

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

March 3, 1999

The City Council of the City of Grand Junction, Colorado, convened into regular session the 3rd day of March, 1999, at 7:31 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, 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 Councilmember Reford Theobold.

RECOGNITION OF LOCAL BOY SCOUT TROOPS

Mayor Terry welcomed Boy Scout Troops 389 and 361 who were present for their merit badge for citizenship in the community.

**PROCLAMATION DECLARING MARCH, 1999 AS “MENTAL RETARDATION/
DEVELOPMENTAL DISABILITIES MONTH” IN THE CITY OF GRAND JUNCTION**

REAPPOINTMENTS TO COMMISSION ON ARTS AND CULTURE

Upon motion by Councilmember Payne, seconded by Councilmember Theobold and carried, Peter Ivanov, Priscilla Rupp and Bill Reidy were reappointed to three year terms on the Commission on the Arts and Culture.

ADMINISTER OATH OF OFFICE TO NEW FIREFIGHTER CHUCK THOMAS

CITIZEN COMMENTS

Re: Regulation of Tobacco Products

Robert Owen spoke on behalf of the teenage population that smokes in Grand Junction. This group is upset as it takes away their rights. They weren't breaking any laws or hurting anyone else. It is their choice. He asked Council to think about them too.

Stephanie Morelli said the law is unfair to them, as teenagers, because they cannot speak until they reach the age of 18. The ordinance was passed for people under 18. They have no voice now. She felt it is wrong for teenagers to smoke because they do know the health risks. She felt a less strict law should be considered with an age limit of 16. She felt they should be able to lead their own lives until they decide to quit smoking.

Nicole Veldarane read an essay regarding the tobacco ordinance. She voiced concern that police will focus on this issue rather than other crime. She suggested other methods (holding tobacco companies accountable for monetary compensation in cases of smoking related illness and death, offering parenting classes to help care providers learn how to persuade patients to remain nicotine-free). She urged Council to consider alternatives before this ordinance is implemented.

Mayor Terry thanked the students for coming to the meeting. She said the ordinance was not implemented lightly. Many public meetings were conducted over the past year and one half on this issue. The ordinance also addresses sales of tobacco and adults providing tobacco. She said Council knows the ordinance won't do it all. The reason there is a sunset provision in the ordinance is to hopefully see some results within 2-4 years. She said Council understands the magnitude of the ordinance, and has not taken it lightly.

Councilmember Theobald said there are a variety of other laws with age requirements. He disagreed with the presumption that there is a younger age where one can make decisions. He said the intent of the ordinance is not to let crimes go unsolved while focusing on tobacco. This ordinance won't be the highest priority, but will act as a tool to aid in implementing the rest of the ordinance. Federal Law prohibits buying as a minor, but does not prohibit possession. He appreciated the group's presentation.

Councilmember Kinsey also thanked the group for coming and said he would save his comments for when this item comes up for consideration on the agenda.

CONSENT ITEMS

Upon motion by Councilmember Payne, seconded by Councilmember Theobald and carried by roll call vote, the following Consent Calendar items 1 through 19 were approved:

1. **Minutes of Previous Meeting**

Action: Approve the Minutes of the Regular Meeting February 17, 1999

2. **Upgrade of Existing VHF Radio System and Enhance Coverage of the Grand Junction Regional Communication Center**

The GJRCC is requesting approval of two (2) contracts for equipment and services as necessary to upgrade the GJRCC existing conventional VHF radio system. Motorola Communications will provide specified equipment costing \$176,214.00; Red Crawfords, Inc. will provide all installation and maintenance services for \$23,000. The upgrade is intended to improve in-building coverage from portable

radios for Police, Sheriff and Fire and to enhance overall coverage within Mesa County.

Action: Award Contracts for Communications Equipment to Upgrade GJRCC VHF Radio System to Motorola Communications in the Amount of \$176,214.00 and for Installation of the Equipment to Red Crawfords, Inc. in the Amount of \$23,000; Total of \$199,214.00

3. **Single Point-to-Point Microwave Radio System**

Microwave Data Systems is the sole-provider of microwave radio equipment in the 960 MHz frequency range. No other microwave equipment is available to meet the specialized application needs of the Grand Junction Regional Communication Center. The total amount is \$47,382 and includes installation by RCI, Inc.

Action: Approve the Sole Source Purchase of Point-to-Point Microwave Radio System in the Amount of \$47,382 from Microwave Data Systems, Rochester, New York which Includes Installation by RCI, Inc.

4. **1999 Bulk Gravel Purchase for Public Works**

The following bids were received from local gravel companies:

Whitewater Building Materials Corp.	\$68,518.75
United Companies of Mesa County	\$69,825.00
Parkerson Construction	\$74,662.50
Grand Junction Ready Mix	\$81,556.25

Action: Approve the Purchase of Bulk Gravel from Whitewater Building Materials Corporation in the Amount of \$68,518.75

5. **City Hall Reconstruction Project**

Two firms submitted proposals and statement of qualifications. A City evaluation committee selected Shaw Construction, Grand Junction. The fee will be \$30,000 plus 12% of the guaranteed-maximum-price for construction related services.

Action: Award Contract for City Hall Reconstruction to Shaw Construction in the Amount Not To Exceed \$30,000 plus 12% of the Guaranteed-Maximum-Price for Construction Related Services

6. **Amend Architect's Contract for Design of City Hall**

The City has an existing contract with FAWHAUS for the design of the City Hall remodel. The change to demolish City Hall will require additional architectural services. The fee will be \$434,780. The existing contract will be amended to add this additional work.

Action: Authorize the City Manager to Sign An Amendment to Architect's Contract for Design of City Hall in the Amount of \$434,780.

