

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

**September 6, 1995**

The City Council of the City of Grand Junction, Colorado, convened into regular session the 6th day of September, 1995, at 7:44 p.m. in the City/County Auditorium at City Hall. Those present were Linda Afman, Jim Baughman, David Graham, R.T. Mantlo, Janet Terry, Reford Theobald and President of the Council Ron Maupin. Also present were City Manager Mark Achen, City Attorney Dan Wilson, and City Clerk Stephanie Nye.

Council President Maupin called the meeting to order and Councilmember Afman led in the Pledge of Allegiance. The audience remained standing during the invocation by Rev. Don Wagner, Fellowship of Excitement Church.

**PROCLAMATION DECLARING SEPTEMBER 16, 1995 AS "SPECIAL RECYCLING DAY" IN THE CITY OF GRAND JUNCTION**

**PROCLAMATION DECLARING SEPTEMBER 17-23, 1995, AS "CONSTITUTION WEEK" IN THE CITY OF GRAND JUNCTION**

**\* \* \* CONSENT CALENDAR \* \* \***

Councilmember Graham requested the August 16, 1995 minutes be amended to reflect the following: Page 16, paragraph 3, delete to whether or not the City's best interest would be served in that regard and insert after the word as proposed under B-1. Also page 19, paragraph 3, last sentence replace The other Councilmembers concurred and insert All Councilmembers concurred.

Upon motion by Councilmember Graham, seconded by Councilmember Mantlo and carried by roll call vote with Councilmember **BAUGHMAN** voting **NO** on Items 8, 9 and 12, and Councilmember **GRAHAM** voting **NO** on Items 6, 7 and 8, and **ABSTAINING** on Item 9, the following Consent Items 1-13 were approved with the August 16, 1995 City Council Minutes amended as above:

1. **Approving** the minutes of the Regular Meeting August 16, 1995
2. **\* Resolution No. 77-95** - A Joint Resolution of the County of Mesa and the City of Grand Junction Concerning Adoption of an Administrative Amendment to the Fiscal Years 1995-2000 Transportation Improvement Plan

This is a second Administrative Amendment to the Transportation Improvement Plan (TIP). This amendment is required to address recent developments in the affected projects.

1995

3. **Approving** the Revised FY1995-96 PL Contract between the Colorado Department of Transportation and the Grand Junction/Mesa County Metropolitan Planning Organization

The FY96 UPWP (Unified Planning Work Program) upon which this contract is based was approved by the City Council and Board of County Commissioners. The State Attorney General's office did not find the original contract approved by City Council on August 16, 1995 acceptable and have made some minor wording changes indicated by notation. As with the original contract previously approved, this contract will result in the Colorado Department of Transportation furnishing \$59,326 for the UPWP effort, and the City of Grand Junction and Mesa County each contributing \$6,166.

4. **Award of Contract** for Construction of the Mays Subdivision Sanitary Sewer Improvement District  
Recommended Award: Parkerson Construction - \$148,771.50

The following bids were received on August 28, 1995:

<u>Bidder</u>	<u>From</u>	<u>Amount</u>
Parkerson Const. Inc.	Grand Junction	
\$148,771.50		
Atkins & Associates	Meeker	
\$169,999.40		
M.A. Concrete Const. Inc.	Grand Junction	\$174,524.50
Engineer's Estimate		
\$154,034.00		

5. **\* Resolution No. 78-95** - A Resolution Authorizing the Conveyance of a Non-Exclusive Underground Power Line Easement across the City Owned Somerville Ranch Property to Grand Valley Rural Power Lines, Inc.

Grand Valley Rural Power Lines is requesting an easement to allow the installation of an underground power line to serve the U.S. Weather Service Next Generation Radar facility being installed on City property located on the Grand Mesa.

