

GRAND JUNCTION CITY COUNCIL
MINUTES OF THE REGULAR MEETING

January 21, 2015

The City Council of the City of Grand Junction convened into regular session on the 21st day of January, 2015 at 7:00 p.m. in the City Auditorium. Those present were Councilmembers Bennett Boeschstein, Martin Chazen, Jim Doody, Duncan McArthur, Sam Susuras, and Council President Phyllis Norris. Absent was Councilmember Barbara Traylor Smith. Also present were City Manager Rich Englehart, City Attorney John Shaver, and City Clerk Stephanie Tuin.

Council President Norris called the meeting to order. The audience stood for the Pledge of Allegiance led by Councilmember Chazen followed by a moment of silence.

Presentation

Rob Schoeber, Parks and Recreation Director, recognized Lorie Gregor for all of her work on the art program and this award presentation. He then introduced Darcy Johnson, Vice Chair of the Commission on the Arts and Culture. Ms. Johnson gave the background on how the Commission on Arts and Culture annually invites the community to nominate local businesses, organizations, and individuals for the Champion of the Arts Award. There were eight nominations this year. The Champion of the Arts Business Award goes to Chuck and Patti Shear of SHEAR Inc. She described all the ways the Shears have supported the arts. They were presented with "Poppies Three" by Lynn Pavelka. The award was accepted by Quinton and Sherry Shear. The individual Champion was awarded to Karen Combs. Ms. Johnson described how she has supported the arts. Ms. Combs was awarded "Victory" by Pavia Justinian. Ms. Combs was present to accept the award. Ms. Johnson thanked the City Council for their continued support to help local art thrive and grow in Grand Junction.

Council President Norris thanked Ms. Johnson for all of her contributions.

Proclamation

Council President Norris said she had the honor of presenting the proclamation at the Martin Luther King, Jr. Day celebration held at Handy Chapel on January 19th but wanted it read again so that all citizens could hear it. Councilmember Chazen read the proclamation.

Juanita Trujillo was present to accept the proclamation for Martin Luther King, Jr. Day. She introduced Janielle Westermire Butler and David Combs.

Mr. Combs thanked the Council for the proclamation saying that it speaks volumes to the community. He and Ms. Trujillo created a service award in honor of former Councilmember Harry Butler and it will be awarded annually.

Certificates of Appointment

Council President Norris asked Visitor and Convention Bureau Manager Barbara Bowman to come to the podium. Ms. Bowman introduced the two new board members and described their qualifications.

Council President Norris presented Don Bramer and Susie Kiger their Certificates of Appointment to the Visitor and Convention Bureau Board of Directors.

Citizens Comments

Bruce Lohmiller, 445 Chipeta Avenue, #25, addressed the City Council and said his sculptures that won the Colorado Mesa University Veteran's Art Center competition may be added to a collection that will be shown in New Mexico. He then said City Attorney John Shaver gave him an audio recording of some discussions they have had regarding court cases. Mr. Lohmiller mentioned he sent a presentation to Sheriff Matt Lewis, suggested a sex education program for School District 51, and asked City Council if they have made a decision about Whitman Park.

Chris Kennedy, 2514 Filmore Avenue, addressed the City Council and said he would like to see TABOR funds go first to a recreation center, the school district second, and then to infrastructure developments. He feels the benefits from these types of investments will be very high.

Scott Beilfuss, 422 ½ Prospectors Point #22, also addressed the City Council on getting a recreation center. He said the last time there was a TABOR question there was an open house and several proposals were available for public review and discussion. This time there has been no input from the community. He said a recreation center would make this community more livable and described some benefits of building a recreation center. He concluded by saying recreation is a strong point for the area and a recreation center will help the City stand out. He hopes City Council will consider this.

Alan R. Story, 1831 L Road, Fruita, addressed the City Council regarding a young lady who is doing community service; he sat in on her municipal court hearing and was upset by it. He would like to discuss the issue with one of the Councilmembers. The young

lady belongs to the Sanchez family. He respects the family. Councilmember Doody offered to sit down with Mr. Story.

