

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

April 19, 2006

The City Council of the City of Grand Junction convened into regular session on the 19th day of April 2006, at 7:02 p.m. in the City Auditorium. Those present were Councilmembers Bonnie Beckstein, Teresa Coons, Jim Doody, Gregg Palmer, Jim Spehar, Doug Thomason, 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 Thomason led in the pledge of allegiance. The audience remained standing for the invocation by Pastor Jerry Boschen, First Assembly of God.

PROCLAMATIONS / RECOGNITIONS

Council President Hill recognized Boy Scout Troop 303 in attendance.

RECOGNITION OF THE INVESTIGATIVE EFFORTS OF POLICE OFFICER ED PRESCOTT – RALPH BELCASTRO IS DONATING TO THE WESTERN SLOPE CENTER FOR CHILDREN ON BEHALF OF THE GRAND JUNCTION POLICE DEPARTMENT – Interim Police Chief Bill Gardner explained the purpose of the recognition as well as the generosity of the community. He detailed the story of the Belcastro robbery and Officer Prescott's involvement. Officer Prescott was recognized by Mr. and Mrs. Belcastro and was presented a check. Jo Anna O'Fallon representing the Western Slope Center for Children was then presented the check for their organization from Officer Prescott on behalf of the Police Department.

PROCLAIMING APRIL 20, 2006 "ARBOR DAY" IN THE CITY OF GRAND JUNCTION

PROCLAIMING APRIL 23 THROUGH APRIL 29, 2006 AS "ADMINISTRATIVE PROFESSIONALS WEEK" IN THE CITY OF GRAND JUNCTION

PROCLAIMING APRIL 30 THROUGH MAY 6, 2006 AS "MUNICIPAL CLERKS WEEK" IN THE CITY OF GRAND JUNCTION

APPOINTMENTS

TO THE HORIZON DRIVE ASSOCIATION BUSINESS IMPROVEMENT DISTRICT

Councilmember Coons moved to reappoint Richard Tally, Dale Reese, and Eileen Blanchard for four year terms until April 2010 to the Horizon Drive Association Business Improvement District Board. Councilmember Thomason seconded the motion. Motion carried.

CITIZEN COMMENTS

There were none.

CONSENT CALENDAR

Councilmember Spehar suggested items #14 and #15 be moved to the Consent Calendar.

It was moved by Councilmember Spehar, seconded by Councilmember Coons to move items # 14 and #15 to the Consent Calendar.

Council President Hill opened the public hearing on Item #14, the Amendment to the Action Plan for the CDBG and the subrecipient contract for the Salvation Army at 7:26 p.m.

There were no public comments.

The public hearing was closed at 7:26 p.m.

Council President Pro Tem Palmer said regarding Item #7, he would like to preserve Council's ability of looking at certain items on a case by case on the purchase of items. He said the local bid has a \$1,949 difference than the bid from Commerce City. He felt the bid should be awarded locally.

Roll was called and the motion carried to approve Consent Calendar items #1 through #8 with the addition of #14 and #15 with Councilmember Doody and Council President Pro Tem Palmer voting NO on #7.

1. **Minutes of Previous Meeting**

Action: Approve the Minutes of the April 5, 2006 Regular Meeting

2. **Private Street for the Proposed Legends East Subdivision** [File #PP-2004-158]

The petitioners, Greedy Group, LLC, wish to propose a private street to be located within their proposed residential subdivision (Legends East) that they wish to develop near Patterson Road & 28 ½ Road. In accordance with Section 6.7 E. 5. of the Zoning & Development Code, only the City Council may authorize any development that would be served by a private street.

Resolution No. 29-06 – A Resolution to Approve a Proposed Private Street (Tract C) for the Legends East Subdivision

Action: Adopt Resolution No. 29-06

3. **Setting a Hearing on Woodridge Subdivision Right-of-Way Vacations** [File #FPP-2005-240]

The Woodridge Subdivision is a 29-lot proposal for both attached and detached single family housing on the remaining parcels of land (total 7.8 acres) that were originally part of the Wilson Ranch Planned Development. A Planned Development (PD) zoning ordinance and Preliminary Development Plan were approved by City Council on October 20, 2005. The Final Plat and Plan are in the final stages of administrative review. The proposed vacations were contemplated but not heard with the Preliminary review thus are being requested at this time. The sewer easement vacation will be considered at second reading of the right-of-way vacation ordinance.

