

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

November 16, 1988

The City Council of the City of Grand Junction, Colorado, convened in regular session the 16th day of November, 1988, at 7:30 p.m. in the City/County Auditorium at City Hall. Those present were R.T. Mantlo, Bill McCurry, Paul Nelson, O.F. Ragsdale, Reford Theobald, and President of the Council John Bennett. Councilman LeRoy Kirkhart was absent. Also present were City Manager Mark Achen, City Attorney Dan Wilson, and City Clerk Teddy Martinez.

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

INVOCATION - Elmer Rhyne, Monument Baptist Church..

MINUTES

There being no corrections or additions to the minutes of the, November 2, 1988, City Council meeting was deferred to December 7, 1988.

RECOGNITION OF LOCAL BOY SCOUT TROOP 363 AND LEADER KEVIN BORMAN

HEARING NO. 43-88 - PROPOSED ORDINANCE - REZONE 3032 NORTH 15TH STREET (NELLIE BECHTEL) FROM PZ (PUBLIC ZONE) TO PR (PLANNED RESIDENTIAL ZONE)

A hearing was held after proper notice on the petition by Mesa County to rezone 3032 North 15th Street (Nellie Bechtel) from PZ (Public Zone) to PR (Planned Residential) zone an area of 4.54 acres. There were no opponents, letters or counterpetitions.

The following entitled proposed ordinance was read: REZONING FROM PZ TO PR-43-88, WITH A DENSITY OF 12.3 UNITS PER ACRE, THE PROPERTY LOCATED AT 3032 N. 15TH STREET, GRAND JUNCTION, COLORADO. Upon motion by Councilman McCurry, seconded by Councilman Nelson and carried, the proposed ordinance was passed for publication.

BIDS - AWARD OF CONTRACT - POLICE PATROL VEHICLES (12) - TURNER CHEVROLET OF MONTROSE - \$13,171 PER UNIT - \$158,052

Upon motion by Councilman McCurry, seconded by Councilman Nelson and carried, the Contract for twelve (12) police patrol vehicles at \$13,171 per unit was awarded to Turner Chevrolet of Montrose in the amount of \$158,052.

HEARING #42-88 - REQUEST TO AMEND SECTION 4-5-4 OF THE ZONING AND DEVELOPMENT CODE TO ALLOW MANUFACTURED HOUSING IN INDUSTRIAL ZONES AND COMMERCIAL ZONES - DENIED

A hearing was held after proper notice on the petition by Ross Transmeier to amend Section 4-5-4 of the Zoning and Development Code to allow Manufactured Housing in Industrial Zones and Commercial Zones. Mike Sutherland, Planning Department, reviewed the petition. This item was denied by the Planning Commission. Those speaking in opposition to the petition were as follows:

Robert Otto, 364 29 Road, owner of property at 8th and Kimball

Kirk Rider, Attorney for the Downtown Development Authority

Mr. Ross Transmeier, petitioner, 2650 Texas Avenue, was present to speak in favor of the request.

The hearing was closed.

Upon motion by Councilman Mantlo, seconded by Councilman McCurry and carried, the petition was denied.

HEARING #34-88 - PROPOSED ORDINANCE - UTILITY EASEMENT VACATION LOCATED AT 2415 APRICOT COURT - RESOLUTION NO. 43-88 - APPROVED

The following entitled proposed ordinance was read by title only: VACATING A PORTION OF THE NORTH/SOUTH UTILITY EASEMENT ON LOT 22, BLOCK 13, PHEASANT RUN, SPRING VALLEY, FILING SIX. Upon motion by Councilman McCurry, seconded by Councilman Nelson and carried, the proposed ordinance was passed for publication.

