

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

**MAY 7, 2003**

The City Council of the City of Grand Junction convened into regular session on the 7<sup>th</sup> day of May 2003, at 7:30 p.m. in the City Auditorium. Those present were Councilmembers Harry Butler, Bruce Hill, Dennis Kirtland, Bill McCurry, Gregg Palmer, Jim Spehar, 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 Palmer led in the pledge of allegiance. The audience remained standing for the invocation by Pastor Art Bell, First Presbyterian Church.

**RECOGNITION**

**PRESENTATION OF CERTIFICATION FOR PUBLIC PURCHASING OFFICER TO REX SELLERS**

City Manager Kelly Arnold and Administrative Services and Finance Director Ron Lappi presented Rex Sellers with his Certified Public Purchasing Officer (CPPO) Certificate and offered their congratulations.

**PROCLAMATIONS**

PROCLAIMING MAY 10, 2003 AS "GRAND JUNCTION LETTER CARRIERS STOCK THE COMMUNITY FOOD BANKS DAY"

PROCLAIMING SUPPORT FOR "COLORADO CLICK IT OR TICKET CAMPAIGN"

**PRESENTATION OF CERTIFICATES OF APPOINTMENT**

TO NEWLY APPOINTED MEMBER OF THE COMMISSION ON THE ARTS AND CULTURE

The appointee Lee Borden was present and received his certificate.

TO NEWLY APPOINTED MEMBER OF THE HISTORIC PRESERVATION BOARD

The appointee Bill Cort was present and received his certificate.

The Mayor welcomed Boy Scout Troop 328 to the meeting.

**ELECTION OF MAYOR AND MAYOR PRO TEM/ADMINISTER OATHS OF OFFICE**

Councilmember Dennis Kirtland nominated Councilmember Jim Spehar for Mayor. Councilmember Jim Spehar was elected by secret ballot as the new Mayor and President of the City Council.

Councilmember Gregg Palmer nominated Councilmember Dennis Kirtland for Mayor Pro Tem.

Councilmember Cindy Enos-Martinez nominated Councilmember Harry Butler for Mayor Pro Tem.

Councilmember Harry Butler was elected by secret ballot as the new Mayor Pro Tem.

City Clerk Stephanie Tuin administered the Oaths of Office to the incoming Mayor and Mayor Pro Tem.

President of the Council Jim Spehar presided over the rest of the meeting.

**SCHEDULED CITIZEN COMMENTS**

There were none.

**CONSENT CALENDAR**

It was moved by Councilmember Enos-Martinez, seconded by Councilmember Hill, and carried by a roll call vote, to approve Consent Items #1 through 9 with Councilmember Kirtland abstaining from Item #9.

**1. Minutes of Previous Meetings**

*Action: Approve the Summary of the April 14, 2003 Workshop and the Minutes of the April 16, 2003 Regular Meeting*

**2. Council Assignments for 2003-2004**

Annually City Council discusses and assigns Councilmembers to represent them on various boards and within different outside organizations. Formal action is taken by resolution.

Resolution No. 41-03 – A Resolution Appointing and Assigning City Councilmember's to represent the City on Various Boards and Organizations

*\*Action: Adopt Resolution No. 41-03*

**3. Reschedule June 18<sup>th</sup> Meeting**

On January 15, 2003, the City Council adopted Resolution No. 01-03 which set the meeting schedule for the year. Since several members of Council will be attending the CML Conference in Pueblo on June 18<sup>th</sup>, it has been proposed that the meeting schedule be amended to have the regular meeting on the previous Monday, June 16<sup>th</sup> in conjunction with the workshop.

Resolution 42-03 – A Resolution of the City of Grand Junction Amending Resolution No. 01-03 Which Set the City Council Meeting Schedule for the Year 2003

*\*Action: Adopt Resolution No. 42-03*

**4. Purchase of 3/8" Aggregate Road Chips Required for the City Chip Seal Projects for the Year 2003**

A 3/8" aggregate materials contract award for the City's annual "Chip Seal" street maintenance program. Three bids were received based upon an estimated amount of 4400 tons.

