

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

February 21, 2001

The City Council of the City of Grand Junction convened into regular session the 21st day of February 2001 at 7:32 p.m. at the City Auditorium. 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 City Clerk Stephanie Nye.

The audience stood for the pledge of allegiance led by President of the Council Kinsey and remained standing for the invocation by Pastor Joe Jones, Redlands Pentecostal Church of God.

PRESENTATION TO THE CITY COUNCIL BY JACK CONNOLLY, PRESIDENT OF GRAND JUNCTION ROTARY CLUB, OF THE ROTARIAN "FOUR-WAY TEST" PLAQUE

PROCLAMATION DECLARING MARCH, 2001 AS "DEVELOPMENTAL DISABILITIES AWARENESS MONTH" IN THE CITY OF GRAND JUNCTION

JOHN SMITH, AMERICAN PUBLIC WORKS ASSOCIATION, TO PRESENT APWA PROJECT OF THE YEAR AWARD TO PUBLIC WORKS EMPLOYEES BOB SPAID, BILL CASE, SCOTT NORTON AND RICK ALEXANDER FOR THE LITTLE BOOKCLIFF PEDESTRIAN BRIDGE PROJECT

After awards were distributed, the department presented a slide show on the bridge construction.

APPOINTMENTS TO THE RIVERVIEW TECHNOLOGY CORPORATION BOARD OF DIRECTORS

Upon motion by Councilmember Enos-Martinez, seconded by Councilmember Theobald and carried, Michael Bussey, Steve Reimer and John Newell were appointed to the Riverview Technology Corporation Board of Directors for three-year terms ending the last Tuesday in January, 2004.

APPOINTMENT OF PLANNING COMMISSION ALTERNATE

Upon motion by Councilmember Spehar, seconded by Councilmember Scott and carried, Mike Denner was appointed as First Alternate to the Planning Commission with his term to run concurrent with his term on the Board of Appeals.

PRESENTATION OF CERTIFICATES OF APPOINTMENT TO NEWLY APPOINTED MEMBERS OF THE VISITORS AND CONVENTION BUREAU BOARD OF DIRECTORS

Linda Smith and Jane Fine Foster were present to receive their certificates.

CITIZEN COMMENTS

Nate Keaver of the local Red Cross had asked to speak to City Council but was not present.

The Mayor noted an additional item on the end of the agenda, a discussion of the Ten Commandments issue.

CONSENT ITEMS

Upon motion by Councilmember Payne, seconded by Councilmember Scott and carried by a roll call vote, with Councilmember **TERRY** recusing herself from voting on item #11, the following Consent Calendar items #1 through #13 were approved:

1. **Minutes of Previous Meetings**

Action: Approve the Summary of the February 5, 2001 Workshop and the Minutes of the Regular Meeting February 7, 2001

2. **Amending the Articles and Bylaws of the Riverview Technology Corporation**

The Riverview Technology Corporation, Inc. would like to amend its Articles and Bylaws to change the annual meeting date to the last Tuesday of each January and to make the Directors' terms consistent with that change.

Resolution No. 14-01 – A Resolution Amending the Articles and Bylaws of the Riverview Technology Corporation, Inc.

Action: Adopt Resolution No. 14-01

3. **Authorizing the Riverview Technology Corporation to Acquire the Former DOE Compound**

The Articles and Bylaws of the RTC require the City Council to grant formal approval before the compound can be transferred.

Resolution No. 15-01 – A Resolution Granting Permission for the Riverview Technology Corporation, Inc. to Acquire the DOE Compound

Action: Adopt Resolution No. 15-01

4. **Defense of Acting Police Chief Martyn Currie and Detective Kevin Imbriaco**

A Federal District Court action has been filed alleging violation of a citizen’s rights by employees of the Grand Junction Police Department Detective Kevin Imbriaco and Police Chief Marty Currie. The lawsuit alleges misconduct by Detective Imbriaco in obtaining a search warrant and subsequently searching premises and seizing property. The lawsuit alleges that Chief Currie failed to adequately supervise and train the detective and therefore condoned illegal, unconstitutional behavior. The Department denies the allegations.

