

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

April 7, 2004

The City Council of the City of Grand Junction convened into regular session on the 7th day of April 2004, at 7:30 p.m. in the City Auditorium. Those present were Councilmembers Harry Butler, Cindy Enos-Martinez, Bruce Hill, Dennis Kirtland, Gregg Palmer, and President of the Council Jim Spehar. Councilmember Bill McCurry was absent. Also present were City Manager Kelly Arnold, Acting City Attorney John Shaver, and City Clerk Stephanie Tuin.

Council President Jim Spehar called the meeting to order. Councilmember Enos-Martinez led the pledge of allegiance. The audience remained standing for the invocation by Pastor Michael Torphy, Religious Science Church.

PROCLAMATIONS

PROCLAIMING THE MONTH OF APRIL AS "MONTH OF THE YOUNG CHILD" IN THE CITY OF GRAND JUNCTION

PROCLAIMING THE MONTH OF APRIL AS "CHILD ABUSE PREVENTION MONTH" IN THE CITY OF GRAND JUNCTION

PROCLAIMING APRIL 16, 2004 AS "ARBOR DAY" IN THE CITY OF GRAND JUNCTION

PRESENTATION OF CERTIFICATES OF APPOINTMENT

To the Walker Field Public Airport Authority

Dan Lacy was present and received his certificate of appointment.

APPOINTMENTS

To the Public Finance Corporation

Councilmember Kirtland moved to reappoint Kelly Arnold and Lynn James to additional three-year terms on the Public Finance Corporation, expiring January 2007. Councilmember Hill seconded the motion. Motion carried.

To the Parks and Recreation Advisory Board

Councilmember Hill moved to appoint Lenna Watson to the Parks and Recreation Advisory Board to serve until June 2005. Councilmember Enos-Martinez seconded the motion. Motion carried.

SCHEDULED CITIZEN COMMENTS

Grand Junction Rural Fire District Board Member Steve Gsell was scheduled to address Council. Tery Dixon, appeared instead and read the following statement prepared by Steve Gsell (attached):

“Dear Mayor Spehar and Grand Junction City Council Members:

Throughout March and April, assorted forms of communication have been exchanged between the City and the District ostensibly to discuss issues and effect resolution to obvious disagreement on many points. However, it appears the only issue the City is willing to discuss and pursue is money and the libelous reference to the District's fiduciary responsibilities. In Mayor Spehar's letter of March 19 he states: "The City has been notably deferential to the District..." when in fact the actual demeanor towards the District has always been that of a parent with a petulant child. The City has never viewed the District as an equal partner in contractual matters evidenced by any relevant dispute being played out in either the County Commissioner's venue or the media. What ever happened to the parties involved personally coming to the table for a discussion? Having asked the question, I will endeavor, again, to reiterate the main points currently up for discussion by the Council, including but not necessarily limited to, the recent records request.

As indicated in an April 2 letter from Robert Cole to Assistant City Attorney John Shaver, the following points were made:

1. When the District received the City's March 19th Request for Records, Mr. Cole informed Mr. Shaver via telephone and in a March 25th letter, that the majority of the District's financial records for 2003 were not in the custody or control of the District, but resided in New York for initial audit preparation as due to the State. These records were forwarded early March, prior to receipt of the City's request. These records include most of the District's financial records for 2001 and 2002 as well for re-review. As indicated on March 24TH, those documents not in the District's possession are available for review by the City. If the City would select a convenient date for travel to New York, arrangements would be made for immediate review. If the City prefers to review the records locally, Mr. Cole will notify the City when they are returned to the District. These offers were reiterated at our meeting at Mr. Dixon's home on March 29th and the City, through Mr. Lappi and Mr. Shaver, did not raise objection. The District is in the process of having the records returned so they can be made available locally to the City. Hopefully this will be accomplished by next week.

2. Prior to our meeting on March 29th, the District supplied per request, copies of the District's 2001 and 2002 audited financial statements and noted a copy of the 2003

