

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

MARCH 16, 1994

The City Council of the City of Grand Junction, Colorado, convened into regular session the 16th day of March, 1994, at 7:30 p.m. in the City/County Auditorium at City Hall. Those present were Linda Afman, Jim Baughman, Bill Bessinger, R.T. Mantlo, Ron Maupin, Dan Rosenthal, and President of the Council Reford Theobold. Also present were Assistant City Manager David Varley, City Attorney Dan Wilson, and City Clerk Stephanie Nye.

Council President Theobold called the meeting to order and Council-member Afman led in the Pledge of Allegiance. The audience remained standing during the invocation by Vernon Black, First Christian Church.

**PRESENTATION OF GOVERNMENT FINANCE OFFICERS ASSOCIATION (GFOA)
CERTIFICATE OF ACHIEVEMENT FOR EXCELLENCE IN FINANCIAL REPORTING
FOR 1992 TO REX RICKS, RANDY BOOTH, AND JIM FLYNN - PRESENTED BY
RON LAPPI, ADMINISTRATIVE SERVICES DIRECTOR**

**RECOGNITION OF ATTENDANCE OF MEMBERS OF BOY SCOUT TROOPS 386, 365
AND 333**

APPOINTMENTS TO COMMISSION ON ARTS & CULTURE

Upon motion by Councilmember Maupin, seconded by Councilmember Mantlo and carried, Ann Sanders was reappointed to a three-year term on the Commission on Arts & Culture, and Jeanne Kilgore and Karen Kiefer were appointed to three-year terms on the Commission.

CONSENT ITEMS

Upon motion by Councilmember Mantlo, seconded by Councilmember Bessinger and carried with Councilmember **BAUGHMAN** voting **NO** on Items 15 and 17, and noting that the extension of the automatic reversion date for Purdy Mesa Livestock Water Company agreement, Item 10, is until December 31, 1994, the following Consent Items 1-19 were approved:

1. **Approval** of the minutes of the Regular Meeting March 2, 1994
2. **Award of Contract** for the Purchase of 50,000 lbs. of Crackfill Material - Recommended Award - GMCO Corporation - \$19,250.00

Four bids were received and opened February 25, 1994:

GMCO Corporation	\$19,250.00
Gilsabind Convidar	\$19,880.00

* The low bid Case 1845C Skid Loader will not accept the backhoe attachment as required; to purchase a backhoe for the Case would cost an additional \$6,000.00.

** The low responsive bid was submitted by White Star for a Bobcat 7753 Skid Loader. This unit is identical to the skid loader purchased for golf course maintenance last year.

6. **Award of Contract** for Landscape Construction at the New Visitor Center with Change Order No. 1 Reducing the Contract to \$32,632.17 - Recommended Award - Valley Grown Nursery - \$32,632.17

Technical specifications and project drawings were prepared by Ciavonne & Associates, Inc. Bid documents were distributed to eight landscape contractors with four responsive bids received:

Valley Grown Nursery	\$38,735.65	<\$6,103.48>
Bookcliff Gardens	\$42,638.00	
Landscape Designs	\$42,980.00	
Clarke & Co.	\$47,600.00	

A change order was negotiated with the low bidder to reduce the contract by \$6,103.48. The changes included reduced soil preparation, elimination of pinion pines from planting plan, reduction of plant sizes and elimination of landscape boulders.

7. **Award of Contract** - 1994 Water Line Replacements - Recommended Award - Palisade Constructors - \$255,103.00 with the deletion of Second Street

The following bids were received on March 3, 1994:

Palisade Constructors	\$272,377.50	(\$255,103.00 w/o 2nd St)
Parkerson Construction	\$299,915.00	
United Companies	\$355,510.75	
Lyle States Construction	\$370,481.25	
Diamond Back Services	\$444,065.00	
M.A. Concrete Constr.	\$478,508.00	
Atkins & Associates	\$621,828.00	
Engineer's Estimate	\$295,792.50	

