

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

May 1, 1996

The City Council of the City of Grand Junction, Colorado, convened into regular session the 1st day of May, 1996, at 7:33 p.m. in the City/County Auditorium at City Hall. Those present were Linda Afman, Jim Baughman, David Graham, R.T. Mantlo, Janet Terry, Reford Theobold and President of the Council Ron Maupin. Also present were City Manager Mark Achen, Assistant City Attorney John Shaver, and City Clerk Stephanie Nye.

Council President Maupin called the meeting to order and Council-member Graham led in the Pledge of Allegiance. The audience remained standing during the invocation by Rev. Charles Wallick, Chaplain, V.A. Hospital.

PROCLAMATION DECLARING MAY 5-11, 1996 AS "MUNICIPAL CLERKS WEEK" IN THE CITY OF GRAND JUNCTION

PROCLAMATION DECLARING MAY 5-11, 1996 AS "TEACHER APPRECIATION WEEK" IN THE CITY OF GRAND JUNCTION

PROCLAMATION DECLARING MAY 12-18, 1996, AS "HISTORIC PRESERVATION WEEK" IN THE CITY OF GRAND JUNCTION

PRESENTATION OF APPRECIATION CERTIFICATES TO CITIZENS LEONARD HARVEY, BARRY STORTER AND VEE STANLEY FOR ASSISTANCE TO POLICE OFFICER PAUL QIMBY - PRESENTED BY POLICE CHIEF DAROLD SLOAN

SELECTION OF MAYOR AND MAYOR PRO TEMPORE - OATHS OF OFFICE ADMINISTERED

It was moved by Councilmember Mantlo and seconded by Councilmember Theobold that Linda Afman be nominated as President of the Council, Ex-Officio Mayor.

It was moved by Councilmember Baughman and seconded by Council-member Graham that R.T. Mantlo be nominated as President of the Council, Ex-Officio Mayor.

Roll call vote was called on the first motion with the following result:

AYE: MANTLO, THEOBOLD, AFMAN, MAUPIN
NO: BAUGHMAN, GRAHAM, TERRY.

As selection of the President of the Council and Mayor had been completed by an affirmative vote for Linda Afman, no vote was taken on Councilmember Baughman's motion.

It was moved by Councilmember Theobold that Council unite behind the

leadership of its new Mayor, and show support by selecting her by acclamation. Councilmember Terry asked if the intent of the motion is to offer a vote of confidence and support? Councilmember Theobold said yes.

The motion was seconded by Councilmember Mantlo. The motion passed with Councilmember **GRAHAM** voting **NO**.

Upon motion by Councilmember Afman, seconded by Councilmember Theobold and carried by roll call vote, R.T. Mantlo was elected President of the Council Pro Tempore, Ex-Officio Mayor Pro Tempore.

Councilmember Mantlo announced this will be his last year to serve on the City Council.

The City Clerk administered the Oath of Office to Linda Afman as Mayor and to R.T. Mantlo as Mayor Pro Tempore. Mayor Afman presided over the rest of the meeting.

Councilmember Terry thanked Ron Maupin for the support and leadership he has given Council over the past tumultuous year as Mayor of the City of Grand Junction. Mayor Maupin said it has been a privilege to serve.

CITY COUNCIL ASSIGNMENTS - CONTINUED TO MAY 15, 1996, MEETING

CONSENT ITEMS

Upon motion by Councilmember Theobold, seconded by Councilmember Baughman and carried by roll call vote, the following Consent Items 1-4 were approved:

1. Minutes of Previous Meeting

Action: Approve the minutes of the Regular Meeting April 17, 1996

2. Foresight Park Drainage Improvements - 1996

The following bids were received on April 18, 1996:

Skyline Contracting, Grand Junction	\$105,613.34
Lyle States Construction, Grand Junction	\$106,225.00
Parkerson Construction, Grand Junction	\$114,544.00
R.W. Jones Construction, Fruita	\$159,554.00
Engineer's Estimate	\$116,802.00

Action: Award Contract to Skyline Contracting of Grand Junction for

Foresight Park Drainage Improvements 1996 in the Amount of \$105,613.34

3. Purchase of 48,000 Pounds of Hot Pour Crackfill Material for the City's Street Maintenance Division

The following bids were received on April 17, 1996:

Gilsabind Convidar, Inc., Greeley	\$17,520*
GMCO Corporation, Carbondale	\$19,008
* Recommended Award	

Action: Award Contract to Gilsabind Convidar, Inc., of Greeley, Colorado, for the Purchase of 48,000 Pounds of Hot Pour Crackfill Material for the City's Street Maintenance Division in the Amount of \$17,520

4. Setting a Hearing on 3D Systems Annexation

[File #ANX-96-104]

3D Systems Corporation, property owners, have signed an annexation petition for annexation into the City. Staff requests that City Council approve the resolution for the referral of petition for the 20.8 acres, 3D Systems Annexation, and set a hearing for June 5, 1996.

Resolution No. 45-96 - A Resolution Referring a Petition to the City Council for the Annexation of Lands to the City of Grand Junction, Colorado, and Setting a Hearing on Such Annexation - 3D Systems Annexation, 20.8 Acres Located at 805 Falcon Way

Action: Move for Adoption of Resolution No. 45-96

*** * * END OF CONSENT CALENDAR * * ***

*** * * ITEMS NEEDING INDIVIDUAL CONSIDERATION * * ***

AIRPORT AUTHORITY BYLAWS

The City Council and the Mesa County Commissioners have been considering making a recommendation to the Airport Authority for bylaw amendments.

It was moved by Councilmember Maupin that the recommendations for the Airport Authority bylaw amendments be forwarded to the Airport Authority and the County Commissioners for review, with a cover letter stating City Council would like them to review the amendments and consider their adoption.

Assistant City Attorney John Shaver explained the changes to the bylaws are on Page 2, Option 1, the last line was changed to reflect the Council or Commissioner's term on the Airport Board shall terminate at the same time as a Commissioner's or Council-member's elected position is vacated. The last sentence has been refined to clarify that it is at the vacation of the elected position relative to the Board. The other change is on Page 4, Article 4, Section 1, in the last clause of the six-line paragraph. Monday night's discussion required a unanimity between the Council and the Commission in order for either elected official to sit as chair of the Airport Authority Board. It is written now "with the consent of either board."

The motion was seconded by Councilmember Terry with the request that if discussion is needed between the two Boards it could take place at the next breakfast meeting to be held on May 8, 1996.

Roll was called on the motion with the following result:

AYE:BAUGHMAN, GRAHAM, MANTLO, MAUPIN, TERRY, THEOBOLD, AFMAN.

The motion carried.

PUBLIC HEARING - CREATION OF 1996 ALLEY IMPROVEMENT DISTRICT, PHASE C- RESOLUTION NO. 46-96 - A RESOLUTION CREATING AND ESTABLISHING ALLEY IMPROVEMENT DISTRICT NO. ST-96, PHASE C, WITHIN THE CORPORATE LIMITS OF THE CITY OF GRAND JUNCTION, COLORADO, AUTHORIZING THE RECONSTRUCTION OF CERTAIN ALLEYS, ADOPTING DETAILS, PLANS AND SPECIFICATIONS FOR THE PAVING THEREON AND PROVIDING FOR THE PAYMENT THEREOF

Petitions have been submitted requesting a Local Improvement District to reconstruct the following alleys:

- The east/west alley from 14th to 17th Street between White and Rood Avenue;
- The east-west alley from 6th to 7th Street between South and Pitkin Avenue.

Both petitions have been signed by a majority of the property owners to be assessed. This is a hearing to allow public comment for or against the proposed Improvement District.

A hearing was held after proper notice. City Property Agent Tim Woodmansee was present to answer questions of Council. He stated there are 23 requests for petitions with six petitions being circulated at present. Any petitions received at this point will be for 1997

as all of the 1996 budgeted funds will be depleted by this improvement district. The budget for 1997 for such improvements is \$274,000 plus \$100,000 as a supplemental appropriation.

