

CITY OF GRAND JUNCTION, COLORADO MINUTES OF THE REGULAR MEETING OF  
THE CITY COUNCIL

February 7, 1990

The City Council of the City of Grand Junction, Colorado, convened in regular session the 7th day of February, 1990, at 7:30 p.m. in the City/County Auditorium at City Hall. Those present were John Bennett, Bill McCurry, Paul Nelson, Conner Shepherd, O.F. Ragsdale, and President of the Council R.T. Mantlo. Councilman Reford Theobald was absent. Also present were City Manager Mark Achen, City Attorney Dan Wilson, and City Clerk Neva Lockhart.

President of the Council Mantlo called the meeting to order and Councilman Nelson led in the Pledge of Allegiance.

INVOCATION - Pastor Dick Zollner.

CONSIDERATION OF MINUTES

There being no corrections or additions to the Minutes and amendment of the February 7, 1990, regular City Council meeting, they were approved as submitted.

PROCLAMATION DECLARING FEBRUARY 11-16, 1990, AS "NATIONAL WINTER SPORTS CLINIC WEEK"

ANNUAL PRESENTATION OF SERVICE AWARDS BY THE PARKS AND RECREATION ADVISORY BOARD AND DEPARTMENT

The following service awards were presented by Parks Director Ted Novack and Bob Manfred, representing the Parks and Recreation Advisory Board:

Betty Calhoun, Grand Junction Older American Center

Brian Harvey, Lightning Quick Print (Gift Brochure)

Ann Bowman, Williams Park Project

Kathy Krohn, Williams Park Project

APPOINTMENT TO THE GRAND JUNCTION PLANNING COMMISSION

Upon motion by Councilman Ragsdale, seconded by Councilman McCurry and carried, James Bittel was appointed to fill an unexpired term on the Grand Junction Planning Commission; said term to expire October 31, 1992.

APPOINTMENTS TO THE GRAND JUNCTION ARTS COMMISSION

Upon motion by Councilman Shepherd, seconded by Councilman Nelson and carried, the following were appointed to serve on the Grand Junction Arts Commission:

Five-Year Terms

Mary Buss

Larry Mazzeno

Sandra Brown

Four-Year Terms

V.A. Crumbaker

Time Wedel

Ann Sanders

Three-Year Terms

Allison Sarmo

John Patterson

Julie Schroeder-Wright

BID CONSIDERATIONS - AWARD OF CONTRACTS

The following were considered for approval:

Concrete Bridge Girders, Public Works - Rocky Mountain Prestress, Inc. - \$37,080

Backhoe/Loader, Utilities - Water Distribution - Century Equipment Company - \$48,945

Aerial Bucket Truck, Parks Forestry - Teague Equipment/Fuoco Motors - \$49,403

Pipeline TV Inspection System, Persigo - CUES, Inc. - \$24,960

Ambulance, Fire Department - Collins, Fire-Med Sales & Service - \$50,500

Upon motion by Councilman Nelson, seconded by Councilman McCurry and carried, bids were accepted on the above, the Contracts were awarded as noted, and the City Manager was authorized to sign said Contracts.

HEARING - ALLOWING CITIZENS TO REVIEW AND COMMENT ON THE CITY OF GRAND JUNCTION'S PERFORMANCE IN THE ADMINISTRATION OF THE NORTH FORK DIVERSION PIPELINE PROJECT, DEPARTMENT OF LOCAL AFFAIRS COMMUNITY DEVELOPMENT BLOCK GRANT PROJECT #88-947 - RESOLUTION NO. 11-90

A hearing was held after proper notice on the City of Grand Junction's Performance in the Administration of the North Fork Diversion Pipeline Project, Department of Local Affairs Community Development Block Grant Project #88-947. Public Works Director Jim Shanks was present to review the project. There were no opponents, letters or counterpetitions.

The following Resolution was presented:

RESOLUTION NO. 11-90

RESOLUTION AMENDING CONTRACT

This Resolution, made this 7th day of February, 1990, approving an amendment to an original contract, by the State of Colorado for use and benefit of the Department of Local Affairs, 1313 Sherman Street, Denver, Colorado, 80203, hereinafter referred to as the State, and the City of Grand Junction, Colorado, hereinafter referred to as the City.

WHEREAS, the parties hereto have entered into a Contract dated September 4, 1989, with State Contract Routing Number 88-947 and State Contract Encumbrance Number C959497, hereinafter called the Original Contract, for the expenditure of Community Development Block Grant (CDBG) funds to construct water diversion structures which will direct additional water into domestic water storage reservoirs for the City of Grand Junction; and

WHEREAS, the level of funding of the Original Contract places the City under the CDBG requirement to adhere to federal Davis-Bacon Fair Labor Standards; and

WHEREAS, it has been determined that in complying with Davis-Bacon requirements, the City will incur an additional \$10,145.32 over anticipated labor costs; and

WHEREAS, the State has agreed to compensate the City for the additional \$10,145.32 cost, thus bringing the total Contract Amount to \$60,145,32;

NOW, THEREFORE, it is hereby resolved that approval is given to authorize the Mayor of the City of Grand Junction to sign a contract amendment changing the original contract as follows:

1. The total contract amount given in section "11. Compensation and Method of Payment" on page 3 of 12 pages of the main body of the Original Contract be amended to read:

"ONE HUNDRED SIXTY THOUSAND ONE HUNDRED FORTY-FIVE AND 32/100 DOLLARS (\$160,145.32)."

2. On page 1 of 1 of Exhibit A, the scope of services to the Original Contract, section "3. Budget" be amended to read:

	Project COST	CDBG	Contractor
Construction of Water Diversion Structures 8B	\$440,687.32	\$160,145.32	\$280,542.00
TOTALS	\$440,687.32	\$160,145.32	\$280,542.00

PASSED and ADOPTED this 7th day of February, 1990.

/s/ R.T. Mantlo

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President of the Council

Attest:

/s/ Neva B. Lockhart, CMC

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City Clerk

Upon motion by Councilman Bennett, seconded by Councilman McCurry and carried by roll call vote, the Resolution was passed and adopted as read.

