each of these permit types was examined and evaluated based on the complexity of review and inspection processes and classified into one of three fixed fee categories. It is proposed to change the flat fee for siding permits to a fee based on valuation, similar to most other permits, because of the variables in size and valuation of these type of projects.

The proposed modification to the fixed fee building permit fees is estimated to generate between \$100,000 and \$250,000 in additional building permit fee revenue per year based on past years activity levels. In 2009, the current \$20 permits generated \$77,820 in revenues. Staff estimates that it cost the City about \$250,000 to provide the services associated with these permits in 2009. Again, it is important to note that this proposed increase will not increase the fees collected for projects such as new homes, home additions or renovations or other types of projects. This proposed increase will only affect projects that include one of the eleven fixed fee permit types.

If City Council is supportive of this proposed increase in the specific fixed permit fees, staff will prepare a resolution modifying the building permit fee schedule for City Council action at the next regularly schedule City Council Meeting.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

Miscellaneous Residential Permit Fees

Permit Type	<u>Thornton</u>	<u>Lakewood</u>	<u>Littleton</u>	<u>Jeffco</u>	<u>Broomfield</u>	<u>Commerce City</u>	<u>Arvada</u>	<u>Louisville</u>	<u>Aurora</u>	<u>Average</u>	Westminster Current	Westminster Proposed
Detached Storage Shed	\$27.60	\$79.00	\$97.50	\$91.00	\$97.25	\$97.25	\$137.59**	\$114.00	\$108.75	\$89.04	\$20.00	\$80.00
Aboveground Pool	Value	Value	Value	Value	Value	Value	Value	Value	Value	Value	\$42.50	\$50.00
Fence	\$23.20	\$37.50	\$54.00	N/A	\$54.00	\$54.00	\$59.70	\$82.00	\$60.00	\$53.05	\$20.00	\$50.00
Spas/Hot Tub	\$29.80	\$90.25	\$111.25	\$45.00	\$111.25	\$111.25	\$40.00	\$130.00	\$124.50	\$88.14	\$20.00	\$80.00
Re-roof	\$29.80	\$90.25	\$111.25	\$102.00	\$111.25	\$111.25	\$123.08	\$130.00	\$124.50	\$103.71	\$20.00	\$100.00
Siding	\$40.80	\$146.50	\$181.25	\$157.00	\$181.25	\$181.25	\$40.00	\$210.00	\$203.25	\$149.03	\$20.00	By valuation \$80.00
Air Conditionier, New or Replace	\$27.60	\$79.00	\$97.25	\$64.00	\$97.25	\$97.25	\$40.00	\$82.00	\$108.75	\$77.01	\$20.00	\$80.00
Evaporative Cooler	\$25.40	\$67.75	\$83.25	\$48.00	\$83.25	\$83.25	\$40.00	\$82.00	\$93.00	\$67.32	\$20.00	\$60.00
Furnace Replacement	\$25.40	\$67.75	\$83.25	\$48.00	\$83.25	\$83.25	\$40.00	\$82.00	\$93.00	\$67.32	\$20.00	\$60.00
Lawn Irrigation Sprinkler	\$25.40	\$67.75	\$83.25	\$45.00	\$83.25	\$83.25	\$40.00	\$98.00	\$93.00	\$68.77	\$20.00	\$60.00
Gas Log***	\$25.40	\$67.75	\$83.25	\$45.00	\$83.25	\$83.25	\$40.00	\$82.00	\$93.00	\$66.99	\$20.00	\$60.00
Water Heater Replacement	\$21.00	\$31.50	\$38.75	\$45.00	\$38.75	\$38.75	\$40.00	\$82.00	\$43.00	\$42.08	\$20.00	\$40.00

* Flat fees

** Over 220 sq ft, less than 220 sq ft is \$40.00

*** Permit fees for gas logs are waived if they are replacing a non-conforming solid fuel burning device

Completed 5/26/2010



WESTMINSTER

Staff Report

City Council Study Session Meeting
July 19, 2010



SUBJECT: Procedure for collection of use taxes on infrastructure and projects undertaken and managed by the Utility Enterprise

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

Recommended City Council Action:

Direct Staff to prepare an ordinance amending Title IV of the *Westminster Municipal Code* concerning the collection of use taxes due on infrastructure projects.

Direct Staff to pursue “Payment in Lieu of Taxes” from the Utility Fund with respect to use tax due on projects undertaken by that enterprise.

Summary Statement:

- Audits of construction projects in the City revealed that significant tax deficiencies arise when contractors construct infrastructure, landscape, and other public and private improvements outside the purview of a building permit.
- Staff is recommending implementation of pre-payment procedures for public and private improvements similar to those used for building permits to mitigate related tax deficiencies.
- Staff is also recommending the establishment of a process for imposing a “Payment in Lieu of Taxes” on the Utility Fund with respect to construction projects undertaken by that enterprise. In the past, the City has not required the payment of use tax on materials used on water, wastewater, or storm drainage projects under the premise that these were exempt as “...projects undertaken and managed directly by the City.”

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Should City Council amend Title IV of the *Westminster Municipal Code* (the “Code”) regarding the procedures for paying use tax on certain construction materials used in infrastructure projects, and in projects undertaken by the Utility Enterprise?

Alternative

Council could direct Staff not to make the recommended changes. Staff does not recommend this alternative. Choosing not to adopt the infrastructure amendments may result in lost revenues from construction to the extent audit resources are not devoted to such projects. Furthermore, exempting Utility Fund projects from the use tax results in an indirect subsidy to that enterprise. The Utility Enterprise is considered to be a business of the City, and should be treated the same as other businesses.

Background Information

The changes identified directly support the City of Westminster Strategic Plan goal of a Financially Sustainable City Government Providing Exceptional Services. These proposed amendments will improve the administration and collection of taxes by collecting the majority of taxes due upon construction prior to the project commencing. Finally, these changes eliminate an indirect subsidy of the Utility Fund by the General Fund, thereby insuring that rates and charges cover all costs of providing utility services.

Infrastructure Pre-Payments

As a condition of approval for a final plat or building permit, developers may be required to enter into agreements with the City to make certain public and private improvements. Because such improvements are not within the purview of a building permit, the pre-payment procedure applicable to building materials does not cover materials used in infrastructure. Rather, contractors and subcontractors are required to self-report taxes on such materials.

Audits of several development projects over the past few years have revealed substantial deficiencies with respect to tax payments related infrastructure projects. Given that most contractors are transients without fixed locations in the City, collection of these deficiencies can be problematic. Collection through audit frustrates contractors because they are assessed taxes after a project is completed and their ability to recover the taxes from the property owner may be foreclosed.

To remedy this situation, Staff recommends adopting pre-payment procedures for public and private improvements similar to those used in building construction. Prior to receiving notice to proceed, the primary contractor would be required to deposit a use tax payment estimated based upon the engineers’ estimates of costs. At the conclusion of the project, the primary contractor would

Subject: Procedure for collection of use taxes on infrastructure projects and projects undertaken and managed by the Utility Enterprise

Page 3

reconcile the actual costs with the estimate and remit any additional taxes or be refunded any tax pre-payment in excess of the actual amount due. Staff expects that the pre-payment would cover most, if not all, of the taxes due from the project. This method is the same process used for collection of use tax on building permits.

This new procedure is beneficial for all parties. The City is better able to ensure that the taxes due from infrastructure are being collected. In turn, equity among contractors is improved by creating more universal collection procedures. Contractors and developers are better able to plan for these liabilities at the start of projects and incorporate them into their billing and financing. Finally, this process reduces the administrative burden for both the City and the contractor by reducing reporting to a single return due at the conclusion of the project.

Payment in Lieu of Taxes

The Code currently provides an exemption for materials used in construction projects undertaken and managed directly by the City. The purpose of this exemption is to avoid a situation where the City is, in effect, “paying taxes to itself.” This is the sole exception to the rule that use tax is due on construction materials regardless of the owner. Use taxes must be paid on projects for all other institutions, including governmental, religious, and charitable organizations.

In reviewing the process for the collection of tax on infrastructure, Staff also took a closer look at the exemption for City projects. It became apparent that applying this exemption to Utility Fund projects was not consistent with its intent. Westminster’s Home Rule Charter requires that the rates and charges for any City utility be fixed as to at least meet all the operating costs of such utility. Therefore the cost of use tax should be borne by the payer’s rate and factored into utility rates. Exempting materials used in utility construction projects from the City use tax provides an indirect subsidy of utility costs by the General Fund.

The Utility Fund routinely makes transfer payments to the General Fund for other commodities and services provided by the City. Staff is recommending that a similar type transfer representing “Payment in Lieu of Taxes” be established to cover use tax due on materials used in construction projects undertaken and managed by the Utility Fund. The transfer payment would be calculated based upon how much use tax expense the Utility Enterprise is “avoiding” through the City use tax exemption and would be approved by City Council as part of the bi-annual budget process. It is Staff’s belief that reimbursing the City for use tax in this manner will be more efficient and cost effective than amending the Code to require the contractor to remit the use tax due on these projects.

