

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

December 2, 1998

The City Council of the City of Grand Junction, Colorado, convened into regular session the 2nd day of December, 1998, at 7:32 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 Theobold, 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 Enos-Martinez led in the Pledge of Allegiance. The audience remained standing during the invocation by Pastor Scott Hogue, First Baptist Church.

BOY SCOUT TROOPS #358 AND #384 WERE RECOGNIZED AS VISITORS IN THE AUDIENCE

RATIFICATION OF URBAN TRAILS APPOINTMENTS

Upon motion by Councilmember Payne, seconded by Councilmember Theobold and carried, the appointments of Terri Binder, R. Kelly Burford and Robert Traylor to the Urban Trails Committee were ratified.

CONSENT ITEMS

Upon motion by Councilmember Scott, seconded by Councilmember Enos-Martinez and carried with Councilmembers **KINSEY** and **PAYNE** voting **NO** on Item #4, and Councilmember **THEOBOLD** voting **NO** on Item #6, Consent Items #1 through #8 were approved.

Councilmember Kinsey explained his vote of opposition on this item. He was opposed to the inclusion of a \$300,000 appropriation to the Museum of Western Colorado. Council is obligated to make certain it does not act outside the scope of its charge, and he felt the Museum is outside the scope of the City's obligation.

1. **Minutes of Previous Meeting**

Action: Approve the Minutes of the Regular Meeting November 18, 1998

2. **Supplemental Appropriations to the 1998 Budget**

The requests are to appropriate additional amounts for several accounting funds as specified in the ordinance. The requested changes are the product of budget revisions and to establish reserves for certain funds where revenue and expenditures may exceed budget projections due to increased economic activity.

Proposed Ordinance Making Supplemental Appropriations to the 1998 Budget of the City of Grand Junction

Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for December 16, 1998

3. **Mill Levies**

The 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.

- a. Resolution No. 74–98 – A Resolution Levying Taxes for the Year 1998 in the City of Grand Junction, Colorado
- b. Resolution No. 75–98 – A Resolution Levying Taxes for the Year 1998 in the Ridges Metropolitan District, A Part of the City of Grand Junction, Colorado
- c. Resolution No. 76–98 – A Resolution Levying Taxes for the Year 1998 in the Grand Junction West Water and Sanitation District, A Part of the City of Grand Junction, Colorado
- d. Resolution No. 77–98 – A Resolution Levying Taxes for the Year 1998 in the City of Grand Junction, Colorado, Downtown Development Authority

Action: Adopt Resolutions No. 74–98, 75-98, 76-98 and 77-98

4. **Annual Appropriations for 1999**

The appropriations requests are the result of the budget preparation and reviews of last year with changes as presented and reviewed by City management and the City Council.

Proposed Annual Appropriation Ordinance Appropriating Certain Sums of Money to Defray the Necessary Expenses and Liabilities of the City of Grand Junction,

Colorado, the Ridges Metropolitan District, and the Grand Junction West Water and Sanitation District, for the Year Beginning January 1, 1999, and Ending December 31, 1999

Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for December 16, 1998

5. **Grant for COPS MORE Program**

The U.S. Department of Justice has approved \$130,000 from the COPS MORE program to assist in funding the Police Department's Mobile Data Computer Program. The Police Department budgeted \$162,000 for the first phase of this program, which exceeds the twenty-five percent matching funds required. Phase Two will now be able to be implemented for a total program cost of \$292,000.

Action: Authorize the City Manager to Sign the Grant Award on Behalf of the City of Grand Junction

6. **Setting a Hearing on Vacating the East/West Alley between 4th and 5th Streets and between Grand and Ouray Avenues** [File #VR-1998-178]

The petitioner, First Assembly of God Church, is requesting vacation of the east/west alley between 4th and 5th Streets and between Grand and Ouray Avenues. The petitioner owns all the property on the block and desires the vacation in order to allow future construction at the site. The alley will be retained as a utility easement to allow for maintenance of existing utility lines. The request meets the vacation criteria and both Staff and Planning Commission recommend approval.

Proposed Ordinance Vacating the East/West Alley between 4th and 5th Streets and between Grand and Ouray Avenues

Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for December 16, 1998

7. **Easement Vacation in Proposed Rockwood on the Ridges**
[File #VE-1998-179]

The applicant proposes to vacate a multi-purpose to vacate a multi-purpose easement on an existing lot within the proposed development. There are no facilities in the easement and it is no longer needed in this location. Staff and

Planning Commission recommend adoption of the resolution vacating this easement.

