

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

November 2, 2016

The City Council of the City of Grand Junction convened into regular session on the 2nd day of November, 2016 at 7:00 p.m. Those present were Councilmembers Bennett Boeschstein, Chris Kennedy, Duncan McArthur, Rick Taggart, Barbara Traylor Smith, Martin Chazen, and Council President Phyllis Norris. Also present were City Manager Greg Caton, City Attorney John Shaver, and City Clerk Stephanie Tuin.

Council President Norris called the meeting to order. Councilmember Boeschstein led the Pledge of Allegiance followed by a moment of silence.

Council President Norris recognized the Colorado Mesa University (CMU) students in attendance.

Proclamations

Proclaiming November 11, 2016 as “A Salute to All Veterans 2016” in the City of Grand Junction

Councilmember Kennedy recognized all the Veterans in the audience and then read the proclamation. Lieutenant (Lt.) Colonel Rick Peterson, United States Air Force (USAF) (Retired), President of the Veterans Committee of the Western Slope, received the proclamation. Lt. Colonel Peterson thanked Council and said they presented of this proclamation for 22 years. The United States of America relies on the service of people who put their lives in jeopardy. He invited and encouraged everyone to come to the Veteran’s Day Parade at 2:00 p.m. on November 12th, attend the Colorado Mesa University Students Veteran’s Association hosted Military Ball and dinner at Two Rivers Convention Center on November 11th, and participate in the Race Across America in December.

Proclaiming November as “Grand Junction Homeless and Runaway Youth Awareness Month” in the City of Grand Junction

Councilmember Chazen read the proclamation. John Mok-Lamme, Director of The House, was present to receive the proclamation. Mr. Mok-Lamme thanked Council and introduced Jeff Schuster, Community Outreach Program Director. Mr. Schuster talked about the number of homeless youth in Mesa County, their new facilities, and that they have an 80% success rate. He lauded Graff Dairy for employing many of the youth in their program.

Citizens Comments

Bruce Lohmiller, 3032 North 15th Street, #208, spoke about Whitman Park and night patrols. He also mentioned marijuana and Marinol, a Federal Drug Administration (FDA) approved medical marijuana drug. He also said received something from the Santa Monica authorities and said his church had an Israel Museum Presentation.

Council Reports

Councilmember Kennedy cheered "Go CUBS!".

Councilmember Traylor Smith spoke about the Grand Junction High School (GJHS) young man that had taken his life and urged anyone feeling that way to seek community resources. She provided a help line phone number and stated "our hearts and prayers go out to the family and others affected by this tragedy".

Councilmember Taggart attended the Grand Junction Regional Airport Authority Board (GJRAA) meeting which has looked into direct flight service with American Airlines to Los Angeles. The hope is to build future direct flight destinations. He stated United Airlines is also looking into expanding flights from Grand Junction. The GJRAA Board approved the refinancing of bonds for the airport with lower interest rates which will allow maintenance and upgrades to the airport terminal. They also reviewed the 2017 budget in draft form.

Councilmember McArthur attended the Associated Members of Growth and Development meeting where Colorado State Representative Yeulin Willett spoke and reviewed the retail sales of marijuana that was researched by a Denver Legislative committee. Representative Willett provided Councilmember McArthur with reports and information stating that several Colorado cities and towns are considering the sale of recreational marijuana.

Councilmember Boeschstein said he was in the Peace Corps 50 years ago in Africa, and last week attended a Peace Corps reunion in New York City. Councilmember Boeschstein said he met with the Visitor and Convention Bureau (VCB) and reported that lodging tax revenue and tourism to the City are increasing.

Councilmember Chazen said on October 28th, he attended the Vagrancy Committee presentation from Jenn Lopez, Development Specialist/Liaison from the State, regarding tax credits for housing projects and recommendations for the Vagrancy Committee. He mentioned on November 11th, there will be a Severance Tax Symposium in Rifle, Colorado and invited all to attend.

