

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

July 3, 1991

The City Council of the City of Grand Junction, Colorado, convened in regular session the 3rd day of July, 1991, at 7:30 p.m. in the City/County Auditorium at City Hall. Those present were Jim Baughman, John Bennett, Bill Bessinger, Bill McCurry, Paul Nelson, Reford Theobold, and President of the Council Conner Shepherd. Also present were City Manager Mark Achen, City Attorney Dan Wilson, and City Clerk Neva Lockhart.

Council President Shepherd called the meeting to order and Council members John Bennett, Bill Bessinger and Bill McCurry, past members of military branches, led in the Pledge of Allegiance.

INVOCATION - Councilman Reford Theobold.

CONSIDERATION OF MINUTES

Upon motion by Councilman McCurry, seconded by Councilman Bessinger and carried, the minutes of the June 5, 1991, City Council Meeting were approved as submitted.

PROCLAMATION DECLARING JULY, 1991, AS "RECREATION AND PARKS MONTH" IN THE CITY OF GRAND JUNCTION

SPECIAL RECOGNITION AWARD FOR DANIEL CRAMLETT, PARKS AND RECREATION DEPARTMENT

A special recognition award was presented to Daniel Cramlett, a seasonal employee in the Parks and Recreation Department, for his outstanding contribution to the City of Grand Junction, by assisting the Police Department in the arrest of a person who had taken gas from the Parks Maintenance building in April.

SPECIAL RECOGNITION OF COUNCILMAN REFORD C. THEOBOLD, NEWLY ELECTED PRESIDENT OF THE COLORADO MUNICIPAL LEAGUE (CML)

CML RECOGNITION OF PARKS AND RECREATION DEPARTMENT SELF-HELP PROGRAM

Reford C. Theobold, President of the Colorado Municipal League, presented an Honorable Mention award to the Parks and Recreation Advisory Board for the Parks Self-Help Program in regard to the small park on 13th and Mesa (Williams Park), that was established by the residents of the area, the City, and the Parks and Recreation Department working together.

APPOINTMENT TO THE GRAND JUNCTION PLANNING COMMISSION

Upon motion by Councilman McCurry, seconded by Councilman Nelson and carried with Councilman THEOBOLD ABSTAINING, James E. Anderson

was appointed to fill an unexpired term on the Grand Junction Planning Commission; said term to expire October, 1992.

APPOINTMENT TO BOARD OF ADJUSTMENT AND APPEALS

Upon motion by Councilman Theobald, seconded by Councilman McCurry and carried, Keith Mumby, Frank Dunn were reappointed to three-year terms on the Parks and Recreation Advisory Board, and Karen Madsen was appointed to a three-year term on the Parks and Recreation Advisory Board; said terms to expire June, 1984.

APPOINTMENT TO THE CONTRACTORS' LICENSING BOARD

Upon motion by Councilman McCurry, seconded by Councilman Nelson and carried, Mr. Roxie Laurita was appointed to a two-year term on the Contractor's Licensing Board; said term to expire December, 1993.

REQUEST FOR LOCAL MATCHING FUNDS OF \$24,000 TO MESABILITY

Linda Marsh, Director, MesAbility, 209 Alcove Drive, requested local matching funds in the amount of \$24,000 to match Title 9 funds from a Federal grant that would provide another \$24,000 for elderly and disability transportation in Mesa County. Title 9 funds are those directed specifically to meet the needs of the people in the urbanized area of the County. Ms Marsh would like to use the additional funds to expand MesAbility's services by increasing subsidized taxi tickets. They would like to add weekend and evening travel for those using wheelchairs. They would like to increase the call and response program by 16 hours per week.

It was moved by Councilman Bessinger that the \$24,000 be made available with the understanding that this commitment is for one year only.

Councilman Bennett amended the motion to read "as long as Mesa County and the other communities contribute, and as long as they do not cut their present funding level, if any of them cut their funding level, if Mesa County cuts theirs, the City should drop out of it also." Councilman Nelson seconded the motion.

President of the Council Shepherd requested that the record show that the City has already been moving in that direction in that Ms Marsh's original request was for \$30,000, and the \$24,000 request indicates the City's hope that Fruita and Palisade will contribute a portion of that \$30,000 during the current fiscal year.

It was clarified that the \$24,000 is coming from the Contingency Funds. That particular fund does not have an unlimited supply of dollars.

President of the Council Shepherd stated that City Council recognizes that the elderly and persons with disabilities are a significant part of this community and he is not going to let

their need for services go unmet, and if someone is going to drop the ball, he is not going to allow those individuals inside the city limits to go without those services at least as far as his vote.

A vote was taken on the amended motion that the City provide through General Funds Contingency \$24,000 to MesAbility in local matching funds as long as Mesa County and the other municipalities maintain their level to the program. The motion carried.

CONSIDERATION OF BIDS - AWARD OF CONTRACT - TWO LEAFLOADERS FOR THE STREETS DEPARTMENT - WESTERN IMPLEMENT - \$53,866

Upon motion by Councilman McCurry, seconded by Councilman Bessinger and carried, the bids for two Leafloaders for the Streets Department were accepted, and the Contract was awarded to Western Implement in the amount of \$53,866.

HEARING - DIAMOND SHAMROCK ANNEXATION NO. 2, LOCATED ON THE SE CORNER OF 29 ROAD AND NORTH AVENUE - RESOLUTION NO. 43-91 TO ANNEX - PROPOSED ORDINANCE

A hearing was held after proper notice on the petition for annexation of Diamond Shamrock Annexation No. 2, located on the southeast corner of 29 Road and North Avenue. There were no opponents, letters or counterpetitions.

The following Resolution was presented and read: (Full copy in P.R.). Upon motion by Councilman Bessinger, seconded by Councilman McCurry and carried by roll call vote, the Resolution was passed and adopted as read.

The following entitled proposed ordinance was presented and read: AN ORDINANCE ANNEXING TERRITORY TO THE CITY OF GRAND JUNCTION, COLORADO (DIAMOND SHAMROCK ANNEXATION NO. 2). Upon motion by Councilman Nelson, seconded by Councilman Theobald and carried, the proposed ordinance was passed for publication.

HEARING - APPLICATION BY THE GRAND JUNCTION AREA CHAMBER OF COMMERCE FOR A MALT, VINOUS AND SPIRITUOUS LIQUOR SPECIAL EVENTS PERMIT ON JULY 27, 1991, AT LIFF AUDITORIUM, MESA COLLEGE STUDENT CENTER, FOR THE DINOSAUR BALL - FIRST PERMIT

A hearing was held after proper notice on the application by the Grand Junction Area Chamber of Commerce for a malt, vinous and spirituous liquor special events permit on Saturday, July 27, 1991, at Liff Auditorium, Mesa College Student Center, from 6:00 p.m. to 2:00 a.m. for the Dinosaur Ball. There were no representative present for the application. There were no opponents, letters or counterpetitions. Upon motion by Councilman McCurry, seconded by Councilman Nelson and carried, the application was approved.

HEARING #5-91 - TEXT AMENDMENTS FOR 1991 - REQUESTS TO AMEND

SECTIONS OF THE GRAND JUNCTION ZONING AND DEVELOPMENT CODE REGARDING SIGNS (PARKING) AND MISCELLANEOUS ADMINISTRATIVE PROCEDURES - (CONTINUED FROM MAY 15, 1991, AND JUNE 5, 1991)

AND

HEARING #5-91 - TEXT AMENDMENTS FOR 1991 - REQUEST TO REVISE CHAPTER 32, CODE OF ORDINANCES, SECTIONS 4-3-4, 5-5-1, AND 7-2-9 OF THE GRAND JUNCTION ZONING AND DEVELOPMENT CODE REGARDING THE USE/ZONE MATRIX (PARKING AND LOADING STANDARDS) AND ZONING DESIGNATIONS FOR THE NORTHWEST AREA THAT IS BEING ANNEXED - (CONTINUED FROM JUNE 5, 1991) - CONTINUED TO JULY 17, 1991.

City Attorney Wilson stated that the Code requires on these kinds of items that the Planning Commission first review them, make a recommendation when talking about text amendments to the Zoning Code. Due to the failure of a quorum at the July 2 Planning Commission meeting they were unable to meet, and therefore, there is no recommendation to bring to Council. Staff is going to recommend that these items be continued until the Planning Commission has had an opportunity to address them.

Upon motion by Councilman Theobald, seconded by Councilman McCurry and carried, the above items were continued to July 17, 1991.

HEARING #32-91 - PROPOSED ORDINANCE - HORIZON GLEN SUBDIVISION LOCATED ON THE NORTHWEST CORNER OF 12TH STREET AND HORIZON DRIVE. REQUEST FOR A FINAL PLAT AND FINAL PLAN FOR PHASE 1 FOR 17 SINGLE-FAMILY LOTS ON 9.7 ACRES; REQUEST FOR A REVISED OUTLINE DEVELOPMENT PLAN FOR PHASE 2 FOR 20 RESIDENTIAL UNITS ON 4.7 ACRES; AND A REQUEST FOR CHANGE OF ZONE FROM RESIDENTIAL SINGLE-FAMILY 4 UNITS PER ACRE (RSF-4) TO PLANNED RESIDENTIAL (PR) CONTINUED FROM JUNE 5, 1991.

The hearing was held for Horizon Glen Subdivision located on the northwest corner of 12th Street and Horizon Drive. This is a request for a final plat and final plan for Phase 1 for 17 Single-Family lots on 9.7 acres; request for a revised Outline Development Plan for Phase 2 for 20 residential units on 4.7 acres; and a request for change of zone from Residential Single-Family 4 units per acre (RSF-4) to Planned Residential (PR).

