

MEMBERS	PRESENT	ABSENT	EXCUSED
Bob Beda, Chair	X		
Dusty Szymanski	X		
Erich Ferchau	X		
Stu Ferguson	X		
Carolyn Riggs	X		
Greg Larson	X		
Councilor Ed Seymour	X		

OTHERS PRESENT: Community Development Director Steve Westbay, Planner Andie Ruggera, Planning Technician Pam Cunningham, City Manager Ken Coleman, Jeff Clarke, Martha Gentry, Larry Meredith.

I. CALL TO ORDER AT 7:02 PM BY CHAIR BOB BEDA

II. PLEDGE OF ALLEGIANCE TO THE FLAG

III. CONSIDERATION OF THE AUGUST 10, 2011 MEETING MINUTES

Commissioner Larson moved to approve the August 10, 2011 meeting minutes as presented.

Commissioner Ferguson seconded the motion.

Roll Call Yes: Dusty, Erich, Stu, Bob, Greg, Ed

Roll Call No:

Roll Call Abstain: Carolyn

So Carried

IV. CONSIDERATION OF THE AUGUST 15, 2011 MEETING MINUTES

Commissioner Ferguson moved to approve the August 15, 2011 meeting minutes as corrected.

Commissioner Larson seconded the motion.

Roll Call Yes: Dusty, Erich, Stu, Bob, Greg, Ed

Roll Call No:

Roll Call Abstain: Carolyn

Passed by Majority

V. PUBLIC HEARING AND POSSIBLE ACTION: Vacation Application, VF 11-1 submitted by City Manager Ken Coleman, to vacate portions of the Wisconsin Street, Bidwell Avenue and Main Street rights-of-way and to vacate the utility easement located within the vacated east/west alley, Block 133, West Gunnison Addition.

Open Public Hearing. Chair Bob Beda opened the public hearing at approximately 7:02 pm.

Proof of publication was shown for the record.

Review of Process. Director Westbay gave an overview of the process of a Vacation application. The applicant is Ken Coleman (City Manager). The request has two elements: 1) the vacation of a portion of the Wisconsin Street, Bidwell Avenue and Main Street rights-of-way (ROW); and, 2) the vacation of an existing utility easement in the east/west alley in Block 133, West Gunnison Addition, which is contiguous with to the northern line of Mr. Thomas's property.

Applicant Presentation. Ken Coleman addressed the Commission. He stated that he is applying for the vacation of sections of South Main Street, Wisconsin Street, and Bidwell Avenue, and the utility easement. He explained the utility easement and that the reason for requesting the vacation is to square off the property at the Wisconsin and Bidwell intersection.

He provided a history of the situation, stating that the parties have been talking about this for many years. The issue surrounds several utilities that lie within the Clarke property that were put in place many years ago without legally recorded easements. Mr. Clarke requested many years ago that the City look at relocating them. Mr. Coleman further explained that in Bidwell Avenue there is an historic cook shack that was associated with the depot operation and that in order to legally situate a building within a right-of-way, a license agreement would be required. After much legal review, legal counsel suggested that a vacation of Bidwell is the cleanest solution.

Mr. Coleman continued, stating that in a vacation, adjacent property owners receive half of the vacated property. In this situation, adjacent owners Thomas and Gydesen have agreed, through quit claim deeds, to deed their portions of the vacated property to Clark and retain their existing property alignment. Thomas asked that the alley north of him have the utility easement vacated. Once all of this is consummated, the City agrees to relocate utility lines in the Bidwell easement, other than one sewer main which was installed 4-5 years ago. The Clarkes' have agreed to allow a 15-foot wide sewer easement to retain that utility in place. All other utilities would be put in the vacated Bidwell alignment.

Mr. Coleman said he felt this was the most straightforward solution and is the right way to go about doing it, rather than trying to obtain easements based on historic placement of utilities. He said he has never supported a vacation request to this point, so this is an unusual request. He said it serves the purpose of addressing an issue that has been long outstanding; it doesn't put the City in harm; and, the City will retain a trail easement on the southern boundary of the industrial easement to the east of the depot property. He said that at some future date the City can continue discussions with the W Mountain folks about a further trail extension.

Chair Beda asked if there were any questions.