HEARING - APPLICATION BY GRAND JUNCTION AREA CHAMBER OF COMMERCE FOR A MALT, VINOUS AND SPIRITUOUS LIQUOR SPECIAL EVENTS PERMIT ON FEBRUARY 24, 1990, AT 715 HORIZON DRIVE FOR A FUND RAISER

A hearing was held after proper notice on the application by the Grand Junction Area Chamber of Commerce for a Malt, Vinous and Spirituous Liquor Special Events Permit on February 24, 1990, from 6:00 p.m. to 2:00 a.m., at 715 Horizon Drive for a fund raiser. April Heller was present representing the Grand Junction Area Chamber of Commerce. There were no opponents, letters or counterpetitions. Upon motion by Councilman Nelson, seconded by Councilman Shepherd and carried, the application was approved.

HEARING - RESOLUTION NO. 12-90 - PROPOSED ORDINANCE - HEATHERIDGE ESTATES ANNEXATION #2 - EAST OF SOUTH REDLANDS ROAD

A hearing was held after proper notice on Heatheridge Estates Annexation #2, east of South Redlands Road. Steve Andrews, Assistant to the City Manager, was present and gave a background and status report regarding said Annexation:

MISSION STATEMENT

CITY OF GRAND JUNCTION

## HEATHERIDGE ANNEXATION

The City of Grand Junction celebrates its 104 birthday in 1990. Today, it bears little resemblance to the City that was incorporated by its founding fathers in 1881 - voted in 1882. South Avenue to North Avenue, First Street to Twelfth Street was the original town site. Through these many years the city has continued to evolve, with the evolution conducted by its citizens and their elected representatives. Good years, bad years, the city survives. It provides the identity we present to the outside world when we say we are from Grand Junction.

The city is a community of neighborhoods with common interests that bonds us together. The city is engaged in "protecting and enhancing the quality of life for you, your family and your neighbors by allocation of labor, capital and facilities." This is accomplished in: public safety by police and fire services, street maintenance, and traffic system analysis; public health by water, sewer, and trash services; parks and recreation by parks maintenance, recreation programs, stadiums, swimming pools, tennis facilities, and golf courses; economic development by creating jobs through economic incentives to relocating industries; tourism by marketing the community and attractions; and housing through the public housing authority.

The city responds to the will of its citizens. Services provided today differ dramatically from those of 104 years ago, 50 years ago, even 10 years ago. As new members of our community arrive, their desires for services differ from those we currently have may lead to change. Economic development efforts extend our existing businesses and provide opportunities for employment to our children.

The City of Grand Junction is no longer a secret to the rest of the country. Our pristine vistas; temperate climate; accessibility to fishing, skiing, hiking, rafting, and biking; and the hospitality of our citizens will result in more people coming to visit and/or relocate to the area. This creates demands on the City's assets, such as streets, parks, public safety departments, and public health.

The City Council is dedicated to controlling this potential growth, rather than having growth control the Council. Hard decisions must be made to ensure quality of life issues for existing residents, as well as preparing for the future. The City will continue to evolve into the 21st century. It is everyone's responsibility to make certain the best and most equitable decisions are made. The city of the 21st century will not be what exists today, either in services provided or territory served.

Mesa County has formalized their strategic plan which includes eliminating the providing of municipal services in the urbanized area. The City of Grand Junction's business is to provide

municipal services. Maintenance of infrastructure, parks and recreation programs and facilities, development standards and land use issues, refuse collection service, and public safety that protects and enhances the quality of life is what we are about. Growth is important to our community's viability.

#### HEATHERIDGE ANNEXATION

Heatheridge is a single-family residential subdivision located west of Grand Junction near Monument Road. Six lots in Block 1 are already incorporated into the City, so contiguity does exist between the City and the unincorporated portion of Heatheridge. A community of interest exists between the City and Heatheridge; the area is urbanized; and the unincorporated area is capable of being integrated with the City.

The Heatheridge Home Owners Association has had dialogue with the Grand Junction City Council and staff concerning the possibility of annexation. In October, 1989, the Homeowners Association decided to take a vote of the property owners for the purpose of gaining an indication of interest for annexation. City staff developed a petition form that the Association's board members could circulate to property owners to obtain that indication of interest. The directions were to sign if in favor, do not sign if not in support of annexation. The results were picked up by staff on November 16. During tabulation, staff discovered signatures were absent from certain property owners that had informed the City they supported annexation. When contacted, these individuals informed us they had not seen the form and, therefore, had not signed. Staff spent two evenings contacting property owners that had not signed to determine if they were opposed or had not seen the form.

Upon completion, a tabulation of the signatures revealed 52%, or 85 of a possible 63, of the property owners supported annexation. Signatures not obtained included nine absentee owners (including Mesa County, which was not contacted) and seven signatures from the developer and vacant lots. Staff did not attempt to contact every property owner.

These results were presented to the Council's growth/annexation committee. Their discussions resulted in directing the City Clerk to exercise a 100% petition on behalf of the property owners under the City Clerk's appointment by a Power of Attorney signed by the three developers of Heatheridge Estates in September, 1975. The Power of Attorney was granted the City during a rezoning petition to Mesa County. The rezone allowed a category permitting urban development in Mesa County, which was available in the City but not the County. The rezone provided for the same density, 8.5/acre, with different set backs and building lines than allowed under County zoning, plus dedicated open space to Mesa County. The Power of Attorney is a covenant running with the land, binding on successors, and shall not cease.

Services to Heatheridge residents will not change for water, sewer, school district, fire and emergency medical service. Law enforcement and street maintenance will be provided by the City rather than Mesa County. Refuse collection service will also be provided by the City, rather than a private hauler.

