

AGENDA ITEM SUMMARY

FORT COLLINS CITY COUNCIL

ITEM NUMBER: 20

DATE: January 16, 2007

STAFF: Patrick Rowe

SUBJECT

First Reading of Ordinance No. 012, 2007, Authorizing the Conveyance of a Permanent Non-Exclusive Easement Over a Portion of the Eagle View Natural Area for Inundation by a Reservoir.

RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading. At its December 13, 2006 meeting, the Land Conservation and Stewardship Board voted unanimously to recommend approval of the requested easement.

FINANCIAL IMPACT

Real Estate Services recommends total compensation of \$1,000 for this request, which includes administrative costs in the amount of \$500.

EXECUTIVE SUMMARY

John Jensen has requested a reservoir inundation easement over a portion of the Eagle View Natural Area. In order to augment an adjacent reservoir he owns, he will need this permission from the City for the possible inundation of an area of City property not to exceed 7,209 square feet at the proposed high water mark for the reservoir.

The proposed area of inundation is located in a naturally depressed wetland area and will not require improvement, construction or re-grading to accommodate the inundation. The initial impact to existing wetlands is expected to be minimal and no long term negative impacts are expected. In fact, the project is likely to facilitate the expansion of existing wetlands due to the increased inundated area. Due to the small size of the water inundation area (less than one acre), the Army Corps of Engineers will not require an individual permit for the inundation.

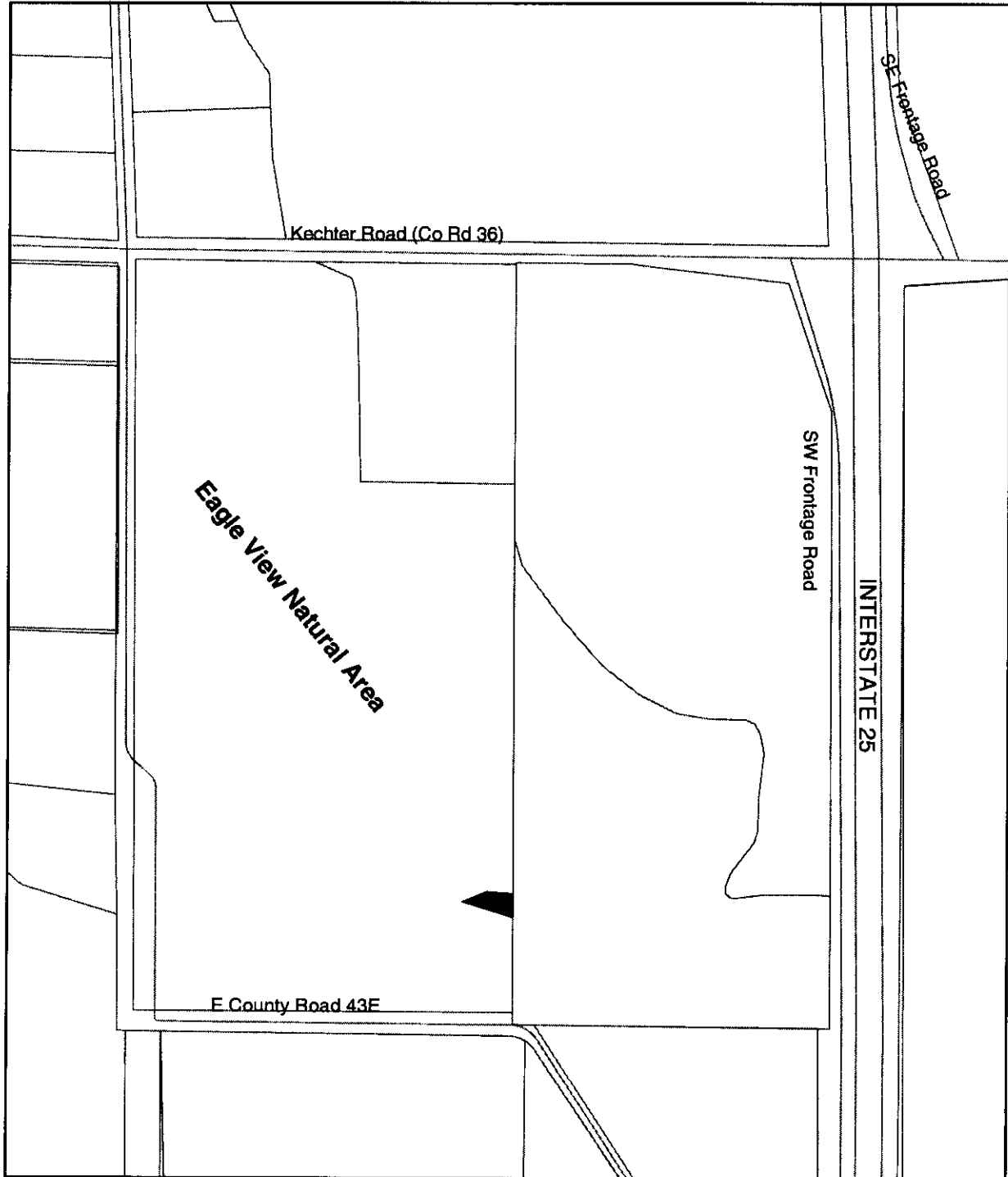
The adjacent reservoir is to be used for water storage and will provide habitat for water fowl; no motorized recreation will take place on the reservoir.

