

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

October 20, 1999

The City Council of the City of Grand Junction, Colorado, convened into regular session the 20th day of October, 1999, at 7:30 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 City Manager Mark Achen, 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. Eldon Coffey, Living Hope Evangelical Free Church.

PROCLAMATION DECLARING OCTOBER 23-31, 1999, AS "RED RIBBON WEEK" IN THE CITY OF GRAND JUNCTION

PROCLAMATION DECLARING NOVEMBER, 1999, AS "HOSPICE MONTH" IN THE CITY OF GRAND JUNCTION

CONSENT ITEMS

Upon motion by Councilmember Terry, seconded by Councilmember Scott and carried by roll call vote, the following Consent Calendar Items #1 through #10, with Item #11 being removed from the Consent Calendar as requested by Councilmember Spehar, were approved:

1. **Minutes of Previous Meeting**

Action: Approve the Minutes of the Regular Meeting October 6, 1999

2. **Agreement with Mesa County Regarding Annexation, Maintenance, and Future Improvements to the Redlands Parkway Bridge**

The revised agreement provides for the annexation of the Redlands Parkway Bridge structure to the City. The agreement also establishes maintenance responsibilities and outlines future improvements to the bridge. The purpose of the improvements would be to manage the vehicular and pedestrian traffic in the future.

Action: Approve Agreement with Mesa County Regarding the Redlands Parkway Bridge

3. **Horizon Drive Trail Project from 7th to 12th Street**

Contract with the State of Colorado, Department of Transportation, for the construction of Horizon Drive Trail from 7th Street to 12th Street. The total funding is in the amount of \$100,000 which consists of \$80,000 in Colorado Department of Transportation funds and \$20,000 in City funds.

Resolution No. 119-99 – A Resolution Accepting a Grant of State Funds for the Project Identified as the Horizon Drive Trail, 7th Street to 12th Street

Action: Adopt Resolution No. 119-99 and Approve the City's Match to Federal-Aid Funds in the Amount of \$20,000

4. **Setting a Hearing on Amending Rear Yard Setbacks, and Vacating Easements in Camelot Gardens Located at 2844 Kennedy Avenue**

[File #FPP-1999-201]

Request to change the rear yard setbacks for four lots in Camelot Gardens by amending the zoning Ordinance No. 3170 in a PR-6.9 zone district; and request to vacate three easements on Lot 2 of Glotfelty Minor Subdivision plat now approved as the final plan and plat for Camelot Gardens. Camelot Gardens is located on Kennedy Avenue, east of Compton Street (2844 Kennedy Avenue).

a. **Proposed Ordinance Amending Ordinance No. 3170**

Proposed Ordinance Amending Ordinance No. 3170 which Zoned 2844 Kennedy Avenue to PR-6.9

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

b. **Resolution Vacating Easements**

Resolution No. 120-99 – A Resolution Vacating Utility, Irrigation and Drainage Easements for Lot 2, Glotfelty Minor Subdivision, Located at 2844 Kennedy Avenue (Camelot Gardens)

Action: Adopt Resolution No. 120-99

5. **Setting a Hearing on Annexation of Northglenn/Matchett Enclave Located Generally between 29 Road and 29 1/2 Road, North of F 3/4 Road**

[File #ANX-199-210]

The 555.44 acre North Glenn/Matchett Enclave Annexation area consists of land completely surrounded by existing Grand Junction city limits. State law allows a municipality to annex enclave areas unilaterally after they have been enclaved for a period of three years.

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, the Northglenn/Matchett Enclave, Consisting of Approximately 555.44 Acres Located Generally on Both Sides and between the 29 Road and 29 ½ Road Area North of F ¾ Road and Including 29 Road, G Road, 29 ½ Road and the Streets in the North Glenn Subdivision

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

6. **Setting a Hearing on Zoning Northglenn/Matchett Enclave RSF-R, RSF-5, PR-3.6 and PC, Located between 29 Road and 29 ½ Road, North of F ¾ Road** [File #ANX-199-210]

The 555.44 acre North Glenn/Matchett Enclave Annexation area consists of land completely surrounded by existing Grand Junction city limits. State law allows a municipality to annex enclave areas unilaterally after they have been enclaved for a period of three years. This annexation is currently in progress. The law also requires the City to zone newly annexed areas within 90 days of the annexation.

Proposed Ordinance Zoning Northglenn/Matchett Enclave RSF-R, RSF-5, PR-3.6 and PC

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

7. **Setting a Hearing on Zoning Hidden Lake Annexation RSF-2, Located at 422 Rosevale Road** [File #ANX-1999-163]

The RSF-2 zone district is being proposed as the zone of annexation. The 4.86 acre Hidden Lake annexation area consists of land owned solely by the applicant and is currently in the annexation process.

Proposed Ordinance Zoning the Hidden Lake Annexation RSF-2

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

8. **Setting a Hearing on Mendez Annexation Located at 2765 U S Highway 50**
[File #ANX-1999-236]

The 6.566 acre Mendez Annexation area consists of one parcel of land. The owners of the property have signed a petition for annexation.

