

**JOINT HEARING OF THE  
GRAND JUNCTION CITY COUNCIL  
AND  
PLANNING COMMISSION  
PROPOSED ZONING & DEVELOPMENT CODE**

**FEBRUARY 22, 2000**

The specially scheduled joint meeting of the Grand Junction City Council and the Grand Junction Planning Commission was convened at 7:03 p.m. at Two Rivers Convention Center and was continued from February 10, 2000.

Representing the Grand Junction City Council were Gene Kinsey (Mayor/Council President) and Councilmembers Cindy Enos-Martinez, Earl Payne, Jack Scott, Jim Spehar and Janet Terry. Representing the Grand Junction Planning Commission were Chairman John Elmer and Planning Commissioners Paul Dibble, Terri Binder and Joe Grout. City Clerk Stephanie Nye was present to record the minutes.

Chapter 3 and Chapter 4 were reviewed during the February 10, 2000 meeting.

Council President Kinsey welcomed the audience and invited input on the draft Code. The hearing then continued.

**CONTINUATION OF PUBLIC INPUT AND CONSIDERATION OF THE FINAL DRAFT OF THE ZONING AND DEVELOPMENT CODE**

**CHAPTER FIVE – PLANNED DEVELOPMENT**

Planning Manager Kathy Portner stated no significant changes have been made to the Planned Development section since the last draft.

She noted it is a change from the existing Code in how Planned Developments are used by the Community Development Department. She anticipated it would not be used often because there is now additional flexibility in the Straight Zone that many were using Planned Zones for in the past. For the most part, it would be used for large developments of mixed use.

There were no public comments or discussion regarding Chapter Five.

**CHAPTER SIX – DESIGN AND IMPROVEMENT STANDARDS**

- Section 6-2-2 – Significant portions of this section dealing with streets, alleys and easements were deleted from this draft of the Code to be included instead in the TEDS (Transportation Engineering Design Standards) Manual.
- Section 6-3 – The section on Public Parks and Open Space was revised since the last draft to incorporate the requirements for a 10% land dedication, or payment of the appraised value of the land, for subdivisions of ten or more lots. The City will have the option of accepting the land or fee in lieu of land dedication.

- Section 6-5 – The landscaping section of the Code has been revised since the last draft to further simplify the regulations. The overall landscaping requirements have not changed substantially.

Planning Manager Kathy Portner discussed Section 6-2-2 dealing with Public Infrastructure improvements required with any development. She noted significant portions of this section dealing with streets, alleys and easements were deleted from the draft to be included in the TEDS manual that the Public Works Department is currently working on updating. For the most part, they will remain the same in this Code and that document.

Section 6-3 (page 9) deals with Public Parks and Open Space. That section has been revised since the last draft. The previous draft had a complex formula for determining how much open space would be required for any residential subdivision. This draft indicates there will still be a Parks and Open Space fee paid to the City for any residential development. The fee is currently \$225 per unit with no proposal to increase the fee. Regarding the Public Parks and Open Space dedication requirement for any subdivision of 10 lots or greater, there would be a requirement that 10% of the land area be dedicated for public parks or the appraised value of that 10% land area paid to the City for future neighborhood parks in the area. The City would decide whether to accept the land, or to take the fee in lieu of the land. The language in this section may need to be clarified somewhat to make that statement clear.

Councilmember Spehar asked how the 10% requirement is different from the current requirements. Ms. Portner said the current Code requires the \$225/unit fee be paid into the parks system and there are no plans to change that fee. The current Code does not provide for a public open space dedication requirement, however, in the Planned Zone category in the existing Code, there is a requirement for some type of dedication. It does not specify the amount. She estimated 90% of all of the residential development has been in Planned Zones in the recent past. Land has been dedicated through the subdivision process as private open space. A general survey of the amount of land that was generally dedicated, was usually 15% to 20% range, so this proposal is actually at a low end of what had been dedicated in the past. Existing subdivisions that do dedications, dedicate it as private open space. It is anticipated there will be no private open space unless a developer chooses to do that through a Planned Development or if it was needed for a facility such as irrigation or detention. It would be a public neighborhood park system that would be established.

Planning Commissioner Terri Binder verified the 10% dedication would not include retention/detention ponds. Ms. Portner said that is correct. It would have to be useable as a public park or a unique feature the City felt was important to the community as a whole, rather than just specific to that subdivision.

Planning Commission Chairman John Elmer said the standards for open space in Section 6-7-6 later on really pertain more to open spaces provided. He said the standards for usability, what is dedicated, and where, has nothing to do with the 10% standard which is cited in Section 6-3-2. Ms. Portner said that would be separate, for private open space that was either dedicated for the use of the homeowners through a Planned Development, or through the choice of the developer. Ms. Portner said in a straight zone development where the need for a detention/irrigation pond

exists, the location would still be considered and an effort would be made to maximize the benefits of how it's located.

