

CITY OF GRAND JUNCTION, COLORADO MINUTE OF THE REGULAR MEETING OF
THE CITY COUNCIL

September 21, 1988

The City Council of the City of Grand Junction, Colorado, convened in regular session the 21st day of September, 1988, at 7:30 p.m. in the City/County Auditorium at City Hall. Those present were LeRoy Kirkhart, R.T. Mantlo, Bill McCurry, Paul Nelson, O.F. Ragsdale, Reford Theobold, and President of the Council John Bennett. Also present were Acting City Manager Steve Anderson, City Attorney Dan Wilson, and Deputy City Clerk Teddy Martinez.

Council President Bennett called the meeting to order and Councilman Kirkhart led in the Pledge of Allegiance.

INVOCATION - Councilman Reford Theobold.

MINUTES

There being no corrections or additions to the minutes of the September 7, 1988, Council Meeting, they were approved as submitted.

APPOINTMENT TO THE PARKS & RECREATION ADVISORY BOARD

Upon motion by Councilman Mantlo, seconded by Councilman Nelson and carried, Frank Dunn was appointed to serve a three-year term on the Parks and Recreation Advisory Board.

PROCLAMATION DECLARING OCTOBER 6, 1988, AS "PHYSICIAN ASSISTANT DAY" IN THE CITY OF GRAND JUNCTION

PROCLAMATION DECLARING SEPTEMBER 24, 1988, AS "HUNTING AND FISHING DAY" IN THE CITY OF GRAND JUNCTION

BIDS - AWARD OF CONTRACT - SEWER LINE EXTENSIONS, 1988 - MENDEZ EXCAVATION - \$204,566.10

Bids were opened on September 13, 1988, for the above project. The bids were as follows:

Mendez Excavation \$204,566.10
Lyle States Construction \$264,072.50
Parkerson Construction, Inc. \$274,843.45
Western Slope Utilities \$276,221.50

Engineer's Estimate \$262,714.50

Upon motion by Councilman McCurry, seconded by Councilman Kirkhart and carried, the Contract for Sewer Line Extensions, 1988, was awarded to Mendez Excavation in the amount of \$204,566.10, and the City Manager was authorized to sign said Contract.

APPROVAL OF MPO CONTRACT WITH THE STATE OF COLORADO FOR FISCAL YEAR 1989

Upon motion by Councilman Nelson, seconded by Councilman Ragsdale and carried, the MPO Contract with the State of Colorado for Fiscal Year 1989 was approved.

CONSIDER BIDS FOR THE CITY'S 1989 INSURANCE COVERAGE - CONTINUED TO SEPTEMBER 21, 1988, COUNCIL MEETING

HEARING #28-88 - CONDITIONAL USE - DAY CARE EXPANSION AT 2012 N. 7TH STREET

A hearing was held after proper notice on the petition by Lyman and Wanda R. Whitney for a Conditional Use for a Day Care Expansion on .28 Acres in an RSF-8 Zone (2012 N. 7th Street). The Planning Commission recommended denial of this petition. Wanda Whitney, 2012 N. 7th Street was present for the hearing.

The day care has legally operated for some time under the Home Occupation Guidelines which allows up to six (6) children. The Whitneys were granted a state license to operate with up to 12 children. The Zoning and Development Code requires a conditional use permit for a facility with seven (7) or more children in a single family zone.

The City Engineer recommended that the two driveways of the circular drive be widened and improved to city standards. Mrs. Whitney has agreed to comply with these requirements if the cost is not out of line.

Mike Sutherland, Planner, explained that opposition at the Planning Commission hearing was not so much against the use, but the fact that there is heavy traffic on 7th Street already and that an increase in traffic in and out of the day care center might be dangerous to Tope Elementary School children. The Planning Commission was concerned by the increase of a possible business use, and safety factors. Curb cuts are a concern, and the Whitneys have stated they are willing to consider the expense of such improvements.

