

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

February 18, 1998

The City Council of the City of Grand Junction, Colorado, convened into regular session the 18th day of February, 1998, at 7:28 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 Payne led in the Pledge of Allegiance. The audience remained standing during the invocation by Pastor John Mok-Lamme', First Baptist Church.

PROCLAMATION DECLARING FEBRUARY 16-22, 1998, AS "NATIONAL PATRIOTISM WEEK" IN THE CITY OF GRAND JUNCTION

APPOINTMENTS TO COMMISSION ON ARTS AND CULTURE

Upon motion by Councilmember Scott, seconded by Councilmember Payne and carried, Dennis Woodrich, Beth Buys and Seth Brown were appointed to the Commission on Arts and Culture to three year terms ending February, 2001.

CONSENT ITEMS

Upon motion by Councilmember Sutherland, seconded by Councilmember Enos-Martinez and carried by a roll call vote, the following Consent Items 1 through 11 were approved:

1. **Minutes of Previous Meeting**

Action: Approve the Minutes of the Regular Meeting February 4, 1998

2. **Acquisition of Dionex Ion Chromatography System**

Dionex Corporation, Sunnyvale, California, is the only manufacturer to develop, design and construct complete ion chromatography systems in the U.S. Dionex is the only supplier with a Colorado (Denver) service center to provide

installation, training, software support and warranty repairs.

Action: Approve Sole Source Acquisition of an Ion Chromatography System from the Dionex Corporation, in the Amount of \$31,200

3. Acquisition of an Alfa Laval Heat Exchanger

Staff requests authorization to make a sole source purchase of a new primary anaerobic digester heater (heat exchanger) to replace a 14-year old heater which is no longer manufactured and repair parts are unavailable. Alfa Laval Thermal, Inc., of Denver, is the only manufacturer that produces a heater specifically designed and marketed to heat sludge. The heat exchanger and installation accessories will cost \$32,250. Persigo staff will install the heater.

Action: Approve Sole Source Acquisition of an Alfa Laval Heat Exchanger from D.W. Daigler Company in the Amount of \$32,250

4. Intention to Create Alley Improvement District 1998, Phase A

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

1. The "Cross" shaped alley, 6th to 7th, White to Grand;
2. E/W alley from 12th to 13th between Main and Colorado;
3. E/W alley from 12th to 13th between Ouray and Chipeta;
4. E/W alley from 10th to 11th between Grand and Ouray;
5. E/W alley from 8th to 9th between Chipeta and Gunnison;
6. The south 572 feet of alley from Glenwood to Hall between 6th and 7th, just east of Grand Junction High School

Resolution No. 14-98 - 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-98, Phase A, and Authorizing the City Engineer to Prepare Details and Specifications for the Same

Action: Adopt Resolution No. 14-98

5. Setting a Hearing on Assessing Costs of Improvements for Sanitary Sewer ID SS-41-95 (Hickory Court)

The installation of sanitary sewer improvements for the specific benefit of four lots adjacent to Hickory Court in Sunset Terrace Subdivision have been completed and accepted by the City Council in accordance with Resolution No. 5-98, passed and adopted on January 7, 1998. A public hearing and second reading of the proposed ordinance will be conducted at the City Council meeting on March 4, 1998.

Proposed Ordinance Approving the Assessable Cost of the Improvements Made in and for Sanitary Sewer Improvement District No. SS-41-95, in the City of Grand Junction, Colorado, pursuant to Ordinance No. 178, Adopted and Approved the 11th Day of June, 1910, as Amended; Approving the Apportionment of Said Cost to Each Lot or Tract of Land or Other Real Estate in Said District; Assessing the Share of Said Cost against Each Lot or Tract of Land or Other Real Estate in Said District; Approving the Apportionment of Said Cost and Prescribing the Manner for the Collection and Payment of Said Assessment

Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for March 4, 1998

6. Setting a Hearing on Vacating a Portion of Maldonado Street Right-of-Way and a 10' Utility Easement Located at 610 W. Gunnison Avenue [File #VR-1998-007]

The petitioner, Mark Gamble, is requesting vacation of a portion of the Maldonado Street right-of-way and a utility easement to eliminate the encroachment of an existing mini-storage building. The proposed vacations are consistent with the criteria in Section 8-3 of the Zoning & Development Code. Staff recommends approval.

