

Grand Junction, Colorado

August 20, 1975

ROLL CALL

The city council of the City of Grand Junction, Colorado, met in regular session at 7:30 p.m. August 20, 1975, in the Council Chambers at City Hall. Members present for roll call: Larry Brown, Harry Colescott, Karl Johnson, Jane Quimby, Elvin Tufly, Robert Van Houten, and President of the Council Lawrence Kozisek. Also present: City Manager Harvey Rose, City Attorney Gerald Ashby, Deputy City Clerk Theresa Martinez.

MINUTES

It was moved by Councilman Van Houten and seconded by Councilman Tufly that the minutes of August 6, 1975, be approved as written. Motion carried.

LINDEN MOBERLY - DISCUSS SISTER CITY PROGRAM

Mr. Linden Moberly, principal at Orchard Mesa Junior High School, discussed Sister City Program. He has been working with Japanese students of commercial high schools for the past few summers in Kanonji, Japan. Indications from the Grand Junction Chamber of Commerce and Colorado West are that action will be taken on September 16 to adopt Kanonji as a sister city. The population of subject city is approximately 40,000; they are rural and approximately the same size as Grand Junction. Culture exchange, teacher exchange, and exchange of students are some of the things that would be expected from this program. There is an organization of Sister Cities which exchanges information. Many larger cities throughout the United States are involved in sister City Programs.

City Manager Harvey Rose indicated that Council could take action through a Resolution to participate in a program of this type. He also requested that appropriate documents be forwarded to Council.

Consensus of Council was that the City Manager explore further the possibilities, requirements, and feasibility of such a program.

DAVE JONES - REQUEST POLICE DEPARTMENT ENFORCE TRAFFIC REGULATIONS IN RELATION TO BICYCLES

Mr. Dave Jones, President of Horizon Bicycle Club, member of Citizens Advisory Planning Group, a bicyclist and concerned citizen, spoke to Council on the subject of "bicycles." He noted that commuter and recreational uses of bicycles are on the increase. Along with that are increased safety measures that must be taken. He felt the problem was primarily with the 8-15 years of age cyclist. There are such problems as people running stop signs, riding in groups, riding on sidewalks of shopping center on Main Street, riding at night without proper head and tail lights. A lot

of bicycles are not licensed, indicating a lack of regard to traffic regulations and safety regulations on the part of the bicyclist. He believes the problems have developed not out of a lack of concern or a total disregard of traffic regulations, but out of the ignorance of the bicycle riders and their parents. It is not a deliberate thing; they simply do not know what the laws are.

Mr. Jones noted that the Police Department has done a tremendous job in instigating new bicycle practices, new ideas to get the bicycle and traffic laws out to the bicyclist, bike rodeos, printed materials, and bicycle safety programs that the liaison officers are developing now, working toward the safe riding atmosphere for all. Mr. Jones did not believe the Police Department should have the total responsibility for this job. They need help. He offered the following suggestions for help:

(1) Individual bicyclists, using public streets, should know how to ride the bicycle as a constantly aware citizen.

(2) Parents should ride properly and set an example for their children.

(3) Council continually seek community input and actively recruit to develop a bicycle safety program.

(4) Increased support of Police needs, and suggestions for improving the Police Department's role in developing bicycle safety program.

(a) Crack-down on bicycle traffic regulation violators. When a bicyclist is cited violating the law, he should be held accountable just as if he were driving a motor vehicle.

(b) Horizon Bike Club members are willing to help, both in an advisory capacity and with manpower. They are also trying to be examples to the community in riding their bikes.

Mr. Jones would like to see a letter directed to the home of the violator. Councilman Tufly felt there was real merit in a letter to parents of violators. Consensus of Council was the Police Department issue letters since they are responsible for enforcing the law.

Mr. Jones will be meeting with Dave Allen, police liaison officer, August 21, 1975, to discuss problems and suggestions for improvement, and develop more programs.

