

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

February 2, 2005

The City Council of the City of Grand Junction convened into regular session on the 2nd day of February 2005, at 7:30 p.m. in the City Auditorium. Those present were Councilmembers Harry Butler, Cindy Enos-Martinez, Dennis Kirtland, Bill McCurry, Gregg Palmer, Jim Spehar and President of the Council Bruce Hill. Also present were City Manager Kelly Arnold, City Attorney John Shaver and City Clerk Stephanie Tuin.

Council President Hill called the meeting to order. Councilmember Harry Butler led in the pledge of allegiance. The audience remained standing for the invocation by Councilmember Harry Butler.

CERTIFICATES OF APPOINTMENT

TO THE HISTORIC PRESERVATION BOARD

Tom Streff was present to receive his Certificate.

TO THE VISITOR AND CONVENTION BUREAU BOARD OF DIRECTORS

Brunella Gualerzi, W. Steven Bailey and Eric Feely were present to receive their Certificates.

TO THE PARKS AND RECREATION ADVISORY BOARD

Jack Neckels was present to receive his Certificate.

PROCLAMATION

Proclaiming February 8, 2005 as Grand Valley Water Users Association Day in the City of Grand Junction

CITIZEN COMMENTS

There were none.

CONSENT CALENDAR

Council President Hill asked for an explanation and presentation regarding the setting of the ballot title for the granting of a Cable TV franchise to Bresnan Communications.

City Attorney Shaver explained that agenda item #2 is the mechanical step of setting the ballot title. The provision and the reason for this going to the voters is due to provisions contained in the Charter, that the matter be put to a vote of the electorate. The provisions contained in this ordinance is mostly housekeeping, the original franchise agreement granted in 1967 has never been reassigned. The franchise will bring the old relationship to a modern point.

It was moved by Councilmember Enos-Martinez, seconded by Councilmember McCurry as was carried by roll call vote to approve Consent Calendar Items #1 through #9.

1. **Minutes of Previous Meetings**

Action: Approve the Summary of the January 17, 2005 Workshop and the Minutes of the January 19, 2005 Regular Meeting

2. **Set the Cable TV Franchise Ballot Question**

The City Charter, § 105, provides that no franchise shall be granted except upon the vote of the registered electors. On January 5, 2005 the City Council, by way of first reading of the franchise ordinance, referred the measure to the voters at the regular municipal election scheduled for April 5, 2005. The City has contracted with Mesa County to conduct the election by mail ballot. Such contract requires that the ballot be certified to the County no later than February 9, 2005.

Resolution No. 19-05 – A Resolution Setting a Title and Submitting to the Electorate on April 5, 2005 a Measure to Grant a Cable TV Franchise Agreement with Bresnan Communications, LLC

Action: Adopt Resolution No. 19-05

3. **Notice of Election for the Regular Municipal Election to be held on April 5, 2005**

Both the Charter and the Municipal Election Code have specific publication requirements for the election notice. The proposed notice contained within the resolution being presented meets those requirements.

Resolution No. 21-05 – A Resolution Setting Forth the Notice of Election for the Regular Municipal Election to be Held on April 5, 2005 in the City of Grand Junction

Action: Adopt Resolution No. 21-05

4. **Setting a Hearing on Alcoholic Beverage Ordinance**

Amendments to Chapter 32 of the Code of Ordinances are proposed to correct scrivener's errors, to create consistency in the Code and to facilitate the continued consistent enforcement of Code provisions regarding alcoholic beverages in public areas.

Proposed Ordinance Amending Part of Chapter 32 of the City of Grand Junction Code of Ordinances Relating to Drinking Alcoholic Beverages in Public Ways

Action: Introduction of a Proposed Ordinance and Set a Hearing for February 16, 2005

5. **Update of Development Fee Schedule**

The resolution updates the Development Fee Schedule. The City of Grand Junction established a Development Fee Schedule with Resolution No. 26-00. The Fee Schedule has been amended by resolution of the City Council from time to time as needed. The Zoning and Development Code requires developers to pay related costs for the review process for the developer's project as well as related costs of the development. The City's adopted policy is that growth, i.e. development, is to "pay its own way." Based on the policy, the following revisions to the Development Fee Schedule are deemed necessary.