Commissioner Ferchau asked if the City would get enough room in the trail easement for a turn-around if an easement from the W Mountain subdivision isn't granted. Mr. Coleman replied that if that were the case, it [the trail south of the Clarke property] wouldn't be developed. He said that in working with the W Mountain HOA the City will put that proposal forward and see where it goes. He said that with any trail discussion it takes time to consider all of the various concerns and to try to mitigate them and work out a mutually beneficial arrangement.

Commissioner Ferchau asked if the easement prevents Mr. Clarke from using the property if the W Mountain trail easement isn't approved. City Manager Coleman replied that Mr. Clarke would be limited to use the 15 feet but that the parties have agreed to allow gate access to the airport for potential industrial uses.

Commissioner Ferguson asked City Manager Coleman, "To reiterate, in your opinion, the interests of the people are well served?" Mr. Coleman replied in the affirmative that the City won't be injured and that the potential for a trail alignment adds a potential benefit that the City

didn't have in the past. He said there is a cost to moving utility lines that has been budgeted and the City is prepared to do the work necessary to relocate the utilities after the ditches are shut off.

Chair Beda observed that a few years ago there was a vacation just north of this area and "it has been a nightmare for everybody." Mr. Coleman responded that he tries to consider the City's needs 100 years from now, and that if he feels there would be potential need, then he has to weigh in that he doesn't agree with the vacation. In this case, he feels it is in the City's best interest.

Public Input. Chair Beda asked if any members of the public wished to speak. There were none.

Staff Presentation. Director Westbay made note of the staff review and departmental review comments. He said that Staff Observation 4 addresses the quit claim deeds and that number 7 addresses the implications of the vacations. He explained that the platting of W Mountain and the rights-of-way of that platting do not afford future extensions of Bidwell Avenue. To the south of the subject property is the airport and staff anticipates that operation of the airport will continue in the future. He continued, stating that the *City of Gunnison Master Plan* does not contemplate those street extensions. He said that there has been a thorough review of the Standards and that the Findings reflect that. The one Condition is that the Agreement and Exhibits be recorded.

Commission Discussion.

Commissioner Szymanski stated that it seems straight forward and the right thing to do. He asked if there are other options if the vacation didn't happen. City Manager Coleman replied that the vacation is to accommodate the cook shack remaining intact; the alignment could still be used for moving the utilities, but requiring a license agreement was not in the City's best interest, according to the attorney. Director Westbay interjected that a license agreement can be revoked at any time so isn't a permanent solution.

Commissioner Szymanski asked Mr. Clarke about the cook shack. Mr. Clarke explained that the cook house was a rail road structure built out of two box cars that used to sit on top of Marshall Pass, at a train stop called "Shawano". He said that the structure was moved by the railroad to its present location in 1929. To railroaders it is a Holy Grail structure—it is recorded and is on the fire maps. It is important. It appears in the last photos [of the railroad circa 1955] in this location and even the old 55 gallon drum is intact. He said he has spoken with the Colorado Railroad Museum, the State Archaeologist, and railroad people and it is an important piece of history. He said, "It is important to me to save it in its' original location. Moving it is a different ballgame, if it is not in its original location."

Commissioner Ferchau asked if, assuming Mr. Clarke restores part of the railroad property, and if the trail is in place, it could be counted as landscaping or parking [for Clarke's property]. Director Westbay replied that the easement doesn't affect dimensional standards. He said Mr. Clarke can build on his property to the full capacity [of the dimensional standards]. He explained that there are benefits to creating an easement rather than rights-of-way because it results in more developable area.

Commissioner Ferguson asked Mr. Clarke if this [arrangement] works for him. Mr. Clarke replied "Yes."

Councilor Seymour had no comments.

Commissioner Larson stated that Commissioner Ferguson's question addressed his [concerns].

Commissioner Riggs stated that "it seems cut and dried."

Chair Beda said that he had "heard all I need to hear."

ACTION

During the regular Planning and Zoning Commission meeting held on August 24, 2011, Commissioner Larson moved, Commissioner Riggs seconded, and the Commission voted to recommend to City Council to Approve Vacation Application, VF 11-1 submitted by City Manager Ken Coleman, to vacate portions of Wisconsin Street, Bidwell Avenue and Main Street rights-of-way and to vacate the utility easement located within the vacated east/west alley, Block 133, with the following findings of fact and condition:

Findings of Fact:

1. The Planning and Zoning Commission finds that the record of this action includes the application contents, staff reports, applicable provisions of the *City of Gunnison Master Plan* and *Land Development Code*, and written and verbal testimony submitted during the public hearing held for this application.
2. The Planning and Zoning Commission finds that the applicant requests that segments of the Wisconsin Street, Bidwell Avenue and Main Street rights-of-way be vacated.
3. The Planning and Zoning Commission finds that the applicant requests vacation of an existing 25-foot utility easement located within the vacated east/west alley (Ordinance No. 18, Series 2003) adjoining Lots 13 through 17 on the south and Lot 18 to the north, Block 133, West Gunnison Addition.
4. The Planning and Zoning Commission finds that no utilities are located in the utility easement that is proposed to be vacated.
5. The Planning and Zoning Commission finds that adjoining property owners of the vacated rights-of-way are Jeffrey and Charmaine Clarke to the south and Robert and Christine Gydesen and Dale Thomas to the north.
6. Pursuant to *Colorado Revised Statutes*, upon vacation of the portion of the rights-of-way described, Clarke will own the south half and Gydesen and Thomas will each own the northern portion to the limits of their property boundaries. The Planning and Zoning Commission finds that Gydesen and Thomas have each agreed to Quitclaim their interest in the vacated rights-of-way to the Clarkes with the requirement that the Clarkes acknowledge the resulting property boundaries.
7. The Planning and Zoning Commission finds that the City and the Clarkes have been negotiating over the years to determine the location and extent of utility line easements

- necessary to serve the City, and the Clarkes' interest in protecting their property interests, including a historical depot building located within the rights-of-way.
8. The Planning and Zoning Commission finds that the vacation of these segments of Bidwell Avenue, Wisconsin Street and Main Street are not in conflict with future street extensions as contemplated by the *City of Gunnison Master Plan (2007)*.
 9. The Planning and Zoning Commission finds that the adjoining property owners and the City have negotiated an agreement (*Agreement for Vacation of Portion of City Right of Way and Grant of Easements*, dated June 28, 2011) to resolve all issues, pending City Council approval, to abandon and relocate certain utility lines and obtain permanent easements for utility lines.
 10. The Planning and Zoning Commission finds that the establishment of a 30-foot wide utility easement within the vacated ROW area will allow for the installation and maintenance of a sewer line, water line, and other public utilities.
 11. The Planning and Zoning Commission finds that if water service is disconnected when the water main is abandoned, the Clarkes will be responsible for the installation of new water service lines to their property.
 12. The Planning and Zoning Commission finds that pursuant to various agreements and/or actions of the City and the Clarkes, certain City utility lines have been located on and through the Clarke property, and certain utilities will be abandoned as a result of the *Agreement for Vacation of Portion of City Right of Way and Grant of Easements*.
 13. The Planning and Zoning Commission finds that pending City Council approval, the Clarkes will grant to the City a permanent easement seven and one-half feet (7 ½) on either side of the centerline of the existing sewer main running north to south in the alignment of Main Street projected to the south the full length of the Clarke property.
 14. The City has been negotiating with various landowners, including the Clarkes, for an extension of a pedestrian and non-motorized vehicle trail to circle the City. The Planning and Zoning Commission finds that pending City Council approval, the Clarkes will grant a permanent 15-foot trail easement to the City along the entire southern boundary of Tract 3, Wilson #2 Subdivision.

Condition:

1. That the *Agreement for Vacation of Portion of City Right of Way and Grant of Easements*, dated June 28, 2011 is recorded with the County Clerk and Recorder along with all exhibits stated in the Agreement.

Roll Call Yes: Dusty, Erich, Stu, Bob, Carolyn, Greg, Ed
Roll Call No:
Roll Call Abstain:
So Carried

- VI. **UNSCHEDULED CITIZENS.** There were none.

- VII. **COUNCIL UPDATE.** Councilor Seymour said that the Council hasn't met since the last Planning and Zoning meeting, so there was nothing to report.

- VIII. **COMMISSIONER COMMENTS.** There were none.

- IX. **PLANNING STAFF UPDATE.** Director Westbay stated that:
 - The last couple of days was a wonderful event (the Pro Cycling Challenge);
 - The Zoning Board of Adjustments and Appeals met regarding a landscaping variance at the hospital; and,
 - Staff has been working on the VanTuyl Ranch annexation.

- X. **ADJOURN TO WORK SESSION.** Chair Beda adjourned the meeting at approximately 7:30 p.m.

Bob Beda, Chair

Attest:

Pam Cunningham, Secretary