

**GRAND JUNCTION CITY COUNCIL
CITY HALL AUDITORIUM, 250 NORTH 5TH STREET
AGENDA**

WEDNESDAY, JANUARY 19, 2005, 7:30 P.M.

CALL TO ORDER

Pledge of Allegiance
Invocation – Jim Hale, Spirit of Life Christian Fellowship

APPOINTMENTS

RATIFICATION OF APPOINTMENT TO THE WALKER FIELD AIRPORT AUTHORITY
TO THE VISITOR AND CONVENTION BUREAU BOARD OF DIRECTORS
TO THE PARKS AND RECREATION ADVISORY BOARD

***** CERTIFICATE OF APPOINTMENT**

TO THE HISTORIC PRESERVATION BOARD

CITIZEN COMMENTS

Mark Williams wants to address City Council about bike paths.

[Attach 1](#)

***** CONSENT CALENDAR ***[®]**

1. **Minutes of Previous Meetings**

[Attach 2](#)

Action: Approve the Summary of the January 3, 2005 Workshop, the Minutes of the January 5, 2005 Special Meeting and the January 5, 2005 Regular Meeting

2. **Setting a Hearing on an Ordinance Allowing Sampling of Wine and Beer in Retail Liquor Stores**

[Attach 3](#)

*** Indicates New Item

[®] Requires Roll Call Vote

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.

Proposed 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

Action: Introduction of Proposed Ordinance and Set a Hearing for February 2, 2005

Staff presentation: Stephanie Tuin, City Clerk
John Shaver, City Attorney

3. **Sole Source Purchase for Rain Bird Maxicom Controllers** [Attach 4](#)

The Parks Department currently has several parks with individual automated site based irrigation systems. These systems will be converted to the centralized Maxicom software program that is currently in operation at the Lincoln Park central irrigation control system. The Rain Bird Maxicom brand is the only compatible controller and Grand Junction Pipe and Supply is the only authorized Rain Bird Master Distributor for this area.

Action: Authorize the Purchasing Manager to Purchase the Controllers from Grand Junction Pipe and Supply in the Estimated Amount of \$64,500.00

Staff presentation: Joe Stevens, Parks and Recreation Director

4. **Annual Hazardous Materials Agreement with Mesa County** [Attach 5](#)

The Fire Department is requesting renewal of the City of Grand Junction/Mesa County Intergovernmental Agreement for the Grand Junction Fire Department to provide Superfund Amendment Reauthorization Act (SARA) and Designated Emergency Response Authority (DERA) services to Mesa County outside the City of Grand Junction. The DERA services are for response to accidents involving the release of hazardous materials. The SARA program involves collection of information regarding storage, handling, and manufacturing of hazardous materials.

Action: Authorize the Mayor to Sign the Annual SARA/DERA Agreement with Mesa County

Staff presentation: Jim Bright, Operations Officer

5. **Extending the Lease of City Property to Donald Fugate Jr., Doing Business as Don's Automotive** [Attach 6](#)

Authorize an extension of the lease, through September 30, 2005, of City property at 545 Noland Avenue to Donald Fugate, Jr., doing business as Don's Automotive.

Resolution No. 15-05 – A Resolution Extending the Lease of City Property at 545 Noland Avenue to Donald Fugate, Jr., doing business as Don's Automotive

®Action: *Adopt Resolution No. 15-05*

Staff presentation: Mark Relph, Public Works and Utilities Director

6. **Vacating Easements at 202 N. 7th Street, Located Within Lot 1, Seventh Street Simple Subdivision** [File # VE-2004-226] [Attach 7](#)

The applicant wishes to vacate a 14' Multi-Purpose Easement and a 15' Utility & Drainage Easement located within Lot 1, Seventh Street Simple Subdivision in anticipation of future commercial development to accommodate a proposed office building. The Planning Commission recommended approval at its January 11, 2005 meeting.

Resolution No. 16-05 – A Resolution Vacating a 14' Multi-Purpose Easement and a 15' Utility & Drainage Easement Located Within Lot 1, Seventh Street Simple Subdivision Known as: 202 N. 7th Street

®Action: *Adopt Resolution No. 16-05*

Staff presentation: Scott D. Peterson, Associate Planner

7. **Setting a Hearing on the Tezak Annexation Located at 2397 Sayre Drive** [File # ANX-2004-288] [Attach 8](#)

Resolution referring a petition for annexation and introduction of a proposed ordinance. The 1.23 acre Tezak Annexation consists of one parcel of land.

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

Resolution No. 17-05 – 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, Tezak Annexation, Located at 2397 Sayre Drive

®Action: *Adopt Resolution No. 17-05*

b. Setting a Hearing on Proposed Ordinance

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado Tezak Annexation, Approximately 1.23 Acres, Located at 2397 Sayre Drive

Action: *Introduction of Proposed Ordinance and Set a Hearing for March 2, 2005*

Staff presentation: Faye Hall, Planning Technician

8. **Setting a Hearing on the Cloverglen Annexation Located at 2938 F ½ Road**
[File # ANX-2004-287] [Attach 9](#)

The applicants for the Cloverglen Annexation, located at 2938 F ½ Road, have presented a petition for annexation as part of a preliminary plan. The applicants request approval of the Resolution referring the annexation petition, consider reading of the Annexation Ordinance, and requesting Land Use Jurisdiction immediately. The annexation area consists of 7.153 acres of land and right-of-way along F ½ Road.

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

Resolution No. 18-05 – 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, Cloverglen Annexation, Located at 2938 F ½ Road

®Action: *Adopt Resolution No. 18-05*

b. Setting a Hearing on Proposed Ordinance

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Cloverglenn Annexation, Approximately 7.1536 Acres, Located at 2938 F ½ Road and Including a Portion of the F ½ Road Right-of-Way

Action: *Introduction of Proposed Ordinance and Set a Hearing for March 2, 2005*

Staff presentation: Lori V. Bowers, Senior Planner

9. **Continue Public Hearing – Regulating Newsboxes in the Downtown**
(TO BE CONTINUED TO FEBRUARY 16, 2005) [Attach 15](#)

The number of newsboxes that have been placed downtown has proliferated in recent months. The legitimate newsboxes have been augmented by commercial advertising pieces resulting in as many as 15 boxes in several locations. This ordinance has been developed to address the issue in a manner common to other communities in Colorado by developing a bank of racks that will be made available for lease to legitimate newspapers. The goal is to clean up the visual pollution resulting from this rapid spread of boxes and tidying up the appearance of downtown.

The ordinance is being redrafted for presentation to the DDA board prior to final consideration by Council.

Action: *Continue Public Hearing until February 16, 2005*

Staff presentation: Harold Stalf, DDA Executive Director

***** END OF CONSENT CALENDAR *****

***** ITEMS NEEDING INDIVIDUAL CONSIDERATION *****

10. **Purchase of Property Located at 2502 Highway 6&50 for the Riverside Parkway** [Attach 10](#)

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.

Resolution No. 19-05 – A Resolution Authorizing the Purchase of Real Property at 2502 Highway 6 & 50 from the McCallum Family LLC

®Action: *Adopt Resolution No. 19-05*

Staff presentation: Mark Relph, Public Works and Utilities Director

11. **D Road Undergrounding Phase I for the Riverside Parkway** [Attach 11](#)

The construction of the Riverside Parkway will require the relocation of many overhead power lines. This first phase will underground approximately one mile of double power lines from approximately 15th and D Road to the Regional Center. The “invoice” from Xcel Energy states that the undergrounding cost is estimated at \$746,305.46.

Action: *Authorize the City Manager to Sign a Purchase Order with Xcel Energy to Relocate the Existing Overhead Power Lines Underground Between 15th and D Road Easterly to the Regional Center Along the Riverside Parkway*

Staff presentation: Mark Relph, Public Works and Utilities Director

12. **Memorandum of Understanding with Mesa County for 29 Road from D Road South the Colorado River Bridge** [Attach 12](#)

The proposed Memorandum of Understanding with Mesa County covers the funding and project management of the design and construction of 29 Rd from D Road south to the Colorado River Bridge.

Action: *Authorize the Mayor to Sign a Memorandum of Understanding with Mesa County for Construction of 29 Road from D Road South to the Colorado River Bridge*

Staff presentation: Mark Relph, Public Works and Utilities Director

13. **Public Hearing – Creation of Alley Improvement District 2005, Phase B** [Attach 13](#)

A successful petition has been submitted requesting a Local Improvement District be created as part of the Alley Improvement District 2005, Phase B, for the alley located in the South ½ of the North/South Alley, 6th St. to 7th St., between Grand Avenue and Ouray Avenue. The remainder of this alley was built previously as part of alley improvements in 1990.

Resolution No. 20-05 – A Resolution Creating and Establishing Alley Improvement District No. ST-05, Phase B Within the Corporate Limits of the City

of Grand Junction, Colorado, Authorizing the Reconstruction of Certain Alleys, Adopting Details, Plans and Specifications for the Paving Thereon and Providing for the Payment Thereof

®Action: *Adopt Resolution No. 20-05*

Staff presentation: Mark Relph, Public Works and Utilities Director

14. **Public Hearing – Facilities and Construction in City Rights-of-Way Ordinance (CONTINUED FROM DECEMBER 15, 2004)** [Attach 14](#)

The proposed ordinance is to aid the City in the long term management of public Rights-of-Way that are used by utility providers. Proper planning of the location and depth of underground utilities will ensure conflicts between utility providers are minimized.

Ordinance No. 3715 – An Ordinance Adopting Regulations Concerning Facilities and Construction in City Rights-of-Way

®Action: *Hold a Public Hearing and Consider Final Passage and Final Publication of Ordinance No. 3715*

Staff presentation: Tim Moore, Public Works Manager

*** 15. **Riverside Task Force Community Center Roof Project** [Attach 16](#)

The original grant to the State Historical Society was written for \$27,350, and the City had committed (but has not yet spent) \$15,000 as a match to that grant, for a total of \$42,350. Two responsive and responsible bids were received for the re-roof project. The lowest bid out of two received was for \$80,000, which leaves a gap of \$37,650. Staff is requesting an additional \$47,650 which includes \$10,000 for contingency.

Action: *Authorize the Expenditure of \$47,650 from the 2004 Neighborhood Program CDBG Funds and Authorize the City Manager to Sign a Contract with Kruger Roofing of Grand Junction, Colorado in the Amount of \$80,000 to Construct a Roof on the Riverside Community Center*

Staff presentation: Sheryl Trent, Assistant to the City Manager

16. **NON-SCHEDULED CITIZENS & VISITORS**

17. **OTHER BUSINESS**

18. **ADJOURNMENT**

Attach 1
Mark Williams wants to address City Council about bike paths

MARK N. WILLIAMS

326 Main Street, Suite 103
Grand Junction, CO 81501

Phone: (970) 242-2111
Facsimile: (970) 242-8466

January 11, 2005

JAN 12 2005

Members of the Grand Junction City Council
250 N. 5th Street
Grand Junction, CO 81501

VIA: U.S. MAIL

RE: Newspaper article from Denver Post dated May 31, 2004

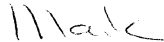
Dear Members:

Enclosed you will find copy of article from the Denver Post of May 31, 2004. The article discusses obesity and urban planning.

I believe the City's bicycle paths are substandard. I have approached the urban trails committee but the members feel they are powerless in relation to the more paramount transportation interests. Meanwhile, the City continues to lack adequate bike paths. The new construction at St. Mary's Hospital without off-road bike paths is an example of the City's failure to use its land-use planning capabilities to incorporate bike paths into the development of our community. I cannot imagine St. Mary's Hospital contesting the City's requirement to incorporate bike paths with its reconfiguration of 7th Street. Why were bike paths not incorporated into the new design?

You have an opportunity to help engineer a more fit society by insisting that better bike paths be incorporated in every development this City faces in the future. Please incorporate better bike path systems into the City's development plans.

Sincerely,



MARK N. WILLIAMS

MNW_pdr
enclosure: as stated
MNW\Letters\Members of GJ City Council ltr - 1/11/05

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Dubois Frontier | Special to The Denver Post

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13A
A Marine mourns Iraq war victim Chance Phelps of Clifton last month. Lt. Col. Mike Strobl never knew Phelps, but in accompanying his body across the country, Strobl was moved by how others showed compassion for his sacrifice.

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Department agency permitted companies it knew were in violation of the law in Wyoming to continue to acquire thousands of acres of new oil and gas leases in that state. The bureau has given the companies additional years to comply.

"They should not be purchasing leases," said Tom Lonnie, the bureau's assistant director for minerals, realty and resource protection. Before acquiring a lease, a company must certify that its holdings do not exceed the legal limit.

The government can cancel

exceed the cap. Agency officials acknowledge they have never done that nor denied a company's request for more time to comply.

Companies in violation of the state limit as a result of a merger or acquisition have 180 days to comply.

"We try to work with them instead of hitting them with a hammer," said Bob Bennett, the bureau's Wyoming state director.

When Anadarko Petroleum of Houston asked for a two-year extension to get back

> See **OIL** on 15A

Fighting obesity, by design

Health officials say land use that promotes walking could reverse the effects of sedentary lifestyles.

By Jack Cox
Denver Post Staff Writer

As concern deepens over the nation's rising obesity rate, the battle of the bulge is becoming more than just a duel between diets and workout regimens. Now it's an environmental issue.

Researchers say land-use patterns, especially suburban sprawl, are making Americans fat by fostering a drive-everywhere lifestyle at the expense of physical activity.

With two of every three adults overweight and nearly one in three excessively so, some health officials and city planners contend that changing the way we get around may be as crucial to slimming down as changing the way we eat.

"We aren't going to get rid of elevators or McDonald's, but we can take small steps over time to combat inactivity," says

> See **OBESITY** on 4A

.....7-8F	Inside Colorado ...4C	Obituaries5-6C	Sports1-20B	How to reach us:
d8F	Lottery8C	Opinion7C	Television9F	Switchboard: 303-820-1010
.....2F	Movies5F	People2F	Wired West4E	Directory on Page 8C

OBESITY: Officials link sprawling communities

CONTINUED FROM 1A

James Hill, director of the Center for Human Nutrition at the University of Colorado Health Sciences Center. "Ultimately, changing our environment is our only hope, but it's going to take decades to get there."

The link between fitness and the environment has been underscored by recent research showing that people who live in a typical car-oriented suburb tend to be fatter than residents of more compact, higher-density areas.

"There are a lot of factors involved," says Lawrence Frank, a landscape architect at the University of British Columbia and co-author of a book on the subject published last year. "Some are physical, and some are social. But the evidence is starting to show that there is a relationship between urban design and people's health."

In one key study, strengthened by subsequent research on a larger population, Frank and his colleagues found that the obesity rate among white men in the Atlanta area was markedly higher in areas with less than two homes per acre than in areas with four or more. By comparison, the residential areas of Denver's fledgling Stapleton community will have roughly 12 dwelling units per acre.

Advocates say there are many ways to integrate physical activity into everyday life, from placing parking lots farther from buildings and making stairways more accessible to providing signals at crosswalks and widening bike paths so people will feel safer using them.

Other options include limiting the length of city blocks and requiring that they be split by walkways to create more direct routes for pedestrians to use in navigating neighborhoods.

Many planners also espouse more mass transit, such as metro Denver's proposed FasTracks project, on grounds that people who ride buses or trains tend to use cars less and walk

more, if only while going to and from the station.

A further catalyst is a formal network of pedestrian routes, such as one proposed in Denver to "help increase pedestrian activity over time by providing a safe and inviting environment."

One of the seven goals of the plan, submitted in April and now awaiting approval by the City Council, is to support public health.

American corporations, concerned that bulging waistlines of employees are affecting their bottom lines, have tended to address the issue by providing wellness centers and weight-loss counseling.

But some are starting to embrace changes in the physical environment as well. Sprint Corp., for example, has explored the idea of slowing down elevators to make using the stairs more attractive, says Ron Goetzel, director of the Institute for Health and Productivity Studies at Cornell University.

"More companies are realizing that the health of their employees is not just an individual issue," says Goetzel, who is also vice president of the Metstat Group.

Hill, one of the nation's foremost experts on obesity, encourages businesses to become involved by changing the workplace environment to include "walking meetings" and 15-minute "walking breaks."

Either can help people achieve the federally recommended fitness goal of 30 minutes of moderate exercise five days a week.

The idea of building activity into everyday routines has taken on new urgency as politicians and government officials struggle to address the health-care challenges posed by the nation's ballooning obesity rate.

With more than 15 percent of the adult residents of every state classified as obese, public health authorities warn that millions face higher risks of diabetes, heart attacks, arthritis, cancer and other obesity-related



Glen Martin | The Denver Post

James Hill, director of the Center for Human Nutrition at the University of Colorado Health Sciences Center, and Dr. Holly Wyatt take a walk at Lindsley Park in Denver recently.

disorders over the next generation.

Obesity is defined as a body-mass index of 30 or above, which translates as roughly 20 percent more than the normal weight recommended for one's height.

One prime advocate of community planning as a way to combat the problem is the National Institute of Environmental Health Sciences, which brought together some 500 community planners, architects, traffic engineers and public health officials for a three-day conference in Washington last week.

The issue also will be addressed at a "Summit on Obesity" this week by Time magazine and ABC News with Peter Jennings as host.

The sold-out gathering in Williamsburg, Va., will dovetail with the publication of a Time issue devoted to what it calls the "obesity crisis."

Attendees in Washington last week focused on multi-use developments, which combine pedestrian-friendly residential areas with nearby shops, schools and office complexes.

Such compact communities — metro Denver's Stapleton,

Lowry and Belmar developments are good examples — have long been praised for helping to reduce auto use, cut energy consumption and improve air quality.

Now their broad sidewalks, bike trails and greenways are being heralded as weapons in the battle against obesity.

"This has really snowballed in the last couple of years," says Susan Handy, a transportation and community planning expert at the University of California at Davis.

"Researchers have realized that just telling people to go to the gym doesn't work," she says. "You need to help build exercise into their daily lives."

In essence, says Rich McClintock of the Livable Communities Support Center, a program of the Denver-based Center for Regional and Neighborhood Action, "what this ail comes down to is creating more destinations that people can and want to walk to or bike to, and making it safe and convenient to do so."

One recent convert to the more active lifestyle is Ralph Carson, 52, a federal employee who moved to the Lowry neighborhood a few months ago.

For 16 years, he commuted 45

to sprawling waistlines

minutes each way by car between an apartment in Lakewood and his job at the Air Reserve Personnel Center on the former air base. Now he goes to and from the office in about half the time — on foot.

"It's just over a mile to where I work, and everything I need is within walking distance," he says.

"There's a restaurant where I like to have breakfast, a barber shop, a liquor store, even an Albertson's," he says. "And they're getting ready to put in a medical center I can get to in an emergency."

Carson has lost some weight as a result of the extra exercise he's been getting, but the main difference, he says, is that "I seem to have a lot more energy than I used to."

So far, it's unclear whether less spread-out neighborhoods simply attract people who would be more active anyway, or whether "if you plopped down a sedentary person in such a neighborhood, they would change their behavior," notes Handy, the UC-Davis researcher.

But many planners are convinced that whatever their preferences are, people will walk when opportunities knock.

In hopes of proving the theory, Frank and his colleagues are seeking grant money to survey the residents of newly established communities such as Stapleton, with an eye to comparing the levels of fitness and activity when people first move in to levels recorded a year or two later.

The housing industry, which would bear the brunt of any fitness-oriented land-use mandates, generally supports the concept of more "livable" design, "but that's because there's a demand for it, not because we're interested in the social engineering aspect," says Clayton Traylor, a vice president of the National Association of Home Builders.

Traylor faults anti-obesity advocates for emphasizing Stapleton-style urban in-fill projects

while ignoring more conventional developments such as Highlands Ranch.

"The fastest-growing types of activity-friendly development are in suburban and exurban small towns," he says. "There needs to be space in the dialogue for these kinds of communities, because the reality is that 80 percent of the population in the home-buying market (is) looking for suburban single-family homes."

One source of support for further research is the Robert Wood Johnson Foundation, which has awarded \$16.5 million in grants to 25 projects across the country — including one at Stapleton — to show how community design can be used to promote healthier lifestyles.

"Basically, what's happened is that we have engineered physical activity out of our lives. We have 'drive-up' everything," says Helen Thompson, head of the Active Living Partnership at Stapleton.

"Meanwhile, we have food everywhere — in our cars, at work, in front of the TV — and our bodies still store excess calories as fat," she says. "So there's no surprise that we're getting heavier."

"But we can do things in our environment to make it more conducive to physical activity and encourage people to burn off a few of those extra calories."

THE DENVER POST

A Denver Newspaper Agency LLP Newspaper

Circulation		Print		Digital	
Daily and Sunday	614,000	49,000	565,000	117,000	448,000
Friday, Saturday, Sunday, Holidays	540,000	49,000	491,000	117,000	374,000
News and Features	540,000	49,000	491,000	117,000	374,000
By Mail Circulation	499,000	49,000	450,000	117,000	333,000
Daily and Sunday	216,000	49,000	167,000	117,000	50,000
Sunday Only	57,000	49,000	8,000	117,000	69,000
Saturday/Sunday	85,200	49,000	36,200	117,000	69,000
(Excludes in U.S.)					
Daily and Sunday	398,000	117,000	281,000	117,000	164,000
Sunday Only	50,000	49,000	1,000	117,000	68,000
Saturday/Sunday	214,000	117,000	97,000	117,000	86,000

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Attach 2

Minutes from Previous Meetings

GRAND JUNCTION CITY COUNCIL WORKSHOP SUMMARY

JANUARY 3, 2005

The City Council of the City of Grand Junction, Colorado met on Monday, January 3, 2005 at 7:02 p.m. in the City Hall Auditorium to discuss workshop items. Those present were Councilmembers Harry Butler, Cindy Enos-Martinez, Dennis Kirtland, Bill McCurry, Gregg Palmer, Jim Spehar and President of the Council Bruce Hill.

Summaries and action on the following topics:

- 1. CITY COUNCIL DISTRICT BOUNDARY ADJUSTMENTS:** City Council to review possible adjustments to the City Council voting district boundaries for the 2005 election cycle. City Manager Kelly Arnold introduced the topic. He displayed boundary maps that showed different possibilities for adjusting the district boundaries.

Council President Hill distributed a proposal for changing the districts in a way where there would only be four districts, two at-large and the Mayor to be elected by the electors. It is still a Council-Manager form of government. Fifty-one cities in Colorado have Mayors elected by the people. The Councilmembers representing a district would be elected by the district electors. He suggested that the shift would take until 2011 to make the transition.

Councilmember Enos-Martinez disagreed with elections by district as a Councilmember represents the entire City under the current structure.

Councilmember Palmer credited Council President Hill with the innovative thinking. However, he agreed with Councilmember Enos-Martinez that the district voting would divide the City rather than unify.

Councilmember Butler agreed with Councilmember Palmer. He felt it is important that Councilmembers be concerned about the whole City.

Councilmember Spehar agreed with Councilmember Enos-Martinez and with keeping the election at large. The district representatives would be concerned with just their district. There is already adequate leeway for a Mayor to have more of an impact than others.

Councilmember McCurry agreed.

Councilmember Kirtland agreed that it has been a long time since the structure has been looked at. He suggested shorter terms might encourage more people to participate. Discussing a proposal might generate some interest. He suggested taking the proposal to the group of volunteer board members to get their response.

Councilmember Palmer extolled the reasons for Council service and encouraged the public to consider participation.

Council President Hill then asked the purpose of evening of the population when all seats are elected at-large. Councilmember Palmer said the balance should be a combination of population and geography.

Councilmember Spehar said the large disparity between district populations does limit the opportunity for running for a district seat. He reviewed the reasons for the last boundary shifts in 2000. He supported Scenario 1 as presented.

City Attorney Shaver said the City is not obligated to make the districts equal but rather roughly proportional. He thought the proposed adjustment would be a good idea.

Councilmember Palmer favored the adjustment but was concerned about the timing. Councilmember Spehar noted that the changes that are being proposed are really adding opportunity to run, not limiting anyone's ability to seek a Council seat.

In order to determine placement on the agenda, a straw vote was taken and a majority supported going forward.

Action summary: Council directed Staff to draft a resolution changing the boundaries as depicted in Scenario 1 and place such item first on individual consideration on the Wednesday agenda.

- 2. REPORT ON VISIT TO EL SALVADOR:** Jennifer Hensel from the Foundation for Cultural Exchange was present to report back to City Council on her group's trip to El Salvador. Ms. Hensel introduced Aaron Stites, a fellow Mesa State graduate.

Council President Hill asked for clarification on the organization and its non-profit status. Ms. Hensel explained that their umbrella organization is CSE – the Center for Solidarity and Exchange. The sister city request includes a desire that community members assist San Pedro Perulupan in community projects. The sister city designation is mostly a symbolic gesture.

Councilmember Spehar asked if it is a stamp of approval for when they pursue other support. Ms. Hensel responded affirmatively.

Councilmember Kirtland asked how many other cities are sister cities through this program. Ms. Hensel said she could get that information. The main focus of the organization is to bring students and members of the medical community to the area and also for the cultural exchange.

Councilmember Spehar said he did not see any downside to the request.

Councilmember Palmer agreed.

Aaron Stites said it is a great experience for all ages which is why they are pulling away from the College in order to include all ages.

City Manager Arnold suggested that is to be formalized in the way of a resolution. Council President Hill suggested there be a regular review period of the program incorporated in that document.

Action summary: Council directed that staff draft a resolution and bring it to them in two weeks.

The Council President called a recess at 8:39 p.m.

The meeting reconvened at 8:45 p.m.

- 3. SMOKING ORDINANCE UPDATE - ONE YEAR BEFORE FULL IMPLEMENTATION:** Staff presented outreach efforts to educate the public on the impacts of the smoking ordinance. Then legal staff discussed possible clarifying amendments to the ordinance. Ivy Williams, Code Enforcement Supervisor, introduced the topic. She explained the detailed ideas to work with affected businesses over the next year to bring them all into compliance and the work that has been done to inform the public. Ms. Williams and City Clerk Stephanie Tuin identified the businesses that are being targeted for the outreach efforts.

Councilmember Kirtland asked about smoking in outdoor areas. Ms. Williams said that smoking on outdoor patios is allowed, with the exception of under a roof overhang.

City Attorney Shaver then addressed the areas within the Smoking Code that needs correcting and sought direction on how the ordinance should be amended.

Council President Hill noted that the ordinance did not really accomplish the intention. The food/alcohol percentages were the key and did not end

up in the final ordinance. Assistant City Attorney Jamie Kreiling added that the certification of a freestanding bar versus attached bar is also subject to different interpretations.

Council summarized that it was their intent that if a separate area within an establishment that wants to sell food, the percentage of food being sold in the bar area is not a factor.

Action summary: Staff was directed to draft an ordinance to clarify the ordinance as described and bring it back to Council.

ADJOURN

The meeting adjourned at 9:30 p.m.

GRAND JUNCTION CITY COUNCIL

SPECIAL SESSION MINUTES

January 5, 2005

The City Council of the City of Grand Junction, Colorado met in Special Session on Wednesday, January 5, 2005 at 6:35 p.m. in the Administration Conference Room, 2nd Floor of City Hall. Those present were Councilmembers Harry Butler, Cindy Enos-Martinez, Dennis Kirtland, Gregg Palmer, Jim Spehar and President of the Council Bruce Hill. Councilmember Bill McCurry entered the meeting at 6:42 p.m.

Council President Hill called the meeting to order.

Councilmember Spehar moved to go into executive session to discuss 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 the Riverside Parkway and noted that Council will not be returning to the open meeting. Councilmember Kirtland seconded the motion. The motion carried.

The City Council convened into executive session at 6:36 p.m.

Stephanie Tuin, MMC
City Clerk

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

January 5, 2005

The City Council of the City of Grand Junction convened into regular session on the 5th day of January 2005, at 7:31 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 Kirtland led in the pledge of allegiance. The audience remained standing for the invocation by Councilmember Harry Butler.

PROCLAMATIONS / RECOGNITIONS

PROCLAIMING JANUARY 17, 2005 AS MARTIN LUTHER KING, JR. DAY IN THE CITY OF GRAND JUNCTION

APPOINTMENTS

TO THE HISTORIC PRESERVATION BOARD

Councilmember McCurry moved to reappoint Tom Streff to the Historic Preservation Board for a 4 year term expiring December 2008 and to appoint Mike Mast as the DDA's representative to the Historic Preservation Board for a 4 year term expiring December 2008. Councilmember Palmer seconded the motion. Motion carried.

CITIZEN COMMENTS

There were none.

CONSENT CALENDAR

It was moved by Councilmember Enos-Martinez, seconded by Councilmember McCurry and carried by roll call vote to approve Consent Calendar Items #1 through #8.

1. **Minutes of Previous Meetings**

Action: Approve the Minutes of the December 9 and December 20, 2004 Special Sessions, the December 13, 2004 Additional Workshop Summary,

the December 13, 2004 Workshop Summary and the Minutes of the December 15, 2004 Regular Meeting

2. **Meeting Schedule and Posting of Notices**

State Law requires an annual designation of the City's official location for the posting of meeting notices. The City's Code of Ordinances, Section 2-26, requires the meeting schedule and the procedure for calling special meetings to be determined annually by resolution.

Resolution No. 01-05 – A Resolution of the City of Grand Junction Designating the Location for the Posting of the Notice of Meetings, Establishing the City Council Meeting Schedule, and Establishing the Procedure for Calling of Special Meetings for the City Council

Action: Adopt Resolution No. 01-05

3. **Conduct of the Regular Municipal Election on April 5, 2005**

The City has adopted the Municipal Election Code. In order to conduct the election by mail ballot, the Council must authorize it pursuant to 1-7.5-104 C.R.S. and the City Clerk must submit a Written Plan outlining the details and responsibilities to the Secretary of State. It is recommended that the City again contract with Mesa County to conduct this election by mail ballot. They have the equipment on site and are able to prepare, mail out and process the ballots more efficiently than the City.

Resolution No. 02 -05 – A Resolution Authorizing a Mail Ballot Election in the City of Grand Junction for the April 5, 2005 Regular Municipal Election, Approving the Written Plan for the Conduct of a Mail Ballot Election and Authorizing the City Clerk to Sign the Intergovernmental Agreement with Mesa County Clerk and Recorder

Action: Adopt Resolution No. 02-05

4. **Purchase of a Truck Mounted Jet/Vacuum Unit Including Truck**

This is for the purchase of a 2005 International Truck with a Vactor truck-mounted jet/vacuum unit. It is currently scheduled for replacement in 2005 as identified by the annual review of the fleet replacement committee.

Action: Authorize the City Purchasing Manager to Purchase a 2005 International Truck with a Vactor Truck-mounted Jet/Vacuum Unit from Boyles Equipment Company of Colorado, Commerce City, CO in the Amount of \$206,543.75

5. **Setting a Hearing Submitting the Question of a Cable TV Franchise to the Electors of the City of Grand Junction**

City Council has discussed and directed the staff to proceed with formalizing a franchise agreement with Bresnan Communications. This is the first reading of the franchise agreement proposed to be on the ballot at the April 2005 City election.

Proposed Ordinance Granting a Franchise by the City of Grand Junction to Bresnan Communications Limited Liability Company, Its Successors and Assigns, for the Right to Furnish, Sell and Distribute Cable Television Services to the City and to all Persons, Businesses and Industry Within the City and the Right to Acquire, Construct, Install, Locate, Maintain, Operate and Extend Into, Within and Through Said City All Facilities Reasonably Necessary to Furnish Cable Television Services and the Right to Make Reasonable Use of All Streets and Other Public Places and Easements as May Be Necessary; and Fixing the Terms and Conditions Thereof

Action: Introduction of Proposed Ordinance, Order Publication in Pamphlet Form and Set a Hearing for March 16, 2005

6. **Ratify the Conveyance of Property to Action Campus LLC and GJ Tech Center LLC**

On December 15, 2004, City Council authorized the City Manager to sign contracts and additional documents to transfer land for economic development purposes to Action Campus LLC. By ratifying Resolution No. 142-04 the Council formalizes the actions heretofore taken.

Resolution No. 142-04 - A Resolution Authorizing the City Manager to Sign Contract Agreements for Conveyance of Land to Action Campus LLC and GJ Tech Center LLC

Action: Ratification of Resolution No. 142-04

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

Resolution referring a petition for annexation and introduction of a proposed ordinance for the 45.5 acre Pinnacle Ridge annexation.

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

Resolution No. 03-05 – 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, Pinnacle Ridge Annexation, Located Northeast of Monument Road and Mariposa Drive

Action: *Adopt Resolution No. 03-05*

b. Setting a Hearing on Proposed Ordinance

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado Pinnacle Ridge Annexation, Approximately 45.5 Acres, 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 Storage Place II Annexation Located at 501 Centennial Road [File #ANX-2004-263]

Resolution referring a petition for annexation and introduction of a proposed ordinance. The 1.98 acre Storage Place II Annexation consists of one parcel of land and portions of the Centennial Road right-of-way.

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

Resolution No. 04-05 – 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, Storage Place II Annexation, Located 501 Centennial Road and Including Portions of the Centennial Road Right-of-Way

Action: *Adopt Resolution No. 04-05*

b. Setting a Hearing on Proposed Ordinance

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado Storage Place II Annexation, Approximately 1.98 Acres, Located 501 Centennial Road and Including Portions of the Centennial Road Right-of-Way

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

ITEMS NEEDING INDIVIDUAL CONSIDERATION

City Council District Boundary Adjustments

The voting district boundaries were redrawn in 2000. At that time every effort was made to balance the population in the districts using the most current information and to keep communities of interest together. Since that time, tremendous growth has occurred in two districts – District B and C. The adjustments proposed could better balance the population in the five districts.

Kelly Arnold, City Manager, reviewed this item. He stated that this is a continuation of the discussion that occurred at Monday's workshop. He explained how the adjustments were done last and what the current proposal is. The proposal will decrease the range of the population among the districts to 1500.

