

**MINUTES OF THE ARAPAHOE COUNTY
BOARD OF COUNTY COMMISSIONERS
May 3, 2005**

State of Colorado, County of Arapahoe. At a public hearing of the Board of County Commissioners for Arapahoe County, Colorado held at 5334 S Prince St. Littleton CO 80166 there were:

Lynn Myers, Chair	Present
Bernard L. Zimmer, Chair Pro Tem	Present
Susan Beckman, Commissioner	Present
Rodney Bockenfeld, Commissioner	Present
Frank Weddig, Commissioner	Present
Kathryn Schroeder, County Attorney	Present
Nancy A. Doty, Clerk to the Board	Absent & Excused
Jennifer Gayer, Deputy Clerk	Present

When the following proceedings, among others, were had and done, to wit:

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ADOPTION OF THE AGENDA

The motion was made by Commissioner Beckman and duly seconded by Commissioner Zimmer to adopt the Agenda as presented.

The motion passed unanimously.

ADOPTION OF THE MINUTES

The motion was made by Commissioner Beckman and duly seconded by Commissioner Bockenfeld to adopt the minutes of the April 5, 2005, April 19, 2005 Public Hearings.

The motion passed unanimously.

The motion was made by Commissioner Zimmer and duly seconded by Commissioner Beckman to adopt the minutes of the April 12, 2005 Public Hearing.

The motion passed 3-0, Myers and Weddig Abstained.

CEREMONIES

Commissioner Myers said she is very pleased to announce that today is May 3rd and many great things have happened on this day. She said in 1802 Washington D.C. was incorporated into a City. She said that is a long way from home. She said in 1921 West Virginia boasted the first State Sales Tax, and we are glad they did. She said there a number of famous people born on this day, including Golda Meyear, and James Brown. She said the County has someone in our own family that we would like to have a ceremony for today. She said that person has become very important to this building in particular, really part of the Arapahoe County family. She said this person has become the County's medical officer and our protector. She said this person has become our personal greeter. She said this person wears the same clothes everyday. She said she really likes that he has become part of the elections team and when citizens pay their taxes he is there to ensure they do not become too grouchy. She said the County is really happy today to have Deputy Joe. She said the County would like to wish Joe a very happy birthday.

Kathryn Schroeder asked Deputy Joe to come to the front of the hearing room so that everyone could sing Happy Birthday.

Deputy Joe said he should have known something was up for this meeting because there is no public here, but all employees. He said whoever did this "got me good."

CITIZEN COMMENTS

There were no citizen comments.

CONSENT AGENDA

The motion was made by Commissioner Zimmer and duly seconded by Commissioner Weddig to approve the Consent Agenda as presented.

The motion passed unanimously.

GENERAL BUSINESS AGENDA

Item A – Resolution No. 050256 – Public Hearing, Case No. V04-006, Vacation of (a portion of) South Quebec Way Right-of-Way

Assistant County Attorney Tim Knapp established jurisdiction for the Board to consider this Item. He said both the applicant and the County have agreed to continue this item to May 24, 2005.

The motion was made by Commissioner Zimmer to continue Case No. V04-006, Vacation of (a portion of) South Quebec Way, Right-of-Way, to May 24, 2005.

Seconded by Commissioner Weddig.

The motion passed unanimously.

Item B – Resolution No. 050257 – Case NO. V04-007, Request for a Vacation of Public Right-of-Way, the Alley in Block 5 of Loretto Additional (subdivision)

Assistant County Attorney Tim Knapp established jurisdiction for the Board to consider this item.

Ron Hovland of the Planning Division presented the staff report, a copy of which has been retained for the file. He said displayed some pictures to demonstrate what is trying to be accomplished with this vacation. He said this alley was dedicated to Arapahoe County in 1892 with the recordation of the Loretto Addition Subdivision. He said that subdivision has changed over the years. He said the County has vacated alleys, streets, changed street names, vacated blocks and portions of blocks within this subdivision over the last 113 years. He said this alley is being requested to be vacated and represents about 3300 square feet. He said it is 12 feet wide by 275 feet long. He said the alley is just behind the sign displayed in the picture. He said there is a solid fence and one could not get into the alley from the north. He said the south end of the alley is also blocked and difficult to get to. He displayed another picture of the alley with private improvements in the alley including retaining walls, garages, sheds, as well as stored vehicles and stored equipment. He said staff contends that the alley no longer serves any public purpose and should be vacated. He all of the adjacent owners have access to their properties from other streets like Knox Court, Irving Street and West Girard Avenue. He said the alley could be eliminated. He explained that Excel is asking that the alley be maintained as a utility easement and the County is including a drainage easement. He said the alley would be split down the middle, six feet to each of the owners on each side of the alley. He said there are six finding of fact including in the staff report that this alley serves no public purpose, that the County has the authority to vacate and that it has followed all of the procedures established by the County Subdivision Regulations for vacation of public right of way and State Statutes for vacations of rights-of-way. He said staff is recommending vacation of the alley.

