

**GRAND JUNCTION CITY COUNCIL
MINUTES OF SPECIAL MEETING**

March 19, 2001

The City Council of the City of Grand Junction convened into special session the 19th day of March 2001 at 7:00 pm at the City Auditorium. Those present were Cindy Enos-Martinez, 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.

Mayor Kinsey announced that since a meeting for public input had already taken place, Council would not be taking any public comment this evening.

Ten Commandments Monument

Councilmember Theobold distributed a proposed resolution to retain the monument. The beginning of the resolution was the history of the monument, the last three "Whereases" were more specifically related to City of Grand Junction's issues. He also reviewed a suggested a process for creating a Plaza.

Councilmember Spehar distributed and read a resolution to remove the monument. This included establishing a nine-member committee to determine a location for it to be relocated.

Mayor Kinsey stated that the majority wants the monument to stay; yet this country is not about majority rules, but rather a constitutional republic. The display, as it stands now, does not meet the definition of the Supreme Court, and he feels that removing it would not take away the majority's rights.

Councilmember Terry stated that she had learned a lot about the Constitution through all of this and how it affects our daily lives. She also stated she believes there may be some legal basis for displaying the monument; by doing so will represent the majority of constituents. She felt comfortable with Councilmember Theobold's option.

Councilmember Scott stated that Council is obligated to uphold the law. Council has had a lot of calls both ways and believes Council has tried to respond to all with a gentle tongue. There are several entrances to City Hall and he cannot see how the current placement of the Ten Commandments is a problem for people entering City Hall. He stated that the monument, as it stands, is not promoting a religion. The majority of people entering City Hall don't really even look at it. He likes what Councilmember Theobold has proposed, but stated it may need some minor adjustments. He would like to see the community more involved. He has looked at it both ways and feels it should stay with other monuments.

Councilmember Enos-Martinez stated that she took the same oath as the other six Councilmembers, but stated she supports leaving the monument there with a disclaimer. She agrees with most of what Councilmember Theobold's proposal as well.

Councilmember Payne said that he was unable to find anywhere in the Constitution where it stated the monument cannot be displayed as it is. He stated that judges across the country are unable to agree on this issue, so he has no problem supporting leaving the monument where it stands. It is not necessary that majority rules, but he is going to put it on a principle that he does not believe a small minority of people should be able to tell the majority the Ten Commandments should be removed. He asked, if it can be shown where in the Constitution it states this is unlawful, then he would likely change his mind. As stated before, lawyers and judges are unable to agree. He likes Councilmember Theobold's ideas, it is something to pursue and feels that the Plaza could be done in good taste. He would like to see more monuments displayed in front of City Hall and the disclaimer would be appropriate.

Councilmember Theobold would like to hear suggestions on changes to the process, but could be discussed further at a later time. He suggested that Council make the decision tonight on whether or not to keep the monument and to discuss the process later. There has been no lawsuit filed yet and the chances of a lawsuit may be reduced by adding the disclaimer. Knowing the plaza will be created may lessen the probability of a lawsuit even more. The disclaimer would indicate that the City is not promoting a religion. The Ten Commandments Monument cannot be treated as a religious monument; therefore, the message would not be diluted. He stated education is important and other important documents, such as the Declaration of Independence, Magna Carta, Mayflower Compact and others, would be appropriate and important for children to see, read and appreciate. These seem to be unsung aspects of our cultural heritage.

Councilmember Spehar stated that he appreciated promoting those other documents and is convinced that Council has not seen the end of this. He stated he is bothered by this resolution, and that it seems pretty clear Council is attempting to preserve the Ten Commandments in front of City Hall. He stated that he is concerned Council is setting themselves up for something in the future. He quoted a friend as saying there is a time to be smart, and a time to be wise. He feels the issue is not whether they stay or go but what the Ten Commandments are within us. He reminded Council that this did not just start a few months ago, and that in the files is a letter from two years ago suggesting the Ten Commandments be removed. Various community leaders have wondered how the City has gotten away with it. He therefore suggests, respectfully, to relocate it promptly and get on with the business of local government.

