

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

JUNE 16, 1993

The City Council of the City of Grand Junction, Colorado, convened in regular session the 16th day of June, 1993, at 7:34 p.m. in the City/County Auditorium at City Hall. Those present were Linda Afman, Jim Baughman, Bill Bessinger, R.T. Mantlo, Ron Maupin, Dan Rosenthal, and President of the Council Reford Theobold. Also present were City Manager Mark Achen, City Attorney Dan Wilson, and City Clerk Stephanie Nye.

Council President Theobold called the meeting to order and Council member Maupin led in the Pledge of Allegiance. The audience remained standing during the invocation by Rev. Eldon Coffey, Columbus Evangelical Free Church.

PROCLAMATIONS / RECOGNITIONS

PROCLAMATION DECLARING JUNE 21-27, 1993, AS "AMATEUR RADIO WEEK" IN THE CITY OF GRAND JUNCTION

APPOINTMENTS TO RIVERFRONT COMMISSION

Upon motion by Councilmember Maupin, seconded by Councilmember Mantlo and carried, Robert Ellis, Bernadette Prinster and Lynda Boody were appointed to serve three-year terms on the Riverfront Commission, and Fielding Braffett was appointed to serve out the unexpired term of R.T. Mantlo until July, 1994.

APPOINTMENT TO VISITORS AND CONVENTION BUREAU BOARD OF DIRECTORS

Upon motion by Councilmember Mantlo, seconded by Councilmember Rosenthal and carried, Paul Nelson was appointed as the citizen representative on the Visitors and Convention Bureau Board of Directors to serve out the unexpired term of Linda Afman.

CONSENT ITEMS

Upon motion by Councilmember Rosenthal, seconded by Councilmember Bessinger and carried by roll call vote, the following Consent Items 1 through 14 were approved:

1. **Approval** of the minutes of the Regular Meeting June 2, 1993
2. **Approval** of MPO Contract

Contract with the Colorado Department of Transportation for Performing Transportation Planning for the Area of Mesa County Outside the Metropolitan Planning Organization Boundary

3. **Approval** of expenditure of \$17,290.00 to PA/DS Design Partnership for architectural and engineering services for design development and contract administration for construction of a new shop addition at the Persigo Wastewater Treatment Plant.

Eight (8) local architectural firms were invited to submit qualifications, and letters of interest, for design development and contract administration to build and equip a 45' X 110' shop addition at the Persigo Wastewater Treatment Plant. Construction, if approved, will begin in the Spring, 1994.

The City received responses from four (4) firms. The four (4) respondents were provided with Request for Proposal information and invited for interviews. Based on proposal submittals and interviews, the evaluation team selected PA/DS Design Partnership for contract negotiations. PA/DS agreed to perform the scope of work for a lump sum fee of \$17,290.00.

Firms Interviewed	Evaluation Team*
Vanderwood & Associates	Bill Cheney, Engineering
Fredrick Stastny Architecture Mgmt.	John Kenney, Facility
Dillon-Hunt, P.C.	Jerry O'Brien, Persigo
PA/DS Design Partnership	Mark Smith, Purchasing

*County participation on evaluation team was requested. Mike Serra and Andy Anderson were unable to attend. Results have been communicated to Mr. Anderson; he approved the selection.

4. **Proposed Ordinance** Zoning Property Located at 2765 Crossroads Boulevard

This is a City owned parcel of land originally designated as a park site in the platting of Crossroads Colorado West Subdivision. In April of 1993, voters approved disposing of this site. A rezoning from the public zone is required to transfer the site into private ownership. Planning Commission recommends approval of the rezoning from PZ (Public Zone) to H.O. (Highway Oriented).

- a. First reading of proposed ordinance

5. **Proposed Ordinance** Zoning Property Located at the Southeast Corner of 13th and Colorado

Road on Interstate Avenue

- a. Second reading by Title Only

Proposed Ordinance Zoning Interstate Enclave Annexation

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Interstate Enclave was zoned "C" Commercial under County zoning. The proposed City I-1 zoning is compatible with the I-1 zoning of the original Interstate Annexation and is more comparable to the County "C" zoning than the C-2 zone. Planning Commission recommends approval of zoning to I-1 (Light Industrial).