audit would be supplied upon completion. In compliance with the District's offer to make all local records available for review, at the March 29th meeting, the following additional documents were reviewed by the City and copies produced: Profit and Loss Summary and Detail Statements for 2001, 2002, 2003, and January through to date 2004; 2003 Amended Budget; Resolution to Set Mill Levies, Redlands Subdistrict, for 2003 Budget Year; Resolution to Set Mill Levies, Rural District, for 2003 Budget Year; Resolution to Appropriate Sums of Money for 2003 Budget Year; Resolution to Amend 2003 Budget; and a list of institutions holding the District's assets complete with location and balance as of 12-31-03 (Alpine Bank and Golcanda Trading Group). Mr. Shaver and Mr. Lappi indicated this level of cooperation was adequate and would await notification of the records return for further inspection, apparently declining to travel to New York for immediate review. There was no mention by either Mr. Lappi or Mr. Shaver of their disappointment that more records were not available. Nor did you indicate the meeting was unproductive as Mr. Lappi was quoted. They did ask what the relationship was between Ms. Harvey and Mr. Baron. That relationship is quite simply a professional acquaintance whereby Ms. Harvey was comfortable reviewing Mr. Baron's work a second time and subsequently finalizing. All the CPA's involved with the District's audit can be found by reviewing the state licensing agency of their respective locations. The licensing of Golcanda Trading Group is under continuing review by the District and action needed, if any, will be taken to ensure the District complies with local government deposit and investment requirements.

3. Mr. Lappi and Mr. Shaver stated at the March 29th meeting the records request was not an audit and was done to facilitate the Council's understanding of the Board's issues. When was it ever indicated by the District to the Council, that assets were an issue? In fact when Mr. Shaver and Mr. Cole spoke on March 24th and again March 29th the District's expressed concerns were:

- (1) Whether because of the Redlands Subdistrict organization schedule, it had statutory authorization to levy taxes for collection in 2003, and
- (2) Whether payment to the City is authorized or required when the Subdistrict's voter authorization and contractual obligation to the City is tied to operation and maintenance of Station 5, and Station 5 has yet to be completed. It appears the Council's comprehension of District's concerns is at a different level at any given time.

The legitimacy of these issues is difficult to argue. By statute, to have taxes collected on its behalf, the Redlands Subdistrict was required to have notified the County Assessor and the Board of Commissioners of its organization no later than July 1, 2002. As the Subdistrict was not organized until November 2002, and given the County Assessor's concerns, it is the District's fiduciary duty to have a judicial determination of

whether it was appropriate to tax the Subdistrict property owners for the entire year when the Subdistrict only existed for a little over one month.

4. Further at any time in recent memory, including the March 29th meeting, the City appears inclined to discuss District business with any entity except the District, unless of course, the District makes a payment. The issues of contractual payments and Board vacancies were discussed by Council representatives with the County Commissioners and never with the District. A concern raised by Assessor Belcher was discussed between City Council and County Commissioners, again without District inclusion. The District historically receives notification of these meetings via the press. In review, it is notable that the last time the District, the County (deemed by the City to be a player in the MOA) and the City met to discuss any contractual matters was prior to the 2002 vote to approve the District! And, this District has endeavored to meet with the City to discuss real issues since February 2003, and been put off.

5. In essence, on March 22nd, District Board Members Jerry Clark and Tery Dixon appeared before City Council Special Session to move issues forward regarding Assessor Belcher's letter. It was generally agreed the respective attorneys would work out the details and each report to their agency. The District believes this process has been forced to a secondary position with the open records publicity, and perhaps the relationship between the entities severely damaged. We hope not. Therefore, the District states we have requested a complete copy of the District financial records be made at our auditor's location and returned to the District as soon as possible to make same available to the City. In anticipation of seeking a judicial opinion of the legality posed by Assessor Belcher, the 2003 Subdistrict monies will be available for court deposit. The District anticipates engaging special legal counsel to assist it with resolving these issues. The District's special counsel will be directed to contact County Attorney DeShant and Assistant City Attorney Shaver to move forward. Finally, there is a question of additional monies owed the City per the base agreement and discussed at the District's Board Meeting held April 2nd. If the City is agreeable, a wire transfer of \$74,606 will be completed to fulfill the Board's desire to complete this payment.

Should the City Council or anyone else have further questions, please direct them to President Gsell at our business address: 2002 (*is what she read, the letter reads 202*) North Avenue, #267, Grand Junction, CO 81502, with a copy to Robert Cole, 390 Union Boulevard, Suite 400, Denver, CO 80228-1556. "Let's move forward."

Ms. Dixon continued with "Honorable Members on behalf of the District, I thank you for allowing us to make this presentation to you and we look forward to working with you for a resolution of this and give the taxpayers what they want".

Council President Spehar thanked Ms. Dixon and asked her to give the statement she just read to the City Clerk.

Councilmember Hill referred to a statement read by Ms. Dixon on behalf of the District and which is part of minutes dated March 22nd, stating that the District is not interested in paying what the City thinks the District owes, but is willing to place the amount in an escrow account with Alpine Bank until all questions are answered. Councilmember Hill voiced his concerns that there is no tracking of the funds and that no court registry has been done. He said he is at a loss, and felt the issue about the collected taxes falls under a separate jurisdiction and he wants to make sure that those taxes are legal and appropriate, yet he said there is no way to locate the money that should be held separately. He said the District claims the funds are kept separately, but the City cannot locate those funds.

