

Posted on September 11, 2023 at: 16:30



**TOWN OF WIGGINS**

**BOARD of TRUSTEES  
WORK SESSION**

**September 13, 2023 at 7:00 P.M.**

**304 CENTRAL AVENUE  
WIGGINS, CO 80654**

**THE PUBLIC IS INVITED & ENCOURAGED TO ATTEND THE MEETING VIA ZOOM  
OR WATCH ON YOUTUBE IF THEY ARE UNABLE TO ATTEND MEETING IN PERSON**

**GO TO THE FOLLOWING SITE <https://us06web.zoom.us/j/88202736268> FOR THE MEETING LINK**

**WORK SESSION AGENDA**

<b><u>AGENDA TOPIC</u></b>	<b><u>ESTIMATED TIME</u></b>
1. Discussion on Our Lady of Lourdes Catholic Church Alley Maintenance License Agreement	15 minutes
2. 2024 Budget Discussion	90 Minutes
3. Other Items and Updates	10 minutes
4. Upcoming Board Meeting Agenda Topics	5 minutes
5. Future Work Session Topics	5 minutes

*The Board of Trustees may adjourn for a brief Special Meeting after the Work Session*



## **STAFF SUMMARY**

### **Board of Trustees Work Session September 13, 2023**

---

**DATE:** September 11, 2023

**AGEND ITEM NUMBER:** 1

**TOPIC:** Discussion of Our Lady of Lourdes Wiggins Alley Maintenance License Agreement

**STAFF MEMBER RESPONSIBLE:** Hope Becker, Planning & Zoning Administrator

---

#### **BACKGROUND:**

Our Lady of Lourdes Catholic Church sanctuary is located at 506 Main Street. They recently constructed a new fellowship hall on their vacant lot next to the sanctuary located at 502 Main Street. Their parking plan shows they will meet the minimum parking requirements for the two buildings. Their parking plan also shows the parking will be striped with 45-degree angle parking spaces where vehicles will enter the parking lot from Main Street and exit to the east towards the rear of the property behind the sanctuary. Vehicles will then use an exit lane behind the sanctuary building, traveling north towards 5<sup>th</sup> Avenue to exit the premises. The exit lane behind the church's sanctuary is on property owned by the church; however, the exit lane becomes the Town owned alley behind the new fellowship hall building.

#### **SUMMARY:**

The church would like to utilize the alley as an exit from their parking lot. The alley is currently a dirt surface. The License Agreement would be for purpose of maintaining the alley located behind 502 Main Street as the church owns the space behind the main sanctuary located at 506 Main Street. The License Agreement requires Our Lady of Lourdes Catholic Church to install a hard surface, such as crushed asphalt, in the alley to provide an improved all-weather surface for added protection of the sewer lines located in the alley while establishing requirements related to the maintenance of the alley.

#### **FISCAL IMPACT:**

Approving this resolution has no negative impact on the Town's adopted budget.

**APPLICABILITY TO TOWN OBJECTIVES AND GOALS TO PROVIDE SERVICES:**

The approval of this resolution will meet the Town's objective to continue building good relationships with organizations in Town while protecting Town assets.

**QUESTIONS/INFORMATION REQUESTED FROM THE BOARD OF TRUSTEES:**

- Does the board have questions for staff?
- Is the Board ready for staff to bring this agenda item to the next Board meeting for consideration of approval?

**TOWN OF WIGGINS  
RESOLUTION NO. XX-2023**

**A RESOLUTION APPROVING AN ALLEY MAINTENANCE LICENSE AGREEMENT BETWEEN THE  
TOWN OF WIGGINS AND OUR LADY OF LOURDES WIGGINS AT 502 MAIN STREET**

**WHEREAS**, the Our Lady of Lourdes desires to utilize the Town's alley access from 5<sup>th</sup> Avenue south to the Our Lady of Lourdes' property line to allow for traffic to exit the rear of the church parking lot; and

**WHEREAS**, the Town desires to protect the sewer lines that are located in the alley as shown in Exhibit A of the agreement, to provide an all-weather surface, and to establish requirements related to the maintenance of the said alley; and

**WHEREAS**, a License Agreement for Our Lady of Lourdes Wiggins has been proposed; and

**WHEREAS**, the Board of Trustees by this resolution desires to approve the Alley Maintenance Agreement for Our Lady of Lourdes Wiggins and authorize its execution.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF WIGGINS, COLORADO AS FOLLOWS:**

**Section 1.** The Alley Maintenance License Agreement between the Town of Wiggins and Our Lady of Lourdes Wiggins (the "License Agreement") is hereby approved in substantially the same form as the copies for such License Agreement (Exhibit A) accompanying this Resolution.

