

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

**May 17, 2000**

The City Council of the City of Grand Junction, Colorado, convened into regular session the 17th day of May, 2000, at 7:36 p.m. at Two Rivers Convention Center. Those present were Cindy Enos-Martinez, Earl Payne, Jack Scott, Jim Spehar, Janet Terry, Reford Theobald, and President of the Council Gene Kinsey. Also present were City Manager Mark Achen, City Attorney Dan Wilson, and Deputy City Clerk Teddy Martinez.

Council President Kinsey called the meeting to order and Councilmember Theobald led in the Pledge of Allegiance. The audience remained standing during the invocation by retired minister Eldon Coffey.

**VIRGINIA GOETZ, REPRESENTING THE MOUNT GARFIELD CHAPTER OF THE DAUGHTERS OF THE AMERICAN REVOLUTION, AND DR. EARL HEUSSER, REPRESENTING THE COALITION FOR HISTORIAL MARKERS, WILL PRESENT THE PIONEER WOMEN STATUE TO THE CITY COUNCIL FOR PLACEMENT IN EAGLE RIM PARK**

**PROCLAMATION DECLARING MAY 18-20, 2000 AS "SPECIAL OLYMPICS TRAINING FOR LIFE DAYS" IN THE CITY OF GRAND JUNCTION**

**PROCLAMATION DECLARING MAY 20, 2000 AS "KIDS DAY AMERICA/ INTERNATIONAL" IN THE CITY OF GRAND JUNCTION**

**PROCLAMATION COMMENDING AND RECOGNIZING MICHAEL HARVEY ON HIS SELECTION AS A STAR OF LIFE**

**1999 SPECIAL PRESIDENT'S RECYCLER OF THE YEAR AWARD – PRESENTED BY DARREN STARR**

**ACTING POLICE CHIEF MARTYN CURRIE TO PRESENT NEWLY PROMOTED POLICE DEPARTMENT EMPLOYEES SERGEANT JIM CREASY AND COMMUNICATION SHIFT SUPERVISOR TOM HOLMAN – OATHS OF OFFICE ADMINISTERED BY MAYOR**

**RECOGNITION OF GRAND VALLEY HIGH SCHOOLS FOR PROGRAMS TO IMPROVE SEAT BELT USAGE – PRESENTATION OF PLAQUES BY PAUL FREY, REPRESENTING THE GRAND JUNCTION POLICE DEPARTMENT AND GRAND JUNCTION TRAFFIC SAFETY COUNCIL**

**CITIZEN COMMENTS****Citizen Presentations**

Lena Elliott read and distributed copies of a letter to City Council suggesting adoption of a Code of Conduct for all involved in public meetings, those on both sides of the podium. (Attached)

**CONSENT ITEMS**

Upon motion by Councilmember Enos-Martinez, seconded by Councilmember Terry and carried by roll call vote, the following Consent Items 1-15 were approved:

1. **Minutes of Previous Meeting**

*Action: Approve the Minutes of the Special Meeting April 28, 2000, and the Regular Meeting May 3, 2000*

2. **Emerson Park Play Equipment and Safety Surfacing for Installation of a Playground**

The renovation of the playground is needed because of the age and deteriorating condition of the existing equipment. Eight bids were received and opened on April 5, 2000.

*Action: Award Contract for Emerson Park Play Equipment and Safety Surfacing for Installation of a Playground to Miracle Recreation Equipment Company, Boulder, CO, in the Amount of \$55,000*

3. **Westlake Park Play Equipment and Safety Surfacing for Installation of a Playground**

The installation of the playground is much needed for the recreational activities of the youth in the Westlake neighborhood. A grant in the amount of \$75,000 has been received from Great Outdoors Colorado for the installation and construction of the facility. Eight bids were received on April 5, 2000.

*Action: Award Contract for Westlake Park Play Equipment and Safety Surfacing for Installation of a Playground to Miracle Recreation Equipment Company, Boulder, CO, in the Amount of \$45,000*

4. **Purchase of One Dump Truck for the Public Works Department, Street Cleaning Division**

The following bids were received on April 27, 2000:

<u>Contractor</u>	<u>From</u>	<u>Bid Amount</u>
Transwest Freightliner, Model 1	Grand Junction	\$66,224
Transwest Freightliner, Model 2	Grand Junction	\$68,419
Hanson Equipment, Inc.	Grand Junction	\$61,101

*Action: Authorize the Purchase of One Five Yard Dump Truck for Public Works from Hanson Equipment, Inc. in the Amount of \$61,101*

5. **South Second Street Storm Drain**

The following bids were received on May 9, 2000:

<u>Contractor</u>	<u>From</u>	<u>Bid Amount</u>
Sorter Construction, Inc.	Grand Jct.	\$71,366.00
M.A. Concrete Construction, Inc.	Grand Jct.	\$71,482.60
Skyline Contracting, Inc.	Grand Jct.	\$78,184.80
Continental Pipeline Construction	Mesa	\$94,203.85
Engineer's Estimate		\$ 68,535.00

*Action: Award Contract for South Second Street Storm Drain to Sorter Construction, Inc. in the Amount of \$71,366.00*

6. **Transportation Improvement Plan (TIP) Amendment for Grand Junction/Mesa County Metropolitan Planning Organization FY 2001-2006**

The Transportation Improvement Plan is a six-year capital improvement program for the urbanized area of Grand Junction and Mesa County. It is based on the adopted 2020 Regional Transportation Plan. The TIP's purpose is to carry out continuing, comprehensive and cooperative transportation planning.

Resolution No. 40-00 – A Joint Resolution of the County of Mesa and the City of Grand Junction Concerning Adoption of Fiscal Years 2001-2006 Transportation Improvement Program

*Action: Adopt Resolution No. 40-00*

7. **Historic Designation of First United Methodist Church (522 White Avenue)**

The property owner of 522 White Avenue, the First United Methodist Church, is requesting that the building be designated historic in the City Register of Historic Sites, Structures and Districts.