Council Comments

Councilmember McArthur said he attended the Fruita City Council meeting on January 20th and gave a presentation on the local drainage issues and the process of working toward a drainage summit between all the drainage districts in the valley. Once all the representatives are in place a summit will be called. He also attended the grand opening of the Maverik store on Orchard Mesa; it was a successful event.

Councilmember Boeschstein went to the Riverfront Commission meeting on January 20th; they have a lot of projects, the main one being Las Colonias Park which will have its groundbreaking soon. He also attended the meeting with the Las Colonias Park Amphitheater design team and said this is a good project. Later that day, he went to the Mesa County Public Library and attended a meeting on domestic violence put on by the Hispanic Coalition and local law enforcement. The event was well attended. He also went to the Horizon Drive Association Business Improvement District meeting where they talked about getting ready for the rebuild of the Horizon Drive and I-70 interchange which included details on the sculptures, different lighting standards, and a bicycle/pedestrian trail. On January 22nd, Jim Jordan from the Denver based Rocky Mountain Heritage Society will talk about what can be done to restore the train depot. The Friends of the Grand Junction Depot will be participating with this presentation along with the Museum of Western Colorado and the Historic Preservation Board.

Councilmember Chazen attended the Martin Luther King, Jr. Day event held at the Handy Chapel on January 19th; it was a moving event. Also that day, he attended a meeting the County hosted with Charter Communications. Individuals from the community described their service problems and Charter gave a presentation explaining the issues they are having with their conversion.

Councilmember Doody mentioned attending the Council Retreat where they and Staff discussed many issues. He said Charter Communications and CenturyLink gave a presentation at the Council Workshop on January 19th. The recent service issues present City Council with a good opportunity to address whether the City should have a role in this type of issue. Council should discuss and decide if this should be a ballot question.

Councilmember Susuras attended three Grand Junction Economic Partnership meetings; the 2015 Vision was approved. On January 20th he went to the Grand Junction Regional Airport Authority Board meeting. They are working hard to resolve some building issues with the Grand Junction Regional Airport. January 28th through the 30th he will be attending the annual Colorado Water Congress meeting in Denver.

Council President Norris agreed with Councilmember Doody's observations regarding the recent situation surrounding internet/cable services. She said the City's hands are currently tied due to law. This question of whether or not to ask voters to allow the City to step in and take action will be discussed in a future Council Workshop.

CONSENT CALENDAR

Councilmember Doody read Consent Calendar items #1 through #3 and then moved to adopt the Consent Calendar. Councilmember McArthur seconded the motion. Motion carried by roll call vote.

1. **Minutes of Previous Meetings**

Action: Approve the Summary of the December 15, 2014 Workshop and the Minutes of the January 7, 2015 Regular Meeting

2. **Setting a Hearing for Casas de Luz Phasing Schedule Extension Request, Located at West Ridges Boulevard and School Ridge Road** [File # PLD-2010-259]

The applicant, Dynamic Investments Inc., requests an extension of the phasing schedule for the Casas de Luz Planned Development. The applicant received City Council approval for the Planned Development (PD) residential subdivision on September 21, 2011. The PD ordinance required platting of Phase 1 by December 31, 2014. Due to the economic downturn the applicant was unable to meet that deadline and now requests more time to plat the first three phases of the project.

Proposed Ordinance Amending Ordinance No. 4482 for the Casas de Luz Planned Development Residential Subdivision Revising the Proposed Phasing Schedule Located Adjacent to West Ridges Boulevard and West of School Ridge Road

Action: Introduce a Proposed Ordinance and Set a Public Hearing for February 4, 2015

3. **Authorization for the City Manager to Disburse a Portion of the J. Heywood Jones Estate Trust Funds to the Museum of Western Colorado**

In 2013, the City was named as the Trustee for a portion of the J. Heywood Jones Estate Trust. Instructions were to disburse the funds for museum and library purposes. At a workshop on January 19, 2015, Museum Executive Director Peter Booth presented a list of expenses proposed for the use of a portion of the funds from the Trust.

