

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

November 16, 1994

The City Council of the City of Grand Junction, Colorado, convened into regular session the 16th day of November, 1994, at 7:30 p.m. in the City/County Auditorium at City Hall. Those present were Linda Afman, Jim Baughman, Ron Maupin, Reford Theobald, John Tomlinson and President of the Council R.T. Mantlo. Bill Bessinger was absent. Also present were City Manager Mark Achen, City Attorney Dan Wilson, and Acting City Clerk Christine English.

Council President Mantlo called the meeting to order and Councilmember Baughman led in the Pledge of Allegiance. The audience remained standing during the invocation by Rev. Juvenal Cervantes, Bethel Baptist Church.

APPOINTMENT TO FORESTRY BOARD

Upon motion by Councilmember Baughman, seconded by Councilmember Maupin and carried by roll call vote, Denzil A. Harward was appointed to the Forestry Board.

CONSENT ITEMS

Upon motion by Councilmember Maupin, seconded by Councilmember Afman and carried by roll call vote, the following Consent Items 1-6 were approved:

1. **Approving** the minutes of the Regular Meeting November 2, 1994
2. **Community Development Block Grant for the Resource Center**
 - a. *** Resolution No. 101-94** - A Resolution Authorizing a Contract with the State of Colorado, Department of Local Affairs, Division of Housing for the Acceptance of Community Development Block Grant Funds

The Resource Center is requesting that the Council adopt the resolution authorizing acceptance of a \$100,000 low and moderate income housing grant from the State of Colorado, Department of Local Affairs, Division of Housing.

- b. *** Resolution No. 102-94** - A Resolution Authorizing an Agreement with the Resource Center for the Administration of Certain Community Development Block Grant (CDBG) Funds

Staff is requesting that the Council adopt the

resolution authorizing a contract with The Resource Center for the administration of the above referenced grant.

3. *** Resolution No. 103-94** - A Resolution Referring a Petition to the City Council for the Annexation of Lands to the City of Grand Junction, Colorado, and Setting a Hearing on Such Annexation - Grisier-Ritter Annexation Located at 698 25 1/2 Road [File #183-94]

J. Raymond Hiatt and Donna M. Hiatt have signed a Power of Attorney for annexation to allow for the development of their property. They have requested that they be allowed to develop to city standards and through the City review process. The Petition for Annexation is now being referred to City Council.

4. *** Resolution No. 104-94** - A Resolution Referring a Petition to the City Council for the Annexation of Lands to the City of Grand Junction, Colorado, and Setting a Hearing on Such Annexation - Willow Ridge Annexation Located on the North Side of Highway 340, South of the Redlands Canal and East of May's Subdivision [File #149-94]

Oliver Frasca has signed a Power of Attorney for annexation to allow for the development of his property by Ken Schmohe, developer. They have requested that they be allowed to develop to City standards and through the City review process. The Petition for Annexation is now being referred to City Council.

5. **Award of Bid** for 275,000 copies of the full-color 1995 Visitor Guide - Recommended award: Mountain West Printing in the amount of \$32,915.00.

The City received the following bids on November 4, 1994:

| Vendor | Bid |
|--------------------------------|-------------|
| Mountain West Printing, Denver | \$32,915.00 |
| A.B. Hirschfeld Press, Denver | \$33,369.00 |
| Frederic Printing, Aurora | \$37,043.00 |
| Pyramid Printing, Grand Jct. | \$39,737.00 |
| Publication Printing, Denver | \$43,714.00 |

Several years ago Mountain West printed the brochure and did an excellent job. Mountain West's bid was reviewed and approved by our ad agency, Tashiro Marketing and Advertising.

6. **Award of Bid** for the Replacement of Pathways at Lincoln Park and Approval of Change Order #1 in the Amount of \$6,135.00
Recommended Award: M.A. Concrete in the Amount of \$14,854.50

The following bids were opened November 9, 1994:

| | |
|------------------------|-------------|
| M.A. Concrete | \$14,854.50 |
| Mays Concrete | \$22,926.00 |
| Fred Cunningham Const. | \$26,522.50 |
| Armendariz Const. Co. | \$54,193.45 |

Due to the low cost of concrete work and the availability of the appropriated funds, Parks staff recommends executing a change order to increase sidewalk and handicap ramp width to six feet from the planned four feet. The additional width will bring the project total to \$20,989,50.