There were no public comments. The hearing was closed.

Upon motion by Councilmember Mantlo, seconded by Councilmember Theobald and carried by roll call vote, Resolution No. 46-96 was adopted.

PUBLIC HEARING - VACATION OF RIGHT-OF-WAY IN THE MESA STATE COLLEGE AREA - ORDINANCE NO. 2913 - AN ORDINANCE VACATING AN ALLEYWAY BOUNDED BY COLLEGE PLACE AND 12TH STREET AND ELM AND TEXAS AVENUES - MESA STATE COLLEGE CAMPUS [FILE #VR-96-49]

Mesa State College is requesting vacation of an L-shaped alley bounded approximately by Elm Avenue and Texas Avenue and 12th Street and College Place in order to construct a new dormitory facility.

A hearing was held after proper notice. Kristen Ashbeck, Community Development Department, reviewed this item. The L-shaped alley is completely surrounded by college property. It only accesses college properties with no access to private properties. The college is proposing to construct a new dormitory in the area. The proposed footprint would extend over the western part of the alley, thus the request to vacate it. The college will be relocating most of the existing utilities and providing new easements. There is a sewer line in the north/south part of the L-shaped alley that services only the college facilities. The college has been maintaining the sewer line and will accept the responsibility of continued maintenance. There is no reason to require retention of any easement. Staff feels the proposed vacation meets the criteria in Section 8-3 of the Zoning & Development Code. The Planning Commission recommended approval, and it was approved by the Utility Coordinating Committee. Ms. Ashbeck researched records and found there have been no other previous agreements with Mesa State College for previous vacation requests to do some landscaping. The petitioner's representative has told Ms. Ashbeck there was an agreement made before the Texas and Mesa Avenue vacation which was for landscaping at the ends of each street so they did not appear to be streets anymore. Part of it has been completed and part is under construction as a follow-up to the Field House project. This is the last alley that has not been vacated within the current college boundaries.

Councilmember Graham asked if the City has ever asked for consideration from applicants for vacation of alleys. Ms. Ashbeck said there is none requested other than retaining an easement for utilities in some instances. Councilmember Graham asked how many

other potential vacations are pending? Ms. Ashbeck stated the only one is the Conoco application. Mayor Afman stated relinquishing responsibility for maintenance of such alleys is an asset to the City. Councilmember Graham suggested there are benefits to petitioners in these instances. There may be some instances where the City could ask for additional consideration.

Mr. Ron Gray, Physical Plan Director for Mesa State College, spoke in favor of the proposal. If the vacation is denied the building will have to be redesigned. If redesign is required, the College cannot have it complete in time for the fall semester, 1997. Referring to additional consideration for alley vacations, Mr. Gray said Mesa State sold the right-of-way for Mesa Avenue at College Place between Elm and Mesa Avenue for about \$10 in 1972. The College also granted the City right-of-way to widen 12th Street for \$10 which was worth \$20,000. Mr. Gray said the new dormitory will not completely fill the College's need for dormitories. Another project of this size will be needed in the next two years.

Councilmember Mantlo asked if this will block the City from getting emergency equipment into the area. Mr. Gray said no.

Mr. Gray understood the College had an agreement with the City to landscape Mesa and Texas Avenue. Two years ago the landscaping of Texas Avenue was completed and the College is in the process of completing the landscaping on Mesa Avenue at present.

There were no other comments. The hearing was closed.

Upon motion by Councilmember Maupin, seconded by Councilmember Mantlo and carried by roll call vote, Ordinance No. 2913 was adopted on second reading and ordered published.

PUBLIC HEARING - EXPANSION OF THE BOUNDARIES OF THE DOWNTOWN DEVELOPMENT AUTHORITY - ORDINANCE NO. 2914 CONSIDERING A SUBSTANTIAL MODIFICATION OF AN APPROVED PLAN OF DEVELOPMENT BY EXPANDING THE BOUNDARIES OF THE GRAND JUNCTION, COLORADO, DOWNTOWN DEVELOPMENT AUTHORITY AND TAX INCREMENT FINANCING DISTRICT
[FILE #MSC-96-61]

The DDA is proposing to amend the Plan of Development to include all properties currently in the Authority's boundaries but not in the TIF, and to expand the Authority's boundaries to include additional properties adjacent to the current boundaries into the Plan of Development Area within which tax increment financing is used. The DDA Board has reviewed and approved the individual petitions for inclusion. All new inclusions are voluntary, with petitions signed by the property owners, in which they agree to pay the additional

5 mill levy to the Authority.

A hearing was held after proper notice. Barbara Creasman, DDA Director, was present to review this item. She requested Council amend the Plan of Development to include all of the areas within the Authority and new inclusions into the Authority into the Plan of Development area within which tax increment is used. She presented a map of the subject area. All of the new inclusions are voluntary.

The Tax Increment Financing District was formed in 1981. The District gave the DDA a 25-year time limit and a \$10 million in bonding limit. To date, \$2 million in bond money has been invested downtown with the most recent refinance of \$800,000 that DDA will be able to spend, which is well within the \$10 million authorization. The 25 year limit will run out in the year 2006.

Councilmember Baughman asked if the School District has agreed to the addition of these properties in the DDA boundary. Ms. Creasman said the Plan of Development and the Statute says the School District should have the opportunity to participate in the planning process.

It is not required that they agree with the planning process. Therefore, when inclusions into the TIF have been made, the DDA contacts the School District. Kathleen Killian, DDA's attorney, has contacted John Groves, the School District's attorney, and discussed the inclusion and the hearing. When the original Plan was developed, DDA received a letter from the School District saying they had reviewed and approved the Plan. Council-member Baughman assumed as the boundaries are expanded, the School District would also have to approve the expansion. By the absence of their opposition, Councilmember Baughman is assuming the School District approves of the expansion.

Assistant City Attorney John Shaver stated he and counsel for the DDA have had an opportunity to speak with Ms. Creasman, Ron Lappi, Finance Director, and City Attorney Dan Wilson. It has been the City's position that indeed there is some additional participation required by the School District. The Statute does not answer whether or not it must be consent or whether or not it must be opportunities to complain, or what actually must occur. There is no answer to the question. Various bills trying to refine the issue have gone before the Colorado legislature and failed to pass. Mr. Shaver's advice to the DDA and its counsel is the City needs some form of protection in the proposed ordinance. Mr. Shaver met with DDA's counsel and Ms. Creasman to come up with appropriate language to give the City protection. Mr. Shaver initially proposed in the ordinance the consent of the other governmental entities was required. DDA counsel resisted saying it is not required by the law. Mr. Shaver concedes it is not required by the law, but the rationale which was explained is compelling. The ordinance says if Council favorably considers this ordinance, it is requiring the DDA to do what the Statute requires

and what the Plan requires. That question is not being addressed. The DDA is convinced what they have done and what they are continuing to do is appropriate and lawful. Mr. Shaver did not know if "active" consent is required, or not. Rather than addressing an issue that cannot be answered, the DDA has come to a stipulated agreement as to the content of the ordinance, and will be bearing the risk if consent is required.

Ms. Creasman said DDA's bond counsel said nothing in writing was required from the governmental entities, and did not need the School District's consent. Even if the School District objected, Council had the right to go ahead and approve, although that is not how the DDA would want to handle it. She cited Section 31-25-807(2)(d) of the State Statute which reads: "The School District shall be permitted to participate in an advisory capacity with respect to inclusions and a plan of development of the provision provided by this sub-section."

Councilmembers Theobald and Terry wanted to know what the School District said in response to the expansion of the DDA boundary when contacted.