*Action: Authorize the Purchasing Manager to Sign and Issue a Purchase Order for 4,160 tons of 3/8" Chips to the Low Bidder, United Companies, for a Total Price of \$52,000.00.*

**5. Purchase of a Solid Waste Front Load Refuse Truck**

This purchase is being requested by the Fleet Department to replace an existing refuse truck with a new model.

*Action: Authorize the City Purchasing Manager to Purchase One Mack Cab and Chassis and One LoDal Body from Kois Brothers Equipment in the Amount of \$169,192.00*

**6. Purchase of a Knuckle Boom Truck**

This replacement purchase is being requested by the City Fleet Division on behalf of the Parks Department.

*Action: Authorize the City Purchasing Manager to Purchase One Freightliner Truck with National Crane Knuckle Boom from Transwest Trucks in the Amount of \$87,841*

7. **Vacation of Easements – Independence Ranch Filings 10 & 11** [File # FPP-2002-159]

The applicant proposes to vacate two sanitary sewer easements, one utility easement, two temporary turn-around easements, one stormwater detention easement and two stormwater retention easements that were created in previous filings of Independence Ranch Subdivision. The Planning Commission recommended approval on April 22, 2003.

Resolution No. 43-03 - A Resolution Vacating Various Easements in Conjunction with Filings 10 and 11 of Independence Ranch Located at 20 ½ and F ¾ Road

*\*Action: Adopt Resolution No. 43-03*

8. **Amendments to the Future Land Use Map** (Housekeeping items) [File #GPA-2003-061]

A request to amend the Future Land Use Map at Bookcliff Avenue, east of 7<sup>th</sup> Street and the NE corner of Grand Avenue and 28 Road, to be consistent with existing zoning.

Resolution No. 44-03 - A Resolution Amending the Future Land Use Map of the City of Grand Junction Growth Plan

*\*Action: Adopt Resolution No. 44-03*

9. **Setting a Hearing for Amending Hospice Medical Campus Planned Development to be Located at 3090 & 3150 North 12<sup>th</sup> Street** [File #PDR-2003-036]

First reading of the Ordinance to amend Ordinance No. 3391 for the Preliminary Development Plan for the Hospice Medical Campus to be located at 3090 & 3150 North 12th Street.

Proposed Ordinance Zoning Two Parcels Located at 3090 and 3150 North 12<sup>th</sup> Street from PD (For Miller Homestead) to PD for 12<sup>th</sup> Street Medical Plaza and Hospice Care Planned Development

*Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for May 21, 2003*

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

**16<sup>th</sup> Street Improvements**

Bids were received and opened on April 22, 2003 for the 16<sup>th</sup> Street Improvements. G&G Paving Construction Inc., submitted the low bid in the amount of \$67,000.00.

Tim Moore, Public Works Manager, reviewed this item.

It was moved by Councilmember Kirtland to authorize the City Manager to sign a construction contract with G&G Paving Construction Inc., for the 16<sup>th</sup> Street Improvements in the amount of \$67,000.00. Councilmember McCurry seconded the motion. 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, requested rehearing of the zoning request in order to present their justification for a RSF-4 zoning on the property. The Council on April 16, 2003, granted the petitioners request and rezoned the site to the RSF-4 zone district.

Adjacent property owners are now requesting that the zoning be reheard again. Their rehearing requests are based on a lack of notice (not required on Council hearing items) and no opportunity for the public to speak after the petitioner's rebuttal.

Council President Spehar reviewed the history of the request and noted that the person or persons who voted in the affirmative would have to make a motion. Councilmembers McCurry or Kirtland would have to make a motion. There was no motion made. Request for a rehearing failed from a lack of a motion.

**Public Hearing - Text Amendments to the Zoning and Development Code** [File # TAC-2003-01.01]

Second reading of the Ordinance to correct, clarify, re-format or delete numerous references in the current Zoning and Development Code.

The public hearing was opened at 7:58 p.m.