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

Resolution No. 121–99 – 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 – Mendez Annexation Located at 2765 U S Highway 50

Action: Adopt Resolution No. 121–99 and Set a Hearing for December 1, 1999

b. **Set a Hearing on Annexation Ordinance**

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Mendez Annexation, Approximately 6.566 Acres, Located at 2765 U S Highway 50

Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for December 1, 1999

9. **Setting a Hearing on Revisions to the City Code of Ordinances Concerning Disorderly House, Indecent Exposure and Excessive Noise**

Three current City ordinances have been revised for clarification: namely, Disorderly House, Indecent Exposure and Excessive Noise

- (1) Proposed Ordinance Amending Chapter 24, Section 12 of the Code of the City of Grand Junction, Colorado (Disorderly House)
- (2) Proposed Ordinance Amending Chapter 16, Article V, of the Code of Ordinances of the City of Grand Junction, Colorado (Indecent Exposure)
- (3) Proposed Ordinance Amending Chapter 24, Section 18 of the Code of the City of Grand Junction, Colorado (Excessive Noise)

Action: Adopt Proposed Ordinances on First Reading and Set Hearings for November 3, 1999

10. **Setting a Hearing to Amend the Zoning & Development Code to Allow Alternate Planning Commission Members** [File #TAC-1999-01.03]

It has been difficult to have a full complement of Planning Commissioners at Commission meetings. This proposal will provide alternate members which will be available to the Planning Commission when needed.

Proposed Ordinance Amending the Zoning & Development Code to Provide for Planning Commission Alternates and Duties of Members of the Board of Appeals

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

11. **Two-Year Moratorium on Oil and Gas Leasing in the Grand Mesa Slopes Areas - REMOVED FROM THE CONSENT CALENDAR FOR FULL DISCUSSION**

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

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

TWO-YEAR MORATORIUM ON OIL AND GAS LEASING IN THE GRAND MESA SLOPES AREAS

The BLM stipulations for oil and gas leasing were last updated in 1987 for lands within the Grand Mesa Slopes Area and adjacent to the City's Somerville Ranch. Stipulations for drilling on steep slopes, natural and scenic areas, wildlife areas, watersheds and perennial streams need to be re-mapped so as to protect the City's drinking water supplies.

City Utilities Manager Greg Trainor was present to answer questions and David Atkins of the Bureau of Land Management was also present. Mr. Trainor reviewed the proposal.

Mayor Kinsey clarified that actually the BLM is taking the moratorium action, not the City. Councilmember Spehar noted that the moratorium will not affect existing leases. Mr. Trainor said both statements are correct.

Councilmember Scott asked Mr. Trainor to verify that the moratorium will be no longer than two years. Greg Trainor verified that, adding that BLM hopes the time frame will be shorter.

Councilmember Terry wanted clarification on what a stipulation is.

David Atkins gave an explanation by reviewing the history of the area being identified for stipulation update. The land use plan for that area was written in 1987. At the last update, this area was land the BLM was going to dispose of by sale or exchange. Therefore, the area was not reviewed closely for stipulations. The emphasis has changed now with more protection of the visual environment in the area. They are working jointly with the other partners in the area to manage the area as a big partnership. The stipulations are to make the potential oil and gas lessees aware of any development restrictions such as wildlife habitat, archaeological finds, watersheds, etc. All BLM lands are subject to leasing for oil and gas and they just want to make sure they have adequately addressed restrictions. They want to do this within the one to two-year time frame.

Rod Crist, proprietor of Best Exploration, Inc., lessee of the 600,000 acre lease, said the time frame is a concern. They feel the 1987 stipulations are adequate. The City is primarily concerned with the water. He said Best Exploration, Inc. plans to drill in shale and there is no water in shale. There are already 20 wells in the area and there has been no adverse impact on the water quality. He also felt the economics of this is something the City should consider. It costs \$300,000 to drill a well and the City gets royalties (25% income off a well). He felt multiple use is a viable situation and encouraged continued leasing of the area.

Walter Fees has a small oil and gas company. There are 20 wells already there, two of which are on City property. David Atkins said the shut-in wells are on BLM land that they are proposing to exchange with the City. It takes a long time to do a prospect and costs a lot of money. They would like to be in on discussions with the City and the BLM. He said DOE studies indicate there are benefits to using the oil and gas in the land, with very little accident rate.

Councilmember Terry asked if they have existing wells in the area. Mr. Fees said no but they have two leases. Councilmember Terry reemphasized that new stipulations will not affect existing leases. David Atkins said that is correct. They are only asking for recommendations now. They need to decide if the current stipulations are adequate.

Mr. Fees asked if one lease sale was delayed because of this conflict. Mr. Atkins said yes, there was a piece nominated for lease that was pulled back pending this decision. It is not that there are no stipulations, but the question is whether they are adequate. There is a real void since that land was identified for disposal during the last update.

Councilmember Theobald asked about the royalties on the wells. Mr. Atkins said the County gets royalties from BLM leases, not the City. Councilmember Spehar said if the City elected to do leases on City property, such royalties would be negotiated in the lease.

