

Grand Junction, Colorado

September 3, 1980

The City Council of the City of Grand Junction, Colorado, convened in regular session at 7:30 p.m. the 3rd day of September, 1980, in City Council Chambers at City Hall. Those present were Council members Louis Brach, Frank Dunn, Robert Holmes, Dale Hollingsworth, Karl Johnson, Bill O'Dwyer, and Jane Quimby, a quorum. Also present were City Attorney Gerald Ashby, City Manager Jim Wysocki, and City Clerk Neva Lockhart.

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

#### INVOCATION

Councilman Robert Holmes.

#### MINUTES

Upon motion by Councilman Brach, seconded by Councilman O'Dwyer and carried, the minutes of the regular meeting August 20, 1980, were approved as written.

#### APPOINTMENTS TO IRB COMMITTEE

Upon motion by Councilman Dunn, seconded by Councilman Holmes and carried, Pauline Lyttle and Elvin Tufly were appointed to the IRB Committee.

#### REQUEST FOR SAFETY IMPROVEMENTS TO HORIZON DRIVE

Vicki Wells, 850 N. Fifth Street, presented a petition containing over 500 signatures of people who work on Horizon Drive who find current highway conditions on Horizon Drive between Seventh Street and the Airport extremely hazardous to drivers of motor vehicles, bicyclists, and pedestrians. Ms. Wells noted the future plans by the City for comprehensive improvements to this thoroughfare, but stated that certain corrective action is needed now.

Joseph Kaelin, 850 N. Fifth Street, stated that he, too, travels Horizon Drive--almost daily for the past two years. He offered the following suggestions for immediate improvement:

1. Immediately decrease the speed limit on Horizon Drive to 35 miles per hour;
2. Immediately designate several pedestrian crosswalks along Horizon Drive to accommodate the many pedestrians;
3. Immediately install traffic signs warning or designating Horizon Drive as a major bicycle route, which he feels is presently the case, and also yielding the right of way to

pedestrians in some of the more frequent locations.

4. Immediate input from bicyclists and from people in Grand Junction concerning improvements for a bicycle route when Horizon Drive is widened.

Comments were had from Melody Asher, 531 N. Second, Bob Williams, P. O. Box 2188, Kathleen Murphy, 327 N. Seventh Street.

Council received the petition and comments for consideration.

#### LIQUOR AND BEER RENEWALS

Upon motion by Councilman Dunn, seconded by Councilman Brach and carried with Councilman HOLMES voting NO, the following applications to renew liquor and beer licenses were approved:

1. Albertsons' Food Center, 1838 N. 12 Street
2. Colescott's, 551 South Avenue
3. Skaggs Drug Center, 1834 N. 12th Street
4. Teller Arms Liquor Shoppe, 2353 Belford Avenue

I.D. ST-80, PHASE B, BOND BID AWARD TO KIRCHNER MOORE & CO.  
RESOLUTION AUTHORIZING PRINTING OF BONDS APPROVED

On Tuesday, September 2, 1980, two bids were received and opened on the purchase of \$310,000 Improvement District ST-80, Phase B, bonds. Bidders were:

#### Interest Rate

Boettcher & Company 9.732  
Kirchner, Moore & Company 9.2205

Staff recommended award to Kirchner, Moore & Company. Upon motion by Councilman O'Dwyer, seconded by Councilman Brach and carried, the bond bid was awarded Kirchner, Moore & Company.

The following Resolution was read:

#### RESOLUTION

PROVIDING FOR THE ISSUANCE OF PUBLIC IMPROVEMENT BONDS OF IMPROVEMENT DISTRICT NO. ST-80, PHASE B.

