

**GRAND JUNCTION CITY COUNCIL  
MINUTES OF THE REGULAR MEETING**

**March 1, 2023**

**Call to Order, Pledge of Allegiance, Moment of Silence**

The City Council of the City of Grand Junction convened into regular session on the 1<sup>st</sup> day of March 2023 at 5:30 p.m. Those present were Councilmembers Chuck McDaniel, Phil Pe'a, Dennis Simpson, Council President Pro Tem Abe Herman and Council President Anna Stout. Councilmember Randell Reitz was absent.

Also present were City Manager Greg Caton, City Attorney John Shaver, City Clerk Amy Phillips, Deputy City Clerk Janet Harrell, Principal Planner Nicole Galehouse and Finance Director Jodi Welch.

Council President Stout called the meeting to order and Tevin Franklin led the Pledge of Allegiance, followed by a moment of silence.

**Proclamations**

**Proclaiming March 2023 as Women's History Month in the City of Grand Junction**

Council President Stout read the proclamation and Jane Quimby, daughter of Grand Junction's first female Mayor Jane Quimby, accepted the proclamation.

**Appointments**

Council President Pro Tem Herman moved and Councilmember Pe'a seconded to reappoint Diana Rooney, Stephen Meyer and Athena Fouts, and appoint Anita Sheetz for three-year terms expiring June 2026, and appoint Brooke Carlson for a two-year term expiring June 2025, all to the Urban Trails Committee. Motion carried by unanimous voice vote.

Councilmember Randall Reitz joined the meeting at 5:41 p.m.

**Citizen Comments**

Bruce Lohmiller spoke about Los Angeles Mayor's policy to open hotels to the area homeless and noted this policy was difficult to implement since participants were required to be drug free. He also said a non-profit event would be held in Mack.

Rickie Howie spoke about the City's upcoming election and expressed appreciation for City Council's decisions.

David Zollner talked about the "American Dream" and expressed concern regarding the

trend toward only higher density residential developments.

**City Manager Report**

City Manager Caton did not present a report.

City Attorney Shaver said the City received an objection and legal challenge to the scheduled cannabis randomized selection and recommended suspending the Horizon Drive Association Business Improvement District selection and presenting an ordinance to Council at the March 15<sup>th</sup> meeting to amend and clarify the selection process. He also noted the offer from Mesa County regarding the Orchard Mesa Pool is being refined and clarified.

**Council Reports**

Council President Stout attended the Colorado Municipal League (CML) Legislative Conference on February 16<sup>th</sup> and noted CML and the Associated Governments of Northwest Colorado are monitoring state legislation and advocating for local municipalities.

**CONSENT AGENDA**

Councilmember McDaniel requested item 2.b.ii. be moved to the regular agenda. Councilmember Simpson moved and Council President Pro Tem Herman seconded to adopt Consent Agenda items #1 - #4 excluding item 2.b.ii. Motion carried by unanimous voice vote.

**1. Approval of Minutes**

- a. Summary of the February 13, 2023 Workshop
- b. Minutes of the February 15, 2023 Special Meeting
- b. Minutes of the February 15, 2023 Regular Meeting

**2. Set Public Hearings**

- a. Legislative
  - i. Introduction of an Ordinance Creating an Accessory Dwelling Unit Production Program and Setting a Public Hearing for March 15, 2023
  - ii. Introduction of an Ordinance for a Land Exchange Between the City of Grand Junction and Dynamics Investments, Inc. and Setting a Public Hearing for March 15, 2023

- b. Quasi-judicial
  - i. A Resolution of Intent to Annex to the City Council for the Annexation of Lands to the City of Grand Junction, Colorado, and Exercising Land Use Control for the Clear Creek Enclave Annexation of 3.86 Acres, Located in the Brookdale Subdivision along and including Clear Creek Drive, Cripple Creek Court and Cascade Creek Court, and Setting a Public Hearing for April 5, 2023
  - ii. Introduction of an Ordinance to Rezone 17.37 Acres from R-1 (Residential – 1 du/ac) to R-5 (Residential – 5.5 du/ac) Located at 2428 H Road and Setting a Public Hearing for March 15, 2023 – **Moved to Regular Agenda**

### 3. Resolutions

- a. A Resolution Authorizing the City Manager to Submit a Request for Congressionally Directed Spending for the Community Recreation Center
- b. A Resolution Authorizing the City Manager to Submit a Request for Congressionally Directed Spending for the I-70 Interchange at 29 Road Project
- c. A Resolution Establishing City Council Support for House Bill 23-1156 *Public Airport Authority Act Modernization*

### 4. Other Action Items

- a. Request for 2023 Fireworks Displays at Suplizio Field
- b. Agreement for Palisade Pool Operations
- c. Approval of Federal Aviation Administration Agreement for Transfer of Entitlements

### **REGULAR AGENDA**

#### **Introduction of an Ordinance to Rezone 17.37 Acres from R-1 (Residential – 1 du/ac) to R-5 (Residential – 5.5 du/ac) Located at 2428 H Road and Setting a Public Hearing for March 15, 2023 – Moved from Consent Agenda**

Applicant and property owner Vista 5, LLP requested a rezone of 17.37 acres from R-1 (Residential – 1 du/ac) to R-5 (Residential – 5.5 du/ac) located at 2428 H Road in anticipation of future development.