Mr. Fees said the Federal government has no interest in the minerals in the majority of the city-owned property on the Grand Mesa Slopes.

Rod Crist explained they want to get additional leases before drilling. They are very interested in leasing the City property. Councilmember Spehar said this moratorium does not affect the City property.

Councilmember Scott asked when the last activity occurred. Mr. Crist said no wells have been drilled there in the past 10 to 15 years. They have had the leases for two years.

Councilmember Theobald stated there has been no drilling activity in the past 10 to 15 years, it's expensive to drill, and there is no place to take the gas once it's drilled. The proposal is about waiting two years maximum. He said the City is only one of many partners making a recommendation. He could not see any problem.

Councilmember Spehar agreed. He pointed out there have been significant changes in the last 13 years with the City's purchase of Somerville Ranch and the Grand Mesa Slopes effort in the early 90's, and the completion of the TransColorado pipeline. He thought the review is appropriate. It affects only the Federal lands and doesn't mean there will never be any leasing in the area. The oil and gas industry is going to be asked to participate in the effort. He also could see no reason not to proceed. He endorsed the concept of review of the stipulations.

Councilmember Terry said the City needs to protect its interest, i.e. its watershed. The existing leases are not affected, so she supported the moratorium.

Councilmember Payne agreed with the others.

Upon motion by Councilmember Payne, seconded by Councilmember Scott and carried by voice vote, the Grand Mesa Slopes Advisory Committee Recommendation to Request BLM Place a Two-Year Moratorium on Oil and Gas Leasing in the Grand Mesa Slopes was approved.

AMENDING THE ZONING & DEVELOPMENT CODE REGARDING TELECOMMUNICATION TOWERS [FILE #TAC-1999-001.02]

In the interest of the public, the City of Grand Junction is requesting an emergency ordinance be adopted concerning standards and site reviews of Telecommunication Facilities and Towers.

The public hearing was opened at 8:06 p.m.

Patricia Parish, Community Development Department, was present on the proposal. City Attorney Dan Wilson reviewed the law that guided the drafting of the ordinance. The proposal is basically performance standards. The ordinance does not prohibit the installation of the towers. It sets standards for the placement of towers. There may be adjustments made to the regulations later.

He then reviewed the changes made since Monday's workshop. He pointed out four Staff recommended changes - 4th page, subsection D e 4, a new phrase which promotes co-location, and under k, sub-paragraphs 4, 5 and 7 propose new language saying roof mounted antennae should be away from edges, and other aesthetic items.

Mr. Wilson said it is proposed as an emergency ordinance, meaning Council needs to make a finding that is important to get on the books immediately to protect the community, and would need to be adopted unanimously.

Councilmember Spehar asked for a justification for adopting the ordinance as an emergency. City Attorney Wilson said there have been a number of applications pending and there are no restrictions or guidelines existing. He said there are restrictions which say they must be constructed for safety under the Building Code and FCC air limits, but no specific land use standards.

Councilmember Payne said the proposed ordinance provides restrictions on distance around towers and its height for safety purposes.

Patricia Parish, Community Development Department, said there are some restrictions in the Zoning & Development Code as far as what zones the towers are allowed. They are allowed in the C-2, I-1 and I-2 zones. They require a Conditional Use Permit in the H.O. and PZ zones. Currently, towers are not allowed in residential zones.

Councilmember Theobald said because of the Federal regulations requiring coverage, if there is an area that cannot be covered without a facility in a residential zone, the City must allow it in the residential zone to complete the coverage. City Attorney Wilson said that is also Staff's concern.

Ms. Parish said it is considered a public utility by the FCC. Denying the public their right to a public utility would be a violation.

Councilmember Theobald said even with this proposed ordinance, the coverage clause would allow it in a residential area when coverage is required. City Attorney Wilson said if the only place to provide coverage were a residential area, discussion would take place on how to do it, but would not prohibit it.

Councilmember Terry said zoning language doesn't address where they are allowed. City Attorney Wilson said the ordinance doesn't say it is or is not allowed in residential zones. Councilmember Terry asked if the ordinance requires Conditional Use Permits for all zones any time it is allowed. Ms. Parish said there is a choice on that depending on whether it is a co-location and stealthy (concealed) versus a new structure. A new structure would require either an administrative review with a public hearing, or a Conditional Use Permit could be required regardless of location.

Councilmember Terry asked what the City's use/zone matrix will show. Mr. Wilson said this ordinance does not amend the matrix. These are performance standards.

Chuck Farris, 1600 Ute Avenue, Suite 10 (business address), 2389 ½ Pleasant Ridge Court, 81503 (residence), said he hasn't had time to digest the ramifications but had some questions. They are familiar with the current process. He questioned how that process will be affected. He questioned the requirement of approval from the director before being allowed a site plan review. Once the ordinance is approved, he asked how the approval is obtained, and once approval is obtained, will the site plan approval stay the same. He wanted to know what is required to obtain that approval.

City Attorney Wilson responded the existing code process through the site plan review process will not change. The criteria for approval will change.

