

ORDINANCE No. 415

VACATING A PORTION OF WALL STREET IN NORTH CREEDE, A PORTION OF FIRST STREET IN SOUTH CREEDE AND AUTHORIZING THE TRANSFER OF PROPERTY

WHEREAS, Colorado Revised Statute §31-15-713(1)(b) authorizes the City of Creede, a Colorado town (“City”) to dispose of municipally owned property upon such terms and conditions as the Board of Trustees deems appropriate; and

WHEREAS, pursuant to CRS § 43-2-303(1)(a), a municipality has the power, by adoption of an ordinance, to vacate any roadway or part thereof within its jurisdiction and in accordance with CRS § 31-15-101(1)(d) a municipality has the authority to dispose of property as it deems appropriate; and

WHEREAS, Randy and Geniel Birdsey are the owners the west 20 feet of Lot 7, all of Lots 8 and 9, South Creede, County of Mineral, State of Colorado; LESS the East 2 feet of the west 20 feet of Lot 7, Block 1, South Creede, County of Mineral, State of Colorado; AND a tract of land in Block 36, Creedmoor described as follows: A tract of land located in Block 36, Creedmoor, Mineral County, State of Colorado, described by meets and bounds as follows: Beginning at the SW corner of the tract herein described, the point of intersection of the North Line of the NE¼ Sec. 36, T. 42 N, R. 1 W, N.M.P.M., with the East limit of the right of way for the Willow Creek flume, whence the N¼ corner of said Section 36, T. 42 N, R. 1 W, N.M.P.M. bears S 89°14’ W, 1563.13 feet distant; thence N 89°14’ E 43.67 feet along the North line of the NE° of said Section 36 to the SE corner of the tract herein described; thence N 2°20’ W, 49.76 feet to the NE corner of the tract herein described, a point on the S. limit of Wall St., thence S 89°14’ W, 46.53 feet along the S limit of Wall St. to the NW corner of the tract herein described, the point of intersection of the S limit of Wall St. with the East limit of the right of way for said flume; thence S 5°37’ E 49.92 feet along the E limit of the right of way for said flume to the place of beginning; also known on the assessor’s schedule as Account: R000342 and parcel 4763-254-33-005; and

WHEREAS, The City will convey by Quit-Claim Deed the property as described in “**Fraction A**” to the Applicants as described in “**Exhibit A**”. The portion of “**Fraction A**” along the east side of the flume will be conveyed for the consideration of four dollars and ninety-two cents (\$4.92) per square foot and the property applicable to Wall Street will be vacated and conveyed for consideration already received as described in “**Exhibit A2**”; and

WHEREAS, Randy and Geniel Birdsey will convey by Quit-Claim Deed “**Fraction B**” as described in “**Exhibit B**” to the City. The City will credit the Applicants consideration of four dollars and ninety-two cents (\$4.92) per square foot for this property; and

WHEREAS, The City will convey by Quit-Claim Deed the property as described in **“Fraction C”** to the Applicants for the consideration of four dollars and ninety-two cents (\$4.92) per square foot as described in **“Exhibit C”** . The property applicable to First Street will be vacated and conveyed as described in **“Exhibit C2”**.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY OF CREEDE,
A COLORADO TOWN, THAT:**

SECTION 1: Pursuant to CRS § 31-15-101(1)(d) and CRS § 43-2-303(1)(a), a southwestern portion of Creede Avenue, North Creede as described in Exhibit B, is hereby vacated.

SECTION 2: The Board of Trustees, hereby finds and determines that the public rights-of-way herein vacated are not now in public use and have not been in public use for many years; that this vacation will not leave any usable land without an established public access; and that this vacation is in the best interest, welfare and safety of the inhabitants of Creede.

SECTION 3: Subject to the terms of this Ordinance, the City will convey by Quit-Claim Deed the property as described in **“Fraction A”** to the Applicants. The property applicable to Wall Street will be vacated by the City and conveyed for consideration already received as described in **“Exhibit A”**. The portion of Fraction A along the east side of the flume will be conveyed for the consideration of four dollars and ninety-two cents (\$4.92) per square foot as described in **“Exhibit A2”** to Randy and Geniel Birdsey.

SECTION 3: Subject to the terms of this Ordinance, Randy and Geniel Birdsey will convey by Quit-Claim Deed **“Fraction B”** as described in **“Exhibit B”** to the City. The City will credit the Applicants consideration of four dollars and ninety-two cents (\$4.92) per square foot for this property.

SECTION 4: Subject to the terms of this Ordinance, the City will convey by Quit-Claim Deed the property as described in **“Fraction C”** to the Applicants for the consideration of four dollars and ninety-two cents (\$4.92) per square foot.. The property applicable to First Street will be vacated and conveyed as described in **“Exhibit C2”**.

SECTION 5: The property will be re-platted by Resolution 2018-??? as “Birdsey Tract”, of Block 36, Creedmoor and Block 1, South Creede and recorded in the Mineral County Clerk & Recorder’s office.


SECTION 6: City Staff is authorized to correct any typographical, grammatical, cross-reference, or other errors which may be discovered in any documents associated with this Ordinance and documents approved by this Ordinance provided that such corrections do not change the substantive terms and provisions of such documents.

SECTION 7: If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or application of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. The Town Board hereby declares that it would have passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term "provision" means and includes any part, division, subdivision, section, sub section, sentence, clause or phrase; the term "application" means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the Town.

