

**GRAND JUNCTION  
CITY COUNCIL WORKSHOP SUMMARY  
AND SPECIAL MEETING MINUTES**

**November 17, 2003**

The City Council of the City of Grand Junction, Colorado met on Monday, November 17, 2003 at 7:03 p.m. in the City Hall Auditorium to discuss workshop items. Those present were Cindy Enos-Martinez, Bruce Hill, Dennis Kirtland, Bill McCurry, Gregg Palmer and President of the Council Pro Tem Harry Butler. Council President Jim Spehar entered at 7:11 p.m. and presided over the rest of the meeting.

**Summaries and action on the following topics:**

1. **UPDATE FROM YOUTH COUNCIL:** Members of the Youth Council presented the results of their work so far and asked the City Council for their input. Heather Ahuero, Chair of the newly formed Youth Council, presented the entire membership of the City Youth Council (CYC). Each member introduced themselves. Councilmember Enos-Martinez inquired how input would be solicited from other students. Ms. Ahuero explained that the CYC will be talking to various groups. Anyone is invited to their meetings. Councilmember Kirtland asked where they would be holding their meetings. Ms. Ahuero said in the Community Room at Mesa Mall. They will use school newspapers to advertise their activities.

**Action summary:** Councilmembers were pleased with their progress and their activities so far. Council President Spehar asked the CYC to participate in the task force against underage drinking. He asked that they keep an eye on the Council agenda and if they see something that is of interest to approach Council. Their teachers and sponsors were thanked for their hard work.

2. **UTILITIES IN RIGHT-OF-WAY ORDINANCE UPDATE:** Public Works and Legal Staff updated Council on the status of the ordinance regulating utilities in the City's rights-of-way. Public Works Manager Tim Moore introduced the discussion and the purpose of the ordinance. In the future, more infrastructure will probably have to be placed in the rights-of-way so planning for the future by regulating the placement of such utilities in the rights-of-way would be wise. The ordinance also sets forth the process and the method utilities will be placed in the rights-of-way. For example, boring is preferred over street cuts. The ordinance requires at least one annual meeting when all providers get together to talk about upcoming projects and identify conflicts and opportunities. There will be benefits to those providers that attend the meeting and some penalties to those that do not. Upsizing may be required in certain corridors for future joint use.

There is currently a State Statute that requires utility companies to locate their utilities underground. The City has experienced instances in the CSEP project where, when utilities are located, both vertically and horizontally prior to the design of the project, it really helps. Requiring locations in that detail is a new concept. This requirement will cost the providers. The City said they spent 1% of the construction cost to have contractors out to locate these utilities by "potholing" but it has saved an enormous amount. The plan is to use the State requirement for the horizontal locates and then during the design phase if a potential conflict is identified, more specific locates will be required.

Council President Spehar asked if some of the delays on 29 Road were caused by just this type of conflicts in locates. Mr. Moore said yes and also on the Independent Avenue project. No other municipality is requiring this but the City does not feel they are outside the authority of the law to require such. The ordinance does provide some incentives to utility companies that cooperate.

Another provision will require relocation of utilities if needed for a project.

Cost allocation is addressed in the ordinance. Many times the City purchases the right-of-way and this ordinance would allow allocation of the cost of that right-of-way to the users.

If the proposal were adopted, it would be reviewed after a year and a summary of its practice taken to the City Council.

Councilmember Hill asked about the process of crafting the ordinance and if the one year time frame is in the ordinance. Mr. Moore said the time frame is not in the ordinance. The drafting of the ordinance has culminated after several months of meeting with many of the utility providers, irrigation companies, contractors, fiber optics companies and any other affected party.

City Attorney Dan Wilson summarized the rationale and the legal premises. The Supreme Court has carved out a special niche for local governments because roads are so essential. The regulation of right-of-way is a police power as long as telecommunication companies are not discriminated against. There are two costs, one is a rental fee, "Franchise fee", and the other is the cost of maintaining the right-of-way. The suit of Denver v. Qwest prevents the "rental fee", but instead the fee being charged, it will be an apportioned cost of additional right-of-way. The provider has the option of obtaining the right-of-way themselves.

Councilmember Hill asked if the providers are required to use the City's acquired right-of-way. Mr. Wilson said the current proposal does require that.

Attendance at the annual planning meeting results in a number of relaxed requirements. The meeting already occurs, the ordinance formalizes it. State Law requires location of utilities within 18 inches on a horizontal plane. Technology now allows a much more accurate location. A home rule municipality can impose additional requirements; the proposal is to locate within three inches. Accurate location will be required from now on but there will be a twenty-year transition.

