

AGENDA
TOWN OF HUDSON - BOARD OF TRUSTEES
REGULAR MEETING
April 15, 2015 - 6:00 P.M.

PLEDGE OF ALLEGIANCE

CALL TO ORDER AND ROLL CALL

ADDITIONS TO AGENDA

CITIZEN'S COMMENTS

1) CONSENT AGENDA

(Consent Agenda Items are considered to be routine and will be enacted by one motion and vote. There will be no separate discussion of Consent Agenda Items unless a Board member or Citizen so requests, in which case the item may be removed from the Consent Agenda and considered at the end of the Regular Agenda.)

- a. Board of Trustees Minutes – Regular Meeting, April 1, 2015
- b. Payment of Bills

2) GENERAL BUSINESS

- a. Ordinance No. 15-07, Second Reading, An Ordinance approving a lease purchase agreement for water meters and authorizing the execution of documents related thereto.
- b. Discussion – CR 49 Maintenance
- c. Ordinance 15-08, An Ordinance approving the contract for the sale of Lot 3, Bison Highway Minor Subdivision
- d. Change Order #6, Public Works Facility

3) STAFF REPORTS

4) ADJOURNMENT

Work Session – Home Rule

MINUTES
TOWN OF HUDSON - BOARD OF TRUSTEES
REGULAR MEETING
April 1, 2015 - 6:00 P.M.

PLEDGE OF ALLEGIANCE

CALL TO ORDER AND ROLL CALL

Mayor Patch called the meeting to order at 6:00 p.m.

ROLL CALL

Mayor, Raymond Patch - Present
Trustee, Ed Rossi - Present
Trustee, Matt Cole – Present
Trustee, Laura Hargis - Present
Trustee, Christine Hamilton – Present
Trustee, Tiffany Sanders – Present
Trustee, Terri Davis – Present

Town Clerk/Treasurer, Linnette Barker took roll call, and a quorum of the Mayor and (6) Trustees were present.

Town Staff Present:

Town Administrator – Joe Racine
Town Attorney – Corey Hoffmann
Town Clerk//Treasurer – Linnette Barker
Economic Development Director – Dan Hamsmith
Public Works Department – Lee Walhus

ADDITIONS TO AGENDA

CITIZEN'S COMMENTS

Ken Gabrielson, Hudson Fire District Chief, reported that the Strategic Planning Committee has been working on their report, once finalized it will be shared with the public. All are welcome to attend the Strategic Planning Committee meetings held on the first Monday of each month at 5:30 pm at the Hudson Fire Station. The Hudson Fire Station upstairs remodel should begin next week and completion should occur within 90 days. He reported that the fire department has been on 170 calls to date.

Thomas Johnson, Haliburton District Manager, inquired about a fleet permit process for the overweight vehicles. Haliburton could have a number of different overweight vehicles traveling on WCR 49 and it would not be feasible to permit all of Haliburton's fleet. Haliburton will submit a proposal to the Town for consideration.

1) CONSENT AGENDA

(Consent Agenda Items are considered routine and will be enacted by one motion and vote. There will be no separate discussion of Consent Agenda Items unless a Board member or Citizen so requests, in which case the items may be removed from the Consent Agenda and considered at the end of the Regular Agenda.)

- a. Board of Trustees Minutes, Regular Meeting, March 18, 2015
- b. Payment of Bills

Trustee Hargis made a motion, seconded by Trustee Cole to approve the Consent Agenda.

The vote was as follows:

Aye: Trustees Hargis, Cole, Rossi, Sanders, Hamilton, Davis and Mayor Patch

Nay - None

Mayor Patch declared the motion carried.

Trustee Rossi made a motion, seconded by Trustee Cole to approve the \$2,639.00 invoice from RKG.

The vote was as follows:

Aye: Trustees Rossi, Cole, Hargis, Sanders, Davis, Hamilton and Mayor Patch

Nay - None

Mayor Patch declared the motion carried.

2) **PUBLIC HEARING**

- a. Ordinance No. 15-04, Weld County Road 12.5 Annexation

Mayor Patch opened the Public Hearing for the proposed Weld County Road 12.5 Annexation at 6:13 pm.

Joe Racine, Town Administrator, reported that the proposed annexation includes the segments of CR 12.5 that are not within the Town, beginning at the intersection with Hwy 52 at the west end of the old wastewater lagoon property, east to the I-76 Frontage Road.

No public comment.

Mayor Patch closed the Public Hearing at 6:16 pm.

- b. Ordinance No. 15-06, An Ordinance vacating portions of Hickory Street and 10th Avenue

Mayor Patch opened the Public Hearing for the proposed Ordinance to vacate portions of Hickory Street and 10th Avenue at 6:16 pm.

Joe Racine, Town Administrator, reported that the proposed ordinance is for the vacation of ten segments of road that are no longer needed because of the realignment of the frontage road. After the vacation is in effect, the adjoining properties will receive the benefit of the vacations.

No public comment.

Mayor Patch closed the Public Hearing at 6:18 pm.

3) GENERAL BUSINESS

a. Railroad Update, Joe Sloan, Regional Director, Public Affairs BNSF

Joe Sloan, Regional Director, BNSF Public Affairs, reported that construction should be complete in October 2015 for the BNSF siding project from Brush, CO to Commerce City, CO. BNSF has replaced the crossing signals on Hwy 52 in Hudson. The Colorado Department of Transportation is responsible for the completion of the pedestrian crossing.

Mr. Sloan reported that the FRA governs the rail corridor for safety and they will release information on the cause of the train derailment when available. The train had 120 coal cars headed to LaJunta, CO. Out of the 120 train-cars, 30 cars derailed. The derailment clean up should be completed in the next couple of weeks. Truck traffic will be using Town streets for the derailment cleanup. BNSF will be working with the Hudson Fire Protection District regarding Emergency Management Planning, and how to react to a derailment and how to obtain the information about what passes through the Town of Hudson on rail.

Lori Saine, Representative for House District 63, reported that her office will be following up with the Colorado Department of Transportation regarding the pedestrian crossing and possible road repairs needed due to the train derailment.

b. Purchase Agreement, Lot 3, Bison Highway Minor Subdivision

Joe Racine, Town Administrator, reported that previously Mark and Lori Skoglund attended the last meeting of the Board of Trustees to introduce their design team and to show the current draft of the site plan they are preparing for the proposed pizza restaurant.

Corey Hoffmann, Town Attorney, reported that the agreement provides for specific deadlines:

- April 8th, the Town will provide a title commitment
- April 29th, the buyer must notify the Town of any defects in the title or other unsatisfactory conditions with the property
- May 13th, the Town's deadline to correct defects – Mr. and Mrs. Skoglund requested date changed to May 21st
- May 7th, deadline for Buyer to submit complete site plan application – Mr. and Mrs. Skoglund requested date changed to June 1st
- June 10th, anticipated date of closing – Mr. and Mrs. Skoglund requested date changed to July 1st

Joe Racine, Town Administrator, reported that if the purchase agreement is approved, the buyers will proceed with the site plan, approval of the site plan by the Town is a pre-condition of closing. Mr. and Mrs. Skoglund have agreed to the purchase price and to pay Love's, as reimbursement for a pro-rata share of the cost of extending the access to the new frontage road. The buyers have indicated that they are very motivated and have worked to complete the conditions requested to them by the Town. Mr. Racine suggested lowering the purchase price from \$82,000.00 to \$68,000.00.

Trustee Rossi made a motion, seconded by Trustee Cole to approve the purchase and sale agreement for Lot 3 of the Bison Highway Minor Subdivision to Mark and Lori Skogland with the revised contract dates and the revised price of \$68,000.00.

The vote was as follows:

Aye: Trustees Rossi, Cole, Sanders, Hamilton, Davis, Hargis and Mayor Patch

Nay - None

Mayor Patch declared the motion carried.

c. Notice of Inquiry from Weld County – Concrete Precast Company

Paul Martin, representative from the owners group for a Concrete Precast Company, reported that they are being referred from Weld County because they would like to develop a 36-acre site located between CR 43 and the I-76 South Frontage Road. The proposal is for a development of a pre-cast concrete business. The site would be used for the manufacturing of precast concrete utility structures, manholes, inlets, vaults, etc.

Joe Racine, Town Administrator, recommended annexation because of that size of the site, its location and present contiguity with the Town.

Trustee Hargis made a motion, seconded by Trustee Cole to notify Weld County that the Town of Hudson would pursue annexation for the J & E Parker Farms Limited Partnership, Concrete Precast Company.

The vote was as follows:

Aye: Trustees Hargis, Cole, Davis, Sanders, Rossi, Hamilton and Mayor Patch

Nay - None

Mayor Patch declared the motion carried.

d. Resolution 15-15, A Resolution making certain findings of fact regarding the proposed annexation of a parcel of land to the Town of Hudson, Colorado known as the Weld County Road 12.5 Annexation

Joe Racine, Town Administrator, reported that this Resolution is the finding that the annexation complies with the state statute.

Trustee Hargis made a motion, seconded by Trustee Cole to approve Resolution 15-15, A Resolution making certain findings of fact regarding the proposed annexation of a parcel of land to the Town of Hudson, Colorado known as the Weld County Road 12.5 Annexation.

The vote was as follows:

Aye: Trustees Hargis, Cole, Rossi, Hamilton, Sanders, Davis and Mayor Patch

Nay - None

Mayor Patch declared the motion carried.

e. Ordinance 15-04, Second Reading, Weld County Road 12.5 Annexation

Joe Racine, Town Administrator, reported that this Ordinance is for the annexation of segments of CR 12.5 that are not within the Town, beginning at the intersection with Highway 52 at the west end of the wastewater lagoon property, east to the I-76 frontage road. Weld County has deeded the entire right of way to the Town, precluding the need for the County to petition for annexation.

Trustee Hamilton made a motion, seconded by Trustee Rossi to approve Ordinance 15-04, Second Reading, An Ordinance approving and accomplishing the annexation of property known as the Weld County Road 12.5 Annexation upon petition by the owner of the property.

