

## OPEN SPACE ADVISORY COMMITTEE STAFF REPORT

**MEETING DATE:** June 16, 2014

**AGENDA ITEM NUMBER:** 3D

**STAFF:** Juan F. Guzman, Open Space Manager  
Tina Russom, Deputy District Attorney

**REQUEST:** **Discussion and Possible Action:** To recommend to the Board of Supervisors amendments to Carson City Municipal Code Chapter 13.06 in order to incorporate certain provisions and regulations applicable to the Open Space Program and other matters related thereto.

### **GENERAL DISCUSSION:**

Attached for your review and discussion please find a draft ordinance amendment providing for changes to Chapter 13.06 - Open Space of the Carson City Municipal Code (CCMC). The entire chapter has been included for your reference, with the draft ordinance amendments identified by underline. The amendments were previously discussed by the Committee on December 16, 2013 (Exhibit A) and April 21, 2014. The amendments are needed for the management of Open Space lands, since the District Attorney's Office has advised staff that the provisions and regulations of CCMC 13.02 - Parks may not be applicable to lands acquired by the Open Space Program. Committee member, Laura Fitzsimmons, has helped staff with the amendments.

The idea of holding information meetings with the public to obtain input about the regulations of open space emerged in discussions with Laura Fitzsimmons and Tina Russom. Staff anticipates during July and August holding at least three meetings with the public to focus on additional ideas and changes. This robust public input process will provide the Board of Supervisors and the Committee with assurance that staff has gone the extra mile in obtaining citizen participation and seeking public opinions as to the regulations for the open space properties.

After approval by the Open Space Advisory Committee, the draft ordinance will be placed on the Board of Supervisors agenda for a first reading and action. After the first reading is completed, the same ordinance, with possible changes by the Board of Supervisors, there will be a second reading normally at the next meeting for final approval. After approval by the Board, the Clerk Recorder is responsible to incorporate the ordinance into the codified publications of the Carson City Codes.

In addition to the six regulations, there is a new section to identify and define three terms. In this section, the definition of “open space” has been copied from the Carson City Charter, Article 8A. Currently, CCMC 13.06.060 specifically states, “Open space, which is defined as undeveloped land with valued natural resources,…” Chapter 13.06 further identifies “natural areas” (13.06.010 and 13.06.100), the “natural environment” (13.06.010) and “purposes” (13.06.010 and 13.06.060) of open space.

Another comment / question from the committee related to the closure of properties during emergencies, high winds, or other scenarios. CCMC 13.06.140 currently provides the authority to act and manage accordingly:

*13.06.140 - Maintenance and management: It may be necessary to close an open space property temporarily, or seasonally, to protect a natural resource, or to make the property safe for public enjoyment.*

This is a great beginning of the process to facilitate the management of open space. The staff appreciates the work Laura has done with this item.

**RECOMMENDED ACTION:** Move to recommend to the Board of Supervisors amendments to Carson City Municipal Code Chapter 13.06 in order to incorporate certain provisions and regulations applicable to the Open Space Program and other matters related thereto.


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budget. Member Lincoln was informed that a second bridge on the Ash Canyon trail would be financed by grants. Discussion ensued regarding Open Space entrance signage. It was agreed that Open Space should be recognized, even if some of the signs would be short-lived. **Vice Chairperson Riedl moved to recommend to the Board of Supervisors the mid-year budget revisions and carryover process. The motion was seconded by member Inversin. Motion carried 7-0.**

**E. FOR POSSIBLE ACTION: TO RECOMMEND TO THE BOARD OF SUPERVISORS THE APPROVAL OF A MAINTENANCE PLAN FOR ASH CANYON ROAD.** (7:26:10) – Chairperson Scott introduced the item and noted that he would only moderate and not participate in the discussion due to a previously-unknown conflict of interest, as the plan had been prepared by his firm. Mr. Guzman presented the agenda materials and the maintenance plan, incorporated into the record. Member Evans cautioned against invasive species germinating and wished to ensure the crew would steam clean their equipment prior to use. **Vice Chairperson Riedl moved to recommend to the Board of Supervisors the approval of a maintenance plan for Ash Canyon Road, and to incorporate the additional member comments. The motion was seconded by Member Welborn.** Chairperson Scott entertained public comments, and when none were forthcoming, a vote. **Motion carried 5-0-1, with Chairperson Scott abstaining.**

