

**GRAND JUNCTION CITY COUNCIL
MINUTES OF THE REGULAR MEETING
MARCH 1, 2017**

The City Council of the City of Grand Junction convened into regular session on the 1st day of March, 2017 at 7:00 p.m. Those present were Councilmembers Bennett Boeschstein, Chris Kennedy, Duncan McArthur, Rick Taggart, Barbara Traylor Smith, Martin Chazen, and Council President Phyllis Norris. Also present were City Manager Greg Caton, City Attorney John Shaver, and City Clerk Stephanie Tuin.

Council President Norris called the meeting to order. Councilmember Traylor Smith led the Pledge of Allegiance which was followed by an Invocation by Derek Dean, Church Representative, Church of Jesus Christ of Latter-day Saints.

Appointments

Councilmember Boeschstein moved to ratify appointments to the Riverview Technology Corporation for the following members and terms as requested:

- Katie Worrall, President, term expires February 2019
- Mike Burke, Vice President, term expires February 2019
- Steve Hovland, Secretary/Treasurer, term expires February 2019
- Tim Hatten, Member, term expires February 2019
- Craig Little, Member, term expires February 2018
- Pat Tucker, Member, term expires February 2018* (*member request)
- Derek Wagner, Member, term expires February 2018
- Will Hays, Member, term expires February 2019

Councilmember Traylor Smith seconded the motion. Motion carried by roll call vote.

Certificates of Appointment

To the Forestry Board

Councilmember Boeschstein presented Justin Drissel and Alternate Josh Umberger with their certificates of appointment and Kamie Long with her certificate of re-appointment to the Forestry Board for three year terms expiring December 2019.

To the Historic Preservation Board

Councilmember Boeschstein presented Ron Parron with his certificate of appointment to the Historic Preservation Board for a four year term expiring December 2020.

Citizen Comments

Bruce Lohmiller, 3032 North 15th Street, #208, stated as part of the relief efforts in Mississippi, the American Red Cross served over 250,000 meals and the Unitarian Church sent stuffed animals. He mentioned night patrols and Whitman Park.

Council Reports

Councilmembers Kennedy, Traylor Smith, Taggart, Chazen, and Boeschstein had no comments.

Councilmember McArthur said on February 22nd he attended the Orchard Mesa Pool Board meeting and while in Denver on February 23rd and 24th he participated in the Grand Junction Area Chamber of Commerce's (GJACC) annual trip to the State Capitol and discussed a number of issues with State Legislators.

Council President Norris said she went to the Colorado Advanced Manufacturing Alliance (CAMA) Summit and the Colorado Oil and Gas Association (COGA) meeting.

Consent Agenda

Councilmember Chazen moved to adopt the Consent Agenda items #1 through #5. Councilmember Kennedy seconded the motion. Motion carried by roll call vote.

1. Approval of Minutes

- a. Minutes of the February 1, 2017 Regular Meeting
- b. Summary of the February 8, 2017 Workshop
- c. Summary of the February 13, 2017 Workshop
- d. Minutes of the February 15, 2017 Executive Session

2. Set Public Hearings

- a. Quasi-judicial

- i. Ordinance Amending the Commons Planned Development by Approving an Outline Development Plan with Default Zones of R-8 (Residential 8 Units/Acre), R-12 (Residential 12 Units/Acre) and MXOC (Mixed Use Opportunity Corridor) (March 15, 2017)
- ii. Ordinance Zoning Properties at 1313 and 1321 Wellington Avenue (Hilltop Bacon Center) to RO (Residential Office) (March 15, 2017)

3. Contract

- a. Contract for the 2017 Sewer Line Replacements Phase A

4. Resolutions

- a. Resolution No. 16-17 – A Resolution to Appoint a Hearing Officer for Liquor and Beer Licensing and Resolution No. 17-17 – A Resolution to Appoint an Alternate Hearing Officer for Liquor and Beer Licensing

5. Other Action Item

- a. Request for Fireworks Displays at Suplizio Field

Regular Agenda

Public Hearing – Ordinance No. 4738 – Amending the Grand Valley Circulation Plan

The proposed ordinance would amend the Grand Valley Circulation Plan, reclassifying a one-mile segment of 23 ½ Road, between F ½ Road and I-70, from a Principal Arterial to a Minor Arterial with a modified section. The proposed change would reduce the required right-of-way width from 110' to 80', with a proposed three-lane section with detached walks. The most recent Travel Demand Model (TDM) shows capacity as a Minor Arterial is sufficient to maintain acceptable Levels of Service (LOS) through the year 2040 planning horizon.

