

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

**November 16, 2009**

The City Council of the City of Grand Junction convened into regular session on the 16<sup>th</sup> day of November 2009 at 7:00 p.m. in the City Auditorium. Those present were Councilmembers Bonnie Beckstein, Teresa Coons, Tom Kenyon, Gregg Palmer, Bill Pitts, Linda Romer Todd, and Council President Bruce Hill. Also present were City Manager Laurie Kadrich, City Attorney John Shaver, and Deputy City Clerk Debbie Kemp.

Council President Hill called the meeting to order. Councilmember Beckstein led in the Pledge of Allegiance followed by an invocation by Pastor Mark A. Johnson, Baptist Church, Palisade.

**Appointments**

Councilmember Palmer moved to appoint John Stevens to the Grand Junction Regional Airport Authority for a four year term to expire May 2013. Councilmember Coons seconded the motion. Motion carried.

**Council Comments**

There were none.

**Citizen Comments**

There were none.

**Presentations**

Annual Water Update – Jim Lochhead, Water Attorney, presented the annual water update.

City Attorney John Shaver introduced Jim Lochhead, Water Attorney, who has served the Council regarding water for a number of years and has formerly served as the Department of Natural Resources Director. In addition Mr. Lochhead has also represented the City of Grand Junction on the Colorado River Coalition. Mr. Lochhead is here to give a briefing and to answer any questions regarding the City's future on water resources.

Jim Lochhead, Water Attorney, said the coalition includes the eastern slope and western slope entities which share a common interest in protecting water rights under the Colorado River Compact agreement. He wanted to address issues that may affect the

Grand Junction region in the years to come. There are a set of guidelines set by the Secretary of the Interior adopted in 2007 which were the result of negotiations between the seven Colorado River Basin States. These guidelines are for the operations of Lakes Powell and Meade, these are the two major lakes that regulate water through the system. Lake Powell was termed a bank account for the water supply in the upper Colorado River. These guidelines provide for the cooperation between the upper and lower basin (Lakes Powell and Meade.) They also set the adoption of shortage guidelines for the lower basin. They also set up a frame work for the banking of water in the lower basin (Lake Meade). The basin states have been engaged in discussions with Mexico, for treated water supply, conservation projects, and essentially borrowing water. These discussions have been to develop more cooperation between the national governments in Mexico and the United States. There is a question of how much water there is available for development and what are the effects of climate change. With Colorado's expected growth there are challenges to be met for the long-term future. There are legal issues between the upper and lower basins to be resolved. It is important for the City of Grand Junction to be involved in these discussions. There are updates that are being provided to the City of Grand Junction on these discussions.

Councilmember Todd said she is hearing rumors of changes in legislation in the Colorado Springs area that may re-write Colorado water law. Mr. Lochhead said he is not aware of any changes in legislation coming from this area in the upcoming session.

Councilmember Coons thanked Mr. Lochhead for the overview and said that Councilmember Todd and herself were able to tour the Lower Colorado Basin a couple of years ago and asked about underground banking/storage. She said her understanding of this is that this is not legal in the upper basins in Colorado. Mr. Lochhead responded that yes there are underground banking facilities in Nevada, Arizona, and California. There are two problems in Colorado, the southern metro Denver tier, in Northern Douglas County, is dependent on a non-renewable water supply. Secondly, there may not be aquifers available to store water in the lower basins of Colorado. Mr. Lochhead agreed, for future use, underground storage of water in Colorado is something that should be looked at.

Councilmember Kenyon said there has been much discussion of storage and liabilities – is storage a possibility in the next decade? Mr. Lochhead said this will be difficult because most of the good storage locations have already been taken. Anticipated effects of climate change is a factor as well. A major trend in the west is proposals for pipelines for the purpose of moving water greater distances. The Denver Front Range needs to look at creating a water budget. Colorado needs to think about how to incrementally move towards solving the problems. There needs to be a development of a water budget for the gap. The Denver Front Range area affects all water users in the State.

