

The Special Session was called to order at 10:05 A.M. by Mayor Ferguson with Mayor Pro Tem Miller, City Councilors Houck, Harriman, and Nesbitt present along with City Attorney Landwehr, City Manager Coleman, City Clerk Davidson, Community Development Director Westbay, Finance Director Hanson, several interested citizens and the press. A Council quorum was present. Also present were the following representatives from the Gunnison Rising Annexation Project: Bill Shuck, Richard Bratton, Dennis Minchow, James Kurtz-Phelan and Tim Seibert.

Presentation of Amended Annexation Petition to City Council. City Attorney Landwehr informed Council the signature page of the Amended Petition was changed after copies were made and placed in their packets. Rufus Wilderson amended his title on the petition from Attorney to Vice-Manager of Gunnison Gateway LLC. Attorney Landwehr stated the Petition substantially conforms to State Statutes, although he hasn't traced out the legal descriptions on a map. Dennis Minchow added he has traced the descriptions and they do represent the property as depicted on the accompanying maps. Attorney Landwehr reviewed the annexation process with Council. Mayor Pro Tem Miller feels time is of the essence as he doesn't want to see the Annexation become an election issue or to burden any new Councilors with this issue since it has been under review by the existing Council.

Tim Seibert stated the Applicants are working with the School District on their impact analysis and Dennis Minchow reported the applicants would like to have the impact report ready by next week. The Applicants would like the Resolution regarding the Annexation Petition be placed on the next Council Regular Session Agenda.

Negotiations with Gunnison Rising Annexation Applicants. Negotiations on the draft Annexation Agreement then commenced between Council and the Applicants. Listed below are the discussions that took place on sections of the Agreement.

Section 2.5 – City Attorney Landwehr would like clarification on who constructs the Parks & Recreation facilities. It is not well defined. Discussion on the City's subdivision and PUD processes ensued. Director Westbay stated each step allows for public input and review. Council consensus was there is a need to discuss specific details and not take a holistic approach to the entire Agreement.

Section 3.5 – Candidate Conservation Agreement with Assurances (CCAA). The US Fish and Wildlife Service needs to be changed to CO Division of Wildlife since the CDOW are the facilitators of the Certificates of Inclusion for the USFWS. Director Westbay will clarify the definition. He stated the CCAA's are typically for non-urban areas and it may be problematic for over 600 property owners in the annexed area to be participants. J Wenum, of the CDOW explained the CCAA's are intended for undeveloped lands such as open space since the developed lands would be lost to habitat. Director Westbay stated the City would require participation, via City Codes, in the CCAA for the non-developed properties in the annexed area. City Manager Coleman stated the City would like off-site mitigation needs to be addressed by the Applicants.

City Manager Coleman asked that the term "Commercially Reasonable Efforts" be defined. This is used in the utilities section and should be further defined. Does this include eminent domain by the City or the Applicants? City Manager Coleman requested clear pathways for acquisition mechanisms be defined. The Attorneys will examine this term.

Section 3.19 – "PUD Plan". Councilor Harriman asked for clarification and City Attorney Landwehr stated the process is in the existing Code. There are two mechanisms to modify an accepted PUD Plan, the first is administratively by the CD Director for a minor amendment and the second is for a major amendment and would be reviewed and acted upon by Council. Mr. Kurtz-Phelan will clarify the language.

Section 6 – Conditions to Annexation of Property. Mayor Ferguson asked the section be clarified. City Attorney Landwehr will review the section regarding the ordinances, challenges, final approval and the appeal process timeline. The Applicants would like the ordinance and maps recorded upon acceptance prior to the appeal time being satisfied.

Section 7.1 – Utilities Required. City Manager Coleman stated the section refers to existing structures with wells and septic and the CDOW site as discussed previously. A lengthy discussion on the demands of the proposed CDOW facilities ensued. CDOW Regional Manager Tom Speeze informed Council that in every instance the Division has built a facility, that facility is built to the local building standards and regulations. The proposed facility is not for housing and will be for day use. The 1350 gallons per day would be adequate. Discussion ensued and Mr. Kurtz-Phelan will add language to include up to 1950 gallons per day for the facility and will add back in the language referring to the City's ISDS Code language. City Attorney Landwehr stated any ISDS needs to be maintained to County Standards under the City Code.