Resolution No. 78-98 – A Resolution Vacating a Multi-Purpose Easement on Lot 1A of the Ridges Filing 6A

Action: Adopt Resolution No. 78-98

8. **Sonrise Church Annexations No. 1 and No. 2 Located on the Southwest Corner of 30 Road and Teller Court (483 30 Road)** [File #ANX-1998-201]

The 19.43 acre Sonrise Church Annexation area consists of one parcel of land and a portion of the I-70B right-of-way and 30 Road right-of-way. Owners of Sonrise Church have signed a petition for annexation as part of their request to construct an addition to their existing church facility, pursuant to the 1998 Persigo Agreement.

Resolution No. 79-98 – 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, Sonrise Church No. 1 and No. 2 Annexations, Located along I-70B and 30 Road Rights-of-Way and 483 30 Road

Action: Adopt Resolution No. 79-98

*** END OF CONSENT CALENDAR ***

*** ITEMS NEEDING INDIVIDUAL CONSIDERATION ***

PUBLIC HEARING - VILLAGE PARK ENCLAVE ANNEXATION LOCATED AT THE NORTHWEST CORNER OF 28 1/4 ROAD AND F ROAD AND REZONING THE ANNEXATION FROM COUNTY PB AND COUNTY PR-16 TO CITY PB AND CITY PR-17.3 - PROPOSED ORDINANCE ANNEXING TERRITORY TO THE CITY OF GRAND JUNCTION, COLORADO, VILLAGE PARK ENCLAVE ANNEXATION, APPROXIMATELY 22.41 ACRES LOCATED AT THE NORTHWEST CORNER OF 28 1/4 AND F ROADS, CONTINUED TO DECEMBER 16, 1998, MEETING - PROPOSED ORDINANCE ZONING THE VILLAGE PARK ENCLAVE ANNEXATION LOCATED AT THE NORTHWEST CORNER OF 28 1/4 ROAD AND PATTERSON ROAD
[FILE #ANX-1998-155]

Second reading of an ordinance for the Village Park Enclave Annexation is requested to be continued to the December 16, 1998 hearing. First reading of the ordinance for the Zone of Annexation is requested to be adopted. The second reading of the Annexation and Zone of Annexation ordinances and the appeal of the Planning Commission's denial of the proposed preliminary plan for Village Park will be heard at the December 16th meeting.

Mayor Terry explained the request for continuance. Council will discuss making a decision on whether to continue this item. The request was due to a legal notification not being sufficiently posted on the property. The request is to hear all items on the December 16, 1998 meeting. Insufficient time has passed since the notice was posted on the property.

A hearing was opened to discuss the merits of the request for continuance.

Bill Nebeker, Community Development Department, said the second reading of the annexation ordinance was continued from a prior meeting. Staff wants the annexation ordinance to be considered at the same time the zone of annexation is heard. There was a problem with the posting of the property for the Planning Commission hearing; thus this item was delayed one week at Planning Commission. Therefore, it gave insufficient time for the item to come to Council tonight. The annexation, zone of annexation and appeal on the Planning Commission's denial of the preliminary plan will be heard on December 16, 1998.

Mayor Terry asked for any questions regarding the continuance. There were none. The hearing was closed at 7:42 p.m.

Upon motion by Councilmember Theobald, seconded by Councilmember Payne and carried by roll call vote, the Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Village Park Enclave Annexation, approximately 22.41 Acres Located at the Northwest Corner of 28 ¼ and F Roads was continued to December 16, 1998 to coincide with the zoning and preliminary plan hearing.

Upon motion by Councilmember Sutherland, seconded by Councilmember Scott and carried by roll call vote, the Proposed Ordinance Zoning the Village Park Enclave Annexation Located at the Northwest Corner of 28 ¼ Road and Patterson Road was passed on first reading and a hearing was set for December 16, 1998.