Proposed Ordinance Vacating a 10 Foot Utility Easement and a Portion of the Maldonado Street Right-of-Way

Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for March 4, 1998

7. **Setting a Hearing on Appeal of a Planning Commission Denial of a Rezone/ Preliminary Plan for the Westwood Ranch Subdivision Located at the Northwest Corner of 25 1/2 Road and F 1/2 Road** [File #RZ-1998-012]

This is an appeal of a Planning Commission denial of a rezone/preliminary plan request. The petitioner is requesting a rezone and preliminary plan approval for 95 units (23 single family lots; 36 duplex lots [2 units per duplex lot]) located on approximately 21 acres north of F 1/2 Road and west of 25 1/2 Road with a proposed density of PR-4.6 (Planned Residential with a density of 4.6 units/acre). Staff recommends approval with conditions.

Proposed Ordinance Rezoning Land at the Northwest Corner of F 1/2 Road and 25 1/2 Road from RSF-R to PR-4.6

Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for March 4, 1998

8. **Setting a Hearing on Rezoning Independence Ranch Subdivision Filings #4-10 from RSF-2 to PR-1.7** [File #RZP-1997-204]

The applicant requests to rezone 99 acres at the northeast corner of F 3/4 Road and 20 1/2 Road from RSF-2 to PR-1.7. A preliminary plan approved by the Planning Commission at their February 3, 1998 hearing pending the outcome of this rezone request, proposes 152 lots in this seven phase subdivision. Staff recommends approval.

Proposed Ordinance Rezoning Property to be Known as Independence Ranch Filings #4-10 Located at the Northeast Corner of 20 1/2 Road and F 3/4 Road from RSF-2 to PR-1.7

Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for March 4, 1998

9. **Setting a Hearing on Rezoning Property at 2708 Patterson Road from RSF-8 to B-1** [File #RZ-1998-015]

The applicant requests to rezone the parcel at 2708 Patterson Road from RSF-8 to B-1 to allow the operation of a Funeral Home. The owners and operators of the business will live on site in a business residence. Only slight modifications to

meet the building code and landscaping requirements of the Zoning & Development Code are proposed for the site. The Growth Plan supports a commercial use at this location. Staff recommends approval with conditions.

Proposed Ordinance Rezoning Property for a Funeral Home Located at 2708 Patterson Road from RSF-8 to B-1

Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for March 4, 1998

10. **Amending the Planning Commission Bylaws** [File #MSC-1997-019]

Consideration of an amendment to the Planning Commission Bylaws to change the regular meeting date to the second Tuesday of the month.

Resolution No. 15-98 - A Resolution Amending the Bylaws of the Planning Commission

Action: Adopt Resolution No. 15-98

11. **Grand Junction Regional Communication Center Operating Agreement**

On November 13, 1997, all Communication Board members accepted for signature the Intergovernmental Agreement for the Grand Junction Regional Communication Center. It is proposed that the Intergovernmental Agreement be adopted and ratified by the respective governing bodies of the entities represented in the Agreement by way of formal Resolution.

Resolution No. 16-98 - A Resolution Adopting and Ratifying the Grand Junction Regional Communication Center Operating Agreement

Action: Adopt Resolution No. 16-98

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

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

RECOGNITION OF BOY SCOUT TROOPS #358 AND #385 IN ATTENDANCE AT TONIGHT'S MEETING

SPECIAL ELECTION - QUESTION ON THE SALE OR TRADE OF A PORTION OF LILAC PARK TO BOZARTH CHEVROLET, INC., FOR \$150,000 - ORDINANCE NO. 3043 SUBMITTING TO THE ELECTORATE OF THE CITY OF GRAND JUNCTION THE QUESTION OF THE SALE OF A PORTION OF LILAC PARK FOR NOT LESS THAN FAIR MARKET VALUE, PURSUANT TO A BID PROCESS, SALE PROCEEDS TO BE USED FOR PARKS ACQUISITION OR DEVELOPMENT

Ed Bozarth Chevrolet, Inc., desires to expand its business in its present location. To do so, it has asked that the City sell it a portion of Lilac Park for \$150,000. Section 48 of the City Charter requires that before any sale of real property shall be made, the question of such sale and the terms and consideration thereof shall be submitted to and approved by a majority of the voters.

a. Public Hearing

A hearing was held after proper notice. Mayor Terry said the ballot wording of the ordinance will be changed. The Council had an in-house appraisal done and has struggled with this issue regarding how it is to be placed on the ballot. Council has discussed their duties and responsibilities to the public in terms of value. The appraisal is approximately \$253,000. She then solicited Council discussion.

