

Grand Junction, Colorado
April 16, 1958

ROLL CALL.

The City Council of the City of Grand Junction met in regular session on April 16, 1958. Councilmen present and answering roll call were Shults, Harper, Colescott, Strnad, Wright and President Emerson. Councilman Orr was absent. Also present were City Manager Cheever, City Attorney Ashby and City Clerk Tomlinson.

MINUTES.

It was moved by Councilman Harper and seconded by Councilman Shults that the minutes of the regular meeting held April 2nd be approved as written. Motion carried.

BOYS & GIRLS CITY-COUNTY GOVT DAY

This was Boys and Girls City-County government day, and a number of the acting officials were in the audience. President Emerson called for those who were acting as city councilmen to sit with the Council.

ORD. 1044-ZONING BLK 14 SHERWOOD ADDN

The Proof of Publication to the proposed ordinance entitled AN ORDINANCE AMENDING CHAPTER 83 OF THE 1953 COMPILED ORDINANCES OF THE CITY OF GRAND JUNCTION, COLORADO, AND THE ZONING MAP INCLUDED THEREIN was presented and read. It was moved by Councilman Harper and seconded by Councilman Wright that the Proof of Publication be accepted and filed. Motion carried. It was then moved by Councilman Shults and seconded by Councilman Strnad that the ordinance be called up for final passage. Motion carried.

The Ordinance was then read, and upon motion of Councilman Colescott and seconded by Councilman Shults was passed, adopted, numbered 1044 and ordered published. Roll was called on the motion with all members of the Council present voting "AYE." The President declared the motion carried.

NORTH MONTEREY PARK ANNEXATION

Mr. Al Cornelison gave a report of a special meeting of the Grand Junction Planning Commission held at 7:30 A.M. on April 16th. A final plat for the annexation of North Monterey Park was presented by Mr. William Rump. The City Planning Commission accepted this plat and recommended to the Council that the two four foot easements be made utilities and walkways and expanded to fifteen feet.

UTILITIES IN BEFORE PAVING.

Mr. Cornelison also stated that the Planning Commission felt that before property is annexed and streets and alleys paved, that the Public Service Company should put gas utilities lines and connections into each building site, and that sewer and water connections should be made so that when the paving is put in it can remain intact.

It was moved by Councilman Strnad and seconded by Councilman Wright that the City Manager be instructed to contact the Public Service Company to see what can be done about getting utilities put into subdivisions before streets are paved and also to investigate the cost of putting in water and sewer taps before any paving is done. Motion carried.

Instr #3966

NO. MONTEREY PARK ANNEX - PETITION

The following petition for annexation of North Monterey Park Annexation was presented:

PETITION FOR ANNEXATION

WE THE UNDERSIGNED do hereby petition the City Council of the City of Grand Junction, State of Colorado, to annex the following described property to the said City:

The North one-half (1/2) of Lots 5 and 6 Capitol Hill Subdivision

As ground therefor, the petitioners respectfully show to the said Council that the said territory is eligible for annexation in that it is not embraced within any city or town, that it abuts upon or is contiguous to the City of Grand Junction in a manner which will afford reasonable ingress and egress thereto, that more than one-sixth of the aggregate exterior boundary of the territory proposed to be annexed coincides with the existing boundary of the said City, and that the non-contiguous boundary of the said territory coincides with the existing block lines, street lines, or governmental subdivision lines.

This petition is accompanied by four copies of a map or plat of the said territory, showing its boundary and its relation to established city limit lines, and said map is prepared upon a material suitable for filing.

Your petitioners further state that they are the owners of more than fifty per cent of the area of such territory to be annexed and also comprise a majority of the land owners residing in the said territory; that the resident address of each signer and the date of signature are set forth hereafter opposite the name of each signer, and that the description of the property owned by each signer of said petition is attached hereto.

WHEREFORE these petitioners pray that this petition be accepted and that the said annexation be approved and accepted by ordinance.

