

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

November 6, 1996

The City Council of the City of Grand Junction, Colorado, convened into regular session the 6th day of November, 1996, at 7:32 p.m. in the City/County Auditorium at City Hall. Those present were Jim Baughman, David Graham, R.T. Mantlo, Ron Maupin, Janet Terry, Reford Theobold, and President of the Council Linda Afman. Also present were City Manager Mark Achen, City Attorney Dan Wilson, and City Clerk Stephanie Nye.

Council President Afman called the meeting to order and Councilmember Reford Theobold led in the Pledge of Allegiance. The audience remained standing during the invocation by Doug Anderson, Palisade Christian Church.

PROCLAMATION DECLARING NOVEMBER, 1996, AS "HOSPICE MONTH" IN THE CITY OF GRAND JUNCTION

PROCLAMATION DECLARING NOVEMBER 17-23, 1996, AS "AMERICAN EDUCATION WEEK" IN THE CITY OF GRAND JUNCTION

PROCLAMATION DECLARING NOVEMBER 9, 1996, AS "GRAND JUNCTION LIONS CLUB DAY" IN THE CITY OF GRAND JUNCTION

CERTIFICATE OF APPRECIATION PRESENTED TO RICHARD LEINAWEAVER FOR PAST SERVICE ON THE COMMISSION ON ARTS AND CULTURE

INTRODUCTION OF BOY SCOUT PACK 353 FROM SCENIC AND BROADWAY ELEMENTARY SCHOOLS, AND TROOP 252

CONSENT ITEMS

Councilmember Theobold requested Item #2 be removed from the Consent Agenda for full discussion.

Upon motion by Councilmember Mantlo, seconded by Councilmember Maupin and carried by roll call vote with Councilmember **BAUGHMAN** voting **NO** on Item #9, and with Consent Item #2 removed for full discussion, the remaining Consent Items 1-9 were approved:

1. **Minutes of Previous Meetings**

Action: Approve the minutes of the Regular Meetings October 2, 1996 and October 16, 1996

2. Levying Taxes for the Year 1996 - REMOVED FOR FULL DISCUSSION

3. Storm Drainage Improvements - Hillview Drive

The storm drain improvements will include the piping of an open ditch located in an easement alongside the Cluster Townhomes in the Ridges. The storm runoff and irrigation overflows from Hillview Drive and portions of Ridge View Drive run into the existing ditch. The existing ditch is inadequate to carry runoff from intense rainstorms and also contributes to a high groundwater problem within the Cluster's development. The project also includes the repairs and replacement of culverts in Hillview Drive.

The following bid was received on October 29, 1996:

<u>Contractor</u>	<u>Bid</u>
Skyline Contracting, Inc., Grand Junction	\$82,552.95
Engineer's Estimate	\$86,518.00

Action: Award Contract for Storm Drainage Improvements - Hillview Drive to Skyline Contracting, Inc. in the Amount of \$82,552.95

4. Agreement with Mesa County Health Department for Animal Control Services

The City pays the Mesa County Health Department a percentage of the Mesa County Animal Control budget based on the City's percent of total calls for service. The City's share of the budget for 1997 is 41.76% (\$103,981) which is an increase of \$8,927 over 1996.

Action: Authorize the City Manager to Sign the Agreement with Mesa County Health Department for Animal Control Services

5. Intent to Create Alley Improvement District No. ST-97, Phase A

Petitions have been submitted requesting a local improvement district to reconstruct the following five alleys:

"I" shaped alley, 18th to 19th St. and Orchard to Elm Ave.
East-West alley from 9th to 10th St. between Main St. and Colorado Ave.
East-West alley from 13th to 14th St. between Colorado and Ute Ave.
East-West alley from 14th to 17th St. between Main St. and Rood Ave.
East-West alley from 8th to 9th St. between Ute and Colorado Ave.

Resolution No. 107-96 - A Resolution Declaring the Intention of the City Council of the City of Grand Junction, Colorado, to Create within Said City Alley Improvement District No. ST-97, Phase A, and Authorizing the City Engineer to Prepare Details and Specifications for the Same

Action: Adopt Resolution No. 107-96

6. **Setting a Hearing on Stassen Annexations No. 1, 2 and 3, East and North of F 3/4 Road and 20 1/2 Roads and 673 20 1/2 Road**
[File #ANX-96-231]

The property owner has requested to join the City and has signed a petition for annexation. It is recommended that City Council approve the resolution for the referral of petition for the 128 acres, and set a hearing for December 18, 1996.

