

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

**March 6, 2013**

The City Council of the City of Grand Junction convened into regular session on the 6<sup>th</sup> day of March, 2013 at 7:01 p.m. in the City Auditorium. Those present were Councilmembers Bennett Boeschstein, Teresa Coons, Jim Doody, Tom Kenyon, Laura Luke, Sam Susuras, and Council President Bill Pitts. 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 Luke led the Pledge of Allegiance followed by a moment of silence.

**Proclamation**

**Proclaiming the Week of March 3 through March 9, 2013 as “Women in Construction Week” in the City of Grand Junction**

Councilmember Kenyon read the proclamation.

Melissa Kenyon thanked the Council for the proclamation. She said their industry is starting to pick up a little bit. She encouraged anyone interested in the organization to get in touch with them.

**Appointments**

Councilmember Kenyon moved to ratify the appointment of Derek Wagner to the Riverview Technology Corporation Board of Directors for a three year term expiring February 2016. Councilmember Susuras seconded the motion. Motion carried.

**Certificate of Appointment**

Jon Schler was present to receive his Certificate of Appointment to the Historic Preservation Board.

**Council Comments**

Councilmember Boeschstein said he attended the Rocky Mountain Urban Leadership Symposium in Denver, Colorado, along with Downtown Development Authority Director, Harry Weiss, and Kevin Reimer, and Clark Atkinson of Grand Junction. He then announced that the Walking and Biking Summit is this Friday, March 8, 2013 at Two Rivers Convention Center.

Council President Pitts welcomed the Colorado Mesa University students in attendance.

### **Citizen Comments**

There were none.

### **CONSENT CALENDAR**

Councilmember Coons moved to approve and then read Consent Calendar items #1-9. Councilmember Susuras seconded the motion. Motion carried.

1. **Minutes of Previous Meetings**

*Action: Approve the Minutes of the February 20, 2013 Regular Meeting and the February 22, 2013 Special Meeting Executive Session*

2. **Setting a Hearing for the Library Alley Right-of-Way Vacation** [File #VAC-2012-419]

Request to vacate all remaining alleys within Block 73, City of Grand Junction, located between Grand Avenue and Ouray Avenue and N. 5th Street and N. 6th Street as part of the expansion of the Library.

Proposed Ordinance Vacating Right-of-Way for Mesa County Public Library Alley Located at 530/550 Grand Avenue and 443 N. 6<sup>th</sup> Street

*Action: Introduction of Proposed Ordinance and Set a Hearing for March 20, 2013*

3. **Setting a Hearing Adopting the Greater Downtown Plan** [File #CPA-2011-1067, CPA-2012-216, RZN-2012-217, ZCA-2012-363]

The Greater Downtown area generally encompasses the original square mile of the City and the area between the Riverside Neighborhood to 28 Road and South Avenue to the Colorado River. The Greater Downtown Plan includes the following components:

- 1) Comprehensive Plan amendments to Future Land Use Map
- 2) Comprehensive Plan text amendment to add RO (Residential Office) as a zone district that can implement the Downtown Mixed Use Land Use Category
- 3) Rezoning properties within the Greater Downtown Plan

- 4) Text amendment to the Zoning and Development Code to include RO (Residential Office) as a zone district that can implement the Downtown Mixed Use Land Use Category
- 5) Adoption of zoning overlays for Corridors and the Downtown District

Proposed Ordinance Adopting the Grand Junction Greater Downtown Plan as an Element of the Comprehensive Plan for the Area Generally Including the Original Square Mile, South Avenue to the Colorado River and Riverside Neighborhood to 28 Road

Proposed Ordinance Amending the Zoning and Development Code to Add Section 21.07.080 Greater Downtown Plan Zoning Overlay

Proposed Ordinance Adopting a New Zoning Map for Properties within the Greater Downtown Plan and Zoning Overlay Generally Including the Original Square Mile, the Area between South Avenue and the Colorado River and the Riverside Neighborhood to 28 Road

*Action: Introduction of Proposed Ordinance and Set a Hearing for March 20, 2013*

4. **Purchase One Pickup 1-Ton Flat Bed Standard Cab w/Scissor Type Platform Lift**

This purchase will provide a Pickup 1-Ton Flat Bed Standard Cab w/Scissor Type Platform Lift for the Transportation Engineering Division. This vehicle is a replacement to the fleet. There will also be a reduction to the fleet size as the division will be trading in the existing 1-ton truck and a Ford Explorer. This action will replace two units with one multiple purpose unit.

