

**GRAND JUNCTION CITY COUNCIL  
WORKSHOP AGENDA**

**MONDAY, JUNE 13, 2005 7:00 P.M.  
CITY HALL AUDITORIUM, 250 N. 5<sup>TH</sup> STREET**

**MAYOR'S INTRODUCTION AND WELCOME**

**7:00 COUNCILMEMBER REPORTS**

**7:10 CITY MANAGER'S REPORT**

**7:15 REVIEW FUTURE WORKSHOP AGENDAS** [Attach W-1](#)

**7:20 REVIEW WEDNESDAY COUNCIL AGENDA**

**7:30 APPOINTMENTS TO BOARDS & COMMISSIONS:** An update to City Council on soliciting applications for the Riverfront Commission and the VCB Board and the process for appointments to the Ridges Architectural Control Committee. [Attach W-2](#)

**7:40 BUSINESS INCENTIVE PROPOSALS:** An existing business expansion request from the Chamber and two new business incentive requests from the Grand Junction Economic Partnership. [Attach W-3](#)

**8:10 BILLBOARD MORATORIUM FOR THE RIVERSIDE PARKWAY:** Discussion on whether to make the temporary condition of not accepting sign applications along the Riverside Parkway permanent and if so, what conditions, restrictions and/or modification(s) of the Zoning and Development Code will be adopted to protect the public health, safety and welfare. [Attach W-4](#)

**ADJOURN**

Attach W-1  
Future Workshop Agenda

# FUTURE CITY COUNCIL WORKSHOP AGENDAS

~~\* JULY 4, 2005 MONDAY 11:30 AM Canceled for Fourth of July~~  
~~JULY 4, 2005 MONDAY 7:00PM Canceled for Fourth of July~~

\* JULY 18, 2005 MONDAY 11:30 AM at **TWO RIVERS CONVENTION CENTER**

11:30 CHAMBER OF COMMERCE BOARD OF DIRECTORS

JULY 18, 2005 MONDAY 7:00PM

7:00 COUNCIL REPORTS, REVIEW WEDNESDAY AGENDA AND  
REVIEW FUTURE WORKSHOP AGENDAS  
7:25 CITY MANAGER'S REPORT  
7:30 APPOINTMENTS TO BOARDS & COMMISSIONS  
7:40 NEW GYMNASIUMS & INTERGOVERNMENTAL AGREEMENT  
WITH SCHOOL DISTRICT 51  
8:05 UPDATE ON GRAND JUNCTION STORM WATER ORDINANCE: 5-  
2-1 DRAINAGE AUTHORITY  
8:40 CITIZEN SURVEY REPORT  
9:15 STRATEGIC PLAN UPDATE

\* AUGUST 1, 2005 MONDAY 11:30 AM

11:30 OPEN

AUGUST 1, 2005 MONDAY 7:00PM

7:00 COUNCIL REPORTS, REVIEW WEDNESDAY AGENDA AND  
REVIEW FUTURE WORKSHOP AGENDAS  
7:25 CITY MANAGER'S REPORT  
7:30 RIVERSIDE PARKWAY UPDATE  
8:05 STRATEGIC PLAN UPDATE

☛ AUGUST 10, 2005, 11:30 AM: ANNUAL PERSIGO MEETING WITH  
MESA COUNTY at the ☒ HOLIDAY INN ☒

\* AUGUST 15, 2005 MONDAY 11:30 AM

11:30 OPEN

**AUGUST 15, 2005 MONDAY 5:00PM at TWO RIVERS CONVENTION CENTER**

- 5:00 DINNER IS SERVED
- 5:10 COUNCIL REPORTS, REVIEW WEDNESDAY AGENDA AND REVIEW FUTURE WORKSHOP AGENDAS
- 5:20 CITY MANAGER'S REPORT
- 5:25 BUDGET WORKSHOP TO REVIEW CAPITAL IMPROVEMENT PROGRAM

~~\* SEPTEMBER 5, 2005 MONDAY 11:30 AM Canceled for Labor Day Holiday~~  
~~SEPTEMBER 5, 2005 MONDAY 7:00PM Canceled for Labor Day Holiday~~

\* SEPTEMBER 19, 2005 MONDAY 11:30 AM

11:30 OPEN

SEPTEMBER 19, 2005 MONDAY 7:00PM

- 7:00 COUNCIL REPORTS, REVIEW WEDNESDAY AGENDA AND REVIEW FUTURE WORKSHOP AGENDAS
- 7:25 CITY MANAGER'S REPORT
- 7:30 APPOINTMENTS TO BOARDS & COMMISSIONS
- 7:40 OPEN

**↗ BIN LIST ↖**

1. Request to meet with IDI to discuss Bookcliff Technology Park (after City Council retreat)
2. GJEP and BIC would like to meet with CC in August or September (after City Council retreat)
3. Communications update
4. Sister City request
5. Avalon Theater Report
6. Listening to Business Report