Staff will be present at the July 19 study session to answer questions.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER

Staff Report

City Council Study Session Meeting
July 19, 2010



SUBJECT: Proposed Amendments to Title IV of the Westminster Municipal Code concerning Tax Administration

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

Recommended City Council Action:

Direct Staff to prepare an ordinance amending Title IV of the *Westminster Municipal Code* concerning tax administration.

Summary Statement:

The *Westminster Municipal Code* permits taxpayers who dispute tax assessments and refund denials to file a written protest and request a hearing before the Finance Director. Though less formal than a civil trial, the hearing process is quasi-judicial with rules and procedures intended to keep the process organized and promote equity among the parties.

Certain recent cases have highlighted the need for additional procedures, particularly with respect to the original written protest filed by the taxpayer. In some cases, the taxpayer's protest lacked specificity putting the City at a disadvantage in preparing a defense of its assessment.

On March 29, 2010, Governor Ritter signed Senate Bill 10-142, which provides for a uniform 30 day deadline for taxpayers to protest assessments and refund denials. This bill was jointly supported by the Colorado Association of Commerce and Industry and the Colorado Municipal League. Accordingly, the proposed Councillor's Bill includes amendments extending the City's current 20 day deadline to 30 days.

In addition to improving the protest process and extending the protest deadline, Staff has identified other housekeeping changes in Title IV. These amendments are administrative or clarifying in nature and will improve the overall administration of the Code.

Expenditure Required: \$ 0

Source of Funds: N/A

Policy Issue

Should the City amend Title IV of the *Westminster Municipal Code* (“Code”) regarding assessments, protests, and hearings, and make other administrative amendments?

Alternatives

1. Council could direct Staff to leave the current Code provisions in place and not make the recommended changes. Staff does not recommend this alternative. Choosing not to adopt additional protest requirements puts the City at a disadvantage at hearings. Other recommended amendments address unintended deficiencies and improve Staff’s ability to collect taxes lawfully due to the City.
2. Council could direct Staff to make only certain changes to the Code while excluding others. Although this approach would help address some of the issues, it may not address certain prospective legal concerns jeopardizing the City’s ability to collect taxes lawfully due. Staff does not recommend this alternative.

Background Information

The amendments identified in the attached Councillor’s Bill directly support two components of the City of Westminster Strategic Plan: Financially Sustainable Government and Balanced, Sustainable Local Economy. These proposed amendments will improve the administration and collection of taxes by reducing costs and increasing the potential recovery of delinquent taxes. Effective compliance programs promote economic equity by ensuring a level field of play among taxpayers.

Protests & Hearings

The majority of the amendments relate to the process for identifying and assessing deficiencies and resolving disputes surrounding such assessments. The Code permits taxpayers to file written protests disputing an assessment or the denial of a refund. Taxpayers who protest are required to participate in a local, administrative hearing before appealing the assessment to either the Colorado Department of Revenue or the District Court.

The administrative hearing process promotes several important policy interests. It conserves judicial resources and promotes administrative autonomy by allowing agencies such as the City, with expertise in a matter, to correct errors and develop a factual record upon which reviewing courts may base their decision. To these ends, the hearing process is quasi-judicial, and requires some formality to be effective.

In some recent cases, taxpayers have presented broad and vague protests lacking the specificity needed for the City to adequately prepare a defense. For example, a taxpayer in one case protested an estimated assessment without indicating the amount protested or the reasons for the protest. In this case, the taxpayer simply offered to make available records which would allow for determination of the correct amount, though those records had not been made available during the course of the audit. In multiple cases, the City has been presented with facts and legal arguments for the first time at hearing. These practices are particularly untenable given the lengthy audit process that often precedes the issuance of the assessment.

As an additional aggravating factor, State statute requires that a hearing be held and a decision thereon be issued within 90 days of the taxpayer's protest. The taxpayer may extend this deadline an additional 90 days, but even this extended timeline does not afford much time for discovery if material facts are disputed.

In an effort to improve the audit and protest process for both the City and the taxpayer, Staff is recommending a number of changes to encourage additional and timelier disclosure on the part of the taxpayer. Specifically, Staff has clarified certain record keeping requirements and included a provision modeled after a South Dakota statute to induce taxpayers to produce records earlier in the audit process.

To make administrative hearings more effective, the proposed amendments require a more specific written petition. If adopted, Staff will review and update the current administrative regulations regarding hearings. Finally, the proposed ordinance includes provisions clarifying that taxpayers who fail to timely protest or appeal are barred from making additional claims for the same assessment by paying the assessment and then claiming a refund.

Protest Deadline

In 2009, the Colorado Association of Commerce and Industry ("CACI") approached the Colorado Municipal League ("CML") with three proposals for the upcoming session of the Colorado General Assembly. The proposals were concerning changes to procedures for resolving disputes of local tax assessments and refund claim denials. The CML Sales Tax Simplification committee convened in October and the members, including the City, discussed the proposals. Among them was a proposal to provide for a minimum of 30 days for a taxpayer to protest a notice of assessment or denial of a refund claim. Westminster, along with many other cities, currently requires that such a protest be filed within 20 days. Some cities, and the State, allow 30 days to protest.

The simplification committee did not object to extending the minimum time limit to 30 days, but recommended that the deadline be uniform rather than CACI's proposal of a 30-day minimum. Consequently, Senate Bill 10-142 was enacted amending the *Colorado Revised Statutes* to provide for a standard, 30-day protest timeline. The State act takes effect on August 12, 2010. The proposed ordinance includes conforming amendments.

Other Administrative Amendments

Staff is recommending several other housekeeping amendments identified since the last amendments to Title IV in 2007.

Staff recommends eliminating the codified thresholds for the various reporting frequencies. These thresholds have not been increased in some time and no longer reflect appropriate levels. Staff believes the regulation of reporting frequency should rest administratively with the Finance Director.

The proposed ordinance eliminates consolidated filing. Currently, taxpayers with multiple locations in the City are permitted to file a single return with an attached schedule of location-specific detail. With approximately one-third of businesses in the City lying within urban renewal areas, precise accounting of where revenues are being generated is required, and this change will ease the accounting for these revenues. Taxpayers will still be permitted to remit a single payment for all returns being filed. This change will affect approximately 30 taxpayers.

Staff recommends the adoption of penalties for failure to surrender levied property. This penalty would apply to persons who fail to turn over property levied upon for delinquent taxes. It is being recommended in response to an enforcement action last year whereby an auctioneer released levied auction proceeds to a financing company rather than surrendering them to the City. This case also revealed a deficiency in lien provisions, which is corrected in the proposed ordinance.

In Chapter 2, Staff included a provision clarifying that when taxable and exempt prices are bundled together, the entire charge is subject to tax. Additionally, the definition of purchase and sale is being amended to provide for limited liability companies. Staff believes these entities should be treated by this section similar to corporations, but were not previously because of their relative novelty.

The proposed ordinance includes three clarifications arising from the numerous recent construction audits. First, Staff proposes clarifying that transient contractors using equipment in the City cannot avail themselves of the relocation exemption from use tax. The amendments include additional terms for secured sales commonly used to describe such transactions. Finally, the amendments specify that returns for permitted projects are due either upon final inspection or upon issuance of a Certificate of Occupancy, as not all projects require a C.O.

In the admissions and accommodations tax chapters, an exemption for sales that the City is prohibited from taxing is being added as a constitutional safeguard. The need for this exemption was highlighted by a recent hotel stay by an institution that is not a Federal agency, but enjoys exemption from tax pursuant to a Federal statute.

If Council concurs with the changes laid out in this Staff Report, this item will be brought forward for Council adoption effective on 2nd reading, currently scheduled for August 9, 2010. Staff will make contact with businesses currently filing consolidated returns to assure that they are aware of the changes and have adequate time to implement any necessary changes on their end.

The proposed ordinance is attached for City Council's review. Staff will be present at the July 19 Study Session to answer questions.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO. _____

COUNCILLOR'S BILL NO. _____

SERIES OF 2010

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AMENDING TITLE IV OF THE WESTMINSTER MUNICIPAL CODE
CONCERNING TAX ADMINISTRATION

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Section 4-1-1, subsection (O), W.M.C., is hereby AMENDED to read as follows:

4-1-1: DEFINITIONS: The following words and phrases as used in this Title shall have the following meaning unless specifically defined in another Chapter:

(O) "**Tax Deficiency**" means any amount of tax that is not reported in such manner as the Finance Director may prescribe or not paid on or before the due date.

Section 2. Section 4-1-4, W.M.C., is hereby AMENDED to read as follows:

4-1-4: ACQUISITION, ~~INCEPTION OR CESSATION OF BUSINESS:~~ (2032)

(A) Purchase of an Existing Business:

(1) Seller's responsibilities: Any person engaged in business in the City who sells such business shall file a final return. The reporting period for such return shall end on the date of the transfer of ownership of the business.

