

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

FEBRUARY 20, 2002

The City Council of the City of Grand Junction convened into regular session the 20th day of February 2002, at 7:33 p.m. in the City Auditorium. Those present were Harry Butler, Reford Theobald, Bill McCurry, Janet Terry, Jim Spehar, and President of the Council Cindy Enos-Martinez. Councilmember Dennis Kirtland 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 Spehar led in the pledge of allegiance. The audience remained standing for the Invocation by Rocky Shrable, Sonrise Church of God.

PROCLAMATION

PROCLAMATION DECLARING FEBRUARY 25, 2002 AS "BILL FANNING DAY" IN THE CITY OF GRAND JUNCTION

CITIZEN COMMENTS

There were none.

CONSENT CALENDAR

It was moved by Councilmember Theobald, seconded by Councilmember McCurry and carried to approve the Consent Calendar Items #1 through 5.

1. **Minutes of Previous Meetings**

Action: Approve the Summary of the February 4, 2002 Workshop, the Minutes of the February 6, 2002 Special Meeting, and the Minutes of the February 6, 2002 Regular Meeting

2. **Setting a Hearing on the Vacation of Right-of-Way, Eagle Subdivision, Cheyenne Drive and Vernon Lane** [File #VR-2002-009]

The request is for the vacation of four feet of unimproved dedicated right-of-way on the south side of Cheyenne Drive across the project's frontage and the vacation of the dedicated right-of-way for Vernon Lane.

Proposed Ordinance Vacating the Portion of the Right-of-Way on the South Side of Cheyenne Drive between 27 3/8 Road, and Mountain View Street, and the Right-of-Way for Vernon Lane

Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for March 6, 2002

3. **Urban Trails Master Plan Revisions** [File #PLN-2001-191]

Resolution adopting the 2001 Urban Trails Master Plan for those areas located within the City limits and including those areas that will be annexed in the future.

Resolution No. 13-02 – A Resolution Adopting Amendments to the Urban Trails Master Plan

Action: Adopt Resolution No. 13-02

4. **Award of Construction Contract for 25 & G Road Intersection and Storm Drainage Improvements**

Bids were received and opened on February 7, 2002, for 25 and G Road Intersection and Storm Drainage Improvements. The low bid was submitted by MA Concrete Construction, Inc. in the amount of \$391,178.38. This project consists of the replacement of the existing bridge at 25 Road with twin 84” pipes and the construction of a roundabout at 25 & G Road.

Work is scheduled to begin on or about March 18 and continue for 12 weeks with an anticipated completion date of June 8, 2002.

The following bids were received for this project:

<u>Contractor</u>	<u>From</u>	<u>Bid Amount</u>
MA Concrete Construction, Inc.	Grand Junction	\$391,178.38
Skyline Contracting, Inc.	Grand Junction	\$447,208.85
Mays Concrete, Inc.	Grand Junction	\$457,168.00
United Companies of Mesa County	Grand Junction	\$512,058.00
Engineer’s Estimate		\$422,983.00

Action: Authorize the City Manager to Execute a Contract for the 25 & G Road Intersection and Storm Drainage Improvements to M. A. Concrete in the Amount of \$391,178.38

5. **Setting a Hearing on the Colorado Water Resources and Power Development Authority to Finance Improvements to the City’s Water System**

City Council has determined that in the best interest of the City and its citizens, the water system requires line replacement in the same core area as the combined sewer elimination project. The cost estimate of approximately \$3,500,000 includes design, engineering, legal, financing and administrative

costs. Approval of this ordinance would allow the City to obtain funding for these improvements through a loan agreement with the Colorado Water Resources and Power Development Authority (CWRPDA).

Proposed Ordinance Approving a Loan from the Colorado Water Resources and Power Development Authority to Finance Improvements to the City's Water System; Authorizing the Form and Execution of the Loan Agreement and a Governmental Agency Bond to Evidence Such Loan; Ratifying Prior Determinations of the Council; and Prescribing Other Details in Connection Therewith.

Action: Adopt Proposed Ordinance on First Reading, Set a Hearing for March 6, 2002, and Authorize Publication in Pamphlet Form

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

Public Hearing – Approval of a Growth Plan Consistency Review and Rezoning Ordinance for Riverside Market Located at 215 Chuluota Avenue [File#RZ-2001-226] (Continued from January 16, 2002)

Request for Approval of: 1) Growth Plan Consistency Review for a neighborhood grocery market; and 2) Second Reading of the Rezoning Ordinance to Rezone 215 Chuluota Avenue from Residential Multi-Family-8 (RMF-8) zone district, to Planned Development (PD) with the Neighborhood Business (B-1) zone as the underlying default zone.

