

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

May 3, 2006

The City Council of the City of Grand Junction convened into regular session on the 3rd day of May 2006, at 7:00 p.m. in the City Auditorium. Those present were Councilmembers Bonnie Beckstein, Teresa Coons, Jim Doody, Gregg Palmer, Jim Spehar, Doug Thomason, 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. Council President Pro Tem Palmer led in the pledge of allegiance. The audience remained standing for the invocation by Jim Hale, Spirit of Life Christian Fellowship.

PRESENTATION OF CERTIFICATES OF APPOINTMENT

Horizon Drive Association Business Improvement District Board

Eileen Blanchard, Dale Reese, and Richard Tally were present to receive their certificates for the Horizon Drive Association Business Improvement District Board.

PRESENTATIONS

Presentation of the 2005 "Best in Colorado" City Street Resurfacing Project to the City and United Companies of Mesa County for Paving Last Summer in Grand Junction presented by Tom Peterson, Executive Director of C.A.P.A.

Mr. Tom Peterson addressed the City Council regarding the award for Best in Colorado, recognizing the City, the Public Works Department, and United Companies. Only 1% of the paving projects in Colorado are recognized by C.A.P.A.

PROCLAMATIONS / RECOGNITIONS

Proclaiming May 4, 2006 as "National Day of Prayer" in the City of Grand Junction

Proclaiming May as "Asthma Awareness Month" in the City of Grand Junction

Proclaiming May 13, 2006 as "Kids Day America/International" in the City of Grand Junction

Proclaiming May 13, 2006 as "Stamp Out Hunger Day" in the City of Grand Junction

Proclaiming May 13 through May 21, 2006 as "National Tourism Week" in the City of Grand Junction

CITIZEN COMMENTS

Patrick Liot, 249 Vallecito Drive, addressed the City Council regarding a City fence on his property. He was told previously that the fence would be moved within a few months. It has been a year and the fence has not been removed. Mr. Liot was referred to the City Manager.

CONSENT CALENDAR

It was moved by Councilmember Beckstein and seconded by Councilmember Thomason to approve Consent Calendar items #1 through #11.

Council President Hill noted under Item #2, setting a hearing on the first supplemental appropriation ordinance, he has a concern on the ambulance transport amount. He asked that that information be provided at the hearing.

The motion carried by roll call vote.

1. Minutes of Previous Meetings

Action: Approve the Summary of the April 17, 2006 Workshop, the Minutes of the April 18, 2006 Special Session and the April 19, 2006 Regular Meeting

2. Setting a Hearing on the First Supplemental Appropriation Ordinance for 2006

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

Proposed Ordinance Making Supplemental Appropriations to the 2006 Budget of the City of Grand Junction

Action: Introduction of Proposed Ordinance and Set a Hearing for May 17, 2006

3. 1% for the Arts Artwork for Activity Centers at Bookcliff Middle School and Pear Park Elementary School

The Commission on Arts and Culture recommends to the City Council commissioning tile artwork for the new City Activity Center at Bookcliff Middle School and the new joint-use gymnasium at Pear Park Elementary School through the 1% for the Arts Program.

Action: Authorize the City Manager, City Attorney, and the Commission on Arts and Culture to Negotiate a Contract with Latka Studios (Tom and Jean Latka) for the Creation and Installation of Two Ceramic Tile Murals

4. **Purchase of Two Wide Area Mowers**

Sole source purchase for the Parks and Recreation Department of two 2006 Toro Groundsmaster 4100-D mowers from LL Johnson Distributing Company, Denver, Colorado.

Action: Authorize the City Purchasing Division to Purchase Two Wide Area Mowers from LL Johnson Distributing Company, Denver, CO in the Amount of \$87,038.06

5. **Setting a Hearing for the Jones Rezone Located at 2591 G Road** [File #RZ-2006-070]

Request to rezone 2591 G Road, comprised of 13.109 acres, from RSF-1 (Residential Single Family – 1 unit per acre) to RSF-2 (Residential Single Family – 2 units per acre). Planning Commission recommended denial at its April 25, 2006 meeting.

Proposed Ordinance Rezoning a Parcel of Land from Residential Single Family – One Unit per Acre (RSF-1) to Residential Single Family – Two Units per Acre (RSF-2) Located at 2591 G Road

Action: Introduction of a Proposed Ordinance and Set a Hearing for May 17, 2006

6. **Setting a Hearing for a Right-of-Way Vacation Located Adjacent to 215 Franklin Avenue** [File #VR-2006-054]

A request to vacate the southern 3 feet of the Franklin Avenue right-of-way, incorporating the subject area into a 14' multi-purpose easement.

Proposed Ordinance Vacating Right-of-Way Located Adjacent to 215 Franklin Avenue

Action: Introduction of a Proposed Ordinance and Set a Hearing for May 17, 2006

7. **Setting a Hearing for the Kresin Annexation Located at 530 South Broadway** [File #ANX-2006-084]

Resolution referring a petition for annexation and introduction of a proposed ordinance. The 8.20 acre Kresin Annexation consists of 2 parcels.

