

Grand Junction, Colorado

May 14, 1980

The City Council of the City of Grand Junction, Colorado, convened in adjourned regular session at 7:30 a.m. Wednesday, the 14th day of May, 1980, in City Council Chambers at City Hall. Those present were Council members Louis Brach, Frank Dunn, Dale Hollingsworth, Karl Johnson, and William O'Dwyer. Those absent were Jane Quimby and Robert Holmes.

Also present were City Manager Jim Wysocki, City Attorney Gerald Ashby, and City Clerk Neva Lockhart.

President Pro-Tempore William O'Dwyer called the meeting to order.

CONTINUATION OF HEARING ON I.D. ST-80, PHASE A

The President Pro-Tempore announced that the hearing had been concluded.

The City Manager suggested a recap of the May 7 meeting. The City Attorney suggested elimination of F Road. He understood the concern there is on the part of Mr. Bonella as to a benefit because of the fact that the sidewalk in particular was above him. He (Mr. Bonella) also had some concern as to who was going to get the snow off the sidewalk and that sort of thing. Mr. Ashby said that the latter concern is somewhat extraneous to the issue. That is something the City will have to work out with everyone as time goes on, and it probably will be the ultimate concern of the City in regard to those particular sidewalks. The benefit was calculated on a scale basis as determined by appraisals, and there was considered to be, because of drainage control and matters of that type, a residual benefit even to those who live down in Willowbrook. Mr. Ashby recommended to Council that on that basis and with the understanding that we always have to show benefit at least to the extent of the assessment that F Road be included as it was presented to Council.

Mr. Ashby continued that the other is 28-1/4 Road. Mr. Reams, through his attorney, indicated several concerns to Council, some of which relate to the improvement district itself, some of which relate to the question of acquisition of right of way. Twenty-Eight and One Quarter Road is probably not a garden variety sort of improvement, although it does relate closely to F Road and the same type thing. He stated that Council does understand that the assessments were prepared on the basis of a charge for a residential street as nearly as that could be determined by the engineers. There was a question of access, and apparently Mr. Reams has not presented himself, or his engineers, to obtain an access to the property, although he was advised that the access could be placed at a reasonable consideration almost any place that he wanted it and then an access, of course, to the property will be made available as it is available to the properties on the

other side of the road and as it will be made available to the property north of the property owned by Mr. Reams.

The question of the value of the right of way is going to be determined through condemnation proceedings, and the City will have an immediate possession hearing next week so that the City can at least get on with the construction of the roadway. Mr. Ashby said he's sure there will be things as a part of the condemnation proceeding in regard to the roadway and how its constructed and that sort of thing that will go to the question of damages, if any, to the property that will be handled in the eminent domain proceeding. In discussions previously, and in discussing improvement districts in general, the question of being or of getting some of the right of way on 28-1/4 Road and other roads through the subdivision process without paying for the right of way and then having to pay, as in this case Mr. Reams, for the right of way on the same side of the street, then including that within an improvement district as a part of the cost as Mr. Ashby believes legally the City is permitted to do but relating that the fairness or unfairness to those who have been forced to contribute right of way. Mr. Ashby said that as far as he is concerned, in looking at all of the legal issues, looking at all of the issues that were presented by Mr. Feder, that the only determination that need be made by the Council that is somewhat different from what has been done in other improvement districts is a resolution of that particular matter. He asked Council if it wanted to include within the district the cost, at this point it would be an estimated cost, of the acquisition of the right of way from Mr. Reams.

Councilman Johnson asked what effect this would have on other assessments either way. Would it increase or decrease.

Mr. Ashby responded that as he remembered the figure was \$17 a front foot, this was the amount in there represented by the City's appraised figure for the right of way included within the district. So it would decrease everybody's assessment by \$17 per front foot. This means that the City, of course, is a part of the monies that's already contributing to this street. It will pick up that amount.