* * * END OF CONSENT CALENDAR * * *

* * * ITEMS NEEDING INDIVIDUAL CONSIDERATION * * *

RESOLUTION NO. 109-94 - A RESOLUTION REFERRING A PETITION TO THE CITY COUNCIL FOR THE ANNEXATION OF LANDS TO THE CITY OF GRAND JUNCTION, COLORADO, AND SETTING A HEARING ON SUCH ANNEXATION - EASTERN COMMERCIAL/FRUITWOOD SUBDIVISION ANNEXATION [FILE #196-94

The City desires to annex lands east of the present City limits. Powers of Attorney (POA's) have been obtained for a couple hundred acres of airport lands to the east of the current City limits and the two hundred and four (204) lot Fruitwood Subdivision Filings 1-7. These POA's, along with adjoining lands, are being considered as part of the Eastern Commercial/Fruitwood Annexation.

In the essence of time and due to public response, Resolution No. 109-94 was moved up to the first item on the agenda. Mayor R.T. Mantlo reiterated this was not a public hearing therefore only a discussion of the item would take place. The Mayor also stated the City of Grand Junction and the residents of the city would not bear the expense of an incorporation election. It is Council's opinion the Clifton residents will choose annexation over incorporation. If an election is held in November, 1995, it would allow consideration of all options available to both the City of Grand Junction and Clifton:

Option 1 - Proceed with the Villa Coronado Annexation and the 32 Road Commercial Annexation, and ignore the Citizens

Advocate's request;

Option 2 - Conduct Grand Junction annexation and Clifton incorporation elections simultaneously in November, 1995; this might result in contradictory results which could only be sorted out by further lawsuits.

Option 3 - Hold a Grand Junction Annexation election in April, 1995, requiring the City to expend considerable energy and resources in the next few months.

City Attorney Dan Wilson explained the statutory process for the City to proceed with an annexation starts with a referral of a petition, if it meets minimum statutory requirements. Then the Council could find that it meets these requirements and could proceed. The process afterwards takes roughly two months or longer to actually complete. This step is the beginning phase of referring a petition to the Council.

Dave Thornton, Senior Planner, Community Development Department presented the petition, which meets the minimum requirements, and alleges that the Eastern/Commercial Fruitvale Annexation is eligible to be annexed. A proper petition has been signed by 50% of the owners and encompasses more than 50% of the property described; not less than 1/6 of the perimeter of the area which is to be annexed is contiguous with the existing City limits; a community of interest exists between the area to be annexed and the City, this is so in part because the Central Grand Valley is essentially a single demographic and economic unit and occupants of the area can be expected to, and regularly do, use City streets, parks and other urban facilities. The area will be urbanized in the near future. The area is capable of being integrated with the City. No land held in identical ownership is being divided by the proposed annexation. No land held in identical ownership comprising 20 contiguous acres or more with a valuation of \$200,000.00 or more for tax purposes is included without the owners written consent. The area being considered contains 200 plus acres of airport land as well as the 32 Road corridor which includes Mesa Point, Coronado Plaza, Peachtree/Bray Plaza, Alpine Bank and other commercial type properties in that corridor. Then at 30 Road and I-70B, included are the commercial properties there, Dairy Queen, Country General and the other commercial properties in that area, both sides of North Avenue, most of the area on North Avenue between the present City limits and 30 Road, plus the 204 lot Fruitwood Subdivisions which are filings 1-7.

Councilmember Baughman questioned City Attorney Dan Wilson how

this annexation, which is being based on another annexation presently in the process, can be contiguous to the City limits when that annexation is not yet completed. Is it legal to base an annexation which has to be 1/6 contiguous with present City boundaries, on City boundaries which are not even added to the City at the present time? Attorney Wilson replied that based on prior findings it has been indicated that the City intends to annex the Villa Coronado, so the staff findings are based on that.

