

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

**December 1, 1999**

The City Council of the City of Grand Junction, Colorado, convened into regular session the 1st day of December, 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 Theobold, and President of the Council Gene Kinsey. Also present were Acting City Manager Joe Stevens, City Attorney Dan Wilson, and City Clerk Stephanie Nye.

Council President Kinsey called the meeting to order and Councilmember Theobold led in the Pledge of Allegiance. The audience remained standing during the invocation by Rev. Rocky Shrable, Sunrise Church of God.

**PRESENTATION OF THE SILVER BUCKLE AWARD FOR SEATBELT ENFORCEMENT TO THE GRAND JUNCTION POLICE DEPARTMENT**

Duke Smith, Colorado Department of Transportation, was introduced by Acting Police Chief Marty Currie. Acting Chief Currie also introduced Sgt. Paul Frey who was instrumental in attaining the goals which resulted in the award.

Mr. Smith said the state-wide seatbelt campaign has existed for 2 years and is responsible for increasing the state usage rate approximately 10 percentage points. It has saved numerous lives and prevented serious injuries. The usage in Mesa County is up to 67%, which is above state average of 65%. He then presented the Silver Buckle plaque for outstanding enforcement and public awareness in the City of Grand Junction.

**CONSENT ITEMS**

Upon motion by Councilmember Payne, seconded by Councilmember Terry and carried by roll call vote, the following Consent Calendar items #1 through #13 were approved:

1. **Minutes of Previous Meeting**

*Action: Approve the Minutes of the Regular Meeting November 17, 1999*

2. **Levying Property Taxes for the Year 1999**

The resolutions set the mill levies of the City of Grand Junction, Ridges Metropolitan Districts #1 and #2, Grand Junction West Water and Sanitation District, and the Downtown Development Authority. The City and DDA mill levies

are for operations. The others are for debt service only. For the first time the City is also establishing a credit mill levy pursuant to the Tabor Amendment. The City will levy a temporary credit of 0.377 mills for the purpose of refunding approximately \$139,000 of excess property tax collected in 1998.

- a. Resolution No. 134–99 – A Resolution Levying Taxes for the Year 1999 in the City of Grand Junction, Colorado
- b. Resolution No. 135–99 – A Resolution Levying Temporary Credit Taxes for the Year 1999 in the City of Grand Junction, Colorado
- c. Resolution No. 136–99 – A Resolution Levying Taxes for the Year 1999 in the Ridges Metropolitan District, a Part of the City of Grand Junction, Colorado
- d. Resolution No. 137–99 – A Resolution Levying Taxes for the Year 1999 in the Grand Junction West Water and Sanitation District, a Part of the City of Grand Junction, Colorado
- e. Resolution No. 138–99 – A Resolution Levying Taxes for the Year 1999 in the City of Grand Junction, Colorado, Downtown Development Authority

*Action: Adopt Resolutions No. 134–99, No. 135–99, No. 136–99, No. 137–99 and No. 138-99*

3. **Setting a Hearing on the Annual Appropriation for the Year 2000**

The total appropriation for all 35 accounting funds budgeted by the City (including the Ridges Metropolitan District, Grand Junction West Water and Sanitation District, and the Downtown Development Authority) is \$84,029,683. Although not a planned expenditure, an additional \$2,000,000 is appropriated as an emergency reserve in the General Fund pursuant to Article X, Section 20 of the Colorado Constitution.

Proposed Annual Appropriation Ordinance Appropriating Certain Sums of Money to Defray the Necessary Expenses and Liabilities of the City of Grand Junction, Colorado, the Ridges Metropolitan District, and the Grand Junction West Water and Sanitation District, for the Year Beginning January 1, 2000, and Ending December 31, 2000

*Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for December 15, 1999*

4. **Land Exchange with Bureau of Land Management in the Grand Mesa Slopes Special Management Area**

On April 7, 1999 the City Council adopted Resolution No. 42-99 agreeing to initiate a land exchange between the City of Grand Junction and the Bureau of Land Management. The first resolution amends the April 3, 1999 Agreement to initiate a land exchange that reflects final, agreed upon acreages and values. The second resolution authorizes the City to exchange subject lands and to close by December 31, 1999 contingent upon review and approval of appropriate closing documents, which includes a federal patent to lands being acquired by the City from the BLM.

a. **Amend Agreement with BLM**

Resolution No. 139-99 – A Resolution Authorizing an Amendment to Agreement to Initiate Land Exchange between the City of Grand Junction and the Bureau of Land Management

b. **Exchange Lands with BLM**

Resolution No. 140-99 – A Resolution Authorizing the Exchange of Real Estate with the United States of America

*Action: Adopt Resolutions No. 139-99 and No. 140-99*

5. **Amending the Somerville Ranch Lease with Cliff and Judy Davis**

On April 7, 1999 the City adopted Resolution No. 42-99 agreeing to initiate a land exchange between the City of Grand Junction and the Bureau of Land Management. On December 1, 1999 the City will consider adoption of a resolution agreeing to exchange lands with the BLM.