WHEREAS, the City Council of the City of Grand Junction, Colorado, adopted Resolution Creating Improvement District No. ST-80, Phase B, on the 6th day of August, 1980, within said City;

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

1. That for the purpose of paying the cost and expenses of constructing the improvements in said Improvement District No. ST-

80, Phase B, including engineering, inspection and other incidental expenses, the City shall issue public improvement bonds of said Improvement District No. ST-80, Phase B, dated the 1st day of October, 1980, in the denomination of \$1,000.00 each, numbered 1 to 310, inclusive, due and payable on the 1st day of October, 1990, subject to call and payment, however, at any time prior to the maturity of said bonds, said bonds shall bear interest, payable semi-annually, on the first day of April and the first day of October of each year, as evidenced by coupons to be attached to said bonds as follows:

<u>Bonds</u> <u>Nos.PrincipalInt</u> <u>erest</u> <u>RateMaturity</u>			
01- 32\$32,0008.50%10 -1-81			
33- 7846,0008.50%10- 1-82			
79- 10729,0008.50%10 -1-83			
108- 13629,0008.50%10 -1-84			
137- 16529,0008.50%10 -1-85			
166- 19429,0008.50%10 -1-86			
195- 22329,0008.50%10 -1-87			

224- 25229,0008.50%10 -1-88			
253- 28129,0008.50%10 -1-89			
282- 31029,0008.50%10 -1-90			

In addition to the above interest rates, bonds will bear Supplemental Coupons commencing to accrue interest on October 1, 1980, and continuing until October 1, 1981, on Bonds Nos. 1 through 32, and until October 1, 1982, on Bond Nos. 33 through 310, all at 2%.

The principal of, and interest on, said bonds shall be payable at the office of the City Finance Director of the City of Grand Junction, Colorado, the said bonds shall be signed by the President of the City Council, sealed with the seal of the City and attested by the City Clerk, the coupons shall be signed with the original or facsimile signature of the City Finance Director, and when so executed, said bonds shall be registered by the City Finance Director.

2. Said bonds shall be payable out of the proceeds of a special assessment to be levied upon the real estate situate in the City of Grand Junction, in said improvement district, especially benefited by said improvements, and shall also be payable out of available proceeds of an annual one mill tax to be levied on the taxable property in said City, pursuant to People's Ordinance No. 27 of the said City, which tax was voted and authorized to make up deficits in special improvement district funds.

3. Said bonds, the coupons to be attached and the registration certificate to be endorsed thereon, shall be in substantially the following form:

UNITED STATES OF AMERICA

STATE OF COLORADO

COUNTY OF MESA

CITY OF GRAND JUNCTION

PUBLIC IMPROVEMENT BOND

IMPROVEMENT DISTRICT NO. ST-80, PHASE B

No. \_\_\_\_\_ \$1,000.00

The City of Grand Junction, County of Mesa, State of Colorado, for value received, acknowledges itself indebted and hereby promises to pay to the bearer hereof, the sum of

ONE THOUSAND DOLLARS (\$1,000.00)

in lawful money of the United States of America, on the 1st day of October, 1990, subject to call and payment, however, at any time prior thereto with interest thereon from date until payment according to the interest coupons hereto attached, payable semi-annually on the 1st day of April and the first day of October each year, both principal and interest being payable at the office of the City Finance Director in Grand Junction, Colorado, upon surrender of the attached coupons and this bond as they severally come due, or are called for payment.

This bond is issued for the purpose of paying the cost of local improvements in Improvement District No. ST-80, Phase B, in the City of Grand Junction, by virtue of, and in full conformity with, the Constitution and laws of the State of Colorado, the Charter of the City of Grand Junction, and requisite resolutions and ordinances of the said City, duly adopted, approved, published and made laws of said City prior to the issue hereof.

This bond is payable out of the proceeds of a special assessment to be levied upon real estate situate in the City of Grand Junction in said Improvement District No. ST-80, Phase B, especially benefited by said improvements, and is also payable out of available proceeds of an annual one mill tax to be levied on the taxable property in said City, which tax was voted and authorized to make up deficits in special improvement district funds, and the amount of the assessments upon real estate in said District for the payment hereof, with the accrued interest, shall be a lien upon said real estate in the respective amounts to be apportioned to said real estate, and assessed under the Charter and ordinances of said City.

