

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

January 5, 2011

The City Council of the City of Grand Junction convened into regular session on the 5th day of January 2011 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 Council President Teresa Coons. Also present were City Manager Laurie Kadrich, City Attorney John Shaver, and City Clerk Stephanie Tuin.

Council President Coons called the meeting to order. Councilmember Hill led the Pledge of Allegiance followed by an invocation by Joseph Alaimo, Western Colorado Atheists and Free Thinkers.

Proclamations/Recognitions

Proclaiming January 17, 2011 as "Martin Luther King, Jr. Day" in the City of Grand Junction

Besides Mathias Mata being present to receive the proclamation on behalf of the Black Student Alliance of Mesa State College, Jacque Pipe with Foster Grandparents and Jean Brewer, of RSVP, were also present to announce their activities in observance of Martin Luther King, Jr. Day.

Certificates of Appointment

David Bailey was present to receive his Certificate of Appointment to the Historic Preservation Board.

Council Comments

There were none.

Citizen Comments

There were none.

CONSENT CALENDAR

Councilmember Kenyon read the Consent Calendar and then moved to approve the Consent Calendar Items #1 through #6. Councilmember Pitts seconded the motion. Motion carried by roll call vote.

1. Minutes of Previous Meetings

Action: Approve the Minutes of the December 13, 2010 and the December 15, 2010 Regular Meetings and the Minutes of the December 15, 2010 Special Session

2. 2011 Meeting Schedule and Posting of Notices

State Law requires an annual designation of the City's official location for the posting of meeting notices. The City's Code of Ordinances, Sec. 2.04.010, requires the meeting schedule and the procedure for calling special meetings be determined annually by resolution.

Resolution No. 01-11—A Resolution of the City of Grand Junction Designating the Location for the Posting of the Notice of Meetings, Establishing the 2011 City Council Meeting Schedule, and Establishing the Procedure for Calling of Special Meetings for the City Council

Action: Adopt Resolution No. 01-11

3. Setting a Hearing on Zoning the GJ Regional Airport Annexation, Located at 2828 Walker Field Drive [File #ANX-2010-290]

Request to zone the 614.3 acre GJ Regional Airport Annexation, located at 2828 Walker Field Drive, to a PAD (Planned Airport Development) and amend Ordinance No. 3679, the existing Planned Development Ordinance, for the Airport to add the additional property for future expansion. The request is in compliance with the Grand Junction Municipal Code and the Comprehensive Plan.

Proposed Ordinance Amending Ordinance No. 3679 to Include Newly Annexed Lands and Zoning the GJ Regional Airport Annexation to PAD (Planned Airport Development), Located at 2828 Walker Field Drive

Action: Introduction of a Proposed Ordinance and Set a Hearing for January 19, 2011

4. **Setting a Hearing on the Housing Authority Annexation, Located at 2910 Bunting Avenue** [File #ANX-2010-364]

Request to annex 1.52 acres, located at 2910 Bunting Avenue. The Housing Authority Annexation consists of one (1) parcel. There is 0.18 acres of public right-of-way contained within this annexation area.

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

Resolution No. 02-11—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, Housing Authority Annexation, Located at 2910 Bunting Avenue and Includes a Portion of the 29 Road and Bunting Avenue Rights-of-Way

Action: Adopt Resolution No. 02-11

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

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Housing Authority Annexation, Approximately 1.52 Acres, Located at 2910 Bunting Avenue and Includes a Portion of the 29 Road and Bunting Avenue Rights-of-Way

Action: Introduction of a Proposed Ordinance and Set a Hearing for February 14, 2011

5. **Riverfront Trail Operations and Maintenance Agreement**

Mesa County is proposing to construct sections of trail in the next few years to ultimately connect Loma to Palisade. This intergovernmental agreement is intended to confirm that each of the local jurisdictions will take over operations and maintenance of their portion of the trail after construction is complete.

Resolution No. 03-11—A Resolution Authorizing the Mayor to Sign an Intergovernmental Agreement Between Mesa County and the City of Grand Junction Regarding Operations and Maintenance of Future Riverfront Trails Constructed Within City Jurisdiction

Action: Adopt Resolution No. 03-11

6. **Golf Car Purchase**

This request is for the purchase of 90 new golf cars for Tiara Rado and Lincoln Park Golf Courses.

