

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

**October 15, 2008**

The City Council of the City of Grand Junction convened into regular session on the 15<sup>th</sup> day of October 2008 at 7:03 p.m. in the City Auditorium. Those present were Councilmembers Bonnie Beckstein, Jim Doody, Bruce Hill, Doug Thomason, Linda Romer Todd, and Council President Gregg Palmer. Councilmember Teresa Coons was absent. 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.

**Citizen Comments**

Mike Anton, Grand Junction Air Show, Inc., addressed the City Council and introduced Cal Clark and Bob Jess accompanying him. He thanked the City Council, City Staff and members of the community for their help in the success of the Air Show. He then presented the City Council with a gift of a print of the Blue Angels flying as well as a plaque expressing appreciation.

**CONSENT CALENDAR**

Councilmember Beckstein read the Consent Calendar and then moved to approve item 1. Councilmember Hill seconded the motion. Motion carried by roll call vote.

1. **Ratify and Support Application to the Bureau of Land Management for Transfer of Land to Mesa State College**

The City, Mesa State College and Mesa County have worked in unison for the creation of a police officer standards and training (POST) facility. Recently Mesa State College made application to the BLM for a 209 acre parcel on which to develop a regional public safety training facility.

Resolution No. 134-08—A Resolution Affirming Support of an Application to the Bureau of Land Management for the Transfer of 209 Acres of Land to Mesa State College for a Regional Public Safety Training Facility

*Action: Adopt Resolution No. 134-08*

**ITEMS NEEDING INDIVIDUAL CONSIDERATION****Hearing to Review the Service of William Pitts on the Grand Junction Planning Commission**

In accordance with City Code, the City Council may hold a hearing to consider the service and removal of any member of the Planning Commission. City Council has requested a hearing to review recent actions by Commissioner Bill Pitts and/or to consider his removal from the Planning Commission.

Council President Palmer explained that this will be a discussion between the City Council and Mr. Pitts. He first asked City Attorney Shaver to address the City Council.

John Shaver, City Attorney, presented this item. He explained that the hearing is required by City Code. All members of City appointed boards must adhere to very high ethical standards. The City Council has received a list of items that may be considered relative to Mr. Pitts' service. The Council must ensure that Mr. Pitts is not pre-judging any of the items that come before the Planning Commission for consideration. There is reason to believe that Mr. Pitts may not have recognized that duty in a couple of different matters; specifically Mr. Pitts sending a letter objecting to an application to the Project Engineer. The other noteworthy event includes his actions relative to the Weemunichee Subdivision. Mr. Pitts organized the neighborhood opposition to the project. City Attorney Shaver has visited with Mr. Pitts on numerous occasions regarding these matters and they disagreed on Mr. Pitts' obligation as a Planning Commission member. City Attorney Shaver suggested that if Mr. Pitts desired to be active in the community in such matters, that perhaps being a member of the Planning Commission is not a good fit.

Council President Palmer asked what are the options for the City Council. City Attorney Shaver responded the options are dismissal from the board, imposition of sanctions or a reprimand of Mr. Pitts. Mr. Shaver advised that in discussions with Mr. Pitts, Mr. Pitts feels he has the right to express personal opinions when he wants to, it is his right. That is not the City's position when he sits on an appointed board. The ethical standards are set for a reason. When those lines are compromised, there are concerns.

Councilmember Beckstein asked about freedom of speech. City Attorney Shaver replied that everyone has freedom of speech but that may be curtailed when certain positions are accepted. When one agrees to serve, one agrees to give up some of that right. Councilmember Beckstein inquired if officials such as the City Council and the Planning Commission make decisions based on feelings rather than on the Code, it exposes the organization to liability. City Attorney Shaver concurred, adding that it

would also violate due process. Nothing Mr. Pitts has done has risen to that level. Councilmember Beckstein expressed concern about allowing a pattern of such to develop. City Attorney Shaver added that not only does the City not allow conflicts of interest; it does not allow an appearance of a conflict of interest. This not only protects the City from possible liability but also assures the citizens of fair government.

Councilmember Hill pointed out the specifics in the conflict of interest portion of the ethical standards. Although City Attorney Shaver agreed, he emphasized the need to maintain fair government and to ensure citizens that is the process used by the City for decision-making.