Council President Hill clarified that this adjustment will not take away any opportunity from anyone to run in this election, rather it adds area to the open districts. He noted that the change is authorized by Charter and must be adopted by a two-thirds vote from the Council.

Councilmember Spehar added that the change in 2000 allowed every district to represent a portion of the City's core. The redistricting also allows for additional growth in each district. The growth anticipated in the Redlands is not as large as what has occurred in District B and District C.

Councilmember Palmer likes the proposal but has discomfort with the fact that the election process is underway. He also felt that more time should have been taken to study all of the options.

Councilmember Kirtland agreed with making the changes now. Once the disparity in the population came to light, it is appropriate to make adjustments. Adjustments may need to occur more often than ten years with the growth that is occurring.

Councilmember McCurry did not oppose adopting the adjustment.

Councilmember Enos-Martinez agreed a change needs to be made, but thought that it was too late at this point for this election cycle.

Councilmember Butler did not have a problem with going forward, although he would have liked to see it done earlier.

Council President Hill expressed his opinion that the current geography could allow all five Councilmembers to live within a mile of each other.

Stephanie Tuin, City Clerk, was directed to calendar this item 9 months prior to the next election so there would be adequate review time.

Resolution No. 15-05 – A Resolution Designating the Voting District Boundaries in the City of Grand Junction

Councilmember Spehar moved to adopt Resolution No. 15-05. Councilmember Kirtland seconded the motion. Councilmembers Kirtland, McCurry, Spehar and Butler voted YES, Councilmembers Enos-Martinez, Palmer and Council President Hill voted NO. The measure takes a two-thirds vote so the motion failed.

Award of Signal Communications Phase IC Contract

Bids were opened on December 14, 2004 for the Signal Communications Phase 1C project. The lowest bid was submitted by Sturgeon Electric in the amount of \$219,927.75.

Tim Moore, Public Works Manager, reviewed this item. He explained the costs and how they came in under budget. He displayed a map that identified the various phases of this project.

A total of 84 traffic signal connections are planned. This phase will complete 54.

Councilmember Palmer wanted assurance that these cameras are not used for speed control. Mr. Moore assured him that is not the intent.

Councilmember Enos-Martinez noted that the lowest bid was a local contractor.

Councilmember Spehar lauded that the purpose of this program is to increase efficiency on the roadways instead of having to build more roads.

Councilmember Kirtland moved to authorize the City Manager to execute a construction contract for the Communications Phase IC project with Sturgeon Electric in the amount of \$219,927.75. Councilmember Enos-Martinez seconded the motion. Motion carried.

Purchase of Property at 930 S. 5th Street for the Riverside Parkway Project

The City has entered into a contract to purchase a property from the Colorado Riverfront Foundation 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. He identified the location of the property, noting that the property is in the middle of the Van Gundy operation. There is a structure on the property which has asbestos which will need to be removed before the structure is removed. The fair market value was determined at \$15,600, pending Council's approval. The closing is scheduled for mid January.

Resolution No. 05-05 – A Resolution Authorizing the Purchase of Real Property at 930 S. 5th Street from the Colorado Riverfront Foundation

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

Purchase of Property at 1555 Independent Avenue for the Riverside Parkway Project

The City has entered into a contract to purchase a property 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. He identified the location of the property and stated the business is TPI Construction and includes 9/10 of an acre and a 39,000 square foot metal building. The purchase price of \$512,000 is fair market value. The City will also be paying for the relocation and reestablishing costs. With environmental inspections and demolition, the total cost is \$576,000. The closing, pending approval, is set for mid January.

Councilmember Palmer noted that it appears the entire parcel will not be utilized. Mr. Relph said the remnant will have a possibility of reuse or resale.

City Attorney Shaver noted that the contract has not been finalized, so the approval is to authorize the purchase of the property up to the price as stated.

Council President Hill asked about the plan for the structure. Although Mr. Relph was not sure, it appeared that the owner will be taking the building down.

Resolution No. 06-05 – A Resolution Authorizing the Purchase of Real Property Located at 1555 Independent Avenue from the McCallum Family LLC

Councilmember Spehar moved to adopt Resolution No. 06-05. Councilmember Kirtland seconded the motion. Motion carried by roll call vote.

Acquisition of Real Estate by Condemnation for the Riverside Parkway Project Located at 2501 Highway 6 & 50

The proposed resolution will authorize the City to initiate condemnation proceedings to acquire two parcels at 2501 Highway 6 & 50.

Mark Relph, Public Works and Utilities Director, reviewed this item. He identified the location and the process that the City has gone through as a good faith effort to acquire the property for fair market value, including offering the amount quoted by the owner's appraisal which was \$178,000 over the City's appraisal. There is a time issue to locate Xcel facilities by May 1st of this year. The resolution authorizes going forward with the condemnation, although the City will continue to negotiate in good faith.

City Attorney Shaver explained the resolution that authorizes the action, it is not the action itself. The offer of \$475,000 has been made. Many contacts have been made with the owner's attorney, but there is no contract in place. He believes, through the owner's attorney, that they will be making a counteroffer. A relocation site for the business was identified but the owner has not at this time made an offer on that site. The property owner did have a death in the family and that may be part of the delay.

Councilmember Spehar asked if the Xcel's schedule is the time issue, not the City's. Mr. Relph concurred, noting that Xcel's transmission crew is scheduled many months in advance.

Council President Hill expressed that the City spent time developing the policy for acquisition of right-of-way for the Riverside Parkway, taking into account the relocation issues and paying fair market value while still protecting the taxpayer's money. They feel the policy is current and fair.

Resolution No. 07-05 – A Resolution Determining the Necessity of and Authorizing the Acquisition of Certain Property, by Either Negotiation or Condemnation, for Municipal Public Facilities

Councilmember Enos-Martinez moved to adopt Resolution No. 07-05.
Councilmember McCurry seconded the motion. Motion carried by roll call vote.

Memorandum of Understanding with Mesa County for the 29 Road Interchange at I-70B

The proposed Memorandum of Understanding with Mesa County covers the funding and project management of the design and construction of the 29 Road Interchange at I-70B.

Mark Relph, Public Works and Utilities Director, reviewed this item. He explained that the MOU outlines the responsibilities of each entity, including funding. The City will be participating financially the first two years with the County joining in the year 2007. The total cost of the project is \$17,200,000.

Councilmember Kirtland asked if there will be staff time allocated to this project. Mr. Relph stated that the City staff will be spending time on this and assured Council that everything will be accounted for and charged to this project and the County as well. Also, the City will be taking the lead and managing the project.

Councilmember Palmer commended the way the two Public Works departments work together on such projects.

Council President Hill inquired about the 1601 process and when the possible changes would be made.

Mr. Relph said in the discussions earlier this week with Ed Fink of CDOT, the Transportation Commission has approved an abbreviated process and CDOT is working on the lay out of that process. Less time will mean less money.

Council President Hill inquired about the interchange with I-70. Mr. Relph advised that the County has begun to work on the river bridge on 29 Road. That is critical before any construction can begin around 5th Street. Each piece will follow after the other. As the Riverside Parkway is completed, the 29 Road viaducts will be well underway. The last piece will be the interchange at I-70.

Councilmember Kirtland moved to authorize the Mayor to sign a Memorandum of Understanding with Mesa County for the 29 Road/I-70 B Interchange. Councilmember Butler seconded the motion. Motion carried.

Engineering Services Contract with Carter & Burgess for 29 Road and I-70B Interchange

Engineering services contract to complete a modified 1601 interchange approval process for the connection of 29 Rd to I-70B. Pending changes to the 1601 process, makes it difficult to estimate the full scope of the project without some preliminary work and meetings with CDOT. The work considered under the scope of this engineering services contract would need to be completed whether or not this turns into a complete 1601 analysis.

Mark Relph, Public Works and Utilities Director, reviewed this item. This is the next step in the process. Staff is recommending the award to Carter-Burgess. Originally, a full 1601 process was anticipated, but now that a modified process will be undertaken, an estimate is being made on the cost. The initial notice to proceed will not be for the full amount being authorized. The first portion will encompass an initial data collection. Once the process is refined with CDOT,

then the rest of the contract can be drafted. The savings of \$250,000 will be the environmental assessment reduction.

Council President Hill congratulated the Public Works Department for the work with CDOT to refine the 1601 process.

Councilmember Enos-Martinez moved to authorize the City Manager to execute a contract with Carter & Burgess in the amount of \$754,920 for engineering services for the 29 Road/I70B Interchange. Councilmember McCurry seconded the motion. Motion carried.

Contract to Provide Design Services for the Streetscape Expansion Project, 7th and Main Streets

Award of a professional services contract to Ciavonne, Roberts and Associates, Inc for the design of the Streetscape Expansion Project, 7th Street and Main Street in the amount of \$167,000.00.

Mark Relph, Public Works and Utilities Director, reviewed this item. He advised that the City and DDA have been discussing this project for a number of years. It addresses part of 7th Street from Grand Avenue to Ute Avenue and continues Main Street's streetscape to 8th Street.

Funding is from the City, the Federal Enhancement Funds, and through the participation of DDA. Staff is recommending that the Enhancement grants be used specifically for the Main Street portion, so that only that portion will be subject to the federal requirements.

Mr. Relph described the schedule for soliciting public input on the design. Construction for Main Street is scheduled for late fall. The 7th Street improvements will probably be next spring.

Councilmember Palmer asked if the utilities are underground. Mr. Relph said for the most part but there may be some cable television lines aboveground.

Councilmember Palmer noted that nearly \$95,000 is remaining. Mr. Relph said that is a contingency amount.

Councilmember Spehar noted that this is a rough design process, but other elements may be added that will use some of the \$95,000.

City Manager Arnold cautioned that this is pending the allocation by the federal government, which has not been funded at this time. Mr. Arnold lauded the cooperation with the County to move back their grant request for Monument Road, which allows DDA to participate since they have the funds available now.

Councilmember Butler moved to authorize the City Manager to sign a Professional Services Contract for the design of the streetscape expansion project, 7th Street and Main Street with Ciavonne, Roberts & Associates in the amount of \$167,000. Councilmember Spehar seconded the motion. Motion carried.

Adoption of 2005 – 2006 Strategic Plan

City Council developed a Strategic Plan in 2002 and formally adopted it in January 2003. The purpose of the Plan was to identify both long-term direction for the City and nearer-term goals, objectives and action steps for the City organization. In 2004, City Council and management staff reviewed and updated the City's original Strategic Plan. The proposed resolution will adopt the City's 2005/2006 Strategic Plan.

David Varley, Assistant City Manager, reviewed this item. He reviewed the purpose of the plan is to detail the Council's objectives, and to direct the steps for staff to accomplish those goals.

Councilmember Palmer inquired if the plan will be published. Mr. Varley said yes, he detailed the ways it will be published and where. There are some details lacking in the plan such as the definition of "targeted populations" that will be defined by the teams assigned.

Council President Hill noted that the previous Council did most of the work to develop the Strategic Plan and did a great job. The current Council has worked very hard over the last six months to make adjustments which is not as difficult as creating the original plan.

Councilmember Kirtland stated that much like a business plan, every couple of years the plan needs to be reviewed and adjusted.

Councilmember Spehar noted that the nature of the Strategic Plan can be very different from community to community, but very few have the combination of goals, objectives and action steps like this plan does.

Resolution No. 14-05 – A Resolution Adopting City Council's Strategic Plan 2005/6

Councilmember Palmer moved to adopt Resolution No. 14-05. Councilmember Kirtland seconded the motion. Motion carried by roll call vote.

The Council President called a recess at 8:56 p.m.

The meeting reconvened at 9:08 p.m.

Public Hearing – 2004 Pear Park Neighborhood Plan [File #PLN-2004-147]

The City and County Planning Commissions met jointly in a public hearing on December 9, 2004 to consider adoption of the Pear Park Neighborhood Plan. The City Planning Commission recommended approval of the November 1, 2004 Pear Park Neighborhood Plan draft with eight (8) additions/corrections. The December 9, 2004 draft of the Pear Park Neighborhood Plan incorporates the Planning Commission recommendations.

The public hearing was opened at 9:08 p.m.

David Thornton, Principal Planner, reviewed this item. The plan has been in process for a year. The presentation tonight will be a summary and some of the background regarding the plan. Tim Moore, Public Works Manager, will speak to transportation and access management issues.

The direction to staff is to start this process was initiated by a Growth Plan Update. The need for schools and parks in this area has been growing and is very necessary. The study of the area is from 28 Road to 32 Road and from the railroad to the river. An advisory group was formed that included representatives from various agencies, utilities and governmental agencies, dubbed PIAG. They held two open houses, sent out two newsletters, held four focus group meetings and a joint Planning Commission workshop, then the draft plan was available for review. The joint Planning Commissions held a public hearing and the history of the area was described. There has been rapid growth since 2003 and it is anticipated to have nearly 22,000 people once built out.

The plan contains many elements. Each chapter has background information, goals and implementation strategies.

Tim Moore, Public Works Manager, said that a lot of the common comments were heard, one being there are not enough roads to handle the growth. There are some geological and physical barriers that limit some of the transportation circulation. He then displayed an overlay of the Grand Valley Circulation Plan, specifically the transportation and access management plan of how the City plans to move traffic through the area. The access management is planning how the lower order roads connect to the higher use roads (arterials). Access points will incorporate with the existing subdivision plans. They plan to use a number of tools to implement the plan. Where there is vacant land, there is some flexibility to develop temporary access if a property adjacent to the plan develops first. Once the permanent access point is created, the owner can reclaim the lot that the temporary access was on.

The Local Street Network Plan is for the purpose of interconnectivity between the subdivisions. There is some flexibility in those alignments.

Council President Hill asked about the two railroad crossings, at 29 Road and 31 Road. The Plan contemplates the 29 Road crossing but not the 31 Road crossing. Council President Hill also noted that it does not follow through on the map. Some of the text needs to be clarified.

Street cross sections were then displayed and the plan to develop a three-lane road for D & D 1/2 Road.

Councilmember Palmer asked if the entire neighborhood is in the Persigo 201 boundary. Mr. Thornton said all but one piece is in Clifton Sanitary District #2.

Council President Hill asked if the City is acquiring 80 feet of right-of-way on D Road. Mr. Moore said where it is possible, as the development occurs. Council President Hill asked to clarify that the road plan was already adopted and it is not new. Going back to D Road east of 29 Road, D Road is an east/west corridor and more important than D 1/2 Road by virtue of its connection to Riverside Parkway. He stated that D Road and D 1/2 Road should be treated the same.

The hybrid collector will be used in the area where there is more pedestrian traffic to access the schools and parks. Council President Hill said that on page 15 this collector type is strongly encouraged. He asked how this is implemented. Mr. Moore said it could be direction for the staff or it could be part of a partnership effort.

Lastly, Mr. Moore addressed the detached walks. Public Works will be looking at that issue City-wide about what is appropriate throughout town. It works well in the core part of town but in some other areas it may not work.

Councilmember Palmer said the Parkway will open up the opportunity for more commercial areas in the Pear Park area. Mr. Moore agreed noting the plan contemplates that.

David Thornton, Principal Planner, then addressed the image and character specifically not encouraging garage-scapes, as is already happening in the area. They want to encourage high quality designs for the neighborhood commercial development. The plan wants to enhance drainage ways and ditches. The plan encourages preservation and adaptive reuse. Another element was minimizing the visual clutter such as cell towers and signs.

Four areas were revisited in comparison to the Future Land Use Map. A change to an area east of 29 Road along D 1/2 Road to a higher density residential and eliminate the commercial zoning. The area at 29 and D Road, a portion will be changed to a higher residential density, leaving only a small area commercial. The higher density will act as a transition area.

Area 3, at 30 and E Road, bounded on the north by the railroad tracks, will be proposed for a change to commercial.

Area 4, at 31 and D ½ Road, is proposed to be an additional area for commercial, and big enough for a grocery store (15 acres). The other commercial site at 29 and D Road is 25 acres.

Area 5, which came up at the end, is a site owned by Bureau of Reclamation. They are uncomfortable with the park designation. The majority of the site is a wildlife refuge and no pedestrian access is allowed. It should be changed to the conservation land use category.

Next environmental resources were looked at, specifically the river corridor. The gravel industry wanted some potential sites identified. Council President Hill noted that the plan says that those are the only areas that gravel extraction will be allowed so he was glad the gravel industry identified those areas.

Regarding schools, parks and trails, some selection criteria were listed. Four service areas for neighborhood parks were identified. The Urban Trails Plan was overlaid over Pear Park and the plan would be amended for this area. There were some additional linkages between D Road, the river, and along other key drainage areas. Council President Hill wanted more detail or background in the notes about 31 Road as to the overpass plan.

Planning Commission added to the Nov 1st draft, dealing with the area south of D Road and between 30 and 32 Road, that there were several inquiries for Growth Plan amendments to be heard in February. They wanted higher density. The Planning Commission added an implementation plan to direct staff to conduct a study of the area with focus groups. Then another area came forward, Teller Court which has also been added as a study area, and will be done at the same time.

Mr. Thornton listed the findings and conclusions made by the Planning Commission, with the recommendation that it be approved.

Anita Littlepage, 3108 D ½ Road, asked about sidewalks to the parks. She stated that there are not any parks except private parks. She is opposed to taking out part of the yards for sidewalks when there are no parks in the area. She does not think there will be enough pedestrians and it may be unsafe. Council President Hill advised the plan is long-term and the plan for sidewalks is for the future. Councilmember Spehar added that the sidewalks will be put in as development occurs, not necessarily right away.

Ms. Littlepage asked if they will continue D ½ to 29 Road. Council President Hill said that may be, depending on how the traffic develops.

Gary Campbell, 353 30 Road, asked if any consideration was made to move the railroad.

Rich Traver, 2967 D ½ Road, asked if the Planning Commission is thinking about making D ½ Road a minor arterial. He disagreed with taking an 80 foot right-of-way for D ½ Road. He stated that 30 Road is in a 60 foot right-of-way and also Unawep fits in 60 feet, and is a nice wide road. On the west end of D ½ Road, it has already built out many homes that will have to move their driveways to the side and reorient their house. It will take away landscaping west of 30 Road and irrigation channels will have to be relocated with some structures. He asked of the Planning Commission could make the 60 feet work?

Robert Fulcher, 30 Road and Teller Court, said his property is one of the study areas and made a request for industrial zoning so he could have outside storage. He asked for better communication regarding that process.

Arden Kerr, 345 30 Road, thought other wildlife corridors needed to be addressed, along the river.

Darren Davidson, 2980 D ½ Road, wanted clarification on the study of the area and he opposed the 80 foot right-of-way on D ½ Road.

Maria Traver, 2967 D ½ Road, stated that the area west of 30 Road doesn't need improvement and questioned why 30 Road won't be widened. She disagreed with 8 foot detached sidewalks and asked why five feet wouldn't be enough. She suggested they go with six foot sidewalks.

Tom Holly, 2936 D ½ Road, disagreed with the 80 foot right-of-way and also with the two detached 8 foot sidewalks which is large enough to accommodate a car where there is no need. He understands planning for the future, but 60 feet is wide enough, like Unawep and 30 Road.

Brenda Maggio, 378 30 Road, stated the need for additional access back to the river and the river trail at 29 5/8 Road.

There were no additional comments.

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

Councilmember Spehar asked staff to address the issues raised by the public. Public Works Manager Tim Moore said the right-of-way is to ensure there is enough to handle growth in the future. Councilmember Spehar asked if sidewalks could be less than 8 foot. Mr. Moore said that will be looked at as development occurs, but that is the standard.

Council President Hill noted that the street standards are already set but he is not sure if D ½ and D Roads should be treated the same. Council President Hill stated that it is identified as the #1 priority and wants to make sure that it is the right designation.

Councilmember Spehar had problems guessing what will happen outside the urban growth boundary and wants to know the planning for that. He stated that he was only comfortable planning within the existing boundaries.

Council President Hill noted the plan and anticipation for traffic calming at C ½ Road that is currently being used as a cut through, he questioned if that should even be made as a connection.

Councilmember Spehar asked about the timeframe on sidewalk issue, and Council-member Palmer asked what the next step is for these people if Council approves this. Mr. Arnold noted that the two study areas need to be moving along. He suggested perhaps within a nine month timeframe for the detached sidewalks and planting strips, can all be studied. Mr. Arnold said a school will probably be opened by fall 2006 and TCP needs to be used to improve the roads in that area so these issues need to meet these timelines.

Council President Hill said he can identify his concerns to staff. Public Works Manager Moore said the Mesa County Planning Commission has already adopted the Plan and although City Council has flexibility to make changes, the two plans will not be the same if there are changes. City Manager Arnold said that the urgency is because of the significant growth, he stated that caveats can be added to look at these specific issues.

Councilmember Palmer inquired how is the 80 foot right-of-way and sidewalk being reviewed. Mr. Arnold said it would be a review of TEDS and a hearing process. If the designation of D ½ Road is identified as an issue, then it can come back in 3 to 6 months. Mr. Relph said that too would be a joint effort with the County since the designation came from a Valley-wide Transportation Plan.

Council President Hill asked if that is how the C ½ Road issue will be addressed. That was confirmed.

Councilmember Palmer then wanted to look at the study area around Teller Court. Mr. Thornton explained how the different designations have occurred. The County zoning is I-2 but the Future Land Use designation is commercial. The study will bear out what it should be. That will be looked at in early 2005. Councilmember Palmer asked what happens to existing businesses. Mr. Thornton stated that they are grandfathered in. The City Council, under the Persigo agreement, is allowed to zone the property I-2 as it is in the County, and then the Future Land Use map would be changed.

Councilmember Spehar asked about the wildlife issue. Mr. Thornton stated that the State Wildlife Division was involved and there was no discussion on expanding the wildlife area.

Councilmember Palmer asked about the three different fire departments serving in the area, and how that will work. Mr. Arnold said that currently the plan acknowledges that, but does not suggest a change or solution.

Resolution No. 13-05 – A Resolution Adopting the Pear Park Neighborhood Plan as a Part of the Grand Junction Growth Plan

Councilmember Spehar moved to adopt Resolution No. 13-05 conditioned upon the Transportation Planning Group, Community Development and inviting participation by Mesa County to review the street designations, upon the review of the street standards and sidewalk specifications in the TEDS Manual and to complete these reviews within this calendar year. Councilmember Kirtland seconded the motion. Motion carried by roll call vote.

Council President Hill thanked staff and the public.

The Council President called a recess 10:55 p.m

The meeting reconvened at 11:02 p.m.

Council President Hill explained that the rule is that no new business will be started after 11:30 p.m.

Conduct a Hearing to Appeal a Planning Commission Decision to Deny a Variance Request for Nextel West Communications Located at 2488 Industrial Blvd [File #CUP-2004-097]

On November 9, 2004, the Planning Commission denied a variance request for a Nextel West telecommunications tower proposed to be located at 2488 Industrial Blvd. Staff received the appeal letter November 17, 2004 from Nextel West Communications. This appeal is per Section 2.18 E. of the Zoning & Development Code which specifies that the City Council is the appellate body of the Planning Commission.

Council President Hill introduced this item. He stated that the appeal is on the record. The process is Council reviews the record to determine if the decisions were made appropriately. It is not opened up to additional testimony. Council looked at the record to make their decision. The appeal letter includes three questions: #1, the decision-maker made a decision inconsistent with federal law and that no parcel of property was available to meet the setback requirements.

Council President Hill stated the hardship was not presented and there were other areas that were available. Therefore there was no basis to make that finding and he denied the appeal.

On question #2, the site could not be moved out of area without undue hardship, those issues were discussed, and Council President Hill found no basis for the appeal.

Question #3, the decision-maker did not consider all of the mitigating factors to bring the project into compliance. Council President Hill is not sure if the applicant gave all of the information to the Planning Commission. He thought there were other opportunities unexplored. The lack of screening was not the issue, but he was certain they took that into consideration. The issue was the setback in Item 3. Therefore there is no basis to make such finding and he denies the appeal to all three. Questions 4 & 5 were not in the letter.

Councilmember Spehar agreed with Council President Hill, adding that the hardship was self-imposed.

Councilmember Kirtland said that it was clear that the Planning Commission struggled with how Nextel got themselves into the situation. A variance is a high bar to reach and the Planning Commission could not make the needed findings to grant such a variance. The applicant could have requested a Code amendment which would have taken more time. He could not reverse the Planning Commission's decision.

Councilmember McCurry agreed.

Councilmember Butler read from the Code that a variance is not a right. He concurs with the Planning Commission if the Code is in compliance with the FCC act.

City Attorney Shaver said it is clear under the act, that local government can regulate the placement of such facilities as long as it does not prohibit the deliverance of those services. The Federal Law prohibits regulations based on magnetic fields, etc. It cannot discriminate among service providers. Neither is the case in this situation.

Councilmember Spehar stated they may be looking for appropriate locations as they were late getting into the game but certainly there is service in the valley.

Councilmember Spehar moved to deny the Appeal. Councilmember Kirtland seconded the motion. Motion carried.

Public Hearing - Campbell/Hyde Annexation and Zoning Located at 351 & 353 30 Road [File #ANX-2004-225]

Resolution for acceptance of petition to annex and to hold a public hearing and consider final passage of the annexation ordinance for the Campbell-Hyde Annexation, located at 351 & 353 30 Road. The 23.31 acre annexation consists of two parcels of land and portions of the 30 Road, right-of-way.

Hold a public hearing and consider final passage of the zoning ordinance to zone the Campbell-Hyde Annexation to RSF-4 (Residential Single Family 4 du/ac), located at 351 & 353 30 Road. The 23.31 acre annexation consists of two parcels of land.

The public hearing was opened at 11:20 p.m.

Faye Hall, Planning Technician, reviewed this item. She located the property and described the current and surrounding zoning and uses. She noted the Future Land Use designation. Ms. Hall stated the request meets the criteria of the Zoning and Development Code and the goals and policies of the Future Land Use Plan. She said Planning Commission and staff recommend approval.

Arden Kerr, 345 30 Road, to the south of the property, feels with the surrounding area that far south, it would be better served with a density of 2 units per acre. It would be less impact on wildlife and traffic.

John Moore, 2975 C1/2 Road, to the southwest, stated that for the wildlife in the area, United Companies donated a piece of property for wildlife preservation and for public use at a later time. He stated that 30 Road is not very wide and there are a lot of houses and trailer parks on that road with alot of traffic for the current road conditions. He also supported 2 houses per acre.

Terri Fountaine, 345 30 Road, stated that he had been looking for 5 years and found this property and jumped at the opportunity to buy, but now feels like a victim. He said that it will affect his peace and quiet with the additional 68 houses with all of the people, kids, dogs, cats, boom boxes and with the lake opened to the public behind them.

Brenda Maggio, 378 30 Road, is opposed to the development. She wants to maintain her quiet. She stated that she placed a conservation easement on her property so it cannot be developed.

Raymond Lurvey, 350 30 Road, prefers not to have a very high density.

Arden Kerr, 345 30 Road, clarified some topographical constraints in the area.

There were no other comments.

John Slothower was present, representing the petitioner, Sunshine Builders. They had some concerns in neighborhood meetings to stay within 2 to 4 units per acre. They do not want to create hardships, but it is hard to satisfy everybody.

The public hearing was closed at 11:39 p.m.

Councilmember Kirtland stated a zoning of 2-4 units is one of the lower density City zones. He noted with the growth in that area, the rural lifestyle is going to change. Trying to retain that character will be pretty difficult to do, but the City has good standards in place. Until the plat is reviewed by the Planning Commission, Council is not sure how many units will be placed per acre at this time. But the Planning Commission has to let the process continue on to make sure that it fits the Land Use Plan.

Councilmember Spehar noted that just because the zoning is 2 to 4 units per acre, it is not known if it will develop at 4 units per acre. There is no development plan to react to. When a developer meets the City's expectations, Council does not add to it. It is appropriate to approve the annexation and zoning and recognize the specific issues can be addressed in the next step.

Councilmember Palmer stated that it is always tough in these situations and this is one of the lowest densities. Owners have the right to develop it. He stated that this is a very sensitive situation but thanked all of those who waited to have their say.

Councilmember Butler stated that it is inevitable that the Pear Park area is going to grow.

Council President Hill thanked the public for coming down and stated that 30 Road would not continue south, but will be stopped by the river. He can see the value and character of people's property, but they are not asking for a higher density. The density is lower than further north.

a. Accepting Petition

Resolution No. 08-05 – A Resolution Accepting a Petition for Annexation, Making Certain Findings, Determining that Property Known as Campbell/Hyde Annexation #1 - #4 Located at 351 & 353 30 Road is Eligible for Annexation

b. Annexation Ordinances

Ordinance No. 3692 – An Ordinance Annexing Territory to the City of Grand Junction, Colorado, Campbell/Hyde Annexation #1, Approximately 0.26 Acres, Located within 30 Road Right-of-Way

Ordinance No. 3702 – An Ordinance Annexing Territory to the City of Grand Junction, Colorado, Campbell/Hyde Annexation #2, Approximately 0.56 Acres, Located within 30 Road Right-of-Way

Ordinance No. 3703 – An Ordinance Annexing Territory to the City of Grand Junction, Colorado, Campbell/Hyde Annexation #3, Approximately 1.09 Acres, Located within 30 Road Right-of-Way

Ordinance No. 3704 – An Ordinance Annexing Territory to the City of Grand Junction, Colorado, Campbell/Hyde Annexation #4, Approximately 21.39 Acres, Located at 351 & 353 30 Road

c. Zoning Ordinance

Ordinance No. 3705 - An Ordinance Zoning the Campbell/Hyde Annexation to RSF-4 (Residential Single Family 4 du/ac), Located at 351 & 353 30 Road

Councilmember Spehar moved to adopt Resolution No. 08-05 and Ordinance Nos. 3692, 3702, 3703, 3704 and 3705 on Second Reading and ordered them published. Councilmember Kirtland seconded the motion. Motion carried by roll call vote.

The City Council suspended the rules and continued the meeting at 11:50 p.m.

Public Hearing - Water's Edge Annexation and Zoning Located at 2935 D Road [File #ANX-2004-221]

Resolution for acceptance of petition to annex and to hold a public hearing and consider final passage of the annexation ordinance for the Water's Edge Annexation, located at 2935 D Road. The 4.91 acre annexation consists of one parcel of land.

Conduct a public hearing and consider final passage of the zoning ordinance to zone the Water's Edge Annexation to RMF-8 (Residential Multi-Family 8 du/ac), located at 2935 D Road. The 4.91 acre annexation consists of 1 parcel of land.

The public hearing was opened at 11:51 p.m.

Faye Hall, Planning Technician, reviewed this item. She located the property, described the current and surrounding zoning and uses. She noted the Future Land Use designation. Ms. Hall stated the request meets the criteria of the Zoning and Development Code and the goals and policies of the Future Land Use Plan. She said Planning Commission and staff recommend approval.

The applicant was present but had no comments

There were no public comments.

The public hearing was closed at 11:53 p.m.

a. Accepting Petition

Resolution No. 09-05 – A Resolution Accepting a Petition for Annexation, Making Certain Findings, Determining that Property Known as Water's Edge Annexation Located at 2935 D Road is Eligible for Annexation

b. Annexation Ordinance

Ordinance No. 3706 – An Ordinance Annexing Territory to the City of Grand Junction, Colorado, Water's Edge Annexation, Approximately 4.91 Acres, Located at 2935 D Road

c. Zoning Ordinance

Ordinance No. 3707 – An Ordinance Zoning the Water's Edge Annexation to RMF-8 (Residential Multi-Family 8 du/ac), Located at 2935 D Road

Councilmember Kirtland moved to adopt Resolution No. 09-05 and Ordinance Nos. 3706 and 3707 on Second Reading and ordered them published. Councilmember Enos-Martinez seconded the motion. Motion was carried by roll call vote.

Public Hearing - Griffith Annexation and Zoning Located at 2969 B ½ Road
[File #ANX- 2004-254]

Hold a public hearing and consider final passage of a Resolution for Acceptance of the Petition to Annex and Annexation Ordinances for the Griffith Annexation located at 2969 B ½ Road.

The Griffith Annexation is comprised of one parcel of land of 4.141 acres and includes a section of B ½ Road right-of-way. The petitioner is requesting a zone of Residential Single Family with a density not to exceed four units per acre (RSF-4), which conforms to the Growth Plan Future Land Use Map. Planning Commission recommended approval at its December 14, 2004 meeting.

The public hearing was opened at 11:55 p.m.

Ronnie Edwards, Associate Planner, reviewed this item. She located the property, described the current and surrounding zoning and uses. She noted the Future Land Use designation. Ms. Edwards stated the request meets the criteria of the Zoning and Development Code and the goals and policies of the Future Land Use Plan. She said Planning Commission and staff recommend approval.

The applicant was present but had no comments.

There were no public comments

The public hearing was closed at 11:58 p.m.

a. Accepting Petition

Resolution No. 10-05 – A Resolution Accepting a Petition for Annexation, Making Certain Findings, Determining that Property Known as Griffith Annexation Located at 2969 B ½ Road and Including a Portion of B ½ Road Right-of-Way is Eligible for Annexation

b. Annexation Ordinance

Ordinance No. 3708 – An Ordinance Annexing Territory to the City of Grand Junction, Colorado, Griffith Annexation, Approximately 4.141 Acres, Located at 2969 B ½ Road and Including a Portion of B ½ Road Right-of-Way

c. Zoning Ordinance

Ordinance No. 3709 - An Ordinance Zoning the Griffith Annexation to Residential Single Family with a Density of not to Exceed Four Units Per Acre (RSF-4) Located at 2969 B½ Road

Councilmember Palmer moved to adopt Resolution No. 10-05 and Ordinance Nos. 3708 and 3709 on Second Reading and ordered them published. Councilmember Enos-Martinez seconded the motion. Motion was carried by roll call vote.

Public Hearing - Summit View Meadows Filing #2 Annexation and Zoning Located at 3140 D ½ Road [File #ANX-2004-256]

Hold a public hearing and consider final passage of a Resolution for Acceptance of the Petition to Annex and Annexation Ordinances for the Summit View Meadows Filing #2 Annexation located at 3140 D ½ Road.

