

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

August 2, 2000

The City Council of the City of Grand Junction, Colorado, convened into regular session the 2nd day of August, 2000, at 7:28 p.m. at Two Rivers Convention Center. Those present were Earl Payne, Jack Scott, Jim Spehar, Janet Terry, Reford Theobald, and President of the Council Gene Kinsey. Cindy Enos-Martinez was absent. Also present were Interim City Manager David Varley, Assistant City Attorney John Shaver, and City Clerk Stephanie Nye.

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

**PRESENTATION OF CITIZEN RECOGNITION AWARDS TO THE FAMILIES OF
HOBERT FRANKLIN AND DAVID GILCREASE FOR THE HEROIC NATURE OF THEIR
ACTIONS IN THE CITY MARKET TRAGEDY**

**RECOGNITION OF CITY EMPLOYEE DREW REEKIE, HAZARDOUS MATERIALS
COORDINATOR, FOR HIS ASSISTANCE IN CONVICTING VIOLATORS OF THE
CLEAN WATER ACT, AS PART OF THE CITY'S INDUSTRIAL PRE-TREATMENT
PROGRAM**

**PRESENTATION OF CERTIFICATE OF APPOINTMENT TO NEWLY APPOINTED AND
REAPPOINTED MEMBERS OF THE PARKS & RECREATION ADVISORY BOARD**

**PRESENTATION OF CERTIFICATE OF APPOINTMENT TO NEWLY APPOINTED
BOARD OF APPEALS MEMBER**

APPOINTMENTS TO THE RIVERFRONT COMMISSION

Upon motion by Councilmember Theobald, seconded by Councilmember Scott and carried, Dusty Dunbar was reappointed to a second three-year term and Walid Bou-Matar and Jim Majors were appointed to three-year terms to the Riverfront Commission.

PRE-SCHEDULED CITIZENS AND VISITORS

Steve McCallum addresses the City Council regarding the development of his property on River Road and the Blue Heron Riverfront Trail.

Mr. McCallum expressed his appreciation for the Council's time. He stated he wanted to be a party to a group donating property for the Riverfront Trail. Their intentions were to donate the ground so the Blue Heron Trail could remain where it is. They asked for a realistic review of their development application. His partner did not want to donate his portion until the development had been approved. Mr. McCallum went forward on his donation and has not been able to resolve differences with the Community Development Dept. on his proposal. A major drainage basin survey has been requested. He has since found out that only a portion of the property is actually affected. In order for the water to go over the railroad tracks onto his property, the water would have to be 5 feet deep in all of Mesa Mall, and 3 ½ feet deep in Circuit City, inundating Office Depot and Centennial RV & Marine. He felt it was hardly likely, but not impossible. He did not feel it is a realistic approach to reviewing their development application.

Mr. McCallum said he still intends to donate that land to the Grand Junction Parks and Recreation Department.

He sent a letter to the Acting City Manager asking that the land he had donated be reconveyed back to him. He did not get a response back until a month later. The letter did not support the reconveyance of that land back to Mr. McCallum.

Councilmember Theobald asked if there is a current development application on file with the City. Mr. McCallum said yes. He asked if Mr. McCallum has already taken the tax deduction for the donation. Mr. McCallum answered yes.

Mayor Kinsey advised that the Council will review this matter, but meets only twice per month so a quick response will not take place.

Councilmember Spehar said he hopes the matter will be scheduled on a workshop agenda as soon as possible.

Councilmember Terry asked what the Council's legal authority is on this matter. Assistant City Attorney John Shaver said he has not seen Mr. McCallum's materials, but Mr. McCallum has only been subject to the standard requirements. At this point, Council has no legal authority other than to entertain Mr. McCallum's request to give the deed back.

Councilmember Theobald felt there is potential for some criminal violations if the linkage between the donation and the development review indeed exists. Mr. Shaver said there may have been some confusion about drainage and its relationship to the trail, not drainage and its relationship to the development of the balance of the property.