PUBLIC HEARING - REZONING LAND AT THE NORTHEAST CORNER OF 24 ½ ROAD AND F ¼ ROAD FROM RSF-R TO H.O. - ORDINANCE NO. 3080 REZONING THE NORTHEAST CORNER OF 24 ½ ROAD AND F ¼ ROAD FROM RSF-R TO H.O.
[FILE #RZ-1998-177]

This is a request for a rezone of one parcel containing 4.07 acres from RSF-R to H.O. (Highway Oriented). The Future Land Use Map in the Growth Plan designates this property as commercial. The proposed H.O. zone district is consistent with the goals and policies of the Growth Plan.

A hearing was held after proper notice.

Denver Cherry, 2687 Malibu Drive, co-owner of the four-acre parcel at 24 ½ and F ¼ Roads. The property is currently zoned RSF-4; a rezone to the H.O. designation is being requested. He felt they have met the Growth Plan criteria as well as the rezone criteria in Section 4-4-4 of the Zoning & Development Code.

Dave Thornton, Community Development Department, concurred that the application meets the criteria of Section 4-4-4 and the intent of the Growth Plan and Map. Staff recommends the H.O. zone (Highway Oriented Commercial Zone District) which is within the Mesa Mall environment and would be compatible with the adjacent zones. Planning Commission recommended approval of the rezone. The equivalent zone under the new Code would be for a straight commercial zone.

Mayor Terry asked if buffering, etc. will also apply to future site plans that are not addressed prior to a new zone being attached. Dave Thornton could not recall what the proposed buffering is in the new commercial zone, or whether it corresponds exactly with the current zone.

There were no public comments. The hearing was closed.

Upon motion by Councilmember, seconded by Councilmember and carried by roll call vote, Ordinance No. 3080 was adopted on second reading and ordered published.

**PUBLIC HEARING – GROWTH PLAN AMENDMENT – MEADOWLARK GARDENS
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. This item has been continued from the October 7, 1998 meeting. The applicant has requested an additional continuance.

Mayor Terry explained the petitioner has requested a continuance for several reasons which will be discussed at tonight's hearing.

A hearing was opened to discuss whether this item will be continued. City Attorney Wilson recommended three options to Council:

1. Grant the continuance for a, b and c which are: (a) Criteria by which future amendments to the Growth Plan would be met; (b) Merits of the Growth Plan amendment; (c) Concept of the preliminary plan. A decision was made to continue the preliminary plan at least another month based on some technical changes and supplements necessary. The soonest it could come back to City Council after review by the Planning Commission would be February, 1999. When the development proposal was originally requested, it was asked that the three items be coupled so the criteria, the Growth Plan amendment and the plan itself would all be considered in one context.
2. Hear the merits of the Growth Plan amendment and evaluate its change. If additional time is needed, Council can continue for additional testimony at a later date.
3. Decline the Growth Plan amendment request. Council would turn back the request and direct Staff to bring an intergovernmental agreement back for signature or consideration, and tell the developer he may request a Growth Plan amendment once Council has the IGA. The petitioner could bring the request back to Council in February, 1999. At that time, the City/County staff will have been working on an IGA to implement the Growth Plan, will recommend the process to amend the Growth Plan be a joint process which would include the criteria. Then, if the developer needed to make a Growth Plan amendment, they could use those criteria to go through the joint Planning Commission process. It would eventually come back to the Council and County Planning Commission for appropriate amendment.

Councilmember Theobald asked if Option #2 implies that potentially Council could agree to amend the Growth Plan based on one side making an acceptable presentation.

City Attorney Wilson advised that even if a change was made tonight, according to the Persigo agreement, the City would refer that to the County and have their Planning Commission consider it. Hopefully, they would approve the identical change. The IGA is attempting to resolve that very dilemma when the two entities are acting separately. Staff has suggested delaying this until the amendment criteria is determined.

Councilmember Theobald pointed out that if Council adopts an amendment tonight, it would have no legal effect because it must be approved by the County. City Attorney Wilson said it is not clear under the Persigo agreement, the City's existing contract, that the City could not make a Growth Plan amendment that is different from that adopted by the County. It would be consistent with the Persigo agreement as long as the development either complied with the Growth Plan or with existing zoning. The City's

adoption of the Growth Plan amendment thus changes the Growth Plan, but that's not clear.