Ms. Kathleen Killian, Counsel for the DDA, said John Groves asked her to send him a copy of the proposed ordinance when she had decided on the final language. Ms. Killian had not received the final version of the proposed ordinance. Mr. Shaver said Ms. Creasman was provided with the final version of the ordinance.

Mr. Shaver said since the boundaries of the DDA District and the Tax Increment Finance District have not been coterminous, there has been some "blurring" of exactly what has occurred in the past when a DDA boundary has been amended whether or not it is included in the Tax Increment Finance District. When the issue was addressed last year, the basis of his research was simply commending to the DDA these issues for their consideration. The City does not intend to interfere with the relationship with the DDA, but if the City Council wanted to pass an ordinance that provided for an unlawful activity on the part of the DDA, City Council may have some liability. The ordinance is geared to address the requirement that the DDA must discharge whatever it determines the law requires since the plain meaning of the Statutes does not answer the question.

Councilmember Terry said the point is the DDA has talked to the School District. They have no problem. It is complete. Mr. Shaver said the ordinance language being considered tonight is representative of that. It requires the DDA to bear the burden.

Councilmember Maupin said everyone benefits. If there is

redevelopment in the area, the School District and the County gets the tax base, the DDA gets the increment of the new development.

Ms. Creasman said one of the reasons that DDA wants to take this action is that it thinks having the boundaries be coterminous is going to clear things up. The proposed ordinance accomplishes that.

Councilmember Theobald felt a copy of the ordinance should have been provided Mr. Groves when it was first prepared for publication a few weeks ago, rather than waiting until it has been finally adopted. Ms. Creasman said in the future she would be happy to provide an initial draft, then a final version before adoption.

Councilmember Graham referred to Section 1, Findings & Fact. He asked if the blight that exists within the boundary to be extended or just within the existing boundary. Ms. Creasman said both. In order to form a DDA there had to be an original finding of blight in the area.

The finding of "blight" was determined by several things including the age of the buildings, the age of the infra-structure, employment in the surrounding area, the median income in the area. Today's HUD's statistics on the distressed criteria for a population, the downtown and south downtown area have the highest unemployment and the lowest median income in the County. The buildings are very old with very old infrastructure. The findings reflect that is the case for the original boundaries as well as the boundary to be extended.

Councilmember Graham asked what additional expansion of the DDA will be requested in the future? Ms. Creasman said the DDA's goal has been the redevelopment area directly south of the downtown area between 5th and 9th Streets, between downtown and the Colorado River. That is reflected in the current Plan.

Councilmember Graham asked Ms. Creasman to amplify on Finding E regarding specific benefit to the property. Ms. Creasman said, based on the kinds of redevelopment projects the DDA has made in the core area of downtown, those investments can be made in this area also.

The DDA's goal in making the public expenditures with the TIF bond is to help stimulate private development, not to be anti-business. It must work in conjunction with the DDA.

Councilmember Graham asked if the property owners have requested inclusion because of the prospect of receiving some of the TIF funds for their own properties? Ms. Creasman said not for their own properties, but possibly for public improvements next to their properties. An example would be public improvements in association with the botanical gardens at the end of 7th Street. If the road in front of a property links to the botanical gardens or the trail areas or other public improvements, TIF funds might apply.

Councilmember Graham asked if the creation of downtown development authorities is minimal in Colorado? Assistant City Attorney John Shaver said it was his understanding they are few. Ms. Creasman said there were several urban renewal authorities before the State of Colorado enacted legislation for DDA's. Loveland and Longmont have DDA's. Boulder and Denver have urban renewal authorities. Most use tax increment financing. Councilmember Graham wanted to know if there were other DDA's that could be contacted to see if there was information that would help Council address whether there were any complications or problems that should be considered for a DDA with expanding boundaries. He felt as the DDA proceeds successfully, the boundary should be contracting, not expanding. The City should not be legislatively arriving at more "blight." Assistant City Attorney John Shaver emphasized that the DDA is not a specific function of general government of the City of Grand Junction. The City's representation is limited only to the kinds of proceedings presented tonight in consideration of ordinances and other matters.

Councilmember Graham asked if there is historical data on DDA's that have been so successful that they have dissolved and gone out of business because they have done their job so well? Council-member Theobald agreed with Councilmember Graham that at some point this should go away having solved the problem. That is why the Statute envisions a 30-year limit. Something that took a century to create is not going to go away over night. Over 30 years it is gradually going to improve the conditions for redevelopment. Councilmember Theobald said the last time he saw anything around the State regarding TIF was when some people were very unhappy about abuses with TIF. At that time the City's DDA was the most successful and cleanest. Other areas had abused TIF.

Mayor Afman requested Staff investigate and furnish a report that would answer most of Councilmember Graham's questions.

There were no public comments. The hearing was closed.

Councilmember Graham was concerned that the DDA is a very visible appendage of a conscious policy on the part of the City of Grand Junction to discriminate in favor of downtown residences, properties and businesses. He felt circumstances since 1977 have changed significantly. He had concerns about the numbers and amounts of properties that have come under direct ownership by the DDA as a quasi-governmental entity. He was concerned about property falling into the public domain. He urged voting against this ordinance.

Councilmember Baughman said his main concern was the fact that the School District agrees with the expansion and the City is on legal

ground. One of the largest expenditures of DDA funds is trying to put the land together between Main and Colorado, and 2nd and 3rd Streets for development in the western downtown area, and then get it into private ownership.

Councilmember Maupin said the downtown is an asset to this community, and is supported by its citizens. The idea that the City lavishes money on the DDA is incorrect. The Growth Plan states the citizens wish this to be a center core downtown where the arts, culture and government businesses are located. The downtown is the backbone of this community.

Councilmember Graham stated he has seen the DDA acting as a lobbying organization for the downtown interest. He pointed out Councilmember Maupin, as a business owner of two properties on Main Street, stands to benefit directly from all the benefits the downtown receives in general.

Upon motion by Councilmember Theobald, seconded by Councilmember Terry and carried by roll call vote with Councilmember **GRAHAM** voting **NO**, Ordinance No. 2914 was adopted on second reading and ordered published.

Councilmember Maupin took exception to Councilmember Graham's comment that somehow Councilmember Maupin will benefit because the DDA boundaries will expand. He felt all of Grand Junction's citizens benefit by having a strong downtown and a vital community.

Councilmember Baughman felt the DDA would never have been necessary if the development of Mesa Mall had been controlled fifteen years ago. The commercial base of the City was moved 2 1/2 miles from its core out into agricultural area. He supports DDA's efforts.

PUBLIC HEARING - AMENDMENT TO THE GRAND JUNCTION ZONING & DEVELOPMENT CODE (ANIMAL REGULATIONS) - ORDINANCE NO. 2915 AMENDING SECTION 5-10-3, 5-10-4 AND CHAPTER 12 OF THE ZONING & DEVELOPMENT CODE OF THE CITY OF GRAND JUNCTION, ANIMAL REGULATIONS, AND DEFINITIONS OF AGRICULTURAL ANIMALS [FILE #TAC-96-1.2]

Amending the Zoning & Development Code regarding Agricultural Animals to differentiate between small and large agricultural animals. For second reading, the ordinance has been amended to delete the requirement to obtain a Conditional Use Permit for the keeping of goats, burros and mules and not just goats, as the first reading of this ordinance indicated. A provision to allow pigs in the RSF-R, I-1 and I-2 zone districts without the need for a Conditional Use Permit is also proposed, based upon the premise that surrounding uses will not be adversely impacted due to lot sizes, noise factors and

other such impacts.

A hearing was held after proper notice. Jan Koehn, Code Enforcement Supervisor, reviewed this item. One revision to the ordinance exempts pre-existing animals from new development, meeting the 100 foot distance requirement between principal structures and the keeping of the animals. The other revision deletes the requirement to obtain a Conditional Use Permit for not only goats, but burros, mules and pigs in certain zone districts. Pigs will still require a Conditional Use Permit in all zone districts except the RSF-R, I-1 and I-2 districts. Ms. Koehn explained there has been no problem with burros, goats, and such types of animals. There are performance standards which require they be maintained, not smell, and not make excessive noise. Staff feels that is adequate.