(2) Purchaser's responsibilities:

(a) Any person who purchases an existing business shall be responsible for determining the total tax liability from that business and shall withhold from the initial purchase payment an amount sufficient to cover all such total tax liability, unless the former owner produces a receipt from the City showing that the total tax liability has been paid or a certificate from the City that there is no total tax liability.

(b) Any amount so withheld shall be paid to the City within ten (10) days of the date of the sale of the business.

(c) Any purchaser who fails to withhold such total tax liability or fails to remit to the City the amount so withheld within the ten (10) day period allowed, shall, as well as the seller, be liable for any unpaid total tax liability.

(B) Acquisition of an Existing Business by Means Other Than Purchase. Any person who acquires or takes control of an existing business or the assets of an existing business by means other than purchase shall be responsible for payment of any total tax liability from that business.

~~(C) Cessation of Business. Every person engaged in business in the City who quits doing business in the City shall file a final return. The reporting period for such return shall end on the last day of business in the City.~~

Section 3. Section 4-1-7, W.M.C. is hereby AMENDED to read as follows:

4-1-7: FILING RETURNS; DUE DATE RETURNS REQUIRED; TIME FOR FILING AND PAYING TOTAL TAX LIABILITY: (2032 2972 3371)

(A) Except as provided in this Section, every taxpayer shall, on or before the twentieth day of the month, file-make a return to the Finance Director for the preceding calendar month, and file such return whether or not tax is due, and remit any tax due to the City on or before the twentieth day following the end of the reporting period. Returns of the taxpayer shall contain such information and be made in such manner and upon such forms as the Finance Director may prescribe. The signature of the taxpayer or duly authorized agent shall appear on all returns. A valid digital signature or the equivalent thereof, on a filed return transmitted electronically over the internet or similar means, or a signature on a return sent via facsimile or other form acceptable to the Finance Director, is accepted and held as a written signature.

(B) Occupation Taxes. Every taxpayer required to report and remit occupation taxes shall file a return and remit any tax due pursuant to the applicable provisions of Chapter 5 and Chapter 7 of this Title.

(C) Construction Equipment. Every person who uses construction equipment in the City shall, file a construction equipment declaration and remit any tax due to the City on or before the date the construction equipment is located in the City, make a return to the Finance Director, and file such return whether or not tax is due.

(D) Building Permits. Every person who pays an estimated prepayment of use tax at the time a building permit is issued shall, file a return and remit any use tax due in excess of the amount prepaid on or before the thirtieth (30th)-day following the issuance of a Certificate of Occupancy, or the date of final inspection by the building official, whichever occurs later, make a return to the Finance Director and file such return. A return shall not be required if no additional use tax is due.

~~(E) A retailer engaged in business in the City at two or more locations, whether inside or outside the City, who collects tax, may file one return for all such locations, when accompanied by a supplemental schedule showing the gross sales and net taxable sales for each location.~~

(E) Initial Use Tax. Every person who purchases or establishes a business inside the City shall, on or before the twentieth day of the month following the first day of business, make an initial use tax return to the Finance Director, and file such return whether or not tax is due.

~~(F) Any consumer reporting use tax due from two or more locations may file one return for all such locations.~~

(F) Cessation of Business. Any person who sells out or quits business shall, within ten days, make a return to the Finance Director and file such return whether or not tax is due.

(G) Time for Payment. When a return of tax is required under this Title, or regulations promulgated pursuant hereto, the person required to make such return shall, without assessment, pay such total tax liability to the Finance Director at the time and place fixed for filing the return.

(H) Alternate Reporting Schedule. If the accounting methods employed by the taxpayer, or other conditions, are such that returns made on a calendar month basis will impose unnecessary hardship, the Finance Director may, upon written request of the taxpayer, accept returns at such intervals as will, in the

opinion of the Finance Director, better suit the convenience of the taxpayer, but not jeopardize the collection of the tax. The Finance Director may, by rule, permit taxpayers to make returns and pay taxes at intervals not greater than every twelve months. Authorization for such alternate method of reporting may be revoked by the Finance Director and immediately following notice of such revocation, the taxpayer shall file returns and remit tax on a monthly basis as if the alternate method of reporting and remitting the tax had never been granted.

(I) Returns shall contain such information and be made in such manner and upon such forms as the Finance Director may prescribe.

(J) The signature of the taxpayer or the taxpayer's duly authorized agent shall appear on all returns. A valid digital signature or the equivalent thereof, on a filed return transmitted electronically over the internet or similar means, or a signature on a return sent via facsimile or other form acceptable to the Finance Director, is accepted and held as a written signature.

(GK) For good cause shown in a written request of a taxpayer, the Finance Director may extend the time for making returns and paying or remitting tax due.

(HL) ~~No~~ It shall be unlawful for any person ~~shall to~~ make any false statement in connection with a return.

Section 4. Section 4-1-8, W.M.C., REPORTING PERIODS, is hereby DELETED IN ITS ENTIRETY AND THE INDEX AMENDED ACCORDINGLY.

Section 5. Section 4-1-9, W.M.C., is hereby AMENDED to read as follows:

4-1-9: DUTY TO KEEP BOOKS AND RECORDS:

(A) Every person engaged in business in the City shall keep and preserve for at least three years ~~after the date of the taxable transaction~~ after the due date of the return or the payment of the tax, whichever is later, books, accounts, invoices, and other pertinent papers and records suitable in content and form to records which will allow the accurate determination of the tax due on such return by the Finance Director. The date of such taxable transactions for construction projects inside the City shall be the date the final certificate of occupancy is issued.

(B) Every person who uses construction equipment inside the City shall keep and preserve, for at least three years after ~~the final certificate of occupancy for such project is issued,~~ the due date of the return or the payment of the tax, records of the time each piece of construction equipment was located inside the City, ~~invoices or records of the price of such construction equipment,~~ and any sales or use tax paid on such construction equipment.

~~(C) Every person shall provide all such records for audit by the City during the City's normal business hours.~~

Section 6. Section 4-1-11, W.M.C., is hereby AMENDED to read as follows:

4-1-11: AUDIT OF RECORDS: (2032)

(A) For the purpose of ascertaining the correct ~~amount of~~ total tax liability from any person engaged in business in the City, the Finance Director may ~~authorize an agent to~~ conduct an audit by examining ~~any relevant~~ all books, accounts and records of such person.

(B) Upon demand by the Finance Director, All-all books, accounts and records shall be open at any time during the City's regular business hours for examination ~~by an authorized agent of the Finance Director~~ at the office of the Finance Director or some other place designated by the Finance Director for Examination. Any person under audit may elect to pay for costs or expenses incurred by the City in order to have such audit conducted at a place other than the place designated by the Finance Director, but in any case the time and place of the audit shall be designated by the Finance Director. If any ~~taxpayer person~~ refuses to voluntarily ~~furnish~~ produce any of the foregoing information, ~~when requested by the Finance Director or authorized agent~~ the Finance Director may issue a subpoena to require that the taxpayer or their representative attend a hearing or produce any such books, accounts and records for examination.

(C) The Finance Director shall give written notice of audit prior to any examination under this section. Such notice shall contain the tax periods and tax types that are the subject of the audit. Such notice shall further contain the date of commencement of the audit. Such notice shall not preclude the Finance Director from examining additional periods or tax types or from extending the commencement date of the audit.

(D) Any books, accounts and records required to be kept by law to evidence reduction, deduction, or exemption from tax not produced within ninety (90) days from the commencement date of the audit do not have to be considered by the Finance Director.

(~~CE~~) Any tax deficiency or overpayment ascertained through audit shall be computed by one or more of the following methods as the agent of the Finance Director deems appropriate:

- (1) By comparing the tax prepaid with building permits or reported and paid on returns to the actual tax due.
- (2) By identifying transactions on which the tax was not properly or accurately collected or paid.
- (3) By identifying other irregularities in the calculation of tax due.
- (4) By using any of the above methods on a representative sample of the taxpayer's records, and utilizing the results to project the amount of tax deficiency or overpayment, if any.

(~~DE~~) Any charitable organization claiming exemption under the provisions of this Title is subject to audit in the same manner as any other person engaged in business in the City.

(~~EG~~) Coordinated Audit. Any taxpayer licensed in this City pursuant to Section 5-4-2, and holding a similar sales tax license in at least four other Colorado municipalities that administer their own sales tax collection, may request a coordinated audit as provided herein.

- (1) Within 14 days of receipt of notice of an intended audit by any municipality that administers its own sales tax collection, the taxpayer may provide to the Finance Director of this City, by certified mail, return receipt requested, a written request for a coordinated audit indicating the municipality from which the notice of intended audit was received and the name of the official who issued such notice. Such request shall include a list of those Colorado municipalities utilizing local collection of their sales tax in which the taxpayer holds a current sales tax license and a declaration that the taxpayer will sign a waiver of any passage-of-time based limitation upon this City's right to recover tax owed by the taxpayer for the audit period.
- (2) Except as provided in paragraph 6, any taxpayer that submits a complete request for a coordinated audit and promptly signs a waiver of the statute of limitations may be audited by this City during the twelve months after such request is submitted only through a coordinated audit involving all municipalities electing to participate in such an audit.