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

Resolution No. 34-06 – 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, Kresin Annexation, Located at 530 South Broadway

Action: Adopt Resolution No. 34-06

b. Setting a Hearing on Proposed Ordinances

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Kresin Annexation, Approximately 8.20 Acres Located at 530 South Broadway

Action: Introduction of a Proposed Ordinance and Set a Hearing for June 7, 2006

8. **Setting a Hearing for the Fox Annexation Located at 3000 F Road** [File #GPA-2006-087]

Resolution referring a petition for annexation and introduction of a proposed ordinance. The 1.92 acre Fox Annexation consists of 1 parcel.

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

Resolution No. 35-06 – 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, Fox Annexation, Located at 3000 F Road Including a Portion of the 30 Road Right-of-Way

Action: Adopt Resolution No. 35-06

b. Setting a Hearing on Proposed Ordinance

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Fox Annexation, Approximately 1.92 Acres Located at 3000 F Road Including a Portion of the 30 Road Right-of-Way

Action: Introduction of a Proposed Ordinance and Set a Hearing for June 7, 2006

9. **Setting a Hearing for the Thunder Hog Annexation Located at 3079 F ½ Road and 3088 Shadowbrook Court** [File #ANX-2006-072]

Resolution referring a petition for annexation and introduction of a proposed ordinance. The 13.76 acre Thunder Hog Annexation consists of 2 parcels and is a 2 part serial annexation.

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

Resolution No. 36-06 – 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, Thunder Hog Annexation, Located at 3079 F ½ Road and 3088 Shadowbrook Court Including a Portion of the F ½ Road Right-of-Way

Action: Adopt Resolution No. 36-06

b. Setting a Hearing on Proposed Ordinances

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Thunder Hog Annexation #1, Approximately 0.09 Acres Located Within the F ½ Road Right-of-Way

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Thunder Hog Annexation #2, Approximately 13.67 Acres Located at 3079 F ½ Road and 3088 Shadowbrook Court Including a Portion of the F ½ Road Right-of-Way

Action: Introduction of a Proposed Ordinance and Set a Hearing for June 7, 2006

10. **Setting a Hearing for Zoning the Free Annexation, Located at 462 E. Scenic Drive** [File #ANX-2006-046]

Introduction of a proposed zoning ordinance to zone the Free Annexation RSF-2, located at 462 E. Scenic Drive.

Proposed Ordinance Zoning the Free Annexation to RSF-2, Located at 462 E. Scenic Drive

Action: Introduction of a Proposed Ordinance and Set a Hearing for May 17, 2006

11. **Setting a Hearing on Vacating Alleys Between 6th and 7th Streets, Pitkin, and South Avenues** [File #VR-2006-076]

Introduction of a proposed ordinance to vacate the eastern 250' of the east/west alley and the north/south alley between 6th and 7th Streets and Pitkin and South Avenues. The owner of the adjacent property is requesting the vacation to facilitate the expansion of the Mesa County Corrections and Treatment Facility located to the south.

Proposed Ordinance Vacating Rights-of-Way for an Alleyway Located at the Eastern 250' of the East/West Alley and the North/South Alley Between 6th and 7th Streets and Pitkin and South Avenues

Action: Introduction of a Proposed Ordinance and Set a Hearing for May 17, 2006

ITEMS NEEDING INDIVIDUAL CONSIDERATION

Construction Contract for the Riverside Parkway Project, Phase 2

Award of a Construction Contract to SEMA Construction, Inc. in the amount of \$31,555,555.55 for the Riverside Parkway Phase 2.

Mark Relph, Public Works and Utilities Director, reviewed this item. He noted that this phase is the largest Public Works project ever in the City of Grand Junction. He described the phase which goes from 24 Road, down along River Road, under Highway 340, across the railroad tracks, through the Riverside neighborhood and ending at Highway 50. He listed the bids and recommended the award to go to SEMA Construction. He said there was a lengthy discussion at the workshop Monday night about the estimated shortfall of \$5 million and said it is the same contractor that is doing Phase 1.

Councilmember Doody moved to authorize the City Manager to sign a construction contract for the Riverside Parkway Phase 2 to SEMA Construction, Inc., in the amount of \$31,555,555.55. Councilmember Beckstein seconded the motion. Motion carried.

Public Hearing – The Plaza on North Avenue Growth Plan Amendment Located at 506 and 510 Pear Street [File # GPA-2006-058]

Hold a public hearing and consider passage of the Resolution to change the Growth Plan designation from "Residential Medium 4-8 du/ac" to "Commercial" for 2 properties located at 506 and 510 Pear Street.

The public hearing was opened at 7:39 p.m.

David Thornton, Principal Planner, reviewed this item. He described the location, the designation on the Future Land Use Map of this property and the surrounding properties. He said the applicant is asking for a change to the designation to commercial so the applicant can develop it as commercial. Mr. Thornton said much of the current zoning around the property is already commercial, all but these two properties.

The applicant was not present.

There were no public comments.

The public hearing was closed at 7:43 p.m.

Resolution No. 37-06 – A Resolution Amending the City of Grand Junction Growth Plan Future Land Use Map to Re-designate Two Properties Located at 506 and 510 Pear Street from "Residential Medium 4-8 du/ac" to "Commercial"

Councilmember Thomason moved to adopt Resolution No. 37-06. Councilmember Spehar seconded the motion. Motion carried by roll call vote.