Council President Hill thanked Mr. Lochhead for the update as it is a complex subject.

**CONSENT CALENDAR**

Councilmember Coons read the Consent Calendar and then moved to approve items #1 through #6. Councilmember Beckstein seconded the motion. Motion carried by roll call vote.

**1. Minutes of Previous Meetings**

*Action: Approve the Minutes of the November 2, 2009 Regular Meeting*

**2. Setting a Hearing for the Reman Rezone, Located at 555 West Gunnison Avenue and Two Adjacent Properties [File # RZ-2009-163]**

Request to rezone 1.76 acres, from C-1(Light Commercial) to C-2 (General Commercial).

Proposed Ordinance Rezoning Three Parcels of Land from C-1 (Light Commercials) to C-2 (General Commercial), Located at 555 West Gunnison Avenue and Two Adjacent Parcels (Reman Rezone)

*Action: Introduction of a Proposed Ordinance and Set a Hearing for November 30, 2009*

**3. Setting a Hearing on the Landmark Baptist Church Rezone, Located at 1600 Ute Avenue [File # RZ-2009-195]**

Request to rezone 3.53 acres located at 1600 Ute Avenue, from C-2 (General Commercial) zone district to C-1 (Light Commercial) zone district.

Proposed Ordinance Rezoning the Property Known as the Landmark Baptist Church Rezone from C-2 (General Commercial) to C-1 (Light Commercial), Located at 1600 Ute Avenue

*Action: Introduction of a Proposed Ordinance and Set a Hearing for November 30, 2009*

**4. Setting a Hearing for the 2009 Supplemental Appropriation Ordinance and the 2010 Budget Appropriation Ordinance**

This request is to appropriate certain sums of money to defray the necessary expenses and liabilities of the accounting funds of the City of Grand Junction based on the 2009 amended and 2010 proposed budgets.

Proposed Ordinance Making Supplemental Appropriations to the 2009 Budget of the City of Grand Junction

Proposed Ordinance Appropriating Certain Sums of Money to Defray the Necessary Expenses and Liabilities of the City of Grand Junction, Colorado, the Downtown Development Authority, and the Ridges Metropolitan District for the Year Beginning January 1, 2010 and Ending December 31, 2010

*Action: Introduction of Proposed Ordinances and Set a Hearing for November 30, 2009*

5. **Setting a Hearing for the LaHue Annexation, Located at 514 Morning Glory Lane** [File # ANX-2009-214]

A request to annex 0.32 acres, located at 514 Morning Glory Lane. The LaHue Annexation consists of one (1) parcel and includes a portion of Morning Glory Lane.

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

Resolution No. 86-09—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, LaHue Annexation, Located at 514 Morning Glory Lane and Includes Portions of the Morning Glory Lane Right-of-Way

*Action: Adopt Resolution No. 86-09*

**b. Setting a Hearing on Proposed Ordinance**

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, LaHue Annexation, Approximately 0.32 Acres, Located at 514 Morning Glory Lane and Includes Portions of the Morning Glory Lane Right-of-Way

*Action: Introduction of a Proposed Ordinance and Set a Hearing for January 6, 2010*

Staff presentation: Judith Rice, Associate Planner

6. **Downtown Grand Junction Business Improvement District (DGJBID) Operating Plan and Budget**

As required by statute, the DGJBID has filed the 2010 Operating Plan and Proposed Budget with the City Clerk by September 30. It has been reviewed by Staff and found to be reasonable.

*Action: Approve the DGJBID 2010 Operating Plan and Proposed Budget*

**ITEMS NEEDING INDIVIDUAL CONSIDERATION**

**Public Hearing – Fuoco Rezone, Located at 160 Hill Avenue** [File #GPA-2009-147]

Request to rezone 0.14 acres located at 160 Hill Avenue from R-O (Residential Office) to C-1, (Light Commercial).

The public hearing was opened at 7:26 p.m.