(3) If this City desires to participate in the audit of a taxpayer that submits a complete request for a coordinated audit pursuant to paragraph 2, the Finance Director shall so notify the Finance Director of the municipality whose notice of audit prompted the taxpayer's request within ten days after receipt of the taxpayer's request for a coordinated audit. The Finance Director shall then cooperate with other participating municipalities in the development of arrangements for the coordinated audit, including arrangement of the time during which the coordinated audit will be conducted, the period of time to be covered by the audit, and a coordinated notice to the taxpayer of those records most likely to be required for completion of the coordinated audit.

(4) If the taxpayer's request for a coordinated audit was in response to a notice of audit issued by this City, this City's Finance Director shall facilitate arrangements between this City and other municipalities participating in the coordinated audit unless and until an official from some other participating municipality agrees to assume this responsibility. The Finance Director shall cooperate with other participating municipalities to, whenever practicable, minimize the number of auditors that will be present on the taxpayer's premises to conduct the coordinated audit on behalf of the participating municipalities. Information obtained by or on behalf of those municipalities participating in the coordinated audit may be shared only among such participating municipalities.

(5) If the taxpayer's request for a coordinated audit was in response to a notice of audit issued by this City, this City's Finance Director shall, once arrangements for the coordinated audit between this City and other participating municipalities are completed, provide written notice to the taxpayer of which municipalities will be participating, the period to be audited and the records most likely to be required by participating municipalities for completion of the coordinated audit. The Finance Director shall also propose a schedule for the coordinated audit.

(6) The coordinated audit procedure set forth in this Section shall not apply:

- (a) When the proposed audit is a jeopardy audit;
- (b) To audits for which a notice of audit was given prior to the effective date of this Section;
- (c) When a taxpayer refuses to promptly sign a waiver of the statute of limitations; or
- (d) When a taxpayer fails to provide a timely and complete request for a coordinated audit as provided in paragraph 1.

Section 7. Section 4-1-16, W.M.C., is hereby AMENDED to read as follows:

4-1-16: ~~REFUNDS OF DISPUTED TAX OVERPAYMENTS BY PURCHASERS:~~ Refunds of tax paid to a retailer by a purchaser who claims that the sale is exempt from or not subject to the tax may be requested by such purchaser by signing and submitting a Claim for Refund on or before sixty (60) days from the date of such purchase. (2032)

Section 8. Section 4-1-17, subsection (B), W.M.C., is hereby AMENDED to read as follows:

4-1-17: CLAIM FOR REFUND: No tax overpayment shall be refunded unless a Claim for Refund is signed and submitted to the City by the taxpayer.

(B) ~~Decision~~Determination. The Finance Director shall examine the Claim for Refund and give written notice delivered in person or sent postpaid by first class mail to the last known address of the taxpayer of the amount to be refunded or denied. The determination of the Finance Director shall become final thirty (30) days from the date of personal service of the notice or the date of mailing of the notice; provided however, that within said thirty-day period, the taxpayer may petition the Finance Director in writing for a revision, modification, or cancellation of such determination in accordance with this Chapter. A taxpayer who fails to protest the determination of the Finance Director within thirty (30) days shall be forever

enjoined from claiming a refund of the amounts denied therein, excepting, however, that the Finance Director may, at his sole discretion, grant leave to file a second claim in order to avoid a protest by an aggrieved taxpayer pursuant to this Chapter.

Section 9. Section 4-1-19, W.M.C., is hereby AMENDED to read as follows:

4-1-19: ~~TAX DEFICIENCIES FROM FAILURE TO FILE RETURN; OR FAILURE TO PROVIDE ADEQUATE RECORDS FOR AUDIT; ESTIMATED NOTICE OF ASSESSMENT:~~ (2032)

~~(A) If any taxpayer neglects or refuses to obtain a license, the amount of the total tax liability shall be estimated, based upon such information as may be available, and a Notice of Assessment shall be issued.~~

~~(B) If any taxpayer neglects or refuses to file a return by the due date, the Finance Director shall estimate the total tax liability shall be estimated as soon as practicable thereafter. Such estimate shall be based upon such information as may be available, with or without employing the investigative powers vested in the Finance Director by this Chapter, and a Notice of Assessment shall be issued. Such estimate may be adjusted if a return showing the actual total tax liability is filed within thirty (30) days from the date of personal service of the notice or the date of mailing of the notice.~~

~~(C) If the Finance Director determines that any taxpayer has neglected or refused to provide adequate books, accounts and records requested for audit, the Finance Director shall estimate the total tax liability shall be estimated. Such estimate shall be based upon such information as may be available, with or without employing the investigative powers vested in the Finance Director by this Chapter, and a Notice of Assessment shall be issued.~~

~~(D) Estimated total tax liability shall be adjusted if a return reporting actual total tax liability is filed.~~

~~(C) An estimated notice of assessment issued pursuant to this section shall be prima facie correct, and the burden of proof that the items, services, privileges, occupations, or other transactions, for which modifications or cancellations of such assessment are sought, are exempt from or not subject to taxation shall be on the taxpayer and such proof shall be by a preponderance of evidence.~~

Section 10. Section 4-1-21, W.M.C., is hereby AMENDED as follows:

4-1-21: PENALTIES: (2032 2972 3371)

(A) Penalty for Tax Deficiency. A penalty of fifteen dollars (\$15.00) or ten percent (10%) of the tax deficiency, whichever is greater, shall be levied on any tax deficiency.

(B) Penalty for Fraud. If any tax deficiency is due to fraud or the intent to evade the tax, the penalty shall be fifty percent (50%) of the total tax deficiency.

(C) Penalty for Repeated Enforcement. If three Notices of Assessment for the same type of tax have been issued to the same taxpayer within thirty-six (36) consecutive months, a special penalty of fifteen percent (15%) of the total tax liability, or twenty five dollars (\$25), whichever is greater, shall be levied.

(D) Penalty for Recurring Distrainment. If any taxpayer repeatedly fails, neglects, or refuses to pay the taxes levied by this Title within the time required by this Title and the City has been required to issue distrainment warrants to enforce the collection of the tax due from such taxpayer, the Finance Director is

authorized to collect the tax deficiency together with all interest and penalties thereon provided by law and also an additional penalty of two hundred fifty dollars (\$250) each for the second and all subsequent distraint warrants regarding the taxpayer that are issued by the City pursuant to this Chapter.

(E) ~~Other Penalties~~Penalty for Improper Registration of a Motor Vehicle. If the Finance Director determines that a person has registered or caused to be registered a motor vehicle outside the City and that such motor vehicle should have been registered at an address in the City, the Finance Director ~~is authorized to assess~~shall levy a civil penalty of five hundred dollars (\$500). ~~against the person. A written notice of the penalty assessment shall be issued, paid and protested in the same manner as a notice of assessment. The Finance Director may enforce collection of the penalty assessment in the same manner as provided in this Title for the collection of tax due. Assessment and collection of this penalty shall not preclude the collection of any tax due or fee or the imposition of any other civil or criminal penalty provided by law.~~

(F) Assessment and Collection of Penalty. The penalties levied by this section shall be assessed, collected, and paid in the same manner as provided in this Title for the collection of tax due. Assessment and collection of a penalty shall not preclude the collection of any tax due, any interest due, or the imposition of any other civil or criminal penalty provided by law.

~~(G)~~ Abatement of Penalty. Any penalty assessed in this Section may be abated by the Finance Director if the Finance Director finds good cause therefore.

Section 11. Section 4-1-23, W.M.C., is hereby AMENDED to read as follows:

4-1-23: NOTICE OF ASSESSMENT: The Finance Director ~~or specifically authorized agent~~ shall issue a Notice of Assessment for any ~~tax deficiency, penalties, or interest due.~~total tax liability.

~~(A)~~ Notices of Assessment shall be in writing and delivered in person or sent postpaid by first class mail to the last known address of the taxpayer. Such total tax liability shall thereupon become an assessment, and such assessment shall be final and due and payable from the taxpayer to the City thirty (30) days from the date of personal services of the notice or the date of mailing of the notice; provided, however, that within said thirty-day period, the taxpayer may petition the Finance Director in writing for a revision, modification, or cancellation of such assessment in accordance with this Chapter. A taxpayer who fails to protest an assessment within said thirty-day period shall be forever enjoined from protesting or appealing said assessment or claiming a refund of amounts paid to the City pursuant thereto excepting, however, that the Finance Director may, at his sole discretion, grant leave to file a claim for refund in order to avoid a protest by an aggrieved taxpayer.

~~(B)~~ The payment due date for remittance of the total tax liability pursuant to a Notice of Assessment shall be twenty (20) days after the date of the Notice of Assessment.

Section 12. Section 4-1-25, W.M.C., is hereby AMENDED to read as follows:

4-1-25: PROTEST OF NOTICE OF ASSESSMENT OR DENIAL OF REFUND: (2032 3371)

(A) Any Notice of Assessment may be protested by the taxpayer to whom it is issued.

