

**DATE:** March 15, 2011  
**STAFF:** Daylan Figgs  
Lindsay Kuntz

**AGENDA ITEM SUMMARY**  
FORT COLLINS CITY COUNCIL

**10**

**SUBJECT**

Second Reading of Ordinance No. 025, 2011, Authorizing the Conveyance of a Non-Exclusive Permanent Easement on Fossil Creek Regional Open Space to the Colorado Department of Transportation.

**EXECUTIVE SUMMARY**

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The Colorado Department of Transportation (CDOT) has requested a permanent non-exclusive easement on a portion of the Fossil Creek Regional Open Space as part of the I-25/SH392 Interchange Project. This Ordinance, unanimously adopted on First Reading on March 1, 2011, authorizes the conveyance of an easement that consists of 3,558 square feet located within the wetland north of Highway 392. The easement will be used to construct box culverts for stormwater control purposes and to maintain the existing wetland connection under the highway.

**STAFF RECOMMENDATION**

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Staff recommends adoption of the Ordinance on Second Reading.

**ATTACHMENTS**

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1. Copy of First Reading Agenda Item Summary - March 1, 2011  
(w/o attachments)

**DATE:** March 1, 2011  
**STAFF:** Daylan Figgs  
 Lindsay Kuntz

**AGENDA ITEM SUMMARY**  
 FORT COLLINS CITY COUNCIL

**16**

**SUBJECT**

First Reading of Ordinance No. 025, 2011, Authorizing the Conveyance of a Non-Exclusive Permanent Easement on Fossil Creek Regional Open Space to the Colorado Department of Transportation.

**EXECUTIVE SUMMARY**

The Colorado Department of Transportation (CDOT) has requested a permanent non-exclusive easement on a portion of the Fossil Creek Regional Open Space as part of the I-25/SH392 Interchange Project (the "Project"). The requested easement consists of 3,558 square feet located within the wetland north of Highway 392 and will be used to construct box culverts for stormwater control purposes and to maintain the existing wetland connection under the highway.

**BACKGROUND / DISCUSSION**

The Project is located at the intersection of Interstate 25 (I-25) and State Highway 392 (SH392) and includes the associated Frontage Road in the vicinity of Fossil Creek Reservoir Regional Open Space (see Attachment 1). The requested easement is located on a portion of Fossil Creek Reservoir Regional Open Space currently owned by Larimer County. The City and County entered into an Intergovernmental Agreement in 2001 (Ordinance No. 003, 2001), revised and updated in 2009 (Resolution 2009-102), wherein Larimer County agrees to convey a 50% interest in this tract to the City. Larimer County is in the process of conveying this interest and once this transfer is complete, the City can grant the requested easement. The Larimer County Commissioners will also have to approve the grant of the easement.

The wetlands at the Project site occur within an emergent marsh, and are primarily supported by groundwater discharge from a relatively high water table and surface drainage from an unnamed tributary to Swede Lake and Fossil Creek Reservoir (Wetlands Finding Report, Corps File No. NWO-2009-2197-DEN). The wetland is bisected by SH392.

As part of this project, CDOT will replace two existing 24-inch culverts with two six-foot box culverts designed to maintain wetland connection between both sides of SH392 as well as meet surface flow and water volume needs during large storm events. Integrated into this design is a small stormwater feature within the easement area to help protect the wetland located north of SH392 from erosion caused by high surface flows. The box culverts are designed to require minimal maintenance.

Construction within the easement area will consist of removing approximately 2.5 feet of soil and replacing it with roughly 1.5 feet of rock riprap and one foot of wetland topsoil. The existing wetland topsoil will be saved during the excavation process and placed back onto the surface as part of the wetland restoration plan. CDOT has established an extensive list of Best Management Practices (BMP) to minimize impacts to the wetland and to direct wetland restoration. This includes the requirement to control invasive plants, implement a stormwater management plan to protect the wetland during construction, transplant native broadleaf cattails, alkali bulrush, and common three squares onto the site, and reseed the area with a native seed mix approved by the City and County. A third party construction monitor, knowledgeable about wetland restoration, will monitor the construction work for environmental compliance and report any issues that arise to CDOT, Larimer County, and the City. Also, a wetland restoration monitor will help track the success of wetland restoration and provide recommendations for remedial actions if necessary. The contractor will be responsible for the wetland restoration until native vegetation cover exceeds 75 percent. CDOT will also be required to follow the Natural Area's Resource Protection Standards throughout the duration of this project.

**FINANCIAL / ECONOMIC IMPACTS**

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CDOT will pay the City \$1000 for the permanent easement,, as well as the \$500 Natural Resources easement request administration fee. CDOT will compensate the County separately for the same easement.

