

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

December 6, 1995

The City Council of the City of Grand Junction, Colorado, convened into regular session the 6th day of December, 1995, at 7:34 p.m. in the City/County Auditorium at City Hall. Those present were Linda Afman, Jim Baughman, David Graham, R.T. Mantlo, Janet Terry, Reford Theobold and President of the Council Ron Maupin. Also present were City Manager Mark Achen, City Attorney Dan Wilson, and City Clerk Stephanie Nye.

Council President Maupin called the meeting to order and Councilmember Afman led in the Pledge of Allegiance. The audience remained standing during the invocation by Councilmember Graham.

APPOINTMENT TO THE PLANNING COMMISSION

Upon motion by Councilmember Graham, seconded by Councilmember Theobold and carried, Jeff Driscoll was appointed to a four-year term on the Grand Junction Planning Commission, said term to expire October, 1999.

APPOINTMENTS TO THE BOARD OF APPEALS

Upon motion by Councilmember Graham, seconded by Councilmember Afman and carried, John Elmer and Joseph Marie were reappointed to the Board of Appeals, and JoAnn Winkelhake was appointed to the Board of Appeals, all three-year terms to expire October, 1998.

CONSENT ITEMS

Councilmember Graham requested Item #21 be removed from the Consent Calendar for full discussion. Mayor Maupin requested Item #20 be removed for full discussion, and Councilmember Baughman requested Items #6 and #11 be removed for full discussion.

Upon motion by Councilmember Theobold, seconded by Councilmember Afman and carried with Councilmember **BAUGHMAN** voting **NO** on Items #3, #12 and #13, Councilmember **GRAHAM** voting **NO** on Items #2 and #3, **ABSTAINING** on Item #8 and voting **NO** on Items #13 and #19, the following Consent Items 1-5, 7-10, 12-19 were approved:

1. **Approving** the minutes of the Regular Meeting November 15, 1995
2. **Proposed Ordinance** - The Annual Appropriation Ordinance Appropriating Certain Sums of Money to Defray the Necessary Expenses and Liabilities of the City of Grand Junction, Colorado, the Ridges Metropolitan District, and the Grand Junction West Water and Sanitation District, for the Year Beginning January 1, 1996, and Ending December 31, 1996

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The appropriations requests are the result of the budget preparation and reviews over the last several months as presented and reviewed by City management and the City Council.

a. First Reading of Proposed Ordinance

3. **Purchase and Distribution of Residential Refuse Containers**

a. *** Resolution No. 105-95** - A Resolution Approving an Interfund Loan from the General Fund to the Solid Waste Fund in the Amount of \$643,725

b. **Award of Contract** to Provide and Distribute 12,400 Residential Refuse Containers for the Automated Refuse Collection System - Recommended Award: Toter, Inc. of Sanger, California - \$643,725

Authorizing an interfund loan for the purchase and authorizing the City Manager to sign a \$643,725 contract with Toter, Inc. of Sanger, California to provide and distribute 12,400 residential refuse containers. The containers are required to initiate the automated refuse collection system.

4. **Authorizing** the Purchasing Agent to Use a Competitive Bid Received in January to Purchase an Identical Front-Loading Sanitation Truck
Recommended Award: Mesa Mack, Grand Junction - \$144,969

The Purchasing Agent requests permission to use a competitive bid received in January to purchase an identical front-loading sanitation truck at a cost of \$144,969. The successful bidder, Mesa Mack, has agreed to sell the City another identical truck for the same price, \$144,969.

5. **Approving** the Purchase of Playground Equipment and Safety Surfacing for Columbine Park and Darla Jean Park

Equipment will be purchased from two vendors at a cost of \$89,290. Six proposals were received and evaluated by Parks Department. Staff recommends purchasing equipment for Columbine Park from Churchich Recreation Co., Boulder, Colorado, in the amount of \$59,991, and equipment for Darla Jean Park from Recreation Plus, Ltd., Golden, Colorado, in the amount of \$29,299.

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6. **Proposed Ordinance** - An Ordinance Requiring the Removal and Proper Disposal of Dog Excrement - **REMOVED FROM CONSENT FOR FULL DISCUSSION**

This ordinance would require dog owners to be responsible for solid dog waste on public ways, in public places or on private property not belonging to the owner of the dog. It would require dog owners or possessors or persons in charge of any dog within the City be reasonably required to remove any solid dog waste and to properly dispose of same. The ordinance would also require owners, keepers or harborers of dogs be required to possess suitable equipment for the riddance of such waste.

a. First Reading of Proposed Ordinance

7. *** Resolution No. 106-95** - A Resolution Establishing the 1996-1997 Fees and Charges Policy for the City of Grand Junction Parks and Recreation Department

The Parks and Recreation Department annually evaluates recreation program fees, facility admission fees, facility use fees, golf course fees, and cemetery fees. The fees are based on identified cost recovery percentages and projected revenue sources for each area.

8. *** Resolution No. 107-95** - A Joint Resolution of the County of Mesa and the City of Grand Junction Whereby the Board of County Commissioners and the City of Grand Junction Enter into an Agreement with the State Department of Transportation, Division of Transportation Development, for the Provision of Transportation Services

The Metropolitan Planning Organization's (MPO) activities, specifically the FY 1996 Unified Planning Work Program (UPWP), is 80% financed utilizing grant funds from two sources. One source is PL funds (planning funds specifically obligated to MPO's by the Federal Highway Administration). The other source is Section 8 Funds (planning funds from the Federal Transit Administration). This contract is for the Section 8 funded portion of the UPWP (the PL contract having already been approved). The execution of this joint resolution and contract will allow the operation of the MPO during federal fiscal year 1996.