Councilmember Palmer agreed with Councilmember Hill. He said the City is providing excellent fire service on the Redlands and is doing everything that should be done to honor the contract.

Councilmember Butler said the fire station is for the benefit of the Redlands citizens and not for Grand Junction, and if the tax money was received illegally, then it is being invested illegally.

Councilmember Kirtland said the open records request should not take away from the other issue. He felt research on the legality of the funds should be done, but so far, nothing has been done. He said he is worried because nothing has been filed with the courts.

Council President Spehar clarified that there has not been any performance under the contract, as insisted upon consistently by the City. He agreed to seek judicial review on the legality of the collection of the tax. He wanted to see some action so the City will be able to reassure the taxpayers that the money is indeed safe, and can be placed in escrow or in a court registry. He said he has not seen any action on the part of the District and all diversions should be put aside.

Council President Spehar reiterated that Council would continue with the previous direction given to Acting City Attorney John Shaver.

CONSENT CALENDAR

It was moved by Councilmember Enos-Martinez, seconded by Councilmember Kirtland, and carried by a roll call vote, to approve Consent Calendar Items #1 through #8.

1. Minutes of Previous Meetings

Action: Approve the Summary of the March 15, 2004 Noon Workshop, the March 15, 2004 Workshop, the Minutes of the March 15, 2004 Special Meeting, the March 17, 2004 Regular Meeting, and the March 22, 2004 Special Meeting

2. Setting a Hearing on the Chipeta Glenn Annexation Located at 2975 and 2977 B ½ Road [File #ANX-2004-032]

Resolution referring a petition for annexation and introduction of proposed ordinances. The 13.641 acre Chipeta Glenn Annexation consists of 2 parcel(s). The Chipeta Glenn Annexation is a 2 part serial annexation and includes 92' of B ½ Road right-of-way.

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

Resolution No. 25-04 – 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, Chipeta Glenn Annexations #1 & #2 Located at 2975 and 2977 B ½ Road

Action: Adopt Resolution No. 25-04

b. Setting a Hearing on Proposed Ordinances

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado Chipeta Glenn Annexation #1, Approximately 7.055 Acres, Located at 2975 B ½ Road

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado Chipeta Glenn Annexation #2, Approximately 6.586 Acres, Located at 2977 B ½ Road

Action: Introduction of Proposed Ordinances and Set a Hearing for May 19, 2004

3. Setting a Hearing on Grand Valley Audubon Annexation Located at 605 and 608 Dike Road [File #ANX-2004-052]

Resolution referring a petition for annexation and introduction of proposed ordinances. The 55.272 acre Grand Valley Audubon Annexation consists of 2 parcel(s). The Grand Valley Audubon Annexation is a 2 part serial annexation.

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

Resolution No. 26-04 – 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, Grand Valley Audubon Annexation #1 & #2, Located at 605 and 608 Dike Road

Action: Adopt Resolution No. 26-04

b. Setting a Hearing on Proposed Ordinance

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Grand Valley Audubon Annexation #1, Approximately 25.994 Acres, Located at 605 Dike Road

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Grand Valley Audubon Annexation #2, Approximately 29.278 Acres, Located at 608 Dike Road

Action: Introduction of Proposed Ordinances and Set a Hearing for May 19, 2004

4. Setting a Hearing on Blue Heron Rezone Located on the South Side of Blue Heron Road, East of the Blue Heron River Trail [File #RZ-2004-038]

Request to rezone property located on the south side of Blue Heron Road, east of the Blue Heron River Trail, consisting of one parcel, from the CSR (Community Services and Recreation) zone district to I-2 (General Industrial) zone district. Planning Commission recommended approval at its March 23, 2004 meeting.

Proposed Ordinance Rezoning a Parcel of Land from CSR (Community Services and Recreation) to I-2 (General Industrial) Located on the South Side of Blue Heron Road, East of the Blue Heron River Trail

Action: Introduction of Proposed Ordinance and Set a Hearing for April 21, 2004

5. Purchase of 3/8" Aggregate Rock Chips for Chip Seal Street Maintenance Program

Purchase of 5600 tons of 3/8" aggregate rock chips for the City's annual street maintenance program.

Action: Authorize the Purchase of 5,600 Tons of 3/8" Chips from Whitewater Building Materials Corporation, for a Total Price of \$84,000.00, Delivered

6. Purchase of Street Sweeper

This is for the purchase of a 2004 Tymco 600 truck mounted Street Sweeper. It is currently scheduled for replacement in 2004 as identified by the annual review of the fleet replacement committee.

