

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

December 15, 1999

The City Council of the City of Grand Junction, Colorado, convened into regular session the 15th day of December, 1999, at 7:35 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, Assistant City Attorney John Shaver, and City Clerk Stephanie Nye.

Council President Kinsey called the meeting to order and Councilmember Enos-Martinez led in the Pledge of Allegiance. The audience remained standing during the invocation by Joe E. Jones, Redlands Pentecostal Church of God.

**PROCLAMATION DECLARING THE YEAR 2000 AS "COLORADO RIVERFEST 2000"
IN THE CITY OF GRAND JUNCTION**

APPOINTMENTS TO PLANNING COMMISSION

Upon motion by Councilmember Spehar, seconded by Councilmember Payne and carried, Paul Dibble was appointed to an unexpired term and Jim Nall was appointed to a four-year term to the Planning Commission.

APPOINTMENTS TO HISTORIC PRESERVATION BOARD

Upon motion by Councilmember Scott, seconded by Councilmember Enos-Martinez and carried, Philip Born and David Bailey were reappointed to the Historic Preservation Board for three-year terms.

CITIZEN COMMENTS

Telecommunication Towers

Gary Curry, 359 Colorado Avenue, Cleartalk Wireless, discussed the recent Ordinance regarding Telecommunication Towers. He reviewed his concerns about the recently adopted ordinance regulating telecommunication towers. He said he would like some relief from the ordinance. His reasons being he is local company providing jobs for local residents, they will be providing a lower cost service, and the system is being built to minimize the number of communication sites needed in the City. He has been operating under the criteria that were in place at the time of his application. There were some delays in the site selection due to some misinformation provided by the City. He proceeded over a month following the old criteria and a large amount of money (\$30,000) and effort was invested when the criteria was changed. The impact of the ordinance has

been a denial of his project as it does not meet the expanded setback requirements because of non-conforming residential use of commercial property. That is where he would like relief. He has incurred a loss in postponing their launch until after Christmas, and further delay will mean further losses.

Charter Amendment Ballot Title

Brian Franklin, 2702 Del Mar Drive, Grand Junction Police Officer, discussed the Charter Amendment Ballot Title. Officer Franklin spoke representing the petition signers for the collective bargaining petition submitted by the Police and Firefighters Association. He said they were disappointed with the wording of the ballot initiative to go before the voters in February, 2000. They understood the City Charter does not obligate City Council to seek their input, but felt the wording is not neutral and is a scare tactic to confuse the voters and discourage them from voting for the amendment. Although the statement "...providing no penalties if strike occurs" is correct, the proposal also says no strikes are allowed. It is already understood that it makes it illegal for police officers or firemen to participate in a work slowdown, a work strike or anything similar. The Grand Junction Personnel Manual for city employees states such actions are a violation of policy as well as the Grand Junction Police Department Operating Procedures. Any violation of such policies subjects employees to the disciplinary process. The oaths of office preclude them from doing that. He asked that the ballot title be worded with something more neutral. They knew Council did not have to change the wording but hoped they will not abuse the power entrusted to them by putting the question out in this manner. He requested the wording of the ballot title be changed.

CONSENT ITEMS

Upon motion by Councilmember Payne, seconded by Councilmember Scott and carried by roll call vote, the following Consent Calendar items # 1 through 11 were approved:

1. **Minutes of Previous Meeting**

Action: Approve the Minutes of the Regular Meeting December 1, 1999

2. **Advertising Services for Visitors & Convention Bureau**

The contract with Hill & Tashiro Marketing and Advertising is for a period of three years, renewable annually. This is the final renewal of the 3-year contract approved in 1998. A new Request for Proposal for advertising services will be issued in the second quarter of 2000.

Action: Approve Advertising Contract with Hill & Tashiro Marketing and Advertising for the Period January 1, 2000 to December 31, 2000

3. **Colorado Council on the Arts Grant to the Arts Commission in the Year 2000**

The Commission would like approval to accept a \$3,200 grant from the Colorado Council on the Arts. This funding will be added to the existing \$20,000 annual Commission support for local arts and cultural events, projects and programs.

Action: Authorize the City Manager to Sign the Contract with the Colorado Council on the Arts for a \$3,200 Grant to the Arts Commission

4. **GOCO Grant for Playground Equipment and Safety Surface Installation at Westlake Park**

The City has been awarded a \$75,000 GOCO (Great Outdoors Colorado) grant for playground equipment and safety surface installation at Westlake Park. The new equipment will be comprised of modular units and the surfacing will be a wood fiber, and will conform to the latest safety standards and ADA accessibility requirements.

Action: Authorize the City Manager to Sign the \$75,000 Grant Contract with Great Outdoors Colorado (GOCO)

5. **Parks and Recreation Fees and Charges Policy for the Years 2000-2001**

The Parks and Recreation Advisory Board is recommending the City Council pass a resolution adopting the 2000-2001 Parks and Recreation Fees and Charges Policy.

Resolution No. 149-99 – A Resolution Establishing the 2000-2001 Fees and Charges Policy for the Grand Junction Parks and Recreation Department

Action: Adopt Resolution No. 149-99

6. **Grand Junction Rural Fire Protection District Contract for the Year 2000**

The memorandum of agreement between the City and District calls for the provision of certain services by the Fire Department to citizens of the District. Pursuant to and defined in the agreement, the District pays the City an allocated portion of the annual budget for services. The projected cost of services for 2000 is \$1,133,788.

Action: Authorize the City Manager to Sign the Emergency Services Agreement with the Grand Junction Rural Fire Protection District

7. **Intent to Create Sanitary Sewer Improvement District No. SS-43-99 (Marsh Lane), and Giving Notice of Hearing**

The owners of real estate located in the vicinity of Marsh Lane, east of 27 Road, south of Interstate 70 and west of Bookcliff Country Club golf course, have submitted a petition requesting an improvement district be created for the installation of sanitary sewer facilities. The proposed resolution is the first step in the formal process of creating the proposed improvement district.

Resolution No. 150-99 – A Resolution Declaring the Intention of the City Council of the City of Grand Junction, Colorado, to Create within Said City Sanitary Sewer Improvement District No. SS-43-99, Authorizing the City Engineer to Prepare Details and Specifications for the Same, and Giving Notice of Hearing

Action: Adopt Resolution No. 150-99 and Set a Hearing for January 19, 2000

8. **24 Road Sewer Line Replacement**

The following bids were received on December 7, 1999:

<u>Contractor</u>	<u>Schedule A</u>	<u>Schedule C</u>
Father & Son Excavating, Olathe	\$486,691.75	No Bid
Mountain Valley Contracting, Grand Junction	No Bid	\$555,109.50
Sorter Construction, Grand Junction	\$566,100.00	No Bid
M.A. Concrete Construction, Grand Junction	\$587,346.50	No Bid
Spallone Construction, Gunnison	\$659,747.00	\$707,543.15
Triad Western Construction, Cortez	\$866,897.00	\$678,056.00
R.W. Jones, Fruita	No Bid	\$828,560.89
K.R. Swerdfeger, Pueblo West	No Bid	\$875,000.00
Engineer's Estimate	\$540,659.00	\$389,698.00

Schedule A is replacing the existing line by trenching in a new line. Schedule C is replacing the sewer line with a combination of pipe bursting and trenching.

Action: Award Contract for Construction of the 24 Road Sewer Line Replacement to Mountain Valley Contracting of Grand Junction in the Amount of \$555,109.50 Using the Schedule C Option

9. **Design of Persigo Wastewater Treatment Plant Final Clarifier Addition**

The following firms were interviewed on December 6, 1999:

<u>Firm</u>	<u>Order Based on Presentation</u>	<u>Submitted Lump Sum Fee</u>	<u>Percentage of Project Budget Of \$1,815,000</u>
Carollo Engineers, Broomfield	1	\$170,300	9.4%
Sear Brown Group, Denver	2	\$78,600	4.3%
HDR, Inc., Denver	3	\$92,500	5.1%

Action: Award Contract for the Design of the Final Clarifier Addition to the Persigo Wastewater Treatment Plant to Sear-Brown Group of Denver in the Amount of \$78,600

10. **Replacement of Commercial Trash Truck**

Commercial Trash Truck Unit 2110 is scheduled for replacement in the year 2000. This unit consists of a 1992 Mack cab and chassis with a Lodal solid waste trash compactor. To receive this unit in 2000 it is necessary to order the unit as soon as possible.

