

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

March 5, 2008

The City Council of the City of Grand Junction convened into regular session on the 5th day of March 2008 at 7:00 p.m. in the City Auditorium. Those present were Councilmembers Teresa Coons, Gregg Palmer, Bruce Hill, Doug Thomason, Linda Romer Todd, and Council President Jim Doody. Councilmember Bonnie Beckstein was absent. Also present were City Manager Laurie Kadrich, City Attorney John Shaver, and City Clerk Stephanie Tuin.

Council President Doody called the meeting to order. Councilmember Palmer led in the Pledge of Allegiance.

Proclamation

Proclaiming the Week of March 2 – 8, 2008 as “Women in Construction Week” in the City of Grand Junction

Citizen Comments

There were none.

CONSENT CALENDAR

Councilmember Thomason read the items on the Consent Calendar and then moved to approve the Consent Calendar. It was seconded by Councilmember Palmer, and carried by roll call vote to approve Consent Item #1 through #5.

Councilmember Thomason commented that all the bids on #4 came in from local contractors, and were under the engineer’s estimate.

1. **Setting a Hearing for the Vacation of Public Right-of-Way, 7th and Main North/South Alley** [File #VR-2007-222]

Request to vacate the north/south alley located between North 7th Street and North 8th Street on the north side of Main Street. The applicant is requesting to vacate the alley in order to use the adjacent property to the east for a future mixed-used development.

Proposed Ordinance Vacating North/South Right-of-Way for Alley Located between North 7th and North 8th Streets, North of Main Street

Action: Introduction of Proposed Ordinance and Set a Hearing for March 19, 2008

2. **Setting a Hearing Zoning the Below-Senatore-Stone Annexation, Located at 209 ½ and 221 Red Mesa Heights Road** [File #ANX-2007-373]

Request to zone the 2.95 acre Below-Senatore-Stone Annexation, located at 209 ½ and 221 Red Mesa Heights Road, to R-2 (Residential 2 du/ac).

Proposed Ordinance Zoning the Below-Senatore-Stone Annexation to R-2, Located at 209 ½ and 221 Red Mesa Heights Road

Action: Introduction of Proposed Ordinance and Set a Hearing for March 19, 2008

3. **Setting a Hearing Zoning the Sage Hills Annexation, Located at 3115 ½ and 3117 D ½ Road and Two Unaddressed Parcels on D ½ Road** [File #ANX-2007-363]

Request to zone the 14.55 acre Sage Hills Annexation, located at 3115 ½ and 3117 D ½ Road and two unaddressed parcels on D ½ Road, to R-5 (Residential 5-du/ac).

Proposed Ordinance Zoning the Sage Hills Annexation to R-5 (Residential 5 du/ac), Located at 3115 ½ and 3117 D ½ Road and Two Unaddressed Parcels on D ½ Road

Action: Introduction of Proposed Ordinance and Set a Hearing for March 19, 2008

4. **Construction Contract for Concrete Repair for Street Overlays**

The 2008 Concrete Repair for Street Overlay project consists of replacing sections of hazardous or deteriorating curb and gutter, sidewalks and drainage pans on streets scheduled to be overlaid later this year.

Action: Authorize the City Manager to Sign a Construction Contract with B.P.S. Concrete for the Concrete Repair for Street Overlays in the Amount of \$226,338.15

5. **Ratification of a Letter Regarding Property Located at 2581 Patterson Road**

Ratification of a letter from the City Manager to Jim and Frances Baughman concerning property at 2581 Patterson Road.

Action: Ratify Approval of Letter Signed by the City Manager to Jim and Francis Baughman Regarding Property Located at 2581 Patterson Road

ITEMS NEEDING INDIVIDUAL CONSIDERATION

Public Hearing—Amendment to Action Plan for 2006 Community Development Block Grant (CDGB) Program Year [File #CDBG-2006-04]

Amend the City’s Action Plan for the Community Development Block Grant (CDBG) Program Year 2006 to reallocate funds from previously approved projects to a new project.

The public hearing opened at 7:08 p.m.

Kristen Ashbeck, Senior Planner, reviewed this item. She explained the reason for the reallocation. One project the funding was assigned to was the Catholic Outreach housing. That project moved forward quicker than expected and the environmental concerns could not be addressed which made the project ineligible. Ms. Ashbeck said the proposal is to swap these funds with another project on Orchard Mesa for drainage improvements, and then add the administrative fees to the project in order to ensure completion before the beginning of irrigation season.

Councilmember Hill lauded the decrease in the use of the administrative funds, and is pleased the drainage project is going forward quickly.