9. *** Resolution No. 108-95** - A Resolution Authorizing a One-Year Dry Grazing Lease of City Property to Sally Marie Smith

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The proposed lease will commence January 1, 1996 and expire December 31, 1996. The proposed rental fee of \$320 for the entire term is slightly higher than dry grazing fees charged by the U.S. Department of the Interior on similar allotments.

10. *** Resolution No. 109-95** - A Resolution Authorizing a Twenty-Year Transmitter Site and Access Road Lease to the Council for Public Television

The Council for Public Television has received federal funding and FCC approval to microwave its signal for distribution in the Grand Valley and parts of eastern Utah. The proposed lease will allow the use of City property for the installation of a 150-foot guyed transmission tower and 400 square foot equipment building. The proposed 1/4 acre transmitter site is located on the western rim of the Grand Mesa, adjacent to the existing KJCT-TV8 antenna site leased by Pikes Peak Broad-casting.

11. **Purchase of Lots 17 through 26, Block 134 from Public Service Company** - REMOVED FROM CONSENT FOR FULL DISCUSSION

a. **Authorizing** a Transfer From General Fund Contingency to the CIP Fund in the Amount of \$49,500 to Purchase Lots 17 through 26, Block 134 of the Original Plat of the City of Grand Junction from The Public Service Company of Colorado

b. *** Resolution No. 110-95** - A Resolution Authorizing the Purchase by the City of Grand Junction, Colorado, of Certain Real Property; Ratifying Actions Heretofore Taken in Connection Therewith

Pursuant to the franchise agreement whereby Public Service operates as a public utility within the City limits of Grand Junction, the City has the right of first refusal to purchase PSCo properties that have been declared surplus. The proposed purchase price for the 10 vacant lots at the northwest corner of 11th and Pitkin is \$49,500. The City's deadline for exercising its first right by entering into a formal purchase contract is December 15, 1995.

12. *** Resolution No. 111-95** - A Resolution Authorizing the Conveyance of City Property to George E. and Debra L. Preuss

The City Council has considered exercising its first right of refusal to purchase 10 lots owned by the Public Service

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Company at the northwest corner of 11th Street and Pitkin Avenue. Mr. and Mrs. Preuss have offered to purchase the east 50-feet from the City for \$20,000 in the event Council determines to acquire this property.

13. **Purchase of Lot 3, Block 2 of South 5th Street Addition**

- a. **Authorizing** a Transfer from General Fund Contingency to the CIP Fund for the Purchase of Lot 3, Block 2 of South 5th Street Addition in the Amount of \$19,400
- b. *** Resolution No. 112-95** - A Resolution Authorizing the Purchase by the City of Grand Junction, Colorado, of Certain Real Property; Ratifying Actions Heretofore Taken in Connection Therewith

The City has entered into a contract to purchase the property at 1200 South 5th Street for \$16,500. The City's obligation to proceed under the terms of the contract is contingent upon the consent and approval of the Council by December 6, 1995.

14. *** Resolution No. 113-95** - A Resolution Concerning the Granting of an Easement across City Property to the Grand Junction Drainage District

The Grand Junction Drainage District has agreed to maintain the extensive open drain system on the City's Berry Park property located west of 24 Road and north of H Road. The District requires an easement from the City prior to accepting maintenance of the system.

15. *** Resolution No. 114-95** - A Resolution Concerning the Issuance of a Revocable Permit to the Purdy Mesa Livestock Water Company

The Purdy Mesa Livestock Water Company has requested a Revocable Permit to allow the installation, operation, maintenance and repair of domestic water pipeline to the Cheryl Jacobson residence on Purdy Mesa.

16. *** Resolution No. 115-95** - A Resolution Declaring the Intention of the City Council of the City of Grand Junction, Colorado, to Create within Said City Street Improvement District No. ST-96, and Authorizing the City Engineer to Prepare Details and Specifications for the Same

A petition has been submitted requesting full street

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improvements to Hickory Court in Sunset Terrace Subdivision. The petition, signed by 4 of 6 property owners, requests the installation of asphalt paving, curb, gutter, sidewalk and storm drainage facilities. A hearing to allow public comment for or against the proposed Improvement District will be conducted at the January 17, 1996 City Council meeting.

17. *** Resolution No. 116-95** - A Resolution Declaring the Intention of the City Council of the City of Grand Junction, Colorado, to Create within Said City Sanitary Sewer Improvement District No. SS-41-95, and Authorizing the City Engineer to Prepare Details and Specifications for the Same

A petition signed by 100% of the owners of the property to be assessed has been submitted requesting a Sanitary Sewer Improvement District for properties located adjacent to Hickory Court in Sunset Terrace Subdivision. A hearing to allow public comment for or against the proposed Improvement District will be conducted at the January 17, 1996 City Council meeting.

18. *** Resolution No. 117-95** - A Resolution Extending the Term of the Lease of 1140 South 5th Street with High Country Gas & Supply

The existing lease with High Country Gas & Supply expires December 15, 1995. The proposed resolution will extend the lease through June 14, 1996, with a proposed rental fee of \$325 per month.

19. *** Resolution No. 118-95** - A Resolution of the City Council of the City of Grand Junction Giving Notice that a Tract of Land Known as the Cascade Enclave Annexation Located at the Southwest Corner of G and 27 Roads and Consisting of Approximately 43.52 Acres will be Considered for Annexation to the City [File #ANX-95-204]

The Cascade Enclave consists of 43.52 acres of land located at the southwest corner of G Road and 27 Road. This area is totally surrounded by City limits and is eligible for annexation under Colorado State Statues.