Lori Bowers, Senior Planner, reviewed this item.

Council President Spehar asked if there were any significant changes included in the corrections. Ms. Bowers identified some clarifications that have been made to the ordinance, but said there were no significant changes.

There were no public comments.

The public hearing was closed at 8:00 p.m.

Ordinance No. 3529 – An Ordinance Adopting Amendments to the City of Grand Junction’s Zoning and Development Code and Authorizing Publication of the Amendments by Pamphlet

Upon motion made by Councilmember Palmer, seconded by Councilmember McCurry, and carried by a roll call vote, Ordinance No. 3529 was adopted on Second Reading and ordered published.

### **Public Hearing - Supplemental Budget Appropriations for 2003**

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

The public hearing was opened at 8:01 p.m.

Ron Lappi, Administrative Services and Finance Director, reviewed this item. Mr. Lappi explained that pursuant to statutory requirements the total appropriation adjustments are at the fund level as specified in the ordinance. He said the combined total of the appropriation funds is \$8,770,065.

Mr. Lappi then provided a summary of the individual carryover requests and identified the funds name and their balances:

- General Fund #100 \$ 650,075
- E-911 Special Revenue Fund # 101 \$ 218,790
- Sales TAX CIP Fund #201 \$3,193,140
- Storm Drainage Improvements Fund #202 \$ 566,405

• Future Street Improvements Fund #207	\$ 50,000
• Swimming Pool Fund # 304	\$ 38,134
• Tiara Rado Golf Course Fund #306	\$ 1,945
• Water Fund # 301	\$ 390,036
• Equipment Fund #402	\$ 305,247
• Communications Center Fund #405	\$ 218,790
• Joint Sewer System Fund #900	\$3,527,539

Mr. Lappi explained that the first supplemental appropriation ordinance is adopted every year at this time to carry-forward unexpended appropriations for capital projects and equipment purchases not completed in the prior year.

There were no public comments.

The public hearing was closed at 8:05 p.m.

Ordinance No. 3530 – An Ordinance Making Supplemental Appropriations to the 2003 Budget of the City of Grand Junction

Upon motion made by Councilmember Hill, seconded by Councilmember Kirtland and carried by a roll call vote, Ordinance No. 3530 was adopted on Second Reading and ordered published.

**Public Hearing - Creating the Special Assessment District, Issuing Bonds and Assessing the Properties for Rimrock Marketplace**

This is the second reading of three related ordinances for Rimrock Marketplace G.I.D. They authorize creating a special assessment district, bond sale of \$3,980,000, and assessing the properties in the district.

The public hearing was opened at 8:05 p.m.

Ron Lappi, Administrative Services and Finance Director, reviewed this item. He noted that the Rimrock Marketplace project is currently under construction. He said the bonds would pay for the infrastructure of the property that will eventually be dedicated to the City. When asked if the bonds were an obligation to the City, Mr. Lappi assured Council that they wouldn't be.

There were no public comments.

The public hearing was closed at 8:07 p.m.

Ordinance No. 3531 – An Ordinance Creating the Rimrock Marketplace Special Improvement District within the City of Grand Junction Rimrock Marketplace General Improvement District

Ordinance No. 3532 – An Ordinance Concerning the Rimrock Marketplace General Improvement District and Authorizing the Issuance of Special Assessment Bonds

Ordinance No. 3533 – An Ordinance Approving the Whole Cost of the Improvements to be Made in the Rimrock Marketplace Special Improvement District; Assessing a Share of said Cost Against each Lot or Tract of Land in the District; and Prescribing the Manner for the Collection and Payment of said Assessments

Councilmember Enos-Martinez moved to adopt Ordinances No. 3531, No. 3532, and No. 3533 on Second Reading and ordered published in pamphlet form. Councilmember McCurry seconded the motion. Motion carried.

