

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

December 15, 2010

The City Council of the City of Grand Junction convened into regular session on the 15th day of December, 2010 at 7:02 p.m. in the City Auditorium. Those present were Councilmembers Bonnie Beckstein, Bruce Hill, Tom Kenyon, Gregg Palmer, Bill Pitts, Sam Susuras and President of the Council Teresa Coons. Also present were City Manager Laurie Kadrich, City Attorney John Shaver, and Deputy City Clerk Debbie Kemp.

Council President Coons called the meeting to order. Councilmember Pitts led the Pledge of Allegiance.

Certificates of Appointment

Michael Menard and Chris Endreson were present to receive their Certificates of Appointment to the Historic Preservation Board.

Citizen Comments

There were none.

CONSENT CALENDAR

There were no items on the Consent Calendar.

ITEMS NEEDING INDIVIDUAL CONSIDERATION

Winter Storm Response Plan

The Winter Storm Response Plan is to provide all personnel who are involved in snow and ice removal and communicating to the public a single source of information which clearly defines the City of Grand Junction's policies and procedures in all snow and ice operations.

Ken Watkins, Fire Chief, presented this item. He said that Terry Franklin, Deputy Director, Facilities, Utilities & Streets Systems and himself are part of a group of cross departmental members that are working on different types of emergency plans and have completed this plan to better coordinate what actually happens during a storm. There has been a snow and ice control plan in place for years but there wasn't much coordination across departments. It creates storm classifications and how they affect snow routes and traffic restrictions. It provides messages to the public in the case of a weather emergency advising what road closures there may be, etc. The most important

piece is that it allows the City Manager to declare a winter storm emergency to keep safe and efficient service going for the public.

Terry Franklin, Deputy Director, Facilities, Utilities & Streets Systems, said that the Plan will help to prioritize the major streets that need to be plowed in the event of a Class 3 storm (more than 6 inches of snow); they will prioritize the 150 miles of streets in order to get the traffic going that needs to get going and school buses going so that kids can get to and from school.

Councilmember Kenyon asked if this has been coordinated with the School District. Mr. Franklin said that they have not, but in the day to day operations he feels that they have taken care of that. Councilmember Kenyon asked if there is a definition for the City Manager to declare an emergency. Chief Watkins said that there is a definition based on the 3 storm classes but in the event of an actual winter storm emergency, it would be a judgment call from the snow desk (utilities and streets) and they would get with the City Manager to declare it a winter storm emergency. Councilmember Kenyon said that he doesn't see much reference to ice storms. Mr. Franklin said they didn't directly reference ice storms because typically Grand Junction has not seen ice storms where they affect the power lines or causes utility problems.

Councilmember Palmer asked if there were a non-work snow day notice, would that be with or without pay. Mr. Franklin said that it would be the same as the Pandemic Plan; employees would be required to use paid time off.

Resolution No. 56-10—A Resolution Adopting the City Winter Storm Response Plan

Councilmember Beckstein moved to adopt Resolution No. 56-10. Councilmember Pitts seconded the motion. Motion carried by roll call vote.

Public Hearing – 2010 Supplemental Appropriation Ordinance and the 2011 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 2010 amended and 2011 proposed budgets.

The public hearing was opened at 7:15 p.m.

Laurie Kadrich, City Manager, presented this item. She said that the total 2011 budget that is being requested is \$147.2 million. Nearly \$92 million is in operating expenses, \$13.4 million is in debt services, which is 9% of the total budget overall, with the primary source of that being the Parkway project. It also includes water and sewer debt, payments on the Public Safety project and the Stadium project. Almost \$42 million are

for capital projects. The budget will continue to maintain the \$20 million reserve fund balance. She reported that the reserve will actually be \$200,000 greater and it will be left in fund balance. If revenues come in above the amount anticipated, it will be carried over to the 2011 budget and used to offset any kind of shortfall that may occur. Some of the operational expenses for services that the City provides are \$2.9 million in traffic management, \$833,000 in swimming pools, \$12.2 million in emergency fire and medical, \$4 million in water services, \$9.8 million in police patrol, and \$5.3 million in the 911 communication center.

Councilmember Beckstein asked if the \$9.8 million for the Communications Center is just the City's portion. City Manager Kadrach replied that it is the overall cost. There are approximately 21 other agencies that the City assists with communications, but 70% of the costs to operate are funded by the City because City police and fire have the largest call volumes.

City Manager Kadrach explained a chart showing revenues by classification and trends of various categories and said that 2010 shows a high level of revenues because of the Certificates of Participation coming in this year. In 2008 the "other" category showed quite larger than what is being requested for 2011. The "other" category is mostly made up of interest earnings and the City's investment portfolio is not earning as much in value in 2009 or 2010, nor is it expected to next year.