**2005/6 Department Presentations to City Council**

<b>August</b>	Capital Improvement Program Budget
<b>September</b>	Tour of City's watershed in the Kannah Creek area
<b>October</b>	Customer Service (Administrative Services Department)
<b>November</b>	Tour of the Police Department Crime Lab
<b>December</b>	Fire Department
<b>January</b>	Two Rivers Convention Center and the Avalon Theater

**Attach W-2  
Upcoming Board Appointments  
CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA							
<b>Subject</b>	Upcoming Appointments to Boards & Commissions – Ridges Architectural Control Committee, Riverfront Commission and the Visitor and Convention Bureau Board of Directors						
<b>Meeting Date</b>	June 13, 2005						
<b>Date Prepared</b>	December 19, 2011				<b>File # NA</b>		
<b>Author</b>	Stephanie Tuin			<b>City Clerk</b>			
<b>Presenter Name</b>	Stephanie Tuin			<b>City Clerk</b>			
<b>Report results back to Council</b>	X	No		Yes	<b>When</b>		
<b>Citizen Presentation</b>		Yes	X	No	<b>Name</b>		
X	<b>Workshop</b>		<b>Formal Agenda</b>			<b>Consent</b>	<b>Individual Consideration</b>

**Summary:** An update on the boards currently being advertised and the status of interviews for other boards.

**Budget:** NA

**Action Requested/Recommendation:** A brief update on board appointments.

**Attachments:** None.

**Background Information:** Interviews took place for the Downtown Development Authority and the interview committee will make their recommendation for appointments at the Wednesday meeting. Interviews for Parks & Recreation Advisory Board and Walker Field Airport Authority are scheduled and recommendation for appointments will be presented at the July 6<sup>th</sup> Council meeting. Applications received for the Urban Trails Committee have been forwarded to the Riverfront Commission for review. The City advertised vacancies on the Riverfront Commission and Ridges Architectural Control Committee with very limited response so those deadlines have been extended. Once the application period closes for Riverfront Commission, the City will coordinate interviews with Mesa County, Palisade and Fruita.

Regarding the Ridges Architectural Control Committee, the Council has not conducted interviews in the past but rather made appointments based on review of the applications received. Direction on whether that practice will be continued is requested.

The VCB had a resignation and the City Council directed staff to advertise for candidates. Applications are being taken until June 30. So far one new application has been received. Once applications have closed, an interview session will be scheduled.

At this time, staff is asking for direction on the Ridges appointments, for one volunteer to participate in Riverfront Commission interviews and three volunteers for VCB interviews. Those volunteering will be contacted for specific date scheduling early in July.

A review of the three boards still being advertised follows as well as the roster of the current members.

### **Ridges Architectural Review Committee**

This is a five member board with an alternate. This is a difficult board to fill since its focus is so narrowly defined. The alternate and one other seat have been vacant for some time, one reappointment was not pursued last year due to the possibility of the restructuring, and another term is expiring. The incumbents are eligible for reappointment but so far have not sent in such requests. One new application has been received.

As previously discussed, staff is working with revising the covenants to convert this committee to a homeowners association but that work has not been completed yet so the board is still operating. Terms are for four years.

The Committee's role is to ensure that all construction meets the requirements of the Ridges Protective Covenants for the type of building material, color, height and other structural and architectural requirements. The ACC meets the last Monday of each month.

### **Riverfront Commission**

There are three terms expiring on the Riverfront Commission. There are no term limits on this jointly appointed board so all are eligible for reappointment. Three applications, including one from an incumbent, have been received. This is an eleven-member board and terms are for three years.

The meetings are the third Tuesday of the month at 7:00 p.m. The time commitment for this board runs 10-15 hours per month but special projects can be worked on by members as they are able.

The Riverfront Commission is charged with planning, advocating and implementing a multifaceted program to redevelop and reclaim the riverfront within the City and County.

### **Visitor and Convention Bureau Board of Directors**

This is a nine-member board that with one vacancy due to a resignation. The function of the Board of Directors is to advise the VCB staff on policies and marketing directions.

The meetings are held the second Tuesday of each month at 3:00 p.m. The time commitment for this board runs around three hours per month plus a one-day annual retreat and one additional workshop requiring four hours of time. Terms are for three years.

The board has indicated that board members with a variety of backgrounds would be beneficial rather than just tourism backgrounds.

**RIDGES ARCHITECTURAL CONTROL COMMITTEE**

Five Members  
4 year terms

<b>NAME</b>	<b>APPTED</b>	<b>REAPPTED</b>	<b>EXP</b>
Tom Tetting	07-16-03		06-30-07
Ted Munkres		6-03	06-30-07
Vacant	07-18-01		06-30-05
Cynthia Adair			06-30-04
Frank Rinaldi	07-18-01		06-30-05
(alternate)			