7. **South Avenue Reconstruction, 5th Street to 7th Street**

The following bids were received on February 22, 1999:

MM Skyline Contracting, Grd. Jct.	\$478,529.65
M.A. Concrete, Grd. Jct.	\$481,442.02
Sorter Construction, Grd. Jct.	\$482,022.50
United Companies, Grd. Jct.	\$487,592.00
Precision Paving, Grd. Jct.	\$606,586.15
Engineer's Estimate	\$535,127.50

Action: Award Contract for South Avenue Reconstruction to, 5th Street to 7th Street, MM Skyline Contracting in the Amount of \$478,529.65

8. **1999 Water Line Replacements**

The following bids were received on February 18, 1999:

Skyline Contracting, Grand Junction	\$585,275.30
Mountain Valley, Grand Junction	\$596,000.01
Continental Pipeline, Mesa	\$608,183.29
Mendez Construction, Grand Junction	\$635,972.80
Bogue Construction, Fruita	\$771,879.33
M.A. Concrete, Grand Junction	\$774,716.60
Downey Excavating, Montrose	\$796,992.00
Atkins and Associates, Grand Junction	\$982,886.55
Armendariz, Delta	\$985,935.33
Engineer's Estimate	\$687,403.30

Action: Award Contract for 1999 Water Line Replacements to Skyline Contracting in the Amount of \$585,275.30

9. **Twelfth Street Reconstruction – Bonita to Midway Avenue**

The following bids were received from local contractors on February 23, 1999:

	<u>Base Bid</u>	<u>Alternate Bid</u>
M.A. Concrete Construction, G.J.	\$548,441.55	\$477,509.55
Sorter Construction, G.J.	\$580,063.60	\$516,851.80
United Companies, G.J.	\$594,361.10	\$529,153.10
Elam Construction, G.J.	\$594,770.00	\$523,736.00
Engineer's Estimate	\$627,521.30	\$554,651.30

Action: Award of Contract for Twelfth Street Reconstruction – Bonita to Midway Avenue to M.A. Concrete in the Amount of \$477,509.55

10. **1999 Sewer Line Replacements**

The following bids were received on February 23, 1999:

Taylor Constructors, Grand Junction	\$219,907.50
Mountain Valley Contracting, Grand Junction	\$221,298.88
M.A. Concrete Construction, Grand Junction	\$243,527.40
Continental Pipeline Construction, Mesa	\$361,352.88
Engineer's Estimate	\$237,559.50

Action: Award Contract for 1999 Sewer Line Replacement to Taylor Constructors in the Amount of \$219,907.50

11. **Vacating Temporary Drainage, Utility and Turnaround Easements in Westwood Ranch Filing No. 1** [File #FPP-1999-012]

In conjunction with a final plat approved by the Planning Commission, Sonshine Construction LLC has requested to vacate a 47 foot radius temporary turnaround and a temporary drainage and utility easement that was dedicated on Westwood Ranch Filing One. The temporary easements were dedicated on the plat to serve temporary functions until such time as Filing Two was recorded, which negates the need for these easements. The easements to be vacated are replaced with a loop road consisting of Longhorn Street and Shetland Drive, which will function as a through street for traffic and a utility and drainage corridor. The vacation will become effective when Filing Two is recorded.

At its February 9, 1999 hearing the Planning Commission found that the easement vacation conforms to the criteria in Section 8-3 of the Zoning and Development Code and recommended approval of this request.

Resolution No. 25-99 – A Resolution Vacating Temporary Turnaround, Drainage and Utility Easement in Westwood Ranch Subdivision Filing One Located at the Northwest Corner of F 1/2 Road and 25 1/2 Road

Action: Adopt Resolution No. 25-99

12. **Vacating a Drainage Easement in Moonridge Falls, Lot 5A, West of 25 1/2 Road, South of G Road** [File #RP-1998-213]

The applicant is requesting to vacate a drainage easement in conjunction with a previously approved replat of two Lots in Moonridge Falls Subdivision Filing 4. The drainage easement is no longer functioning as such and the lot owner requests vacation to obtain clear title for a tennis court that will encroach into the easement. Staff recommends approval with no conditions.

Resolution No. 26-99 – A Resolution Vacating A Drainage Easement on Moonridge Falls Lot 5A Subdivision, Located on the South Side of Falls View Circle, West of Atchee Lane

Action: Adopt Resolution No. 26-99

13. **Setting Hearings for the Western Slope Warehouse Annexations No. 1, No. 2, No. 3 and No. 4 Located at 380 28 Road** [File #ANX-1999-043]

The 5.99 Acre Western Slope Warehouse Annexation area consists of one parcel of land and a portion of the 28 Road right-of-way. Owners of the property have signed a petition for annexation and will be submitting a development proposal for a warehouse development.

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

Resolution No. 27-99 – 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 – Western Slope Warehouse Annexation, A Serial Annexation Comprising Western Slope Warehouse Annexations No. 1, No. 2, No. 3 and No. 4 Located at 380 28 Road and Including Portions of the 28 Road Right-of-Way

Action: Adopt Resolution No. 27-99 and Set Hearing for April 7, 1999

b. Set Hearings on Annexation Ordinances

(1) Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Western Slope Warehouse Annexation No. 1, Approximately .003 Acres Located in a Portion of the 28 Road Right-of-Way Near C 3/4 Road

(2) Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Western Slope Warehouse Annexation No. 2, Approximately .008 Acres Including a Portion of the 28 Road Right-of-Way near C 3/4 Road

(3) Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Western Slope Warehouse Annexation No. 3, Approximately .02 Acres, Including A Portion of the 28 Road Right-of-Way Near C 3/4 Road

(4) Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Western Slope Warehouse Annexation No. 4, Approximately 5.96 Acres, Including 380 28 Road

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

14. **Setting Hearings for Armantrout Annexation No. 1, No. 2 and No. 3 Located at 274 28 1/2 Road** [File #ANX-1999-045]

The 3.30 Acre Armantrout Annexation area consists of one parcel of land and a portion of the B 1/2 Road and 28 1/2 Road Right-of-Way. Owners of the property have signed a petition for annexation as part of their request for a minor subdivision of the property into two lots.

