



## WESTMINSTER

### CITY OF WESTMINSTER, COLORADO MINUTES OF THE HYBRID (IN-PERSON AND VIRTUAL) CITY COUNCIL MEETING HELD ON MONDAY APRIL 24, 2023, AT 7:00 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; City Clerk Abby Fitch; and City Clerk Coordinator Kathryn Schroeder.

#### 3. CONSIDERATION OF MINUTES

DeMott moved to approve the minutes of April 10, 2023, as presented. The motion was seconded by Emmons and the motion passed **(7-0)**.

#### 4. PRESENTATIONS

City Council presented a proclamation recognizing the distinguished Congressional service of Ed Perlmutter former U.S. Representative for the Seventh District of Colorado.

City Council presented a proclamation recognizing Municipal Clerk's Week.

Mayor McNally presented a Proclamation for Day of Prayer.

Councillor Seymour presented a proclamation to Time Concepts International declaring April 20, 2023 through May 6, 2023 as Small Business Week.

Mayor Pro Tem DeMott proclaimed the month of May as City of Westminster Mental Health Awareness Month in recognition of the importance of mental health to the overall success of the organization and the quality of life of Westminster residents.

#### 5. PUBLIC COMMENT

Chad Ellington from the Uplands team gave a brief update on the Uplands project. He also clarified some of the comments that were made during the Comprehensive Plan hearings.

Yang Chee expressed gratitude to many including the Mayor, City Council, and Congressman Ed Perlmutter for being supporters of the community and the Lao-Hmong Memorial.

Yangmee Lor thanked City Council and the community for supporting the Lao-Hmong Memorial.

Emily Brooks stated she was pleased that the water treatment plant project is moving forward. She expressed disapproval of the treatment of past councils and staff for disinformation that has been spread about the project and water rates. She also was disappointed City Council did not pursue the increase in the roadway improvement fee. Brooks was also concerned about the stance City Council took on the assault weapon bill and does not believe it has anything to do with core services.

Carol Campbell spoke about the water treatment plant. She raised concerns about the capacity of the new treatment plant. She also stated that she looked forward to funding discussions for the project and expressed concerns about the untruths that have been spread in the community.

Alan Farb stated that he believes the City Council is dysfunctional. He stated that he feels that time and money were wasted by this disfunction. Farb believes the City Council has made decisions that have

cost the city money that could have been used to help Westminster's own unhoused population. He also thinks it was a waste that City Council did not use the Water 2025 plan.

Chris Stimpson told a story about his family's boat and compared it to repairing the Semper facility, stating that it can be more costly to fix an old thing as opposed to investing in a new thing.

Tom Lampo offered prayers for the City of Westminster and the City Council.

John Palmer agreed with Alan Farb. He asked if we really need a water treatment plant and wants to know why the city does not know how much it costs to produce 1,000 gallons of water. He disapproves of the way City Council acts and treats each other.

Yangmee Lor spoke on behalf of Jasper Vue and thanked City Council and the community for the Lao-Hmong Memorial.

The following individuals left public comment voicemail to express opposition to building a new water treatment plant: Dan Weaver, Elaine Brach, Mike Elimeyer, Pamela Ogden, Gina Reed, Nicholas Manly, Michael Capasso, Randy Moyal, Donna Moyal, Rebecca Ainsworth Sharpley, Mary Wildert, Karen Esselgrave, Elmer Bonnack, Phyllis Croftmaker, Terry VanBuren, James G Zishemoss, Daniel Power, Stephen Graham, Denny Dennison, Joyce Bachman, Gary Hartman, Lisa Brill, David Brown, Dara Ridgeley, Paul Carr, John Bronyan, Gordon Reed, Paul Fowler, Charlotte Lynott, Anna Ingalls, Arthur St. John, Mike West, Jody Muser, Ronald Thomas Shepard, Christina Beaty, Sharon D. Keel, Sandra Pospisil, Robert Pospisil, Kristine Ireland, Doris Elaine Jones, Kenneth Vigil, and Scott Ireland.