Action: Authorize the City Purchasing Manager to Purchase One 2004 Tymco 600 Street Sweeper from Intermountain Sweeper Company for the Amount of \$134,395.00

7. Sole Source Purchase of Tasers

This purchase is being requested by the Police Department to purchase 26 each X26 Tasers. The X26 Taser is a less lethal weapon utilized by law enforcement agencies worldwide. It is only available through one Colorado authorized dealer, Davidson's Law Enforcement.

Action: Authorize the City Purchasing Manager to Purchase 26 Each X26 Tasers with all Attachments for the Amount of \$28,069.40 from Davidson's Law Enforcement

8. Setting a Hearing on Creating the Horizon Drive Business Improvement District

The Horizon Drive group has turned in petitions, which appear to represent more than 50% of the property owners in the proposed Business Improvement District. The next step in the process is for the City Council to schedule a public hearing within forty days. At the hearing, the City Council will determine if the petitions were signed in conformity with the law and if the district should be formed. The City Council may also exclude property from the district as allowed by Statute or if it deems it to be in the best interest of the district.

Action: Introduction of Proposed Ordinance and Set a Hearing for April 21, 2004

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

Construction Contracts

a. Broadway Beautification Project

Award of a construction contract for the Broadway Beautification Project to Sorter Construction, Inc. in the amount of \$260,848.50. The project includes installation of curb & gutter, storm drains, irrigation system, earthwork, guardrail improvements and ground cover within the Highway 340 medians located between the Colorado River and East Mayfield Drive.

Mark Relph, Public Works and Utilities Director, reviewed this item. He expressed that this project has been worked on for a long time so he is pleased to see it come to fruition. He explained the contract excludes plantings but a change order is being negotiated for the plantings.

Councilmember Hill noted the participation of the Broadway Beautification Committee and asked about the landscape plan. Mr. Relph responded that prior to the finalization of the change order; he will ensure that the Broadway Beautification Committee is included in the discussions.

b. 2004 Alley Improvement District

Award of a construction contract for the 2004 Alley Improvement District to BPS Concrete, Inc. in the amount of \$369,058.10. This project includes construction of concrete pavement in six alleys and replacement of antiquated sewer lines in five of the six alleys. In conjunction with the sewer and concrete pavement construction, Xcel Energy will replace gas lines in five of the alleys.

Mark Relph, Public Works and Utilities Director, reviewed this item. He noted the District was created earlier this year and this is the award of the construction contract for those alleys. He said the lowest bid came in slightly over budget, but Mr. Relph felt there are sufficient funds in a Public Works account to make up the \$53,510 difference.

Councilmember Hill moved to authorize the City Manager to sign a contract for the Broadway Beautification Project with Sorter Construction, Inc. for \$260,848.50, and to authorize the City Manager to sign a construction contract for the 2004 Alley Improvement District with BPS Concrete, Inc. for \$369,058.10. Councilmember Kirtland seconded the motion. Motion carried.

Public Hearing – Intent to Create Music Lane Area Sanitary Sewer Improvement District No. SS-46-04 and Award Construction Contract

A majority of the owners of real estate located west of 26 Road between Meander Drive and F 1/2 Road have submitted a petition requesting an improvement district be created to provide sanitary sewer service to their respective properties. The proposed Resolution and Award of Construction Contract in the amount of \$125,900.90 to the recom-

mended low bidder, MA Concrete Construction of Grand Junction, are the final steps in the formal process required to create the proposed Improvement District.

Bids were received and opened January 20, 2004. MA Concrete Construction, Inc. submitted the low bid in the amount of \$125,900.90.

The public hearing was opened at 8:13 p.m.

Mark Relph, Public Works and Utilities Director, reviewed this item. He displayed a map of the area and noted that the neighborhood was very supportive of the creation of the District.

Alan Workman, 2989 F ½ Road, supported the creation of the district and complemented the Public Works staff on their work, especially Mr. Relph.

There were no other public comments.

The public hearing was closed at 8:16 p.m.

Resolution No. 27-04 – A Resolution Creating and Establishing Sanitary Sewer Improvement District No. SS-46-04, within the Corporate Limits of the City of Grand Junction, Colorado, Authorizing the Installation of Sanitary Sewer Facilities and Adopting Details, Plans and Specifications for the Same

Councilmember Kirtland moved to adopt Resolution No. 27-04 and to authorize the City Manager to enter into a construction contract with M. A. Concrete Construction of Grand Junction for \$125,900.90. Councilmember Hill seconded the motion. Motion carried by a roll call vote.

Assistance to Firefighters Grant Program

The Fire Department requests the City Council's approval to submit Assistance to Firefighters Grant Program Application for five 12-Lead Cardiac Monitors.

