

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

January 18, 1989

The City Council of the City of Grand Junction, Colorado, convened in regular session the 18th day of January, 1989, 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 City Manager Mark Achen, City Attorney Dan Wilson, and City Clerk Neva Lockhart.

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

INVOCATION - Doug McClosky, Bookcliff Baptist Church.

MINUTES

There being no corrections or additions to the minutes of the Regular Meeting January 4, 1989, they were approved as submitted.

APPOINTMENT OF HELEN MILLS TO THE CONVENTION AND VISITORS BUREAU - TERM TO EXPIRE DECEMBER 31, 1990

Upon motion by Councilman Nelson, seconded by Councilman Mantlo and carried, Helen Mills was appointed to the Convention and Visitors Bureau, term to expire December 31, 1990.

ARRIVAL OF ALLISON SHAY THEOBOLD ON SATURDAY, JANUARY 14, 1989, ANNOUNCED - 7 LBS. 6 OZ. 20 INCHES LONG

HEARING NO. 3-88 - PROPOSED ORDINANCE - AMENDING CHAPTER 32, CODE OF ORDINANCES, GRAND JUNCTION ZONING AND DEVELOPMENT TEXT BY REPEALING SECTION 12-4-2, CIVIL PENALTY, AND REENACTING.

A hearing was held after proper notice on the petition by the City Attorney to amend the Grand Junction Zoning and Development Code by repealing Section 12-4-2, Civil Penalty, and reenacting Section 12-4-2 including: a maximum penalty of \$5,000.00 can be imposed; action can only be brought to Municipal Court; and Municipal Court has the ability to decide upon a monetary settlement as appropriate. There were no opponents, letters or counterpetitions.

The following entitled proposed ordinance was read: AMENDING SECTION 12-4-2 OF THE ZONING AND DEVELOPMENT CODE OF THE CITY OF GRAND JUNCTION. Upon motion by Councilman Ragsdale, seconded by Councilman Kirkhart and carried, the proposed ordinance was passed for publication.

HEARING NO. 52-88 - PROPOSED ORDINANCE - EASEMENT VACATION AND AMENDED FINAL PLAN AT 1516 CRESTVIEW WAY

A hearing was held after proper notice on the request by Tom Logue to vacate a 10-foot utility easement lying along the north side of Lot 16-5 of Crestview Townhomes to allow a 10-foot setback along Lots 16-1, 16-2, 16-3, and 16-4 in a Planned Residential (PR-8) Zone. There were no opponents, letters, or counterpetitions.

The following entitled proposed ordinance was read: VACATING A PORTION OF A UTILITY EASEMENT ON LOT 16-5, CRESTVIEW TOWNHOMES, A REPLAT OF 16 AND 17, CRESTVIEW SUBDIVISION. Upon motion by Councilman Kirkhart, seconded by Councilman Nelson and carried, the proposed ordinance was passed for publication.

Upon motion by Councilman Theobald, seconded by Councilman Kirkhart and carried, the Amended Final Plan was approved

BIDS - AWARD OF CONTRACTS

1. Fifth Street (U.S. Highway 50) Bridge Waterline Relocation, 1989 - Lyle States Construction, Inc. - \$221,747.10

Upon motion by Councilman Mantlo, seconded by Councilman Nelson and carried, the bids on the Fifth Street (U.S. Highway 50) Bridge Waterline Relocation, 1989, were accepted, the Contract was awarded to Lyle States Construction, Inc., for its bid of \$221,747.10, and authorized the City Manager to sign said Contract.

2. Sole Source Purchase of Pressurized Irrigation System for Back Nine of Tiara Rado Golf Course - Munro Supply - \$19,416.

Upon motion by Councilman Ragsdale, seconded by Councilman Kirkhart and carried, the sole source purchase of Pressurized Irrigation System for the back nine of Tiara Rado Golf Course from Munro Supply in the amount of \$19,416 was authorized.

RESOLUTION NO. 3-89 - FINDINGS CONCERNING THE REZONING REQUEST FOR NORTHRIDGE FILING #4 AND #5 (MESA VIEW RETIREMENT CENTER II) - PROPOSED ORDINANCE

The following Resolution was read:

RESOLUTION NO. 3-89

FINDINGS CONCERNING THE REZONING REQUEST FOR NORTHRIDGE FILING #4 AND #5 (MESA VIEW RETIREMENT CENTER II)

The City Council, having reviewed the evidence submitted to the Planning Commission, including their minutes, and having carefully weighed that evidence along with the written and oral testimony presented to Council FINDS:

Section 4-4-4 of the Code "Rezone Criteria" is applicable and provides the analytical framework for these findings.

