

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

**May 2, 2001**

The City Council of the City of Grand Junction convened into regular session the 2<sup>nd</sup> day of May, 2001 at 7:30 p.m. at the City Auditorium. Those present were Councilmembers Cindy Enos-Martinez, Earl Payne, Jack Scott, Jim Spehar, Janet Terry, Reford Theobald, and President of the Council Gene Kinsey. Also present were Assistant City Manager David Varley, City Attorney Dan Wilson, and City Clerk Stephanie Nye.

Council President Kinsey called the meeting to order and led in the Pledge of Allegiance. The audience remained standing during the invocation by Joe Jones, Redlands Pentecostal Church of God.

**PROCLAMATION DECLARING MAY 12, 2001 AS “GRAND JUNCTION LETTER CARRIERS STOCK THE COMMUNITY FOOD BANKS DAY” IN THE CITY OF GRAND JUNCTION**

**PROCLAMATION DECLARING THE WEEK OF MAY 6, 2001 AS “NATIONAL TOURISM WEEK” IN THE CITY OF GRAND JUNCTION**

**PRESENTATIONS TO MAYOR GENE KINSEY, COUNCILMEMBER EARL PAYNE AND COUNCILMEMBER JACK SCOTT FOR THEIR SERVICE TO THE COMMUNITY**

**CONSENT ITEMS**

Upon motion by Councilmember Payne, seconded by Councilmember Jack Scott, and carried by roll call vote, the following Consent Calendar Items #1-8 were approved.

1. **Minutes of Previous Meetings**

*Action: Approve the Summary of the April 16, 2001 Workshop and the Minutes of the Regular Meeting April 18, 2001*

2. **Use of Undergrounding Funds Held by XCEL Energy for 29 Road Improvement Project, Phase 1**

Overhead to Underground funds have been programmed for the 29 Road Improvement Project. The first phase of the project will underground power lines from 850 feet south of North Avenue to 425 feet north of North Avenue.

Resolution No. 42-01 – A Resolution Authorizing Public Service of Colorado dba XCEL Energy to Use the City of Grand Junction Overhead to Underground One

Percent (1%) Funds for the 29 Road Improvement Project, Phase 1, as Established in the Ordinance Granting a Franchise Signed November 4, 1992

*Action: Adopt Resolution No. 42-01*

3. **Easement across City-Owned Property to the Public Service Company of Colorado for a Natural Gas Pipeline**

Public Service is in the permitting stage with the Bureau of Land Management and Mesa County to install a 6-inch high-pressure natural gas pipeline from Whitewater to Palisade. The pipeline will cross 3 City properties located on east Orchard Mesa.

Resolution No. 43-01 – A Resolution Authorizing Conveyance of an Easement across City-owned Property in Whitewater to Public Service Company aka EXCEL Energy

*Action: Adopt Resolution No. 43-01*

4. **Agreement for Surplus Water from Green Mountain Reservoir**

Five-year, no-charge agreement between the Bureau of Reclamation, the Town of Palisade, City of Grand Junction and the City of Fruita for delivery of surplus water from Green Mountain Reservoir, to the Colorado River between Palisade and Loma, for instream municipal recreation purposes with incidental benefits to endangered fish species.

*Action: Authorize the City Manager to Sign the Agreement for Surplus Water from Green Mountain Reservoir*

5. **Setting a Hearing on Grand Meadows Annexation Located at 30 Road and Gunnison Avenue** [File #ANX-2001-080]

Resolution for referral of petition to annex Grand Meadows Annexation located at 30 Road and Gunnison Avenue, and including a portion of 30 Road right-of-way.

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

Resolution No. 44-01 – 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 – Grand Meadows

Annexation Located at 30 Road and Gunnison Avenue and Including a Portion of the 30 Road Right-of-Way

*Action: Adopt Resolution No. 44-01*

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

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Grand Meadows Annexation, Approximately 9.65 Acres Located at 30 Road and Gunnison Avenue and Including a Portion of the 30 Road Right-of-Way

*Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for June 6, 2001*

**6. Setting a Hearing on C & K Annexation Located at 2521 River Road**

[File #ANX-2001-092]

Resolution for referral of petition to annex the C & K Annexation located at 2521 River Road.

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

Resolution No. 45-01 – 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 – C & K Annexation Located at 2521 River Road

*Action: Adopt Resolution No. 45-01*

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

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, C & K Annexation, Approximately 9.935 Acres Located at 2521 River Road

*Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for June 6, 2001*

**7. Setting a Hearing on Zoning Gamble/Sage Annexation Located at 3070 I-70B**

[File #ANX-2001-043]

The petitioner had requested the zoning designation of C-2 (Heavy Commercial) be placed upon the property upon annexation to the City. Upon review of adjacent County and City zoning, Staff is suggesting the zoning designation of C-1 (Light Commercial) be recommended. The applicants are currently in the site plan review process for a new office building and enclosed workshop/garage facility with screened outdoor storage.

