

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

April 18, 2011

The City Council of the City of Grand Junction convened into regular session on the 18th day of April 2011 at 7:00 p.m. in the City Auditorium. Those present were Councilmembers Bruce Hill, Tom Kenyon, Gregg Palmer, Bill Pitts, Sam Susuras, and Council President Teresa Coons. 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. Girl Scout Troop #121 was in attendance and led the Pledge of Allegiance followed by a moment of silence.

Council President Coons also recognized Boy Scout Troop #357 in attendance.

Presentation

Appreciation Plaques were presented to outgoing City Councilmember Bruce Hill and Gregg Palmer.

Council President Coons lauded the public service of both Councilmember Bruce Hill and Councilmember Gregg Palmer. She thanked them for all of their help and service to the community. She announced that there is a reception scheduled on April 26th starting at 3:30 p.m. for the outgoing Councilmembers here at City Hall.

Councilmember Pitts thanked both outgoing Councilmembers for their service and said he has learned a lot from working with them.

Councilmember Kenyon thanked both for telling the new Councilmembers the history of the last eight years and said Councilmembers Palmer and Hill have performed exemplary in their service. He complimented their stewardship and their knowledge and wisdom. Few understand the amount of time it takes to serve the community as a City Councilmember.

Councilmember Susuras thanked both for their help and said he appreciated their history which helped add value to the Council meetings.

Council President Coons noted that both also served as Mayor and served very well. She then read and presented them each with their appreciation plaques.

Proclamations

Proclaiming the Week of May 1 through May 8, 2011 as “Days of Remembrance” in the City of Grand Junction

Proclaiming the Week of April 24 through 30, 2011 as “Administrative Professionals Week” and Wednesday, April 27 as “Administrative Professionals Day” in the City of Grand Junction

Council Comments

Councilmember Pitts said he attended three events in the last week; the first was School District 51 honoring 460 classroom volunteers, the second was the ribbon cutting of the Rural Election Association new geo thermal run building and the third was the Arborfest Chili Cook off.

Council President Coons thanked Councilmember Kenyon for stepping in as Acting Mayor Pro Tem in her absence.

Citizen Comments

There were none.

CONSENT CALENDAR

Councilmember Hill read the Consent Calendar and then moved to approve Items #1 through #4. Councilmember Susuras seconded the motion. Motion carried by roll call vote.

1. Minutes of Previous Meetings

Action: Approve the Minutes of the April 4, 2011 and April 6, 2011 Regular Meetings and the Minutes of the April 6, 2011 Special Session

2. Setting a Hearing on Hyre Heights Rezone, Located at 2674 F Road [File # RZN-2011-643]

Request to rezone 0.64 acres located at 2674 F Road from R-4, (Residential – 4 du/ac) to MXG-3 (Mixed Use General Form District – 3 stories) zone district.

Proposed Ordinance Rezoning the Hyre Rezone Property Located at 2674 F Road from R-4 (Residential – 4 Dwelling Units per Acre) to MXG-3 (Mixed Use General Form District – 3 Stories)

Action: Introduction of a Proposed Ordinance and Set a Hearing for May 2, 2011

3. **Setting a Hearing on Amendments to the Grand Junction Municipal Code, Chapter 6.12, Dogs and Cats, Concerning Barking Dogs**

The Grand Junction Municipal Code (“Code”) had a comprehensive review as part of a contract with Code Publishing Company. A misunderstanding developed during that review and, mistakenly, a change was made to section 6.12.060, Barking Dogs, due to that misunderstanding. The amendment concerning this section 6.12.060 will remedy that mistake.

