

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

MAY 21, 2003

The City Council of the City of Grand Junction convened into regular session on the 21st day of May 2003, at 7:35 p.m. in the City Auditorium. Those present were Councilmembers Cindy Enos-Martinez, Bruce Hill, Dennis Kirtland, Bill McCurry, Gregg Palmer, and President of the Council Jim Spehar. Councilmember Harry Butler was absent. Also present were City Manager Kelly Arnold, City Attorney Dan Wilson, and City Clerk Stephanie Tuin.

President of the Council Jim Spehar called the meeting to order. Councilmember Palmer led in the pledge of allegiance. The audience remained standing for the invocation by Reverend Michael Torphy, Religious Science Church of Grand Junction.

PRESENTATION OF APPRECIATION PLAQUE TO OUTGOING MAYOR CINDY ENOS-MARTINEZ

Mayor Spehar presented the appreciation plaque and read the sentiments to former Mayor Enos-Martinez. She also received the gavel band off the actual gavel.

PRESENTATION OF CERTIFICATES OF APPOINTMENT

TO NEWLY APPOINTED MEMBER OF THE HISTORIC PRESERVATION BOARD

Appointee Judy Prosser-Armstrong was present and received her certificate.

PROCLAMATIONS / RECOGNITIONS

6TH ANNUAL HISTORIC PRESERVATION AWARDS

Chairman Bill Jones presented the following two awards:

- 1) To the First United Methodist Church, 522 White Avenue; and
- 2) To JT and Sheri Jacobson, owners of the Colorado Fruit and Commercial Association Shipping House, 601 Pitkin Avenue, presently occupied by Mesa Supply.

PROCLAIMING MAY 18TH – MAY 24TH, 2003 AS “EMERGENCY MEDICAL SERVICES WEEK” IN THE CITY OF GRAND JUNCTION

PRE-SCHEDULED CITIZENS AND VISITORS

JOHN DUFFY PUBLISHER OF THE GRAND JUNCTION FREE PRESS

Mr. Duffy was not present.

**STEVE WAREHAM WITH BROTHERHOOD OF LOCOMOTIVE ENGINEERS
REGARDING REMOTE CONTROL LOCOMOTIVES**

Steve Wareham, a 10-year engineer with Union Pacific Railroad, told Council of Union Pacific Railroad's plans to use remote-control locomotives in its Grand Junction yard. He then provided information on this new concept. Councilmember Enos-Martinez asked where the remote control location is. Mr. Wareham said the remote-controlled locomotives would be controlled from close proximity by radio control from a person wearing a "belt pack" standing on the ground near the train. Mr. Wareham was concerned about this new practice and asked Council to look into it.

SCHEDULED CITIZEN COMMENTS

There were none.

CONSENT CALENDAR

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

1. Minutes of Previous Meetings

Action: Approve the Summary of the May 5, 2003 Workshop and the Minutes of the May 7, 2003 Regular Meeting

2. Setting a Hearing for the O'Connor Annexation Located at 511 31 Road [File #ANX-2003-068]

The O'Connor Annexation is comprised of 1 parcel of land on 1.3121 acres located at 511 31 Road. The owner is seeking annexation in conjunction with a future subdivision request, pursuant to the 1998 Persigo Agreement with Mesa County.

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

Resolution No. 45-03 - 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, O'Connor Annexation, Located at 511 31 Road and Including a Portion of E Road and 31 Road Rights-Of-Way

**Action:* Adopt Resolution No. 45 -03

b. Setting a Hearing on Proposed Ordinance

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, O'Connor Annexation, Approximately 1.3121 Acres Located at 511 31 Road and Including a Portion of E Road and 31 Road Rights-Of-Way

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

3. Setting a Hearing for the Rold Annexation Located at 524 30 Road [File #ANX-2003-080]

Resolution for Referral of Petition to Annex/First reading of the annexation ordinance/Exercising land use jurisdiction immediately for the Rold Annexation located 524 30 Road. The 0.7998 acre Rold Annexation is an annexation consisting of one parcel of land.

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

Resolution No. 46-03 - 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, Rold Annexation, Located at 524 30 Road

**Action:* Adopt Resolution No. 46 -03

b. Setting a Hearing on Proposed Ordinance

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Rold Annexation, Approximately 0.7998 Acres Located at 524 30 Road

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

4. Nomination to CML Executive Board

City Council will consider a letter of nomination for Mayor Jim Spehar to the Colorado Municipal League slate of nominees.