Cliff and Judy Davis currently lease property being conveyed by the City to the BLM for ranching purposes. The 1990 ranch lease with Davis, by way of this amendment, will remove these lands from the lease. These soon-to-be BLM lands will be added to the BLM grazing permit with Cliff and Judy Davis. Likewise, BLM lands coming to the City will be removed from the BLM grazing permit with Davis and added, by way of this amendment, to the Somerville Ranch lease between the City and Cliff and Judy Davis.

Resolution No. 141-99 – A Resolution Amending the Lease of City Property to Clifford V. Davis and Judy L. Davis

*Action: Adopt Resolution No. 141–99*

6. **Utility Easement to the Public Service Company of Colorado at 24 ½ Road, South of River Road**

The Public Service Company of Colorado has requested an easement across City property spanning the Colorado River, at the alignment of 24 ½ Road, south of River Road, to accommodate the reconstruction of an existing 13KV power line.

Resolution No. 142–99 – A Resolution Concerning the Granting of a Non-Exclusive Electric Utility Easement to the Public Service Company of Colorado

*Action: Adopt Resolution No. 142–99*

7. **Vacating Utility Easements in the Fountain Greens Subdivision, Located North and West of the Northwest Corner of 25 Road and G Road**  
[File #FPP-1999-183]

The applicant requests to vacate all 10-foot utility easements adjacent to some of the private streets that were platted with the replat of Fountainhead Subdivision. The vacation is requested in conjunction with the approval of Fountain Greens Subdivision, Filing 1. At its November 9, 1999 hearing, the Planning Commission recommended approval of this request.

Resolution No. 143–99 – A Resolution Vacating Utility Easements in the Replat of Fountainhead Subdivision

*Action: Adopt Resolution No. 143–99*

8. **Setting a Hearing on High Pointe Estates Annexation Located at 2462, 2462 ½ and 2464 Broadway** [File #ANX-1999-228]

The 17.21 acre High Pointe Estates Annexation area consists of land owned solely by the applicant, Lois Clifton. 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. 144–99 – 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 – High Pointe Estates Annexation Located at 2462, 2462 ½ and 2464 Broadway

*Action: Adopt Resolution No. 144–99 and Set a Hearing for January 19, 2000*

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

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, High Pointe Estates Annexation, Approximately 17.21 Acres, Located at 2462, 2462 ½ and 2464 Broadway

*Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for January 19, 2000*

9. **Setting a Hearing on Coventry Club Annexations No. 1, No. 2 and No. 3, Located on Arlington Drive, North of Quincy Lane** [File #ANX-1999-247]

The 4.32 acre Coventry Club Annexation consists of one parcel of land, approximately 2.860 acres, subdivided into 50 separate existing townhouse lots. Also included is a small portion (.06 acres) of right-of-way obtained from B ½ Road and a portion of Arlington Drive (.31 acres). This subdivision is located on Arlington Drive, north of Quincy Lane.

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

Resolution No. 145–99 – 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 – Coventry Club Annexation Located on the Northeast Corner of Quincy Lane and Arlington Drive

*Action: Adopt Resolution No. 145–99 and Set a Hearing for January 19, 2000*

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

- (1) Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Coventry Club Annexation No. 1, Approximately .06 Acres, Located 50 Feet along B ½ Road to Arlington Drive
- (2) Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Coventry Club Annexation No. 2, Approximately .31 Acres, Located along the East and West Right-of-Way of Arlington Drive

- (3) Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Coventry Club Annexation No. 3, Approximately 3.95 Acres Located along a Portion of the Width of the Right-of-Way of Quincy Lane, Including the Existing Coventry Club Subdivision

*Action: Adopt Proposed Ordinances on First Reading and Set Hearings for January 19, 2000*

10. **Setting a Hearing on Broome Annexation Located at 3090 I-70 B**  
[File #ANX-1999-263]

The 2.12 acre Broome Annexation consists of two parcels of land, Lots 3 and 6, of the 31 Road Business Park Subdivision, approximately 1.81 acres. Right-of-Way included in this annexation is a portion of Hoover Drive.