Resolution No. 06-15 — A Resolution Authorizing the City Manager to Disburse Trust Assets

Action: Adopt Resolution No. 06-15

ITEMS NEEDING INDIVIDUAL CONSIDERATION

Hearing – Appeal of the Planning Commission's Decision on Variances and a Conditional Use Permit Issued to City Market, Located at the Intersection of N. 12th Street and Patterson Road

Council President Norris stated she submitted a letter to her fellow Councilmembers regarding the possibility of an appearance of a conflict of interest with this item. She then recused herself and left the dais.

Council President Pro Tem Chazen presided over this portion of the meeting.

The hearing was opened at 7:37 p.m.

Appeal of the Planning Commission's (PC) conditional Variance approval and conditional approval of a Conditional Use Permit (CUP-2014-134) for City Market to construct a building in excess of 15,000 sq. ft. within the existing B-1 (Neighborhood Business) zone district on 7.99 +/- acres at the intersection of N. 12th Street and Patterson Road. The Appellant appealed three issues. As to the conditional approval of a Conditional Use Permit, the appeal concerns the location of the fuel islands abutting the residential property, Patterson Gardens, on the east and the eight foot masonry wall. The Appellant argues that the fuel station is too close to the residential neighbor and the wall should be ten feet tall. The Appellant also appealed the conditional approval of a Variance request to operate the store and fuel islands 24 hours a day, seven days a week.

John Shaver, City Attorney, introduced this item, provided information on the legal process, and gave City Council different options. There are two items for the Council to decide on. The first is whether or not to grant the appeal. He listed the criteria noting Council was provided the full record of the PC hearing. A summary of the appeals were provided to the City Council. There are four areas for the Council to consider regarding the PC's decision: was the PC acting inconsistently, did the PC make errors in their findings, did the PC fail to fully consider the matters, and/or did the PC act arbitrarily, capriciously, and/or abuse its discretion. If Council finds that one or more of these conditions apply, the appeal may be granted for the process to proceed to the next step which is a discussion of the record. Once that discussion is completed the Council may affirm the appeal, deny the appeal, or remand the decision back of the Planning Commission for further consideration. A decision will require four votes.

Council President Pro Tem Chazen asked Council about their desire to discuss the matter. All members of Council were in favor of discussion. Council President Pro Tem Chazen asked Scott Peterson, Senior Planner, to make a few comments. Mr. Peterson brought up an aerial photo of the property, then the proposed site plan, and clarified the issues being appealed and the requests the appellants have made to the applicant. As background, the Zoning Code only requires a six foot solid fence with an eight foot wide landscaping strip; the applicant has proposed an eight foot masonry wall and an 11 foot landscaping strip. The appellants would like the wall to be ten feet.

Councilmember Susuras asked if the fence could be chain link or wooden. Mr. Peterson said it would need to be a solid fence to provide screening and a buffer. Councilmember Susuras said the appellants would like the fuel islands moved to the corner and then noted the applicant planned to use that area for a bank. Mr. Peterson said the applicant has not finalized plans for that area, but would like to split off that pad site for some type of commercial use.

Councilmember McArthur summarized the purpose of the discussion. He felt there is some additional work that needs to be done to make sure the applicant has met the criteria of the Conditional Use Permit. He thinks the matter should be re-reviewed as the City Attorney had noted the record wasn't clear that the criteria had been met. It left a question for Councilmember McArthur that the issues might be addressed better.

Councilmember Susuras thought the PC did a very thorough job.

Councilmember Doody asked what some other City Market stores are zoned. Mr. Peterson said their zoning is C-1. Councilmember Doody asked what this site is zoned. Mr. Peterson said this site is zoned B-1 which is a neighborhood business zone district which limits the hours of operations. Councilmember Doody asked what the difference is for a C-1 zone. Mr. Peterson said C-1 is a blanket commercial zone which allows retail offices, multi-family units, and 24 hour operations; this is the predominant commercial zoning district in the City. Councilmember Doody asked when the B-1 zone was created. Mr. Peterson said it has always been in the City's Zoning Code and is intended to provide a buffer between commercial and residentially zoned areas.

