

**GRAND JUNCTION CITY COUNCIL
SPECIAL MEETING MINUTES**

July 23, 2013

The City Council of the City of Grand Junction convened into a Special Meeting on the 23rd day of July, 2013 at 12:15 p.m. in the City Auditorium. Those present were Councilmembers Bennett Boeschstein, Martin Chazen, Jim Doody, Phyllis Norris, and Council President Sam Susuras. Also present were City Manager Rich Englehart, City Attorney John Shaver, and City Clerk Stephanie Tuin and Deputy City Clerk Debbie Kemp.

Council President Susuras called the meeting to order and announced the purpose of the meeting.

Read Letter of Resignation from Rick Brainard into Record

City Clerk Tuin read the letter of resignation from Rick Brainard into record (attached).

Determination on Method to Fill Vacancies

Council President Susuras reminded Council that a date has been set for July 29th to fill the vacancy for District E.

Councilmember Chazen asked City Attorney Shaver if a resolution needs to be adopted to accept the resignation. City Attorney Shaver said that it is not required but it is up to Council if they would like to. It is sufficient to acknowledge the resignation letter.

Councilmember Boeschstein stated that two vacancies on Council now need to be filled as soon as possible. He feels that it should be done in an open manner, through a petition process getting signatures, a campaign process, and election.

Councilmember Doody said that, in light of everything that has transpired, the City is at a crossroads, and he would like to see this go to an election.

Councilmember Norris stated that the City just went through an election, it is not cheap, and there are candidates willing to step up. This Council was elected to fill positions, one interview process has happened, Council didn't agree and it was decided to do another interview to save the community \$40,000 to \$60,000 in election costs. She feels Council should interview for both positions.

Councilmember Chazen agreed with Councilmember Norris, the process is in motion and the Charter is clear. The Council positions should be filled as soon as possible and then move on with City business. The current Council was elected by citizens to make

decisions and solve problems, and to make a swift decision through a process already in place.

Council President Susuras advised that a special election could cost \$100,000, or with the County, \$45,000. He agreed with the comments made; Council was elected to make decisions and he feels three is a majority on a Council of five. Council should move forward with July 29th interviews and direct the City Clerk to start the process for filling the second vacancy.

City Attorney Shaver said no action is required if Council wishes to fill the District E seat on July 29th. The Council does need to direct Staff on the interview process, and determine how the selection will be made.

City Attorney Shaver advised Council to adopt a specific rule, for this selection process only, if the current five Councilmembers would like to use a majority of three. Until a sixth Councilmember is appointed, three would then constitute a majority for official actions. City Attorney Shaver explained that with a seven member Council, it has consistently been the City's practice to have a majority of four Council members for official actions. The City Charter is unclear because it only states, in two paragraphs, "members of the Council." The Charter doesn't state a Council of seven members, nor does it specifically address a Council with less than seven members. It is therefore up to the current five member Council to decide whether or not they want to adopt a rule allowing a majority of three votes for this limited purpose.

Council President Susuras asked what the first action should be. City Attorney Shaver said there should be discussion and direction to help the City Clerk and the City Manager identify what Council will expect for July 29th. Will it be the same or similar interview process, will the same or different questions be used, and will the new candidate be interviewed differently than the other three candidates since they were already interviewed once?

Councilmember Chazen asked City Clerk Tuin how many candidates there are. City Clerk Tuin said there are four; three candidates from the previous round and one new candidate.

Councilmember Doody said that Council needs to decide first if they are going to temporarily suspend the requirement that four votes constitute a majority and reduce it to three votes.

Council President Susuras said that he feels that with a Council of six or seven, a majority is four votes; but with a Council of five, the majority is obviously three, which is enough to make a decision and there should be a vote on that.

Councilmember Chazen said it is imperative that they should make do with what Council has currently. The Charter has a procedure to move expeditiously and repopulate the Council. The current Council needs to move forward and make decisions to solve problems. Requiring four out of five votes would mean Council needs a super majority to do anything. Three is a majority and Council should repopulate the Council as soon as possible.