Councilmember Todd asked if all within the packet of information received is open for discussion. City Attorney Shaver responded affirmatively.

Councilmember Todd asked City Attorney Shaver to list the two items specified in the documents. City Attorney Shaver said there were other incidents but he specifically listed the application for the care facility and the Weeminuchee subdivision, both in Mr. Pitts' neighborhood.

Mr. Bill Pitts then addressed the City Council. He read a statement that included his service in the military and then his subsequent choice to move to Grand Junction and his history here. He expressed his feelings for the community. He then detailed his service on the Planning Commission. When he had a conflict, he did nothing to persuade any Planning Commissioner. He expressed his feelings and stated that a letter excusing him from the Commission from City Council would have been adequate; the hearing was not necessary.

Councilmember Todd said she reviewed the information and said she gets hung up on how specific something can be interpreted; specifically writing letters to the decision-maker; and determining who the decision-maker is. She did agree that Mr. Pitts was wrong by writing the letter to the editor. Another letter did not even mention a specific project. She feels Mr. Pitts has done his job on the Planning Commission. She would have preferred that Council had the conversation with Mr. Pitts outside of the public forum with him sitting across the table. She thinks both sides could have handled things better.

City Attorney Shaver explained that Exhibit G was mislabeled; the letter should have been the letter regarding the Weemunichee Subdivision written by Mr. Pitts.

Councilmember Hill advised that this process was not something the City Council decided but what the Code said must be done. Due to the law, a closed door meeting is not an option. This is what is required. He noted that some conflicts are easy to identify. The more difficult ones may be when there may be a perception of a conflict.

He used the reconstruction of Colorado Avenue as an example where he recused himself. He understands how Mr. Pitts got there but, as a Planning Commissioner, he can't do that. Sending letters for the record is exerting influence and shouldn't have been done. He asked Mr. Pitts if he remains seated as a Planning Commissioner, would he continue taking an active role if a certain situation arises again and possibly influencing his fellow Commissioners.

Mr. Pitts responded that he will not keep quiet. He did not organize a neighborhood opposition but he did speak out at a neighborhood meeting. He will not keep quiet.

Councilmember Beckstein asked Mr. Pitts about his activity during the Weemunichew Subdivision consideration. Mr. Pitts denied that he was involved in organizing any opposition.

Councilmember Thomason thanked Mr. Pitts for his service but noted that there is an expectation once appointed or elected that there is a line that is not crossed. He advised Mr. Pitts, as a suggestion, the Council is not trying to squash his freedom of speech.

Councilmember Doody recalled that City Attorney Shaver has had numerous conversations with Mr. Pitts. This should have made Mr. Pitts aware that the Council is concerned. They could not resolve the issue. He agreed with Councilmember Thomason, free speech is fine, but it should not be as a Planning Commissioner.

Councilmember Beckstein wanted clarification on the paragraph stating Mr. Pitts was part of the opposition.

City Attorney Shaver advised that Mr. Pitts told the Assistant City Attorney that he was involved in the opposition. The letter to the Planner was then read into the record which appeared to be direction to Staff. City Attorney Shaver added other corroboration of Mr. Pitts speaking to other neighbors about opposition. The information being presented is not evidence; prosecution is not the intent.

Mr. Pitts approached the Council and suggested the Council dismiss him if his service is no longer desired.

Council President Palmer expressed that they must maintain the highest level of ethical standards in order to best serve the community.

Mr. Pitts left the meeting noting he will accept the Council's decision.

Councilmember Beckstein stated that Council and other officials should never come before the community having already decided a matter before the hearing. Appointees to volunteer boards must agree with that philosophy.

Councilmember Todd referred to the process and how reactions are different to Staff versus the elected officials. She agreed some censure was needed. She was disappointed with the packet Council received to review not being complete. She would not support removal of Mr. Pitts.

Councilmember Hill noted that sometimes during interviews expectations are discussed. It must rise to a very high degree for this process to be put in place. He was hoping for some compromise but that didn't happen.

Council President Palmer asked the City Attorney to repeat the Council's options.

City Attorney Shaver advised that Council has the range from doing nothing to removal. He apologized for the incorrect letter in the packet. The matter was brought before Council because the Code directs Staff to bring matters of such concern to them. The Council could recommend ethical training or they could censure Mr. Pitts and admonish his behavior. Mr. Shaver listed what such censure could contain.