Commissioner Weddig said regarding the drainage easement that the County is recommending, he wondered if the drainage easement would impact the existing improvements on the property. He wondered if the County would place a conduit underground or whether it would be a swale.

Mr. Hovland explained that currently there is a slope to the property from east to west. He said the owner has plans to get rid of that. He said until that is resolved to the satisfaction of the County, a drainage easement would be best to keep in the event there is some significant erosion problem that might represent a threat to public safety. He qualified that getting access for a County employee in order to fix something is somewhat questionable. He said the County has not interest in any kind of a swale or underground storm drainage structure.

Commissioner Weddig said there is no doubt it is a legal right of way and if the County needed access the things that are there that should not be there would have to be moved by the property owners. He confirmed the County could get access to the site if necessary.

Mr. Hovland said yes. He said the legal right of way would allow for the fence to be moved on behalf of the County. He said anyone really could get in there, as it is a public right of way.

Commissioner Beckman stated these pictures were not included in the back up material. She wondered if the site is in compliance with code enforcement.

Mr. Hovland answered no.

Commissioner Beckman said often hears discussion that the County does not do it job with code enforcement in the unincorporated areas of the County. She wondered if the County vacates this easement, what would be done about the abandoned vehicles and other code violations?

Mr. Hovland said this information has been shared with code enforcement and the County would be making a visit out there.

Commissioner Beckman said the intention is not for the area to become storage for cars, boats, etc.

Mr. Hovland said if the alley is vacated it would revert, split 50/50 to the adjacent owners. He said those owners would be allowed to make use of the land under the zoning regulations.

Commissioner Beckman confirmed the current zoning regulations do not allow abandoned vehicles in backyards.

Assistant county Attorney Tim Knapp said there is not a loss of right either way. He said there is a zoning violation and whether it is in a right of way or on a private property it does not make a difference. He said currently there is an encroachment on the County's right of way that the County has never enforced. He said it is more likely if the County has an easement it could still enforce the same rights. He said even if the County does nothing at the point, it does not give up the right to enforce the zoning codes in the future because it is a zoning issue whether on private property or on an easement.

Commissioner Beckman said she hates to move forward with vacating this easement because it benefits the property owners. She said the County should deal with these code enforcement issues in a timely manner.

Mr. Hovland said the proponent is present this morning. He said he has not had any conversations with the two parties that objected.

Gordon Etherton, 3411 S. Irving, said he filed the petition to vacate the alley. He said fence on the left side of the photograph is the beginning of a very severe slope. HE said his primary interest is to clean up the neighborhood by putting in a retaining wall, which would cost about \$100,000. He said he is not able to control the voluntary elm trees. He said his neighbors have not shown interest in taking care of the area. He said the wall in the photograph was put up by one of the neighbors and it is on his property five feet. He said the majority of the fence is already on his property. He said the idea was to clean up the neighbor hood with a retaining wall along the 275 feet and eliminate the burden of maintaining it. He said there is a drainage issue. He explained there is water that runs down from the top of the hill. He said there was a spring that was coming across Knox Court, which stopped after the subdivision was put in. He said if he puts the wall in he would restructure the drainage so there would not be any more issues with drainage to the properties down below, which are zoned commercial and not residential.

Commissioner Weddig said it sounds like he is not part of the problem, but part of the solution. He said please let the County know what it could do to help.

Mr. Etherton said give him a permit to put the wall up.

Wayne Thomas, 3386 S. Julian, said he supports the applicant. He said it is zoned B-4 and that is outdoor and warehouse, business. He said speaking from past experience, there was a fair amount of development upstream and there was a fair amount of flooding four or five years ago. He said the County responded appropriately. He said he would like the County to follow through with the vacation and still retain the easement to accept the additional from any future development. He said regarding zoning and code enforcement, he agreed the neighborhood should be cleaned up. He asked to please get the right drainage for the retaining wall.

Mr. Knapp said the staff recommendation of the draft motion, should include the word public before the word utility.

The motion was made by Commissioner Weddig to approve Case No. V04-007, Loretto Addition Block 5 Alley Vacation of Public Right-of-Way subject to the following conditions:

1. Arapahoe County will retain a public utility and drainage easement on the entire length and width of the alley right-of-way.
2. The vacation resolution adopted by the Board of County Commissioners shall be recorded with the Arapahoe County Clerk and Recorder.

Seconded by Commissioner Beckman.

The motion passed unanimously.

COMMISISONER COMMENTS

The motion was made by Commissioner Zimmer that the Board of County Commissioners of Arapahoe County goes into executive session, pursuant to Section 24-6-402(4)(a) and (e), CRS, as amended, in order to discuss the purchase or acquisition of real property and in order to develop strategy for negotiations and instructing negotiators and which executive session shall be recorded.

Seconded by Commissioner Weddig

The motion passed unanimously.

There being no other business before the Board, the Chair adjourned the hearing at 10:00 AM.

ARAPAHOE COUNTY BOARD OF COUNTY COMMISSIONERS

**NANCY A. DOTY, CLERK TO THE BOARD
BY JENNIFER GAYER, DEPUTY**