

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

December 20, 2000

The City Council of the City of Grand Junction, Colorado, convened into regular session the 20th day of December, 2000, at 7:30 p.m. at the City Hall Auditorium, 250 N. 5th Street. Those present were Cindy Enos-Martinez, Earl Payne, Jack Scott, Janet Terry, Reford Theobold, and President of the Council Gene Kinsey. Jim Spehar was absent. Also present were City Manager Kelly Arnold, Assistant City Attorney John Shaver, and City Clerk Stephanie Nye.

Council President Kinsey called the meeting to order and Councilmember Enos-Martinez led in the Pledge of Allegiance. The audience remained standing during the invocation by Scott Hogue, First Baptist Church.

CONSENT ITEMS

Upon motion by Councilmember Scott, seconded by Councilmember Terry and carried by roll call vote with Councilmember **THEOBOLD** voting **NO** on #3, the following Consent items #1 through 10 were approved:

1. **Minutes of Previous Meetings**

Action: Approve the Summary of the December 4, 2000 Workshop and the Minutes of the Regular Meeting December 6, 2000

2. **Authorize Regular Municipal Election to be Held by Mail Ballot**

The City has adopted the Municipal Election Code. In order to conduct the election by mail ballot, the Council must authorize it pursuant to 1-7.5-104 C.R.S. Timelines for a mail ballot election differ from polling place elections. In order to go forward on January 2 with making nomination petitions available, as per the mail ballot timeline, Council needs to formally authorize the April, 2001 election to be conducted by mail ballot.

Resolution No. 130-00 – A Resolution Authorizing a Mail Ballot Election in the City of Grand Junction for the April 3, 2001 Regular Municipal Election

Action: Adopt Resolution No. 130-00

3. **New Boundaries for Council Districts**

Every two years a new voting district boundary resolution has been adopted, as allowed by City Charter, just prior to the regular election. This resolution helps to ensure the inclusion of all newly annexed areas into City voting districts. The interior boundaries of the districts have not been changed since 1993. Tremendous growth has occurred in and around the City limits in the last seven years. The result has been that some voting districts have grown disproportionately. The boundaries for the districts as established in the resolution rebalance Council district representation.

Resolution No. 134-00 – A Resolution Designating the Voting District Boundaries in the City of Grand Junction

Action: Adopt Resolution No. 134-00

4. **Grant from the Colorado Council on the Arts to the Grand Junction Commission on Arts and Culture**

The Commission would like approval to accept a \$3,200 grant from the Colorado Council on the Arts in 2001. This funding will be added to the existing \$20,000 annual Commission support for local arts and cultural events, projects and programs.

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

5. **Authorizing the Exchange of Real Property Located at 2980 F Road with Gerald D. DuCray and Ted J. DuCray**

The proposed resolution will authorize the conveyance of City property located on Purdy Mesa in exchange for property located adjacent to the Burkey Park property on Patterson Road.

Resolution No. 135-00 – A Resolution Authorizing the Exchange of Real Estate with Gerald D. DuCray and Ted J. DuCray

Action: Adopt Resolution No. 135-00

6. **Lease of City Property Located at 545 Noland Avenue to Donald Fugate, Jr. dba Don's Automotive**

The proposed resolution will extend the term of the existing lease through December 31, 2002. The proposed action will also amend the existing lease by

increasing the rent from \$3,000 per year (\$250/month) to \$4,650 per year (\$387.50/month)

Resolution No. 136-00 – A Resolution Amending and Extending the Lease of City Property at 545 Noland Avenue to Donald Fugate, Jr., Doing Business as Don's Automotive

Action: Adopt Resolution No. 136-00

7. **Grazing Leases for City Properties South of Whitewater**

The proposed resolutions will extend the terms of these two existing leases through December 31, 2003. All other terms and conditions will remain unchanged.

a. **Lease with William Arthur Mertz for 240 Acres**

Resolution No. 137-00 – A Resolution Extending the Dry Grazing Lease of City Property with William Arthur Mertz

b. **Lease with Sally Marie Smith for 191 Acres**

Resolution No. 138-00 – A Resolution Extending the Dry Grazing Lease of City Property with Sally Marie Smith

Action: Adopt Resolutions No. 137-00 and No. 138-00

8. **Setting a Hearing on Rezoning Property Adjacent to Mesa State College from RMF-8 and B-1 to CSR** [File #RZ-2000-209]

The petitioner is requesting rezoning 6 parcels adjacent to Mesa State College from RMF-8 and B-1 to CSR. Mesa State College or the Mesa State Foundation owns all parcels.

