

CARSON CITY OPEN SPACE ADVISORY COMMITTEE

Minutes of the September 18, 2006 Meeting

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A regular meeting of the Carson City Open Space Advisory Committee was scheduled for 6:00 p.m. on Monday, September 18, 2006 in the Community Center Sierra Room, 851 East William Street, Carson City, Nevada.

PRESENT: Chairperson Steve Hartman
Vice Chairperson Dan Jacquet
Michael Fischer
Tricia Lincoln
Wayne Perock
Howard Riedl
Bruce Scott

STAFF: Roger Moellendorf, Parks and Recreation Department Director
Juan Guzman, Open Space / Property Manager
Ann Bollinger, Open Space Assistant
Mary-Margaret Madden, Senior Deputy District Attorney

NOTE: A tape recording of these proceedings, the committee's agenda materials, and any written comments or documentation provided to the recording secretary during the meeting are public record, on file in the Clerk-Recorder's Office. These materials are available for review during regular business hours.

CALL TO ORDER AND DETERMINATION OF A QUORUM (1-0010) - Chairperson Hartman called the meeting to order at 6:00 p.m. A quorum was present. Member Lincoln arrived at 6:05 p.m.

CITIZEN COMMENTS ON NON-AGENDIZED ITEMS (1-0015) - None.

1. ACTION ON APPROVAL OF MINUTES - August 21, 2006 (1-0018) - Member Riedl moved to approve the minutes. Member Scott seconded the motion. Motion carried 6-0. Mr. Guzman noted the June 26, 2006 Question #1 subcommittee minutes included in the agenda materials.

2. MODIFICATIONS TO THE AGENDA (1-0026) - None.

3. AGENDA ITEMS:

3-A. ACTION TO RECOMMEND TO THE PLANNING COMMISSION AND BOARD OF SUPERVISORS, AS RELATED TO OPEN SPACE, IN REFERENCE TO A CONCEPTUAL SUBDIVISION MAP FOR THE SUMMER HAWK SUBDIVISION LOCATED AT THE WEST TERMINUS OF RHODES STREET IN CARSON CITY, NEVADA (1-0032) - Mr. Guzman advised that Mark Rotter of Capital Engineering had requested to defer this item to a future meeting.

3-B. ACTION TO AUTHORIZE THE OPEN SPACE MANAGER TO ENTER INTO NEGOTIATIONS WITH MR. MIKE GILBERT REGARDING A CONSERVATION TRANSACTION FOR THREE PROPERTIES LOCATED IMMEDIATELY SOUTH OF MEXICAN DAM AT THE WEST BANK OF THE CARSON RIVER, APN 10-121-44 (20.4 ACRES), 10-121-43 (22.32 ACRES), AND 10-121-42 (21.59 ACRES) (1-0048) - Mr. Guzman oriented the committee members to the subject property using a displayed map, and reviewed the staff report. He

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provided an overview of the property characteristics and background information on the property owner's interest in selling to the Open Space Program. He responded to questions regarding the zoning designation and access issues. He acknowledged that the properties rated positively through the open space matrix.

Member Scott advised of having visited the properties and described them as very nice. In response to a question, Mr. Guzman advised that the Bureau of Land Management now owns two properties to the north of the subject properties. He acknowledged that the properties fit within the Prison Hill recreation plan. In response to a question, he advised of two appraisers under contract with the City, who are working on the Jarrard / Anderson and Desormier properties, respectively. He will talk to the appraisers regarding the subject property. He responded to questions regarding ownership and maintenance responsibility of the Mexican Dam. In response to a further question, he advised that the transaction would most likely involve fee title purchase of the property. **Member Scott moved to authorize the discussion between staff and Mr. Gilbert to determine if one of the two appraisers would be acceptable and, if the concepts in general are acceptable to Mr. Gilbert and the other owners, to move forward with the appraisal process. Vice Chairperson Jacquet seconded the motion.** Chairperson Hartman called for public comment and, when none was forthcoming, a vote on the pending motion. **Motion carried 7-0.** Chairperson Hartman thanked Mr. Gilbert for his attendance.

3-C. ACTION TO RECOMMEND TO THE BOARD OF SUPERVISORS TO ENTER INTO A CONTRACT WITH WOOD RODGERS, INC., FOR TASK #2 OF THE OPEN SPACE WETLAND REHABILITATION PROJECT LOCATED AT LOMPA LANE BEHIND THE CATHOLIC CHURCH, APN 002-571-25 (1-0148) - Mr. Guzman provided background information on this item, reviewed the staff report and the attached proposed scope of work. Member Scott noted the importance of determining the conditions under which effluent water can be used, and identifying the effluent water source. He suggested the specific design process should not move forward until these determinations are made.