Action: Approve Purchase of a 34-Yard Lodal Compactor from Kois Brothers for \$69,705 and the Purchase of the Mack Cab and Chassis for \$89,764 for a Total Purchase Price for the Complete Unit of \$159,469

11. **1999 CDBG Subrecipient Contract with the Grand Valley Catholic Outreach**

This contract formalizes the City's award of \$16,000 to the Catholic Outreach for operation of the Homeless Day Center located at 302 Pitkin Avenue. These funds come from the City's 1999 Community Development Block Grant Program.

Action: Authorize the City Manager to Sign the 1999 CDBG Subrecipient Contract with the Grand Valley Catholic Outreach

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

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

PUBLIC HEARING - HILL ANNEXATION LOCATED AT 323, 323 1/2 AND 325 SOUTH REDLANDS ROAD [FILE #ANX-1999-229]

The 14.41 acre Hill Annexation area consists of one parcel of land and portions of C ¼ Road, 25 ¾ Road, C ½ Road, Rosevale Road and South Redlands Road. The owner of the property has signed a petition for annexation.

The hearing was opened at 7:48 p.m.

Lori Bowers, Community Development Department, reviewed this item. The petition was signed by 100% of the property owners. The two unsubdivided lots are along S. Redlands Road and contiguity is obtained from C ¼ Road, 25 ¾ Road, C ½ Road, Rosevale Road and S. Redlands Road. The petition meets the requirements for annexation and is eligible for annexation. Ms. Bowers read a portion of the Colorado Revised Statutes regarding contiguity and other requirements: "Not less than one-sixth of the perimeter of the area proposed to be annexed is contiguous with the annexing municipality. Contiguity shall not be affected by the existence of platted street or alley, a public or private right-of-way, public land where they are owned by the State, the United States or an agency thereof, a lake, reservoir, stream or other natural or artificial waterway between the annexing municipality and the road proposed to be annexed." Ms. Bowers said Staff recommends acceptance of the Hill Annexation petition.

The Mayor reminded the public that this public hearing is only on the annexation.

Public comments were solicited at this time.

Pierry Smith, 330 S. Redlands Road, wondered how the inclusion into the sewer area will affect the area, and how the variance for sewer will be addressed. The land is on a hill, with a wetlands area below the hill that can flood out the area. She asked when will sewer be required for the S. Redlands area. She asked if currently there is an engineering plan to serve the area, and at what cost to the area homeowners. She wondered if an environmental study has been done in the area since it provides a considerable drainage area. She also expressed concerns about the road.

Mayor Kinsey said the sewer variance will be considered in the next item.

Mark Hudson, Bruner's Water Service, 2541 D Road, said they supply the potable water in that area. He said with annexation comes the requirement for fire protection of 6" waterlines with 500 gpm and 20# of residual pressure; none of which they have or can supply. He wondered how these requirements will be addressed in the future as a result of this annexation.

John Shaver, Assistant City Attorney, said fire protection is not a requirement of annexation but may be a condition for development.

Michael Klaisher, 333 1/2 Rosevale Road, said he is not interested in being part of the City since he doesn't use the facilities of the City. He wished to go on record that he did not want to be in the City.

Councilmember Terry said this is for new development, and Council is not intentionally creating an enclave.

Councilmember Theobald said roads do not create an enclave and it would take extensive annexations to create an enclave in Mr. Klaisher's area.

Mark Hudson, Bruner's Water Service, asked what is the advantage for Mr. Hill to petition for annexation. Councilmember Theobald said because he wants to develop his property. Mr. Hudson said Mr. Hill can develop the property under the County guidelines. Councilmember Theobald said he cannot since he is within the 201 sewer boundary. The Persigo Agreement requires development to go through the City's development process and annexation.

Mr. Hudson asked if there has been development north of G Road where they are in the 201 Sewer Persigo Wash Agreement, but they still installed septic systems, and did not ask for annexation. Councilmember Theobald said he was not aware of anyone within the 201 area that has a new septic system.

Assistant City Attorney John Shaver said there may be certain exceptions but as a general legal practice and policy, that would not be the case.

Councilmember Terry asked Mr. Hudson to site a particular case, then Council would research it and get back to him.

David Rand, 340 Rosevale Road, did not wish to be annexed into the City. He doubted this area will be urbanized in the near future.

There were no other public comments. The hearing was closed at 8:02 p.m.

a. Resolution Accepting Petition

Resolution No. 151-99 – A Resolution Accepting a Petition for Annexation, Making Certain Findings, Determining that Property Known as Hill Annexation, is Eligible for Annexation, Located at 323, 323 ½ and 325 South Redlands Road

b. Annexation Ordinance

Ordinance No. 3215 – An Ordinance Annexing Territory to the City of Grand Junction, Colorado, Hill Annexation, Approximately 14.41 Acres, Located at 323, 323 ½ and 325 South Redlands Road

Upon motion by Councilmember Theobold, seconded by Councilmember Scott and carried by roll call vote, Resolution No. 151-99 was adopted and Ordinance No. 3215 was adopted on second reading and ordered published.

PUBLIC HEARING – ZONING HILL ANNEXATION RSF-E, LOCATED AT 323, 323 ½ AND 325 SOUTH REDLANDS ROAD AND A REQUEST FOR A SEWER VARIANCE

[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, and a recommendation from the Planning Commission for approval of the sewer variance.

The hearing was opened at 8:03 p.m.

The petitioner was not present.

Councilmember Theobold was concerned that the petitioner was not present. Assistant City Attorney John Shaver said there is no requirement that the petitioner be present.

Councilmember Terry suggested they go forward with the Staff presentation and decide later whether to postpone this item and defer action.

Lori Bowers, Community Development Department, reviewed this item. She stated the reason for the hearing is the applicant wants to create a new lot, triggering the Persigo Agreement. The RSF– E (residential single-family estate) is consistent with the Growth Plan, and complies with Sections 4-4-4 and 4-11 of the Zoning & Development Code. The proposal maintains the integrity and character of the established low residential area. Staff and the Planning Commission recommends approval.

Councilmember Theobold asked when did the three lot subdivision become final. Assistant City Attorney John Shaver said it was approved by the Planning Commission in November, 1999.

Councilmember Theobold said the 14 acres could be 7 lots rather than 3. Under the County zoning, it could be 51 or more units.

Councilmember Terry asked about the hillside and the contours of the land. Ms. Bowers displayed the proposed subdivision overlays. She said the building lots envelopes are very restrictive due to the topography.

Councilmember Spehar said in the absence of sewer, the installation of septic systems would still be subject to the Health Department requirements.

Ms. Bowers then reviewed the sewer variance. The applicants are requesting a waiver from the required public sanitary sewer collection system required by Section 5-4-5 of the Zoning & Development Code. The request is due to the distance to any sanitary sewer facility. There are plans to extend sewer in this area, but not in the near future. If the variance is granted, special plat language will be required on the plat. The applicant has received such language. The language would say when sewer is provided within the area, they will be required to connect at that time. The Planning Commission recommended the variance be approved with four criteria: (1) exceptional topographic conditions peculiar to the site; (2) an undue hardship would be created; (3) such hardship is not created by any action of the applicant; and (4) such variance would not be detrimental to the public welfare or impair the intent and purpose of this section. Staff acknowledges there are exceptional topographic conditions on this site and the closest sewer line is 1800 feet away. The applicant did not create this hardship and due to the size of the proposed lots, there is no detriment to public welfare if individual septic systems are provided. Staff and the Planning Commission recommend approval of the sanitary sewer variance on the condition that when sewer becomes available within 400 feet of any portion of the lots, the required hookup will occur.