20. *** Resolution No. 119-95** - A Resolution Referring a Petition to the City Council for the Annexation of Lands to be Accomplished in a Series to the City of Grand Junction, Colorado and Setting a Hearing on Such Annexation Which

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Includes Various Parcels between Riggs Hill and Persigo Wastewater Treatment Plant Including Independence Valley and Monument Village Shopping Center - Independence Valley #1 Annexation Located along South Broadway from South Camp Road to Tiara Rado Golf Course, and Independence Valley #2 Annexation Located at Tiara Rado Golf Course and Independence Valley #3 Annexation Located North of Tiara Rado Golf Course between Rio Hondo and 20 Road and Independence Valley #4 Annexation Located South and West of the Persigo Wastewater Treatment Plant [File #ANX-95-194] - **REMOVED FROM CONSENT FOR FULL DISCUSSION**

Powers of Attorney have been signed for the majority of the properties in the Independence Valley Annexation. The Petition for Annexation is now being referred to City Council. Staff requests that City Council approve by resolution the Referral of Petition for the Independence Valley Annexation.

- 21. **Authorizing** an Existing Industry Incentive through MCEDC for Choice Hotels in the Amount of \$58,000 - **REMOVED FROM CONSENT FOR FULL DISCUSSION**

* * * END OF CONSENT CALENDAR * * *

* * * ITEMS NEEDING INDIVIDUAL CONSIDERATION * * *

PROPOSED ORDINANCE - AN ORDINANCE REQUIRING THE REMOVAL AND PROPER DISPOSAL OF DOG EXCREMENT

This ordinance would require dog owners to be responsible for solid dog waste on public ways, in public places or on private property not belonging to the owner of the dog. It would require dog owners or possessors or persons in charge of any dog within the City be reasonably required to remove any solid dog waste and to properly dispose of same. The ordinance would also require owners, keepers or harborers of dogs be required to possess suitable equipment for the riddance of such waste.

Councilmember Baughman agreed something needs to be done about removing dog excrement on public property, but carrying specific supplies required for such removal was unreasonable. He was also concerned about law enforcement officers being exempt from this ordinance temporarily during investigations, then having to go back to the scene to remove dog excrement. He feels it is a waste of the taxpayers' money.

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Councilmember Afman felt trained animals will continue to be under the control of their masters. She mentioned the City intends to provide supplies in the public parks areas to be used for such removal.

Councilmember Graham recommended Council amend the proposed ordinance directing all enforcement personnel to issue, for the first three months from the time of its effective adoption, only warnings. Other members of Council concurred.

Councilmember Baughman was concerned with the Parks trash containers being emptied in a timely manner to avoid strong odors. City Manager Mark Achen assured Council the Parks Department would empty the containers often enough to keep the odor level low.

Councilmember Graham suggested Council consider the addition of the geographic restriction to the Main Street Park and the seeing-eye dog restriction. Council concurred.

Councilmember Mantlo stated he has received complaints mostly regarding dog owners of multiple animals who fail to clean up their own yards. He felt that problem needs to be addressed.

Councilmember Afman felt the public needs to realize the parks are being used as playgrounds and for family outings. She was confident the dog excrement problem will diminish with the adoption of such an ordinance.

Councilmember Baughman suggested dogs not be allowed in parks.

Upon motion by Councilmember Graham, seconded by Councilmember Afman and carried with Councilmember **BAUGHMAN** voting **NO**, the proposed ordinance which was attached as "Revision #1" was passed for publication, with the additional amendment that all enforcement personnel charged with enforcing the ordinance, including animal control officers, police officers, or other officers or agents of the City of Grand Junction, having jurisdiction to enforce the Code, shall be directed to give warnings only for the first 90 days after the effective date of the ordinance.

Councilmember Terry noted that Councilmember Baughman will approach the Riverfront Commission regarding this ordinance with

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further discussion by Council at a later date.

PURCHASE OF LOTS 17 THROUGH 26, BLOCK 134 FROM PUBLIC SERVICE COMPANY - AUTHORIZING A TRANSFER FROM GENERAL FUND CONTINGENCY TO THE CIP FUND IN THE AMOUNT OF \$49,500 TO PURCHASE LOTS 17 THROUGH 26, BLOCK 134 OF THE ORIGINAL PLAT OF THE CITY OF GRAND JUNCTION FROM THE PUBLIC SERVICE COMPANY OF COLORADO - RESOLUTION NO. 110-95 - A RESOLUTION AUTHORIZING THE PURCHASE BY THE CITY OF GRAND JUNCTION, COLORADO, OF CERTAIN REAL PROPERTY; RATIFYING ACTIONS HERETOFORE TAKEN IN CONNECTION THEREWITH

Pursuant to the franchise agreement whereby Public Service operates as a public utility within the City limits of Grand Junction, the City has the right of first refusal to purchase PSCo properties that have been declared surplus. The proposed purchase price for the 10 vacant lots at the northwest corner of 11th and Pitkin is \$49,500. The City's deadline for exercising its first right by entering into a formal purchase contract is December 15, 1995.

Councilmember Theobald noted Council has already agreed by approval of the Consent Calendar, specifically Item 12, to sell a portion of this property to a private individual.

Councilmember Baughman stated for the record the reason Grand Junction is able to purchase this property is because the Public Service Franchise Agreement gives the City the right of first refusal on any property Public Service decides to sell. He understands the City has no immediate or planned purpose for this property. He feels the City is purchasing this property solely for real estate purposes, and the City should not be spending City tax dollars on such purchases. He thinks the City should state specifically the public use and planned use for the property prior to any purchase of property. He feels the private sector should buy this property for resale and not the City of Grand Junction.

City Manager Mark Achen stated the Staff report indicated in addition to some possible specific City uses such as records management, training facility, or impound storage facility, the property might have value as an exchange parcel for some of the park lands Council is requesting Staff to consider for acquisition.

Mayor Maupin stated this property might be good for some very specific land trades. Councilmember Baughman stated he has not heard of any possible trade of this property.

