

Grand Junction, Colorado

March 19, 1980

The City Council of the City of Grand Junction, Colorado, convened in regular session at 7:30 p.m. the 19th day of March, 1980, in Council Chambers at City Hall. Those present were Council members Louis Brach, Frank Dunn, Robert Holmes, Karl Johnson, Bill O'Dwyer, and Jane Quimby, a quorum. Also present were City Manager Jim Wysocki, City Attorney Gerald Ashby, and City Clerk Neva Lockhart.

Council President Jane Quimby called the meeting to order and led in the Pledge of Allegiance.

INVOCATION

Councilman Bill O'Dwyer.

MINUTES

Upon motion by Councilman Brach, seconded by Councilman Dunn and carried, the Minutes of the regular meeting March 5, 1980, were approved as written.

APPOINTMENTS TO INDUSTRIAL DEVELOPMENT REVENUE BOND PROGRAM COMMITTEE

The President appointed the following people to the Industrial Development Revenue Bond Program Committee:

J. King Clemons
George Chappel
David H. Tiffany
Harold Elam
Ed Frost
David Courtney
William Bohannan
Larry C. Warren
Charles Hair
Ralph G. Tissot, Jr.
J. Richard Livingston
Robert H. Gardner
Jim Westbrook
John Tasker

Upon motion by Councilman Dunn, seconded by Councilman Johnson and carried with Councilman HOLMES voting NO as he felt a committee of seven to be sufficient, the appointments were ratified.

APPOINTMENTS TO TRANSPORTATION CITIZENS' ADVISORY COMMITTEE

The following names were submitted for appointment to the Transportation Citizens' Advisory Committee:

Evan Ela
Dave Crane
Peggy Foster
William Dufford
Gale Youngquist
Dick Shay
Keith Larson
Charlotte Faris
Terry Colony
David Steinhoff

Upon motion by Councilman Brach, seconded by Councilman Dunn and carried, the appointments were ratified.

AGREEMENT - URBAN MASS TRANSPORTATION ADMINISTRATION - TRANSIT DEVELOPMENT PLAN CONSULTANT CONTRACT - DAVE CONSULTING - \$31,465

Irene Barg, Planning Department, requested authorization to enter into a formal agreement with the Urban Mass Transportation Administration for the TDP grant, and also authorization to enter into a contract with the consultant who will conduct the TDP. On November 1, 1979, the City and County applied for a technical studies grant from UMTA, and on March 4, 1980, the Notification of Award of grant was received for a total of \$38,640. Of this amount, \$35,000 was budgeted for a consultant to conduct the TDP. Of eight proposals, Dave consulting was selected to do the TDP for its bid of \$31,465.

Upon motion by Councilman Johnson, seconded by Councilman Brach and carried with Councilman O'DWYER voting NO, city Manager James E. Wysocki was authorized to execute the Agreement pertaining to the assistance application.

LIQUOR - APPLICATION TO RENEW LICENSE FOR FIRST STREET LIQUORS, 817 NORTH 1ST STREET

Upon motion by Councilman Johnson, seconded by Councilman Dunn and carried with Councilman HOLMES voting NO, the application by Marvin J. and Leslie L. Somerville to renew the retail liquor store license at First Street Liquors, 817 N. 1st Street, was approved.

HEARING - PROPOSED ORDINANCE - EASEMENT VACATION, 279 EAST PARKVIEW

A hearing on the above item was held after due notice. No opponents, letters, or counterpetitions.

The following entitled proposed ordinance was read: AN ORDINANCE VACATING AN EASEMENT IN THE CITY. Upon motion by Councilman Dunn, seconded by Councilman Johnson and carried, the proposed ordinance was passed for publication.

HEARING - DEVELOPMENT IN H.O. ZONE - ADMINEO INVESTMENTS COMPANY, NEW CORNER HIGHWAY 50 AND LINDEN AVENUE

A hearing on the above item was held after due notice. No opponents, letters, or counterpetitions.

Upon motion by Councilman Johnson, seconded by Councilman Dunn and carried, the development by Admineo Investments Company in H.O. Zone on the NW corner of Highway 50 and Linden was approved.

HEARING - DEVELOPMENT IN H.O. ZONE - CROSSROADS BUSINESS COMPLEX, LOCATED IN CROSSROADS ENERGY PARK

A hearing on the above item was held after due notice. No opponents, letters, or counterpetitions.

Upon motion by Councilman Johnson, seconded by Councilman Dunn and carried, the Crossroads Business Complex development in H.O. Zone was approved.