Mr. McCallum said the drainage issue relative to the trail has already been addressed and satisfied by the City Parks and Recreation Department. He wants the ground to remain with the City.

Councilmember Theobald said it appears to be two separate issues.

Councilmember Spehar expressed concerns of Council circumventing the development application process when there is an application in process. He said he would like the other property owners to be involved also.

Assistant City Attorney Shaver offered to meet with Mr. McCallum and noted discussions will include Mr. McCallum's relationship to his Limited Liability Company (LLC). He said he will distribute a written report to Council addressing the issues and expressing an opinion.

CONSENT ITEMS

Upon motion by Councilmember Payne, seconded by Councilmember Terry and carried by roll call vote, the following consent items #1 through #12 were approved:

1. **Minutes of Previous Meeting**

Action: Approve the Minutes of the Regular Meeting July 19, 2000

2. **Designating the Location for the Posting of Meeting Notices**

With the move back to City Hall, it is time to redesignate the location for the posting of the meeting notices. There is a new bulletin board outside the auditorium at the 5th Street entrance to City Hall.

Resolution No. 75-00 - A Resolution of the City Of Grand Junction Designating the Location for the Posting of the Notice of Meetings

Action: Adopt Resolution No. 75-00

3. **Contract for Construction of Transportation Engineering Office Building**

New Construction of a 3,500 square foot stud wall structure to house the Transportation Engineering Division. Building will be constructed on a location west of the Stores Warehouse at 2549 River Road. The construction of this building will be completed this calendar year and the cost is included in this year's budget. The following responsive bids were received:

<u>Contractor</u>	<u>From</u>	<u>Bid Amount</u>
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Vostatek Construction & Design, Inc.	Clifton	\$205,643.00
Tusca II Inc.	Grand Junction	\$236,500.00
Alpine C. M. Inc.	Grand Junction	\$237,300.00
K & G Enterprises, Inc.	Grand Junction	\$243,537.00
J. Dyer Construction, Inc.	Grand Junction	\$258,587.00
R. W. Jones Inc.	Fruita	\$290,955.00

Action: Award Contract for Construction of Transportation Engineering Office Building to Vostatek Construction & Design, Inc. in the Amount of \$205,643.00

4. **Accepting an Easement for the Kannah Creek Flowline from Mesa County**

The Kannah Creek Flowline is a 20-mile water line that carries the City’s main supply of water from Kannah Creek to the treatment plant on Orchard Mesa. Originally installed in 1912, the Flowline is capable of carrying 7 ½ million gallons of water per day. The Mesa County Commissioners have granted an easement allowing the City to relocate the Kannah Creek Flowline across Intermountain Veterans Memorial Park. The proposed resolution will accept the easement with its terms and conditions.

Resolution No. 74-00 - A Resolution Accepting a Water Line Easement from Mesa County to Accommodate Relocation of the Kannah Creek Flowline

Action: Adopt Resolution No. 74-00

5. **Setting a Hearing on Rezoning the Knolls Filings 4-7 to PD, Located at the Southeast Corner of 27 1/2 Road and Cortland Road** [File #GPA-2000-103]

The applicant requests a rezone for the Knolls Filings 4-7 from a Planned Development (PD) zone to a PD zone at a density of 2.5 dwellings per acre. Former zoning under the old code was PR 2.7. A mixed-use development with 16 patio homes and 64 single-family homes is proposed. This rezone is required since the preliminary plan for the Knolls has expired and a lower density is proposed for the remainder of the undeveloped subdivision. Second reading of the ordinance for the rezone will be heard simultaneously with a request for a Growth Plan Amendment and modification to the standard street section.