SECTION 8: This Ordinance shall take effect thirty days after the publication of this Ordinance by title only in accordance with C.R.S. §31-16-105.

INTRODUCED, APPROVED AND PASSED ON FIRST AND FINAL READING, on this 6th day of November, 2018.

BY:


Jeffery Larson, 11/30/18
Mayor Date

ATTEST:


Krisen Buchanan, 11/30/18
City Clerk Date

EXHIBIT A

(“FRACTION A” – CITY OF CREEDE TO BIRDSEY)

A tract of land located in the SE¼ Section 25, T.42N., R.1W., N.M.P.M., Mineral County, Colorado, which tract contains 624.8 Sq. Ft., more or less, being more particularly described by metes and bounds as follows: Beginning at intersection of the South Line of the said SE¼ Section 25 with the East limit of the right of way for the Willow Creek flume, whence the S¼ corner of said Section 25 bears S89°14' 51”W a distance of 1563.13 feet; thence S89°14'51”W, along the said South line, a distance of 4.66 feet to a point on an existing fence line; thence N06°33'58”W, along said fence line and it’s northerly projection, a distance of 57.16 feet; thence N89°14'51”E, along an existing fence line and it’s westerly projection, a distance of 52.56 feet; thence S02°19'09”E a distance of 7.12 feet to a point on the platted South limit of Wall Street; thence S89°14'51”W, along the platted South limit of Wall Street, a distance of 46.53 feet; thence S05°36'08”E, along the East limit of the right of way for the Willow Creek flume, a distance of 49.92 feet to the place of beginning.

EXHIBIT A2

(THAT PART OF WALL STREET WITHIN “FRACTION A” – TO BE VACATED)

A tract of land located in the SE¼ Section 25, T.42N., R.1W., N.M.P.M., Mineral County, Colorado, which tract contains 372.2 Sq. Ft., more or less, being more particularly described by metes and bounds as follows: Commencing at intersection of the South Line of the said SE¼ Section 25 with the East limit of the right of way for the Willow Creek flume, whence the S¼ corner of said Section 25 bears S89°14' 51”W a distance of 1563.13 feet; thence S89°14'51”W, along the said South line, a distance of 4.66 feet to a point on an existing fence line; thence N06°33'58”W, along said fence line and it’s northerly projection, a distance of 50.01 feet to it’s intersection with the South limit of Wall Street and the Point of Beginning; thence continuing N06°33'58”W, along said fence line and it’s northerly projection, a distance of 7.15 feet; thence N89°14'51”E, along an existing fence line and it’s westerly projection, a distance of 52.56 feet; thence S02°19'09”E a distance of 7.12 feet to a point on the platted South limit of Wall Street; thence S89°14'51”W, along the said platted South limit of Wall Street, a distance of 52.03 feet to the place of beginning.

EXHIBIT B

(“FRACTION B” – BIRDSEY TO CITY OF CREEDE)

A tract of land located in the NE¼ Section 36, T.42N., R.1W., N.M.P.M., Mineral County, Colorado, which tract contains 47.4 Sq. Ft., more or less, being more particularly described by metes and bounds as follows: Beginning at the NW corner of Lot 9, Block 1, South Creede, whence the N¼ corner of said Section 36 bears S89°14’51”W a distance of 1554.97 feet; thence S13°45’08”E, along the West Line of said Lot 9, a distance of 27.83 feet; thence N06°33’58”W, along an existing fence line, a distance of 27.26 feet; thence S89°14’51”W, along the North Line of the NE¼ of said Section 36, a distance of 3.50 feet to the place of beginning.

EXHIBIT C

(“FRACTION C” – CITY OF CREEDE TO BIRDSEY)

A tract of land located in the NE¼ of Section 36, T.42N., R.1W., N.M.P.M., Mineral County, Colorado, which tract contains 378.7 Sq. Ft., more or less, being more particularly described by metes and bounds as follows: Beginning at the SW corner of Lot 9, Block 1, South Creede, whence the N¼ corner of said Section 36 bears N88°44’10”W a distance of 1568.69 feet; thence N76°14’52”E, along the North limit of First Street, a distance of 68.00 feet; thence S13°45’08”E a distance of 4.54 feet; thence S76°14’52”W, along the westerly projection of a fence line from the east, a distance of 72.20 feet; thence N06°33’58”W, along an existing fence line and it’s southerly projection, a distance of 33.61 feet to its intersection with the West line of said Lot 9; thence S13°45’08E, along the West line of said Lot 9, a distance of 28.81 feet to the place of beginning.

EXHIBIT C2

(THAT PART OF FIRST STREET WITHIN “FRACTION C” – TO BE VACATED)

A tract of land located in the NE¼ of Section 36, T.42N., R.1W., N.M.P.M., Mineral County, Colorado, which tract contains 326.5 Sq. Ft., more or less, being more particularly described by metes and bounds as follows: Beginning at the SW corner of Lot 9, Block 1, South Creede, whence the N¼ corner of said Section 36 bears N88°44’10”W a distance of 1568.69 feet; thence N76°14’52”E, along the North limit of First Street, a distance of 68.00 feet; thence S13°45’08”E a distance of 4.54 feet; thence S76°14’52”W, along the westerly projection of a fence line from the east, a distance of 72.20 feet; thence N06°33’58”W, along an existing fence line and it’s southerly projection, a distance of 4.57 feet to its intersection with the North limit of First Street; thence N76°14’52”E, along the said North limit of First Street, a distance of 3.63 feet to the place of beginning.