Proposed Ordinance Zoning 1315 College Place, 1405 College Place, 1435 College Place, 1450 N. 12th Street, 1460 N. 12th Street and 1235 Kennedy Avenue to CSR

Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for January 3, 2001

- 9. **Setting a Hearing on Rezoning Colonial Heights Property, Located at the Southeast Corner of 25 Road and G Road, from PD-4.4 to RMF-8**
[File #RZ-2000-179]

The petitioner is requesting approval of a rezone of a 46.8-acre parcel located on the southeast corner of 25 Road and G Road. The current zoning is PD 4.4 units per acre. The petitioner is requesting a zoning of RMF-8, Residential Multi-family 8 units per acre. The Planning Commission recommended denial of the zoning request. The applicant’s appeal will be heard at the time of second reading of the zoning ordinance.

Proposed Ordinance Rezoning Property Located at the Southeast Corner of 25 Road and G Road from PD-4.4 to RMF-8

Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for January 3, 2001

- 10. **Setting a Hearing on Amending Zoning Ordinance for Redlands Mesa**
[File #FP-2000-219]

A request to revise the zoning ordinance for Redlands Mesa to increase the maximum size of the golf clubhouse from 6,000 square feet to 9,000 square feet.

Proposed Ordinance Amending the Zoning Ordinance for Redlands Mesa

Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for January 3, 2001

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

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

PUBLIC HEARING – CREATING AND ESTABLISHING SANITARY SEWER IMPROVEMENT DISTRICT NO. SS-44-00 AND AWARD CONSTRUCTION CONTRACT FOR AREA SOUTH OF G ROAD, NORTH OF THE GRAND VALLEY CANAL, EAST OF 1ST STREET AND WEST OF 7TH STREET (GLEN CARO AND NORTHFIELD ESTATES NO. 2)

The owners of real estate located in the vicinity south of G Road, north of the Grand Valley Canal, east of 1st Street and west of 7th Street, have petitioned the City Council to create an improvement district for the installation of sanitary sewer facilities for the Glen

Caro and Northfield Estates No. 2 sewer project. The public hearing, proposed resolution and contract award are the final steps in the formal process required to create the proposed improvement district.

The public hearing opened at 7:34 p.m.

Rick Marcus, Real Estate Technician, reviewed this item. He said the district is a 50-property district with 34 property owners signing the petition (68%).

Councilmember Terry asked if this is the first improvement district under the Septic System Elimination Program. Rick Marcus said it is. Councilmember Terry asked that he detail how that has played into the cost per unit for these property owners. He said about 50% of the cost is paid for by that Program.

There were no public comments. The hearing was closed at 7:35 p.m.

a. Resolution Creating Improvement District

Resolution No. 139-00 – A Resolution Creating and Establishing Sanitary Sewer Improvement District No. SS-44-00 within the Corporate Limits of the City of Grand Junction, Colorado; Authorizing the Installation of Sanitary Sewer Facilities and Adopting Details, Plans and Specifications for the Same

b. Award Contract

This project consists of two components: 1) Trunk Line Extension, and 2) Installation of facilities within the limits of the proposed district. The following bids were received for both components:

Mountain Valley Contracting	Grand Junction	\$ 391,979.35
MA Concrete Construction	Grand Junction	\$ 403,250.05
Skyline Contracting	Grand Junction	\$ 477,907.05
Sorter Construction	Grand Junction	\$ 534,948.65
Continental Pipeline Construction	Mesa	\$ 612,674.50
Engineer's Estimate		\$452,530.50

Action: Award Contract for the Construction of Sanitary Sewer Improvement District No. SS-44-00 to Mountain Valley Contracting in the Amount of \$391,979.35

Upon motion by Councilmember Scott, seconded by Councilmember Enos-Martinez and carried by roll call vote, Resolution No. 139-00 was adopted, and the contract for

construction of Sanitary Sewer Improvement District No. SS-44-00 was awarded to Mountain Valley Contracting in the amount of \$391,979.35.

PUBLIC HEARING - AMENDING CHAPTER 4 OF THE ZONING AND DEVELOPMENT CODE REGARDING GROUP LIVING FACILITIES

This ordinance makes major changes to Section 4.Q of the Zoning and Development Code, Group Living Facilities. The City has been requested to revisit this section of the Code as several issues were not addressed or considered in the original adoption. Various groups which met with City staff included representatives from Hilltop, Colorado West Mental Health, Mesa Developmental Services, Salvation Army, Community Corrections Board, and others.

The public hearing opened at 7:36 p.m.

Staff City Attorney Stephanie Rubinstein briefly reviewed this item. She thanked those involved in drafting the Code change. She highlighted the changes that were included in the proposal which were not detailed in the staff report. The first change is a new section #7 regarding density, i.e. the same density would not require a Conditional Use Permit. It is an attempt to align more closely with other multi-use buildings that would be in that area. The second addition is Section #16.d. There were concerns about the statement "The director shall not be required to research comments which are made at the neighborhood meetings." The concern voiced was without the say from persons from group living facilities or other persons, a decision may be made. A section was added that said "The director shall not be required to research those comments unless the director relies on that comment when making a decision." Not all comments need to be addressed.