Resolution No. 41-00 – A Resolution Designating the First United Methodist Church in the City Register of Historic Sites, Structures and Districts

*Action: Adopt Resolution No. 41-00*

8. **Setting a Hearing on Zoning Headstart Annexation to C-1, Located at 3093 E 1/4 Road** [File #ANX-2000-062]

Request for a Zone of Annexation from County ILCB (Limited Industrial) to C-1 (Light Commercial). The 0.88-acre Headstart Annexation area consists of one parcel. There are no existing structures on the site. The applicant is proposing a day school for the children of migrant workers. State law requires the City to zone newly annexed areas within 90 days of the annexation.

Proposed Ordinance Zoning the Headstart Annexation to C-1 (Light Commercial)

*Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for June 7, 2000*

9. **Setting a Hearing on Zoning Godby Annexation to RSF-R and RSF-E, Located at the Northwest Corner of F 1/2 and 30 1/2 Roads (3048 F 1/2 Road)** [File #ANX-2000-063]

The applicant proposes to annex a 9.3-acre parcel into the City of Grand Junction to allow for a 2-lot minor subdivision. Requested zoning of RSF-R and RSF-E is in conformance with zoning in Airport Critical Zone, which transverses this property. The Planning Commission recommends approval of this request.

Proposed Ordinance Zoning the Godby Annexation to RSF-R and RSF-E

*Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for June 7, 2000*

10. **G Road South Enclave Annexation, Located between 25 1/2 Road and 26 1/2 Road and North of Patterson (F) Road and South of G Road** [File #ANX-2000-087]

The 383.71-acre G Road South Enclave Annexation area consists of 221 parcels of land completely surrounded by existing Grand Junction City limits. State law allows a municipality to annex enclave areas after they have been enclaved for a period of three years. The 1998 Persigo Agreement with Mesa County requires the City to annex enclave areas within 5 years.

Resolution No. 42-00 – A Resolution of the City of Grand Junction Giving Notice That a Tract of Land Known as G Road South Enclave, Located Generally between 25 ½ Road and 26 ½ Road and North of Patterson (F) Road and South of G Road and Including a Portion of Land Extending East of 26 ½ Road Near Round Hill Drive and Horizon Drive, and Including but not Limited to All or a Portion of the Following Rights-of-Ways: Fruitridge Drive, Meander Drive, Music Lane, Music Court, Braemar Circle, Fletcher Lane, F ½ Road, Young Street, Young Court, Galley Lane, F ¾ Road, 26 Road, Knoll Ridge Lane, Glen Caro Drive, Cloverdale Drive, Stepside Drive, Myrtle Lane, Dahlia Drive, Larkspur Drive, Crest Ridge Drive, G Road, 26 ½ Road and Horizon Drive, Consisting of Approximately 383.71 Acres, will be Considered for Annexation to the City of Grand Junction, Colorado, and Exercising Land Use Control

*Action: Adopt Resolution No. 42-00*

11. **Clark/Wilson Enclave Annexation, Located at 2522 and 2524 F 1/2 Road**  
[File #ANX-2000-088]

The 4.85-acre Clark/Wilson Enclave Annexation area consists of two parcels of land completely surrounded by existing Grand Junction City limits. State law allows a municipality to annex enclave areas after they have been enclaved for a period of three years. The 1998 Persigo Agreement with Mesa County requires the City to annex enclave areas within 5 years.

Resolution No. 43-00 – A Resolution of the City of Grand Junction Giving Notice That a Tract of Land Known as Clark/Wilson Enclave, Located at 2522 and 2524 F 1/2 Road and Including a Portion of the F 1/2 Road Right-of-Way, Consisting of Approximately 4.85 Acres, will be Considered for Annexation to the City of Grand Junction, Colorado, and Exercising Land Use Control

*Action: Adopt Resolution No. 43-00*

12. **Sutton/Rickerd Enclave Annexation, Located at 2543 G Road and 689 25 1/2 Road**  
[File #ANX-2000-089]

The 5.73-acre Sutton/Rickerd Enclave Annexation area consists of two parcels of land completely surrounded by existing Grand Junction City limits. State law allows a municipality to annex enclave areas after they have been enclaved for a period of three years. The 1998 Persigo Agreement with Mesa County requires the City to annex enclave areas within 5 years.

Resolution No. 44-00 – A Resolution of the City of Grand Junction Giving Notice That a Tract of Land Known as Sutton/Rickerd Enclave, Located at 2543 G Road and 689 25 ½ Road and Including a Portion of the G Road and 25 ½ Road Rights-of-Way, Consisting of Approximately 5.73 Acres, will be Considered for Annexation to the City of Grand Junction, Colorado, and Exercising Land Use Control

*Action: Adopt Resolution No. 44-00*

13. **P.S. Substation Enclave Annexation, Located at the Southwest Corner of 25 1/2 Road and F 1/2 Road** [File #ANX-2000-090]

The 2.13-acre P.S. Substation Enclave Annexation area consists of one parcel of land completely surrounded by existing Grand Junction City limits. State law allows a municipality to annex enclave areas after they have been enclaved for a period of three years. The 1998 Persigo Agreement with Mesa County requires the City to annex enclave areas within 5 years.

Resolution No. 45-00 – A Resolution of the City of Grand Junction Giving Notice That a Tract of Land Known as P.S. Substation Enclave, Located at the Southwest Corner of 25 ½ Road and F ½ Road, Consisting of Approximately 2.13 Acres, will be Considered for Annexation to the City of Grand Junction, Colorado, and Exercising Land Use Control

*Action: Adopt Resolution No. 45-00*

14. **Puckett Enclave Annexation, Located at 2563 F 1/2 Road** [File #ANX-2000-091]

The 1.00-acre Puckett Enclave Annexation area consists of one parcel of land completely surrounded by existing Grand Junction City limits. State law allows a municipality to annex enclave areas after they have been enclaved for a period of three years. The 1998 Persigo Agreement with Mesa County requires the City to annex enclave areas within 5 years.

