

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

September 20, 2000

The City Council of the City of Grand Junction convened into regular session the 20th day of September, 2000 at 7:30 p.m. at the City Auditorium. Those present were Earl Payne, Jack Scott, Jim Spehar, Janet Terry, Reford Theobald, and President of the Council Gene Kinsey. Also present were Interim City Manager David Varley, Assistant City Attorney John Shaver, and City Clerk Stephanie Nye. Cindy Enos-Martinez was absent.

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 Retired Minister Eldon Coffey.

PROCLAMATION DECLARING SEPTEMBER 22, 2000 AS “AMERICAN BUSINESS WOMEN’S ASSOCIATION (ABWA) DAY” IN THE CITY OF GRAND JUNCTION

PROCLAMATION DECLARING OCTOBER 2-8, 2000 AS “MENTAL ILLNESS AWARENESS WEEK” IN THE CITY OF GRAND JUNCTION

PROCLAMATION DECLARING OCTOBER 2000 AS “NATIONAL HEADSTART AWARENESS MONTH” IN THE CITY OF GRAND JUNCTION

PRESENTATION OF CERTIFICATES OF APPOINTMENT AND REAPPOINTMENT

Bruce Benge was present to receive his certificate for his reappointment to the Downtown Development Authority.

Jim Majors, Gabe De Gabriele and Dusty Dunbar were present to receive their certificates of appointment to the Riverfront Commission.

CONSENT ITEMS

Upon motion by Councilmember Payne, seconded by Councilmember Terry and carried by roll call vote, the following Consent Items 1 through 5 were approved:

1. **Minutes of Previous Meeting**

Action: Approve the Minutes of the Regular Meeting September 6, 2000.

2. **Conveyance of a Sanitary Sewer Easement across City Owned Property for the Benefit of Village Park Subdivision**

The proposed resolution would authorize the installation of a sanitary sewer line across the south boundary of the City's storm water detention facility located east of 28 Road and north of Patterson Road.

Resolution No. 87-00 – A Resolution Concerning the Granting of a Non-Exclusive Sanitary Sewer Easement to Village Park GJ, LLC

Action: Adopt Resolution No. 87-00

3. **Setting a Hearing on Vacating a Portion of 25 Road and F 1/2 Road Right-of-Way (Garrett Estates Subdivision)** [File #FP-2000-128]

The developer of Garrett Estates Subdivision requests to vacate a portion of excess right-of-way for 25 Road and F¹/₂ Road that is not needed per the Major Street Plan. The vacated right-of-way will be incorporated into the final plat of Garrett Estates, a 55-lot single-family development on approximately 12.16 acres at the northeast corner of 25 Road and F¹/₂ Road.

Proposed Ordinance Vacating a Portion of 25 Road and F¹/₂ Road adjacent to Garrett Estates Subdivision

Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for October 4, 2000

4. **Setting a Hearing on Route 30 Partners Annexation Located at 520 30 Road** [File #ANX-2000-172]

The 20.92-acre Route 30 Partners Annexation consists of six parcels of land of approximately 17 acres and I-70 Business Loop right-of-way of approximately 3.92 acres.

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

Resolution No. 88-00 – A Resolution Referring a Petition to the City Council for the Annexation of Lands to the City of Grand Junction, Colorado, Setting a Hearing on Such Annexation and Exercising Land Use Control – Route 30 Partners Annexation Located at 520 30 Road and Including a Portion of the I-70 Business Loop Right-of-Way

Action: Adopt Resolution No. 88-00 and Set a Hearing on November 1, 2000

b. Set a Hearing on Annexation Ordinance

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Route 30 Partners Annexation, Approximately 20.92 Acres Located at 520 30 Road and Including a Portion of the I-70 Business Loop Right-of-Way

Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for November 1, 2000

5. Setting a Hearing on Mesa Moving Annexation Located at 2225 River Road and 681 Railroad Boulevard [File #ANX-2000-177]

The 12.38-acre Mesa Moving Annexation area consists of two parcels of land. One currently houses Mesa Moving and United Van Lines and the other parcel consists of 2 acres of vacant land. Mesa Moving would like to construct a new truck service facility for their business on the vacant lot. The owner of the property has signed a petition for annexation.