Proposed Ordinance Zoning the Knolls Filings 4-7, Located South of the SE Corner of 27 1/2 and Cortland Roads Including 640 and 652 27 1/2 Road, to City PD

Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for August 16, 2000

6. **Setting a Hearing on Zoning the White Willows Annexation, Located at 2856 C 1/2 Road and 2851 and 2863 D Road** [File #PP-2000-106]

The applicant requests a zone of annexation to RSF-4 to develop White Willows, a 122-lot subdivision on 39.56 acres. The property has been annexed for several months but has not been given a City zoning. A revised traffic study has been submitted by the applicant, which shows a minimal impact on the D and 9th Street and 30 Road intersections from this subdivision. At its July 18, 2000 hearing, the Planning Commission recommended approval of the zone of annexation and approved the preliminary plan for this subdivision.

Proposed Ordinance Zoning the White Willows Annexation Located at 2856 C 1/2 Road, 2851 and 2863 D Road, from County AFT to City RSF-4

Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for August 16, 2000

7. **Setting a Hearing on Annexing the Chamblee/Boystun Enclave, Located at 714 and 720 24 1/2 Road** [File #ANX-2000-115]

The 9.60-acre Chamblee/Boystun Enclave Annexation area consists of 2 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.

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado Chamblee/Boystun Enclave Annexation, Located at 714 and 720 24 1/2 Road, Consisting of Approximately 9.60 Acres

Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for August 16, 2000

8. **Setting a Hearing on Zoning the Chamblee/Boystun Enclave to RSF-R, Located at 714 and 720 24 1/2 Road** [File #ANX-2000-115]

The 9.60-acre Chamblee/Boystun Enclave Annexation area consists of 2 parcels of land completely surrounded by existing Grand Junction city limits. State law requires the City to zone newly annexed areas within 90 days of the

annexation. Area property owners have requested that proposed City zoning be identical with existing Mesa County zoning for these enclaves.

Proposed Ordinance Zoning the Chamblee/Boydston Enclave Annexation to RSF-R, Located at 714 and 720 24 1/2 Road

Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for August 16, 2000

9. **Setting a Hearing on Annexing G Road North Enclave, Located at 25 1/2 Road and 26 1/2 Road , North of G Road and South of H Road**
[File #ANX-2000-114]

The 274-acre G Road North Enclave Annexation area consists of 73 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.

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, the G Road North Enclave Annexation, Located Generally between 25 1/2 Road and 26 1/2 Road, North of G Road and South of H Road but including one property north of H Road, and including but not limited to all or a portion of the following Rights-of-way: 25 1/2 Road, 26 Road, G Road 26 1/2 Road, G 1/2 Road, Elvira Drive, Partridge Court, Kelly Drive, Clarkdell Court, Cottonwood Drive, Lujan Circle and Interstate 70, Consisting of Approximately 274 Acres

Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for August 16, 2000

10. **Setting a Hearing on Zoning the G Road North Enclave to RSF-R, Located at 25 1/2 Road and 26 1/2 Road, North of G Road and South of H Road**
[File #ANX-2000-114]

The 274-acre G Road North Enclave Annexation area consists of 73 parcels of land completely surrounded by existing Grand Junction city limits. State law requires the City to zone newly annexed areas within 90 days of the annexation. Area property owners have requested that proposed City zoning be identical with existing Mesa County zoning for enclaves.

Proposed Ordinance Zoning the G Road North Enclave Annexation to RSF-R, RSF-2 and PD, Located Generally between at 25 1/2 Road and 26 1/2 Road,

North of G Road and South of H Road but including one property north of H Road

Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for August 16, 2000

11. **Donation of a Fire Department Brush Truck**

The Fire Department is requesting donation of a brush truck owned by the City of Grand Junction to the Gateway Fire Protection District.

Action: Approve the Donation of the Fire Department's Brush Truck to the Gateway Fire Protection District

12. **Acceptance of GOCO Grant for the Botanical Society**

The City of Grand Junction has received a GOCO grant award of \$56,524 for the Colorado Environmental Education Center at the Western Colorado Botanical Gardens.