Mayor/Council President Enos-Martinez excused herself from the room as Jose Martinez and she are the owners of the property. Mayor Pro-Tem Terry presided over this portion of the meeting.

The public hearing was opened at 7:41 p.m.

Mike Joyce, Development Concepts, Inc., 2764 Compass Drive, represented the petitioner. He reviewed the request and the history of the property, which is currently developed with an existing non-residential building and a single-family residence. The existing non-residential building was constructed in 1911 as a grocery store. The grocery store was in business from 1911 until 1984, when the Baptist Church purchased the building to use for Sunday school classrooms. A neighborhood meeting on the current proposal was held and was well attended. Some of the concerns raised by the neighbors in attendance were: the eventual purchase of the church; any expansion of the current building; any serving of liquor on the premises; and potential competition with City Market and/or Albertson's. The neighbors were assured at the meeting that the church property would not be bought, the building would not be expanded, nor would liquor be served, and there would be no competition with the large grocery stores. A petition supporting the reopening of the "neighborhood grocery store" was also presented at the meeting and was largely supported by the neighborhood. Mr. Joyce explained that off-street parking is not available at the site. The grocery market is intended to serve the Riverside community

and will primarily be accessed by pedestrian traffic. Mr. Joyce compared this proposal to the "This Is It" grocery store.

Mr. Joyce stated that the application complies with Chapter 5 regarding The Planned Development Districts and the Rezoning Criteria of Section 2.6.A. of the Zoning and Development Code. He also stated that the plan complies with the Growth Plan. Approval was recommended by the Planning Commission and Staff.

Lisa Gerstenberger, Senior Planner, then briefly reviewed the proposal. She identified the issues for Council to consider, and listed some of the policies that might be applicable in the Growth Plan. She then listed the Rezoning Criteria that had been satisfied, and some of the Planned Development Criteria that also had been met. She concluded that the request is consistent with the Growth Plan, and that it meets the Rezoning Criteria and the Planned Development intent.

Councilmember Terry requested clarification of a Growth Plan Consistency Review versus a Growth Plan Amendment. Ms. Gerstenberger replied that a Growth Plan Amendment requires a change to the Growth Plan Map, a Growth Plan Consistency Review does not. This request by the petitioner is just confirming consistency.

Councilmember Spehar asked if the use of a grocery store located in a Planned Development district is allowed in a residential category. Ms. Gerstenberger confirmed that it is.

There were no public comments.

The public hearing was closed at 8:11 p.m.

Councilmember Theobold supported the request due to the historic use as well as the need for a small retail outlet. Councilmembers Spehar and Butler agreed.

Resolution No. 14-02 – A Resolution Finding the Redevelopment of the Neighborhood Market Located at 215 Chuluota Avenue To Be Consistent with the Growth Plan

Ordinance No. 3399 – An Ordinance Rezoning 215 Chuluota Avenue from the Residential Multi-Family-8 (RMF-8) Zone District to Planned Development with Neighborhood Business (B-1) as the Default Zone

Upon motion made by Councilmember Theobold, seconded by Councilmember McCurry, and carried by a roll call vote, Resolution No. 14-02 and Ordinance No. 3399 were adopted on Second Reading and ordered published.

Mayor/Council President Enos-Martinez returned to the meeting and took her seat at the dais.

Public Hearing - Appeal of the Planning Commission's Recommendation of Denial for the Rezoning Request for Midwest Commercial Subdivision, Located at 2295 Highway 6&50 [File #RZ-2001-227]

The petitioner is requesting approval to rezone approximately 35.8 acres, consisting of 25 platted lots from the General Industrial (I-2) zone district to the Light Industrial (I-1) zone district. The Planning Commission at their December 11, 2001, hearing recommended denial of the rezoning request to the City Council.

The public hearing was opened at 8:15 p.m.

Pat Cecil, Development Services Supervisor, reviewed this item. He noted that the petitioner was not in the audience. He advised that the Planning Commission recommended denial of the request. Mr. Cecil explained the reason the petitioner is requesting the change is to develop a large-scale retail development.