<u>Date</u>	<u>Signature</u>	<u>Address</u>	<u>Resident Landowner</u>
April 16, 1958	W. C. Rump	R.R. No. 3, Grand Junction, Colorado	

STATE OF COLORADO)	
)	ss
COUNTY OF MESA)	AFFIDAVIT

W. C. Rump, of lawful age, being first duly sworn, upon oath, deposes and says:

That he is the circulator of the foregoing petition;

That each signature on the said petition is the signature of the person whose name it purports to be.

/s/ W. C. Rump

Subscribed and sworn to before me this 16th day of April, 1958.

Witness my hand and official seal.

/s/ Eugene Pottorff
Notary Public

My Commission expires: March 17, 1959

The following Resolution was presented and read:

RESOLUTION

WHEREAS, a Petition for Annexation of the following described property, to-wit:

The North one-half (1/2) of Lots 5 and 6, Capitol Hill Subdivision, Mesa County, Colorado.

has been filed with the City Clerk and is now presented to the City Council; and,

WHEREAS, upon examination of the said Petition and hearing the testimony presented, the City Council does hereby find: That the said territory is eligible for annexation to the City of Grand Junction; that the Petition is signed by more than 50 per cent of the owners of the area of such territory to be annexed and that the persons signing such Petition also comprise a majority of the land owners residing in the territory at the time said Petition was filed with the City Clerk; that there is attached to the said Petition four copies of a map or plat of such territory which is suitable for filing; that the said Petition and maps are sufficient and substantially meet the requirements of Section 2, of Chapter 314, Session Laws of Colorado, 1947;

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

That the said Petition for Annexation shall be, and the same is hereby, accepted and approved, and that notice of the filing of the said Petition shall be published once each week for four publications in The Daily Sentinel, the official newspaper of the said City of Grand Junction.

Passed and adopted this 16th day of April, 1958.

John S. Emerson
President of the Council

ATTEST:

City Clerk

It was moved by Councilman Shults and seconded by Councilman Harper that the Resolution be passed and adopted as read. Roll was called on the motion with all members of the Council present voting "AYE." The President declared the motion carried.

NO. MONTEREY PARK 5% CASH INSTEAD OF LAND

It was moved by Councilman Wright and seconded by Councilman Strnad that the City enter into an agreement with Mr. Rump to accept 5% of the land value in cash in lieu of land for park and recreational purposes for North Monterey Park Annexation. Motion carried.

POLICE ADM. BUILDING BIDS

Bids were opened and tabulated on Tuesday, April 8th, for the construction of the new Police Administration Building, and the following bids were submitted:

TABULATION OF BIDS FOR POLICE ADMINISTRATION BUILDING
 OPENED April 8, 1958 4 P.M.

	<u>Base Bid</u>	<u>ALT. 1</u> <u>Gypsum deck</u> <u>for Zonolite</u>	<u>ALT. 2 Install</u> <u>pneumatic</u> <u>Tube System</u>	<u>ALT. 3 Use</u> <u>Grd Jct brick</u> <u>(Deduct)</u>
BARBOUR CONSTRUCTI ON CO.	\$234,245.00	-250.00	+1,689.00	-100.00
JOHN C. BAUMAN	206,875.00	-250.00	+2,185.00	
CRAFTSMEN CONST. CO., INC.	245,894.00	-500.00	+1,750.00	
ROBERT A. FENDER	235,316.00		+1,800.00	
L. R. FOY CONST. CO., INC. Hutchinson, Kansas	246,100.00		+1,689.00	
GUNTER CONSTRUCTI ON CO.	283,344.00	+250.00	+1,639.00	
WILLIAM F. HARWOOD	219,884.00	-642.00	+1,689.00	-204.00
PHIPPS CONSTRUCTI ON CO.	218,600.00		+1,739.50	
C. E. POLAND	243,500.00		+1,689.00	
FRED SPERBER	227,000.00	-1,554.00	+1,692.00	-40.00
<spc;4>				<u>JAIL</u> <u>EQUIPMENT</u>
SOUTHERN STEEL CO.				
San Antonio, Texas	69,858.00			
STEWART IRON WORKS CO.				