Councilmember Beckstein expressed that she does not believe that Mr. Pitts would respond positively to a letter of censure. She does respect Mr. Pitts for his ability of expressing himself, but it is unfortunate that he couldn't adhere to the codes that they have been directed to.

Councilmember Beckstein moved to remove Mr. Pitts from his service on the Planning Commission. Councilmember Thomason said he admired Mr. Pitts spit and vinegar but, seeing Mr. Pitts' defiant attitude, he felt Mr. Pitts should be allowed to exercise his free speech and not as a Planning Commissioner. Councilmember Thomason seconded the motion.

Councilmember Doody agreed Mr. Pitts is a man of conviction and agreed trying to work this out won't work. He is in favor of a letter drafted by the Mayor thanking him for his service.

Council President Palmer asked if that is an option.

Councilmember Doody asked if a vote is the only way of doing it. He was suggesting a letter thanking Mr. Pitts; it would be the same outcome but there would be less public embarrassment.

City Attorney Shaver said the Council must make a public finding as to reasons for removal and there must be a Council majority for that to happen.

Council President Palmer said that Mr. Pitts should be told up front; no one is saying Mr. Pitts didn't do his best.

Motion carried by roll call vote with Councilmembers Hill and Todd voting NO.

Council President Palmer called a recess at 8:22 p.m.

The meeting reconvened at 8:30 p.m.

**Quiet Title Action with the Court for Crown Point Cemetery, Located 945 23 ½ Road**

The City of Grand Junction ("City") has owned and operated the Crown Point Cemetery since 1982. City Council formally approved the City receiving the land and the operations from the Mesa County Veterans Cemetery Association ("Association") on or about March 17, 1982. No deed was conveyed to the City from the Association. The City Attorney is requesting authorization from City Council to file a quiet title action with the district court for determination that the City of Grand Junction is the owner of the land known as Crown Point Cemetery ("Cemetery".)

John Shaver, City Attorney, presented this item. He explained the purpose of the request is to ensure the City's ownership of the property at Crown Point Cemetery. He reviewed the history of the City's acquisition. Crown Point recently became a more important part of the cemetery system. Water service has been obtained from the Grand Valley Irrigation Company and there are improvements planned.

Councilmember Todd expressed that the cemetery has been improved with it being under the City's maintenance.

Councilmember Todd moved to authorize the City Attorney to file a Quiet Title Action for determination that the City owns Crown Point Cemetery. Councilmember Doody seconded. Motion carried.

**Public Hearing—Zoning the Lusk Annexation, Located at 2105 South Broadway**  
[File #ANX-2007-368]

Request to zone the 8.53 acre Lusk Annexation, located at 2105 South Broadway, to Residential Estate (Residential 2 to 5 ac/Du).

The public hearing was opened at 8:36 p.m.

David Thornton, Principal Planner, presented this item. He read an excerpt of the Growth Plan that related to this request. He then described the request, the location, and the site. Previously the City Council denied a Growth Plan Amendment so the zoning being brought forward complies with the current Land Use Designation. The requested zoning will allow a minimum lot size of two acres. He described the surrounding uses in existence. In the vicinity there are twelve lots less than five acres and seven properties greater than five acres in size. He explained how an R-E zone district is allowed in a rural designation and recommended approval.

Councilmember Todd asked for clarification on the number of lots that would be allowed. Mr. Thornton explained a provision allowing Staff to weigh the two conflicting provisions which would allow 120% density over rural so only two lots would be allowed, with an average of four-acre lots.

Council President Palmer asked if Council can zone the property what it is zoned in the County. Mr. Thornton said that is allowed under the Persigo Agreement but not generally brought forward by Staff.

Councilmember Todd asked for detail on the history which Mr. Thornton provided.

Councilmember Hill advised that applying the County zone district would be inconsistent with the Growth Plan. If Council wants to do that, he suggested they change the Growth Plan designation first. He asked why there was no Growth Plan Amendment to change the designation to Estate. Mr. Thornton said that would require a whole new process. The applicant can come back and apply for a Growth Plan Amendment to R-E which would allow four lots on this property if approved.