(1-0194) Wood Rodgers Environmental Program Manager Leslie Burnside advised of a meeting, held earlier in the day, with Environmental Protection Division Environmental Scientist Icyll Mulligan, wherein utilization of effluent on the site was determined to be feasible from a constraints and opportunities perspective. Ms. Burnside acknowledged the next step would be getting the effluent allocation earmarked within the City. Member Scott advised that if Ms. Burnside could provide a quantity, the allocation could be earmarked. Ms. Burnside advised of two existing storm water outlets and two potential new outlets entering the property. The adjacent property, which is anticipated to be developed, could provide for treatment rather than detention, and the Lompa wetlands could provide the detention required by the City. Together with Hot Creek, this would be part of the water balance. Ms. Burnside acknowledged that Ms. Mulligan was made aware of the potential combination of storm water and reclaimed water. Member Scott advised of natural flow from the hot springs, but that the City doesn't enjoy any associated water right. He expressed concern for ensuring a dependable supply. In response to a question, Ms. Burnside explained the portion of the project to redesign the wetlands for more effective use of the hydrology. She pointed out the location for a required control structure, and advised that effluent water cannot leave the site. Ensuring that neither too much nor too little water is applied is also a part of the water balance. Ms. Burnside acknowledged that the storm water would be that which is locally associated with the wetlands. The properties immediately adjacent to the north and to the northwest discharge storm water to the wetlands. The wetlands are doing a "pretty good job" of treating the storm water. Three undeveloped properties to the west are anticipated to be developed and will produce storm water run off which could be advantageous

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if first treated. Member Scott explained that the Open Space Program could sell detention capacity in the wetlands to upstream development. The upstream properties would be required to address sand / oil separation and removal of harmful materials. "It becomes ... a win / win. They can utilize that land that they would otherwise have to use for detention." Member Scott noted that the project is moving toward a managed wetlands situation.

Mr. Guzman responded to questions regarding ownership of the parcel to the north of the wetlands, City-owned properties, and the design for the wetlands to accommodate storm water drainage. Ms. Burnside responded to questions regarding de-nitrification requirements. In response to a further question, Mr. Guzman advised of approximately \$10 million in Open Space Program funding available for construction of the project. He advised that no other funding mechanisms have been identified; however, Ms. Burnside is looking into partnership opportunities. Ms. Burnside responded to additional questions regarding the detriments of an assessment district associated with the wetlands. Mr. Guzman advised of the possibility of other, future offsite mitigation proposals. Discussion followed, and Ms. Burnside advised of the possibility of construction companies providing in-kind services for the project. Member Riedl discussed the importance of identifying a budget and a program strategy for the project. Ms. Bollinger advised of having discussed, with Nevada State Parks representatives, the possibility of the project qualifying for Recreation Trails grant funding. At Member Lincoln's request, Ms. Burnside provided further explanation regarding the possibility of mixed storm water runoff and treated effluent. In response to an additional question, she provided background information on the wetland design. She responded to additional questions regarding the Army Corps of Engineers permit.

Chairperson Hartman entertained a motion. **Member Riedl moved to recommend to the Board of Supervisors to enter into a contract with Wood Rodgers, Inc. for Task #2 of the Open Space Wetland Rehabilitation Project, located at Lompa Lane behind the Catholic Church, APN 002-571-25, and thirty acres to the south to be deeded to Carson City as part of the Northridge Development for nature park enhancements. Member Lincoln seconded the motion.** Chairperson Hartman called for public comment and, when none was forthcoming, a vote on the pending motion. **Motion carried 7-0.** Chairperson Hartman thanked Ms. Burnside for her presentation.

3-D. STATUS REPORT ONLY REGARDING THE CONSERVATION EASEMENT WITH HORSE CREEK RANCH, INCLUDING A DRAFT CONSERVATION EASEMENT DOCUMENT, THE BASELINE ANALYSIS, THE FUNDING AGREEMENT WITH THE STATE OF NEVADA, AND THE DEED RESTRICTION TO BE INCLUDED WITH THE FUNDING AGREEMENT. THE RANCH IS LOCATED APPROXIMATELY TWO MILES WEST OF THE PAVED TERMINUS OF KINGS CANYON ROAD AT KINGS CANYON IN CARSON CITY, NEVADA, APN 007-051-78 (1-0696) - Mr. Guzman reviewed the staff report, and advised of having spoken with Mr. Fagen prior to the start of the meeting. Mr. Fagen is in substantial agreement with the provisions of the conservation easement. He is concerned over a possible requirement, as part of the major project review process, to pave roads. Mr. Guzman advised that, in order to utilize Question #1 funding, the conservation easement will need to include additional provisions, one of which is for a third-party capable of enforcing the easement. Mr. Guzman advised that the baseline analysis had been updated; however, Division of State Lands representatives have expressed an interest in discussing additional monitoring measures. He provided an overview of the baseline analysis map, which was displayed in the meeting room. (1-0777) Steve Walker, of Walker and Associates, reviewed revisions to the baseline analysis document.