 **F. DISCUSSION ONLY: RECOMMENDATION TO THE BOARD OF SUPERVISORS TO INTRODUCE ON FIRST READING AN ORDINANCE AMENDING THE CARSON CITY MUNICIPAL CODE CHAPTER 13.02 IN ORDER TO INCORPORATE CERTAIN PROVISIONS APPLICABLE TO THE OPEN SPACE PROGRAM, AND OTHER MATTERS RELATED THERETO.** (6:47:43) – Chairperson Scott introduced the item and noted that Member Fitzsimmons had worked with staff on drafting this ordinance. Mr. Guzman presented the agenda materials which are incorporated into the record, and thanked Member Fitzsimmons for the amendments she had provided. In response to a question, Ms. Russom suggested keeping Section 13:06 specific to define Open Space as its own entity, because some activities allowed in Open Space would not be allowed in Parks. Member Fitzsimmons suggested adequately noticing Open Space properties and she believed that specific rules should be applied to specific areas. Member Inversin noted that she had not found provisions prohibiting firearms in this version. Mr. Moellendorf explained that firearms were prohibited on any river property “within the urban area”. Discussion ensued regarding land designations. Mr. Moellendorf suggested noting all appropriate amendments in both sections 13:02 and 13:06, and to bring a revised Section 13:06 back to the Committee. Member Fitzsimmons offered to continue her involvement. Member Evans wished to address the inclusion of flora, fauna, wastewater, and soil in Section 13:06. Chairperson Scott entertained public comments; however, none were forthcoming.

(7:07:47) – Member Fitzsimmons left the meeting at 7:07 p.m. A quorum was still present.

**G. DISCUSSION ONLY REGARDING ACTIVITIES, PROJECTS, AND GRANTS LOCATED WITHIN THE CARSON RIVER CORRIDOR.** (7:33:34) – Chairperson Scott introduced the item. Mr. Guzman and Ms. Bollinger presented an update on the Carson River Corridor

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AN ORDINANCE AMENDING THE CARSON CITY MUNICIPAL CODE TITLE 13, CHAPTER 13.06 OPEN SPACE BY ADDING SECTION 13.06.015 DEFINITIONS WHICH ADDS RELEVANT DEFINITIONS TO THE CHAPTER AND BY ADDING SECTION 13.06.160 MOTOR VEHICLES, TO PROHIBIT MOTORIZED VEHICLE USE ON NON-DESIGNATED ROADS, AND BY ADDING SECTION 13.06.0170, LITTERING AND DUMPING, TO PROHIBIT UNAUTHORIZED LITTERING OR DUMPING OF GARBAGE, REFUSE, OR LIQUID WASTE, AND BY ADDING SECTION 13.06.180 FLORA AND FAUNA TO PROHIBIT THE REMOVAL OF FLORA AND FAUNA, AND BY ADDING SECTION 13.06.190 SOIL AND ROCKS TO PROHIBIT EXCAVATION OR REMOVAL OF SOIL, ROCK, SAND OR GRAVEL, AND BY ADDING SECTION 13.06.200 FIREWORKS, TO PROHIBIT CARRYING OR DISCHARGING FIRECRACKERS AND FIREWORKS, AND BY ADDING SECTION 13.06.210 FIREARMS, ARCHERY AND SIMILAR DEVICES TO PROHIBIT THE DISCHARGE OF ANY FIREARM, BOW, PELLET GUN, BB GUN, SLINGSHOT, PAINTBALL GUN OR SIMILAR DEVICE, AND OTHER MATTERS PROPERLY RELATED THERETO.

THE BOARD OF SUPERVISORS OF CARSON CITY DOES ORDAIN:

Section I: That that Carson City Municipal Code Title 13 Section 13.06 Open Space is amended as follows:

Chapter 13.06 - OPEN SPACE

Sections:

13.06.010 - Purpose.