Sierra Lusk, the applicant, 2105 Broadway, stated that originally there was no opposition and there is more density nearby. She feels the request is reasonable,

Steve Voytilla, 2099 Desert Hill Road, explained how this came to be. Initially Ms. Lusk had asked for Estate designation and then it was changed to Residential Low and there was a lot of opposition. The way the process proceeded put the applicant in a bad position.

There were no other public comments.

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

Councilmember Hill supported the request and believes it meets the criteria of the Zoning and Development Code noting there are still options to enhance the zoning in the future.

Ordinance No. 4300—An Ordinance Zoning the Lusk Annexation to Residential Estate (R-E), Located at 2105 South Broadway

Councilmember Thomason moved to adopt Ordinance No. 4300 and ordered it published. Councilmember Doody seconded the motion. Motion carried.

**Public Hearing—Amending the Zoning and Development Code Regarding Minor Exemption Subdivisions** [File #TAC-2008-279]

The City of Grand Junction requests approval to amend the Zoning and Development Code to consider amendments to allow an administrative development approval for a Minor Exemption Subdivision.

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

Lisa E. Cox, Planning Manager, presented this item. She explained the purpose of the request. A new category would be created for Minor Exemption Subdivisions. This came out of the expansion of the Persigo Boundary and will allow larger parcels to subdivide without being required to hook onto sewer if they execute a utility extension agreement. No other variance would be allowed under this process. It is anticipated that the subdivision would have little impact on surrounding property owners which is why it is being proposed to be an administrative process. The Planning Commission recommended approval.

Councilmember Hill thanked Staff for pursuing this.

There were no public comments.

The public hearing was closed at 8:58 p.m.

Ordinance No. 4301—An Ordinance Amending the Zoning and Development Code to Include an Administrative Development Approval for a Minor Exemption Subdivision

Councilmember Hill moved to adopt Ordinance No. 4301 and ordered it published. Councilmember Thomason seconded the motion. Motion carried by roll call vote.

**Non-Scheduled Citizens & Visitors**



Jan Warren, 2622 H Road, thought Councilmember Coons should have excused herself from the Weemunichee Subdivision consideration. She asked how she could pursue raising that issue.

City Attorney Shaver suggested Ms. Warren can put those matters on the record or she can speak to him directly.

Mrs. Warren said that Councilmember Coons works for the Saccomanno Institute and made a comment that "I guess Dr. Saccomanno got what he wanted didn't he". The matter was bothering her. She believed that the Council should be investigated to make sure that they are excusing themselves if there is a conflict of interest. City Attorney Shaver offered to speak further with her about it.

Rick Warren, 2622 H Road, having thought about the process felt the process design excludes those most affected. He laid out what he meant, giving examples. He felt there is not an opportunity for dialogue with members of the public, specifically the neighbors.

Stephan Day, 2554 I Road, said he read that the Planning Commission was an authoritative board but did not realize it was quasi-judicial. He asked who then is representing the public; the public needs to have an influence and needs to have a representative body. He agreed with Mr. Warren that the people want people in government that will listen. The citizens want to have a collective voice in government.

Patsy Day, 2554 I Road, said she was disappointed and embarrassed. She never felt in previous presentations that the City Council was unbiased. She disagreed that Mr. Pitts had an opinion that influenced Council.

### **Other Business**

Councilmember Hill said the Council has been discussing making changes to the Code, specifically the triggers that require compliance. It hasn't moved forward because it didn't appear there were a majority of Council in favor. He asked if Council has any desire to review those changes.

City Manager Kadrich wanted to respond to some of the citizens' comments. Some of the changes being considered will allow citizen comments to be heard in a public process. She said, regarding Councilmember Hill's concerns, Staff is already working on such revisions.

Public Works and Planning Director Tim Moore stated that they have been reviewing provisions of the Code that aren't working well and they have been bringing those forward. He encouraged feedback.

Councilmember Beckstein stated she thought it was being worked on and encouraged such changes that will be more inclusive for the public. She thanked Ms. Kadrich and Mr. Moore for taking these changes forward.

Councilmember Hill said the Code provision that guided the hearing tonight needs to be changed. Other Councilmembers agreed.

City Manager Kadrich stated that she had heard from Council that they did want something in this area changed. The non-conforming use changes are being incorporated into the general Code revisions.

### **Adjournment**

The meeting adjourned at 9:22 p.m.

Stephanie Tuin, MMC  
City Clerk