

Agenda Item 10

August 16, 2006

File No. 820-30 R06-84

## **AGENDA BILL**

Subject: Resolution for the Vacation of Public Right of Way along a Portion of Ranch Road South of Old Mammoth Road, Reserving Easements for Existing Utility Purposes, Access and Public Pedestrian Access Purposes and Reserving the Right, but not the Obligation, to Remove Snow from the Public Pedestrian Access along the Easement Area, and for Snow Removal and Street Maintenance Purposes.

Initiated by: Jeffrey L. Mitchell, Supervising Administrative Engineer

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### **BACKGROUND:**

The Fairway Ranch Homeowner's Association applied for a use permit, Use Permit Application 2005-05, to install a gated entry on Ranch Road, leading to the two subdivisions, Fairway Ranch and the Ranch at Snowcreek. The use permit was approved with conditions. Condition No. 12 states: "The applicant shall request a street vacation of the portion of public right-of-way affected of Ranch Road affected by the construction of the private vehicular access gate". The Town has received that request from the applicant, and, the area requested for vacation is from the southerly terminus of the public right of way of Ranch Road to a point approximately 353 feet north. The width of the existing public right of way is 60 feet along the northern portion and tapers to a point at the southern end (see Exhibit "A").

Another condition of the use permit, Condition No. 5, states: "Pedestrian access shall be provided with the vehicular access gate improvements." The design and construction of the gate improvements is such that there is a pedestrian way around the west side of the gate. However, Condition No. 5 is not specific with respect to ongoing maintenance of the pedestrian access, including snow removal.

The request for vacation of the excess right of way is in accordance with Sections 8310 through 8340 of the Streets and Highway Code and with Sections 66477.2 (a) and (c) of the Subdivision Map Act. On July 5, 2006 the Town Council adopted a resolution of intention setting the time and date for this matter to be heard at a scheduled public hearing.



Earlier, on December 7, 2005, the Town Council approved a resolution that vacated the subject area. However, because the resolution did not reserve easements for public pedestrian access purposes along the subject area the resolution was rescinded.

### **ANALYSIS/DISCUSSION:**

The Transportation and Circulation Element of the General Plan for the Town lists Ranch Road as a local street. In the Element local streets are described as "Public and private two lane streets, providing direct access to residential properties, and providing access from residential areas to collector or arterial streets." Ordinance 91-01, respecting street and highway widths, requires local streets to have a minimum right of way width of 60 feet, and a pavement width of no less than thirty feet. An analysis has been made by Engineering Staff that has determined that the right of way and pavement width is currently consistent with the General Plan and Ordinance 91-01. Upon vacation that portion of Ranch Road will become a private street.

Staff has sent letters requesting comments to the Mammoth Lakes Fire Protection District, the Police Department, the County of Mono, Caltrans and all affected public and private utility companies. No comments have been received that oppose the vacation. The Planning Division has determined that the vacation is consistent with the General Plan. On November 9, 2005 the Planning Commission heard the matter and determined that the vacation would be consistent with the General Plan.

The notice of this public hearing was posted for two weeks along the affected area. All property owners affected by the vacation were sent a letter advising them of this hearing.

The attached resolution provides for the vacation of the excess right of way over the subject areas, reserving and excepting easements for the benefit of all persons, entities and public or private utilities for access and to further conduct any maintenance or operation as deemed necessary, and for pedestrian access purposes to the benefit of the general public. The reservation of the public pedestrian access easement shall be over and across the subject area of the vacation, and shall not extend into the existing private streets within the Fairway Ranch Subdivision or the Ranch at Snowcreek Subdivision. Also, the resolution reserves the right to the Town, but not the obligation, to clear and remove snow, from time to time, from the pedestrian way around the gate and from the area of the public pedestrian easement being reserved. The resolution does not specify who is responsible for the maintenance and snow removal from the public pedestrian way. That issue is discussed in the Option Analysis under Option 2 and Option 3.



