

Grand Junction, Colorado

January 17, 1962

### ROLL CALL

The City Council of the City of Grand Junction, Colorado, met in regular session at 7:30 p. m. January 17, 1962. Councilmen present and answering roll call were Hadden, Love, Colescott, Lowe, Wright, and President McCormick. Councilman Meacham was absent. Also present were City Manager Lacy, City Attorney Ashby and Blanche G. Stringer in place of Helen C. Tomlinson who was absent.

### INVOCATION

The invocation was given by Rev. W. S. Stevenson, Interim Pastor, First Congregational Church.

### MINUTES

It was moved by Councilman Lowe and seconded by Councilman Love that the minutes of the regular meeting of the City Council of the City of Grand Junction held on January 3rd and the special meeting held on January 10th be approved as written. Motion carried. (6 Councilmen voted AYE)

### HEARING

Rezoning 160' So. side North Ave. fr 23rd to 28 Rd fr B-3 to C-1

This date was set for hearing on the request for change of zoning on an area along the south side of North Avenue, 10 feet deep, from 23rd Street to 28 Road from B-3 to C-1. City Manager Lacy explained that this zoning would be consistent with the existing zoning on the north side of North Ave. and with the zoning proposed for both sides of North Avenue in the new Fruitvale annexation which would permit drive-in tourist service type of business. This change had been recommended by the Planning Commission. As there were no protests from the audience, President McCormick closed the hearing.

### HEARING

Creation Storm Sewer Dist. #1 (Downtown district in Operation Foresight)

This date had been advertised for hearing on the creation of Storm Sewer District No. 1 which is to be part of "Operation Foresight" in the downtown district. City Manager Lacy stated that the proposal is to form the district as outlined in the "Operation Foresight" plan. The improvements will be paid for on a mill levy basis; the levy to be determined by the assessed valuation, and it cannot be exceeded in the construction of the district which was very clearly stated on the petitions. As there were no protests or further discussion, President McCormick closed the hearing.

### DAYS

Dime line on Main St. by Civil Air Patrol on Saturdays for March of Dimes--granted

City Manager Lacy read a letter from the Civil Air Patrol requesting permission to operate a dime line in front of the First National Bank on Saturdays during normal business hours for the March of Dimes. This would involve placing a table against the building and permission had been granted by the First National Bank. This venture would be conducted by the cadets under the supervision of the senior members of the Civil Air Patrol. City Manager Lacy stated that the Civil Air Patrol had been advised that if the request was granted, they would have to comply with all regulations Police Chief Johnson would institute as to the blocking of pedestrian traffic.

It was moved by Councilman Colescott and seconded by Councilman Hadden that the request be granted. Motion

carried. (6 Councilmen voted AYE)

### 3.2 BEER RENEWAL

Irene G. Haynes dba Southside Grocery, 832 S. 7th St.

Mrs. Irene G. Haynes dba Southside Grocery, 832 South 7th Street, presented an application for the renewal of her 3.2 beer license. As no protests were filed against renewal of this license, it was moved by Councilman Wright and seconded by Councilman Colescott that the application be approved and license granted when the state license has been received. Motion carried. (6 Councilmen voted AYE)

### BONDS APPROVED

The following bonds, being on the approved bond form, were presented for approval:

AUCTIONEER		
Tony Perry	Royal Indemnity	550525
CONTRACTORS (General)		
Oliver L. Hermanns	American Surety NY	11571102
Homer & Drake	Royal Indemnity	574323
E. C. Huff	am Surety of NY	11601357
Walter Kochevar	Royal Indemnity	592883
Bill J. Sorter	Am. Surety of NY	11601355
Edward Spomer	Peerless Ins	251255
Cecil Moore	Peerless Ins	251263
Thos McCall	Royal Indemnity	558492
Jas. M. Silcox dba Bannister Furnit.	Am Surety of NY	11580538
Boyd Chandler	Royal Indemnity	574332