Resolution No. 16-01 – A Resolution Acknowledging Defense of Chief Martyn E. Currie and Detective Kevin Imbriaco Officer in Civil Action No. 00 N 2190

Action: Adopt Resolution No. 16-01

5. **Visioning Consultant Contract**

The contract is for James Kent Associates to provide services for the Community Visioning Project. The Visioning Committee is responsible for completion of this project. The contract calls for a visioning process that will begin in February and be completed by September 1, 2001.

Action: Authorize the City Manager to Sign Contract with James Kent Associates Consulting for a Community Visioning Process in an Amount of \$94,695.

6. **25 Road Storm Drain Project, Weslo Avenue to Patterson Road**

The following bids were received on January 30, 2001:

<u>Contractor</u>	<u>From</u>	<u>Bid Amount</u>
Bogue Construction	Fruita	\$253,881.40
Groom Excavating & Utilities	Silt, CO	\$254,810.00
Mendez, Inc.	Grand Junction	\$275,678.00
Palisade Constructors	Palisade	\$278,224.15
Sorter Construction	Grand Junction	\$293,415.00
Spallone Construction	Gunnison, CO	\$314,187.50

Ewing Trucking & Construction	Edwards, CO	\$324,365.50
Skyline Contracting	Grand Junction	\$330,259.00
MA Concrete Constr.	Grand Junction	\$355,040.16
Downey Excavation	Montrose, CO	\$377,067.00
Rolland Engineering's Estimate		\$311,550.00

Action: Award Contract for 25 Road Storm Drain Project, Weslo Avenue to Patterson Road, to Bogue Construction in the Amount of \$253,881.40

7. **Lanai Drive Sidewalk Improvements**

The following bids were received on February 13, 2001:

<u>Contractor</u>	<u>From</u>	<u>Bid Amount</u>
Reyes Construction, Inc.	Grand Junction	\$62,621.30
B.P.S Concrete	Grand Junction	\$63,528.03
G&G Paving Construction, Inc.	Grand Junction	\$66,727.00
Vista Paving L.L.C.	Grand Junction	\$67,958.05
Mays Concrete, Inc.	Grand Junction	\$77,482.00
Engineer's Estimate		\$80,783.00

Action: Award Contract for Lanai Drive Sidewalk Improvements to Reyes Construction, Inc. in the Amount of \$62,621.30

8. **Columbine Sewer Improvement District**

The following bids were received on October 12, 2000:

<u>Contractor</u>	<u>From</u>	<u>Bid Amount</u>
Mountain Valley	Grand Junction	\$445,752.60
Sorter Construction	Grand Junction	\$446,822.60
Skyline Construction	Grand Junction	\$449,738.98
Continental Pipeline Construction	Mesa, CO	\$494,098.24
WSU	Breckenridge, CO	\$613,137.00
Engineer's Estimate		\$441,933.50

Action: Award Contract for Columbine Sewer Improvement District to Sorter Construction in the Amount of \$446,822.60

9. **Lease of the Farming Rights on the Saccomanno Property**

The proposed rent for the 2001 farm lease is \$1,200. The Lessee will also be required to pay for irrigation water and all other costs attributed to his use of the property.

Resolution No. 17-01 – A Resolution Authorizing a One-Year Farm Lease of the “Saccomanno Park Property” to Robert H. Murphy

Action: Adopt Resolution No. 17-01

10. **Botanical Society Lease Agreement**

The Botanical Society presently leases 12.6 acres of City property along the Colorado River, east of Highway 50. The Botanical Society is requesting to lease an additional 2.43 acres of City owned property.

Resolution No. 18-01 – A Resolution Amending the Lease of City Property to the Western Colorado Botanical Society

Action: Adopt Resolution No. 18-01

11. **Revocable Permit for an Irrigation Line in the 28 Road Right-of-Way, between Ridge Drive and Hawthorne Avenue** [File #RVP-2001-026]

A resolution authorizing the issuance of a Revocable Permit to allow an irrigation line to be built in a City right-of-way at 28 Road, between Ridge Drive and Hawthorne Avenue.