The following Resolution was presented and read:

RESOLUTION NO. 43-88

RECITALS:

Joe Little and Joyce Little are the owners of a residential lot in the Spring Valley subdivision in the City; said lot is described as Lot 22, Block 13, Pheasant Run, Spring Valley, Filing Six. Their street address is 2415 Apricot Court. In August of 1987, Littles obtained a "planning clearance" from the Planning Department. In October of 1987, after having obtained the approval of the Spring Valley Homeowner's Architectural Control Committee, Littles applied for and obtained a building permit from the Mesa County Building Department. That Department serves as the building department for the City, pursuant to an Intergovernmental Agreement. Littles then proceeded to construct an addition in accordance with the building permit, completing the exterior construction in approximately March of 1988. There is conflicting evidence as to whether Littles knew, or should have known, that the proposed structure would violate the setback and the utility easement. The evidence is also not clear concerning whether the building inspector, while inspecting the foundation, misled the Planning Department. In August of 1988, the Planning Department issued a notice of violation to the Littles because the addition,

as constructed, encroached into a ten foot utility easement and was in violation of a 25 foot rear yard setback requirement established by the City Zoning Code. The City Attorney rescinded that notice of violation based on his opinion that the doctrine of estoppel would prohibit the City from requiring the Littles to remove the structure which encroached into the setback. Littles then made application for the vacating of the utility easement. The Planning Commission recommended granting of the vacation request. The City Council held a public hearing on the matter on October 19, 1988, at which time the Council closed the taking of additional evidence on the matter and continued the decision on the matter to November 2, 1988.

At the public hearing Littles presented evidence that they had in good faith obtained all of the necessary permits and constructed in accordance with those permits. Neighbors adjacent to the Littles presented evidence that the Littles knew, or should have known, that the structure as built would encroach into the setback and into the easement. The evidence indicates that the cost of the structure was approximately \$35,000. The neighbors argued that the effect of the structure being built too close to the fences of the neighbors was to devalue the adjoining lots.

The Council finds, based on the evidence available, as follows:

1. The doctrine of estoppel limits the City's ability to take action to force the removal of the encroaching structure;
2. The neighbors, and the Spring Valley Homeowners Association, have other remedies which they may pursue in order to accomplish their goals;
3. The granting of a partial vacation of the utility easement will not harm the neighbors or the public since, in fact, no utilities are presently located in the easement in question nor is it reasonably expected that such easement will be needed in the future for utility purposes;
4. The request either meets the criteria set forth in the Zoning and Development Code, section 8-3, or, the criteria are not applicable.

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

The foregoing are the findings and conclusions reached this 2nd day of November, 1988.

PASSED and ADOPTED this 16th day of November, 1988.

/s/ John W. Bennett

President of the Council

Attest:

/s/ Theresa F. Martinez

Deputy City Clerk

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

ORDINANCES ON FINAL PASSAGE - PROOFS OF PUBLICATION

The Proofs of Publication on the following Ordinances proposed for final passage had been received and filed. Copies of the Ordinances proposed for final passage were submitted in writing to the City Council prior to the meeting.

ORDINANCE NO. 2403 - ALLEY VACATION BETWEEN GRAND AVENUE AND WHITE AVENUE, WEST OF NORTH FIRST STREET

Upon motion by Councilman Nelson, seconded by Councilman McCurry and carried, the following entitled proposed ordinance was called up for final passage and read by title only: VACATING AN ALLEY IN WILSON'S SUBDIVISION OF BLOCK 2 MOBLEY'S SUBDIVISION.

There were no comments. Upon motion by Councilman Theobold, seconded by Councilman Ragsdale and carried by roll call vote, the Ordinance was passed, adopted, numbered 2403, and ordered published.

ORDINANCE NO. 2407 - DECLARING THE NECESSITY TO TAKE PRIVATE PROPERTY BY EMINENT DOMAIN; SAID PROPERTY DESCRIBED AS LOTS 20, 21, 22, BLOCK 100 OF THE CITY OF GRAND JUNCTION, AND LOTS 23 AND 24, BLOCK 100 OF THE CITY OF GRAND JUNCTION WITH STREET ADDRESS OF 118 MAIN STREET

Upon motion by Councilman Nelson, seconded by Councilman McCurry and carried, the following entitled proposed ordinance was called up for final passage and read by title only: AN ORDINANCE DECLARING THE NECESSITY TO TAKE PRIVATE PROPERTY BY EMINENT DOMAIN AND SPECIFYING AND DESCRIBING THE PROPERTY TO BE TAKEN.