The public hearing was opened at 7:15 p.m.

David Thornton, Principal Planner, and Paul Jagim, Transportation Engineer, presented this item. Mr. Thornton referred to the State Statutes that authorize the City to regulate the transportation system. The area streets being considered are in fair condition, and he described the surrounding uses and zoning. The Grand Valley Circulation Plan bisects the property with proposed major roadways, including the (future) F ½ Road Parkway and 23 ½ Road (extending north to I-70) as Principal Arterial roads, and major

collectors at ¼ mile intervals. OneWest Partnership, the applicant, approached the City about redesignating the classification of the roadway.

Mr. Jagim then provided the background on the current version of the Grand Valley Circulation Plan (GVCP) and the need for revision. He said Ordinance No. 4738 assumes the 24 Road interstate interchange will stay as it is and 24 Road would be expanded to five lanes in the future; incorporating both would make the area traffic plan sufficient through 2040. Mr. Jagim stated interstate access on 23 ½ Road would not be required with the future lane expansion of 24 Road in place. He said the proposed removal of future interstate access from 23 ½ Road would allow it to function as a minor arterial. Mr. Thornton stated Ordinance No. 4738 meets Zoning Code criteria and the goals and policies of the Comprehensive Plan. The Planning Commission recommends approval of Ordinance No. 4738. He stated this proposal meets more than the required Comprehensive Plan criteria. He noted the applicant's representative was in attendance and could answer questions.

Councilmember Kennedy asked if changing 23 ½ Road to a minor arterial would increase road damage and the need for more maintenance. Mr. Jagim said as a minor arterial section, 23 ½ Road would have a lower traffic volume and not change the road's lifespan. Councilmember Kennedy asked about new industrial development in the area and if it was creating increased traffic volumes. Mr. Jagim said the road will have the same longevity with less pavement to maintain.

Councilmember Chazen asked if the implied goal is to route truck traffic to the interstate as quickly as possible if 24 Road would be able to handle additional truck traffic. Mr. Jagim said the Metropolitan Planning Organization (MPO) model includes 24 Road not 23 ½ Road for interstate access.

Council President Norris asked if neighborhood meetings had been held to notify the community. Mr. Thornton said notices were sent, but no neighborhood meetings were held. She asked if Community Hospital would continue to have access to 23 ½ Road. Mr. Thornton said yes.

Tom Logue, representing the OneWest Partnership (applicant), said the staff report has been reviewed and OneWest Partnership takes no exception to it. He thanked staff for the presentation and offered to answer any questions on behalf of the applicants.

There were no other public comments or questions.

The public hearing was closed at 7:37 p.m.

Councilmember Kennedy moved to adopt Ordinance No. 4738 – An Ordinance Amending the Grand Valley Circulation Plan, an Element of the Comprehensive Plan, specifically to Revise the Street Classification of 23 ½ Road from a Principal Arterial to a Minor Arterial with a Modified Arterial (aka D Road Section Design) Designation on final

passage and order final publication in pamphlet form. Councilmember Traylor seconded the motion. Motion carried by roll call vote.

Contract – Consideration to Authorize the City Manager to Execute Milestone Two

As part of the Council's Economic Development Plan, communication and technology infrastructure was identified as an essential tool for the development of commerce and industry leading to long-term economic competitiveness for the City of Grand Junction. As a result of a formal procurement process, Council has directed the City Manager to enter into an Exclusive Negotiation Agreement (ENA) with SiFi/Nokia to complete a demand survey and preliminary engineering study to determine the financial viability of a city-wide fiber project that would meet the broadband goals established by City Council. Based on the survey results and the business modeling, this project has been proven viable through Milestone One.

Council President Norris announced that although this is not a public hearing, in this case, Council will take public comments.

Greg Caton, City Manager, presented this item and provided background on this project identifying the members of the development team, the different disciplines represented, and the project's timeline. He stated as a result of a voter override, the City was allowed to use City resources and infrastructure to develop broadband capabilities that could compete with private providers. Council directed staff to explore a variety of options including a public/private-partnership in order to achieve the following goals: ubiquitous service; City ownership; multiple provider network; public/private partnership; and broadband services available to residents for \$50 to \$80 per month and to businesses for approximately \$300 per month. Council then directed staff to complete Milestone One which included an independent market demand survey study created by the Think Agency with input from Council. City Manager Caton reviewed the results of the survey.