Bennett Boeschstein, Community Development Director, reviewed the petition. The major issue that is still unresolved is the second road off Horizon Drive. The petitioner has shown it on the Outline Development Plan as a dash line going north to the parcel just to the north. That is the extent of their commitment. They will show it on their Outline Development Plan. They do not want to deed it at this time. The Staff is recommending that they deed it at this time, deed it and have a survey as an unimproved road. That way there is a firm commitment to do it. He believed the property owner to the north is also requesting a deeded right-of-way rather than just a dash line on the Outline Development Plan. The parcel to the north that was in the County is in the process of

being annexed into the City. So the highest subdivision will be considered as a whole and will not be piecemealed. The other issues, the irrigation water, and they no longer want to use ditch water, that was in the original proposal, they were going to use ditch water and they were going to hold it in an irrigation pond. They are now proposing to use Ute Water for irrigation. Mr. Boeschstein said there needs to be a lot more detail on that. If they're going to irrigate the entire lot with Ute Water, the homeowners are going to be in for a rude awakening. He suggested that a small part of each lot be irrigated with Ute Water, but the rest be left to natural vegetation. In order to do that, they're going to have to re-write their covenants. And that brings us to the last two points. The covenants are incomplete and inadequate. The City Attorney has reviewed them and is not happy with them. There certainly should be a stipulation that the covenants be written to the satisfaction of the City Attorney. The final item: the height restrictions are vague and not enforceable the way they are written. It says "20 feet above ground level." What ground level? Is it the ground level before or after excavation. There's no way the Department can administer that. What they are now proposing, and what the Department would suggest, is "20 feet above the average ground level as surveyed in before the house lot is excavated." To summarize, Mr. Boeschstein reiterated the four points: (1) the road from Horizon Drive, (2) irrigation using Ute Water, (3) the covenants; and (4) building height.

City Attorney Wilson had talked with Tim Foster, one of the petitioners. He thought all of the points that Mr. Boeschstein made reference to in the covenants have been discussed. Mr. Foster is going to redraft them and ship them to Mr. Wilson who was comfortable with that, although irrigation limitations for limited areas were not an item that had been discussed. He asked if it was sufficient in the covenants, or are there areas of each lot that you would want to define as not being "bluegrass" or "irrigated?"

Mr. Boeschstein said that would be the best way of doing it; actually define it on each lot, and even on the plat as an area of nondisturbance and by covenant reference.

Mr. Tom Logue was present speaking on behalf of S.L. Ventures, of which two of the principals of the corporation were present, Bill and Tom Foster. In reference to the road access to the adjoining parcel to the north, Dalby property, the proposal has now been modified to a great extent since meeting with Council last month. Their proposal was to agree to a right-of-way dedication to what is Phase 2 on the Outline Development Plan. They have provided an access between their north property line and Horizon Drive, thus providing access to Dalby's property. They have never wavered from the fact as to whether or not that right-of-way should be dedicated. They feel it's important. They would like to look at having the ability to access this property north and east to 12th Street. The real question: when should the right-of-way be dedicated? In reviewing the land development code for the City of Grand Junction, it has some verbiage within the code that

describes what an Outline Development Plan is. It's general in nature. Its purpose is to generate input from technical review agencies, specifically with items of major concern, natural geologic hazards, flood area access problems and things of that nature. The Outline Development Plan also serves as a tool to notify those people in the neighborhood what the intentions of the property are in terms of the housing type or the intensity of development that is proposed. And finally it establishes some overall general design criteria in terms of areas that would be most suitable for open space, suitable for actual construction of buildings, as well as traffic circulation. So it's kind of a first step view, something you get out on paper, and generate comments from the public, the Staff and other review agencies. One of the reasons they preferred to defer the dedication of the right-of-way at this time is that they go through the process, this board, the Planning Commission, two of the planning staff members, the Engineering Department, the Public Works Department, Public Service, U.S. West, U.S. Army Corps of Engineers, and other agencies such as drainage and irrigation companies all get to take a shot at a preliminary plan and at the Outline Development Plan. So it's a somewhat changing, evolving, type of situation. If they were to dedicate a right-of-way at this time, Mr. Logue was confident that they would more than likely be back before this board with their preliminary final plan petitioning for a vacation or a relocation of that right-of-way once they received the detailed input from those agencies. They have not seen any definite plans as of this day to this position of the property or the development of the property. They are basically one step ahead of that property to the north at this time. The current procedures at a minimum would require two more public hearings before Planning Commission and the City Council prior to actual acceptance of a constructed roadway. Mr. Dalby's property has in excess of 1,000 feet of frontage on 12th Street, so by no means is it, they consider, a land-locked parcel. He does have access available to that. Mr. Logue noted that throughout the community there is, in the interest of planning in terms of inter-neighborhood connectors, there's little stub streets that maybe go a block or half a block from one lot to the development's property line, and then it sets that way for quite a few years until the adjoining property is developed. That allows things to fit together in terms of timing nature. Their proposal is much the same philosophy. They have communicated their proposal in writing to the petitioner's representative, and received responses back that indicate basically a rejection of the proposal. He quoted from a letter dated June 17th from Tim Foster to Richard Krohn (representing Mr. Dalby), that agrees to dedicate the right-of-way in the letter. There's a question of when, which they would go through in the normal process. One thing that's important that's in part of this letter, and he believed it is in the Staff file, says, "Furthermore, Mr. Dalby will participate equally in the planning and design of the roadway." They recognize his involvement, his interest in that, and they are encouraging him to participate in that process when they are ready to proceed with the various stages of development. Finally, we're talking about

timing. The petitioner does not have any definite development schedule for this particular parcel. Much as the case that existed with Phase 1, they do have some site constraints, traffic considerations, soil considerations, wetlands considerations, and floodplain. Because of some of the timing involved, a lot of times design standards change. It is their understanding that, for example, probably within the next few months or sometime this year the City will more than likely adopt a new set of road standards. In addition, to that there's an ongoing change, or appears to be, on the Federal level that relates to wetlands regulation. There's some regulation pending at this time that could affect the status of the wetlands within the property. Access and circulation needs change over a period of time as do recreational and open-space considerations. Part of their Outline Development Plan leaves the door open and suggests designation of part of the property as a public open-space along the Horizon Drive drainage channel. He pointed to the drawing on the upper left wall that represents the Outline Development Plan. He noted a faint red line. That represents the limits of flooding in the event of a one hundred year frequency storm in the Horizon Drive channel. Their roadway is going to be crossing that particular channel. That does fall under the jurisdiction of the City's flood plain administrator and the U.S. Army Corps of Engineers. Permits will obviously be required prior to construction. The Army Corps of Engineers do have a time limit on their permit once it's issued. They do review those on a periodic basis, so again, too far out in front of them and with their changes would not be prudent at this time.

Mr. Logue said that they review them after the first full year, end of December following. So if they applied for one today, it would be a year from December. He noted the one that they have on page 1 was granted until December. His feeling was they kind of look at conditions in the application to see if any changes are likely, and if they think they're more likely, then they shorten the time. If they think they're long-term, they will lengthen it. He has seen them as short as 90 days. That's based on their current situation, and whether that changes in the future, or not, who knows.

President Shepherd: "Basically, your response to concerns about the roadway and the dedication of the roadway are, 'things change with regard to street standards and Corps of Engineers standards, wetlands standards, things like that?' And that what you have indicated to us should be sufficient?"

Mr. Logue: "We've made a minimum of two dedicated rights-of-way between Horizon Drive and the north property line, and encourage Mr. Dalby to participate up front before we make the application, or in public hearings setting out all the documents that we'll submit when we get to the preliminary plan and engineering, will be a public directory available at the City Planning Department records, and notifications will be sent. Our preference is to do it in advance of an actual permit."

President Shepherd: "I'm in receipt of a hand delivered letter that was written to Bennett Boeschstein and copied to Tim Foster that says that they did make the effort to get together with you and work on the road with their people, and you were not going to allow that, so . . . "

Mr. Logue: "I'll have to refer that to Tim. I wasn't a part of that particular discussion. What is the date on the . . . ?"

President Shepherd: "June 21."

Mr. Logue: "Okay. I wasn't involved in that particular discussion so . . . "

City Attorney Wilson: "I think Tim's letter of the 17th, which I'm assuming that Mr. Krohn was responding to on the 21st, and Bennett indicated it might be in the Staff file, but I don't think Council has seen Mr. Foster's letter, and I think it would be appropriate, if we can get a copy, I'll go make some copies, and enter it for the record."

Councilman Theobald: "If we're going to make reference to the letter of the 17th and the letter of the 21st, I think we should all have a copy of both."

Mr. Wilson: "I'll go ahead and make copies for everyone."

Councilman Bessinger: "While we're waiting for Dan to do this I have a few points I'd like to have cleared up. You say the permit is good until December, but you didn't say which year. This year?"

Mr. Logue: "The permit on Phase 1 of Filing 1 for the 17 lots to the distant building within the wetlands is good through December of this year, 1991. They do have a provision where you can go in and go back through the process and update it. They do have a time line on it."

Councilman Bessinger: "Can you tell me what the motivation was for this project?"

Mr. Logue: "I sure can't. I will refer to it to the petitioner, Councilman."

Councilman Bessinger: "I'd like somebody to tell me what motivated the project."

Mr. Logue: "I think they'll have an answer for you."

Councilman Bessinger: "I'm waiting to hear it."

Mr. Tim Foster: "I'm Tim Foster, 593 Village Way. I don't know what order you want. If you want to go back to some of the issues for the road before we go to the other issues . . . "

Councilman Bessinger: "We're going to end up there one way or another."

Mr. Foster: "It doesn't matter to me. If you're on that swing, or if you want to wait until Dan comes back. The big issue from our perspective on the roadway in Phase 2 is one of getting the cart before the horse."

Councilman Bessinger: "Excuse me. I'm only concerned about the roadway in Phase 1 that started out 14 feet wide and ended up 18 feet wide in conflict with the Fire Code."

Mr. Foster: "Okay. Well, it is my understanding that's one of the big issues tonight, or at least one of the reasons we got carried over was the roadway through Phase 2. I don't have a lot of comment about the roadway. My understanding is it's acceptable to the Fire Department."

Councilman Bessinger: "Well, let's respond to some of these questions. Then we will see if it's acceptable. What was the motivation . . . "

Councilman Nelson: "Let me mention something before you run into that, and that is that the Council has already voted that that's acceptable, and at least as far as I'm concerned, that is not an issue tonight."