Resolution No. 108-96 - A Resolution Referring a Petition to the City Council for the Annexation of Lands in a Series to the City of Grand Junction, Colorado, and Setting a Hearing on Such Annexations, Stassen No. 1, 2 and 3 Annexations, Located East and North of F 3/4 and 20 1/2 Roads and 673 20 1/2 Road

Action: Adopt Resolution No. 108-96

7. **Contract with the Grand Valley Catholic Outreach for a Day Center for the Homeless at 302 Pitkin Avenue**

This contract between the City and the Grand Valley Catholic Outreach outlines the duties and responsibilities of each party pertaining to the use of City CDBG funds by the Catholic Outreach. These funds will be used by the Outreach to pay operating expenses for a day center providing services to homeless persons.

Action: Authorize the City Manager to Sign a Subrecipient Contract with the Grand Valley Catholic Outreach for Receipt and Use of CDBG Funds for the Provision of a Day Center for the Homeless

8. **Contract with Habitat for Humanity of Mesa County for Acquisition of Four Lots**

This contract between the City and Habitat for Humanity outlines the duties and responsibilities of each party pertaining to the use of City CDBG funds by Habitat for Humanity. These funds will be used by Habitat to purchase four lots for construction of four single family homes for sale to low/moderate income families.

Action: Authorize the City Manager to Sign a Subrecipient Contract with Habitat for Humanity of Mesa County

9. **Letter Regarding Contract between the City of Grand Junction and the Purdy Mesa Livestock Water Company**

Provisions of the contract between the City of Grand Junction and the Purdy Mesa Livestock Water Company require compliance with provisions of the Safe Drinking Water Act. As of October 31, 1996, PMLWC may be in serious non-compliance with these provisions.

Action: Authorize the Mayor to Send the Letter as Recommended by the Utility Committee

*** * * END OF CONSENT CALENDAR * * ***
*** * * ITEMS NEEDING INDIVIDUAL CONSIDERATION * * ***

LEVYING TAXES FOR THE YEAR 1996

The following resolutions set the mill levies of the City of Grand Junction, Ridges Metropolitan Districts #1 and #2, Grand Junction West Water and Sanitation District, and the Downtown Development Authority. The City and DDA mill levies are for operations. The others are for debt service only.

Resolution No. 103-96 - A Resolution Levying Taxes for the Year 1996 in the City of Grand Junction, Colorado

Resolution No. 104-96 - A Resolution Levying Taxes for the Year 1996 in the Ridges Metropolitan District a Part of the City of Grand Junction, Colorado

Resolution No. 105-96 - A Resolution Levying Taxes for the Year 1996 in the Grand Junction West Water and Sanitation District a Part of the City of Grand Junction, Colorado

Resolution No. 106-96 - A Resolution Levying Taxes for the Year 1996 in the City of Grand Junction, Colorado, Downtown Development Authority

Councilmember Theobold said since the adoption of the Tabor Amendment which freezes mill levies, the City has left its mill levy at 8.071 for four years. He recommended the City's mill levy be rounded off to an even 8.0 and revisit the mill levy in one year.

Upon motion by Councilmember Theobold, seconded by Councilmember Mantlo and carried by roll call vote with Councilmember **GRAHAM** voting **NO** on Resolution No. 106-96, Resolutions No. 103-96, 104-96, 105-96 and 106-96 were adopted, with Resolution No. 103-96 being amended to reflect the City's mill levy being reduced from 8.071 to 8.0.

APPEAL OF PLANNING COMMISSION'S CONDITIONS OF APPROVAL FOR 2699 UNAWEEP AVENUE [File #PDR-96-200]

Appeal of Planning Commission conditions of approval to allow auto repair at 2699 UnawEEP in a PB (Planned Business) zone. The conditions are landscaping, screening and street improvements to 27 Road.