Reasons cited for opposition include: concerns with water rates, displeasure with Council not fulfilling campaign promises, inflation, water rates of neighboring municipalities, concerns with excessive or inappropriate spending, concerns that less expensive alternatives were not considered, financial burden on residents, preference to rehabilitate existing facility, questions and concerns regarding the bidding process for the plant, belief that city spending should be reduced through staff reduction, concerns that adequate analysis has not been done, concerns that proposed plan does not include interest costs.

Tobin Oraznack left a voicemail comment stating that he supports the water plant if water can be tested and proven safe by a third party and if it cannot, believes that Council should agree to return costs of the plant to residents.

One electronic comment was submitted and attached to the packet.

\*\*\*Clerk's note: City Council called a recess at 8:10 p.m. and reconvened at 8:22 p.m.

#### 6. CITY MANAGER'S REPORT

Freitag provided an update on the Townhomes on Harlan project in Downtown Westminster. He also gave an update on the clean-up process for the Diekmann property location on 92<sup>nd</sup> Avenue. Freitag shared that City Leadership toured Fading West in Buena Vista that is working to address the missing middle housing shortage. Freitag announced Westy Wins including the Great Global Cleanup, the distribution of reusable grocery bags to residents, and the "Visual Marvel" award given to the City Nature Play Park at Westminster Station. Freitag also summarized city events for the next few weeks.

#### 7. CITY COUNCIL COMMENTS

Baker commented on Ezeadi's goal of restoring trust in the government and stated that it is a wise goal that is achievable if they listen to the public. He said there were asks of the public and the asks were not arranged or coached. He referenced a few public comments and related them to water use.

#### 8. CONSENT AGENDA

The following items were presented on the consent agenda for City Council's action: Quarterly Insurance Claims Report – January through March 2023; Second Reading of Councillor's Bill No. 7 Re: Annexation of Property, Second Reading of Councillor's Bill No. 8 Re: Comprehensive Plan Amendment, and Second Reading of Councillor's Bill No. 9 Re: Designation of Zoning for the Property

Located at 9889 Alkire Street, Also Known as the Brauch Property; Second Reading of Councillor's Bill No. 10 Re: Annexation of Property, Second Reading of Councillor's Bill No. 11 Re: Comprehensive Plan Amendment, and Second Reading of Councillor's Bill No. 12 Re: Designation of Zoning for the Property Located at 12620 Zuni Street, Also Known as the Bushnell Property; Second Reading of Councillor's Bill No. Councillor's Bill No. 13 Re: Annexation of Property, Second Reading of Councillor's Bill No. 14 Re: Comprehensive Plan Amendment, and Second Reading of Councillor's Bill No. 15 Re: Designation of Zoning for the Property Located at 7371 West 92nd Avenue, Also Known as the Diekmann Property; Second Reading of Councillor's Bill No.16 Re: Annexation of Property, Second Reading of Councillor's Bill No. 17 Re: Comprehensive Plan Amendment, and Second Reading of Councillor's Bill No. 18 Re: Designation of Zoning for the Property Located at 68th Avenue and Federal Boulevard, Also Known as the Federal Boulevard South Property; Second Reading of Councillor's Bill No. 20 Re: Annexation of Properties, Second Reading of Councillor's Bill No. 21 Re: Comprehensive Plan Amendment, and Second Reading of Councillor's Bill No. 22 Re: Designation of Zoning for the Properties Located at 3421 Mosko Court and 3431 Mosko Court, Also Known as the Mosko Court Properties; Second Reading Councillor's Bill No. 25 Re: 2022 Supplemental Appropriation

DeMott moved, seconded by Seymour, to accept the consent agenda items (8A – 8G) for April 24, 2023. The motion passed on a **(7-0)** roll call vote.

9. APPOINTMENTS AND RESIGNATIONS

There were no appointments or resignations this evening.