Resolution No. 19-01 – A Resolution Concerning the Issuance of a Revocable Permit to the Spring Valley Home Owners Association

Action: Adopt Resolution No. 19-01

12. **Setting a Hearing on Zoning Moore Annexation RMF-5, Located at 457 31 Road** [File #ANX-2001-012]

The 4.87-acre Moore Annexation area located at 457 31 Road consists of one parcel of land. State law requires the City to zone newly annexed areas within 90 days of the annexation. The proposed City zoning conforms to the Growth Plan’s Future Land Use map and recommendation for residential land uses between 4 and 7.9 units per acre for this area.

Proposed Ordinance Zoning the Moore Annexation to Residential Multi-family with a Maximum Density of 5 Units per Acre (RMF-5), Located at 457 31 Road

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

13. **Setting a Hearing on Amending the Zoning and Development Code Adding a Section on Institutional and Civic Facility Master Plans** [File #TAC-2001-01.01]

The proposed amendment would add a section 2-20 to the Zoning and Development Code to define a facilities master plan and a process for its implementation.

Proposed Ordinance Amending the Zoning and Development Code, Institutional and Civic Facility Master Plans

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

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

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

COMPREHENSIVE PARKS AND RECREATION MASTER PLAN

The proposed Master Plan is an update of the 1992 "Parks, Recreation and Open Space Master Plan." The primary purpose of this Master Plan Update is to understand the needs of the community in the area of parks and recreation and lay out a plan to address a number of needs and issues over the next 10-15 years. At the February 5, 2001 Council Workshop, the City Council directed Staff to amend the Parks and Recreation Master Plan update.

Parks & Recreation Director Joe Stevens reviewed this item noting the changes made to the plan as directed by the City Council on the February 5, 2001 workshop. The recreation center has been moved from #1 priority in Tier1 to #6 priority in Tier 2. The other change is taking Matchett Park site out and making it two separate projects, resulting in 1: the Recreation Senior Center, a separate project estimated at \$16 million, and 2: Phase 1 of Matchett Park which includes infrastructure and major improvements to the Matchett Park site (7 acres) along with an outdoor swimming facility. The figures in the plan are 2000/2001 numbers. If the plan is done in 2010/2011 the numbers will have to be amended to reflect the current costs at that time.

City Manager Kelly Arnold brought up clarification on the text separating the recreation center and Matchett Park development. Mr. Stevens read the text, stating it will be incorporated into the plan and it will allow the flexibility of the site location of the recreation center and /or centers.

Councilmember Theobold supported the plan but expressed disappointment that the recreation center has been moved down in priority. Councilmembers Scott, Enos-Martinez and Payne concurred.

It was moved by Councilmember Theobold to move the recreation center back up to Tier 1. Councilmember Scott seconded the motion.

Councilmember Spehar revisited the reasons given for the moving to a lower priority, i.e., that there is no funding for the project for the next ten years, and no decision has been made on a location or whether it will be a single facility or multiple facilities.

Councilmember Theobold countered that none of those reasons are sufficient to move it to a lower priority. He felt projects should be placed in a plan, and then go find the funds to accomplish it. Councilmember Spehar noted that moving the project from Tier 1 to Tier 2 does not remove it from the Master Plan.

Councilmember Enos-Martinez clarified that she will vote for the plan as it has been amended but is still disappointed. Councilmember Payne agreed with her comments.

Roll was called on the motion with the following result:

AYE: PAYNE, SCOTT, THEOBOLD

NO: SPEHAR, TERRY, ENOS-MARTINEZ, KINSEY

The motion failed.

Upon motion by Councilmember Terry, seconded by Councilmember Spehar and carried, the Comprehensive Parks and Recreation Master Plan, as presented, was adopted with the recreation center remaining at Tier 2. The motion carried 7-0.

