

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

DECEMBER 1, 1993

The City Council of the City of Grand Junction, Colorado, convened into regular session the 1st day of December, 1993, at 7:36 p.m. in the City/County Auditorium at City Hall. Those present were Linda Afman, Jim Baughman, Ron Maupin, Dan Rosenthal, and President of the Council Pro Tempore R.T. Mantlo. Bill Bessinger and Reford Theobald were absent. Also present were City Manager Mark Achen, City Attorney Dan Wilson, and City Clerk Stephanie Nye.

Council President Pro Tem Mantlo called the meeting to order and Councilmember Jim Baughman led in the Pledge of Allegiance. The audience remained standing during the invocation by Rev. Jack Olsen, Columbus Evangelical Free Church.

CONSENT ITEMS

Upon motion by Councilmember Maupin, seconded by Councilmember Rosenthal and carried by roll call vote, with Item 8 being removed for individual consideration, the following Consent Items 1-12 were approved:

1. **Approval** of the minutes of the Regular Meeting November 17, 1993
2. **Approval** of Change Order No. 2 to 1993 Curb, Gutter and Sidewalk Replacement Contract

This change order includes the cost of additional work performed at various locations and adjustment of final quantities for payment.

3. **Resolution No. 82-93** - Submitting a Petition for the Annexation of Lands to the City of Grand Junction, Colorado, and Setting a Hearing on Such Annexation - Bluffs Annexation Approximately 120 Acres

Bluffs Annexation is located east of 23 Road and south of the Colorado River on the Redlands. It consists of approximately 120 acres and contains 62 parcels, 32 of which have granted Powers-of-Attorney for Annexation as a condition of receiving sewer service. Two additional property owners have signed the petition for annexation.

4. **Resolutions Certifying Mill Levies for Following:**

* **Resolution No. 83-93** - Levying Taxes for the Year 1993 in the for City of Grand Junction, Colorado at 8.071 mills for collection in 1994

* **Resolution No. 84-93** - Levying Taxes for the Year 1993 in the City of Grand Junction, Colorado, Downtown Development Authority at 5.0 mills for collection in 1994

* **Resolution No. 85-93** - Levying Taxes for the Year 1993 in the Ridges Metropolitan District, a Part of the City of Grand Junction, Colorado at 20.017 mills for District No. 1 and at 293.113 mills for District No. 2 for collection in 1994

* **Resolution No. 86-93** - Levying Taxes in the Grand Junction West Water & Sanitation District, a Part of the City of Grand Junction, Colorado at 23.749 mills for collection in 1994

5. **Proposed Ordinance** - An Ordinance Appropriating Money to Pay the Expenses and Liabilities of the City of Grand Junction, Colorado, the Ridges Metropolitan District and the Grand Junction West Water and Sanitation District for the Fiscal Year Beginning January 1, 1994 and Ending December 31, 1994

a. First reading of proposed Ordinance

6. **Proposed Ordinance** - An Ordinance Designating Unspent Revenues and Unspent Fund Balances in the City of Grand Junction, Colorado as Reserves

a. First Reading of proposed Ordinance

7. **Proposed Ordinance** - An Ordinance Making Supplemental Appropriations to the 1993 Budget of the City of Grand Junction

The request includes debt service amounts not included in the previous appropriation.

a. First Reading of proposed Ordinance

8. * **Resolution No. 87-93** - Adopting Certain Sewer Rules and Regulations Governing the Management and Operation of the Joint City-County Sewer System - **REMOVED FOR FULL DISCUSSION**

9. *** Repeal of Resolution No. 75-93 and Approval of Resolution No. 88-93** - Concerning the Issuance of a Revocable Permit to Robert J. Arcieri and Deborah A. Arcieri

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City Council approved this permit for 1525 North First Street in the name of Mr. Robert LeBaron on November 3, 1993; however, sale of the property to Mr. Lebaron did not transpire. Thus, it is necessary to repeal the previous permit and re-approve the permit in the present property owners' names, Mr. and Mrs. Robert Arcieri.

