

Grand Junction, Colorado

May 19, 1976

ROLL CALL

The City Council of the City of Grand Junction, Colorado, met in regular session at 7:30 p.m. May 19, 1976, in the Council Chambers at City Hall. Members present and answering roll call: Larry Brown, Harry Colescott, Karl Johnson, Jane Quimby, Elvin Tufly, Robert Van Houten, and President of the Council Lawrence Kozisek. Also present were City Manager Jim Wysocki, City Attorney Gerald Ashby, and City Clerk Neva Lockhart.

MINUTES

It was moved by Councilwoman Quimby and seconded by Councilman Tufly that the Minutes of the regular meeting May 5, 1976, be approved as written. Motion carried.

PRESENTATION OF CARVED CITY SEAL

Fire Chief R. T. Mantlo and Mrs. Fred Knowles were present to present a hand-carved replica of the City Seal. Fire Lieutenant Fred Knowles spent 100 off-duty hours carving the seal from Walnut obtained on the Redlands.

The City Council was most appreciative of the gift, and Councilman Brown said he would like to see that appropriate thanks be directed to Lieutenant Knowles.

APPOINTMENTS TO CONTRACTORS' LICENSING BOARD - 2 YEAR TERM

President Kozisek submitted the following names for appointment to two-year term on the Contractors' Licensing Board:

Robert D. Jenkins

Grant Moon

Aubrey Harwood

Harry McCrary

Bill Norris

It was moved by Councilman Colescott and seconded by Councilman Tufly that the appointments be ratified. Motion carried unanimously.

REORGANIZATION OF COUNCIL - RESOLUTIONS OF APPOINTMENT TO AIRPORT AUTHORITY AND HOUSING AUTHORITY

President Kozisek said that he was resigning from the Walker Field

Airport Authority. The following Resolution appointing ROBERT VAN HOUTEN was read:

RESOLUTION

APPOINTING A MEMBER OF THE GRAND JUNCTION CITY COUNCIL TO WALKER FIELD, COLORADO, PUBLIC AIRPORT AUTHORITY BOARD.

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

That Robert Van Houten be, and he is hereby, appointed to the Board of the Walker Field, Colorado, Public Airport Authority.

PASSED and ADOPTED this 19th day of May, 1976.

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President of the Council

Attest:

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City Clerk

It was moved by Councilman Brown and seconded by Councilman Colescott that the Resolution be passed and adopted as read. A majority of Council having voted in favor of the motion, the President declared the motion carried and the Resolution duly passed and adopted.

The following Resolution appointing KARL JOHNSON to the Grand Junction, Colorado, Housing Authority was presented and read:

RESOLUTION

APPOINTING A MEMBER OF THE GRAND JUNCTION CITY COUNCIL TO THE HOUSING AUTHORITY OF THE CITY OF GRAND JUNCTION.

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

That Karl M. Johnson be, and he is hereby, appointed to the Board of the Housing Authority of the City of Grand Junction.

PASSED and ADOPTED this 19th day of May, 1976.

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President of the Council

Attest:

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City Clerk

It was moved by Councilman Colescott and seconded by Councilman Brown that the Resolution be passed and adopted as read. A majority of Council having voted in favor of the motion, the President declared the motion carried and the Resolution duly passed and adopted.

Elvin Tufly was appointed to the ComAct Housing Board, and Larry Brown was appointed to the Grand Junction Employees Supplemental Retirement Board.

The following members will continue to serve on the following Boards:

Airport Authority: Harry Colescott, Larry Brown

Planning Commission: Jane Quimby

L.E.A.A.: Harry Colescott

Recreation Board: Elvin Tufly

Parks Improvement Advisory Board: Karl Johnson

Valley Wide Sewer Committee: Bob Van Houten, Jim Patterson, Jim Wysocki

Human Resources Committee: Karl Johnson

Colorado West Area Council of Government: Larry Kozisek

Centennial-Bicentennial Committee: Karl Johnson

Museum Board: Waiting for formal request to appoint Jim Wysocki

Community Action Council: Need some names to consider.

Grand Junction, Colorado, Parking Authority: Authority to make a formal request for a Council member.

Motel Tax Committee: If this should come to pass, Councilman Tufly has consented to serve.

National League of Cities: This is not an appointment by the Council, but Councilwoman Jane Quimby should continue to have as much to say as possible.

Colorado Municipal League: Recommend a letter be directed to the Colorado Municipal League nominating Councilwoman Jane Quimby and Councilman Karl Johnson to the Executive Board and/or one of the major committees.

It was moved by Councilman Van Houten and seconded by Councilman Tufly that the appointments be ratified. Motion carried unanimously.

REQUEST BY GRAND VALLEY KENNEL CLUB FOR OVERNIGHT STAY IN LINCOLN PARK DENIED

Mr. Gary Hall, representing the Grand Valley Kennel Club, appeared before Council to request a five-hour variance in City ordinance for Parks and Recreation to allow self-contained campers to park overnight in Lincoln Park August 19, 1976, during the two-day dog show. Brochures are being prepared announcing the show, and the Kennel Club needs Council's decision so it can be included in the information. Mr. Hall stated that the City's property will be protected. They will pay for two off-duty police officers to be in the Park from 4 p.m. until 7 a.m.

He submitted a petition signed by some 400 people supporting the request. It was noted that the Shriners Circus animals and trainers are granted this privilege.

It was moved by Councilman Van Houten and seconded by Councilman Johnson that this request be referred to the Parks & Recreation Department for a decision.

Mr. Hall said that he had spoken with Mr. Idleman and Mr. Wysocki, and the request had been denied on the basis that allowing the Grand Valley Kennel Club to use Lincoln Park for this purpose would be setting a precedent. Mr. Wysocki had advised Mr. Hall that he could appeal that decision to Council.

Councilman Tufly stated he did not feel this should go back to the Parks & Recreation Department, as he felt the decision was made for a valid reason and he would have to uphold the Administration. Councilman Tufly said he felt the animals with Shriners Circus was somewhat different in that there is not a motel in the valley where an elephant or a tiger could be housed.