Proposed Ordinance Amending Section 6.12.060 of Chapter 6 of the Grand Junction Municipal Code Concerning Barking Dogs

Action: Introduction of a Proposed Ordinance and Set a Hearing for May 2, 2011

Staff presentation: John Shaver, City Attorney

4. **Indemnifying William Baker, John Camper, Rick Dyer, William Gardner, and John Zen in Civil Action 10CV01719 MSK KLM**

Misti Schneider has sued the City along with four current and one former Police Department employees. Recently the Plaintiff, Ms. Schneider, filed to amend her lawsuit to state punitive damage claims against the current and former Police Department employees. By making the allegations the Plaintiff is now seeking personal, individual payment from the defendants for events that arose out of their employment with the City.

Under the Colorado Governmental Immunity Act, the City, upon a finding that it is in the public interest to do so, may defend, pay or settle punitive damage claims against public employees. It is the purpose of the proposed resolution to acknowledge the defense of those persons named in the resolution.

Resolution No. 18-11—A Resolution Acknowledging the Defense of William Baker, John Camper, Rick Dyer, William Gardner, and John Zen in Civil Action No. 10CV01719 MSK KLM

Action: Adopt Resolution No. 18-11

ITEMS NEEDING INDIVIDUAL CONSIDERATION**Public Hearing—An Amendment to Chapter 6 of the City of Grand Junction Municipal Code Pertaining to Dogs Running at Large and the Presence of Dogs and Other Animals at Downtown Grand Junction Events**

At the request of the Grand Junction Downtown Development Authority and the Downtown Association, the City Attorney has written a proposed clarification and expansion of the restrictions in Chapter 6 of the City of Grand Junction Municipal Code regarding dogs in common areas and dogs and other animals at downtown events.

The public hearing was opened at 7:22 p.m.

Heidi Hoffman Ham, DDA Executive Director, and representing the Downtown Partnership, presented this item. She explained the reason for the proposed ordinance. She noted that it does not come forward lightly but there have been many incidents and complaints that have caused this item to come forward. The City of Fruita adopted a similar ordinance in 2004. Allowing animals is not only impacting the attendees, it is not a good situation for the animals either with hot pavement and no fresh water available; it makes for a stressful event for an animal. There are provisions for exemptions for animal events. A letter was submitted by the Animal Welfare Program that supported the adoption of the ordinance which she read (attached).

City Attorney Shaver was available for questions.

Councilmember Kenyon asked Police Chief Camper about assigning more officers to enforce existing ordinances.

Police Chief John Camper said the kind of event is what determines the number of officers at the event. It also depends on the call volume. There is usually at least two officers at Farmers' Market. They do not anticipate more officers being assigned but perhaps at the beginning of the Farmers' Market season they can have more officers available to hand out informational brochures and to educate people about the ordinance. The Police Department anticipates enforcement only for those who are repeat offenders.

George Rossman, 276 Copper Lane, is the event coordinator for the Downtown events, said that the dogs have created most of the problems. She listed a number of the things that have occurred. She said it has been worrisome.

Brittany Vandermark, 645 Oxbow Road, is against the ordinance. She agreed that one hears about the bad things but they don't hear from the dog lovers. She noted that there are a lot of ill-behaved and disruptive children as well as dogs. She asked if there could be another solution rather than banning dogs at such events altogether. She felt that

there should be some middle ground. She would not attend Grand Junction's Farmers' Market if they are not allowed.

Milton "Tony" Long, 237 White Ave, Apt. B, asked what will be done when children and adults misbehave. The same standard should be applied to dog owners. He said take care of the dogs that are the problem and keep allowing dogs at events.

Gary Ames, 324 Sherman Drive, professional dog whisperer, said there are both well behaved dogs and ill behaved dogs and there are ordinances on the books that can take care of the problem instead of having another ordinance.

There were no other public comments.

The public hearing was closed at 7:36 p.m.

Councilmember Susuras asked if dogs will be banned at all events. Ms. Ham said they will be.

Councilmember Kenyon noted for clarification that the Downtown Development Authority authorizes these special events and they are noticed for the public regarding the specific hours in which this ordinance specifically applies.

