

City will buy McGee's Iron Mountain land Agreement ends long dispute over 'House on the Hill'

By Jeanne Davant

A 20-year war of lawsuits and words over Tom McGee's 99-acre property on Iron Mountain is finally over.

Manitou Springs City Council approved a purchase and settlement agreement Tuesday to buy McGee's property for \$1.1 million. The bargain was sealed with a signing ceremony Wednesday at Manitou City Hall.

Mayor Marc Snyder, who was instrumental in the negotiations that led to the settlement, said the city would preserve the property as open space and possibly would tear down McGee's house atop Iron Mountain, which has long been considered a blight on the city's scenic backdrop. The Open Space Advisory Committee would make recommendations on disposition of the house, Snyder said.

Under the terms of the agreement, the city has two years to complete transactions to buy the property in three stages.

"There are benchmarks along the way," Snyder said. "If we fail to perform, we forfeit the right to buy, and he gets access and the right to build eight dwellings. The pressure is on the city, but we're very committed not to let that happen.

Snyder said the purchase would be financed through several sources, including the city's dedicated open space tax revenues that would provide matching funds for possible grants.

"This is the poster child for the Great Outdoors Colorado open space program," Snyder said. "We probably will have partners. A lot of people want to participate."

Million-dollar views, limited access

McGee bought the property, which stretches across the summits of Iron and Sheep mountains south of town, in 1989. The parcel adjoins Manitou's city limits, and McGee asked the city to annex the property so he could get utility service and develop it.

Developers have coveted the land, with its million-dollar views, since the late 1800s. Redstone Castle sits on the north slope of Iron Mountain, a remnant of an 1890s plan to build homes there. That development would have been called Manitou Terrace.

McGee originally wanted to build up to 30 homes on his property.

Then-Mayor Chris Daly vehemently opposed him on the grounds that development would spoil mountain views from the city.

McGee said the city threatened legal action against him when he sought to reopen East Boulevard, an abandoned stretch of road that runs from Pawnee Avenue to Plainview Place.

That prevented McGee from being able to access the lower part of his property, where he'd planned to build a house for himself. McGee then built a two-bedroom, two-story home at the top of the mountain, causing great resentment in the city below.

He got access to the house through Crystal Park and cut off access to the Intemann Trail, four miles of which ran through his land.

The war escalates

In 1993, McGee hired a contractor to bulldoze a road down Iron Mountain. He said the road would serve as a fire escape route for residents of Crystal Park, as well as giving him access to his property.

The city got a court order to stop the construction, arguing that the road was too steep and narrow to allow emergency access in case of a fire. McGee abandoned the project when a Fourth Judicial District judge ordered him to have the road engineered by professionals.

In a letter to *The Gazette* published June 1, 2006, McGee gave his version of what led up to those events. He said that when Crystal Park applied for subdivision status in 1993, he offered to extend Oak Ridge Road across his property to East Boulevard, which becomes Jensen Lane in Manitou Springs. That would have given Crystal Park residents a second fire escape route, McGee said.

The El Paso County Commissioners, however, waived a legal requirement for a second access route for the subdivision. Shortly thereafter, McGee hired a contractor to build the extension. He said that when he had completed 2,200 feet of the road to a point where it became visible from Manitou, the commissioners ordered a halt to the construction.

"The (Manitou) city attorney, the county attorney, and my attorney met in court chambers," McGee wrote. "All parties agreed to a 120-day negotiation period. However, the city used that moratorium period to initiate and enact a new extra-territorial road building ordinance, to effectively ensure that this road could not be completed.... The court allowed the city to change the rules in the middle of the game."

McGee's letter was in response to one from then-Mayor Marcy Morrison, who wrote after *The Gazette* published an editorial saying that McGee owned the land and should be allowed to do what he wanted with it.

Morrison pointed out that the road, which runs through the land surrounding Crystal Valley Cemetery, was not a public thoroughfare. A public throughway, Morrison wrote on May 26, 2006, would amount to "a Marksheffel Road" through the cemetery. She termed McGee's purchase of the land an "unwise" investment, since he knew it was difficult to access.

Offers to sell

In 2001, McGee and then-Councilman Snyder started talking about what it would take to resolve the issues. Snyder remembers it was right after the Superbowl when they reached an accord.

"We had a handshake agreement," Snyder said. "We took it to Council, and they agreed to buy the property for \$1.2 million. Then he called the next day and said he wanted to build some roads. That's where we bogged down."

In May 2006, McGee, then 67, declared he was ready to sell his property for \$1.5 million.

"I believe the city has the connections to prolong this matter indefinitely, so I am willing to sell," McGee wrote in his letter to *The Gazette*. He stated he thought it was the city's responsibility to make him an offer and that he expected one by July 1.

Morrison said she never received a written proposal, and McGee said he would market the property elsewhere if he didn't hear from the city by July 1. The proposal languished.

Over the next four years, the lawsuits, charges and countercharges continued. The legal actions eventually were folded into a lawsuit involving Stephen and Wendy Beisel, who own two parcels next to McGee's land. They, too, wanted to develop their property and had met with similar resistance from Manitou.

Finally, a resolution

In May of this year, after 17 years of delays, postponements and appeals, "it looked like we were ready to go to trial," Snyder said. But the trial was postponed when the Beisels obtained a new attorney, who needed time to get up to speed on the complex litigation. PJ Anderson, an experienced attorney, former county planning director and open space advocate, had become McGee's counsel.

A hearing on the case was scheduled for Monday, July 11. As the trial date approached, Anderson and fellow attorney Snyder started talking about a settlement.

"PJ was the one to get him to understand the difference between legal access, which we were contesting, and physical access," Snyder said. "These roads are based on maps from 1891, but they're not really built." Besides, Snyder said, "if we allow people to build helter skelter, we get a big event and it comes sliding down—not to mention the fire danger. If we can't get our trucks up there, we're not going to go."

By last Friday, an agreement had been reached, with only a few details remaining. Snyder called a special emergency council meeting on Sunday, at which five council members were present. They authorized Snyder, Councilwoman Aimee Cox and Deputy City Administrator Mike Leslie to form a final committee to iron out the details.

On Monday morning, they informed Fourth Judicial District Judge Rebecca Bromley that they had reached an agreement. She dismissed McGee's portion of the lawsuit pending final signing of the document. The Beisels' part of the suit is still pending and is scheduled to resume Aug. 23.

"The reason this deal got done with Mr. McGee was that both sides were willing to give," Snyder said. "Both sides tried to understand the other's position and what they needed out of it, and worked to get it done."

Snyder said he is glad that after all this time, "this is not an adversarial matter anymore. There are no hard feelings. Tom and I to this day have great respect for each other. We've never had a cross word. Who knew I'd be the mayor when Tom was ready to let go?"

[Return to Article Index](#)