Chairman Elmer said it is confusing because Section 6-3-1 discusses both the park open space fee and a park impact fee. But at this point, there is no park impact fee unless Ms. Portner is referring to the 10% that is paid in cash. Ms. Portner agreed clarification is needed. Section 6-3-1 was meant to cover the existing fee that is based on a per unit basis. Section 6-3-2 would be the 10% required dedication in addition to the per unit fee.

## **CITIZEN COMMENTS**

Larry Rasmussen, representing the Realtors and Home Builders Association, reiterated that they have no problem with the open space aspect. Open space contributes to the community, the value and attractiveness of certain projects. Their concern is the 10% requirement. The cost is going to be passed on to the homeowners. It is an awkward situation when one tries to explain to a homeowner the requirement of the 10% of the value without relating it to a specific park plan. He felt the Parks Master Plan needs to be in place first so the homeowner can see where their money is going.

Councilmember Scott asked Mr. Rasmussen what he felt was a reasonable amount of time to get the Master Plan in place. Mr. Rasmussen responded by suggesting six months.

Councilmember Terry asked if Mr. Rasmussen was in agreement with the principal of the section if delayed. She suggested once a revised Parks Master Plan is in place, he would have something to show prospective buyers. Mr. Rasmussen said the theory of providing open space is okay.

Councilmember Spehar said he could agree with Mr. Rasmussen's suggestion if the only purpose of open space was to develop recreational parks and facilities. However, some open space is indeed left open and natural. Councilmember Spehar suggested creating the opportunity for both developed and undeveloped open space in proximity to new homes realizing that some of the land will not be developed or have facilities on it.

Mr. Rasmussen reiterated he had no problem with that. He just felt it ought to be a part of the Master Plan. He felt the draft Code is going about it backwards.

Discussion of lotto funds and GOCO monies for parks and open space then took place.

Councilmember Payne said a Parks Master Plan is difficult to do. He gave an example of a subdivision going in with 30 homes, RSF-4 and 100 units. If it was known such a subdivision was going in, the Parks Master Plan could accommodate plans for a complete park. Next door to this subdivision is one with five acres, 20 homes. He asked how a park can be constructed in the five acres using a Parks Master Plan.

Mayor Gene Kinsey said the fee is for the total Parks system. Council has made a commitment to pursue neighborhood parks where feasible. They will continue to develop regional parks such as Canyon View, Las Colonias and Eagle Rim. Those parks are available to everyone in the City.

They are trying to create a method to allow development to contribute to continually improving parks.

Mr. Rasmussen reiterated that his groups still feel very strongly about this section of the Code.

Councilmember Payne said a couple of years ago the fee discussed was much higher than the reasonable fee recommended in the new Code.

Dean VanGundy, a property owner on the south end of 5<sup>th</sup> Street, said he has reviewed this draft. He felt it takes away his property rights. He said he pays taxes with no rights. He felt it was the same method used by Adolph Hitler in 1937. His major concern was the amortization provision in the draft which he felt allows him to remain on his property, although he must build a fence within five years. If the fence is not built, he is expected to get out, and can expect a fine if he doesn't leave. He said it is unfair. He felt the Code should define the term "amortization" as well as "overlay district." He was also concerned with a "policing agency" that will enforce the Code.

Continued discussion on the open space issue then took place.

Mike Joyce, 2764 Compass Drive, representing the Chamber of Commerce, said they are in agreement with the Board of Realtors and the Home Builders Association on trying to get a parks plan adopted that states the minimum amount of park land needed for neighborhood parks, regional parks, etc. The plan should guarantee that part of the open space/parkland fee paid by a property owner will go to a neighborhood park and directly benefit those residing in the immediate area. It's not an easy task, but it can be done.

Mayor Kinsey agreed, although the amount of funding determines the density of parks, etc.

Councilmember Payne said the maintenance cost for small parks (under five acres) is horrendous. Mr. Joyce agreed it is a dilemma.

Councilmember Spehar said the Code states in Section 6-3-2.f. that three acres or less won't be accepted unless there is a special or compelling need. Whether it's land dedications or the fees, neither pays much of the parks costs. The General Fund subsidizes the parks funding annually.

Mr. Joyce said he felt the City is going in the right direction with this section. People want to know where their impact fee or tax dollars are going.

Doug Clary, 2691 Kimberly Drive, agreed with Councilmember Spehar. Open space doesn't necessarily have to be a developed park and it does have value. He felt 10% is too little an amount of land for such a use. A 100-home subdivision needs open space, not necessarily a developed park.

Mayor Kinsey clarified the 10% figure was not intended to be the minimum size or only amount of land. It would only be the subdivision's contribution and there would be additional contribution from the City.

Planning Commission Chairman John Elmer said the 10% fee equates to a cost per lot. Staff must make sure it is a defensible number.