Due to the benign impact of the request, and the possible positive benefits (increased wetland habitat and open water for water fowl), staff recommends this easement be granted.

ATTACHMENTS

1. Location Map.
2. Excerpt from Minutes of The Land Conservation and Stewardship Board of Dec. 13, 2006.

Eagle View Natural Area Flood Easement Location Map



 Easement Location



Excerpt from Land Conservation and Stewardship Board
December 13, 2006 - Meeting Minutes

- Sears: Lindsey Kuntz and Patrick Rowe are here from Operations Services / Real Estate Services, because we have 3 real estate items that we need to address. I will highlight the particulars of these 3 items.

1. Pineridge / Quail Ridge Land Transfer

Natural Areas staff is recommending the conveyance of certain small tracts of land in the Pineridge Natural Area, located adjacent to the Burns Ranch at Quail Ridge Subdivision, to Burns Ranch Open Space Non-Profit Corporation to save maintenance costs spent on the mowing, trash removal, and weed control in these areas.

2. Eagle View Natural Area Flood Inundation Easement Request

This property is along I-25 south of Fort Collins, and south of Ketcher Road. The owners of Island Lake Marine are requesting this easement in order to fill their 9 acre reservoir to capacity, which will result in the flood inundation of 7,000 square feet of City property within the easement area. Due to the small size of the water inundation the Army Corps of Engineers will not require any permitting. The reservoir they are creating will have great benefits to wildlife and to visitors alike.

- Brown: Is there any chance that they will turn this into lakefront property?
- Sears: There is a certain possibility, and we would like to get a conservation easement on that portion of their property. We had a discussion with them regarding this and they seem open to that. At some point we will explore this further with them, but I don't think that the force behind this is to create lakefront property.

3. Arapaho Bend and Ditch Easement

Flatiron Companies own the property on the northeast corner of I-25 and Harmony. Historically the land was farmed and irrigated via the Box Elder Ditch lateral, which runs across Arapaho Bend Natural Area. There is a water storage reservoir on the property, which the Flatiron Companies is in the process of selling to the New Cache Irrigation Company out of Pierce. In order of the New Cache Irrigation Company to get water into the reservoir they plan to use the Box Elder Ditch lateral that used to serve that farm.

We feel that they have a prescriptive right, as well as they feel they have a prescriptive right. What defines a prescriptive easement is, how wide is the easement, and what can they really do or not do within that easement. So to benefit us and themselves they want to establish a permanent easement that clearly defines what they can and can not do.

- Stanley: What does prescriptive right mean?

- Sears: At an irrigation ditch or lateral, in some cases, there isn't a formal easement, but the easement has been there for a long enough period of time to establish a prescriptive easement.
- McLane: Where does the easement come in?
- Sears: It comes off the Box Elder Ditch, underneath one of our trails, and then over to I-25 just south of the river. Then it goes under I-25, in a culvert, and flows into the property. They will need to re-grade that ditch, so we would like to have them shape it to look as natural as possible, and it will also have more water flow than it had in the past. I did ask that they pay us a restoration fee on the property they will be disturbing.
- Stanley: Will the increased water flow be a safety issues?
- Sears: It won't be near as big a ditch as the Box Elder Ditch that is there now. Irrigation ditches can be a safety issue, but I think the depth of this, as far as water flowing, will only be a couple of feet deep, and not a high level velocity that would swept someone away.
- Bertschy: You are looking for a recommendation from the Board?
- Sears: We need a recommendation to go to Council on all three items for their next meeting.
- Groom: On the Pine Ridge Conveyance what kind of legal language do you use?
- Kuntz: What we'll do it as a quick claim or general deed with restriction for no livable structure, and that it should be used as intended.
- Bertschy: Will it be used as access to open space in some way, and would we maintain the area?
- Sears: They shouldn't be used as public access.
- Kuntz: There is a road that extends at the South end of subdivision that also leads to the Natural Area. The access road is the main way to get in.
- Bertschy: I think back to all the controversy we had over the trail at Fossil Creek Trail.
- Sears: All the trails according to the Management Plan are all ready established and the connection from the neighborhood to Pineridge is all ready established.