Upon motion by Councilmember Theobald, seconded by Councilmember

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Afman and carried with Councilmembers **BAUGHMAN** and **GRAHAM** voting **NO**, Resolution No. 110-95 was adopted and the transfer from General Fund Contingency to the CIP fund in the amount of \$49,500 to purchase Lots 17 through 26, Block 134 of the original plat of the City of Grand Junction from the Public Service Company of Colorado was authorized.

AUTHORIZING AN EXISTING INDUSTRY INCENTIVE THROUGH MCEDC FOR CHOICE HOTELS IN THE AMOUNT OF \$58,000

Councilmember Graham opened this item up for public hearing to ask if anyone cared to address this particular appropriation.

Mr. Dale Doelling, 2515 Pheasant Run Circle, defined the word "incentive" meaning something inciting to action or effort. He gave a brief review of the company, Choice Hotels, which is being considered for receiving this incentive. Choice Hotels International is a wholly owned subsidiary of Manor Care, Inc. Manor Care is one of the largest providers of long-term health care in the United States. The company's health care division operates 180 skilled nursing, rehabilitation and assisted living facilities in 28 states. Manor Care's lodging division owns and manages 62 hotel properties, and through its Choice Hotels International subsidiary, it franchises nearly 3,000 hotels in more than 25 countries. For the Fiscal Year of 1995, which ended May 31st, Manor Care, Inc. had revenues of \$1,322,000,000, and operating income of \$184 million, employed 27,812 employees, and the company at that time had a market value of \$2.103 billion. Mr. Stewart Bainum, the President and CEO, received an annual salary of \$915,693, the co-chairman averaged about \$530,000, the president of the health care division made \$510,000, and the President of Choice International made \$483,000.

Mr. Doelling continued that this incentive is to be used by Choice Hotels International to expand their operations here instead of moving to another area. The incentive no longer applies to this situation because the decision has already been made by Choice Hotels to expand their operations in Grand Junction. He suggested City Council can either give this incentive or tell Choice Hotels the City can find a better use of its tax dollars. Mr. Doelling was previously employed by Choice Hotels, and he acquired the previous financial information from the Hoover Co. Profile Database. Any internet or on-line provider can provide the information. It is public record.

Ms. Diane Schwenke, 528 Greenbelt Court, President of the Chamber of Commerce, responded that Choice Hotels has announced its intent

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to move to Grand Junction with this particular expansion. There is still no signed lease on the building on Orchard Mesa and nothing that ties them to this community. With regard to the fact that it is still an "incentive," she felt it is a valid comment to make. The use of incentives in economic development is rarely based upon the financial solidity of the company. The economic game today is composed of companies with very good financial records that are trying to make the best deals possible. The other South Dakota location being considered by Choice Hotels offered them \$160,000 where Grand Junction is offering only \$58,000. The excess of \$2 million of additional payroll that the City could see can translate easily into a return on the City's \$58,000 investment, returned to the City in as little as three years. Ms. Schwenke stated the incentive creates 175 full-time equivalent positions (\$330 per job), all of which will be Grand Junction based. Choice Hotels has made no capital investment for this specific project. Previously they have made investments in their current facility primarily in communications equipment. Their policy is to lease existing buildings. They do not own their own. Tied to this incentive there is a capital investment in equipment of approximately \$500,000.

Ms. Schwenke stated the South Dakota location does not have a suitable building so Choice Hotels would be required to make a considerably larger investment in renovation of an existing building or build a new structure. In order for the South Dakota location to stay in the game, they have to offer more in the way of cash on the table (\$160,000). Grand Junction is fortunate that it has an existing building on Orchard Mesa that meets the needs of Choice Hotels, and requires very little renovation. That helps them with their time frame as they would like to be operational by mid-January.

Ms. Schwenke stated for the record the average wage of the 175 full-time workers would be \$6.50/hour.

Councilmember Graham read from the Colorado Constitution Bill of Rights, Article II, Section 11, entitled "Ex post facto laws" and entered it into the record (full copy in permanent record). He also entered into the record the case Public Service Company of Colorado vs. the City of Loveland, to be found in 245, specific recorder 493 (attached). He explained he cannot vote for the proposal although he has nothing against the company involved. He understands Article II, Section 11 to mean no one gets a "bill of attainder" which means a law passed against just them, in particular, and no one gets any sweetheart deals. He could think

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of no greater special privilege than an outright grant of cash. No matter how many worthy businesses are subsidized, it does not alleviate the burden of those that are not subsidized, who are also required to pay taxes. It has a demoralizing effect. However, he does think this is less onerous than bribing an out-of-city company to come to Grand Junction and start its business. He urged Council to join him in voting against this incentive.

Councilmember Baughman referred to the criteria companies must meet to qualify for such incentives. He quoted "In order to qualify, a company must have an average compensation for all new employees equal to 1 3/4 times the Federal minimum wage. He stated \$6.50 per hour does not meet this requirement. The purpose of the incentive program was to bring high paying jobs into the community. A company must also make a minimum of \$500,000 new investment of land, building and equipment. The investment for this proposal would be for equipment only, not land. He cannot support this incentive.

Councilmember Terry stated the incentive package has been adjusted considerably to match up with the adjusted income level. She supports the incentive as the level of jobs provide a real need in this community, offering jobs to young people, high school and college level, and young mothers. The location is in the Orchard Mesa area which greatly needs some economic development.

Councilmember Theobald felt \$6.50 per hour is an improvement over the \$4.24 per hour minimum wage. He thinks this incentive meets that need. It is good to have a program that supports local expansion, as met by, as much as possible, the guidelines.

Councilmember Baughman stated the majority of local business is small business and he feels there is no way any of those businesses could invest \$500,000 in an expansion program. He feels this is a handout for large business. He feels government should not subsidize business in any way. He feels incentives were applicable during the slump, but the economic situation is different today.

