

**GRAND JUNCTION CITY COUNCIL  
MINUTES OF THE REGULAR MEETING**

**JUNE 4, 2003**

The City Council of the City of Grand Junction convened into regular session on the 4<sup>th</sup> day of June 2003, at 7:30 p.m. in the City Auditorium. Those present were Councilmembers Harry Butler, Cindy Enos-Martinez, Bruce Hill, Dennis Kirtland, Bill McCurry, and President of the Council Jim Spehar. Councilmember Gregg Palmer was absent. Also present were City Manager Kelly Arnold, City Attorney Dan Wilson, and City Clerk Stephanie Tuin.

President of the Council Jim Spehar called the meeting to order. Councilmember McCurry led in the pledge of allegiance. The audience remained standing for the invocation by Reverend Michael Torphy, Religious Science Church of Grand Junction.

**SCHEDULED CITIZEN COMMENTS**

There were none.

**COUNCILMEMBER COMMENTS – CITIZENS SURVEY OUTCOME AND CUSTOMER SERVICE**

Councilmember Bruce Hill referred to the recent survey that was conducted by the Bureau of Economic and Business Research at Mesa State College. He noted the high and increased results of the Citizen Survey and the increase in the rating on customer service questions. He said he wanted to take the opportunity to correlate the increase in customer service directly to the increase in the service ratings. He then thanked the City employees for a job well done and encouraged that those efforts continue.

**CONSENT CALENDAR**

It was moved by Councilmember McCurry, seconded by Councilmember Enos-Martinez, and carried, to approve Consent Items #1 through 5.

**1. Minutes of Previous Meetings**

*Action: Approve the Minutes of the April 24, 2003 Special Joint Meeting, the Summary of the May 19, 2003 Workshop, the Minutes of the May 19, 2003 Special Meeting, the Summary of the May 21, 2003 Special Workshop, and the Minutes of the May 21, 2003 Regular Meeting*

**2. Setting a Hearing for the Sonrise Acres Annexation Located at 3068 F Road**  
[File #ANX-2003-090]

Sonrise Acres Annexation, a serial annexation comprised of 9.847 acres, located at 3068 F Road, has presented a petition for annexation as part of a preliminary plan. The applicants request approval of the Resolution referring the annexation petition, first reading of the Annexation Ordinance, and requesting Land Use Jurisdiction immediately.

**a. Referral of Petition, Setting a Hearing and Exercising Land Use Jurisdiction**

Resolution No. 49-03 – A Resolution Referring a Petition to the City Council for the Annexation of Lands to the City of Grand Junction, Colorado, Setting a Hearing on Such Annexation, and Exercising Land Use Control, Sonrise Acres Annexation, Located at 3068 F Road

*\*Action: Adopt Resolution No. 49-03*

**b. Setting a Hearing on Proposed Ordinances**

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Sonrise Acres Annexation No. 1, a Serial Annexation Comprising Sonrise Annexation No. 1, Sonrise Annexation No. 2, Sonrise Annexation No. 3 and Sonrise Annexation No. 4, Approximately 0.0666 Acres, Located at 3068 F Road

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Sonrise Acres Annexation No. 2, a Serial Annexation Comprising Sonrise Annexation No. 1, Sonrise Annexation No. 2, Sonrise Annexation No. 3 and Sonrise Annexation No. 4, Approximately 0.3278 Acres, Located at 3068 F Road

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Sonrise Acres Annexation No. 3, a Serial Annexation Comprising Sonrise Annexation No. 1, Sonrise Annexation No. 2, Sonrise Annexation No. 3 and Sonrise Annexation No. 4, Approximately 5.0956 Acres, Located at 3068 F Road

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Sonrise Acres Annexation No. 4, a Serial Annexation Comprising Sonrise Annexation No. 1, Sonrise Annexation No. 2, Sonrise Annexation No. 3 and Sonrise Annexation No. 4, Approximately 4.3572 Acres, Located at 3068 F Road

*Action: Adopt Proposed Ordinances on First Reading and Set a Hearing for July 16, 2003*

**3. Setting a Hearing on UnawEEP Heights Annexation No. 1, 2 and 3 Located at 2857 UnawEEP [File # ANX-2003-022]**

UnawEEP Heights Annexation, a serial annexation comprised of 36.119 acres, located at 2857 UnawEEP, has presented a petition for annexation as part of a preliminary plan. The applicants request approval of the Resolution referring the annexation petition, first reading of the Annexation Ordinance, and requesting Land Use Jurisdiction immediately.

