

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

January 16, 2013

The City Council of the City of Grand Junction convened into regular session on the 16th day of January, 2013 at 7:00 p.m. in the City Auditorium. Those present were Councilmembers Bennett Boeschstein, Jim Doody, Tom Kenyon, Laura Luke, Sam Susuras, and Council President Bill Pitts. Councilmember Teresa Coons was absent. Also present were City Manager Rich Englehart, City Attorney John Shaver, and City Clerk Stephanie Tuin.

Council President Pitts called the meeting to order. Councilmember Doody led the Pledge of Allegiance, followed by an invocation by Reverend Patty, Two Rivers Center for Spiritual Living.

Presentations:

Jamie Hamilton, on behalf of JUCO, advised City Council that he was pleased to bring the second half of the payment for the Stadium renovation from JUCO in the amount of \$500,000. There were no tax dollars for this portion and he thanked Councilmember Kenyon and the rest of City Council for their support. JUCO and the Lincoln Park Stadium have received a lot of national coverage. All of this says a lot about what this community has done. He distributed some cards to the City Council.

Councilmember Kenyon said the passion and commitment of JUCO to this community for the next 25 years went over and above the dollars that were contributed. He noted that tickets for JUCO are on sale.

Rob Schoeber, Parks and Recreation Director, introduced the next presentation. He introduced Dr. Gisela Flannigan, Grand Junction Commission on Arts and Culture Chairperson, who then presented the Champion of the Arts Award, and the Annual State of the Arts Report from the Grand Junction Commission on Arts and Culture. The business award went to Doyle Trading Consultants. They supported the founding of High Desert Opera. Without the Doyles, the High Desert Opera would not be celebrating their tenth anniversary. Present to receive the award were Steve and Sylvia Doyle from Doyle Trading Consultants. The Arts Commission presented the Doyles with the "Bookcliffs Tryptic" by Susan Stanton.

Dr. Flannigan presented the individual award to Harold P. Moss and his late wife Ruth for their support of the Arts Center and the Summer Art Program at the Center. They have ensured it is accessible to all children. The Arts Commission presented "Whispering" by Mary Mansfield to Mr. Moss.

Dr. Flannigan then thanked the City Council for their support of the arts in Grand Junction.

Lorie Gregor, Arts and Culture Coordinator, handed out the Annual Report for the Commission on Arts and Culture for 2012, while Dr. Flannigan highlighted the report. Dr. Flannigan commented that, as in years past, there will be exhibitions in City Hall, Two Rivers Convention Center, and Tiara Rado. The 1% for the Arts Project produced five different works last year including artwork for the Police and Fire Administration buildings at the new Public Safety Facility. The Commission also sponsored a writing competition in 2012, created in Honor of Arts and Humanities Month, called "What Art Means to Me," which was open to children from 2nd grade to 12th grade. The Commission's grant program's main goal this last year was to make sure that grant money remained in the hands of local artists for local events. There were 29 grant requests for a total amount of \$47,266. Funding was awarded to 23 organizations for a total of \$43,300. Dr. Flannigan again thanked City Council for their support.

Council President Pitts called a short recess at 7:19 p.m. to allow those present for the Arts presentation to exit the room.

The meeting reconvened at 7:25 p.m.

Proclamation:

Proclaiming January 2013 as "National Mentoring Month" in the City of Grand Junction

Councilmember Boeschstein read the proclamation. Representatives from Mesa County Partners, Blake Ammon and George Rossman, were present to receive the proclamation. Mr. Ammon introduced George Rossman, who is a long time senior mentor, and she expressed her appreciation, and noted that they are looking for more mentors.

Appointments

Councilmember Susuras moved to appoint Teddy Hildebrandt, Carl Hochmuth, and Richard Edwards to three year terms expiring November 2015 and appoint Charles Thompson to the alternate position expiring November 2013, all to the Forestry Board. Councilmember Kenyon seconded the motion. Motion carried.

