

Grand Junction, Colorado

September 20, 1978

ROLL CALL

The City Council of the City of Grand Junction, Colorado, met in regular session Wednesday, September 20, 1978, at 7:30 p.m. in Council Chambers at City Hall. Present were Council members Larry Brown, Robert Holmes, Larry Kozisek, Bill O'Dwyer, Jane Quimby, and President of the Council Karl Johnson. Also present were City Manager Jim Wysocki, City Attorney Gerald Ashby, and City Clerk Neva Lockhart.

MINUTES

Consideration of the September 6 Minutes was deferred to October 4, 1978.

CHADWICK, STEINKIRCHNER, DAVIS & COMPANY TO AUDIT 1978 FINANCIAL RECORDS - \$19,750

It was moved by Councilman Kozisek and seconded by Councilwoman Quimby that Chadwick, Steinkirchner, Davis & Company be engaged to audit the 1978 financial records for the cost of \$19,750. Motion carried.

ANITA JOHNSON (MRS. STEPHEN, JR.) APPOINTED TO BOARD OF ADJUSTMENT AND APPEALS

It was moved by Councilman Brown and seconded by Councilwoman Quimby that Anita Johnson be appointed by acclamation to the Board of Adjustment and Appeals. Motion carried.

BEER - LICENSES RENEWED AT ALBERTSON'S FOOD CENTER, 1838 N. 12TH STREET, AND SOUTHLAND'S 7-11 STORE, 2847 NORTH AVENUE

Submitted for consideration were the applications by Albertson's Food Center, 1838 N. 12th Street, and Southland Corporation dba 7-11 Store, 2847 North Avenue, to renew 3.2% beer licenses. The reports from the Police Department advised that during the past licensing period there have been no complaints or violations noted concerning the sale of 3.2 beer by these establishments.

It was moved by Councilman Kozisek and seconded by Councilman Brown that the applications be approved and the licenses issued when the State licenses have been received. Motion carried with Councilman HOLMES voting NO.

LIQUOR - RENEWAL OF HOTEL-RESTAURANT LIQUOR LICENSE AT BAR X, 1600 NORTH AVENUE

Submitted for consideration was the application by 1600 North, Inc. dba Bar X Restaurant & Lounge, 1600 North Avenue, to renew

its hotel-restaurant liquor license. The establishment meets health requirements and life safety requirements. During the past licensing period no violations or complaints were noted.

It was moved by Councilman Kozisek and seconded by Councilwoman Quimby that the application be approved and the license issued when the State license has been received. Motion carried with Councilman HOLMES voting NO.

LIQUOR - RENEWAL OF RETAIL LIQUOR STORE LICENSE AT TELLER ARMS LIQUOR SHOPPE, 2353 BELFORD AVENUE

Submitted for consideration was the application by Charles Finkel and Gary Stenger to renew the retail liquor store license at Teller Arms Liquor Shoppe, 2353 Belford Avenue. There have been no complaints or violations concerning the sale of liquor by this establishment during the past licensing period.

It was moved by Councilman Brown and seconded by Councilman Kozisek that the application be approved and the license issued when the State license has been received. Motion carried with Councilman HOLMES voting NO.

JACKSON BULK DEVELOPMENT, 23RD STREET AND ELM - PROPOSED ORDINANCE VACATING ALLEY

City Attorney Ashby advised Council that he was advised by Mr. Mumby, attorney for Mrs. Dorothy Jackson, that their review of the survey done by others out there in regard to the Jackson tract indicated that in fact they were short 200 square feet in the total. Mr. Mumby also informed Mr. Ashby that it was the intention of Mrs. Jackson to go before the Board of Adjustment to seek a variance in regard to the tract. This would leave the Council tonight with the question only of the alley vacation because if the alley is not vacated there is nothing for the Board of Adjustment to work on because it won't be nearly enough square footage at that point.

Councilman Brown clarified that Council has the option of not taking any action on the application for bulk development or denying the application for bulk development on the basis of the absence of the square footage.

Mr. Ashby responded that Council could deny the application on the basis of the absence of the square footage and then if she applied again she would have to pay the fee again.

President Johnson added that Council could deny the vacation of the alley which would make the whole question moot.

Councilman Kozisek noted that the reason the original request is not before Council tonight is because it does not qualify. He questioned whether the bulk development application would need to be resubmitted in the event the alley is vacated to where it

probably would qualify relatively close so that a variance could be requested.

