

CITY OF EL PASO, TEXAS
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM

DEPARTMENT: Parks and Recreation

AGENDA DATE: May 30, 2006

CONTACT PERSON/PHONE: Norman C. Merrifield (915) 541-4910

DISTRICT(S) AFFECTED: District 5

05/30/06 10:30:04

SUBJECT:

APPROVE a resolution / ordinance / lease to do what? OR AUTHORIZE the City Manager to do what? Be descriptive of what we want Council to approve. Include \$ amount if applicable.

An ordinance authorizing the City Manager to sign a Quitclaim Deed for the Tierra del Este # 4 property described as Lot 19, Block 30, Tierra del Este Unit 4, an addition to the City of El Paso, El Paso County, Texas, Recorded in Volume 77, Page 1, Plat records of El Paso County, Texas. Authorization is contingent upon receipt by the City from Ranchos Real IV, Ltd. of \$608,040. pursuant to Chapter 19.12 of the El Paso City Code.

BACKGROUND / DISCUSSION:

Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?

The Parks and Recreation Department decided to relinquish this property as it did not meet the needs of the community as a community park, and as the City never formally accepted the property as a park. The parkland dedication credits to be received in lieu of the property will be used in the development of the Tierra del Este # 1 property as a community park.

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one?

Yes.

AMOUNT AND SOURCE OF FUNDING:

How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

BOARD / COMMISSION ACTION:

Enter appropriate comments or N/A

*****REQUIRED AUTHORIZATION*****

LEGAL: (if required) _____

FINANCE: (if required) _____

DEPARTMENT HEAD: _____

(Example: if RCA is initiated by Purchasing, client department should sign also)

Information copy to appropriate Deputy City Manager

APPROVED FOR AGENDA: _____

CITY MANAGER: _____

DATE: _____

ORDINANCE NO. _____
AN ORDINANCE AUTHORIZING THE CONVEYANCE OF LOT 19, BLOCK 30,
TIERRA DEL ESTE UNIT FOUR, EL PASO, EL PASO COUNTY, TEXAS.

WHEREAS, in 1999, the City of El Paso (the “City”) passed Ordinance No. 014262, annexing portions of Sections 33, 34, 38, 39 and 40, Block 79, Township 2, Texas & Pacific Railway Company Survey, El Paso County, Texas to the City of El Paso, Texas (the “Annexation Ordinance”);

WHEREAS, said annexation was subject to certain conditions identified in an Annexation Agreement attached to said Annexation Ordinance, including those contained in Section Seven requiring the dedication of public community parkland and the filing of an application for off-site dedication of parkland;

WHEREAS, Ranchos Real IV, Ltd., was a party to the Annexation Agreement, and as a result agreed to dedicate a certain amount of land as public community parkland and file an application for off-site dedication of parkland;

WHEREAS, on September 24, 2003, Ranchos Real V, Ltd. recorded a dedication deed conveying to the City the following property: Lot 19, Block 30, Tierra del Este Unit Four, (the “Property”) “in complete satisfaction of its duty to dedicate public community parkland pursuant to the Ordinance” in reference to the Annexation Ordinance;

WHEREAS, said September 24, 2003, dedication deed was incorrect as to the immediately preceding recital herein insofar as Ranchos Real V, Ltd. satisfied the obligation for the dedication of public community parkland under the Annexation Ordinance through Dedication Deed recorded in Vol. 4518, Page 1452, Real Property Records of El Paso County, Texas, covering a 92.42 acre parcel described therein, and not through the Property described in the September 24, 2003, dedication deed;

WHEREAS, it was the true intent of Ranchos Real V, Ltd. that the Property be dedicated to the City to satisfy the parkland dedication requirements of Chapter 19.12 of the El Paso City Code;

WHEREAS, neither the city plan commission nor the City ever formally accepted the dedication deed referenced herein and therefore never formally accepted the land dedicated as parkland by Ranchos Real V, Ltd.;

WHEREAS, the City Council finds that the proper procedures for submitting the dedication of this land as parkland were not followed; that this land is not suitable for parkland dedication for City purposes; that the signing of the dedication deed by Ranchos Real V, Ltd. was premature and therefore erroneously done and filed; that the City is best served by accepting fees in lieu of dedicated parkland in accordance with applicable City Code, and that the City is willing to accept the fee in lieu of the required parkland dedication and the payment of the fee described hereinbelow will satisfy the requirement for fees in lieu of dedication for 10.134 acres of land;

WHEREAS, Ranchos Real V, Ltd. is willing to pay the fees in lieu of land for a total amount of SIX HUNDRED EIGHT THOUSAND AND FORTY DOLLARS AND NO/100 (\$608,040.00) in accordance with Chapter 19.12 of the El Paso City Code, and is willing to accept the property from the City since it was not used for its intended purpose pursuant to the dedication deed:

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That, contingent upon the receipt by the City from Ranchos Real V, Ltd. of the fee required by Chapter 19.12 of the El Paso City Code in the amount of SIX HUNDRED EIGHT THOUSAND AND FORTY DOLLARS AND NO/100 (\$608,040.00), the City Manager be authorized to sign the quitclaim deed attached hereto as Exhibit "A" and all related documents conveying the following described property to Ranchos Real V, Ltd.:

LOT 19, BLOCK 30, TIERRA DEL ESTE UNIT FOUR, AN ADDITION TO THE CITY OF EL PASO, EL PASO COUNTY, TEXAS, RECORDED IN VOLUME 77, PAGE 1, PLAT RECORDS OF EL PASO COUNTY, TEXAS.

