

**OPEN SPACE ADVISORY COMMITTEE
STAFF REPORT**

MEETING DATE: February 27, 2012

AGENDA ITEM NUMBER: 3D

STAFF: Juan F. Guzman, Open Space Manager



REQUEST: Discussion only regarding the Open Space Master Plan and the Open Space Advisory Committee provisions as outlined in the Carson City Municipal Code, Chapter 13.06.

GENERAL DISCUSSION:

Background

The roots of the Open Space Program can be traced to the Quality of Life - Question 18 measure which was approved by the voters of Carson City in 1996. The measure, which may be found in your Open Space Advisory Committee manual, provides for a sales tax that must be used to fund 40% of the Open Space Program, 40% for Parks and Recreation programs, and 20% for the management of those Parks and Recreation programs. The 40% for open space is defined as specifically to be used for passive recreation.

After the Question-18 measure, the second guiding document was Chapter 13.06 of the Carson City Municipal Code, entitled Open Space. The ordinance was adopted by the Carson City Board of Supervisors in 1997. As opposed to the master plan which is a document providing for general guidelines, the Carson City Municipal Code was adopted as law.

The Quality of Life Initiative was implemented through the creation of an Open Space Master Plan, an element to the general plan of Carson City. The master plan was adopted in 2000. The master plan is a guideline or blueprint as to the program general goals and contains specific information about priority areas and policies in order to carry out acquisitions, as well as operations. Again, the emphasis was placed on passive recreation.

Discussion

The Carson City Municipal Code, which also may be found in your booklet or on the Carson City website, contains 15 subsections. The first one, Section 13.06.010 sets the tone and purpose of the program. This section provides that it is the objective of the Open Space Program to improve the quality of life for the citizens of Carson City, to preserve and protect the quality of the natural environment for this and future generations by the judicious use of funding for open space. Open space may define development areas within the community and in certain areas may define the

boundary of the city. This is an important goal corollary to the general land use master plan adopted by the city which in general terms provides for development to take place within the core area in the valley by growing vertical as opposed to promoting development to the outskirts and hillsides surrounding the city. Please note that this same principle was used as a guide for the Federal Lands Bill transfers of land.

The Section also provides that the Open Space Program is to obtain a balance and harmony between physical development and open space for the benefit of Carson City residents. It is noteworthy that a consideration of the committee has always been to weigh the suitability of a parcel of land for economic development vs. open space. Open space may provide for passive recreation, preserve agricultural uses, allow connecting open space corridors, and improve the quality of life. Furthermore, this section provides for Carson City to be able to accept gifts or donations in land and in funds from the community, as well as the acceptance of properties not acquired with open space funds into the Open Space Program after recommendation from the Open Space Advisory Committee.

The last paragraph of the referenced section authorizes the Open Space Advisory Committee to have oversight over the administration and expenditure of funds from the Open Space Division of the Quality of Life Special Revenue Fund established by the Carson City Municipal Code, Chapter 21.07. More specifically, the funds within the Open Space Program may be used for acquisition, restoration of natural resources, development and construction which afford for public access, health and safety related improvements, maintenance, conservation planning, and management of real property for open space acquired through the fund, and administrative costs approved by the committee.

Section 13.06.020 provides for the creation of the Open Space Advisory Committee consisting of seven members appointed by the Board of Supervisors. Subsequent sections provide for the committee membership, the terms of office and vacancies, and provisions for the removal of members from the committee. Section 13.06.060 outlines powers and duties of the Open Space Advisory Committee. The third paragraph provides for the development of the Open Space Master Plan, provides for public hearings to be made by the Open Space Advisory Committee prior to recommending to the Board of Supervisors acquisitions, disposal, and management of lands. The same paragraph provides for input and comment to the City Manager's proposed budget as it relates to open space matters and the coordination with other city committees and advisory boards. The committee's duties are outlined and described as: To sustain natural and scenic resources and the long-term quality of life in Carson City through acquisition of open space lands that 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 is defined as undeveloped land with valuable natural resources to be obtained from willing sellers or by other mutually agreeable methods. Subsection 3 provides that open space will be acquired and maintained as a conservancy to be used for the following purposes: 1) To provide off-street bicycles, hiking, and equestrian trails and trailhead facilities that connect parks, schools, and the valley with the mountains, 2) To safeguard water resources, watershed areas, well sites and designated groundwater recharge areas, 3) To safeguard waterway corridors, floodplains, wetlands, streams, and the Carson River, 4) To develop regional detention areas and protect floodplains, 5) To safeguard scenic vistas and enhance the gateways to our city, 6) The utilization of land for shaping the development of the city and defining growth by establishing an urban boundary, 7) Strategic acquisitions of lands to allow for

outdoor relaxation, education, and future park settings, 8) Preservation of enhancements of significant natural areas, wildlife, and culturally important lands, 9) Connecting open space corridors.

The organization and procedures of the Open Space Advisory Committee outlined in Section 13.06.070, Subsection 2 in specific provides for the committee to have meetings not less than once per month unless otherwise determined by the committee. It is important to note that at the present time the committee has decided to meet every other month, which came as a request through the City Manager's office in order to provide for budget savings throughout the entire Carson City organization. Subsection 3 provides that four members of the committee shall constitute a quorum.

Section 13.06.080 is entitled, "Prohibited Interest Confidentiality." This section provides that upon acceptance of an appointment, a committee member has agreed not to disclose any data, the content 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 members of the committee, the members of the Board of Supervisors, or city staff whose specific duties include the administration of the city Open Space Program. Such disclosure may be required by a court order.