- 9. ***Resolution No. 35-93** - A Resolution Making Certain Findings and Determining that Property Known as the Blue Heron II is Eligible for Annexation

***Ordinance No. 2685** - An Ordinance Annexing Territory to the City of Grand Junction, Colorado - Blue Heron II Approximately 25.0 acres, located South of River Road, at 25 Road

- a. Second reading by Title Only

Proposed Ordinance Zoning Blue Heron II Annexation

Blue Heron II was zoned "I" Industrial under County zoning. The proposed City I-1 zoning is also compatible with the I-1 zoning of the original Blue Heron Annexation as well as other County "I" zoning in the area. Planning Commission recommends approval of zoning to I-1 (Light Industrial).

- a. First reading of proposed ordinance

- 10. ***Resolution No. 36-93** - A Resolution Making Certain Findings and Determining that Property Known as the Country Club Heights is Eligible for Annexation

***Ordinance No. 2686** - An Ordinance Annexing Territory to the City of Grand Junction, Colorado - Country Club Heights Annexation Approximately 46.41 acres, located South of I-70, West of 12th Street

- a. Second reading by Title Only

Proposed Ordinance Zoning Country Club Heights Annexation

Country Club Heights was zoned R-1-B under County zoning which allows a density of 2 units per acre. The proposed RSF-2 zoning is also at a density of 2 units per acre. This

zoning is consistent with City policy that new annexations be zoned to the closest compatible City zone. Planning Commission recommends approval.

a. First reading of proposed ordinance

11. ***Resolution No. 37-93** - A Resolution Making Certain Findings and Determining that Property Known as Cambridge is Eligible for Annexation

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***Ordinance No. 2687** An Ordinance Annexing Territory to the City of Grand Junction, Colorado - The Cambridge Annexation Approximately 25.0 acres, located South of I-70, West of 12th Street

a. Second reading by Title Only

Proposed Ordinance Zoning the Cambridge Annexation

Cambridge was zoned PR under County zoning which allowed a density of 2.24 units per acre. The proposed City PR zoning is also at a density of 2.24 units per acre. This zoning is consistent with City policy that new annexations be zoned to the closest compatible City zone. Planning Commission recommends approval.

a. First reading of proposed ordinance

12. **Approval** of change order number one (\$13,517.48) to Elam Construction Company for the work at the Lincoln Park Parking Lot project, and the transfer of contingency funds (\$7,082.80) from the CIP fund to the Lincoln Park parking lot project account.

The conditions encountered during construction of the parking lot project required additional work from the contractor that was not included in the original scope of work. This additional work (change order #1) is \$13,517.48 and according to City purchasing policies, requires formal approval from City Council. In addition, the total cost of the project exceeds the original budget amount by \$7,082.80 and requires Council action to transfer funds from CIP contingency to the project account.

13. **Approve** the use of the City Purchasing process to buy an additional Police K-9 vehicle

Mesa County law enforcement agencies have approved funding for the purchase of a vehicle that will be used for a second Police Department K-9 unit. The funding covers the initial purchase cost of the vehicle and equipment related to its K-9 use, which totals \$23,600.

14. ***Resolution No. 38-93** - A Resolution Awarding Lease to Golden Elk Outfitters for Hunting Rights on Upper Portion of Somerville Ranch for the 1993 Hunting Season

The City has received two proposals to lease the 1993 big game rights on approximately 4,700 acres of City land located on the top and western slope of the Grand Mesa. Staff is recommending the lease be awarded to Golden Elk Outfitters.

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* * * END OF CONSENT CALENDAR * * *

* * * ITEMS NEEDING INDIVIDUAL CONSIDERATION * * *

PUBLIC HEARING - ORDINANCE NO. 2688 - AMENDING CHAPTER 4, ALCOHOLIC BEVERAGES, SECTIONS 4-1 AND 4-31, OF THE CODE OF ORDINANCES

A hearing was held after proper notice. There was no public comment. Upon motion by Councilmember Afman, seconded by Councilmember Bessinger and carried by roll call vote, Ordinance No. 2688 was adopted and ordered published.