Vicky McLane made a motion.

Motion to send a positive recommendation to Council regarding the conveyance of certain small tracts of land in the Pineridge Natural Area. The motion was second by Michelle Grooms. It was unanimously approved by all.

Vicky McLane made a motion.

Motion to send a positive recommendation to Council regarding Eagle View Natural Area flood inundation easement request. The motion was second by Greg Eckert. It was approved by all.

Vicky McLane made a motion.

Motion to send a positive recommendation to Council regarding Flatiron Companies' request for a ditch easement across Arapaho Bend Natural Area. The motion was second by Karyl Ting. It was approved by all.

ORDINANCE NO. 012, 2007
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING THE CITY MANAGER TO CONVEY A PERMANENT NON-
EXCLUSIVE EASEMENT OVER A PORTION OF THE EAGLE VIEW NATURAL
AREA FOR INUNDATION BY A RESERVOIR

WHEREAS, the City of Fort Collins is the owner of a certain parcel of real property located in unincorporated Larimer County known as Eagle View Natural Area (the "Natural Area"); and

WHEREAS, John Jensen (the "Applicant") owns property contiguous to and east of the Natural Area; and

WHEREAS, the Applicant desires to augment a reservoir located on the Applicant's property in a manner that would inundate an area of the Natural Area up to 7,209 square feet in size when the reservoir is at its high water mark; and

WHEREAS, the Applicant seeks to acquire a non-exclusive reservoir inundation easement over, under and across the Natural Area (the "Easement"), as described in Exhibit "A", attached hereto in order to document the City's permission for the inundation of the Easement area by the proposed reservoir; and

WHEREAS, the Applicant has agreed to pay compensation of \$500 to the City for the Easement, and has agreed to pay \$500 for administrative costs associated with the Easement; and

WHEREAS, based on review of this request by City staff, it has been determined that granting the Easement will not have any adverse effect on the Natural Area; and

WHEREAS, Section 23-111 of the City Code provides that the City Council is authorized to sell, convey, or otherwise dispose of real property owned by the City, provided the Council first will be for the benefit of the City's citizens and finds by ordinance that any sale or other disposition of real property owned by the City 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 as follows:

Section 1. That the conveyance of the Easement, consistent with the terms of this Ordinance, will be for the benefit of the City's citizens and is in the best interest of the City of Fort Collins.

Section 2. That the Mayor is hereby authorized to execute such documents of conveyance as are necessary to convey the Easement to John Jensen, upon the terms and conditions described above, and subject to such other terms and conditions as the City Manager, in consultation with the City Attorney, determines to be in the best interests of

the City, including any necessary corrections to the legal description thereof that do not result in a material increase or change in character of the intended conveyance.

Introduced, considered favorably on first reading, and ordered published this 16th day of January, A.D. 2007, and to be presented for final passage on the 6th day of February, A.D. 2007.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 6th day of February, A.D. 2007.

Mayor

ATTEST:

City Clerk

**LEGAL DESCRIPTION
EASEMENT**


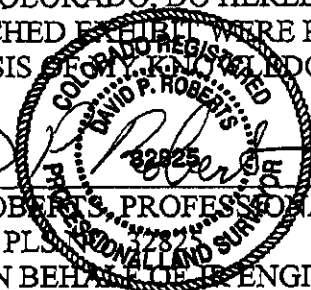
A PORTION OF THE WEST ONE-HALF OF THE NORTHWEST ONE-QUARTER OF SECTION 10, TOWNSHIP 6 NORTH, RANGE 68 WEST OF THE 6TH PM, COUNTY OF LARIMER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARING: THE EAST LINE OF THE WEST ONE-HALF OF THE NORTHWEST ONE-QUARTER, BEING MONUMENTED AT THE NORTH END BY A 2-1/2" ALUMINUM CAP STAMPED "LS 31169" AND AT THE SOUTH END BY A 2-1/2" ALUMINUM CAP STAMPED "LS 31169", IS ASSUMED TO BEAR NORTH 00°18'03" EAST, WITH A DISTANCE OF 2649.68 FEET BETWEEN SAID MONUMENTS.

