

Grand Junction, Colo. September 14th. 1920.

The City Council of the City of Grand Junction convened in regular session at 4 o'clock P M with Mayor Cherrington in the chair. Upon call of the roll the following commissioners responded as present. Cherrington, Blackstone, Whittaker: commissioner Garber being absent. City attorney Tupper was present.

The minutes of September 7th were read by the Clerk and approved as read.

Mr Anderson of the Grand Junction Electric Gas & Mfgg Co, was present and it was agreed that the Mayor and Commissioner of Highways accompany him on a trip of inspection of the street car tracks to determine what could be done to better track conditions. The proposed emergency ordinance as published September 3d was read and upon motion by commissioner Blackstone and seconded by commissioner Whittaker the ordinance was numbered 293 and passed for publication. Upon roll call the commissioners voted as follows. Cherrington yea, Whittaker yea, Blackstone yea. All the commissioners present voting yea the motion was declared carried.

Bids on coal for the coming season was read and it was suggested that they be laid on the table for one week.

Mr. Tupper the City Atty reported that since his report to the council on August 31st 1920 concerning the frontage line of the lots in block 149 on Pitkin Ave. that he had found a resolution concerning the same of record in the council minutes of April 13th 1909 which granted to property owners of said block the right to build into Pitkin Ave. 3.64 feet, that while the action of the council was of doubtful legality yet the intent of the council was plain and the City Attorney recommended that the owners of the lots of the north part of said block be permitted to build into the street 3.64 feet. It was moved by commissioner Blackstone and seconded by commissioner Whittaker that Mr Castell as the owner of lot II Block 149 be permitted to build in the street, north of said lot, 3.64 feet.

The resignation of Doctor Plumb as City Physician was read. Moved by Commissioner Blackstone and seconded by Commissioner Whittaker that the resignation of Doctor Plumb be accepted with regrets. Carried.

The application of Doctor Monroe for the position of City Physician to fill the vacancy caused by Doctor Plumb's resignation was read and upon motion by Commissioner Blackstone, seconded by Commissioner Whittaker Doctor Monroe was appointed City Physician. All commissioners present voting Aye the motion was declared carried and the appointment made.

Moved by Commioner Blackstone seconded by Commissioner Whittaker that we adjourn until 9 AM September I7th. Motion carried.

Friday September I7th I920.

Cherrington, Blackstone, Whitaker, and City Attorney Tupper was present.

The commissioner met at 9 A M. The reading of the proposed changes and amendments of portions of Ordinances No. I78 and 208 was read and upon motion of Commissioner Blackstone, seconded by Commissioner Whittaker the proposed ordinance as read be published. Upon roll call the commissioners voted as follows. Blackstone yea, Cherrington yea, Whittaker yea. All Commissioners present voting yea the motion was carried. Upon motion by Commissioner and seconded by Commissioner Blackstone the meeting adjourned.

The following is the ordinances No I78 and 208 as changed and amended.

ORDINANCE NO. _____

AN ORDINANCE AMENDING PORTIONS OF ORDINANCE NO. 178 OF THE CITY OF GRAND JUNCTION, COLORADO, PASSED JUNE 11, 1910, AND ALSO AMENDING ORDINANCE NO. 208 OF SAID CITY, PASSED MARCH 4, 1913.

BE IT ORDAINED by the City Council of the City of Grand Junction, Colorado:

Section 1. That Section 2 of Ordinance No. 178, passed June 11, 1910, and entitled "AN ORDINANCE PROVIDING FOR THE CREATION OF LOCAL IMPROVEMENT DISTRICTS, THE CONSTRUCTION THEREIN OF CERTAIN LOCAL IMPROVEMENTS AND PROVIDING A METHOD OF PAYMENT THEREFOR.", be and the same hereby is amended to read as follows:

Sec. 2. The council may, in districts to be prescribed, order the paving (the term "paving" wherever used in this ordinance shall include macadamizing), grading, curbing, guttering, surfacing with an average thickness of three inches of suitable material, and the construction and reconstruction of sidewalks upon, and otherwise improving of, the whole or any part or parts of any street or streets, alley or alleys, or streets and alleys, in the city, or any combination of said improvements, including necessary grades, cross-walks, culverts, drains, re-adjusting man-holes and catch-basins, connections with existing water mains and such other incidentals, including incidental storm sewers, in the case of paving, as the council may prescribe; and the council may thereafter, under the conditions herein prescribed, do such further grading as may be necessary in paving or otherwise improving the same area; provided:

First. Before ordering the improvements mentioned in this Section, or any of them, the council shall adopt full details and

specifications for the same, determine what proportions of the total costs of such improvements, exclusive of street and alley intersections, and of the part to be borne by street or other railway companies, or otherwise paid, will be a benefit to the public and to be paid by the City and what proportion will be of benefit to the property to be assessed. The council shall also determine the number of installments and time in which the cost to be borne by the property to be benefited shall be payable, the rate of interest on the unpaid installments and the district of lands to be assessed for the same, as in this ordinance provided; and shall cause the engineer to make an estimate of the total cost of such improvements, including the part to be paid by the City, exclusive of the per centum for the cost of collection and other incidentals and the interest to the time the first installment comes due, and a map of the district to be assessed, from which map the approximate share of said total cost that will be assessed upon each piece of real estate in the district may be readily ascertained, and no improvement shall be made at a cost exceeding the total estimate of the engineer.

Second. The council shall by advertisement for two days each week for two consecutive weeks in a daily newspaper of general circulation, published in the city, give notice to the owners of the real estate in the district and to all persons interested generally, and without naming such owners or persons, of the kinds of improvement proposed (without mentioning minor details or incidentals), the number of installments and time in which the cost of the improvements will be payable, the rate of interest on unpaid installments, the extent of the district to be assessed (by boundaries or other brief description), the probable cost as shown by the total estimate of the engineer, the maximum share of said total estimate per front foot where the assessment is made per front foot, or per square foot or ordinary lot of twenty-five by one hundred and twenty-five feet, where the assessment is made according to area, that will be assessed upon any lot or lands in the district (and in case the assessment shall be made otherwise than per front foot or square foot, the said maximum share to be assessed upon any lot or lands in the district or to any persons shall be stated according to the method of assessment adopted in the district), and the time, not less than thirty days after the first publication, when the council will consider the ordering of the proposed improvements and hear all complaints and objections that may be made in writing concerning the proposed improvements, by the owner of any real estate to be assessed, or any persons interested, and that said map and estimate and all proceedings of the council in the premises are on file and can be seen and examined at the office of the city clerk during business hours, at any time within said period of thirty days, by any person interested.

Third. If the owners of one-third of the frontage of the real estate to be assessed shall petition for paving, and name the kind of paving, whether asphalt, macadam, stone, brick or any other kind of substantial paving, then the improvement shall be

ordered; provided, the council shall deem such proposed improvement good and sufficient for the particular locality, and the kind of pavement so named shall be used, except that no petition or specifications shall name any material from any specified locality, quarry or kiln or of any particular name, make, brand or source. The petition must be subscribed and acknowledged in the manner provided by law for acknowledgements of deeds of conveyance of real estate, by the owners or their agents duly thereunto authorized, by power of attorney acknowledged in like manner, of one-third of the frontage of the real estate to be assessed for the same. No petitioner, his heirs or assigns shall be permitted to withdraw his name from the petition after the same has been filed with the council, unless the council fails to order such improvements, upon such petition within nine months from the time the petition is so filed. All requests for withdrawal must be subscribed and acknowledged as aforesaid.

Every petition shall state the maximum cost per linear foot, exclusive of interest and cost of collection, for the entire improvement when completed, and the amount so named shall not be exceeded. All matters contained in the petition except the naming of the kind of pavement as aforesaid, of the maximum cost, as aforesaid, may be disregarded by the council, and any one or more of the other improvements mentioned in this section may be added by the council, if the maximum cost is not exceeded.