Council Comments

Councilmember Luke said she received a call from a constituent who took issue with the way the City Council conducts their meetings. She read a prepared statement.
"I received a call Tuesday from a constituent who expressed strong opposition to how City Council meetings are conducted – specifically with regard to what he called the 'lack

of transparency' or 'back room' meetings and decisions. Also, he took issue with any City Councilmember voting to utilize Certificates of Participation without voter approval. Because of the nature of the call, and the issues he raised, I thought it important to advise Council, and to use this opportunity, to state my position lest it be restated or recharacterized.

"City Council meetings are open to the public, they are noticed in advance, and they are often televised, and often detailed minutes are taken. Our Staff and Council have demonstrated a commitment to operating effectively within transparent environments, and most citizens are satisfied that our meetings are accessible, invite participation, and are lawful.

"I don't always agree with the Council majority, but I have no disagreement with how our actions are taken – if I do, I speak up; I recognize and appreciate being part of a system that works towards the best interests of the community and I believe our meeting processes do just that.

"Regarding COP's, I am confident in our attorney's advice regarding Certificates of Participation, how they are defined by law, and what dictates the proper use of this type of instrument. I was not on this Council when the decision was made to utilize COP's to build our baseball stadium, nor would I second guess that Council's decision. The instruments have been used locally by Mesa County, and to my understanding, throughout the State.

"These recessionary times may dictate a very different approach by Council to financing public investment than what transpired 5 or 6 years ago. In this particular economic climate, I would think long and hard about securing Certificates of Participation without voter approval, but I also recognize that use of the instruments as we have done is lawful.

"I am sharing this information with Council so that you know my position regarding these two issues, and to brief you in the event you are also contacted."

Councilmember Boeschstein commented that he met with the Incubator in their day long retreat today. He lauded all their efforts and projects. He also advised that the late Kathy Jordan will be recognized on February 7, 2013 at the Colorado Preservation Inc. Saving Places Conference for all her contributions toward historic preservation.

Councilmember Kenyon said the Airport Authority met last week and delayed the deadline for comments on the airport leasing policy, so comments are still being accepted. They are also advertising for an at-large member for the Airport Authority Board.

Council President Pitts said he was at the grand opening of Sprouts and there were a lot of people, the parking lot was full, and the Grand Junction High School Marching Band Drum Line was there.

Citizen Comments

Dennis Simpson, from Grand Junction, said he wanted to address the proposed ballot question. There are several issues with the ballot approved on Friday. The plan does not disclose that the plan is to issue debt. The cash flow will support \$60 to \$90 million of debt. The Staff report does not address that this is the plan. The ballot question limits the ability of future Councils to reprioritize. The possibility exists that the election to authorize the bonds may not succeed. Then the cash will have to be used on a pay-as-you-go basis. This ballot issue will preclude the option of redirecting funds to meet those needs. The other item on the ballot question leaves City Council with the option of excluding the electorate when it is time to borrow money. Mr. Simpson went on to restate what was said at the retreat on January 11, 2013.

Council President Pitts asked Mr. Simpson to take his seat as he had exceeded his allotted time.

CONSENT CALENDAR

Councilmember Kenyon moved to adopt and then read the Consent Calendar items #1-7. Councilmember Luke seconded the motion. Motion carried.

1. **Minutes of Previous Meeting**

Action: Approve the Minutes of the December 19, 2013 Regular Meeting

2. **2013 Meeting Schedule and Posting of Notices**

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

Resolution No. 01-13—A Resolution of the City of Grand Junction Designating the Location for the Posting of the Notice of Meetings, Establishing the 2013 City Council Meeting Schedule, and Establishing the Procedure for Calling of Special Meetings for the City Council

Action: Adopt Resolution No. 01-13

3. **Conduct of the Regular Municipal Election on April 2, 2013**

The City has adopted the Municipal Election Code. In order to conduct the election by mail ballot, the Council must authorize it pursuant to 1-7.5-104 C.R.S. and the City Clerk must submit a Written Plan outlining the details and responsibilities to the Secretary of State. It is recommended that the City again contract with Mesa County to conduct this election by mail ballot. They have the equipment on site and are able to prepare, mail out, and process the ballots more efficiently than the City. The contract with Mesa County will not exceed \$44,000.