PUBLIC HEARING - AMENDING THE ZONING ORDINANCE FOR REDLANDS MESA, PHASE 2, SOUTH OF THE RIDGES [FILE #PP-2000-236]

A request to approve zoning for Phase 2 of the proposed Redlands Mesa Development in the Ridges, consisting of parcels 9, 10A, 10B and 11 of the approved Outline Development Plan. The zoning ordinance establishes the allowed uses as 67 single-family homes.

Mayor Kinsey opened the public hearing at 8:10 p.m.

Doug Theiss, Thompson-Langford Engineering, representing the applicant, was present to answer any questions.

Kathy Portner, Acting Community Development Director, reviewed this item. The ODP for Redlands Mesa, Phase 2, was approved, for the entire 500 acres. As they come through for the preliminary plan for each phase, the actual zoning ordinance is established for the specific uses and densities. This zoning request is for Phase 2 which includes several parcels. She pointed them out on the map. The applicant received preliminary approval for development of those parcels by the Planning Commission. The total number of units is 67 single family homes.

Mayor Kinsey asked for public comment. There was none.

The public hearing was closed at 8:14 p.m.

Ordinance No. 3327 – An Ordinance Zoning Land Located South and West of the Ridges Known as Redlands Mesa, Phase 2

Upon motion by Councilmember Spehar, seconded by Councilmember Scott and carried by roll call vote, Ordinance No. 3327 was adopted on second reading and ordered published.

PUBLIC HEARING - ZONING THE ETTER/EPSTEIN PROPERTY TO PD, LOCATED AT THE SOUTHEAST CORNER OF HORIZON DRIVE AND G ROAD

[FILE #ODP-2000-058]

The 22.56-acre Etter-Epstein property is located at the southeast corner of Horizon Drive and G Road and consists of three parcels of land. Approximately 1.4 acres of the property is public right-of-way due to the realignment of 27.5 Road and the Horizon Drive/G Road intersection. The parcels are presently zoned Planned Development (PD) but a plan has never been established for the property. The property owners are proposing this ODP to retain the PD zoning.

Mayor Kinsey opened the public hearing at 8:15 p.m.

Attorney Bruce Phillips, 562 White Avenue, representing the applicant, reviewed this item. He overviewed the plan for the three parcels (22.5 acres) bounded by G Road, 27½ Road and Horizon Drive. The property has been zoned PB with the exception of the Etter residence which is zoned H.O. (Highway Oriented). The City determined this property could be considered a PD zone as long as the owners came forth with an ODP. He

presented an Outline Development Plan, identifying potential uses. The property has been divided into 5 areas on the ODP. Area 1 is located at the southwest corner of the property and zoned PB, Area 2 is Business Commercial, Areas 3 and 4 are PB, and Area 5 is a Planned Residential area. He also noted the importance of the airport critical zone. In December, 2000 City Council recommended approval of the plan, but referred the matter back to Planning Commission for consideration of several conditions. Among the concerns were heights of structures along 27 ½ Road, commercial uses that adjoined the residential areas, and the density in Area 5 which is Planned Residential. The applicant reduced the request for density in Area 5 to 4 units/acre which is less than the density in the adjoining residential subdivision. They also removed a number of uses from Area 4 and the Etter residence parcel including bar/nightclub, retail alcohol sales, lube and oil change, automobile repair/gas station. The Planning Commission reviewed the matter and recommended approval to Council with certain conditions. He stated the height restriction being imposed by the Planning Commission is very confusing due to the topography. The restriction was 40 feet from Horizon Drive. The applicant and staff tried to make some sense of it later. With the assistance of different drawings, he demonstrated to City Council how the various heights will compare to surrounding structures at various locations, identified in areas 1, 2, 3 and 4.

Councilmember Terry inquired as to the proposed zoning for the area that the Etter residence is on. Mr. Phillips stated it is part of the plan and thus will be zoned PD and is part of area 3.