A hearing was held after proper notice. This item was reviewed by Kathy Portner, Acting Community Development Director. This property was annexed in 1973 at which time the property had a gasoline service station on it. The City zoning was PB (Planned Business). There are no other details in the file regarding what was allowed within that Planned Zone. A Planned Zone is very specific to the plan that was approved with that zoning district. In 1984, the gasoline tanks were removed and a cleanup of the property was done. Since that time, the most recent use was a bakery thrift shop, which closed several years ago. The Planned

Business zoning as indicated in Section 7-2-3(b) of the Zoning & Development Code would include any uses that were originally approved with the plan. From the limited information that Staff has on the Planned Business zoning, Staff can only assume the only use approved was for the gasoline service station. The current proposal is to use the site as an auto repair business. The building exists with some bay doors. Staff felt that was a major change from the original use and the most previous use, and the use could only be approved through Planning Commission and City Council. Staff is requesting conditions be placed on the approval of such a use on the site:

1. The site be brought up to landscaping standards. Currently there is no landscaping on the site. Landscaping standards required in the straight business zone require a total landscaped area of 75% of the first five feet of both street frontages. Staff is concerned the auto repair business may not be compatible with a residential neighborhood, and landscaping would help mitigate some of those concerns and make it more compatible.

2. Improvements be completed on 27 Road. The City is currently working on the improvements on Unawep Avenue. This property along 27 Road has open access along the entire frontage, and Staff would like to see the access restricted for safety reasons. They also ask that curb, gutter and sidewalk be installed for the remainder of 27 Road, from where the Unawep improvements will end, to the end of the property.

3. Additional right-of-way at the corner. The applicant has agreed to this requirement;

4. Any outdoor storage on the site be screened. The applicant has agreed to this requirement, although he would like to have some time to make the investment in the screening.

The Planning Commission recommended approval of the proposed final plan with the revised use, subject to Staff conditions 1-5:

1. Dedication of the additional right-of-way;

2. Construction of the required half-street improvements on 27 Road;

3. Screening of automobile storage area to be located behind the building;

4. Landscaping to meet the minimum requirement of 75% of the first five feet along both rights-of-way. Any excess right-of-way there might be behind the sidewalks, also be landscaped;

5. The allowed signage shall be the proposed flush wall sign not to exceed 32 square feet.

The applicant has appealed conditions 2, 3 and 4.

Public Works Manager Mark Relph said 27 Road is scheduled for complete reconstruction in 2002, including curb, gutter, sidewalk, and new pavement, and utilities as necessary. Councilmember Graham asked if the projected improvements for 27 Road or UnawEEP would require the petitioner to redo any of the landscaping or screening? Mr. Relph said the same design concept used for 27 Road could be used for UnawEEP. He felt, based on the grades for UnawEEP Avenue, the impact is minimal. When the City reconstructs a street, it deals with current issues including moving sprinkler heads or landscaping at the City's expense. Councilmember Terry asked if the construction could take place at the same time? Mr. Relph said the improvement for 27 Road could be done at the same time as UnawEEP. Ms. Portner said a development improvements agreement could be used to require the petitioner to guarantee the funds needed for the improvements that would be completed on the UnawEEP project. The petitioner needs to propose a landscaping plan that meets City Standards. The applicant has proposed landscaping the corner (1/4 of required landscaping).

Councilmember Graham asked which of items 2, 3 and 4 would be amenable to dealing with an improvements agreement? Ms. Portner said the screening is important. There is a need to restrict access on 27 Road for safety reasons, and she would not recommend delaying improvements for a long period of time.

Councilmember Graham asked if there is a plan to require neighboring residents to install improvements as well? Ms. Portner said if they propose a change in use, it triggers a review. City Attorney Wilson said when there is some level of public review, the new requirement would trigger. As long as surrounding businesses stay the same, there would be no landscaping requirement imposed. Councilmember Graham asked if some of the landscaping requirements could be tied in with future improvements from some of the neighboring businesses which do not currently have the desired landscaping. City Attorney Wilson said

it could be accomplished by contract. A contract could be recorded and have it run with the title to the land. In order to enforce the contract, the City would have to make a request of the landowner at that time. If the landowner did not comply, the City would have to obtain an injunction from the District Court to enforce the contract. Requiring a letter of credit or cash security gives the petitioner an incentive to complete the work. Councilmember Baughman asked why Staff feels there is a substantial difference between the proposed use of this property and the initial approved use back in 1973. Ms. Portner said the Use/Zone Matrix in the Zoning & Development Code lists two categories for the two uses. Service stations are in a category by themselves, and are allowed in business zones as well as commercial and industrial zones. They are defined as having "accessory service offered for the automobile." There is another category for car repair which is not allowed in any of the business zones. The property is zoned Planned Business. Typically, the uses approved in a planned zone are those uses that are allowed within the underlying zone. Auto repair is not an allowed use within that zone. Compatibility within a neighborhood is given special consideration. Typically, car repair is not found within or near neighborhoods. The majority of service stations that conduct auto repair work are probably in a commercial zone, not a business zone.