The vote was as follows:

Aye: Trustees Hamilton, Rossi, Davis, Sanders, Hargis, Cole and Mayor Patch

Nay - None

Mayor Patch declared the motion carried.

f. Ordinance 15-05, Second Reading, An Ordinance Amending Article 7 of Chapter 4 of the Hudson Municipal Code to provide for Impact Fee Credits for development anticipated to produce above average tax revenues.

Joe Racine, Town Administrator, reported that the impact fee credits for development is an economic development measure that would provide would systematic means of relieving developers of some or all of the cost of impact fees in defined circumstances. This would reduce impact fees for new development that is anticipated to produce an above average amount of property and sales tax. This is intended to be fair and to eliminate fees that might be a disincentive for new investment.

Trustee Rossi made a motion, seconded by Trustee Hargis to approve Ordinance 15-05, Second Reading, An Ordinance amending Article 7 of Chapter 4 of the Hudson Municipal Code to provide for impact fee credits for development anticipated to produce above average tax revenues.

The vote was as follows:

Aye: Trustees Rossi, Hargis, Cole, Sanders, Hamilton, Davis and Mayor Patch

Nay - None

Mayor Patch declared the motion carried.

g. Ordinance 15-06, Second Reading, An Ordinance vacating portions of Hickory Street and 10th Avenue

Joe Racine, Town Administrator, reported that Ordinance 15-06 provides for vacation of right of way segments of old Hickory Street and CR 12.5 that are no longer needed remnants from the frontage road realignment.

Trustee Rossi made a motion, seconded by Trustee Hargis to approve Ordinance 15-06, Second Reading, An Ordinance vacation portions of Hickory Street and 10th Avenue.

The vote was as follows:

Aye: Trustees Rossi, Hargis, Cole, Sanders, Davis, Hamilton and Mayor Patch

Nay - None

Mayor Patch declared the motion carried.

- h. Ordinance 15-07, First Reading, An Ordinance approving a lease purchase agreement for water meters and authorizing the execution of documents related thereto.

Joe Racine, Town Administrator, reported the ordinance would approve a lease-purchase agreement with Government Capital Corporation for new radio read water meters for the entire town. This lease purchase is to replace all of the meters in Town with new radio read meters.

Representative from Mountain States Pipe and Supply were present and explained that new radio read meters, signals from the meters will be read by a computer in a town vehicle and transferred to our billing system by a Caselle accounting module. The process will be completed in a fraction of the time.

Mayor Hargis made a motion, seconded by Trustee Cole to approve Ordinance No. 15-07, First Reading, An Ordinance approving a lease purchase agreement for water meters and authorizing the execution of documents related thereto.

The vote was as follows:

Aye: Trustees Hargis, Cole, Davis, Sanders, Hamilton, Rossi and Mayor Patch

Nay - None

Mayor Patch declared the motion carried.

4) STAFF REPORTS

Joe Racine, Town Administrator, reported that the sprinkler system in the new Library requires water pressure to operate at 40#. Currently the water pressure at Remington and Beech is less than 40# and will not operate the sprinkler system. The contractor is proposing a \$50,000.00 pump. The Water Model that the Town is working on should improve the water pressure.

Joe Racine, Town Administrator, reported that the Planning Commission is moving ahead with the Comprehensive Plan update. Martin Landers a Planning Consultant will be present at the next Planning Commission Meeting for the plan process update.

Joe Racine, Town Administrator, reported that a meeting has been scheduled with the Weld County Commissioners on April 29, 2015 at the Pepper Pod Restaurant for the WCR 49 Access Plan.

Dan Hamsmith, Economic Development Director, reported that the Easter Egg Hunt was a success and thanked the sponsors.

5) EXECUTIVE SESSION

- a. To determine positions relative to matters that may be subject to negotiations, develop a strategy for negotiations, and/or instruct negotiators, pursuant to C.R.S. §24-6-402(e)

Trustee Rossi made a motion, seconded by Trustee Hargis to enter into executive To determine positions relative to matters that may be subject to negotiations, develop a strategy for negotiations, and/or instruct negotiators, pursuant to C.R.S. § 24-6-402(e). Motion carried unanimously.

Mayor Patch asked to let the record show that the motion passed. The board entered into Executive Session at 7:56 p.m.

Mayor Patch reconvened the regular meeting of the Hudson Town Board of Trustees at 8:51 pm.

ADJOURNMENT

The meeting adjourned at approximately 8:51p.m.

TOWN OF HUDSON, COLORADO

Mayor

ATTEST

Town Clerk

Report Criteria:

Report type: GL detail

Check.Type = {<>} "Adjustment"

Check Issue Date	Check Number	Vendor Number	Payee	Invoice Number	Description	Invoice GL Account	Check Amount
04/07/2015	50526	53	Farm & Home Lumber	1852-2	Insulation Package	22-71-7713	6,003.22
Total 50526:							6,003.22
04/10/2015	50531	4	Andersen's Star Market	033115	Sugar	10-64-6710	2.36
04/10/2015	50531	4	Andersen's Star Market	033115	Animal Supplies	10-66-6710	39.11
04/10/2015	50531	4	Andersen's Star Market	033115	WW Supplies - Storage Bags & Toilet Paper	75-68-6710	20.69
Total 50531:							62.16
04/10/2015	50532	1041	Caselle Inc.	64674	Contract Support and Maintenance - May 2015	10-64-6633	525.00
Total 50532:							525.00
04/10/2015	50533	108	CIRSA	W15165	February 2015 - Deductible Portion of Claims	10-68-6035	301.31
04/10/2015	50533	108	CIRSA	W15165	February 2015 - Deductible Portion of Claims	10-67-6035	8.87
04/10/2015	50533	108	CIRSA	W15165	February 2015 - Deductible Portion of Claims	10-69-6035	44.31
04/10/2015	50533	108	CIRSA	W15165	February 2015 - Deductible Portion of Claims	70-68-6035	66.47
04/10/2015	50533	108	CIRSA	W15165	February 2015 - Deductible Portion of Claims	75-68-6035	22.14
Total 50533:							443.10
04/10/2015	50534	36	Colorado Analytical Laboratories I	150324049	Wastewater Samples	75-68-6633	111.60
04/10/2015	50534	36	Colorado Analytical Laboratories I	150327017	Wastewater Samples	75-68-6633	16.20
Total 50534:							127.80
04/10/2015	50535	1137	Colorado Department of Labor an	030615	Unemployment Taxes	10-61-6036	6.23
04/10/2015	50535	1137	Colorado Department of Labor an	030615	Unemployment Taxes	10-62-6036	1.17
04/10/2015	50535	1137	Colorado Department of Labor an	030615	Unemployment Taxes	10-64-6036	164.02
04/10/2015	50535	1137	Colorado Department of Labor an	030615	Unemployment Taxes	10-65-6036	13.87
04/10/2015	50535	1137	Colorado Department of Labor an	030615	Unemployment Taxes	10-68-6036	102.33
04/10/2015	50535	1137	Colorado Department of Labor an	030615	Unemployment Taxes	10-69-6036	21.10
04/10/2015	50535	1137	Colorado Department of Labor an	030615	Unemployment Taxes	25-64-6036	79.80
04/10/2015	50535	1137	Colorado Department of Labor an	030615	Unemployment Taxes	70-64-6036	38.76
04/10/2015	50535	1137	Colorado Department of Labor an	030615	Unemployment Taxes	70-68-6036	69.93
04/10/2015	50535	1137	Colorado Department of Labor an	030615	Unemployment Taxes	75-64-6036	35.31
04/10/2015	50535	1137	Colorado Department of Labor an	030615	Unemployment Taxes	75-68-6036	55.42
04/10/2015	50535	1137	Colorado Department of Labor an	030615	Unemployment Taxes	10-67-6036	2.10
Total 50535:							590.04
04/10/2015	50536	890	CPS Distributors Inc.	2057122-00	Gel Packs - Entrance	10-69-6710	417.30
04/10/2015	50536	890	CPS Distributors Inc.	2062122-00	Replacement Sprinkler for Parks	10-69-6710	329.70
Total 50536:							747.00
04/10/2015	50537	437	Daniel Hamsmith	040715	Light Rail Transportation - IEDC Conference	10-65-7103	10.00