Action: Authorize the Mayor Pro Tem to Sign a Letter of Nomination for CML's Executive Board on Behalf of the City Council

5. Hallenbeck Ranch Property Lease

This is a proposed one-year ranching and grazing lease with an option to extend for an additional year if Mr. Miller achieves all of the City's performance objectives.

Resolution No. 48-03 – A Resolution Authorizing a One-Year Lease of the City's Hallenbeck Ranch Property to Clint Miller

**Action: Adopt Resolution No. 48-03*

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

Bid Approvals (Items a. b. c. d. may be awarded under one motion)

City Manager Kelly Arnold introduced this item and explained the process.

a. Canyon View Park East Bid

On April 29, 2003, the City of Grand Junction opened bids for Canyon View – East. Base bid improvements include 3 multipurpose fields, 2 tennis courts, parking, hard and soft surfaced trails, security lighting, landscaping, irrigation and a new entry off of 24 ½ Road.

Joe Stevens, Parks and Recreation Director, briefly described the recommendation and asked that the improvements to Darla Jean and Paradise Hills Parks be deferred until 2004. He identified the source of the funding and specifically mentioned the funds received from the Mesa Football Association and the Armore Arcieri Trust.

Councilmember Enos-Martinez asked if Canyon View Park has a curfew. Mr. Stevens said the park closes at midnight, but an exception can be requested.

b. 2003 Alley Improvement District

Bids were received and opened on May 6, 2003 for 2003 Alley Improvement District. Reyes Construction Inc. submitted the low bid in the amount of \$397,832.78.

c. 29 Road Improvements Phase II Streets

Bids were opened on May 6, 2003 for the street reconstruction phase of the 29 Road Improvement Project between North Avenue and Pinyon Street. Utility relocations in this section were completed in April 2003. Phase II street improvements include construction of 3,500 linear feet of concrete curb, gutter, and sidewalk, and 14,000 square yards of aggregate base course and asphalt pavement.

d. Signal Communications, Phase 1B

Bids were opened on May 6, 2003 for the Signal Communications Phase 1B project. The low bid was submitted by Temple & Petty Construction in the amount of \$280,693.88.

Tim Moore, Public Works Manager, reviewed the contract awards of Items b, c, and d.

It was moved by Councilmember Kirtland to:

a. Authorize the City Manager to sign a construction contract for Canyon View Park (East Side) with Sorter Construction in the amount of \$1,402,727.25 to include the Base Bid and Alternates A, B, C, D, E, and F;

b. Authorize the City Manager to sign a construction contract with Reyes Construction for the 2003 Alley Improvement District in the amount of \$397,805.80;

c. Authorize the City Manager to sign a construction contract with M.A. Concrete for the 29 Road Improvements, Phase II Streets in the amount of \$892,448.88; and

d. Authorize the City Manager to sign a construction contract with Temple & Petty Construction in the amount of \$280,693.88.

Councilmember Enos-Martinez seconded the motion. Motion carried.

Contract to Buy and Sell Real Estate at 159 Colorado Avenue

The City has entered into a contract to purchase the property at 159 Colorado Avenue from Mr. Robert C. Miller. The property will accommodate additional parking for Two Rivers Convention Center.

Tim Moore, Public Works Manager, reviewed this item.

Councilmember Palmer asked if there is a time frame for this transaction. Mr. Moore replied that closing is scheduled for June 10th, followed by an asbestos cleanup and subsequent demolition of the building. He said the cleanup should be finished by October.

Resolution No. 47-03 – A Resolution Authorizing the Purchase by the City of Real Property Located at 159 Colorado Avenue from Robert C. Miller and Ratifying Actions Heretofore Taken in Connection Therewith

Councilmember Palmer moved to adopt Resolution No. 47-03. Councilmember Hill seconded the motion. Motion carried by a roll call vote.

Public Hearing – CDBG 2003 Action Plan

City Council will consider which activities and programs to fund and will prioritize and recommend levels of funding for CDBG projects for the 2003 Program Year. The City will be receiving \$417,000 from the US Department of Housing and Urban Development for its 2003 CDBG Program Year.

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

David Thornton, Principal Planner, reviewed this item and briefly described how the CDBG program works. He said the City of Grand Junction received 14 applications this year totaling \$1,138,585 in requests. However, funding is down and the City only expects to receive \$417,000. He noted that some of the applicants were in the audience. Mr. Thornton listed each of the requests. He then identified the Subcommittee's recommendations for awarding the funds to the various applicants.

