

**OPEN SPACE ADVISORY COMMITTEE
STAFF REPORT**

MEETING DATE: September 24, 2012

AGENDA ITEM NUMBER: 3D

STAFF: Juan F. Guzman, Open Space Manager



REQUEST: **For Possible Action:** To acknowledge the passive recreation definition and provisions of Chapter 13.06 of the Carson City Municipal Code.

GENERAL DISCUSSION:

At the Open Space Advisory Committee workshop held on June 4, 2012, the Committee and staff were successful in agreeing on a mission and vision statement. Our Committee also agreed to work on a discussion to reach a consensus regarding the term “passive recreation.” The phrase “passive recreation” is not specifically defined by the Open Space Master Plan or portions of the Carson City Municipal Code that pertains to matters of Open Space, Chapter 13.06.

There are three pertinent primary sources of documents that discuss and describe the term passive recreation. Those are: 1) The Quality of Life Ballot Question (Q-18), 2) The Carson City Municipal Code, 3) The Carson City Open Space Master Plan. In addition, there is reference to passive recreation use in other documents such as grants used to facilitate the acquisition of open space such as the state conservation bonds Question-1 and the SNPLMA. The term “passive recreation” is also used to describe the activities that can take place in much of the land being transferred to Carson City through the Carson City Lands Bill and the Conservation Easement executed towards the transfer of Prison Hill, the Silver Saddle Ranch, and the Ambrose Natural Area in specific. Staff will discuss the three primary sources in more detail.

The Question-18 Ballot

The Question-18 Ballot Initiative consists of a single sentence, “Shall Carson City request that the Nevada Legislature authorize it to fund the acquisition, development, and maintenance of parks, open space, trails, and recreation facilities through an increase in the sales tax rate of 1/4 of 1 percent (0.0025).” Separate from the question, there is an explanation stating that, among other matters, “Open space, which is defined as undeveloped land with valuable natural resources,” will be acquired and maintained as conservancy areas to be retained and used for the following purposes: To provide off-street bicycle, hiking, and equestrian trails that connect parks, schools, and the valley with the mountains to safeguard water resources, waterway corridors, wetlands, streams, and the Carson River, to develop regional detention areas and protect floodplains, to safeguard scenic vistas and enhance the gateways into our city, the utilization of land for shaping the development of the city and defining

growth by establishing an urban boundary, strategic acquisition of land to allow for local outdoor relaxation, education, and future park settings, preservation or enhancement of significant natural areas, wildlife, and culturally important lands.

Throughout the argument in support of the ballot and explanation of the ballot, emphasis is placed in the description of open space as areas in a primarily natural state to be used for a list of activities and practices that do not mention motorized use.

Carson City Municipal Code

The second document that constitutes a source of authority as to the establishment of the open space program is the Carson City Municipal Code. As provided on the first, second and fourth paragraphs of Section 13.06.010, Purpose, the funding for open space, including interest and other income, may be used for the acquisition, restoration or natural resources, development and construction which afford for public access, health and safety, equipping, improvement, maintenance, conservation planning, and management of real property for open spaces acquired through the fund and administrative costs approved by committee.

The provision of Section 13.06.060 establishes that the development of the open space element to the master plan and the selection of open space lands shall be consistent with the intent of the 1996 ballot explanation which was discussed in the first paragraph above. Subsection 3 of the same quotation establishes that open space will be acquired and maintained as a conservancy to be used for the following purposes and list nine uses listed as letters A through I. It is staff's observation that the listing of the permitted categories of uses are all without argument ones of passive recreation themes. The code refers to activities such as hiking, equestrian trails, trailhead facilities, watershed area protection, floodplains, wetlands, Carson River protection, safeguarding scenic vistas, and to allow for outdoor relaxation, education, and future park settings, as well as the protection and preservation of significant natural areas, wildlife, and culturally important lands.

Section 13.06.100 establishes that lands acquired with open space funds shall be preserved and managed in a near natural condition, that such lands might include scenic vistas, wetlands, streams, floodplains, trail corridors, agricultural lands, highly visible natural areas along major streets and open space buffers. It establishes that open space lands will generally be open for passive recreation improvements, developed where appropriate and environmentally compatible. It lists examples of compatible passive recreation including hiking, bicycling, equestrian trail use, nature study, interpretive facilities, wildlife habitat, fishing and photography, or similar compatible uses. It further creates a contrast with active recreational facilities such as athletic fields, swimming pools, and tennis courts, which are precluded.