The security section may be reversed as most of the providers are known and federally or state franchised.

The City Council will act as the appeal body and may require the Council to develop more expertise in this field.

The Council took a recess at 8:55 p.m. The meeting reconvened at 9:02 p.m.

Council President Spehar asked for comments from the public.

Larry Cleaver, Ute Water, said the ordinance would cost Ute Water around \$500,000 to implement. He presented his detailed comments in writing. He was totally opposed to the ordinance. He said it will not only affect utility companies but also every homeowners association. He met with Mr. Moore and Mr. Wilson and they didn't listen to his comments. He wants the City to be held to the same standards.

John Ballaugh, Grand Valley Drainage District, supported the adoption generally but felt there are some deficiencies in the ordinance as proposed. He said there are more reasonable models. He feels the City should be held to the same standards. He suggested giving the utilities the choice to secure their own easements.

Wade Haerle, Xcel Energy, said he understands the issue. He has no answer but an idea of the franchise holder perspective. He outlined the fees and the requirements of the franchise. This ordinance may cause Xcel to lose some of their half of the bargain. They want the option to own their own right-of-way. The emergency clause needs a stricter definition; they have the ability and authority to determine the emergency. The City paying the cost of locates would make the City more responsible. He suggested that the City allow review time.

Jack Broughton, Grand Valley Power general manager, expressed the same concerns as Xcel regarding franchise concerns. Any additional cost will be passed on to the consumers. Regarding the mandatory meeting, GVP doesn't really have planned projects, they just estimate the amount of work they will have, and therefore need some flexibility. The company is in favor the locates, but are not sure of the accuracy requirements.

Gale Lyman, Western Colorado Contractors Association, said the information that the City is trying to require would help tremendously in construction, and the ordinance concept is very good. He thought it will take some tweaking over the next year or so but he is in support of the ordinance.

Dick Proctor, manager, Grand Valley Water Users Association, stated he was not aware of the proposal until last Friday. GVWUA is the managing entity of the Grand Valley project, which is a federal irrigation project. They have no need to construct new lines, all lines are in place. Facilities that will be affected are the laterals in the north part of the City. The easements are there and in place, and they will not relocate easements. It is challenging to maintain the facilities in the urban area; the City has taken over and limited the company's ability to maintain their facilities. A quasi-public entity, the company delivers raw irrigation water and does not fall under the City's jurisdiction. If a street or City facility goes over an irrigation line, then the City is required to maintain the facility. The company is only responsible to the head gate. He asked that irrigation providers be removed from the provisions of the ordinance

Rita Crumpton, Orchard Mesa Irrigation District, agreed with Mr. Proctor. She was just made aware of this. She asked that irrigation companies be exempted. All their easements are in place, and they won't be moving the canal. Many of the laterals belong to homeowners. It appears the City is exempt from the ordinance.

Mike Dulliner, Skyline Contractors, said the potholing done on the CSEP project was very beneficial and thinks working things out prior to design is a good idea.

Councilmember Enos-Martinez stated based on the comments heard, they are not ready for a first reading. The other Councilmembers favored the concept but agreed more work is needed.

**Action summary:** Staff was directed to bring back a set of options for each provision addressed in February, 2004. Specifically, not a draft ordinance that has one option but have several options to select from.

3. **UPCOMING APPOINTMENTS TO BOARDS & COMMISSIONS:** In anticipation of upcoming interviews for the Visitor and Convention Bureau Board of Directors and the Historic Preservation Board, City Council discussed specific issues relating to each board. City Clerk Stephanie Tuin reviewed the information provided. Kristen Ashbeck, staff representative for the Historic Preservation Board, addressed Council on the activities of the HPB.

**Action summary:** Council decided that a letter regarding attendance will be sent to VCB. City Clerk Tuin is to send out an email with possible dates for interviews of VCB. HPB appointments will be done from applications with a goal of filling the expertise positions.

4. **CONVENE INTO SPECIAL SESSION:** Council convened into formal session for the purpose of calling an executive session.

Councilmember Enos-Martinez moved to go into executive session for discussion of personnel matters under C.R.S. 24-6-402(4)(f)(l) relative to City Council employees, noting that Council will not be returning to open session. Councilmember Hill seconded. Motion carried.

The Council adjourned to executive session at 10:11 p.m.