Commissioner Paul Dibble said the plan is the most important object in this discussion. It must be in place before anything is developed according to it. He also commented on Mr. VanGundy's presentation. He suggested Mr. VanGundy contact a staff member for further clarification, and discussion of specifics, knowing City staff would be willing to do that. Many of the items in the proposed Code are good for the community. There are some areas that need to be fine tuned. The purpose of these public meetings is to get the public, staff, City Council and the Planning Commission to meet and discuss all aspects of the draft Code.

Ms. Portner said the 10% figure came from a typical open space requirement. It is very much at the low end. Considering what was being received in private land dedication, through the planned development, it is definitely at the low end. The City is getting 15% to 20% open space generally. Nationally, requirements for parks and open space range from 10% to 20%, even as high as 25%.

Councilmember Spehar said most residential is in PUDs and usually the requirement or dedication is more than the 15% to 20% range, not 10%. Ms. Portner agreed.

Planning Commissioner Joe Grout asked if that is based on undeveloped land. Ms. Portner said yes.

Councilmember Terry said the comments on waiting for the Parks Master Plan were thoughtful. She agreed with Mayor Kinsey about which comes first, the Plan or the fee. She assured the audience the Council and Commissioners have diligently decided to pursue a revision to the current Parks Master Plan. She encouraged public participation on that Master Plan.

City Council and Planning Commission concurred with going ahead with the foregoing provision.

Kathy Portner then discussed Section 6-5 – Landscaping (page 15). She stated there are no major changes to the overall concept of this section. The formatting has been simplified. She asked Joe Carter to review this portion of the draft.

Associate Planner Joe Carter, Community Development Department, said there has been a format change since the last draft. Landscape designers wanted more creative flexibility. The quantities that are produced by use of this Code are derived from existing projects. The perimeter landscaping Section 6-5-3 has been eliminated from this section. There is a section regarding fences which is a duplication of Section 4-1-10. That will be resolved. This levels the playing field. He showed some comparisons of existing commercial projects on the overhead projector. The comparisons showed tree and shrub quantities. Under the old Code Alpine Bank on Horizon Drive was required to have 28 trees and 206 shrubs. Under the new Code, 18 trees and 150 shrubs would be required. As larger commercial projects are proposed such as The Home Depot and the proposed Redlands Market Place, the landscape requirement is slightly increased. Smaller businesses such as Schlotzky's are doing more landscaping percentage-wise than the larger projects. This is based on the improved area of the development, and it can be modified by the administrator.

Councilmember Spehar asked, in leveling the playing field, where were the reduction or increased requirements made. Mr. Carter said the amount of landscaping has been decreased with smaller projects. There seems to be a slight increase on larger projects. The proposed Redlands Market Place are individual lots which do not have landscaping on them, so he could not say for sure that it would be a marked increase with the new Code on that particular project.

Councilmember Enos-Martinez asked Mr. Carter if Section 6-5-3, Perimeter Lot Landscaping, had been deleted. Mr. Carter said yes.

Councilmember Payne noted the huge difference in the amount of shrubs required on two different 10-acre projects. Home Depot was required 360 less shrubs than was required of the Redlands Market Place, and asked why. Mr. Carter said it is based on the entire area of the site. Redlands Market Place does have individual lots within the ten-acre parcel.

Councilmember Terry noted that Schlotzky's did more landscaping than required.

Mr. Carter referred to Texas Roadhouse. The footprint of the building was approximately 10% to 12% of the area of the site. The Home Depot building is using 25% of the area. He said Texas Roadhouse is doing more landscaping under the old Code than what will be required in the new Code.

Councilmember Terry suggested taking the actual building into account and consider the remaining undeveloped portion when calculating required shrubs and trees, etc.

Mr. Carter used the Texas Roadhouse as an example, if 90% of their total lot, minus the footprint of the building, was to be planned, percentage-wise, big box retail would end up doing less landscaping. The entire lot area was taken into account when calculating the requirements. The Code allows the improved area to be modified by the administrator when only two acres of a ten-acre parcel are being used for the development. Texas Roadhouse has a larger lot, but has only improved 4/5 of the lot.

Councilmember Spehar said under the old Code the difference between Schlotzky's and Texas Roadhouse would be Schlotzky's doing approximately 26 or 27 trees/acre on 9/10 of an acre, versus 16 trees/acre for the Redlands Market Place. In the new Code, they will both be required around 14 or 15 trees/acre.

Mr. Carter said they are trying to level the playing field. This section will be scrutinized and reviewed again. There are certain uses such as gravel mining operations that will not require this type of intensity in landscaping. He felt this will satisfy the minimum requirements.

Chairman John Elmer said car dealers don't like to use deciduous trees because of the leaves impacting the new car finishes. He asked if there is enough flexibility in the new Code to work under those circumstances. Mr. Carter said yes. Evergreen trees can be used in those cases. The screening affect is encouraged, although it is not regimented. The new Code satisfies those concerns by allowing substitutions in many cases.

