

**GRAND JUNCTION CITY COUNCIL  
MINUTES OF THE REGULAR MEETING**

**January 17, 1996**

The City Council of the City of Grand Junction, Colorado, convened into regular session the 17th day of January, 1996, at 7:38 p.m. in the City/County Auditorium at City Hall. Those present were Linda Afman, Jim Baughman, David Graham, R.T. Mantlo, Janet Terry, Reford Theobald and President of the Council Ron Maupin. Also present were City Manager Mark Achen, City Attorney Dan Wilson, and City Clerk Stephanie Nye.

Council President Maupin called the meeting to order and Councilmember Terry led in the Pledge of Allegiance. The audience remained standing during the invocation by Rev. Vernon Black, First Christian Church.

**APPOINTMENTS TO THE VISITORS & CONVENTION BUREAU**

Upon motion by Councilmember Afman, seconded by Councilmember Terry and carried, Karen Berryman was reappointed to a two-year term, Lon Carpenter was reappointed to a three-year term, and Bill Miars and Douglas Gust were appointed to three-year terms on the Visitors & Convention Bureau Board of Directors.

Councilmember Graham voted **YES** on the appointments of Bill Miars and Douglas Gust, and **NO** on the appointments of Karen Berryman and Lon Carpenter.

**CONSENT ITEMS**

Consent Items #10 and #11 were removed from the Consent Calendar for full discussion.

Upon motion by Councilmember Mantlo, seconded by Councilmember Afman and carried with Councilmember **GRAHAM** voting **NO** on Item #2 and Item #7 and **ABSTAINING** on Item #3, Item #4 and Item #5, and Councilmember **THEOBOLD** voting **NO** on Item #8, the following Consent Items #1-9 were approved:

1. **Minutes of Previous Meeting**

Action: Approve the minutes of the Regular Meeting January 3, 1996

2. **Contract for Printing Both the 1996 Spring/Summer and 1996 Fall/Winter Activities Brochure for the Parks and Recreation Department**

The following bids were received on December 13, 1995, for

the bulk printing of 76,000 brochures. The printing will be done twice with half being printed and distributed in the Spring and half in the Fall:

Daily Sentinel, Grand Junction	\$31,283.00*
Great Western Printing, Grand Junction	\$31,330.88
Pyramid Printing, Grand Junction	\$33,491.00
Suttons Printing, Grand Junction	\$40,062.00

\*recommended award

Action: Award the Contract to Daily Sentinel in the Amount of \$31,283

3. **Annexing the Cascade Enclave - 43.52 Acres** [File #ANX-95-204]

The Cascade Enclave consists of 43.52 acres of land located at the southwest corner of G Road and 27 Road. This area is totally surrounded by City limits and is eligible for annexation under Colorado State Statutes.

Action: Adopt An Ordinance Annexing Territory to the City of Grand Junction, Colorado - Cascade Enclave, Approximately 43.52 Acres Located at the Southwest Corner of G and 27 Roads on first reading and order published

4. **River Road Annexation Petition, 390.48 Acres**  
[File #ANX-96-13]

A majority of the property owners north of the Redlands Parkway and south of the Railhead Industrial Park between River Road and the Colorado River have signed an annexation petition to be annexed into the City limits. The Petition for Annexation is now being referred to City Council. Staff requests that City Council approve by resolution the Referral of Petition for the 390.48 acre River Road Annexation.

Action: Adopt Resolution No. 4-96 - A Resolution Referring a Petition to the City Council for the Annexation of Lands to the City of Grand Junction, Colorado, and Setting a Hearing on Such Annexation - River Road Annexation Located between Highway 6 & 50 and the Colorado River; North of the Redlands Parkway and South of the Railroad Avenue

5. **Vacation of Right-of-Way and Utility Easement at Rio Linda Lane** [File #FPP-95-182]

A request to vacate a portion of Rio Linda Lane and an existing sanitary sewer easement as part of the development

of Vista del Rio, Filing #3, a 23 lot subdivision located west of the Redlands Parkway and south of the Colorado River

Action: Adopt An Ordinance Vacating a Portion of the Right of Way of Rio Linda Lane and a Sanitary Sewer Easement Located in the Northeast Quarter of Section 7, Township 1 South, Range 1 West of the Ute Meridian (South of the Colorado River and approximately 1/4 mile west of Redlands Parkway) on first reading and order published

6. **Use of Undergrounding Funds on Unawep Avenue**

The City has scheduled the reconstruction of Unawep Avenue from Highway 50, east to 28 1/2 Road to begin in 1996. Part of the project anticipated is to convert portions of the existing overhead power facilities to underground by using the Public Service Company Underground Fund. As required by the franchise agreement with PSCo, a resolution is required to set the limits of the conversion project and commit the funds toward the project.

Action: Adopt Resolution No. 5-96 - A Resolution Authorizing the Use of Public Service Company Undergrounding Funds for the Unawep Avenue Project from State Highway 50 to Approximately Highland Drive

7. **Grant for Pedestrian Bridge Over Colorado River**

The City of Grand Junction was awarded a Federal Enhancement Grant as partial funding for the project to construct a bicycle/pedestrian footbridge across the Colorado River. CDOT requires adoption of this resolution to meet the contract requirements and thereby enter into an agreement to construct the facilities. The grant amount is \$587,750 with the City's participation being \$135,000.

Action: Adopt Resolution No. 6-96 - A Resolution Accepting a Grant for Federal-Aid Funds from the Intermodal Surface Transportation Efficiency Act of 1991 for the Project Identified as STE C080-009, or the Bicycle/Pedestrian Bridge Over the Colorado River

8. **1996-1997 Building Inspection Contract with Mesa County**

Since 1988, the City has contracted with Mesa County under the present arrangement where the County performs all building inspection functions within the City for the amount of fees that the County collects from building permit fees.

The contract is for a two year term. Either party may terminate the contract by providing 90 days notice.

Action: Approve the Contract with Mesa County for 1996-1997 Building Inspection

9. **Alley Improvement District to Reconstruct the East-West Alley from 12th Street to 13th Street between Grand Avenue and White Avenue**

A petition has been submitted requesting a Local Improvement District to reconstruct the east-west alley from 12th Street to 13th Street between Grand Avenue and White Avenue. The petition was signed by 56% of the property owners to be assessed, representing 57% of the abutting footage. A hearing to allow public comment for or against the proposed Improvement District will be held at the February 21, 1996 City Council meeting.

Action: Adopt Resolution No. 7-96 - A Resolution Declaring the Intention of the City Council of the City of Grand Junction, Colorado, to Create within Said City Alley Improvement District No. ST-96, Phase B, and Authorizing the City Engineer to Prepare Details and Specifications for the Same

10. **Lease Extension for Parking Lot at Wrigley Field - REMOVED FOR FULL DISCUSSION**

11. **Entitlement City Status and CDBG Funds - REMOVED FOR FULL DISCUSSION**

\* \* \* END OF CONSENT CALENDAR \* \* \*

\* \* \* ITEMS NEEDING INDIVIDUAL CONSIDERATION \* \* \*

**LEASE EXTENSION FOR PARKING LOT AT WRIGLEY FIELD - A RESOLUTION AUTHORIZING A ONE-YEAR LEASE EXTENSION TO JESST, INC. DBA WRIGLEY FIELD RESTAURANT, FOR THE CITY OWNED PARKING LOT AT 1132 NORTH 18TH STREET - CONTINUED TO FEBRUARY 7, 1996, CITY COUNCIL MEETING**

Wrigley Field currently leases this property to comply with off-street parking requirements prescribed by liquor licensing laws. The proposed lease extension will commence January 1, 1996 and expire December 31, 1996. The proposed rent of \$245.00 per month is a 6% increase over the current rental fee.