**Staff Presentation of First Reading of a Watershed and Water Supply Protection District Ordinance (No Public Discussion)**

A Watershed Protection ordinance will protect the public water supply and preserve the City's water resources. Various activities and land uses in the City's watersheds could affect the quality and quantity of the water supply and facilities. In order to be able to decide what risks each activity may present to the City's water supply and to see if modifications are necessary, persons conducting certain activities within the watersheds must first obtain City review, and if allowed, a watershed permit.

Mark Relph, Public Works and Utilities Director, introduced this item. He then asked Utilities Manager Greg Trainor to discuss this item with Council.

Mr. Trainor talked about the historical efforts of the founding fathers for the acquisition of water rights and their protection of those water supplies. He then discussed the status of the supplies, the reservoirs and creeks specifically and displayed a map showing the basins of the watersheds on Grand Mesa. The next drainage basin he discussed is on Orchard Mesa along the Gunnison River. He said the third zone is a drainage basin along the Colorado River near the Clifton Water District Plant.

Mark Relph stated that Zone 1 (Grand Mesa) is the City's primary drinking water supply and it is the City's great concern to protect the watershed. He said Zones 2 and 3 permits would only be required for feedlots and industrial users with hazardous chemicals. He noted that the permits for these zones might be made more stringent in the case of water emergencies such as during a drought. He said existing lawful uses would be grandfathered in all Zones. He explained that the primary source of Grand



Junction's water is Zone 1 and that's why there are more restrictions in that Zone. He pointed out that there are three levels of impacts:

- No impact. No permit is required;
- Minor impacts. These impacts would be reviewed by the Public Works Director and would be permitted with best management practices in place; Domestic and residential impacts would be exempted.
- Major Impacts such as feedlots and industrial uses.

He said the cumulative effects could be reviewed together. He listed the major impacts as feedlots, industrial uses, use of pesticides and fertilizers upstream from ditches, canals and city reservoirs. He explained that "Impact" means any alteration or change resulting directly or indirectly from an action.

Councilmember Palmer asked about how this ordinance would affect properties when sold.

Dan Wilson, City Attorney, said the grandfathering stays with the use of the property, but it does not transfer to any expansion thereon. He said the current ordinance is somewhat vague, as the increments of change are not numerically identified.

Mr. Wilson said there are at least 15 municipalities in Colorado that have implemented like ordinances. He said the first lawsuit was 30 years ago in Crested Butte, which established the authority for cities to go outside their boundaries. He said State Statute established the five-mile limit starting from the water supply. Mr. Wilson talked in detail about previous case law and the relation and/or conflict with federal law. He said the debate is whether the ordinance is trying to regulate land use on the property, which is under control of the federal government. He pointed out that the revised ordinance does exempt homes under 10,000 square feet and accessory buildings from permits, and that existing ranching activities are grandfathered in the ordinance.

Council President Spehar said he represented the City at the previous evening's Grand Mesa Slopes Steering Committee meeting and he summarized some of the comments from that meeting. He said many of the concerns were from owners of properties located outside the boundaries and the confusion may be due to the last distribution of the Watershed area maps. He said there were comments from some industries like oil and gas, logging, and gravel pits. He said the County also voiced concern over the landfill. Mr. Wilson said that the current facility is grandfathered in but an expansion to it would require a new permit.

Council President Spehar said a great deal of the three-hour meeting was spent discussing the makeup of the Steering Committee and with industry and environmental

interest groups requesting a seat on the Committee. He said the board agreed upon the expansion. He said about 30 people of the general advisory group were present at the meeting.

Councilmember Kirtland asked if there are other tools available that could be used as a means of protection such as Memorandums of Understanding, etc.

Mr. Wilson answered that almost all towns and cities that have watershed ordinances also have Memorandums of Understanding with the BLM and/or the Forest Service. He said that the ordinance is the single focus. He said the BLM must balance the impacts with their other purpose, resource development. The Forest Service has to balance watershed damage against the rights of others. He explained that the proposed ordinance allows Council to decide on that damage and how to minimize it.

Councilmember Kirtland asked if the elements of the ordinance could be incorporated into a Memorandum of Understanding in that area. Mr. Wilson said that the BLM and the Forest Service cannot ignore their other value, i.e. resource development. He said, by law, in a Memorandum of Understanding, they agree to enforce the same restrictions as outlined in the ordinance.