Councilmember Enos-Martinez stated that she agrees this may not be the end of the discussion. A concern, though, is if Council decides to relocate the monument, would this be setting a precedent for the next group who finds something offensive at City Hall, and then it must be removed as well.

Councilmember Spehar said that each case should be determined on its own individual merits.

Councilmember Payne stated that Council has not heard the end of this discussion. If Council decides to remove the monument, it won't be the end of it either. There is a strong population in the community that will be speaking loud, rather than face a legal problem.

Councilmember Spehar stated that he doesn't disagree, but feels that it is time to move on. It is obvious the direction Council is headed, and is concerned with what the legal and constitutional issues are. He also stated the time involvement and the potential six-figure loss.

Councilmember Terry commented on Mr. Spehar's statement that this does not need to be a decision that is just classified as smart but wise, and believes that those who wrote our Constitution were wise. They also cited religious beliefs as a basis for the formation of our Constitution. She does not see this issue as a characterization of religious versus secular, but represents both religious and secular as some of the basics of the Ten Commandments are adopted by the law. Based upon the legal advice Council has received, she believes this is a legal decision and believes there is a legal basis for Mr. Theobold's proposal. She also does not feel this is an unwise expenditure of taxpayers dollars.

Councilmember Payne stated that this not a foregone conclusion that this would be defeated in court.

Councilmember Spehar clarified that he doesn't feel this would necessarily be defeated in court. He stated that the City could face a couple of years of trouble and prolong the controversy. The City may win in the courts but wonders at what cost.

Councilmember Theobold stated he feels that Mr. Spehar is also referring to the emotional cost, not only the financial cost, and agrees with him. But he feels Council will face that either way and that is why he not swayed by trying to avoid the decision. But rather, he wants to do what is right and sound and let those who want to turn this into a prolong battle let them do so on their own desire.

Upon motion by Councilmember Theobold, seconded by Cindy Enos-Martinez, Resolution No. 28-01 was adopted by roll call vote, with Councilmember Spehar and Mayor Kinsey voting **NO**.

Discussion ensued on the process of designing the Plaza. Councilmember Theobold moved to accept the process with item 3 being changed to include that citizens could nominate monuments.

City Attorney Wilson stated that the best odds were to use dates, deadlines and to specifically direct staff to put something together quickly.

Councilmember Payne felt the July 4, 2001 date was too quick. The rest of the Council felt that date was fine.

Councilmember Theobold suggested the disclaimer be in place by Wednesday. Councilmember Terry stated that it would be in a temporary form pending a permanent sign in order to expedite putting the disclaimer in place.

Councilmember Theobold moved the City of Grand Junction use the disclaimer from Pocatello, Idaho with one change, which is to add "Thomas" to Jefferson. The disclaimer was read to Council. Councilmember Scott seconded the motion.

Councilmember Theobold restated the motion on the process with #3 adding that the public can nominate monuments for consideration by April 13, 2001 with Council voting on April 16, 2001. Councilmember Terry discussed how this should be publicized and nominations solicited through advertising. Assistance would be needed, such as landscape architects, who may be willing to donate their expertise. It should also note solicitation of funds from any party wanting or willing to contribute to this fund and suggested monuments.

City Manager Arnold asked if the monuments would need to be current, existing monuments or are they to be newly made.

Councilmember Spehar stated Council should not dismiss redesigning the display.

Councilmember Terry stated Council could define recommendations for the monuments including concept designs.

The second to Councilmember Theobold's motion was reiterated by Councilmember Scott. The motion carried by a unanimous vote of the Council.

ADJOURNMENT

Mayor Kinsey adjourned the special meeting at 8:00 p.m.

Stephanie Nye, CMC
City Clerk