

Grand Junction, Colorado

April 17, 1963

ROLL CALL

The City Council of the City of Grand Junction, Colorado, met in regular session at 7:30 p.m. April 17, 1963 in the Civic Auditorium of the City Hall. Councilmen present and answering roll call were Ray A. Meacham, Arthur Hadden, Chas. H. Love, Harry O. Colescott, Warren D. Lowe, Herbert M. Wright and President C. L. McCormick. Also present were City Manager Lacy, City Attorney Gerald J. Ashby and City Clerk Helen C. Tomlinson.

INVOCATION

The invocation was given by Rev. R. Ladd Graham, Pastor, Faith Baptist Church.

MINUTES

It was moved by Councilman Colescott and seconded by Councilman Lowe that the minutes of the regular meeting of the City Council of the City of Grand Junction held on April 3, 1963 be approved as written. Motion carried. (7 AYES)

SELLING FROM VEHICLES ON STREETS

CM to make report at next meeting

The matter of selling ice cream, popsicles, snow cones, food stuffs, etc. from small vehicles was brought up and discussed. Mr. Shultz, who operates the Dairy Don vehicle, has a food handler's license. The traffic ordinance, Chapt. 47, Section 184 (c), prohibits the sale of merchandise on the public right of way except by special permission of the City Council. Special permission of the City Council will be permitted for a maximum of seven days when conducted as a part of a promotional effort involving the majority of the retail business establishments.

Mr. Cruse had applied for a license to sell snow cones, etc. from a small three-wheel vehicle on the streets; therefore, this matter was brought to the attention of the City Attorney, Police Chief, City Clerk's Office and the City Manager. Mr. Shultz showed the Council the various licenses he has and his P.U.C. permit. City Manager Lacy suggested that it might be well if he would find out how similar operations are provided for in other cities and that he could have something on this by the next meeting of the Council.

MELROSE PARK

Approve P.I.A.B. Recommendation & \$1,750 for Rec. & playground equip.

At the meeting of the P.I.A.B. held April 9, 1963, Paul Swoboda outlined a proposal to buy nine pieces of playground equipment to be located in Melrose Park. These included large scale devices in the form of a space rocket, a submarine, special swings and slides, and spring-mounted animals, as well as types of revolving equipment. This equipment was to be paid for by three groups: \$1,750 from the City's 1963 Recreation budget; \$1,750 from the Lions' Club and \$1,750 from the P.I.A.B. funds. It was moved by Councilman Meacham and seconded by Councilman Wright that the action of the P.I.A.B. be ratified and the City Manager be authorized to pay the City's share for the proposed equipment to be placed in Melrose Park. Motion carried. (7 AYES)

SELLING ON STREETS

Req of Jr C of C referred to Festival Comm.

The Grand Junction Junior Chamber of Commerce requested permission to sell "Operation Foresight" stationery during the parades for the "Foresight" festival on May 17th and 18th. It was suggested that the J.C.'s contact the Festival Committee to get approval for this project; that whatever the Festival Committee wishes, the Council would go along with.

BOND APPROVED

It was moved by Councilman Lowe and seconded by Councilman Love that the bond of Lester J. Shepherd dba Credit Jewelry & Loans, 400 Colo. Ave., for a pawn broker's license be accepted and approved. Motion carried.

REPORT ON SEWAGE DISPOSAL PLANT ODOR LAWSUIT

Mr. Ashby, City Attorney, made a report to the Council concerning the settlement of a suit brought by 27 residents of the area adjacent to the west side sewage disposal plant. The suit was in the amount of something in excess of \$160,000, and was about ready to go to trial by jury. He stated his remarks were directed toward the settlement of the disputed claim and he did not intend to admit any liability on the part of the City.

Sometime ago an offer had been made to the 27 claimants to settle the suit for \$14,000. This was not found to be acceptable. In the meantime, he and Mr. George Graham (attorney hired to assist in the defense of this suit) have been checking and consulting with

the Engineering firm of Hennigan, Durham and Richardson, hired to investigate the plant. They also have continued efforts to make a compromise settlement which would be acceptable to the plaintiffs and to the City.