Councilmember Mantlo felt it is going to take a lot of patience to enforce the ordinance.

Councilmember Terry asked if there have been problems with dogs in kennels on fence lines? Ms. Koehn said in the past five years there was one complaint about a temporary kennel which was quickly remedied.

There were no public comments. The hearing was closed.

Upon motion by Councilmember Mantlo, seconded by Councilmember Baughman and carried by roll call vote, Ordinance No. 2915 was passed on second reading and ordered published.

PUBLIC HEARING - AMENDMENT TO THE GRAND JUNCTION ZONING & DEVELOPMENT CODE (TEMPORARY USE PERMITS) - ORDINANCE NO. 2916 AMENDING SECTION 4-13 AND CHAPTER 12 OF THE ZONING & DEVELOPMENT CODE OF THE CITY OF GRAND JUNCTION, TEMPORARY USES AND STRUCTURES, AND DEFINITION OF TEMPORARY USE [FILE #TAC-96-1.4]

Amending the Zoning & Development Code regarding Temporary Uses and Structures to delete specific types of temporary uses while still requiring all Temporary Uses to adhere to established criteria.

A hearing was held after proper notice. Jan Koehn, Code Enforcement Supervisor, reviewed this item. The City's performance standards are adequate for the enforcement of the Code and all the previously set forth requirements are not needed. The proposal deletes all the specific types of uses and requires that temporary uses only adhere to the Performance Standards. Any temporary use that is less than 48 hours in length was exempted because they are typically on weekends and are unenforceable.

There were no comments. The hearing was closed.

Upon motion by Councilmember Baughman, seconded by Councilmember Maupin and carried by roll call vote, Ordinance No. 2916 was adopted on second reading and ordered published.

PUBLIC HEARING - AMENDMENT TO THE GRAND JUNCTION ZONING & DEVELOPMENT CODE (CHINCHILLA RANCHES) - ORDINANCE NO. 2917 AMENDING SECTION 5-10-3 OF THE ZONING & DEVELOPMENT CODE OF THE CITY OF GRAND JUNCTION, CHINCHILLA RANCHES [FILE #TAC-96-1.3]

Ron Rucker is requesting that chinchilla ranches have an "allowed use" designation in the Zoning & Development Code. Currently, chinchilla ranches require a conditional use permit in the RSF-R zone. A well-run chinchilla ranch is totally enclosed within a building and has no smell, noise, or dust impacts on surrounding properties.

A hearing was held after proper notice. This item was reviewed by Mike Pelletier, Community Development Department. Chinchilla ranches are always in enclosed buildings because chinchillas cannot tolerate hot weather, and must stay inside a temperature controlled building. Setbacks for RSF-R zones are 50 feet which provides an extra safety margin. The text amendment will delete unnecessary regulation. Staff recommends the ordinance have a clause stating each chinchilla have minimum of eight cubic feet of space for sanitary purposes. The number comes from the Chinchilla Industry Council.

Councilmember Graham asked if there were other persons that would benefit from the adoption of the amended ordinance? Mr. Pelletier answered no.

Councilmember Graham asked if an individual complained about a chinchilla operation on the grounds that it was cruel and inhumane to animals, would it give the Planning Commission or the City Council a rational and defensible basis for denying a conditional use permit? Assistant City Attorney John Shaver said under the current Zoning & Development Code, no. The reason being the standing would be only for adjacent owners or uses. The Code does not recognize that degree of a political involvement. The issue would be one of novel consideration because the Code generally provides fairly broad standing.

Petitioner Mr. Ron Rucker said under the old zoning conditions he would have a conditional use permit which would require the same basic process he has gone through up to now. Due to the political nature of public hearings, etc., each time he goes before the public it puts him at risk from someone that may not agree politically. His operation is important to him because he can operate out of his home, and be with his family. He values his family lifestyle. He felt the current

Code is unnecessary regulation. The impact of his operation is not as great as many other uses that are currently allowed in the zone. He is totally satisfied with this amendment.

Mayor Afman extended her appreciation to Mr. Rucker for his efforts in working with the City and helping to draft regulation that is acceptable to users throughout the valley. Mr. Rucker said he would be happy to give Council a tour of his facility.

Councilmember Baughman asked if there are other chinchilla ranches in the Grand Valley? Mr. Rucker said the property to the north of his once provided a chinchilla operation. There have been operations on and off in Palisade and some currently operation in Fruita. There may be 23 operations in the State of Colorado with approximately half operating on the western slope. Most are in the mountain towns because of the temperature.

Councilmember Graham asked if Mr. Rucker had received any intimidation or vandalism? Mr. Rucker said no. There have been some cases in the United States where frivolous lawsuits have been filed against chinchilla ranches. Although they have been defeated, it is very costly and has put some of the ranches out of business.

Councilmember Graham said he considers the use of Mr. Rucker's property and business to be a lawful and acceptable use. Any impact is extremely negligible to any neighboring property owners. Councilmember Graham asked if the knowledge of Mr. Rucker's chinchilla operation is readily available to said extremists by other means than through the City application process? Mr. Rucker said he belongs to a national and world organization which publishes a monthly magazine. It is tightly controlled, but is available to libraries, so the information is available. It would take some research in order to locate his ranch.

There were no other comments. The hearing was closed.

Upon motion by Councilmember Theobold, seconded by Councilmember Baughman and carried by roll call vote, Ordinance No. 2917 was adopted on second reading and ordered published.

PUBLIC HEARING - AMENDMENT TO THE GRAND JUNCTION ZONING & DEVELOPMENT CODE (USE/ZONE MATRIX) - ORDINANCE NO. 2918 AMENDING SECTION 4-3-4, USE/ZONE MATRIX OF THE ZONING & DEVELOPMENT CODE OF THE CITY OF GRAND JUNCTION, COLLEGES IN H.O. ZONE [FILE #TAC-96-1.5]

Amending Section 4-3-4 (Use/Zone Matrix) of the Zoning & Development Code to allow colleges in the H.O. (Highway Oriented) zone.

A hearing was held after proper notice. Kathy Portner, Community Development Department, reviewed this item. The proposed amendment is to allow colleges in the H.O. Zone (Highway Oriented) with a special use permit. It was originally proposed as an allowed use. Planning Commission felt it should be a special use permit so that notice would go to adjacent property owners. There is a small private college that is located within one of the office buildings on Horizon Drive that plans to expand interior, but is not allowed under the current Code.

Councilmember Graham asked if colleges was a defined term in the Code? Ms. Portner said the Code defaults to the Random House Collegiate Dictionary if the definition is not in the Code. Councilmember Graham asked if there were other kinds of fraternal or group organizations which might try to "piggy back" on this and call themselves a college? Assistant City Attorney Shaver said the Code talks about the scholastic or scholarly institutions. Councilmember Graham's question is not answered in this text amendment.

Dr. Paul Dibble, Director of Colorado Christian University located in Grand Junction, stood for approval of this amendment if so desired. Councilmember Maupin asked how many students are enrolled in Colorado Christian University? Dr. Dibble stated approximately 80. They plan to add 600-800 square feet to the existing facility.

There were no other comments. The hearing was closed.

Upon motion by Councilmember Theobald, seconded by Councilmember Maupin and carried by roll call vote, Section 4-3-4, the Use/Zone Matrix of the Zoning and Development Code was amended to include colleges as an allowed use in a Highway Oriented Zone. Ordinance No. 2918 was adopted, as amended, on second reading and passed for publication.