The City's mill levy will substitute for the Grand Junction Rural Fire District mill levy. The collection of the City's mill levy will start in 1992. The GJRFDD levy will be collected in 1991. The average increase to the single-family residence, based on 1989 levies for the City and GJRFDD, is \$7/year. Refuse collection charges will be \$6.70/month, versus private haulers at \$9.25/month. The City's retail sales tax will apply upon completion of the annexation process. Other advantages to annexation are resident fees for recreation programs, the opportunity to serve on the City Council appointed boards, the right to run for elected office, and the right to vote on City referendum issues.

This concludes the overview of the proposed annexation. Staff is present to respond to any questions the residents may have.

There was no one in the audience speaking in favor of the annexation.

Those speaking in opposition to the proposed annexation were:

Keith Rademacher, 2506 1/2 Mt. Sopris, Heatheridge resident, sees no advantage in being a part of the City. He feels the City Council has paid little attention to the desires of its citizens in the past.

Judith Allen, Heatheridge resident, complained of incorrect addresses, incorrect ownerships, incorrect lot numbers, etc., and felt this annexation process has been accomplished without due consideration to the residents.

Vince Hostetler, Heatheridge resident, stated that this annexation will cost the City more than it will receive in additional property taxes. He questioned the real purpose for the City wanting to annex this particular area.

Councilman Shepherd and Steve Anderson, Assistant to the City Manager, responded to the questions of additional services available to the residents, and the Mesa County Assessor's property ownership list, respectively.

It was clarified by President of the Council Mantlo that the City will maintain the streets in Heatheridge Annexation.

The following Resolution was presented and read:

RESOLUTION NO. 12-90

WHEREAS, on the 3rd day of January, 1990, a petition was submitted to the City Council of the City of Grand Junction, Colorado, for annexation to said City of the following described property situate in Mesa County, Colorado, and known as "Heatheridge Annexation No. 2", to wit:

That real property being a portion of Heatheridge Estates in Section 22, Township 1 South, Range 1 West of the Ute Meridian, Mesa County, Colorado, to wit: Lots 7 through 10, Block 1; Lots 1 through 14, Block 2, and that lot labeled Public Site in said Block 2, together with all public rights-of-way for Rodell Drive and Antero Court as the same appear on the plat for Heatheridge Estates, recorded in Plat Book 11 at Page 177 in the office of the Mesa County Clerk and Recorder.

and

WHEREAS, a hearing on the petition was duly held after proper notice on the 7th day of February, 1990; and

WHEREAS, the Council has found and determined and does hereby find and determine that: said petition is in substantial compliance with statutory requirements therefor; that one-sixth of the perimeter of the area proposed to be annexed is contiguous with the City; that a community of interest exists between the territory and the City; that the territory proposed to be annexed is urban or will be urbanized in the near future; that the territory is integrated or is capable of being integrated with said City; that no land in single ownership has been divided by the proposed annexation; that no land held in identical ownership comprising more than twenty acres which, together with the buildings and improvements thereon, has an assessed valuation in excess of two hundred thousand dollars is included without the landowner's consent; that no part of the territory subject to other annexation proceedings; that no part of the territory is more than three miles from a point on the boundary of the City as such was established more than one year before this annexation will become effective, and; that an election is not required under the requirements of C.R.S. 31-12-104 et seq.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION:

That the said territory is eligible for annexation to the City of Grand Junction, Colorado, and should be so annexed by Ordinance.

PASSED and ADOPTED this 7th day of February, 1990.

/s/ R.T. Mantlo

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President of the Council

Attest:



/s/ Neva B. Lockhart, CMC

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City Clerk

Upon motion by Councilman Shepherd, seconded by Councilman Nelson and carried by roll call vote, the Resolution was passed and adopted as read.

The following entitled proposed ordinance was read by title only: AN ORDINANCE ANNEXING TERRITORY TO THE CITY OF GRAND JUNCTION, COLORADO. Upon motion by Councilman McCurry, seconded by Councilman Ragsdale and carried, the proposed ordinance was passed for publication.

HEARING - RESOLUTION NO. 13-90 - PROPOSED ORDINANCE - HEATHERIDGE ESTATES ANNEXATION #3 - SOUTH AND SOUTHWEST OF MARTELLO DRIVE

A hearing was held after proper notice on Heatheridge Estates Annexation #3, south and southwest of Martello Drive.

The following Resolution was presented and read:

RESOLUTION NO. 13-90

WHEREAS, on the 3rd day of January, 1990, a petition was submitted to the City Council of the City of Grand Junction, Colorado, for annexation to said City of the following described property situate in Mesa County, Colorado, and known as "Heatheridge Estates Annexation No. 3", to wit:

That real property being a portion of Heatheridge Estates in Section 22, Township 1 South, Range 1 West of the Ute Meridian, Mesa County, Colorado, to wit: Lots 15 through 41, Block 2 and all of Blocks 3 and 4 Heatheridge Subdivision and all public rights-of-way for Rodell Drive, Martello Court, Snowmass Court, Pikes Peak Drive, and Martello Drive and adjacent to the above lots and blocks, recorded in Plat Book 11 at Page 177 in the office of the Mesa County Clerk and Recorder.

and

WHEREAS, a hearing on the petition was duly held after proper notice on the 7th day of February, 1990; and

WHEREAS, the Council has found and determined and does hereby find and determine that: said petition is in substantial compliance with statutory requirements therefor; that one-sixth of the perimeter of the area proposed to be annexed is contiguous with the City; that a community of interest exists between the territory and the City; that the territory proposed to be annexed is urban or will be urbanized in the near future; that the territory is integrated or is capable of being integrated with said City; that no land in single ownership has been divided by the proposed annexation; that no land held in identical ownership

comprising more than twenty acres which, together with the buildings and improvements thereon, has an assessed valuation in excess of two hundred thousand dollars is included without the landowner's consent; that no part of the territory subject to other annexation proceedings; that no part of the territory is more than three miles from a point on the boundary of the City as such was established more than one year before this annexation will become effective, and; that an election is not required under the requirements of C.R.S. 31-12-104 et seq.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION:

That the said territory is eligible for annexation to the City of Grand Junction, Colorado, and should be so annexed by Ordinance.

PASSED and ADOPTED this 7th day of February, 1990.