The Summit View Meadows Filing #2 Annexation is comprised of one parcel of land of 4.9409 acres and includes a portion of D ½ Road right-of-way. The petitioner is requesting a zone of Residential Multi-Family with a density not to exceed eight units per acre (RMF-8), which conforms to the Growth Plan Future Land Use Map. Planning Commission recommended approval at its December 14, 2004 meeting.

The public hearing was opened at 11:59 p.m.

Ronnie Edwards, Associate Planner, reviewed this item. She located the property, described the current and surrounding zoning and uses. She noted the Future Land Use designation. Ms. Edwards stated the request meets the criteria of the Zoning and Development Code and the goals and policies of the Future Land Use Plan. She said Planning Commission and staff recommend approval.

There were no public comments.

The public hearing was closed at 12:00 a.m.

a. Accepting Petition

Resolution No. 11-05 – A Resolution Accepting a Petition for Annexation, Making Certain Findings, Determining that Property Known as the Summit View Meadows Filing #2 Annexation Located at 3140 D ½ Road and Including a Portion of the D ½ Road is Eligible for Annexation

b. Annexation Ordinance

Ordinance No. 3710 – An Ordinance Annexing Territory to the City of Grand Junction, Colorado, Summit View Meadows Filing #2 Annexation, Approximately 4.9409 Acres, Located at 3140 D ½ Road and Including a Portion of D ½ Road

c. Zoning Ordinance

Ordinance No. 3711 - An Ordinance Zoning the Summit View Meadows Filing #2 Annexation to Residential Single Family with a Density not to Exceed Eight Units Per Acre (RMF-8) Located at 3140 D ½ Road

Councilmember Spehar moved to adopt Resolution No. 11-05 and Ordinance Nos. 3710 and 3711 on Second Reading and ordered them published. Councilmember McCurry seconded the motion. Motion carried by roll call vote.

Public Hearing - Summit Annexation and Zoning Located at 280 29 Road

[File #ANX-2004-242]

Resolution for acceptance of petition to annex and to hold a public hearing and consider final passage of the annexation ordinance for the Summit Annexation, located at 280 29 Road. The 29.44 acre annexation consists of two parcels of land and portions of the B ½ & 29 Road rights-of-way.

Hold a public hearing and consider final passage of the zoning ordinance to zone the Summit Annexation to RSF-4 (Residential Single Family 4 du/ac), located at 280 29 Road. The 29.44 acre annexation consists of two parcels of land.

The public hearing was opened at 12:01 a.m.

Faye Hall, Planning Technician, reviewed this item. She described the location, the surrounding uses and zoning. The request is in compliance with the Zoning and Development Code and the Future Land Use Map. It was recommended for approval.

The applicant did not wish to address Council except to thank Council for reviewing this item.

The public hearing was closed at 12:03 a.m.

a. Accepting Petition

Resolution No. 12-05 – A Resolution Accepting a Petition for Annexation, Making Certain Findings, Determining that Property Known as the Summit Annexation #1 and #2 Located at 280 29 Road is Eligible for Annexation.

b. Annexation Ordinances

Ordinance No. 3712 – An Ordinance Annexing Territory to the City of Grand Junction, Colorado, Summit Annexation No. 1, Approximately .9357 Acres, Located within the 29 and B ½ Road Rights-of-Way

Ordinance No. 3713 – An Ordinance Annexing Territory to the City of Grand Junction, Colorado, Summit Annexation No. 2, Approximately 28.50 Acres, Located at 280 29 Road and Including Portions of the 29 & B ½ Roads Rights-of-Way

c. Zoning Ordinance

Ordinance No. 3714 - An Ordinance Zoning the Summit Annexation to RSF-4 (Residential Single Family 4 du/ac), Located at 280 29 Road

Councilmember Kirtland moved to adopt Resolution No. 12-05 and Ordinance Nos. 3712, 3713 and 3714 on Second Reading and ordered them published. Councilmember Enos-Martinez seconded the motion. Motion carried by roll call vote.

NON-SCHEDULED CITIZENS & VISITORS

There were none.

OTHER BUSINESS

There was none.

ADJOURNMENT

The meeting adjourned at 12:05 a.m.

Stephanie Tuin, MMC
City Clerk

Attach 3

**Setting a Hearing Allowing Sampling of Wine & Beer in Retail Liquor Stores
CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA							
Subject	Alcoholic Beverage Sampling						
Meeting Date	January 19, 2005						
Date Prepared	January 13, 2005				File #		
Author	Stephanie Tuin			City Clerk			
Presenter Name	Stephanie Tuin John Shaver			City Clerk City Attorney			
Report results back to Council	X	No		Yes	When		
Citizen Presentation		Yes	X	No	Name	Eleni Sica, Crossroads Wine & Spirits, will be present at the hearing	
	Workshop	X	Formal Agenda		X	Consent	Individual Consideration

Summary: 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.

Budget: Allowance of such activity could potentially impact the Police Department and the City Clerk's and City Attorney's offices. Some of that impact could be offset with the imposition of a permit fee.

Action Requested/Recommendation: Adopt proposed ordinance on first reading and set a hearing for February 2, 2005.

Attachments:

1. Letter from the owner of Crossroads Wine and Spirits
2. Example of letters from customers
3. Letter from the Chamber of Commerce
4. Proposed Ordinance

Background Information: This issue first came to the City Council at a workshop on August 16, 2004 as a result of a request from a new liquor store, Crossroads Wine and Spirits. At that time, the City Council decided to not formally consider the ordinance until such time as a more detailed assessment of

the impacts could be reviewed. Specifically, the City Council wanted to see what has occurred in other jurisdictions that have allowed tastings permits.

The City of Grand Junction has 22 retail liquor stores currently licensed that could potentially conduct tastings. (Grand Junction does not currently have any licensed drugstores). The State Law does contain a number of restrictions under which such tastings can occur; the local government can impose additional restrictions.

The legislation allows alcohol beverage tastings to occur under the following conditions:

- No more than four individual samples of up to one ounce of beer or wine or one-half ounce of spirituous liquor may be provided to a customer. The individual samples must be free of charge.
- 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 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 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. (The curriculum for this training has only recently been approved. The City's training meets the curriculum standards and is expected to be certified by the State. The City held a training, which is encouraged by State Law regarding of the tastings ordinance, on Friday, January 7, 2005. There were 37 in attendance.)

Although the law does not specifically allow for further restrictions, the proposed ordinance restricts tastings to beer and wine only (no hard liquor allowed).

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 (Windsor)

to one with additional restrictions, a \$100 annual permit fee, a separate application form that includes a schedule to be submitted, a requirement that any change requires the Police Department be notified and an approval process (City and County of Broomfield). The state law is written such that any enforcement would fall upon the local government rather than the State Enforcement Officer unless the violation is dispensing to a minor or a visibly intoxicated person. Therefore, if the City is going to regulate the activity, it is recommended that a permit fee be assessed.

The other jurisdictions that have passed an ordinance to allow tastings are: Avon, Basalt, Berthoud, Breckenridge, Broomfield, Crested Butte, Frisco, Glendale, Glenwood Springs, Greenwood Village, Milliken, Parker, Steamboat Springs, Superior, Telluride, Thornton, Westminster, Wheat Ridge, Windsor and Vail. Those that did not pass an ordinance when it was brought before them for consideration are Arvada, Durango, Greeley and Littleton. The table below has a few examples of what has been adopted within the State:

Municipality/ Population	Add'l Restrictions	App Req'd	Fee charged	Approval Required
Windsor/ 11,310	None	No	None	No
Berthoud/5,067 (just passed this week)	Yes, only between 1 pm and 7 pm, must provide security personnel.	Yes	\$150	Yes
Breckenridge/ 2,554	None, as set forth in State Law as amended from time to time	Yes	\$25	Licensing Authority – Annual License
Thornton/ 88,434	Yes, 72 hours notice to PD when a tasting is to occur, 5 hours must be consecutive	No	None	as part of their regular license
Broomfield/ 40,621	Yes, 5 hours must be consecutive, schedule required, notify PD of any changes, training must be through Broomfield PD	Yes	\$100	Yes, license authority

The City Council recently received another letter from the owner of Crossroads Wine and Spirits asking that Council once again consider adoption of an ordinance allowing sampling. Included with the letter were approximately 680 letters from the liquor store customers supporting their request. The City Council also received a letter from the Chamber of Commerce supporting the request.

November 22, 2004



Dear councilmen and women,

It has been a pleasure having the opportunity to speak with all of you and to get your feed back on the issue of creating a local ordinance that parallels law passed by the state allowing tasting in liquor stores. Three issues the council brought up at the meeting several months ago were questions relating to consumer interest, the fact that Crossroads Wine & Spirits was the only store interested in conducting the tastings and enforcement issues.

With regard to the first issue consumer interest I have verifiable documented proof that there is significant interest among consumers. Included with this letter are nearly 700 letters from customers who shop at our store and state that they would like the council to pass a local ordinance that allows them to sample wine and beer in our store. We started the letter in response to all the questions our customers asked us about the tasting law since we opened 8 weeks ago. 99% of our customers have a keen interest in the law and hope the council will decide to lead rather than follow other municipalities in the state and pass an ordinance that will afford them the benefits of this important consumer oriented legislation. Members of the council each letter signed, is a statement directed at you from the consuming public and consumer interest is keen.

The other issue that comes to mind immediately was the concern of some council members that Crossroads was the only liquor license that requested the council to pass an ordinance. The management at Crossroads and the consumers who have written to the council believe that the desire of other stores to either participate or not to participate is irrelevant. If the council passes a local ordinance all licenses will have the opportunity to participate when they make the choice to send members of their staff to the same seminar administered by the good people at state enforcement that Jerry Sica of our staff attended and become a state certified tasting administrator. The opinions of other storeowners as to the interests and desires of their customer's, bears no relevance on creation of a local ordinance. Many will choose to ignore and some may possibly protest the passing of an ordinance simply because their stores are not set up to handle the samplings or they just do not want to go to the expense. When other stores make claims that their customers show little interest in tasting it is for one of two reasons. They do not have a selection of wine and beer worth marketing in this manner or they are not interested in raising the bar of their own customer service levels to meet the desires of the consuming public. It is a choice each license should have as to how they accommodate their customer's desires and needs. If they do not wish to participate or modernize their approach to servicing their customers they are not required to do so. It is the American way.

Grand Junction is in the heart of Colorado's wine country and the tasting of wine, beer and mead goes on everyday. Whether in downtown Palisade or on Main St. in Grand

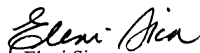
Junction during the summer farmers market there are many more opportunities to consume free alcoholic beverages in greater quantities than will be possible at a liquor store due to the incredibly strict and limiting law created by the state. We have to verify age and may not serve anyone we consider under the influence. These are the same regulations we live up to everyday at our cash counter. This is standard operating procedure in any licensed liquor store. More sampling of Colorado wine happens in Palisade and Grand Junction in a day than the rest of the state put together. Incidents of bad behavior simply do not exist or are so rare as to be a non-issue. If it were an issue the tasting rooms of Palisade, Grand Junction and the rest of the state would not exist. The council should check with the police as I did. This summer tasting on Main St. at the farmers market did not cause any disruptive behavior nor has it been disruptive in Palisade.

Beyond these three issues I would like to offer the following suggestions that could simplify the issue.

1. Limit the tasting to Wine and Beer. Eliminate Spirits from the local ordinance.
2. The state law is very strict and really does not need to be modified. It places a huge responsibility on the license to administer the tasting according to state guidelines. The council does not need create a new legislation. Simply use the state guidelines but take spirits off the local ordinance.
3. So that the city could monitor the samplings if it wishes I would suggest that a participating store provide a schedule of planned in store events 7 days prior along with, a running total of the total days samplings have occurred in the store year to date. 104 days being the maximum in a year.

Naturally I would like to see this issue brought up again before council as soon as possible. However I plan to leave that up to the council. We live in this beautiful place and as in all societies we are comprised of groups that see the world differently. It is up to our leaders to make sure that the no one group stifles another group's freedom of choice especially with regard to activities that are allowed by law. Consumers of beer and wine are confused by the simple fact that there are tens of thousands of choices to make when choosing a bottle of wine. Tasting of wine and beer in liquor stores occurs in many states and wineries have created whole economies based on the practice. It is not evil and it is not a danger to our society; in fact, in this little corner of the world it is a big part of our local culture. I believe most of you understand that this is important consumer legislation and that there is considerable interest from consumers in seeing that you enact the state law here in Grand Junction. There is just one thing left for the council to do and that is, lead the way.

Regards,


Eleni Sica
President

Date

To: The Grand Junction City Council

I am a responsible citizen over the age of 21 and it is my personal choice to be a casual consumer of wine spirits and beer. Given, that in the state of Colorado there are ten thousand (or more) possible choices in just the wine category alone I would like to encourage the city council to pass a local ordinance that parallels the recently legislated state law regarding the tasting of alcoholic beverages in liquor stores. I believe that the state passed this legislation in order to benefit consumers like myself in order to help us make better decisions within a complicated and diverse selection of merchandise that has a history and culture dating back to the beginning of time. This is purely a consumer issue and not one that pertains to how many liquor stores wish to participate in administering the tasting nor those individuals who wish to abstain. Since Crossroads Wine and Spirits is willing to take the steps necessary to lawfully conduct the tasting and help further enhance my knowledge of the products available I would ask the council to pass a local ordinance similar to the state's as soon as possible.

Signature:

Print Name:

Address:



October 26, 2004

The Honorable Bruce Hill, Mayor
Grand Junction City Council
250 N. 5th St.
Grand Junction, CO 81501

Dear Bruce,

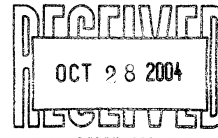
During the last legislative session, the Colorado General Assembly passed a law allowing local governments to adopt an ordinance permitting alcohol tastings in retail liquor stores (HB04-1021). During its October meeting, the Board of Directors of the Grand Junction Area Chamber of Commerce discussed the issue of a liquor tasting ordinance within the city of Grand Junction. The Board voted to **support** the passage of such a measure, and respectfully requests that the Grand Junction City Council propose and adopt a liquor tasting ordinance in Grand Junction. The Chamber would also like to request that in adopting this ordinance, City Council make all efforts to minimize the procedural and administrative burdens for businesses seeking to offer liquor tastings.

The Chamber believes that a liquor tasting ordinance would assist retail liquor stores in promoting certain beverages and in making customer choice easier. This ordinance would allow Grand Junction businesses that choose to offer tastings an additional way to market themselves and their beverages to responsible consumers. Under the new law, such tastings would be strictly regulated, and would be subject to a number of provisions that would prevent abuse or the endangerment of public safety – including mandatory training for servers, limitations on sample size, restrictions on the number of tastings, a limit on the hours such samples may be served, and a number of other provisions to ensure compliance with already-existing state liquor law.

The Chamber views a liquor tasting ordinance within the city limits as a pro-business measure that would assist retail liquor stores in their entrepreneurial efforts while at the same time ensuring the safety of the public. I thank you in advance for your consideration of this ordinance, and again encourage your support.

Sincerely,

J. Michael Stahl
Chairman, Board of Directors
Grand Junction Area Chamber of Commerce



cc: Kelly Arnold, City Manager

ORDINANCE NO.

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

Recitals.

The City of Grand Junction (“City”) regulates the possession and consumption of alcoholic beverages within the City pursuant to Chapter 4 of the City Code of Ordinances (“Code”).

The state legislature has recently enacted House Bill 04-1021 that authorizes local jurisdictions to adopt an ordinance allowing retail liquor stores or liquor-licensed drug stores to conduct sample tastings of alcoholic beverages in their establishments without charging for such samples.

The legislation requires that an ordinance be enacted by any local jurisdiction that wishes to allow such tastings.

The City Council has duly considered adopting such an ordinance authorizing tasting of alcoholic beverages at retail liquor stores or liquor- licensed drug stores in the City.

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

A new Article IV, Chapter 4 of the Code is hereby enacted to read as follows:

Article IV. Alcoholic Beverage Tastings

Sec. 4-57. Definitions. Terms used in this article which are defined in the Colorado Liquor Code (Article 47 of Title 12, C.R.S.) or in the Colorado Beer Code (Article 46 of Title 12, C.R.S.) shall have the meanings provided in such statutes. Additionally, as used in this article, the following words, terms and phrases shall have the meanings ascribed to them in this section.

Tasting permit means a separate permit issued by the local licensing authority pursuant to this article authorizing tastings of beer and wine to be conducted by the licensee.

Sec. 4-58. Permit required.

(a) The City hereby authorizes Tastings to be conducted by retail liquor store or liquor-licensed drugstore licensees in accordance with this section and pursuant to Section 12-47-301, C.R.S, as the term “Tastings” is defined in said Section 12-47-301, C.R.S.

(b) It is unlawful for any person or licensee to conduct Tastings within the City unless a Tastings Permit has been obtained in accordance with the article. The local

licensing authority for the City is authorized to issue Tasting Permits in accordance with the requirements of this article.

(c) A retail liquor store or a liquor-licensed drugstore licensee that wishes to conduct Tastings shall submit an application for a Tastings Permit to the local licensing authority. The application shall be accompanied by an application fee of \$100.

(d) The local licensing authority may deny the application if the applicant fails to establish that the licensee is able to conduct tastings without violating the provisions of this article or creating a public safety risk.

(e) The local licensing authority shall establish the application procedure. Application forms will be proscribed by the local licensing authority and will include a schedule of the planned tastings, a list of the names of the persons conducting the tastings and documentation that the person conducting the tasting has completed the required training, a written control plan and other such information as the local licensing authority may require. Any change to the information submitted must be submitted to the local licensing authority one week prior to the change being made. Failure to do so constitutes a violation.

(f) Renewal of the Tastings Permit shall be concurrent with renewal of the retail liquor store or liquor-licensed drugstore license. The initial Tastings Permit shall expire on the date of the retail liquor store or liquor-licensed drugstore license and the initial fee will not be prorated.

(g) Tastings shall be subject to the limitations set forth in 12-47-301(10)(c), C.R.S., as amended from time to time. Compliance with the limitations and requirements set forth in Section 12-47-301(10)(c), C.R.S. shall be a term and condition of any Tasting Permit, whether expressly set forth in the Tasting Permit or not.

(h) Tastings authorized pursuant to this section shall be allowed only for a retail liquor store or liquor licensed drug store operating within the City whose license is valid, in good standing and in full force and effect.

Sec. 4-59. Violations.

(a) A violation of a limitation specified in Section 12-47-301, C.R.S. by a retail liquor store or liquor-licensed drugstore licensee, whether by his or her employees, agents, or otherwise, shall be the responsibility of the retail liquor store or liquor-licensed drugstore licensee who is conducting the Tasting.

(b) A retail liquor store or liquor-licensed drugstore licensee conducting a Tasting shall be subject to the same revocation, suspension, and enforcement provisions as otherwise apply to the licensee for a violation of any of Section 12-47-301, C.R.S.

Sec. 4-60. Severability.

If any portion of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the constitutionality or validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared unconstitutional or invalid.

Sec. 4-61. Repeal of conflicting provisions.

(a) All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portions hereof are hereby repealed to the extent of such inconsistency or conflict.

(b) The repeal or amendment of any provision of the Code by this ordinance shall not release, extinguish, alter, modify or change in whole or in part any penalty, forfeiture or liability, either civil or criminal, which shall have been incurred under such provision and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

INTRODUCED, READ, PASSED on first reading and ordered published by the City Council of the City of Grand Junction, Colorado, this 19th day of January 2005.

PASSED AND ADOPTED on second reading this _____ day of _____, 2005.

CITY OF GRAND JUNCTION, CO

President of the Council

ATTEST:

City Clerk

Attach 4**Sole Source Purchase for Rain Bird Maxicom Controllers
CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA							
Subject		Rain Bird Maxicom Controllers					
Meeting Date		January 18, 2005					
Date Prepared		January 11, 2005				File #	
Author		Rex Sellers			Senior Buyer		
Presenter Name		Joe Stevens			Parks & Recreation Director		
Report results back to Council		X	No		Yes	When	
Citizen Presentation			Yes		No	Name	
	Workshop	X		Formal Agenda	X	Consent	Individual Consideration

Summary: The Parks Department currently has several parks with individual automated site based irrigation systems. These systems will be converted to the centralized Maxicom software program that is currently in operation at the Lincoln Park central irrigation control system. The Rain Bird Maxicom brand is the only compatible controller and Grand Junction Pipe and Supply is the only authorized Rain Bird Master Distributor for this area.

Budget: Funds for this project are appropriated in the 2005 Parks Department Budget.

Action Requested/Recommendation: Authorize the Purchasing Manager to Purchase the Controllers from Grand Junction Pipe and Supply in the estimated amount of \$64,500.00.

Attachments: SOLE SOURCE JUSTIFICATION FORM and memo of explanation.

Background Information: Included in memo dated January 11, 2005, attached to the Sole Source Justification, authored by Don Hobbs.

TO: Ron Watkins

FROM: Don Hobbs

DATE: January 11, 2005

RE: Sole Source Request and Justification

Last year, continuing this year and next, the Parks and Recreation Department is converting the majority of the automated irrigation systems from site-based controllers to a centrally controlled computerized system. The conversion will require the purchase of central processing units for five sites and new controllers and radio/cell phone connection equipment for the majority of the parks. In order to maintain compatibility and conformity with City-owned equipment and to avoid the expenditure of what could be tens of thousands of additional dollars that would be required to replace currently owned equipment we are again requesting City Council authorization for a sole source equipment purchase from a locally owned and operated sole source vendor. It is estimated this year's equipment expenditure will be \$64,500 and an estimated \$53,400 will be proposed in 2006.

For several years the department has used Rain Bird manufactured equipment purchased through the only Rain Bird Master Distributor on the Western Slope, locally owned and operated Grand Junction Pipe and Supply. Many of the controllers (clocks) currently in use throughout the park system will have to be replaced as part of the centralization; much of the equipment currently in use can be upgraded if compatibility with Rain Bird is maintained.

In 2004 the controllers at nineteen sites in the south part of Grand Junction were converted and can now communicate with the central computer. This year nineteen additional sites will be added to the system. In cooperation with Public Works we will also be purchasing and installing the central processing unit that will eventually send signals to the irrigation clocks along the Riverside Parkway. By the end of 2006 the central computer in Lincoln Park will communicate with at least five central processing units and will have the capability of controlling up to 140 twenty-four station clocks. Depending on the site, the communication between central computer and the central processing unit is accomplished either via direct wire, direct wired phone lines, or cell phones. In most cases a UHF two-way radio link connects the central processing unit to the park site irrigation clock. A weather station in Lincoln Park (stations are also located at Tiara Rado and Canyon View) sends evapotranspiration (ET) and weather condition information, used in calculating the run-times for each irrigation valve, to the central computer.

While it would take several thousand dollars to totally replace all of the components currently in use with a brand other than Rain Bird's Maxicom system, dollars aren't the only reason to stay with the local distributor. Grand Junction Pipe and Supply has been supporting products purchased by the City, and in particular, the Parks and Recreation Department since they opened their doors. Their staff is well trained, participates in seminars, and is willing to train staff in every aspect of irrigation. Anytime we have experienced a problem they are literally a phone call away and usually able to be on site in no time at all. As we continue in this new age of irrigation technology our confidence in the Rain Bird product and the local distributorship is vital to the transition from site-base automated irrigation to centrally controlled automation. Expense

savings, efficiency, outstanding support services, and quality of the product are compelling reasons to approve Grand Junction Pipe and Supply as the sole source for this project.

Attach 5
Annual Hazardous Materials Agreement with Mesa County
CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA								
Subject	Annual Hazardous Materials Agreement with Mesa County (SARA/DERA)							
Meeting Date	January 19, 2005							
Date Prepared	January 5, 2005				File #			
Author	Jim Bright			Operations Officer				
Presenter Name	Jim Bright			Operations Officer				
Report results back to Council	X	No		Yes	When			
Citizen Presentation		Yes	X	No	Name			
	Workshop	X		Formal Agenda	X	Consent		Individual Consideration

Summary: The Fire Department is requesting renewal of the City of Grand Junction/Mesa County Intergovernmental Agreement for the Grand Junction Fire Department to provide Superfund Amendment Reauthorization Act (SARA) and Designated Emergency Response Authority (DERA) services to Mesa County outside the City of Grand Junction. The DERA services are for response to accidents involving the release of hazardous materials. The SARA program involves collection of information regarding storage, handling, and manufacturing of hazardous materials.

Budget: Proposed funding from the County to the City for 2005 will be \$38,770 for DERA services, and \$25,846 for SARA services. Total funding is \$64,616.

Action Requested/Recommendation: Authorize the Mayor to Sign the Annual SARA/DERA Agreement with Mesa County

Attachments: Agreement

Background Information: This agreement has been in effect and has been renewed annually since 1992. Funding fluctuates based on actual incidents and program costs. If the agreement is not renewed, the City would provide the SARA/DERA services within the City boundaries only, with little cost reduction.

**MCA _____
A G R E E M E N T**

THIS AGREEMENT is made and entered into this ___ day of _____, 2005, by and between the CITY OF GRAND JUNCTION, COLORADO, hereinafter referred to as the CITY and MESA COUNTY, COLORADO, hereinafter referred to as the COUNTY.

WHEREAS, the COUNTY is obligated by law to respond to hazardous substance incidents within its jurisdiction and otherwise perform as the Designated Emergency Response Authority (D.E.R.A.) for Mesa County; and

WHEREAS, the COUNTY is required by law to provide hazardous materials inventory, containment and emergency planning services under the Superfund Amendment and Reauthorization Act of 1986 (S.A.R.A.), also known as the Emergency Planning and Community Right to Know Act of 1986 and/or S.A.R.A. Title III; and

WHEREAS, the CITY, owns hazardous substance emergency response equipment and employs trained personnel who can perform the D.E.R.A. functions; and

WHEREAS, the CITY employs trained personnel who can perform the S.A.R.A. function; and

WHEREAS, the CITY and the COUNTY are willing to enter into an agreement for the provision of required D.E.R.A. and S.A.R.A., Title III services by the CITY, for and on behalf of, the residents of the COUNTY, beyond those COUNTY residents living in the CITY;

NOW, THEREFORE, for and in consideration of the premises and other good and valuable consideration, the parties hereto agree as follows:

1. The CITY shall provide emergency hazardous substance response and SARA Title III services to the CITY and other corporate and unincorporated areas of the COUNTY in conformance with statutory obligations and as more particularly described in Exhibits A and B, incorporated herein by this reference as if fully set forth.
2. The COUNTY shall pay to the CITY, in two equal payments, for services provided for calendar year 2005, an amount of \$38,770 for the CITY serving as the D.E.R.A. for the COUNTY and an amount of \$25,846 for the CITY performing the S.A.R.A. services for the COUNTY. The first payments of \$19,385 for D.E.R.A. and \$12,923 for S.A.R.A. shall be due on or before June 30, 2005; the second payments shall be due on or before December 31, 2005.

3. Before any payment by the COUNTY is made to the CITY, the CITY agrees to provide the County's Emergency Management Coordinator with an invoice on or before the tenth working day of the month in which payment is due. The invoice shall contain a detailed account of all costs incurred by the CITY in performing, during the applicable billing period, those duties defined by, but not limited to Exhibit A and paragraph 4 of this agreement for D.E.R.A. and Exhibit B and paragraph 4 of this agreement for S.A.R.A.
4. The CITY agrees that it will furnish and pay for all of the labor, technical, administrative and professional services and all supplies, materials, equipment, office space and facilities, analyses, calculations and any other resources reasonably required to perform and complete the services, activities and functions of the D.E.R.A., as further described in Exhibit A and as required by Title III of S.A.R.A., as further described in Exhibit B.
5. This agreement is terminable by either the CITY or the COUNTY upon ninety days written notice. If this agreement is terminated, the CITY shall be compensated for and such compensation shall be limited to; (A) the reasonable value to the COUNTY of the services which the CITY performed prior to the date of termination, but which had not yet been paid for, and/or (B) the cost of any work the COUNTY approves in writing which it determines is needed to accomplish an orderly termination of this agreement.
6. The COUNTY hereby agrees to indemnify and hold harmless the CITY, its officers, agents and employees from and against any and all loss of, or damage to, property or injuries to, or death of any person or persons, including property and employees or agents of the CITY and shall indemnify and hold harmless the CITY, its officers, agents and employees from any and all claims, suits, damages, costs, expenses, liabilities, actions or proceedings arising out of the CITY's performance of this agreement, to the extent permitted by law. The COUNTY's obligation to indemnify or hold harmless the CITY, its officers, agents and employees under this agreement shall not apply to liability or damages resulting from the negligence of the CITY's officers, agents and employees nor to injuries covered by workers compensation. The CITY hereby agrees to indemnify and hold harmless the COUNTY, its officers, agents and employees from and against any and all loss of, or damage to, property or injuries to, or death of any person or persons, including property and employees or agents of the COUNTY, and shall indemnify and hold harmless the COUNTY, its officers, agents and employees from any and all claims, suits, damages, costs, expenses, liabilities, actions or proceedings arising out of the CITY's negligent performance under this agreement. This paragraph shall survive the termination of this agreement.

7. The CITY shall maintain adequate worker's compensation insurance through an authorized self-insurance plan approved by the State of Colorado, insuring the payment of workers benefits to its employees.
8. Notices concerning this agreement, notices of alleged or actual violations of the terms or provisions of this agreement and other notices of similar importance shall be made in writing by the CITY to the COUNTY at 544 Rood Avenue, Grand Junction, Colorado, 81501, and by the COUNTY to the CITY at 250 North 5th Street, Grand Junction, Colorado, 81501, by prepaid United States mail. Mailed notices shall be deemed effective upon deposit with the U.S. Postal Service.
9. The COUNTY shall have the right to audit, examine and copy the CITY's records related to work performed under this agreement. The CITY shall retain these records for three years after the termination of this agreement.
10. For all purposes under this agreement, the CITY shall be an independent contractor retained on a contractual basis to perform technical and professional work and it is not intended nor shall it be construed, that the CITY employees are employees, officers or agents of the COUNTY for any purpose whatsoever.
11. The CITY agrees to perform its work under this agreement in accordance with the reasonable operational requirements of the COUNTY.
12. The CITY shall promptly bill any and all persons or entities releasing or spilling hazardous substances or otherwise requiring hazardous substance emergency response under this agreement. All monies recovered shall be dedicated to the hazardous substance emergency response program and D.E.R.A. activities and services. For releases or spills of hazardous substances or other hazardous substances or emergency responses outside the corporate limits of the City where a responsible party is unknown or cannot be identified, the COUNTY shall pay any and all response costs. The CITY shall furnish the County Emergency Management Coordinator duplicate receipts or other satisfactory evidence showing payments received and all billings, debts and obligations incurred by the CITY performing work under this agreement.
13. The CITY shall exercise that degree of care and skill possessed by trained hazardous substance emergency response personnel to assure that all of the work performed under this agreement by the CITY shall comply with applicable laws, rules, regulations and safety requirements. The CITY further represents that the work performed will not intentionally violate any applicable laws, rules, regulations or codes including but not

limited to the requirements of the most recently adopted United States Code, Code of Federal Regulations and the Colorado Revised Statutes.

14. All emergency response plans and other documents submitted to the CITY by the COUNTY or to the COUNTY by the CITY are the property of the CITY and the COUNTY and each may, without restriction, make use of such as it sees fit. There shall be no liability for any damage which may result from any use of any documents for purposes other than those intended or described in the document or plan.
15. All emergency contingency plans, chemical inventories or other information required by S.A.R.A. Title III submitted to the CITY by the COUNTY or to the COUNTY by the CITY are the property of the CITY and the COUNTY and such shall be made available to the public in conformance with the requirements of section 324 of Title III.
16. In the event any of the provisions, or applications thereof, of this agreement are held to be unenforceable or invalid by any court of competent jurisdiction, the validity and enforceability of the remaining provisions, or applications thereof, shall not be affected.
17. The CITY shall have the right to include representations that it is serving as the D.E.R.A. and is performing S.A.R.A. functions for Mesa County among the CITY's promotional materials. The CITY's materials shall not include the COUNTY's confidential or proprietary information if the COUNTY has previously advised the CITY in writing of the specific information considered by the COUNTY to be confidential or proprietary.
18. The enforcement of the terms and conditions of this agreement and all rights of action relating to such enforcement, shall be strictly reserved to the CITY and the COUNTY and nothing contained in this agreement shall give or allow any claim or right of action by any other or third person on such agreement.
19. This agreement is made in Grand Junction, Colorado and shall be construed and interpreted under the laws of the State of Colorado. In the event any aspect of the Agreement is litigated by or among the parties, the prevailing party shall be entitled to its costs and reasonable attorneys fees.

CITY/COUNTY

Page 5

20. This agreement shall become effective on the day and year first written above and shall continue in effect until December 31, 2004. Payment and indemnification obligations, as provided herein, shall continue in effect and survive termination until discharged.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed as of the day and year first written above.

CITY OF GRAND JUNCTION:

by: _____
Bruce Hill
President of the Council

RECOMMENDED AND APPROVED:

by: _____
Rick Beaty
Fire Chief

ATTEST:

by: _____
Stephanie Tuin
City Clerk

Mesa County Commissioners:

by: _____
?????
Chairperson

ATTEST:

by: _____
Janice Ward
Mesa County Clerk and Recorder

EXHIBIT A

HAZARDOUS SUBSTANCE INCIDENT RESPONSE - DERA

The CITY agrees that it will provide 24 hour response to all hazardous substance incidents occurring within Mesa County.

The CITY will provide all of the manual, technical, administrative and professional labor and all equipment, supplies, materials, office space and facilities required to perform as the Designated Emergency Response Authority (D.E.R.A.) as agreed in the foregoing agreement. D.E.R.A. responsibilities include but are not necessarily limited to, providing initial hazardous substance response, analysis and or containment or arranging for containment, notification of law enforcement or other appropriate authorities, providing for the initial notification of citizens that are or may be affected, and determining, documenting and reporting potentially responsible parties.

