

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

February 17, 1999

The City Council of the City of Grand Junction, Colorado, convened into regular session the 17th day of February, 1999, at 7:34 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 Assistant City Manager David Varley, City Attorney Dan Wilson, and City Clerk Stephanie Nye.

Council President Terry called the meeting to order and Councilmember Sutherland led in the Pledge of Allegiance. The audience remained standing during the invocation by Rev. Scott Hogue, First Baptist Church.

CITIZEN COMMENTS

Former Senator Tillman Bishop addressed Council on placing a question on the ballot to increase City Council salaries. Section 38 of the City Charter sets the salary for councilmembers. Any change requires a Charter Amendment through a vote by the electorate. Any approved increases will only apply to the newly elected councilmembers. Incumbent salaries will not change until they stand for re-election. The Charter was last amended 12 years ago. There was a measure for such increases on the 1997 election ballot that failed. There was a real need then, and a real need today. Mr. Bishop said, compared to information on other cities compiled by the Colorado Municipal League, the average for the twelve comparable cities is about \$700 per month for mayors and \$520 for councilmembers. The workload and responsibilities have increased significantly over the years. Demands on Councils have grown and will continue to grow. He felt it is time to increase salaries. It will help recruit qualified people. Mr. Bishop recommended a ballot measure be referred to the electorate for the upcoming election in April at the following levels: \$750/month for Mayor, \$500/month for Council, and \$600/month for Mayor Pro tem.

Councilmember Payne said Grand Junction is the lowest of all of the comparable cities. Mr. Bishop agreed.

Councilmember Scott reiterated that the average is \$750/month for mayors and \$520/month for councilmembers.

Mayor Terry asked what was listed as the highest salary. Mr. Bishop said \$1200/month for Mayor in Thornton, Wheatridge \$1000, Arvada \$975, Broomfield \$500, Englewood \$700, Greeley \$750, Littleton, \$600, Longmont \$700, Loveland \$600, Northglenn \$570, Westminster \$839, Grand Junction \$250, with \$800/month for Councilmembers in

Thornton. There is a great disparity, and he felt Grand Junction's City Council is entitled to more.

Mayor Terry thanked Mr. Bishop for bringing this to Council's attention. She asked how this measure can be brought to Council. City Clerk Stephanie Nye said she can bring a resolution to Council at the next City Council meeting to be held on March 3, 1999.

Councilmember Theobald suggested using Mr. Bishop's salary figures in the resolution.

City Attorney Wilson asked if Council is interested in having the Mayor Pro tem salary be slightly higher than councilmember. Since Council was undecided, he said he will bring Council an option at the next meeting.

CONSENT ITEMS

Upon motion by Councilmember Payne, seconded by Councilmember Theobald and carried by roll call vote, Item 15 was removed from the agenda and placed on the March 3 agenda, and Consent Calendar items 1 through 14 were approved:

1. **Minutes of Previous Meeting**

Action: Approve the Minutes of the Regular Meeting February 3, 1999

2. **Designating the Voting District Boundaries**

Section 36 of the Charter provides that the City Council may designate the voting district boundaries by resolution. The City Council has annexed several properties since the last resolution designating the boundaries. One of the annexations changes the boundary of one district; thus the need for this resolution. The resolution requires adoption by two thirds of Council.

Resolution No. 15-99 – A Resolution Designating the Voting District Boundaries in the City of Grand Junction

Action: Adopt Resolution No. 15-99

3. **25 ½ Road Bridge Replacement Substructure**

The following bids were received on February 9, 1999:

R.W. Jones Construction, Inc., Grand Junction	\$134,754.90
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M.A. Concrete, Grand Junction	\$106,235.70
Mays Concrete, Grand Junction	\$ 98,619.05
G.A. Western Construction, Grand Junction	\$ 98,614.44
Engineer's Estimate	\$125,246.30

Action: Award Contract for 25 ½ Road Bridge Replacement Substructure to G.A. Western Construction in the Amount of \$98,614.44

4. **Reconstruction of Signals at 10th Street and 23rd Street at North Avenue – CDOT Project SHE M555-009**

The City will reconstruct two traffic signals on North Avenue (State Highway 6) at the intersections of 10th Street and 23rd Street. CDOT requires a resolution be executed by the City to commit CDOT's funds in the amount of \$200,000.