Resolution No. 02-13—A Resolution Authorizing a Mail Ballot Election in the City of Grand Junction for Regular Municipal Election on April 2, 2013, Authorizing the City Clerk to Sign the Intergovernmental Agreement with Mesa County Clerk and Recorder and Approving the Written Plan for the Conduct of a Mail Ballot Election

Action: Adopt Resolution No. 02-13

4. **Setting a Hearing on the Feuerborn Annexation Located at 2902 and 2906 D Road** [File #ANX-2012-518]

A request to annex 2.69 acres, located at 2902 and 2906 D Road. The Feuerborn Annexation consists of two parcels, including portions of the 29 Road and D Road rights-of-way. The total annexation area contains 3.40 acres of which 0.71 acres or 30,826 sq. ft. is right-of-way.

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

Resolution No. 03-13—A Resolution Referring a Petition to the City Council for the Annexation of Lands to the City of Grand Junction, Colorado, Setting a Hearing on Such Annexation, and Exercising Land Use Control, Feuerborn Annexation, Located at 2902 and 2906 D Road

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

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado Feuerborn Annexation, Approximately 3.40 Acres, Located at 2902 and 2906 D Road

Action: Adopt Resolution No. 03-13, Introduce Proposed Ordinance, and Set a Public Hearing for February 20, 2013

5. **Setting a Hearing on the Rock Shop Enclave Annexation, Located South of D Road, East of S. 15th Street, and South of the Riverside Parkway, on both sides of 27 ½ Road, North of Las Colonias Park** [File # ANX-2012-574]

A request to annex 53.66 acres of enclaved property, consisting of 68 parcels and 3.84 acres of public right-of-way.

a. **Notice of Intent to Annex and Exercising Land Use Control**

Resolution No. 04-13—A Resolution of the City of Grand Junction Giving Notice that a Tract of Land Known as the Rock Shop Enclave, Located South of D Road, East of S. 15th Street, and South of the Riverside Parkway, on Both Sides of 27 ½ Road, North of Las Colonias Park, Consisting of Approximately 53.66 Acres, will be Considered for Annexation to the City of Grand Junction, Colorado and Exercising Land Use Control

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

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Rock Shop Enclave, Located South of D Road East of S. 15th Street, and South of the Riverside Parkway on Both Sides of 27 ½ Road North of Las Colonias Park, Consisting of Approximately 53.66 Acres

Action: Adopt Resolution No. 04-13, Introduce Proposed Ordinance, and Set a Hearing for April 3, 2013

6. **Sole Source Purchase of InfraMAP Software**

This request is for the sole source purchase of a software system required for remotely editing and updating City infrastructure data. The software interfaces with the City's Public Works Asset Management System (Lucity) and provides field access for Parks and Public Works employees to the data, maps, and work flow for that system.

Action: Authorize the City Purchasing Division to Enter into a Sole Source Contract with iWater of Irvine, CA in the Amount of \$76,980

7. **Contract for Electrical Equipment Upgrades for Water Treatment Facility**

Request to enter into a contract with EC Electric, Grand Junction, CO to relocate and replace the main electrical distribution switchgear at the Water Treatment Facility.

Action: Authorize the City Purchasing Division to Enter into a Contract with EC Electric in the Amount of \$57,342.05

ITEMS NEEDING INDIVIDUAL CONSIDERATION

Setting a Ballot Title in Response to a Protest Against Ordinance No. 4295, An Ordinance Zoning the Brady South Annexation to Industrial/Office Park (I-O) Zone District Located at 347 and 348 27 ½ Road and 2757 C ½ Road

The ordinance zoning these properties was protested through a successful referendum petition. The City Council at their September 5, 2012 meeting determined it was appropriate to refer the matter to the next regular election on April 2, 2013.

John Shaver, City Attorney, presented this item. He stated the purpose is to consider and set a ballot title for the electorate to consider Ordinance No. 4295. The recitals contain the record of the actions prior to this action. The request is the approval of the ballot language on the second page, identified as Ballot Measure A. The City Council decided on September 5, 2012 not to repeal the ordinance but rather to refer the matter to the ballot.