The City Manager pointed out that there was some discussion regarding the matter of how fast the traffic will move in that area. He stated that it will move no differently than on First Street or on Seventh Street or on 12th Street, legally. There will be posted speed limits of 30 and 35 miles per hour depending upon where you are approaching intersections. Mr. Wysocki felt there was some credence in taking this particular amount out of the package at this point. The Resolution of Intent to Create the District with this amount out of it and under the circumstances these people then would be relating to the residential street which is the same as everybody else in relating to without this particular amount being involved.

Councilman Brach said that at this point that's the only fair way to go.

Councilman Hollingsworth asked if the only decision now is whether or not we've already got a substantial cost, we, the citizens of Grand Junction, a substantial cost in this road that is not covered by the improvement district, and the question is whether or not the amount of funds that we will pay to Mr. Reams for his right of way under the condemnation proceedings, whether or not this is to be added to the improvement district cost and the payment being shared by all of those who are in the district and most of whom gave right of way.

Mr. Ashby said yes.

Councilman Hollingsworth said he just can't believe that the people who gave the right of way should share in the cost of acquiring right of way through the condemnation proceedings. He said it just does not seem logical even though this would be a substantial increase to the cost of the City road.

Mr. Ashby gave the City's appraised figures of approximately \$75,000 total.

The other Council members present agreed with Councilman Hollingsworth's remarks.

The following Resolution was read:

RESOLUTION

CREATING AND ESTABLISHING IMPROVEMENT DISTRICT NO. ST-80, PHASE A, WITHIN THE CORPORATE LIMITS OF THE CITY OF GRAND JUNCTION, COLORADO, AUTHORIZING THE CONSTRUCTION OF CURBS AND GUTTERS, SIDEWALKS AND PAVING ON STREETS THEREIN AND PROVIDING FOR THE PAYMENT THEREFOR.

WHEREAS, on the 2nd day of April, 1980, the City Council of the City of Grand Junction, Colorado, passed a Resolution Adopting Details, Plans and Specifications for Improvement District No. ST-80, Phase A, and Authorizing Notice of Intention to Create said District; and

WHEREAS, Notice of Intention to Create said District was duly published; and

WHEREAS, written complaint and objection was received from Warren Reams, an owner of property on 28-1/4 Road, oral complaints from Robert Gerlofs, also an owner of property on that road, Norman Ebbley, an owner on 28-1/4 Road, James Bonella, an owner on F Road and Keith Miller, an owner on F Road; and

WHEREAS, all complaints and objections were considered fully;

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

1. That said Improvement District No. ST-80, Phase A, be and the same is hereby created and established; and that construction of curbs and gutters, sidewalks and paving of streets therein be and the same are hereby authorized and directed, in accordance with the Resolution Adopting Details, Plans and Specifications prepared and filed therefor.

2. That the construction of curbs and gutters, sidewalks and paving of streets shall be made by contract let to the lowest reliable and responsible bidder after public advertisement, except that if it be determined by the City Council that the bids are too high, and that the proposed improvements can be efficiently made by the City, the City may provide that the construction shall be made under the direction and control of the City Manager by hiring labor by the day or otherwise, and by purchasing all necessary material, supplies and equipment.

3. That the improvements in said District were duly ordered, after notice duly given; and that all conditions precedent and all requirements of the laws of the State of Colorado, the Charter of said City, and Ordinance No. 178, as amended, being Chapter 18 of the Code of Ordinances of the City of Grand Junction, Colorado, have been strictly complied with.

4. That the description of the curbs and gutters, sidewalks and paving of streets to be constructed, the boundaries of said Improvement District No. ST-80, Phase A, the amounts to be assessed, the number of installments and assessments, the time in which the cost shall be payable, the rate of interest on unpaid installments, and the manner of apportioning and assessing such cost, shall be as prescribed in the Resolution adopted for said District on the 2nd day of April, 1980, and in accordance with the published Notice of Intention to Create said District, except that the cost for acquisition of right of way for 28-1/4 Road shall not be included within that portion of the cost to be assessed against property abutting 28-1/4 Road.

5. That after the construction of said improvements in said District has been let, the Council shall, by resolution provide for the issuance of public improvement bonds for said Improvement District No. ST-80, Phase A, for the purpose of paying the cost and expenses of construction of said District.