James M. Cross	Western Surety	3001935-62
Chester K. Klumb	Royal Indemnity	574346
Philip Edward Larson	Fidelity & Dep Md	74 49 877
Lyle E. Oates	Am Surety NY	11 580 560
C.W. Risk dba C.W. Risk Painting	Natl Surety	LR 6081056
Gordona A. Markins	UFS&G	17142-13-3340-57
E.W. Albertson Floor Covering	Firemen's Fund	604 3260-'62
CEMENT CONTRACTORS		
LeRoy Dinan	Natl Surety	606 2663-62
Ford Construction Co.	Royal Indemnity	558462
Oliver L. Hermanns	Royal Indemnity	558460
E. C. Huff	Royal Indemnity	558455
Chas. C. Pender	Royal Indemnity	558458
C. E. Poland	Royal Indemnity	558459
Edward Spomer	Peerless Ins.	251256
Thos. McCall	Royal Indemnity	558456
ELECTRICAL CONTRACTORS		
Gleason Electrical	Royal Indemnity	558439
Valley Electric, Inc.	Royal Indemnity	558442
GAS INSTALLERS		

D. K. Platt Sheet Metal & Heating	Natl Surety	LR 606 9815
Percy B. Saddoris Plumb & Heat	Royal Indemnity	603785
Carl B. Stowe	Fidelity & Dep of Md	52 27 639
Junk Dealers		
V. L. Ethington Iron & Metal	Western Surety	11-611-464
West Grand Junk Yard	Columbia Casualty	41 68 97
PLUMBING CONTRACTORS		
Lane & Co.	Royal Indemnity	558437
SECOND HAND DEALER		
Depot Second Hand Store	Royal Indemnity	592919
Wieker Cigar Store	Royal Indemnity	592887

It was moved by Councilman Lowe and seconded by Councilman Love that the license bonds be approved and filed. Motion carried. (6 Councilmen voted AYE)

PROP. ORD.

Zoning 160' So. side North Ave. fr 23rd to 28 Rd.

The following entitled 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 Lowe and seconded by Councilman Colescott that the ordinance be passed for publication. Motion carried. (6 Councilmen voted AYE)

PROP. ORD.

Storm Sewer #1 (Downtown Dist in Operation Foresight)

City Attorney Ashby presented the petitions for Storm Sewer District No. 1 to the Council for examination and reported that under the terms of the statute there were two primary findings that the Council needs to be considered with; that the petitions were signed by a majority of the tax-paying electors within the proposed district and that those electors own more than half of the assessed valuation in the district.

According to computations by Mr. Warner, the total assessed valuation of the area is \$7,443,720 and the assessed value of those who signed the petitions was \$4,736,300. This is a percentage of 63.6. There are in the district, 536 tax-paying electors of whom 289 signed which is a percentage of 53.4. The important thing is to be sure of a preponderance of the valuation in the district. On the electors, it is required that over 50% be secured. An effort was made to only get somewhere in the neighborhood of 52 or 53% of the tax-paying electors.

It was moved by Councilman Love and seconded by Councilman Hadden that the Council find:

1. That the petitions for the creation of Special Storm Sewer District No. 1, Grand Junction, Colorado, a general improvement district, are duly signed and presented in conformity with the provisions of Article IV, Chapter 89, Colorado Revised Statutes, 1953, as amended.

2. That the allegations of such petitions are true.

3. That said petitions are signed by a majority of the tax-paying electors in the district of the petitions, such signing tax-paying electors owning property, real and personal, in such district with an assessed valuation of more than one-half the total assessed valuation in the district. Motion carried (6 Voted AYE)

The following entitled proposed ordinance was presented and read: AN ORDINANCE ESTABLISHING "SPECIAL STORM SEWER DISTRICT NO. 1, GRAND JUNCTION, COLORADO, A GENERAL IMPROVEMENT DISTRICT" WITHIN A PART OF THE CITY OF GRAND JUNCTION, COLORADO, UNDER THE PROVISIONS OF ARTICLE IV, CHAPTER 89, COLORADO REVISED STATUTES, 1953, AS AMENDED.