Councilmember Palmer said as a retailer downtown he has seen the Farmers' Market grow. The number of people and the number of dogs has grown. In the last several years he has heard and witnessed a lot of incidents with dogs. While it is true that some ruin it for everybody, it is really a people event and there have been a lot of issues and a lot of complaints.

Councilmember Hill said when he first heard about the ordinance he didn't like any idea of prohibiting dogs, but it has gotten to a point that he does worry about his kids at events with a lot of dogs he doesn't know. He sees the same kind of regulations in other towns, such as Frisco, which are very dog-friendly towns. He wants Grand Junction to stay a dog friendly town but he agreed with the ordinance.

Ordinance No. 4459—An Ordinance Amending Chapter 6 of the Grand Junction Municipal Code Relating to Pets and Dogs in Common and Public Areas

Councilmember Palmer moved to adopt Ordinance No. 4459 and ordered it published in pamphlet form. Councilmember Pitts seconded the motion.

Council President Coons noted the difficulty of enforcing the current ordinances, like when a dog defecates and the owner disappears into the crowd without cleaning it up or a child gets bit and then it's too late. She too is a dog owner but knows that dogs can be

unpredictable, especially in crowds or when stressed, and even when they are very well behaved. She sees the difficulty of mixing families and pets in these close circumstances.

Motion carried by roll call vote.

Public Hearing—Providing Standards and Allowing for Optional Premises Liquor License in Conjunction with a Hotel and Restaurant Liquor License for Mesa State College

Mesa State College has requested that, in addition to licensing their new College Center with a Hotel and Restaurant Liquor License, that it be allowed optional premise permits for three of their recreational facilities. The State Liquor Code requires that in order for the municipality to issue optional premises permits, it must adopt specific standards by ordinance and eliminate the distance restriction for optional premises permits in the same manner it eliminated the distance restriction for hotel and restaurant liquor licenses by Ordinance No. 3620 in 2004.

The public hearing was opened at 7:43 p.m.

John Shaver, City Attorney, presented this item. He explained the necessity of the ordinance by State Law that the Council must adopt specific standards for optional premises permits. It identifies the specific areas for service and details specific restrictions. The base license will be at the College Center and the optional premises will be at the other locations. The ordinance will also eliminate the distance restriction for optional premise permits.

Councilmember Pitts asked what kind of liquor will be permitted. City Attorney Shaver said it will be full service. City Attorney Shaver said this action is not issuing the liquor license. This is authorization for them to proceed through the process. They must meet all the requirements of the application process.

Councilmember Palmer asked about the specific standards. City Attorney Shaver said the ordinance denoted the specific locations and they are in conjunction with the College Center. Mr. Shaver noted it also ensures responsible service.

Councilmember Kenyon said it makes sense that they would like to serve alcohol at their special events and it is limited to those areas delineated on the map. City Attorney Shaver concurred noting that currently the College must apply for each special event and those permits are limited to ten per year.

Councilmember Susuras asked if the service will be extended to Stocker Stadium. City Attorney Shaver said no. Councilmember Susuras asked if the City has any liability in the

event that they serve underage patrons. City Attorney Shaver said the City would be pursuing any such violations.

Derrick Wagner, 1100 North Avenue, representing the College, said they have been working on this for some time and he thanked the City Staff for being patient and suggesting options and working with them.

Milton “Tony” Long, 237 White Avenue, Apt. B, said he is opposed to alcohol abuse and wonders why Mesa State College wants to sell alcohol.

There were no other public comments.

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

Councilmember Susuras said it makes more sense for the College to hold a permanent license rather than apply for each special event.

Councilmember Palmer said this is logical with the expanded service of the College.

Ordinance No. 4460—An Ordinance for Optional Premises Permits for Mesa State College’s Brownson Arena, Walker Field Soccer Stadium, and Elliott Tennis Center, all on the Mesa State College Campus and to Amend the Grand Junction Municipal Code Section 5.12.220 to Eliminate the Distance Restriction for Optional Premises Permits in Conjunction with Hotel and Restaurant Liquor Licenses

Councilmember Kenyon moved to adopt Ordinance No. 4460 and ordered it published in pamphlet form. Councilmember Palmer seconded the motion. Motion carried by roll call vote.