The CITY, by and through the Grand Junction Fire Department shall supervise cleanup and mitigation activities.

The CITY will provide hazardous substance incident awareness level training to COUNTY employees at intervals agreed to by the parties, or as warranted by current legislation.

The Mesa County Emergency Manager shall be notified of hazardous substance incidents in accordance with the appropriate annex of the Mesa County Emergency Operations Plan.

The CITY, by and through the Grand Junction Fire Department, shall be in command at all hazardous substance incidents.

The CITY shall maintain trained personnel and the specialized equipment, as determined by the City to be reasonably required to discharge the D.E.R.A. responsibilities.

The foregoing Exhibit is attached and incorporated by reference to the agreement. By initialing below, the parties affirmatively state that they have read the Exhibit and acknowledge the responsibilities and obligations associated therewith.

_____ City
_____ County

EXHIBIT B

Superfund Amendments and Reauthorization Act (S.A.R.A. Title III, also known as the Emergency Planning and Community Right to Know Act of 1986).

The CITY agrees that it will perform inspections and surveys at hazardous and regulated material facilities in Mesa County pursuant to S.A.R.A. Title III. CITY also agrees to provide the County's Emergency Management Coordinator with a written report detailing such inspections and surveys. Such report shall be submitted annually.

The CITY will conduct investigations of hazardous and regulated material incidents and disposal activities, including but not necessarily limited to, identification of potentially responsible parties and initiation of enforcement and compliance efforts.

The CITY will provide hazardous substance awareness level training to COUNTY employees at intervals agreed to by the parties or as warranted by current legislation.

The Mesa County Emergency Management Coordinator shall be notified of hazardous substance incidents in accordance with the appropriate annex of the Mesa County Emergency Operations Plan.

The CITY, by and through the Grand Junction Fire Department, shall be in command at all hazardous substance incidents.

The CITY shall maintain trained personnel, as determined by the City to be reasonably required to perform the S.A.R.A. services.

The CITY will maintain records, reports and documentation as required by S.A.R.A. Title III and provide copies of same to the County's Emergency Management Coordinator upon request.

The foregoing Exhibit is attached and incorporated by reference to the agreement. By initialing below, the parties affirmatively state that they have read the Exhibit and acknowledge the responsibilities and obligations associated therewith.

_____ City

_____ County

Attach 6

**Extending the Lease of City Property to Donald Fugate Jr., dba Don's Automotive
CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA								
Subject		Extending the Lease of City Property to Donald Fugate Jr., Doing Business as Don's Automotive						
Meeting Date		January 19, 2005						
Date Prepared		January 13, 2005			File #			
Author		Peggy Holquin		City Real Estate Manager				
Presenter Name		Mark Relph		Public Works & Utilities Director				
Report results back to Council		X	No		Yes	When		
Citizen Presentation			Yes	X	No	Name		
	Workshop	X	Formal Agenda			X	Consent	Individual Consideration

Summary: Authorize an extension of the lease, through September 30, 2005, of City property at 545 Noland Avenue to Donald Fugate Jr., doing business as Don's Automotive.

Budget: Annual revenue to the General Fund has been \$4,650.00; the pro-rated amount for the extended term is \$3,487.50

Action Requested/Recommendation: Adopt resolution authorizing the City Manager to execute a Lease Extension Agreement with Donald Fugate Jr., doing business as Don's Automotive.

Attachments: 1) Vicinity Map; 2) Proposed Resolution; 3) Proposed Lease Extension Agreement.

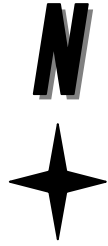
Background Information: The subject property consists of a 2,520 square foot automotive garage the City acquired in 1990 as part of the Frank Dunn Riverfront land purchase. Mr. Fugate has leased the property from the City since March of 1991. The current lease expired on December 31, 2004. This property is scheduled for use by the Riverside Parkway this fall; Mr. Fugate and Jim Shanks have agreed to this extension through September 30, 2005.

Terms of the lease are "triple-net", requiring Mr. Fugate to repair and maintain all aspects of the property at his own expense. For example, in 2002 Mr. Fugate installed a new roof and a new overhead door. Mr. Fugate is responsible for paying all utilities

and real estate taxes levied against the property and must maintain comprehensive general liability insurance – naming the City as an additional insured – for a minimum coverage of \$500,000, combined single limit.

The proposed rent of \$3,487.50 for the extended term through September 30, 2005, is comparable with rents being paid for similar properties in the downtown area.

545 NOLAND AVENUE
Vicinity Map



RESOLUTION NO. _____

**A RESOLUTION EXTENDING THE LEASE OF CITY PROPERTY
AT 545 NOLAND AVENUE
TO DONALD FUGATE, JR., DOING BUSINESS AS DON'S AUTOMOTIVE**

WHEREAS, pursuant to that certain Lease Agreement dated the 1st day of September, 1994, as authorized by City Resolution No. 69-94, that certain Lease Amendment and Extension Agreement dated the 31st day of August, 1999, as authorized by City Resolution No. 94-99, that certain Lease Amendment and Extension Agreement dated the 1st day of January, 2001, as authorized by City Resolution No. 136-00, and that certain Lease Extension Agreement dated the 1st day of January, 2003, as authorized by City Resolution No. 127-02, and that certain Lease Extension Agreement dated the 1st day of January, 2004, as authorized by City Resolution No. 08-04, the City leases to Donald Fugate Jr., doing business as Don's Automotive, the following described real property in the City of Grand Junction, County of Mesa, State of Colorado:

The North 150 feet of Lots 13 and 14 of Block 2, South Fifth Street Subdivision, also known as 545 Noland Avenue; and

WHEREAS, the above referenced Lease expired on December 31, 2004; and

WHEREAS, the City and Donald Fugate Jr. are desirous of entering into an agreement for the purposes of extending the lease of the above described property.

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

That the City Manager, on behalf of the City and as the act of the City, is hereby authorized to execute and enter into the attached Lease Extension Agreement with Donald Fugate Jr., doing business as Don's Automotive, extending the term of said Lease through September 30, 2005.

PASSED and ADOPTED this ____ day of _____, 2005.

Attest:

President of the Council

City Clerk

LEASE EXTENSION AGREEMENT

THIS LEASE EXTENSION AGREEMENT is made and entered into as of the 1st day of January, 2005, by and between the City of Grand Junction, a Colorado home rule municipality ("City"), and Donald Fugate Jr., doing business as Don's Automotive ("Lessee").

Recitals

A. By that certain Lease Agreement dated the 1st day of September, 1994, that certain Lease Amendment and Extension Agreement dated the 31st day of August, 1999, that certain Lease Amendment and Extension Agreement dated the 1st day of January, 2001, and that certain Lease Extension Agreement dated the 1st day of January, 2003, and that certain Lease Extension Agreement dated the 1st day of January, 2004, the City has leased to Lessee, and Lessee has leased from the City, the following described real property in the City of Grand Junction, County of Mesa, State of Colorado: The North 150 feet of Lots 13 and 14 of Block 2, South Fifth Street Subdivision, also known as 545 Noland Avenue ("the Property").

B. The Lease is due to expire December 31, 2004, and it is the desire of both parties to extend the Lease in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, In consideration of the recitals above and the terms, covenants, conditions and restrictions contained herein, the parties agree as follows:

1. The term of the Lease shall be extended to a period commencing on January 1, 2005, and continuing through September 30, 2005, at which time the Lease shall expire.

All other terms, covenants, conditions, restrictions, duties, obligations and responsibilities as they appear in that Lease Agreement dated the 1st day of September, 1994, that certain Lease Amendment and Extension Agreement dated the 31st day of August, 1999, that certain Lease Amendment and Extension Agreement dated the 1st day of January, 2001, and that certain Lease Extension Agreement dated the 1st day of January, 2003, and that certain Lease Extension Agreement dated the 1st day of January, 2004, shall continue in full force and effect during the term of this Lease Extension Agreement.

Dated the day and year first above written.

Attest:

The City of Grand Junction,
a Colorado home rule municipality

City Clerk

City Manager

Lessee:

Donald Fugate Jr., doing business as
Don's Automotive

Attach 7
Vacating Easements at 202 N. 7th Street
CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA							
Subject	Vacation of a 14' Multi-Purpose Easement and 15' Utility & Drainage Easement located within Lot 1, Seventh Street Simple Subdivision – 202 N. 7 th Street						
Meeting Date	January 19, 2005						
Date Prepared	January 12, 2005			File #VE-2004-226			
Author	Scott D. Peterson		Associate Planner				
Presenter Name	Scott D. Peterson		Associate Planner				
Report results back to Council	X	No		Yes	When		
Citizen Presentation		Yes	X	No	Name		
	Workshop	X	Formal Agenda		X	Consent	Individual Consideration

Summary: The applicant wishes to vacate a 14' Multi-Purpose Easement and a 15' Utility & Drainage Easement located within Lot 1, Seventh Street Simple Subdivision in anticipation of future commercial development to accommodate a proposed office building. The Planning Commission recommended approval at its January 11, 2005 meeting.

Budget: N/A

Action Requested/Recommendation: Approval of the Resolution vacating a 14' Multi-Purpose Easement and a 15' Utility & Drainage Easement located within Lot 1, Seventh Street Simple Subdivision, finding the request to be consistent with the Growth Plan and Section 2.11 C. of the Zoning and Development Code.

Attachments:

1. Background Information/Staff Analysis
2. Aerial Photo Map
3. Future Land Use Map
4. Existing City Zoning Map
5. Resolution & Exhibit A

BACKGROUND INFORMATION				
Location:		202 N. 7th Street		
Applicant:		4SC Partnership, Owners		
Existing Land Use:		Vacant land		
Proposed Land Use:		Future office building		
Surrounding Land Use:	North	Commercial office building		
	South	Commercial office building		
	East	Rio Grande Federal Credit Union		
	West	Commercial office building		
Existing Zoning:		B-2, Downtown Business		
Proposed Zoning:		N/A		
Surrounding Zoning:	North	B-2, Downtown Business		
	South	B-2, Downtown Business		
	East	B-2, Downtown Business		
	West	B-2, Downtown Business		
Growth Plan Designation:		Commercial		
Zoning within density range?		N/A	Yes	No

Staff Analysis: The applicant, 4SC Partnership, wishes to vacate a 14' Multi-Purpose Easement and a 15' Utility & Drainage Easement located within Lot 1, Seventh Street Simple Subdivision in anticipation of future commercial development. There are currently no utilities located within the 14' Multi-Purpose Easement however there does exist a gas line and sewer line within the 15' Utility & Drainage Easement, however these lines will be relocated at the time of future development of the property and a new utility and drainage easement dedicated for these utilities.

In October, 2003 a simple subdivision plat was reviewed and approved for the Seventh Street Simple Subdivision (VR-2003-098). On this subdivision plat, a 14' Multi-Purpose Easement was dedicated adjacent to the 7th Street and Rood Avenue Right-of-Ways. However, since these street frontages contain detached sidewalks and contain enough land area between the back of curb and the property line, a 14' Multi-Purpose is really not warranted to be located within this property since the utility companies have enough room in the street right-of-ways to install and maintain future utilities. Also, as part of the Seventh Street Simple Subdivision application in 2003, an existing City alley right-of-way was vacated by City Council and a new 15' Utility & Drainage Easement dedicated for the existing gas and sewer line that were located within the previous alley right-of-way (see attached Exhibit "A").

Before both of these easements can be officially vacated, as a condition of approval, the existing gas and sewer lines located within the 15' Utility & Drainage Easement will have to be relocated and/or abandoned and a new Utility & Drainage Easement dedicated at the time of future development of the site. It is anticipated that a Site Plan Review application will be forthcoming concerning the construction of a new office building on the property and the new easement will be dedicated at that time.

Consistency with the Growth Plan:

The site is currently zoned B-2, Downtown Business with the Growth Plan Future Land Use Map showing this area as Commercial in character.

Section 2.11 C. of the Zoning and Development Code:

Requests to vacate any public right-of-way or easement must conform to all of the following:

- a. The Growth Plan, major street plan and other adopted plans and policies of the City.

Granting this request to vacate these two (2) easements does not conflict with the Growth Plan, major street plan and other adopted plans and policies of the City of Grand Junction.

- b. No parcel shall be landlocked as a result of the vacation.

No parcel will be landlocked as a result of these easement vacations.

- c. Access to any parcel shall not be restricted to the point where access is unreasonable, economically prohibitive or reduces or devalues any property affected by the proposed vacation.

Access will not be restricted.

- d. There shall be no adverse impacts on the health, safety, and/or welfare of the general community and the quality of public facilities and services provided to any parcel of land shall not be reduced (e.g. police/fire protection and utility services).

There will be no adverse impacts to the general community and the quality of public facilities and services provided will not be reduced due to the vacation requests.

- e. The provision of adequate public facilities and services shall not be inhibited to any property as required in Chapter Six of the Zoning and Development Code.

The provision of adequate public facilities and services will not be inhibited to any property as required in Chapter Six of the Zoning & Development Code as there are no utilities located within the requested 14' Multi-Purpose Easement and the gas and sewer lines located within the 15' Utility & Drainage Easement will be relocated and a new Utility & Drainage Easement dedicated upon the anticipated development of the property. No adverse comments were received from the utility review agencies.

- f. The proposal shall provide benefits to the City such as reduced maintenance requirements, improved traffic circulation, etc.

Maintenance requirements to the City will not change as a result of the proposed easement vacations as the existing sewer line will be relocated and a new easement dedicated within the property.

FINDINGS OF FACT/CONCLUSIONS:

After reviewing the 202 N. 7th Street application, VE-2004-226, for the vacation of a 14' Multi-Purpose Easement and a 15' Utility & Drainage Easement located within Lot 1, Seventh Street Simple Subdivision, the Planning Commission at their January 11, 2005 meeting made the following findings of fact and conclusions and conditions of approval:

1. The two (2) requested easement vacations are consistent with the Growth Plan.
2. The review criteria in Section 2.11 C. of the Zoning and Development Code have all been met.
3. At the time of future development of Lot 1, Seventh Street Simple Subdivision, the existing gas line and sewer line will have to be relocated and/or abandoned, if applicable, and a new Utility & Drainage Easement recorded before the Resolution by City Council can be recorded approving these two (2) easement vacations.
4. Specific conditions:
 - a. The City approving the new location for any and all facilities and infrastructure for utilities, drainage or other multipurpose uses within the easements to be vacated;

- b. The relocation and construction of all facilities and infrastructure as approved by the City;
- c. The City's acceptance of the facilities and infrastructure, and dedication to the City of new easements acceptable to the City;
- d. Applicant's Payment of all costs for the recording of the dedications and the Resolution for vacating; and
- e. All conditions must be met within 2 years from the date of City Council's approval of the Resolution.

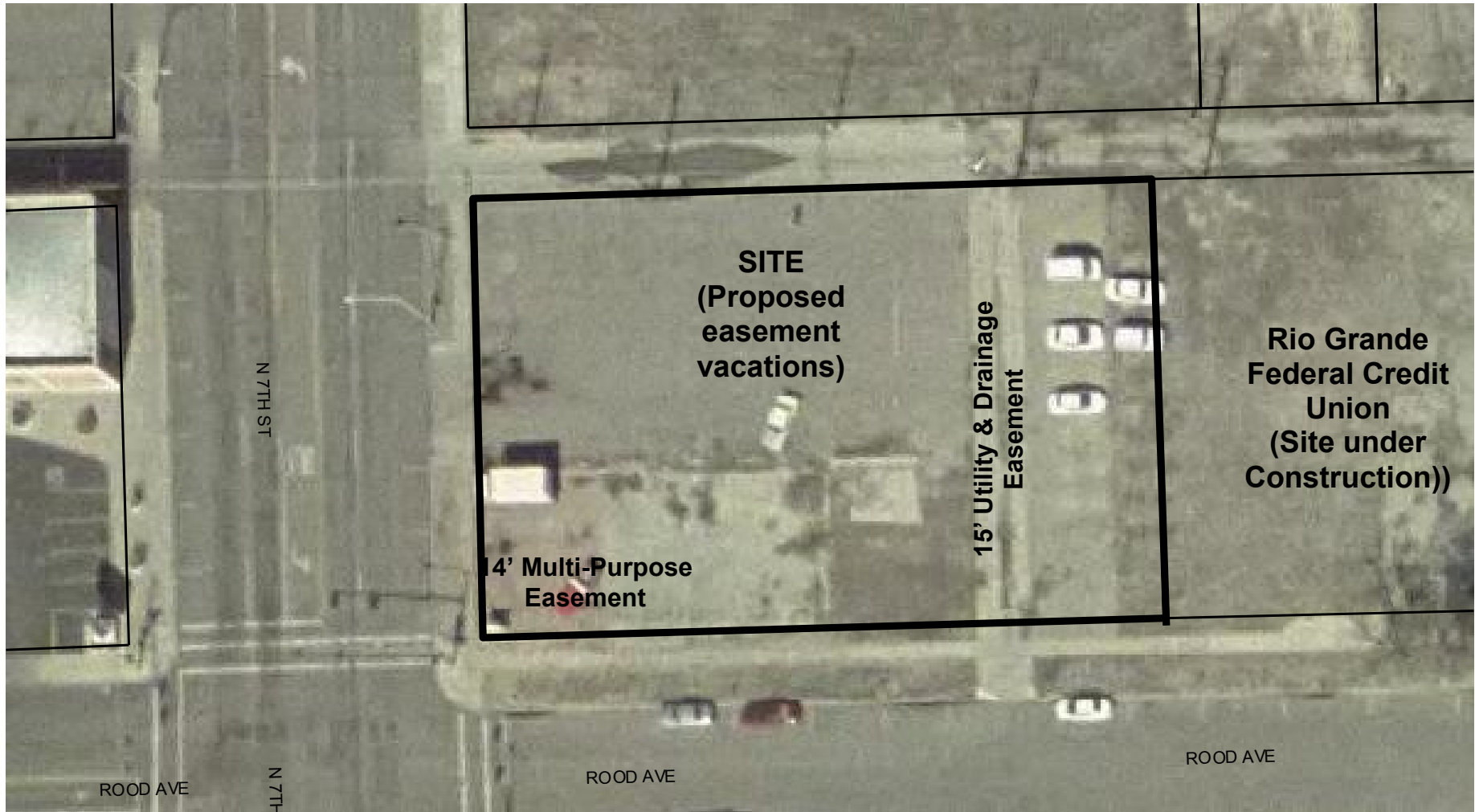
Action Requested/Recommendation: Approval of the Resolution vacating a 14' Multi-Purpose Easement and a 15' Utility & Drainage Easement located within Lot 1, Seventh Street Simple Subdivision, 202 N. 7th Street, finding the request consistent with the Growth Plan and Section 2.11 C. of the Zoning and Development Code.

Attachments:

1. Aerial Photo Map
2. Future Land Use Map
3. Existing City Zoning Map
4. Resolution & Exhibit "A"

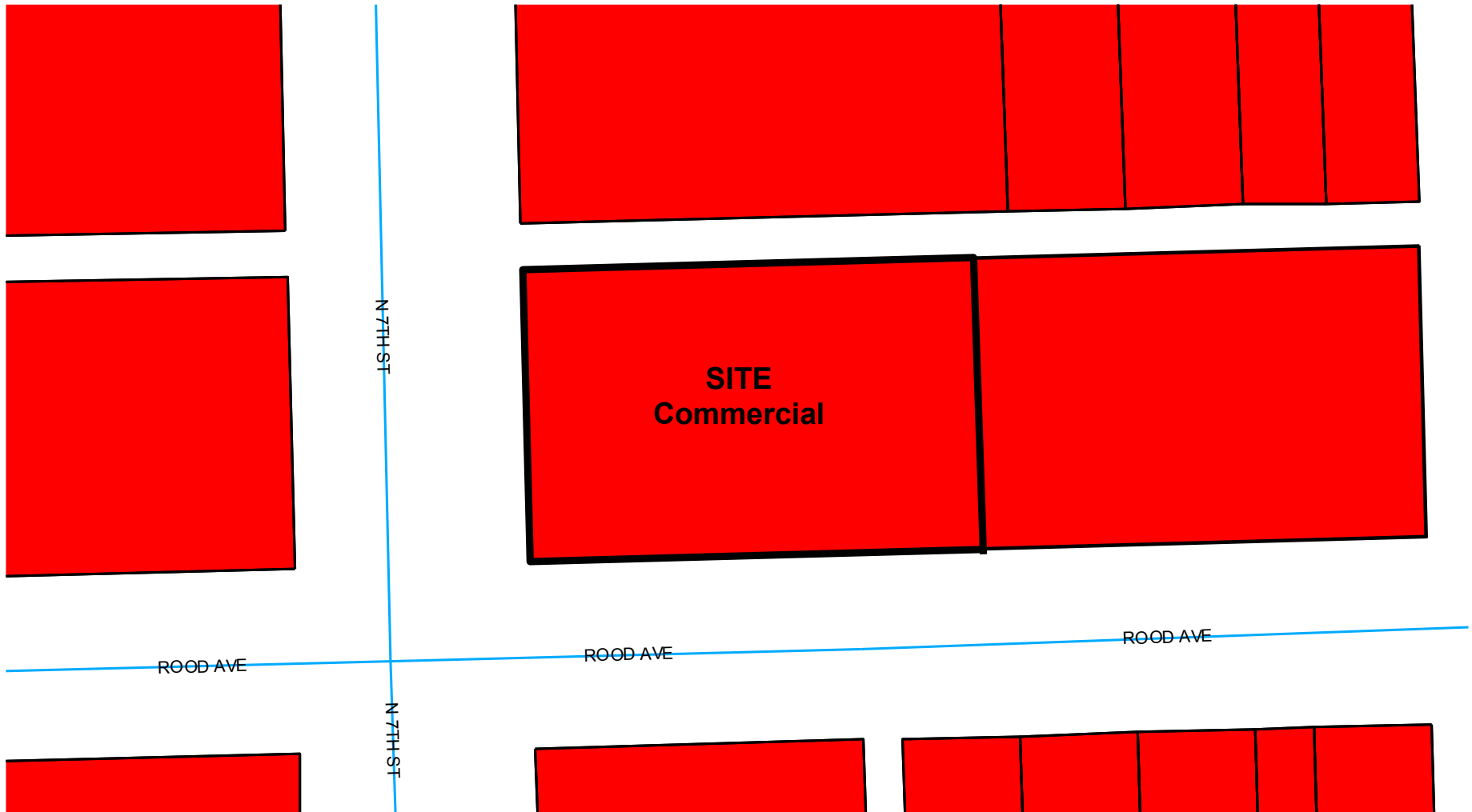
Aerial Photo Map – 202 N. 7th Street

Figure 1



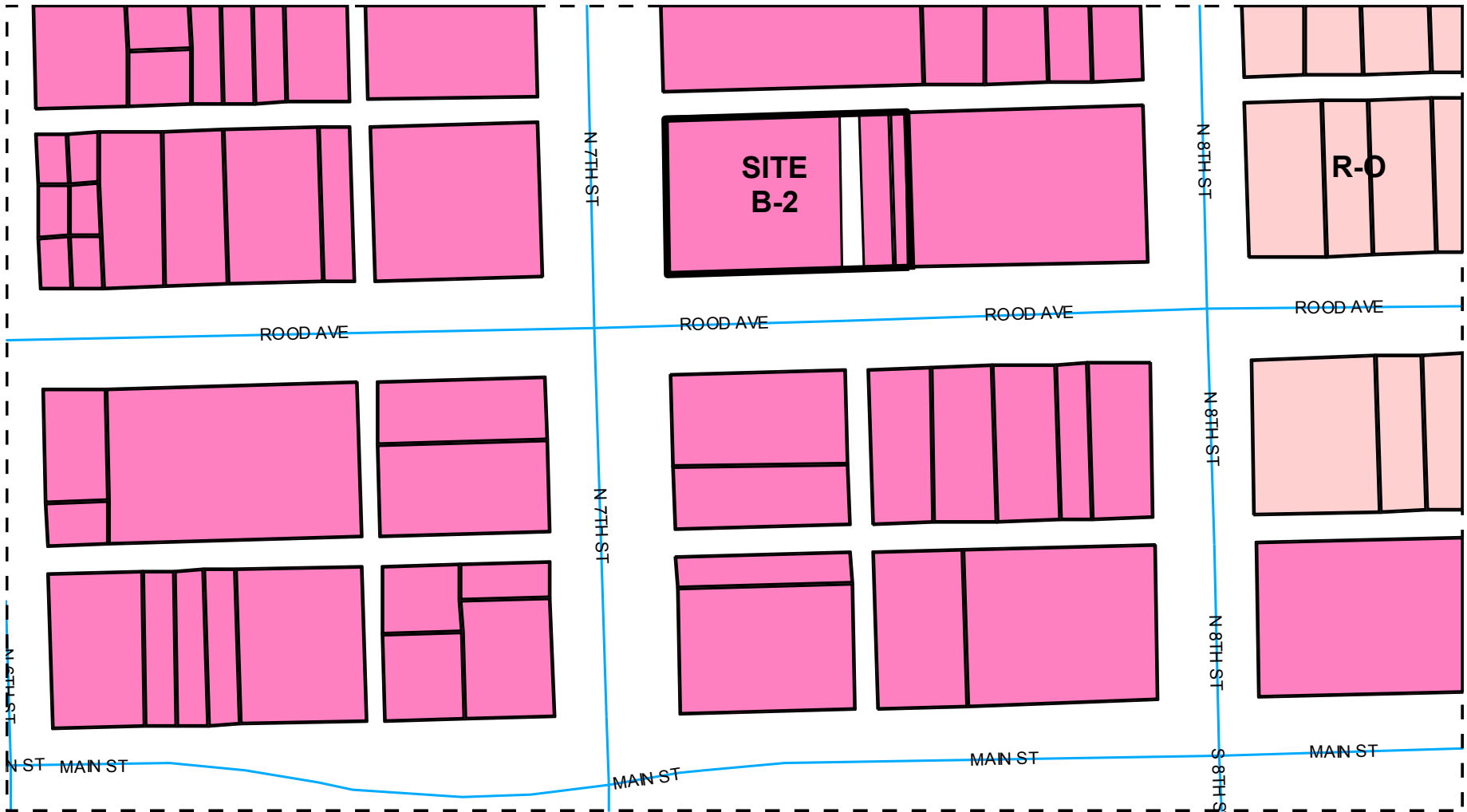
Future Land Use Map – 202 N. 7th Street

Figure 2



Existing City Zoning – 202 N. 7th Street

Figure 3



CITY OF GRAND JUNCTION

RESOLUTION NO. _____

**A RESOLUTION VACATING A 14' MULTI-PURPOSE EASEMENT
AND A 15' UTILITY & DRAINAGE EASEMENT
LOCATED WITHIN LOT 1, SEVENTH STREET SIMPLE SUBDIVISION
KNOWN AS: 202 N. 7th STREET**

RECITALS:

The applicant proposes to vacate a 14' Multi-Purpose Easement and a 15' Utility & Drainage Easement located within Lot 1, Seventh Street Simple Subdivision in anticipation of future commercial development to accommodate a proposed office building.

The Planning Commission, having heard and considered the request and found the criteria of the Code to have been met, recommend that the vacations be approved.

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

1. The following described 14' Multi-Purpose Easement and a 15' Utility & Drainage Easements are hereby vacated:

14' Multi-Purpose Easement Description

A 14' Multi-Purpose Easement situated in the SE ¼ of Section 14, Township 1 South, Range 1 West of the Ute Meridian, Mesa County being described as follows:

Beginning at the SW corner of Lot 1 of Seventh Street Simple Subdivision a Subdivision in the City of Grand Junction and being recorded in Plat Book 20 at Page 54 of the Mesa County Clerk and Recorders Office; thence along the West line of said Lot 1, N00°05'45"W 124.43 feet to the NW corner of said Lot 1; thence along the North line of said Lot 1, N89°58'13"E 14.00 feet; thence S00°05'45"E 110.45 feet; thence S89°57'52"E 179.52 feet to the East line of said Lot 1; thence along said West line, S00°04'42"E 14.00 feet to the SE corner of said Lot 1; thence along the South line of said Lot 1, N89°57'52"W 193.51 feet; to the Point of Beginning.

15' Utility & Drainage Easement Description

A 15' Utility and Drainage Easement situated in the SE ¼ of Section 14, Township 1 South, Range 1 West of the Ute Meridian, Mesa County being described as follows:

Commencing at the NE corner of Lot 1 of Seventh Street Simple Subdivision a Subdivision in the City of Grand Junction and being recorded in Plat Book 20 at Page 54 of the Mesa County Clerk and Records Office; thence along the North line of said Lot 1, S89°58'13"W 37.72 feet to the Point of Beginning; thence S00°04'16"E 124.61 feet to the South line of said Lot 1; thence along said South line, N89°57'52"W 15.00 feet; thence N00°04'16"W 124.59 feet to the North line of said Lot 1; thence along said North line, N89°58'13"E 15.00 feet to the Point of Beginning.

See attached Exhibit A.

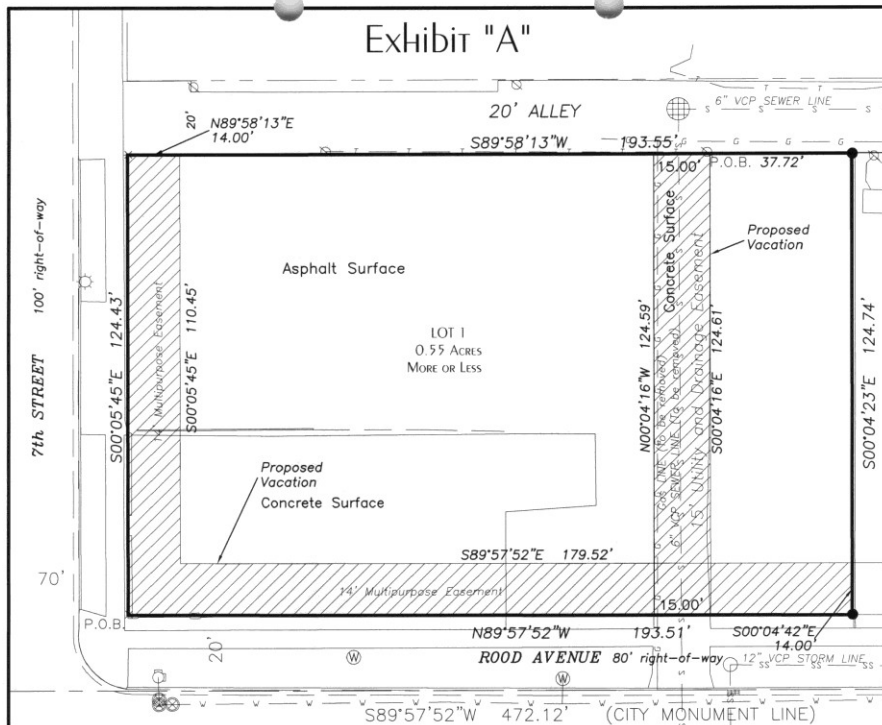
PASSED and ADOPTED this _____ day of January, 2005.

ATTEST:

City Clerk

President of City Council

Exhibit "A"



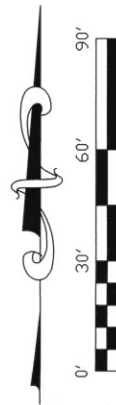
LEGEND & NOTES

- FOUND #5 REBAR LS 24943
- × FOUND PK NAIL/WASHER LS 24943
- s — SEWER LINE
- g — GAS LINE
- w — WATER LINE
- ss — STORM SEWER LINE
- t — TELEPHONE LINE

NOTES:

1. THIS EXHIBIT IS FOR THE PURPOSE OF GRAPHICALLY REPRESENTING A WRITTEN DESCRIPTION— IT DOES NOT REPRESENT A MONUMENTED BOUNDARY SURVEY
2. No Utilities were found to be in the 14' Multi-Purpose Easement that is being vacated.

RECEIVED
DEC 28 2004
COMMUNITY DEVELOPMENT
DEPT.



EASEMENT VACATION

SITUATED IN THE SE1/4 SECTION 14, T 1 S, R 1 W OF THE UTE MERIDIAN

FOR: Chamberlin Architects	 <p>Q.E.D. SURVEYING SYSTEMS Inc. 1018 COLO. AVE. GRAND JUNCTION COLORADO 81501 (970) 241-2370 464-7568</p>	SURVEYED BY: SB
SCALE: 1" = 30'		DRAWN BY: DMM
DATE: 12/23/04		ACAD ID: 202-N7th
		SHEET NO.
		FILE: 2004-268

Attach 8

**Setting a Hearing on the Tezak Annexation Located at 2397 Sayre Drive
CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA						
Subject	Setting a hearing for Tezak Annexation located at 2397 Sayre Drive					
Meeting Date	January 19, 2005					
Date Prepared	January 11, 2005				File #ANX-2004-288	
Author	Faye Hall		Planning Technician			
Presenter Name	Faye Hall		Planning Technician			
Report results back to Council	X	No		Yes	When	
Citizen Presentation		Yes	X	No	Name	
	Workshop	X	Formal Agenda	X	Consent	Individual Consideration

Summary: Resolution referring a petition for annexation and introduction of a proposed ordinance. The 1.23 acre Tezak Annexation consists of one parcel of land.

Budget: N/A

Action Requested/Recommendation: Approval of the Resolution of Referral, accepting the Tezak Annexation petition and introduce the proposed Tezak Annexation Ordinance, exercise land use jurisdiction immediately and set a hearing for March 2, 2005.