Mayor Terry said when this item was first referred to Council by the Planning Commission, they were asking Council to deal with the Growth Plan amendment. At that point, Council determined it did not want to deal with that issue in isolation of the rest of the proposal. Council agreed it would continue the item until tonight assuming all the issues of the planned proposal would be finished at this time. Since that is not before Council tonight, Mayor Terry asked if it were possible that everything be referred back to the Planning Commission to deal with the Growth Plan amendment and the plan proposal as a package. City Attorney Wilson said that concept is, in effect, Option #3 above. The Planning Commission wanted guidance on the Growth Plan amendment.

City Manager Achen said at one time there was an issue whether there is an additional step possible, that being to withdraw the proposal of the Growth Plan Amendment and initiate all together simultaneously. However, the applicant objected to that because they felt they had some approvals from the Planning Commission and wanted to take it on to Council with those approvals. City Attorney Wilson clarified the developer views Planning Commission's three to two vote as favorable, and might not get that when it comes back with a seven member Planning Commission.

Councilmember Sutherland asked if there is projected date for having in hand the joint City/County criteria. Mayor Terry said Council is waiting for Mesa County to review. City Attorney Wilson said there is a meeting scheduled on December 9 or 10, 1998. He and Community Development Director Scott Harrington would like to see Mesa County's response at least by December 7, 1998, giving them time to review it before the December 9th or 10th meeting, and give Council an opportunity to consider the criteria on December 16, 1998.

Councilmember Sutherland said he would be uncomfortable putting a petitioner off until some unknown date. He favored continuing this item until the criteria is available for review.

Councilmember Theobald asked where the criteria will come from. City Attorney Wilson said it may be very similar to the rezone criteria.

Councilmember Theobald said Council should infer that the questions underlined (Questions 1-8) are the criteria to consider for a Growth Plan amendment even though there's no reference made to that affect. City Attorney Wilson concurred.

City Manager Achen wondered if the Planning Commission used that criteria. He said Staff has recommended going back to the Planning Commission and dealing with

everything all at once; thus simplifying everything for everybody. The applicant has expressed they don't want that because of the favorable vote they originally received.

Mayor Terry solicited public comment at this time.

Ann Barrett, 641 N. 16th Street, one of the petitioners, asked for a continuance because she believes it is most appropriate to hear a Growth Plan Amendment along with a zoning case accompanied by a plan. They have had difficulty getting their preliminary plan finalized to the point where it is acceptable to the Planning Department. There have been some misunderstandings about what is expected of the petitioner for submittal. She believes a Growth Plan Amendment should have a process which apparently the City does not have. The process the petitioner used was outlined in the draft Development Code. As directed by the Community Development Department, they answered those eight criteria as well as possible. Ms. Barrett has been a part of the Growth Plan process from its inception as a citizen representative, and feels strongly that the Growth Plan needs to be a viable document and that the Code should reflect and enforce the concepts that are expressed in the Growth Plan. She felt the criteria should include a zoning proposal and a sketch plan indicating what the petitioner plans to do once the land use designation is changed. Council should consider the zoning and a plan. Neighbors should have the right to know what's being proposed. She felt Council could understand the proposal much more clearly if all three could be presented together. The Planning Department's delay makes it impossible for her to reopen the nursery business. The nursery season begins no later than April 1st. The longer it takes to make these decisions, the less ability she will have to refurbish the old property, and reopen the nursery. She encouraged Council to get the Growth Plan Amendment process in place soon, and link all three items into a single hearing.

Mayor Terry asked if Ms. Barrett's comments reflect the feeling of the entire team of petitioners. Ms. Barrett said no, these were only her comments.

Ed DeDuca, one of the petitioners, agreed with Ms. Barrett. The City has taken two years to come up with the process. He agreed with linking the three items in one hearing. He was hesitant to give up the approval from the Planning Commission and go through a process they don't understand or know when it will be adopted.

Mayor Terry said Council has no intention of delaying any further once the plan amendment process is ready.

Mr. DeDuca then requested a continuance so that everything can be heard at one time.

Councilmember Theobald said the last time this item was continued was because the date was inconvenient for the applicants. There were no other reasons given at that time.

He was concerned that the rationale may be suited to the needs of the time rather than specific problems. Mr. DeIDuca said there are specific problems. The petitioners thought their attorney had an agreement with the City Attorneys that a plan amendment would not be scheduled until the zoning is heard. They were caught by surprise when they received a notice in the mail saying the public hearing was scheduled. They had already made other arrangements to be out of town on that date. He felt there was a structural problem in the process.