Resolution No. 16–99 – A Resolution Accepting Funds from the Colorado Department of Transportation for CDOT Project SHE M555-009, North Avenue at 10th and 23rd Street, for the Purpose of Reconstructing the Traffic Signals and Providing Accessibility

Action: Adopt Resolution No. 16–99

5. **Alley Improvement District No. ST-98, Phase A**

Reconstruction of the following six alleys has been completed in accordance with the Resolution Creating Alley Improvement District 1998, Phase A

South 572 Feet of Alley from Glenwood to Hall Avenues between 6th and 7th Streets just east of Grand Junction High School;

“Cross” shaped Alley, 6th to 7th Streets and White to Grand Avenues;

E/W Alley from 8th to 9th Streets between Chipeta and Gunnison Avenues;

E/W Alley from 10th to 11th Streets between Grand and Ouray Avenues;

E/W Alley from 12th to 13th Street between Main Street and Colorado Avenue;

E/W Alley from 12th to 13th Street between Ouray and Chipeta Avenues;

Resolution No. 17–99 – A Resolution Approving and Accepting the Improvements Connected with Alley Improvement District No. ST-98, Phase A

Action: Adopt Resolution No. 17–99 and Set a Hearing for April 7, 1999

6. **Alley Improvement District No. ST-99, Phase B**

A petition has been submitted requesting a Local Improvement District to reconstruct the following alley:

“T” Shaped Alley from 22nd to 23rd Street between Grand and Ouray Avenues.

The petition has been signed by a majority of the property owners of the property to be assessed. A hearing to allow public comment for or against the proposed Improvement District will be conducted on April 7, 1999.

Resolution No. 18–99 – 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-99, Phase B, and Authorizing the City Engineer to Prepare Details and Specifications for the Same

Action: Adopt Resolution No. 18–99 and Set a Hearing for April 7, 1999

7. **Setting a Hearing on Rezone of Ott Minor Subdivision Located at 2200/2202 N. 17th Street from RSF-8 to RMF-16** [File #RZ-1999-011]

The petitioner, Nancy M. Ott, owner of property located at 2200 and 2202 N. 17th Street, is requesting a rezone of these parcels from RSF-8 (Residential Single Family) to RMF-16 (Residential Multi-Family).

Proposed Ordinance Rezoning Land Located at the Northeast Corner of Walnut Street and N. 17th Street from RSF-8 to RMF-16

Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for March 3, 1999

8. **Vacating an Easement at Rice Street and West Main Street (Mesa County Justice Center)** [File #VE-1999-010]

The petitioner, Charles Rose, agent representing Mesa County, is requesting to vacate the easement in the old right-of-way on Rice Street, from Rood Avenue to W. Main Street.

Resolution No. 19–99 – A Resolution Vacating a Utility Easement

Action: Adopt Resolution No. 19–99

9. **Setting a Hearing on Zoning Elite Towing Annexation Located at 2796 Winters Avenue from County I to City I-2** [File #ANX-1999-019]

The 2.219-acre Elite Towing Annexation area consists of one parcel of land (approximately 0.68 acres) and a portion of 27 ½ Road, C ½ Road and 28 Road rights-of-way. This zoning request is for the .68 acre parcel known as Lot 1, 28 Road Industrial Park Subdivision. The requested zoning is I-2.

Proposed Ordinance Zoning the Elite Towing Annexation to a Heavy Industrial (I-2) District

Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for March 3, 1999

10. **Setting a Hearing on Zoning Fruitvale Meadows Annexation Located at the Northeast Corner of D ½ Road and 30 ¾ Road** [File #ANX-1999-018]

The Fruitvale Meadows Annexation, consisting of 13.03 acres at 3076 D ½ Road, was recently rezoned to R-1-C by Mesa County. The proposed City zone for the annexation is RSF-5 which is the zone district most equivalent to R-1-C.