Resolution No. 22-05 – A Resolution Amending the Development Fee Schedule

Action: Adopt Resolution No. 22-05

6. **Setting a Hearing on Amending Chapter 38, Utilities, Concerning Industrial Pretreatment**

The proposed Ordinance amends Article II of Chapter 38 of the City's Code of Ordinances. The Industrial Pretreatment Program is audited by the Environmental Protection Agency ("EPA") on an annual basis. The EPA has indicated that additional changes are needed to conform with its requirements. The proposed amendments mainly concern defining terms pursuant to definitions of the same or

similar terms used within the United States Code and with the Code of Federal Regulations ("CFR"). Additional changes are made to clarify reference to the CFR. The changes to the definitions do not change the program's operational procedures. Other minor changes have been made for clarification purposes.

Proposed Ordinance Amending Sections and/or Portions of Sections of Article II of Chapter 38, Utilities, of the Code of Ordinances

Action: Introduction of Proposed Ordinance and Set a Hearing for February 16, 2005

7. **Setting a Hearing on Zoning the Pinnacle Ridge Annexation, Located Northeast of Monument Road and Mariposa Drive** [File # ANX-2004-236]

Introduction of a proposed ordinance to zone the 45.5 acre Pinnacle Ridge Annexation RSF-2 (Residential Single Family, 2 units per acre).

Proposed Ordinance Zoning the Pinnacle Ridge Annexation to Residential Single Family, 2 Units per Acre (RSF-2), Located Northeast of Monument Road and Mariposa Drive

Action: Introduction of Proposed Ordinance and Set a Hearing for February 16, 2005

8. **Setting a Hearing for the Catlin Annexation Located at 2830 C ½ Road** [File # ANX-2004-308]

Resolution referring a petition for annexation and introduction of a proposed ordinance. The 10.14 acre Catlin Annexation consists of one parcel of land.

a. **Referral of Petition, Setting a Hearing and Exercising Land Use Jurisdiction**

Resolution No. 23-05 – A Resolution Referring a Petition to the City Council for the Annexation of Lands to the City of Grand Junction, Colorado, Setting a Hearing on Such Annexation, and Exercising Land Use Control, Catlin Annexation, Located at 2830 C ½ Road

Action: Adopt Resolution No. 22-05

b. **Setting a Hearing on Proposed Ordinance**

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado
Catlin Annexation, Approximately 10.14 Acres, Located at 2830 C ½ Road

*Action: Introduction of Proposed Ordinance and Set a Hearing for March 16,
2005*

9. **Setting a Hearing for the Hawk's Nest Annexation Located at 157 30 Road**
[File # ANX-2004-298]

Resolution referring a petition for annexation and introduction of proposed ordinances. The 33.22 acre Hawk's Nest Annexation is a five part serial annexation which consists of two parcels of land and portions of the B Road and 30 Road Rights-of-Way.

a. Referral of Petition, Setting a Hearing and Exercising Land Use Jurisdiction

Resolution No. 24-05 – A Resolution Referring a Petition to the City Council for the Annexation of Lands to the City of Grand Junction, Colorado, Setting a Hearing on Such Annexation, and Exercising Land Use Control, Hawk's Nest Annexation #1-5, Located at 157 30 Road and Portions of the B & 30 Road Rights-of-Way

Action: Adopt Resolution No. 24-05

b. Setting a Hearing on Proposed Ordinances

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Hawk's Nest Annexation #1, Approximately .0985 Acres, Located in the B Road Right-of-Way

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Hawk's Nest Annexation #2, Approximately .2537 Acres, Located in the B Road Right-of-Way

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Hawk's Nest Annexation #3, Approximately .7796 Acres, Located in the B Road & 30 Road Rights-of-Way

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Hawk's Nest Annexation #4, Approximately 25.9196 Acres, Located at 157 30 Road & a Portion of the 30 Road Right-of-Way

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Hawk's Nest Annexation #5, Approximately 6.1674 Acres, Located at 157 30 Road & a Portion of the 30 Road Right-of-Way

Action: Introduction of Proposed Ordinances and Set a Hearing for March 16, 2005

ITEMS NEEDING INDIVIDUAL CONSIDERATION

Engineering and Construction Contracts

a. Limekiln Gulch Interceptor

Award of a Construction Contract for Limekiln Gulch Interceptor to M.A. Concrete Construction, Inc. in the amount of \$306,783.00.