Check Issue Date	Check Number	Vendor Number	Payee	Invoice Number	Description	Invoice GL Account	Check Amount
Total 50537:							10.00
04/10/2015	50538	53	Farm & Home Lumber	041015-8720	WW Supplies	75-68-6710	116.21
04/10/2015	50538	53	Farm & Home Lumber	041015-8720	Keys	75-68-6415	4.00
04/10/2015	50538	53	Farm & Home Lumber	041015-8720	Signs and Materials for Signs	10-68-6712	37.59
04/10/2015	50538	53	Farm & Home Lumber	041015-8720	Small Tools and Hardware	10-68-6735	89.36
04/10/2015	50538	53	Farm & Home Lumber	041015-8720	First Aid Kit	10-68-6720	13.06
04/10/2015	50538	53	Farm & Home Lumber	041015-8720	Hunter's Office	75-68-6710	18.82
04/10/2015	50538	53	Farm & Home Lumber	041015-8720	Water Supplies	70-68-6710	65.10
Total 50538:							344.14
04/10/2015	50539	57	Front Range Internet	1379586	Website Hosting and Maintenance	10-64-6415	122.90
Total 50539:							122.90
04/10/2015	50540	396	Gator Rubbish	287269	Service and Winterize Portable Toilet	10-69-6415	198.00
Total 50540:							198.00
04/10/2015	50541	22	Hayes Phillips Hoffmann & Carber	033115-4080	Legal Services - Administration	10-64-6630	2,821.50
Total 50541:							2,821.50
04/10/2015	50542	1222	J.P. Cooke Co.	335518	Dog License Tags	10-66-6710	66.37
Total 50542:							66.37
04/10/2015	50543	1223	Jane Miller	040715	Park Pavillion Deposit Refund	10-45-4513	25.00
Total 50543:							25.00
04/10/2015	50544	1047	JE-CO Equipment	1W1001378	Tire Repair John Deer Tractor	10-68-6633	427.72
Total 50544:							427.72
04/10/2015	50545	276	Joe Racine	033115	Mileage - Meetings	10-64-6213	113.26
04/10/2015	50545	276	Joe Racine	033115	Computer, Camera Phone	10-64-6633	50.00
04/10/2015	50545	276	Joe Racine	033115	Medicare Reimbursement	10-64-6110	149.90
Total 50545:							313.16
04/10/2015	50546	134	Judith A. McGill	032715	Mileage - Easter Event	10-64-6213	14.95
04/10/2015	50546	134	Judith A. McGill	032715	Candy and Supplies for Easter Egg Hunt	10-69-6730	25.96
Total 50546:							40.91
04/10/2015	50547	1204	Longmont Ford	6063321	Hunters Truck - 2010 F-150	10-68-6633	2,605.29
Total 50547:							2,605.29
04/10/2015	50548	853	Love's Travel Stops & County Stor	636951050	Fuel - Parks Department	10-69-6416	20.86
04/10/2015	50548	853	Love's Travel Stops & County Stor	636951050	Fuel - PW Department	10-68-6416	1,049.96
04/10/2015	50548	853	Love's Travel Stops & County Stor	636951050	Fuel - WW Department	75-68-6416	127.68
04/10/2015	50548	853	Love's Travel Stops & County Stor	636951050	Fuel - Water Department	70-68-6416	142.48

Check Issue Date	Check Number	Vendor Number	Payee	Invoice Number	Description	Invoice GL Account	Check Amount
Total 50548:							1,340.98
04/10/2015	50549	950	Lowe's	040215-9900	Thermostats - WWTP	75-68-6415	132.93
Total 50549:							132.93
04/10/2015	50550	84	Mountain States Pipe & Supply	336527-00	Cpper for Water Line and New PW Shop	22-71-7713	478.00
Total 50550:							478.00
04/10/2015	50551	86	Northern Colorado Water Conserv	033115	2014 Souther Watern Supply Pipeline Operation Assessment	70-68-6520	26,206.51
Total 50551:							26,206.51
04/10/2015	50552	1187	Pinnacle Bank - 2	040115-4076	IEDC Training Conference Lunch	10-65-7103	19.20
04/10/2015	50552	1187	Pinnacle Bank - 2	040115-4076	SEWC Chamber Luncheon	10-65-7103	30.00
Total 50552:							49.20
04/10/2015	50553	1189	Pinnacle Bank - 4	040115-4043	Postage	10-64-6722	1.19
04/10/2015	50553	1189	Pinnacle Bank - 4	040115-4043	Flowers for LB and Coffee for Town Hall	10-64-6415	84.97
04/10/2015	50553	1189	Pinnacle Bank - 4	040115-4043	Water for BOT Meetings	10-61-6212	8.69
Total 50553:							94.85
04/10/2015	50554	1190	Pinnacle Bank - 5	040115-4068	Snow Crew Meals	10-68-6210	122.23
Total 50554:							122.23
04/10/2015	50555	1195	Pinnacle Bank - 6	040115-4027	Conference Hotel	10-64-6210	264.42
04/10/2015	50555	1195	Pinnacle Bank - 6	040115-4027	Comp Plan Proposal Meeting	10-65-6212	26.70
04/10/2015	50555	1195	Pinnacle Bank - 6	040115-4027	Computer Equipment	10-64-7732	114.98
04/10/2015	50555	1195	Pinnacle Bank - 6	040115-4027	Ordinance Recording	10-64-6720	4.25
Total 50555:							410.35
04/10/2015	50556	466	Professional Management Solutio	83980	Financial Consulting for 2014 Audit	10-64-6632	4,777.50
Total 50556:							4,777.50
04/10/2015	50557	456	Protection One Alarm Monitoring I	032215-5079	Alarm Monitoring System	10-64-6415	168.42
Total 50557:							168.42
04/10/2015	50558	509	Quill Corporation	2690012	Paper, Notepads, pens, folders	10-64-6720	130.59
04/10/2015	50558	509	Quill Corporation	2691204	Folders	10-64-6720	14.52
04/10/2015	50558	509	Quill Corporation	2764081	Buisness Card Book	10-64-6720	25.00
Total 50558:							170.11
04/10/2015	50559	1084	Raven Sign Studio	13-1694	Stickers for Trucks	10-68-6735	50.00
04/10/2015	50559	1084	Raven Sign Studio	13-1848	Website Stickers for Trucks	10-68-6735	90.00
04/10/2015	50559	1084	Raven Sign Studio	13-1885	Construction Sign for PW Shop	10-68-6712	40.00

Check Issue Date	Check Number	Vendor Number	Payee	Invoice Number	Description	Invoice GL Account	Check Amount
Total 50559:							180.00
04/10/2015	50560	1151	RH Water & Wastewater LLC	52	Water Contract Ops	70-68-6633	125.00
04/10/2015	50560	1151	RH Water & Wastewater LLC	52	Wastewater Contract Ops	75-68-6633	125.00
Total 50560:							250.00
04/10/2015	50561	976	Stonehouse Signs	191880	Signs	10-68-6712	210.77
Total 50561:							210.77
04/10/2015	50562	285	Town of Hudson	033115-1006	Water & Sewer - 509 Cherry Street	10-68-6418	41.06
04/10/2015	50562	285	Town of Hudson	033115-2018	Water & Sewer - 557 Ash Street	10-64-6418	51.97
04/10/2015	50562	285	Town of Hudson	033115-3043	Water & Sewer - 258 5th Avenue	10-68-6418	44.75
04/10/2015	50562	285	Town of Hudson	033115-4061	Water & Sewer - 1175 6th Avenue	70-68-6418	5,627.73
04/10/2015	50562	285	Town of Hudson	033115-4062	Water & Sewer - 650 Cherry Street	10-69-6418	971.73
04/10/2015	50562	285	Town of Hudson	040615	Quiz Winners - Volume No. 76	10-69-6730	100.00
Total 50562:							6,837.24
04/10/2015	50563	800	Treatment Technology	169550	Wastewater Chemicals	75-68-6710	1,048.00
Total 50563:							1,048.00
04/10/2015	50564	131	Tribune The	4006970	Ordinance Publishing - 15-03	10-65-6620	69.96
04/10/2015	50564	131	Tribune The	4035595	Ordinance Publishing - 15-03	10-65-6620	30.36
04/10/2015	50564	131	Tribune The	4035596	Ordinance Publishing - 15-02 - Firearms	10-64-6620	29.46
04/10/2015	50564	131	Tribune The	4035597	Ordinance Publishing - 15-04	10-65-6620	197.31
04/10/2015	50564	131	Tribune The	4035598	Ordinance Publishing - 15-05	10-64-6620	85.48
04/10/2015	50564	131	Tribune The	4035599	Ordinance Publishing - 15-06	10-64-6620	617.76
Total 50564:							1,030.33
04/10/2015	50565	5	United Power	032515-1519	Hudson Street Lighting	10-68-6414	1,228.91
04/10/2015	50565	5	United Power	032515-1519	Ball Park Lights - 650 Cherry Street	10-69-6413	17.79
04/10/2015	50565	5	United Power	032515-1519	Ball Park Lights - 650 Cherry Street	10-69-6413	16.00
04/10/2015	50565	5	United Power	032515-1519	Street Lighting - Well 22900 Service Rd.	70-68-6413	161.33
04/10/2015	50565	5	United Power	032515-1519	Street Lighting - 509 Cherry Street	10-68-6413	60.05
04/10/2015	50565	5	United Power	032515-1519	Street Lighting - 1100 5th Ave.	70-68-6413	93.25
04/10/2015	50565	5	United Power	032515-1519	Street Lighting - Pump Station - 800 E WCR 16	70-68-6413	655.50
04/10/2015	50565	5	United Power	032515-1634	Electric - WWTP 8249 WCR 47.5	75-68-6413	4,208.24
04/10/2015	50565	5	United Power	032515-1690	Electric - 21507 Hwy 52	75-68-6413	2,020.69
04/10/2015	50565	5	United Power	032515-8669	Electric - RO Plant - 1175 6th Street	70-68-6413	1,930.02
04/10/2015	50565	5	United Power	032515-9314	Electric - Hudson Pump Station	70-68-6413	668.91
04/10/2015	50565	5	United Power	040215-1800	Electric - 258 5th	10-68-6413	196.67
Total 50565:							11,257.36
04/10/2015	50566	18	Utility Notification Center of Color	21503399	Locates	70-68-6633	124.41
Total 50566:							124.41

Check Issue Date	Check Number	Vendor Number	Payee	Invoice Number	Description	Invoice GL Account	Check Amount
Grand Totals:							<u>70,362.50</u>

Report Criteria:

Report type: GL detail

Check.Type = {<-} "Adjustment"

MEMORANDUM

2.a.

To: Board of Trustees
From: Joe Racine, Town Administrator
Date: April 15, 2015
Subject: Ordinance No. 15-07, Second Reading, Lease Purchase of Water Meters

Attachment

Ordinance No. 15-07 is presented for consideration on second reading. The ordinance would approve a lease-purchase agreement with Government Capital Corporation for new radio read water meters for the entire town. This project is the subject of the work session scheduled for the conclusion of this meeting.

The town currently has an assortment of water meters that must be read manually, using a touch pad. It takes several person-days every month for the crew to walk the town gathering readings, then the manual transfer of those readings from hand written sheets to the billing system. With the new radio read meters, signals from the meters will be read by a computer in a town vehicle and transferred to our billing system by a Caselle accounting module. The whole process will be completed in a fraction of the time, freeing the crew up for other work.