Jim Bright, Assistant Fire Chief, presented this item. He stated the purpose of the grant request and the use of previous funds from this grant program. He said the grant would be used to replace older cardiac monitors since many were reaching the end of their useful life. The grant would allow immediate replacement of the oldest units instead of a gradual replacement without the grant funding. He told Council the grant does require a 30 percent match by the City, but said such funds are available in the equipment replacement account. He also noted that there are no TABOR implications as it is a federal grant.

Councilmember Kirtland asked how many units are at the end of their useful life. Mr. Bright said three. John Howard, EMS Coordinator, noted the grant would allow the Fire Department to place a unit at each of the fire stations. He said since about 12 percent of the received calls are from cardiac patients, these new units would have a big impact on those patients. Without the grant it would take the Fire Department over three years to replace the old units.

Councilmember Palmer moved to authorize the Fire Department to apply for a 2004 Assistance to Firefighters Grant for five 12-Lead Cardiac Monitors. Councilmember Enos-Martinez seconded the motion. Motion carried.

Public Hearing – Amending the Zoning and Development Code for Undergrounding Existing Overhead Utilities on Perimeter Streets for New Developments

Council will consider modifications to the Development Code related to undergrounding of existing overhead utilities adjacent to new developments. The modification would allow proposed developments with less than 700 feet of front frontage to pay a cash-in-lieu of construction fee for the undergrounding of existing overhead utilities. Additionally, if half street improvements are not required as part of the development project, a cash-in-lieu fee will also be collected for those projects.

The public hearing was opened at 8:20 p.m.

Tim Moore, Public Works Manager, presented this item. He explained the recommendation is that developments that have 700 feet of frontage or less can have the option of undergrounding utilities or paying a fee instead. He said the reason for the amendment is the conflict when applying the provisions of the Code. For example, a development with a small frontage might have a large expense to underground the lines, both along the frontage and perimeter streets. Since the utility companies don't care for short runs of their lines being undergrounded, the ordinance provides flexibility to pay a fee instead of undergrounding short spans. The City can then plan the undergrounding in larger sections.

Councilmember Hill stated that one of the reasons for the fee is the cost per foot is significantly higher on short runs and asked how the fee is valued by the City. Mr. Moore said the fee is figured on the volume rate and the funds are then held in a separate account until a big project will be done.

Councilmember Kirtland inquired if Xcel Company has some obligation to participate in the cost. Mr. Moore said if it is a city project, then there is a provision in the agreement that the utility company will move the utilities back, but if the City wants to underground the utilities, then the City pays the costs and can then use the one percent undergrounding fund.

Acting City Attorney John Shaver noted that this ordinance was not presented to the Planning Commission for its recommendation, as it is a codification of an administrative regulation. He stated Council has the option to remand it to the Planning Commission. Council did not feel that to be necessary.

There were no public comments.

The public hearing was closed at 8:29 p.m.

Ordinance No. 3610 – An Ordinance Amending Section 6.2.A.1.h. of the Grand Junction Zoning and Development Code by Addition of an Exception for Required Improvements Concerning the Placement of Utilities Underground

Councilmember Enos-Martinez moved to adopt Ordinance No. 3610 on Second Reading and ordered it published. Councilmember Palmer seconded the motion. Motion carried by a roll call vote.

Public Hearing – Amend Chapter 38, Utilities, of the Code of Ordinances

Amending Chapter 38 of the City's Code of Ordinances ("Code"). The Industrial Pre-treatment Program is audited by the Environmental Protection Agency ("EPA") on an annual basis. The results of the 2003 audit necessitates changes to Chapter 38, Article II, of the Code. The proposed amendments mainly concern defining terms pursuant to definitions of the same or similar terms used within the United States Code and with the Code of Federal Regulations. Changes are made throughout Article II to coincide with the changes to the defined terms. The changes to the definitions do not change the program's operational procedures. Additional changes have been made to Chapter 38 for clarification purposes.

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

John Shaver, Acting City Attorney, presented this item. He noted the proposed amendment to the ordinance is basically a housekeeping action. He said the EPA looked at the City's Code and proposed some changes. The changes are mostly non-substantive. He commented the EPA was complementary on the City's Code and he said the EPA would have to publish the ordinance in the federal registry prior to it being effective.

Councilmember Hill complimented Staff on the format of the material presented.

Ordinance No. 3615 – An Ordinance Amending Chapter 38, Utilities, of the Code of Ordinances by Implementing EPA's Recommended Changes to be Published in Pamphlet Form

Councilmember Hill moved to adopt Ordinance No. 3615 on Second Reading and ordered it published. Councilmember Kirtland seconded the motion. Motion carried by a roll call vote.

