

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

October 16, 2002

The City Council of the City of Grand Junction convened into regular session on the 16th day of October 2002 at 7:36 p.m. in the City Auditorium. Those present were Councilmembers Harry Butler, Dennis Kirtland, Bill McCurry, Jim Spehar, Reford Theobald and President of the Council Cindy Enos-Martinez. Councilmember Janet Terry was absent. Also present were City Manager Kelly Arnold, City Attorney Dan Wilson and City Clerk Stephanie Tuin.

President of the Council Cindy Enos-Martinez called the meeting to order. Councilmember Theobald led in the pledge of allegiance. The audience remained standing for the invocation by Phil Olson, River of Life Alliance Church.

PRESENTATION OF CERTIFICATE OF APPOINTMENT

TO THE URBAN TRAILS COMMITTEE MEMBER

Timothy Fry was present to receive his certificate.

TO PARKS AND RECREATION ADVISORY BOARD MEMBER

Appointee was not present and no Certificate of Appointment was presented.

SCHEDULED 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 4.

1. **Minutes of Previous Meetings**

Action: Approve the Summary of the September 30, 2002 Workshop, Minutes of the September 30, 2002 Special Meeting, Minutes of the October 2, 2002 Regular Meeting, and Minutes of the October 8, 2002 Special Meeting

This agenda is intended as a guideline for the City Council. Items on the agenda are subject to change as is the order of the agenda.

Revised December 6, 2011

**** Indicates New Item*

** Requires Roll Call Vote*

2. **Setting a Hearing on 430 30 Road Annexations No. 1 and No. 2 Located at 430 30 Road** [File #ANX-2002-182]

The 430 30 Road Annexation area consists of one parcel of land, approximately 11.18 acres in size. A petition for annexation has been presented as part of a Preliminary Plan, in accordance with the 1998 Persigo Agreement with Mesa County. The physical address for the property is 430 30 Road. This is a serial annexation.

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

Resolution No. 91- 02 – 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, the 430 30 Road Annexation, Located at 430 30 Road

**Action: Adopt Resolution No. 91-02*

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

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, 430 30 Road Annexation No. 1, Approximately 5.1706 Acres in Size, Located at 430 30 Road

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, 430 30 Road Annexation No. 2, Approximately 6.2599 Acres in Size, Located at 430 30 Road

Action: Adopt Proposed Ordinances on First Reading and Set a Hearing for November 20, 2002

3. **Setting a Hearing on Crista Lee Annexation Located at 2933 B ½ Road** [File #ANX-2002-180]

The Crista Lee Annexation is an annexation comprised of one parcel of land located at 2933 B ½ Road, comprising a total of 6.1157 acres. The petitioner is seeking annexation as part of a request for Preliminary Plan approval pursuant to the 1998 Persigo Agreement with Mesa County.

a. Referral of Petition, Setting a Hearing and Exercising Land Use Jurisdiction

Resolution No. 92-02 – 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, the Crista Lee Annexation Located at 2933 B ½ Road

**Action: Adopt Resolution No. 92-02*

b. Set a Hearing on Proposed Ordinance

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Crista Lee Annexation, Approximately 6.1157 Acres, Located at 2933 B ½ Road

Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for November 20, 2002

4. Setting a Hearing on Lucas Annexations No. 1 and No. 2 Located at 2220 Broadway [File #ANX-2002-184]

The Lucas Annexation is an annexation comprised of two parcels of land located at 2220 Broadway including a portion of the Broadway right-of-way, comprising a total of 3.9221 acres. The petitioner is seeking annexation as part of a request for Preliminary Plan approval pursuant to the 1998 Persigo Agreement with Mesa County.

a. Referral of Petition, Setting a Hearing and Exercising Land Use Jurisdiction

Resolution No. 93-02 – 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, Lucas Annexation No. 1 & 2, a Serial Annexation, Located at 2220 Broadway

**Action: Adopt Resolution No. 93-02*

b. Set a Hearing on Proposed Ordinance

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Lucas Annexation No. 1, Approximately 0.0883 Acres in Size, Located at 2220 Broadway

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Lucas Annexation No. 2, Approximately 3.8338 Acres in Size, Located at 2220 Broadway

Action: Adopt Proposed Ordinances on First Reading and Set a Hearing for November 20, 2002

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

Public Hearing – DM South Annexations #1 & #2 Located at 511 30 Road and Zoning DM South Annexation Located at 511 30 Road [File #ANX-2002-138]

Resolution for Acceptance of Petition to Annex/Second Reading of the Annexation Ordinance. The 1.7327-acre DM South Annexation is a serial annexation consisting of two parcels of land and a portion of the 30 Road right-of-way.