Mr. Cecil then reviewed the rezoning criteria. He stated that the petitioner did not meet all of the criteria. The development is not inconsistent with surrounding uses, but the proposed development might create a bad mix of traffic.

Councilmember Theobald noted that the Planning Commission stated there is a move to remove industrial uses from main arterial roads. Mr. Cecil said this property only has a small frontage on that road and the development standards will prevent it from presenting adverse visual impacts. Mr. Cecil thought that perhaps commercial zoning was a better choice, since the property is bordered on the east and west by commercial uses. Councilmember Theobald noted conflicting arguments in the materials that he received for review.

Mayor Cindy Enos-Martinez asked for public comments. There were none.

The public hearing was closed at 8:32 p.m.

Dan Wilson, City Attorney, stated that if the Planning Commission's denial was upheld then the ordinance would not be adopted.

Councilmember Terry asked for the differences between I-1 (Light Industrial) and I-2 (General Industrial) be differentiated. Kathy Portner, Planning Manager, listed some of the different uses allowed in I-2, the very heaviest industrial use.

Kathy Portner, Planning Manager, listed some of the different uses allowed in I-1 (Light Industrial), which would allow for retail sales, if approved in conjunction with a Conditional Use Permit. The I-2 (General Industrial) zone district does not permit many of the retail and restaurant type uses that commercial zone districts permit, and is designed to accommodate the heavy industrial and manufacturing oriented uses.

Councilmember Theobald noted that even with a rezoning a Conditional Use Permit would still be required. Councilmember Terry agreed.

Councilmember Butler disagreed, stating that a rezoning would have a ripple effect to the surrounding area.

Councilmember Spehar agreed with the recommendation of the Planning Commission and Staff due to the shortage of industrial zoned areas.

Ordinance No. 3400 - An Ordinance Zoning the Midwest Commercial Subdivision, 35.8 Acres of Land Located at 2295 Highway 6 & 50

Upon motion made by Councilmember Spehar, seconded by Councilmember Butler, and carried by a roll call vote, with Councilmembers Theobald and Councilmember McCurry voting NO, the Planning Commission's Recommendation of Denial was upheld for the Rezoning Request for Midwest Commercial Subdivision, Located at 2295 Highway 6&50.

Public Hearing - Zoning for Webb Crane Annexation from County PC & AFT to City PD (Planned Development) Located at 761 23 ½ Road [File #ANX-2000-158]

Request for approval of the zone of annexation for approximately 20 acres from County Planned Commercial (PC) and AFT (Agricultural Forestry Transitional) to City PD (Planned Development) zone district. The site was annexed on February 16, 2000.

The public hearing was opened at 8:45 p.m.

Mike Joyce, Development Concepts, Inc., 2764 Compass Drive, was representing the petitioner. He reviewed the proposal and the history of the property. He stated that it has been 24 months since the property was annexed by the City of Grand Junction. The zoning delay was due to a request to consider a detention area on the property for the City. That request was determined to be unfeasible due to the high water table. Mr. Joyce continued and outlined the development proposal, timing issues, and storage encroachment.

Under the development proposal, Webb Crane is requesting only to expand its storage area at some future date and has no plans to construct any buildings in the storage area. Webb Crane plans to construct 2 additional Single Family Residences on 23 ½ Road to act as a buffer for the existing residential structures along 23 ½ Road. They would be built at some future date, when the total property is needed for storage.

Mr. Joyce pointed out that the 6 to 18 months completion requirement for the homes and landscape plan is not reasonable due to current economic conditions. Mr. Joyce assured Council that Webb Crane is committed to continue to work on the landscaping as shown in the plan. He explained that the storage encroachment is 35 feet wide and outside the 1999 issued Mesa County Conditional Use Permit. Mr. Joyce said since the property was annexed to the City of Grand Junction in 2000, the Conditional Use Permit issued by Mesa County is no longer in effect, and a temporary berm was constructed in 2000.

Councilmember Spehar wanted to verify if the Conditional Use Permit was still valid. City Attorney Wilson said due to the deferred zoning, and annexing to the City, the Mesa County Conditional Use Permit did not follow the property and therefore is no longer valid.

Councilmember Theobald asked why the request is before Council when they do not need it. Mr. Joyce replied that the application was submitted prior to the economic downturn, and the application has now been processed, and is ready to be presented to Council. The property also needs to be zoned.