It was moved by Councilman Wright and seconded by Councilman Colecott that the proposed ordinance be passed for publication. Motion carried. (6 Councilmen voted AYE)

#### HEARING

Roy E. & Bernadine Dinkins dba Flamingo Lounge, 201 Colo. (selling to minor) no action - to use caution

At this time, the hearing on the alleged liquor license violation (selling to minors) which had been set for hearing on January 3rd and postponed until this date was held. The following letter by Police Chief Karl Johnson was read by City Attorney Ashby.

January 17, 1962

"Mr. Joe Lacy  
City Manager  
Grand Junction, Colorado.

"Dear Sir,

"This will advise that on the 15th of December 1961 at approximately 1:25 AM Officers George Baxter and Deon Harris arrested Jose Andres Arguello at the Flamingo Lounge for purchasing liquor while under the legal age. The officers had observed Arguello go into the lounge and when he did not come out they went in to check on him since they knew him and knew that he was not 21 years of age. They found him sitting at the bar with a highball in his hands.

"The bartender, Doris Campbell, stated that she had served Arguello a drink and that he had also bought a drink for another patron. She stated that he had been coming into the bar for sometime and that she had been assured that he was old enough although she had not personally checked his identification.

"Mary Carson, who is also employed by the Flamingo Lounge, stated that she had checked Arguello's identification on several occasions when he first started coming into the bar and that it showed him to be over 21 years of age.

"Arguello admitted that he had been required to produce identification on several occasions before a drink was served to him and that he had produced false identification in the form of a driver's license and draft card which indicated his age to be more than 21 years. He further stated that after his identification had been established in this way that he had destroyed the false identification cards.

"Arguello was charged in Justice Court with using false identification for purposes of purchasing liquor. He entered a plea of guilty and was fined \$30.00.

"Following this court action Roy Dinkins, the licensee, and Doris Campbell, the bartender were charged with selling liquor to a minor. They were in court on 12/16/61 and after hearing all of the evidence, including Arguello's admission that he used false identification to establish his age, the judge ruled them to be Not Guilty and dismissed the case.

"This is the first time that this licensee has been charged with a violation of the Liquor Code. He has been in business in Grand Junction since 1953 during which time he has cooperated with the police department in an entirely satisfactory manner.

"This information is given for use by the City Council in its determination as to whether or not action should be taken against the licensee for failing to conduct his business in satisfactory manner.

"Respectfully yours,

"Signed (Karl M. Johnson)  
Chief of Police")

Mr. Arguello was present and upon being questioned by City Attorney Ashby admitted that he had been served drinks at the Flamingo Lounge; that he had used a driver's license and identification card belonging to a buddy of his to establish his identity at the Lounge and had later destroyed the papers. He stated that his birth date was May 31, 1941. Later, he left and returned with a baptismal record from St. Francis Church of Lumberton, New Mexico, dated July 8, 1941 which showed his birth date as May 31, 1941.

Mr. Chas. Traylor, Attorney for Mr. and Mrs. Dinkins, was present. He stated that when this matter first came to his attention, he found that it involved a question of legality, and that in fairness to his client, he had done considerable research on it and found that it involved a unique legal situation; that is, being that a person who is tried by Court and found not guilty can be brought before an administrative body by them to be questioned on whether or not a violation had been committed when the other body had already stated that there was no violation.

He also stated that previously there had apparently been some question about the boy's age in the Police Department records.

Mr. Traylor called upon Mary Carson who stated that she had worked for a year as a cocktail waitress and bartender at the Flamingo. She stated that he had on several occasions checked the descriptions given on the driver's license and identification card presented by Mr. Arguello and felt that they were accurate, but on the night of the infraction had not asked for identification as he was known; that Mr. and Mrs. Dinkins required their employees to check identifications very carefully every night.

Mr. Traylor then called Mrs. Campbell who stated that she had worked at the Flamingo for three years; that she knew that Mr. Arguello had been checked on different occasions before the night of the violation; that Mrs. Dinkins personally checks identifications and requires all employees to use every means to check them and that patrons had objected to being checked sometimes three times before they are served.

Officers George Baxter and Deon Harris were present and stated that the letter of Police Chief Johnson covered the case very well and they had nothing more to add.