Councilmember McDaniel stated two procedural points regarding this item. He noted City Council heard an item to rezone this property three years ago and Council approved a rezone to R-1. If this request is the same, per res judicata, the presiding body should not entertain a rehearing of the item. Also, when the Planning Commission (PC) heard this item at their February 14, 2023 meeting, some commissioners made comments regarding the economic redevelopment of this property in connection with the request approval. The PC was not provided information in the record on economic development and he felt it was improper for the commissioners to speculate on the economic matters of the Zoning and Development Code. Councilmember McDaniel then recused himself from this item due to the appearance of a conflict (letter attached).

Discussion included that this item is being requested by a different applicant, the applicant bears the burden of providing new/different evidence at the public hearing, and if no new/different evidence is presented, Council may apply the res judicata doctrine.

Councilmember McDaniel moved and Councilmember Pe'a seconded to introduce an ordinance rezoning 17.37 acres from R-1 (residential – 1 du/ac) to R-5 (residential – 5.5 du/ac) located at 2428 H Road and set a public hearing for March 15, 2023. Motion carried by unanimous voice vote.

**A Resolution Accepting the Petition for the Annexation of 17.42 Acres of Land and Ordinances Annexing and Zoning the Grand Valley Estates Annexation to R-12 (Residential - 12 du/ac), Located at the Northeast Corner of 31 Road and E ½ Road – Continued from January 18, 2023 and February 1, 2023**

Applicant Grand Junction Venture, LLC requested annexation of land and a zone of annexation to R-12 (Residential – 12 du/ac) for the Grand Valley Estates Annexation in anticipation of future development. The approximately 17.42-acre undeveloped property, located at the northeast corner of 31 and E ½ Roads, is Annexable Development per the Persigo Agreement. The proposed zone district of R-12 is consistent with the Residential Medium (5.5 to 12 du/ac) Land Use category of the Comprehensive Plan.

At the January 10, 2023 Planning Commission (PC) meeting, there was significant discussion about safety and traffic along E ½ Road, deteriorating roadway conditions, concern regarding current school capacity as well as the impact of a new charter school, and compatibility with the Comprehensive Plan. The PC recommended denial of the proposed zoning with a vote of 1 to 6.

Following the January 10, 2023 PC public hearing, staff was notified the Grand Junction Daily Sentinel published the legal notice for the PC hearing on January 4, 2023, which did not meet the required notice provision of seven (7) days in advance of the public hearing (Section 21.02.080(g)). As a result, the scheduled City Council public hearing was continued to February 1, 2023, to allow a new notice to be published in the Grand Junction Daily Sentinel on January 25, 2023.

At the February 1, 2023 Council meeting, applicant representative Ty Johnson of Kaart Planning requested, on behalf of Grand Junction Venture, LLC, this item be continued since the proposed zoning ordinance would require an affirmative supermajority vote by Council (5 votes) to be approved since the PC recommended denial, and Council President Pro Tem Herman was not available for the entire meeting. Mr. Johnson's request was granted and the item was continued to the March 1, 2023 meeting.

Council President Stout requested this item be bifurcated in order to hear the annexation and zone of annexation separately with each having their own public hearing. Council concurred.

Principal Planner Nicole Galehouse and Ty Johnson from Kaart Planning presented the annexation item.

Discussion included that the state annexation requirement "C" refers to the City's interest/benefit/established contiguity (utility extension/future connection) of a property, all seven (7) state requirements must be met for annexation, if a property is contiguous the state requirement should be met, the Hoover Court subdivision is the closest residential area to this property, the City's Urban Development Boundary eastern edge is Long's Park, how the Persigo Agreement 1/6 perimeter requirement was calculated for this annexation, there is a parcel owned by Mesa County within this property, PC does not consider the annexation (only zoning), the zone of annexation must be compatible with the Comprehensive Plan (R-8, R-12, CSR, general residential and shop front), clarification that the property is 17.42 acres and Council may deny the annexation if specific requirements are not met.

The public hearing opened at 6:20 p.m.

The following spoke against the annexation: Carroll Aamold, Rod Hoover, Rose Bonine, Don Olbert, Mike Gardner, Amy Caster, Kathy Rossmann, Miles Cothrun, R.C. Buckley, Steven Schultz, Linda Votruba and Dave Dearborn.