Mayor Terry asked Mr. DeIDuca if he can solve the inadequacies of his plan by the time it would go to the Planning Commission in either January or February. Mr. DeIDuca said they aren't sure what the problems are that need to be worked out, although there should be enough time to work out the problems and not have to request another continuance.

Miles McCormick, 103 N. Easter Hill Drive, 150 yards from the proposed site. He did not wish to discuss the continuance. He felt the City's Planning Staff has nothing to go on. He asked Council to figure out some way to provide them with a set of criteria so they can do a better job for the City. He did not want to see Council take any affirmative action on the request.

Chris Durham, 2253 Pine Terrace Court, agreed with Councilmember Theobald. He was surprised when he received his notice in the mail regarding the continuance because he assumed the continuance was based solely on the scheduling conflicts on the part of the petitioner. The plan was ready to be presented to the Council as a package. There were no problems except for the fact the petitioners could not attend the hearing. Tonight, that's not the case. He asked what the reason for a continuance will be the next time. This has been going on for one year. This is a defacto case because what is decided here in the lack of a formal amendment process for the Growth Plan is a "defacto" amendment process - it's precedent setting. If a petitioner can say this is a nice plan for this property, it's a radical departure from the Growth Plan and future Land Use Map, but it's a nice package, that creates a "defacto" process for amending the Growth Plan. He asked Council to take care of this. He was in opposition to coupling things together. He felt the continuance is unnecessary. He urged Council not to let the developer tell Council the Growth Plan was wrong.

Terry Brahmsteadt, 2263 Broadway, said the proposal is not tight. It is poorly done in an area that requires specificity and good planning. That's why the petitioner is having trouble. It's not because the Staff is misdirecting them. Mr. Brahmsteadt, along with six others in the audience wanted the Growth Plan upheld.

Linda Rattan, owner of properties at 2226 and 2222 S. Broadway, said there is already a conditional use permit for the greenhouse so Ms. Barrett can go ahead with the nursery. She was against the continuance.

Bill Volkmann, 2269 S. Broadway, opposed the continuance because it has been going on for over a year. The neighbors have spoken in opposition to this request.

Nick Bullock, 2258 Pine Terrace Court, opposed the continuance.

There were no other public comments. The hearing was closed at 8:35 p.m.

Councilmember Sutherland said it makes sense to have the plan attached to an amendment, but the Growth Plan was mapped out with specific plans. This particular property was looked at in some detail. Council does not need the entire detailed plan to decide whether a change to commercial is appropriate.

Mayor Terry agreed with Councilmember Sutherland to some degree. Since Council has been in a state of uncertainty, trying to get the Code in place, and this particular process in place, there has been little to draw from in making decisions relative to a Growth Plan amendment. So Council opted for the procedure where an amendment had to be requested, it would be looked at in the context of the proposed plan. Council understands the magnitude of making a Growth Plan Amendment. It's not solely based on a particular proposal. Having a process in place, if this request is deferred, will give Council much more to go on.

Councilmember Theobald asked if City Attorney Wilson's Option #3 implies continuing, or flat out denial and instructing that no further petitions of this nature should be accepted until a process exists. City Attorney Wilson said it's close, but it's really inferred that the City is not going to act on draft interim criteria. Since there is no criteria, the merits of a plan amendment cannot be addressed. It invalidates the request, and the petitioner would start over.

Councilmember Scott empathized with the petitioners. Because of all the delays he could understand why they are ready to get it over with.

Councilmember Payne also wanted to get it over with, but wanted to make the right decision. He recommended postponing the decision until the Growth Plan amendment process is in place.

Councilmember Kinsey felt it is critical to get criteria for the Growth Plan Amendment. The criteria for a rezone is a good start. He was sorry about the delay, but did not want to set a precedence. He felt it was necessary to continue.

Councilmember Enos-Martinez felt Council needs a process in place.

Councilmember Theobold said the Growth Plan is not perfect and will need many amendments. He doesn't want to continue prolonging things. He could see no valid reason from the petitioner for continuing. A process is needed by which the City has County partnership. He was very uncomfortable with a petitioner saying he cannot understand what the rules are. He was skeptical of their communication problems. He preferred option #3 by declining to act on a Growth Plan amendment at this time.