Council President Norris went to Orchard Avenue Elementary School and had a question and answer session with a group of third grade students. She also met with a group of German Exchange students. She attended several meetings discussing homelessness and mentioned the Homeless Outreach Team is a part of the Grand Junction Police Department.

Consent Agenda

Councilmember Boeschstein read the Consent Calendar and then moved to adopt the Consent Agenda items #1 through #4 stating the reasons for the property purchases are in the documents (City Attorney Shaver clarified Resolution No. 46-16).

Councilmember Kennedy seconded the motion. Councilmember Traylor Smith asked for an amendment to the motion to add a contingency to the property purchase resolution that the purchase price not exceed the appraisal amount. Councilmembers Boeschstein and Kennedy both agreed to the amendment. Motion carried by roll call vote.

Public Hearing – Ordinance No. 4724 – An Ordinance Adopting Amendments to the 2012 Edition of the International Fire Code and Prescribing Regulations Governing Outdoor Burning, Restricted, and Unrestricted Burning; Providing for the Issuance of Permits for Certain Burning Activities and Defining Extinguishment Authority

Outdoor burning, including open burning and recreational fires has been a topic for City Council consideration. Research by staff is recommending an ordinance to restrict outdoor burning within City limits as a matter of public safety. Exceptions for agriculture burning and maintenance of waterways, fire mitigation and training, and specific allowances for cooking and recreational fires are included.

The public hearing was opened at 7:30 p.m.

Fire Chief Ken Watkins introduced Fire Marshall Chuck Mathis and then introduced the topic. He read the title of the ordinance and then explained the history for these proposed changes and that this has come before the Council at workshops. Chief Watkins displayed a map of the service area and the distribution of permits throughout that area. He identified the number of brush fires in 2016; only one of the brush fires was in City limits. Chief Watkins explained various parts of the ordinance and defined different types of burns throughout the City and Mesa County which included unrestricted, restricted, permitted, and unpermitted burns. He said the Fire Department is trying to obtain enforcement through education and said Ordinance No. 4724 is an amendment to the Fire Code and any reduction in burning would improve safety and air quality.

Councilmember Kennedy said there have been four workshops with input from the community to address the improvement in air quality. He asked what the differences will be if they move to the Mesa County Burn Permit System as proposed.

Chief Watkins said currently a City permit is valid for a year and allows unlimited burns. He said the new permit would allow a ten-day window for one burn, however they are working on a longer time frame for the permits.

Councilmember Kennedy asked if a fire ring would fall under the category of approved devices when using solid fuels for an outdoor burn. Chief Watkins said no, that it would need to be a contained device meant for burning, such as a “chiminea”.

Councilmember Kennedy asked what the revenue impact of transferring burn permits from City to County would be. Chief Watkins said there will be a reduction in revenue due to the majority of burn permits currently issued by the City (approximately 1,300) will no longer be legal and the County fees are significantly lower than the City’s. Councilmember Kennedy said he will support the ordinance.

Councilmember Chazen asked if the use of cinder block fireplaces that City residents have used for years would be allowed and how would the Fire Department enforce the ordinance.

Fire Marshall Mathis said some people construct their own fire pits and this would have to be addressed on a case by case basis. Fire Marshall Mathis said the first line of action would be an educational process, however, if there is a lack of cooperation the Fire Department would work with the Police Department to issue a ticket.

City Attorney Shaver said compliance would also be attempted and preferred, however, general penalties would apply with a fine of up to \$1,000 and possibility of jail sentence.

Councilmember Boeschstein thanked the City Fire Department for providing information on this issue. He said he lives in the Lincoln Park area which is comprised of older homes with alley incinerators. He asked if there would be a removal incentive plan for incinerators.

Fire Marshall Mathis said there is no current plan to remove incinerators, but their use is not allowed. Councilmember Boeschstein suggested an incentive program for incinerator removal be put into place. Councilmember Boeschstein asked if fire pits would be allowed. Fire Marshall Mathis said that each burn permit and fire pit would be reviewed on a case by case basis.