#### PROPOSED ORDINANCE ON BARKING DOGS

Two ordinances regarding barking dogs were prepared by City Attorney Ashby as directed by Council at its meeting August 6, 1975. The first ordinance would require a neighbor to file a report against his neighbor. The following entitled proposed

ordinance was read: AN ORDINANCE REQUIRING CONTROL OF BARKING DOGS BY THE OWNERS THEREOF.

The second ordinance could involve a law enforcement officer witnessing a barking dog. The following entitled proposed ordinance was read: AN ORDINANCE REQUIRING CONTROL OF BARKING DOGS BY THE OWNERS THEREOF.

Mr. Ashby stated it is extremely difficult to define an ordinance so it fits those situations where you are not doing someone harm. An ordinance is the only approach which can be used to define a misdemeanor which would go before a municipal judge. Councilman Brown stated that the "neighbor against neighbor" thing needs to be abolished in all cases, whether it be dogs, weeds, disturbance of peace, etc.

A member of The Kennel Club wished to go on record by stating that the Kennel Club has never objected to loose running dogs, but felt that perhaps the City may be fining the wrong person. After much discussion, from which ideas and suggestions from the audience and councilmembers was received, it was moved by Councilman Van Houten and seconded by Councilman Brown that the City Attorney be directed to contact the Kennel Club and other interested parties whose input could be a great help in drawing up a more appropriate ordinance that covers the following:

- (1) Sets reasonable and accepted standards for the keeping of dogs (maintenance, etc.);
- (2) Includes consideration of the rabies shots;
- (3) Includes consideration of the spaying and neutering program; and
- (4) Includes a punitive section for dogs that bark.

Motion carried.

An invitation was extended to the Council to attend a local Kennel Club 7th Annual Show Obedience Trial to be held September 7, 1975, at Lincoln Park.

APPLICATION FOR HOTEL-RESTAURANT LIQUOR LICENSE (CHANGE OF OWNERSHIP) ALBERT AND ANITA GRASSO, GRASSO'S ITALIAN RESTAURANT AND LOUNGE

Presented for consideration was the application for Hotel-Restaurant liquor license (change of ownership) by Albert and Anita Grasso, Grasso's Italian Restaurant and Lounge, 103 North First Street (formerly Pantuso's Pizzeria).

A report from the Police Department advised there was nothing derogatory in the applicant's background check.

It was moved by Councilman Johnson and seconded by Councilman Colescott that the application be approved and the license issued when the State license has been received. Motion carried.

HEARING - PROP. ORD. SS-74 ASSESSMENTS (PARTEE HEIGHTS SANITARY SEWER)

Advertised for hearing on this date was the Sanitary Sewer District No. 32-74 Assessments (Partee Heights Sanitary Sewer) in the amount of \$76,789.24. There were no written or verbal objections. The President closed the hearing.

The following entitled proposed ordinance was read: AN ORDINANCE APPROVING THE ASSESSABLE COST OF THE IMPROVEMENTS MADE IN AND FOR SANITARY SEWER DISTRICT 32-74 PARTEE HEIGHTS, IN THE CITY OF GRAND JUNCTION, COLORADO, PURSUANT TO ORDINANCE NO. 178, ADOPTED AND APPROVED THE 11TH DAY OF JUNE, 1910, AS AMENDED; APPROVING THE APPORTIONMENT OF SAID COST TO EACH LOT OR TRACT OF LAND OR OTHER REAL ESTATE IN SAID DISTRICT; ASSESSING THE SHARE OF SAID COST AGAINST EACH LOT OR TRACT OF LAND OR OTHER REAL ESTATE IN SAID DISTRICT; APPROVING THE APPORTIONMENT OF SAID COST; AND PRESCRIBING THE MANNER FOR THE COLLECTION AND PAYMENT OF SAID ASSESSMENTS. It was moved by Councilman Colescott and seconded by Councilman Brown that the proposed ordinance be passed for publication. Motion carried.