Resolution No. 77-00 - A Resolution Concerning the Agreement between the City of Grand Junction and The State Board of the Great Outdoors Colorado Trust Fund and the Project known as the Colorado Native Garden Environmental Education Center

Action: Adopt Resolution No. 77-00

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

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

POLICY REGARDING SUBDIVISION AND SEWER ASSESSMENTS AFTER CREATION OF A LOCAL SEWER IMPROVEMENT DISTRICT - POSTPONED

Policy direction concerning the subdivision of lands after creation of a sewer improvement district, and whether to provide for reimbursement, and if so how much, to owners of properties that were developed when the assessments were made. As proposed, the recommended policy allocates the assessment based on the number of lots at the end of the improvement project, rather than allowing a lot owner to subdivide during the improvement process and not pay for each created lot.

The Mayor explained that this item will be postponed pending further discussion with the county.

A Resolution that Establishes a Policy that Assesses the Costs of Improvement Districts Based on the Number of Lots at the Time of Assessment, Not at the Time the District is Formed; and Which Gives Reasonable Credit to Properties which Already Have the Improvements

PUBLIC HEARING - ASSESSMENTS FOR SANITARY SEWER IMPROVEMENT DISTRICT NO. SS-43-99 – CONTINUED TO SEPTEMBER 20, 2000 MEETING

Sanitary sewer facilities have been installed as petitioned by and for the special benefit of seven properties located in the vicinity of Marsh Lane and North 12th Street. The proposed ordinance will levy assessments in the amount of \$11,883.97 upon each of the seven benefiting parcels.

Public hearing opened at 8:01 p.m.

Mayor Kinsey asked for a continuance on this item pending the further discussion of the previous item. He called for public comment. There was none.

The public hearing closed at 8:03 p.m.

Ordinance No. 3277 – An Ordinance Approving the Assessable Cost of the Improvements Made in and for Sanitary Sewer Improvement District No. SS-43-99, in the City of Grand Junction, Colorado, Pursuant to Ordinance No. 178, Adopted and Approved the 11th day of June, 1910, as Amended; Approving the Apportionment of Said Cost to Each Lot or Tract of Land or Other Real Estate in Said District; Assessing the Share of Said Cost against Each Lot or Tract of Land or Other Real Estate in Said District; Approving the Apportionment of Said Cost and Prescribing the Manner for the Collection and Payment of Said Assessment

Upon motion by Councilmember Spehar, seconded by Councilmember and carried, this item was continued to September 20, 2000.

PUBLIC HEARING - MORRILL ANNEXATION LOCATED AT 2980 GUNNISON AVENUE [FILE #ANX-2000-108]

The .689 acre parcel is adjacent to property located within the City. The petitioner desires to construct an industrial building on the site. Under the terms of the Persigo Agreement, the City shall annex proposed new development at the time of/or prior to issuance of development permits.

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

Pat Cecil, Community Development Department, reviewed this item. He recommended that the Council accept the annexation petition and adopt the ordinance on annexing the property.

There were no public comments.

The public hearing closed at 8:04 p.m.

a. Resolution Accepting Petition

Resolution No. 76-00 – A Resolution Accepting a Petition for Annexation, Making Certain Findings, Determining that Property Known as Morrill Annexation is Eligible for Annexation, Located at 2980 Gunnison Avenue

b. Annexation Ordinance

Ordinance No. 3278 – An Ordinance Annexing Territory to the City of Grand Junction, Colorado, Morrill Annexation, Approximately .689 Acres, Located at 2980 Gunnison Avenue

Upon motion by Councilmember Theobold, seconded by Councilmember Payne and carried by roll call vote, Resolution No. 76-00 was adopted and Ordinance No. 3278 was adopted on second reading and ordered published.