Proposed Ordinance Vacating Rights-of-Way for 25-3/4 and G-1/2 Roads in the Vicinity of 2561 G-1/2 Road Within the Property Known as the Woodridge Subdivision

Action: Introduction of a Proposed Ordinance and Set a Hearing for May 3, 2006

4. **Setting a Hearing for the Arbogast Annexation Located at 785 24 Road** [File #GPA-2006-064]

Resolution referring a petition for annexation and introduction of a proposed ordinance. The 18.05 acre Arbogast Annexation consists of 1 parcel and is a 2 part serial annexation.

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

Resolution No. 30-06 – 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, Arbogast Annexation, Located at 785 24 Road

Action: Adopt Resolution No. 30-06

b. Setting a Hearing on Proposed Ordinances

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Arbogast Annexation #1, Approximately 4.40 Acres Located at 785 24 Road

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Arbogast Annexation #2, Approximately 13.65 Acres Located at 785 24 Road

Action: Introduction of a Proposed Ordinance and Set a Hearing for June 7, 2006

5. Setting as Hearing for the Charlesworth Annexation Located at 248 28 Road [File #GPA-2006-062]

Resolution referring a petition for annexation and introduction of a proposed ordinance. The 10.85 acre Charlesworth Annexation consists of 2 parcels.

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

Resolution No. 31-06 – 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, Charlesworth Annexation, Located at 248 28 Road

Action: Adopt Resolution No. 31-06

b. Setting a Hearing on Proposed Ordinance

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Charlesworth Annexation, Approximately 10.85 Acres, Located at 248 28 Road

Action: Introduction of a Proposed Ordinance and Set a Hearing for June 7, 2006

6. Setting a Hearing for the GPD Global/Woomer Annexation Located at 2322 and 2328 I-70 Frontage Road [File #GPA-2006-065]

Resolution referring a petition for annexation and introduction of a proposed ordinance. The 37.57 acre GPD Global/Woomer Annexation consists of 3 parcels.

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

Resolution No. 32-06 – 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, GPD Global/Woomer Annexation Located at 2322 and 2328 I-70 Frontage Road Including a Portion of I-70 and 23 Road Rights-of-Way

Action: Adopt Resolution No. 32-06

b. Setting a Hearing on Proposed Ordinance

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, GPD Global/Woomer Annexation, Approximately 37.57 Acres Located at 2322 and 2328 I-70 Frontage Road Including a Portion of I-70 and 23 Road Rights-of-Way

Action: Introduction of a Proposed Ordinance and Set a Hearing for June 7, 2006

7. Purchase of 2006 Vactor P Ramjet Sewer Vacuum Truck

This purchase is for the replacement of one 1996 International Ramjet Truck. The vehicle is currently scheduled for replacement in 2006 as identified by the annual review of the fleet replacement committee.

Action: Authorize the City Purchasing Division to Purchase One 2006 Sterling/Vactor L7500/P-Series Ramjet Sewer Vacuum Truck, from Boyle Equipment Company, Commerce City, Colorado for the Amount of \$110,401.00

8. Award Contract for 2006 Curb, Gutter, and Sidewalk Replacement Program, Phase A

The project consists of replacing sections of hazardous or deteriorating curb, gutter, and sidewalk in various locations on Street Department's schedule to be chip sealed later this year. The project also includes median improvements, on Patterson Road and South Broadway.

Action: Authorize the City Manager to Sign a Construction Contract for the 2006 Curb, Gutter, and Sidewalk Replacement, Phase A Project to BPS Concrete, Inc. in the Amount of \$169,096.68

14. **Public Hearing – Amendment to Action Plan for 2005 Program Year Community Development Block Grant (CDBG) Program and Subrecipient Contract with The Salvation Army** [File #CDBG-2005-02]

Hold a public hearing to amend the City's 2005 Action Plan for the Community Development Block Grant (CDBG) 2005 Program Year to utilize \$25,000 granted to the Salvation Army for operational funds for the Adult Rehabilitation Program (ARP) rather than to expand the program.

