

GRAND JUNCTION CITY COUNCIL

SPECIAL MEETING MINUTES

June 14, 2013

The City Council of the City of Grand Junction, Colorado met in Special Session on Thursday, June 14, 2013 at 10:00 a.m. in the City Hall Auditorium. Those present were Councilmembers Rick Brainard, Marty Chazen, Jim Doody, Phyllis Norris, and President of the Council Sam Susuras. Councilmember Bennett Boeschstein was absent. Also present were City Manager Rich Englehart, City Attorney John Shaver, and City Clerk Stephanie Tuin.

Council President Susuras called the special meeting to order.

Avalon Theatre Discussion

Council President Sam Susuras asked the Council if they had any questions of Staff regarding the Avalon Theatre.

Councilmember Norris asked architect Dan Gartner with Chamberlin and Associates what the difference in cost would be to just renovate the inside of the Avalon and add restrooms. Mr. Gartner said that this had not been configured because this was never a proposed scenario. Councilmember Norris asked if the restroom renovation could be done without the Americans with Disabilities Act (ADA) compliance portion. Mr. Gartner said the master plan created the framework for ADA compliance; with just the option Councilmember Norris suggested, there would be some improvements but would not bring the building into compliance. City Attorney Shaver agreed that improvement does not provide compliance with ADA regulations.

Councilmember Chazen asked if construction alternative plan C were in process and the finances could be obtained in the middle of this construction process, could the construction be switched over at that point to alternative plan A. Mr. Gartner said it is possible, but not easily done. It would cost more, as money spent on the plan C design process will not be of any benefit if the plans switch. Councilmember Chazen asked for confirmation that the difference will be \$1.1 million or more. Mr. Gartner confirmed this figure as the difference. City Manager Rich Englehart clarified that option C is set up for expansion. Mr. Gartner agreed that the incremental cost will be now or later. Option C is what works with the budget, however, there is a premium cost.

Councilmember Chazen asked City Attorney Shaver if the project is in process and there were to be a shortfall from the Avalon Foundation, would this be absorbed by the City and Downtown Development Association (DDA), and what is DDA's legal mechanism for coming through with the shortfall.

City Attorney Shaver said when a contract is signed, it is the City who is legally obligated. The City has not worked with the Avalon Foundation to assign pledges to the City, this is a possibility. However, in terms of the shortfall, the DDA has options: loaning money to the City or another potential capital contribution, which although not offered by the DDA, it has been stated other options would be looked at. Another legal mechanism could be to direct the City Manager to have the City absorb the shortfall with other funds.

Councilmember Brainard asked for confirmation that the City would be on the hook for the contract in every scenario. City Attorney Shaver said yes.

Council President Susuras asked if Council had any other questions.

There were no further questions from Council.

Council President Susuras then opened the meeting for Council comments.

Councilmember Brainard said he recognizes that Council's discussion at the previous Council meeting was a surprise to many, including himself, and he apologized. He feels that the Avalon is the City's building, the City should be prepared to take responsibility if this is what the community wants. He does not want to see it piecemealed. He believes it reasonable for the Avalon Foundation to assign financial pledges to the City. There is a \$1.4 million a year economic impact of the current Avalon, so the impact with any improvement will be even higher. The City investing in its own building is a great return on investment. He would love to see the Avalon constructed as Option A, however, he is in favor of the improvement phase moving forward.

Councilmember Doody said the core project (option C) is projected at \$7.1 million. He said option C seems to be the most responsible.

Councilmember Chazen said he thinks this is a legitimate project for the DDA and they have done exactly what they said they would do. This is a building for a commercial purpose. The taxpayers deserve a rate of return. He has a deep concern regarding the pledges as there are no contractual relationships. He believes it would not be good for the City to take the risk. He wants to look at the alternative use of funds. This project would be a greater expenditure than the overlay project; it is a major expenditure, and a risky investment. He believes if this project should go forward it should be done right with option A; option C would just be a foot in the door. If they go with option C, then it is incumbent upon the Foundation to come forward with their donations. The City made a promise with the resolution in 2012. Citizens have stepped forward with contributions to the Avalon Foundation and that money was spent. Morally, it is hard to go against a promise by a prior Council to people who have relied on it, even if it is ill advised.