It is hereby certified and recited that the total issue of bonds of said City for said District including this bond, does not exceed the estimate of the City Engineer of the cost of said improvements, nor the amount authorized by law, and it is further hereby certified and recited that every requirement of law relating to the creation of said Improvement District No. ST-80, Phase B, and the making of said improvements and the issuance of this bond has been fully complied with by proper officers of said City, and that all conditions required to exist and to be done precedent to and in the issuance of this bond, to render the same lawful and valid, have happened, been properly done and performed, and did exist in regular and due time, form and manner, as required by law.

IN TESTIMONY WHEREOF, the City of Grand Junction has caused this bond to be subscribed by the President of the City Council, attested by the City Clerk under the seal of the City, and the interest coupons hereto attached to be attested by the facsimile signature of the City Finance Director, as of the first day of October, 1980.

\_\_\_\_\_  
President of the Council

Attest:

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

(SEAL)

(Form of Coupon)

No. \_\_\_\_\_ \$ \_\_\_\_\_

On the first day of (April) October, A.D. 19\_\_\_\_\_, the City of Grand Junction, Colorado, will pay the bearer

\_\_\_\_\_ DOLLARS

in lawful money of the United States of America, at the office of the City Finance Director, in Grand Junction, Colorado, being six months' interest on its local public improvement bond of Improvement District No. ST-8, Phase B, provided the bond to which this coupon is attached has not been called for prior payment.

Attached to bond dated October 1, 1980.

NO. \_\_\_\_\_

(Facsimile Signature)

\_\_\_\_\_  
City Finance Director

(Registration Certificate)

It is hereby certified that the within and foregoing bonds has been registered in a suitable book kept for that purpose in the office of the City Finance Director of the City of Grand Junction, Colorado, in accordance with the laws and ordinances under which the same is issued.

Dated at Grand Junction, Colorado, this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 1980.



that lot subsequent to the time of the designation of this road that requires an 80 foot right of way, then you must dedicate that extra ten feet of right of way in order to get the building permit issued." Mr. Ashby continued that with regard to Lots 3 and 4, at such time as Lots 3 and 4 are to be developed, Council can make the same request because that's what the ordinance says. Regardless of how they enter and exit from these properties, Council may require of them under the terms of its ordinance the extra ten foot of right of way that's now needed by the standard Council has set for 241/2 Road. Mr. Ashby said that the question that remains is the equitable consideration that relates to this entire transaction. He feels Council must consider it as he feels it is a legitimate thing. He asked: are there equities involved here because of the fact that there was a sale of property between the time that the road was designated in one manner and the time when it was designated in the other manner, that is, going from a 60-foot right of way to an 80-foot right of way. It would require of the Council equitably that it consider some payment to Mr. Fisher or whomever.

Mr. Brown said that, as he stated previously, when Mr. Fisher sold that property to the petitioner it was sold based on a per square foot cost excluding any road rights of way. He noted that the person who will end up paying for that additional ten feet will not be the petitioner which is Mesa Mini Mall Properties who would perhaps be able to pass that on to customers, users of the property, but rather Wayne Fisher, and although Mr. Brown knew some of Council did not have a whole lot of sympathy for that coming out of Wayne's pocket, but he pointed that that Mr. Fisher is trying to get the liquor store started and has cash-flow problems just the same as the City or anyone else. There is no way for Mr. Fisher to pass that cost on to anyone else other than perhaps the developer or the City helping Mr. Fisher. Mr. Brown said that he was not aware until this afternoon that there was the building permit provision which Mr. Ashby mentioned. Mr. Brown said he has not had an opportunity to review the ordinance. But there again, he said they are really confused because on the one hand they think they are working a deal and the rules keep changing on them and that has been the problem all along. As late as this morning they were negotiating with Mr. Lowder of the Public Works Department, and they thought they had a deal worked out. They arrived at a memorandum of agreement between Mr. Lowder and Mr. Fisher to purchase the one parcel as well as the easement. Mr. Brown thought the whole thing was settled until the call this afternoon when he was informed that it was known what Mr. Lowder said but in fact that may not be the case. He stated that has been the problem all along. The rules keep changing, and where are they are going to stop. That's why they were present to argue an equitable argument and saying "be fair to use" as they are trying to be fair to the city. Mr. Brown concluded his remarks by saying he understands the issue of the right of way may be difficult for the Council to determine and it may want to go to fact finding, but he requested approval of the TransAct Bank this evening.



