

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

**June 29, 2009**

The City Council of the City of Grand Junction convened into regular session on the 29<sup>th</sup> day of June 2009 at 7:04 p.m. in the City Auditorium. Those present were Councilmembers Bonnie Beckstein, Teresa Coons, Tom Kenyon, Gregg Palmer, Bill Pitts, Linda Romer Todd, and Council President Bruce Hill. Also present were City Manager Laurie Kadrach, City Attorney John Shaver, and City Clerk Stephanie Tuin.

Council President Hill called the meeting to order. Councilmember Beckstein led in the Pledge of Allegiance followed by a moment of silence.

**Appointments**

Councilmember Coons moved to re-appoint Lenna Watson and Dr. William Findlay to the Parks and Recreation Advisory Board for three year terms to expire June 2012. Councilmember Todd seconded the motion. Motion carried.

**Citizen Comments**

Jodie Behrman, 107 Park Drive, stated that she and the rest of the folks wanting to address the 7<sup>th</sup> Street issue will return on Wednesday to address their issue.

**Council Comments**

There were none.

**CONSENT CALENDAR**

Councilmember Beckstein read the Consent Calendar and then moved to approve items #1 through #3. Councilmember Kenyon seconded the motion. Motion carried by roll call vote.

1. **Minutes of Previous Meetings**

*Action: Approve the Minutes of the June 15, 2009 and the June 17, 2009 Regular Meetings*

2. **Setting a Hearing on Vacating an Alley Right-of-Way through the Center of Melrose Park, Located at 1827 North 26<sup>th</sup> Street** [File # SPR-2009-064]

Request to vacate 0.18 acres of alley right-of-way located through the center of Melrose Park at 1827 North 26<sup>th</sup> Street which is unnecessary for future roadway circulation.

Proposed Ordinance Vacating the Alley Right-of-way Located through the Center of Melrose Park at 1827 North 26<sup>th</sup> Street

*Action: Introduction of a Proposed Ordinance and Set a Hearing for July 13, 2009*

3. **Siena View Partial Vacation of Easement, Located at 448 San Juan Street, Lot 1, Block 1** [File # VE-2009-132]

A request to vacate a portion of a 14-foot multi-purpose easement (approximately 40.39 square feet), located at 448 San Juan Street, Lot 1, Block 1, Siena View Subdivision, Filing No. One, to amend a contractor's error.

Resolution No. 59-09—A Resolution Vacating a Portion of a Multi-Purpose Easement on Lot 1, Block 1, Siena View Subdivision, Filing No. One Located at 448 San Juan Street

*Action: Adopt Resolution No. 59-09*

### **ITEMS NEEDING INDIVIDUAL CONSIDERATION**

#### **Purchase of Road Oil for Chip Seal Program 2009**

Request the purchase of approximately 226,327 gallons of road oil for the Streets Division Annual Chip Seal Program for 2009.

Darren Starr, Solid Waste and Streets Manager, presented this item. He explained the chip seal program and the need for the road oil. Chip seal helps prolong the street surfaces. The type of oil being purchased allows traffic on the street immediately after the chip seal has been laid down.

Councilmember Palmer inquired about the sole source and asked about the local distributor. He noted the County uses the local distributor. Mr. Starr responded that the County does not use the same type of oil the City uses. It was tested by Mr. Starr's predecessor and it was determined that the oil from Cobitol allows for traffic to get back on, it doesn't bleed through, and there are less chips to sweep up afterward. This year

the price is less even though it is shipped from Denver. If the local distributor would carry this same product, they would consider purchasing from the local distributor.

Councilmember Coons asked if they will be trying to bid a bulk price. Mr. Starr said the \$2.31 per gallon is a bulk price.

Councilmember Palmer moved to authorize the City Purchasing Division to sole source purchase approximately 226,327 gallons of road oil from Cobitco, Inc., Denver, Colorado in the amount of approximately \$522,816. Councilmember Beckstein seconded the motion. Motion carried.

**Public Hearing—Emergency Ordinance to Prohibit Certain Forms of Aggressive Solicitation and Declaring an Emergency and Public Hearing—Emergency Ordinance to Prohibit Solicitation in City Medians and Rights of Way and Declaring an Emergency**

Council President Hill announced he was combining the two hearings regarding the solicitation ordinances.