6. **\* Resolution No. 79-95** - A Resolution Authorizing a One-Year Lease of City Property at 1222 South 5th Street to the Grand Junction Housing Authority

The Housing Authority is proposing to use the vacant house at

1995

1222 South 5th Street as short-term transitional housing for families referred to them by social service agencies.

7. **Authorizing** the Mayor to Execute a Grant of Easement from the Colorado Department of Public Health and Environment at the Old Climax Mill Site for the Construction of the Orchard Mesa Footbridge Project

The 1996 Orchard Mesa Footbridge project plans to cross the Colorado River and connect the Orchard Mesa Middle School and the proposed Eagle Rim Park with the Old Climax Mill Site. Since the Old Mill Site is presently owned by the State of Colorado, an easement is required for the bridge in order to construct, maintain and allow public access.

8. **Authorizing** the City Manager to Execute Cooperative Agreement No. 5-FC-40-18560 with the U.S. Department of the Interior, Bureau of Reclamation for a Pilot Project to Study the Feasibility of Establishing a Recreation Trail on the Grand Valley Government Highline Canal, Grand Valley Project, Grand Junction, Colorado

This agreement will authorize the Bureau of Reclamation to commit \$10,000 to conduct a feasibility study on a pilot test area between H and 28 1/4 Roads. The City will cost share committing \$10,000 in cash and/or in-kind contributions (staff time). The study will be completed through a combination of in-kind services provided by City Parks and Recreation staff, Urban Trails Committee members and consultant services. Mesa County has also pledged up to \$5,000 toward the City's cost of the study.

9. **Authorizing** the City Manager to Sign the Contract to Accept the \$1000 Grant Award from the Colorado Council on the Arts

In October, 1994, the Grand Junction Commission on Arts and Culture applied for a General Operating Support grant from the Colorado Council on the Arts. In July, 1995, the Commission was awarded \$1000 and sent a contract to execute between the City/Commission and the State prior to receiving the funds. This grant is for basic operations or general Commission programs and requires no matching funding.

10. **Approving** Revisions to the Special Events Policy for the Visitors & Convention Bureau

The Special Events funding year is April 1 through March 31

---

1995

and applications are accepted twice a year. Applications for the entire funding year are accepted in November; if all budgeted funds are not awarded at that time, applications are accepted again in June. It is recommended the policy be revised to state that the June application review be limited to those events scheduled from September 1 through March 31. An additional revision would require the signed funding Agreement and all requirements of the Agreement be received by the VCB not less than 30 days prior to the event, or the funding award will be revoked.

11. **Proposed Ordinance** - An Ordinance Vacating a Portion of the Alley on the South Side of North Avenue Furniture (945 North Avenue) [File #VR-95-134]

The North Avenue Furniture building (built in the late 1960's) encroaches approximately 1 foot into the alley between North and Belford Avenues. The vacation is needed for a change in ownership. While the City does not object to the vacation, there are unsightly trailers on the site that should be removed. The petitioner has agreed to the removal and is currently trying to sell the trailers.

a. First Reading of Proposed Ordinance

12. **\* Resolution No. 81-95** - 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 - Loma Rio Annexation Located North and West of the Redlands Parkway and Highway 340 [File #ANX-95-129]

The City desires to annex lands along the Redlands Parkway and west along Highway 340 around 22 1/2 Road. Powers of Attorney have been obtained for various properties within the proposed annexation area. These POA's along with adjoining lands are being considered as part of the Loma Rio Annexation. The Petition for Annexation is now being referred to City Council. Staff requests City Council approve by resolution the Referral of Petition for the Loma Rio Annexation.

13. **\* Resolution No. 82-95** - A Resolution Giving Notice that a Tract of Land Known as the Round Hill Enclave Annexation Located at 651 Horizon Drive, Consisting of Approximately 1.86 Acres, will be Considered for Annexation to the City [File #ANX-95-150]

1995

The Round Hill Enclave consists of 1.86 acres of land located at 651 Horizon Drive. This area is totally surrounded by the City limits and is eligible for annexation under State Statutes.

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

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

**PUBLIC HEARING - ORDINANCE NO. 2862 - AN ORDINANCE ANNEXING TERRITORY TO THE CITY OF GRAND JUNCTION, COLORADO - UTE ENCLAVE, APPROXIMATELY 5.84 ACRES, LOCATED OFF OF SOUTH CAMP ROAD [FILE #ANX-95-116]**

The Ute Enclave consists of 5.84 acres of land located approximately 1300 feet east of South Camp Road and approximately 2700 feet north of Monument Valley Subdivision Filing #5. This area is totally surrounded by the City limits and is eligible for annexation under State Statutes.