In addition to the time savings, we expect that the new meters will be more accurate than many of the old, worn meters. This may result in somewhat higher bills for those customers whose meters may have run slowly due to wear. Worn out meters will slow down. They can't run faster than the movement of the water through the device, although some customers may claim that is the case.

The lease-purchase agreement, which must be approved by ordinance, provides for:

- 507 3/4" meters
- 14 2" meters
- One Master Meter 3G Register
- One custom laptop with software and radio read equipment

The total cost with interest is \$153,860.05, broken into five payments of \$30,772.01. We will also need to purchase the Caselle accounting module for \$2,950, plus a \$35/month contract support expense. \$26,000 was budgeted for this purpose in 2015, however the budget anticipated a seven year lease term.

ORDINANCE NO.

15-07
Series of 2015

TITLE: AN ORDINANCE APPROVING A LEASE PURCHASE AGREEMENT AND AUTHORIZING THE EXECUTION OF DOCUMENTS RELATED THERETO

WHEREAS, the Town of Hudson (the "Lessee") is a validly existing political subdivision of the State of Colorado (the "State"), existing as such under and by virtue of the constitution, statutes and laws of the State;

WHEREAS, the Board of Trustees of the Lessee (the "Governing Body") has the power under the laws of the State to lease or purchase personal property for use by the Lessee; and the Governing Body has determined, and hereby determines, that it is in the best interests of the Lessee to enter into a Colorado Municipal Lease-Purchase Agreement with Government Capital Corporation ("Lessor") for the purpose of financing the acquisition of the equipment (the "Equipment") described in Exhibit A to the Colorado Municipal Lease Purchase-Agreement (the "Lease"), and that the use of such Equipment is essential to the Lessee's proper, efficient, and economic operation;

WHEREAS, the Governing Body has taken the necessary and appropriate steps under applicable law to arrange for the acquisition of the Equipment under the Lease;

WHEREAS, the Lease terminates, and the Lessee's obligations thereunder are extinguished, if the Governing Body fails to appropriate money for the ensuing fiscal year for the payment of the amounts due in such fiscal year; and

WHEREAS, there has been presented to the Governing Body the form of the Lease, including Exhibit A thereto, which the Lessee proposes to approve, enter into, and deliver, as applicable, to effectuate the proposed financing of the Equipment, and it appears that the Lease and its Exhibit A are in appropriate form and are appropriate instruments for the purposes intended.

BE IT ORDAINED BY THE BOARD OF TRUSTEES FOR THE TOWN OF HUDSON, COLORADO, THAT:

Section 1. All actions of the Lessee in effectuating the Lease are hereby approved, ratified, and authorized pursuant to and in accordance with the transactions contemplated by the Lease.

Section 2. Pursuant to C.R.S. § 31-15-801, the Board of Trustees of the Town of Hudson hereby approves the acquisition by the Lessee of the Equipment described in Exhibit A to the Lease, such acquisition to be financed by Lessor pursuant to and in accordance with the terms of the Lease, which shall be a valid, legal and binding obligation of the Lessee enforceable in accordance with its

terms. The form and content of the Lease are in all respects authorized, approved and confirmed, and the Mayor of the Lessee, or his designee, is authorized, empowered and directed to execute and deliver the Lease for and on behalf of the Lessee in substantially the form attached hereto, but with such changes, modifications, additions or deletions therein as shall to her seem necessary, desirable or appropriate.

Section 3. Safety Clause. The Town Board of Trustees hereby finds, determines, and declares that this ordinance is promulgated under the general police power of the Town of Hudson, that it is promulgated for the health, safety, and welfare of the public, and that this ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Board of Trustees further determines that the ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 4. Severability. If any clause, sentence, paragraph, or part of this ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 5. Effective Date. This Ordinance shall become effective thirty (30) days after final publication.

INTRODUCED, READ IN FULL, AND ADOPTED this _____ day of _____, 2015.

TOWN OF HUDSON, COLORADO

Raymond Patch, Mayor

ATTEST:

Linnette Barker, CMC, Town Clerk

PASSED ON SECOND AND FINAL READING this _____ day of _____,
2015, AND ORDERED PUBLISHED ONCE IN FULL.

TOWN OF HUDSON, COLORADO

Raymond Patch, Mayor

ATTEST:

Linnette Barker, CMC, Town Clerk

APPROVED AS TO FORM:

Corey Y. Hoffmann, Town Attorney

MEMORANDUM

2.b.

To: Board of Trustees
From: Joe Racine, Town Administrator
Date: April 15, 2015
Subject: County Road 49

The segment of County Road 49 that is between I-76 and County Road 18 is in the Town. Annexed in 2009, the road has become a constant maintenance problem due to the relatively light pavement section and the heavy oil field traffic. The Town has done patching and chip sealing as “bandaid” fixes over the years, but the pavement condition has deteriorated to the point that we will need to spend more money on repairs this spring. Portions of the road are severely rutted.

The question of how much to invest in the current pavement is complicated by the County’s proposal to rebuild the entire road with a five lane concrete road section sometime in the next three years. We want to keep the road safe and functional, while not putting too much money into repairs that will be torn out.

I’ve asked Mike Ketterling to assess the pavement condition, and to propose repair alternatives for the worst sections with cost estimates for the Board to consider. Mike will not be available for the meeting, but he will provide information for discussion.

MEMORANDUM

2.c.

To: Board of Trustees
From: Joe Racine, Town Administrator
Date: April 15, 2015
Subject: Ordinance No. 15-08, First Reading, Ratifying Sale of Lot 3, Bison Highway Minor Subdivision

Attachment

The attached Ordinance No. 15-08 is presented for consideration on first reading. The ordinance would ratify the sale of town-owned property, Lot 3 of the Bison Highway Minor Subdivision. The purchase agreement was approved by the Board at the last meeting. Corey Hoffmann has suggested that the sale be ratified by ordinance as well.

ORDINANCE NO.

15-08
Series of 2015

TITLE: AN ORDINANCE APPROVING AND RATIFYING THE SALE OF TOWN-OWNED PROPERTY KNOWN AS LOT 3, BISON HIGHWAY MINOR SUBDIVISION

BE IT ORDAINED BY THE BOARD OF TRUSTEES FOR THE TOWN OF HUDSON, COLORADO, THAT:

Section 1. The Board of Trustees hereby approves and ratifies the sale of the Town-owned property known as Lot 3, Bison Highway Minor Subdivision (the "Property"), and authorizes the Mayor to execute any necessary documents regarding said sale.

Section 2. The Board of Trustees further finds pursuant to C.R.S. § 31-15-713(1)(b) that the Property can no longer be held for a valid governmental purpose, and thus the Town is authorized to sell the property pursuant to C.R.S. § 31-15-713(1)(b) "upon such terms and conditions as the governing body may determine."

Section 3. Safety Clause. The Town Board of Trustees hereby finds, determines, and declares that this ordinance is promulgated under the general police power of the Town of Hudson, that it is promulgated for the health, safety, and welfare of the public, and that this ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Board of Trustees further determines that the ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 4. Severability. If any clause, sentence, paragraph, or part of this ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 5. Effective Date. This Ordinance shall become effective thirty (30) days after final publication.

INTRODUCED, READ IN FULL, AND ADOPTED this _____ day of _____, 2015.

TOWN OF HUDSON, COLORADO

Raymond Patch, Mayor

ATTEST:

Linnette Barker, CMC, Town Clerk

PASSED ON SECOND AND FINAL READING this _____ day of _____, 2015, AND ORDERED PUBLISHED ONCE IN FULL.

TOWN OF HUDSON, COLORADO

Raymond Patch, Mayor

ATTEST:

Linnette Barker, CMC, Town Clerk

APPROVED AS TO FORM:

Corey Y. Hoffmann, Town Attorney

MEMORANDUM

**Work
Session**

To: Board of Trustees
From: Joe Racine, Town Administrator
Date: April 15, 2015
Subject: Ordinance No. 15-08, First Reading, Ratifying Sale of Lot 3, Bison Highway
Minor Subdivision

Attachments

The attached Ordinance No. 15-08 is presented for consideration on first reading. The ordinance would ratify the sale of town-owned property, Lot 3 of the Bison Highway Minor Subdivision. The purchase agreement was approved by the Board at the last meeting. Corey Hoffmann has suggested that the sale be ratified by ordinance as well.

Attached are three background documents that provide a good overview of the pros, cons and issues related to becoming home rule.



Memorandum

TO: Mayor and Board of Trustees

FROM: Scott Randall, Town Manager

DATE: February 9, 2009

RE: Home Rule

First, I have invited Sam Mamet, Executive Director of the Colorado Municipal League, to make a short presentation on the merits of pursuing home rule and the creation of a municipal Charter. Sam can also answer questions about the experiences of other communities as well as why such initiatives have succeeded and failed.

I have also included an updated report, originally prepared by staff over a year ago, which outlines the process for pursuing home rule, a list of advantages and disadvantages and a few of the decisions that the Town Board would need to make if it were to decide to proceed on such a course.

This will be the first of what undoubtedly will be many discussions on the topic. As these discussions continue, please let me know what additional information may be beneficial in helping you make this decision.

Staff Report and Recommendations on Home Rule

General Overview

The Town of Superior is recognized as a statutory unit of government. As such, the Town is only allowed to exercise powers as specifically authorized by the State Constitution or statute. Conversely, a home rule municipality is only limited by the Constitution and state statutes. Thus, home rule maximizes both the authority and flexibility in a unit of government's exercise of its considerable governmental powers.

This increased flexibility and authority extends to virtually every aspect of local governance – including the establishment of land use regulations, police powers and revenue generation. Furthermore, it enables its citizens to choose its organizational structure and operating procedures.

You will find attached a booklet entitled “Home Rule Handbook” (See Attachment I), published by the Colorado Municipal League, which explains the history and benefits of home rule in Colorado; guidance in drafting a municipal charter; as well as sample documents used throughout the process.