/s/ R.T. Mantlo

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President of the Council

Attest:

/s/ Neva B. Lockhart, CMC

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City Clerk

Upon motion by Councilman Ragsdale, seconded by Councilman McCurry and carried by roll call vote, the Resolution was passed and adopted as read.

The following entitled proposed ordinance was read by title only: AN ORDINANCE ANNEXING TERRITORY TO THE CITY OF GRAND JUNCTION, COLORADO. Upon motion by Councilman McCurry, seconded by Councilman Ragsdale and carried, the proposed ordinance was passed for publication.

HEARING #58-89 - ZONE OF ANNEXATION FOR FOX ESTATES #1 AND #2, 28 ROAD AND RIDGE DRIVE, ZONE OF APPROXIMATELY 1.72 ACRES TO PUBLIC ZONE (PZ) - CONTINUED FROM THE JANUARY 17, 1990, CITY COUNCIL MEETING) - TABLED

Councilman Nelson stepped down from his chair at this time and abstained from any discussion and voting due to a conflict of interest. A hearing was continued from the January 17, 1990, City Council Meeting on a request by the City of Grand Junction to zone a portion of Fox Estates Annexation (approximately 1.72 acres) to Public Zone (PZ).

Acting Fire Chief Johnson was present to review this request.

Those speaking in favor:

Bob Manfred, 2328 Pheasant Run Circle, Spring Valley

Benny Maestas, Pheasant Run Circle, Spring Valley

Judd Perry, 1954 Beechwood, Spring Valley

Greg Hazelhurst, Pheasant Run Circle, Spring Valley

Richard Klapp, 3535 Beechwood, Spring Valley

Those speaking in opposition:

Scotty Rollinger, 2939 Pheasant Run Circle, Spring Valley

Patricia Ann Helm, 2614 Hawthorne Avenue

Tedford Hendrickson, 3330 Beechwood, Spring Valley

F. Gretchen Clemons, 3430 Beechwood, Spring Valley

Ann Thompson, 3620 Applewood, Spring Valley

Cindy Burdette, Pheasant Run Circle, Spring Valley

Allen Salter, 2214 Hawthorne Avenue

Doug Hackley, 3325 Applewood, Spring Valley

Janet Perry, 3120 Beechwood, Spring Valley

Paul Reddin, 3010 Cloverdale Court

Chuck Thompson, 3620 Applewood, Spring Valley

Claude Earley, 3745 Elderberry Circle, Spring Valley

Acting Fire Chief Ken Johnson, City Manager Mark Achen, and City Attorney Dan Wilson responded to the concerns of the above speakers.

The President declared a five-minute recess. Upon reconvening the five members of Council were present. Councilman Nelson continued to seated in the audience and abstained himself from any and all discussion.

Additional individuals speaking in opposition:

Jim Reilley, 2210 Elderberry Circle, Spring Valley

Merle Harrison, 2730 Beechwood, Spring Valley

Lana Fergesen, 3735 Beechwood, Spring Valley

Bill Fergesen, 3215 Beechwood, Spring Valley

Steve Mamich, 2434 Cortland Avenue

Haven Luskogin, 3152 Primrose

There were no other opponents, letters or counterpetitions. Council discussion then took place. The President closed the hearing. Upon motion by Councilman McCurry, seconded by Councilman Shepherd and carried the zoning of approximately 1.72 acres of Fox Estates Annexation to Public Zone (PZ) was postponed indefinitely. The Mayor stated that a Site Selection Committee will be appointed to pick a site in the general area for the relocation of Fire Station No. 2. He charged the residents of Spring Valley Subdivision to be a part of this Committee to locate a site and then to sell the location the residents. Many residents volunteered to serve.

The President called a five-minute recess. Upon reconvening all six members of Council were present as Councilman Nelson resumed his chair.

#### ORDINANCES ON FINAL PASSAGE - PROOFS OF PUBLICATION

Proofs of Publication on the following Ordinances proposed for final passage have been received and filed. Copies of the Ordinances proposed for final passage were submitted in writing to the City Council prior to the meeting.

FINAL ORDINANCE - FOX ESTATES ANNEXATION #1, 28 ROAD AT RIDGE DRIVE - TABLED TO FEBRUARY 21, 1990, CITY COUNCIL MEETING

Upon motion by Councilman McCurry, seconded by Councilman Bennett and carried with Councilman NELSON ABSTAINING, this item was tabled to February 21, 1990.

FINAL ORDINANCE - FOX ESTATES ANNEXATION #2 - TABLED TO FEBRUARY 21, 1990, CITY COUNCIL MEETING

Upon motion by Councilman McCurry, seconded by Councilman Bennett and carried with Councilman NELSON ABSTAINING, this item was tabled to February 21, 1990.

FINAL ORDINANCE - ZONE 58.28 ACRES OF FOX ESTATES ANNEXATION TO PLANNED RESIDENTIAL WITH A DENSITY OF 8 UNITS PER ACRE (PR-8) - TABLED TO FEBRUARY 21, 1990, CITY COUNCIL MEETING

Upon motion by Councilman McCurry, seconded by Councilman Bennett and carried with Councilman NELSON ABSTAINING, this item was tabled to February 21, 1990.

ORDINANCE NO. 2462 - REZONE FROM RSF-4 TO PR-4, SOUTHEAST CORNER OF 27 1/2 ROAD AND G ROAD (PTARMIGAN ESTATES SUBDIVISION)

Upon motion by Councilman McCurry, seconded by Councilman Bennett

and carried, the following entitled proposed ordinance was read by title only: CHANGING THE ZONING ON CERTAIN LANDS WITHIN THE CITY LOCATED GENERALLY SOUTHEAST OF 27 1/2 AND G ROADS.

There were no comments. Upon motion by Councilman Ragsdale, seconded by Councilman Shepherd and carried by roll call vote with Councilman NELSON ABSTAINING, the Ordinance was passed and adopted, numbered 2462, and ordered published.

