

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

April 16, 2008

The City Council of the City of Grand Junction convened into regular session on the 16th day of April 2008 at 7:00 p.m. in the City Auditorium. Those present were Councilmembers Bonnie Beckstein, Teresa Coons, Gregg Palmer, Bruce Hill, Doug Thomason, Linda Romer Todd, and Council President Jim Doody. Also present were Deputy City Manager Rich Englehart, City Attorney John Shaver, and City Clerk Stephanie Tuin.

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

Mayor Comments

This being his last meeting as Council President, Mr. Doody expressed how much he enjoyed being Mayor for the last two years and thanked everyone for the assistance and support they provided.

Citizen Comments

There were none.

CONSENT CALENDAR

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

1. **Setting a Hearing for the Vacation of a Portion of 28 ½ Road and South Grand Falls Court for the Proposed Ashbury Heights Subdivision, Located at the Southeast Corner of 28 ¼ Road and Grand Falls Drive** [PP-2006-251]

A request to vacate existing public rights-of-way (portion of 28 ½ Road and South Grand Falls Court) in anticipation of future residential subdivision development. The proposed vacation requests are located at the southeast corner of 28 ½ Road and Grand Falls Drive.

Proposed Ordinance Vacating the Rights-of-Way for South Grand Falls Court and a Portion of 28 ½ Road in the Proposed Ashbury Heights Subdivision

Action: Introduction of Proposed Ordinance and Set a Hearing for May 7, 2008

2. **Setting a Hearing on an Ordinance Creating a New Administrative Citation Process for Code Enforcement**

Code Enforcement Staff is proposing the adoption and use of an administrative citations process as another means of enforcement of City Codes. Specifically, the administrative citations process will be used for violations that affect the livability of neighborhoods and quality of life. The program would impose administrative penalties for certain violations of the Code, in turn decriminalizing the process and resulting in a more efficient and effective resolution of Code violations.

Proposed Ordinance Amending Chapter 2 of the City Code of Ordinances to Include a New Article VI, Adding an Administrative Enforcement Process to Address Violations of the City Code and Amending Chapter 16, Article III, Section 16.60 to Provide that a Notice of Violation Issued Pursuant to Chapter 2, Article VI, shall also Constitute a Notice to Abate a Nuisance and Amending Chapter 16, Article VII, Section 16-141 and Section 16-144 to Revise Definitions and Enforcement of the Stormwater Management Program

Action: Introduction of a Proposed Ordinance and Set a Hearing for May 7, 2008

3. **Setting a Hearing Amending Ordinance No. 4110 to Allow Limited Golf Cart Use in Specified Areas Around Mesa State College**

The Facilities Services Department at Mesa State College (MSC) has submitted a request to City Staff for an ordinance to allow MSC facilities maintenance and management to use golf carts to access certain college campus grounds, buildings and construction projects.

Proposed Ordinance Amending Ordinance No. 4110 to Allow Limited Golf Cart Use Near Mesa State College

Action: Introduction of a Proposed Ordinance and Set a Hearing for May 7, 2008

4. **Setting a Hearing on an Ordinance to Expand the DDA Boundaries**

The DDA recently awarded a grant to the Mesa County Library Board of Trustees. Those funds will be used for a new sign, landscaping and to help complete capital improvements to the main library building façade. The DDA and Board of Trustees agreed that receipt of the grant funds was conditioned upon the inclusion of Mesa County Library District properties into the DDA boundary.

Proposed Ordinance Expanding the Boundaries of the Grand Junction, Colorado Downtown Development Authority

Action: Introduction of a Proposed Ordinance and Set a Hearing for May 7, 2008

5. **Contract for Aeration Basin Modifications**

The purpose of the Aeration Basin SCADA project is to conserve energy and improve the secondary treatment process at Persigo. Currently, air is supplied to the aeration basins through the use of two 300 HP blowers. The system upgrade will give Staff the ability to preset a desired oxygen level in the basins, and have the system automatically adjust the blowers to maintain that level. The result will be improved effluent quality and a reduction in electrical energy consumption.

Action: Authorize the City Manager to Sign a Contract with Glacier Construction in the Amount of \$248,057 for the Aeration Basin Modifications

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

Public Hearing - Vacation of a Portion of Florida Street, Located at 2858 C ½ Road
[File #PP-2007-087]

A request to vacate an existing unimproved public right-of-way (portion of Florida Street) in anticipation of future residential subdivision development. The proposed vacation request is located at 2858 C ½ Road in Pear Park.

The public hearing was opened at 7:05 p.m.

Scott D. Peterson, Senior Planner, reviewed this item. He described the site and the location which is in the Pear Park area. The Planning Commission reviewed this item at the March 11, 2008 meeting and recommended approval. He described the area to be vacated and why it was originally dedicated. There are no existing utilities in the right-of-way but the applicants will rededicate a right-of-way for Florida Street in alignment with the existing Florida Street. The existing right-of-way will be platted for residential lots. The request meets the criteria of the Zoning and Development Code.

Councilmember Todd asked about the retention pond location shown on the aerial photo. Mr. Peterson said there is an irrigation pond there. If this pond is required for the White Willows Subdivision, it will be reviewed by the engineering department.

The applicant was not present.

There were no public comments.

The public hearing was closed at 7:10 p.m.

