



## WESTMINSTER

### CITY OF WESTMINSTER, COLORADO MINUTES OF THE HYBRID (IN-PERSON AND VIRTUAL) SPECIAL CITY COUNCIL MEETING HELD ON MONDAY FEBRUARY 6, 2023 AT 6:30 P.M.

1. PLEDGE OF ALLEGIANCE

Mayor Nancy McNally led the Council, Staff, and the audience in the Pledge of Allegiance.

2. ROLL CALL

Mayor Nancy McNally, Mayor Pro Tem DeMott, Councillors Baker, Emmons, Ezeadi, Nurmela, and Seymour were all present at roll call. Also present were City Manager Mark Freitag; City Attorney David Frankel; and City Clerk Abby Fitch.

3. PUBLIC COMMENT

Sandra Pospisil spoke about the water rates. She expressed that she was upset about the financial burden the new water plant will put on the City.

Kristine Ireland spoke about the last independent audit on the water treatment plant. She stated that she hopes it was conducted by a different company than who conducted the initial audit. She expressed concern about water rates.

Sandy Johnson spoke in support of the water plant. She said that water is a challenging issue and outside factors make decisions complicated.

Debbie Teter voiced concerns about the water treatment plant site. Some of her concerns include costs, the land expense, and the difficulty of construction. She also expressed concern for water rates.

Harald Stark spoke in support of the water treatment plant and thinks it is the right direction with the new changes.

Carol Campbell spoke in favor of the water treatment plant. She also submitted unanswered questions from the previous meeting to which staff will provide follow up.

Karen Kalavity thinks that other water treatment plant solutions need to be examined. She expressed distrust of the consultants who have worked on the project.

4. PURPOSE OF SPECIAL COUNCIL MEETING

- a. Second Reading of Councillor's Bill No. 2 Re: Supplemental Appropriation from the Utility Capital Project Reserve to the Utility Water Fund; and Authorization of additional expense for land purchase

Mayor Pro Tem DeMott moved to pass Councillor's Bill No. 2 on second reading appropriating a transfer of \$22,320,503 from the Utility Capital Project Reserve to the Utility Water Fund for the remaining balance on 37.65 acres of land acquisition related to Jefferson County District Court case 2020CV30231. The motion was seconded by Councillor Emmons.

Baker asked for clarification on the 49-day clock that was imposed by the court. Frankel clarified that the City received the signed order today (February 6), so the clock started today, not on the December date that the court case announced the ruling. He added that until the court order was received, the timeline was unclear and that is why a special meeting was called. Frankel mentioned that interest of approximately \$4,000 per day is being accrued, adding to the reason for urgency. Frankel also clarified that the City had to buy the land to reserve the right to appeal.

If the City were to abandon the appeal, there could still be some funds due including some attorney fees. Baker asked if the City can walk away from the purchase if it appeals. He stated that his understanding is if the City appeals they must buy the land. Frankel affirmed that is true. Baker stated that means if there is an appeal then Council cannot evaluate other site options and Baker discussed the advantages of the other options that have been presented. DeMott asked Baker how he was comparing the water treatment options against one another. Baker stated he was evaluating all options on a standard timeline of 50 years.

Nurmela wanted to clarify the motion. She stated the motion is about appropriating the funds in order to purchase the land, not making a motion to appeal the court decision. Nurmela spoke about all prices going up. She discussed people struggling and the need for subsidies not only for water but for rent and other things. She also clarified that different consultants were used for the previously proposed project, Water2025.

Seymour stated that hundreds of hours have been put into this project by City Council and staff. He highlighted the shortcomings of the rehabilitation of Semper. Seymour explained why the deep bed filtration is important. Seymour also stated that City Council lowered rates significantly and the new rate increase was much more modest and will be used to pay for infrastructure.

DeMott stated that he has been a long proponent of evaluation of the tier system and believes now everyone fits into tier one or tier two. He also stated that prices had to increase, he just did not agree with how quickly the old water rates increased. He asked staff if water rates will spike again. Sarah Borgers, Interim Director of Public Works, stated the site that Council is evaluating can be covered in the current projection of a 4%-4.5% increase each year.