Mark Relph, Public Works and Utilities Director, reviewed this item. He stated that this is a project that has been looked at for the last couple of years. An improvement district was formed in Redlands Village and a lift station was installed. Lift stations are very expensive to maintain so whenever the opportunity arises to eliminate a lift station that is pursued. In order to do that, about ½ mile of 8 inch sewer line will be installed. The removal will result in cost savings long term.

b. 24 ½ Road and G Road Intersection Reconstruction

Award of Construction Contract for the 24 ½ Road and G Road Intersection Reconstruction project to M.M. Skyline Contracting, Inc. in the amount of \$604,322.00.

Mark Relph, Public Works and Utilities Director, reviewed this item. He stated that the project is to install a roundabout at the intersection of 24 ½ and G Roads for traffic control. Other devices were considered before a decision was made as to what type of traffic control device is to be installed. A roundabout is the most cost effective method. An open house was held and there were a number of attendees. The closure of the intersection is a concern. At the end of March, it will be closed for two months and detours will be created and well publicized. Federal funding has been granted for the bulk of the expense. It is a hazardous intersection and there have been fatalities there.

Councilmember Kirtland moved to authorize the City Manager to sign a construction contract for Limekiln Gulch Interceptor to M. A. Concrete Construction, Inc. in the amount of \$306,783.00 and for the 24 ½ Road and G Road intersection reconstruction with M. M. Skyline Contracting, Inc. in the amount of \$604,322.00. Councilmember Spehar seconded the motion. Motion carried.

Submittal of Conditional Letter of Map Revision to FEMA for Ranchmen's Ditch Drainage Improvements

Request Council approval of a resolution for the City Manager's signature on the submittal of a Conditional Letter of Map Revision (CLOMR) to the Federal Emergency Management Agency (FEMA) for the Ranchmen's Ditch Drainage Improvements project. Approval of the CLOMR indicates that FEMA is in agreement with the approach and method proposed to mitigate flooding concerns along the Ranchmen's Ditch Drainage.

Mark Relph, Public Works and Utilities Director, reviewed this item. He explained how the error made by FEMA was discovered for the area around the Mesa Mall and the Grand Mesa Center. The new map revision shows a much larger area of the floodplain from the Ranchmen's Ditch. The project called "The Big Pipe Project" will reduce that floodplain area. Further up the drainage, the area around Pomona School would also be in the 100 year floodplain. After completion of "The Big Pipe Project" the areas around the Mall and the Grand Mesa Center are removed from the 100 year floodplain. The Pomona School area is also eliminated. Some properties along Horizon Drive would still be affected and the Public Works Staff have discussed the situation with those property owners as well. Those currently in the floodplain have been advised that FEMA is available to assist them in the purchase of flood insurance in the meantime. The cost estimate is \$7.4 million. Mr. Relph said there is \$6 million budgeted. The next item on the agenda is a grant request for \$3 million to supplement the fund for the project. There is another portion of the project that is estimated at \$2.5 million, open ditch widening and covering along Patterson Road. The hope is that FEMA will review the CLOMR and the grant application simultaneously and the approval would allow them to start the project in the fall.

Councilmember Palmer noted that the City will need Mesa County's approval for a portion of the project. Mr. Relph said that has been accomplished.

Councilmember Palmer inquired if tenants as well as property owners in the flood plain areas have been notified. Mr. Relph said primarily the property owners but they have also met with the Homeowners Associations (specifically for town homes at 7th and Horizon Drive).

Councilmember Palmer noted that the funding will still be short. Mr. Relph concurred and said that other options are being looked at and Mr. Relph also stated that timing with irrigation companies is also critical.

Councilmember Kirtland inquired about the flood insurance assistance through FEMA. Mr. Relph said that a local insurance representative attended one of the open houses to provide such information.

Councilmember Kirtland asked for a description of a 100 year event. Mr. Relph explained that a small pipe was placed years ago under the mall, which can back up in a big event. The event would be back flooding and turbulent water, but no washing away of structures.

Resolution No. 25-05 – A Resolution Approving the Filing of a Conditional Letter of Map Revision (CLOMR) with the Federal Emergency Management Agency (FEMA) for the Ranchmen’s Ditch Drainage Improvements Project

Councilmember Kirtland moved to adopt Resolution No. 25-05. Councilmember Enos-Martinez seconded the motion. Motion carried by roll call vote.