Resolution No. 46-00 – A Resolution of the City of Grand Junction Giving Notice That a Tract of Land Known as Puckett Enclave, Located at 2563 F ½ Road and Including a Portion of the F ½ Road Right-of-Way, Consisting of Approximately

1.00 Acre, will be Considered for Annexation to the City of Grand Junction, Colorado, and Exercising Land Use Control

*Action: Adopt Resolution No. 46-00*

15. **Setting Fees for Animal Control**

The resolution setting fees is occurring concurrently with the amendment of the Animal Control regulations to reflect current changes in legislation as well as administrative changes. Fees charged for impounding, boarding, adoption, licensure, euthanasia, and deposits are specifically listed by resolution. They are no different from the current fees, but with the amendments to the Animal Control regulations, listing the fees provides notice to the public as to these costs.

Resolution No. 47-00 – A Resolution Amending Chapter 6, Article III of the Code of Ordinances of the City of Grand Junction, Colorado

*Action: Adopt Resolution No. 47-00*

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

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

**ECONOMIC DEVELOPMENT INCENTIVE TO THE CHAMBER OF COMMERCE FOR WEST STAR AVIATION**

West Star Aviation has met the same criteria used by MCEDC to qualify for an Economic Development Incentive and the Chamber recommends the Council approve \$60,000 from its Economic Development Fund.

Administrative Services Director Ron Lappi said this incentive is to a local business. Most Economic Development incentives approved in the past have gone to new businesses moving to Grand Junction, investing in the local capital improvements, and creating well-paying jobs. This incentive has been recommended by the Chamber of Commerce Incentive Committee. The expansion of West Star Aviation includes an investment of \$3.5 million in additional capital and infrastructure. It includes the creation of 60 new jobs at their facility. Council requested \$1,000 per job be taken from the City Economic Development Fund, a total of \$60,000. The County has also been approached for approximately \$58,000. The total incentive is closer to \$118,000 to support the expansion of this job-creating facility in Grand Junction.

Councilmember Terry said it is important that everyone be aware that this type of money is available. If there are questions, she hoped the citizens would come to the City or the Chamber of Commerce and ask.

Upon motion by Councilmember Theobald, seconded by Councilmember Payne and carried unanimously, the Incentive for \$60,000 to the Chamber of Commerce for the Business Expansion of West Star Aviation was approved.

**INTERGOVERNMENTAL AGREEMENT CREATING A COMMITTEE TO PURCHASE DEVELOPMENT RIGHTS IN THE BUFFER AREAS BETWEEN GRAND JUNCTION AND FRUITA, AND GRAND JUNCTION AND PALISADE**

The agreement creates a Purchase of Development Rights Review Committee. The purpose of the committee is to provide generalized land selection guidance to the purchase of development rights program.

Acting Community Development Director David Varley said this agreement has come about as a result of the Growth Summit meetings of the governmental entities in the Valley. The idea is to preserve the buffer zones between Grand Junction and Palisade, and Grand Junction and Fruita. An agreement has been drawn up by the County to implement the purchase of development rights. They have also applied for a grant from Great Outdoors Colorado (GOCO). The governmental entities are putting up matching funds for this grant and will select prime areas in these buffer zones and purchase the development rights to keep these lands scenic and undeveloped. The IGA creates a committee that will review the lands under consideration. One representative will be selected from each governmental entity. The other governmental entities involved have not approved the agreement yet, so some refining may be needed before it is finalized. Mesa County approved the agreement on May 15, 2000. The Palisade Board of Trustees is scheduled to consider the agreement on May 23, 2000 and Fruita City Council consideration is scheduled for June 26, 2000.

Mr. Varley said the four governments are putting up \$227,000 in cash. The GOCO grant request is \$750,000.

Councilmember Terry said this agreement establishes the buffer areas and helps implement the buffer areas. The buffer areas have already been established. The agreement makes a way to verify and ascertain the open space that might be available. It is designed to be in a working relationship with willing property owners. There is no intent on the part of any of the governmental entities involved to go after it pro-actively. They would certainly work with the property owners. The Mesa County Land Conservancy is involved in terms of exercising conservation easements. She emphasized that willingness is one of the key factors.



Councilmember Theobald asked for the amount of contribution from each entity. Mr. Varley said \$50,000 from City, \$2,500 from Palisade, \$5,000 from Fruita, the remainder, approximately \$175,000, from Mesa County. City Manager Mark Achen said part of the County contribution is in services because Mesa County is actually administering the program. He estimated the County's cash contribution to be \$100,000.

Councilmember Payne explained approximately two years ago, meetings were held with the areas affected by this buffering and details were worked out with Palisade and Fruita for the area to the west and east of Grand Junction between Fruita and Palisade. These areas favored the buffering. This IGA is a result of those meetings.

Upon motion by Councilmember Spehar, seconded by Councilmember Scott and carried unanimously, the Intergovernmental Agreement creating a committee to review purchase of development rights in the buffer areas between Grand Junction and Fruita, and Grand Junction and Palisade was approved.

#### **PUBLIC HEARING - AMENDMENT TO ANIMAL CONTROL ORDINANCE**

On November 22, 1999, Mesa County amended its Animal Control regulations, partly in response to Senate Bill 99-112 and partly to make administrative changes, as the regulations have not been updated since 1992. This ordinance is a response to these changes.

A hearing was held after proper notice.

Stephanie Rubinstein, City Staff Attorney, reviewed this item. The amendment concerns animal vaccinations. Mesa County made changes in November of 1999. These changes reflect those changes as well. The fees remain the same.

There were no public comments. The hearing was closed.

Ordinance No. 3248 – An Ordinance Amending Chapter 6, Article III of the Code of Ordinances of the City of Grand Junction, Colorado

Upon motion by Councilmember Payne, seconded by Councilmember Terry and carried by roll call vote, Ordinance No. 3248 was adopted on second reading and ordered published.

#### **PUBLIC HEARING – FUNDING PROJECTS FOR THE CITY'S 2000 COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM YEAR**

This is a public hearing to receive input regarding use of the City's 2000 CDBG Program Year funds and to discuss the funding recommendations.

A hearing was held after proper notice.

