

Grand Junction, Colorado

August 2, 1961

ROLL CALL

The City Council of the City of Grand Junction, Colorado, met in regular session at 7:30 o'clock p. m. August 2, 1961. Councilmen present and answering roll call were: Meacham, Hadden, Love, Colescott, Lowe and President McCormick. Councilman Wright was absent. Also present were City Manager Lacy, City Attorney Ashby, and City Clerk Tomlinson.

INVOCATION

Invocation was given by Rev. O. Sundal, Pastor of Grand Junction Gospel Tabernacle.

HEARING Zoning-13th & Walnut from R-1-A to R-1-C

A hearing had been advertised on this date for an area at 13th and Walnut to be changed from R-1-A to R-1-C. As there was no one in the audience protesting this change, President McCormick closed the hearing.

CITY EMPLOYEES LABOR UNION Mr. Roth re holding election - To be furnished copies of attorneys' opinions

Members of City Employees Local Union No. 472 and their representative, Mr. Herrick Roth, were present. The City Council had taken the memorandum written to them by Mr. Roth under advisement and were ready to discuss the matter of the City Employees forming a Union. Mr. Roth stated that under the broad powers of the City of Grand Junction Charter, it was his opinion, and the opinion of the attorneys he had consulted, the City Council could enact an ordinance setting up a procedure that would serve so long as no one but the City Manager would suspend, demote or dismiss any City employee. Members of the City Council expressed opinions that the Council could not enact an ordinance that would conflict with the Charter. The Charter states that the Council cannot interfere between the City Manager and the City Employees. The only other way the Council could make any changes would be for the people to petition and vote on a change of charter provision.

Mr. Roth stated that they would like to have the City hold an election to see if the employees desire to have a union. They suggested that if the Council needed advice on procedures for holding this election the State Industrial Commission could be called upon, and would no doubt be glad to give assistance.

President McCormick suggested that if the employees wish to have an election that they go ahead and have the Industrial Commission help them. The question then came up as to how the Council would react if the employees did vote for a union. Mr. Roth and the City employees present were informed that three City Attorneys have given written opinions that the Council's hands are tied concerning the recognition of employees' unions. Mr. Roth asked for copies of these opinions and City Manager Lacy was instructed to furnish them to Mr. Roth.

ZONING REQUEST NW Corner 7th & Colo. Wm. R. McKelvie & Gilbert Limberg for a filling station - Denied

Mr. and Mrs. Wm. R. McKelvie and Mr. and Mrs. Gilbert Limberg appeared before the Council in connection with changing the zoning on the Northwest corner of 7th and Colorado. They had appeared before the Planning Commission with their request on Wednesday, July 26, 1961, and had requested the zoning be changed so that they could sell their property and a filling station be constructed on it. There are five other filling stations in this area and two within 400 feet of the property. The new zoning ordinance prohibits the construction of a filling station within 400 feet of another station. The Planning Commission turned down Messrs. McKelvie and Limberg's request so they appealed to the City Council. Mr. McKelvie acted as spokesman for the group and stated from the Minutes of the Planning Commission:

"Mr. McKelvie stated that due to the fact that he had held a second mortgage on the property in question he now had a half interest in the property, along with Mr. and Mrs. Limberg who had operated this lot as a parking lot for the last four or five years. Mr. McKelvie said that he had made an honest effort to find out if this location was feasible as a parking lot, but that it has been impossible to even realize enough to cover expenses of the property and they are losing money all the time on the property.

"They have been wanting to sell the property, and now that they have the opportunity of selling to Mr. James R. Lee, a representative of Site Oil Company who has offered them \$35,000 for the property, they are most anxious to complete the sale. Mr. McKelvie stated that they would not be making money at this price but felt that they would be coming out about even. The confirmation of the offer had been made and a telegram shown to the Planning Commission.

"Mr. McKelvie had noted to the Planning Commission that although there are already five filling stations in the area, there has been no new filling station on Colorado Avenue for a number of

years and he felt that it would not hurt anyone to have one there, mentioning that the town is developing in that direction.

"A realtor, Mr. Hooker, had expressed his opinion that the best use of this property would be for a filling station. Mr. Hooker stated that he did not feel that zoning was intended to retard progress, and that he would not want to have the zoning changed in any way that would be detrimental to the City, but the Oil Company had selected this location. He felt that it would be a hardship on the McKelvies and the Limbergs if they were unable to dispose of their land for the best possible use.