Dean VanGundy addressed Chapter 6 (page 27) – Monthly Requirements. He had a problem with the 25' wide landscaping strip with trees and shrubs around the total perimeter of the property. He felt that was a ridiculous width for the entire perimeter of his property. It would barely leave enough room to function and operate his business.

Mayor Kinsey felt Mr. Van Gundy was misinterpreting the section. He explained a buffer is an area between two adjacent uses and is meant to minimize the impact. A 25' buffer is required between an industrial use and a residential single family neighborhood. That is not the case in Mr. Van Gundy's area.

Mr. Van Gundy said he could not see where all of the regulations are needed.

Councilmember Enos-Martinez asked Mr. Van Gundy if a free-for-all should be allowed in the City. Mr. Van Gundy agreed regulations are needed, but not to this extent.

Marty White, owner of multiple residential properties, asked about commercial properties. He bought property with an existing building on it. He said the City requires he dedicate a certain amount of the property for a certain number of parking spaces which are calculated by the square footage of his building. If he adds the required landscaping, there will not be enough room for the required parking spaces and he is going to be in violation of one section of the Code or another. He did not understand how the specific number of trees and shrubs are required. He asked how existing commercial properties are being accommodated under the new Code.

Ms. Portner said existing properties where a building exists and is being used for commercial uses in the past, they can continue to be used as they have in the past without improvements to the parking or landscaping. If there is a change of use where the proposed type of use actually increases the demand for parking, such as warehouse to retail, the non-conforming code section would dictate how much additional parking and landscaping would be required. The non-conforming section has been modified allowing exceptions so either parking can be added or landscaping.

Mayor Kinsey explained the intent of the new Code is for new development and there are provisions for existing buildings.

Ray McGhghy, a local salvage yard owner, said the City's Code Enforcement Officer has come to his property saying he is a non-conforming business. He asked for proof of his non-conformance. He did not ask to be annexed into the City, but would do what he can to try to conform. He insisted salvage yards do a service for the community although they don't generate the sales tax revenue that other businesses do. Mr. McGhghy asked for incentives such as tax breaks, credits or some other means to help salvage yards comply. Salvage yards have not had a good name in the past, but they have cleaned up their businesses and are now operating credible and state of the art businesses. Salvage yards are disappearing at a rate of almost 10% per year. In ten years, there won't be many left.

Councilmember Spehar agreed the Code needs to deal with its own salvage yards and waste disposal sites. He suggested one of the purposes of the Code is to protect such businesses, and asked Mr. McGhghy to work with the Council and Commission on some of the problems.

Councilmember Terry said the Council and Commission has conducted meetings on the draft for two years. She has talked to many small business owners who are very concerned with the impact of this Code on their businesses. They have worked diligently on the section that discusses existing businesses in trying to minimize the impacts, realizing they must deal more with new development. They do not want to create hardships for existing businesses. She invited Mr. McGhghy to review the sections of the draft Code and sit down with Staff. If he still has real concerns about fairness and appropriateness, the Council and Commissioners need the specifics of his concerns.

Mr. McGhghy said the current regulations can be interpreted loosely. In the future he wanted Code Enforcement to have proper documentation with them before they go to businesses stating a business is non-compliant. He felt it was Council's responsibility to assure its citizens that City employees are doing their job properly.

Councilmember Terry said they know the Code is not perfect. It is based on a Master Plan that was created by the citizens and they are trying make the Code a document that implements the goals of the citizenry. She invited Mr. McGhghy to come into the Council and Commission offices and go through his specific concerns.

Councilmember Spehar offered to participate in such discussions with Mr. McGhghy stating it would educate him on the practical applications of this issue. He asked Mr. McGhghy to continue thinking about his part in being able to exist in the community long-term. The community needs to have an interest in his type of business existing long-term. Mr. McGhghy's landscaping efforts is a good beginning in an effort to familiarize citizens that don't understand the importance of having someone to haul vehicles off, etc. Councilmember Spehar felt that would be part of the answer to Mr. McGhghy being able to be in business ten years from now.

Leroy Winters, 3065 Highway 50, just before Whitewater Hill, owner of an auto salvage business at 3061 Highway 50, said he has 1500 cars on 7 ½ acres, with 8 to 18 employees. He said this community creates manufactured waste daily. His industry is a service to the community. He referred to Section 4-3-4, paragraph 7 (page 28) which states his business must comply by 2004. He has been told by Council and the Commission this section won't affect him tomorrow but it says it will affect him in 3 ½ years. Mr. Winters asked for clarification of this section.

Ms. Portner said screening requirements exist in both the current and proposed Code for various types of outdoor storage. The provision in Chapter 4 dealing with amortization talks about the required screen fence as well as the perimeter landscaping using the Buffer Type B. Staff is proposing that be modified. The intent was to do the street frontage landscaping which would normally be required in any buffering based on Table 6-5. It would depend on whether it is adjacent to a certain type of zone district as to whether they would have to do the actual landscape strip adjacent to another use. Industrial next to Industrial does not have to use the 25' strip, but the screen fence is required around it.