(1) ~~A protest of a Notice of Assessment issued to a vendor or taxpayer for failure to file a return, for underpayment of tax owed, or as a result of an audit shall be submitted in writing to the Finance Director within twenty (20) calendar days from the date of the Notice of Assessment. Any such~~

~~protest shall identify the amount of tax disputed and the basis for the protest. A taxpayer claiming an error in assessment shall submit a written protest to the Finance Director within thirty (30) days from the date of personal service or the date of mailing of the Notice of Assessment. Such protest shall state the facts and reasons for and the amount of the requested changes and shall otherwise comply with any rules and regulations promulgated by the Finance Director relating to protests and hearings.~~

~~(2) The taxpayer may assert any facts and make any arguments which, in the opinion of the taxpayer, are pertinent to the protest. Only matters contained in the protest shall be considered by the Finance Director.~~

~~(3) The taxpayer shall be prohibited from amending the protest to assert new facts or make new arguments more than ten (10) days after the protest is received by the Finance Director unless the Finance Director issues an order either requiring more definite statements or granting leave to amend the protest.~~

(24) When a timely protest is made which conforms to the requirements of this Section, no further enforcement action will be instituted by the City for the portion of the assessment being protested unless:

- (a) the taxpayer fails to pursue the protest in a timely manner; or
- (b) the total tax liability will be jeopardized by delay and the City Manager has issued a jeopardy assessment and demand for payment pursuant to this Chapter.

~~(5) The filing of a protest shall not toll the accrual of interest on the amount of tax due.~~

~~(B) Protest of Denial of Refund. A protest of a denial of a refund shall be submitted in writing to the Finance Director within twenty (20) calendar days from the date of the denial of the refund and shall identify the amount of the refund requested and the basis for the protest. Any notice that the Finance Director has denied a Claim for Refund, in whole or in part, may be protested by the taxpayer to whom it was issued~~

~~(1) A taxpayer claiming an error in denial shall submit a written protest to the Finance Director within thirty (30) days from the date of personal service or the date of mailing of the notice of the Finance Director's determination. Such protest shall state the facts and reasons for and the amounts of the requested changes and shall otherwise comply with any rules and regulations promulgated by the Finance Director relating to protests and hearings.~~

~~(2) The taxpayer may assert any facts and make any arguments which, in the opinion of the taxpayer, are pertinent to the protest. Only matters contained in the protest shall be considered by the Finance Director.~~

~~(3) The taxpayer shall be prohibited from amending the protest to assert new facts or make new arguments more than ten (10) days after the protest is received by the Finance Director unless the Finance Director issues an order either requiring more definite statements or granting leave to amend the protest.~~

(C) Any timely protest which conforms to the requirements of this Section entitles a taxpayer to a hearing under the provisions of this Title.

(1) If, in the opinion of the Finance Director, the issues involved in such protest may be resolved administratively, the Finance Director may recommend an informal meeting with the taxpayer.

(2) Participation in such an informal meeting does not prevent either the taxpayer or the City from holding a hearing if the dispute cannot be resolved by such meeting.

(3) If the issues are satisfactorily resolved at an informal meeting and a hearing is not requested, the remaining total tax liability, if any, shall be paid on or before ten (10) days after the date of the notification of the amount due.

Section 13. Section 4-1-26, W.M.C., is hereby AMENDED to read as follows:

4-1-26: HEARINGS: (2032 2275)

(A) ~~The City shall commence a hearing within ninety (90) days after the City's receipt of the taxpayer's written protest; except the City may extend such period if the delay is requested by the taxpayer. The Finance Director shall notify the taxpayer in writing of the time and place of such fixed for hearing at least ten (10) days prior thereto unless the taxpayer agrees to a shorter time.~~

(B) Every hearing shall be held in the City before the Finance Director.

(C) ~~The taxpayer may assert any facts, make any arguments and file any briefs and affidavits which, in the opinion of the taxpayer, are pertinent to the protest. The filing of briefs shall not be required. The burden of proof that the items, services, privileges, occupations, or other transactions for which refunds of taxes are claimed, or for which modifications or cancellations of assessments are sought, are exempt from or not subject to taxation shall be on the taxpayer and such proof shall be by a preponderance of evidence.~~

(D) ~~At such hearing, the Finance Director is authorized to administer oaths and take evidence and hear argument. Pursuant to this Title, the Finance Director may issue subpoenas to compel the attendance of witnesses, the giving of testimony, and the production of books, papers, records or memoranda.~~

~~(DE) Based on the evidence presented at the After such hearing, the Finance Director shall issue a Findings of Fact, Conclusions, and Decision which may modify or abate the tax, penalties and interest protested at the hearing, approve a refund, or uphold the assessment. The decision of the Finance Director shall be final upon its entry and shall be mailed to the taxpayer forthwith.~~

~~(EF) After such hearing, the taxpayer shall not be entitled to a second hearing on the same Notice of Assessment or denial of refund; nor shall the taxpayer be entitled to file a claim for refund for amounts denied or paid pursuant to the final decision of the Finance Director on the same.~~

~~(FG) Unless the final decision of the Finance Director is appealed as provided in this Chapter, the remaining total tax liability, if any, shall be paid on or before thirty (30) days after its entry. the date of the Findings of Fact, Conclusions and Decision.~~

~~(G) The Finance Director may administer oaths and sign and issue subpoenas to compel the attendance of witnesses and the production of books, papers and other evidence when conducting hearings. Subpoenas shall be enforced as provided in Section 1-22-5.~~

Section 14. Section 4-1-27, W.M.C., is hereby AMENDED to read as follows:

4-1-27: APPEALS: (2032)

(A) ~~Subsequent to a hearing Should the taxpayer be aggrieved by the final decision of the Finance Director subsequent to a hearing held pursuant to this Chapter, the taxpayer may appeal the decision of the Finance Director proceed to have the same reviewed in the District Court in and for Adams County pursuant to Rule 106 (a)(4) of the Colorado Rules of Civil Procedure as the same now provides or may hereinafter be amended.~~

~~(1) The petition or complaint for review must be filed within thirty (30) days from the entry of the Finance Director's final decision.~~

(2) Upon filing a petition or complaint pursuant to this subsection, the taxpayer shall either file with the Finance Director a bond for twice the unpaid amount stated in the Finance Director's final decision, or deposit the unpaid amount with the Finance Director in lieu of posting a bond. Should the taxpayer deposit the unpaid amount with the Finance Director, no additional interest shall accrue on the tax deficiency. The taxpayer shall not be entitled to interest on any deposited amount returned in accord with the direction of the court.

~~(B) An appeal of a final decision of the Finance Director in a hearing held pursuant to Section 4-1-26 shall be commenced within thirty (30) days of such decision. Alternative Remedy for Sales and Use Tax. After exhausting the remedies provided in this Chapter, a taxpayer may elect to appeal a sales or use tax assessment or denial of a claim for a refund of a sales or use tax to the Colorado Department of Revenue pursuant to Section 29-2-106.1(3) of the Colorado Revised Statutes. A notice of this right shall be included in any Notice of Assessment or denial of refund in clear and conspicuous type.~~

~~(C) Upon appeal to the District Court the taxpayer shall either file with the Finance Director a bond for twice the unpaid amount or deposit the unpaid amount with the Finance Director. Any party, including the City, may appeal the decision of the District Court, the Executive Director of the Colorado Department of Revenue, or other such tribunal having jurisdiction, using all judicial, appellate, and extraordinary proceedings available.~~

~~(D) A taxpayer who fails to timely appeal the final decision of the Finance Director pursuant to this section shall be forever enjoined from protesting or appealing the same or claiming a refund of amounts denied or paid to the City pursuant thereto.~~

Section 15. Section 4-1-29, subsection (B), W.M.C., is hereby AMENDED to read as follows:

4-1-29: PERPETUANCE OF LIEN:

~~(B) Any person who purchases or repossesses real or personal property upon which a lien has been filed by the Finance Director for total tax liability attached shall be liable for the payment of such total tax liability up to the value of the property taken or acquired.~~

Section 16. Section 4-1-33, subsection (C), W.M.C., is hereby AMENDED to read as follows:

4-1-33: LEVY, DISTRAINT AND SALE:

~~(C) Levy and Distraint.~~

~~(1) Levy and distraint may be made by serving a notice of levy or distraint warrant on any person in possession of, or obligated with respect to, property or rights to property subject to levy, including receivables, bank accounts, evidences of debt, and securities.~~

~~(2) Any person in possession of, or obligated with respect to, property or rights to property subject to levy upon which a levy has been made shall, upon demand of the City, surrender such property or rights to property or discharge such obligation to the City, except such part of the property or rights to property as is, at the time of such demand, subject to an attachment or execution under any judicial process.~~

~~(3) A person who fails or refuses to surrender any property or rights to property, subject to levy, upon demand by the City, is liable in person and estate to the City in a sum equal to the value of the property or rights to property not so surrendered, but not exceeding the amount of the total tax liability for the collection of which such levy has been made, together with costs of collection and~~

interest on such sum at the rate determined pursuant to Section 4-1-22 from the date of such levy. Any amount, other than costs and additional interest, recovered under this Paragraph shall be credited against the total tax liability for the collection of which this levy was made.