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

Resolution No. 89-00 – A Resolution Referring a Petition to the City Council for the Annexation of Lands to the City of Grand Junction, Colorado, Setting a Hearing on Such Annexation and Exercising Land Use Control – Mesa Moving Annexation Located at 2225 River Road and 681 Railroad Boulevard (Known as 637 Railroad Boulevard on the Assessor's Records)

Action: Adopt Resolution No. 89-00 and Set a Hearing on November 1, 2000

b. Set a Hearing on Annexation Ordinance

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Mesa Moving Annexation, Approximately 12.38 Acres Located at 2225 River Road and 681 Railroad Boulevard (Known as 637 Railroad Boulevard on the Assessor's Records)

Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for November 1, 2000

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

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

OPPOSITION TO PROPOSED AMENDMENT 24 ON THE NOVEMBER BALLOT

The Council voted to oppose Amendment 24, the Citizen's Growth Initiative, at the last Council meeting. The proposed resolution formalizes that position.

Councilmember Theobald read the proposed resolution in its entirety.

Resolution No. 90-00 – A Resolution of the City Council of Grand Junction Opposing Adoption of Amendment 24

Upon motion by Councilmember Theobald, seconded by Councilmember Terry and carried by roll call vote, Resolution No. 90-00 was adopted.

OPPOSITION TO PROPOSED AMENDMENT 21 ON THE NOVEMBER BALLOT

This resolution urges voters to turn away the latest effort by Douglas Bruce to reduce annually certain taxes by \$25, increased by \$25 annually, which would greatly reduce the City's ability to meet local needs, while totally eliminating the services of many special districts in a very short period of time.

Resolution No. 91-00 – A Resolution Opposing Amendment #21, the Statewide Ballot Measure to Reduce Taxes \$25 per Year per Entity Indefinitely

Councilmember Spehar read the resolution in its entirety.

Upon motion by Councilmember Spehar, seconded by Councilmember Scott and carried by roll call vote, Resolution No. 91-00 was adopted.

Councilmember Terry asked Administrative Services and Finance Director Ron Lappi to elaborate on the proposed amendment and its impact if it were to be passed. Mr. Lappi explained the City's revenues are sales tax dependent. The City's rate of financial loss from this amendment will be doubled because of the sales and use tax on prepared foods, restaurant foods and beverages served in restaurants. The City's revenue would be reduced by 50% within four years. Another devastating impact would be the loss of the specific ownership tax. Commercial consumption of gas and electricity sales tax would be reduced the first year.

Councilmember Theobald asked about the \$25 per tax bill perception. Mr. Lappi said the impact is per jurisdiction that levies a property tax. It would actually be a \$25 reduction in property tax per jurisdiction, including each special district.

Councilmember Spehar advised that the Amendment actually it takes away the voter's choice on what services they would like to retain. Under Amendment One, Tabor, previously passed, there is the option of going to the voters for direction in retaining surplus revenues for specific projects. There is no local option to retain taxes for special districts such as library, hospital or fire district with Amendment 21.

Councilmember Theobald noted that both Amendments 24 and 21 virtually eliminate local control.

**PUBLIC HEARING - ASSESSMENTS FOR ALLEY IMPROVEMENT DISTRICT 1999,
PHASE B AND ASSESSMENTS FOR ALLEY IMPROVEMENT DISTRICT 2000,
PHASE A**

Reconstruction of the alley, 22nd Street to 23rd Street, Grand Avenue to Ouray Avenue, has been completed in accordance with Resolution No. 47-99 creating Alley Improvement District 1999, Phase B.

Reconstruction of the following alleys has been completed in accordance with Resolution No. 129-99 creating Alley Improvement District 2000, Phase A:

2nd Street to 3rd Street, Chipeta Avenue to Gunnison Avenue
10th Street to 11th Street, Rood Avenue to White Avenue
11th to 12th Street, Main Street to Colorado Avenue
16th Street to 17th Street, Grand Avenue to Ouray Avenue
18th Street to 19th Street, Grand Avenue to Ouray Avenue

Mayor Kinsey opened the public hearing at 7:58 p.m.