A hearing was held after proper notice. Dave Thornton, Community Development Department, reviewed this item. This annexation has been surrounded by the City for more than three years. The City is therefore exercising its option to annex the property. This area was left out of the Ridges Majority Annexation. There were no other comments. The hearing was closed.

Upon motion by Councilmember Mantlo, seconded by Councilmember Theobald and carried by roll call vote with Councilmember **BAUGHMAN** voting **NO**, Ordinance No. 2862 was adopted and ordered published on final reading.

**PUBLIC HEARING - ORDINANCE NO. 2863 - AN ORDINANCE ZONING THE UTE ENCLAVE ANNEXATION PR-4 [FILE #ANX-95-116]**

A Planned Residential Zone District with a maximum of 4 units per acre (PR-4) is being requested for the Ute Enclave Annexation.

A hearing was held after proper notice. This item was reviewed by Dave Thornton, Community Development Department. Councilmember Theobald asked why this annexation is not being zoned PZ since it is a government owned and used parcel. Mr. Thornton has conferred with City Attorney Wilson and determined that although Ute Water Conservancy is a tax exempt entity, it does not qualify for the City's PZ zone as a special district. He did not feel comfortable in qualifying them under the PZ zone. The current County zoning

1995

is PR-4. There were no other comments.

Upon motion by Councilmember Baughman, seconded by Councilmember Terry and carried by roll call vote, Ordinance No. 2863 was adopted and ordered published on final reading.

**PUBLIC HEARING - BLUFFS WEST #2 ANNEXATION - RESOLUTION NO. 83-95 ACCEPTING PETITIONS FOR ANNEXATION, MAKING CERTAIN FINDINGS, DETERMINING THAT PROPERTY KNOWN AS THE BLUFFS WEST #2 ANNEXATION IS ELIGIBLE FOR ANNEXATION AND EXERCISING LAND USE CONTROL AND JURISDICTION - PROPOSED ORDINANCE ANNEXING TERRITORY TO THE CITY OF GRAND JUNCTION, COLORADO, BLUFFS WEST #2 ANNEXATION, APPROXIMATELY 184.12 ACRES, LOCATED SOUTH OF E 1/2 ROAD AND WEST OF 23 ROAD, ALONG BOTH SIDES OF THE REDLANDS PARKWAY TO RIGGS HILL [FILE #ANX-95-118]**

Powers of Attorney for annexation have been signed for a majority of the properties included in the Bluffs West #2 Annexation. The Petition for Annexation is now being referred to City Council. Staff requests that City Council approve by resolution the Referral of Petition for the Bluffs West #2 Annexation.

A hearing was held after proper notice. This item was reviewed by Dave Thornton, Community Development Department. Mr. Thornton submitted to the City Clerk a written statement saying the annexation complies with the State Statute 32-12-104. A small section is being deleted from this annexation and being made a part of the Loma Rio Annexation, which the resolution referring petitions was approved on tonight's consent agenda. Councilmember Graham asked how many residents of this area have approached the City and requested annexation, in addition to having granted Powers of Attorney. Mr. Thornton replied he is unaware of any on this particular annexation. Mayor Maupin stated residents have asked him if the City will work on the culvert lines under Kansas Avenue (draining the pond). Public Works Director Jim Shanks stated the City helps homeowner associations and irrigation companies with lines located underneath the City's rights-of-way.

There were no other comments. Upon motion by Councilmember Theobald, seconded by Councilmember Mantlo and carried by roll call vote with Councilmembers **TERRY, BAUGHMAN AND GRAHAM** voting **NO**, Resolution No. 83-95 was adopted.

Upon motion by Councilmember Theobald, seconded by Councilmember Afman and carried with Councilmembers **BAUGHMAN, GRAHAM and TERRY** voting **NO**, the proposed ordinance annexing Bluffs West #2 was

1995

passed on first reading, and ordered published.