Councilmember Boeschstein asked if any new fireplace or wood stove placed in a home would have to be approved by the Environmental Protection Agency (EPA). Fire Marshall Mathis said yes, but that issue is addressed in a separate ordinance.

Councilmember Traylor Smith asked for clarification on what would be allowed regarding cooking on existing fire pits.

Fire Marshall Mathis said bonfires would not be allowed, however, if a fire pit were used to cook on they would be allowed.

Council President Norris asked where information about clean air regulations could be found. Fire Marshall Mathis said Mesa County Health Department provides information on clean air regulations.

Chief Watkins added clean air is a big focus of the Mesa County permitting system. He stated residences could be issued two different types of permits: one permit regarding smoke control; and another permit regarding fire safety. He noted the whole premise of moving to the County permitting system is for the Health Department to regulate air quality.

Council President Norris said because there are no Mesa County Fire Departments, the Mesa County Sheriff's Department has to deal with County fire issues. She asked who notifies the City's Fire Department when their services are required. Chief Watkins said the Fire Department is notified through dispatch, however, there is a need for better communication with the Mesa County Health Department. He said they have received incident reports after the fact and have talked about requiring notification within a ten-day window. Council President Norris asked about the unrestricted burning done by irrigation canal companies without permits. Fire Marshall Mathis said they have received complaints regarding irrigation canal burns to which they respond and he hopes to have violation reports attached to permit files which will be sent to the Mesa County Health Department. Council President Norris hopes the public will be notified in advance of the larger burns in the future. She stated, as a reminder, that this ordinance is about public safety, not air quality.

Council President Norris opened it up for public comments.

Karen Sjorberg, 514 Rado Drive, Chair of Citizens for Clean Air, thanked the Council and staff for their hard work on this issue. Ms. Sjorberg said some clarifications are needed regarding the definitions of a recreational fire and unrestricted burning which can be confusing. She said education and clarity are key.

Elizabeth Rowan, 1255 Ouray Avenue, said she has lived in the historical Lincoln Park area for over 25 years. She said there has been a steady increase of seasonal nighttime smoke, occurring between 10:00 p.m. and 3:00 a.m. She said the City's Fire Department dispatchers are very responsive and ask a series of questions when she calls to report smoke in her neighborhood. Ms. Rowan said there are many makeshift fire pits and old cement incinerators in her neighborhood. She thanked Council and staff and said she was in support of ordinance. She requested that if the ordinance

passes, there needs to be clarity on the effective date with specifications for dispatchers and staff to follow.

Joan Woodward, 2181 Quail Court, thanked Council and asked them to take clean air into consideration. She requested clarity on the ordinance in regards to what is allowed and not allowed with a burn permit.

Michael Day, 1224 Bonito Avenue, thanked Fire Chief Watkins for his presentation. He expressed concerns regarding the clarity of this ordinance and the specific definition of approved fire pits. Mr. Day read a statement regarding a backyard fire pit that he built, a smoke complaint from his neighbor, and the Fire Department's inspection of his fire pit. He said there is a City ordinance already in place regarding permitted outdoor burning, however it is not enforced. Mr. Day said the existing laws should be enforced and a new ordinance is not necessary. Mr. Day said the premise of this ordinance is for air quality and public safety according to the text in place and he encouraged the Council to deny the adoption of the ordinance.

John Rizzo, 604 N. 17th Street, representing Colorado Plateau Mountain Bike Trail Association, Inc. (COPMOBA) stated the ordinance is really about clean air and clean air does affect tourism. He said he supports the ordinance.

Peggy Rawlins, 519 Liberty Cap Court, read a statement from Citizens for Clean Air, encouraging Council consider changing the outdoor burning ordinance. She said the ordinance is confusing and does not do enough to address backyard burning which, makes respiratory problems worse, and families move for the sake of their health. Ms. Rawlins encouraged Council to clarify and strengthen the ordinance and stated education on backyard burning is important.