Mr. Robert Otto, 364 29 Road, spoke in opposition to this ordinance. There were no comments. Upon motion by Councilman Nelson, seconded by Councilman Mantlo and carried by roll call vote, the Ordinance was passed, adopted, numbered 2407, and ordered published.

ORDINANCE NO. 2408 - AMENDING SECTION 16-9 OF THE MODEL TRAFFIC CODE FOR COLORADO MUNICIPALITIES, 1977 REVISED EDITION - DRIVING ON A SIDEWALK - FAILED TO PASS

Upon motion by Councilman Nelson, seconded by Councilman McCurry and carried, the following entitled proposed ordinance was called up for final passage and read by title only: AMENDING SECTION 16.9 OF THE MODEL TRAFFIC CODE TO ALLOW U.S. POSTAL SERVICE VEHICLES TO DRIVE ON SIDEWALKS.

The following persons spoke in opposition to the proposed ordinance:

Russell Parker, 716 Ivanhoe

Mary Kuhn, representing Letter Carrier's Auxiliary

Mrs. Brodak, 2741 F Road

Mrs. Robert Otto, 364 29 Road

Mr. Elmer Rhyne

The following persons spoke in favor of the proposed ordinance:

Harry Apple, Manager, U.S. Postal Service

Mike Buffa, Safety Officer, U.S. Postal Service

Gene Letterhaus, U.S. Postal Service

There were no comments. It was moved by Councilman Mantlo and seconded by Councilman Nelson that the ordinance be passed for publication. Roll call vote was taken on the motion with the following result:

AYE: NELSON

NO: MCCURRY, MANTLO, RAGSDALE, THEOBOLD, BENNETT.

The motion failed to pass.

ORDINANCE NO. 2409 - AMENDING CHAPTER 6, ARTICLE VII, LICENSE, CONTROL AND CARE OF DOGS

Upon motion by Councilman Nelson, seconded by Councilman McCurry and carried, the following entitled proposed ordinance was called up for final passage and read by title only: AN ORDINANCE REPEALING AND REENACTING WITH AMENDMENTS SECTIONS 6-1 THROUGH AND INCLUDING 6-10 OF THE CITY CODE (ORDINANCE NO. 2170) PROVIDING FOR RABIES CONTROL; LICENSING OF DOGS; RESTRAINT OF ANIMALS RUNNING AT LARGE; RESTRAINT OF VICIOUS DOGS; RESTRAINT OF BARKING DOGS; IMPOUNDMENT AND DISPOSITION OF ANIMALS; ESTABLISHING PENALTIES FOR VIOLATION OF SUCH PROVISIONS; AND AUTHORIZING PUBLICATION IN PAMPHLET FORM.

There were no comments. Upon motion by Councilman McCurry, seconded by Councilman Mantlo and carried by roll call vote, the Ordinance was passed, adopted, numbered 2409, and ordered published.

RESOLUTION NO. 44-88 SETTING THE CITY'S MILL LEVY - (6.10 MILLS)

The following Resolution was presented and read:

RESOLUTION NO. 44-88

LEVYING TAXES FOR THE YEAR 1988 IN THE CITY OF GRAND JUNCTION, COLORADO

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

That there shall be and hereby is levied upon all taxable property within the limits of the City of Grand Junction, Colorado, for the year 1988 according to the assessed valuation of said property, a tax of six and ten hundredths (6.10) mills on the dollar (\$1.00) upon the total assessment of taxable property within the City of Grand Junction, Colorado, for the purpose of paying the expenses of the municipal government of said City and certain indebtedness of the City, for the fiscal year ending December 31, 1989.

PASSED and ADOPTED this 16th day of November, 1988.

