

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

**March 5, 2003**

The City Council of the City of Grand Junction convened into regular session on the 5<sup>th</sup> day of March 2003, at 7:35 p.m. in the City Auditorium. Those present were Councilmembers Harry Butler, Bill McCurry, Dennis Kirtland, Jim Spehar, Janet Terry, Reford Theobald, and President of the Council Cindy Enos-Martinez. 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 McCurry led in the pledge of allegiance. The audience remained standing for the invocation by Elder Ken Lowe of the River of Life Alliance Church.

**PROCLAMATIONS / RECOGNITIONS**

There were none.

**PRESENTATION OF CERTIFICATES OF APPOINTMENT**

TO NEWLY APPOINTED MEMBER OF THE GRAND JUNCTION FORESTRY BOARD

Appointee Ian H. Gray was present and received his certificate.

TO REAPPOINTED MEMBER OF THE COMMISSION ON ARTS AND CULTURE

The appointee was not present.

**SCHEDULED CITIZEN COMMENTS**

Councilmember Terry asked to add an item, making it Item #21, to the agenda, to allow Council to continue deliberation regarding the City's water issues in the Grand Mesa Slopes area.

Councilmember Spehar asked that Item #2 of the Consent Calendar be taken off the Consent Calendar and be placed as first item under "Items Needing Individual Consideration".

Kristin Winn, Communications Coordinator, addressed Council and told of her participation in Ouray at the annual Mayors Challenger's Cup competition she had attended on behalf of the Mayor. She said she brought back a trophy, winning second place.

## **CONSENT CALENDAR**

It was moved by Councilmember Spehar and seconded by Councilmember Kirtland to approve Consent Items #1 through 10, as amended with #2 being removed and placed as first item under Items for Individual Consideration. Motion carried.

### **1. Minutes of Previous Meetings**

*Action: Approve the Summary of the February 19, 2003 Workshop and the Minutes of the February 19, 2003 Regular Meeting*

### **2. Amending the Sewer Back-Up Policy Moved to "Items Needing Individual Consideration"**

The purpose of this policy is to respond to a Council request to consider other financial limits and processes when responding to sewer backup claims. This Policy is adopted via Resolution.

### **3. Commission on Arts and Culture Funding Recommendations for Arts and Cultural Events and Projects**

Through an application and granting program, the GJ Commission on Arts and Culture makes funding recommendations to City Council to help support cultural events, projects, and programs throughout Grand Junction as a means of improving both the quality and quantity of cultural activities and opportunities for local citizens.

*Action: Approve Recommendations as Presented*

### **4. GOCO Grant Agreement**

The City of Grand Junction applied for and has been awarded \$150,000 for the Canyon View Park development. The resolution 1), authorizes the City Manager to sign the grant agreement and 2), authorizes the expenditure of funds as necessary to meet the terms and obligations of the grant agreement and application.

Resolution No. 28-03 – A Resolution Concerning the Agreement Between the City of Grand Junction and The State Board of the Great Outdoors Colorado Trust Fund and the Project Known as the Canyon View Park

*Action: Adopt Resolution No. 28-03*

5. **Application to Colorado Historical Society State Historical Fund for Historic Survey**

Pursuant to the recently-adopted City of Grand Junction *Strategic Plan 2002-2012*, the community has identified a goal being to “facilitate efforts that sustain the historic character of the community”. To that end, Objective 26 of the *Plan* further states that “By 2004, complete Phase Three of the historic survey. The purpose of this application for a grant through the Colorado Historical Society State Historical Fund is to implement this objective. The total cost of the survey is \$100,000, \$60,000 from the State Historical Fund and \$40,000 match from the City.

