

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

DECEMBER 19, 2001

The City Council of the City of Grand Junction convened into regular session the 19th day of December, 2001 at 7:34 p.m. in the City Auditorium. Those present were Harry Butler, Dennis Kirtland, Bill McCurry, Janet Terry, Jim Spehar and President of the Council Cindy Enos-Martinez. Reford Theobald was absent. Also present were City Manager Kelly Arnold, City Attorney Dan Wilson and City Clerk Stephanie Tuin.

Council President Enos-Martinez called the meeting to order and Councilmember Butler led in the pledge of allegiance. The audience remained standing for the invocation by Retired Minister Eldon Coffey.

APPOINTMENTS

APPOINTMENT TO THE HOUSING AUTHORITY

Councilmember Butler moved to reappoint Gabe DeGabriele to the Grand Junction Housing Authority for another five-year term. Councilmember Spehar seconded. Motion carried.

CERTIFICATES OF APPOINTMENT

TO PLANNING COMMISSION AND BOARD OF APPEALS MEMBERS

None were present to accept their certificates.

CITIZEN COMMENTS

There were no citizen comments.

CONSENT CALENDAR

It was moved by Councilmember Terry, seconded by Councilmember McCurry and carried by roll call vote to approve Consent Items # 1 through #5.

1. **Minutes of Previous Meetings**

Action: Approve the Summary of the December 3, 2001 Workshop and the Minutes of the December 5, 2001 Regular Meeting

2. **Setting a Hearing on Ordinance Adopting Amendments to Retirement Plans for Specified City of Grand Junction Employee Groups**

The City of Grand Junction, Colorado Employees Retirement Plan, The New Hire Fire Money Purchase Plan and the New Hire Police Money Purchase Plan have been amended to incorporate Internal Revenue Code (IRC) amendments that have been passed by Congress since 1994. These amendments must be incorporated into the aforementioned Plans by February 28, 2002 in order for the Plans to retain their tax-qualified status. Two minor amendments requested by the respective Plan Boards to add flexibility to the Plans are also included herein.

Proposed Ordinance Adopting Amendments to Retirement Plans for Specified City of Grand Junction Employee Groups

Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for January 2, 2002

3. **Indemnification Agreement at Redlands Mesa Golf Club**

As a condition of approval of the Redlands Mesa development, a public trail is required through parcel 9 and the golf course property. The developer has agreed to provide the trail easement provided the City indemnifies the golf landowner and developer from any claims, actions, damages, costs or liabilities arising from errant golf balls striking a user of the public trail easement.

Action: Authorize the City Manager to Sign the Indemnification Agreement

4. **Use of Undergrounding Funds for the Independent Avenue Project**

Overhead to Underground funds have been programmed for the Independent Avenue Project, from North 1st Street to approximately 200' west of 25 ½ Road.

Resolution No. 132-01 – A Resolution Authorizing Public Service Company of Colorado D/B/A XCEL Energy to Use the City of Grand Junction Overhead to Underground One Percent (1%) Funds for the Project Defined as Independent Avenue from North 1ST Street to Approximately 200' West of 25 ½ Rd.

Action: Adopt Resolution No. 132-01

5. **Sub-recipient Contract with the Grand Junction Housing Authority for the City's Community Development Block Grant (CDBG) Program [File #CDGB-1999-1]**

This contract formalizes the City's Award of \$205,000 to the Grand Junction Housing Authority for purchase of the building at 2853 North Avenue, which is

presently used as a temporary homeless shelter. These funds were allocated from the City's 1999 Community Development Block Grant Program.

Action: Authorize the City Manager to Sign the Subrecipient Contract with the Grand Junction Housing Authority

END OF CONSENT CALENDAR

ITEMS NEEDING INDIVIDUAL CONSIDERATION

Authorization to Issue Warning Tickets for Parking Violations

Approval of this measure would give the Grand Junction Police Department the authority to issue warning tickets for the first part of January 2002 to all overtime and illegal parking violations. The warning does not apply to handicapped parking violations, which will continue to be enforced. These warning tickets would advise the citizen that the fines for parking violations as well as the meter rates have increased.

Administrative Services and Finance Director Ron Lappi reviewed this item.

Councilmember Kirtland asked about the status of installing the new meters. Mr. Lappi said most have been changed over, the new ones are not in yet but will be installed on time. Monthly passes are currently available.

Councilmember Butler asked if there would be meters installed near the new justice center. Mr. Lappi said yes there would be some installed west of 1st Street.