Councilmember Sutherland said during the first discussion, there was an assumption that there was one interested party that had a set price. The west end of the parcel which is park land was not being heavily utilized, but would serve a good purpose for Bozarth Chevrolet. At the workshop, it seemed like a good purpose with revenues to be used for park expansion. However, the City usually gets an appraisal and then makes the land available to anyone interested. There may be no other parties interested in this property but Council needs to make that opportunity available to others. The offered price was considerably lower than the value of the property. Staff now has an appraisal showing it is worth approximately \$253,000. Councilmember Sutherland agrees with following procedure which has been established in the past. He recommended revision of the ordinance wording and make it available through sealed bids with Bozarth having the opportunity to meet the highest bid.

Councilmember Theobold expressed his concern that this discussion did not take place prior to Council making somewhat of a commitment. If Council puts the property out for bid as suggested by Councilmember Sutherland, someone could artificially bid high to inflate the cost. He wondered how that could be prevented.

City Attorney Wilson said a bid requirement could be a deposit to secure the sale.

Councilmember Theobold agreed that bidders must submit a deposit which is 25% of the appraised value, non-refundable for the highest bidder to ensure that the bidder is serious.

Councilmember Scott suggested the minimum bid should be \$250,000.

Mayor Terry concurred that Bozarth could bid higher, but no lower than \$250,000.

Councilmember Theobold said Bozarth could also decide not to bid, and the City could sell to someone else.

Councilmember Payne said there was previous discussion on the maintenance of the park land. He felt the City should maintain the remainder of the park land. Mayor Terry said it was discussed that maintenance will not be a part of the bid. Councilmember Sutherland felt it would be unfair to expect Bozarth to maintain it in perpetuity at a cost of approximately \$15,000/year. If the City expects the full price, he felt the City should continue to maintain the remaining park portion.

Councilmember Theobold asked who would be responsible for maintenance of the strip between the property and the highway frontage. City Attorney Wilson said the City would likely be responsible under the existing maintenance contract with the State of Colorado.

City Attorney Wilson summarized by stating two weeks ago the City was going to enter into a real estate contract with precise terms for the voters to consider. The alternative would not involve a contract. It would involve a ballot question which would turn it over to the standard bid process. The common terms worth mentioning would be adding the following paragraphs:

3. Title shall be conveyed by quit claim deed, as is, with no warranties or promises concerning the conditions or use of the property;

4. Sale shall be to the highest bidder but in no event, less than the appraised value. Notwithstanding the foregoing, Bozarth Chevrolet shall have a first right to meet or exceed any bid accepted by the City;

5. Bid shall be accompanied by good funds equal to one quarter of the bid amount;

6. Proceeds shall be used for parks acquisition and/or improvements to parks.

City Attorney Wilson said the ballot question would read: "An Ordinance Submitting to the Electorate of the City of Grand Junction the Question of the Sale of a Portion of Lilac Park,".... deleting the words "to Bozarth Chevrolet Inc."... and deleting the words "\$150,000", saying "For Not Less Than \$253,000 Pursuant to a Bid Process."

Mr. Tim Foster, 422, White Avenue, representing Bozarth Chevrolet, gave history of what the petitioner has gone through over the past four years regarding ownership of the subject property, etc. It had been discovered the property was owned by Mesa County and was subsequently conveyed to the City. The purpose of the petition is to acquire a portion of the Lilac Park property at fair value to the City, and preserve a portion of the park as an asset. The sledding hill on the eastern portion of the park which gets the most use would be the portion retained by the City.

Mr. Foster said City Staff's recent estimated value is not an appraisal. It does not follow general appraisal rules. He has faxed it to an MAI for comments, and the MAI was not complimentary. The question of access to the parcel makes comparing this property to others in the area which have existing curb cuts inappropriate. Bozarth Chevrolet does not want to be in a position of appearing that it is trying to cut a deal but they are trying to acquire the parcel at a fair price. If the electorate gives authority to sell the property, one option would be to obtain a formal appraisal from a certified MAI appraiser, and the property will be sold for that amount. A second option would be to give Bozarth Chevrolet the right of first refusal which also seems fair. He mentioned that the estimated cost of

maintenance would be \$20,000/year, in perpetuity. He said Bozarth Chevrolet is willing to pay for the appraisal or open it up to bids in order to match the highest bid.

Councilmember Sutherland agreed that the Parks Department should continue to maintain the property. He favored using the words "appraised value" in the ballot. Councilmember Theobold said an actual appraisal is needed, an estimate should not be used.