*Action: Authorize the City Manager to Sign the Application to the Colorado Historical Society State Historical Fund for the Historic Survey*

6. **Setting a Hearing for the Fruitvale Estates Annexation, South of E½ Road (Orchard Ave.), North of Hoover Drive (3083 E ½ Road)** [File # ANX-2003-023]

The Fruitvale Estates Annexation is an annexation comprised of 1 parcel of land located on the south side of E ½ Road, north of Hoover Drive, comprising a total of 4.3815 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. 23-03 – 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, Fruitvale Estates Annexation, Located at 3083 E ½ Road

*Action: Adopt Resolution No. 23-03*

b. **Setting a Hearing on Proposed Ordinance**

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Fruitvale Estates Annexation, Approximately 4.3815 Acres, Located at 3083 E ½ Road

*Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for April 16, 2003*

7. **Setting a Hearing for the World Harvest Church Rezone Located at 2826 F Road** [File # RZ-2002-236]

First reading of the rezone ordinance for the World Harvest Church property located at 2826 F Road, from RMF-8 to RMF-12. The Harvest Subdivision consists of 17.018 acres of land. Lot 2 is approximately 2.996 acres in size. The applicants request that Lot 2 of this subdivision be rezoned to a higher density to accommodate a multi-family, group living facility.

Proposed Ordinance Rezoning Lot 2, of the Harvest Subdivision Located at 2826 F Road from RMF-8 to RMF-12

*Action: Adopt the Proposed Ordinance on First Reading and Set a Hearing for April 2, 2003*

8. **Partial Vacation of a Sanitary Sewer Easement --- Lot 5, Mesa Mall Subdivision (Target) Located at 2424 U.S. Highway 6&50** [File # VE-2002-247]

The applicant proposes to vacate a portion of a 20 ft. wide sanitary sewer easement located on Lot 5, Mesa Mall Subdivision. In order to allow the proposed 15,272 sq. ft. expansion of the present building as submitted, a portion of an existing sanitary sewer easement located on the north side of the building must be vacated and abandoned. A new easement will be dedicated by separate instrument and filed at the Mesa County Courthouse to show the new easement and rerouted sanitary sewer location which will be directly to the north of the proposed expansion. The Planning Commission recommended approval at its February 25, 2003 meeting.

Resolution No. 24-03 – A Resolution Vacating a Portion of a 20' Wide Sanitary Sewer Easement Located on Lot 5, Mesa Mall Subdivision, Known as: 2424 U. S. Hwy. 6 & 50 (Target)

*Action: Adopt Resolution No. 24-03*

9. **Setting a Hearing on Tobacco Ordinance**

In February 1999, City Council adopted Ordinance No. 3095, addressing the problem of teenage smoking. The ordinance will sunset in February 2004 if no

further action is taken by City Council. This ordinance will make the provisions of Ordinance No. 3095 permanent.

Proposed Ordinance Amending Chapter 24, Section 21, of the City of Grand Junction Code of Ordinances, Regulating Tobacco Products

*Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for April 2, 2003*

10. **Award Contract for the Purchase of Event Marquee at Two Rivers Convention Center**

Replace the Two Rivers Convention Center event marquee sign with a new event marquee sign and electronic reader board. The sign will display current and upcoming events at Two Rivers Convention Center, Avalon Theater and the Downtown Shopping Park. This project is a joint venture with the City of Grand Junction and the Downtown Development Authority. The design and construction materials will complement the remodeled convention center and the downtown area.

*Action: Authorize the City Manager to Sign a Contract with Platinum Sign Company of Grand Junction in an Amount of \$81,777 plus a \$2,223 Contingency for Electrical Service for the Construction and Installation of Event Marquee at Two Rivers Convention Center*

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

**Amending the Sewer Back-Up Policy**

The purpose of this policy is to respond to a Council request to consider other financial limits and processes when responding to sewer backup claims. This Policy is adopted via Resolution.

Resolution No. 22-03 – A Resolution Amending the Persigo Sewer System's Policy Regarding Payments for Sewer Back-Ups

Mark Relph, Public Works and Utilities Director, reviewed this item. He explained the reason for the request to update the policy came from last year's sewer back-up when it became evident that the policy was woefully inadequate. He said the new proposal allows for an initial \$750 cleanup assistance fee and a maximum of \$2,500 total payout for damages.

Councilmember Spehar pointed out that the term and the need for this policy might be short-lived as the City is embarking upon a project to eliminate the combined sewers in the downtown area.

Councilmember Kirtland asked that the policy be reviewed periodically to ensure the policy stays current, so the situation that occurred last year with an inadequate policy being in place, will not occur again.