A. When the PR-4 zoning was adopted in 1984 for Northridge Filing #4, it was done so with the expectation that the subject property would be developed as single family dwellings with a density of 4 units per acre, such as the previous RSF-4 zoning would have allowed. At that time there was not a community-wide effort under way to attract retirees and senior citizens to our community, such as exists today. Therefore, due to then current expectations, the zoning was not made in error.

B. There have been changes to the neighborhood (consisting of the area defined on the south by Patterson Road, to the west by 1st Street, to the east by 7th Street and to the north by the northernmost boundary of existing Northridge and North Acres Subdivisions) which include the following: 7th Street has been widened and improved north of Patterson Road to an arterial street; Mesa View Retirement Residence (Mesa View I) has been constructed on land which was rezoned from PZ (Public Zone) and RSF-4 to PR-28; a traffic light has been installed at the intersection of 7th Street and Horizon Drive, the entrance into Willowbrook Subdivision has been relocated; Patterson Road is currently under construction for widening to four lanes; two proposals for rezones to Planned Business have been denied and a third proposal was withdrawn prior to hearing.

C. The petitioner indicates that there is a waiting list of approximately 60 people who want to move into the existing facility. An opponent of the project testified that her survey indicated retirement residences in our community have in excess of 200 vacancies of similar dwelling units; however, we find that it is the quality of the project that meets the needs of the City and that the public benefits by this rezoning which will allow a high quality project to supply residential housing for the elderly/retired members of our community. Because this project, when a final development plan is approved, will provide on-site laundry, food, housekeeping and mail services, and other amenities for one monthly fee, we find that this type of project will fulfill a community need while having minimal deleterious impact on the neighboring single-family residences.

D. The proposal is compatible because the proposed development is residential. The retirement structure will be built to the west of the existing retirement residence. The existing retirement center provides the best evidence regarding potential impacts on the neighborhood and compatibility with the single family lots in the area. Few residents of the existing center drive therefore traffic impacts will be far less than an "ordinary" single-family subdivision; retirees create less noise and fewer intrusions on adjacent uses than would a family oriented subdivision; the landscaping and architectural features of the retirement structure will improve the aesthetics of the area to the benefit of adjacent users. Many neighboring residents have indicated support for the current plan. The size and orientation of the main structure is such that it minimizes negative impacts and intrusions. Opponents have asserted that property values will decline. The Council

believes that the opposite is true and rejects the contrary assertions. Council finds that property values were not decreased as a result of MESA VIEW I and that there is no reason to expect otherwise with regard to Mesa View II. Other nearby residents have indicated that they feel the retirement residence will be a "good neighbor" and the Council so finds. A major concern of the Planning Staff and opponents is that the City cannot give guarantees that if the retirement residence is approved it will "always and forever" remain as approved. If this project should fail financially some other use may be proposed in the "empty" structure, but the restrictive covenants which will be filed will not allow such a change in use without all of the neighbors consenting; therefore, the neighbors are protected in this regard from a more intrusive and impacting alternative use.

E. Petitioner will, as a condition of approval, be required to complete the second access for existing Northridge which was a previous requirement and is needed in order that the existing Northridge Subdivision have additional fire and emergency vehicle access; this factor is substantial and the creation of such access benefits all of the residents and the City as a whole. This proposal will provide a bus turnaround for the direct benefit of the existing lots, substantially reducing the risk to area school children while improving access to and from First Street. Street improvements will be completed near the entrance to existing Northridge, as well as the necessary access to the Waller and Vandover properties; benefiting the Northridge Subdivision and other neighborhood properties. Open Space improvements and recreational easements along the Ranchman's Ditch will benefit existing and future residents and the City as a whole.

F. Our adopted Corridor Guidelines address three arterials surrounding this proposal, but do not directly speak to the subject property. Council finds that, to the extent applicable, the intent and purposes of the Guidelines are met by this project.

G. Sufficient utilities exist or are proposed for this development.

H. While opponents have argued that the proposal is commercial and not residential, Council has considered and rejected that argument. While it is true that the developer intends to make a profit, that is not the test. The test is whether the retirement center is to be a home for the residents and not a hotel/motel complex for transient housing. Even though persons visiting residents may eat and rent a room on a short-term basis, such uses are clearly ancillary to the residential nature of the project and do not convert the use to commercial. The Council specifically finds that the use is residential in character and not primarily commercial and the project does not justify a planned business/commercial label.

I. Although the rezoning designation for the retirement center is PR-12.9 (indicating 12.9 units/acre), the entire project density

changes very little: from 4 units/acre to 5.83 units/acre, overall.