Rick Marcus, Real Estate Technician, displayed the depiction of the first alley having been improved and reviewed the items. He combined his review for this project, AID-99, Phase B, and the next item, AID-00, Phase A.

Councilmember Terry asked how many alleys were left to do city-wide. Mr. Marcus estimated there were about 110 alleys left with about 75 alleys having been done so far, totaling almost 8 miles.

Councilmember Scott clarified that the City has not received any objections from residents. Mr. Marcus responded affirmatively. One alley petition had 100% signatures and the other had 94%.

Ordinance No. 3290 – An Ordinance Approving the Assessable Cost of the Improvements Made in and for Alley Improvement District No. ST-99, Phase B, 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

Ordinance No. 3291 – An Ordinance Approving the Assessable Cost of the Improvements Made in and for Alley Improvement District No. ST-00, Phase A, 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

Information on both Item 8 and Item 9, Ordinance No. 3290 and Ordinance No. 3291, was presented. The Mayor asked for public comment on either item. There being no public comment the Mayor closed the hearing to public comment at 8:02 p.m.

Upon motion by Councilmember Payne, seconded by Councilmember Theobald and carried by roll call vote, Ordinances No. 3290 and No. 3291 were adopted on second reading and ordered published.

PUBLIC HEARING – APPEAL OF PLANNING COMMISSION APPROVAL OF PRELIMINARY PLAN AND ZONING OF THE WHITE WILLOWS ANNEXATION, LOCATED AT 2856 C 1/2 ROAD AND 2851 AND 2863 D ROAD [FILE #PP-2000-106] CONTINUED FROM THE SEPTEMBER 6, 2000 MEETING

An adjacent property owner has appealed the Planning Commission's recommendation to approve the requested RSF-4 zoning for the White Willows annexation. The property has been annexed for several months but has not been given City zoning. County zoning is RSF-R (formerly AFT). An appeal has also been filed on the Planning Commission's decision to approve the White Willows Subdivision, a 122-lot subdivision on 39.56 acres. The appellant cites increased traffic on D Road as the major reason for the appeal. A revised traffic study submitted by the applicant shows a minimal traffic impact on the D Road and 9th Street and 30 Road intersections from this subdivision.

Mayor Kinsey opened the public hearing at 8:03 p.m.

Mark Fugere, 382 Evergreen, appellant, addressed the Council. He inquired as to what happened to the initial zoning of RSF-2. He also queried about a condition of approval for a privacy fence. Other questions Mr. Fugere had included if the RSF-4 is compatible with the Growth Plan and is a Growth Plan amendment required? Assistant City Attorney Shaver commented that these questions would be addressed in Bill Nebeker's, Senior Planner for Community Development, presentation. Mr. Fugere then stated his concerns on the traffic flow on 9th Street. The area residents maintain it is a problem and a safety concern. One safety concern involves the response time for the Fire Department should a train be at that area's railroad crossing 9th Street. There are ten trains coming back and forth a day just from Paonia. Mr. Fugere believes any type of density transition should happen on the developer's land if it goes from two houses per acre to four houses per acre. Some type of transition or buffer zone should occur, next to his subdivision, and on the developer's side, where it is going from a lower density to a higher density.

Pat O'Connor, Banner & Associates, 2777 Crossroads Blvd., represented the applicant. The subdivision is located at 28 ½ Road, with a proposal of approximately 3.1 units per acre. This development has been before the Council and the Planning Commission previously. The RSF-2 was recommended at that time because of the unanswered traffic issues but a zone designation needed to be assigned. This development is situated in a location recommended by the Growth Plan for medium to low density, which is 2 to 4 units per acre. The proposal of 3.1 units per acre fits within that range. A new Traffic Impact Statement was performed and submitted to the City by Transportation Initiatives, a highly recommended firm. The study indicated there were some impacts but they were actually very slight. The situation on D Road is not a good situation at the current time, but the study did show the additional impact from this development is fairly minimal. Mr. O'Connor believes all issues and questions regarding the impact have been satisfactorily addressed by the preparer of this study.