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

Resolution No. 146–99 – 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 – Broome Annexation Located at 3090 I-70 B

*Action: Adopt Resolution No. 146–99 and Set a Hearing for January 19, 2000*

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

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Broome Annexation, Approximately 2.12 Acres, Located at 3090 I-70 B

*Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for January 19, 2000*

10. **Setting a Hearing on Zoning Hill Annexation RSF-E, Located at 323 and 325 South Redlands Road** [File #ANX-1999-229]

The 14.41 acre Hill Annexation area consists of one parcel of land. The requested zoning is RSF-E. The applicant has received final approval for a 3 lot minor subdivision.

Proposed Ordinance Zoning the Hill Annexation RSF-E

*Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for December 15, 1999*

- 12. **Setting a Hearing on Zoning a Portion of Desert Hills Estates Annexation No. 1 Located at 2114 Desert Hills Road, West and North of Riggs Hill PR-2.5**  
[File #ANX-1999-204]

Request for a zone of annexation from County R-2 to City PR, with a density not to exceed one dwelling unit per 2.5 acres, for a portion of Desert Hills Estates Annexation No. 1.

Proposed Ordinance Zoning a Portion of the Desert Hills Estates Annexation No. 1 to PR-2.5

*Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for December 15, 1999*

- 13. **Tiara Rado and Lincoln Park Municipal Golf Courses Concession Agreement**

On December 31, 1996, Pat Kennedy and Stephen Hofer, President and Secretary/Treasurer respectively for Pinon Grill, Inc., entered into an agreement with the City that will end on December 31, 1999. The current agreement includes an option to renew for an additional two years at \$600/month plus 5% of monthly gross sales.

*Action: Authorize the City Manager to Sign an Agreement with Pinon Grill, Inc. for Concession Services at Tiara Rado and Lincoln Park Municipal Golf Courses*

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

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

**PUBLIC HEARING - MENDEZ ANNEXATION LOCATED AT 2765 HIGHWAY 50**  
[FILE #ANX-1999-236]

This is a public hearing for the 6.566 acre Mendez Annexation area consisting of one parcel of land. The owners of the property have signed a petition for annexation. The petition was referred to City Council on October 20, 1999.

The hearing was opened at 7:34 p.m.

Lori Bowers, Community Development Department, reviewed this item. She displayed the map on the overhead. The area is on Orchard Mesa near the ball fields at Veteran's Memorial Park. The petition was signed by 100 % of the property owners. The property consists of one unsubdivided parcel. Contiguity is obtained from the previous annexation of Highway 50 as allowed under State Statutes. Staff's opinion is that the annexation meets requirements and is eligible for annexation.

Mayor Kinsey explained the zoning of the annexation will be discussed separately as the next item on the agenda.

David Smuin, 4221 Purdy Mesa Road, representing Dan Mendez who was out of town. He stated the Mendezes are willing to be annexed.

There were no public comments. The hearing was closed at 7:36 p.m.

**a. Resolution Accepting Petition**

Resolution No. 147-99 – A Resolution Accepting Petitions for Annexation, Making Certain Findings, Determining that Property Known as Mendez Annexation is Eligible for Annexation, Located at 2765 U S Highway 50

**b. Annexation Ordinance**

Ordinance No. 3212 – An Ordinance Annexing Territory to the City of Grand Junction, Colorado, Mendez Annexation, Approximately 6.566 Acres, Located at 2765 U S Highway 50

Upon motion by Councilmember Theobald seconded by Councilmember Enos-Martinez and carried by roll call vote, Resolution No. 147-99 was adopted and Ordinance No. 3212 was adopted on second reading and ordered published.

**PUBLIC HEARING - ZONING MENDEZ ANNEXATION C-2, LOCATED AT 2765 HIGHWAY 50 [FILE #ANX-1999-236]**

The 6.566-acre Mendez Annexation area consists of one parcel of land. The requested zoning is C-2. This parcel is currently under site plan review for a new construction office/warehouse. Staff and Planning Commission are recommending C-2 zoning for this parcel.

The hearing was opened at 7:37 p.m.

David Smuin, 4221 Purdy Mesa Road, representing Mendez Construction, was present. He said Terry Farina, attorney for the Mendezes, was present. He explained the proposal. The petitioner is proposing to build a 3900 square foot construction company office and 7200 square foot warehouse. Outdoor storage is for earth moving equipment and truck parking. A 28' wide x 5' high berm will be constructed along the Highway 50 frontage, topped with a 6' screening fence and landscaped to exceed City Code requirements. They oppose the Staff recommendation of C-1 zoning and come before City Council with the unanimous recommendation from the Planning Commission for a C-2 zone.