J. It is true that, as opponents have argued, the developer has not submitted every specific item that the Code appears to require. The Planning Department staff has indicated, however, and the Council finds, that all reports and information requested of the applicant have been supplied and that, except as stated below, the information not supplied is not necessary to a reasoned review of this proposal.

Even though substantial reasons exist to establish need, the record before the Council as to public need and benefit could be improved; therefore, petitioner is directed to supplement the present record by addressing in writing the issue of public need and benefit; such supplement will then be supplied to the opposing neighbors and the supplementary evidence will be considered at the second reading of the zoning ordinance in order that Council may reevaluate whether or not petitioner has demonstrated that a public need and benefit has been adequately shown.

Other than as stated regarding "public need and benefit," the Council finds that relevant information which is needed to review this proposal has been submitted; Council finds that other information required by the Code is irrelevant because of the location of the project and the information already available due to the prior review of Mesa View I, Northridge and Willowbrook Subdivisions.

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

That the foregoing findings are hereby adopted.

PASSED and ADOPTED this 18th day of January, 1989.

/s/ John W. Bennett

President of the Council

Attest:

/s/ Neva B. Lockhart, CMC

City Clerk

Upon motion by Councilman Mantlo, seconded by Councilman Nelson and carried by roll call vote with Councilmembers MC CURRY and BENNETT voting NO, the Resolution was passed and adopted as read, subject to the following conditions:

1. Applicant shall submit, by 5 p.m. January 25, 1989, written evidence dealing with whether or not the applicant ha met his burden of proving that this projects fulfills a public, and not

private, needs and whether or not the public will benefit from this project;

2. Applicant shall also submit in writing by the same deadline, a detailed listing of the promises that the applicant has made which include, but are not limited to:

- dates by which all improvements will be completed;

- a detailed list of the improvements;

- written evidence that restrictive covenants/restrictions will restrict the use of the property as has been stated orally;

- all other promises or guarantees that the applicant has made in public hearings before the Planning Commission and the City Council;

3. Those persons who desire to obtain copies of the foregoing should contact the City Attorney's office so that opponents to the project shall have an opportunity to make a WRITTEN response in time for the February 1 Council meeting.

4. By February 1, 1989, the applicant shall provide the Council with evidence that the applicant has either purchased the property or that applicant has the right to purchase the property, pursuant to a written contract.

The following entitled proposed ordinance was read: AN ORDINANCE REZONING FILING #4 NORTHRIDGE SUBDIVISIONS FROM PR-4 TO PR (FILE NO. 38-88). Upon motion by Councilman Ragsdale, seconded by Councilman Kirkhart and carried with Councilmembers THEOBOLD, MC CURRY, and BENNETT voting NO, the proposed ordinance was passed for publication.

RESOLUTION NO. 4-89 - ISSUING A LICENSE TO THE COLORADO STATE EMPLOYEES' CREDIT UNION PERMITTING TEMPORARY POSSESSION OF CITY PROPERTY

The following Resolution was read:

RESOLUTION NO. 4-89

ISSUING A LICENSE TO THE COLORADO STATE EMPLOYEES' CREDIT UNION, PERMITTING TEMPORARY POSSESSION OF CITY PROPERTY

WHEREAS, the Colorado State Employees' Credit Union, a Colorado Corporation, "Petitioner", has petitioned the City Council of the City of Grand Junction, Colorado, for a license giving petitioner temporary possession the following described real property owned by the City of Grand Junction, Colorado, to wit:

The West one-half of that portion of Second Street vacated by Ordinance No. 2379, being situated between the North line of Main

Street and the South line of Rood Avenue, City of Grand Junction, EXCEPT beginning at the Southeast corner of Lot 13, Block 100 of the original town of Grand Junction, Colorado, thence North along the East line of said Lot 13 a distance of 15.0 feet to a point; thence Southeasterly a distance of 61.85 feet to a point, said point being on the extension of the North right-of-way line of Main Street; thence West along the extension of the North right-of-way line of Main Street a distance of 60.0 feet to the point of beginning; and

WHEREAS, the City Council of the City of Grand Junction has determined that the issuance of said license to the petitioner 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 authorized to enter into the attached agreement granting temporary possession of said property to the petitioner upon the execution by the petitioner of an agreement that it will save and hold the City, its officers, employees and agents harmless from, and indemnify the City, its officers, employees and agents, any claims or causes of action however stated arising out of the use granted, and that the City may revoke said license upon thirty (30) days written notice to petitioner, and that upon revocation of said license, the petitioner will, within said thirty (30) days written notice peaceably surrender possession of said property to the City and, at its own expense, remove any encroachment and restore said property to the conditions as it exists on the date of issuance of said license.

PASSED and ADOPTED this 18th day of January, 1989.

