

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

September 1, 1999

The City Council of the City of Grand Junction, Colorado, convened into regular session the 1st day of September, 1999, at 7:33 p.m. at Two Rivers Convention Center. Those present were Cindy Enos-Martinez, Earl Payne, Jack Scott, Jim Spehar, Janet Terry, Reford Theobald, and President of the Council Gene Kinsey. Also present were Assistant City Manager David Varley, City Attorney Dan Wilson, and City Clerk Stephanie Nye.

Council President Kinsey called the meeting to order and Councilmember Payne led in the Pledge of Allegiance. The audience remained standing during the invocation by Rev. Gerald Holmquist, Turkish World Outreach.

CITIZEN COMMENTS

Landlord/Tenant Board

Don Benson, Fruita Times Newspaper, living in Grand Junction, wanted a tenant/landlord board formed by the Grand Junction City Council. He felt it was necessary in Grand Junction. He said he would like to serve on the board.

Mayor Kinsey said he would be in contact with Mr. Benson.

Urruty Handball Court

Maggie Doyhenard, 2329 I Road, spoke regarding the Parks & Recreation Board decision to demolish the Urruty Handball Court at Canyon View Park. She said there were 900 signatures on an informal petition wanting to keep the handball court at 24 and G Roads. The Parks Department was responsive to the Basques and their desire to renovate and upgrade the structure with landscaping at the site. The Parks Board would not consider the alternatives or advice from the Parks Department, and voted for demolition of the court at its August 19th meeting. At an August 10th meeting, Parks & Recreation Director Joe Stevens estimated it would cost \$50,000 for upgrade work and asked if the Basque group would agree to split the estimated cost even though the Basque group neither requested nor expect public funding for the project. They had gathered \$25,000 in pledges and in-kind services to foot the bill for the restoration without public funding. The Basques are making a \$50,000 contribution to the Parks & Recreation Department. She recently obtained a copy of the future Park Design Plan and discovered parking is not the issue, a planned access road leading to the new section of the parking lot is the issue. The road runs too close to the northeast corner of the Basque handball court. Ms. Doyhenard met with Park Planner Shawn Cooper and worked to come up with a plan that

would make everyone happy. The curvature of the planned access road could easily be altered, and with some minor modifications (the two flower planters), the access road could be drawn away from the handball courts and would still be safe and easy for motorists to navigate in and out of the new parking lot. She asked City Council to consider keeping this one of a kind handball court to remind Colorado of the Basque culture.

Mona Dyer, said the Urruty handball courts hold many happy memories for her family. It is viewed as a symbol of the Basque culture. The Basque-built structure is the only one of its kind, both in its architecture and in its meaning to the Basque community. As the issue is the position of the proposed access road, Ms. Dyer suggested screening the bold architecture and restoring the old court to a condition of beauty and pride. She asked Council to let the Basque group work to renovate the court. It can't be replaced.

Bruce Ricks, 2949 B Road, neither a Basque nor a handball player, felt the issue is the culture and history. He is a businessman and has lived in Grand Junction 24 years. He remembers when the court was built, and the pride in the Basque community at that time. History, culture and art are subjects of importance. He expressed appreciation of ethnic diversity which is being taught in the local high schools. He felt setting examples of such appreciation is a much better teacher.

Allan Workman, 1873 Deer Park Circle South, wanted to find a solution that would allow the community to retain the Urruty Plaza Handball Court as part of Canyon View Park. The handball court is a celebration of the diversity and cultural heritage in Grand Junction and the Grand Valley.

Mayor Kinsey stated the Council has read the material and is prepared to speak to this issue after all the comments have been taken.

J. Quentin Jones, 2491 E. Harbor Circle, representing the Mesa County Historical Society and himself, gave some history of the Basque people and particularly some prominent Basque members of the community. He wanted newcomers as well as old timers to find something of the past in the community, not only in the museum and library, but also in public places. He said the Historical Society feels the court is far more valuable to the City than anything that might take its place.

Rusty Ludwig lives on the Redlands and was spokesperson for the handball community. He thanked the Parks & Recreation Department for working with his group. The court is functional and they still play handball. He supported the preservation of the court.

Ann Gould stated she came to Grand Junction 1965. The Basque people here were part of a unique group. They are a people who live in northern Spain and western France, an area that is similar to Grand Junction. Gene Urruty was a historical figure and was

featured on the cover of The Rocky Mountain magazine in 1981. The Basque speak a unique language. She asked for preservation of this unique and valuable asset.

Linda Stone, 644 ½ Meadowood Street, a Grand Junction native, was glad the court was kept. It makes Canyon View Park unique, and could be a tourist attraction. She pointed out that many people support keeping the structure and are happy so many people are striving to keep it.

Carol Velasquez, 623 Logan, Palisade, Ms. Urruty's sister-in-law. Ms. Urruty was unable to attend tonight's meeting so Ms. Velasquez expressed her views. She supports keeping the handball court and understood when she sold property that the court would remain.

The Mayor closed the public comment section.

Councilmember Theobald asked for representatives from the Parks Board and Staff to address the new drawing.

Councilmember Terry wanted to hear what has happened on this issue and the earlier deliberations.