Background Information: See attached Staff Report/Background Information

Attachments:

1. Staff report/Background information
2. Aerial Photo
3. Growth Plan Map
4. Zoning Map
5. Annexation map
6. Resolution Referring Petition
7. Annexation Ordinance

STAFF REPORT / BACKGROUND INFORMATION

Location:		2397 Sayre Drive	
Applicants:		Owner: John & Janet Tezak Developer: Cole & Company Builders – Dale Cole	
Existing Land Use:		Residential	
Proposed Land Use:		Residential	
Surrounding Land Use:	North	Residential	
	South	Residential	
	East	Residential	
	West	Residential	
Existing Zoning:		County RSF-4	
Proposed Zoning:		City RSF-4	
Surrounding Zoning:	North	County RSF-4	
	South	County RSF-4	
	East	County RSF-4 & City Planned Development	
	West	City Planned Development	
Growth Plan Designation:		Residential Medium Low (2-4 du/ac)	
Zoning within density range?		X	Yes
			No

Staff Analysis:

ANNEXATION:

This annexation area consists of 1.23 acres of land and is comprised of one parcel of land. The property owners have requested annexation into the City as the result of a request to subdivide in the County. Under the 1998 Persigo Agreement all subdivisions require annexation and processing in the City.

It is staff's opinion, based on review of the petition and knowledge of applicable state law, including the Municipal Annexation Act Pursuant to C.R.S. 31-12-104, that the Tezak Annexation is eligible to be annexed because of compliance with the following:

- a) A proper petition has been signed by more than 50% of the owners and more than 50% of the property described;
- b) Not less than one-sixth of the perimeter of the area to be annexed is contiguous with the existing City limits;
- c) A community of interest exists between the area to be annexed and the City. This is so in part because the Central Grand Valley is essentially a single demographic and economic unit and occupants of the area can be expected to, and regularly do, use City streets, parks and other urban facilities;
- d) The area is or will be urbanized in the near future;
- e) The area is capable of being integrated with the City;

- f) No land held in identical ownership is being divided by the proposed annexation;
- g) No land held in identical ownership comprising 20 contiguous acres or more with an assessed valuation of \$200,000 or more for tax purposes is included without the owners consent.

The following annexation and zoning schedule is being proposed.

<u><i>ANNEXATION SCHEDULE</i></u>	
January 19, 2005	Referral of Petition (30 Day Notice), Introduction Of A Proposed Ordinance, Exercising Land Use
February 8, 2005	Planning Commission considers Zone of Annexation
February 16, 2005	Introduction Of A Proposed Ordinance on Zoning by City Council
March 2, 2005	Acceptance of Petition and Public Hearing on Annexation and Zoning by City Council
April 3, 2005	Effective date of Annexation and Zoning

TEZAK ANNEXATION SUMMARY

File Number:		ANX-2004-288
Location:		2397 Sayre Drive
Tax ID Number:		2945-174-15-008
Parcels:		1
Estimated Population:		2
# of Parcels (owner occupied):		1
# of Dwelling Units:		1
Acres land annexed:		1.2324 acres (53,682.36 sq ft)
Developable Acres Remaining:		1.2324 acres (53,682.36 sq ft)
Right-of-way in Annexation:		0
Previous County Zoning:		RSF-4
Proposed City Zoning:		RSF-4
Current Land Use:		Residential
Future Land Use:		Residential
Values:	Assessed:	\$12,770
	Actual:	\$160,360
Census Tract:		N/A
Address Ranges:		2397 Sayre Drive
Special Districts:	Water:	Ute
	Sewer:	City of Grand Junction
	Fire:	Grand Junction Rural Fire
	Irrigation/ Drainage:	Redlands Water and Power
	School:	Mesa County School District 51
	Pest:	N/A

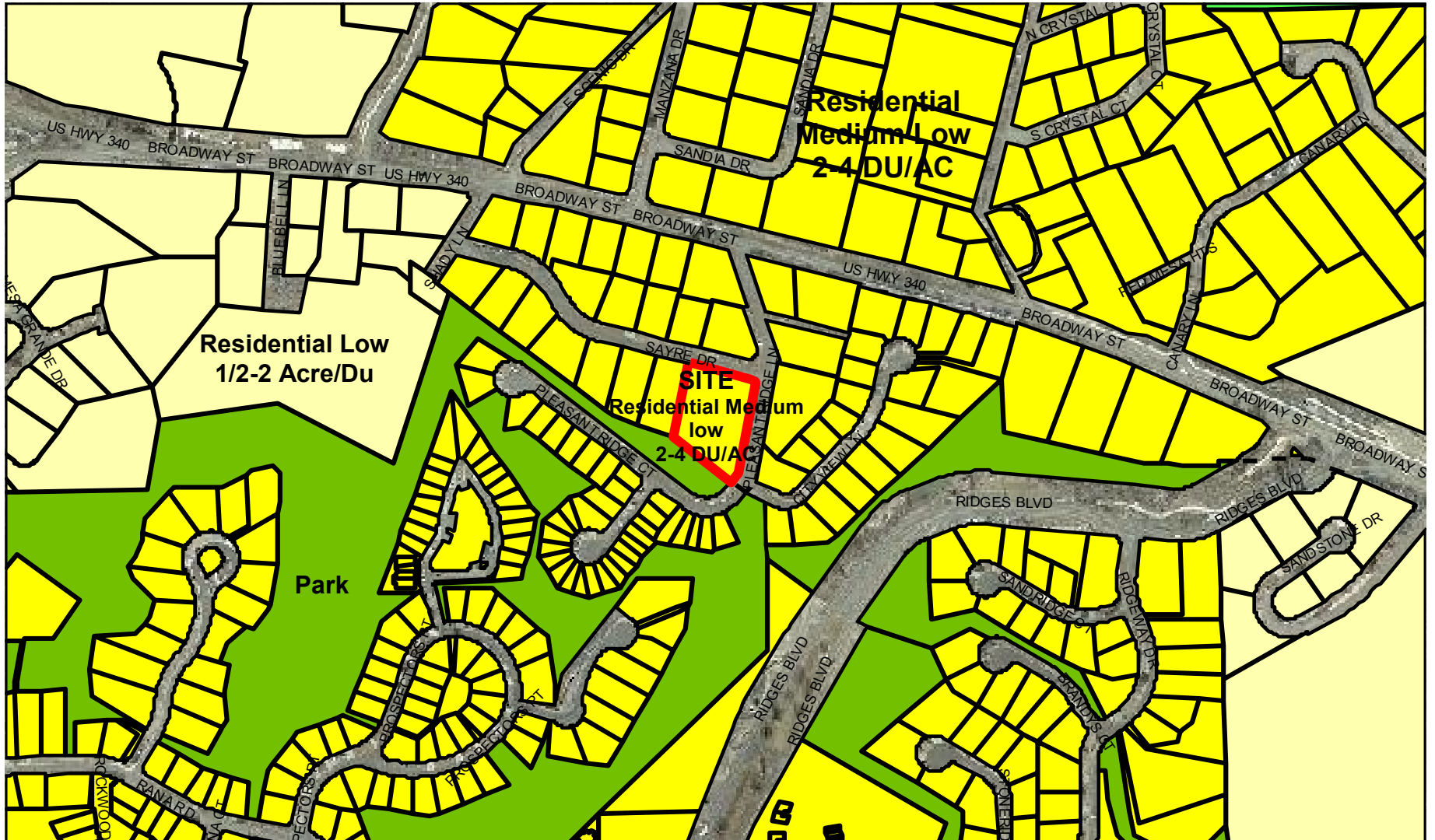
Aerial Photo Map

Figure 1



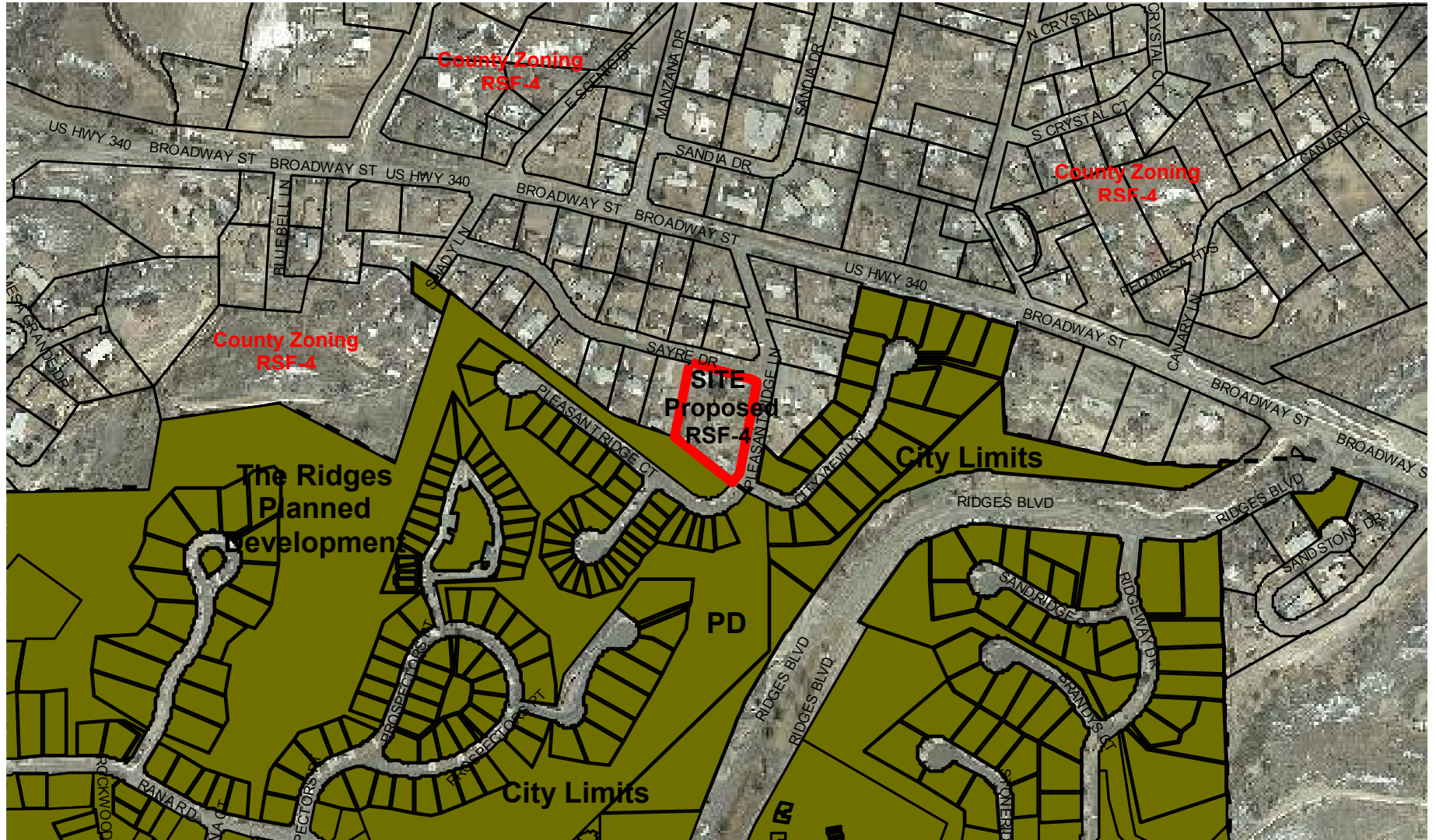
Future Land Use Map

Figure 2



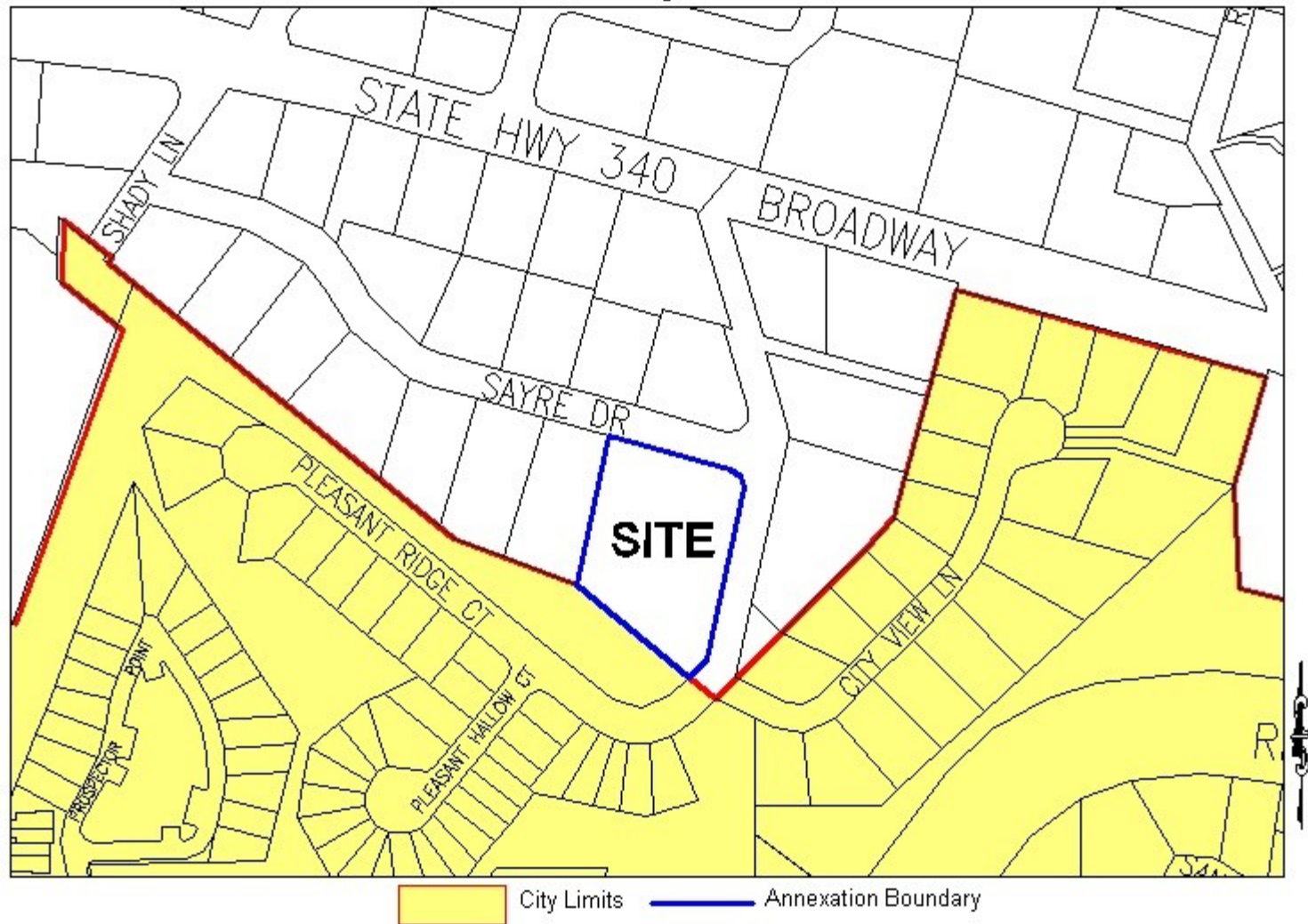
Existing City and County Zoning

Figure 3



NOTE: Mesa County is currently in the process of updating their zoning map. Please contact Mesa County directly to determine parcels and the zoning thereof."

Tezak Annexation
Figure 5



**NOTICE OF HEARING
ON PROPOSED ANNEXATION OF LANDS
TO THE CITY OF GRAND JUNCTION, COLORADO**

NOTICE IS HEREBY GIVEN that at a regular meeting of the City Council of the City of Grand Junction, Colorado, held on the 19th day of January, 2005, the following Resolution was adopted:

RESOLUTION NO. ____

**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**

TEZAK ANNEXATION

LOCATED AT 2397 SAYRE DRIVE

WHEREAS, on the 19th day of January, 2005, a petition was referred to the City Council of the City of Grand Junction, Colorado, for annexation to said City of the following property situate in Mesa County, Colorado, and described as follows:

A certain parcel of land lying in the Northeast Quarter of the Southeast Quarter (NE 1/4 SE 1/4) of Section 17, Township 1 South, Range 1 West of the Ute Principal Meridian, County of Mesa, State of Colorado, being more particularly described as follows:

Lot 8M, Watson's Subdivision Replat, as same is recorded in Plat Book 9, Page 65, Public Records of Mesa County, Colorado.

CONTAINING 1.2324 Acres (53,682.36 Sq. Ft.), more or less, as described.

WHEREAS, the Council has found and determined that the petition complies substantially with the provisions of the Municipal Annexation Act and a hearing should be held to determine whether or not the lands should be annexed to the City by Ordinance;

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

1. That a hearing will be held on the 2nd day of March, 2005, in the City Hall auditorium, located at 250 North 5th Street, City of Grand Junction, Colorado, at 7:30 PM to determine whether one-sixth of the perimeter of the area proposed to be annexed is contiguous with the City; whether a community of interest exists between the territory and the city; whether the territory proposed to be annexed is urban or will be urbanized in the near future; whether the territory is integrated or is capable of being integrated with said City; whether any land in single ownership has been divided by the proposed annexation without the consent of the landowner; whether any land held in identical ownership comprising more than twenty acres which, together with the buildings and improvements thereon, has an assessed valuation in excess of two hundred thousand dollars is included without the landowner's consent; whether any of the land is now subject to other

annexation proceedings; and whether an election is required under the Municipal Annexation Act of 1965.

2. Pursuant to the State's Annexation Act, the City Council determines that the City may now, and hereby does, exercise jurisdiction over land use issues in the said territory. Requests for building permits, subdivision approvals and zoning approvals shall, as of this date, be submitted to the Community Development Department of the City.

ADOPTED this _____ day of _____, 2005.

President of the Council

Attest:

City Clerk

NOTICE IS FURTHER GIVEN that a hearing will be held in accordance with the Resolution on the date and at the time and place set forth in the Resolution.

City Clerk

<i>DATES PUBLISHED</i>
January 21, 2005
January 28, 2005
February 04, 2005
February 11, 2005

CITY OF GRAND JUNCTION, COLORADO

ORDINANCE NO.

**AN ORDINANCE ANNEXING TERRITORY TO THE
CITY OF GRAND JUNCTION, COLORADO**

TEZAK ANNEXATION

APPROXIMATELY 1.23 ACRES

LOCATED AT 2397 SAYRE DRIVE

WHEREAS, on the 19th day of January, 2005, the City Council of the City of Grand Junction considered a petition for the annexation of the following described territory to the City of Grand Junction; and

WHEREAS, a hearing on the petition was duly held after proper notice on the 2nd day of March, 2005; and

WHEREAS, the City Council determined that said territory was eligible for annexation and that no election was necessary to determine whether such territory should be annexed;

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

That the property situate in Mesa County, Colorado, and described to wit:

A certain parcel of land lying in the Northeast Quarter of the Southeast Quarter (NE 1/4 SE 1/4) of Section 17, Township 1 South, Range 1 West of the Ute Principal Meridian, County of Mesa, State of Colorado, being more particularly described as follows:

Lot 8M, Watson's Subdivision Replat, as same is recorded in Plat Book 9, Page 65, Public Records of Mesa County, Colorado.

CONTAINING 1.2324 Acres (53,682.36 Sq. Ft.), more or less, as described.

Be and is hereby annexed to the City of Grand Junction, Colorado.

INTRODUCED on first reading on the 19th day of January, 2005 and ordered published.

ADOPTED on second reading this _____ day of _____, 2005.

President of the Council

Attest:

City Clerk

Attach 9

**Setting a Hearing on the Cloverglen Annexation Located at 2938 F ½ Road
CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA							
Subject	The Cloverglen Annexation; Resolution referring a petition for annexation; introduction of a proposed ordinance and Exercise Land Use Jurisdiction immediately.						
Meeting Date	January 19, 2005						
Date Prepared	January 12, 2005				File #ANX-2004-287		
Author	Lori V. Bowers		Senior Planner				
Presenter Name	Lori V. Bowers		Senior Planner				
Report results back to Council	X	No		Yes	When		
Citizen Presentation		Yes	X	No	Name		
	Workshop	X	Formal Agenda		X	Consent	Individual Consideration

Summary: The applicants for the Cloverglen Annexation, located at 2938 F ½ Road, have presented a petition for annexation as part of a preliminary plan. The applicants request approval of the Resolution referring the annexation petition, consider reading of the Annexation Ordinance, and requesting Land Use Jurisdiction immediately. The annexation area consists of 7.153 acres of land and right-of-way along F ½ Road.

Budget: N/A

Action Requested/Recommendation: Approval of the Resolution of Referral, accepting the Cloverglen Annexation petition and introduce the proposed Cloverglen Annexation Ordinance, exercise land use jurisdiction immediately and set a hearing for March 2, 2005.

Background Information: See attached Staff Report/Background Information

Attachments:

1. Staff report/Background information
2. Location & Aerial Photo
3. Growth Plan Map
4. Zoning Map
5. Annexation map
6. Zoning Ordinance

STAFF REPORT / BACKGROUND INFORMATION				
Location:		2938 F ½ Road		
Applicants:		Calvin & Phyllis Coley, owners; Steve Hejl representative for NWDD, Inc., developer		
Existing Land Use:		Single family residence / agricultural land		
Proposed Land Use:		Residential subdivision		
Surrounding Land Use:	North			
	South			
	East	Single-family residential		
	West	PUD Single-family residential		
Existing Zoning:		County RSF-R		
Proposed Zoning:		RMF-5		
Surrounding Zoning:	North	RMF-5		
	South	RMF-8		
	East	County RSF-R		
	West	County PUD		
Growth Plan Designation:		Residential Medium, 4 to 8 du/ac.		
Zoning within density range?		X	Yes	No

Staff Analysis:

ANNEXATION:

This annexation area consists of 7.1536 acres of land and is comprised of one parcel. The property owners have requested annexation into the City as the result of a proposed subdivision. Under the 1998 Persigo Agreement all new subdivisions require annexation and processing in the City.

It is staff's opinion, based on review of the petition and knowledge of applicable state law, including the Municipal Annexation Act Pursuant to C.R.S. 31-12-104, that The Cloverglen Annexation is eligible to be annexed because of compliance with the following:

- a) A proper petition has been signed by more than 50% of the owners and more than 50% of the property described;
- b) Not less than one-sixth of the perimeter of the area to be annexed is contiguous with the existing City limits;
- c) A community of interest exists between the area to be annexed and the City. This is so in part because the Central Grand Valley is essentially a single demographic and economic unit and occupants of the area can be expected to, and regularly do, use City streets, parks and other urban facilities;

- d) The area is or will be urbanized in the near future;
- e) The area is capable of being integrated with the City;
- f) No land held in identical ownership is being divided by the proposed annexation;
- g) No land held in identical ownership comprising 20 contiguous acres or more with an assessed valuation of \$200,000 or more for tax purposes is included without the owners consent.

The following annexation and zoning schedule is being proposed.

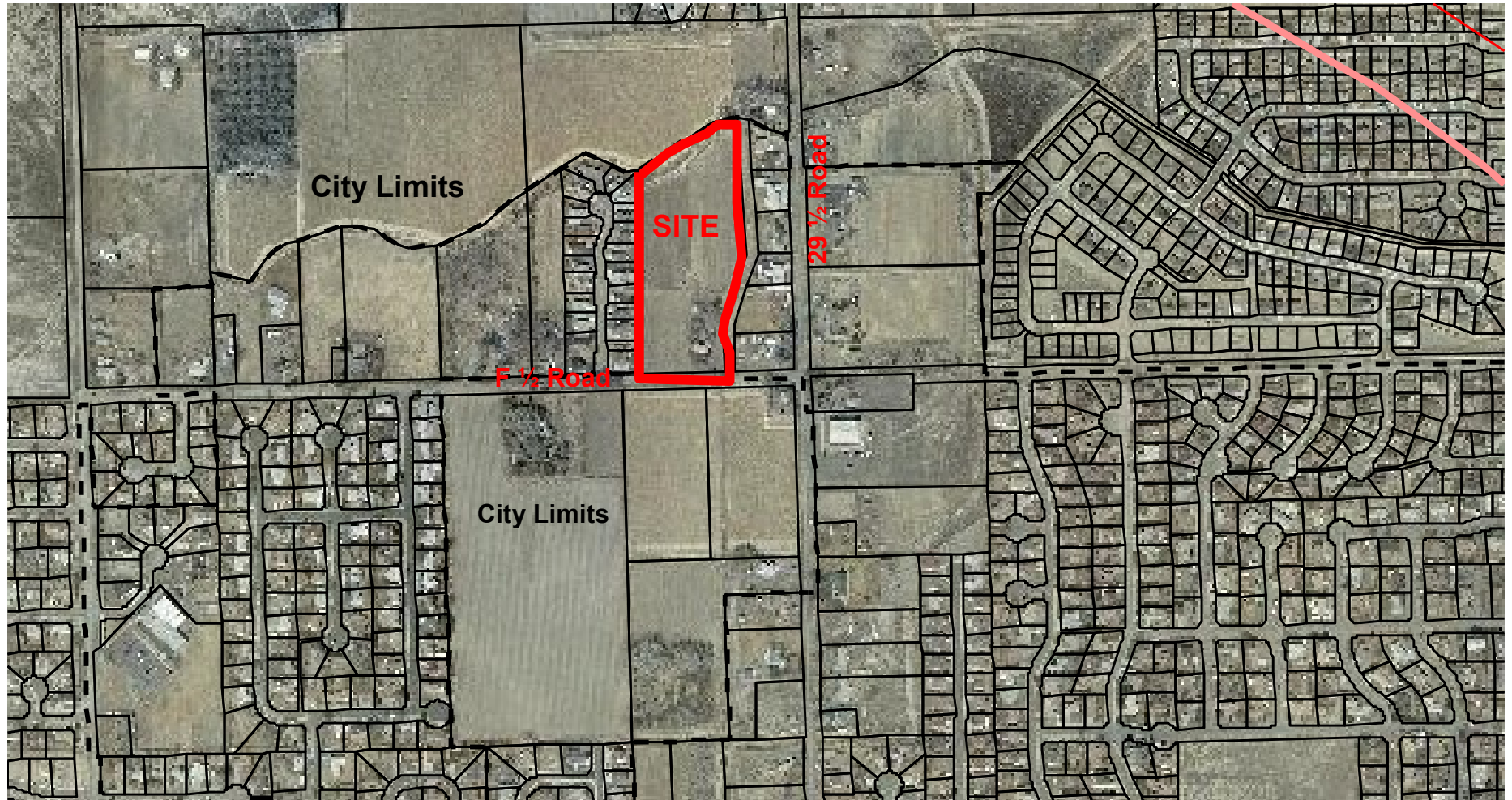
<u>ANNEXATION SCHEDULE</u>	
Jan 19	Referral of Petition (30 Day Notice), Introduction Of A Proposed Ordinance, Exercising Land Use
Feb 8	Planning Commission considers Zone of Annexation
Feb 16	Introduction Of A Proposed Ordinance on Zoning by City Council
Mar 2	Acceptance of Petition and Public Hearing on Annexation and Zoning by City Council
Apr 3	Effective date of Annexation and Zoning

CLOVERGLEN ANNEXATION SUMMARY

File Number:	ANX-2004-287	
Location:	2938 F ½ Road	
Tax ID Number:	2943-052-00-021	
Parcels:	1	
Estimated Population:	2	
# of Parcels (owner occupied):	1	
# of Dwelling Units:	1	
Acres land annexed:	7.1536	
Developable Acres Remaining:	6.9	
Right-of-way in Annexation:	A portion of F 1/2 Road along the south property line.	
Previous County Zoning:		
Proposed City Zoning:	RMF-5	
Current Land Use:	Single family residence	
Future Land Use:	Residential Subdivision	
Values:	Assessed:	\$7,350
	Actual:	\$82,730
Address Ranges:	2938 through 2942 (even only) F ½ Rd.	
Special Districts:	Water:	Ute Water
	Sewer:	Central Grand Valley Sanitation
	Fire:	Grand Junction
	Irrigation/ Drainage:	Grand Junction Drainage
	School:	School District 51
	Pest:	N/A