Mr. Ashby's response was "No, not if the question of the bulk development is open." The question is not closed if she can go before the Board of Adjustment and get a variance.

Councilman Brown stated that it isn't closed unless the Council closes it tonight on the basis that they do not have enough square footage with or without the alley. He continued that on the basis that the request came to Council and the fact that they may wish to go to the Board of Adjustment is somewhat irrelevant in the normal sense of what Council is doing and what its decision is based on.

President Johnson said that if Council denies the bulk development and approves the vacation of the alley, the petitioner has a basis to go before the Board of Adjustment and ask for a variance. If Council denies the bulk development and denies the vacation of the alley, the petitioner has no basis to go to the Board of Adjustment.

Councilman O'Dwyer moved that the proposed ordinance vacating the alley be read.

The following entitled proposed ordinance was read: AN ORDINANCE VACATING AN ALLEY WITHIN THE CITY. It was moved by Councilman Brown and seconded by Councilman Kozisek that the proposed ordinance be passed for publication. Motion carried.

Councilman Brown said that the question of how Council deals with the bulk development goes beyond the applicant having to pay another fee. If the application is denied tonight and if they do go to the Board of Adjustment and the Planning Commission does change the status of the bulk development to a conditional use in the meantime so that other things can be considered, then there are many more things than just the people having to pay an extra fee would be at stake.

President Johnson said it can be left as the Planning Commission has left it, on a continued basis until such time as the Planning Commission has had time to make a consideration of it. Councilman Kozisek said he was not comfortable with that particularly in light of the reaction from the immediate neighborhood. There were a number of concerns voiced by the immediate neighborhood and they were on record as such as the Planning Commission hearing opposing the bulk development.

It was moved by Councilman Kozisek and seconded by Councilman Brown that the application for bulk development be denied on the basis of a lack of adequate square footage to meet present requirements. Motion carried.

HEARING - PROPOSED ORDINANCE - REZONING FROM R-1-D TO PD-B OMEGA

PARK, SE OF 28 ROAD AND ELM AVENUE

A hearing was held after proper notice. No letters were filed and there was no one in the audience who indicated a desire to speak for or against the request.

The following entitled proposed ordinance was read: AN ORDINANCE AMENDING THE ZONING MAP, A PART OF CHAPTER 32 OF THE CODE OF ORDINANCES OF THE CITY OF GRAND JUNCTION, BY CHANGING THE ZONING ON CERTAIN LANDS WITHIN THE CITY. It was moved by Councilman Kozisek and seconded by Councilwoman Quimby that the proposed ordinance be passed for publication. Motion carried with Councilman HOLMES voting NO.

HEARING - FINAL DEVELOPMENT PLAN FOR OMEGA PARK, PHASE I, SE CORNER 28 ROAD AND ELM AVENUE - PLANNED DEVELOPMENT FOR OFFICES

A hearing was held after proper notice. Mr. Harry Mavrakis was present representing Pavlakis and Company. No letters were filed and there were no others present who indicated a desire to speak on this item.

It was moved by Councilman Kozisek and seconded by Councilman O'Dwyer that the Final Development Plan, Phase I, for Omega Park be approved subject to the conditions of the Planning Commission. Motion carried with Councilman HOLMES voting NO.

HEARING - PROPOSED ORDINANCE - ZONING APOLLO PARK ANNEXATION C-2 NW CORNER 25 1/2 ROAD AND INDEPENDENT

A hearing was held after proper notice. No letters were filed and there was no one in the audience to speak for or against the proposed rezoning.

The following entitled proposed ordinance was read: AN ORDINANCE AMENDING THE ZONING MAP, A PART OF CHAPTER 32 OF THE CODE OF ORDINANCES OF THE CITY OF GRAND JUNCTION, BY ADDING THE ZONING OF CERTAIN LANDS WITHIN THE CITY. It was moved by Councilman Kozisek and seconded by Councilwoman Quimby that the proposed ordinance be passed for publication. Motion carried.

HEARING - PROPOSED ORDINANCE - VACATING ALLEY BTN WHITE AND ROOD FROM 1ST TO 2ND

A hearing was held after proper notice. Mr. Keith Mumby, attorney, appeared on behalf of the applicant. He stated the applicant is working diligently to obtain a one-block single-use development for this area. It is not finalized. He stated the applicant finds itself in the same limbo as Council in that the Planning Commission made the recommendation that the alley be vacated at the time that the applicant made application for a building permit covering the whole block. He stated they would accept that if they could get a firm enough commitment from the Council that it will not be an impediment to finalizing the one-block usage. He

continued that no one would want to come with a total block development until they know that that alley will be vacated.