**PUBLIC HEARING - ORDINANCE NO. 2864 REZONING LAND LOCATED ON 28 1/4 ROAD SOUTH OF NORTH AVENUE (NIAGARA VILLAGE) FROM PR-20 AND PB TO PR-5.8 [FILE #RZP-95-123]**

A request for rezone from PR-20 and PB to PR-5.8 for a parcel located on the west side of 28 1/4 Road south of North Avenue behind K-Mart and containing 14.6 acres. Surrounding land uses include public, vacant and commercial properties. Development plans for the parcel call for an 83 lot subdivision with access from 28 1/4 Road. The property addresses a recognized need for manufactured housing, however, granting of this proposal will result in the loss of a site which is zoned for high density multifamily development. The Preliminary Plan received Planning Commission approval on August 1st.

A hearing was held after proper notice. This item was reviewed by Michael Drollinger, Community Development Department. He referred to three posted maps: site location map, proposed subdivision plat, and proposed site plan. The PR-20 and PB zonings were approved in 1982 and called for the construction of approximately 320 apartment units and 24,000 square feet of business and commercial space. Current surrounding zones are C-1 (Light Commercial), C-2 (Heavy Commercial), and PZ (Public Zone). Mr. Drollinger discussed the comprehensive plan alternatives. Two of the three alternatives call for high density residential 12+ units per acre at this site. The third alternative calls for 8-12 units per acre on this site. The preferred alternative, being the concentrated growth alternative, did call for 12+ units per acre. Staff believes this site represents an opportunity to accommodate the recognized need for manufactured housing sites in the valley. Staff would also like to point out that this site, as currently zoned, will meet the need for high density multifamily development. The Growth Plan Alternatives appear to support development of this property for a higher density development. Development of the parcel at the proposed density of approximately 6 units per acre would result in the loss of this parcel as a potential multifamily site. It may also affect the opportunity to rezone some of the adjoining parcels for high density residential development. Given the fact that there is no adopted comprehensive plan at this time, and this plan addresses a recognized need, Staff recommends approval of this development as proposed. The Planning Commission approved the preliminary plan with conditions, and Staff has no specific conditions regarding this rezone application. On August 1, 1995 the Planning Commission approved the preliminary plan and recommended approval

1995

of this zoning of PR-5.8 by a vote of 4-2.

Councilmember Graham asked why the PR designation was chosen over the PMH. Mr. Drollinger explained the PMH designation is tailored toward a rental park where the property is under the ownership of one entity. This is actually a major subdivision on which the developer is planning to set manufactured housing. The homes will be on permanent foundations. City Attorney Wilson stated that because of Federal Law, these homes will be the same as stick-built on site, and municipalities are not allowed to distinguish between the two. The safety standards under the Building Code make them practically equivalent, although there are a couple of variations. They are equally safe and HUD approved.

Mr. Drollinger said the development would be required to pay the open space and TCP fees and any other standard fees applicable to this type of development. The right-of-way exists along the entire frontage on 28 1/4 Road. Originally, the petitioner proposed a full street improvement for half the length. City Staff, however, has recommended a half-street improvement for the full length with at least a 22-foot mat along the entire frontage along 28 1/4 Road. The petitioner has agreed to the recommendation. They will also be piping an existing drainage that runs in the City right-of-way. If the full street improvement for half the length were to be done, it is possible the subdivision across the street would do the other half when it develops. However, the Ordinance requires half-street improvements and any future developer may refuse the alternative.

Mayor Maupin was concerned about the increased traffic that would be generated on 28 1/4 Road from this development (10 trips per unit per day). It would impact the intersections at North Avenue and I-70 Business Loop. Public Works Director Jim Shanks stated the City's Master Plan for 28 1/4 Road would be for it to extend and connect to Grand Avenue, then west to 28 Road. Two major intersections on the business loop that are only one quarter mile apart (28 Road and 28 1/4 Road) is not recommended.

Mr. Phil Hart, President of LandDesign Consulting Engineers, was present representing the petitioner. He stated the landscape plan calls for one tree on each lot. The irrigation water can be used on the site, but because of the alkali in the area, on-site storage would create problems irrigating lawns with that water. Therefore, irrigation used on these sites will come from the water system rather than irrigation water. Councilmember Theobold requested he be provided written information on this development regarding the irrigation systems when the final plat and plan is



1995

brought before the Planning Commission.

