

ORDINANCE NO. 4014

AN ORDINANCE PLACING CHARTER AMENDMENTS TO REPEAL OBSOLETE PROVISIONS, BRING THE CHARTER INTO COMPLIANCE WITH CERTAIN STATE LAW PROVISIONS, ALLOW THE PUBLICATION OF PROPOSED ORDINANCES BY TITLE ONLY, AND TO CHANGE THE NUMBER OF REQUIRED SIGNATURES ON A PETITION TO ASCERTAIN IF THE CITY SHOULD PURCHASE A FRANCHISE; ON THE ELECTION BALLOT FOR THE REGULAR MUNICIPAL ELECTION TO BE HELD THE 3RD DAY OF APRIL, 2007

Recitals.

Pursuant to §151 of the Grand Junction City Charter, "The Charter may be amended at any time in the manner provided by Article XX of the Constitution of the State of Colorado. Nothing herein contained shall be construed as preventing the submission to the people of more than one Charter amendment or measure at any one election."

The last Charter amendments were taken to the voters in 1997.

The City Council has reviewed the City Charter and found there are numerous provisions that have become obsolete or are in conflict with State law.

Also, there are three changes in the provisions in the City Charter that are to be presented to the City voters to determine if the change would be in the best interest of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION:

1. That a question of proposed amendments to Sections 36, 38, 45, 48, 54, 57, 70, 72, 88, 93, 101, 103, 105, 107, 108, 121, 123, 143, 148, 149, 152, and 153 to make corrections, clarifications and bring the Charter into compliance with modern practices be placed on the April 3, 2007 ballot. The specific changes are as follows:

36. Membership. This section shall be amended to read as follows:

36. Membership and District Boundaries.--The council shall consist of seven members to be designated as councilmembers, one of which shall be elected by the registered electors of the entire city from each of the districts as determined from time to time by resolution of the City Council, and two members to be elected from the city large. The council shall be the judge of the election and qualification of its own members; shall determine its own rules; shall punish its own members for disorderly conduct, and may compel the

attendance of its members. The council may from time to time, by resolution, by two-thirds vote of all its members, change the boundaries of the districts.

Annexations lying within the boundaries as extended will be considered as being included within a particular district.

38. Salaries. The title of this section shall be amended to read as follows:

38. Salaries, meetings.

45. Meetings. The title of this section shall be amended to read as follows:

45. Meetings, duties of the City Clerk.

48. Sale of Real Estate. This section shall be amended to read as follows:

48. Sale of Real Estate.--The council shall have the following power: (a) to sell and dispose of water works, ditches, gas works, electric light works, or other public utilities, public buildings, real property used or held for park purposes or any other real estate used or held for any governmental purposes, providing, however, that before any sale thereof shall be made the question of such sale and the terms and consideration thereof shall be submitted to and ratified by a majority vote of the qualified electors voting, and the vote thereon shall be by ballot at a regular municipal election or at a special election called and held in the manner provided for by law; and (b) by ordinance or resolution to sell and dispose of and to lease any other real estate owned by the municipality, upon such terms and conditions as such city council may determine at a regular or special meeting; and deeds of conveyance duly executed and acknowledged by the proper officers of the city and purporting to have been made in pursuance of these provisions shall be deemed prima facie evidence of due compliance with all the requirements hereof.

54. Record of Ordinances. This section shall be amended to read as follows:

54. Record of Ordinances.--The city clerk shall permanently retain on file a true and accurate copy of all ordinances, resolutions and evidence of proper publication. Ordinances adopted by a vote of the electors shall be permanently retained separately. The term "on file" includes permanent electronic, tape or other methods.

57. City Manager - Bond - Discharge. This section shall be amended to read as follows:

57. City Manager--Bond--Discharge.--The city manager shall be the administrative head of the city and shall be responsible for the conduct of all its departments. He shall receive a salary to be fixed by the council by ordinance. The city manager may be discharged or removed by a vote of a majority of the members of the council.

70. Judge and Jurisdiction. This section shall be amended to read as follows:

70. Judge and Jurisdiction.--The judge of the municipal court of the city shall have all the jurisdiction, powers, duties and limitations as provided for a municipal court by state law or by ordinance, except as otherwise provided by this Charter, and shall have exclusive original jurisdiction to hear, try and determine all charges of misdemeanor as declared by this Charter, and all causes arising under this Charter or any of the ordinances, regulations or other rules of the city for a violation thereof. There shall be no change of venue from said court.