10. **Approval** of 1994 Animal Control Contract with Mesa County Health Department

The City of Grand Junction contracts with Mesa County (through the Mesa County Health Department) for delivery of animal control services within the City limits, and has done so on an annual basis since 1984.

The wording, agreements, stipulations and other facets of the 1994 Animal Control service contract with Mesa County (through the Health Department) are the same as those found in the 1993 Animal Control service contract which City Council approved for 1993. The only significant difference between the 1994 and 1993 contracts is the \$4,586 cost increase attached to the contract for 1994 (for a total City cost \$93,418.00).

11. **Approval** of Building Inspection Services Contract with Mesa County

Building inspection services are provided in the City by the Mesa County Building Inspection Department under the terms of an agreement. The current agreement, which was approved in 1992, expires at the end of this year. The compensation for providing this service is the fees that are collected for building permits and contractor's licenses. The proposed agreement continues the service until the end of 1995.

12. **Approval** of Inter-Governmental Agreement between the City of Grand Junction and Mesa County for the Fire Department to Provide the D.E.R.A./S.A.R.A Programs to areas outside of the City of Grand Junction during 1994

The D.E.R.A. Program deals with hazardous materials that have been accidently released. The S.A.R.A. Program deals with hazardous materials in manufacturing, transportation and storage in controlled environments. The City will receive \$59,708.79 for providing these services.

* * * END OF CONSENT CALENDAR * * *

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* * * ITEMS NEEDING INDIVIDUAL CONSIDERATION * * *

RESOLUTION NO. 87-93 - ADOPTING CERTAIN SEWER RULES AND REGULATIONS GOVERNING THE MANAGEMENT AND OPERATION OF THE JOINT CITY-COUNTY SEWER SYSTEM

Under the Joint City-County Sewerage Service Agreement, dated May 1, 1980, and as amended, the City of Grand Junction, as co-owner and manager of the Joint System, has the authority "...to do whatever is necessary and proper to administer the joint system which constitutes complete authority...". However, the Joint Sewerage Service Agreement does not address many issues concerning the system, its use or operation. The City adopts these rules to guide and make clear the rules concerning the system.

Councilmember Baughman was concerned about the City setting rates unilaterally without input from Mesa County. He stated that the Agreement states that Mesa County, as well as the City, is responsible for rate setting charges for the Persigo Wastewater Treatment Plant.

City Attorney Wilson stated that the intention was to explain the provisions of the Agreement, rather than change anything in the Agreement. This Resolution contains wording almost identical to the Agreement, but reflects the City's practice and procedures that have been used over the past 13 years. Mr. Wilson stated that the Agreement says that the Manager will establish the rates. Originally, the contract read that "the County would affirm." The Agreement was amended in 1980 and now reads "the County shall adopt, and the Council shall affirm." The City has translated that as meaning that both legislative bodies had specifically intended to delegate as much as they could to the Manager. This Resolution attempts to reflect that philosophy.

Public Works Director Jim Shanks stated that the procedure in the past has been the same as this year as far as the City providing Mesa County with the rationale for proposed rates, etc. The Agreement says that the Manager shall establish the rates. The City is trying to show the rate study philosophy that it has in managing the system. The City has the administrative authority. The Council and the County have the legislative authority as far as the approval and affirmation of the rates.

Upon motion by Councilmember Maupin, seconded by Councilmember Afman and carried by roll call vote with Councilmember **BAUGHMAN** voting **NO**, Resolution No. 87-93 was adopted.

RESOLUTION NO. 89-93 - ESTABLISHING 1994 FEES AND CHARGES POLICY FOR THE GRAND JUNCTION PARKS AND RECREATION DEPARTMENT

Fees were reviewed and some increases are recommended to keep up with expenditures and revenue targets.

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Upon motion by Councilmember Rosenthal, seconded by Councilmember Baughman and carried by roll call vote, Resolution No. 89-93 was adopted.

Mr. Wyatt Trapp, retiree, read a statement into the record regarding opposition of the increased 1994 Golf Fees.