The City of Grand Junction does not currently have a solicitation ordinance or one regulating interference with traffic on streets, roads and highways within the City. Acts of solicitation, such as soliciting for money or other things of value, have increased and may continue to do so because of the current economic recession. City staff, with the advice and consent of the City Council legislative committee, believes that it would be in the best interests of the community if ordinances are enacted that regulate certain aggressive acts of solicitation and solicitation in City medians and rights-of-way.

The public hearing was opened at 7:19 p.m.

John Shaver, City Attorney, presented this item. He explained the difference between the two ordinances, one is the type of solicitation and one addresses the locations of solicitation. The number of solicitors has increased and there have been more complaints. There is concern as to the safety of the drivers and the solicitors. He gave some examples of the type of solicitations that have resulted in complaints.

City Attorney Shaver then explained the emergency adoption of ordinances. There are some safety concerns, thus the reason they are being presented as emergency ordinances. There are also some advantages to having the ordinances go into effect immediately.

Deputy Chief Troy Smith then addressed the City Council about the resources that would be available to react to the ordinances being put into effect. The School Resource

Officers are placed on an Impact Team during the summer when the schools are closed and could address the implementation of and communication about the ordinances. Colleen Reynolds, 236 Pitkin Avenue, said they should be able to hold a sign if they are not being aggressive. She referred to the amendments that protect them to express their speech.

Bill Robinson, 754 26 ½ Road, said he was here to protest the two ordinances. He referred to a letter from the ACLU and said he believes the ordinances are a violation of the Constitution. He listed some of the other actions that would be prohibited by the ordinances. He said the City may get itself sued passing such ordinances. He agreed with arresting those that step out into the street or if they touch someone. He said prohibiting flying a sign is illegal and immoral.

Dorothea Locke, homeless, said flying a sign is the only means she has. She is not out there to get drunk. This is her livelihood. She said people don't give you money if they don't want to.

A former serviceman who did not provide a name stated he fought for freedom of speech and does not want that taken away.

Dianna Chadwant, homeless, said she receives social security and can't live on \$700 per month. She supplements her income by flying a sign. She is not aggressive.

Annie Murphy, 11073 Hwy 65, said she was opposed to the proposed ordinance. The ordinance is superfluous, there are already laws in place that address the concerns. It is overbroad, it prohibits peaceful activity and is content-based and not content-neutral. There is already a disorderly conduct ordinance in place. There are already ordinances prohibiting obstruction of roadways and other accessways. There is also a harassment statute in place. Loitering is already against the law. There is law in place for hindering transportation. Because there are these other laws in place, the first ordinance is unnecessary. Another ordinance will cost money to the taxpayers for training and enforcement. This ordinance prohibits activity that the Council probably does not want to prohibit. She listed a number of examples. The constitutionality is questionable; regulating panhandlers raises some concerns; the regulation must serve a compelling governmental interest and face a scrutiny test. There are problems in Grand Junction with poverty and homeless; she encouraged the resources be put toward a positive solution.

Mallory Rice, 425 N. 17<sup>th</sup> Street, a student at Mesa State College said this is the only source of income some people have and it becomes necessary for some; there are many other reasons. Not all homeless people drink and not all are asking for money to pay for liquor. The ordinance in place for no smoking in parks has brought hardship to the

homeless because of the fines. She would like the City to be part of the solution. Criminalizing the homeless is just going to create more homelessness.

Susan Cleveland, 2910 North Ave, stated that such an ordinance prevents her from exercising her freedoms by giving someone a dollar. Panhandling, flying signs, who hasn't asked for help in their lives. She pointed out the provision which questions what the money is being spent on. She doesn't care what her dollar is being spent on; it's none of her business. In regards to the safety issue, she questioned who this ordinance was meant to protect.

Reggie Cole stated he lives on the River, stated that it could be anyone in his shoes. No one has a secure job. He thinks the City is helping to create problems and would like the City to come up with another way to solve the homeless issue.

Nathan William O'Connell, stated his Colorado Department of Correction Register number, said he does not have an address. Because he is a felon, it is hard for him to get a job. He has three children. His wife has recently been kicked off assistance. The only way they have to collect the deposit for a house is by panhandling.

