

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

February 1, 1989

The City Council of the City of Grand Junction, Colorado, convened in regular session the first day of February, 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 Theobald, 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 Mantlo led in the Pledge of Allegiance.

INVOCATION - Rex Newkirk, Trinity Baptist Church

MINUTES

There being no corrections or additions to the minutes of the regular meeting January 18, 1989, they were approved as submitted.

PRESENTATION OF PLAQUE TO ANITA JOHNSON FOR MORE THAN TEN YEARS ON THE GRAND JUNCTION BOARD OF ADJUSTMENT AND APPEALS 9/20/78 - 1/1/89

PRESENTATION OF CERTIFICATE OF APPRECIATION TO KIRK RIDER FOR MORE THAN FIVE YEARS ON THE GRAND JUNCTION, COLORADO, DOWNTOWN DEVELOPMENT AUTHORITY - 7/6/83 - 1/12/89

DOROTHY EVANS AND PETE COFFMAN PRESENTED WITH 1988 SERVICE AWARDS BY PARKS AND RECREATION BOARD

HEARING - APPLICATION BY THE CHAMBER OF COMMERCE OF GRAND JUNCTION, COLORADO, FOR A MALT, VINOUS AND SPIRITUOUS LIQUOR SPECIAL EVENTS PERMIT ON SATURDAY, MARCH 4, 1989, AT 744 HORIZON COURT FROM 6:00 P.M. TO 2:00 A.M. FOR A CASINO NIGHT FUNDRAISER - APPROVED - FIRST PERMIT

A hearing was held after proper notice on the application by the Chamber of Commerce of Grand Junction, Colorado, for a malt, vinous and spirituous liquor special events permit on Saturday, March 4, 1989, at 744 Horizon Court from 6:00 p.m. to 2:00 a.m. for a Casino Night fundraiser. Joe Crocker, Attorney, was present representing the Chamber of Commerce. There were no opponents, letters, or counterpetitions. Upon motion by Councilman Ragsdale, seconded by Councilman Nelson and carried, the application was approved.

SOLE SOURCE PURCHASES

1. Sewage Grinder - Disposable Waste Systems, Inc. - \$11,000.00

Upon motion by Councilman Nelson, seconded by Councilman Mantlo and carried, the sole source purchase from Disposable Waste Systems, Inc., in the amount of \$11,000.00 for a sewage grinder was approved.

2. Golf Course Mowers - L. L. Johnson Distributing Company - \$63,308.00

Upon motion by Councilman Mantlo, seconded by Councilman Kirkhart and carried, the sole source purchase of golf course mowers from L. L. Johnson Distributing Company in the amount of \$63,308.00 was approved.

3. Toro Parkmaster 7-Gang Tractor Mower for Parks Operations-L. L. Johnson Distributing Company - \$27,691.00

Upon motion by Councilman McCurry, seconded by Councilman Kirkhart and carried, the sole source purchase of Toro Parkmaster 7-Gang Tractor Mower for Parks Operations from L. L. Johnson Distributing Company for the amount of \$27,691.00 was approved.

4. Replacement for Special Sign Project - Hall Signs, Inc., Denver, Colorado - \$16,194.85

Upon motion by Councilman Kirkhart, seconded by Councilman McCurry and carried, the sole source purchase of Replacement for Special Sign Project from Hall Signs, Inc., of Denver, Colorado, in the amount of \$16,194.85, was approved.

#### 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. 2417 - AMENDING THE CODE OF ORDINANCES OF THE CITY OF GRAND JUNCTION, CHAPTER 26, SECTION 26-51, REGARDING THE GRAND JUNCTION DOWNTOWN ASSOCIATION

Upon motion by Councilman Kirkhart, seconded by Councilman Mantlo and carried, the following entitled proposed ordinance was called up for final passage and read by title only: AMENDING THE CODE OF ORDINANCES OF THE CITY OF GRAND JUNCTION, CHAPTER 26, SECTION 26-51, REGARDING THE GRAND JUNCTION DOWNTOWN ASSOCIATION.

There were no comments. Upon motion by Councilman Theobold, seconded by Councilman McCurry and carried by roll call vote, the Ordinance was passed, adopted, numbered 2417, and ordered published.

ORDINANCE NO. 2418 - AMENDING SECTION 12-4-2 OF THE ZONING AND DEVELOPMENT CODE OF THE CITY OF GRAND JUNCTION

Upon motion by Councilman Kirkhart, seconded by Councilman Mantlo and carried, the following entitled proposed ordinance was called up for final passage and read by title only: AMENDING SECTION 12-4-2 OF THE ZONING AND DEVELOPMENT CODE OF THE CITY OF GRAND JUNCTION.

Mr. James Ensley, 2734 Patterson Road, was present and opposed the passage of this Ordinance while he has an action pending against the City. The City Attorney advised that this proposal would have no bearing on Mr. Ensley's action. There were no other comments. Upon motion by Councilman Nelson, seconded by Councilman Kirkhart and carried by roll call vote, the Ordinance was passed, adopted, numbered 2418, and ordered published.