President McCormick stated that he would like a little clarification on the law. It was his understanding that minors

would not be served liquor, not that the operator would check identification cards.

City Attorney Ashby stated that these are matters of mitigation which is involved in this case. The law is that you serve a minor at your peril. He agreed with Mr. Traylor that this is a unique case and they could find no law on it, or case that had been in the Supreme Court to serve as precedent. He had consulted with the Attorney General, and their interpretation of the liquor law was that there are two different remedies provided; one, a civil action before the Council even though it has a punitive effect and the other, a proceeding before the Justice of the Peace Court. In this particular case, he felt the Justice of the Peace was in error in what constitutes a violation in regard to serving minors. He stated the Council has the right to reprimand, to suspend or revoke the license or do nothing.

After discussion by the Council, Councilman Hadden stated that from the Police Chief's report on the conduct that has been apparent in the Flamingo Lounge, he could see no reason to doubt that they were not trying to do a good job and moved that there be no action taken, but that Mr. and Mrs. Dinkins be requested to continue to use every precaution possible to see that minors are not served drinks. Motion was seconded by Councilman Wright and carried. (6 Councilmen voted AYE) President McCormick stated that he hoped that in the future, the Council would not take the attitude that if identifications are checked and found faulty, that that is sufficient evidence for no conviction.

PROP. ORD.

Vacating Third St. So. of South Ave.

The following entitled proposed ordinance was presented and read: AN ORDINANCE VACATING THIRD STREET, SOUTH OF SOUTH AVENUE IN THE CITY OF GRAND JUNCTION, COLORADO. 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. 1146 Passed

Repealing Chapt 79 Sidewalk & Curb Constr

The Proof of Publication to the following entitled proposed ordinance was presented and read: AN ORDINANCE REPEALING CHAPTER 79 OF THE 1953 COMPILED ORDINANCES OF THE CITY OF GRAND JUNCTION, COLORADO, BEING ORDINANCE 167 AS AMENDED, SUCH CHAPTER BEING ENTITLED SIDEWALK AND CURB CONSTRUCTION AND PROVIDING FOR WIDTHS AND SPECIFICATIONS FOR CONSTRUCTION OF SIDEWALKS AND CURBS WITHIN THE CITY OF GRAND JUNCTION. It was moved by Councilman Wright and seconded by Councilman Colescott that the Proof of Publication be accepted and filed. Motion carried. (6 Councilmen voted AYE)

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

The ordinance was then read, and it was moved by Councilman Colescott and seconded by Councilman Lowe that it be passed, adopted, numbered 1146 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)

RESOL.

Sale of land next to Police Bldg to County for \$3,000 for Co. jail

The following Resolution was presented and read:

RESOLUTION

WHEREAS, the taxpaying electors of the City of Grand Junction, Mesa County, Colorado, have heretofore, on January

9, 1962, at an election, authorized and approved the sale of the real property hereinafter described to the County of Mesa, State of Colorado, for the sum of Three Thousand (\$3,000.00) Dollars, the results of such election having been canvassed and affirmed by the City Council of said City;

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

That J. M. Lacy, the City Manager of said City, be, and he is hereby, directed to execute a Warranty Deed from the City of Grand Junction to the County of Mesa, State of Colorado, as the act and deed of the said City, upon receipt of the sum of Three Thousand (\$3,000.00) Dollars; such deed conveying the following property situate in Mesa County, Colorado, to-wit:

Beginning at the Northeast corner of Lot 10 in Block 138, City of Grand Junction, Mesa County, Colorado, thence West 15.6 feet, thence South to a point which is 15.6 feet West of the Southeast corner of said Lot 10, thence East 23.1 feet, thence North to a point which is 7.5 feet East of the point of beginning, thence West to the point of beginning; such property is also described as the East 15.6 feet of Lot 10 in Block 138, City of Grand Junction, Mesa County, Colorado, and the West one-half of that vacated alleyway formerly lying immediately East of said Lot 10.

PASSED AND ADOPTED this 17th day of January, 1962.