FINAL ORDINANCE - DECLARING THE NECESSITY TO TAKE PRIVATE PROPERTY BY EMINENT DOMAIN AND SPECIFYING AND DESCRIBING THE PROPERTY TO BE TAKEN (SCHIESSWOHL CONDEMNATION AT FIRST AND ROOD) - TABLED TO FEBRUARY 21, 1990, CITY COUNCIL MEETING

City Attorney Dan Wilson requested that this item be tabled for an opportunity to explore further negotiations with Mr. Schiesswohl.

Upon motion by Councilman McCurry, seconded by Councilman Bennett and carried, this item was tabled to the February 21, 1990, City Council meeting.

RESOLUTION NO. 14-90 REFERRING AN ORDINANCE OF THE CITY OF GRAND JUNCTION TO THE ELECTORATE

The following Resolution was presented and read:

RESOLUTION NO. 14-90

A RESOLUTION REFERRING AN ORDINANCE OF THE CITY OF GRAND JUNCTION TO THE ELECTORATE

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION:

That Ordinance No. 2450 of the City of Grand Junction, Colorado, be submitted to the electorate of the City at an election to be held on the 3rd day of April, 1990, with the proposition being submitted on the ballot in the following form:

SUBMISSION OF ORDINANCE NO. 2450 OF THE CITY OF GRAND JUNCTION TO THE ELECTORATE OF THE CITY.

ORDINANCE NO. 2450 changes the zoning of a portion of Filing #4 of Northridge Estates Subdivision from Planned Residential with a density of 4 Units per acre to Planned Residential with a density of 12.7 Units per acre. The plan submitted with the zoning application indicated the site, approximately 10 acres, is located generally west of 7th Street, east of First Street, north of Patterson (F) Road, and south of the Grand Valley Canal.

FOR THE ORDINANCE

AGAINST THE ORDINANCE

PASSED and ADOPTED this 7th day of February, 1990.

/s/ R.T. Mantlo

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President of the Council

Attest:

/s/ Neva B. Lockhart, CMC

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City Clerk

Mr. Dick Thompson, 325 Music Lane, spoke regarding the wording of the Resolution, as it is not worded exactly as it is on the original petition that was filed with City Council. Councilman Shepherd questioned City Attorney Dan Wilson how close to the wording of a petition must the ballot question be worded. City Attorney Wilson preferred to have the ballot question be precisely the question that was circulated on the petition. The problem was that the petition, as circulated, had language that went beyond just a referral of the issue. It talked about the Planning Commission vote, etc. He felt it was an attempt to get signatures. He has attempted to word something that is neutral, yet descriptive of the project so that someone living outside the subject area would realize what the ballot question is saying. Mr. Thompson wished to stress the fact that the ballot issue is a "zoning density" question that is not compatible with the existing neighborhood."

Pat Edwards, representing Colson and Colson, Developers, was present stating that he felt it is important that the voters know exactly where the retirement center is to be located.

Concensus of Council was that the ballot wording should be completely neutral. Councilman Shepherd suggested deleting the word "would" after 2450, make "change" to "changes". In the second sentence the plan submitted with the zoning application indicated the site "approximately 10 acres" is inserted in there, "comma" is located, and placing a period after Grand Valley Canal, and deleting the rest of the last three lines.

Upon motion by Councilman Bennett, seconded by Councilman McCurry and carried by roll call vote, the Resolution as amended was passed and adopted as read.

RESOLUTION NO. 15-90 AUTHORIZING THE CITY MANAGER TO CONVEY A PORTION OF CITY-OWNED PROPERTY IN WHITEWATER TO DONALD AND SALLY SMITH - AN EXCHANGE OF PROPERTY WHEREBY THE CITY WILL ACQUIRE INTEREST IN AN EASEMENT FOR INGRESS/EGRESS PURPOSES TO OTHER CITY PROPERTIES

The following Resolution was presented and read:

RESOLUTION NO. 15-90

AUTHORIZING THE CONVEYANCE OF CITY OWNED PROPERTY TO DONALD DALE SMITH AND SALLY MARIE SMITH

WHEREAS, the City of Grand Junction is owner of that certain real property described as the North Half (N1/2) of the Northwest Quarter (NW1/4) of the Southwest Quarter (SW1/4) of Section 24, Township 2 South, Range 1 East of the Ute Meridian, Mesa County, Colorado; and

WHEREAS, Donald Dale Smith and Sally Marie Smith (the "Smiths") are owners of that certain real property described as the Southwest Quarter (SW1/4) of the Northwest Quarter (NW1/4) of Section 24, Township 2 South, Range 1 East of the Ute Meridian, Mesa County, Colorado, together with a nonexclusive easement which is more particularly described as follows:

The South 35.0 feet of Lots 30 through 36 of the Meserve Fruit Tracts lying South and West of U.S. Highway No. 50; AND ALSO a strip of land 50.0 feet in width lying South and West and adjacent to the Southwesterly right-of-way line for U.S. Highway No. 50, said strip of land being across Lots 35 and 36 of Meserve Fruit Tracts; and

WHEREAS, the Smiths are desirous of exchanging with the City the East 25.0 feet of their above described property, together with the perpetual right, title and interest in and to the above described nonexclusive easement, in exchange for the City conveying to the Smiths the North 25.0 feet of the N1/2 of the NW1/4 SW1/4 of Section 24 described above.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION:

That the City Manager be authorized, on behalf of the City and as the act of the City, to convey by General Warranty Deed the North 25.0 feet of the N1/2 of the NW1/4 SW1/4 of Section 24 described above to Donald Dale Smith and Sally Marie Smith upon receipt of a General Warranty Deed from Donald Dale Smith and Sally Marie Smith which conveys to the City the east 25.0 feet of the SW1/4 NW1/4 described above, together with the perpetual right, title and interest in and to the above described nonexclusive easement.

PASSED and ADOPTED this 7th day of February, 1990.

/s/ R.T. Mantlo

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President of the Council

Attest:

/s/ Neva B. Lockhart, CMC

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City Clerk

Upon motion by Councilman McCurry, seconded by Councilman Bennett and carried by roll call vote, the Resolution was passed and adopted as read.