Joe Jones asked what the zoning options are for this property.

The public hearing closed at 6:44 p.m.

Councilmember Pe'a moved and Councilmember Simpson seconded to deny Resolution No. 11-23, a resolution accepting a petition to the City Council for the annexation of lands to the City of Grand Junction, Colorado, the Grand Valley Estates Annexation, approximately 17.42 acres, located at the northeast corner of 31 and E ½ Roads and adopt Ordinance No. 5123 annexing territory to the City of Grand Junction, Colorado, Grand Valley Estates Annexation, approximately 17.42 acres, located at the northeast corner of 31 Road and E ½ Road. Motion failed by roll call vote.

Council President Pro Tem Herman moved and Councilmember Reitz seconded to adopt Resolution No. 11-23, a resolution accepting a petition to the City Council for the

annexation of lands to the City of Grand Junction, Colorado, the Grand Valley Estates Annexation, approximately 17.42 acres, located at the northeast corner of 31 and E ½ Roads and adopt Ordinance No. 5123 annexing territory to the City of Grand Junction, Colorado, Grand Valley Estates Annexation, approximately 17.42 acres, located at the northeast corner of 31 Road and E ½ Road, on final passage and ordered final publication in pamphlet form. Motion carried by roll call vote.

Council took a break at 7:06 p.m.

The meeting resumed at 7:15 p.m.

Principal Planner Nicole Galehouse and Ty Johnson from Kaart Planning presented the zone of annexation item.

Discussion included that the property has multiple incumbrances which is why the R-12 zone is being requested, the annexation is not typically considered a “subsequent” event for zoning, an annexed property is required to be zoned within 90 days of annexation, the zone of annexation must be compatible with “residential medium” designated by the Comprehensive Plan, once zoned the developer must go through the Development Review Process which includes a Neighborhood Meeting and review by City/County agencies, there is no formal design for this property yet, overview of the development process, the Comprehensive Plan is not compatible with the County zoning, development leads to infrastructure improvements which may help lead to further development, the County identified E ½ Road as a ‘Collector Road’ and has improvements scheduled for 2024 to expand lanes, nearby park property is desired for high density developments, higher density developments may help reduce crime, R-12 allows for a 60’ building height, R-12 would help with alleviate local housing issues, PC considered the concerns addressed tonight, only one zoning criteria needs to be met in order to rezone, what the legal definition of “are adequate” is, Council’s options are to deny the zoning, zone R-8, refer to developer or remand back to the PC.

The public hearing opened at 7:30 p.m.

Wayne Gardner spoke in favor of the item.

The following spoke against the zoning: Carroll Aamold, Rod Hoover, Sharon Jones, Bill Conrob, Jessica Hatcher, Mike Gardner, Rose Bonine, R.C. Buckley, Mark Baker, Amy Castor, Scott Rafferty, Don Olbert, Karen Romeo, Cheryl Fegal, Grace Fitzgerald, Marian Brosig, Lou Snyder, Lebecca Jones, Kathy Rossman, Miles Cochran, Heather Huntley, Linda Votruba and Dave Dearborn.

The public hearing closed at 8:27 p.m.

Councilmember Reitz moved and Councilmember Pe’a seconded to deny Ordinance No. 5124, an ordinance zoning the Grand Valley Estates Annexation to R-12 (Residential - 12 du/ac) zone district. Motion carried by unanimous roll call vote.

Council agreed to remand this zone of annexation item back to the PC.

Council took a break at 9:07 p.m.

The meeting resumed at 9:20 p.m.

### **An Ordinance Authorizing a Supplemental Appropriation for American Recovery Plan Act (ARPA) Grant Awards**

The budget is adopted by City Council through an appropriation ordinance to authorize spending at a fund level based on the line-item budget. This supplemental appropriation is required for spending authorization to distribute ARPA grant awards to Grand Valley Catholic Outreach and Housing Resources of Western Colorado.

Council President Stout clarified that Resolution No. 20-23, adopted at the February 15, 2023 meeting, was to show the state that the City was committed to supporting this project with a \$1M grant and approval of this item will provide the legal authority for the City to expend those funds.

Finance Director Jodi Welch presented this item.

The public hearing opened at 9:21 p.m.

There were no public comments.

The public hearing closed at 9:21 p.m.

Council President Pro Tem Herman moved and Council President Stout seconded to adopt Ordinance No. 5131, an ordinance making supplemental appropriations to the 2023 Budget of the City of Grand Junction for the year beginning January 1, 2023 and ending December 31, 2023 for American Recovery Plan Act funding for Housing Resources and Grand Valley Catholic Outreach on final passage and ordered final publication in pamphlet form. Motion carried by unanimous roll call vote.