Mayor Maupin felt this is a great use for this land. Mr. Hart estimated the lots will sell for approximately \$30,000 each. He could not quote a price on the homes.

There were no other comments. Upon motion by Councilmember Mantlo, seconded by Councilmember Graham and carried by roll call vote, Ordinance No. 2864 was adopted, and ordered published on final reading.

**PUBLIC HEARING - BLACK SHEEP FARM MINOR SUBDIVISION - ORDINANCE NO. 2865 REZONING LAND LOCATED ON 29 1/2 ROAD (BLACK SHEEP FARM MINOR SUBDIVISION) FROM RSF-R TO RSF-4 AND APPEAL OF A PLANNING COMMISSION DECISION TO APPROVE A MINOR SUBDIVISION [FILE #RZV-95-122]**

A request for rezone from RSF-R to RSF-4 for a parcel located at 666 29 1/2 Road and containing 7.4 acres.

Staff is appealing the Planning Commission approval of the minor subdivision on the grounds that the proposed lot configuration will not adequately permit future development of the property at the proposed zoning. Given adequate access, staff believes that the proposed zoning is appropriate and that it is consistent with the draft Grand Junction Growth Plan alternatives.

A hearing was held after proper notice. This item was reviewed by Michael Drollinger, Community Development Department. Mr. Drollinger stated there are presently two existing structures on the parcel, a single-family home and a mobile home. Both structures are non-conforming because the present RSF-R zone does not permit two principle structures on a lot. The minor subdivision request would make the existing conditions conforming. Based on information provided by the petitioner, the setbacks of the residential structures would also be conforming under the proposed zoning.

Mr. Drollinger received a phone call today from the petitioner's attorney indicating the petitioner is willing to address Staff's concerns stated in the appeal, i.e. future access, by combining Lots 1 and 3, and Lot 2 would remain. There would be plenty of frontage (approximately 100 feet) in the future to accommodate a public street to serve the large left-over area should that area be subdivided with RSF-4 zoning. Staff has no objection to the minor subdivision if Lots 1 and 3 are combined.

1995

Regarding the zoning, Mr. Drollinger said Staff looked toward the comprehensive plan alternatives to see what the potential zoning in this area would be. All three alternatives had 4 units per acre zoning. The Concentrated Growth Alternative called for residential medium density of 4-8 units per acre in this area. Staff believes an RSF-4 zoning is appropriate and consistent with the draft plan. Staff feels the rezone request is supported by the rezone criteria. Based on the information from the petitioner's attorney, Staff has no objection to the minor subdivision if Lots 1 and 3 were combined, and would recommend approval of the rezone request. Mr. Drollinger stated this would allow the petitioner to replace the mobile home with a permanent structure.

Councilmember Graham asked if the surrounding areas that are currently zoned RSF-R or AFT would be suitable for 4 units per acre designation as well. Mr. Drollinger stated a patchwork of higher zoning is developing between 3 and 4 units per acre. The Growth Plan seems to be calling for the area to become a 4 unit per acre density in the future.

Petitioner Verna Cox, 666 29 1/2 Road, stated she is not proposing to develop her property. She stated she has lived at this location approximately two years. She has sheep and goats. She is a spinner and hand weaver, and is very involved with her property. She wants to add onto her home and improve her property. She would like to remove the mobile home and replace it with another home. She proposed the third lot thinking she could build a larger home in the future. The proposal was deliberately drawn so the back part of the property would not have enough room for a street access. It was in conformance with the requirements of the zoning requested. She was surprised when she heard Staff was opposed to the plan. She agreed to put a note on the plat advising people that the 20-foot frontage was not adequate for a city street, and the land could not be subdivided until there was sufficient frontage for a standard city street. She also agreed to put in deed restrictions or covenants. She also proposed to make the City Council a party to those covenants, and the covenants could not be changed without City Council approval. None of these alternatives were acceptable to City staff. Therefore, she is reluctantly dropping the request for the third lot.