Councilmember Sutherland suggested, upon approval by the electorate, a contract for an appraisal be ready to go forward the day after the election.

Mr. Foster suggested either using the bid process or do an appraisal. He felt the bid process would determine the market value of the parcel.

Councilmember Theobold advised the property's access needs to be clarified prior to an appraisal.

Mayor Terry asked if land sale ballot questions state "for market value". City Attorney Wilson responded yes. He recommended Council avoid soliciting bids and giving Bozarth Chevrolet a first right of refusal. Another bidder will know he can't win because Bozarth has the opportunity to match any bid. He suggested that if Council rejects the City Property Agent's appraisal and selects an appraiser, that appraisal be the minimum bid.

Councilmember Theobold felt an appraisal prior to the election would allow the voters to know the property value when deciding how to vote.

Tim Woodmansee said an MAI would cost \$1500 to \$2000, and would take 45 to 60 days to complete. Mr. Woodmansee said before the parcel can be sold, it will have to be divided from the rest of the park. The City will have to go through a Minor Subdivision process, whereby issues such as access, zoning, uses, etc. will be determined. An MAI appraiser would have to make the same assumptions regarding the validity of the parcel, access and zoning issues that Mr. Woodmansee did for his assessment if the Minor Subdivision has not taken place.

City Attorney Wilson said the original contract stated Bozarth would start the process to create the parcel. Mr. Woodmansee said if the City goes through the bid process, the lot definitely needs

to be created first. City Attorney Wilson said the standard procedure will add several months to the processing time. A parcel is being created out of what is a 6-acre right-of-way.

Councilmember Sutherland felt it made sense for the City to do that process, to determine the best access, and to get approval from the State. City Attorney Wilson said he understands that Bozarth said they can't afford to wait. A November election would have allowed time to create the lot, zoning and access.

Councilmember Theobold noted two scenarios - (1) Bozarth is successful bidder, with a lot line adjustment done by Bozarth, or (2) Bozarth is the unsuccessful bidder, the time is critical - do just what is needed for the election (give the bidders and appraisers a close estimate of the property's value).

City Attorney Wilson said zoning is the biggest issue, and it cannot be guaranteed. Due process is required. Councilmember Theobold said he can't envision any zone but commercial which corresponds with the surrounding uses. City Attorney Wilson said Council can't make that decision until it votes that night.

Mayor Terry asked Councilmember Theobold if he was suggesting hiring an appraisal performed by an MAI appraiser, and putting it on the ballot based on that. Councilmember Theobold felt more comfortable providing the bottom line numbers for the voters.

Mr. Foster said his MAI comes in at approximately \$180,000 using the City Property Agent's comparisons.

Councilmember Payne asked for dates when an election can be held. City Attorney Wilson said the third Tuesday in April, or a Tuesday in May.

Councilmember Theobold said if Council is confident the bids would come in at what the City Property Agent said it would be, then a number in between, such as \$215,000, could be used. City Attorney Wilson said he would rather have a factual basis for that figure.

Councilmember Kinsey said Mr. Woodmansee's analysis, under most meaningful sales, supports the value of the subject parcel between \$1.87/sq ft and \$2.55/sq ft, which comes to \$223,000.

Mr. Woodmansee said an average between his high and low would be within the range, although another appraiser could come up with a

much higher number. Councilmember Kinsey said the City could get even more for the parcel.

Mr. Foster said Bozarth can hire an appraiser and then average the two numbers for purposes of establishing the base.

Councilmember Theobold suggested leaving the figure blank and have Staff fill it in. If not, the election must be delayed. April is the traditional date for City elections.

Councilmember Sutherland suggested putting \$200,000 as a minimum on the ballot. Mr. Foster concurred. Mayor Terry assumed the sealed bid process with Bozarth having first right of refusal is the other consideration.

City Attorney Wilson said Mr. Woodmansee's information is the only data Council has. Furthermore, if Bozarth is given the first right of refusal, it will affect the bidding of others. Another bidder could lose the bid by the first right of refusal. The base bid should be best estimate of fair market value based on data. He recommended Council rely on Tim Woodmansee's analysis.

Councilmember Scott felt the price should be set, feeling the voters will consider the price when voting. Mayor Terry reminded Council that it cannot do anything to promote the sale.

City Manager Achen said someone who is not an adjacent property owner is at a disadvantage in terms of bidding on the property. Normally, a price would be offered contingent upon being able to use the land as the prospective buyer wants. If the land is not prepared for sale, the value of the land is automatically reduced because of all the uncertainty.