Mr. Ashby recommended passing the ordinance for publication and then hold it until such time as the applicant comes in with the single parcel development, then pass it for final.

The following entitled proposed ordinance was read: AN ORDINANCE VACATING AN ALLEY WITHIN THE CITY OF GRAND JUNCTION. It was moved by Councilman O'Dwyer and seconded by Councilman Brown that the proposed ordinance be passed for publication. Motion carried.

HEARING - DEVELOPMENT IN H.O. ZONE - CROSSROADS SQUARE, SW CORNER HORIZON DRIVE AND CROSSROADS BOULEVARD

A hearing was held after proper notice. No letters were filed and there was no one in the audience to speak for or against the development.

It was moved by Councilman Brown and seconded by Councilman Kozisek that the Crossroads Square Development be approved subject to the conditions of the Planning Commission. Motion carried.

HEARING - DEVELOPMENT IN H.O. ZONE, CBW BUILDERS OFFICE BUILDING, N SIDE OF CROSSROADS BOULEVARD 400 FEET NW OF HORIZON DRIVE

It was moved by Councilman O'Dwyer and seconded by Councilwoman Quimby that the Development of CBW Builders Office Building in H.O. Zone be approved subject to the conditions of the Planning Commission. Motion carried.

HEARING - PROPOSED ORDINANCE - ZONING 2806 C ROAD PDB - PRELIMINARY PLAN APPROVED - JENKINS FLORAL

A hearing was held after proper notice. No letters were filed. Mr. and Mrs. Jenkins were present for the hearing. There were no others in the audience to speak for or against the proposal.

The following entitled proposed ordinance was read: AN ORDINANCE AMENDING THE ZONING MAP, A PART OF CHAPTER 32 OF THE CODE OF ORDINANCES OF THE CITY OF GRAND JUNCTION, BY CHANGING THE ZONING ON CERTAIN LANDS WITHIN THE CITY. It was moved by Councilman Kozisek and seconded by Councilwoman Quimby that the proposed ordinance be passed for publication. Motion carried with Councilman HOLMES voting NO.

It was moved by Councilman Kozisek and seconded by Councilman O'Dwyer that the Preliminary Plan for the expansion of Jenkins Floral, 2806 C Road, be approved subject to the conditions of the Planning Commission. Motion carried with Councilman HOLMES voting NO.

HEARING - OUTLINE DEVELOPMENT PLAN FOR JONES-SCHINDEL ANNEXATION, PD8, SE OF 27 1/2 ROAD AND G ROAD

A hearing was held after proper notice. Mr. Beaver advised that the rezoning of this property to PD-8 will come to Council when the preliminary plan is presented. Mr. Jones, the petitioner, was present for the hearing.

A lady from this neighborhood expressed concern about the grass and weeds. Mr. McAllister lives in this neighborhood. He reminded Council about the hazard at G Road and Horizon Drive. He was pleased to know access to this development will be from F-3/4 Road and 27-1/2 Road and not G Road.

It was moved by Councilman Kozisek and seconded by Councilman O'Dwyer that the Outline Development Plan for the Jones-Schindel Annexation be approved subject to the conditions of the Planning Commission. Motion carried.

HEARING - HORIZON 70 SUBDIVISION FINAL PLAT, SW COR OF I-70 AND HORIZON DRIVE (TREECE ANNEXATION)

A hearing was held after proper notice. Mr. Treece, the petitioner, was present. No letters were filed and there were no others present to speak for or against the proposal.

It was moved by Councilman Kozisek and seconded by Councilwoman Quimby to approve the four-lot subdivision subject to Lot 1 having public access from Lot 2, the petitioner participating in the signalization of the intersection, the petitioner providing a power of attorney for improvements to Horizon Drive, channelization alignments, and temporary walkway. Motion carried.

RECESS

The President declared a five-minute recess. Upon reconvening all Council members were present.

GENERAL GROWTH PROPERTIES

Del Beaver advised that this item would be coming before the County Planning Commission Thursday night before the County Commissioners Friday morning for their discussion and final action. He felt it appropriate that the City Council see this and take a look at the situation so it may make a decision on whether it would wish to make any recommendations regarding the proposal.