Councilmember Norris said that when Council made that promise, they were looking at the finished core project, Option A, and it would be wrong to cut it back. Option A is

what they should do. She is disappointed the DDA does not think it is important to share in that expense. She agrees with Councilmember Brainard. There is no intention of taking the \$3 million back, the intention is how to move forward. Option C will cost more in the long run, and Option B is very questionable.

Council President Susuras said the Avalon is a City-owned building and it should be refurbished and re-utilized. He would like to honor the previous Council's promise.

City Manager Rich Englehart read an email from Councilmember Boeschstein who could not be at this meeting. Councilmember Boeschstein stated that after he had done additional research, he believes there are resources that have not been tapped yet. Wells Fargo may be willing to do some naming rights, and the Boettcher Foundation will be in town next Monday to tour the Avalon building. His vote is for Option B; if all else fails, Option C.

City Manager Englehart disclosed that a Division of Local Government (DOLA) grant application would not be considered for review under Option A because a contract in place for a full build-out would disqualify the application. If option B or C were in place, the City would be able to qualify for a DOLA grant because portions of the Avalon would not be under contract. The DOLA application for a Tier II grant is due in August, and would require 20% matching funds.

Council President Susuras asked what the odds were of the Avalon project being awarded this DOLA grant. City Manager Englehart said the City would have a strong application due to community involvement. However, it is a very competitive process, and DOLA historically rates infrastructure and roads at a higher priority; he could not predict the outcome. There are different cycles when grants can be applied for through DOLA.

Councilmember Brainard asked for confirmation that if the City went with Option A, it would take applying for a DOLA grant out of the equation. City Manager Englehart said this is correct; Options B and C give the City the opportunity to apply for DOLA grants; these options leave components to be funded with a 20% match. Councilmember Brainard asked about the deadlines for applying for a grant. City Manager Englehart said August 1, 2013 is the deadline, with review September through November.

Council President Susuras asked each Councilmember what direction Staff should take regarding the options before Council.

Councilmember Norris said her recommendation is for Option B.

Councilmember Brainard said based on the information given in this meeting his vote would be Option B.

Councilmember Doody said his vote is Option B.

Councilmember Chazen asked if Option B was underway, would it be easier to switch to Option A. Stan Kiser, FCI, confirmed that it would be much easier to go this route because there would be no extra design fees. Councilmember Chazen noted that the cost between Option B and C would be about half a million dollars and asked where those funds would come from. City Manager Englehart said there are three options to commit these funds in 2014: 1) look at the capital program and earmark those dollars; 2) use reserves; or 3) tap into the fund balance.

Council President Susuras asked if the City could still at that time go to the DDA and the Avalon Foundation to ask for help with the balance. City Manager Englehart said Option B would set the City up for funds to flow in order to provide for the shortfall.

Councilmember Chazen asked for confirmation that Option B would take care of the ADA compliance issues. Mr. Kiser said it would provide the framework for compliance. Public Works Engineering Manager Trent Prall said Option B would provide ADA seating in the auditorium; it would not be ADA compliant on the upper level.

Councilmember Chazen confirmed that he would prefer Option B.

Council President Susuras said it was unanimous vote to give direction to Staff to move forward with Option B for the Avalon Theatre.

City Manager Englehart asked City Attorney Shaver if, based on the current Resolution No. 27-12, another resolution is needed to go forward. City Attorney Shaver at the last Council meeting it was Council's decision to suspend Resolution No. 27-12. There are now two options: 1) obtain the construction contracts and have Council formally approve these; or 2) undo the action by Council of suspension of Resolution No. 27-12 and authorize the construction contracts. The decision would be based on how much detail City Council prefers to have regarding the contracts. The vote would be to address the resolution or to authorize the City Manager to enter into negotiations to sign a construction contract pending Council's ratification. City Council may vote at the meeting as it is a special City Council meeting.

Council President Susuras polled Councilmembers for their preference on making a decision at this meeting or at the next televised City Council meeting. City Council voted to wait until the next televised City Council meeting.