Kristen Ashbeck, Senior Planner, reviewed this item. She noted the concessions that were considered by the Planning Commission as sent back by City Council. The density in the Airport Critical Zone was accepted as long as a Conditional Use Permit is obtained for that density as required by the Zoning and Development Code. The Conditional Use Permit must be obtained at the next phase of development with the preliminary plan. Buffers were also addressed. Ms. Ashbeck concurred that the height restrictions were confusing and the applicant did a good job of trying to clarify but the current proposal still contains a 65 foot building which the Planning Commission does have concerns about.

The Planning Commission recommended approval with four conditions, two of which are incorporated into the ordinance, the others depend on Council's direction.

Councilmember Theobald inquired how height is measured in the Code. Ms. Ashbeck said it is measured from grade, but the height restrictions on this proposal are tied to topography. She said the Planning Commission's restriction was from whichever road would be more restrictive which would allow for a five-foot building if taken literally.

Councilmember Theobald asked about access to the commercial property. Ms. Ashbeck said the access would be from the former G Road, although not yet vacated. Council-

member Theobold expressed concern that it would make that intersection more convoluted. With his buffering concerns, that access point makes it worse.

City Attorney Dan Wilson said the thought was to have a right-in, right-out access there only.

Councilmember Terry asked if access to areas 4 and 3 would be from G Road. Ms. Ashbeck said yes that is possible, that is how the residence is accessed. Councilmember Theobold inquired about granting a zoning that cannot be met due to access. City Attorney Wilson said the uses can work, it depends on the intensity. The uses are not incompatible, depending on the design.

When Public Works Director Mark Relph was asked how area 4, the Etter residence, if commercial, would be accessed, he agreed that there are some real access challenges with these parcels.

Councilmember Spehar said that access will drive the development, and Council will be able to review that when a plan comes forward.

Councilmember Theobold was concerned with creating an expectation that cannot be met.

Councilmember Terry asked about the height issue, and the height of the existing motel adjacent to G Road. Ms. Ashbeck estimated 25 feet if the motel is two stories high.

Councilmember Payne asked if the commercial development height allowance is 65 feet. Ms. Ashbeck said in the C-1 area it is 65 feet and is allowed north of G Road only. Councilmember Payne recalled a previous approval of a hotel in that area. Ms. Ashbeck said the hotel being referred to was lowered to 45 feet.

Mayor Kinsey opened the meeting to public comment.

Jack Brown, 681 27½ Road, representing neighbors, discussed the 40-foot height limitation by the Planning Commission. The limitations were based on Horizon Drive across the street. He felt the applicant would like to take the measurement from where the Etter residence sits. Mr. Brown did not feel that should be allowed.

Christy Snow, 4220 27½ Road, stated the reason she was not present for the last meeting was because she did not receive notification of the meeting. She was concerned with areas 3 and 4. It is not Planned Business, but Planned Development. The purpose of an ODP is to demonstrate conformance with the Growth Plan. The Growth Plan shows this property as residential. She said other criteria of Section 2.1.2 of the Zoning and Development Code are not being met. The 1996 Growth Plan is not being met as well as

a major street plan is not being met. Adequate circulation and access to serve all development pods/areas is not being met. There is no way to get to area 3 from Horizon Drive. Criteria states appropriate screening and buffering of adjacent properties and uses shall be provided. Residential development is being used as a buffer in other areas, but not in area 4. She proposed a new configuration of area 4 along the old 27½ Road on the west, to the Etter property line, south to the new 27½ Road, north to the old G Road. It would be zoned residential with height restrictions of 30 feet and density of up to 4 units/acre. The only access off the old 27½ Road would be to the upper new area designated 4 which would be residential use only. The upper hill shall serve as a buffer zone to the lower area 3, and that area 3 shall have the height limits of 40 feet. The new 4 would be all residential and height restrictions would be 30 feet.

Councilmember Spehar asked if the height limitation is 35 feet in the residential area. Ms. Ashbeck said yes. Ms. Snow said the Planning Commission recommended 30 feet along 27½ Road.