PUBLIC HEARING - ORDINANCE NO. 2715 - REZONING VARIOUS PARCELS OF LAND IN ORCHARD MESA FROM RSF-8 TO RSF-5

A hearing was held after proper notice.

Dave Thornton, Community Development Department, reviewed this item. He stated that the neighborhood petition for the rezone was signed by all landowners (78%) with the exception of Mr. Fredrick Nelson. Mr. Nelson's position is neutral. The rectangular pod in the center of the property was left RSF-8 because the City did not want to create any nonconforming lots in this rezone. The four Habitat for Humanity lots, with recent construction on them, are 5500 square feet each in size. The RSF-5 zone requires 6500 square foot lots.

Ms. Penny Heuscher, 330 Mt. View Court, neighborhood resident, spoke on behalf of the petitioners, her neighborhood, and hundreds of her neighborhood residents. She submitted a written statement for the record (copy attached). Twenty-five people in the audience raised their hand in favor of Ms. Heuscher's statement.

Mr. Bill Seiler, Orchard Mesa resident, and architectural engineer, spoke in favor of lower density in the area, and the rezone.

Mr. Carl Zimmerman, 2744 Laguna Drive, Bookcliff View Subdivision, is an Orchard Mesa resident, in the area to the west of the subject property. There are 39 houses in the 7.7 acre parcel (5.07 houses/acre). He supports the RSF-5 zone as it is compatible with the existing subdivisions in the area. He mentioned that there is a drainage problem in the area. Any increased density in the area is going to increase this problem.

City Manager Mark Achen commented that the City's general policy

would be if the vacant land to the east were to develop with a subdivision plan, the developer would be required to come in with a drainage plan that would not worsen the problem.

Mr. Enno Heuscher, 330 Mt. View Court, area resident, stated that the petition meets impact guidelines by the Riverfront Commission, by the fact that it is recommending a limitation in new high density residential development in a greenbelt area along the Colorado River. He recommended that some of the remaining undeveloped area, the Nelson property in particular, within the petition boundaries, be used as open space for local City parks or a greenbelt area for Orchard Mesa.

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Mr. John Elmer, Planning Commission Chairman, representing the Planning Commission, spoke in favor of the rezone. However, he stated that the Planning Commission felt that those property owners that did not sign the petition should not have their property rezoned without representation. He felt Mr. Nelson should not be considered to be in favor of the rezone since he did not sign the petition. Mr. Elmer felt the City should wait for a Master Plan before it goes forward with individual rezones.

Councilmembers Baughman and Afman felt Mr. Nelson has had the opportunity to voice any opposition, and has not done so.

Councilmember Rosenthal was in favor of the rezone, although he felt the City has the cart before the horse since there is no Master Plan in place.

City Attorney Dan Wilson stated that before zoning is ever applied, there needs to be a plan to talk about what the committee desires. The City does not have the benefit of that because the zoning is already in place. The request is to give the petitioners the lower zoning to protect them against an unknown developer's request even though there may be a Master Plan established in the near future.

Councilmember Afman felt that the City should definitely include Mr. Nelson's property in this rezone.

Councilmember Maupin stated that the 7.7 acres will probably be developed in the near future. There is going to be a park across the street from the school. There will be bridges to the Colorado River. He felt some property owners are assuming all the vacant land in the area is going to remain vacant and that will not be the case with the current development trends.

There were no opponents, letters, or counterpetitions. There were no other comments. Upon motion by Councilmember Baughman, seconded by Councilmember Afman and carried by roll call vote, Ordinance No. 2715, including Mr. Fredrick Nelson's property, was

adopted, and ordered published.

PUBLIC HEARING - ORDINANCE NO. 2716 - AMENDING THE GRAND JUNCTION ZONING AND DEVELOPMENT CODE TO ADD RSF-R ZONE

A hearing was held after proper notice. There were no comments.

Upon motion by Councilmember Maupin, seconded by Councilmember Baughman and carried by roll call vote, Ordinance No. 2716 was adopted, and ordered published.