Councilmember Palmer asked if the ordinance duplicates some of the required federal regulations on the watershed. Mr. Wilson said it does to a large extent.

Councilmember Hill said he would like to hear on this issue from the BLM. He also asked where the Grand Mesa Slopes boundaries are. Greg Trainor, Utilities Manager, described the boundaries of the 100 square miles that are known as Grand Mesa Slopes. He said that it does not extend down into Kannah Creek basin.

Councilmember Hill asked about Zone 2 and 3, and the conditions of the ordinance that would not apply in those Zones. He then asked about feedlots. Mr. Relph said conditions apply in all cases to feedlots and industrial users using hazardous chemicals. He said other uses would not need a permit except in drought or emergency conditions.

Councilmember Kirtland asked about storm water permits and how the City might use a part of that permit process to be informed about new activities. Mr. Relph agreed and said the Public Works Department is also communicating with the County to learn about those disturbance activities. He said other considerations are use of chemicals, which storm water would not cover, but agreed on using the storm water permitting process to monitor activities. Mr. Relph said the permits might also minimize processing steps for the customer by combining application processes.

Councilmember Hill asked about residential use versus development. Mr. Wilson said the City must be notified of the proposed use. Mr. Relph said a Memorandum of Un-

derstanding with the building department might allow for notification of building activity. He said the ordinance identified residential building as being a low enough impact not to require a permit.

Councilmember Hill questioned if the ordinance would extend the limit to ten miles in a case where there are two intakes. Mr. Wilson said it would. Councilmember Hill questioned that, if the City really wants to protect its watershed, shouldn't it go to all of the boundaries within that watershed to include the end of the snow pack, or even gain the authority by working to change the statute to extend the boundaries. Although Mr. Wilson agreed, current state law only allows a five mile area of authority.

Councilmember Palmer noted that there are a lot of users and asked how the City could collect input from the users. Mr. Wilson told Councilmember Palmer what the legal minimum is, and that the City Clerk will, upon approval of first reading of the ordinance, publish a notice of the hearing. He concurred that certainly more outreach could be done using display ads, letters to interested parties, and that all people within the watershed could be talked to individually.

Councilmember Enos-Martinez agreed with Councilmember Palmer that there are many more users in the valley than there are users in the watershed areas.

Councilmember Hill said since Zone 1 is clearly located on Forest Service land it certainly requires a high water quality. He reiterated that he would like to hear from the Forest Service. He questioned if a permit would be required if the existing landfill would like to add a building. Mr. Wilson replied that it would not be prohibited, that the permit only regulates the way it is built, and that the ordinance is not a land use ordinance.

Council President Spehar said he wanted to remind everyone that the worst case scenario is the current situation, and that Council has commented a couple of times on the subject, and the net result is that the BLM has gone forward even though the City has had a level of discomfort. He said the City's only path now is through an appeal process.

Mr. Wilson said discretion is inherent in the mitigation, but the discretion in the watershed ordinance is Council's.

City Manager Arnold suggested a process of collecting comments and each one should be fully discussed by Council, that Staff could compile the comments received, review them and consider them as possible amendments to the ordinance.

Councilmember Palmer said he agrees with gathering comments and amending the ordinance accordingly. He wanted to know if there is a time frame for bringing those comments back to Council.

Mr. Arnold replied that it is the Council's choice.

Council President Spehar listed various options available to Council, i.e. don't go forward with the ordinance, or go forward and take comments and pursue it further, or schedule for a public hearing.

Mr. Wilson said the BLM has recently approved a compressor site, and any appeal of that approval must be filed in Virginia by May 23<sup>rd</sup>. He said if the appeal is made, then it would be nice for argument sake, to have the ordinance on the books.

Mr. Arnold said Staff needs some direction from Council. If this passed on first reading at this meeting, he asked Council to state when this is to be scheduled for second reading in the motion.