Kristin Winn, 713 Ivanhoe Way, said she fully supports the ordinance, however she would like see stricter guidelines. She said wood burning is an irritant for those that have asthma and she is worried about the children struggling for breath. Ms. Winn stated she is looking at this ordinance as a first step to improving the air quality in the City. She encouraged Council to make a commitment to improve air quality and said there is a need to educate people who still burn garbage in the middle of the night.

Charlie Post, 653 N. Terrace Drive, said by reducing open burning, there will be an improvement in air quality. He stated it will be difficult to market this community with poor air quality. Mr. Post said he is happy to see clear air now because the burning season is over, however he would like to see clear air year round. He encouraged Council to pass the ordinance and would like to have clarification on the specifics of trash burning and enforcement.

David Scott, 2514 Snowmass Court, a physician with the Allergy and Asthma Center in Western Colorado, said the burn season paired with pollen in the air produces a double

whammy for people with allergies and asthma. He said this truly affects many people, especially children and the elderly, who have smaller bronchia. He stated there is statistical evidence of children developing smaller lungs with critical health issues in areas that have open burning and passing this ordinance is a small step in the right direction of better lung health.

Jim Baughman, 2579 F Road, presented pictures of his family's 20-acre farm in the center of the City of Grand Junction, where his family has lived for the past 89 years. Mr. Baughman stated this ordinance will make it difficult to maintain his family's property because the cottonwood trees generate large debris piles that need to be disposed of twice a year. Mr. Baughman said when the debris piles are burned there are no billowing plumes of smoke and they are very careful to maintain burn safety. He said that composting is implemented with leaves, however the sticks and other debris require a burning. He encouraged Council to not pass the ordinance as he fears they will not be able to continue their practice of burning debris on their property.

Bruce Baughman, 2579 F Road, said he would like clarity from Mesa County for burn permits. He stated the burns on their family property are totally safe and the fire pit on their property is also safe. He said that he is uncertain if their family property would be classified as agriculture or not; he feels that they have demonstrated that all burns done on their property are done safely.

Chris Greiner, 2934 G Road, said the property across from his property is 15 to 20 acres and is within the City limits. It contains several gardens but not able to utilize composting due to a large rodent, squirrel, and raccoon population. The debris from illegal dumping, elm trees, and tumbleweeds is so large it would be very difficult to remove from the property. He suggested an amendment to this burn ordinance be added for properties like this. He also commented that there may be more illegal dumping if a burn ordinance were to be enforced.

Erik Cornelison, 102 Mesa Vista Road, asked Council to address the problem of air quality in the City. He said he has an outdoor fire pit and does not know if it is considered legal or not, and asked for clarity. Mr. Cornelison asked if the real issue is clean air quality or legal burns. He mentioned that Grand Junction does not have major air quality concerns due to the wind currents which is why there aren't many hot air balloons flying in this area on a regular basis.

Harold Berry, 2494 Waite Avenue, said he understands the problems related to poor clean air quality and also the debris problem due to outdoor burning. He said it is the worst thing for children and the elderly with breathing problems and there should not be any outdoor burning all together. He mentioned the smell of smoke on his clothes after a bike ride and the emission control that Denver has implemented.

Anne Landman, 671 Moonrise Circle, said she has been living in Mesa County since 1982 and has worked as a registered respiratory therapist. She stated how difficult open burning is on patients with respiratory conditions and there are five oxygen centers located in the area. Ms. Landman said there are several retirees and asthmatic children on oxygen who need cleaner air quality. She said she supports the ordinance however; the burn restrictions may not go far enough.

Elizabeth Rowan, 1255 Ouray Avenue, returned to the podium and showed pictures of fire pits in a backyard and a burned computer on top of an incinerator.

Michael Day, 1224 Bonito Avenue, returned to the podium and said the amendment addresses the legal fire pit, not the smoke, and reduces the revenue from fire pit permits. He stated the City already has a good ordinance in place and suggested that it be enforced rather than passing a new ordinance.

There were no other public comments.

The public hearing was closed 9:10 p.m.

Councilmember Traylor Smith asked Chief Watkins if he had any comments.