CONSIDERATION OF BIDS - FEDERAL AID PROJECTS NO. M8433(1) AND M7500(3)

Bids were received and opened at 2:00 p.m. Thursday, August 14, 1975, on Federal Aid Project No. M8433(1) - Grading, stabilization, structures, hot bituminous pavement, North 12th Street, from Bookcliff North 765 feet. Bids were as follows:

- (1) Wycon Construction \$289,332.25
- (2) Corn Construction 281,463.20
- (3) The Industrial Company of Steamboat Springs 261,342.50

Engineer's Estimate 238,947.50

It was moved by Councilman Brown and seconded by Councilwoman Quimby that this project be approved and contract awarded to the low bidder, The Industrial Company of Steamboat Springs, in the amount of \$261,342.50. Motion carried.

Bids were received and opened at 3:00 p.m. Thursday, August 14, 1975, on Federal Aid Project No. M7500(3) - Grading, stabilization, structures, hot bituminous pavement, furnishing signal equipment - various locations. Bids were as follows:

- (1) Wycon Construction \$189,249.20

(2) The Industrial Company of Steamboat Springs 177,182.77

(3) Corn Construction 145,142.60

Engineer's Estimate 116,81.75

City Engineer Rodger Young advised that the City has received notification of another \$128,000 grant which the Highway Department has approved so that the City can apply 74% in next year's budget. The City is to pick up the remaining 26%. Applying next year's grant to the overrun would mean the City would have to come up with \$20,800.

It was moved by Councilman Tuflly and seconded by Councilman Brown that this project be approve and contract awarded to the low bidder, Corn Construction Company, in the amount of \$145,142.60 contingent upon receipt of said grant, with the grant to be applied to the overrun. If it cannot be handled within 30 days, bring back to Council for consideration. Motion carried.

Council requested that the City Engineer keep it advised as to the status of this grant.

HEARING - ALLEGED VIOLATIONS OF LIQUOR REGULATIONS AT THE BRASS RAIL, 476 28 ROAD, SUSPENSION OF 20-DAY SUSPENSION

Licensee, Mr. Leroy Kirkhart, owner of The Brass Rail, 476 - 28 Road, was present. It was alleged that John Gareffa entered a plea of guilty to the charge of allowing an intoxicated person to loiter on the licensed premises May 23, 1975. Further, he or other employees allowed an intoxicated person to loiter on the premises on or about May 9 and 10, 1975. This comes to Council through a complaint filed by State Liquor Enforcement Officer James Gilliam. Mr. Gilliam was present and testified as to what occurred. He stated this was a 3-part violation. On May 9, 1975, at approximately 11:30 p.m. he made a bar check at The Brass Rail, accompanied by Officer George Bartley of the Grand Junction Police Department. Upon entering the building, Mr. Gilliam and Officer Bartley observed one subject who was passed out at a booth. Officer Bartley attempted to arouse this person by shaking him and gently poking him with a flashlight. Persons in the establishment observed this happening and did harass Officer Bartley for several minutes. The bartender on duty that evening was a woman who was instructed by Mr. Gilliam that this was in violation of the rules and regulations of the State Liquor Code, and she should contact Mr. Kirkhart and tell him that this would not be permitted to continue.

The subject, Mr. Owen Krimm, was on crutches. Mr. Gilliam and Officer Bartley felt it was impossible to administer a sobriety test. However, there was a very strong odor of alcoholic beverage on this person. They were unable to arouse him. On the following day, May 10, 1975, 11:45 p.m., two officers of the Police Department and Mr. Gilliam made another routine check of The Brass