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

Resolution No. 28-99 – 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 – Armantrout Annexation – A Serial Annexation Comprising Armantrout Annexations No. 1, No. 2 and No. 3 Located at 274 28 1/2 Road and Including Portions of the 28 1/2 Road Right-of-Way

Action: Adopt Resolution No. 28-99 and Set a Hearing for April 7, 1999

b. Set Hearings on Annexation Ordinances

(1) Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Armantrout Annexation No. 1, Approximately 0.007 Acres Located in a Portion of the B 1/2 Road Right-of-Way near 28 1/2 Road

(2) Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Armantrout Annexation No. 2, Approximately .03 Acres, Including a Portion of the B 1/2 Road Right-of-Way Near 28 1/2 Road and a Portion of the 28 1/2 Road Right-of-Way Near B 1/2 Road

(3) Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Armantrout Annexation No. 3, Approximately 3.26 Acres, Including 274 28 1/2 Road and a Portion of the 28 1/2 Road Right-of-Way South of B 3/4 Road

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

15. **Setting Hearings for the Eberhart Annexation No. 1 and No. 2, Located at 543 31 Road** [File #ANX-1999-044]

The 1.43 acre Eberhart Annexation area consists of one parcel of land and a portion of the I-70 Business Loop and 31 Road rights-of-way. Owners of the property have signed a petition for annexation as part of their request to construct a new commercial building, pursuant to the 1998 Persigo Agreement.

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

Resolution No. 29-99 – 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 – Eberhart Annexation, A Serial Annexation Comprising Eberhart Annexations No. 1 and No. 2, Located at 543 31 Road and Including Portions of the I-70 Business Loop and 31 Road Rights-of-Way

Action: Adopt Resolution No. 29-99 and Set a Hearing for April 7, 1999

b. Set Hearings on Annexation Ordinances

(1) Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Eberhart Annexation No. 1, Approximately 0.02 Acres Located In A Portion of the I-70 Business Loop Right-of-Way Near 31 Road

(2) Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Eberhart Annexation No. 2, Approximately 1.41 Acres Located at 543 31 Road and Including A Portion of the I-70 Business Loop Right-of-Way Near 31 Road and A Portion of the 31 Road Right-of-Way

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

16. **Setting Hearings for the Honnen Annexation Located at 2358/2360 I-70 Frontage Road** [File #ANX-1999-040]

The 8.66 acre Honnen Annexation area consists of two parcels of land and a portion of the I-70 right-of-way. The owner of both properties has signed a petition for annexation as part of their request to construct a new commercial building, pursuant to the 1998 Persigo Agreement. The building is currently undergoing site plan review.

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

Resolution No. 30–99 – 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 - Honnen Annexation, Located at 2358/2360 I-70 Frontage Road

Action: Adopt Resolution No. 30–99 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, Honnen Annexation, Approximately 8.66 Acres Located at 2358 and 2360 I-70 Frontage Road

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

17. **Setting a Hearing – Zoning Weaver Annexation, Located at 355 29 Road, RSF-2** [File #ANX-1999-015]

The applicant is requesting a 4 lot minor subdivision on 7.78 acres in a proposed RSF-2 zone district. The RSF-2 zone district is being proposed as the zone of annexation. The 10.95 acre Weaver Annexation area consists of one parcel of land and a portion of the C 1/2 Road right-of-way and is currently in the annexation

process. The minor subdivision request was denied by Planning Commission on February 16, 1999, but is being appealed to City Council on March 17, 1999 by the applicant. Planning Commission recommended approval of the RSF-2 zone district.

Proposed Ordinance Zoning the Weaver Annexation, Located at 355 29 Road, to RSF-2 (Residential Single Family – 2 Units per Acre)

Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for March 17, 1999

18. **Subrecipient Contract for CDBG Funds with the Salvation Army**

This contract formalizes the City's award of \$25,000 to the Salvation Army for operation of the Hope House Shelter. These funds come from the City's 1998 Community Development Block Grant Program.

Action: Authorize the City Manager to Sign the Subrecipient Contract with the Salvation Army

19. **Increase in City Council Compensation**

Salaries for City Council members were last increased in 1987. Section 38 of the City's Charter establishes the monthly salary for the mayor and councilmembers which can be changed only by the city's electors.

Resolution No. 31-99 – A Resolution Placing on the Ballot the Question of an Increase in City Council Compensation

Action: Adopt Resolution No. 31-99

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

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

PROPOSED BALLOT QUESTIONS FOR THE APRIL 6, 1999 MUNICIPAL ELECTION CONCERNING REGULATIONS FOR TOBACCO PRODUCTS AND IMPROVEMENTS TO TWO RIVERS CONVENTION CENTER

Mayor Terry said there will be a three-part discussion on proposed ballot questions. Council has discussed the merits of the issues and two items reflect amendments to the tobacco ordinance. One item reflects a rediscussion of a previous Council decision

regarding funding of Two Rivers Convention Center. The question at hand is whether Council will decide to refer these issues to the voters on the April 6, 1999 ballot. She stated there will not be public comment but will be Council discussion only.

Councilmember Kinsey said he does not do this lightly. A lot of discussion on the tobacco ordinance took place at the last meeting. The final vote was 4-3. The deciding vote was Mayor Terry's, and she indicated some hesitation. He felt that demonstrates how it is viewed in the community. This is not a cut and dry issue. The issue affects the whole City. It affects the way parents relate with their children. It is a step up in activity to regulate something that is not a clear and present danger to the community. Since it is an issue that affects so many, he felt it should be decided by the community. The City Charter allows for this. He wished to place a motion to amend the motion that was previously made and place the question on the ballot and let the voters decide. This issue affects everyone in the City and they ought to have a say.

