

Grand Junction, Colorado

September 15, 1965

**ROLL CALL**

The City Council of the City of Grand Junction, Colorado, met in regular session at 7:30 o'clock P. M., September 15, 1965, in the Civic Auditorium at City Hall. Councilmen present and answering roll call were Charles E. McCormick, R. B. Evans, Charles H. Love, Harry O. Colescott, Dr. Hurst F. Otto, Herbert M. Wright and President Ray A. Meacham. Also present were City Attorney Gerald J. Ashby, City Manager J. M. Lacy and City Clerk Helen C. Tomlinson.

**INVOCATION**

The invocation was given by Rev. Howard Manning, Presbyterian Board of National Missions.

**MINUTES**

It was moved by Councilman Wright and seconded by Councilman McCormick that the minutes of the regular meeting held September 1, 1965 be approved as written. Motion carried. (7 AYES)

**HEARING - REQUEST OF MOOSE LODGE #1270 TO MOVE LIQUOR LICENSE TO AMERICAN LEGION BUILDING, 2844 NORTH AVENUE - GRANTED**

This was the date set for hearing on the application of Loyal Order of Moose Lodge No. 270 to move their Club liquor license from 202 Belford Avenue to 2884 North Avenue, the American Legion Building. A letter from Chief of Police Karl Johnson was read calling attention to the statute which states that the applicant will have exclusive control of the premises and that there can be no joint tenancy with other organizations. A copy of the lease agreement between the Moose Lodge and the American Legion was presented to the Council.

City Attorney Ashby stated that on the nights the various Legion meetings were held in their rooms, the bar should be closed. That this would be a matter of policing. There were no protests or petitions presented concerning the granting of the license.

It was moved by Councilman Wright and seconded by Councilman Love that the license be granted when the State license has been received. Motion carried. (7 AYES)

**3.2 BEER RENEWAL - EUGENE D. & MARY B. ERICKSON DBA SOUTHSIDE GROCERY, 832 S. 7TH STREET - APPROVED**

An application for renewal of 3.2 beer license was presented by Eugene D. and Mary B. Erickson dba Southside Grocery, 832 So. 7th

Street. A letter from the Chief of Police stated he had no objections to the granting of the license. It was moved by Councilman Colescott and seconded by Councilman Wright that the license he granted when the State license has been received. Motion carried. (7 AYES)

**HEARING (Informal) - 1966 BUDGET**

This date had been advertised for a public hearing on the 1966 City budget. No one appeared before the Council. President Meacham closed the hearing. (7 AYES)

**BOARD OF ADJUSTMENT - APPOINT WARREN TURNER AND E.H. SETTLE FOR THREE-YEAR TERMS (TO 10-1-1968)**

The terms of Warren Turner and E. H. Settle on the Board of Adjustment will expire on October 1st, 1965. President Meacham stated that both men had agreed to serve for another three year term. He commended the Board for doing an excellent job and stated that he would appoint Messrs. Turner and Settle as members of the Board of Adjustment for three years beginning October 1st. It was moved by Councilman McCormick and seconded by Councilman Otto that the Council ratify the appointment of Messrs. Turner and Settle. Motion carried. (7 AYES)

**BONDS APPROVED**

It was moved by Councilman McCormick and seconded by-Councilman Colescott that the following bonds, being on the approved forms, be accepted and filed:

Gen Contractor	Wm. B. Schumann	Peerless Ins 35 04 02	#200
Spec Contractor	Albert Klassen	Natl Surety LR6126394	199
"	"	Chester Jennings	Transamerica Ins

201

Motion carried. (7 AYES)

**TRAFFIC - MESA COLLEGE PROTESTS USE OF 12TH STREET AS TRUCK ROUTE**

A letter from Mesa College Board stated the Board had discussed the possible use of 12th Street as a truck route to and from Interstate 70. The College does not favor the use of 12th Street as a truck route as the increased noise and traffic hazards would adversely affect the College operation.