Public Hearing—Correcting the Boundaries for the Grand Junction, Colorado Downtown Development Authority (DDA)

Certain parcels have been identified by the Mesa County Assessor’s Office and the City as having changed, possibly since the creation of the DDA database in 1981, so that the boundaries of those parcels are no longer accurately recorded. The DDA has worked with City and County Staff to correct these maps and GIS databases of District properties. This ordinance makes the corrections complete and lawful.

The public hearing was opened at 7:54 p.m.

Heidi Hoffman Ham, DDA Executive Director, presented this item. She explained the reasons for the boundary corrections requested. Property lines have changed over the years and this will correct the assessments. Letters have been sent to every property

owner affected. Many have contacted her and she has had good conversations with them and they understand the need for corrections. The letter included the date of the public hearing if anyone wanted to come and speak.

Councilmember Kenyon inquired how this has happened. Ms. Ham gave a few examples of when a property owner buys an adjacent parcel and then the lot line is adjusted through redevelopment.

City Attorney Shaver noted it is also happening in the special districts.

Councilmember Kenyon asked if the County Assessor's office is aware and supportive.

City Attorney Shaver said they are and he expressed appreciation to them since this has been a big undertaking.

There were no public comments.

The public hearing was closed at 7:58 p.m.

Ordinance No. 4461—An Ordinance Determining the Boundaries for the Grand Junction, Colorado Downtown Development Authority

Councilmember Kenyon asked about the new map and the individual parcel corrections. City Attorney Shaver said that two maps were provided, one showing the parcels to be corrected and one that shows the final boundaries. He noted that this map will be coming forward again when an ordinance comes forward to reconstitute the DDA for another 30 years.

Councilmember Susuras moved to adopt Ordinance No. 4461 and ordered it published in pamphlet form. Councilmember Pitts seconded the motion. Motion carried by roll call vote.

Public Hearing—Gay Johnson's Alley Right-of-Way Vacation, Located at 333 N. 1st Street [File #VAC-2010-314] – Continued from April 4, 2011

A request to vacate the entire north/south alley way between Grand Avenue and White Avenue, west of N. 1st Street, and east of North Spruce Street. The vacation of this alley will allow for an expansion of the business located at 333 N. 1st Street.

The public hearing was opened at 8:00 p.m.

Lori V. Bowers, Senior Planner, presented this item. She described the site, the location, and the request. She asked that the Staff Report and attachments be entered into the record. The requested right-of-way vacation is consistent with the Comprehensive Plan

goals. The criteria of the Grand Junction Municipal Code has been met. Easement for utilities will be retained in a 20 foot alley. The applicant is present but does not need to make a presentation.

Councilmember Susuras asked who was invited to the neighborhood meeting in February. Ms. Bowers said everyone within 500 feet was invited and two people showed up.

Council President Coons asked if the alley is being used for access. Ms. Bowers said the site is being accessed and the curb cuts will remain.

There were no public comments.

The public hearing was closed at 8:05 p.m.

Councilmember Kenyon asked about the moniker "Gay Johnson's Alley" if that is the legal name. City Attorney Shaver said it is not, it is just for description purposes. The legal description will be recorded.

Councilmember Pitts noted that the vacation will allow the owner to expand and develop without the definition of an alley.

Ordinance No. 4464—An Ordinance Vacating Right-of-Way for Gay Johnson's Alley, Located at 333 N. 1st Street

Councilmember Hill moved to adopt Ordinance No. 4464 and ordered it published in pamphlet form. Councilmember Pitts seconded the motion. Motion carried by roll call vote.

Public Hearing—Pomona 24 Road Annexation, Located South of H Road along 24 Road [File # ANX-2011-653]

Request to annex 1.17 acres of 24 Road right-of-way, located south of H Road and north of I-70. The Pomona 24 Road Annexation consists only of right-of-way.