If the amendment for the Adult Rehabilitation Program (ARP) is approved as stated above, the Subrecipient Contract will formalize the City's award of \$25,000 to The Salvation Army for operation of the ARP.

Action: 1) Approve the Amendment to the City's CDBG 2005 Action Plan to Reflect the Revisions Summarized Above; 2) Authorize the City Manager to Sign the Subrecipient Contract with The Salvation Army

15. **Amending the 2006 City Council Meeting Schedule**

Due to scheduling conflicts, the City Council has determined it is necessary to change the June 21, 2006 meeting to June 19, 2006.

Resolution No. 33-06 – A Resolution of the City of Grand Junction Amending the City Council 2006 Meeting Schedule

Action: Adopt Resolution No. 33-06

ITEMS NEEDING INDIVIDUAL CONSIDERATION

Rehearing Request Regarding the April 5, 2006 Consideration of a Rezone and Right-of-way Vacation for the Van Gundy Property [File #RZ-2006-022]

On April 5, 2006, the City Council considered a request to rezone and vacate right-of-way for property known as the Van Gundy property, in the vicinity of 1018 South 5th Street. The City of Grand Junction and owners of the adjacent property, Sterling Corporation, were the applicants. After a duly noticed public hearing, the City Council voted to reject the proposed ordinances, thus denying the requests. On April 17, 2006, the City received a request to rehear the matter, based on the contention that the City Council was not presented all the evidence.

City Manager Kelly Arnold introduced this item. He said this request is to rehear File #RZ-2006-002, the Van Gundy rezone, which Council heard two weeks ago. He stated

per the contract, the City is the applicant. He then read paragraph five in the contract that was signed by Mr. Van Gundy and the City of Grand Junction. He said the Van Gundy's request letter speaks to impartiality. City Manager Arnold recommended a rehearing be granted as there were different presenters at the Planning Commission meeting than at the City Council meeting on April 5, 2006. He said Council should deliberate the differences between I-1 and C-2 zone districts. City Manager Arnold said there was some discussion at the Planning Commission meeting regarding the CUP process and said there is additional information that can be presented on the rezoning that occurred in 2000 regarding the South Downtown Plan. Lastly, he said the video tape from the Council meeting on April 5, 2006 was incomplete. If a rehearing is granted then the hearing date must be set within the next 45 days.

City Attorney John Shaver then elaborated on the provisions of the Zoning and Development Code. He said anyone can request a rehearing if they were present at the last hearing; a member of Council that was in the majority must make any such motion and then the vote can be taken. City Attorney Shaver said if the rehearing is granted the hearing could be held tonight or anytime within 45 days. If no second or the motion does not pass, then the matter dies and there will be no additional action. He said himself and the City Manager recommends a rehearing. City Attorney Shaver said the attorney for the Van Gundy's as well as members of City Staff are present and ready to participate in a hearing if held tonight.

Councilmember Thomason moved to rehear the request regarding the April 5, 2006 consideration of a rezone and right-of-way vacation for the Van Gundy property. Councilmember Coons seconded the motion.

Council President Pro Tem Palmer stated that this issue is clearly important to the community.

Motion carried.

Councilmember Spehar suggested Council rehear the request tonight and said it is difficult to get all seven Councilmembers there and said that he feels it is appropriate to go ahead and come to some conclusion tonight.

Councilmember Coons agreed that Council should rehear the request tonight.

Councilmember Doody said that he read an email this morning that said the Van Gundy group would like to rehear the request on May 3rd and said that he would like to give them the opportunity to regroup and get prepared for the rehearing if that is their preference.

Councilmember Thomason said Council should rehear the request tonight.

Councilmember Beckstein said she was fine to hear the request tonight.

Council President Hill said Council received a faxed letter today from Joe Coleman, attorney for the Van Gundy's, to schedule the rehearing for May 3rd.

Attorney Shaver recommended rescheduling the rehearing for May 3rd from a fairness perspective to the Van Gundy's.

Councilmember Beckstein said that she was not in attendance Monday evening and said that she was not aware of Attorney Shaver's comments. She said that May 3rd is more preferable.