Section 13.06.090 provides that the committee shall provide an annual report of its activities to the Board of Supervisors, which would be the subject of a different agenda item on this date.

Section 13.06.100 provides for the preservation of land. It establishes the character of the program by stating that lands shall be preserved and managed in their natural condition and 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. The land is to be used for passive recreation, improvements developed where appropriate or environmentally compatible. Examples of passive recreation to include hiking, bicycling, equestrian, trail uses, nature study, interpretive facilities, wildlife habitat, fishing, photography or similar compatible uses. Precluded are the development of additional active recreational facilities such as athletic fields, swimming pools, and tennis courts.

Section 13.06.110 allows for the leasing of open space lands for uses such as farming and grazing. Carson City is the administrator of one agricultural lease on the Silver Saddle Ranch. The agricultural operations occurring within the former Anderson and Jarrard properties are not agricultural leases. These operations were permitted as reservations requested by the sellers on the purchase contract of those properties. Those reservations provide that the sellers may continue to irrigate their land with their own water rights and as long as they irrigate they can continue to use their lands for agricultural pursuits and Carson City will not engage in any conduct that would jeopardize those agricultural operations. The same section also provides that the maintenance costs may be shifted to the lessee and that the properties will continue to afford access for passive enjoyment as feasible.

Section 13.06.120 provides for the disposal of open space lands and exclusive license and permits. The section begins by establishing that it is acceptable for the open space program to acquire a larger property in order to preserve only a portion of the property as open space. In such cases the city may dispose of the remainder. No open space land, however, may be subleased, traded, or otherwise conveyed nor may any exclusive licenses or permits on such open space lands be given until

approval of such disposal or license or payment is given by the Board of Supervisors. The committee must hold a public hearing on a proposed disposal license or permit. The city may not dispose of such lands or give any exclusive license without a recommendation from the committee. The subsection very importantly provides that the Open Space Program shall be reimbursed at the current market value of the disposed land at the time of its sale or the cost of the land at the time of its original acquisition, whichever is the highest. Staff would like to note that this specific clause is known to the Open Space Program as the perpetuity clause and it establishes the longevity of the lands obtained by open space funds which traditionally is known to be of a perpetual nature within the conservation community. This also applies to conservation easements such as the one carried out with Horsecreek Ranch and is usually a requirement of federal and state land conservation grants.

Section 13.06.130 requires that any deed conveying open space states that the property was purchased using open space funds. Specifically, the sentence, "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" must be included in the property deed.

Maintenance and land management are the subjects of Section 13.06.0140. This section provides that land purchased for open space may not be improved after the 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 studies, interpretive facilities, wildlife habitat, fishing and photography, or similar compatible uses. This subsection also provides for the ability to temporarily or seasonally close properties from public access in order to protect natural resources or to make the property safe for public enjoyment. As opposed to the Parks and Recreation entitlements allowed by the Quality of Life Initiative and the Carson City Municipal Code provisions, the open space part of the fund allows for monies to be used for the maintenance and operation of lands acquired through the Open Space Program. This section establishes that the Open Space Master Plan shall provide direction towards the maintenance and management of open space lands. Staff wishes to note that the management plan being developed for the conservation easement lands, as well as the lands within the "Nevada Great Park" on the Carson River is an example of a document created for the purpose of management of lands donated, transferred, or acquired with open space funds.

The last subsection, 13.06.150, provides that open space funding may be used for passive recreation improvements on all the public lands including federal, state, and city-owned lands maintained in a predominantly undeveloped state within Carson City. An example of such compatible passive recreation improvements include trails, bicycling, equestrian, and trailhead facilities, nature studies, interpretive facilities, wildlife habitat, fishing and photography, and other similar compatible uses. This section is very important to staff since a large portion of our open space is adjacent to federal lands or lands previously purchased by Carson City for watershed protection. This subsection allows for the use of our funding in order to conduct joint activities with other agencies and groups.

RECOMMENDED ACTION: No action may be taken. It is staff's desire to have a discussion with the committee pertinent to the provisions of the Carson City Municipal Code in light of our new members.

Chapter 13.06OPEN SPACESections:

- 13.06.010 Purpose.
- 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.

13.06.010 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. (Ord. 1997-30 §1(part), 2, 1997).

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. (Ord. 1997-30 §1(part), 3, 1997).

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. (Ord. 1997-30 §1(part), 4, 1997).

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. (Ord. 1997-30 §1(part), 5, 1997).

13.06.050 Removal from committee. 1. The board of supervisors may remove a committee member for cause. (Ord. 1997-30 §1(part), 6, 1997).

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. (Ord. 1997-30 §1(part), 7, 1997).

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. (Ord. 1997-30 §1(part), 8, 1997).

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. (Ord. 1997-30 §1(part), 9, 1997).

13.06.090 Annual report. The committee shall provide an annual report of its activities to the board of supervisors. (Ord. 1997-30 §1(part), 10, 1997).

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. (Ord. 1997-30 §1(part), 11, 1997).

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. (Ord. 1997-30 §1(part), 12, 1997).

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. (Ord. 1997-30 §1(part), 13, 1997).

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." (Ord. 1997-30 §1(part), 14, 1997).

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. (Ord. 1997-30 §1(part), 15, 1997).

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. (Ord. 1997-30 §1(part), 16, 1997).