Mr. Smuin made several points: (1) The petitioner is requesting a C-2 zoning, consistent with other uses and zoning in the area which is appropriate for the proposed use; (2) The City Planning Staff is recommending C-1 zoning for the parcel which is not consistent with the existing use or zoning in the area and will prevent the petitioner from the intended use of the parcel; (3) The Orchard Mesa Neighborhood Plan is referenced as justification for the Staff's recommendation of C-1 zoning, even though the Plan is considered advisory only; and (4) The petitioner is proposing screening and landscaping along the Highway 50 Corridor which more than meets the City Code and meets the spirit of the Orchard Mesa Neighborhood Plan. The premise for Staff recommendation is the Orchard Mesa Plan. Many of the tenants of the Plan have not been followed. The Plan is advisory only. He said the Staff recommendation for C-1 will prevent outdoor storage.

The nearby Wheeling Corrugated was recently annexed with a C-2 zoning and it has outdoor storage. Mr. Smuin gave other examples in the area such as the Magnum Machine Shop, the Snowshoe Manufacturing Store, and the Vinyl Material Warehouse. None of the existing uses in the vicinity of the subject property would be allowed (except one) in a C-1 zone in the City. He illustrated many C-2 uses along the south side of Highway 50 and showed some photos of the area and the Mendez property. He also showed a characature of the landscaping concept for the frontage along Highway 50. He said Mendez Construction went to the County and was told that it was zoned commercial and their proposal would be allowable. There was no mention of the required annexation and rezoning at that time. In February, 1999, the Persigo Agreement was pretty new. When they contacted Mr. Smuin to prepare the site plan they learned they might be annexed, and much later in the process they learned their zone would be recommended for a C-1 zoning. Had they known about the annexation and rezone, they would have looked for another property. The question posed in the Staff report asks whether to zone the business to be compatible with surrounding uses or to comply with the Orchard Mesa Neighborhood Plan. Mr. Smuin thought both can be done. The intent of the Plan was to allow new development which was compatible with existing uses. It does not prohibit outdoor storage, it only calls for guidelines for outdoor storage. The purpose of the Plan was to beautify Highway 50, and the proposed screening exceeds the City's requirements. He urged the adoption of a C-2 zone.

Lori Bowers, Community Development Department, reviewed this item. She stated although Staff recommends C-1, the Planning Commission recommended a zone of C-2 after much testimony taken at their public hearing on November 9, 1999. She too agreed with the C-2 zoning. The proposal meets the rezone criteria of Sections 4-4-4 and 4-11 of the Zoning & Development Code.

Councilmember Theobald asked about the difference between the City C-2 zone and the current County commercial zone. Ms Bowers said the County does not differentiate between light and heavy commercial as the City does. Councilmember Theobald said it appears the difference is minimal. Ms. Bowers concurred.

There were no public comments. The hearing was closed at 7:50 p.m.

Ordinance No. 3213 – An Ordinance Zoning the Mendez Annexation to a Heavy Commercial Zone District (C-2)

Upon motion by Councilmember Theobald, seconded by Councilmember Payne and carried by roll call vote, Ordinance No. 3213 was adopted on second reading and ordered published.

**PUBLIC HEARING – APPEAL AND VACATION OF RIGHT-OF-WAY FOR HORIZON PARK MEADOWS MINOR SUBDIVISION, LOCATED AT THE NORTHEAST CORNER OF HORIZON DRIVE AND 12<sup>TH</sup> STREET** [FILE #MS-1999-179]

Request (1) to appeal the Planning Commission condition of approval on maximum building height for proposed Lots 1, 3 and 5 (40 feet in an H.O. zone district that allows 65 feet); and (2) approval of a vacation of right-of-way.

Rich Heiserman, 5651 S. Hanover Way, Englewood, CO, a partner in HPM, LLC, the owner of the property, reviewed this item and the requests. He explained the problem with the condition of approval (height reduction). Their request to split the property into five lots was approved. Their proposal for a building that requires 65 feet in height on Lots 1, 3, and 5 (lots to the north) was approved by the Planning Commission on November 9, 1999, but the height was reduced to 40 feet for each lot. They need at least 50 feet in height to build the proposed building on this property. The 3-story high building is higher than 40 feet but less than 50 feet. They are requesting the 40 foot limit be increased to 50 feet on Lots 1, 3 and 5. Lots 2 and 4 are still at 65 feet which is what the Planning Commission had recommended. The building proposed will be the Staybridge Suites, a Holiday Inn subsidiary. He said it is a very attractive property.