Councilmember Butler asked about a letter of appeal. Mr. Wilson said he would be ready, but he will wait for formal direction.

Council President Spehar said it would be a good idea to do a first reading and not set a date. He suggested scheduling for the next meeting, an update on the outreach efforts, to go the extra mile on the notification, and to start the clock ticking, which would make it real for the people that need and would like to comment.

Mr. Wilson explained that the reason for a first reading has legal significance, and said that until that happens no one knows what Council is considering. He said the purpose of the first reading is notification of time for discussion. He said he recommends adopting this ordinance as the first reading; and doing an update in two weeks; and setting the second reading of the ordinance for the first meeting in June, which would force people to comment.

Councilmember Hill said he does not want the clock ticking, that he wants the comments received reviewed. He believes the ordinance should be revised until it is the best ordinance so that the City can provide assurance to its residents that the City has quality water. A lot more time is needed, and if needed, the City should change the five-mile limit.

Councilmember Palmer suggested the five-mile limit be utilized for now, as it will take a year to change the law. He said he agrees with Councilmember Enos-Martinez to solicit comments and then revise the ordinance.

Council President Spehar agreed with Councilmember Palmer and said Council might be able to accomplish both, adopt the ordinance on first reading and schedule an update for the next meeting, and Council, if ready, can then schedule the second reading or extend the time for comments.

Councilmember Kirtland said there are a lot of issues, and a lot of changes have been made to the ordinance in the last 24 hours. He agreed to an update in two weeks and to set a date for the hearing then. He felt that some type of notice should be provided to inform people of this issue.

Councilmember Enos-Martinez suggested to call the current ordinance a “draft ordinance” and to direct staff to solicit public input.

Council President Spehar said he wanted to remind everyone that Council is better off starting from some point and not just leaving it open with no direction.

Councilmember Hill agreed to a draft ordinance.

Councilmember McCurry agreed with Councilmember Enos-Martinez to call the current ordinance a “draft ordinance” and to direct staff to solicit public input.

Councilmember Butler suggested Council act on this first reading and get the process started.

Proposed Ordinance Establishing a Watershed and Water Supply Protection District; Establishing Procedures and Standards for Watershed District Permits in Connection with Various Activities within said Watersheds; Prohibiting any Person from Polluting said Watersheds; Requiring a Watershed District Permit for Most Activities; and Providing Penalties and Remedies for Violation of this Ordinance

Councilmember Hill moved to pull this ordinance from first reading and prepare a draft ordinance and to solicit public input with a report back to Council at the May 21<sup>st</sup> meeting. Councilmember Kirtland seconded the motion. Motion carried by a roll call vote by 5 to 2. Council President Spehar and Councilmember Butler voted NO.

City Manager Arnold wanted to clarify if the next meeting will be an update only and not a first reading.

Council President Spehar suggested to call the item “first reading” so Council will have the option to act on it or to continue it the same way as tonight.

City Clerk Tuin reminded Council that the agenda could still be changed at the Monday night’s workshop to accommodate the situation.

Mr. Arnold asked if the discussion could start at the workshop session. Council was okay with that as long as it was on the agenda after the El Poso discussion.

**NON-SCHEDULED CITIZENS & VISITORS**

There were none.

**OTHER BUSINESS**

There was none.

**EXECUTIVE SESSION**

Councilmember Hill moved to go into executive session for the purpose of:

- a) receiving legal advice concerning Grand Mesa Slopes under C.R.S. Section 24-6-402(4)(b);
- b) receiving legal advice concerning CDOT's 1601 process under C.R.S. Section 24-6-402(4)(b); and
- c) discussing the purchase, acquisition, lease, transfer, or sale of real, personal, or other property interest under C.R.S. Section 24-6-402(4)(a) relative to Colorado Catfish Restaurant.

Councilmember Kirtland seconded the motion. Motion carried.

**ADJOURNMENT**

Council adjourned into executive session at 9:50 p.m. and announced it would not return to open session.

Stephanie Tuin, CMC  
City Clerk