Councilman Bessinger: "Oh, I think it's still an issue."

Councilman Nelson: "Well, I guess it is with you. It isn't with anybody else on the Council."

Councilman Bessinger: "Well, let's wait and see."

Councilman Nelson: "Okay."

President Shepherd: "Could you respond to the concerns that we had in the Filing 2 regarding this road?"

Mr. Foster: "One of the things that we've discovered that has been a learning experience for us and everybody here, it's a small enough town that you're familiar with the corner we're talking about . . . it is an insignificant part wetlands. And we transition in and out of those wetlands depending on the core samples of the dirt. You figure out whether, in fact, it's wetlands. In order to design the road, and the road design changed as you can see. At first we had started much closer to Horizon Drive. Then up there behind John (pointing to plat), we obviously moved the loop up. One of the considerations in moving that loop up was where the wetlands began and where they laid, and the only way you know that is by going out and taking a core sample. Our feeling is to, and obviously the process is fairly extensive, the development is fairly extensive, which is why we've got a Phase 1 and a Phase 2. We're trying to concentrate our effort and money on

Phase 1 and deferring Phase 2 until later. Quite frankly, one of the primary reasons we did the ODP is to avoid some of the issues other developers have had when they have higher density development right alongside residential. So therefore we thought it was wise to go ahead and show people right up front there was going to be higher density development right next to them. That said, obviously, it would be of great expense to locate a road with enough certainty to know that, in fact, it would comply with wetlands criteria, that it would be engineered, etc., which is why we've tried to emphasize that we're willing, as good neighbors, to put a road through to the northern property owner. We don't think it makes any sense at all to plat one that you and I don't know whether it comes even close from a wetlands standpoint, from an engineering standpoint, with the expense that it will be, and quite frankly, we're too Scotch to want to spend the money on that road engineering, design and wetlands expertise right now. We would rather wait until after we're done with Phase 1 and then turn our attention to Phase 2, and we're in front of this Council again."

President Shepherd: "What's the cost estimate for that kind of . . . "

Mr. Foster: "You're looking somewhere . . . I think in talking with Tom Logue and Armstrong Engineers today, in the \$5,000 to \$10,000 range. It's just money that we can spend, quite frankly, more efficiently, developing the other lots. If we did that design work, now we step back and said to Mr. Dalby, "If you want to spend that money and incur that cost, okay, we can talk about having a road." He doesn't want to spend that money. He wants us to design the road, integrate the road, and have it there for him to utilize. It's a real tough decision to be in, and unfortunately, we have to prioritize what we spend the money on."

Councilman Baughman: "Tim, what's the project . . . on Filing 2, what's the projected building date on that? You really have none, do you?"

Mr. Foster: "If Phase 1 sells out this year, then we'll be on to Phase 2. If Phase 1 doesn't sell this year, and Paul, as a Realtor, can tell you, I don't have . . . we anticipate overprojecting, and we think we should have Phase 1 sold out in about three years, average about 5 or 6 lots a year. We figure once we're about two-thirds away through Phase 1, then we've got enough money to begin developing Phase 2. So anytime we get two-thirds of the way through we're going to start on Phase 2."

Councilman Baughman: "It might be five or ten years down the road, possibly."

Mr. Foster: "No, in 1980, people had stuff on the drawing board they thought they were going to do in six months, and it still isn't done. Well, there's a plat on this piece of property that included both parcels, and I think the City abandoned that plat

because it was never acted upon."

Mr. Wilson: "Tim, one of the discussions that Bennett and I had was that from Mr. Dalby's perspective, and I haven't talked to them about it, but it seemed as though platting a roadway had more advantages, formally dedicating, I should say, had more advantages than the ODP line, because then at least even if the wetlands limits weren't delineated, at least there was a public right-of-way, and it gave, it made it more likely than not . . . well, it's true you would come back and vacate, you'd do it at the same time the ODP was going through preliminary, and I wondered if you could address that possible solution to the dilemma."

Mr. Foster: "One of the issues, and at one point we were much more willing to do things like that, but quite frankly, I think we have a neighbor problem in that we don't have much faith in Mr. Dalby anymore, particularly since he tried to make us build right now Cascade Drive up on the top at \$80,000 to \$100,000. He tried to get that done with this Council. He tried even harder to get it done with the County Commissioners. And it was a road that didn't do us a bit of good. We tried to vacate it and said let's come down below. No, no. We just feel like if you give him a dedicated right-of-way, buildable or not, and he would argue as he did with that road. Everything is buildable if you throw enough money at it. If you want to put enough cut and fill between here and Grand Mesa you can build a roadway to the top of Grand Mesa. Our argument with Dalby is that if you plat that thing, we're going to have to stand in front of you and argue about whether we should vacate something. And quite frankly we don't even agree you can knowledgeably plat at this point. We're just saying wait until we've got the facts. We'll make whatever adjustments the Council wants, put whatever criteria inn the record, or what have you. I mean we haven't been at all bashful. We'll give you access through this piece of property. And, quite frankly, that's something that kind of irks me because he's, by no means or no stretch of the imagination, landlocked. He's got a frontage down 12th Street and he's looking for us to build him an access. If you look at the letter when Dan hands it to you, we've offered at other times and said 'Listen, we'll do this now, and we'll do these other things, we want you to pay your cost of the road.' You know, obviously, if we come in here and do the higher density, we don't need a roadway that goes all the way up the northern line. So if he wants to build his part of the road up that line, and then he can do so, and we're happy to enter into an agreement. His response is "No." He doesn't want to enter into that sort of agreement. So what he's trying to do is get you to plat a road that we'll build for him, and that reduces his development costs. We just don't think that's fair."

Mr. Wilson: "When I talked about . . . I, at least want the Council to understand, that I wasn't suggesting that you build that road. The concept I had was really described in a piece of ground on a map, but not doing anything in the field."

Mr. Foster: "And I would never suggest that this Council would consider that, but when you look at that blue line up above, which represents Cascade Drive, and then compared to Phase 1 which is outlined in red, there is enough land between Cascade Drive and this development, and the same fellow tried to get us to build that road. And it took a lot of expense and time for us to play defense, and say, 'We don't want to build that road now. It doesn't make any sense.'"

President Shepherd: "Would lack of an access through Phase 2 or through Cascade diminish the value of a potential development on the Dalby land?"

Mr. Foster: "If all you have is an access, I would argue, no. I mean Tom Logue speaks pretty tough, but he has visited some with the Planning Staff, and one of the issues is the lack of a cul-de-sac from 12th Street into the north portion of Mr. Dalby's property. They indicated that he's got large lots in there, and they're residential in nature. That the limitation on cul-de-sac length is one that they could probably live with an extension or a variance on, and that, therefore, it would be accessible. The easement of the access still exists from Cascade. Mr. Dalby has the double roads. And he's got that access whenever he decides to build that road into his property. I don't see . . . certainly, if we build a road into his property, his property value increases because it has been developed at our expense. If all you're talking about is there an access point, I would argue that now normally, changes the value of the property, but then you've got an access point, none of which are built from the east as well as from the south. I don't know how many roads you have to have on a piece of property."

President Shepherd: "And the loss of the property for the roadway itself may offset the gain . . . "

Mr. Foster: "That roadway that we're telling you we're willing to do when the time is right, is probably going to be very developable ground because what you're going to use as a roadway is going to be fairly flat and any terrain, and we aren't charging anybody any fee, and we aren't saying buy the easement from us, we're saying just building your portion and your cost of the road. We just don't want to build the roadway. Again, we don't need a roadway for this piece of property."

President Shepherd: "If I could move now to the second of the four issues, the irrigation of Ute water. To my mind, it's a market economy issue. If you can sell that to the potential buyer, more power to you. I don't know what . . . "

Councilman Nelson: "Could you briefly tell us how you got from where you were using irrigation, and let us understand what happened?"

Mr. Foster: "We've been frank with the Council and we've been

frank with the staff. We had proposed a pond that would overlap onto the two Roundhill lots, and quite frankly, . . . and the pond was going to work and they were going to have access to the pond, and they liked it for aesthetic purposes. Unfortunately, then, the attorneys got in the middle of it, and somebody said liability and those two lot owners decided they didn't want to have a pond on their property. They were sure somebody would drown in it, and they were afraid they would have some liability. They suggested they'd be happy to do so if, in fact, they received a lot line adjustment here in the County or in the City. We had just been through that process. We told them that if they wanted to get a lot line adjustment, we'd be happy to take the piece of property and put it into a pond. We are trying to reanalyze the size of the pond and where we could possibly put it. If we could put it out towards Horizon Drive, then we'll come through the process and try and take a piece of each of these lots, dedicate it back to the Homeowners' Association, and do the irrigated water, because we think it makes the lots a lot more saleable."

Councilman Nelson: "I cannot agree with that in any stronger terms."

Mr. Foster: "For right now, we can't tell you for sure we've got that worked out. So we've got to say, 'Today, we're using Ute water.' I agree with Conner. It's a market issue and you aren't going to see a lot of vegetation up there if you're irrigating with Ute water. We hope to be back with a new pond location design, etc., and asking you to concur with stripping a piece off of one of the private lots and giving it back to the Homeowners; Association. We really have to deal with what the facts are right now. So that' where this is. We do have some restrictions from the County with respect to the Architectural Control Committee reviewing not only construction, but also vegetation disturbance and those sorts of things. So we think we have a control in the covenants that Bennett would like to see us do on a map, but we think they're a little more, and will allow people who are out there living to have a little better control of them and make sure that somebody doesn't put in a putting green or something."

Councilman Nelson: "I sure hope that you can do something with the irrigation water. The results of that are obvious. I'd state two things, both Spring Valley, which I was involved with, and Paradise Hills both have ponds. Since the liability issue has been able to be tackled successfully and no one in fifteen years has drowned in either one of those places, so I sure hope you're able to crack that nut."

Mr. Foster continued that they have gone back, done balloons, done some different things. They figure two stories from base and they talked about this some today to the top of the roof is about 32 feet giving angles and everything. They would propose then to do just a 32-foot distance, but that's something that one of the five or six issues from the covenants that were discussed in the plan.