13.06.015 - Definitions

13.06.020 - Creation of an open space advisory committee.

13.06.030 - Committee membership.

13.06.040 - Term of office and vacancies.

13.06.050 - Removal from committee.

13.06.060 - Powers and duties of open space advisory committee.

13.06.070 - Organization and procedure of the open space advisory committee.

13.06.080 - Prohibited interest/confidentiality.

13.06.090 - Annual report.

13.06.100 - Preservation of land.

13.06.110 - Leasing open space lands.

13.06.120 - Disposal of open space lands and grants of exclusive licenses/permits.

13.06.130 - Statement of deed.

13.06.140 - Maintenance and management.

13.06.150 - Other public lands.

13.06.160 - Motor vehicles.

13.06.170 - Littering and dumping.

13.06.180 - Flora and fauna.

13.06.190 - Soil and rocks.

13.06.200 - Fireworks.

13.06.210 - Firearms, archery, and similar devices.

13.06.010 - Purpose.

In the broadest sense, the objective of the open space program is to promote quality of life for citizens of Carson City through the preservation and protection of the quality of the natural environment which has given Carson City much of its character. This natural environment includes many spectacular views of the mountains, Carson River, and Eagle Valley. The natural streams, wetlands and open lands, with their water and related plant and animal life complement the scenic vistas and remind us of the area's early history. These natural areas, water bodies, vistas and panoramas, natural landmarks, and native flora and fauna are intended to be preserved and protected for the enjoyment of this and future generations by the judicious use of funding for open space.

As Carson City continues to grow, open spaces should be provided and woven into the fabric of the city. These open spaces may define developed areas within the community, and in certain areas may define the boundary of the city. They are intended to obtain a balance and harmony between physical development and open space for the benefit of Carson City citizens. Preservation of open space in all parts of the city will foster appreciation of the natural environment, provide increased opportunities for passive recreation, preserve agricultural uses, allow connecting open space corridors, and improve the quality of life.

Carson City encourages residents of this community and other concerned persons or parties to donate certain lands or funds for use in the open space program. The board of supervisors may by resolution accept properties not acquired with open space funds into the open space program after a recommendation from the open space advisory committee.

The open space advisory committee shall provide the oversight over the administration and expenditure of funds from the open space division of the quality of life special revenue fund established by Carson City Municipal Code 21.07. The funding for open space including interest and other income, may be used for the acquisition, restoration of 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 the committee.

Section II: Title 13, Chapter 13.06 Section 13.06.015 is hereby added as follows:

### 13.06.015 - Definitions

As used in this chapter, unless the context otherwise requires:

1. "Department" means that department of Carson City having authority and control of the Carson City open space;
2. "Director" means the director of the department or his/her designated representative;
3. "Open space" means real property, owned by Carson City, that is undeveloped or partially developed natural landscape, including, but not limited to, ridges, stream corridors, natural shoreline, scenic areas, watershed areas, view-sheds, agricultural or other land devoted exclusively to open-space use, conservation easements and easements devoted or connecting to open-space use.

### 13.06.020 - Creation of an open space advisory committee.

There is hereby created an open space advisory committee, hereinafter referred to as the committee, consisting of seven (7) members appointed by the board of supervisors.

### 13.06.030 - Committee membership.

1. The members of the committee shall be residents of Carson City, and qualified electors. The members shall be selected on the basis of expertise in the areas of natural resources, real estate, community planning, community development, outdoor recreation/education or knowledge of the community.

### 13.06.040 - Term of office and vacancies.

Members of the committee shall serve for varying term lengths not to exceed four (4) years, provided that the first seven (7) members appointed to the committee shall be appointed two (2) for a two (2) year term, two (2) for a three (3) year term and three (3) for a four (4) year term so that thereafter members shall serve for staggered terms of like duration. (Vacancies shall be filled by board of supervisors from appointed alternates. If an alternate is not available, the vacancy shall be filled for the remainder of the term in the same manner that original appointments are made).

### 13.06.050 - Removal from committee.

1. The board of supervisors may remove a committee member for cause.

13.06.060 - Powers and duties of open space advisory committee.