**Section 2.** The Mayor and Town Clerk are authorized to execute the License Agreement in substantially the same form as the copy attached hereto; further, the Town Manager is hereby granted the authority to negotiate and approve such revisions to the License Agreement as the Town Manager determines is necessary for the protection of the Town, so long as the material terms and conditions of the License Agreement are not altered.

**Section 3.** The Mayor, and Town Clerk are further authorized to do all things necessary on behalf of the Town to perform the obligations of the Town under the License Agreement and are further authorized to execute and deliver any and all documents necessary under the terms and conditions of said License Agreement.

**INTRODUCED, READ, AND ADOPTED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2023.**

TOWN OF WIGGINS, COLORADO

\_\_\_\_\_  
Chris Franzen, Mayor

ATTEST:

\_\_\_\_\_  
Tom Acre, Interim Town Clerk

**EXHIBIT A**

**Alley Maintenance License Agreement**

**ALLEY MAINTENANCE LICENSE AGREEMENT**  
**(502 Main Street)**

**THIS ALLEY MAINTENANCE LICENSE AGREEMENT** (this “Agreement is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2023, by and between the **TOWN OF WIGGINS**, a Colorado municipal corporation (“Town”), and **THE ARCHDIOCESE OF DENVER, A COLORADO CORPORATION SOLE AS TRUSTEE FOR THE BENEFIT OF OUR LADY OF LOURDES WIGGINS** (“Owner”).

**RECITALS**

- A. Owner owns the real property located at 502 Main Street, Wiggins, Colorado (“Owner’s Property”) on which it has constructed a fellowship hall.
- B. The Town is the owner of the unimproved alley running north to south, starting at Fifth Avenue, between the Owner’s Property and the Town limit line, as depicted on Exhibit A, attached hereto and incorporated herein by reference (the “Alley”).
- C. Owner has requested that it be allowed to add crushed asphalt to the Alley for the purpose of improving access to Owner’s Property.
- D. The Town desires to protect the sewer line that is located in the Alley as shown in Exhibit A, to provide an all-weather surface, and to establish requirements related to the maintenance of the Alley.
- D. The Town has agreed to grant to Owner a license for the purpose of improving and maintaining the Alley subject to and in accordance with the terms, conditions and limitations of this Agreement.

**AGREEMENT**

1. Recitals Incorporated. The recitals set forth above are incorporated herein by reference.
2. Owner Obligations.
  - A. Alley Improvements. On or before December 31, 2023, Owner will, at its sole cost and expense: (1) install crushed asphalt surfacing on the full width and length of the Alley from the access point on Fifth Avenue running south to the property line as depicted on Exhibit A; and (2) install signs indicating that no parking is allowed in the Alley (collectively, the “Improvements”). Plans for the Improvements are subject to Town approval.
  - B. Maintenance. During the term of this Agreement, maintenance to the alley for the purposes of Owner’s access shall be performed at the Owners expense. Any snow and ice removed from the Alley shall be stored on the Owner’s Property or hauled offsite to a legal snow storage area. Maintenance performed by the Owner during the term of this Agreement, shall not in any way restrict the Town’s access to the Alley.
  - C. Access to remain open. Owner acknowledges and agrees that access to the Alley is provided off of Fifth Avenue. Owner agrees that it shall not install fencing or any other barrier that limits access to the Alley off of Fifth Avenue.
3. Grant of License. The Town hereby grants to Owner a revocable license to occupy and use the Alley for the purposes set forth in Paragraph 2, above. Except as specifically allowed by this Agreement, the Owner shall not place, build, expand, or add to any structures or other items in the Alley. Owner understands that the

license granted hereunder is granted subject to all franchise agreements, easements and other interests of record applicable to the Alley. Owner shall be solely responsible for coordinating its activities hereunder with the holders of such prior franchisee agreements, rights, easements, or other interests of record, and for obtaining any required permission for such activities from such holders if required by the terms of such agreements, rights or easements or other interests.