PUBLIC HEARING - ORDINANCE NO. 2689 - AMENDING THE GRAND JUNCTION ZONING AND DEVELOPMENT CODE, SECTIONS 4-2-1 AND 4-2-2

A hearing was held after proper notice. There was no public comment. Upon motion by Councilmember Baughman, seconded by Councilmember Bessinger and carried by roll call vote, Ordinance No. 2689 was adopted and ordered published.

VARIANCE REQUEST - WAIVER OF OPEN SPACE FEES FOR WILSON RANCH FILING #3 - DENIED

Dan Garrison, petitioner, is requesting a variance for the waiver of open space fees for Wilson Ranch Filing #3 which consists of 36 lots. Open Space Fees are required by the Zoning and Development Code for all new development at the rate of \$225.00 per residential lot which comes to \$8,100.00 for Filing #3. Wilson Ranch Filing #3 was approved by Planning Commission at the June 1st Planning Commission hearing. Fees are paid at the time the plat is recorded.

Dave Thornton, Community Development Department, stated that Staff contends that the open space fees should be paid. Using the same information that was presented at the May 19, 1993, hearing on Filings #1 and #2, Council discussed this item briefly.

It was moved by Councilmember Bessinger and seconded by Councilman

Baughman to approve the waiver of open space fees for Wilson Ranch Filing #3. A vote was taken on the motion with the following result:

AYE: THEOBOLD, BAUGHMAN, ROSENTHAL,
NO: BESSINGER, AFMAN, MAUPIN, MANTLO.

The motion failed to pass. The request was denied.

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VARIANCE REQUEST - WAIVER OF THE HALF STREET IMPROVEMENT REQUIREMENTS FOR LOT 2A OF THE ELWYN GRAND JUNCTION INDUSTRIAL PARK MINOR SUBDIVISION - GRANTED WITH CONTINGENCIES

Wayne G. Elwyn, Walker Products, The Grand Junction Area Chamber of Commerce and the Mesa County Economic Development Council are requesting a variance which includes a waiver and a deferment of the Zoning and Development Code's requirement of half street improvements for Lot 2A of the Elwyn Grand Junction Industrial Park Minor Subdivision at 23 Road and G Road. Half street improvements are required by section 5-4 of the Zoning and Development Code for all new subdivisions developed along existing streets that currently do not meet City Standards. A guarantee for these improvements is secured prior to recording the final plat.

Councilmember Baughman asked if Lot 2A was purchased by Mr. Elwyn prior to or after annexation to the City. Mr. Ron Kraft stated it was purchased while still in the County.

President of the Council Theobold assumed that the incentive policy is not urgent this evening, but the decision on Lot 2A is urgent.

City Manager Mark Achen explained that is an entirely different arrangement than MCEDC proposed. Viewed from MCEDC's position, Council action tonight would approve the subdivision and the development and the half street requirements on Lot 1A (approximately \$30,000), and would defer the Lot 2A issue to another point in time. It would not approve an economic development incentive for the \$30,000 half street improvement requirement of Lot 1A. Mr. Achen stated that the price now is \$30,000 for the half street improvements and no requirement on Lot 2A immediately, but an undetermined requirement at some time in the future. The City is considering changing its policies that might accomplish the same thing that the applicant wants. The City will consider an economic development incentive at a later date.

Mr. Kraft stated that based on the negotiations with Diane

Schwenke, of the Chamber of Commerce, and Mr. Elwyn, he felt Mr. Elwyn's reaction would be, "I've been trying to get this expansion off the ground for some time. Had I not run into that \$140,000, the building would have been under construction. I wouldn't be asking anybody for anything, and we would be a long way down the road at this point. There would have been no need for incentives or anything else. I really want to do this but I don't have to do it here, and I feel unfair obstacles are being put in my way." That's how Mr. Kraft got involved. The instructions left by Mr. Elwyn were that if he gives up the access to G Road, if he can defer the balance of the 23 Road half street improvements on Lot 2A, and have the offer of the incentives to cover his obligations for 1A, then he will agree, and the deal will commence immediately if Council so approves. If Council approves something different,

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he thinks that Mr. Elwyn's reaction will be that of frustration with another delay, particularly when he wants to begin construction before winter. Mr. Kraft stated that Mr. Elwyn's concern is that he is going to end up with 20 acres that he cannot sell, and that the 20 acres will be a financial albatross.

