

Minutes of the Utility Line Undergrounding Study Committee
Of the City of Cherry Hills Village, Colorado
Held on Thursday, July 17, 2014 at 9:00 a.m.
At the Village Center

CALL TO ORDER

The meeting was called to order at 9:00 a.m.

ROLL CALL

Present at the meeting were the following Utility Line Undergrounding Study Committee Members: Earl Hoellen, Andy Love, John Love, Dan Lynch, Susan Maguire, Paul Stewart and David Wyman.

Present at the meeting were the following City Council Advisors: Councilor Alex Brown.

Present at the meeting were the following staff members: Jay Goldie, Public Works Director; Troy Carmann, City Engineer; Marcus McAskin, Assistant City Attorney; and Emily Kropf, Special Projects Coordinator.

Absent were Mayor Pro Tem Russell Stewart and Committee Member Jim Tarpey.

AGENDA ITEMS

Discussion with Ken Fellman – Colorado Communications and Utility Alliance

Councilor Brown introduced Mr. Fellman and stated that the Committee has been charged with studying the issue of burying overhead power lines throughout the community. He continued that the Committee has met with representatives from Xcel, CenturyLink, Centennial, Longmont and MuniNetworks and has decided to focus on lines located along arterial roadways. An engineering study has been requested for a portion of E. Quincy Avenue between S. Holly Street and Happy Canyon Road to identify costs for the project. A mill increase has also been considered to finance the project, and several enhancements have been discussed to appeal to the community like streetscape improvements or a City-owned fiber optic line.

Mr. Fellman said that the Colorado Communications and Utility Alliance (CCUA) is a statewide organization that was established in the 1990's. Members of the organization are involved in various services like cable or internet and seek guidance from CCUA. The organization recently helped model a cable franchise agreement with CenturyLink.

Mr. Fellman continued that the lawsuit in Greenwood Village will not impact the City as it is a different issue. Greenwood Village is suing Xcel to be able to use the 1% fund in public easements located on private property, which was previously allowed. The City

does not have a franchise agreement with CenturyLink for telephone service as an initial grant for occupation is required but renewal of the agreement is not. Cable service requires a franchise agreement, however, which is why CCUA helped establish a model agreement. The City has the ability to require relocation of existing utilities for a public project if the Municipal Code was amended. Mr. Fellman recommended contacting higher officials with CenturyLink to establish a working relationship in order to pursue the project further.

Committee Member Stewart asked what right the City has to complete construction with its own contractors in accordance with Xcel's specifications.

Mr. Fellman replied that he does not know if the issue had been litigated previously. Generally utilities do not allow outside contractors to complete work on their equipment as there can be serious consequences.

Councilor Brown stated that it does not seem like Xcel has an incentive to be cost efficient.

Mr. Fellman suggested amending the Code to include a requirement that utilities have to provide cost estimates prior to the start of work.

Committee Member Wyman asked how much influence the City has during franchise negotiations.

Mr. Fellman responded that utilities generally have the same policies for all customers and have to go to the Public Utilities Commission (PUC) for approval of projects that differ from the standard. The City would most likely have to go to court in order to gain leverage.

Committee Member Andy Love asked if a fee could be added to the rate base during franchise negotiations.

Mr. Fellman replied that Xcel will initially say no as the rate base is the same everywhere. The tariff could be modified, however.

Councilor Brown asked what Mr. Fellman thinks of a City-owned fiber optic line.

Mr. Fellman stated that if the City is interested in burying a fiber optic line at the same time it should contact a consultant to further explore the issue. He also said that the City can amend the Code to require the burial of empty conduit when a street is milled. The City would have to receive approval from voters to install and use a fiber optic line in accordance with Senate Bill 152.

Committee Member Wyman asked if the 1% fund can be used for conduit.

Mr. Fellman stated that Xcel will only use the 1% fund for their lines. He added that a mill increase might be the only way to fund the project.

Committee Member Stewart asked when CCUA will get involved in negotiations.

Mr. Fellman said that membership fees cover eight hours of assistance each year. He added that staff may also want to look at the Comcast agreement to ensure that there is not language included that states that the utility will cover the cost of relocation unless there is a fund available. The City could write a ballot issue for the mill increase that specifies what the funding is to be used for, however.

Assistant City Attorney McAskin stated that the City does not have a building use tax currently. Additional funding could result from the tax.

Councilor Brown added that the City is also considering adding a sales tax on deliveries.

Municipal Code Amendment and 4501 E. Mansfield Avenue Request

The Committee agreed to discuss the Code amendment and homeowner request at the next meeting.

ADJOURNMENT

The meeting was adjourned at 10:20 a.m.