Proposed Ordinance Zoning the Fruitvale Meadows Annexation Located at the Northeast Corner of D ½ Road and 30 ¾ Road to RSF-5

Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for March 3, 1999

11. **Setting a Hearing on Rezoning Canyon View Subdivision, Filings 7-9, Located on the West Side of South Camp Road, North of Canyon View Drive, from RSF-2 to PR-2** [File #RZP-1999-013]

The applicant proposes to rezone a 28.65 acre parcel located directly north of Canyon View Subdivision from RSF-2 to PR-2 (Planned Residential with a density not to exceed two dwellings per acre) to accommodate a 57 lot single family residential development. Staff finds that the proposed rezone of this parcel meets the criteria established in Section 4-4-4 of the Grand Junction Zoning and Development Code and recommends approval. At its February 9, 1999 hearing, the Planning Commission approved the preliminary plan/plat for this development and recommended approval of the rezone request.

Proposed Ordinance Rezoning Property to be Known as Canyon View Subdivision, Filings 7-9, Located North of the Northwest Corner of Canyon View Drive and South Camp Road, from RSF-2 to PR-2.0

Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for March 3, 1999

12. **Setting Hearings for the Dos Rios Elementary School Annexation Located at 265 Linden Avenue** [File #ANX-1999-039]

The 15.45 acre Dos Rios Elementary School Annexation area consists of one parcel of land and a portion of the Linden Avenue right-of-way. Mesa County School District 51 Board has signed a petition for annexation.

a. Referral of Petition for Annexation, Setting a Hearing and Exercising Land Use Control and Jurisdiction

Resolution No. 20–99 – A Resolution Referring a Petition to the City Council for the Annexation of Lands to the City of Grand Junction, Colorado, Setting a Hearing on Such Annexation and Exercising Land Use Control and Jurisdiction, Dos Rios Elementary School Annexation Located at 265 Linden Avenue

Action: Adopt Resolution No. 20–99 and Set a Hearing for April 7, 1999

b. Set a Hearing on Annexation Ordinance

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Dos Rios Elementary School Annexation, Approximately 15.45 Acres Located at 265 Linden Avenue

Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for April 7, 1999

13. **Setting Hearings for the Arrowhead Acres Annexations No. 1 and No. 2 Located South of B ½ Road and West of 28 Road** [File #ANX-1999-030]

The 29.47-acre Arrowhead Acres Annexation area consists of three parcels of land and a portion of the B ½ Road right-of-way. Owners of the properties have signed a petition for annexation.

a. Referral of Petition for Annexation, Setting a Hearing and Exercising Land Use Control and Jurisdiction

Resolution No. 21–99 – A Resolution Referring a Petition to the City Council for the Annexation of Lands in a Series to the City of Grand Junction, Colorado, Setting a Hearing on Such Annexation and Exercising Land Use Control and Jurisdiction - Arrowhead Acres Annexations No. 1 and No. 2 Located West of the Southwest Corner of B ½ and 28 1/2 Roads and Portions of the B ½ Road, 28 Road and Arlington Avenue Rights-of-Way

Action: Adopt Resolution No. 21–99 and Set a Hearing for April 7, 1999

b. Set a Hearing on Annexation Ordinances

(1) Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Arrowhead Acres Annexation No. 1, Approximately 0.53 Acres Located West of the Southwest Corner of B ½ and 28 ½ Roads Including Portions of the 28 and B ½ Road Rights-of-Way

(2) Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Arrowhead Acres Annexation No. 2, Approximately 28.94 Acres Located West of the Southwest Corner of B ½ and 28 ½ Roads Including Portions of the B ½ Road and Arlington Avenue Rights-of-Way

Action: Adopt Proposed Ordinances on First Reading and Set Hearings for April 7, 1999

14. Repealing the Requirement of Fallout Shelters in Public Buildings

On February 4, 1970, the City Council adopted a resolution requiring fallout shelters be included for plans for construction of public buildings. Due to changing political climates which have eliminated the need for fallout shelters in public buildings, this resolution would act to repeal the prior resolution. Requiring builders to include fallout shelters in their plans is an unnecessary expense, and one which has no longer been enforced.