### **OPTIONS ANALYSIS:**

Option 1. Adopt the attached resolution for the vacation of right of way along a portion of Ranch Road south of Old Mammoth Road, reserving easements for existing utility purposes, for public pedestrian access purposes, reserving the right to the Town, but not the obligation, to remove snow from the public pedestrian access easement, for access purposes and for snow removal and street maintenance purposes.

Option 2. Amend the attached resolution for the vacation of right of way along a portion of Ranch Road south of Old Mammoth Road, reserving easements for existing utility purposes, for public pedestrian access purposes, reserving the right to the Town, but not the obligation, to remove snow from the public pedestrian access easement, for access purposes and for snow removal and street maintenance purposes to include provisions that the Town shall clear the snow from the public pedestrian way, and adopt the resolution, as amended.

Option 3. Amend the attached resolution for the vacation of right of way along a portion of Ranch Road south of Old Mammoth Road, reserving easements for existing utility purposes, for public pedestrian access purposes, reserving the right to the Town, but not the obligation, to remove snow from the public pedestrian access easement, for access purposes and for snow removal and street maintenance purposes to include provisions that the Applicant shall clear the snow from the public pedestrian way, and adopt the resolution, as amended

### **VISION CONSIDERATIONS:**

The right of way of Ranch Road is not needed for circulation as a public street and that portion of Ranch Road will become a private street, and an easement for pedestrian access purposes will be reserved to the benefit of the general public; therefore the vacation of this public right of way is consistent with the overall goal of providing a comprehensive circulation system.

### **FINANCIAL CONSIDERATIONS:**

For Option 1 and Option 3 the cost of Town staff time and materials to work on this agenda bill and the resolution are the only costs identified at this time and therefore would be the only cost to the Town. For Option 2 the additional cost for the snow removal from the public pedestrian way is estimated to be \$6,000.00 per year.

### **ENVIRONMENTAL CONSIDERATIONS:**

This street vacation is exempt from CEQA under Guideline Section 15061(b)(3) given that there is no potential for adverse environmental impacts from the proposed action.



**LEGAL CONSIDERATIONS:**

Vacation of the street and creating a private street will relieve the Town from the liability of a private gated entry facility within the public right of way.

**RECOMMENDATION:**

Therefore, it is recommended that the Town Council:

Adopt the attached resolution for the vacation of right of way along a portion of Ranch Road south of Old Mammoth Road, reserving easements for utility and public pedestrian access purposes and reserving the right, but not the obligation, to remove snow from the public pedestrian access along the easement area.

APPROVED ON: 8/16/06  
MAMMOTH LAKES TOWN COUNCIL  
*Res. 05-03a-ab-02a, amended 7 minutes*  
Cecilia Hall  
TOWN CLERK



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TIMOTHY B. SANFORD  
STEPHEN N. KAPPOS

*Attachment to  
Agenda Item 10*

July 26, 2006

Via Facsimile (760) 934-8608

Raymond C. Jarvis  
Director of Public Works  
Town of Mammoth Lakes  
P.O. Box 1609  
Mammoth Lakes, CA 93546

Re: Proposed vacating of a portion of Ranch Road

Dear Ray :

This letter will briefly serve to confirm the position of my client, the Board of Directors of the Fairway Ranch Homeowners' Association, with regard to the apparent position of Councilman Harvey that a pedestrian access around the Ranch Road gate should be maintained free of snow in the winter as a condition to the vacating of that portion of Ranch Road behind the gate. As we have discussed, my client's position on this issue is as follows:

1. The maintenance of pedestrian access and the vacating of Ranch Road are two separate issues that need not, and should not, be connected. You have described important reasons why the road should forthwith be vacated, reasons with which my client agrees. By contrast, in my recent conversation with Skip, he indicated a desire to calendar new meetings of the stakeholders to work on this issue. The vacating of Ranch Road should not be delayed by any such process of meetings.

2. It makes no sense to keep a pedestrian access clear of snow. The only purpose this would serve would be to further encourage people to trespass on the private property of Chadmar, Fairway Ranch and the Ranch at Snowcreek. Further, if one has the ability to hike up and then ski/snowboard down the Sherwins, one can certainly handle getting around or through the gate.