RESOLUTION NO. 16-90 AUTHORIZING THE ISSUANCE OF A LICENSE AND INGRESS AND EGRESS PURPOSES ACROSS CITY OWNED PROPERTY TO DONALD DALE SMITH AND SALLY MARIE SMITH

The following Resolution was presented and read:

RESOLUTION NO. 16-90

AUTHORIZING THE ISSUANCE OF A LICENSE FOR INGRESS AND EGRESS PURPOSES ACROSS CITY OWNED PROPERTY TO DONALD DALE SMITH AND SALLY MARIE SMITH

WHEREAS, the City of Grand Junction is owner of that certain real property described as the Southeast Quarter (SE1/4) of the Northeast Quarter (NE1/4) of Section 23, Township 2 South, Range 1 East of the Ute Meridian, Mesa County, Colorado, and also that certain real property described as beginning at a point 90.0 feet South of the Northwest corner of the NE1/4 SE1/4 of said Section 23, thence North to the Northwest corner of said NE1/4 SE1/4, thence East 1320.0 feet to the Northeast corner of said NE1/4 SE1/4, thence South 630 feet, thence Northwesterly to the point of beginning; and

WHEREAS, Donald Dale Smith and Sally Marie Smith (the "Smiths") are desirous of securing from the City a license to utilize for ingress and egress purposes a 12 foot wide strip of land across portions of the above described City property to provide access from that certain platted County road known as Desert Road to their property, which is described as the Southwest Quarter (SW1/4) of the Northwest Quarter (NW1/4) of Section 24, Township 2 South, Range 1 East of the Ute Meridian, Mesa County, Colorado; the centerline of said 12 foot wide strip is more particularly described as follows, to wit:

Beginning at a point on the East line of the SE1/4 NE1/4 of Section 23, Township 2 South, Range 1 East of the Ute Meridian, Mesa County, Colorado, from whence the E1/4 corner of said Section 23 bears S 00 deg. 03 min. 55 sec. E a distance of 27.53 feet; thence S 60 deg. 22 min. 31 sec. W a distance of 42.19 feet; thence S 70 deg. 44 min. 46 sec. W a distance of 420.01 feet; thence N 87 deg. 39 min. 26 sec. W a distance of 77.16 feet; thence N 67 deg. 22 min. 18 sec. W a distance of 250.88 feet; thence N 61 deg. 48 min. 50 sec. W a distance of 196.83 feet; thence N 54 deg. 55 min. 20 sec. W a distance of 113.39 feet to a point of terminus, said point intersecting with the centerline of Desert Road.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION, COLORADO:



That the City Manager, on behalf of the City and as the act of the City, is hereby authorized and directed to issue the attached nonexclusive License to Donald Dale Smith and Sally Marie Smith for the purposes aforescribed. Provided, however, that said License shall inure only so long as the Smiths continue to own their aforescribed property, and that upon the transfer of any interest, equitable or legal, joint or several, of all or any portion of their above described property, or upon the death of both Donald Dale Smith and Sally Marie Smith, whichever event occurs first, said License, and the rights and benefits pursuant thereto, shall terminate; provided, further, that said License shall be issued only upon the concurrent execution by the Smiths of an agreement that they will save and hold the City, its officers, employees and agents harmless from, and indemnify the City, its officers, employees and agents with respect to any claims or causes of action however stated arising out of the use granted.

PASSED and ADOPTED this 7th day of February, 1990.

/s/ R.T. Mantlo

\_\_\_\_\_  
President of the Council

Attest:

/s/ Neva B. Lockhart, CMC

\_\_\_\_\_  
City Clerk

#### LICENSE

WHEREAS, Donald Dale Smith and Sally Marie Smith have petitioned the City Council of the City of Grand Junction, Colorado, for a nonexclusive License to allow them to utilize for ingress and egress purposes a 12 foot wide strip of City property to provide access from that certain platted County road, known as Desert Road, to their property which is described as the SW1/4 of the NW1/4 of Section 24, Township 2, South, Range 1 East of the Ute Meridian, Mesa County, Colorado; the centerline of said 12 foot wide strip is more particularly described as follows, to wit:

Beginning at a point on the East line of the SE1/4 NE1/4 of Section 23, Township 2 South, Range 1 East of the Ute Meridian, Mesa County, Colorado, from whence the E1/4 corner of said Section 23 bears S 00 deg. 03 min. 55 sec. E a distance of 27.53 feet; thence S 60 deg. 22 min. 31 sec. W a distance of 42.19 feet; thence S 70 deg. 44 min. 46 sec. W a distance of 420.01 feet; thence N 87 deg. 39 min. 26 sec. W a distance of 77.16 feet; thence N 67 deg. 22 min. 18 sec. W a distance of 250.88 feet; thence N 61 deg. 48 min. 50 sec. W a distance of 196.83 feet; thence N 54 deg. 55 min. 20 sec. W a distance of 113.39 feet to a point of terminus, said point intersecting with the centerline of Desert Road; and

WHEREAS, the City Council of the City of Grand Junction has determined that the issuance of said License would not at this time be detrimental to the inhabitants of the City;

NOW, THEREFORE, IN ACCORDANCE WITH THE ACTION OF THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION, COLORADO:

There is hereby issued to Donald Dale Smith and Sally Marie Smith a nonexclusive License to allow the use of the City property aforescribed for the purposes aforescribed; Provided, however, that said License shall inure only so long as the Smiths continue to own their aforescribed property, and that upon the transfer of any interest, equitable or legal, joint or several, of all or any portion of their above described property, or upon the death of both Donald Dale Smith and Sally Marie Smith, whichever event occurs first, said License, and the rights and benefits pursuant thereto, shall terminate; provided, further, that said License shall be issued only upon the concurrent execution by the Smiths of an agreement that they will save and hold the City, its officers, employees and agents harmless from, and indemnify the City, its officers, employees and agents with respect to any claims or causes of action however stated arising out of the use granted.

DATED this 7th day of February, 1990.