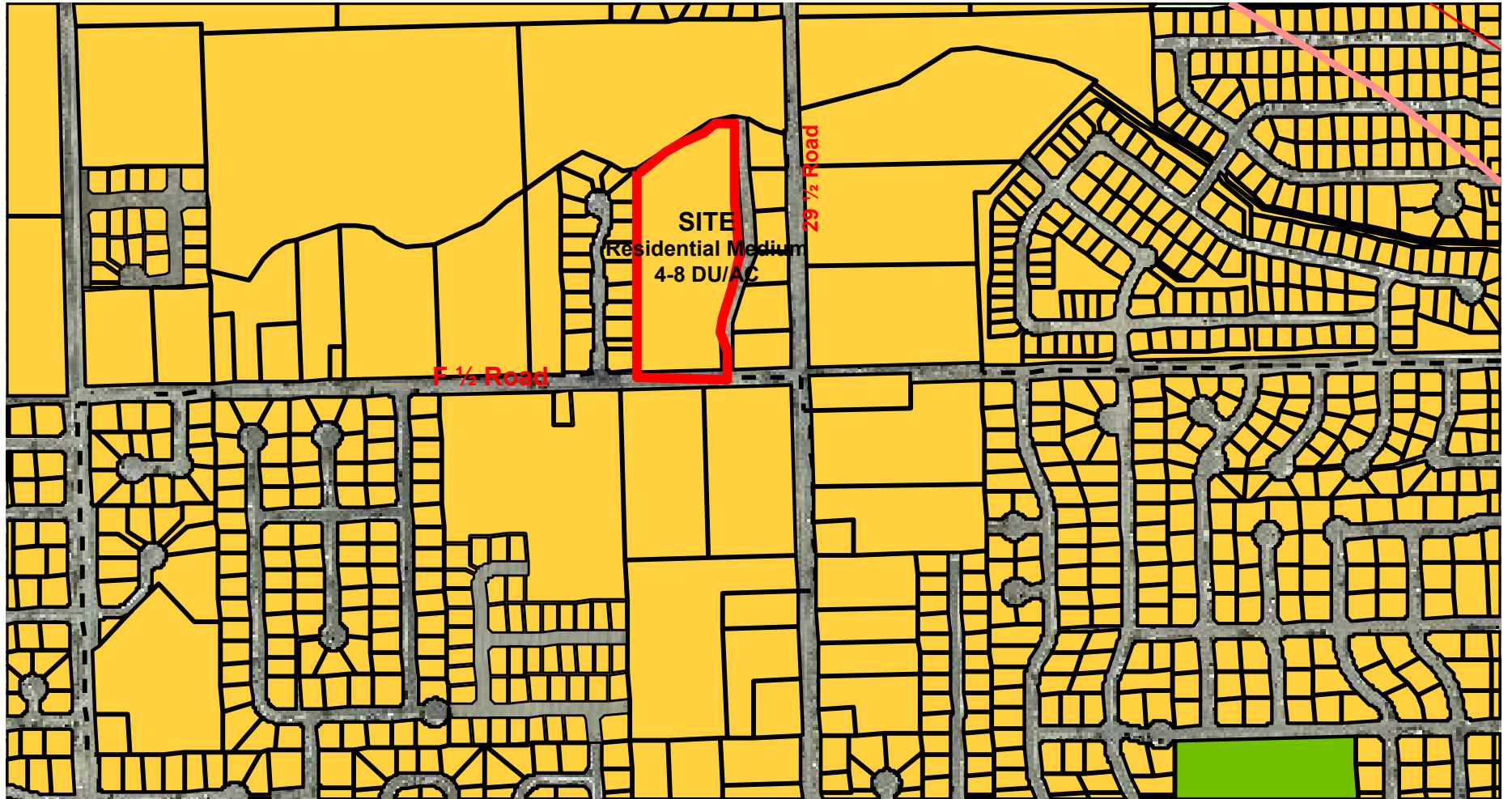
Location & Aerial Photo Map

Cloverglen 2938 F ½ Rd



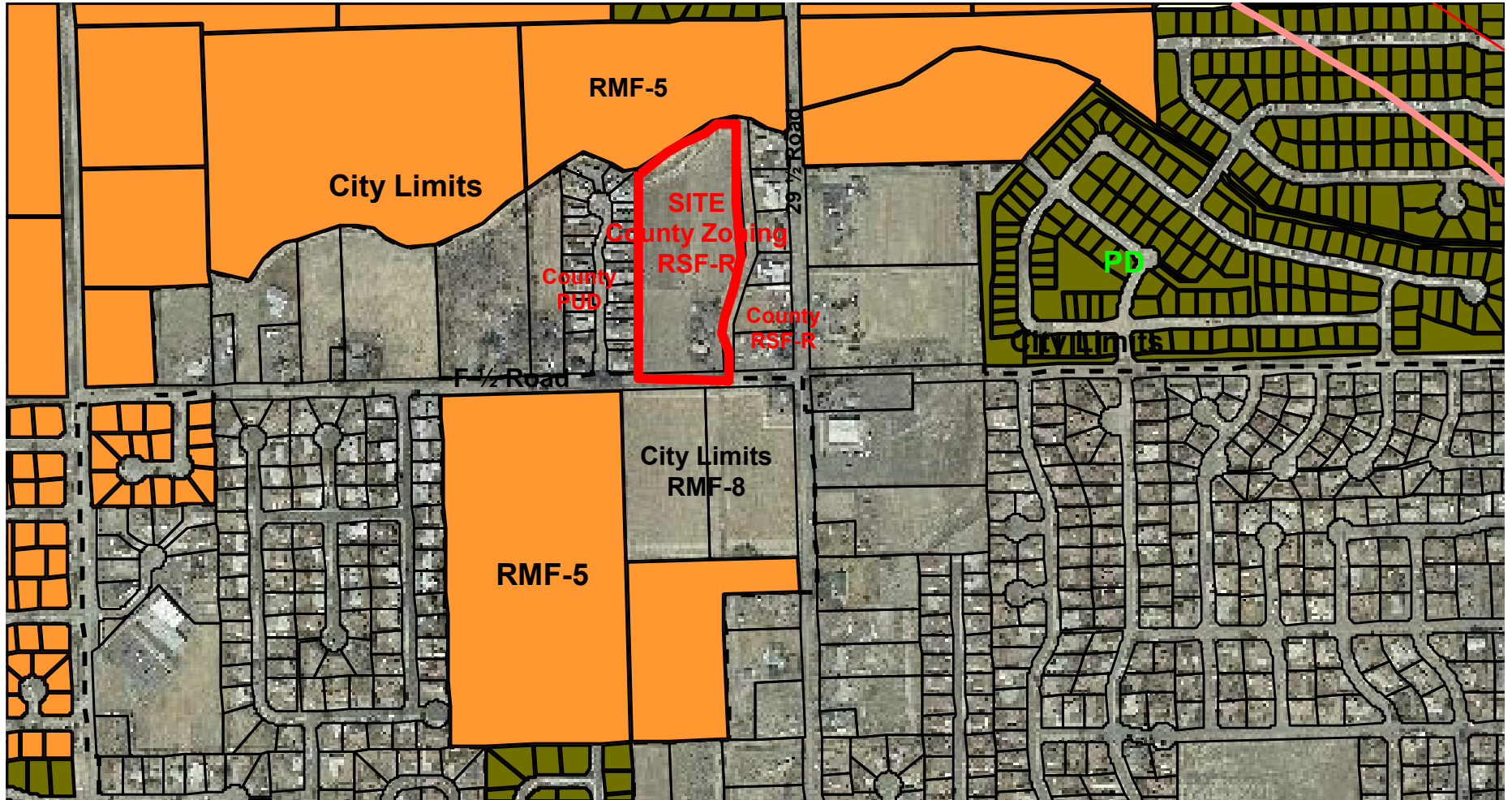
Future Land Use Map

Cloverglen 2938 F ½ Rd



Existing City and County Zoning

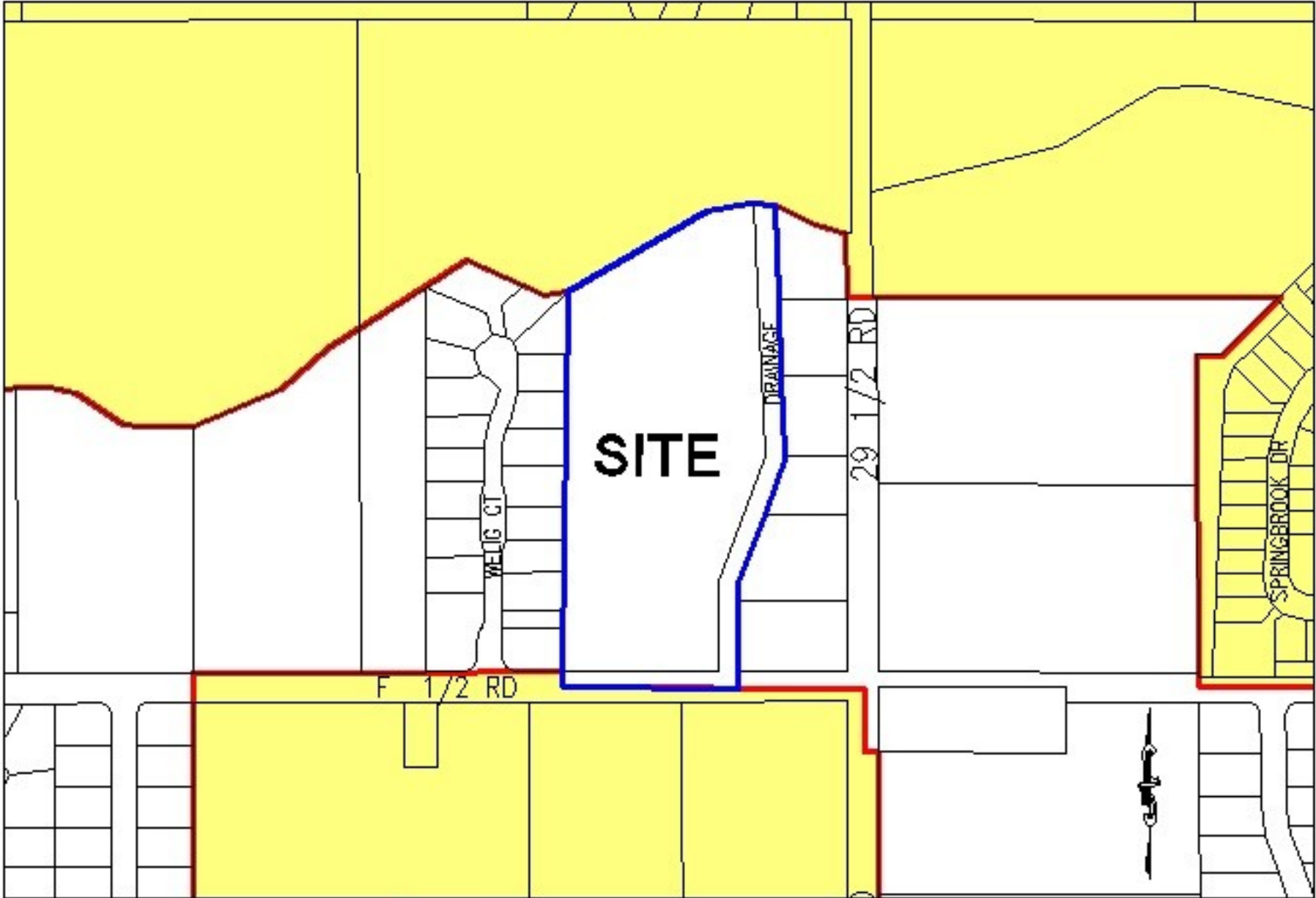
Cloverglen 2938 F 1/2 Rd



NOTE: Mesa County is currently in the process of updating their zoning map. Please contact Mesa County directly to determine parcels and the zoning thereof."

Cloverglen Annexation

Figure 5



 City Limits  Annexation Boundary

**NOTICE OF HEARING
ON PROPOSED ANNEXATION OF LANDS
TO THE CITY OF GRAND JUNCTION, COLORADO**

NOTICE IS HEREBY GIVEN that at a regular meeting of the City Council of the City of Grand Junction, Colorado, held on the 2nd of March, 2005, the following Resolution was adopted:

RESOLUTION NO. ____

**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**

CLOVERGLEN ANNEXATION

LOCATED AT 2938 F ½ ROAD

WHEREAS, on the 2nd day of March, 2005, a petition was referred to the City Council of the City of Grand Junction, Colorado, for annexation to said City of the following property situate in Mesa County, Colorado, and described as follows:

CLOVERGLEN ANNEXATION

A certain parcel of land lying in the Southeast Quarter of the Northwest Quarter (SE 1/4 NW 1/4) of Section 5, Township 1 South, Range 1 East of the Ute Principal Meridian, County of Mesa, State of Colorado and being more particularly described as follows:

ALL that certain parcel of land bounded on the South by the South line of the SE 1/4 NW 1/4 of said Section 5; bounded on the North by Darla Jean Annexation No. 2, City of Grand Junction Ordinance No. 2774; bounded on the West by the East line (and the Southerly projection thereof) of the Replat of Willow Glen, as same is recorded in Plat Book 13, Page 518, Public Records of Mesa County, Colorado; bounded on the East by the centerline (and the Southerly projection thereof) of an existing drainage ditch, as same is depicted on the Plat of Eldridge Subdivision, as same is recorded in Plat Book 13, Page 399, Public Records of Mesa County, Colorado.

CONTAINING 7.1536 Acres (311,612.8 Sq. Ft.), more or less, as depicted

WHEREAS, the Council has found and determined that the petition complies substantially with the provisions of the Municipal Annexation Act and a hearing should be held to determine whether or not the lands should be annexed to the City by Ordinance;

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

1. That a hearing will be held on the 2nd day of March, 2005, in the City Hall auditorium, located at 250 North 5th Street, City of Grand Junction, Colorado, at 7:30 PM to determine whether one-sixth of the perimeter of the area proposed to be annexed is contiguous with the City; whether a community of interest exists between the territory and the city; whether the territory proposed to be annexed is urban or will be urbanized in the near future; whether the territory is integrated or is capable of being integrated with said City; whether any land in single ownership has been divided by the proposed annexation without the consent of the landowner; whether any land held in identical ownership comprising more than twenty acres which, together with the buildings and improvements thereon, has an assessed valuation in excess of two hundred thousand dollars is included without the landowner's consent; whether any of the land is now subject to other annexation proceedings; and whether an election is required under the Municipal Annexation Act of 1965.
2. Pursuant to the State's Annexation Act, the City Council determines that the City may now, and hereby does, exercise jurisdiction over land use issues in the said territory. Requests for building permits, subdivision approvals and zoning approvals shall, as of this date, be submitted to the Community Development Department of the City.

ADOPTED this __ day of _____, 2005.

President of the Council

Attest:

City Clerk

NOTICE IS FURTHER GIVEN that a hearing will be held in accordance with the Resolution on the date and at the time and place set forth in the Resolution.

City Clerk

<i>DATES PUBLISHED</i>
January 21, 2005
January 28, 2005
February 4, 2005
February 11, 2005

CITY OF GRAND JUNCTION, COLORADO

ORDINANCE NO.

**AN ORDINANCE ANNEXING TERRITORY TO THE
CITY OF GRAND JUNCTION, COLORADO**

CLOVERGLEN ANNEXATION

APPROXIMATELY 7.1536 ACRES

LOCATED AT 2938 F ½ ROAD AND INCLUDING

A PORTION OF THE F ½ ROAD RIGHT-OF-WAY

WHEREAS, on the 19th day of January, 2005, the City Council of the City of Grand Junction considered a petition for the annexation of the following described territory to the City of Grand Junction; and

WHEREAS, a hearing on the petition was duly held after proper notice on the 2nd day of March, 2005; and

WHEREAS, the City Council determined that said territory was eligible for annexation and that no election was necessary to determine whether such territory should be annexed;

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

That the property situate in Mesa County, Colorado, and described to wit:

CLOVERGLEN ANNEXATION

A certain parcel of land lying in the Southeast Quarter of the Northwest Quarter (SE 1/4 NW 1/4) of Section 5, Township 1 South, Range 1 East of the Ute Principal Meridian, County of Mesa, State of Colorado and being more particularly described as follows:

ALL that certain parcel of land bounded on the South by the South line of the SE 1/4 NW 1/4 of said Section 5; bounded on the North by Darla Jean Annexation No. 2, City of Grand Junction Ordinance No. 2774; bounded on the West by the East line (and the Southerly projection thereof) of the Replat of Willow Glen, as same is recorded in Plat Book 13, Page 518, Public Records of Mesa County, Colorado; bounded on the East by

the centerline (and the Southerly projection thereof) of an existing drainage ditch, as same is depicted on the Plat of Eldridge Subdivision, as same is recorded in Plat Book 13, Page 399, Public Records of Mesa County, Colorado.

CONTAINING 7.1536 Acres (311,612.8 Sq. Ft.), more or less, as depicted

Be and is hereby annexed to the City of Grand Junction, Colorado.

INTRODUCED on first reading on the __ day of ____, 2005 and ordered published.

ADOPTED on second reading this __ day of __, 2005.

President of the Council

Attest:

City Clerk

Attach 10

**Purchase of Property Located at 2502 Highway 6&50 for the Riverside Parkway
CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA						
Subject	Purchase Property at 2502 Highway 6 & 50 for the Riverside Parkway Project					
Meeting Date	January 19, 2005					
Date Prepared	January 13, 2004				File #	
Author	Trent Prall		Riverside Pkwy Project Manager			
Presenter Name	Mark Relph		Public Works and Utilities Director			
Report results back to Council	X	No		Yes	When	
Citizen Presentation		Yes	X	No	Name	
	Workshop	X	Formal Agenda			Consent X Individual Consideration

Summary: 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.

Budget: Sufficient funds exist in the 2005 Riverside Parkway budget to complete the City's due diligence investigations and purchase of this right of way: Please note: The figures in this table have been rounded to the nearest dollar.

2005 Right-of-Way Budget	\$8,300,000
2005 Right-of-Way Related Expenses to Date:*	\$602,500
Costs Related to this Property Purchase:	
Purchase Price	\$139,192
Estimated Moving Costs	\$0
Potential Reestablishment Costs	\$0
Estimated Closing Costs (\$300 per lot)	\$300
Environmental Inspections	\$0
Asbestos Removal	\$0
Demolition	\$0
Misc environmental cleanup	\$1,000
Total Costs Related to This Request	\$140,492
2005 Remaining Right-of-Way Funds	\$7,557,009
Total Project Budget	\$88,925,000
Estimated Project Costs:	
Prelim. Engineering / 1601 Process	\$5,610,000
City Admin Expenses / attorney's fees / stipends	\$2,940,000
Utility relocations / undergrounding / Street Lights	\$5,375,000
Construction	\$55,000,000
Right-of-Way & Land Purchases / relocation expenses	\$15,000,000
Construction oversight	\$5,000,000
Total Estimated Project Costs	\$88,925,000
Remaining Funds / Contingency	\$0
*Includes 930 S 5th St and 1555 Independent Ave approved by Council on 1/5/05.	

Action Requested/Recommendation: Adopt a Resolution authorizing the purchase of right of way at 2502 Highway 6 & 50 from the McCallum Family LLC.

Attachments:

1. Proposed Resolution.

Background Information: On November 4, 2003, a majority of the City electorate voted to authorize the City to issue \$80 million in bonds to fund the Riverside Parkway. The authorized funding will expedite the design, property acquisition and construction of this transportation corridor.

This property is located just north of Highway 6&50 along 25 Rd. The property is currently vacant but historically has been a trucking company and most recently manufactured home sales. The land required for the Parkway project includes land for ROW and permanent easement (PE) The property is an average of 21 ft. wide. The reason it is an average of 21 feet wide is because the property is uneven. The easement is 14 feet wide.

Parcel	Parcel #	Address	SF	Zoned	Current use	Ownership
B-15	2945-103-00-154	2502 Hwy 6&50	7429	C-2	Vacant	McCallum Family LLC
B-15PE	2945-103-00-154	2502 Hwy 6&50	5123	C-2	Vacant	McCallum Family LLC

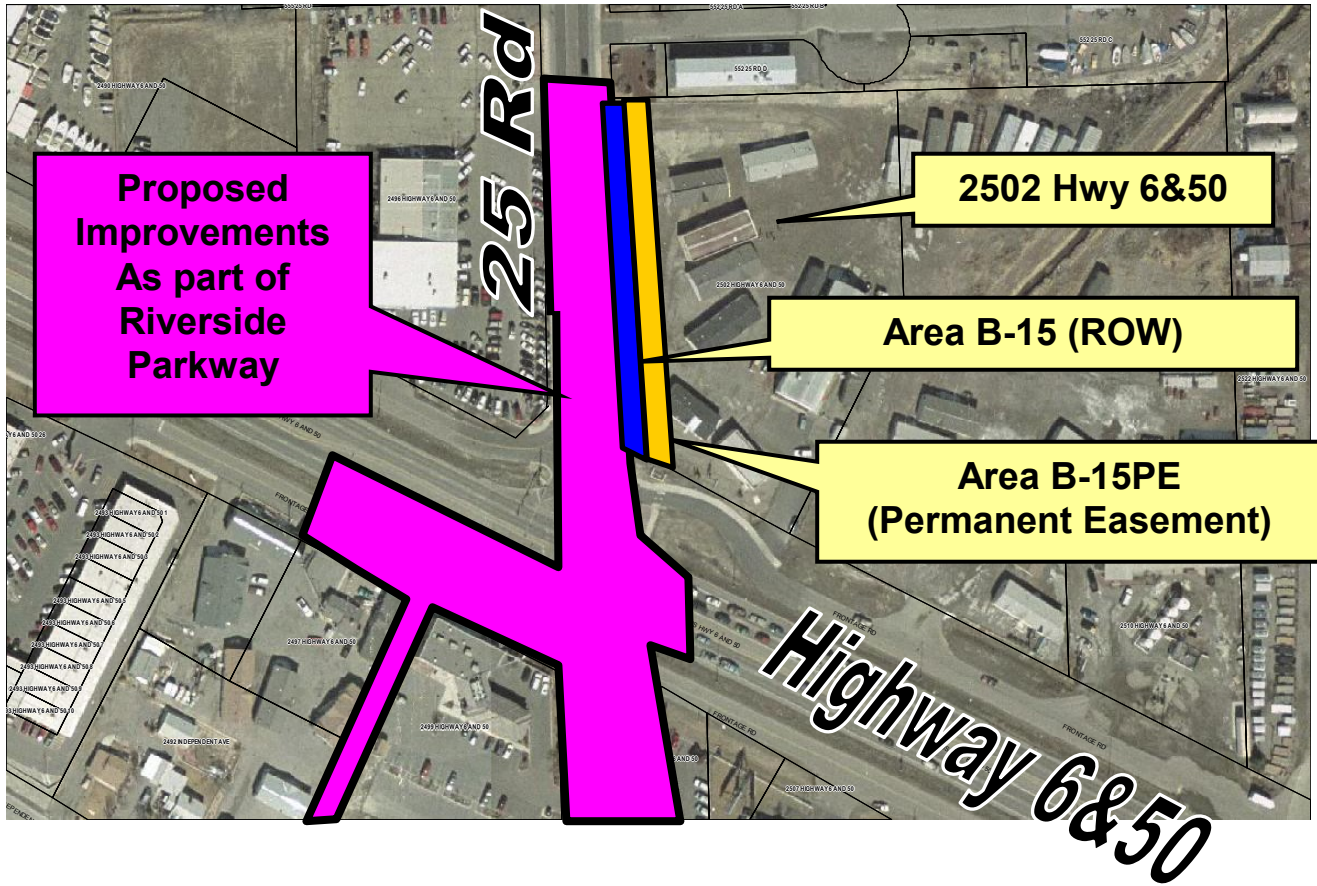
The right of way is needed for an additional lane on northbound 25 Road. The easement is necessary for the relocation of the 230 kV Xcel power transmission line.

A Phase I Environmental Audit has been completed for the purchase. No special remediation requirements are anticipated.

As standard practice the City of Grand Junction completes an appraisal of the real estate to be acquired prior to acquisition. The property owner is encouraged, but not required, to also obtain an appraisal. Appraisals were not completed for this acquisition as the property is currently under contract for \$13 per sq ft thereby establishing fair market value.

Closing is planned for **late January 2005**. Staff recommends this purchase as it is necessary for the construction of 25 Road and Highway 6&50 intersection improvements as part of the Riverside Parkway project.

2502 Hwy 6 & 50 (Parcels B-15 and B-15PE)



RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING THE PURCHASE OF REAL PROPERTY
AT 2502 HIGHWAY 6 & 50 FROM THE MCCALLUM FAMILY LLC**

Recitals.

A. The City of Grand Junction has entered into a contract with the **McCallum Family LLC** for the purchase by the City of certain real property located within the proposed alignment of the Riverside Parkway. The street address, Mesa County Assessor parcel number and project parcel numbers are as follows:

Parcel	Parcel #	Address	SF	Zoned	Current use	Ownership
B-15	2945-103-00-154	2502 Hwy 6&50	7429	C-2	Vacant	McCallum Family LLC
B-15PE	2945-103-00-154	2502 Hwy 6&50	5123	C-2	Vacant	McCallum Family LLC

B. The purchase contract provides that on or before **January 19, 2004**, the City Council must ratify the purchase and the allocation of funds for all expenses required to effectuate the purchase of said property.

C. Based on the advice and information provided by the City staff, the City Council finds that it is necessary and proper that the City purchase said property.

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

1. The above described property shall be purchased for a price of **\$139,191.50**. All actions heretofore taken by the officers, employees and agents of the City relating to the purchase of said property which are consistent with the provisions of the negotiated Contract to Buy and Sell Real Estate and this Resolution are hereby ratified, approved and confirmed.

2. Said **\$139,191.50** is authorized to be paid at closing, in exchange for conveyance of the fee simple title to the described property.

3. The officers, employees and agents of the City are hereby authorized and directed to take all actions necessary or appropriate to complete the purchase of the described property. Specifically, City staff is directed to effectuate this Resolution and the existing Contract to Buy and Sell Real Estate, including the execution and delivery of such certificates and documents as may be necessary or desirable to complete the purchase for the stated price.

PASSED and ADOPTED this _____ day of _____, 2005.

Attest:

President of the Council

City Clerk

Attach 11

**D Road Undergrounding Phase I for the Riverside Parkway
CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA						
Subject	D Road Undergrounding Phase I for the Riverside Parkway					
Meeting Date	January 19, 2005					
Date Prepared	January 13, 2005				File #	
Author	Trent Prall		Riverside Pkwy Project Manager			
Presenter Name	Mark Relph		Public Works and Utilities Director			
Report results back to Council	X	No		Yes	When	
Citizen Presentation		Yes	X	No	Name	
	Workshop	X	Formal Agenda		Consent	X Individual Consideration

Summary: The construction of the Riverside Parkway will require the relocation of many overhead power lines. This first phase will underground approximately one mile of double power lines from approximately 15th and D Road to the Regional Center. The attached letter is an “invoice” from Xcel Energy stating that the undergrounding cost is estimated at \$746,305.46.

Budget: The table below summarizes the budget for the undergrounding of this Xcel’s overhead utilities from 25 Rd to 29 Rd on the Riverside Parkway project.

2005 Total undergrounding budget	\$2,500,000
2005 Undergrounding expenses to date:	\$0
D Road Phase I relocation / undergrounding	\$746,305
2005 Remaining Undergrounding Budget	\$1,753,695
Total Project Budget	\$88,925,000
Estimated Project Costs:	
Prelim. Engineering / 1601 Process	\$5,610,000
City Admin Expenses / attorney's fees / stipends	\$2,940,000
Utility relocations / undergrounding / Street Lights	\$2,875,000
Undergrounding	\$2,500,000
Construction	\$55,000,000
Right-of-Way & Land Purchases / relocation expenses	\$15,000,000
Construction oversight	\$5,000,000
Total Estimated Project Costs	\$88,925,000
Remaining Funds / Contingency	\$0

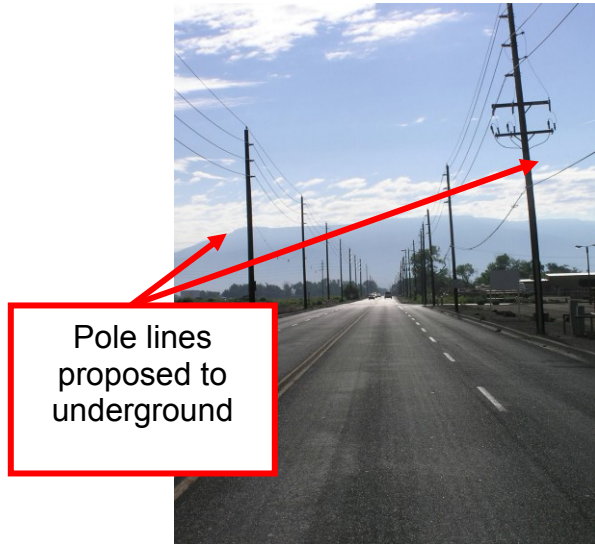
Action Requested/Recommendation: Authorize the City Manager to sign a purchase order with Xcel Energy to relocate the existing overhead power lines underground between 15th and D Road easterly to the Regional Center along the Riverside Parkway.

Attachments:

- 1. Xcel D Road Estimate

Background Information: On November 4, 2003, a majority of the City electorate voted to authorize the City to issue \$80 million in bonds to fund the Riverside Parkway. The authorized funding will expedite the design, property acquisition and construction of this transportation corridor.

The construction of the connection of Riverside Parkway along D Road will necessitate the relocation of the existing Xcel power lines on both the north side and the south side of the road. Per the franchise agreement, Xcel is only required to relocate their facilities in kind and would leave the utilities overhead. Xcel has given us credit for those costs as shown below:

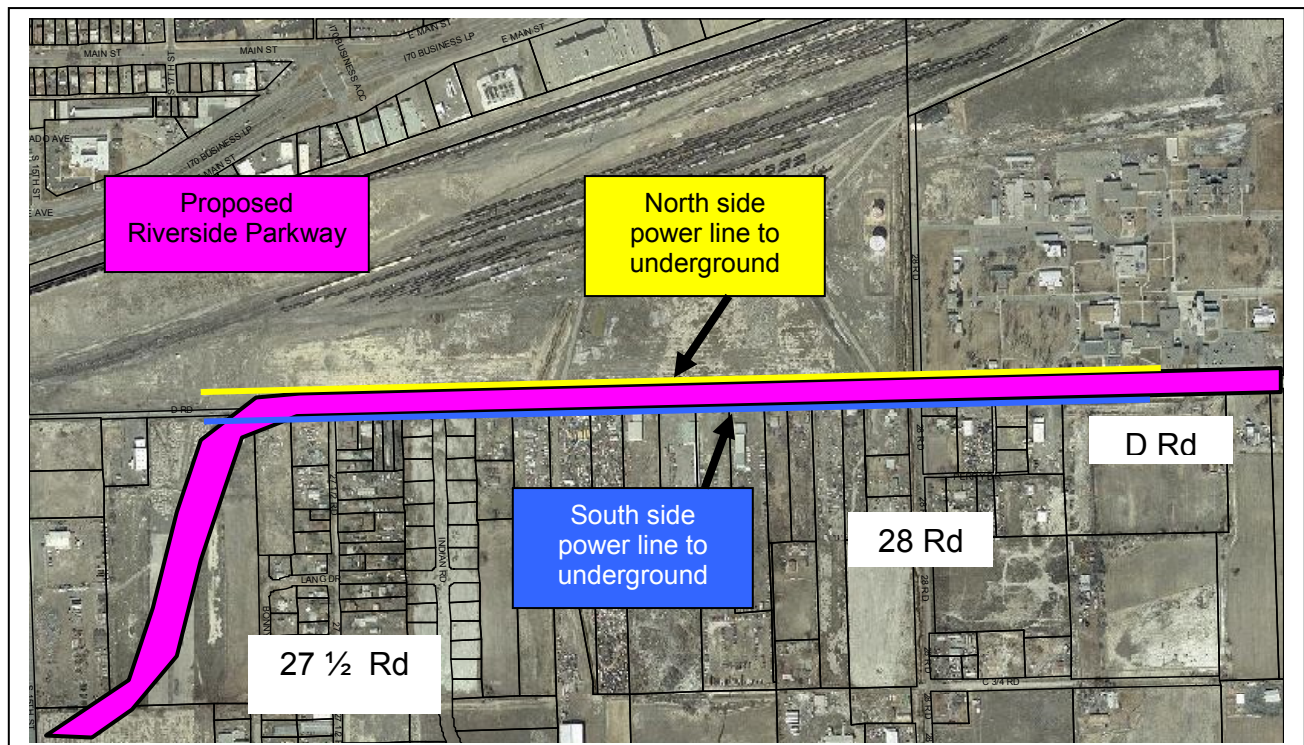


D Rd
Looking east just east of 15th St

Total Relocation Costs / Phase I	\$ 881,740.81
Xcel relocation credit / Phase I	\$ 135,435.35
Amount to be paid by City to Xcel for Phase I	\$ 746,305.46

This work is expected to be completed by spring of 2005 in time for the construction of Riverside Parkway.

VICINITY MAP





12/7/2004

2538 Blichmann Avenue
Grand Junction, Colorado 81505

Mr. Jim Shanks
City of Grand Junction
2529 High Country Ct.
Grand Junction, CO
81501

RE: Parkway Project, "D" Road.

Dear Jim,

I have completed the design and estimate to convert the overhead power lines to an underground system along the "D" road section of the Riverside Parkway Project. I will refer to this project as "D Rd, Phase 1". The limits of this project is from approximately station 303+00 to station 354+00.

Xcel Energy will install the underground conductors and ground mounted facilities within the proposed 14' utility easement along the southern ROW of D Road. Xcel will perform all trench and backfill. All trench within road ROW and private driveways will be compacted to 95%. Trench within the easement will be compacted to 85%. As per your request, service lines will not be converted to underground.

The cost of this project to the City of Grand Junction is \$746,305.46. This amount does include the overhead relocation credit of (\$135,435.35). Payment is due at the time construction is complete. We will bill you for the above amount. This amount does not include any street lighting cost. The street lighting cost will be provided on a separate estimate.

This estimate is contingent on the following items:

- 1) All easements are acquired and recorded prior to Xcel starting construction. The City of Grand Junction is responsible for all ROW acquisition.
- 2) The 14' utility easement will be cleared and grubbed prior to Xcel starting construction. The City of Grand Junction is responsible for this item.
- 3) Xcel energy will contract with a local surveying company for construction staking. The City of Grand Junction will provide, at no charge, the most current plans as requested by our survey contractor.
- 4) Our trench route will cross or bi-sect proposed Storm sewer lines at four locations, (Sta 305+00 lower section, Sta 324+25, Sta 341+42, Sta 345+20) and cross the Parkway at 3 locations, (Sta 305+00 lower section, Sta 313+10 east section, Sta 353+15). Prior to construction, Xcel Energy and The City of Grand Junction will mutually agree on the vertical location of our conduits at these

locations. Xcel Energy's survey contractor will provide "as built" vertical and horizontal data of our facilities at the mentioned locations.

If this estimate is acceptable to you, please have the City Manager or his designee, (accompanied by a delegation of authority letter), reply in writing stating that the City of Grand Junction will release funds for this project. Once I receive this sign letter, I will order the materials and release the project to our construction department. We would like to start construction by February 1st, 2005.

I look forward to working with you and your team on this project. If you have any concerns with this estimate, please call me at 244-2693. If I am unavailable, you may contact Mr. Dan Steinkirchner at 244-2656.



Jon Price
Xcel Energy
PO Box 849
Grand Junction, CO
81502

cc: Dan Steinkirchner

Attach 12

**MOU with Mesa Co. for 29 Rd. from D Rd. South the Colorado River Bridge
CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA						
Subject	Memorandum of Understanding with Mesa County for 29 Rd from D Road South to Colorado River Bridge					
Meeting Date	January 19, 2004					
Date Prepared	January 13, 2004				File #	
Author	Trent Prall			Riverside Pkwy Project Manager		
Presenter Name	Mark Relph			Public Works and Utilities Director		
Report results back to Council	X	No		Yes	When	
Citizen Presentation		Yes	X	No	Name	
	Workshop	X	Formal Agenda		Consent	X Individual Consideration

Summary: The proposed Memorandum of Understanding with Mesa County covers the funding and project management of the design and construction of 29 Rd from D Road south to the Colorado River Bridge.

Budget: Project funding identified in the MOU shows that all of the costs attributable to this segment are reimbursable to City by the County. Mesa County has budgeted the following funds for the project:

Fund Source	2005	2006
	Design / ROW	Construction
City	\$0	\$0
County	\$375,000	\$4,100,000
Federal	0	\$0
TOTAL	\$375,000	\$4,100,000

Action Requested/Recommendation: Authorize the Mayor to sign a Memorandum of Understanding with Mesa County for Construction of 29 Rd from D Road to the Colorado River Bridge.

Attachments:

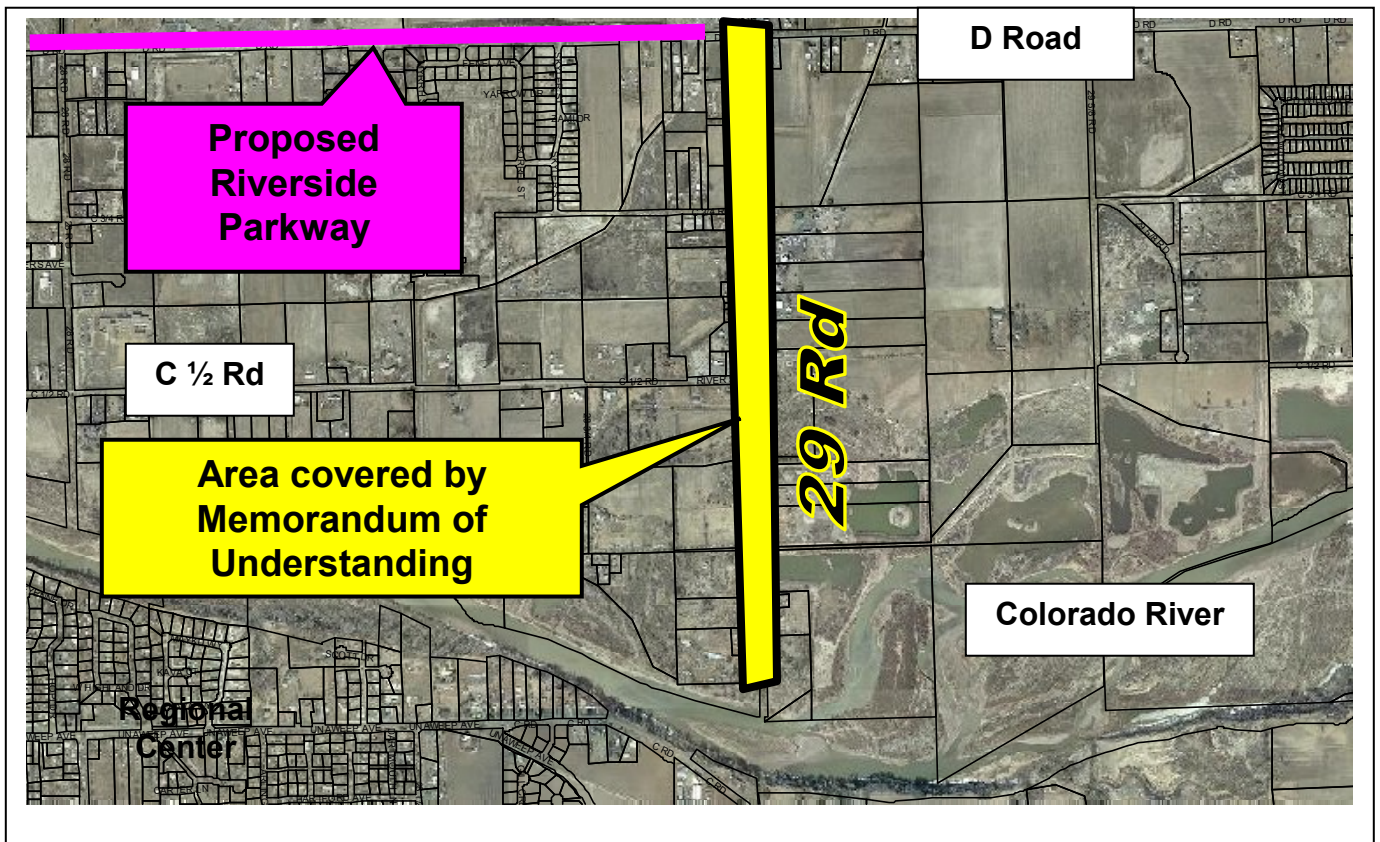
1. Proposed Memorandum of Understanding.