72. Public Money. This section shall be amended to read as follows:

72. Public Money.--Investment policies and policies for accounts and deposits shall be established by resolution of the City Council. No demand for money shall be approved, allowed, audited or paid unless it shall be in writing, dated and sufficiently itemized to identify the demand against the City.

88. Pensions. This section shall be amended to read as follows:

88. Pensions.--The City Council by ordinance may continue, alter, establish and provide for pensions for any class of employees of the City, by continuation or amendment of the present pension plan of the City or otherwise, and may provide for the manner, method and funds under and with which any pension plan may operate; once established by the Council by ordinance, the city manager, acting with the written consent of the respective board, may alter or amend, but not end or terminate, such pensions or other retirement plans. Any such pension plan may require contributions from employees, may provide for benefits arising out of employment prior to the adoption or amendment thereof, may be made of a permanent character as to any class of employees, and may be in conjunction with any pension or security arrangement of the United States of America, the State of Colorado or any agency of either of them.

93. Department of water and sewers. This section shall be amended as follows:

93. Department of Water and Sewers, Rates-Regulations.--(a) The city manager shall administer water, waterworks and sewers, as separate entities.

(b) The city council shall by ordinance or resolution fix rates, establish regulations for the use of the water and sewer systems, and impose fines and penalties for the violation thereof. All prior resolutions dealing with water and sewer are hereby ratified.

(c) The city council, pursuant to ordinance and without an election, may borrow money or issue interim warrants or revenue bonds for the purpose of acquiring, constructing, improving or extending the water system or the sewer system; provided that such borrowing shall be repaid, and such warrants and bonds shall be made payable solely out of the net revenue derived from the operation of the water system or sewer system, or either or both of such systems.

(d) The revenues derived from the operation of the water or sewer systems shall be used for the maintenance, operation, extension and improvement of either or both of such systems and for interest on and discharging of principal of bonds and other obligations incurred in the acquisition, construction, improvement and extension of either or both of such systems. Whenever such revenues produce a surplus over and above such costs, such surplus may be used to create reasonable capital improvement or reserve funds, and to the extent the surplus is not so used it shall be the duty of the Council to reduce the rates to consumers so that, as far as practicable, the people may receive the benefits of the department at not more than actual cost.

(e) All consumers of water for domestic use outside of the city limits shall pay not more than double the rates so established and fixed for users within the city limits.

(f) Nothing herein contained shall be construed to prevent the Council from issuing bonds or other obligations payable solely out of the net revenue derived from the operation of any other utilities or income producing projects in the manner provided by law.

101. No Extra Compensation. This section shall be amended to read as follows:

101. No Extra Compensation. No officer or employee shall solicit or receive any pay, commission, money, pass, free ticket, free service or thing of value, upon terms more favorable than those granted to the public generally or derive any benefit, profit or advantage, directly or indirectly from or by reason of any dealings with or service for the city, by himself or by others, from or by reason of any improvements, alterations, or repairs required by authority of the city, except his lawful compensation or salary as such officer or employee. Any violation of this section shall be a misdemeanor.

103. Official Books and Documents. This section shall be amended to read as follows:

103. Official Books and Documents.--(a) All books, records, and papers of each office, department, board or commissioner, are city property and must be kept as such by the proper official or employee during his continuance in office, and delivered to his successor. The failure to so deliver such books, records, and papers shall be a misdemeanor.

(b) All equipment, collections, models, materials, construction tools and implements, which are collected, maintained, used, or kept by the city, or by any department, board or commission, shall be city property, and be turned over by the custodian thereof to his successor, or duly accounted for.

105. Franchise Granted Upon Vote. This section shall be amended to read as follows:

105. Franchise Granted Upon Vote.--No franchise relating to any street, alley or public place of the said city shall be granted except upon the vote of the registered electors, and the question of its being granted shall be submitted to such vote upon deposit with the city manager of the expense (to be determined by said city manager) of such submission by the applicant for said franchise, and no such franchise shall be granted unless a majority of such electors voting thereon vote in favor thereof.

107. Franchise Specify Street. This section shall be amended to read as follows:

107. Franchise Specify Streets.--All franchises or privileges hereafter granted for the use of streets, alleys, avenues, or other public property or right-of-way, shall state the bounds of the district or districts in which it shall be exercised; and no franchise or privilege shall hereafter be granted by the city in general terms or to apply to the city generally.