Joe Stevens, Parks & Recreation Director, gave some background. The drawing referred to by Ms. Doyhenard is not a new drawing. It is a drawing of the proposed parking lot as proposed in the original Master Plan for Canyon View Park with the handball court overlaid. They looked at the drawing from different perspectives, with many options discussed. The Master Plan was started in 1994. A 33-member task force had 37 to 38 meetings, but never specifically addressed the Urruty corner. Life estate was in effect on 39 acres of the parkland until Gene Urruty passed away. From 1994 until late 1998 there was little discussion on the handball court. When the City started to add the three new soccer fields, the need for 150 more parking spaces was discovered. Handball enthusiasts met with Parks staff and the Parks & Recreation Advisory Board and discussed handball concerns with options that included building two new handball courts at a different location and commemorating the site as a memorial and/or integrating some aspect in the new handball courts to commemorate the Basques and their contribution to the community. They thought they had an equitable solution. The Parks & Recreation Advisory Board listened and made some tough decisions. They've tried to be sensitive to the issue.

Jamie Hamilton, Chairman of the Parks & Recreation Board, said it was difficult to be in this position. The Board appreciates the cultural heritage, but there was no stipulation in the sale on the handball court. At the 37 Parks Task Force board meetings there was no mention of keeping the handball court at that location. The site can be historical without

the structure. The Parks Board feels the court does not fit in with the Master Plan of what they've tried to do at Canyon View Park.

Councilmember Terry noted the existing handball court is not regulation size and wondered if that is important. Jamie Hamilton said the City's legal counsel does not feel it is functional as a public facility without a considerable amount of work. Joe Stevens said the size is not relevant to the Basque community. The court will not meet the standards. The handball enthusiasts wanted two courts of regulation size and planned to raise funding for lighting in the future.

Councilmember Scott asked if the handball courts to be built will allow the Basque people to play, because the ball they use tears up the walls. Joe Stevens said the design for the outdoor structure varies considerably from the indoor court. The outdoor courts could be designed able to allow the Basque equipment to be used.

Councilmember Scott asked if there was a clause in the sale contract saying the City would retain the handball court after purchase. Joe Stevens said there was the life estate only, and no other conditions on the sale.

Councilmember Spehar asked what it will take to restore the structure, if there are any safety issues, and any cost estimates for renovations. Joe Stevens said the structure is very substantial and sound, but it was built for individual utilization. His department has been upgrading all the playgrounds to meet today's standards. The Urruty structure has angle iron, protrusions, etc. A cursory evaluation was performed by the City's risk manager with a suggestion that further evaluation is necessary. They would also need a structural engineer to evaluate it. The estimated \$50,000 is the cost to develop the two regulation handball courts and existing parking. A stand-alone facility might need more parking, restrooms, landscaping and buffering, and would increase that estimated cost.

Councilmember Enos-Martinez asked if the structure can be moved. Joe Stevens said crane operators have said it would be difficult to move it any distance because of the way it's constructed. Moving it in sections, or a few feet (50' to 100') is feasible. The new handball courts are to be south of the Long property, an open field. It would take advantage of existing parking. The Urruty handball court location is the second major entry into Canyon View Park. Eventually there will be three entrances to the park.

Councilmember Terry said the important thing is the preservation of the cultural heritage. She asked if there is a way of preserving a portion of the existing court and moving it to the site of the new courts. Joe Stevens said he thought it would be possible.

Councilmember Spehar asked if there are other issues with that particular location. Joe Stevens said it can be made to work with the safety issue. There are concerns with

design standards for the entry and parking lot that can be addressed. They can look at those configurations again.

Councilmember Spehar asked if the court is retained, and a second court is added in that location, would that cause problems. Joe Stevens said it can be done. Sun orientation can play into the design as well as the aesthetics and how it ties into the integrity of Canyon View Park. Councilmember Spehar commented it can be made to work, but may not be ideal.

Councilmember Theobald asked what is the intended use of that corner if the court is not there. Joe Stevens said it is a major focal point at 24 and G Roads, so a lot of landscaping is planned for incorporation into the park.

Councilmember Payne said there is also a drainage ditch and bridge that will limit the use of the corner. Mr. Stevens said there are some limitations, and they don't want it to look like an appendage. They want it to look as though it belongs in the park as Canyon View is a unique park.

Councilmember Theobald said if Council decides to leave the court, what would be done planning wise. Mr. Stevens said there is more demand with two regulation courts, and they should be in the same location.

Councilmember Theobald said if the Urruty court stays, it becomes the only one and no others will be constructed. Mr. Stevens said that's possible. Other changes have been made to the original Master Plan such as a second baseball field, a big modification to the plan. Funding came from sources other than the City. The modification was done early in the Master Plan making sure it worked well.

Councilmember Spehar asked for some specifics on ways of memorializing the culture. Jamie Hamilton said there are no specific plans, but something similar to what they did at Coors Field using the old bricks. The Parks Board just wanted to have the opportunity to work with the Basques, but had nothing specific in mind.

Councilmember Spehar asked what the effect on parking and soccer activity if the court is left and one additional court is constructed. Joe Stevens said they can work with it but the question is how does it look and integrate with the rest of the park, and safety issues. They can still get 150 more spaces there, although it doesn't work as effectively as in the Master Plan.

Councilmember Terry said her initial thought was why not, but then the fiscal responsibility for all the money spent at the park came into play. She felt there is a middle ground where a memorial to the Basque community can be established, a narrative that is embraced in everything that has been talked about and read about. A site would serve

the needs of not only the handball players but the community at large. She didn't know the answer.