Mr. O'Connor addressed the issue of the privacy fence, which was initially to be constructed along the western boundary of the property. Because of opposition from residents residing in that subdivision regarding the privacy fence, the developer instead has eliminated four lots immediately adjacent to the subdivision and increased the size of the adjacent lots to the west in an effort to accommodate the residents' concerns.

Mr. O'Connor stated the RSF-4 is compatible with the Growth Plan. This subdivision is 3.1 units per acre, which falls within the zoning of 2-4 units per acre. The floodplain is a concern with any development and was addressed in the study. It does not affect this site as per current FEMA information.

Councilmember Scott asked what they propose to do with the four eliminated lots. Mr. O'Connor said those four lots would not be submitted as part of the plan. The other lots

were increased in size. The average lot size is 8500 square feet but those four lots near the subdivision to the west are over 12,000 square feet.

Bill Nebeker, Senior Planner, explained the history of the zoning. The Planning Commission recommended the RSF-2 zoning to give more density matching the Growth Plan range. The zoning was assigned as the need to assign zoning for the annexation was imminent. The applicant appealed that, and it went to City Council. The applicant then agreed to withdraw the appeal under the condition that he could come back with a traffic study and apply for RSF-4, which is what happened. The proposal was in compliance with the Growth Plan and the rezone criteria so approval was recommended. The fence was to provide a barrier/buffer to the agricultural area along the west property line. The applicant decided to increase the lot size as opposed to the fence.

Councilmember Terry asked Mr. Nebeker to elaborate about the fencing requirement along D Road and if that is still in existence.

Mr. Nebeker responded that the new Code requires fences to be set back five feet if six feet high and they must have a five foot landscaping strip. This requirement is an attempt to avoid the canyon-like appearance seen along Patterson Road. Assistant City Attorney John Shaver clarified that the developer proposed the fence; it is not required for this project as the project came in under the old code when no such requirement existed.

Councilmember Terry asked Mr. Nebeker to explain the section addressing road improvements. Mr. Nebeker said the applicant is widening D Road along his property but then it must transition back to the current width. Community Development requires the full width of the developer's property be widened.

Councilmember Payne asked approximately how long the widening would be? Mr. Nebeker said it would be approximately 1/8 of a mile. The overall effect is negligible, but the widening of this area would increase the capacity for both right and left turns.

Councilmember Theobald asked Tim Moore, Public Works Manager, for a thumbnail sketch of road improvements in that area.

Tim Moore, Public Works Manager, said a number of improvements are planned for the area. 1.) Riverside bypass - to provide fluid traffic movement that goes around the 9th and D Road intersection (in 5-6 years), 2.) 29 Road from D Road north, meanwhile Mesa County will be going south and constructing a bridge over the river, 3.) Mesa County will also be working on the widening of E Road from 30 Road to 32 Road - to be completed in 2005, and 4.) 30 Road underpass - Mesa County is planning on starting in 2001 and

finishing in 2002. There are a number of improvements planned by both the City and the County in that area.

Councilmember Theobald asked Mr. Moore what portion of 32 Road to 9th Street is in the city limits. Mr. Moore responded that right now, the city limits ends at 15th Street on D Road. The section from 15th Street to White Willow Subdivision is actually in city limits.

Councilmember Terry asked Mr. Moore, relative to this subdivision and this particular area, to give some perspective on the above proposed projects and the potential impacts and traffic improvements this subdivision will receive as a result of these projects. Is there a reduction in numbers regarding traffic flows?

Mr. Moore responded that it is tough to know what exactly will happen as far as traffic flows. Preliminary studies indicate an increase of traffic using the 30 Road underpass. The direction of traffic flow from that area is generally to north and west destinations.

Councilmember Terry asked if the 29 Road improvements would have more traffic going north instead of west? Mr. Moore said it certainly can. A preliminary model indicates that once complete, it will serve the Orchard Mesa area. It is unknown about the Pear Park area at this time. Improving Riverside Drive would direct more traffic to the 5th Street viaduct in lieu of 9th Street, offering the most relief.

Councilmember Terry asked about the impact of the traffic study submitted, and did it make sense, and from his professional perspective, would the impact be minimal?