Councilmember Theobold explained the City had planned to sell the building in 1995 while Wrigley Field had first right of refusal. The Fire Department needed the building longer than expected so the building did not get sold while Wrigley Field's right of refusal existed. Instead of giving Wrigley Field a renewed three-year lease, the City gave a one-year lease which expired December 31, 1995. JESST, Inc. has lost the first right of refusal out of this lease. It is for one year only as the City does not expect to own the building for three more years. There was an offer on the table at substantially higher than market.

City Property Agent Tim Woodmansee noted Council has not formally rejected the offer at a public meeting. The City's deadline to accept the offer is January 18, 1996. He requested the financial amount of the purchase price offer not be disclosed since the City does not know whether it will accept the offer or go through a sealed bid process.

It was suggested Wrigley Field be put on a month-to-month lease until such time as all Council members have had time to review the letter from the owner and lessee of Wrigley Field regarding their concerns.

Upon motion by Councilmember Mantlo, seconded by Councilmember Baughman and carried, this item was postponed to the February 7, 1996, City Council Meeting.

**ENTITLEMENT CITY STATUS AND CDBG FUNDS - ACCEPTANCE OF GRAND JUNCTION'S NEW ENTITLEMENT CITY STATUS UNDER THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM OF THE FEDERAL GOVERNMENT'S HOUSING AND URBAN DEVELOPMENT DEPARTMENT AND BEGIN THE NECESSARY PROCESS TO START RECEIVING AN ENTITLEMENT ALLOCATION OF CDBG FUNDS**

In 1995, Grand Junction was designated as an "entitlement city" by the federal government. This designation came about as a result of the establishment of the Grand Junction Metropolitan Statistical Area. As an entitled city, Grand Junction is now eligible to receive CDBG funds directly from the federal government.

In order to receive these funds, the City must accept its entitlement status and begin the process. This process entails a citizen participation plan and the development of a consolidated plan which must be submitted to HUD by August 16, 1996.

Councilmember Baughman stated he is concerned with the federal government using tax money for this type of operation, and giving

it back to the City with strings attached. Referring to the Fiscal Impact, he stated the City receives approximately \$350,000 per year under the program as a pass-through entity. The funds are not specifically to be used by the City of Grand Junction. The City, in order to qualify for these funds, would be asked to classify its citizens by income level, race, age, even listing how many citizens have AIDS. He was incensed by this.

Councilmember Graham agreed with Councilmember Baughman. He said the federal government is in desperate straits. He thought taking a principle state against declaring oneself entitled to anything from the Federal Government has intrinsic merit. As a measure of true civic pride, Council can send a very clear message that Grand Junction, through charitable efforts, efficient management of the City Government itself, and cooperation with Mesa County, can achieve many, if not all, of the things these funds are supposed to be designed to achieve without the necessity of having all the entanglements with the Federal Government. He urged Council to reject this proposal.

Councilmember Theobold felt other entities would suffer by Council not accepting these funds.

Councilmember Baughman felt Council, as a true leader, should show the public how the total system is repugnant. If the monies would stay at the local level instead of going to the federal level, and then back, and the bureaucrats were not in the loop, the money would be here because it never went to Washington, D.C. Councilmember Theobold responded by stating the system will not be changed by Grand Junction saying it is not going to participate. The system is changed by telling the people in Washington, D.C. to change the system.

Councilmember Afman agreed with Councilmember Baughman in spirit, although she felt this is the only avenue through which to receive these funds. She supports this request because various programs are counting on these funds.

It was moved by Councilmember Mantlo and seconded by Councilmember Theobold to accept Grand Junction's new entitlement city status under the Community Development Block Grant Program of the federal government's Housing and Urban Development Department and begin the necessary process to start receiving an entitlement allocation of CDBG funds. Roll was called on the motion with the following result:

AYE: TERRY, THEOBOLD, AFMAN, MANTLO, MAUPIN.  
NO: BAUGHMAN, GRAHAM.

The motion carried.

**DISCUSSION OF POSSIBLE CITY ACQUISITION OF THE MATCHETT FARM -  
STAFF TO PROCEED WITH PURCHASE**

The Trust for Public Land (TPL) has entered into an exclusive purchase agreement for 215 acres of land commonly known as the Matchett Farm. The TPL has identified preservation of the Matchett Farm as a top priority for their 1996 Colorado Program. Staff briefed Council on TPL's proposal to transfer title to the City through a Lease and Purchase Agreement.

Parks and Recreation Director Joe Stevens reviewed this item. An update was covered previously in executive session. Over the past six months, he has been discussing with the Trust for Public Lands the opportunity to acquire the Matchett Farm off Patterson Road. The City has an opportunity to acquire a large parcel of land for future parks and recreation purposes, for open space and conservation. This piece of property has great significance for a number of reasons. The Task Force has made a recommendation regarding parks and recreation developed in Grand Junction which would benefit the entire region. Plans are moving forward to develop Canyon View Park. Other needs and desires in the community need to be addressed. The Matchett Property is the number one recommendation from the Task Force and the Parks and Recreation Advisory Board for the recreation center site. The School District has indicated it would be an excellent site for an elementary school. A lot of cities comparable to Grand Junction would love to have this opportunity. If this can be pulled together it will be a great place for informal activities as there are no large open spaces for the City's residents to use in this way.

Mr. Stevens stated the TPL has handled negotiations with the Matchett Family for purchase of the property.

Tim Woodmansee, City Property Agent, highlighted the terms of the agreement being proposed by TPL. He stated the TPL is proposing to transfer to the City title to 215 acres of the Matchett Farm. They are proposing to either sell it to the City through a three-year lease purchase agreement, or carry the note at 6% over the three year term. The purchase price would be \$2.1 million at a unit price of \$9,800/acre. The price would be discounted by \$100,000 if the City were to pay cash. Further discounts would be considered under the lease purchase option if the City pays it off at any time earlier during the three year period. Under the terms of the agreement assigned to the City by the Matchett

Family, the Matchett Family would have the right to reside on the property, and to continue farming the property until the City needs it for parks development. The City would be required to give the Matchett Family twelve months' notice to vacate the property or any portion needed by the City for development. During the interim period the public would have the right to use the property for particular purposes, including some of the current uses of the property such as hiking, jogging, mountain biking along the canal trails and some of the farm roads and on Indian Wash. The City would have the right to install parking lots at certain locations on Patterson Road or near 28 Road for public access. The City could assign rights to its recreation programs, Mesa College or School District 51 to conduct outdoor nature studies on the property. The Matchett Family would not be required to pay the property taxes (quite minimal) during the term of the lease. TPL would like to name it Matchett Park or name some prominent feature within the park for the Matchetts.

