

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

January 31, 2011

The City Council of the City of Grand Junction convened into regular session on the 19th day of January 2011 at 7:00 p.m. in the City Auditorium. Those present were Councilmembers Bonnie Beckstein, Bruce Hill, Tom Kenyon, Gregg Palmer, Bill Pitts, and Council President Teresa Coons. Councilmember Susuras was absent. Also present were Deputy City Manager Rich Englehart, 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 a moment of silence.

Appointments

Councilmember Palmer moved to appoint Keith Leonard for a partial four year term expiring October 2013 as member to the Zoning Board of Appeals and 2nd alternate to the Planning Commission. Councilmember Hill seconded the motion. Motion carried.

Certificates of Appointments

Renae Phillips, John Williams, and Ron Beach were all present to receive their Certificates of Appointment to the Visitor and Convention Bureau Board of Directors.

Council Comments

There were none.

Citizen Comments

Sam Childress and Becky Fox, 3046 F ½ Road, were present to address the City Council regarding a sewer line. Mr. Childress stated that his girlfriend Becky and her ex-husband bought the property in 2002. The property line approved by the City crosses right over their leach field. It was supposed to be a temporary dwelling and nothing was done to correct the situation and now they can't sell the property and are stuck with the bill. The potential buyer wants to get a \$25,000 credit to buy the property as he will have to put in a new leach field. Mr. Childress said he is getting sent back and forth between the City and the County and has not gotten any answers.

Council President Coons thanked Mr. Childress and advised that representatives from the Planning Department and the City Attorney are present and will contact them to try to help.

CONSENT CALENDAR

Councilmember Pitts read the Consent Calendar Items #1 through #6 and then moved for approval. Councilmember Hill seconded the motion. Motion carried by roll call vote.

1. Minutes of Previous Meetings

Action: Approve the Minutes of the January 19, 2011 Regular Meeting and the Minutes of the January 20, 2011 Special Meeting

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

A request to amend the Comprehensive Plan – Future Land Use Map to Village Center – Mixed Use and to zone the 1.52 acre Housing Authority Annexation, less 0.18 acres of public right-of-way, located at 2910 Bunting Avenue, to an R-24 (Residential 24+ du/ac) zone district.

Proposed Ordinance Amending the Comprehensive Plan from Residential Medium High (8 -16 du/ac) to Village Center – Mixed Use and Zoning the Housing Authority Annexation to R-24 (Residential 24+ du/ac), Located at 2910 Bunting Avenue

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

3. Setting a Hearing on the Right-of-Way Vacations of S. 6th Street Between Pitkin and Ute Avenues and Adjacent/Proximate Alleys for the 911 Police-Fire Facilities [File # VAC-2010-332]

A request to vacate alley rights-of-way within Block 138 and Block 139 of the City of Grand Junction, along with S. 6th Street between Ute and Pitkin Avenues. These rights-of-way are no longer needed for access and are requested to be vacated to permit construction of a new police station and associated public safety facilities.

Proposed Ordinance Vacating Alley Rights-of-Way Located in Block 138 and Block 139 of the City of Grand Junction and that Portion of South 6th Street Between Ute and Pitkin Avenues

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

4. **Downtown Development Authority Tax Increment Financing Bond Election on April 5, 2011**

In order for additional bonds to be issued under the Downtown Development Authority (DDA) tax increment financing (TIF), a question must be presented to the qualified electors of the DDA for approval. The DDA TIF election will be conducted by mail ballot by Mesa County Elections under the intergovernmental agreement authorized on December 13, 2010. The election is scheduled for April 5, 2011.

Additionally, as a property owner in the TIF District, the City of Grand Junction may appoint a designated voter to cast a vote in the election.