/s/ R.T. Mantlo

\_\_\_\_\_  
President of the Council

Attest:

/s/ Neva B. Lockhart, CMC

\_\_\_\_\_  
City Clerk

Acceptance:

;sigl;

/s/ Donald Dale Smith

;sigl;

/s/ Sally Marie Smith

AGREEMENT

Donald Dale Smith and Sally Marie Smith, for themselves, their heirs, successors and assigns, do hereby agree that they, and each of them, will abide by each and every condition contained in the foregoing License; and that they, and each of them, shall indemnify the City of Grand Junction, its officers, employees and agents and hold it, its officers, employees and agents harmless from all claims and causes of action as recited in said License.

DATED at Grand Junction, Colorado, this \_\_\_\_\_ day of \_\_\_\_\_, 1990.

;sigl;  
/s/ Donald Dale Smith

;sigl;  
/s/ Sally Marie Smith

STATE OF COLORADO	)	
	)	SS:
COUNTY OF MESA	)	

The foregoing Agreement was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 1990, by Donald Dale Smith and Sally Marie Smith.

Witness my hand and official seal.

My Commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

Upon motion by Councilman Bennett, seconded by Councilman McCurry and carried by roll call vote, the Resolution was passed and adopted as read.

RESOLUTION NO. 17-90 AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH INDUSTRIAL CONSTRUCTORS CORPORATION THAT ALLOWS THEM TO CONSTRUCT A HAUL ROAD TO BE USED IN CONJUNCTION WITH THE UMTRA PROJECT ACROSS A PORTION OF CITY-OWNED PROPERTY IN WHITEWATER

The following Resolution was presented and read:

RESOLUTION NO. 17-90

AUTHORIZING INDUSTRIAL CONSTRUCTORS CORPORATION TO CONSTRUCT AND USE A ROADWAY ON CITY PROPERTY

WHEREAS, The City of Grand Junction is the owner of certain real property described as the SE1/4 of the NW1/4 of Section 24, Township 2 South, Range 1 East of the Ute Meridian, Mesa County, Colorado, ("Property") which is presently leased for dry grazing

purposes to Donald Dale Smith and Sally Marie Smith, together with a nonexclusive easement which is described as follows:

The South 35.0 feet of Lots 30 through 36 of the Meserve Fruit Tracts lying South and West of U.S. Highway No. 50; AND ALSO a strip of land 50.0 feet in width lying South and West and adjacent to the Southwesterly right-of-way line for U.S. Highway No. 50, said strip of land being across Lots 35 and 36 of Meserve Fruit Tracts; and

WHEREAS, Industrial Constructors Corporation, a Montana corporation acting as the Uranium Mill Tailings Remedial Action Project Coordinator for the United States Department of Energy, is desirous of utilizing portions of the aforescribed City property and easement for the construction and use of a haul road in conjunction with the Uranium Mill Tailings Remedial Action Project; and

WHEREAS, subject to the conditions of the attached Agreement, the City Council of the City of Grand Junction finds that said request is reasonable and in the public interest.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION, COLORADO:

That the City Manager, on behalf of the City and as the act of the City, is hereby directed and authorized to execute the attached Agreement which authorizes Industrial Constructors Corporation to utilize portions of the aforescribed City property and easement for the installation, use and maintenance of a haul road.

PASSED and ADOPTED this 7th day of February, 1990.

/s/ R.T. Mantlo

\_\_\_\_\_  
President of the Council

Attest:

/s/ Neva B. Lockhart, CMC

\_\_\_\_\_  
City Clerk

#### AGREEMENT

THIS AGREEMENT is entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 1990, between THE CITY OF GRAND JUNCTION, a municipal corporation of the State of Colorado, hereinafter "City", INDUSTRIAL CONSTRUCTORS CORPORATION, a Montana Corporation acting as the Uranium Mill Tailings Remedial Action Project Coordinator for the United States Department of Energy (DOE), hereinafter "ICC", and DONALD DALE SMITH and SALLY MARIE SMITH, hereinafter "Smith".

RECITALS:

A. ICC, pursuant to a contract with DOE, has the duty to design and construct a haul road to be used in conjunction with the Uranium Mill Tailings Remedial Action Project ("UMTRA Project").

B. City is the owner of a parcel of land ("City Parcel"), being described as follows:

The Southeast 1/4 of the Northwest 1/4 of Section 24, Township 2 South, Range 1 East of the Ute Meridian, Mesa County, Colorado.

Said Parcel is presently being leased to Smith for dry grazing purposes.

C. City owns an interest in a nonexclusive easement across lands owned by Richard E. Anderton and Debbie Anderton, ("Anderton Easement"), which is described as follows:

The South 35.0 feet of Lots 30 through 36 of the Meserve Fruit Tracts lying South and West of U.S. Highway No. 50; AND ALSO a strip of land 50.0 feet in width lying South and West and adjacent to the Southwesterly right-of-way line for U.S. Highway No. 50, said strip of land being across Lots 35 and 36 of Meserve Fruit Tracts; and

D. ICC has requested to place the haul road across portions of the City Parcel as shown in Exhibit A attached hereto and incorporated herein by this reference, and across the Anderton Easement. The terms of this Agreement apply to the City Parcel and the Anderton Easement only.

NOW, THEREFORE, based on the recitals above, and in consideration of the mutual promises below, the parties agree as follows:

1. Grant of Right to Construct and Use. City, and Smith as Lessee, do hereby grant to ICC the right to:

(1) Construct a Haul Road over and across those portions of the City parcel as shown in Exhibit A and across the Anderton Easement.

(2) To remove and relocate existing fence lines and cattle guards on the City Parcel and within the Anderton Easement as necessary and at a location to be determined on the ground by City and Smith to facilitate placement of the Haul Road.

(3) To construct access ramps with asphalt surfacing across portions of the City Parcel and Anderton Easement, as reasonably deemed necessary by City and Smith, in order to provide uninterrupted vehicular access from said Parcel to the Haul Road. The locations of said ramps shall be as designated on the ground by City and Smith.