Section 7.2 – Phasing Plan. Councilor Harriman asked if the Phasing Plan would be included in the PUD. Tim Seibert stated the draft phasing plan was brought to the City this morning. There are 10 phases now and the zoning is being defined. Councilor Harriman stated she has heard citizen concerns about the property being developed in a "leap-frog" fashion. Director Westbay stated the current Land Development Code (LDC) allows for any major changes in the Phasing Plan to be addressed by the Planning & Zoning Commission and City Council with public input. Mr. Seibert stated development will probably be market-based. If the market changes then the plans could change and they would come back to the City for approval. This could include changes to the utility extension plan. Director Westbay will look at the language in this section.

Section 8 – Land Dedications. Mayor Ferguson stated that since future needs are not known now, how is the land dedication done? Mr. Minchow stated that a trade-off of use for another use or an outright purchase of the property for a dedicated use could take place. The land dedication location would be determined in the subdivision plat. Director Westbay stated local trail connections could be a provision of additional dedications. A lengthy discussion ensued on land dedications and the possible needs in the future.

Section 8.2 – School District. Mayor Ferguson stated he thought they had decided the dedicated park land would be adjacent to the school. City Manager Coleman informed Council the School District needs to work out details with the Applicants and Mr. Kurtz-Phelan will change the language concerning the abutting park and school properties. City Attorney Landwehr will clarify the "undeveloped value" phrase in the section.

Section 8.4 – Open Space. There is a concern that as developments occur that the open space be coordinated between each new subdivision. The City doesn't want to see a trail to "nowhere". City Attorney Landwehr stated there needs to be clarity in who owns what open space and who is responsible for maintenance in the future. Mr. Seibert stated if the open space is dedicated to the City then they would maintain it. Director Westbay stated this can be defined in the PUD Master Plan. Mayor Pro Tem Miller stated there needs to be a provision in the PUD Plan that the City can develop their dedicated open-space if needed prior to a subdivision being developed. Discussion ensued. Mr. Seibert stated the Applicants will work on the timing issue with the City on this issue and development of roads as needed. Mr. Minchow stated the land would not be dedicated in an exact location to the City until the City wants to develop that park or City-facility.

Section 8.6 – Trail Corridors. Director Westbay stated the City wants the purview of design alignment in City-owned open space and not involve the Applicant. The language in the fourth line on page 13 of the Agreement needs to be changed. Road crossings of the trail corridors needs to be further refined in the document. The Road Master Plan needs to be referenced in this section.

Section 8.8 – Public Works. City Manager Coleman stated that the section needs to address that if the City needs the facility sooner rather than later, the access road from the highway could be dedicated by the Applicant and built at the expense of the City if needed. The Applicants concurred.

Section 8.9 – Housing. Councilor Houck restated he would like to see a 5% dedication for affordable housing in the Agreement. A lengthy discussion ensued regarding the housing needs assessment, future housing policy and fairness of the issue. Council consensus was to leave the section as listed.

Section 9.4 – Interim Electric Utility Service. City Attorney Landwehr clarified this section is referring to the existing Bratton residence. The City has to purchase the existing infrastructure from GCEA. Staff will discuss this issue with the Applicants for language clarification.

Section 11 – Utilities. City Manager Coleman stated the City needs the development phasing plan to assess the overall infrastructure improvements and their installation. This needs to be defined upfront to allow for future capacity needs. Councilor Houck warned the City doesn't want to commit all of the utility capacities to this annexation property and not have any available for development elsewhere. Mr. Minchow stated the PUD Development Phasing Plan will address the utility extensions. Utility capacities for phases of the entire development are determined and will be included in the Plan. Each utility installation will be engineered at each phase of the development. City Manager Coleman asked that the PUD Development Phasing Plan be referenced in this section and that the City Engineer will look at the language and percentages proposed prior to approval.