PUBLIC HEARING - ZONING MORRILL ANNEXATION TO I-1 (LIGHT INDUSTRIAL), LOCATED AT 2980 GUNNISON AVENUE [FILE #ANX-2000-108]

The .689 acre parcel is adjacent to property located within the City. The petitioner desires to construct an industrial building on the site. Under the terms of the Persigo Agreement, the City shall zone land consistent with the adopted Growth Plan Future Land Use Map and/or consistent with Mesa County zoning. The proposed I-1 zoning is consistent with the adopted Growth Plan Future Land Use Map and adjacent County zoning.

The public hearing opened at 8:04 p.m.

Pat Cecil, Community Development Department, reviewed this item.

There were no public comments.

The public hearing closed at 8:05 p.m.

Ordinance No. 3279 – An Ordinance Zoning Morrill Annexation to I-1 (Light Industrial), Located at 2980 Gunnison Avenue

Upon motion by Councilmember Scott, seconded by Councilmember Terry and carried by roll call vote, Ordinance No. 3279 was adopted on second reading and ordered published.

PUBLIC HEARING - CORRECTION TO ZONING OF CHERRYHILL SUBDIVISION, LOCATED ON THE EAST SIDE OF 26 1/2 ROAD, NORTH OF F 1/2 ROAD

[FILE #FPP-1998-202]

A request to correct the recently adopted zoning map to zone the Cherryhill Subdivision to RSF-4, as it was previously zoned.

The public hearing opened at 8:05 p.m.

Kathy Portner, Planning Manager, reviewed this item and explained the correction and the reason for the action. During the time the zoning map was being established this subdivision was being proposed. It was zoned RSF-2 as proposed whereas the subdivision zoning was being approved for RSF-4 – the size is not the issue but rather the configuration of the lots and the required setbacks.

Councilmember Theobold expressed discomfort on zoning an area at a higher zone due to the setback requirements rather than on the true density. It can cause a problem in the future.

Mayor Kinsey asked if the use of a planned zone would be better. Assistant City Attorney John Shaver advised against it due to the notice of hearing and the Planning Commission recommendation. He noted Councilmember Theobold's point but staff has looked at this and does not feel it to be an issue for this subdivision. Ms. Portner agreed it might lead to confusion for surrounding property owners. Mr. Shaver added that all planned zones are based on an underlying zone. Councilmember Theobold asked if a single lot owner could develop at a higher density. Ms. Portner said yes but the lot configurations would probably not allow the higher density.

There were no public comments.

The public hearing closed at 8:11 p.m.

Ordinance No. 3280 – An Ordinance Correcting the Zoning of the Cherryhill Subdivision to RSF-4

Upon motion by Councilmember Payne, seconded by Councilmember Spehar and carried by roll call vote, Ordinance No. 3280 was adopted on second reading and ordered published.

PUBLIC HEARING - AMENDING CITY CODE OF ORDINANCES, CHAPTER 36, REGARDING SALT PARKING ENFORCEMENT

The Model Traffic Code is being amended to allow for parking violations to be photographically recorded, by still photographs, digital imaging and videotape, which allows the Police Department and/or the City Attorney to issue/prosecute parking citations and to allow for the mailing of the parking citation to the registered owner of the vehicle.

The public hearing opened at 8:14 p.m.

Assistant City Attorney John Shaver reviewed this item and explained what the ordinance amends and how it came about. The ordinance allows the photographing of the violation and then the mailing of the ticket. The ordinance will allow the City to utilize the seniors in the SALT (**S**eniors **A**nd **L**aw Enforcement **T**ogether) program to identify parking violators. It will also avoid confrontations between the violator and the senior citizen citing the violation.

Councilmember Scott asked if the time of the violation is noted. Mr. Shaver said yes, a date and time stamp will be used. He said some training with the senior volunteers will take place. Councilmember Scott asked if it could be expanded to private property violations also, such as parking in a handicap space in the grocery store lots. Mr. Shaver responded affirmatively.

Councilmember Spehar inquired about law enforcement by private citizens currently. Staff advised that the City's trail hosts can call in violations under current law.

