

DATE: September 4, 2012
STAFF: Helen Matson
Jon Haukaas

AGENDA ITEM SUMMARY
FORT COLLINS CITY COUNCIL

22

SUBJECT

First Reading of Ordinance No. 097, 2012, Authorizing the Conveyance of a Portion of a Tract of Stormwater Utility Property to Coby S. Hughey and Linda C. Hughey.

EXECUTIVE SUMMARY

In 1992, the final plat of Pheasant Ridge Estates dedicated Tract A to the City of Fort Collins for the purpose of a detention basin. After the dedication, the developer certified to the City that he could meet the required stormwater detention volumes without excavating and grading the western most portion of Tract A (the portion adjacent to 1700 Westview Road.) Due to the City's change of use for this portion of Tract A, the adjacent property owners, Coby and Linda Hughey, have expressed an interest to obtain the portion of Tract A that abuts their property at 1700 Westview Road.

BACKGROUND / DISCUSSION

The City's Stormwater Utility assumed maintenance of Tract A after the developer had minimized the on-site detention area. The City mowed the new and existing detention basin from the east end of Tract A to a row of elm trees that run north to south approximately on the property line between 1700 Westview and 1706 Westview. It was assumed that the trees depicted the westerly property line of Tract A. At that time, the homeowner at 1700 Westview was mowing and maintaining the western most part of Tract A as if it belonged to 1700 Westview. The City did not question the property lines since the detention basin was well defined and the certification was submitted for engineering volume and storage capacity. The westernmost section is also at a higher grade than the remainder of Tract A. This assumption went on from mid-1990 to the summer of 2011, when the property at 1700 Westview was sold to new owners (the Hugheys).

The Hugheys reviewed their survey and noted that the property behind their home was actually the westernmost portion of Tract A and belonged to the City of Fort Collins. The Hugheys contacted the Stormwater Utility and requested that the City either take over maintenance responsibilities of the property or consider selling this portion of Tract A to them. Since the access to this portion of the tract was extremely limited for maintenance equipment, this portion of Tract A does not have public access and the area is not needed for drainage purposes, staff agreed to process the Hugheys' request through City Council. The portion of Tract A proposed to be conveyed to the Hugheys conveys .44 acres and the eastern boundary matches the property line between 1700 and 1706 Westview. The conveyance document will include a deed restriction that the land being conveyed to the Hugheys is non-buildable.

FINANCIAL / ECONOMIC IMPACTS

The Hugheys have agreed to compensate the City \$6,750 for the purchase of the property. The value of the subject property is a non-buildable value of \$.30/SF. The Hugheys' use of this property will continue to be landscaping and they will continue to be responsible for all maintenance.

ENVIRONMENTAL IMPACTS

Staff has not identified any environmental impacts for this proposed conveyance since the subject property is outside of the City's Floodway (100-year floodplain).