Diane Schwenke stated that from Mr. Elwyn's perspective, what Council is saying is go ahead and start on the building, and it is a leap of faith that these things are going to be taken care of in the next few months. When the Chamber of Commerce and MCEDC initially started the conversation with Mr. Elwyn, there was the very real possibility that this was going to be the deal breaker.

Mr. Elwyn was being recruited by some other states and was looking at other options. The issue for Mr. Elwyn is does he go forward with this on the assumption that these things are going to be coming, therefore making the commitment. He is feeling very uncomfortable about that without having some assurance that some of this is going to be mitigated for him.

Councilmember Afman assured Mr. Kraft that Council is acting in good faith, and wants to work with new companies and extend incentives. She felt that in fairness to the four new Council members, and in order to make the best and wisest decision, she would like to review the data thoroughly.

City Manager Achen clarified that the deferral would in fact be a contractual commitment to pay, but not now, which would mean that Mr. Elwyn would never escape from the payment, would always have to contribute his portion. Even if the City improved the road before development occurred, Mr. Elwyn would be responsible for his share through the form of a power of attorney that specifies the estimated cost today, and which indicated that Mr. Elwyn would pay when the road was either improved by the City, or if Mr. Elwyn developed in advance, he would do the improvement at his expense, which is frequently less than what it might cost the City. From a traffic perspective, the monies should go to improve G Road, not

23 Road.

It was moved by Councilmember Afman and seconded by Councilmember Mantlo to waive the G Road half street improvements for Lot 2A in exchange for no access on G Road, and defer the 23 Road fees until development of either G Road or 23 Road.

City Attorney Wilson interjected his interpretation of the motion by stating "that the G Road improvements will be waived, which means it will never be paid, it will not ride against this piece of property. Subject to the limitation there will never be access from the property onto G Road. As to 23 Road, we are only putting off the payment date until the first of one of two things is going to happen: either (1) development, under the City Code, which is a building permit, subdivision, or zoning approval, or (2) the

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improvement of G Road. It will be the earlier of the options that triggers. And if the City can use the funds which would be paid for 23 Road toward the construction of G Road. When the funds are paid, the funds can be used by the City to build either 23 Road or G Road depending on the engineering and other budgetary issues at the time. The cost was based on 23 Road, but can be spent on either G Road or 23 Road."

A vote was taken on the motion with a unanimous **YES** vote.

Steve McCallum, 379 South Camp Road, questioned the motion that: (1) the payment would be triggered either by a request for a building permit on Lot 2A; or (2) improvements on 23 Road or G Road. He asked if there was an anticipated improvement currently for G Road. Council responded NO, nor for 23 Road.

Mr. McCallum stated that Mr. Elwyn purchased this property totally unaware of the half street improvements requirement. He had no intentions of asking for assistance from the EDC or the Chamber in creating this addition.

APPEAL ON CONDITIONS OF APPROVAL BY PLANNING COMMISSION FOR THE BERGUIN SUBDIVISION - GRANTED WITH RESTRICTIONS

Brandon S. Berguin, petitioner, is requesting City Council approve the Berguin Subdivision and waive the conditions of approval made by Planning Commission which included the following requirements:

1. Eliminating all future vehicular access to Lot 1 from 28 Road, and
2. Eliminating the existing driveway off 28 Road for Lot 1 and replacing it with curb, gutter and sidewalk.

Both conditions were required by Planning Commission's approval for the subdivision on June 1, 1993.

Dave Thornton, Community Development Department, reviewed this item. Staff recommends that vehicular access not be allowed from 28 Road. It is seen as an opportunity to eliminate future traffic conflicts.