Councilmember Scott said he knows Grand Junction needs salvage yards. He said this Code is trying to make it easier on the salvage yard owners and the City. The citizens will like it better.



Dean Van Gundy asked for a definition of amortization. Mayor Kinsey said it says the year 2004. Councilmember Spehar said Mr. Van Gundy can operate exactly as he is currently operating for a period of three years. It gives him an opportunity to amortize his existing use. Mr. Van Gundy said that is not fair.

Councilmember Terry said the Council and the Commission are trying to balance everyone's needs in this community and asked Mr. Van Gundy if he had a proposed date that he felt would be fair. Mr. Van Gundy said amortization is taking of property without just and fair compensation.

Commissioner John Elmer said the year has been changed to 2005.

Mayor Kinsey asked if there were additional comments on landscaping requirements or required buffering between different uses.

Marty White asked if he must comply by 2005 with a buffer zone because it is Residential behind his business. Commission Chairman Elmer said that provision applies to only junkyards, salvage yards and heavy equipment and industrial storage lots.

Tony Long, a County resident, said he admired Mr. Van Gundy's landscaping. He suggested even more regulation as there is a lot of rock landscaping in the City. He said rock landscaping is boring and bare and suggested screening such landscaping. He likes old things and feels it is good for the mind to view old equipment. He suggested working together and perhaps regulations would be unnecessary. He felt the Golden Rule would solve a lot of problems.

Linda Todd was concerned with areas in the City that overlap the Ute Water district, specifically the usage of Ute water for irrigation requirements. The Ute Water Conservancy District implemented a policy in 1976 or 1977 does not provide irrigation taps. People will be fined if using domestic Ute water for irrigation purposes. This has not been addressed in the Code. If properties are located in an area where water is not available, the Code could be causing people to become non-conforming in their use and subject to fine by their water provider. It needs to be negotiated and addressed with Ute Water in particular areas.

Mayor Kinsey said that issue was discussed at the last meeting and adjustments were made. Staff was directed to make changes in the language to reflect that if irrigation water was available, it would be used. They would work on a solution when water is not available. Ms. Portner said the City Attorney is working on language in the Code stating if irrigation water is available, the City would require its use. There may be some agreement with Ute Water that in areas where irrigation is unavailable, they would consider issuing a water tap for that purpose. Ms. Portner understood Ute's policy is that they will not sell a tap for the sole purpose of irrigation. If there are other uses for the water on the property, they won't check to see how much is being used for irrigation and how much is being used in the building itself.

City Attorney Dan Wilson said staff has talked with Ute Water's staff to come up with language that Ute Water can agree to. They will approach their board for a reaction. It is hopeful that such areas of the valley where irrigation water is available can be clearly mapped. There are some areas below the Government Highline Canal that were not favored by the original stock subscription agreement and they will legally have no water available. That water goes with the

land as originally subscribed in earlier years. Those are the areas that Ute Water's board will discuss. If the City requires landscaping be irrigated with some form of water, then Ute Water will consider changing their policy in the limited circumstances. Ute Water wants to be cautious, and not inadvertently become a supplier of irrigation water.

Mr. McGhghy said he has a small impound lot with frontage that needs landscaping. There is no building on the property. He has no water tap and he doesn't need a water tap. A Ute Water tap would be used only for watering plants. Irrigation water was available on the property years ago, but the rights have since been sold. He will either have to buy a water tap for watering the landscaping or buy excessive shares of water to irrigate two trees and six shrubs. His cost to comply will negate any benefit. Transporting water to the property in a 55-gallon drum would be more feasible for his property.

Councilmember Scott said Mr. McGhghy needs to talk to the Planning Commission for an exception in his case.

Mr. McGhghy said it gets back to what he talked about earlier. It will work out now, but what will happen in 2005. Today's agreements won't apply five years from now. Mr. McGhghy estimated 10% of his gross profit will be eaten up over the next five years by required fencing. His net profit is also 10% which means he will make no money over the next five years.

Scott Holman, Wagner Caterpillar, said the business moved eight months ago to 2707 Highway 50 on Orchard Mesa and took over the old U.S. Armory building. In order to comply they must construct a fence. Their equipment is two years old, or newer, and stands over 8' tall. He asked if they will have to abide by that since nothing can exceed the 8' height. Screen fencing will make it difficult for prospective buyers or lessors to see the equipment they have to offer.

Ms. Portner said the provision applies to heavy equipment storage. If it's a sales lot, it would be treated as any other type of sales lot where the screening would not be required. Equipment over 8' high needs to be excepted from the provision for total screening. The exception will apply to many pieces of heavy equipment where extension pieces are an integral part of a piece of equipment. An example would be some of the Webb Crane equipment. Ms. Portner proposed this clarification.