Councilmember Terry asked Mr. Joyce, that since Webb Crane cannot meet the 18-month deadline, what alternative is Webb Crane proposing. Mr. Joyce requested Kevin Williams of Webb Crane to reply directly to Councilmember Terry's question.

Kevin Williams of Webb Crane, Inc. said there is no point in building employee housing when it is not needed. He detailed some of their activities and how they have tried to communicate their plans by having a meeting with the neighbors, but nobody came. He offered to relocate some of their equipment back into the Conditional Use Permit area if the current storage is a problem.

Pat Cecil, Development Services Supervisor, Community Development Department, reviewed this item. He detailed the outcome of the Planning Commission's discussions. Mr. Cecil stated that Webb Crane's proposals are not as originally presented, but that the Planning Commission still recommends approval of the zoning.

Councilmember Spehar asked if Council has the ability to impose additional requirements on the proposal. Mr. Cecil replied yes since the property is located in a Planned Development zone.

City Attorney Wilson noted that the last sentence ("It may be necessary to generate a HGL profile of the downstream systems.") in the revised Ordinance No. 3401 Section 5 (a) 7 should be deleted.

Wade Bretey, 771 23 ½ Road, opposed the project. He noted the property shown with all the cars is not his property. He inquired about the closed irrigation system, and asked if his driveway is torn up for the development, who would pay for it. He stated he did not receive a notice of the neighborhood meeting. He thought the project would lower his property value.

Doug Murphy, 768 23 ½ Road, informed City Council that he doesn't like looking at heavy equipment and cranes. Unless Webb Crane does what they say they would, the value of his property will drop. He wanted to see the berms built, and stated that there is also a noise problem. The current proposal is fine with him, as long as Webb Crane does what its proposal states.

Dick Pennington, 780 23 7/10 Road, said he did not receive a notice for any neighborhood meeting. The extension of Webb Crane's storage is not compatible with the neighbors. It has been two years since Webb Crane made certain promises. He said the berm is the same height as the road on the east side of 23 ½ Road therefore it needs to be much higher. He repeated that Webb Crane now says the 2 new houses won't be built until the entire storage area will be utilized. He also complained about the noise and diesel smells. He would like the berm on the east side of 23 ½ Road raised and for Council to require a deadline on building the two houses to be used for a buffer.

Alan Pennington, 782 23 7/10 Road, reiterated the original agreement that Webb Crane made with the neighbors. He also stated that he is afraid his properties will lose value.

Sean Norris, 778 23 Road, described the berms being proposed. He stated by not changing the topography, they will not change the drainage. He said it was the same plan Webb Crane presented to the neighborhood and it was agreed to. He felt Webb Crane has been a good neighbor.

Sean Norris, also president of the Appleton ML 350 Irrigation Company, said Webb Crane approached the district to see how Webb Crane can make the irrigation system more efficient. A closed system, not a pressurized system, was discussed. Several options were also discussed to ensure that none of the users would be adversely impacted. He explained that Webb Crane would use less water than an agricultural user.

Councilmember Terry asked for clarification on the request, and that Webb Crane is only requesting a time frame, not total relief from the requirements. Mr. Joyce replied that this was the request, except that the berm length only be 300 feet along the north property line.

Councilmember Terry asked if a fence would be erected at the end of the berm. Mr. Joyce replied that for security reasons a screen fence would be installed.

Councilmember Terry asked when the homes would be built and when the berms would be completed. Mr. Joyce answered the completion should be within three years, and that if not done by then, the request would be presented to Council for a re-review.

Councilmember Spehar asked about surrounding zoning. Mr. Joyce said the hay fields are zoned AFT but if ever developed, the zoning would become RSF-R.

Councilmember Theobald asked if there are two separate tax parcels. Mr. Williams replied that there is one northern metes and bounds parcel, which has been used since 1998. He noted that this property was developed for off-road trucks 20 years ago. There is an existing easement for wastewater through the property.

The public hearing was closed 10:07 p.m.

Councilmember Spehar said economics should not alter the conditions. He suggested no storage on the north parcel until the conditions are met. He disagreed with the screen fencing for security due to the probability of residential development on the north. Instead he would prefer a berm topped with trees.

Councilmember Theobald and Council President Enos-Martinez generally agreed. Councilmember Terry stated that the proposal meets the intent of the original approval.