Upon motion by Councilmember Spehar, seconded by Councilmember Kirtland, and carried, the measure to issue warning tickets to violators during the first part of January was approved.

Public Hearing - Revisions to Zoning and Development Code and Review Fees for Growth Plan Amendment Requests [File # TAC-2001-203]

The Grand Junction Zoning and Development Code was adopted on March 7, 2000, with an effective date of April 22, 2000. As requested by the City Council, this is a review of the Code provisions to determine whether any changes are needed. The majority of the proposed amendments are clerical corrections, formatting and clarifications. The report to the Planning Commission and City Council for the July 30th Workshop listed 22 specific issues that were raised by those who commented on the Code. This update has incorporated those that Planning Commission and Council directed staff to change.

The public hearing was opened at 7:40 p.m.

Planning Manager Kathy Portner reviewed the request. She noted that the changes relative to cell towers is not included in this amendment. The other item is the correlation of density to zoning. Those two items will come to Council later.

She then identified the significant changes:

1. Clarification of the neighborhood meeting notices.
2. Revising the rehearing and appeal section to not require a rehearing to perfect an appeal and to clarify that any recommendation by the Planning Commission whether denied or approved can be forwarded to City Council to be heard.
3. Deleting the surety bond as an option for infrastructure warranty.
4. Addition of a provision to allow the RMF-5 zoning to be considered as Residential Medium Low Density provided the density does not exceed the Growth Plan maximum density.

Councilmember Terry asked that the requirements for the RSF-4 be adjusted instead of adjusting the RMF-5 zoning.

5. Allow RO (Residential Office) be considered in zone districts that are transitional without a growth plan amendment.

Councilmember Terry was concerned that this would allow RO in a lot more areas. Ms. Portner said that the intent statement would limit those areas.

6. Add a provision that would allow transitional lots to not be calculated into the overall density.
7. Inclusion of salvage and recycling yards into the outdoor storage section and adding provisions for new yards.
8. Other Staff recommended changes:
 1. The addition of Ordinances 3331, 3303, 3305 and 3385
 2. Limits the amendments to the Growth Plan to individual review process.
 3. Limits Antennae height.
 4. New recycle impounds lots and salvage yards provisions allowing chain link fence with slats unless a higher standard is required. Also deletes some operations from regulations. Increased allowed height of tire racks.
 5. Amend Section 4. 1. I to allow vegetation as an option for screening.
 6. To refine the references in table clarify regarding the definition of "development area" and "hillside".

Ms. Portner stated that they would also like to request a new section that would include the SSIDS (Submittal Standards for Improvements and Development) Manual, and request the establishment of a fee for Growth Plan Amendment requests.

The last item Ms. Portner discussed is a letter from Larry Beckner regarding the proposed amendments on a land use designation to allow medium density in the B-1 zone district. The Planning Commission agreed with staff not to make any change until compatibility standards can be considered, hopefully in about three months. She deferred to Mr. Beckner for the details.

Larry Beckner, 1241 Gunnison, representing the Bank of Grand Junction pointed out some discrepancies in the language in the Code. He gave some examples that support his request. He felt the criteria being referred to by Ms. Portner is already established. He stated that there are only two classifications to be dealt with in this issue. The RO zone and the B-1 zone, because they are the zones that would allow some commercial within a residential zone. Mr. Beckner suggested that there are some areas where the goal is to infill and while these areas are not suitable for residential, they would be very attractive to very limited business use. He suggested that the language already exists in the present Code to allow for this kind of development.

Julie Fisher, Any Auto Wrecking, referred to the letter she sent (see attached) and the thirteen pages of salvage yard regulations that she and other recyclers had worked on and was almost passed. She said they would forgo the landscaping funding assistance if they could have their proposal approved. Their proposal gives them more protection and is less ambiguous. The new provisions will be applied to them when they have to relocate as anticipated for the new road. Ms. Fisher asks that those that do not move voluntarily be treated as existing (i.e. grandfathered in).

Dick Ennis, 2108 Pheasant Hill Road works for his son on Weslo, (Double D Appliance) re-emphasized how much time was spent working on the thirteen-page proposal that was turned into Council. Council stopped short of adopting due to the funding of the landscaping. Their suggestion allows for complete recycling, otherwise appliances and such get dumped along the roadside or in the desert because the people have no alternative. The County landfill cannot deal with these hazardous wastes like freon any more than the individuals can.