Resolution No. 06-11—A Resolution of the Council of the City of Grand Junction Approving the Downtown Development Authority's Call for an Election to be Held for the Purpose of Submitting a Proposed Ballot Measure to the Qualified Electors of the Downtown Development Authority District, Setting the Ballot Title, Authorizing a Mail Ballot Election and Approving a Mail Ballot Plan

Resolution No. 07-11—A Resolution Appointing a Designated Voter for the City of Grand Junction to Cast a Vote in the Special Election Scheduled April 5, 2011 Regarding Tax Increment Financing Debt

Action: Adopt Resolution No. 06-11 and Resolution No. 07-11

5. **Election Notice for the Downtown Development Authority Special Election April 5, 2011**

Both the Charter and the Municipal Election Code have specific content and publication requirements for the election notice. The proposed notice contained within the resolution being presented meets those requirements.

Resolution No. 08-11—A Resolution Setting Forth the Notice of Election for the Downtown Development Authority Special Election to be Held on April 5, 2011 in the City of Grand Junction

Action: Adopt Resolution No. 08-11

6. **Election Notice for the Regular Election April 5, 2011**

Both the Charter and the Municipal Election Code have specific content and publication requirements for the election notice. The proposed notice contained within the resolution being presented meets those requirements.

Resolution No. 09-11—A Resolution Setting Forth the Notice of Election for the Regular Municipal Election to be Held on April 5, 2011 in the City of Grand Junction

Action: Adopt Resolution No. 09-11

ITEMS NEEDING INDIVIDUAL CONSIDERATION

Public Hearing—Amending the Optional Premises Ordinance for the Tiara Rado Golf Course

In 1999, the City Council adopted Ordinance No. 3112 which allowed for alcohol service on the Tiara Rado Golf Course. The ordinance was specific to the current concessionaire under contract, Pinon Grill, Inc. This ordinance will amend Ordinance No. 3112 and provide the authorization to the concessionaire as designated by the City Council.

The public hearing was opened at 7:13 p.m.

John Shaver, City Attorney, presented this item. He explained the request and the purpose. State Law allows for the local government to permit alcohol service in an adjacent recreational facility. This ordinance will allow extension of the hotel restaurant license to allow alcohol service on the Tiara Rado Golf Course.

Councilmember Kenyon asked if the current operator owns the current liquor license. City Attorney Shaver said he does but has signed a form to transfer that license. This ordinance allows the City to decide who will run the service in the future.

Councilmember Kenyon asked if the City would have the authority to allow for the sale of alcohol outside the premises of an establishment and in this case it is Pinon Grill and does the City or new vendor need a license? City Attorney Shaver said the license will be held by the City just as it is with Two Rivers Convention Center and Lincoln Park Golf Course.

Council President Coons asked if, once the decision is made on who will provide food and beverage service, will another ordinance need to be adopted? City Attorney Shaver said when this was assigned to the current vendor it was assigned to that operator at the same time. This ordinance adopts the rules for service but does not specify a vendor.

There were no public comments.

The public hearing was closed at 7:19 p.m.

Ordinance No. 4452—An Ordinance Amending Ordinance No. 3112 Which Provided Standards for an Optional Premises License for the Designated Concessionaire at Tiara Rado Golf Course

Councilmember Palmer moved to adopt Ordinance No. 4452 and ordered it published in pamphlet form. Councilmember Kenyon seconded the motion. Motion carried by roll call vote.

Public Hearing—Granting a Franchise Agreement to Public Service Company of Colorado d/b/a Xcel Energy and Grand Valley Rural Power Lines, Inc. and Setting a Ballot Title for the April 5, 2011 Election

The current franchise agreements with Xcel Energy (Public Service Company of Colorado) and Grand Valley Rural Power Lines, Inc. (Grand Valley Rural Power) were approved in 1992 and will expire in 2012. The proposed ordinance would establish a new, 20-year franchise agreement with each utility to be placed on the ballot at the April, 2011 Municipal Election.

Councilmember Palmer noted a previous discussion and a letter received from a citizen, he asked if comments could be solicited from the Xcel Energy representative prior to the public hearing.

City Attorney Shaver said if it is relative to Xcel operations it is appropriate.

The Council asked Fred Eggleston, Xcel representative, to come forward.