City Manager Caton stated this item, Milestone Two, is the next phase for further due diligence and would provide City Council with more information. He listed the elements of Milestone Two: a ratings analysis to finalize the lease agreement; draft final agreements for Council; internet service provider's (ISP) selected, and agreements signed; market strategies prepared for implementation; construction schedule and engineering finalized; and the viability presented to Council. City Manager Caton reviewed the strengths and concerns of the proposal. He said the City has received a letter from SiFi/Nokia stating SiFi/Nokia would offer \$5 million toward a backstop fund if the ISP fails and a shortfall is created.

City Manager Caton introduced Mike Harris, representing SiFi/Nokia. Mr. Harris said he listened to Council's concerns and in an effort of good faith to reassure the City and Council, SiFi/Nokia is offering to put funds in a trust that would equal 12 months of payments.

Councilmember Taggart asked in the next phase, what role does the City have to thoroughly evaluate the ISP's. Councilmember Taggart stated the City needs to be able to review the financial worthiness of the ISP's.

City Manager Caton responded that there appears to be interest amongst Councilmembers to be a part of reviewing the ISP's so that can be pursued. City Attorney Shaver added the City has not defined the specifics of such a review, but it can be a part of the negotiations.

Councilmember Traylor Smith said she has received mixed opinions about the technology needs of the community and where technology is headed. She has concerns about the City moving into an area served by private industry. She noted there is confusion by consumers on the difference between broadband as defined by the FCC and gigabyte service, which is a whole other level of service. Milestone Two may be the next step; it is not a commitment to build the system nor does it mean they are not going to continue to go forward if they don't approve going to Milestone Two.

Councilmember Kennedy said the City made the decision to compete in a technology environment in pursuit of economic development. Specifically to have symmetrical network services where both download and upload speeds meet the needs of the community. He questions the ability of the systems currently in place keeping up with the demand. Many municipalities have realized that in order to compete it is necessary to create an enticing environment that will attract new companies while offering innovative and technological improvements with a ubiquitous fiber network. He said the question is whether to move forward with Milestone Two, with partners who have put together a proposal that responds to what the City asked for. Milestone Two will provide the specifics needed to know whether it is a viable project. Councilmember Kennedy said that although there is risk, it is a comfortable shared risk which by having the City as a partner the cost of the funding is brought down. He felt that to not move forward negates two years of work. He stated none of the wireless solutions can happen without the fiber backbone that is intrinsic for a high speed network.

Councilmember McArthur said he has participated in many discussions with Councilmembers from other cities and others on this issue. He said the City needs to compete in attracting new business but he does not know what the answers are. The new Technology Director for the State Stephanie Copeland has offered to study the proposal for Grand Junction. He is not ready to approve this project as this point. He believes there are other alternatives.

Council President Norris asked if there will be an independent analysis in Milestone Two. City Manager Caton stated the completion of an independent third party analysis would be in Milestone Two.

Councilmember Chazen asked what happens if the independent analysis disagrees with SiFi/Nokia. City Attorney Shaver said it would depend on the reasonableness of the determination of the viability, however, the scope of the third party review has not yet been established. Councilmember Chazen asked for clarity of the phrase, 'ramp up by year five' in the previously mentioned SiFi/Nokia's letter to the City.

City Manager Caton said he believes the intent of the funding referred to in the letter would align with the lease payments required which will not begin until construction is complete.

Ben Bawtree, SiFi/Nokia representative, said that is correct.

Councilmember Chazen asked if the payments will be lower in the beginning years. Mr. Bawtree said yes, there will be zero payments made through the construction phase. He said regardless of the take rate, the payments will be \$1 million in year one, \$2 million in year two, and just less than \$5 million in year three. He said the trust will mirror the City's obligation for year three. That will be done regardless of the take rate.

Councilmember Boeschstein said it is important to get infrastructure in order to compete with other cities. Economic development needs to be encouraged and Councilmember Boeschstein would like to see the City move ahead with Milestone Two.