Bob Smith, 1546 Cortland Court, thought the Planning Commission motion had been hashed out that evening. He wasn't sure it was appropriate that it be discussed again with staff. He would like to see the 40-foot restriction retained.

Councilmember Theobald asked staff to clarify what Council is considering. City Attorney Wilson said the zoning includes the plan so Council has the discretion to change either.

Bob Smith pointed out that part of the area is wetlands. There are trees and wildlife in the area. He felt it would be terribly destructive.

Jerry King, 4300 27½ Road, agreed with Christy Snow in changing the upper area to residential and let them have that access. They would then need to figure out another access for the lower level.

Terry Farina, 2673 Homestead Road, friend of the Epstein family, thought it had been clear this area would be developed along business lines. The owners have made a lot of concessions that are not being brought out. The Planning Commission meeting did get confusing at the end. He felt measuring from Horizon Drive seems to make sense in this case.

Mr. Bruce Phillips, representing the applicants, was allowed to rebut. The 65 feet is only allowed in area 3, 65 feet has been supported in the past north of G Road. He asked the Council not to zone area 4 as residential. He asked that they wait and see the Preliminary Plan with a PD and mixed use. The critical fly zone takes a good chunk out of area 4 and imposes restrictions on what can be done there. There might be some ancillary uses in that are from the commercial down below that would be prohibited if the area is zoned residential.

Councilmember Theobold asked about a small triangle piece south of the Etter residence. Mr. Phillips said it would be restricted to 65 feet in height from Horizon Drive which is 4 feet lower than 35 feet from 27½ Road.

There were no other comments. Mayor Kinsey closed the public hearing at 9:20 p.m.

Councilmember Theobold commented he was glad to see some progress was being made with respect to this property. Regarding the height restrictions, he was uncomfortable with not measuring on the grade but with the explanation and topography it is acceptable. His biggest concern is buffering and traffic along 27½ Road. He would like to have buffers between business and residential areas. The Snow and King parcels are relatively new homes so he doesn't see this zoning to be a change in character. He also stated he can't see how access will be gained for a commercial area in area 4.

Councilmember Scott stated he also was concerned about the residential area, but the rest is okay.

Councilmember Enos-Martinez concurred. She was also concerned with the zoning on that parcel.

Councilmember Terry commented that she was pleased with the effort of planned use and mixed use. Both business and commercial use on Horizon Drive makes sense. She was concerned with transitional areas, like area 4, for accessory use. The Etter property could more realistically be seen as an accessory use because it is pretty far removed from the residences. She would resist any access from 27½ Road and feels it should be left as PB.

Councilmember Spehar agreed with Councilmember Terry. He stated Council could rezone the top half of 27½ Road by drawing a line, but encouraged the Council not to do so during this meeting. He stated it would be appropriate to allow for the buffering and ancillary issues, or other uses, to be decided in the full-blown plan. He suggested Council accept the height discussion presented, which is a reasonable compromise and wait before reacting to additional planning on areas 3 and 4.

Councilmember Payne was also concerned about traffic on 27½ and G Roads but stated a traffic study would be conducted before anything goes in there. He stated the height limitation is too low and should be increased. The Planning Commission's suggestion is too low, and he would go with 60 to 65 feet. He believed the uses on areas 3 and 4 will work out. The applicant did what Council asked them to do.

Mayor Kinsey stated he continues to be uncomfortable with this process, because it seems to be working backwards from the plan development process.

Ordinance No. 3328 – An Ordinance Zoning Three Parcels of Land Located on the Southeast Corner of the Horizon Drive and G Road Intersection to PD (Planned Development)

It was moved by Councilmember Theobold to approve the Planning Commission's recommendation including conditions 1, 2 and 4 and instead of Planning Commission's condition 3, offer the following height restrictions:

Area 1: 35 feet above grade,

Area 2: 40 feet above Horizon Drive in the area south of the line that is formed by the southern boundary of the airport critical zone and 55 feet from Horizon Drive for the remainder of area 2,

Area 3: 65 feet from Horizon Drive that does not include the Etter residence,

Area 4: 35 feet from 27 ½ Road and the Etter residence,

Area 5: 35 feet from grade or the bulk standard for RMF-8,

A fifth change would be that the Etter residence and area 4 be zoned residential, the same as for area 5, the precise boundary to be determined by the topography between area 4 and area 3.