PUBLIC HEARING - AMENDMENT TO THE GRAND JUNCTION ZONING & DEVELOPMENT CODE (SIGN CODE) - ORDINANCE NO. 2919 AMENDING SECTION 5-7-7.B.5 OF THE ZONING & DEVELOPMENT CODE OF THE CITY OF GRAND JUNCTION, FLUSH WALL SIGN ALLOWANCE [FILE #TAC-96-1.6]

Amending Section 5-7-7.B.5 of the Zoning & Development Code to base the allowance for flush wall signs on the longer facade of a building oriented perpendicular to the street.

A hearing was held after proper notice. This item was reviewed by Kathy Portner, Community Development Department. Currently the sign allowance for signage on a building is based on the frontage of the building parallel to the street. For a building that is oriented perpendicular to the street that has parking to the side, it is a

great disadvantage to the signage they could have. The proposed amendment would allow the flush wall allowance where the building is oriented perpendicular to the street, to be determined by the longer length of the building that is perpendicular to the street. It would only apply to signage directly on the building. It does not change the sign allowance for free standing signs, roof, signs or projecting signs. There is a total limitation for an entire site.

Councilmember Baughman asked how long the present Sign Code has been in place. Ms. Portner said it was adopted in the late 70's. Councilmember Baughman asked why it has taken so long to address this issue. Ms. Portner said typically buildings that are oriented perpendicular to the street are also on a corner lot. On a corner lot, sign allowance is based on both street frontages. This is rather unique to see an interior lot with a building oriented perpendicular.

Ms. Portner did not feel there will be a lot of requests to use this amendment. It is not that common. The example used by Ms. Portner was a proposed building on one of the pad sites in front of Wal-Mart.

Mr. James Braden, 2420 N. 1st Street, asked if this will include murals that have been painted on the side of a building? Council-member Theobald said the ordinance addresses signs that would promote the business rather than decorative murals.

Councilmember Baughman knew of no ordinances regulating murals. Assistant City Attorney Shaver said the city attorneys have struggled with when art work constitutes a sign. The issue has not been addressed specifically because there have not been a proliferation of such murals. If there were a proliferation, Staff would bring back a text amendment in an effort to address the issue. Ms. Portner said when the question of murals comes up, Staff reviews the proposal.

If it does not contain any words or logo that is specific to the business, it is not considered a sign. The applicant is allowed to do the mural.

Councilmember Baughman asked if there is any regulation on something that would be considered publicly offensive in the way of art work.

Assistant City Attorney John Shaver said there is a provision in the Sign Code that pertains to anything that may be unduly distracting or other kinds of things that would unduly divert people's attention.

Councilmember Graham said Chapter 12 of the Code gives an extensive definition of "sign" which relates it into the purpose of identifying or advertising, as opposed to something that is expression for its own right.

There were no other comments. The hearing was closed.

Upon motion by Councilmember Mantlo, seconded by Councilmember Baughman and carried by roll call vote, Ordinance No. 2919 was adopted on second reading and ordered published.

RECESS

Mayor Afman declared a five-minute recess. Upon reconvening, all members of Council were present.

APPEAL OF PLANNING COMMISSION APPROVAL OF PRELIMINARY PLAN FOR VALLEY MEADOWS EAST [FILE #PP-96-44]

Neighboring property owners have appealed the Planning Commission approval of the Preliminary Plan for Valley Meadows East Subdivision located east of 25 1/2 Road, north of the Grand Valley Canal. The proposed subdivision consists of 52 single family lots on approximately 15 acres.

This item was reviewed by Kathy Portner, Community Development Department. The surrounding subdivisions are to the south, Kay Subdivision; to the west, Valley Meadows Subdivision; to the north, the recently zoned and approved for preliminary plan Sunset Village Subdivision; and to the west, Moonridge Falls Subdivision. The overall density for this subdivision is 3.5 units per acre as originally proposed. The proposed zoning is RSF-4. This property is currently being annexed into the City. Under the County zoning it is zoned AFT (Agriculture Forestry Transitional). The RSF-4 zoning is being proposed for the project. Full half-street improvements to 28 1/2 Road will take place adjacent to the project. They will be discharging their storm water directly into the Grand Valley Irrigation Canal through an agreement with the company. Originally, Staff considered whether this proposal should incorporate the road that is incorporated into the Sunset Village proposal to the north.

F 3/4 Road would come through directly north of this project. Staff recommended, and Planning Commission concurred, this project should not be required to design around the alignment because there is a 15-foot strip between them and what would be built by Sunset Village of which the petitioner has no control over at this time. Staff felt it was not feasible to ask the petitioner to wait for that to happen.

The petitioner's design and plat acknowledges there will be a road to the north of the northern most lots, perhaps the entire length of them. Staff is asking a note be placed on the plat to that effect.

Ms. Portner said Staff has also requested at this time, the option be left open that the tract owned by Grand Valley Canal, and would

be dedicated for the canal purposes, also include a trail easement, unless, before the final plat, Parks Department determines a trail easement is unnecessary on that side of the canal. The petitioner is agreeable, but desires that it not hold up their approval or final plat in any way. Staff recommends approval of the preliminary plan with the following conditions:

- 1.The street naming conform to the review agency comments;
- 2.A trail easement be provided along the track that is being dedicated for the Grand Valley Canal, if deemed necessary by the City Parks and Recreation Department;
- 3.A note be included on the plat showing the location of the proposed F 3/4 Road to the north so that future property owners are put on notice at the time they purchase their lot that there could be a road built directly to the north of their property.

The Planning Commission recommended approval of Valley Meadows East Subdivision, and in addition to the Staff conditions, also requested a condition that a six-foot fence be installed along the east property line to prevent trespass onto the adjacent properties. The approval has been appealed to the City Council by some of the neighboring property owners. They were concerned with the density and felt it did not fit in with the surrounding densities north of the canal. They acknowledged the densities are a bit higher south of the canal with Kay Subdivision and the proposed Cimmaron North Subdivision with densities being closer to 4 units per acre, but that north of the canal, with the exception of the recently approved Sunset Village, that the densities are less than 3 units per acre. The neighboring property owners would like to be more in accordance with that density. The petitioner has been working with the neighboring property owners and will present an alternative plan to Council that tries to address some of these concerns.

Councilmember Terry asked when the half-street improvements are required versus the TCP? Ms. Portner said the Public Works Director has the authority to determine whether or not the half-street improvements are necessary, or if a TCP will be collected. In general, the area is looked at to see what improvements are already in place, and whether this is a critical linkage to those improvements, whether the improvements are needed to serve the development. The Public Works Director feels the improvements are needed. The TCP would be applied if improvements would be needed at a future time. In this case, the petitioner will get a credit to the TCP for the cost of the improvements to 25 1/2 Road.

Regarding the name of Colorow Lane which can be confused with Colorow

Drive in the Fruitvale area, Councilmember Graham asked if Staff felt it would be appropriate to choose the name of another famous Ute in lieu of Colorow? Ms. Portner said Staff considers street names to make sure they are not duplicated and do not cause confusion.

The following persons spoke regarding the appeal:

1.Mr. Tom Rolland, Rolland Engineering, spoke representing the petitioners, G.W.H.C., Mr. Don Haas and Mr. Dick Watson. The petitioners were also present. Mr. Rolland said the average lot size is 9,350 square feet in the submitted proposal, to be developed in two to three phases from west to east. All streets and facilities will meet the City's street standard. Half-street improvements are proposed for 25 1/2 Road. Mr. Rolland reviewed the description of the location of the proposal and felt it is compatible with the properties developing in the area. The lots vary from 8,700 to 11,000 square feet. There are only two lots left in the original Valley Meadows. The newly proposed subdivision is going to be very similar to Valley Meadows, only down-sized about 20% in the lot size. The protective covenants would be very similar to those in Valley Meadows. The developer expects the price of the homes to start at a minimum of \$135,000 up to \$160,000. Mr. Rolland said the property goes to the centerline of the canal. The canal property needs to be dedicated to someone. To divide the lots up and have the canal located at the back of all the lots is unacceptable in terms of trying to sell the lots. He felt it is also unacceptable to the canal company. Historically, when development takes place next to a canal, it is time to define the use. Mr. Rolland has been dealing with the canal company in defining their needs for property. He said the petitioner is preparing to dedicate approximately 25 feet to the canal company, and they are in favor of a trail system. However, they do not want to be delayed by getting caught in the middle of negotiations. Councilmember Maupin said if the City took over the ownership of the canal, it could then grant an easement to the canal company to service the canal.

