

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

August 6, 2008

The City Council of the City of Grand Junction convened into regular session on the 6th day of August 2008 at 7:00 p.m. in the City Auditorium. Those present were Councilmembers Bonnie Beckstein, Teresa Coons, Jim Doody, Bruce Hill, Doug Thomason, Linda Romer Todd, and Council President Gregg Palmer. Also present were City Manager Laurie Kadrich, City Attorney John Shaver, and City Clerk Stephanie Tuin.

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

Certificates of Appointments

To the Avalon Theatre Advisory Committee

Patti Hoff was present to receive her certificate.

Grand Junction Housing Authority

Paul Marx was present to receive his certificate.

Citizen Comments

There were none.

Council Comments

Council President Palmer announced that Councilmember Doug Thomason has a daughter that is turning four and the Council wished her Happy Birthday.

Council President Palmer then noted the article in the Free Press that featured Councilmember Teresa Coons and commended her for her work and the article.

CONSENT CALENDAR

Councilmember Hill read the Consent Calendar and then moved to approve the Consent Calendar items #1 through #4. Councilmember Beckstein seconded. Motion carried by roll call vote.

1. **Setting a Hearing on Zoning the Eagle Pointe Subdivision, Located at 2814 C 3/4 Road** [File #PP-2007-225]

A request for approval to zone property located at 2814 C 3/4 Road to PD (Planned Development) with a default zone of MU (Mixed Use) by approval of the Preliminary Development Plan as a Planned Development containing 76 multifamily dwelling units on one 4.23 acre lot and 4 commercial/industrial lots.

Proposed Ordinance Zoning Eagle Ponte Subdivision to PD (Planned Development) Zone, by Approving a Preliminary Development Plan with a Default MU (Mixed Use) Zone for the Development of Five Lots, One Residential Containing 76 Dwelling Units and Four (4) Commercial/Industrial Lots, Located at 2814 C 3/4 Road

Action: Introduction of Proposed Ordinance and Set a Public Hearing for August 20, 2008

2. **Setting a Hearing for Amending and Establishing Rates Used to Compute Assessments Levied Against Properties Located in Alley Improvement Districts**

The City's alley improvement district program has been in place since 1989. The alley improvement district assessment rates have not been revised since 1999. Since then construction costs for alleys have increased by 110% (average of 12% per year).

Proposed Ordinance Setting the Assessable Cost of the Improvements Made in and for Alley Improvement Districts

Action: Introduction of Proposed Ordinance and Set a Hearing for August 20, 2008

3. **Construction Contract for 2008 New Sidewalk Construction**

The 2008 New Sidewalk projects consists of installation of sidewalk in 5 locations. To be considered for this project the areas must first have curb and gutter adjacent to the property.

Action: Authorize the City Manager to Sign a Construction Contract for the 2008 New Sidewalk Construction to BPS Concrete, Inc. in the Amount of \$105,979.17

4. Construction Contract for 2008 Alley Improvement District

Bids were received on July 22, 2008 for construction of the 2008 Alley Improvement District. B.P.S. Concrete, Inc. submitted the low bid in the amount of \$369,309.84.

Action: Authorize the City Manager to Sign a Construction Contract for the 2008 Alley Improvement District to BPS Concrete, Inc. in the Amount of \$369,308.84

ITEMS NEEDING INDIVIDUAL CONSIDERATION**Contract for Public Safety Building Pre-Construction Design Services**

This approval request is for the contract award for pre-construction design services for the Public Safety Initiative.

Troy Smith, Deputy Chief of Police, and Jim Shanks, Special Project Engineer, presented this item. Deputy Chief Smith reviewed the background of the change in scope for this contract. He listed the items included which do not include any actual construction. This contract will add a contractor to the design team. There are about eight months of design work left. The Department of Local Affairs awarded a grant in the amount of \$500,000 which will cover this change in scope.

Shaw Construction Inc. was the unanimous selection of the selection committee.

Councilmember Hill noted that bringing a contractor into the process early on adds value to the project. He did ask if there is a downside to going forward.

Deputy Chief Smith stated that in continuing the design work many of the systems can be designed and engineered and it is prudent to prepare the City for a series of solutions so he did not see a downside.

Councilmember Coons asked for additional information on the various buildings involved in the project and the contractor selected.

Deputy Chief Smith said there are different perspectives from a law enforcement side and another from the construction perspective. From the law enforcement perspective, Shaw Construction was the contractor to select. Project Engineer Jim Shanks agreed and then because of the site and the phasing necessary for the project, they were looking for a contractor experienced with that situation and one that has worked with short time frames and within close proximity of neighbors. Shaw Construction has those qualifications.

Councilmember Doody asked if it was not a bid but rather an RFP. Deputy Chief Smith said it was.

Councilmember Doody asked about the value of that process. Purchasing Manager Jay Valentine advised that RFP's deal with professional type services; contracting professional services is not like buying a car; other items besides price are taken into account. They look for the right fit, the experience, and other factors.