Council President Spehar noted that the City determined a set percentage for neighborhood projects, for neighborhoods that qualify, and Council's intention is to focus those funds in that direction.

Dr. Tom Updike, Colorado West Mental Health, said he understands funds are tight but wanted to explain his organization's request. He said they would like to build a new pediatric in-patient facility. He explained that currently they have to send children to Denver for treatment, while adults needing treatment are treated like animals and transferred to Pueblo.

Councilmember Palmer asked about the total cost of the facility. Dr. Updike said the property costs \$1 million, and the total cost of the project is about \$8 million.

Council President Spehar noted that there are no bad choices on the list, but that he appreciated Dr. Updike's efforts to educate the public about their plans.

Sharon Sturgess, Executive Director for WRAP, thanked Council for its past support and the current recommendation. She said the funds would be used to help families who need assistance in posting security deposits for housing.

City Manager Arnold asked Mr. Thornton to outline the rest of the process and the various dates.

David Thornton, Principal Planner, said the public hearing tonight was the budget portion of the Action Plan and the public hearing scheduled for June 16th would be the final acceptance of the 2003 Action Plan. He said the deadline of the 16th allows for a 45-day review period to submit the 2003 Consolidated Plan to HUD on July 11th so funding would be available on the 1st of September. He said because of notice requirements a public hearing on June 4th is not possible.

The public hearing was closed at 8:30 p.m.

Councilmember Enos-Martinez moved to adopt the CDBG City Council Subcommittee's recommendations for funding the City's 2003 CDBG Program Year Action Plan and to set a final hearing for June 16, 2003. Councilmember Kirtland disclosed his employment at Shaw Construction and that Shaw Construction is working with the Grand Junction Housing Authority on the Linden project. Councilmember Hill seconded the motion. Motion carried. Councilmember Kirtland abstained.

Public Hearing – Amending the Hospice Campus Planned Development to be Located at 3090 & 3150 North 12th Street [File# PDR-2003-036]

Second Reading of the Ordinance to amend Ordinance 3391 for the Preliminary Development Plan for the Hospice Medical Campus to be located at 3090 & 3150 North 12th Street.

The public hearing was opened at 8:31 p.m.

Roy Blythe, Blythe Design and architect for the project, presented the request. He noted that the plan is designed to be sensitive to their neighbors. He listed the many amenities including trails and the display of "Art on the Corner" pieces. He said Staff recommended a residential appearance of the buildings. He then showed the proposed plans of the buildings and noted that they are "Prairie Style" with decks. He said the scale and the exterior building materials have also been addressed.

Councilmember Hill asked if the plan also included a trail system.

Mr. Blythe replied that a paved path for pedestrians and bikes connected to a sidewalk would surround the site. Councilmember Hill asked about the neighbors' reaction to the project. Mr. Blythe said only positive comments were received.

Councilmember Hill said he was worried about the ditch and he felt it was a safety concern.

Lori V. Bowers, Senior Planner, reviewed this item. She said Mr. Blythe gave a good overview of the project. She said the previous ordinance requires that this be reviewed again. Ms. Bowers explained why Staff supports the new plan. She said the new plan was more condensed and left more open space, and with the two stories it will fit well in this neighborhood with large buildings in the surrounding areas. She gave other justifications and listed criteria that had been met with this new plan or that will be met at another stage in the process.

Council had no questions.

Christy Whitney, President and CEO of Hospice, said they are in favor of the project and proud of the presentation. She said the project is critical to their organization and that Hospice receives many requests for inpatient facilities.

Council President Spehar noted that the planning effort done for this project might be a learning lesson for others.

Larry Jokerst, Practice Administrator of Primary Care Physicians (PCP), agreed with the previous comments and mentioned Hospice's long history in the community, the physicians support, and their belief in the community and the project as a whole.

The public hearing was closed at 8:56 p.m.

Ordinance No. 3534 – An Ordinance Zoning Two Parcels Located at 3090 and 3150 North 12th Street from PD (For Miller Homestead) to PD for the 12th Street Medical Plaza and Hospice Care Planned Development

Councilmember Enos-Martinez moved to adopt Ordinance No. 3534 on Second Reading and ordered it published. Councilmember McCurry seconded the motion. Councilmember Kirtland advised Council that Shaw Construction has been selected to build the facility and he will therefore abstain from voting on this item to prevent any appearance of impropriety. Motion carried by a roll call vote with Councilmember Kirtland abstaining.

Council President Spehar called a recess at 8:59 p.m.