Councilmember Spehar asked if that meant immediate hook-up and not subject to failure. Assistant City Attorney Shaver said that is correct. Ms. Bowers said yes, as soon as sewer is available.

Councilmember Terry asked about the affect on the adjacent property owners. Utilities Engineer Trent Prall said a preliminary study has been done in that area for the extension of approximately 5500 feet with a main that will eventually benefit about 84 properties. It will cost approximately \$560,000 to \$875,000 to construct just the mains. The average cost to homeowners is estimated from \$9,000 to \$12,500 per lot, including the trunk extension of plant investment fees. That would get sewer to the property line. They would still need to go from where their house is located back out to the sewer service line. For future lot owners, when sewer is available within 400 feet of those lots, they will be required to extend the sewer at their cost, from that point to their property and connect to the sewer at that time. The other properties are subject to the code requirement but it is not enforced in practice if their septic is working.

Councilmember Theobald said the 400 foot requirement is also State and County Health regulations. Councilmember Terry asked if the ordinance requires the connection in spite

of the fact that there may or may not be failure of an existing septic. Mr. Prall said no, it has just been the City's practice.

Councilmember Terry asked where the sewer line would be located for future installation. The sewer line is currently at Rosevale Road and C ½ Road on the north side of the Redlands Diversion Canal, (the lift station at Highway 340), then further south on Rosevale Road and further west along the south side of Heatheridge.

Councilmember Theobold asked if the sewer extension has been approved. Mr. Prall said it has only looked at for cost estimates. It would be based on the citizens petitioning to create a sewer district to extend the mains.

Councilmember Theobold said the sewer extension will only happen if the residents petition to form a district. It could happen in either the City or the County. Mr. Prall said they are two different processes, but agreed. To utilize the City's sewer improvement district process, it would require annexation, but to utilize the County's local improvement district process, they would not be required to annex.

Councilmember Theobold asked if there are plans for the City and County to jointly extend the sewer line. Mr. Prall said no.

Councilmember Theobold said the two southern lots (Lots 1 and 2) are a long way from the sewer line and asked for an estimated cost to get a private line for their benefit from the street to their homes. Mr. Prall said several thousand dollars each, approximately \$7,000 to \$8,000 just to get it from the street.

Councilmember Theobold was uneasy with a \$15,000 requirement as part of a deed restriction (\$8,000 when the neighborhood does this plus another \$7,000 or \$8,000 per lot to connect) when people purchase property in this area.

Councilmember Terry asked if typically this is how a variance for sewer connection is granted. Mr. Prall said the three sewer variances he has been associated with have been handled in the same manner as this one. If Council wants to waive that particular requirement, he said the City would not oppose waiving that requirement due to the size of the lots and the topography. The other variances that have been granted have been for much smaller parcels (one-half acre to three-quarter acre).

Councilmember Terry asked if it is conditioned upon failure. Assistant City Attorney Shaver said that is a given.

Mayor Kinsey solicited public comments at this time.

Pierry Smith again asked how many more variances will be allowed within the area. Mr. Shaver said the variance process is dictated by the Zoning Code criteria on a case by case basis. There are a lot of safeguards built in. There is no absolute number, but as indicated by Mr. Prall, it is an infrequent procedure.

Councilmember Terry said Staff can provide Ms. Smith with the criteria, and noted that topographic problems often times lead Council to the variance issue. Council does not wish to make a practice of approving such requests.

Councilmember Theobold asked about the sewer variance criteria (a through d). He said criteria a. "There are exceptional topographic, soil or other subsurface conditions or conditions peculiar to the site." He asked what the conditions are for this site that make a sewer variance appropriate. Trent Prall responded topographical restraints typically are gravity and flow.

Councilmember Theobold referred to criteria d. "Variance would not be detrimental to the public welfare...." He asked if there are concerns about the soil conditions and proximity to the river. Trent Prall said the Mesa County Health Department rules and regulations would apply to the installation of septic systems and leech fields. Due to the size of the lots there is some place on the property that could handle a leech field. The Mesa County Health Department also requires a second site in case of failure of the first one in the future.

Councilmember Theobold said criteria d. depends on the Health Department for a safe design.

Councilmember Terry wanted to make sure Council answered all the audience questions. There were no questions voiced from the audience.

Assistant City Attorney John Shaver said the the 201 question and extension question were answered. The stormwater question would be addressed at the site review. Due to the lot size, it is doubtful there will be an adverse impact. Regarding the environmental impact statement, under the Code none is required. If there is any impact on wetlands then a permit would be required. It would be deferred to the Army Corps of Engineers.

Councilmember Theobold said the rest of neighborhood would be required to hook on only if a majority of the neighbors petition for a district to construct a sewer line. There were no other comments. The hearing was closed at 8:31 p.m.

a. Zoning Ordinance

Ordinance No. 3216 – An Ordinance Zoning the Hill Annexation RSF-E

Upon motion by Councilmember Terry, seconded by Councilmember Payne and carried by roll call vote, Ordinance No. 3216 was adopted on second reading and ordered published.

b. Sewer Variance

There was further discussion on the sewer variance and the options for Council. Waiving the immediate requirement to hook onto sewer or denying the development was Council's dilemma. Making failing systems the requirement makes it contentious when one system fails and others don't.

Regarding the notice issue to a potential lot owner, Assistant City Attorney John Shaver suggested inputting an estimated cost amount in today's dollars which may increase in the future. It could be crafted into the notice.

Councilmember Theobold said whatever the notice amount is will have an affect on the perceived value of the property. The property owner may disagree with the City's estimate.

Councilmember Spehar said Council is not going to be able to take every uncertainty out of a private transaction. At some point there is a responsibility with the buyer and the seller and their agents. He felt the bigger issue is the integrity of the sewer system, and the fact that Council has partners in the Persigo Agreement that have made such requirements. He was comfortable requiring immediate hook-up. Councilmember Scott disagreed.

Mayor Kinsey said if the owner had left the property as two lots with two septic tanks and it would be in the County, Council would not be having this discussion. The owner has changed it from two lots to three lots; thus requiring an additional septic system.

Councilmember Theobold was uncomfortable with allowing sewer variances within the 201 sewer boundary.

City Manager Achen said the Persigo Agreement contemplates that there will be an attempt to sewer all areas in the 201 that are currently on septic systems. Mesa County wants the City to develop policies that would encourage the neighborhood to endorse the expansion of the sewer system, and to do so without annexation. To promote that goal, he felt Council would want to make sure these property owners would not be obstacles to extending sewer. Strategies could be taken to assure those property owners are required to support the creation of a district if there is an attempt to create a district by their neighbors. That could be done separately from a decision of whether they would actually

have to hook up to the system immediately when it was constructed, or whether they would have to hook up at the time their septic system failed.

Councilmember Theobold interpreted City Manager Achen's comment as meaning a requirement that would bind the owner. Assistant City Attorney Shaver said binding successive owners is where the problem arises.

Councilmember Spehar said this owner wants to create a third lot so Council doesn't need to make the process painless for the developer. The ease of selling those lots and building on them is not Council's issue.

Councilmember Terry asked if the developer is going to build on all three lots immediately, or are they only going to be platted, then sold. Assistant City Attorney Shaver said he did not know and it was not discussed at the December Planning Commission meeting.