Public Works and Utilities Director Mark Relph responded that a tickler system would be put in place to ensure a five-year Sewer Back-Up Policy review.

Upon motion made by Councilmember Kirtland, seconded by Councilmember Spehar, and carried by a roll call vote, Resolution No. 22-03 was adopted.

### **Grand Junction Economic Partnership Incentive Request**

Authorizing an incentive of \$600,000 to the Grand Junction Economic Partnership to be used for the creation of approximately 400 new jobs at Adam Aircraft over the next four years.

Resolution No. 29-03 – A Resolution Authorizing an Economic Development Incentive to Grand Junction Economic Partnership for \$600,000 for the Benefit of a New Manufacturing Facility Starting Up in Grand Junction

Denny Granum, who is a Grand Junction Economic Partnership Board Member and Chair of the Prospect Committee, introduced this item. Ann Driggers, who is the Executive Director of the Grand Junction Economic Partnership, followed with a PowerPoint presentation. She reviewed the history of the Adam Aircraft Company, the resumes of the company's principals, the construction and cost of the aircraft, and the pending orders for the aircraft.

Ms. Driggers detailed the owners' investment of \$6,500,000. She explained that the Adam Aircraft facility would eventually provide about 400 jobs in Grand Junction that would pay at minimum \$23,000 annually. She said the company would begin operations at Walker Field Airport in a facility as small as 20,000 square feet and expand over time to about 100,000 square feet, which would benefit the community.

President of the Council Enos-Martinez noted that the County is also being asked to participate in the incentive to the Grand Junction Economic Partnership and that it will make a decision on Monday, March 10<sup>th</sup>.

Councilmember Theobald questioned the participation of the USDA in the partnership. Councilmember Spehar stated that the USDA is guaranteeing part of the loan.

Mr. Granum explained that the USDA has a program to improve rural areas and Grand Junction qualifies for that program. He cautioned Council that negotiations are still ongoing and that the incentive request is just one of the pieces in the negotiations and the relocation is still not a certainty. He then asked Mr. Kirk Rider, an attorney, to explain to everyone how the funds will be distributed to the company.

Mr. Rider said the requirements and obligations are the same as other incentive packages. However, unlike the other packages, if the company fails to meet their obligations in any way, the entire incentive amount has to be repaid rather than just the portion not vested. He said there is an additional risk to the City's \$600,000 since this payment would be pledged as collateral for a future loan with Alpine Bank. He told Council that the Grand Junction Economic Partnership would also obtain a personal guarantee from each business owner and file a second lien on the company's assets.

Councilmember Terry questioned the additional risk to the City and asked why this agreement is structured that way.

Councilmember Theobald summarized the discussion and said that everyone wants the new company to succeed. He asked if risk wasn't a factor, and the company was an established company relocating, would the incentive figures be the same, and how competitive are Grand Junction's incentive figures compared to other communities.

Mr. Granum replied that the incentive package would be the same. Mr. Rider said usually incentives are given up front, but this prospect has to earn the incentive and has to meet its obligations.

Mr. Granum agreed and said that this is a different deal and pointed out that the management team is impressive as well as the amount of money invested in the company by Rick Adam. He explained, the closer Adam Aircraft gets to the final approval of its aircraft by the Federal Aviation Administration, the lower the risk will be to the City.

Councilmember Spehar supported the incentive by saying that manufacturing jobs are hard to come by; Adam Aircraft will pay good wages, good benefits, and that the County is also participating in the incentive package. He said he can picture possible spin-offs from this venture and he acknowledges the risk involved.

Mr. Granum agreed and told Council that for the very same reasons, the Grand Junction Economic Partnership has analyzed the company and this request carefully.

Councilmember Kirtland acknowledged the expertise of the Grand Junction Economic Partnership and said he agrees with Councilmember Spehar.

Councilmember Terry praised the work performed and scrutiny of the Grand Junction Economic Partnership over these incentives. She asked for an explanation why the City should pledge the funds especially since there is an immediate risk for the City of losing the funds. She said she is also concerned that if Adam Aircraft defaults on the loan with Alpine Bank, the City will lose the incentive funds since they are pledged as collateral for the loan.