Councilmember Boeschenstein said the 15,000 square foot building is inconsistent with the zoning. Mr. Peterson said for a building that size in a B-1 zone a CUP is required which is why this request went to the PC for review. Councilmember Boeschenstein asked if the hours of operations are also inconsistent with the B-1 zone. Mr. Peterson said 24 hour operations are not permitted in this zone. Councilmember Boeschenstein said the idea of a neighborhood commercial unit as opposed to a big block store is based on size, scale, and magnitude of the building as well as the impact on surrounding neighborhood. Mr. Peterson said compatibility was also reviewed. Staff and the PC felt the building itself and the use of screening and buffering met the

requirements. Councilmember Boeschstein asked where the delivery area will be. Mr. Peterson said deliveries will be at the back of the store where the truck bay will be located. The applicant said deliveries will only be allowed between 7 a.m. and 11 p.m. Councilmember Boeschstein then asked if Staff worked with City Market on mitigating measures and which ones are a part of this plan. Mr. Peterson said the mitigating measures that are part of the plan include the eight foot masonry wall, 11 foot wide landscaping strip, and additional landscaping to screen the fuel islands from Patterson Gardens. Councilmember Boeschstein asked if the applicant had explored the idea of moving the fuel island to the northwest corner. Mr. Peterson said in 2010, the applicant proposed placing the fueling island on the NW corner, but moved it for this application. Mr. Peterson brought this option back up, but he said City Market preferred the current location. Councilmember Boeschstein asked what drainage provisions have been made. Mr. Peterson said detention ponds have been planned along the south portion of the property and will meet the historic retention and drainage needs. Councilmember Boeschstein asked what type of lighting fixtures will be used and if light will shine into the residential area. Mr. Peterson said the City's Zoning Code requires all parking lot and building lights to be down directional. Councilmember Boeschstein asked what the reasons were to request 24 hours of operation. Mr. Peterson said City Market felt since the building and parking lot lights will be on and employees will be working in the store they would like the store to be open and allow area residents, students, and employees the opportunity to shop. Councilmember Boeschstein asked what the hours of operation are for the nearby Albertson's store. Mr. Peterson said they are open from 5 a.m. until midnight.

Council President Pro Tem Chazen said he had reviewed all the video testimony and read the documentation and noted the only thing Staff did not support was the 24 hour operation. He then asked why. Mr. Peterson said the request for 24 hours of operation would require a variance and Staff did not feel any of the variance criteria was met: hardship, special privilege, and ample uses within the Code's specified hours. Council President Pro Tem Chazen said this is for a grocery store and as such it will have employees working 24 hours a day. He is concerned about the distinction between operations and sales; there is no clear delineation which leads him to think it should be remanded back to the PC. He specifically mentioned the testimony and the discussion by City Market only pointed to benefits; it did not address the variance criteria of undue hardship, reasonable use, etc. He felt the PC did not thoroughly vet this issue. He is not against this project but recommends it go back to the PC for more consideration and clarification regarding the question of 24 hour operations.

Councilmember Susuras noted the gas station will be open 24 hours a day because of credit card use. Council President Pro Tem Chazen said the record is unclear if the fuel island will be allowed to operate after the clerk leaves the area at 11 p.m. Mr. Peterson said the B-1 zone strictly limits the hours of commercial use; the applicant would be

required to shut down the gas pumps and close the store at 11 p.m. which is why they are requesting a variance.

Councilmember Susuras asked since this is a B-1 zone, is this project considered a neighborhood center that would meet the Comprehensive Plan (CP) goals. Mr. Peterson said the CP shows this site as Business Park Mixed Use in a high volume traffic area. Councilmember Susuras read from the record where it states Staff said the B-1 zone meets the CP by creating a center and specifically meets CP goals 3, 7, 8, and 12. This is a very positive zoning and usage.