"The taxes on the property amount to \$400.00 per year, but it would bring in more if it were improved. Mr. McKelvie stated that they had wanted to sell the property for sometime, but this is the first chance they have had.

"Mr. McKelvie stated that the first he had known about the provisions of the zoning ordinance was a short time ago when he had talked to Mr. Warner about it. He stated that he felt this case amounts to whether an owner really owns his property and has control of it.

"City Manager Lacy explained to the Planning Commission that this does not require a zoning change. This is C-2 zoning in which a service station is a permitted use. The matter at issue is the distance requirement that a service station must have - no nearer than 400 feet to an existing station property line, except that where a median strip is installed the 400 foot requirement shall not apply to service stations located on opposite sides of the street in which the median strip exists. In this case there are five filling stations within 400 feet of the property in question. He noted that a major factor in zoning and community development is a question of need. Mr. Lacy told the Planning Commission that in order to be able to use this location for a filling station that there would have to be an amendment to that portion of the zoning ordinance requiring the 400 ft. distance.

"Mr. Lacy also stated that there were several background factors in the case. Those who worked on the new zoning ordinance were well aware of this provision and felt it to be in the best interests of the community and a legal provision. Filling stations too close together provide more hazard for pedestrians and cause traffic congestion. Many other cities have the same problem."

Mr. McKelvie reviewed the foregoing Minutes of the Planning Commission, stating that there was only one thing he wished to clear up. Mr. Limberg brought the man over to the City Hall and not Mr. McKelvie. Mr. McKelvie read the following telegram:

"City Council & Planning Board
Attn. Elmer Nelson
City Hall
Grand Junction, Colo.

Gentlemen: This is to confirm our company's strong interest in locating a service station at northeast corner Seventh and Colorado. Financial terms have been reached with owners. Action dependent only on zoning and marketing directors final approval. Any consideration given appeal will be most appreciated.

"James R. Lee Siteman Org 7745 CARONDELET

"St. Louis, Mo."

Mr. McKelvie again urged the Council to allow him to sell his property to be used for a filling station.

Mrs. Josephine Patten, 2382 H Road, then spoke. She stated that there were apparently several reasons why the zoning code concerning 7th Street was adopted and one of these was the traffic hazard. She stated that she had inquired where she could find out about zoning restrictions and had been referred to Gene Allen and Karl Johnson. She had consulted with both of them.

Mr. Johnson had told her that the idea was not borne out by the local traffic incidents, but was based on a general study. Traffic accidents originating out of filling stations is not so great that Mr. Johnson was prepared to give figures for Grand Junction.

Another point made was that the concentration of flammable materials in any given location was a hazard. Mrs. Patten suggested that the traffic hazard and the fire hazard were all mixed up and read from the Ordinance on Page 10. Mrs. Patten argued about the 400 foot limit applying where there is a median strip and the connection between traffic hazards and fire hazards. She also brought up the psychological effect of so many filling stations on the corner of Seventh and Main and stated that Mr. Allen had suggested that this may have been the reason that Main Street did not develop east of 7th Street. She also commented upon the proposed Main Street Development project.

City Manager Lacy called attention to the reasons set forth by the Planning Commission in turning down the application:

"1. Additional curb cuts heavily used further jeopardize pedestrian safety and increase vehicle collision potential on abutting streets.

"2. The additional bulk underground storage of flammable products where others were already concentrated and near a retail center including a theater was increasing a disaster peril unnecessarily.

"3. That the community and neighborhood needs for the proposed use were very adequately served at present and therefore the alleged "need of the individuals" to sell the property must be considered secondary to the community needs for the new use.

"4. It is the responsibility of the Planning Commission to guide community development in a well-rounded pattern by enforcing regulations which shape land use which is not only sound today but also for tomorrow.

"5. Specific attention had been given to this 400 ft. provision by the Planning Commission and City Council less than nine months ago when the ordinance was drafted, and that it was unanimously agreed by both bodies that it was very necessary.

"6. Any tampering with the 400 ft. provision would necessarily "let down the bars" of any and all control of service stations based on public safety and welfare."

Mr. McKelvie then stated that some nine months ago permission was granted for a filling station on 5th and Ute. Mr. Lacy explained that the new zoning ordinance was not in effect at this time. Permission was granted under the old ordinance. Mr. McKelvie insisted that the same condition exists, traffic is the same and there were just as many stations and no median strip. Pres. McCormick also explained that the ordinance was not in effect when this filling station was voted on.