Chuck Farris said he understood the need for the ordinance to be in place but didn't understand the urgency since there is already a thorough process in place. Mayor Kinsey responded saying this ordinance gives the Community Development Department direction on how to issue these permits. Councilmember Theobald said if the ordinance isn't adopted tonight there would be a long line of applications for cell towers tomorrow.

Mr. Farris said the ordinance doesn't speak to the allowed zones and wondered if that will change. Councilmember Terry said the matrix is not going to change until the new zoning code is adopted so an applicant would go by the existing matrix. She asked Mr. Farris if he had a current application in process. Mr. Farris said yes.

Councilmember Terry asked City Attorney Wilson how this ordinance will affect those applications in process. City Attorney Wilson said it depends on whether the applications are considered complete.

Councilmember Terry asked for Mr. Wilson's definition of complete. Mr. Wilson said if all the questions are not answered, it could be considered incomplete.

Ms. Parish said Staff goes through each application using a checklist and designates whether or not they are complete. A determination is usually given within a three-day period. She said both Mr. Farris's applications currently in the process are complete.

Councilmember Theobald asked how many cell towers are currently in the valley. Ms. Parish did not know but the ordinance will give the City the right to determine that.

Diane Del Rosso, 85 Encontado Loop, Santa Fe, New Mexico, said her engineering firm oversees the development of the network for Alamosa Sprint PCS to bring these services to the rural areas. They want to be a community member and their management team will have to be here to sell the services, so they are interested in cooperating. Regarding co-locations, she said carriers partner with companies that build services for that purpose. The business plans call for it. Her company is locating on a company's towers, or on a facility that is built for co-location. Regarding the definition of stealth, she wanted to know what are the standards. Trying to define the term and the requirements is where companies such as hers lose time. They can work with standards, just as long as they know what they are. Ms. Del Rosso offered her services as a resource for help.

Mac Newman, 2801 Youngfield Street, Golden, Colorado, representative of American Tower Corp., said American Tower is not a carrier. They don't market services - they build the multi-use towers, particularly on the I-70 corridor. They support the co-location concepts, and reiterated Ms. Del Rosso's comments regarding being an aid to the community. The local residents are demanding this service, and his company wants to provide the services. The sites are structured to handle a number of users. His company will be the owner/manager of the sites.

Councilmember Theobald asked how many sites are in the valley. Mike Joyce, 2764 Compass Drive, Grand Junction, said there are currently five towers, two large cell towers on Orchard Mesa, one on the edge of Grand Mesa, one on the water tower for Clifton Water, and one near the airport.

Mr. Newman said they would like to make this community state of the art in communications. As co-location increases, the competition increases and thus reduces the price to the consumer. The stealth issue is site specific.

Councilmember Payne asked what the affect of this emergency ordinance would be on Mr. Newman. Mr. Newman said he would like to see current applications processed in a timely manner since there are launch dates for towers, equipment and manpower. Their goal is to complete their project in a timely manner. Ms. Del Rosso concurred with Mr. Newman.

Diane Del Rosso said there are two types of technology for co-location, one is the cellular carrier who emits at a stronger power and can be at higher elevations, then there's the carrier that is not necessarily suitable for co-location sites for the digital carriers. She didn't see how co-location could work with the five existing towers.

Councilmember Theobold said co-location doesn't necessarily mean on pre-existing facilities.

Ms. Parish said they are encouraging not only co-location on existing towers but also on high facilities such as buildings and other high structures. This ordinance does not lengthen the process, but it may take more time to find a suitable co-location. Once an application is submitted to Staff, it will not be lengthened. It's still a site plan review.

Councilmember Spehar said there are more towers in the area than five such as radio towers, and towers for other purposes other than cellular communication.

Ms. Del Rosso said the first step is to secure the leased parcel before the plans are drawn up and submitted. A setback requirement would delay the process.

Chuck Farris said his current application in process is a co-location project.

Councilmember Theobold asked if the nine applications Mr. Farris has submitted are for nine different sites. Mr. Farris said yes. Some of the sites are in the City and some are in Mesa County. Regarding the subject of rooftops, they look for existing verticality. They first look for the appropriate zoning, then for rooftops. He has approached each one of the existing rooftop locations and all but one has turned them down.

Councilmember Theobold felt Council might want to talk to owners of pre-existing facilities about their need to be partners in this endeavor for the good of the community.

Chuck Johnson, Project Manager for American Towers, 2801 Youngfield Street, Golden, Colorado, said technology direction is going lower. Stealth is a very difficult concept. Companies are adjusting engineering and carriers are paying for the towers. The nine pending applications to locate all three carriers is better than one location for each, i.e. 27. Their business plan is based on co-location, mitigating visual impact, and design projects with minimal impacts. Engineering is driving the sites lower, with more solid coverage.

There were no other public comments. The hearing was closed at 8:52 p.m.

Councilmember Terry supported getting standards in place for Staff direction. She would like to see the City take a proactive stance with those in the communications industry and get feedback for when the City adopts the new code. Possible changes can be considered at that time.

