



# CITY OF RAPID CITY

## RAPID CITY, SOUTH DAKOTA 57701-2724

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December 27, 2016

Rapid City Common Council  
300 Sixth Street  
Rapid City, SD 57701

*Re: Elks Crossing Easement*

Dear Council Member:

The Elks Crossing easement dilemma is scheduled to be on the January 3, 2017 City Council agenda. This issue involves a developing neighborhood which sits between Duckhorn Street and Vinecliff Drive in Southeast Rapid City. During development of the neighborhood, the developer designed the lots to accommodate walk-out basements as a selling feature. This means, the drainage had to be designed to go toward the backyard instead of the front. It was necessary then, for the City to require a 20 foot drainage easement. This easement appears to be both unfair and illogical to the residents there. The homes on each street have adjoining backyards divided by the drainage easement. Some of the homeowners have built fences into the easement and up to the property line. The easement requires them to leave 10 feet open from the property line and keep it free of fences or other structures. The homes in this area have relatively small backyards and losing 10 feet of those backyards is a hardship. Since some have built into the easement, vacation of the easement will be required. They are seeking a waiver from the City Council.

There's been some misunderstanding of the issue. The petitioners brought photographs and a video to the City Council meeting to show that there is virtually no chance of a wall of water rushing down between their homes. Furthermore, the Public Works Director's explanation of needing a 20 foot easement to gain access to the drainage area with equipment is equally frustrating to the homeowners.

I have a unique perspective on this issue and would like to offer a personal story. I live in a neighborhood without a drainage easement. The configuration of the Duckhorn/Vinecliff neighborhood and my neighborhood is very similar. Nearly 26 years ago when I moved into my home, I was the first house to build on my street. Over the next year or two all of the homes on my street were complete. My backyard and the backyards of my neighbors join the backyards of people living on the street to the north. I live on the downhill side of the development, one lot from the bottom. Roughly 25 years ago, my downhill neighbor did not like the slope to his side yard and had a load of dirt brought in to remedy the slope. This created a pool of water in my backyard as well as some of the other neighbors' yards every time we experienced heavy rain.



EQUAL HOUSING  
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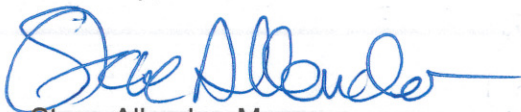
During the summer months, my backyard was continuously soggy from the irrigation and rain storms in the area. I tried to gently resolve the issue within the neighborhood and was met with some resistance. Ultimately, I was able to alleviate the pooling water by digging a nearly 100 foot long trench along the property line, to the downhill Street. I installed drain pipe and re-landscaped so the drainage is functional. The neighbor's house has changed hands twice since he moved.

The moral of the story is this: no one doubts that the homeowners in the Duckhorn/Vinecliff area have the best intentions and would do nothing to harm their neighbor's property. The fact of the matter is that they cannot control what future homeowners will do. Over the next 10, 20 or 30 years someone will build a garden, a shed or do something, albeit with good intentions, that will undermine the drainage in the neighborhood; and when that happens, it will be up to the neighbors to negotiate its resolution or file civil action against other neighbors to rectify the situation; or, do as I did and take 25 years working toward a solution.

Unfortunately, I do not believe the Council should take any action changing the rules for this neighborhood. The issue, was likely created by a failed communication between developer, contractor or realtor and the future homeowner. The City should not adopt this problem and pass it on to future generations. This message will be received negatively by those in the affected neighborhood. Believe me when I say I feel for them.

My recommendation is to uphold the existing 20 foot easement. If you have questions or would like further information, please do not hesitate to contact me.

Sincerely,



Steve Allender, Mayor  
Rapid City, South Dakota