Mr. Moore responded that the purpose of the expanded study was to help the City understand the level of service better. The study indicated the level of service at both of these intersections would be negligible. The measured level of service is basically unchanged.

Councilmember Spehar stated that when looking at these studies, the real issue is the cumulative affects of the number of subdivisions in an area. He asked Mr. Moore if the study he reviewed took into account future developments in that area? Mr. Moore responded that it did. Any additional developments putting the service level below the acceptable level would need to be addressed with a traffic impact study.

Councilmember Scott asked Mr. Moore if there other projects planned for widening 29 Road on D Road, going west. Mr. Moore stated that there are no such plans within either City or County capital improvements budget. But if the City receives any break from the restrictions of the Tabor Amendment it might be able to factor in road improvements along D Road.

Councilmember Theobold stated that the County may be anticipating the City will be annexing that area soon which would be the reason it is not part of their capital improvement plan.

Councilmember Terry referred to Mr. Fugere's question on City liability to the Assistant City Attorney. Assistant City Attorney Shaver addressed his concern on the potential approval of this subdivision and whether or not there would be liability attended to that for emergency response. Under the Governmental Immunity Act, a delayed or failed emergency response is not listed as a liability so the City would be immune.

Councilmember Theobold addressed the letters in the packet suggesting the floodplain is a serious threat to this neighborhood. He asked if there could be a potential threat to the neighborhood? Mr. Nebeker responded that the area is not in the 100-year floodplain.

The Mayor asked for public comment. There were no public comments.

Councilmember Payne suggested the appellant be able to respond to some of the issues discussed.

Mark Fugere stated he has seen emergency vehicles blocked by the train and have had to turn around and find an alternate route.

Councilmember Theobold believes that Mr. Fugere makes a good point with emergency service vehicles and asked if the Fire Department is equipped to handle such situations when servicing City areas beyond the railroad tracks. Is there a means of knowing in advance if there is a train blocking the intersection?

Mark Relph, Public Works Director, said it would possible to install a warning device alerting emergency vehicles that there is a train on the tracks. There was such a device installed during the construction project of the 5th Street bridge and overpass.

Councilmember Payne understood very few coal trains actually go as far as 9th Street. He thought they usually travel west of the 5th Street viaduct and 95% of those coal trains continue west. Mr. Fugere countered that those trains go through the hump yard each way. He drives that road everyday, and tends to disagree with the traffic study.

Assistant City Attorney Shaver responded to Mr. Fugere's question on the requirement for fencing. Under the previous Code, the City has not required fences in straight zones. No fence was required and as part of the plan review the City asked if the developer would offer a fence. In this case, he did not, rather he made the accommodation of increasing the lot sizes along the boundary instead. There could be items placed in the covenants that state a fence would be required after a certain period of time. Or the developer may agree to include the fence during the final plan approval.

The Mayor asked for public comments. There were none. He closed the hearing to public comment at 8:50 p.m.

Councilmember Theobold noted the City will wrestle with the issue of traffic on D Road for years to come, but believes the City must rely on the expertise of the traffic analysis. The country setting creates the conflict with the checkerboard development of the valley, and the Growth Plan has called for this area to be developed at this density in this pattern and therefore, should be followed.

Councilmember Terry agreed with what Councilmember Theobold said about the traffic study and said she wished the money were available to move forward on these improvements more quickly. She is comfortable with the traffic analysis and is hopeful that this subdivision will not have a significant impact on the traffic. The developer's willingness to eliminate the four lots on the west, thus creating a buffer zone between the two subdivisions, is appreciated.

Councilmember Scott would like to see a warning device installed that would indicate when there is a train at the intersection on 9th Street, thereby alerting motorists of a potential traffic problem.

Councilmember Spehar was also comfortable with the traffic study and the objective criteria used in the analysis. He also appreciates the decrease in density to create a buffer zone. There have been recent conversations with the Planning Commission on how to avoid sprawl by not reducing the zoned density of a development. It is not fair to hold adjacent property owners to a different standard.

Councilmember Payne agreed with the other members of the Council, adding that he appreciated the zoning being right in the medium range as specified by the Growth Plan. He also commented that the intersection at 9th Street and D Road has been a difficult one since the early 1980's. But the addition of the 5th Street viaduct offered an alternate route for motorists, eliminating much of the congestion.