Those speaking in support of this petition were as follows:

Ada Houck, 2040 N. 7th Street

Laurie Brumback (day care mother)

Nancy Sorenson, 620 32 Road (day care mother)

Dorothy Wethington, 952 E. Harrison, Fruita

Mr. Bob Carpenter, 1935 N. 7th Street, spoke in opposition to this petition. Mr. Carpenter was concerned that the City's 7th Street Corridor Guidelines be strictly adhered to. Mr. Carpenter filed a

petition signed by eight residents of the area; said petition reads as follows:

"Petition opposing #28-88 Conditional Use for Day Care Expansion. Petitioner: Lyman and Wanda Whitney. Location 2012 N. 7th Street. The undersigned oppose the request for conditional use at the described located or otherwise in that area on .28 acres in RSF Zone (according to public notices advertisement consideration of conditional use, North 25 feet of Lot 6 plus of Lot 9, Block A, College Subdivision. This petition is consistent with the Planning Department's Guidelines for the 7th Street Corridor. All signers by their signature indicate they are 18 years or older."

There were no other opponents, letters or counterpetitions.

Upon motion by Councilman Nelson, seconded by Councilman Kirkhart and carried, the conditional use was approved with the stipulation that within one year from this date the owners of the day care center bring the driveways up to the standards that the City Engineer has given. A vote of 7-0 was cast in favor of the motion.

PROPOSED ORDINANCE IMPOSING A LODGER'S TAX FOR THE CITY OF GRAND JUNCTION

City Attorney Dan Wilson reviewed the proposed ordinance. The following entitled proposed ordinance was presented and read: AN ORDINANCE IMPOSING A LODGERS' TAX FOR THE CITY OF GRAND JUNCTION, COLORADO, SETTING FORTH PURPOSES, DEFINITIONS, PROVIDING FOR EXEMPTIONS AND ENFORCEMENT PROCEDURES, ESTABLISHING ADMINISTRATIVE PROCEDURES AND PROVIDING FOR AN EFFECTIVE DATE. Upon motion by Councilman Mantlo, seconded by Councilman McCurry and carried, the proposed ordinance was passed for publication.

PROPOSED ORDINANCE DECLARING THE NECESSITY TO TAKE PRIVATE PROPERTY BY EMINENT DOMAIN; SAID PROPERTY LOCATED AT 118 MAIN STREET

The following entitled proposed ordinance was presented and read: AN ORDINANCE DECLARING THE NECESSITY TO TAKE PRIVATE PROPERTY BY EMINENT DOMAIN AND SPECIFYING AND DESCRIBING THE PROPERTY TO BE TAKEN. Upon motion by Councilman Nelson, seconded by Councilman Kirkhart and carried, the proposed ordinance was passed for publication.

ORDINANCE NO. 2400 - INCLUDING PROPERTY WITHIN THE BOUNDARIES OF THE GRAND JUNCTION, COLORADO, DOWNTOWN DEVELOPMENT AUTHORITY

Upon motion by Councilman Theobold, seconded by Councilman McCurry and carried, the following entitled proposed ordinance was called up for final passage and read by title only: AN ORDINANCE EXPANDING THE BOUNDARIES OF THE GRAND JUNCTION DOWNTOWN DEVELOPMENT AUTHORITY.

There were no comments. Upon motion by Councilman Ragsdale,

seconded by Councilman Theobold and carried by roll call vote, the Ordinance was passed, adopted, numbered 2400, and ordered published.

RESOLUTION NO. 34-88 GRANTING A REVOCABLE PERMIT TO RON L. AND PATRICIA A. TOUVE FOR ENCROACHMENT ON PUBLIC RIGHT-OF-WAY AT 489 28 1/2 ROAD

The following Resolution was presented and read:

RESOLUTION NO. 34-88

GRANTING A REVOCABLE PERMIT TO RON L. TOUVE AND PATRICIA A. TOUVE

WHEREAS, Ron L. Touve and Patricia A. Touve have petitioned the City Council of the City of Grand Junction, Colorado, for a Revocable Permit to utilize for landscape and beautification purposes a portion of the road right-of-way for 28 1/2 Road described as follows:

Beginning at a point whence the North Quarter Corner of Section 18, T1S, R1W of the Ute Meridian bears N 0 deg. 11 min. 30 sec. W 515.93 feet; thence S 0 deg. 11 min. 30 sec. E 60 feet; thence West 25.0 feet; thence N 0 deg. 11 min. 30 sec. W 60 feet; thence East to the point of beginning.