Background Information:

Both the City and the County have responsibilities for developing and implementing transportation plans and authorizing capital improvements under their respective

jurisdiction. The Parties recognize that transportation-related improvement decisions by one effect similar decisions by the other and that cooperative planning and spending can maximize the community's resources that are more available for improvements. The Parties further recognize the need to make significant improvements to the 29 Road corridor. Mesa County has included in the Capital Improvement Plan ("CIP") funds to construct the portion of 29 Road from the Colorado River Bridge to D Road. The City is currently planning to construct the Riverside Parkway that terminates at the north end of the County Project. The City proposes to utilize a single design/build team to construct the Riverside Parkway. In order to benefit from the economies of scale of the Riverside Parkway project, the County and the City recognize and all agree that it would be beneficial to the Parties if the County's section of 29 Road was designed and constructed by the City's design/build team. It is further agreed that it is in the best interests of the Parties to work cooperatively in the planning and construction of these improvements.

The purpose of this AGREEMENT is to establish the lines of communication and assign responsibility for the various work items necessary to accomplish the reconstruction of 29 Road from D Road to the Colorado River Bridge. This AGREEMENT also establishes the agreement of the COUNTY to have the CITY complete preliminary design and oversee the design/build team on completion of the design and construction of the reconstruction the County Project. The County Project is currently planned to be designed and constructed over two years starting in 2005.



**Memorandum of Understanding
between
The City of Grand Junction and Mesa County, Colorado
for the
Re-construction of 29 Road
D Road to Colorado River Bridge**

The parties to this Memorandum of Understanding (AGREEMENT) are the Board of County Commissioners of Mesa County, Colorado, (COUNTY) and the City Council of the City of Grand Junction, Colorado (CITY).

I. Introduction

Both the City and the County (“the Parties” or “Parties”) have responsibilities for developing and implementing transportation plans and authorizing capital improvements under their respective jurisdiction. The Parties recognize that transportation-related improvement decisions by one effect similar decisions by the other and that cooperative planning and spending can maximize the community’s resources that are more available for improvements. The Parties further recognize the need to make significant improvements to the 29 Road corridor (the “Joint Project”). Mesa County has included in the Capital Improvement Plan (“CIP”) funds to construct the portion of 29 Road from the Colorado River Bridge to D Road (the “County Project”).

The City is currently planning to construct the Riverside Parkway that terminates at the north end of the reach of the County Project (the “City Project”). The City proposes to utilize a single design/build team to construct the Riverside Parkway. In order to benefit from the economies of scale of the Riverside Parkway project, the County and the City recognize and all agree that it would be beneficial to the Parties if the County’s section of 29 Road was designed and constructed by the City’s design/build team. It is further agreed that it is in the best interests of the Parties to work cooperatively in the planning and construction of these improvements.

II. Purpose

The purpose of this AGREEMENT is to establish the lines of communication and assign responsibility for the various work items necessary to accomplish the reconstruction of 29 Road from D Road to the Colorado River Bridge. This AGREEMENT also establishes the agreement of the COUNTY to have the CITY complete preliminary design and oversee the design/build team on completion of the

design and construction of the reconstruction the County Project. The County Project is currently planned to be designed and constructed over two years starting in 2005.

III. Procedure

Now, therefore, the Parties covenant, promise and agree:

- 1) The County has included funds in the County's Capital Improvement Plan (CIP) for the County Project. The County will carry over any unexpended funds for the County Project from year to year to maintain the overall funds for the County Project.

The County has approved in the CIP budget, sufficient funding for the County Project.

- 2) The City will provide all legal descriptions and acquire right-of-way needed for the Joint Project, including the descriptions and acquisition necessary for the County Project based on either, a 60 foot right of way and an 8 foot multipurpose easement on each side of the right of way, or an 80 foot right of way. The cost of developing all right-of-way legal descriptions and acquiring the right-of-ways attributed to the County Project will be reimbursed to the City by the County, following approval by the County.
- 3) The City will administer and manage the Joint Project through preliminary design, final design and construction. The construction costs and project management attributed to the County Project will be project costs reimbursed to the City by the County, following approval by the County.
- 4) The County will pay all costs of the design, construction, right-of-way acquisition and construction management attributed to the County Project. The City will submit periodic invoices to the County for approval.
- 5) The County Project will generally include the construction of three travel lanes with curb, gutter and sidewalk on both sides along with an underground storm drain and all necessary appurtenant work. Additional turn lanes will be constructed at the intersection of 29 Road and D Road. All work will be design and constructed to City standards. The general configuration of the street will not be changed except by mutual agreement for a modification of this AGREEMENT.
- 6) Upon completion of the County Project under this AGREEMENT, and prior to the final payment, the County shall conduct a final inspection and provide written acceptance of the project. The County shall have final approval on any punch list items related to the County Project.

IV. Administration

- A. Nothing in this AGREEMENT will be construed as limiting or affecting in any way the authority or legal responsibility of the County or the City, or as binding either party to perform beyond the respective authority of each, or as requiring either party to assume or expend any sum in the excess of appropriations.
- B. This AGREEMENT shall become effective when signed by the Parties hereto. The Parties may amend this AGREEMENT by mutual written attachment as the need arises. Any party may terminate this AGREEMENT after 90 days notice in writing to the other and upon fulfillment of all outstanding obligations.
- C. The City shall include all the terms and conditions regarding bonding, insurance and indemnification provision as part of the City's contract so that the County Project is protected. This shall be in addition to any rights of the City.

In witness whereof, the parties herein have caused this document to be executed as of the date of the last signature shown below.

ATTEST:

Clerk

Chairman of the Board
Mesa County Board of Commissioners

Date _____

ATTEST:

Clerk

Mayor
Grand Junction City Council

Date _____

Attach 13

**Public Hearing – Creation of Alley Improvement District 2005, Phase B
CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA						
Subject	Create Alley Improvement District ST-05, Phase B					
Meeting Date	January 19, 2005					
Date Prepared	January 13, 2005				File #	
Author	Michael Grizenko		Real Estate Technician			
Presenter Name	Mark Relph		Public Works and Utilities Director			
Report results back to Council	X	No		Yes	When	
Citizen Presentation	X	Yes		No	Name	Any Interested Citizen
	Workshop	X	Formal Agenda		Consent	X Individual Consideration

Summary: A successful petition has been submitted requesting a Local Improvement District be created as part of the Alley Improvement District 2005, Phase B, for the alley located in the South ½ of the North/South Alley, 6th St to 7th St, between Grand Avenue and Ouray Avenue

The remainder of this alley was built previously as part of alley improvements in 1990.

Budget:

2005 Alley Budget	\$360,000
Estimated Cost to construct 2005 Alleys	\$302,250
Estimated Cost to construct 2005, Phase B Alley:	\$ 13,300
Estimated Balance	\$ 44,450

Action Requested/Recommendation: Conduct public hearing and review and adopt proposed resolution.

Attachments: 1) Summary Sheet 2)Map 3) Resolution

Background Information: People’s Ordinance No. 33 authorizes the City Council to create improvement districts and levy assessments when requested by a majority of the property owners to be assessed. Council may also establish assessment rates by resolution. The present rates for alleys are \$8.00 per abutting foot for residential single-family uses, \$15.00 per abutting foot for residential multi-family uses, and \$31.50 per abutting foot for non-residential uses. A summary of the process that follows submittal of the petition is provided below.

Items preceded by a √ indicate steps already taken with this Improvement District and the item preceded by a ► indicates the step being taken with the current Council action.

1. √ City Council passes a Resolution declaring its intent to create an improvement district. The Resolution acknowledges receipt of the petition and gives notice of a public hearing.
2. ► Council conducts a public hearing and passes a Resolution creating the Improvement District. The public hearing is for questions regarding validity of the submitted petitions.
3. Council awards the construction contract.
4. Construction.
5. After construction is complete, the project engineer prepares a Statement of Completion identifying all costs associated with the Improvement District.
6. Council passes a Resolution approving and accepting the improvements, gives notice of a public hearing concerning a proposed Assessing Ordinance, and conducts a first reading of a proposed Assessing Ordinance.
7. Council conducts a public hearing and second reading of the proposed Assessing Ordinance. The public hearing is for questions about the assessments.
8. The adopted Ordinance is published for three consecutive days.
9. The property owners have 30 days from final publication to pay their assessment in full. Assessments not paid in full will be amortized over a ten-year period. Amortized assessments may be paid in full at anytime during the ten-year period.

SUMMARY SHEET

PROPOSED ALLEY IMPROVEMENT DISTRICT 6TH STREET TO 7TH STREET

OWNERS	FOOTAGE	COST/FOOT	ASSESSMENT
• John & Irene Crouch	75	\$8.00	\$600.00
• Kevin Kennedy & Elizabeth Clark	125	\$31.50	\$3,937.50
TOTAL ASSESSABLE FOOTAGE	200		\$4,537.50

Estimated Cost to Construct \$ 13,300.00

Absolute Cost to Owners \$ 4,537.50

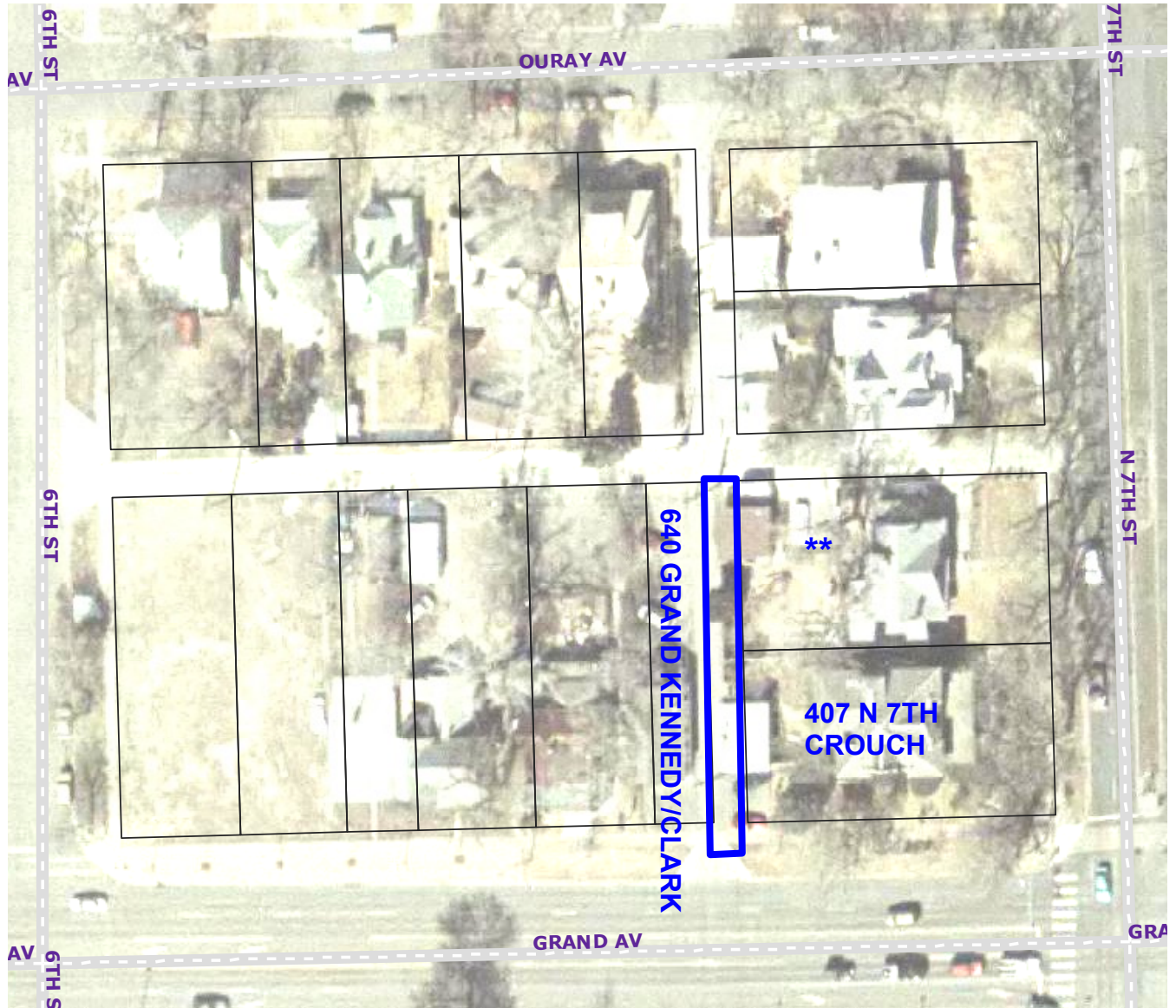
Estimated Cost to City \$ 8,762.50

Assessments may be paid in full upon completion of project or may be paid over a ten-year period, in which event, a one-time charge of 6% will be added to the principal balance to which simple interest will accrue at the rate of 8% per annum on the declining balance.

- Indicates property owners signing in favor of improvements 2/2 or 100% and 100% of the assessable footage.

PROPOSED ALLEY IMPROVEMENT DISTRICT 6TH STREET TO 7TH STREET GRAND AVE TO OURAY AVE

(Parcel lines not accurate in relation to photo)



Remainder of alley was constructed as part of Alley Improvement District No. ST-90.

** Property assessed as part of Alley ID ST-90. Since assessments are for the long side of the property only and the long side of this property was previously assessed, this property will not be a part of this proposed district, nor was it included with the petition.

RESOLUTION NO.

**A RESOLUTION CREATING AND ESTABLISHING
ALLEY IMPROVEMENT DISTRICT NO. ST-05, PHASE B
WITHIN THE CORPORATE LIMITS OF THE CITY OF GRAND JUNCTION,
COLORADO, AUTHORIZING THE RECONSTRUCTION OF CERTAIN ALLEYS,
ADOPTING DETAILS, PLANS AND SPECIFICATIONS FOR THE PAVING
THEREON AND PROVIDING FOR THE PAYMENT THEREOF**

WHEREAS, a majority of the owners of the property to be assessed have petitioned the City Council, under the provisions of Chapter 28 of the City of Grand Junction Code of Ordinances, as amended, and People's Ordinance No. 33, that an Alley Improvement District be created, for the special benefit of the real property hereinafter described, to construct and install improvements to the following described alley:

- The South ½ of the North/South Alley, 6th St to 7th St, between Grand Avenue and Ouray Avenue

WHEREAS, the City Council has found and determined, and does hereby find and determine, that the construction of alley improvements as petitioned for is necessary for the health, safety and welfare of the residents of the territory to be served and would be of special benefit to the property included within said District; and

WHEREAS, on the 15th day of December, 2004, the City Council of the City of Grand Junction, Colorado, passed a Resolution Stating its Intent to Create Alley Improvement District No. ST-05, Phase B Authorizing the City Engineer to prepare full details, plans and specifications for the paving thereon together with a map of the District to be assessed, and Authorizing Notice of Intention to Create said District; and

WHEREAS, the City Engineer has fully and strictly complied with the directions so given, and has filed such specifications and map, all in accordance with said Resolution and the requirements of Ordinance No. 178, as amended, of said City; and

WHEREAS, Notice of Intention to create said District was duly published.

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

1. That the real property (also known as the "District Lands") to be assessed with a portion of the costs of the proposed services, labor, materials and improvements which the City may deem appropriate, is described as follows:

Lots 19 through 22, inclusive, Block 72, City of Grand Junction.
All in the City of Grand Junction, and Mesa County, Colorado.

2. That the proposed services, labor, materials and improvements necessary to accommodate the request of the owners of the District Lands shall include, but may not be limited to, the design, construction, installation, placement and inspection of base course material and concrete paving, together with any other services or facilities required to accomplish this request as deemed necessary by the City Engineer ("District Improvements"), all of which shall be installed in accordance with the General Conditions, Specifications and Details for Public Works and Utility Projects of the City of Grand Junction.

3. That the assessments to be levied against and upon each respective property which is part of the District Lands shall be determined by multiplying the linear footage that each respective property abuts the alley right-of-way by the appropriate Residential Single-Family, Residential Multi-Family or Non-Residential assessment rate as defined by City Resolution No. 16-97, passed and adopted on the 17th day of February, 1997, and as established by City Resolution No. 57-99, passed and adopted on the 21st day of April, 1999, as follows:

(a) The Residential Single-Family assessment rate shall be \$8.00 per each linear foot of property abutting the alley right-of-way. The Residential Single-Family assessment rate shall apply to all properties having only one residential housing unit which is arranged, designed and intended to be occupied as a single housekeeping unit, and all vacant properties located within a residential single-family residential zone;

(b) The Residential Multi-Family assessment rate shall be \$15.00 per each linear foot of property abutting the alley right-of-way. The Residential Multi-Family assessment rate shall apply to all properties having a structure or structures which are arranged, designed and intended to be the residence of more than one housekeeping unit independent of other housekeeping units, and properties which are necessary for and appurtenant to the use and occupancy of multi-family residential uses, such as parking lots, clubhouses and recreation facilities, and all vacant properties located within a multi-family residential zone;

(c) The Non-Residential assessment rate shall be \$31.50 per each linear foot of property abutting the alley right-of-way. Except as provided in Section 3(d) below, the Non-Residential assessment rate shall apply to all properties which are used and occupied for any purpose other than single-family or multi-family residential purposes, and all vacant properties located within any zone other than residential;

(d) Properties from which a business or commercial use is conducted ("home occupation") which also serve as a single-family or multi-family residence may be

assessed the applicable single-family or multi-family assessment rate if such home occupation conforms with or has been authorized by the Zoning and Development Code of the City;

(e) Pursuant to City Resolution No. 61-90, passed and adopted on 19th day of September, 1990, properties having alley frontage on more than one side shall be assessed the applicable assessment rate for the frontage on the longest side only.

(f) The assessment rates described above shall be applicable as of the date of the final reading of the assessing ordinance.

4. That the assessments to be levied against the District Lands to pay a portion of the costs of the District Improvements shall be due and payable, without demand, within thirty (30) days after the ordinance assessing such costs against and upon the District Lands becomes final. The failure by any owner(s) to pay the whole assessment within said thirty (30) day period shall be conclusively considered as an election on the part of said owner(s) to pay such owner's assessment in ten (10) annual installments, in which event an additional six percent (6%) one-time charge for costs of collection and other incidentals shall be added to the principal amount of such owner's assessment. Assessments to be paid in installments shall accrue simple interest at the rate of eight percent (8%) per annum on the unpaid balance and shall be payable at the time the next installment of general taxes, by the laws of the State of Colorado, is payable, and each annual installment shall be paid on or before the same date each year thereafter until paid in full.

5. That the City Engineer is hereby authorized and directed to prepare full details, plans and specifications for the District Improvements, together with a map of the District depicting the District Lands to be assessed from which the amount of the assessments to be levied against each individual property may be readily ascertained, all as required by Ordinance No. 178, as amended, City of Grand Junction, Colorado.

PASSED and ADOPTED this ___ day of _____, 2005.

President of the Council

Attest:

City Clerk

Attach 14

**Public Hearing – Facilities and Construction in City Rights-of-Way Ordinance
CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA									
Subject		Facilities and Construction in City Rights-of-Way							
Meeting Date		January 19, 2005							
Date Prepared		January 13, 2005			File #				
Author		Tim Moore		Public Works Manager					
Presenter Name		Tim Moore		Public Works Manager					
Report results back to Council		X	No		Yes	When			
Citizen Presentation			Yes		No	Name			
	Workshop	X	Formal Agenda				Consent	X	Individual Consideration

Summary: The proposed ordinance is to aid the City in the long term management of public Rights-of-Way that are used by utility providers. Proper planning of the location and depth of underground utilities will ensure conflicts between utility providers are minimized. Area utility providers including Xcel Energy, Grand Valley Power, Ute Water, local sanitation districts, Clifton Water, Qwest, Bresnan, Grand Valley Drainage District, Grand Valley Water Users, Orchard Mesa Irrigation District, Associated Builders and Contractors and Western Colorado Contractors Association have all received copies of the draft ordinance.

Budget: The net effect will be to require that utilities pay for the actual costs incurred by the City to issue permits, inspect work for the placement of utilities in the ROW, and the compensate the City for delays and increased costs incurred when City capital projects must be delayed or altered to accommodate the infrastructure of other utilities.

Action Requested/Recommendation: That City Council conduct a public hearing and adopt the Facilities and Construction in City Rights-of-Way ordinance on second reading.

Attachments: 1) Letter from Grand Valley Water Users' Association,
2) Facilities and Construction in City Rights-of-Way Ordinance.

Background Information: This is the first update of the City's ordinance regulating street cuts and use of the public right of way in many years. It is needed in response to current construction practices of some utility providers, changes in federal law and in

the technology of locating and mapping underground facilities. Its purpose is to allow the City to manage street cuts, coordination of utilities and their construction with City capital projects, and give the City modern and accurate information on what utilities are located where. A key provision is that utility providers must now coordinate their construction efforts with the City's, and provide computer-compatible "as built" of their system, so that the City can incorporate such data into the City's GIS system. .

Utility companies including Xcel, Grand Valley Power, Ute Water, area sanitation districts, telecommunication providers and irrigation companies have all had the opportunity to review and comment on the draft ordinance.

This draft incorporates the majority of the comments received from the agencies listed above as well as those from the area building and construction associations. The Grand Valley Water Users Association (GVWUA) asked that their letter dated December 10, 2004 be included in this packet of information and the current draft does incorporate their suggested changes.

Key Provisions of Ordinance

- Coordination of Construction Activities among all providers
- GIS compatible "as-builts" will be submitted
- Minimize Street Cuts
- Standards for location of new and or replaced utilities
- Potholing of utilities for design phase of projects
- Systematic method of permitting ROW activities

GRAND VALLEY WATER USERS ASSOCIATION

GRAND VALLEY PROJECT, COLORADO

1147 24 Road (970) 242-5065 FAX (970) 243-4871
GRAND JUNCTION, COLORADO 81505

December 10, 2004

City Council
City of Grand Junction
250 North 5th Street
Grand Junction, CO 81501

Re: Draft City Ordinance Concerning Facilities in City of Grand Junction
Rights-of-Way

Dear City Council:

The Grand Valley Project (Project), a federal irrigation reclamation project, is owned by the United States of America, Department of Interior, Bureau of Reclamation (Reclamation) and is operated and maintained by the Grand Valley Water Users' Association (Association) pursuant to contracts between the Association and Reclamation.

Project features includes but is not limited to the 55 mile long Government Highline Canal, 150 miles of laterals of which approximately 130 miles are pressurized pipelines and of which approximately 20 miles are open lateral ditches with some non-pressurized pipelines and approximately 100 miles of drainage ditches with open channels and some drainage pipelines.

Project facilities exist on either fee title land or on easements that were acquired by the federal government through the Congressional Act of August 30, 1890, patent reservation language according to the provisions of the Congressional Act of April 24, 1820, Applications for Permanent Water Right a.k.a. Grand Valley Water Users' Association Subscription for Stock and other Congressional Acts that may apply. The above mentioned documents are found on record with the Mesa County Clerk and Recorder's Office. All Project facilities and all Project easements are sustained by one or more of the documents described above. The Subscription for Stock documents became specific to the land within the Project area when the early day landowners made application for a water right for the land he or she purchased. Many of the Subscription for Stock documents were signed in February 1905 and recorded by March 1908.

The Association is a non-profit corporation. Membership in the Association is obtained by the ownership of land within the Project boundaries which have appurtenant water rights from the Association.

Construction of the Project began in 1912. The first irrigation water flowed to Project lands in 1915. The Project service area is limited by congressional authorizations, by existing contracts between the Association and Reclamation and by limitations of available water.

Project facilities including the Government Highline Canal, the piped and open laterals and the open and piped drains cannot and will not be extended or expanded to new locations or alignments. The exception might be that sometimes urban development desires to relocate and pipe portions of the open laterals and drains provided the Association and Reclamation are in agreement to accommodate such relocations.

The Association is not considered a "public utility" by definition in Colorado. The Association is a non-profit corporation and obtains its revenues by direct assessments to its wateruser stockholders. The on-going urban growth does not create a need or desire for the Association to expand its service area or its facilities.

The Project irrigation system operated and maintained by the Association, including open ditches, canals, underground pipelines and related facilities are limited in scope and location particularly in the existing urban area. The problem is that the City Limits are expanding with the urban growth and such growth is impacting the Association and creating hardships on Association by congesting our historic grandfathered easements.

The Association is concerned that the proposed ordinance as written could inhibit its ability to operate and maintain the Project facilities particularly during situations that require emergency repair work to prevent flooding and to provide a continuance of irrigation deliveries.

The Association requests that "Paragraph R" of the Recitals, in its entirety, be included in the text of the Ordinance itself in order to further validate that the Ordinance does not apply to the Project or the Association.

Section 38-203, Work in Right-of-Way, Paragraph (a) states that "It shall be unlawful for any Provider, entity or telecommunications Provider as defined by the Telecommunications Act of 1996, within, under, in, through or on any City

Page 3
Facilities in City of Grand Junction Rights-of-Way
December 10, 2004

owned or controlled ROW within the limits of the City, to replace or dig as defined herein, unless such person is a franchisee, has obtained a revocable permit as described herein, or is certified by Colorado's Public Utilities Commission and unless such replacing or digging is performed in compliance with the provisions of this Ordinance;". The Association believes that said wording creates an ambiguous interpretation and causes conflicts to a clear understanding of the application of this Ordinance to the Association in regards to Paragraph R of the Recitals and to the Ordinance's Definition of Provider which does exclude the application of the Ordinance to the facilities operated by the Association. The Association recommends that said Paragraph (a) include an exclusion for the Association not being an entity covered by this ordinance.

Thankyou for your consideration of the Association's concerns and comments about this proposed ordinance. The Association hopes that the City Council will give favorable consideration to the requests offered in this letter.

Sincerely,


Richard L. Proctor, Manager

ORDINANCE NO. _____

**AN ORDINANCE ADOPTING
REGULATIONS CONCERNING FACILITIES AND
CONSTRUCTION IN CITY RIGHTS-OF-WAY**

Recitals.

A. Several problems are being addressed by this Ordinance. First, each instance of underground use of the City right-of-way (“ROW”) has historically meant cutting the road surface. The best repairs of such cuts still means that until the road is overlaid or rebuilt, the surface cannot be fully restored. Because of such cuts, roads are always more susceptible to water damage and increased maintenance. Roads that have been cut cost more to repair over time and are more inconvenient to City users.

B. Another problem being addressed is the increasing number of entities laying lines and other facilities in City Rights of Way for that utility’s or company’s purposes. Without an overall plan or method, each placement of facilities, and later repairs, extensions and maintenance of those installations leads to a nearly haphazard, intertwined, both horizontally and vertically, series of pipes, conduits, manholes and similar facilities.

In many cases the City does not know what lines, cables and pipes are located where, neither does any other service or utility provider. The City has developed a sophisticated and very accurate geographical information system (“GIS”) over the past decade. The City has invested large sums of money and labor to locate its water, sewer and other facilities on this modern GIS. The City, its citizens, and the various Providers and utilities will all benefit if this GIS can be used to help locate existing facilities, and to plan for the extension of future facilities. This Ordinance will allow this to occur.

C. Even with modern efforts to locate utilities in advance of digging, such as Colorado’s underground excavation statute (§9-1.5-101, *et seq.*, C.R.S.), work in City ROW must go slowly, increasing labor and other costs. Deliberate work is necessary because the consequences of damaging the facilities of others in terms of loss of time, customer service and increased costs are so significant. While in such circumstances it may be that no one is “at fault,” the public, the utility providers and the City will benefit from accurate information of the vertical and horizontal location of infrastructure, so that such data can be blended into the City’s GIS, resulting in a coordinated system of use, repair and additions to infrastructure within City controlled ROW.

D. The City can help all concerned by creating a system that regulates and directs the ever-increasing myriad of cables, pipes, manholes, lines, fibers, conduits, utility boxes, culverts, ditches, canals and many other structures and appurtenances in City streets and alleys. The City, developers, utilities and other providers will save money during the

design phase, during construction, and when excavations are required for routine and emergency repairs.

E. Congress has dictated some rules, the General Assembly has added others, and the City has its own broad powers as a regulator of the health, welfare and safety of its citizens, visitors and ROW. The City's voters have authorized the use of City streets by Public Service Company of Colorado and Grand Valley Power, pursuant to franchises. The voters approved a cable television operator's use of public ROW in 1966 pursuant to a revocable permit. Congress and others have directed, however, that the City cannot require that every provider obtain a franchise, as once was required; however, the City is lawfully authorized to make reasonable regulations that can apply to providers without franchises, so long as the net effect is not to discriminate or unreasonably burden modern telecommunications and similar functions.

This Ordinance adopts these reasonable rules to solve legitimate local health, safety and welfare problems, within the constraints imposed by evolving federal and state laws that preempt, if any, local control of City ROW.

F. The City has the power and authority to provide a systematic method of permitting, standards, cost recovery and coordination, within the limits of any preemptive federal or state laws that may apply. The Council finds that it would be irresponsible not to do so, because our citizens are being injured financially without this Ordinance as are other utilities and providers. Further, a systematic approach protects the City's and the public's infrastructure.

G. It is noted that above-ground facilities within the City ROW are, for the most part, already adequately regulated pursuant to franchises, the Public Utilities Commission and contracts between the affected parties.

H. These rules and regulations will benefit every provider and utility, as well as the City and its citizens, because the overall costs to and time of each will be reduced.

I. Although existing state law requires utilities to locate their facilities, that law and current local practice is such that the owners of such facilities are not willing to routinely locate their facilities at the City's request. Even if such owners do mark the location of their facilities, experience has shown that frequently the information is incomplete or outside the limits of reasonable accuracy. It is within the City's power and authority to regulate rights of way for the protection of its citizens accurately.

J. The City incurs significant costs by having to redesign and to relocate during construction when inaccurate information is available. Providers also incur unforeseen costs as a result of incomplete or inaccurate location information. Until information as required herein is readily available to accurately locate, both horizontally and vertically, all infrastructure, all providers must pothole their infrastructure as described herein.

K. This Ordinance responds to the changing reality of utility providers, especially telecommunications and cable industry entities, both old and new, that desire to lay new facilities in City ROW. There are now so many different utilities, in so many different horizontal and vertical locations, that the City must plan for the years to come so that inter- and intra-state communications, information and similar facets of the modern economy can continue to expand and bring the benefits to this City. An overall plan and systematic way to integrate all these activities, functions and facilities will benefit the City, its citizens, and the Providers and utilities that operate in and have infrastructure that runs under and through the City.

This Ordinance addresses practical concerns regarding the use and work in ROW by all types of providers; including special districts, conservancy districts, telecommunications and existing franchisees. Collectively, these may be known or referred to as “Providers” or “the Providers”

L. This Ordinance requires that every entity must first give a specified notice before it may operate (replace, modify, relocate, etc.) in any form in City controlled ROW. Each Provider must show its plan for use of the City’s ROW; establish a systematic way of identifying and enforcing schedules, impacts, location and other technical standards. It requires that accurate information be provided to the City. It provides a mechanism whereby the entity causing delays and damages to the City is responsible to pay for such delays and to reimburse for such damages so that this City’s citizens do not inadvertently subsidize any wrongful or negligent activities of others.

M. The Federal Telecommunications Act of 1996 (47 U.S.C. § 253) makes clear that cities are entitled to be reimbursed for the actual reasonable costs associated with the use of City ROW by utilities and Providers of telecommunications. In addition, various cases around the country, such as the case of *TCG New York, Inc. v. City of White Plains*, 305 F.3d 67 (Second Circuit, 2002), interpret applicable federal law as allowing cities to also receive compensation, equivalent to rent, of up to five percent (5%) per year of a telecommunications provider’s annual revenues generated in the cities’ limits.

N. The City is not by this Ordinance claiming or imposing a reimbursement, however, future City Council’s and the City’s voters may choose to receive a reasonable return on the investment in the ROW of the City, as allowed by law and applicable decisions in cases such as *TCG v. White Plains* .

O. The existing franchises between the City and its two power Providers, Grand Valley Power and Public Service Company of Colorado, provide for franchise fees, analogous to the compensation that may be charged relative to providers of telecommunications and other entities subject to the Telecommunications Act of 1996.

P. The Council determines that it will not require such compensation, nor request voter approval at this time.

Q. This Ordinance is intended to integrate with the City Code, Chapter 38, Article IV. References in this Ordinance to section numbers shall be to Article IV of the Grand Junction Code of Ordinances.

R. This Ordinance shall not apply to irrigation systems including open ditches, canals, underground pipelines and related facilities associated with a federal water project to the extent application of the ordinance is prohibited by the June 17, 1902 Federal Reclamation Act.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE City of Grand Junction: The following is hereby adopted as an Ordinance of the City, as set forth, and shall be effective as of _____, 200__. The City Clerk shall codify these provisions as Article IV of Chapter 38 of the City Code.

Sec. 38-201. Definitions.

City Work: Capital projects of the City, or other City digging or excavating in ROW, according to the schedule adopted by the City Manager, notice of which can be obtained at the City Manager's office at City Hall.

Contact Information: Name, title, email address, physical and mailing address and telephone number of each person to whom inquiries and requests for decisions may be directed and who has decision-making authority to bind the Provider, pursuant to this Ordinance. If more than one (1) person must be identified so that the City may locate a contact person at all reasonable times in response to emergencies, the Provider must supply the City Manager with a prioritized list containing contact information for each person on the list.

Construction Plans: The Provider supplied P.E. stamped plans and standards for all Provider work in the ROW. Construction Plans shall be stamped by a professional engineer if required by the Director or 12-25-101 et. seq. C.R.S.

Digging: Means to dig, cut, excavate, move any earth, remove any earth by any means, auger, backfill, bore, ditch, drill, grade, plow-in, pull-in, rip, scrap, trench and/or tunnel.