Mr. Granum responded that every deal the partnership is doing is different just as this one is. He explained that in the Reynolds Polymer deal, a check was issued up front with few safety nets, but in this deal, the money is being used as collateral for a loan pending with Alpine Bank. He said in this case the funds would be disbursed by the bank per the detailed business plan. He said Alpine Bank would administer the funds. He reiterated that Mr. Rick Adam is also putting up \$1,000,000 security. Mr. Granum told Council the Partnership is as careful as it can be.

Councilmember Spehar noted that not only has the Grand Junction Economic Partnership scrutinized this request, but so have several other entities, e.g. Alpine Bank, the State of Colorado, and the USDA.

Councilmember Theobald expressed his discomfort with this request. He said even if this company succeeds, its success will be huge, but he still has some discomfort with the request.

Councilmember Spehar agreed with Councilmember Theobald but related why he is supporting the request.

Councilmember Terry stated that a primary reason for going forward with the request is that 75% of the future employees will be from this area, but agreed with Councilmembers Theobald and Spehar.

Mr. Granum added that the aircraft manufacturing plant would be a great employment opportunity for Grand Junction's young people.

Upon motion made by Councilmember Spehar, seconded by Councilmember McCurry, and carried by a roll call vote, Resolution No. 29-03 was adopted.

### **Award of Construction Contract for the Combined Sewer Elimination Project Phase I, Water Line Replacements**

This project is the first of six Combined Sewer Elimination Project contracts and is proposed to replace over 21,400 feet of water lines ranging in size from 6" to 24" in the



downtown area. On February 18, 2003, MA Concrete Construction of Grand Junction Colorado submitted a low, qualified, bid of \$1,534,747.70 to complete the work.

Mark Relph, Public Works and Utilities Director, reviewed this item. He explained that this contract is one of two contracts that will be presented tonight, and is a part of a much larger investment. The project is for four contracts for the Combined Sewer Elimination Project, plus two waterline projects that will be in conjunction with the Combined Sewer Elimination Project. Jeff Nimon, who is with MA Concrete, the contractor chosen for this project, was present. Mr. Relph said this contract is for four miles of waterline.

Councilmember Spehar asked how the project was divided among the various phases.

Mr. Relph said because of extensive discussions with local contractors and many other local entities and their back-up for the balanced system the City has implemented, he is pleased to say that the system is working well as shown by the many competitive bids the City has received. He said he is looking forward to working with MA Concrete on this first and many other contracts.

It was moved by Councilmember Kirtland and seconded by Councilmember Spehar to authorize the City Manager to sign a construction contract for \$1,534,747.70 for the Combined Sewer Elimination Project Phase I, Water Line Replacements with M.A. Concrete. Motion carried.

### **Award of Construction Contract for the Combined Sewer Elimination Project, Phase I, Basin 10**

This project is the second of six contracts associated with the Combined Sewer Elimination Project. This contract will construct 2,685 feet of storm sewer and a storm water quality facility. On February 25, 2003, Mendez, Inc. of Grand Junction submitted a low, qualified, bid of \$386,239.05 to complete the work.

Mark Relph, Public Works and Utilities Director, reviewed this item. He explained that this is the first of the actual combined sewer elimination project. He said Mendez, Inc. was selected as the contractor for this project and that Dan Mendez is present.

President of the Council Enos-Martinez asked if Mendez, Inc. is a local company and if the company has done work for the City in the past. Mr. Relph answered yes to both questions.

It was moved by Councilmember Kirtland and seconded by Councilmember McCurry to authorize the City Manager to sign a construction contract for \$386,239.05 for the

Combined Sewer Elimination Project Phase I, Basin 10 with Mendez, Inc. Motion carried.