*Action: Authorize the City Purchasing Division to Purchase Pickup 1-Ton Flat Bed Standard Cab w/Scissor Type Platform Lift from Macdonald Equipment Co. of Commerce City, CO in the Amount of \$91,491*

5. **Purchase Four Large 4 Door 2x4 Sport Utility Police Special Services Vehicles**

This purchase of four large 2x4 sport utility vehicles will replace three police sedan patrol vehicles and one 4x4 patrol vehicle. As part of the Fleet Replacement Program, these new units will continue to be used as patrol vehicles in the Police Department.

*Action: Authorize the City Purchasing Division to Purchase Four Large 2x4 Sport Utility Police Special Services Vehicles from John Elway Chevrolet of Colorado Springs, CO in the Amount of \$146,248*

6. **Contract for the 2013 Asphalt Overlay Project**

This request is to award a construction contract for the asphalt resurfacing project at various locations throughout the City of Grand Junction with the most notable locations being: B ½ Road from Sherman Drive to 29 Road, 1st Street from Hall Avenue to Patterson Road, 15th Street from North Avenue to Patterson Road and 28 ¼ Road from Hall Avenue to Patterson Road. In all, a total of 15 locations were selected.

*Action: Authorize the City Purchasing Division to Enter into a Contract with Oldcastle SW Group Inc., dba United Companies of Mesa County of Grand Junction, CO for the 2013 Asphalt Overlay Project in the Amount of \$1,917,676*

7. **Affirming the City Manager's Actions to Convey Real Estate Interests to Realign the Frontage Road at West Independent Avenue**

The City has been working with the State and the owner of the property at 1274 West Independent to correct title problems and to create a safer connection between West Independent Avenue and the highway frontage road.

Resolution No. 13-13—A Resolution Ratifying the City Managers Conveyance of Land/Interests in Land to the State of Colorado for the West Independent Avenue Frontage Road Alignment

*Action: Adopt Resolution No. 13-13*

8. **Agreement with Strive (formerly Mesa Development Services) for Operation of Botanical Gardens**

The City entered into a contract with the Western Colorado Rose Society (now known as the Western Colorado Botanical Society) in 1994 for the lease and operation of the City land between the River and Struthers Avenue. The proposed agreement by and between Strive, the Western Colorado Botanical Society and the City terminates the 1994 lease and assigns the management and operational functions to Strive.

Resolution No. 16-13—A Resolution Authorizing the City Manager to Sign the Agreement by and between Strive/MDS, the Western Colorado Botanical Society

and the City of Grand Junction Concerning the Botanical Gardens and Ratifying Actions Heretofore taken in Connection Therewith

*Action: Adopt Resolution No. 16-13*

9. **Support of the 2<sup>nd</sup> Amendment to the U.S. Constitution**

The City Council recognizes supports and believes that the first and most meaningful means to oppose gun violence is the consistent enforcement of existing laws and the imposition of the maximum available punishment of those who commit crimes.

Resolution No. 17-13—A Resolution in Support of the Second Amendment to the United States Constitution

*Action: Adopt Resolution No. 17-13*

Staff presentation: John Shaver, City Attorney

**ITEMS NEEDING INDIVIDUAL CONSIDERATION**

**Public Hearing—Amending the Policy Concerning Transportation Capacity Payments (TCP) and Amendments to Section 21.06.010(b)(2) of the Grand Junction Municipal Code to Eliminate the TCP for a Change of Use**

Council will consider the following: 1) a resolution to increase the base rate of the Transportation Capacity Payment (TCP) for non-residential uses to equal the base rate for residential uses from \$1,589 to \$2,554 incrementally over three years: 2) a resolution that adopts a new Redevelopment Boundary Map as part of the Infill and Redevelopment Implementation Program and reduces the TCP requirements for new development within the Redevelopment Area: and 3) an ordinance amending Section 21.06.010(b)(2) eliminating the TCP for a change of use.