Section 11.2 – Utility Extension. City Attorney Landwehr stated this section mixes on-site and off-site utility improvements. Mr. Minchow stated the off-site improvements are in the Phasing Plan as well.

Section 11.3 – Utility Easements. Director Westbay wants to add debris flow retention structures and stormwater retention control in this section. Mr. Minchow stated this is included in the stormwater control system portion of the Agreement.

Mayor Ferguson stated that Councilor Nesbitt had to leave shortly for a meeting in Denver and asked him to state his concerns or issues prior to leaving. Councilor Nesbitt stated his comments. In Section 15.1 on Water Rights, he would like it stated who maintains the ditches before the City gets use of that water. If the Applicants are using the water for haying operations prior to development and the City has no beneficial use, who maintains the structures? Mr. Bratton stated the user would maintain the ditch structures and he will modify the language in that section. Councilor Nesbitt asked if the Applicants will determine the boundaries of the off-site lands. Mr. Kurtz-Phelan stated the surveyors will set the standards for trail surveys and any land surveying. Lastly, Councilor Nesbitt stated the signature page of the Agreement is very innovative. He would like it defined who is the party to contact if there is an issue with the Agreement. The Applicants will clarify that issue. Councilor Nesbitt left the Special Session at 12:26 P.M.

Mayor Ferguson asked to defer discussion on Metropolitan Districts until this evening's discussion during the Regular Session meeting. Council and the Applicants concurred.

Continuing Section 11.3 - Utility Easements. City Manager Coleman asked that the "hook-up" points between subdivisions or phases of the development be identified as to where these easement corridors will be placed. Director Westbay informed the Applicants the City will show where the existing City utility easements are located. Council consensus was for Staff to review the utility sections and work with the Applicants on resolving the issues.

Section 11.10 – Refuse Collection. Councilor Harriman asked for clarification and the City Attorney explained that all residences in the City must utilize City refuse collection but commercial properties may contract for service. The Applicants agree with the City requirements.

The Special Session meeting recessed at 12:38 P.M. and will resume at 5:00 P.M. prior to the scheduled Regular Session meeting.

The Special Session meeting reconvened at 5:04 P.M. Discussion and negotiation continued. Section 12 – Landscaping. Councilor Harriman expressed concerns about who is responsible for what landscaping. Mr. Seibert informed Council the landscaping responsibilities would be outlined in the covenants of each subdivision. Councilor Harriman suggested including that information in the Agreement in this section. Mr. Kurtz-Phelan will revise the language.

Councilor Houck wanted to know where conditions on berming of the RV Resort property would be listed. This has been a concern expressed by citizens. Should it be listed here in the Agreement? Mr. Seibert stated there is a specific zone for the RV Resort listed in the PUD Master Plan and berming and those types of conditions are listed there. All zones have some buffering and/or berming included in the conditions. These types of conditions would also be listed in the individual subdivision covenants. Berming or buffering would take place on individual properties not on City rights-of-way and would be the responsibility of the individual property owner, not the City.

Section 14 – Environmental Resource Protection. Director Westbay stated the City regulations and codes found in the PUD Code section needs to be referenced in this section.

Section 14.2 – Floodplain. Director Westbay stated the City is proposing floodplain language for inclusion in the Agreement and the PUD Master Plan. This language is based on FEMA Regulations. This is in Section 14.60 of the existing City Code.

Section 14.4 – Storm Water Management. Director Westbay informed the Applicants the City is looking at adopting National Pollutant Discharge Elimination System (NPDES) Program standards and the City wants that included in the Annexation Agreement. Reference to Storm Water Management is also addressed in Section 11.8. Councilor Harriman would like to have this Section rewritten somewhat and it needs to be integrated into the PUD Master Plan. It would be a major amendment to the PUD Plan as the City adopts Storm Water regulations.

Section 15.1 – Water Rights. City Manager Coleman explained he spoke with City Water Attorney Tim Beaton today and he will have feedback on Thursday. The City Manager asked Council to get him their questions and he will get Mr. Beaton's feedback on those questions. Council consensus was to get Tim Beaton's response on this section.