Dennis Hart, 823 Ute Avenue, stated he got a ticket for crossing the street in front of a police officer on a bike. Down the street two girls were jaywalking and they were not ticketed. He thinks this is selective prosecution. He said the jail will need to expand because the homeless people they are ticketing won't be able to pay their fines.

Beth Blakley, 3833 G ¾ Road, Palisade, said she recently moved here and works on human rights and considers herself homeless. She thought the ordinance is offensive and is a blatant attack on the homeless. She said she was shaking because she was so angry. She would like the City be a part of the viable solution for the homeless.

Kenneth Durrett, lives on the River, stated he estimated that the homeless will increase by ten percent. He stated that it takes a survivor to live on these streets.

Lisa Lightfoot, homeless, stated she is a fourth generation Coloradoan. She didn't think being homeless would ever happen to her, then she was assaulted and a lot changed in her life. She read a passage from the Bible to Council.

Kenneth Royal Wheeler, P.O. Box 3695, said he believes the police can pick and choose who they will give tickets to. He then referred to United Nations Universal Declaration of Human Rights.

Chris Hire, stated he has no address. He is part of the City's homeless community and originally from New York. He stated he is not familiar with all the City's laws, but in New York panhandling is considered aggressive unless a sign is being flown. He said that if

this ordinance is passed that the City will be proving the New Yorkers right when they say that people in Colorado are “backwards”. He stated that everyone is guaranteed freedom of expression under the Constitution.

Tom Aker, 2410 Sandridge Court, said he observed that the interactions have been very important, it has revealed new information about the homeless community. He said the poor are a valuable spiritual resource that help us to retain our bearings. He encouraged the Council to embrace all members of the community. He asked the Council to wait on these ordinances and get more input and decide how they will do something that will really solve the problems.

Mike Valentine, homeless, described himself as a roughneck who lost his job in the oilfield. When he moved from New Mexico to Colorado, he flew a sign in Ouray when his truck broke down and he had two children in the car in freezing weather.

Milton Long, no address provided, stated he has lived here for over 14 years and is not a transient. He said Bruce Hill is a friend to the homeless. He asked that Council do the right thing and not adopt the ordinances.

David Cox, 1143 White Avenue, said he is in opposition for three reasons: 1. It is being brought forward as an emergency and he does not think there is an emergency. The putting aside of the standard thirty day time period seems to be a bad idea. 2. In his opinion, the ordinances will not reach its desired goal as he is not aware of any injuries from or to solicitors. This ordinance could potentially create a larger problem. For the most part solicitors are non-violent. If this type of activity is criminalized, the homeless may turn to other means including actual crime. It is not going to eliminate the homeless problem, instead it may exasperate the problem. 3. The broadness of this ordinance affects political activities. This could be interpreted as prohibiting protests.

Chuck Beecham stated he is a resident of Mesa County. He represents gjresults.com. He has concerns if the purpose is to affect free speech and free assembly. He asked if solicitation does not apply to protestor situations. Council President Hill acknowledged the question and said that Council will address it during their discussion.

Michael Christopher Garnier, “Wolf”, stated he lives on North St. Vrain. He asked how much money the City is willing to spend? If panhandling is made illegal, they will still do it so more law enforcement will be needed. If the homeless do not have this resource they will turn to other methods like shoplifting. They aren’t hunters/gatherers like him. He suggested other programs that may be motivational that will help out the homeless.

William Cole, 3405 Beechwood Street, said he works at the “Soup Kitchen” and said fining panhandlers is futile; he agreed with getting people off the street and paying them.

Tammy Martin, 1708 Road in Mack, Co., said her concern is that there is such a homeless problem. There are about 1,200 homeless including 400 children; her concern is many people have no other means except holding a sign. She solicits business herself and she thinks it is a choice when to give them money. She suggested more energy and thought go into where these people are going to sleep this winter. The problem is not going to go away. These people need a system that will help them. There needs to be more resources in place.

H.R. Gerrard stated he is a homeless artist. Although, he doesn't fly a sign, he thanked the Catholic Outreach for having a place to shower and the Soup Kitchen for feeding them and keeping himself and others going. This ordinance is a problem. Many of the homeless know how to do things such as painting, construction, and electric work. He suggested the City put these homeless people to work rehabilitating buildings that are boarded up.