8. **Award of Contract** - North/Glenwood Alley Drainage Pan and 1994 New Sidewalks Construction - Recommended Award - Mays Concrete - \$145,948.00

12. **Authorization** for the City Manager to Execute a Local Cooperation Agreement between the Department of the Army and the City for the Construction of the Grand Junction Levee Project Along the North Overbank of the Colorado River from the Denver and Rio Grande Western Railroad Bridge to the Uranium Mill Tailings Site, east of 9th Street

The Army Corps of Engineers has completed their design of the flood control levee and is prepared to proceed with the construction phase of the project. The construction phase requires a Local Cooperation Agreement to define local and federal responsibilities for management and funding of the project.

13. **Award of Contract** for Aerial Mapping Services for Digital Orthophotographic Mapping - Recommended Award - Merrick & Company - \$76,003.00

Eight proposals were received on February 15, 1994. Bids for the original scope of work are as follows:

Merrick & Co.	\$51,917
Kucera International Inc.	\$55,338
Analytical Surveys, Inc.	\$56,620
Olympus Aerial Surveys	\$60,235
Aerial Data Reduction	\$67,430
Aero-Metric Engineering, Inc.	\$75,150
Bohannon Houston, Inc.	\$83,825
SURDEX Corp.	\$90,180
Horizons, Inc.	\$98,252
Staff estimate	\$67,750

The amount originally budgeted for this project was set at \$67,750 with the City's share being \$48,000. Since that time, the City has obtained additional commitments from other agencies, bringing the total funds available to \$78,724. This has allowed for negotiation with the low bidder to increase the size of the project to cover 175 square miles at a cost of \$76,003. The City's share of the project cost would remain at the \$48,000 mark, as originally budgeted.

14. **Approval** of a Revision to the Contract with Curbside Recycling Indefinitely (CRI) dated October 30, 1992

When reviewing the 1993 third quarter report on the curbside

recycling, an error was discovered. The amount to be compensated for 1994, 1995, 1996 and 1997 that the City of Grand Junction would be paying to CRI was miscalculated by deleting the avoided costs.

15. *** Resolution No. 19-94** - A Resolution Adopting the 1994 Municipal Annexation Plan

C.R.S. 31-12-101, et seq. requires yearly review and updating, if necessary, to the Municipal Annexation Plan. This plan describes the area within which possible annexations may occur, existing and proposed infrastructure, City services,

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and proposed land uses. The 1994 Municipal Annexation plan incorporates minor changes to the descriptions of City facilities and services. Upon adoption, this plan will be forwarded to the County Commissioners as required by State Statutes.

16. **Proposed Ordinance** - An Ordinance Amending Section 5-7-7.B.5. of the Zoning and Development Code Pertaining to Flush Wall Signs to Allow for the Redistribution of Sign Allowance on Buildings

Staff is proposing that this section be amended to allow any or all of the sign allowance of a facade to be transferred to a facade with no allowance. This does not increase the total amount of signage a building could have, but offers some flexibility in where that signage is located.

a. First reading of proposed ordinance

17. **Proposed Ordinance** - An Ordinance Adopting the 1991 Editions of the Uniform Fire Code and Uniform Fire Code Standards; Prescribing Regulations Governing Conditions Hazardous to Life and Property from Fire or Explosion; Providing for the Issuance of Permits for Hazardous Uses or Operations; and Maintaining a Bureau of Fire Prevention and Providing Officers Therefore and Defining their Powers and Duties

The Uniform Fire Code regulates processes and storage of materials which would reasonably contribute to fire causes. The Code further stipulates requirements that protect people from fire. The City has adopted previous versions of the Code in years past. The 1988 version of the Code is currently in effect. The 1991 version includes a minimum number of substantive changes. Most of the differences between the two versions are editorial in nature, making the Code easier to read and apply.

a. First reading of proposed Ordinance

18. **Authorization** for the purchase of a Computerized Management Information System from Systems and Technology Corporation (SCT) and authorization for the City Manager to sign the contracts necessary to implement the specified modules, not to exceed the \$535,000 budgeted appropriation

This system is to replace the currently inadequate MUNIS financial systems with a state of the art Relational Database, Network Based, Management Information System as specified in the Information Services Long Range Plan. The system includes modules for Financial Management, Human Resources, Utility Services, and Court Management. It is expected that

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implementation of this system will greatly increase the efficiency and productivity levels of all City departments allowing us to provide enhanced services to our growing citizen customer base.

