

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

**January 17, 2001**

The City Council of the City of Grand Junction, Colorado, convened into regular session the 17th day of January, 2001, at 7:30 p.m. at the City Hall Auditorium, 250 N. 5<sup>th</sup> Street. 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 Kelly Arnold, 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 Miriam Greenwald, Lay Leader, Jewish Community, Congregation Ohr Shalom.

**Colonial Heights Appeal**

Mayor Kinsey announced the appeal on Colonial Heights rezone has been withdrawn by the appellant. The Planning Commission decision will stand. Therefore, this item will not be considered by Council.

**APPOINTMENTS TO THE BOARD OF APPEALS**

Upon motion by Councilman Theobald seconded by Councilman Spehar and carried, Clay Tuflly was appointed to the Board of Appeals until October, 2003, and Mike Denner was appointed to fill an unexpired term to expire October, 2001.

**ATTENDANCE OF BOY SCOUT TROOP 328 ACKNOWLEDGED**

**CONSENT ITEMS**

Mayor Kinsey noted that Consent Item #9 has been added to the Consent Agenda since Monday night's Council workshop.

Upon motion by Councilmember Payne, seconded by Councilmember Scott and carried by roll call vote, the following Consent items #1-9 were approved:

1. **Minutes of Previous Meetings**

*Action: Approve the Summary of the January 3, 2001 Workshop and the Minutes of the Regular Meeting January 3, 2001*

2. **Meeting Schedule and Posting of Notices**

State Law requires an annual designation of the City's official location for the posting of meeting notices. The City's Code of Ordinances, Sec. 2-26, requires the meeting schedule and the procedure for calling special meetings be determined annually by resolution.

Resolution No. 4-01 – A Resolution of the City of Grand Junction Designating the Location for the Posting of the Notice of Meetings, Establishing the City Council Meeting Schedule and the Procedure for Calling of Special Meetings for the City Council

*Action: Adopt Resolution No. 4-01*

3. **Intergovernmental Agreement with Mesa County for Conducting a Mail Ballot Election**

The City Council budgeted for a mail ballot election for the regular municipal election in April, 2001 and it was officially authorized at the December 20, 2000 meeting. The City Clerk and the Mesa County Elections Division have discussed procedures and areas of responsibility for the upcoming municipal election. The partnership for administering the election worked very well for the last regular election held in 1999. The terms and costs are now being presented to City Council for approval in the form of an Intergovernmental Agreement.

*Action: Authorize the City Clerk to Sign the Intergovernmental Agreement with Mesa County for the April, 2001 Mail Ballot Election*

4. **Appleton Sewer Improvement District #2**

The following bids were received for this project:

<u>Contractor</u>	<u>From</u>	<u>Bid Amount</u>
Taylor Constructors	Grand Jct.	\$378,820.00
Mendez Construction	Grand Jct.	\$405,045.45
Skyline Construction	Grand Jct.	\$424,177.40
Grant Miller Construction	Silverthorne	\$489,881.20
Sorter Construction	Grand Jct.	\$559,905.00
Engineer's Estimate		\$381,965.00

*Action: Award Contract for Appleton Sewer Improvement District #2 to Taylor Constructors in the Amount of \$378,820 Contingent upon Mesa County Commissioners Passing a Resolution to Create the Improvement District*

5. **Setting a Hearing on Supplemental Appropriation Ordinance for the 2001 Sewer System Fund**

The Septic system Elimination Program, adopted May 3, 2000, has had high interest levels. Due to the demand, Staff is running into budget constraints. Staff is requesting the Council shift approximately \$900,000 from the 2002 Budget to 2001 to fund design and construction of Country Club Park and Monument Meadows sewer improvement districts and the design of Redlands Village sewer improvement district. This move requires passage of an ordinance making supplemental appropriations to the 2001 budget.

Proposed Ordinance Making Supplemental Appropriations to the 2001 Budget of the City of Grand Junction

*Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for February 7, 2001*

6. **Vacating a Utility and Drainage Easement Located at 2464 F Road (Mauch Photo)** [File #VE-2000-212]

The petitioner is requesting the vacation of a 30' utility and drainage easement. The project is located at 2464 Patterson Road, one lot east of Bishop's Furniture. At the December 12, 2000 hearing, the Planning Commission forwarded a recommendation of approval to the City Council.

Resolution No. 5-01 – A Resolution Vacating a Utility and Drainage Easement at 2464 F Road

*Action: Adopt Resolution No. 5-01*

7. **Setting a Hearing on Moore Annexation Located at 457 31 Road** [File #ANX-2001-012]

This 4.87-acre annexation consists of one parcel of land located at 457 31 Road and including portions of the E Road and 31 Road rights-of-way.