Mike Brown stated he was discharged from the military for ADHD. He took seven months of computer training in Montrose and he has hands that want to work. He made suggestions on how the City Council could provide lower rents.

Fran Diddier, 2808 Laddie Way, said she represents Grand Valley Peace and Justice and they do not support this particular solicitation ordinance. They understand the problem but don't support the ordinance for many of the reasons stated already tonight. Their group has some ideas, one of which is an afternoon place to be. There are many homeless women with children. One morning they had 17 women with children. They need another place like the morning place. She asked that someone from the Council join other agencies at Homeward Bound on Thursday from 10:00 a.m. to 11:00 a.m. to talk about this.

Jerry Garner, 674 Peony Drive, said the sentiment is against these proposed laws. They are overkill and totally unnecessary. He stated the City already has all kinds of laws on disorderly conduct, and laws against violence. If anyone attacks someone they should be thrown in jail. The City has laws that should be enforced. Mr. Garner asked if it is true that it is illegal to smoke in the park. He does not think it is an emergency measure. He agreed there may need to be a law that speaks to standing in the medians which may be a safety issue, but not for an individual on the sidewalk. He does not want it to be a crime to be poor. He asked that Council look at positive ways to help the homeless.

Robert MacDonald, 629 Ouray Avenue, reiterated several points. They shouldn't make it be a crime to be poor; many agencies collect along the street and they are not being condemned. He does not think the City has done anything to help. He stated it is better to be homeless than heartless. Homelessness could happen to anybody.

Bill Robinson, spoke for the second time, and wanted to correct a statement that was made earlier by the previous commenter. The City has provided and helped a great deal, as the building for the Soup Kitchen was contributed by the City.

Sister Karen Bland, 541 ½ 23 Road, said she asked the Council to have compassion in dealing with this problem. She thinks the punitive part of it is outrageous. The current Police Department has made efforts to develop a rapport with the homeless community. The Day Center was given to them by the City for free. She also noted that the City helped with St. Benedicts to help 23 homeless people have homes and no longer be homeless.

Laurel Ripple, 1506 Rood Avenue, said she thinks this is 100% bad idea. No one is immune to homelessness. Her house was flooded and deemed uninhabitable so she is without a home. She will find another home, but others will not. She stated that trying to find a job without an address is impossible.

Shannon Levins stated she is homeless by choice. She is a graduate from Boston University. She traveled for a couple of months and then ran out of money. Because of her hardship she has flown signs and wants Council to know that sometimes people need help.

George Vancycle, 550 South Avenue which is the Rescue Mission, stated he recently became homeless. Some weeks he works for temporary agencies and some weeks he doesn't, and he has to fly a sign when he doesn't. There are ordinances on the books that aren't enforced. He stated because of the Constitution of the United States, the City will not be able to enforce the ordinance and besides, it will be too costly.

No one else came forward to speak.

The public hearing was closed at 8:50 p.m.

Council President Hill thanked the public for their comments. He said the Council will take a break and there will be discussion when they return but they won't take anymore public comments. A recess was called at 8:53 p.m.

The meeting was reconvened at 9:03 p.m.

Councilmember Kenyon noted that several people claimed this is unconstitutional. City Attorney Shaver responded that he does not think it is. City Attorney Shaver said neither of these ordinances prohibit the holding of a sign. The ordinances regulate the location of solicitation and certain manners of solicitations, i.e. aggressive. Some parts of the aggressive solicitation ordinance may need to be looked at, because of time, place, and manner.

Councilmember Kenyon said the purpose is to prevent certain behavior. City Attorney Shaver said the Constitution does allow for restrictions on time, place, and a manner of free speech.

Councilmember Palmer expressed appreciation for the comments and courtesy. He asked how effective issuing a fine to homeless people that have limited means is, and if jail time is enforced, how will that affect the County jail? City Attorney Shaver said they do not want to unduly impact the jail. He agreed they need to be sensitive to that. There may be other viable solutions. The City will work with violators. There has to be a consequence for violation. Many of these folks are dealt with in the courts and for the most part pay their fines.