Annexation and zoning hearings were combined.

The public hearing was opened at 7:39 p.m.

Senta Costello, Associate Planner, reviewed this item.

The applicant was not present.

There were no public comments.

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

a. Accepting Petition

Resolution No. 94-02 – A Resolution Accepting Petitions for Annexation, Making Certain Findings, Determining that Property Known as DM South Annexation, a Serial Annexation Comprising DM South Annexation #1 and DM South Annexation #2 is Eligible for Annexation Located at 511 30 Rd

b. Annexation Ordinances

Ordinance No. 3455 – An Ordinance Annexing Territory to the City of Grand Junction, Colorado DM South Annexation #1 Approximately 0.0207 Acres Located near 511 30 Road within the 30 Road R.O.W.

Ordinance No. 3456 – An Ordinance Annexing Territory to the City of Grand Junction, Colorado, DM South Annexation #2 Approximately 1.712 Acres Located at 511 30 Road and Includes a Portion of 30 Road R.O.W.

c. Zoning Ordinance

Second Reading of the Zoning Ordinance for the DM South Annexations #1 & 2 located at 511 30 Rd. The 1.7327-acre DM South Annexation is a serial annexation consisting of one parcel of land and a portion of the 30 Road right-of-way. The Planning Commission reviewed the requested zoning on September 24, 2002 and recommended approval.

Ordinance No. 3457 – An Ordinance Zoning the DM South Annexation to B-1 (Neighborhood Business) Located at 511 30 Road

Upon motion made by Councilmember Spehar, seconded by Councilmember Kirtland and carried by a roll vote, Resolution No. 94-02 was adopted and Ordinance No. 3455, No. 3456 and No. 3457 were adopted on Second Reading and ordered published.

Public Hearing – Summit View Meadows Annexations No. 1, No. 2 and No. 3 Located at 3146 D ½ Road [File #ANX-2002-153]

A Resolution for acceptance of petition to Annex/Second Reading of the Annexation Ordinance for the Summit View Meadows Annexation, Located at 3146 D ½ Road.

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

Lisa Gerstenberger, Senior Planner, reviewed this item. She stated that the zoning has been separated from the annexation so the zoning will not be heard until later.

Councilmember Spehar asked the City Attorney about the use of right-of-way for the serial annexation. The Attorney said all was in order.

The applicant was not present.

There were no public comments.

The public hearing was closed at 7:44 p.m.

a. Accepting Petition

Resolution No. 95-02 – A Resolution Accepting a Petition for Annexation, Making Certain Findings, Determining that Property Known as the Summit View Meadows Annexation area is Eligible for Annexation, Located at 3146 D ½ Road

b. Annexation Ordinances

Ordinance No. 3458 – An Ordinance Annexing Territory to the City of Grand Junction, Colorado Summit View Meadows Annexation No. 1 Approximately 0.1699 Acres Right-Of-Way Located along D ½ Road

Ordinance No. 3459 – An Ordinance Annexing Territory to the City of Grand Junction, Colorado Summit View Meadows Annexation No. 2 Approximately 0.5770 Acres Right-Of-Way Located along D ½ Road

Ordinance No. 3460 – An Ordinance Annexing Territory to the City of Grand Junction, Colorado Summit View Meadows Annexation No. 3 Approximately 11.8211 Acres Located at 3146 D ½ Road

Upon motion made by Councilmember Kirtland, seconded by Councilmember Theobald, and carried by a roll call vote, Resolution No. 95-02 was adopted and Ordinance No. 3458, No. 3459 and No. 3460 were adopted on Second Reading and ordered published.

Public Hearing – Iles Annexation Located at 3080 D ½ Road and Zoning Iles Annexation Located at 3080 D ½ Road [File #ANX-2002-171]

Resolution for Acceptance of Petition to Annex and Second Reading of the Annexation Ordinance for the Iles Annexation located at 3080 D ½ Road.

The Mayor announced that the annexation and zoning hearings will be combined.

The public hearing was opened at 7:45 p.m.

Lisa Gerstenberger, Senior Planner, reviewed this item.

The applicant was not present.

There were no public comments.

The public hearing was closed at 7:46 p.m.

a. Accepting Petition

Resolution No. 96-02 – A Resolution Accepting a Petition for Annexation, Making Certain Findings, Determining that Property Known as Iles Annexation Area is Eligible for Annexation Located at 3080 D ½ Road

b. Annexation Ordinance

Ordinance No. 3461 – An Ordinance Annexing Territory to the City of Grand Junction, Colorado, Iles Annexation Approximately 5.854 Acres Located at 3080 D ½ Road

c. Zoning Ordinance

Second Reading of the Zoning Ordinance to Zone the Iles Annexation Residential Multi-Family-5 (RMF-5), Located at 3080 D ½ Road.