Mayor Terry asked the City Attorney if Council has the liberty to continue and remand all of the issues back to the Planning Commission. City Attorney Wilson said a continuance is based on a current application and the knowledge Council has to date, Council is going to set a date in the future, and solicit additional testimony and make a decision based on the process to date. That would be the continuance option. An alternative is to remand to the Planning Commission a request that they adopt criteria. Once criteria exists, the applicant may apply.

City Manager Achen reminded Council that it appears the Planning Commission has not had the opportunity to discuss separating or combining the three requests. The Planning Commission dealt with two of the items, and will now be dealing with the third item separately. The petitioner has asked the Planning Commission to deal with them separately, but Council is combining them. He suggested Option #3 could require Planning Commission to combine them as well.

Councilmember Theobold agreed that if Council expects it of itself, then it should certainly be asked of the Planning Commission as well.

It was moved by Councilmember Theobold and seconded by Councilmember Scott that criteria for the Growth Plan Amendment not be adopted, that no action be taken on the proposed amendment, and remand the issue back to the Planning Commission to create a criteria and process jointly with the City and County Planning Commission as quickly as possible, with recommendations of the Council for eventual adoption.

Mayor Terry asked if a date certain can be used for completion whereby there isn't a delay due to Council's delay in adopting the process for plan amendments. City Attorney Wilson said yes.

Councilmember Theobold said it is clear it is not going to be in Council's complete control because there are two entities, each independent, trying to arrive at a solution.

Councilmember Scott said a date would be important to everyone because it has been delayed for so long.

Councilmember Theobold suggested January 31, 1999. Scott Harrington, Community Development Department, gave an update of where the proposed process is currently. Shortly after the adoption of the Persigo Agreement, a City/County meeting was held to discuss implementation of the agreement, this being one of those issues. As a result of the meeting, the City and County would each attempt to adopt this process by the end of the year. There is a draft agreement which has been signed off by City Planning Staff and legal Staff. The County Planning Staff has provided input. Mr. Harrington felt the issues between the two planning staffs could be resolved quickly. The only missing element thus far is County legal staff. There is a meeting scheduled next week to discuss Persigo items. By that time, he would hope there would be County legal opinion and all issues would be completed. It was his intention to bring Council an agreement for discussion at the December 14 workshop, then schedule adoption on December 16. That will depend on whether an agreement is reached with Mesa County. That does not leave room to bring it to the Planning Commission first. This agreement could be adopted by City Council within two weeks. The applicant would then know what the criteria were and could submit a report based on such criteria for evaluation.

Councilmember Theobold still felt the Planning Commission should hear this first. They are a valuable part of the team and need to be involved in the process of seeing the amendment criteria process. Councilmember Kinsey agreed. He felt the Planning Commission should be the first step in making a decision on this matter under that criteria.

Councilmember Enos-Martinez asked Mr. Harrington if the County Staff has given him an indication of when they would be able to take it to hearing for adoption. Mr. Harrington said they did not. There was only a general agreement amongst the people who attended the meeting.

Councilmember Payne said he would be more comfortable if it is submitted to the City's Planning Commission by the first meeting in early January, 1999.

Councilmember Theobold amended the motion to add asking Staff to bring the criteria and process to the City Council workshop on December 14, 1998, and from there go through Planning Commission and City Council for formal adoption. Councilmember Scott agreed to the amendment.

Councilmember Sutherland, for clarification, asked if the motion is not for continuance. Councilmember Theobold said it is not for continuance. Councilmember Sutherland made two points:

1. He wanted to make that clear because at some time this issue will end up back at the Planning Commission hearing, and back before City Council. There may be a

perception that in effect, this is a continuance. There will be criteria by which any amendment will be evaluated. If the petitioners, after having reviewed that criteria, still have a strong argument for an amendment, then Council may or may not see them again.

2. Using the interim criteria, or the criteria which is ultimately approved by the City and the County, will require a strong argument that an error was made in the Plan. To make that case, there must be broad support from citizens. For the record, Councilmember Sutherland did not feel there has been much support for an amendment here. He encouraged any property owner or potential petitioner who may choose in the future to go through the Growth Plan Amendment process, to carefully consider if there really is that broad support.

City Attorney Wilson restated Councilmember Theobold's motion for clarification. The motion is to not consider a Growth Plan Amendment tonight, but direct a criteria be adopted before a Growth Plan Amendment be considered for this particular property or any other, and Staff is to bring proposed criteria to Council for consideration at its December 14, 1998, workshop. The continuance would be denied by not being approved.