Council President Pro Tem Chazen said he would like City Market to address the undue hardship issue since it was not addressed in the record. He again recommended this go back to the PC for clarification.

Councilmember Susuras mentioned the owners said since they will have staff in the building 24 hours a day, they would also like to have a clerk and supervisor available for sales. He did not recall any mention of a hardship.

Council President Pro Tem Chazen asked City Attorney Shaver if a motion is needed to grant, deny, or remand this appeal.

City Attorney Shaver said Council needs to make a motion and they can include both issues. If they would like to remand the appeal back to the PC, they can make it general or specific. Four votes are needed for a decision.

Councilmember Doody asked Mr. Peterson when this property was zoned B-1. Mr. Peterson said it was rezoned in 2010, which was the last time City Market looked into building on this site. Councilmember Doody asked if City Market was okay with the B-1 zoning change. Mr. Peterson said they were.

Councilmember Boeschstein made a motion to grant the appeal and send the matter back to the PC, after finding they acted inconsistently with the Zoning Code and didn't properly consider mitigation issues. Councilmember Doody seconded the motion.

Council President Pro Tem Chazen asked City Attorney Shaver if this is remanded back to the PC, will they only need to consider the specific issues addressed at the PC meeting. City Attorney Shaver said based on Councilmember Boeschstein's motion, that is correct. It would be specific to the issues mentioned in the motion. He clarified the general versus specific remand options.

Councilmember McArthur asked if City Market is required to get a CUP to go forward. City Attorney Shaver said the CUP is for the size of the building, the variances were for the other aspects of the proposed operation.

Motion failed by roll call vote with Councilmembers McArthur and Susuras voting NO.

City Attorney Shaver said Councilmember Traylor Smith, who was ill, indicated her opinion to him and if the majority of Council approves he will read her position.

Councilmember Susuras said he did not want to set a precedent of accepting Councilmember votes if they are not present.

Councilmember Boeschstein said this is a very important decision to make and feels as many Councilmembers as possible should vote. He would like to postpone the vote.

Councilmember Doody said because Councilmember Traylor Smith reviewed the record she did not need to be part of this discussion.

Councilmember McArthur said this is similar to a proxy vote which has not been done before; this is more of a hybrid situation. He would be ok with a proxy.

Council President Pro Tem Chazen asked if this could be tabled.

City Attorney Shaver said yes, but the same discussion would need to be held.

Councilmember McArthur said he would support a remand back to PC with a general direction for them to close the loops.

Councilmember McArthur moved to grant the appeal and remand the matter to the Planning Commission with general instructions to address the issues brought forward by those that appealed. Councilmember Doody seconded. Motion carried by roll call vote with Councilmember Susuras voting NO.

Council President Pro Tem Chazen called a recess at 8:20 p.m.

The meeting reconvened at 8:28 p.m.

Council President Norris returned to the meeting.

Recording System for the Grand Junction Regional Communication Center

The Grand Junction Regional Communications Center (GJRCC) would like to enter into a contract with DSS Corporation to purchase an upgraded replacement recording system for the GJRCC for \$210,000. This recording system will record all 911 calls, non-emergency calls, administrative calls, and radio communications.

John Camper, Police Chief, introduced this item, the purpose of the request, and provided the reasons the upgrade is needed. He provided background on the issues with the present recording system. Jay Valentine, Internal Services Manager and Paula Creasy, Communication Center Project Manager, were present.

Councilmember Susuras asked if this is a budgeted item. Chief Camper said it is budgeted from the 911 fund.