Mr. Ashby advised that the Council could approve the bank with the understanding that no permit would issue until that, if it determines that the right of way is to be deeded, right of way is deeded. Or it can make some other determination down the line. But there is nothing to prevent Council approval of the bank as something that may go out there.

Councilman O'Dwyer said that if Council approves it that way, they still cannot do anything with it until someone sits down and resolves the issue.

Mr. Brown stated he would sit down with anyone at any time to resolve the issue. He thought that was what they were doing this morning, but evidently that may not be the case.

Councilman Brach said Council should meet with them immediately. The subdivision plan was approved about one and one-half years ago and they did not demand any extra for the road.

President Quimby pointed out that approval at that time was given by the County Commissioners.

Councilman Brach restated that a meeting needs to be arranged and get this settled as they need to know where they are going to go and all the City has been doing so far is just stalling them.

President Quimby agreed that they need to know and she regrets the delay. She said that this is a situation where one would like to wipe it out and start all over. She said the delay has not been intentional.

Councilman Brach said that the Planning Commission approved this and did not require the additional right of way at that time. After it came to the City Council, it is asking for the additional right of way which its going to need and Mr. Fisher did not know about that.

Councilman Johnson commented that the Planning Commission is only an advisory body to the Council. He felt the question is what is in the public interest and where is the public benefit to this development versus the private benefit. He continued that it has been stated that the City needed the right of way before this request came to Council. He finds it very difficult to justify the expenses of tens of thousands of dollars for the purchase of right of way for public use when the development of this property is going to be for the benefit solely of private. This is just the first phase. There are two lots to the north of this location that Council is going to have to deal with, and he feels the decision Council makes now is going to have to be recognized and applied to the other two lots.

Councilman Holmes concurred and said that precedence would be established in the way this one is handled. He was inclined to stay with the requirement for the right of way with the regret

that that's the way it is but that's the way that it has to be.

City Attorney Ashby said that in fairness to Mr. Fisher and this group, this is not totally typical of what you will run into in regard to that pure thing where right of way is required, because Mr. Fisher, Mr. Ashby thought and this might be something that could be developed at the meeting that Councilman Brach suggested, started with a right of way that was to be 60 feet in width. Mr. Fisher, it appears and this is what needs to be determined, then made a deal with some other people in regard to that 60 feet right of way knowing that there might be some question about an 80 foot right of way being required. Mr. Ashby stated that this is not the normal thing. Usually the streets are designated sufficiently far enough in advance so that if anyone is making a deal with regard to property knows what right of way is going to be required. He thought that if there is any position where some equity might be permitted, it is solely in looking at that. Maybe not in regard to (Lots) 3 and 4 and maybe not in regard to 5 depending upon what the facts are as to this particular transaction. But what Mr. Brown and Mr. Fisher are indicating to Council is that they are in a somewhat atypical situation, and they are asking only that Council look at it as being atypical and see if on that basis they are entitled to some concession.

Councilman Johnson stated that he could not argue with it being atypical, but he felt the owners of the property should have recognized when the property was subdivided with the peninsula that it would present some serious problems of development, whether with right of way or something else. It appears the owner was willing to sell the rest of that property and give the County the right to relocate F Road in order to make that entire project feasible and acceptable to the developers trying to buy the property. Although he could sympathize with them to an extent, he could not sympathize with them to the extent of spending tens of thousands of public dollars to bail them out.