Councilmember Theobold said the bid could not occur until May or June. City Manager Achen said a process could possibly be completed by mid-May.

Mayor Terry asked how long the bid process would take once the vote of the electorate is determined. City Attorney Wilson said a very short period of time if all the issues are resolved.

Mr. Foster said there is usually no dollar amount on the ballot, just fair market value. The fair market value is determined to be the minimum based on the MAI. He said Bozarth would be agreeable with saying "fair market value." The appraisal is obtained once

the election results are determined, and then the bid process begins. Mayor Terry suggested leaving out the first right of refusal to Bozarth, since that was the variable that prompted Council to use a minimum bid.

Mr. Foster said there is a difference between getting an MAI later and trying to guess the number now. He said Ken Smith has already spent \$30,000 to \$35,000 on design and schematics. He is the adjacent property owner. Mr. Foster wished to discuss the zoning issue.

City Attorney Wilson said Council is restricted from discussing zoning. He felt the access question requires assumptions on the size of the building, type of use, and location. Councilmember Theobald felt it would be appropriate to exclude some uses rather than attempting to design the site. Mayor Terry felt the goal should be to create the parcel with access, and leave the rest aside.

There were no other comments. The hearing was closed.

Councilmember Kinsey wished to proceed to get a fair market value analysis, with ballot wording saying "the City will set a minimum bid which will be no lower than the fair market value."

Councilmember Payne favored wording the question "for fair market value or more."

Councilmember Theobald suggested taking out "or trade", and add "funds to be dedicated to acquisition or development of park land."

The following ballot title was read: Ordinance No. 3043 - An Ordinance Submitting to the Electorate of the City of Grand Junction the Question of the Sale of a Portion of Lilac Park for Not Less Than Fair Market Value, Pursuant to a Bid Process, Proceeds to be used for Parks Acquisition or Development.

City Attorney Wilson said the first two sentences of the recitals in the proposed ordinance can be deleted. In the second to last line in the recitals, delete "and the terms and consideration thereof", paragraph 2, change to repeat the language used in the amended title of the ballot question, and delete the fourth line right after 140 feet deep north to south; to "to wit". He suggested including other paragraphs:

1. Describing a quit claim as is, no warrantees;
2. Fair Market Value - Earlier language said Bozarth shall have a right to meet or exceed any bid accepted by the City. Council should debate that question, and whether or not 25% deposit is required.

Councilmember Theobold asked Mr. Wilson if these items should be included in the proposed ordinance or in the bid documents. City Attorney Wilson said it could be included in the bid documents.

Upon motion by Councilmember Scott, seconded by Councilmember Payne and carried by roll call vote, Ordinance No. 3043 was adopted on second reading as amended and ordered published.

b. Designation of the Voting District Boundaries for Municipal Elections

Although the City of Grand Junction has annexed territories since the last resolution designating the boundaries, the legal descriptions for the boundaries have not changed. The resolution adopted for the last regular election in April, 1997 was specific for that election. This resolution will designate the boundaries for this and subsequent elections until changed again by resolution of the City Council.

Resolution No. 17-98 - A Resolution Designating the Voting District Boundaries in the City of Grand Junction

c. Authorize the City Clerk to Appoint Election Judges for the April Special Municipal Election

The City Council may delegate the authority to appoint election judges to the City Clerk. Judges must be appointed fifteen days prior to the election.

Resolution No. 18-98 - A Resolution Delegating to the City Clerk the Authority and Responsibility to Appoint Judges of Election for the April 7, 1998 Special Municipal Election

d. Designation of Polling Places for the April 7, 1998 Special Municipal Election

For the April 7, 1998 Special Election, it is recommended that the following polling places be designated: Orchard Mesa Middle School, Wingate Elementary School, Mesa View Retirement Center, Northeast Christian Church, the Visitor Center and Lincoln Park Elementary School.

Resolution No. 19-98 - A Resolution Establishing Polling Places for the April 7, 1998 Special Municipal Election

e. Notice for April 7, 1998 Election

A resolution setting forth the notice to be published including the ballot question for the April 7, 1998 Special Municipal Election.

Resolution No. 20-98 - A Resolution Setting Forth the Notice of Election for the Special Municipal Election to be Held on April 7, 1998 in the City of Grand Junction

It was moved by Councilmember Theobald and seconded by Councilmember Enos-Martinez that Resolution No. 17-98, Resolution No. 18-98, Resolution No. 19-98 and Resolution No. 20-98, as amended to include the amended ballot wording, be adopted.

