

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

July 7, 2004

The City Council of the City of Grand Junction convened into regular session on the 7th day of July 2004, at 7:31 p.m. in the City Auditorium. Those present were Councilmembers Harry Butler, Cindy Enos-Martinez, Dennis Kirtland, Bill McCurry, Gregg Palmer, Jim Spehar and President of the Council Bruce Hill. Also present were City Manager Kelly Arnold, City Attorney John Shaver, and City Clerk Stephanie Tuin.

Council President Hill called the meeting to order. Councilmember Enos-Martinez led in the pledge of allegiance. The audience remained standing for the invocation by Councilmember Harry Butler.

Council President Hill recognized Councilmember Jim Spehar being elected as Secretary/Treasurer of CML. That means in three years he will be President of the CML.

He then recognized Councilmember Bill McCurry's receipt of a Medal of Service of 52 years.

APPOINTMENTS

APPOINTMENTS TO RIVERFRONT COMMISSION

Councilmember Kirtland moved to appoint Marianne Tilden, David Ludlum, Dennis Pretti and Deb McCoy to the Riverfront Commission for three year terms until July 2007. Councilmember Enos-Martinez seconded the motion. Motion carried.

RATIFICATION OF APPOINTMENTS TO URBAN TRAILS

Councilmember Palmer moved to ratify the appointment of Paul Darr and Denise McGinnis to Urban Trails Committee to complete the unexpired terms expiring July 2005, ratify the re-appointment of Judy Craddock to Urban Trails Committee for 3-year term expiring July 2007 and ratify the appointment of Lydia Reynolds and Robert Tallarico to the Urban Trails Committee for 3 year terms expiring July 2007. Councilmember Kirtland seconded the motion. Motion carried.

RATIFICATION OF APPOINTMENT TO BUILDING CODE BOARD OF APPEALS

Councilmember McCurry moved to ratify the re-appointment of David Detwiler to an alternate position on the Mesa County Building Code Board of Appeals for a 3-year term expiring July 2007. Councilmember Enos-Martinez seconded the motion. Motion carried.

CITIZEN COMMENTS

There were none.

CONSENT CALENDAR

It was moved by Councilmember Spehar, seconded by Councilmember Kirtland, and carried by roll call vote to approve Consent Calendar Items #1 through #6, moving item #4 to Individual Consideration between Items #11 and #12.

1. **Minutes of Previous Meetings**

Action: Approve the Summary of the June 14, 2004 Noon Workshop, Summary of the June 14, 2004 Workshop and the Minutes of the June 16, 2004 Regular Meeting

2. **Setting a Hearing for the Zoning of Red Tail Ridge II Annexation** [File #ANX-2004-094]

Introduction of a proposed zoning ordinance to zone the Red Tail Ridge II, Annexation RSF- 4, Located South and West of Buena Vista Drive on Orchard Mesa

Proposed Ordinance Zoning the Red Tail Ridge II Annexation to RSF-4 Located South and West of Buena Vista Drive on Orchard Mesa

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

3. **Setting a Hearing for the Haremza Annexation Located at 2126 Hwy 6 & 50** [File #ANX-2004-121]

Resolution referring a petition for annexation and introduction of a proposed ordinance. The 7.895 acre Haremza annexation consists of 1 parcel.

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

Resolution No. 57-04 – 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, Haremza Annexation Located at 2126 Hwy 6 & 50

®Action: *Adopt Resolution No. 57-04*

b. Setting a Hearing on Proposed Ordinance

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Haremza Annexation Approximately 7.895 Acres Located at 2126 Hwy 6 & 50

Action: *Introduction of Proposed Ordinance and Set a Hearing for August 18, 2004*

4. **Gardunio Revocable Permit Located at 2030 N. 6th Street** [File #RVP-2004-090]

The petitioner is requesting approval and issuance of a revocable permit to place large boulders in the City right-of-way adjacent to their rear property line.

Moved to individual consideration between Items #11 and #12.

5. **Setting a Hearing for the Flint Ridge III Annexation, Located at 2946 and 2952 D Road** [File #ANX-2004-101]

Resolution referring a petition for annexation and introduction of a proposed ordinance. The 19.1275 acre Flint Ridge III Annexation consists of 2 parcels located at 2946 and 2952 D Road.