**ENVIRONMENTAL IMPACTS**

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A site visit was conducted by Natural Areas staff, Larimer County Open lands staff, and CDOT staff to discuss the impacts caused within the easement and the restoration potential for the wetland. Overall, it is the opinion of staff that, while short term impacts to the wetland will occur, successful restoration is expected.

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**STAFF RECOMMENDATION**

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Staff recommends adoption of the Ordinance on First Reading.

**BOARD / COMMISSION RECOMMENDATION**

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On February 9, 2011, the Land Conservation and Stewardship Board voted unanimously to recommend that City Council approve an ordinance authorizing the conveyance of a non-exclusive permanent easement on Fossil Creek Regional Open Space to the Colorado Department of Transportation.

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**ATTACHMENTS**

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- 1. Project Location Map
- 2. Easement Location Detail
- 3. Minutes from the February 9, 2011 Land Conservation and Stewardship Board Meeting

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ORDINANCE NO. 025, 2011  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AUTHORIZING THE CONVEYANCE OF A NON-EXCLUSIVE PERMANENT  
EASEMENT ON FOSSIL CREEK REGIONAL OPEN SPACE TO THE  
COLORADO DEPARTMENT OF TRANSPORTATION

WHEREAS, Larimer County is the owner of a parcel of real property located in Fort Collins, Colorado, more particularly described on Exhibit A, attached hereto and incorporated herein by reference (the "Property"), which Property is part of the Fossil Creek Regional Open Space (the "Open Space"); and

WHEREAS, in 2001, pursuant to Ordinance No. 003, 2001, the City and County entered into an intergovernmental agreement (the "IGA") regarding the acquisition and management of property that is now part of the Open Space, including the Property; and

WHEREAS, in 2009, pursuant to Resolution 2009-102, the City and County entered into an amended and restated version of the IGA; and

WHEREAS, the IGA states that the City and County will each acquire certain parcels of land around Fossil Creek Reservoir and then convey interests in those parcels to one another so that the City and County will each own a 50% interest in all the land that makes up the Open Space; and

WHEREAS, the County is in the process of conveying a 50% interest in the Property to the City, but that transaction has not yet been completed; and

WHEREAS, the Colorado Department of Transportation (CDOT) has requested a permanent easement (the "Easement") on the Property in connection with the Interstate 25 and State Highway 392 intersection improvement project; and

WHEREAS, the Easement is more particularly described on Exhibit B, attached and incorporated herein by reference; and

WHEREAS, the Easement would be used to maintain a connection between wetlands on each side of Highway 392 and to meet surface flow and water volume needs during large storm events; and

WHEREAS, as consideration for the grant of the Easement CDOT will pay the City \$1,000.00 plus processing fees of \$500.00 as required by the Natural Areas Easement Policy; and

WHEREAS, CDOT will also compensate the County for the Easement; and

WHEREAS, CDOT will be required to restore and reseed the land following completion of its improvements within the Easement area, and consequently City staff has identified no negative long-term impacts resulting from the grant of the Easement; and

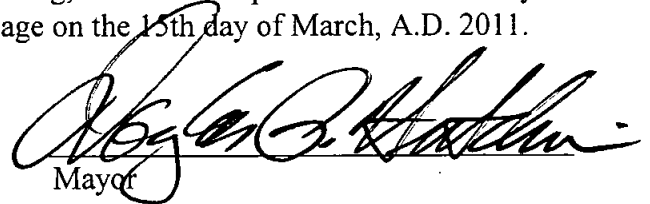
WHEREAS, Section 23-111(a) of the City Code states that the City Council is authorized to sell, convey, or otherwise dispose of any and all interests in real property owned in the name of the City, provided that the City Council first finds, by ordinance, that such sale or other disposition is in the best interests of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the conveyance of the Easement on the Property to CDOT as provided herein, following the conveyance of a 50% interest in the Property from the County to the City as contemplated by the IGA, is in the best interests of the City.

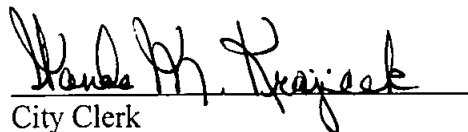
Section 2. That the Mayor is hereby authorized to execute, in cooperation with Larimer County, such documents as are necessary for the City and County to convey the Easement to CDOT on terms and conditions consistent with this Ordinance, together with such additional terms and conditions as the City Manager, in consultation with the City Attorney, determines are necessary or appropriate to protect the interests of the City, including, but not limited to, any necessary changes to the legal descriptions of the Easement, as long as such changes do not materially increase the size or change the character of the Easement.

Introduced, considered favorably on first reading, and ordered published this 1st day of March, A.D. 2011, and to be presented for final passage on the 15th day of March, A.D. 2011.



Mayor

ATTEST:



City Clerk

Passed and adopted on final reading on the 15th day of March, A.D. 2011.

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Mayor

ATTEST:

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City Clerk