10. PUBLIC HEARINGS AND NEW BUSINESS

A. First Reading of Councillor's Bill No. 26 Re: Vacating a Portion of the Craft Street Right-of-Way Within the Federalview Subdivision

DeMott moved to pass Councillor's Bill No. 26 on first reading vacating a portion of the Craft Street right-of-way within the Federalview Subdivision. The motion was seconded by Emmons. The motion passed on a **(7-0)** roll call vote.

B. Resolution No. 13 – Approving Option Four of the Semper Water Treatment Facility Evaluation Project to Rehabilitate Portions of the Semper Water Treatment Facility and Construct a Replacement Water Treatment Facility on the City-owned Westminster Boulevard Site

\*\*\*Clerk's note: Item 10B was considered after 10C.

DeMott moved to adopt Resolution No. 13 approving Option Four of the Semper Water Treatment Facility Evaluation Project to rehabilitate portions of the Semper Water Treatment Facility and construct a replacement water treatment facility on the city-owned Westminster Boulevard site. The motion was seconded by Seymour.

Councillor Baker asked for the city to address the questions he submitted:

Baker's written question: How does the City define failure at Semper, what would it look like, would it be permanent, why does staff think it will happen in 10 to 20 years (the answer you sent in your April 21 email seem to be as valid today as 10 years ago or as 10 years in the future), and would other engineers have a different opinion as to life we can expect from Semper?

Stephanie Bleiker, Capital Projects Administrator, answered that failure could have been a problem ten years ago. Water standards and the ability to treat water has changed over the years. Baker asked how the city knows the hard stop date of Semper's useful life will be 10-20 years. Bleiker explained there is no hard date, and it is based upon a lot of factors. Baker described how this date was reached. Bleiker explained engineers are recommending the end of useful life based on their knowledge and technical expertise. Baker asked if a different engineer could make a different evaluation. Bleiker stated this was unlikely because the recommendations are made on engineering principles that are very specific norms and calculations within the profession.

Baker's written question: After Semper fails in the 10 to 20 years' time frame predicted by city engineers, would full replacement capacity for Semper have to be in place and working (eg: the phase 2 component of options 2,3, and 4)?

Bleiker clarified the recommendation was not made by city engineers but by contract engineers and that running semper to failure would be very consequential to the city.

Bleiker then explained the phasing. She went into depth about rehabbing Semper stating that the alternate option would only last 20 years and explained that in the long run would be extremely expensive. Baker stated he was asking about options 2, 3, and 4. Bleiker explained the infrastructure and what is needed for those options in terms of cost.

Baker's written question: How much does the phase 2 component for each Options 2,3, and 4 cost?

Bleiker explained the phasing and infrastructure for each option. Baker asked for clarification on the costs on this part and Bleiker explained the cost estimates. Baker asked if some of the costs for each option cover deferred maintenance for Semper. Bleiker said yes and said each option would cost deferred maintenance differently.

Baker asked if the raw water pipelines will be abandoned. Bleiker said yes, rehabbing the pipeline would be difficult.

Baker asked if the city is abandoning all the infrastructure that goes in and out of Semper? Bleiker said the city is evaluating if/how the city can use anything like the high service pump station.

Baker's written question: If Options 4 is chosen will the Drywell and High Service pumps at Semper be abandoned in 10 to 20 years?

Bleiker explained de-watering and the single point of failure. She further explained the need and function of each pump station and costs.

Baker's written question: If option 2 is chosen, does the requirement that Option 4 needs for at least 2 new raw water pipelines and 2 new finished water pipelines vastly outweigh the modest \$5 million of initial price difference? Does this savings by utilizing existing infrastructure outweigh the price difference in Option 3?

Bleiker explained the differences between the pipes and costs. DeMott asked a clarification question on the maintenance of Semper for 20 years, asking why we are paying for the maintenance if Semper is going to last 20 years either way, paying for the deferred maintenance or not. DeMott further clarified that the cost would include additional infrastructure. Bleiker confirmed saying if the city were to continue to use Semper it would need to be made more robust.