The meeting reconvened at 9:07 p.m.

Staff Update and First Reading - 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.

Council President Spehar referred Council to a letter informing the BLM that the City will not appeal the BLM's finding of "No significant impact" by allowing a natural gas compressor station to be built on the slopes of Grand Mesa. At the same time, this action would display a good faith effort on behalf of the City to work with the other entities.

Councilmember McCurry moved to approve the letter and authorized the Mayor to sign. Councilmember Palmer seconded the motion. Motion carried.

Councilmember Kirtland expressed his appreciation for all of the Council President's efforts. Councilmember Hill concurred and emphasized the significance of cooperation as noted in the letter.

Council President Spehar then reviewed the purpose of the next step and what the City was trying to accomplish. He said the proposed ordinance would be discussed, that Council has received a number of comments, and revisions have been suggested. He said the ordinance is not attempting to stop drilling on the Grand Mesa, but rather is an attempt to protect the City's water resources and the high water quality in Grand Junction. He explained that there are 39 other communities that have similar ordinances, including the Town of Palisade. He said the City does not attempt to usurp anyone else's authority. He then asked the City Manager for an update and said if Council goes forward with this reading, testimony then will be taken at Second Reading at the next Council meeting.

City Manager Arnold gave an activity overview since Monday night's workshop and of the comments received.

City Attorney Wilson next reviewed various comments and suggestions received from various agencies and the public on how the ordinance could be improved. He noted that one comment was not to duplicate efforts; if Memorandums of Understanding or regulations are already in place with equivalent agencies, use those. Another suggestion is to expand the definition of domestic use to include building a driveway. He said

one exception to domestic uses that would require review and/or permit would be septic tanks. He said the applicant would submit an application to the County and a copy to the City. Since the County is the approval agency for that activity, the County would inform the City of the status of the application.

Mr. Wilson said Staff disagrees with public comments received regarding the timbering provision. He explained, although no timbering is performed now, Staff feels that it is better to have the activity addressed and on the books for the future, when the situation might be different.

Mr. Wilson noted that the title "Unlawful Activities" in the ordinance was wrong and should instead read "Activities Not Permitted".

Mr. Wilson continued to review various comments received and Staff's suggestions to incorporate them into the ordinance. He said Staff suggests having three sections with a) a section of activities for what is permitted; b) what activities are exempted; and c) one section to include the grandfathered clauses to make the ordinance more readable.

He said other comments and questions received were in regards to cattle activities; leases to the City; how to deal with licensed outfitters; and previous soil sedimentation. He said of course the City can't go back and fix sedimentation, but can oversee those activities in the future. He said another comment was about weed spraying. He said that process would be a County function and affects the County in a couple of areas, i.e. canals and ditches. He said he hopes that the County and City can work together.

Mr. Wilson said water wells already require a permit through the State, and would require a copy of the permit request to be forwarded to the City.

Mr. Wilson said he still needs to clarify the comments and questions received regarding performance guarantees and insurance language. He said he wants to check with various local insurance agents.

In regards to the BLM comments, Mr. Wilson said he disagrees with Flint Ogle's, the BLM's solicitor, opinion that the ordinance is attempting to regulate land use and some of his other comments.

Councilmember Kirtland questioned how the various Memorandums of Understanding might dovetail with this ordinance.

City Attorney Wilson said he believes that the current Memorandums of Understanding would work, but the one with the Forest Service will need updating to concede their authority to regulate land use, and that the City reserves the right to protect its wa-

tershed. He said if the ordinance conflicts with Forest Service authority, the Federal Government would pre-empt the City's.

Council President Spehar said that in reading the BLM comments; the letter said the BLM can't delegate their statutory authority.

City Attorney Wilson next explained Zone 2 (Gunnison) and Zone 3 (Clifton Plant). He said Zone 3 is needed and is used as the City's emergency water supply. He explained Zone 3, the Colorado River Watershed includes the Clifton Water District Plant, and extends five miles upstream and up-gradient of the intake and diversions of the plant, and goes five miles east through developed land. He said Clifton Water oversees the activities and permits. Every six years the City of Grand Junction must perform diligence, otherwise the City's interest would be declared abandoned. Mr. Wilson said the City needs to update its Memorandum of Understanding with Clifton Water for them to continue their great job.