It appears as though the most critical comments from review agencies are those associated with the access and those associated with the flood plain drainage. He noted that the County has adopted flood plain regulations consistent with mitigation of 100-year flood.

He noted F Road relocation and Ranchman's Ditch to be placed in conduit somewhere under the parking lot. He discussed the major public works projects that would be necessary for this facility

and the problem staff is having with the limited amount of access points.

Petitioner was present with his attorney, William Nelson.

It was moved by Councilman Brown and seconded by Councilman Kozisek that the City Council recommend to the Mesa County Planning Commission and the Board of County Commissioners that these bodies address the following items during deliberations prior to final approval:

- (1) Identify the public works projects and who will be responsible for which, meaning the City, the State, the petitioners, and the County;
- (2) That all improvements be made to City specifications;
- (3) That F Road be improved immediately to accommodate four lanes from 24 Road to 24 1/2 Road;
- (4) That signalization be required immediately on Highway 50 at the access points. The acceleration lanes and deceleration be addressed immediately;
- (5) That 24 Road and 24 1/2 Road also be four-laned in that immediate area;
- (6) That Leach Creek and Ranchman's Ditch be addressed to prevent any serious flood problems in that area.

Motion carried.

ORDINANCE NO. 1764 - NELSON-STEWART ANNEXATION

The Proof of Publication to the following entitled proposed ordinance was presented: AN ORDINANCE ANNEXING TERRITORY TO THE CITY OF GRAND JUNCTION. It was moved by Councilman O'Dwyer and seconded by Councilwoman Quimby that the Proof of Publication be accepted for filing. Motion carried.

It was moved by Councilman Brown and seconded by Councilman Holmes 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 Holmes and seconded by Councilman Brown that the ordinance be passed, adopted, numbered 1764, and ordered published. Upon roll call all Council members voted AYE. The President declared the motion carried.

ORDINANCE NO. 1765 - REZONE FROM R-1-C TO PD-8, LAMPLITE PARK, E
END OF SANTA CLARA AVENUE

The Proof of Publication to the following entitled proposed

ordinance was presented: AN ORDINANCE AMENDING THE ZONING MAP, A PART OF CHAPTER 32 OF THE CODE OF ORDINANCES OF THE CITY OF GRAND JUNCTION, BY CHANGING THE ZONING ON CERTAIN LANDS WITHIN THE CITY. It was moved by Councilman Brown and seconded by Councilwoman Quimby that the Proof of Publication be accepted for filing. Motion carried with Councilman HOLMES voting NO.

It was moved by Councilman O'Dwyer and seconded by Councilwoman Quimby that the proposed ordinance be called up for final passage and read. Motion carried with Councilman HOLMES voting NO.

The Ordinance was read. There being no comments, it was moved by Councilman O'Dwyer and seconded by Councilman Brown that the Ordinance be passed, adopted, numbered 1765, and ordered published. Upon roll call Council members KOZISEK, O'DWYER, BROWN, QUIMBY and JOHNSON voted AYE. Councilman HOLMES voted NO. The President declared the motion carried.

ORDINANCE NO. 1766 - ZONING TREECE ANNEXATION H.O.

The Proof of Publication to the following entitled proposed ordinance was presented: AN ORDINANCE AMENDING THE ZONING MAP, A PART OF CHAPTER 32 OF THE CODE OF ORDINANCES OF THE CITY OF GRAND JUNCTION, BY CHANGING THE ZONING ON CERTAIN LANDS WITHIN THE CITY. It was moved by Councilman Brown and seconded by Councilman O'Dwyer that the Proof of Publication be accepted for filing. Motion carried.

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

The Ordinance was read. It was moved by Councilman Kozisek and seconded by Councilman Holmes that the Ordinance be passed, adopted, numbered 1766, and ordered published. Upon roll call all Council members voted AYE. The President declared the motion carried.

ORDINANCE NO. 1767 - ORDINANCE CORRECTING ORDINANCE NO. 1734 - ALLEY VACATION, S HALF OF N-S ALLEY BETWEEN NORTH AVENUE AND GLENWOOD AVENUE, E OF 7TH STREET

The Proof of Publication to the following entitled proposed ordinance was presented: AN ORDINANCE VACATING AN ALLEY WITHIN THE CITY OF GRAND JUNCTION. It was moved by Councilman O'Dwyer and seconded by Councilman Brown that the Proof of Publication be accepted for filing. Motion carried.

