

ORDINANCE NO. 1126

AN ORDINANCE VACATING THAT ENTIRE PORTION OF THE 100-FOOT ROAD RIGHT-OF-WAY DEDICATED IN THE FORT MORGAN INDUSTRIAL PARK, RECORDED ON BOOK 5, PAGE 67 WITH THE MORGAN COUNTY CLERK AND RECORDER ON AUGUST 21, 1979, WHICH IS SITUATED BETWEEN LOT 1, BLOCK 4, AND BLOCK 5, AS WELL AS ALL OF THE 30-FOOT WIDE RIGHT-OF-WAY ALONG THE 831.19 FEET OF BLOCK 5.

WHEREAS, The City's Industrial Park has been recently replatted; and,

WHEREAS, as a part of the replat recommendations, staff determined that the above referenced dedicated rights-of-way are no longer necessary for a public purpose as a surface thoroughfare; and

WHEREAS, City Staff recommends that the dedication sections of land be vacated and that, subjected the conditions contained herein, the land be consolidated with the adjoining property owners.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT MORGAN, COLORADO:

Sec. 1. That the entire portion of 100-foot road right-of-way dedicated in the Fort Morgan Industrial Park, recorded on book 5, page 67 with the Morgan County Clerk and recorder on August 21, 1979, which is situated between lot 1, block 4, and block 5, as well as all of the 30-foot wide right-of-way along the 831.19 feet of block 5, which is geographically depicted in Exhibit A, which is attached hereto and incorporated herein by this reference, is hereby vacated as a public street, the same being no longer needed for a public purpose as a surface thoroughfare, but RESERVING therein and thereon an exclusive right of way and easement for installation, maintenance, repair, replacement and continued use of poles, pipes, cables, wires and equipment for lines of communications, electricity, gas, water and sewer and other utilities and services, and a surface access easement to permit ingress and egress thereon and over and across the same.

Sec. 2. Adjoining property owners may use the vacated street to consolidate their property, subject to the easements described herein.

Sec. 3. The owners of the land may, at their election and expense, alter the surface of said vacated street, provided, however, that all utilities within the rights-of-way shall not be disturbed or impaired and such work shall be accomplished upon proper City permits.

Sec. 4. The owner(s) shall not place any improvement upon, over, or in the area(s) vacated without: 1) lawful permit from the Planning and Zoning Department of the City of Fort Morgan; 2) obtaining written consent of the utilities, governmental service entities and franchise holders, present or future. The written consent with the terms and conditions thereof shall be filed in writing with the City of Fort Morgan by each of the above agencies as needed and approved by the City prior to construction.

Sec. 5. The City, utilities, governmental service entities and franchise holders shall have the right and access to go upon the land and occupation hereof within the rights-of-way for purposes associated with the maintenance, construction or planning of existing or future facilities, being careful not to disrupt or disturb the owner interests more than is reasonably required.

Sec. 6. If the owner(s) have elected to alter the vacated area pursuant to Section 3 and 4 and should the City exercise its right to access the land pursuant to Section 5, the City shall not be responsible for the payment or restoration of any surface alterations or improvements that are removed, damaged, or destroyed in the process of exercising said rights.

Sec. 7. The Street Department of the City shall not pay any expenses required for the adjustments of the City's alley(s), sidewalk(s) and street(s) as affected by the vacated area(s).

Sec. 8. The present and future owner or owners of the 100-foot dedicated street as well as all of the 30-foot wide right-of-way, according to the recorded plat thereof, shall assume sole and complete financial responsibility for the operation and maintenance of the property.

READ AND PASSED ON FIRST READING AND ORDERED PUBLISHED IN FULL on the 1st day of May, 2012.

THE CITY COUNCIL OF THE CITY OF FORT MORGAN, COLORADO

[SEAL]

BY: /s/ Terry L. McAlister
Mayor

ATTEST:

/s/ John J. Brennan
City Clerk

PASSED, APPROVED AND ADOPTED ON FINAL READING AND ORDERED PUBLISHED by title only the 15th day of May, 2012.

[SEAL]

THE CITY COUNCIL OF THE CITY OF FORT MORGAN, COLORADO

BY: /s/ Terry L. McAlister
Mayor

ATTEST:

/s/ John J. Brennan
City Clerk

STATE OF COLORADO)
COUNTY OF MORGAN)
CITY OF FORT MORGAN)

CERTIFICATE

I, John Brennan, the duly appointed, qualified and acting Clerk of the City of Fort Morgan, Colorado, do hereby certify and attest that the foregoing **Ordinance No. 1126** was, as a proposed **Ordinance** duly and legally presented to the City Council of the City of Fort Morgan, Colorado, at a regular meeting on the 1st day of May, 2012. Said **Ordinance**, as proposed, was duly read at length at said regular meeting, and thereafter the same was, on the 4th day of May, 2012, published in *The Fort Morgan Times*, a daily newspaper of general circulation published and printed in the City of Fort Morgan, Morgan County, Colorado. Said proposed **Ordinance** was again taken up and read a second time, duly and legally passed, approved and adopted at a Regular Meeting of the City Council held on the 15th day of May, 2012. Within five (5) days after its final passage, said **Ordinance** was published in *The Fort Morgan Times*, a daily newspaper of general circulation published and printed in the City of Fort Morgan, Morgan County, Colorado.

/s/ John J. Brennan
City Clerk