Ms. Portner said if the site were vacant, and automotive repair was desired at the site, Staff would strongly discourage the petitioner, as it would not be compatible with the neighboring businesses. Some improvements would need to be made to the property to make it more compatible with the surrounding uses.

Councilmember Terry asked if a TCP would be appropriate in this case. Public Works Manager Mark Relph said Public Works is concerned with the uncontrolled access. There is no curb, gutter or sidewalk anywhere on the perimeter of the property. The City is making an investment on Unawep Avenue to separate pedestrians, bicyclists and vehicles. The City wants to maintain safety at the intersection of Unawep and 27 Road. Councilmember Terry asked if the safety problem could be solved without requiring the full street improvements. Mr. Relph said an alternative would be the simple extension of curb and gutter itself along 27 Road the length of the property. The curb cut could then be planned. The Engineering Design Standards give 50' as a minimum distance from the curb return before a driveway cut can be made to maintain a safe movement of turning vehicles. The petitioner is over 100'

from the curb return. Mr. Relph said the cost would be about \$15/ft (approximately \$2,250) for the curb, gutter and sidewalk, and approximately \$2,000 for the asphalt.

Councilmember Theobald asked what was the description of the original planned zone from 1973. Ms. Portner said there was no plan. There is only a zoning ordinance that indicates the site was being zoned to Planned Business. Ms. Portner said Staff can only assume the plan is whatever the use was at the time the zoning was applied. The use at the time was a gasoline service station. If a use is abandoned for one year, the owner loses the ability to not have to comply with the standards that have been adopted since the use began.

Members of Council disclosed they had each been contacted previously by Mr. Karl Antunes regarding this issue, not realizing it would be appealed and come to a hearing tonight.

Mr. Karl Antunes, 2619 Dawn Drive, said he has had many problems with the City Planning Department. He was told an auto repair station was never used on the property. It was originally built in 1962 with businesses named Bud's El Paso, then Bud's Shell, then it stayed Friendly Super Shell until 1977. The businesses performed all auto repair with the exception of engine overhauls. He felt his application is being treated as if he bought a vacant lot with nothing on it and is building from the ground up. He is a business owner and wants to open his business.

Mr. Antunes said the City wants him to give 47.4 square feet of his property to the City, but deny him the use of his property. He said one of his neighbors went to City Hall and spoke in favor of his application. He also submitted three different petitions from the neighbors in favor of his opening the business. He noted the C & D convenience store was a vacant building. A different owner bought it. The City says it's the same use, and let them slide on the landscaping requirement. The convenience store owner was not required to put in sidewalks in front of the building to direct traffic even though there are gas pumps on the location. It was not a safety issue for the C & D convenience store. When his property was zoned Planned Business, it was gas and repairs. He has petitioned the City to go into business without landscaping. He said the City Planning Department does not distinguish between pre-existing, new development, location, and neighborhood input. One Code does not fit all situations.

Councilmember Terry asked Mr. Antunes if he had read the portion of the Code that addresses the Orchard Mesa Plan and some of the goals the residents hope to establish? Mr. Antunes said he understood the beautification part of the Plan, but felt the City is not allowing a person to open a business. The City is saying if you're not a franchise with a lot of money backing you, the City does not even want you in the City limits. He said his neighbors are in favor of his business, so he does not think the City is making these requirements for the benefit of his neighbors. Mr. Antunes said the City is trying to get free curb, gutter and sidewalks from him.

Councilmember Terry explained to Mr. Antunes the goals of the Orchard Mesa Plan were drawn up by the residents of Orchard Mesa and not by the City Planning Department. Staff is trying to implement those goals. Staff is not trying to prohibit Mr. Antunes from opening his business.