Ms. Cox read from a petition signed by her neighbors saying they are not opposed to the request to rezone and divide her property into three lots, but they do oppose the City staff's proposal that sufficient access to the eastern part of the property must be

1995

provided to accommodate a public street.

Ms. Cox stated it is difficult for ordinary property owners to be restricted even though her proposal does meet the requirements. Her proposal is in compliance, but she cannot do it because someone in the future might come before Council with a proposal that is not in compliance.

Councilmember Terry said this is similar to a development on Patterson Road recently. With the way development has happened, the road is not sufficient to handle the traffic. If Council allows 4 units per acre on this property it must be prepared to have the infrastructure available or available to be developed when development takes place. She felt Council would not be acting responsibly if they did not make that situation available for future development, because it will happen. Councilmember Terry said unfortunately Ms. Cox is bearing the brunt of this turmoil Council is facing. It is not an easy decision to say no to Ms. Cox.

Ms. Cox asked for some assurance that the concern about protecting the future development potential of her property does not extend to the point of restricting where she can place a home on the second lot. If the property boundaries were drawn in such a way, she would not have to provide a 44-foot wide open space. She would be able to build within the setbacks of the zoning. This is true. Councilmember Theobald advised that financially, she not do that because it will cost her when she wants to sell at a later date. The house can be constructed to prevent development to a certain degree, but at some point there will be someone willing to purchase the property and bulldoze the house for a profit.

Councilmember Terry said Council is not protecting the future development of the property. Council is assuring that if the property is developed, that sufficient infrastructure would be available for the zoning being requested. Future development is out of the control of City Council except for the fact that they are rezoning it.

City Manager Mark Achen asked if there was another solution possible that was considered by Staff that would have made the plan conforming under the existing zoning. Two properties are being created that are high-density urban zoning, in spite of wanting to keep it rural. He suggested zoning one parcel RSF-4 and leaving the rest RSF-R. Mr. Drollinger did not feel that would work under the present configuration.

1995

Ms. Cox said the problem with other zones is when you get to lower density you get wider setbacks which then makes everything non-conforming. The other alternative would be a Planned Development, but she did not like the idea since it would involve so much paperwork and additional hearings. When areas are in transition from rural zoning to urban zoning, everything that is done in compliance with the rural zoning is a problem. Fifty-foot setbacks on the entire property forces building in the middle of the property. She suggested making it easier to build with the setbacks that would ultimately be in place so they can enjoy and use their property in the next twenty years before the City needs the property.

Mr. Drollinger stated the setbacks in the RSF-R zone are 30-foot front yard, 50-foot sideyard setbacks for principal structures, and accessory structures as well. The rear yard setback is also 50 feet. He agreed with Ms. Cox that the setback requirements force development in the middle of a lot.

Councilmember Graham was not comfortable with the change in the density with this rezone, or the need to create 3 lots out of 1.

Mayor Maupin explained that the petitioner cannot remodel her house, she cannot improve her property because they are not in compliance with the zoning. The only way they can improve their property is to rezone it.

Councilmember Theobald believed the surrounding areas will eventually go to the same zone.

There were no other comments. Upon motion by Councilmember Afman, seconded by Councilmember Terry and carried by roll call vote with Councilmember **GRAHAM** voting **NO**, Ordinance No. 2865 was adopted and ordered published on final reading.

**Appeal of a Planning Commission Decision to Approve a Minor Subdivision**

Michael Drollinger, Community Development Department, explained the plat would be brought to the Planning Department for technical review and then recorded. The plat does not require Council approval. If Council decides the two-lot scenario is acceptable, then it could be taken to Staff for review to work out the technical details before it is recorded. The Planning Commission actually approved the 3 lots.

It was moved by Councilmember Theobald, seconded by Councilmember

1995

Mantlo and carried by roll call vote, that the Black Sheep Subdivision be approved with two lots, combining Lot 1 and Lot 3.