4. Term. This Agreement and the license granted to Owner hereunder shall commence as of the date of this Agreement and shall continue until terminated pursuant to Paragraph 10 of this Agreement.
5. No Interest in Land. Owner agrees that it does not have or claim, and shall not at any time in the future have or claim, any ownership interest or estate in the Alley, or any other interest in real property included in the Alley, by virtue of this Agreement or by virtue of Owner's occupancy or use of the Alley.
6. Non-Interference. In the exercise of its rights pursuant to this Agreement, Owner shall avoid any damage or interference with any Town installations, structures, utilities, or improvements on, under, or adjacent to the Alley. Owner shall be solely responsible for any damages suffered by the Town or others as a result of Owner's use and occupancy of the Alley.
7. Owner Property. The Town shall have no responsibility, liability, or obligation with respect to the safety or security of any personal property placed or located on, at, or in the Alley, it being acknowledged and understood by Owner that the safety and security of any such property is the sole responsibility and risk of Owner.
8. Town's Rights. If Owner fails to adequately maintain the Alley and Improvements, and within thirty (30) days after the date of written notice from Town, fails to correct the maintenance problem, the Town shall have the right but not the obligation in its sole discretion to maintain the Alley and Improvements required to be maintained by Owner under this Agreement at Owner's cost. Notwithstanding the foregoing, the Town may, in the event of an emergency, as determined by the Town in its sole discretion, clean, cure or correct any damage or condition caused by the Owner's failure to adequately maintain such improvements or facilities and Owner shall reimburse the Town for the cost of such maintenance. If the Town is not reimbursed for the cost of such maintenance, within thirty (30) days after receipt of an invoice from the Town describing the corrective or maintenance action taken, the Town may also pursue other remedies available at law or in equity.
9. Town Utilities. Owner acknowledges and understands that the Town owns and maintains existing underground public utilities within the Alley. The Town, its employees, agents and contactors shall have the right to enter, over, through and across the Alley for purposes of installing, operating, maintaining, repairing, upgrading and replacing the underground public utilities at any time. If the Town's use, repair and maintenance of its public utilities requires disturbance of any of the Improvements, the Town will not be required to repair or replace any such disturbance.
10. Termination. This Agreement and the license herein granted to Owner is fully terminable in accordance with the following terms and conditions:
  - A. Termination by Town for Cause. The Town may terminate this Agreement if the Owner fails to comply with the terms of this Agreement.
  - B. Termination by Town for Convenience. In addition, the Town may terminate this Agreement for convenience upon sixty (60) days' notice to the Owner.
  - C. Removal and Restoration Upon Termination. Upon termination of this Agreement, the Improvements shall become the property of the Town, with no payments for such Improvements due to the Owner by the Town.