Councilmember Theobold said positive comments have been made at this meeting. There are applications to triple the number of existing towers in the City. He felt Council

needs to move forward tonight with an emergency ordinance. Councilmember Payne agreed with Councilmembers Terry and Theobold.

Ordinance No. 3184 – An Ordinance Amending the Zoning & Development Code to Provide for the Regulation of Telecommunication Facilities and Towers and Declaring an Emergency

Upon motion by Councilmember Enos-Martinez, seconded by Councilmember Payne and carried by a unanimous roll call vote, Ordinance No. 3184 was adopted by emergency and ordered published.

RECESS

Mayor Kinsey called for a brief recess at 8:55 p.m. Upon reconvening at 9:08 p.m., all members of Council were present.

PUBLIC HEARING - HIDDEN LAKE ANNEXATION LOCATED AT 422 ROSEVALE ROAD – CONTINUED TO NOVEMBER 3, 1999 MEETING [FILE #ANX-1999-163]

The Hidden Lake Annexation area consists of land owned solely by the petitioner of 4.86 acres, and an 11.5 acre portion of Hwy 340 right-of-way. The property owner has signed a petition for annexation. The applicant has requested a continuance to November 3, 1999.

a. Resolution Accepting Petition

A Resolution Accepting a Petition for Annexation, Making Certain Findings, Determining that Property Known as Hidden Lake Annexation is Eligible for Annexation, Located at 422 Rosevale Road and Including Portions of Colorado State Hwy 340 Right-of-Way

b. Annexation Ordinance

An 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 Road Right-of-Way

Upon motion by Councilmember Theobold, seconded by Councilmember Scott and carried by voice vote, this item was continued to November 3, 1999.

Councilmember Terry asked that the Mayor solicit public comments regarding the decision to continue. There were none.

PUBLIC HEARING - 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.

The public hearing was opened at 9:10 p.m.

Kathy Portner, Community Development Department, reviewed this item. She said staff finds the State Statutes are being met and recommends approval. The project was submitted to the County for rezoning right after the signing of the Persigo Agreement. The applicant continued through the County process knowing they would need to annex following the process. They wanted to sell the south ten acres for subdivision and retain the northern three to four acres. The rezone was for the entire property. The property is west of the Clifton Sanitation District and the request to rezone to a higher density triggered the annexation. They wanted to split the property to keep the northern portion with their residence. Due to miscommunication, the entire property was rezoned by the County.

Councilmember Scott asked if the portion to be zoned 4 to 5 units per acre is vacant? Ms. Portner replied that development is in process.

Dr. Robert Timm, the owner, said he and his wife Mary own the property and are unsure of the processes. All the property surrounding them is in the County. They would like to keep the remaining portion of the property and their home and stay outside the city limits. He felt the purpose of the Persigo Agreement does not fit their situation as they are on septic.

Councilmember Theobald asked if they were rezoned. Dr. Timm said he didn't know but Staff indicated yes the entire property was rezoned.

Councilmember Theobald said in order to allow Dr. Timm not to be annexed, Council would have to break the Persigo Agreement. He asked Dr. Timm what is the problem with being annexed, needing something substantial on which to base the request. Dr. Timm said they don't want to be in the City. He wanted to split off his home and only rezone the southern ten acres.

Councilmember Theobald said had Dr. Timm applied for a simple land split first, this issue would not have come up. But because the zoning or rezone preceded for the entire property, the option to split and not rezone part of it was unavailable. He did not see that as something that can be resolved at this point. Regardless of who made the decision,

the decision was made irreversibly a long time ago. The Persigo Agreement may have been two years in the making, but has been in effect for a year. The agreement has been around for some time now.

Mike Joyce, 2764 Compass Drive, said Ms. Portner explained some of the dilemmas. She tried to come up with some solutions, rezone in process from AFT to R-1-C (5 units per acre), trying to delay the rezone until they could split the property. The City suggested a stipulation for approval to the County on the rezone that said "Don't record the resolution until an executed annexation agreement is obtained from the applicant." Mesa County didn't abide by the stipulation, and they recorded the rezone before the simple land division could be completed.

Councilmember Terry asked what the County designation was for the north parcel. Mr. Joyce said it is currently R-1-C. It was previously AFT. She asked if the County was able to reverse the decision. Mr. Joyce had talked with the County Attorney who said the Commissioners would not be willing to do that.

Councilmember Theobald recalled the initiation of the Persigo Agreement. Council agreed that those developments in process could continue through the County process. The entire parcel has been rezoned, and could still be developed and it would be appropriate to annex. If developed later the annexation requirement would have gone away. He questioned how contiguity can be obtained if part of the property is not annexed. The State Statutes would be violated if Council de-annexed the contiguity and created a satellite city by leaving the southern ten acres. He felt the only justification given by Dr. Timm is that he doesn't want to be annexed. Councilmember Theobald felt something more substantial is needed to justify going against the interest of the City and the agreement with the County and the specifics of the Persigo Agreement.

Councilmember Spehar asked if there is a hardship that would be created because of the annexation or any non-conforming use that will be created for the Timms on the residential parcel. Mr. Joyce said the Timms have some accessory agricultural uses, some plantings on the fields, and a blacksmith shop. Staff advised such issues could be dealt with.