Scott D. Peterson, Senior Planner, presented this item. He described the request, the site, and the location. He asked that the Staff Report and attachments be entered into the record. The request meets the review criteria of the Zoning and Development Code. The Planning Commission recommended approval. In September 2009, City Council approved a Growth Plan Amendment to change the Future Land Use Map from Residential High (12+ du/ac) to Commercial for this property. Staff recommends approval of the rezone.

Tracy Moore, representative for the applicant, River City Consultants, Inc., was available to answer any questions.

There were no public comments.

The public hearing was closed at 7:29 p.m.

Ordinance No. 4388—An Ordinance Rezoning Property Known as the Fuoco Rezone from R-O (Residential Office) to C-1 (Light Commercial), Located at 160 Hill Avenue

Councilmember Palmer moved to adopt Ordinance No. 4388 and ordered it published. Councilmember Todd seconded the motion. Motion carried by roll call vote.

**Public Hearing – Correcting Legal Description on a Vacation of Right-of-Way Ordinance for a Portion of Gunnison Avenue** [File #VR-2009-223]

The intent of Ordinance No. 2639 was to vacate the entirety of Gunnison Avenue right-of-way within the limits specified by said ordinance; however, due to scrivener's error not all documents conveying Gunnison Avenue right-of-way were cited in said ordinance. The amended ordinance list all documents conveying right-of-way for Gunnison Avenue to be included within the stated limits, thereby fully satisfying the intent of Ordinance No. 2639.

The public hearing was opened at 7:29 p.m.

Tim Moore, Public Works and Planning Director, presented this item. He showed a map of the area to show the section that was not vacated.

There were no public comments.

The public hearing was closed at 7:31 p.m.

Ordinance No. 4391—An Ordinance Amending Ordinance No. 2639 Vacating a Portion of Gunnison Avenue Right-of-Way between Harris Road and Melody Lane

Councilmember Beckstein moved to adopt Ordinance No. 4391 and ordered it published. Councilmember Kenyon seconded the motion. Motion carried by roll call vote.

**Public Hearing – Medicinal Marijuana Dispensary Moratorium**

The proposed ordinance would afford the City an opportunity, by declaring a temporary moratorium on the filing of development applications for medical marijuana dispensaries, to carefully evaluate and determine as appropriate, the proper regulation of those businesses. The ordinance also proposes a moratorium on the issuance of sales tax licenses for new dispensaries/marijuana care-givers.

The public hearing was opened at 7:34 p.m.

John Shaver, City Attorney, presented this item. He gave a background on Amendment 20 and how it legalized medical marijuana. He explained the definition of the medical use of marijuana. He said it is very important to understand what the amendment means. He explained what the amendment allows regarding criminal law exception and affirmative defense. He also explained what the amendment does not allow. The business aspects, such as dispensaries, are not mentioned in the amendment. He explained how the dispensaries operate lawfully. The term "significant responsibility", as it relates to a primary caregiver, has come under scrutiny with the Colorado Department of Health. The Colorado Department of Health made an emergency rule to match what came out of an

appeal in October 2009. The application for a patient to receive a card for marijuana originates with their physician, then goes onto the Colorado Department of Health which reviews and then issues a card. There are several options for the City of Grand Junction to look at to regulate the dispensaries: do nothing, basic zoning, zoning plus, specialty licensing, effective bans, or bans altogether. The Legislative Committee has recommended to City Council a temporary moratorium, more specifically a twelve month moratorium, to allow the general assembly to convene in order to regulate the sale of medical marijuana along with the State and City to adopt regulations.

Council President Hill read the executive summary from the Staff Report into the record to explain what the City of Grand Junction is proposing. "The proposed Ordinance would afford the City an opportunity, by declaring a temporary moratorium on the filing of development applications for medical marijuana dispensaries, to carefully evaluate and determine as appropriate, the proper regulation of those businesses. The ordinance also proposes a moratorium on the issuance of sales tax licenses for new dispensaries/ marijuana care-givers." Council President Hill then asked City Attorney Shaver how it would affect existing dispensaries. Mr. Shaver said the moratorium would not affect the existing dispensaries that are lawfully operating.