Mr. McKelvie told the Council that he had missed the advertisements for the new zoning ordinance, and was unaware that there had been a new one in effect. He also stated that he couldn't see why one more filling station in this location would make any difference. All the new stations in town are bringing in about \$600 to \$1,000 per month in tax revenue. He said that it was his "God-given right" to dispose of his property, but it seemed to be a question of who owned it.

City Manager Lacy then answered Mrs. Patten. He first discussed the matter of safety or rather the median strip traffic and curb cut safety - versus the flammable hazard. These are two separate things. The reason for the median strip being a modifying factor is for safety in crossing a traveled street.

The item of blocking development is a phrase often used by Mr. Allen. The development or redevelopment of private property for

commercial use or any kind of use and particularly for retailing beyond Seventh Street has been held up for a long time simply because of the lack of a retail outlet for walk-in trade because of those four corners being blocked. Now that the Public Service Company is located on Eighth Street, the City is hopeful that it will be a magnet for walk-in retail development on and beyond Seventh, but this remains to be seen and may not come about.

The downtown development plan had not even begun to be worked on at the time the zoning ordinance was drawn up, so saying that applying the zoning ordinance is the reason for downtown development or redevelopment or treatment on Main Street absolutely cannot be true. Mr. Lacy stated that he doubted if Mrs. Patten had gone into the basic reasons for any type of zoning. Zoning is used to place services and development where they are needed in the community so that they will continue to be helpful things. He asked if she had talked with the other five filling station owners within the 400 foot limit.

Mrs. Patten then stated that she had found many conflicting statements in the conversations with the people with whom she had talked. Mrs. Patten and Mr. Lacy discussed the matter of the median strip, but it was concluded that if Mr. McKelvie put in a median strip he could not have a filling station on his property because there was a station directly across the street. Mr. Lacy pointed out that the reasonableness of the zoning provision is modifying the safety factor to the need of the individual and the use of the land. This is why the median strip provision modifies the flammable safety factor and applies only to curb cut and traffic collision potential insofar as entering the street other than intersection streets.

Mr. Lacy also suggested that either he or Mr. Don Warner, Development Director, be consulted on the interpretation of the zoning ordinance. He then read from the zoning ordinance the various uses for which this property could be utilized.

Mr. McKelvie stated that he had contacted some of the owners of the surrounding filling stations and they were not worrying about competition. President McCormick reminded Mr. McKelvie that the Council would not make a decision based on competition. He also told Mr. McKelvie of the extended study made when the zoning ordinance was adopted and of all the meetings which were advertised.

Councilman Colescott asked what steps would be taken if this were changed and Mr. Lacy stated that it was a matter of amending the text of the zoning ordinance; that there could be no variance. It would have to be entirely changed and would take it out for all over the City.

Mr. Glen Berry spoke about zoning in Grand Junction in general, saying he thought this deal on filling stations looks like someone is being favored, and that the City was responsible for County zoning. Councilman Meacham told Mr. Berry he was wrong.

Councilman Hadden then stated his position. He said that he had sat for a long time going over the zoning code, and that it hadn't been made strictly from Grand Junction ideas. It was developed from articles and material from other towns which had had similar experience to this community's. He said the Council had not tried to ram anything down anyone's throat and that the new ordinance had had more publicity than any other the City had ever passed. That the Council "was trying to do what was best for the community though it might hurt some individuals and it might help others." He said the main thing is to help the City of Grand Junction grow. That if we had had good zoning before, the condition on 7th Street wouldn't exist now.

He called attention to the fact that the operator of the new filling station on 5th and Ute has to pay \$400 per month rent. He doubted that an operator could make a living paying such high overhead. He also called attention to the stations on 7th Street - some of those are not doing too well and the traffic from the stations is dangerous. Under the new plan 7th Street will be busier than ever and it should be kept in the best possible condition for driving.

Councilman Lowe stated that he felt the zoning ordinance was carefully considered and should not be changed for the sake of one incident. If the ordinance is good, it should stand; if not, it should be changed. For the present it should stand.