City Manager Lacy explained that 12th Street is not designated as a truck route. There are "no truck" signs posted on the North side of North Avenue warning truck drivers not to use 12th Street, 7th Street, 5th Street, 1st Street and 23rd Street as truck routes. Cement mixers and local construction vehicles use these streets which is permissible under our ordinances. It is not contemplated that 12th St. will be designated as a "truck

route" for through trucks. Some signs are being prepared for use at Interstate 70, which would indicate that the exit for trucks is at the Clifton Interchange. Mr. Lacy also stated that truckers could be picked up for using 12th Street as a through truck route and that individuals could also complain and appear against anyone violating this rule. The City will adhere to the wishes of the College Board. President Meacham stated that the College could be assured of the co-operation of the Council in this matter.

**PETITION - GJ LIQUOR DEALERS ASSOCIATION REQUEST REMOVAL OF OCCUPATIONAL TAX - NOT GRANTED**

A petition signed by many of the members of the Grand Junction Liquor Dealers Association was presented. This petition requested that the Council repeal the ordinance requiring liquor dealers to pay an occupational tax and stating for their grounds that the sales tax on liquor brings in more money than the occupational tax. City Manager Lacy reminded the Council of a Memo which had been sent to them earlier in the year concerning policies on beer and liquor licenses. At this time a survey was made as to charges for occupational taxes in other cities in Colorado. Grand Junction's fees are among the lowest in the State. This also holds true in cities which have a sales tax. Councilman McCormick stated that he believed that if the occupational tax was justified when it was passed, it was still good as sales tax is paid on everything else, and the position of the liquor dealer hasn't changed.

Councilman Wright stated that this is not for revenue altogether, but to help defray the expenses of policing liquor establishments. It was moved by Councilman Colescott and seconded by Councilman Wright that the petition be accepted and approved. Roll was called on the motion with all members of the Council voting "NAY." The President declared the motion lost, and stated that the occupational tax would remain as it is for the present.

Councilman Colescott then suggested that consideration be given to raising the fees for the occupational tax, and City Manager Lacy stated that the Municipal League is getting information on fees as charged at the present time. This may be considered later when further consideration is given to the 1966 budget.

**ORDINANCE NO. 1217-ZONING MAP - 27TH & ORCHARD & BLOCKS 1 & 2, CRAWFORD'S ADDITION**

The Proof of Publication to the following entitled proposed ordinance was presented and read: AN ORDINANCE AMENDING THE ZONING MAP, A PART OF CHAPTER 83 OF THE 1953 COMPILED ORDINANCES OF THE CITY OF THE CITY OF GRAND JUNCTION, BY CHANGING THE ZONING OF CERTAIN LOTS AND PARCELS OF LAND WITHIN THE CITY. It was moved by Councilman Colescott and seconded by

Councilman Wright that the Proof of Publication be accepted and filed. Motion carried. (7 AYES)

It was moved by Councilman Wright and seconded by Councilman Love that the ordinance be called up for final passage. Motion carried. (7)

The Ordinance was then read, and it was moved by Councilman Wright and seconded by Councilman Evans that the Ordinance be passed and adopted as read, numbered 1217 and ordered published.

Roll was called on the motion with all members of the Council voting AYE. The President declared the motion carried. (7 AYES)

#### **ORDINANCE NO. 1218 - ZONING TEXT CHANGES**

The Proof of Publication to the following entitled proposed ordinance was presented and read: AN ORDINANCE AMENDING CHAPTER 83 OF THE 1953 COMPILED ORDINANCES OF THE CITY OF GRAND JUNCTION, THE SAME BEING THE ZONING ORDINANCE OF THE CITY. It was moved by Councilman Colescott and seconded by Councilman Otto that the Proof of Publication be accepted and filed. Motion carried. (7 AYES)

It was moved by Councilman Wright and seconded by Councilman Love that the ordinance be called up for final passage. Motion carried. (7)

The Ordinance was then read, and it was moved by Councilman Love and seconded by Councilman Evans that the Ordinance be passed and adopted as read, numbered 1218 and ordered published. Roll was called on the motion with all members of the Council voting AYE.

The President declared the motion carried. (7 AYES)

#### **CABLE TV**

City Attorney Ashby reported that he had considered the letter and proposal of the Mt. States Telephone Company to provide cable television for community and educational channels to the City of Grand, Junction. He presented the following opinion:

"COUNCIL MEMO #35-65

September 13, 1965

SUBJECT: THE TELEPHONE COMPANY AND CABLE TV

The Council has requested that I give a legal opinion on the right of the Mountain States Telephone and Telegraph Company to install a cable television system within the City without resorting to an election either under the franchise sections of the City Charter or the revocable permit section of the Charter as it applies to cable television. In my opinion the company does not have that right.

