

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

**March 7, 2001**

The City Council of the City of Grand Junction, Colorado, convened into regular session the 7th day of March, 2001, at 7:32 p.m. at the City Hall Auditorium, 250 N. 5<sup>th</sup> Street. Those present were Earl Payne, Jack Scott, Jim Spehar, Janet Terry, Reford Theobold and President of the Council Gene Kinsey. Also present were City Manager Kelly Arnold, City Attorney Dan Wilson, and City Clerk Stephanie Nye. Councilmember Cindy Enos-Martinez was absent.

Council President Kinsey called the meeting to order and Councilmember Theobold led in the Pledge of Allegiance. The audience remained standing during the invocation by retired Minister Eldon Coffey.

**PROCLAMATION DECLARING MARCH, 2001 AS "PURCHASING MONTH"  
IN THE CITY OF GRAND JUNCTION**

**APPOINTMENTS TO THE COMMISSION ON ARTS AND CULTURE**

Upon motion by Councilmember Theobold, seconded by Councilmember Scott and carried, Seth Brown and Bill Whaley were reappointed to three-year terms on the Commission on Arts and Culture, and Joan Meyers was appointed to a three-year term on the Commission on Arts and Culture.

**REPORT TO COUNCIL ON INITIATIVE PETITIONS RECEIVED CONCERNING  
THE SALE OF A PORTION OF LILAC PARK**

City Clerk Stephanie Nye reported that 86 petition sections were received on the deadline of February 21, 2001. The petition included 1051 signatures with 781 valid signatures. The required number needed in order to place this measure on the April 3, 2001 ballot as an initiative was 746. It will be printed on the ballot and labeled Initiative 200. It is for the Lilac Park question which is regarding the sale of a portion of Lilac Park (1.56 acres), with the proceeds to be used for parks development and/or acquisition. The Election Code determines the order of placement on the ballot (candidates, referendums, initiatives) and the numbering system for the ballot.

**CONSENT ITEMS**

Upon motion by Councilmember Spehar, seconded by Councilmember Payne and carried by roll call vote, Item #9 was removed from the Consent Agenda and the scheduling of a Special Meeting for March 19, 2001 to make a decision on the Ten Commandments issue was added, and the Consent Agenda was then approved.

1. **Minutes of Previous Meetings**

*Action: Approve the Summary of the February 21, 2001 Workshop and the Minutes of the Regular Meeting February 21, 2001*

2. **Commission on Arts and Culture Funding for Cultural Events/Projects/Programs**

On February 27 and 28, 2001 the Commission reviewed 24 requests and presentations from organizations and agencies for financial support, per Commission goals, criteria and guidelines. The requests total \$52,680, and the various projects expect to leverage an additional \$75,377 in private donations. The Commission recommends funding support for the following 18 local art and cultural event and projects:

Celtic Society - Celtic Festival & Highland Games	\$2000
David Taylor Dance Theatre (from Denver) - "Rainforest" performances	\$2000
Friends for Native American Communities - Rocky Mountain Indian Festival	\$2000
Italian Cultural Society - Festival Italiano concerts & film festival	\$2000
KRMJ-TV (PBS) "Western Bounty" segments featuring local arts and artists	\$2000
Performing Arts Conservatory musical production "Ruthless"	\$2000
Saturday Cinema at the Avalon Independent Film Series	\$2000
GJ Jaycees "Return to Camelot" Renaissance Festival	\$1500
Latin Anglo Alliance Cinco de Mayo Fiesta (downtown)	\$1500
Mesa Co. Community Concert Assoc. school concert of Andean folk music	\$1300
Brush & Palette Club Regional Exhibition & Workshop	\$1250
Western Colorado Watercolor Society National Watercolor Exhibition	\$1250
VSA Arts-GJ Arts Festival for Adults & Children with developmental disabilities	\$1200
Mesa State College Dance Festival (collaboration of area dance groups/studios)	\$1000
Mesa County Public Library LIVE! at the Library poetry reading	\$ 525
Advocates for Children's Enrichment children's theatre production	\$ 500
Schumann Singers Winter Choral Concert	\$ 500
GJ Music Teachers Assoc. Sonatina Music Festival for piano students	\$ 475
Total	\$25,000

*Action: Approve the Commission on Arts and Cultural Recommendations for Funding Cultural Programs in an Amount of \$25,000*

3. **2001 Alley Improvement District, Phase A**

The following bids were received on February 27, 2001:

<u>Contractor</u>	<u>From</u>	<u>Bid Amount</u>
Reyes Construction, Inc.	Grand Junction	\$397,406.15
Mays Concrete, Inc.	Grand Junction	\$418,240.00
Engineer's Estimate		\$451,845.00

*Action: Award Contract for 2001 Alley Improvement District, Phase A, to Reyes Construction, Inc., in the Amount of \$397,406.15*

4. **Setting a Hearing on Berthod Annexation Located at 2982 Gunnison Avenue** [File #ANX-2001-033]

The 0.712-acre Berthod Annexation consists of one parcel of land located at 2982 Gunnison Avenue. The property owner would like to build a 100' Telecommunication Tower with equipment shelters, which, under the 1998 Persigo Intergovernmental Agreement, requires development in this area to be annexed.