Councilmember Terry asked for a definition of an extended stay facility. Mr. Heiserman said it's a little nicer facility for someone to stay in if they need to stay for a week to a

month. Someone with family in the hospital would be an example. It's nicer to stay for a period of time than a regular motel room.

City Attorney Dan Wilson said the Public Works Staff has looked at the eventual improvements to Horizon Drive in this area. There is a possibility that the City will need a portion of the right-of-way on the north side of Horizon Drive. Since the City is vacating an existing right-of-way now is the time to consider any need for other right-of-way in the future. Mr. Wilson suggested that a condition be added to the vacating ordinance that reserves the right for additional right-of-way thus allowing the developer to go forward.

Mr. Heiserman introduced Brian Hart of LanDesign who helped with the design of Horizon Drive improvements. Mr. Hart, 259 Grand Avenue, addressed that issue. He asked Mr. Wilson to clarify if he meant right-of-way dedication specifically along Horizon Drive. Mr. Wilson said either additional right-of-way or temporary construction easements.

Mr. Hart said on the south boundary of the site there is a substantial drainage easement where the granting of right-of-way won't impact any of the lots, unless it is greater than 50 feet.

Rich Heiserman agreed with Mr. Hart. The property between the existing road and the Ranchman's Ditch isn't needed for lots. If more right-of-way is needed, they will be happy to accommodate.

Councilmember Terry asked for the location of the existing sidewalk. Mr. Hart said it is very close to the property line, but on existing right-of-way. It is just south of the bold line on the plat, just off of petitioner's property,

Councilmember Spehar asked if the height restriction is to be lifted only on Lots 1, 3 and 5. Mr. Heiserman said yes, that's where the 65 foot height was reduced. It was not reduced on Lots 2 and 4. Councilmember Spehar asked why they wanted more height on all five lots. Mr. Heiserman said there may be some other uses, but they would live with 50 feet on Lot 3.

Mark Relph, Public Works Director, said, looking at this plat, he was confident that right-of-way will not be needed for the street cross section. They don't want to dig up the trail. The only exception would a possible drainage issue coming off the street section requiring acquisition of a drainage easement.

City Attorney Wilson asked Mr. Relph if he could know that for sure within a month. Mr. Relph said they could know within one month or sooner.

City Attorney Wilson said the reservation for additional right-of-way could be accomplished in a way that won't slow the developer down by adding a provision into the ordinance which would read for example "subject, however, with respect to the property

line southeast of the thread of the stream,” making sure it’s on the unbuildable side. At the end of the thirty days, the City could either vacate the condition or acquire the right-of-way needed. This gives the City a chance to look at it without hampering the developer.

Ms. Ashbeck reviewed this item briefly, stating the application meets the criteria of Section 8–3 of Zoning & Development Code. The Planning Commission’s concern was an H.O. zoned property abutting existing single family housing. They decided to keep 40 feet to the back lots (tiered affect), and 65 feet on Lots 2 and 4. There was some input from the public some of whom are also present tonight. In addition to the technical requirements of the plat was increasing the setback was increased to 30 feet for the building along the north property line. The Code only requires 15 feet. The developer is agreeable with that condition. The only condition being appealed is the 40 foot height limitation on Lots 1, 3 and 5.

Councilmember Spehar asked what is the normal height in an H.O. Ms. Ashbeck replied it is 65 feet, but the Code allows for that to be reduced by the Planning Commission.

Councilmember Terry asked about the previously discussed overlay district and its impact. Kathy Portner, Planning Manager, Community Development Department, said the Horizon Drive Corridor Plan, north of G Road, addresses this, although this piece of property was not included. When the Horizon Drive Corridor Plan was discussed, it was proposed for the area north of G Road to allow 65 feet on that section of Horizon Drive with the new proposed C-1 zoning.

Mayor Kinsey asked for the height of the extended stay hotel located in the downtown area. Ms. Ashbeck said the petitioner went to the Board of Appeals and got a variance for 65 feet for their 4-story building. The Board’s justification was that the proposed zoning for downtown (B-2) will allow a 65 foot height limitation.

Councilmember Terry asked if the review is complete on the final plat. City Attorney Wilson said it was the appeal of the condition that was brought it to Council. Councilmember Terry asked if Council has authority to discuss the other height limitations on the other lots. City Attorney Wilson said no, just this particular request. City Attorney Wilson said Council has the ability to review heights on Lots 1, 3 and 5 because the petitioner has appealed all three.