Meetings: last Monday

Contact: Ted Munkres – 243-0929

## RIVERFRONT COMMISSION

Three Year Terms  
Eleven Member Board

<b>NAME</b>	<b>APPTED</b>	<b>REAPPTED</b>	<b>EXP</b>	<b>Occupation</b>
Marianne Tilden	07-07-04		07-07	Bray & Company
David Ludlam	07-07-04		07-07	Western Area Director – EIS Solutions
John Gormley	08-07-02		07-05	Attorney
Michael A. Kuzminski	08-06-03		07-06	Attorney
Dani Weigand Knopp	08-06-03		07-06	Account Executive
Dustin Dunbar	08-06-97	08-02-00 08-06-03	07-00 07-03 07-06	Regional Transportation Planning Office – Senior Transportation Planner
Paul Jones	08-05-98	08-04-99 08-07-02	07-99 07-02 07-05	Physician
Dennis DeVore	08-06-03		07-06	ROW Manager CDOT
Eric Marquez	08-07-02		07-05	Engineer-Project Mgr
Dennis Pretti	07-07-04		07-07	Regional Purchasing Mgr – Dahl, Inc.
Deb McCoy	07-07-04		07-07	Owner of Filter Tech Systems

Eleven member board. Members jointly appointed by Grand Junction City Council, Fruita City Council, Palisade Town Board and the Mesa County Commissioners. (Term limits do not apply because board members are jointly appointed.)

Created: 1987

Meetings: Third Tuesday, 7:00 p.m. at the Public Meeting Room in the old courthouse at 544 Road.

Staff: Michele Rohrbach, phone/fax 245-0045

Office: 3<sup>rd</sup> Floor, Old County Courthouse, Monday through Thursday (9 am to 2 pm)

Mail: Box 2477, Grand Junction, Co. 81502



**VISITOR AND CONVENTION BUREAU  
BOARD OF DIRECTORS**

Jill Eckardt resigned June 14, 2005
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Nine Members

Three Year Terms

<b>NAME</b>	<b>APPTED</b>	<b>REAPPT'D</b>	<b>EXP</b>	<b>Occupation</b>
W. Steven Bailey	01-19-05		12-05	Co-owner/CEO Powderhorn Rec'n & Dev't.
Linda Smith	02-02-00 12-17-03	02-07-01	12-00 12-03 12-06	retired
Jane Fine Foster (Chair)	02-07-01 12-17-03		12-03 12-06	Nursing Instructor
Kevin Reimer	02-07-01 12-17-03		12-03 12-06	Owner - Hawthorn Suites Hotel
Steve Meyer	11-20-02 12-17-03		12-03 12-06	President/Owner Shaw Construction LLC
Vacant			12-07	
Brunella Gualerzi	01-19-05		12-07	Owner – Il Bistro Italiano
Lynn Sorlye (Vice Chair)	11-20-02		12-05	General Manager – Holiday Inn
Eric Feely	01-19-05		12-07	General Mgr. Director of Golf The Golf Club at Redlands Mesa

No City Council rep since May, 1998

Created: November, 1989 – effective 1990

Meetings: Second Tuesday, 3:00 p.m., location varies

**Attach W-3  
Business Incentive Proposals**

Lewis Engineering

**CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA						
<b>Subject</b>		Incentive Request for Lewis Engineering				
<b>Meeting Date</b>		April 20, 2005				
<b>Date Prepared</b>		May 13, 2005			<b>File #</b>	
<b>Author</b>		Sheryl Trent		Assistant to the City Manager		
<b>Presenter Name</b>		Diane Schwenke		Chamber of Commerce		
<b>Report results back to Council</b>		<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Yes</b>	<b>When</b>
<b>Citizen Presentation</b>		<input type="checkbox"/>	<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<b>Name</b>
<input checked="" type="checkbox"/>	<b>Workshop</b>	<input type="checkbox"/>	<b>Formal Agenda</b>		<input type="checkbox"/>	<b>Consent</b>
		<input type="checkbox"/>			<input type="checkbox"/>	<b>Individual Consideration</b>

**Summary:** The Chamber of Commerce is requesting that the City of Grand Junction consider an incentive request for Lewis Engineering. Lewis Engineering successfully bid on several of the Hamilton Sundstrand projects, which means that jobs that would have been lost will be retained in Mesa County.

**Budget:** There is no current budget for this request.

**Action Requested:** The Chamber is requesting that the City Council approve an incentive request for Lewis Engineering to retain jobs that were to be eliminated by Hamilton Sundstrand outsourcing.

**Attachments:** None

**Background Information:** In an email to the City, Diane Schwenke, President and CEO of the Grand Junction Chamber of Commerce, indicated that:

**Possible Request for Existing Business Expansion Incentive Funds**

*I have had a request from an existing local company for a cash incentive. This company, Lewis Engineering, is currently in negotiations with Hamilton Sundstrand to become a supplier for some of the parts work that is being done at the soon to be closed Grand Junction Plant.*

*The local company is anticipating that if a contract is awarded an investment of up to \$600,000 will be necessary and that up to 25 Hamilton Sundstrand employees will be hired. The average wage for all positions of these new hires will be approximately \$19.50 per hour, which is comparable to wages these workers now receive at Hamilton Sundstrand. Benefits will also be provided in addition to the wages.*