Action: Authorize the Purchasing Division to Award a Contract to E-Z-GO Division of Textron, Inc. of Augusta, Georgia in the Amount of \$198,000 for Ninety (90) E-Z-GO Golf Cars

ITEMS NEEDING INDIVIDUAL CONSIDERATION

Contract for Restaurant and Beverage Services for Tiara Rado and Lincoln Park Golf Courses

This request is for the contract award for the Restaurant and Beverage Services at Tiara Rado and Lincoln Park Golf Courses. The Contractor will have the exclusive right to provide food and beverage (alcoholic and non-alcoholic) banquet, catering, concession and vending sales and services at Tiara Rado and Lincoln Park Golf Courses.

City Manager Laurie Kadrich introduced this item. She stated that the primary scope for the proposal is to provide food and beverage to the golfers at the two golf courses. Over the years other groups have also been providing food and beverage.

Council President Coons announced that this item is not a public hearing but Assistant Financial Operations Manager Jay Valentine and Parks and Recreation Director Rob Schoeber are present to answer questions.

Councilmember Bruce Hill advised that the City Council has not had an opportunity to discuss their position on a City Department bidding on a contract. He said he has not heard any concerns about the services provided by the existing vendor. He asked the Council for their thoughts on contracting these services out. He gave the stadium as an example; it was contracted out but the contract went to the City because there were no bidders at the time.

Council President Coons announced the Council has received a number of emails and voicemails and they have reviewed those.

Councilmember Susuras asked what committee reviewed the proposals and would this be a conflict of interest for Staff to recommend a City Department as the vendor. City Attorney Shaver said it would not be a conflict of interest as the committee is only

recommending, the Council makes the decision. The Staff looks for the best value and the best quality of service in the procurement decision and that is how the recommendation comes forward.

Councilmember Susuras asked if financial statements of the companies were reviewed. City Attorney Shaver said he would defer to the Purchasing Department for that question.

Jay Valentine, Assistant Financial Operations Manager, said they do not require financial statements from the vendors. The procurement was done on behalf of the golf course, who is the customer, for the best value and best service. The current contractor provides the City financial information as required under the current contract. The other bidder is not a current business so there were no financial statements. Two Rivers financial statements are accessible to him.

Councilmember Susuras asked if Pinon Grill's financial statements were reviewed. Rob Schoeber, Parks and Recreation Director, said as part of the existing contract, he does receive financial statements. The last one received was in July and the statements did show a profit.

Councilmember Kenyon asked if this is awkward to be reviewing oneself as a bidder. Mr. Valentine said it may appear to be difficult, but he instructed the committee the purpose of the evaluation and to evaluate each entity on its own merits, advising the City Council will make the decision.

Councilmember Kenyon noted the fee to the City is the same. Mr. Valentine said yes, the fee to the City was not part of the bid process, it was uniform for all. Councilmember Kenyon asked if the employees will be City employees. Mr. Valentine said he is not sure of Two Rivers' strategy for staff in relation to the contract.

Councilmember Kenyon asked if there are outstanding complaints with the current vendor.

Mr. Schoeber said there have been some concerns since he has been here and some issues documented from the previous Director. Councilmember Kenyon asked if there have been some that have not been resolved and that are a violation of the contract. Mr. Schoeber said the financial reporting is not up to date. Other issues come from the golfing community where golfers are displaced for other events. He gave an example of golfers being asked to leave the patio because there was a function going on inside the restaurant. There have been other issues and comments made about the food quality and menu selections; these comments have been ongoing.

Councilmember Pitts asked for clarification on the employee situation. Mr. Schoeber said that was not part of the review process but all three said they are capable of providing the service.

Councilmember Pitts confirmed that the City still gets 5% of sales. Mr. Valentine clarified the 5% is on gross sales as opposed to profits. The entity can be unprofitable and the City will still get their 5% of gross sales.

Mr. Valentine said one comment from patrons received through an evaluation is that they want to see consistency in the staffing.

Councilmember Pitts asked about the magnitude of complaints and asked for specifics.

Mr. Schoeber said he was not sure how to quantify the complaints as they come and go. According to his Staff, the most common complaint comes from Lincoln Park. The grill is open infrequently and the contractor has asked to be relieved from that portion of the contract. Mr. Schoeber advised he does not have a journal of the complaints.

Council President Coons asked how the City pays itself a lease. Mr. Valentine said it is an accounting move. Similar occurrences happen between the water and sewer fund. Council President Coons noted that for a private entity the payment would actually be a cash payment.