As long as this one is done sequentially, the Villa Coronado will already be done. However, if the decision is made not to continue with Villa Coronado, this annexation would not stand on its own as currently presented.

The following citizens voiced their opinions:

Tim Foster expressed his feeling that the City Council was attempting to take the commercial area which would forestall the ability of Clifton to incorporate since they had last talked about the City trying not to move in this direction. He found this stunning and disheartening. Mr. Foster also spoke regarding the options offered by Mayor Mantlo. He felt the option of a November ballot with annexation, or incorporation or neither is not an option. This is a no win situation, and it is not functional in an election process. He felt a question of annexation, yes or no, or incorporation, yes or no, would be clear and concise with no confusion. Mr. Foster felt it was a question of who can get to the ballot box first but with the amount of work being done with the County on budget issues and police protection, it makes no sense to try to push the incorporation vote earlier. The City can clearly go to the voters earlier if they so desire. By annexing out to 32 Road, and in fact taking in the commercial area, the City has effectively negated any opportunity for Clifton to go to an incorporation vote because they will have no commercial area and therefore they have no funds to run a city. In the spirit of compromise, the suggestion of stepping back with the City then going to a vote in April to annex up to 31 1/2 Road and then, depending on the results, the City of Clifton folks would move forward. That gives the City the first shot and it takes in the mile and a half of the area which is currently in the Clifton Fire District. That would negate the petitions that are currently valid and completed and all the work that has gone into them. In fact, if the City prevails, the incorporation committee would have to start the petition process over again.

City Attorney Wilson explained the steps involved in annexation. The first step being the referral from the Clerk and, finding it to meet the minimum statutory requirements. This is not making the ultimate finding, it is saying that the petition is good so

far. Then a hearing is set no sooner than 30 days nor longer than 60 days after. This is the hearing where people can come in and question contiguity or urbanization, or ability of being integrated into the City. Then based on that testimony, the Council, if they found the petition still meets the statute, could then do a first reading of the annexation ordinance. It is the ordinance which actually begins the formal process of bringing it into the City. Under the City of Grand Junction Charter, you can not do a second reading unless you declare an emergency, any sooner than two weeks hence. Therefore the first meeting in January would be the soonest for a second reading on this annexation. After second reading, if the Council went that far, that is the last step that the Council would take, the rest of the process is waiting for the clock to tick 32 days later. Then the territory would be annexed. The Council could have the option of doing the first reading on December 21st after the annexation hearing and delaying second reading for any stated period of time.

In theory, the Council can delay this until November 15, 1995 as long as it is set for a time certain and a date certain then, if Clifton were incorporated and if the bargain were struck, the Council would not take action on second reading, that is, would not annex. There are these same choices on the Villa Coronado. The Villa Coronado process is a step ahead, but certainly when you get to the ordinance process, you could do a first reading now and then delay a second reading for any specified period of time.

Councilmember Theobald stated that if the City were to adopt on a first reading and then set the second hearing for November which would follow a November vote, that unless the City has made an agreement with the district court, which sets the election in November, the annexation would still have precedence over the incorporation. But if the City were to make that agreement with the district court to exceed their priority over our annexation, a positive vote to incorporate in November would overrule the annexation and no vote would be necessary because those annexations would be invalid.

Attorney Dan Wilson agreed and stated that there is a provision in the Statute that talks about annexation proceedings having priority over incorporation proceedings, that is the reason one would want to get district court approval to make certain that everyone knew what the rules were and so the court formally made a finding that the incorporation election could go forward even while this process was officially pending.