Mayor Kinsey said he was somewhat swayed by the comments given at this meeting. The court is a part of Grand Junction. It was not brought up during the initial planning of the park, but last minute citizen input does not make it less important. He was impressed with the fervor of the involvement. The property was purchased with taxpayer money. He favored saving the structure.

Councilmember Spehar joined Mayor Kinsey with his opinion. Leaving the court in place is not the perfect solution but the involvement is impressive. Such effort and involvement has saved the Avalon and other historic sites. There were no significant issues (safety, parking, structural) to convince him otherwise, and it is workable. He was struck by the letter from the State folklorist regarding preserving a traditional place rather than fabricating an imitation. He favored leaving it there and work with it in the design of the park.

Councilmember Payne had concluded that the City should stick with the Master Plan, but he had a change of heart, and agreed with Councilmembers Kinsey and Spehar. The Parks & Recreation Board has worked hard – they are here to say they have a plan. There is a heritage, a culture and a history. He could not see the harm if it is done right. It would preserve a historic one-of-a-kind handball court in the State. He would support saving the court.

Councilmember Theobald said his family has known the Urruty family a long time. He was sure it can fit but wouldn't be ideal. He expressed concern about the stacking distance if the court stays. He didn't want to create parking problems because of the configuration. He did not have a solution. Retaining and restoring the current court would obviate the need for any other handball courts. He said many of the supporters don't live inside the City. People should recognize that Council does not ignore the other residents of the valley.

Councilmember Enos-Martinez agreed with the other comments given. There are a small number of handball players in comparison to other sports enthusiasts, which was probably the reason they were not as involved in the many meetings that were held earlier. She wanted to make the Urruty court the main handball court and make it fit in. She supported keeping the existing court where it is currently located.

Councilmember Scott said when the property was sold, people knew the park was coming in there. To discount the 37 meetings is wrong. He thought the Parks Board should be able to do what it wants with the property. When people sell something, if restrictions are desired it should be included in the contract.

Upon motion by Councilmember Theobald, seconded by Councilmember Terry and carried with Councilmember **SCOTT** voting **NO**, the Urruty Plaza Handball Court was retained, the offer for cash and in-kind funds to restore it was accepted, and Staff was directed to redesign the parking lot to accommodate the additional parking needs of the new soccer fields while allowing for the handball court to remain, and no other handball courts are to be constructed at this time.

RECESS

The Mayor declared at recess at 8:50 p.m. Upon reconvening at 8:54 p.m., all members of Council were present.

REPORT TO CITY COUNCIL ON THE FINDINGS OF THE CITY CLERK REGARDING THE VALIDITY OF THE CHARTER AMENDMENT PETITION

City Clerk Stephanie Nye reported on the Charter Amendment Petition which was submitted to her on July 26, 1999. Council was provided with a full copy of her report. She stated the petition is 528 signatures short of being valid and certified to go to the ballot. A hearing was held on August 25, 1999 from 9:00 a.m. to 10:20 p.m. at Two Rivers Convention Center. A lot of testimony was conducted and she received a lot of good information. There were problems with the methods used to circulate the petitions. A lot of the signers did not understand the contents of the petition. In determining validity of signatures, the patent defects were obvious errors in signing it, requirements were not followed as far as signature, address, city, date, etc. Additionally, many were not registered voters or didn't live in the City of Grand Junction. She solicited questions of Council.

Councilmember Enos-Martinez asked if the petitioners have 15 days from this date to amend the petition. Ms. Nye said yes. If they can cure within a shorter number of days, could the issue go on the November ballot? Ms. Nye said the City must certify a ballot title to the County no later than 4:30 on September 8, 1999 which is seven days from that day.

Ms. Nye said she would have to review the amended petitions. Barring another protest, her office would be looking only at the first tier of review which is on its face, facial defects; going by the circulators' affidavits, swearing those signatures to be true, genuine and registered voters of the City. Specific instructions have been provided in the report, with copies to the petition representatives, on how to gather additional signatures if they so choose. She stressed it is very important and crucial to the system that they follow those instructions.

Councilmember Scott asked how long it would take to certify the amended petition. Ms. Nye said with her three-person staff, it would take a few days. With additional resources, the sky's the limit. Councilmember Payne noted that Monday, the 6th of September is a holiday (Labor Day), so the amended petition would need to be filed either Friday, September 3 or by 4:30 on Tuesday, September 7.

Councilmember Scott asked how Ms. Nye would know someone had not signed the petition previously. Ms. Nye said she has voter registration lists but it would be difficult to check.

Councilmember Terry asked for an explanation of the term "prima facie". Ms. Nye replied on the face, that is, facial defects where it does not conform to the requirements of the law, including signature, street address, city, date. If they had a city other than Grand Junction listed, if the circulator's affidavit was improper in some form, either not notarized or the date of notarization was prior to some of the dates of signatures. The instruction sheet covers all of the particulars.

Mayor Gene Kinsey said if they turned the petition in sooner on the 7th of September, or so, it would be possible for Ms. Nye to certify them sooner and for Council to place the question on the ballot for November. Ms. Nye said if additional resources were authorized, her office would make every effort to get the information to Council prior to the Mesa County deadline.

Councilmember Spehar felt it is important for Council to create the opportunity to do this and schedule the special meeting in order to place this on the ballot. If Council is to do that, the petitioners need to work with the City and give time to do the checking. This needs to be a two-way street with an understanding. If this can get on the November ballot, it saves the taxpayers money.