108. Power to Regulate Rates and Fares. This section shall be amended to read as follows:

108. Power to Regulate Rates and Charges.--All power to regulate the rates, rentals and charges for service by public utility corporations or any other franchisee or user of any public property, streets, alleys and rights-of-way is hereby reserved to the people to be exercised by them by ordinance of the council, or in the manner herein provided for initiating or referring an ordinance. Any right of regulation shall further include the right to require uniform, convenient, and adequate service to the public and reasonable extensions of such service, works and facilities. The granting of a franchise or other permission to use public property shall not be deemed to confer any right to include in the charge for service any return upon the value of the franchise or grant of permission.

121. City Maintain General Supervision - Reports - Inspection. This section is amended to read as follows:

121. City Maintain General Supervision--Reports--Inspection.--The city shall maintain general supervision and police control over all public utility companies insofar as they are subject to municipal control. It shall cause to be instituted such actions or proceedings as may be necessary to prosecute public utility companies for violations of law.

It shall require every person or corporation operating under a franchise or grant from the city, to submit to the council within sixty days after the first day of January of each year, an annual report verified by the oath of the president, the treasurer, or the general manager thereof.

Such reports shall be in the form, contain such detailed information, and cover the period prescribed by the council, or by ordinance; and the council shall have the power, either through its members or by experts or employees duly authorized by it, to examine the books and affairs of any such person, persons or corporation, and to compel the production before them of books and papers pertaining to such report or other matters.

Any such person, persons, or corporations which shall fail to make any such report, shall be liable to a penalty of one hundred dollars and an additional penalty of one hundred dollars for each and every day thereafter, during which he shall fail to file such report, to be sued for and recovered in any court of record having jurisdiction.

123. Books of Account - Examination. This section shall be amended to read as follows:

123. Books of Account--Examination.--The city, when owning any public utility, shall keep the books of accounts for such public utility, and in such a manner as to show the true and complete financial result of such city ownership, or ownership and operation, as the case may be. Such accounts shall be so kept as to show the actual cost to the city of the public utility owned; all cost of maintenance, extension and improvement, all operating expenses of every description, in case of such city operation; if water or other service shall be furnished for the use of any department of the city without charge, the accounts shall show, as nearly as possible, the value of such service, such accounts shall also show reasonable allowance for interest, depreciation, and insurance, and also estimates of the amount of taxes that would be chargeable against such property if owned by a private corporation.

143. Regulations. This section is amended to read as follows and relocated under Article XIV, OTHER REGULATIONS:

143. Other Regulations.--The council may authorize the city manager to make such regulations, not in conflict herewith, as it may deem necessary to carry out the provisions of this charter, any ordinance, resolution or the policies of the Council.

148. Penalty for Violation. This section is hereby amended to read as follows:

148. Penalty for Violation.--Any person 18 years of age or older who shall violate any of the provisions of this Charter for the violation of which no punishment has been provided herein, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding one thousand (\$1,000.00) dollars, or by imprisonment in jail not exceeding one year, or by both such fine and imprisonment. Any person under 18 years of age who violates any of the provisions of this Charter for the violation of which no punishment has been provided herein, shall be punished by a fine not exceeding one thousand (\$1,000.00) dollars, and/or be required to perform useful public service not to exceed 48 hours or any combination thereof.

149. Definition of Misdemeanor. This section shall be amended to read as follows:

149. Definition of Misdemeanor.--The term "misdemeanor," as used in this Charter, shall mean a violation thereof, or of any ordinance, resolution or regulation of which the municipal court thereof shall have jurisdiction.

152. Reservation of Power. This section shall be amended to read as follows:

152. Reservation of Power.--The power to supersede any law of the state, now or hereafter in force, insofar as it applies to local or municipal affairs, shall be reserved to the city.

153. Budget Plan - Warrants. This section is amended as follows:

153. Budget Plan--Warrants.--The city council by ordinance shall adopt a budget plan for the city and shall establish the procedure for paying the City's debts and expenses.

2. That the ballot question also include the repeal of Sections 63, 66, 76, 85, 86, 87, 96, 104, 112, 114, 122, 140, 150, 154, 155, and 156. The specific changes shall be as follows:

63. Chief of Police - Fire Chief. This section is hereby repealed.

66. Finance Director - City Treasurer. This section is hereby repealed.

76. Certificate of Assessment. This section shall be repealed.

85. City Indebtedness. This section shall be repealed.

86. Special Statutes Continuing in Force. This section is hereby repealed.

87. Resident Labor Given Preference in Public Work. This section is hereby repealed.

96. Rates - Regulations - fines - financing. This section shall be repealed. (combined with Sec. 93 above)

104. Payment of Debts. This section is hereby repealed.

112. Special Privileges on Street Railroad. This section is hereby repealed.

114. Street Sprinkling, cleaning and Paving. This section shall be repealed.

122. Books of Record and Reference. This section is hereby repealed.

140. Several Ordinances at One Election. This section shall be repealed.

150. Continuing Bonds, Etc. This section is hereby repealed.

154. Termination of Offices of Commissioners. This section is hereby repealed.

155. Membership of First Council - Recall. This section is hereby repealed.

156. Powers and Duties. This section is hereby repealed.

3. That the title of Article XIV be retitled to "Other Regulations"

ARTICLE XIV. FRANCHISES AND PUBLIC UTILITIES. This Article shall be renamed **OTHER REGULATIONS.**

4. That Section 28, Petition for Recall, be amended by changing the number of signatures on a recall petition as follows:

28. Petition for Recall. This section shall be amended to read as follows:

28. Petition for Recall.--Any registered elector of the city may make and file with the city clerk an affidavit containing the name of the officer sought to be removed, and a specific statement of the grounds of removal. The clerk shall thereupon deliver to the elector making such affidavit, a sufficient number of copies of petitions for such recall and removal, printed forms of which he shall keep on hand. Such petitions shall be issued by the clerk with his signature and official seal thereto attached; they shall be dated and addressed to the city council, shall contain the name of the person to whom issued, the number of forms so issued, the name of the person sought to be removed, the office from which said removal is sought, the grounds of such removal as stated in said affidavit, and shall demand the election of the successor to such office, a copy of which petition shall be entered in a record book to be kept in the office of said clerk. Any defect in said form or record shall not invalidate the same. Said recall petition must be returned and filed with said clerk within thirty days of its issuance. Said petitions before being returned and filed, shall be signed by registered electors equal in number to at least twenty-five per centum of the last preceding vote cast for all the candidates for that particular office at the last preceding regular election held in the municipality, and to each such signature shall be attached his place of residence, giving the street and number. Such signatures need not all be on one paper. One of the signers of each such paper shall make an affidavit thereto that the statements therein contained are true, and that each signature appended to the paper is the genuine signature of the person whose name it purports to be. All such papers for the recall of any one officer shall be fastened together and filed as one instrument, with the endorsements thereon of the names and addresses of three persons designated as filing the same.

5. That Section 51, Publication of Ordinances, be amended to allow for the publication of ordinances by title only, as follows:

51. Publication of Ordinances. This section shall be amended to read as follows:

51. Publication of Ordinances.--Every proposed ordinance shall be published by title once in a daily newspaper of the city, before its final passage; and, after such final passage, it again shall be published once by title in a newspaper of general circulation in the city,

except that an emergency ordinance passed as heretofore provided shall take effect upon passage and be so published in full. In lieu of publication of an ordinance in a newspaper both prior to and after passage thereof, by authority of the Council, any ordinance may be published in book or pamphlet form available for public inspection.

6. That Section 125 entitled City May Purchase, operate or Sell--Procedure be amended to proscribe the number of signatories on a petition to ascertain whether the City should purchase, operate or sell a franchise as follows:

125. City May Purchase, Operate or Sell - Procedure. This section is amended to read as follows:

125. City May Purchase, Operate or Sell--Procedure.--(a) Every grant, extension, or renewal of a franchise or right shall provide that the city may upon the payment therefore of its fair valuation, purchase, and take over the property and plant of the grantee in whole or in part; such valuation shall be made as provided in the grant, but shall not include any value of the franchise or right of way through the streets, or any earning power of such property. The valuation may include, as part of the cost of the plant, interest on actual investment during the period of construction, and prior to operation. Such grant may provide that if the purchase is made within five years of the time when the franchise is granted, the city shall pay an additional sum or bonus of not to exceed ten per centum (10%) on the actual value of the tangible property, exclusive of the franchise value, which additional sum or bonus shall be reduced proportionately from such five-year period to the end of the franchise period when no bonus shall be given.

The procedure to effect such purchase shall be as follows:

When the council shall, by resolution, direct that the city manager shall ascertain whether any such property or part thereof, should be acquired by the city, or in the absence of such action of the council, when a petition subscribed by registered electors of the city, equal in number to at least ten per centum (10%) of the registered electors of the city requesting that the city manager shall ascertain whether any such property or part thereof, should be acquired by the city, shall be filed with the clerk, the city manager shall forthwith carefully investigate said property and report to the council--

- (1) At what probable cost said property may be acquired;
- (2) What, if any, probable additional outlays would be necessary to operate the same;
- (3) Whether, if acquired, it could be operated by city at a profit or advantage in quality or cost of service, stating wherein such profit or advantage consists;
- (4) Whether, if granted, it could be paid out of its net earnings, and, if so, within what time and

(5) Such other information touching the same as he shall have acquired.