Submittal of an Application for Federal Pre-Disaster Mitigation Grant Funding

A City Council Resolution authorizing the submission of the above grant application to assist in the funding of the construction of storm water capacity improvements along the Ranchman’s Ditch Drainage System.

Mark Relph, Public Works and Utilities Director, reviewed this item. He stated that this is the next piece of what was being discussed previously. The request is for a grant, that will be an all or nothing, making sure the City has a strong cost-benefit ratio is important for an approval. The pre-disaster assessment was submitted, which made the City eligible to apply for the grant. It is for 42% FEMA and 58% local funding. The application has been reviewed by the State Agency of emergency management and then submitted to FEMA. The City has been told that this application will be first priority for the State. The CLOMR just approved makes this application a strong request.

Council President Hill said that although the grant request is a small piece of the project, it is an important piece. He stated that covering the open ditches along Patterson is not the most important part of this project.

Resolution No. 26-05 – A Resolution Authorizing the Submission of a Grant Application to Assist in the Funding of the Construction of Storm Water Capacity Improvements Along the Ranchman’s Ditch Drainage System

Councilmember Enos-Martinez moved to adopt Resolution No. 26-05. Councilmember Spehar seconded the motion. Motion carried by roll call vote.

D Road Under-grounding Phase 2 for the Riverside Parkway

The construction of the Riverside Parkway will require the relocation of many overhead power lines. This 2nd phase will underground approximately 0.9 mile of power lines from approximately the Regional Center to 29 Road and a section north of 29 Road.

The attached letter is an “invoice” from Xcel Energy stating that the under-grounding cost is estimated at \$599,942.92.

Mark Relph, Public Works and Utilities Director, reviewed this item. Part of the agreement with Xcel requires relocation of the lines, then if they are put underground, the City gets an overhead relocation credit.

Councilmember Palmer moved to authorize the City Manager to sign a purchase order with Xcel Energy to relocate the existing overhead power lines underground on D Road from the Regional Center east to 29 Road. Councilmember Kirtland seconded the motion. Motion carried.

Purchase of Property Located at 2502 Highway 6&50 for the Riverside Parkway Project

The City has entered into a contract to purchase right of way from the McCallum Family LLC for the Riverside Parkway Project. The City’s obligation to purchase this property is contingent upon Council’s ratification of the purchase contract.

Mark Relph, Public Works and Utilities Director, reviewed this item. The City has entered into a contract with the McCallum Family LLC to purchase two pieces of property. The usual negotiation process has taken place under the City’s policy.

Resolution No. 27-05 – A Resolution Authorizing the Purchase of Real Property at 2502 Highway 6 & 50 from the McCallum Family LLC

Councilmember Palmer moved to adopt Resolution No. 27-05. Councilmember Kirtland seconded the motion. Motion carried by roll call vote.

Purchase of Property at 1014 S. 4th Street for the Riverside Parkway Project

The City has entered into a contract to purchase the property at 1014 S. 4th St. from Loretta M. Young for the Riverside Parkway Project. The City’s obligation to purchase this property is contingent upon Council’s ratification of the purchase contract.

Mark Relph, Public Works and Utilities Director, reviewed this item. This property is residential and is a little different regarding relocation. Two independent appraisals were obtained and \$50,000 was determined. However, a decent, safe and sanitary replacement property must be obtained. The closest similar house was \$120,000. The City is also paying for relocation costs and closing costs. The closing is set for February 18th.

Councilmember Enos-Martinez asked how the new home is purchased. Mr. Relph stated that the City does advise the property owner of certain properties that are on the market, but it is up to the property owner to make the decision of obtaining one of those properties or to make other decisions and arrangements.

Resolution No. 28-05 – A Resolution Authorizing the Purchase of Real Property at 1014 S. 4th Street from Loretta M. Young

Councilmember Palmer moved to adopt Resolution No. 28-05. Councilmember Enos-Martinez seconded the motion. Motion carried by roll call vote.

Purchase of Property at 910 S. 4th St. for the Riverside Parkway Project

The City has entered into a contract to purchase the property at 910 S. 4th Street from Saul Reyes and Lainie Reyes for the Riverside Parkway Project. The City's obligation to purchase this property is contingent upon Council's ratification of the purchase contract.