19. *** Resolution No. 20-94** - A Resolution Authorizing the City's Participation in the Pension Obligation Task Force

This resolution states the City's intention to cooperate in an evaluation of the benefits and costs of a pension obligation bond program and designates Ron Lappi as the lead official. The resolution does not obligate the City to participate in the bond program, participation will require additional City Council action.

* * * END OF CONSENT CALENDAR * * *

* * * ITEMS NEEDING INDIVIDUAL CONSIDERATION * * *

PUBLIC HEARING - AN APPEAL OF A PLANNING COMMISSION RECOMMENDATION FOR DENIAL OF A REQUEST TO VACATE THE SAGE COURT RIGHT-OF-WAY, SOUTH OF NORTHACRES ROAD

The owners of properties adjacent to the platted Sage Court right-of-way are requesting that the entire length of the right-of-way from the proposed Northacres Drive south to the existing cul-de-sac be vacated. The petitioners have historically used a private drive that runs east-west between 7th Street and the Sage Court cul-de-sac and would like to continue to use this private drive to access this southern portion of the Northacres subdivision.

Kristen Ashbeck, Community Development Department, reviewed this

item. She stated that City staff is opposed to the vacation of the right-of-way for the following reasons:

1. Even though the City is maintaining the easement, there is no clear evidence as to whether the easement is exclusive or non-exclusive. There is still a question as to whether the City or others have the right to continue to use it.
2. The vacation of Sage Court would also set a precedence for allowing private drives that do not meet City standards to be used as access into subdivisions. This has generally been discouraged by the City.
3. City staff has concerns with safety. The existing roadway does not meet fire requirements that requires a 20-foot right-of-way. The graveled area is approximately 14 feet wide.

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4. There are problems with dust as expressed by surrounding property owners which will be heightened by the proposal which was recently adopted by the Planning Commission. Additional complaints with the dust problems are expected.

City staff recommends that the right-of-way not be vacated, and allow the cul-de-sac with the park to remain as it is, and the City to construct the portion in between. The cost estimate for that construction is approximately \$12,000. That cost includes some pavement work of the cul-de-sac, which was not the City's intent. Therefore, the cost estimate has been reduced to \$6,000.

President of the Council Theobald clarified that this is an easement based on some degree of prescriptive use in that they drove on it long enough that the Court said you can continue to drive on it, but did not say with clarity who else could drive on it. City Attorney Dan Wilson stated that there are utilities within the easement as well.

The hearing was opened. The petitioners are William Merkel, Ruth and Kent Webster, William and Wanda Putnam, Gordon and Victoria Gilbert, Mark and Virginia Wilson.

Those speaking in favor of the vacation were:

Kent Webster, 629 Sage Court, which is Lot 6. He thought that the legality of their access had been solved long ago. He stated that the issue between the Gordons and the other residents in Northacres was resolved by the granting of a new deed in 1986 from the Gordons to the five residents there. Mr. Webster provided a

copy of the deed from the Gordons as well as a copy of the continuation of the Gordon easement across the Heuton lot, which is Lot 3. When the Gordons executed that deed, they solved all the questions about the right to use the easement. The easement is 20 feet in width, not 14 feet. When the problem was settled with the Gordons, the easement across the Gordon tract and the Heuton tract were both 20 feet. With the exception of the Gordons, there have been no problems with the use of the easement. He stated that the road has been adequate for 50 years for every service that has been provided. An interest in property is generally assignable. An easement in Colorado is an interest in property. The petitioners are in a position to give the City an assignment and a license to delegate to them the right to use this road to provide City services, including the right to maintain and repair the road. He realizes that the City Attorney or Assistant City Attorney must do some research regarding this assignment.