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RESOLUTION NO. 90-93 - AUTHORIZING THE CITY MANAGER TO SIGN A PRE-ANNEXATION AGREEMENT WITH PARADISE HILLS PARTNERS FOR PORTIONS OF PARADISE HILLS NO. 2 ANNEXATION

City Attorney Dan Wilson stated that the pre-annexation agreement states that the City staff recommends the RSF-5 zone, and it is a condition of the agreement that the RSF-5 zoning be granted to the developer. An important part of the term is a provision whereby the developer and the City, in effect, cooperate to build a new access to the west going out to 26-1/2 Road. The City is requiring the developer to pay for 65% of the construction cost of the roadway. Half of the developer's contribution will be paid back at each time of each platting, and the balance of each prorata portion will be paid at the time a building permit is issued. The full amount of payment is required within 15 years even if development has not taken place. Other issues are also addressed in the agreement. Having this development access to the west is a benefit to the City to reduce traffic impact on the existing Paradise Hills.

City Manager Mark Achen stated that this agreement is in response to a request from Paradise Hills for the City to proceed with annexation at a faster pace than normal. The City was requested by the residents to address access to the new development.

Upon motion by Councilmember Maupin, seconded by Councilmember Rosenthal and carried by roll call vote, Resolution No. 90-93 was adopted.

PUBLIC HEARING - PARADISE HILLS NO. 2 ANNEXATION

- A. RESOLUTION NO. 91-93 - MAKING CERTAIN FINDINGS, DETERMINING THAT THE PROPERTY KNOWN AS PARADISE HILLS NO. 2 IS ELIGIBLE FOR ANNEXATION AND EXERCISING LAND USE CONTROL AND JURISDICTION**

B. ORDINANCE NO. 2717 - ANNEXING TERRITORY TO THE CITY OF GRAND JUNCTION, COLORADO, KNOWN AS PARADISE HILLS NO. 2

C. TRASH COLLECTION OPTION - DECISION ON WHICH TRASH COLLECTION OPTION TO USE FOR PARADISE HILLS NO. 2

A hearing was held after proper notice. The above items were reviewed by Karl Metzner, Community Development Department. There were 263 signatures on the petition for annexation. There were three voluntary signatures - the airport, Dr. Saccommano, and Mr. Suplizio.

Those speaking in opposition to the annexation were as follows:

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1. Mr. Tony Plsek, 772 26-1/2 Road, requested that his property and his father's property (southern portion, on the north side of I-70) be left out of this annexation. He stated that he and his father were not asked to annex, they were told that they would be brought into the annexation. He could see no benefit of annexing his farm properties or his business property into the City. He was told there would be sewer, sidewalks, police protection, etc., but he has seen only services provided to the Saccommano and City properties. His family has owned the property since 1918.
2. Charlie Plsek, 771 27 Road, spoke in opposition to annexing his property. Mr. Plsek stated that in the past he owned Country Club Heights and the Cambridge Subdivision property. He owned 85 acres in that area. In 1964 the interstate highway ruined an excellent farm setup. He farmed the property on the south side of the highway from 1964 until 1979. He sold it off at that time. Mr. Payne did a good job of placing restrictions on development of streets, curbs, and sidewalks in that area. All the planning had to go through all the agencies of the City. If there was an objection, it could have been settled then. Mr. Plsek stated that at the neighborhood meeting held in the home of Mr. Suplizio, he voiced his opposition to being annexed at that time. He felt no one listened to his protest.

Councilmember Baughman asked if there is a way to drop the Plsek properties from this proposed annexation. City Manager Mark Achen responded that Council could remove the Plsek properties from the annexation by crafting an annexation that would satisfy legal requirements, and exclude those properties. It would probably take an additional 90 days because of readvertising purposes (change in legal description).

City Attorney Dan Wilson stated that this hearing could be continued for two weeks, allowing Staff to come back with an amended legal description, then finally adopt the Ordinance with the final legal description.

3. Mr. Leo Hupert, 776 26-1/2 Road, representing Mrs. Crowley, owner of property in the annexation area, stated that Mrs. Crowley wishes to stay in the County.