### **Award of Design Contract for Fire Station #5**

Professional architectural services for the design and construction collaboration for the construction of the new Redlands Fire Station #5. Construction collaboration consists of the architect's participation with the City Fire Department, Public Works Department, Community Development Department and the hired Construction Management Firm to insure the final design and construction of the facility complies with the requirements of the Fire Department, is completed within budget and within the projected schedule. Four (4) top ranked firms were interviewed from the ten (10) qualification proposals received:

- |                          |                          |
|--------------------------|--------------------------|
| ▪ TSP Five, Inc.         | Denver, Colorado         |
| ▪ Blythe Design +        | Grand Junction, Colorado |
| ▪ RMW Architecture       | Denver, Colorado         |
| ▪ Vaught/Frye Architects | Fort Collins, Colorado   |

Ron Watkins, Purchasing Manager, reviewed this item. He explained the selection process to Council and the audience.

It was moved by Councilmember Theobald and seconded by Councilmember Kirtland to authorize the City Manager to sign a design contract for \$143,600 with TSP Five, Inc. for the design and construction of Fire Station #5. Motion carried.

### **Request for Rehearing - Zoning the Red Tail Ridge Annexation, Located at the South End of Buena Vista Drive** [File #ANX-2002-230]

The petitioners for the Red Tail Ridge Annexation requested that a zoning of RSF-4 be applied to the 9.88 acres. The City Council zoned the property to the RSF-2 zone district on February 19, 2003 following the public hearing on the zoning associated with the annexation. The petitioner, who was not present at the hearing, is requesting a rehearing of the zoning request in order to present their justification for a RSF-4 zoning on the property.

Bob Blanchard, Community Development Director, reviewed this item. He explained the request, the reasons for the rehearing request, and listed the criteria for a rehearing.

Ted Ciavonne of Ciavonne & Associates was present. He explained how the miscommunication happened, which resulted in their non-attendance at the last public hearing.

He also stated that he felt that some items needed to be disputed, that other items needed to be clarified, and asked Council that a rehearing of the zoning request be granted.

Councilmember Spehar supported a rehearing and noted that it will be fully noticed before the hearing. Councilmembers Theobald and Terry agreed.

It was moved by Councilmember Theobald and seconded by Councilmember Spehar to grant the rehearing of the zoning request and provide for Public Notice and schedule a Public Hearing date on April 16, 2003. Motion carried.

**Public Hearing – 23 Road Right-of-Way Vacation and Conveyance of an Access Easement Across City Property** [File #VR-2002-224]

The applicant proposes to vacate the 23 Road right-of-way in conjunction with an administrative review of a simple subdivision. In order to prevent a parcel from becoming landlocked upon vacation of 23 Road, the applicant is required to secure an access easement across City property. The easement will be temporary. The parcel which would be accessed via the easement will likely be sold to the adjoining property owner to the west. The Planning Commission recommended approval concerning the right-of-way vacation on January 14, 2003.

**a. Vacating Ordinance**

Ordinance No. 3506 - An Ordinance Vacating 23 Road Right-Of-Way North of the Colorado River to River Road Known as 2301 River Road

**b. Easement Resolution**

Resolution No. 25-03 – A Resolution Concerning the Granting of a Non-Exclusive Access Easement to the Bureau of Land Management Across City Property Located North of the Colorado River and West of Redlands Parkway

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

Ronnie Edwards, Associate Planner, reviewed this item. She explained that the request is in relationship to a proposed expansion and an expansion requirement to improve the road. She said the easement will then provide access to one of the lots and that other options were discussed with the applicant. Ms. Edwards summarized the review criteria for the right-of-way vacation. She said Staff recommends approval of the right-of-way vacation request.

Dan Wilson, City Attorney, suggested that the Vacating Ordinance and Easement Resolution be tied together by adding a line to the ordinance reading, "Vacation effective upon recordation of the access easement".

Councilmember Spehar asked about the other options. Ms. Edwards said all three options are viable and could be supported by Staff, but the applicant chose this option.

Mr. Blanchard agreed that all three options are viable and that one alternative would be along the right-of-way. He said it is anticipated that this access will be replaced by another access through Lot 2.

Mr. Wilson said it is a paper access only and vehicles are not allowed the access at this point onto the Parkway and the reason is for backup only.

Councilmember Theobald asked if the City required the applicant to build 23 Road. Ms. Edwards replied yes. Councilmember Theobald questioned that if it is not on the street plan, how can the City require improvements.