It was moved by Councilwoman Quimby and seconded by Councilman Holmes 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 O'Dwyer and seconded by Councilwoman Quimby that the

Ordinance be passed, adopted, numbered 1767, and ordered published. Upon roll call all Council members voted AYE. The President declared the motion carried.

* LICENSING DISCUSSION OF BEER AND LIQUOR*PROCEDURES TABLED TO SECOND MEETING IN DECEMBER

It was moved by Councilman Kozisek and seconded by Councilman Brown that this item be tabled to the Council meeting the middle of December. Motion carried.

RESOLUTION - DEDICATING EASEMENT FOR THE PARK AT 30 ROAD AND F ROAD FOR THE LITTLE TRIO SUBDIVISION

The following Resolution was presented and read:

RESOLUTION

WHEREAS, the dedication of a portion of City-owned land is necessary to provide access to that land and to the areas of the County of Mesa;

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

That the City Manager, as the act of the City and on behalf of the City, be and he is hereby authorized and directed to execute a roadway dedication dedicating to the County of Mesa and the public land situate in the County of Mesa and described as follows:

The North 50.00 feet of the West Half of the Southeast Quarter of the Southeast Quarter of Section 5, Township 1 South, Range 1 East of the Ute Meridian,

for road right of way and utility purposes.

PASSED and ADOPTED this 20 day of September, 1978.

President of the Council

Attest:

City Clerk

It was moved by Councilman Brown and seconded by Councilman Holmes 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.

PETITION - RESOLUTION - PROPOSED ORDINANCE - PARADISE VALLEY

ANNEXATION, 585 25 1/2 ROAD

The petition with one hundred percent signature (power of attorney) for Paradise Valley Annexation was accepted for filing. The following Resolution was presented and read:

RESOLUTION

WHEREAS, on the 20th day of September, 1978, a petition was submitted to the City Council of the City of Grand Junction, Colorado, for annexation to said City of the following property, to wit:

The Northeast Quarter of the Northwest Quarter of Section 10, Township 1 South, Range 1 West, Ute Meridian, except F Road right of way on the North and except beginning at a point 605 feet North and 30 feet West of the Southeast Corner of said Northeast Quarter of the Northwest Quarter, thence West 280 feet, thence North 310 feet, thence East 280 feet, thence South to point of beginning and except 25 1/2 Road right of way on the East;

and

WHEREAS, the Council has found and determined and does hereby find and determine that said petition is in substantial compliance with statutory requirements therefor; that one-sixth of the perimeter of the area proposed to be annexed is contiguous with the City; that a community of interest exists between the territory and the City; that the territory proposed to be annexed is urban or will be urbanized in the near future; that the said territory is integrated or is capable of being integrated with said City, and that no election is required under the Municipal Annexation Act of 1965 as the owner of one hundred percent of the property has petitioned for annexation;

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

That the said territory is eligible for annexation to the City of Grand Junction, Colorado, and should be so annexed by Ordinance.

PASSED and ADOPTED this 20 day of September, 1978.

President of the Council

Attest:

City Clerk

It was moved by Councilman Kozisek and seconded by Councilwoman

Quimby 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.

The following entitled proposed ordinance was read: AN ORDINANCE ANNEXING TERRITORY TO THE CITY OF GRAND JUNCTION, COLORADO. It was moved by Councilman Kozisek and seconded by Councilwoman Quimby that the proposed ordinance be passed for publication. Motion carried.

RESOLUTION - CONCERNING FLOOD INSURANCE

The following Resolution was presented and read:

RESOLUTION

CONCERNING FLOOD INSURANCE

WHEREAS, certain areas of the City of Grand Junction are subject to periodic flooding from streams, irrigation ditches and waste ditches causing damage to properties within these areas; and

WHEREAS, relief is available in the form of Federally subsidized flood insurance as authorized by the National Flood Insurance Act of 1968; and

WHEREAS, it is the intent of this Council to require the recognition and evaluation of flood hazards in all official actions relating to land use in the flood plain areas having special flood hazards; and

WHEREAS, this body has a legal authority to adopt land use and control measures to reduce future flood losses pursuant to Article XX of the Colorado Constitution and C.R.S., 1973, 31-23-100 et seq.;

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

That this Council hereby:

1. Assures the Federal Insurance Administration that it will enact as necessary, and maintain in force for those areas having flood hazards, adequate land use and control measures with effective enforcement provisions consistent with the Criteria set forth in Section 1910 of the National Flood Insurance Program Regulations; and

2. Vests the Planning Director with the responsibility, authority and means to:

(a) Delineate or assist the administrator, at his request, in delineating the limits of the areas having special flood hazards on available local maps of sufficient scale to identify the

location of building sites.