Avalon Theatre Foundation Development Director Robin Brown said she is very confident in the Foundation's ability to raise the funds needed to go forward.

Council President Susuras thanked all those who participated in all of the meetings regarding the Avalon Theatre. He noted there have been many citizens who participated by voicing their opinions as well. He appreciated all who were involved.

Fire Station 6

City Manager Rich Englehart said the Clifton Fire District has a high level of interest in consolidation with the City Fire Department. He suggested two Councilmembers be assigned to initially approach the Clifton Fire District Board.

Councilmembers Norris and Doody were assigned to this task.

City Manager Englehart stated that Staff members would be a part of this as well and a recommendation will be brought back to all Councilmembers.

Councilmember Chazen asked about the charter for the group.

City Manager Englehart said because of the location of the Clifton Fire station, the calls are comprised of 70% County and Clifton residents. Currently the response time exceeds four minutes for City residents. The goal would be to have a Fire Station centrally located to fill in the current gap in order to have a response time of four minutes to City residents.

Councilmember Doody asked if this would bring revenue to the City. City Manager Englehart said this would be part of the discussion; currently the City pays to have the Clifton Fire District provide services to City residents.

City Attorney Shaver said the goal would be for the City and Clifton Fire Boards to come to an understanding and then approach Mesa County. The County and City agreed in the 1998 Persigo agreement to hold Clifton harmless based upon City annexations. When there is a property annexation, owners no longer pay district taxes and instead pay City taxes; however, Clifton continues to provide Fire and EMS services which are paid for by the City. The fees paid are based on the assessed mill levy, which makes the calculation complicated. There is a draft of a supplementary agreement on how the calculations are performed.

Council President Susuras asked how much the Clifton Fire Department has been paid for these services. City Attorney Shaver said about \$180,000 a year. With the advent of a new fire station, this situation would be reversed.

Councilmember Doody noted that the Clifton District is outside the Persigo boundary; does this present a problem? City Attorney Shaver said legally it does not. Pending the decision from the Clifton Fire Board, the boundaries can be redrawn to allow another area for compensation for Clifton, or create an umbrella authority board over all fire districts.

Councilmember Chazen noted there are many issues to address.

City Manager Englehart said \$175,000 in DOLA grant funds are available for design work of a new fire station; another option would be to move Fire Station 4.

Council President Susuras said it was his recollection the Council had directed Staff to negotiate for the property for a new fire station; is there discussion to now trade property for partial payment?

City Attorney Shaver said there has been discussion, however, the property owners are not interested in a trade; they want cash. The suggestion is to obtain authority to purchase an option to tie up the property.

Councilmember Chazen asked how much this would cost. City Attorney Shaver said a few thousand dollars.

Council President Susuras asked if the deposit would be refundable. City Attorney Shaver answered for an option contract, yes; for a first right of refusal, no.

Council President Susuras polled Councilmembers and it was unanimous to move forward in discussions with the Clifton Fire District.

Work Plan Follow-Up

City Manager Englehart gave Council a draft calendar for workshop items and discussed the upcoming items.

Councilmember Norris noted the Recreation Center/Ice Rink is a new item on the agenda. City Manager Englehart agreed there are items that require an update to Council.

Councilmember Norris confirmed that although Council may approve the Las Colonias Master Plan, it does not necessarily mean there are funds for this project to move forward. City Manager Englehart concurred.

Discussion ensued regarding July agenda items and it was decided by Council to rearrange the Council schedule to allow all Councilmembers to be present for particular items. Dates were also decided upon for Council work sessions/meetings before joint City/County meetings.

City Manager Englehart said he attended a meeting at CMU on the public safety training center and grants. He encouraged applying for PILT (Payment in Lieu of Taxes) funds. The Economic Development (ED) partners committed to this being a top priority. He also asked for confirmation to go forward with the RAMP application for Horizon Drive.

There were no objections from Council. City Council directed City Manager Englehart to move forward with the RAMP application.

Financial Operations Director Jodi Romero reviewed the financial work session meetings coming up in August. She asked Council to let Administrative Specialist

Belinda White know of any vacations scheduled. Two four-hour sessions or a full-day session is available. The City Council's consensus was to have a full-day session. Ms. Romero said these meetings will provide Staff with policy direction to work on the details of budget development.