Resolution No. 24–99 – A Resolution Repealing the Requirement for Fallout Shelters in All Buildings

Action: Adopt Resolution No. 24–99

15. **Process for Growth Plan Review and Amendment – MOVED TO MARCH 3, 1999 AGENDA**

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

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

PUBLIC HEARING - ENACTING COMPREHENSIVE REGULATION OF TOBACCO PRODUCTS - ORDINANCE NO. 3095 REGULATING TOBACCO PRODUCTS

The Director of the National Institute on Drug Abuse concluded that the majority of the 320,000 Americans who die each year from cigarette smoking became addicted to nicotine as adolescents before the legal age of consent. Currently, Colorado law prohibits adults from supplying tobacco products to minors, but the law does not prohibit minors from possessing or using tobacco products. This proposed ordinance regulates tobacco products in an attempt to curb tobacco use by minors. Staff is requesting this item be continued to March 3, 1999.

A public hearing was opened at 7:49 p.m.

City Attorney Dan Wilson summarized his conversations with the representatives of this proposed ordinance. He stated they will discuss their interest in the possession portion of the ordinance. He advised Council that under a County Powers Act, the Mesa County Commissioners are allowed to prohibit the possession of minors, and it can be done on a County-wide basis. The Statute also says the ordinance by the County could apply to municipalities if the municipality so elects (only in case of possession). The County was not authorized to address the other components such as the "loosies" (single cigarettes), display issues, sale from adults to minors, etc.

Dr. Patrick Moran, 623 26 Road, a member of the Concerned Citizens Against Teenage Tobacco Use, reviewed parts of the proposed ordinance. The group presented a petition with signatures of children and adults (measuring 1500 inches long). He noted the signatures are not all from citizens residing in Grand Junction.

Attorney John Groves, 2240 Lamplight, was present to answer questions. He did not want to delay Council's decision. He felt there was a good argument for a county-wide ordinance. It should be illegal for minors to possess and use tobacco products.

City Attorney Wilson said if Council has the benefit of a county-wide ordinance on possession, he would recommend an amendment to this ordinance so the two match. He recommended adopting the ordinance tonight and coming back later with an amendment.

Councilmember Scott asked how many were against the proposed ordinance and refused to sign the petition. Mike Parenko, 3233 Lakeside Drive, #210, said only one person wouldn't sign. That person was not vehemently against the ordinance, but just would not sign. There are approximately 1200 signatures on the list.

Mayor Terry asked about the ordinances which have been passed by Fruita and Palisade regarding this subject. Dr. Moran said the City of Fruita did not adopt the clerk assisted portion of the ordinance. They do have a possession law. Palisade did enact all portions of the ordinance including the clerk assisted sale of tobacco products, and the possession law, the same ordinance that is being presented tonight.

John Groves said schools are subject to the 1999 law that will not allow special areas for smoking.

Councilmember Theobold said this ordinance provides that businesses within 100 feet of schools would be grandfathered in and can continue to sell tobacco. City Attorney Wilson said that is correct. The method for measuring the distance from schools is also clarified in the ordinance.

Councilmember Theobold asked for an interpretation of a tenant in a strip mall – would it be the closest portion of their rented space or of the entire retail area. City Attorney Wilson said he would instruct the City's officers to use the least line to avoid any argument. Councilmember Theobold concluded it would be from the rented space rather than the overall development. City Attorney Wilson concurred.

Councilmember Sutherland said preexisting businesses were a concern. He asked if it would include parks that are located within 100 feet of businesses where the City sponsors its sports activities. City Attorney Wilson said without a structure, it wouldn't apply.

