

**Minutes of the
Colorado Springs Utilities
Utilities Policy Advisory Committee (UPAC) Meeting
Wednesday, February 7, 2007
Blue River Board Room
5th Floor, Plaza of the Rockies South Tower
121 South Tejon Street
8:00 a.m.**

Committee Members Present: Chair T.A. Arnold, Committee Members Janna Blanter, Prince Dunn, Ronald Lehmann, and Alternate Committee Member Kathleen Hatten. Vice Chair Jim McCall, Committee Members Robert Holzwarth, Robert Steinke and Alternate Committee Member Ralph Sauer were excused.

Staff Members Present: Jerry Forte, Sherri Newell, Ken Burgess, Charlie Morgan, Lisa Rosintoski, Gail Conners and Nancy Schneider.

1. Call to Order

The meeting was called to order by T.A. Arnold, Chair of the Utilities Policy Advisory Committee.

2. Approval of the Minutes of January 3, 2007 UPAC Meeting

The minutes were approved.

3. Presentation: Policy Governance Review Assignment – Guiding Documents

Charlie Morgan, retained by Issues Management for the Policy Governance Review assignment, gave a presentation on the guiding documents that provide direction for Colorado Springs Utilities. He reviewed the roles of City Council (legislative, regulatory and managerial), the sections of the City Charter, City Code and governance policies that pertain to governance at Springs Utilities both in terms of the role of the Board and the role of the Utilities CEO. He presented an organizational summary of budgets, revenues, capital and number of employees for the municipal general fund, Memorial Health System, and Colorado Springs Utilities. Mr. Morgan then identified the business risks and challenges for the City of Colorado Springs, such as revenue source limitation, higher operations and maintenance (O & M) costs, and a large capital program backlog. He identified business risks and challenges for Memorial Health System as the construction of the North hospital, local competition, and indigent care.

Issues Management Manager Lisa Rosintoski described the business risks and challenges of Springs Utilities as capacity addition requirements; aging infrastructure; energy prices; and legislative and regulatory issues. She reviewed Springs Utilities' strategic initiatives, such as capital cost and labor cost management; and numerous strategic capital projects.

Ms. Rosintoski then described what staff thought the Board's perception was of what seemed to be working and what needed improvement. She noted that what seemed to be working were the Ends policy and balanced scorecards, Utilities Board meetings, some aspects of the Board-CEO linkage, and monitoring reports; and what seemed to need improvement included the

governance process (how the Board operates), the intent of the executive limitations, and some aspects of the Board-CEO Linkage.

UPAC members asked several questions during the presentation. Mr. Arnold asked Mr. Morgan to explain the role of the Public Utilities Commission (PUC) in municipal utilities when it came to regulatory matters. Mr. Morgan responded there are some cases where the PUC would become involved, such as establishment of rates outside of the city limits. Mr. Lehmann asked if the authority the City Council would be impeded by any constitutional issues regarding delegation of authority. Senior Attorney Ken Burgess stated that there might be difficulties if the authority for setting rates was removed from the City Council.

In response to a question by Mr. Dunn as to why the City Council initially established a Utilities Board, Mr. Morgan responded that the genesis of that decision came from decisions made in 1992. Mr. Lehmann added it was a logical and necessary result when Utilities ceased being a department of the city, and needed to establish a reporting relationship to the City Council.

Mr. Arnold asked what the budget or revenues were at the time the Utilities Board was formed. Mr. Morgan stated he would guess it was about half of today's budget. Mr. Arnold stated he thought the totals of the 1993 budget and today's budget should be brought forward in the assignment; he noted this is one way to show that Springs Utilities is a much more complex organization today than it was in 1993.

Mr. Dunn asked if changes to the City Charter would need to be voted on by the public, and Mr. Morgan and Mr. Burgess indicated they would.

Mr. Arnold asked what the relationship was between the Airport Commission and the City Council. Mr. Morgan stated his understanding was that the relationship between the Airport Commission and City Council was somewhat similar to the relationship between the Utilities Board and City Council. Mr. Arnold asked how the City Council's time was allocated between the various entities they governed. Mr. Morgan stated that City Council receives a monthly report from Memorial Health System, and they are the body that approves Memorial's budget and appropriations every year. In terms of allocating their time at meetings, Mr. Morgan stated that the City would have the most meetings, then Utilities, and Memorial would probably be third.

Mr. Dunn asked about item 6.80 in the City Charter. Mr. Morgan stated it was intended to make sure that if the City Council were to decide to divest itself of Springs Utilities or a part of the organization itself, they would have to go for a vote of the electorate.

Mr. Arnold asked if Springs Utilities negotiated financing and bonding on its own. Mr. Morgan stated that the bonding is separate from the City, but there has historically been quite a bit of cooperation between the budget office in the City and Springs Utilities.

Mr. Dunn asked what portion of Springs Utilities' budget was based on pass-through funds such as budgeted fuel costs (purchased power, natural gas & coal). Mr. Morgan reported it was \$377 million.

Mr. Lehmann suggested that adding asset value to the chart Mr. Morgan reviewed would add to the value of the chart. Mr. Morgan reported that the challenge of adding asset value would be that the accounting is different for each entity.

A break was taken from 9:20 a.m. to 9:30 a.m.

4. Facilitation: Policy Governance Review Assignment Model Modifications

Ms. Rosintoski and Project Leader Gail Conners led a facilitated discussion on policy governance review assignment modifications. Ms. Rosintoski began by asking the question, "What level of oversight and decision making does the Utilities Board need in governing Utilities?"