### **An Ordinance Leasing City Property to Gray Media Group**

The City of Grand Junction (City) owns property on Grand Mesa and has for many years leased a portion of the land for use as a television and radio transmitting site. The City has had a long-standing relationship with Pikes Peak Television, Inc. In late 2008 the City and Pikes Peak Television entered a 10-year lease ("Lease"). In 2019, with the City's consent, Pikes Peak assigned a portion of the leased premises to Chang Media Group. At the time of the partial assignment, Pikes Peak's records show that it sent a letter to the City notifying it that Gray Media was a successor in interest to Pikes Peak Television, Inc. and that Gray intended to exercise an option provided in the Lease for another 10-year term. The City did not receive that letter. Gray paid the annual Lease payments and, notwithstanding the Lease not being in its name, Gray performed

consistent with the City’s expectations as provided in the Lease.

City Attorney John Shaver presented this item.

The public hearing opened at 9:23 p.m.

There were no public comments.

The public hearing closed at 9:23 p.m.

Councilmember Pe’a moved and Councilmember Simpson seconded to adopt Ordinance No. 5132, an ordinance transferring, authorizing and substituting the lease agreement by and between the City of Grand Junction and Pikes Peak Television, Inc. to Gray Media Group, Inc., for use of certain City land and ratifying all actions heretofore taken and in connection therewith on final passage and ordered final publication in pamphlet form. Motion carried by unanimous roll call vote.

**An Ordinance Amending the Description and Inclusion of Certain Property in the Downtown Development Authority Boundary**

In 2011 and 2017, specified land areas were by ordinance duly and lawfully included in the Downtown Grand Junction Development Authority (DDA) area. Recently, the Mesa County Assessor determined that certain portions of certain alleys, streets and rights of way (“Property”) were not fully described in the legal descriptions of the included land. The discrepancies in the legal descriptions are insubstantial. However, it is important that the legal descriptions be amended by and with this Ordinance so that the Property is, and shall be, fully described and included in the DDA area. Since the inclusions in 2011 and 2017 the Property has been sold and pursuant to C.R.S. 31-25-822 and the Authority’s Plan, the Property owner, DR Land, LLC and DR Townhomes, LLC, have assented to inclusion of the Property into the Authority’s boundary.

City Attorney John Shaver presented this item.

The public hearing opened at 9:25 p.m.

There were no public comments.

The public hearing closed at 9:25 p.m.

Council President Pro Tem Herman moved and Councilmember Reitz seconded to adopt Ordinance No. 5133, an ordinance amending Ordinance Nos. 3008, 4461 and 4756 expanding the boundary of the Grand Junction, Colorado Downtown Development Authority to include certain property formerly known as Hale, Lawrence and Lila Avenues and certain now vacated rights of way all as legally described herein located in the Dos Rios Subdivision on final passage and ordered final publication in pamphlet form. Motion carried by unanimous roll call vote.



**Non-Scheduled Citizens & Visitors**

There were none.

**Other Business**

Councilmember Reitz requested the status of Council's support for House Bill 23-1156, *Public Airport Authority Act Modernization*. Council President Stout explained this item was passed on the Consent Agenda as item 3.c.

**Adjournment**

The meeting adjourned at 9:27 p.m.

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Amy Phillips, CMC  
City Clerk





March 1, 2023

Mayor Stout and Members of City Council  
250 N. 5<sup>th</sup> Street  
Grand Junction, CO 81501

Via Hand Delivery

Mayor Stout and Members of City Council,

I write concerning item number 2023-6879 on the March 1, 2023, City Council meeting agenda. That item is a proposed rezone of the property located at 2428 H Road. The property is owned by Vista 5, LLP.

With this letter I write to inform you of the appearance of a conflict of interest the existence of which calls into question my participation in the hearing/decision on the matter which is proposed to occur on March 15th.

I have a personal and previous professional relationship with Mr. Porter, who is affiliated with Vista 5, LLP, and because of that I have determined that my interactions with him, and the perception of a conflict that may arise from those interactions, will inhibit me from fairly considering the application. I have consulted with City Attorney Shaver who has advised that in light of the Council's customary standard regarding an appearance of conflict that my recusal is proper. Accordingly, I will not be participating in the hearing/decision on this matter.

A copy of this letter will be filed with City Clerk Phillips for inclusion in the minutes/public record pertaining to the March 1<sup>st</sup> and March 15<sup>th</sup> Council meetings.

Sincerely,

A handwritten signature in blue ink that reads "C.B. McDaniel". The signature is stylized and includes a large, looping flourish at the end.

C.B. McDaniel  
City Councilmember At Large  
City of Grand Junction, Colorado

pc: Amy Phillips  
Greg Caton  
John Shaver