

AGENDA ITEM SUMMARY

FORT COLLINS CITY COUNCIL

ITEM NUMBER:

16

DATE: February 16, 1999

Jim Hibbard/

STAFF: Ron Mills

SUBJECT:

First Reading of Ordinance No. 25, 1999, Recognizing an Abandonment of Ditch and Pipe Line Rights-of-Way in Exchange for the Granting of Two Water Line Easements.

RECOMMENDATION:

Staff recommends adoption of the Ordinance on First Reading.

EXECUTIVE SUMMARY:

The Water Utilities staff was originally approached in 1990 by a property owner requesting that the City vacate a strip of right-of-way adjacent to this property. As this request was being circulated, Cultural, Library and Recreational Services ("CLRS") identified the strip as a potential alignment for the Poudre River Trail; therefore, the request was denied. Since that time, CLRS eliminated this alignment from consideration for the trail system due to safety reasons as it approached Overland Trail Road.

Recently, a contract purchaser of an adjacent property requested that the above-mentioned strip of land along with a pipeline right-of-way be abandoned as they affect his land purchase. He asserts that they have not been used for the intended purpose since 1906. The conveyance documents contain language similar to the following: ... "provided that in case the said Town, its successors and assigns shall permanently abandon said line, the same to revert to and become reinvested in said Grantor, his/her heirs and assigns".

During research, staff discovered the two existing waterlines crossing contract purchaser's property were not contained in recorded easements. The contract purchaser has agreed to grant to the City the water line easements in exchange for recognition by the City that 1906 was the date of abandonment for the rights-of-way. After researching the conveyance documents, staff recommends approval of contract purchaser's proposal.

ORDINANCE NO. 25, 1999
OF THE COUNCIL OF THE CITY OF FORT COLLINS
RECOGNIZING AN ABANDONMENT OF DITCH AND PIPE LINE RIGHTS-OF-WAY
IN EXCHANGE FOR THE GRANTS OF TWO WATER LINE EASEMENTS

WHEREAS, rights-of-way were originally purchased by the Town of Fort Collins for a line of ditch in connection with the Town of Fort Collins Water Works and were conveyed by Deeds dated December 16 and 19, 1882 and recorded in Book 29, Pages 227 and 233 of the Larimer County Clerk and Recorder's Office; and

WHEREAS, a right-of-way, which alignment was not described, was also acquired for a pipe line for the Town of Fort Collins Water Works and was conveyed by Deed dated December 16, 1882 and recorded in Book 29, Page 226 of the Larimer County Clerk and Recorder's Office; and

WHEREAS, each Right-of-Way Deed contains language similar to the following: "... provided that in case the said Town, its successors and assigns shall permanently abandon said line, the same to revert to and become reinvested in said Grantor, his/her heirs and assigns"; and

WHEREAS, research by the City's Historic Preservation staff indicates that the Town of Fort Collins may have abandoned said rights-of-way as early as 1906 when a Water Treatment Plant was constructed in the Poudre Canyon and said rights-of-way were no longer needed or used by the Town of Fort Collins; and

WHEREAS, pertinent City departments have been contacted and report no objection to recognizing 1906 as the date of abandonment for the above referenced rights-of-way as they affect a parcel of land described on Exhibit "A", attached hereto and incorporated herein by this reference, in exchange for the granting of two water line easements to the City more particularly described on Exhibit "B", attached hereto and incorporated herein by this reference; and

WHEREAS, there will be no cost to the City in recognizing 1906 as the abandonment date; and

WHEREAS, Section 23-111 of the Code provides that the City Council is authorized to sell, convey or otherwise dispose of real property owned by the City for use by the City Utility, provided the Council first finds by ordinance that any sale or other disposition of real property will not materially impair the viability of the utility system as a whole, and that the proposed action is in the best interest of the City of Fort Collins.

NOW, THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS that in exchange for the conveyance of the water line easements more particularly described on Exhibit "B", the Council agrees to recognize and acknowledge the prior abandonment (as of 1906), of Town of Fort Collins rights-of-way for the discharge of "tail water" to the Poudre River and conveyance of water by pipe line purposes for the Town of Fort Collins Water Works plant as shown on Exhibit "A".

Introduced, considered favorably on first reading, and ordered published this 16th day of February, A.D. 1999, and to be presented for final passage on the 2nd day of March, A.D. 1999.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading this 2nd day of March, A.D. 1999.

Mayor

ATTEST:

City Clerk

EXHIBIT "A"

LEGAL DESCRIPTION

PARCEL I:

A strip of land through Section 32, Township 8 North of Range 69 West beginning at a point 20 chains due South of center of Section 32, Township 8 North of Range 69 West and 11.70 chains due East of a North and South line drawn through the center of said Section 32, and running thence East 870 feet, thence North 66 feet, thence West 880 feet, thence South 6 degrees West 66 feet to place of beginning.

County of Larimer, State of Colorado.

PARCEL II:

A tract of land situate in Section 32, Township 8 North, Range 69 West of the 6th P.M., more particularly described as follows:

Beginning at the Southeast corner of Section 32, Township 8 North, Range 69 West of the 6th P.M., thence Northerly along the East line of said SE 1/4, 1,896.4 feet more or less to the South line of the right of way of the Colorado and Southern Railroad, thence Northwesterly along the South line of said right of way to a point 330 feet East of the West line of the NE 1/4 of SE 1/4 of said Section, thence South parallel with the West line to the South line of said NE 1/4 of SE 1/4 of said Section, thence West 330 feet to the Northwest corner of SE 1/4 of SE 1/4 of said Section, thence South along the West line of said SE 1/4 of SE 1/4 to the Southwest corner of said SE 1/4 of SE 1/4, thence Easterly along the South line of said Section to the point of beginning;