The motion was seconded by Councilmember Payne and carried by a 4 to 3 vote.

Ordinance No. 3328 was ordered published as amended.

Councilmember Terry commented this does not conform to the Growth Plan and asked why Council did not have a Growth Plan amendment as well. Mayor Kinsey responded that there was no plan at the time. Kathy Portner, Acting Community Development Director, agreed the zoning being proposed was not consistent and the intent is to include this change to the Growth Plan along with others on a periodic basis.

Councilmember Theobold stated that Public Works needs to be prepared to deal with the traffic issue on the old G Road.

Ms. Snow requested a decision be made on the name for the new road.

RECESS

Mayor Kinsey declared a recess at 9:40 p.m. The meeting reconvened at 9:50 p.m. with all Councilmembers present.

Ten Commandments

Mayor Kinsey said the City has the opportunity to make some decisions before the decision is forced upon the City. He said he felt that there are strong convictions on both sides of this issue and how Council deals with this issue is important to the community. The City has a long history of using citizens groups to solve issues. The Council needs to bring people together from all sides and provide the opportunity for those folks to share their views. There may be consent, but not necessarily consensus. He suggested Council recognize this problem and appoint a commission with a wide range of viewpoints. Council could appoint a commission of at least eight, perhaps twelve, individuals. The commission would have staff assistance, resources and a time limit. He distributed a copy of his written proposal to Councilmembers. Councilmember Terry agreed that it is a problem to be recognized but didn't believe Council should appoint a citizen's commission as this is a singular issue. She felt that it is a decision of the City Council and invited comments and contact by citizens.

Councilmember Scott stated he didn't feel that the commission decision would necessarily be the decision of the Council.

Councilmember Terry stated setting up a commission would create undue expectations, including possibly setting them up for a very frustrating situation.

Councilmember Theobald commented that Council has had a lot of citizen groups whose job is to present Council with recommendations that Council may or may not follow. He was not opposed to a group discussing their views, and believes that there are other options for solving this issue, which is the advantage of having twelve other minds. He was willing to give it a try.

Councilmember Scott feels there should be a definite timeline, and it needs to be short.

Councilmember Spehar stated that creating a process does not make a solution unless there is a relatively short timeline. Council should have some idea of what the parameters of discussion should be and asked for City Attorney Wilson's input.

Councilmember Enos-Martinez stated it has been told to the Council that the City will lose if this goes to court. She didn't feel it was necessary to set up a community group. There have been numerous phone calls and personal contacts from constituents saying to fight for the Ten Commandments and to let them stay.

City Attorney Wilson stated that in his research and conversations with other attorneys, the City could possibly lose if sued. The commission could work parallel to the suit going forward.

Mayor Kinsey stated anyone could go to court and win or lose. He felt it is possible to mitigate in such a way that the opposition may be able to live with the decision, and neither side wins or loses everything.

Councilmember Terry commented that the monument plaza solution should be approached with caution. A sizeable amount of taxpayer dollars was spent to build the new City Hall and to make it aesthetically pleasing.

Councilmember Spehar stated the design of such a plaza was the least of his concerns. In considering the monument plaza, Council would need to determine if they set themselves, or someone else, up as arbiters as what is appropriate to be included in the plaza. It will be difficult to please everyone in that regard. He questioned who would be the referee in such cases. In a Colorado case, the monuments argument was used and it lost.

Councilmember Theobald suggested removing the tablet, designing plaza and then bringing the Ten Commandments back.

Councilmember Enos-Martinez stated she hears frequently how government wastes money and by prolonging this issue, the more money this decision will cost the taxpayers.

Councilmember Spehar commented that the more this is prolonged the more divisive this becomes to the community and perpetuates the problem.