Councilmember Theobald asked if it is a choice between 40’ or 65’, or is there a choice of 50’ within the range of options. City Attorney Wilson said it is within the range. Ms. Ashbeck advised the Code allows Council to look at variations, and may allow Council to look at all the lots. Mayor Kinsey said that’s outside of the appeal. Councilmember Theobald agreed.

Public comments were taken at this time.

Frank Spiecker, 4329 Racquet Court, said he owns a single-family home abutting the north boundary of Lot 3. He attended one of the public meetings and was never told of a 52 foot high hotel. The hotel was mentioned but was supposed to be small and modest. If the greater height is allowed, residents in the area will be looking at the back of a hotel. Other hotels in the area are approximately 30 feet high. He asked Council to honor the 40 foot recommendation by the Planning Commission.

Councilmember Theobald asked Mr. Spiecker if he was aware of the zoning of the property to the south when he purchased his home. Mr. Spiecker said he was not aware, but other commercial buildings are not that high. He felt it will be a real blight to have Lots 3 and 5 that high. The Planning Commission placed the condition on the property with good thought.

Bill Wilson, Horizon Towers, 1111 Horizon Drive, lives on the 8<sup>th</sup> floor. He measured the distance from the floor of his unit to the ground. It is 77 feet which gives one an idea of the height of a 65 foot building. He felt it is a disservice to the single-family home owners in the area to put a tall building on Lot 3 or Lot 5. The residents will never see the sun in the winter. He did not oppose the vacation of the right-of-way going onto 12<sup>th</sup> Street, but did oppose the height limit on Lot 3.

Vern Cochran, 1449 Racquet Way, said he also attended the meeting of the Planning Commission and the residents were very concerned about the height of the building which would destroy their privacy, integrity and quality of their homes. The Planning Commission considered every aspect, and determined 40 feet would be the maximum height they would recommend. He requested that Council honor their decision.

Ted Martin, present owner of the development at Villas Country Club, agrees with the statements of the others. Regarding Lots 1, 3 and 5, he felt transitioning a residential neighborhood to a commercial development is difficult. He was aware of the commercial zoning when he purchased the Villas Country Club property, but was not aware of the height allowances. The height limitations are very damaging as far as the sun and the views, etc. He could see additional heights closer to Horizon Drive. He would have to accept 40 feet, and appreciated Council keeping it at that.

Councilmember Terry asked about the configuration of Mr. Martin's development. She asked where the top of his buildings would hit on a 50 foot high building. Mr. Martin said they are talking about 30 feet towering above the rooftops of The Villas buildings.

Councilmember Theobald asked if Mr. Martin knew his height limit. Mr. Martin said it's a one-story limit.

Councilmember Spehar noted Mr. Martin's property is somewhat elevated with the retaining wall. Mr. Martin agreed.

Carter Elliot, Horizon Towers, 1111 Horizon Drive, said Council needs to factor in who was there first. Residential zoning came in, and expensive homes were built. Now a commercial zone is coming in and they say they can't live with the height limitation. Mr. Elliot said he thought they can live with it if they want to, and he thought they should live with it. He felt Council should protect the long time residents in the area.

Martin O'Boyle, 3720 Horizon Glen Court, said he uses Horizon Drive a lot as he works and lives there. He said Horizon Drive is the prettiest entryway into the City of Grand Junction, and was sad that this H.O. zone is surrounded by high quality residential properties. The mixed use of expensive residences (Horizon Towers and Lakeside) around the area is a pleasant use. Eventually, the varied residential character will be filled in. This proposal is suggesting two hotels, three restaurants and 60,000 square feet of commercial space. These are just some of the myriad of uses that will be available to developers under this H.O. zone. He asked Council to consider the impact to the 12<sup>th</sup> and G Road area and the impact of the proposed uses that can be placed on these parcels along Horizon Drive. Living close to the round-about, he supported the round-about. He felt it is a wonderful facility and good entranceway to the community, however, he felt it cannot handle this development of 17 acres. He felt perhaps the citizenry must not have seen this coming. Local businesses have concluded that this parcel is too expensive to develop on as it is a swamp and wetlands area. He asked Council to rethink the H.O. zone, but if not, to keep the 40 feet height limit.

Ellen Taylor, Horizon Towers, 1111 Horizon Drive, is a two-year resident. She said she loves Grand Junction and seconded Mr. O'Boyle's remark regarding the entrance to the City. As a conservationist, she was concerned that the property is partially a wetlands, a rare treasure in the high desert, and the Army Corps of Engineers has said they won't allow the Ranchman's Ditch to be covered. There is wildlife in the area. She also loves the roundabout, but feels it can't handle any more traffic. She requested Council restrain the height. She said if this was going to be one hotel with gracious grounds surrounding it, it would be more acceptable. She felt this proposal is threatening as there will be signs, lights and commercialization to be considered.