Councilmember Enos-Martinez said a time should be set on the 7th of September to certify the signatures. Councilmember Terry agreed the time element is critical.

City Attorney Dan Wilson said if Council is authorizing a special meeting on that Wednesday, direction by Council to the City Manager to make additional resources available to the City Clerk would be appropriate. The City Clerk would then contact others for assistance. He felt a 9:00 a.m. deadline on Tuesday, September 7, would give them time. He wanted to ask the petitioners if November 2 is critical or whether they are more likely to take the full 15 days to cure. If that's true, Council could defer the balance of this discussion and consider a special election in December or January.

Mike Kelley, President of the Professional Firefighters Association, said the association feels that as long as there is an option to put this on the ballot at a later date, they could take the entire 15 days to correct the petition and it wouldn't rush Council and those

involved. As long as they have the guarantee that the amendment can be placed on another ballot, they would agree to defer it.

City Attorney Dan Wilson said the association has the right under the Statute to have the entire fifteen days to collect the necessary signatures. If they take longer than Tuesday, September 7, they have automatically elected to do the special election in either December or January. If the association wants the November date, they need to let Council know so it can be prepared. If the necessary signatures were not collected by the 15th day, the group can do it again in time for a special election. Mike Kelley said it's unlikely they will be back on Tuesday. He felt it's not reasonable to set a special meeting.

Mike Kelley said Ms. Nye said they would have 15 days from today. He understood it to be the day that the ruling is issued does not count. They would have 15 days from tomorrow. City Attorney Wilson said that is correct.

Mr. Kelley said the association feels as though it might be being set up. There is a stipulation in Appendix 1 of the report that states that the petition in its entirety must be read to every person who potentially signs it, or the circulators must read it to them or the signer must read it. It is the association's position that they don't believe that is correct. There is nothing they could find in the law that states that requirement.

City Attorney Dan Wilson said it is in Statute 31-2-220 and states "You must read the petition or have it read to you in its entirety." Mr. Wilson assumed the requirement was written when there were merely one or two paragraphs on a petition, and not a 15 or 20-page Charter Amendment. He has looked for such cases, but it is the law, therefore, it is in the instruction list.

Mayor Kinsey asked Mr. Kelley if he didn't think people should read the petition since it changes the Charter and law of the City of Grand Junction. Mike Kelley agreed, but if they say they know what it is about, and refuse to read it thoroughly, it should be accepted.

Mayor Kinsey said the law isn't always reasonable. An attorney has stated what the law is, and recommended Mr. Kelley and the association contact another attorney regarding the law of the State of Colorado.

Councilmember Spehar said Mr. Kelley and the association need to decide how they want to handle the situation. He felt Council needs to be prepared by scheduling the meeting and approving the intergovernmental agreement with Mesa County regarding the potential conduct of the election. The meeting can also be cancelled if it's not needed.

Councilmember Terry agreed. It would be a courtesy gesture at this point and Council will be prepared for whichever way the association wants to proceed.

Councilmember Theobald said the assumption that the new petition would be protested is not a sure thing. He was astonished at the first protest personally. He urged Mr. Kelley to get it on the November ballot. Avoiding the cost of a special election is far greater than a few additional resources to review the amended petition. It is easier to cancel a meeting when not needed. The City Clerk has interpreted the Statute quite liberally in not eliminating some signatures. He felt the same manner and method will be used by the City Clerk when the amended petition comes back.

Upon motion by Councilmember Terry, seconded by Councilmember Payne and carried, a meeting was scheduled for September 8, 1999, 12:00 noon, at City Hall Conference Room A, for Council to refer the petition to the ballot if it is turned in and the cure signatures are certified by the City Clerk.

Mayor Kinsey said direction is also given to the City Administration office to make resources available to the City Clerk if needed.

Councilmember Terry said if the petitioners make the effort to get the issue on the November ballot, it should be made clear that if the petitioners want it to be certified by September 8th, the amended petition would have to be turned in by 9:00 a.m. on September 7th.

CONSENT ITEMS

Upon motion by Councilmember Spehar, seconded by Councilmember Terry and carried by a roll call vote, the following Consent Calendar Items #1 through #10 were approved, specifically noting that it does include the intergovernmental agreement with Mesa County regarding the November election:

1. **Minutes of Previous Meeting**

Action: Approve the Minutes of the Regular Meeting August 18, 1999

2. **Intergovernmental Agreement with Mesa County to Have an Issue on the November 2 Coordinated Mail Election Ballot**

In order to hold a place on the November 2 ballot, the City needs to meet the statutory September 3 deadline to have an intergovernmental agreement with the County outlining the procedures, responsibilities and methods for calculating the cost.

Action: Authorize the City Manager to Sign the Intergovernmental Agreement with Mesa County Concerning the November 2 Coordinated Mail Ballot

3. **Contract with BLN Classic Golf Concerning the Management of the Municipal Golf Courses**

The contract terminates the relationship with BLN Classic Golf as the manager of the municipal golf courses.