Ms. Romero said the July 15, 2013 workshop, presentations will include a financial report; 2013 budget update; and 2013 supplemental appropriations. Ms. Romero reviewed the other scheduled financial workshops and what these meetings would entail.

Councilmember Norris asked how the budget is adopted. Ms. Romero said an ordinance will be adopted by majority vote. City Attorney Shaver clarified that the appropriation ordinance is the fund level approval; there will be more detail in the budget itself.

Council President Susuras provided a correction for a contact on the CNG versus diesel vehicles discussion from last City Council meeting.

Councilmember Norris asked if the CNG gas from Persigo would be free. City Manager Englehart said the decision hinges on Xcel as they need to make sure it is clean enough to go into transmission lines; Xcel thinks it can be done. City Manager Englehart will get an update, and noted this is a pilot project which will set precedence.

Council President Susuras asked if there had been any discussion with Fred Eggleston with Xcel since the results of the investigation into 7th Street explosion incident had been released.

Councilmember Brainard said Mr. Eggleston told him he would like to have an Xcel representative present when a dig takes place near medium pressure gas lines. City Attorney Shaver said that from a legal standpoint, Xcel did have a representative present at this incident by virtue of Xcel's contractor.

City Manager Englehart asked City Attorney Shaver if more could be done to help Xcel establish a firm policy on this matter by means of an ordinance. City Attorney Shaver said this matter was brought to Council several years ago and it did not go any further, however, it could be brought back for consideration.

Councilmember Chazen recalled a matter in California some years ago; an earthquake caused a gas leak which in turn caused a major explosion that took many lives and houses. This explosion prompted state legislation for California gas companies.

City Manager Englehart said there have been other unfortunate incidents like these.

Councilmember Brainard said there are contractors who specialize in identifying problem areas. He cautioned against going with the lowest bidder on a project like this as there is a difference in the quality of tools the contractor is using.

Councilmember Chazen asked who would pay for this pilot project. City Manager Englehart said Xcel would need to participate, and grant funds would be available. City Attorney Shaver said there could be an indemnity issue.

Other Business

City Manager Englehart said a trip is planned to Houston, Texas in July to visit an Energy Park Complex created by the University of Houston. Councilmember Norris will be visiting the site as part of the group.

Councilmember Brainard asked why money would be put into an energy epicenter unless the State of Colorado shows support. City Manager Englehart said the trip to Houston is regarding renewable energy, although Councilmember Brainard raises a good question.

Councilmember Norris said the goal is for Grand Junction to be an energy epicenter.

City Manager Englehart then asked for direction on how Council would like to have notes taken for work sessions. Three options were presented by the City Attorney: a detailed summary drafted by the City Clerk; a briefer recap; and a really brief one page summary.

Councilmember Norris said she prefers Option 2, Option 3 was too vague.

Councilmember Chazen agreed with Councilmember Norris. He would like to hear the legal ramifications.

City Attorney Shaver said any of the options would essentially act like minutes. The driving factor in this decision should be who is the intended audience. All the options are legally compliant. Consistency is not required but would be good for the City Clerk's office where these minutes are captured.

Council President Susuras asked City Clerk Stephanie Tuin if a burden would be placed on her department and what the solution would be. Ms. Tuin confirmed it is more work, and currently there is no additional Staff planned for. It would depend on how many meetings Council plans to have. She inquired if Council wants the summaries brought back to Council for approval. City Clerk Tuin suggested the summaries could be placed on the Consent Calendar with the minutes for approval.

Councilmember Doody said he prefers Option 2. He believes it is a good safeguard to have a summary, then approval of these notes as part of the Consent Agenda at a Council meeting.

Councilmember Brainard agreed with Option 2.

Councilmember Chazen said he preferred Option 2 as he would like to see some sort of record and context. He would like to approve these as part of the Consent Agenda.

Council President Susuras agreed.

Adjournment

The meeting adjourned at 11:35

Stephanie Tuin, MMC
City Clerk