Covington, Ky.	70,900.00			
VAN DORN IRON WORKS CO.				
Cleveland, Ohio	72,950.00			

The low bids submitted for the cost of the construction of the building and the installation of equipment would be \$276,733.00. This, together with the architect's fees, would make the cost of the building around \$287,500 plus election costs and costs of issuing the bonds which was approximately \$1,500. \$240,000 being the amount of bonds voted by the people, funds would be short for the construction of the building approximately \$47,500.

Councilman Harper stated that the people had voted \$240,000 for the Police Administration Building, and that he had hoped that the bids for the building would be within that limitation. He stated that he couldn't see getting the balance of the funds necessary for the construction of the building out of the 1958 Budget nor could he see much possibility of raising that much revenue in 1959. He suggested that the architect should be instructed to contact Mr. Bauman, low bidder on the building, and see if the plans could not be revised so that a satisfactory building could be constructed with the available money.

It was moved by Councilman Harper and seconded by Councilman Strnad that Day & Thorson, Architects, be instructed to negotiate with the low bidders to bring the figures to within the amount voted by the people or an over-all sum of \$240,000 including architect's fees and making the necessary changes in the building, etc., so that the construction cost would come within that figure. Motion carried.

Mr. H. S. Day, Architect, stated that he thought that was the best way to approach the matter and would prove more satisfactory than to re-advertise for bids.

FLAG DAY-MAY 17.

It was moved by Councilman Colescott and seconded by Councilman Shults that May 17, 1958, be designated as "Flag Day," and that the Daughters of Union Veterans be given permission to sell flags on the streets on that day. Motion carried.

CONCESSION AT LINCOLN PARK

A letter from the Chairman of the Junior High Band Parents Association was presented and read in which they requested permission to operate a concession stand or stands at Lincoln Park on Saturday, April 19th during band tournament, and that the 10% concession fees required by the City be waived. It was moved by Councilman

Strnad and seconded by Councilman Wright that the permission be given to the Junior High School Band Parents Association for a concession stand and that the 10% fees be waived. Roll was called on the motion with all members of the Council present voting "AYE". The President declared the motion carried.

Instr #3983

PETITIONS RE CM's SALARY, ETC.

Mr. Ashby, City Attorney, made the following report on the legality of petitions which were presented to the Council at the last meeting concerning (1) lowering the City Manager's salary (2) charges for hauling trash and garbage and (3) publishing a financial report every three months.

CITY OF GRAND JUNCTION
OFFICE OF CITY ATTORNEY

April 10, 1958

Members of the City Council
City of Grand Junction
Grand Junction, Colorado

Gentlemen:

My opinion has been requested on the legal effect of the petition presented by certain citizens in Grand Junction requesting that an election be held on three issues. Although the form of the petition and the legal problem in regard to each of the issues are, in part, similar, it is felt that each matter should be considered separately.

1. The petition first states, "We have come to the conclusion that the City Manager's salary of \$13,200.00 plus expenses is out of reason for the population of this City. We request the City Manager's salary be \$8,000.00 per year with no expenses paid." Section 57 of the Charter of the City provides, in part, "The City Manager shall be the administrative head of the City and shall be responsible for the conduct of all its departments. He shall receive a salary to be fixed by the Council by ordinance."

Clearly, the Charter does not permit the people of the City to have any voice in the setting of the salary of the City Manager except through the elected representatives of the people, the City Council. This is true even though the Charter provides that the salary be set by ordinance since, in my opinion, such ordinance merely provides the administrative means of accomplishing the result of setting the salary and is not such an ordinance

that may be referred to the people or on which subject the people have the power of initiative.