Councilmember Terry asked Ms. Portner to address why the thirteen pages were not accepted. Ms. Portner said the thirteen pages were very detailed for each of the recycling industries and how they would operate within the City. It included financial participation by the City. The major sticking point was that Council had directed that all outdoor storage should be treated the same. Staff was instructed to do an inventory of outdoor storage establishments. The number was pretty big, that made the dollar figure big. Also, there were no provisions there for new businesses. The appliance recycling and illegal dumping provisions allowed more time than others were allowed for junk removal.

City Attorney Dan Wilson explained the history of the writing of the 13 pages, and the overview. The two prime objections were the City's financial participation and the owner's objections that they be treated differently from other outdoor storage. Mr. Wilson detailed some specific examples of how the new regulations would effect this industry, to the detriment of the City, and how important the industry is to this and any City in complying with Federal laws regarding toxic materials. He also addressed the recycling of materials that would otherwise end up in the landfill and ultimately be the responsibility of the City and County.

Councilmember Spehar asked that the differences in the proposed Code and the document submitted earlier be identified.

Mr. Wilson stated that the 13-page document is not as rigorous as what is being proposed by Community Development, but is better than what is allowed presently. Specifically with regard to the expansion of the current businesses.

Councilmember Spehar asked Mr. Wilson to be more specific with regard to the differences using the language of the proposed Code. Mr. Wilson stated that the timeline is one major issue. Mr. Spehar stated that he would need some specifics to be able to understand the issues.

Councilmember Terry questioned whether it is the responsibility of Council to be going through those comparisons at this time without the benefit of detailed information being presented to them.

City Manager Arnold stated that the bottom line in this issue is trust. He stated that Staff has been trying to develop a relationship with the businessmen of the industry, and that Staff believes the Code does work. He further stated that ambiguity with the 13-page document causes problems with enforcement and that is where the real issue of trust emerges. He stated that he is willing to work further on the matter.

Councilmember Terry stated that Council appreciates the time and effort that has been spent on this issue. She indicated that the groups may be real close to consensus, so it might not be a lot more work to find the best solution.

Councilmember Spehar agreed, but stated that without a basis to compare the two sides, he is not comfortable making a decision until there is more information.

Mayor Enos-Martinez asked Ms. Fisher, who was involved in the discussions on this issue, what her main concerns were. Ms. Fisher stated that only two issues are in contention. She agreed it is a matter of trust, and that they also want to take the ambiguity out of the Code. The two issues were the affect on businesses forced to move and the time allowed for processing dumped appliances.

Councilmember Spehar stated that he has a problem with the grandfathering into the Code the future moves and expansions proposed in the 13-page document. Ms. Fisher stated that if that policy were implemented, it would put them out of business.

City Manager Arnold indicated that there is no problem extending the time frame on processing appliances.

Ms. Portner indicated that Code Enforcement has a problem leaving the time frame open-ended. There is no problem just lengthening the time period, but it cannot be left open-ended.

Councilmember Terry indicated that she is not comfortable looking at this issue piecemeal, and would like a description of the changes being proposed. Councilmember Spehar stated that there are two issues on the table that need discussion and that he would like to see some comparison by Staff of the two proposals.

Councilmember Spehar stated that Council should put off Larry Beckner's request, since the appeal is in process, and Council should defer action.

Public hearing closed at 8:54 p.m.

Ordinance No. 3390 – An Ordinance for the Annual Update of the Zoning and Development Code for the City of Grand Junction

Upon a motion by Councilmember Terry, seconded by Councilmember Spehar, and carried by roll call vote, Council approved Ordinance No. 3390 with the exception of 4.1.1.2.c.1 and 4.3.d. and also defer consideration of B-1 zoning allowing medium-high density until compatibility standards are developed (within 4-6 weeks).

Resolution 133-01 – A Resolution Amending the Development Application Fee Schedule

Upon motion by Councilmember Spehar, seconded by Councilmember McCurry, and carried by roll call vote, Council approved Resolution 133-01.

Public Hearing – Growth Plan Consistency Review and Rezoning which includes the Outline Development Plan for 12th Street Medical Plaza and Hospice Care Located at 3090 & 3150 North 12th Street [File #GPA-2001-179]

The applicant is requesting a consistency review for a 100,570 square foot medical office and Hospice development at the site formerly referred to as the Miller Homestead Planned Development. Accompanying the application is a request to rezone the property to a new Planned Development zone and approve an Outline Development

Plan (ODP). At its hearing of November 20, 2001 the Planning Commission recommended approval of these requests.