Mr. Wilson explained that there is an already dedicated right-of-way and therefore the City can require improvements. He said the right-of-way is already existing but unimproved.

Ms. Edwards added that the right-of-way would be under water eventually. She said the value of the right-of-way is \$70,000 and the value of the easement is \$1,000.

Ed Settle, of 2661 Suburban Lane, the applicant, was present and had nothing to add except that he has been working on this project for 6 months and that the BLM has never used this property.

There were no public comments.

The public hearing was closed at 9:00 p.m.

Upon motion made by Councilmember Terry, seconded by Councilmember Kirtland, and carried by a roll call vote, Resolution No. 25-03 was adopted and Ordinance No. 3506 was adopted and ordered published on Second Hearing as amended.

**Amendment to the Special Improvement District Between Grand Junction Rimrock General Improvement District and the Developer**

This resolution amends the agreement between the City Council (acting as the Board of Directors for the Rimrock Marketplace General Improvement District (GID)) and THF Grand Junction, the owner and developer of Rimrock.

Ron Lappi, Administrative Services and Finance Director, reviewed this item. He noted that the developer has signed the proposed agreement and remitted a \$60,000 deposit. He explained the amendment and the inclusion of the Eskie parcel.

Resolution No. 26-03 – A Resolution Approving an Amendment to the Special Improvement District Agreement Between the City of Grand Junction Rimrock Marketplace General Improvement District and THF Grand Junction Development, LP

Upon motion made by Councilmember Kirtland, seconded by Councilmember Spehar, and carried by a roll call vote, Resolution No. 26-03 was adopted.

### **Downtown Partnership Agreement**

The Downtown Development Authority (DDA) and the Downtown Association (DTA) are joining in forming a Downtown Partnership to work together in building a program to promote vitality and economic activity in the downtown area. The City Council recently approved the expenditure of \$75,000 from the parking fund for 2003.

Harold Stalf, DDA Executive Director, reviewed this item. Mr. Stalf explained the agreement for services is the “meat” of what they have been discussing for the last several months.

Councilmember Terry thanked Mr. Stalf for his work and said it clarifies operations and activities downtown.

Councilmember Spehar said he was pleased the City is participating and he has always thought there was a need for a unified effort to attract people to downtown.

Councilmember Kirtland noted that the downtown merchants are also contributing funds toward this effort.

Mr. Stalf said the plan is for the project to be self-sustaining in three years.

Councilmember Spehar moved to authorize the City Manager to sign the agreement with the Downtown Development Authority and the Downtown Association for the Downtown Partnership. Councilmember McCurry seconded. The motion carried un-animously.

**Pollution Discharge Permit Application**

The request is to authorize the City Manager to submit the National Pollution Discharge Elimination System (NPDES) Phase II permit application to the Colorado Department of Health and Environment. The permit application is in response to regulations that take effect March 10, 2003.

Trent Prall, Utility Engineer, reviewed this item. He explained the permit is in response to the regulations that will take effect next week. He said the first step in Phase II is an education campaign and the City is in the process of packaging a storm water program.

Mr. Prall said Trail Hosts found the two most significant spills into the river. He said that the program is in place and most of the discharge detention and elimination pieces are in place. He informed Council that mapping, a discharge detection program and an ordinance are yet to be completed.

Mr. Prall said under the run-off control and other outstanding items there will be more additions to the ordinance like the Storm Water Management Plan for construction sites, along with construction site inspections and enforcements. He explained the construction inspections would be labor intensive because each site, as well as any new sites, have to be inspected annually.

Mr. Prall said the last minimum measures are pollution prevention measures for municipal operations, and that the City has some of the best management practices which are part of the program. He said additions are more prevention techniques at other City facilities, inspections and employee training. Mr. Prall said there is a requirement that the City make steady progress towards having the entire program up and running. He said in 2015, the EPA will reevaluate the effectiveness of the program and possibly impose water quality standards.

President of the Council Enos-Martinez asked in which language the brochures would be published.

Mr. Prall replied that the brochures would be in English and Spanish.