PASSED AND APPROVED this _____ day of _____, 2006.

CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Josette Flores
Assistant City Attorney

APPROVED AS TO CONTENT;



Norman Merrifield, Ed.D., Director
Parks and Recreation

EXHIBIT "A"

QUITCLAIM DEED

STATE OF TEXAS)
) **KNOW ALL MEN BY THESE**
COUNTY OF EL PASO) **PRESENTS**

Date: _____, 2006

Grantor: CITY OF EL PASO,
A Texas municipal corporation

Grantor's Mailing Address (including county):

City of El Paso
#2 Civic Center Plaza
El Paso County
El Paso, Texas 79901
Attn: City Manager

Grantee: RANCHOS REAL V, LTD.,
a Texas limited partnership

Grantee's Mailing Address (including county):

1790 N. Lee Trevino Dr., Ste. 601
El Paso County
El Paso, Texas 79936

Consideration: TEN AND 00/100THS DOLLARS (\$10.00) and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged and confessed.

Property (including any improvements):

LOT 19, BLOCK 30, TIERRA DEL ESTE UNIT FOUR, AN ADDITION TO THE CITY OF EL PASO, EL PASO COUNTY, TEXAS, RECORDED IN VOLUME 77, PAGE 1, PLAT RECORDS OF EL PASO COUNTY, TEXAS (THE "PROPERTY").

For the Consideration, Grantor quitclaims to Grantee all of Grantor's right, title and interest, if any, in and to the Property, to have and to hold it to Grantee's heirs, successor's and assigns forever. Neither Grantor nor Grantor's heirs, successors or assigns will have, claim or demand any right or title to the Property or any part thereof. As a condition to this transfer, Grantor transfers this Property "AS IS", and Grantee accepts the Property "AS IS" and agrees to forego claims regarding the Property against Grantor.

When the context requires, singular nouns and pronouns include the plural.

GRANTOR

CITY OF EL PASO

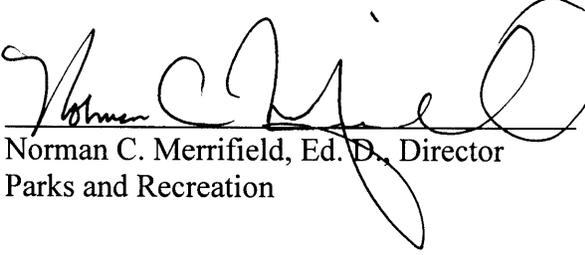
Joyce A. Wilson,
City Manager

APPROVED AS TO FORM:



Josette Flores
Assistant City Attorney

APPROVED AS TO CONTENT:



Norman C. Merrifield, Ed. D., Director
Parks and Recreation

GRANTEE

RANCHOS REAL V, LTD.
By: Ranchos Real Developers, Inc.,
General Partner

Douglas A. Schwartz,
Vice President

Prepared by:
City Attorney's Office
9th Floor
#2 Civic Center Plaza
El Paso, Texas 79901-1196

ACKNOWLEDGMENTS

STATE OF TEXAS **X**

COUNTY OF EL PASO **X**

Before me, the undersigned authority, on this day personally appeared Joyce A. Wilson, City Manager of the City of El Paso of El Paso County, Texas known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration, therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE _____ DAY OF _____, 2006.

Notary Public, State of Texas
Commission Expires: _____

STATE OF TEXAS **X**

COUNTY OF EL PASO **X**

Before me, the undersigned authority, on this day personally appeared Douglas A. Schwartz, Vice President of the RANCHOS REAL V, LTD., known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration, therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE _____ DAY OF _____, 2006.

Notary Public, State of Texas
Commission Expires: _____



PARKS AND RECREATION

MEMORANDUM

TO: Joyce A. Wilson, City Manager

FROM: *NM* Norman C. Merrifield, Ed.D., Director
Parks and Recreation Department

SUBJECT: CCA – June 13, 2006: Tierra del Este #4 - Ordinance

DATE: June 7, 2006

Please find attached a redline and clean version of the ordinance authorizing the City Manager to sign a quitclaim deed once the City has received fees in lieu of land for Lot 19, Block 30, Tierra del Este #4 (“the Property”), which will be on the public hearing list at the June 13, 2006, City Council meeting. The changes were made subsequent to the initial submission to the City Clerk’s Office and were not incorporated in the version of the ordinance that was introduced to City Council on May 30, 2006.

The following three changes were requested by the developer and I do not have any objection to these changes:

- 1) the 6th “Whereas” clause now memorializes the true intent of the developer to comply with the City’s subdivision ordinance in its dedication of the Property to the City;
- 2) Ranchos Real IV, Ltd. now appears as Ranchos Real V, Ltd. throughout the document except for the third “Whereas” clauses; and,
- 3) the language at the end of the paragraph appearing at the top of the second page, now affirms that the fee in lieu of parkland to be received by the City is in satisfaction of the dedication of 10.134 acres of parkland.

As Planning informed me that the Property was not an “off-site” dedication, the references to the Property as an “off-site” dedication in the ordinance have been deleted.

Please let me know if you have any questions.

cc: Mayor and Council
Debbie Hamlyn, Assistant City Manager, Quality of Life