Baker's written question: I would like a full explanation of why was the water plant 60MGD capacity reduced to 45MGD.

Bleiker said this was the right time to right size and this City Council saved 100 million dollars on the plant.

Baker asked about outdoor use. Bleiker explained the water use estimates were based on past data and projected future use.

Baker's written question: I would like to know why building a 30MGD at Option 4 would cost \$100 million more. What are we not doing at 15MGD to make such a vast difference? I would like the specific examples: ie two 42", 2.1 miles long raw water pipelines (one main supply and one redundant supply) cost \$20 million less than two 24" pipelines)

Bleiker explained why there is such a significant cost savings on this option, stating there is a large difference in process and how much reenforced concrete would be put into the ground.

Baker's written question: How much would it cost and how much time would it take to get HDR inc (the people that rehabbed Betasso in Boulder) to evaluate if Semper's life can be extended?

Bleiker said the cost and time would not be great but the conclusion would likely be the same.

Councillor Seymour asked about rate modeling and if the current rate modeling was built into the proposed financing. Sarah Borgers, Interim Public Works and Utilities Director confirmed this was correct.

Mayor Pro Tem asked for clarification that the city was planning for system redundancy. Staff confirmed the plan had built in redundancy. He then stated that low rates are still a priority for this Council. He also stated that the efficiency would impact rates. City Manager Freitag said continued process improvement and evaluation would continue to take place.

Baker asked if the cost of water ever go down. Borgers said no. Baker said the 4.5 cap is very high and mentioned other communities with lower caps. Borgers said she would bring the rates back for a later decision. Jody Andrews, Deputy City Manager, reminded City Council that 4.5 is the ceiling and the water rates are always up to Council.

DeMott stated he would like to continue the rates conversation. He would like to reassess the tiers. DeMott stated that he hopes the speakers listened to the answers given this evening and emphasized that this solution was different than Water 2025 after it was reassessed. He encouraged people to call him to discuss why this is the best option.

Nurmela said she would be supporting the plan. She said no one wants to spend the money on a water treatment plant but she believes this is the most judicious decision.

Baker said he will be voting no because there is no urgency to replace Semper. He was upset that the city went to the same engineers to reevaluate the system. He thinks the second opinion on the plan was biased.

McNally said that she was grateful for the plan re-evaluation and the conclusion that is good for the city.

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

C. Resolution No. 14 Authorizing National Lao-Hmong Memorial Foundation Agreement for the Design, Construction and Maintenance of the National Lao-Hmong Memorial at Westminster City Park

McNally moved to adopt Resolution No. 14 authorizing the City Manager to execute an agreement with the National Lao-Hmong Memorial Foundation for the design, construction, and maintenance of the National Lao-Hmong Memorial at Westminster City Park. The motion was seconded by DeMott. The motion passed on a **(7-0)** roll call vote.

D. Sole Source Authorization with Justice Systems, Inc. for Software, Licensing, Subscription, Annual Maintenance and Service Fees

Seymour moved, based on the recommendation of the City Manager, to find that the public interest will be best served by waiving the City's bidding requirements to purchase annual case management software maintenance, licensing, subscription and support, and service fees from Justice Systems, Inc. in 2023, with the option to renew for four additional years, in an amount not to exceed \$120,000 in any one year. The motion was seconded by Emmons. The motion passed on a **(7-0)** roll call vote.

\*\*\*Clerk's note: City Council called a recess at 10:35 p.m. and reconvened at 10:43 p.m.