Councilmember Palmer asked Mr. Eggleston if he was aware of the letter from Larry Hern regarding the Riverside Parkway street light outages. Mr. Eggleston said he was aware and has met with Mr. Hern. Councilmember Palmer asked about the report regarding 8% of the street lights not working. Mr. Eggleston explained the difference between the two issues, that is, the franchise and how the street lights are addressed. Mr. Eggleston said he has a report from the Traffic Department regarding the street outages. If the Riverside Parkway lights are taken out of the equation, the outage percentage is much less. Some of the issue is that there are dead undergrounds and that repair would be charged back to the City. Without an agreement in place ensuring that the City is willing to pay for those repairs, Xcel cannot go forward. There is a problem along Riverside Parkway with the light fixtures that were selected. The light fixtures are having failures and faults and it has been difficult to keep them running. Mr. Eggleston said those issues are typically addressed in side agreements, not franchise agreements.

Councilmember Palmer asked if they would want to have the side agreement before the issue goes to election. Mr. Eggleston said the side agreement would take two or three months to work out; it cannot be done prior to the election. The franchise goes until 2012

but the City asked Xcel to come forward on it earlier as the undergrounding funds would not be available without having an agreement in place for three future years.

Council President Coons asked for clarification on the action being requested of them, would the action before them preclude inclusion of the provisions of the side agreement in the franchise. City Attorney Shaver said yes noting the language of the franchise agreement, barring typos, would be set once adopted.

Councilmember Pitts asked for more information on the undergrounding fund. Mr. Eggleston explained that 1% of the rates paid to them are put aside for the City to use to underground overhead lines. The City can borrow ahead on that fund for up to three years as long as there is a franchise in effect.

Councilmember Palmer provided an example of how those funds were used along Patterson Road. City Attorney Shaver noted there are no current projects waiting for those funds at present.

Councilmember Kenyon reiterated what Mr. Eggleston had stated. He asked Mr. Eggleston about a solution; the City Staff feels the time frame for lights along the Riverside Parkway has been protracted with no results. Councilmember Kenyon asked what would happen if the matter was tabled until the side agreement can be negotiated. Mr. Eggleston said it could be looked at as leverage. However, Xcel is committed to getting these things fixed. He presented another issue that occurred with a power outage for the City and County buildings. Xcel committed \$400,000 to fixing the problem. Mr. Eggleston gave other examples of how Xcel has participated in working out solutions. The franchise agreement allows Xcel to work in the City's right-of-ways and put in their facilities. They pay the City 3% of their rates in exchange for that.

Councilmember Palmer asked if the side agreement would also address the option to turn off some street lights in order to save money. Mr. Eggleston said it can.

Council President Coons asked how many other communities have these operations as side agreements. Mr. Eggleston said there are three or four that have side agreements. No other communities address those issues in agreements. He noted that the City Manager wants a side agreement for the Persigo Plant.

Council President Coons asked what is meant by tariff. Mr. Eggleston said tariff sets the rate based on the wattage of the light.

Councilmember Kenyon asked Mr. Eggleston to confirm that Xcel is willing to work on these issues and is committed to doing that. He has no concern about the integrity of Xcel. He commended the track record of the company. He was surprised about the

depth of the concern over this issue and that citizens are writing letters. Mr. Eggleston acknowledged Xcel's commitment.

Councilmember Kenyon stated the City should have the ability to, as a cost savings or conservation issue, determine if the City needs to turn off some lights; they should have some options. Mr. Eggleston agreed.

Councilmember Hill noted that Mr. Eggleston did a good job answering the concerns. He would be interested in the issue coming forward to be considered for the ballot.

Councilmember Palmer was still concerned about whether the side agreement should be in place first. Mr. Eggleston said the message from the Council on the concerns has been heard.

The public hearing was opened at 7:45 p.m.

City Attorney John Shaver then introduced the item before the City Council. The Charter provides that all franchises must be granted by a vote of the people. The franchise pertains to the provision of power but also the use of the City right-of-ways. The companies do pay a 3% franchise fee for that use. The franchise is principally about the use of those right-of-ways. The franchise agreements have been reviewed by Staff and are recommended for approval. The main difference between the two is the removal of any references to gas service for Grand Valley Rural Power Lines, Inc. since they strictly provide electricity.