The public hearing was opened at 8:06 p.m.

Brian Rusche, Senior Planner, presented this item. He described the site, the location, and the request. The annexation is only right-of-way and there is a need to repair the sewer main in the right-of-way. Thus is the need for the annexation.

Councilmember Palmer asked if the annexation will create an enclave. Mr. Rusche said right-of-way is not counted for purposes of creating an enclave and so it will not.

There were no public comments.

The public hearing was closed at 8:09.

a. Accepting Petition

Resolution No. 19-11—A Resolution Accepting a Petition for Annexation, Making Certain Findings, Determining that Property Known as the Pomona 24 Road Annexation, Approximately 1.17 Acres of Public Right-of-Way for 24 Road, Located South of H Road and North of I-70 is Eligible for Annexation

b. Annexation Ordinance

Ordinance No. 4465—An Ordinance Annexing Territory to the City of Grand Junction, Colorado Pomona 24 Road Annexation, Approximately 1.17 Acres of Public Right-of-Way for 24 Road, Located South of H Road and North of I-70

Councilmember Palmer moved to adopt Resolution No. 19-11 and Ordinance No. 4465, and ordered it published in pamphlet form. Councilmember Hill seconded the motion. Motion carried by roll call vote.

Public Hearing—Text Amendments to Section 21.06.010(b)(3) of Title 21 of the Grand Junction Municipal Code, Concerning Nonresidential Streets [File #ZCA-2011-633]

This text amendment to Section 21.06.010(b)(3), Existing Residential Streets, of the Grand Junction Municipal Code is to allow the Director authority to determine the minimum acceptable standards for local nonresidential streets and to defer construction of local nonresidential street improvements if certain criteria are met.

The public hearing was opened at 8:10 p.m.

Lisa Cox, Planning Manager, presented this item. She explained the reason for the proposed Code Amendment which is to provide some flexibility to development customers. There are many areas that developed in unincorporated Mesa County. In many cases, when developed in the County the properties do not have the same facilities as they would in the City due to a difference in standards. Sometimes a piece of property will get developed in an area where there are not streets with curb, gutter, and sidewalk, so to require a parcel that is developing to install those improvements when there are none to connect to, the Director will have the authority to defer those improvements. There would be an agreement entered into that would require the improvements in the future. At the March 8th Planning Commission meeting, the Commission made a recommendation for approval.

Council President Coons asked how this will allow those improvements to happen in the future, and will this violate stormwater regulations? Ms. Cox said this amendment will only apply to certain properties (2 acres or less) in industrial and commercial areas. The amendment will encourage development of these smaller parcels but will still allow the City to come in later and require those improvements when it makes sense. It shouldn't be an issue with stormwater permits but deferred to the Director of Public Works and Planning, Tim Moore.

Public Works and Planning Director Tim Moore noted that this was approved in the residential districts a few years ago and at that time the City Council asked that it be reviewed over time and see if it made sense to apply it in the industrial and commercial areas. This will just affect the smaller infill areas. None of the stormwater regulations will be affected; the developer will still have to meet stormwater regulations.

David Gross, 2630 New Orchard Court, said they are trying to do a project, and it does not make sense to do this in an area where there will be very little traffic.

Reford Theobald, 3760 Beechwood, said the overall theme is to make things easier and he supports that but it sounds like the agreement will be like a power of attorney. Such instruments have been problematic in the past so he cautioned the Council in depending on them for future improvements.

There were no other public comments.

The public hearing was closed at 8:35 p.m.

Councilmember Hill mentioned the Transportation Capacity Payment (TCP) and said this is a question for the next Council. The TCP really needs to be reviewed for clarity. There is a piece that is inconsistent. On a main collector, the developer pays a fee and is done. On interior streets, a developer has to pay the TCP and do the half-street improvements. If the City just charged the TCP consistently everywhere, then this ordinance would not even be needed. However, he will support the ordinance.