**a. Referral of Petition, Setting a Hearing and Exercising Land Use Jurisdiction**

Resolution No. 50-03 – A Resolution Referring a Petition to the City Council for the Annexation of Lands to the City of Grand Junction, Colorado, Setting a Hearing on Such Annexation, and Exercising Land Use Control, UnawEEP Heights Annexation, Located at 2857 UnawEEP Avenue

*\*Action: Adopt Resolution No. 50-03*

**b. Setting a Hearing on Proposed Ordinances**

Proposed Ordinance Annexing UnawEEP Heights Annexation No. 1, a Serial Annexation Comprising UnawEEP Heights Annexation No. 1, UnawEEP Heights Annexation No. 2 and UnawEEP Heights Annexation No. 3, Approximately 0.0358 Acres, Located along B  $\frac{3}{4}$  Road, 2857 UnawEEP Avenue

Proposed Ordinance Annexing Territory to the City Of Grand Junction, Colorado UnawEEP Heights Annexation No. 2, a Serial Annexation Comprising UnawEEP Heights Annexation No. 1, UnawEEP Heights Annexation No. 2, and UnawEEP Heights Annexation No. 3, Approximately 1.3790 Acres, Located along B  $\frac{3}{4}$  Road, at 2857 UnawEEP Avenue

Proposed Ordinance Annexing Territory to the City Of Grand Junction, Colorado UnawEEP Heights Annexation No. 3, a Serial Annexation Comprising UnawEEP Heights Annexation No. 1, UnawEEP Heights Annexation No. 2 and UnawEEP Heights Annexation No. 3, Approximately 34.7049 Acres, Located at 2857 UnawEEP Avenue

*Action: Adopt Proposed Ordinances on First Reading and Set a Hearing for July 16, 2003*

**4. Sole Source Purchase of Asphalt Testing Equipment**

Request City Council authorization for the sole source purchase of an asphalt compaction tester in the amount of \$27,500. This compactor is needed for preparing and verifying asphalt mix designs using current technology.

*Action: Authorize the Purchase of a Troxler Gyrotory Compactor from Troxler Electronic Laboratories, Inc. in the Amount of \$27,500.00*

**5. Homeland Security Overtime Grant**

The Community Oriented Policing Services Office of the U.S. Department of Justice is offering grant funding to pay for overtime expenses in support of community policing and homeland security. As a part of the Grand Junction Police Departments new Neighborhood Beat System the Police Department would like to host quarterly meetings in each of the 63 neighborhood beats. The grant funding will allow overtime pay for the officers involved with these meetings.

*Action: Authorize the Grand Junction Police Department to Apply for the Homeland Security Overtime Grant*

**\*\*\* ITEMS NEEDING INDIVIDUAL CONSIDERATION \*\*\***

**Bid Approvals** (Items a and b may be awarded under one motion)

Mark Relph, Public Works & Utilities Director, reviewed the two requests for award of bids.

Council President Spehar asked if the City had used the trenchless technology before. Mr. Relph responded affirmatively.

Mr. Relph said the second contract is for the annual street overlay in various areas within the City's transportation system.

Councilmember Kirtland noted that there were no local bidders on the sewer rehab project. Mr. Relph stated that is true and two companies that submitted bids do this type of technology.

**a. 2003 Sewer Interceptor Rehabilitations**

Bids were received and opened on Tuesday May 20, 2003. Western Slope Utilities submitted the low bid in the amount of \$528,858.00. The project will utilize “trenchless technology” to install cured-in-place-pipe (CIPP) to rehabilitate over 6,077 feet of pipe ranging in size from 6 inch to 24 inches in diameter.

**b. 2003 Asphalt Overlays Project**

Bids were received and opened on May 15, 2003 for 2003 Asphalt Overlay Project. Elam Construction, Inc. submitted the low bid in the amount of \$1,054,700.40.