Mr. Woodmansee stated a contract was negotiated with the City Council in 1993. It was a culmination of two years of heavy negotiating. The contract was brought to the Council during a special meeting at which time it was declined by a majority vote. The offer at that time was for a cash purchase for 249 acres at \$10,000/acre. At that time the price was justifiable. Since that time, a few sales have occurred. Some of the sales resulted in foreclosure, and were then resold. Some resales indicate market values are on the rise. Mr. Woodmansee gave some statistics of transactions in the immediate area of this property:

- 10 acres sold for \$125,000 - unit price \$12,500/acre
- 40 acres sold for \$400,000 - unit price \$10,000/acre
- 65 acres sold for \$842,300 - unit price \$13,000/acre

There are currently three pending contracts, all are due to close in the first quarter of 1996:

- 14 acres for \$210,000 - unit value \$15,000/acre
- 16-1/2 acres for \$495,000 - unit price \$30,000/acre
- 20 acres for \$400,000 - unit price \$20,000/acre

Mr. Woodmansee continued by saying typically, the City buys only vacant land. The only way to value vacant land is to use a sales comparison approach. The City starts low and stays low. This is what happened with the Matchett property. Zoning, the proximity to improved road and utilities, conditions of the sales, water rights, etc. must also be considered in land values. Mr. Woodmansee felt \$9,800/acre falls well within the value range established by these sales and contracts.



Councilmember Afman stated in the past City Councils have purchased agriculture lands for park uses. This Council is establishing the highest and best use for this particular property as it has done in previous purchases. She felt very comfortable with the market price and what Council has purchased in the past. Taking inflation into consideration, she thought Councils in the future will see this as an excellent purchase at this price.

Mr. Woodmansee stated the City paid \$25,000 for the Lincoln Park property in 1917. Councilmember Theobald stated 20 or 50 years from now, people will not be quibbling over whether Council paid \$200 or \$500 an acre too much for the land. Council made an excellent investment in the City's future. To have an opportunity to revisit this offer three years later, and at a lower price, is phenomenal good fortune. He was grateful to TPL and Mr. Woodmansee for their work on this project.

Councilmember Terry lives in the area and said Dr. Matchett told her if Mr. Woodmansee and Councilmember Mantlo had not been involved with this project, he would have lost interest in it a long time ago. She thanked Mr. Woodmansee and Councilmember Mantlo publicly for their persistence.

Councilmember Mantlo stated the Matchett Family members are very interested in selling this parcel to the City as they have reduced the price from \$12,500/acre to \$9,800/acre.

Mr. Woodmansee requested Council direction to Staff to proceed with a final contract with the Trust of Public Land. Staff would like to bring the contract back to Council in February for formal approval at that time.

Councilmember Graham had a number of objections to the proposal as detailed. He felt it would be more appropriate to raise them at a public hearing when the actual contract were proposed. He requested Staff provide Council with a complete copy of the agreement at that time.

Councilmember Afman suggested Councilmember Graham spend some time talking with his constituents regarding this property, allowing them input on the direction they would like to see Council move on this decision.

Councilmember Graham welcomed anyone in the City to call him at 245-3995. He has received no indications of any support for this project. He pointed out this park will cost \$2.1 million which has not been provided. He would be happy to discuss this issue.

If there is public support for the project, he can be swayed. He sees no public support as of yet.

Councilmember Baughman felt Staff should be given direction on how this price can be paid. It would be a tremendous asset to the City of Grand Junction, but Council needs to see the numbers on how it can be purchased with current funds.

City Manager Mark Achen stated it may require some sacrifices from the City's ten-year capital plan in order to accomplish it, along with outside funding (grants, foundations, etc.).

It was moved by Councilmember Mantlo and seconded by Councilmember Terry that Staff be directed to proceed with the legalities necessary to purchase the Matchett property. Roll was called on the motion with the following result:

AYE: BAUGHMAN, MANTLO, TERRY, THEOBOLD, AFMAN, MAUPIN.  
NO: GRAHAM.

The motion carried.

**PUBLIC HEARING - SCHOOL LAND DEDICATION AND FEES IN LIEU -  
ORDINANCE NO. 2886 ADOPTING AND IMPLEMENTING TEXT AMENDMENTS TO  
THE ZONING AND DEVELOPMENT CODE ON SECOND READING**

This ordinance adopts requirements for dedication of sites and land areas for schools and fees in lieu for residential developments. It also adopts an indemnification agreement for collection of such fees with the School District.

A hearing was held after proper notice. City Attorney Dan Wilson reviewed this item. He stated Council should adopt a dollar amount tonight, then an inter-governmental agreement will be provided sometime in February. The Ordinance, as proposed, directs the City Attorney to work with the School District to come back with such an agreement. Discussions will continue with Mesa County to determine the particulars of the agreement.

Mr. John Groves, legal counsel for Mesa County School District #51, stated "suitable school lands" will be addressed this evening. The definition of suitable school lands is a question for Council to decide.

Councilwoman Afman asked to what extent the Homebuilders Association was involved in drafting this proposal. Mr. Lou Grasso, Consultant for the School District, stated approximately two years ago he began meeting with the Homebuilders Association.

The Homebuilders Association representative from Denver was brought over, and actually provided Mr. Grasso with the formula that was eventually used. As they went through the drafts, they stayed in constant contact with the Association and kept it updated. Mr. Grasso met with the Association President Randy Kirk last week and told him what the fee looked like. The School District has worked closely with the Homebuilders Association. Mr. Grasso also met twice with the realtors.

Councilmember Graham asked Mr. Grasso if he had been authorized by the Homebuilders Association to make any statement regarding this proposal. Mr. Grasso responded no, he cannot speak for the Homebuilders Association. Councilmember Graham asked Mr. Grasso if he could tie in the position of the Homebuilders Association in relation to any litigation recently settled in Douglas County. Mr. Grasso said the Homebuilders Association filed the litigation in Douglas County and it is his understanding it is now under appeal. One of the reasons the Homebuilders representative from Denver came over was because the School District wanted to be informed of the concerns with Douglas County. The difference between Mesa County and Douglas County is it has not tried to levy an exorbitant fee which would address capital construction or bricks and mortar. It is only a fee to address site acquisition.

Dr. George Straface, Superintendent of Schools for School District #51, spoke representing the Board of Education. Over the last five years the school district has experienced 11% growth in student enrollment. Growth is projected at 2% minimum over the next five years. This means great impact on the school district's capital construction of buildings. The school district needs land on which to construct the new buildings. Tonight's proposal is to help the school district acquire land based on new residents with the belief that the new residents severely impact the student body and need to help share the load. There are needs all over the valley. Many of the schools are now at capacity or soon will pass their capacity. It is clearly evident the school district's needs are strong. The Board of Education has conducted public meetings regarding this proposal, and believes it has provided opportunities for the community to participate in discussions. The school district has expressed a willingness to enter into an indemnification agreement with the City to protect the school district and the City under Amendment #1, and to cover any costs of litigation. He reiterated this is for land acquisition, not capital construction.

Councilmember Theobald asked what the difference was with this agreement and the one Mesa County adopted earlier. Dr. Straface

stated the County did not have an indemnification clause. Otherwise, the structure, the amount of the fees, etc. are identical. Builders will see no difference in the fee whether they build inside the City or in the County.