Mayor Afman said Mr. Antunes stated he is in agreement to landscape the northeast corner of the property with shrubs and greenery. Mr. Antunes said pressurized irrigation and paying the water bill was not discussed when he first agreed to landscaping. He said he thought landscaping meant a little patch of green, with some flowers or small shrubs. He said he is agreeable to the requirement to screen the automotive storage area, but would like an extension to give him time to get into business and generate money to do the improvements.

Councilmember Maupin said the City has been planning Unawep Avenue for several years. The City would not require the improvements if the City was planning to do it within the next year. He said the City has received several complaints for letting another business go in on 27 Road without requiring landscaping, with no amenities, and with improper signage.

Mr. Antunes said 116 people signed the petition stating they did not object to his business. A lesser number of people signed the petitions that involved the City.

Councilmember Graham said he appreciated Mr. Antunes' situation. He asked Mr. Antunes where he could compromise for a solution? Mr. Antunes said he will give the dedication of his property if the City will allow him to open. The City wanted the sign pole in the corner of his property taken down. He compromised there. The City wants screening in the back of his property. He compromised

there. He asked where the City compromised? Councilmember Graham asked if a xeriscape would be acceptable which would not require high pressure irrigation systems? Ms. Portner said to meet the landscaping requirement, xeriscape would not be an option. The Code is written so rock or bark does not count for the landscaping requirement. It is Council's option to discuss what would be appropriate to meet the landscape requirement. Councilmember Graham asked if the aesthetics can be improved in such a manner that will not involve an expensive irrigation system? Ms. Portner said yes. Mr. Antunes continued to complain about previous businesses and their requirements not being the same as his. Councilmember Graham said conditions are now more onerous than they were years ago, and they are going to get worse as the new Master Plan lists new requirements. He felt Council needs to focus on a specific problem that is specific to Mr. Antunes' property.

Mayor Afman said Council admires Mr. Antunes' principles and beliefs, but it will not get them to the point of resolving this issue.

Mr. Antunes said he is in agreement with conditions #3 and #5. He did not agree with conditions #1, #2 and #4. He agreed with Condition #1 up until the time the City denied him the use of his land. Mayor Afman said now conditions #2 and #4 need to be discussed. She asked Mr. Antunes to state his proposal for resolving these issues. Mr. Antunes said he only wanted to landscape the one corner, not the front and side of his property. Mayor Afman asked if there is something Council can do regarding the half-street improvements on 27 Road? Mr. Antunes said the City is requiring sidewalks to direct traffic to one entrance. He felt a chain link fence will do the same thing and would cost much less than the \$6,000 figure that was quoted by the City Planning Department, with no reimbursement to him. Councilmember Graham explained the City can create a district where curb, gutter and sidewalks can be assessed among the property owners, but only on a large scale. An alternative is when a petitioner comes in for a land use application such as Mr. Antunes has submitted. It is a limitation that the City Council and City Planning faces. He said if the City doesn't impose the requirement under this vehicle, then it cannot impose it at all. The question is, is it a worthwhile public good that there be the curb, gutter and sidewalks.

Mayor Afman said Council is made up of seven individuals who are willing to try to work out the problems with Mr. Antunes, but Mr. Antunes obviously is not responding to the City's invitation to come back and see how the problems can be resolved. Mr. Antunes said Council can resolve it by eliminating the landscaping and allowing a fence on 27 Road. Mayor Afman said the City is not able to do that because it must abide by the ordinances and guidelines of the City. She suggested Mr. Antunes may want to sell his property and find another location that would be more suitable for his needs. Mr. Antunes said he would attempt to contact the courts. Councilmember Graham asked Mr. Antunes how much he could afford to pay now and how much can he afford to defer and on what terms so his business can get started and he can start making money and be a part of the economy? Mr. Antunes said he had no money to give the City. He did not know how much business he would generate in one year, or if he would even be in business for one year, therefore, he could not sign an agreement saying what he would pay. Councilmember Graham suggested an agreement that would give the City a lien for the improvements that the City would have to pay for up front, or that Mr. Antunes would be obliged to pay for himself, and Mr. Antunes' failure to perform, pursuant to the agreement, would be a default. Under the terms of the agreement, the City could foreclose on Mr. Antunes' property, force a judicial sale, and satisfy the debt that is owed the City. The whole purpose would be to buy Mr. Antunes some time.