Councilmember Chazen reviewed the funds budgeted for this project and remarked at how low the bid was. Mr. Valentine said this project was planned for 2014, but was not completed; these funds were not re-appropriated for a project in 2015. The source of budget funds is not specifically for this project, but it does demonstrate that the appropriation spending authority is there and when the City comes back for supplemental appropriation, the specific cost of the project will be shown. The fund amount shows that this project can be approved based on the authorized funding by Council. Councilmember Chazen asked for clarification regarding how the money can be used for this project. Mr. Valentine said the project was budgeted for 2014, but it was not completed; the funds stayed in the 911 fund and will be re-appropriated when there is a supplemental appropriation process. Councilmember Chazen asked what the budgeted amount was in 2014. Mr. Valentine said it was budgeted at \$160,000 in 2014. Councilmember Chazen then asked if there are sufficient reserves for the additional \$50,000 cost. Mr. Valentine said there was another \$50,000 project that was in the 2014 budget and was not pursued. The Communication Center has identified these two funding sources and will propose these for the supplemental appropriation.

Councilmember Boeschstein commented that Chief Camper said this type of funding for 911 cannot be sustained forever. He finds it amazing the City has been able to bring in all of the partners to help fund 911. He asked Chief Camper to comment on his ideas to improve this. Chief Camper said there are two primary funding sources. One is for capital expenditures which come from 911 surcharges and the other is the cost sharing from the 24 partner agencies. There is concern for both, but the cost sharing model is of primary concern and is exacerbated by the fact that 911 revenues are topping out and even starting to show a bit of a decline.

Council President Norris said part of the Council Retreat presentation was on how the 911 Center is changing and she would like to make sure this equipment will help the 911 Center move forward and take care of the citizens. Chief Camper said it is his understanding that the beauty of this equipment is that it has a much better capability to deal with anticipated modes of communication such as video and text messaging.

Councilmember Chazen asked what the \$50,000 was allocated for in 2014. Ms. Creasy said those funds were for the purchase of Next Generation 911; the DSS recording system will address that need. Councilmember Chazen asked if the purchase of the DSS system will solve the needs that the two separate 2014 projects were going to address. Ms. Creasy said DSS is already working on those issues.

Councilmember Susuras moved to authorize the Grand Junction Regional Communication Center to enter into a contract with DSS Corporation, Southfield, MI, in

the amount of \$210,000. Councilmember McArthur seconded the motion. Motion carried by roll call vote.

Contract for Consulting Services to Design for Expansion of Radio Coverage in Canyon and Rural Areas of Mesa County

The Grand Junction Regional Communications Center (GJRCC) would like to enter into a contract with Centerline Solutions for consulting services for a not to exceed amount of \$69,620. Centerline Solutions will provide solutions for expanding radio coverage in the canyon areas and rural areas of Mesa County.

John Camper, Police Chief, introduced this item and provided background on the issues for expanding the radio coverage in the canyon areas and rural areas of Mesa County. Although the system is robust there are still gaps in service where public service safety personnel are not able to communicate with dispatch and each other. The GJRCC needs the expertise to build coverage in the rural areas. The 911 Board agreed to redirect a portion of 911 funds that were allocated to build a tower; they felt it would be better to take a broader look to see where and what type of systems will be needed. He listed the areas to be studied. He deferred to Jay Valentine, Internal Services Manager, and Paula Creasy, Communication Center Project Manager, for any technical questions.

Councilmember Boeschstein asked if co-locating had been looked into rather than building a new tower. Ms. Creasy said co-locating had been looked at and using it would be dependent on where access is available. The City asked the consultant to consider all available sites for co-locating. Chief Camper said there may be some areas where mobile repeaters would be more beneficial than towers; the consultant will help the City make educated decisions regarding equipment and its location.

Councilmember Chazen wanted clarification on how much was budgeted. Chief Camper said initially \$500,000 was budgeted for a new tower, but the 911 board felt it would be more prudent to conduct a comprehensive study and identify the needs of the whole County.

Councilmember Susuras made a motion to authorize the purchasing division to enter into a contract with Centerline Solutions to provide professional consulting services for expansion of the 800MHz Radio coverage within Mesa County, in a not to exceed amount of \$69,620. Councilmember Chazen 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 8:45 p.m.

Stephanie Tuin, MMC
City Clerk