Councilmember Graham asked at what point is the City willing to entertain the notion that centralized economic planning and subsidizing of particular businesses is no longer necessary.

Mayor Maupin believes the MCEDC will exist as long as business people are willing to support it. The grant money comes from City sales tax dollars. When the businesses decide to stop funding the MCEDC, it will no longer exist. He is not happy with \$6.50 an

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hour wage either, but it is a \$2.25 raise to a lot of people. He agrees the location on Orchard Mesa is needed.

Councilmember Afman stated the MCEDC evaluates the requests and considers how it will benefit the community. Many large companies have been rejected. The question is always asked how the company will benefit the citizens of this community. She is in favor of the proposal.

Upon motion by Councilmember Terry, seconded by Councilmember Afman and carried with Councilmembers **BAUGHMAN** and **GRAHAM** voting **NO**, the existing industry incentive through MCEDC for Choice Hotels in the amount of \$58,000 was authorized.

RESOLUTION NO. 121-95 - A RESOLUTION AUTHORIZING THE VCB TO ENTER INTO CONTRACTS FOR ITS SERVICES

VCB Director Debbie Kovalik requested this resolution be approved in order to allow the Visitor and Convention Bureau to coordinate, consolidate and cooperate with other lodging entities around the Mesa County area, but outside the City limits, to be included in the VCB's marketing guide.

Daniel Sharpe, General Manager of Ramada Inn and VCB board member, stated the inclusion of area lodging entities would be accomplished on a trial basis for a one-year period to see if it benefits the overall mission of the VCB. He read the mission of the VCB. He stated the VCB needs to promote attractions outside the City limits. Selling Grand Junction for the tourist dollar to support the Mission Statement, just from the main attractions from the City, would be the equivalent of San Diego trying to sell San Diego without selling Sea World. Decreased occupancy in hotels/motels is not a result of anything the VCB has done. Fruita already has a new hotel property which affected the City's occupancy. That is a separate issue.

Councilmember Theobald noted the resolution addresses lodging, and asked how other attractions would be handled. Ms. Kovalik responded the VCB is considering structuring a member benefit/cooperative partnership program, a cooperative advertising fee program structured for those kinds of entities, specifically commercial, to participate financially. The Board felt the program needs to be reviewed on a lot of different layered approaches based on what benefits are received. It needs a year to do this. The lodging issue is succinct. The benefits are specific.

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Councilmember Baughman asked why the fee is the same for out-of-town entities instead of greater. Mr. Sharpe stated the properties outside the area are typically smaller. Three percent (3%) of their gross revenues will have a greater impact on them.

Councilmember Baughman asked if the percentage was discussed when the outside entities applied to become members of the VCB. Ms. Kovalik stated the Board initiated the recommendation based on what would be the most equitable to the existing tax entities. All applicants that have indicated an interest assumed it would be the same as the 3% lodging tax. None of the applicants have come to the Board and offered to pay a certain amount to be a part of the VCB. A \$500 deposit would be required initially. If the participant does not adhere to the contract, they can be withdrawn from the referral program immediately. Further and future service can be refused.

Councilmember Afman asked if the role of the VCB will change with the loss of the State Tourism Board and new and innovative proposals will be provided in the future. Ms. Kovalik said the State Tourism Board has been replaced by the Colorado Travel & Tourism Authority, which is an independent entity functioning on a cooperative funds membership basis, similar to what the VCB is considering. The Authority is coming to Grand Junction with specific marketing programs asking if it wants to participate. Ms. Kovalik admitted the VCB must be creative regarding ongoing marketing in the future.

Councilmember Terry asked if this was a volunteer program. Ms. Kovalik answered yes, it is not solicited. Councilmember Terry was also concerned about the audit of those outside the City limits regarding the 3% fee. Ms. Kovalik stated the VCB will be monitoring occupancy for various businesses.

City Attorney Wilson asked if a clause should be added to the resolution requiring a property located in the Municipal Annexation Plan area, signing said contract, to provide a Power of Attorney for annexation as a condition of the contract. Councilmember Theobald felt it was a moot point as the two questionable properties are in the current annexation process. Other councilmembers concurred.

Upon motion by Councilmember Afman, seconded by Councilmember Baughman and carried by roll call vote, Resolution No. 121-95 was adopted.

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AUTHORIZING THE CITY MANAGER TO SIGN AN ANNEXATION AGREEMENT WITH CHAPARRAL WEST, INC., FOR COUNTRY MEADOWS SUBDIVISION, APPROXIMATELY 48.9 ACRES LOCATED NEAR F 3/4 AND 20 1/2 ROADS

The developer obtained ODP approval from Mesa County for the development of 132 lots on 48.9 acres. The first filing proposes 15 lots on 9 acres.

City Attorney Dan Wilson stated the final agreement includes a Power of Attorney which has been consented by Mr. Abalo. When Mr. Abalo connects to the City sewer, the City will still get the POA even if Council does not sign this agreement. The City does not need the annexation agreement, it is merely to satisfy the developer's needs. Mr. Wilson reviewed several changes to the agreement with Chaparral West, Inc.:

1. Paragraph 8.a., a resolution to the 201 Boundary issue. Fruita has consented, that the service of this property will not be used in litigation, and the City of Fruita's Manager has sent a letter consenting to the City's serving; therefore the City does agree to provide sewer service to all the property;
2. Plat for Filing #1 has been recorded in Mesa County; the rights being vested;
3. Neighbors to the west in Independence Valley wanted larger setbacks than originally proposed. Mesa County made a condition on the west side that the setback should be 40 feet. RSF-5 zoning for the entire project is recommended with a standard setback of 25'. The developer has agreed to maintain the 40' setback in the annexation agreement. The goal being that the public input be preserved and followed through. The County's approval will satisfy the City's preliminary plat and plan.
4. The buffering on the southwest boundary of the property is not a setback, but a 6' privacy fence.
5. Pursuant to City Code, irrigation is not a requirement of developers. The developer intends to irrigate part of it and must supply an engineered irrigation plan.
6. The City would accept the County's ODP as the City's preliminary plan, subject to two extant issues: (1) The County allows for flag lots in an outline development plan. The City discourages those. The developer has agreed he will

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have to reconfigure the flag lots, and may end up losing one or two units. (2) Under the County process the developer is not required to have the same depth of detail in a drainage report. This is a requirement of a City preliminary plan. He will have to do this as a condition to obtaining the City's preliminary plat plan. The drainage plan may cause a loss of some lots.