Public Hearing – CR Nevada Annexation, Located at 487 22 ¼ Road [File #ANX-2006-030]

Resolution for acceptance of petition to annex and to hold a public hearing and consider final passage of the annexation ordinance for the CR Nevada Annexation, located at 487 22 ¼ Road. The 19.73 acre CR Nevada Annexation consists of 1 parcel.

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

Kathy Portner, Planning Manager, reviewed this item. She said the request is to annex the property that is located in the Redlands. She said the zoning will be before Council at a later date.

A representative of the applicant was present but did not wish to speak.

There were no public comments.

The public hearing was closed at 7:46 p.m.

Councilmember Beckstein asked why staff is recommending a different zoning than what the applicant is requesting. Ms. Portner said that is under review and said Staff's concerns are the steep slopes. More review is taking place which is why the zoning has been delayed.

a. Accepting Petition

Resolution No. 38-06 – A Resolution Accepting a Petition for Annexation, Making Certain Findings, Determining the Property Known as the CR Nevada Annexation, Located at 487 22 ¼ Road is Eligible for Annexation

b. Annexation Ordinance

Ordinance No. 3890 – An Ordinance Annexing Territory to the City of Grand Junction, Colorado, CR Nevada Annexation, Approximately 19.73 Acres, Located at 487 22 ¼ Road

Council President Pro Tem Palmer moved to adopt Resolution No. 38-06 and Ordinance No. 3890 on Second Reading and ordered it published. Councilmember Coons seconded the motion. Motion carried by roll call vote.

Public Hearing – Woodridge Subdivision Easement and Right-of-Way Vacations

[File #FPP-2005-240]

The Woodridge Subdivision is a 29-lot proposal for both attached and detached single family housing on the remaining parcels of land (total 7.8 acres) that were originally part of the Wilson Ranch Planned Development. A Planned Development (PD) zoning ordinance and Preliminary Development Plan were approved by City Council on October 20, 2005. The Final Plat and Plan are in the final stages of administrative review. The proposed vacations were contemplated but not heard with the Preliminary review thus are being requested at this time.

The public hearing was opened at 7:48 p.m.

Kristen Ashbeck, Senior Planner, reviewed this item. She described the location, the existing Future Land Use Designation, and existing zoning. She said the proposed Final Plat is being finalized and the vacations being presented are needed in order to finalize the Final Plat. She identified the location of the sewer easement and explained why it should be vacated.

Council President Pro Tem Palmer asked about moving the road. Ms. Ashbeck identified the new alignment of the road, but said it will not affect the canal crossing. She said the Planning Commission reviewed the request last month and recommended approval and said the vacations will be effective upon the recordation of the plat which will ensure the dedication of the new right-of-way.

The applicant's representative, Jim Langford, Thompson-Langford, agreed with Ms. Ashbeck's presentation and was available to answer questions.

There were no public comments.

The public hearing was closed at 7:54 p.m.

Councilmember Spehar said that he is familiar with the road and said the new alignment will be an improvement.

Resolution No. 39-06 – A Resolution Vacating a Sewer Easement Within the Property Located at 2561 G-1/2 Road Also Known as the Woodridge Subdivision

Ordinance No. 3891 – An Ordinance Vacating Rights-of-Way for 25-3/4 and G-1/2 Roads in the Vicinity of 2561 G-1/2 Road Within the Property Known as the Woodridge Subdivision

Councilmember Spehar moved to adopt Resolution No. 39-06 and Ordinance No. 3891 on Second Reading and ordered it published. Councilmember Beckstein seconded the motion. Motion carried by roll call vote.

Council President Hill called a recess at 7:55 p.m.

The meeting reconvened at 8:07 p.m.

Rehearing – Consideration of a Right-of-Way Vacation and Rezone for the Van Gundy North Property [File #RZ-2006-022]

This proposal is to vacate a portion of a north-south alley right-of-way south of 4th Avenue midway between South 5th Street and South 7th Street and a rezone of all or portions of 12 properties in the vicinity of 1018 South 5th Street, including remnants created by right-of-way acquisition for the Riverside Parkway from C-2 to an I-1 zone district. A plat consolidating parcels is being concurrently reviewed administratively.

The public hearing was opened at 8:10 p.m.

City Manager Kelly Arnold introduced this item. He said a rehearing of this item was requested two weeks ago. He stated City Attorney John Shaver will speak next outlining the procedure and David Thornton, Community Development Principal Planner, will then make a presentation followed by Jim Shanks, Riverside Parkway Project Manager. Mr. Arnold then stated Staff's findings regarding the request.

City Attorney Shaver summarized the background of the request and the procedural rules. He said this is a rehearing and there will be no legal constraints limiting it to just the record of the previous hearing. He said this is a full evidentiary hearing and there will be opportunity to hear all of the evidence. He said in Section 2.18 of the Zoning and Development Code, the conduct of the rehearing shall be the same as the original hearing. He said it is customary for the parliamentary procedures to apply like they do when deciding whether to have a rehearing. He said there is not a supermajority requirement as it is not an overturn of a previous decision, so only a simple majority is required. City Attorney Shaver defined what constitutes evidence. He said evidence is what is heard tonight, not what has been discussed or what Council has heard outside this hearing. He cautioned Council to keep that in mind when making the findings. He said this is the opportunity for the evidence to be completely heard. City Attorney Shaver said the Riverside Parkway project can be taken into consideration. He said that is an important and unique piece for the City and said that is the reason these applications are being brought before Council. He said it may be considered under the Rezone Criteria 2, 3, 4, 5, or 7 in Section 2.6 of the Code and said the City Council determines the weight of any evidence, whether it be persuasive evidence, and the conclusion or motion needs to be clear for the record. City Attorney Shaver said, regarding the contracts, he offered to answer any questions before hearing the merits of the request. He then entered into the record the equitable conversion of interest, which will eliminate any conflict of interest with the Scarianos, which gives the Van Gundy's a clear standing to address Council.