Mr. Wilson: "I assume, then, that he doesn't think he could see that height from his house?"

Mr. Foster: "Well, part of the discussion, from my understanding is, that he kind of was conceptualizing this house as big as the lot line is. And then once he saw that the building area was smaller and recognized that nobody is going to build a house equal to the building area, and then saw the house, it began to scale down a little better in his mind. Maybe he thought we were going to build a Motel 8 or something out there."

President Shepherd: "Would you then be comfortable if it was Council's pleasure to improve the final plat and plan of Phase 1 that we include an addendum that covenant and building height restrictions be negotiated with a mutually acceptable arrangement with the City Attorney?"

Mr. Wilson: "Actually, if you just simply said that it would provide for the 32-foot height limit, then we could make provision for the plat and have the CCR reflect it."

Mr. Foster: "I think everybody agrees about the average height before excavation. The foundation footprint is going to be a lot smaller than the building envelope that we've illustrated on the drawings."

Councilman Theobald: "Oh, obviously. Once they decide exactly where the envelope the footprint is going to be, that is what determines . . . "

Mr. Foster: "Another sidepoint on the height. We looked at 32 feet. We pulled that right out of the development ordinance with the zoning regulations. Our underlying zone on this particular piece of property is RSF-4 and within the maximum height within that zone. The maximum height in the County R-2 zone is that the depth immediately to the west of the property is also . . . We're not asking for anything higher than what you can currently build on the property under its underlying zone."

Mr. Wilson: "Bennett, is that average grade that they just described . . . is that the same concept you're comfortable with?"

Mr. Boeschstein: "Yes. Before excavation, I think they agreed."

President Shepherd: "Does Council have other questions for the proponent?"

Councilman Bessinger: "I still have questions. From what you've said I take it then that this is a profit motivated venture?"

Mr. Foster: "Knock on wood."

Councilman Bessinger: "Knock on wood. Isn't that soil condition

kind of "iffy" with those wetlands in there? You don't really have any rock in there to stabilize it, do you?"

Mr. Tom Logue: "We had Webber & Associates, a geotechnical firm, go out and do about five or six test warrants throughout the property, and they took each one of the test warrants, did soil evaluations, and came up with specific foundation recommendations for the various lots within the subdivision. The soils engineer feels that the land is suitable for building. We've put all that . . . "

Councilman Bessinger: "So the soil isn't rocky, it isn't unstable, it's just good workable material?"

Mr. Foster: "Well, like all the soils engineers tell us, you've got to kind of let the soil in the valley and the City as being poor, it's just some are poorer than that for construction. If you have some expansive properties which are indicative in that shale layers, they did drill to, I think, twelve feet, and hit a weathered shale area on some of the lots, but its fairly in-depth report is extremely detailed, and it kind of gives you a summary overview. They felt that their recommendations, if followed, that suitable foundations can be founded on the property."

Councilman Bessinger: "So the foundations, then, will be designed lot by lot?"

Mr. Logue: "That's correct."

Councilman Bessinger: "In your original presentation, you came in with a 14 foot roadway. How was this determined? Was this an engineering recommendation, or what was it?"

Mr. Logue: "It was an effort between the Development Department, Engineering Department and petitioner, in conjunction also with the Fire Department. I think all the agencies realized that we had an extremely unique site, with wetlands considerations, relatively low-density compared to other areas within the City, and that the proposal was made to the Planning Commission at preliminary plan, and they made a recommendation. That recommendation was modified by this board, and we took that and presented it in the final plat that you see here."

Councilman Bessinger: "Are you telling me that someone in City government had told you early on that you were going to get some special consideration on this road?"

Mr. Logue: "No, I am not. We discussed the project early on in terms of some of the limitations, and indicated to the Staff people, particularly in Planning and Engineering, who were the key agencies of the land use proposal, that we had some difficult conditions, and were hoping that they would keep an open mind in finding some solutions in dealing with those. They didn't make any promises or commitments until they saw something on paper."

Councilman Bessinger: "When you say, 'open mind'. What does that mean to you?"

Mr. Logue: "Consider some new ideas."

Councilman Bessinger: "Such as 'violating the Fire Code.'"

Mr. Logue: "I believe the Fire Department has reviewed the proposal and accepted it."

Councilman Bessinger: "They have, but they didn't want to fight City Hall. But the Fire Code is a 20-foot minimum roadway, is that not so?"

Mr. Logue: "That is correct, and I believe that's what we have. We have a 14 foot roadway width . . . "

Councilman Bessinger: " . . . Four-foot concrete sidewalk makes 18 feet."

Mr. Logue: " . . . 18 feet and we have a 2-foot curb on the other side which makes 20."

Councilman Bessinger: "Could I see that drawing, please?"

President Shepherd: "The June 6 letter from Mike Thompson to Mark Achen reads: 'I feel confident that our decision to allow the developer to continue with the proposed project, not only meets the intent of the Code but also continues to assure adequate service to the rest of the City area.'"

Councilman Bessinger: "Well, you know, these people have to work for a living, and they saw the Council say, 'That's okay, go that way,' even though the Council had been advised, but the City Attorney just did not read the Fire Code. And somebody on Council said, 'We'll just have to write it up so it looks like it meets the Code.' And this is all on tape. You can verify that."

President Shepherd: "I think that's your interpretation of how it went. I think what you've got, Mr. Bessinger . . . "

Councilman Bessinger: "We'll play the tape then . . . "

President Shepherd: "What you have is a Council that is willing to look at unique problems and try to find solutions that are amenable to both the requirements of our population and the requirements of our Codes. We found, in this case, a very unique subdivision, and we thought and gnashed our teeth over finding an acceptable solution that could be satisfactorily to all concerned."

Councilman Bessinger: "Okay, so you do have a 4-foot walkway, 14 foot of pavement, and two feet of concrete on the outside?"

Mr. Logue: "The concrete is on the inside, the 4-foot width would be on the lot side . . . "

Councilman Bessinger: "Right, what's on the outside?"

Mr. Logue: "That would be the 4 foot, then the 2 foot would be on . . . "

Councilman Bessinger: "No, that's on the inside. The 4-foot is on the inside, isn't it, or on the outside, which is it?"

Mr. Logue: "The 4 foot would be on the outside of the one-way loop."

Councilman Bessinger: "Okay, and then there's 14 feet of blacktop, and then what?"

Mr. Logue: "Two feet of concrete on the inside."

Councilman Bessinger: "Okay, so that's not the way the thing was stated at the time. So that does, in fact, make 18 feet. Okay, I stand corrected."

Mr. Foster: "I can appreciate, Councilman, that we looked at their street proposals there, and two more there. I had to stop and think myself. We discussed it so much over the preliminary and final plan stage. And the 20 foot, the overall width, was an area where the Fire Department pretty much drew a line. They said 'It's got to be 20 feet, guys. We can't let you use anything less than that.'"

Councilman Bessinger: "Okay, well, if it's 20 feet as shown there, I agree with the Fire Department."

President Shepherd: "I'd also like to clarify to Mr. Bessinger that we have neither the hiring or firing authority for the Fire Chief. He does not have to respond to what our likes or dislikes are in order to keep his job."

Councilman Bessinger: "I'm aware of that. Thank you for reminding me."

Mr. Foster: "Are there any other questions?"

Councilman Bessinger: "No, that satisfies me. Thank you."

President Shepherd: "Are there any other proponents to the development? There were none. "We'd like to now hear from opponents or any others that would like to address this subdivision proposal? Please state your name and address for the record."

Mr. Rich Krohn: "My name is Rich Krohn, and my address is 1047

Gunnison. I represent Walter and Gertrude Dalby. I would like to think that I am 'other' and not particularly against the development. There is only one point that I'd like to speak to, and I'm sure none of them has a doubt, but the Dalbys do, in fact, request that the Council not change its prior requirement that there be a presently deeded road right-of-way across Phase 2 as part of the approval of the plan and plat of Phase 1. I need to respond to a couple of things that Tim mentioned. First, let me remind you that the original Staff recommendation on the Phase 1 development was for what was referred to then as Lot 17 right-of-way, which would have been, I believe, a 50-foot right-of-way across one of the south lots, and Lot 17 is most often mentioned, to provide a deeded right-of-way access from Phase 1 to Phase 2. And the petitioner was strongly against that because it would cost them a lot in Phase 1. They couldn't have developed. And one of the original reasons why, let's say, they didn't object to the concept of the Phase 2 road, was that it voided the necessity for them losing a lot in Phase 1, providing a deeded right-of-way access to Phase 2. It's just a reminder. You mentioned a second thing. There is a possibility there may never be a Phase 2. Councilman Nelson indicated he can remember 1980. Fortunately, I do not, but I can candidly tell you from personal experience, I think you will agree, based on your experience, that merely because you have an ODP before you tonight does not mean there is a guarantee at any given time, at all ever being, a future development of Phase 2 which will include the dedication of that Phase 2 road if you don't require it at this time. And the purpose of that dedication, obviously, is for the benefit of the Dalbys. But what it also does is provide your commitment to the potential possibility of future neighborhood traffic circulation. This may be the only chance to do it, and I don't think you should lose it. Another thing you must remember. Nobody is asking anybody to build anything. All the developer want to see, and what I believe is your present requirement, is for the dedication of a specific location for a road right-of-way across Phase 2. There was mention of Dalby having a significant access on 12th Street. I guess I would think you were referring to the Assessor's plat. There is a wash that is significant enough to be shown on the Assessor's map. To bridge that ditch, and again you have to look at the western portion of the Dalby property. In that regard Tim mentioned something to you about us wanting them to build Cascade Drive at a cost of \$100,000. I must correct him slightly. I'm sure it was an inadvertent mistake on his part. One hundred thousand dollars plus was the estimate of the cost for the whole road, and the contribution we were looking for from them was not relevant to the half-street improvements for the Foster lot frontage. So just to mention to you, the only relevance there is that it is true that the estimated cost of construction of the Cascade matter would be at least \$100,000, which should be . . . would be half that figure probably. And it's a little bit hard to give you exact figures because we have been repeatedly refused the right to allow our engineer physical access to the property in order to determine what would be the most efficient, logical, practical location for the Phase 2 right-of-way."