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

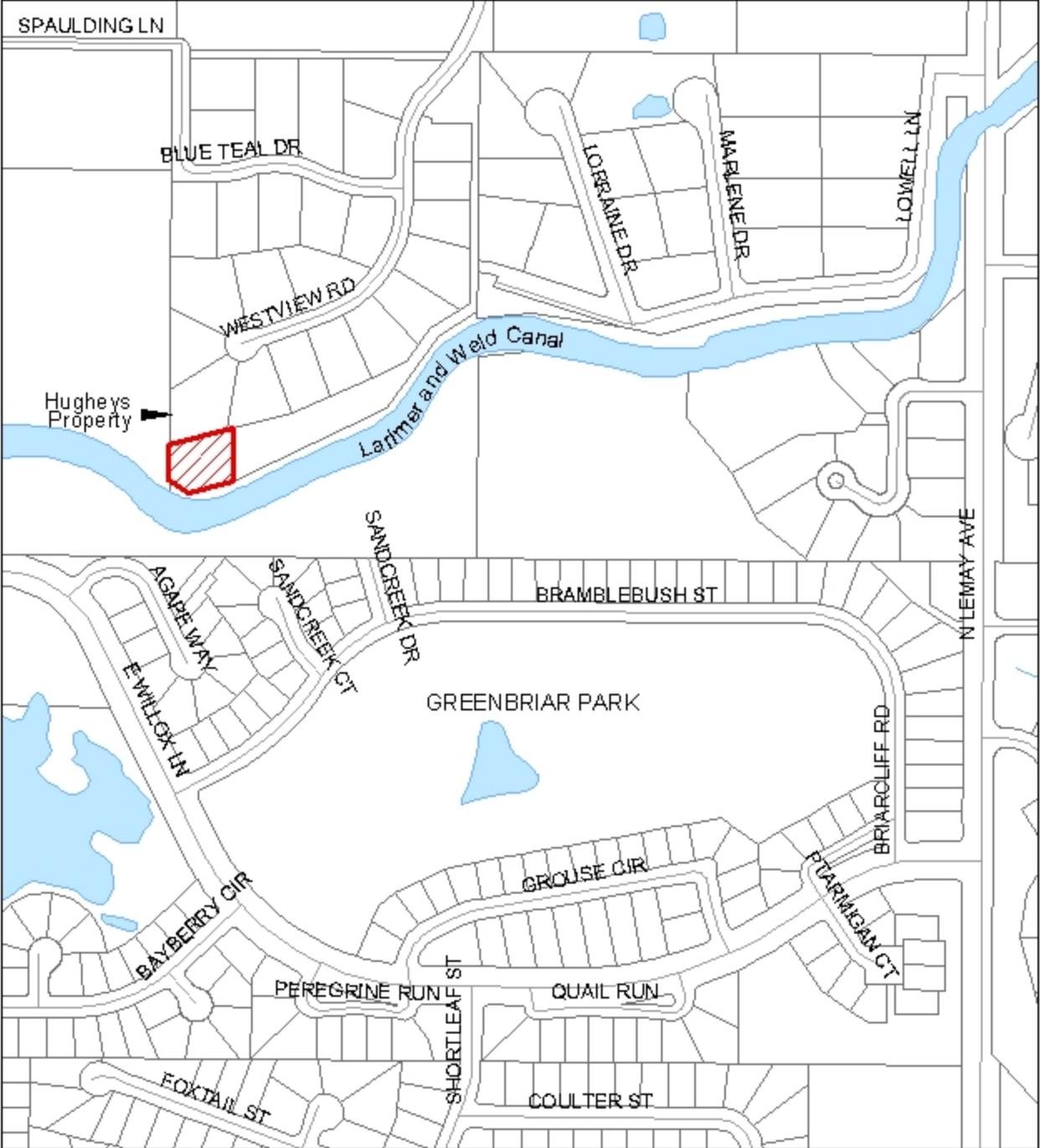
BOARD / COMMISSION RECOMMENDATION

At its August 16, 2012 meeting, the Water Board voted to recommend approval of the conveyance of a portion of Tract A to Coby S. Hughey and Linda C. Hughey.

ATTACHMENTS

1. Location Map
2. Water Board minutes, August 16, 2012

Conveyance of a Portion of Stormwater Property to The Hugheys Location Map



 Location of property to be conveyed



Excerpt from Unapproved Water Board Minutes, August 16, 2012

First Reading of Ordinance No. XX, 2012 Authorizing the Conveyance of a Portion of a Tract of Stormwater Utility Property to Coby and Linda Hughey

(Attachments available upon request).

Real Estate Services Manager Helen Matson introduced the item. In 1992, the developer of Pheasant Ridge Estates dedicated Tract A to the City of Fort Collins for the purpose of a detention basin. After the dedication, the developer certified to the City that he could meet the required stormwater detention volumes without excavating and grading the western portion of Tract A, adjacent to 1700 Westview Road (the Hughey's property).

