

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

July 16, 1997

The City Council of the City of Grand Junction, Colorado, convened into regular session the 16th day of July, 1997, at 7:31 p.m. in the City/County Auditorium at City Hall. Those present were Cindy Enos-Martinez, Gene Kinsey, Earl Payne, Jack Scott, Mike Sutherland, Reford Theobald, and President of the Council Janet Terry. Also present were City Manager Mark Achen, City Attorney Dan Wilson, and City Clerk Stephanie Nye.

Council President Terry called the meeting to order and Councilmember Sutherland led in the Pledge of Allegiance. The audience remained standing during the invocation by Pastor Ed Ausborne of Mayes Temple.

CONSENT ITEMS

Upon motion by Councilmember Scott, seconded by Councilmember Enos-Martinez and carried, the following Consent Items 1-12 were approved:

1. **Minutes of Previous Meeting**

Action: Approve the Minutes of the Regular Meeting July 2, 1997

2. **North First Street Electrical Conversions Project**

This project consists of performing the work on the electrical systems on 17 private properties along North First Street that is needed in conjunction with the electrical service lines being converted from overhead to underground.

Action: Award Contract for North First Street Electrical Conversions Project to EC Electric, Inc. in the Amount of \$22,572_

3. **1997 Sewer Line Replacements**

The following bids were received on July 8, 1997:

Stanley Construction, Grand Junction	\$149,970.70
Lyle States Construction, Grand Junction	\$205,595.40
Engineer's Estimate	\$246,422.00

Action: Award Contract for 1997 Sewer Line Replacements to Stanley Construction in the Amount of \$149,970.70_

4. **Funding Request for Entrance Sign to 7th Street Historic District**

Residents of the 7th Street Historic District are proposing the construction of an entrance sign at the north end of 7th Street near Teller Avenue for the purpose of delineating the Historic District. The proposed sign consists of brick, decorative iron and ornamental lighting. The residents are asking the City to contribute \$2,700 towards the construction and pay the monthly electric charge.

Action: Approve Expenditure of \$2,700 towards the Entrance Sign for the 7th Street Historic District.

5. **Setting a Hearing on Amending Street Improvement District No. ST-96 for the Construction of Hickory Court**

Bids to construct Hickory Court are higher than estimates used when this district was created. A majority of the owners of property abutting Hickory Court would still like to pursue this project and have petitioned Council to amend the district provisions. This Resolution declares Council's intent to amend the district and provides notice of a public hearing to be held on August 20, 1997.

Resolution No. 44-97 - A Resolution Declaring the Intention of the City Council of the City of Grand Junction, Colorado, to Amend Street Improvement District No. ST-96 for the Construction of Hickory Court

Action: Adopt Resolution No. 44-97

6. **Design of Northfield Trunk Line Extension and Sewer Improvement District**

The following bids were received on June 23, 1997:

Williams Engineering, Fruita	\$11,300
Banner & Associates, Grand Junction	\$12,000
Western Engineers, Grand Junction	\$12,950
Balaz & Associates, Palisade	\$12,988
Rolland Engineering, Grand Junction	\$13,000
RG Consultants, Grand Junction	\$14,500
Westwater Engineers, Grand Junction	\$19,765

Action: Award Contract for Design of Northfield Trunk Line Extension and Sewer Improvement District to Williams Engineering in the Amount of \$11,300_

7. **Funding of VCB Special Events**

In June 1997 the VCB received five applications for Special Event Funding. After review and discussion of the applications the VCB Board recommends funding the following events:

Grand Mesa Indoor Soccer Classic	\$1,300
Airshow '97	\$4,500

Action: Approve Funding of Special Events

8. **"Guidelines for Selection and Placement of Works of Art" for One Percent for the Arts Projects and "Call for Entries" for Work of Art for New Trail from Orchard Mesa Pedestrian Bridge to Fifth Street**

The Grand Junction Commission on Arts & Culture requests that Council approve the proposed "Guidelines" which will govern acquisition of artwork in conjunction with the One Percent for the Arts Program, and also approve the "Call for Entries" for the first 1% project (in an amount of \$2,100), to be installed beside the new trail at the foot of the Orchard Mesa Pedestrian Bridge where Las Colonias Park will someday be located.