David Varley, Acting Community Development Director, reviewed this item. Grand Junction is an entitlement community and each year receives an allotment of federal funds for disbursement to programs that meet the federally mandated guidelines and which fit in with the four goals the City has identified in its Consolidated Plan. Funds in the amount of \$489,000 are expected for the 2000 Program Year. An earlier public hearing was held inviting groups to learn about the funds and receive applications to apply for these funds. Ten applications were received totaling approximately \$1.3 million in requests. On May 8, 2000 a sub-committee of the City Council met with Staff and reviewed the applications and made the following recommendations:

1. Grand Valley Catholic Outreach - \$130,000 – to purchase the building where the Homeless Day Center is currently operated. It has been funded since the first year the City became a CDBG entitlement city in 1996. It is the only facility of its kind in Grand Junction offering services to the homeless. Currently the City gives them an allotment annually which pays for the lease and utilities. They have an option in the lease to purchase the building so they can remain there long term. The \$130,000 would allow them to purchase. Services such as laundry are provided, as well as in-kind service by local merchants and numerous volunteers who donate time to the facility. The City puts in funds, but it is matched by a lot of community support from other groups and individuals.
2. Energy Office - \$55,000 – to rehabilitate a duplex building on Orchard Mesa. The units are for affordable housing and will remain permanent affordable housing. This will be used to leverage some funds from the Colorado Division of Housing. They plan to apply for a \$191,000 from the State based on the City's match of \$55,000.
3. City Project for Half Drainage Improvements in the Riverside neighborhood - \$200,000 – this is a \$400,000 project. Last year \$200,000 was awarded for the project. This will improve the drainage in that area to prevent flooding that currently takes place during heavy rains.
4. Headstart Building Addition and Rehabilitation in the Riverside area - \$104,000 – an addition of 400 square feet which would provide a larger classroom facility. The building is owned by the City and leased to the Headstart Program. The funds will upgrade the interior and exterior of the building to serve the needs of the children.

Councilmember Terry said she understood City projects that met the criteria would be considered for the CDBG funds on an every other year basis. Councilmember Theobold said that was a goal, but, for various reasons, it has become an assortment of projects ever since.

David Varley said last year's drainage project for the Riverside area was \$400,000. That amount would have used up the entire grant. Instead, Council decided to use half last year and find other community projects for the other half, and pick up the second half the following year. That is the reason for two City projects in consecutive years.

Councilmember Terry encouraged Council to attempt an every other year cycle for City projects in the future, as long as there are other qualified community projects.

Sister Karen Bland, Director of the Grand Valley Catholic Outreach, recently attended a conference for the Coalition of the Homeless and said other cities in Colorado complained that they could not get their City Councils interested in the prevalent needs of the homeless in their communities. She gave information at the conference about the Grand Junction City Council being responsive since 1996 when the day center first started. She said the Grand Junction City Council received quite a hand for the needs of the people here who are receiving the benefit of Council's sensitivity. Sister Bland felt she was blessed to be a part of this community.

Councilmember Theobold noted that 1996 was the first year these funds were available to the City.

Mayor Kinsey thanked Sister Bland for her comments.

There were no other public comments. The hearing was closed.

Upon motion by Councilmember Theobold, seconded by Councilmember Scott and carried unanimously, funding of the projects for the City's 2000 Community Development Block Grant Program Year and the transfer of \$6,014 from the CDBG 1998 Elm Avenue Project to the CDBG 1998 Administration and Planning Project were approved.

#### **PUBLIC HEARING – HART ANNEXATION LOCATED AT 3015 E 1/2 ROAD**

[File #ANX-2000-010]

The Hart Annexation area consists of 5.75 acres and is proposed for development as a 15-lot single family subdivision known as Challinor Estates.

A hearing was held after proper notice.

Lisa Gerstenberger, Senior Planner, Community Development Department, reviewed this item. The request is unusual in that there was a proposed development for this site which was reviewed by the Planning Commission and the preliminary plans were denied. The development of the property at this point is not going to proceed. There was an appeal submitted by the developer and he has since withdrawn the appeal of the Planning Commission decision. The issues before Council are now annexation and zoning of the property. She asked for guidance in how to proceed with this item.

Mayor Kinsey said Council only needed indication that all of the documentation is in order and meet the legal requirements. Ms. Gerstenberger said they are in order. Technically, the property is eligible for annexation because they are in order.

Petitioner Glenn Hart said he and his wife, Eileen, own the property. They put this property under contract for sale about one year ago. They have not been involved much in the development until recently. The developer submitted plans and an issue came up about his driveway. He had put the driveway in according to Mesa County requirements (a circle drive). He was then told he had to abandon the driveway. That is the point at which he got involved in the planning. He was told by the Community Development Staff he could keep the driveway until E ½ Road was developed. Mr. Hart was willing to go along with that, but it was turned down at last month's Planning Commission meeting. That was his first exposure to the overall plan. The developer now wants to bring a new offer to Council with Mr. Hart closing off his driveway and access would be into the side of his house. He did not want such an access, so he and his wife decided to end negotiations at that point. The developer no longer has plans to build since the Harts won't agree to remove their driveway. He read a May 16, 2000 letter from the Community Development Department Staff saying "Staff supports your request not to be annexed because of the fact that the development proposal was not yours, because of the unique circumstances surrounding the review, review comments and traffic circulation issues." Mr. Hart requested the annexation petition be withdrawn. He quoted from the Persigo Agreement: "The overriding goal of the County is to make available connection to the system to all properties within the 201 service area and to participate jointly with the City to provide policy direction for operation and maintenance of the system." That is moot in this case since he is already hooked up to the system. The other goal is "The overriding goal of the City is that all new development shall occur within and be annexed to the City and under the City's Land use and jurisdiction." The definition of "development" in the Persigo Agreement is "residential, annexable development." "In general, residential, annexable development includes a proposed development (which this was) that would require a public hearing..." Mr. Hart said currently there is no development or proposed development for the site. He could see no legal grounds for being annexed.