Mayor Kinsey believed the decision should be based on objective criteria such as the traffic study. The Council is aware there will be an impact but it is not enough to support the appeal. The questions presented have made the Public Works Department and Council aware of the traffic concerns and that future growth in that area will need to be carefully scrutinized.

a. Appeal

Upon motion by Councilmember Payne, seconded by Councilmember Terry and carried by roll call vote, the decision to appeal the Planning Commission approval of the Preliminary Plan and the zoning of the White Willows Annexation was denied.

b. Zoning Ordinance

Ordinance No. 3287 - An 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.

Upon motion by Councilmember Theobald, seconded by Councilmember Scott and carried by roll call vote, Ordinance No. 3287 was adopted on second reading and ordered published.

PUBLIC HEARING - APPEAL OF THE PLANNING COMMISSION APPROVAL TO AMEND THE PLAN FOR LOTS 7 THROUGH 11 OF SOUTH RIM, FILING 4

[FILE #FPA-2000-066]

Appeal of the Planning Commission decision amending the approved plan requiring geotechnical investigation and/or other analyses prior to the issuance of a planning clearance/building permit for South Rim, Filing #4, Lots 7 through 11.

Mayor Kinsey opened the public hearing at 9:03 p.m.

Richard Cummins, 450 S. Galena Street, Suite 201, Aspen, Co., appellant, gave an analogy to express the reason for his appeal. He referred to a letter dated March 6, 2000 from Mr. Jeffrey Hynes of the Colorado Geological Survey. The properties have virtually been rendered unbuildable by soil distress according to the report. In the Planning Commission transcript on page 8, Mr. Hynes stated he conducted a surface inspection of all five lots. Mr. Cummins directed the Council to page 10, last paragraph, where it mentioned Mr. Edward Morris, Lincoln-DeVore, was also involved in the subsurface investigation of the subject properties. Mr. Morris noted the excavation determined that cracking did not extend into the shale. Mr. Cummins felt Mr. Hynes condemned the lots without really determining whether they are unbuildable or not. He suggested the City conduct an engineering report for each lot as opposed to the lot owners. That way a potential buyer would be less wary of the lot conditions than if the lot owner was paying for the report. He stated he currently cannot sell his lot.

Kathy Portner, Planning Manager, gave a history of the property and the geotechnical studies. The subdivision was approved in the County and the first time the City went out to look at the lots was the first discovery of the house on El Monte having problems. The covenants already require site-specific engineering studies. Since the Homeowners Association isn't really equipped to deal with such reports, the staff thought the study

should be submitted to the City and additionally that an engineer be on site while excavation was taking place.

Councilmember Theobold asked Ms. Portner what her reaction is to the appellant's suggestion that the City be responsible for the site-specific engineering investigations as a course of action? Ms. Portner responded that in the past, it has not been typical for the City or County to provide site-specific investigations. It is typically the responsibility of the lot owner.

Councilmember Terry asked Ms. Portner to respond to Mr. Hynes statement that these lots are unbuildable. Ms. Portner said it was not the Planning Commission's position that these lots were unbuildable.

Assistant City Attorney Shaver refers to the rest of the sentence in the letter that relates to soil distress associated to this zone of bluff retreat. That particular sentence makes reference to the map, which has a general area, depicted near the bluff, and the phrase read in context refers to the zone of bluff retreat.

Councilmember Terry asked what information would be available for a potential buyer to review. Ms. Portner responded that a potential buyer would have access to anything in Community Development's files and any notations in the plat map book located at the Community Development counter.

Assistant City Attorney Shaver referred the Council to the record of decision entered into following the Planning Commission hearing and the June 1st letter from Ms. Portner to Mr. Cummins, which is consistent with her testimony tonight.

The Mayor asked for public comments.

Richard Cummins stated that in the minutes of the Planning Commission meeting, page 8, the State Engineer was more inclined to presume undevelopability and this brands these properties as unbuildable. On page 11, an attorney, Mr. Doug Colaric, said that both lot owners were concerned with the cul-de-sac. Mr. Shaver said the City had hired CTL Thompson to study the situation, which Mr. Cummins feels sets a precedent.