(b) Provide such information as the Administrator may request concerning present uses and occupancy of the flood plain.

(c) Cooperate with Federal, State and local agencies and private firms which undertake to study, survey, map and identify flood plain areas, and cooperate with neighboring communities with respect to management of adjoining flood plain areas in order to prevent aggravation of existing hazards.

(d) Submit on the anniversary date of the community's initial eligibility an annual report to the Administrator on the progress made during the past year within the community in the development and implementation of flood plain management measures.

3. Appoints the Planning Director to maintain for public inspection and to furnish upon request a record of elevations (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures located in the special flood hazard areas. If the lowest floor is below grade on one or more sides, the elevation of the floor immediately above must also be recorded.

4. Agrees to take such other official action as may be reasonably necessary to carry out the objectives of the program.

PASSED and ADOPTED this 20 day of September, 1978.

President of the Council

Attest:

City Clerk

It was moved by Councilman O'Dwyer and seconded by Councilman Kozisek 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.

RESOLUTION - CONCERNING BUILDING PERMIT SYSTEM WITHIN THE CITY

The following Resolution was presented and read:

RESOLUTION

CONCERNING THE BUILDING PERMIT SYSTEM WITHIN THE CITY OF GRAND JUNCTION.

WHEREAS, the City of Grand Junction has adopted and is enforcing

the Uniform Building Code, 1976 Edition, promulgated by the International Conference of Building Officials; and

WHEREAS, Section 301(a) of the aforesaid 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 City Building Official; and

WHEREAS, the Building Official must examine all plans and specifications for the proposed construction when application is made to him for a building permit.

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

1. That the Building Official shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding.

If a proposed building site is in a location that has a flood hazard, any proposed new construction or substantial improvement (including prefabricated and mobile homes) must (i) be designed (or modified) and anchored to prevent flotation, collapse or lateral movement of the structure, (ii) use construction materials and utility equipment that are resistant to flood damage, and (iii) use construction methods and practices that will minimize flood damage; and

2. That the Building Official shall review subdivision proposals and other proposed new developments to assure that (i) all such proposals are consistent with the need to minimize flood damage, (ii) all public utilities and facilities, such as sewer, gas, electrical and water systems are located, elevated and constructed to minimize or eliminate flood damage, and (iii) adequate drainage is provided so as to reduce exposure to flood hazards; and

3. That the Building Official shall require new or replacement water supply systems and/or sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and require on-site waste disposal systems to be located so as to avoid impairment of them or contamination from them during flooding.

PASSED and ADOPTED this 20 day of September, 1978.

President of the Council

Attest:

City Clerk

It was moved by Councilman Brown and seconded by Councilwoman Quimby 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.

PROPOSED ORDINANCE - ASSESSING AN INTERIM SEWER PLANT INVESTMENT FEE - \$500

The following entitled proposed ordinance was read: AN ORDINANCE ASSESSING A SEWER PLANT INVESTMENT FEE. It was moved by Councilman Brown and seconded by Councilwoman Quimby that the proposed ordinance be passed for publication. Motion carried with Councilman HOLMES voting NO.

WATER - HOME WATER SUPPLY AGREEMENT (WHITEWATER)

Submitted for consideration was the Agreement with Home Water Supply Company at Whitewater. The Agreement increases the number of users from 50 to 80 from a 4" tap.

Mr. William Kane, attorney, was present along with Martin Garber, President of the Home Water Supply Company of Whitewater.

After full discussion, it was moved by Councilman Brown and seconded by Councilman O'Dwyer that the Agreement with Home Water Supply Company of Whitewater be approved and authorized the City Manager to sign subject to Paragraph 8 of the Agreement being amended to include the existing fifty (50) users plus an additional thirty (30) users at a 3/4 inch single-family equivalent and that the second sentence in Paragraph 16 be deleted. Motion carried.