The public hearing was opened at 7:15 p.m.

Tim Moore, Deputy City Manager, introduced this item. He explained there are three independent actions on the agenda. Mr. Moore reviewed the discussions that have occurred on this topic since June 2012. On February 4, 2013, the implemental increase was discussed over a three year period and adopting Colorado Department of Transportation (CDOT) construction cost index. The actual costs were discussed and some specific locations were reviewed. The first area was the Pear Park area and the amount likely to be collected is at the higher rate and the cost of infrastructure required,

the development pays between 45% and 71% for residential development. A similar calculation was done for commercial development. The next area was 24 Road corridor and he did the same calculations, the cost that would likely be collected, first at the current rate and the cost at the proposed new rate. At the current rate, the development would only pay 25% and under the new rate they would pay 37% of the cost to build the needed infrastructure.

Deputy City Manager Moore stated the Duncan Study was commissioned in 2001 by all agencies in the valley to study transportation needs. That study was adopted valley-wide in 2002.

Councilmember Susuras asked if the Duncan Study is still valid ten years later. He questioned the validity. Deputy City Manager Moore said they are not using the Study to justify the numbers, they are using it as a historical benchmark.

Councilmember Boeschstein said the Duncan Study is nationally recognized and with the local Staff continuing to look at the scientific basis that the Duncan Study has, he is comfortable with using the Study.

Deputy City Manager Moore continued showing that the Duncan Study recommended that the developer should be paying 56% of the construction costs of infrastructure and currently developers are only paying 25% and the City is paying 75%. The City pays the remainder of the costs from the General Fund.

Councilmember Luke wanted clarification, that 75% is paid upfront by the City, and the additional cost above and beyond comes out of the General Fund for maintaining the project. Deputy City Manager Moore said yes.

Councilmember Susuras asked if the Duncan Study took into consideration the revenues that come to the City after the development has been completed. Deputy City Manager Moore said the Study does recognize the benefit of the development. They discount the residential amount to account for the residential property tax and other benefits of the development. That is part of why they only recommend the development should pay 56% of the costs.

Deputy City Manager Moore said the proposed stepped implementation of the rate increase increases the developer contribution to 29% the first year, 33% the second year, and 37% the third year.

The purpose of the next resolution is to incentivize development. A redevelopment boundary was developed and development will be encouraged within that boundary. Within that boundary, for any reuse of an existing building, there would be no TCP assessed. Any development within that area, the TCP would be only assessed at one-

half, and if the development was multi storied, it would only be half, based on the first floor.

Deputy City Manager Moore then provided specific examples of how that would apply.

The last action under this item is to eliminate the TCP fee for re-use and change of use of an existing building. This would be effective everywhere in the community. The TCP fee would be eliminated for reasons of reuse or change in use.

Councilmember Susuras asked if the map is showing specific properties. Deputy City Manager Moore answered no, the map is just showing examples both in and out of the boundary.

Councilmember Coons asked for clarification on the reuse. Deputy City Manager Moore said for the reuse, they would get credit for what the previous use was. If within the boundary, that fee would be cut in half.

Councilmember Kenyon asked if there are pending applications that would be affected by this action, and is there any lead in period for those caught in the middle of this change? Deputy City Manager Moore said once a decision is made, then all the applications in process are reviewed, and if they have been quoted fees, those fees are honored.

Councilmember Boeschstein thanked the Staff for the work on this proposal. With things as they are, the existing businesses are paying for new development. This proposal will make new development pay more of their own way. Councilmember Boeschstein then asked why Orchard Mesa and I-70 areas were not included in the redevelopment boundary. Deputy City Manager Moore said the areas in the boundary already have existing transportation systems in place that don't need a lot of improvement. Orchard Mesa has some deficiencies they would like to see corrected.