City Attorney Dan Wilson said, in supplement to John Shaver's comments, the beginning of the 400 foot rule and the question of to hook on now or not, the City ordinance and County resolution says the City "may" send a notice requiring hook-up. The City exercises the discretion when the septic fails. The County law is on the books the same as the City law, and they have been implemented consistently. The key issue is to sewer everything within the 201, but the Persigo Agreement acknowledges it's too expensive to do it today. Council could make provision for hookup to sewer. The Power of Attorney that caused grief in the past was driven by the City's decision-making. In this case it will be the landowners in the area. It doesn't bind future Councils. He recommended notice to the lot owners. He felt a landowner would rather know beforehand of major costs rather than afterwards, even if it does affect the title. Some notation needs to be made that the situation is unusual, will be expensive, and consulted before purchasing.

Councilmember Terry thought the wording on the condition that was going to be placed on the plat was "will". Mr. Wilson said the ordinance allows for discretion and the Planning Commission exercised that will.

Councilmember Theobold asked if Council could attach a requirement to the variance a requirement that all three lots install a dry line which takes out a substantial part of the future cost.

City Manager Achen said Councilmember Theobold was referring to a twist on what Council viewed as dry lines which would have been the system in the public roadway. He thought Councilmember Theobold was talking about the service line getting down to the roadway so that when the roadway gets its sewer line, there would be a dry service line available. Councilmember Theobold said it cuts in half the cost the buyer will have to face, as well as the cost of retrofitting.

Mr. Achen assumed this would be a gravity feed with no pumping requirement. Mr. Prall said yes.

Upon motion by Councilmember Theobald, seconded by Councilmember Scott and carried by a voice vote, the sewer variance was granted adding the requirement for the construction of dry service lines from the right-of-way to each home on each lot in order to develop the property.

RECESS

The Mayor declared a recess at 8:50 p.m. Upon reconvening at 9:00 p.m., all members of Council were present.

PUBLIC HEARING – DESERT HILLS ESTATES ANNEXATION NO. 1 AND NO. 2 LOCATED AT 2114 DESERT HILLS ROAD AND SOUTH BROADWAY

[FILE #ANX-1999-204]

The Desert Hills Estates No. 1 and No. 2 Annexation area consists of land owned solely by the applicants, and a portion of South Broadway road right-of-way. The applicants have signed a petition for annexation.

At this time City Attorney Dan Wilson took his place at the dais.

The hearing was opened at 9:00 p.m.

Mayor Kinsey reminded the audience this hearing is on the annexation only. The zoning of Desert Hills Estates Annexation is a separate issue.

Lisa Gerstenberger, Community Development Department, reviewed this item. She stated the petition complies with State Statutes and the property is eligible for annexation. Staff recommends approval.

Rob Katzenson, LanDesign, 259 Grand Avenue, representing the petitioner, concurred with Staff completely. He addressed the map briefly, clarifying where Annexation No. 1 is located. He concurred with the annexation.

Mayor Gene Kinsey then solicited public comments.

Dawn Maiella, 2112 Desert Hills Road, pointed out this area has been considered rural by the Growth Plan and the properties in the area are agricultural. She objected to the annexation. She said there is little open space between Grand Junction and Fruita. She felt buffer zones need to be maintained between the two cities.

Harley Armstrong, 2840 Hartford Avenue, was familiar with paleontology at Riggs Hill. There are four localities that have finds near Annexation No.1. Dinosaurs have been found in the area, and pointed to areas south of the property. The Dakota formation, the north slope of Riggs Hill, has produced over 20 dinosaur footprints, and might be a dinosaur track superhighway.

Mayor Kinsey asked how it is affected by annexation. Mr. Armstrong said with annexation comes the encroachment of buildings close to the one-mile trail and it may be difficult to preserve the area.

Councilmember Terry asked if Mr. Armstrong felt this property should be preserved for future museum interests. Mr. Armstrong said he was speaking as a paleontologist and the area could produce fossils. Annexation could make it impossible to collect some of the fossils in the area.

Councilmember Theobald asked if Riggs Hill was inside the city limits. City Manager Mark Achen said Riggs Hill was annexed as part of the Tiara Rado Golf Course annexation.

Councilmember Terry asked if Mr. Armstrong has spoken to the Rump family. They are asking for annexation and development. She felt Mr. Armstrong should approach them about these issues.

Jeanna Odel, 2084 S. Broadway, asked if the petitioner's representative could give some clarification on Annexation No. 2 and exactly what comes across S. Broadway. She asked if it encroaches onto Wildwood Drive. Mr. Katzenson said it does not.

Darlene Gunnerson, living across the street from Riggs Hill, asked what part of Broadway was being annexed. The traffic has gotten bad and felt there was no need for more roads cutting through onto Broadway. Mr. Katzenson said it is a one foot wide piece of property that runs perpendicular to the right-of-way where it crosses the roadway.

Ms. Gunnerson said the Museum of Western Colorado owns Riggs Hill and no building is allowed on the property. She said they don't want to be annexed to the City.

Councilmember Theobald said her property could only be annexed if the majority of her neighborhood votes for annexation. Councilmember Terry said another way to have annexation occur is if the properties are completely surrounded by other City properties which would create an enclave. She pointed out that the roads do not count.

Ms. Gunnerson felt adding more houses to this area will create a serious traffic hazard.

Carol Kissinger, 449 High Tiara Court, asked if Council could guarantee that the transportation fees will be used to improve S. Broadway only. Mayor Kinsey said in general, the cost of improvement of a major street is much more than the fees which are collected. Ms. Kissinger said she would like to see those monies stay in that area.

City Attorney Dan Wilson said the ordinance on transportation fees identifies the areas to be very broad. Anything on the Redlands would qualify constitutionally because there are capital needs. The funds acquired from the transportation fees are nominal (only 1% or 2 % of the actual cost).

Councilmember Terry said there are no fees associated with annexations. Any development and road improvements will be addressed under the zoning portion on this item. She said Council will enlighten the audience when they get to that part of the hearing tonight.

Warner Kurzbuch, 2021 Coyote Court, The Seasons, noted omissions on the diagram. He felt all of Riggs Hill area is not shown.

City Manager Mark Achen said the map is based on property lines, not the topography of the hill itself.

Mr. Kurzbuch said the actual hill extends further north. He said Dinosaur Hill is further to the north and is not shown on the diagram. There is a significant area of wetlands in the middle of Annexation No 1. He asked that Council consider all three of these areas. He learned about Dr. Riggs and Riggs Hill before he knew where Grand Junction was. Riggs Hill is of great historic and scientific importance. He asked Council to study all the impacts of annexation on this area.

Rob Katzenson said Dinosaur Hill is also owned by the Museum of Western Colorado, and is adjacent to the City of Fruita, not on this site. The squiggly line is the centerline of No. 2 Redland irrigation canal, not a location of a wetlands.

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

Councilmember Theobald noted the access issue previously identified has been resolved. Councilmember Terry asked the City Attorney to elaborate on Council's agreements with Mesa County. City Attorney Wilson gave an overview. The basic assumption of the Persigo Agreement is that if a property owner wishes to develop his property, he must petition for annexation. The City then has the ability to make the land use decisions. The agreement defines the break point as 2 acres or larger, not urban, and everything in the 201 boundary should be less than 2 acres. There are some exceptional areas. Land use should not be considered at annexation.

Councilmember Theobald said the previous access was down Desert Hills Road, a road which the City did not want to improve.

Councilmember Terry said, based upon the legal analysis, there was no option but to annex. Based upon Council's interest in following through with its agreement with Mesa County to make good urban planning and land use management, Councilmember Terry felt Council should accept the annexation.

Councilmember Spehar agreed with Councilmember Terry. There will be more public comments under the next segment regarding the issues of the quality and density of the development.

a. Resolution Accepting Petition

Resolution No. 152-99 – A Resolution Accepting a Petition for Annexation, Making Certain Findings, Determining that Property Known as Desert Hills Estates Annexation No. 1 and No. 2, A Serial Annexation, is Eligible for Annexation, Located at 2114 Desert Hills Road, South Broadway and Including a Portion of South Broadway Right-of-Way

b. Annexation Ordinances

Ordinance No. 3217 – An Ordinance Annexing Territory to the City of Grand Junction, Colorado, Desert Hills Estates Annexation No. 1, Approximately 78.21 Acres, Located at 2114 Desert Hills Road and Including a Portion of South Broadway Right-of-Way

Ordinance No. 3218 – An Ordinance Annexing Territory to the City of Grand Junction, Colorado, Desert Hills Estates Annexation No. 2, Approximately 8.26 Acres, Located on South Broadway

Upon motion by Councilmember Scott, seconded by Councilmember Terry and carried by roll call vote, Resolution No. 152-99 was adopted and Ordinances No. 3217 and No. 3218 were adopted on second reading and ordered published.

