

**Agenda Item #:** General Business - E.

**Meeting Date:** July 26, 2021

**Subject:** Consideration of Ordinance 912, extending the terms of an electric utility franchise agreement between the City of Dacono and United Power, as an emergency.

**Presenter:** A.J. Euckert, City Manager

**Background:** The City entered into a franchise agreement with United Power in July 2011 and that agreement expires on August 5, 2021. The City is in the process of negotiating with United Power for a new franchise agreement. This agreement extension will provide the time needed (120 days) to adopt a new agreement.

**Recommended Action:** Consideration and approval of Ordinance 912, extending the terms of an electric utility franchise agreement between the City of Dacono and United Power, as an emergency.

## **ORDINANCE NO. 912**

### **AN EMERGENCY ORDINANCE EXTENDING THE TERMS OF AN ELECTRIC UTILITY FRANCHISE AGREEMENT BETWEEN THE CITY OF DACONO, COLORADO AND UNITED POWER, INC.**

**WHEREAS**, by Ordinance No. 762 adopted on July 25, 2011, the City Council approved a franchise agreement with United Power for provision of electricity service within the City (the “Franchise”), which Franchise will expire on August 5, 2021; and

**WHEREAS**, United Power and the City are in the process of negotiating a renewal of the Franchise and need additional time to complete negotiations and for the City to consider and adopt a proposed franchise renewal; and

**WHEREAS**, United Power has agreed to the extension of the Franchise for one hundred twenty (120) days as set forth in this Ordinance; and

**WHEREAS**, the City Council finds that it is in the best interest of the citizens of the City to extend the term of the Franchise to allow for completion of ongoing negotiations regarding a franchise renewal; and

**WHEREAS**, an emergency exists because the City Council finds and determines it is of critical importance to the City and its residents that the Franchise be continued while the renewal is negotiated by the parties, to ensure uninterrupted electric service to the City and its residents.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DACONO, COLORADO:**

**Section 1.** That the Franchise between United Power and the City is hereby extended to earlier of December 3, 2021, or the date on which a new agreement is entered into between the parties, as set forth in the Agreed Extension of Electric Utility Franchise Agreement that accompanies this Ordinance. The Mayor is authorized to execute the Agreed Extension in substantially the form as accompanies this Ordinance, and is further authorized to negotiate and approve such revisions to the Agreed Extension as determined reasonable and necessary for the protection of the City, so long as the essential terms of the Agreed Extension are not modified.

**Section 2.** All other ordinances or portions thereof inconsistent or conflicting with this Ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

**Section 3.** All actions heretofore taken by United Power and City officers and staff relating to the subject matter of the Franchise consistent with its terms are hereby are, ratified, approved and confirmed.

**Section 4.** If any section, paragraph, sentence, clause or provision of this Ordinance shall for any reason be held to be unconstitutional, invalid or unenforceable for any reason, such

decision shall not affect the constitutionality or validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each part hereof irrespective of the fact that any one part be declared unconstitutional or invalid.

**Section 5.** The City Council herewith finds, determines, and declares that this ordinance is necessary to the immediate preservation of public property, health, welfare, peace, or safety. Pursuant to Charter § 3-10, this ordinance shall be effective upon adoption.

**INTRODUCED, READ, ADOPTED BY AT LEAST FIVE AFFIRMATIVE VOTES, AND ORDERED PUBLISHED AND POSTED IN FULL THIS 26<sup>th</sup> day of July, 2021.**

CITY OF DACONO, COLORADO

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Joe Baker, Mayor

ATTEST:

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Valerie Taylor, City Clerk

Summary of Ordinance No. 912, **“AN EMERGENCY ORDINANCE EXTENDING THE TERMS OF AN ELECTRIC UTILITY FRANCHISE AGREEMENT BETWEEN THE CITY OF DACONO, COLORADO AND UNITED POWER, INC.”**: Extends the term of a franchise between United Power and the City to the earlier of December 3, 2021, or the date on which a new agreement is entered into between the parties, while the parties negotiate a franchise renewal.