Action: Authorize the City Manager to Sign the Contract with BLN Classic Golf Terminating their Management of the Golf Courses

4. **Construction of Eagle Rim Park**

The following bids were received:

Mays Concrete, Inc., Grand Junction	\$1,263,544.30
Alpine CM, Inc. Grand Junction	\$1,368,686.00
M.A. Concrete & Construction, Grand Junction	\$1,541,593.40

Action: Authorize a Contingency Transfer of \$107,273 and Award Contract for Construction of Eagle Rim Park to Mays Concrete, Inc. in the Amount of \$1,263,544.30

5. **Approving and Accepting the Improvements for Alley Improvement District No. ST-98, Phase B and Giving Notice of a Hearing on the Assessments**

Reconstruction of the following 4 alleys has been completed in accordance with Resolution No. 33-98 creating Alley Improvement District 1998, Phase B:

8th to 9th, between White and Rood
 9th to 10th, between Grand and White
 10th to 11th between Grand and White
 6th to 7th, between Walnut and Orchard

Resolution No. 100-99 – Approving and Accepting the Improvements Connected with Alley Improvement District No. ST-98, Phase B

**Action: Adopt Resolution No. 100-99 and Set a Hearing for October 6, 1999*

6. **Approving and Accepting the Improvements for Alley Improvement District No. ST-99, Phase A and Giving Notice of a Hearing on the Assessments**

Reconstruction of the following 2 alleys has been completed in accordance with Resolution No. 81-98 creating Alley Improvement District 1999, Phase A:

13th to 15th, Walnut to Cedar
17th to 19th, Grand to White

Resolution No. 101-99 – Approving and Accepting the Improvements Connected with Alley Improvement District No. ST-99, Phase A

**Action: Adopt Resolution No. 101-99 and Set a Hearing for October 6, 1999*

7. **Setting a Hearing on Hidden Lake Annexation Located at 422 Rosevale Road**
[File #ANX-1999-163]

The 16.36 acre Hidden Lake Annexation area consists of land owned solely by the applicant, Danny and Vicque Clark. The applicant has signed a petition for annexation.

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

Resolution No. 102-99 – 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 – Hidden Lake Annexation Located at 422 Rosevale Road and Including Portions of Colorado State Hwy 340 Right-of-Way

**Action: Adopt Resolution No. 102-99 and Set a Hearing for October 20, 1999*

b. Set a Hearing on Annexation Ordinance

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Hidden Lake Annexation, Approximately 16.36 Acres, Located at 422 Rosevale Road and Including a Portion of Colorado State Hwy 340 Right-of-Way

Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for October 20, 1999

8. **Setting a Hearing on the Timm Annexations No. 1, No. 2 and No. 3 Located at 3121 E Road** [File #ANX-1999-185]

The 16.9 acre Timm Annexation area consists of one parcel of land. Owners of the property have signed a petition for annexation as part of their request for zoning and subdivision of this parcel.

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

Resolution No. 103–99 – 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 – Timm Annexation, a Serial Annexation Consisting of Timm Annexation No. 1, No. 2 and No. 3 and Including a Portion of the 30 Road and E Road Rights-of-Way, Located at 3121 E Road

**Action: Adopt Resolution No. 103–99 and Set a Hearing for October 20, 1999*

b. Set a Hearing on Annexation Ordinances

(1) Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Timm Annexation No. 1, Approximately 1.95 Acres, Including a Portion of the 30 Road and E Road Rights-of-Way, Located at 3121 E Road

(2) Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Timm Annexation No. 2, Approximately 12.73 Acres, Including a Portion of the E Road Right-of-Way, Located at 3121 E Road

(3) Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Timm Annexation No. 3, Approximately 2.22 Acres Located at 3121 E Road

Action: Adopt Proposed Ordinances on First Reading and Set a Hearing for October 20, 1999

9. **Setting a Hearing on Chipeta Pines Annexations No. 1 and No. 2 Located at 2984 B Road** [File #ANX-1999-195]

The 26.36 acre Chipeta Pines Annexation area consists of two parcels of land. Owners of the property have signed a petition for annexation as part of a proposed development for 80 residential housing units approved by the Mesa County Commissioners as part of the Chipeta Pines Subdivision.

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

Resolution No. 104–99 – 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 – Chipeta Pines Annexation, a Serial Annexation Consisting of Chipeta Pines Annexation No. 1 and Chipeta Pines Annexation No. 2 Located at 2984 B Road and Including a Portion of the U.S. Highway 50 and B Road Rights-of-Way

**Action: Adopt Resolution No. 104–99 and Set a Hearing for October 20, 1999*

b. Set a Hearing on Annexation Ordinance

(1) Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Chipeta Pines Annexation No. 1, Approximately 0.54 Acres, Located in Portions of the U.S. Highway 50 Right-of-Way

(2) Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Chipeta Pines Annexation No. 2, Approximately 25.82 Acres, Located at 2984 B Road and Includes Portions of the U.S. Highway 50 B Road Right-of-Way

Action: Adopt Proposed Ordinances on First Reading and Set a Hearing for October 20, 1999

10. **Northstar Enclave Annexation Located in the Area around 28 Road and Cortland Avenue** [File #ANX-1999-193]

Resolution of intent to annex and exercising land use jurisdiction immediately for the Northstar Enclave Annexation located generally at 28 Road and Cortland Avenue

Resolution No. 105–99 – A Resolution of the City Council of Grand Junction Giving Notice that a Tract of Land Known as the Northstar Enclave, Located at 28 Road and Cortland Avenue and Including Northstar Drive and Windstar Drive, Consisting of Approximately 39.68 Acres, Will be Considered for Annexation to the City of Grand Junction, and Exercising Land Use Control

**Action: Adopt Resolution No. 105–99*

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

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

RELEASE OF CONDITION OF APPROVAL FOR THE SUMMER HILL SUBDIVISION

A resolution that amends the conditions of approval in Resolution No. 67-99 to delete the requirement for the barrier at the northernmost terminus of Lanai Drive.