Dry: Wires, pipes other than wet, cables, fiber optics, electrical lines.

Franchisee: Any Provider that is also a franchisee with terms regarding relocation of such Provider's facilities at the direction of the City, namely Public Service Company of Colorado and Grand Valley Rural Power Lines, Inc.; and a political subdivision of the state of Colorado that is also a Provider, such as Ute Water Conservancy District, Clifton Water District, the Grand Junction Drainage District, Orchard Mesa Sanitation District, Central Grand Valley Sanitation District, or other title 32 districts.

Infrastructure: Includes the wires, pipes (of metal, plastic, pvc or otherwise), valves, connections, conduits, gas lines, water lines, sewer lines, fiber optics, irrigation pipes and canals and conveyancing devices, cable television, and the various connecting junctions and connectors. Infrastructure includes publicly and privately owned and operated facilities. Unless the City Manager finds another reasonable basis, based on an industry standard, to measure or determine a "unit" of a Provider's infrastructure for purposes of determining City costs, or a duty to upgrade, or a duty to replace to meet standards, four hundred (400) feet of length of infrastructure shall constitute one (1) unit or element of infrastructure.

Locate or Locates: Means to establish and in compliance with the Locate Law and the terms of this Ordinance.

New Provider: A person or entity of whatever form who has not previously given notice to the City under this Ordinance, or who has otherwise been made subject to the requirements of a new Provider.

Overall Plan: The Provider's overall map or maps of the City ROW, with explanatory text, indicating which streets, alleys and other ROW the Provider desires to use, and when, to place the Provider's facilities. Explanatory text must describe what specific facilities are proposed and what services the Provider expects to offer to what customers.

P.E.: means a Colorado licensed professional engineer, pursuant to §12-25-101, *et seq.*, C.R.S., or a successor statute.

Pot Hole: To dig or to excavate in order to locate infrastructure or other facility.

Provider: A public utility, a provider of services to the public, a governmental subdivision or another person or entity who has, or desires to have, infrastructure or other pipes in City ROW, including homeowner and similar associations, but excluding service lines for individual structures and open ditches, canals, underground pipelines and other related facilities associated with the Grand Valley Water Users Association and the Orchard Mesa Irrigation District systems.

Replace or Replacing or Replacement: Dig, expose, fix or reconstruct, in whole or part, upgrade, patch or similar activities performed with the goal of gaining use or reuse;

except that repairs ordinary to the Provider's work, and routine maintenance, is not within this definition.

Revocable Permit: For this Ordinance only, a revocable permit may be issued by the Director for the reasons set forth in the recitals and legislative history of this Ordinance.

ROW: Streets, alleys, highways, boulevards, avenues, roads, ROW owned or other ROW controlled or owned by the City within the limits of the City.

Service Line: A water or sewer line that connects a business, residence or other structure to the Provider's infrastructure or system.

Unit: A discrete segment of City ROW between intersections, or 400 feet of ROW, as determined by the Director.

Utility Locations: as indicated on Attachment A.

Joint Trench Details: as indicated on Attachment B

Wet: Water, sanitary sewer, storm sewer, drainage, natural gas and other fluids or gases.

Work: any change to any facility, Infrastructure or portion of any ROW, including digging and excavating and replacements

Section 38-202. Revocable Permits.

(a) If the terms of a voter approved franchise are inconsistent with or conflict with the terms of this Ordinance, the terms of the voter approved franchise shall control. In general the review and permitting provided for by this ordinance is to be accomplished on a project by project basis. In some circumstances a Revocable Permit may be required.

(b) Consistent with the requirements of the Federal Telecommunications Act of 1996, the City Council may approve variations from the terms of this Ordinance, as needed to implement specific technical needs of Providers, in the form of a revocable permit. A Revocable Permit is the term used in and authorized by the City Charter, although it is recognized that the Charter language that ostensibly would allow the Council to terminate such a permit without cause on thirty (30) days notice has been preempted by applicable federal laws, discrimination contrary to the Telecommunications Act of 1996, or regulate the provision of telecommunication services.

(c) A revocable permit, pursuant to the City's charter, ordinarily can only be issued by the City Council. Because the Telecommunications Act of 1996 preempts inconsistent local government provisions, and because quick administrative issuance of a permit or license to a telecommunications Provider would not violate any such preemptive law, the Council determines that the extraordinary step of delegating to the Director the power and duty to issue revocable permits pursuant to this ordinance is mandated by federal law and is hereby authorized.

Section 38-203. Work in Right-of-Way.

(a) It shall be unlawful for any Provider, entity or telecommunications Provider as defined by the Telecommunications Act of 1996, within, under, in, through or on any City owned or controlled ROW within the limits of the City, to replace or dig as defined herein, unless such person is a franchisee, has obtained a revocable permit as described herein, or is certified by Colorado's Public Utilities Commission and unless such replacing or digging is performed in compliance with the provisions of this Ordinance; and

(b) The terms of any permit, franchise and revocable permit, and generally accepted engineering standards, including construction testing and inspection, and the other provision of this Ordinance shall apply to each such franchisee, local government, and revocable permittee.

(c) This Ordinance shall not apply to irrigation systems including open ditches, canals, underground pipelines and related facilities associated with a federal water project to the extent application of the ordinance is prohibited by the June 17, 1902 Federal Reclamation Act.

Section 38-204. Notice.

(a) Before beginning work, replacing, digging or making any use of any ROW, a Provider shall give written notice of its proposed work at least fifteen (15) City business days before beginning any such work or digging. The notice required by this section shall be reduced to five (5) days if a different customer service standard has been approved or is made applicable by the Colorado Public Utilities Commission. .

(b) If due to workload or other considerations, fifteen (15) days is not sufficient to adequately evaluate the notice and address possible impacts on the City or other Providers, the Director may lengthen the advance notice period up to a total of forty-five (45) days.

(c) Advance notice for a new Provider shall be thirty (30) days, unless extended by the Director up to a total of sixty (60) days.

(d) For the notice to be adequate, the Provider shall supply the following information:

- (i) For out-of-state Providers and contractors, proof of authority to do business in Colorado;
- (ii) Proof of Colorado worker's compensation coverage;
- (iii) The name and street address of the provider, including State, City and area code.
- (iv) Contact information for the Provider;
- (v) The name, address and contact information for each contractor before such person(s) does any work or digs in any ROW;
- (vi) The business telephone number of the president, chief executive officer or other decision-maker of each such Provider and contractor. The Provider or contractor may each designate another individual so long as such designee has the requisite authority to make decisions for the Provider or contractor regarding the matters regulated herein, and if the contact information for such designee is provided:
- (vii) A proposed work plan showing:
 - a. what specific locations and segments of ROW will be effected;
 - b. when each such ROW will be used and effected;
 - c. the location, depth and width of any cuts, digging or other work within the ROW;
 - d. how, if at all, the proposed work or digging will interfere with any City work and how the Provider will mitigate or minimize the interference;
 - e. how warranty work will be secured;
 - f. how the Provider intends to repair or replace any damaged ROW, including any facilities and infrastructure located within

the ROW;

(viii) Traffic control plan, as necessary.

(e) The Director shall issue the construction permit. Unless all or a part is prohibited by other applicable law, the Provider shall pay the cost of the permit which shall be equal to the City's reasonable estimate of the actual costs required to process, issue, review the proposed work, make inspections during the work, perform field and other tests, and generally monitor the activities pursuant to the permit. From time to time, the City Council may adopt a schedule of average actual costs, based on prior experience, which sets the cost of such permits.

(f) If a provider cannot first provide notice and obtain a construction permit due to a bona fide emergency, the provider shall take such "action as is reasonably required" and shall as soon thereafter as practical give oral notice to the Director, and thereafter comply with the requirements of this Ordinance.

Section 38-205. Boring.

It is the City's policy to limit cuts, trenches or excavations in the surface of any ROW. Boring is required unless the applicant can reasonably demonstrate to the Public Works Director that it is impracticable to do so because of cost, emergency, unstable soil, existing utilities or other conditions.

Section 38-206. Performance/Warranty Guarantee for Permits and Insurance.

A performance/warranty guarantee and insurance shall be required for work within the ROW under the same terms and conditions as set forth in §§38-167 and 38-170 as amended herein.

Section 38-207. Provider's Proposed Plans. Director's Review.

(a) No Provider shall begin any work, nor dig within any ROW, nor make any cuts, nor occupy any City ROW unless the Director has accepted in writing the Provider's construction plans which shall comply with adopted City specifications and standards or standards that are mutually agreed upon by both the provider and City. The specifications and standards of the providers may be found to comply with "adopted City specifications and standards" if substantially equivalent to City standards and if use of the Provider's standards are approved in writing by the Director or pursuant to written agreements between such other Provider and the Director.

(b) At the time of application for a construction permit, a Provider shall deliver three (3) sets of its proposed construction plans for use or digging in any ROW to the Director for the use of the City. Among other benefits such overall plans allow the City to coordinate its work with that of the Provider and other Providers. If the City's

workload demands, or if the plans are complex, and if the Provider has not attended and provided the necessary notice and information at the most recent City planning meeting, then the Director may extend the review by giving notice to the Provider of an extended review period not to exceed a total of 60 business days. The scale of such plans shall be not less than one inch (1") equal to forty feet (40').

(c) If the plans are complete and adequate, the Director will be deemed to have accepted the plans unless the Director rejects or requests amendments to the plans within ten (10) City business days by giving notice thereof to the Provider.

(d) If the plans are incomplete and/or inadequate, then the Provider shall make such changes as the Director requires, consistent with this Ordinance and the City's other standards and requirements.

(e) To reject or amend the Provider's plans, the Director shall give notice thereof by sending an email, or facsimile, or by mailing a notice to the Provider. Such notice by the Director is effective upon the earlier of sending the email, facsimile or mailing the notice first class via the U.S. Postal Service, postage pre-paid.

(f) If the Director rejects or amends the proposed plans, in whole or in part, the Provider shall not thereafter do any work in the ROW until the Provider submits plans that the Director does not reject or amend; however, the Director may approve a portion of the plans, and thereafter the Provider may perform a portion of the proposed work in the locations or at such times as the Director directs.

Sec. 38-208. City Planning Meetings.

At least once per calendar year and up to four times per calendar year, the City shall give notice to each Provider, who so requests, of a City sponsored and coordinated meeting among the City and Providers ("City planning meeting(s)"). At the City planning meeting, each Provider that provides the City with copies of proposed projects, scope of work and estimated schedules for the subsequent twelve (12) months, and for future years as available, shall not be required to provide the information, and at the times, required by §§ 7(b), 7(c).

Section 38–209. Infrastructure Standards and “As-Built” Information

(a) From time-to-time, the Director may adopt additional or supplemental standards as Administrative Regulations to which each Provider shall thereafter conform its infrastructure in the City ROW whenever the infrastructure is repaired or replaced.

(b) The Director shall adopt standards regulating the vertical and horizontal placement of Provider infrastructure relative to the City's infrastructure, the

facilities of other Providers and other facilities in the ROW. The Director may solicit the public input of Providers and other affected interests when considering such standards.

(c) The City's standard cross section for "wet" & "dry" infrastructure is incorporated by this reference as if fully set forth on the attached detail. All work shall conform withto with City standard cross section, unless the Director has approved a variation proposed by a provider in accordance with §§ 6(a).

(d) For all replacements and new infrastructure installed, the Provider shall deliver "as built" information as required herein to the Director within 60 days of completion of the replacement or infrastructure work.

(e) The Provider shall deliver the as-built information in a format and medium specified by the Director so that the City may incorporate the information into its existing software, programs and GIS. The Director will work with the entities subject to this ordinance in order to agree upon a consistent format(s) that can be accepted by the City's GIS system.

Sec. 38-210 Oversizing.

Whenever a Provider's dry infrastructure in the City ROW is dug up, exposed or repaired, including by boring, if the Provider desires to rebury, replace, or install dry infrastructure as the Director determines is reasonable, the Provider shall place the additional (City provided) infrastructure and be reimbursed for any additional costs incurred from placing the additional infrastructure:

Sec. 38-211. Joint Use of Provider Infrastructure.

The City may require that a Provider locate and maintain one or more of its dry facilities in a common trench and/or conduit or similar facility in which the infrastructure of other Providers and/or the City is also located. Until the Director adopts different standards regarding the vertical and horizontal separation of facilities, the attached standards, the Standards of the American Waterworks Association and the National Electric Safety Code and Standards shall apply.

Sec. 38-212. City Costs and expenses - Provider Initiated Projects.

(a) Each Provider shall pay to the City the costs and expenses incurred by the City and its officers, officials, employees and agents regarding oversight, inspection, regulation, permitting and related activities ("City Costs").

(b) City Costs include the actual wages, plus benefits, paid by the City for the Work of each City employee and/or agent, including clerical, engineering, management, inspection, enforcement, and similar functions.

(c) City Costs include the expenses and costs for computer-aided design programs, maps, data manipulation and coordination, scheduling software, surveying expenses, copying costs, computer time, and other supplies, materials or products required to implement this Ordinance and to regulate Providers hereunder.

(d) Unless the Director requires a Provider to resurface a part of a unit, portion of a City block or similar segment of ROW disturbed by the Provider, City Costs include the present value of the cost to replace and resurface the damaged asphalt, concrete or other ROW surface.

(e) The Director shall annually establish an average per unit cost which shall be for the calendar year in question, based on bids the City accepted for City projects in the previous one (1) or two (2) calendar years.

Section 38-213. Provider Payments to the City - Collections.

If a Provider fails to pay City Costs, or any other money, fee or compensation required by a City law or regulation, in full within 30 days of the City's mailing a claim therefore, the City is entitled to, in addition to the amount of the claim, interest on all unpaid amounts at the statutory rate, or the City's return on investment, as reported in the City's then current annualized investment portfolio.

Section 38-214. City Required Utility Locates for Design.

(a) To increase the accuracy of project design and avoid conflicts encountered after construction begins, Providers will locate their utilities as required pursuant to §9-1.5-101, C.R.S., *et seq.* ("Locate Law"). The City will pothole the utilities based upon the painted locates provide by the utility owners. If the utility is not located within eighteen inches of the painted locate, the utility owner shall excavate and locate the utility and notice the City who will survey the location. This section does not apply to service lines.

(b) Any Provider who fails to comply with the Director's notice to comply with the Locate Law is responsible and liable for all consequential damages that result from either the failure to comply with the Locate Law or from inaccurate information regarding the vertical and/or horizontal location of such Provider's infrastructure.

(c) Any Provider may avoid claims for such consequential damages pursuant to this ordinance if such Provider "pot holes" in such locations and to such depths as such

Provider determines is needed to provide accurate information to the City regarding the horizontal and vertical location of such Provider's infrastructure in the specified unit(s).

(d) Each Provider that does not accurately locate its infrastructure shall pay the City the costs incurred by the City in changing any design, relocating City infrastructure, and delay and similar costs incurred as a result of inaccurate locates.

(e) A Provider may avoid having to perform locates if it delivers to the City accurate vertical and horizontal information (pot hole data) that is compatible with the City's GIS that establishes the location of such Provider's infrastructure in the unit(s) in question.

Sec. 38-215. Suspension and/or Revocation of a Permit.

A construction or revocable permit authorized under this Ordinance may be void if/when the permittee is not in full compliance with any provision of this Ordinance or other City law.

(a) A permit to dig or excavate under this Ordinance is void if the Provider supplies materially false or deceptive information to the City at any time.

(b) If/when the permittee is in full compliance, the Provider shall give the notice required by section 4 and shall apply for a permit as a new Provider.

(c) The City Manager may order that a Provider immediately cease and desist any further use or work within the City's ROW and suspend any or all permits and previously granted City approvals, at any time based on reasonable grounds to believe that a violation of this Ordinance, or other City rules or specifications has occurred, and the public health, safety or welfare, or the property or rights of another Provider are at substantial risk of irreparable harm.

Sec. 38-216. Security.

(a) If the Provider has violated any provision of this Ordinance within the previous five (5) years, before the Provider is authorized to perform work in the ROW, the City Manager may require that a Provider post a letter of credit or equivalent security in the greater of:

- (i) The dollar value of any damage to the City or other Provider's infrastructure that has occurred in said five (5) year period;
- (ii) The amount of increased costs or price payable to a contractor or similar entity due to the Provider's violation; or
- (ii) The amount of gross profit the Provider realized due to the violation.

(b) The City may convert such security to cash and use such cash to pay for any warranty work or to correct any injury or damage caused to the City's infrastructure or property, or other damages, by the Provider's actions or failure to act or to improve the City's infrastructure.

Sect. 38-217. Construction Standards/City Laws.

(a) Each Provider has the duty to see that its work, and that of its contractors, complies with this Ordinance, other adopted City standards and specifications, and other applicable law. Other City adopted standards and requirements include: the Transportation, Engineering and Design Standards; the City's standard contract documents as applicable; the City's ordinances, including the Zoning and Development Code; and the City's Administrative Regulations.

(b) Each Provider has the affirmative duty to comply with the City's construction standards, such as soil density testing of repaired ROW.

Sec. 38-218. Appeal.

During such appeal process, the City Manager has the discretion to allow the Provider to use and/or operate within one (1) or more units, as determined by the City Manager, with conditions as the City Manager deems reasonable, including the posting of reasonable cash or other security, such as a letter of credit.

A Provider may appeal any City or City Manager decision pursuant to this Ordinance to the City Council, as provided below:

Any person, including any officer or agent of the City, aggrieved or claimed to be aggrieved by a final action of the Director on an administrative development permit, may request an appeal of the action in accordance with the following:

1. **Application and Review Procedures.** Requests for an appeal shall be submitted to the Director in accordance with the following:
 - a. **Application Materials.** The appellant shall provide a written request that explains the rationale of the appeal based on the criteria provided herein.
 - b. **Notice to Applicant.** If the appellant is not the applicant, the Director, within five (5) working days of receipt of the request for appeal, shall notify the applicant of the request and the applicant shall have ten (10) working days to provide a written response.
 - c. **Preparation of the Record.** The Director shall compile all material made a

part of the record of the Director's action. As may be requested by the City Council, the Director also may provide a written report.

- d. Notice. No notice of the appeal is required.
- e. Conduct of Hearing. The City Council shall hold an evidentiary hearing to determine whether the Director's action is in accordance with the criteria provided stated below at 2. Approval Criteria. The City Council may limit testimony and other evidence to that contained in the record at the time the Director took final action or place other limits on testimony and evidence as it deems appropriate.

2. **Approval Criteria.** In granting an appeal of an administrative development permit, the City Council shall find that the Director:

- a. acted in a manner inconsistent with the provisions of this Code or other applicable local, state or federal law; or
- b. made erroneous findings of fact based on the evidence in the record; or
- c. failed to fully consider mitigating measures or revisions offered by the applicant; or
- d. acted arbitrarily, acted capriciously and/or abused his discretion.

Sec. 38-219. Administrative Regulations.

The City Manager may implement this Ordinance by adopting Administrative Regulations. An implementing administrative regulation may be appealed to the City Council, as provided in the City Zoning Code, § 2.18 (C)(3).

Sec. 38-220. Severability.

If a court of competent jurisdiction declares one (1) or more provision(s) or terms of this Ordinance to be unenforceable or unconstitutional, the rest of the provisions and terms shall be severed therefore and shall remain enforceable.

Sec. 38-221. Civil Remedies.

If any person or Provider violates any order of the Director, a hearing board or the Council, or otherwise fails to comply with the provisions of this Ordinance, the provisions and remedies provided for in section 38-69 (b) of the City Code shall apply

and shall be available to the City.

Sec. 38-222. Violations.

(a) The provisions of Chapter 1 of the City Code apply to any violation hereof.

(b) It is a violation of this Ordinance if a Provider misrepresents any fact in any information provided to the City, to the City Manager, or the Director's employees or agents.

(c) A Provider violates this Ordinance if the contact person of such Provider, or the Provider, fails to amend or update the information and documentation supplied to the City pursuant to this Ordinance within 60 days of any change, error, mistake or misstatement.

INTRODUCED for FIRST READING and PUBLICATION on the 3rd day of November, 2004

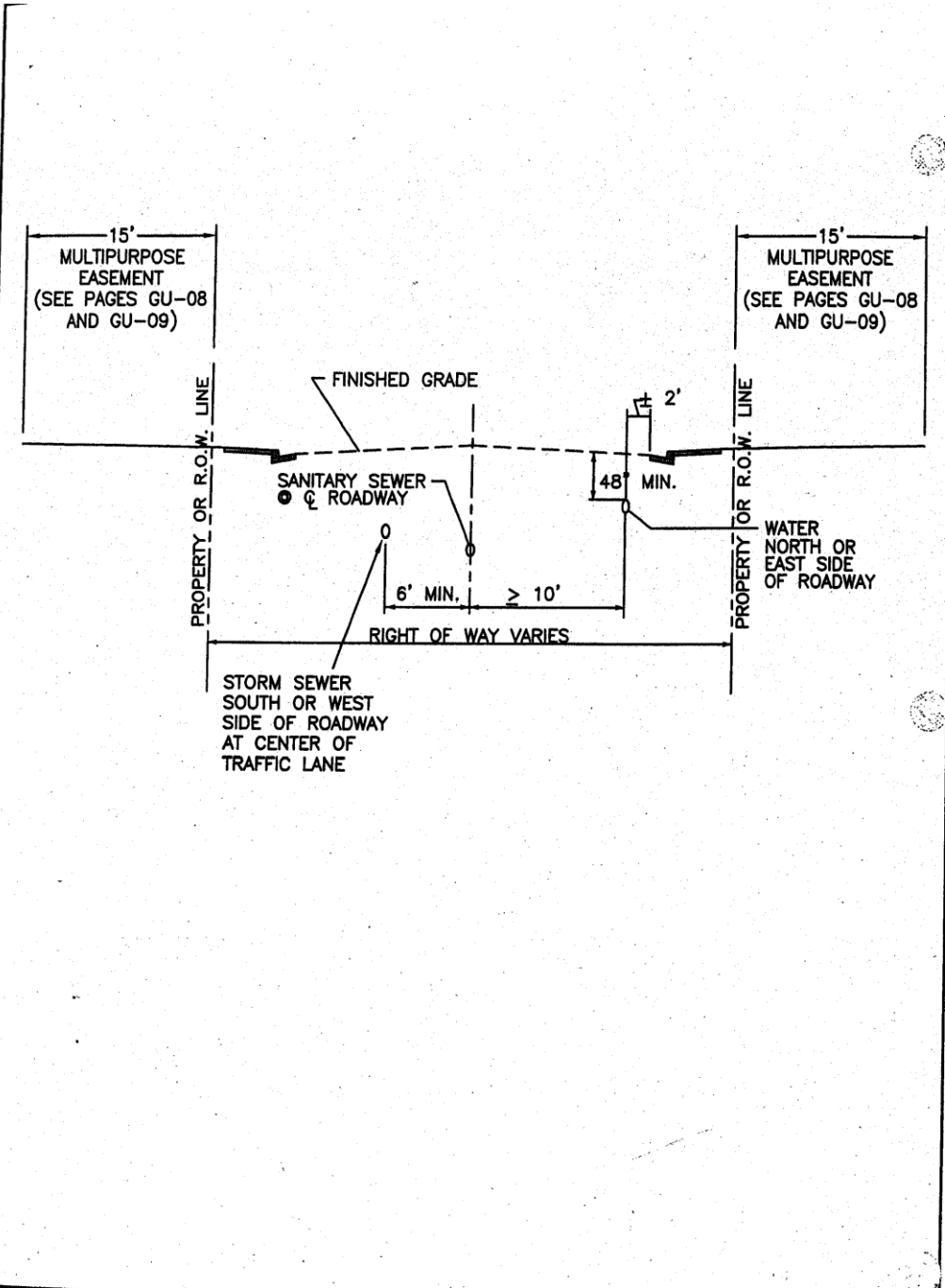
PASSED on SECOND READING this ____ day of _____, 2005.

ATTEST:

City Clerk

President of City Council

Attachment A.



GRAND JUNCTION CITY STANDARDS STANDARD DRAWING DETAILS GENERAL UTILITY DETAILS.dwg 06/17/2003 07:46:22 AM NBT

TYPICAL STREET CROSS SECTION / UTILITY LOCATIONS

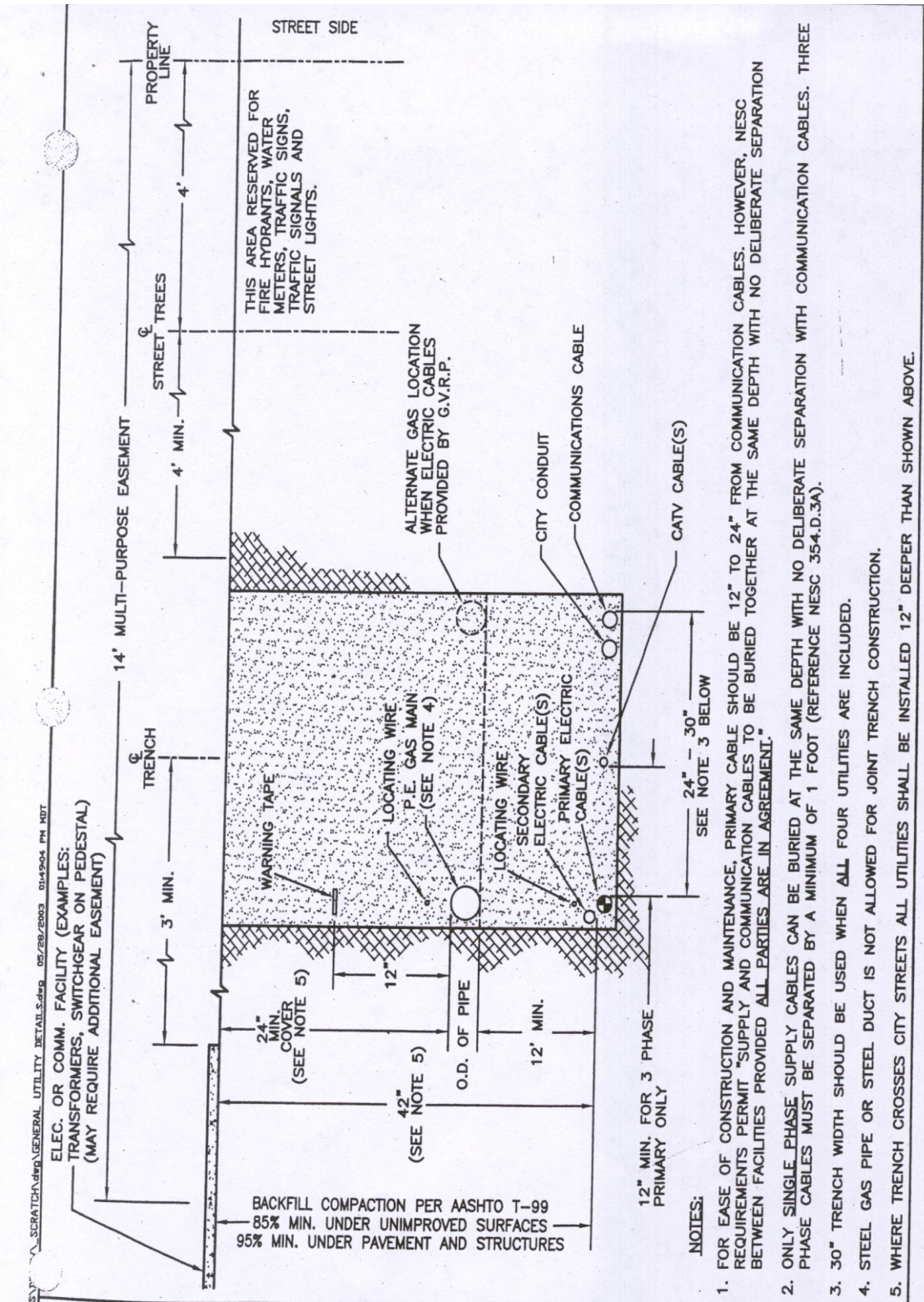
DEPARTMENT OF PUBLIC WORKS AND UTILITIES
 ENGINEERING AND TECHNICAL SERVICES DIVISIONS
 CITY OF GRAND JUNCTION, COLORADO

GENERAL UTILITY
 DETAIL

APPROVED: *DN*
 DATE: *JUN 2003*
 DRAWN: *TOP/DEW*

PAGE
 GU-02

Attachment B



NOTES:

1. FOR EASE OF CONSTRUCTION AND MAINTENANCE, PRIMARY CABLE SHOULD BE 12" TO 24" FROM COMMUNICATION CABLES. HOWEVER, NESC REQUIREMENTS PERMIT "SUPPLY AND COMMUNICATION CABLES TO BE BURIED TOGETHER AT THE SAME DEPTH WITH NO DELIBERATE SEPARATION BETWEEN FACILITIES PROVIDED ALL PARTIES ARE IN AGREEMENT."
2. ONLY SINGLE PHASE SUPPLY CABLES CAN BE BURIED AT THE SAME DEPTH WITH NO DELIBERATE SEPARATION WITH COMMUNICATION CABLES. THREE PHASE CABLES MUST BE SEPARATED BY A MINIMUM OF 1 FOOT (REFERENCE NESC 354.D.3A).
3. 30" TRENCH WIDTH SHOULD BE USED WHEN ALL FOUR UTILITIES ARE INCLUDED.
4. STEEL GAS PIPE OR STEEL DUCT IS NOT ALLOWED FOR JOINT TRENCH CONSTRUCTION.
5. WHERE TRENCH CROSSES CITY STREETS ALL UTILITIES SHALL BE INSTALLED 12" DEEPER THAN SHOWN ABOVE.

JOINT TRENCH DETAILS

<p>DEPARTMENT OF PUBLIC WORKS AND UTILITIES ENGINEERING AND TECHNICAL SERVICES DIVISIONS CITY OF GRAND JUNCTION, COLORADO</p>	<p>GENERAL UTILITY DETAIL</p>	<p>APPROVED: <i>DN</i> DATE: <i>MAY 2003</i> DRAWN: <i>DFW</i></p>	<p>PAGE GU-09</p>
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Attach 15

**Continue Public Hearing – Regulating Newsboxes in the Downtown
CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA									
Subject		Newsrack Ordinance							
Meeting Date		January 19, 2005							
Date Prepared		January 13, 2005				File #			
Author		Harold Stalf			Executive Director, DDA				
Presenter Name		Harold Stalf			Executive Director, DDA				
Report results back to Council		<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Yes	When			
Citizen Presentation		<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No	Name			
<input type="checkbox"/>	Workshop	<input checked="" type="checkbox"/>	Formal Agenda			<input type="checkbox"/>	Consent	<input checked="" type="checkbox"/>	Individual Consideration

Summary: The number of newsboxes that have been placed downtown has proliferated in recent months. The legitimate newsboxes have been augmented by commercial advertising pieces resulting in as many as 15 boxes in several locations. This ordinance has been developed to address the issue in a manner common to other communities in Colorado by developing a bank of racks that will be made available for lease to legitimate newspapers. The goal is to clean up the visual pollution resulting from this rapid spread of boxes and tidying up the appearance of downtown.

The ordinance is being redrafted for presentation to the DDA board prior to final consideration by Council.

Budget: After further discussion with the various newspapers, the ordinance has been changed to require the vendors to purchase, install and maintain their own equipment in compliance with this ordinance.

Action Requested/Recommendation: Continue Second Reading of this ordinance until February 16, 2005.

Attachments: Ordinance.

Background Information: Informational meetings have been held with representatives of The Daily Sentinel, Free Press, Denver Newspaper Agency (Post & News), USA Today and the Wall Street Journal.

originally encompassed only applying an additional layer of roofing material, not removing the roof to the deck structure and replacing the roofing.

As a part of our review process, City staff has contacted the Colorado Historical Society regarding the original grant application. Our options are limited to three: accept the grant and find a funding source for the additional monies necessary to complete the project, reject the grant and reapply for the April funding cycle, or request additional monies (however, there are no additional monies in that fund).

Due to the unforeseen circumstances and the necessity to replace the roof, the Riverside Task Force has requested that the City of Grand Junction fund the difference between the low bid and the available grant monies. They have two other grants for exterior renovation and restoration that cannot be accepted unless the roof has been repaired. In addition, other funding sources are dependent upon completing the roof project within a specific time frame. There is one more time constraint to the project and that is the weather. The bid indicated a total project time of two and one half months to complete the re-roof. Should we delay the bid award, the contractor may be too busy to complete the roof in a time frame that would allow the other funding sources to be utilized.

Budget: The original grant to the State Historical Society was written for \$27,350, and the City had committed (but has not yet spent) \$15,000 as a match to that grant, for a total of \$42,350. The match from the City was allocated from 2003 Community Development Block Grant (CDBG) funds and has been approved by the City Council and HUD.

The lowest bid out of two received was for \$80,000, which leaves a gap of \$37,650. Staff is suggesting an additional \$10,000 for contingency. The contingency equates to approximately 12% of the overall project. This additional CDBG funding would come from the 2004 Neighborhood Program Allocation and will need to be a formal amendment to the CDBG Action Plan. This will require formal City Council approval at a future meeting and approval by HUD. The amendment to the 2004 CDBG Action Plan will go through the required public process and return to the City Council on March 2, 2005 for review and approval prior to final expenditure on the roof project.

Staff feels that due to the time constraints of the project we can and should begin the work immediately and this authorization will allow us to begin that process.

Action Requested/Recommendation: : Approve the expenditure of \$47,650 from the 2004 Neighborhood Program CDBG funds and authorize the City Manager to sign a contract with Kruger Roofing of Grand Junction, Colorado in the amount of \$80,000.00 to construct a roof on the Riverside Community Center.

Attachments: None

Background Information: In addition to the roofing project, the Riverside Task Force will be submitting an infill/redevelopment application in accordance with City guidelines that will address their needs regarding the entire site. That application will be processed in accordance with Council adopted policy and will include requests for additional incentives as outlined in the infill/redevelopment program. They have several grants that are under consideration and have developed a funding partnership with District 51 as well as several local service clubs.