Mr. Arnold noted that UPAC members had received a memo from Mr. Lehmann stating his views on the assignment. He asked Mr. Lehmann to begin by talking about his views as stated in the memo.

Mr. Lehmann stated he did not think the question given by Ms. Rosintoski was the first question they needed to ask. He stated he thought the question the Board had given UPAC was, "Is there a better system of governance that could help us meet our responsibilities?" He reported that what he had articulated in his memo was his view. He noted that the current governance model believes that process can cure all sins, but the board must also be responsible and accountable to the people that really matter; the citizens and ratepayers, and the current governance model doesn't address that. He noted the Board is individually and corporately responsible to protect the assets.

Mr. Arnold noted that preservation of assets is diametrically opposed to keeping the rates down. He stated that what drives City Council is keeping the rates low and that doesn't necessarily mesh with protecting assets. He expressed concern that protection of assets was falling way behind the curve.

Ms. Rosintoski stated that in a perfect world, UPAC might consider one option to be the best, but they should present other options to the Utilities Board as well.

Mr. Dunn noted that City Council has the authority to set rates; but as long as they have that authority their focus would be on keeping rates down and not necessarily to focus on protecting assets. He asked Mr. Burgess if there was any way out of that. Mr. Burgess gave an example of how the PUC reviews and makes determinations for an investor-owned utility. He stated the PUC would be given hard evidence of financial needs to look at from an investor-owned utility, and they would have to respond to that hard evidence as a part of the evidence for setting rates. In the case of Springs Utilities and the City Council, the regulatory body and the body balancing the needs of the organization with the need for low rates is the same body.

Mr. Dunn suggested that may be a good argument for stating the need for a separate Utilities Board. There would then be a body that has considered all of the business aspects, and City Council can say to its citizens that this body has told the City Council they need certain things to protect its assets, and it was considered by City Council based on business concerns.

Mr. Lehmann stated Ms. Rosintoski was talking about a perfect world. He noted he could not conceive of a situation where City Council would not be in charge of the rates. He reported the American Public Power Association states that without question four roles are necessary: representative, advocate, trustee and regulator; and Springs Utilities' governance does not contain those four. In the practical world of boards and CEOs, the staff's biggest supporter and insurance policy should be its board, but that is not the case at Springs Utilities. He stated it is

necessary to have a qualified group of people to deal with the level of assets and revenue Springs Utilities brings in.

Ms. Blanter stated she attended a program in 2003 that was intended to train women to be board directors. She noted the whole thrust of the course was to talk about what a board's responsibility is; and the program indicated that the three most important duties were first to hire the CEO, and the second and third were oversight and strategy. She noted while a board has to have oversight, you don't have to have an oversight of day-to-day operations, and the board should not get involved in individual cases such as whether someone gets his lights turned off. She stated she was very interested in hearing from Memorial, and she believed the reason their model works is they have a dedicated group of people who focus only on their duties as a board. She reported that it is important UPAC make a recommendation that is workable, and she was fearful that Springs Utilities could end up having two boards that would be calling the CEO about somebody's lights going out instead of just one board. She stated she would still come down on the side of recommending there be a board that first was focused on the billion-dollar business and its assets.

Chief Public Affairs Officer Sherri Newell reported this topic was discussed at the Charter Review Commission, and she suggested that some of the information shared at that meeting could be beneficial for this assignment.

Ms. Hatten stated it seemed to her it comes down to what is in theory and what is in practice. She noted Springs Utilities is probably the single most important asset the City has; and with that in mind, it deserves more public scrutiny than Memorial does. At the same time, Springs Utilities needs to have the ability to run this as a business without undue pressure. She reported there is too much detail in the policy governance book, and even the code has too many specifics. She reported the intent is to allow Springs Utilities to do its job.

Mr. Arnold asked that UPAC members receive the Charter Commission's information mentioned by Ms. Newell.

Chief Executive Officer Jerry Forte stated in his perspective he agreed with some of what had been discussed, but he also had a few differences. He reported his understanding was the Carver governance model was a huge improvement from the way it was before. He reported there is a lot of opportunity in the area of oversight and strategy. He reported he thinks the City Council can do an adequate job as a rate making authority.

Ms. Rosintoski reported that she would like to paraphrase what she had heard. She reported that staff members would try to summarize what UPAC's thoughts were on creating a policy or framework for the model or the direction of the governing Board. This would be discussed by UPAC at the March meeting, and from there they would frame the discussion at the April meeting, with a presentation to Utilities Board at the April 18 Board meeting. She reported that from what she understood from UPAC's comments today there needs to be some fundamental basics for running a utilities company and the role of the Utilities Board in governing that entity. She noted they would then look at what the model would be for a "functional" board to give them what they need at that high level. She stated she thought that would get to some aspects of the discipline, then would go down to how the board functions, and what is needed for the Board to achieve that functionality.

Mr. Arnold suggested he get together with Ms. Rosintoski and Mr. Morgan and put some notes together which would be distributed to the rest of UPAC, noting that the whole purpose is to vote on the recommendation at the April meeting.

In response to Ms. Newell's question about what UPAC's consensus would be on the highest level question; Mr. Lehman stated it could be, "What system of governance will inculcate in the governing members what their responsibility is in governance?"

Mr. Morgan reported that Springs Utilities' revenues in 1993 were \$303 million.

5. General Discussion

There was no general discussion.

6. Adjournment

The meeting was adjourned at 10:35 a.m.