Dave Thornton, AICP, Principal Planner, reviewed this item. Mr. Thornton said a South Downtown Plan steering committee was formed and a preferred alternative was developed but it was never brought forward to Council to be adopted. He said in 1996,

the Growth Plan map was developed and prior to that the zoning for the subject property was I-2. He said the site on the Future Land Use Map in 1996 was 5.1 acres and the site was designated as commercial/industrial which allows the current zoning to be C-2 as well as the requested zoning I-1. Mr. Thornton then asked Project Manager Jim Shanks to talk about the Riverside Parkway.

Council President Pro Tem Palmer noted that the staff report did not mention the South Downtown Plan. Mr. Thornton advised that the South Downtown Plan took a back seat when the Growth Plan process began. He said it was also thought that the City would get back to the South Downtown Plan but that hasn't happened due to the fact that the Riverside Parkway has become a major piece of the planning in that area. So the South Downtown Plan was again put on hold to see how the Riverside Parkway would be aligned.

Council President Hill said the plan showed the South Downtown Plan was somewhat implemented in the Growth Plan. Mr. Thornton said it was taken somewhat into consideration when the Growth Plan was developed.

Jim Shanks, Program Manager for the Riverside Parkway, described the Riverside Parkway and how it will interact in this area. He described the planned construction of the Parkway in that area and said the interchange was determined through the 1601 process. He stated that the subject site only has access to 4th Avenue.

Council President Pro Tem Palmer asked what is visible from the Parkway itself. Mr. Shanks identified the areas of landscaping in the interchange area and a screened wall about 800 feet long.

Mr. Shanks then addressed the rail spur locations. He said with the exception of two spurs, one on River Road by CoorsTek, and one at 23 Road by Railhead; all other spurs are in the downtown area. He said the spur in the alley that is proposed to be vacated extends further down to the Parkway and the other spur goes down 4th Avenue down to Grand Junction Steel. He said the team looked at a lot of different sites and sites that are near the railroad. Mr. Shanks said to add a rail spur it costs \$150,000 for the switch, plus \$3 million per mile for the track. Mr. Shanks said the railroad is very particular where they will allow spurs.

Council President Hill asked if the 1601 process addressed this. Mr. Shanks said one of the last things that made this alignment to be selected is the absence of having to cross rail spurs.

Councilmember Coons questioned if there are safety issues with the spur being so close to the Parkway and if there are spurs outside the City limits. Mr. Shanks said Staff looked at one location that could take a spur but it would be too costly. He said Staff also looked

at sites west of Fruita and areas around Persigo but no spurs could be installed. Mr. Shanks said, regarding the safety issue, the Parkway project will take part of that spur out and said the Parkway is 15 feet higher at that location so there will not be any safety issues.

Mr. Shanks showed a picture of 4th Avenue as it exists today. He said Staff estimated the volume of traffic on 4th Avenue will be 150 vehicles per day after the Parkway is constructed; it will be a long cul-de-sac with very limited traffic.

Council President Hill questioned if the Parkway will only cross one rail spur. Mr. Shanks said the Parkway will cross a spur at Coorstek, which will have safety crossing controls.

Councilmember Doody questioned where the power poles would be located. Mr. Shanks said just east of 5th Street and north of 4th Avenue.

David Thornton, Principal Planner, then addressed the zoning analysis. He said there is an existing industrial use and the site is surrounded by industrial uses. He said the view from 5th Street toward the site is a 30 foot embankment. He showed pictures to show the site as it is today and said the subject site will not have high visibility from the Parkway. Mr. Thornton said, regarding the zoning request, the Code requires Staff to look at the Growth Plan Consistency. He said the I-1 Zone District does implement the commercial/industrial land use classifications and said Staff also finds that the rezone will achieve a blend of nonresidential land use opportunities. He said commercial uses need good accessibility and good visibility from major traveled corridors and high traffic counts, neither of which will be at the subject site.

Council President Pro Tem Palmer questioned what uses are allowed in the C-2 zoning. Mr. Thornton referred Council to the Use /Zone Matrix in the staff report and explained the allowed uses and the uses that require a conditional use permit. He then reviewed the matrix in detail.

Councilmember Spehar questioned if a business like Coorstek with indoor operations and needing a rail spur could be located there. Mr. Thornton said yes.

Council President Pro Tem Palmer said there are a number of commercial uses that do not need the high traffic that could locate there under the current zoning. Mr. Thornton concurred.

Council President Pro Tem Palmer asked if the I-1 zone district would allow a dairy under a Conditional Use Permit (CUP). Mr. Thornton said yes. Mr. Thornton said the size of the property will restrict the placement of some of the uses on that site.