Councilmember Luke noted the number of fees that have been waived for a number of projects. Many residential developments also had fees waived that were not shown on the list.

Duncan McArthur, 2073 Kelso Mesa Drive, said consumers ultimately pay for it all, either up front or through the businesses. He said the slide should show what is generated from residential properties and how much is generated from non-residential taxpayers, along with use tax, which also comes from non-residential taxpayers. Mr. McArthur thought that would be a better representation. He said he agreed with Councilmember Boeschstein about including Orchard Mesa and incentivizing the development in that area.

Michael Burke, 2190 Canyon View Drive, member of Chamber Board of Directors and also an attorney that works with small businesses, said he believes that business owners are tentatively optimistic, and the question of whether “to go or not go” rests on the very slimmest of margins. He cautioned against a raise in TCP fees. He did not think the rate should be the same because the formula makes the impact on businesses much greater. Businesses are also taxpayers generating revenue. He said on the Duncan Study website, it was recommended that the study be updated every three to four years. He noted all the changes in the community for the transportation corridors. He disagreed with using the Duncan Study from 2002. He asked the City Council to not increase the fees until better information is had. He agreed with the redevelopment area, but felt the boundaries still need discussion.

Greg Motz, representing SunKing as a commercial developer, said he agreed with the previous two speakers. He added that he has never seen such a slow down of commercial building since 1980; there are very few privately funded commercial buildings being built. Businesses are scared. These businesses need incentive to expand. Increasing TCP fees gives them one more reason not to expand. Commercial construction is paying their fair share and provided an example; a 3,500 square foot bank would currently pay \$13,856 in TCP fees; with the TCP rate increase, by the end of 2015 it would pay \$22,256 in TCP fees. He gave other examples. Mr. Motz then broke it down by square feet and compared it to the residential rate. He suggested the TCP rate be increased on residential, especially high end residential.

Jerry Derby, asked about the Del Taco building (reduction in TCP fee), and why he did not get the same consideration on a building he built on Orchard Mesa. He asked why there should even be a TCP fee. He said the City should encourage people to come here to start businesses, and asked why the developers are being discouraged with the TCP fee.

Don Pettygrew, DGB Engineering, echoed what was said by Mr. McArthur. The business will just pass any tax right onto the consumer. He thought commercial development should be incentivized to get things going again. He suggested the whole City should be incentivized. The City should not be picking and choosing who gets the incentive. He cautioned about raising fees in a currently down economy.

Bob Weiffenbach, 2074 Pannier Court, suggested a thirty year bond to underwrite the whole thing, and then spread it out over the taxpayers for a long period of time. The TCP increase would be a deal breaker for developments in the City.

Diane Schwenke, 528 Greenbelt Court, Chamber Director, said one of the City’s main revenue streams is being a regional hub. It brings people from outside the community to spend their dollars. It is not all just taxpayers that are paying the General Fund



component. The City has to compete with other entities to get development into the community. It would be prudent to see what the fee structures are in the other communities Grand Junction competes with. She argued against the Duncan Study as it did not take into consideration the competition for attracting businesses.

There were no additional public comments.

The public hearing was closed at 8:08 p.m.

Councilmember Doody asked for a recap of the history of transportation improvements.

Deputy City Manager Tim Moore said the City has had some form of transportation improvements participation by development for many years. At the beginning, the City required half street improvements. A transportation engineer would make a recommendation and the developer had to pay for improvements that many times were unknown until they were well into the process. That process did not seem fair, and so the City made a policy change where the fee was set and known from the beginning, and the City then built the improvements. He noted that the other communities have adjusted their fees, some are higher, some are lower, and they have also changed their policies.

Councilmember Coons asked about the point made by Ms. Schwenke and how the City compares to others as far as competition. Deputy City Manager Moore said the City looked at the City of Fort Collins and other areas on the front range, and the rates were the same or higher. Councilmember Coons then asked about Western Slope communities. Deputy City Manager Moore said that has not been studied.

Councilmember Kenyon asked about the applicability of the Duncan Study. Deputy City Manager Moore said the framework is still valid, the math still works, and the science is still there. The Regional Transportation Office has modeling that makes the rate adjustment based on the current road system.