Councilmember Coons moved to rehear the consideration of a rezone and right-of-way vacation for the Van Gundy's property this evening, April 19, 2006. Councilmember Spehar seconded the motion. Motion carried 4 to 3 to conduct the rehearing this evening with Council President Hill and Councilmembers Beckstein and Doody voting NO.

Council President Hill asked Council to review the rest of the agenda before going forward with the request and said there are options to either continue with the Van Gundy rehearing now or move it to the end of the agenda.

Council President Pro Tem Palmer said if Council is going to hear it tonight and everyone is here then Council should not make them all wait through the rest of the agenda.

Councilmember Beckstein said that she would prefer to address other items first.

Councilmember Spehar agreed with Councilmember Beckstein.

Councilmember Doody also agreed.

Councilmember Coons and Councilmember Thomason said they could go with the request to rehear either way.

Council President Hill said the decision is to review the Van Gundy request last on the agenda.

Public Hearing – Assessments for Sanitary Sewer Improvement District No. SS-47-05 (26 Road and F ½ Road Area)

Sanitary sewer improvements have been completed for the 26 Road and F ½ Road Area Sewer Improvement District No. SS-47-05 as petitioned by a majority of the property owners to be assessed.

The public hearing was opened at 7:52 p.m.

Mark Relph, Public Works and Utilities Director, reviewed this item. He said this is the last step of this Sanitary Sewer Improvement District. He said the original estimate for this work was \$117,000 and said the actual cost is slightly less, \$114,417, so the assessment will be slightly less for the property owners.

Morgan Freitas, 637 26 Road, one of the property owners in the Sewer Improvement District, questioned the legal notice from March 17, 2006. He said it states the property owners are only assessed 70%, but the subsequent assessment notice did not make reference to this. Mr. Relph explained the calculation and said the actual assessment does have a six percent fee for collecting through the property tax notice and the actual cost is reduced by the City's participation.

There were no other comments.

The public hearing was closed at 7:59 p.m.

Ordinance No. 3884 – An Ordinance Approving the Assessable Cost of the Improvements made in and for Sanitary Sewer Improvement District No. SS-47-05, in the City of Grand Junction, Colorado, Pursuant to Ordinance No. 178, Adopted and Approved the 11th Day of June, 1910, as Amended; Approving the Apportionment of Said Cost to Each Lot or Tract of Land or Other Real Estate in Said District; Assessing the Share of Said Cost Against Each Lot or Tract of Land or Other Real Estate in Said District; Approving the Apportionment of Said Cost and Prescribing the Manner for the Collection and Payment of Said Assessment

Council President Pro Tem Palmer moved to adopt Ordinance No. 3884 on Second Reading and ordered it published. Councilmember Coons seconded the motion.

Council President Hill noted that the road improvements to 26 Road were postponed until the sewer improvements were completed.

Motion carried by roll call vote.

Public Hearing – Revisions to the Submittal Standards for Improvements and Developments (SSIDs) Manual

Staff introduced the SSIDs Manual (Submittal Standards for Improvements and Developments) at the April 5th City Council Meeting. The major goals of the revision were to streamline the document, correct errors, and restructure conflicting language, incorporate input from the public and remove requirements duplicated in other City

Codes. Planning Commission has reviewed the proposed changes and recommends Council adopt the Manual as proposed.

The public hearing was opened at 8:00 p.m.

Tim Moore, Public Works Manager, reviewed this item. He explained the reason for the changes and then briefly reviewed the history of the manual. He highlighted some of the changes noting the extensive public involvement. He said there was a delay in the time frame when a title policy on the property was required. The requirement for the site plan drawings are for minor site plans and said a qualified engineer is not required for these smaller developments. He said the document has been reformatted and there will be staff training as well as the development of a resource guide that will be available to Staff and the public.

Council President Hill questioned if the document will be available on the City's web site. Mr. Moore said yes, along with some miscellaneous reports that have also been placed on the web site. He said there are new provisions on how to handle the boundary line discrepancies to make it a little cleaner and not so involved.

Council President Hill thanked Development Engineer Laura Lamberty for all her work on the project and said that he appreciated being able to go through the manual and know what was changed.