PUBLIC HEARING – GROWTH PLAN AMENDMENT AND ZONING A PORTION OF DESERT HILLS ESTATES ANNEXATION NO. 1 LOCATED AT 2114 DESERT HILLS ROAD, WEST AND NORTH OF RIGGS HILL PR [FILE #ANX-1999-204]

Request for (1) Growth Plan Amendment from Residential Rural designation to Residential Estate designation; and (2) request for a zone of annexation of PR, with a density not to exceed 1 dwelling unit per 2.5 acres for Desert Hills Estates, consisting of 22 single family lots on approximately 56 acres. Zoning for the remainder of the annexation will be considered at a later date.

The hearing was opened at 9:30 p.m.

David Woodward, manager of Tierra Ventures LLC, the property owner, requested approval of the Growth Plan amendment and zoning. As a partial owner, he wanted to live there himself, and wished to deal responsibly with the sensitive issues of density, access, wildlife, wetlands and other environmentally and emotionally sensitive issues. They intend to develop 22 lots of approximately 1.5 acres each, and establish a conservation easement on all of the wetlands (the western border of the property), giving an overall density of approximately 1 unit/2.5 acres and leaving nearly 18 acres of open space. The majority of the open space will be at the north end of the property. They have met with Planning Department, Planning Commission, City Council, the neighbors, the Museum of Western Colorado, and the Redlands Water and Power Company. They have negotiated right-of-way so as not to use Desert Hills Road. They invited the Audobon representative to make recommendations to protect wildlife, fauna and flora, and improve habitability for wildlife. They have also recommended the reintroduction of native plant species such as the Fremont cottonwood, species of plants that will attract more wildlife. Mr. Woodward said their company goal is the preservation and enhancement of wildlife habitat for the enjoyment of future generations by creating a conservation easement. They are also committed to building homes for people of all income brackets.

Rob Katzenson, LanDesign, said the request is for a Growth Plan amendment changing rural to estate, and the zoning of 2.5 acres per unit. He identified the areas for zoning tonight. They are not zoning the Rump property at this time. He gave some background of past actions regarding this property. The Planning Commission has recommended approval of the Growth Plan Amendment. They have met all City recommendations and requests. As of December 14, an opposition flyer has been circulating, and focuses on preliminary plan and design issues which are not to be contemplated at tonight's hearing. The request is consistent with one of the Growth Plan goals which states: "Insures land use compatibility and a balance between urban and open spaces." This application satisfies that condition. It also requires they maintain more compact development patterns and they satisfy that condition. They are required to insure adequate public facilities for residents and businesses. The Growth Plan amendment satisfies this condition. It maintains equitable funding strategies for public facilities and services. It enhances the visual appeal of major road corridors, and focuses on the unique needs in each community's neighborhoods, a preferred alternative would read – new urban development limited to within the urban growth boundary, use clustering, smart growth tools. Tierra Ventures recognizes these tools and meets or exceeds every design requirement. A group of citizens have asserted that the plans prepared by Tierra Ventures are "bad" development. He felt this application is the best plan and a model for development of this parcel. Carving this property into five acre lots would not preserve any of the natural features. The estate designation of 2-5 acres/lot would offer more

options for the preservation of wetlands and steep slope areas. The applicant is also providing substantial open space.

Mr. Katzenson then reviewed the Growth Plan amendment requirements. He referred to an aerial photo and map showing County zones. He explained the surrounding zones. The future land use map was displayed and Mr. Katzenson explained. It was his belief that the future land use map contained an oversight for this property, creating an inconsistency between the 201 Agreement and the future Land Use Map. A revision to the Growth Plan is needed for this property to be consistent with the 201 Persigo Agreement.

1. Based on discussions with Grand Junction Staff, this application should be decided by the City of Grand Junction;
2. They have already petitioned and secured annexation;
3. They have requested zoning from County R-2 to City PR-2.5;
4. Project was first reviewed by Mesa County who determined it should be developed according to the City of Grand Junction's Development Codes;
5. Tierra Ventures has fully complied with the Memorandum of Understanding dated March 3, 1999;
6. The Growth Plan Amendment is consistent with the overall purpose and intent of the Plan;
7. There is no rationale for the rural designation;
8. The Growth Plan Amendment has been recommended for approval by the City and County staff.

Mr. Katzenson detailed all permits and studies for the development. There are numerous properties in the general vicinity that have been developed which justifies the request. It benefits the City's tax base by increasing the density. He reiterated they have complied with every requirement and stipulation set forth by the City.

For the rezone request, Mr. Katzenson gave responses to criteria in Section 4-4-4 of the Zoning & Development Code. Mayor Kinsey stated those items are already detailed in the staff report. Mr. Katzenson said again, the application meets every single requirement and request.

Councilmember Terry said Council is being asked to approve a planned zone without the ability to review the plan, even though she knew it had been approved but she would like to see that. They are also being asked to approve a Growth Plan Amendment that is based upon principles that Mr. Katzenson cited and are contained in the plan. So she would like to see a copy of the plan.

Lisa Gerstenberger, Community Development Department, displayed the plan for Council.

Mr. Katzenson said the plan contains a 22-unit clustered development using standard conservation-based principles. He explained the highlights of the development. He said 40% of the 56 acres is open space. They have decreased the size of the building envelopes for Lots 19 through Lots 22. They are dedicating outlot C (formerly the Desert Hills right-of-way) to the City for the placing and upsizing the force main.

Councilmember Terry asked if the conservation easement area would have public access. Mr. Katzenson said it is private now, and will probably remain private.

Lisa Gerstenberger, Community Development Department, reviewed this item and gave a summary. The Growth Plan designates this area as rural. The petitioner wants the property to be designated as estate. The property has varied topography with a steep knoll to the north and wetlands along the west property line. She addressed the 7 issues for a Growth Plan Amendment. The adjacent Rump property is being annexed because the owners are a party to the development application for the Desert Hills Estates Subdivision. It's part of the Rump property that supplies access from South Broadway to the Desert Hills development. At this time a separate Growth Plan Amendment has been submitted for the Rump property, however, a development plan has not. For this reason, Staff recommends the zone of annexation for the Rump property be delayed until the Growth Plan Amendment has been considered by City Council at a later meeting.

Ms. Gerstenberger continued by stating the rezone criteria in Sections 4-4-4 and 4-11 were addressed earlier, and have been met. Staff recommends approval of the Growth Plan Amendment and the zoning request. The Planning Commission recommended approval unanimously. Ms. Gerstenberger presented a letter from Leland Cofer, 446 Wildwood Lane, expressing concern for the entrance onto the property. The letter was received today. She provided copies for City Council.

Councilmember Terry asked Ms. Gerstenberger to identify the area on the map shown in white. Ms. Gerstenberger said it is private property.

Councilmember Enos-Martinez asked about the dark green area. City Manager Mark Achen said it was BLM property and is adjacent to the Colorado National Monument.

Mayor Kinsey solicited public comments at this time.

Joan Rossman, 482 Seasons Court, wanted to know where the Persigo tap at Tiara Rado is located. There is a tap in her roadway. It serves the entire Seasons area. She asked what was meant by the statement "The Seasons sewer will be connected." Councilmember Theobald said Council can't confirm this information as Ms. Rossman was reading from a flyer that Council knew nothing about. They had just seen the flyer tonight. The flyer was not written by the City.