Councilmember Chazen said he is looking forward to hearing the public comments. He stated the current providers have invested millions into the community and this project has a financial risk at 100% financing with no equity which could lower the City's credit rating. Councilmember Chazen asked if there is a more feasible way to provide a faster internet service.

Council President Norris said Council researched and discussed this item extensively and 77% of the voters agreed to the override. She thanked staff and Jim Finlayson, Information Technology Manager, for providing all Council has requested. She said the community wants a higher speed internet. Council President Norris asked staff if there were any other comments.

City Manager Caton said not at this time.

Council President Norris opened meeting to public comments and instructed each citizen to make their comments within a three-minute timeframe.

Michael Day, 1676 Fowler Drive, Fruita, property owner of 1223 Bonito Avenue, said the infrastructure is already in place and 45% of the people do not have an understanding

of what is their current internet speed. He said technology is moving fast and the City would get nothing for \$70 million. He thanked Council.

James Dickerson, 310 South 12th Street, said the pricing is not in the competitive range and this is a boondoggle for taxpayer money. He recommended a no vote.

Nina Anderson, owner of Express Employment, 1119 North 1st Street, Unit J, said she has filed complaints with both current internet providers, but the citizens should not carry the long term expense for this project because the risk is too high.

Charles Pabst, 3010 Cloverdale Court, said he agrees with Councilmember Chazen's comments. He said some services are fast and some are slow and unless the entire trunk lines across the country are upgraded, there are no guarantees. Mr. Pabst said the City should not compete with current operators but instead work with them.

Ron Arellano, 656 Larkspur Lane, said he has seen changes since 1940 in the City with exponential growth. He stated he looks at this from the cost standpoint and the risk factors are too great with the possibility of lowering the City's credit rating. He hopes this will not pass.

Josh Hudnell, 2657 Sperber Lane, owner of Factory Co-Working Space, said the issue of \$70 million is not on the table tonight. He said his goals are the same as the City's; to have ubiquitous service for the City. He stated that the fiber system needs to be municipally owned, however the City should not be an ISP. Mr. Hudnell stated within three years, it is estimated that 50% of the workforce will be location neutral; a gigabit speed might not be needed today, but it will be needed in the future. He said the City has heard from the incumbent providers and they have not said anything promising. He urged Council to focus on what is really at stake.

Colter Leavitt, representative for a local ISP and Open Optic, said the idea of choice is valuable for data delivery providers. He said fiber technology can transmit large amounts of data. He stated incumbent providers are not bad companies but are not delivering great service, are in fear of losing their monopoly in this area, and are using archaic technology. He said the question is why the incumbents are not working with the City to provide the fastest and best product. He asked what is stopping Charter from providing high speed service now.

Kevin King, 743 Horizon Court, read an October 1st email from Councilmember Kennedy to City Manager Caton regarding the appearance of a conflict of interest. He stated Councilmember Kennedy represents Region 10 and again appears that there is a conflict of interest. Mr. King asked how many Councilmembers own SiFi/Nokia stock. Mr. King cautioned the City to not bring debt to the future generations.

Councilmember Kennedy said he has disclosed his position and has given the Council the opportunity to ask for his recusal. He said his position with Region 10 does not

influence his decisions for the City. Councilmember Kennedy said the reason for the mentioned email was that he was researching for a committee and was interested in the other proposals and why the staff was going with the SiFi/Nokia proposal which has more shared risk. He stated he has nothing to hide and is passionate about moving the City forward.

City Attorney Shaver advised that a written disclosure is on record from Councilmember Kennedy.

Marjorie Haun, 2108 Yosemite Road, thanked Council and said she is self-employed and owns a web-based business. She said she has shopped for the best ISP, does not want government involved, and believes City involvement would interfere with the competitive market. She encouraged Council to vote no.

Bryan Wachs, 2326 Wren Court, Freelance Cooperative of My Sales Butler, said he is not talking about \$70 million, he is talking about moving forward with technology. He said fiber is the backbone of the Google Wireless System. Mr. Wachs urged Council to move forward with this contract and spend the money for a major feasibility study. He thanked Council.

Dennis Simpson, 2306 E. Piazza Place, described the difference between a certificate of participation (COP) and a bond. He said Council should not have the power to put the City into debt. Mr. Simpson urged Council to send this decision to the voters in November.

Brian Bray, 875 26 Road, said momentum for this issue is important and he asked Council not to stop the Milestone process. He said with the growing technology industry a faster wireless system will create jobs for local graduates. He said build it and they will come. Mr. Bray urged Council to take the next step.