Mr. Moore said in Section 2, Application Submittals, talked about the review agencies in the old manual. He said Staff has cleaned it up to distinguish between City Staff and review agencies. Mr. Moore suggested that instead of calling out City Staff Review Agencies to delete Staff so the manual will read Review Agencies.

Larry Rasmussen, 3086 Bookcliff Avenue, representing AMGD and the Homebuilders Association, also echoed compliments to the revised manual. He supported Mr. Moore's suggested amendment to Section 2 and asked that the document stay a working document as they continue to receive requests for further amendments or additions.

There were no other comments.

The public hearing was closed at 8:16 p.m.

Councilmember Coons and Councilmember Spehar complimented Staff and expressed their appreciation.

Council President Hill thanked Mr. Rasmussen for coming forward and stating his compliments as well. He said this is a working document and it is easier to have it electronic.

Ordinance No. 3885 – An Ordinance Amending the City of Grand Junction’s Submittal Standards for Improvements and Developments (“SSID”) and Authorizing Publication of the Amendments by Pamphlet

Councilmember Doody moved to adopt Ordinance No. 3885 amending Section 2, page 1, by striking out City Staff in front of Review Agencies on Second Reading and ordered it published in pamphlet form. Councilmember Spehar seconded the motion. Motion carried by roll call vote.

Councilmember Coons recused herself for the St. Mary’s item next on the agenda as she is an employee. She left the dais.

Council President Hill called a recess at 8:23 p.m.

The meeting reconvened at 8:34 p.m.

Public Hearing – Adoption of the 2000 St. Mary’s Master Plan and Amendments
[File #FPA-2005-288]

Final consideration of a proposed ordinance to adopt the 2000 St. Mary’s Master Plan, including various amendments which reflect updates to the prior plans that will enable the hospital to prepare for the upcoming Century Project. St. Mary’s Hospital is located on the southwest and southeast corners of Patterson Road and 7th Street and is zoned principally Planned Development (PD).

The public hearing was opened at 8:35 p.m.

Lisa E. Cox, Senior Planner, reviewed this item. She described the location, the uses on the various sites, and the surrounding zoning. She listed the addresses of the properties under consideration at this hearing. She noted that in an effort to review the entire plan for their properties rather than having it being reviewed piecemealed, the Planning Commission recommended that St. Mary’s prepare a Master Plan. She said that was done and subsequently reviewed and approved with conditions by the Planning Commission with the caveat that it be reviewed every five years. Ms. Cox said this is the process for large acreage developments and said they are reviewed by Planning Commission and then come before the City Council for adoption. She displayed the 2000 Master Plan and said the subsequent amendments moved the parking garage and the Sacommano Center. She then displayed another set of amendments which represented several smaller changes. Ms. Cox said there will be a utility tunnel, temporary helicopter pad, and some underground detention at St. Mary’s Park that will be

returned to open space at the end of the construction. She said some green space will be converted to surface parking for the construction workers that will remain as a parking lot but will be open space when completed. She said another set of improvements is the demolition of the existing emergency room entrance and said there will be a temporary entrance during construction. In Section 2.2.0 the criteria for the Master Plan requires review and consideration of the Master Plan. Ms. Cox said that it meets the intent of the 2000 Master Plan and also the Growth Plan.

Council President Pro Tem Palmer questioned if the pedestrian traffic will be an issue. Ms. Cox said St. Mary's has made provisions for both pedestrians and traffic to insure the safety of each.

Rob Jenkins, St. Mary's architect, 2575 N 7th Street, thanked Ms. Cox and said the first plan that submitted was a Facility Master Plan. He said St. Mary's will continue to update and submit for approval and that it sounds like they are constantly submitting and amending, but hopes that the City will be extremely flexible due to changing technology and changes in available materials. Mr. Jenkins reviewed the changes that Ms. Cox identified and explained the reasons for the changes. He said the 2005 plan has not been presented to the Council yet and said it is in the review process. He said the traffic analysis was postponed until the intersection improvements at 7th and Patterson were complete. The Century Project required certain changes, as identified by Ms. Cox. He said the utility tunnel will be an access to carry a number of things from the plant and the relocation of the helicopter services is to make way for the construction of the new building. He said an ambulance will then carry those patients from the helicopter to the hospital across 7th Street. Mr. Jenkins said these ambulances will be owned by St. Mary's and said there will be no impact on the City ambulances. He said the St. Mary's Park is no longer being leased by the City and will serve as green space and stormwater detention. It will be used for construction staging in the interim. He said the underground detention will be installed and then after construction it will then return to green space. The parking area along Bookcliff and across 7th Street will be parking for some 300 tradesmen. Mr. Jenkins said St. Mary's will relocate the emergency entrance of the hospital during the construction.