Councilmember Theobald asked Mr. Hart if his argument is that Council cannot legally annex his property or is there some other reason for not wanting the annexation to proceed. Mr. Hart said it's not right that government can take dominion over land in this

manner. It was not written into the Persigo Agreement that a development could get denied and annexation would go ahead.

Councilmember Theobold said the idea that development would be turned down was not contemplated at all. It was never discussed.

Councilmember Terry asked Mr. Hart if his request is to withdraw the annexation. Mr. Hart said yes, that's all they want. If the entire area was being annexed into the City, he would not oppose. He was against the method by which he is being annexed.

Councilmember Theobold said Mr. Hart asked the City to annex his property. Mr. Hart said they had to be annexed; they were forced to be annexed. Councilmember Theobold said no, Mr. Hart decided to develop, and that development triggered annexation. No one forced Mr. Hart to sell his property to a developer.

Mr. Hart said if this could have been developed without annexation he would not have petitioned for annexation.

Councilmember Spehar said Council understood the circumstances required annexation, and the circumstances have changed. They are prepared to discuss that.

Mr. Hart said, if for no other reason, it's not right to annex in this manner.

Mike and Ginger Moser, 539 Teco Street, Grand Junction, surrounding property owners, submitted a petition signed by area residents objecting to the annexation. The petition opposes both the development and the annexation.

Councilmember Theobold asked if the petition opposes this development in particular, or any development. Ms. Moser stated this particular development, and the reasons are stated in the petition.

There were no other public comments. The hearing was closed.

Councilmember Terry said the issue is in principle. She felt one of the basic principles of the Persigo Agreement says annexation will occur when development occurs within the 201 area. She thought this is clear-cut, although this is an unusual situation. There is no development and she could not see where Council could support an annexation. When another development might occur in this area, it would be a different situation. She could not support this annexation.

Councilmember Theobold disagreed. He acknowledged the unique circumstances of this situation. He felt that if a policy is made that annexation will only be triggered by granting a development request, it will give the impression to many that Council will be eager to

grant every development request simply because it wants it annexed. He did not want to link the two. The process may need to be changed to prevent that linkage. There have been situations in the past where a development request was turned down, but annexation continued. There was one situation in the past where the petitioner changed his mind and wanted to withdraw the annexation petition, and it was denied. He felt this property has already had its hearing. It has already gone through a development process. That is what gives the City jurisdiction; that's what triggered annexation. Under normal circumstances there is ample justification to complete the annexation and establish the zoning. He felt property that has gone through the development process and been defeated, and a property that has been withdrawn from development are two different situations. Seeing now the significant conflict between the owner of the property and a condition of development that made the owner of the property unwilling to agree to development, caused him to lean toward "withdrawn" rather than simply "defeated."

Councilmember Theobald felt some of the promises made by Staff may have been overly optimistic. He was sure Staff was not intending to mislead, but reacted to the situation. It is always difficult to predict Council. He felt a specific policy needs to be established on how to handle such situations. He was willing to change his previous perspective and allow the withdrawal of the annexation petition. But he thought this is not the textbook example Council wants its policy to be. He did not think annexation and approval should be linked.

Councilmember Spehar agreed with Councilmember Theobald. The appeal was still on the table at Monday's workshop and the linkage was still there. He would have denied the appeal and gone ahead with the annexation. The appeal has since been withdrawn and it is now a different issue. He was willing to allow the withdrawal and not consider the annexation.

Councilmember Payne also agreed. The Persigo Agreement can be modified saying once the annexation petition is submitted, the process does not stop. The message needs to come from the annexation department at the time a petition is submitted. A thorough explanation is the best way to handle such situations. He did not want to see this property annexed at this time.

Mayor Kinsey said adequate notice is important. He felt the City is the victim of its own good nature in trying to expedite the process. If the petition had been handled in an orderly fashion, the annexation would have gone first before there was a hearing before the Planning Commission and this issue would never have arisen.

Councilmember Terry didn't feel Council is giving Staff any direction because there is no consensus tonight. She believed policy has been set and it is clear annexation occurs when development happens. The option is there to proceed at the same time. That is the issue that created this dilemma. It is not the approval of development, or application,

but the actual development that triggers annexation. By accepting Mr. Hart's request to deny the annexation, Council is meeting the policy and intent of the Persigo Agreement. She agreed clarification is needed and further discussion with the County Commissioners is appropriate.

Mayor Kinsey said this can be discussed at a later date.

**a. Resolution Accepting Petition**

Resolution No. 48-00 – A Resolution Accepting a Petition for Annexation, Making Certain Findings, Determining that Property Known as Hart Annexation is Eligible for Annexation, Located at 3015 E ½ Road and Including a Portion of 30 Road Right-of-Way

**b. Annexation Ordinance**

Ordinance No. 3249 – An Ordinance Annexing Territory to the City of Grand Junction, Colorado, Hart Annexation, Approximately 5.75 Acres, Located at 3015 E ½ Road and a Portion of 30 Road Right-of-Way

It was moved by Councilmember Theobald and seconded by Councilmember Scott that Resolution No. 48-00 and Ordinance No. 3249 be adopted with the understanding that if defeated, everything becomes moot from that point on.

Roll was called on the motion with the following result:

**AYE: NONE**

**NO: PAYNE, SCOTT, SPEHAR, TERRY, THEOBOLD, ENOS-MARTINEZ, KINSEY.**

The motion failed and the next zoning item also becomes moot.

**PUBLIC HEARING - ZONING HART ANNEXATION RSF-4, LOCATED AT 3015 E 1/2 ROAD [FILE #ANX-2000-010] – NO ACTION TAKEN AS A RESULT OF THE MOTION ON THE PREVIOUS ITEM.**

**PUBLIC HEARING - H.B.C.R.S. ANNEXATION LOCATED AT 2620 G ROAD [FILE #ANX-2000-028]**

The 10.6-acre H.B.C.R.S. Annexation area consists of two parcels of land. The proposed zoning for the property is RMF-5.

A hearing was held after proper notice.

Kathy Portner, Planning Manager, Community Development Department, reviewed this item. The petition meets the statutory requirements and is eligible for annexation. Staff recommends approval.