HEARING - FORESIGHT PARK FOR INDUSTRY FILING #3 FINAL PLAN AND PLAT, LOCATED BETWEEN 25 AND 251/2 ROADS AT F.3 LINE

A hearing on the above item was held after due notice. No opponents, letters, or counterpetitions.

Upon motion by Councilman Johnson, seconded by Councilman Dunn and carried, the final plan and plat for Foresight Park Industry Filing #3 was approved.

HEARING - PROPOSED ORDINANCE - ZONING PIONEER VILLAGE ANNEXATION FROM COUNTY C TO CITY C-1, NW CORNER BROADWAY & DIKE ROAD

A hearing on the above item was held after due notice. No opponents, letters, or counterpetitions.

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. Upon motion by Councilman O'Dwyer, seconded by Councilman Dunn and carried, the proposed ordinance was passed for publication.

HEARING - REZONE FROM R-1-C TO R-3 AND CONDITIONAL USE FOR OFFICE AT 2600 NORTH 12TH STREET - DENIED BY PLANNING COMMISSION - RESOLUTION OF FINDINGS AND DECISION APRIL 2, 1980

A hearing on the above item was held after due notice. The petitioners, Lawrence and Sharon Brown, were present with their attorney, Dick Lewis.

This item was denied by the Planning Commission for the reasons that R-3 zoning allows high density on a small property without any potential of Planning Commission review of what goes on the

property in the future, and also, to put in a business on such a small parcel in a piecemeal manner may not be most appropriate for the area, referring to item four of the 12th Street policy statement.

During the review of the application, it was pointed out that if Council should choose to approve the R-3 zoning, the other contiguous property owners may come in with a petition to the higher density.

The petitioner has submitted a new site plan and the parking meets City regulations.

In response to a question from Councilman O'Dwyer regarding a reverter clause for zoning, City Attorney Ashby said that there is a concept within the law that says that contractual zoning is not normally considered as a method of zoning which the Council should use. The City has departed somewhat from that in the whole concept of Planned Development, because Planned Developments are in essence contract zoning which is now permitted. He indicated that the case law has not kept up with this, and he thinks eventually it is going to be permitted. Mr. Ashby's opinion in this instance, since the Planning Commission and the Planning Department apparently felt that Planned Development Business would be adequate for this area that, effectually, the same thing can be done by going with an R-3 for a business office use with a reverter. The power of attorney would become a covenant upon that parcel.

Mr. Lewis discussed the idea of PDB and the idea of the power of attorney or covenant that will run with the land. In the proposed power of attorney, it specifically says that in the event there is any attempt to enlarge the use to which the land has been put, the land is listed for sale or is contracted for sale, or it is no longer used as Mr. Brown's office, the power becomes effective, and the City through the City Attorney can seek a rezone of the land with the expense involved being charged to Mr. Brown. Mr. Lewis submitted a petition from the people in the neighborhood containing seven signatures which supports Mr. Brown's request for a zoning change and use approvals that will allow an office and the related sprucing up and retention of the property's residential character. Mr. Lewis submitted that it is a permitted use and a permitted way to rezone and use the property. If R-3 is so dangerous, he suggested it should be eliminated as a zone in the City in the future. Mr. Lewis indicated that language can be included in the power of attorney that the building will not be enlarged to accommodate a partner or an employee to write with Mr. Brown or for him. Mr. Lewis stated that Mr. Brown is permitting Al Look to use one of the rooms, if he wishes, for his writing. They are friends so there is no landlord/tenant arrangement. It is not anticipated that he will hire anyone to help him or expand the business in any way.

Mr. Larry Brown, 1427 Chipeta, stated that he has no problem

whatsoever in putting a prohibition on any kind of structural modification or expansion. He thinks that Planned Development would be appropriate. His point is that if his business does very well, at some point down the road he might want to apply to put a new structure on there. The way the economy looks it may be three, five, fifteen or twenty years down the road. He stated there will not be any structural changes other than improvements and gussying up which is somewhat overdue, and when the time comes to do it over PDB seems the only way to go.

It was clarified that at the Planning Commission hearing a proposed agreement and the proposed power of attorney as outlined by Mr. Lewis was discussed with the Planning Commission members. They indicated that they didn't feel competent to pass judgement on either one.

There were no comments, no letters, and no counterpetitions. The President closed the hearing. A Resolution of findings and decision is scheduled for April 2, 1980.

HEARING - EASTGATE PLAZA SUBDIVISION FILING #2 FINAL PLAN AND PLAT, SW CORNER OF 281/4 ROAD AND ELM AVENUE - CONTINUED TO APRIL 2

HEARING - CONDITIONAL USE TO PERMIT DRIVE-UP WINDOW AT 1730 NORTH AVENUE, BURGER KING

A hearing on the above item was held after due notice. The applicant, Rich Welch, and Rick Burkett, site development engineer from Denver, were present.