Council President Hill asked for the definition of an impound lot. Mr. Thornton said a place where vehicles are towed to and stored and said under a CUP the use could be denied.

Councilmember Spehar questioned if there are commercial uses that do not require high traffic. Mr. Thornton said generally industrial uses are more likely to need direct access to rail service to transport goods and materials.

Council President Pro Tem Palmer questioned if I-1 still requires a CUP for a junk yard. Mr. Thornton said that is correct.

Council President Pro Tem Palmer questioned if industrial land is more valuable than commercial land. Mr. Thornton said that he is not qualified to answer that question. He said generally commercial developers are looking for accessibility and visibility.

Mr. Thornton then addressed the rezone criteria.

- A. Existing zoning was in error at the time of adoption.

He said the C-2 zoning was established in 2000 when the new City-wide zoning was established.

Councilmember Coons questioned what the purpose of zoning is. Mr. Thornton said zoning is a tool used to implement a plan for the community.

Mr. Thornton stated that the rail spur was not considered at the time of the rezone as C-2 and said that it should have been. He said there are more uses of I-1 in the area than C-2.

Council President Pro Tem Palmer questioned if there are any requirements to consider for rail spurs. City Attorney Shaver stated that in the Code there are none and said the court has said that all things like that can be considered, so it is proper.

Councilmember Coons questioned if by zoning it C-2 would the City have not negated the value of the rail spur. Mr. Thornton said there are more I-1 than C-2 and said it is Staff's finding that the rezone of C-2 was in error because the rail spur should have been considered.

Councilmember Beckstein questioned if all other rail spurs within the City limits are zoned I-1 and asked if this was the only one zoned C-2. Mr. Thornton said all but one are zoned I-1 and said that specific one may be able to be accessed by a C-2 or I-1 in that area.

Mr. Thornton then continued with the findings.

B. There has been a change of character in the neighborhood.

Mr. Thornton said the change in character is due to the Riverside Parkway and the affect it has on surrounding properties.

C. The proposed rezone is compatible with the neighborhood and will not create adverse impacts.

Mr. Thornton advised that the surrounding area is heavy commercial and industrial uses and any potential impacts will be mitigated through the CUP.

D. The proposal conforms with and furthers the goals and policies of the Growth Plan.

Mr. Thornton reviewed a few specific goals from the Growth Plan that fits this request. He said Goal 1 is to achieve a balance of opportunities for the area and Goal 5 is to ensure that urban growth and development make efficient use of investments in streets, utilities and other public facilities. Goal 11 relates to compatibility with surrounding uses.

E. Adequate public facilities and services are available.

Mr. Thornton said there are already public facilities and services in the area. Additionally, the rail spur accesses this property.

F. There is not an adequate supply of land in the neighborhood and surrounding area to accommodate the zoning and community needs.

Mr. Thornton reviewed that the rail spur and proximity to the rail yard indicates that the property should be industrial. He said there are 9 existing rail spurs in the Grand Junction vicinity and said 7 of which are located between 2nd Street and 12th Street. He said all but this spur access property that is zoned industrial.

G. The community or neighborhood will benefit from the proposed zone.

Mr. Thornton said the community and neighborhood will benefit from the change in zoning to industrial and industrial is appropriate due to the access and the rail spur.

Mr. Thornton concluded by saying there have been comments that this will set a precedent for the south Downtown. He said Staff wants to protect the riverfront but said the embankment will buffer the river from this site. He said the Parkway could be used as a buffer for this site instead of 4th Avenue. He said this will not hurt the future opportunities for the south Downtown. Mr. Thornton said that Staff is recommending approval from Council for the rezone of I-1.

Council President Hill called a recess at 10:15 p.m.

The meeting reconvened at 10:25 p.m.

Mr. Thornton asked if there were any additional questions. There were none.

Mr. Thornton then addressed the alley vacation. He said the alley is 17 feet wide and said the rail spur and a sewer line are located in the right-of-way. He said the request is to vacate the right-of-way and overlay a sewer easement to be retained by the City.

Councilmember Coons questioned what happens if vacated and then the parcels are sold separately. Mr. Thornton said the alley vacation is contingent on the sewer easement dedication.

City Attorney Shaver said another contingency is that the plat would have to be of record before the vacation is effective.

Mr. Thornton then reviewed the Planning Commission's findings and conclusions, then outlined the Staff's recommendation which included a recommendation of approval for both requests.

Joseph Coleman, attorney representing Dean Van Gundy, said he wanted to clarify some of the statements that have been made. He said the City staff report was 100% in favor of this rezoning request. He said Council has discretion but their decision has to be based on evidence. Mr. Coleman said the contract affords rights to Dean Van Gundy. He said if a court read the City's recommendation, it would believe that the City felt this would be appropriate. Mr. Coleman said the court could void the contract based on two parties that made a wrong assumption and if the court voids the contract then Mr. Van Gundy will own the property and the City will have to proceed with condemnation. Mr. Coleman stated that the staff report said there were no other locations available. Regarding the South Downtown Plan, Mr. Coleman said it does not make a difference as it was not adopted. Mr. Coleman said the next issue is the screening of the property. He said Mr. Shanks did a good job and said there will be a thirty foot rise with an eight foot wall screening the industrial zoning. Also, CDOT is open to additional screening from the 5th Street bridge. Mr. Coleman said 14 different sites were investigated and said that Mr. Van Gundy doesn't need experts, he has the entire City of Grand Junction on his side and stated they have 243 signed petitions.