Councilmember Thomason questioned when the construction will begin. Mr. Jenkins said they are in the design process and will begin spring of next year. He said the construction will be two years for the hospital addition and two years for the extensive remodel of the hospital.

There were no public comments.

The public hearing was closed at 9:01 p.m.

Ordinance No. 3888 – An Ordinance Approving and Amending the Master Plan for St. Mary's Hospital and Environs Located at 2635 North 7th Street

Council President Pro Tem Palmer moved to adopt Ordinance No. 3888 on Second Reading and ordered it published. Councilmember Beckstein seconded the motion. Motion carried by roll call vote.

Councilmember Coons returned to the dais.

Public Hearing – Amending the PD Zoning and Approve the Preliminary Plan, 10 Overlook Subdivision [File #PP-2005-209]

Request approval to amend the PD zoning ordinance and approval of the Preliminary Plan and Plat for 10 Overlook Subdivision, consisting of 6 residential lots on 1.96 acres located at Hillview and Ridge Circle, Redlands Mesa.

The public hearing was opened at 9:02 p.m.

Kathy Portner, Assistant Director of Community Development, reviewed this item. She explained the request is to add a parcel that was originally going to be part of the golf course and is about 2 acres. She said the area to the east was originally a school site and is now owned by the City. She described the zoning and surrounding zoning. She said the proposal will create six lots and said the request meets the criteria of the Zoning and Development Code and is consistent with the Growth Plan.

Brad Higginbotham was present representing the applicant but had nothing to add.

There were no public comments.

The public hearing was closed at 9:05 p.m.

Ordinance No. 3889 – An Ordinance Amending the PD Zoning for Land Located West of Hillview Drive in the Ridges known as 10 Overlook Subdivision

Councilmember Spehar moved to adopt Ordinance No. 3889 on Second Reading and ordered it published. Councilmember Beckstein seconded the motion. Motion carried by roll call vote.

Rehearing Request Regarding the April 5, 2006 Consideration of a Rezone and Right-of-way Vacation for the Van Gundy Property [File #RZ-2006-022]

The public hearing was opened at 9:06 p.m.

City Manager Kelly Arnold, the applicant, introduced the item and noted that Staff is present and ready to make the presentation. He said what will be heard from Staff is information that was discussed at the Planning Commission and what was presented at the City Council meeting two weeks ago. He said if there are any questions, he encourages Council to ask Staff or the City Attorney and take the opportunity to ask questions as they deliberate the issue. He then thanked Council for conducting the hearing tonight.

Joseph Coleman, attorney, 2454 Patterson Road, representing Dean Van Gundy stated that this is a co-application and he wanted to address two issues.

Council President Hill stated that the City is the applicant and said they will make the presentation.

Mr. Coleman said that he wanted to address an issue that needs to be addressed at the beginning of the hearing. He stated that the City is their agent for purposes of this matter. He said the City did not confer with the applicant and questioned if the Council will afford the opportunity to present the facts which will support the request of a recusal or disqualification of a Councilmember.

Council President Hill advised that Mr. Coleman brought before Council two issues, the first one is the City of Grand Junction is acting as an agent, the second is regarding the disqualification of a Councilmember.