Councilmember Theobald made a suggestion that the City hold an annexation meeting for just the part the City has the short term interest in, being this year, where several months ago that would

have been a five year or a ten year time frame, but under the circumstances it is a little quicker. The City would have an annexation election in April for the area inside the I-70 and I-70 Business Loop and hold the Villa Coronado and the 32 Road Commercial annexations in limbo until after that election. If that election for annexation fails, hold them in limbo until after the incorporation election in November. Then if that incorporation election failed, then the City would be back to square one and would proceed. The down side of that is having that large an annexation all at once. That would create a real strain on the City to serve an area of that size. Another idea is not to have an annexation election in April, but defer everything until a November incorporation vote. Then if the vote is positive, incorporation occurs; if the incorporation is voted down, the City proceeds, very slowly, gradually and at a pace the City can handle, annexing in that direction. The suggestion that the City proceed with first reading of the Villa Coronado and the 32 Road annexations, then set second reading for after the November election, and make an agreement with the district court that when the time comes, the City would defer to the November election results, if they were positive, and allow it to take precedence over the annexation in process, but being held in abeyance. The reason to go ahead with these two annexations is to insure that there will be an election. The City would tell the district court that if the incorporation vote on the boundaries outlined is successful in November, it will include areas that are in the annexation process and they will not be excluded. This would include all the commercial.

Attorney Dan Wilson explained some technical issues with a November ballot which are unique in Colorado law. There is no guidance from prior cases interpreting the statutes so what the City must craft is a very tightly worded ballot question so that it is clear that you have an answer for annexation or incorporation. He has been consulting with a Mr. Gerry Dahl, who worked for the Colorado Municipal League and was intimately involved with the annexation act. Mr. Dahl believes this type of election can be done and he has proposed some draft language. Another option suggested by Mr. Dahl is to annex the area imposing terms and conditions thus triggering a vote. Possible terms might be that annexation occurs only if the number of votes in favor of annexation exceeds those for incorporation or, in order to address the funding of services issue, a condition that allows a period of time before services are provided. The reason behind the latter being the City's plan to bank dollars from the commercial areas in order to build infrastructure in the annexed area. Mr. Dahl did caution that this is an untested method.

Councilmember John Tomlinson suggested that the real issue to be decided by an election is the incorporation of Clifton. To answer that question, it needs to be a November election. By the City taking the action it is initiating tonight, stopping that process prior to second reading, and assuming that in that period of time there will be some general agreement regarding the area that will be included in Clifton, everyone will know where both the City and the potential City of Clifton stands. Then the election is held in November and the issue is simply is there to be a new city of Clifton incorporated? If that vote is a favorable one, then the City accepts that and the annexation process is terminated. If that vote is a negative one, then the City proceeds with the annexation process and whether an election is held at that point in time becomes strictly a City question. Having an April vote, seems to be unnecessary and raises another issue which does not need to be raised at this time. The issue that does need to be raised, making it easy for everyone to understand, is simply the question of incorporation of a new city.

Councilmember Baughman asked about the State law that allows for de-annexation if City services aren't provided within a certain period of time. City Attorney Wilson responded that the law is that if service is not provided within three years a person can file a petition for disconnection, but in this case the agreement would address that provision. If the terms of the agreement were then broken, a person could file for disconnection. The agreement would make clear what services are being addressed.

Councilmember Afman stated that the financial plan which has been discussed is banking the sales tax revenues from the 32 Road corridor and Business I-70 into a special escrow fund for the northeast area. After five years these monies will be pulled out to start the infrastructure repairs, up keep, and things of this nature. The City is prepared in the long term to make sure that the needs are met as the City annexes into the area.

City Attorney Wilson advised once there is a ballot title under existing Colorado law, there are constraints on the City from doing additional efforts. One of the things to discuss is the timing of that so both groups have an opportunity to do their homework and know what the numbers are. Clifton and the City will have to do that, and we will need to coordinate those efforts so the ballot issues aren't actually formally approved by the Council on the annexation issue until there is enough time to be prepared. That is, the campaign reform act and some other laws say that once there is a ballot issue undertaken, the staff time needed to present this question fairly will be restricted. The same is true for the Clifton incorporation group, they may be a political

committee and have some restrictions as well. Therefore, it is important that they not get the court to set the election too soon, since they may not have time to do their homework and get it out to the public so the voters have a fair understanding of the pros and cons involved.