Parks & Recreation Director Ken Idleman advised Council that when the request was denied he was not looking at whether the Kennel Club could do all the things it says it will do if permitted to stay overnight, but rather more objectively in that he must look at 52 weeks out of the year. Many other organizations in the community would want the same consideration. He feels the Park is under a great deal of stress. He felt that if the Kennel Club is granted permission to stay overnight, then the City must be willing to allow other organizations with the same justification this privilege.

The question being to refer the issue to the Parks and Recreation Department, Council members COLESCOTT, JOHNSON, AND VAN HOUTEN voted AYE with Council members QUIMBY, TUFLY, BROWN, AND KOZISEK voting NO. The President declared the motion lost.

It was moved by Councilman Brown and seconded by Councilman Tufly that the decision of the Administration stand and the request be denied. Motion carried.

PRESENTATION OF COLORADO CENTENNIAL-BICENTENNIAL CHECK FOR "TURN OF THE CENTURY LIGHTS" PROJECT

Mrs. Karen Cobb, representing the Colorado Centennial-Bicentennial Commission, appeared before Council to present a check in the amount of \$2,750 for the "Turn of the Century Lights" Project.

RENEWAL OF LIQUOR LICENSE - THE NIGHT GALLERY 1900 MAIN STREET

Submitted for consideration was the application by Robert J. Stack doing business as The Night Gallery, to renew his hotel-restaurant liquor license. The Mesa County Health Department recommended approval of the application; the Fire Department has advised Mr. Stack that the dead bolt locks must be removed from the two exit doors from the bar; and the police Department reported no violations or complaints during the past licensing period.

Mr. Stack advised that the bolts in the doors from the bar had been removed.

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

RENEWAL OF 3.2 BEER LICENSE - CITY MARKET STORE #18 2830 NORTH AVENUE

Submitted for consideration was the application by City Market, Inc., to renew 3.2% beer license for Store #18, 2830 North Avenue. The Police Department reported no complaints or violations during the past licensing period.

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

APPLICATION FOR RETAIL STORE LIQUOR LICENSE - RICHARD & MARILYN WILL, JIM'S LIQUORS, 1560 NORTH AVENUE (CHANGE OF OWNERSHIP)

Submitted for consideration was the application by Richard H. & Marilyn S. Will for retail store liquor license to operate Jim's Liquors (presently owned by Helen and Melvin Benton), 1560 North Avenue. A report from the Police Department was read which advised that a background was conducted concerning the applicants, and nothing of a derogatory nature was uncovered which would prevent either party from holding a license.

It was moved by Councilman Johnson and seconded by Councilman

Tuflly that the application be approved and the license issued when the State license has been received. Motion carried unanimously.

HEARING - ALLEGED VIOLATION BY PIZZA HUT OF GRAND JUNCTION, INC.,  
1440 NORTH AVENUE, REGARDING SALE OF BEER TO UNDERAGE PERSON

Scheduled for hearing on this date was the matter of an alleged violation by the Pizza Hut of Grand Junction, Inc., 1440 North Avenue, in the sale of fermented malt beverages to a person under 18 years of age on December 13, 1975.

City Attorney stated the issues to be presented are whether or not the young man who was underage was served beer at the Pizza Hut in violation of the State Fermented Beverage Act and secondarily whether or not any identification was sought at the time that the beer was served at the table.

Appearing before Council was Gregory L. Madison, 695 Cloverdale Drive, Grand Junction, Colorado. Mr. Madison stated he was in the Pizza Hut on December 13, 1975, with his cousin. They sat at a table with Brenda Bacon, 1295 Pinyon Avenue, Grand Junction, and Diane Power, 2067 E 3/4 Road, and one other person. Mr. Madison stated he ordered the beer from the waitress, Ramona Warriner, and that she did not ask him for his identification, nor did he hear her ask any of the others for identification. The pitcher of beer was delivered with five glasses, which were placed in the middle of the table. Mr. Madison admitted consuming the beer and he admitted that he was under 18 years of age at that time. December 13, 1975, was a Friday night; there had been a basketball game earlier in the evening and the Pizza Hut was crowded. Mr. Madison said he had sat down with another group at another table first and then moved to the one where the order was served.

Subsequently, the State Liquor Enforcement Officer, James Gilliam, came in and checked all the IDs at the table. Mr. Madison admitted that he gave a false name and told the Liquor Inspector that his driver's license had been revoked. Mr. Madison testified that the Liquor Inspector called the State Patrol and found that Mr. Madison's statement was not quite right. When the Liquor Inspector came back and confronted Mr. Madison with this evidence, Mr. Madison gave his correct name.

Mr. Madison stated that he ordered the beer. Diane Power paid for the beer.

Miss Diane Power testified that she is 18; when the State Liquor Inspector called Mr. Madison out of the Pizza Hut, the bill was delivered and she placed money on the table to pay for her part of the beer. At the time the order was taken she displayed her identification as she was expecting the waitress to ask to see ID's. Miss Power stated that the waitress smiled but could not possibly have seen her birth date from the other side of the table. Miss Power testified that she did not hear the waitress ask any of the others at the table to see their ID's. Miss Power

recalls five at the table, although the young people were switching tables. The beer was delivered after Miss Power attempted to show her ID. Mr. Madison was at the table when Miss Power attempted to show her ID and he was at the table when the beer was delivered. She stated that at the time the beer was ordered and when the beer was delivered, the same 5 people were at the table.

Miss Brenda S. Bacon, 1925 Pinyon Avenue, testified that she is 17; she did not drink any beer the night of December 13; the waitress did not ask to see the ID's; Diane offered hers; she did not drink any beer as she knew she was not old enough; she did not recognize the waitress although she had been in the Pizza Hut before; when the beer was delivered to the table she was not present.

Mr. Keith Mumby, Attorney representing the Pizza Hut, stated that the full-time paid manager is no longer at the Pizza Hut; Mr. Leo Seiler is an owner-manager; because of a death in the family Mr. Seiler could not be present.