Mr. Wilson: "Why did that happen? What was the concern?"

Mr. Krohn: "I guess you would have to ask Mr. Foster that. Immediately after the Council meeting Bill Foster specifically denied us the right to go in. On the 18th, Tim confirmed that that was still the case. And at the meeting last Friday in Mr. Boeschstein's office, at which I was not present, I believe Tim repeated that we were not allowed to either personally or have any of our engineers or anybody go on their property. Obviously the purpose for us to do that would have been to try to fulfill the Council's requirement that we try to determine a desirable, likely location for a right-of-way. Keep in mind we're not talking about any construction. The reason we would want to go in there is to find the cheapest and most practical location because we're the ones, in all probability, that are going to have to build and use the road. Despite the 'we build' statement, we don't want them to build it, we don't expect them to build it. If they ever develop Phase 2 we assume, I assume, because that's what I would do, I would come in and say let's build a little temporary cul-de-sac here and go off with my Phase 2 development, and if Dalby ever comes in here then he can build the rest of the Phase 2 road. I fully expect that if we go first, we're going to build the whole thing, and if we go second, we're still going to look at having to construct a substantial portion of it because Phase 2 construction done by the petitioner will be blasted all over the road. A lot has been said about design standards being changed, wetlands requirements being changed, that's true. And all we're looking for is a footprint in the most practical area acknowledging that those things may happen, but giving us all some measure of certainty that we've done our best now to locate what looks like the best area for the future. Tim also said that Dalby categorically refused to contribute to the cost of the expense of, I think he said 'building road.' Concerns of locating the road, we are prepared to send our engineers and our land planners out there to work on locating a road, and I'm not sure what more we would be required to do, but we've made several attempts to do that. I think it's not quite fair to say that we've refused to contribute to the cost. I guess that's really all I have to tell you. I'd like to say, 'Why are we here?' because I think the Council's direction is fairly clear that the petition was to be tabled until the parties have worked an agreement, and that there was to be a dedicated access. I am more than willing to come tell you my story again. We think that there's a reasonably simple process for our engineer and their engineer to go out and look at the site, and say, knowing everything that we know today, 'This appears to be the best site for the future.' It is not a site which would be intended to go right through the middle of their developed area. This is not . . . on plat. The S curve that you see, the general location of those things, and I believe you can probably see it best by the ODP, there is a substantial lot across the eastern portion of their property, and any right-of-way platted by any of the parties is obviously going to take into that account, and is going to be pushed over to the east in order to leave them a . . .

and not use up their development land. We simply want an opportunity to go on the property to determine the best location for a roadway to be platted at this time knowing that that plat could be changed, if we apply in the future, if they apply in the future, through the planning process."

Mr. Wilson: "Would you be willing if Council said, 'We don't think it's fair to S.L. Ventures to pay for the engineering and land survey to dedicate the road', would you be willing to generate the information sufficient to describe it legally and/or draw up the milar if S.L. Ventures said 'We will sign it when the information is completed.'"

Mr. Krohn: "You're asking me a compounded, fairly complicated question."

Mr. Wilson: "I know you can handle it."

Mr. Krohn: "I will try to break it down into pieces, and say the obvious answer is I can't commit my client in his absence. And I apologize for his absence. That's number one. So anything I would say to you would have to be subject to his confirmation. If what we're talking about is the surveying, and milar of that road only as opposed to what is required, I think what we are talking about is cost around \$2500 to \$3000 dollars, somewhere in that range. It's hard for me to say . . . the most strongly I could say to you is that I would recommend to my client that . . . "

Mr. Wilson: "Let me ask it this way. What if Council said, 'If your client will pay for those costs, and if that work is done . . . ' My assumption, . . . let me ask the question, is that we are a week or two weeks from actually finally recording. We'll get improvements, language, etc., but at least we've got a few days left. And if, by that point in time, that information was available and they signed the plat, would cost them out of pocket, and your client could then make that judgement after tonight of whether or not that was money well spent, as a concept . . . "

Mr. Krohn: "I have no problem with that concept. I understand the concern of the petitioner that they not spend money in Phase 2 in building Phase 1. It will answer our concern to have present dedication of the road. I have not spoken to the surveyor and it would be nice to at least get on the land so that we could actually find out a little more definite number. I can tell you that I would recommend to my client that he bear" (turned tape over) . . .

Councilman Theobold: "Phase 2 has to be platted, dedicated . . . what do we say is the minimum that we need to require on that Phase 2 road?"

Mr. Wilson: "Our Code does not answer the question."

Councilman Theobold: "So by being unanswered, it's open?"

Mr. Wilson: "I believe that the Council can . . . "

Councilman Theobold: "It's our discretion?"

Mr. Wilson: "Yes, and I think there's sufficient evidence in the record that the record can support either of the decisions. Either you could say too much unknowns, we don't know about development to the north, nothing, or neighborhood circulations are an important concern, there's an issue about property to the north, and we will require a dedicated road, although not constructed at this point. I think we're safe either direction."

Councilman Theobold: "Okay. My reason for asking is that both parties make really good arguments on this, but I have a feeling that it's a matter of some talking past each other over concerns that they're trying to protect their own interests, which are maybe getting in the way of this, similar to what you had alluded to with the earlier line of questioning. I'm uncomfortable requiring the petition to dedicate a roadway for something that may not be developed to benefit a second party."

Mr. Wilson: "If I can explain the rationale for it."

Councilman Theobold: "Oh, I have no problem with that. I understand the rationale."

Mr. Wilson: "I wanted to make one point, mainly, that we may have forgotten over the several months. The parcel as we see it today is one parcel of ground, and so really we're not requiring dedication of a roadway on a second parcel that is not before you. We are subdividing a portion of it further than the lot, and that's why I think you have jurisdiction."

Councilman Theobold: "I'm not questioning jurisdiction. I'm questioning in my mind, as just one person, whether I think it's warranted. Weighted against that is the argument of the neighbors to the north that it's in the City's best interest to plan for future traffic, and I think that's where he's out of concern, but obviously I don't feel comfortable making the petitioner build or dedicate a road to benefit someone else, neither do I feel that the City should allow this development, even Phase 2, to go through without making provisions for that road to exist should the City determine that it is necessary as part of the overall development of that neighborhood. And what I'm fishing for is a way to guarantee that it can be platted and then would be dedicated either by whoever needs it first, because I think there should be a way that the petitioner can be comfortable with the location, and it will not be detrimental to their property, and that if the Dalby property is developed first, they then bear the responsibility to pay the expense to survey and deal with the Corps and deal with all these other things to create the road, because obviously it's now their road and it's their responsibility. And that's what I'm fishing for because I think

that essentially answers the very least the City's concern and it also makes me comfortable for what we're requiring of the petitioner. Having said all that, and you've listened to it, does that seem reasonable to you?"

Mr. Krohn: "Well, I guess I would . . . maybe I was too oblique in my earlier statement when I was mentioning that all of us can and will come before you again in this process. What bothers me, the assurance, the possibility of that road existing. Obviously, any of us could come forward later on and ask that it be vacated or that its location be changed, or that if we are Phase 2, we build only a small portion, or a cul-de-sac. And you said at those various times . . . What we're asking you is, while you have it, don't let it get away. But keeping in mind that this is only the first of many shots you're going to have at me."

Councilman Theobold: "Well, I suspect that your ultimate ambition is not so much to force them to create the road, but rather to insure that the road may be available at a point when your client will need it. That's what I think is reasonable. And I am assuming that the petitioner is willing to have that road available as long as all these things that we're trying to set aside such as "meets requirements, meets City specifications, does not adversely affect their land, etc." So it doesn't seem like we're that far apart, other than just a matter of . . . "

Mr. Krohn: "And that's why it was our hope to get our engineer and their engineer out there to say 'Based on what we know today, this is our best possible . . . ' Since nobody is building anything and the only expense is going to be . . . No. 5 in caps on the drawing, that they could come back later and ask you to change it as our plans and their plans are firmed up.

Councilman Theobold: "I understand why that raises your comfort level, but I also need to tell you that that's one step further than I'm willing to go. I think we should prepare for the future of the neighborhood for the overall good of that area, but I think your, the comfort level you're asking for is much further than I'm willing to go at this point. So be aware."

Mr. Krohn: "Okay. I guess my response to you is to keep in mind that you only have a shot at us when we're before you. It's easy for me to stand up here and throw stones because there isn't anything you could do to me right now. By the same token when I come back with my petition and the neighbors aren't happy with it for whatever reason, and I don't mean to single out the Fosters, but any of the neighbors, but if Phase 2 is not done before you, and you haven't sufficiently reserved for me to go through there, and as a lawyer, the right-of-way is the only way I know of, for sure, to block up specific location that we can use in the future, then I may be just all turned around where I'm standing there going, 'I can't do anything because you didn't reserve when you had a chance now.'"

Councilman Theobold: "Is what I'm suggesting legally possible?"

Mr. Wilson: "I have to tell you I'm not certain if I understand what you're suggesting."

Mr. Achen: "May I take an attempt at, perhaps you will view it a cross explanation or interpretation, but it seems to me this is an issue of vesting real property rights, and the petitioner's proposal does not vest any rights in any one other than the current owners of the property. It gives an indication of intent to future development without getting property right being conveyed. And what the neighboring property owners are asking for is, in essence, creation of a property right. No that accrues to them solely, but accrues to the public which gives them some right to that property because it has been set aside in reserve by dedication for public purposes, and being part of the public either the property owners or anybody else has some interest in that, but it is described on a piece of paper, and it no longer is solely under the control and ownership of the petitioner. And I think your decision on how you approach this sort of depends on your judgement about whether the petitioner should be required to convey that right to the general public, and it primarily benefits them, the owners of the existing property and the owners of the adjacent property, or whether you think it's not fair to require the petitioner to convey that property right at this point in time."