Ordinance No. 3462 – An Ordinance Zoning the Iles Annexation to Residential Multi-Family-5 (RMF-5), Located at 3080 D 1/2 Road

Upon motion made by Councilmember Spehar, seconded by Councilmember McCurry, and carried by a roll call vote, Resolution No. 96-02 was adopted and Ordinance No. 3461 and No. 3462 were adopted on Second Reading and ordered published.

Public Hearing – Assessments for Alley Improvement District 2002

Improvements to the following alleys have been completed as petitioned by a majority of the adjoining property owners:

- East/West Alley from 2nd to 3rd, between Hill Avenue and Gunnison Avenue
- East/West Alley from 3rd to 4th, between Hill Avenue and Teller Avenue
- East/West Alley from 4th to 5th, between Colorado Avenue and Ute Avenue
- East/West Alley from 11th to 12th, between Grand Avenue and Ouray Avenue
- East/West Alley from 12th to 13th, between Kennedy Avenue and Bunting Avenue
- East/West Alley from 15th to 16th, between Hall Avenue and Texas Avenue
- “T” shaped Alley from 7th to Cannell, between Kennedy Avenue and Bunting Avenue

The public hearing was opened at 7:48 p.m.

Rick Marcus, Real Estate Technician, reviewed this item. He identified the alleys that had been improved. He advised that one letter of opposition was received by the Clerk’s office and that letter had been provided to Council as well as being turned over to the Project Engineer.

There were no public comments.

The public hearing was closed at 7:49 p.m.

Ordinance No. 3463 – An Ordinance Approving the Assessable Cost of the Improvements Made in and for Alley Improvement District No. ST-02 in the City of Grand Junction, Colorado, Pursuant to Ordinance No. 178, Adopted and Approved the 11th Day of June, 1910, as Amended; Approving the Apportionment of said Cost to Each Lot or Tract of Land or Other Real Estate in Said District; Assessing the Share of Said Cost Against Each Lot or Tract of Land or Other Real Estate in Said District; Approving the Apportionment of Said Cost and Prescribing the Manner for the Collection and Payment of said Assessment.

When roll was called Councilmember Harry Butler abstained due to his residence being next to one of the alleys that were improved.

Upon motion made by Councilmember Kirtland, seconded by Councilmember McCurry, and carried by a roll call vote with Councilmember Butler abstaining, Ordinance No. 3463 was adopted on Second Reading and ordered published.

Agreement between G.J. Rimrock General Improvement District and the Developer

This resolution authorizes an agreement between the City Council (acting as the Board of Directors for the Rimrock Marketplace General Improvement District) and THF Belleville, the owner and developer of Rimrock.

Ron Lappi, Administrative Services Director and Dan Wilson, City Attorney, reviewed this item. Mr. Wilson identified two changes to the proposed agreement. On page 5, paragraph c, strike the sentence starting with "the owner shall...". On page 6 fill in the blank with "added to the cost of the project".

Mr. Lappi added that on page 1, the date of approval to be filled in is October 3, 2002.

Mr. Lappi advised that the Council is acting as the Rimrock Marketplace General Improvement District Board of Directors when acting on this item. Their staff includes himself, the City Attorney and the City Clerk.

Councilmember Spehar inquired if the issuance of these bonds in any way obligates the City. Mr. Lappi said not at all. However, all the improvements that are done by the Improvement District with the use of the bond monies will be done to City standards and then dedicated to the City.

Councilmember Kirtland inquired if the City has done this before. Mr. Lappi stated that it had not, and that it is a new venture for the City.

There were no more questions.

Resolution No. 97-02 – A Resolution Approving a Special Improvement District Agreement between the City of Grand Junction Rimrock Marketplace General Improvement District and THF Belleville Development, L.P.; and Providing Other Details Relating Thereto

Upon motion made by Councilmember Kirtland, seconded by Councilmember McCurry, and carried by a roll call vote, Resolution No. 97-02 was adopted.

Intergovernmental Agreement with Rural Fire Protection District

At an August work session, the City Council directed staff to pursue an Intergovernmental Agreement with the Rural Fire District for the purposes of

defining how the relationship for providing fire/EMS services, including a new Fire Station #5, and funding for those services to the subdistrict area (unincorporated Redlands) will be allocated.

Kelly Arnold, City Manager, reviewed this item and stated that the City Attorney Dan Wilson, Administrative Services Director Ron Lappi and Fire Chief Rick Beaty were present to answer any questions. He noted that the terms of the agreement are completely dependent on a successful ballot on November 5th.