City Attorney Dan Wilson explained the City will actually hold the funds, and when the school district has a suitable site, it will come back to City Council for approval to purchase. The Finance Director will then cut them a check to allow them to use those funds for the purchase. The City will hold the monies unless an agreement can be reached with Mesa County. Mesa County might hold the money for both the City and the County.

Councilmember Baughman asked if there is a number assigned to the new development lot. City Attorney Dan Wilson said \$292.

City Manager Mark Achen stated the proposed ordinance will provide that the fee be established by resolution, which would allow it to change from time to time as conditions change.

Councilmember Graham asked Dr. Straface if this request for Council to pass the impact fee is in addition to his request of December, 1995, that the City quit-claim to District #51 the property described as Lot 1, Block 22, of the Ridges Filing #5. Dr. Straface said they are two separate requests.

David Price, Co-Counsel for the school district, stated tonight's draft is, in substance, the same as was presented two weeks ago. He realized City Attorney Dan Wilson had been working from a draft which had been given to Mesa County early on in the process, and had been circulated to Dan Wilson as a matter of course. Since that time, there have been several drafts going back and forth. The City's ordinance will track pretty much the same as the one proposed to the County.

Dr. Straface stated the Board of Education finalized the inter-governmental agreement with Mesa County at its meeting January 16, 1996.

Mr. Grasso stated "suitable school sites" should have sufficient acreage, availability of all utilities, inside the 201 Sewer area, topography (level land), transportation access, not only for vehicular access, but also for walkers and students. A certified appraiser was hired to look at areas which met this criteria. The recommendation of the committee was for three elementary school sites, one in the north area, one in the southeastern section of the valley, and one on Orchard Mesa. It also called for a middle school in the eastern end of the Valley. When considering sales

in the area, a figure of \$11,942/acre was determined. That figure was escalated at a 3% inflation rate for a five year period, with a result of \$13,440. He then took an average which came to \$12,680. When the \$12,680/acre cost was multiplied by the .23 factor, it came to the \$292 fee.

City Attorney Dan Wilson said if the City's planners get a request from a developer to donate land in lieu of the fee, the planners will direct them to contact the school district to see if the lands are "suitable." The school district will then work with the developer to see if they are suitable, and then initially to work out any credits. Any recommendation would then come back to the City.

Councilmember Baughman asked why the school district should need additional funding for sites when over the years new residences have been built which generate additional revenues through the taxation process. Dr. Straface explained the formula with the State limits as to how much revenue a school district can generate. The school district is funded per pupil, and is limited on how much funding is received per pupil. School District #51's amount is \$4,200 per student. The formula states what percentage of that amount will be paid locally and what will be paid by the State. When the assessed valuation rises, the percentage paid by the State goes down, and the local percentage goes up. It is a percentage fluctuation by Statute. People assume the school district gets more money when a lot of growth comes into the valley and assessed valuations increase. That is not true. Property tax supports both bond and operating expenses. The difference is "bond", which is for capital construction, is paid exclusively by the local taxpayer. The general revenue for the general fund is the one he described. Both come out of property taxes.

Councilmember Afman commended the school district and the Homebuilders Association for their work involved in this proposal. She was excited about the options offered the developers.

Mr. Tom Foster, Chairman of the Legislative Committee for the Board of Realtors, stated there has been a lot of work and a lot of interest. He cannot speak for the Homebuilders Association, but he thought they were still as interested in the process as they were at the beginning. They initiated this program along with School District #51. Mr. Foster applauded the work that has been done by the school district and the attorneys. If this fee is adopted, it establishes some predictability for a developer considering a property to purchase for development. In the past it has been difficult to determine what a developer could afford

to pay for properties because it was unknown what the impact fees would be in the end.

Councilmember Baughman asked how many of the new homes in this area are being purchased by local people. Mr. Foster said two years ago approximately 30% of the local new homes were purchased by people from outside this area, with 70% locally.

Councilmember Afman thanked Mr. Foster for his work on this project.

There were no other comments. The hearing was closed.

Councilmember Graham believed the extent the City imposes any new development fee or use tax, is going to be antithetical to making more affordable housing for everyone. He believes to the extent the City and the County impose the same use tax that it is contrary to the philosophy of infill and takes away one voluntary reason for people to do in terms of development. He pointed out this proposed use tax is unfair because it places a burden upon those who are building and buying new real property for the benefit of all new students, including those who were born here. Councilmember Graham felt the proper recourse for the district, if it is short of funds for any purpose, is a bond issue or a ballot initiative. He believes this new tax is violative of the spirit, if not the letter of the law, as far as Amendment #1, otherwise known as TABOR, otherwise known as Article X, Section 20 of the Colorado Constitution, which was passed by the people of Colorado, specifically to limit the ability of bodies such as the Grand Junction City Council to unilaterally decide to impose new taxes. He requested that the City Clerk enter Article X, Section 20 into the record.

Councilmember Theobold stated any type of fee, charge or tax is going to make housing more expensive. If the ultimate goal was to make housing as inexpensive as possible, there would be no sidewalks, streets or water lines. He thought the quality of housing is as important as affordable housing for a community. He agreed with Councilmember Graham that having the same fee in and out of City is a detriment to infill in this instance. Councilmember Theobold felt the reasonable approach to dealing with infill is to charge a lesser fee when there is a lesser impact, not to artificially reduce one person's fee simply to encourage them to move somewhere. The theory behind the infill having a lesser fee for a water line tap fee in an older area of town as opposed to a new area, is the water line has been there and there is no fiscal impact to expand it or extend it. It cannot be determined whether someone new to the valley is going to buy a new

home or an existing home, but the net result is there is going to be more homes built. He did not think there is any other way to fairly distribute it short of putting this fee on new construction which is exclusively to accommodate new growth.

Councilmember Baughman pointed out there are many people who are paying into the system (property taxes) that have never or will never receive from the system. They have no children to benefit from the school district, yet they feel education is important.

Councilmember Theobald felt if anyone feels this development fee is going to solve the capital needs of the school district, and the need for a bond issue can be eliminated some day, they are deluding themselves.

Councilmember Mantlo said he has lived in Grand Junction all his life and he finds some citizens are against the school district so they're not going to build schools for the students, and their children are no longer in school so they are not going to help educate other children.

Councilmember Afman stated the marketplace determines the value of a property. She thinks the pendulum will swing to a balance of equality. The marketplace will adjust the fees in the long term. She feels this fee is a tool that will balance itself out eventually.

Upon motion by Councilmember Mantlo, seconded by Councilmember Afman and carried with Councilmembers **GRAHAM** and **BAUGHMAN** voting **NO**, Ordinance No. 2886 was adopted and ordered published on final reading.

**RECESS**

Mayor Maupin declared a ten-minute recess. Upon reconvening, all members of Council were present.

**PUBLIC HEARING - ORDINANCE NO. 2887 AMENDING CHAPTER 34 OF THE CODE OF ORDINANCES ALSO KNOWN AS THE CITY OF GRAND JUNCTION CITY RETAIL SALES AND USE TAX CODE**

Over the last several years, there have been numerous requests from City licensed taxpayers for the City's filing requirements to be the same as the State's. Additionally, a 50% increase in total licensed accounts since 1990 has resulted in an increase in overtime required each month to process returns.

Under the proposed filing changes, approximately 1,600 accounts would be reclassified to a less frequent filing status with the majority of the accounts moving from monthly to quarterly. The number of returns processed monthly would be decreased by 61% (1,000).