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

Resolution No. 6-01 – 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 – Moore Annexation Located at 457 31 Road and Including a Portion of the 31 Road and E Road Rights-of-Way

*Action: Adopt Resolution No. 6-01*

**b. Set a Hearing on Annexation Ordinance**

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Moore Annexation, Approximately 4.87 Acres, Located at 457 31 Road and Including Portions of the 31 Road and E Road Rights-of-Way

*Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for March 7, 2001*

**7. Setting a Hearing on Amending Chapter 10 of the City Code of Ordinances Regarding the Building Code (Insurance Requirements)**

On December 6, 2000, the City Council adopted the 2000 International Building Code. Consequently, certain other sections of the Code of Ordinances must be updated to remain consistent with the newly adopted Building Code, specifically the provisions related to insurance requirements to received a contractor's license.

Proposed Ordinance Amending Chapter 10 of the Code of Ordinances of the City of Grand Junction, Colorado

*Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for February 7, 2001*

**8. Existing Industry Incentive**

The Incentive Committee is recommending that CoorsTek receive \$120,000 in cash incentive funds from the City to expand their existing plant.

*Action: Approve Existing Industry Incentive for CoorsTek in the Amount of \$120,000*

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

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

**PUBLIC HEARING – AMENDING CHAPTERS 6 AND 33 OF THE CITY OF GRAND JUNCTION CODE OF ORDINANCES REGARDING ANIMAL CONTROL (FERAL CATS) - CONTINUED FROM THE NOVEMBER 15, 2000 MEETING**

This proposal makes two changes to the City of Grand Junction Code of Ordinances. First, the Zoning and Development Code (Chapter 33) is being changed to permit registered participants of Community Cat Care to care for more than three cats, so long as these persons follow the requirements set forth by Community Cat Care. The second change is to the Animal Control Regulations (Chapter 6) to require that registered participants of Community Cat Care have the cats they are caring for vaccinated against rabies and spayed or neutered.

The hearing opened at 7:35 p.m.

Staff City Attorney Stephanie Rubinstein reviewed this item. She noted this item was continued from the November 15, 2000 Council meeting at the request to look into this issue further. They did meet on November 30, 2000 to discuss the program. Present at that meeting was Dr. John Heideman, a veterinarian, Dick Bennett, Division of Wildlife, Tim Grady from the Department of Agriculture State Veterinarians Office, Sally Porter from Animal Control, Suzanne Hart, a proponent of Community Cat Care, Ivy Williams, Code Enforcement, and Glenda Heideman. Some questions were unable to be answered because there was not a lot of research available. At the Planning Commission meeting, a sunset clause was added to the ordinance that would say, after two years this ordinance will be off the books. They considered ways to determine whether or not this program would be successful and to be continued, or should it be looked at within that two-year period. Jim Bennett, Division of Wildlife, authored the minutes of that meeting. Those minutes were distributed to Council prior to this meeting.

Ms. Rubinstein noted some changes: 1) specificity that cats must be vaccinated against rabies; 2) requirement that cats must be spayed or neutered; and 3) an indemnity clause that the City is not running this program.

Comments were solicited by Mayor Kinsey. He asked those speaking to focus their comments either in support of the ordinance or reasons why not.

There were no public comments. The hearing was closed at 7:40 p.m.

Councilmember Terry said most of the information she and Council has received since the last discussion on this issue has led her to believe the proposed ordinance discussed

two months ago is something that would not necessarily contribute to resolving this problem but could exacerbate the problem. Studies taking place across the country find the type of ordinance being considered is very expensive. The information tells her this proposed ordinance is not necessarily the answer, or even getting to the right answer as a small step. She could not support the proposed ordinance.

Councilmember Theobold said he had a similar reaction to the information provided. He was not convinced of the problem to begin with, and certainly not convinced this ordinance is the solution.

Councilmember Scott pointed out that Council is not telling these groups to stop, but is encouraging people involved (veterinarians, etc.) to produce more than what is presented tonight. He felt Council should be doing something about it. He said this is a good place to start and he didn't feel the groups should stop.

Councilmember Theobold said if something is to come back to Council, he would like it to be reflective of all sides. He urged them to find something that everyone can unite behind rather than making this a divisive issue.

Councilmember Payne agreed with all the Council comments. This proposed ordinance is not even a good bandaid for a required ordinance. He could not favor this ordinance as written. He too would like the public to return after more study of other places throughout the country, and come back with a unified document.