7. Road width was originally 26' instead of the City's standard 28'. The agreement is that base line must be 28'. The balance of the residential streets will be accepted at the two-foot narrower mat. The balance of the road will be the same as City Standards (curb, gutter, sidewalk).
8. Stormwater - At present the developer does not have consent from off-site property owners to discharge stormwater in the event of a storm. If a property, after development, does not discharge more than the volume over time of what it discharged historically, but if it exceeds either volume or rate, then the downslope is burdened. One must either obtain consent or it is trespassing.

Councilmember Graham questioned Items 6B and 10. City Attorney Wilson stated 6B has been deleted because the developer will have to give a POA in either event. Councilmember Graham asked if, under Item 10, Staff will be obligated to make the recommendation for the zoning in light of this plan. City Attorney Wilson answered yes. If Council fails to approve the zoning, the developer claims are limited solely to specific performance. He has waived any claim for damages. There is a generic remedy clause in paragraph 18 that states the developer must give 30 days notice if the City does not correct a default. He can then go to court for specific performance only.

Councilmember Graham also asked if it is appropriate to grant a developer some limited veto power over the subsequent zoning decisions. He also asked why this should be zoned RSF-5 since, in effect, if Council votes to accept this agreement, that is what Council is guaranteeing it will be. City Attorney Wilson said Staff will recommend to Council that RSF-5 be approved. It is close to a guarantee. Councilmember Graham pointed out that if Council fails to adopt RSF-5, the developer can sue to de-annex or render negatory the contract. City Attorney Wilson advised the ultimate safety valve for the City is if the developer disconnects, the City still has the right to use the POA to annex him again.

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City Manager Mark Achen cautioned that Council needs to determine if RSF-5 is appropriate zoning as that decision will be made with approval of this agreement.

Councilmember Theobold said if Council denies the RSF-5 zoning, and the developer withdraws from the City, the developer will still have that zoning in the County. He does not see an advantage. City Attorney Wilson said the City would have a Power of Attorney within a few weeks (when construction begins), and would then have authority to zone the property whatever it wants. The setbacks for RSF-4 did not match this property as approved by the County. The RSF-5 had the setbacks that worked for most of the property. The number of units were limited to 132, and Planning Staff recommended it be zoned RSF-5.

Councilmember Graham requested City Staff certify that the criteria of Section 4-4-4 of the Zoning and Development Code have been met, and RSF-5 is appropriate under these terms.

Community Development Director Larry Timm stated the primary reason for the RSF-5 zoning are the setbacks. The property is zoned R-2 in the County and the RSF-4 designation is the most equivalent City zone. The change from the RSF-4 to RSF-5 was for the setback reason. The other alternative would be a Planned Zone to deal with the setbacks. The actual lot sizes do not meet the RSF-4 standard, they are larger. The density is lower than the RSF-4 zone would allow. The setback issue was the driving force.

Councilmember Terry wanted to make sure there will be a separate hearing on the zoning within 90 days of the effective date of the annexation, and at that time Council will be provided all information regarding the zoning. City Attorney Wilson assured her it would.

Public Works Director Shanks stated the County requires a drainage report, but not to the extent of the City. There was one discrepancy between the drainage report and the preliminary plans that were submitted, a pipe capacity issue. It has been addressed in the annexation agreement.

Mr. Ron Abalo, Chaparral West, Inc., 626 32 Road, Clifton, stated the City had approached him regarding future annexation. He felt this could be accomplished without jeopardizing his project. It is an excellent project. He wants to protect it in its current condition. He feels this agreement works out all the differences between the County requirements and the City's. He commended City Staff for the way this agreement has been handled. He stated City

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Attorney Dan Wilson has properly described the agreement.

Upon motion by Councilmember Afman, seconded by Councilmember Mantlo and carried with Councilmember **BAUGHMAN** voting **NO**, the City Manager was authorized to sign an annexation agreement with Chaparral West, Inc., for Country Meadows Subdivision, approximately 48.9 acres located near F 3/4 and 20 1/2 Roads.

RESOLUTION NO. 119-95 - A RESOLUTION REFERRING A PETITION TO THE CITY COUNCIL FOR THE ANNEXATION OF LANDS TO BE ACCOMPLISHED IN A SERIES TO THE CITY OF GRAND JUNCTION, COLORADO AND SETTING A HEARING ON SUCH ANNEXATION WHICH INCLUDES VARIOUS PARCELS BETWEEN RIGGS HILL AND PERSIGO WASTEWATER TREATMENT PLANT INCLUDING INDEPENDENCE VALLEY AND MONUMENT VILLAGE SHOPPING CENTER - INDEPENDENCE VALLEY #1 ANNEXATION LOCATED ALONG SOUTH BROADWAY FROM SOUTH CAMP ROAD TO TIARA RADO GOLF COURSE, AND INDEPENDENCE VALLEY #2 ANNEXATION LOCATED AT TIARA RADO GOLF COURSE AND INDEPENDENCE VALLEY #3 ANNEXATION LOCATED NORTH OF TIARA RADO GOLF COURSE BETWEEN RIO HONDO AND 20 ROAD AND INDEPENDENCE VALLEY #4 ANNEXATION LOCATED SOUTH AND WEST OF THE PERSIGO WASTEWATER TREATMENT PLANT [FILE #ANX-95-194]

Powers of Attorney have been signed for the majority of the properties in the Independence Valley Annexation. The Petition for Annexation is now being referred to City Council. Staff requests that City Council approve by resolution the Referral of Petition for the Independence Valley Annexation.

