

Grand Junction, Colorado

July 5, 1973

ROLL CALL

The City Council of the City of Grand Junction, Colorado, met in regular session at 7:30 p.m. July 5, 1973, in the Civic Auditorium at City Hall. Present for roll call were President of the Council Stanley Anderson, Councilmen Harry Colescott, Silas Grantham, Lawrence Kozisek, Elvin Tufly, and Robert Van Houten. Councilwoman Jane Quimby was absent. Also present were City Attorney Gerald Ashby, City Manager Harvey Rose, and City Clerk Neva Lockhart.

MINUTES

There being no corrections or additions to the Regular Council Minutes of June 20, 1973, Councilman Tufly moved that the Minutes be approved as written, which motion was seconded by Councilman Grantham and said motion carried unanimously.

ORDINANCE NO. 1461 - GOODWILL ANNEXATION

Goodwill Annexation is bounded on the west by 28 3/8 Road, on the east by 28 1/2 Road, Gunnison Avenue to the north and to the south of Highway 6 and 24.

The Proof of Publication to the following entitled proposed ordinance was presented and read: AN ORDINANCE ANNEXING TERRITORY TO THE CITY OF GRAND JUNCTION, COLORADO. It was moved by Councilman Colescott and seconded by Councilman Kozisek that the Proof of Publication be accepted and filed. Motion carried.

It was moved by Councilman Kozisek and seconded by Councilman Grantham that the proposed ordinance be called up for final passage and read. Motion carried.

The ordinance was read. There being no comments, it was moved by Councilman Kozisek and seconded by Councilman Tufly that the ordinance be passed, adopted, numbered 1461 and ordered published. Roll was called upon the motion with all Councilmen present voting AYE. The President declared the motion carried.

RESOLUTION - AUTHORIZE SALE OF 17.622 ACRES IN KANNAH CREEK TO GENE ALEXANDER - \$1057.32

At the regular City Council meeting on August 2, 1972, Mr. Gene Alexander appeared before the Council and asked to purchase approximately 10 acres of land located west of the Girl Scout Camp and south of the Highline Ditch bordering the Kannah Creek Intake Road. At this time Council authorized the City Administration to do an evaluation study of the property in

question, and at the October 18, 1972, Council meeting Council authorized the City Manager to get an appraisal. The appraisal was presented to Council on November 15, 1972, and listed the property at \$60 an acre. At this time Council directed that the sale proceed subject to Senate Bill 35, and reserving the water rights and mineral rights to the City, allowing a water tap to the City Flow Line and the presentation by the Alexanders of the metes and bounds of the property by a registered land surveyor. The Alexanders have now presented the Land Surveyor's Certificate and are ready to complete the transaction. The following Resolution was presented and read:

R E S O L U T I O N

WHEREAS, GENE PAUL ALEXANDER and SUSAN ALEXANDER, have offered to purchase the property hereinafter described from the City of Grand Junction for the sum of one Thousand Fifty Seven and 32/100 Dollars (\$1,057.32); and

WHEREAS, said property is not used or held for park or governmental purposes, and the sale of said property for the price stated would be in the best interest of the City and its inhabitants;

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

That the City Manager, as the act of the City and on behalf of the City, be, and he is hereby, authorized to convey by Warranty Deed to GENE PAUL ALEXANDER and SUSAN ALEXANDER upon receipt of the purchase price, the following real property owned by the City of Grand Junction and described as follows:

That part of Tract 47 of Section 33, Township 12 South, Range 97 West, 6th P.M., being described as follows: Beginning North 00° 02' West 598.50 feet from the Southwest corner of said Tract 47, thence North 00° 02' West 704.81 feet, thence North 72° 45' 50" East 1134.52 feet, thence South 10° 02' 40" East 572.67 feet, thence South 65° 58' West 1228.54 feet, thence North 69° 08' West 65.28 feet to the point of beginning; said tract contains 17.622 acres, more or less. All in Mesa County, Colorado; reserving unto the grantor all oil, gas and mineral rights.

PASSED and ADOPTED this 5th day of July, 1973.

President of the Council

ATTEST:

City Clerk

It was moved by Councilman Kozisek and seconded by Councilman Grantham that the Resolution be passed and adopted as read. Roll

was called upon the motion with all Council members present voting AYE. The President declared the motion carried and the Resolution duly passed and adopted.