Action: Approve Requests

9. **Setting a Hearing on a Right-of-Way Vacation at 2320 Palace Verdes Drive** [File #VR-1997-108]

The petitioner is requesting that a portion of the cul-de-sac and a short section of street along Palace Verdes Drive be vacated. City Staff supports this request and desires to vacate the remaining portion of the cul-de-sac. The three adjacent property owners of the land to be vacated have come to an agreement as to the extent of land that is reverted to the surrounding properties.

Proposed Ordinance Vacating Right-of-Way at the Eastern End of Palace Verdes Drive

Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for August 6, 1997

10. **Setting a Hearing on Easement Vacation at 2455 Hwy 6 & 50**
[File #VE-1997-107]

Request to vacate abandoned easements within a property in order to clear the owner's property title (Hertz Sell-A-Car).

Proposed Ordinance Vacating Abandoned Easements on the Property Located at 2455 Highway 6 & 50

Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for August 6, 1997

11. **Setting Hearings on Climax Mill Enclave #2 Annexation and Zoning** [File #ANX-1997-098]

The 92.84 acre Climax Mill Enclave #2 Annexation consists of one parcel of land and a portion of the Colorado River. The parcel is owned by the City of Grand Junction. The City is required to zone annexed areas within 90 days of the annexation. The proposed zoning is PZ.

a. **Proposed Ordinance Annexing**

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Climax Mill Enclave #2 Annexation, Approximately 92.84 Acres Located between 9th and 15th Street and between Kimball Avenue and the South Bank of the Colorado River

Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for August 6, 1997

b. **Proposed Ordinance Zoning**

Proposed Ordinance Zoning the Climax Mill Enclave #2 Annexation PZ

Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for August 6, 1997

12. **Existing Industry Incentive Funding for Expansion of Amatek/Dixson**

Amatek/Dixson is proposing to expand their operation to a new site and add up to 80 new employees over the next two years. The Existing Industry Committee is recommending that City Council award a \$54,400 incentive.

Action: Award \$54,400 Incentive to Amatek/Dixson from Existing Business Expansion Funds

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

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

SELECT NAME FOR COLORADO RIVER PEDESTRIAN BRIDGE

The Riverfront Commission met on July 15, 1997 and is recommending the City Council select one of the following names for the Colorado River Pedestrian Bridge connecting Eagle Rim and Los Colonias Parks: Orchard Mesa Pedestrian Bridge or Old Mill Bridge.

Councilmember Payne discussed the process the Riverfront Commission has gone through in selecting a recommendation for naming the bridge. The number one choice was the Orchard Mesa Pedestrian Bridge. Unless another name is suggested, he said he would make a motion to name the bridge Orchard Mesa Pedestrian Bridge.

It was moved by Councilmember Payne and seconded by Councilmember Sutherland that the Orchard Mesa Pedestrian Bridge be named the Orchard Mesa Pedestrian Bridge.

Council discussed the possibility of changing the name later. Some members wanted a permanent name to be selected now. A vote was called on the motion and it failed.

It was moved by Councilmember Theobald and seconded by Councilmember Kinsey not to name the bridge at this time. The motion failed.

Upon motion by Councilmember Scott, seconded by Councilmember Payne and carried, the name Old Mill Bridge was selected for the Colorado River Pedestrian Bridge.

ECONOMIC INCENTIVE FOR "007" COMPANY

The Mesa County Economic Development Council is requesting a \$120,000 grant from the City of Grand Junction as an economic incentive for a new manufacturing business to locate in Grand Junction.

Representatives of the Mesa County Economic Development Council, Chair Bonnie Pehl-Peterson and Director J.J. Johnston, reviewed the request. Ms. Pehl-Peterson stated that by the end of 1998, the new company would create 80 new jobs in Mesa County. MCEDC

is requesting a cash grant of \$120,000 as an economic incentive for this company. Mayor Terry advised additional details were heard Monday night at the City Council workshop.

Director J.J. Johnston stated that the economic incentive is critical for the Company to come to Grand Junction. Mesa County Commissioners have allocated \$120,000 toward the incentive. The deal should be finalized in the next few days.

Councilmember Sutherland inquired about disincentives if the 80 jobs are not created by the end of 1998. Mr. Johnston said a prorated rebate would be due back by the company owner if the company were to fall below the 80 jobs during the contract period of five years. He stated that the City's return on its investment would be achieved within two years with sales tax alone, consumption of the wage earners in the factory.

