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Fraser voids Elk Creek Meadow easement

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Cozens and Elk Creek Meadows stretch along US 40 between the highway and the Grand Park neighborhood.

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A conservation easement filed earlier this year that raised questions about the future of Cozens and Elk Creek Meadows in Fraser has been declared null and void by the town.

On Wednesday, Fraser Town Board [continued the public discussion](#) about the Cozens and Elk Creek Meadows in the Grand Park neighborhood that started last month after homeowners became aware of a new [conservation easement for a portion of the land](#).

The easement, signed by Mayor Philip Vandernail in March, states that a 17.7 acre portion of the meadow will be put into a conservation easement in “full satisfaction” of the development agreement with the town.

According to Town Manager Jeff Durbin, he had been negotiating with Grand Park over the easement since 2015, when final plats within Grand Park were approved on the condition that the town manager and the town attorney negotiate the final terms of the conservation easement. This year, Durbin presented the mayor with an easement for Elk Creek Meadow.

“In early 2020, it was clear we were in a deadlock over disputed language,” Durbin said Wednesday. “In hindsight now, this was the wrong decision, but given the deadlock on the language and the zoning regulations we have to protect the open spaces, I felt moving forward was better than continuing disputes, so I asked the mayor to execute the conservation easement for Elk Creek Meadow in March.”



However, the town attorney did not approve the final language of the easement, and Durbin said the easement changed between when he first read it and when the mayor signed it.

“Further, there was additional language added to the draft that I was provided in advance of asking the mayor to execute that I did not note at the time,” Durbin said.

Grand Park developer Clark Lipscomb didn’t respond to requests for comment Thursday morning.

Fraser’s attorney Rod McGowan told the board that because the easement wasn’t approved as specified, they could declare the document invalid.

“Quite frankly, I would not have approved it,” McGowan said.

Vandernail said he believed the easement would protect the meadow and added he wouldn’t have signed it if he knew the language had changed or that the attorney hadn’t approved it.

“The mayor has to trust the staff, and in this instance, that trust was broken with incomplete information,” Vandernail said.

Gathered homeowners encouraged the board to approve the resolution declaring the easement invalid but said this is only the first step in protecting the meadows.

“We’re requesting the town hire a highly qualified land-use attorney to work in conjunction with the Army Corps of Engineers to draft a replacement conservation easement for the 466 acres,” said Peggy Smith, former mayor of Fraser and current resident. “This agreement would prohibit livestock raising, provide for public access to areas not deemed sensitive by the Army Corps of Engineers, make the town responsible for grooming and trail maintenance ... and work with the developer to design an interconnecting trail system.”

Public access to the meadow came up repeatedly during comments. However, Durbin said though the original documents for the neighborhood required the meadows to be open space, they do not have language requiring the land be open to the public.

Many comments also included concerns about the herd of cattle that was moved into the meadow earlier this year. Currently, the town doesn’t have regulations regarding cows, though Trustee Andy Miller expressed a desire to change that.

After a full hour of public comments, the board approved the resolution declaring the easement null and void with six members approving and one abstaining.

Durbin said the town will notify Grand Park of the decision and the next steps will be determined based in part on the response. He added that the Army Corps of Engineers is involved and may also determine next steps. Ben Wilson, a project manager for the Army Corps of Engineers, said they are aware of a potential issue and are looking into it.

In other business:

- The board approved extending the looser regulations regarding parking and outdoor seating to allow businesses to be flexible under COVID restrictions. The resolution also included regulations for tented outdoor seating and pull up lanes for to-go eating, as well as a suspension of the town’s disposable bag fee. The extended regulations and suspended fee are in effect until April 30.
- A resolution for \$102,000 in engineering expenses for water projects around town was approved.

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Shari Shelton 1 DAY AGO

Sharon Shelton

Who drafted the easement?

REPLY 1 REPLY ^ 1

MM

Mike Martz 9 HRS AGO

Reply to **Shari Shelton**

It sounds like the developer drafted it if the town attorney never saw it.

REPLY ^ 0



Add your reply

WG

Willie Gilpin 1 DAY AGO

Glad to see the town do the right thing. Development has moved fast and we need to mature out of adolescence and into adulthood quickly in order to properly manage the growth. Hope they get the professional support that is needed.

REPLY ^ 0

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