Ted Martin said even with the present commercial zoning with the 40 foot height limitation, they would ask for a setback from the residential property lines preventing the buildings from being jammed up against the residential communities. He asked if there are any setbacks requirements in place. Councilmember Spehar said 30 feet is proposed which is double the requirement.

Brian Brannon, 1429 Racquet Way, said there are deer in the area. He can see the Colorado National Monument and the Grand Mesa. With this development, he said he might as well be living in Chicago because all he will see is the back of this proposed 65 foot building. He assumed the wetlands there would be protected and a significant

building would be forbidden. He felt the building height will have a negative affect on the area.

Councilmember Theobald asked how Council can dictate the height limits in a straight zone. Ms. Ashbeck said it is allowed by the Code. Council can change any bulk requirement in the H.O. zone only.

Councilmember Spehar asked Mark Relph if traffic and the roundabout would be able to handle this development's generation of additional traffic. Mr. Relph said the roundabout can handle much more traffic. The current additional use is due to 27 ½ Road being closed. Studies have been made and he was confident for the next 15 to 20 years the roundabout will be able to handle this development and others on this corridor.

Rich Heiserman said he listened to the comments from the neighborhood residents, and had sympathy for them. This happens in so many places. Everyone wants open space to be left open, although it's not economical for the City or the property owner to do that. He agreed 65 feet is too tall against the residential areas. The contractor, Jeff Kosky, was present at this meeting, and he and Mr. Heiserman have talked to Holiday Inn. He can accept 45 feet on Lot 3 to build the three-story building. Mr. Heiserman felt it would be a big asset to the City.

Councilmember Terry asked Mr. Heiserman if his partnership owns all of these lots. Rich Heiserman said yes. Councilmember Terry asked if his partnership intends to have the lots developed individually of each other and not as a unit. Mr. Heiserman said yes, they intend to sell them off to individual developers, which is the case with the Staybridge.

Councilmember Terry asked if the partnership has any plan for the other lots in terms of use. Mr. Heiserman said they have been approached by two restaurant companies that would be interested in putting restaurants on Lots 2 and 4 along Horizon Drive.

Councilmember Scott noted the proposed building would be two-thirds the height of the Horizon Towers building.

Mr. Heiserman restated that if they could have 45 feet instead of 40 feet on Lot 3, they would be okay leaving 40 feet on Lots 1 and 3. They are only asking for 5 feet more than what the Planning Commission approved on November 9, 1999. He also mentioned the topography on this property falls from the back of the property down to Horizon Drive.

There were no other public comments. The hearing was closed at 8:45 p.m.

Council discussion then took place.

Councilmember Theobold said several issues were brought up tonight that are not a part of this appeal and should not be taken into consideration. These are the view, zoning, wetlands, traffic, wildlife, use, and value of the nearby homes. He felt the most significant comment was about who was there first. The H.O. zoning on this property was there before all of these homes. Mr. O'Boyle mentioned open space. The public views that private property as their emotional open space yet it belongs to the people who own that property. To expect Council to deny those property owners the right to use that property because it hasn't been developed yet and people like to look at the open space, is unfair. The existing zone on this piece of property allows up to 65 feet. The petitioner has agreed to double the setback from 15 to 30 feet and reduce the additional height request from three lots to just one lot. The petitioners have made concession after concession. Councilmember Theobold was ready to accept raising the limit to 45 feet on Lot 3.

Councilmember Terry agreed with many of Councilmember Theobold's comments. The zoning is there and Council has the responsibility to make modifications per the City Code, taking into consideration good planning practices. She did not agree with the 65 feet allowed along that corridor. She felt surrounding residences should be considered even though the zoning has been in place. Good zoning should be compatible if Council can make it compatible with adjacent properties. If the Code allows modifications then Council should do so. She would like to see a 40 foot limit on all the lots.

Councilmember Spehar was willing to support the appeal to raise the height to 45 feet on Lot 3 only.

Councilmembers Scott and Enos-Martinez were in favor of the appeal on Lot 3.

Councilmember Payne was glad the petitioner dropped down to 45 feet, the other lots there with 65 feet. Development on Horizon Drive can't be stopped at the Pizza Hut location. He didn't think anyone would build houses right on Horizon Drive so it would never be a residential area. He, therefore, favored the petitioner's appeal.