City Manager Coleman asked about possible development in the City's existing well field if the annexation well water doesn't meet the same level. Clarification needs to be included in the water supply quality section. Wright Water Engineers has been doing the analysis on the water. They need more data to come to a final water analysis conclusion. Mr. Kurtz-Phelan stated this information will be ready before any development. City Manager Coleman stated the Agreement needs to say that we will allow expansion of the existing system well field, at the applicants expense, if they need to meet water standards. Director Westbay stated this was identified as a crucial issue in the early stages of discussion and needs to be addressed at the front end of the process.

Section 16.1 – Street Dedications. Mayor Pro Tem Miller would like language on private roads included in this section. It would include meeting the City Road Construction Standards so that if the roads are dedicated in the future they will meet specifications. Director Westbay stated private roads should be built to the City Road Standards. Discussion on City snowplowing ensued. Mr. Kurt-Phelan will relook at this section.

Section 16.2 – Reserved Easement. City Manager Coleman explained the 60 foot wide easement is for a future traffic diffuser road and the easement is to the north boundary of the property. Mr. Minchow stated the Applicants want the easement dedicated at the time of development. It will be delineated but not immediately dedicated on the ground until the time of subdivision development.

Section 16.4 – Off-Site Improvements. A discussion on whether CDOT traffic warrants should apply to non-highway streets ensued. Mayor Ferguson stated in his experience in the past, traffic warrants can refer to Manual of Uniform Traffic Control Devices (MUTCD) Standards as well. These are used for in-city type streets. These standards are flexible but are also uniform jurisdiction to jurisdiction. Mr. Kurtz-Phelan will amend this section.

Section 16.4.4 – Infrastructure Extensions. City Attorney Landwehr stated that as the subdivisions are developed, the Applicants need to provide corridors for utility extensions to properties outside of the annexed area. This will allow for future utility extensions as they are

needed. The Applicants don't have to install the utilities, just ensure that they are able to be extended to the next or adjacent developments.

Section 16.5.1 – Highway Access Improvements. Discussion on reimbursement for excess traffic ensued. This refers to reimbursement to the current Applicants by future developers if the new development causes excess traffic. Future traffic generators would pay a proportional cost share of the initial reimbursement. Proposed traffic generation and highway configuration took place. City Attorney Landwehr will clarify the language.

Section 16.5.2 – Timing of Highway Improvements. City Attorney Landwehr stated the construction of the highway improvements must be done at the time of development. Director Westbay stated there is security posted and the CDOT Access Agreements must be in place before the subdivision approval is granted. The Applicants don't have to build the highway improvement prior to subdivision approval.

Section 16.7 – Public Transportation. Councilor Harriman would like greater clarity in the last sentence of the Section regarding the bus stops. After discussion, it was decided to remove this Section as it is addressed in Section 8.7.

Section 16.8 – PUD Plan. Councilor Harriman wants bus stops added to the list in the Section. Mr. Seibert stated the bus stops are addressed in the Transportation Section of the PUD Plan. Discussion on making the PUD Plan an amendment of the City Master Plan ensued. This Section will be retitled Roadway Master Plan.

Section 16.9 – Connections with Western State College. Councilor Houck suggested that from the standpoint of continuity, the WSC Foundation be added to this Section. City Manager Coleman stated the WSC Foundation Board is meeting this Friday to discuss this issue. Mr. Kurtz-Phelan will add the Foundation to the Section.

Section 17.1 – Real Estate Transfer Assessment. City Manager Coleman stated this has been discussed at length. City Attorney Landwehr felt the language in this Section is acceptable. The RETA Covenant needs to be more detailed and examined. Mr. Seibert stated this will be in the private covenants and is an obligation of the entire property.

Section 18 - Off-Site Lands. Mayor Pro Tem asked why the City is involved with managing property outside the City limits. Discussion ensued on the City Three-Mile Plan and how that affects property adjacent to the annexed property. Mayor Ferguson suggested including language in the Agreement that states the Applicants will work with the City on future developments adjacent to the City limits.