PASSED and ADOPTED this 14th day of May, 1980.

President of the Council Pro-Tempore

Attest:

City Clerk

Upon motion by Councilman Brach, seconded by Councilman Johnson, that the Resolution be passed and adopted as read.

Mr. Warren Reams requested permission to speak. He was advised that the hearing had been closed.

Upon roll call vote all Council members present voted. The President Pro-Tempore declared the motion carried and the Resolution duly passed and adopted.

I.D. ST-80, PHASE A CONSTRUCTION BIDS - AWARD OF CONTRACT - CORN CONSTRUCTION CO. - \$465,846.80 CONTINGENT UPON ISSUANCE OF BONDS

Three bids were received and opened at 2:00 p.m. Tuesday, May 6, 1980. Bids were:

Jim Reeves Construction, Inc. \$539,991.00

Elam Construction, Inc. \$522,650.40

Corn Construction Company \$465,846.80

Engineer's Estimate \$593,802.50

Upon motion by Councilman Johnson, seconded by Councilman Hollingsworth and carried, the I.D. ST-80, Phase A, construction bid was awarded to Corn Construction Co. in the amount of \$465,846.80, contingent upon the sale of the bonds for this project.

RESOLUTION - DAYTON-HUDSON PROJECT

The following Resolution was read:

RESOLUTION

A RESOLUTION FIXING AMOUNTS AND TERMS AND MAKING CERTAIN FINDINGS RELATING TO THE CITY'S INDUSTRIAL DEVELOPMENT REVENUE BONDS (DAYTON-HUDSON CORPORATION PROJECT) SERIES 1980 PURSUANT TO ORDINANCE NO. 1877 ADOPTED BY THE CITY COUNCIL ON MARCH 19, 1980.

WHEREAS, the City Council of the City of Grand Junction, Colorado (the "City") adopted Ordinance No. 1877 on March 19, 1980 (the "Ordinance") authorizing the issuance of the City's Industrial Development Revenue Bonds (Dayton-Hudson Corporation Project) Series 1980 (the "Bonds") and Section 9 of the Ordinance requires the adoption of this resolution; and

WHEREAS, it is necessary to reduce the amount of Bonds to be issued due to a reduction in the cost of the Project (as defined

in the Ordinance).

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

Section 1. Pursuant to Section 9 of Ordinance:

(a) The principal amount of Bonds to be issued shall be \$5,500,000.

(b) The interest rate on the Bonds shall be 8-1/4% per annum.

(c) The Trustee and Paying Agent for the Bonds shall be First National Bank of Minneapolis and the place of payment of the Bonds shall be Minneapolis, Minnesota.

(d) The Bonds shall be scheduled to mature on May 1, 2005, and shall be subject to mandatory sinking fund redemption on May of the years 2001 through 2004, inclusive, in the amount of \$1,100,000 in each year, at the principal amount thereof plus accrued interest to the redemption date.

(e) The Bonds will be subject to optional redemption pursuant to Section 3.1 of the Indenture (as defined in the Ordinance) in whole or in part on any interest payment date on or after May 1, 1990, at the redemption prices set forth below plus accrued interest to the redemption date:

<u>Redemption Dates</u> <u>Redemption Price</u> <u>(expressed as a percentage of</u> <u>principal)</u>	
May 1, 1990 and November 1, 1990 103%	
May 1, 1991 and November 1, 1991 102 1/2%	
May 1, 1992 and November 1, 1992 102%	
May 1, 1993 and November 1, 1993 101 1/2%	
May 1, 1994 and November 1, 1994 101%	
May 1, 1995 and November 1, 1995 100 1/2%	

May 1, 1996 and thereafter 100%	
---------------------------------	--

(f) The sale price of the Bonds shall be 98-5/8% of par:

Section 2. The following determinations and findings are hereby made in accordance with Sections 29-3-113, 29-3-114 and 29-3-120 of the Act.

