

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

October 7, 1998

The City Council of the City of Grand Junction, Colorado, convened into regular session the 7th day of October, 1998, at 7:30 p.m. in the City/County Auditorium at City Hall. Those present were Cindy Enos-Martinez, Gene Kinsey, Earl Payne, Mike Sutherland, Reford Theobold, and President of the Council Janet Terry. Jack Scott was absent. Also present were City Manager Mark Achen, Assistant City Attorney John Shaver, and City Clerk Stephanie Nye.

Council President Terry called the meeting to order and Councilmember Kinsey led in the Pledge of Allegiance. The audience remained standing during the invocation by Rev. Jim Hale, Spirit of Life Christian Fellowship.

PROCLAMATIONS / RECOGNITIONS

PROCLAMATION DECLARING OCTOBER 7, 1998 AS "SAVE TODAY" IN THE CITY OF GRAND JUNCTION

PROCLAMATION DECLARING OCTOBER 4-10, 1998 AS "MENTAL ILLNESS AWARENESS WEEK" IN THE CITY OF GRAND JUNCTION

CERTIFICATE OF APPRECIATION TO CITY COUNCIL FOR SUPPORTING HOUSEHOLD USED OIL COLLECTION PROGRAMS IN WESTERN COLORADO – PRESENTED BY SUE KISER, COORDINATOR FOR THE WESTERN SLOPE POLLUTION PREVENTION PROGRAM

APPOINTMENT TO THE WALKER FIELD, COLORADO, AIRPORT AUTHORITY

Upon motion by Councilmember Sutherland, seconded by Councilmember Kinsey and carried, Kenneth Sublett was appointed to the Walker Field Public Airport Authority for a 2 ½ year term, until May, 2001.

CONSENT ITEMS

Upon motion by Councilmember Payne, seconded by Councilmember Sutherland and carried by roll call vote with Councilmember **THEOBOLD** voting **NO** on item 3, the following Consent Items 1 through 3 were approved:

1. **Minutes of Previous Meeting**

Action: Approve the Minutes of the Regular Meeting September 16, 1998

2. **Request for Approval of Memorandum of Understanding between Members of the Grand Junction/Mesa County Transportation Planning Region (TPR)**

The Grand Junction/Mesa County Transportation Planning Region (TPR) seeks approval of a Memorandum of Understanding in order to create a "Regional Transportation Policy Advisory Committee" among certain members of the TPR (Mesa County, Grand Junction, Fruita, Palisade).

Action: Approve Memorandum of Understanding

3. **Funding Request for Avalon Theater**

The Avalon Theater is requesting city funding for replacement of the HVAC system at the Avalon Theater in an amount of \$150,000.

Action: Approve Funding Request to Avalon Theater in the Amount of \$150,000

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

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

PUBLIC HEARING - REZONING LAND AT 24 ROAD AND MONUMENT ROAD TO PR TO ALLOW A SINGLE FAMILY RESIDENCE ON APPROXIMATELY 40 ACRES AND A VARIANCE REQUEST TO ALLOW A WELL, A SPRINKLER SYSTEM FOR FIRE PROTECTION AND AN INDIVIDUAL SEWAGE DISPOSAL SYSTEM - ORDINANCE NO. 3073 REZONING A PARCEL OF LAND ON THE SOUTH SIDE OF MONUMENT ROAD, ADJACENT TO THE TABAGUACH TRAILHEAD FROM PR-4 TO PR - VARIANCE APPROVED [FILE #PDR-1998-144]

A request to approve a proposed single family residence on approximately 40 acres in a PR (Planned Residential) zone district. The applicant is also requesting a variance to Sections 5-4-4 and 5-4-5 of the Zoning and Development Code to allow an individual well for potable water, a sprinkler system for fire protection and an individual sewage disposal system.

A public hearing was held after proper notice. Bill Ryden, Acklam & Associates, representing the petitioner Mr. Doyle Files, was present. He spoke to the variances being requested. He noted the cost to provide fire protection would be prohibitive whereas there are three wells on the property with plenty of water. There is also water in a cistern

for the Fire Department to contain a fire. They have been in touch with the state regarding permits, and the state is supportive of the proposed applications.