A hearing was held after proper notice. Councilmember Graham expressed his appreciation to Jodi Romero, Senior Accountant, and Ron Lappi, Finance Director, for addressing ways to make the City Use Tax easier to comply with, and less onerous for small businesses. He thinks their efforts make it a more humane tax, and felt credit was due.

There were no public comments. The hearing was closed.

Upon motion by Councilmember Terry, seconded by Councilmember Graham and carried by roll call vote, Ordinance No. 2887 was adopted and ordered published on final reading.

**PUBLIC HEARING - APPEAL OF DENIAL OF REQUEST TO VACATE PORTIONS OF THE UNDEVELOPED G ROAD RIGHT-OF-WAY BETWEEN NIBLIC DRIVE AND 27 3/4 ROAD [FILE #VR94-185] - DECISION TO RECONSIDER IN ONE YEAR (FEBRUARY 1997)**

The residents of the Partee Heights and Ptarmigan Estates neighborhoods are appealing Planning Commission's decision denying their request to vacate portions of the undeveloped G Road right-of-way between Niblic Drive and 27 3/4 Road.

A hearing was held after proper notice. Kristin Ashbeck, Community Development Department, reviewed this item. This project is located east of Horizon Drive between the Partee Heights Subdivision on the north side and Ptarmigan Estates Subdivision on the south side. The residents have requested portions of the undeveloped G Road in the area be vacated as a means of controlling unwanted vehicular traffic occurring on that road. There are various utility lines both above and below ground in the right-of-way, so the full width of the right-of-way needs to be retained as an easement. Several properties on the south side encroach into the right-of-way with improvements. The encroachment on the eastern end has a revocable permit for the fencing and orchard that are in the right-of-way. In addition, the neighborhood is requesting that some portions of the right-of-way be retained such as extensions of Niblic, Brassie and Bunker, and hammerhead turn-arounds at the end of each of those streets for emergency vehicles and other large vehicles to be able to turn around. The residents feel the extension of those streets is necessary for the property owners to the south to be able to



access their back yards. She pointed out the legal description in the ordinance supplied to Council does not describe the exceptions that are to be excluded. If Council considers approving the vacation, a condition needs to be included that the petitioner still provide the City with a legal description that is acceptable to the City Property Agent within 30 days. The G Road right-of-way to the east was vacated through the Vista del Norte Subdivision. As a condition of approval of that G Road vacation, Council required the developer of Vista del Norte to provide an east/west access for pedestrian purposes between the western edge of the property to the Highline Canal. Tract B is to be dedicated to the Bureau of Reclamation, in turn, the City may be able to use it for recreational purposes. Tract A was dedicated to the Grand Valley Water Users.

Ms. Ashbeck said staff is recommending this section of G Road be retained as right-of-way because of its potential for connection to the easements within Vista del Norte, then ultimately to the canal. The Urban Trails Committee is currently conducting a feasibility study. They are considering the canal banks for non-motorized recreational trails. Until the study is complete, the City does not know the potential of G Road and the role it could play in connecting to the canal system. The Parks and Recreation staff and Police staff feel if it is not vacated, there could be additional measures taken to help control the unauthorized vehicular traffic in the area. If a trail is placed in the right-of-way, measures can be taken to deter motorized vehicular traffic. Staff is also looking at the consistency of this proposal with the Multi-Modal Transportation Study. This study indicates G Road, from Horizon Drive all the way west, as an on-street bicycle path. It also includes proposing the trail system along the canals. This is a logical connection between G Road and the canal system.

City Attorney Dan Wilson asked Ms. Ashbeck what staff's reaction would be if Council vacated portions of it, but left enough right-of-way that would satisfy any trail and maintain any utility easements. Ms. Ashbeck stated it had been discussed at staff level whether a portion of the right-of-way could be retained. She did not feel it would be acceptable to the neighborhood. The neighborhood is opposed to any type of trail in their area, so it was not pursued. Staff feels to retain the full width gives more flexibility for design of where the access might be located.

Councilmember Baughman asked if the utility easement, by definition, could still be used for access by the residents to the back portion of their property if a utility easement were retained and the road was vacated. City Attorney Dan Wilson stated

typically not, unless it was specified in the ordinance. Typically, a utility easement would not include trails, nor would it include any vehicular access.

City Manager Mark Achen asked who would pay for the improvements of the north/south roads. He understood the neighborhood would like the roads improved. Ms. Ashbeck said the neighborhood has not requested that specifically, but felt improvements would be expected. The City Engineer has recommended a 100-foot T at the end of each of the streets. No discussion has taken place regarding who will pay for the improvements. The Fire Department and Engineering felt the T was not needed for fire access. The Planning staff would recommend the turn-arounds be provided and the neighborhood would like to have turn-arounds. Typically, Planning tries not to create dead-end streets.

Shawn Cooper, City Parks Planner, referred to the Multi-Modal Plan showing the off-road trail connections. He identified trail systems in the northern quadrant of the City. He referred to a diagram representing a feasibility study currently underway by the Trails Committee. From a planning aspect, Mr. Cooper would like to see a postponement on the vacation and wait to see if it a trail is feasible. He would like to see the right-of-way maintained mainly for pedestrian access. He does not see a problem with barricading and restricting vehicular traffic, allowing a pedestrian/bike path through the area. If the Parks Department were to assume maintenance, it would install a gate which would be available for occasional use by the residents to allow access into the area. The width of the dedicated right-of-way is 60 feet. Fifteen to 20 feet would be required for a trail.

City Manager Mark Achen understood if there was a vacation, the easement would be the same as the current right-of-way is for easement for utilities. It could be converted from a right-of-way to an easement which would restrict access and property owners would be able to fence it off. Only the utility companies would have right to access. Mr. Cooper felt if that is Council's recommendation he would like to lay out the trail and gain easement to follow the trail, rather than have a straight 15' easement. Mr. Cooper stated the first draft of the Urban Trails Feasibility Study is projected to be complete by early July, 1996.

Councilmember Terry understood the primary purpose for maintaining the easement and access is to tie directly into the canal. If the Del Norte right-of-way that was given for pedestrian traffic is used, that will connect into the canal, and this would connect

into that.

Mr. Karl Fitzpatrick, 705 Bunker Drive, petitioner, stated G Road has been there since the Homestead Act in 1889. It has never been a part of any subdivision dedication. He said he did not receive notice on the Vista del Norte Subdivision. Had he known, he would have appeared at the hearing in protest of the pedestrian easement. He was also concerned about parking in the area. The easement will be 50 feet from his back door. There are alternatives to this:

1. The road to the VCB - it comes right up to the canal and connects. There is parking space and rest room facilities at the VCB building.
2. Nine Iron Drive touches that road so no easements would be required.
3. There are two areas on East Piazza where the pedestrian trail can be accessed, one on Applewood Street and one on 28 Road.

There are five locations where pedestrians can access this trail. He asked why G Road was vacated from 27 3/4 Road over to the canal. That could have been used for a trail access just as well as the easement. Mr. Fitzpatrick was also concerned with vehicle accidents at 27 1/2 Road and G Road. Barricades have been knocked down, and the signs mean nothing. Irrigation lines are very shallow and the pumps and meters would obstruct a trail. If the City would open it up and make a roadway and oil it, the homeowners would have no objection to keeping it a road. They prefer not to, but if it were made into an easement, some of the property owners would maintain and beautify it. He would like to see the entire 60 feet vacated as a road right-of-way and classified as a utility easement.