Public Hearing – Right-of-Way Vacation Adjacent to Kia Drive [File #VR-2003-263]

The City of Grand Junction proposes to vacate two pieces of right-of-way adjacent to Kia Drive between Brookwood and Brookside Subdivisions. The right-of-way vacation would be contingent upon dedication of a 30 Road right-of-way. The Planning Commission recommended approval of the right-of-way vacation on March 9, 2004, making the Findings of Fact/Conclusion identified in the staff report.

The public hearing opened at 8:33 p.m.

Ronnie Edwards, Associate Planner, presented this item. She noted the request is a City initiated proposal. The initial right-of-way was more than what is needed, as long as the easement is reserved. In exchange for the vacation, the City will receive a portion of the 30 Road right-of-way as a dedication. She noted the request is consistent with the Growth Plan and the review criteria.

There were no public comments.

The public hearing closed at 8:35 p.m.

Ordinance No. 3616 – An Ordinance Vacating Two Pieces of Right-of-Way Located Adjacent to Kia Drive, Brookside Subdivision

Councilmember Kirtland moved to adopt Ordinance No. 3616 on Second Reading and ordered it published. Councilmember Enos-Martinez seconded the motion. Motion carried by a roll call vote.

Public Hearing – Landmark Baptist Church Annexation and Zoning Located at 3015 D Road [File # ANX-2004-016]

Resolution for acceptance of petition to annex and to hold a public hearing and consider final passage of the annexation ordinance for the Landmark Baptist Church Annexation, located at 3015 D Road. The 4.779-acre annexation consists of 1 parcel of land.

Hold a public hearing and consider final passage of the ordinance to zone the Landmark Baptist Church Annexation to RSF-E (Residential Single Family – Estate 2 ac/du), located at 3015 D Road.

The public hearing was opened at 8:36 p.m.

Senta L. Costello, Associate Planner, presented this item. She described the location of the site, the surrounding uses, and the Growth Plan designations. She noted Staff has found the requests are compliant with the Code and the Growth Plan requirements and recommends approval.

Councilmember Palmer asked if the property is inside the Persigo boundaries. Ms. Costello said it is.

Councilmember Kirtland asked about its proximity to the Riverside Trail. Ms. Costello estimated it at about ¼ mile from the trail.

Mark Young, MDY Consulting Engineers, 743 Horizon Court, representing Landmark Baptist Church, expressed appreciation to Ms. Costello for her help and on behalf of the Church thanked Council for considering the request.

The public hearing was closed at 8:40 p.m.

Councilmember Enos-Martinez stated that the Landmark Baptist Church is currently in the Riverside neighborhood and it has outgrown the facility but will be missed as a neighbor.

a. Accepting Petition

Resolution No. 28-04 – A Resolution Accepting a Petition for Annexation, Making Certain Findings, Determining that Property Known as the Landmark Baptist Church Annexation Located at 3015 D Road is Eligible for Annexation

b. Annexation Ordinance

Ordinance No. 3617 – An Ordinance Annexing Territory to the City of Grand Junction, Colorado, Landmark Baptist Church Annexation, Approximately 4.779 Acres Located at 3015 D Road

c. Zoning Ordinance

Ordinance No. 3618 – An Ordinance Zoning the Landmark Baptist Church Annexation to RSF-E Located at 3015 D Road

Councilmember Palmer moved to adopt Ordinances No. 3617 and No. 3618 on Second Reading and ordered them published. Councilmember Butler seconded the motion. Council President Spehar asked for an amendment to the motion to include Resolution

No. 28-04. Councilmember Palmer made the amendment and Councilmember Butler seconded the amended motion. Amended motion carried by a roll call vote.

Public Hearing – Etter-Epstein Outline Development Plan (ODP) Request for Extension [File #ODP-2000-058]

A mixed-use Outline Development Plan (ODP) and Planned Development (PD) zoning ordinance for the Etter-Epstein property on the southeast corner of Horizon Drive and G Road was approved by City Council on February 21, 2001. The ordinance stated that the ODP would expire three years from the date of approval. Due to development and market trends and the difficulty and expense to develop this property, the plan has not yet evolved to the next phase of development – submittal of a Preliminary Plan. Thus, the property owners are requesting an extension to the three-year expiration for another three-year period.

The public hearing was opened at 8:43 p.m.

Kristen Ashbeck, Senior Planner, presented this item. She stated In February 2001 Council approved the Outline Development Plan (ODP) for the Etter-Epstein property. The ordinance stated the ODP would expire in three years if no Preliminary Plan had been filed. She then described the area. She explained due to the topography and the location being in the airport critical zone, a Planned Development was advised, and it will be costly to develop. She said because of development trends and market trends, Horizon Drive has not progressed as quickly as was anticipated. She said Staff finds that the ODP is still consistent with the Growth Plan and the Planning Commission recommends approval of the extension request. She noted the presence of the property owner.