Miss Ramona Warriner, 910 Texas Avenue, was called to testify. She was employed at the Pizza Hut on December 13, 1975; she is 19 years of age; she recalled taking an order at this particular table that night although she did not recall who placed the order. She stated that her instructions were that if in doubt of the age of high school students she was to check pictured ID's; if in doubt of the ID itself, it was to be taken to the manager; she did not recall WHO ORDERED THE BEER; SHE STATED THAT SHE DID CHECK THE ID'S; THE ID'S SHE CHECKED REFLECTED THAT THE HOLDER WAS 18; SHE DID NOT RECALL that the same group who ordered the beer was at the table when the beer was delivered; it was busy night with a lot of people moving back and forth. When she was ready to deliver the pizza about 20 minutes later she realized there was difficulty when the manager came to her and asked her if she had checked ID's at that table. She looked over and there were about twice as many people as when the order was placed, and their ID's had not been checked. She testified that she had only been employed at the Pizza Hut a few days when this incident occurred. She restated that she checked the ID's of everyone at that table at the time the order was placed and they were all over 18.

The present manager testified that he has been employed by the Pizza Hut since January 15, 1976; that he is 21 years of age. He has been a manager for two years in Aspen, Frisco, and Grand Junction. He stated that the employees are to check picture ID's (driver's licenses or the Colorado pictured ID's) before serving beer. If there is any question it is to be brought to the manager. Every effort is made to check ID's. The policy is that if someone under 18 is at the table, those over 18 are served by the glass only and not with the pitchers of beer. He stated that they try to watch who moves where and continue checking the ID's after the beer is served although when it is crowded this becomes difficult to do.

City Attorney Ashby advised that the licensee is under an onus from two different directions: they cannot serve it or permit it to be served to anyone under 18. When they start to table-hop, the additional burden is present to exercise some control over this because they are in effect permitting it to be served to someone who is under 18. This is a particular factor at the Pizza Hut where they do move quite a bit. The onus still remains with the owner of the outlet to see that only 18 years olds and older are permitted to drink the beer however difficult that may be.

Mr. Mumby stated that the manager on December 13, 1975, was George Vince, 34 years of age. Mr. Vince left in January to open his own business.

Mr. Mumby said that the Notice of Hearing served upon the Pizza Hut stated that Ramona Warriner had entered a plea of guilty to the charge of selling fermented malt beverages to a person who was under the age of 18. He thought that should be clarified to some degree. The procedure under the liquor law violation section is for the Liquor Inspector to serve a summons upon the waitress who commits the offense. That particular person is taken to County Court on a criminal action for this violation of the Statutes. In this instance, Mr. Seiler of the Pizza Hut felt that his waitress should be represented. Mr. Mumby stated there was a meeting in the District Attorney's Office under a perfectly legal procedure of what is known as plea bargaining and worked out an arrangement whereby a deferred prosecution decree was in fact entered. A deferred prosecution decree carries the title of a guilty plea, although it is not quite all that because at the end of a six-month period if the person does not get into any other trouble his record is completely expunged. He did not want the Council to be misled by the wording of the Notice.

Mr. Mumby stated that the witnesses have borne out the fact that the Pizza Hut is a popular place for high-school students. Pizza Hut has operated this business for a number of years with no complaints or violations; they use every effort to comply with the regulations. He felt that the testimony itself indicates there is some confusion among the people who were there, the waitress who was there. He thought it was interesting to note that the State Liquor Enforcement Officer's report stated that Mrs. Powers had ordered the beer, and this was written the night of the offense. His report also stated that the names of the other subjects at the table were not recorded as they all had identification indicating they were over the age of 18. The report goes on to say that Brenda Bacon was not drinking beer and she so testified, but she testified that she moved and came back and was apparently gone when the Inspector arrived because he did apparently, from the report, check everybody; everyone at the table except Greg Madison was apparently 18. Mr. Mumby said that he talked to Mr. Seiler about this and Mr. Seiler recognizes that this is a serious offense and that every effort must be used to comply with the law. However, Mr. Mumby did not feel that this particular offense was a



flagrant violation of serving beer to a minor. He did not feel this warranted a revocation or suspension of the license, although they would accept and know that they had a severe reprimand coming.

City Attorney Ashby advised Council that it could not consider that plea of guilty. He thought Council should act on the evidence it heard tonight.

Mr. Mumby stated that a plea bargaining is typically a guilty plea to a lesser included offense. There is no lesser included offense in this, and the District Attorney's Office, of course, would never accept innocent plea and drop something. Pizza Hut did not want to go to Court; they (the District Attorney's Office) obviously did not want to go to Court too bad. Mr. Mumby said he did not feel it was right to jeopardize the record of an 18-year-old girl who had only been working for 3 days. When they had this offer from the District Attorney's Office it was discussed with Mr. Seiler, Miss Warriner, and himself -- it is a method whereby her record is expunged and cleaned at the end of a period of six months. Whether this method was right or wrong Mr. Mumby did not know. The owner and holder of the liquor license is the responsible party. When this opportunity was presented they took it.

State Liquor Enforcement Officer Jim Gilliam testified that when he checked the table everyone with the exception of Greg Madison had ID's showing they were 18 years or older. He was told by Mr. Madison and by the two girls who came down to the Police Department that there had been no ID's asked for by the waitress or shown. Mr. Madison had given a name other than his own. He could not remember exactly how many people were at the table when he checked it, although he thought there were five. He was not there when the beer was ordered. When he arrived the beer was on the table. He stated there have been no previous problems at the Pizza Hut.

Miss Power stated that it was reported that she ordered the beer. She did not know where that statement came from and she felt it made her appear to be lying when all she did was to put down her money to pay for it. Also in the presentation it was stated that all the ID's at this table were checked. If all the ID's were checked and if there were five kids at this table, she wanted to state that there were five kids at this table, she wanted to state that there were not that many kids who go to Grand Junction High School who are 18 in December.

Mr. Mumby read from the statement that Diane Power gave that night at the Police Department: "I, Diane Power, justify that our waitress at the Pizza Hut, Grand Junction, Colorado, served minors 3.2 beer although I was the only one offering an ID. This waitress served five glasses with one pitcher which I bought at approximately \$2.00."

Miss Power stated that she did not order the beer.

The President closed the hearing.

Councilman Brown commented that a few months ago when there was a greater doubt in his mind that there was a violation, Council imposed a 10-day suspension.