Mark Relph, Public Works and Utilities Director, reviewed this item. This property has a business and a residence, therefore the negotiation was a mix of the policies. Appraisals were obtained, then there are moving costs and relocation costs. The replacement home is a rental. The rental supplement is \$14,952. Although only a small piece of the property is needed, the entire parcel is being purchased.

Resolution No. 29-05 – A Resolution Authorizing the Purchase of Real Property at 910 S. 4th Street from Saul Reyes and Lainie Reyes

Councilmember Spehar moved to adopt Resolution No. 29-05. Councilmember McCurry seconded the motion. Motion carried by roll call vote.

Purchase of Property at 1554 Independent Avenue for the Riverside Parkway Project

The City has entered into a contract to purchase right of way from Merrill C. and Valerie J. Kennedy for the Riverside Parkway Project. The City's obligation to purchase this property is contingent upon Council's ratification of the purchase contract.

Mark Relph, Public Works and Utilities Director, reviewed this item. Mr. Relph located the property and explained the surrounding parcels. He stated that with the purchasing the entire parcel, there are a series of buildings on the properties that would not be used. The property owner declined a second appraisal, so only one appraisal was obtained. The occupant has found a suitable replacement property and the City will be assisting in the relocation and reestablishment costs.

Mr. Relph explained how the property remnants remaining from these various purchases will not be needed for the Riverside Parkway project. He stated that staff is currently working on a strategy for that, but currently it is not formulated.

Resolution No. 30-05 – A Resolution Authorizing the Purchase of Real Property at 1554 Independent Avenue from Merrill C. and Valerie J. Kennedy

Councilmember Kirtland moved to adopt Resolution No. 30-05. Councilmember Palmer seconded the motion. Motion carried by roll call vote.

Council President Hill called a recess at 8:40 p.m.

The meeting reconvened at 8:53 p.m.

Public Hearing – Concerning Sampling of Wine and Beer in Retail Liquor Stores

Last summer, the Colorado General Assembly passed House Bill 04-1021 which included a provision to allow a local government to adopt an ordinance allowing alcohol beverage sampling (tastings) to be conducted in retail liquor stores and liquor-licensed drugstores. This proposal, if adopted, would allow such sampling but would restrict it to beer and wine.

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

Stephanie Tuin, City Clerk, John Shaver, City Attorney and Captain Harry Long reviewed this item.

Stephanie Tuin, City Clerk, stated that as Council already knows the Colorado General Assembly has passed House Bill 04-1021 which allows alcohol sampling (tasting) to be conducted in retail liquor stores. There are State provisions that are required and the conditions are, no more than four individual samples of up to one ounce of beer or wine or one-half ounce of spirituous (hard alcohol) liquor may be provided to a customer at no charge. The tastings are limited to 5 hours in one day, and hours need not be consecutive, tastings shall be conducted during operating hours and no earlier than 11 a.m. or later than 7 p.m. The establishment must not allow a patron to leave the licensed premise with an unconsumed sample. The licensee shall not serve a person who is under 21 years of age or who is visibly intoxicated. Tastings may occur on no more than four of the six days (Monday through Saturday) and not to exceed 104 days per year. Tastings shall be conducted only by a person who has completed a server training program that meets the standards established by the State Liquor Enforcement Division and is an owner or employee of the licensed premises. Ms. Tuin stated that several Colorado municipalities have already adopted an ordinance allowing tastings in their

community. They vary from the adoption of an ordinance granting the approval with no additional requirements, fees or process to an annual permit fee and a separate application form that will include, a schedule to be submitted and will be reviewed annually by the local authority. Although the law does not specifically allow for further restrictions, the proposed ordinance restricts tastings to beer and wine only (no hard liquor allowed).

John Shaver, City Attorney, wanted to clarify a couple of issues. He went through the proposed ordinance that he and Ms. Tuin had wrote. He went into detail about the proposed ordinance having only beer and wine tastings with no spirituous (hard alcohol) liquors. Also, the disposal of the samples, by the statutes, the licensee must remove all opened or unconsumed samples from the premises or destroy the samples immediately after the tasting.

Captain Long, GJPD, was asked to look into this from a law enforcement perspective. He looked at the cities that have passed the ordinance. He stated that 15 cities have passed the ordinance and none of the cities have had any law enforcement issues and about 7 of the cities have not had any tastings, so at this time he cannot comment on this.