Councilmember Payne agreed with Councilmember Kinsey. Council was approached a year ago by the special interest group to have cigarettes out of reach of minors, and prohibit the sales of singles. Council stopped short of possession last year. In January, 1999 Council was approached again by this group at a workshop to readdress this issue, and Council listened. The ordinance was on the agenda and it was being written. It was taken to Fruita for adoption. The Ordinance was drafted by the special interest group, not City Staff. There were not numerous public meetings on this issue. He felt Council jumped in way too fast. No one spoke against it at the public hearing, and he wondered if it was a lack of interest, lack of knowledge or lack of notice. Both sides were not heard. He believed in the sales portion of the ordinance, but to make it illegal to possess, and for such a charge to follow a kid around the rest of their life, is unreasonable. How can City Council be judge, jury and freedom riders to get teenage smokers to stop.

Councilmember Enos-Martinez said she has not changed her mind. She is still against the possession section. However, she could not support putting it on the ballot. If it goes on the ballot, then Council is passing an unsure issue.

Councilmember Theobald agreed. He felt Council should not pass something then put it on the ballot to be repealed. He disagreed with Councilmember Payne. The issue had been discussed, and was not adopted in haste. Violation of the ordinance will be a citation, not an arrest. A petty offense such as this is not a crime. It will not haunt them. He agreed with Councilmember Enos-Martinez that the issue is not the merits of the ordinance, but if it should be on the ballot. He said no.

Councilmember Kinsey said he didn't think of putting it on the ballot when he made his decision at the last meeting. He admitted he made a mistake, and would rather look silly by changing his mind and place the question on the ballot, than let a bad law stand.

Councilmember Theobold said this is something Council is supposed to decide as public officials. It is Council's job.

Councilmember Kinsey countered the City Charter makes this decision an option.

Councilmember Sutherland appreciated the Charter provision, but the provision recognizes that times change, not minds change. Certain issues should go to the voters but Council is hired and elected by the citizens to make these decisions. He felt it is a mistake to revisit the issue.

Councilmember Theobold said ballot options "b" and "c" illustrate the can of worms that would be opened. He did not want them to be on the ballot either.

Councilmember Kinsey said "rarely" is not the same as "never."

Mayor Terry respected Councilmember Kinsey's reason for bringing the question before Council. She concurred with Councilmembers Sutherland, Theobold and Enos-Martinez, She reiterated there have been many, many meetings and opportunities for public discussion. Opportunities were there to come forward. Any Councilperson can request more.

Councilmember Kinsey made a motion that the following question be placed on the April 6, 199 municipal election ballot:

"Shall Section 2 of Ordinance No. 3095 which prohibits possession of tobacco by minors be repealed?"

The motion was seconded by Councilmember Enos-Martinez. Roll call vote was called on the motion with the following result:

AYE: KINSEY, PAYNE

NO: THEOBOLD, ENOS-MARTINEZ, SUTHERLAND, TERRY.

The motion failed to pass.

Councilmember Theobold requested that items "b" and "c" be withdrawn as it was he who asked that they be placed on the agenda. Council concurred.

PROCESS FOR GROWTH PLAN REVIEW AND AMENDMENT

The Growth Plan calls for the City and County to enter into an intergovernmental agreement for processing and deciding upon amendments to the Joint Urban Area Plan.

The agreement provides an interim process that will be used until the City and County update their respective codes to include a permanent process.

Scott Harrington, Community Development Director, reviewed this item. He reviewed the history of the agreement with the County, the purpose and the highlights. The purpose of the agreement is to do everything possible to maintain an identical plan. The agreement will state who will take what type of action depending on where an amendment is. The Administrative Regulation covers frequency of amendment cycles and who in the City will be taking final action on behalf of the City. The advantage of doing an Administrative Regulation, as opposed to putting all the detail in the agreement, is that the County may decide to have a different schedule for plan amendments, or different frequency. The County Planning Commission makes all the County's decisions regarding the plan, whereas City Council is still very much involved in plan amendments.

Dan Wilson, City Attorney, then outlined all the changes as a result of the discussion on Monday night at the workshop. He explained the appeal process.

Councilmember Theobald asked about the process of adopting and amending Administrative Regulations. City Attorney Wilson said any Department Director has the authorization through delegation from the City Manager. When a regulation has been given a 10-day notice and has been posted, it becomes a regulation.

Councilmember Theobald asked if Council is supposed to get a copy of these regulations. City Attorney Wilson said that has not happened. He said Council will receive copies of all administrative regulations in the future.

Mayor Terry asked for clarification on some of the points, particularly what is final and what can be appealed. Mr. Harrington said final action by the Planning Commission would only apply to the joint urban planning area for property that would not be subject to annexation. She asked that #6 of the Administrative Regulation be clarified. Mr. Harrington said when the Planning Commission takes the final action, it cannot be appealed. He said appeals can take place on property that is already in the City or property in the County which is subject to annexation, or when the Planning Commission recommendation is denial. It would stop it from moving forward, unless it were appealed, then Council's action would be final.

Terry Brahmstead, 2263 Broadway, asked for clarification of Item #1, that is, if the application automatically includes the criteria. City Attorney Wilson said yes.

There were no other public comments. The hearing was closed at 8:30 p.m.

Upon motion by Councilmember Kinsey, seconded by Councilmember Theobald and carried, the Mayor was Authorized to Sign the Agreement with Mesa County Providing for

an Interim Joint Plan Consistency Review and Plan Amendment Process for the Joint Urban Area Plan.