\_\_\_\_\_  
Charles E. McCormick\President of the City Council

ATTEST:

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

It was moved by Councilman Colescott and seconded by Councilman Lowe 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. (6 Councilmen voted AYE)

#### PROPERTY

Authorize purchase Geo. Davidson Prop. 839 W Grand for \$10,000 & settle lawsuit

City Attorney Ashby reported that he had previously discussed the matter of a law suit by Geo. Davidson, 839 W. Grand Ave., for the sum of \$35,000 for damages caused by the alleged negligence of the City for the over-loading of a storm sewer and for damages suffered from odors alleged to have come from the westside sewage disposal plant over a period of years. He stated the City has negotiated on March 16, 1961 with Mr. Davidson on the sale of the property and offered him \$8,800 but Mr. Davidson had asked \$9,400. City Attorney Ashby stated that it was now his recommendation that the Council purchase the property for \$10,000, which in return therefor, the City would get the property and the suit which is at present in District Court would be dismissed with prejudice.

City Manager Lacy explained that the City had been buying property in this area and with purchase would fit into the block which it now has. The City has been using the land purchased during the past two years for the purpose of baling paper and will use more space for the nursery to grow plantings for use in Operation Foresight.

It was moved by Councilman Love and seconded by Councilman Lowe that the City Manager be authorized to purchase the Geo. Davidson property at 839 W. Grand for the sum of \$10,000. Roll was called on the motion with the following result: Councilmen voting AYE: Hadden, Love, Colescott, Lowe and President McCormick; Councilman voting NAY: Wright. A majority of Councilmen present voting AYE, the President declared the motion carried.



### CITY ATTY SALARY

\$9,000 yr - to pay own assist. as needed from this amt

City Attorney Ashby stated that he wished to discuss another matter that he had previously discussed with the Council. Since the resignation of Mr. Claussen, Deputy City Attorney, he had been drawing the full City Attorney's salary of \$750 a month. He stated that since he had worked both ways, he felt there were more advantages to his office and to the City if this arrangement could be continued, and he would hire assistance when he needed it out of his funds. This would be effective as of January 1, 1962.

Councilman Lowe stated that he personally thought this a more equitable arrangement as the Council looks to the City Attorney for advice and he should have the responsibility of hiring the kind of assistance he wished. Motion was seconded by Councilman Colescott and carried.

### SAN SR. DIST. #20

To adv for bids for constr 2-7-62

City Manager Lacy stated that he would like authorization to advertise for bids for the construction of Sanitary Sewer District #20; bids to be opened February 7, 1962. The hearing has been held and the district formed which will fit into the system. It was moved by Councilman Wright and seconded by Councilman Colescott that the City Manager be authorized to advertise for bids for the construction of Sanitary Sewer Dist. #20 with bids to be opened February 7, 1962. Motion carried.

### APPROPRIATE \$400

fr Contingency Fund for pamphlets to promote G.J. Operat. Foresight at L.A. Sport Show

City Manager Lacy stated that the City had been asked to assist in a project to promote Grand Junction and Western Colorado as a tourist attraction at the forthcoming Sports Show in Los Angeles. A group of businessmen have gotten a financial guarantee of a booth which will cost about \$4,000 at the Sport Show which will expose the grandeur and beauty of Western Colorado to approximately 400,000 people who will go to this sport show. The City's contribution would be \$400 to publish about 50,000 copies of a pamphlet on "Operation Foresight." There will be enough copies left over that could be used for distribution in other places as "Operation Foresight" is now receiving considerable recognition and this will increase as more national publications are carrying the story.

Councilman Wright stated that he felt this was a worth while expenditure and that it would return its cost many times to Grand Junction in the form of increased income from tourist travel and he moved that the Council authorize the payment of the sum of \$400 from the Contingency fund toward the printing of these pamphlets to be distributed at the Show and elsewhere. The motion was seconded by Councilman Hadden. Roll was called on the motion with all members of the Council present voting AYE. The President declared the motion carried.

### ADJOURNMENT

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

HELEN C. TOMLINSON\City Clerk  
By Blanche G. Stringer