Councilmember Spehar agreed with what has been stated tonight. He found it difficult to accurately measure any progress over two years because of the difficulty in counting the cats and determining the impact on wildlife as mentioned in the summary of the group meeting (see attached summary) This issue didn't surface because there was a groundswell of concern over too many feral cats, but more because there was a zoning issue associated with caring for a specific number of cats. It has been difficult to focus on this as a widespread community problem. It seems to be a problem for some people who, out of the goodness of their hearts, wish to care for more than three cats. That doesn't seem to be a good reason for an ordinance since other communities have taken other approaches. Even when considering those other approaches, Council should be mindful of the degree of concern about this particular cat issue in the community, and he would hope it would be a higher degree if presented with something more comprehensive.

Councilmember Terry said she was not interested in seeing something that is isolated only to the City of Grand Junction. Further work must be County-wide because Council has no authority to go beyond its boundaries. Group discussion and resolution should be by all parties.

- (1) Proposed Ordinance Amending Chapter 33 (Zoning and Development Code), Section 4.3.A.4.a of the Code of Ordinances of the City of Grand Junction, Colorado
- (2) Proposed Ordinance Amending Chapter 6, Section 6-58(a) of the Code of Ordinances of the City of Grand Junction, Colorado

It was moved by Councilmember Payne and seconded by Councilmember Scott not to adopt Ordinances No. 3325 and 3326.

Roll was called on the motion with the following result:

**NO: None**

**YES: THEOBOLD, ENOS-MARTINEZ, PAYNE, SCOTT, SPEHAR, TERRY, KINSEY.**

Motion passed and the ordinances were not adopted.

**PUBLIC HEARING - CHC CELLULAR ANNEXATIONS NO. 1 AND NO. 2 LOCATED AT 2784 WINTERS AVENUE [FILE #ANX-2000-186] - CONTINUED FROM DECEMBER 6, 2000 MEETING – ANNEXATION PETITION WITHDRAWN**

Public Hearing for the acceptance of the petition to annex and second reading of the annexation ordinances for the CHC Cellular Annexation, a serial annexation comprising CHC Cellular Annexation No. 1 and CHC Cellular Annexation No. 2, located at 2784 Winters Avenue and including portions of the Winters Avenue right-of-way. The entire annexation area consists of 10.85 acres. At the hearing on December 6, 2000, the petitioner asked for the annexation to be withdrawn because of inability to complete development permit. The City Council continued the request to allow the applicant additional time to further negotiate the lease.

The hearing opened at 7:55 p.m.

Patricia Parish, Associate Planner, Community Development Department, reviewed this item. She submitted a letter from the applicant, Jill Cleveland, to be added to the letter from the owner of the property which is included in the Council packets.

On December 6, 2000 the C.H.C. property requested the annexation be withdrawn as they were unable to go forward with the site plan review. At that time they attempted to renegotiate the lease with AT&T, which was unsuccessful. They are now asking to withdraw the annexation petition again.

Ms. Parish noted they are working with Voice Stream Wireless to locate antennas on an existing tower for at least a portion of the property. The Persigo Agreement requires development in this area to be annexed. It is Staff's opinion the C.H.C. annexation is eligible to be annexed as it complies with state law, including the Municipal Annexation Act pursuant to C.R.S. 31-12-104. Staff recommends Council accept the petition to annex and adopt the annexation ordinances on second reading.

Councilmember Theobald asked if the request for annexation came after the meeting with the County in which the process was outlined. He recalled the agreement with Mesa County was to explain to petitioners at the time of their request that the annexation process is going forward and is irrevocable. Did this request come before that meeting or after? Ms. Parish said the request was presented at the September 19, 2000 meeting. Ms. Parish said the petitioner actually submitted it September 15, 2000. Councilmember Payne stated it came before the meeting.

Councilmember Terry asked if the wording in the Staff report reminding Council of the discussion at that meeting is verbatim. Ms. Parish said no.

There were no other comments. The hearing was closed at 8:00 p.m.

Councilmember Terry disagreed with the consensus of agreement at the September 19<sup>th</sup> meeting, as she did not believe that was the intent of the Persigo Agreement. She cited the wording in the Staff report of the agreement: "Even if the developer or applicant would experience a delay, the City shall require the annexation to occur forthwith so that the City has complete range, authority, etc....." She did not feel this is a delay – it is an actual withdrawal. It was discussed with Mesa County and agreed that if there was a denial, Council would continue with the annexation process. This is a request of withdrawal of the entire application, not just the annexation. She urged this annexation not be approved.

Councilmember Theobald disagreed in part with Councilmember Terry's interpretation of the intent. He did not feel it is a rehash of that debate, but rather the City and County agreement was, once the meeting was held with the petitioner, that if it was denied, the petition would go forward, etc. This annexation is clearly one where the process would go forward regardless if the petition had come after that meeting and they had been so notified by City Staff. Because this came before that meeting, he agreed with Councilmember Terry for that reason.