Chief Watkins clarified permanent fire pits and fireplaces would still be allowed, however makeshift fire pits would not. He said agriculture burn guidelines will still be in place, but was unsure if the Baughman property would meet that property exception. He said open burning for agriculture only would be allowed.

Councilmember Chazen asked for clarification of what is allowed for open burning, the 50-foot clearance of the burn, and what type of material can be burned.

Chief Watkins said the ordinance allows burning of vegetation for agriculture only. Councilmember Chazen asked if there were any burn provisions for larger properties that are not agriculture. Chief Watkins said no, it is difficult to make such distinctions. Councilmember Chazen asked if there are any variances or exceptions. Chief Watkins said no.

City Attorney John Shaver answered some questions that had been asked: regarding phone information for questions on burn restrictions, he supplied the emergency phone number 911 and the non-emergency line (970) 242-6707; regarding the effective date of the ordinance, if approved, would be 32 days from this Council meeting; regarding if Council would adopt an air quality ordinance, yes, but it would have a different framework due to enforcement terms and Council expectations; regarding section 307.1.4 and if any outdoor burning is expressly prohibited or allowed, this would be an amendment to the Fire Code and have to be reconciled with amendments to the Code.

Councilmember Traylor Smith asked if any of the 1,300 burn permits issued this year would be issued under these provisions. Chief Watkins said the majority of burn permits issued are for locations in the Rural Fire Protection District, only 380 are within City Limits, and of those, most would not be eligible. Councilmember Traylor Smith asked if there would be an option for debris disposal that is able to be burned if taking it to the dump is not an option. Chief Watkins said there are some alternatives such as the compost facility, green waste in the Spring Cleanup, and the Leaf Pick Up Program.

Councilmember Traylor Smith asked what the additional enforcement cost and impact on the budget will be to implement the ordinance. City Manager Caton said resources are allocated for education that will offset fire extinguishment enforcement.

Councilmember Traylor Smith said there is confusion about fire ring requirements and asked if there are plans to communicate and clarify with citizens. Chief Watkins said there will be educational brochures and flyers with easy to understand terms and guidelines. He stated that they are trying to do away with homemade fire pits, unfortunately, this could be a sensitive issue due to those who have spent time and money on building these.

Councilmember Taggart asked for clarity on the fire pit issue and stated the challenges faced with larger acreage nonagricultural properties. He asked if a green waste program could be added as a service for a reasonable fee and if the County will have a database for burn permits issued. Chief Watkins said they have a web based database that is user friendly and have the capability to send reports to the City.

Councilmember Traylor Smith suggested the educational material include information on how to build an approved fire ring. Chief Watkins said they do not want to encourage people to build their own fire pit.

Councilmember Chazen said he would like to see more clarity regarding large properties and they need provisions or exceptions. He added the County could change regulations without the City's consent and suggested Council have some type of ordinance review board. Councilmember Chazen said he will not support this ordinance after hearing the citizens' testimony.

Councilmember Boeschstein said he will support this ordinance.

Councilmember McArthur said clean air and burn permit issues will keep coming up. The valley needs to evolve as urban uses increasingly bump up against rural uses and there needs to be flexibility for nonagricultural property as to burn debris. He asked how enforcement of the ordinance would be implemented.

Councilmember Kennedy said the area's air quality, especially during burn season, has become worse due to more nuisance burns. The ordinance would negatively affect a

minority of landowners. He said this is a wakeup call to start to mitigate the recreational fires. He believes that the majority of citizens want this ordinance.

Council President Norris asked who would issue open burn permits. Chief Watkins said the fireworks permits, specialty permits, and construction permits will be issued by the City Fire Department with all other burn permits will be issued through the County.

Councilmember Chazen stated they should be careful about passing a law that is not clear. The ordinance should be analyzed as it is criminalizing open burning.

Councilmember Traylor Smith said alternatives to burning should be offered as there is a potential for waste to build up on properties creating fire hazards and other unintended consequences. She would like to see clarity and more options before accepting an ordinance.