Councilwoman Quimby stated that she knows the young people who testified, she knows the manager who testified, and she has two children aged 17 and 18 who go to the Pizza Hut. The young people who frequent her home have told her the Pizza Hut is the only place in town that they feel comfortable in, that they feel is a decent place to go. She continued that there are always going to be those who take advantage of what they should not be doing. She felt that in Greg's case particularly and probably with Diane and Brenda, if they do something which they should not have done, they have to learn to accept the responsibility. She felt that they have been realizing this for the last few months. She thought it unfortunate that it has taken this long to come to a head. She stated that the young people must realize that what they do wrong also involves a number of other people.

Councilman Johnson stated that he felt the intent of the Statute is to prevent deliberate violations and those that are caused by carelessness or negligence on the part of the licensee. After listening to the testimony tonight, he could not convince himself that there was a deliberate attempt on the part of anyone to make this sale or that it was through gross negligence or carelessness. Admittedly, there was a violation which occurred in a confused situation. The other people who were present said that at least 5 people were at the table and yet only 2 of them have been identified.

President Kozisek concurred with Councilman Johnson and stated that there may have been an intent to confuse management.

It was moved by Councilman Johnson and seconded by Councilman Tufly that the license be suspended for 10 days, but that the suspension be held in abeyance for a period of six months from today's date, pending no further violations.

Councilman Brown stated that the only question he has is that with the violations of other operators in the past, none have ever been shown to be deliberate. The position was that a violation is a violation -- the pleasantry of the establishments notwithstanding. He remembered the affidavits one person had signed to show he was over 21, and certain other things.

Councilman Johnson said he thinks there is a difference where a purchaser makes a deliberate effort to make a purchase knowing that it is fraudulent and wrong. He stated there has been nothing to indicate that was done in this case.

Councilman Colescott expressed concern that an incident could happen all the time (at the Pizza Hut) by the way they run the place.

President Kozisek stated that if it happens again within the six-month period, the penalty will be automatic revocation of the license.

The question being upon the license being suspended for ten (10) days but that the suspension be held in abeyance for a period of six months from today's date pending no further violations, the motion carried with Councilman Brown voting NO.

HEARING - FINAL PLAT OF BEASLEY MINOR SUBDIVISION - SE CORNER TEXAS AVENUE AND MELODY LANE

Advertised for hearing on this date was the Final Plat of Beasley Minor Subdivision. Senior Planner Don Warner advised this is a resubdivision of a large tract. It is being resubdivided into five smaller lots. Planning Commission approved. The plat after easement problems had been resolved.

The President closed the hearing.

It was moved by Councilman Tufly that the Final Plan of Beasley Minor Subdivision be accepted and signed by the President of the City Council and the City Manager; that it be approved and filed with the Mesa County Clerk and Recorder; and that copies thereof be placed on file in the offices of the County Assessor and the City Engineer, subject to the developer signing a power of attorney giving the City the right to place Melody Lane in some future street improvement district. Motion carried unanimously.

HEARING - PRELIMINARY PLAN FOR PINYON PARK SUBDIVISION - I-70 BUSINESS AND 19TH ST

This date was advertised for hearing on the Preliminary Plan for Pinyon Park Subdivision located at I-70 Business and 19th Street. No letters were filed and no one in the audience indicated a desire to speak.

Senior Planner Don Warner stated the Planning Commission has recommended approval of the plan. It contains 2.29 acres and the zoning is for heavy commercial. Total number of lots is 15.

The President closed the hearing.

It was moved by Councilman Johnson and seconded by Councilman Tufly that the Preliminary Plan for Pinyon Park Subdivision be approved. Motion carried unanimously.

HEARING - PROPOSED CHANGE IN PLAN FOR GRAND VALLEY APARTMENTS

Senior Planner Don Warner advised that the request is to move the

fence from the south side of the alley which was behind the private property to the north side where it will better screen the parking area. It will also control the access into the alley. The applicant has stated that in return for this change, he will pave the total alley at no charge to the private property on the south side. The Planning Commission has approved the change.

The President closed the hearing.

It was moved by Councilman Tufly and seconded by Councilwoman Quimby that the change in the fence plan for Grand Valley Apartments be approved. Motion carried unanimously.

HEARING - REQUEST BY GRAND JUNCTION STEEL FOR REVOCABLE PERMIT TO USE PART OF PUBLIC RIGHT OF WAY, SW CORNER 12TH STREET AND D ROAD RESOLUTION REVOCABLE PERMIT

Advertised for hearing on this date was the request by Grand Junction Steel Fabricating Company for revocable permit to use part of public right of way at the southwest corner of 12th Street and D Road. Jim Golden, Attorney, was present representing Grand Junction Steel.

Senior Planner Don Warner reviewed the proposal. When the I.D.I. project was done on D Road, the City acquired 100 feet of right of way from the Railroad to straighten the curve in D Road in the vicinity of 12th Street. Not all of this right of way was used. There is a 25 foot area from the curb to the present property line. Grand Junction Steel has requested permission to fence to within 10 feet of the property line on a revocable permit. The Planning Commission made the condition that Grand Junction Steel should deed to the City a small piece of property in this area so the City will have a full 100 feet of right of way. Grand Junction Steel has agreed to do this. The revocable permit is granting Grand Junction Steel the right to fence. They will use it for an inside driveway. The property will not be used for any storage.

The President closed the hearing.

The following Resolution was read:

RESOLUTION

WHEREAS, GRAND JUNCTION STEEL FABRICATING COMPANY has petitioned the City Council of the City of Grand Junction for a revocable permit to fence a certain portion of the right of way in the Northeast Quarter of the Northeast Quarter of the Northeast Quarter of Section 23, Township 1 South, Range 1 West, Ute Meridian, being that part of said Northeast Quarter of the Northeast Quarter of the Northeast Quarter which lies 10 feet South and Southeasterly of the present South curb line of D Road and lying 10 feet West of the present West curb line of 12th Street from D Road to the North line of Block 15, Milldale Subdivision, City of Grand Junction, Colorado; and

WHEREAS, such action has been heretofore approved by the City Planning Commission and would not be detrimental to the use of the right of way or to the interest of the inhabitants of the City;

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

That the City Manager, on behalf of the City and as an act of the City, be and he is hereby, authorized to grant such revocable permit to the above company for the purpose described upon the execution by the company of an agreement to save and hold the City harmless from any claims arising out of the construction of a fence and use granted and agreement that upon the revocation of such permit, it will remove said fence at its own expense and will restore the right of way to its original condition required in that area.