WHEREAS, such action would not be detrimental to the inhabitants of the City;

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

That the City Manager, on behalf of the City and as the act of the City, is hereby directed to grant the attached Revocable Permit to the above-named petitioners for the purpose above described upon the execution by the petitioners of an agreement that petitioners will save and hold the City harmless from, and indemnify the City, its officers, employees and agents, any claims or causes of action however stated arising out of the encroachment or use granted, and that upon revocation of such permit, the petitioners will, within thirty (30) days of notice of revocation, discontinue said encroachment and, at their own expense, restore the right-of-way to its original condition.

PASSED and ADOPTED this 21st day of September, 1988.

/s/ John W. Bennett

President of the Council

Attest:

/s/ Theresa F. Martinez

Deputy City Clerk

REVOCABLE PERMIT

WHEREAS, Ron L. Touve and Patricia A. Touve have petitioned the City Council of the City of Grand Junction, Colorado, for a Revocable Permit to utilize for landscape and beautification purposes a portion of the road right-of-way for 28 1/2 Road described as follows:

Beginning at a point whence the North Quarter Corner of Section 18, T1S, R1W of the Ute Meridian bears N 0 deg. 11 min. 30 sec. W 515.93 feet; thence S 0 deg. 11 min. 30 sec. E 60 feet; thence West 25.0 feet; thence N 0 deg. 11 min. 30 sec. W 60 feet; thence East to the point of beginning.

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

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

There is hereby granted to Ron L. Touve and Patricia A. Touve a Revocable Permit to allow use of the property described above for landscape and beautification purposes; provided, however, that said permit may be revoked by the City Council at its pleasure at any time; provided, further, that the above-named petitioners by the landscaping and use of the right-of-way as contemplated herein hereby agree to indemnify the City, its officers, employees and agents and to hold it, its officers, employees and agents harmless from any and all claims, damages, actions, costs and expenses of every kind in any manner arising out of, or resulting from the permitted use or the installation of any improvements in the right-of-way of 28 1/2 Road; and further provided that said petitioners hereby agree that within thirty (30) days of notice of revocation of such permit, they will, at their sole expense, remove said encroachment and restore the right-of-way to its original condition.

DATED this 21st day of September, 1988.

;sigl;
/s/ Stephen L. Anderson
Acting City Manager

Attest:

;sigl;
/s/ Theresa F. Martinez
Deputy City Clerk

Acceptance:

;sigl;
/s/ Ron L. Touve

;sigl;
/s/ Patricia A. Touve

AGREEMENT

Ron L. Touve and Patricia A. Touve for themselves, their heirs and assigns, do hereby agree that they will abide by each and every condition contained in the foregoing Permit and that they will indemnify the City of Grand Junction, its officers, employees and agents and hold it, its officers, employees and agents harmless from all claims and causes of action as recited in said permit; and further, upon revocation of the Permit, they agree to within thirty (30) days of notice of revocation, remove said encroachment and restore the right-of-way to its original condition, all at their own expense.

DATED at Grand Junction, Colorado, this 22nd day of September, 1988.

;sigl;
/s/ Ron L. Touve

;sigl;
/s/ Patricia A. Touve

STATE OF COLORADO)	
)	SS
COUNTY OF MESA)	

The foregoing Agreement was acknowledged before me this 22nd day of September, 1988, by Ron L. Touve and Patricia A. Touve.

Witness my hand and official seal.