Greg Trainor, Utilities Manager, said all domestic water providers have to meet the requirements of the Clean Water Act. He said Clifton Water meets all requirements, which is why it does not make sense to go beyond Clifton. He said he had about 25 discussions with landowners and listed all the participants. He said the discussions covered two objectives. How to protect the City's drinking water supply and how to accomplish that task. He said many of the people he spoke with about these issues had different concerns than those who he would have talked to when he started with the City 17 years ago. He said a lot of development and changes were occurring in the Kannah Creek area.

Mr. Trainor said the discussions were how the protection of the water supply should happen. He said there were very good practical suggestions on how the ordinance should be changed, and that in redrafting the ordinance, there probably will be significant changes in the drafting itself.

Council President Spehar asked Mr. Wilson if objective criteria and definitions could be included in the ordinance. Mr. Wilson said that would be preferable but there is not a scientific approach for all these items, such as measuring silt deposits in the water. He then asked for suggestions on how to address that, so Staff can make these decisions and won't have to come to Council. Mr. Wilson said the applicant can pick the review entity and has the option to take the request to Council.

Council President Spehar suggested that Council move forward so that Council can hear public comments.

Councilmember Kirtland said it is important to determine how to establish expectations, to make sure it addresses situations in the future, and that he supports the hearing of public comments at Council's first meeting in July.

Councilmember Enos-Martinez asked if the Second Reading would be in July.

Councilmember Kirtland suggested not doing the First Reading tonight, but to do it at the next meeting and then set the Second Reading for July 2nd.

City Manager Arnold noted that the week of July 2nd would be a holiday week.

Councilmember Kirtland suggest to then have the Second Reading at the July 16th meeting.

Councilmember McCurry agreed with Councilmember Kirtland.

Councilmember Palmer said he supports Councilmember Kirtland's proposal and suggested Council move cautiously forward.

Councilmember Enos-Martinez said she is comfortable with Councilmember Kirtland's suggestion.

Councilmember Hill said after listening to Ed Gardner's letter, he has concerns and would like to voice them, but had not had time to fully digest all the information. He then threw out questions, one being, how the ordinance would protect the City's watershed better than the regulations of the BLM and that of the Forest Service.

Councilmember Hill said Terry Franklin took him out to tour the watershed. He said he realized that when he moved, Ute Water became his water supplier and that the proposed ordinance does not protect the water supplied by Ute Water. He said the ordinance may be the tool for protecting the water quality, but is not the full answer. He suggested meeting with landowners and leaseholders, so the ordinance could be done right, and to give this issue/ordinance the time it deserves. He said he wanted to talk to these people personally.

Council President Spehar said he acknowledges those concerns, to have the opportunity to deal with what the statute allows and that Council can't solve Ute Water's issues. He said he wanted to get the public hearing process started, the time to get to it is now, and that the appeal issue with the deadline was no longer an issue.

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 Kirtland moved to table the First Reading. Councilmember Hill seconded the motion. Motion carried.

Councilmember Kirtland moved to direct Staff to prepare a redraft of the ordinance for First Reading on June 4th, and with Second Reading being not before July 16th.

Councilmember Hill asked that First Reading be on June 4th, and to hear public testimony at that meeting. Councilmember Enos-Martinez questioned how his request was any different from Councilmember Kirtland's motion. Councilmember Hill said he felt that at the Second Reading, the people feel that the ordinance is then at a different level.

Council President Spehar said he was concerned that a precedent would be set, noting the current procedure works.

City Attorney Wilson said the perception might be that at Second Reading the decision is already made, but that is not the case in the City's Charter.

Councilmember Palmer said Council wants to give people the opportunity to digest all the information and get their thoughts in order, and that the motion allows six weeks for people to contemplate the issue.

Councilmember Hill said he wanted the BLM, the Forest Service, and the Town of Palisade all to be on the same page.

Councilmember Palmer said since there is no timeline, adoption at Second Reading could be put off if more input was needed.

Councilmember Enos-Martinez noted that Council could always delay Second Reading if Council was not ready to adopt the final ordinance.

Council President Spehar called for a vote on the motion on the floor. By voice vote, the motion carried with Councilmember Hill voting NO.

NON-SCHEDULED CITIZENS & VISITORS

There were none.

OTHER BUSINESS

City Manager Arnold asked Council if Staff should move forward on an ordinance regarding pigeons. Council President Spehar thought it would be prudent to put this ordinance off for a while. Councilmember Palmer agreed and felt it was not as urgent as other issues. Mr. Arnold suggested to Council to revisit the pigeon ordinance in 60 days.

ADJOURNMENT

Council President Spehar declared the meeting adjourned at 10:36 p.m.

Stephanie Tuin, MMC
City Clerk