Councilmember Beckstein asked Mr. Shaver if there are any dispensaries in the process of licensing. City Attorney Shaver said that until the moratorium takes effect, they can still apply and receive a license.

Councilmember Palmer asked about legislative reasoning regarding prescription through pharmacies versus dispensaries? City Attorney Shaver replied that there is a distinction on how the drug is made available to the patient rather than through a typical prescription.

Councilmember Palmer asked if Home Rule makes a difference. City Attorney Shaver said that Home Rule decisions can be preempted based on the State's decision. Councilmember Palmer asked if Federal law is different than State law, and can the Federal law regulate State law. City Attorney Shaver said there is some ambiguity between the application of the State and Federal law, but the Federal government is not pursuing any mandates.

Councilmember Coons asked why there won't eventually be marijuana on pharmacy shelves. Mr. Shaver said there may be other health issues with the use of marijuana. It would likely not be prescribed as a pharmaceutical medicine.

Councilmember Pitts asked if the medical marijuana has to be prescribed by a physician. City Attorney Shaver said that it is not prescribed. If the physician advises that it could be useful for the patient's medical problem, then an application is sent to the State for a card for lawful possession of the substance. Councilmember Pitts asked if the City can be separate from the State or Federal regulation. City Attorney Shaver said the City may be able to be separate from the State, but not from the Federal government.

President of the Council Hill said it is the caregiver piece and the lack of language regarding dispensaries in the Constitutional amendment; the moratorium does not preempt the amendment. The moratorium will allow time for the legislature to look at regulation. City Attorney Shaver said that is correct and he compared liquor licensing as a model that should be looked at for regulating dispensaries.

Councilmember Beckstein said this is basically a different level of health food store. There are difficulties in how to administer it safely. City Attorney Shaver said it is not a prescribed substance because of the quality control. Councilmember Beckstein said that she thought there was a prescription form of marijuana for chemotherapy patients.

Councilmember Coons said that there is a drug that is an extraction of the active ingredient of marijuana but it is questionable as to the effectiveness.

President of the Council Hill opened the meeting up to public comments.

Greg Davis, 2454 Highway 6 and 50, owns Herbal Paradise, said that in July, they had a chance to present what they do and the need for the medical marijuana. He explained that there are a lot of people with stories about their need for medical marijuana. The question is the moratorium. The State law, allowing marijuana to be a medicine, is a great thing. It helps a lot of people. He questioned how a special license needed for medical marijuana will work. He supported a moratorium.

President of the Council Hill explained that this is not an opportunity for questions and dialogue, but understands Mr. Davis is interested in reaching out to see what else can be done in the community.

Florna Cantrell, Clifton, CO, said she has stage four cancer and has been allergic to all opiates. She is a user of medical marijuana. The dispensaries to her are very important for quality assurance reasons. There are pharmaceutical drugs that have been pulled off the market because of how many people its killed. There are no statistics on deaths with medical marijuana. She asked if there is a moratorium on the number of liquor stores. Council President Hill reminded her that this is not a time for dialogue. Ms. Cantrell said the logistics of the moratorium are the concern. She noted that if there are not enough patients for the number of dispensaries, some will not stay open.

Travis Chambers, owns God's Gift Dispensary in Clifton, said most people don't understand a dispensary and invited people to visit his dispensary. He does not make money on medical marijuana; he sells it to help people. He used his brother as an example of one who does well on marijuana versus pharmaceuticals that are destructive. He also uses marijuana to relieve his arthritis. He believes that there does need to be a moratorium and regulations on dispensaries.



Dusty Higgins, Natures Medicine, does agree with the need of the moratorium but also invites people to visit the dispensaries and see what they do and visit with the patients before they decide on the regulations. He feels the patients need more attention before making rules and regulations.

