

DATE: July 2, 2013
STAFF: John Stoke, Mark Sears,
Tawyna Ernst

AGENDA ITEM SUMMARY
FORT COLLINS CITY COUNCIL

8

SUBJECT

Second Reading of Ordinance No. 086, 2013, Authorizing the Conveyance of a Non-Exclusive Access Easement on Fossil Creek Wetlands Natural Area to Paragon Estates Homeowners Association.

EXECUTIVE SUMMARY

This Ordinance, unanimously adopted on First Reading on June 18, 2013, formalizes the Natural Areas Department verbal agreement with Paragon Estates Homeowners Association (HOA) for access across an existing two-track road off Trilby Road to the HOA's pumphouse. The pumphouse is located within an existing irrigation easement on Fossil Creek Wetlands Natural Area. The HOA's current access has minimal impact to the Natural Area and no additional impacts are anticipated. Access would be solely for maintenance and operation of the facilities associated with the existing irrigation easement. No other access rights are to be conveyed.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

ATTACHMENTS

1. Copy of First Reading Agenda Item Summary - June 18, 2013
(w/o attachments)

DATE: June 18, 2013
STAFF: John Stokes, Mark Sears
Tawyna Ernst

AGENDA ITEM SUMMARY
FORT COLLINS CITY COUNCIL

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SUBJECT

First Reading of Ordinance No. 086, 2013, Authorizing the Conveyance of a Non-Exclusive Access Easement on Fossil Creek Wetlands Natural Area to Paragon Estates Homeowners Association.

EXECUTIVE SUMMARY

The Natural Areas Department intends to formalize its verbal agreement with Paragon Estates Homeowners Association (HOA) for access across an existing two-track road off Trilby Road to the HOA's pumphouse. The pumphouse is located within an existing irrigation easement on Fossil Creek Wetlands Natural Area. The HOA's current access has minimal impact to the Natural Area and no additional impacts are anticipated. Access would be solely for maintenance and operation of the facilities associated with the existing irrigation easement. No other access rights are to be conveyed.

BACKGROUND / DISCUSSION

The Natural Areas Department (NAD) acquired the northeast parcel of Fossil Creek Wetlands Natural Area (Fossil Creek Wetlands) from Paragon Investment Group, LLC (Paragon) in August 1995. Prior to this acquisition, Paragon had granted an irrigation and access easement to Paragon Point Partners, the forerunner to the Paragon Estates Homeowners Association (HOA) (see **Attachment 2**). This access route (which ran due west from the HOA's property onto Fossil Creek Wetlands) was never formally developed and an alternate route down the existing two-track road on Fossil Creek Wetlands off Trilby Road was used. A formal easement was never written or executed; the access was rather granted via a verbal agreement. The HOA continued to use the two-track road after NAD acquired the property. After a question was raised regarding construction crews using the two-track to access the HOA property, NAD requested the historic access be formalized with a permanent access easement for the mutual benefit of both parties to clarify the type of access allowed.

The two-track access road is also used by the Fort Collins-Loveland Water and Sewer District to access the District's sewer line easement on the property and by NAD staff for maintenance and patrol.

Paragon needs vehicular and pedestrian access to its pumphouse along the New Mercer Ditch for operation and maintenance of irrigation-related activities. The pumphouse provides non-potable irrigation water for Paragon's open space tracts and residential properties. This access is for Paragon's HOA representatives and its contractors who will service the pumphouse. Access is needed to maintain, replace or repair the pumphouse and to operate the pumps for irrigation. No other access rights will be conveyed to the HOA.

The access road is established, and the surrounding area is dominated by smooth brome and other non-native vegetation. NAD has not restored the area and no significant biological impacts are anticipated by continued use of the road by Paragon.

FINANCIAL / ECONOMIC IMPACTS

There will be no financial impact or gain to NAD for granting this easement due to: the small size of the easement; the fact that no new road improvements are needed to provide this access; the fact that the existing road is needed by the City and one other easement holder; the minimal use by the HOA; and the HOA's historic use of this road as access to their pump house predates the City's ownership of this property.