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

Resolution No. 20-01 – 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 – Berthod Annexation Located at 2982 Gunnison Avenue

*Action: Adopt Resolution No. 20-01 and Set a Hearing for April 18, 2001*

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

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Berthod Annexation, Approximately 0.712 Acres, Located at 2982 Gunnison Avenue

*Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for April 18, 2001*

5. **Setting a Hearing on Cantrell Annexations No. 1 and No. 2, Located at 2930 North Avenue** [File #ANX-2001-052]

The 3.09-acre Cantrell Annexation area consists of one parcel of land, approximately 2.71 acres in size, located at 2930 North Avenue. The remaining acreage is comprised of approximately 703 feet of right-of-way along North Avenue. There are no existing structures on the site. 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. 21-01 – 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 – Cantrell Annexation, a Serial Annexation Comprising Cantrell Annexation No. 1 and Cantrell Annexation No. 2, Located at 2930 North Avenue and Including a Portion of the North Avenue Right-of-Way

*Action: Adopt Resolution No. 21-01 and Set a Hearing for April 18, 2001*

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

(1) Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Cantrell Annexation No. 1, Approximately 0.38 Acres, Located at 2930 North Avenue and Including a Portion of the North Avenue Right-of-Way

(2) Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Cantrell Annexation No. 2, Approximately 2.71 Acres, Located at 2930 North Avenue and Including a Portion of the North Avenue Right-of-Way

*Action: Adopt Proposed Ordinances on First Reading and Set a Hearing for April 18, 2001*

6. **Setting a Hearing on Zoning Traver Annexation to RSF-4, Located at 2980 Rood Avenue/2986 D Road** [File #ANX-2001-011]

The 31.98-acre Traver Annexation located at 2980 Rood Avenue/2986 D Road consists of two parcels 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 Traver Annexation to Residential Single Family with a Maximum Density of 4 Units per Acre (RSF-4) Located at 2980 Rood Avenue and 2986 D Road

*Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for March 21, 2001*

7. **Modified Street Section for Grand Mesa Center Frontage Road Located at 2464 Highway 6 & 50** [File #PP-2000-234]

The developer of the Grand Mesa Center requests a waiver from the City's standard street section drawings to allow for a modified street section for the frontage road. There is no standard for a frontage road in the City's standard drawings. Council action is required to permit a 24-foot asphalt mat in a 35-foot right-of-way for the frontage road.

*Action: Approval of Modified Street Section Request*

8. **Setting a Hearing on Amending Chapter 36 of the City Code of Ordinances Regarding Unsafe Backing**

On December 6, 2000, the 1995 Model Traffic Code was adopted, which included a provision referring to backing a car in such a manner so as not to be unsafe. The current reading of this section refers only to backing when it occurs on public or private parking lots, the shoulder of any road, or a controlled-access highway. This amendment removes the "controlled-access" portion of the ordinance, making this section of the Code one that can be charged throughout the City, protecting all citizens, no matter where they may be travelling.

Proposed Ordinance Amending Chapter 36, Section 36-38(b) of the Code of Ordinances of the City of Grand Junction, Colorado Regarding Unsafe Backing

*Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for March 21, 2001*

9. **Schedule Special City Council Meeting for March 19, 2001 to Make a Decision on the Ten Commandments**

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

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

**PUBLIC HEARING – 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.

Mayor Kinsey opened the public hearing at 7:43 p.m.

Dave Thornton, Principal Planner, Community Development Department, reviewed this item. The petitioner had nothing to add.

There were no public comments. The public hearing closed at 7:44 p.m.

**a. Resolution Accepting Petition**

Resolution No. 22-01 – A Resolution Accepting Petitions for Annexation, Making Certain Findings, Determining that Property Known as Moore Annexation is Eligible for Annexation, Located at 457 31 Road and Including a Portion of the 31 Road and E Road Rights-of-Way

**b. Annexation Ordinance**

Ordinance No. 3329 – An Ordinance Annexing Territory to the City of Grand Junction, Colorado, Moore Annexation, Approximately 4.87 Acres, Located at 457 31 Road and Including a Portion of the 31 Road and E Road Rights-of-Way

Upon motion by Councilmember Terry, seconded by Councilmember Scott and carried by roll call vote, Resolution No. 22-01 was adopted and Ordinance No. 3329 was adopted on second reading and ordered published.