PUBLIC HEARING - REZONE OF OTT MINOR SUBDIVISION LOCATED AT 2200/2202 N. 17TH STREET FROM RSF-8 TO RMF-16 - ORDINANCE NO. 3096 REZONING LAND LOCATED AT THE NORTHEAST CORNER OF WALNUT STREET AND 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).

The hearing was opened at 8:30 p.m.

Petitioner Nancy Ott explained the reason for the request. Both structures are on the same tax schedule which makes it difficult. The split has occurred and it will be rezoned again after the new code. Currently it is a non-conforming use.

Lori Bowers, Community Development Department, displayed a map that located the property. She said the Growth Plan recommends RMF-24. Staff recommends RMF-16 which is still non-conforming, but better meets the current Zoning & Development Guidelines. Criteria in Section 4-4-4 of the Zoning & Development Code is met. Staff and Planning Commission recommend approval of the rezone.

Mayor Terry wanted to know why this rezone is being requested now instead of waiting until the Zoning Code is adopted in a few months. Ms. Bowers stated it gives Ms. Ott the opportunity to sell the property and the rezone makes the property less non-conforming.

Mayor Terry asked if a sale is pending.

Councilmember Theobald asked if there is a time element to do the rezone now. Ms. Bowers did not know.

Councilmember Theobald asked if the RMF-24 met the Growth Plan. Ms Bowers said yes.

There were no other comments. The public hearing was closed at 8:37 p.m.

Upon motion by Councilmember Theobald, seconded by Councilmember Enos-Martinez and carried by roll call vote, Ordinance No. 3096 was adopted on second reading and ordered published.

PUBLIC HEARING – APPEAL OF PLANNING COMMISSION DECISION TO REQUIRE FRONTAGE LANDSCAPING AS PART OF CONDITIONAL USE PERMIT

[FILE #CUP-1998-172]

The applicant is appealing a Planning Commission decision to require frontage landscaping as part of a Conditional Use Permit that was granted for outside storage of road material. The requirement is a typical landscaping requirement for any commercial development. The applicant would like the landscaping requirement to be waived on the basis of Ute Water's policy not to provide domestic water for primarily irrigation purposes.

Wallace Downer spoke representing the owners of property at 23 and G Roads. He said the Planning Commission has required landscaping and irrigation. Irrigation is not available at that location. There is a water tap on the property, however Ute Water's policy will not provide water for irrigation purposes. The irrigation will violate Ute Water's policy and no landscaping will violate the City's policy. He is the current President of the Ute Water Board, but excused himself from their discussion regarding the water tap.

City Attorney Wilson said he attended that meeting. Ute Water's concern is to try to conserve treated water. They are trying to develop a policy to address the issue within the next 60 days, for approval by Ute Water and the City. Ute Water has a tap there, and it could be used for irrigation.

Councilmember Theobald said Ute's policy makes sense. Ute Water was created as a rural provider but growth has occurred and a lot of customers use Ute water for irrigation. He agreed with using the existing tap.

City Attorney Dan Wilson said there is untreated water available. Mr. Downer could buy shares from the Grand Valley Irrigation Company. Councilmember Theobald said that irrigation water is available at 24 and G Roads, nearly a mile away.

Mayor Terry asked Mr. Downer if he meant there is no untreated irrigation water available adjacent to his property. Mr. Downer said no irrigation water was purchased with the property. The ditches have long been abandoned.

Councilmember Theobald asked if 24 and G Road is the nearest location of irrigation water. Mr. Downer said there may be some closer.

Councilmember Payne asked if the City is requiring 3000 square feet (600' x 5') of landscaping. Mr. Downer said it is more than 5' wide, although the volume of water is immaterial. This is a temporary use, and the property eventually will be put to a better use.

Mike Pelletier, Community Development Department, gave more background on the Conditional Use Permit. The site has been there for five years and the owners didn't know they needed a Conditional Use Permit. A neighborhood complaint initiated an investigation. The owners have complied with all the requirements except the landscaping. He delineated where the landscaping will go. The main water requirement will be for the trees and shrubs in a five-foot strip on the frontage and then around ten feet will need a native grass mix along the right-of-way. There are no exceptional conditions on the site and Staff doesn't feel the Ute Policy is an exceptional condition as there is a useable water tap on the site. There is no undue hardship caused because of such a small amount of landscaping required.

Councilmember Sutherland asked Mr. Pelletier to explain what zone districts Section 5-4-15 (landscaping) of the Zoning & Development Code applies to, and how broadly it is applied. Mr. Pelletier read the section and referred to the administrative regulation regarding what types of landscaping must go in the right-of-way. "The property owner is required to landscape the entire area within the public right-of-way, and may, with written approval of the Administrator, place up to 15% of the required landscaping for the parcel in a right-of-way to satisfy this requirement."

Councilmember Sutherland asked if the administrator can decide that by landscaping the right-of-way portion, it can be supplemented for a different location. Mr. Pelletier did not think so. City Attorney Wilson concurred.

Councilmember Sutherland asked if it applies to all zone districts. Mr. Pelletier said yes.

Councilmember Kinsey asked for a review of the sequence of events that brought the need for a Conditional Use Permit to the attention of the Community Development Department. Mr. Pelletier said there were stored materials on the property that housed rats. The mobile home park next door prohibited cats, and a resident of the mobile home park complained. The City's investigation led to the need for a Conditional Use Permit. The owners were then advised they needed to be compliant and to solve the rat problem. They complied with all the requirements but landscaping.

Mayor Terry solicited public comments at this time.