City Attorney John Shaver said the agreement that is at issue is the option agreement for the sale of real property dated December 6, 2005 by the City of Grand Junction and Dean H. Van Gundy. He said what the application provides is that the City on or before January 15, 2006 will prepare and submit to all review agencies the three items in the application. The first item is the subdivision plat, the second is to vacate the north south alley right-of-way, and the third is to obtain the appropriate zoning designation. He said the City agrees by this contract that it will represent both the City and the Van Gundy's in this application. City Attorney Shaver said the City is the applicant and is doing so on behalf of its interest and the possible interest of this particular contract. He said the City purchased the property from Mr. Van Gundy and said there are two pieces of property that are being presented, the remnant piece which is the optional piece and the property to the east which is known as the Sterling property. He said the Van Gundy's do not own the Sterling property and said the City does own the remnant piece of property that would be merged under the subdivision plat. He then displayed the signed original of the development application which shows the City and the Sterling Company as the applicants.

Council President Pro Tem Palmer asked for clarification that the City Staff is the applicant and wanted to know if there was any guarantee of an outcome from the rezone hearing. City Attorney Shaver said the contract was not written that way nor would City Staff guarantee any outcome. He said the best person to ask would be Mr. Shanks as he has worked on this day to day. City Attorney Shaver said that Mr. Coleman's concern is that the City makes the best case for his client.

Councilmember Spehar questioned if there are two signatures and two applicants, the City and the Sterling Company, and if those are the only applicants that are part of this application.

City Attorney Shaver said yes and said what is seen as AMPCO, Inc. on the application is the business with Randy Van Gundy, but they do not yet own the property.

Council President Hill questioned if there are three signatures, one being AMPCO.

City Attorney Shaver said that there are only two signatures, one with Mark Relph as the Department Director and the second is Mr. Scariano on behalf of the Sterling property.

Council President Hill questioned if there has been any participation from the Sterling Company. City Attorney Shaver answered not to his knowledge.

Council President Hill questioned if the City is supposed to be the agent for the Sterling Property regarding the zoning issues.

City Attorney Shaver said per the contract it is, because the City agreed to bring this application forward and said that was part of negotiations with the Van Gundy's. He said this hearing is about Council receiving the same presentation as did the Planning Commission from Mr. Shanks. City Attorney Shaver said that he does not get to substitute his judgment for the Council, he stated that Council as elected officials get to decide these items as presented. He said the purpose of this hearing is to hear all of the facts that are presented and said if the outcome is chosen differently than that is it.

Councilmember Beckstein said that she has a concern she was not aware of until she read that Mr. Scariano was part of the application. She said Mr. Scariano is a client of hers and said that she is a personal friend of his wife. She wanted to know if any of the Councilmembers would have a concern as well.

Council President Hill said that matter will be disclosed on record and said Council will come back to that.

Council President Hill questioned Mr. Coleman's issue regarding the City of Grand Junction being the agent for his client. He said the issue before Council tonight is the

matter to rehear the zoning issues and said the City is the agent and questioned Mr. Coleman if he wishes Council to proceed with this hearing this evening.

Mr. Coleman said no. He said everyone here before Council and within the City wants Council to change their mind. He said they did not prepare for a rehearing tonight as they were told that the City would not rehear the matter. He said he found out about the rehearing in the newspaper and said that Mr. Arnold as his agent asked for a rehearing and did not copy him on the request. Mr. Coleman said the reasons for the rehearing was a step in the right direction but there are some mistakes along the way and said the City Manager will not say that he is representing his client Mr. Van Gundy. He suggested they should have the hearing when everyone is prepared and they have enough time to get witnesses. He said he wanted to file his motion for disqualification of a council-member in a polite way but was not given the opportunity. He said it was not malice of the City Manager, but said it was carelessness, with no courtesy of a response. He said that he strongly believes the Council needs to show the citizens of the City of Grand Junction that this is not a rubber stamp proceeding. He said the City Manager has an undivided loyalty to Dean Van Gundy per the contract. He asked that Staff look at the language in the contract and treat Mr. Van Gundy in a legal and fair manner. He asked that Council rehear this matter on May 3rd so that he has the chance to work with the City Manager as his agent and work out their differences.

Council President Hill asked Council if it is in the best interest of the hearing to continue to May 3rd.

Councilmember Spehar stated that he asked City Attorney John Shaver and City Manager Kelly Arnold if they were prepared to present as per the contract tonight and said that he heard an affirmative response.