Councilmember Coons commended the Staff for finding a solution.

There were no public comments.

The public hearing was closed at 7:12 p.m.

Councilmember Hill moved to approve the amendments to the City’s CDBG Consolidated Plan 2006 Action Plan to reflect reallocation of the funds to the Orchard Mesa Drainage Improvements Project (2006-04). Councilmember Coons seconded the motion. Motion carried.

Public Hearing—Mesa State Growth Plan Amendment for Property Located at 2899 D ½ Road [File #GPA-2007-081]

A request to amend the Growth Plan, changing the Future Land Use designation from Public to Mixed Use for 154.05 acres, located at 2899 D ½ Road.

The public hearing opened at 7:13 p.m.

Greg Moberg, Planning Services Supervisor, reviewed this item. The request is for a Growth Plan Amendment from the college. He described the site, and the current uses. There are some vacant buildings on the property. He described the location, and the adjacent railroad and State facilities. He noted the surrounding uses and zoning. The current Land Use Designation is Public, and the request is to change it to Mixed Use. He addressed the Growth Plan Amendment criteria. He stated there was no error, but perhaps there was an underestimation of the best use of the property.

The Planning Commission found that the request met the other six Growth Plan Amendment criteria, and recommended approval.

Councilmember Hill asked what a Mixed Use designation will allow. Mr. Moberg said the applicant intends to develop an Outline Development Plan for the property, and the Mixed Use designation will provide more flexibility in determining the different uses on the property. Councilmember Hill asked if Mixed Use is the most flexible designation available to which Mr. Moberg concurred.

Councilmember Todd asked if the applicant requested the Mixed Use. Mr. Moberg confirmed that they did.

Council President Doody asked how this applicant will work with the adjacent user (the Veterans Cemetery), also a State agency. Mr. Moberg responded that the State agency has already requested a buffer along that western edge, and is hoping that it will be worked out.

There were no public comments.

City Attorney Shaver added if the Veterans Cemetery annexes to the City it will facilitate the City's involvement in the total planning process.

Councilmember Todd clarified that the applicant is the Mesa State Real Estate Foundation, not the college itself.

Joe Carter, Ciavonne, Roberts, and Associates, 222 N. 7th Street, was present representing the applicant. He referred to the request, and advised the Public designation was due to the public ownership. With the change in ownership to the foundation, the intended use has changed as well. The applicant will be back for a rezone and approval of an Outline Development Plan. The buffer requested by the neighbor will be addressed at that time. This change will result in the largest parcel outside the 24 Road Corridor designated Mixed Use. The site currently has a County Planned Unit Development zoning.

Mr. Carter again reviewed the Growth Plan Amendment criteria.

Councilmember Coons asked if the animal diagnostic facility will be relocated. Mr. Carter said if it is not relocated, it will stay in operation as a grandfathered use.

There were no public comments.

The public hearing closed at 7:30 p.m.

Councilmember Todd was pleased to have this size parcel in the east end of the valley for development.

Councilmember Hill agreed many conditions and circumstances have changed since the original designation. There are subsequent events that invalidate the original premise. He agreed the request met the other criteria as well.

Councilmember Coons agreed and emphasized the community benefit as being more commercial, and needed services in the east end of the valley. She supported the request.

Councilmember Palmer agreed.

Council President Doody listed all the changes in the area and agreed.

Resolution No. 29-08—A Resolution Amending the Growth Plan of the City of Grand Junction Changing the Land Use Classification of Approximately 154.05 Acres, Known as Mesa State D ½ Road Property, Located at 2899 D ½ Road, from Public to Mixed Use

Councilmember Hill moved to adopt Resolution No. 29-08. Councilmember Coons seconded the motion. Motion carried by roll call vote.

Public Hearing—Rezoning Properties Located at the Southeast Corner of 28 ¼ Road and Grand Falls Drive [File #PP-2006-251]

A request to rezone 10.3 acres located at the southeast corner of 28 ¼ Road and Grand Falls Drive from PD, Planned Development, to R-8, Residential – 8 units/acre Zoning District.

The public hearing opened at 7:38 p.m.

Scott D. Peterson, Senior Planner, reviewed this item. He advised that the Planning Commission recommended approval of the request. He described the site, the location, the Land Use Designation, and the current zoning, as well as the designation and zoning

of surrounding properties. Mr. Peterson noted that the Staff recommendation was for a straight R-8 zone.

Ted Ciavonne, Ciavonne Roberts and Associates, representing the applicant Ashbury Heights Cache, LLC, and Thomas Ralzer, said the current zoning is Planned Development (PD) for a plan that has expired. He said that this property fits the criteria for infill development. It includes property assemblage as it was in two sewer districts. The development will eliminate a lift station, and the numerous easements and right-of-ways have been cleaned up. He asked for approval.