Tim Moore, Public Works Manager, reviewed this item and referred to the resolution allowing for the removal of the barricade.

City Attorney Wilson suggested some changes in the body of the resolution. The last sentence could be deleted. The sentence before that should read: "As a result, City Council deletes condition #4 of Resolution No. 67-99."

Rich Cron, 744 Horizon Court, said the purpose of the agenda item is to address Condition #4 in the resolution that requires the existing vehicular barrier at the north end of Lanai remain until this date to give the City Staff the opportunity to consult with neighbors about construction of traffic calming and pedestrian protection improvements at the southerly end of Lanai, with the developer being subject to the remaining Conditions #1 through #3. It is a City project and not the responsibility of the developer. He said the developer is ready to proceed and wants to remove the vehicular barrier.

Resolution No. 106-99 - A Resolution Amending Resolution No. 67-99, Deleting Condition of Approval #4 Concerning a Barrier on Lanai Drive

Upon motion by Councilmember Payne, seconded by Councilmember Scott and carried by roll call vote, Resolution No. 106-99 was adopted as amended.

LANAI DRIVE CONSTRUCTION/TRAFFIC CALMING PROJECT

The traffic calming and sidewalk improvements option was presented at the August 30, 1999 workshop.

Public Works Manager Tim Moore reviewed this item. He described the improvements as construction of a sidewalk and traffic calming to Lanai Drive between H Road and Bahamas Way. The project consists of narrowing Lanai Drive to 24' of asphalt in certain sections to encourage traffic slowing, and includes the construction of a sidewalk for the entire length of the project on the east side of the road only. The cost estimate is \$145,000. Upon approval, construction of the project would take place in March and April of 2000.

Upon motion by Councilmember Terry, seconded by Councilmember Enos-Martinez and carried with Councilmember **SPEHAR** voting **NO**, the Inclusion of the Traffic Calming Project for Lanai Drive in the Year 2000 Proposed Budget was authorized.

Councilmember Spehar was troubled by the end result. He felt approval of this project violates the City's own established standards. If this street was being built today to handle the traffic volume measured on it, it would be a 36' wide street. It's now a 30' wide street with a proposal to reduce it in portions to 24'. It will hurt the City later. It is a flawed process. He did not fault the neighbors, and applauded them in being active in the situation. Understandably, some wanted to retain their landscaping. It will leave a long-term affect on the City, leaving it open to additional expenditures on Catalina Drive and Bahamas Way in the future.

Councilmember Terry realized it is a change from the standards but Council heard from the neighbors on the safety and speed, and specifically directed Staff to work with the neighbors to resolve the fears and concerns of the community. She believed City Staff carried out the directive. The citizens in the area, by a large majority, support the project. Sometimes the standards don't always work in every part of the City. She thought it was a good resolution to the problem.

Councilmember Theobold said Council started down the path with no real good solution when the City inherited not real good solutions someone else made. His concerns were outweighed by the neighborhood reaction.

Councilmember Payne was disappointed in the 24'. However, Staff says it can be done and the neighborhood is satisfied with the resolution.

PUBLIC HEARING - TRANSFER THE CITY'S \$1 MILLION IN 1999 PRIVATE ACTIVITY BOND ALLOTMENT FROM THE CITY TO THE COLORADO HOUSING FINANCE AUTHORITY (CHFA)

The City of Grand Junction received a Private Activity Bond allocation from the State of Colorado Department of Local Affairs for the third time in 1999 as a result of the City reaching a 40,000 population level in 1997. The bond authority can be used on a tax-exempt basis for various private purposes. The City has had no request for the use of this authority but can reserve it for future housing benefits by ceding the authority to CHFA at this time.

The hearing was opened at 9:35 p.m.

Administrative Services Director Ron Lappi reviewed this item. The ordinance will transfer the allocation from the State of private activity bond allocation cap (over \$1 million). If transferred to CHFA there will be \$3 million banked at this point to be used for future housing projects in the community. If not transferred or used by September 15, 1999 it goes back to the Department of Local Affairs for a State-wide allocation this year.

It can be ceded to CHFA who uses the allocation for projects around the State, and later on will give Grand Junction credit for that ceding.

There were no public comments. The hearing was closed at 9:36 p.m.

Ordinance No. 3180 – An Ordinance Authorizing Assignment to the Colorado Housing and Finance Authority of a Private Activity Bond Allocation of City of Grand Junction Pursuant to the Colorado Private Activity Bond Ceiling Allocation Act

Upon motion by Councilmember Payne, seconded by Councilmember Spehar and carried by roll call vote, Ordinance No. 3180 was adopted on second reading and ordered published.

RECESS

Mayor Kinsey declared a recess at 9:36 p.m. Upon reconvening at 9:44 p.m., all members of Council were present.

PUBLIC HEARING - REZONING BROOKSIDE SUBDIVISION FROM RSF-5 TO PR-4.3, LOCATED AT THE NORTHWEST CORNER OF 30 ROAD AND F ½ ROAD

[FILE #RZP-1999-119]

A request to rezone a parcel of land located on the northwest corner of F ½ and 30 Roads from Residential Single Family 5 units per acre (RSF-5) to Planned Residential 4.3 units per acre (PR-4.3) to develop the proposed Brookside Subdivision consisting of 80 detached single family residential units and 40 attached single family units.

The hearing was opened at 9:44 p.m.