There was a discussion regarding the inadequacy and inconvenience of the polling places chosen. City Clerk Nye stated the advantage being voters went to those places at the last election. The availability of polling places is a problem. She noted a mail ballot could be a solution.

Roll was called on the motion with a unanimous vote of AYE.

RECESS

The Mayor declared a brief recess at 8:55 p.m. Upon reconvening at 9:03 p.m., all members of Council were present.

COOPERATIVE AREA AGREEMENT FOR AREAS OF JOINT CONCERN BETWEEN GRAND JUNCTION, MESA COUNTY, FRUITA AND PALISADE - RESOLUTION NO. 21-98 AUTHORIZING THE MAYOR TO SIGN COOPERATIVE PLANNING AGREEMENTS BETWEEN THE CITY OF GRAND JUNCTION, MESA COUNTY AND FRUITA, AND BETWEEN THE CITY OF GRAND JUNCTION, MESA COUNTY AND PALISADE [FILE #MSC-1998-039]

A request to approve a resolution authorizing the Mayor to sign Cooperative Planning Agreements for the areas of joint concern between Grand Junction and Fruita and Grand Junction and Palisade.

Mayor Terry gave an overview of the purpose of the agreements. She offered to take public comment or Staff input.

Ms. Mary Huber, 580 1/2 Melrose Court, said on November 5, 1996 there was an aggressive annexation underway which was voted down. This particular agreement came up November 18, 1996. It was anticipated that the cooperative agreements would have the eastern edge of the annexation as part of its area. Since that annexation did not go through, the proposed resolution should be separated into two as she feels Grand Junction is overstepping its area of influence in the eastern area. Grand Junction should step out of that agreement, and leave it to Palisade and Mesa County.

Mayor Terry explained there are two agreements. Ms. Huber noted there is only one resolution number adopting the two agreements.

Mayor Terry said the documents are separate, and outlined goals of the master land use plan to prevent growth from coming together. As to the Grand Junction, Palisade and Mesa County involvement, Grand Junction is the municipality on the western edge of that buffer area. Mayor Terry has talked with citizens and assured them there is no intention of Grand Junction doing anything out there, in fact the purpose of the agreement is to prevent the development of that area.

Councilmember Theobald stated these agreements began with the municipalities of the valley meeting and generating the idea. Mesa County was asked later to participate. He felt Ms. Huber's concerns are met by this agreement. It prevents not only annexation, but development. This is a request by all the parties. If Grand Junction were not involved, then what municipality to the west would be?

Ms. Huber said Grand Junction has no authority to have sphere of influence that far east. She asked why the agreements are not just between Mesa County and Palisade. City Attorney Wilson said they could be, but it is legal this way.

It was pointed out that if the property owners asked to be annexed later, this agreement protects that buffer area as the agreement

prevents unilateral action by any entity. Ms. Huber stated there is no change from the earlier agreement.

Councilmember Scott said there were a number of residents from the buffer zone in attendance at the public meeting discussing the agreement.

Ms. Huber said the 201 Persigo agreement's affect on the Clifton Sanitation District is another issue. Councilmember Sutherland said if Clifton is organized into a municipality, then this agreement can be amended and Grand Junction can step out.

Councilmember Payne said the meeting in Palisade began under a hostile atmosphere, but ended up an encouraging and productive meeting. It was harmonious with a vast majority wanting the buffer zone. Councilmember Sutherland added that it was the wish of the community. Grand Junction could have opted out to the east, but Grand Junction's participation in the agreement provides additional protection for the area.

Mayor Terry asked for Staff input. Kathy Portner, Community Development Department, said the report listed three major components: (1) The municipalities agree not to annex into the area; (2) All parties agree not to extend sanitary sewer except with mutual agreement by all four parties; and (3) Mesa County will revise its land development code to implement the growth plan within the buffer areas.

There were no other comments. The hearing was closed.

Upon motion by Councilmember Payne, seconded by Councilmember Scott and carried by roll call vote, Resolution No. 21-98 was adopted.

APPLETON SEWER AGREEMENT - RESOLUTION NO. 22-98 - A JOINT RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS AND THE GRAND JUNCTION CITY COUNCIL REGARDING EXTENSION OF SANITARY SEWER SERVICE TO THE APPLETON ELEMENTARY SCHOOL, THE FELLOWSHIP CHURCH, AND VICINITY

The joint resolution authorizes the construction of a trunk line sewer from 23 1/4 Road and Interstate Avenue, north and east to a point just north of 23 1/2 Road and I-70. The resolution also agrees to amend the Persigo 201 sewer service area to include the

area generally between 23 and 24 Roads, and between I-70 and H Road.