Petitioner Ted Ciavonne was present and agreed with the information provided by Ms. Portner.

There were no public comments. The hearing was closed.

**a. Resolution Accepting Petition**

Resolution No. 49-00 – A Resolution Accepting a Petition for the Annexation of Lands to the City of Grand Junction, Colorado, Making Certain Findings, Determining that the Property Known as H.B.C.R.S. Annexation is Eligible for Annexation, Located at 2620 G Road

**b. Annexation Ordinance**

Ordinance No. 3251 – An Ordinance Annexing Territory to the City of Grand Junction, Colorado, H.B.C.R.S. Annexation, Approximately 10.6 Acres, Located at 2620 G Road

Upon motion by Councilmember Terry, seconded by Councilmember Payne and carried by roll call vote, Resolution No. 49-00 was adopted and Ordinance No. 3251 was adopted on second reading and ordered published.

**PUBLIC HEARING - ZONING H.B.C.R.S. ANNEXATION RMF-5, LOCATED AT 2620 G ROAD** [FILE #ANX-2000-028]

The 10.6-acre H.B.C.R.S. Annexation area consists of two parcels of land. The owners of the properties have signed a petition for annexation. The proposed zoning for the property is RMF-5.

A hearing was held after proper notice.

Petitioner Ted Ciavonne said the pre-application was for RSF-5 under the old Code. He understood in order to get through the transition period, the zone must be RMF-5 and he accepted that. But the plan already submitted is for single-family development.

Mr. Ciavonne was asked what the initials H.B.C.R.S. stood for. He responded he was not at liberty to share that information.



Planning Manager Kathy Portner, Community Development Department, said the proposed zoning is RMF-5. That designation has changed since the time the petitioner applied. Their pre-application conference was conducted prior to the effective date of the Zoning Map and Zoning Code, and will be proceeding under the old Code. Actually, there are very few changes between the RSF and RMF designations. The setbacks are identical except for one on accessory structures. Staff finds the RMF-5 zoning complies with Sections 4-11 and 4-4-4 of the previous Zoning & Development Code. It is in compliance with the Land Use Plan showing this area designated at 4 to 7.9 units/acre. Staff recommends approval.

There were no other comments. The hearing was closed.

Ordinance No. 3252 – An Ordinance Zoning the H.B.C.R.S. Annexation to RMF-5

Upon motion by Councilmember Terry, seconded by Councilmember Enos-Martinez and carried by roll call vote, Ordinance No. 3252 was adopted on second reading and ordered published.

**PUBLIC HEARING - REINKING ANNEXATIONS NO. 1, NO. 2 AND NO. 3 LOCATED AT 541 20 1/4 ROAD** [FILE #ANX-2000-030]

The 13-acre Reinking Annexation area consists of one parcel of land, approximately 7.71 acres in size. The remaining acreage is comprised of right-of-way along South Broadway and 20 ¼ Road. There are no existing structures on the site. Once additional right-of-way is dedicated and the required detention pond area is subtracted from the site, 6.81 acres remain for developing an 11 lot single family subdivision. The owner of the property has signed a petition for annexation.

A hearing was held after proper notice.

Lori Bowers, Associate Planner, Community Development Department, reviewed this item. Contiguity is from a previous Robertson Annexation. The application complies with all requirements of State Statute 31-12-104.

John Cornfeld, Rhino Engineering, 1334 Ute Avenue, said the preliminary plan has been approved and is in compliance with the Growth Plan.

There were no public comments. The hearing was closed.

**a. Resolution Accepting Petitions**

Resolution No. 50-00 – A Resolution Accepting Petitions for Annexation, Making Certain Findings, Determining that Property Known as Reinking Annexations No. 1, No. 2 and No. 3 is Eligible for Annexation, Located at 541 20 ¼ Road

**b. Annexation Ordinances**

(1) Ordinance No. 3253 – An Ordinance Annexing Territory to the City of Grand Junction, Colorado, Reinking Annexation No. 1, Approximately 0.96 Acres, Located 1347.43 Feet along South Broadway (N/S Direction)

(2) Ordinance No. 3254 – An Ordinance Annexing Territory to the City of Grand Junction, Colorado, Reinking Annexation No. 2, Approximately 7.66 Acres, Located 362 Feet along South Broadway (N/S Direction) then West Approximately 1,272.25 Feet along South Broadway (W Direction) then South on 20¼ Road for a Distance of Approximately 741.15 Feet, Including the Eastern ½ of the Property Located at 541 20 ¼ Road

(3) Ordinance No. 3255 – An Ordinance Annexing Territory to the City of Grand Junction, Colorado, Reinking Annexation No. 3, Approximately 4.38 Acres of the Western Half of the Property Located at 541 20 ¼ Road

Upon motion by Councilmember Spehar, seconded by Councilmember and carried by roll call vote with Councilmember **ENOS-MARTINEZ ABSTAINING**, Resolution No. 50-00 was adopted and Ordinances No. 3253, 3254 and 3255 were adopted on second reading and ordered published.

Councilmember Enos-Martinez explained her abstention was because of a conflict of interest with the company representing the petitioner.

**PUBLIC HEARING - ZONING REINKING ANNEXATIONS NO. 1, NO. 2 AND NO. 3  
RSF-2, LOCATED AT 541 20 1/4 ROAD** [FILE #ANX-2000-030]

The 13-acre Reinking Annexation area consists of one parcel of land, approximately 7.71 acres in size. The remaining acreage is comprised of right-of-way along South Broadway and 20 ¼ Road. There are no existing structures on the site. The requested zoning is RSF-2, Residential Single Family, not to exceed 2 units per acre. This is consistent with the Growth Plan for this area.

A hearing was held after proper notice.

Ted Ciavonne said the RSF-2 zone is consistent with the Mesa County zoning of the surrounding properties.

Associate Planner, Lori Bowers, Community Development Department, reviewed this item. This zone provides for the establishment of a density of residential low (2-3.9 units/acre) and is in compliance with the Growth Plan. The proposal is in compliance with Section 4-11 and Section 4-4-4 of the Zoning & Development Code. The Planning Commission and Staff recommends the RSF-2 zone.