Ms. Rossman was upset about more development in her area. She was also concerned with the traffic conditions on S. Broadway.

Trent Prall, Utilities Engineer, showed the location of the Persigo tap and identified where the flow will go. A new lift station is proposed with lines through the Keesee property and will eventually eliminate the lift station in the cul-de-sac in the Seasons.

City Attorney Wilson asked if eventually all the area will be gravity fed. Mr. Prall said, with future development, sewer lines will eliminate the need for the lift station as well, running all the sewage into the Tiara Rado Interceptor, thereby eliminating that lift station in the very distant future.

Mark Relph, Public Works Director, said regarding South Broadway, the issue with the City and County is to realign those 90 degree curves. The City has made improvements clear to the city limits. The Council also agreed to spend an extra \$90,000 in widening the pavement section to provide some temporary relief to the pedestrian/bicycle issues in that corridor. The County agrees discussion is needed regarding solutions.

Councilmember Scott asked if they were running a sidewalk at Riggs Hill. Mark Relph said it is a widened pavement shoulder for bicycles and pedestrians.

City Manager Achen said Mesa County tried to design safety improvements for the section to the west but the neighborhood could not agree and the County was unwilling to condemn the property to obtain the required right-of-way.

Mark Relph said this development will also have a pedestrian access that will connect to S. Broadway.

Councilmember Terry said in regard to roadways in the City, some improvements have been done to widen the shoulder, and new alignment will take cooperation on the part of the property owners. Mr. Relph concurred.

Councilmember Terry asked if the northern part of this property has public access going north to Broadway. Mr. Relph said no.

Councilmember Theobald asked about spacing of the access on S. Broadway. Public Works Director Relph said it is slightly less than the recommendation in the TEDS manual. The reason is for stacking for left turn lanes, and the spacing is adequate.

City Attorney Wilson said if Wildwood and other properties were left in the 201 for future development, would Mr. Relph's answer change on Wildwood and the separation. Mr. Relph said possibly, but only if there is enough density such as 4 units per acre.

Councilmember Theobald said they could add 200 homes in the Wildwood area. Mr. Relph said it depends on spacing of intersections between this proposal and Wildwood. With that many homes, there would be a need for a secondary access.

John Williams, attorney with Coleman, Joufflas & Williams, 2452 Patterson, representing a number of the owners on Desert Hills Road, said there was a failure to communicate to the public that the Preliminary Plan has already been passed, although he felt it was relevant to point out things on the Plan and how they relate to the Growth Plan Amendment. His clients oppose this application out of concern with the crossing of the wetlands for access across Desert Hills Road. This opposition hasn't dissipated with the new access. The sewer still crosses the wetlands, and the maintenance to the lift station requires access across the wetlands. During the first application, it was thought the lots sat down in a bowl. Houses won't sit down in the a bowl as there is a substantial increase in elevation in the area. He is hoping that will be solved by decreasing the building envelopes, but in fact, their measurements put that at 55 to 60 feet. The covenants of the development allow height restrictions on the houses of 32 feet. Those were the two main objections of his clients. He noted the Growth Plan has a policy statement which cautions that amendments should not be taken lightly.

City Attorney Wilson asked Mr. Williams who were his clients. Mr. Williams said the Antons and Cunninghams.

Mr. Williams then discussed the criteria for a Growth Plan Amendment.

1. It claims there is an error in the original plan – The Development Department did not find an error. Staff said it could have been because of the unique limitations of the property. It was not an error that this was designated rural.
2. Subsequent events invalidate designation – All subdivisions proliferated were already planned at the time of the Growth Plan adoption.
3. Change in condition or character of the neighborhood – There has been no change since 1996. It is not the only rural designated area. There is a substantial amount of rural designated properties in this vicinity.
4. Consistent with goals and policies of the Growth Plan – This plan does not preserve the vistas. There are 90 feet between the road and the top of the property when considering a 32-foot building height limit. Also in Chapter 5, there is a greater level of commitment when the word “will” is used. He cited policies which state “will” limit development on slopes, and more hazardous areas, “will” preserve vistas as views. He interpreted the word “will” as being more of a command, and felt Council should try to preserve the term.
5. Public facilities available – He said yes, water and sewer are available in this vicinity, however, it was not feasible to pump sewage up with a holding tank, and an emergency pit in case generators or pumps fail. His clients were concerned because of the wetlands and in case of a failure.

6. Adequate supply of land designated similarly - Mr. Williams said yes there is a fair amount of estate designated land in the plan.
7. Will it benefit the surrounding area – He disagreed except for the sewer system that will gravity feed the sewer so it can be pumped back up, giving access to future parcels to be developed. It won't give existing homes on S. Broadway any more access to a sewer system.

In summary, Mr. Williams wanted Council to consider those seven criteria. It must be determined whether there was an error. If there was an error, the City needs to find it and then change it. If there has been a change in the character of the neighborhood or a change in circumstance, once again, it's appropriate to change the Growth Plan. Mr. Williams didn't think either is there.

Councilmember Spehar asked Trent Prall to address the pit and the pumping issue. Trent Prall said pumping is generally through a gravity main as much as possible but in some areas it's not always possible. Mr. Williams was correct in stating that it will flow down Desert Hills Road, but will be intercepting some other flow coming in from the south. There are certain topographical constraints that don't work with a sewer main without having to lift it occasionally, especially on The Redlands.

Councilmember Spehar asked again about the pit issue. Trent Prall said there is no pit, but there is an enclosed vault that sits underneath the lift station. There is a small lag volume at the bottom that is never fully gotten rid of. In order for the pumps to keep their "prime", there is an operating volume that when it gets to a certain level when sewage is coming in, the pumps kick on and eject the sewage. There is emergency volume that is reserved for approximately two hours worth of detention time if power goes out. An alarm goes off at Persigo, and someone is on site within 45 minutes with vacuum trucks. The City maintains 30 other lift stations with people on call 24 hours a day, 7 days a week, 365 days a year. There have been three spills recently in the summer of 1998. They all have been retrofitted with generators now.

City Manager Mark Achen asked about the two hour time on design flows. Mr. Prall said it will be based on design flows and will take into account The Seasons. The real time relative to the current flow will probably have a detention time in excess of 8 hours.

Councilmember Theobald asked if there is a sewer line in Desert Hills Road now. Mr. Prall said no.

Councilmember Theobald asked if a sewer line will be built for the Keesee development. Trent Prall said yes. If the Keesee development doesn't happen in a timely fashion, the City will cost share on the trenching expenses with a reimbursement provision from the Keesee property when they do develop.

Jan Whiting, 478 Seasons Court, said the plan is not her concept of clustered zoning. She wondered if City Council felt any responsibility of protecting Riggs Hill and the very important and historical formations in the area.

Richard Ennis, 2110 ½ Desert Hills Road, said there is water that goes down this basin where the wetlands is located. On three occasions it has flooded the basins quickly. Two lakes were washed out and excessive floodwater could have an affect on the sewer vault. The holding space is for 500 homes and he felt it will not fit there. He asked for protection from water or sewage running through the wetlands.

Jeana O'Dell, 2084 S. Broadway, talked about the road situation. The shoulder goes to the east side of Riggs Hill, it does not extend all the way to the entrance of the proposed development. Councilmember Terry said it will extend eventually.

Ms. O'Dell asked about the alignment between Wildwood Drive and the proposed entrance. Since there is no shoulder in that area, she felt accel/decel lanes are needed. There is a blind curve to the east of Riggs Hill, and it's hard to turn left out of Wildwood Lane. This entrance is even closer to that curve. She felt consideration should be given to decreasing the number of units to reduce the traffic on S. Broadway.