Kevin McCarney, 525 Arrow Court, Clifton, said Council does not finance the other systems in the City and it is not the government's business to run a business.

Don Pettygrove, 8 Moselle Court, said technology can change rapidly. He asked Council to vote no and suggested they find a private business for funding.

Lincoln Pierce, 631 Country Lane Court, thanked Council for all they do. He said there needs to be more information on this subject and that is what Milestone Two will do. He urged Council to go forward.

Richard Swingle, 443 Mediterranean Way, said this is a complex subject and provided some of the history. He said there is no incentive for incumbents to upgrade to a fiber system.

That concluded the public comments.

The Council took a break at 9:32 p.m.

The meeting resumed at 9:40 p.m. and Council President Norris asked for Council comments.

Councilmember McArthur said the community needs a faster wireless system but he is not convinced that this is the best way.

Councilmember Boeschstein said Council needs to move forward with Milestone Two and will continue to support this issue. He thanked the consultants and staff.

Councilmember Chazen thanked those who shared their comments and said he would not be supporting this item. He asked for more time to allow an independent group to complete the analysis.

Councilmember Taggart said he has a lot of concerns with the proposal and the lack of the company having any risk. However, they came back with a way to address that. Nor have they objected to an independent analysis. He requested more time for an independent feasibility study to be completed. He is not ready to decide at this time without the independent assessment.

Councilmember Traylor Smith said Milestone Two would produce valuable information for this project. She verified with Mr. Bawtree some of those details. She said there needs to be more discussions on the project and it needs to be in a timely manner.

Councilmember Kennedy asked if Milestone Two will include the details brought up by other Councilmembers and will include the independent analysis. City Manager Caton said one of the challenges is clarifying the exact viability and how to reconcile any difference of opinion between SiFi/Nokia and the City. He agrees that additional information would be gathered from a third party analysis during Milestone Two. They will negotiate what will be included in that third party analysis while working out the terms of the Milestone Two agreement.

Council President Norris said the study produced from Milestone One did not indicate true viability as it did not take into account the existing providers competing. The incumbents' business model does not match the community so she hopes they will realize that. She said the risk is too high and further options need to be explored. She won't support the proposal.

Councilmember Kennedy urged Council to support moving forward with Milestone Two.

Councilmember Boeschstein moved to authorize the City Manager to enter into Milestone Two of the Exclusive Negotiation Agreement with SiFi/Nokia. Councilmember Kennedy seconded the motion.

Councilmember Taggart said he cannot approve the item as written. He asked for an amendment to the motion as stated: "It is understood as a key component of this

decision the two parties agree to the naming of an independent auditor(s) that will analyze and report on the validity/feasibility/viability on this project”.

Councilmember Boeschstein agreed with the amendment to the motion.

Councilmember Kennedy seconded the amended motion.

City Attorney Shaver questioned how viability will be defined as the two parties could have different views on which elements make the project viable.

Councilmembers Chazen and Boeschstein made comments on how those details can be clarified. City Staff concurred noting Council could specify what components they would want the third party to analyze.

Council President Norris called the question on the amendment. Motion to amend the motion failed by roll call vote with Councilmembers McArthur, Traylor Smith, Chazen, and Norris voting NO.

The question on the original motion was then called. Motion failed by roll call vote with Councilmembers Taggart, Traylor Smith, Chazen, McArthur, and Norris voting NO.

Non-Scheduled Citizens & Visitors

There were none.

Other Business

Councilmember Traylor Smith said she would like to authorize staff to schedule a meeting with providers and initiate discussions of possible partnerships. She suggested staff reach out to the community for ideas.

Councilmembers Chazen, Boeschstein, and McArthur said there is a need to move forward quickly with this issue. Councilmembers Chazen, McArthur, and Council President Norris said a Special Council Workshop should be scheduled to discuss this item in detail first.

City Manager Caton said this item can be scheduled on the March 13th Council Workshop.

Council President Norris, Councilmember Taggart, and City Manager Caton said they need to revisit the goals with continued research and discussions. Council President Norris said the Council Workshop is for discussion, bringing new ideas forward, and brainstorming.

Adjournment

With no further business, the meeting adjourned at 10:40 p.m.

Stephanie Tuin, MMC

City Clerk