Carl Mitchell, 582 Grand View Court, said he is a design consultant, and designed a city in Chile. He objected to the change in zoning on a parcel that is open space for the Falls Subdivision. In 1977 the Zoning Code required 25% open space. This proposal includes development of that open space which is also a retention pond for flood control. There was also an alley that is identified as drainage easement, which is not correct. He said this is new territory, turning open space into developable property. He stated that the subsequent ordinances provided to him by the City Attorney did not affect the Falls development.

Mr. Mitchell advised that he has filed suit against the former President of the HOA of the Falls Subdivision for signing documents that he did not have the authority to sign. He advised the City Council against deciding on the rezone until such time as the court case is resolved. Mistakes have been made by the title company on the ownership of that open space parcel. He strongly suggested that the issue be postponed until the other matter is resolved.

Dan Wilson, Coleman, Williams, and Wilson representing Ebe Eslami, an adjacent property owner, suggested a solution. If the City Council cuts out Tract E (the open space) the project can go forward. That way both developments can have the benefit of that tract, and a detention facility. The sale of the open space was to provide funds for the HOA, but it harms the four property owners.

Mr. Wilson advised that the request does not meet all of the rezone criteria; specifically limiting cut and fill of hillsides. Goal 26 refers to availability of open space which is not being met. A right is being taken from these owners who have relied on this open space. The HOA, by majority rule, did sell this piece, but it seems unfair.

Ebe Esalimi, 583 28 ½ Road, said he offered to buy the open space, but his offer was rejected. Without this piece of open space, the subdivision will be below the required 10%. He cautioned that this will set a precedent.

Van Rogers, 580 Grand View Court, is also impacted by this open space issue. Mr. Wilson stated his position. Regardless of the legalities, the proposal is to convert open space that has been such for 28 years.

That concluded the public comments.

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

Ted Ciavonne, representing the applicant, said the purpose of the hearing is a rezone on 10.3 acres. Council has heard a number of assumptions. Any problem will be dealt within the courts, and has no bearing on the Council's ability to rezone the property.

Councilmember Hill summarized what was presented. 10.3 acres were sold by the HOA. Can HOA's sell their designated open space, or some percentage?

City Attorney Shaver said it depends. The opinion differs from an older subdivision versus a recent subdivision. It was zoned and developed in the County, and the City does not have the complete records. The property has been conveyed, and has an insured title, and that is not the City's issue. Mr. Shaver cannot confirm that it was required open space. He believes the project was developed under Mesa County rules, and then the City annexed it. There is no proof that it is designated open space, or whether it is just undeveloped property. That is for the courts to decide.

Councilmember Palmer asked if open space will be required by this project. City Attorney Shaver said generally open space is required, but as for the acreage he would have to defer to the Planner.

Council President Doody asked about looking at the development as part of the Falls Subdivision. City Attorney Shaver said the rezone will separate the parcel from the Falls Development.

Councilmember Coons asked, if the sale is declared legal by the court, does that make it part of this other development? City Attorney Shaver said it would by virtue of the conveyance.

Councilmember Todd asked if the expiration of the plan under Planned Development allows for a development to be developed under a new plan. City Attorney Shaver said that is the question.

Councilmember Thomason asked if it is okay for the City to proceed. Could the decision be reversed? City Attorney Shaver said there is no action pending against the City, but that could change. The owner has filed an application with the City for a rezone, and

based on those facts the City Council is well within their rights to take action subject to a court determination that the property was not properly conveyed.

Councilmember Palmer asked for confirmation that only Tract E is under contention. Mr. Shaver said that is correct.

Councilmember Hill asked if the City has no grounds or proof that the property was required open space, and if it is decided by the court and the property is reverted, will it go back to the Falls. He suggested the HOA resubmit the plan so the City has record. City Attorney Shaver agreed that the zoning lays the ground for development.

Councilmember Hill asked if the court reverts the ownership if the burden falls then on the developer. Attorney Shaver agreed, and said he will be watching that lawsuit very carefully, and will keep the Council advised. Mr. Mitchell or the others may file an injunction that will stop this from going forward.

Councilmember Palmer asked the Planner if open space will be required in the proposed subdivision.

Mr. Peterson said Section 6.3 of the Zoning Development Code states a development of ten or more lots must dedicate 10% land or pay a fee in lieu. In the past the City has accepted the fee because the City does not want to maintain small neighborhood parks. With detached units, 600 square feet of open space must be provided per dwelling unit. This proposal will have to have some open space requirements.

