

GRAND JUNCTION CITY COUNCIL WORKSHOP SUMMARY May 1, 2023

Meeting Convened: 5:30 p.m. The meeting was held in person at the Fire Department Training Room, 625 Ute Avenue, and live streamed via GoToWebinar.

City Councilmembers Present: Councilmembers Scott Beilfuss, Cody Kennedy, Jason Nguyen, Randall Reitz (virtual), Dennis Simpson, Mayor Pro Tem Abe Herman and Mayor Anna Stout.

Staff present: City Manager Greg Caton, City Attorney John Shaver, Assistant to the City Manager Johnny McFarland, Director of Community Development Tamra Allen, Mobility Planner Henry Brown, Senior Planner Daniella Acosta, Finance Director Jodi Welch, Visit Grand Junction Director Elizabeth Fogarty, Public Works Director Trent Prall, Police Chief Matt Smith, Recreation Superintendent Emily Krause, Fire Marshal Steve Kollar, Cannabis Compliance Officer Travis Wright, City Clerk Amy Phillips, and Deputy Clerk Janet Harrell.

1. Discussion Topics

a. Board and Commission Assignments for City Council

Each year, the City Council reviews and determines which members of the City Council will represent the Council on various boards, committees, commissions, authorities, and organizations. This discussion determined which members will serve on each board, commission, or authority as the Council representative and directed staff place this on the Wednesday, May 3, 2023, City Council agenda for formal action.

External Agencies

1. Associated Governments of Northwest Colorado – Mayor Stout
2. Business Incubator Center – Councilmember Simpson
3. Colorado Municipal League Legislative Liaison – Mayor Stout
4. Downtown Development Authority/Downtown BID – Mayor Pro Tem Herman
5. Grand Junction Economic Partnership – Councilmember Kennedy
6. Grand Junction Housing Authority – Councilmember Reitz
Alternate Councilmember Beilfuss
7. Grand Junction Regional Airport Authority – Councilmember Reitz
8. Grand Valley Regional Transportation Committee (GVRTC) – Councilmember Nguyen
9. Homeless Coalition - Councilmember Beilfuss
10. Horizon Drive Association BID – Councilmember Simpson
11. Las Colonias Development Corporation – Councilmember Kennedy
12. Mesa County Separator Project Board – Mayor Stout
13. One Riverfront – Councilmember Nguyen
14. Air Service Alliance – Councilmember Simpson
15. Museum of the West – Councilmember Kennedy

Internal Boards

1. Commission on Arts and Culture - Councilmember Beilfuss
2. Forestry Board – Councilmember Kennedy
3. Parks Improvement Advisory Board - Mayor Pro Tem Herman
Alternate Councilmember Kennedy

4. Parks & Recreation Advisory Board - Mayor Pro Tem Herman
Alternate Councilmember Kennedy
5. Persigo Board - All City and County Elected
6. Property Committee – Mayor Stout and Mayor Pro Tem Herman
7. Riverview Technology Corporation – Councilmember Simpson
8. Urban Trails Committee – Councilmember Nguyen
Alternate Mayor Pro Tem Herman
9. Visit Grand Junction – Mayor Stout
Alternate Councilmember Kennedy
10. Historic Preservation - Councilmember Beilfuss

b. Nuisance Update

City Attorney Shaver and Police Chief Smith reported that gray casinos, also known as “adult gaming arcades” or “adult gaming establishments” are businesses engaged in gambling-type activities that use technology to operate in a gray area of the law that distinguishes between games of chance (illegal) and games of skill (whose legality is or may be in question).

These establishments are in commercial and residential areas in the City with examples of locations ranging from garages to storefronts, including one on Main Street. There are approximately 15 establishments; however, they open, close, and relocate so often it is difficult to track. They often operate 24 hours per day but tend to attract more business in the nighttime hours. The establishments tend to attract increased criminal activity including theft, assault, drug trafficking, and prostitution to the areas in which they operate. Several high-profile incidents have occurred, including a recent shooting, stabbing, and a Federal investigation. Residents and business owners have contacted City staff complaining about the negative impact this type of activity is having on their business and/or residential community.