Mr. Krohn: "I think that's an excellent summary. The only clarification or expansion I would make is that not is it just being conveyed to the public, but it's being conveyed to you and those in control of the City, so you can make future decisions about whether, or if, it should be constructed, and under what conditions."

Councilman Theobold: "Having heard his explanation, my suggestion is, or what I'm trying to fish for, is there a way to convey that right without requiring the expense of the surveying and dedication. In other words can we say that right will exist at a future date subject to whoever wants to make it exist, paying the cost of creating it."

Mr. Achen: "Let me take one more stab at it. As I understand the whole operation of real estate laws, you cannot do that without actually dedicating a right-of-way because it will be under the property owner's prerogative to say 'I want to now dedicate that right-of-way' or 'I don't want to dedicate that right-of-way' however described it might be. From the petitioner's perspective they are trying to keep their options open plus whatever . . . and what other considerations they may have, and the neighboring property owner, there's probably no way for them to come in and say 'Now the Fosters must give this described piece of property for a right-of-way' without it being dedicated ahead of time."

Councilman Bessinger: "What's the ramification just having the

centerline for the road and saying . . . "

Mr. Wilson: "That really is just one way of describing it. You know the absurd end result would be to say "Phase 2 is a right-of-way, the whole thing" which will at some point in the future be limited to some particular 50 feet. That doesn't give the petitioner much comfort."

Mr. Foster: "Rich and I got together Monday and struggled with exactly what you're talking about, Reford, and our suggestion was to dedicate the road, but we want a sign-off by the Council that at the time we go through the platting process, that we can move the road for economic conditions or development reasons. The reply back was 'No way, that's too loose. We can't do that.' I don't want to mis-characterize, but that was exactly the kind of offer that we were going through to try and say, okay, if we do that and give it some ability for us, the answer was, 'That's not acceptable.'"

Mr. Wilson: "I understand the comment, but if we are dedicating to the City that decision will be made by initially Staff, making a recommendation to the City Council. That seems to me to solve it, because the two of you have to initially agree, but your decision is not final, because once we dedicate it it's not your road. It's the City's."

Mr. Krohn: "I think that's the point I've been trying to make is, if somebody did want to move it in the future, they could come and ask you, because you own that."

Mr. Wilson: "Then why not agree with at least that concept because knowing full well it's neither of you that is going to make the choice. It's going to be four members of the Council in a vote, either vacating, or not."

Councilman Bessinger: "By vacating this, would allow realignment?"

Mr. Achen: "Is it really possible that the City can move the road? In other words, dedicate the right-of-way and in the future if the petitioners don't have any plans for Phase 2, nothing happens, and the neighboring property decides to develop, so they come in and they submit a plan and do some additional studies, and say 'The road needs to be moved five feet east or west.' The City cannot do that, can it?"

Mr. Wilson: "Without condemnation, no."

Mr. Achen: "You would have to acquire the property and purchase it or whatever or have an agreement with the petitioner."

Mr. Krohn: "You see that's the basis for everything. Since it's their property if they want to move the road they can come to you and say 'We'd like to move the road.' And at least it's their property. If we come to you and say we'd like to move the road,

then you're either going to have to condemn, or they are going to have to agree."

Mr. Wilson: "Correct."

Mr. Krohn: "So that's why it's so crucial to us to have some certain location now because we don't have the option of . . . "

Mr. Wilson: "But the risk is, and what we're identifying is, we don't do wetlands and we don't do final engineering. We dedicate a road. Three years from now and you're first out of the shoot and you come back to the Council and say 'It's a \$300,000 road and we can't even use it.' And Mark is absolutely correct that the City says 'Well, that's the only choice you have. You have to build within that right-of-way.' Unless there is an agreement with the owner. And that's true. But that still is better for Mr. Dalby than nothing."

Mr. Krohn: "We're willing to take that risk."

Mr. Foster: "The crux of the problem is, and Mark I disagree with . . . the public road for public purpose . . . that road serves one property owner's purpose, and everybody's saying "neighbors". It's one neighbor. And that road increases the value of his property. It's not to the City of Grand Junction. It's Dalby. And what you struggle with and what we struggle with in trying to come up with the solution, is the appropriate time to determine where the road goes is when the development takes place. And part of one of our other proposals was we'll give you an easement across ours, you give us an easement across yours. 'No way.' Because we happen to be in front of Council, and this isn't even the Phase that we're developing, all of a sudden an adjacent property owner wants to increase the value of his property and get a road across there. And that's when we said the time to do that, Reford, is when you get a shot at us when we come in front of you and go through preliminary plat."

Mr. Wilson: "It's important in my mind that the Council, and the record reflect, that there is an additional public purpose to the road. And the additional public purpose, in my view, is a neighborhood circulation notion. Because I can see the day, if Dalby develops, when Cascade ties into the road we're talking about to the north, or some variance on that, and perhaps back out to the east to provide internal circulation. Now I'm not enough of an engineer to know if it can work, but at least on paper that's sort of an integration so it's a larger benefit than just to Mr. Dalby."

Councilman Bennett: "Well, Dan, I was just sitting here looking at this, and this whole area right now is served by cul-de-sacs and dead-end streets, this whole area. There's no way between 7th and 12th you can get here without going around here. For Fire Protection safety, the fire trucks have to go up, come over, come back down, land in a cul-de-sac, and I was just sitting here

looking at them at this end of town. Response time for Fire and Police, they've got to go all the way around."

Councilman Bessinger: "That's exactly right."

Councilman Baughman: "Why should we make Mr. Foster go use his land to get around that problem?"

Councilman Bennett: "Why did we make any landowner put in all the streets in the City of Grand Junction?"

Councilman Baughman: "I don't understand what you're saying there."

Councilman Bennett: "Well, any development, the streets have to go in. Every street you travel up and down in the City of Grand Junction . . . "

Councilman Theobald: "The real question is obviously, as both parties agree, it has purposes for both the S.L. Ventures property and the adjoining property, and that raises the question of the timing, sort of the dedication."

President Shepherd: "It sounds like we've degenerated into comments from Council. Why don't we close this hearing and then I'll solicit comments from Council, questions and conversations."

Councilman Baughman: "Dan, I've got a question. I think I've asked this before but I want to ask it again. It's not the law that Mr. Foster has to provide access to the Dalby property in his Filing 2, is that correct? There is no City law or State law that says that Mr. Foster must provide access across that, is this true?"

Mr. Wilson: "Let me answer this way, because I'm not going to give you a direct answer. But let me try to explain why. The Code allows the Council to plan areas larger than Foster's. So if you believe that this road could serve a larger area, a circulation area, let's talk either Police or Fire protection, or the like, the Code does authorize you to require the roadway. If you believe, as Tim indicated, that the only benefit behind the road is to serve Dalby, the north property owner, I don't think the Code authorizes you to require that. So it really depends on how you see this road working or functioning. If there's a larger service, I think we can require it legitimately. If you believe that it will only serve Dalby and there's no other member of the public, for instance that benefits, then we shouldn't require it."

President Shepherd: "I'd like to ask a question. Before us are two considerations. Consideration for the Final Plat and Plan for Phase 1 and consideration of the ODP for Phase 2. Can Council accept one, reject the other, and still go to a proposed ordinance?"

Mr. Wilson: "You could approve the final plat and plan, go to

proposed ordinance for the rezoning of that, and take no action on the ODP, or even deny the ODP. Does that answer your question?"

President Shepherd: "Yes. Two months ago we didn't think . . . "

Mr. Wilson: "Well Staff had recommended against that just because of this sort of area planning concept."

Councilman Bessinger: "Well that leaves this thing unsolved and still up for negotiations before they can . . . they could go ahead with the first half of it, right?"

Mr. Wilson: "Yes sir. They could final plat that and go ahead and sell Phase 1."

Councilman Bessinger: "Okay. Before they could do anything with the rest of it, they will have to come back, but if they don't come back . . . "

Mr. Wilson: "They never come back."

Councilman Bessinger: "And there's no road through there."

Mr. Wilson: "And that's the danger. That's why Mr. Dalby wants you to do it now, for that reason."

Councilman Bessinger: "Well, I just think that for public safety reasons, it ought to be through there, if nothing else."

Councilman Bennett: "Well, another thing. It was S & L Ventures that came to us and requested a second easement in here so they wouldn't lose Lot 17, which Staff recommended against, which Council approved. I was under the impression when I voted to grant this, they would plat the road."

Councilman Bessinger: "That's what I thought."

Councilman Bennett: "And I'll be honest with you. This thing has come before us so many times, and I honestly believe both parties are saying 'Well, Council, the Planning Commission will not settle our differences. Council, will you?'"

Councilman Bessinger: "Why don't you just table it until an agreement has been reached?"

Councilman Bennett: "Or deny it and say 'Start over.' And that way we can address how big this road is going to be, where these entrances are going to be, and we can go back to Phase 1 and start over, because we're . . . if both parties, or all parties, are not willing to resolve all these little things before they get to Council . . . this is what the fourth time it's been before us?"

Councilman Theobald: "I agree with what you're saying, John, and in a perfect world everybody would be able to agree with each

other, and everything would be resolved without us having to be the referee. But unfortunately frequently that's our role to say, 'You're right, you're right, or we'll cut the baby in half', or whatever has to be done, you know."

Councilman Bennett: "I am to sit here and determine where they get their irrigation from? I don't care where they get it from. He doesn't . . . if they don't want to build a pond, and they want to take it from Ute Water for irrigation purposes, and someone goes out there and buys there and says, 'My God, look at may water rates for irrigation', that's not my problem."

President Shepherd: "The petitioner would agree with you on that."

Councilman Bessinger: "Well, make a motion and I'll second it. Make one that suits you."

Councilman Theobald: "Let me ask you one question. You're talking about your recollection was that the agreement when they talked about Phase 1 whether the Phase 2 road be platted. Do you mean 'platted', 'dedicated', or 'built'? I think 'platted' is what they're asking for, 'dedicated' is what they're asking for."