Glen Ruling, explained marinol, the pharmaceutical version of marijuana, and said that it does not work. He told his story with the use of medical marijuana and the positive benefits he has reaped.

Virginia Johnson of Clifton, she said she is allergic to ibuprofen and aspirin. She has been in the hospital and given many prescription drugs. Medical marijuana has really helped her and she feels the dispensaries really do care about the personal well-being of people.

Jesse Larkman, who owns Colorado Alternative Health Care of Palisade, said the idea of a dispensary is to provide a safe place and to help people. He used his mother's situation as an example.

Travis Chambers, owner of God's Gift, thanked the City Council for listening to them.

There were no other public comments.

The public hearing was closed at 8:25 p.m.

Councilmember Todd said they struggle with the right thing to do. City Council does not know what is coming from the State level; Council is just asking for time to wait and see what the State is going to do. She explained that whatever they do only pertains to the City limits. She is supportive of the moratorium.

Councilmember Kenyon thanked everyone for coming. It was helpful to learn more about the need for medical marijuana. He feels there is a need for rules and regulations for the businesses to continue and he appreciated the offers to help in defining those rules and regulations. He is also in favor of the moratorium.

Councilmember Coons also thanked everyone for coming to the meeting. It is important to treat this drug as a medicine and see that people that need it can use it in a safe way. The intent of the moratorium is not to restrict the number in town, but to make sure they are in appropriate places and to regulate the business. It needs to be treated with the appropriate seriousness. She will support the moratorium.

Councilmember Pitts asked what happens to businesses today if the moratorium is adopted. City Attorney Shaver said the existing businesses will remain at this time.

Councilmember Palmer said that he hopes people who tune into the meeting understand the professionalism of the current dispensary owners. The moratorium is not to ban the use of it; it is to set up a reasonable venue for the businesses. He explained that there is a process to regulate liquor stores. He sees the value of medical marijuana and the value of rules and regulations. The City needs to have rules to operate under. He supports the moratorium.

Councilmember Beckstein would like to see the community working with the dispensary businesses in a respectable manner. She would like to see a unified policy countywide, possibly under the liquor licensing model. She supports the moratorium to allow time for the State to regulate and establish rules. She wouldn't want to withhold the medicinal marijuana for those that really need it. She hopes Grand Junction can put forth a model that will be an example Statewide.

Council President Hill said having served on the Legislative Committee, reviewing the amendment that was passed, and reviewing information from the dispensaries association, there was good information provided regarding business practices, hours of operation and safety. However, there are still some missing pieces with the dispensary piece missing from the Amendment. He is confident that good legislation can be drafted.

Ordinance No. 4392—An Ordinance Concerning Land Use Applications in the City of Grand Junction, Instituting a Temporary Moratorium on the Issuance of Land Use Approvals and Sales Tax Licenses for Medical Marijuana Dispensaries and Providing Penalties for Violation Thereof

Councilmember Todd moved to adopt Ordinance No. 4392 and ordered it published. Councilmember Pitts seconded the motion. Motion carried by roll call vote.

### **Non-Scheduled Citizens & Visitors**

Dusty Higgins said that some policemen know the law and some do not. He suggested educating the Police Department on the law pertaining to medical marijuana.

Travis Chambers said Brian Vencente from Sensible Colorado came to their facility to provide education on the laws regarding medicinal marijuana. There were invitations to Attorneys, Doctors, and Police. This educational session was recorded and he offered to provide a DVD to the City as well.

Florna Cantrell said she wanted to follow up on a comment from Councilmembers Todd and Beckstein about the City and County working together. Councilmember Beckstein said the goal was for the City and County to work together on the same page.

Councilmember Coons advised that it is not a given but it is a hope.

**Other Business**

There was none.

**Adjournment**

The meeting adjourned at 8:42 p.m.

Debbie Kemp, MMC  
Deputy City Clerk