It was moved by Councilman Lowe and seconded by Councilman Hadden that the request be denied. Motion carried. (6 Councilmen voted AYE)

PLANNING COMMISSION Appoint Mrs. Robt. Russell & Mr. Robt. Baker for 4 yr terms

President McCormick made the following appointments to the Planning Commission: Mrs. Robert Russell, 1721 North 20th Street, and Mr. Robert C. Baker, 1700 N. 7th Street, for terms of four years to fill the vacancies due to the expiration of the terms of Mrs. C. O. Diemer and Mr. Alex Bauer. It was moved by Councilman Lowe and seconded by Councilman Meacham that the Council endorse the appointments as made by the President of the Council. Motion carried. (6 Councilmen voted AYE)

President McCormick stated that he would send letters of thanks to both Mr. Bauer and Mrs. Diemer for their fine work on the Planning Commission.

LIQUOR APPLICATION Adv for hearing Wm. J. & Betty E. Burke, 801 North Ave. 9-6-61

Mr. William J. and Mrs. Betty E. Burke presented an application for a retail liquor store license for the North Avenue Liquor Store now operated by Mr. and Mrs. Craig Taylor at 801 North Avenue. It was moved by Councilman Colescott and seconded by Councilman Meacham that the application be advertised for hearing on September 6th, 1961. Motion carried. (6 Councilmen voted AYE)

LIBRARY To amend Ord. on appointment of Board Members to comply with State Statutes - Grants-in-aid req.

Councilman Love brought up the matter of grants-in-aid for the Library. He stated that he had looked into this and found that grants-in-aid would be with us for at least three years and possibly longer. Originally this program was set up for small communities under 10,000 population. There is no reason why a larger city cannot apply for grants-in-aid also, and it would help our Library. Councilman Love stated that he felt that in order to do this correctly, the ordinance setting up the library procedures should be amended, especially in connection with the appointment of the Board of Directors or Trustees of the Library. At present it is different from what the State law requires. The State law recites definitely that the Trustees will be appointed by the Mayor and endorsed by the Council. If we are going to apply for these funds, the ordinance might just as well be in order so the application will be correct.

It was Councilman Love's opinion that the Board should include one Councilman as a member to give better liaison between the Council and the Library. The City Manager, who is now President of the Library Board, would no longer be a member of the Board, but would act in an advisory capacity.

It was moved by Councilman Love and seconded by Councilman Hadden that the City Attorney prepare an ordinance in keeping with the State Statutes concerning the appointment of the Library Board and operation of the Library. The Board member's terms of office are to be staggered. Motion carried. (6 Councilmen voted AYE) City Manager Lacy stated that the ordinance could be prepared for the next meeting of the Council.

AIRPORT Easement for Colo.-Ute Electrical Assn approved with rider - Instr #4045 Airport Misc

City Manager Lacy stated that the time between the Airport Board meeting and the last Council meeting had been so short that the minutes and copy of the easement with Colorado-Ute could not be furnished. There was some question as to whether the easement requested Colorado-Ute to move the poles at their expense if they had to be moved in case of airport and runway expansion. In talks between the Airport Manager and the representative of the Colorado-Ute Electrical Association in Montrose, the representative, Mr. Robinson stated that it had been assumed by Colorado-Ute that any additional removal because of the facilities at the airport would be at the cost of Colorado-Ute, and yet it was not set out in the writing of the easement. They did not like to change the format of the easement, but would include it.

It was moved by Councilman Colescott that the City Council ratify the action of the Airport Board in granting the easement to Colorado-Ute if the rider is included, making Colorado-Ute responsible for moving of facilities in case of expansion. The motion was seconded by Councilman Lowe and duly carried. (6 Councilmen voted AYE)

3.2 BEER RENEWALS City Market - No. Ave. 1st St. granted

Requests for renewal of 3.2 beer licenses were made for the North Ave. City Market and First Street City Market, Inc. It was moved by Councilman Colescott and seconded by Councilman Lowe that the requests be granted and licenses issued when State licenses have been received. Motion carried. (6 Councilmen voted AYE)

PROP. ORD. Zoning 13th & Walnut passed for publication

The following proposed ordinance was presented and read: "AN ORDINANCE CHANGING THE ZONING MAP, A PART OF CHAPTER 83 OF THE 1953 COMPILED ORDINANCES OF THE CITY OF GRAND JUNCTION, COLORADO, BY CHANGING THE ZONING OF CERTAIN PROPERTY WITHIN SAID CITY." It was moved by Councilman Meacham and seconded by Councilman Hadden that the proposed ordinance be passed for publication. Motion carried. (6 Councilmen voted AYE)

PROP. ORD. Adopting by Reference the 1961 Edition of Bldg Code - Affidavit of Councilmen

The following affidavit was presented having been signed by all members of the Council present stating that they had each read the 1961 edition of the Uniform Building Code promulgated by the International Conference of Building Officials.