Councilmember Kirtland moved to:

- a. Authorize the City Manager to execute a construction contract for the 2003 Sewer Interceptor Rehabilitations to Western Slope Utilities for \$528,858.00, and
- b. Authorize the City Manager to execute a construction contract for the 2003 Asphalt Overlay Project to Elam Construction, Inc. for \$1,054,700.40.

Councilmember McCurry seconded the motion. Motion carried.

**Riverside Parkway Access to Highway 50 – 1601 Process**

The proposed Riverside Parkway will connect to 5<sup>th</sup> Street in the lower downtown area. This connection will be important to the street system long term by providing easy access between Orchard Mesa and the commercial areas on I-70B between North Ave. and 24 Road. A connection to 5<sup>th</sup> Street (State Highway 50) will require review and approval by the Colorado Department of Transportation (CDOT) and is outlined in CDOT Policy Directive 1601. Council will consider formally initiating the P.D.1601 process.

Mark Relph, Public Works & Utilities Director, reviewed this item. He explained the purpose of the letter and noted that the process does not commit the City to construct the project.

Councilmember Kirtland asked Mr. Relph for clarification and if other alternatives are still being considered.

Mr. Relph said yes, this is still part of the planning process.

Councilmember Hill added that other alternatives will be considered during the 1601 process, and that if another alternative would be designated by CDOT as the best alternative, the City would not be committed to build that alternative either. Mr. Relph concurred but also said the City will be involved in the process, and the Public Works Department believes the alternative recommended will be the best alternative at the end of the process.

Council President Spehar asked about the project's costs. Mr. Relph replied that the City would make an effort to refine the cost estimate of \$1.5 million and to incorporate, if possible, much of what has already been done. He said a consultant would be hired to help in that refinement.

Lastly, Mr. Relph advised Council that a request would be made to include the Federal Highway Commission in case federal funding is considered later, and the City then would not have to restart the process.

Councilmember Hill moved to authorize the Mayor to sign a letter to the Department of Transportation and the local Transportation Planning Region Office requesting the initiation of the PD 1601 Review for the 5<sup>th</sup> Street crossing of the Riverside Parkway, and include the Federal Highway Commission. Councilmember Enos-Martinez seconded the motion. Motion carried.

### **Setting a Hearing on Smoking in Public Places Ordinance**

As per Council direction, a proposed ordinance prohibiting smoking in public places to be considered and scheduled (and advertised) for a public hearing on June 16, 2003.

City Attorney Dan Wilson reviewed the current ordinance being considered by City Council. He explained 90 percent of the proposed ordinance was drafted after the model provided by the American Cancer Society and the Health Agencies. He said the difference is this ordinance allows smoking in a physically separated area in eating establishments and bingo halls. He said the new ordinance does require a separate smoke-free area in those establishments. He said freestanding bars could still allow smoking; in bowling alleys, a separated smoking area would be allowed.

Mr. Wilson explained that nobody under the age of 18 would be allowed in smoking areas. He pointed out that the requirement would affect mainly the bingo halls because a number of youth organizations do their fundraising at the bingo halls, and therefore would ban smoking in the bingo hall when kids are working there.

He said another variation in the ordinance would allow late night smoking in non-smoking establishments if opted by the owner.

Mr. Wilson informed Council that the current ordinance includes the following: "If there are three or more employees, and if one employee requests a smoke-free environment, the employer must provide it." He said the new proposed ordinance does not include that provision but that provision can be incorporated. He said another alternative is to prohibit smoking in all workplaces.

Councilmember Enos-Martinez asked who enforces the ordinance. Mr. Wilson replied either the Police or Code Enforcement. Councilmember Enos-Martinez inquired if Code Enforcement works at night. City Manager Arnold said not at present but Staff has been meeting to discuss that situation operationally.

Councilmember Hill inquired as to the cost of implementing the ordinance. Mr. Wilson said in the past, the City has had great compliance. He said with the current discussions taking place, the City has received only a few complaints. He said he doesn't anticipate a problem since the law is clear.

Mr. Arnold said there have been more complaints since the recent attention to this subject and Staff has spent some time on it. He said he anticipates a slight increase in complaints if the new ordinance is adopted and he felt it would level out shortly thereafter.