Rail. Upon entering the building, they again observed the same subject in the same condition at a booth at The Brass Rail. Again, they went through the same procedure. The person would again not awaken, and Mr. Gilliam again admonished the bartender that this was in violation of the rules and regulations of the State Liquor Code. As a result, Mr. Kirkhart was contacted and given an oral warning and was told that this would not be tolerated and should not happen again. On May 23, 1975, Officer Rick Devins enter The Brass Rail at approximately 1:45 a.m. This time Mr. Own Krimm was again in The Brass Rail and was again passed out at one of the booths. Upon attempting to get Mr. Krimm in a condition where he could be talked to, Officer Rick Devins was harassed by some of the people in the lounge and was subjected to this for approximately five to ten minutes. A ticket was written the following day to Mr. John Gareffa, and Mr. Gareffa was cited into Mesa County Court on June 11, 1975, at 9:00 a.m. Also appearing at the trial was Mr. Kirkhart. Mr. Gareffa did plead guilty to the charges and was fined \$100 plus \$6 court costs. Seventy-five dollars of the fine was suspended. The licensee, Mr. Kirkhart, was given warning prior to the ticket being written. The bartender, Mr. Gareffa, had received prior warnings. Mr. Ashby noted an indication by Mr. Gilliam that someone on duty should have controlled the situation, Mr. Gilliam stated that there was no effort made. Mr. Ashby stated that the people that the harrassment was against were police officers, so the bartender would have had somewhat less authority, obviously, than the police officers themselves. Councilman Johnson asked if Mr. Krimm became intoxicated at The Brass Rail. Mr. Gilliam stated that Mr. Krimm was drinking at The Brass Rail. On the third offense, the bartender indicated to Mr. Gilliam that Mr. Krimm had arrived in the intoxicated condition which Mr. Gilliam found rather hard to believe. Mr. Gilliam did not know specifically if Mr. Krimm was served an alcoholic beverage at any time while in The Brass Rail.

Mr. Kirkhart noted that John Gareffa, during court testimony, stated that Mr. Kirkhart had told him (Mr. Gareffa) not to serve Mr. Krimm and that if Mr. Krimm were to visit Mr. Kirkhart, that he be told to leave. On the first time Mr. Krimm was not served; the second time after Mr. Kirkhart was warned, Mr. Krimm was served. John Gareffa kept him awake until 1:30 a.m. and tried to get Mr. Krimm home. The city cab would not be responsible for him, and there were only two other people in the bar at the time. Mr. Kirkhart was called at home later that night. By that time it was all over and there was nothing Mr. Kirkhart could do about the situation.

Councilman Brown stated that apparently there were three different bartenders. This indicates to him that it is company policy when they all do the same thing. Mr. Kirkhart said two of the bartenders have been fired; one bartender is still with him.

Councilman Brown asked if they have instructions that no person visibly intoxicated be served, to which Mr. Kirkhart stated he has had difficulty knowing what to do with a person such as Mr. Krimm,

a paraplegic, who enters his establishments under the influence of alcohol. Councilman Brown asked if Mr. Kirkhart had a policy of whose side the bartender is on when a Police Officer challenges a customer. Mr. Kirkhart stated the bartender is on the side of the Police Officer, and that was why Mr. Gareffa was discharged that next day after appearing in court. Mr. Ashby stated that when a uniformed officer is involved, he didn't think normally they wanted any interference or assistance by a bartender or any other bystander unless it is that type of situation where it is totally out of control. Councilman Johnson stated that the officer has a recourse there of bringing charges against the people doing the harrassing.

Councilman Van Houten asked if there had been any other violations charged against The Brass Rail in the past. Mr. Gilliam reported that he had given Mr. Kirkhart a warning on March 10 on reports of fights occurring in The Brass Rail which had not been reported to the Police Department. Mr. Gareffa was charged not with serving an intoxicated person, but allowing an intoxicated person to loiter on the licensed premises. President Kozisek asked Mr. Kirkhart if he felt he had the right to refuse admittance to an intoxicated person. Mr. Kirkhart replied that he could not refuse and felt that it was his duty to let him in and sober him up and try to help him, and that it would be to the benefit of the patron and public. Mr. Ashby stated that the laws state specifically that you are not allowed to have an intoxicated person on the premises.

It was moved by Councilman Tufly and seconded by Councilman Johnson that there be no penalty in this case.