*If treated as new job creation, this project would meet the criteria for the existing program the City of Grand Junction has for awarding incentives to local expanding companies. Under that program an application, with accompanying financial and business plan information would be completed, reviewed by the Committee composed of representatives of GJEP, Incubator and Chamber and, if appropriate, forwarded to City Council for action. While the application process is not long it will still take time to assemble on the part of Lewis Engineering. So before we proceed, it is important to get Council input on two questions:*

- 1. Can this project be treated as new job creation for purposes of an incentive request?*
- 2. In light of the current emphasis on strategic planning taking place before additional funding for economic development projects will be made, are you willing to accept and act upon an application for existing business expansion incentives at this time?*

**This is the attachment that the Chamber of Commerce uses for economic incentive requests:**

**Grand Junction  
Economic Development Incentive Program Application**

Business Name: LEWIS ENGINEERING, INC.	FAX: 257-9095
Address: 711 ARROWEST COURT, GJ, 81505	Telephone: 257-7777
Contact Person: MARK	Telephone:
Title: PRESIDENT	Date: 25MAY05

Number of jobs to be created: 20-24
Total Project Cost: > \$750,000

Project Location: 711 Arrowest Ct, Grand Junction
% of sales outside this region 99%

Evidence of eligibility		
Would the project be located in Grand Junction without an Economic Incentive?	Yes [ x ]	No [ ]
Has an offer for acquisition of land/buildings been made?	Yes [ ]	No [ x ]
Has a building permit or other permit been applied for?	Yes [ x ]	No [ ]
Has the project been initiated (construction, etc.)?	Yes [ x ]	No [ ]

**Please attach:**

- \_\_\_\_\_ Brief Project Description
- \_\_\_\_\_ Business Plan
- \_\_\_\_\_ New Job Breakdown (current & projected positions, payranges)
- \_\_\_\_\_ (3 years) Balance Sheets & Operating Statements (2 years historical & 1 year Proforma)
- \_\_\_\_\_ Project Financing (sources & funds)

<p>I understand that information submitted on or with this form may become public information after approval or denial of an Economic Development Incentive.</p> <p>Signature: ___ Mark A Lewis _____ Date: ___ 25May2005 _____</p>
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GJEP



Mayor Hill and Council Members  
City of Grand Junction  
250 North 5th Street  
Grand Junction, Colorado 81501

June 8, 2005

Dear Mayor Hill and Council Members,

The Grand Junction Economic Partnership is currently working with two companies to relocate their manufacturing facilities to Mesa County from Oregon and Wyoming. I would like to provide you with some information about the projects in anticipation of requesting the Council for a relocation incentive. We are competing with communities located in Wyoming and Oregon.

- Prospect # 04025 builds high-end custom glass block windows and is looking for a new facility for the relocation of its headquarters and all operations for existing and new products. All of its products and services would be exported outside of Mesa County. Sales in 2004 were \$1.5 million and the company has significant expansion plans to double sales within the next three years. Twenty (20) jobs will be created over the next three years. The average wage is estimated at least \$13 per hour. In addition quarterly bonuses and a benefits package are provided for employees. Total annual payroll would be approximately \$540,000 at full employment. Positions include a plant manager, office manager, sales, distribution, research and development and technicians. Capital investment in excess of \$1 million will be made in a new or existing facility.
- Prospect # 04008 is a wholesale manufacturer of stainless steel restaurant equipment and is looking to relocate its manufacturing facility and headquarters. The business is family owned and operated and has been in existence in Wyoming since 1982. While all of its current products would be exported out of Mesa County, of interest to the company is the wine industry for which they could potentially manufacture products. They anticipate on creating ten (10) new jobs which would pay \$14-15 per hour. Capital investment would include a new or existing facility valued at over \$1 million.

The GJEP Board of Directors believes these companies merit recruitment. These are good jobs and the companies are in industries that are a fit our community.

We are seeking to present these companies with a combination of incentives including cash grants, Enterprise Zone tax credits and a Colorado FIRST training grant. The amount of the incentive we are requesting from the Council is \$2,000 per job. This would amount to a total grant of \$40,000 for Prospect #04025 and \$20,000 for Prospect #04008. The incentive grants will serve as a 1:1 match required by the Governor's Economic Development Commission.

Thank you for your full consideration of this request and your assistance in creating quality jobs for our local residents.

Sincerely,

A handwritten signature in black ink that reads "Ann Driggers". The signature is written in a cursive, flowing style.

Ann Driggers  
President

cc. Norm Franke, Chair, GJEP Prospect Committee  
Bob Reece, Chair, GJEP Board

**Attach W-4  
Billboard Moratorium**

**CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA						
<b>Subject</b>	Riverside Parkway Billboard Moratorium					
<b>Meeting Date</b>	June 13, 2005					
<b>Date Prepared</b>	June 8, 2005				<b>File #</b>	
<b>Author</b>	John Shaver		City Attorney			
<b>Presenter Name</b>	Kelly Arnold Bob Blanchard John Shaver		City Manager Community Development Director City Attorney			
<b>Report results back to Council</b>		<b>No</b>		<b>Yes</b>	<b>When</b>	
<b>Citizen Presentation</b>	X	<b>Yes</b>		<b>No</b>	<b>Name</b>	Mark Gamble, Colorado West Outdoor Advertising Company
<b>X</b>	<b>Workshop</b>		<b>Formal Agenda</b>			<b>Consent</b>
						<b>Individual Consideration</b>

**BACKGROUND**

In December of 2004 the City Council by Resolution 141-04 authorized a temporary hiatus in the Community Development Department's acceptance of applications for off-premises advertising (billboard) signs near and along the proposed alignment for the City's Riverside Parkway. A copy of that resolution is attached for immediate reference.