Mr. Rolland met with concerned property owners to discuss the following issues and solutions:

- a.Irrigation - The irrigation ditch serving Valley Meadows East, is located on the north property line. It is concrete lined and functions well. From there, the delivery of water to Valley Meadows and beyond, comes from a canal north of G Road. That ditch/lateral has fallen into bad disrepair over the years. The petitioner is willing to participate in repair of the ditch. Kay and Cimmaron Subdivisions want

to abandon that ditch and go to an alternate means of getting their water.

- b. Security - The three larger parcels on the east side of the property were not concerned with the visual impact because they are at a higher elevation, but they were concerned about inviting recreationalists into their larger open space and wanted a six-foot chain link fence along the eastern boundary.
- c. Open Space - The petitioner is proposing to leave two larger parcels (7,021 and 10,135 square feet) as open space for the subdivision.
- d. Density - The density is appropriate. Removing the two lots reduces the density from 3.5 to 3.3 units per acre.
- e. Trail - There is interest in providing a trail easement on the east side. Valley Meadows East will provide half of a 10-foot trail easement. As property develops to the north, the trail can be extended to connect to the City's park at 24 Road.

Mayor Afman encouraged Mr. Rolland to use a cedar fence instead of chain link. Considering the caliber of homes in the area, she felt chain link is not desirable. Mr. Don Haas, one of the petitioners, said building a solid board fence on both sides of the trail would result in a "tunnel" which residents would oppose using because it is a narrow trail (10 feet).

2. Teresa Bou Matar, 677 25 1/2 Road. She and her husband are owners and developers of Moonridge Falls. They have lived in Moonridge Falls for eight years. She spoke in opposition to the proposed subdivision because of the higher density proposed for the new side of the street. She said the current density surrounding the proposed subdivision is slightly different than what Mr. Rolland has stated. She described the various densities of properties surrounding the proposed subdivision. The irrigation canal separates higher density from lower density properties. The School District also recognizes this boundary with the children south of the canal attending Pomona Elementary School, and those north of the canal attending Appleton Elementary. Both schools are at capacity and West Middle School is over capacity. In the early 1980s, the zoning was changed from 9.6 units per acre down to a more livable 2.3 units per acre. The County planners supported the change and made an effort to keep the future subdivisions in the area consistent and logical with that decision. Moonridge Falls dedicated three acres to a park, waterfall and nature trail. Due to the

non-existence of a comprehensive plan, Ms. Bou Matar was hoping to use this unique opportunity to create a homogeneous quality community. The proposed density at 3.5 to 4 units per acre seems significant when one lives in the area. She urged Council to approve a density of between 2.2 and 2.8 units per acre. An open space which the petitioner is providing would enhance the quality of life for all the residents and would be an aesthetic accent to the area.

Councilmember Baughman asked why the residents of Moonridge Falls did not protest Kay Subdivision and Sunset Village when they were annexed into the City. Ms. Bou Matar said when you live in the area the canal acts as a natural boundary area, and provides a buffer. The houses on the north side of the canal are a definite concern as they are on large pieces of property (1 to 7 acres of land). It changes the tone of the area as it suddenly goes from large homes and lots to little lots. There is a commitment to an open space and keeping it up in a beautiful way, and there might not be the same commitment on the other side of the street. It is a very big concern to Ms. Bou Matar because they have put a large investment in their property. She asked for a consistent density as it could affect the resale value of properties in the area.

Councilmember Terry said the Master Land Use Plan is very close to being adopted. The Plan recommends a zoning of 4 to 8 units per acre. She asked Ms. Bou Matar if she has reviewed this Plan. Ms. Bou Matar said no. Councilmember Terry encouraged public input from Ms. Bou Matar as well as others.

Mayor Afman recapped Ms. Bou Matar's request by stating Ms. Bou Matar would like to see a lower density (2.2 to 2.8) which is a complement to Moonridge Falls Subdivision. Mayor Afman asked Ms. Bou Matar if she was comfortable with the irrigation, open-space, and proposed fence situations? Ms. Bou Matar said yes. It was considerate of the petitioner to meet with the residents and use two lots for open space which will enhance the area. The trail idea is good. She is merely requesting a lower density.

Councilmember Graham asked if Ms. Bou Matar was aware of the distinction between planned zones and non-planned zones in the Zoning & Development Code? The Code says the proposed RSF-4 zone provides for low density, single family development within urban areas. The next non-planned zone down is RSF-2 which provides for low density, single family uses with associated limited agricultural uses generally for hobby purposes. In this case a residential development is being proposed.

3.Mr. Allen Sherman, 2570 Young Court, was present with his wife,

Berdine Sherman. They own property to the east of the development. Mr. Sherman felt the petitioner knows how to use the system. Kay Subdivision was planned by the County. That subdivision was opposed at the Planning Commission by most of the area residents (at least 30 people). The Planning Commission denied the application. A meeting with the County Commissioners was scheduled later. Not knowing how the system works, Mr. Sherman and his neighbors felt it was probably final and felt it was unnecessary to attend the meeting. The County Commissioners overturned it because the residents were not in attendance at the meeting to protest. Kay Subdivision went through at that time with the much higher density. Mrs. Berdine Sherman said they have received no notification of the hearings on the surrounding subdivisions. Councilmember Terry explained the notices have to do with a distance factor. She felt it should be notice to adjacent property owners regardless of distance.

Mr. Sherman said the petitioner has never contacted him. Some of his own neighbors came and talked to him about the proposed trail.

The petitioner wants him to donate 3,000 square feet of right-of-way for a trail. The residents to the east were never invited to the meetings, only those to the northwest, yet the residents to the east are being asked to give up land. None of the planners have contacted them either. Mr. Sherman said developers can say anything in rebuttal. He liked the fence idea and agreed the chain link would be better if replaced by wood. He felt the ditch definitely needs repair because it floods his property. The streets into the subdivision were addressed with the County with no result and it looks like the result will be the same with the City. He felt 25 1/2 Road needs to be opened up to F Road (Patterson Road). Mr. Sherman said if there is to be a plan in his area that:

- a. It doesn't fall into inner-core City density;
- b. It have some type of a master plan with streets, schools, ditches, etc., instead of homes only.

Mrs. Sherman said a plan of development is what is needed to get the kind of density and lifestyle needed in their area.

Councilmember Baughman asked how long Mr. and Mrs. Sherman had lived at 2570 Young Court. Mrs. Sherman has lived there for 18 years.

Councilmember Graham asked the opinion of the Shermans on the recommendation of 2.2 to 2.8 units per acre density. Mrs. Sherman felt it was good and would blend in with the surrounding densities,

but no higher than 2.8.

Councilmember Terry asked about construction of F Road in the year 2000. Jim Shanks, Public Works Director, will address this.

4. Margie Blair, 2545 Moonridge Drive, has lived in Moonridge Subdivision two years. She does not consider herself and her husband an elite group of individuals. They both work and have saved many years to build the home of their dreams in a country setting, yet close to the City. She was concerned, along with the majority of homeowners in Moonridge Subdivision, about density and the road, and an area for kids to play. She appreciated the developer, Mr. Dick Watson, meeting with the residents regarding the road concerns. She preferred a lower density similar to Moonridge or Valley Meadows, although Valley Meadows has no green space. The density on the proposed development could be lowered by making the lots bigger or keeping the lots the same size, but having more green space. Ms. Blair agreed with either method, but preferred less lots because of the traffic situation. Ms. Blair was also concerned that many of the newer subdivisions are being developed without an architectural design.