(4) A person in possession of, or obligated with respect to, property or rights to property subject to levy upon which a levy has been made who, upon demand by the City, surrenders the property or rights to property, or discharges the obligation to the City, or who pays a liability under Paragraph 3 of this Subsection is discharged from any obligation or liability of the delinquent taxpayer with respect to such property or rights to property arising from the surrender or payment.

(5) As used in this Subsection, "person" includes an officer or employee of a corporation; an officer, member, manager, or employee of a limited liability company; an officer, employee, or elected official of the State of Colorado, its departments or institutions, and the political subdivisions thereof; or a member or employee of a partnership, who as such officer, member, manager, elected official, or employee, is under a duty to surrender the property or rights to property, or to discharge the obligation.

Section 17. Section 4-1-36, subsections (A) and (B), W.M.C., are hereby AMENDED to read as follows:

4-1-36: STATUTE OF LIMITATIONS: Unless the limitation period has been extended as provided in this Section, the statute of limitations for provisions contained in this Title shall be as follows:

(A) Refunds.

(1) No refund of ~~disputed tax~~ paid to a retailer by a purchaser shall be issued to such purchaser unless a claim for refund is submitted to the City by the purchaser on or before sixty (60) days from the date of such purchase.

(2) No refund of overpayment from returns shall be issued unless a Notice of Overpayment is submitted to the City on or before thirty (30) days after the date of such Notice of Overpayment.

(3) No other refund shall be issued unless a claim for refund is filed on or before three years after the date such overpayment was paid to the City.

(B) Assessments. Except as provided in this Section and unless such period is extended, the tax levied by this Title and the penalty and interest applicable thereto, other than interest accruing thereafter, shall be assessed within three (3) years after the return is filed, ~~or a Certificate of Occupancy is issued for a construction project requiring a building permit,~~ and no notice of lien shall be filed or distraint warrant issued or suit for collection instituted or any other action to collect the same commenced after the expiration of such period unless the Finance Director issues a notice of assessment within such period.

(1) For purposes of this Section, a return shall include a construction equipment declaration, an initial use tax return, and any other form prescribed by the Finance Director for reporting a total tax liability.

(2) For purposes of this Section, a return filed before the last day prescribed by law or by regulation promulgated pursuant to this Title for the filing thereof shall be considered as filed on such last day.

(3) When a taxpayer fails or refuses to file a return, or files a false or fraudulent return with intent to evade tax, the total tax liability may be assessed and collected at any time.

Section 18. Section 4-2-2, subsection (U), paragraph (2), W.M.C., is hereby AMENDED BY THE ADDITION OF A NEW SUBPARAGRAPH (i):

4-2-2: WORDS AND PHRASES DEFINED: Unless the context clearly indicates otherwise, the following words and phrases as used in this Chapter shall have the following meaning:

(2) "Price" or "Purchase Price" includes:

- (a) The amount of money received or due in cash and credits.
- (b) Property at fair market value taken in exchange but not for resale in the usual course of the retailer's business.
- (c) Any consideration valued in money, such as trading stamps or coupons whereby the manufacturer or someone else reimburses the retailer for part of the purchase price and other media of exchange.
- (d) The total price charged on credit sales, including finance charges which are not separately stated. An amount charged as interest on the unpaid balance of the purchase price is not part of the purchase price unless the amount added to the purchase price is included in the principal amount of a promissory note; except the interest or carrying charge set out separately from the unpaid balance of the purchase price on the face of the note is not part of the purchase price. An amount charged for insurance on the property sold and separately stated is not part of the purchase price.
- (e) Installation, delivery and wheeling-in charges included in the purchase price and not separately stated.
- (f) Transportation and other charges to effect delivery of tangible personal property to the purchaser.
- (g) Indirect federal manufacturers' excise taxes, such as taxes on automobiles, tires and floor stock.
- (h) The gross purchase price of articles sold after manufacturing or after having been made to order, including the gross value of all the materials used, labor and service performed and the profit thereon.
- (i) Charges for items or services exempt from or not subject to tax included in the purchase price and not separately stated.

Section 19, Section 4-2-2, subsection (X), paragraph (2), W.M.C., is hereby AMENDED to read as follows:

4-2-2: WORDS AND PHRASES DEFINED: Unless the context clearly indicates otherwise, the following words and phrases as used in this Chapter shall have the following meaning:

(X) **“Purchase” or “Sale”** means:

(2) The terms "purchase" and "sale" do not include:

- (a) A division of partnership or limited liability company assets among the partners or limited liability company members according to their interests in the partnership;
- (b) The formation of a corporation by the owners of a business and the transfer of their business assets to the corporation in exchange for all the corporation's outstanding stock, except qualifying shares, in proportion to the assets contributed;
- (c) The transfer of assets of shareholders in the formation or dissolution of professional corporations;
- (d) The dissolution and the pro rata distribution of the corporation's assets to its stockholders;
- (e) A transfer of a partnership interest;

- (f) The transfer in a reorganization qualifying under Section 368(a)(1) of the "Internal Revenue Code of 1954", as amended;
- (g) The formation of a partnership or limited liability company by the transfer of assets to the partnership or limited liability company or transfers to a partnership or limited liability company in exchange for proportionate interests in the partnership or limited liability company;
- (h) The repossession of personal property by a chattel mortgage holder or foreclosure by a lienholder;
- (i) The transfer of assets from a parent corporation to a subsidiary corporation or corporations which are owned at least eighty percent by the parent corporation, which transfer is solely in exchange for stock or securities of the subsidiary corporation;
- (j) The transfer of assets from a subsidiary corporation or corporations which are owned at least eighty percent by the parent corporation to a parent corporation or to another subsidiary which is owned at least eighty percent by the parent corporation, which transfer is solely in exchange for stock or securities of the parent corporation or the subsidiary which received the assets;
- (k) The transfer of assets between parent and closely held subsidiary corporations, or between subsidiary corporations closely held by the same parent corporation, or between corporations which are owned by the same shareholders in identical percentage of stock ownership amounts, computed on a share-by-share basis, when a tax imposed by this article was paid by the transferor corporation at the time it acquired such assets, except to the extent that there is an increase in the fair market value of such assets resulting from the manufacturing, fabricating, or physical changing of the assets by the transferor corporation. To such an extent any transfer referred to in this paragraph (k) shall constitute a sale. For the purposes of this paragraph (k), a closely held subsidiary corporation is one in which the parent corporation owns stock possessing at least eighty percent of the total combined voting power of all classes of stock entitled to vote and owns at least eighty percent of the total number of shares of all other classes of stock.

Section 20. Section 4-2-7, subsection (A), paragraph (3), W.M.C., is hereby AMENDED BY THE ADDITION OF A NEW SUBPARAGRAPH (c):

4-2-7: EXEMPTIONS FROM USE TAX:

(A) The tax levied by Section 4-2-3(B) shall not apply to the following:

- (1) Tangible personal property which is exempt from the sales tax pursuant to Section 4-2-6.
- (2) The storage of construction materials purchased on or after January 1, 1986.
- (3) Tangible personal property purchased by a taxpayer during a time when the taxpayer was located outside the City and which:
 - (a) Was purchased on or after January 1, 1986, and was used by the taxpayer for a period of at least 3 years prior to the taxpayer's relocation to the City; or
 - (b) Was first used inside the City on or after January 1, 1994 and was used by the taxpayer for a period of at least 6 months prior to the taxpayer's relocation to the City.
 - (c) For purposes of this Subsection, the term "relocation" means the establishment of a fixed, permanent building, store, office, salesroom, or other place of business within the City by a person who was not previously engaged in business in the City, or who was engaged in business in the City on a transient basis. "Relocation" shall not include the use of construction equipment or other property in the City by a person located outside the City, or

the transfer of property from a location outside the City to an existing location within the City.

- (4) Automotive vehicles if the owner is or was, at the time of purchase, a nonresident of the City who purchased the vehicle for use outside the City, and if the vehicle was previously registered, titled, and licensed outside the City.

Section 21. Section 4-2-8, W.M.C., is hereby AMENDED to read as follows:

4-2-8: SECURED SALES TRANSACTIONS: (2032) Whenever taxable tangible personal property is sold under a lease-purchase agreement, capital lease, or other conditional sales contract whereby the seller retains title as security for all or part of the price, or whenever the seller takes a chattel mortgage on such tangible personal property to secure all or part of the price, the full price of such property shall be reported for the period in which the sale was made. No refund or credit shall be allowed to either party to the transaction in case of repossession.