Councilmember Baughman suggested Mr. Antunes operate a business as a service station with a more limited scope where major engine repair would not be done, and he could still open his building. The only limitation would be how far into an engine Mr. Antunes could proceed. He could still do tuneups, break repair, and transmission work. Mr. Antunes said that would work, as major engine work is not a big part of his business.

City Attorney Wilson said any use that is not in existence for a year or more, the requirements that are of a concern to Mr. Antunes would be imposed. Even if Mr. Antunes were to open the Shell station that was closed in 1977, the way the Code is set up, Mr. Antunes would still have to comply with the landscaping and the 27 Road improvements. It would not give the options Mr. Antunes would like. Mr. Wilson said the C & D convenience store should have been required to comply with the same requirements Mr. Antunes is facing now.

Councilmember Graham liked Councilmember Baughman's suggestion because of the flexibility under a Planned Zone. He asked if a zoning use could be used to allow the minor repair facility for a time certain, and then convert it to the major repair facility which would trigger all the landscaping requirements at a certain date in the future, and get the improvements at that time, thus allowing the applicant a certain amount of startup time to get the business going before he must meet those costs? Councilmember Terry said if Council compromises with a plan as suggested by Councilmember Baughman, she wants to see a new plan without the sandwich shop included in the plan. She wanted it made clear that the sandwich shop is not in the picture at this point. If the sandwich shop does come into the picture, there are a whole new set of circumstances to consider.

Mr. Charlie Sweet, 2701 1/2 Unawep Avenue, said he has lived two doors away from this business since 1980. He has seen two businesses come and go at the location. He said Mr. Antunes has done a tremendous amount of work on the building and it has never looked better. He felt there is a need for that type business in the area. He encouraged any and all small business. He felt Council is bending over backwards to work with Mr. Antunes. He agreed a small amount of landscaping would help, but did not agree with the complete landscaping plan. He did not feel it was needed since there are no other landscape projects along that street.

Ms. Heather Pfiffer, 2712 Unawep Avenue, said she has seen gas stations come and go at this location. She works in traffic safety. She felt the C & D food store creates more safety concern than Mr. Antunes would have at his business. Mr. Antunes has no gas pumps or obstacles in the middle of his parking lot, and he will have no children using his parking lot. She said traffic can enter and exit the property at the C & D store from almost any direction. She has seen children almost run over in their parking lot. She doesn't think the corner of 27 Road and Unawep is going to have the same problem. She said there is no other mechanic operating on Orchard Mesa. She said planting shrubs and trees would beautify the property, but trees grow and can become a hazard around which people cannot see. She said rock landscaping does not require a lot of maintenance or water.

Mr. Antunes said he will be a benefit to the community because the City will be collecting tax revenues from his business.

There were no other public comments. The hearing was closed.

Councilmember Baughman asked if Mr. Antunes limited his business to automotive repair that is not measurable automotive repair, does it trigger the City's requirements for landscaping and street improvements? Ms. Portner said without benefit of Councilmember Baughman's discussion, she would still have characterized the business as auto repair because the service portion of the gasoline sales is accessory to the automotive repair. No matter what the use is for a property, Public Works Department must look at it for safety concerns. Ms. Portner said any application for that property would result in much discussion by Staff as to what would be allowed. The Planned Business zoning really restricts the property. Having a Planned Business zoning which was put in place without benefit of a plan or specific parameters for it, make it more difficult. Under past interpretations, if it's the same use that was identified as being in place at the time the zone was put in place, it has been allowed to go in. The C & D store is in a Planned Business zone. All zones have a landscaping requirement. There is no zone that does not require landscaping.

Councilmember Terry asked when the bakery went in, in 1984, was there a safety issue in terms of access? Ms. Portner said there is no record of that. City Attorney Wilson said Council could approve the application with conditions with a date certain, and direct Staff to secure it with a lien.

Councilmember Theobold was willing to make modifications of conditions #1-5. One being to reduce #2 by requiring curb and gutter only. Also, Councilmember Theobold was concerned with Mr. Antunes being required to landscape while his neighbor is not required to do so. He said constant complaints from Orchard Mesa residents are received that they are not treated the same as the rest of the City on beautification. He suggested finding a middle ground between what the City Code requires and what Mr. Antunes has offered.