**PUBLIC HEARING - ZONING MOORE ANNEXATION RMF-5, LOCATED AT 457 31 ROAD**

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.

Mayor Kinsey opened the public hearing at 7:44 p.m.

Dave Thornton, Community Development Department, reviewed this item.

There were no public comments. The public hearing closed at 7:45 p.m.

Ordinance No. 3330 - An 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.

Upon motion by Councilmember Payne, seconded by Councilmember Theobold and carried by roll call vote, Ordinance No. 3330 was adopted on second reading and ordered published.

Councilmember Cindy Enos-Martinez entered the meeting.

**PUBLIC HEARING - AMENDING THE ZONING AND DEVELOPMENT CODE  
ADDING A SECTION ON INSTITUTIONAL AND CIVIC FACILITY MASTER  
PLANS AND ESTABLISHING A REVIEW FEE [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. The resolution establishes a review fee.

Mayor Kinsey opened the public hearing at 7:46 p.m.

Kathy Portner, Acting Community Development Director, reviewed the item. This amendment was first considered as a result of the St. Mary's Master Plan. The proposal was sent to other institutions such as the School District, the Library, Community Hospital and Mesa State College. She then distributed a letter from the School District addressing the proposal.

Councilmember Terry asked Ms. Portner to elaborate on what type of studies the institution would have to prepare in order to meet the requirements of the new code. Ms. Portner replied that it would depend on the project. The studies needed would be required for the plan anyway, at a later step in the review process. If there is no major impact, additional studies would not be required.

Councilmember Spehar asked Ms. Portner if, relative to the letter from the School District and the attached excerpt from the statute, she anticipates the facility's master plan being the same as the sub-development plan referenced in the statute, and would it be treated the same? Ms. Portner responded that she believed so.

City Attorney Wilson stated this point has always been made and understood by all parties.

There were no public comments. The public hearing was closed at 7:55 p.m.

Councilmember Spehar stated he felt this change to the Code was appropriate for larger projects.

Ordinance No. 3331 – An Ordinance Amending the Zoning and Development Code, Institutional and Civic Facility Master Plans

Resolution No. 23–01 – A Resolution Amending Development Application Fee Schedule

Upon motion by Councilmember Spehar, seconded by Councilmember Scott and carried by roll call vote, Ordinance No. 3331 was adopted on second reading and ordered published, and Resolution No. 23-01 was adopted.

### **DISCUSSION OF VALLE VISTA ALTERNATIVES FOR 201 SEWER SERVICE BOUNDARY ADJUSTMENTS**

On December 13, 2000 the City Council instructed staff to develop alternatives that might allow homeowners on Orchard Mesa, adjacent to the Valle Vista Sewer Interceptor, to connect to the line if they have failed septic systems. Staff from Utilities and the City Attorney's office has developed a number of alternatives to that end. Staff would like input from Council as to the alternatives so that Council's preferred alternatives can be discussed with Mesa County prior to the April 2, 2001 public hearing.

Greg Trainor, Utilities Manager, introduced this item and stated he would respond to questions. A public hearing is scheduled with Mesa County on April 2, 2001. At the September, 2000 meeting, no agreement had been made between the City and County. At that time, the City Attorney and the Utility Manager were directed to come up with other alternatives. Staff has developed some alternatives but are uncertain if they are ones that both entities can agree on. Once an area is sewerred, growth will more than likely occur. Mr. Trainor stated he would like to narrow the list down to a couple of alternatives for the April 2, 2001 meeting.

City Manager Arnold stated there may possibly be more alternatives after talking with the County.

City Attorney Wilson said the County had also allowed for additional taps the City had not granted. There were nine granted during the lawsuit and before the Persigo Agreement was signed. Mr. Trainor said that five have been constructed and there are four outstanding granted taps.

Councilmember Theobold asked City Attorney Wilson to clarify the authority of granting taps. City Attorney Wilson stated Council has the authority to grant the

taps. The Orchard Mesa taps were traded for easements by the Orchard Mesa Sanitation District. However, the Orchard Mesa taps are no good without a Persigo tap granted by the City.