Section 13.06.140, Maintenance and Management, provides that open space lands may not be improved after acquisition unless such improvements are necessary to protect or maintain the land or provide for passive recreation uses such as hiking, bicycling, equestrian and trailhead facilities, nature study, interpretive facilities, wildlife habitat, fishing and photography, or similar compatible uses. It establishes that areas of open space may be closed to the public temporarily or seasonally to protect a natural resource or to make the property safe for public enjoyment.

Section 13.06.150 provides that funding from the open space program may be used on other public lands including federal, state, and city owned lands that are similarly maintained in a predominantly

undeveloped state within Carson City, and again for compatible passive recreation uses and improvements listed which include trails, bicycling, equestrian and trailhead facilities similarly to the list in the above section.

Carson City Open Space Master Plan

The introduction of the Open Space Master Plan defines “open space” as that is in a natural or primarily natural state that contains significant natural, visual or cultural features that warrant protection and that is permanently protected. It further states that through this definition open space in Carson City is intended to mainly preserve the natural landscape and to accommodate certain types of passive recreation such as hiking, running, bicycling, and horseback riding. Open space in Carson City is not intended to be used for traditional active recreation facilities such as parks, playground equipment, baseball diamonds, soccer fields, and swimming pools. However, under certain circumstances the only physical facilities to be located in open space areas are trails and supporting picnic areas, interpretive facilities, restrooms, and parking lots. The last sentence of the third paragraph in the introduction provides that open space lands may be converted to parks through an easement purchase or land exchange with the Parks and Recreation Department.

The master plan produced a statistically valid survey that was used to determine the preferences of our constituents. Under Question #2 - What does the term “open space” signify to you - responses indicated that incompatible uses to open space such as motocross and 4-wheel drive areas should have separate designated areas and that open space characteristics were land that does not have structure on it, parks but not intensively developed ones, and land in a fairly natural condition with minimal change. Most felt that open space should be usable as with trails. This information can be found on Page 9 of the master plan.

On Page 11 information is found as to the responses indication that the majority of Carson City residents at the time used open space primarily for visual and passive purposes and that the frequency of use established all-terrain vehicle as Number 11 out of 12 potential uses. The primary uses were clearly of passive nature such as just looking at it, wildlife observation, walking, picnicking, hiking, biking, walking the dog, fishing, mountain-biking, or in-line skating.

The survey also asked questions about the management of open space. The question asked about the acceptance of possible regulations and restriction of open space. The respondents strongly supported potential restriction of open space if necessary to environmental reasons, including requiring dogs to be kept on leash, require people to stay on trails, prohibit motorized vehicles in some areas, make some areas off-limits during certain seasons, and prohibit bicycle access to some areas.

Page 50 of the Open Space Master Plan lists policies recommended by the Open Space Advisory Committee and adopted by the Board of Supervisors to guide the program. On the purposes of open space there is a reiteration that open space is land that is in natural or primarily natural state that contains significant natural, visual, or cultural features that warrant protection and that is permanently protected. Policy 1.2 provides that open space in Carson City is intended mainly to preserve the natural landscape and certain types of passive recreation such as hiking, running, bicycling, and horseback riding. Recreational facilities in open space areas are typically limited to trails and supportive picnic areas, interpretive facilities, restrooms, and parking lots. Policy 1.3 provides that open space in Carson City is not intended to be used for traditional active recreation facilities such as parks, playground equipment, baseball diamonds, soccer fields, or swimming pools. Policy 2.15 specifically addresses rights-of-way for roads. In its entirety this section provides special

circumstances where open space lands may be used for rights-of-way, for roads provided that they have been previously identified in the City master plan and elements thereof. The rest of the policy addresses other utilities such as water, sewer, and below-ground types of distribution systems that may be located in open space lands provided that there is an assurance that the disturbed area will be restored to its natural appearance.