Kathy Portner, Community Development Department, gave background on the project. This parcel was originally part of the Ridges Planned Unit Development which was proposed in the late '70s, early '80s. City records show no development proposed for this parcel. When the Ridges was annexed, this area was annexed. This is the only piece south of Monument Road. When annexed, a PR-4 zone was applied to the entire development, with no uses specified for the undeveloped portions. There is rough terrain up to the high point which is the building site. The proposal is in keeping with the growth plan (5-35 acre lots). Sections 5-4-4(b) and (c) of the Zoning & Development Code require service of water, fire hydrants and sanitary sewer service. There are exceptions under variances due to topography, undue hardship, hardship not created by action of the applicant, and not detrimental to the public welfare. Staff feels the Zoning & Development Code criteria has been met. Staff recommends approval of the zoning, variance request and site plan with some modifications regarding height, colors, building envelope in relation to the ridge line and a requirement to record the site plan.

Councilmember Theobold asked if the property is currently within the 201 sewer district. Ms. Portner answered yes.

Councilmember Theobold asked if the 38 acres would violate the minimum density in the Growth Plan. Ms. Portner replied she believed not.

Councilmember Sutherland asked why 30 feet was selected for the setback? Ms. Portner said the requirement for the majority of the residential zones for the larger lots is the 30 foot setback. The owners are somewhat limited in the buildable area on this parcel, so this is standard for this zone district. The applicant has agreed.

Councilmember Theobold asked the petitioner's representative if the owner would want to be removed from the 201 sewer district since a sewer line will not be needed. Mr. Ryden said the owner would not object.

There were no other comments. The hearing was closed at 8:05 p.m.

Upon motion by Councilmember Theobold, seconded by Councilmember Sutherland and carried by roll call vote, Ordinance No. 3073 was adopted on second reading and ordered published, and the variance was approved to allow a well, a sprinkler system for fire protection and an individual sewage disposal system, and the Public Works Staff was instructed to include this property on the list of properties to be excluded from the 201 sewer district.

PUBLIC HEARING - VACATING THE EAST/WEST ALLEY RIGHT-OF-WAY FROM 11TH TO 12TH STREETS BETWEEN COLORADO AND UTE AVENUES - ORDINANCE NO. 3074 VACATING THE EAST/WEST ALLEY RIGHT-OF-WAY BETWEEN 11TH AND 12TH STREETS AND BETWEEN COLORADO AND UTE AVENUES [FILE #VR-1998-142]

The petitioner, Hilltop Health Services Corporation, is requesting to vacate an east/west alley right-of-way from 11th to 12th, between Colorado and Ute Avenues.

A hearing was held after proper notice. Architect Rob Jenkins was present representing the petitioner. He explained the reason for the request is to use the entire site more efficiently without the interruption of the current bisecting alley. The parking site plan will provide for more efficient use of the site, better allowance for open space and the potential for future development in the northeast and southwest corners. It will allow interruption of high speed cross traffic between 11th and 12th, although it will allow for vehicle circulation through the site for trash removal and fire protection. He said Mr. Coburn, owner of the southeast site, is in favor of the alley vacation. They would provide for utility easements for undergrounding of utilities. They would also provide for an ingress/egress easement on the east end which would allow them to maintain the existing curb cut at the alley on the east end.

Councilmember Theobald asked if there has been any reaction from neighbors to the west. Mr. Jenkins said no.

Mayor Terry asked if there will be parking behind where the alley is currently located. Mr. Ryden said yes. There would be an island on either end of the alley to allow for circulation and facilitate the drainage plan.

Lori Bowers, Community Development Department, said Staff supports the request and concurs with Mr. Jenkins' summary. The request meets the criteria of Section 8-3 of the Zoning & Development Code for vacation. There are no services in the alley currently.

Councilmember Sutherland asked if an area has been established for the trash dumpsters. Ms. Bowers said they are currently using curb pickup since there is no need for large dumpsters.

There were no other comments. The hearing was closed hearing at 8:13 p.m.

Upon motion by Councilmember Sutherland, seconded by Councilmember Enos-Martinez and carried by a roll call vote, Ordinance No. 3074 was adopted on second reading and ordered published.