Mr. Tom Logue, representing the petitioner, Brandon Berguin, was present. Also present were John Newell, contractor for the proposed dental clinic, and Rob Jenkins, architect. Mr. Logue requested reconsideration of usage of the driveway which exists on 28 Road. The driveway originally serviced an existing single family home that was located on one of the three parcels that were being combined into two parcels. If the driveway is left, it should be conditioned that the driveway be used only for a professional building, servicing no more than 18 parking spaces.

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This is low intensity use (approximately 25 trips/day) and the primary justification for leaving the driveway open.

Mr. Logue reviewed the site plan. Having access around all four sides of the building allows visibility as it relates to security. It also allows for other emergency services such as fire and rescue. The proposed access is identical to the one that exists. It is a loop from 28 Road at the Omega Park complex to the north, they access off of 28 Road. The driveway is 150 feet away from Bunting Avenue, which meets the minimum suggested separation on minor arterial driveways. If the parcels were not being combined, one of the three parcels would be landlocked without the existing driveway.

An excerpt from the Zoning and Development Code regarding C-1 zoning was discussed.

Dr. Brandon Berguin, D.D.S., stated that he plans to close the two existing curb cuts and beautify the area. He plans to construct a southwestern style building with a tile roof in the northwestern portion of the lot, with landscaping as well.

Dave Thornton clarified that this is a medical/dental facility which requires one parking space per 300 square feet of floor area, which is the same as any other office building. Staff is concerned that at some point in the future that could easily be converted to some other type of office use. Other office uses might generate more than 25 trips/day. There are a lot of uses allowed in a C-1 zone. Those uses cannot be restricted because they have an allowed right within the zoning. Mr. Thornton clarified that the C-1 is a straight zone and allows numerous uses.

Mr. Logue stated that a planning clearance is required when any modification is made to a building, or a change in use is requested.

Mr. John Newell, contractor, stated that 25 cars/day equates to approximately 3 or 4 cars per hour. He reiterated that a northern exposure for the main entrance for the elderly and handicapped during winter months presents quite a liability. He did not feel that Dr. Berguin should be penalized now for what the future may hold.

City Attorney Wilson stated that in the future when the building changes the then owner will say "I have an ownership in, and am entitled to this driveway." If it is going to be changed in the future, the City will pay for that lack of access. The next successor owner will feel that it is an ownership right, and he is entitled to compensation.

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Traffic and safety was a concern of City Council. The impact in that area is very high. Public Works Manager Mark Relph stated that with more accesses on an arterial, the safety issue rises. Twenty-eight Road is not North Avenue, but the intent is that if traffic does increase, the City will have taken care of a potential problem now. The City is merely planning for the future.

It was moved by Councilmember Baughman that this item be approved and waive the conditions placed on it by the Planning Commission. The motion lost for lack of a second.

It was moved by Councilmember Maupin and seconded by Councilmember Mantlo that the development be approved with the following restrictions:

1. Planning Commission restriction #1 is retained, as is;
2. Planning Commission restriction #2 is changed to vehicular access to Lot 1 to 28 Road will be right turn only for north bound traffic, and would be restricted by the design of the curb cut;
3. Change the word "prohibit" to "restricts";
4. There will be no cross traffic between Lot 1 and Lot 2. If that is sought in the future, it would be the understanding that 28 Road access would be eliminated.

Roll call was taken on the motion with the following result:

AYE: BAUGHMAN, MANTLO, MAUPIN, THEOBOLD

PUBLIC ACCESS TO CANAL PATHS

Councilmember Maupin suggested looking into the issue of making canal paths publicly accessible. He suggested issuing annual passes, user fees, and legislation releasing the City and canal owners of liability. President of the Council Theobald suggested organizing an ad hoc committee composed of canal owners, bikers, and riverfront trail people to pursue this issue.

ADJOURNMENT

Upon motion by Councilmember Bessinger, seconded by Councilmember Baughman and carried, the meeting was adjourned at 10:00 p.m.

Stephanie Nye, CMC
City Clerk