Section 22. Section 4-2-9, subsection (A), paragraph (1), W.M.C., is hereby AMENDED to read as follows:

- (1) Estimated prepayment. The estimated cost of construction materials shall be calculated by multiplying the total valuation of the construction project,project entered on the building permit by the City Building Division, by fifty percent (50%). Use tax on such estimated cost of construction materials shall be paid at the time the building permit is issued. Upon the later of the date of final inspection by the building official or the date of issuance of a certificate of occupancy, the taxpayer shall compute the use tax due on the actual cost of construction materials and make a return of any tax due in excess of the estimated prepayment pursuant to Section 4-1-7. Use tax on the actual cost of materials may be subsequently determined through audit. If use tax is prepaid, interest on any tax deficiency related to construction materials shall be computed from the later of the date of final inspection by the building official or the date of issuance of the certificate of occupancy.

Section 23. Section 4-2-18, W.M.C., APPEAL, is hereby DELETED IN ITS ENTIRETY AND THE INDEX AMENDED ACCORDINGLY.

Section 24. Section 4-3-2, W.M.C. is hereby AMENDED to read as follows:

4-3-2: DEFINITIONS: Unless the context clearly indicates otherwise, the following words and phrases as used in this Chapter shall have the following meaning: (2032 2181 2972 3371)

(A) "**Admissions Charge**" means:

- (1) Any charge for the right or privilege of admission to:
- (a) a performance of a motion picture open to the public; or
 - (b) an establishment open to the public which is licensed to sell, dispense or serve fermented malt beverages (3.2% beer) or alcoholic beverages (liquor) pursuant to State Law, or;
 - (c) any public display of live animals and/or plants, including insects or fish.
- (2) Any charge for the right or privilege to the use of bowling alleys and pin setters for bowling balls in a bowling alley open to the public, including charges for bowling by the line.

(3) Admissions charge includes the value of free passes and complimentary admissions tickets provided by the operator.

(B) "Charitable Organization" for purposes of this Chapter, shall include any definition of "Charitable Organization" included in other Chapters of this Title.

(BC) "Gross Sales" means the total amount received in money, credit, property or other consideration valued in money for all admissions charges.

(CD) "Open to the Public" means any place or event or activity the admission or access to which is open to members of the public upon payment of a charge or fee.

(DE) "Operator" means any person, whether owner, operator, lessee or any other person, who charges or causes to be charged:

- (1) Admission to a performance of a motion picture theater open to the public.
- (2) Admission to an establishment licensed to sell, dispense, or serve fermented malt beverages (3.2% Beer) or alcoholic beverages (liquor) pursuant to State Law; or
- (3) Admission to a bowling alley or fees for the utilization, lease or rental of bowling alleys and pin setters for bowling balls in a bowling alley open to the public, including charges for bowling by the line.
- (4) Admission to any public display of live animals and/or plants including insects or fish.

(EF) "Price" means the aggregate value in money or any thing or things paid or delivered or promised to be paid or delivered for admissions charges.

(FG) "Public" means any individual, firm, copartnership, joint venture, corporation, society, club, league, association, joint stock company, estate or trust, receiver, trustee, assignee, lessee, or any person acting in a fiduciary or representative capacity, whether appointed by court or otherwise, or any group or combination acting as a unit, and the plural as well as the singular number.

(GH) "Purchase" or "Sale" means the acquisition or disposition for a price of:

- (1) The right of privilege of admission to:
 - (a) a performance of a motion picture open to the public; or
 - (b) an establishment open to the public which is licensed to sell, dispense, or serve fermented malt beverages (3.2% beer) or alcoholic beverages (liquor) pursuant to State law; or
 - (c) any public display of live animals and/or plants, including insects or fish.
- (2) The right to the use of bowling alleys and pin setters for bowling balls in a bowling alley open to the public, including bowling by the line.

(HI) "Return" for purposes of the Chapter shall include any definition of "return" included in other Chapters of this Title.

(IJ) "Tax" means the admissions tax imposed by this Chapter.

(JK) "Vendor" means any operator as defined in Subsection (D) of this Section.

Section 25. Section 4-3-3, W.M.C., is hereby AMENDED to read as follows:

4-3-3: EXCISE TAX BASED ON ADMISSIONS: There is hereby imposed an excise tax of three percent (3%) of the price paid by any person or charged by any vendor, for admissions charges as defined herein, operating within the limits of the City of Westminster. Said excise tax is imposed upon the purchaser. Every vendor shall collect the tax and remit it to the City. Said excise tax is in addition to all other taxes imposed by law. (2032)

Section 26. Section 4-3-4, W.M.C., is hereby AMENDED BY THE ADDITION OF A NEW SUBSECTION (D):

(D) Any other person who pays an admissions charge which the City is prohibited from taxing under the Constitution or laws of the United States, or of the State of Colorado.

Section 27. Section 4-4-1, W.M.C., is hereby AMENDED to read as follows:

4-4-1: WORDS AND PHRASES DEFINED: Unless the context clearly indicates otherwise, the following words and phrases as used in this Chapter shall have the following meaning: (2032 3371)

(A) "Charitable Organization" for purposes of this Chapter, shall include any definition of "Charitable Organization" included in other Chapters of this Title.

(AB) "Gross Sales" means the total amount received in money, credit, property or other consideration valued in money for all rooms or accommodations.

(BC) "Price" means the aggregate value in money or any thing or things paid or delivered or promised to be paid or delivered for rooms or accommodations.

(CD) "Purchase" or "Sale" means the acquisition or disposition for a price of the right to use rooms or accommodations.

(DE) "Return" for purposes of this Chapter shall include any definition of "return" in other Chapters of this Title.

(EF) "Room or Accommodation" means a regular sleeping room or unit, a meeting room, display room, banquet room or other special room for which a charge is made.

(FG) "Tax" means the accommodation tax imposed by this Chapter.

(GH) "Vendor" means a motel, hotel, apartment hotel, lodging house, guest house, guest ranch, or any other place which provides sleeping rooms or facilities, offering rooms and accommodations for a consideration.

Section 28. Section 4-4-2, Subsection (B), W.M.C., is hereby AMENDED to read as follows:

(B) The tax specified in this Section is imposed upon the ~~vendor~~purchaser. ~~The Every~~ vendor shall collect the tax and remit it to the ~~Finance Director~~City.

Section 29. Section 4-4-3, W.M.C., is hereby AMENDED BY THE ADDITION OF A NEW SUBSECTION (D):

4-4-3: EXEMPT TRANSACTIONS: The following transactions shall be exempt from the accommodations tax imposed under Section 4-4-2:

(D) All sales which the City is prohibited from taxing under the Constitution or laws of the United States, or the State of Colorado.

Section 30. This ordinance shall take effect upon its passage after second reading. 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 26th day of July, 2010.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 9th day of August, 2010.

ATTEST:

City Clerk

Mayor

APPROVED AS TO LEGAL FORM:

City Attorney's Office

DRAFT



WESTMINSTER

Staff Report

Information Only Staff Report
July 19, 2010



SUBJECT: Communication Efforts on Focused Workweek Trial

PREPARED BY: Aric Otzelberger, Senior Management Analyst

Summary Statement

At the June 7, 2010 Study Session, City Council gave Staff direction to pursue a one-year focused workweek trial for several City facilities and operations. On June 28, City Council formalized this direction by adoption of Resolution 23. The one-year focused workweek trial will commence for City Hall and several administrative offices on August 2. The focused workweek trial will begin at Municipal Court on August 30.

This Staff Report is intended to inform City Council of the communication efforts that Staff has undertaken to inform citizens, businesses and others of the change in business hours under the focused workweek trial. Business hours at City Hall, Municipal Court and several administrative offices will begin at 7:00am and extend until 6:00pm from Monday through Thursday. These facilities will be closed on Fridays.

If City Council has any additional requests for further communication efforts to the public on the commencement of the focused workweek trial, please contact Staff.

Background Information

The City is moving several operations and facilities to a focused workweek schedule for a one-year trial commencing August 2, 2010. Business hours for City Hall and several administrative offices will run from 7:00 am to 6:00 pm, Monday through Thursday. City Hall and several administrative offices will be closed on Fridays. The Municipal Court facility and associated operations will move to this schedule effective August 30, 2010. The delay in implementation at Municipal Court is due to the court docket already being set through this date. Facilities that would not be affected by the one-year focused workweek trial include the Public Safety Center, Fire Stations, Recreation Centers, Libraries, Standley Lake, Water and Wastewater Treatment Plants and other City facilities.

Based on key research findings, Staff anticipates several benefits from a proposed move to a focused workweek for certain City operations, most notably enhancements to customer service and a reduced environmental impact from City operations. Ancillary anticipated benefits include modest cost savings, productivity gains in certain areas (and neutral impacts in others) and enhanced employee recruitment and retention. In-depth analysis and assessment will occur after nine months of the trial to examine the results of the new schedule; based on this assessment, Staff will return to City Council with a recommendation on whether or not to pursue a permanent change to this schedule.