STATE OF COLORADO)	
)	AFFIDAVIT OF READING
COUNTY OF MESA)	

We, the undersigned, members of the City Council of the City of Grand Junction, Colorado, being duly sworn, depose and affirm that we have read the 1961 Edition of the Uniform Building Code, promulgated by the International Conference of Building Officials.

Charles C. McCormick

Charles H. Love

Arthur S. Hadden

Ray A. Meacham

Harry O. Colescott

H. D. Lowe

Subscribed and sworn to before me this 2nd day of August, 1961.

Helen C. Tomlinson
Notary Public

My commission expires: Dec. 9, 1962

The following entitled proposed ordinance was presented and read: "AN ORDINANCE ADOPTING BY REFERENCE THE 1961 EDITION OF THE UNIFORM BUILDING CODE PROMULGATED BY THE INTERNATIONAL CONFERENCE OF BUILDING OFFICIALS; SUCH CODE REGULATING THE ERECTION, CONSTRUCTION, ENLARGEMENT, ALTERATION, REPAIR, MOVING, REMOVAL, CONVERSION, DEMOLITION, OCCUPANCY, EQUIPMENT, USE, HEIGHT, AREA, AND MAINTENANCE OF BUILDINGS OR STRUCTURES IN THE CITY OF GRAND JUNCTION, COLORADO, PROVIDING FOR THE ISSUANCE OF PERMITS AND COLLECTION OF FEES THEREFOR; DECLARING AND ESTABLISHING FIRE DISTRICTS; PROVIDING PENALTIES FOR THE VIOLATION THEREOF, AND REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT THEREWITH; AND SETTING OUT IN FULL THE PENALTY PROVISIONS THEREIN CONTAINED." It was moved by Councilman Love and seconded by

Councilman Lowe that the proposed ordinance be passed for publication. Motion carried. (6 Councilmen voted AYE)

ORD. 1136 Covering of Ditches when declared a nuisance - (Amending Chapt 78 of 1953 Comp. Ord.)

The Proof of Publication to the following entitled proposed ordinance was introduced and read: "AN ORDINANCE IMPLEMENTING SECTIONS 2 AND 3 OF CHAPTER 78 OF THE 1953 COMPILED ORDINANCES OF THE CITY OF GRAND JUNCTION, COLORADO, SUCH SECTIONS CONCERNING OPEN DITCHES WITHIN THE CITY, BY THE ADDITION OF SUBSECTIONS 3 a., 3 b. and 3 c. PROVIDING FOR THE FINDING OF NUISANCE IN REGARD TO SUCH DITCHES AND PROVIDING FOR APPROACHES TOWARD ACCOMPLISHMENT OF THE COVERING OR CLOSING OF SUCH NUISANCE DITCHES. It was moved by Councilman Hadden and seconded by Councilman Meacham that the Proof of Publication be accepted and filed. Motion carried. (6 Councilmen voted AYE)

It was then moved by Councilman Hadden and seconded by Councilman Colescott that the ordinance be called up for final passage. Motion carried. (6 Councilmen voted AYE)

The ordinance was then read and upon motion of Councilman Hadden seconded by Councilman Meacham was passed, adopted, numbered 1136 and ordered published. Roll was called on the motion with all members of the Council present voting AYE. The President declared the motion carried. (6 Councilmen voted AYE)

A.M.A. CONFERENCE Seattle 8-26-61 Pres McCormick to attend

City Manager Lacy reported that the American Municipal Association Conference would be held in Seattle August 26th to 30th. As President McCormick is a member of the Colorado Municipal League Executive Board, he thought that he should attend this meeting. The members of the Council also thought that President McCormick should attend this A.M.A. meeting. The theme of the meeting is "Intergovernmental Cooperation."

COUNCILMAN HADDEN

stated that he would be out of town at the time of the next Council meeting.

ADJOURNMENT

It was moved by Councilman Lowe and seconded by Councilman Hadden that the meeting adjourn. Motion carried.

/s/Helen C. Tomlinson
City Clerk