It is difficult to evaluate a case of this type, particularly when talking about trying a case before the jury. They finally have come up with a figure which should be favorable to the City. This is \$25,000 to be paid to the 27 plaintiffs and is in addition to the purchase of three pieces of land which the City does not presently own in this large block, for the City's appraised value of \$8,750. The \$14,000 offered did not include the purchase of any land.

Mr. Ashby and Mr. Graham have given considerable thought to this amount and approach and have considered facts, as they know them, going to a jury. It is their opinion that the amount awarded the plaintiffs would not be a lesser sum than that proposed for the settlement of the case. The Attorneys recommended to the Council that this settlement offer be approved by the Council; they will then proceed to do the things necessary to accomplish the settlement. Mr. Graham stated that no one could say in advance what the outcome might be in the trial of the case, but both he and Mr. Ashby feel that the basis for the lawsuit is sufficiently sound so that the determination of damage would be left to a jury, and that no doubt the figure proposed for settlement is within the reasonable bounds of a jury's final decision. He joined Mr. Ashby in recommending the settlement be made.

Councilman Wright asked if this settlement would resolve all present and future problems of this nature with these people.

Mr. Ashby stated that whatever unfavorable condition exists at the sewage disposal plant must be corrected as expeditiously as possible. The Council has hired a firm of engineers to recommend changes and these plans are about one-half complete at the present time. This will provide a guide for making the necessary corrections. If the condition which the plaintiffs claim exists is not remedied, the City is not protected against future suits. The Council, by this settlement, will be protected from suits by this group during the period when the corrections are being made. Some of the problems arose from the sludge beds but this is being corrected by burying all of the sludge. The term "reasonable time" has to be worked out, but the plaintiffs realize the problem and as long as the City acts as fast as possible, there should be no difficulty. This will be a factor considered in the settlement proceedings.

Councilman Lowe stated that he was concerned about the whole matter as the Council has felt that all along they were doing the right thing.

Mr. Ashby stated that the firm of Engineers which the City has employed state that they can guarantee if the work which they recommend is done, it will reduce the odor from any sewage disposal plant to that which can be termed "acceptable." Mr. Ashby assured the Council that he and Mr. Graham and City Manager Lacy feel that Hennigan, Durham and Richardson is a responsible engineering firm and if their recommendations are followed, the disposal plant can be improved so that it operates in a satisfactory manner. The tentative cost of the improvements will be about \$100,000.

Councilman Meacham asked about the possibility of other residents bringing suit against the City if the City admits liability in settling this case. Mr. Ashby stated that any suit would have to be filed on a nuisance charge, and that action from anyone else, if this suit is settled out of court, would not be maintained easily. The plaintiffs interest is mainly to see that conditions are improved.

Council concurred with settlement proposed by C.A.

It was moved by Councilman Hadden and seconded by Councilman Love that Council concur with settlement proposed by the City Attorney. Motion carried. (6 AYES)

CEMETERY

Vets Cem Assn req for more land at Cem to be put on ballot next reg. election 4-1965

City Manager Lacy reported that he had investigated the matter of giving the Veterans Cemetery Association land to enlarge their cemetery. He found that it would be impossible for the City to give land excepting by a vote of the people. Mr. Stocker was not in favor of giving all of the land which the Veterans Cemetery Association requested, as he had plans for improving it in the Orchard Mesa Cemetery development. It was moved by Councilman Wright and seconded by Councilman Meacham that this matter be placed on the ballot at the regular municipal election held in April, 1965. Motion carried. (7 AYES)

DOGS

Councilman Meacham brought up the matter of turning dogs loose at night. It was suggested that the Dog Catcher work at night part of the time.

RESTROOMS

Councilman Colescott requested that the park restrooms be locked at night.

ADJOURNMENT

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

/s/Helen C. Tomlinson
City Clerk

BOYS & GIRLS CITY-COUNTY DAY

This was Boys and Girls City and County Government Day, and the appointed Council, Clerk, Attorney and Manager took over. The students discussed vandalism, and what they would like to have in the way of student recreation.