Councilmember Butler asked if there have been complaints about smoking in bingo halls. City Attorney Wilson did not know of specific complaints but had information from the students and their concerns about second-hand smoke while doing their fundraising at the bingo halls. Council President Spehar said he too has experienced the situation and heard the same complaint.

Councilmember Kirtland asked if a restaurant can designate a smoking area after a certain time rather than just open the whole facility to smoking. City Attorney Wilson said that could certainly be an added change to the proposal.

Mr. Wilson added that the late hours end at 2 a.m. to coincide with liquor licenses but extending the hours until 5 a.m. might be more appropriate when applied to Village Inn and places like that.

Councilmember Kirtland asked about a "no retaliation clause". Mr. Wilson said the current ordinance does not include such a provision but the new ordinance does. He discussed that those cases might be hard to prove and where it might get the City in the middle of an employee/employer relationship (dispute). He said this no retaliation provision could be included with wording that would keep the City out of the civil process.

Council President Spehar asked the City Attorney to outline the law currently in effect in Grand Junction. Mr. Wilson said the City does have a no-smoking law and it says if an establishment has over thirty seats, the owner can designate a no-smoking area if the owner wants to allow smoking. He pointed out that another provision is the workplace rule mentioned earlier. Small restaurants (under 30 seats) are not regulated.

Councilmember Hill asked how the City's ordinance would be affected by a statewide smoking ban. Mr. Wilson answered that it depends on how the legislature passes the law – if it is of “statewide concern”. He said it could be found to be only of “local concern” by the Supreme Court. He said if the law was statewide, the City's law would be overridden by the State law. He said on the other hand, if the City's law is more restrictive than the State law, then the City's law is the rule unless the State law specifies otherwise.

Council President Spehar next listed Council's options: a) do nothing, b) accept and adopt any one of the options, or c) refer one of the options to the ballot. Mr. Wilson agreed and said another initiative could also come forward.

Councilmember Hill said doing nothing would also keep the current ordinance in place and would let Council consider adding to the existing ordinance.

Councilmember Enos-Martinez said she is okay with going forward and with scheduling a public hearing, but she wanted to point out that this does not mean she supports the current proposal.

Councilmember Butler suggested Council move forward with Ordinance Alternative No. 1, the more restrictive version.

Councilmember Kirtland supported moving forward with Ordinance Alternative No. 2, but removing the provision regarding no retaliation.

Councilmember Hill said he wanted to remind everyone not to lose sight of the fact that the City already has a smoking ordinance in place. He said he received letters from the American Cancer Society and the American Lung Association and they strongly urge Council to postpone the First Reading of the ordinance.

Councilmember Hill made a motion not to move forward. The motion died for lack of a second.

Council President Spehar said the letters also support Ordinance Alternative No.1; and if Council is going forward with Ordinance Alternative No. 2, to keep the workplace provision, which is included in the current (ordinance) law. He said he is uncomfortable with the proposed time restrictions, and he was persuaded by many health organiza-



tions to provide the opportunity to hear public comments. He suggested Council either make changes tonight or wait for public comment.

Councilmember Kirtland suggested that Council wait, and said he agrees with Councilmember Enos-Martinez that this might not be what it comes out to be, but to start with Ordinance Alternative No. 2 or No. 2b.

Councilmember Hill agreed for the need of a starting point and suggested using the existing ordinance.

Council President Spehar inquired about the difference between Ordinance Alternative No. 2a and 2b.

Mr. Wilson explained Ordinance Alternative 2b includes the late night provision, excludes minors from smoking areas, and allows patio smoking. He said he needed to know if Council wanted the workplace provision included and then he can add it to Ordinance Alternative 2b, or take the workplace provision from Ordinance Alternative No. 1. Mr. Wilson said the model ordinance (#1) has good definitions and he would like to import those into the current ordinance.

Council President Spehar polled Council.

Councilmember McCurry suggested keeping the existing ordinance.

Councilmember Butler said he prefers Ordinance Alternative No. 2b.

Councilmember Enos Martinez said she agrees with Councilmember Butler and to use Ordinance Alternative No. 2b as a starting point.

Councilmember Kirtland also favored Ordinance Alternative No. 2b.