Councilmember Thomason lauded having a local contractor as part of the team.

Councilmember Thomason moved to authorize the City Purchasing Division to enter into a contract with Shaw Construction, LLC in the Amount of \$147,729 for pre-construction design services associated with the Public Safety Initiative. Councilmember Doody seconded the motion. Motion carried.

Public Hearing—Assessments for Sanitary Sewer Improvement District No. SS-49-07 (Galley Lane)

The City has completed the installation of sanitary sewer facilities as requested by a majority of the property owners located in the area of Galley Lane and Young Street.

The public hearing was opened at 7:20 p.m.

Tim Moore, Public Works and Planning Director, presented this item. He reviewed how the district was formed. The job has been completed and inspected and this is the assessment step. The project came in under budget. The petition to form the district contained 76% of the property owners.

There were no public comments.

The public hearing was closed at 7:22 p.m.

Councilmember Todd asked Public Works and Planning Director Moore to explain why there is a trunk line fee in addition to the tap fee. Public Works and Planning Director Moore explained that trunk line extension is a program that looks for areas that may be sewerred in the future and place the infrastructure in to make it available and when people do hook up to sewer; they pay a portion of the trunk line extension.

Ordinance No. 4273—An Ordinance Approving the Assessable Cost of the Improvements made in and for Galley Lane Sanitary Sewer Improvement District No. SS-49-07, in the City of Grand Junction, Colorado, Pursuant to Ordinance No. 178, Adopted and Approved the 11th Day of June, 1910, As Amended; Approving the Apportionment of

Said Cost to Each Lot or Tract of Land or Other Real Estate in Said District; Assessing the Share of Said Cost Against Each Lot or Tract of Land or Other Real Estate in Said District; Approving the Apportionment of Said Cost and Prescribing the Manner for the Collection and Payment of Said Assessment

Councilmember Doody moved to adopt Ordinance No. 4273 and ordered it published. Councilmember Todd seconded the motion. Motion carried by roll call vote.

Public Hearing—The FedEx-Swanson Annexation and Zoning, Located at 788 22 Road and 2223 H Road [File #ANX-2008-091]

Request to annex and zone 13.2 acres, located at 788 22 Road and 2223 H Road, to I-1 (Light Industrial). The FedEx-Swanson Annexation consists of two parcels and a portion of the 22 Road Right-of-Way.

The public hearing was opened at 7:25 p.m.

Greg Moberg, Planning Services Supervisor, presented this item. He reviewed the request, the site, and the location. He then described the surrounding uses and zones. The Growth Plan designation for the property is C-I (commercial/industrial). The request meets the criteria of the Zoning and Development Code and the Planning Commission recommended approval.

Council President Palmer asked at what point will the three properties being surrounded be enclaved. Mr. Moberg advised the proposed annexation will create an enclave for the surrounding three properties. Council President Palmer asked if those property owners have been notified. City Attorney Shaver advised that the property owners of those properties will be notified after the annexation has been approved. The time period for annexation for the enclave will be no sooner than three years and no later than five years.

Ben Jagelski, FedEx Freight manager for the Western Slope, one of the applicants, said they are looking to make some improvements to the site which requires annexation.

Brian Swanson, son of the other applicant Arlene Swanson, said the property is currently a farm which is not relevant in that area. Their intention with FedEx will not impact anyone in that area. FedEx intends to use it as a parking facility.

There were no public comments.

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

a. Accepting Petition

Resolution No. 112-08—A Resolution Accepting a Petition for Annexation, Making Certain Findings, Determining the Property Known as the FedEx-Swanson Annexation, Located at 788 22 Road and 2223 H Road, Including a Portion of the 22 Road Right-of-Way is Eligible for Annexation

b. Annexation Ordinance

Ordinance No. 4274—An Ordinance Annexing Territory to the City of Grand Junction, Colorado, FedEx-Swanson Annexation, Approximately 13.2 Acres, Located at 788 22 Road and 2223 H Road, Including a Portion of the 22 Road Right-of-Way

c. Zoning Ordinance

Ordinance No. 4275—An Ordinance Zoning the FedEx-Swanson Annexation to I-1 (Light Industrial), Located at 788 22 Road and 2223 H Road

Councilmember Todd moved to adopt Resolution No. 112-08 and Ordinance Nos. 4274 and 4275 and ordered them published. Councilmember Coons seconded the motion. Motion carried by roll call vote.

Ratify Agreement with the Grand Junction Rural Fire Protection District and Redlands Subdistrict

The City and the Grand Junction Rural Fire Protection District have a longstanding relationship for the delivery of fire and emergency medical services (EMS) by the City to the residents of the District, memorialized in a 2002 service contract between the parties. Because of decreasing revenues of the District and the Subdistrict since 2002, both parties are in agreement that the 2002 service contract needs to be amended. A new agreement has been prepared and signed by the District and the City Manager.