Acting Police Chief Marty Currie said that citizens are encouraged to participate in law enforcement in all aspects by phoning and noticing violations. This proposal is a pilot program that citizens are actually the complainant. Acting Police Chief Currie said the same result could happen if the photographer took the picture to the police station and then a police officer would swear out the complaint.

Councilmember Terry asked if it is a temporary program. Mr. Shaver said there is no sunset provision on this ordinance. Acting Police Chief Currie said that one could be included.

Staff advised that currently parking enforcement is spread very thin given the limited staffing.

Councilmember Terry had no problem with a pilot program but wanted a report back in a year to see how the program is working.

Mayor Kinsey felt that a sunset provision forces a good examination of the program so he favored the addition of such. Councilmember Scott suggested a five-year sunset.

Mayor Kinsey solicited public comments.

Don Pettygrove, 8 Mosell Court, was appalled by the prospect of pitting citizens against citizens. He did not see the need for the enforcement as he sees lots of handicapped spaces not being utilized. He said it is the wrong approach to address a problem that doesn't exist.

Councilmember Theobald asked Mr. Pettygrove for clarification.

Mr. Pettygrove concerns were two-fold: 1) there are too many handicapped spaces and 2) he is uncomfortable with non-enforcement people out there enforcing the law. Furthermore, if the City has laws that can't be enforced, it doesn't need citizens doing law enforcement; that opens a can of worms.

Councilmember Terry inquired if the proposal was initiated by SALT. Assistant City Attorney Shaver said yes, addressing the parking in handicapped spaces was one of their missions and they have offered this as part of the solution.

Councilmember Terry inquired if the number of violations is excessive. Mr. Shaver replied that there have been a number of violations.

Acting Police Chief Currie added that although he has no statistics, anecdotally he can relate that his department gets complaints, more so during bad weather.

There were no other public comments.

The public hearing closed at 8:31 p.m.

Councilmember Payne stated that he doesn't agree with Mr. Pettygrove, as the City can't have too many eyes and ears in this community. For years the handicapped have asked for close parking and Council agreed, so now they should ensure its availability.

Councilmember Theobold agreed adding that he doesn't see a distinction between a citizen complaint and having a more formalized process that is more efficient. He noted the alternatives are to eliminate the laws or hire more police/city personnel to do this enforcement. He felt the City is lucky to have volunteers willing to do it.

Councilmember Terry inquired if the enforcement will be citywide and only on public property? Mr. Shaver responded that it would be citywide and although the City could have authority to enforce on private property by adopting the 1995 Model Traffic Code, that is not the current practice. When asked if the proposed ordinance addresses only handicapped parking, Mr. Shaver said that is the intent but the ordinance allows all parking violations to be included. Acting Police Chief Currie clarified that SALT is working toward a solution to a problem and has no intention to go beyond handicapped parking

Mayor Kinsey asked for clarification as to the need for the ordinance when this type of enforcement can occur already. Mr. Shaver stated that the benefit is not to have to have an officer involved. This allows the issuance of the complaint via the volunteer, with the photograph as the evidence.

Councilmember Spehar expressed his support of the SALT program but was uncomfortable with the lack of demonstration of need and concerned with position the City would be putting seniors in. He couldn't support the proposal. Councilmember Payne disagreed.

Ordinance No. 3281 - An Ordinance Amending Chapter 36 of the City of Grand Junction Code of Ordinances

Upon motion by Councilmember Scott, seconded by Councilmember Theobold and carried by roll call vote with Councilmembers **SPEHAR and KINSEY** voting **NO**, Ordinance No. 3281 was adopted on second reading and ordered published.

EXECUTIVE SESSION

Upon motion by Councilmember Payne, seconded by Councilmember Spehar and carried, Council went into executive session to discuss property negotiations and litigation.

ADJOURNMENT

The meeting adjourned into executive session at 8:50 p.m.

Stephanie Nye, CMC
City Clerk