Councilmember Terry hoped some of Ms. Blair's concerns with the traffic would be alleviated by seeing when the improvements of 25 1/2 Road could be scheduled. Ms. Blair answered yes.

5. Mr. Brian Mahoney, 2567 G Road, purchased his property in 1974 at which time there were very few homes in the area and plenty of green space. He realized it will not remain that way forever. Before the Planning Staff considers an application, it should ask every petitioner if he has contacted the neighboring residents to see what they think about the plan. He discussed trails and open space. The real problem is the lack of a buffer zone and a flow of green space. He hoped Council will pay attention to every subdivision plat it receives to see if it includes open space and trails that will connect to the trails system to Canyon View Park. He is comfortable with the density of this project, but would like to see more green space.

6. Mr. Jim Grisier has lived at 690 25 1/2 Road for nine or ten months. He previously lived at F 1/2 and 26 Roads for approximately 18 years. He supported the project, the trail concept and more open space. More space is also needed between lots for recreational vehicles and boats. In the event a trail is constructed he will donate land in order to complete a trail.

7. Mr. Wallid Bou Matar said he was impressed with the City Council. He felt the open space and trail system is nice. He appreciated the developer working with his neighbors. He favored a lower density and more open space.

Councilmember Maupin asked which of Mr. Bou Matar's lots are selling best? Mr. Bou Matar said the smaller the lot, the cheaper the house being built on it. The price of a lot is 20% of the value of the home. The lots are from 11,000 to 20,000 square feet. It depends on where someone wants to live. They really want open space, not necessarily a large lot.

Councilmember Graham said the current construction will result in an overall 3.33 units per acre. Mr. Bou Matar said now is a great opportunity for a transition period.

8. Mr. James Braden, 2420 N. 1st Street, suggested delaying the improvement of N. 1st Street and put those funds toward the improvement of 25 1/2 Road to F Road.

Mr. Tom Rolland clarified the petitioner is in favor of acquiring right-of-way from the property owners in the area for a trail, but did not initiate the idea. The proposed density is a density that is being studied. The flooded ditch runs along the property, but it is not part of the ditch that serves this development. He agreed something needs to be done about the schools, impact fees, etc. The open space, density and lot sizes of this property are being compared to Moonridge Falls instead of Kay Subdivision or Country Crossings. He felt this development is compatible with the rest of the surrounding subdivisions. The density is below what is being proposed for the area. It is consistent with the demand for property. The homes will sell for approximately \$165,000; the development is not a slum.

Councilmember Terry asked if the City asked for the easement along the ditch, would it jeopardize any current negotiations with the ditch company? Mr. Rolland said the petitioner is not opposed to a trail, although the ditch company will be harder to negotiate with. At present there are no signed agreements with the canal company.

Councilmember Baughman said Valley Meadows was developed with a density of 2.8 units per acre, asked why the petitioner chose to develop at a higher density on the east side of the road. The reason the developer chose these lot sizes is because of the demand. The two largest lots in Valley Meadows, Filing #2, have not sold. People do not want a large lot. There is a difference of 43 versus 50 lots. Councilmember Theobald noted the largest lot in Filing #2 is only 12,000 square feet, not a really big lot. Mr. Rolland said it is

larger than the normal lot. Councilmember Theobold asked why Mr. Rolland did not request a Planned Zone since he requested a density that is much lower than the RSF-4? Ms. Portner answered Staff tries to steer people in that direction only if they have something unique that they're trying to do with the property. They were proposing some standard lots, were not proposing open space, had nothing unique about the property that would require they cluster in one area and leave larger areas open. The proposal fit better in the straight zone than in a planned zone context. There was no reason for the Planned Zone context. A Planned Development is usually used for trade off. Mr. Rolland said this is the plan the petitioner wants and does not intend to change. Mr. Rolland said the standards and covenants are almost identical to Filings #1 and #2 across the street from this project. The height of the chain link fence will be six feet so young people would not have easy access to the properties to the east. Ms. Portner said the Planning Commission recommended it be a security fence, not necessarily a privacy fence.

Public Works Director Jim Shanks discussed the construction timing of 25 1/2 Road improvements to F Road (approximately 1/4 mile). Both the City and County will probably feel the year 2002 is not soon enough for extension because of the intense density of current projects in the area. There is currently an active development proposal for the property south of F 1/2 Road, and on the east side of 25 1/2 Road. The City will require 25 1/2 Road be extended between where it deadends now to F 1/2 Road. A developer will be required to develop curb, gutter and sidewalks, and full improvements on his side, and wide enough for two lanes of traffic. If it is not sufficient the City may have to go in and do the other half if the west half does not develop in a similar time frame.

Councilmember Maupin asked how the canal company got more right-of-way at F 1/2 Road and 1st Street. The reflectors and guard rails are gone, and very unsafe. Mr. Shanks said it is not in the City. He will talk to the County to see if there are safety features that have been eliminated. That is why 25 1/2 Road needs to be extended. The primary access in this area needs to be south on 25 1/2 Road, and back to the west to 25 Road.

There were no other comments. The hearing was closed.

Councilmember Theobold considered density compatibility as well as traffic in the area, and the general aesthetics involved with density and design, he moved for a slightly lower density.

It was moved by Councilmember Theobold that the zoning be changed from RSF-4 to PR-2.93 which equates to 44 lots, with an average lot size of approximately 10,000 square feet, accepting the preliminary

plan as submitted with the following changes:

- 1.Reduce the original plan for 52 lots by 4 lots or approximately 37,000 square feet to be turned into open space;
- 2.Reduce by another 4 lots or another 37,000 square feet to be divided amongst the remaining lots as the developer chooses to increase the average lot size;
- 3.The motion would also include acceptance of Staff recommendations number 1 and 3 which deal with street naming and the location of F 3/4 Road;
- 4.Amend Staff recommendation No. 2 to request canal right-of-way to be deeded to the City who would then grant an easement to Grand Valley Canal Company;
- 5.Add Condition No. 4, a trail easement five feet wide on the east side of the property. The essence is to increase the open space which will add to the acceptability to the neighborhood, add to the saleability of the subdivision.

He picked a density of 2.93 because it is under the magic number of 3. He thinks, just like the canal is a barrier, the number 3 is a barrier. It is going to be far more compatible with the surrounding densities than the irrelevant number of 4 or the relevant number of 3.3. That equates to 44 lots, which means 8 lots need to go somewhere. Larger lot size does increase the value of the homes, and 4 lots are going to increase the open space and neighborhood amenities. That is Councilmember Theobold's rationale for the lower density.

Councilmember Graham asked if the five-foot easement on the east side is in addition to the modifications of the 37,000 square feet of open space? Councilmember Theobold said it would be included in the modifications. He said the five-foot easement goes down the east side and would be paired with five feet from three willing neighbors. He would like to lay the ground work to be able to accomplish that.

Councilmember Maupin was not sure the City has solved its liability problem by owning the canal land, and then giving easements on it. It can be worked on. Councilmember Theobold said he expects the canal company is going to hold the City harmless from liability from whatever the canal company does. Beyond that, he felt it is the City's responsibility.

Assistant City Attorney Shaver said on conditions 4 and 5 specifically, if Council is going to be accepting as a preliminary plan the plan

that has been presented this evening, he suggested the conditions are not necessary. The developer has made the offer to Council, and Council can accept the offer rather (the trail easement along the eastern boundary of the property) than requiring it. The reason it is different is because Council is not requiring it, it is accepting from the developer. The dedication on the canal bank would be the same. They have indicated they would deed it to the City. Once it is in City ownership, the City may choose to grant an easement to Grand Valley Irrigation Company.