Councilmember Payne agreed with Councilmembers Terry and Theobald. The intent of the Persigo Agreement can be difficult. He saw this situation differently. A petition for annexation was filed. There was nothing to trigger this annexation since there will be no development or services. These petitioners are a half step in front of themselves. He felt Council should allow the petition to be withdrawn. He felt it was in order to remind people



when they come in for annexation, of the intent of the Persigo Agreement and the Agreement be placed in front of them. One withdrawal request has been accepted in the past, and one has not. He could not go along with annexation because of this request for withdrawal.

Councilmember Spehar agreed it is appropriate to allow the withdrawal and not pursue annexation in this instance. He felt additional discussion with Mesa County needs to take place on the withdrawal issue. Denial should not be a reason for deannexing – annexation should not be contingent upon approval of an application. The withdrawal issue seems to be different. His reading of the Persigo Agreement is that it anticipates development will trigger annexation. There is no “development” in this case and therefore annexation is not triggered.

Councilmember Theobald said the critical element is that the petition was withdrawn prior to any hearing or action on Council’s part. There is a gray area of what level of Staff comment might trigger withdrawal. He felt this one is clear enough because it pre-dates the meeting.

Councilmember Enos-Martinez said there is still a need for more discussion with the County Commissioners.

Mayor Kinsey said there will always be some gray areas. This petition is not much of a development in terms of requiring services or traffic impact.

**a. Resolution Accepting Petitions**

Resolution No. 7-01 – A Resolution Accepting Petitions for Annexation, Making Certain Findings, Determining that Property Known as CHC Cellular Annexation, a Serial Annexation Comprising CHC Cellular Annexation No. 1 and CHC Cellular Annexation No. 2, Located at 2784 Winters Avenue and Including the Winters Avenue Right-of-Way, is Eligible for Annexation

**b. Annexation Ordinances**

- (1) Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, C.H.C. Cellular Annexation No. 1, Approximately 0.82 Acres Located at 2784 Winters Avenue and Including a Portion of the Winters Avenue Right-of-Way
- (2) Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, C.H.C. Cellular Annexation No. 2, Approximately 10.03 Acres

Located at 2784 Winters Avenue and Including a Portion of the Winters Avenue Right-of-Way

It was moved by Councilmember Theobold and seconded by Councilmember Scott that Resolution No. 7-01 be adopted with the intent of voting against it. Once the resolution is defeated, the annexation ordinances become moot.

Roll was called on the motion with the following result:

**AYE: None**

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

The resolution did not pass.

The request for withdrawal of the annexation petition was granted.

Mayor Kinsey said one reason for the property owner's request to withdraw the annexation petition was the concern of increases in property taxes when inside the City. He said with the refund of Tabor funds to the property owners and the almost guaranteed increase by the Grand Junction Rural Fire Districts, the property tax would be lower inside the City limits.

**PUBLIC HEARING – ZONING THE CHC CELLULAR ANNEXATION I-2, LOCATED AT 2784 WINTERS AVENUE [FILE #ANX-2000-186] CONTINUED FROM DECEMBER 6, 2000 MEETING – NO ACTION TAKEN SINCE THE ANNEXATION PETITION WAS WITHDRAWN**

Second reading of the zoning ordinance for the CHC Cellular Annexation located at 2784 Winters Avenue and including portions of the Winters Avenue right-of-way. State law requires the City to zone property that is annexed into the City of Grand Junction. The proposed zoning of I-2 is similar to the existing Mesa County zoning of Industrial. The Planning Commission forwarded a positive recommendation.

Proposed Ordinance Zoning the C.H.C. Cellular Annexation to General Industrial (I-2), Located at 2784 Winters Avenue

The Council did not take any action due to the action on the previous item.

**PUBLIC HEARING – APPEAL OF PLANNING COMMISSION DENIAL AND 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] – CONTINUED FROM JANUARY 3, 2001 MEETING – APPEAL WITHDRAWN**

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. 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 has now withdrawn the appeal.**

The hearing opened at 8:03 p.m.

Mayor Kinsey announced the appellant has withdrawn the appeal. The hearing was closed at 8:04 p.m.

**OTHER BUSINESS**

Persigo Agreement

Councilmember Terry suggested the issue of the Persigo Agreement be discussed at the annual City/County meeting.

**ADJOURNMENT**

The meeting adjourned into Executive Session at 8:10 p.m. to discuss property negotiations.

Theresa F. Martinez, CMC  
Deputy City Clerk