Councilmember Kennedy moved to approve Ordinance No. 4724 – An Ordinance Adopting Amendments to the 2012 Edition of the International Fire Code and Prescribing Regulations Governing Outdoor Burning, Restricted, and Unrestricted Burning; Providing for the Issuance of Permits for Certain Burning Activities and Defining Extinguishment Authority on final passage and order final publication in pamphlet form. Councilmember Boeschstein seconded the motion. Motion failed by roll call vote with Councilmembers Chazen, McArthur, Taggart, Traylor Smith, and Council President Norris voting NO.

Council President Norris said there needs to be solutions to the issues brought forward.

The Council took a break at 9:55 p.m.

The meeting reconvened at 10:02 p.m.

Consideration of Additional Funding for Street Maintenance

Infrastructure has been identified by City Council as one of the three areas of emphasis for public policy action. As such, Council has heard capital funding presentations over the last several months including long term funding to improve the condition of the roads. During the April 25, 2016 Council Workshop, Council identified road maintenance as one of the top capital spending priorities. During the August 1, 2016 Workshop, Council discussed potential funding options and directed staff to solicit additional input from the public and other stakeholders. A memo, similar to this report, was handed out at the October 3, 2016 Budget Workshop.

Greg Lanning, Public Works Director, introduced this item. He reviewed the recent history on this subject noting street maintenance is a priority and stated at the August Workshop staff was directed to get feedback from the community. This item is about

additional discussion and direction. He explained that the City currently has a PCI (pavement condition index) rating of 69 and the maintenance required to get to a higher PCI rating of 73, which is the rating goal Council would like to achieve. Mr. Lanning compared the metrics relative to the costs and where the PCI rating would be at the various levels of funding. He then described the public outreach embarked upon by staff which included open houses and a productive meeting with the Chamber. He said local contractors were supportive of additional funding for road maintenance and they would be able to handle the additional road maintenance work. Mr. Lanning stated if there were to be a ballot question to use the Taxpayer Bill of Rights (TABOR) excess funds, then the Parkway debt would be paid in 2024 which would cost additional interest. He stated with that the TABOR excess and existing resources, there would be \$30 million dollars to be use on road maintenance over five years bringing the PCI up to the goal rating of 73.

Councilmember Traylor Smith said she appreciates the public outreach and that constituents are in favor of additional funding for street maintenance, once explained. She stated a measure has to be clear, have a plan, and be explained to the people. Councilmember Traylor Smith said she is in favor of this funding.

Councilmember Chazen stated this additional funding needs to be voter approved. He asked how is the \$3.5 million is guaranteed as a base amount of funding since it would obligate future Councils.

City Attorney Shaver said from a legal perspective, there is not a guarantee, the amount is subject to change depending on the annual appropriation. He said the question for the ballot would be to obligate the fund overage for a particular use.

Councilmember Chazen said this is as if a promise is broken if the amount cannot be guaranteed. City Manager Caton stated discipline regarding policy and budget is what is needed, to hold the City accountable knowing the time frame and the targeted funding amount.

Councilmember Chazen asked for direction and assurance to the taxpayers that the TABOR excess will be directed only to street repair and maintenance. City Attorney Shaver said if the ballot question is to authorize use of the excess TABOR monies, it will be used for that purpose. Councilmember Chazen asked if the current issue is for Council to authorize to draft the language for the proposal and approval for the use of excess TABOR. City Attorney Shaver said yes, that is the purpose.

Councilmember Taggart asked if the resurfacing of the Riverside Parkway is a part of this proposal. Mr. Lanning said yes, the Riverside Parkway is included.

Councilmember Boeschstein stated the issues of Smart Streets, reduced lanes, underground infrastructure, and bikeways are part of street maintenance.

Councilmember Kennedy moved to direct Staff to draft a ballot question asking the voters to redirect funds accumulating for the early payoff of the Riverside Parkway debt to street maintenance. Councilmember Taggart 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 10:26 p.m.

Stephanie Tuin, MMC
City Clerk