Warner Kercival, The Seasons, spoke regarding the traffic. There is a cliff along S. Broadway as one approaches the proposed entranceway. Visibility is very limited. He asked who has responsibility for traffic control, the City or the County. Neither entity has been willing to claim responsibility. He was concerned with the environmental impact on the area. There are consequences of a major sewer spill into wetlands. Deer will be driven out of the area. He questioned who would pay for possible action by the EPA if a lawsuit should be filed.

Terry Dixon, 423 Wildwood Drive, read from the file an Army Corps of Engineers letter that suggests the access should be obtained to the north of the property. The access onto S. Broadway causes her concerns about safety. There have been five accidents. There is a bridge by S. Broadway. Part of the flooding washes out this area and is caused partially by debris under the bridge. Wildwood Drive has been completely washed out because of flooding in the area. A road in the immediate vicinity would be the only access for this subdivision. It would jeopardize the initial lots as planned. Regarding estate planning, 2.5 acres unit were emphasized, but some of the lots are just over 1 acre in size.

Dane Ennis, 2110 ½ Desert Hills Road, was concerned about the lift station. There are two lakes and two other ponds in the area. The area has quite a few brownouts, two or three that have lasted more than two hours. They enjoy fishing in the ponds. The elevation of the homes will block their views. The aesthetic value of the property means a lot to him.

Michael Maiella, 2112 Desert Hills Road, said at Planning Commission hearing to approve the Preliminary Plan, it was stated that new access had been obtained on S. Broadway and with that the roadway would be so wide, a lift station would be installed, etc. This piece of property at the wetlands will be deeded to the City and would not be part of the development. Rumors since that meeting are that due to the sewer line, there is a need for a gravel service road and a bike path up Desert Hills Road. He was concerned with the Desert Hills access. Any access is still tearing up the wetlands which was the previous problem with Council. The zone does give some expectations. The petitioner keeps using 2114 Desert Hills Road as their address. If the developer is sincere about not using Desert Hills Road as an access, that address should not be used.

Dawn Maiella, 2112 Desert Hills Road, spoke representing the Antons and was concerned with damage or disturbance to the wetlands, and requested it be avoided at all costs. They didn't want to stifle development, but felt bad development should not be allowed.

Jan Whiting, 478 Seasons Court, said the water table is high in the area. She has talked to builders that say any development should be built on pylons. She felt such construction building would require much higher building costs.

Harley Armstrong, was concerned with the proposed access to S. Broadway. There is a bad "s" curve there because of Riggs Hill. He was afraid if accidents occur at that intersection, there may be pressures to bulldoze out that curve and straighten it out.

Martha Haven, 463 Seasons Drive, said Al Look is the paleontologist who found these dinosaurs on Riggs Hill and felt if Mr. Look were alive he would not agree with the development in the area.

Floyd Unfred, 2107 Desert Hills Road, was concerned with the elevation difference between the bottom of Lime Kiln Gulch and the gravity sewer at Tiara Rado. He asked if the lift station is capable of lifting the sewer 80 feet. The needs for sewer at the Desert Hills location are all west of the S. Broadway/Desert Hills intersection. Only two homes would be served currently if the sewer were to go down Desert Hills Road. He also wondered if the Army Corps of Engineers will allow tearing up the wetlands when it's not necessary. He also asked if the City is going to allow construction of the utilities to the property prior to the Final Plat Plan approval.

Warner Kercival said some of the previous discussion leads him to believe that a lot of talk about sewage flow by gravity is conjecture at this point. He drove into the area this afternoon and found a survey crew at work. The crew said they were determining the grade of the land to see if it is feasible for sewage to flow by gravity. He felt a lot of the facts regarding sewer given tonight may not be necessarily so.

Maggie Unfred, 2107 Desert Hills Road, asked who is responsible for making Desert Hills Road a viable roadway if the sewer is built. Councilmember Theobold said it is a County road. It is a City/County sewer, but not a City road. He suggested she talk to the County Commissioners about maintenance of the road.

Matt Cunningham, S. Rim, owner of 18 acres north of this property, a developer, said the real question goes back to the Growth Plan. He felt this plan is not good planning, but about money. This plan is too dense. The real density on this property is 1.5 acres per home, not 2.5 acres per home. The Growth Plan designated this property at 5 to 35 acres per lot. This was not a mistake. Mr. Cunningham did not like speaking against growth because growth is inevitable. This property, however, is unique. Statements have been made about the paleontology value of this property, wetlands and drainage. He is restoring wetlands on his property. This application for a Growth Plan Amendment is doubling the density, and will allow him to build 7 houses on his property. He pointed out the original application that was denied was for 19 lots. They now have 22 lots. There are great visual impacts on the entire area and there are significant soil and drainage problems. There is no detention pond on this property, and it defies all the development rules. He guaranteed Council they will receive future applications as a result of approval of this application.

Roxanne Lewis, 2183 Canyon View Drive, said she uses Riggs Hill often. Dinosaur findings are relevant to the tourism in the Grand Valley. She asked the developer to use an archaeologist at the time of excavation in case there are any finds in order to hold off on development at that time. She agreed with Mr. Cunningham that the plat does not show cluster development. If the density is approved, she felt the developer should pay for the road improvements from the development to South Camp Road.

There were no other public comments.

Rich Livingston, attorney for the petitioner, said there is significant confusion on this property. Some felt the property was owned by BLM, others thought it was part of Riggs Hill, and some thought it was owned by the City. He felt that the lack of knowledge about the true ownership of this 56-acre tract is absolute proof that there was an error at the time the Growth Plan and Future Land Use Map were adopted. Such confusion could have easily led to an erroneous rural designation for this parcel. Once the property is annexed, the City must zone the property within 90 days. A planned zone puts the controls to the City with the ability to address every one of the development concerns voiced this evening. The applicant presented the application under the City's procedures. They did not intend to avoid or hide from Council or the public how they plan to develop the property. The Planning Commission and Staff recommend approval, and the City's Public Works Director has indicated the traffic standards have been met and the Traffic Impact Fees will be paid. He felt the City's Utilities Engineer's comments on the sewer system indicate that assuming appropriate authority can be received from all regulatory

agencies, including the Army Corps of Engineers, a system can be installed in that location with a line down the right-of-way for Desert Hills. The applicant has no intention of doing any development on the Desert Hills Road right-of-way. He said the right-of-way west of Lots 4 and 5 is an open-space tract deeded to the City of Grand Junction if the plat is approved. The installation of the sewer line is the responsibility of the developer. Once the warranty period has expired, the sewer line will belong to the City, and any future maintenance of the line is the responsibility of the City of Grand Junction. Mr. Livingston said both the Growth Plan and the Persigo Agreement must be considered in the context and the timing of how both evolved. When Council entered into the Persigo Agreement, they agreed with Mesa County that all property within the 201 was to be developed to urban standards, and pursuant to Grand Junction's codes, rules, regulations and agreements. If the rural zone stays, then there are eleven parcels and sewer will have to be installed. He felt it made sense to deal with sewer for the entire basin and work a system that will handle the entire area. He asked Council to consider what is the affect on a failing septic system on the wetlands versus putting a sewer system in place that is properly designed and engineered that will carry the sewage for treatment to Persigo.

There were no other comments. The hearing was closed at 11:45 p.m.

Councilmember Spehar asked about the accel/decel lanes and capacity issues on S. Broadway related to existing developments in the area. Public Works Director Mark Relph said engineering design standards has specific criteria for accel/decel lanes. It is based on the amount of vehicles in the area as well as the speed. The development does not even come close to approaching the need for accel/decel lanes. Regarding the spacing of the left turn pockets, the Wildwood left turn pocket is probably more important because there is a lot of flexibility in the actual pockets between the two intersections. The City and County have looked at the capacity of S. Broadway. It is a collector street, not an arterial. The traffic volumes, long term, will not approach anything like they are on Broadway. A two-lane road section with left turn pockets at intersections will be sufficient for many years to come. There are alignment problems with some of the curves, but for the most part, they are considering a collector street section for S. Broadway long term.