Section 21 – Protective Covenants. Director Westbay suggested adding “and subject to City Approval” to the 4th and 5th line. Consensus was to add the phrase.

Section 23.1 – Vested Rights – Zoning. Director Westbay would like the Section to state the zoning must comply with the existing code and any future amendments. Any change would be an amendment to the City Master Plan.

Section 23.2 – Permitted Uses/Design Standards. City Attorney Landwehr stated the Applicants can request an amendment to the permitted use or design standards based on the existing City Code. They can apply for a change to the PUD Master Plan and this would be handled like any other Amendment to any PUD. Discussion ensued. City Manager Coleman stated this might be an opportunity for future consideration for any increased density requests. Mayor Ferguson stated the City values following the processes outlined in the City Code. Once property is annexed into the City they are held to the same standards as everyone else.

Section 23.3 – Vesting of Property Rights. There is very little change from previous drafts. Councilor Harriman had some questions on terminology. She would like “site specific development plan” to be defined; Director Westbay stated a site development plan would allow for building plans to be issued. City Attorney Landwehr stated the term is defined in State Statute and this refers to vesting of property rights. He further explained development must be allowed according to the approved Annexation Agreement. The City can't adopt a regulation

that would prevent development as agreed upon in the Agreement for a period of 20 years. After 20 years, the City can adopt regulations that are different from the Agreement then the new regulations would apply. Councilor Houck wants some guarantee that some things that aren't addressed in the current City Code won't impair the City in the future. This could be something like regulations on ridge line development which we currently don't address in the City Code. Discussion on including language in the Agreement or the PUD Plan that future Land Development Code changes will apply if they are not addressed in the current Agreement ensued.

Section 23.4.4 – City Attorney Landwehr stated this section needs to be amended because there is some contradictory language. Mr. Kurtz-Phelan will amend the language in the next draft.

Section 23.5 – Term of Vested Property Rights. Discussion on the State Statute 20 year term of Vested Property Rights ensued. Mr. Kurtz-Phelan explained the intent is for the time to start after the challenge period, by the Court or Referendum, is met. This needs to be clear in the next draft Agreement.

Section 26 – Future Acts. Mr. Kurtz-Phelan stated he added this after discussion with the City Attorney.

Section 27 – Notice. City Manager Coleman stated the City wants the Applicants to be responsible for payment of the required Notices.

Section 36 – Force Majeur. City Attorney Landwehr stated he added this language back into the Agreement. Mr. Kurtz-Phelan agreed it is a standard provision.

City Manager Coleman stated some of the exhibits need to be fleshed out as well and Staff will work with the Applicants to accomplish this.

Mr. Kurtz-Phelan stated a timeline with this City Council would be desirable. The City Attorney and City Staff will work on a timeline of the entire process and will get that to Council next week. City Attorney Landwehr stated many of the components could be worked upon concurrently with the Annexation Agreement once they are received. Director Westbay stated he has been working with Tim Seibert on the PUD Plan and they will continue working on changes this week. They hope to have turnaround by the end of next week. Mr. Seibert stated they would like to have the formal PUD Plan submittal next week. The Applicants will get the revised maps on their website.

City Manager Coleman reminded Council the PUD Plan will go to the Planning & Zoning Commission for review and a Public Hearing prior to their making a recommendation to Council. This will be on a parallel track with determining the Annexation Petition Completeness Resolution. Staff will share the timeline with the Applicants with the proposed dates of completion. Dennis Minchow stated that even with the Petition Resolution approved at the next Regular Session, there is still a lot of work to be completed. Mayor Ferguson stated the City wants to be within the State Statute timelines. We don't want to leave anything out. Once the Resolution accepting the Petition is passed, the timeline starts for both the Annexation Ordinance and the Zoning Ordinance approval.

Adjournment: Hearing no further comments, the Mayor adjourned the Special Session meeting at 6:58 P.M. and the Regular Session meeting commenced.

Mayor

City Clerk