Procedures for Adopting a Home Rule Charter

Initiation – Adopting a home rule charter requires two separate elections. The first election can be initiated by a petition signed by not less than five percent (5%) of the registered voters to the Board of Trustees, or by passage of an ordinance by the Board of Trustees. Subsequently:

- Within 30 days, the Board of Trustees must call an election on the question of whether a Charter Commission shall be formed; and on the election of members to the Charter Commission. This first election must be held within 120 days after the call for election.
- The Town must publish a notice of the election at least 60 days prior to the election.
- Candidates for the Charter Commission must be nominated by petition (on forms supplied by the Town Clerk), signed by at least 25 registered voters of the Town. The nomination petition must be filed with the Town Clerk within 20 days after publication of the first election notice and must be accompanied by a statement from the nominated candidate of his or her consent to serve if elected.
- The Town must then publish a second notice of the election including the names of the candidates for the Charter Commission.

- At the election, voters cast ballots for or against creating the Charter Commission; and to elect the Commission members. A simple majority is required to approve the formation of a Charter Commission.
- The number of commission members is determined by the population of the municipality. In Superior, the Charter Commission can range from nine to 21 members, to be determined by the Board of Trustees.
- Any registered voter in Town is eligible to serve on the Charter Commission.
- If the forming of a Charter Commission is approved, the Board of Trustees calls the first meeting of the Charter Commission within 20 days after the election.
- At its first public meeting, the Charter Commission must elect a chairperson and a secretary from among its members; and may elect other officers as it feels necessary from among its members.
- The Charter Commission must hold at least one public hearing while preparing the charter; must submit a proposed charter to the Board of Trustees within 120 days after the first election; and must prepare and submit a revised proposed charter if the proposed charter is rejected by the voters.

The second election allows the Town's registered electors to vote on the proposed home rule charter.

- Within 30 days after submission of the proposed charter to the Board of Trustees, the Board must publish notice of and call an election on the proposed charter. The notice must contain the full text of the proposed charter.
- The election on the proposed charter must be held not less than 30 days nor more than 120 days after the publication of the notice of the election.
- A charter is adopted by simple majority vote.
- The approved charter takes effect at the time as established in the charter.

Benefits of Home Rule

Below is a summary of the various benefits of being a home rule municipality.

Elections

- Establish procedures and dates for municipal elections differing from those established by state statute, including such matters as regular and special election dates and the dates when elected officials will take office.
- Establish procedures for initiative, referendum, and recall.
- Modify procedures for filling vacancies in elective offices.
- Specify the minimum age for elected officials.

Administration/Governance

- Determine the form of government and administrative structure, including the size of the governing body, the powers of elected and appointed officials, the terms of office of elected officials and whether they are elected from districts or

at-large; quorums and voting requirements; the manner of filling vacancies; and the respective powers of elected and appointed officials, boards and commissions, and staff.

- Establish procedures for the adoption of ordinances and resolutions; determining whether actions need be taken by ordinance, resolution, or motion; procedures for notice, hearing, publication or posting of ordinances; publishing ordinances by title only; and determination of the effective date of ordinances.
- Establish procedures pertaining to regular and special meetings and executive sessions.
- Determining the jurisdiction of municipal courts (i.e. increased nuisance abatement authority).
- Establish procedures for the sale or disposal of public property and the awarding of contracts.
- Determine the qualifications of municipal officers and employees.
- Establish maximum terms for franchises.

Finance and Taxation

- Have available broader and more flexible taxing powers, including the ability to collect, administer and enforce sales and use taxes to determine what transactions are subject to or exempt from sales and use taxes; the ability to establish procedures for the adoption, amendment, increase or decrease of taxes; authority to levy taxes not available to statutory municipalities, such as lodging taxes, admissions taxes and other excise taxes; and the ability to provide property tax increase limits different from those provided for in the statutes, subject to voter approval.
- Within limits, create new tax sources to meet local financial needs, subject to voter approval. (Examples include the occupation tax, telecommunications tax and a myriad of impact fees.)
- Establish a sales tax base that is not uniform with the state sales tax (numerous home rule municipalities have a broader tax base with fewer exemptions).
- Simplify or otherwise revise procedures for budget and appropriation adoption, amendment and transfer of funds.
- Establish maximum debt limitations.
- Establish limitations for the repayment of municipal bonds.

Land Use

- Have greater control over zoning issues, including restriction or elimination of nonconforming uses, permitting, sign codes and basic zone district regulations.
- Modify the composition and powers of the Planning Commission and Board of Adjustment.
- In limited circumstances, broaden eminent domain powers, including the power to condemn property outside municipal boundaries.
- Have available broader and more flexible land use, zoning and planning powers

Disadvantages of Home Rule

The disadvantages of home rule include the possibility of a bad charter or charter provisions that defeat the advantages of home rule. The process of adopting a home rule charter involves some cost and can be a burden on some municipalities. In some limited circumstances, home rule charters can create more municipal power than state statutes would otherwise allow, which some citizens may see as a disadvantage.

Decisions to be Made by Town Board

As the Board deliberates the prospect of proceeding with a home rule initiative, the first two questions that the Board needs to decide are:

- 1) Size of the Charter Commission -- The Commission can be composed of 9 to 21 members. Town staff recommends a 9-member Charter Commission.
- 2) Calendar for placing a home rule initiative on the ballot.

FAXED

A primer on municipal home rule in Colorado

by Martin R. McCullough

Martin R. McCullough is city attorney in Westminster. This article is reprinted by permission of The Colorado Lawyer from The Colorado Lawyer, March 1989, p. 443-5, The Colorado Bar Association 1989. All rights reserved.

The home rule form of government has been adopted by 65 Colorado municipalities. Here's how it affects how they operate.

Municipal home rule powers in Colorado originate under § 6 of Article XX of the Colorado Constitution.¹ The municipal home rule form of government has existed in Colorado since 1902 and has now been adopted by 65 Colorado towns and cities.² In 1970, the requirement that a city or town have a minimum population of 2,000 inhabitants to be eligible for home rule status was deleted.³

In light of the fact that Colorado did not become a state until 1876, the Colorado home rule doctrine is a relatively old one. Over its approximately 85-year history, the home rule provisions of the Colorado Constitution have been the subject of more than 200 appellate decisions.⁴ The doctrine has one of the most well-established and stable bodies of case law in Colorado.

Summary of the doctrine

The Colorado municipal home rule doctrine can be summarized as fol-

lows. In matters of "purely local and municipal concern," ordinances adopted by home rule municipalities supersede conflicting state statutes.⁵ In matters of "mixed statewide and local concern," state statutes and home rule municipal ordinances may co-exist if they do not conflict. Otherwise, the state statute will be deemed controlling.⁶ In matters of "purely statewide concern," municipal legislation is totally pre-empted.⁷

City charters and home rule legislation

Although Article XX, § 6 is expressly declared to be "self-executing," implementation of the powers available under Article XX requires the adoption of a home rule charter. However, in light of the "self-executing" provision, the courts have held that home rule cities have been constitutionally granted every power possessed by the General Assembly as to local and municipal matters. The function of a municipal home

rule charter is only to limit the otherwise plenary powers of home rule cities under Article XX.⁸

Thus, the charters of home rule municipalities in Colorado are documents of limitation, not documents of authorization. Absent a constitutional or charter provision limiting a city council's authority in a given area, the city council may legislate by ordinance with respect to any local or municipal matter. Therefore, the fact that the particular ordinance was not authorized by charter is no ground for challenging an otherwise valid ordinance.⁹ The one exception to this rule concerns the matter of assessing, levying, and collecting taxes and special assessments, which Article XX, § 6(g) expressly requires to be provided for by charter.

State legislation and home rule powers

As mentioned above, state statutes concerning matters of mixed statewide and local concern and purely

statewide concern will be held to supersede conflicting ordinances of a home rule municipality.¹⁰ However, the courts have held that in purely local and municipal matters, home rule cities may pass ordinances which supersede state statutes.¹¹ Further, state legislation may be held to be invalid to the extent the state legislation infringes on the ability of a home rule municipality to exercise any of the specific grants of power under Article XX, § 6.¹²

Applications of the doctrine

Because of the ad hoc nature of the local concern versus statewide concern analysis inherent in the Colorado home rule doctrine, the doctrine is in a state of constant evolution. Generally, the following have been held to be matters of local and municipal concern: the creation, organization, and administration of municipal courts;¹³ the appointment and terms of municipal judges;¹⁴ zoning;¹⁵ the construction and financing of capital improvements;¹⁶ the power to impound animals running at large and to charge impoundment fees;¹⁷ the election, removal, and recall of local officials;¹⁸ assessments for local improvements;¹⁹ the levy of occupational excise taxes (e.g., employee and employer "head taxes"),²⁰ admission taxes,²¹ and sales and use taxes;²² the issuance of bonds and other instruments of debt;²³ and the granting of franchises for the use of city streets, alleys, and public places.²⁴

Matters which generally may be considered as purely statewide concern include the taxation of income,²⁵ the regulation of intoxicating liquors,²⁶ the regulation of rates of public utilities,²⁷ the operation and maintenance of telephone facilities by a statewide telephone company,²⁸ entitlement to state benefit programs, such as unemployment compensation,²⁹ and felonies³⁰ and certain other criminal acts.³¹

Matters of mixed statewide and local concern have been held to include police and fire pensions;³² construction and apportionment of costs of viaducts;³³ the alleviation

Because of the ad hoc nature of the local concern versus statewide concern analysis inherent in the Colorado home rule doctrine, the doctrine is in a state of constant evolution.

of urban blight;³⁴ the compensation of tort victims;³⁵ and the regulation of motor vehicles and traffic.³⁶

The courts have not always noted whether a local ordinance that conflicted with a state statute was ruled invalid because the subject matter of the ordinance was a matter of mixed local and statewide concern or purely statewide concern. However, the courts do not need to reach this issue if the subject matter is determined to be "at least" a matter of mixed local and statewide concern.³⁷ Nevertheless, the distinction between mixed local and statewide concern and purely statewide concern does become important in cases in which a home rule ordinance is challenged based on pre-emption and there is no specific state statute in conflict with the ordinance.³⁸

Threshold issues

Potentially, there are as many topics left for future decision under the home rule analysis as there are topics subject to future local and state legislation. Currently, several areas appear to be "ripe" for future judicial determination.