Communication Efforts

At the June 7, 2010 Study Session, City Council expressed their desire for thorough communication efforts related to the implementation of the focused workweek trial and associated schedule. Staff has initiated numerous communication messages through several avenues to inform citizens, businesses and others about the change in business hours. Below is a rundown of these communication efforts.

Signage – All signage highlights the extended business hours Monday through Thursday and also lists the Friday closures. Staff placed exterior signage at the two main approaches to City Hall and at the main approach to Municipal Court. Due to their placement, the signs are highly visible to most visitors. For City Hall, the sign placement should inform visitors who arrive when offices are closed about the new hours without those visitors having to walk to the front doors of the facility. In addition to the exterior signs, Staff has placed 11 “counter signs” throughout City Hall. These signs can be found at the Information Desk, City Clerk’s Office, Human Resources, the Cashier Desk, Utility Billing/Finance, the Community Development Desk, the Building Counter, Public Works and Utilities, the Parks, Recreation and Libraries’ desk, City Manager’s Office and City Attorney’s Office. Staff has also placed a sign regarding the change in business hours in the City Hall lobby. Finally, Staff will update the business hours listed on doors at City Hall and Municipal Court a day or two before August 2.

Fact Sheet Handout – As a supplement to the signage, Staff has developed a fact sheet handout for City Council and Staff to distribute to residents, businesses and others that would like additional information on the focused workweek trial. This document is attached to this Staff Report. City Council can utilize this document at upcoming “We’re All Ears” events.

City Communication Avenues – Staff is providing information on the focused workweek trial and business hour changes in the City’s major communication avenues. Staff has written a front-page story that will appear in the August/September issue of City Edition, which should reach homes and businesses in the City during the first week of August. This information is also available on the City’s

Web site and on Cable Channel 8. Staff has included information regarding the focused workweek trial in Weekly Edition as well and will continue to do so for the coming weeks.

Utility Bills – Staff included a message in the “memo” section of July utility bills regarding the focused workweek trial and there will be information in the “Water Sense” newsletter regarding the focused workweek trial. This newsletter will be included with the August utility bills.

Media Coverage – The City’s focused workweek trial was highlighted in two front-page stories in the Westminster Window. Staff will contact Window Staff as August 2 approaches to see if the Window can run a brief announcement that the City’s focused workweek trial is commencing on August 2. KOA radio ran a story on the City’s focused workweek trial and the Denver Daily News printed an article on the City’s trial as well.

City Phone System – Staff has updated the City’s after-hours message and will do so again on August 2 when the focused workweek trial commences.

Specific Service Handouts – One of the primary areas of “front-line” service where interest will be high in the focused workweek trial is in the City’s Building Division. Building Division Staff is preparing a service-specific handout to distribute to contractors and residents regarding what the expanded hours Monday through Thursday and the Friday closure will mean for Building Division services. Building Division Staff will also mail and email this information to “regular customers” and this information will be posted on the City’s Web Site.

Verbal Communication – Staff will use opportunities to verbally communicate with residents, business and others regarding the focused workweek trial. The City Manager met with the City’s Business Advisory Group (BAG) and received positive input regarding the focused workweek trial.

If City Council has any additional requests for further communication efforts to the public on the commencement of the focused workweek trial, please contact Staff.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment – Fact Sheet on One-Year Focused Workweek Trial

Westminster to extend City Hall hours, close on Fridays

- We're testing a new schedule to enhance customer service by extending City Hall hours four days a week.
 - This offers access to City Hall services before and after the regular work day.
- On Monday, Aug. 2, business hours for City Hall will begin at 7 a.m. and extend to 6 p.m., Monday through Thursday.
 - To accommodate the extended schedule, City Hall will be closed on Fridays.
 - Closing on Fridays will save money, reduce energy use and promote better air quality.
 - The Municipal Court facility and associated operations will move to the new schedule on Monday, Aug. 30.
- The Friday closure will not impact most city services. Public safety — police, fire and ambulance — will not be affected.
- Recreation centers and libraries will keep their current schedules, as will the golf courses and Standley Lake.
- Westminster is the first Front Range municipality in Colorado to pilot an extended schedule intended to provide more convenient access to city services.
- In nine months the city will review the pilot program and decide whether or not to make it permanent.
- More information is available on the city website, www.cityofwestminster.us.



City of Westminster City Council Study Session Notes
June 21, 2010

Mayor Nancy McNally called the Study Session to order at 6:35 PM. All Councillors were in attendance.

City Staff in attendance included: City Manager Brent McFall; City Attorney Marty McCullough; Assistant City Manager Steve Smithers; Deputy City Manager Matt Lukus; Presiding Judge John Stipich; Police Chief Lee Birk; Fire Chief Jim Cloud; Director of Community Development John Carpenter; Director of Finance Tammy Hitchens; Director of Information Technology David Puntteney; Director of Public Works Mike Smith; Director of Parks, Recreation and Libraries Bill Walenczak; Budget and Special Projects Manager Barbara Opie; Human Resource Manager Debbie Mitchell; Public Information Officer Katie Harberg; Accounting Manager Cherie Sanchez; Special District Accountant Karen Creager; Senior Management Analyst Aric Otzelberger; and Management Analyst Ben Goldstein.

Guests in attendance included: Senior Manager of Swanhorst and Company Kyle Logan; Westminster Window June Younger; Resident Kelly Block; Resident Katie Horn-Murphy; Resident Mary Ann Hutches; Resident Courtney Teasdale; Resident Melisa Batista; and Resident Samantha Batista

2009 Comprehensive Annual Financial Report

Finance Director Tammy Hitchens and Senior Manager of Swanhorst and Company Kyle Logan presented Council with the Comprehensive Annual Financial Report (CAFR) and accompanying management letter. Government-wide, the combined net assets decreased by \$7.5 million. Overall, the report indicated that the City was in good shape, as it received an unqualified opinion, meaning the information included in the CAFR fairly represents the financial position of the City.

Proposed 2010 Operating Budget

City Manager Brent McFall presented the proposed 2010 operating budget priorities and core service adjustments. Mr. McFall provided context and background information regarding the structural budget deficit that prompted Staff to propose the reductions in accordance with the core service assessment done earlier in 2010. Staff noted that the proposed budget was brought to Council ahead of schedule this year, due to the significant changes to the organization that are proposed and the additional time needed by staff to make adjustments to the budget pending Council direction.

Council concurred with Staff's recommendation for the majority of the proposed budget options. Council noted the impact that these reduction will have on City employees and that they did not like it but understand that it is needed as the revenue landscape has permanently changed for the City. Council directed Staff to make the following modification:

- Evaluate the municipal fine structure to find funding for the Fast Track Domestic Violence Program and retain the program.
- Look at implementing a fee to cover the cost of the Rental Housing Inspection Program rather than eliminating the program.
- Adding the Mayor's Eggstravaganza to the list of PR&L programs that will be eliminated completely rather than charge a fee.

Council provided Staff with additional suggestions pertaining to proposed budget items:

- Support the reduction in printed copy distribution of City Edition to a opt-in model, but would like Staff to do further outreach with seniors who might want to continue to receive it in hard copy.
- Pursue moving Board and Commission meetings to other facilities that are open after 5:00pm and would not require the City to pay for City Hall security to keep the facility open after hours.
- Look at the feasibility of "Adopt a Planter" for beds along 72nd Avenue where annual planter beds are proposed to be reduced.
- Work with the neighborhoods to get the word out about the closure of Kings Mill Pool in 2011.

- Evaluate the feasibility of requiring liquor stores to post signs to encourage residents to report under age sales.
- Continue to monitor credit card transaction fees and identify possible solution to cover the costs.
- Provide adequate notification to neighborhoods that are proposed to have reduction in the snow removal on sidewalks by the Parks, Recreation and Libraries Department.
- Keep track of parts inventory and administrative fees when the City outsources the parts operation in Fleet, and have staff talk with Jefferson County regarding their experience in parts outsourcing.

Council also had a few suggestions on communication strategies regarding the proposed changes to the organization:

- Work to create a FAQ that Council can use when talking with the public and post it on the City's website. This should also include the structural budget deficit graph. This handout should also include a list of other proposed changes that might affect residents.
- Information for residents of what the changes to parks maintenance and street maintenance will actually mean and how it will affect residents.

Modifications to General Leave Policies and Personnel Policies

Staff presented the proposed changes in general leave and personnel policies for Council's consideration. Staff noted that many of the modification would clean up long-standing irregularities in the rules and address a few changes needed because of the implementation of focused workweeks. These changes include a shift to separate holiday leave banks and general leave banks. Employees will not receive a reduction in leave as a result of the changes, however leave will be distributed differently. The City will also lower the maximum accrual rate for new employees hired after June 30, 2010, in an effort to limit the over \$4 million liability from payouts at separation.

Staff provided information regarding changes to the reduction in force general leave administrative memorandum. The most significant change to the memorandum is reductions will not be based on employee seniority. The new policy lays out plans for a performance based competitive process that will be used to select the employees that are the best match for the organization's long-term success.

Executive Session

See separate notes

Mayor McNally adjourned the Study Session at 9:18 PM.