
SALT LAKE CITY COUNCIL MEMO

DATE: May 28, 2004

SUBJECT: **Telecommunications Right-of-Way Permits Ordinance**

AFFECTED COUNCIL DISTRICTS: Citywide

MEMO: Michael Sears, Budget & Policy Analyst

**ADMINISTRATIVE DEPT.
AND CONTACT PERSON:** Department of Management Services
Rocky Fluhart

The Administration, as part of the Mayor's Recommended Budget for fiscal year 2004-05, has proposed that the City Council adopt an ordinance relating to telecommunications right-of-way permits and the establishment of related annual right-of-way charges. The proposed ordinance changes the valuation method of the right-of-way assessment from a valuation based on adjoining property to a linear foot assessment. The linear foot assessment method is consistent with the method employed by many of the larger cities in the United States who charge for access to the public right-of-way. The proposed charge for access to the right-of-way is on the low end of the fee scale that other cities are charging.

The Council has not received a briefing on this specific issue, but has received comment from the Administration during the Department of Management Services briefing relating to the anticipated revenue this revised ordinance is expected to generate and to the differences between this ordinance and the ordinance that was proposed during the budget adoption process last fiscal year. During the discussion with the Administration, Council Members asked that Council staff and members of the Administration meet with telecommunications facilities providers to discuss concerns that the telecommunications industry may have with this proposed ordinance and that providers be given the opportunity to submit their concerns to the Council.

A meeting was held on May 25, 2004 with Council staff, attorney's from the City Attorney's Office, members of the Administration and representatives of telecommunications facility providers who have existing lease and franchise agreements with Salt Lake City. Discussion with the providers centered on their concerns that the proposed ordinance has potential legal flaws. They indicated that they consider it to be illegal to charge for right-of-way access and that charges must be related to the cost of providing service. The City Attorney's Office and Administration are aware of the telecommunications providers concerns and are confident that the proposed ordinance is in compliance with applicable laws and regulations.

The City Council held a public hearing on May 18, 2004 to hear public comment on the Mayor's Recommended Budget for fiscal year 2004-05 and related ordinances. The Council adopted a motion that continued the public hearing on the proposed Telecommunications Right-of-Way Permits ordinance until the first meeting of the City Council in June. The continued public hearing has been placed on the June 1, 2004 agenda. The City Council will have the opportunity to hear from members of the telecommunications facility provider's community during the continued public hearing. Council Members have also asked that when any written comments from the providers are sent to the Council Office that they be distributed to Council Members for their review. To date, the Council Office has received one written comment. It is attached to this memo.

One of the providers has requested small group meetings with Council Members. Given the schedules of Council Members and the import of this issue, the Council Chair and Vice Chair are suggesting devoting additional briefing time to this issue on June 1 and allocating 15 minutes to the industry to express their concerns in more detail.

At the conclusion of the public hearing, the Council could decide to close the public hearing and refer the matter to a later Council meeting for consideration.