The public hearing opened at 9:00 p.m.

John Potter, Blythe Design, reviewed the project. There was a previous proposal on this property, which turned out not to be financially feasible. The owners sold the property to Hospice at a reduced price, which makes this project feasible. Primary Care Partners need to expand and will partner with Hospice. Currently PCP has five locations and wants to consolidate into one place. Mr. Potter gave the history and functions of Hospice. Mr. Potter then outlined the timetable for this expansion.

Bill Nebeker, Senior Planner, reviewed the request. His presentation supported the findings of growth plan consistency by combining growth plan policies and the definition of the B-1 Zone District. At the Planning Commission, Staff recommended denial of the proposal because it exceeded the density. However, the Planning Commission found the opposite. Under the rezone request, changing the Planned Development, the ODP process was used, due to the recommendation of Staff. Criteria for Planned Development zones were taken into consideration. The deviation from the standards is in the uses allowed the location and proximity to other commercial uses. Applicants must exceed Code requirements, to meet Planned Development Criteria. The applicant has offered to build a trail, increase landscaping and the use of art. He listed Planning Commission's findings, including improvements to 12th Street, which can handle the increased traffic. Staff recommended approval.

Councilmember Spehar asked how the larger mixed-use development in the whole area compares to residential need. He asked for the quantitative estimate of the office space versus residential space in the overall area. Mr. Nebeker stated that there is only one aspect of consistency, and he didn't know how far it would be necessary to go out to get a true mix, he guessed at 1000 dwelling units. Councilmember Spehar stated that Council is looking at a similar situation to the appeal that is coming to Council. He does not want to set a precedent here that would effect the upcoming issues.

Councilmember Butler asked about the ditch that is located on this property. Mr. Nebeker stated that the ditch is just for drain water and can easily be put underground. Councilmember Butler then asked about the wildlife in the area. Mr. Nebeker said that there is some, but it is not substantial.

Councilmember Kirtland asked for the expectation of what the full build-out will be. Mr. Nebeker stated that in approving a Preliminary Plan, some mechanism for approving each section is built in but there is no build out date. Councilmember Spehar indicated that if this were anyone other than Hospice and Primary Partners, it would be very

difficult to approve moving this large a commercial development into a residential neighborhood under the creative theory needed to get it developed.

City Attorney Wilson stated that Code does not allow for a time imposed on the development schedule. Councilmember Kirtland noted that the length of time could allow more residential to be built, allaying Councilmember Spehar's concern. Councilmember Spehar stated that his concern is that this project has gone from being strictly residential to being largely commercial without having a specific growth plan amendment.

There were no public comments.

The public hearing was closed at 9:33 p.m.

Councilmember Terry stated that she looks at the surrounding areas as not strictly residential, since assisted living is somewhat different. Therefore it is more compatible.

Resolution No. 134-01 – Finding the 12th Street Medical Plaza and Hospice Planned Development Located at 3090 and 3150 North 12th Street to be Consistent with the Growth Plan

Ordinance No. 3391 – An Ordinance Zoning Two Parcels Located at 3090 and 3150 North 12th Street from PD (For Miller Homestead) to PD for the 12th Street Medical Plaza and Hospice Care Planned Development

Upon a motion by Councilmember Spehar, seconded by Councilmember McCurry, and carried by roll call vote, Council approved Resolution No. 134-01 and Ordinance No. 3391.

Public Hearing – Madaris Annexation Located at 539 31 ½ Road [File# ANX-2001-214]

Resolution for Acceptance of Petition to Annex and Second Reading of the annexation ordinance for the Madaris Annexation located at 539 31 ½ Road. The 5.852-acre Madaris Annexation consists of one parcel of land.

The public hearing opened at 9:36 p.m.

Kathy Portner, Planning Manager, reviewed this item. Ms. Portner stated the property meets annexation requirements and is eligible for annexation.

Sherry Madaris, 539 31 ½ Rd, is trying to buy the house, and it must be zoned residential for financing.

There were no other comments.

The public hearing closed hearing at 9:39 p.m.