ORDINANCE NO. 2419 - EASEMENT VACATION AT 1516 CRESTVIEW WAY

Upon motion by Councilman Kirkhart, seconded by Councilman Mantlo and carried, the following entitled proposed ordinance was called up for final passage and read by title only: VACATING A PORTION OF A UTILITY EASEMENT ON LOT 16-5, CRESTVIEW TOWNHOMES, A REPLAT OF LOT 16 AND 17, CRESTVIEW SUBDIVISION.

There were no comments. Upon motion by Councilman Theobold, seconded by Councilman Kirkhart and carried by roll call vote, the Ordinance was passed, adopted, numbered 2419, and ordered published.

ORDINANCE REZONING FILING #4 NORTHRIDGE SUBDIVISION FROM PR-4 TO PR (FILE NO. 38-88) - RESOLUTION NO. 5-89 - APPLICATION TO REZONE FILING FOUR, NORTHRIDGE SUBDIVISION DENIED

City Attorney Wilson explained to Council and the audience that the petitioner filed requested supplemental information and some of the residents of the neighborhood received copies of the supplemental information and have responded. That information plus the exhibits to the declaration and the covenants are in the file and the record is complete with one exception. That exception deals with the proof of possession and the ownership.

Pat Edwards, 510 Tiara Drive, petitioner, stated that they have negotiated an extension on the contract with the majority interest in the property; they are continuing to negotiate with the other owner of interest in the property, relative to that extension. Mr. Edwards referred to a letter on file from Frank Spiecker explaining that to this point the other owner was unwilling to sign the agreement extension. He has indicated that he will honor or accept the proceeds contained in the original contract. Mr. Edwards stated they could fulfill or honor the contract on or before February 10, 1989. It was moved by Councilman Ragsdale and seconded by Councilman Nelson that the City Council grant an extension to Colson and Colson until February 15, 1989, and if, at that time, the negotiations between the two parties have not been completed and the acquisition and possession of the property not been concluded, then Colson and Colson will withdraw its petition

for the rezone, and if the petitioner does not withdraw its petition, by this motion it would automatically be withdrawn on February 15.

Tim Mannion, 3038 Cloverdale Court, pointed out that by another extension, this would make it impossible for the neighborhood to get the referendum on the General Municipal Election Ballot and would require a special election. The second point he discussed was that the resolution adopted by Council at its last meeting specifically said that the petitioner would provide by February 1st evidence of title to the property and he failed to do that. He asked "How many extensions does he get?" He cited Section 4-4-1C of the Zoning Code that says that only three entities can bring a request for a rezone. That being, the City, the Planning Commission, or an owner of fifty percent of the property. Mr. Mannion pointed out that when he allowed his Contract to purchase that property to lapse, he lost his standing as a petitioner. In the additional submittal that the petitioner was allowed to make, Mr. Mannion called attention to Exhibit C, pages 1 and 2. In that, the petitioner lists a map of Filings 4 and 5 and Mr. Mannion noted that it was different from the outline of the map that was voted on at the last meeting, so prior to any vote Mr. Mannion requested that it be determined which map and what area is being voted on.

Mr. Fred Aldrich pointed out that the Contract to purchase this property had been in existence for almost a year, and that at the last meeting of Council the petitioner did not express any concern with an extension of the agreement.

Joan Raser, 3343 Northridge Drive, noted that the Council at its last meeting stipulated that by February 1, 1989, the petitioner shall provide the Council with the evidence that the applicant has either purchased the property or that the applicant has the right to purchase the property, pursuant to a written contract. She asked if a signed written contract was on file. The City Attorney said no.

Also commenting was Warren Jones, Northridge Estates.

Roll was called upon the motion with the following result:

Councilmembers voting AYE: KIRKHART, RAGSDALE, NELSON

Councilmembers voting NO: MC CURRY, MANTLO, THEOBOLD, BENNETT

The President declared the motion to grant an extension lost.

Upon motion by Councilman Kirkhart, seconded by Councilman Mantlo and carried, the following entitled proposed ordinance was called up for final passage and read by title only: AN ORDINANCE REZONING FILING #4 NORTHRIDGE SUBDIVISIONS FROM PR-4 TO (PR-38-88).

It was moved by Councilman Theobold and seconded by Councilman

McCurry that the Ordinance be passed, adopted, numbered 2420, and ordered published. Roll was called upon the motion with the following result:

Councilmembers voting AYE: KIRKHART, RAGSDALE, NELSON

Councilmembers voting NO: MANTLO, THEOBOLD, MC CURRY, BENNETT

The President declared the motion lost and the proposed ordinance failed to pass.