11. Insurance. Owner shall obtain and maintain at all times during the term hereof, at Owner's sole cost, a policy or policies of comprehensive general liability insurance with limits of coverage of not less than \$1,000,000 for injuries, damages or losses sustained by any one person in any one accident or event, and not less than \$2,000,000 for injuries, damages or losses incurred by two or more persons in any one accident or event. The Town shall be named as an additional insured on all such policies and Owner shall furnish the Town with a copy of such policy or policies prior to the effective date hereof.
12. Indemnification. Owner agrees to indemnify and hold harmless the Town, its officers, employees, insurers, and insurer, from and against all liability, claims, and demands, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with the use of the Alley pursuant to the this Agreement, if such injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by, the negligence of Owner, any contractor of the Owner or subcontractor of Owner's contractor, or any officer, employee, tenant, occupant, agent, customer, or representative of the Owner, or of any person permitted or allowed to use the Alley by Owner, or which arise out of any worker's compensation claim of any employee of the Owner or of any contractor of the Owner or of any occupant of Owner; except to the extent such liability, claim or demand arises through the negligence of Town, its officers, employees or agents. Owner agrees to investigate, handle, respond to, and to provide defense for and defend against any such liability, claims or demands at the sole expense of the Owner. Owner also agrees to bear all other costs and expenses related thereto, including court costs and attorney fees.
13. Mechanics' Liens. Owner shall not allow any mechanics' or similar liens to be filed against the Alley arising from any work done by Owner on the Alley, and Owner shall indemnify and hold Town harmless with respect thereto, including any attorney's fees incurred by Town in connection with any such lien or claim. If any mechanics' or other liens shall be created or filed against the Alley by reason of labor performed by, or materials furnished for, the Owner, the Owner shall, within ten (10) days thereafter, at the Owner's own cost and expense, cause such lien or liens to be satisfied and discharged of record together with any Notices Of Intention To File Mechanic's Lien that may have been filed. Failure to do so shall constitute a default hereunder for which the Town may terminate this Agreement in accordance with the provisions of Paragraph 10 of this Agreement.
14. Notices. Any notice required or permitted under this Agreement shall be in writing and shall be sufficient if personally delivered or mailed by certified mail, return receipt requested, addressed to the following:

If to the Town:

Town of Wiggins  
Attn: Town Manager  
304 Central Avenue  
Wiggins, CO 80654  
Email: tacre@wigginsco.com

If to the Owner:

Archdiocese of Denver  
Attn: David Wurzbach  
1300 S Steele Street  
Denver, CO 80210  
Email: david.wurzbach@archden.org

With a copy to:

Our Lady of Lourdes Catholic Church  
Attn: \_\_\_\_\_  
506 Main Street  
PO Box  
Wiggins, CO 80654



Notices mailed in accordance with the provisions of this Paragraph shall be deemed to have been given upon mailing. Notices personally delivered shall have been deemed to have been given upon delivery. Either party may change its address by giving notice thereof to the other party in the manner provided in this Paragraph.

15. Attorney's Fees. If any action is brought in a court of law by either party to this Agreement concerning the enforcement, interpretation or construction of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees as well as costs, including expert witness's fees, incurred in the prosecution or defense of such action.
16. Waiver. The failure of either party to exercise any of its rights under this Agreement shall not be a waiver of those rights. A party waives only those rights specified in writing and signed by the party waiving its rights.
17. Governmental Immunity. The Town is relying on, and does not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, Section 24-10-101, *et seq.*, C.R.S., as from time to time amended, or any other law or limitations otherwise available to Town, its officers, or its employees.
18. Entire Agreement. This Agreement constitutes the entire agreement and understanding between the parties hereto, and supersedes any prior agreement or understanding, relating to the License granted hereunder. Any such prior agreement shall be deemed to be null and void and of no further effect.
19. Modification. This Agreement may be modified or amended only by a duly authorized written instrument executed by the parties hereto.
20. Situs, Venue and Severability. This Agreement and the License shall be deemed entered into in Morgan County, Colorado, and shall be governed by and interpreted under the laws of the State of Colorado. Any action arising out of, in connection with, or relating to this Agreement or the License shall be filed in the District Court of Morgan County of the State of Colorado, and in no other court. If any provision of this Agreement shall be held to be invalid or unenforceable, the validity and enforceability of the remaining provisions of this Agreement shall not be affected thereby.

**IN WITNESS WHEREOF**, the parties hereto have entered into this Encroachment License Agreement as of the day and year first set forth above.

**TOWN:**

TOWN OF WIGGINS,  
a Colorado municipal corporation

By: \_\_\_\_\_  
Mayor

**ATTEST:**

\_\_\_\_\_  
Interim Town Clerk

Archdiocese of Denver  
Keith A. Parsons  
COO, Attorney-in-Fact to Archbishop Samuel J. Aquila, Archbishop of Denver

Title: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

(Seal of Notary)

My Commission expires:

**EXHIBIT A**  
**[Attach depiction of Alley]**

DRAFT