/s/ John W. Bennett

President of the Council

Attest:

/s/ Neva B. Lockhart, CMC

City Clerk

LICENSE

WHEREAS, the Colorado State Employees' Credit Union, a Colorado Corporation, "Petitioner", has petitioned the City Council of the City of Grand Junction, Colorado, for a license to temporarily possess the following described real property owned by the City of Grand Junction, Colorado, to wit:

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WHEREAS, the City Council of the City of Grand Junction has determined that the issuance of said license to the petitioner would not be detrimental to the inhabitants of the City;

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

There is hereby granted to The Colorado State Employees' Credit Union a License to allow temporary possession of the property described above; provided, however, that said license may be revoked by the City at its pleasure by providing petitioner with thirty (30) days written notice of revocation; provided, further, that the petitioner agrees to save and hold the City, its officers, employees and agents harmless from, and indemnify the City, its officers, employees and agents, any claims or causes of action however stated arising out of the use granted, and that the City may revoke said license upon thirty (30) days written notice to the petitioner, and that upon revocation of said license, the petitioner will, within said thirty (30) days written notice, peaceably surrender possession of said property to the City and, at its own expense, remove any encroachment and restore said property to the condition as it exists on the date hereof.

DATED this _____ day of _____, 1989.

Mark K. Achen, City Manager

Attest:

City Clerk

Acceptance:

The Colorado State Employees' Credit Union, a Colorado Corporation

Secretary

President

AGREEMENT

The Colorado State Employees' Association, a Colorado Corporation, for itself, its successors and assigns, does hereby agree that it will abide by each and every condition contained in the foregoing License and that it will save and hold the City of Grand Junction, its officers, employees and agents harmless from, and indemnify its officers, employees and agents, any claims or causes of action as recited in said License; and further, upon revocation of the License, it agrees to, within thirty (30) days notice of revocation of the License, peaceably surrender possession of said property to the City and, at its own expense, remove any encroachment and restore said property to the condition as it exists on the date of said License.

DATED at Grand Junction, Colorado, this _____ day of _____, 1989.

The Colorado State Employees' Credit Union, a Colorado Corporation

Secretary

President

STATE OF COLORADO)	
)	SS:
COUNTY OF MESA)	

The foregoing Agreement was acknowledged before me this _____ day of _____, 1989, by _____.

Witness my hand and official seal.

My Commission expires: _____

Notary Public

Address: _____

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

RESOLUTION GRANTING AN EASEMENT ON CITY PROPERTY TO PUBLIC SERVICE COMPANY - REMOVED AT THE REQUEST OF THE PETITIONER

PAYMENT OF \$5,347.89 AUTHORIZED TO JOE COLEMAN FOR TERRI HANNA, FEED LOT, INC. - PARTIAL REIMBURSEMENT OF EXPENSES NECESSITATED BY THE CONDEMNATION PROCEEDINGS

Upon motion by Councilman Theobald, seconded by Councilman Nelson and carried, payment of \$5,347.89 to Joe Coleman, Attorney for Terri Hanna, Feed Lot, Inc., was authorized a partial reimbursement of expenses necessitated by the condemnation proceedings.

CONTRACT WITH WILLIAM R. AND BETTY LOU JARVIS PROVIDING FOR REALIGNMENT OF RIVERSIDE PARK ROAD AND PARK IMPROVEMENT (641 WEST UTE AVENUE)

The proposed contract with William R. and Betty Lou Jarvis includes the conveyance of 0.30 acres of property in the vicinity of West Avenue and Fairview Avenue from Jarvis to the City. The acquisition of this property would allow the City to widen and realign West Avenue from a point just south of 340 Highway to Fairview Avenue.

In exchange for the donation of the property by Jarvis, the City will agree to realign and reconstruct West Avenue within 4 years. If the City does not reconstruct the street the property will revert to Jarvis.

The public works department has estimated that the cost to reconstruct the street is approximately \$200,000. This proposed project is planned to be submitted and considered in the 1990 capital budget.

The project will also require that the existing park restroom facilities in Riverside Park be relocated. It will also be necessary to reconstruct other facilities in the park such as the sprinkler system and may include the construction of a shelter.

The parks department has estimated that the costs associated with the reconstruction of the restrooms and sprinkler system and the construction of a shelter and other facilities is approximately \$113,000.

Upon motion by Councilman Nelson, seconded by Councilman Mantlo and carried, the Contract with the Jarvis's was approved and the President of the Council was authorized to sign said Contract.

ADJOURNMENT

President of the Council Bennett adjourned the meeting.

Neva B. Lockhart

Neva B. Lockhart, CMC
City Clerk