This item was denied by the Planning Commission. A review of the history of this location was had. The applicant has worked with Planning staff and Engineering staff on this submittal. After review by the agencies, there were no major objections. The Planning Commission motion was to recommend approval according to the Staff comments subject to landscaping, the two vacated parking spaces on North Avenue, and the access to Timbers parking lot being closed. The motion was defeated.

Councilman O'Dwyer quoted No. 2 of the drive-up window policy statements and said that apparently this design has the traffic going around the facility and egressing at the point of ingress.

Diane Smucny stated that it is inherently almost impossible not to go all the way around the building unless it is a corner lot. She pointed out that the major concern is that all the design stipulations are met and the details addressed regarding safety and precaution. Staff feels that this proposal addressed those concerns.

Mr. Burkett said that the proposal has been reviewed at Burger King, and they feel it is a workable situation.

George White, owner of Arrow Glass directly west of the proposed drive-up window, commented that on behalf of the North Avenue Association they feel very strongly they (Burger King) should be allowed (the conditional use for drive-up window) realizing that maybe it doesn't meet totally or be ideal for what they would like to have for it; things that existed prior to drive-in and drive-through ordinances and regulations.

There were no comments, no letters, no counterpetitions. The hearing was closed. A Resolution of findings and decision is scheduled for April 2, 1980.

ORDINANCE NO. 1875 - MESA MALL NO. 3 ANNEXATION

Upon motion by Councilman O'Dwyer, seconded by Councilman Johnson and carried, the Proof of Publication to the following entitled proposed ordinance was accepted for filing: AN ORDINANCE ANNEXING TERRITORY TO THE CITY OF GRAND JUNCTION, COLORADO.

Upon motion by Councilman O'Dwyer, seconded by Councilman Johnson and carried, the proposed ordinance was called up for final passage and read.

There were no comments. Upon motion by Councilman O'Dwyer, seconded by Councilman Brach and carried by roll call vote, the Ordinance was passed, adopted, numbered 1875, and ordered published.

ORDINANCE NO. 1876 - REDDING ANNEXATION

Upon motion by Councilman Johnson, seconded by Councilman Holmes and carried, the Proof of Publication to the following entitled proposed ordinance was accepted for filing: AN ORDINANCE ANNEXING TERRITORY TO THE CITY OF GRAND JUNCTION, COLORADO.

Upon motion by Councilman Johnson, seconded by Councilman Johnson and carried, the proposed ordinance was called up for final passage and read.

There were no comments. Upon motion by Councilman Dunn, seconded by Councilman O'Dwyer and carried by roll call vote, the Ordinance was passed, adopted, numbered 1876, and ordered published.

ORDINANCE NO. 1877 - RESOLUTION APPROVING ADVERTISING OF ISSUE AUTHORIZING AND PROVIDING FOR ISSUANCE OF \$5,700,000 INDUSTRIAL DEVELOPMENT BONDS (DAYTON-HUDSON PROJECT - TARGET)

The following Resolution was read:

RESOLUTION

CONCERNING INITIAL PUBLICATION OF DAYTON-HUDSON PROJECT NOTICE OF HEARING AND ORDINANCE ON THE ISSUANCE OF INDUSTRIAL REVENUE BONDS.

WHEREAS, the proposed Ordinance authorizing the issuance of Industrial Revenue Bonds for the Dayton-Hudson Project was read at the regular meeting of the City Council of the City of Grand Junction on the 5th day of March, 1980, and the City Clerk was directed to publish in pamphlet form giving notice thereof through advertisement in the Daily Sentinel, a newspaper of general circulation in the City; and

WHEREAS, prior to the publication of the Ordinance and the Notice of Hearing thereon, certain underwriting changes and other changes were required to be made; and

WHEREAS, publication was made as corrected and the Notice of Hearing was published in correct form in relation to the Ordinance;

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

That the corrections made in the body of the proposed Ordinance concerning the issuance of Industrial Revenue Bonds for the Dayton-Hudson Project and in the Notice of Hearing on such Ordinance prior to publication are approved and ratified as though originally made by the City Council, with the Ordinance now being in that form presented to the Council for final passage on second reading after proper hearing thereon.

PASSED and ADOPTED this 19th day of March, 1980.

President of the Council

Attest:

City Clerk

Upon motion by Councilman O'Dwyer, seconded by Councilman Johnson and carried by roll call vote, the Resolution was adopted and approved as read.