ENVIRONMENTAL IMPACTS

There will be no significant environmental impact from the project. Impacts from vehicle traffic will be minimized due to the use of only one access point in the future. Paragon has agreed to allow for passive restoration of the vegetation along the access route granted in the existing 1994 easement.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

BOARD / COMMISSION RECOMMENDATION

At its May 8, 2013 meeting, the Land Conservation and Stewardship Board voted unanimously to recommend that City Council approve an access easement across Fossil Creek Wetlands Natural Area to Paragon Estates Homeowners Association.

ATTACHMENTS

1. Location Map
2. Existing Easement and Proposed Access Easement Map
3. Land Conservation and Stewardship Board minutes, May 8, 2013

COPY

COPY

ORDINANCE NO. 086, 2013
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING THE CONVEYANCE OF A NON-EXCLUSIVE
ACCESS EASEMENT ON FOSSIL CREEK WETLANDS NATURAL AREA
TO PARAGON ESTATES HOMEOWNERS ASSOCIATION

WHEREAS, the City is the owner of a parcel of real property acquired in 1995 known as Fossil Creek Wetlands Natural Area, which is described on Exhibit “A”, attached and incorporated herein by reference (the “City Property”); and

WHEREAS, the Paragon Estates Homeowners Association (“HOA”) is the owner of a pumphouse located on the City Property within an existing irrigation and access easement that was granted by a former owner of the City Property (the “Existing Easement”); and

WHEREAS, the access route contemplated in the Existing Easement was never developed or used, as it would have required building a new road through the greenbelt area of the adjacent subdivision; instead, the HOA, with verbal permission from the former owner of the City Property, historically used a two-track access road that connects to Trilby Road across the City Property for access to its pumphouse; and

WHEREAS, an access easement on the two-track road was never formalized or executed and the two-track road is not otherwise open to the public, but the HOA continued to use the two-track road for access after the City acquired the City Property; and

WHEREAS, Natural Areas staff believes it is most practical for the HOA to continue using the two-track road, and would like to grant an easement to the HOA that would establish conditions and limits on the HOA’s use of the road; and

WHEREAS, the two-track road is also used by Natural Areas staff for maintenance and patrol, and the HOA’s limited use should have no impact on the City Property; and

WHEREAS, the proposed easement area is shown on Exhibit “B”, attached and incorporated herein by reference (the “Easement”); and

WHEREAS, because the HOA’s use of the road would be infrequent and would have no real impact on the City Property, the Easement has minimal value; and

WHEREAS, the road is also the route that the HOA was using even before the City acquired the City Property; and

WHEREAS, for these reasons, City staff is recommending that the HOA not be charged for this Easement; and

WHEREAS, Section 23-111(a) of the City Code provides 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 City Council hereby finds that the conveyance of the Easement on the City Property to the HOA as provided herein is in the best interests of the City.

Section 2. That the Mayor is hereby authorized to execute such documents as are necessary to convey the Easement to the HOA 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 or to effectuate the purpose of this Ordinance, including, but not limited to, any necessary changes to the description 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 18th day of June, A.D. 2013, and to be presented for final passage on the 2nd day of July, A.D. 2013.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 2nd day of July, A.D. 2013.

Mayor

ATTEST:

City Clerk

Legal Description of Fossil Creek Wetlands Natural Area Parcel

TOWNSHIP 6 NORTH, RANGE 68 WEST, 6TH P.M.

SECTION 18: NE/4, EXCEPT the following described parcels:

- Parcel 1: That portion conveyed to the Union Pacific Railroad Company in Deed recorded in Book 242 at Page 162;
- Parcel 2: Road right of way as described in Deed of Dedication recorded at Reception No. 91039930, County of Larimer, State of Colorado;
- Parcel 3: Paragon Estates, P.U.D., according to the plat recorded December 16, 1994, at Reception No. 94099115.

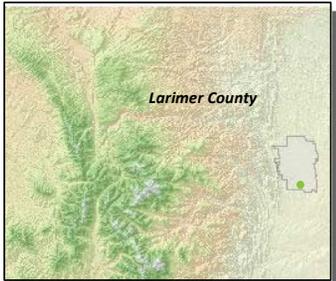
Paragon HOA Access Easement Area



Legend:

-  Paragon HOA Access Easement
-  Paragon Irrigation Easement

Project Area



Larimer County



City of Fort Collins
Natural Areas

0 50 100 Feet

Created by City of Fort Collins Natural Areas - 2013