Councilmember Kirtland asked about the storm water facilities at the airport. Mr. Prall said those facilities are not in this program but they are trying to redesign those basins to make them more efficient.

Resolution No. 27-03 – A Resolution of the City Council of the City of Grand Junction to Submit a NPDES Phase II Permit Application to the Colorado Department of Health and Environment

Upon motion made by Councilmember Butler, seconded by Councilmember Kirtland, and carried by a roll call vote, Resolution No. 27-03 was adopted.

### **Guidelines Regarding Use of Grand Valley Canals for Recreational Purposes**

City staff and the Urban Trails Board continue to communicate with the GVIC Board regarding the use of GVIC canals for recreational purposes. The attached can serve as a "first step" to continuing efforts to reach mutual agreement.

Dan Wilson City Attorney, reviewed this item. He said he and members of the Urban Trails Committee addressed the Board of Directors of the Canal Company regarding the use of the canal banks for trails. He explained that the result of those meetings is that the philosophy now is "less is better". He said originally trailheads and signs were going to be provided, but the canal company doesn't want them. The canal company wants to discourage users from outside the Grand Valley, but is willing to allow existing uses to continue. The Board of the GVIC is asking that the people using the trails utilize the trails on the north side of the canals, which are not used as much by their maintenance crews and therefore minimize interference with their operation. Mr. Wilson said he wants to compliment Joe Stevens for the great job he's done answering the GVIC's questions. He then said that the co-chairs of the Urban Trails Committee are present.

Jamie Lummis, who lives at 3047 Dakota Circle, and who is one of the co-chairs of the Urban Trail Committee, addressed Council to thank the City for their support and to thank the GVIC board for its cooperation, especially Jim Grisier. He said it has been slow going but lots of progress has been made.

Robert Traylor, the other co-chair of the Urban Trails Committee, who lives at 535 Bookcliff Drive, was also present but had nothing to add.

Councilmember Butler asked about the liability. Mr. Lummis said the City would take over the liability for recreational use of the trails but that there are statutory limits. He said this would also benefit the homeowners since it'll positively affect their homeowners liability insurance.

Councilmember Theobald said the statute Mr. Lummis is referring to was adopted by the legislature at the request of one person in one city for one particular project, and that this person is present and the project is still around (in reference to Grand Junction).

The motion was made by Councilmember Spehar to approve the City's continued discussions with Grand Valley Irrigation Company as they pertain to the use of the canals

for public recreational purposes. Councilmember Terry seconded. The motion carried unanimously.

### **Continuation of Discussion on the Watershed on the Grand Mesa Slopes Areas**

The Council had earlier discussions with representatives of the BLM and added this continuation to the agenda.

Councilmember Spehar asked the City Attorney Dan Wilson what options Council had.

Mr. Wilson said the Environmental Assessment Report has not been received, but is expected in mid-March, and he is hopeful to have input and Council can question if the plan meets the City's standards. He said the City then has 30 days to appeal. He said Council could ask for a more comprehensive analysis, a more detailed EA report, or an EIS (Environmental Impact Statement), which is a much longer process. Mr. Wilson said if the director does not agree, then Council could go to the Interior Board of Appeals and within a few months receive an administrative decision; the next step after that is the Federal District Court. He said Council met with Katherine Robertson earlier and Council was able to express its concerns about the watershed issues to her. He said Council has until Monday to submit written comments on the compressor installation issue.

Councilmember Spehar asked that Council make comments on improving the compressor, lines, and connections of the Transcolorado Pipeline in hopes of obtaining a more detailed explanation of why it is appropriate in an exploration context.

Mr. Wilson said there are cumulative impacts about how the regulations describe it. He said another item for Council to comment on would be the other values. He said they are not directly related to watershed but indirectly to wildlife, noise, and aesthetic aspects. He suggested Council reconvene the Grand Mesa Slopes Steering Committee to obtain its support and then ask the BLM to delay its decision. The Steering Committee could discuss and review whether the City should focus on those other values. He said he is looking for instructions from Council whether the comments should be limited to watershed issues only or to the other items as well.

Councilmember Kirtland and other Councilmembers felt that only the watershed issues should be addressed and if the Steering Committee brings up other issues that's fine.