/s/ John W. Bennett

President of the Council

Attest:

/s/ Theresa F. Martinez

Deputy City Clerk

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

RESOLUTION NO. 45-88 SETTING MILL LEVY FOR THE DOWNTOWN DEVELOPMENT AUTHORITY - (3.617 MILLS)

The following Resolution was presented and read:

RESOLUTION NO. 45-88

LEVYING TAXES FOR THE YEAR 1988 IN THE CITY OF GRAND JUNCTION, COLORADO, DOWNTOWN DEVELOPMENT AUTHORITY

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

That there shall be and hereby is levied upon all taxable property within the Grand Junction, Colorado, Downtown Development Authority limits, for the year 1988 according to the assessed valuation of said property, a tax of 3.617 mills on the dollar (\$1.00) upon the total assessment of taxable property within the Grand Junction, Colorado, Downtown Development Authority for the fiscal year ending December 31, 1989.

ADOPTED and APPROVED this 16th day of November, 1988.

/s/ John W. Bennett

President of the Council

Attest:

/s/ Theresa F. Martinez

Deputy City Clerk

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

RESOLUTION NO. 46-88 REGARDING WOOD BURNING SMOKE

The following Resolution was presented and read:

RESOLUTION NO. 46-88

RECITALS:

The City Council of the City of Grand Junction recognizes that the topography of the Grand Valley in which the City is located is such that inversions are likely to occur during the colder fall and winter months. The effect of those inversions is to trap particulate matter, such as woodsmoke, in the valley for periods of time depending on meteorological conditions.

Fortunately, the use of wood burning stoves has not been so significant and the meteorological conditions have been favorable so that normally wood burning smoke soon disperses. However, the Council has determined that the potential for adverse affects on the health of the city and area residents does exist, and that as more people use wood burners for a primary or secondary source of heating, the health hazards will increase. As of this date, it is not necessary to enact mandatory laws governing the use of wood burning devices is appropriate.

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

The City Manager of the City of Grand Junction is directed to implement a program substantially as follows:

1. Based on the information supplied by the National Weather Service, or other meteorological experts which suggests that a severe inversion is likely to occur and/or is in place in the Grand Valley, the City Manager shall inform the area radio and television stations and other media in the Grand Valley in order that such media shall make public announcements of an impending inversion which will likely have the affect of degrading the air that we breathe.

2. The announcement to be given to the public shall inform the public that the community will be served if each and every citizen attempts to reduce, or abstain from, the use of solid fuel burning for home heating purposes during such inversion conditions. The public will be reminded that the voluntary no-burn program is necessary in order to avoid serious threat to the public health -- which if continued could eventually result in a mandatory wood burner limitation. The announcement will include a statement that the "no-burn" request does not apply to persons using wood burning devices which are certified or approved by the State pursuant to Regulation No. 4, C.C.R. 1001-6.

3. The City Manager shall solicit the cooperation of each and every media in the Grand Valley in an effort to coordinate the efforts to advise the public that a voluntary "no-burn" day is imminent.

4. The City Manager shall investigate and evaluate programs for monitoring air quality within the City, and in cooperation with County personnel, in the County, in an effort to determine whether additional efforts are necessary in order to protect the public health as it relates to air quality.

PASSED and ADOPTED this 16th day of November, 1988.

/s/ John W. Bennett

President of the Council

Attest:

/s/ Theresa F. Martinez, CMC

Deputy City Clerk

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

RENEWAL OF PARKING LOT LEASE WITH CLEM CORPORATION DBA WRIGLEY
FIELD, FOR PROPERTY LOCATED AT 1135 NORTH 18TH STREET - \$240/MONTH

Upon motion by Councilman Mantlo, seconded by Councilman McCurry
and carried, the renewal of a parking lot lease with CLEM
Corporation for property located at 1135 North 18th Street at \$240
per month was approved.

ADJOURNMENT

The President adjourned the meeting.

Theresa F. Martinez

Theresa F. Martinez
Deputy City Clerk