Councilmember Theobold asked if the ballot issue is incorporation only, could a citizen come to the City and say, "Here are the figures I have from Clifton, tell me what my taxes would be in the City". City Attorney Dan Wilson stated that as long as the City does not solicit someone to ask, if it is in fact a citizen asking a question, then the City could respond. The purpose of the Statute is to prevent subterfuge by the City finding someone to ask the question.

Councilmember Ron Maupin stated that he felt it was not fiscally responsible to the citizens of Grand Junction to proceed with the annexation, and subsequently, to provide services to that far reaching of an area. The City's statistics show that there is not enough sales tax to support that area, and it isn't responsible for the Council to go forward with that annexation.

Councilmember Tomlinson suggested that the process be started at this meeting, then after first reading the City delay until after an election and then the City Council will make whatever decision it feels appropriate.

Councilmember Theobold stated that the assumption is the election would be November 7, 1995 which would be the first Tuesday after the first Monday.

City Attorney Wilson suggested that the Council take the first step, then do the first reading of the annexation ordinance on December 21st, and by then the City will have the outline of the deal made between the two groups. He was not sure if court time would be available by then but if the Council puts this on delay and sets it for a November date, that would be consistent with the discussion.

Councilmember Theobold suggested it would be appropriate to adopt the resolution on Item 13 and then also by a motion direct staff, which would be essentially the City Attorney, to work out the details of what needs to be done with the district court for coordinating. City Attorney Wilson agreed the first step is to work out an agreement laying out the terms, have Council review them in December and then direct both parties to seek district court approval of the process as outlined. That gives the City enough time to adjust to any concerns of the district court and

still meet the November, 1995 time line.

Tim Foster stated that the way to figure the time frame is to back up from the date of election and begin counting back as to how much time various steps take. One has 60 days to submit the ballot question, the court has "x" number of days and so one really can not even file anything with the district court until approximately May or June at the earliest. He stated that the incorporation group would be before the district court by early summer. Councilmember Baughman encouraged Mr. Foster to have the incorporation group pursue an option for the majority of the people to stay in the county and not belong to the City of Grand Junction or the newly incorporated City of Clifton. Tim Foster replied that option was clear except for the City use of POA's. The POA process obviously frustrates the ability of those people to say No to the City of Clifton and No to the City of Grand Junction. Their first preference is to remain in the county. Their rationale for incorporating is they don't want to be in the City of Grand Junction.

Upon motion by Councilmember Theobald, seconded by Councilmember Afman and carried by roll call vote with Councilmember Baughman voting **NO**, Resolution No. 109-94 was adopted, and ordered published.

Councilmember Theobald made a motion that the Council direct City Attorney Dan Wilson to work with the legal representative from the Clifton incorporation group, Tim Foster, to work out the details on the district court agreement relating to annexation and incorporation. Councilmember Afman seconded and this motion was carried.

Mr. Ron Weller, 3321 Howard Court, Clifton, Colorado, stated that the Council had been talking about the people in between the annexation and incorporation with both sides forgetting the people between these. The people will have a chance to vote on just one issue, incorporation, but they would not have a chance to vote on annexation. There would be no vote for the people who wanted to remain the same as now, unincorporated. He was reassured that this would be considered.

City Manager Mark Achen stated that City Council has historically taken the approach that they believe that a large, unincorporated, urban population is to the City's disadvantage. The City taxpayers pay to provide services in that area and yet City taxpayers also pay to provide services in the City. It has not been the City Council's policy in the past to do annexations by elections. To do so would be a change in policy. Mr. Achen

thought such a change would not be the will of the majority of the current Council. That is not to say such a change in policy could not be effected by a future Council.

Mrs. Robert Sanders, 3463 Front Street, asked if the incorporation is defeated, will they stay in the county until the City annexes at their particular rate. Mr. Achen responded that if the incorporation fails, she would continue to be in the county until the City proceeds with whatever annexations it determines appropriate. Some annexations might occur through POA's, some might occur through subdivisions actually petitioning for it. Another less likely option is the Council asking for an election for all or parts of the area.