Mr. Webster continued that he and his neighbors are happy with the small grassed park, and would not want to see a paved right-of-way in its place that would invite traffic from Northridge. He felt there are a lot of advantages in leaving things as they are. He

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cannot see the value to paving the right-of-way. The logical way for the City to get out from under the liability of the park and the duty to maintain it is to vacate the cul-de-sac and let the residents maintain it. The alternative is for the City to tear out the trees and grass and pave over it with curb and gutter. It will meet all the requirements of the City code, but will make no sense.

Virginia Wilson, 627-1/2 Sage Court, Lot 5. She has two small children, and purchased this property mainly for the safety of the area. She did not wish to see the cul-de-sac changed.

Wanda Putnam questioned why the City would spend \$18,000 to pave that area for something that is not needed and will not be used. Wildlife in the area will be inadvertently affected. When roads are paved people will use them, people that the residents don't want in the area, and people that their children are safe from now.

Mr. William Putnam, 627 Sage Court, a resident of the area since 1962, requested that the character of the neighborhood be preserved. He suggested that there are other narrow streets inside the City limits (Lilac Lane, streets in Mantey Heights, Step Aside Drive, as examples). The reason for filing a petition to vacate was to keep the unnecessary road from being built at a substantial cost to the City. He requested that his request be considered positively.

City Attorney Dan Wilson stated that while the property owners are used to using this easement exclusively over time, and as the road

to Northacres is built out to the west, some people would want access out through the west from Mr. Putnam's area. The legal issue is it is the City's responsibility to provide a public right-of-way to each property. In this circumstance there may be a solution. The technical right-of-way should remain dedicated as Staff has proposed. A revocable permit could then be issued to the five property owners with an agreement. The City Charter requires that a revocable permit can be terminated at the Council's discretion. An Agreement for a revocable permit could state that the City would not maintain the property, that the City would give over control, operation, maintenance of the property, and would allow it to be posted as "private driveway - no public access", and clearly identify the fact that the cul-de-sac area could continue to be used as a park. That would solve the concerns of the City. The City would not have to pave anything, and it would preserve the residents' park rights.

Mr. Putnam wished to take time to think about it, and come back at a later date for discussion of a possible revocable permit.

Lyle Chamberlain, 2073 South Broadway, representing the owner of Lots 1, 2, and 7 (Northacres developer), spoke in favor of the

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vacation of Sage Court in lieu of the private drive as it exists today. He could no reason to duplicate existing facilities or arrangements which may or may not ever be used. As the developer, he objected to public use of funds to extend that by the developer or user fees. The proposal includes providing those improvements for which the developer also supports vacation. If the subdivision is approved, the developer has agreed to provide the improvements. However, if Council vacates the easement, the developer would be willing to rededicate open space back to the City for future use should the landowners petition later for a public access.

City Attorney Dan Wilson clarified Mr. Chamberlain's statement that the road to be vacated now is over the portion that adjoins his lots. Mr. Chamberlain would agree that there would be some conveyance to the City, call it "open space" or "unused space", but not "public right-of-way". It would preserve the option for the City if the residents did ever want a roadway there, that the City would not have to condemn the lot or condemn the house to build the road in the future. It would save the developer some money now, and preserves the option in the future.

Councilmember Maupin clarified that if the City does not vacate the right-of-way, the developer is required to pay for the road. If the City does vacate the right-of-way, the developer does not have to pay for the road.

Councilmember Afman suggested vacating the right-of-way, deeding the property for future choice by the City in the alignment that the City desires, and escrowing the funds that the developer would have spent on the roadway so that the City could use those funds if and when the roadway needed to be improved. It does not help the developer, but it certainly saves the City dollars over time.