Dave Thornton, Community Development Dept. stated this annexation includes the Chaparral West project, Country Meadows. The City will advertise 4 times within the next 30 days. First reading will be scheduled on January 17, 1996 with a public hearing scheduled on February 7, 1996, at which time the validity of the petition will be discussed. It is a serial annexation with four parts. The contiguity begins on the southern end of the annexation around Riggs Hill. The first serial takes in the contiguity along Riggs Hill, then extends the annexation to the north into the City-owned golf property near Tiara Rado. Within the 80 acres there is another leg of annexation in order to continue the contiguity. The second serial is within the 80 acres. The third serial annexes the remaining portion of the 80 acres and heads north and includes almost the entire area that is being annexed, minus the area that extends across the river to the City limits on the north. There are two properties owned by Mr. and Mrs. Stone and Mr. Richard Talley which are located in the

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middle and are not being annexed. Mr. Thornton explained this is a majority annexation. A majority of land owners and parcels must be obtained. There also must be a majority on acreage. The acreage requirement did not allow the City to annex any additional lands than what is shown. It is a majority as it is, but adding additional acreage would put it under a majority; therefore the City had to exclude those two properties. All the properties around them signed powers of attorney for annexation and wanted to be annexed. The property owners were contacted. Mrs. Stone was not in favor of being annexed. Mr. Talley was in favor of being annexed. The timing was such that the City missed including him in this annexation. Mr. Talley has expressed his desire to be annexed in the future.

Upon motion by Councilmember Afman, seconded by Councilmember Mantlo and carried by roll call vote with Councilmembers **BAUGHMAN, GRAHAM** and **TERRY** voting **NO**, Resolution No. 119-95 was adopted.

PUBLIC HEARING - ORDINANCE NO. 2877 - AN ORDINANCE MAKING SUPPLEMENTAL APPROPRIATIONS TO THE 1995 BUDGET OF THE CITY OF GRAND JUNCTION

The requests are to appropriate certain amounts as contingencies and other minor budget adjustments. They include appropriations for certain projects for which additional revenues have been or will be received. The largest amount is \$500,000 for the Community Development Fund, through which "pass-through" grants are processed. Over \$200,000 of this is for grants not yet received.

A hearing was held after proper notice. City Comptroller Randy Booth was present to answer questions of Council. There were no public comments.

Upon motion by Councilmember Theobald, seconded by Councilmember Afman and carried by roll call vote with Councilmember **GRAHAM** voting **NO**, Ordinance No. 2877 was adopted and ordered published.

RESOLUTION NO. 120-95 - A RESOLUTION AMENDING SOLID WASTE MANAGEMENT FEES

The last rate adjustment for Solid Waste fees was in January 1995. Rates are examined each year and established based on a ten year financial plan. It is proposed that the rates be increased by four percent (4%). This will bring the residential rate from \$9.10 to \$9.46 per month and all commercial rates will go up four percent. This rate increase is to cover an increase in goods and

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supplies to provide Solid Waste services.

There were no comments. Upon motion by Councilmember Afman, seconded by Councilmember Theobold and carried by roll call vote with Councilmembers **BAUGHMAN** and **GRAHAM** voting **NO**, Resolution No. 120-95 was adopted.

PUBLIC HEARING - ORDINANCE NO. 2878 ZONING THE LOMA RIO ANNEXATION PR-1.86, PR-3.7 AND RSF-4 [FILE #ANX-95-129]

City Council approved the Loma Rio Annexation on November 1, 1995. The City must zone all property annexed into the City within 90 days of the annexation.

A hearing was held after proper notice. Mr. Dave Thornton, Community Development Department, certified that this annexation is in conformance with the stated criteria in Section 4-4-4 and Section 4-11 of the Grand Junction Zoning and Development Code. The most current impact statement is attached. There were no public comments.

Upon motion by Councilmember Theobold, seconded by Councilmember Terry and carried by roll call vote, Ordinance No. 2878 was adopted and ordered published.

PUBLIC HEARING - ORDINANCE NO. 2879 ANNEXING TERRITORY TO THE CITY OF GRAND JUNCTION, COLORADO, PATTERSON-SHOLES ENCLAVE ANNEXATION, APPROXIMATELY 8.92 ACRES LOCATED AT THE NORTHWEST CORNER OF 26 ROAD AND GALLEY LANE [FILE #ANX-95-169]

The Patterson/Sholes Enclave consists of 8.92 acres of land located at the northwest corner of 26 Road and Galley Lane. This area is totally surrounded by the City limits and is eligible for annexation under State Statutes. Bill Patterson and John Sholes are requesting that the City annex their properties now rather than wait until their properties have been enclaved for three years.

A hearing was held after proper notice. Dave Thornton, Community Development Department, was present to answer questions of Council. There were no public comments.

Councilmember Baughman stated he had voted NO on this item on first reading and will be voting NO on the final reading because it annexes a piece in the center of an enclave which is a logistical nightmare for police and fire services the City provides. The applicants that wanted to be annexed should have

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been petitioning the majority of the enclave. If that majority wished to be annexed at an earlier time than the three-year period, it should have been done with the majority vote of the residents of the enclave and not just two property owners within the enclave.