Joe Schnitker had the same concern as Mr. Holman. Mayor Kinsey said the fences and buffering zones are meant for storage yards. Councilmember Spehar asked Ms. Portner to differentiate between rental/sales and storage. Planning Commissioner Paul Dibble said a rental is a retail agreement for the purpose intended short-term. He saw it as a sales function. Councilmember Spehar agreed, saying Mr. Schnitker's lot would need the back and sides screened.

Councilmember Spehar reiterated that heights over 8' will be excepted. If the City Shops lot falls under the definition of storage, by December, 2005, the City will also be required to do the fencing.

Ms. Portner said the intent was that it would require the 8' fence and things could not be stacked above the 8' height. Pieces that are integral to a unit could exceed that limit. Storage of seven vehicles on top of each other would exceed 8' and would not be unacceptable.

Mr. McGhghy said he has 20' pallet racks on which he stores parts, etc. It is not an integral part of any piece of equipment and asked what will be required of him. Ms. Portner said it is up to the Council and Commission whether the height of the 20' rack will be considered a unit.

Carl Murphy, owner of Any Auto Wrecking, 549 Noland Avenue, referred to Chapter 4-3-4 (page 28). Item 5 says unusable items shall be disposed of and not be allowed to collect on the premises. He asked for a definition of "unusable items". Everything he sells is a usable item once it is sold. He was concerned that an enforcement officer might come on his premises in 2005 and tell him he's storing unusable items.

City Attorney Wilson asked Mr. Murphy if he has anything that is not usable in his business. Mr. Murphy said no. He buys automobiles at auctions. He has nothing that goes to the landfill other than tires, and he must pay to have them accepted by the landfill. City Attorney Wilson said the definition of "unusable items" needs to be changed, or dropped completely.

Consensus was to delete Item 5 under Section 4-3-4. Mr. Murphy thanked the Council and Commission.

Commissioner Jerry Ainsworth agreed more definition is needed. He appreciated an encounter, upon first moving to Grand Junction, where he contacted the Planning Department regarding an infraction on his part and was able to deal with the department in a professional manner. He said a set of rules this size will not be perfect. There will be areas in the Code that will need to be addressed personally. Mayor Kinsey said Chapter 9 of this code deals with definitions.

Councilmember Payne reiterated this Code can be changed and probably will be changed as time goes on.

Getting back to the rack issue, City Attorney Wilson referred to Chapter 9 – Definitions. Ms. Portner said it needs to be treated separately from retail commercial. It is an allowed accessory use to retail. Commissioner Joe Grout said this is an existing business and what is existing on the property wouldn't especially fall under a different part of the Code such as landscaping requirements. The racks exist today so they may be non-conforming within the property but would not be subject to this Code.

Ms. Portner said there is a need to better define each unit, or an exception, because it is in the section where it says "it must be brought into compliance." Everything must be screened to be in compliance in 2005.

Councilmember Spehar asked if storage units could be included in the definition of equipment to take into account the storage racks. City Attorney Wilson said it could, although he wanted more time to evaluate it. He felt the neatly stacking of Mr. McGhghy's parts, etc. is different than stacking five car bodies that is still a relatively neat stack but not as easily accessible. He suggested working with Mr. McGhghy to write a definition in this section 4-3-4 exempting this type of unit dealing with this type of storage facility. This definition would be isolated. He said another meeting is scheduled for February 23, 2000 and hopefully, they can have something crafted for

consideration. The Council and Commission requested a reasonable height limitation be included in the definition.

Mayor Kinsey solicited additional comments on Landscaping.

Doug Clary, 2691 Kimberly Drive, said there is no provision for non-irrigating type of landscaping to substitute trees and shrubs. He suggested alternatives to plant materials that don't use water. The Code requires all landscaped areas must have irrigation water.

Ms. Portner said this Code does require living materials to meet the landscaping requirement. The use of xeriscape materials is encouraged, which is still living materials, with varying watering needs. The section does not contemplate non-living materials (rocks, concrete, etc.) would replace living materials.

There were no other comments.

Mayor Kinsey said some direction has been given staff regarding problems of unavailable water.

## **RECESS**

A brief recess was taken at 9:20 p.m. Council and Commission reconvened at 9:34 p.m.

Ms. Portner said there were no other major changes in Chapter 6.

Mayor Kinsey said, as a result of earlier discussion in the meeting and during the break, Council and the Commission would direct the City Attorneys to write some proposed language which would deal with mandating the use of irrigation water when it is available; thus, avoiding the use of potable water. This is for residential and commercial development. If the water is available, it needs to be utilized.

Councilmember Terry said Faircloud Subdivision chose not to do any irrigation, although irrigation water was available. Councilmember Terry said this is a big change compared to previous amendments. She was concerned about this language at so late a date. It is a significant change. She wanted more public input on this.