President of the Council Theobald restated that the suggestion was that the Sage Court that is the north end surrounded by Mr. Chamberlain's development, would be vacated and then deeded back to the City. However, the developer has expressed concerns about putting money into escrow for a road that may never be built. Mr. Chamberlain asked that the escrowed funds be used to reduce dust on the existing easement being used for access.

City Attorney Dan Wilson stated that if the assignment were made to the public, the City of Grand Junction, he was concerned that it is an expansion of the use, and could be claimed as a detriment to Mr. Gordon. Once the easement is assigned to the City, anyone has the right, in theory, to drive up and down there all day long.

That is the risk that the City takes if it leaves the easement in as the sole access.

Those speaking in opposition to the petition were as follows:

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John Gordon, owner of property at 629-1/2 26-1/2 Road, located just east of the Sage Court residents. He stated that Northacres Subdivision was platted and surveyed in 1965. The plat was filed with Mesa County on July 15, 1966. At that time there were three houses in the area. Since that time two more houses have been constructed. Mr. Webster purchased his property in 1968. Since that time there has been one new home built. Mr. Gordon is assuming that all the property owners in the area were well aware of the subdivision and where the proposed Sage Court access was located. If the vacation is granted, leaving the 20 foot easement as the only access, any future widening of that access will require condemnation of additional property across his property. Mr. Gordon does not feel that the City should give up dedicated access and then come back to him and condemn more of his property.

Mr. Gordon continued that with nine additional houses in that area there is a dust problem now. There will be a number of new home owners complaining about the dust coming from the usage of the road. If there is ever an improvement district formed to upgrade the road, Mr. Gordon feels he is going to pay most of the cost because most of the frontage is on his property. He does not want to pay the cost of a roadway that he really does not want, and thought was going to be moved, which was the indication from the original developer. There are two options for the access road. The existing road can be closed, or let it die a natural death.

He could not understand anyone wanting to maintain a graveled road for infinity when they have a paved road to their house. Mr. Gordon thought it ironic that everyone knew the access was to be moved, and are now filing an objection to it.

Judy Heuton, 630 Sage Court, owner of property between the Gordon property and the actual court area (Lot 3). Her main concern is that the park remain intact. She understands that is really not an issue at this point. The dust is an issue. She was surprised that there are neighbors on 7th Street to the east who have already complained about the dust this year. Ms. Heuton stated that she has laid down \$600 worth of gravel at her expense on her stretch of the roadway. The most recent gravel spread was shared with the Websters. She concurred with the Staff recommendation on this issue because it is a simple answer. It gives public access to all the people who are on the court, which they would not have if that access were to be vacated.

Ms. Heuton was very much in favor of the fact that it exists on paper because she has a good deal of dead space on the far side of the lane which she would like to have back someday. If that is the only access, it's just a matter of time until somebody feels that it should be public, and somebody else feels that it should be paved. It's a very narrow, sloping piece behind her house, and it's always in shade. There have been several accidents right there, and she is concerned. She wondered if the neighbors share in the liability for the existing access.

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Ms. Heuton spoke for her husband stating that he would use a paved road. Ms. Heuton signed the petition originally because the status quo is so appealing to them. They are fond of their neighbors, and feel privileged to live in that neighborhood. She did not want to see it changed. That is why they signed the original petition to vacate. It would keep things the same. She admitted that she would like to have the use of the rest of her back yard, but not necessarily at the expense of her neighbors.

There were no other opponents, letters, or counterpetitions. The hearing was closed.

Councilmember Bessinger stated that the unfortunate part of this is the one-way access that would not take much to keep a fire truck and ambulance from accessing either of those areas. An accident could block that road for a length of time and would be critical if there was a fire or injury in these areas.

Councilmember Baughman stated that the City took this on when the area was annexed "as is". The City did not require it to be upgraded. The right-of-way has been given and is a 20 foot easement, and unless the City tries to widen that, there is no problem.