She noted the courts have three basic principals when reviewing regulations: 1) there can be no discriminatory intent behind the ordinance; 2) the ordinance does not just apply to group homes with disabled persons; and 3) the regulations do not create an adverse impact on disabled persons. The Code was written not to create an adverse impact but can be reviewed later to ensure that it doesn't. If the regulations prevent disabled persons from residing in the community, there must be some reasonable accommodations. For example, with the separation requirement of 750 feet, a reduction to 700 feet might be a reasonable accommodation.

Mayor Kinsey asked for the effective date of the ordinance. Ms. Rubinstein said 30 days from final publication.

Mayor Kinsey said he liked the sunset provisions for review, but felt one year is too short; two or three years would be adequate. He suggested a quick review every three years.

Councilmember Theobald suggested two years initially, then every three years thereafter.

Joe Higgins, Mesa County Partners Director and Community Corrections Board member, oversees the operations of the Community Corrections and Work Release Programs. He felt the ordinance creates another review process of his clients and they are already doing that. He offered their review expertise. He said #20 in the ordinance addresses the work of the Community Corrections Board becoming responsible for reviewing those housing facilities. Their existing standards are made up of over 50 pages and are quite thorough. They support the amendments in the ordinance and are willing to take on the responsibilities outlined.

Mike Stahl, Vice President of Hilltop, said the ordinance has made a huge stride. Now there is a need for community oversight. They have multiple residential programs, most are not affected as they are already covered under other permits. They do have concerns: 1) the domestic violence safehouses for which the locations are to remain secret, 2) duplication in reviews for juvenile offenders; and the biggest concern is 3) the Hilltop residential campus. His understanding is that existing group facilities will be "grandfathered" in as an existing use as long as it stays the same. They must register with the City. They appreciate and support the changes in the ordinance.

Dr. Tom Updike, Colorado West Regional Health Center, said the ordinance is a substantial improvement, although he requested a few changes. The objective is to make sure the community is safe, but care must be given to not allow concerns to create stigmas for those disabled. The language could be construed as discriminating against those with physical and mental illnesses. He suggested a slight modification dealing with the definition of a small group home: adding a description for felons and for those from the criminal justice system; thereby not defining those physically or mentally handicapped or mentally ill, or physically disabled; i.e. specifically excluding the disabled.

Mayor Kinsey asked for clarification on the suggested definitions for small group living facilities.

Dr. Updike said the ordinance needs to refer to specific persons. It does not mention clearly the physically disabled and elderly. Mayor Kinsey did not understand why Dr. Updike would exclude that group. Dr. Updike said it would be a violation of the Fair Housing Act and the Americans with Disabilities Act (ADA) not to exclude them. Anything that is construed as separation or isolation of the mentally or physically handicapped is immediately suspect under the ADA. Dr. Updike said this refers to Section Q 1.3. He said it is not specific so it thereby includes the mentally disabled. The ADA does not cover felons and sex offenders but it does cover mentally handicapped and the aged. Dr. Updike clarified that when there are 8 persons or less

in a group living home, they do not want to include the mentally ill or the mentally retarded into that definition because it causes a segregation of those persons.

Councilmember Terry said the definition merely refers to unrelated persons, exclusive of staff when it speaks of 4 to 8 persons. It does not target a specific group.

Sally Shaffer of Hilltop, 1331 Hermosa, felt it was very important that this process has taken place and no matter what is adopted it will still be subject to interpretation. She appreciated the process and it gave her great hope that the process can be continued in a positive manner.

Joan Levy, Residential Director of Mesa Developmental Services, shared concerns during the process and how it interfaces with State and Federal law. She encouraged adoption of the Code amendment as the current Code is unworkable for anyone.

Chris Mueller, Colorado Department of Human Services, Grand Junction Regional Center, submitted a letter from their departmental attorney. Mr. Mueller said his agency was not involved in the process. He said City Staff Attorney Stephanie Rubinstein met with him individually and brought him up to speed. He reviewed and commented on the CDHS letter and issues (see letter attached).

Mr. Mueller was not opposed to registration. He concluded that the regulations should be applied to all homes regardless of the residents.

Mayor Kinsey took exception as these group homes are businesses, not families and homes, and it is the City's responsibility to monitor such group homes. The statement that the City treats every family the same as it treats every group home is not a reasonable statement.

Mr. Mueller said many of these physically or mentally disabled persons would die without the various support services.

Councilmember Terry said Grand Junction is a Home Rule city. Council has the opportunity and responsibility to create its own law to protect its citizens. Council goes to great lengths to ensure its ordinances are in compliance with State and Federal law. The reason this has taken so long is to make sure the City is in compliance with such regulations and requirements. She appreciated Mr. Mueller's comments but begged to differ with some of his position statements. She felt the proposal is fairly sound. If challenged, Council will look at it. Council does not need permission from the State to enact an ordinance.