(a) The amount necessary in each year to pay the principal of and the interest on the Bonds is as follows: Concurrently with the issuance of the Bonds, Dayton-Hudson Corporation (the "Company") will issue and deliver to the Trustee the Note (as defined in the Ordinance) with principal, premium and interest payments corresponding to the payments on the Bonds as set forth above.

(b) No reserve fund has been established nor is proposed to be established for the Bonds or the Project and no such reserve fund is deemed advisable.

(c) The terms of the Agreement (as defined in the Ordinance) under which the Project is to be financed, provide that the Company shall maintain the Project and carry all proper insurance with respect thereto.

(d) The amounts payable by the Company under the Agreement by the issuance of the Note are sufficient to pay all sums referred to in paragraph (a) of this Section.

(e) The amounts payable by the Company under the Agreement are sufficient to pay, in addition to all other requirements of the Agreement and the Ordinance, all payments in lieu of taxes, if any, payable pursuant to Section 29-3-120 of the Act. The Project will be owned by the Company and will be taxes as such.

Section 3. That the Bond Purchase Agreement (the "Bond Purchase Agreement") to be dated May 9, 1980, among the City, the Company and Dain Bosworth Incorporated (the "Underwriter"), a copy of which is before this meeting is hereby authorized to be executed and delivered on behalf of the City by the President of the Council and attested by the City Clerk and such officers are hereby authorized and directed to cause the Bond Purchase Agreement to be accepted and executed by the Underwriter and the Company; such Bond Purchase Agreement to be in substantially the form before this meeting and hereby approved, or with such changes therein as shall be approved by the officers of the City executing the same, their execution thereof to constitute conclusive evidence of their approval of any and all changes or revisions therein from the form of Bond Purchase Agreement hereby approved. The sale of the Bonds to the Underwriter is hereby confirmed. The Bond Purchase Agreement shall constitute and is hereby made a part of this resolution and a copy of the Bond Purchase Agreement shall

be placed in the official records of the Council and shall be available for public inspection at the office of the City Clerk.

Section 4. That the form of Preliminary Official Statement dated May 1, 1980 (the "Official Statement") now before this meeting is hereby approved and the final Official Statement to be dated May 9, 1980, is hereby authorized to be executed and delivered on behalf of the City by the President of the Council and such officer is hereby authorized and directed to the Underwriter; such final Official Statement to be in substantially the form before this meeting and hereby approved, or with such changes therein as shall be approved by the officer of the City executing the same, his execution thereof to constitute conclusive evidence of his approval of any and all changes or revisions therein from the form of Official Statement hereby approved. The Official Statement shall constitute and is hereby made a part of this resolution and a copy of the Official Statement shall be placed in the official records of the Council and shall be available for public inspection at the office of the City Clerk.

Section 5. That the City hereby elects to have the provisions of Section 103(b)(6)(D) of the Internal Revenue Code of 1954, as amended, apply to the Bonds.

Preliminary Official Statement dated May 1, 1980, and Bond Purchase Agreement in IRB - Dayton-Hudson File

Section 6. The President of the Council and the City Clerk are hereby directed to execute and deliver to the Trustee on behalf of the City the documents contemplated to be executed and delivered by the City in Section 2.6 of the Indenture (as defined in the Ordinance).

Section 7. This resolution shall become effective upon its passage.

INTRODUCED AND PASSED at an adjourned regular Council Meeting and read this 14th day of May, 1980.

President of the Council Pro-Tempore

Attest:

City Clerk

Upon motion by Councilman Dunn, seconded by Councilman Brach and carried by roll call vote, the rules and regulations of Council were waived which would prevent the adoption of the Resolution FIXING AMOUNTS AND TERMS AND MAKING CERTAIN FINDINGS RELATING TO THE CITY'S INDUSTRIAL DEVELOPMENT REVENUE BONDS (DAYTON-HUDSON

CORPORATION PROJECT) SERIES 1980 PURSUANT TO ORDINANCE NO. 1877
ADOPTED BY THE CITY COUNCIL ON MAY 19, 1980.

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

ADJOURNMENT

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

Neva B. Lockhart

Neva B. Lockhart, CMC
City Clerk