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Member Perock inquired as to whether the revisions to the baseline analysis would satisfy the Division of State Lands requirements. Chairperson Hartman responded to questions regarding revisions to be made to the conservation easement document. He noted NRS Chapter 11 as the statutory scheme for the conservation easement. Member Perock suggested referencing a date in the baseline analysis document, and Chairperson Hartman suggested the date of the conservation easement. Mr. Walker advised he would be attaching his résumé to the baseline analysis document. Mr. Guzman discussed Internal Revenue Service requirements associated with the conservation easement, the baseline analysis document, and the lodge. Chairperson Hartman discussed the values of the property, including development rights, minerals, water, etc. and open space values important to the community. Mr. Walker suggested “taking the property as it is because what you’re getting is 130 years of land ... with specific habitat that you’re trying to save.” Mr. Guzman noted that one of the most important benefits, which is water into the City’s aquifer, cannot be quantified by the appraiser. Chairperson Hartman noted the importance of the meadow retaining its irrigated nature.

With regard to the draft funding agreement, Ms. Madden advised of having talked with Deputy Attorney General George Taylor, who is very amenable to the committee’s individual concerns in crafting the agreement to suit the needs of the Open Space Program. Having discussed the concerns, Ms. Madden and Mr. Taylor concluded that a meeting with Division of State Lands representatives would be the most efficient way to address details of the agreement. Ms. Madden expressed the opinion that Division of State Lands representatives will most likely “not budge” on the hold harmless and indemnification provisions. At Mr. Guzman’s request, Ms. Madden explained the indemnification provisions. Discussion followed and, in response to a further question, Ms. Madden explained the mutual indemnification clause language with regard to construction. Mr. Guzman related details of his conversation with Mr. Fagen regarding field trips and habitat improvement projects.

Vice Chairperson Jacquet thanked Mr. Walker and commended him on modifying the baseline analysis document to reflect the committee’s concerns. He expressed the opinion that the next task is to translate the conservation values outlined in the baseline analysis document to conditions in the conservation easement. Chairperson Hartman discussed incorporating a monitoring plan into the conservation easement document. Discussion followed regarding the amount of detail to incorporate in the monitoring plan. Mr. Walker suggested incorporating descriptive language of photo points in the monitoring plan, and then ensuring they are monitored. Additional discussion followed. Mr. Walker advised of having been involved in implementing two conservation easements, the Byington Ranch and the Plymouth Ranch. He stated that the monitoring level is “very simple” in that the purpose is to continue ranching operations. The monitoring plan should consider any change in management that would impact what is being initially purchased, i.e., irrigated pasture, woodlands, and riparian area. He expressed the opinion that too much detail will “overdo it.” Chairperson Hartman noted the importance of verifiable measures without too much detail, and additional discussion followed.

(1-1625) Jon Paul Kiel, of the Division of State Lands Question #1 Program, reminded the committee that the agreement with the State includes language regarding the conservation easement as well as reimbursement for purchase of the fee title lands. He clarified that the deed restriction document is connected to the fee title lands, and discussed revisions to the same. He clarified the indemnification and liability provisions. He advised that the conservation easement was “originally portrayed to Question #1 and the technical advisory group ... to be much more than an agricultural conservation easement. It was portrayed that there were many more conservation or resource values associated with the property than just

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the ... agricultural values and ... the scenic value.” He expressed concern over monitoring the important values outlined in the draft baseline analysis, as well as trends and changes to those values over time. He expressed the opinion there can be no expectation for maintaining resource values into the future if they are not initially characterized in the baseline analysis in such a way as to be measured. He suggested the conservation easement language should be very general, referencing the resource values which the City wants to maintain and protect, and that there should be more detail in the baseline analysis document and in the monitoring plan. He suggested the monitoring plan doesn’t have to be part of the baseline document. As the holder of the easement, it is the City’s responsibility to develop a monitoring plan to determine direction with regard to the baseline data. The monitoring plan can be used to establish a trend with regard to the resource values. If monitoring suggests an impact to any of the resource values, a determination would need to be made with regard to whether the impacts were natural or being caused by the property owner. Depending upon the cause of the impact, enforcement may be necessary. Mr. Kiel recommended not relying solely on photo points for the baseline document, but characterizing values in order to monitor them into the future.