Craig Roberts, Ciavonne & Associates, 844 Grand Avenue, said in considering potable water and irrigation water, it can be very expensive. The City has dealt with a similar situation on the 12th and Horizon roundabout. Potable water is easier to use in small areas. Use of irrigation water is costly, If Ute Water is allowing for development, the landscaping is part of that development.

Councilmember Kinsey noted it is not the same as drip irrigation on a small piece of landscape.

The hearing was closed at 9:02 p.m.

Councilmember Sutherland said since the tap is there, no undue hardship is being caused. There is a difference between a policy and the City Code. He agreed with Mr. Roberts when considering small areas of landscaping. Council must stand by the Code requirements, and not set a precedent. Councilmember Theobald agreed.

Councilmember Payne also agreed with Councilmember Sutherland. He couldn't see waiving the requirement. If the water were not available, it could be considered a hardship. He felt the storage area is an eyesore. Landscaping requirements are reasonable.

Councilmember Theobald said any future use may also need the landscaping.

Mayor Terry asked for clarity of the current negotiations between Ute Water and the City. City Attorney Wilson said the issue is one of potable water versus untreated (dirty) water and he hopes to bring that forward.

Mayor Terry said she would have to support the Code. She was sorry Mr. Downer has the conflict of upholding Ute Water's policy.

Upon motion by Councilmember Payne, seconded by Councilmember Kinsey and carried by roll call vote, the appeal was denied.

RECESS

A 10-minute recess was declared at 9:10 p.m. Upon reconvening at 9:20 p.m., the same members of Council were present.

Mayor Terry asked for a change in the agenda due to the illness of some people present for Elite Towing.

PUBLIC HEARING - ELITE TOWING ANNEXATION AND ZONING LOCATED AT 2796 WINTERS AVENUE - RESOLUTION NO. 33-99 ACCEPTING PETITIONS FOR ANNEXATION, MAKING CERTAIN FINDINGS, DETERMINING THAT PROPERTY KNOWN AS ELITE TOWING ANNEXATIONS NO. 1, NO. 2 AND NO. 3 ARE ELIGIBLE FOR ANNEXATION - ORDINANCE NO. 3101 ANNEXING TERRITORY TO THE CITY OF GRAND JUNCTION, COLORADO - ELITE TOWING ANNEXATION NO. 1, APPROXIMATELY 0.33 ACRES LOCATED ALONG THE 27 1/2 ROAD AND C 1/2 ROAD RIGHTS-OF-WAY - ORDINANCE NO. 3102 ANNEXING TERRITORY TO THE CITY OF GRAND JUNCTION, COLORADO - ELITE TOWING ANNEXATION NO. 2, APPROXIMATELY .071 ACRES LOCATED ALONG THE 27 1/2 ROAD AND C 1/2 ROAD

RIGHTS-OF-WAY - ORDINANCE NO. 3103 ANNEXING TERRITORY TO THE CITY OF GRAND JUNCTION, COLORADO – ELITE TOWING ANNEXATION NO. 3, APPROXIMATELY 1.868 ACRES LOCATED ALONG THE 27 ½ ROAD, C ½ ROAD AND 28 ROAD RIGHTS-OF-WAY AND AT 2796 WINTERS AVENUE - ORDINANCE NO. 3104 ZONING THE ELITE TOWING ANNEXATION TO A HEAVY INDUSTRIAL (I-2) DISTRICT [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 the 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.

The hearing was opened 9:20 p.m.

Shane Daniels, 260 E. Danbury, the owner of Elite Towing located at 2696 Winters Avenue, said he was here because of the Persigo Agreement which triggered the annexation since he now needs an additional building.

Lori Bowers, Community Development Department, reviewed this item. Staff feels the annexation petition meets the requirements of the Annexation Act and the zoning request complies with Section 4-11 and Section 4-4-4 of the Zoning & Development Code. Staff recommends acceptance of the petition for annexation. Staff and the Planning Commission recommends the zoning designation of I-2 for the Elite Towing Annexation.

Councilmember Sutherland asked if the property borders the Colorado River. Ms. Bowers said it does not. She identified the location of the property for Council.

There were no public comments. The hearing was closed at 9:25 p.m.

Upon motion by Councilmember Theobald, seconded by Councilmember Payne and carried by roll call vote, Resolution No. 33-99 was adopted, Ordinances No. 3101, 3102 and 3103 were adopted on second reading and ordered published.

Upon motion by Councilmember Kinsey, seconded by Councilmember Enos-Martinez and carried by roll call vote, Ordinance No 3104 was adopted on second reading and ordered published.

PUBLIC HEARING - 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 - ORDINANCE NO. 3107 – AN 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 [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.

The hearing was opened at 9:26 p.m.

Craig Roberts, Ciavonne & Associates, 844 Grand Avenue, reviewed the plan and said the reason for the request is to be able to incorporate the open space in the plan.

Bill Nebeker, Community Development Department, reviewed this item. The request is in conformance with the Growth Plan and Section 4-4-4 of the Zoning & Development Code. The applicant desires to add this to the existing filings of Canyon View Subdivision 1-6, and to share the same Homeowners Association. Staff recommends approval.

Mayor Terry asked if the addition is acceptable to the homeowners association. Mr. Nebeker said the Homeowners Association likes the idea, although it won't be official until the covenants are recorded.

Mayor Terry solicited public comments at this time.

Chris Mcanany spoke on behalf of Raymond Riley who owns a 35-acre parcel adjacent to the west boundaries of this property. He requested some relief from Council. He said Mr. Riley has requested before the Planning Commission that the Preliminary Plat include access to his property. That request has not been approved. The Code gives Council authority to readdress and grant a rezone with conditions. They are requesting to attach some conditions to the rezone that will address the access problem. There is compatibility with the surrounding area and there is no adverse impact. Mr. Riley needs access to the other developable property. He is asking for conditions for the rezone. Staff has recommended access to the Sutton property on the north. Mr. Mcanany is asking for the same consideration.