CITIZEN COMPLAINT OF VIOLATION OF R-1-C ZONING REGULATIONS

Mr. Tony Tysdal, 334 Acoma Court, appeared before Council to appeal what he believes is gross violations of R-1-C zoning regulations. Mr. Tysdal and his family reside on Lot 14 of Reservation Subdivision. Mr. Paul Barru and his family reside on Lot 12 in the same subdivision. He submitted drawings showing the approximate location of a concrete wall which Mr. Barru's workers are building. The west portion of the wall between Lots 12 and 14 is approximately 10 feet high. On top of this same concrete structure a wooden post for a 6-foot wooden fence. He submitted photographs of before wall construction and after. It was the opinion of Mr. Tysdal that Mr. Barru circumvented one of the R-1-C zoning regulations, Section 6, titled Supplemental Regulations, Subtitle A - Fences, which specifies that a fence or wall of 6-foot maximum between neighbors and 8-foot maximum with the neighbors' approval. He added they have not approved even an 8-foot fence, and this one is 16 feet high. The Tysdals bought their

home primarily because of the location and the view east toward the Grand Mesa and down into the river valley. He submitted that now that view will be all but eliminated. He reviewed consultations during the last two weeks with lawyers, the City Permit Department, Planning and Development, the City Administration personnel all to no avail. From the City Permit Department he found that Mr. Barru was issued Permit No. 8008 to add on to his house, to build a swimming pool, and to build a retaining wall to hold dirt at the pool. He noted on Exhibit 3 that the swimming pool is approximately 120 feet from the 16-foot wall wooden fence. He noted also that the concrete wall slopes down on the east end of the north side of the wall approximately 5 feet. He continued that he was told by Dick Hollinger in the Building Permit Department that the wall is a structure, not a fence or wall; therefore, it only has to meet structure set-back requirements. He asked Mr. Hollinger how Mr. Barru could then build the structure on easements. He noted the 20-foot easement on the north of Lot 12 and the 10-foot easement on the west side of Lot 12 as shown on Exhibit 2. There is a 20-foot easement running the entire length of the Subdivision right on the river bank. There is a 20-foot easement down the property line between Lots 12 and 14, 10 foot on Mr. Barru's property and 10 foot on Mr. Tysdal's property. Mr. Tysdal continued that Mr. Hollinger's reply was that the Permit Department does not control the building of structures on easements. Mr. Tysdal said that if it is in fact a structure, he has been led to believe that it has to meet the regulations of structures. He submitted as his opinion that a structure cannot be built on an easement without a variance. He requested Council to take appropriate action to remove the wall fence structure from the easements or that it enforce the intent of the wall fence regulation. He felt the intent of the wall fence regulation was to prevent someone putting up a grudge wall.

Councilman Kozisek said he has viewed the situation from Mr. Tysdal's back yard and recommended that everyone view it firsthand.

Councilman Brown stated that, without jumping to any conclusions at all, he keeps getting calls from somebody that has been put upon for a year and a half while everything is getting litigated and they are getting the run around. If all these regulations of Planning and the departments that are imposed and this is the kind of thing that they lead to, it doesn't make any sense. The City is not doing its job. He stated he would like a comprehensive report from the staff on this by Monday night as to what is going on, what is legal, what isn't legal, what is violating, what isn't violating, and spelling out the chain of events that led up to this based on the books. Maybe the books need changing.

Mr. Tysdal noted that the wall between his lot and Mr. Barru's is the only one that is good. The rest are all chain-link fence. Also the wall from the west part of Mr. Barru's lot slopes down 5 feet to the east, so Mr. barru could have leveled his lot on the back and had the wall been only 5 feet high instead of 10. Mr. Tysdal

continued that he could not see how it could be construed to be a retaining wall required to hold dirt for a swimming pool. Mr. Tysdal submitted that a structure has to have some definition.

Councilman Holmes said a structure in the definitions and limitations according to the most recent book is "anything constructed or erected which requires location on the ground or attached to something have a location on the ground but not including fences or walls uses fences less than 6 feet in height, poles, lines, cables, or other transmission or distribution facilities of public utilities."

Mr. Tysdal questioned whether an entire lot be surrounded by a structure? Could the entire lot be a structure?

Mr. Beaver said that set-back requirements on the front half of a lot in an R-1-C zone for an accessory structure or an accessory building, it's the normal 14 feet total, minimum 5 foot minimum distance. So that would mean 9 foot on the other side. If it is on the rear half of the lot and if you are talking accessory, he believed it was 3 feet being the minimum.