Councilmember Terry told Mr. Cummins that he was mixing apples with oranges with the above setting a precedent as that particular issue was regarding a development that had already occurred.

Councilmember Theobold said the investigation performed was actually on City property. Mr. Shaver confirmed that it was City streets and utilities investigated.

There was no further public comment. The Mayor closed the public hearing at 9:25 p.m.

Councilmember Spehar stated that generally Homeowners Associations do very well on designs but they do not have the expertise to investigate technical matters such as geotechnical issues. He thinks this is an issue between the property owner, the developer and the State Geologist, and it is not the City's role to participate in these investigations.

Councilmember Terry is comfortable with the official record saying there needs to be a study but disagrees that it states the property is not buildable.

Upon motion by Councilmember Payne, seconded by Councilmember Spehar and carried by roll call vote, the Council denied the appeal regarding the Planning Commission decision to require geotechnical investigation and/or other analyses for South Rim Filing #4, Lots 7 through 11.

PUBLIC HEARING - VACATING A PORTION OF THE RIGHT-OF-WAY FOR FLOWER STREET LOCATED SOUTH OF CENTRAL DRIVE, NORTHWEST OF BETA PLACE
[FILE #VR-2000-083]

On August 15, 2000, the Planning Commission recommended approval of the vacation of right-of-way, subject to the creation of a 15-foot irrigation easement along the easterly portion of the vacated right-of-way, to dedicate to the Grand Valley Water Users Association upon completion of the right-of-way vacation.

Mayor Kinsey opened the public hearing at 9:27 p.m.

Kathy Portner, Planning Manager, reviewed the request and displayed an aerial photo of the area. The request meets the criteria of the zoning code and the Planning Commission and staff recommends approval.

Councilmember Theobald asked if there was sufficient access built out and if the stub is necessary. Ms. Portner responded the access is built out and the stub is not used for those lots.

Councilmember Payne clarified that the access is built out. Ms. Portner again confirmed, and indicated that they will be dedicating a needed easement for irrigation. There already is an executed deed for that easement.

Councilmember Theobald clarified with Ms. Portner that all of the rights-of-way came from the applicant so there will be no split among adjacent owners. All of the r-o-w will go back to the applicant.

There was no public comment. The Mayor closed the hearing at 9:30 p.m.

Ordinance No. 3292 – An Ordinance Vacating the Portion of Flower Street Located South of Central Drive

Upon motion by Councilmember Theobald, seconded by Councilmember Terry and carried by roll call vote, Ordinance No. 3292 was adopted on second reading.

POLICY REGARDING SUBDIVISION AND SEWER ASSESSMENTS AFTER CREATION OF A LOCAL SEWER IMPROVEMENT DISTRICT – POSTPONED FROM AUGUST 2, 2000 MEETING

Resolution regarding the subdivision of lands after creation of Local Sewer Improvement Districts, reapportionment of improvement district costs on such subdivided lands; reimbursements to properties, which were fully developed at the time assessments, were made. The sewer policy is designed to insure that all benefiting lots within a local sewer improvement district pay equally for the benefit received.

Greg Trainor, Utilities Manager, reviewed this item. He stated that this proposal is following a discussion with the City Council and the County Commissioners that occurred September 19. He highlighted the important points detailed in the resolution. The assessments of the improvements will be allocated equally to already developed lots and future lots that are anticipated. Those assessments would be collected at the time of development (final plat). There will be no interest penalties assessed. It is a simple approach.

Councilmember Spehar noted that the narrative accompanying the resolution was prepared prior to the previous night's discussion and may not reflect the actual Resolution.

Mr. Trainor confirmed that to be true. Mr. Shaver stated there is no reimbursement provision in the resolution he provided this evening through Mr. Trainor.

Mayor Kinsey asked if the subsidy will be available only if funds are available and questioned whether or not this policy will apply only to lots receiving a subsidy or to all sewer districts.

Mr. Trainor explained that as the septic system elimination program was laid out, 40 sub-basins within the 201 area were investigated. All other areas are probably already developed and have sewer systems.