Mr. Arnold referred Council to the most recent version of the proposed IGA. He and Mr. Wilson reviewed the highlights of the agreement including definitions, the formulas for calculating the contract, the term of the contract, the ownership of the station and the service area, the use of the District's reserve funds, ways the District will pay the contract by using revenues from the mill levies, the dedication of the Districts' only piece of equipment to the City (the one engine), the amount of the District reserve fund (\$40,000) and a penalty for late payment.

Council inquired when property taxes are remitted to the Treasurer and then to the District. Mr. Lappi stated that by June the District would have 75% of the tax monies. Councilmember Kirtland asked if there is a history of late payment by the District. Mr. Lappi replied that it has happened in the past, but the agreement makes the due date and the location for the payment very clear.

Mr. Arnold felt that the City has a good relationship with the Board and sees no reason why the Board would not approve the agreement. He stated that the proposed resolution distributed tonight authorizes the City Manager to finalize the terms of the agreement since the Fire District Board has not given their certain approval. Any substantial changes will be brought back to Council.

Resolution No. 98-02 – A Resolution Authorizing the Mayor to Sign an Intergovernmental Agreement between the City of Grand Junction and the Rural Fire Protection District Regarding the Redlands Subdistrict

Upon motion made by Councilmember Kirtland, seconded by Councilmember Spehar, and carried by a roll call vote, Resolution No. 98-02 was adopted.

NON-SCHEDULED CITIZENS & VISITORS

There were none.

OTHER BUSINESS**Geological Update on the Redlands Village Northwest Lift Station**

Mark Relph, Public Works and Utilities Director, stated that a geotechnical engineer, Lambert & Associates, was hired to evaluate the stability of the slopes along Lime Kiln Gulch. The evaluation showed that the infrastructure can be constructed with minimal risk to the adjacent slopes and cliffs. Five mitigation measures were recommended and those measures will be followed.

Councilmember Kirtland inquired about the folks that had expressed concern at the consideration of the change order in September. Mr. Relph stated that communications have been made and a newsletter has been drafted outlining the findings, which will be distributed.

No action was required, this was an update. Unless directed otherwise, Staff will go forward with the Change Order as approved on September 18, 2002.

Consideration of Setting a Time to Consider the Setting of a Time to Consider the Rehearing of the Rezoning of the Property at 12th Street and Patterson

Councilmember Kirtland moved to consider a request for rehearing to be decided on November 6, the next Council meeting. Councilmember Theobald seconded.

Comment was allowed from a member of the audience.

Joseph Coleman, an attorney on behalf of City Market, stated that there is a procedure in the City's Code that provides for a request for rehearing. He requested to talk common sense about whether or not there is a right to file a petition and that to be fair to the citizens; one would not put the petition in a drawer to collect dust. He wasn't requesting a change in the votes, he was asking for consideration of a rehearing. He went into great detail on how this motion tonight does not consider the merits of the project, but rather gives the Council time to advertise their consideration of whether to rehear it or not. He stated that placing the consideration for a rehearing on the next agenda is the intent of the Code.

Councilmember Kirtland asked if the next meeting is the only time this consideration can be set. Mr. Wilson said that Mr. Coleman was correct in his first impression of the Code. He shared another interpretation with the Council. It is not required of Council to go through the rehearing process to complete the

process. An appeal to the District Court can also be the next step. The Council's consideration of a rehearing is the Council's option. In order for Council to have jurisdiction, a letter of appeal had to be received. An appeal letter does not mean it will be heard by Council, it is an option as to whether the Council has to debate the issue.

Councilmember Theobald stated that the Councilmembers do have a right to vote yes or no. The vote on the motion on the table is the end. If Council buys into the argument that Council is obligated to schedule a rehearing, it will open the door to anyone who is turned down. All seven Councilmembers voted as they intended at the October 2, 2002 hearing and certainly a vote tonight will remove any doubt and will not leave anything festering.

Councilmember Spehar said it will be two months before there will be a full Council so to let it go to then. The initial decision was made with a full Council.

Councilmember Kirtland said the motion is scheduling the consideration of a rehearing. It does not need a full Council present. If the majority does not make a motion to rehear on November 6, 2002, then the issue is over.

The motion was re-read by the Clerk. A roll call was taken and the motion failed with a 4 to 2 vote. Councilmembers Spehar, Theobald, Butler and McCurry voted no. Councilmembers Kirtland and President of the Council Enos-Martinez voted yes.

ADJOURNMENT

The meeting was adjourned at 8:45 p.m.

Stephanie Tuin, CMC
City Clerk