Dr. Rick Kaufman, 3489 G Road, Clifton, Colorado, questioned what is prevent the people in that area from having their own election that includes everyone from 30 Road to 35 Road, from the river to I-70 where one question is asked of those people, "Do you want to be annexed by Grand Junction?" If that question came up with no answers, would that in effect stop the annexation process? He stated that his belief was that the City of Grand Junction wanted to go eventually to 35 Road. City Manager Mark Achen responded that the Council has never intended to annex that far. He stated the intended annexation plan includes the Persigo 201 area and the eastern boundary being 33 Road and the southern boundary being A Road on Orchard Mesa. Dr. Kaufman said he thought it would make more sense to ask the annexation question first instead of the incorporation question. He stated that the people involved began talking incorporation because they were fearful that the City had the power to take over their land and start running it the City's way. The incorporation was never the first choice. The majority of the people want to be left alone.

Councilmember Theobald restated Dr. Kaufman's question to be, "If the entire area were to all at one time vote on annexation and vote no, would that end it forever?" The answer to that is No. The reason being that if the entire area as a group voted no it does not prevent a subdivision within that area coming to the City and asking for annexation. Does that mean they are barred from becoming a part of the City? Of course not.

PUBLIC HEARING - ORDINANCE NO. 2788 - AN ORDINANCE MAKING SUPPLEMENTAL APPROPRIATIONS TO THE 1994 BUDGET OF THE CITY OF GRAND JUNCTION

A hearing was held after proper notice. There were no comments. Upon motion by Councilmember Baughman, seconded by Councilmember Maupin and carried by roll call vote, Ordinance No. 2788 was

adopted, and ordered published.

PUBLIC HEARING - ORDINANCE NO. 2789 - AN ORDINANCE ADOPTING AND ENACTING A NEW CODE OF ORDINANCES FOR THE CITY OF GRAND JUNCTION, COLORADO; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE OF ORDINANCES AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE

City Attorney Dan Wilson stated the Police Department has requested that they not be involved with regulating private security. It is not needed these days as they are run professionally. This would be a cost effective measure. Also, that the Clerk's office has all the information on the computer and printing amendments for the first time in 40 years will be very easy. This process will work much better. The Code was not rewritten, some things were left untouched because it made the scope of the project more manageable. In order to redraft the Code into 90's language would have required at least two more years to get there.

Councilmember Baughman stated his objection to a provision of the Code which allows the municipal judge to assess fines on any infraction in the Code up to a \$1,000.00 or a year in jail. He felt this was too harsh a penalty in the City Code, and that the parameters are too wide on many of the municipal infractions. Councilmember Afman responded that the fine is a maximum figure and the judge can impose anything under that as he feels the crime warrants. This is a safeguard to the people in the community knowing that it will not be any higher than \$1,000.00, so it is really for their protection that a cap or limit is put on this.

Upon motion by Councilmember Tomlinson, seconded by Councilmember Maupin and carried by roll call vote with Councilmember Baughman voting **NO**, Ordinance No. 2789 was adopted.

RESOLUTION NO. 105-94 - A RESOLUTION ESTABLISHING VARIOUS FEES, CHARGES AND MINIMUM INSURANCE REQUIREMENTS IN THE CITY OF GRAND JUNCTION, COLORADO

With the adoption of the new Code of Ordinances, all fees, charges and rates are now established by resolution of the City Council. This resolution simply lists all the current fees, charges and rates currently on the books. Any changes to the current fees will be made by resolution.

Upon a motion made by Councilmember Maupin, seconded by

Councilmember Tomlinson and carried by roll call vote, Resolution No. 105-94 was adopted.

PUBLIC HEARING - RESOLUTION NO. 106-94 - A RESOLUTION AMENDING THE WATER RATES FOR THE CITY OF GRAND JUNCTION, COLORADO

In late 1991, the decision was reached that rates should be reviewed annually and amended, if necessary, to recover annual cost-of-living expense increase. Rates increased 4.8% in January, 1994. The proposed rate structure for 1995 is estimated to increase revenue by 3.28%.