Mr. Wilson: "I would say 'platted' and 'dedicated' are the same. It gives them the best advice that Mark is referring to. Building . . . "

Councilman Bennett: "I'm not talking about building. Just say this is where the road is . . . "

President Shepherd: "Who pays for that?"

Mr. Wilson: "That's up to the way we structure it. That's why I asked Mr. Krohn whether they could absorb the costs of preparing the legal description sufficient to get it dedicated."

Councilman Bessinger: "Is that your question, Conner? Or are you talking about the cost of the road?"

President Shepherd: "No, I'm talking about the cost of the plat."

Councilman Bessinger: "You know, I don't think that's a big deal either. It's not a great distance."

Councilman Baughman: "Well, I personally don't think that the Fosters ought to have to provide a road across this to the Dalbys. I feel that they have access on 12th Street here and I think it's extremely generous of them to have given permission for a future road in that location. And I think the problem is, according to law, we're having to be specific of where that road is. Isn't this the problem? It's not good enough to just say, 'There will be a road'? Or do we have to specifically say where the road is going to be?"

Mr. Wilson: "That's exactly right."

Councilman Bessinger: "Would you agree that a road is necessary for public safety?"

Councilman Baughman: "No."

Councilman Bessinger: "You would not. Well, that shot that."

Councilman Theobold: "Would you agree that the road ought to be there for the Phase 2 development only?"

Councilman Baughman: "No."

Councilman Bennett: "Because you just said we don't need a road in there."

Councilman Bessinger: "You don't need a road at all according to Jim."

Councilman Baughman: "I have a real hard time. I believe in personal property rights, and I have a real hard time of a gentleman wanting to develop his property, and having to provide access across to a neighbor that presently has access to that property."

Councilman Theobold: "The . . . is rigid, and not because the road was a minute ago from Horizon to the adjoining property, but rather the road is there to serve the overall development of that second lot, and the extension of that to the property line is frequently required, or almost always required, of any developer to allow for continuity, but from this much of the road, or whatever would serve this, there should be no question, if this is going to be developed."

Councilman Baughman: "Any road, but that doesn't mean it has to be there, does it?"

Councilman Theobold: ". . . and the last 50 feet or 100 feet or whatever, is what we, as a City, should require to insure contiguity and overall sound planning so that we don't have a bunch of developments of nothing but dead-ends, dead-ends, dead-ends everywhere, and no access from one area to another, except going around the loop."

President Shepherd: "Would someone like to entertain a motion?"

Councilman Bennett: "I will move that we deny all of it, and have them start over."

Councilman Bessinger: "I second the motion."

President Shepherd: "It has been moved and seconded that we deny the final plan and final plat for Phase 1 and the ODP for Phase 2."

All those in favor signify by saying AYE."

Bennett and Bessinger voted AYE.

President Shepherd: "All those opposed?"

Councilmembers THEOBOLD, NELSON, MCCURRY, BAUGHMAN and SHEPHERD voted NO.

President Shepherd: "The motion is defeated."

City Clerk Lockhart: "Mayor Shepherd, those who voted against it, would you please hold up your hand? Shall we call roll?"

Roll call resulted in the same as above.

President Shepherd: "Now, would you like to entertain another motion?"

Councilman Bessinger: "To adjourn, perhaps. Why is it that if Tim said that they are willing to give right-of-way across their property, if the people whom you represent would give a right-of-way across their property, what objection is there to that?"

Mr. Krohn: "That's something we really haven't discussed."

Councilman Bessinger: "Oh, you really hadn't discussed this?"

Mr. Krohn: "No, sir."

Councilman Bessinger: "Oh, well that puts it in a different light, doesn't it?"

Mr. Krohn: "Keep in mind one of the things, from my point of view, that we've talked about is the real difficulty of crossing that wash, so we've viewed our property as, more or less, two separate parcels, but legally it's not. But in terms of development, it's two separate areas. And, it has just never been under discussion because our point of view from the beginning has been that we have an extreme difficulty getting from one part of our property to the other. So I won't tell you anything other than it has never been a real subject of discussion."

Councilman Bessinger: "Do you think it has merit?"

Mr. Krohn: "Do I think it has merit?"

Councilman Bessinger: "Yes. Tim, does it have merit? You suggested you were willing to do this, is that right?"

Mr. Foster: "Well, Councilman. It was one of our proposals that they rejected. Our issue was, our understanding was that he wanted a loop through, as the discussion was centered around the circulation, and our contention is 'Gee, we can't get through 12th

Street', so what they really want is a road off of Horizon Drive. That's what we've tried to do. I don't know that . . . unless they're willing to agree to give us . . . "

Councilman Bessinger: "No, I don't think we're in a position to do anything."

Mr. Foster: "It's interesting because . . . because we are in front of you in the planning process there's . . . "

Councilman Bessinger: "Somehow I don't think that's going to be the answer. I think it's got to be immediately resolved some way. I don't know what the way is."

Councilman Baughman: "I've got a question. I thought of this at the time, a month ago, when we were talking about this, and I have been personally on this property. I don't know if this is a possibility. But is it possible with the loop here, that this could be rerouted where it's along the edge where access could be made off of the loop here? Is that possible, or not?"

Councilman Bessinger: "No, I think not."

Mr. Foster: "My engineer is shaking his head."

Councilman Bessinger: "I don't know about that. Well, let me have a shot at it."

Councilman Theobold: "I am formulating a motion. My assistant is helping draft part of it."

Councilman Bessinger: "Have you a solution?"

Councilman Theobold: "I think one may be coming. I'll now when I see it. Okay. The motion would be to approve final plat and final plat for Phase 1, and to approve the revised Outline Development Plan for Phase 2 contingent upon the agreement with the City Attorney on the covenants, which would include the Staff's recommendation on the description of the 32-foot height limit, . . . any suggestions to the motion on the road?"

Councilman Bessinger: "That's the question I asked you a little while ago."

Councilman Theobold: "I know. I expected that something would be forthcoming. It's not coming."

Councilman Bennett: ". . . dedicating an unimproved right-of-way to be recorded at this final. That is exactly what Staff is asking for."

Councilman Theobold: "Where did you get that from?"

Councilman Bennett: "Right here."

Councilman Bessinger: "Staff recommendations."

Councilman Bennett: "'The Staff and adjoining property owners would prefer the dedicated and unimproved right-of-way to be recorded at this time.'"

Councilman Theobald: "Do you want to make that an amendment to the motion?"

Mr. Wilson: "Might I suggest that you consider also the costs of generating the legal description be borne . . . "

President Shepherd: "Do we have the power to do this?"

Mr. Wilson: "Oh, let's wing it. Let's say 'yes.'"

Councilman Bessinger: "You can always add, 'if acceptable to said owner.'"

Councilman Theobald: "Well, if the adjoining landowner refuses to pay, the road just doesn't get dedicated, is that . . . "

Councilman Bessinger: "Sounds like the answer to me."

Councilman Bennett: "I don't care just as long as we get a dedicated road."

Mr. Wilson: "Well, what we just described may not accomplish that result, John. It depends on what Mr. Dalby does."

Councilman Bennett: "If they can get Mr. Dalby to say 'I'll pay for that', wonderful! But before this thing is approved, I'd like to see a dedicated road. And give them another entrance off of Horizon Drive so they would not lose a lot against that recommendation. And I'm not going to go against Staff recommendation a second time."

Councilman Theobald: "How about shared equally, 50-50."

Councilman Bessinger: "I don't think you're in a position to say that."

Councilman Bennett: "I don't care who pays for it as long as it is dedicated and I know where it's at."

Councilman Bessinger: "We could just simply table until said alignment has been agreed upon."

Councilman Nelson: "Reford, I'm not willing to hold out for a legal description."

Mr. Foster: "They aren't going to cover half the cost of all the engineering we think has to be done, and all you're going to do is

get us high-centered. If the Council wants a road through there, we'll do a legal description."

Mr. Wilson: "In other words, you would rather move forward now than get hung up on this issue."

Mr. Foster: "Yes."

Councilman Bessinger: "I think that makes sense."

Mr. Foster: "If the Council is in the business of condemning easements for other property owners, then, yes, we will give you a legal description."

Councilman Theobold: "As Councilman Bennett indicated, this road came up as an idea, and not by Staff recommendation, but by a concession to your interest in Phase 1. They are still tied together by virtue of being the same development and the same parcel, and I can appreciate your reluctance to get involved with the road, but also bear in mind, how it all came about."

Mr. Foster: "We showed the road definitely shows circulation of Staff's request. The road was not put there at our request. We just simply wanted to show . . . , so there's a misunderstanding with respect that I was asking for the road. We did it for circulation purposes only."

Councilman Theobold: "Would you like us to go back to Phase 1 and go through Lot 17? Is that what you're saying? That's what it sounds like you're saying."

President Shepherd: "We have a motion on the floor."

Councilman Theobold: "Is the motion clear?"

President Shepherd: "The motion is that Council approve the final plat and plan for Phase 1, approve the revised Outline Development Plan for Phase 2 with an acceptable dedicated roadway, that Phase 1 Plat and Plan is contingent upon acceptable covenants and height restrictions as approved by the City Attorney and the Community Development Director. Have I missed anything?"

Councilman Bessinger: "Is not the thing contingent upon an agreed upon roadway alignment?"

Mr. Wilson: "No, this motion would say they must simply dedicate a roadway."

Mr. Krohn: "Mr. Mayor, may I ask, is there any stipulation as to location at all?"

Councilman Bennett: "No. It is up to the Fosters. It's their road."

President Shepherd: "Obviously, it is restricted to wetlands requirements, etc., so it won't just go up . . . "

Mr. Krohn: "Well, my concern is we'd not like it aimed at a swamp, or through the deepest part of wetlands."

Mr. Wilson: "If Council were willing, then the Public Works Director is in the business of locating roads, and I'm sure he would be happy to work with Mr. Logue in developing an appropriate location."

President Shepherd: "Now is there a second to the motion?"

Councilman Nelson: "Yes."

President Shepherd: "All those in favor of the motion signify by saying AYE."

All Councilmembers voted AYE.

President Shepherd: "All opposed?"

None.