Upon motion by Councilmember Maupin, seconded by Councilmember Rosenthal and carried by roll call vote with Councilmember **BAUGHMAN** voting **NO**, Resolution No. 91-93 was adopted, Ordinance No. 2717 was adopted, and ordered published.

Regarding the collection of trash in the Paradise Hills No. 2 area, staff had submitted options to the City Council for consideration.

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Upon motion by Councilmember Maupin, seconded by Councilmember Afman and carried, trash collection Option No. 1 for the City to provide trash collection service to the Paradise Hills No. 2 area effective March 1, 1994 with staff to notify the private trash collectors immediately was approved.

PUBLIC HEARING - ORDINANCE NO. 2718 - ZONING THE PARADISE HILLS NO. 2 ANNEXATION TO RSF-R, RSF-1, RSF-4, RSF-5, PR-4.5, PZ, PAD, AND PI

A hearing was held after proper notice. There were no comments.

Upon motion by Councilmember Rosenthal, seconded by Councilmember Baughman and carried by roll call vote, Ordinance No. 2718 was adopted, and ordered published.

PUBLIC HEARING - ORDINANCE NO. 2719 - AMENDING SEWER RATES FOR THE JOINT SEWER SYSTEM FROM \$10.35 PER EQU PER MONTH TO \$11.00 PER EQU PER MONTH

A hearing was held after proper notice.

Councilman Baughman asked for clarification on the relation of EQU's to the rate increased proposed. Public Works Director Shanks explained that the number of EQU's for billing remains the same but the rate per EQU is increasing.

There were no other comments. Upon motion by Councilmember Maupin, seconded by Councilmember Afman and carried by roll call vote, Ordinance No. 2719 was adopted, and ordered published.

**PUBLIC HEARING - ORDINANCE NO. 2720 - VACATING A PORTION OF THE
PTARMIGAN COURT SOUTH RIGHT-OF-WAY, CITY OF GRAND JUNCTION**

A hearing was held after proper notice. There were no comments.

Upon motion by Councilmember Baughman, seconded by Councilmember Afman and carried by roll call vote, Ordinance No. 2720 was adopted, and ordered published.

**PUBLIC HEARING - ORDINANCE NO. 2721 - REZONING 1060 GRAND AVENUE
FROM RMF-64 TO PB**

A hearing was held after proper notice. There were no comments.

Upon motion by Councilmember Maupin, seconded by Councilmember Baughman and carried by roll call vote with Councilman **ROSENTHAL** voting **NO**, Ordinance No. 2721 was adopted, and ordered published.

FENCE PERMIT

Ms. MaryAnn Bradshaw, 260-1/2 27-1/2 Road, discussed a fence permit that she found on her fence. City Manager Achen explained that he spoke with Ms. Bradshaw the previous day and has asked staff for additional information. The situation appears to be a property line dispute and the appropriateness of the City issuing a fence permit. There is a question as to whether the matter is a City issue or a civil matter. Ms. Bradshaw advised that her concern is whether the permit is still in effect so she will know how to proceed regarding getting out her kitchen door and providing water to her home. Mr. Achen responded that the City has not revoked the permit. President of the Council Pro Tem Mantlo clarified that there is no fence now and Ms. Bradshaw is not being restricted at this time. Ms. Bradshaw asked for a response to her concern in writing. Mr. Achen advised that once a decision has been made on the situation, she will receive that decision in writing.

Mr. Achen stated that it is his understanding that the current fence is not on the property line and if the adjacent property owner were to move the fence to the property line, it would then create the problems that Ms. Bradshaw describes. Ms. Bradshaw has been unable to acquire the property in question at this time and there remains a question as to whether the City should get involved in this situation. City Attorney Wilson suggested that Staff put together a set of facts on the situation, relay them to the City Council, and at that time the matter can be reviewed.

ADJOURNMENT

The meeting was adjourned at 10:32 p.m.

Stephanie Nye, CMC
City Clerk