It is the contention of the company that such right arises under

Article XXV of the Colorado Constitution and under Section 50-5-1 Colorado Revised Statutes 1963. It should be noted that we are here being faced with a different problem than previously, in that, before we have been discussing the matter with cable television companies, which so far have not been designated as public utilities, while presently, we are confronted with a public utility under laws and regulations broader in scope and more definitive in nature.

Chapter 50-5-1, Colorado Revised Statutes 1963, gives public utilities rights in public highways within the state. Section 50-5-8 provides that these rights be exercised in cities and towns only after the consent of the municipal authorities has been obtained. Article XXV of the Colorado Constitution is an amendment to the Constitution providing that public utilities shall be under state control rather than local control as to rates, facilities, etc.; but, in my opinion, it is not helpful here because it did not give public utilities any broader rights in cities and towns but merely relieved them from control of the cities and towns in the areas mentioned in the Article.

In 1915 the company secured a consent to install within the City of Grand Junction facilities that would provide telephone service. This was done by a revocable permit which required no vote of approval by the electorate. The company has then a consent for telephone services. In 1961 an amendment to the Charter of the city was approved by the voters of the city requiring that the question of the granting of a revocable permit for the use of the city's streets and alleys for the installation of a cable television system be submitted to the electorate for approval. This amendment to the Charter would seem consistent with that requiring a vote for a franchise for the same purpose, and, in my opinion, can be upheld as a legitimate exercise of control by the electors.

The Telephone company then, in the absence of other factors, should be required to approach cable television in the same way as those other companies seeking to bring the system into the city.

It is contended that the cable television system being offered is nothing more than an extension of the communication right or consent the Telephone company already has. I do not pretend to be an expert in the field, and I find no law in Colorado on this point. It would appear that this would be a matter which could be determined by our Courts.

Respectfully submitted,

/s/ Gerald J. Ashby, City Attorney"

City Attorney Ashby stated that he would communicate his opinion to the Mt. States Telephone Company. City Manager Lacy

stated that the City Council is not responsible for the fact that Cable TV proposals must be submitted to the taxpaying electors of the City for a vote. In 1961, a petition was signed by enough of the residents of the City to put a charter provision on the ballot providing that Cable TV proposals must be voted upon regardless of whether they are to be granted by franchise or revocable permit. This passed by a majority vote of the voters.

All proposals since have been voted on and turned down by the people. The Council has no choice but to submit any proposal' requested to a vote of the people. Elections must be paid for by those who want a franchise or revocable permit to serve cable TV to the people.

**DITCH ON 15TH STREET - RESOLUTION DECLARING NUISANCE SO IT CAN BE CLOSED**

The following Resolution was presented and read:

R E S O L U T I O N

WHEREAS, the open irrigation ditch on 15th Street in the City of Grand Junction, in the segment from North Avenue to Orchard Avenue, has and continues to create problems through overflowing and through being a hazard to safety and interferes with the orderly development of 15th Street;

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

That under the authority and direction of Chapter 78 of the 1953 Compiled Ordinances of the City of Grand Junction said portion of ditch is declared to be a nuisance and it is ordered closed under the provisions and in the manner prescribed by said Chapter.

PASSED AND ADOPTED this 15th day of September, 1965.

President of the Council

ATTEST:

City Clerk

It was moved by Councilman McCormick and seconded by Councilman Otto that the Resolution be passed and adopted as read. Roll was called on the motion with all members of the Council voting AYE. The President declared the motion carried. (7 AYES)

**OPERATION FORESIGHT - LITTLEFIELD, TEXAS, USES CONCEPT**

Councilman Love reported that he had attended a celebration in Littlefield, Texas, upon completion of improvements to their Main Street. This is similar to our Shopping Park with the exception that the street is straight instead of winding. The people of

Littlefield were most generous in giving Grand Junction credit for the idea.

**STUDENTS**

President Meacham welcomed the students from Central High School

**ADJOURNMENT**

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

/s/ Helen C. Tomlinson  
City Clerk

After adjournment, the Council reconvened as Ex Officio the Board of Directors of GJ General Improvement District No. 1 for Storm Sewers

(See Book 28 for minutes)

After adjournment, the Council met with the Employees Representatives Committee.