Emmons stated that the election results sent a message, the Water2025 project was paused, and water rates were lowered. She emphasized that at least three City Council members dedicated hours to help make the best decision possible. She stated that this is the best step forward. It may not be perfect, but it is the best decision right now.

Mayor McNally thanked staff for the time and evaluation given to this process. McNally expressed that she does not like using eminent domain, but the City needed to move forward. McNally explained that there are regulations coming up with CDPHE and the City would need to comply. She stated that she had hoped Semper could be rehabilitated, but that site would not work. She stated that the people need good clean water for the future.

The motion passed on a **(6-1)** vote with Councillor Baker voting no.

The following are questions asked by Council which staff provided responses. The email is attached to the meeting for the record:

**Please reconsider your position on appealing the decision on Westminster Blvd. Right now, we can walk away. No foul, no harm. If we walk away, we could even get a little back. If we appeal, we are struck with that site.**

- *Walking away from the court process would result in approximately \$5.4 million in rent and abandonment charges. The City has had possession of the property, and so the City would have to reimburse the property owner for loss of possession of the property.*
- *Even with rehabilitation, Semper is aging. Either now or in the future, Semper will need to be replaced – and sufficient land would need to be obtained to replace it.*

**Instead fixing the Semper to last 50 years, this land will have the city build an inadequate plant that is planned to require hundreds of millions of more investment in just 20 years. The plant we are thinking of building will make the City spend hundreds of million more dollars in just 20 years. We are planning on Semper's obsolescence and very expensive additional cost for city rate payers.**

- *Rehabilitation of Semper will not result in its life being extended 50 years. Rehabilitation will only allow the existing aging infrastructure to be viable for another 10-20 years if no major regulatory or water quality changes are experienced.*
  - *Federal and State regulatory requirements for drinking water are making water treatment facilities like Semper increasingly obsolete.*
  - *Rehabilitating Semper will only provide for minor improvements in its ability to meet new regulatory and potential water quality conditions. Deep bed filtration is an important component of modern (and more robust) water treatment facilities that cannot be retrofitted.*
  - *Structurally, the concrete of the plant is not likely to last for 50 years.*
- *A new replacement facility cannot be built on the Semper site because of site constraints without the purchase and construction of another plant somewhere else. It can only be rehabilitated.*
- *It should be emphasized that in options 2, 3, and 4, there is substantial rehabilitation planned for Semper and those rehabilitations are included in the budgetary costs presented to City Council. The portions of Semper that are far beyond useful life and have limited ability for rehabilitation would be replaced with the new water treatment plant.*

[General comments regarding cost of the land.]

- *Staff and legal counsel are generally in agreement that the Court's valuation was unexpectedly high. The funds proposed would allow the City to appeal the valuation in the appellate courts. Because an appeal may or may not result in cost savings, the full land amount was included in all the projected project costs for the options presented to City Council.*
- *An estimate of \$16M was included for the other options. There is not certainty that the land for these other options would be higher or lower than this value.*

**Westminster Blvd. is a foolish location for this new water that must have two more entire water pipelines added to match the capacity at Semper today. Instead of gaining the efficiency and economy of scale by building one raw and finished water pipeline, this location will require the wasteful construction of two or perhaps three raw and finished pipelines. This location will eventually abandon tens of millions of dollars to perfectly serviceable and functioning infrastructure to Semper (i.e. Raw and finished water pipelines, easy access to high power electric lines, easy access to the high service pump station.**

- *Pipeline infrastructure needed is dependent on several variables. Not all variables are known at this time, and so proposed size, number and type of pipelines is unknown as well. The key feature of the proposed approach is that we are not over-building for future conditions that are not yet certain.*
  - *The status of the distribution system and raw water system will play a role in how many and what size of pipe infrastructure will be necessary in the future. In 20-30 years, we don't know how various portions of the distribution system will have held up over time or exactly how and when it will be replaced. How and where any new construction can be tied into*

*the system will be highly dependent on the capability of the system to meet that added load.*