Mayor Terry asked for additional public comments.

Patrick Moran suggested educational programs for offenders, and asked if the ordinance could include education to the offenders. City Attorney Wilson said it is within the court's purview to interpret the useful public service clause as including education. A judge could include community service and/or education.

Ann Landmann, 115 16 ½ Road, Glade Park, said there is a large coalition prepared to come to the March 3rd meeting, but she felt Council had a good understanding of the work of the American Lung Association. She stated kids are addicted to tobacco. Their organization plans to implement smoking cessation programs for teenagers. The first smoking cessation class will be started with Orchard Mesa Middle School next week.

Assistant City Manager David Varley reported the citizen line had thirty calls encouraging adoption of this ordinance.

Ruth Michaels, 2151 Hawthorne Avenue, said she appreciated the patience and support of Council.

Patrick Moran asked about the enforcement of the possession law. Police Captain Martyn Currie said any ordinance that is adopted will place the responsibility of enforcement on the Police Department. The department intends to have an education period where citizens would be advised of the new law, then a warning period, and actual enforcement following. It would be several weeks before citing people into court. They would attempt to enforce the law in the spirit for which it was made.

Mayor Terry asked about the area stating it's unlawful for an adult to supply tobacco products to a minor. How could such an act be proven. Captain Currie said a parent might report such an action, and one would have to rely on witness testimony. Some violations might be observable,

There were no other public comments. The hearing was closed at 8:10 p.m.

Councilmember Theobald said Section 9 provides for up to \$1,000 in penalties, and asked if the amounts of the other penalties are also up to a maximum. City Attorney Wilson said yes.

Councilmember Kinsey asked if a person convicted of violating this law would need to answer affirmatively on an employment application for criminal convictions. City Attorney Wilson said he would advise a yes answer to avoid perjury.

Councilmember Theobald asked how this offense differs from a traffic or parking offense. City Attorney Wilson said traffic has been decriminalized by the State but is actually equivalent. These violations are in the misdemeanor category.

Councilmember Theobald asked if Section 9 can be clarified to solve the question of criminal context. He wanted to avoid it resulting in a criminal record. City Attorney Wilson said it could be made a petty offense, not a misdemeanor. He suggested adding to the ordinance a statement "A juvenile who is convicted of this ordinance need not disclose it

when asked about a criminal history.” It would state that he need not reveal the conviction.

Councilmember Kinsey was concerned that revealing such information might cause someone to be eliminated as a job finalist.

Councilmember Theobald asked what the difference would be between violation of this ordinance and the current smoking ordinance, which states “no smoking in this building.” City Attorney Wilson said it is the same as any municipal ordinance. Councilmember Theobald said someone who is caught smoking where “no smoking” is posted would have the same criminal record. City Attorney Wilson said yes.

Mayor Terry suggested excluding the fine system for minors, and including educational programs.

Councilmember Payne asked how this ordinance compares with underage drinking. Captain Currie said there is a fine of approximately \$50 for underage possession. It is a petty offense, does not require an arrest, it is now citable with release for a juvenile. It is an exception to most of the juvenile laws. A parent can permit a child to partake in their presence, so illegal possession was public. There is a tobacco possession law by the State that does not allow the furnishing of tobacco to a minor. That Statute does not have the parental exception as the alcohol Statutes do.

City Attorney Wilson said the warning section needs to be made consistent based on the amendment.

Councilmember Enos-Martinez said she could not support Section 8, paragraph (b) because within 100 feet of a school is more stringent than the State Liquor Code which is 500 feet.

Consensus of Council was to eliminate paragraphs (a) and (b) of Section 8 entirely.

Regarding Section 9, Councilmember Theobald wanted to include education as part of a public service penalty, and include a statement saying it is a petty offense, not criminal. City Attorney Wilson said criminal offenses include petty offenses.

Mayor Terry wanted to eliminate the \$1000 fine and jail time when it pertains to minors.