- E. Irving Park and Squires Park Playground Equipment Purchase  
Seymour moved to approve the purchase of Landscape Structures, Inc. playground equipment from Rocky Mountain Recreation, LLC using the Sourcewell cooperative purchasing contract for \$260,000 for the Irving Street Park and \$500,000 for the Squires Park, plus contingency of \$76,000, for the total combined amount not to exceed \$836,000. The motion was seconded by Emmons. The motion passed on a **(7-0)** roll call vote.
- F. Sole Source Authorization with Year One Inc. for Open Space Improvements  
Seymour moved, based on the recommendation of the City Manager, to determine that the public interest will be best served by approving a sole source agreement with Year One Inc. for environmental improvements using local youth corps on Westminster open space lands not to exceed \$125,000 in 2023, and renewable for up to three additional one-year periods for \$125,000 per period, subject to annual appropriations, for a total authorized amount of \$500,000. The motion was seconded by Emmons. The motion passed on a **(7-0)** roll call vote.
- G. Authorize a Contract with McCarthy Building Companies, Inc., for Construction Management at Risk Pre-Construction Services and Authorize a Contract Amendment with CDM Smith Inc. for Final Design Services on the New Water Treatment Facility Project on Westminster Boulevard. Authorize a Contract Amendment with Burns & McDonnell Engineering Company, Inc. for Final Design on the Westminster Boulevard Raw Water Pipeline Extension Project  
Emmons moved, based on the recommendations of the City Manager, to determine that the public interest is best served by authorizing the City Manager to execute a contract with McCarthy Building Companies, Inc. in the amount of \$1,192,956 for Construction Manager at Risk reconstruction phase services for the New Water Treatment Facility on Westminster Boulevard and authorize a contingency in the amount of \$119,296, for a total authorized expenditure not to exceed \$1,312,252. The motion was seconded by Seymour. The motion passed on a **(6-1)** roll call vote with Baker voting no.
- Emmons moved, based on the recommendations of the City Manager, to determine that the public interest is best served by authorizing the City Manager to execute an amendment to the CDM Smith Inc. engineering design contract in the amount of \$2,449,200 for final design engineering services on the New Water Treatment Facility on Westminster Boulevard with contingency in the amount of \$244,920, for a total authorized expenditure not to exceed \$2,694,121. The motion was seconded by Seymour. The motion passed on a **(6-1)** roll call vote with Baker voting no.
- Emmons moved, based on the recommendations of the City Manager, to determine that the public interest is best served by authorizing the City Manager to execute an amendment to the Burns & McDonnell Engineering Company, Inc. engineering design contract in the amount of \$375,415 for final design engineering services on the Westminster Boulevard Raw Water Pipeline Extension Project with contingency in the amount of \$37,542, for a total authorized expenditure not to exceed \$412,957. The motion was seconded by Seymour. The motion passed on a **(6-1)** roll call vote with Baker voting no.
- H. First Amendment to the 2022 Contract with FRC&B, Inc. for the Striping and Pavement Marking Project to Renew the Contract for the 2023 Calendar Year  
Emmons moved, based on the recommendation of the City Manager, to determine that the public interest will be best served by approving a negotiated contract as a renewal of the 2022 Contract with FRC&B Inc. for the Striping and Pavement Marking Project for the 2023 calendar year, in the amount of \$312,450 with a contingency of \$31,245 for a total expenditure not to exceed \$343,695. The motion was seconded by DeMott. The motion passed on a **(7-0)** roll call vote.
- I. First Amendment to the 2022 Hot Applied Chip Seal Contract with A-1 Chipseal Company to Renew the Contract for the 2023 Calendar Year

Seymour moved, based on the recommendation of the City Manager, to determine that the public interest will be best served by approving a negotiated amendment of the 2022 Hot Applied Chip Seal Contract with A-1 Chipseal Company for the 2023 calendar year in the amount of \$604,030, plus a contingency of \$120,806 for a total authorized expenditure not to exceed \$724,836. The motion was seconded by Emmons. The motion passed on a **(7-0)** roll call vote.

J. Fourth Amendment to the 2021 Concrete Replacement Project with Silva Construction, Inc. to Renew the Contract for the 2023 Calendar Year

Emmons moved, based on the recommendation of the City Manager, to determine that the public interest will be best served by approving a negotiated amendment of the current Concrete Replacement Project contract with Silva Construction, Inc. for the 2023 calendar year in the amount of \$2,277,868, plus a contingency of \$455,573, for a total authorized expenditure not to exceed \$2,733,441. The motion was seconded by DeMott. The motion passed on a **(7-0)** roll call vote.