Mayor Terry asked the MCEDC representatives to detail the workforce ratios and the wages anticipated. Ms. Pehl-Peterson said 75% of the employees would be hired from the local workforce and the average wage for this company would be \$12.00 per hour. The incentive is \$3,000 per job that pays over over \$9.00 per hour. It is anticipated that the company will be up and running with 80 jobs by the end of 1998. The owner predicts that within three years he could easily be at 150 jobs.

Councilmember Theobald thanked MCEDC for their work.

Mayor Terry asked for comments or questions from public. There were none.

Upon motion by Councilmember Payne, seconded by Councilmember Sutherland and carried, the City of Grand Junction allocated \$120,000 for economic incentives to Program "007" Company through the Mesa County Economic Development Council.

PUBLIC HEARING - ORDINANCE NO. 3016 VACATING A PORTION OF A UTILITIES, DRAINAGE AND IRRIGATION EASEMENT IN THE VICINITY OF THE NORTHWEST CORNER OF 28 AND PATTERSON ROADS

[FILE #VE-1997-112]

Request to vacate the southern 5 feet of an existing 30-foot utilities, drainage and irrigation easement.

A hearing was held after proper notice. Kristin Ashbeck, Community Development Department reviewed this item. During construction, the Pheasant Ridge Subdivision developer discovered some lines on their property within a 30' easement which was originally thought to be a 25' easement at the northern boundary of the property. In order to keep the building envelopes the

same as originally planned for the project, the developer has requested that the southern five feet of that easement be vacated. However, the entire 30' easement needs to be vacated and a new 25' easement needs to be dedicated. Planning Commission recommended approval of the vacation subject to the approval of the new dedication by the Spring Valley Homeowners Association. The attorney for the Spring Valley Homeowners Association did review and revise the new dedication language so that condition has been satisfied.

Councilmember Theobald inquired if the ordinance being presented includes not only the vacation but also the new dedication included. Ms. Ashbeck responded that the ordinance does not read that way. The recorded final plat does have the new dedication on it.

Mayor Terry asked for public comment. There was none and the Mayor closed the public hearing.

Upon motion by Councilmember Sutherland, seconded by Councilmember Enos-Martinez, and carried by roll call vote, Ordinance No. 3016 was adopted on second reading and ordered published.

NON-SCHEDULED CITIZENS & VISITORS

TransColorado Request for Entry onto City Property

Robert Lovell, attorney for KN Energy, wished to address Council to apprise the Council of a couple of developments which have occurred since the planning session. TransColorado's management appreciates the City's concern and interest in its property, but has not adequately communicated that to City Council. Management does not feel the offer for past damages is adequate, and has authorized Mr. Lovell to increase the offer to amend hard feelings. The original offer was for \$10,000; the new offer is \$20,000. He has also met with the City lessee to discuss access to the property. They are concerned with the upcoming hunting season which begins August 30 through September 2. It would greatly reduce TransColorado's time available on the property to collect the necessary data to address concerns and mitigate damages. He talked to City Attorney Wilson to discuss a possible arrangement. He also met with City Utilities Manager Greg Trainor. Because of the critical nature of the required information, action is needed to access the property. He requested a permit conditional upon working out details with City Attorney Wilson and City Manager Achen. He also suggested posting a \$100,000 bond payable to the City in the event TransColorado did not go forward with the project or correct any injury to property as a result of access to conduct the critical studies. The bond would be posted right away. They will pay expenses for the City to provide a full-time monitor and make

sure previous damaging parties are not allowed on the property. He offered the community, in the desire to mitigate any aspects, a design which will allow the pipeline route to be used for public access (bike path, etc.) compatible with the watershed nature of the area. His company would make an appropriate contribution for that inclusion. The details can be worked out with the City Manager. He requested Council grant conditional access, conditioned upon working out details of a permit to be signed in the next five days.

Councilmember Sutherland asked for detail regarding what will take place if the permit of entry is granted. Mr. Lovell said he is still in discussions with Palisade for road access. In order to access the City's property, Cottonwood Creek Road and another road would be used. TransColorado would enter the property to confirm the route of the pipeline that has been selected by the federal agencies as the best route, to do engineering analysis of the route (stability of soils, mitigation needed to ensure soil stability, etc.). They will need to confirm archeological sites and resurvey (no trees over 4" in diameter will be cut). Questions need to be answered regarding securing a permit from the Town of Palisade for their property. Other data needs to be collected to satisfy concerns. TransColorado wants to complete these projects in sufficient time for analysis prior to August 29.