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

Resolution No. 62-04 – 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, Flint Ridge III Annexation Located at 2946 and 2952 D Road

®Action: *Adopt Resolution No. 62-04*

b. Setting a Hearing on Proposed Ordinance

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Flint Ridge III Annexation Approximately 19.1275 Acres Located at 2946 and 2952 D Road

Action: *Introduction of Proposed Ordinance and Set a Hearing for August 18, 2004*

6. **Setting a Hearing for the Castanha Annexation No. 1, No. 2, No. 3, No. 4, Located at 2250 Saddlehorn Road** [File #ANX-2004-135]

Castanha Annexation, a serial annexation comprised of 4.895 acres, located at 2250 Saddlehorn Road and including a portion of the 22 ½ Road and Saddlehorn Road Rights-of-Way, has presented a petition for annexation as part of a preliminary plan. The applicants request approval of the Resolution referring the annexation petition, consider reading of the Annexation Ordinance, and requesting Land Use Jurisdiction immediately.

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

Resolution No. 63-04 – 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, Castanha Annexation No. 1, 2, 3, & 4 Located at 2250 Saddlehorn Road

®Action: *Adopt Resolution No. 63-04*

b. Setting a Hearing on Proposed Ordinances

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Castanha Annexation No. 1, Approximately 0.039 Acres Located at 2250 Saddlehorn Road

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Castanha Annexation No. 2, Approximately 0.133 Acres Located at 2250 Saddlehorn Road

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Castanha Annexation No. 3, Approximately 1.188 Acres Located at 2250 Saddlehorn Road

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Castanha Annexation No. 4, Approximately 3.535 Acres Located at 2250 Saddlehorn Road

Action: *Introduction of Proposed Ordinances and Set a Hearing for August 18, 2004*

*** * * ITEMS NEEDING INDIVIDUAL CONSIDERATION * * *****2004 South Broadway Trail and 2004 South Camp Road Curb and Gutter Improvements**

Award of a construction contract to Reyes Construction in the amount of \$244,051.65 for the 2004 South Broadway Trail and South Camp Road Curb and Gutter Improvements.

Tim Moore, Public Works Manager, reviewed this item. He explained that the project really consists of two projects. First is the completion of the trail at the corner of South Camp and South Broadway. Secondly, the curb and gutter will be installed along South Camp Road between Buffalo Drive and East Dakota Drive on the south side of the road. The project is within budget.

Councilmember Kirtland moved to authorize the City Manager to sign a construction contract for the 2004 South Broadway Trail and South Camp Road curb and gutter improvements with Reyes Construction in the amount of \$244,051.65. Councilmember McCurry seconded the motion. Motion carried.

Public Hearing - Appeal a Planning Commission Decision – 2938 North Avenue – Palace Pointe Market Place [File #VAR-2004-056]**APPELLANT HAS REQUESTED CONTINUANCE TO AUGUST 18, 2004**

The appellant, North Avenue Center, LLC, wishes to appeal the Planning Commission's decision regarding the denial of their variance request of the Zoning & Development Code's requirement to provide a six foot (6') masonry wall between a C-1, Light Commercial and a RMF-8, Residential Multi-Family – 8 units/acre (County) Zoning District. This appeal is per Section 2.18 E. of the Zoning & Development Code which specifies that the City Council is the appellant body of the Planning Commission.

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

It was noted that a request to continue the appeal was received from the appellant.

Councilmember Kirtland moved to continue the public hearing to August 18, 2004. Councilmember Enos-Martinez seconded the motion. Motion carried.

Public Hearing - Amending the Planned Development (PD) for the Summer Hill Subdivision [File #RZP/FPP-2004-028]

Consider final passage of a proposed ordinance rezoning 1.6 acres of land from RSF-4 (Residential Single Family with a maximum of 4 units per acre) to PD (Planned Development) and amending Ordinance No. 3136 to establish an underlying zone district and include bulk standards. The applicant is also requesting Council approval of the Summer Hill Subdivision development schedule to extend beyond December 31, 2004 and allow construction traffic to use Lanai Drive and Catalina Drive for a 60 day construction period.

The public hearing opened at 7:46 p.m.

David Thornton, Principal Planner, reviewed this item. He reviewed the history of the area and the reason for the request. The petitioner is requesting to zone a 1.546 acre parcel to be included in the original Summer Hill Subdivision Plat. The request meets the 1997 rezone criteria. This will also establish the underlying zone districts for the Planned Development zone. The reason for the two different zone designations is due to the size of the lots. One of the changes to the bulk standards is to allow covered and uncovered patios to extend into the side yard setback. The request also includes a request to extend the development schedule beyond December 31, 2004 as allowed under the new Code. Their schedule is to start Phase 6 before December 31, 2005, Phase 7 before December 31, 2006 and Phase 8 before June 15, 2008. Lastly, the construction access to and from Filings 2 and 3, the developer is asking permission to run housing construction traffic through Paradise Hills for 60 days in order to improve the construction access road.