Councilmember Kenyon noted that a lot of jobs were lost due to the downturn in the economy, and the amount of people unemployed might change the assumptions in the study. He asked if traffic counts are done today and if they are compared to those traffic counts when the Duncan Study was completed. Deputy City Manager Moore said he does not think the traffic counts have decreased since the Duncan Study was completed. Deputy City Manager Moore agreed there is a question of balance and timing.

Councilmember Boeschstein mentioned the Institute of Transportation Engineering (ITE) manual that is a nationwide standard, that predicts the number of trips for each use in a day. That is the basis of the calculation. The City fee is pretty comparable to

other entities in the valley; a chart showing as much was displayed.

- 1) Resolution No. 14-13—A Resolution Adopting an Amended Redevelopment Fee Schedule Modifying the Transportation Capacity Payment Schedule
- 2) Resolution No. 15-13—A Resolution Adopting an Amended Redevelopment Boundary Map and Creating a Formula Reducing the TCP Requirements within the Redevelopment Area
- 3) Ordinance No. 4569—An Ordinance Amending Section 21.06.010(b)(2) of the Grand Junction Municipal Code Concerning Transportation Capacity Payments

Councilmember Doody moved to adopt Resolution Nos. 14-13, 15-13, and to adopt Ordinance No. 4569 and ordered it published in pamphlet form. Councilmember Boeschstein seconded the motion.

Councilmember Susuras said he respected the work done by City Staff. He recalled the consideration being put off last year due to the objections raised by the business and development community. The City Staff was directed to form a Task Force to consist of representatives from the business community to figure out the best way to go forward with an increase, and he encouraged City Staff to go forward with this Task Force. He agreed there needs to be an increase in the TCP rate. He also said, Staff could then update the Duncan Study. He does not feel this is the time to raise the fees.

Councilmember Luke asked about the logic in charging one business \$24,000 and waiving the fee for another business. Deputy City Manager Moore said requests came forward, they came before Council who considered the use, the benefits, and the value as an economic driver. Some requests were granted and some were not.

Councilmember Luke asked if that policy is still in place. Deputy City Manager Moore said yes.

Councilmember Coons offered an amendment to separate the two resolutions and the ordinance. She has the least concern about the ordinance. She thought arguing the issues separately would be better.

City Attorney Shaver said the motion to accomplish that would be to bifurcate.

Councilmember Coons move for making an amendment to the motion on the table. Councilmember Kenyon seconded. Motion failed with Councilmembers Doody, Luke, Boeschstein, and Council President Pitts voting NO.

Councilmember Doody said he liked what the City Staff has proposed. He thinks the ordinance is business friendly as is the second resolution. He noted there is also a big gap in the amount needed for infrastructure.

Council President Pitts asked about the effective dates.

City Attorney Shaver said the resolution says April 1, 2013 and an amendment would be required to change that.

Councilmember Kenyon made a motion to add three amendments to the motion: 1) make the effective date be the first of the next year. 2) form a Task Force, and update the Duncan Study and, 3) do not raise the fee beyond one year, just raise it \$322 until further study has taken place. He realized during the budget process, the cost and the amount of the budget that has to be directed to transportation, which dominates the ability to do other projects. He said a fee increase is very difficult. He said the City Council wants to be business friendly. Councilmember Coons seconded the proposed amendment.

Councilmember Luke asked for clarification regarding the amendments to the motion. Councilmember Kenyon clarified the amendments he proposed. She felt the rest of those affected need to be heard. The average everyday citizens are being impacted by these costs.

Council President Pitts said he wondered if a new Duncan Study would show an even greater amount needed.

Councilmember Doody said he would not accept the amendments, he would like to see the original motion voted on.

Motion carried by roll call vote on the original motion 4 to 3 with Councilmembers Coons, Kenyon, and Susuras voting NO.

### **Non-Scheduled Citizens & Visitors**

There were none.

### **Other Business**

There was none.

**Adjournment**

The meeting was adjourned at 8:37 p.m.

Stephanie Tuin, MMC  
City Clerk