Ruth Michels, 2151 Hawthorne Ave, said last December the Colorado State Liquor Enforcement did an underage compliance check at the liquor stores in the City. 40% of the liquor stores in this town failed the compliance check by not checking IDs and selling liquor to youth. She is concerned that 40% of the stores in this town disregarded the law and sold to minors. She asked that this ordinance not be approved until 100% comply with the law.

Monte Haltiner, 3003 Zenobia Street, manager of Crossroad Wine and Spirits, and Gerald Sica, 676 Independence Drive, merchandise manager of Crossroad Wine and Spirits were present. Mr. Sica said that Ms. Michels has some very good concerns, but wanted Council to know that Crossroads passed the compliance check with flying colors, and they work very hard with their staff on every issue. Mr. Haltiner stated that part of the every day business of being in the liquor industry, anytime a person requests to buy an alcoholic beverage, although it is not required by law to check a person's ID, they do. Mr. Haltiner stated that he has attended two of the City's trainings and stated that Crossroads was the only liquor store there. Mr. Haltiner said that it is their license that is in jeopardy if they sell to people who are underage. Mr. Sica stated that tastings are an issue for consumers because there is so much wine out there, their store has over 1400 products and this is a way for consumers to be educated. Mr. Sica said that they had almost 700 signatures from customers desiring to taste. He wished that it could have been more but they were only opened 30 days. He said that tasting is part of the culture; this State is the biggest brewery in the country. It is only second to California for wineries and they have tastings everyday at wineries. Mr. Haltiner stated that there are more restrictions in liquor stores than at wineries. Mr. Sica said that taste hopping is probably not an issue. They

support not allowing hard alcohol. It is not in their interest to serve minors or intoxicated people, and they are very serious about controlling this issue.

Council President Hill said that this is the first time he was aware a winery could host a wine tasting in a liquor store. Mr. Haltiner said that wineries have a limited number of times they can do this in a year.

Councilmember Butler asked if this ordinance is not passed will this affect the business at all. Mr. Haltiner said no, if the ordinance is not passed this will not affect them but this would let them give better customer service for their customers.

Wayne Fisher, Fishers Liquor Barn, 1041 24 Road, said that he has been in business for 25 years. He stated that yes his store failed the liquor sting and that it cost him \$5,000. He does not feel that giving away free wine is that good of a deal. He stated that he does not know enough about this around the State to know if it's a good deal or not. He stated that it is still new and thought they needed at least a year's time to make sure that this is a good deal, providing wine samples to consumers. He also wondered about the sanitation on the sample cups. Mr. Fisher said that there are things that need to be ironed out. He stated that there are 10 or 12 different liquor stores that signed a petition that are against passing this ordinance at this time. He stated that he would like to research it more and learn more about it. He said that he knows other businesses that have the taste sampling and that he would like to know what their experience is after some time. Mr. Fisher said that if Council lets this pass and if one store does the tasting, then he would have to do the tasting also, but he said that he doesn't want it and feels that they are not ready for it.

Councilmember Kirtland asked, what the liquor industry did when the State legislature was dealing with this issue and wanted to know if Mr. Fisher was aware of this. Mr. Fisher said that he was aware of this and the only mention was for the reduction of the alcohol limit.

Councilmember Kirtland asked where the other members of the industry are in their opinion of this. Mr. Fisher said that the association has disbanded due to a lawsuit. He feels that the classes are great and that he has had the liquor officer come on-site to train his employees.

Councilmember Spehar stated that the legislature had to lower the alcohol level, and had to make these trade offs. They were add-ons by the legislature to give them some running room on lowering the blood alcohol level by allowing restaurants to re-cork bottles of wine and allow the option of tasting.

Councilmember Spehar said that from the letters received, the other liquor stores main issue is the liability, even if they elected not to do tastings, and since it is an option, the concern is that the liability insurance rates would go up. Mr. Fisher said that is also a

concern of his and that is just one more reason that he wants to research this in greater detail.

Council President Hill asked is there any evidence to support the increase of liability insurance and asked Mr. Fisher if he had checked with his insurance company. Mr. Fisher said that he has not asked his agent.