Mayor Kinsey said he was not suggesting it be incorporated into the Code, but merely planned to take a look at new language for further discussion.

Commissioner Terri Binder discussed the School Land Dedication Fee and wondered why the fee is refunded to the developer after five years. The need is still there after five years. Other fees are not refundable. She also understood the Land Dedication Fee is passed onto the buyer by the developer, so the refund should go back to the purchaser of the property, not to the developer.

Chairman John Elmer said this fee was crafted within the Tabor Amendment. Since the School District has been "de-Bruced", they no longer fall under that provision. The provision saying the money must be refunded can now be taken out. Ms. Binder said there has been no response

from the School District and wondered where all of this fits in. She realized there is no time tonight to discuss the matter, but wanted to bring it up for future discussion.

City Attorney Wilson said this was crafted to try to be consistent between the City and the County and the School District. There was a lot of effort put forth in crafting something that would be acceptable to the development community. Since the Persigo Agreement has been adopted and all new development in the urban growth area would automatically come into the City's limits, there will be some policy possibilities Council didn't have then. Namely, the County was trying to do impact fees with limited powers. A home rule city's attempt, based on a different legal analysis, might get a different result. If Council wants to pursue it, Mr. Wilson would want to meet with the County and School District attorneys and the affected individuals with the development community, and come back with some ideas.

Commission Chairman John Elmer referred to the first and second pages of Section 6-1 where developers present a low, medium and high alternative regarding use of the land in Section 6-1-4. It did not make sense to him. He felt several variations of the presented plan still keep the same intent. Ms. Portner said staff agreed. Staff feels that section meant to say was the developers show areas of high development potential, moderate development potential and low development potential. It came up in the mapping of the Redlands Mesa. They were not showing different development scenarios but were indicating the capability of the property in various areas to be developed at all. Ms. Portner said clarification is needed in this section.

Larry Rasmussen referred to the first line in Chapter 6 – Map Requirement and reaffirmed their position regarding the consideration of raising the 50 acres to 100 acres which has been discussed many times in the past.

There were no other comments on Chapter 6.

## **CHAPTER 7 – SUPPLEMENTAL USE REGULATIONS**

Planning Manager Kathy Portner pointed out two changes in Chapter 7, Section 7-7-2-4 – Wildfire Standards (page 7). The provisions have been modified to reflect those contained in the Mesa County Code that refer specifically to the urban area. It does not include all their other provisions that were meant to include the mountain communities. This provision would rarely be used inside the City. There are a few properties on the Redlands where the clearing of brush surrounding homes might be important, especially if there are areas with slower response time for fire protection.

Ms. Portner discussed the major changes to Chapter 7. She referred to Section 7-2-6 - Nighttime Light Pollution (page 8). The current Code has fairly general provisions saying light being generally contained on the site that it's meant to light, not having excess spillage and glare into surrounding roadways. Staff is proposing in this draft to have the same provision as Mesa County. Those elements include: (1) floodlights shall not be used to light all or any portion of any building facade between the hours of 10:00 p.m. and 6:00 a.m.; (2) no outdoor light source will be mounted more than 35' above the ground. The current Code for parking lot lighting says a maximum of 25' poles. The 25' pole is not a standard length and has been hard to acquire, so a 35' pole is recommended. That would not include lighting that is approved as

part of an outdoor recreation facility; (3) full cut-off light fixtures will be used to light parking lots and other outside areas. A cut-off light fixture includes a shield on top of the light to reduce the amount of light going up, focusing the light down, and (4) paragraph d. which tries to minimize as much as possible the spillage onto other properties.

Commissioner Paul Dibble referred to Section 7-2-5.b. and asked for clarification of the 100' setback. Ms. Portner said that is not in the current Code. That provision says that new structures shall not be located within 100' of the floodways of the Colorado or Gunnison rivers. The purpose is to protect the riparian habitat along those riverways. This provision is in the County Code. It was in a previous draft, although it did not get in the draft prior to this. It was inadvertently dropped, although it has been discussed at prior meetings. It does not prohibit development in the floodplain. The floodway is an area where there is moving water. Ms. Portner said it restricts development in some cases, but in many areas the 100 year floodplain extends much farther than 100' from the floodways.

Mr. Dibble asked if the term "structure" referred to buildings only. Ms. Portner said yes. City Attorney Dan Wilson said the definition of "structure" in the Uniform Building Code can speak very broadly. He suggested setting examples of structures that are not buildings such as fences, bridges, docks, etc. Ms. Portner said this provision is making specific exemptions that would be taken out of the definition of "structure."

Larry Rasmussen said they believe the maps should be the governing factor, not an arbitrary 100' which could prohibit some industrial and commercial properties along the river from being developed. It could be in a light or moderate wildlife area as an example. Inasmuch as there are wildfire and wildlife habitat, the attached maps should be the controlling factor.