Councilmember Theobald said the ordinance already excepts the jail time for minors.

Mayor Terry said the maximum should be \$500 for juveniles for a third offense.

Councilmember Theobald said \$1000 is top limit for all municipal ordinances, and \$500 is the maximum for juveniles.

Mayor Terry said Section 10 states the law goes away automatically without action after five years. She asked if Council wants to tie it to the results seen by the community. City Attorney Wilson said the presumption is some review of the ordinance would take place after two and four years of using the ordinance. Councilmember Sutherland suggested the Police Department will remind Council.

Mayor Terry said Council has eliminated Section 8, modified Section 9, and limited the ordinance to only one Section 10.

Councilmember Sutherland said Section 4, Item 3, vending machines, suggested adult supervision will not be effective. He preferred to delete Section 4(a) (III) and Section 4(b).

Mayor Terry was concerned with the section regarding an adult supplying tobacco products to minors. Council felt it should be made consistent with the liquor law that allows it in their own home.

Councilmember Payne asked about enforcement over kids going to a friend's house near the school and smoking. Captain Currie said only the parents of the juvenile can give their permission.

Mayor Terry said parental permission is the indicator which needs to be focused on to try to align this with the alcohol Statute. Captain Currie agreed.

City Attorney Wilson suggested a sentence reading: "A parent or other custodian may furnish inside the residence of a minor tobacco to such minor." The question then came up regarding a porch – would it be considered inside the residence. Captain Currie said it would conflict with State Statutes. City Attorney Wilson said if it's illegal under the State Statute, it's still subject to state statutory prescriptions. They may not be violating the City ordinance.

Mayor Terry wanted to leave parental consent out, leaving the ordinance as is.

Councilmember Kinsey felt the ordinance will never be enforced.

Discussion on selective enforcement took place.

Councilmember Payne questioned penalties. City Attorney Wilson said the penalty for an adult (over 18 years of age) would be a jail term of up to one year, and up to a \$1000 fine.

Possession by a minor (up to 18 years of age), under the right circumstances, would have the useful public service with a fine of up to \$500.

Mayor Terry clarified the proposed changes: Section 9 will read: "When it comes to a minor, it will be termed a petty offense. A minor is only imposed a fine of up to \$50 for the first offense, \$100 for the second and \$500 for the third. The jail term and \$1000 would not apply to a minor, but the minor would be afforded the opportunity of 48 hours of useful public service that would include educational programs. All of the other sections that include the jail term and \$1000 fine would apply only to those over 18 years of age.

Council then discussed Section 2(a), the possession issue.

Councilmember Scott felt it should be left as is.

Councilmember Theobald gave reasons for leaving this section as is, including possession. It causes confusion to say that they possess it, but can't buy it. It is a tool to enforce the ordinance overall. He felt the Police Department can prioritize their time and will not spend all of their time enforcing this particular ordinance. Fruita and Palisade have adopted possession. He felt Grand Junction should follow their lead and let Mesa County fill in the holes in between, and make the ordinance as uniform as possible.

Councilmember Scott said Council won't know if the ordinance works. There is a sunset provision. He favored leaving possession in the ordinance, and felt it should be reviewed in two years. If, at the end of two years, it didn't work, it can be deleted.

Councilmember Kinsey said this is wishful thinking. Governmental attempts have been made with alcohol and marijuana and have failed. Government cannot solve these problems. He wanted to make it clear that he is not "pro-smoking". This ordinance won't solve the problem.

Councilmember Theobald said many would refrain because it is illegal as many have respect for the law.

Councilmember Scott felt Council can't say no to its constituents.

Councilmember Theobald said Council's decision should be guided by Councilmembers' own judgement.

Councilmember Sutherland agreed with a number of Councilmember Kinsey's points. He felt the ordinance should include possession because there are areas where kids congregate to smoke and they do not use disposal containers. He felt the ordinance will push users back into the closet. He favored keeping Section 2.