City Manager Laurie Kadrich said in this case, the expectation would be the same.

Councilmember Palmer recalled a similar discussion that occurred for the Airport Authority. The Airport Authority was forced to open up its own restaurant to have food service at the Airport. The general feeling was they would do it only if they had to do it. He does not feel like the City should operate in free market operations and compete with private enterprise. It is not the proper role. He does not like seeing the City expand its operations into the private sector. It is not a legitimate government business. If a concessionaire cannot be found, then the City could fill in temporarily.

Councilmember Beckstein feels the City should be encouraging private business. She said Two Rivers is a convention center and is not a restaurant, it is a caterer, so it is two different industries. She is concerned about the process. The City has a contract with an entity. If the entity keeps violating the contract, isn't there a provision to break the contract if the vendor does not perform? She asked why the contract wasn't terminated.

City Manager Laurie Kadrich said she asked for a clear outline of what the contract required and a specific list was made as to what changes needed to be made and that was presented to the current contractor. Since the concessionaire did not comply with those requests, it resulted in the current bid process. Steps were taken to make sure the

direction was clear to the existing vendor to see if it could be resolved. The issues were not resolved. That is at both locations, however, there is more compliance at Tiara Rado than at Lincoln Park.

Councilmember Susuras said he is concerned about staffing, the City should not be in the business of competing with private enterprise.

Councilmember Hill said he assumed this was at the end of the option but the extension was not brought to the Council. Is the existing contract for two years and then extended annually?

City Manager Kadrich said the contract in 2005 was extended five years and then had one year extensions, which brought it to 2010. She extended it for another year to attempt to resolve the issues.

Councilmember Beckstein asked why a company that had a poor performance was allowed to bid.

Mr. Valentine said they allow any and all companies to bid and then they are evaluated. The current concessionaire was not chosen as the top one or two. Prequalification only occurs for construction contracts.

Councilmember Hill suggested that if the current contractor defaults, Two Rivers could fill the gap until the matter can be put out to bid.

City Manager Kadrich advised that she appreciates the comments made by Councilmember Palmer regarding the difficulty in finding a vendor for this enterprise. She pointed to the stadium example. She noted that the City can certainly go the direction suggested and be the default in the case of a breach or if there are no vendors available.

Council President Coons suggested the concession piece is different than the golf course piece and she agrees with not competing with private enterprise for the concessions. She said she is uncomfortable with the process. She suggested the Council take action on the recommendation and then make a decision on how to go forward.

Councilmember Kenyon asked if they would consider the other two vendors or if the process would start over. Council President Coons said that can be discussed after the vote.

Councilmember Beckstein moved to authorize the Parks and Recreation Director to contract with Two Rivers Convention Center for the Restaurant and Beverage services at Tiara Rado and Lincoln Park Golf Courses. Councilmember Hill seconded the motion.

Discussion ensued.

Councilmember Hill said there is no doubt in his mind that Two Rivers can do this job and he is proud of how they do their job but he will be voting no.

Council President Coons said the vote is not a reflection on Two Rivers.

Councilmember Beckstein said it is more of a concern with process and policy.

Motion failed unanimously.

Council President Coons asked for direction on how the City should go forward.

Councilmember Kenyon suggested the process should start over. Any failures should be documented. If the contract is violated and canceled because of performance, so be it, but he doesn't feel that documentation has been collected.

Councilmember Hill agreed and said the expertise is within the City to enforce the contract. The City can fill the void until there is a new contractor.

Councilmember Beckstein said the issues should be rectified and if it can't be, then Two Rivers can step in and start the process to find a new vendor.

Councilmember Palmer said he thinks the direction to Staff has been made clear.

Councilmember Susuras said it appears there were three categories for the evaluation; a new category should be added: financial position of the bidder.

Council President Coons said the Council is not comfortable awarding the contract tonight. She asked if another motion is necessary or if the direction is clear. City Attorney Shaver said the direction is clear.

Council President Coons called a recess at 8:08 p.m.

The meeting reconvened at 8:11 p.m.

Public Hearing – Amending the Municipal Tax Code to Exempt Coins, Bullion, and Other Numismatic Collectibles from Sales Tax

It is proposed to amend the City's tax code to include an exemption from sales tax for the sale of coins, precious metal bullion, and other numismatic collectibles.