City Manager Kelly Arnold noted that the Steering Committee has met as recently as last October but not on this issue. He said the request was made to the BLM to reconvene that group as advisors for this process. Ms. Robertson advised Mr. Arnold that a reconvene of that group did not happen. Mr. Arnold said if the exploration is success-



ful, then the permitting could happen quickly, and the POD could be filed as early as June.

Councilmember Terry commented there are competing interests and that the City has no say on some of them. She recommended the City concentrate its efforts on items they can affect. She said she does not want to butt heads with the BLM, but instead take advantage of the resources and the people that are available to them and work with the Steering Committee.

Councilmember Spehar agreed to the extent that Council should concentrate on the watershed issues. He said there is a need to honor the existing leases on the City ranch properties and there is a focus on some specific areas in the BLM plan that speak of the watershed issues. He said another avenue is to proceed with a watershed protection ordinance and review how other communities with the same or similar situations have handled the issue.

Councilmember Kirtland said he wants the City to be active on this issue, and he felt the City did not take advantage of the Grand Mesa Slopes Steering Committee and other opportunities that were available to the City 18 months ago and valuable time has been lost. He said decisions must be made without delays due to appeal timelines.

Councilmember Spehar suggested Council comment on the issue and see what the result is, then bring it back for further discussion before going forward with an appeal. He said that with respect to the drought issues, due to the foresight of previous Councils, the City was not in bad straits at the height of at last summer's drought. Councilmember Spehar said he would like to continue that tradition.

Councilmember Theobald said he agreed with most of what was said and that Councilmember Spehar has hit the focus that the Council needs to maintain. Councilmember Theobald said the City has a lot of interest there, and is only one entity that has an interest in protecting the watershed. The other interests are the interests of other entities. He said he agrees with Councilmember Spehar to comment, and then appeal if needed. He said the City's silence has put the City in this position in the first place.

City Attorney Wilson said that the watershed is the primary focus and to comment on all aspects would be conflicting because the other interests are in the plan.

Councilmember Spehar agreed that there are other issues but the watershed is the primary issue, but so are the lease issues and the ranching activities.

City Attorney Wilson said the central purpose of the EA and EIS is to take the competing values and discuss them. He said the question is what are the impacts and not to have one issue over the other issue, and then if issues can't be resolved, then mitigate.

He said the Federal Government requires that those issues be sought out and completely discussed and that the EA does not do that. He said the BLM is required to analyze the no-action alternative and that the Steering Committee is included in the decision process.

Councilmember Terry responded that there is competing law. Mr. Wilson said the EA does not acknowledge that water is of a high value.

Councilmember Spehar thought Council should also be involved in the Grand Mesa Slopes Committee discussions. He felt Council needs to get the comments in and be prepared to have the discussions and a long-term involvement in the Steering Committee. He recommended going forward with drafting a watershed protection ordinance.

City Attorney Wilson said he supports having a watershed protection ordinance on the books and he will present Council with a draft at its first meeting in April.

Councilmember Spehar suggested using watershed protection ordinances from various ski towns as examples.

Councilmember Terry asked Mr. Wilson to supply Council with a summary of this discussion in the form of a policy statement. She also asked him to guide the Committee and to provide a plan for underbrush mitigation.

City Attorney Wilson replied that he would provide Council with an explanation of the law that he is referring to.

Councilmember Kirtland asked who the members of the Grand Mesa Slopes are. City Attorney Wilson answered that the members are the City, the BLM, the County, private landowners, recreational interests, and the Town of Palisade.

City Manager Kelly Arnold thanked Council and suggested a letter from the Mayor to Grand Mesa Slopes to reconvene. He said he would like to invite Council to participate in the draft comments.

Councilmember Spehar suggested involving the Town of Palisade since the town also has watershed issues.

### **NON-SCHEDULED CITIZENS & VISITORS**

There were none.

### **OTHER BUSINESS**

There was none.

**ADJOURNMENT**

City Council President Enos-Martinez called for the meeting to be adjourned. The meeting was adjourned at 10:25 p.m.

Stephanie Tuin, CMC  
City Clerk