**PUBLIC HEARING - GROWTH PLAN AMENDMENT - MEADOWLARK GARDEN
PLANNED DEVELOPMENT** [FILE #GPA-1998-130]

The petitioner is requesting an amendment to the Growth Plan to change the land use category on the Future Land Use map from Residential Low (.5 to 1.9 units per acre) to Commercial for 5 parcels of land located on the southeast corner of State Highway 340 and Redlands Parkway.

The applicant has requested a continuance. Mayor Terry asked for advice from Assistant City Attorney Shaver on the manner in which to proceed with this item.

Assistant City Attorney John Shaver said the request for continuance was addressed to City Manager Mark Achen by letter dated September 29, 1998. Council can open the hearing for the limited purpose of commenting on the appropriateness of the continuance, or Council can receive no testimony whatsoever. The applicant has submitted a Preliminary Plan to Community Development and hopes to have it heard by the Planning Commission, allowing the plan to catch up with the Growth Plan amendment. He gave Council the option of continuing the item until the Plan comes back before Council.

Councilmember Theobold noted the difficulty in deciding whether the amendment should make it more specific or not. He was also concerned with the fairness of discussing the item without the applicant present and referred to the letter presented to Council on Monday about their conflict of being out of town. Assistant City Attorney John Shaver made it clear that in terms of the petitioner's presence, the petitioner and representative have had ample opportunity to be present tonight. They had identified the possibility of having associated counsel with a law firm appear, or other types of appearance. They have chosen not to secure that representation. Mr. Shaver did not know if that was an expectation that the hearing would be continued.

Councilmember Payne would like to see a continuance. There should be no discussion whatsoever until all players are present.

Councilmember Theobold agreed with the continuance even though it is an inconvenience to those present tonight. Council needs to know if the request is approved, how it will affect the Growth Plan. The decision could change the perspective as to how the Plan is viewed by Planning Commission.

City Manager Achen understood there are three choices: (1) hear the issue on the Growth Plan Amendment, (2) delay the hearing and only deal with the amendment, or (3) continue the hearing until the site plan and Growth Plan Amendment can be considered simultaneously.

Councilmember Theobold preferred option #3 because it would clarify the issues that may come forth when an answer is determined on which takes precedence, the Growth Plan or the specific zoning. It also makes only one hearing for interested parties to attend.

Councilmember Sutherland was comfortable moving ahead with discussion of the amendment only with all parties present. He said Councilmember Theobold's suggestion of one hearing makes sense.

Councilmember Kinsey said Council needs to decide on the criteria for an amendment to the Growth Plan first, and that needs to be established outside of the hearing process.

Assistant City Attorney John Shaver said the problem with dealing with them together later is that the Planning Commission might come up with a conflicting result without the Growth Plan amendment issue being resolved.

Mayor Terry said she has not seen a problem in the past. Past recommendations have come from the Planning Commission for either approval or denial of a project and/or a Growth Plan amendment request.

Assistant City Attorney John Shaver said the City does not have a Memorandum of Understanding with Mesa County to approve amendments yet.

Mayor Terry felt the direction of Council to the Planning Commission is to evaluate the site plan and the importance of the amendment to the Growth Plan, and to consider them together.

Councilmembers Kinsey and Enos-Martinez agreed that Council should wait to make a decision until there is a process in place to amend the Growth Plan.

Upon motion by Councilmember Theobold, seconded by Councilmember Payne, the determination of appropriate criteria by which an amendment to the Growth Plan should be considered was continued until more detail is presented on the process, and the proposed amendment to the Growth Plan was continued to link it to the site plan for the parcels.

Assistant City Attorney Shaver suggested setting a date certain for a hearing. The Plan has been submitted for review and is currently being reviewed by Staff. The applicant desires a November, 1998 hearing date before the Planning Commission. The review has not been completed and review comments are not in. Potentially, if things go as planned by the applicant, the application could be scheduled before the Planning Commission the second Tuesday in November. Then Council could schedule consideration at its November 18, 1998 meeting.

Scott Harrington, Community Development Director, said there is also a rezoning ordinance which requires a first and second reading. He suggested the first meeting in December, 1998 .

Councilmember Theobold amended the motion to continue this item to December 2, 1998. The amendment was seconded by Councilmember Payne. Roll was called on the amended motion with all members voting unanimously.