It is true that the people have the power to initiate Charter amendments under Article 20 of the Constitution of the State of Colorado, referred to in Section 151 of our Charter. However, if the petition is presented to suggest a Charter amendment, it lacks the formal requirements of an initiated Charter amendment as it fails to set out specifically the proposed Charter amendment.

No opinion is ventured on the question of legislative as opposed to administrative power of the Council in regard to this particular demand, because it is made unnecessary by the foregoing.

2. The petition, in its Section 2, states: "We feel that the trash hauling charge of \$1.50 per month is outrageous as some residences have little trash. We request a fee which we think is fair of \$.50 per month per residence."

The control of garbage and trash hauling and the setting of charges for such is governed by an ordinance of the City of Grand Junction. It is within the power of the people of the City, upon proper petition, to initiate the passage of an ordinance or the amendment of an ordinance which is presently in effect. However, in order to secure the passage of or change in such an ordinance, it is necessary that the petition recite the proposed ordinance or proposed amendment in the same manner as such proposed ordinance or change would be presented if initiated by the City Council, this in accordance with Sections 133, 134 and 135 of the Charter. Section 2 of the petition does not comply with the requirements of the mentioned sections.

Again, no opinion is ventured as to whether or not the setting of the fee, even though within the ordinance, is within the administrative power of the Council and therefore not subject to review by the people through initiated or referred legislation, since the matter is not properly before the Council on the question of submission of an ordinance to the vote of the people.

3. The third section of the petition states: "We also want a financial report every three months showing all money received and how spent, and published."

This is also a matter which would be handled by the passage of an ordinance within the City. If the petition is intended to initiate such an ordinance, it is not in proper form, since it fails to set out the proposed ordinance for further action by the Council in accordance with the mentioned Charter sections.

In summary, it is my opinion that the petition is nothing more than a request that the Council consider the various matters set out within the petition. It does not have the legal effect of requiring the Council to submit the issues to a vote of the people of the City.

Very truly yours,

/s/ Gerald J. Ashby
City Attorney

President Emerson issued the following statement of the Council setting forth their position in connection with these petitions:

STATEMENT OF COUNCIL

The members of the City Council sincerely appreciate the considerable time and effort expended in securing the petition presented to the Council on April 2, 1958. The petition is disturbing because it clearly indicates that, at least as far as some 1300 City residents are concerned, the Council has failed in its duty to adequately explain its actions and the reasons for those actions. It is true that on the garbage and trash hauling question hearings were held, but apparently the Council should have gone further to fully apprise the people of the City. For the purpose of this statement the issues presented by the petition will be considered in the order in which they appear on the petition:

The first issue presented was on the amount of the salary received by the City Manager. The operation of the City of Grand Junction is a big business with expenditures of about \$2,500,000.00 per year. The general manager of a business, a position equivalent to the City Manager of a City, would, in a business as large as this one, probably draw a salary larger than the one presently paid the City Manager. A few years ago much discussion was had about the amount of salary to be paid a City Manager. At that time the Council determined after study that the amount should be set at \$10,000.00. It was felt then, and it is still so, that if the City was to grow and prosper a dynamic Manager would have to be obtained; and to interest such a man a proper salary would have to be paid to attract him to Grand Junction. In addition, if the present value of the dollar and the present salary paid is compared with the value of the dollar before the war and the salary then paid, it would be found that there has not been any considerable raise. The Council feels that Mr. Cheever has done a fine job as City Manager. We feel also that he should be properly compensated. We feel that the salary now paid is comparable to salaries paid in other cities, and we are certain that Grand Junction will never suffer by adequately paying its City Manager, whether it is Mr. Cheever or some other man of his caliber.

The second issue presented by the petition was the charge for garbage and trash hauling. As has been previously stated, the ordinance covering the service was thoroughly studied prior to its preparation and in its preparation before it was passed.