There were no other comments. The hearing was closed.

Ordinance No. 3256 – An Ordinance Zoning Reinking Annexation RSF-2

Upon motion by Councilmember Payne, seconded by Councilmember Terry and carried by roll call vote with Councilmember **ENOS-MARTINEZ ABSTAINING**, Ordinance No. 3256 was adopted.

**PUBLIC HEARING - GRAND JUNCTION BIBLE MISSIONARY CHURCH  
ANNEXATION LOCATED AT THE SOUTHWEST CORNER OF I-70 AND 26 1/2 ROAD  
(2648 COTTONWOOD DRIVE) [FILE #ANX-2000-038]**

The 1.45-acre Grand Junction Bible Missionary Church area consists of one parcel of land and portions of Cottonwood Drive and 26 ½ Road. A new church structure is proposed on the vacant site.

A hearing was held after proper notice.

Bill Nebeker, Senior Planner, Community Development Department, reviewed this item. All documents are in order and comply with State Statute 31-12-104. It is within an existing enclave.

There were no public comments. The hearing was closed.

**a. Resolution Accepting Petition**

Resolution No. 51–00 – A Resolution Accepting Petitions for Annexation, Making Certain Findings, Determining that Property Known as Grand Junction Bible Missionary Church Annexation is Eligible for Annexation, Located at the Southwest Corner of I-70 and 26 ½ Road (2648 Cottonwood Drive) and Including Portions of the Cottonwood Drive and 26 ½ Road Rights-of-Way

**b. Annexation Ordinance**

Ordinance No. 3257 – An Ordinance Annexing Territory to the City of Grand Junction, Colorado, Grand Junction Bible Missionary Church Annexation, Approximately 1.45 Acres, Located at the Southwest Corner of I-70 and 26 ½ Road (2648 Cottonwood Drive)

Upon motion by Councilmember Scott, seconded by Councilmember Spehar and carried by roll call vote, Resolution No. 51-00 was adopted and Ordinance No. 3257 was adopted on second reading and ordered published.

**PUBLIC HEARING - ZONING GRAND JUNCTION BIBLE MISSIONARY CHURCH ANNEXATION RSF-2, LOCATED AT THE SOUTHWEST CORNER OF I-70 AND 26 1/2 ROAD (2648 COTTONWOOD DRIVE) [FILE #ANX-2000-038]**

The 1.45-acre Grand Junction Bible Missionary Church area consists of one parcel of land and portions of Cottonwood Drive and 26 ½ Road. A zone of annexation of RSF-2 is consistent with the County Zoning, the Growth Plan Future Land Use Map and surrounding densities. A new church structure is proposed on the vacant site. The Planning Commission has approved the zone of annexation.

A hearing was held after proper notice.

Senior Planner Bill Nebeker, Community Development Department, reviewed this item. The proposed zone is in accordance with the Growth Plan and densities in the surrounding area.

There were no comments. The hearing was closed.

Ordinance No. 3258 – An Ordinance Zoning the Grand Junction Bible Missionary Church Annexation to RSF-2

Upon motion by Councilmember Theobald, seconded by Councilmember Payne and carried, Ordinance No. 3258 was adopted on second reading and ordered published.

**PUBLIC HEARING - ZONING WHITE WILLOWS ANNEXATION RSF-2, LOCATED AT 2856 C 1/2 ROAD, 2851 AND 2863 D ROAD [FILE #ANX-2000-018]**

The applicant requests a zone of annexation to RSF-4 for a 39.56-acre parcel to develop White Willows Subdivision. At its April 11, 2000 hearing, the Planning Commission denied the preliminary plan for the subdivision and denied the request for RSF-4 zoning, but recommended approval of RSF-2 zoning for the previously annexed parcels. The applicant originally appealed these denials but has since withdrawn the appeal.

A hearing was held after proper notice.

Pat O'Connor, engineer with Banner & Associates, Grand Junction, representing the petitioner, said this project was a request for 126 single-family lots on approximately 40 acres between 28 and 29 Roads along D Road. The parcel falls within an area of potential development with a recommended density of 2 to 4 units/acre, as recommended by the Growth Plan. The RSF-4 rezone request was recently denied by the Planning Commission due to traffic concerns and a lack of traffic information along D Road and intersections at 9<sup>th</sup> Street and 30 Road, the two major outlets for D Road for this particular area. The Planning Commission recommended a zone of RSF-2 to comply with the lowest density recommended by the Growth Plan. An appeal was filed on this decision because the petitioner didn't feel that the lack of information regarding traffic was something that should be provided by an individual or a single developer. They felt that information should come from a municipality since there were several capital improvement projects proposed for that area that would impact traffic much more than a single development. He also felt traffic information for intersections a mile and one-half to two miles away from the development was unreasonable. A traffic study should be provided by a municipality with a budget capable of conducting such a study. The petitioner filed an appeal of these decisions, but has since decided to withdraw the appeal and proceed with the traffic study, provide the new traffic impact information, and come back with a slightly revised preliminary plan and a request for RSF-4 zoning. RSF-2 zoning is not economically feasible for this particular area. They understand the circumstances and recommendation by the Planning Commission, but would request an RSF-4 zone.

Councilmember Theobald asked City Attorney Wilson if Council has the ability to send this application back for re-hearing by the Planning Commission since additional information recommended by the Planning Commission is going to be available. City Attorney Dan Wilson said yes. That is built into the Planning Commission's recommendation of authority.

Mayor Kinsey asked if there is a time limit involved. City Attorney Wilson said under State law a municipality must zone properties within 90 days. The Statute doesn't specify what happens if zoning isn't established within the 90 days. Given the circumstances and lack of a specific remedy in the State Statute, he suggested saying "within a prescribed time."

Councilmember Theobald felt choosing one zone over the other at this point will cause more headaches. Coming up with a way to link this decision, send it back and link it to the forthcoming traffic study is more productive.