Councilmember Enos-Martinez said she deals with the State Liquor Code every day. She wondered if Council is biting off more than it can chew. She does not support minors or adults who smoke. She wondered how much enforcement will be possible.

Councilmember Theobold said Council will rely on the Police Department's good judgement. He felt Council can trust them to recognize the line.

Councilmember Payne said if the ordinance would keep kids from smoking he would support it completely. He didn't see the ordinance eliminating it. Education in the home and community is so important, just as it is with alcohol and drugs. He suggesting trying education first, then come down with the hammer. He agreed with 90% of the ordinance, but did not agree with Section 2a and Section 9. He did not feel the ordinance is enforceable.

Councilmember Scott said putting the hammer down is more effective.

Councilmember Theobold said the purpose of the ordinance is to reduce smoking, not eliminate all violations. Complete compliance with any ordinance is impossible.

Councilmember Kinsey said crimes against other people or the property of others is something government is meant to deal with. Hurting oneself cannot be governed.

Councilmember Enos-Martinez said Council was elected to represent the majority of the citizens of Grand Junction.

Councilmember Payne moved to continue consideration of this ordinance to another meeting. The motion died for lack of a second.

Upon motion by Councilmember Theobold, seconded by Councilmember Sutherland and carried by roll call vote with Councilmembers **ENOS-MARTINEZ, KINSEY** and **PAYNE** voting **NO**, Ordinance No. 3095 was adopted on second reading with the following amendments: eliminating Section 4a III and Section 4 b, amending the warning in 5d to be consistent with Section 9, eliminating Section 8, renumbering the remaining sections, amending Section 9 to include "This it is a petty offense", that jail time and a fine in excess of \$500 does not apply to minors and to add that "in addition to community service a minor might be required to have education," and to add "to possess" in the warning.

The ordinance was ordered published.

Mayor Terry qualified her yes vote by saying she did not support the possession section. She supported Council's effort to do something about this issue. She will watch the enforcement of this ordinance closely and will look for results.

RECESS

A recess was declared at 9:16 p.m. Upon reconvening at 9:28 p.m., all members of Council were present.

PUBLIC HEARING – WELLS ANNEXATION AND ZONING TO C-1 OF PROPERTY LOCATED AT 535 HOOVER DRIVE - RESOLUTION NO. 22-99 ACCEPTING PETITIONS FOR ANNEXATION, MAKING CERTAIN FINDINGS, DETERMINING THAT PROPERTY KNOW AS WELLS ANNEXATION IS ELIGIBLE FOR ANNEXATION - ORDINANCE NO. 3092 ANNEXING TERRITORY TO THE CITY OF GRAND JUNCTION, COLORADO – WELLS ANNEXATION, APPROXIMATELY 1.49 ACRES LOCATED AT 535 HOOVER DRIVE AND A PORTION OF THE I-70 BUSINESS LOOP RIGHT-OF-WAY - ORDINANCE NO. 3093 ZONING WELLS ANNEXATION TO A LIGHT COMMERCIAL (C-1) DISTRICT [FILE #ANX-1998-208]

The 1.49 acre Wells Annexation area consists of one parcel of land and a portion of the I-70 Business Loop right-of-way. Owners of the property have signed a petition for annexation as part of their request to construct a new commercial building greater than 10,000 square feet in size, pursuant to the 1998 Persigo Agreement. The building is currently under construction. Staff recommends a C-1 zoning district.

Mayor Terry opened the public hearing at 9:28 p.m.

Mike Pelletier reviewed this item and the steps being asked for tonight. He located the project for Council's reference. Mr. Pelletier stated that he has signed an affidavit that the annexation complies with State Statutes. He identified the surrounding zones. He related the plan to the Growth Plan. He said Staff recommends a light commercial zone. This zone is the closest zone to an office retail use along the highway. The request meets the criteria of the Zoning and Development Code, Sections 4-4-4 and 4-11. Staff felt the C-1 zone is the best fit for this property.

The petitioner was not present. Mr. Pelletier said the zone has been discussed with the petitioner and they are satisfied with the C-1 zone.