Such report shall be made in writing, shall include a statement of facts in relation thereto with such particularity as will enable the council to judge the correctness of his findings and immediately after submission to the council, shall be filed with the city clerk, recorded in the public utility record, and published once in each of two daily newspapers of general circulation published in the city, or printed and distributed in pamphlet form, as the council may determine.

If a petition subscribed by registered electors of the city, equal in number to at least ten per centum (10%) of the registered electors of the city, requesting that the question whether or not the city shall acquire said property, shall be submitted to a vote of the people, shall within sixty days after the filing of said report be filed with the clerk, the council shall provide by ordinance for the submission of the question to a vote of the registered electors.

(b) Every grant reserving to the city the right to acquire the plant as well as the property, if any, of the grantee situated in, on, above, or under the public places of the city, or elsewhere, used in connection therewith, shall in terms specify the method of arriving at the valuation therein provided for, and shall further provide that upon the payment by the city of such valuation, the plant and property so valued, purchased and paid for, shall become the property of the city by virtue of the grant and payment thereunder, and without the execution of any instrument of conveyance and every such grant shall make adequate provision by way of forfeiture of the grant, or otherwise, for the effectual securing of efficient service and for the continued maintenance of the property in good order and repair and its continuous use throughout the entire term of the grant. The grant may also provide that in case such reserved right to operate or to take over such plant or property is not exercised by the city, and it shall, prior to payment for the same secure a bid for the property, and grant a new franchise for the same service or utility, as provided in Paragraph c of this section, or grant the right to another person or corporation to operate said utility, so occupied and used by its grantor, under the former grant, that the title to and possession of the plant and property so taken away be transferred directly to the new grantee upon the terms upon which the city may have purchased it.

(c) Whenever any plant or property shall become the property of the City of Grand Junction, the city shall have the option at any time, then or thereafter, either to operate the same on its own account, or by ordinance to lease the same or any part thereof, together with the franchise or right to use the streets or other public property in connection therewith, for periods not exceeding twenty-five years, under such rules and regulations as it may prescribe, or by ordinance to sell the same; provided, however, that no such ordinance shall be adopted except by a majority vote of the registered electors of the city.

7. Inasmuch as these questions shall be placed on the April 3, 2007 ballot, the City Council hereby sets the ballot titles as follows:

City of Grand Junction B

Shall there be amendments to the Grand Junction City Charter, Sections 36, 38, 45, 48, 54, 57, 70, 72, 88, 93, 101, 103, 105, 107, 108, 121, 123, 143, 148, 149, 152, and 153 and the repeal of Sections 63, 66, 76, 85, 86, 87, 96, 104, 112, 114, 122, 140, 150, 154, 155, and 156 concerning the elimination of obsolete and conflicting provisions?

_____ FOR THE AMENDMENTS

_____ AGAINST THE AMENDMENTS

City of Grand Junction C

Shall there be an amendment to the Grand Junction City Charter Section 28, Petition for Recall, to the number of registered electors required to sign a recall petition?

_____ FOR THE AMENDMENT

_____ AGAINST THE AMENDMENT

City of Grand Junction D

Shall there be an amendment to the Grand Junction City Charter Section 51, Publication of Ordinances, to allow for the publication of ordinances by title only?

_____ FOR THE AMENDMENT

_____ AGAINST THE AMENDMENT

City of Grand Junction E

Shall there be an amendment to the Grand Junction City Charter Section 125, City May Purchase, Operate of Sell--Procedure, relative to franchises, to change the number of signatures required on a petition to ascertain whether or not the city shall acquire said property?

_____ FOR THE AMENDMENT

_____ AGAINST THE AMENDMENT

8. The City Clerk shall be authorized to reformat and republish the Charter as needed with the approved amendments. The City Clerk is authorized to replace all uses of the word

“councilmen” to the word “councilmembers”. The City Clerk shall include up-to-date information in the section entitled "OFFICIAL DATA" when the Charter is republished, from time to time.

INTRODUCED ON FIRST READING AND ORDERED PUBLISHED THIS 3RD DAY OF JANUARY, 2007.

PASSED AND ADOPTED THIS 17TH DAY OF JANUARY, 2007.

/s/ James J. Doody
President of the City Council

Attest:

/s/ Stephanie Tuin
City Clerk