Mr. Guzman recalled the values designated in the original application were historic, scenic, drainage, and wildlife. In response to a question, Mr. Kiel advised that habitat values were designated, including specific wildlife species. He inquired as to whether habitat values for the specific species were important to the City. If they are, they should be characterized in order to be monitored. Mr. Kiel suggested not mentioning the values in the conservation easement or the baseline analysis if they are not important. He advised that the project received a grant award, in part, because of values in addition to an agricultural conservation easement, that were portrayed.

Chairperson Hartman called for public comment and, when none was forthcoming, entertained additional comments or questions from the committee. In response to a question, he expressed the belief that whatever was not transferred off of the meadow for development purposes would be part of the value to be purchased by the Open Space Program. Member Scott expressed the understanding that the maximum development will be known up front and the Open Space Program is “paying for no more to be able to occur.” Mr. Guzman noted that the picture is now considerably simpler because if the lots are excluded, there is no need to transfer density. “We are paying so that there will not be any single-family dwellings within the 161 acres and there can only be buildings that relate to the agricultural operations,” excluding such things as hog farms and some other things that would be unacceptable. In response to a question, Mr. Guzman expressed the opinion that if it is really important to the State to have the wildlife and scenic values monitored, the transaction will take place without State funding. He explained there was never an intent to create habitat enhancements specifically addressing those values. The application stated that those values existed as a result of the irrigated meadow, the woodlands, and the riparian area. The intent of the conservation easement is not to preserve those values, but to keep the meadow in an agricultural state. “Whatever happens in nature just happens.” Member Riedl noted that the wildlife is present because of the habitat. The conservation easement will preserve the habitat, so the monitoring plan for wildlife values should simply be preservation of the habitat. Member Perock pointed out that the subject area is a small component of the overall environment and conditions that exist there. Wildlife will not be as dependent upon this small area as they are on the surrounding national forest. Member Perock expressed support for keeping the documents simple.

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Member Scott expressed support for Ms. Madden's earlier suggestion that working through the details with a smaller group may be most efficient. Chairperson Hartman agreed with Member Perock's comments that the subject property is a small portion of a large forest. The scenic, open, irrigated nature of the property is the focus of preservation. Discussion followed, and Mr. Guzman offered to inform the committee members of meetings with State representatives. Chairperson Hartman advised that he had sufficient direction with which to proceed to amend the draft documents.

(1-2145) Mr. Kiel expressed the opinion that the monitoring plan should not be included in the easement. He suggested the monitoring plan could be more easily amended than the easement, if necessary. He reiterated that the monitoring plan is the responsibility of the easement holder.

3-E. DISCUSSION ONLY REGARDING THE OPEN SPACE MANAGER POSITION AND ITS RELATIONSHIP TO OTHER POSITIONS WITHIN THE PARKS AND RECREATION DEPARTMENT (1-2175) - Mr. Guzman reviewed the staff report and the attachments. Mr. Moellendorf advised of an audit and a reclassification of Mr. Guzman's position within the past two years. The organizational chart, included in the agenda materials, reflects the results of the audit and the reclassification. Mr. Moellendorf advised of being open to suggestions, from the committee, with regard to Mr. Guzman's position. Member Fischer thanked Mr. Guzman and Mr. Moellendorf for the report. In response to a question, Mr. Guzman advised that the responsibility for right-of-way acquisition had been transferred to the City Engineer. He explained his property management responsibility.

4. NON-ACTION ITEMS:

STATUS REPORTS AND ANNOUNCEMENTS FROM STAFF (1-2369) - Mr. Guzman reviewed the "FYI" items included in the agenda materials.

MEMBERS' ANNOUNCEMENTS AND REQUESTS FOR INFORMATION (1-2283) - In response to a question, Mr. Guzman described the location and characteristics of the Athens Mine property.

5. FUTURE AGENDA ITEMS (1-2384) - Mr. Guzman advised that the Horse Creek Ranch project would continue to be agendized. He reviewed the tentative agenda for the October committee meeting. He acknowledged that a sheep grazing project would be agendized in the near future. Member Scott requested to see the proposed subdivisions in the context of other property ownerships and in the "bigger picture of C-Hill and other public and private land." Chairperson Hartman requested to see the viewsheds, and Mr. Guzman offered to bring his topo program.

6. ACTION ON ADJOURNMENT (1-2490) - Member Fischer moved to adjourn the meeting. Member Scott seconded the motion. Motion carried 7-0.

The Minutes of the September 18, 2006 Carson City Open Space Advisory Committee meeting are so approved this 16th day of October, 2006.

STEPHEN D. HARTMAN, Chair