Public comments were then taken.

Mary Huber, 580 ½ Melrose Court, said she took exception to this disconnected annexation. She noted the petitioners have a disclaimer on the petition. She said people are not happy with the Persigo agreement.

Mayor Terry asked Ms. Huber if Mr. & Mrs. Wells had asked her to speak for them? Ms. Huber said no.

Councilmember Theobald asked if people are saying they don't want the Wells property annexed. Ms. Huber said no.

Mayor Terry said if Ms. Huber would furnish her with names of those who are unhappy with the Persigo agreement, Mayor Terry will contact them directly.

Ms. Huber said Mrs. Wells wanted to know what happens to police protection, and at what point is their property protected by Grand Junction Police. Mayor Terry said when the annexation is finally complete and the property is in the City.

Councilmember Sutherland clarified the disclaimer on the petition which Ms. Huber referred to at the bottom of the petition. It states "If the Persigo 201 Agreement becomes or is defined unconstitutional, we wish to be reevaluated on this annexation agreement." It does not say they wish to be removed, but would ask for reevaluation.

There were no other public comments. The public hearing was closed at 9:40 p.m.

Upon motion by Councilmember Theobald, seconded by Councilmember Sutherland and carried by roll call vote, Resolution No. 22-99 was adopted, Ordinance No. 3092 and Ordinance No. 3093 were adopted on second reading and ordered published.

Mayor Terry clarified that the previous motion accepted the petition for annexation, and gave approval of the annexation and zoning ordinances.

PUBLIC HEARING - STEEL, INC. ANNEXATION AND PROPOSED ZONING TO I-2 OF PROPERTY LOCATED AT 2189 RIVER ROAD - RESOLUTION NO. 23-99 ACCEPTING PETITIONS FOR ANNEXATION, MAKING CERTAIN FINDINGS, DETERMINING THAT PROPERTY KNOWN AS STEEL, INC. ANNEXATION IS ELIGIBLE FOR ANNEXATION - ORDINANCE NO. 3094 ANNEXING TERRITORY TO THE CITY OF GRAND JUNCTION, COLORADO - STEEL, INC. ANNEXATION, APPROXIMATELY 4.2 ACRES LOCATED AT 2189 RIVER ROAD AND PORTIONS OF THE RIGHTS-OF-WAY OF U.S. HIGHWAY 50, D&RGW RAILROAD, AND RIVER ROAD - PROPOSED ORDINANCE ZONING STEEL, INC. ANNEXATION LOCATED AT 2189 RIVER ROAD I-2 [FILE #ANX-1998-207]

The 4.2 acre Steel, Inc. Annexation area consists of one parcel of land and portions of the U.S. Highway 6 & 50, D&RGW Railroad and River Road rights-of-way. Owners of the Steel, Inc. property have signed a petition for annexation. A request to zone land which is currently being annexed to the City, consisting of approximately 2.66 acres, from County zoning Planned Industrial (PI) to City zoning of Heavy Industrial (I-2).

A public hearing was held after proper notice. Mayor Terry clarified that this hearing will deal only with accepting the petitions and the annexation ordinance . The zoning ordinance will be considered at the March 3, 1999 meeting.

Kristen Ashbeck, Community Development Department, reviewed this item. The annexation petition meets statutory requirements. A signed affidavit has been presented to the City Clerk. Staff recommends approval of the resolution accepting the petition for annexation and approval of the annexation ordinance. The size of the addition is 17,200 square feet.

There were no public comments. The hearing was closed at 9:44 p.m.

Upon motion by Councilmember Sutherland, seconded by Councilmember Payne and carried by roll call vote, Resolution No. 23-99 was adopted, Ordinance 3094 was adopted on second reading and ordered published, and proposed ordinance on the zoning was passed on first reading with a hearing set for March 3, 1999.

ADJOURNMENT

Mayor Terry adjourned the meeting at 9:45 p.m.

Stephanie Nye, CMC/AAE
City Clerk