Council President Spehar asked if these extensions are normal. Mr. Shaver said it is Council's prerogative to approve the request, especially in light of the Planning Commission's recommendation.

Councilmember Kirtland asked if there is a limit on the number of extensions. Mr. Shaver said the Code did not specify a number of extensions. Ms. Ashbeck said the owner has been informed that the ODP would be reviewed again at the new expiration date.

Councilmember Kirtland asked if looking at what is happening on Horizon Drive at that time would affect the decision. Ms. Ashbeck said the Planning Commission would then look at the request again.

Councilmember Palmer asked what happens if no extension is granted? Ms. Ashbeck said it would become a Planned Zone without a plan. Staff would have to present Council with a request for zoning of the site since a Planned Zone without a plan is not recommended.

There were no public comments.

The public hearing was closed at 8:50 p.m.

Councilmember Hill favored the extension and said he looks forward to the site's development.

Council President Spehar noted it is worthwhile continuing with the previous approved plan.

Ordinance No. 3619 – An Ordinance Zoning Land Located Near the Southeast Corner of the Horizon Drive and G Road Intersection to PD

Councilmember Kirtland moved to adopt Ordinance No. 3619 on Second Reading and ordered it published. Councilmember Enos-Martinez seconded the motion. Motion carried by a roll call vote.

NON-SCHEDULED CITIZENS & VISITORS

Ken Etter, 697 27 ½ Road, pointed out that there is confusion on street names and numbers in the area just discussed. He pointed out on the map that across the street from his residence on the west side of the old 27 ½ Road, the number is 4300 27 ½ Road. He felt the new road needs its own name and to consider giving 27 ½ Road a City street name, perhaps rename it to 18th Street.

Councilmember Kirtland asked about the process involved. City Manager Arnold replied he would research the request and find out why the City used the current names and numbers when the City realigned 27 ½ Road to intersect with Horizon Drive and G Road.

OTHER BUSINESS

There was none.

ADJOURNMENT

The meeting adjourned at 8:58 p.m.

Stephanie Tuin, MMC
City Clerk



GRAND JUNCTION RURAL FIRE PROTECTION DISTRICT
202 North Avenue #267
Grand Junction, Colorado 81501
970-241-5053

April 7, 2004

Jim Spehar, Mayor
City of Grand Junction
250 North 5th St.
Grand Junction, CO 81501

Via Hand Delivery

Dear Mayor Spehar and Grand Junction City Council Members:

Throughout March and April assorted forms of communication have been exchanged between the City and the District ostensibly to discuss issues and effect resolution to obvious disagreement on many points. However it appears the only issue the City is willing to discuss and pursue is money and the libelous reference to the District's fiduciary responsibilities. In Mayor Spehar's letter of March 19th he states "The City has been notably deferential to the District . . .", when in fact the actual demeanor towards the District has always been that of a parent with a petulant child. The City has never viewed the District as an equal partner in contractual matters evidenced by any relevant dispute being played out in either the County Commissioner's venue or the media. What ever happened to the parties involved personally coming to the table for a discussion? Having asked the question, I will endeavor, again, to reiterate the main points currently up for discussion by the Council, including but not necessarily limited to, the recent records request.

As indicated in an April 2 letter from Robert Cole to Assistant City Attorney John Shaver, the following points were made.