Mayor Kinsey stated that there is a limited amount of funds in the subsidy program and it may happen that a neighborhood is desperate enough that it will fund the sewer line even without the subsidy. Would this policy still apply to them?

Mr. Trainor gave a scenario to illustrate the situation. If they proceed on their own without the incentive (subsidy), the policy would still apply. The incentive just brings down the initial cost.

Councilmember Spehar stated the purpose of the Resolution is to avoid a free ride for subsequent development.

Mr. Trainor stated paragraph A could be modified to more clearly say the 30% incentive is available only if funds are available to eligible applicants.

Councilmember Spehar suggested another way to address this is at the top of paragraph B to add "regardless of the subsidy ...".

Mayor Kinsey reiterated the basic policy was discussed with County Commissioners last night, and the City, as managers, has the duty to implement this program.

Resolution No. 92-00 - A Resolution Adopting Policies Regarding Subdivision of Lands within Existing Local Sewer Improvement Districts and Assessment of District Costs to Newly Created Lots after Creation of Sewer Improvement Districts

Upon motion by Councilmember Spehar, seconded by Councilmember Theobald, and carried by roll call vote, Resolution No. 92-00 was adopted with the following added language as suggested by Mr. Shaver, beginning paragraph B, "...regardless of Persigo System Septic System Elimination incentives..."

**PUBLIC HEARING - ASSESSMENTS FOR SANITARY SEWER IMPROVEMENT
DISTRICT NO. SS-43-99 – CONTINUED FROM AUGUST 2, 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.

Mayor Kinsey opened the public hearing at 9:41 p.m.

Tim Woodmansee, Real Estate Manager, reviewed this item and pointed out the location of the property on an aerial photo. He said this project is directly affected by the policy just adopted. Another 30% could be applied to the assessments based on the new

policy. The ordinance as written did not deduct the 30% so if that is to be applied then the ordinance needs to be adjusted accordingly. Mr. Woodmansee determined the reduced amount.

The Mayor asked for public comments. There were none. He closed the hearing at 9:47 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 Payne, seconded by Councilmember Theobald and carried by roll call vote, Ordinance No. 3277 was adopted as amended on second reading and ordered published.

PUBLIC HEARING - TRANSFERRING THE CITY'S 2000 PRIVATE ACTIVITY BOND ALLOTMENT TO CHFA

The City received a Private Activity Bond allocation from the State of Colorado Department of Local Affairs for the fourth time in 2000 as a result of the City reaching a 40,000 population level in 1997. The bond authority can be issued on a tax-exempt basis for various private purposes. The City can reserve this authority for future housing benefits by ceding the authority to CHFA at this time.

Mayor Kinsey opened the public hearing at 9:48 p.m.

Ron Lappi, Administrative Services and Finance Director, explained that this is the fourth year the City has ceded this allocation to CHFA. No project has come through yet so it is best to “bank” the allocation with CHFA.

The Mayor asked for public comments. There were none. He closed the hearing at 9:50 p.m.

Ordinance No. 3293 – An Ordinance Authorizing Assignment to the Colorado Housing and Finance Authority of a Private Activity Bond Allocation of City of Grand Junction Pursuant to the Colorado Private Activity Bond Ceiling Allocation Act

Upon motion by Councilmember Terry, seconded by Councilmember Scott and carried by roll call vote, Ordinance No. 3293 was adopted on second reading and ordered published.

NON-SCHEDULED CITIZENS & VISITORS

Mary Huber, 580 ½ Melrose Court, complimented the City on its new facility. However, the volume at the Planning Commission meeting is still low and difficult to hear. She also wanted to compliment the City on the Parks and Recreation Guide. Ms. Huber inquired as to what type of agreement, if any, the School District has with the Parks and Recreation Department for use of its facilities. She felt non-residents should be given consideration for using facilities outside of city limits.

Councilmembers responded with various reasons for the facility rates.

Interim City Manager David Varley will work with AT&T Cable to resolve the volume problem.

ADJOURNMENT

The meeting adjourned at 9:55 p.m.

Stephanie Nye, CMC
City Clerk