1. The committee shall develop an open space element to the Carson City master plan for adoption by the regional planning commission. The committee shall identify and prioritize for the city potential open space acquisitions and make appropriate recommendations. The committee shall obtain and consider public input before making recommendations to the board of supervisors on prospective open space acquisitions, disposal, and management. The committee shall review and provide input and comment to the city manager's proposed budget as it relates to open space matters. The committee shall solicit comments of other affected advisory committees and commissions of Carson City. The committee shall also perform other duties as may be specifically assigned to it by the board of supervisors.
2. The committee in developing the open space element to the Carson City master plan, and in selecting open space lands for possible acquisition and preservation, shall be consistent with the intent of the 1996 ballot explanation, which was: The committee will work to sustain natural and scenic resources and the long-term quality of life in Carson City. And, acquisition of open space land will help preserve mountains, hills and scenic resources, conserve wildlife habitat, protect our drinking water sources and allow outdoor enjoyment of natural areas. Open space, which is defined as undeveloped land with valued natural resources, will be acquired from willing sellers, or by other mutually agreeable methods.
3. Open space will be acquired and maintained as conservancy areas to be used for the following purposes:
  - a. To provide off-street bicycle, hiking and equestrian trails, and trailhead facilities that connect parks, schools and the valley with the mountains.
  - b. To safeguard water resources: watershed areas, water-well sites and designated groundwater recharge areas.
  - c. To safeguard waterway corridors, floodplains, wetlands, streams and the Carson River.
  - d. To develop regional detention areas and protect floodplains.
  - e. To safeguard scenic vistas and enhance the gateways to our city.
  - f. Utilization of land for shaping the development of the city and defining growth by establishing an urban boundary.
  - g. Strategic acquisitions of land to allow for outdoor relaxation, education and future park settings.

- h. Preservation or enhancement of significant natural areas, wildlife and culturally important lands.
- i. Connecting open space corridors.

13.06.070 - Organization and procedure of the open space advisory committee.

1. The committee shall elect a chair and a vice-chair. The committee shall keep minutes and records of its meetings and transactions.
2. The committee shall have regular meetings not less than once a month, unless otherwise determined by the committee.
3. Four (4) members of the committee shall constitute a quorum. An affirmative vote of a majority of the members present shall be necessary to authorize any action by the committee, except as otherwise expressly provided herein.

13.06.080 - Prohibited interest/confidentiality.

Any member appointed to the committee shall, upon the acceptance of such appointment, be deemed as having agreed to not disclose any data, the contents of any report or appraisal, or any information of whatsoever nature concerning any specific, prospective open space acquisition, to any person or entity except to other committee members, to members of the board of supervisors, to city staff members whose specific duties include the administration of the city's open space program, or as such disclosure may be required pursuant to court order. Any member who violates the conduct of confidentiality requirements shall be subject to being summarily suspended from the committee and such a violation may be deemed cause for removal.

13.06.090 - Annual report.

The committee shall provide an annual report of its activities to the board of supervisors.

13.06.100 - Preservation of land.

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. Development of traditional, active recreational facilities, such as athletic fields, swimming pools, and tennis courts are precluded. Shared participation in multi-use lands is possible. The open space element of the Carson City master plan, public hearing process and criteria developed by this committee shall provide direction for the acquisition of open space.

#### 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.

#### 13.06.120 - Disposal of open space lands and grants of exclusive licenses/permits.

In certain cases, it may be necessary to acquire a larger property in order to preserve a portion of the property as open space. In such cases, the city may dispose of the remainder. No open space lands may be sold, leased (does not include agricultural lease), traded, or otherwise conveyed, nor may any exclusive license or permit on such open space land be given until approval of such disposal or license or permit by the board of supervisors. The committee must hold a public hearing on a proposed disposal or license or permit. The city may not dispose of such lands or give any exclusive license or permit without a recommendation from the committee. The quality of life open space division shall be reimbursed the current market value of the disposed land at the time of its sale, or the cost of that land at the time of its original acquisition, whichever is higher.