Brian Simms with PADS Design Partnership, architect and planner for the Brookside project, said they have done some changing to the plans to make the project acceptable to Staff. They are downzoning to a slightly lower density. There are some natural hindrances to this property with large irrigation ditches and some configuration of utilities, etc. They have been solved to Staff's satisfaction and now fit the density.

Kristen Ashbeck, Community Development Department, summarized the proposal. The plan gives the developer the flexibility to include a mix of housing units which allows them to stay within the minimum density. The request meets the criteria of Section 4-4-4 of the Zoning & Development Code and Staff recommends approval.

There was discussion of the open space between this subdivision and the Brookwood subdivision and the ownership of the north side of the property line.

Dan Mulhall, 645 Pinewood Court, adjacent to F ½ Road, referred to a letter from the adjacent property owner, with concerns about maintaining the weeds and the trail. The airport noise pollution is not being controlled. The development will add more people to the flight path of the airport with more people complaining. Traffic congestion was also a concern. New homes will produce more traffic onto F ½ Road with 30 Road being the only outlet. Regarding storm sewer and Ute Water rights, the grassed area will drain into the storm sewer drains, and he asked how will they stay open with grass plugging the storm drains. The attached homes will devalue the properties in the area. The letter was submitted to the City Clerk for the record.

Councilmember Theobold asked if F ½ Road is anticipated to be extended to 29 ½ Road. Public Works Director Mark Relph said he did not remember if the extension was included in the major street plan. Councilmember Theobold said it appears to be two blocks short of going all the way through.

Councilmember Scott said there are ditches and other things which are not in any plan that he had seen.

Councilmember Theobold asked if any improvement to F ½ Road is planned for this development. Ms. Ashbeck said the developer will provide full half-street improvements from 30 Road, and are planned for the full length of the property.

Councilmember Scott asked if arrangements are being made with Grand Junction Drainage District. Ms. Ashbeck said a condition of the approval requires addressing the ditch. The open ditch along F ½ Road serves as a retention basin. They propose to pipe it with large pipe. The pipe will go into a smaller pipe. Councilmember Scott asked what the plans are for the open drainage ditch on the northwest side of the property. Ms. Ashbeck said they are leaving it open.

Brian Simms said they currently have a 24" inlet crossing 30 Road from the east side (Faircloud). They have done a drainage study for everything above Faircloud. They will put a larger culvert in their property to allow a larger culvert in the future in the roadway. He also stated they are downzoning by reducing the number of units from the allowed units if they went with a straight zone.

Councilmember Scott asked if they were using irrigation for a watering system. Brian Simms said yes, they will be using a combination of cisterns and open ponding to achieve the right amount of delivery rate and water pressure .

There were no other comments. The hearing was closed at 10:05 p.m.

Ordinance No. 3181 – An Ordinance Zoning a Parcel of Land Located on the Northwest Corner of F ½ and 30 Roads (Brookside Subdivision) from RSF-5 to PR-4.3

Upon motion by Councilmember Theobold, seconded by Councilmember Enos-Martinez and carried by roll call vote, Ordinance No. 3181 was adopted on second reading and ordered published.

PUBLIC HEARING – APPEAL OF PLANNING COMMISSION DENIAL OF A CONDITIONAL USE PERMIT FOR AN OVERHEIGHT FENCE AT 1059 OURAY AVENUE [FILE #CUP-1999-132]

The petitioner is appealing the Planning Commission's decision to deny a conditional use permit for a 7' high fence in an RMF-32 zone. The site is located at 1059 Ouray Avenue in an area of single family homes. The fence has been built and extends along a portion of the property adjacent to 11th Street. The fence consists of 5' solid wood and 2' lattice wood. Staff recommends denial because the Development Code limits fences to 6' and the site characteristics are similar to other properties in the area.

The hearing was opened at 10:06 p.m.

Dave Prince, 1050 Ouray Avenue, was appealing the Planning Commission decision to not allow a seven-foot fence. He took pictures of fences in his neighborhood which range from 6 ½ to 14 feet. He distributed the photos to Council. He built the fence for two reasons: (1) a lot of people would walk by and throw trash into his yard when he had a six foot fence and his bar-be-que was stolen twice, and (2) since erecting the seven foot fence, no one has broken in and stolen his bar-be-que. The design and height is not hurting anything.

Councilmember Enos-Martinez asked Mr. Prince if he had gotten a building permit for the fence. Mr. Prince said he obtained a fence permit from the Community Development Department.

Councilmember Payne asked if the Community Development Department was told it would be a seven-foot fence. Mr. Prince said he told them he planned an eight-foot fence and they said he couldn't construct a fence of that height. A seven-foot fence was then discussed.

Councilmember Payne asked if he was told that six feet was the limit. Mr. Prince said yes, but the Uniform Building Code didn't state whether the two foot lattice work is considered fence or decorative. The Planning Commission said since it is attached to his five-foot fence, it is fence.

Councilmember Terry asked Mr. Prince if he had asked for an interpretation from anyone at the City before he added the lattice. Mr. Prince said he asked Ronnie at the counter, but she didn't specifically state whether it was fence or decorative.