Councilmember Kirtland asked about the wording for the ordinance. City Attorney John Shaver stated that it is not necessary to have a motion of the recommendations stated.

Robert Bray, 2660 G Road, representing Paradise Hills Partnership, stated that the construction of the access road has been a cooperative effort and that cooperation has minimized construction traffic. With Filing 3, access will temporarily be interrupted. There is building going on, not intense, but is going on. The intent is to get Filing 5 completed as quickly as possible. By design, access to this filing is designed to come from the west. The contractor believes he can complete the road construction in 45 days; a 60 days allowance provides a little leeway.

Councilmember Spehar asked if the road will be the first thing built. Mr. Bray replied first water and sewer, then running utilities, then paving. Councilmember Spehar asked if streets will be complete before residential construction starts in the new filing. Mr. Bray said the objective is to do that, starting Filing 5 in September.

The public hearing closed at 8:11 p.m.

Councilmember Spehar stated that unrestricted traffic should be allowed in Filing 3 and not impact the residential contractor at the top of the hill. New construction should not be allowed in Filing 5 until the road is constructed and access should be allowed through Paradise Hills through this period of time.

Councilmember Palmer asked about the history of the gate. Councilmember Spehar replied the gate was installed until residential occupants were in Filing 3. Good efforts were made to keep heavy traffic out of Paradise Hills. The gate forced them to the west.

Councilmember Kirtland asked if a barricade will work as effectively.

Mr. Bray replied on two issues: the gate is a non-issue and he will address it if it is that important. The gate will not be in place for 12 to 18 months. No complaints were received previously when a gate has been used. There is only one development contractor to be controlled. They will be happy to put access restrictions in his contract. A gate would be better than a barricade because the road could be opened certain days. He expressed concern about the restriction of not letting the residential construction begin in Filing 5 until the road is complete, it is important to get building foundations started in the fall. He believes the road will be done prior to construction of homes but asked that they could go ahead with permits and pour the foundations. The traffic will go through Seneca Way and they will make their best efforts to direct the construction traffic that way. Councilmember Spehar said if it is their objective to have that complete, then to prohibit construction in Filing 5 until the road is complete should not be a problem.

Council President Hill said they do not want construction traffic to get used to using Catalina and Lanai again.

Doug Theiss, Thompson-Langford, who is coordinating the road construction said if they get approval, they will be ready to get started next week. Water and Sewer will take about four weeks. The road will be closed for about four weeks, then will be opened for curb and gutter, and then closed again for paving for about a week. The contractors are familiar with the situation.

Ordinance No. 3647– An Ordinance Amending Ordinance No. 3136 to Include Additional Property and Establish Underlying Zoning and Bulk Standards for the Summer Hill Planned Development

Councilmember Kirtland moved to adopt Ordinance No. 3647 on Second Reading and ordered it published. Councilmember Spehar seconded the motion. Motion carried by roll call vote.

Councilmember Kirtland moved to establish the filing schedules as proposed. Councilmember Spehar seconded. Motion carried.

Councilmember Spehar moved to approve the staff recommendations with the additional condition that there be no residential construction in Filing 5 until the remaining distance of the road is complete. Councilmember Enos-Martinez seconded.

Council discussion.

Councilmember Kirtland asked if Mr. Bray would have the opportunity to ask for an adjustment if the road is not complete by September. Council President Hill noted that traveling Lanai and Catalina Drive is not the preferred route and he does not see it as such an issue. Councilmember Spehar countered that living there, it has been an issue.

Councilmember Enos-Martinez asked if there are deadlines on the completion of the infrastructure. City Attorney Shaver answered generally, but not specifically this road, only the infrastructure as it relates to the specific filing.

Councilmember Spehar voted in favor, the rest of Council voted against. The motion failed.

Councilmember Kirtland moved to eliminate the restriction on construction traffic through Paradise Hills for a sixty day time period, acknowledging and incorporating Mr. Bray's comments including limiting the impact and the traffic. Councilmember McCurry seconded. Motion carried.

Public Hearing – Peregrine Estates Annexation and Zoning Located at 2157 S. Broadway [File #ANX-2004-060]

Resolution for acceptance of petition to annex and to hold a public hearing and consider final passage of the annexation and zoning ordinance for the Peregrine Estates Annexation, located at 2157 S. Broadway. The 18.585 acre annexation consists of 1 parcel of land.