Council President Hill asked Mr. Shaver, City Attorney, if there are caps on liability insurance, and there is a maximum amount to be liable. Mr. Shaver said that there are limitations in terms of a jury award, but not on premiums and profiles would be based on state-wide events.

Mr. Haltiner, manager of Crossroads Wine and Spirits, said that he understands the concerns and that some stores do not want to participate, but it is their clientele that wants the option, and it is about the consumers, not the liquor stores.

Randy Buray, 1017 Ouray, said that people can already taste at restaurants and bars. He feels that the Council should wait and give it some time.

The public hearing was closed at 9:50 p.m.

Councilmember Spehar asked are there any consideration on sampling cups. Ms. Tuin said that that has not been addressed in the ordinance, but it could be added.

Councilmember Palmer said that he has concerns about the failure rate of the liquor stores during compliance checks.

Councilmember Enos-Martinez said that this is optional just like a delivery permit, strictly optional to the liquor stores. She is more concerned with delivery permits, rather than serving the public. She would like to support this.

Councilmember Spehar stated that this is very new, and he can see the concerns of Ms. Michels and Mr. Fisher's comments of monitoring employees, and that the wineries already have an opportunity to serve wine samples. He would be more convinced if the letters of support were not form letters. He would like to see more experience.

Councilmember Kirtland said that the legislature is trying to regulate the consumption of liquor at the tastings. In Mesa County, they can go taste wine at wineries, which is a good experience for making selections. But, the legislature is trying to lower the level for driving and drinking and is looking at how the industry is going to regulate this. Mr. Kirtland would like to support this.

Councilmember Butler feels that there is no lack of people getting alcohol and that this doesn't benefit the citizens. He feels that this will affect the quality of life and is bad for young people to see tastings at liquor stores. He feels this is not a benefit.

Councilmember McCurry said he will have to go along with Councilmembers Palmer and Enos-Martinez. He said that different people have different tastes and not having to go to the different wineries and being able to go to a liquor store where the consumer could taste the wine is a benefit.

Council President Hill said that from CML's perspective, the industry has found some success at the legislature to allow such things to be passed to local control. Council President Hill stated that it was news to him tonight that wineries could already do this. He appreciates the industry stepping up, and stated that this is local control and that each store decides individually if they want to do the tastings. Council President Hill said that some of the liquor stores may feel that they will be forced to do the tastings to be in competition, but that will be up to each of the liquor stores. Council President Hill feels this is much more restrictive than what the wineries are allowed to do. If this was a problem, they would have heard about something. Council President Hill supports this at this time and appreciates Councilmember Spehar's thought of needing more time, he hopes that the liquor stores do not abuse the tastings because of the risk of losing their license.

Councilmember Spehar feels that there needs to be additional provisions, such as limited number of hours, disposal containers, and look at permit fees for cost recovery.

Councilmember Palmer asked City Attorney Shaver if Council makes an adjustment to the ordinance, will it need to be republished. Mr. Shaver stated no, some changes can be incorporated.

Ordinance No. 3716 - An Ordinance Enacting a New Article IV Within Chapter 4, Concerning Alcoholic Beverages, in the Grand Junction Code of Ordinances Pertaining to the Tasting of Alcoholic Beverages

Councilmember Kirtland moved to adopt Ordinance No. 3716 amending the ordinance to include a limitation to three days per week, not specifying the days, limiting the hours to 1 p.m. to 7 p.m., hours be consecutive and samples be served in single serving containers designed to hold one ounce. Councilmember Palmer seconded the motion.

Motion carried by roll call vote with Councilmember Butler and Councilmember Spehar voting NO.

Public Hearing – Growth Plan Amendment – Vista Peak [File # GPA-2004-191]

Request approval of a Growth Plan Amendment to change the Future Land Use designation from Rural (5 acres per unit) to Residential Medium Low (2-4 units per acre) on 16 acres, located at 104 29 ¾ Road.

The public hearing was opened at 10:30 p.m.

Robert Jones, II, Vortex Engineering, representing the applicant, reviewed this project. He described the current zoning and the surrounding zoning, and the future land use designations. He then reviewed the Growth Plan Amendment criteria and how the request meets the criteria. He contended that growth leads to the need in areas for additional housing. The property does not allow for development under the current designation. Orchard Mesa is one of the fastest growing areas in Grand Junction. Mr. Jones stated that there are facilities available to serve the development. He also noted that there is not enough existing land available as even those currently designated for residential development are being used agricultural and there are only two parcels currently being considered for development. He stated the request does meet the criteria and the Growth Plan Amendment will be a benefit and an improvement.