Mr. Ciavonne summarized that they did not know if the development could work without that tract. He asked that the Council not make a motion severing that parcel from the rest of the development.

Councilmember Todd said they should move forward, and include Parcel E so they can come forward with a plan. She is supportive of the request.

Councilmember Palmer said he is not looking to delay the rezone, and said he is troubled by the Tract E dispute, but that it is a matter for the courts. The parcel appears to be developable, so he is supportive. He also would like to see what happens in the courts.

Councilmember Coons agreed it should be looked at as an entire parcel; the ownership dispute is not the Council's issue.

Councilmember Hill referred to his own situation in his HOA saying that there is a significant amount of open space to maintain. It is unfortunate, but it is not the Council's issue, so he supports the request.

Councilmember Thomason said he appreciated those that commented, but from a legal standpoint he is in favor of moving forward.

Council President Doody was in agreement with Councilmember Todd.

Ordinance No. 4180—An Ordinance Rezoning an Area of Land from PD, Planned Development, to R-8, Residential – 8 Units/Acre Zoning District, Located at the Southeast Corner of 28 ¼ Road and Grand Falls Drive

Councilmember Palmer moved to adopt Ordinance No. 4180, and ordered it published. Councilmember Thomason seconded the motion. Motion carried by roll call vote.

Public Hearing—Amending the City Parking Code

Amendments are needed to the Parking Code to prohibit parking in planting strips and outside designated spaces.

The public hearing opened at 8:45 p.m.

John Shaver, City Attorney, reviewed this item. He explained the purpose of the amendment. There is a large strip between the curb and sidewalk in the downtown area which is referred to as a Planting Strip. Parking in that strip interferes with pedestrian use of the sidewalk, and is unsightly. The second part of the amendment addresses complaints that the metered spaces are not large enough for commercial vehicles, and the amendment allows those larger vehicles to use the double metered spaces, and pay for both meters. Lastly, the amendment makes it unlawful to park in a leased or designated space. The new parking structure brought this issue to light.

Councilmember Palmer asked if the planting strips are private property. City Attorney Shaver replied that there may be some, but the majority are in the downtown area where there is a large street right-of-way.

Councilmember Coons asked if other designated spaces will also be the subject of this enforcement. City Attorney Shaver said yes for any private spots in the garage, and any public spots, but not on private lease arrangements.

There were no public comments.

The public hearing was closed at 8:52 p.m.

Ordinance No. 4188—An Ordinance Adopting Amendments to Chapter 36, Sections 36-17 and 36-33 of the City of Grand Junction Code of Ordinances Relating to the Parking Code as well as Adopting a New Section 36-38

Councilmember Thomason moved to adopt Ordinance No. 4188, and ordered it published. Councilmember Coons seconded the motion. Motion carried by roll call vote.

Public Hearing—Amending the City Code Regarding Municipal Court Jurisdiction Over Theft Crimes of Less than \$1,000

Pursuant to a change in state law, a municipal court is authorized to take jurisdiction over theft crimes involving items less than \$1,000. The current City ordinance (GJCO §24-7) authorizes the Grand Junction Municipal Court jurisdiction over theft in an amount of \$300 or less. The proposed amendment will increase jurisdiction to \$1,000 or less.

The public hearing opened at 8:54 p.m.

John Shaver, City Attorney, reviewed this item. He explained the purpose of the amendment. The State law recently changed and now allows the Municipal Court to have authority for thefts up to \$1,000. The majority of the theft cases are for shoplifting. The Municipal Court resolves cases quicker than the State and County courts, and these cases are more of a burden to them.

There were no public comments.

The public hearing was closed at 8:55 p.m.

Ordinance No. 4189—An Ordinance Amending Chapter 24, Section 7 of the City of Grand Junction Code of Ordinances Relating to Theft

Councilmember Hill moved to adopt Ordinance No. 4189, and ordered it published. Councilmember Todd seconded the motion. Motion carried by roll call vote.

Non-Scheduled Citizens & Visitors

There were none.

Other Business

Councilmember Todd asked if Staff could look at parking in the downtown, and perhaps the City would look at some on-street parking for the handicapped in the RO zone districts.

Council President Doody asked the City Manager to look into that request. City Manager Kadrich said she would as there was another issue regarding handicapped spaces related to the striping size of the parking spaces.

Councilmember Palmer agreed that Councilmember Todd's point was well taken.

Council President Doody thanked Staff and the Councilmembers for their participation tonight.

Adjournment

The meeting adjourned at 9:00 p.m.

Stephanie Tuin, MMC
City Clerk