Councilmember Beckstein noted one of the criticisms of the aggressive solicitation ordinance is the impact on other types of solicitations such as from Girl Scouts and Firefighters. City Attorney Shaver responded that the ordinance says it is prohibited without permission of the private property owners and within the distance from the intersections as stated. Councilmember Beckstein asked about campaigners and protestors, how would those be handled? City Attorney Shaver read the definition of soliciting in both proposed ordinances. A political rally is not solicitation, unless they are asking for donations. The ordinance could be amended to define those things protected by the First Amendment. City Attorney Shaver clarified that solicitation is the exchange of money or things of value.

Councilmember Coons said there are three statements in the ordinance relative to the manner of solicitation she needed clarification on. The wording in the ordinance which states "no person should solicit in a group of two or more persons." If it was group, she would want her own children to have a buddy with them. The second is no person should solicit within 15 feet from a public or private building. She thinks this wording is unintentionally restrictive. City Attorney Shaver responded that the Downtown Shopping Park is an area of licensed activities so this provides relief from solicitations. The 15 feet wording in this ordinance also matches the smoking ordinance. A higher number of people (a group) creates a higher level of intimidation. All of these clauses can be severed from the ordinance and the remaining provisions can be retained.

Councilmember Todd was concerned about these being brought forward as an emergency although she understands the reasons. She asked if Council chose to take it through the normal process, how they could change it to a first reading? City Attorney Shaver responded that they could change this through Council's motion and direction to the City Attorney to re-write the ordinance taking out the emergency provisions and set a public hearing for a future meeting.

Councilmember Beckstein asked about a Supreme Court ruling regarding the religious groups in the airports, she asked how this is different? City Attorney Shaver said the court

would look at it with the strict scrutiny standard. The Council has the ability to change the distance restriction. The philosophy goes back to the time, place, and manner restrictions. This is a balancing test.

Councilmember Palmer asked, in the course of writing this ordinance, were other communities looked at and did they think it was a benefit to their community?

Councilmember Palmer also asked if, based on some of the comments, about crime rates rising due to passing this ordinance. City Attorney Shaver stated that based on what he heard which is a misunderstanding in that the protestors think this is a prohibition of solicitation. He does not think the crime rate would rise if the rules are followed. The primary complaints have been the unsafe street crossing and the traffic interference. There have also been complaints about the number of people on the medians.

Councilmember Coons inquired about the other ordinances mentioned that deal with some of the issues. Are any of the things in these ordinances already covered by other ordinances?

City Attorney Shaver said these would not be recommended if there was not a concern. There is frequently crossover of ordinances. A disorderly conduct or assault violation is when a fight is engaged. There is not a clear ordinance that speaks to where a person can solicit.

Deputy Chief Smith stated there are some ordinances and those are enforced but none of them occur in the context of solicitation.

Council President Hill suggested the Council address each ordinance separately taking the first one first.

Councilmember Coons said she understands the concerns that brought this forward. Her concern is that she is unprepared to vote on this ordinance as an emergency measure. She is willing to look at some of the pieces that can solve some problems. If they are truly trying to deal with health, safety, and welfare issues. She is not prepared to address it in this manner.

Councilmember Beckstein agreed with Councilmember Coons, adding that more discussion and research is needed. There is a need because complaints have been received about harassment. However, more time is needed. She would like it to be referred back for more discussion.

Councilmember Pitts recognized the intent, however, hearing the public input, enforcement is broad based and the City needs to step back, consider some of the comments made, consider how the City can go forward with enforcement and recognize some of the laws that are already in place that perhaps could just be expanded.

Councilmember Kenyon said he hopes that those affected help each other and police each other. This is all about complaints because of things that have happened. Council will have to address it if the complaints continue. He agrees this is not an emergency but wants to go back and consider the comments received and consider how to move forward.

Councilmember Todd said the conversation needs to be continued and, if not in full, some parts will come back. She hopes the next public hearing can be held without outbursts and signs.

Councilmember Palmer said he will hold most of his comments for the next public hearing on this matter.

Council President Hill then asked for comments on the solicitation in medians and rights-of-way ordinance.

Councilmember Beckstein said she will support the ordinance restricting solicitation in the medians. She does not believe there is any reason to be in the medians and rights-of-way putting lives at risk.

Councilmember Todd supports this ordinance although she's not sure about the emergency portion of it. She will support it either way.

Councilmember Palmer said they have the right and obligation to protect the citizens of the community. He agreed that median and rights-of-way are not safe places for panhandling. He too will support this ordinance.