Councilmember Terry's concern was that Council would be in violation of the Persigo Agreement by deannexing the Timm property. She could not offer her support. Had it been a simple land split, it wouldn't have triggered the Persigo Agreement.

There were no other comments. The public hearing was closed at 9:30 p.m.

a. Resolution Accepting Petitions

Resolution No. 122-99 – A Resolution Accepting Petitions for Annexation, Making Certain Findings, Determining that Property Known as Timm Annexation No. 1, 2 and 3, Including a Portion of the 30 Road and E Road Rights-of-Way, is Eligible for Annexation Located at 3121 E Road

Upon motion by Councilmember Theobold, seconded by Councilmember Terry and carried by roll call vote, Resolution No. 122-99 was adopted.

b. Annexation Ordinances

(1) Ordinance No. 3185 – An 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) Ordinance No. 3186 – An 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) Ordinance No. 3187 – An Ordinance Annexing Territory to the City of Grand Junction, Colorado, Timm Annexation No. 3, Approximately 2.22 Acres Located at 3121 E Road

Upon motion by Councilmember Theobold, seconded by Councilmember Terry and carried by roll call vote, Ordinances No. 3185, No. 3186 and No. 3187 were adopted on second reading and ordered published.

PUBLIC HEARING - ZONING TIMM ANNEXATIONS NO. 1, NO. 2 AND NO. 3 RSF-5, 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. The proposed zoning is RSF-5 (Residential Single Family not to exceed a density of 5 units per acre).

A public hearing was opened at 9:31 p.m.

Mike Joyce, 2764 Compass Drive, said they are in agreement with the proposed zoning of RSF-5. The preliminary plan was approved by the Planning Commission.

Kathy Portner, Community Development Department, stated the proposed zoning does meet the Persigo requirements and the criteria listed in Section 4-4-4 of the Zoning & Development Code. Staff recommends approval.

Councilmember Theobold asked if the plan is just for the southern ten acres. Ms. Portner said yes. The minor subdivision was approved by the Planning Commission. Lot 1 would include the Timm residence, Lot 2 is what Council saw on the preliminary plan. The RSF-5 zoning would apply to both Lots 1 and 2.

Councilmember Theobold asked about access issues for Lot 1 when it develops. Ms. Portner said issues have been worked out and there is no through access. However, Lot 1 has enough frontage for future access.

Mary Huber, 580 ½ Melrose Court, noted a typographical error on the agenda labeling Resolution No. 122-99 as Ordinance No. 122-99.

There were no other comments. The public hearing was closed at 9:38 p.m.

Ordinance No. 3188 – An Ordinance Zoning the Timm Annexation RSF-5

Upon motion by Councilmember Scott, seconded by Councilmember Payne and carried by roll call vote, Ordinance No. 3188 was adopted on second reading and ordered published.

PUBLIC HEARING - TEXT AMENDMENT TO ZONING AND DEVELOPMENT CODE

[FILE #TAC-1999-01.01]

Amending the Zoning and Development Code to add an RSF-E (Residential Single Family-Estate with a density not to exceed 1 unit per 2 acres) zone district.

A public hearing was opened at 9:38 p.m.

Kathy Portner, Planning Manager, reviewed this request. She said this will be applicable to the Keesee annexation. This zone district will be in the new code.

There were no public comments. Councilmember Theobold said the impetus for creating this zone is the Persigo Agreement. The Persigo Agreement contemplates two acre zoning as urban density and there has been no zoning to reflect that. This zone is needed.

The public hearing was closed at 9:40 p.m.

Ordinance No. 3189 – An Ordinance Amending the Grand Junction Zoning and Development Code to Add an RSF-E Zone District

Upon motion by Councilmember Theobald, seconded by Councilmember Enos-Martinez and carried by roll call vote, Ordinance No. 3189 was adopted on second reading and ordered published.

PUBLIC HEARING - 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.

The public hearing was opened at 9:40 p.m.

Dave Thornton, Principal Planner, reviewed this item. This project went through development review in Mesa County with subsequent annexation. It meets all State Statute requirements and Staff requests annexation.

There were no public comments. The hearing was closed at 9:41 p.m.

a. Resolution Accepting Petition

Resolution No. 123–99 – A Resolution Accepting Petitions for Annexation, Making Certain Findings, Determining that Property Known as 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, is Eligible for Annexation

Upon motion by Councilmember Terry, seconded by Councilmember Spehar and carried by roll call vote, Resolution No. 123–99 was adopted.

b. Annexation Ordinances

(1) Ordinance No. 3190 - An 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) Ordinance No. 3191 – An 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 Rights-of-Way

Upon motion by Councilmember Terry, seconded by Councilmember Spehar and carried by roll call vote, Ordinances No. 3190 and No. 3191 were adopted on second reading and ordered published.

PUBLIC HEARING - ZONING CHIPETA PINES ANNEXATION NO. 1 AND NO. 2 TO PR-3.9, 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 Mesa County Commissioners as part of the Chipeta Pines Subdivision. State law requires the City to zone newly annexed areas within 90 days of annexation.