**RESOLUTION NO. 84-95 ISSUING A REVOCABLE PERMIT TO ALLOW A FENCE IN THE PUBLIC RIGHT-OF-WAY AT 525 28 1/4 ROAD [FILE #RVP-95-126]**

The applicant wants to place a fence in the right-of-way along 28 1/4 Road. The proposal will compromise safety both for pedestrians since they will be forced further out into the roadway and for vehicles in the intersection. Also, future improvements along Elm Avenue will need to use the right-of-way. Staff recommends denial based on these concerns.

Mike Pelletier, Community Development Department, reviewed this item. The revocable permit is for a fence on Elm Avenue, not 28 1/4 Road. The existing fence is 11 feet into the right-of-way. The owners have dogs and would like to tie them up to the trees that are inside the existing fence. Staff has recommended denial of the revocable permit application for the following reasons:

1. The current stop sign is located outside the sidewalk. The ideal location for the stop sign is inside the sidewalk per the Street Standard Design Manual. It also compromises safety to some extent;
2. It forces pedestrians on Elm Avenue closer to the street;
3. Elm Avenue is scheduled for widening in the future (less than five years).

Public Works Director Jim Shanks said the permanent plans for Elm Avenue would be similar to the section that has recently been completed just east of 12th Street. An improved shoulder on Elm Avenue is also planned, with a paved area for both pedestrians and bicyclists. A fence in this area lessens the City's ability to complete permanent improvements. Mr. Shanks said when approaching the stop sign from the west and currently, when looking to the east, the stop sign post cannot be seen because the fence is in the way.

The petitioner Teresa Block, 525 28 1/4 Road, stated the fence has been in this location for 2 1/2 months. The fence on 28 1/4 Road is 4 feet, the Elm Avenue fence is 6 feet tall.

Mr. Pelletier stated some complaints were received by the Code Enforcement Division, which resulted in the inspection of the

1995

fence.

Councilmember Afman stated it is extremely difficult to walk along Elm Avenue because there's not much room. It is also difficult to see the stop sign until you are right at the intersection because of the trees and fence.

Ms. Block said there is 11 feet from the fence to the beginning of the street. There is less than 2 feet from the property line to the street on other streets. When people walk on Elm Avenue the only area they can walk on is Ms. Block's property. Before the fence was constructed, pedestrians walked on the street. She said she had a driveway before the City did the road construction on 28 1/4 Road. She was told she could move the fence and the gate into the property because she had lost her driveway. Ms. Block was also concerned that there are no speed limits posted on 28 1/4 Road between Orchard and North Avenues.

Councilmember Baughman asked if a compromise could be reached by allowing the fence, but not extending it as far eastward as it is now, thus alleviating the site distance problem from the stop sign. The fence encroaches into the right-of-way, but it does not encroach as much as other properties on the same street. The visibility issue is his main concern. Councilmember Baughman agreed with the applicant and did not feel the fence is causing problems. Public Works director Jim Shanks felt a survey would have to be conducted regarding actual stopping site distances necessary at particular speed limits, etc.

Councilmember Graham asked if all the trees would need to be moved when the time comes for the City to improve the shoulder. Mr. Shanks did not feel the trees would necessarily have to be removed. Trees in the right-of-way are often times left standing.

Ms. Block was willing to move the fence back in three years. She is merely asking to keep the fence in its present location until road construction begins on Elm Avenue. Councilmember Graham noted that if the permit is granted, the City is only required to give 30 days' notice when the permit is to be revoked.

Councilmember Graham understands the Uniform Model Traffic Code requires a motorist to slow down when approaching an intersection which is either unmarked or not clearly marked. From a safety standpoint, most drivers along Elm Avenue will sooner or later become aware there is a stop sign at the intersection. He had no problem with granting a revocable permit as long as the City will have no problem reclaiming the 11 feet of right-of-way when it

1995

becomes necessary.

It was moved by Councilmember Terry and seconded by Councilmember Graham that Resolution No. 84-95 be adopted. Roll was called on the motion with the following result:

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

The motion lost.

Councilmembers Baughman and Theobold stated their primary concern is the site distance on the stop sign.

Petitioner Terry Block suggested bringing the fence back one more post where the fence angles, a distance of four feet between poles.