Councilmember Payne stated this is a Council decision. He has found people do not want the Ten Commandments moved, win or lose. It is time to take a stand, and he requested Council make a decision tonight to leave them where they are. Council could form a committee in an attempt to work out a solution. There have been offers of donated legal time to represent the City should it go to court, so it possibly would not cost the taxpayers any money. Even if the City should lose, it stood up for the principal that the Ten Commandments remain at City Hall. He felt that the City should go down fighting and should make a decision tonight.

Councilmember Scott stated if the commission is formed, they should be made aware Council doesn't have to follow their recommendation.

Mayor Kinsey stated this is not a matter of deferring responsibility, but rather an opportunity to stand up and determine a way to make this work so everyone can live with it.

Councilmember Theobald stated he is not ready to "draw a line in the sand." He is willing to defend a lawsuit but would rather see Council take some action that would strengthen its position and review the plaza idea as has been previously discussed. He agreed with Mayor Kinsey, to stand on principal, but also wanted to win.

Councilmember Terry stated she still doesn't think forming a commission is the right way to decide this issue. She would be willing to support forming a committee, if it is determined to keep the Ten Commandments, the committee would be presented with the task of figuring out a way to make this happen. There has been a strong willingness to spend taxpayer money in court by citizens.

Councilmember Theobold commented that he was not feeling defeated, and felt that the City can win this should it be necessary to go to court. There are things that need to be done first, however.

Mayor Kinsey stated that those in opposition must be included on the commission.

Councilmember Spehar suggested one change in directing the commission if formed. He felt it would be prudent that the Council, in directing the commission, leave open the possibility that the commission determine this issue is not defensible. If so, Council would need to decide how to proceed from there; what would be an appropriate use of taxpayer dollars and appropriate use of leadership.

Councilmember Theobold agreed to have opposition on the commission until a lawsuit was filed. Then they would not be part of the solution anymore and would not be part of the commission.

Councilmember Terry stated that if Council takes the position to defend this, then the City defends it and should not accept the free legal services offered. There is strong community support for Council to defend the suit and use of taxpayer dollars.

Councilmember Theobold moved to ask for applications to and make appointments to a citizen group to explore the plaza concept as well as other possible defenses to retain the Ten Commandments but will not limit them to those solutions or to reporting to Council that there is no defense. The group will have representation from both those wanting to retain and those wanting to remove the Commandments. In addition, a caveat of expectation that all work together and if a lawsuit occurs, the opponents will not continue to be part of the group and that Council is in favor of finding a way to legally retain the monument.

Councilmember Spehar stated that timeliness is a factor, and going through an application process would only prolong the issue.

Councilmember Terry seconded the motion.

More discussion ensued regarding the wording of the motion and expectations and direction of the commission.

Councilmember Terry stated there is significant support for the Council to retain the Ten Commandments and appears there is also support at looking at how this can be done.

She stated she welcomes citizen input on most any issue presented to Council and all issues that come before Council. She felt Council has received significant community input to retain the Ten Commandments. She proposed that if the Council is interested in looking at various avenues as to how to make this happen, the monument plaza included, Council be the group to do this.

Councilmember Theobald withdrew his motion.

Councilmember Terry moved, given the fact there is significant consensus to maintain the Ten Commandments and there is also support to look at ways of being able to do this legally, so that Council's position may be more defensible if it does have to go to court, she then moved Council to be the obvious group to pursue the various avenues presented before Council as opposed to appointing a citizen's commission.

The motion was seconded by Councilmember Enos-Martinez.

Councilmember Terry amended the motion to include a time frame of one month, deadline being March 21, 2001.

Councilmember Enos-Martinez seconded the amendment.

Motion carried 6 to 1, with Mayor Kinsey voting against, stating the importance of having the public input.

Councilmember Spehar stated that the only reason he voted in favor is so there would be some sense of organized discussion.

ADJOURNMENT

The meeting adjourned at 10:26 p.m.

Stephanie Nye, CMC
City Clerk