Council President Hill questioned if there will be one person speaking on behalf of the petitioners. Mr. Coleman said that Mr. Van Gundy is the only one that he knows of.

Mr. Coleman said, regarding non conforming uses, the City is pushing Mr. Van Gundy off of his land that his family has had for 77 years. He said the City should not use zoning as

an issue to take out someone's business. Mr. Coleman said that the Planning Department admitted that they made a mistake and did not consider the real value of the rail spur to its fullest extent. In summary, Mr. Coleman confirmed that Mr. Van Gundy is the party with the most real interest in this transaction. He said with the contract issues and the environmental issues there is no court that will impose the \$5,000 per day fine if there is no place for him to move. He said the City will lose \$575,000 that Mr. Van Gundy will be paying for the option property and said that money is needed for the City and is planned for the Parkway. Mr. Coleman said the City should use this as an opportunity to have success. He said the City has experts on staff for a reason. He said Council should not rely on the South Downtown Plan because it was never adopted. He said the City should admit that there was a mistake and preserve the City's money. He said the City should avoid a challenge of CDOT's environmental challenge. Mr. Coleman said Council approved the contract and they should take responsibility for the contract. Mr. Coleman said his goal is to keep the City and Mr. Van Gundy out of litigation and he cannot do this alone, he needs the help of the City Council.

Council President Hill asked if there were any other questions. There were none so he opened it up for public comment.

Carl Santy, 840 Kennedy, stated that in the invocation it stated to treat others as you want to be treated. He said that he wondered to himself what if it was him. Mr. Santy wanted to make a recommendation that the people's representative should be paid by the federal government.

Lee Warren, Orchard Mesa, said that a railroad spur is extremely critical for this type of a business. He said a railroad locomotive holds a ton of freight and only uses one gallon of diesel fuel for every 209 miles. He said that he has been acquainted with Mr. Van Gundy while serving on the junk ordinance committee and said Mr. Van Gundy does a good job for the community regarding all of the recycling that is sent out through his business. He said humans make mistakes, not admitting them is foolish.

Larry Jaudon, 2112 Teton, said that he just moved off of the property that the Van Gundy's want to buy. Mr. Teton said that he owns a moving company and said the way that the roads are currently set up with the Riverside Parkway going in, there will only be an access to 7th Street and the access to 4th Avenue will close. He said this particular property would be good for an industrial company like the Van Gundy's and said that he supports the rezone.

Diana Dalton, 367 ½ Rosevale Road, said this business is a benefit to the City and also helps to keep our community clean. She said that she just inherited a distressed property that has a lot of junk and said that she needs a place to take the junk vehicles. She asked Council to please pass the rezone and said that she is not the only resident in this community that needs a place to take unwanted items.

Janet Terry, 3120 Beechwood, said that she served on the City Council from 1995 to 2003. Ms. Terry said that she was present during the public hearings that addressed the Land Use Plan and also the change in the Zoning and Development Code. She said the rezoning was not an error at the time and the discussions did not revolve around the South Downtown Plan. She said there were thousands of discussion hours and lots of public input. Ms. Terry said this was not an easy discussion because this is a difficult area and the Council at that time knew in the long run in the Master Plan that this area was moving toward C-2. She said it was not intended to move anyone out and it was to be voluntary. Ms. Terry said the rail spur was not discussed but it would have been dismissed because that zoning was what the community demanded at the time.

M. J. Fulmer, 680 Bean Ranch Road, was here to represent the environment. He said the Van Gundy's provide an essential business to the community and said they must have the ability to ship out metal by the railroad. He said within the last 3 weeks he has seen a lot of appliances out for spring clean up to go out to the land fill. He said the community cannot go backward on the recycling effort. Mr. M. J. Fulmer said that he supports the rezone.

Richard Watts, Hayden, 169 North Pine, said this has been a great service for this community for many years and Mr. Van Gundy has created his own wealth and this business has increased the value of every property in Mesa County because that business has helped to clean up this community.

Jerry Garner, 674 Peony Drive, said that he hopes that the four Councilmembers will change their minds and let this rezone pass. He said that he doesn't know what the City will do without a recycling plant for this community. He said the Van Gundy's have served this town well and that area will never be a resort area. He said there is no reason not to rezone that area and the impression that the City Council has not acted in good faith, that impression will never go away.

David Murphy, 244 Sherman Drive, said that he owns a business located at 544 Noland Avenue, Any Auto Wrecking. He said that he disagrees with Janet Terry and at the time the businesses in the area did not even know the properties were going to be rezoned. He said it was done at a late night Council meeting. He said that he tows a lot of wrecked cars and abandoned vehicles on the side of the road. He said that he scraps out most of the cars and the remainder goes to Mr. Van Gundy. He said that he has stopped hauling abandoned vehicles 3 weeks ago because he did not have anywhere to take those cars and the junk cars are already piling up. Mr. Murphy said Mr. Van Gundy is the end user to recycle the metal.

Leon Winters, 3065 Hwy 50, said that he owns the salvage yard located on Hwy. 50 and he has a car crusher. Mr. Winters said that he will not deal with washers or dryers and that he will not be taking cars in support of Mr. Van Gundy.