PASSED and ADOPTED this 19th day of May, 1976.

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President of the Council

Attest:

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City Clerk

REVOCABLE PERMIT

WHEREAS, GRAND JUNCTION STEEL FABRICATING COMPANY has petitioned the City Council of the City of Grand Junction for a revocable permit to fence a certain portion of the right of way in the Northeast Quarter of the Northeast Quarter of the Northeast Quarter of Section 23, Township 1 South, Range 1 West, Ute Meridian, being that part of said Northeast Quarter of the Northeast Quarter of the Northeast Quarter which lies 10 feet South and Southeasterly of the present South curb line of D Road and lying 10 feet West of the present West curb line of 12th Street from D Road to the North line of Block 15, Milldale Subdivision, City of Grand Junction, Colorado; and

WHEREAS, the City Planning Commission and City Engineer have approved such action, and the City Council is of the opinion that such would not be detrimental to the City or to any of the inhabitants thereof at this time and has directed the City Manager to issue a permit for such use;

NOW, THEREFORE, IN ACCORDANCE WITH THE ACTION OF THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION, COLORADO:

There is hereby granted to the above-named Company a revocable

permit for the purposes above stated; provided, however, that said permit may be revoked by the City Council at its pleasure at any time; provided further that the above-named Company shall agree to indemnify the City and hold it harmless from any and all claims, damages, actions, costs and expenses of every kind in any manner arising out of, or resulting from, the permitted use; provided, further that said Company shall agree to restore the right of way to a proper and usable condition after the completion of the fencing on said right of way, and provided further that said Company shall agree to restore the right of way to its original condition upon the revocation of such permit.

Dated at Grand Junction, Colorado, this 19th day of May, 1976.

/s/ James E. Wysocki

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City Manager

Attest:

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City Clerk

It was moved by Councilman Tufly and seconded by Councilwoman Quimby that the Resolution be passed and adopted as read. Upon roll call vote all Council members voted AYE. The President declared the motion carried and the Resolution duly passed and adopted.

HEARING - APPROVAL OF FINAL SUBDIVISION PLAT, NE CORNER 1ST & WALNUT

Advertised for hearing on this date was the Final Subdivision Plat for the northeast corner of First Street and Walnut Avenue. No letters were filed and no one in the audience indicated a desire to speak. Senior Planner Don Warner explained that under the PD process when there is a metes and bounds description that a one lot subdivision be created and that the City right of way necessary be dedicated on that plat. It was approved by the Planning Commission. This is for the dental offices and tonight's process concludes the planned development and they are ready to construct.

The President closed the hearing.

It was moved by Councilwoman Quimby and seconded by Councilman Colescott that the Final Subdivision Plat for the dental offices at First and Walnut be accepted and signed by the President of the Council and the City Manager; that it be approved and filed in the Mesa County Clerk and Recorder's Office; and that a copy thereof be filed in the offices of the County Assessor and the City Engineer. Motion carried with Councilman Tufly abstaining.

#### APPOINTMENTS TO SIGN CODE BOARD OF APPEALS

President Kozisek appointed Dean Dickey, a member of the Sign Industry, and Dr. Bruce Bauerle, an environmentalist, to the Sign Code Board of Appeals.

It was moved by Councilman Brown and seconded by Councilman Tufly that the appointments be ratified. Motion carried.

The President declared a five-minute recess.

Upon reconvening, all Council members were present.

#### ORDINANCE NO. 1621 - FIXING SALARY OF CITY MANAGER

The Proof of Publication to the following entitled proposed ordinance was presented: AN ORDINANCE FIXING THE SALARY OF THE CITY MANAGER. It was moved by Councilman Tufly and seconded by Councilman Johnson that the Proof of Publication be accepted for filing. Motion carried unanimously.

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

The Ordinance was read. There being no comments, it was moved by Councilman Tufly and seconded by Councilman Brown that the Ordinance be passed, adopted, numbered 1621, and ordered published. Roll call resulted in all Council members voting AYE. The President declared the motion carried.

#### DISCUSSION OF LEVYING LODGING TAX

Mrs. Mary Hurst appeared before Council to present a proposed Ordinance levying a lodging tax. She said that 73 1/2% of the motels in the City of Grand Junction are interested and endorse the adoption of an Ordinance levying a lodging tax.

Councilman Tufly noted that there is no stipulation in the proposed ordinance as to a length of time before review or renewal. Mrs. Hurst indicated this could be worked into the Ordinance.

It was moved by Councilman Brown and seconded by Councilman Van Houten that the City Council not consider the adoption of a lodging tax.

Councilman Van Houten said there is no way the City can act as a conduit to collect funds for an outside group. It can only be done as a tax levied by the City on the citizens or a group thereof, and it will be dispersed at the whim of the Council. The City Council cannot obligate in any way, shape, or form that the funds will be delivered.

City Attorney Ashby advised that the City having determined it would do this, it could determine that for two years, if this were the end date on the ordinance, that it could provide that the funds be passed on to the Chamber of Commerce under proper budgetary control. He felt Council could bind another Council to the extent that it was doing it only for a couple of years. He indicted that any of the taxes levied could be changed from one budget season to the next.

Councilman Johnson stated he is inclined to favor the concept so long as it is collected as a city tax and put into the budget and appropriated through the budget according to budgetary processes. It is up to the Council to determine the amount of the appropriation, the amount it would cost for handling, etc., and give an accountability for the money that is collected. He felt another condition would be that the industry that receives any appropriation of this kind would have to be fully accountable to the City as to how the funds were spent. If there was a disagreement by either side as to the processes being followed, the ordinance can be repealed immediately. He favored a cut-off period for review.

Councilwoman Quimby agreed with the concept, but found difficulty in accepting a governmental agency doing what she felt the industry should be doing on its own. She felt it was adding one more ordinance to the books.

Councilman Brown said he has problems with the concept. He recognized the value of tourism, but imposing a special tax such as this lends credence to quality towns being designed "tourist traps."