Councilmember Kenyon agreed with Councilmember Palmer.

Councilmember Pitts does support this ordinance on the location for solicitations.

Councilmember Coons supports the median solicitation ordinance, but she is having a hard time with the aggressive solicitation ordinance with the wording of fifty feet from a signalized intersection. She wants it enforced for anyone. Given that, she would support this particular ordinance.

Council President Hill said neither ordinance was meant to be targeted at any sector of the community. Solicitation should not be in areas that are unsafe, so he supports the second ordinance. He believes promptness is important for safety issues. There is an opportunity to engage in a dialog in the community to explore the possibilities to improve what the City already has. He has issue with the fifty feet (item 3) and the parking space provision (item 4).

Councilmember Todd suggested they direct the City Attorney to redraft the first ordinance and set it for public hearing.

Councilmember Coons added that the Council and Staff should engage the community to find solutions that are less punitive and deal with the specific issues.

Council President Hill stated those should be two different discussions. He stated that as written, a motion could be entertained with Council not adopting it versus continuing it.

Councilmember Todd asked if it would be better to defer back to Staff.

City Attorney Shaver offered two options – vote on the question as it is on the agenda which is preferred by Staff for record reasons, or direct it back to Staff.

Ordinance No. 4363—An Ordinance to Prohibit Certain Forms of Aggressive Solicitation and Declaring an Emergency

Councilmember Kenyon moved to adopt Ordinance No. 4363 and ordered it published. Councilmember Todd seconded the motion. Motion failed unanimously by roll call vote.

Ordinance No. 4364—An Ordinance to Prohibit Solicitation in City Medians and Rights-of-Way and Declaring an Emergency

Councilmember Todd moved to adopt Ordinance No. 4364 and ordered it published. Councilmember Beckstein seconded the motion.

Council President Hill asked for more clarification from Staff on who is prohibited from solicitation in the medians and rights-of-way.

City Attorney Shaver offered Council additional verbiage to the solicitation definition that clarifies it does not apply to otherwise lawful assembly.

Councilmember Coons questioned the wording of this being truly a safety issue. The ordinance states that, if not soliciting, they can be in the unsafe location. She wants to see a revised form of this ordinance for clarification before she votes on it.

Councilmember Pitts stated that rather than amend the ordinance, Council should send it back to Staff for revision.

City Attorney Shaver clarified that if the previous speaker wanted affirmation, right to free speech is not considered solicitation.

Councilmember Coons stated she wanted clarification on the issue of unsafe solicitation, is it also not unsafe to picket?

Councilmember Beckstein added that this amendment does not change that median and rights-of-way activities are all illegal.

Councilmember Coons said she understood the definition of solicitation. She is concerned about this ordinance being an emergency in order to protect health and safety, no matter what they are doing.

Council President Hill stated that anybody standing out there doing nothing, it is still illegal.

Councilmember Coons asked about sidewalks.

City Attorney Shaver stated that this is severable from the rest of the provisions; the fifty feet is approximately two car lengths.

Councilmember Coons said she would support this ordinance if the fifty feet is severed. She would rather this come back as a newly crafted ordinance.

Councilmember Todd said this is truly a safety issue. Too many people standing in a right-of-way on the corner is a safety issue. She would like to support the ordinance as it is written.

Councilmember Kenyon said now he may have a problem. He supports protestors being able to express their views, he doesn't want to impede that.

Councilmember Palmer agreed with Councilmember Kenyon.

Motion failed by roll call vote with Councilmembers Pitts and Coons voting NO. As an emergency ordinance it had to be approved unanimously.

Council President Hill called a recess at 10:08 p.m.

The meeting reconvened at 10:18 p.m.

**Public Hearing—Bella Dimora Property Subdivision/Planned Zone Amendment, Located at Patterson Road, Grand Falls Drive and Valentino Way in The Legends and Legends East Subdivisions** [File #PP-2007-304]

A request for approval to amend and zone property located at Patterson Road, Grand Falls Drive and Valentino Way in The Legends and Legends East Subdivisions to PD, (Planned Development) with a default zone of R-8, (Residential – 8 du/ac) by approval of

the Preliminary Development Plan as a Planned Development containing 114 dwelling units on 13.87 +/- acres.