**a. Appeal of Condition of Approval**

**b. Vacation Ordinance**

Ordinance No. 3214 – An Ordinance Vacating a Portion of Right-of-Way in the Vicinity of the Northeast Corner of Horizon Drive and 12<sup>th</sup> Street

Upon motion by Councilmember Theobold, seconded by Councilmember Scott and carried by roll call vote with Councilmember **TERRY** voting **NO**, the appeal on the maximum height for Lot 3 to 45 feet was granted, the appeal on Lots 1 and 5 was denied, and Ordinance No. 3214 was adopted on second reading, subject to the City Attorney's

language regarding potential City right-of-way for utilities located northeast of Horizon Drive and southeast of the thread of the wash, to be resolved by January 19, 2000, and ordered published.

Mayor Kinsey reiterated the height limits. Lot 1 will be 40 feet, Lot 2 is 65 feet, Lot 3 is 45 feet, Lot 4 is 65 feet, and Lot 5 is 40 feet.

### **RECESS**

The Mayor declared a recess at 9:00 p.m. Upon reconvening at 9:05 p.m., all members of Council were present.

### **PURCHASE OF PURDY MESA WATER LIVESTOCK COMPANY**

Contract negotiations have taken place for the City's purchase of the water company. A proposed contract is being presented for consideration.

City Attorney Dan Wilson pointed out the changes. Both proposals have now been combined. Under corporate law, Purdy Mesa Water Livestock Company must give notice to their shareholders. He referred to page 3 regarding the agricultural tap. The concern was volume and not to having treated water use for agriculture. A tap can only be tied to one parcel and that parcel must have a structure on it. It does not have to be a residence necessarily. That is the mechanism to issue taps. It gives them the backup plan for stock watering and also gives the City the ability to monitor what's going on over time.

Councilmember Scott said they won't use treated water for agricultural use unless absolutely necessary because it's too expensive.

Councilmember Theobald confirmed they will be paying for the additional taps at the regular rate. City Attorney Wilson said that is correct.

City Attorney Wilson said once the contract is signed, the City will attempt to purchase the treatment plant. The system will be tested for water quality right before closing on the contract. The rest of the changes are just wordsmithing. He recommended Council approve the contract.

Councilmember Terry said Council laid out some basic principals and goals when first considering this contract and which items were negotiable or non-negotiable. She assumed this contract reflects those original standards determined by Council. Mayor Kinsey said this contract represents the basic agreement from six months ago.

Councilmember Terry said she felt this is precedent setting. The City has had a long relationship with Purdy Mesa Livestock Water Company and it has not always been easy.

She thanked Mayor Kinsey and Councilmember Scott for their efforts in working on this agreement.

Resolution No. 148-99 – A Resolution Authorizing the Purchase of Purdy Mesa Water Livestock Company

Upon motion by Councilmember Scott, seconded by Councilmember Spehar and carried, Resolution No. 148-99 was adopted.

City Attorney Wilson said the contract goes to the 15 shareholders of Purdy Mesa Livestock Water Company and will take a two-thirds vote to approve the contract.

### **NON-SCHEDULED CITIZENS & VISITORS**

Michael Fromknecht, a student at Grand Junction High School, said he has been working with the American Cancer Society and American Lung Association to raise the awareness on the hazards of smoking and second-hand smoke. They are working on creating a smoking ban in restaurants.

Thomas Brayton said he is another member of the party and named James Good as the 3<sup>rd</sup> member who was unable to attend this meeting. He appreciated Council listening to them.

Mayor Kinsey asked if they had contacted restaurants yet. Thomas Braton said no, although they are in the process. They have met with Ann Landmann and Susan Storts.

Mayor Kinsey said for Council to consider an ordinance such as this, some broad range public input is needed. He wished the two young men luck in their endeavor.

Councilmember Theobald also encouraged them to get more people involved, and he wished them well.

Acting City Manager Joe Stevens suggested they visit with Pinon Grill at Tiara Rado. Three years ago they adopted such a no smoking policy.

Councilmember Scott asked the young men of their opinion of the City's current smoking ordinance on possession. Tom Fromknecht said he was in favor of the ordinance. He is over 18 years of age and is not a smoker. He supports the ordinance. They have researched the dangers of smoking. He noted when kids are asked why they start smoking, they say because everyone else does it.

Councilmember Scott asked if the ordinance is doing any good. Tom Fromknecht said it makes others upset because those under 18 are having their cigarettes confiscated.

**EXECUTIVE SESSION** to Discuss Personnel Issues

It was moved by Councilmember Terry, seconded by Councilmember Scott and carried, that Council go into executive session.

**ADJOURNMENT**

The meeting was adjourned into executive session at 9:20 p.m.

Stephanie Nye, CMC/AAE  
City Clerk