He favored the voluntary aspect as mentioned by Councilwoman Quimby.

President Kozisek favored the imposition of the tax.

Mrs. Hurst clarified that the tax is not to benefit a special interest group, but to promote tourism to benefit the entire community.

Mr. and Mrs. Bert Schilling, City Center Motel, opposed the lodging tax. Mr. Skip Nelson, Ivanhoe Inn, said he would collect the tax during July and August. Joe Hughes, Silver Spur Motel, Terry Mariner, representing Club 20, Bill Foster, Attorney, and Harold Harvey, representing Powderhorn, favored the lodging tax.

The question being upon the Council not imposing a lodging tax, the motion lost with Councilman Brown voting AYE.

President Kozisek suggested the appointment of a committee composed of two staff members, two Council members and two members of the proponents of the lodging tax to consider some of the items discussed and put this into a workable ordinance for Council



consideration.

Councilman Brown questioned Section B of the proposed ordinance with respect to people coming into the area and staying three weeks, sometimes six weeks in a sometimes transient type situation until they find a place. He suggested these are not tourists and questioned where and how you draw the line.

The City Attorney suggested that the taxing by whatever industry could be shortened to 15 days or 10 days.

Mrs. Hurst advised that anyone staying 30 days or longer are not charged State or City Sales Tax.

Councilman Brown said he would feel more comfortable if the following items were included in the ordinance so it is all clearly understood:

(1) Quarterly reports to the Council listing all revenues and expenditures for period of date.

(2) Annual report to Council listing not only the above information, but with examples provided such as copies of the advertisements and brochures, how used with a guestimation on effect they have had and the benefit.

(3) A clear understanding not that the program will be reviewed in two years, but that it is a two-year program. Obviously, in this fashion it could be renewed indefinitely; however, with this clear understanding the effect is for the governing board to prove worth.

(4) A stated mechanism for immediate elimination of the tax should irreconcilable differences arise over the use of the money between the Council and the governing board.

It was moved by Councilman Van Houten and seconded by Councilman Tufly that a seven-member committee composed of two staff members, two Council members, and three proponents of the lodging tax be appointed to redraft a workable ordinance.

It was moved by Councilman Brown and seconded by Councilman Johnson to amend the motion to require that the proposed ordinance be presented to Council at its next regularly scheduled meeting June 2. Motion carried unanimously.

The question being upon the appointment of a committee composed of seven members, two staff personnel, two Council members, and three proponents of the lodging tax, to redraft a workable ordinance to be presented to Council June 2, 1976, the motion carried unanimously.

President Kozisek appointed Councilmen Larry Brown and Elvin Tufly, City Manager Jim Wysocki or his designates, and City

Attorney Gerald Ashby, Dale Hollingsworth, Harvey Harold, and Frank Sabolich. City Attorney Ashby was appointed Chairman.

S.S. 33-76 - RESOLUTION OF INTENT TO CREATE DISTRICT (PHASE 3, ORCHARD MESA SANITARY SEWER)

The following Resolution was read:

RESOLUTION

DECLARING THE INTENTION OF THE CITY COUNCIL OF GRAND JUNCTION, COLORADO, TO CREATE WITHIN SAID CITY A LOCAL IMPROVEMENT DISTRICT TO BE KNOWN AS SANITARY SEWER DISTRICT NO. 33-76 AND AUTHORIZING THE CITY ENGINEER TO PREPARE DETAILS AND SPECIFICATIONS FOR THE SAME.

WHEREAS, the City Council has found and determined, and does hereby find and determine, that the construction of a sanitary sewer drainage system within the said described area is necessary for the health and safety of the residents of the territory to be served, and would be of special benefit to the property included within the said district; and

WHEREAS, the City Council deems it advisable to take the necessary preliminary proceedings for the creation of a special improvement sanitary sewer district to be known as Sanitary Sewer District No. 33-76;

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

1. That the district of lands to be assessed with the cost of the proposed sanitary sewer improvement shall be as follows:

Beginning at the Northeast corner of Lot 6 of Williams Subdivision; thence South to the South boundary line of Section 24, Township 1 South, Range 1 West; thence Easterly along the North boundary line of Section 25 (C Road) to the North Quarter Corner of said Section 25, Township 1 South, Range 1 West; thence Southerly along the North-South Quarter Section line of Section 25, Township 1 South, Range 1 West (27 1/2 Road) to the center quarter corner of said Section 25; thence running Easterly along said quarter section line (B1/2 Road) 990 feet; thence North 1,320 feet to a point on the East-West Quarter Section line of Section 25, Township 1 South, Range 1 West; thence West 180 feet; thence North 1,320 feet to the South line of Section 24, Township 1 South, Range 1 West, thence East along the said South line of Section 24 (C Road) to the southwest Corner Southwest Quarter of Section 19, Township 1 South, Range 1 East; thence East along the South line of the said Section 19 to a point South 89° 54' West 768.42 feet from the Southeast Corner of Lot 6 of the said Section 19; thence North to the Northeast corner of Highland Acres Subdivision; thence Westerly along the South boundary line of the

Colorado River to the point of Beginning. This description is relative to the Ute Principal Meridian.

2. That the City Engineer be, and he is hereby, authorized and directed to prepare and file full details, plans and specifications for such sewer construction, and estimate of the total cost thereof, exclusive of the per centum for cost of collection and other incidentals, and of interest to the time the first installment becomes due, and a map of the district to be assessed, from which the approximate share of said total cost that will be assessed upon each piece of real estate in the district may be readily ascertained, all as required by Ordinance No. 178, as amended, of the City.

ADOPTED and APPROVED this 19th day of May, 1976.

\_\_\_\_\_  
President of the Council  
Lawrence L. Kozisek

Attest:

\_\_\_\_\_  
City Clerk  
Neva B. Lockhart

It was moved by Councilman Tufly and seconded by Councilman Johnson that the Resolution be passed and adopted as read. Upon roll call all Council members voted AYE. The President declared the motion carried and the Resolution duly passed and adopted.