Council President Spehar said he liked the employee protection provision.

Councilmember Enos Martinez said she agrees with Council President Spehar and to keep the employee protection provision.

Proposed Ordinance Prohibiting Smoking in Workplaces and Public Places in the City of Grand Junction.

Councilmember Hill moved to start with the existing ordinance for discussion. Motion failed due to lack of a second.

Councilmember Kirtland moved to adopt Proposed Ordinance Alternative No. 2b including the employee protection provision on First Reading and set a Hearing for June 16, 2003. Councilmember McCurry seconded the motion. Councilmember Enos-Martinez said that she is supporting the public comment hearing, but not necessarily the ordinance itself. Motion carried with Councilmember Hill voting NO.

City Manager Arnold asked Council about the process to be used for the public hearing and if it would be part of the regular meeting. He wanted to know if Council wanted to establish parameters such as sign in sheets, time limitations, start time, and coordinate testimony. He also suggested that Council request speakers limit all testimony to three minutes and ask them not to repeat previous testimony.

**Setting a Hearing on Watershed and Water Supply Protection District Ordinance (No Public Discussion)**

A Watershed Protection ordinance will protect the public water supply and preserve the City's water resources. Various activities and land uses in the City's watersheds could affect the quality and quantity of the water supply and facilities. In order to be able to decide what risks each activity may present to the City's water supply and to see if modifications are necessary, persons conducting certain activities within the watersheds must first obtain City review, and if allowed, a watershed permit.

City Attorney Wilson gave an activity overview since the last meeting and of the comments received. He said there were some very good suggestions since the solicitation of comments. He said ranchers are asking what the problem is, and asking for expansion of domestic uses to include the current situation. He said government agencies want to piggyback on the current process and that outfitters are included in the new ordinance. He said if a permit is supplied, then the City would follow along with the permit process. If the City sees a problem, it would then send a letter to the applicant. He said in 90 to 95 percent of the time, the existing terms will work. Ranchers thought the provisions were confusing in the layout so he has rearranged the provisions to make the ordinance more user-friendly.

He then went through various scenarios where the City could intervene and the instances where a situation would be brought before Council. He said for the most part, the City would rely on the systems already in place.

Next Mr. Wilson described the incorporation of more objective criteria into the ordinance as follows:

Page 14, 8(d): ALL ZONES

In the event that any activity in a City watershed is being conducted in such a manner that the City Council or Utility Manager finds that a foreseeable or substantial risk of pollution or injury exists to any City watershed or waterworks, the Utility Manager shall communicate to the person responsible for such activity of such finding. Upon the giving of the communication, such person shall immediately cease any such activity unless and until the City issues a watershed permit.

Page 16, 9(d):

Upon request of a rancher, farmer, resident of a single family dwelling or other person subject to the requirements of this ordinance, the Utility Manager may waive one or more of the above requirements if the Utility Manager determines that such information is not required in the particular circumstances to adequately evaluate risks of pollution or injury to the watershed or waterworks.

Mr. Wilson said anyone can ask for a waiver and it would be at the discretion of City Staff. The applicant then has the option to bring it before City Council for its review if he is not satisfied with the staff determination.

Page 17, 11(d): MAJOR IMPACT

If the Utility Manager classifies a proposed activity as a major impact because a substantial risk to the City's watershed or waterworks is foreseeable, or because the applicant has not clearly established that the proposed activity is properly classified as a "no impact" or "minor impact" activity, the Utility Manager shall refer the application to the City Council, along with his recommendations, if any, on how to avoid injury or pollution to the City's watershed or waterworks, including his evaluation of any proposed mitigation measures or similar efforts to reduce any risks to the City's watersheds or waterworks.

Mr. Wilson said the paragraph mandates major impacts must come before Council.

Page 20, 15(a):

Before a Zone 1 major or minor impact permit is issued to any permittee, each permittee shall provide the City, at the permittee's expense, a performance guarantee in the form of cash or a letter of credit. The amount of the guarantee shall be equal to one hundred fifty percent (150%) of the Utility Manager's estimate of the cost to ensure compliance with the Watershed Permit, including, but not limited to, the cost of maintenance, operation, revegetation, reclamation and other requirements of or arising out of or under the proposed activities. The performance guarantee shall be in effect for at least one year beyond the anticipated completion of the activity identified in the permit. Such guarantees shall be extended for the period of all permit renewals. The

Utility Manager may release to the applicant, in whole or in part, a portion of any cash or letter of credit from time to time when the Utility Manager determines that the guarantee is no longer necessary to ensure compliance with the Watershed Permit.