In addition to these three legal sources of authority, Carson City was very successful in obtaining grants to facilitate the purchase of lands and development of facilities. Those grants included the Question-1 State of Nevada resource protection and conservation bonds, the Southern Nevada Public Land Management Act - Parks, Trails, and Natural Areas category, and federal legislation such as the Carson City lands bill. Through all those documents, certain provisions called for the continuation of passive recreation use and the enjoyment of the lands being purchased through forms of passive recreation. All those grants and commitments that have resulted in the accumulation of the property that we presently enjoy strongly support the stewardship and continuation of passive recreation related activities.

It is staff's opinion that our three main sources of authority are consistently clear as to the intent to allow for passive recreation type of uses with land acquired with open space funding. It is also clear that the development or maintenance of improvements necessary for the care of the resources and the enjoyment of the lands is permitted. It also appears to staff that it is reasonable to ascertain that the development of facilities that are predominantly dedicated for the purpose of motorized use are not envisioned as compatible with an open space purpose. A case in point the Committee and Board of Supervisors may find that it is perfectly in keeping with the provisions of ordinance to use proceeds of the tax funds for the maintenance of Ash Canyon Road since it provides access to the crest of the Carson Range where we have properties to maintain. There is also the historic aspect of roads such as the Lincoln Highway (King Canyon Road) and Ash Canyon, which the municipal code allows protection of. Those facilities were already built and are improvements on our lands. In some cases it may be necessary to construct facilities that allow for motorized use in order to access our lands, such as a trailhead and parking areas, such as in the Moffat property or portions of the Carson River Canyon which are not contrary to the V&T easement. This latest example is pertinent since the Board of Supervisors has asked us to revisit the question of motorized access along the Carson River Canyon as opposed to staff's administrative decision to restrict motorized use, in redundant trails.

It seems to staff that the heart of the matter is the discussion that relates as to when is it appropriate to allow motorized use in an area and when it is not. Those considerations are best decided on a case-by-case basis. There will be instances where the site specific characteristics may be best handled as matters of operations under administrative powers. Other sites will require public hearings. It appears prudent to conclude that funds of the program may be used to facilitate some level of motorized access into some areas; however, the primary purpose is to conserve land, not to provide entirely or primarily for the enjoyment of that land through motorized use.

RECOMMENDED ACTION: Move to acknowledge the passive recreation definition and provisions of Chapter 13.06 of the Carson City Municipal Code.

Passive Recreation

13.06.100 Preservation of land

Except as otherwise provided in this chapter, open space land may not be improved after acquisition unless such improvements are necessary to protect or maintain the land or provide for **passive recreation uses such as hiking, bicycling, equestrian and trailhead facilities, nature study, interpretative facilities, wildlife habitat, fishing and photography or similar compatible uses.**

13.06.110 - Leasing open space lands.

Certain open space properties may be leased for continued open space agricultural uses such as farming or grazing. This approach can provide a link to Carson City's past, protect the land from development and can shift some maintenance costs to the leasee. Generally, the leased properties will continue to afford access for passive enjoyment, to the extent feasible.

13.06.140 Maintenance and Management

Generally, lands acquired with open space funds shall be preserved and managed in a near natural condition. Such lands might include scenic vistas, wetlands, streams, floodplains, trail corridors, agricultural lands, highly visible natural areas along major streets and open space buffers. Open space land will generally be open for passive recreation improvements developed where appropriate and environmentally compatible. **Examples of compatible passive recreation include hiking, bicycling, equestrian trail uses, nature study, interpretive facilities, wildlife habitat, fishing and photography, or similar compatible uses.** Shared participation in multi-use lands is possible. The open space element of the Carson City master plan, public hearing process and master plan shall provide direction for the maintenance and management of open space lands pursuant to this chapter.

Passive recreation as defined in the **Conservation Easement:**

those activities that are temporary in nature and do not require development of permanent structures for facilities not already in place as of March 31 2009. Passive Recreation includes activities that are non-motorized i.e.: hiking, dog walking, horseback riding, biking, geocaching, fishing, rock climbing, mountain biking, swimming, birding, rafting, canoeing, kayaking, stargazing, picnicking, par course/fitness, trail, environmental education programs, and cultural heritage programs.