Regarding ridgeline development, Mr. Rasmussen was positive it had been agreed at an earlier meeting that the 200' setback had been reduced to a 50' setback rather than 100'. This draft shows a 200' setback from the ridge line (page 8, Section 7-2-8). Mayor Kinsey said the 200' applies unless they can show there's no impact, and it can be as little as 30'. Ms. Portner said she recalled the discussion at an earlier meeting with debate back and forth. Her notes did not reflect the change to 50'. The opportunity to bring it closer using certain methods was sufficient, even to within 30'.

Mike Stubbs, Dynamic Investments, said this section applies to a large portion of their property which is located on the Redlands near the Ute Water tanks. He was concerned with the area behind the tanks which would provide wonderful home sites with fantastic views. They would require in their covenants that people have low profile structures, use earth tones and vegetation. He felt all these requirements are subject to someone's interpretation. The default standard of 200' is a problem with the topography of their property. He felt setting back 200' will create a lot of engineering problems. He would be happier with a default standard of less than 200'.

Linda Todd talked about the setbacks from the rivers. She felt everything is still being measured on horizontal and no elevation is taken into consideration. She said a structure can be 40' up and then back from the block area with the rivers, and still not meet the 100' setback as it is written. She felt there needs to be an allowance for block situations which can be 30' or

40' above the floodway. She felt some elevation needs to be addressed. Ms. Todd noted this same discussion took place in the County also.

Ms. Portner explained the reason for the 200' ridgeline setback. Staff did some cross sections in looking at skyline views along various portions of the ridge lines along the Monument Road Corridor. They found a structure that was set 200' back was never a problem. Depending on the location on a ridgeline, it could move forward further, but the 200' came from the cross sections that staff did and shared with the Planning Commission. She noted the ridgeline going up Red Canyon which makes a swing. She felt some clarification is needed as to where that is measured from. She recommended they set a point on South Camp Road, perhaps the center of Red Canyon, and the views from that point for those sites. The method for the rest of the area is to take the center point of the roads most perpendicular to the lot for the proposed structure.

Councilmember Terry said this section doesn't leave clear direction and there could be misinterpretation depending upon who was looking at the proposed plan. Ms. Portner said it would ultimately be up to the decision-making body for the subdivision which would be the Planning Commission, or, upon appeal, to the City Council. Staff would not make the final determination as to whether the requirement is met.

Councilmember Spehar said he recalled the South Rim discussion and was comfortable with the 200'.

Mr. Rasmussen said when the 200' first came into being, there was a lot of discussion and remembered Scott Harrington, the Community Development Director at that time, saying "pick a number." It has been 200' since then because it was a comfortable number.

Mayor Kinsey said there are many opportunities to mitigate the development and move it up as close as 30'. He felt the section gives enough guidance.

There were no other comments on Chapter 7.

## **CHAPTER 8 – ADMINISTRATION AND ENFORCEMENT**

Kathy Portner said there are no additional comments on this chapter. There were no substantial changes made on this section between this and the last draft. It is very similar to the existing Code.

City Attorney Wilson referred to page 2, the Civil Penalty, saying it has not been used as an enforcement tool locally. He wanted the public, Council and the Commission to be aware of this section. It is an enforcement mechanism that does not make code violations a crime.

## **CHAPTER 9 – DEFINITIONS**

Mayor Kinsey felt there is nothing in particular that needs discussion in this chapter as a few additions will be incorporated as a result of previous meetings on the Code.

Mayor Kinsey noted another meeting was scheduled for February 23, although it appears that meeting is not necessary. He suggested postponing the public hearing and decision for approximately two weeks to give staff the opportunity to make the changes for review. Once the public, Council and Commission have reviewed the changes, a final public hearing can be scheduled.

City Attorney Wilson reminded Council and the Commission they had directed him to talk with Mr. Ray McGhghy and come back with policy guidance. He plans to meet with Mr. McGhghy tomorrow, February 23, 2000. Mr. Wilson will propose new numbering in the Code and add many definitions with new language. Final drafts will be provided to all concerned.

Mr. Wilson said he and Assistant City Attorney John Shaver have noted substantive issues that will not be changed now. Such issues may be listed separately and addressed at a later date. All other changes will be dealt with now so no delays will occur.

Mr. Rasmussen noted it is important that language relative to the transition period and the revision process be made a part of the Code.

Councilmember Spehar felt closure is needed on this Code. He suggested the changes be brought before the Council and Commission at a joint meeting on Tuesday, March 7, 2000, 7:00 p.m.

Upon motion by Commissioner Dibble, seconded by Councilmember Scott and carried, Mayor Kinsey and City Clerk Stephanie Nye were appointed to attend and represent both boards at the February 23, 2000 meeting.

## **ADJOURNMENT**

The meeting was adjourned at 10:23 p.m.

Stephanie Nye, CMC  
City Clerk