The following entitled proposed ordinance was read: CHANGING THE ZONING ON CERTAIN LANDS WITHIN THE CITY LOCATED NORTHWEST OF HORIZON DRIVE AND 12TH STREET, KNOWN AS HORIZON GLEN SUBDIVISION. Upon motion by Councilman Theobald, seconded by Councilman McCurry and carried, the proposed ordinance was passed for publication.

ORDINANCES ON FINAL PASSAGE - PROOFS OF PUBLICATION

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

ORDINANCE NO. 2522 - INTERSTATE ANNEXATIONS NO. 1, NO. 2, NO. 3, AND NO. 4 - LOCATED EAST OF 23 ROAD AND SOUTH OF I-70

Upon motion by Councilman Bennett, seconded by Councilman McCurry and carried, the following entitled proposed ordinance was called up for final passage and read by title only: AN ORDINANCE ANNEXING TERRITORY TO THE CITY OF GRAND JUNCTION, COLORADO, WHICH SHALL BE ACCOMPLISHED IN A SERIES.

There were no comments. Upon motion by Councilman Bennett, seconded by Councilman McCurry and carried by roll call vote with Councilman BAUGHMAN voting NO, the Ordinance was passed, adopted, numbered 2522, and ordered published.

ORDINANCE NO. 2523 - AMENDMENTS TO CHAPTER 25, CODE OF ORDINANCES, SEWERS, CONCERNING INDUSTRIAL PRETREATMENT PROGRAM

Upon motion by Councilman Bennett, seconded by Councilman McCurry and carried, the following entitled proposed ordinance was called up for final passage and read by title only: AMENDING SECTION 25-14, 25-33, 25-58, 25-60, 25-62, 25-63 AND 25-64 OF THE CODE OF ORDINANCES OF THE CITY OF GRAND JUNCTION, COLORADO.

There were no comments. Upon motion by Councilman McCurry, seconded by Councilman Bessinger and carried by roll call vote, the Ordinance was passed, adopted, numbered 2523, and ordered published.

ORDINANCE NO. 2524 - REZONE FROM HIGHWAY ORIENTED (H.O.) TO RESIDENTIAL SINGLE-FAMILY 8 UNITS PER ACRE (RSF-8) - PROPERTIES LOCATED AT 2001, 2009/2011, 2015, 2031, 2012, 2020, 2026/2026-1/2, AND 2030 ASPEN STREET

Upon motion by Councilman Bennett, seconded by Councilman McCurry and carried, the following entitled proposed ordinance was called up for final passage and read by title only: CHANGING THE ZONING ON CERTAIN LANDS WITHIN THE CITY OF GRAND JUNCTION WITH THE STREET ADDRESSES OF 2001, 2009/2011, 2015, 2031, 2020, 2026/2026-1/2, AND 2030 ASPEN STREET.

There were no comments. Upon motion by Councilman Bessinger, seconded by Councilman Nelson and carried by roll call vote, the Ordinance was passed, adopted, numbered 2524, and ordered published.

EASEMENT VACATION IN AN RSF-8 ZONE LOCATED AT 268 WEST PARKVIEW DRIVE - TABLED TO JULY 17, 1991, TO ALLOW FOR ALTERNATE EASEMENT TO BE DEDICATED

Upon motion by Councilman Bennett, seconded by Councilman McCurry and carried, this item was tabled to the July 17, 1991, meeting to allow for an alternate easement to be dedicated.

RESOLUTION NO. 32-91 CONCERNING CITY PROPERTY TAX

The following Resolution was presented and read: (See next page.)

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

RESOLUTION NO. 44-91 AUTHORIZING EXECUTION OF MAINTENANCE CONTRACT WITH THE COLORADO STATE DEPARTMENT OF HIGHWAYS

The following Resolution was presented and read: (See next page).

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

CONSIDER NEGOTIATED SETTLEMENT OF OUTSTANDING WALKER FIELD ROAD

IMPROVEMENT ASSESSMENT (HORIZON DRIVE AT H ROAD INTERSECTION - I.D. ST-82, PHASE D)

City Manager Mark Achen explained that the issue is outstanding assessments associated with H Road and Horizon Drive intersection improvements made in the early 1980's, in the approximate amount of \$90,000 to \$100,000. The Airport Authority proposed paying \$74,000 of that amount in exchange for finally settling this issue. The issue was whether or not the City had made some commitments or had given an indication of a possibility of some kind of commitment to waiving all or a portion of the assessment in exchange for a dedication by the Airport Authority of a fire station site. There is no documented record of any agreement. The Airport Authority petitioned for the improvement, then filed an objection to the assessment for the improvement. The staff of the Airport and the City have been attempting to find a reasonable solution.

John Leane, Chairman of the Airport Authority, was present and stated he desired to get this resolved. Airport Manager Jeff Wendland was also present.

Upon motion by Councilman Theobald, seconded by Councilman McCurry and carried, the City Manager was authorized to execute an Agreement with the Walker Field, Colorado, Public Airport Authority regarding the outstanding road improvement assessment, said terms would be that the Airport Authority will pay approximately \$74,000 in the next three years, with \$45,000 due in 1991, and \$11,000, \$10,000 and \$8,000 due in the subsequent years.

PERMANENT EASEMENT (TIARA RADO GOLF COURSE)

City Attorney Dan Wilson explained that the City recently dealt with Mr. Keith Mumby, representing the Redlands Swim Club, to do some overflow parking at Tiara Rado Golf Course. The tennis courts encroach on golf course land. Parks Director Ted Novack indicated the City did not realize it was City land and the City has no interest in the land. The request is for \$10 that the City grant a permanent easement to the ground. The reason for an easement, but it being Park land, the City Charter does not allow the City to convey park land without a vote of the people. They are attempting to sell the property to the person who is occupying the land presently. The easement will supply them with title to continue to operate the premises. The Parks Director has recommended that the easement be approved.

Upon motion by Councilman Nelson, seconded by Councilman Baughman and carried, the City Manager was authorized to execute a permanent easement in favor of the owner of this particular land.

DESIGNATE A PUBLIC NOTICE LOCATION WITHIN CITY HALL LOBBY

Upon motion by Councilman Theobald, seconded by Councilman Bessinger and carried, a Public Notice (open meetings law)

location was designated at the South entrance lobby, and the City Manager was directed to designate a proper exterior location as well for approval.

SALE OF CITY RESERVOIR WATER TO KANNAH CREEK IRRIGATORS

It was moved by Councilman Theobold and seconded by Councilman McCurry that the Council endorse Staff's recommendation to sell surplus reservoir water at \$5.00 per acre foot; that the historical users be given first priority; that the agreement to put it to beneficial use on their own property be included; that people who resell would not be sold to; and people who are in litigation with the City not be sold to.

Discussion then followed regarding the \$5.00 per acre foot charge.

It was moved by Councilman Baughman and seconded by Councilman Bessinger that the motion be amended to reflect that for 1991 the charge for reservoir water be \$3.75 per acre foot and the charge be reconsidered on a yearly basis. The motion carried with Councilmembers THEOBOLD and MCCURRY voting NO.

The vote was called on the main motion with the amendment to charge \$3.75 per acre foot for 1991 and the charge to be reconsidered on a yearly basis. All Councilmembers voted AYE.

SALES TAX AUDITOR POSITION

A proposal was made to create a new position in the Administrative Services Department for an auditor for sales and use taxes. The City Manager's intent would be to monitor funds on an annual basis to make sure the revenues exceed the cost of this position. Upon motion by Councilman Bessinger, seconded by Councilman McCurry and carried with Councilman BAUGHMAN voting NO, the position of Sales Tax Auditor was created.

RESOLUTION NO. 32-91

WHEREAS, throughout Colorado, citizens are concerned about what appears to be a never ending increase in taxation; and,

WHEREAS, the taxes paid to the City of Grand Junction are relatively small when one considers that 66.7% of the total tax burden on the average citizen is imposed by the federal government and 17.1% is imposed by the state government; and,

WHEREAS, locally, in 1990 Mesa County received 30% of each property tax dollar; the school district received 53%; special districts received 13.4% and the City received only 3.6%; and,

WHEREAS, the Council shares the concerns of its citizens and applauds efforts to limit unbridled growth in state and federal taxation; and,

WHEREAS, even though the Council can do little to limit the largest taxing entities, it can do, and has done, its part by holding its property tax at a constant dollar amount; and,

WHEREAS, long before the term "tax limitation" became popular, consecutive City Councils have held real property revenues constant. Without an increase equal to inflation each year, the actual purchasing power to provide City services with property tax dollars has been constantly decreasing since 1980.

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

The mill levy will be set for the 1991 tax year, to be paid in 1992, at a level which will keep the city's property tax revenue at the same level it was in 1990. The only adjustment will be to reflect annexations and new construction in the city.

The City Manager is directed to incorporate this philosophy and direction into his preparation of the 1992 budget to be submitted to the Council.

Passed and adopted this 3rd day of July, 1991 at Grand Junction, Colorado.

Conner W. Shepherd

Mayor

Attest:

;sigl;
Neva B. Lockhart, CMC/City Clerk

RESOLUTION NO. 44-91

APPROVING A CONTRACT WITH THE STATE OF COLORADO FOR OPERATION AND MAINTENANCE BY THE CITY OF TRAFFIC CONTROL DEVICES ON STATE HIGHWAYS WITHIN THE CITY LIMITS OF THE CITY OF GRAND JUNCTION.

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

That a certain contract with the State of Colorado for the use and benefit of the Department of Highways has been proposed whereby the City of Grand Junction obligates itself to operate and maintain certain traffic control devices on State highways within the City, the operation and maintenance of such traffic control devices to be performed at the expense of the State, as per the terms of the contract, which contract is hereby approved and the City manager is hereby authorized to execute the contract on behalf of the City of Grand Junction.

PASSED and ADOPTED this 3rd day of July, 1991.

Conner W. Shepherd

President of the Council

Attest:

Neva B. Lockhart, CMC

City Clerk

ADJOURNMENT

The President adjourned the meeting.

Neva B. Lockhart, CMC

City Clerk