Councilman Tufly state this was a situation which was not normal. He could appreciate the Liquor Inspector's position; he had to enforce the law and was doing his job at the time, but felt that the courts have handled the problem in this case. It was not so much with the owner, but an employee. The owner has taken care of that problem by firing the employee. Councilman Colescott felt that if Council did not take action in this case, it would be the same as saying the defendant is not guilty. Councilman Van Houten brought up the fact that every one of the complaints received is on an employee, and asked if every time a case comes up, is Council going to say that it is just an employee and the owner has no responsibility? He felt that it is up to the management of these establishments to see to it that their employees are specifically directed and see that they do follow the laws. He also reminded Council members that at the last meeting he stated that the next time one of these situations came up he was going to be very violent, that these slaps on the wrist that have been going on for some time are not solving the problem. For every one that Mr. Gilliam fines, there are five hundred that he does not. At some place, a line must be drawn. He felt that in this case the management is responsibly for his employees and is guilty of not controlling his employees. It is the owner's problem and not the Council's. Councilman Johnson stated that the State Liquor Code is quite definite in fixing the responsibility of licensee for the

actions of his employees.

It was moved by Councilman Brown and seconded by Councilman Johnson that the Hotel-Restaurant liquor license for The Brass Rail, 276 28 Road, be suspended for 20 days with that suspension being suspended pending no further violations for a period of one year.

Councilman Van Houten moved to amend the motion to 30 days under the same consideration. He felt that from here on he would try and see that the suspension is 30 days or longer on all these cases, depending on the circumstances. Motion lost for lack of a second.

THE QUESTION BEING UPON THE SUSPENSION OF THE HOTEL-RESTAURANT LIQUOR LICENSE FOR THE BRASS RAIL, 276 - 28 ROAD, FOR A PERIOD OF 20 DAYS WITH THAT SUSPENSION BEING SUSPENDED ONE YEAR PENDING NO FURTHER VIOLATIONS, motion carried with Councilman Van Houten and Tufly voting NO.

HEARING - ZONING ORD. TEXT AMENDMENT PERTAINING TO 6.1 INDUSTRIAL USES - PROPOSED ORDINANCE

Advertised for hearing on this date and recommended from the Planning Commission was the Zoning Ordinance Text Amendment Pertaining to 6.1 Industrial Uses. The sections to be amended were reviewed by City Attorney Ashby and Senior Planner Don Warner. No letters having been filed and no one in the audience indicating a desire to speak on this matter, the President closed the hearing.

The following entitled proposed ordinance was read: AN ORDINANCE AMENDING CERTAIN USE GROUP CATEGORIES IN THE ZONING ORDINANCE OF THE CITY OF GRAND JUNCTION. It was moved by Councilman Johnson and seconded by Councilman Tufly that the proposed ordinance be passed for publication. Motion carried.

HEARING - AMENDING ZONING ORDINANCE - SECTION 8 - MEMBERS

Advertised for hearing on this date and recommended from the Planning Commission was the Amendment of Zoning Ordinance, Section 8, Members. This ordinance has to do with members of the Council who serve on the Planning Commission. Senior Planner Don Warner state that it has one item in it which is the deletion of a requirement that members of the Planning Commission had to own and pay taxes on property within the City Limits. It reduces that to "residents of the City" only.

No letters having been filed and no one in the audience indicating a desire to speak on this matter, the President closed the hearing.

At this point, the President declared a five-minute recess.

At a previous meeting between the City Council and the Planning Commission, discussion was had regarding the involvement of

Council's participation in voting rights as a member of the Planning Commission. At this point, the Council is considering that particular item. Council directed City Attorney Ashby to prepare an ordinance that would require only that members of the Planning Commission be residents of the City.

Since this hearing was advertised, it was the consensus of opinion of Council that this item be tabled. It was moved by Councilman Van Houten and seconded by Councilman Brown that this item be tabled until the next regular meeting to be held on September 3, 1975. Motion carried.

REQUEST FOR APPROVAL OF AN AGREEMENT BETWEEN THE CITY OF GRAND JUNCTION AND THE ECONOMIC DEVELOPMENT ADMINISTRATION

City Attorney Ashby stated that this agreement (Industrial Park) between the City and Economic Development Administration provides that the City take on and maintain the upkeep of streets and utilities in the EDA Project Colorado West Improvement, Inc., for which they provided a grant of \$510,000. The grant has the same provisions as most grants; someone has to take on the responsibility for everything, and in this case, the streets would normally be dedicated to the municipality as would be the utilities. This would indicate that the City would be willing to take on that responsibility.