Councilmember Graham sees this as a legitimate petition from the land owners. He cannot fault them that they cannot control what the majority of the people within the existing enclave choose to do or think, nor can he charge them with the responsibility of organizing an annexation for the property of others. He disagreed with Councilmember Baughman on this particular annexation.

Upon motion by Councilmember Afman, seconded by Councilmember Terry and carried by roll call vote with Councilmember **BAUGHMAN** voting **NO**, Ordinance No. 2879 was adopted and passed for publication.

PUBLIC HEARING - ORDINANCE NO. 2880 ZONING THE PATTERSON-SHOLES ENCLAVE ANNEXATION TO RSF-1 [FILE #ANX-95-169]

Powers of Attorney for annexation have been signed for each of the applicants' properties in this annexation. The City must zone all property annexed into the City within 90 days of annexation.

A hearing was held after proper notice. Mr. Dave Thornton, Community Development Department, certified that this annexation is in conformance with the stated criteria in Section 4-4-4 and Section 4-11 of the Grand Junction Zoning and Development Code. There were no public comments.

Upon motion by Councilmember Theobald, seconded by Councilmember Terry and carried by roll call vote, Ordinance No. 2880 was adopted and ordered published.

PUBLIC HEARING - ORDINANCE NO. 2881 ANNEXING TERRITORY TO THE CITY OF GRAND JUNCTION, COLORADO, WAYMEYER-SCHULTZ ANNEXATION, APPROXIMATELY 1.21 ACRES LOCATED AT 589 29 ROAD AND PROPERTY ON THE EAST SIDE OF 29 ROAD [FILE #ANX-95-168]

Walter Waymeyer and Thomas Schultz have signed Powers of Attorney for annexation of their property. Staff requests that City Council approve on second reading the annexation ordinance for the Waymeyer/Schultz Annexation.

A hearing was held after proper notice. There were no public comments.

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Upon motion by Councilmember Mantlo, seconded by Councilmember Afman and carried by roll call vote with Councilmember MAUPIN voting NO, Ordinance No. 2881 was adopted and ordered published.

PUBLIC HEARING - ORDINANCE NO. 2882 ZONING THE WAYMEYER-SCHULTZ ANNEXATION TO RSF-4 AND PB [FILE #ANX-95-168]

Powers of Attorney for annexation have been signed for each of the applicants' properties in this annexation. The City must zone all property annexed into the City within 90 days of the annexation.

A hearing was held after proper notice. Mr. Dave Thornton, Community Development Department, certified that this annexation is in conformance with the stated criteria in Section 4-4-4 and Section 4-11 of the Grand Junction Zoning and Development Code.

Councilmember Terry asked why this could not be a straight B-3 zoning. Mr. Thornton stated this was Staff's attempt to eliminate some things from the B-3 zone which they didn't want to see in this corridor and would normally be allowed: (1) large free-standing signs (25' tall) and (2) the sale of outdoor goods (flea market). They were eliminated from the actual use zone matrix part of the B-3 zone. Ms. Terry asked if it could not have been proposed that it be zoned to B-3 with those limitations attached. City Attorney Dan Wilson explained those uses are by right. The ordinance would either have to be amended, or this planned zone, to delete the proposed uses.

Councilmember Graham suggested this parcel is a bit small for a Planned Business zone use. Mr. Thornton stated this one-acre parcel is under the same ownership as 10 acres to the northeast and is being planned by the owner for a retail development.

There were no public comments.

Upon motion by Councilmember Mantlo, seconded by Councilmember Baughman and carried by roll call vote, Ordinance No. 2882 was adopted and ordered published.

OTHER BUSINESS

Councilmember Theobald reported on discussions at the NLC Conference in Phoenix, Arizona. He and the City Manager talked to people regarding the concept of attempting to improve communications and other capabilities in the Valley dealing with fiber optics. He would like to see Staff more aggressively pursue

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the idea of trying to get fiber optics communications in the Valley.

Councilmember Theobold also noted NLC sponsors many conferences. There will be one taking place September 6 and 7, 1996 in Denver for leadership skills. He thought the City should consider sending a delegate.

Councilmember Theobold was elected to the Board of Directors of the National League of Cities.

Councilmember Graham announced the Associated Governments of Northwestern Colorado is meeting at the Mesa County building on December 7, 1995, from 12:00 to 3:30.

Councilmember Afman directed the City's Communications Officer, Kristin Winn, to provide a small article or press release addressing the dog excrement ordinance, giving a recap and accurate report of the ordinance, pointing out the grace period.

ADJOURNMENT

Upon motion by Councilmember Baughman, seconded by Councilmember and carried, the meeting was adjourned at 9:47 p.m.

Stephanie Nye, CMC/AAE
City Clerk

ATTACHMENT

**LOMA RIO ANNEXATION
Fiscal Impact Overview
Version #3 11/29/95**

	<u>Year 1</u>	<u>Year 5</u>	<u>Year 10</u>	<u>Year 15</u>	<u>Year</u>
<u>20</u>					
REVENUE 80,603	\$ 41,172	\$ 47,176	\$ 56,144	\$ 67,117	\$
OPERATING COSTS (65,816)	(37,630)	(38,337)	(45,860)	(54,913)	

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CAPITAL COSTS (19,592)	(38,222)	(26,672)	(18,715)	(16,103)
ANNUAL VARIANCE \$(4,805)	\$(34,680)	\$(17,833)	\$(8,431)	\$(3,899)

20 Year Cumulative Variance = \$(128,878)

20 Year Net Present Value = \$ (88,729)

NOTES:

Given the City's low property tax rate, it is typical for an annexation that is primarily residential to not break even in this model.

Areas with significant infrastructure deficiencies are supported by sales tax revenue already being collected by travelers, visitors, and shoppers from outside the County.