Mr. O'Connor said it is their intent to have the traffic study completed by the end of May, 2000. City Attorney asked Mr. O'Connor when he estimated the Planning Commission would be considering the study. Mr. O'Connor was hoping for June, 2000.

Mayor Kinsey said the primary concern should be what does the Growth Plan recommend and the surrounding area recommend. The other choice is to give it the same zoning it had in the County which was AFT, then go through the zoning process again at a later date. He did not feel the traffic criteria should be linked to the application.

Councilmember Terry said the uncertainty is because the Master Plan/Growth Plan gives the range that either one of the two zones work. Therein lies the real need for traffic impacts on a neighborhood. It will be an important piece of information in order to make the zoning decision.

City Manager Achen asked if something should be put in writing as to the timing and delay. City Attorney Wilson said the risk is low enough and should be no problem.

Senior Planner Bill Nebeker, Community Development Department, said the request is for RSF-2 zoning. The plan was denied by Planning Commission. The denial was appealed, but then withdrawn. There is no pending preliminary plan. If this was sent back it would be under a brand new plan. He felt it would be clearer if the applicant would be allowed to withdraw the rezoning request and Council not adopt the ordinance. The petitioner can come back later with a new preliminary plan with a proposed RSF-4 zone. He felt this method would be better than sending the current application and having the two connect up.

Councilmember Theobald asked if the application for tonight's zone required a fee. Bill Nebeker said yes. Councilmember Theobald asked if they would be required to pay the fee again if they go back and begin all over. Mr. Nebeker said yes.

Mr. Nebeker said the preliminary plan fee is more than the rezone fee. The petitioner would not save money by having this application go back and connect to the Planning Commission. Only the higher fee is charged.

City Attorney Dan Wilson said the rezoning is an area question. The traffic study could be helpful to determine how many units here might affect the balance of the neighborhood given the current infrastructure. He wondered if a preliminary plan was needed to make a decision on those assumptions. A decision may be possible without linkage to the specifics of the development proposal.

Mayor Kinsey understood Mr. Nebeker to say that if the application is withdrawn tonight, the petitioner will begin again. They will submit a new plan and a traffic study. Then Council will make a decision based on the traffic study and zoning, not on the plan.

Bill Nebeker said when Staff realized they could not support the plan because of lack of information on the traffic study, they recommended a zoning of RSF-R which is the same as the County zoning. Staff saw it as a holding zone until more information was available.

The Planning Commission didn't agree with Staff and thought they would give them at least the lower density. He felt it was best to withdraw the zoning if the petitioner doesn't care if the property is zoned for the next two or three months; then come back later with all of the request at once to be heard at Planning Commission. Then, if appealed, take it to City Council.

City Manager Achen asked how quickly that could occur and the Planning Commission could make another decision. Mr. Nebeker said they must submit at the end of this month to be under the old Code. They could be scheduled for the July Planning Commission meeting, with a hearing before City Council early August.

City Attorney said the effective date of the White Willows annexation is May 7, 2000; however the normal Charter effective date is 30 to 33 days after adoption. The date used is 90 days after the annexation ordinance is effective, so it would be 120 days from adoption. He thought they would be under the deadline. However, if the deadline is missed and they come under the new Code, the question of time compliance will have to be readdressed. It may be September or October under the new Code and it could be addressed then.

Mr. O'Connor said they feel they will meet the deadline by the end of May.

Mayor Kinsey asked Mr. O'Connor if he would like to withdraw the zoning petition. Mr. O'Connor said he would like to do whatever would give his client the greatest chance of success of achieving RSF-4 zoning. He said he has the authority to withdraw the petition and therefore did so.

City Attorney Wilson said Council can do nothing tonight, which means the zoning ordinance is not adopted and the City has no zoning.

Mayor Kinsey announced for the record that Council is taking no action on the zoning at this time.

Councilmember Terry said normally traffic impact studies are done for an immediate area. The intersection at 9<sup>th</sup> and D Road will certainly be impacted. She asked if the City typically asks for a full-blown traffic study on a major intersection. Public Works Manager Tim Moore said in this case, the City asked that the intersection specifically be evaluated on the level of service, turning movements, etc.

Councilmember Terry asked if the City has previous studies or information that could assist in this study. Tim Moore said yes, the City has traffic counts and some of the needed data. The MPO has traffic projections and volumes and can make that information available to applicants.

Mr. Moore said the City has some baseline data, but no current data on either one of the intersections (9<sup>th</sup> and G Road, and 30 and D Road). The applicant will need to look at the intersections for current counts.

Councilmember Theobald was uncomfortable with placing the burden on the applicant to compile these counts when the City would have to even if the petitioner did not develop. Secondly, the first person developing in this area is going to have to do a lot of studies that no one else will have to do. He didn't feel that was equitable either. He asked how that can be equalized. Tim Moore said it's difficult to spread that cost out among developers not knowing timing. It's one of the detriments of going first.

City Manager Achen said along with the problems with the approach to annexation, should the City assume responsibility for the entire road corridor from 9<sup>th</sup> Street to 30 Road even though only a few parcels are being developed. Should the City make the investment to obtain the scientific study. The problems are somewhat similar to properties that are entirely within the City. There is a current project off of Patterson Road where money is being spent for traffic studies and analyzing the area. The distances are not as great, but because the volumes are greater, the research and expenditure of a traffic engineer to do the work is probably greater. So it's a question of how much investment the City should share in developing concurrency data to accommodate development.

Councilmember Theobald thought that if the City needs traffic counts at a City intersection and they're not current, the City should not expect someone else to provide. Tim Moore said typically the City will pick up volumes. The turning movements are time consuming for this particular study. That is what the City is asking the petitioner to do.

City Manager Achen said 30 Road and 9<sup>th</sup> Street are a long ways off. The dilemma is judging how far the City should worry about impacts, and how far the developer should be expected to respond to impacts. Councilmember Theobald agreed.

City Council accepted the applicant's withdrawal of the application and the hearing was closed.

## **ADJOURNMENT**

The meeting adjourned at 9:50 p.m.

Theresa F. Martinez, CMC  
Deputy City Clerk