The public hearing was opened at 8:12 p.m.

John Shaver, City Attorney, presented this item. He explained the proposed ordinance and how the issue came forward. The ordinance will exempt forms of money from sales tax. The State of Colorado does currently exempt those items and the City has added other such collectible items. The definition drafting was assisted by the citizen who brought this forward, Mr. Martin.

Councilmember Pitts questioned the exemption since they are being traded for profit.

City Attorney Shaver explained the reasoning behind the exemption.

Councilmember Kenyon said not only is the budget impact nominal in the exemption but the economic impact will actually be to the City's benefit as the groups that trade these items will come to the City and use its facilities as they will be free from having to pay the sales tax. Such groups will positively impact the City's economy as visitors.

There were no public comments.

The public hearing was closed at 8:15 p.m.

Ordinance No. 4449—An Ordinance Amending Section 3.12.070 of Chapter 3 of the Grand Junction Municipal Code Concerning the Exemption from Sales Tax of Coins, Precious Metal Bullion, and Other Numismatic Collectibles

Councilmember Palmer moved to approve Ordinance No. 4449 and ordered it published in pamphlet form. Councilmember Kenyon seconded the motion.

Councilmember Hill thanked the City Attorney for bringing this forward and to the Legislative Committee for bringing a recommendation forward.

Motion carried by roll call vote.

Transportation Capacity Payment (TCP) for University Village

The applicant requests that they not be required to pay the Transportation Capacity Payment (TCP) which totals \$106,140 for the University Village project. University Village is a 60 unit apartment complex located at 17th Street and Bookcliff Avenue. The Economic and Community Development Committee recommends the total fee be paid by the City provided that a planning clearance is obtained on or before July 31, 2011 for construction of the project. The basis for the recommendation is due to the jobs that could

be created with the construction of this project and the value of community reinvestment dollars associated with the construction.

Laurie Kadrach, City Manager, presented this item. The matter was brought before a Council Committee. The Committee members can speak to this. This is similar to requests the City has received in the past. The development is an infill project and will provide some additional housing types.

Councilmember Kenyon asked if this type of request is a case by case basis or is there a policy. City Manager Kadrach said the policy is that the City Council will look at it on a case by case basis. All proposed criteria led the Council back to reviewing it on a case by case basis, first reviewed by the Council Committee.

Councilmember Hill described some of the different discussion on the policy development for an infill/redevelopment policy. It came back to each case is different.

Councilmember Palmer said the Committee recommendation was also split 50-50.

Councilmember Hill asked Public Works and Planning Director Tim Moore how this project would be assessed if it was on a major thoroughfare. Mr. Moore said the City would take care of the major roads but the developer would be responsible for improvements on the smaller inner roadways.

Councilmember Hill said it used to be that way regardless of location; the developer would have to build half street improvements. Then if there was an additional impact to a main thoroughfare, there may be an additional cost, like a traffic light. In this case, the developer would have to pay the half street improvement and pay the TCP whereas if it was on G Road the developer would only pay the TCP. So it discourages infill redevelopment on difficult properties. Councilmember Hill added that the project will also create jobs.

Councilmember Susuras asked who are the principals of the project? Tim Moore, Public Works and Planning Director, said it is Darren Davidson of Davidson Homes.

Councilmember Susuras asked if the Committee considered deferred fees.

Councilmember Hill said it was a two-two vote, all agreed on the deferral but whether the City should pay was the split vote. The recommendation is that it be time sensitive (only offered to a date certain).

Councilmember Palmer said he did not think it was a particularly difficult parcel to develop. The incentives are used to help projects comes to fruition, which this will anyway, or to create affordable housing, which this isn't, or if it is a difficult parcel to

develop, which this isn't. There are no economic development funds but it will be the City paying it so it does take taxpayer money. There is no funding for this and it is only the first week of the year and this is a for-profit builder.

Council President Coons asked about the type of housing.

Councilmember Hill said it is apartment style housing at a higher density and is close to services. Regarding the taxpayer costs, there is a \$382,000 in sales tax for building the project and then there will be additional property tax. Plus the developer will have to construct the half-street improvements.

Councilmember Pitts said it is not a community benefit and the City does not have the money to pay for it.

Councilmember Beckstein said there is a return on the investment and it will offer housing for middle income and it is family-oriented. She asked if there is a time limit for construction. She was answered yes.