WATER - ASSIGNMENT OF KENNETH JOHNSON LEASE TO R.E. WHITING & SONS

It was moved by Councilman Kozisek and seconded by Councilman Grantham that the Assignment of the Lease Agreement between the City and Kenneth Johnson dated January 20, 1972, to R. E. Whiting & Sons be approved and the City Manager authorized to sign the Assignment of Lease. Motion carried.

RESOLUTION CONCERNING OPERATION AND MAINTENANCE AT WALKER FIELD

City Attorney Ashby said that at the time of the original issue of the revenue bonds, Boettcher and Company requested a Covenant from both the City and the County that in the event the revenues at the Airport were not sufficient to meet both debt service and the operation and maintenance that they would come up with the money necessary to operate and maintain the Airport. At the time of the litigation, the question was raised as to whether or not this was a pledge of credit in violation of the Constitution and whether or not it was a debt which would exceed the Airport's debt limit. Mr. Ashby continued that the Supreme Court did not decide this issue saying that it was premature and that they would not decide it until such time as the condition arose. He noted that the projected revenues from the Airport, at least on the basis of the payoff of the revenue bonds, are more than adequate to meet both the debt service and the cost of operation and maintenance. He said that when the bonds were reissued (they were reissued because of the fact that the original issue which had called for an additional \$200,000 would no longer support that \$200,000 because of the lapse of time involved), Boettcher again wanted the same statement for these particular bonds. Mr. Ashby advised that in the event suit is brought and in the event this particular Resolution is declared improper, it is his opinion that it would not be the City Council or the County Commissioners who would suffer therefrom; it would be the bond holders or Boettcher. However, this is something that Boettcher and company still feels is of value, and Mr. Ashby said it is of value as it permits us to maintain as a reserve against the payoff of these bonds a much lesser amount than we would otherwise have to maintain. It also permits the Authority to issue parity revenue bonds at a much lower figure than it would otherwise be able to do.

Councilman Colescott said that the City was very happy when the County came in on the support of the Airport some years ago. He noted the Airport is very necessary, and he feels it is more self-sustaining now than ever before. He feels there should be no hesitation in the support of the Airport.

The following Resolution was presented and read:

R E S O L U T I O N

WHEREAS, through joint action with the BOARD OF COUNTY COMMISSIONERS OF MESA COUNTY, the CITY COUNCIL OF THE CITY OF GRAND JUNCTION has acted to create the WALKER FIELD, COLORADO, PUBLIC AIRPORT AUTHORITY as a method for providing financing for required improvements at Walker Field, an airport formerly operated by the City and the County jointly; and

WHEREAS, the City and County consider the Authority a necessary and permitted extension of said City and County to permit a better operational status for the airport, which airport, both agree, is vital for the continued benefit of the residents of the two communities; and

WHEREAS, Boettcher and Company, the fiscal agent for Walker Field, Colorado, Public Airport Authority, has suggested the adoption of a Resolution of commitment of funds for the operation and maintenance of Walker Field by the County and City in the event the total revenues of the airport are insufficient to meet both the debt service for the retirement of airport authority revenue bonds issued for the purpose of runway extension and related projects and operation and maintenance, although present and projected revenues are indicated as sufficient to carry debt service and operation and maintenance and

WHEREAS, such commitment would permit a material reduction in bond reserve required in connection with such bond issue, and would permit a much lower airport revenue to provide a base for the issuance of further bonds as needed on a parity with the bonds for runway extension, and would be no more than was previously done by the City and County in the realization that the airport must be continued in operation;

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

1. That the City of Grand Junction, State of Colorado, does hereby covenant and agree that it will, together with the County of Mesa, State of Colorado, contribute funds to the extent necessary for the efficient and economical operation of the airport facilities and related facilities.

2. That this covenant and agreement shall extend to the purchasers of those bonds issued for the purpose of runway extension and related improvements by Walker Field, Colorado, Public Airport Authority, and such covenant and agreement shall extend during the term of those bonds, unless extended by the entities involved.

PASSED AND ADOPTED this 5th day of July, 1973.

President of the Council

ATTEST:

City Clerk

President Anderson said he agreed with Councilman Colescott in that if the Airport should get into trouble, it would have to be supported by someone as the Airport is absolutely essential to the economic well-being of the valley. He added, however, that the fact of the adoption of the Resolution is coming up again would bring this to the attention of those who were opposed previously. He said that he just doesn't want to always be putting the City in the position of defending its action as he feels the City has better things to do.