Councilmember Afman felt a road would cause more traffic, more parking there to get onto the trail. Mr. Fitzpatrick said if it was a roadway it would only be used by the people living in that subdivision.

Mayor Maupin felt access to trails increases the property value because it allows the property owner to access the trails without having to drive to the trails.

Councilmember Baughman suggested vacating G Road east of Bunker and have G Road service Brassie Drive and Bunker Drive to the south.

Mr. Billy Thompson, 702 Niblic Drive, said Mabel Peace is the only resident in the area who wants G Road opened up and paved.

Mr. Guy O'Rear, 704 Bunker Drive, did not want others coming into their neighborhood and walking over their property. It is a dead-end and he could not understand why the City would want to put a trail in there.

Mr. Fred Bowman, 704 Brassie Street, was impressed by the rural ambiance of the neighborhood when he moved there recently. He felt a recreation trail is not feasible in the area, and would not be enjoyable. A utilitarian trail is more suitable.

Mr. Fitzpatrick stated there is already one access from Partee Heights Subdivision onto this trail. Two accesses are unnecessary.

Mr. Bill Price, 703 Brassie Drive, said if there is going to be a trail access in that area, there will be parking. People are not going to park miles away and walk up G Road to access the canal. They will be parking in a neighborhood that has no curbs, gutters or sidewalks. He was concerned with trash and vandalism in the area as well. He said the Planning Commission denied Mr. Fitzpatrick's petition, although it was not a unanimous denial. One member on the Planning Commission voted for the petition as his mother lives in the neighborhood. Mr. Price felt the member must have had a good reason for voting as he did.

Mr. Pat Kennedy, Co-Chairman of the Urban Trails Committee, commented that the committee does not know where the Feasibility Study is going to take them. If this stretch of G Road is given up, it can never be retrieved. The Committee is asking for six months to one year to complete the study before Council makes a decision.

There were no other public comments. The hearing was closed.

Councilmember Afman sympathized with the neighborhood and understood their concern. She was willing to delay the decision until the Urban Trails Plan is complete. She felt making a decision at this time could jeopardize an effective route in the future. She would like to see staff attempt to eliminate any vehicular traffic in the neighborhood.

Councilmember Graham is not a proponent of the trail system being built along the canal. The issue tonight is whether the vacation should be granted. The requirements of the City Code are specific under Sections 8-33, 8-34, 8-35, and must be met. None of the

three are met.

1. Section 8-33 specifies "shall not reduce the quality of public service provided any parcel of land, for example Police, Fire protection", and the words "and utility services." There are a lot of utility easements running along there and this is going to be potentially disruptive if vacated.
2. Section 8-34 specifies "the proposal shall not conflict with the adopted plans and policies." For better or worse, Council has adopted the Multi-Modal Plan and the Urban Trails Plan.
3. Section 8-35 specifies "the proposal shall provide benefits to the City such as reduced maintenance requirements, improved traffic circulation, etc." There are no benefits to the City by granting this vacation of an easement. The only benefit would be to the residents living in the area.

Under the letter of the City Code, Councilmember Graham could see no alternative but to deny the request for vacation.

Councilmember Mantlo noted this is the fifth or sixth time the vacation of G Road has been considered by Council in one form or another. He would be willing to postpone this request until March, 1996, then either vacate G Road, other than the required utility easements and give the property to the property owners for maintenance, or build G Road so there is access from Brassie and Niblic. His preference is to vacate it and give it back to the property owners.

Councilmember Theobald noted the G Road vacation, that is an extension of this, took place several years before the Del Norte Subdivision existed. The canal company knew about the pedestrian easements at the time of the subdivision. They did not like it, but did know about it. He felt parking would be a reasonable expectation of a problem if a trail similar to the Riverfront Trail were being considered, because people drive to the trail and walk up and down it. That is the uniqueness of the Riverfront Trail. The network of trails being considered for the rest of the community is going to be for the benefit of people who live there. People are not going to drive to a trail whose amenity is only convenience. They are going to walk out their door and down the trail. He felt there are three choices:

1. Council can proceed and deny the request;

2. Council can table the request until March, 1996 when Parks Planner Shawn Cooper can come back with a draft of a trail only right-of-way description;
3. Council can table until next year (February 5, 1997) when the canal feasibility results are available.

Councilmember Theobold felt it was premature to make a decision tonight. Once the public's land is given away, it cannot be retrieved.

Councilmember Baughman was in favor of delaying this decision. He felt March, 1996 is too soon for making such a decision. He was more comfortable with a one-year delay period.

It was moved Councilmember Afman and seconded by Councilmember Terry that the decision on Ordinance No. 2888 be delayed until February 5, 1997.

Mr. Fitzpatrick requested this right-of-way be vacated with the provision that if trails were necessary within the year, the City could get it back. He does not want to come back again on this request. City Attorney Dan Wilson said it could be vacated now with the stipulation that it not be effective until further action of Council to dedicate the trail. It raises difficult issues. Although Mr. Fitzpatrick may be in favor, some of the other neighbors may not, and it could put the City into litigation over the effects of a vacation ordinance.

Roll was called on the motion with the following result:

AYE: TERRY, THEOBOLD, AFMAN, BAUGHMAN,  
NO: GRAHAM, MANTLO, MAUPIN.

Councilmember Afman further instructed staff to address the situation with the automobile traffic and find some way to mitigate it.

**PUBLIC HEARING - JAMES PARK - PLANNED MOBILE HOMES AT 28 1/4 ROAD AND GUNNISON AVENUE - APPEALS[FILE #RZP-95-199] - ORDINANCE NO. 2889 REZONING PROPERTY LOCATED AT THE NORTHEAST CORNER OF GUNNISON AVENUE AND 28 1/4 ROAD IN THE DARWIN SUBDIVISION FROM C-2 TO PMH (PLANNED MOBILE HOMES)**

This is a request for a rezone from C-2 to PMH (Planned Mobile Homes), an appeal of the Planning Commission's denial of the request to vacate Gunnison Avenue and an appeal of two conditions

of the preliminary plan.

This item was reviewed by Bill Nebeker, Community Development Department. The applicant proposes a 56-space manufactured home rental park on an 8-acre parcel at the northeast corner of 28 1/4 Road and Gunnison Avenue. Three items were originally considered:

1. Rezoning of the applicant's property from C-2 to PMH.
2. Review of two conditions stipulated by Planning Commission pertaining to the preliminary plan of the mobile home park;
3. Vacation of Gunnison Avenue south of the applicant's property. The applicant has withdrawn his appeal on the vacation of Gunnison Avenue.