Under HB22-1412, the State Gaming Commission has the power to investigate and prosecute crimes and enforce regulations pertaining to unlicensed gaming establishments throughout Colorado; however, the Colorado Division of Gaming Enforcement and Investigations Section has advised the City that the Division will not operate/provide enforcement outside of the cities authorized for limited gaming in Article XVIII, Section 9 of the Colorado Constitution (Blackhawk, Central City, and Cripple Creek).

A traditional casino-type slot machine is a game of chance. A player puts money into the machine, and the machine randomly determines if the player is a winner. So-called games of skill introduce a requirement that the player use a skilled input, usually pressing a button-press at a certain moment in the game. While the Colorado legislature passed a law outlawing simulated gambling in 2018, the law was found to be unconstitutional by the 4th Judicial District Court. The Colorado Supreme Court declined to hear an appeal, thus, leaving the District Court decision as controlling law.

One difficulty in enforcing the gaming and simulated gambling law is the expertise required to investigate and successfully prosecute violations. While the Colorado Gaming Division contracts with a company to conduct forensic examinations of gaming machines to determine if they are compliant with the law, there are very few investigators/investigations, and the investigations are very time-consuming and expensive. As part of a potential prosecution, law enforcement would need to seize the machines and perform a forensic examination of each machine to determine how the machine works and whether it, and the business operation offering the machine(s), violates the law. Such investigations require expertise in gaming, gambling, simulated gambling,

and gambling operations. Local law enforcement does not have the requisite expertise and/or resources to conduct investigations. Additionally, the cost of forensically examining machines seized is exorbitant when compared to the classification of the crime of offering a simulated gambling device – a class 2 misdemeanor – the lowest misdemeanor.

Finally, if police seize gaming machines, shutter the businesses offering the machines and charge a violation(s) of the law only to find later that the business(es) is(are) operating within the law, such actions may lead to civil liability for the City.

Because gaming establishments typically do not sell products, a City sales tax license is not required. Currently, the City does not have a special classification for these types of businesses, so they tend to exist irrespective of location regulations. The lack of regulation, taxation, and oversight allows these businesses to open, close, and relocate quickly and often.

As a beginning step to address the problems raised by these gaming establishments, staff proposed a moratorium on the opening or relocation of any gaming arcades for 365 days in Ordinance No. 5125, so that staff may further investigate legal and practical paths to permanently addressing these problems. This enlarged “public nuisance” ordinance is intended as a potential solution. The ordinance declares that properties that support or allow criminal activity on properties are a “Criminal Public Nuisance,” and provides an enumerated list of crimes for which properties can be declared a Criminal Public Nuisance. Once a property is declared a nuisance, the ordinance provides a procedure by which the Chief of Police and the City Attorney (or designees) provide notice and procedures for abatement of the nuisance.

When a property has been declared a Criminal Public Nuisance, the Chief of Police provides written notice to the property owner. If abatement does not occur within 10 days, the City Attorney may initiate a civil action in Municipal Court. The Municipal Court is empowered to order civil penalties; physical closure of the property; and payment of costs for abatement to the City.

Property rights and due process for the property owner are protected by providing notice and the opportunity to abate the nuisance without any City intervention, and then by a civil process in Municipal Court with all applicable rules and protections provided by law and the Constitution.

Staff believes this ordinance allows the City to address the problems created by offending businesses without directly addressing the legality of gray casinos and the aforementioned problems with enforcement of this unsettled area of the law.

Council discussion ensued regarding the proposed ordinance resulting in a request by Council to place the item on Wednesday’s agenda with a few minor edits, including reference to massage therapy as it might create a negative perception of the profession and confusion caused by calling the proposed ordinance a criminal nuisance ordinance when it is actually civil.

c. Pedestrian and Bicycle Plan

Community Development Director Tamra Allen, and Consultant Patrick Picard introduced the item, reporting that the City hired Fehr and Peers to work on developing the first ever Pedestrian and Bicycle Plan (Plan) for the Grand Junction community. This effort works towards three primary goals:

- Establish a vision for the future pedestrian and bicycle network.

- Identify prioritized investments that the City will implement over time.
- Create a more comfortable and welcoming place for people walking, rolling, and biking across all ages and abilities.