The following Resolution No. 5-89 was read:

RESOLUTION NO. 5-89

RESOLUTION CONCERNING FINDINGS OF FACTS REGARDING THE REZONING REQUEST FOR NORTHRIDGE FILING #4

The Council having considered the supplemental responses received and having further reviewed the evidence presented to it, makes the following findings in support of the motion to deny the rezoning request:

The applicant, Colson and Colson, does not presently either own the subject property nor does it currently possess a right to purchase the subject property since the contract to purchase expired on or about January 28, 1989. Applicant asserts that it is yet trying to obtain an extension of the contract to purchase. The Council, however, previously set a deadline of February 1, 1989, by which time the applicant was required to present proof of ownership or a contract. Because the applicant, perhaps due to no fault of its own, cannot supply such evidence, the Council has no choice but to deny the request since one cannot receive a rezoning for property one does not have a legal right to.

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

For the reasons stated, the application to rezone Filing #4, Northridge Subdivision is DENIED.

PASSED and ADOPTED this 1st day of February, 1989.

/s/ John W. Bennett

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President of the Council

Attest:

/s/ Neva B. Lockhart, CMC

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City Clerk

Upon motion by Councilman Theobold, seconded by Councilman Mantlo

and carried by roll call vote with unanimous AYE vote, the Resolution was passed and adopted as read.

RESOLUTION NO. 6-89 - AUTHORIZING THE CITY MANAGER TO EXECUTE SETTLEMENT DOCUMENTS AND AUTHORIZING THE EXPENDITURE OF NOT MORE THAN \$37,500 IN PAYMENT OF CONTESTED PERSONAL INJURY CLAIMS OF LARRY HEAD - APPROVED

The following Resolution was read:

RESOLUTION NO. 6-89

AUTHORIZING CITY MANAGER TO EXECUTE SETTLEMENT DOCUMENTS AND AUTHORIZING THE EXPENDITURE OF NO MORE THAN \$37,500 IN PAYMENT OF CONTESTED PERSONAL INJURY CLAIMS OF LARRY HEAD

WHEREAS, a former employee of the City has filed a Notice of Claim alleging that the City's employment actions cost him personal injury; and

WHEREAS, the City has denied that it has liabilities therefor; and

WHEREAS, the City has determined that it is in the City's best interest to settle the claim instead of proceeding in litigating the matter.

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

That the City Manager be authorized to execute settlement documents and the expenditure of no more than \$37,500 in payment of contested personal injury claim of Larry Head be authorized.

PASSED and ADOPTED this 1st day of February, 1989.

/s/ John W. Bennett

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President of the Council

Attest:

/s/ Neva B. Lockhart, CMC

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City Clerk

Upon motion by Councilman Ragsdale, seconded by Councilman Kirkhart and carried by roll call vote, the Resolution was passed and adopted as read, and authorized the expenditure from contingency funds.

PAYMENT AUTHORIZED TO FEED LOT, INC., TERRI HANNA IN THE AMOUNT OF \$6,853.09 FOR APPRAISER'S FEES PLUS \$330.00 TO HANNA ACCOUNTANT, BILL E. FERGUSON FOR EXPENSES NECESSITATED BY THE CONDEMNATION PROCEEDINGS

Upon motion by Councilman Kirkhart, seconded by Councilman Nelson and carried, the expenditure of \$6,853.09 to the Feed Lot, Inc., Terri Hanna plus the expenditure of \$330.00 to Hanna Accountant, Bill E. Ferguson for expenses necessitated by the condemnation proceedings was approved.

PAYMENT OF \$185 AUTHORIZED TO WESTERN COLORADO TITLE COMPANY FOR TITLE COMMITMENT TO PURCHASE PUBLIC SERVICE STEAM PLANT PROPERTY

Upon motion by Councilman McCurry, seconded by Councilman Kirkhart and carried, the payment of \$185 was authorized to Western Colorado Title Company for Title commitment to purchase Public Service Steam Plant property.

CITY ATTORNEY AUTHORIZED TO PROCEED IF NECESSARY IN A CIVIL ACTION TO COLLECT \$3,315.95

Upon motion by Councilman McCurry, seconded by Councilman Mantlo and carried, the City Attorney was authorized to proceed if necessary in a Civil Action to collect \$3,315.95.

CORPS OF ENGINEERS 205 FLOOD CONTROL STUDY - AUTHORIZED CONTINGENCY FUNDS UP TO \$37,500 FOR 1989

Upon motion by Councilman Theobold, seconded by Councilman Mantlo and carried the flood control project and the City's participation was approved and authorized the transfer of general fund contingency monies up to \$37,500 for 1989 as the City's participation in the project.

CITY CONTRIBUTION TO CHAMBER OF COMMERCE OF \$5000 AUTHORIZED FROM CONTINGENCY FUNDS IN ADDITION TO NORMAL MEMBERSHIP FEE

Upon motion by Councilman Mantlo, seconded by Councilman McCurry and carried, a \$5000 Contribution from the Contingency Funds to the Chamber of Commerce was authorized in addition to the normal membership fee to assist the Chamber address its budgetary concerns.

ATTENDANCE BY BOY SCOUT TROOP 345 ACKNOWLEDGED

ADJOURNMENT

The President of the Council adjourned the meeting.

Neva B. Lockhart

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Neva B. Lockhart, CMC  
City Clerk