Ordinance No. 3401 - An Ordinance Zoning the Webb Crane Annexation Approximately 20 Acres of Land Located at 761 23 ½ Road

City Attorney Wilson suggested changing Section 2. (c) 2. and change "18 months" to "must be built when the use of the northern parcel occurs".

Mr. Williams said the berm materials are "real slop" and have to dry out before they can be used, but he would like to continue using the encroachment. He also would like to start building the berm this summer and said he is willing to build a 5-foot berm.

Mark Relph, Public Works Director, does not know the time frame for supplying the material for the berm.

Alan Pennington complained that Webb Crane is using 2/3 of the property without being required to do anything.

Upon motion made by Councilmember Theobald, and seconded by Councilmember Spehar, and carried by a roll call vote, Ordinance No. 3401, with the below listed amendments, was adopted on Second Reading and ordered published.

Approved Amendments to Ordinance No. 3401:

1. Section 2. (c) 2.: 2 Single Family Residences must be built before the use of the balance of the northern parcel can be used.
2. Section 5. (a) 1.: A landscaped and irrigated earth berm, a minimum of three feet in height, location as shown in Exhibit "A-1", shall be five feet high on the eastern location, and three feet high on the full length on the northern location.
3. Section 5. (a) 7.: Delete last sentence : "It may be necessary to generate a HGL profile of the downstream system"
4. Section 5. (a) 10.: Use of the northern parcel beyond the 1998 County Conditional Use Permit boundary cannot occur until the building permits for the two houses have been issued and the two berms have been built.

Public Hearing – Setting the City Manager's Salary

Article VII, Section 57 of the Charter states the City Manager's salary is to be fixed by the Council by ordinance. Based on the market survey comparing similar communities, the City Council has determined the 2002 salary for the Grand Junction City Manager.

The public hearing was opened at 10: 24 p.m.

There were no public comments.

The public hearing was closed at 10:25 p.m.

Ordinance No. 3402 – An Ordinance Amending Ordinance 3387, Section 3, Setting the Salary of the City Manager

Upon motion made by Councilmember Theobold, and seconded by Councilmember McCurry, and carried by a roll call vote, Ordinance No. 3402 was adopted on Second Reading and ordered published.

Authorization of Final Expenditures for Cornerstones of Law and Liberty

The Cornerstones of Law and Liberty Plaza has been completed and all final charges have been submitted for payment.

A motion was required to approve an additional \$7,716 for the final payment for the Cornerstones of Law and Liberty Plaza. In June of 2001, Council had approved \$50,000 for the project.

Councilmember Spehar moved to approve the additional \$7,716 for the "Cornerstones of the Law and Liberty Plaza", exceeding Council's approved expenditure of \$50,000 set in June of 2001. Councilmember Theobold seconded. Motion carried.

NON-SCHEDULED CITIZENS & VISITORS

There were none.

OTHER BUSINESS

There was none.

EXECUTIVE SESSION

1. For the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators relative to amending existing contracts, under C.R.S. Section 24-6-402(4)(e) and to receive legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b)
2. To discuss the Purchase, Acquisition, Lease, Transfer, or Sale of Real, Personal or other Property Interest under C.R.S. Section 24-6-402(4)(a) on two separate properties
3. To receive legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b) regarding Water Issues (City of Golden case)
4. For the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators relative to amending existing contracts, under C.R.S. Section 24-6-402(4)(e) and to receive legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b) in regards to the relationship with DDA

It was moved by Councilmember Spehar, seconded by Councilmember McCurry, with Council President Enos-Martinez excusing herself, and Councilmember Terry voting NO, to go into executive session for the discussion of the following items for the purpose of

determining positions relative to two matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators under C.R.S. Section 24-6-402(4)(e) specifically instructing negotiators relative to the sale and/or purchase of real estate with the seller offering to sell its property to the City and to buy City property for which it has a right of first refusal and for the purpose of a conference with legal counsel to receive legal advice and direction on two specific legal questions under C.R.S. Section 24-6-402(4)(b) to wit the City's participation as amicus in a Colorado Supreme Court water law case and the City's relationship with the DDA. Motion carried.

ADJOURNMENT

The City Council adjourned into executive session in the Administration Conference Room at 10:29 p.m.

Stephanie Tuin, CMC
City Clerk