Council President Pitts asked the City Council if they would like to have public input. The Council agreed.

Harry Griff, one of the proponents of the petition that led to the election, said he received the proposed language the day before. He has concern with the recitals and the exact ballot language. It is his understanding the recitals will not be on the ballot, however, he asked if the recitals will be disseminated prior to the election. He wants them to be fair and objective in the background of how this got here. He believes the first two paragraphs need more clarification. The recommendation of City Staff and Planning Commission was to zone the property no higher than Industrial Office, and he feels strongly that this needs to be explained in the recitals as well. Neither the recitals, nor the ballot language state the actual adjacency to the properties, and he asked for an amendment to the language to clarify this.

Mike Russell, attorney for the property owner, said he thinks the recitals are for the purpose of giving the general background of how this occurred. The issues Mr. Griff raises are disputed issues, they are not objective. They are not here to get into an evidentiary hearing. City Attorney Shaver has set forth the critical facts and that is the purpose of the resolution, so he encouraged the City Council not to add anything to the resolution. Regarding the ballot language, the Charter states what the ballot title should say. He discouraged any change to the ballot title. He asked the resolution be adopted as written.

Susan Alexander, not a resident, lives outside of Whitewater, noted that a member of Council had just lauded a new employer in Grand Junction. She noted that Brady Trucking has been fighting this for five years, and has spent a lot of money to contribute to the community. She thought it was despicable that Brady Trucking has had to fight this and contribute so much financially.

Resolution No. 05-13—A Resolution Setting a Ballot Title and Submitting to the Electorate on April 2, 2013 a Measure Regarding Zoning Property Located at 347 27 1/2 Road, 348 27 1/2 Road and 2757 C 1/2 Road in the City of Grand Junction, Colorado

Councilmember Kenyon moved to adopt Resolution No. 05-13. Councilmember Susuras seconded the motion.

Councilmember Boeschstein said they have worked really hard to come to a compromise but that hasn't happened. He thanked the Staff for all their hard work to find a solution. He thanked the petitioners and all others that supported the ballot initiative. He put forward an amendment to the motion to include the paragraph from Harry Griff's letter "SLB Enterprises, doing business as Brady Trucking, purchased the property at 347 and 348 27 1/2 Road and 2757 C 1/2 Road in 2006. At that time, the property was located in the County. Brady Trucking was advised that before it could operate on the property, the property had to be annexed into the City and zoned for the first time in accordance with applicable City zoning." He also read from the March 21, 2007 Staff report, "Due to environmental conditions on the site, Staff did not support industrial classification. It was recommended that Industrial Office be applied to all three parcels."

Councilmember Kenyon did not accept the amendment. Councilmember Susuras agreed with not accepting the amendment.

Motion carried by roll call vote with Councilmember Boeschstein voting NO.

Setting a Ballot Title on a Measure to Retain and Spend Current Sales and Property Tax Revenue

In 1992, the Colorado electorate amended the Colorado Constitution by the passage of the "Taxpayers Bill of Rights" (TABOR Amendment). The Amendment requires, among other things, that any time fiscal year revenues exceed the limitation imposed by the Amendment for the fiscal year, then the local government must refund the revenues above the allowed limit unless the voters approve otherwise.

Approval of this ballot question would allow the City of Grand Junction to retain and spend current sales and property tax revenue to pay for continued investment in transportation improvements in the City.

John Shaver, City Attorney, presented this item. This item is proposed to be Referred Ballot Measure B. It is a similar process as the previous item. He identified the ballot language in the resolution. It does not create any debt, which would require another ballot question. Certificates of Participation (COP's), as Mr. Simpson referred to, would not be appropriate for any funding of transportation projects as identified in the ballot title.

Councilmember Kenyon clarified that COP's are for something that can actually be mortgaged like the jail or other buildings. City Attorney Shaver said yes, and there is no revenue stream associated with transportation projects.

Councilmember Kenyon noted the question is asking voters if they want to spend the excess on transportation projects. If the City Council decides to put a project forward and ask to issue debt, it would go back to the voters.