City Attorney Shaver said that he heard correctly. He said the argument is whether the rehearing is required. He said per the contract the required hearings are before the Planning Commission and the City Council and said those have taken place. He said if the City wants to rehear this and get all of the issues out, it would not hurt to wait until May 3rd. He stated that there will be different testimony tonight than what was said at the April 5th Council meeting, but whether it will satisfy the attorney and Mr. Van Gundy, he can't say because it is not known what all of the testimony will be.

Councilmember Coons stated that Mr. Coleman's letter originally said time is of the essence and must be held at tonight's meeting. She questioned if Mr. Coleman will change his mind again before the 3rd of May. She said Council rearranged the agenda this evening and feels Council should go forward the rehearing this evening.

Councilmember Spehar questioned if the rehearing must occur on the same agenda.

City Attorney Shaver said in a previous letter dated April 17th from Mr. Coleman, he requested the rehearing to be held tonight.

City Manager Kelly Arnold wanted to clarify for the record that he did not have a conversation with the legal counsel of the Van Gundy's. He said that he relied upon the City Attorney for legal counsel and said Staff is prepared if Council would like to go forward tonight. He said again for the record that he has not had any contact with Van Gundy's representative.

Councilmember Doody said that by Mr. Coleman's statement about being notified at the eleventh hour before this meeting and the fundamental fairness, he does not want the City to be viewed by the citizens as being unfair. He feels that Mr. Coleman's request for May 3rd is reasonable.

Councilmember Beckstein questioned if the City is the agent for the Van Gundy's or the Sterling property.

City Attorney Shaver said that Mr. Van Gundy has a contract of interest to purchase both properties, but they do not own either of the properties. Now the City is an owner and the other owner is Sterling, which is in support of this application.

Councilmember Coons questioned if the need is to rezone both pieces of property.

City Attorney Shaver said the Van Gundy's also had obligations under the contract. He said to have legal justice to the zoning, the City must look at the criteria and all of the uses that would be allowed in the I-1 zone district. He said the City must decide apart from the end use.

Council President Hill said that the City has to stay focused on the zoning issue. He said the Van Gundy's might not be the end user and the Council can't make that assumption. He said this was a different type of applicant and said in another example, the agent would also ask for a continuance. He felt that it would be fair for everyone involved to continue this to May 3rd.

Councilmember Spehar stated that he would like to delay the hearing to May 3rd.

Council President Pro Tem Palmer agreed with Councilmember Spehar to delay this to May 3rd. He said that he wants the City Council to do everything it can to make sure this is a fair process.

Councilmember Spehar moved to continue this rehearing request to May 3rd. Council President Pro Tem Palmer seconded the motion. Motion carried unanimously.

Councilmember Spehar said that the City needs to be prepared to make this a fair hearing and said that he won't support delaying this until there is complete agreement between Mr. Coleman and City Attorney Shaver.

Council President Hill said that hopefully this can be sorted out and bring out all of the issues.

Councilmember Spehar asked if all of Council will be able to attend the May 3rd meeting.

Councilmember Coons said that she supports the delay and wanted to make sure no further delay will be requested.

Councilmember Thomason said that he supports the delay as well.

All Councilmembers said they could be present for the May 3rd meeting.

Mr. Coleman wanted to clarify that if he had heard that the rehearing was going to be held at tonight's meeting then he would have worked to move forward tonight, but due to the timing he could not get prepare for the hearing.

Council President Hill questioned why the letter from City Manager Arnold did not get sent to Mr. Coleman.

City Attorney Shaver said that he requested for the letter to be faxed to Mr. Coleman yesterday afternoon around four o'clock after City Manager Arnold had signed the letter.

NON-SCHEDULED CITIZENS & VISITORS

There were none.

OTHER BUSINESS

There was none.

EXECUTIVE SESSION – DISCUSSION OF PERSONNEL MATTERS UNDER SECTION 402(4) (f) (I) OF THE OPEN MEETINGS LAW

Councilmember Beckstein moved to go into Executive Session for discussion of personnel matters under Section 402 (4)(f)(I) of the open meetings law and Council will not be returning to open session. Council President Pro Tem Palmer seconded the motion. Motion carried.

ADJOURNMENT

Council adjourned to Executive Session at 9:57 p.m.

Stephanie Tuin, MMC
City Clerk