Proposed Ordinance Zoning the Gamble/Sage Annexation to Light Commercial (C-1), Located at 3070 I-70 B

*Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for May 16, 2001*

8. **Setting a Hearing on Zoning Snidow Annexation Located at 3165 D Road**  
[File #ANX-2001-062]

This 34.14-acre annexation consists of one parcel of land. Request for first reading of the zoning ordinance to rezone the annexation area from County AFT to City C-2. The rezone area is located at 3165 D Road and includes portions of the 29 5/8 Road and D Road Rights-of-Way.

Proposed Ordinance Zoning the Snidow Annexation to the General Commercial (C-2) Zone District, Located at 3165 D Road

*Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for May 16, 2001*

Staff presentation: Pat Cecil, Development Services Supervisor

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

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

**CONSIDER RESCINDING EMINENT DOMAIN ACTION FOR 159 COLORADO AVENUE**

On March 21, 2001, Council adopted Resolution No. 26-01 to enact possible condemnation proceedings to attain Colorado Catfish Company. This resolution rescinds the action directed in Resolution No. 26-01.

David Varley, Assistant City Manager, presented the background on this issue. He stated that it appears the plan for Two Rivers Convention Center does not require the City to purchase the Colorado Catfish Restaurant. Council may then decide not to proceed with the eminent domain and possible condemnation of the property.

Councilmember Terry stated she thinks that it would ideally be better for the entire plan to purchase the property at some point. She asked the City Attorney what the options would be for Council should it be deemed necessary to negotiate the purchase of the property in the future. City Attorney Dan Wilson said this resolution would actually take Council back prior to the previous resolution declaring eminent domain and condemnation. By adopting this resolution to rescind eminent domain and condemnation, Council is not giving up the power to take this step again in the future.

Councilmember Spehar asked Mark Relph, Public Works Director, how the Code would be met; including parking space numbers, discussions on the intersection issue and if the roundabout could be accomplished without this property. Mr. Relph responded that additional parking for the additional space does meet Code. When looking at the design of the intersection, the City was able to plan the intersection improvements specifically with a roundabout and still provide legal access off Second Street for the business. Colorado Avenue will be closed and become a parking lot.

Councilmember Spehar clarified that the design of the intersection was not being altered. Mr. Relph stated that there was a slight shift to the north but nothing remarkable.

Councilmember Terry said she recalled one major alteration was in the parking area. Mr. Relph stated that was correct. The interior landscaping scheme is different.

Mr. Spehar asked Kathy Portner, Acting Community Development Director, if the City was meeting the Code with the additional parking for the additional space. Ms. Portner said that was correct. Two Rivers has a parking deficiency as it exists but under Code the City is not required to meet that deficiency.

Mayor Kinsey stated he felt overall it would be preferable to purchase the property. It would provide more parking, even though it is not necessary under the letter of the law. The design would look better. He understands the reluctance of Council to use eminent domain and condemnation. He urged Council to authorize the City Manager to negotiate the purchase of the property at an agreeable cost in the future. He also stated, that in this case, Council should rescind the power of eminent domain.

Councilmember Terry agreed with Mayor Kinsey's comments and reiterated that this evening's decision would not preclude Council from pursuing eminent domain of this property in the future if deemed necessary.

Councilmember Spehar commented that he would be voting against this motion. Eminent domain and condemnation is not the issue, rather the deficiency in parking and change of design are the driving concerns.

Councilmember Theobold was uncomfortable with the original decision for condemnation but was not present at that meeting when it was originally voted on.

Resolution No. 46-01 – A Resolution Rescinding the Authority to Exercise the City's Power of Eminent Domain as it Relates to Lots 11 and 12, Inclusive, Block 122

Upon motion by Councilmember Terry, seconded by Councilmember Theobold and carried by roll call vote with Councilmembers **SCOTT and SPEHAR** voting **NO**, Resolution No. 46-01 was adopted.

**PUBLIC HEARING - CORRECTING THE ZONING FOR FAIRCLOUD SUBDIVISION,  
LOCATED AT THE NORTHEAST CORNER OF F½ ROAD AND 30 ROAD**  
[FILE #FPP-1999-280R]

Faircloud Subdivision was mistakenly zoned to RSF-4 with adoption of the new zoning map. It should have been zoned to PD to reflect the approved PR 3.4 zone on the parcel as part of the approved Faircloud Subdivision. At its hearing on April 10, 2001 the Planning Commission recommended approval of this request.

Bill Nebeker, Senior Planner, reviewed the Community Development Department request to correct zoning that was incorrect when the zoning map was initially adopted. The area had been inadvertently zoned RSF-4 and the request is to change it to PD, which is Planned Development.