Councilmember Terry said she felt the City made a mistake by not requiring the C & D convenience store down the street to do landscaping and street improvements.

Ms. Portner estimated the area Mr. Antunes proposes to landscape is approximately 300 square feet and the requirement for the entire site would be 1,125 square feet. It was suggested the 1,125 feet not be required but increase the 300 square feet of landscaping to 600 square feet.

Councilmember Mantlo said if Council compromises on landscaping and parking surfaces, the City will be in a lot of trouble. He was willing to give Mr. Antunes time to open up his business, but was not willing to change the Code requirements.

Mayor Afman requested a motion to pull this together and allow Mr. Antunes to decide where he wants to put the landscaping. It would then be up to the petitioner if he chose to accept Council's response. Mr. Antunes' option is to accept it by complying with it, or reject it by going to court.

Upon motion by Councilmember Graham, seconded by Councilmember Terry and carried by roll call vote with Councilmember **BAUGHMAN** voting **NO**, the proposed use of the auto repair facility at 2699 Unawep Avenue in the Planned Business Zone was approved subject to, as modified, the following conditions from the Staff recommendations as found on page 4 of the Staff report:

1. Conditions 1, 3 and 5 to become effective immediately;
2. Condition 2 to be reworded to require the petitioner to provide curb, gutter and sidewalk;
3. Condition 4 modified to require minimum landscaping pursuant to the provisions of Section 7-4-7 of the Zoning & Development Code;
4. Conditions 2 and 4, the petitioner be allowed a period of one year being November 6, 1997;
5. The petitioner execute a developments improvement agreement of a form acceptable and recommended by City Staff and the City Attorney, including the provision for the creation of a lien sufficient to protect the City's interest in the fulfillment of the terms of the development agreement, with no other security.

RECESS

Mayor Afman declared a ten minute recess at 9:40 p.m. Upon reconvening, all members of Council were present.

**PUBLIC HEARING - REZONING ASHMONT HEIGHTS SUBDIVISION AT 1620
CANON STREET - ORDINANCE NO. 2954 REZONING A PARCEL OF LAND
LOCATED ON THE SOUTHEAST CORNER OF CANON STREET AND GRAND MESA**

AVENUE FROM PLANNED BUSINESS (PB) TO RESIDENTIAL SINGLE FAMILY, 8 UNITS PER ACRE (RSF-8) [File #RZP-96-195]

A request to rezone a .4 acre parcel at 1620 Canon Street from Planned Business (PB) to RSF-8 in order to replat five lots into three single family residential lots.

A hearing was held after proper notice. Kathy Portner, Acting Community Development Department Director, reviewed this item. This plan was zoned PB for a storage unit. It was not used, and now the proposal is to rezone to Residential which matches the entire neighborhood. The petitioner would like to subdivide the property into three single family lots. The rest of the residential lots on that block are zoned RMF-16. Staff is recommending the zoning be RSF-8. It is in conformance with the Growth Plan and the Orchard Mesa Plan for the recommended densities in that area.

Councilmember Baughman asked if the plan provides sufficient access to the property? Ms. Portner said the third parcel will access Canon, and the petitioner will provide a power of attorney for future improvement of the alley. They have access to an improved street.

Petitioner Mr. Ron Ashley, 545 Grand Mesa Avenue, said he would like to improve his property.

There were no other comments. The hearing was closed.

Upon motion by Councilmember Maupin, seconded by Councilmember Terry and carried by roll call vote, Ordinance No. 2954 was adopted on second reading and ordered published.

PUBLIC HEARING - REZONING CLM MINOR SUBDIVISION AT 2464 PATTERSON ROAD - ORDINANCE NO. 2955 REZONING PROPERTY TO BE KNOWN AS LOT 2, CLM MINOR SUBDIVISION, LOCATED ON THE NORTH SIDE OF PATTERSON ROAD, EAST OF 24 1/2 ROAD FROM PR-17 TO PB (2464 PATTERSON ROAD)

[FILE #RZF-96-176]

The applicant requests to rezone a portion of proposed lot 2, CLM Minor Subdivision from Planned Residential (PR-17) to Planned Business (PB). A portion of the site is already zoned PB. A 12,244 square foot commercial building for retail and office is proposed. The Planning Commission has previously approved the

site plan and subdivision for the site. The rezone is in conformance with the Growth Plan.