The Planning Commission recommended approval of the rezoning request and the preliminary plan with conditions, and denial of the street vacation. The applicant appealed the street vacation and has now dropped that appeal. Two site plans were reviewed by Mr. Nebeker. He noted a wall that surrounds the Cahoot's nightclub, a buffer on the right side of Cahoot's, and removing five mobile homes in the area. The parcel is currently zoned C-2 which does not allow a manufactured home rental park. Planning Commission and staff found the proposed rezoning and the accompanied land use appropriate for this area. The proposed density is approximately 6.8 dwelling units per acre. There is the A & W Mobile Home Park to the east and Niagara Village, a new manufactured home subdivision, to the west. The rezoning proposal complies with the Zoning & Development Code, Section 4-4-4 criteria for evaluating rezoning requests. There is a need for affordable housing in the City, and this proposal helps fulfill that need. The proposal is compatible with the surrounding area although it was determined there could be a conflict with the Cahoot's nightclub. Cahoot's located itself in this area because it was out of the way and adjacent to commercially zoned property. The owners admit the establishment makes lots of noise. They express concerns that the nightclub is noisy at night and will generate complaints from future residents, jeopardizing the owners' investment at this location. Planning Commission required a block wall for a sound barrier and a buffer along Cahoot's eastern property line to lessen the noise. The applicant originally appealed these conditions. Staff would like to take the two conditions placed on the applicant by the Planning Commission and turn them into four. Planning Commission conditions were:

1. A wall be engineered to provide adequate sound protection to the west;
2. A study accompanying this proving the wall will work, that it be done by the applicant, and be on the south and east sides of Cahoot's.

Staff's revised conditions:

1. A wall shall be constructed on the property lines adjacent to Cahoot's nightclub;
2. The wall shall be designed to provide an adequate sound barrier between Cahoot's and James Park, and to meet requirements of the Uniform Building Code;
3. The wall shall have an appropriate setback from 28 1/4 Road;
4. The final determination as to whether the design of the proposed wall will provide an adequate noise barrier between the uses will be determined at the time of final plan approval.

Mr. Nebeker continued by stating staff has tried to put it back on the applicant to come up with a wall that will be high enough, insulated enough, and that will work. It takes someone with expertise to do this. The design would then be presented to staff for review. The wall is protecting the neighborhood and Cahoot's by cutting down on the noise. There is a storage area on the south side of Cahoot's nightclub. There will be 95 feet between the trailers and Cahoot's nightclub on the south. This condition allows the owner of Cahoot's to appeal to the Planning Commission at final approval if he is not satisfied that this wall will protect his investment.

The condition of landscaping requirements on the perimeter of the site next to Gunnison and 28 1/4 Road has been amended. The landscaping would not be required along Gunnison until Gunnison is actually built.

Staff recommends approval of the rezoning request by adopting Ordinance No. 2889, ignoring Ordinance No. 2890 (street vacation), and approving the preliminary plan with conditions 1-6, replacing Conditions 7 and 8 imposed by the Planning Commission with Conditions 7 through 11 in staff's revised recommendation. Curbs, gutters and sidewalks are required on 28 1/4 Road.

Councilmember Terry asked what type of traffic impact study has



been done on this proposal. Mr. Nebeker said none. There is not enough traffic generated by this mobile home park and Niagara Village to justify extending 28 1/4 Road.

City Manager Mark Achen suggested the revised Condition 8 be changed to reflect "residences" rather than "trailers." He presumed the owner/manager of James Park is responsible for maintenance of the wall, and that should be made clear. Mr. Nebeker agreed.

City Attorney Dan Wilson asked what large trees are going to be required for landscaping noted in Condition 9. Mr. Nebeker said the trees would be such that would grow large enough to create a sound barrier. He felt the applicant will suggest what he feels is large, and staff will work with him. The standard is a 2" trunk.

Ward Scott, 253 West Fallen Rock Road, was present representing petitioner John Davis. Mr. Scott is a real estate agent working with Mr. Davis on the acquisition of this property. The justification for the project is affordable housing. It is an infill project. He stated 250 feet to the east of Cahoot's is the existing A & W Mobile Home Park. It was there long before Cahoot's was and there is no mitigation of any noise going that direction. Recently, City Council approved Niagara Park which is approximately 80 feet from Cahoot's. The closest mobile home will be 95 feet from the Cahoot's property and will have a sound barrier with the wall. This proposal is located on the south and east side of Cahoot's where there are no windows or doors. There is a real need for this type of affordable housing. The petitioner has no objection to any of the conditions placed by staff tonight. Mr. Scott said these will be leased spaces. The owner, John Davis, will own some of the spaces and rent homes, and there will also be lease spaces available. The homes must be HUD approved along with other requirements. There are rules of operation for the park.

Mr. Dave Anderson, 594 Raven Wood Lane, spoke in opposition to the proposal. Mr. Anderson is an owner of Cahoot's. Mr. Jack Ludwig is his partner. He and Mr. Ludwig have owned this business for ten years, and put a lot of time, effort and money into the business. He was concerned about the possible revocation of his liquor license if noise complaints from the neighborhood should occur. He checked with the Grand Junction Police Department and his record showed no noise complaints. It is because he is in a commercial area, removed from residential. He felt the proximity of this development to his business will invite problems. He was concerned about complaints in the future, if it is deemed he may

be a nuisance to what the neighborhood has now become, from what it was traditionally when he went into business. He feels it is unfair. If he loses his liquor license, he loses his business.

Mr. Anderson understood the conditions placed on the developer. He has talked with Mr. Davis and Mr. Nebeker about them. He is not sure the conditions are adequate when dealing with noise. His business closes at 2:00 a.m. daily. It is closed on Sundays. The interior decibel level is between 100 and 110 (metered). He compared his business to what happened to Rafters. Rafters was sitting in the middle of a residential area. The noise emanating from the nightclub, as well as the traffic, were problems. Patrons are going to make noise and pull out of Cahoot's and turn left thinking they can get out at the end of 28 1/4 Road, and find out they can't. They will turn and go back through the subdivisions.

Councilmember Graham asked if Mr. Anderson could be promised an indemnity from the developer if, for example, he were to lose his license because of noise complaints, and had damages based upon the complaints, and the developer were to post a bond or other type of security satisfactory to Mr. Anderson and the Planning Commission, would that address his concerns. Mr. Anderson answered yes, to some degree. He would need to talk to his attorney. Currently, Mr. Anderson has no recourse against anyone for any damages, should this mobile home park come in and result in the loss of his liquor license. Councilmember Graham cited a case where a developer built a residential area in close proximity to a meat packing plant. It did not create a problem when it was developed, but over the years with the growth of the development, there was noise, flies and health problems. The court allowed a remedy against the meat packing company. They had to shut down because they were a nuisance. However, because the developer brought the development to the nuisance, the court also ordered the developer to indemnify the meat packing plant for all of its loss. If Mr. Anderson knew he was indemnified, he would rest easier, and from the standpoint of the developer, if the developer knew he had to indemnify Mr. Anderson of his loss, it would give him an incentive to design a wall that would work.

Mr. Anderson felt his case is similar to what happens when residential encroaches upon airports. He felt the burden to soundproof Cahoot's is the developer's responsibility.

Councilmember Afman asked if the precautions taken by the mobile home developer as far as giving notice that there may be a noise level of some concern, would that make it easier for the developer. City Attorney Dan Wilson responded by saying all the owner can do is put in his lease agreements that Cahoot's is there

and it will be loud, but it does not stop the residents from calling the Police with noise complaints. Grand Junction does not have a decibel limit. The limit is "too loud." If complaints are repeated, the Liquor Hearing Officer, representing the City Council, would be notified. Liquor licensees are governed by the State Liquor Code. It is the State's system, but Grand Junction is directed to do the local enforcement.