Jim Shanks, Public Works & Utilities Director, reviewed this item. The trunk line would be constructed under the terms of the current joint City/County resolution which states how trunk lines for sewers are funded and built. The trunk line extension fees will be assessed to Fellowship Church and the School District. Anyone hooking onto the trunk line will also pay extension fees. He referred Council to exhibits A and A-1. Mesa County has requested another amendment to the boundary to follow the natural flow.

City Attorney Wilson said the basin boundary where it crosses H Road doesn't follow the property line, and asked if sewer would be provided to property east of that boundary. Utility Engineer Trent Prall said that's where the canal is located, and the property is unbuildable.

City Attorney Wilson asked about service to a parcel split by the north boundary line. Mr. Shanks noted the long lots along the north boundary line are bisected.

City Attorney Wilson referred to page 3 in the resolution. He suggested striking the words "southern most parcel which adjoin" and adding "the area shown on Exhibit A". If more than half of the property is in, then it's in the 201. If more than half of the property is not in, then it's out. Mr. Wilson felt it is internally inconsistent as the description confuses it. He would change more descriptions in that page.

Councilmember Theobold said then the property to the east of Appleton Elementary School is out, and assuming the boundary line is not a property line in that case, it would be better to say if the property is south of the boundary, it's serviceable, and north of the boundary it's not. It matters not if all of the parcel is in or out, but part of the parcel that is inside the boundary can be served.

Mr. Shanks said the northern boundary is not an issue. He agreed with Councilmember Theobold's statement. He said there are only two parcels that are bisected.

Councilmember Theobold suggested rewriting paragraph 3-a, "those properties or portions of properties as shown on Exhibit A-1." He suggested deleting all the other language. Councilmember

Sutherland said this would create a good argument for owners to split lots.

Mr. Shanks said the written document and the exhibit should be consistent. City Attorney Wilson agreed.

Councilmember Theobold said there were other County issues such as changing the date from 2010, or deleting that date.

Mr. Pete Baier, Mesa County Public Works Director, said this agreement is very close to exactly what Mesa County has requested, with the exception of the date of 2010. There will be a review on a 5-year cycle of the North Central Valley Plan. If at that review point it is determined sewer is needed, why lock in a date if there's a required review anyway. By setting a date, Mesa County felt it was counter productive to the 5 year review cycle.

Councilmember Theobold said 2010 was chosen as a further assurance for the slow pace of growth and development. He was concerned about deleting the date totally. He preferred seeing some date in the resolution.

Mayor Terry said the year 2003 is implied in the second paragraph of #13.

Councilmember Theobold said that's too soon, and felt most of the Appleton residents will feel it's too soon. That is a County issue, not City, because they're not going to be City residents. The City's extension is trying to retard development, but he would defer to Mesa County because they will decide how growth occurs.

Councilmember Sutherland said he was expecting the agreement to state year 2008.

Councilmember Scott agreed there should be some date inserted.

Councilmember Kinsey said the date needs to be stated to keep it from being changed in five years.

City Attorney Wilson said these are advisory master plans under the County's rules, so it can be changed at any time.

Councilmember Sutherland was concerned that there will always be political and developmental pressure on the County Commissioners

to allow development in the area which is one of the reasons he was against the sewer extension in the first place.

Councilmember Sutherland asked for an explanation of #6 regarding the extension of the sewer service area providing for the health, safety and welfare of the residents of Mesa County and the City of Grand Junction. City Attorney Wilson called the statement standard language. Councilmember Theobold clarified that sewer is beneficial to health, safety and welfare, as opposed to septic systems.

Councilmember Payne urged Council to decide on a year for the agreement.

Councilmember Theobold agreed to the County's requirements except for the one issue regarding the date.

Mayor Terry said the County will have to deal with this. The City is not intending to go beyond the boundary. She agreed with the County's five year date (2003).

Councilmember Kinsey said it is the County Commissioners' planning area, but it is still the City's sewer.

Mr. Shanks said he would like a resolution by the March 4, 1998 City Council meeting as he will bringing bids for the trunk line construction to Council on that date. They are trying to work with the canal schedule (water being turned on). The County Commissioners will be considering the resolution on February 23, 1998.