1. When the District received the City's March 19th Request for Records, Mr. Cole informed Mr. Shaver via telephone and in a March 25th letter, that the majority of the District's financial records for 2003 were not in the custody or control of the District, but resided in New York for initial audit preparation as due to the State. These records were forwarded early March, prior to receipt of the City's request. These records include most of the District's financial records for 2001 and 2002 as well for re-review. As indicated on March 24th, those documents not in the District's possession are available for review by the City. If the City would select a convenient date for travel to New York, arrangements would be made for immediate review. If the City prefers to review the records locally, Mr. Cole will notify the the City when they are returned to the District. These offers were reiterated at our meeting at Mr. Dixon's home on March 29th and the City, through Mr. Lappi and Mr. Shaver, did not raise objection. The District is in the process of having the records returned so they can be made available locally to the City. Hopfully this will be accomplished by next week.
2. Prior to our meeting on March 29th, the District supplied per request, copies of the District's 2001 and 2002 audited financial statements and noted a copy of the 2003 audit would be supplied upon completion. In compliance with the District's offer to make all local records available for review, at the March 29th meeting the following additional documents were reviewed by the City and copies produced: Profit and Loss Summary and Detail Statements for 2001/2002/2003 and January through todate 2004; 2003 Amended Budget; Resolution to Set Mill Levies, Redlands Subdistrict, for 2003 Budget Year; Resolution to Set Mill Levies, Rural District, for 2003 Budget Year; Resolution to Appropriate Sums of Money for 2003 Budget Year; Resolution to Amend 2003 Budget; and a list of institutions holding the District's assets complete with location and balance as of 12-31-03 (Alpine Bank and Golconda Trading Group.) Mr. Shaver and Mr. Lappi indicated this level of cooperation was adequate and would await notification of the records return for further inspection, apparently declining to travel to New York for immediate review. There was no mention by either Mr. Lappi or Mr. Shaver of their disappointment that more records were not available. Nor did you indicate the meeting was unproductive as Mr. Lappi was quoted. They did ask what the relationship was between Ms. Harvey and Mr. Baron. That relationship is quite simply a professional acquaintance whereby Ms. Harvey was comfortable reviewing Mr. Baron's work a second time and subsequently finalizing. All the CPA's involved with the District's audit can be found by reviewing the state licensing agency of their respective locations. The licensing of Golconda Trading Group is under continuing review by the District and action needed, if any, will be taken to ensure the District complies with local government deposit and investment requirements.

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3. Mr. Lappi and Mr. Shaver stated at the March 29th meeting the records request was not an audit and was done to facilitate the Council's understanding of the Board's issues. When was it ever indicated by the District to the Council, that assets were an issue? In fact when Mr. Shaver and Mr. Cole spoke on March 24th and again March 29th, the District's expressed concerns were: (1) whether because of the Redlands Subdistrict organization schedule, it had statutory authorization to levy taxes for collection in 2003, and (2) whether payment to the City is authorized or required when the Subdistrict's voter authorization and contractual obligation to the City is tied to operation and maintenance of Station 5, and Station 5 has yet to be completed. It appears the Council's comprehension of District's concerns is at a different level at any given time.

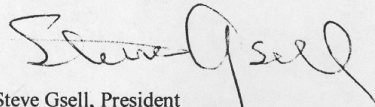
The legitimacy of these issues is difficult to argue. By statute, to have taxes collected on its behalf, the Redlands Subdistrict was required to have notified the County Assessor and the Board of Commissioners of its organization no later than July 1, 2002. As the Subdistrict was not organized until November 2002, and given the County Assessor's concerns, it is the District's fiduciary duty to have a judicial determination of whether it was appropriate to tax the Subdistrict property owners for the entire year when the Subdistrict only existed for a little over one (1) month.

4. Further at any time in recent memory, including the March 29th meeting, the City appears inclined to discuss District business with any entity except the District, unless of course, the District makes a payment. The issues of contractual payments and Board vacancies were discussed by Council representatives with the County Commissioners and never with the District. A concern raised by Assessor Belcher was discussed between City Council and County Commissioners, again without District inclusion. The District historically receives notification of these meetings via the press. In review, it is notable that the last time the District, the County (deemed by the City to be a player in the MOA) and the City met to discuss any contractual matters was prior to the 2002 vote to approve the District! And, this District has endeavored to meet with the City to discuss real issues since February 2003, and been put off.

5. In essence on March 22nd, District Board Members Jerry Clark and Tery Dixon appeared before City Council Special Session to move issues forward regarding Assessor Belcher's letter. It was generally agreed the respective attorneys would work out the details and each report to their agency. The District believes this process has been forced to a secondary position with the open records publicity, and perhaps the relationship between the entities severely damaged. We hope not. Therefore, the District states we have requested a complete copy of the District financial records be made at our auditor's location and returned to the District as soon as possible to make same available to the City. In anticipation of seeking a judicial opinion of the legality posed by Assessor Belcher, the 2003 Subdistrict monies will be available for court deposit. The District anticipates engaging special legal counsel to assist it with resolving these issues. The District's special counsel will be directed to contact County Attorney DeShant and Assistant City Attorney Shaver to move forward. Finally there is a question of additional monies owed the City per the base agreement and discussed at the District's Board Meeting held April 2nd. If the City is agreeable, a wire transfer of \$74,606 will be completed to fulfill the Board's desire to complete this payment.

Should the City Council or anyone else have further questions, please direct them to President Gsell at our business address: 202 North Avenue, #267, Grand Junction, CO 81502, with a copy to Robert Cole, 390 Union Blvd, Su 400, Denver, CO 80228-1556. Let's move forward.

Mayor, Council Members, thank you.



Steve Gsell, President
Grand Junction Rural Fire Protection District