It was moved by Councilman Colescott and seconded by Councilman Grantham that the Resolution be passed and adopted as read. Roll was called upon the motion with all Council members present voting AYE. The President declared the motion carried and the Resolution duly passed and adopted.

LIQUOR LICENSE - APPLICATION BY ROBERT C. MILLER, 5TH STREET  
MERCANTILE, 1630 HWY 50 - RECONSIDERED

City Attorney Ashby said that Mr. Miller's primary contention about the petition in opposition to the transfer of his liquor license was that things were improperly represented to the signers of that particular petition. Mr. Ashby said he felt that Council recognized at that time that the circulators of the petition in opposition did not do Mr. Miller any favors. Shortly before the last Council meeting and at a time when it could not be brought before the last meeting, a petition for reconsideration was brought in which listed two points:

1. That careful examination of the petition circulated by John E. Murray shows that certain individuals do not live at the addresses listed on said petition and in fact live out of the surrounding area in question and thereafter listed the names).
2. That it is apparent from careful examination of the petition that many people have signed for a spouse (and thereafter listed the names).

The petition for reconsideration continued that it would appear that the sentiment of the neighborhood is not nearly as opposed to the transfer of said liquor license as it initially appeared and reconsideration is respectfully requested.

Mr. Ashby said that he had Mr. Ed White do a computation, some by way of his own investigation in looking at the petition, and some in reference to the statements that were made in regard to the petition. As a result of that, he came up with the figure...107

persons should be recognized as signers of the said petition; 73 signers of said petition as living in the immediate area, and 34 signers as living outside the immediate area. The 73 in the immediate area is 6 more than the people who signed the petition in favor of the transfer of the license who did live in the immediate neighborhood. So the preponderance is still on the immediate area opposed to the granting of the license. Mr. Ashby continued that this does not resolve what was said at the time either of the petitions was circulated and it is on this basis they have requested the submission of the request for reconsideration. Mr. Ashby advised that Council could always reconsider a decision and that it was proper to do so.

Council agreed that this petition was not the only thing that had a bearing on its denial of the transfer of the license, but the petition opposing was the one thing to which it could point a finger and say "see, the neighborhood says they do not want it." Councilman Tufly noted, however, the needs of the neighborhood are awfully hard to determine. He asked where do you set the limit on the need of the neighborhood. If a guy can sell it and make a buck, there must be a need there. He noted that the people who appeared at the meeting that night were pretty prejudiced against Mr. Miller. Councilman Tufly asked if there would be a possibility of the City circulating a petition to get a true gauge of feeling in that neighborhood.

Mr. Ashby said it could and that he would suggest that on all future applications the City should circulate the Petitions. He noted that at one time the City did this, but stopped after the Freeway Bowl application a few years ago because the judge made a few remarks in regard to that case that indicated he didn't think the City having that petition circulated was so hot either. However, Mr. Ashby said he feels this is what the City must now go back to if the Council is going to have any fair idea of what is being said when the petition is circulated.

Councilman Tufly suggested that the City should start with this particular case as the only fair thing to do and reschedule a hearing. He said that he doubted whether any of the opponents knew that this was scheduled for this evening. Mr. Ashby said this was not intended to be submitted in quite that manner. If Council had based its decision to deny the transfer of the license solely on the basis of the preponderance of signers of the petition opposing, then it could reconsider its decision if it chose to change its mind and order the license issued. He noted that Council could always reconsider any action without any particular hearing. Councilman Van Houten said he would interpret that to mean that if you come back after a decision has been made, you are in essence holding another hearing. Mr. Ashby said it could be done either way. The City can order an independent survey and schedule another hearing or it could reconsider its actions tonight. Councilman Tufly asked if reconsidering this case would be setting a precedent in that

Council might be setting up a "Court of Appeals" type of thing and that hereafter Council might be hit every two or three weeks to reconsider its action.

Councilman Van Houten said that Mr. Miller visited with him this afternoon on this particular subject and he (Van Houten) had spoken his views quite plainly with no apologies whatsoever. He told Mr. Miller he had weighed the information from the hearing, from the people who were present and spoke, the people who had signed the petition, and in his own opinion the location did not particularly appeal to him, being right on a main highway with no reasonable means of access. On this basis, he had told Mr. Miller that as far as he was concerned he would continue to be opposed.