Roll was called on the amended motion with the following result:

**AYE: KINSEY, PAYNE, SCOTT, SUTHERLAND, ENOS-MARTINEZ,
THEOBOLD, TERRY**

NO: NONE

A member of the audience asked for clarification of the motion.

City Attorney Wilson said, in effect, the Growth Plan Amendment request is not being acted upon, and therefore, there is no amendment to the Growth Plan. Instead, Council is adopting a process to get the criteria adopted. They will be looking at it further on December 14 at the workshop at Two Rivers Convention Center at 7:00 p.m. Once the City/County agreement that adopts criteria and a process is approved, then one must follow this process and use these criteria if and when you come back.

City Manager Achen said the applicant needs to resubmit once the criteria and process is adopted.

City Community Development Department Director Scott Harrington said the process which is in the draft MOU contemplates the simultaneous hearing and decision on all related issues. It doesn't require it, but it permits it. It also permits that it could occur within the regular development review timeframe without dragging it out endlessly through

many hearings. Someone could come through wanting just a Growth Plan amendment, absent any other application but that would not be a typical case. The process is specifically designed to allow all that to occur. The decisions at the meeting would occur one at a time. It is contemplated that all of that would occur at a single hearing all at the same time.

RECESS

The Mayor declared a ten-minute recess. Upon reconvening at 9:24 p.m., all members of Council were present.

PUBLIC HEARING - REZONING COUNTRY CROSSING SUBDIVISION AT 25 ROAD AND G ROAD FROM PR-3.8 TO PR-4.4 - ORDINANCE NO. 3081 ZONING A PARCEL OF LAND AT THE SOUTHEAST CORNER OF 25 AND G ROADS FROM PR-3.8 TO PR-4.4 [FILE #RZP-1998-183]

Rezone a property on the southeast corner of 25 and G Roads from Planned Residential 3.8 units per acre (PR-3.8) to Planned Residential 4.4 units per acre (PR-4.4).

A hearing was held after proper notice. Attorney Rich Livingston, 808 North Avenue, Suite #400, representing the petitioner, Shadowfax Properties, Ltd., spoke on this item. The request is to rezone 47 acres on the southeast corner of 25 and G Roads from 3.8 to 4.4 units/acre. The surrounding zones are consistent with the application. To the north is residential single family, to the south is Planned Residential, 21 units/acre and some Mesa County AFT zones, to the east Planned Residential and AFT, to the west RSF residential. The acreage would be developed into 135 detached single-family, 14 single family and 48 townhomes resulting in a density of 4.4 units/acre. The criteria of Section 4-4-4 of the Zoning & Development Code have been met. The proposed rezone is compatible with the surrounding area. Any adverse impacts were mitigated. An agreement has been worked out so that Filing #5 of Moonridge Falls will not need a lift station for their sewer. Filing #5 will tie into the sewer for this proposed development and will be able to function without the lift station and maintenance. The proposal meets the requirements and recommendation of the Growth Plan.

Kristen Ashbeck, Community Development Department, said the only addition to the petitioner's presentation is the bulk requirements for the zoning are laid out in the ordinance. The corresponding preliminary plan was approved. There were very few technical difficulties which needed to be addressed as far as conditions on the preliminary plat.

Councilmember Sutherland asked if there was neighborhood attendance at the Planning Commission hearing. Ms. Ashbeck said there were two people living directly across the

street with a concern regarding a covered irrigation pipe that runs across their property, east to west. Their concern was how this development would impact their line. The developer is currently working with those property owners to reconfigure the lot affected. That was the only opposition.

Mr. Livingston said Ms. Ashbeck's comments on the bulk requirements and irrigation pipe were correct.

There were no public comments. The hearing was closed.

Councilmember Sutherland commented he appreciated the fact that the 4.4 units/acre is at the lower end of the 4 to 7.9 unit/acre range.

Upon motion by Councilmember Payne, seconded by Councilmember Sutherland and carried by roll call vote, Ordinance No. 3081 was adopted on second reading and ordered published.

ADJOURNMENT

The meeting was adjourned at 9:31 p.m.

Stephanie Nye, CMC/AE
City Clerk