Councilmember Susuras asked City Manager Kadrach to explain the capital proceeds in 2010 and why it is such a huge difference between adopted and amended budget. City Manager Kadrach said the difference is the \$40 million approved for the Certificates of Participation issued after the adopted budget. She indicated from the chart where the trend for "charges for services" has remained about the same since 2008 and that is because the City has not lost the customer base for water, sewer, and trash services.

Council President Coons asked if the City is the only water provider not increasing rates. City Manager Kadrach confirmed that to be correct.

City Manager Kadrach showed a pie chart indicating total budget by type and said that the labor and benefits portion is relatively small when one considers the amount of services that the City provides to the community which is heavily dependent on City employees to provide, particularly in public safety.

City Manager Kadrach described a chart which indicated what the total operating budget has done from 2008 to the requested 2011 and that the operating requests mostly have continued to be lower. The actual operating costs in 2009 were higher because of the contract with Johnson Controls for energy efficiency which the City will be paying over time. She explained another pie chart which showed the operation percentages by department. Police and Fire have the largest portion. Internal Service Funds are higher

because of what it has in it: equipment, information technology, risk management, workers compensation, property insurance, health insurance, etc. In 2010, there were labor cost reductions which will carry over into 2011. There has been a hiring freeze in place since 2009. Labor cost reductions have been difficult to track due to the number of variables.

Council President Coons asked City Manager Kadrach to explain more about the hiring freeze because it is her understanding that some hiring has occurred. City Manager Kadrach said that since 2009, a few telecommunication operators were hired and they are about to hire a few police officers because of a reduced amount of personnel. When positions have opened up due to an employee resigning or retiring, those positions are advertised internally and when filled, the vacant position has not been backfilled. In 2011, it is asked that the current wage (reduced in 2010) now be considered the base wage and not the suspended wage. Overtime has been reduced. The Police and Fire departments have asked for more in the overtime line item in cases of emergency. It is not expected that those monies will be spent. The workforce to date is down 12% or 82 positions reduced. The labor cost reductions were put in place in 2009 and seen in 2010's actual budget. \$1.1 million in increased costs were seen in 2010 because of health and worker's compensation. She showed, by department, the percentages of workforce reductions. She showed a service area and city employee per capita chart that she has shared with community groups to help people understand the change in the service area in relation to the reduction in the number of employees. Since 1973 the service area for the City has grown very large and the staffing level has gotten smaller in number per 1,000 in population.

Fee and rate changes are being requested with the largest increase being in golf. Increases to cemetery fees are being requested due to the requirements and cost of in-ground vaults. An increase in rates for the Lincoln Park Barn facility is also being requested as well as an increase in sewer plant investment fees which is the 5th year increase of a five year plan.

Councilmember Palmer asked if there is a system in place to review all of the City's fees on a regular basis. City Manager Kadrach said there are two operational division staff members looking at fee and rates every two years.

Councilmember Susuras asked when these fees have been revised. City Manager Kadrach said that this will be a first time fee increase for the cemetery. Last year there was a minimal fee increase for golf.

City Manager Kadrach said there are also fee increases proposed for Two Rivers Convention Center, police services, parking, and traffic fines. These increases are being requested because a comparison was done using other agencies and the City's fees

were lower than the market. In some cases, the City was not charging fees at all for services that other agencies were.

Revenues have seemed to have stabilized this year which is a positive for the budget model #1 being presented. Revenues should end up being exactly what was hoped for at the end of this year. There are concerns about 2011 because there are fewer applications for commercial development than what there has been in a long time and it is unclear how that may affect sales and use tax. Budget Model #2 was put together to implement in the event the budget needs to be reduced further because of loss of sales and use tax and/or State shared revenues. There is over \$3 million in next year's budget that is expected in State shared revenues. If the General Assembly or the Governor makes adjustments to State shared revenues, the City may have to make some reductions in spending.

Councilmember Susuras asked if it is realistic that the 2011 budget shows an increase in revenue for Two Rivers Convention Center because with the new facility at Mesa State College which will be competition for Two Rivers Convention Center; the City may not see an increase in revenues. City Manager Kadrach said no, it is not realistic and there are steps in place to reduce that number. The numbers came in late and it was difficult to adjust the appropriation at this time but internal corrections can be made to that. It is not expected that the revenue numbers will be met in 2010 or 2011.

Councilmember Pitts questioned why the salaries for the 2011 budget show an increase when there is a wage freeze in place. City Manager Kadrach said it has everything to do with what the actual budget amount is compared to spending. Actual spending for wages will be less than what is being requested because all positions have to be budgeted at full funding. However, there will be vacancies, turnovers, etc. The year has not closed yet and the actual number will be lower than the amended budget. It is a difficult area to show and explain because budget numbers are not the actual numbers.