At its June 13, 2005 work session the City Council will be discussing whether to make that temporary condition permanent and if so, what conditions, restrictions and/or modification(s) to the Zoning and Development Code will be adopted to protect the public health, safety and welfare. To aid in the Council's deliberations included below are a research memorandum describing certain, applicable legal principles and a draft ordinance amending the Zoning and Development Code to make the temporary condition permanent.

**LEGAL PRINCIPLES**

All sign regulations must comport with judicially-created principles arising out of the First Amendment. The First Amendment provides that: "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press or the right of the people peaceably to assemble and to petition the Government for a redress of grievances." U.S. Const. Amendment 1.

As with many forms of speech, signs possess a dual nature, including both communicative and noncommunicative aspects. The noncommunicative aspects

of signs may be regulated by the government on behalf of the public welfare. In certain instances, communicative aspects of signs may be regulated as well.

Modern cases provide cities with fairly broad powers to regulate signs on public property (see, e.g., *United States v. Kokinda*, 497 U.S. 720 (1990)), but local governments have less latitude in regulating signs placed on private property. In addition to the First Amendment rights to free speech, government regulation of signs on private property may also implicate the Fifth Amendment prohibition against the taking of private property without just compensation. The United States Supreme Court has struck down statutes restricting speech, particularly signs, by citizens on their own property. *City of Ladue v. Gilleo*, 114 S. Ct. 2038, 2041 (1994). For a government regulation on private land use to be upheld, it must be beneficial to the public health, safety, and welfare, and within the scope of the police power. Id.

In constitutional law language, appropriate sign ordinances are “time, place and manner” restrictions on speech, as opposed to restrictions on content of the speech. Even a content-neutral ordinance, such as one that simply bans all signs, can become content-based, in effect, if it is selectively enforced. In any case, the three-part test courts use in reviewing the constitutionality of sign ordinances is as follows:

- 1) Is the ordinance content-neutral?
- 2) Is the ordinance narrowly tailored to serve a significant governmental interest?
- 3) Given the restrictions in the ordinance, are there ample, alternative channels of communication of the information?

## **ANALYSIS**

Is the ordinance content-based or content-neutral? The proposed ordinance is content neutral.

If a regulation is content-based, then the law requires the local government “to show that the regulation is necessary to serve a compelling state interest and that it is narrowly-drawn to achieve that end.” *Boos v. Barry*, 485 U.S. 312, 321, 108 S. Ct. 1157, 1164 (1988). If the regulation is content-neutral, and merely restricts speech in terms of time place or the manner, a different test applies. *Ward v. Rock Against Racism*, 491 U.S. 781, 109 S. Ct. 2746 (1989). Content-neutral, speech may be regulated where (1) the restrictions are justified without reference to the content of the regulated speech, (2) they are narrowly-tailored to serve a significant government interest, and (3) they leave open ample alternative channels for communication of the information. Id.



Is the ordinance narrowly-tailored to serve a significant governmental interest and are there ample alternative channels of communication of the information? The proposed ordinance is narrowly tailored to serve a significant governmental interest.

Courts have applied the “narrowly-tailored/significant government interest” test in several instances. The regulation of signs for aesthetic reasons has been determined to be a significant governmental interest and squarely within the police power. *H&H Operations, Inc. v. City of Peachtree City, supra*. Despite this fact, the judicial attitude of courts historically was that sign controls based on aesthetics alone are outside the scope of legislative action. *Thomas v. City of Marietta*, 345 Ga 485, 365 S.E. 2d 775 (1980).

Contrary to this attitude, the strong public support for sign controls apparently pushed many federal and state courts to find ways to uphold sign regulations where aesthetics were not the sole basis of the regulation. The idea was to identify other purposes for the regulations which were within orthodox police power concepts. These “other purposes” included public safety and the preservation of property values. *Thomas v. Marietta, supra*.