Mayor Terry determined the majority of Council wants to stay with the year 2010, and will deliver this message to the County Commissioners.

Councilmember Theobold suggested recommending that date to the County Commissioners rather than adopting the resolution tonight.

City Attorney Wilson suggested Council could adopt everything except paragraphs 13 and 14. In two weeks, Council could revise.

Councilmember Theobold suggested adopting the resolution, as is, with the 2010 date, and have Mayor Terry take the message to the County that the Council majority desires the 2010 date, and attempt to negotiate an amendment if needed. He wanted to be

clear that the resolution is being adopted to try to move forward with the extension, not to create a confrontation.

City Manager Achen said one of the major concerns of extending sewer is trying to tie infrastructure and improvements in a way that the City does not get too far ahead of itself. A large amount of funds has been invested with very little return because growth is moving slower, or vice versa. An alternative would be to have a level of development set for the Appleton sewer area for consideration. Councilmember Theobold said not which is the soonest (2003 or 50% development), but whichever is the longest. Councilmember Theobold said it may be 75%, to prevent sprawl and to protect the Appleton residents.

There were no other comments. The hearing was closed.

Upon motion by Councilmember Scott, seconded by Councilmember Theobold and carried by roll call vote with Councilmember **SUTHERLAND** voting **NO**, Resolution No. 22-98, as amended in paragraph 3.a., was adopted.

PUBLIC HEARING - VACATING A PORTION OF RIDGE DRIVE RIGHT-OF-WAY LOCATED IN GRAND VIEW SUBDIVISION FILING #2 - ORDINANCE NO. 3044 - AN ORDINANCE VACATING A PORTION OF RIDGE DRIVE WITHIN GRAND VIEW SUBDIVISION FILING #2 [FILE #VR-1997-202]

Ridge Drive within Grand View Subdivision Filing #2 was originally proposed as a boulevard with a center landscaped median. With land use changes in the area, the boulevard idea was discontinued and the street built to a narrower standard. The resulting unneeded right-of-way is requested to be vacated. Staff recommends approval with the condition that a multi-purpose easement be retained for access to public utilities.

A hearing was held after proper notice. Mr. Richard Atkins, Atkins & Assoc, 397 Ridges Boulevard, representing Grand View Subdivision, said initially Ridge Drive was designated as a boulevard which required a 65' right-of-way. Because of the land use changes in the area, it has been reclassified as a residential collector meaning the right-of-way would be approximately 52', thus the vacation request.

Bill Nebeker, Community Development Department, stated that the vacation request meets the criteria of Section 8-3 of the Zoning & Development Code.

There were no comments. The hearing was closed.

Upon motion by Councilmember Payne, seconded by Councilmember Sutherland and carried by roll call vote, Ordinance No. 3044 was adopted on second reading and ordered published.

PUBLIC HEARING - AMENDING CHAPTER 38 OF THE CODE OF ORDINANCES, INDUSTRIAL WASTEWATER DISCHARGE LIMITATIONS - ORDINANCE NO. 3045 - AN ORDINANCE AMENDING CHAPTER 38 BY ADOPTING NEW TECHNICALLY BASED LOCAL LIMITS AKA MASS BASED LIMITS

Congress, through the Clean Water Act, requires that the City's Industrial Pretreatment Program regulates industrial wastewater contributions that have or may have an adverse effect on the Wastewater Treatment Works.

A hearing was held after proper notice. Dan Tonello reviewed this item and the pretreatment program, stating the process is required by the federal government. The amendments will not affect the City's existing industries.

Councilmember Theobald asked how much the City spends adhering to regulations which do not affect the City. Mr. Tonello had no comment, but said in this case, it is a necessary program.

There were no other comments. The hearing was closed.

Upon motion by Councilmember Enos-Martinez, seconded by Councilmember Scott and carried by roll call vote, Ordinance No. 3045 was adopted on second reading and ordered published.

OTHER BUSINESS

City Manager Achen corrected an error made earlier on the number of houses in the Appleton area. He had calculated .44 acres/unit rather than units/acre. His estimate was approximately 80 new homes, or 50% development.

EXECUTIVE SESSION

For the record, City Attorney Wilson stated the matter to be discussed is the ongoing litigation (condemnation action) involving Karl Antunes.

Upon motion by Councilmember Payne, seconded by Councilmember Scott and carried, the meeting convened into executive session at 10:09 p.m.

ADJOURNMENT

Stephanie Nye, CMC/AAE
City Clerk