City Attorney Wilson asked if the property is outside the 201 Boundary. Mr. Mcanany said no.

City Attorney Wilson asked if it is intended that this property be excluded. Mr. Mcanany said it is scheduled for deletion. Mr. Wilson said he appreciated the distinction.

Mr. Mcanany said the 201 Boundary does not define the limit of developable growth. The intention for the property is a low density residential development. The lots are 5 acres. It is not a high intensity development which would drive the requirement for a sewer connection. Councilmember Theobald said it is better for Mr. Mcanany's client to be outside the 201 Boundary to get the 5 acre density. He asked if there is no current legal access to the property. Mr. Mcanany said there is easement access through the lower, earlier filings of Canyon View. He pointed it out on the map.

City Attorney Wilson said an attempt was made with Mr. Riley to trade access for the right to share a detention area. Mr. Riley chose not to trade, so plans were made otherwise. Mr. Mcanany needs to make it clear there were multiple attempts to get the cooperation of Mr. Riley. The Planning Commission didn't want to hold up Mr. Thomas due to Mr. Riley's last minute attempt.

Mayor Terry asked if Council has the authority to require access. City Attorney Wilson said the zoning is not an issue. Mr. Nebeker said the preliminary plan was approved and not appealed.

Mr. Mcanany said they are asking for extraordinary relief per the Zoning & Development Code, Section 4-4-2(e) which authorizes the Council, in a rezoning application, the authority to grant the application, deny the application, or grant with conditions. They are asking Council to grant a condition where the Final Plat reflects some method of access through the parcel.

Mayor Terry asked if Council can hear that request. City Attorney Wilson said that section of the Code has never been interpreted that way when the preliminary plan has been approved. It could be if construed in the broadest sense.

Mayor Terry asked for a legal recommendation on this request. City Attorney Wilson recommended Council not hear it. It is unfair to the applicant.

Councilmember Theobald said tonight's zoning and the approved preliminary plan were both heard by the Planning Commission at the same time.

Mr. Mcanany said his client is not coming in at a late date.

Mayor Terry asked why the preliminary plan was not appealed. Mr. Mcanany said he did not think it was right until a final decision on the final plan.

Mr. Mcanany asked Council to consider this issue because he felt there are some compelling circumstances which were not addressed fairly before the Planning Commission.

Mayor Terry asked the City Attorney if this can be discussed at final plat. City Attorney Wilson said no.

Councilmember Theobold asked if the request for a roadway access can be added before final plan if the petitioner wants to add it. City Attorney Wilson said yes.

Councilmember Theobold asked Mr. Mcanany if the applicant wants to negotiate for the access. Mr. Mcanany said his client has talked to neighboring property owners. There is a problem with storm water drainage in that subdivision, and the parties are still talking. His client has not been completely indifferent and has not approached any of the parties.

Councilmember Sutherland asked if this filing provides access to the Sutton property. Mr. Mcanany said yes, the Sutton property and the Koski property.

Councilmember Theobold said the time has passed to address this request. He urged Mr. Mcanany's client to begin negotiations in earnest.

Mayor Terry felt Council cannot address this.

Councilmember Theobold suggested Mr. Mackanany's client may have received bad advice not to appeal earlier.

Councilmember Payne suggested Mr. Mackanany's client negotiate immediately with the Suttons and get access to his property when it's developed.

Petitioner John Thomas, 321 Quail Drive, wanted to assure Council every effort will be made on his part, and the Koski's to negotiate with Mr. Riley. Something will be worked out. He appreciated the opportunity to negotiate.

There were no other comments. The hearing was closed at 9:56 p.m.

Councilmember Kinsey inquired how long is the period of time to appeal? Mr. Nebeker said three days on the preliminary plan.

Upon motion by Councilmember Payne, seconded by Councilmember Enos-Martinez and carried by roll call vote, Ordinance No. 3107 was adopted on second reading and ordered published.

PUBLIC HEARINGS - FRUITVALE MEADOWS ANNEXATION AND ZONING LOCATED AT 3076 D 1/2 ROAD - RESOLUTION NO. 32-99 ACCEPTING PETITIONS FOR ANNEXATION, MAKING CERTAIN FINDINGS, DETERMINING THAT PROPERTY KNOWN AS FRUITVALE MEADOWS ANNEXATIONS NO. 1, NO. 2 AND NO. 3 ARE ELIGIBLE FOR ANNEXATION - ORDINANCE NO. 3097 ANNEXING

TERRITORY TO THE CITY OF GRAND JUNCTION, COLORADO – FRUITVALE MEADOWS ANNEXATION NO. 1, APPROXIMATELY .061 ACRES LOCATED ALONG 30 ROAD RIGHT-OF-WAY - ORDINANCE NO. 3098 – AN ORDINANCE ANNEXING TERRITORY TO THE CITY OF GRAND JUNCTION, COLORADO – FRUITVALE MEADOWS ANNEXATION NO. 2, APPROXIMATELY 9.76 ACRES LOCATED ALONG THE 30 ROAD, D ½ ROAD AND 30 ¾ ROAD RIGHTS-OF-WAY AND A PORTION OF THE PARCEL AT 3076 D ½ ROAD - ORDINANCE NO. 3099 ANNEXING TERRITORY TO THE CITY OF GRAND JUNCTION, COLORADO – FRUITVALE MEADOWS ANNEXATION NO. 3, APPROXIMATELY 3.21 ACRES LOCATED ALONG THE D ½ ROAD AND 30 ¾ ROAD RIGHTS-OF-WAY AND AT 3076 D ½ ROAD – ORDINANCE NO. 3100 ZONING FRUITVALE MEADOWS ANNEXATION TO RSF-5
[FILE #ANX-1999-018]

The Fruitvale Meadows Annexation, consists of 11.211 acres. Owners of the property have signed a petition for annexation as part of their request to subdivide the property. The property 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.