The United States Supreme Court provided support for the view that aesthetic considerations alone are a sufficient basis for sign regulations in *Metromedia, Inc. v. City of San Diego, supra*, where seven justices agreed that San Diego’s interest in avoiding visual clutter was sufficient to justify a complete prohibition of off-site signs. The Supreme Court reaffirmed its support for aesthetic-based regulations in *Members of the City Council v. Taxpayers for Vincent*, 466 U.S. 789, 104 S. Ct. 2118 (1984). In that case, the Court upheld a ban on posting signs on public property. This view has since been followed by courts in most jurisdictions. *H&H Operations, Inc. v. City of Peachtree City, supra*; *City of Scottsdale v. Arizona Sign Assoc., Inc.* 115 Ariz. 233 (1977); *Veterans of Foreign Wars v. City of Steamboat Springs*, 195 Col. 44 (1978); *Builders, Inc. v. Sartin*, 8 Storey 173 (Del. Super 1964); *City of Sunrise v. DCA Homes, Donnelly & Sons, Inc. v. Outdoor Advertising Board*, 369 Mass 206 (1975); *Westfield Motor Sales Co. v. Westfield*, 129 NJ Super 528 (NJ Super 1974). Based on this clear message, the primary issue in this area has become whether the specific regulations comport with the First Amendment’s valid time, place and manner restrictions.

The United State Supreme Court reviewed the City of San Diego’s sign ordinance in the *Metromedia, Inc. v. City of San Diego, supra*. In that case, San Diego’s e regulated on-site signs and banned off-site billboards. Because of the commercial necessity of allowing signs which identify the

location of a business, on-site signs are often regulated, but never completely banned. On the other hand, off-site signs are frequently deemed to be merely advertising and may be banned. *Id.* The Court unanimously agreed that, because only commercial speech is involved in making the distinction between on-site and off-site signs, an on and off-site regulatory scheme like San Diego's does not necessarily violate the First Amendment. The stated purpose of San Diego's regulation, which has consistently been upheld by the Supreme Court, is the reduction of sign clutter and the promotion of traffic safety. *Suffolk Outdoor Advertising Co. v. Hulse*, 439 U.S. 808, 99 S. Ct. 66 (1978); *Newman Signs, Inc. v. Hjelle*, 440 U.S. 901, 99 S.Ct. 1205 (1979). The standard applied in reaching to be applied is the four-part test for judging the validity of restrictions on commercial speech adopted by the Supreme Court in *Central Hudson Gas & Electric Corp. v. Public Service Commission*, 447 U.S. 557 (1980): *Hudson* provides that: (1) The First Amendment protects commercial speech only if that speech concerns lawful activity and is not misleading. A restriction on otherwise protected commercial speech is valid only if it (2) seeks to implement a substantial government interest, (3) directly advances that interest and (4) reaches no further than necessary to accomplish the given objective.

The seven justices in *Metromedia* agreed that traffic safety and aesthetics were substantial government interest and that a ban on off-site billboards was not broader than necessary to accomplish the states goals. *Id.*

The Court determined, however, that the specific sign regulations created by the City of San Diego were unconstitutional for reasons other than those related to the First Amendment. Specifically, the Court concluded that the ordinance favored commercial over non-commercial speech because commercial speech could be displayed on on-site signs, but not non-commercial speech. *Id.* Further, the Court concluded that the ordinance's treatment of off-site signs was unconstitutional because the regulation constituted a government choosing among various non-commercial messages. The choosing took place when the government created exceptions for some, but not all, non-commercial message on off-site signs.

The Supreme Court further reviewed the application of the First Amendment to a local sign ordinance in *Members of the City Council v. Taxpayers for Vincent*, 466 U.S. 789, 104 S. Ct. 2118 (1984). In that case, the Court examined an ordinance banning the posting of signs on public property. The Court concluded that: (1) sign clutter is a substantive evil that a local government has a substantial interest in addressing and (2) once a kind of sign is determined by the government to contribute to the clutter, a content-neutral ordinance banning the type of sign is a sufficiently narrow governmental action.

Given the restrictions in the ordinance, are there ample, alternative channels of communication of the information? There are ample alternative channels. The proposed ordinance does not change zoning or otherwise unduly limit access to alternative channels. (Mr. Mark Gamble of Colorado West Outdoor Advertising has indicated to the author that he supports disallowing signs on the Parkway but he does question the effect of the proposed ordinance on Highway 6&50/I-70B. Mr. Gamble may present written material and/or may ask to address the Council.)

### **CONCLUSION**

Based on the cases decided by the courts, several principles regarding the local regulation of signs are clear:

(1) A distinction between on and off-site signs which permits on-site signs and prohibits off-site signs is permissible;

(2) Advertising is a form of constitutionally protected speech, albeit deserving of less protection than non-commercial speech;

(3) Constitutionally protected speech may be curtailed by regulations in order to implement or further the governmental interest in aesthetics and/or traffic safety;

(4) Although the stated rule is that the restriction must reach “no further than necessary to accomplish the given objective,” in practice the judgment of the government as to the least restrictive approach will be given great deference;

(5) Commercial speech may never be treated more favorably in sign regulations than non-commercial speech;

(6) Although the government may ban some commercial messages while allowing others, it must generally maintain neutrality in regulation of non-commercial speech.

### **ACTION REQUESTED**

Consideration by City Council of the legal analysis and attached draft ordinance. Direction to staff on further action to be taken on this subject.

**RESOLUTION NO. 141-04**

**A RESOLUTION DIRECTING THE CITY MANAGER  
CONCERNING OFF PREMISE SIGN APPLICATIONS ON OR NEAR THE  
PROPOSED ALIGNMENT OF THE RIVERSIDE PARKWAY**

Recitals.