Resolution No. 135-01 – A Resolution Accepting Petitions for Annexation, Making Certain Findings, Determining that Property Known as Madaris Annexation is Eligible for Annexation Located at 539 31 ½ Road

Ordinance No. 3392 – An Ordinance Annexing Territory to the City of Grand Junction, Colorado, Madaris Annexation, Approximately 5.852 acres, Located at 539 31½ Road

Upon a motion by Councilmember Terry, seconded by Councilmember McCurry, and carried by roll call vote, Council passed Resolution No. 135-01 and Ordinance No. 3392.

Public Hearing - Zoning for the Madaris Annexation Located at 539 31 ½ Road [File #ANX-2001-214]

Zoning ordinance for the Madaris Annexation located at 539 31 ½ Road. The 5.852-acre Madaris Annexation consists of one parcel of land. Planning Commission recommended a Residential Single Family with a maximum of four units per acre (RSF-4) zone district. State law requires the City to zone newly annexed areas within 90 days of the annexation. The proposed City zoning confirms to the Growth Plan's Future Land Use map and recommendation for Residential Medium Low, with residential land uses between 2 and 4 units per acre for this area.

The public hearing opened at 9:39 p.m.

Kathy Portner, Planning Manager reviewed this item.

There were no public comments.

The public hearing closed at 9:40 p.m.

Ordinance No. 3393 – An Ordinance Zoning Property Known as the Madaris Annexation to RSF-4 Located at 539 31 ½ Road

Upon motion by Councilmember McCurry, seconded by Councilmember Kirtland, and carried by roll call vote, Council approved Ordinance No. 3393.

NON-SCHEDULED CITIZENS & VISITORS

There were no citizens or visitors wishing to speak.

OTHER BUSINESS

There was no other business.

EXECUTIVE SESSION

Upon motion by Councilmember Terry, seconded by Councilmember Kirtland, and carried to go into executive session for the purpose of

- A. PRIVILEGED ATTORNEY - CLIENT COMMUNICATION** - To receive legal advice regarding acquisition of right-of-way based on major street plans, the Colorado River Corridor Plan and similar planning efforts. Open Meetings Act, section 402 (4)(b).
- B. ONGOING NEGOTIATIONS** - To instruct our negotiators regarding the acquisition of right-of-way to be needed for the Colorado River Corridor Plan. Open Meetings Act, section 402 (4)(e).
- C. ONGOING NEGOTIATIONS** - To instruct our negotiations regarding the City's lease purchase of fire fighting equipment, and relating thereto, legal advice regarding the City's options regarding the Colorado EMS Foundation. Open Meetings Act, section 402 (4)(a) and (4)(e) and (4)(b).
- D. PRIVILEGED ATTORNEY - CLIENT COMMUNICATION**- To receive legal advice regarding the City's relationship with the DDA, including specific current issues. Open Meetings Act, section (4)(b).

It was noted that Council will not be making and decisions and will not be returning to regular session. The City Attorney noted the wording for the motion was the simplified version.

ADJOURNMENT

The City Council adjourned into executive session at 9:50 p.m., and moved to the Municipal Hearing Room.

Stephanie Tuin, CMC
City Clerk

December 17,2001

Councilmembers,

We the representatives of the Recyclers, Impound lot and Wrecking Yard owners continue to oppose the changes to the zoning and development code as proposed by the Planning Department on Nov. 6,2001.

We have invested nearly two years; 14 meetings with Dan Wilson and numerous city council and planning meetings into the thirteen pages of our proposal.

We entered into this process in good faith to help solve a problem city wide. We worked with Dan Wilson amicably during that time. Even with opposing views we were able to compromise.

Our industry perspective allowed Mr. Wilson to incorporate language appropriate to the intention of the Planning & Development code while still addressing the unique needs of these industries.

We present several considerations for your review:

- 1) Use the guidelines developed by this committee and Mr. Wilson with further negotiations regarding the issue of plant materials and forced relocation of existing businesses. It is anticipated that this consideration will have no impact on the landfill and will incorporate current recycling practices.
- 2) Do not segregate us from any other business. Include us in general outdoor storage.
- 3) Accept proposed changes by the Planning Department of 4.3 which would be most cost prohibitive for existing businesses to relocate to accommodate the city's traffic growth plan. The result would be the elimination of said businesses thereby causing an impact on local recycling capability within the entire Western Slope. The resulting effect could be the city being responsible for the collection, processing & disposal including all the environmental impacts of appliances, vehicles and equipment.

In closing, it is our view that consideration 1 would be the most viable for both the city and our industries, and best accommodate the needs of the community.

Recycling, Impound lot & Wrecking Yard Owners Committee