Councilmember Chazen moved that, until there are six Councilors on the Council, three votes would constitute a majority. Councilmember Norris seconded the motion. Motion was declared passed 3 to 2 after a roll call vote with Councilmembers Boeschstein and Doody voting NO.

Council President Susuras asked for suggestions for the process on July 29th.

Councilmember Chazen said that the interview process used before was good in order to get the candidates' thoughts. He asked Deputy City Clerk Kemp how many candidates out of the four received are coming back a second time. Ms. Kemp said there are three. Councilmember Chazen said it would not be fair to the new candidate to use the questions asked before. He thinks there should be ten new questions asked of each candidate.

Council President Susuras asked if questions from the audience should be allowed as well. Councilmember Chazen said yes, three to five questions from the audience would work.

Councilmember Norris said that the process has worked very well even though it is not easy for the candidates, but going through the election process is not easy either. The public can see the candidates and ask questions if they would like. She agrees with Councilmember Chazen that new questions should be asked.

Councilmember Doody said that he wasn't sure why Mr. Brainard said that Council President Susuras was threatening him or what the notes said that were passed on by Councilmember Chazen. He said these actions are a disservice to the community; he then advised that he was done with the meeting and left the dais.

Councilmember Boeschstein said that he feels both these positions should be filled through an election rather than through an appointment process. He asked if only the

vacancy of District E will be filled on July 29th. Council President Susuras stated only District E will be interviewed for on July 29th.

City Attorney Shaver confirmed and advised that the At Large position has to be advertised and interest solicited for that seat. The pool of potential candidates for the At Large seat would be much different than that for District E.

Council President Susuras said it would be good to have 10 new questions for the candidates on July 29th. The candidates will be given about three minutes to introduce themselves, ten questions from Council and some from the audience, and a minute at the end for closing comments, and that would work well. He asked City Attorney Shaver if a motion needs to be made for that direction. City Attorney Shaver said that a motion is not necessary. City Attorney Shaver asked if it should be the same format as the prior forum, with the informal meeting of the candidates prior to the forum. Council President Susuras said yes.

Councilmember Norris commented that when Mr. Brainard left, he verbally attacked everyone on the Council and the City and it is not fair to blame one person for his leaving. She apologized to Councilmember Chazen for comments made.

Council President Susuras said that, at some time during the timeframe of serving, a Councilmember may feel like a victim or shoved aside, but that shouldn't be a reason to walk out of a Council meeting.

Council President Susuras asked for suggestions on replacing Mr. Brainard in the At Large seat.

Councilmember Boeschstein said his first preference would be a general election and, as a second choice, the appointment process.

Councilmember Norris said the At Large seat is for the entire City and there are certainly a lot of candidates that may be interested. The process should be opened to allow for those potential candidates.

Councilmember Chazen asked City Attorney Shaver what the statutory time limit is. City Attorney Shaver said there is a 60 day time limit.

Council President Susuras asked if a November election would be too late. City Attorney said that the 60 day time frame is only for process of appointment.

Councilmember Chazen said if a new Councilor could be appointed on July 29th, she or he should be allowed to get their feet on the ground before another selection process. Mid- August should give the new Councilor time before the next candidates are interviewed.

City Attorney Shaver stated that it takes about two weeks to advertise and allow for interested candidates to respond.

Councilmember Chazen proposed to start advertising for the At Large vacancy after making the selection for the District E seat on July 29th. This would allow time to solicit for candidates, the interview process, and the appointment to be made by mid-August.

Council President Susuras stated that the proposal made might be a bit premature because it needs to be determined if it should go to election first. He commented that going into an election in November would not accomplish anything without a sixth Councilmember. Election would be good for a seventh Councilmember. He said that they at least need a six Councilmembers so they could go back to the original four votes for a majority.

Councilmember Norris said that she believes that neither of the vacant seats need to go to an election unless absolutely necessary. It would save a lot of money.