- *The size of any new pipeline that would be constructed with future projects would be dependent on the size of the plant constructed at that time. It is possible that in the coming decades, it is decided that one train of the plant should be larger or smaller than was anticipated. By waiting until that next train is built, we can ensure that the pipeline is right sized for that future plant.*
- *It is advantageous to have more than one pipeline going to or from the plant. This improves for redundancy and removes single points of failure – such as a pipeline break on one of those major transmission lines.*
- *The recommended approach to replacing Semper maximizes the life of existing infrastructure, proposes construction of only what is needed today, and provides a path forward to meet Federal and State regulatory requirements.*
- *In all four options, Semper will remain in service – and all associated facilities such as the high service pump station, pipelines, and electrical service will also continue to be used for the foreseeable future.*

**Building new plant on Westminster Blvd. will unavoidably raise the cost of water in Westminster. Fixing Semper will require capital costs of \$2.02 per kgal for 20 years. Building a new plant on Westminster Blvd. will cost \$2.30 per kgal for 20 years and then \$2.70 for 30 more years. all calcs done at 3.5% interest using \$172 million for Semper and \$196 million and \$300 million for Westminster Blvd. for 20 and then for 30 more years**

- *Major parts of Semper are at the end of their useful life. Rehabilitating Semper does not equate to replacing Semper. Semper rehabilitation would extend the life at the existing site a relatively short period of time – at which point, it would still need to be replaced.*
- *In the immediate short term, rehabilitating Semper as proposed in Option 1 is the most inexpensive option. That said, rehabilitating Semper is not the same as replacing the plant. Rehabilitation may extend its life, but in the next 5-10 year period, a new water treatment plant would still likely need to be planned. In this longer-term, rehabilitating Semper is the most expensive option.*

**We were not given a full reassessment of alternatives for the plan back in March of last year. We used the same engineers as had completed a 30-% design of Water 2025. It was no surprise that that they brought back the same plan. No imagination was spent of other sites. You remember how the 3.1 acre site on the north of the tracks was twice removed from consideration because we had to bore under the railroad tracks, Ms. Bleiker stops to address the puzzled faces she sees on the dais when she confirms that all sites need to bore under the railroads tracks.**

- *Jacobs/CH2M were the engineers that completed the original siting study. Subsequently, CDM was brought on board and as a part of their project, they reviewed Jacobs/CH2M's work and agreed with the rationale and conclusion of the study with consideration of the public engagement that was completed through that process.*
- *The 3.3 acre sites on the north side of the tracks has a number of issues associated with it. The two primary issues are: small size is insufficient to meet the needs of a plant or portion of a plant, and the boring to get to that site would need to be far more substantial than a single bore for a single pipeline.*

Why was the vacant, unbuilt land at Westcliffe park never listed as an alternative. That site would not have to bore under US36 which Westminster Blvd would have to do. That site offers all the elevation and slope advantages that Westminster Blvd does. Easy access to the high service pump station is attained by using the Highland trail, which uses the abandoned Niver canal and means the is very little elevation difference and so pumping finished water back the HSPS would be easier. The Westcliffe community was built 25 years ago and still has not had the proposed park developed ( though they do have Trendwood Park, the open space and the Westcliffe neighborhood park). I think there is no plan to build that park so converting that weed choked eyesore into a water plant could allow a dual use. The lagoons could be nicely shaped for people to walk around. I think Northwest water plant is beautiful and we can safely restrict access to any sensitive portions of the plant.

- *Westcliffe and Trendwood Park were considered as part of the Jacob/CHM site selection study. Both sites were determined less than suitable than the Westminster Blvd site.*
  - *Westcliffe Park:*
    - *This site is an active open space area.*
    - *Major roadway/bridge construction would be required for this site.*
    - *Potable water pipeline construction would be more costly for this option, extending down Westminster Blvd in a narrow corridor of existing utilities.*
  - *Trendwood Park:*
    - *This site is identified as a future park.*
    - *This site is highly constrained for land area and would require placing industrial facilities immediately adjacent to single family homes.*
    - *Potable water pipeline construction would be more costly for this option, extending down Westminster Blvd in a narrow corridor of existing utilities.*

5. ADJOURNMENT

The meeting was adjourned at 7:37 p.m.

THE WESTMINSTER CITY COUNCIL

ATTEST:

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Mayor

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City Clerk