John Shaver, City Attorney, presented this item. He advised that the consideration is to ratify a contract with the Grand Junction Rural Fire Protection District. He reviewed the history of the relationship with the District. The revenues of the District continue to be reduced as properties are annexed into the City. The District asked that their financial obligation to the City be reduced. The new agreement provides that all revenue received by the District, less some administrative costs, will be remitted to the City.

Councilmember Hill agreed with the description and the Council knew this would happen. It was the intention that the District's obligation be reduced as annexations decreased their revenues.

Council President Palmer agreed noting the agreement formalizes the current practice.

City Attorney Shaver advised that the District is current on their payments and they are presently solvent so the financial arrangements are positive.

Fire Chief Ken Watkins said he spoke with the Chair of the District who could not be present but wanted his thanks expressed. Also, the Rural District Board unanimously supports the Public Safety Initiative.

Resolution No. 113-08—A Resolution Authorizing and Ratifying an Agreement Between the City of Grand Junction and the Grand Junction Rural Fire Protection District

Councilmember Beckstein moved to adopt Resolution 113-08. Councilmember Thomason seconded the motion. Motion carried by roll call vote.

Policy Regarding Invocations at City Council Meetings

Given the state of the law and the Council majority's preference to continue the invocation, this resolution presents a very meaningful opportunity to be very respectful of the diverse interests of the community.

John Shaver, City Attorney, presented this item. He explained the revised resolution and noted there was an extensive conversation on Monday night regarding this issue. He explained the items he added including the establishment clause of the First Amendment and its purpose.

Councilmember Coons asked City Attorney Shaver to speak to the issues around Constitutional Law and interpretations.

City Attorney Shaver said there are two views, structuralist and literalist, and those two views underlie a lot of debates. Courts struggle with this too. Another reason for differing views is the underlying facts. There are also political and personal motives which also complicate interpretations.

Councilmember Hill read the First Amendment of the Constitution. He said he did not nor now does he believe that the Council's invocation is the establishment of any religion. The Council is respectful of the freedom of speech and he believes that those who helped write this First Amendment knew they could not be specific. The Council now has a document that says they have never tried or will try to establish a religion by having an invocation.

Councilmember Coons thanked City Attorney Shaver and the rest of Council for the discussion and noted it is a complicated situation to respond to law and the needs and

concerns of the community. The resolution is not a statement of right or wrong on their beliefs but is an effort to be respectful of the community and the differing beliefs.

Councilmember Todd thanked Staff for their time on this issue, but she feels way too much time has been spent on the matter. They did so to try to accommodate both sides. She agrees with Councilmembers Hill and Coons. Spirituality is a very personal thing and she will not support a resolution that states a right she already has.

Councilmember Beckstein said the invocation has been a long-time tradition and it helps the Council focus. Those giving the invocation do represent a variety of beliefs. The Constitution is special because it was written to protect the rights of the majority and the minority but the current situation in this country does tend to protect only the rights of the minority.

Councilmember Thomason thanked both the City Manager and City Attorney for their work on this document. He believes it is a good solution.

Councilmember Doody said this was a great exercise in “Our Town”. Decisions sometimes are for the majority. This one encompassed the whole community. He educated himself about these cases. He recalled the issue on the Ten Commandments a few years ago. He said the definition of “Amen” is the affirmative and he will use that for his vote.

Council President Palmer lauded the comments by Council. Few issues in his tenure generated this much interest. Many comments were “don’t cave in”. The Council wanted to find a way to continue the invocation and the professional Staff found a way. The change is very little except they are going to broaden the opportunity for invocators. He thinks it’s fair and legal. Any further questions should be addressed to the City Attorney.

Resolution No. 114-08 – A Resolution Concerning the Offering of Invocations
Prior to the Meetings of the City Council and Other Deliberative Bodies of the City of
Grand Junction

Councilmember Thomason moved to adopt Resolution No. 114-08. Councilmember Hill seconded the motion. Motion carried by roll call vote with Councilmember Todd voting NO.

Non-Scheduled Citizens & Visitors

James Braden, who lives in Clifton, is looking forward to Clifton becoming part of the City. He has noticed tumbleweed size weeds in both the City and the County. He asked each Councilmember to report any areas with overgrown weeds that they see.

He suggested that the Workforce be used for clean up. Those kids have pride when they do such work.

In regards to the trucking company that wanted property along the river, he recommended against that approval as that might result in dumping near the river and it might get into the water system.

He then commended the Council for their actions this evening.

Mr. Braden said he enjoyed the barbeque but missed the National Night Out as he could not find the locations. He suggested a header be on the website for events taking place that day.

Regarding the new police station, he wanted renewable energy sources to be considered in that construction.

Concerning the Matchett Property, he suggested a water park with an enclosed lazy river so it can be used year round. He also suggested swim-in-place pools. Also fun fountain equipment, covered with shade so the kids could use it all day and not get sunburned.

Other Business

There was none.

Adjournment

The meeting adjourned at 8:06 p.m.

Stephanie Tuin, MMC
City Clerk