ALSO, beginning at a point on the North line of the SE 1/4 of Section 32, Township 8 North, Range 69 West of the 6th P.M., which is 792.5 feet West of the East quarter corner of Section 32, thence West 120 feet more or less to the East line of the right of way of the Colorado and Southern Railroad, thence southeasterly along said right of way to a point due South of the point of beginning, thence North to the point of beginning;

EXCEPTING from the above a parcel conveyed to Stephen J. Marko and Mildred Marko as recorded in Book 820 at Page 418, Larimer County Records, and

EXCEPTING a parcel conveyed to Henry F. Brooks as recorded in Book 173 at Page 154, Larimer County Records;

EXCEPT that portion platted as "McNally's Hilltop Subdivision;

EXCEPT parcel conveyed to the City of Fort Collins, Colorado, a Municipal Corporation, by Warranty Deed dated May 31, 1989 and recorded on June 2, 1989, under Reception No. 89024419, Larimer County Records; and

EXCEPT parcel conveyed to Ernesto Chacon and Betty L. Chacon by Quit Claim Deed dated March 4, 1976, and recorded on March 9, 1976, in Book 1689 at Page 155, Larimer County Records;

EXCEPT parcel conveyed to Lester J. Brown and Nellie L. Brown by Deed recorded March 10, 1969 in Book 1404 at Page 642, Larimer County Records;

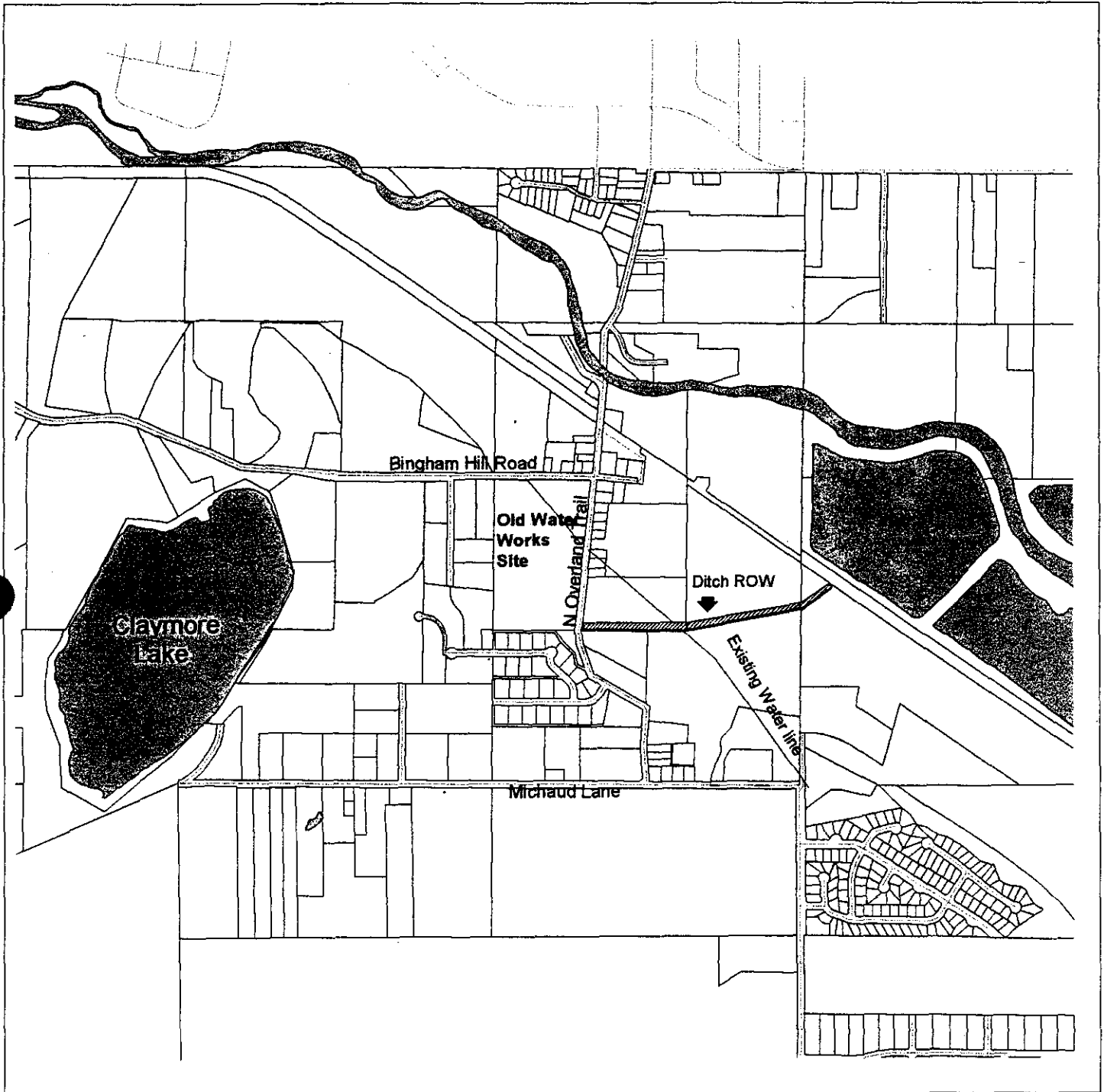
EXCEPT parcel described in Decree Quieting Title recorded August 25, 1992 under Reception No. 92051866, Larimer County Records;

EXCEPT parcel dedicated as a public highway in Deed of Dedication recorded October 25, 1996 under Reception No. 96077196, Larimer County Records, and

EXCEPT any portion, if any, contained within PARCEL I.

County of Larimer, State of Colorado

ROW Abandonment/Easement Exchange Adjacent to Old Water Works Site



2000 0 2000 4000 Feet

 Parcels