The first involves local vis-a-vis state authority to determine and regulate floodplains, particularly whether conflicting floodplain regulations of home rule municipalities supersede or are pre-empted by conflicting regulations of the Urban Drainage and Flood Control District. Another question is the validity of local sales taxes applied to the operations of the various components of the telephone "system."

Moreover, it may become necessary to decide the ability of the state to vest rights in local land use and development approvals.³⁹ Finally, as has been reported in the media recently, home rule municipalities face the question of whether imposing local residency requirements as a condition to municipal employment is constitutional.⁴⁰

Conclusion

Colorado's home rule doctrine is a constitutional mandate that home rule municipalities shall have full, complete, and exclusive authority in their local and municipal affairs. The determination of what matters

(continued on page 26)

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are of local and municipal concern and what matters are of statewide concern is inherently ad hoc in nature. As a result, the doctrine can be expected to encompass an almost infinite number of areas subject to state and municipal legislation.

Footnotes

¹ Municipal home rule powers are to be contrasted with those of "statutory" cities and towns which possess only those powers conferred upon them by the General Assembly pursuant to Title 31 of the Colorado Revised Statutes. See, *City of Sheridan v. City of Englewood*, 609 P.2d 108 (Colo. 1980).
² See, Colorado Municipal League, 1988-89 *Directory of Municipal and County Officials in Colorado* (1988).
³ The amendment deleting the population requirement became effective on January 1, 1972. See, *Colo. Const., Art. XX, § 9* (1969 *Colo. Sess. Laws* 1250).
⁴ See generally, case annotations following *Colo. Const., Art. XX*.
⁵ *Colo. Const., Art. XX, § 6; City and County of Denver v. Colorado River Conserv. Dist.*, 696 P.2d 730, 740 (Colo. 1985); *Denver & Rio Grande Western Railroad Co. v. City and County of Denver*, 673 P.2d 354, 357-58 (Colo. 1983); *DeLong v. City and County of Denver*, 576 P.2d 537, 539 (Colo. 1978).
⁶ *Colorado River Conserv. Dist. supra*, note 5; *Denver & Rio Grande, supra*, note 5 at 358; *DeLong, supra*, note 5 at 539-40; *Woolverton v. City and County of Denver*, 361 P.2d 982, 984 (Colo. 1961).
⁷ *Colorado River Conserv. Dist., supra*, note 5.
⁸ *Veterans of Foreign Wars, Post 4264 v. Steamboat Springs* 575 P.2d 835 (Colo. 1978); *City of Greeley v. Ells*, 527

P.2d 538 (Colo. 1974); *Service Oil Co. v. Rhodus*, 500 P.2d 807 (Colo. 1972).
⁹ See, e.g., *Fishel v. City and County of Denver*, 108 P.2d 236 (Colo. 1940); *Service Oil Co., supra*, note 8 at 811; *People ex rel. McQuaid v. Pitken*, 12 P.2d 349 (Colo. 1932).
¹⁰ See, e.g., *Vela v. People*, 484 P.2d 1204 (Colo. 1971).
¹¹ See, e.g., *Conrad v. City of Thornton*, 553 P.2d 822 (Colo. 1976).
¹² See, *Four County Metropolitan Capital Improvement Dist. v. Bd. of County Comm'rs*, 369 P.2d 67 (Colo. 1962). This case stands as authority for at least the following propositions:
 1) a legislative declaration contained in a state statute that the statute concerns a matter of "state interest" or "statewide concern" will not necessarily be deemed controlling;
 2) so far as it attempts to impose such legislation on home rule municipalities, the General Assembly itself may be pre-empted; and
 3) those enumerated powers granted to home rule cities under Article XX, § 6, are, by definition, matters of purely local and municipal concern.
¹³ *People ex rel. McQuaid, supra*, note 9; cf., *Hardamon v. Municipal Court*, 497 P.2d 100 (Colo. 1972) (home rule authority concerning the creation and administration of municipal courts does not empower home rule cities to deny substantive rights conferred upon all citizens of the state by the General Assembly, such as the right to a jury in petty offense cases).
¹⁴ *People ex rel. People of Thornton v. Horan*, 556 P.2d 1217 (Colo. 1976).
¹⁵ *Roosevelt v. City of Englewood*, 492 P.2d 65 (Colo. 1971); *City of Colo. Springs v. Smartt*, 620 P.2d 1060 (Colo. 1980).
¹⁶ *Davis v. City of Pueblo*, 406 P.2d 671 (Colo. 1965); *Four County Metropolitan Capital Improvement Dist., supra*, note 12; *Berman v. City and County of*

Denver, 400 P.2d 434 (Colo. 1965).
¹⁷ *Thiele v. City and County of Denver*, 312 P.2d 786 (Colo. 1957).
¹⁸ *Laverty v. Straub*, 134 P.2d 208 (Colo. 1943); *Int'l Brotherhood of Police Officers Local 127 v. City and County of Denver*, 521 P.2d 916 (Colo. 1974); cf. *Bernzen v. City of Boulder*, 525 P.2d 416 (Colo. 1974) (home rule cities may not make it possible to frustrate the will of the majority by allowing a recalled officer to succeed himself).
¹⁹ *Bd. of County Comm'rs v. City of Colo. Springs*, 180 P.2d 301 (Colo. 1919); *Bd. of County Comm'rs v. Town of Castle Rock*, 46 P.2d 747 (Colo. 1935).
²⁰ *City of Englewood v. Wright*, 364 P.2d 569 (Colo. 1961); *City and County of Denver v. Duffy Storage and Mowing Co.*, 450 P.2d 339 (Colo. 1969); *Farmers Mutual Auto Insurance Co. v. Temple*, 491 P.2d 1371 (Colo. 1971).
²¹ *Deluxe Theatres, Inc. v. City of Englewood*, 596 P.2d 771 (Colo. 1979).
²² *Berman, supra*, note 16; *Security Life and Accident Company v. Temple*, 492 P.2d 63 (Colo. 1972).
²³ *Davis v. City of Pueblo, supra*, note 16; *Fiadung v. City of Boulder*, 438 P.2d 688 (Colo. 1968); *Ginsburg v. City and County of Denver*, 436 P.2d 685 (Colo. 1968). See also, *Colo. Const., Art. XI*.
²⁴ *City of Greeley v. Poudre Valley Rural Electric*, 744 P.2d 739 (Colo. 1987); cf., *City of Montrose v. Pub. Util. Comm'n*, 732 P.2d 1181 (Colo. 1987) (including franchise fees in utility rate charges passed on to municipal customers does not unconstitutionally interfere with the right of home rule cities to grant franchises).
²⁵ *City and County of Denver v. Sweet*, 329 P.2d 441 (Colo. 1958).
²⁶ *Colo. Const. Art. XXII. See also, People ex rel. Carlson v. City Council of City and County of Denver*, 153 P. 690 (Colo. 1915); *City and County of Denver v. People*, 88 P.2d 89 (Colo. 1939).
²⁷ *Pub. Util. Comm'n v. City of Durango*, 469 P.2d 131 (Colo. 1970); *City and County of Denver v. Pub. Util. Comm'n*, 507 P.2d 871 (Colo. 1973).
²⁸ *City of Englewood v. Mtn. States Telephone and Telephone Company*, 431 P.2d 40 (Colo. 1967).
²⁹ *City of Colo. Springs v. Industrial Comm'n of the State of Colorado*, 749 P.2d 412 (Colo. 1988).
³⁰ *City of Aurora v. Martin*, 507 P.2d 868 (Colo. 1973).
³¹ *Gazotti v. City and County of Denver*, 352 P.2d 963 (Colo. 1960). See also, *Martin, supra*, note 30 (fact that statute provides for a substantially greater penalty than does a similar municipal ordinance may be considered in ruling whether the General Assembly intended, by enactment of the statute, to pre-empt that field regulation).
³² *Huff v. Mayor of Colorado Springs*, (continued on page 36)

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512 P.2d 632 (Colo. 1973); *Conrad, supra*, note 11; *City of Colo. Springs v. State*, 626 P.2d 1122 (Colo. 1980).

³³ *Denver and Rio Grande Western Railroad Co.*, *supra*, note 5.

³⁴ *Denver Urban Renewal Authority v. Burns*, 618 P.2d 1374 (Colo. 1980).

³⁵ *DeLong, supra*, note 5; *Frick v. Abell*, 602 P.2d 852 (Colo. 1979). See also, Colorado Governmental Immunity Act, CRS §§ 24-10-101 through 120.

³⁶ The regulation of speed, vehicle right-of-way at intersections, parking, one-way streets, and similar traffic control measures have been held to be matters of local and municipal concern. However, driver and vehicle licensing, hit-and-run, DUI, and reckless driving have all been held to be matters of purely statewide concern. In the area of motor vehicle regulation, reference must be made to the comprehensive statutory treatment of vehicles and traffic contained in Title 42 of the Colorado Revised Statutes, since any "authority issue" concerning a local ordinance may be resolved by an express delegation of authority contained in Title 42. See, e.g., *Wiggins v. McAuliffe*,

356 P.2d 487 (Colo. 1960); *City of Canon City v. Merris*, 323 P.2d 614 (Colo. 1958); *City and County of Denver v. Pike*, 342 P.2d 688 (Colo. 1959) *Davis v. City and County of Denver*, 342 P.2d 674 (Colo. 1959).

³⁷ See, e.g., *National Advertising Co. v. Dept. of Highways of the State of Colorado*, 751 P.2d 632 (Colo. 1988) (construction of billboards along state highways in home rule municipalities was "at least" a matter of mixed local and statewide concern). This case is an excellent illustration of the home rule analysis and provides a summary of Colorado law concerning the home rule doctrine.