Councilmember Kenyon asked if the City has worked with these companies for a long time. City Attorney Shaver said this is the second one he has worked on and the relationship has been good. From time to time, discussions arise about relocating utilities but the vast majority of the time their relationship has been positive.

Larry Hern, 3184 N. Torreys Peak, submitted a letter and had a short statement. The taxpayers have been paying for defective lights along Riverside Parkway for the last two years. There are 46 lights out last count and they have not been replaced. He has reported it to both City and Xcel. Xcel said they have replaced lights regularly and they still are going out. He has not seen any lights replaced. He was also told they are waiting for permits to dig up three miles of lines. Others at Xcel were not aware of this. He has only seen a crew out there one time. The City is frustrated and wrote a letter saying they intend to contact the Public Utilities Commission (PUC). He was wondering who would pay for the repairs. He objected to the proposed franchise agreement going forward to the ballot.

There were no other public comments.

The public hearing was closed at 7:55 p.m.

People's Ordinance No. 37—People's Ordinance Granting a Franchise by the City of Grand Junction to Public Service Company of Colorado, D/B/A Xcel Energy, Its Successors and Assigns, the Right to Furnish, Sell and Distribute Gas and Electricity to the City and to all Persons, Businesses, and Industry Within the City and the Right to Acquire, Construct, Install, Locate, Maintain, Operate and Extend Into, Within and Through Said City All Facilities Reasonably Necessary to Furnish, Sell and Distribute Gas and Electricity Within the City and the Right to Make Reasonable Use of All Streets and Other Public Places and Public Easements as Herein Defined as May Be Necessary; and Fixing the Terms and Conditions Thereof AND Granting a Franchise by the City of Grand Junction to Grand Valley Rural Power Lines, Inc., Its Successors and Assigns, the Right to Furnish, Sell and Distribute Electricity to the City and to All Persons, Businesses, and Industry Within the City and the Right to Acquire, Construct, Install, Locate, Maintain, Operate and Extend Into, Within and Through Said City All Facilities Reasonably Necessary to Furnish, Sell and Distribute Electricity Within the City and the Right to Make Reasonable Use of All Streets and Other Public Places and Public Easements as Herein Defined as May Be Necessary; and Fixing the Terms and Conditions Thereof

Resolution No. 10-11—A Resolution Setting a Ballot Title and Submitting to the Electorate on April 5, 2011 a Measure Regarding Granting a Franchise by the City of Grand Junction to Public Service Company of Colorado and Grand Valley Rural Power Lines, Inc.

Councilmember Kenyon moved to adopt People's Ordinance No. 37 and ordered it published in pamphlet form and to adopt Resolution No. 10-11. Councilmember Hill seconded the motion.

Councilmember Palmer asked if the side agreement needs to be included in the motion. City Attorney Shaver recommended that not be included. He is comfortable that those negotiations will go forward.

Council President Coons noted that this action puts the matter before the voters; it is up to them as to whether or not to grant the franchise.

Motion carried by roll call vote.

Non-Scheduled Citizens & Visitors

Linda Howe, no address given, an evangelist for any person and especially for the homeless, said that lately, she wrote a book and is an expert on the Bible. She took notes on Trinity Broadcast Network (TBN) for a year. There are gaps and her book helps fill those gaps so her book is very important. Some unfortunate events have

happened to her and the church was no help; there were some hostile churches and she was one on one behind closed doors. She said she had a right to form her business. The book she wrote was gone, and she was traumatized. There were endless referrals, somebody said to her it is just not going well in many places, there were equality statements. She was at the train station when she was approached by a policeman to get off the property, he told her to go someplace that is not private property. She wants to know where she should go.

Council President Coons thanked her for her comments and they will try to figure out who might be able to provide some assistance.

Other Business

There was none.

Adjournment

The meeting was adjourned at 8:04 p.m.

Stephanie Tuin, MMC
City Clerk