Upon motion by Councilmember Maupin, seconded by Councilmember Theobald and carried by roll call vote, Resolution No. 106-94 was adopted.

PUBLIC HEARING - RESOLUTION NO. 107-94 - A RESOLUTION AMENDING THE CHARGES FOR SERVICES OF THE JOINT CITY COUNTY SEWER SYSTEM

Rates are examined each year. It is proposed that rates be increased by 3.8%. The total rate per E.Q.U. will increase from \$11.00/month to \$11.42/month.

Upon motion by Councilmember Tomlinson, seconded by Councilmember Theobald and carried by roll call vote, Resolution No. 107-94 was adopted.

PUBLIC HEARING - RESOLUTION NO. 108-94 - A RESOLUTION AMENDING THE SOLID WASTE MANAGEMENT FEES

The last rate adjustment for solid waste fees was in January, 1994. Rates are examined each year and established based on our ten year financial plan. It is proposed that the rates be increased by 4%. This will bring our residential rate from \$8.75 to \$9.10 per month.

Upon motion by Councilmember Maupin, seconded by Councilmember Theobald and carried by roll call vote with Councilmember Baughman voting **NO**, Resolution No. 108-94 was adopted.

PUBLIC HEARING - EAGLE CREST DEVELOPMENT [FILE #20-94(3)]

a. **RESOLUTION NO. 110-94 - A RESOLUTION GRANTING A EASEMENT THROUGH RIDGES OPEN SPACE FOR A STORM DRAIN**

Kathy Portner, Community Development Department, addressed the Council on both issues on the agenda under Eagle Crest. The Eagle Crest Development is approximately a 3 acre site which had been

brought before the Council approximately a month ago. This is located off of Prospector Point in the Ridges which was originally platted and designated as a multi-family site. The original proposal was for 36 units on this parcel, however through the staff review and hearing process, it has come down to 8 units. There was concern regarding the narrow access onto Prospector Point in existence which was not wide enough to accommodate a full street section and walkway. The staff concern was not only for vehicle safety, but also pedestrian and bicycle safety through the narrow access. An alternative path system was discussed if a development was to be approved on this site, that is, how a pathway system coming off of this site could be connected to the main pathway system of the Ridges, which goes along Ridges Boulevard. This does sit up high in the Ridges and it drops off steeply on all sides from the developable area, which causes a concern with the steepness of a path that would go off of this site. Upon direction from the City Council and a final hearing before the Planning Commission, 8 single family lots were approved on this site. The developer was able to acquire additional property to widen the narrow access and now it is wide enough to accommodate a traffic travel way where two way traffic, curb and gutter on both sides and sidewalk on the development side of the street section so it is a much safer access. When this item was before the City Council, there was discussion at that time, before they had finalized how many lots they could get on the parcel and also before the width of the access onto Prospector Point had been finalized, about the need for the pedestrian way down to the main trails system in the Ridges. The requirement made at that time was there be a pathway system and that the pathway coincide with the needed storm drainage system going down the hillside and providing that the pathway would not further scar the hillside. The Planning Commission was very concerned with scarring the hillside which is difficult to re-vegetate once disturbed. In the final submittal, the storm drain has portions that approach a 23% grade, much too steep for a paved pathway system. The ADA requirement is a maximum grade of just over 8%. The Staff and Planning Commission recommendation was that access still be provided through this development through the end of Eagle Crest Court via dedicated open space to the existing open space, but it was not required to be paved.

The second issue is the adoption of a resolution allowing the City to grant an easement to the developer for the storm drainage which goes down through the Ridges open space.

City Attorney Wilson stated that since this open space is public way, it will not be limited to just members. A revocable permit would be a better form than an easement. Changing the language

from easement to revocable permit would make it consistent with the Code.

Kathy Portner suggested an option to consider is to have a section paved through the development in order to reach the open space. That would be consistent with some other requirements the City has done in the past, an 8 foot wide concrete section. The concern with having a steep paved pathway versus unpaved is that a paved pathway would invite more usage by bicycles which due to the 23% grade makes it potentially dangerous.