The public hearing was opened at 9:41 p.m.

Dave Thornton reviewed this item. There are 33 single-family detached units, 34 duplex condos and 13 zero lot line single-family units along the golf course. The planned zone with the exact same plan and plat would apply. The City is taking over the County's approval and will be monitoring the subdivision construction, and issuing all permits over the development period. Under the Growth Plan the parcel was recommended as a park. This was an oversight - it was never a part of the Chipeta Pines Golf Course. The error will be corrected in a future growth plan amendment. Staff recommends following the current County zoning in this case and bring back an amendment to the Growth Plan. The request meets the zoning criteria of Sections 4-4-4 and 4-11 of the Zoning & Development Code.

There were no public comments. The public hearing closed at 9:45 p.m.

Ordinance No. 3192 – An Ordinance Zoning the Chipeta Pines Annexation No. 1 and No. 2 to a Planned Residential with a Maximum of 3.9 Units per Acre (PR-3.9) Zone District

Upon motion by Councilmember Spehar, seconded by Councilmember Scott and carried by roll call vote, Ordinance No. 3192 was adopted on second reading and ordered published.

PUBLIC HEARING - NORTHSTAR ENCLAVE ANNEXATION LOCATED IN THE AREA AROUND 28 ROAD AND CORTLAND AVENUE [FILE #ANX-1999-193]

The 39.68 acre Northstar Enclave Annexation area consists of land completely surrounded by existing Grand Junction city limits. State law allows a municipality to annex enclave areas unilaterally after they have been enclaved for a period of three years.

A public hearing was opened at 9:45 p.m.

Dave Thornton, Principal Planner, reviewed the proposal. He noted the neighbors' concerns have been addressed. Staff recommends approval of the enclave.

There were no public comments. The public hearing closed at 9:46 p.m.

Ordinance No. 3193 – An Ordinance Annexing Territory to the City of Grand Junction, Colorado, Northstar Enclave Annexation, Approximately 39.68 Acres Located at 28 Road and Cortland Avenue, Including Northstar Drive and Windstar Drive

Upon motion by Councilmember Payne, seconded by Councilmember Spehar and carried by roll call vote, Ordinance No. 3193 was adopted on second reading and ordered published.

PUBLIC HEARING - ZONING NORTHSTAR ENCLAVE ANNEXATION PAD AND RSF-5, LOCATED NORTH AND EAST OF CORTLAND AVENUE AND 28 ROAD

[FILE #ANX-1999-193]

The 39.68 acre Northstar Enclave Annexation area consists of land completely surrounded by existing Grand Junction city limits. State law requires the City to zone lands annexed into the City within 90 days of the annexation. The proposed zoning includes Residential Single Family with a maximum of 5 units per acre (RSF-5) and Planned Airport Development (PAD) zoning.

The public hearing was opened at 9:47 p.m.

Dave Thornton, Community Development Department, reviewed this item. Some building has taken place, and the proposed zoning conforms with the County zone. The request meets criteria in Sections 4-4-4 and 4-11 of the City Zoning & Development Code. Staff recommends approval.

Councilmember Scott asked about the property owner on the other side of the canal with a concern on bridge removal. Dave Thornton said Staff didn't pursue the concern. He said the property owner knew his property was going to be difficult to develop and was not requesting anything of Planning Staff at this time. Mr. Thornton recalled him being in favor of the annexation. Councilmember Terry noted the bridge was removed by the canal company.

There were no public comments. The public hearing was closed at 9:48 p.m.

Ordinance No. 3194 – An Ordinance Zoning the Northstar Enclave Annexation to a Residential Single Family with a Maximum of 5 Units per Acre (RSF-5) Zone and a Planned Airport Development (PAD) Zone District

Upon motion by Councilmember Scott, seconded by Councilmember Enos-Martinez and carried by roll call vote, Ordinance No. 3194 was passed on second reading and ordered published.

Councilmember Terry asked that the Mayor send a letter notifying the County once enclaves are completed. Councilmember Theobald suggested also mailing to the residents in the newly enclaved areas regarding city information.

Dave Thornton said a welcome letter has been mailed in the past to the new residents, signed by the Mayor.

PUBLIC HEARING - SUPPLEMENTAL APPROPRIATIONS TO THE 1999 BUDGET

The request is to appropriate specific amounts for several of the City's accounting funds as specified in the ordinance.

The public hearing was opened at 9:50 p.m.

Ron Lappi, Administrative Services Director, reviewed the proposal. He said this is the second and final supplemental appropriation for 1999. Various amounts are being appropriated for approximately 17 different funds. Contingency funds have also been included in various funds. The majority of the funds are appropriating fund balances.

There were no public comments. The hearing was closed at 9:51 p.m.

Ordinance No. 3195 – An Ordinance Making Supplemental Appropriations to the 1999 Budget of the City of Grand Junction

Upon motion by Councilmember Terry, seconded by Councilmember Scott and carried by roll call vote, Ordinance No. 3195 was adopted on second reading and ordered published.