Mr. Scott reiterated that at the time Cahoot's went in, the multi-family residential zoning for Niagara existed (PR-18 or PR-20). The A & W was already there. He felt Mr. Anderson's concerns were legitimate, but he has those with or without James Park. The petitioner is offering a substantial mitigation of the noise that is going to be a major consideration of noise abatement. He thinks Niagara Village is the problem because those residents are going to own those houses. Historically, the residential zones existed.

There were no other public comments. The hearing was closed.

Councilmember Graham felt the incorporation of the requirement for the wall and the requirement for the developer to pay for the inside sound insulation for the premises is all Council can do to reconcile these two lawful and legitimate purposes and businesses.

Councilmember Mantlo was uncomfortable in requiring a developer to remodel someone else's building before he can construct his own development.

Councilmember Afman felt with the precautionary measures taken by James Park, there will be no serious problems. There has been no barricade in the past for the neighborhoods, and they have not complained.

It was moved by Councilmember Afman and seconded by Councilmember Theobald that Ordinance No. 2889 be adopted on final reading and ordered published, with staff's recommendations 1-6 and omitting Planning Commission's recommendations 7 and 8, and inserting staff's new recommendations 7-11.

Councilmember Graham moved to amend the motion to replace the word "trailers" in Condition 8 with the word "residences" as recommended by the City Manager.

Councilmember Afman approved the amendment.

City Manager Mark Achen suggested City Council provide a letter to the owners of Cahoot's expressing the City Attorney's language

regarding Council's intent so the owner has something of record by the Council which made the decision allowing James Park to occur, that the Liquor Hearing Officer is to balance the interests wrestled with tonight, and know Council can provide no explicit rule that is going to solve this long term. If and when this comes up, the owners of Cahoot's will have something documenting the Council's grappling with this issue.

Councilmember Afman further suggested the letter be recorded in the event the property is sold, then the record would be available for future owners. Councilmember Theobold suggested a copy of the letter be placed in the liquor files maintained by the City Clerk.

Roll was called on the motion with the following result:

AYE: AFMAN, GRAHAM, MANTLO, TERRY, THEOBOLD, MAUPIN.  
NO: BAUGHMAN.

**PUBLIC HEARING - HICKORY COURT/SUNSET TERRACE SUBDIVISION IMPROVEMENT DISTRICTS**

A hearing was held after proper notice.

**Street Improvement District - Resolution No. 8-96 Creating and Establishing Street Improvement District No. ST-96, Within the Corporate Limits of the City of Grand Junction, Colorado, Authorizing the Installation of Street Improvements, Adopting Details, Plans and Specifications for the Same and Providing for the Payment Thereof for the Hickory Court Street Improvement District**

A petition has been submitted requesting full street improvements to Hickory Court in Sunset Terrace Subdivision. Signed by 4 of the 6 affected landowners, the petition requests the installation of asphalt paving, curb, gutter, sidewalk and storm drainage facilities.

**Sewer Improvement District - Resolution No. 9-96 Creating and Establishing Sanitary Sewer Improvement District No. SS-41-95, Within the Corporate Limits of the City of Grand Junction, Colorado, Authorizing the Installation of Sanitary Sewer Improvements, Adopting Details, Plans and Specifications for the Same and Providing for the Payment Thereof for the Hickory Court Area in the Sunset Terrace Subdivision**

A petition signed by 100% of the property owners to be assessed has been submitted requesting a Sanitary Sewer Improvement District to benefit four lots located adjacent to Hickory Court in

Sunset Terrace Subdivision.

Tim Woodmansee, City Property Agent, stated Hickory Court is an unimproved right-of-way in Sunset Terrace Subdivision located south of Hickory Drive. The property is bounded by six subdivision lots. The petition includes the six lots to be assessed equally and pay 100% of the project costs. The proposed assessment is \$5,833.34 per lot. Lot 17 is included in the petition as circulated. Mr. Woodmansee has evaluated the lot on the west side of the subdivision, Lot 17, and recommends it be removed from the district as the property owners would derive no benefit from the improvements. He stated that since Lot 17 faces Hickory Drive and access is to Hickory Drive, no benefit will be derived from Hickory Court improvement. He recommends the other corner lot on the east side, Lot 12, be included in the district as that property benefits equally with the other lots. Lot 12 is oriented to face Hickory Court, sole access is to the west as opposed to the north.

Mr. Woodmansee stated someone is going to have to absorb the assessment for Lot 17 because it was included in the petition. He recommended the City's Street Improvement District Fund bear the Lot 17 assessment, thereby not assessing the other lot owners further. Council has an option of nullifying the petition, as submitted, and redrafting the petition so only the other five lot owners are included, and prescribing they pay one-fifth of the project cost. They would see a potential assessment of \$7,000 as opposed to \$5,800. Another option would be for the City to absorb the \$5,800. This is an unusual improvement district because it is a completely unimproved right-of-way. Normally there will be some semblance of streets or roads. In a residential area, the City will share in the costs (1/3). The landowners pay 1/3 on either side. Since this is an unimproved right-of-way that has not been used, the City's written policy adopted in 1986, states the property owners will pay 100% of the project cost.

Mr. Charles Reams, 605 Gunnison Avenue, stated he and his brothers own three of the lots. The Thompsons recently purchased their lot and desire to build a house immediately. They cannot get a building permit until the road is improved. Mr. Reams has no immediate plans for developing. They are merely assisting the Thompsons. He realizes the area must be developed in the future. Mr. Boyle, one of the objectors, objected to the cost. Mr. Reams felt the City's ten-year payoff plan is reasonable. One reason the cost of this street is high is the drainage. It calls for curb, gutter and sidewalk. It will be the only street with sidewalk in the subdivision. The lot being considered for exclusion is one of the lots that suffers from the drainage. The

lot owner is receiving a drainage benefit. Currently it is draining into his back yard off all the lots. Upon completion, the improvements will alleviate some of the drainage. Mr. Reams distributed photos of the lots to Council. He asked Council to consider keeping the cost off of him and his brothers. If the City is willing to absorb Mr. Stringer's expense, he has no objection.

Mayor Maupin asked why sidewalks are being requested in the neighborhood. Public Works Director Jim Shanks said the City's Street Standard dictates it. If Council would like to waive the requirement, Public Works Department would have no objection. The cost savings would be approximately \$300 or \$400 per lot. Curb and gutter is necessary for drainage purposes.

City Manager Mark Achen asked about apportioning the storm drainage costs. Is it feasible to allocate those costs and include Lot 17 for the drainage portion of the benefit, but not the street. Mr. Woodmansee said all six lots could be included in this district. When the project is completed and the assessments have been made, the breakdown on drainage and streets could be determined at that time. A method could be established to apportion the storm drainage cost. Once the project is designed and the drainage facilities are located, an approach can be determined to apportion the costs.

There were no public comments. The hearing was closed.

Upon motion by Councilmember Theobold, seconded by Councilmember Mantlo and carried by roll call vote, Resolutions No. 8-96 and 9-96 were adopted.

**ADJOURNMENT**

Upon motion by Councilmember Afman, seconded by Councilmember Theobold and carried, the meeting was adjourned at 12:14 a.m., January 18, 1996.

Stephanie Nye, CMC/AAE  
City Clerk