Mike Pelletier, Community Development Department, said the Conditional Use Permit is evaluated by criteria in the Zoning & Development Code. Two criteria are applicable: (1) Is the proposed use compatible with adjacent uses? Fences are subjective but 6 foot is the limit so that is the community's limit of compatible fence. There is nothing in the Code that has mitigating factors. (2) Is it unique to set it apart from other properties? The request does not meet that criteria. Other criteria doesn't apply except for criteria g – it does not conform to adopted plans, policies and other regulations of the Code. Since the proposal does not meet these criteria, Staff recommends denial. The Planning Commission denied the project as well.

Councilmember Theobald referred to the July 22, 1999 letter from Mr. Prince. There are eight other homes in that proximity that have fences in excess of six feet. He asked Mr. Pelletier if he had confirmed that. Mr. Pelletier said the Code Enforcement Division has verified that they all exceed the six-foot limit.

Councilmember Theobald asked what will happen to those fences. Mike Pelletier said the Code Enforcement Division said it is difficult to tell the age of the fences so enforcement will not be pursued. He said Council can direct Code Enforcement otherwise.

Councilmember Terry asked if this regulation has been in effect since the early 80's. Mr. Pelletier said at least that long.

Councilmember Terry said she drove by and looked at these fences and many looked new, one in particular at 1245 Chipeta.

Kathy Portner, Community Development Department, explained how this came about. When a fence permit is issued they check for conformance in the Building Code which is how this fence was discovered. Generally, Code Enforcement does not address violations without a specific complaint.

Councilmember Terry asked if most people fail to get fence permits. Mr. Portner said that is probably true, although it's difficult to determine in the existing part of town. In the newer subdivisions, flyers are being distributed regarding fence permits. Any fence requires a permit.

The hearing was closed at 10:23 p.m.

City Attorney Wilson suggested that direction to Code Enforcement be included in Council's motion.

Upon motion by Mayor Kinsey, seconded by Councilmember Scott and carried by roll call vote, the Conditional Use Permit was granted for the overheight fence at 1059 Ouray Avenue.

AMENDMENTS TO THE GRAND JUNCTION GROWTH PLAN [FILE #PLN-1999-160]

A request to amend the following areas of the Future Land Use Plan.

a. Amending the Future Land Use Map

1. Overlay the North Central Valley Plan and Orchard Mesa Plan
2. Redesignate the Rosevale area along the Colorado River at Hidden Lake to Residential Medium-Low (2 to 4 units per acre)
3. Redesignate the Fruitvale/Pear Park area, generally bounded by 29 Road, 32 Road, the Southern Pacific Railroad and D Road, from Residential Low (.5 to 2 units/acre) and Residential Medium-Low (2 to 4 units/acre) to Residential Medium (4 to 8 units/acre)

b. Amending the Growth Plan

1. Revise Policy 1.6, Policy 11.2 and Action Item #5 to clarify the allowance for neighborhood commercial
2. Define the Urban Growth Boundary (UGB) as that area included in the Persigo Wastewater Treatment Plant 201 Service Area as amended and the Clifton Sanitation District #1 and #2 Service Areas as amended
3. Revise Exhibit V.2 and the Future Land Use Map legend to clarify land use intensities refer to densities and not minimum lot sizes

Kathy Portner, Community Development Department, reviewed this item. Since most of Council's questions were answered at the Monday night workshop, Council refrained from questions or comments.

Councilmember Theobald asked when Council will see a list like this again. Ms. Portner said in November to both Planning Commissions and then to Council.

Councilmember Terry asked about the Item #2 defining the Urban Growth boundary. She asked if this allows for future changes to the 201 that will change the Urban Growth boundary accordingly without having to go back through the process again. Ms. Portner said yes.

Resolution No. 107-99 – A Resolution Amending the Grand Junction Growth Plan of the City of Grand Junction

Upon motion by Councilmember Enos-Martinez, seconded by Councilmember Payne and carried by roll call vote, Resolution No. 107-99 was adopted.

NON-SCHEDULED CITIZENS & VISITORS

Mary Huber, 580 ½ Melrose Court, asked when the 201 deletion section will take place. Public Works Director Mark Relph said the City and County is targeting the end of September, 1999. A public hearing will be scheduled.

OTHER BUSINESS

Set a Special City Council Meeting for September 8, 1999, 12:00 Noon

Commendation Resolution for Community Development Director Scott Harrington

Councilmember Theobald noted the second anniversary of Scott Harrington coming to the City as its Community Development Director. He had received high praise for Scott and City Manager Mark Achen from someone who had worked with them. He had contemplated all that's gone on in the last two years and the abuse the department has taken, and offered a resolution of encouragement.

Mayor Kinsey said the words of the resolution apply to everybody in the department although the resolution doesn't say that.

It was moved by Councilmember Theobald and seconded by Mayor Kinsey that Resolution No. 108-99 be adopted.

Councilmember Spehar said he would abstain from voting since he was not around for the bulk of the incidents described in the recitation by Councilmember Theobald.

Councilmember Terry said such a commendation applies to all of the City's department heads and the resolution should include them.

Councilmember Scott said he would have liked to have had a copy of the resolution prior to the meeting and an opportunity to discuss it before voting; therefore he would have to abstain.

Councilmember Terry said commending Staff is something Council should do, but she was uncomfortable singling somebody out. There have been controversies in the past.

A voice vote was taken with a 2 in favor, 1 against result. The Mayor noted considerable abstention and questioned the passage of the motion.

The City Attorney determined later that Resolution No. 108-99 had been adopted by a 2 to 1 vote.

ADJOURNMENT

The meeting adjourned at 10:37 p.m.

Stephanie Nye, CMC/AAE
City Clerk