Councilmember Afman questioned if Council denies the petition to vacate the roadway, does this stop now or does Council readdress it when the lots are back before Council for future development.

City Attorney Wilson stated that Council can deny the petition tonight. As a part of the final subdivision approval, a separate decision can be made on where the location of the Sage Court right-of-way would be located. That is a separate decision that does not directly affect the petitioners. It only directly affects the developer.

Councilmember Afman stated that it does, in turn, directly affect the City because that is a dedicated roadway at the present time. She felt that is the key question.

Kristen Ashbeck, Community Development Department, stated that the only portion that would come back to Council would be the vacation of current Sage Court right-of-way with the new right-of-way being included when the replat is approved.

President Theobald reiterated earlier discussion with the idea of the cross hatch not being vacated, but a revocable permit which renders it temporarily unusable. The northern portion of Sage Court could then be vacated by the developer to the City for open space. That then leaves the City with the option of turning it into a road or something else. If that happens does the City ask the developer to escrow funds for the future paving of a street

that may or may not exist. It leaves Mrs. Heuton's concern about dust. That option does not end up with an improved roadway. You end up with something that could be, but is not now.

Councilmember Maupin stated that he is very familiar with the neighborhood. He grew up on the other side of the canal. He knows change is hard. He does not believe that new development should have adverse affects on current residents. He also feels the neighbors' sense of security by having the long dirt road is false. Anybody can drive down that road as well as they can drive down the shorter road. He is very concerned about the dust and air pollution. Mr. Gordon is required to maintain that piece of property that he basically cannot use. He would like to see some option where they can do a private subdivision, or that the City would not improve that road if the residents really want to leave it dirt. He does not see the City maintaining a Northacres road and an easement that close together. Although he hates to see the neighborhood change, he really feels it will be for the better in the future.

Mr. Kent Webster stated that he thinks his neighbors would like to

explore the City Attorney's idea of a revocable permit. He requested that this item be tabled and give the residents an opportunity to consider this option.

City Attorney Wilson stated that continuing this item until such time as final platting for Northacres is expected gives the petitioners time to confer with himself and Assistant City Attorney John Shaver. This would be a continuation of this item.

Councilmember Bessinger stated that this hearing issue should be resolved, and discussion of a revocable permit can be discussed at another time.

President Theobald stated that denying tonight's request does not necessarily defer the matter. It pretty well makes the decision.

Councilmember Mantlo stated that he would like to postpone this item and see what the petitioners come back with before making a final decision on this item.

Councilmember Bessinger stated that if Council denies the vacation, everything remains just as it is right now. No action has been taken.

Lyle Chamberlain questioned if the vacation is denied, does that not make the Sage Court residents come back and reapply and go through the City planning process again, or can they bring it back to Council. Mr. Chamberlain stated that he plans to complete the process by this summer for improvements.

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City Attorney Wilson stated that a 60 day continuance would be realistic. If the developer has not applied for final plat, then 60 days will be a minimum time for him to get through the process.

At that point, staff may be able to update Council. If there is a solution, then Council can make a decision to vacate a portion independently, and require the dedication. That would slow the developer up, and then the hearing could be concluded. The advantage to continuing is the renote is not necessary.

President Theobald liked the idea of continuing because it gives Council more flexibility. Council could deny the request, and issue a revocable permit, and not have reapplication, and actually do it all at one time.

Upon motion by Councilmember Bessinger, seconded by Councilmember Mantlo and carried, this item was continued to the regular City Council meeting on June 1, 1994, at 7:30 p.m.

NRC MEETING IN WASHINGTON D.C.

President Theobald reported on the meeting in Washington, D.C. primarily dealing with the tailings situation. The meeting with the NRC regarding the \$640 million question was very productive.

ADJOURNMENT

Upon motion by Councilmember Bessinger, seconded by Councilmember Mantlo and carried, the meeting was adjourned at 9:19 p.m.

Stephanie Nye, CMC
City Clerk