Upon motion by Councilman Johnson, seconded by Councilman Holmes and carried, the Proof of Publication to the following entitled proposed ordinance was accepted for filing: AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE BY THE CITY OF GRAND JUNCTION, COLORADO, OF ITS \$5,700,000 INDUSTRIAL REVENUE BONDS (DAYTON-HUDSON CORPORATION PROJECT) SERIES 1980, FOR THE PURPOSE OF FINANCING THE COST OF ACQUIRING, CONSTRUCTING AND INSTALLING CERTAIN COMMERCIAL FACILITIES FOR DAYTON-HUDSON CORPORATION, WITHIN THE CITY OF GRAND JUNCTION, COLORADO, PURSUANT TO THE COUNTY AND MUNICIPALITY DEVELOPMENT REVENUE BOND ACT, SAID BONDS AND ALL OBLIGATIONS OF THE CITY IN CONNECTION WITH SUCH TRANSACTION TO BE

PAYABLE SOLELY AND EXCLUSIVELY FROM THE REVENUES ARISING FROM THE PLEDGE OF A NOTE OF DAYTON-HUDSON CORPORATION, GIVEN AS SECURITY FOR SAID BONDS AND IN NO EVENT TO CONSTITUTE A GENERAL OBLIGATION OR LIABILITY OF THE CITY OR A CHARGE AGAINST ITS GENERAL CREDIT OR TAXING POWERS; AUTHORIZING THE EXECUTION BY THE CITY OF GRAND JUNCTION, COLORADO, OF A LOAN AGREEMENT AND AN INDENTURE OF TRUST IN CONNECTION WITH SUCH TRANSACTION, DIRECTING THE PUBLICATION OF THIS ORDINANCE AND REPEALING ALL ORDINANCES, RESOLUTIONS OR PORTIONS THEREOF IN CONFLICT WITH THE PROVISIONS HEREOF.

Upon motion by Councilman Dunn, seconded by Councilman Holmes and carried, the proposed ordinance was called up for final passage and the title only was read.

There were no comments. Upon motion by Councilman Brach, seconded by Councilman Dunn and carried by roll call vote, the Ordinance was passed, adopted, numbered 1877, and ordered the publication of notice of its final passage.

PROPOSED ORDINANCE AMENDING CHAPTER 14, CODE OF ORDINANCES, WEEDS

Upon motion by Councilman Johnson, seconded by Councilman Brach and carried, the following entitled proposed ordinance as amended was passed for publication: AN ORDINANCE CONCERNING WEED CONTROL.

RESOLUTION - APPOINTING K. KELLY SUMMERS ASSISTANT MUNICIPAL JUDGE TO SIT AT COURT SESSIONS MARCH 25 & 27, 1980 - APPROVED

The following Resolution was read.

RESOLUTION

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

That K. Kelly Summers be appointed as a Deputy Municipal Judge to sit at the court sessions of March 25, 1980, and March 27, 1980.

PASSED and ADOPTED this 19th day of March, 1980.

President of the Council

Attest:

City Clerk

Upon motion by Councilman Brach, seconded by Councilman O'Dwyer and carried by roll call vote, the Resolution was passed and adopted as read.

RESOLUTION TO AFFILIATE WITH FIRE/POLICE PENSION ASSOCIATION - APPROVED

The following Resolution was read:

RESOLUTION

ELECTING TO AFFILIATE WITH THE FIRE AND POLICE PENSION ASSOCIATION.

WHEREAS, Part 10 of Article 30 of Title 31, Colorado Revised Statutes 1973 establishes a new statewide benefit plan for all full-time paid firemen and policemen in the state hired on or after April 8, 1979; and

WHEREAS, Section 31-30-1003(3)(a), C.R.S. 1973 provides that an employer may elect to affiliate with the Fire and Police Pension Association as to its local fire and/or police pension plan by filing a resolution with the Association; and

WHEREAS, the fact that an employer elects affiliation does not mean that members of the local fire and/or police pension plan hired before April 8, 1978, are automatically covered by the new statewide benefit plan as to retirement benefits, but have an option to elect to remain covered by the local plan or to join the new statewide plan; and

WHEREAS, the City Council of the City of Grand Junction has determined it to be in the best interests of the City to affiliate with the Fire and Police Pension Association;

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

1. The City of Grand Junction does hereby elect to affiliate its local police and fire pension plan with the Fire and Police Pension Association on January 1, 1981;
2. In accordance with Section 31-30-1003(3)(d), the City does hereby request from the Executive Board of the Fire and Police Pension Association an estimate of the City's contribution rate necessary to comply with the contribution requirements established by Part 10, Article 30, Title 31, C.R.S. 1973;
3. This Resolution shall become effective March 19, 1980, and the City Clerk is directed to file a certified copy of this Resolution with the Fire and Police Pension Association as soon after March 19, 1980, as is practicable.