Councilmember Scott asked if TransColorado would be out of the area by August 29 (beginning of hunting season). Mr. Lovell said yes to accommodate the desires of lessee.

Councilmember Sutherland asked if the surveyors will be using the global positioning survey technique which requires less cutting of timber. Mr. Lovell did not know. He said an accurate slope cannot be obtained with that type of technique. The global positioning system will be used to confirm sites but will not be considered the primary instrument.

Councilmember Theobald requested clarification by City Attorney Wilson regarding Mr. Lovell's comments about the fee for right-of-entry, a city monitor and the mitigation fund which are vague. City Attorney Wilson explained that TransColorado does not want to publicly announce specific numbers due to other negotiations.

Mr. Lovell said one number is the City's expenses to monitor the work. Since the City has no one on Staff to monitor the work they have to hire someone, either a full time temporary person or a consultant. TransColorado would foot the estimated \$34,500 cost. A pledge was discussed with City Staff. If the studies confirm everything, TransColorado will have to purchase right-of-

way later. There will be a contribution amount which will be part of the purchase.

Councilmember Theobold summarized TransColorado's latest offer as \$20,000 (includes interest) for the 1991 damage, a \$100,000 bond for damage for the 1997 survey, approximately \$34,500 to monitor the work, and another \$34,500 for the right of entry permit. Mr. Lovell said there is not a fee specifically for the entry permit. When the property is purchased there will be an entry permit fee. Councilmember Theobold verified the number regarding the mitigation has been heard by City Attorney Dan Wilson. The only change in the offer from Monday night is an additional \$10,000 for the damage in 1991. Mitigation money will not occur unless the project goes through. Mr. Lovell said that was his understanding.

Mayor Terry said Mr. Lovell's request is for Council to agree and allow Mr. Achen to negotiate and sign the permit. Changes to the permit were reviewed Monday. Mr. Lovell said the bond clause needs to be included.

Mayor Terry asked if the rest of the agreement is acceptable to TransColorado. Mr. Lovell believed so. He said another permit was submitted for clarification. The three previously listed items must be completed first.

Mayor Terry said this is only the second opportunity Council has had to discuss this item. She solicited Council direction. She asked if the issuance of a right-of-entry permit obligates Council to sell TransColorado the right-of-way. Mr. Lovell said it does not.

Councilmember Payne asked when TransColorado will be meeting with Palisade's Board of Trustees. Mr. Lovell replied next Tuesday, July 22, 1997.

Councilmember Scott said Council should consider the new offer.

Councilmember Sutherland inquired if the permit states clearly that Council is not obligated to sell right-of-way. City Attorney Wilson said it makes it clear that it is separate and distinct from the next step which is the right-of-way.

Councilmember Enos-Martinez was not ready to make a decision that night.

Councilmember Theobold agreed with Councilmember Scott that the tone of the request has changed. He was not sure if he was ready to make a decision tonight, or delegate this to the City Manager and City Attorney. The only difference in the request between

Monday night and this evening is \$10,000. He was astonished that the \$34,500 entry permit fee is not a fee but rather the cost for the City to monitor TransColorado's work. He expected much more.

Councilmember Kinsey said the Council will want to see the survey information that is collected. He wants to make sure there is enough time to collect the data so it is not done in a hurried manner.

Councilmember Payne asked where was TransColorado in February and March of this year. He asked why Council is being asked for an immediate decision on such a huge project. He could not see any urgency on the City's part.

Mr. Lovell said it is a big project, and a serious step for TransColorado. A business does not like to spend money until the last moment. Such a commitment requires careful consideration. He said management studied this a long time before a decision was made. Having made the decision to go forward, they want it to go. He said they postponed the decision until the last moment. He apologized to Council, saying it is the nature of business. Mr. Lovell stated the project will bring significant economic benefit to this area.

KN Energy Local Manager Tom Boita said his company relocated to Grand Junction from Glenwood Springs this year. KN Field Services has 28 full time employees in Grand Junction now. Ultimately, the company will be here a long time and grow to 50 full time employees within the next year.

Councilmember Theobald said there was indication of a potential to abandon the project as recently as June of this year. Mr. Lovell said because of the size of the project there is a lot of behind the scenes organization, commitments, etc. The project has taken six years to reach this point. The budget so far has been over \$12 million.

Councilmember Payne asked if Mr. Lovell is working one step at a time and if he is working with Delta and Garfield counties and other areas where rights-of-way are required. Mr. Lovell said yes, that is normally the way such projects proceed.