Councilmember Payne said an ordinance can be changed and corrected. Council needs a good starting place which it now has.

Mr. Mueller said he appreciated that. Regulations such as these are becoming a nationwide trend.

Mayor Kinsey said some communities may write regulations to keep out such homes. That is not Council's intention. Council is trying to achieve a balance between neighborhood compatibility and having minimal oversight to make sure programs are effective.

Mr. Mueller appreciated the methodology used, and the sunset review.

Janice Curtis, 2840 North Forest Court, a volunteer on the Colorado West Mental Health board and other organizations, said she was proud to live in Grand Junction. If they can grandfather in Hilltop, she wondered if more can be created, or will they be stopped by this ordinance. There are many changes in the disability field. There is a big drive for homesteading in Denver so the disabled can live in a home in the community rather than institutions. Institutions don't always work for the mentally ill. The stigma for the mentally ill is pervasive. They don't want to complicate the lives of those that are disabled. Many of the families of the disabled are not able to provide their needs at home.

There were no other comments. The hearing was closed at 8:28 p.m.

Councilmember Theobald gave staff credit for all their work and applauded City Staff Attorney Stephanie Rubinstein and Assistant City Attorney John Shaver.

Upon motion by Councilmember Theobald, seconded by Councilmember Payne and carried by roll call vote, Ordinance No. 3314 with the amendment of the first review after two years, then the sunset review every three years thereafter, was adopted on second reading and ordered published.

Mayor Kinsey thanked all those that participated. It is the second attempt at having a group assist in the writing of an ordinance. Councilmember Payne concurred, saying it is a better ordinance for it.

PUBLIC HEARING - ANNEXING DAVIDSON/WILCOX ENCLAVE, LOCATED EAST OF SOUTH CAMP ROAD AND NORTH OF THE UTE WATER TANKS ON THE REDLANDS [FILE #ANX-2000-208]

Public hearing for second reading of the annexation ordinance to annex the Davidson/Wilcox Enclave Annexation located east of South Camp Road and north of the Ute Water Tanks on the Redlands. The 5.11-acre enclave consists of one vacant parcel of land.

The public hearing opened at 8:30 p.m.

David Thornton, Principal Planner, Community Development Department, reviewed this item. It is vacant land and is landlocked and must wait for properties surrounding it to develop for access.

Mayor Kinsey asked if the property owner was present. Mr. Thornton said he didn't believe so.

There were no public comments. The hearing was closed at 8:31 p.m.

Ordinance No. 3315 – An Ordinance Annexing the Territory to the City of Grand Junction, Colorado, Davidson/Wilcox Enclave Annexation, Located East of South Camp Road and North of Ute Water's Water Tanks on the Redlands, Consisting of Approximately 5.11 Acres

Upon motion by Councilmember Payne, seconded by Councilmember Terry and carried by roll call vote, Ordinance No. 3315 was adopted on second reading and ordered published.

PUBLIC HEARING - ZONING THE DAVIDSON/WILCOX ENCLAVE ANNEXATION TO RSF-E, LOCATED EAST OF SOUTH CAMP ROAD AND NORTH OF THE UTE WATER TANKS ON THE REDLANDS [FILE #ANX-2000-208] CONTINUED FROM DECEMBER 6, 2000 MEETING

Second reading of the zoning ordinance to Residential Single Family Estate with a maximum density of one unit per 2 acres (RSF-E) for the Davidson/Wilcox Enclave Annexation located east of South Camp Road and north of the Ute Water Tanks on the Redlands. The 5.11-acre enclave consists of one vacant parcel of land.

The public hearing opened at 8:32 p.m.

David Thornton, Principal Planner, reviewed this item. The zoning proposed is the same as it was in the County. The surrounding zoning is RSF-4 and PD.

There were no public comments. The hearing was closed at 8:34 p.m.

Ordinance No. 3316 – An Ordinance Zoning the Davidson/Wilcox Enclave Annexation to Residential Single Family Estate (RSF-E), Located East of South Camp Road and North of the Ute Water Tanks

Upon motion by Councilmember Terry, seconded by Councilmember Scott and carried by roll call vote, Ordinance No. 3316 was adopted on second reading and ordered published.

OTHER BUSINESS

Upon motion by Mayor Kinsey, seconded by Councilmember Payne and carried, the salary of the Municipal Judge was raised 3% for the year 2001, the same salary increase as other City employees.

Upon motion by Councilmember Payne, seconded by Councilmember Enos-Martinez and carried, Council adjourned into executive session at 8:37 p.m. to discuss personnel.

ADJOURNMENT

The meeting adjourned at 8:37 p.m.

Stephanie Nye, CMC
City Clerk