SETTING A SPECIAL ELECTION DATE AND BALLOT TITLE FOR CHARTER AMENDMENT REGARDING COLLECTIVE BARGAINING

On October 6, the City Clerk issued her findings that the Charter Amendment Petition had been signed by over 10% of the registered electors. The Council can therefore consider the setting of a special election and determining the ballot title. Other issues for the election ballot can also be considered.

City Clerk Stephanie Nye said there are four possible dates for calling the election within the constraints of the State Statutes, the last three Tuesdays in January, 2000 or the first Tuesday in February, 2000. Otherwise, the date is within a 32-day period of the Primary Election or General Election.

Councilmember Spehar said if Council were to use the February 1st date, ballots would be mailed in the first or second week of January. Otherwise, ballots would be mailed over the holidays. He suggested using the February 1st date to make certain the date is past the holidays with the mail-ins, etc.

Resolution No. 124-99 – A Resolution Setting a Title and Submitting to the Electorate on February 1, 2000 a Measure to Amend the City Charter to Include Sections Authorizing Collective Bargaining for Police and Fire Employees, Providing for Binding Arbitration and Other Related Matters

It was moved by Councilmember Payne and seconded by Councilmember Scott and carried by roll call vote to set an election date and the ballot title, authorize a mail ballot election and authorize the City Clerk to submit a mail ballot election plan to the Secretary of State, and adopt Resolution No. 124-99.

City Attorney Wilson advised that the TABOR issue cannot be placed on this special election but other matters can be considered. Those options will be discussed at the first meeting in November.

Councilmember Terry felt there needed to be an explanation of the City's restrictions and Council needs to get information out to the citizenry on the issue.

City Attorney Wilson said the Fair Campaign Practices Act does not address the Home Rule charter amendment question. It is important because in Commerce City's similar case, the city spent funds and printed a brochure against the issue. The complaint was that it violated constitutional law (the Fair Campaign Practices Act) which prevents spending public funds. Public funds are not to be used to advocate pro or con. However, Council can direct the City Manager to develop neutral information, comparing Grand Junction to other cities. Council can still take an official position, as a body, pro or con or on pieces of it. The City Manager can present both sides, host forums and gather information. Education can be provided, not advocacy. City Attorney Wilson warned Council it must be cautious and make sure it's presenting balanced information so it doesn't appear its official position is influencing its information. He said he will prepare something in writing next week for Council to rely on.

Councilmember Scott asked what can be done as individuals. City Attorney Wilson said as long as Council is not using City resources, they can provide neutral information.

Councilmember Terry felt that factual data should be provided that lays out the history of what has evolved over time and how Council has gotten to the election point. She wanted in depth clarification for the public. City Attorney Wilson said that would be allowed.

Mayor Kinsey said Council needs to develop some questions, and brainstorm some lists through e-mail for consideration and compilation by the City Manager. City Manager Mark Achen could then have questions and comments compiled within two weeks.

Councilmember Terry asked if Council is going to take a position. Councilmember Theobold said he thought they were.

Mayor Kinsey said the position of some Councilmembers is clear, but if it's divided so be it. Council will list its official position, and release Councilmembers to go out and campaign for either side.

Councilmember Theobold said some wanted to take a position now and two or three wanted to wait to find out if the issue would be on the ballot and then take a position.

Councilmember Terry suggested the position be scheduled at the beginning of the next City Council meeting.

NON-SCHEDULED CITIZENS & VISITORS

Annexation Services

Mary Huber, 580 ½ Melrose Court, said nobody seems to have a map of the annexed areas. She asked what services are offered by the City. She had a complaint about the City's street sweeper going to a recent annexation up and down the same side of the street to reach the annexation. She didn't feel it made much sense. She said there were recent incidents inside city limits where City police let the Mesa County Sheriff take over.

Mayor Kinsey said providing services is difficult with checkerboarding, but it will be resolved once areas are filled in.

Councilmember Theobold said he would like to hear from the Police Department regarding the foregoing incident mentioned by Ms. Huber. Ms. Huber said she was driving home one evening, after the annexation of the Wells Annexation business on I-70B. There was a Sheriff's patrol car sitting out front. She talked to Mr. Wells the next day and he said the wind was blowing and it had triggered the automatic alarm. She felt that should have been City police response, but the Sheriff was there. Ms. Huber felt it was probably a technicality.

Acting Police Chief Martyn Currie said he was unfamiliar with the incident, but the City does have a cooperative relationship with the Colorado State Patrol and Mesa County Sheriff's Office for alarm or emergency situations as to who will respond first. The closest unit will often respond first. Any reporting or follow-up would be performed by the City police.

Acting Community Development Director David Varley said when an annexation becomes effective, all departments are notified with a map and that is put in the E911 system.

EXECUTIVE SESSION

Upon motion by Councilmember Payne, seconded by Councilmember Spehar and carried, the meeting adjourned into executive session at 10:25 p.m. to discuss three property negotiations.

ADJOURNMENT

Stephanie Nye, CMC/AAE
City Clerk