After the Hugheys purchased the property and reviewed their survey, they noted the property was actually the western most portion of Tract A and belonged to the City of Fort Collins. They contacted Stormwater Utility and requested the City either take over maintenance of the property or consider selling this portion of Tract A to them. Since the area is not needed for drainage purposes, staff agrees to process the request through City Council.

Highlights from the discussion:

- The Hugheys will pay \$6,750 for the property, including a fee to Real Estate Services.
- A board member questioned how much it would cost the City to maintain the property. Ms. Matson did not have this information.
- The City maintains the balance of Tract A.
- The parcel to the west is privately owned and is not part of the subdivision that includes 1700 Westview.
- The Hugheys are considering planting some trees in the area and perhaps installing a sprinkler system.
- A board member expressed concern that detention ponds can be undersized. Is the area appropriately sized for what is developed? Ms. Matson stated that the City has certified this area as appropriately sized.

Vice Chairperson Malers moved that the Water Board support staff's recommendation to authorize the conveyance of a portion of a tract of stormwater utility property to Coby S. and Linda C. Hughey. Board Member Phelan seconded the motion.

Discussion on the motion:

A board member feels that in the long run, there may be a benefit to selling the property to avoid the maintenance costs.

A board member questioned if the City can be enforced to maintain the property. Ms. Hughey stated that if they cannot purchase the property, they will request the City maintain it.

Vote on the motion: It passed unanimously.

ORDINANCE NO. 097, 2012
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING THE CONVEYANCE OF A PORTION OF
A TRACT OF STORMWATER UTILITY PROPERTY
TO COBY S. HUGHEY AND LINDA C. HUGHEY

WHEREAS, the City is the owner of Tract A, Pheasant Ridge Estates (“Tract A”); and

WHEREAS, Tract A was dedicated to the City in 1992 on the plat of Pheasant Ridge Estates as a storm drainage and utility tract for a detention basin; and

WHEREAS, after the dedication of Tract A, the developer certified to the City that required storm water detention volumes could be met without the use of the westernmost portion of Tract A, as described on Exhibit “A”, attached and incorporated herein by reference (the “Property”); and

WHEREAS, when the City took over the maintenance of Tract A from the developer, City staff and the homeowner adjacent to the Property assumed that Tract A ended at a row of trees, where the elevation climbs by approximately six feet, and that the Property was not part of Tract A; and

WHEREAS, for this reason, the Property has historically been maintained by the owners of the adjacent property, and not by the City; and

WHEREAS, since the area’s detention volumes are met in the existing detention basin, the City does not have a need for the Property; and

WHEREAS, Coby S. Hughey and Linda C. Hughey (“Hugheys”), the new owners of the adjacent residential property, have requested that the City convey the Property to them for landscaping purposes; and

WHEREAS, City staff has not identified any negative impacts to the City or the Stormwater Utility system resulting from the conveyance of the Property; and

WHEREAS, although the statutory provisions that provide for establishing the disposition of dedicated rights-of-way upon vacation do not apply in this instance, the proposed conveyance is consistent with the principle embodied in that statute of returning previously dedicated land to the adjacent parcel from which it was originally dedicated; and

WHEREAS, the Property would be conveyed to the Hugheys with a deed restriction that the property will be non-developable, which minimizes the value of the property, and the Hugheys have agreed to pay the City \$6,750 for the Property; and

WHEREAS, Section 23-111(a) of the City Code authorizes the City Council to sell, convey, or otherwise dispose of real property owned by 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; and

WHEREAS, with respect to real property that is part of the City's utility system, Section 23-111(b) of the City Code requires that the City Council must also find that the disposition will not materially impair the viability of the particular utility system as a whole and that it will be for the benefit of the citizens 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 Property to the Hugheys as provided herein will not materially impair the viability of the affected utility system as a whole, will be for the benefit of the citizens of the City, and is in the best interest of the City.