My Commission expires: June 23, 1990

;sigl;
/s/ Neva B. Lockhart
Notary Public

Address: 250 N. 5th Street
Grand Junction, Colorado

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

RESOLUTION NO. 35-88 AUTHORIZING CONVEYANCE OF 2.066 ACRES OF CITY-OWNED LAND NEAR BLUE HERON LAKE TO DILLON REAL ESTATE LOCATED ADJACENT TO THE EXISTING CITY MARKET WAREHOUSE ON RIVER ROAD - \$45,000

The following Resolution was presented and read:

RESOLUTION NO. 34-88

AUTHORIZING CONVEYANCE OF A PORTION OF BLUE HERON TRACT 3

WHEREAS, the City of Grand Junction is the owner of the following described tract of land being a portion of Blue Heron Tract 3, situate in Section 9, Township 1 South, Range 1 West of the Ute Meridian, Mesa County, Colorado, to wit:

Commencing at the NE Corner of the SW4NW4 of Section 9, T1S, R1W of the Ute Meridian; thence S 0 deg. 02 min. 41 sec. E 915.07 feet to the SE Corner of Blue Heron Industrial Park; thence S 89 deg. 57 min. 19 sec. W 242.41 feet; thence S 0 deg. 02 min. 47 sec. E 73.29 feet to the true point of beginning; thence N 89 deg. 57 min. 18 sec. W 300.0 feet; thence S 0 deg. 02 min. 47 sec. E 300.0 feet; thence S 89 deg. 57 min. 18 sec. E 300.0 feet; thence N 0 deg. 02 min. 47 sec. W 300.0 feet to the true point of beginning. Containing 2.066 acres, more or less.

The land to be conveyed is not being held or used for park or governmental purposes; but was conveyed to the City for economic development purposes requiring the City to utilize the offices of the Mesa County Economic Development Council as advisor in achieving such purpose; and

WHEREAS, Dillon Real Estate Co., Inc., a Kansas corporation, has offered to purchase the above described real estate for Forty Five Thousand Dollars (\$45,000), which is a fair price for said property; and

WHEREAS, the Mesa County Economic Development Council has advised the City on this matter and finds this conveyance to comply with its program of economic development;

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

That the City Manager be authorized, as Commissioner to Convey on behalf of the City and as the act of the City, to convey the above described property to Dillon Real Estate Co. upon receipt of Forty Five Thousand Dollars (\$45,000) on or before October 15, 1988, and upon the execution by Dillon Real Estate Co. of an agreement that Dillon Real Estate recognizes that the conveyance of the property

is subject to the following conditions:

1. The property may be located within the limit of the 100 year flood plain. The City of Grand Junction makes no warranties concerning the usability of the property nor the stability of the soils.

2. Dillon Real Estate, their successors and assigns, shall not allow or perform any encroachment onto or limitation of access across the dike road providing access to Blue Heron Lake; if, however, encroachment occurs or any limitation of access occurs, Dillon Real Estate, their successors and assigns, will restore the road to a condition equal to or better than existing.

3. Dillon Real Estate, their successors and assigns, agree to cooperate in all ways necessary to effectuate the annexation of the property to the City of Grand Junction and to abide by the terms of a Power of Attorney executed by the City giving the City of Grand Junction authority to annex the property; provided, however, the City will not complete the annexation process before October 15, 1988, in order that Dillon Real Estate may retain the existing zoning on the property.

PASSED and ADOPTED this 21st day of September, 1988.

/s/ John Bennett

President of the City Council

Attest:

/s/ Theresa F. Martinez

Deputy City Clerk

AGREEMENT

Dillon Real Estate Co., Inc., a Kansas corporation, for themselves, their successors and assigns, do hereby agree that they will abide by each and every condition contained in the foregoing Resolution.

DATED at Grand Junction, Colorado, this _____ day of _____, 1988.

Dillon Real Estate Co., Inc., a Kansas corporation

President

Attest:

Secretary

STATE OF COLORADO)	
)	SS
COUNTY OF MESA)	

The foregoing instrument was acknowledged before me this _____ day of _____, 1988, by _____ as President and _____ as Secretary of Dillon Real Estate Co., Inc.

Witness my hand and official seal.

My Commission expires: _____

Notary Public

Address: _____

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

ADJOURNMENT

The President adjourned the meeting to Tuesday, September 27, 1988, in the administration conference room at City Hall, 250 N. 5th Street.

Theresa F. Martinez

Theresa F. Martinez
Deputy City Clerk