Councilmember Spehar said the reason for the Growth Plan Amendment is that much of the growth is due to annexations that provided housing with it, which is not exactly justification. The purpose of the Growth Plan is to create an expectation of development patterns, and not to provide every opportunity in every area. The development has been currently designated, and would provide more open space. Mr. Jones said that within the Urban Growth Plan Boundary it is also designated for growth and land is not available to meet the housing needs.

Kathy Portner, Planning Manager, reviewed the request. She described the location, noting the property was recently annexed, and it is within the 201 boundary. It is in far reaches of the Urban Growth Boundary, the property includes a ridgeline protected by the ridgeline development policy. She then described the existing zoning prior to the annexation. The nearest City zoning is Red Tail Ridge and the surrounding county zoning is RSF-R and AFT. The property is a large knoll with severe topographic constraints. The only reasonable access is from 29 ¾ Road; there are many significant slopes on the property. The findings on the request are it has limited development potential due to limited access and steep grades. The amendment is not consistent with the policies of the Growth Plan, and staff disagrees with many of the applicant's findings. It does not meet the purposes and does not meet criteria. Both staff and the Planning Commission recommend denial of the request.

Fran Warford, 2995 Burns Drive, she stated that there are very steep slopes and dry adobe soil. Her concern is, if developed as proposed, it will disturb the soil and the water table for homes that are below the hillside.

Chuck Beyerbach, 103 29 ³/₄ Road, 2nd house at the end of road, he said that he bought there because of the quietness, and the extremely steep hillside. He feels that it would be a shame to disturb it. The runoff is bad enough without additional plantings that will cause major flooding. He said there are numerous other parcels with flat soils that are available.

Ward Warford, Fran's husband, said that his engineered foundation was a special post-tension slab. They have had two different foundations, the first one had to be torn out because the soil conditions are so unusual. He said that the engineered foundations that would be required are very expensive.

Brian Fisher, 413 Smallwood, said that he is a builder and developer. He stated that engineered foundations are common in this valley. The soil on the hill would be good soil to build on, and he is definitely willing to work with the community to serve their needs. He knows that a slope analysis will be needed, and is willing to meet those needs. He said that it is private property and he does not want trespassers. He will continue to pursue this development.

The public hearing was closed at 10:50 p.m.

Mr. Jones agreed that engineered foundations will be required, and the ridgeline development does not prohibit development. The staff's use of potential engineering issues should not be considered at this time. There are engineering issues that need to be addressed on the preliminary plat.

Councilmember Palmer said that he understands the neighbors being attached to adjacent vacant land. He said that there are questions regarding whether to change the land use designation, but he is not convinced that there were errors to change.

Councilmember Spehar said that he agrees, but the purpose was to set the bar high on growth plan amendments. The Growth Plan was reviewed in 2003 and the purpose is to let those buying property know what the community expectations are. He agrees with the Planning Commission for denial.

Councilmember Butler agrees with Councilmember Spehar, and that staff and noted the Planning Commission went over it quite well. He would like for it to stay rural.

Councilmember Kirtland stated that any development that does eventually fall into the public domain, constraints do need to be considered.

Council President Hill stated that he cannot support a change in the Growth Plan for this property.

Resolution No. 31-05 – A Resolution Amending the Growth Plan of the City of Grand Junction, Vista Peak, 104 29 ³/₄ Road

Councilmember Spehar moved to deny the Growth Plan Amendment request. Councilmember McCurry seconded the motion. Motion carried unanimously by roll call vote.

NON-SCHEDULED CITIZENS & VISITORS

There were none.

OTHER BUSINESS

There were none.

EXECUTIVE SESSION

Councilmember Spehar moved to go into Executive Session for the discussion of property negotiations regarding the purchase, acquisition, lease, transfer, or sale of real, personal, or other property interest under section 402 (4)(a) of the open meetings law relative to riverside parkway. Councilmember Palmer seconded the motion. Motion carried.

ADJOURNMENT

The meeting adjourned into Executive Session at 11:00 p.m.

Stephanie Tuin, MMC
City Clerk