Mr. Brown commented that everyone seems to be thinking they are bailing his client out and he guessed they are blaming him for screwing everything up and not recognizing that the City was going to want the additional feet. He stated this has been before the Planning Commission and the County Commissioners. As taxpayers, they must rely upon these people in these agencies telling the developer what is required and they will comply.

Councilman Johnson pointed out that it was the County Planning Department that was responsible for the subdivision layout.

Mr. Brown agreed but stated that it is government they are trying to be responsive to and government is changing its hats on them but they cannot go back and change hats. They are asking Council to be responsive to the mistakes that were made. They are willing to meet at any time and any place to resolve the issue.

Councilman Johnson stated he personally feels the right of way

must be given.

Upon motion by Councilman Johnson, seconded by Councilman O'Dwyer and carried, this matter was referred to Mr. Ashby to sit down with Mr. Brown and Mr. Fisher to see if they can arrive at a compromise agreement so that it can be brought back to the City Council for consideration at its next meeting and that the permit for the transaction bank be approved contingent upon the resolution of the right of way problem.

HEARING - ALLEGED LIQUOR CODE VIOLATION, JIM'S LIQUORS, 1560 NORTH AVENUE - DECISION SCHEDULED FOR SEPTEMBER 17, 1980

A hearing was held on the alleged liquor code violation by Jim's Liquors, 1560 North Avenue, which occurred January 25, 1980. An affidavit by Milford Ray Gregory, Clerk, was read. Sworn testimony was had from Robin Lenard, 360 29 Road, the purchaser.

Clayton Tipping, Attorney for Dick Will, and Mr. Will were present for the hearing.

Mr. Will stated that this is not the first time he has been before the Council. He, personally, has never had the problem. He tries to hire and train people according to the code. He sends them to training seminars such as the one at the Cafe Caravan on April 30. He noted that one thing that has happened that has taken a lot of pressure off his store is the pressure that was put on North Avenue in terms of cleanup a few weeks ago. The local police has been of tremendous help in response time. Another thing that he has instituted is that once a week every person purchasing from his store is requested to sign a statement that the purchaser was asked for a valid pictured I.D. and listing his address, birth date, and date of purchase. He said that now that school has reopened, there is a whole new group and new attempts and the pressure is on again. On Friday and Saturday nights there were 47 attempts to purchase. Large signs are posted both inside and outside the store stating the legal age for purchase.

Mr. Ashby advised Mr. Tipping that Council's fact finding for the decision in this matter has to be based on the evidence in this matter.

The hearing was closed. The decision will be given September 17.

Mr. Will said that he was prepared for the decision tonight.

Mr. Ashby explained that Council, as a result of fairly recent discussions, has felt generally that a better, perhaps more reasoned decision is reached in sort of a calm atmosphere after all of the evidence is considered, and for that reason almost without exception it has gone to fact-finding and the decision two weeks hence. It is recognized that that from time to time can create some difficulties. Mr. Ashby recommends that it always go to fact-finding because if the Council sits as a quasi-judicial

body, it needs that time to reflect and review some of the evidence. Council agreed that this is the procedure it will use, and the results will be offered September 17, 1980.

ORDINANCE NO. 1909 - ROAD VACATION, HORIZON COURT

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 VACATING RIGHT OF WAY IN THE CITY.

Upon motion by Councilman Dunn, seconded by Councilman O'Dwyer 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 Holmes and carried by roll call vote, the Ordinance was passed, adopted, numbered 1909, and ordered published.

ORDINANCE NO. 1910 - REZONE TO PB, 525 28-3/4 ROAD

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 AMENDING THE ZONING MAP, A PART OF CHAPTER 32 OF THE CODE OF ORDINANCES OF THE CITY OF GRAND JUNCTION, BY CHANGING THE ZONING OF CERTAIN LANDS WITHIN THE CITY.