Karl Antunes, 3169 D ½ Road, read a statement and said that Council's decisions were not based on all of the facts. He did not understand why the City Council would downzone this one property with a rail spur to C-2 and have the rest of the rail spurs I-1. He is in support of the rezone.

John Younker, 2151 F Road, said that he works in the area and his company generates a lot of scrap metal. He said if Van Gundy is not there to take scrap it will cause a problem with the business. He said that he has a concern with the trust of the City Council and the rail spur is the reason Mr. Van Gundy's business is located there.

Ralph Carp, "K.C.", a Grand Valley resident, said that he has lived in the valley since the age of 5 and that he was from a family of farmers. Mr. Carp said they did not have much money to buy what was needed to fix their equipment so they would go to Van Gundy's and get what they needed at a fair price. He said that he supports the zoning change.

Chris Fox, 563 Shoshone Street, said he was here to represent the auto mechanics in the valley. He said as an auto mechanic he takes auto scrap regularly to Van Gundys. He said the public will pay in the long run because the land fill will start to charge disposal fees.

Rena Barberson, Orchard Mesa, said not taking advice from the Planning Commission or Staff is wrong, the citizens are whom Council should listen to. She said she never noticed the Van Gundy's until it was in the papers. She said they provide a useful service to the community.

Kenny Fulmer, 680 Bean Ranch Road, said he is the father of Colleen Van Gundy. He said it was wrong of the City Council to shut the Van Gundy's down. He said the Van Gundy's do a great service for the community.

Gary Mathews, 1915 White Avenue, questioned who will pay for the litigation bill if this goes to court. He said the industry puts money in the working man's pocket and Mr. Van Gundy has provided a great service to the community over the years.

Judy Corsi, 380 Ridgely Drive #B, said this has been decided on politics and lack of focus for the local businesses. She said Mr. Van Gundy treats everyone kindly and she supports the rezone.

Joel Jacobs, said that he works at the Van Gundy's and he is homeless. He does not know where he will go if Mr. Van Gundy is forced to close the doors.

Chip Palmer, 279 West Circle Drive, said he supports Mr. Van Gundy. He said this business is good for the community and asked Council to keep Mr. Van Gundy in business, do the fair thing.

Tim Fry, 348 Serpents Trail Drive, said he owns a small manufacturing company and it is a challenge to have a manufacturing business in Grand Junction and without Mr. Van Gundy this would be one more challenge for his business. He said Mr. Van Gundy's business helps his business.

Council President Hill said that he got an email from Mr. Fry and said it is in the record. He said there has been 21 people speak in favor plus 241 petitions that are also in favor of Mr. Van Gundy's business and only 1 that is not in favor of changing the rezone request.

Lenny Miller, 3006 D Road, said that he owns a small company and it scares him that the Council is putting Mr. Van Gundy out of business. He said it is not fair or right.

There were no additional comments.

The hearing was closed at 12:10 a.m.

City Manager Kelly Arnold offered to answer questions.

Joseph Coleman, Van Gundy's attorney, said there are very few people that could fill an auditorium and keep them here until midnight. He said Mr. Van Gundy has earned respect within this community and then entered another petition into the record. He said Janet Terry offered her input and said that he wished that she was still here. He questioned what facts she presented noting she believes it was not in error for the zone of C-2, yet Ms. Terry admitted that they overlooked the value of a rail spur. He asked that Council listen to their professional staff and also to the community.

Council President Hill called a recess at 12:16 a.m.

The meeting reconvened at 12:30 a.m.

Council President Hill asked if there were any questions for Staff.

Council President Pro Tem Palmer asked if the complete packet was provided to the Van Gundy's. City Attorney Shaver said yes. Council President Pro Tem Palmer asked to put into the record, March 7, 2000 minutes, February 1, 2000 minutes, February 10, 2000 minutes, and February 22, 2000 minutes.

Councilmember Spehar said and also the January 25, 2000 minutes.

Councilmember Coons asked that the letters and emails be entered into the record. City Attorney Shaver said the City Clerk Stephanie Tuin has the letters and will include those into the record.

City Attorney Shaver said there will also be some items from Mr. Van Gundy that will also be in record.

Council President Hill asked that Council forward all emails to Ms. Tuin for the record and also any voicemails for the record.

Councilmember Spehar asked that the copy of the article that was read by Mr. Coleman be entered into the record.

Council President Hill asked Mr. Thornton to compare light industrial to heavy industrial and questioned that some of the uses are acceptable in I-1 without a CUP.

Mr. Thornton said there is generally not a large difference between I-1 and I-2, referring to the full Use/Zone Matrix.

Councilmember Beckstein asked if businesses were contacted in 2000 regarding the rezoning. Ms. Portner said notices were in the newspaper.

Councilmember Spehar noted that in looking at minutes for that period of time, there are several of the business names that appear in the minutes.

Council President Hill questioned what the green indicates on Future Land Use Map. Mr. Thornton said a park. Council President Hill asked if it is a buffer for the industrial zoning. Mr. Thornton said yes.

Councilmember Coons asked for more clarification. Mr. Thornton said the zone was not changed to implement the park land use designation.