More and more cities are going to charging services of the City to those who use them where this is practicable, removing such charges from the mill levy. If this area is going to attract business and industry, consideration must be given to keeping the mill levy as low as possible. Also, since it costs about the same to collect garbage and trash from a five room house with six people living in it in one part of the City as another, the charge should be made on the cost of collection and not on the value of the house from which the collection is made. We realize there are inequities in the charges made as they effect some people. We hope that further study which is continuing will eliminate some of these, but no matter what care is taken it is sometimes impossible to eliminate all inequities, try as we might.

Prior to the passage of the garbage and trash ordinance, careful study was given to the charges to be made. It was very apparent that even if the old mill levy system was maintained, which, as has been said, was not felt proper, that mill levy would have had to be raised to provide proper service. Cost figures were compiled and figures were obtained from other cities using the direct charge system. After such study, the charges in the ordinance were set. It is true that these figures had to be based in part on estimates; however, about one month ago the figures showed that we were on a break-even basis only. The garbage and trash haulage is not being handled as a revenue measure, and if we see that they can be hauled for less the charges will be reduced. We are certain that it is impossible to dispose of garbage and trash for 50 cents per month.

The last matter in the petition was the publication of City accounts. In one of the recent sessions of the legislature the question of publication of City and School District accounts on the order of the County publication was considered. Apparently the problem was not considered important, because no legislation was passed. The City's finances and financial transactions are matters of public record and are available for inspection by members of the public at any time. Since this is true, and since such publication would involve a not inconsiderable expenditure of the taxpayer's money, the Council does not feel that the value of the publication of such accounts would warrant such publication.

We welcome the interest of all citizens of Grand Junction. We hope that that interest will continue. If we fail properly to advise the people on pending and future matters, we urge that such fact be properly called before the Council.

Some discussion was had concerning the publishing of the financial reports of the City, and members of the Council stated that they thought it would cost more than they could afford to pay to have complete financial reports published in the papers.

Mr. Mulfor, 945 Colo. Ave., asked for clarification on several points in connection with the budget for hauling trash and garbage. The Council told both Mr. Mulford, Mr. Chinn and others in the audience that monthly reports were made on the budget and that they would see that there were available copies placed in the Treasurer's office so that they could be picked up by anyone interested when paying their water bill.

Councilman Strnad also stated that if they would get a group together, the City Manager and members of the Council would be glad to go over the budget with them and show them what the City Administration is trying to do in the finances of the City.

WATER BILL ADJUSTMENTS.

The following requests for water bill adjustments due to service line leaks were presented:

		<spc;1>	<u>1958</u>	<spc;1>	<u>1957</u>	
<u>Name</u>	<u>Address</u>	<u>Gals</u>	<u>Amt</u>	<u>Gals</u>	<u>Amt</u>	<u>Dif.</u>
Mrs. C.S. Payne	627 W. Colo.	27,500	\$7.28	600	\$4.50	\$2.78
Mrs. Orin Brown	428 W. White	48,900	10.49	1,500	4.50	5.99
Edar B. Roe	911 Glenwood	214,400	35.31	7,500	4.50	30.81

It was moved by Councilman Shults and seconded by Councilman Colescott that the requests be approved and adjustments made. Roll was called on the motion with all members of the Council present voting "AYE." The President declared the motion carried.

The Excelsior Laundry presented a request for a water bill adjustment stating that during the month of March, 1958, their water meter was dead and their bill was figured on the basis of water used for the month of March, 1957, and they felt that this was not a just basis due to the fact that their business has declined considerably since last year. It was moved by Councilman Shults and seconded by Councilman Strnad that the water bill for the Excelsior Laundry be adjusted on the same percentage of decline as shown for February 1957 and 1958 usage. Roll was called on the motion with all members of the Council present voting "AYE." The President declared the motion carried.

BOYS & GIRLS CITY-COUNTY DAY.