Councilmember Kenyon asked Council President Coons about the need for diverse housing and about the difficulty building this type of housing in this community.

Council President Coons agreed it is difficult and with the exception of some apartment complexes built by the Housing Authority, there has not been multi-family housing units. This also is close to services.

Councilmember Susuras asked if there are any other projects of this magnitude on the drawing board. Public Works and Planning Director Tim Moore said there is not.

Councilmember Pitts asked if it is affordable housing. It was not billed as that, is it housing for middle income families?

Councilmember Palmer said he had asked and was told that it was not specifically affordable housing.

Councilmember Palmer said all development will bring jobs and the City cannot subsidize every development. He does not feel it is the taxpayer's responsibility to cash fund a for-profit development.

Councilmember Hill moved to approve the request for the City to pay the Transportation Capacity payment for the University Village project in the amount of \$106,400. Councilmember Beckstein seconded the motion. Motion carried with Councilmembers Palmer and Pitts voting NO.

Setting a Ballot Title in Response to a Protest against Ordinance No. 4437, An Ordinance Prohibiting the Operation of Medical Marijuana Businesses in the City Limits and Amending the Grand Junction Municipal Code Prohibiting Certain Uses Relating to Marijuana

Ordinance No. 4437 was adopted by the City Council on October 4, 2010. The Ordinance prohibits the operation of medical marijuana businesses in the City limits and amends the Grand Junction Municipal Code by the addition of a new section prohibiting certain uses relating to marijuana. In November, a petition was circulated seeking repeal of Ordinance No. 4437. The petition was found to be sufficient by the City Clerk on November 15, 2010. No protest against the petition was filed as allowed by law so the petition was submitted to the City Council on December 15, 2010 for reconsideration. The City Council directed Staff to draft a ballot question for its review and if approved, placement on the ballot.

John Shaver, City Attorney, presented this item. He explained that the resolution will set the ballot title for the April 5th election.

Councilmember Palmer noted that the Council wanted to make sure the question was clear. He felt the objective was achieved.

Resolution No. 04-11—A Resolution Setting a Ballot Title and Submitting to the Electorate on April 5, 2011 a Measure Regarding Medical Marijuana in the City of Grand Junction, Colorado

Councilmember Palmer moved to adopt Resolution No. 04-11. Councilmember Susuras seconded the motion. Motion carried by roll call vote.

Construction Contract for Persigo Wastewater Treatment Plant Ultra Violet Disinfection System

This request is for the contract award for the construction of an Ultra Violet Disinfection System at the Persigo Wastewater Treatment Plant (WWTP). Based on previous process improvement evaluation studies at the WWTP, Staff has identified the need to move from final treatment of the waste stream using chlorine gas to an ultraviolet disinfection system to improve operation safety at the treatment plant. This change will eliminate handling and storage of chlorine and sulfur dioxide gases and provide a system that is more reliable and will serve the treatment plant well into the future. The recommended award is to Stanek Constructors, Inc. in the amount of \$249,000.

Tim Moore, Public Works and Planning Director, presented this item. This is the third time a portion of the project has come before the City Council. This phase is to install the

equipment. The equipment was purchased previously. The bid came in under budget. There are several merits to converting to this process, not the least of which is safety and future plant expansion.

Councilmember Susuras asked Mr. Moore how this improves the safety of the plant. Mr. Moore said the issue is the current use of chlorine gas. In the event of a disaster where the gas cylinders were compromised, it could be an issue. It is also hazardous to handle.

Councilmember Palmer said he is impressed by the state of the art of the Persigo Plant and he complimented the Staff, noting the Council understands the innovations the Staff brings forward.

Councilmember Kenyon moved to enter into a Contract with Stanek Constructors, Inc. for the Construction of the Persigo WWTP Ultra Violet Disinfection System in the amount of \$249,000. Councilmember Susuras seconded the motion. Motion carried.

Non-Scheduled Citizens & Visitors

Linda Howe, no address given, proposed having something for the non-golfers, neutral territory for hands-on community participation, the parents, the middle and low income that are strapped. They need something fun, they have talent, and they are gifted. She suggested a wealthy person who has a property that is not selling right away to provide a place to go for those who fall into this category to sit and to pursue their own interests, a think tank, and a free place to go.

Other Business

There was none.

Adjournment

The meeting was adjourned at 8:50 p.m.

Stephanie Tuin, MMC
City Clerk