Where the paving petitioned for in any number of petitions is substantially the same, the improvement may be included in one district, but in such case each petition shall be considered as a unit for the purpose of petition and remonstrance, and may be considered as a unit for any other purpose, as the council may direct. But no petition shall be required to authorize the council to order any paving mentioned in this section.

Fourth. If within the time specified in said notice a remonstrance against the making of all the improvements proposed shall be filed with the council, subscribed and acknowledged as above provided for petitions, by the owners of not less than thirty-five per centum of the frontage of the real estate to be assessed for paving alone, or for paving in combination with other improvements, or by the owners of a majority of the frontage of the real estate to be assessed for any other improvement or combination of improvements, without paving, the improvements shall not be made; provided, that the construction of sewers shall not be subject to remonstrance.

No owner, his heirs or assigns, who shall have signed and not withdrawn from a paving petition before the same is filed with the council, shall be permitted to sign a remonstrance against the paving proposed.

Fifth. In all specifications for material to be used in public improvements of every kind the council shall establish a standard

of purity, strength and quality, to be demonstrated by physical and chemical tests within limits of reasonable variations, such as rattle, crushing, absorption, chemical and other tests.

Sixth. All the proceedings by the council may be modified, confirmed or rescinded by the council at any time prior to the adoption of the resolution authorizing the improvements; provided, that no substantial change in the district, map, details, specifications or estimate shall be made by the council after the first publication of the notice to property owners.

Seventh. If at the time of the adoption of the resolution authorizing the improvements for any district, any piece of real estate in the district has the whole or any part of the proposed improvements, conforming or approximately conforming to the general plan, the council may adopt the same, in whole or in part, or make the necessary changes to make the same conform to the general plan, and the owner of such real estate shall, when the assessment is made, be credited with the amount which is saved by reason of adopting or adapting such existing improvements.

Eighth. The finding of the council by resolution, that any improvements provided for in this ordinance were duly ordered after notice duly given, or that a petition or remonstrance was, or was not filed, or was or was not duly subscribed and acknowledged by the required number of owners, as in this ordinance provided, shall be conclusive in every court or other tribunal.

Section 2. That Section 4 of said Ordinance No. 178 be and the same is hereby amended to read as follows:

Sec. 4. In the case of improvement of any street as herein provided, except as otherwise provided, the cost of improvements, except at the intersection of streets and alleys, and except the share to be paid by street and other railway companies, shall be apportioned by the City Council between the City of Grand Junction to be paid by general revenue or the sale of city bonds, and all the lots or lands abutting on the streets improved, according to the respective benefits to be received from such improvements, so that each shall bear its relative, equitable proportion. The amount so found to be a benefit upon the property shall be assessed upon all the lots and lands abutting on the streets improved in proportion as the frontage of each lot or tract of land is to the frontage of all the lots and lands so improved, the sides of corner lots which abut on the streets so improved being regarded as frontage; provided, that where the lots or lands abutting on the street improved are not of substantially equal depth, or where any of such lots or lands are less than 150 feet in depth, then if the council so determine, the real estate abutting on the street improved may be assessed to a substantially equal depth, not less than 20 and not more than 150 feet from the street improved, without regard to lot or

land lines, as the council may determine, and in all such cases the council may divide the depth of the real estate so to be assessed into from two to six zones parallel with the street improved and apportion the amount to be paid for the entire depth to the different zones in proportion to the benefit received by each zone, and wherever a lot or land line lies within such zone, the council may determine the proportion to be paid upon the real estate lying on each side of such line within the zone and provided further that should the street improved lie partly within the City of Grand Junction and partly without the limits of said City, the City limits line running parallel with said street and in or near the center thereof, then in that case should the portion of said street lying within the city limits be improved the real estate to be assessed shall be the abutting real estate lying within the City limits, and provided further that should a street be improved by paving on only one side thereof, or on only one side and under and along the right of way of a street or other railway company, then in that case the real estate to be assessed shall be the real estate abutting on the side of the street so improved.