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

Senta L. Costello, Associate Planner, reviewed this item. She described the area of the request, the surrounding zoning and uses. The request meets all annexation and zoning requirements and both Planning Commission and staff recommend approval. The petitioner was not present.

There were no public comments.

The public hearing was closed at 8:44 p.m.

City Manager Arnold inquired if the annexation includes Meadows Way. Ms. Costello said yes, since a subdivision is proposed the developer will be improving Meadows Way.

a. Accepting Petition

Resolution No. 64-04 – A Resolution Accepting a Petition for Annexation, Making Certain Findings, Determining that Property Known as the Peregrine Estates Annexation Located at 2157 S. Broadway is Eligible for Annexation

b. Annexation Ordinance

Ordinance No. 3648 – An Ordinance Annexing Territory to the City of Grand Junction, Colorado, Peregrine Estates Annexation, Approximately 18.548 Acres Located at 2157 S. Broadway

c. Zoning Ordinance

Ordinance No. 3649 – An Ordinance Zoning the Peregrine Estates Annexation to RSF-2, Located at 2157 S. Broadway

Councilmember Kirtland moved to adopt Resolution No. 64-04 Ordinances No. 3648 and No. 3649 on Second Reading and ordered them published. Councilmember Palmer seconded the motion. Motion carried by roll call vote.

Council President Hill called a recess at 8:46 p.m.

The meeting reconvened at 8:54 p.m.

Gardunio Revocable Permit Located at 2030 N. 6th Street [File #RVP-2004-090]

The petitioner is requesting approval and issuance of a revocable permit to place large boulders in the City right-of-way adjacent to their rear property line.

Ronnie Edwards, Associate Planner, reviewed this item. She explained the reason for the request and how the area will benefit from the request.

Councilmember Enos-Martinez asked if the applicant will have to place his trash container in another location. Ms. Edwards said it will not affect the location for the

neighborhood trash containers. Councilmember Enos-Martinez asked if there would be any reason for the City to get in there to do work.

Tim Moore, Public Works Manager, said the issuance of a revocable permit in an area that is in the right-of-way is not uncommon. Routine maintenance would not be hampered. However, if there is a need to get in there in the future, the revocable permit gives the City the flexibility to reclaim that area if need be, it does preserve the right-of-way. There is no need to be in there on a routine basis. The City would likely have to move the boulders if there is work to be done.

City Manager Arnold read section 5 of the revocable permit that requires the applicant to remove the boulders at his expense if the permit were to be revoked. Attorney Shaver said that is in a non emergency situation. If there were extraordinary expenses that the City occurred in clearing the area, the City could charge those amounts back to the land owner.

Councilmember Spehar inquired if the City typically does these permits for landscaping and could this be setting precedence. Mr. Moore said that is a great example of those types of encroachments. Many times residents just occupy right-of-way without permission. The applicant is going through the process and he knows up front that the City has the right to revoke permission. City Attorney Shaver there is no precedence, all of these types of permits are on a case by case basis.

Gordon Gardunio, 2030 N. 6th Street, he said he built the back fence on his property line. It was built about ten to twelve years ago. His neighbor to the east runs a small scale trucking outfit and he accesses his property through the alley. When he backs in he continues to brush against the fence. His fence has been hit five times. The neighbor repaired it four times. The last time, in November, 2003, it took until April 5, 2004 to fix it. That prompted the revocable permit. Mr. Gardunio indicated the location he places his trash containers. His neighbor sets his in the proposed location. Boulders may sound excessive; they will be one foot by one foot above the ground. The rocks will not be the full length of his property. The utilities were placed when the alley was concreted about ten years ago.

Councilmember Kirtland asked if it is physically possible to negotiate his driveway on the pavement. Mr. Gardunio said yes he can. Councilmember Kirtland asked if other alternatives were looked at. Mr. Gardunio said he works for BLM and they use rocks. That would be a low cost alternative.

Councilmember Spehar expressed concern about pedestrians in the alley when vehicles are using the alley.

Councilmember Butler moved to adopt Resolution No. 61-04 – A Resolution Concerning the Issuance of a Revocable Permit to Rose Gardunio and Gordon Gardunio. Councilmember McCurry seconded.

Council discussion.