³⁸ See, e.g., *City of Colo. Springs, supra*, note 29.

³⁹ See, Title 24, Art. 68. 68 of the Colorado Revised Statutes.

⁴⁰ On April 11, 1988, Governor Roy Romer signed H.B. No. 1152 prohibiting Colorado municipalities from imposing residency requirements as a condition of municipal employment. The City and County of Denver filed suit seeking, *inter alia*, a declaratory judgment that the state legislation unconstitutionally infringed on the home rule powers of the City and County of Denver (*City and County of Denver v. State of Colo.*, 88CV1229, Denver District Court, filed June 21, 1988). On January 4, 1989, the trial court ruled that H.B. 1152 was unconstitutional under Article XX. At this writing, Governor Romer had indicated the decision will be appealed. See, *Rocky Mountain News* (Jan. 5, 1989) at 6, col. 1.

Storage tanks, continued from page 31

requirement or standard promulgated by EPA or an implementing state agency will be subject to a civil penalty of up to \$10,000 for each tank for each day of violation. In addition, EPA may seek civil penalties of up to \$25,000 for each day of non-compliance with an administrative order.

Conclusion

The emerging federal regulatory program for petroleum UST systems has significantly expanded the scope of responsibilities of local governments that own or operate such systems. The foregoing provides an outline of only some of the federal requirements that are applicable to local governments. Colorado will be seeking to receive authority from EPA to implement the UST program. Farsighted government officials will begin to obtain the necessary expertise to comply with the regulatory requirements as they develop. □

THE BOARD OF TRUSTEES FOR MONUMENT ARE CONSIDERING ADOPTING HOME RULE AND WE WOULD LIKE YOUR INPUT AT A PUBLIC MEETING ON MONDAY, MARCH 6TH, AT 6:30 P.M. AT THE LEWIS-PALMER MIDDLE SCHOOL CAFETERIA (ADAMS ST. ENTRANCE EAST SIDE OF SCHOOL)

WHAT IS HOME RULE?

In general, municipal home rule is government based upon the theory that the citizens of a municipality should have the right to decide how their local government is to be organized and how their local problems may be solved. In Colorado, this theory is embodied in Article XX of the State Constitution which grants to Home Rule municipalities "the full right of self-government in local and municipal matters."

EXISTING MONUMENT GOVERNMENT

Monument is a statutory municipality and is allowed to exercise only those powers expressly granted by the Colorado State Legislature. Accordingly, the State Legislature decides what powers Monument can or must exercise, and the procedures to be followed in the exercise of those powers.

PROCESS TO ADOPT HOME RULE

- Charter Commission comprised of 9 Monument registered voters elected to create Town Charter.
- Charter sets forth provisions for Home Rule and may be more or less restrictive than the State Statutes (which Monument currently must follow).
- At least one public hearing is required on the Charter.
- Election on the proposed Charter by Monument voters. Charter is approved when a majority of the ballots are cast in favor.
- If disapproved, Charter Commission must prepare revised Charter and if the revised Charter is disapproved, Charter Commission is dissolved.
- Cost-approximately \$6,000 to cover elections, publication of Charter and consultant.

POSSIBLE ADVANTAGES OF HOME RULE

More local control and flexibility in exercising governmental powers such as:

- Creating our own governmental form and administrative structure, including such matters as the size of its legislative body, the powers of elected and appointed officials, terms of office of the members of its legislative body and whether they are elected from districts or at-large;
- Establishing our own procedures for providing street, sidewalk and other special improvements;
- Establishing procedures and dates for municipal elections differing from those established in the Municipal Election Code;
- Establishing procedures by which ordinances and resolutions may be adopted without publication of the entire document. EXAMPLE: Publication costs for legal advertising in 1988 was approximately \$5832.66 and could be about the same for 1989.
- Establishing, within certain bounds, municipal court procedures; and
- Within certain limits, creating new tax sources to meet local financial needs. EXAMPLE: Create a "pillow" tax on all motel/hotel accommodations.

NOTE: Disadvantage of Home Rule is a one time cost to prepare and adopt a Charter.

More information available at the Monument Town Hall at 166 Second St.

A PUBLIC MEETING WILL BE HELD MONDAY, MARCH 6TH, 6:30 P.M. TO DISCUSS HOME RULE AT THE LEWIS-PALMER MIDDLE SCHOOL CAFETERIA (ADAMS ST. ENTRANCE)

If you check one or both of the boxes below please tear off this section and drop off at Town Hall by Friday, March 3rd, 4:30 P.M. If you are unable to drop this off, please call 481-2954 and speak with Marcia or Donna.

I PLAN TO ATTEND MEETING TO SEEK MORE INFORMATION OR VOICE MY CONCERNS
We need this information to determine approximate attendance at public meeting.

I WOULD BE INTERESTED IN SERVING ON A CHARTER COMMISSION
We are looking for long term residents who have an interest in Monument's future.

NAME _____ ADDRESS _____ PHONE _____

Home rule / case
File Home Rule / case

MEMORAND

TO: Chuck Anderson
FROM: Susan K. Griffiths
DATE: April 11, 1980
SUBJECT: Advantages and Disadvantages of Home Rule

GENERAL HOME RULE POWERS

Article XX of the Colorado Constitution grants certain specific powers to home rule municipalities, as well as every power essential or proper to the exercise of self government in "local or municipal matters". The Colorado courts decide the scope of the constitutional powers granted by deciding what are "local and municipal matters" within the meaning of the Constitution. Home rule municipalities also have all of the powers granted by statute to non-home rule municipalities.

A municipality becomes home rule by its citizens adopting a charter pursuant to statutory and constitutional procedures. The charter itself is not a grant of authority to the municipality. Instead, it is viewed legally as a limitation upon the home rule powers otherwise granted by Article XX.

GENERAL ADVANTAGES

Home rule has two general legal advantages:

1. Through the broad grant of constitutional powers, home rule municipalities may act in "local and municipal matters" even though no state statute specifically authorizes the action; and,

2. Home rule municipalities, by charter or ordinance, may supercede (act contrary to) state statutes in "local and municipal matters".

These legal advantages result in at least two general advantages of home rule:

1. Citizens in home rule municipalities have greater flexibility in solving local problems because of the additional sources of authority available to them; and,

2. Local control over solutions to local problems is increased. The need to rely upon the state legislature to amend the statutes and remove existing restrictions or provide additional authority to resolve local problems is reduced.

SPECIFIC MATTERS OF ADDITIONAL HOME RULE CONTROL

1. Form of Government.

Citizens in a home rule municipality may establish the form of government they desire. In Colorado, these forms have varied from the strong mayor-council form used by Denver to a semi-town meeting form used by Ward. Numerous matters involving local government organization can be decided locally such as the size of the Council; whether council members are to be elected at large, or from districts, or a combination of at large and district representation; the terms of office of council members; procedures for filling vacancies on the council; the powers of the council, the mayor and other officials; and so forth.

Adopting home rule does not require any change in the form of government of the City and many home rule municipalities have made only minor changes in their form of government upon adoption of a home rule charter.

2. Election Procedures.

Control over elections is a local and municipal matter and therefore citizens in a home rule municipality may establish such election procedures as they desire (Article XX, Section 6 of the Colorado Constitution). A home

rule municipality may establish its own date of election, either in odd numbered or even numbered years, as well as the particular time of year in which the election will be held. The citizens may determine when newly-elected officials will assume their office, which can be any time after the election occurs. Many home rule municipalities adopt the "Municipal Election Code" (the state statutes governing municipal elections) but with modifications in areas of particular interest and concern to the citizens of the home rule municipality.

3. Courts.

The creation and staffing of municipal courts are matters of local concern, subject to control by a home rule municipality. Thus, a home rule municipality may, among other matters, establish its own procedures for the appointment and tenure of municipal judges. Thornton v. Horan, 192 Colo. 144, 556 P.2d 1217 (1976), cert. den., 431 U.S. 966 (1977).

4. Taxation.

The power of taxation generally is considered a local and municipal matter. Specific taxes deemed to be of a local and municipal nature and within home rule powers include sales and use taxes and admission taxes.* Berman v. City and County of Denver, 156 Colo. 538, 400 P.2d 434 (1965); and Deluxe Theatres, Inc. v. City of Englewood, Colo., 596

*In a decision announced on March 31, 1980, the Colorado Supreme Court decided in City of Sheridan v. City of Englewood that Sheridan, as a statutory (non-home rule) city, lacked authority to impose an admissions tax on persons patronizing places of amusement. Thus, a home rule municipality may adopt such a tax, but a statutory municipality may not. In making its decision, the Court stated:

"Statutory cities possess only such powers as are expressly conferred by statutory grant or exist by necessary implication. *** Such conferred powers are to be strictly construed, and any doubt as to the power of a statutory city to act must be resolved against it."

P.2d 771 (1979). In general, a home rule municipality may adopt a variety of taxes so long as the adoption of the tax is not otherwise unconstitutional or in violation of the municipality's home rule charter. For example, some home rule municipalities in Colorado have adopted taxes such as accommodation taxes and real estate transfer taxes. The only specific type of tax which a home rule municipality cannot impose, just as a statutory municipality cannot impose, is an income tax. See Denver v. Sweet, 138 Colo. 41, 329 P.2d 441 (1958) and Denver v. Duffey, 168 Colo. 91, 450 P.2d 339 (1969). A statutory municipality, on the other hand, is authorized to impose only three types of taxes: property taxes; sales and use taxes, subject to the limitations of the state statutes on the incidents and exemptions applicable to those taxes; and business and occupation taxes imposed on a flat rate basis.

