

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

**December 23, 1996**

The City Council of the City of Grand Junction, Colorado, reconvened from executive session on December the 23rd day of December, 1996, at 1:20 p.m. in the City/County Auditorium at City Hall, a continuation of the December 18, 1996 City Council meeting. Those present were Jim Baughman, David Graham, R.T. Mantlo, Janet Terry, Reford Theobald, and President of the Council Linda Afman. Ron Maupin was absent. Also present were City Manager Mark Achen, City Attorney Dan Wilson and Deputy City Clerk Teddy Martinez.

Mayor Afman announced this session is being conducted to give a decision on the following agenda item:

**APPEAL OF PLANNING COMMISSION'S DECISION TO APPROVE FILING #1 OF THE GLEN AT HORIZON AT 7TH STREET AND HORIZON DRIVE**

The Grand Valley Irrigation Company has appealed the Planning Commission's decision of December 10, 1996 to approve Filing #1 of The Glen at Horizon, a 24 unit development on approximately 3 acres located at the southeast corner of 7th Street and Horizon Drive.

City Attorney Wilson said based on the evidence which was presented from the Planning file and the hearing conducted on December 18 and 19, 1996, it is his recommendation Council authorize the recording of this plat; and therefore, deny the appeal of Grand Valley Irrigation Company. There is no basis to deny the developer's right to the plat, and no basis to believe whatever GVIC's interest, it will be injured by the recording of this plat. He recommended Council approve the plat, and deny the appeal. He suggested a note be placed on the plat stating GVIC asserts an interest in what is shown as Tracts A and B.

City Manager Achen clarified the recommendation is to approve the plat, the dedication, and accept the quit claim for Tract B, and make the notation to the plat.

It was moved by Councilmember Graham and seconded by Councilmember Mantlo that the appeal be denied and the petitioner's grant of a quit-claim be accepted, and the plat be approved with the following notation to be placed upon the plat, "The Grand Valley Irrigation Company asserts an interest in Tracts A and B".

Councilmember Baughman said he is not a proponent of the canal trails and was opposed to the City accepting the quit-claim to that trail. He asked if he could vote against that portion of the motion without voting against the entire motion. City Attorney Wilson said no, the quit-claim form is not a restrictive form. It would quit claim whatever interest the owner has. The interest at this point would not be limited to trails. It would be a conveyance to the City of whatever interest he had to be decided by Council at a future date what uses it would be put to.

Councilmember Graham said he will vote in favor of the motion because he believes the petitioner has acted in good faith and in reliance on the requirements placed by the City. He felt, on the basis of the limited materials that were submitted at a late hour, Grand Valley Irrigation Company has failed to submit a cognizable claim on the title record, and for that reason he will vote for the entire motion. He also noted it is very questionable whether the City's interest, as far as an easement is concerned for a hypothetical trail system which is still in the feasibility planning stages, is an interest by which Council should abide. Since the parties have acted in reliance, he felt Council's hands are tied.

Roll was called on the motion with the following result:

AYE: THEOBOLD, BAUGHMAN, GRAHAM, MANTLO, TERRY, AFMAN.

NO: NONE.

Councilmember Baughman voted yes for the reasons stated by Councilmember Graham. He felt the developer has acted in good faith. Council has not violated any of the Grand Valley Canal Company's rights in this case. He is opposed to the City assuming canals for trails purposes, but voted yes.

Councilmember Theohold noted the nature of the dispute with the irrigation company is not the trails, but who has title to what.

#### **ADJOURNMENT**

Upon motion by Councilmember Graham, seconded by Councilmember Terry and carried, the meeting adjourned at 1:27 p.m.

Theresa F. Martinez, CMC  
Deputy City Clerk