Upon motion by Councilmember Baughman, seconded by Councilmember Theobold and carried by roll call vote with Councilmember **MAUPIN** voting **NO**, Resolution No. 84-95 issuing the revocable permit was adopted to allow the fence in the City right-of-way with the stipulation that the fence location allows for the site distance requirements for the stop sign to be in compliance with the Manual of Uniform Traffic Control Devices.

**APPROVAL OF NEGOTIATIONS WITH THE DEPARTMENT OF ENERGY ON THE REMEDIAL ACTION PLAN**

City Attorney Dan Wilson distributed to Council for discussion copies of the latest version of negotiations on the Remedial Action Plan that came from the Albuquerque Department of Energy Office. He recalled history regarding remedial action in the past. The first contract was signed with the Department of Energy in 1990 for the cleanup of the Jarvis property. The original agreement says DOE can stop remediation but only if the DOE and the State consent to stop. Mr. Wilson reviewed particular sections of the Plan regarding a "walk" clause for clarification. He summarized and recommended approval of the negotiations agreement. He said the local projects office say there is no reason to feel they are not going to complete the project.

Councilmember Afman felt Council had no choice but to go forward, and hope for the best.

Councilmember Graham felt the risks people are willing to take on this Agreement are directly proportional to the urgency they feel

1995

for using the Jarvis property and for development along the Riverfront. Since he is not a proponent of the City developing along the Riverfront, he sees this as a land mine and will not voluntarily step on it. He thinks there is a third alternative called "wait and see." Winds of change are blowing in Washington and the onerous conditions Council is facing now may be changing in years to come. He did not see the rush to slap together any kind of deal just for the sake of political expediency of continuing a policy, the wisdom of which he questions.

Councilmember Terry felt the urgency is relative to the money involved as well.

Councilmember Theobald did not see regulation of hazardous waste diminishing in the future.

Councilmember Mantlo was concerned that the liability could fall back on the City and it would take millions of dollars to clean up the area.

Councilmember Graham felt that as long as the City does not turn the earth, nothing can happen. As long as the City abstains completely from doing anything with the affected properties, the City does not face liability. Mayor Maupin reminded Council that a dike cannot be built. The Corps of Engineer's dollars would be lost and the property that needs to be protected from a dike would not get protected.

Upon motion by Councilmember Afman, seconded by Councilmember Terry and carried by roll call vote with Councilmember **GRAHAM** voting **NO**, the City Manager was authorized to sign the amended Remedial Action Agreement for signatures by the Colorado Department of Public Health and the U.S. Department of Energy.

#### **RUSSIA AND UKRAINE VISITORS**

Mayor Maupin reported two Russian women will be spending time with Council in October, 1995 to obtain some ideas for setting up governments in Russia and the Ukraine.

#### **OTHER BUSINESS**

##### Airport Authority

The City Clerk was directed to advertise to fill the vacancy on the Airport Authority.

##### Beautification of Highway 340



---

1995

Beautification work by City Staff on Highway 340 was discussed. The estimated cost for the project is \$5100. It was suggested the beautification be worked in with the current road work without dropping other projects. City Manager Mark Achen assumed the work could be done by this Fall.

Associated Government of Northwest Colorado Meeting

Councilmember Graham stated an agenda item for the Associated Government of Northwest Colorado meeting on September 7, 1995 to be held in Steamboat Springs, concerns a variance of what is called a "Tourism Impact Tax." Certain Colorado communities that have a lot of tourism and very high costs of living are creating a situation where more rural communities have people who live there and commute to work. The neighboring communities may not have the infra-structure or finances to provide necessary social services for such people. Councilmember Graham objects to any additional tax on tourism. He requested comments from Council.

Councilmember Theobald stated any plan would require state-wide voter approval. Councilmembers Afman and Baughman agreed with Councilmember Graham that an additional tax would be detrimental. Councilmember Afman also felt the impacted communities can address their own problems better than a county-wide or state-wide tax. Councilmember Terry stated a revenue sharing solution is also being discussed via the state-wide growth plan.

**ADJOURNMENT**

Upon motion by Mayor Maupin, seconded by Councilmember Theobald and carried, the meeting was adjourned at 10:35 p.m.

Stephanie Nye, CMC/AAE  
City Clerk