Mr. Wilson explained that the performance guarantee has been changed to 120 percent rather than 150 percent because the City's Zoning Code requires that 120 percent of the costs of the public infrastructure be posted, to ensure completion.

Page 24, 20(a), (b): INSURANCE

(a) As a precondition to the issuance of a major or minor Watershed Permit in Zone 1, the applicant shall submit to the Utility Manager a certificate of insurance in the amount of one million dollars for a comprehensive general liability policy. By administrative regulation or resolution of the City Council, the amounts and coverage may be modified from time-to-time. The certificate of insurance shall list the City and its officers, employees and agents as additional named insured. City departments, any public utility regulated by the Colorado Public Utilities Commission, governments, mutual water companies, and conservancy districts shall be relieved of the obligation of submitting a certificate of insurance if the applicant carries insurance or is self-insured up to one million dollars per incident, or as otherwise set by City Council resolution, and if such applicant submits a letter certifying such coverage or self-insurance.

(b) No certificate of insurance shall be required with respect to a single-family residence or domestic use or existing ranching or farming operation.

Mr. Wilson reiterated the insurance requirements. Next he explained the appeals process as outlined in the proposed ordinance as follows on:

Page 25, 23 (a), (b): APPEALS PROCEDURE

(a) Any decision rendered pursuant to this Ordinance by the Utility Manager or Director may be appealed to the City Council by filing a written notice thereof with the City Clerk within ten (10) calendar days of the decision and specifying therein the grounds and specifics being appealed.

(b) Any person desiring to appeal any final decision or determination by the City Council hereunder must do so in accordance with Colorado Rule of Civil Procedure 106(a)(4).

Councilmember Kirtland asked what enforcement there is and if Council can't say no.

Mr. Wilson said the City can't prohibit the activity, that it would be land use, but the City can regulate how the process is done, following best management practices. He

said there are remedies, three tools available: 1) criminal complaint in municipal court, 2) injunction hearing in municipal court, and 3) file action in district court.

Council President Spehar asked if that was the standard enforcement of an ordinance.

Mr. Wilson replied yes.

Councilmember Enos-Martinez asked what would happen if the City's regulation were ignored. Mr. Wilson said a ticket would be issued or there would be an injunction hearing at district court, and/or a cease and desist order would be issued.

Councilmember Hill referred to a Forest Service letter that stated the City couldn't acquire jurisdiction. Mr. Wilson conceded that point, and said the City does not attempt to do so. He said the City assumes the Federal Government will follow the federal rules and that will protect the City, but the City does have jurisdiction over private individuals.

Council President Spehar said it is not when the federal permit is being violated, as it stands today, the City is an outside participant in someone else's process; the ordinance allows the City to weigh in on how the activities affect the City's water quality. He said the City's comments and concerns with this ordinance would now be taken more seriously.

Council President Spehar used the Transcolorado pipeline situation to demonstrate how the Town of Palisade was able to affect the location of that pipeline because they had such an ordinance in place.

Councilmember Kirtland said in the past the City has been accused of being discretionary and not knowing what issues it wants to address, but this ordinance clarifies that.

Councilmember Enos Martinez asked if there have been serious issues brought up in regards to this issue, or did the City finally decide the protection was needed.

City Attorney Wilson said a bit of both applied. He said the activity in the watershed area has increased since this issue was first discussed, that there are more people, and that there are more oil and gas activities. He said these are all reasons that it's time for such an ordinance.

Councilmember Enos-Martinez questioned if there were any specific issues.

Mr. Wilson referred to the executive session discussion, and that there were disagreements.

Councilmember Hill referred to Zone 2 and said the zone includes the County Landfill, which is State regulated and the State is doing a good job. He asked if the landfill facility would be excluded.

City Attorney Wilson replied the City would just watch as long as the County was regulating the facility.