#### 13.06.130 - Statement of deed.

Any deed conveying to the city open space property that was purchased using open space funds shall contain the notation "This land was purchased with Quality Of Life Sales and Use Tax Funds, and is subject to provisions of the Carson City Municipal Code 13.06."

#### 13.06.140 - Maintenance and management.

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. It may be necessary to close an open space property temporarily, or seasonally, to protect a natural

resource, or to make the property safe for public enjoyment. Maintenance and operation funds for open space acquired lands may be made available from the quality of life special revenue fund. The open space element of the Carson City master plan shall provide direction for the maintenance and management of open space lands pursuant to this chapter.

#### 13.06.150 - Other public lands.

Funding for open space may be used for passive recreation improvements on other public lands, including federal, state and city-owned lands, maintained in a predominately undeveloped state within Carson City. Examples of compatible passive recreation improvements include trails, bicycling, equestrian and trailhead facilities, nature study, interpretative facilities, wildlife habitat, fishing and photography, or similar compatible uses.

Section III: Title 13, Chapter 13.06 Section 13.06.0160 is hereby amended as follows:

#### 13.06.160 – Motor vehicles.

No person shall operate or park any motor vehicle including off-highway vehicles, as defined in the Nevada Revised Statutes, except on roads and in areas designated for such use. The term “motor vehicle” does not apply to electric personal assistive mobility devices.

Section IV: Title 13, Chapter 13.06 Section 13.06.0170 is hereby amended as follows:

#### 13.06.170 - Littering and dumping.

1. No person shall leave any garbage, cans, bottles, papers, appliances, furniture, automobiles or other refuse except in the receptacles provided.
2. No person shall dispose of any liquid or solid waste including wastewater, hazardous waste, yard waste, engine oils, anti-freeze, or batteries upon or into the surface of the ground or water.

Section V: Title 13, Chapter 13.06 Section 13.06.180 is hereby added as follows:

#### 13.06.180 - Flora and fauna.

1. No person shall dig, remove, destroy, injure, mutilate or cut any tree, shrub, flower, grass or any portion thereof.

2. No person shall take, seize, molest, injure, catch, hunt, trap, or kill any bird, reptile, fish or animal, or attempt to do so, except as otherwise provided in this chapter and in accordance with state laws and regulations.

Section VI: Title 13, Chapter 13.06 Section 13.06.190 is hereby added as follows:

13.06.190 - Soil and rocks.

No person shall excavate or remove any soil, rock, sand or gravel.

Section VII: Title 13, Chapter 13.06 Section 13.06.200 is hereby added as follows:

13.06.200 - Fireworks.

No person shall carry or discharge any firecracker, rocket, torpedo or any other fireworks; provided that this chapter shall not prohibit organized displays having prior written approval from the director.

Section VIII: Title 13, Chapter 13.06 Section 13.06.210 is hereby added as follows:

13.06.210 - Firearms, archery, and similar devices.

No person shall discharge of any firearm, bow, pellet gun, BB gun, slingshot, paintball gun or similar device.

Section IX: If any clause, sentence, section, provision or part of Chapter 13.06 of the Carson City Municipal Code shall be adjudged to be unconstitutional or invalid for any reason by any court of competent jurisdiction, such judgment shall not invalidate, impair or affect the remainder of such chapter.

Section X: That no other provisions of the Carson City Municipal Code are affected by this ordinance.

PROPOSED on \_\_\_\_\_ (month) \_\_\_\_\_ (day), 2014.

PROPOSED by \_\_\_\_\_.

PASSED \_\_\_\_\_ (month) \_\_\_\_\_ (day), 2014.

VOTE: AYES: SUPERVISORS: \_\_\_\_\_

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NAYS: SUPERVISORS: \_\_\_\_\_

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ABSENT: SUPERVISORS: \_\_\_\_\_

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Robert Crowell, Mayor

ATTEST:

\_\_\_\_\_  
ALAN GLOVER  
CLERK/RECORDER.

This ordinance shall be in force and effect from and after the \_\_\_ day of the month of \_\_\_\_\_ of the year, 2014.