K. Third Amendment to the 2021 Asphalt Paving Rehabilitation Project with Martin Marietta Materials, Inc.

Seymour moved, based on the recommendation of the City Manager, to determine that the public interest will be best served by approving a negotiated contract as a renewal of the 2021 Contract with Martin Marietta Materials, Inc. for the Asphalt Pavement Rehabilitation Project for the 2023 calendar year, in the amount of \$7,371,855 with a contingency of \$737,185 for a total expenditure not to exceed \$8,109,040. The motion was seconded by Emmons. The motion passed on a **(7-0)** roll call vote.

L. Cityworks Asset and Maintenance Management System Sole Source Contract Authorization with Azteca Systems, LLC

Seymour moved, based upon the recommendation of the City Manager, to find that the public interest will be best served by authorizing a 2023 sole source contract with Azteca Systems, LLC in an amount not to exceed \$115,000 for the Cityworks Asset and Maintenance Management Software Platform in 2023, with the option for four additional one-year renewals for 2024 through 2027 in an amount not to exceed \$130,000 per year subject to annual appropriation. The motion was seconded by Emmons. The motion passed on a **(7-0)** roll call vote.

11. OLD BUSINESS AND PASSAGE OF ORDINANCE ON SECOND READING

A. Second Reading of Councillor's Bill No. 19 Re: Rezoning, Preliminary Development Plan, and Official Development Plan for Huron Farm Subdivision Planned Unit Development

DeMott moved to pass Councillor's Bill No. 19 on second reading to approve the Rezoning and approve the Preliminary Development Plan and Official Development Plan for Huron Farm Subdivision Planned Unit Development. This recommendation is based on a finding that the Rezoning, Preliminary Development Plan, and Official Development Plan are generally supported by the criteria set forth in Sections 11-5-14 and 11-5-15 of the Westminster Municipal Code. The motion was seconded by Emmons. The motion passed on a **(6-1)** roll call vote with Baker voting no.

B. Second Reading of Councillor's Bill No. 23 Re: Amending Title XI of Westminster Municipal Code, Sections 11-1-6, 11-2-1, and Creating a New Section 11-5-6.5 to Establish a Concept Plan Review Process for Major Development Projects

DeMott moved to pass Councillor's Bill No. 23 on second reading to approve the proposed amendments to Title XI of the Westminster Municipal Code to establish a concept plan review process. The motion was seconded by Emmons. The motion passed on a **(5-2)** roll call vote with Ezeadi and Nurmela voting no.

C. Second Reading of Councillor's Bill 24 Re: the First Amendment to the Amended and Restated For Sale Development Agreement with Downtown Westminster Residences, LLC for Block A-4 West and Block A-4 East Located at Approximately 90th Avenue and Harlan Street in Downtown Westminster, Block C-7 Located at Approximately 92nd Avenue and Eaton Street in Downtown

Westminster, and a Portion of Lot 3 of Block A-1 Located at Approximately 88th Avenue and Harlan Street in Downtown Westminster

DeMott moved to pass Councillor's Bill No. 24 on second reading authorizing the City Manager to execute the First Amendment to the Amended and Restated For Sale Development Agreement with Downtown Westminster Residences, LLC for Block A-4 West, Block A-4 East, Block C-7 and Block A-1 in Downtown Westminster. The motion was seconded by Emmons. The motion passed on a **(6-1)** roll call vote with Baker voting no.

12. MISCELLANEOUS BUSINESS AND EXECUTIVE SESSION

13. ADJOURNMENT

The meeting was adjourned at 11:06 p.m.

THE WESTMINSTER CITY COUNCIL

ATTEST:

\_\_\_\_\_  
Mayor

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