- A. The purpose of this Resolution is to afford the City an opportunity to carefully evaluate and determine as appropriate, the proper location, if any, the proper additional special regulation, if any and other considerations including the possible barring, as allowed by law, of off premises signs along the proposed alignment of the Riverside Parkway.
- B. The City Council directs the City Manager to evaluate making changes to the Zoning and Development Code pertaining to the construction, development or placement of off premise signs at, near or along the proposed alignment of the Riverside Parkway, including the possibility of developing a corridor overlay and/or other specific changes to the Zoning and Development Code regulating the placement of off premise signs upon completion of the construction of the Riverside Parkway.
- C. Consistent with the City's authority and obligation to promote the health, safety and general welfare of the citizens and residents of the City, the City Council does hereby direct the City Manager to not accept, process or act on any development applications or issue any permits for off premises signs to any applicant that may be anticipating the creation of a location for such sign(s) as a result of the construction of the Riverside Parkway.
- D. The proposed alignment of the Riverside Parkway is generally shown on Exhibit A which is attached hereto and incorporated by this reference as if fully set forth.
- E. This resolution is found to be reasonable and proper because the Riverside Parkway does not yet exist and therefore there are no parcels with street frontage for which an application for an off premises sign would be suitable. Any application made at this time would be speculative and would not be premised on a reasonable investment backed expectation.

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

The foregoing Recitals are adopted as the policy of the Council; that the City manager shall act consistently therewith and shall report back to City Council as soon as is practicable with recommendations.

PASSED and ADOPTED this 15<sup>th</sup> day of December 2004

Attest:

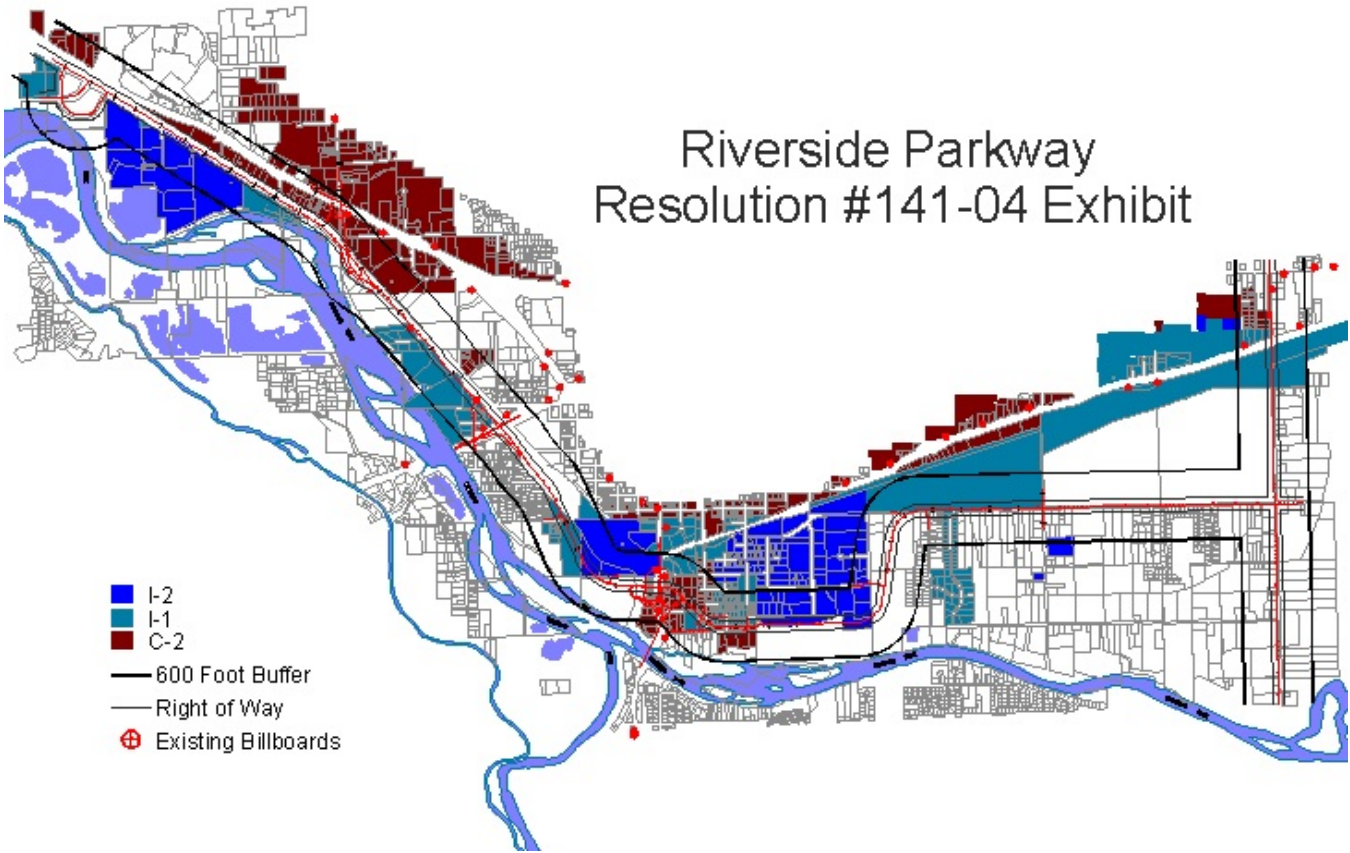
/s/ Bruce Hill

Bruce Hill  
President of the Council

/s/ Stephanie Tuin

Stephanie Tuin  
City Clerk

# Riverside Parkway Resolution #141-04 Exhibit



ORDINANCE NO. \_\_\_\_\_-05

AMENDING THE ZONING AND DEVELOPMENT CODE REGARDING OFF-PREMISE SIGNS  
ON OR NEAR THE CENTERLINE OF THE RIVERSIDE PARKWAY

RECITALS:

In November 2003, the citizens of the City of Grand Junction ("City") approved a ballot measure authorizing the City to incur bonded indebtedness for the design and construction for the Riverside Parkway ("Parkway") in the total amount of \$80 million. The Parkway will be a three and five-lane urban beltway near land along the Colorado River. The Parkway is planned as the southern segment of a loop around the City. The roadway will eliminate congestion at various intersections, eliminate at-grade railroad crossings, reduce traffic within the Riverside neighborhood, minimize stops and driveways and generally improve safety and access to existing and proposed parks and Open Space along the City's riverfront.

Much time, effort and money has been applied to designing an attractive, well-designed, efficient means of moving the public from one end of town to the other in a manner acceptable to the public. Citizens have participated in the planning process for the Parkway from the beginning. In large measure because of the significant design and planning effort, the Parkway design meets the safety and aesthetic needs of all vehicular, pedestrian and bicycle users. The road will have gentle curves, good sight distances and reasonable grades. Impacts to open space will be minimized and the views, vistas and cityscapes have been preserved and enhanced with design features.

After much consideration of the City's obligation to promote the health, safety, and general welfare of the citizens, the City Council finds that off-premise advertising signs shall be prohibited on or near the Riverside Parkway. The intent is that no off-premise sign may be viewed by a parkway user, whether traveling by vehicle or on foot. Too much has been done to improve traffic safety with the design and ultimate construction of this project to allow off-premise signs which will reduce traffic safety. The aesthetics of the project will be greatly enhanced with the elimination of signs; signs create clutter and visual pollution. Statistics have shown that they also decrease safety. In this Amendment the City Council is acting to protect the public benefits to be derived from the expenditure of over \$80 million of the City's funds for the improvement and beautification of streets and other public structures by exercising reasonable control over the character and location of sign structures.

The elimination of off-premise advertising signs is reasonable. The City encourages development of private property in harmony with the desired character of the City while providing due regard for the public and private interests involved. The sign regulations as amended will promote the effectiveness of signs by preventing their undue concentration, improper placement, deterioration and excessive size and number. The citizens will be protected from injury or damage as a result of limiting distraction or obstruction attributable to signs.

On-site and other signs will be allowed as long as the signs otherwise comply with the Zoning and Development Code ("Code"), other City rules and regulations, and state law.

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

Chapter 4 of the Code shall be amended as follows:

Section 4.3.B.1.g. shall be added to read:

g. Off-premise outdoor advertising signs shall not be visible from the Riverside Parkway. No portion of a sign may be visible from the Riverside Parkway. It is rebuttably presumed that a sign is visible if the sign is located within 1500 feet from the centerline of the Riverside Parkway as that location is depicted in Exhibit \_\_\_\_\_.

Sections 4.3.E.3 and 4.3.E.4 shall be added to read:

3. Any off-premise sign on or near the Riverside Parkway that becomes nonconforming due to the adoption of Section 4.3.B.1.g. may continue only in the manner and to the extent that it existed at the time of the adoption of this ordinance. The sign must not be re-erected, relocated, or replaced unless it is brought into conformance. If the sign remains nonconforming, then the sign shall be discontinued and removed or brought into conformance on or before the expiration of five years from the effective date of this ordinance.

4. A nonconforming sign which use is discontinued for a period exceeding thirty days, or is superseded by a conforming use, shall be considered a prohibited sign and shall be removed and/or brought into conformance upon establishment of a conforming use. A nonconforming use shall be deemed discontinued when such use is suspended as evidenced by the cessation of activities or conditions which constitute the nonconformity status of the use.



Chapter 9 of the Code shall be amended by including the following definition for Off-premise Sign and deleting the definition Sign, Billboard (Off-premise):

Off-premise sign is a sign that directs attention to a commercial business, commodity, service or entertainment conducted, sold or offered at a location other than the premises on which the sign is located, including billboards.

Introduced for first reading on this \_\_\_\_\_ day of \_\_\_\_\_  
2005.

PASSED and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_  
2005.

\_\_\_\_\_  
President of City Council

ATTEST:

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