City Attorney Shaver said that is correct, if the voters do not support this option, the City Council could ask the question again in the future or else be obligated to refund the excess revenues after the Riverside Parkway bonds are retired. The excess could be refunded as a mill levy credit as one method of refunding.

Councilmember Kenyon noted that the Council is trying to plan ahead. Transportation projects take a long time to come to fruition, and an interchange is a huge undertaking. There are other transportation obligations and there are other funds for future Councils to allocate to the projects. City Attorney Shaver agreed.

Councilmember Susuras asked if bonding would be the best avenue for this project. City Attorney Shaver said for the interchange project, due to its high cost, the bonding indebtedness would be needed in order to do a project of that magnitude. Councilmember Susuras asked if there is an ending date for this particular waiver. City Attorney Shaver answered that the question says when the transportation costs have been paid in full.

Councilmember Susuras asked if all three projects would happen at the same time. City Attorney Shaver said there is no sequencing or priority in the ballot language, so he would defer to the City Manager or Deputy City Manager for that question.

City Manager Rich Englehart said Staff will bring to the Council, on an annual basis, the list of priorities and will address whether these dollars are available. Some of these projects could be done on a pay-as-you-go basis, however the interchange would likely require a debt question.

Councilmember Boeschstein asked about the estimated cost of the interchange. City Manager Englehart said around \$35 million without partners. However, they have talked to the County about partnering. Councilmember Boeschstein said he is opposed to this project being done without any partners, and noted that Mesa County is still collecting a 2% tax that was for 29 Road. He also thought Colorado Department of Transportation (CDOT) and the surrounding landowners should participate in the 29 Road project as well. Councilmember Boeschstein said he is going to propose a change to the language to include, "capital projects such as street improvements in Orchard Mesa, a new Community Recreation Center, bicycle and pedestrian trails as called for in the Grand Valley Trails Master Plan, riverfront parks and other projects". He said the projects do not have to be specified. The current language ties future Council to those specific projects.

With City Council's permission, Council President Pitts proposed public comment. City Council concurred.

Dennis Simpson spoke again. He said what City Attorney Shaver just said is different than what he told him. He believes that the City Council could still mortgage any building they own, and then spend the money on transportation. There was no revenue source for the Police Station. Mr. Simpson questioned some of what City Attorney Shaver has said. He said COP's are a silly bunch of rules, and bond salesmen figure out how to get away with it.

Councilmember Luke asked City Attorney Shaver if a transportation project can be funded using bonds, would this require a vote of the people. City Attorney Shaver said if COP's are used, that does not require a vote. City Attorney Shaver said a bond issue would require a vote. COP's are not defined as debt and do not require a vote. COP's are a lawful means of public finance and there needs to be a revenue stream for COP's to issue. This ballot question does not obligate or authorize any debt.

Council President Pitts asked about the last sentence in the ballot question, could the other projects mentioned by Councilmember Boeschstein be included? City Attorney Shaver said that would be a decision for Council. As proposed, the ballot language has specific projects, and there is an ending date. It would be his recommendation, if Councilmember Boeschstein's amendment is considered, to include the language just read to apply after the projects have been completed.

Parliamentary procedure and process were discussed briefly.

Councilmember Kenyon said the whole idea was the voters wanted the 29 Road and the interchange project done, so it doesn't make sense to substitute language that was the purpose of this whole ballot question. The other projects were added and will be ready to go sooner. He was not in favor of adding other projects.

Resolution No. 06-13—A Resolution Setting a Title and Submitting to the Electorate on April 2, 2013 a Measure to Retain and Spend Revenues as Defined by Article X, Section 20 of the Colorado Constitution

Councilmember Kenyon moved to adopt Resolution No. 06-13. Councilmember Doody seconded the motion. Motion carried by roll call vote with Councilmember Boeschstein voting NO.

Non-Scheduled Citizens & Visitors

There were none.

Other Business

There was none.

Adjournment

The meeting was adjourned at 8:20 p.m.

Stephanie Tuin, MMC
City Clerk