Councilmember Hill asked what would happen if there was any drilling.

Mr. Wilson said a new permit would be required for drilling. He said the safety for the City is that the City gets a copy of the permit, and if the City determines the State is not watching the activities, the City will send a letter to the driller.

Councilmember Hill wanted to know when the process would not work.

Mr. Wilson replied that with the State system in place, only in a case when not enough employees were available to do the inspections or the employee was not doing his job.

Councilmember Hill asked about Zone 3 and if Clifton water was connected to the City's water system. Mr. Wilson replied yes, Ute water is also connected to the City's water system.

Councilmember Hill asked about the ownership in Clifton. Mr. Wilson said the City helped build it and owns water rights.

Councilmember Hill asked if the City had water rights in Ute water. Mr. Wilson replied no. Councilmember Hill questioned why his water was not protected by this ordinance.

Council President Spehar said it was by statutory authority. Councilmember Hill asked how the City could get the protection and if it could be accomplished by buying shares. Mr. Wilson said if necessary, then yes.

Councilmember Kirtland said the spirit of the ordinance is to do this in a cooperative way, but some elements run counter to that.

City Attorney Wilson explained that a number of the ordinances say the Utility Manager would require necessary information, and just to give people an idea, he said in the last review, the City's consultant gave hydrological comments to the BLM and they were not considered. He said a remedy (casing) was suggested by the driller and the issue was resolved.

Councilmember Kirtland suggested that maybe the City should be conducting the hydrology report. Mr. Wilson said this was a philosophical question for Council, as is the burden on the party who is doing the activity.

Council President Spehar asked if Council is ready for the next step.

Councilmember Kirtland said many of the letters received have asked for time and for time to consider, not trying to run roughshod, and that he wanted plenty of time.

Council President Spehar said the first draft was released five weeks ago, and there are six more weeks before the public hearing, and that should give everyone adequate time.

Councilmember McCurry agreed and said it would give the public a chance to comment.

Councilmember Kirtland said Council always could make itself available for another discussion session.

Councilmember Butler said Council could have another conversation to be sure the connection was made before the first reading and maybe have an outside meeting.

Council President Spehar felt there already had been a fair amount of time spent without allowing input from the public.

Councilmember Enos-Martinez said all members of Council needed to be at any additional meetings.

Councilmember Hill agreed with Councilmember Butler to allow for more time outside the process, and said he is not in favor of moving forward with the first reading. He said Council made significant headway, and if the Federal Government is not taking care of the City's water, Council needed to fix that.

Council President Spehar said he is uncomfortable with not receiving comments from the general public, and it would be negligent to ignore this tool to protect the City's watershed. He said he agreed with strengthening other relationships, and that he was bothered that earlier comments may have been ignored. He felt that there might be many more alterations before the ordinance's adoption, but to use the process envisioned in the City's Charter to have a more open process.

Councilmember Enos-Martinez said she would like to hear from the landowners. Council President Spehar said this could be accomplished by private meetings, via letters, through Staff, or by inviting people to the public hearing.

Councilmember Hill said he would encourage that at first reading.

Councilmember Kirtland said something has to be proposed so the public can react and voice their comments.

Council President Spehar said there have been substantial changes made to the ordinance and it is time to advertise the public hearing.

Proposed Ordinance Establishing a Watershed and Water Supply Protection District; Establishing Procedures and Standards for Watershed District Permits in Connection with Various Activities within said Watersheds; Prohibiting any Person from Polluting said Watersheds; Requiring a Watershed District Permit for Most Activities; and Providing Penalties and Remedies for Violation of this Ordinance and Authorized to Publish in Pamphlet Form

Councilmember Enos-Martinez moved to adopt the proposed Ordinance on First Reading and set a hearing for July 16, 2003. Councilmember Kirtland seconded the motion. Motion carried with Councilmember Butler abstaining and Councilmember Hill voting NO.

After the meeting adjourned, Councilmember Butler amended his vote to NO.

**NON-SCHEDULED CITIZENS & VISITORS**

There were none.

**OTHER BUSINESS**

There was none.

**ADJOURNMENT**

President of the Council Spehar called the meeting adjourned at 10:05 p.m.

Stephanie Tuin, MMC  
City Clerk