A hearing was held after proper notice. Bill Nebeker, Community Development Department, reviewed this item. The request meets the criteria established in Section 4-4-4 of the Zoning & Development Code.

Councilmember Theobald asked if the rezone gives this property the same depth as its neighbors? Mr. Nebeker said it does not go back as far.

Councilmember Maupin asked what portion of the area is being rezoned? Mr. Nebeker said the flag lot, not the small section.

Councilmember Graham asked if Council should be concerned with the traffic impact near Patterson Road at this time? Bill Nebeker said no as it was addressed at the site plan review. The driveway on the east is one way in only, and the driveway out is a shared driveway.

Mr. Dan Roberts, representing petitioners Cliff and Trula Mays, 2399 River Road, agreed with Planning Staff, and asked for approval of the rezone.

There were no other comments. The hearing was closed.

Upon motion by Councilmember Terry, seconded by Councilmember Baughman and carried by roll call vote, Ordinance No. 2955 was adopted on second reading and ordered published.

PUBLIC HEARING - HIGH COUNTRY BUSINESS PARK ANNEXATION AND ZONING, LOCATED ON RIVER ROAD WEST OF HIGHWAY 340 - ORDINANCE NO. 2956 - AN ORDINANCE ANNEXING TERRITORY TO THE CITY OF GRAND JUNCTION, COLORADO - HIGH COUNTRY BUSINESS PARK ANNEXATION, APPROXIMATELY 9.9 ACRES, LOCATED ON RIVER ROAD WEST OF HIGHWAY 340 - ORDINANCE NO. 2957 ZONING HIGH COUNTRY BUSINESS PARK LIGHT INDUSTRIAL (I-1) AND PZ [FILE #ANX-96-192]

The owners of the 7 lots surrounding High Country Court signed a power of attorney to join the City as part of a sewer service agreement in February of 1995. The zoning being recommended is a light industrial zoning (I-1) for the seven privately owned parcels and a public zone (PZ) for the one City owned parcel being used for the riverfront trail.

A hearing was held after proper notice. This item was reviewed by Dave Thornton, Community Development Department. The annexation is located at High Country Court just west of the City shops. The seven lots along High Country Court are being proposed as I-1, and were formerly Industrial zoning in the County. The Riverfront Trail, which is part of the Blue Heron II Trail system, is now being proposed Public Zone (PZ).

Councilmember Graham asked if the current landowners, who had property affected by previously signed POA's, were contacted regarding this annexation? Mr. Thornton said all the current owners were contacted. All but one were the original signers of the POA's. The one property owner saw it in his title papers, and was planning on being annexed.

There were no other comments. The hearing was closed.

Upon motion by Councilmember Mantlo, seconded by Councilmember Theobald and carried by roll call vote, Ordinance No. 2956 annexing High Country Business Park and Ordinance No. 2957 zoning High Country Business Park Annexation I-1 and PZ were adopted on second reading and ordered published.

NON-SCHEDULED CITIZENS & VISITORS

Ms. Mary Huber, 580 1/2 Melrose Court, felt removing the Fruitvale to Peachtree Annexation from tonight's consent agenda as a result of the November 5, 1996 election, does not finalize it. She felt to make it totally final, the results of the annexation vote should go into the record.

City Clerk Stephanie Nye said Mesa County will conduct the Canvass of Election of Tuesday, November 12, 1996. She reported the unofficial totals as of 11:25 p.m. on November 5, 1996, were 1,346 for the annexation, 4,512 against the annexation. The total number of registered voters in the area were 8,498, but the number did not include the property owners who were also eligible to vote.

Upon motion by Councilmember Theobald, seconded by Councilmember Mantlo and carried, the foregoing numbers and results were added to the minutes without objection.

MAYOR AFMAN OFFERED CONGRATULATIONS TO COUNCILMEMBER JIM BAUGHMAN
ON HIS ELECTION AS MESA COUNTY COMMISSIONER

ADJOURNMENT

Upon motion by Councilmember Maupin, seconded by Councilmember Baughman and carried, the meeting was adjourned at 10:05 p.m.

Stephanie Nye, CMC/AAE
City Clerk