S.S. 34-76 - RESOLUTION OF INTENT TO CREATE DISTRICT (EL POSO SANITARY SEWER)

The following Resolution was read:

RESOLUTION

DECLARING THE INTENTION OF THE CITY COUNCIL OF GRAND JUNCTION, COLORADO, TO CREATE WITHIN SAID CITY A LOCAL IMPROVEMENT DISTRICT TO BE KNOWN AS SANITARY SEWER DISTRICT NO. 34-76 AND AUTHORIZING THE CITY ENGINEER TO PREPARE DETAILS AND SPECIFICATIONS FOR THE SAME.

WHEREAS, the City Council has found and determined, and does hereby find and determine, that the construction of a sanitary drainage system within the said described area is necessary for the health and safety of the residents of the territory to be served, and would be of special benefit to the property included within the said district; and

WHEREAS, the City Council deems it advisable to take the necessary

preliminary proceedings for the creation of a special improvement sanitary sewer district to be known as Sanitary Sewer District No. 34-76;

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

1. That the district of lands to be assessed with the cost of the proposed sanitary sewer improvement shall be as follows:

Lots 1 thru 22 inclusive of Block 1, Carpenters Sub No. 2;

Lots 1 thru 22 inclusive of Block 2, Carpenters Sub No. 2;

Lots 1 thru 22 inclusive of Block 3, Carpenters Sub No. 2;

Lots 1 thru 22 inclusive of Block 4, Carpenters Sub No. 2;

Plus the following described parcels listed by Mesa County assessors tax numbers:

2945-151-00-027 Beg 45 ft W and 190 ft N of SE Cor NW4SE4NE4 Sec 15 1S 1W W 61 ft to E Si DN Nely alg E side to Inters WI S LI State Hwy ROW Sely Alg ROW to a Pt N of Beg S to Beg

2945-151-00-028 Beg 45 ft W and 90 ft N of SE Cor NW4SE4NE4 Sec 15 1S 1W N 100 ft W 61 ft Swly to a Pt 80 ft W of Beg E to Beg.

2945-151-00-030 Beg 45 ft W of SE Cor NW4SE4NE4 Sec 15 1S 1W W 41.5 ft N 25 ft W 38.5 ft N 65 ft E 80 ft S 90 ft to Beg

2945-151-00-038 Beg 335 ft N and 410 ft W of SE Cor SW4NE4 Sec 15 1S 1W W 50 ft S 125 ft E 50 ft N to Beg.

2945-151-00-047 Beg 60 ft W and 535 ft N of SW Cor SE4NE4 Sec 15 1S 1W N 125 ft W 50 ft S 125 ft E to Beg

2945-151-00-048 Beg 535 ft N and 110 ft W of SW Cor SE4NE4 Sec 15 1S 1W N 125 ft W 50 ft S 125 ft E to Beg

2945-151-00-049 Beg 160 ft W and 535 ft N of SW Cor SE4NE4 Sec 15 1S 1W N 125 ft W 75 ft S 125 ft E to Beg

2945-151-00-050 Beg 535 ft N and 235 ft W of SE Cor SW4NE4 Sec 15 1S 1W W 25 ft N 125 ft E 25 ft S 125 ft to Beg

2945-151-00-051 Beg 535 ft N and 260 ft W of SW Cor SE4NE4 Sec 15 1S 1W W 25 ft N 125 ft E 25 ft S to Beg

2945-151-00-052 Beg 535 ft N and 285 ft W of SW Cor SE4NE4 Sec 15 1S 1W W 50 ft N 125 ft S to Beg

2945-151-00-053 Beg 535 ft N and 335 ft W of SE cor SW4NE4 Sec 15 1S 1W W 75 ft N 125 ft E 75 ft S 125 ft to Beg

2945-151-00-054 Beg 535 ft N ad 410 ft W of SE Cor SW4NE4 Sec 15  
1S 1W W 50 ft N 125 ft E 50 ft S to Beg

2945-151-00-055 Beg 395 ft N and 310 ft W of SW Cor SE4NE4 Sec 15  
1S 1W W 150 ft N 125 ft E 150 ft S to Beg

2945-151-00-056 Beg 395 ft N and 235 ft W of SW Cor SE4NE4 Sec 15  
1S 1W W 75 ft N 125 ft E 75 ft S to Beg

2945-151-00-057 Beg 395 ft N and 160 ft W of SW Cor SE4NE4 Sec 15  
1S 1W N 125 ft W 50 ft S 125 ft E to Beg

2945-151-00-058 Beg 395 ft N and 210 ft W of SE Cor SW4NE4 Sec 15  
1S 1W N 125 ft W 25 ft S 125 ft E to Beg

2945-151-00-059 Beg 395 ft N and 110 ft W of SW Cor SE4NE4 Sec 15  
1S 1W N 125 ft W 50 ft S 125 ft E to Beg

2945-151-00-060 Beg 395 ft N and 60 ft W of SW Cor SE4NE4 Sec 15  
1S 1W N 125 ft W 50 ft S 125 ft E to Beg

2945-151-00-061 Beg 335 ft N 60 ft W of SW Cor SE4NE4 Sec 15 1S 1W  
S 125 ft W 50 ft N 125 ft E to Beg

2945-151-00-062 Beg 335 ft N and 110 ft W of SW Cor SE4NE4 Sec 15  
1S 1W W 100 ft S 125 ft E 100 ft N to Beg

2945-151-00-063 Beg 70 ft N and 160 ft W of SE Cor SW4NE4 Sec 15  
1S 1W N 125 ft W 25 ft S 125 ft E to Beg

2945-151-00-064 Beg 335 ft N and 210 ft W of SW Cor SE4NE4 Sec 15  
1S 1W W 50 ft S 125 ft E 50 ft N to Beg

2945-151-00-065 Beg 335 ft N and 260 ft W of SE Cor SW4NE4 Sec 15  
1S 1W S 125 ft W 50 ft N 125 ft E 50 ft to Beg

2945-151-00-066 Beg 335 ft N and 310 ft W of SE Cor SW4NE4 Sec 15  
1S 1W S 125 ft W 50 ft N 125 ft E 50 ft to Beg

2945-151-00-067 Beg 335 ft N and 360 ft W of SE Cor SW4NE4 Sec 15  
1S 1W W 50 ft S 125 ft E 50 ft N 125 ft to Beg