Councilmember Spehar asked about the water flow in the vault, and potential problems with flooding. Trent Prall said the lift station will not be placed in the wetlands, it will be adjacent to the wetlands as delineated by the Army Corps of Engineers. Being outside the 100-year floodplain will be determined by the project engineer. The spills that have occurred on the very largest lift stations in the Valley. The only way the 500 homes would come up in this basin would be if the 201 amendment did not delete the area south of Wildwood and the current zoning on those properties was acknowledged. The City is taking precautions with the power system. The impact of the lift station will be somewhat minimal. He said Mr. Livingston was correct as far as the existing septic systems in the

area. The wetlands would be an ideal place for spills to occur because it breaks down pollutants from storm drainage and leach fields.

Councilmember Theobold asked about the gravel access road through the wetlands. Mr. Prall said the City is not interested in such a road. The only access would come from inside the subdivision to the site. Any access to the manholes would be Desert Hills Road.

Councilmember Scott asked if they are asking for 1 dwelling every 2.5 acres. Mr. Cunningham had said none of the lots were large enough. Councilmember Theobold said the 2.5 acres is a gross density. Dividing the 56 acres by 22 units would give an average lot size that will reflect a net density that is smaller than 2.5 acres.

Councilmember Terry said the real issue is should the Growth Plan be amended. She felt it was an important issue and a big decision for Council, and is not taken lightly. Council tries to adhere to the Growth Plan as much as possible. She believed the Plan was not wrong. It was difficult for her to agree that this should be two acre parcels. It conflicts with the Persigo Agreement. There are insurmountable topographical concerns in the area. She felt Council should stay with the original designation. She had seen no good reason to approve the proposed plan at 2 to 5 acres.

Councilmember Theobold said Council must either amend the Growth Plan or remove this area from the 201 boundary. Councilmember Terry agreed that is a possibility. However, there are dilemmas presented to Council that prevent them from adhering strictly to the two-acre parcels. Councilmember Theobold didn't see any latitude.

Councilmember Spehar said if Council has no gray area, then it is unfortunate because there are unique areas. He felt Council needs to allow some discretion. It was hard for him to agree with a Growth Plan Amendment. The property owner knew the zone was in place when it was purchased. There is no shortage of estate zoning across the community. There are other rural areas scattered around. He accepted the statistics on the road but was still concerned with some of the issues. He didn't consider this plan compatible with the surrounding zones. He didn't see an error in the original characterization. He didn't see substantial change. The rezone criteria have created room for a variety of densities. He considered this a unique area and could not support the Growth Plan Amendment.

Councilmember Theobold said the latitude he has spoken of is not a zoning issue but a lot size issue. The urban density, as defined by the Persigo Agreement, is a two- acre lot or smaller. The average net lot size is still two acres or less. That development concept would meet the Persigo Agreement tenets. If it is to be left at no smaller than five acres, 11 homes instead of 22, it can't meet the Persigo Agreement with five-acre lots. The topography of this parcel would not allow it to be divided into five-acre lots.

Mayor Kinsey said the City's practice is to zone annexed property to the current County zoning which is 4 units/acre. Even though they are asking for an increased designation in the land use plan, they are actually asking for a considerable downzone. He felt that was good. The County zoning is 4 units per acre. He said Monday night Council was considering taking properties out of the 201, residents from the Wildwood and this area said the Growth Plan does not count, the zoning counts. Tonight everyone is saying the zoning doesn't count, but the Growth Plan does. It depends on the situation.

City Attorney Wilson said the net affect of a straight zone will cause the loss of the Broadway access. It is an existing platted dedicated road right-of-way. From a legal perspective on a straight zone, the developer has the option of going south if they reached a deal with the Rump property owners. They have legal access to the west. Also the fact that the developer submitted a plan at Staff direction which actually gave the opposition more ammunition to oppose the Growth Plan Amendment. Regarding the Persigo Agreement, he endorsed the less than two acre lot size, but there is flexibility.

Councilmember Payne said he would rather amend the Growth Plan than go against the Persigo Agreement. What difference will 11 homes versus 22 homes with sewer make. This is a downzone from RSF-4 to 2.5 acres per unit. He supported this plan.

Councilmember Enos-Martinez said the property could be left as open space if the property owners buy it and leave it open. She was more inclined to amend the Growth Plan rather than go against the Persigo Agreement.

Councilmember Scott agreed with amending the Growth Plan.

a. Growth Plan Amendment

Upon motion by Councilmember Theobald, seconded by Councilmember Payne and carried by roll call vote with Councilmembers **SPEHAR** and **TERRY** voting **NO**, the Growth Plan was amended to change the designation from Residential Rural to Residential Estate for Desert Hills Estates.

Councilmember Terry said as strongly as she supports the Persigo Agreement, she knew she is not in violation. If there is agreement to not do what Council just accomplished in its motion, she supported removing this property from the 201 boundary. She felt it is an appropriate property to not be in the 201 boundary.

b. Zoning Ordinance

Discussion

Councilmember Theobold said this is private property and Council can't take it away. The issue is not about view protection, or about somebody making money. The City can't buy every property that neighbors don't want developed. The wildlife is a valid point, but it was everywhere before other homes were built. He saw this as a clustered development because this plan leaves a tremendous amount of open space, far more than the normal requirement.

Councilmember Spehar asked if Council has the ability to deal with acreage requirement in the PR zone. City Attorney Wilson answered yes.

City Attorney Dan Wilson said the nature of a planned zone is dealing with bulk requirements. A decision must be consistent with the Preliminary Plan because of the City's process.

Councilmember Theobold said Council needs some guiding language in its Code and process to deal with unbuildable areas or limited buildable areas.

Kathy Portner, Community Development Department, said the zoning ordinance could contain bulk standards, setting overall density. They could meet the 2 acres or less. A minimum lot size would kill the plan.

Ordinance No. 3219 – An Ordinance Zoning a Portion of the Desert Hills Estates Annexation No. 1 to PR

Upon motion by Councilmember Theobold, seconded by Councilmember Spehar and carried by roll call vote with Councilmembers **TERRY and KINSEY** voting **NO**, Ordinance No. 3219 was adopted on second reading, with a maximum lot size of less than 2 acres, per the Persigo Agreement, and ordered published.

ANNUAL APPROPRIATIONS FOR THE YEAR 2000

The year 2000 total appropriation for all thirty-five accounting funds as 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. Fund balances are projected to decline over the two-year period (1/1/2000 through 12/31/2001) as planned expenditures are \$1.25 million higher than projected revenues. Also included is the City-County joint resolution approving the 2000-2001 Biennial Budget for the Joint Sewer System.

The hearing was opened at 12:35 a.m., on Thursday, December 16, 1999.

Ron Lappi, Administrative Services Director, reviewed the ordinance briefly.

Councilmember Terry noted that Council has spent many hours previous to this hearing discussing this item.

There were no public comments. The hearing was closed at 12:35 a.m.

a. Appropriations Ordinance

Ordinance No. 3220 - 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

b. Resolution Adopting Budget for 2000 and 2001

Resolution No. 153-99 – A Resolution Adopting the Budget for the Purpose of Defraying the Expenses and Liabilities for the Fiscal Years Ending December 31, 2000 and 2001

c. Resolution Adopting 2000-2001 Budget for Persigo Sewer System

Resolution No. 154–99 – A Resolution Approving the 2000-2001 Biennial Budget for the Persigo Sewer System, Including Charges and Fees

Upon motion by Councilmember Payne, seconded by Councilmember Scott and carried by roll call vote, Ordinance No. 3220 was adopted on second reading and ordered published, and Resolutions No. 153-99 and No. 154-99 were adopted.

OTHER BUSINESS

Mayor Kinsey said Council needs to address the year-end evaluations and suggested scheduling an executive session for the first meeting of the year 2000.

ADJOURNMENT

The meeting adjourned at 12:38 a.m. on Thursday, December 16, 1999.

Stephanie Nye, CMC
City Clerk