(4) To install pipes, culverts and ditches to provide for drainage where necessary.

(5) ICC shall, during the progress of the UMTRA Project, have full and complete nonexclusive use and access to the haul road so constructed.

The rights granted hereunder shall not be interpreted or construed to limit, hinder or impede Smith and City from the utilization and quiet enjoyment of the City Parcel during and upon completion of the UMTRA Project. Any vehicle associated with the UMTRA Project which utilizes the Haul Road across the City Parcel and Anderton Easement shall not exceed, while crossing the City Parcel and Anderton Easement, a speed of 55 miles per hour. ICC, its officers, employees and agents shall exercise due care in the construction, maintenance and utilization of the Haul Road for the safety and protection of persons and property, in particular City, its officers, employees and agents, and Smith and their invitees such that any property damage, personal injury or death caused during the UMTRA Project by ICC, its officers, employees and agents for failure to exercise due care shall be the responsibility and liability of ICC.

2. Maintenance and Repairs. Subsequent to the installation of the Haul Road, and at all times through the duration of the UMTRA Project, ICC shall, at its sole cost and expense, repair and maintain the Haul Road in order to keep it in as good a condition as when it was first installed. Upon completion of the UMTRA Project, ICC shall, at its sole cost and expense, make any repairs to the Haul Road as reasonably deemed necessary by City and Smith so as to restore the Haul Road to a condition which is comparable with a condition as when it was first installed. ICC shall be relieved of its repair and maintenance obligations only when an agreement of acceptance has been signed by the respective parties, which agreement of acceptance shall not be unreasonably withheld.

3. Liability and Indemnity. Through the duration of the UMTRA Project, ICC, and each of ICC's successors, licensees, lessees, contractors, assigns, employees and agents who receive the benefit of the rights herein granted to ICC, shall indemnify Smith and the City and hold Smith and the City, its officers, employees and agents harmless from any and all damages, claims for damages or causes of action to persons or property arising out of the use by ICC of the City Parcel, and any maintenance, or failure to maintain, not arising from City's or Smith's wilful misconduct.

4. Enforcement. The parties agree that the breach or violation, or failure to perform any of the terms and conditions in this Agreement may cause irreparable injury for which there shall be no adequate remedy at law for the aggrieved party. Accordingly, the parties agree that equitable relief in the form of specific performance or injunction shall be an appropriate remedy for an aggrieved party. However, the existence or exercise of an equitable remedy shall not be interpreted or construed as a

limitation upon any other remedy in equity or at law available to any party hereto aggrieved as a result of the default of a breach or nonperformance of another party. In this event, if any party seeks to enforce any term or provision of this Agreement by legal proceedings, the prevailing party in such legal proceedings shall be entitled to an award of its costs and expenses therefor, including reasonable attorney's fees.

5. Benefit. The terms of this Agreement shall be binding upon and inure to the benefit of the respective parties, their heirs, successors, assigns and legal representatives.

6. Venue. Venue for any action relating to or arising out of this Agreement shall be in Mesa County, Colorado.

DATED the year and day first above written.

CITY OF GRAND JUNCTION, a municipal corporation

By:

\_\_\_\_\_  
City Manager

Attest:

By:

\_\_\_\_\_  
City Clerk

INDUSTRIAL CONSTRUCTORS CORPORATION, a Montana corporation

By:

\_\_\_\_\_  
President

Attest:

By:

\_\_\_\_\_  
Donald Dale Smith

\_\_\_\_\_  
Sally Marie Smith

STATE OF COLORADO	)	
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	)	
	)	ss:
COUNTY OF MESA	)	

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 1990, by \_\_\_\_\_ as the City Manager and attested to by \_\_\_\_\_ as the City Clerk of the City of Grand Junction.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

STATE OF MONTANA	)	
	)	ss:
COUNTY OF MISSOULA	)	

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 1990, by \_\_\_\_\_ as the \_\_\_\_\_ and attested to by \_\_\_\_\_ as the \_\_\_\_\_ of Industrial Constructors Corporation.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

STATE OF COLORADO	)	
	)	ss:



COUNTY OF MESA	)	
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The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 1990, by Donald Dale Smith and Sally Marie Smith.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

Upon motion by Councilman Shepherd, seconded by Councilman Ragsdale and carried by roll call vote, the Resolution was passed and adopted as read.

AUTHORIZE THE ADVANCE OF UP TO \$45,750 FROM THE GENERAL FUND TO THE T.I.F. CAPITAL IMPROVEMENT FUND #203 FOR THE POWER UPGRADING AND HISTORICAL LIGHTING PROJECTS IN THE DOWNTOWN AREA, CONTINGENT UPON THE DOWNTOWN DEVELOPMENT AUTHORITY BOARD OF DIRECTORS WRITTEN AGREEMENT TO REPAY THE MONEY FROM THE FIRST AVAILABLE RESOURCES FROM FUTURE BORROWINGS

Upon motion by Councilman McCurry, seconded by Councilman Ragsdale and carried, authorization was given for the advance of up to \$45,750 from the General Fund to the T.I.F. Capital Improvement Fund #203 for the Power Upgrading and Historical Lighting Projects in the downtown area, was given, contingent upon the Downtown Development Authority Board of Directors written agreement to repay the funds from whatever source but at the latest, if not repaid with other sources of funds that it be repaid with T.I.F. funds when and if debt is refinanced or new debt is issued.

PILOT RECYCLING PROGRAM PERMIT

Darren Starr, Sanitation Supervisor, presented and reviewed a proposed permit (one year) required for the private party to conduct a Pilot Recycling Program in the Spring Valley Subdivision, City of Grand Junction, Steve Foss, 1710 DS Road, is the permittee.

Upon motion by Councilman Ragsdale, seconded by Councilman Nelson and carried, authorization was given to issue a permit to Mr. Steve Foss to conduct a Pilot Recycling Program in Spring Valley Subdivision.

ADJOURNMENT

The President adjourned the meeting.

Neva B. Lockhart

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Neva B. Lockhart, CMC  
City Clerk