Councilmember Theobold asked if this change was brought forth at the City's expense and not at the applicant's expense. Mr. Nebeker stated that was correct and the applicant is in agreement with the request. The owner of the property is Stan Seligman.

Councilmember Spehar asked if the Planning Commission would offer its approval. Mr. Nebeker responded it would.

There were no public comments. Mayor Kinsey closed the public hearing at 8:02 p.m.

Ordinance No. 3341 – An Ordinance Correcting Zoning of the Faircloud Subdivision, Located at the Northeast Corner of F½ Road and 30 Road from RSF-4 to PD

Upon motion by Councilmember Spehar, seconded by Councilmember Payne and carried by roll call vote, Ordinance No. 3341 was adopted on second reading and ordered published.

**PUBLIC HEARING - VACATING FLORIDA STREET RIGHT-OF-WAY IN WHITE WILLOWS SUBDIVISION, LOCATED AT 2851 D ROAD** [FILE #VR-2001-059]

Pat O'Connor, Banner Associates, representing the applicant, reviewed the request.

In conjunction with the approval of White Willows Subdivision Filing 1, the applicant requests to vacate Florida Street right-of-way within the boundaries of this development. The purpose of the vacation is to align the street with the existing location of the water and sewer lines, which is approximately 100 feet south of the unimproved right-of-way. At its hearing on April 10, 2001, the Planning Commission recommended approval of this request.

Councilmember Spehar asked Mr. O'Connor to indicate on the map the two locations being discussed. Mr. O'Connor did so. Councilmember Spehar asked if the vacated right-of-way would then become a part of the adjoining properties. Mr. O'Connor answered yes, and they would align with the existing streets.

Bill Nebeker, Senior Planner, stated the only part being vacated is within the boundaries of development. The rest will not be vacated until such time as those properties are developed.

Councilmember Theobald asked if in connecting Florida Street, to what extent the utilities follow the right-of-way as they exist. Mr. Nebeker stated he was not familiar with the whereabouts of the utilities further west of that property and that eventually the street alignment would need to be altered as the parcels develop.

Councilmember Theobald said his concern was that changing the street on one end would require changes on the other end. The City needs to be aware of and prepared for this. Mr. Nebeker stated that was correct. He said the main street plan should be reviewed for street connections and amendments made if needed.

Councilmember Terry asked why the rest of the area was not being vacated indicating a realignment now. Mr. Nebeker responded the owners have not requested or initiated this discussion. He stated the appropriate time would be when the properties were developed.

Mr. Nebeker noted Skylar Subdivision could connect to northwest Florida Street when those areas were developed.

There were no public comments. Mayor Kinsey closed the public hearing at 8:16 p.m.

Councilmember Theobald said he did not like changing road alignments, but Council would have to deal with it. Adjustments would be necessary due to the bizarre utility alignment. He wished there was more information on what is going on to the west of the area and how it might be solved on the other end. He would have preferred a more complete picture of the situation. Given the little information, Council has to accept this as it is.

Ordinance No. 3342 – An Ordinance Vacating Florida Street Located at the 28½ Road Alignment within the Approved White Willows Subdivision, being a Portion of Bevier Subdivision

Upon motion by Councilmember Theobald, seconded by Councilmember Payne and carried by roll call vote, Ordinance No. 3342 was adopted upon second reading and ordered published.

### **PUBLIC HEARING - SUPPLEMENTAL APPROPRIATION ORDINANCE FOR THE 2001 BUDGET**

The request is to appropriate specific amounts for several of the City's accounting funds as specified in the ordinance.

Ron Lappi, Director of Administrative Services and Finance, reviewed the request. He asked that appropriations in the amount of \$15,654,000 be carried forward. The majority of appropriations would be for capital projects.

There were no public comments. Mayor Kinsey closed the public hearing at 8:21 p.m.

Ordinance No. 3343 – An Ordinance Making Supplemental Appropriations to the 2001 Budget of the City of Grand Junction

Upon motion by Councilmember Spehar, seconded by Councilmember Enos-Martinez and carried by roll call vote, Ordinance No. 3343 was adopted on second reading and ordered published.

### **OTHER BUSINESS**

Councilmember Terry said farewell to fellow Councilmembers Payne, Scott and Kinsey and stated that they would be missed.



Councilmember Spehar noted Mayor Kinsey had not missed one Council meeting since his election to City Council.

**ADJOURNMENT**

Upon motion by Councilmember Payne, seconded by Councilmember Scott and carried, the meeting was adjourned into Executive Session at 8:23 p.m. to discuss pending litigation on Christian v City and on Hickman.

Stephanie Nye, CMC  
City Clerk