It was moved by Councilman Johnson and seconded by Councilwoman Quimby that the Agreement be approved, and that the Mayor be authorized to sign said Agreement. Motion carried.

PROPOSED ORDINANCE ON AMENDMENT TO THE FINE PROVISIONS OF THE DOG LEASH LAWS.

The following entitled proposed ordinance was read: AN ORDINANCE AMENDING THE CITY'S DOG LEASH LAW BY PROVIDING MINIMUM PENALTIES FOR OFFENSES THEREUNDER. This ordinance would provide for a \$25 fine for first offenders and each succeeding offense \$50. It was stated by President Kozisek that the fine is not mandatory. it can be in part or fully suspended. This ordinance would direct the judge toward a heavier penalty. Every dog picked up by the Humane Society is to be ticketed. The emphasis is more on the ticketing and the fining that on the picking up of the dog. After discussion and audience participation, it was moved by Councilman Johnson and seconded by Councilman Brown that the ordinance be passed for publication. Motion carried.

Councilman Brown would like to see that the Humane Society receive 15% of all fines collected by the City on all tickets that get written by the Humane Society. The Humane Society must provide, whether by patrol or responding to calls, 24-hour, 7 days-a-week service.

After much discussion Council suggested that the Humane Society prepare a proposed budget of operating costs that would include 7-

day, 24-hour service which they could consider. Councilman Tufly stated that if the City finds it can handle the program for less, it may choose to develop its own program. Councilman Colescott felt that the Police Department should be involved in many of these instances and respond to emergency or dangerous calls where vicious dogs are involved.

CITIZEN COMPLAINT REGARDING MOTORCYCLE PROBLEMS IN MANTEY HEIGHTS  
- MR. BART BEASLEY, 2851 BRITTANY DRIVE

Mr. Bart Beasley of 2851 Brittany Drive, filed a complaint that unlicensed motorcycles are being ridden from 6:00 to 8:00 each evening in the vicinity of Mantey Heights, which is private property. The excessive noise reverberates off the canal near his home. There have been people killed in this area. Council assured Mr. Beasley that the Police Department will look into the matter immediately.

CRIMINAL JUSTICE MEETING

Councilman Colescott reported that he had attended the Criminal Justice Meeting on August 14, 1975. They are making a lot of progress. The Council members will be receiving information concerning the stand that the Municipal League will be taking.

ADVISORY COMMITTEE TO YOUTH COMMISSION

Councilman Brown reported that this group is really going forward and has started a two-prong campaign: (1) contacting everyone in town about problems and needs and direction; and (2) gathering candidates for the commission.

VANDALISM OF HAND PAINTED FIRE HYDRANTS WHICH HAVE BEEN PAINTED IN  
COMMEMORATION OF CENTENNIAL-BICENTENNIAL CELEBRATION

Councilman Brown stated that the people that have painted the fire hydrants throughout the City have spent a great deal of time and have done a tremendous job. He had intended to ask Council for permission to perhaps take on some of the larger projects such as traffic control boxes, etc., for art classes, but that in the last day or so at least three beautiful hydrants, with various flags hand painted on them, have been vandalized by spraying green paint over them. Therefore, he felt he couldn't ask or expect any volunteers to do more painting.

COUNCIL OF GOVERNMENTS

President Kozisek reported as a member of Council of Governments and also a member of the Budget Committee for the Council of Governments that they are in the process of studying the 1976 budget. He would appreciate any comments from Council concerning the budget and the efforts of COG and direction that it is taking or actions that it should be taking. The Council of Governments met with the President of the United States this week. He felt

that this was beneficial both to the President and to the Council.

MUNICIPAL LEAGUE COMMITTEE ON LAND USE

President Kozisek will be attending a meeting in Denver next week. If any Council member has any suggestions or ideas concerning land use as it applies to the cities, communities, or state, he would appreciate any comments that could be incorporated into the proposal for legislature.

ADJOURNMENT

It was moved by Councilman Johnson and duly seconded that the meeting be adjourned. Motion carried.

Theresa F. Martinez

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Theresa F. Martinez  
Deputy City Clerk