Council President Hill asked if the zoning is approved will the Van Gundy's have to meet the criteria for the CUP. City Attorney Shaver said yes.

There were no other questions.

Council President Hill stated that the Planning Commission recommended approval of the rezoning. City Attorney Shaver affirmed that is part of the record.

Council President Hill said the request is for the rezone and the alley right-of-way vacation and said the discussion on the rezone change must be first.

Council President Pro Tem Palmer said this is a very difficult issue and said everyone recognizes the value of having recycling business in the community. He said the rezone is not about the business or people, it's about the land use to rezone from C-2 to I-1. He

said it is hard to believe that the zoning was in error. He said Council has gone through the testimony and listened to the entire community's input.

Councilmember Spehar said that he appreciates everyone being here and said that Council has gone through all of the materials. He said the rail spur is valuable and acknowledged that recycling is valuable to the community. He said the visibility from the Parkway has not been an issue for him. He said that he does not believe the zoning of C-2 was in error and said the existence of the rail spur that was not considered generally serves industrial uses. He feels there are other sites that would accommodate the use and there are benefits for the existing zone. He said that he won't be able to vote to rezone.

Councilmember Coons thanked everyone and said she received a lot of comments via email and voicemails. She said there are a number of commercial uses that do not require high visibility and accessibility. She also questioned if the zoning was in error but she didn't think that was the case. She said the rail spur can be valuable in a C-2 zoning and that is not a suitable argument. She said zoning is used as a tool for future plans and there was a lot of discussion in the community about the vision for this area. She said that she doesn't disagree that there is a benefit to the salvage yard. She said there is no disadvantage of the property being zoned C-2.

Councilmember Thomason said that he came into the meeting open minded. He said this is not an easy decision to make and said that he has heard a very compelling case. He said the City did not threaten condemnation and he is not going to be influenced by bullying and threats. He said everyone will have to wait and see on his vote.

Councilmember Doody said that he agrees with the Planning Commission. He said that part of land is perfect for this kind of business and that area is industrial. He said Staff gave a good presentation of what the Parkway will look like. He said it alleviated any fear of the views being obstructed. He feels that this needs to be zoned I-1.

Councilmember Beckstein said that Staff has presented the seven criteria and the whole area is industrial. She said City Staff has proven that this area should not have been rezoned and she cannot see a benefit of this being C-2.

Council President Hill said that his fellow Councilmembers are stuck on the error, when a significant facility such as rail is not being considered. He said that area was zoned I-2 and said I-1 does not go outside the Future Land Use. He said the Van Gundy's know their business will have to look different under the CUP. He questioned why some of the rail spurs were zoned I-1. He said 100% of the Staff is behind this and the planners say this fits the Master Plan. He said this is a perfect place for this type of zoning and is allowable by the Growth Plan. He said this is the highest and best use of the rail spurs

and the community will benefit from this. He said that he is extremely comfortable with Staff's recommendation.

Council President Hill asked for the motion in the affirmative.

Ordinance No. 3892 – An Ordinance Vacating Right-of-way for an Alleyway in the Vicinity of 1018 South 5th Street South of 4th Avenue between 5th and 7th Streets known as the Van Gundy North Project

Ordinance No. 3893 – An Ordinance Rezoning Property in the Vicinity of 1018 South 5th Street South of 4th Avenue between 5th and 7th Street from General Commercial (C-2) to Light Industrial (I-1) known as the Van Gundy North Project

Councilmember Spehar moved to adopt Ordinance Nos. 3892 and 3893 on Second Reading and ordered them published. Councilmember Beckstein seconded the motion. Motion carried by roll call vote with Council Pro Tem Palmer and Councilmembers Spehar and Coons voting NO.

Council President Hill called a recess at 1:40 a.m.

The meeting reconvened at 1:43 a.m.

Election of Mayor and Mayor Pro Tem/Administer Oaths of Office and Council Assignments for 2006-2007

a. Election of Mayor and Mayor Pro Tem/Administer Oaths of Office

Councilmember Doody was elected as President of the Council/Ex Officio Mayor. Councilmember Beckstein was elected as President of the Council Pro Tem/Ex Officio Mayor Pro Tem.

City Clerk Stephanie Tuin administered the oaths of office.

b. Council Assignments for 2006-2007

City Council discussed Council assignments and were in agreement that Councilmembers would keep the same assignments. It was suggested that someone start learning water issues since Councilmember Spehar, the current water expert, will be in his final year on Council. Councilmember Beckstein said she could take on another assignment. Councilmember Thomason volunteered to represent City Council at the Youth Council meetings.

Councilmember Hill said that he believes that the Grand Junction Economic Partnership (GJEP) and the Economic Development (ED) require that the City representative to be the Mayor. Staff will research that requirement.

Resolution No. 40-06 – A Resolution Appointing and Assigning the City Councilmembers to Represent the City on Various Boards and Organizations

Councilmember Hill moved to adopt Resolution No. 40-06, knowing that some adjustments might have to be made and assigning Councilmember Thomason to the Youth Council. Councilmember Palmer seconded the motion. Motion carried by roll call vote.

NON-SCHEDULED CITIZENS & VISITORS

There were none.

OTHER BUSINESS

There was none.

ADJOURNMENT

The meeting adjourned at 2:00 a.m.

Stephanie Tuin, MMC
City Clerk