The public hearing was opened at 10:19 p.m.

Scott D. Peterson, Senior Planner, presented this item. He described the request, the location, and the site, and asked that the Staff Report and attachments be entered into the record. There has been no public comment on this subdivision and the Planning Commission did approve the subdivision at their May 12, 2009 meeting. The applicant is in the audience. He declined to comment.

There were no public comments.

The public hearing was closed at 10:20 p.m.

Councilmember Palmer asked if the streets are less than standard width. Mr. Peterson said the right-of-way is standard but the street section is less than standard. There will be parking allowed on only one side of the street.

Ordinance No. 4360—An Ordinance Amending the Existing Planned Development Zone by Including Additional Land with a Rezone of the Additional Land to Planned Development and Amending the Preliminary Plan with a Default R-8 (Residential – 8 DU/Ac) Zone District for the Development of 114 Dwelling Units for the Bella Dimora Subdivision, Located South of Patterson Road, North of Grand Falls Drive and Valentino Way

Councilmember Coons moved to adopt Ordinance No. 4360 and ordered it published. Councilmember Todd seconded the motion.

Councilmember Palmer said he has an issue with streets that are substandard. There always seems to be issues in the future. He will vote against approval.

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

**Public Hearing—Vacation of a Portion of the West Ridges Boulevard Right-of-Way, West of 2335, 2335 ½ and 2337A Rattlesnake Court** [File # VR-2009-012]

Request to vacate an undeveloped portion of the West Ridges Boulevard right-of-way which is unnecessary for future roadway circulation and will allow the adjacent property owners to use and maintain the property.

The public hearing was opened at 10:23 p.m.

Michelle Hoshide, Associate Planner, presented this item. The vacation request is for a portion of West Ridges Boulevard right-of-way. She described the location and then she requested that the Staff Report and the attachments be entered into the record. A ten-foot utility easement will be retained. The development meets the criteria and the Planning Commission recommended approval on May 26, 2009. The applicant is present but does not wish to give a presentation.

Councilmember Palmer asked why the City had no need for this property. Ms. Hoshide said the City does not need it and the adjacent owners would like to take over responsibility.

Janet Raczak, owns 2335 Rattlesnake Court but lives in Aspen. She corrected the record noting one of the parcels is 2337A Rattlesnake for one of the addresses.

There were no public comments.

The public hearing was closed at 10:28 p.m.

Ordinance No. 4365—An Ordinance Vacating a Portion of the West Ridges Boulevard Right-of-Way Located West of 2335, 2335 ½ and 2337A Rattlesnake Court

Councilmember Todd moved to adopt Ordinance No. 4365 and ordered it published. Councilmember Kenyon seconded the motion. Motion carried by roll call vote.

**Public Hearing—Zoning and Development Code Amendment Regarding Temporary Low-Traffic Storage Yards** [File # TAC-2009-105]

Request approval to amend Section 2.2 D.2. and Section 4.3 L. of the Zoning and Development Code to permit temporary low-traffic storage yards in the C-2 (General Commercial), I-1 (Light Industrial), and I-2 (General Industrial) zone districts.

The public hearing was opened at 10:29 p.m.

Greg Moberg, Planning Services Supervisor, presented this item. He described the request and the Code sections affected, and asked that the Staff Report and attachments be entered into the record. The request does meet the criteria and the Planning Commission recommended approval.

Councilmember Coons asked for a definition of the low traffic storage yard. Mr. Moberg said less than 15 to 30 vehicles to the site per day. Councilmember Coons confirmed this allows up to one year with the opportunity to renew. Mr. Moberg answered one year with a one year extension. Anything longer would require the applicant to go back before the Planning Commission.

Councilmember Palmer asked how would the one year be extended, if it would be administratively. Mr. Moberg responded it would be through the Director of Public Works and Planning.

There were no public comments.

The public hearing was closed at 10:31 p.m.

Ordinance No. 4366—An Ordinance Amending Section 2.2 D.2. and Section 4.3 L. of the Zoning and Development Code Regarding Temporary Low-Traffic Storage Yards

Councilmember Kenyon moved to adopt Ordinance No. 4366 and ordered it published. Councilmember Beckstein 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 10:32 p.m.

Stephanie Tuin, MMC  
City Clerk