Councilmember Afman stated that once the area is developed with housing, a great amount of the foot traffic would be discouraged with the possibility of it never being used. She also expressed concern for the amount of disturbance and scarring upon the open space and impressed upon the developer that the least amount of disturbance is preferable.

Kathy Portner reiterated that the developers plan was to follow the disturbed areas as much as possible.

Tom Logue with Land Design Limited, 200 North 6th Street, stated that the company has selected the route in which a 12 inch buried pipeline will follow. The alignment of the storm sewer will follow the disturbed areas along a four wheel drive or jeep trail. The storm sewer does have several manholes which could in the future require minimal maintenance. Access will need to be provided to those as well. The pipe will be buried approximately 3 feet to sufficiently protect it. The least amount of disturbance to the hillside is just as important to the developer as to the residents of the area. This an opportunity to connect to the Ridges Boulevard pathway from Prospector Point which is an existing asphalt path located between 600 and 700 feet south of the intersection along Prospectors Point. It runs east and west and eventually connects into the Ridges Boulevard. A method devised to control the erosion would be to mix cobble with fill. A commitment has been made to control erosion through monitoring it over a period of 12 to 18 months with the City engineering people. One alternative is an erosion control mat which would have a layer of 4 to 6 inches of material placed over the top of it. The material consists of a plastic type product which has been used to stabilize slopes that are used in a reseeding effort. This would be overlaid with material and larger rocks and boulders installed in the steeper areas to help control the erosion. With ongoing monitoring over a period of time, it would allow time to rectify any erosion.

Councilmember Afman stated that the direction of Staff was that once the trails need to be replaced, that they be replaced with

concrete as opposed to asphalt. While the developer is doing the sidewalk, could he not incorporate the material used to run the entire path in concrete? Tom Logue agreed that this could be accomplished.

City Manager Mark Achen questioned the wisdom of encouraging such a steep pathway as a trail, should it not be discouraged as a trail so as not to have to deal with this problem again.

Denny Grantham, the developer and builder of the houses in this area, stated that one of the concerns he had in developing this property was to upscale the houses and lots to be more of an upscale neighborhood. He was concerned with running a paved pathway, regardless of the surface, to the bluff line when all of the units will be setting back behind the bluff line to eliminate scarring of that hillside. He said he doesn't want people driving up Ridges Boulevard and seeing some of the scarring which has already been done in some of the areas in the Ridges. Running any sort of a paved pathway between Lots 7 and 8 concerns him because of the kids riding bicycles down this 23% grade, also elderly people trying to walk down the steep slope. There is not enough room to do switch backs. The alternative of taking the sidewalk from Prospector Point and accessing the regular trails on Prospector is a good way to go.

City Manager Mark Achen questioned whether the plat had been recorded, which it had not, and that the intent would be an easement for utility and trail purposes which was recommended by the Planning Commission. This would encourage the property owners to claim up to the property lines and either fence or landscape this area further discouraging access through this area. He also stated that legally if it is not recorded as open space, or as a trail easement, and it is merely an easement for utilities, the City doesn't have the power then to go back and convert the easement into another use. The decision needs to be made now.

Upon motion by Councilmember Theobald and seconded by Councilmember Maupin and carried by roll call vote, Resolution No. 110-94 was adopted granting a revocable permit through the open space for a storm drain.

b. **REQUEST FOR WAIVER - A REQUEST TO DELETE A COUNCIL REQUIREMENT TO PAVE THE PEDESTRIAN PATH CONNECTING THE EAGLE CREST DEVELOPMENT ON PROSPECTOR POINT WITH RIDGES BOULEVARD**

Request to delete the requirement for a paved trail connecting the Eagle Crest development with Ridges Boulevard.

Upon motion by Councilmember Theobold and seconded by Councilmember Afman, the motion was amended to reflect dedicated open space instead of easement, and the motion was carried.

Upon motion by Councilmember Theobold and seconded by Councilmember Afman, and carried by roll call vote, the request for waiver was approved.

ADJOURNMENT

The meeting adjourned at 9:55 PM.

Stephanie Nye, CMC
City Clerk