PASSED and ADOPTED this 19th day of March, 1980.

President of the Council

Attest:

City Clerk

Upon motion by Councilman Dunn, seconded by Councilman O'Dwyer and carried by roll call vote, the Resolution was passed and adopted as read.

BLACK & VEATCH AND ARMSTRONG ENGINEERS PROPOSAL FOR CITY SERVICE CENTER - \$166,000

After review of the proposal by Black and Veatch for City Service Center for the design of the City Service Center at a cost of \$166,000, it was moved by Councilman Brach, seconded by Councilman Johnson and carried, that the proposal by Black and Veatch and Armstrong Engineers proposal for design of City Service Center at a cost of \$166,000 be approved and authorized the City Manager to sign the proposal.

RESTRUCTURING THE WATER AND SEWER ESCROW ACCOUNTS - NEGOTIATION WITH COUGHLIN AND COMPANY AUTHORIZED

Upon motion by Councilman Brach, seconded by Councilman Johnson and carried, the City Manager and Finance Director were authorized to negotiate with Coughlin and Company and to enter into an agreement for the restructuring of the 1976 issue of the Water and Sewer Escrow Accounts.

FIRE TRUCK BID - PETER PIRSH & SONS COMPANY - \$106,644

The City Manager requested authorization to sign a contract with Peter Pirsh & Sons Company for a fire truck to be delivered approximately April of 1981 for the contract price of \$106,644. Upon motion by Councilman Dunn, seconded by Councilman Brach and carried, the City Manager was authorized to enter into the contract with Peter Pirsh & Sons Company to build the fire truck for delivery approximately April, 1981, for the contract price of \$106,644.

AIRPORT

Councilman Brach reported that the Airport received about one-half of its request of the Oil Shale funds from the JBC.

Councilman O'Dwyer reported that the design work is going ahead for the Airport.

YOUTH COMMISSION

Councilman Dunn filed a report on the Youth Commission and requested some adult advisors.

LIQUOR

Councilman Holmes discussed the recent apparent violations of the Liquor Code by liquor store owners in the alleged sales to underage persons. He said he believes citizens of this community deserve answers to many questions relating to such incidents, and he would like answers to four questions:

1. If it is so simple and easy for kids to buy beer or booze in Grand Junction, why has this been allowed to blossom into such a free market without stricter law enforcement before now. We have the law. Is no one willing to enforce it or, worse yet, to prosecute once the violation or violations are established?
2. If indeed nine arrests have been made and there was cause for arrest, why does the D.A. and the Chief of Police have to review each case to determine what action, if any, will be taken against those who were arrested? It would appear they were either in violation of the law or they were not. Or is this an example of, or similar to plea bargaining?
3. How long are we, the City Council, going to continue to renew licenses of those establishments that have repeatedly been warned that their licenses are in jeopardy if they sell to minors?
4. Why should the Police Department in any way be involved in seminars to aid liquor store owners and their employees in dealing with a problem such as this? There are private businesses, in business for profit. The taxpayers should not have to carry the financial burden of them staying within the framework of the law.

The City Attorney advised that regardless of whether or not the District Attorney prosecutes, if the City Council determines that these matters should be brought before it, they will be brought before. Otherwise, if no criminal prosecution is brought before ninety days, the matter is brought before the Council. He noted there are three that are in that status now, plus these noted by Councilman Holmes. Mr. Ashby has a meeting next week with two of the liquor store owners who were cited, and he will report to Council about the meeting. As far as Police aid, he feels their attitude has been to aid in preventing the sales to minors.

Councilman Johnson stated it is a part of the Crime Prevention program, such as bad check seminars, robbery seminars and others.

DDA

Councilman Johnson reminded Council of the meeting Friday at noon, Two Rivers Plaza, to discuss some policy for downtown development.

AIM

Meeting at 7:00 a.m. in the City Manager's office on Monday, March

24.

NATIONAL GUARD

Open house at the National Guard Armory Saturday, March 22, 1980,
at 2:00 p.m.

TRANSPORTATION

Jim Bragdon was appointed as the City's representative to sit on
their hiring committee of the Transportation Department.

ADJOURNMENT

Upon motion by Councilman Johnson, duly seconded and carried, the
meeting was adjourned.

Neva B. Lockhart

Neva B. Lockhart, CMC
City Clerk