Section 2. That the Mayor is hereby authorized to execute such documents as are necessary to convey the Property to Coby S. Hughey and Linda C. Hughey, 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 description of the Property, as long as such changes do not materially increase the size or change the character of the Property.

Introduced, considered favorably on first reading, and ordered published this 4th day of September, A.D. 2012, and to be presented for final passage on the 18th day of September, A.D. 2012.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 18th day of September, A.D. 2012.

Mayor

ATTEST:

City Clerk

LAND EXHIBIT MAP

FOR LOT 16 AND A PORTION OF TRACT A, PHEASANT RIDGE ESTATES TO THE
CITY OF FORT COLLINS, COUNTY OF LARIMER, STATE OF COLORADO.

SHEET 1 OF 2

PROPERTY DESCRIPTION:

That portion of Tract A of the Plat of Pheasant Ridge Estates to the City of Fort Collins, situate in the Southeast Quarter of Section 36, Township B North, Range 69 West of the 6th P.M., Larimer County, Colorado being more particularly described as follows:

Considering the record bearing on the South line of Lots 15 and 16 of said Pheasant Ridge Estates as bearing North 75°30'00" East and with all bearings contained herein relative thereto;

Beginning at the Southwest corner of Lot 16 of Pheasant Ridge Estates, said point being the TRUE POINT OF BEGINNING; thence along the South line of said Lot 16 North 75°30'00" East 150.05 feet, more or less, to the Southeast corner of said Lot 16; thence South 00°00'00" West 111.44 feet, more or less, to the South line of Tract A of Pheasant Ridge Estates; thence along the South line of said Tract A South 74°00'08" West 101.70 feet; thence North 54°53'27" West 60.02 feet, more or less, to a point on the West line of Pheasant Ridge Estates; thence along said West line North 00°22'30" West 91.47 feet to the Southwest corner of Lot 16 of Pheasant Ridge Estates and the TRUE POINT OF BEGINNING.

The above described parcel contains 0.44 acres, more or less, and is subject to all existing easements and/or rights of way of record.

GENERAL NOTES:

1. Property Description of the parcel furnished to Intermill Land Surveying, Inc. by the client. This survey was prepared without the benefit of a Title Policy or Title Commitment.
2. No further easement and/or right of way research, other than shown on this Improvement Location Certificate, was requested by the client or performed by Intermill Land Surveying, Inc. for this Improvement Location Certificate.
3. **BASIS OF BEARINGS STATEMENT:** Basis of Bearings for this survey are based on the record bearing of North 75°30'00" East on the South line of Lot 16, Plat of Pheasant Ridge Estates, Fort Collins, Colorado. Note: Monumentation of said line as shown on Map.
3. Boundary Monumentation as shown on Map. All Bearings and/or distances are measured unless otherwise noted.
 - (r): Indicates record bearing and/or distance from the Final Plat of Pheasant Ridge Estates
 - (c): Indicates calculated bearing and/or distance. May indicate a field measured bearing and/or distance based on field survey and interpretation of existing plats and/or maps.

LAND EXHIBIT CERTIFICATE:

I, Steven John Stencil, a duly Registered Professional Land Surveyor in the State of Colorado, do hereby certify that this Land Exhibit Plat and the survey on which it is based upon was performed by me or under my direct supervision and that this plat is an accurate delineation of said survey and all information shown is correct to the best of my own knowledge. Date of completion of field work for this survey: July 13, 2011.

Prepared By and On Behalf Of:
INTERMILL LAND SURVEYING, INC.
1301 North Cleveland Avenue
Loveland, Colorado 80537
(970) 669-0516

Steven John Stencil
Colorado PLS 30462

PREPARED FOR:
Coby Hughey
1700 Westview Road
Ft. Collins, CO 80524

PROPERTY ADDRESS:
1700 Westview Road
Ft. Collins, CO 80524

PROJECT NO.:
P-11-7012
Drawn By: SJS