Dennis Simpson, 2306 E. Piazza, addressed the Council and stated that he has addressed the Council several times over the past few years and feels that he has been ignored. He has concerns with the recent decision for the debt for the Public Safety facility. His specific concerns were about the selection process and the compensation of the underwriter. He asked several questions regarding the underwriter. He said he provided some documents to the City Clerk via email that he assumes will be shared with the Council.

City Attorney Shaver said that they can specifically or generally respond to Mr. Simpson's questions, however Council prefers. He stated that the information he provided to Mr. Simpson advising him that there was no written contract or specific agreement for those issuances is correct; the City has had a long standing relationship with the particular underwriting firm.

City Manager Kadrach said that none of the comments made by Mr. Simpson has anything to do with the authorization of the 2011 budget. There are things that were done in 2010 and she would be glad to answer any questions regarding expenses in 2010. Actions had already been made and the dollars are accounted for referencing the questions he asked.

Council President Coons said that it would be good to have access to the information and address Mr. Simpson's concerns separately.

There were no other public comments.

The public hearing was closed at 7:52 p.m.

Ordinance No. 4447—An Ordinance Making Supplemental Appropriations to the 2010 Budget of the City of Grand Junction

Councilmember Beckstein moved to adopt Ordinance No. 4447 and ordered it published. Councilmember Pitts seconded the motion.

Councilmember Palmer said that he has sat through a number of City budgets over the years and they are complex and difficult. Several years ago he expressed concerns which he expressed again regarding his observation of compensation for some City employees and it disturbs him. There are compensations given to City employees which he believes exceed the private sector comparable compensations. Some of the 100% paid insurance for the department heads and some of the matching retirement could probably be looked at.

The vote was called.

Motion carried by roll call vote.

Ordinance No. 4448—An 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, 2011 and Ending December 31, 2011

Councilmember Beckstein moved to adopt Ordinance No. 4448 and ordered it published. Councilmember Hill seconded the motion.

Councilmember Hill said that he has been consistently appreciative for Staff every year with the quality of employees and their efficiency and effectiveness in the budget process. He is appreciative of the fact that work force has been reduced but service has not been reduced and the employees still create a positive environment. He knows that valuable

employees could be lost to the private sector if they are not compensated appropriately. He thinks a challenge will be seen in the next few years with spending and accountability. He is extremely appreciative and supportive to City employees who helped to put this budget together.

Council President Coons said that this is a very difficult time to put the budget together and balance the risks and benefits to cutting Staff and services. She thanked Staff for all their efforts and said that this year was one of the easiest years that she had the privilege to participate in.

Councilmember Susuras advised the viewing audience that the presentation that the City Manager gave was not near as large as the book each Councilmember was provided. He reviewed thoroughly each line item and every question he had was answered by the City Manager. He agrees with Councilmember Hill that the City has a high quality of Staff, well educated, trained, experienced, and they know their jobs thoroughly. He has the utmost respect for them. He does have similar concerns like Councilmember Palmer, but he really does respect the Staff.

Councilmember Palmer stated that it is important that the City is a good employer. He agrees that the Staff is great. The City has an obligation to the citizens and that is where sometimes the difficulty of balancing the budget comes in.

The vote was called.

Motion carried by roll call vote.

City Council Deliberations Regarding the Protest Petition of City Ordinance No. 4437

Ordinance No. 4437 was duly adopted by the City Council on October 4, 2010.

On November 15, 2010 the City Clerk and her staff completed an inspection of 278 petition sections filed in her office on November 4, 2010. Those petition sections, which were timely filed, protested the passage of Ordinance No. 4437, an ordinance prohibiting the operation of medical marijuana businesses and amending the Grand Junction Municipal Code by the addition of a new section prohibiting certain uses relating to marijuana in the City of Grand Junction.

Following examination of the petitions the City Clerk found and determined that the petition proponents submitted sufficient signatures in accordance with City Charter 136 to present a protest to the City Council. Given the sufficiency of signatures, Ordinance No. 4437 is suspended and of no effect until further consideration by the City Council.

According to Colorado law (31-11-110 (1) C.R.S.) a forty day period in which the Clerk's findings may be challenged must elapse before the City Council may review the protest to the ordinance. That forty day period ends December 14, 2010.

Pursuant to the City Charter the City Council must now reconsider the ordinance. Reconsideration in this context means that the Council may act to either repeal Ordinance No. 4437 in its entirety or it may refer the Ordinance to a vote of the registered electors of the City.

On or after December 15, 2010 the Council will direct Staff to either prepare the ballot title and question or prepare an ordinance repealing Ordinance No. 4437.