The City launched the Pedestrian and Bicycle Plan with the formation of a 17-member steering committee. Staff solicited a pool of applicants that were geographically diverse and inclusive of different age groups and professions who were part of a target demographic or who may, through their employment, represent vulnerable or underrepresented users, such as individuals with disabilities, youth, low-income populations, and service industry workers.

Following the formation of the steering committee, staff conducted extensive community outreach consisting of 12 intercept events throughout the community, a walk audit and a bike audit with members of the steering committee, nine focus groups, an online survey and an interactive mapping exercise, and an open house to collect input on existing conditions and community needs. Approximately 80 community members attended the open house. Through the engagement process, staff made 300 individual points of contact with community members at the intercept events, solicited input from 65 focus group participants, and received 669 comments on the online survey and 1,098 comments on the interactive online map.

In December 2022, the City released an Existing Conditions and Needs Assessment Report that synthesized all public input and findings during the first phase of the project. Additionally, the City released the draft network plans for pedestrian corridors and bicycle corridors, and additions to the Active Transportation Corridors map. Both documents are available for review on [GJSpeaks.org](https://www.gjspeaks.org). Staff workshopped the Existing Conditions and Needs Assessment Report with the City Council on December 19, 2022, and with the Planning Commission on January 5, 2023.

The City released the first draft of the Plan on February 2. The draft plan presents the identified level of traffic stress (LTS) for corridors in the City ranked for both pedestrians and bikes and recommended treatments. The consultants also prepared a prioritized projects list for infrastructure improvements. The plan also includes non-infrastructure policy and programmatic recommendations.

The City conducted a second round of public outreach to gather input on the elements of the draft plan. Staff has conducted 10 intercept events to encourage the public to read and provide comments on the draft plan:

- Mesa County Public Library, Feb 2, and Feb 16
- KAFM Radio Show, Mobile Mesa County, Feb 8
- Downtown Development Authority Board Meeting, Feb 9
- Winter Bike to Work Day, Feb 10
- Colorado E-Bikes, Feb 11
- Horizon Drive BID Board Meeting, Feb 15
- Colorado Mesa University Natural Resources Job Fair, Feb 15
- Virtual Open House, Feb 21.
- Associate Growth for Growth and Development, April 6

The City also held a second in-person open house on February 22 at the Lincoln Park Barn as an additional venue to collect public comment. Additionally, there was an online survey available

to fill out until February 26. The public comment portion on GJ Speaks for the draft plan remained open until February 26.

On March 22, the draft version of the final plan was presented to the Urban Trails Committee. The Urban Trails Committee voted to forward a motion to the City Council to approve the document.

On March 28, the item was heard by the Planning Commission and continued the item. Staff conducted an additional round of revisions to Chapter 6 of the plan at the request of the Planning Commission and held two additional workshops with the Planning Commission on April 7 and April 20. The latest version of the revised draft is available on the City's website. The Planning Commission reviewed and provided a recommendation of approval (6-0) at their April 25th meeting. At the hearing, the Planning Commission received various comments from representatives of canal companies opposing the delineation of Active Transportation Corridors along canals. This plan has been scheduled for first reading at City Council on May 3 and second reading on May 17.

Discussion ensued regarding the stakeholders who were at a previous Planning Commission meeting, including several canal companies who presented testimony about not having any interest in having trails along their canal bank. Ultimately, the Planning Commission did not recommend that these trails be removed but the community's input on the Plan would continue to be on the City's radar. The canal companies' representatives' message was really safety first, as well as their responsibility if something were to happen to users of the corridors along the canal corridors. It was noted that the City had suggested years ago to create under its authority the ability to put-up signage and indemnities.

2. City Council Communication

Council discussed two potential items for future workshops, Business Licenses and Zoning for Skilled Gaming Industry.

3. Next Workshop Topics

City Manager Caton reported that the May 15 Workshop items will be:

- Water Efficiency Plan
- 2023 Program Year Community Development Block Grant (CDBG) Funding Requests
- Discussion on Cannabis Cultivation

Adjournment

There being no further business, the Workshop adjourned at 7:39 p.m.