Mr. Howard Rounds, Commander of the Robbins-McMullin Post of the American Legion, thanked the Council and City Officials for their cooperation in making the Boys and Girls City-County government day a success.

Councilman Colescott stated that they were a wonderful group of students participating in the program; that there was a few changes that could be suggested, and asked the City Attorney to draw up a letter addressed to the American Legion officials incorporating these suggested changes.

BRIDGE AT 22nd STREET

City Manager Cheever brought up the matter of improving 22nd Street which is now outside the city limits. The Mormon Church is purchasing property on 22nd Street where they intend to build a new church, and have asked that the County open and improve 22nd Street and build a bridge across the canal. The Commissioners have asked that the City participate by building the bridge. There also would be some damage to property owned by Mr. Thor Peterson because of the elevation of the ground at the end of the bridge. Most of the Council members were opposed to the City's spending more money than presently goes into the County tax funds, but the City Manager was asked to investigate the cost of the bridge and the damage which would result to Mr. Peterson's property and report back at the next meeting of the Council.

CONTINENTAL TRAILWAYS

City Manager Cheever also reported that Continental Trailways had requested that the City prepare a Resolution supporting their application for permission to put in bus service over the contemplated new interstate highway. This Resolution will be brought up at the next meeting of the Council.

FLOOD CONTROL.

Some discussion concerning problems connected with the possibility of floods in connection with the rise of the Colorado River were discussed.

ALLEY-15th to 17th BETWEEN ELM & TEXAS (FOX)

Matters in connection with the opening of the alley between 15th and 17th, north of Elm Avenue were discussed, and Councilman Wright offered to talk to Dr. Fox and see whether or not he would be willing to move his fence so that the alley could be opened.

CIVIL DEFENSE

Councilman Wright also brought up the matter of Civil Defense in connection with a proposed mock atomic bomb attack on Colorado Springs and Pueblo at which time there would be refugees being brought into Mesa County to be taken care of. The American Legion through Mr. Rounds offered their cooperation should any definite plan of action be taken in connection with this demonstration.

PROCLAMATION LAW DAY

City Attorney Ashby asked that a proclamation be approved proclaiming May 1st as "Law Day."

EICHELBERGER SUIT

He also stated that the case of Mrs. Eichelberger, which was recently tried in District Court, was decided in favor of Mrs. Eichelberger and she was awarded the sum of \$6,334.00, and that he wished to appeal the case to the Supreme Court. It was moved by Councilman Wright and seconded by Councilman Colescott that the City Attorney be authorized to appeal this case to the Colo. Supreme Court. Motion carried.

LAWSUIT CITY EMPLOYEES

Mr. Ashby also reported to the Council that another suit has been filed against the City, Judge Carhartt and two members of the Police Department, John Hooker and Lloyd Smith. The City is not legally responsible to furnish Counsel for their employees, but Mr. Ashby stated that he was going to file a motion to dismiss the case on behalf of the City and would file on behalf of the three officers at the same time and that he would investigate the aspects of defending city employees. It was moved by Councilman Harper and seconded by Councilman Strnad that this action of City Attorney Ashby be approved. Motion carried.

JURY TRIAL

Mr. Ashby also reported that he had talked to Mr. Banks over the phone, and Mr. Banks had told him that the State Supreme Court had refused to re-hear or clarify their decision regarding trial by jury in the municipal courts. Mr. Ashby stated that he, Karl Johnson, Chief of Police, and Mr. Rice, District Attorney, would hold a conference in the near future and give study to the question of jury trial in the municipal court and as to just how they would set up procedures for referring cases to other courts.

PRES. EMERSON RESIGNS

President Emerson submitted his resignation as President of the Council effective the first meeting in May. It was moved by Councilman Colescott and seconded by Councilman Strnad that Mr. Emerson's resignation be accepted. Motion carried.

It was moved by Councilman Strnad, duly seconded and carried that the meeting adjourn until called.

/s/ Helen C. Tomlinson
City Clerk