2945-151-00-068 Beg 1800.3 ft W and 270.9 ft N of E4 Cor Sec 15 1S  
1W N 96 ft W 55 ft S 96 ft E to Beg

2945-151-00-069 Beg S 89° 45' W 1800.3 ft Fr E4 Cor Sec 15 1S 1W N  
as Recd Book 897 Pg 473 Mesa Co. Clerk

2945-151-00-073 Beg 70 ft N and 460 ft W of SE Cor SW4NE4 Sec 15  
1S 1W N 125 ft W 40 ft S 125 ft E to Beg

2945-151-00-074 Beg a pt 70 ft N and 385 ft W of SE Cor SW4NE4 Sec

15 1S 1W N 125 ft W 75 ft S 125 ft E to Beg

2945-151-00-075 Beg 70 ft N and 310 ft W of SE Cor SW4NE4 Sec 15  
1S 1W N 125 ft W 75 ft S 125 ft E to Beg

2945-151-00-076 Beg 70 ft N and 285 ft W of SE Cor SW4NE4 Sec 15  
1S 1W N 125 ft W 25 ft S 125 ft E to Beg

2945-151-00-077 Beg a Pt 70 ft N and 210 ft W of SE Cor SW4NE4 Sec  
15 1S 1W N 125 ft W 25 ft S 125 ft E to Beg

2945-151-00-078 Beg 70 ft N and 235 ft W of SE Cor SW4NE4 Sec 15  
1S 1W N 125 ft W 50 ft S 125 ft E to Beg

2945-151-00-079 Beg 70 ft N and 185 ft W of SE Cor SW4NE4 Sec 15  
1S 1W N 125 ft W 25 ft S 125 ft E to Beg

2945-151-00-081 Beg 70 ft N and 60 ft W of SE Cor SW4NE4 Sec 15 1S  
1W N 125 ft W 100 ft S 125 ft E to Beg

Part of Block 7 Carpenters Sub, No. 2 described as follows:

2945-154-11-001 S 25 ft of Lots 1 to 8 Inc Blk 7 Carpenter Sub 2  
Exc Hwy as Desc in B-983 P 91 Co. Clerks Office

2945-154-11-002 N 100 ft of Lots 1 to 3 Inc Blk 7 Carpenters Sub  
No. 2 Exc Beg S 42° 59' W 178.4 ft fr NE Cor NW4SE4 of Sec 15 1S  
1W N 89° 45' E Alg S LI of Prop 61.7 ft to E LI Lot 1 N Alg E LI  
Lot 1 30.6 ft S 63° 23' W 69 ft to Beg

2945-154-11-003 N 100 ft of Lots 4 to 8 Inc Blk 7 Carpenter Sub 2

2945-154-11-004 Lots 9 to 17 Inc Blk 7 Carpenters Sub 2

2945-154-11-008 Lot 18 to 23 Inc Blk 7 Carpenters Sub 2 Lyg N of  
HWY 340

2. That the City Engineer be, and he is hereby, authorized and directed to prepare and file full details, plans and specifications for such sewer construction, and estimate of the total cost thereof, exclusive of the per centum for cost of collection and other incidentals, and of interest to the time the first installment becomes due, and a map of the district to be assessed, from which the approximate share of said total cost that will be assessed upon each piece of real estate in the district may be readily ascertained, all as required by Ordinance No. 178, as amended, of the City.

PASSED and ADOPTED this 19th day of May, 1976.

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President of the Council

Lawrence L. Kozisek

Attest:

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

Neva B. Lockhart

It was moved by Councilman Brown and seconded by Councilman Johnson that the Resolution be passed and adopted as read. Upon roll call all Council members voted AYE. The President declared the motion carried and the resolution duly passed and adopted.

APPOINTMENTS TO UNIFORM BUILDING CODE APPEALS BOARD

By secret ballot, the following people were appointed to serve on the Uniform Building Code Appeals Board:

Fred W. Sperber

Raymond G. Phipps

Richard A. Hodges

Gary Vanderwood

Ed Armstrong

BICENTENNIAL PARKS GRANT

After a report by Parks & Recreation Director Ken Idleman, it was moved by Councilman Brown and seconded by Councilwoman Quimby that the Parks Department be directed to pursue the final grant application for the upper end boat ramp in the Clifton area if it can be worked out with the County, with extension of Riverside Park being an alternate proposal. Motion carried unanimously.

LIFTING SEWER MORATORIUM

After a report by Public Works Director Jim Patterson regarding the status of the Valley Wide Sewer System and recommendation that Council allow discussion with developer, it was moved by Councilman Brown and seconded by Councilman Tufly that the sewer moratorium be lifted and that all outside sewer agreements be brought to Council for consideration. Motion carried unanimously. Councilman Tufly requested a study and report of approved taps where there has been no activity.

TRAFFIC - PEDESTRIAN IMPROVEMENT AT 4TH STREET & WHITE

Mr. Bert Schilling thanked Council for the traffic enforcement for the benefit of pedestrians at 4th and White.

## COUNCIL COMMITTEE REPORTS

### Housing Authority

Councilwoman Quimby reported that the Housing Authority may be able to develop the upper part of Walnut Park into more elderly units.

### Human Relations Council & Centennial Bicentennial Committee

Councilman Johnson reported that the Human Relations Council met yesterday.

The Bicentennial Committee met and approved a request for funds by the Police Department for \$239 for photography history of the Police Department; and possible approval of \$90 for National Park Service to pay for rental of Two Rivers Plaza in the event it must move from Lincoln Park because of rain.

Councilman Tufly reported that a proposal for a long-range tennis program will be working its way to Council in the near future.

### BOARD MEETING SCHOOL ADMINISTRATION 5-20-76

Councilwoman Quimby reminded Council members of the Board meeting at 8 p.m. tomorrow night in the Board Room.

### PROCLAMATION DECLARING MAY 31 VETERAN'S ADMINISTRATION HOSPITAL DAY

President Kozisek read a Proclamation declaring May 31, 1976 Veteran's Administration Hospital Day.

### ADJOURNMENT

It was moved by Councilman Brown and duly seconded that the Meeting be adjourned. Motion carried.

Neva B. Lockhart

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Neva B. Lockhart  
City Clerk