Ordinance No. 4221—An Ordinance Vacating a Portion of the Florida Street Right-of-Way, Located at 2858 C ½ Road

Councilmember Coons moved to adopt Ordinance No. 4221 and ordered it published. Councilmember Palmer seconded the motion. Motion carried by roll call vote.

Hearing on an Appeal of the Planning Commission's Approval of Redlands Place Subdivision Preliminary Plan, Located at 413 South Camp Road [File #PP-2007-218]

An appeal has been filed regarding the Planning Commission's decision to approve the Redlands Place Subdivision Preliminary Plan, located at 413 South Camp Road. The subdivision consists of 104 single-family lots on 52.2 acres in an R-2 (Residential 2 du/ac) zone district, utilizing the cluster provisions provided in Section 6.7.D.5 of the Zoning and Development Code. This appeal is pursuant to Section 2.18.E of the Zoning and Development Code, which specifies that the City Council is the appellate body of the Planning Commission. According to Section 2.18.E.4.h. no new evidence or testimony may be presented, except City Staff may be asked to interpret materials contained in the record.

Council President Doody detailed the history of the appeal. He listed the four points that must be considered by the City Council for the appeal. He then asked the City Council to discuss the matter or address questions to Staff.

Councilmember Hill noted that these appeals can seem quite clumsy so he clarified that the City Council reviews the complete record looking for one of the four criteria. The appeal letter addressed the basis of the appeal. The first being that the cluster provision was granted which the appellant feels it was in conflict with the City Zoning and Development Code as it is based on a percentage of land that is unbuildable. The second area of disagreement is that the subdivision does not appear to comply with Code in regard to clustering.

In reviewing the record, it was clear to Councilmember Hill that the Planning Commission spent a significant amount of time getting clarification from Staff on those provisions. The Code allows the clustering to be granted regardless of whether part of the site is buildable or not. There seemed to be confusion as to the definition of housing clustering and the clustering provisions. What this triggered was that R-4 setbacks are being used in this R-2 zoning. It doesn't make this R-4 density.

Councilmember Hill stated the first point to be reviewed is whether the decision-maker may have acted in a manner inconsistent with the provisions of this Code or applicable local, state or federal law. In his opinion that is not the case, it met the criteria of the Code. The second point is the decision-maker may have made erroneous findings of fact based on the evidence and testimony. He felt that was not the case. The third point is the decision-maker may have failed to fully consider mitigating measures or revisions offered by the applicant that would have brought the proposed project into compliance. Councilmember Hill did not believe that applied so there was no basis to find on that point. The fourth point is that the decision-maker may have acted arbitrarily, capriciously, and/or abused its discretion. He said that is not the case in the majority opinion and the Planning Commission weighed very heavily on their decision and had some conversation on their opinion of that part of the Code. Some agreed that to be what was in the Code but disagreed with the Code and voted in dissension on that basis but the majority understood the Code and implemented the Code. So under this item, there is no basis to

find the decision-maker acted inappropriately. In conclusion, he has no basis in which to support the appeal.

Councilmember Palmer asked the City Attorney about the cost of open space and if the open space needs to be usable space. City Attorney John Shaver said the Code does not differentiate and for the purposes of calculations there is nothing in the Code that requires that a determination be made as to the usability of the open space. It is still developable, even though the developer may have to take steps to make it so. As far as a technical analysis, he deferred to the Senior Planner Lori Bowers.

Council President Doody noted the Council has seen that before where Leech Creek was part of a subdivision's open space.

City Attorney Shaver advised that they don't identify what can and what cannot be developed based on the land condition.

Senior Planner Lori Bowers said she agrees with Attorney Shaver. The open space for this project was very definite due to topography. Since the developer has set aside the wetlands as open space, they did not look at it further, but it will be a condition of approval on the plat. The requirement for open space does vary depending on the density of the subdivision.

Councilmember Coons asked about the way the clustering was proposed, if there are different requirements for clustering.

Ms. Bowers said there is a suggestion in the Code via an illustration regarding clustering, but it is only an illustration. The first sentence in the clustering provision is that the purpose is to protect environmentally sensitive areas which is what this application does.

Councilmember Todd said she reviewed the Planning Commission meeting three times. She found the Planning Commission body did act in a very consistent manner and they did not make erroneous decisions. They did not make arbitrary and capricious decisions. She agreed with Councilmember Hill that point three does not apply.

Councilmember Coon stated the City Council's role is to determine if the decision is inconsistent or if it violates the Code. She cannot rule in a positive way on this appeal.

Councilmember Palmer agreed he did not find any basis to find against the Planning Commission decision.

Councilmember Thomason said these matters are all about the criteria and he sees no reason to vote in the positive.

Councilmember Beckstein agreed and does not believe they were arbitrarily decided and agrees they do meet the Code.

Council President Doody commended Councilmember Hill for making the points so clearly.

City Attorney Shaver advised the Council to make a motion in the affirmative and then vote in order to complete the record.

Councilmember Beckstein moved to consider the appeal of a Planning Commission's approval of Redlands Place Subdivision Preliminary Plan. Councilmember Palmer seconded the motion. Motion failed by unanimous roll call vote.

Non-Scheduled Citizens & Visitors

There were none.

Other Business

There was none.

Adjournment

The meeting adjourned at 7:34 p.m.

Stephanie Tuin, MMC
City Clerk