Mr. Ashby advised Council that probably in any liquor application there are two neighborhoods. There is that neighborhood that would be most immediately affected by the license itself which would be within a couple of blocks of the location, and there is that general neighborhood that a place is going to draw from. He noted that Teddy's draws from the immediate neighborhood and also from kids who live in Fruita and elsewhere within the City.

There was a discussion at this point about the regulating and control of the issuance of licenses. Mr. Ashby advised there are no hard and fast rules. He noted that a few years ago Colorado Springs tried to control the issuance of a license at so many per thousand people and the State Supreme Court ruled that the City could not do that. Each application must be considered. The Zoning ordinance does control locations to a certain extent.

Councilman Grantham suggested that Mr. Ashby contact Mr. Miller and ask him if he would bear the expense so the City could do an independent survey of the neighborhood and reschedule a hearing for reconsideration. He felt this would be the only fair thing to do. Councilman Kozisek agreed.

Councilman Van Houten stated that if this Council reconsiders this on that basis it is just opening the door to somebody to come in here and give you a petition, turn around, and if they find out what happens to that petition, and then go out and do anything they feel necessary for a resubmission and ask it be heard all over again. He felt this was opening the door to a pile of snakes. Mr. Ashby noted the City would be having the petitions circulated. Councilman Van Houten said that if the petition doesn't come out right, then said that if that permit doesn't come out right, then the Council has already opened the door for some other approach, to come back in and ask for a rehearing. He continued that when Mr. Miller presented his application he should have had his house in order. Councilman Van Houten moved that this Council not rehear or reconsider this application for transfer of Robert C. Miller's liquor license to

that particular location which is 1630 Highway 50. Councilman Colescott seconded. Council Policy hereafter will be that the City will have the petitions circulated by an independent party and that the applicant will pay the charges. Councilman Kozisek commented that what Council is saying here is that future applicants had better do their homework. Councilman Van Houten stated he agreed and that in this particular instance the homework was not properly done. Councilman Grantham said that if it wasn't, why can't the applicant resubmit. Councilman Van Houten stated that if you do you open the door to everybody not doing his homework and coming back two weeks later and asking for a rehearing. Mr. Robert Miller came before the Council at this time and stated that his homework was done, but that Council had some wool pulled over its eyes because the gentleman who presented the petitions against him had some names on his petition that should not have been there. He stated that if Mr. Van Houten would check his (Mr. Miller's) petition, he would find that every one of the people who signed his petition lives in that area. Roll was called on the motion with Councilman Grantham and Councilman Tufly voting NO. Councilman Van Houten addressed Mr. Miller: "As I told you this afternoon, I have no axe to grind and I think perhaps a petition at a different location might be more generally accepted. I cannot speak for the Council, but I can speak for myself."

Mr. Miller stated that he had spent 30 days doing his homework. However, he felt Council's decision was influenced by people who had signed the petition as living in the neighborhood though actually living outside. He noted his 240 signers outside the area. Mr. Miller stated that when a man will go around and circulate a petition and use false pretenses to get the petition signed, then something should be done about that. Councilman Van Houten stated that Council realizes that and something will be done about it. Mr. Miller then asked why Mr. Van Houten kept saying "get your house in order." Councilman Van Houten said that perhaps he misspoke on that and that if he did, he was sorry.

#### WATER AND SEWER TAP FEES - DISCUSS CHARGES

City Manager Rose discussed the water and sewer tap fees presently being charged by the City of Grand Junction. Mr. Rose noted that the water tap fees were established in 1966, and that at the present time the actual cost for a 5/8" tap is \$245. The sewer tap fee for 1 inch or less water service size is \$800 which was established in May of 1970. This \$800 reflects a \$650 capital improvement charge plus a \$150 plant investment fee. Mr. Rose noted that water tap fees are pretty stable with regard to the actual cost, however, the sewer tap costs have come up drastically. The actual cost for sewer taps in Sanitary Sewer District 22-71 was \$1,095 per tap. Mr. Rose recommended that Council should consider \$1200 per tap as a more reasonable fee. Mr. Rose noted that the City's utility fees are frozen during

this particular time, and that the freeze would be lifted before the City could get an exemption ruling from the internal Revenue Service. Therefore, this information was given so Council could consider it. and later it will be brought back for action.