Mr. Terry Brahmsteadt, 2263 Broadway, said he was offended that such care was given to the applicant without giving the audience any chance to speak tonight. Mayor Terry clarified that Council wants to understand the situation clearly and make the best decision possible. Continuing the hearing will open it to public discussion. She invited Mr. Brahmsteadt to come back when this item is continued.

Councilmember Theobold said Mr. Brahmsteadt has heard his comments to try to make this issue as compact as possible. He felt Mr. Brahmsteadt should be offended only if someone was treated unfairly.

Mr. Brahmsteadt said his opinion is if the petitioner had been present tonight and he and the other opponents had not been present, Council wouldn't have postponed the decision. The applicants deliberately were not here so Council would package the whole presentation.

Councilmember Theobold said the petitioner's absence may have been deliberate but it is to Council's advantage to link the two.

Mayor Terry said the absence of the petitioner had nothing to do with how she voted on this issue. She wants to see and consider both items together.

Councilmember Theobold said no one has made up his/her mind. There has been no hearing and he admonished the audience not to assume there has been any approval of any thing at any level.

PUBLIC HEARING - RITE AID ANNEXATIONS 1, 2 AND 3 LOCATED AT 2992 F ROAD - RESOLUTION NO. 64-98 ACCEPTING A PETITION FOR ANNEXATION, MAKING CERTAIN FINDINGS, DETERMINING THAT PROPERTY KNOWN AS RITE AID ANNEXATIONS NO. 1, 2 AND 3, IS ELIGIBLE FOR ANNEXATION AND EXERCISING LAND USE CONTROL AND JURISDICTION - PROPOSED ORDINANCE ANNEXING TERRITORY TO THE CITY OF GRAND JUNCTION, COLORADO, RITE AID ANNEXATION NO. 1, APPROXIMATELY .034 ACRE LOCATED ON PATTERSON ROAD AT 29 ¾ ROAD - PROPOSED ORDINANCE ANNEXING TERRITORY TO THE CITY OF GRAND JUNCTION, COLORADO, RITE AID ANNEXATION NO. 2,

APPROXIMATELY 2.11 ACRES LOCATED ON PATTERSON ROAD BETWEEN 29 ³/₄ ROAD AND 30 ROAD - PROPOSED ORDINANCE ANNEXING TERRITORY TO THE CITY OF GRAND JUNCTION, COLORADO, RITE AID ANNEXATION NO. 3, APPROXIMATELY 2.87 ACRES LOCATED AT 2992 PATTERSON ROAD [FILE #ANX-1998-152]

The 5.32 acre Rite Aid Annexation area consists of one parcel of land and a section of the F Road right-of-way. Owners of Rite Aid Pharmacy have signed a petition for annexation.

Mayor Terry outlined the process for this annexation. Tonight's public hearing is on the validity of the petition. The hearing on the annexation ordinances will be at second reading on October 21.

Kathy Portner, Community Development Department, reviewed this item. It is a 100% petition. Ms. Portner submitted the affidavit stating that the petition is in substantial compliance with State Statutes.

Patrick Green with LanDesign representing the petitioner, was present to answer questions.

Harold Hoffman, 620 30 Road, asked what effort was made to ensure the signer of the petition was authorized to sign.

Assistant City Attorney John Shaver said the petition was signed in a representative manner and is attested as such. Additional proof can be obtained if desired. He said there is no inquiry required under State Law as to the authority of the signatory to the petition.

Councilmember Theobald asked if there is any question that this corporation is aware of the annexation. Assistant City Attorney Shaver said no. The City has received applications, and Rite Aid has appeared at hearings. He could see no evidence that the petitioner does not know that the annexation is occurring.

Mayor Terry asked if the signature is sufficient to meet the criteria and legal requirements. Assistant City Attorney Shaver said yes.

Mr. Hoffman asked if any consideration was given to Rite Aid for signing the petition. Councilmember Theobald responded the petitioner was given a promise for good city services.

Councilmember Sutherland asked Mr. Hoffman if he had any reason to believe the corporation would object to being annexed. Mr. Hoffman said if Rite Aid knew the feeling

of the Fruitvale area being annexed into the City, and had talked to the residents first, they would never have filed the petition because they are planning on drawing their business out of that area. Councilmember Sutherland said this annexation has no affect on the rest of the Fruitvale area being annexed.