Councilmember Chazen agreed with Councilmember Norris.

Council President Susuras said he would like to save money although he would prefer the community to be able to vote on a seventh person. To save financially and get the Council moving forward, he will support the selection process.

Councilmember Boeschstein reminded Council that small boards can conduct business, Mesa County only has three Commissioners. He said that until the City Council is full, they can still do business. The common goal is to make the City the best they can. A small number of Councilmembers can still agree on many things. He said he would prefer the At Large position be filled in a general election.

Council President Susuras asked City Attorney Shaver if a motion is necessary to move forward. City Attorney Shaver said that Council's direction would be good, but a motion is not required. He also advised that if the matter were referred to election, nomination petitions would have to be out by August 6, 2013.

Other Business

Council President Susuras said that Mr. Brainard was the City's representative for the 5-2-1 Drainage Authority and someone needs to take that place and asked if anyone was interested. Councilmember Boeschstein volunteered. Council President Susuras asked City Attorney Shaver if the replacement needs to be done by ordinance.

City Attorney Shaver advised that a resolution has been reserved for the appointment and said if Council wishes to vote, the resolution can be completed to make that appointment.

Councilmember Chazen pointed out that Councilmember Doody is currently serving temporarily on the Housing Authority Board for the vacancy created by Councilmember Butler, and asked Councilmember Boeschstein if he would like to serve on the 5-2-1 Drainage Authority on a temporary or permanent basis. Councilmember Boeschstein said that temporarily would be fine, especially since all the appointments will be made next January again anyway.

Council President Susuras asked Ms. Kemp to call the roll for the remaining Councilmembers for the temporary appointment of Councilmember Boeschstein to the 5-2-1- Drainage Authority.

Roll call was called and passed 4 – 0.

Adjournment

The meeting was adjourned at 12:50 p.m.

Stephanie Tuin, MMC
City Clerk

Rick Brainard

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Date: 18 July 2013

To whom it may Concern:

Effective immediately, I am stepping down as a City Councilor. While my time on City Council has been short, I have learned a lot about the complexities of our city. Furthermore, I have learned that our city has a great City Staff that is second to none in my opinion.

Specific to my departure, I have held my head high since the night of the election considering everything that has transpired. I do this because it is who I am, those of you who actually know me know this. However, sometimes you come to the conclusion that if your time and efforts are not appreciated, then maybe its time for some new scenery.

The fact is I am not I violent person, never have been. I let circumstances get away from me April 5th and I am ashamed of that. Through all of that and my counseling, I have discovered many things about me, about my feelings towards Cindy and most of all about domestic violence. I have come a long way in my treatment/education as to how to best behave, all the time. I can tell everyone, the things you learn from the wonderful professionals that help you with domestic violence are an amazing set of tools. Frankly, tools that should not be kept in a closet until it too late but rather tools we are required to understand long before then. I was unprepared for that evening, today; I am doing things that would have kept me from all of this in the first place. I am proud of these changes.

In addition, I have become greatly disillusioned with our City Council. When I decided to run for city council everybody that knew me and supported me knew I was a free thinker and willing to take conservative risks. In business, you have to do that. So imagine my dismay when I have to read notes during city council meeting, clearly written in anger based on the number of underlines and exclamation points, from another councilman, because I didn't vote the way he wanted me to vote. And I certainly did not sign up expecting to have a father figure that feels the need to talk down to me because he somehow has the idea that I need his assistance. I never said, "tell me how to vote and I will vote that way", or "tell me how to think and I will think that way". To all that I say enough.

Cindy and I have reconnected and I have reorganized my priorities around her. She has been wonderful through all of this. She is certainly my biggest fan and supporter. She has never been, nor ever will be the reason for my actions; they were my actions and mine alone. We will continue to move forward putting those tools we both now have to use towards our future. We trust we can do this with the privacy that we deserve.

Sincerely,



Rick Brainard