COMMENCING AT THE CENTER WEST 1/16 CORNER OF SECTION 10, TOWNSHIP 6 NORTH, RANGE 68 WEST;
THENCE N00°18'03"E, ON THE EAST LINE OF THE WEST ONE-HALF OF SAID NORTHWEST ONE-QUARTER, A DISTANCE OF 394.84 FEET TO THE POINT OF BEGINNING;
THENCE N79°15'42"W, A DISTANCE OF 87.64 FEET;
THENCE N58°16'43"W, A DISTANCE OF 58.25 FEET;
THENCE N51°52'48"E, A DISTANCE OF 36.64 FEET;
THENCE N86°27'50"E, A DISTANCE OF 107.42 FEET, TO THE AFORESAID EAST LINE;
THENCE S00°18'03"W ON SAID EAST LINE, A DISTANCE OF 76.20 FEET, TO THE POINT OF BEGINNING;

CONTAINING A CALCULATED AREA OF 7,209 SQUARE FEET

I, DAVID P. ROBERTS, A REGISTERED PROFESSIONAL LAND SURVEYOR ON THE STATE OF COLORADO, DO HEREBY STATE THAT THE ABOVE LEGAL DESCRIPTION AND ATTACHED EXHIBIT WERE PREPARED UNDER MY RESPONSIBLE CHARGE AND ON THE BASIS OF MY KNOWLEDGE, INFORMATION, AND BELIEF, ARE CORRECT.


 14SEP04
DAVID P. ROBERTS, PROFESSIONAL LAND SURVEYOR
COLORADO PROFESSIONAL LAND SURVEYORS
FOR AND ON BEHALF OF JR ENGINEERING LLC.

THIS LEGAL DESCRIPTION DOES NOT CONSTITUTE A TITLE SEARCH BY JR ENGINEERING TO DETERMINE OWNERSHIP OF THIS TRACT OR VERIFY EASEMENTS OF RECORD. JR ENGINEERING AND THE SURVEYOR OF RECORD ASSUMES NO RESPONSIBILITY FOR OWNERSHIP RIGHTS OR EXISTING EASEMENT RIGHTS AND RECOMMENDS CONSULTATION WITH AN ATTORNEY.

W 1/4 COR. SEC. 10 & 3,
T6N, R68W
FOUND NO. 6 REBAR W/ 2 1/2"
ALUM. CAP - LS 31169

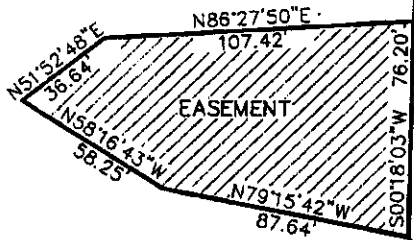
20' TRAIL ESMT.
PER FLAT

PROPERTY LINE OF LOT 2
JENSEN SUBDIVISION

BROWN MLD S-60-89

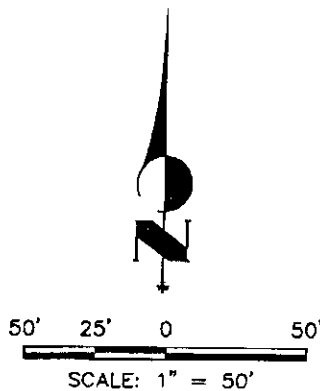
LOT 2
JENSEN SUBDIVISION

EAST LINE W 1/2, NW 1/4, SEC. 10 T6N, R68W
N00°18'03"E 2649.68'
(BASIS OF BEARINGS)



POINT OF BEGINNING

CW 1/4 COR. SEC. 10, T6N, R68W
FOUND NO. 6 REBAR W/ 2 1/2"
ALUM. CAP - LS 31169
POINT OF COMMENCEMENT



EASEMENT
ISLAND LAKE MARINE
JOB NO.
APRIL 13, 2004
SHEET 1 OF 1

 **J-R ENGINEERING**
A Weidman Company

2520 East Prospect Road, Suite 190 • Fort Collins, CO 80525
970-491-8288 • Fax: 970-491-8284 • www.jrangr.com

NOTE:
THIS DRAWING DOES NOT REPRESENT A
MONUMENTED SURVEY AND IS ONLY
INTENDED TO DEPICT THE ATTACHED LEGAL
DESCRIPTION