Councilmember Susuras asked if a signed agreement will be executed for improvements at a later time. Public Works and Planning Director Tim Moore said yes.

Councilmember Kenyon agreed that there are isolated parcels where it doesn't make sense; the County has the same problem. However, what happens when the company goes bankrupt, how is the agreement enforced? If it is an obligation to the deed, it becomes very detrimental to the property ever actually getting developed. He is concerned how the City will make good on these agreements in the future.

City Attorney Shaver said Councilmember Kenyon is absolutely right and the agreement will run with the land. He concurred with Mr. Theobold's comments about past use of powers of attorney.

Councilmember Palmer agreed and said he too is very cautious and there is a lot about it that concerns him. Many decisions are being delegated to the Director and he is not sure that best represents the citizens. He is not convinced that this is the right way and he is not supportive.

Councilmember Pitts said he is having a hard time pinpointing an example where this would apply. He has a problem with it.

Council President Coons asked about improvements through special improvement districts and asked the City Attorney to provide details.

City Attorney Shaver said power of attorneys in the past designate the City Clerk as the authority to sign on behalf of the property owners on a petition to form a special improvement district. Over 50% of the property owners would have to sign the formation petition. In the past, new owners many times object to those powers of attorney as it was a previous owner that gave that authorization. Another option is to require the payment on the sale of the property. The City also finances those costs through an annual assessment on the property tax bill plus 8% interest.

Council President Coons asked when those improvements would be triggered. City Attorney Shaver advised either a large development would take place causing the need for the improvements or several lots would develop at one time thus necessitating the improvements.

Councilmember Susuras inquired if the experience with applying this same method on residential development has been sufficient. Public Works and Planning Director Tim Moore said the experience has been with less than twelve sites where this tool has been used.

Ordinance No. 4466—An Ordinance Amending Section 21.06.010(b)(3), of the Grand Junction Municipal Code, Infrastructure Standards, Concerning Nonresidential Streets

Councilmember Hill moved to adopt Ordinance No. 4466, and ordered it published in pamphlet form. Councilmember Susuras seconded the motion.

Councilmember Kenyon said he will support the ordinance with skepticism and encouraged the Council to further discuss the TCP issue.

Council President Coons noted that in previous TCP discussions the goal was to make things more development friendly which resulted in delegating authority to the Director. She still supports delegating authority to speed up the development process.

Motion carried by roll call vote with Councilmembers Palmer and Pitts voting NO.

Non-Scheduled Citizens & Visitors

There were none.

Other Business

Council President Coons reminded the public that the Council will be holding a candidate forum on Wednesday to interview candidates for the District D seat. She invited the public to attend and participate.

Adjournment

The meeting was adjourned at 8:40 p.m.

Stephanie Tuin, MMC
City Clerk



Date: April 14, 2011

CONTACT:

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Position Statement - Proposed restrictions in the City of Grand Junction Code of Ordinances regarding dogs at downtown events

The Mesa County Animal Welfare Forum is comprised of representatives from the veterinary community, the animal welfare community, local citizens and Mesa County officials. In July of 2009, these agencies and individuals joined forces to identify meaningful goals on how our community will handle displaced pets and to determine what level of services are required to successfully manage the pet population in Mesa County. This position statement was determined by those in the organization that specialize in or manage the Mesa County canine population.

- While the Mesa County Animal Welfare Forum strongly believes and encourages socialization and exercise of Mesa County dogs, we believe that the location in which those activities take place should be conducive to a healthy and safe environment for both the public and pets. It is our belief that the crowded and active atmosphere at a successful downtown event could result in overstimulation and stress for many dogs. In addition, the nature of a large crowd can cause unintended contact between dogs and members of the public or atypical behavior by a dog. This can be result in injury to another animal or person.

The Mesa County Animal Welfare Forum supports the proposed expansion of the restrictions in the City of Grand Junction Code of Ordinances regarding dogs at downtown events.

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