Mary Huber, 580 ½ Melrose Court, asked about the date of the annexation petition, and why the City waited until the County had gone through the planning process before they decided the annexation petition would be accepted. Mayor Terry said it is not relevant to tonight's discussion. Tonight's issue is the validity of the petition.

There were no other comments. The hearing was closed at 8:59 p.m.

Upon motion by Councilmember Payne, seconded by Councilmember Kinsey and carried by roll call vote, Resolution No. 64-98 was adopted.

Upon motion by Councilmember Payne, seconded by Councilmember Sutherland and carried by roll call vote, the proposed ordinance annexing territory to the City of Grand Junction, Colorado, Rite Aid Annexation No. 1, approximately .034 acre located on Patterson Road at 29 ¾ Road, was adopted on first reading and ordered published.

Upon motion by Councilmember Payne, seconded by Councilmember Enos-Martinez and carried by roll call vote, the proposed ordinance annexing territory to the City of Grand Junction, Colorado, Rite Aid Annexation No. 2, approximately 2.11 acres located on Patterson Road between 29 ¾ Road and 30 Road, was adopted on first reading and ordered published.

Upon motion by Councilmember Payne, seconded by Councilmember Enos-Martinez and carried by roll call vote, the proposed ordinance annexing territory to the City of Grand Junction, Colorado, Rite Aid Annexation No. 3, approximately 2.87 acres located at 2992 Patterson Road, was adopted on first reading and ordered published.

Councilmember Sutherland reiterated that the petition has been accepted for annexation and a full hearing will be conducted on October 21, 1998.

PUBLIC HEARING - PROPOSED ASSESSMENTS FOR NORTHFIELD SANITARY SEWER IMPROVEMENT DISTRICT NO. SS-42-97 - ORDINANCE NO. 3075 APPROVING THE ASSESSABLE COST OF THE IMPROVEMENTS MADE IN AND FOR SANITARY SEWER IMPROVEMENT DISTRICT NO. SS-42-97, 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

The installation of sanitary sewer improvements for the specific benefit of thirteen lots in the Northfield Estates Subdivision and Northfield West Minor Subdivision have been completed and accepted by the City Council in accordance with Resolution No. 45-98, passed and adopted on August 19, 1998.

A hearing held after proper notice.

Trent Prall, Utilities Engineer, reviewed this item. The improvements have been completed. The total costs were \$63,034.63. The City did not contribute toward the project other than the trunk line extension. The net cost to each of the 13 residential lots was \$4,848.82.

There were no public comments. The hearing was closed at 9:06 p.m.

Upon motion by Councilmember Sutherland, seconded by Councilmember Enos-Martinez and carried by a roll call vote, Ordinance No. 3075 was adopted on second reading and ordered published.

PUBLIC HEARING - PROPOSED ASSESSMENTS FOR ALLEY IMPROVEMENT DISTRICT 1997, PHASE A - ORDINANCE NO. 3076 APPROVING THE ASSESSABLE COST OF THE IMPROVEMENTS MADE IN AND FOR ALLEY IMPROVEMENT DISTRICT NO. ST-97, PHASE A, 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

Reconstruction of the following alleys has been completed in accordance with the Resolution Creating Alley Improvement District 1997, Phase A:

- East/West alley, 8th to 9th Street between Ute and Colorado Avenues
- East/West alley, 9th to 10th Street between Main Street and Colorado Avenue
- East/West alley, 13th to 14th Street between Ute and Colorado Avenues
- East/West alley, 14th to 17th Street between Rood Avenue and Main Street
- "I" shaped alley, 18th to 19th Street between Elm and Orchard Avenues

Rick Marcus, Engineering Technician, reviewed this item. He identified the alleys. The actual cost for Phase A was \$261,500. The owners' share of the actual was approximately \$62,000 (31%). The City's share was approximately \$200,000 (69%). No written comments have been received by the City Clerk's office.

There were no public comments. The hearing was closed at 9:09 p.m.

Upon motion by Councilmember Theobald, seconded by Councilmember Payne and carried by a roll call vote, Ordinance No. 3076 was adopted on second reading and ordered published.

ADJOURNMENT

The Mayor adjourned the meeting at 9: 09 p.m.

Stephanie Nye, CMC/AAE
City Clerk