Councilmember Enos-Martinez asked if the City would have taken any action if the applicant had placed the boulders in the right-of-way without requesting a revocable permit. City Manager Arnold said the City would have acted upon the issue if a complaint had been received.

Motion carried.

Public Hearing - Amending Chapter 32 Code of Ordinances Regarding Sidewalk Dining

A number of downtown restaurants are seeking the opportunity to serve alcohol outdoors along Main St. In order to allow this, a revocable permit for use of this public right-of-way is required. This amendment provides for this revocable permit for use of the public right-of-way for use for food and alcohol service and is similar to the terms and conditions of several other communities in Colorado that offer such service.

The public hearing opened at 9:19 p.m.

Harold Staf, Executive Director, DDA, reviewed this item. He noted this has been discussed for some time. The approval of the revocable permit will allow the liquor authority to approve a modification of premises. The research shows it is used in several cities.

Councilmember Palmer asked if these restaurants could then have smoking in those outdoor areas. City Attorney Shaver said that is correct.

Councilmember Palmer asked how far they can extend out into the right-of-way. Mr. Staf said they must maintain a five foot right-of-way. City Attorney Shaver explained the change allows alcohol service in the right-of-way, but there are a number of steps that would need to be taken first, the revocable permit, the lease and then a modification of premises through the liquor licensing authority.

Council President Hill asked if they would have to come back annually. City Attorney Shaver said it depends on how the revocable permit is written.

Councilmember Butler asked if smoking would then be allowed in the outdoor area. He voiced concerns about drinking alcohol on the public sidewalk.

Milton Long, 302 Pitkin, stated that drug use is not the problem, drug abuse is the problem. The most common abuse is with alcohol. He suggested limiting people to one drink per half hour.

Harry Griff, Chairman of the DDA, stated that this has been discussed for some time. From the DDA perspective, what they are trying to do is promote the outdoor ambiance of the downtown. A number of venues have sprouted that have outdoor areas. They think the downtown should be able to have a part in that. The first step was to narrow the amount of right-of-way required on the sidewalk. This proposed change provides another opportunity for the restaurant owners. The liquor regulations already address restrictions on service to customers who are intoxicated.

Brunella Gualerzi, Il Bistro, 400 Main Street, has thought about building an outdoor patio for some years, a lot of their customers come from other towns and ask why they don't serve food or alcohol outside. They own the building and are able to expand to the east. They are thinking about moving walls in and then out into the right-of-way. The City still has control through the revocable permit and the liquor board. It will be up to each restaurant to design the area and decide if they can make use of the new option.

The public hearing closed at 9:35 p.m.

Councilmember Palmer said this will benefit all downtown by enhancing the ambiance. It will let visitors enjoy the unique downtown.

Ordinance No. 3650 – An Ordinance Amending Part of Chapter 32 of the City of Grand Junction Code of Ordinances Relating to Permits for Activities in the Downtown

Councilmember Enos-Martinez moved to adopt Ordinance No. 3650 on Second Reading and ordered it published. Councilmember Palmer seconded the motion.

Council discussion.

Councilmember Butler disagreed that drinking will bring more traffic to downtown. There are a lot of transients wanting to be served. He is against it on public property.

Councilmember Spehar agreed with Councilmember Butler, and added that it will compromise control during downtown events. There are other alternatives to providing such alcohol, those restaurants that have the ability to do so on their own property. He said it is inappropriate to provide it in the public right-of-way.

Councilmember Kirtland noted this occurs in other areas; downtown events will put additional responsibility on the restaurant owners for control. It is worth taking the opportunity, it may be an enhancement.

Council President Hill supports the issue. In CML magazine, Grand Junction is featured for Art on the Corner. This isn't the only thing, but will add to the ambiance. Any applicant going through their process will not jeopardize it by not controlling the alcohol.

Councilmember Enos-Martinez stated the current license holders will be responsible; they won't put their liquor licenses on the line.

Motion carried by roll call vote with Councilmembers Butler and Spehar voting NO.

NON-SCHEDULED CITIZENS & VISITORS

There was none.

OTHER BUSINESS

There was none.

EXECUTIVE SESSION

Councilmember Spehar moved to go into executive session to confer with and receive legal advice from the City Attorney regarding pending litigation with the Grand Junction Rural Fire Protection District, under Section 402 (4) (B) of the open meetings law and that Council would not return to open session. Councilmember Enos-Martinez seconded the motion. Motion carried.

ADJOURNMENT

The meeting adjourned to executive session at 9:45 p.m.

Stephanie Tuin, MMC
City Clerk