

**GRAND JUNCTION
CITY COUNCIL ADDITIONAL WORKSHOP
SUMMARY**

July 14, 2003

The City Council of the City of Grand Junction, Colorado met on Monday, July 14, 2003 at 11:30 a.m. in the City Hall lunchroom to discuss the Watershed Protection Ordinance. Those present were Harry Butler, Cindy Enos-Martinez, Bruce Hill, Dennis Kirtland, Bill McCurry, Gregg Palmer and President of the Council Jim Spehar. Invited were Bureau of Land Management representatives including Catherine Robertson, Field Manager, Dave Lehman, Use Authorization Staff Supervisor, a BLM geologist and their Service Protection Supervisor. Also invited from the United States Forest Service were representatives Connie Clementson, District Ranger, and Linda Perkins, Realty Specialist. Walter Fees from Evertson Oil Company was also present.

Summaries of Discussion:

1. **Bureau of Land Management** - Dave Lehman, the Use Authorization Staff Supervisor for the BLM detailed their permitting process for activities on federal lands and listed those that review the applications. He outlined the various laws and regulations that guide their process including the Mineral Leasing Act, the Federal Land Policy and Management Act and the National Environmental Policy Act. Part of the review includes a resource inventory that identifies the surface ownership, the mineral ownership, the vegetation soils and wildlife on the property, including endangered or threatened species and surveys archaeology and the weeds present. BLM's Resource Management Plan identifies what land should be open for leasing. Leases go to the highest bidder and generally are given a ten year lease. Typical lease terms are \$2/acre and 12% royalty. Mr. Lehman then outlined the steps that are taken prior to any issuance of a permit including taking public input, looking at alternatives, determining how the activity will be monitored and balancing the activity with the issues raised, both critical and non-critical. The decision to issue the permit is made by the Field Manager Catherine Robertson. Any appeal of her decision goes to the State Director. The next level of appeal is the Interior Board of Land Appeals and then lastly the courts.

When an oil and gas exploration permit application is received, the application must include a drilling plan, a surface use plan, and all the NEPA elements. Once a permit has been issued, the drilling begins and a BLM representative detailed that process and the methods used to protect the environment and how the well is plugged if it is dry. The Service Protection Supervisor described his inspections and how he ensures compliance. It was noted that Evertson Oil Company currently has drilled seven wells and three are dry holes. They are still evaluating the others except for 12-1-A which is ready for them to connect.

The Service Protection Supervisor advised that the dry (plugged) holes will be reclaimed this fall with recontouring and reseeded. Ms. Robertson advised that no well is released until rehabilitation has taken place.

The BLM played a couple of short videos that showed how the drilling, casing and “fracking” takes place.

The reclamation situation with the Transcolorado Pipeline was discussed. It was noted that the company has reseeded and re-treed twice but due to lack of precipitation, the process has been slow. When Ms. Robertson was asked if leases could be granted higher up, Ms. Robertson answered it is a possibility but there would be more stipulations further upslope. There is a lease on private property, just east of the City property but there has been no drilling yet. The BLM is not involved as there are no federal minerals involved but a drilling permit will still be required from the State.

Field Manager Robertson referred to the MOU developed with the Forest Service and how it works better than an ordinance as proposed. She felt the adoption of the ordinance would create a communication break down. Councilmember Palmer inquired about how a MOU handles a situation where there is a difference of opinion. Ms. Robertson felt the BLM went above and beyond to meet the City’s needs. Council President Spehar expressed that he would like the City to pursue a MOU regardless of what action is taken on the ordinance. He supports a joint review process. Ms. Robertson countered that a watershed protection ordinance will cause delays and affect private property owners. She questioned the reason the City wanted to consider such an ordinance.

2. US Forest Service – Next the Forest Service representatives were invited to make a presentation.

Connie Clementson, District Ranger for the US Forest Service, summarized the process and procedures from the Forest Service side. She asked the Council why they feel compelled at this time to adopt a watershed protection ordinance, is this reaction a reflection of Council’s dissatisfaction with the Forest Services’ management? Council President Spehar responded that it is not a reaction or indication that there is a need to address any real or imagined problem, it is a matter of the Council wanting to be proactive in watershed protection due to the increased level of activity in the area. Ms. Clementson countered that there are many tools in place that do that including all the federal laws. They have been protecting lands for over 100 years. Federal Law specifically addresses protection of watersheds. There is NEPA, NFMA, to name two. There is also the Forest Service Management Plan for the Grand Mesa Area. The Forest Service manages a host of possible activities in that area including well drilling, timber harvesting, grazing, water lines and reservoirs.

Environmental Assessments are conducted prior to such activities and many times review is done in conjunction with the BLM. The decision for any lease is made by the District Ranger, in this case Ms. Clementson. Any appeal of her decision would go to her supervisor and from there goes to the Regional Supervisor.

The Forest Service is in the process of updating the Forestry Management Plan. In 1983, the City of Fruita's watershed was designated in the Plan as a municipal watershed but Grand Junction watershed (Zone 1) is not designated in the plan. Since the plan is being updated now, it is a perfect time for Grand Junction to request that designation – which is called a 10E in the plan. That will not only protect the five mile radius from the intake but the entire watershed. Ms. Clementon said she recommends against the City adopting the watershed protection ordinance because the ordinance is taking land use authority.

City Attorney Dan Wilson disagreed with Ms. Clementson, noting that the recitals specifically state that the City is not trying to usurp the other government's land use control. He has tried to make contact with the Forest Service's attorney many times to discuss this difference of opinion but has not been successful.

Linda Perkins, the USFS realty specialist, then addressed the Council. She advised that if the City places this ordinance on the books, then their regulation 36R251.9 will require that they charge the City approximately \$3 million annually for a special use permit for the encumbrance it places on those lands.

When Councilmembers questioned why this is coming out now when other municipalities have watershed ordinances, Ms. Clementson explained that this provision has only just been brought to their attention and they have been directed to implement it.

Council President Spehar stated that it is the City's desire to work cooperatively with the USFS and urged Ms. Clementson to have her attorney return the City Attorney's calls so that the discussion on the ordinance can take place. He also noted that he has not heard the USFS reciprocate that they too want to work with the City.

The meeting concluded with Council President Spehar noting that the public hearing on the ordinance will be held on Wednesday at the City Council meeting.

The meeting adjourned at 2:55 p.m.