Ken Heitt, 2239 Rimrock Road, representing the petitioner, gave a history of the proposal and his efforts with the County including the rezoning. In November, 1997 the property was rezoned from AFT to R-1-C. The rezone criteria was met at that time. There were no negative comments from the utility providers, service providers or neighbors. The County Commissioners were concerned with the adopted Growth Plan Land Use Map in the area that calls for one-half to two-acre lots, beginning at 30 ¾ Road which is the west boundary of this property. The County Commissioners determined that Fruitvale Meadows was a good infill project and was compatible with the surrounding development. They also determined that the Land Use Map was in error. They granted the R-1-C zoning and instructed County Planning to reconsider the Land Use Map in that area and propose map amendments as soon as possible. They went through the entire process last summer, and because of delays, they were also caught in the wake of the Persigo Agreement. The RSF-5 City zone was most similar to the R-1-C zone. They then filed the subdivision packet with the City.

Kathy Portner, Community Development Department, said there is a correction to the acreage shown for Fruitvale Meadows Annexation No. 2, Ordinance No. 3098. That acreage should be 7.94 acres. It should also be corrected in the resolution. The affidavit of compliance with the State Statutes has been filed with the City Clerk. The RSF-5 zoning, which is most comparable to the County R-1-C zone, meets the criteria of Section 4-4-4 of the Zoning & Development Code. County Staff has been instructed by their Planning Commission to bring forth an amendment to the adopted Land Use Map component of the Growth Plan for discussion during their first step in amending. City Staff agrees the 4-8 units per acre is more appropriate for this area. Staff and Planning Commission recommend approval of the RSF-5 zone.

Mary Huber, 580 ½ Melrose Court, said the publication was not published accurately. She contacted the legal notice department at The Daily Sentinel. She wondered if the inaccurate publication affects the legality of the publication. City Attorney said it does not. City Clerk Stephanie Nye explained it could be formatting that is lost in the e-mail process. Councilmember Theobald said he would like to find out how it's happening so it can be resolved.

There were no other comments. The hearing was closed at 10:08 p.m.

Upon motion by Councilmember Sutherland, seconded by Councilmember Payne and carried by roll call vote, Resolution No. 32-99 was adopted, and Ordinances No. 3097, 3098 and 3099 were adopted on second reading and ordered published.

Upon motion by Councilmember Payne, seconded by Councilmember Sutherland and carried by roll call vote, Ordinance No. 3100 was adopted on second reading and ordered published.

PUBLIC HEARING - DIAMOND RIDGE ANNEXATION AND ZONING LOCATED AT 2520 F ½ ROAD - RESOLUTION NO. 34-99 ACCEPTING A PETITION FOR ANNEXATION, MAKING CERTAIN FINDINGS, DETERMINING THAT PROPERTY KNOWN AS THE DIAMOND RIDGE ANNEXATION IS ELIGIBLE FOR ANNEXATION - ORDINANCE NO. 3105 ANNEXING TERRITORY TO THE CITY OF GRAND JUNCTION, COLORADO – DIAMOND RIDGE ANNEXATION, APPROXIMATELY 15.36 ACRES LOCATED ALONG THE F ½ ROAD RIGHT-OF-WAY AND AT 2520 F ½ ROAD - PROPOSED ORDINANCE ZONING DIAMOND RIDGE ANNEXATION LOCATED AT 2520 F 1/2 ROAD TO PR-4.2

[FILE #ANX-1999-008]

The 15.36 acre Diamond Ridge Annexation area consists of one parcel of land and F ½ Road right-of-way. The owner of the Diamond Ridge property has signed a petition for annexation. The developer is proposing 61 single family residential lots (including the existing home) in a planned zone of 4.2 units per acre (PR-4.2).

The hearing was opened at 10:09 p.m.

Kathy Portner, Community Development Department, reviewed this item. An Affidavit stating compliance with State Statutes was submitted to the City Clerk.

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

Upon motion by Councilmember Payne, seconded by Councilmember Theobold and carried by roll call vote, Resolution No. 34-99 was adopted, and Ordinance No. 3105 was adopted on second reading and ordered published.

Upon motion by Councilmember Sutherland, seconded by Councilmember Enos-Martinez and carried by roll call vote, the Proposed Ordinance Zoning Diamond Ridge Annexation Located at 2520 F 1/2 Road to PR-4.2 was adopted on first reading, ordered published and a hearing was set for March 17, 1999.

PUBLIC HEARING - ZONING OF STEEL, INC. ANNEXATION TO I-2, PROPERTY LOCATED AT 2189 RIVER ROAD - ORDINANCE NO. 3106 ZONING THE STEEL, INC. ANNEXATION LOCATED AT 2189 RIVER ROAD TO I-2 [FILE #ANX-1998-207]

Request to zone land which was recently annexed to the City of Grand Junction, consisting of approximately 2.66 acres, from County Zoning Planned Industrial (PI) to City Zoning of Heavy Industrial (I-2).

A hearing was opened at 10:11 p.m. Kathy Portner, Community Development Department, reviewed this item. The request meets the criteria of the Zoning & Development Code and Staff recommends the I-2 zoning. She submitted a letter from the petitioner accepting the I-2 zoning.

There were no other comments. The hearing was closed at 10:13 p.m.

Upon motion by Councilmember Theobold, seconded by Councilmember Enos-Martinez and carried by roll call vote, Ordinance No. 3106 was adopted on second reading and ordered published.

ADJOURNMENT

The meeting was adjourned at 10:14 p.m.

Stephanie Nye, CMC/AAE
City Clerk