3. Who will do the snow removal work? I can assure you Fairway Ranch will not pay for it without a court order. Fairway Ranch has already gone to excessive expense to satisfy the proponents of the "easement to nowhere." Does the Town have the resources to do it?

4. Last but definitely not least, maintenance of pedestrian access was never contemplated by the Town Council when it approved the gate. Faxed herewith is a transcript of a portion of the Council meeting of December 7, 2005 in which I explicitly stated my understanding that the

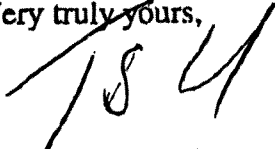


Raymond C. Jarvis  
Director of Public Works  
Town of Mammoth Lakes  
July 26, 2006  
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Council's prior approval of the gate (on September 7, 2005) did not include any requirement of maintenance of pedestrian access. Please note that my statement meet with no disagreement or even questioning from the Council. My client objects to the concept of adding burdensome requirements to the gate approval almost a year after the fact, both on legal grounds and on the basis of fairness.

I would appreciate it if you would add this letter to the agenda packet for the August 16<sup>th</sup> Council meeting. Do not hesitate to contact me if you have any questions. As always, thank you for your candor and diligence in attempting to resolve this matter.

Very truly yours,



Timothy B. Sanford

TBS:pc

cc: Stacey Bardfield, President, Fairway Ranch Owner's Association (via email)  
Town Council Members (via mail, with attachment)  
Chuck Lande, Chadmar (via email)

(Fairway Ranch\lrs\jarvis072606)



## TAPE 12/7/05 Public Hearing

Tim Sanford: Town staff represented to me that 4 feet wide was the normal width for a walkway and that's why we defined it as 4 feet and 4 feet from that monument, so 4 feet on the three sides of the monument that you would walk around; and that would be kept open in perpetuity. And you can go around the other side as well. Skip?

Skip Harvey: Have we determined is someone going to be responsible for keeping that clear during the wintertime?

Tim Sanford: No, no. The Council's decision was simply that it would not affect pedestrian access...(unintelligible)...no it's not going to be maintained, it's not going to be kept clear. The skiers and the snowboarders will go across the snow. If they can hike up and ski down the Sherwins, they can certainly traverse the snow around the gate.

Unidentified Councilman: Tim, what about on the Chadmar side, the other side, the fact that there are so many aspens on that side? Would that be cleared away at all, otherwise there won't be access on that side.

Tim Sanford: Well, we've offered to clear that away. I went around there without any trouble from the trees. But it can be cleared away if that's the preference of Council. I mean it looks better with the trees there....

(Tim\TapeChadmar)



**Sherwin's Working Group  
Meeting Notes  
Thursday, 8/10/06**

Attendance: Mike Schlafmann  
Silver Chesak  
Bill Sauser  
John Wentworth

Councilmember Skip Harvey  
Councilmember Wendy Sugimura

Staff  
Bill Taylor  
Danna Stroud

The group met to discuss two basic issues relative to the vacation of the public right of way on Ranch Road. The first issue addressed the proposed public pedestrian easement over the abandoned portion of the road. It was the consensus of the group that this public pedestrian easement was needed in order to retain public access.

The second issue addressed the need for snow removal around the gate for pedestrian access. Consensus among the group indicated strong approval for snow removal on the approved path provided for pedestrian access. It was suggested that snow removal be part of vacating the road and that the homeowner's associations be responsible for the snow removal.

The group also requested the desire to move forward with developing some type of plan for this coming winter's access to the Sherwins. They would like to move quickly with convening all parties involved to address the reality of laying tracks for access, establishing enforcement responsibilities for any violations and creating some signage to point users to appropriate parking and access points.

With support from council, staff will work to quickly set-up meetings with interested parties for addressing this winter's access.

Note: While attendance appeared minimal, staff received notice from some participants who had RSVP's for the meeting, but were unable to attend due to schedule changes.