FEDERAL FLOOD INSURANCE PROGRAM - PLAN B - RESOLUTION - TABLED

The following Resolution was presented and read:

R E S O L U T I O N

WHEREAS, The City of Grand Junction has adopted and is enforcing the Uniform Building Code; and

WHEREAS, Chapter 3, Section 301 (A) of the Uniform Building Code as adopted by the City of Grand Junction, Colorado, prohibits any person, firm or corporation from erecting, constructing, enlarging, altering, repairing, improving, moving or demolishing any building or structure without first obtaining a separate building permit for each building or structure from the Building Department; and

WHEREAS, The Building Inspectors must examine all plans and specifications for the proposed construction when application is made to them for a building permit;

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

1. That the Building Department for Mesa County and the City of Grand Junction, Colorado, when reviewing applications for building permits, including the plans and specifications for the proposed construction, will review all building permit applications to determine if the proposed construction is consistent with the need to minimize flood damage.

2. That the Building Department shall review, all building permit applications to determine if the site of the proposed construction is reasonably safe from flooding and to make recommendations for construction in all locations which have flood hazards.

3. That the Building Department in reviewing all applications for construction in flood hazard locations within the City or County shall require that any such proposed construction must:

a. Be designed and anchored to prevent the flotation, collapse or lateral movement of the structure or portions of the structure due to flooding.

b. Use of construction materials and utility equipment that are resistant to flood damage.

c. Use of construction methods and practices that will minimize

flood damage.

d. Provide adequate drainage in order to reduce exposure to flood hazards.

e. Locate public utilities and facilities on the site in such a manner as to be elevated and constructed to minimize or eliminate flood damage, such utilities and facilities including sewer, gas, electrical and water systems.

4. It is further resolved that the Building Department in reviewing all subdivision applications shall make findings of fact and determine if:

a. All such proposed developments are consistent with the need to minimize flood damage.

b. Adequate drainage is provided so as to reduce exposure to flood hazards.

c. Adequate drainage is provided so as not to increase the exposure to flood hazards of adjacent lands.

d. All public utilities and facilities are located, elevated and constructed so as to minimize or eliminate flood damage, these utilities and facilities to include sewer, gas, electrical and water systems.

PASSED and ADOPTED this                      day of                      1973  
(tabled)

President of the Council

ATTEST:

City Clerk

Council questioned the area delineated as the Flood Plain Area and felt it did not wish to adopt this Resolution until a map and the adoption of the Flood Plain Zone for the Grand Junction area has been presented. It was moved by Councilman Colescott and seconded by Councilman Kozisek that the Resolution be tabled until such time as the Flood Plain area and the Flood Plain Zone has been presented for consideration. Motion carried.

POLICE - REVIEW CONSTRUCTION PROGRAM

Mr. Pat Dwyer of Nelson, Haley, Patterson, and Quirk, architects for the proposed construction plans for the Review construction Police Department building, and Chief of Police Karl Johnson reviewed the plans with Council. The timetable is tentatively

set to call for bids on July 24 and would be under construction the first part of August this year. Mr. Dwyer felt that construction on this facility would be completed by the end of October, the first of November. Consensus of Council was to go ahead with the project as soon as possible.

CURB, GUTTER SIDEWALK REPAIR - 1973 - NO BIDS RECEIVED

City Manager Rose reported there were no bidders for the 1973 curb, gutter, and sidewalk repair job for this year. He suggested this project could be rebid in September or it could be held over and combined with next year's project.

GASOLINE - DISCUSS SHORTAGE OF

City Manager Rose reported that the gas shortage has hit the Grand Junction area and noted certain steps taken by the City to control the usage by City vehicles. He said the City is restricting outside users such as Head Start Program. The Fire and Police Departments will have priority use. Vehicles are now required to shut down when they are at job sites. He said the City has been fortunate this year in that it is getting 100% of last year's usage. The reopening of Gilsonite may be helpful. He indicated this is something that will be discussed more fully at budget time.

WATER - CARSON LAKE RESERVOIR - VANDALS LET WATER OUT

Al Wing has reported to the Administration that some vandals had lowered the gate at Carson Reservoir allowing the water to run out. Mr. Rose said this caused no problem this year as there is more than enough water, but it could be very bad during a dry year. He is instructing Mr. Wing to go back and put additional padlocks on the gates and in general tighten up the security in an attempt to keep this from happening again.

COUNCIL TO HOLD RAP SESSIONS

Councilman Kozisek said he feels Council is getting some very good input from the rap sessions.

ADJOURNMENT

The President adjourned the meeting.

/s/ Neva B. Lockhart  
City Clerk