A home rule municipality also is authorized to establish its own incidents of and exemptions from its taxes, as well as the procedures for collection of the taxes. For example, a home rule municipality has the option of collecting its own sales tax if it wishes to do so, while a statutory municipality must have its sales tax collected by the state. (A home rule municipality may choose to have the state continue to collect its sales tax, free of charge, if the municipality's tax is uniform with the state sales tax.) Also, a home rule municipality may enact its own use tax and establish its own incidents of and exemptions from that tax, as well as its own procedures for collection of the tax. Thus, a home rule municipality is not limited to imposing the use tax on automobiles and building construction materials, as a statutory municipality is so limited, nor is a home rule municipality limited by the collection procedures for the use tax set forth in the state statute.

Although the issue has not yet been decided by an appellate court, the authority of a home rule municipality to provide tax refunds to specific classes of persons, or to provide exemptions from certain types of taxes is more clear than is the authority of a statutory municipality.

↓ 5. Budget.

Home rule municipalities are not subject to the local government budget law statutes, and so can enact their own budgeting procedures and requirements, establish their own fiscal year other than the calendar year if they so desire, and otherwise provide general budgeting procedures for the city. Many home rule charters contain basic budget requirements because of this exemption from the local government budget statutes.

6. Property Tax Limitation.

Home rule municipalities are not subject to the seven percent (7%) limitation on annual increases in property tax revenues as are statutory cities and towns. Some home rule charters do include similar or other limitations on property tax increases, but that is a local option and not required by the Constitution or statute.

7. Special Improvement Districts.

A home rule municipality may establish its own procedures and requirements for special improvement districts and levying special assessments. See, Sanborn v. City of Boulder, 74 Colo. 358, 221 P. 1077 (1924); and, Article XX, Section 6 of the Colorado Constitution.

8. Condemnation.

Home rule municipalities have broad condemnation powers granted directly to them through Article XX, Section 1 of the Colorado Constitution. The powers may be exercised within or outside municipal boundaries so long as it is for an authorized purpose; and, home rule municipalities have the power of dominant eminent domain, that is, the power to condemn property already devoted to a public use. See, Thornton v. Farmers Reservoir and Irrigation Company, Colo.; 575 P.2d 382 (1978).

9. Bidding.

C.R.S. 1973, 31-15-712 (1977 Repl. Vol., as amended) requires all work done by a statutory city in constructing works of public improvement valued at \$5,000.00 or more, to be done by contract to the lowest responsible bidder. The statute is not applicable to home rule municipalities, and so a home rule municipality can establish its own bidding requirements and many have done so within their charters or ordinances.

10. Control of Public Property.

Article XX, Section 1 of the Colorado Constitution grants home rule municipalities broad powers to "purchase, receive, hold and enjoy, or sell and dispose of, real and personal property." This broad constitutional authority should allow a home rule municipality to establish its own procedures for the acquisition and disposal of publicly owned property, even if those procedures differ from C.R.S. 1973, 31-15-713 (1977 Repl. Vol.), requiring an election to dispose of certain kinds of public property and an ordinance to dispose of other property.

11. Investment of Public Funds.

Although I am not aware of any case having specifically so held, the investment of funds by a home rule municipality is generally thought to be a "local and municipal matter" under Article XX of the Colorado Constitution. Therefore, home rule municipalities may establish their own procedures for, and restrictions on, the investment of public funds and would not be limited to the investments authorized by state statute.

12. Debt.

Constitutional and statutory limitations on municipal debt do not apply to home rule municipalities if the home rule charter provides otherwise. For example, Article XI, Section 6 of the Colorado Constitution requires an election on the creation of general obligation debt. This requirement is not applicable to a home rule city if the charter provides otherwise. Moreover, Article XI, Section 6 requires the

General Assembly to establish, by statute, limitations on the authority of municipalities to incur a general obligation debt, and the General Assembly has established those limitations in C.R.S. 1973, 31-15-302 (1977 Repl. Vol.). However, the language of Section 6 of Article XX allows home rule municipalities to exempt themselves from the debt limitation or establish their own limitation, as may be provided in their charter. See also, Fladung v. City of Boulder, 165 Colo. 244, 438 P.2d 688 (1968); and, Berman v. City and County of Denver, 156 Colo. 538, 400 P.2d 434 (1965).

Thus, citizens in a home rule city may establish in the city's charter, the procedures, requirements, and limitations for the issuance of bonds, either general obligation or revenue or a combination thereof, and can be more restrictive or more liberal, or the same as existing state requirements.

13. Zoning and Land Use.

The Colorado courts consider zoning a "local and municipal matter" subject to local control of home rule municipalities. Roosevelt v. City of Englewood, 176 Colo. 576, 492 P.2d 65 (1971); and, Service Oil Company v. Rhodus, 179 Colo. 335, 500 P.2d 807 (1972). Home rule municipalities therefore may establish their own zoning procedures, and their authority to act in land use matters is broader than and not restricted to the specific grants of authority in the statutes. Among other matters, the present statutory provision for filing a protest by adjoining property owners could be clarified or modified by charter or ordinance of a home rule municipality.

14. Employees.

Article XX, Section 6 of the Colorado Constitution grants to home rule municipalities very broad authority to legislate upon, provide, regulate, conduct and control the creation and terms of municipal officers, agencies and employments; and to define, regulate and alter the powers, duties, qualifications and terms or tenure of all municipal officers, agents and employees.

15. Miscellaneous Matters.

As discussed previously, home rule municipalities can rely upon the broad constitutional language of Article XX as the source of authority to act, particularly where no state statute authorizes an action. With this broad power, home rule municipalities have a greater likelihood than statutory municipalities of their actions being upheld where some question as to statutory authority may exist. The authority of home rule municipalities has been recognized in a variety of areas where the authority of a statutory municipality may be subject to question. For example, home rule municipalities are allowed to provide greater monetary compensation to victims of torts committed by the municipality's own police officers than that provided by state statute. DeLong v. Denver, 195 Colo. 27, 576 P.2d 537 (1978). And, a home rule municipality may assume greater liability for the actions of its employees than the liability required by state statute. Frick v. Abell, Colo., 602 P.2d 852 (1980). Of course, the assumption of the liability or payment of greater compensation is not required of a home rule municipality.

Some home rule municipalities adopt ethics codes and seek to clarify what constitutes a conflict of interest by city officials. Certain types of administrative matters are more clearly authorized to home rule municipalities, such as self-insuring for employee health or other types of benefits. Voting rights of the mayor and council members may be clarified where some confusion may exist under state statutes.

RESTRICTIONS ON HOME RULE MUNICIPALITIES

Home rule municipalities remain subject to numerous restrictions on their authority to act. The home rule charter adopted by the citizens of the municipality will contain the basic structure of government and will impose limitations on the authority of municipal officials. Federal constitutional requirements and many state constitutional requirements remain applicable to home rule municipalities. The state legislature may enact statutes which remove or limit the authority of home rule municipalities to act in areas not solely of "local and municipal concern". Home rule powers

are often limited by court interpretations of those powers. Additionally, there are the normal financial limitations placed on home rule municipalities, as well as restrictions imposed through elections, initiative, referendum and recall procedures to insure that the exercise of the home rule powers remains reasonable.

DISADVANTAGES OF HOME RULE

Because of the additional control placed in the hands of the citizens of home rule municipalities through their adoption and amendment of a home rule charter, there should be few disadvantages to adopting home rule. Some disadvantages which have been cited by others are as follows:

1. There is some cost in adopting a home rule charter as a result of the required elections, expenses of a charter commission, and so forth.
2. The exact limits of home rule powers have not been precisely defined so that the power of a home rule municipality to act in a relatively new area may be subject to some question.
3. If a municipality adopts a very restrictive home rule charter, that is, a charter even more restrictive than the state statutes, the very advantages of home rule in terms of flexibility and finding new solutions to local problems may well be lost.
4. Home rule charters can be amended only by an election, and the approval of amendments on complex matters may be difficult to obtain.
5. Home rule places the responsibility for the quality of local government more firmly in the hands of the municipality's own citizens and officials by freeing them from many of the restraints imposed by state statutes and allowing them to be more innovative in finding solutions to local problems. Home rule, however, does not assure improved local government since the quality of government generally depends upon the quality of persons elected to serve and the

degree of interest and concern shown by citizens in their government. Home rule does, however, place the responsibility for the quality of municipal government more firmly in the hands of the municipality's own citizens and officials by reducing reliance on the state legislature for authority to act.

PROCEDURES FOR ADOPTION OF HOME RULE

The following is a synopsis of the statutory requirements for adopting a home rule charter:

1. Initiation.

Home rule may be initiated by ordinance of the City Council; or, a petition, signed by not less than five percent (5%) of the registered electors of the municipality, submitted to the City Council.

2. Election on Forming the Charter Commission and on Commission Members.

An election must be held on the question of whether to form a charter commission and to elect the members of the commission if its formation is approved. Within thirty (30) days after initiation of home rule, the City Council must call an election on the question of whether a charter commission shall be formed and for the purpose of electing members to a charter commission. The commission election is to be held within 120 days after the call of the election.

Commission members may be elected from districts or from a combination of districts and at large, as provided in the initiating petition or ordinance. Notice of the election is published and candidates for the charter commission are nominated by petitions signed by at least twenty-five (25) electors of the municipality.

If the formation of the commission is approved at the election, the candidates receiving the highest numbers of votes are elected as members of the commission. Twenty-one members would have to be elected to a charter commission for Lakewood.

3. Work of the Commission.

The charter commission must submit a proposed charter to the City Council within 120 days after its election.

4. Election on the Charter.

The charter proposed by the charter commission is then subject to an election for approval. If a majority of those voting approve the charter, it takes effect at such time as may be established in the charter. If, however, the charter is rejected by the electors, the charter commission must then prepare a revised proposed charter in the same general manner as they prepared the proposed charter, and the revised proposed charter must be submitted and voted upon as was the original charter. If the revised proposed charter is rejected by the voters, then the charter commission itself is dissolved.

No proposal for a charter commission may be initiated within twelve months after rejection of a substantially similar proposal.