Councilmember Theobald asked when Mr. Lovell received the permit from F.E.R.C. Mr. Lovell said it was received at the end of 1994.

Councilmember Theobald was astonished that such a permit was issued 2 1/2 years prior to funding. As recently as June, 1997, Mr. Lovell did not have the stability among the financial backers

to continue with this project. He felt astonishing revelations have been presented tonight by Mr. Lovell.

Mr. Lovell said a few years ago people were talking about the "bubble" in the natural gas market. Prices are beginning to stabilize now.

Councilmember Theobold said both the history and the future market in natural gas is a critical element to initiating and continuing with this project. Councilmember Theobold said the original permit was for 100 days to complete the work (mid-July to the first of October). Now TransColorado say they can finish in six weeks. Considering the time it will take to meet with the Town of Palisade and work with the Attorney and the Manager, only five weeks will remain for the work to be completed.

Mr. Lovell said he wishes to accomodate Council's desire to mitigate any damages that might be suffered by the lessee because of the hunting season.

Councilman Theobold was concerned that originally the project was to take well over three months and now it can be accomplished in one month. Council is concerned as to whether the project can be done and done right. Mr. Lovell said that's why he is here.

Mayor Terry asked Council if it wished to defer a decision to the next regularly scheduled meeting of Council which will be held on August 6, 1997.

Councilmember Sutherland said the responsibility for a decision rests upon Council and he was not comfortable passing it on to Staff when Council has so many questions. The completion will probably go beyond six weeks anyway. He did not want to rush into a decision. He felt there are other alternatives regarding the opening of bow season and the potential of hunters and surveyors working in the same area. He understood the safety issue.

Councilmember Scott felt more information is needed, and a special meeting would be warranted.

Councilmember Kinsey agreed. The access permit does not seem to be quite as complicated.

Councilmember Theobold suggested directing Staff to complete the agreement to accept damage due from 1991. One document would settle all claims for the 1991 damage, and would not be part of the permit.

Mr. Lovell felt it was an excellent idea. He could live with that if he can see some progress on the right-of-entry permit. He would like to work with City Attorney Wilson for an agreement on terms and present a draft to Council by July 17, 1997.

Councilmember Payne said Council has a co-partnership with the Town of Palisade. He was not against a special meeting prior to August 4. Mayor Terry will be out of town until July 24.

Mayor Terry emphasized Council wishes to study the entire issue before granting the permit. Council wants more time to discuss the history of the issue. City Attorney Wilson and Utilities Manager Greg Trainor have a good share of the background.

City Attorney Wilson said Monday night's direction was to be able to advise Council on its legal position. He felt two weeks would be sufficient to determine that position, and the August 4 date would suffice. Tonight's direction regarding negotiating the terms of the right-of-entry permit can take place on Friday. Mr. Wilson will need some Council direction. He felt a final document could be ready by mid-week.

Mayor Terry asked Council if it wanted a full blown discussion and a full understanding of the long range goals and establish that prior to considering the permit because that will determine how much information the City Attorney and Mr. Trainor need to bring to Council. Council responded that it wants the whole picture. Mr. Wilson said that would make mid-week difficult.

Councilmember Theobald suggested an evening meeting as it would be more accommodating to the public. It was determined Council will conduct a special meeting on Tuesday, July 29, 1997.

Mayor Terry appreciated Mr. Lovell's information and willingness to make additional offers. She hoped he appreciated Council's position and concern in wanting to make the right decision.

Mr. Lovell thanked Council.

OTHER BUSINESS

Councilmember Enos-Martinez States Possible Conflict of Interest

Councilmember Enos-Martinez said she will no longer be involved in negotiations of the Mesa County vs. City Council lawsuit. She felt there is no conflict of interest, although she is a full-time County employee, but there may be a perception of conflict.

Acceptance of \$20,000 Settlement Offer for 1991 Damages
(TransColorado Project)

Upon motion by Councilmember Theobold, seconded by Councilmember Payne and carried, authorization was given for City Attorney Wilson to accept the settlement offer of \$20,000 for damages by TransColorado in 1991.

ADJOURNMENT

Upon motion by Councilmember Payne, seconded by Councilmember Theobold and carried, the meeting adjourned into executive session at 8:45 p.m. to discuss water litigation issues. City Attorney Wilson said Council will not be returning to Council Chambers for any decision.

Stephanie Nye, CMC/AAE
City Clerk