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

There were no comments. Upon motion by Councilman Brach, seconded by Councilman Dunn and carried by roll call vote with Councilman O'DWYER voting NO, the Ordinance was passed, adopted, numbered 1910, and ordered published.

ORDINANCE NO. 1911 - ZONING LAMM ANNEXATION PB

Upon motion by Councilman Johnson, seconded by Councilman Dunn and carried, the Proof of Publication to the following entitled proposed ordinance was accepted for filing: 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 called up for final passage and read.

There were no comments. Upon motion by Councilman Dunn, seconded by Councilman Brach and carried by roll call vote, the Ordinance was passed, adopted, numbered 1911, and ordered published.

AIRPORT GRANT APPLICATION - ADAP 6-08-0027-07

Paul Bowers, Airport Director, presented an application for airport grant in the amount of \$1,265,009 with local 10% matching funds for general site preparation for expanded air carrier apron and related terminal area development.

Upon motion by Councilman Hollingsworth, seconded by Councilman Johnson and carried, the grant agreement was approved and the President of the Council was authorized to sign the application.

SUPPLEMENTAL AGREEMENTS WITH SANITATION DISTRICTS

Upon motion by Councilman Johnson, seconded by Councilman Brach and carried, Supplemental Agreements with the following Sanitation Districts were approved:

Orchard Mesa  
Central Grand Valley  
Fruitvale  
Ridges

AGREEMENT WITH MED-ASSIST

Upon motion by Councilman Holmes, seconded by Councilman Brach and carried, the Agreement with Med-Assist was approved.

Mr. William Andrew, 28651/2 Wellington, appeared to oppose the increase in rates, and to support the Fire Department Rescue Squad.

Mr. Wysocki explained that Med-Assist has changed owners recently and that is the reason for the Agreement.

Mr. Wysocki stated that the \$80 figure was established after reviewing costs with the new owners and they were able to justify those costs. He explained the two-tier system.

Mr. Andrews said he understands and that he didn't feel he would change anything but he wanted to go on record opposing the increase.

Councilman Johnson clarified that the City has not given Med-Assist a franchise for ambulance service. Any other ambulance service can come here and if they meet the State's standards for equipment and personnel, they are free to come in and provide this service. A second point was that a big majority of people transported have some type of insurance that pays the major portion of the cost for this transportation, so it is not the burden that it might appear on the patient in every case. It is in some, that's true.

AUTOGRAPHED SOFTBALL PRESENTED TO MAJOR QUIMBY

Ron Ruskey presented an autographed softball to Mayor Quimby on behalf of the National Women's Fast Pitch Softball Committee for the Council's support of the National Tournament.

#### BLACK AND VEATCH - CITY SERVICES FACILITY

Council was advised that if they have any comments or questions after review of the City Services Facilities by Black and Veatch, address them to the Staff in the next couple of days.

#### KOLO THE CLOWN

Tom Smith appeared before Council and introduced Kolo the Clown and requested an amendment to the ordinances to permit Kolo downtown to sell balloons and act as a drawing card to the downtown area. City Attorney Ashby is to review the ordinances and give his opinion at the next meeting of Council.

#### HOUSING AUTHORITY

President Quimby announced two vacancies on the Housing Authority.

#### WOMEN'S SOFTBALL TOURNAMENT

President Quimby commended the City Recreation employees who did such an outstanding job of keeping the fields prepared for the Women's Fast Pitch Softball Tournament.

#### AIRPORT AUTHORITY MEETINGS

Councilman Brach reported that the Airport Board meetings have been changed to the second Wednesday and fourth Thursday of the month at 7:00 a.m.

#### ADJOURNMENT

The President adjourned the meeting.

Neva B. Lockhart

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Neva B. Lockhart, CMC  
City Clerk