Staff then presented the different alternatives with the use of maps. First, the most restrictive and present alternate, showing four existing taps that do not comply with the agreement. The next was an alternative that allowed for those homes which leads to a lot of "bleed out", i.e. that others perhaps closer to the line would have a good argument as to why they would not be allowed to hook-up when they were closer to the sewer line than their neighbor. The third alternative would open up the whole area, expanding the definition. Lastly, include the whole area and have no build dates restrictions.

Mayor Kinsey suggested that Council compromise incrementally until a point of agreement can be reached with the County.

Councilmember Theobald said the goal of the Persigo Agreement is a mutual agreement. With no mutual agreement, then there are no agreements.

Councilmember Terry agreed overall, except for the area where some room had been left open for discussion on the Persigo boundary. A decision has been promised. She asked Kathy Portner to clarify the reaffirmation of the Orchard Mesa Plan that the area in question was to remain agricultural.

Councilmember Spehar asked Ms. Portner for any technical advice, given the reconfirmation of the plan and the issues and extensions, is it possible those two could work together or would there be direct conflict. Ms. Portner responded that once services are available, the pressure for development increases.

Councilmember Spehar stated he was having a difficult time, given the history, initial discussions and recent reconfirmation of the plan, getting to a place where Council cannot uphold the plan.

Councilmember Terry asked how Council could not uphold the plan and how could Council render it invalid. She stated that if they extend the sewer in any way, Council negates it.

Councilmember Spehar suggested that one alternative would be not to allow any more taps.

Councilmember Theobald stated Council doesn't have the political will to take anyone off the sewer line, so that's the compromise, let those connections remain. It is preferable to have development occur from the center out and avoid hopscotch development, which has occurred during the last forty years.

Councilmember Spehar clarified with City Attorney Wilson regarding the taps that have been granted but not yet hooked up, could Council say no to them being connected. City Attorney Wilson said that was correct.

Mr. Trainor commented that the four taps outstanding have no particular location but are tied to certain parcels.

Councilmember Theobald suggested making specific exceptions for the existing four taps and existing structures, which would otherwise be required to be disconnected, but not to open it up to different build dates, different parcels, etc.

City Attorney Wilson stated Council could draft an agreement of a practical exception to the agreement.

Councilmember Terry asked if this would set a precedent if an amendment is written that deals with this situation. City Attorney Wilson responded that it would be better to include these circumstances and how they occurred in the Persigo Agreement and acknowledge it as an error.

Councilmember Spehar stated that was as far as he was willing to go. He is willing to correct the error but not willing to allow this error to be passed on.

Councilmember Terry stated her dilemma regarding the untapped taps is with the individual that had that agreement and Council now saying this is null and void.

City Attorney Wilson stated Council could address existing tap agreements in the language of the amendment.

Councilmember Theobald clarified that this would be for just existing taps.

Mayor Kinsey stated this would be to clarify specific parcels, and not as part of a general plan.

City Attorney Wilson cautioned Council not to make a decision tonight but to leave the door open for the meeting with the Commissioners and after public testimony.

Councilmember Scott was still concerned about considering the additional four taps agreements.

City Attorney Wilson stated those specific agreements need to be reviewed to see which parcels they are, and acknowledge Council was not aware of the agreement of exchanging taps for easements.

Councilmember Terry commented that these issues should have been brought before the Council during the negotiations with the sanitation districts.

Mayor Kinsey stated there are questions about physical connections that happened after they should have, and there are questions of unconstructed taps. Council wants to retain the integrity of the Orchard Mesa Plan and the Persigo Agreement, but will address these five or nine taps as a separate issue.

## **OTHER BUSINESS**

### **29 Road Construction**

Connie Cass, 266 27½ Road, addressed Council. She lives on Orchard Mesa and asked Council to consider the impact of the 29 Road construction to the area. She feels this would add more development pressure along that corridor. Many are counting on the aforementioned agreement, i.e., the Orchard Mesa Neighborhood Plan.

### **Ten Commandments Discussion**

Marija Vader, Daily Sentinel reporter, asked Council to continue to keep discussions on the Ten Commandments in public session.

City Attorney Wilson stated of course Council would, because of statute requirements. But any attorney advice to clients will be done in private session, such as risks, costs, etc.

Councilmember Terry said Council had no intention of making a decision on the Ten Commandments that would be unlawful and the attorney would address the litigation issues.

City Attorney Wilson stated the potential for the suit to be filed is crystal clear to him based on his conversation today with two ACLU attorneys. He said there could be some options that the ACLU attorneys would be willing to discuss, however.

## **ADJOURNMENT**

Council adjourned into executive session at 8:55 p.m. to discuss pending litigation.

Stephanie Nye, CMC  
City Clerk