Councilmember Theobald reworded that portion of his motion by saying instead of staff recommendations in addition to 1 and 3, "amend recommendation number 2 to accept their offer of dedicating the canal right-of-way, of which Council will then take the responsibility of granting the easement to the canal company, and to accept the offer of 2 lots of open space and the five-foot trail easement as being the open space requirement, and to divide the 44 lots as they choose."

The motion and rewording was seconded by Councilmember Maupin.

Councilmember Baughman asked what the long term maintenance and cost to the City would be for the responsibility of the 25 foot canal easement? He also asked how it would be accessed? City Manager Mark Achen said as merely a five-foot trail easement, it is not going to be accessed at this point in time other than the canal at the south side. The dimension is insufficient or even useful unless the City is able to obtain the five feet on the other side. It is a narrow easement. There will be additional costs to maintain the trail by keeping the weeds down, repairing the surface, and enforcement. If it is taken as an easement, each of the underlying property owners still owns the property. The issue of liability and responsibility has not been discussed, but as an easement solely, there are two owners of the property, the underlying lot owner owns it, and the City has an easement across it for public access and trail purposes. Most recently the City has required clear title for the trails which means the City has full responsibility with full authority.

Councilmember Graham asked if the City would only owe such duty of care as it would owe to a trespasser for anyone encroaching on City land that would otherwise be accepted as a dedication? Assistant City Attorney Shaver said yes. Taking this land is not going to significantly enhance the City's liability posture. It is like any other undeveloped land in the City's property inventory.

Councilmember Theobald explained the impact of the amendments. The open space now becomes 21,500 square feet, not counting the canal right-of-way. It is the five-foot easement, the 10,000 foot lot at

the corner and the 7,000 foot lot at entry, and the average lot size goes from roughly 10,174 to roughly 10,500. It is not a big difference but the net is still going to be a density of 2.93, and still 44 lots.

Roll was called on the motion with the following result:

AYE: MANTLO, MAUPIN, TERRY, THEOBOLD, GRAHAM, AFMAN
NO: BAUGHMAN.

Mr. Tom Rolland said his offer was to dedicate the five feet to the City, not an easement. Councilmember Theobold understood the offer was for a five-foot easement. Whether the City owns it, or it is an easement, the City is going to have to deal with the lot owners.

City Manager Mark Achen said the City acquires the underlying land to give the City full authority in making clear to the adjoining property owners the limits. An easement does the same thing. However, in this case where it is not certain whether it will go through or not, there may be some argument that an easement has some benefit for the property owners in the subdivision in case the trail never occurs, they can continue to use the land without any question of their authority to occupy the land, other than the City could affect the improvements the landowners put on the property if the City chooses to go through and build a trail.

Mr. Rolland said if it is an easement and the City does not develop the trail immediately, people will fence on the property line, and put sheds, sprinkler systems, trees, etc. on it. Councilmember Theobold said people will do that even if it is owned by the City.

Mayor Afman suggested the recorded plat be noted that this is an easement for future trails, so the property owner will have that knowledge before he begins to construct a fence. Assistant City Attorney John Shaver said the record notice is sufficient with the plat and will be sufficiently disclosed in any title work associated with the land.

Mr. Rolland said the developers would like it not to be their problem. He requested another motion to change the easement to a dedication for this development. Councilmember Graham felt it is more beneficial to the City to own an outright fee simple than a mere easement because it gives the City more flexibility. It would also benefit the property owners.

Upon motion by Councilmember Terry, seconded by Councilmember Graham and carried with Councilmember **BAUGHMAN** voting **NO**, rather than accept from the developer the five-feet along the east edge of the developed area, the City accepted it as deeded to the City as opposed to an easement.

Kathy Portner asked if Council deleted the requirement for fencing along the east line? Councilmember Theobald said it was not specifically addressed in the Staff recommendations. He suggested it can be addressed at the final plat.

PUBLIC HEARING - VALLEY MEADOWS EAST ANNEXATION AND ZONING - ORDINANCE NO. 2920 ANNEXING TERRITORY TO THE CITY OF GRAND JUNCTION, COLORADO - VALLEY MEADOWS EAST ANNEXATION, APPROXIMATELY 16.2 ACRES, LOCATED AT THE NORTHEAST CORNER OF 25 1/2 ROAD AT WESTWOOD DRIVE - ORDINANCE NO. 2921 (AMENDED) ZONING VALLEY MEADOWS EAST ANNEXATION RSF-2.93 [FILE #ANX-96-40]

G.W.H.C., Inc., property owners have signed a POA for annexation and are requesting to be annexed into the City limits. Staff requests that City Council adopt the annexation ordinance and zoning ordinance for the 16.2 acres, Valley Meadows East Annexation.

Mayor Afman asked how the previous motion will affect this item. Assistant City Attorney Shaver said first, whether or not there is adequate notice for reconsideration of the proposed zoning based upon Council's action in the prior item. The Colorado Law simply provides inquiry notice. When this was published there is no expectation that the Council will act consistently with the publication. It forms an opportunity for the public to be aware of Council's consideration of the item. He felt there is appropriate notice. Based on the previous item, there is now a zone and the ordinance will need to be amended to reflect Planned Residential 2.93 as the proposed zoning.

A hearing was held after proper notice on annexation and zoning of Valley Meadows East Annexation. Dave Thornton was present to answer questions on this item. In response to a question of Berdine Sherman who asked why this proposal indicates 16.2 acres and the previous item was 15 acres, Mr. Thornton said the larger acreage is included as part of the annexation and also includes a portion of 25 1/2 Road right-of-way. The 15 acres is actually private property with the rest being right-of-way.

There were no other comments. The hearing was closed.

Upon motion by Councilmember Mantlo, seconded by Councilmember Maupin and carried by roll call vote, Ordinance No. 2920 was adopted on final reading and ordered published.

Upon motion by Councilmember Maupin, seconded by Councilmember Mantlo and carried by roll call vote with Councilmember **BAUGHMAN** voting **NO**, Ordinance No. 2921, was adopted reflecting a change in zoning to PR-2.93, on final reading and ordered published.

PUBLIC HEARING - EULER ANNEXATION AND ZONING - ORDINANCE NO. 2922 ANNEXING TERRITORY TO THE CITY OF GRAND JUNCTION, COLORADO - EULER ANNEXATION, APPROXIMATELY 4.09 ACRES LOCATED AT 720 24 3/4 ROAD- ORDINANCE NO. 2923 ZONING EULER ANNEXATION RSF-4 [FILE #ANX-96-41]

George and Carrie Euler, property owners, have signed a POA for annexation and are requesting to be annexed into the City limits. Staff requests City Council adopt the annexation ordinance and zoning ordinance on second reading for the 4.09 acres, Euler Annexation.

A hearing was held after proper notice on annexation and zoning of Euler Annexation. Dave Thornton, Community Development Department, was present to answer questions of Council.

There were no comments. The hearing was closed.

Upon motion by Councilmember Theobold, seconded by Councilmember Maupin and carried by roll call vote, Ordinance No. 2922 was adopted on final reading and ordered published.

Upon motion by Councilmember Theobold, seconded by Councilmember Maupin and carried by roll call vote with Councilmember **BAUGHMAN** voting **NO**, Ordinance No. 2923 was adopted on final reading and ordered published.

OTHER BUSINESS

Arbor Day

Councilmember Mantlo reported on the Arbor Day celebrations held at Lincoln Park with 500 to 700 school aged children in attendance. He commended the Parks and Recreation Staff for their efforts.

ADJOURNMENT

Upon motion by Councilmember Mantlo, seconded by Councilmember Baughman and carried, the meeting was adjourned at 12:01 a.m., May 2, 1996.

Stephanie Nye, CMC/AAE
City Clerk