Councilman Holmes stated a point that he felt needed to be made clear was the intent to circumvent. He read again from Section 6 of Supplementary Regulations "regarding any request for a fence permit to build a fence over 6 feet in height," as Mr. Tysdal indicated "shall be accompanied by a letter of consent from adjoining property owners on each side and to the rear. The height of such wall or fence shall be determined by measurement from the ground level at the lowest grade level within 3 feet of either side of such fence or wall." He stated this certainly has not been complied with because the grade level, the ground level on Mr. Tysdal's side substantiates that he is looking at a 16-foot Maginot line built between him and his view of the Grand Mesa.

Councilman Brown moved that the Staff provide Council with a comprehensive report of this whole development by Monday night, said motion seconded by Councilman Kozisek.

President Johnson said Mr. Barru should be advised that this matter is being protested and that if he is found to be in violation, he must tear it all down.

Mr. Tysdal added that you can take an engineer's chain across the back of his lot and measure his 110 feet and the edge of his wall is 2 feet from the edge of his property line and on the back it is set back two feet in from the edge of his property line. He reiterated that his appeal is the intent of the ordinance regulating walls and fences so that you can't block the other person's view.

Motion carried.

CITIZEN CONCERNS

Mr. Wally Torfin expressed concern about the previous item; concerns about a road easement vacation hearing in front of the old railroad depot where the information given to Council was only half right regarding number of vehicles traveling through there daily; the young couple from California receiving the wrong information concerning zoning regulations from City Hall; Lamplite Subdivision going through several stages, and then discovering that Stage 1, the zone change, had been neglected; at least one subdivision with Hollywood curbs instead of the vertical curbs the City requires; and Orchard Bowl where a building permit was issued prior to the public hearing before the City Council to okay the change is a direct violation of the City's zoning laws. He stated these are just a few of his concerns but these examples prove that something is wrong. He asked "what are you going to do about it?"

HORIZON 70 SUBDIVISION, FINAL PLAT, SW COR I-70 AND HORIZON DRIVE
- PREVIOUS ACTION RESCINDED - TABLED TO OCTOBER 4

In line with Mr. Torfin's remarks, Councilman Brown thought Council made a mistake this evening on the Treece Final plat approval. His request that the traffic engineering had no problem as responded to by basically saying "that's right, they had no problem," and then during the recess he understands something which he feels is very relevant but he does not think was mentioned was that there is an anticipated potential use out of that development of 665 cars an hour and some concerns expressed in a memo by the traffic department. Councilman Brown said he was not suggesting that the Council go around and deny that but he was suggesting that Council consider what developers have done. Developers have received notice from the Council and have come back two weeks later and four weeks later until they finally got the yes. And yet a couple of hours ago Council approved a development and he was suggesting going back and tabling the item and taking another look at it. He referred to the spot zoning thing (Jenkins Flora), but that access into that corner of the ramp and Horizon Drive bothered him when he didn't think there would be a lot of cars coming out of there. He said it really bothers him now that he is told there is a potential for a fantastic number of cars coming out of there.

President Johnson said that the State Highway Department which has a very definite interest in it in that it is adjacent to their ramp onto I-70 has reported that they made some comments and that it was satisfactory with the understanding that signals might be necessary at a future date and that there would need to be an escrow account set up to take care of that when it is warranted. He continued that he talked to the City Engineer about that at recess and his only concern was that Council did not specify what percentage or what degree of participation the developer would make in that matter.

Councilman Brown said he guessed it depends on how one looks at it, and that Council has never really figured out how it looks at

these meetings, whether the staff's intent is to accept something and make the very best possible out of it rather than look at it and say maybe this isn't going to work.

Mr. Beaver gave some background information regarding this development.

After discussion, it was moved by Councilman Brown and seconded by Councilman Kozisek that Council rescind its previous action on this matter and that it be tabled, notify the developer immediately, bring it back at the next meeting of Council for reconsideration, and meet with the staff. Motion carried with Council members JOHNSON and O'DWYER voting NO.

REQUEST RESPONSE TO MR. KEARL'S LETTER

Councilman Brown said he would like a response be sent to Mr. Kearl that he is welcome to come to the next meeting of Council.

DISCUSSION WITH DECISION MAKERS

Councilwoman Quimby suggested Council meet with the staff decision makers in order to resolve some of the issues raised this evening. She felt it was unfair to take "pot shots" when those people are not present.

ADJOURNMENT

It was moved by Councilman Kozisek and seconded by Councilman O'Dwyer that the meeting be adjourned. Motion carried.

Neva B. Lockhart

Neva B. Lockhart, CMC
City Clerk