Section 3. That Section 5 of said Ordinance No. 178 be and the same is hereby amended to read as follows:

Sec. 5. In case of the improvement of any street or alley, the cost of the improvements at each street intersection, street and alley intersection and alley intersections, except the part to be borne by street or other railway companies, shall be paid by the City of Grand Junction from general revenues or sale of City bonds.

Section 4. That Section 27 of said Ordinance No. 178 be and the same is hereby amended to read as follows:

Sec. 27. The clerk shall thereupon, by advertisement for three days in some newspaper of general circulation, published in the city, notify the owners of the real estate to be assessed, and all persons interested, generally and without naming such owners or persons, that said improvements have been or are about to be completed and accepted, specifying the whole cost of the improvements and the share so apportioned to each lot or tract of land or persons and the part to be paid by the City of Grand Junction; and that any complaints or objections that may be made in writing by such owners or persons to the council and filed with the clerk within thirty days from the first publication of such notice, will be heard and determined by the council at its first regular meeting after said thirty days and before the passage of any ordinance assessing the cost of said improvements.

Section 5. That Section 28 of said Ordinance No. 178 be and the same is hereby amended to read as follows:

Sec. 28. At the meeting specified in said notice, or any adjournment thereof, the council shall hear and determine all

such complaints and objections; the council may thereupon make such modifications and changes as to it may seem equitable and just, or may confirm the first apportionment; and the council shall thereupon, by ordinance, assess the cost of said improvements against the City of Grand Junction and all the real estate in said district and against such persons, respectively, in the proportions above mentioned.

Section 6. That Section 31 of said Ordinance No. 178 be and the same is hereby amended to read as follows:

Sec. 31. All assessments upon real estate made in pursuant of this ordinance shall be due and payable within thirty days of the final publication of the assessing ordinance, without demand; provided, that all such assessments may at the election of the owners, be paid in installments with interest as hereinafter provided. Failure to pay the whole assessment within said period of thirty days shall be conclusively considered and held an election on the part of all persons interested, whether under disability or otherwise, to pay in such installments. All persons so electing to pay in installments shall be conclusively considered and held as consenting to said improvements, and such election shall be conclusively held and considered as a waiver of any and all right to question the power or jurisdiction of the city to construct the improvements, the quality of the work, the regularity or sufficiency of the proceedings, or the validity or correctness of the assessment.

Section 7. That Section 40 of Ordinance No. 208, passed and adopted May 4, 1913, entitled "AN ORDINANCE AMENDING SECTION 40 OF ORDINANCE NO. 178, ENTITLED 'AN ORDINANCE PROVIDING FOR THE CREATION OF LOCAL IMPROVEMENT DISTRICTS, THE CONSTRUCTION THEREIN OF CERTAIN LOCAL IMPROVEMENTS AND PROVIDING A METHOD OF PAYMENT THEREFOR' PASSED AND ADOPTED THE 11th DAY OF JUNE, 1910", shall be amended to read as follows, to-wit:

Section 40. That the part of the cost of local improvements to be borne by abutting real estate shall be paid for in cash out of the proceeds derived from the sale of the public improvement bonds of the city, of such date and in such form as will be prescribed by the council, the same bearing the name of the district improved, and payable to bearer, in a sufficient period of years to cover the period of payments herein provided for, but subject to call as hereinafter provided for, in convenient denominations of not more than \$1,000 each. All such bonds shall be issued by the council in sufficient amount to provide funds to pay for the part of local improvements and expenses to be borne by abutting real estate and including necessary interest before the first assessment can be collected, and rights of way contemplated by this ordinance; and the Treasurer shall preserve a record of the same in a suitable book, kept for that purpose. Said bonds shall be subscribed by the mayor, attested by the clerk and the seal of the city, and registered by the Treasurer, the same to be payable only out of the moneys collected on

account of the assessments made for said improvements respectively, and all moneys collected on account of the assessments for any improvement shall be applied to the total payment of the said bonds, and the council shall, at public or private sale, upon such terms and conditions as it may determine, sell sufficient of said bonds to raise the funds required to carry out the provisions of this ordinance.

/s/ J. H. Whittaker
Act City Clerk