Council President Coons explained that this item is not a public hearing and she appreciates that the public present has a great concern about this issue. City Council has a very straight forward decision to make on this issue and regardless of what their decision is, Council will have a great deal more deliberation on this issue in January.

John Shaver, City Attorney, presented this item. He said that it is Council's decision to make on this issue. Paragraph 136 of the City Charter references the mode of protesting City Ordinances. The City Clerk found the petitions to be sufficient, meaning there were enough signatures to trigger the process under the City Charter, specifically paragraph 136. There has been no protest filed to her findings of the sufficiency. It is now up to City Council to consider the two options under paragraph 136 of the Charter, which is either to repeal Ordinance No. 4437 that was adopted on October 4th or to refer that ordinance as written to the ballot. If Council decides to refer it to the ballot based on the timing of the next regular municipal election, April 5, 2011, it would be a ballot question on that particular ballot. After deliberation, Council would give specific direction to Staff one way or the other. Either Staff will come back with a ballot question and ballot title which have to be completed generally by the end of January of next year or if Council decides to repeal the ordinance, another ordinance would need to be written to repeal Ordinance No. 4437.

Council President Coons asked City Attorney Shaver if direction were given to repeal the ordinance, what would be the next step. City Attorney Shaver said that Council can develop a process to create another ordinance which could defer to State legislation and those rules or create another ordinance regulating medical marijuana in the community that would limit the number of establishments or a variation of Ordinance No. 4437 relative to banning medical marijuana in the community. Staff would recommend that if Council is contemplating another ordinance, that the ordinance would go down the regulatory route or address specific items in such an ordinance like limitations on the number of establishments, or the availability of licenses, etc.

Councilmember Beckstein asked if Council decides to send the ordinance to the ballot and it is voted down, then would the process be the same with either going with the State and their regulations or developing another ordinance. City Attorney Shaver answered affirmatively and added that a defeat at the ballot does not end Council's options. Councilmember Beckstein asked if it is voted down in April or if they decide to repeal the ordinance and choose not to create a new ordinance, would there be complications because of grandfathering. City Attorney Shaver said that no, because all the businesses that are in business to date have complied with the State regulations. The State law allows municipalities to put a regulatory ordinance in place and businesses would have to comply with both regulatory structures. House Bill 1284 gives specific authority on what municipalities can do so an ordinance would be drafted to be consistent with what the State law has done.

Councilmember Kenyon asked if Mesa County's prohibition is only relative to areas outside of the City limits. City Attorney Shaver said that is correct; it only applies to unincorporated areas of Mesa County.

Councilmember Pitts asked that if they decide to refer the ordinance to the ballot, would the current restrictions remain in place until after the election. City Attorney Shaver said yes, because of Council's action on the moratorium, there would be no new licenses in the City of Grand Junction until July 1, 2011.

Councilmember Susuras asked, if Ordinance No. 4437 is repealed, would it allow existing medical marijuana centers to continue to operate using the State's regulations until the City came up with regulations? City Attorney Shaver said yes, that is correct.

Councilmember Hill stated that he would support moving forward on a ballot question in April. Some of the reasons he feels this way are that it is not a special election, therefore it would not cost any additional monies creating a financial burden on the City and secondly, there is a moratorium in place that coincides with the State regulations. Also, there is possibly new legislation in the next legislative session. Timing-wise, he said it just feels right; it is an interesting question for the community.

Councilmember Susuras and Councilmember Pitts both concurred with Councilmember Hill.

Councilmember Palmer said that all citizens have a right to challenge any City ordinance. He still stands with his original reasoning for supporting the adoption of Ordinance No. 4437 to begin with, but he does think it is an important opportunity for the community as a whole to weigh in as to what they want their community to look like. He agrees with letting the community decide.

Councilmember Susuras echoed Councilmember Palmer's comment and said it would be good for the people to decide.

Councilmember Beckstein said that she also agrees and recommended that it should go on a ballot and see what the public decides.

Council President Coons said that early on, she was not in favor of putting this issue on the ballot, Council made a decision and Ordinance No. 4437 was adopted. Her preference would be to regulate and to make the process work and work with the State, however, the citizens have come forward with the petition and asking to allow their voices to be heard and she will support this ordinance to be placed on the ballot in April.

Councilmember Kenyon moved to direct Staff, the City Attorney, and the City Manager to draft language that refers Ordinance No. 4437 to the voters to consider whether to repeal the ordinance or to support it for the April 2011 election. Councilmember Palmer seconded the motion. Motion carried by roll call vote.

Non-Scheduled Citizens & Visitors

There were none.

Other Business

There was none.

Adjournment

The meeting was adjourned at 8:19 p.m.

Debbie Kemp, MMC
Deputy City Clerk