

CARSON CITY OPEN SPACE ADVISORY COMMITTEE

Minutes of the November 8, 2004 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, November 8, 2004 in the City Hall Capitol Conference Room, 201 North Carson Street, Carson City, Nevada.

PRESENT: Chairperson Steve Hartman
Vice Chairperson Dan Jacquet
Laura Bird
Howard Riedl
Margaret Robinson
Bruce Scott

STAFF: Roger Moellendorf, Parks and Recreation Department Director
Juan Guzman, Open Space Manager

NOTE: A tape recording of these proceedings is on file in the Clerk-Recorder's Office, and is available for review during regular business hours.

CALL TO ORDER AND ROLL CALL (1-0007) - Chairperson Hartman called the meeting to order at 6:00 p.m. A quorum was present. Member Fischer was absent.

CITIZEN COMMENTS ON NON-AGENDIZED ITEMS (1-0013) - None.

1. ACTION ON APPROVAL OF MINUTES - October 18, 2004 (1-0022) - Member Scott moved to approve the minutes. Member Robinson seconded the motion. Motion carried 5-0.

2. CHANGES TO THE AGENDA (1-0015) - None.

3. AGENDA ITEMS:

3-A. ACTION TO RECOMMEND TO THE BOARD OF SUPERVISORS ALTERNATIVES FOR THE PURCHASE OF THE HORSE CREEK RANCH LOCATED AT KINGS CANYON ROAD IN CARSON CITY, NEVADA (1-0028) - [Vice Chairperson Jacquet arrived at 6:05 p.m.] Mr. Guzman provided an overview of the agenda materials pertinent to this item. He referred to the Board of Supervisors Agenda Report and clarified that fee title to 379.5 acres will be purchased for \$2,846,250. The property address is 7900 List Country Road, Carson City, Nevada 89703. Mr. Guzman advised that Mr. Fagen rejected the offer to purchase the entire parcel based on the most recent appraisal which valued the property at \$8,000 per acre. Mr. Guzman has since been pursuing purchase of acreage characterized as "steep" and a conservation easement for the flat portion of the property. He reviewed the maps (Exhibits B and C), prepared by Resource Concepts, Inc., included in the agenda materials and displayed in the meeting room.

With regard to the conservation easement portion of the property, Mr. Guzman advised of Mr. Fagen's interest to adjust certain lot lines to ensure that the water sources remain with the parcels. He pointed out and described the proposed lot line adjustments. He pointed out an approximately 10-acre parcel which includes a water source that runs through the Schulz meadow, and advised that Mr. Fagen will offer it for sale to the Schulzes. The Offer to Purchase includes a provision indicating the City's interest in purchasing

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the 10-acre parcel if the Schulzes do not. (1-0117) Mr. Fagen advised of the Schulz family's understanding that purchase of the 10-acre parcel has to occur prior to funding the City's transaction.

Mr. Guzman pointed out a triangular parcel which has deeded access to other Horse Creek Ranch parcels. He advised of Mr. Fagen's desire to retain the triangular parcel and increase its size to 20 acres in order that it will conform legally. He described the provisions of the access easement, and advised that Mr. Fagen is negotiating relocation of the existing access with the Schulz family. As part of the transaction, both Mr. Fagen and the City will agree that the existing access will be eliminated. Mr. Guzman explained a provision in the Offer to Purchase to tie the conservation easement to purchase of the property. This is accomplished by offering Mr. Fagen \$1 for the right to negotiate the conservation easement. Mr. Guzman reviewed dedication of the road, and pointed out adjacent parcels owned by the U.S. Forest Service. He pointed out an encroachment of the entrance road into the meadows, and advised that a portion of the road is on U.S. Forest Service property. He further advised that once the Offer to Purchase is acted upon by the Board of Supervisors, an approximately 35-day escrow will begin. District Attorney's Office staff will research the title to ensure there are no undesirable exceptions and to resolve any concerns.

Mr. Guzman advised that the Offer to Purchase will include maps and property descriptions, and that Mr. Fagen has retained RCI to identify the points. Mr. Guzman further advised that he drafted the form with standard language to be included in the deed indicating that the transaction has been performed in accordance with the provisions of the Carson City Municipal Code, Section 13.06. Mr. Fagen will have ten days from the date the offer is made to accept it. Mr. Guzman advised that the original appraisal valued the property at \$7,000 per acre; the subsequent appraisal valued the property at \$8,000 per acre. The price per acre has been set at \$7,500 per acre.

In response to a question, Mr. Guzman advised that access to the City's property will be via Kings Canyon Road. There will be no access from Highway 50. Discussion took place regarding physical access. In response to a question, Mr. Fagen advised that access from parcel 57 was never envisioned as part of the transaction. There is no road to the legal deeded access directly across from the "turnaround point on [Highway] 50". Mr. Fagen noted that the land is very steep, and advised that Lumos & Associates had quoted \$350,000 to grade a road from the access point to the parcel being offered to the Schulz family. He advised of the reason for negotiating an access with the Schulz family that there is no economically feasible way to access the property from the existing point on Highway 50. Mr. Guzman advised that the appraiser believed the property was more valuable because of the access Mr. Fagen has been negotiating with the Schulz family. Mr. Fagen advised that the original appraisal was discounted because of no access.

In response to a question, Mr. Guzman pointed out the location of an interchange contemplated by the Nevada Department of Transportation. Member Scott advised that he would be abstaining from action on this item because of his company's professional relationship with Mr. Fagen. In response to a question regarding the option on the easement, Mr. Guzman explained that Mr. Fagen's acceptance of the offer begins a diligent effort to complete the conservation easement. Drafting the conservation easement is relatively simple; however, it is not sufficient until a very detailed inventory of the meadow's existing condition is completed with Mr. Fagen's acknowledgment. Mr. Guzman acknowledged that an appraisal of the conservation easement will be done by an appraiser agreeable to both the City and Mr. Fagen. In response to a question, Mr. Fagen advised that he considers the conservation easement portion of the transaction as part of the fee purchase portion. He requested a separation of the two transactions because of personal financial reasons. He suggested that "desk work" can be done until spring, and advised that

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he has provided Mr. Guzman a “wish list” regarding a building envelope. The Nature Conservancy has visited the property at least twice. Mr. Fagen advised of his intent “to conserve as unbuildable ... at least 90% of what’s there in acreage; maybe more than that.” He discussed the need to walk the property to determine whether his proposed retreat center can be hidden in the meadow trees. He expressed the opinion that development can definitely be done with less than 20 acres, and possibly less than 10 acres. He discussed the need to go through the City’s major project review process.

Mr. Fagen acknowledged his satisfaction with the second appraisal. He noted the appraiser’s justification for the increase in value was the six-month interim period, and advised that he and the Schulz family have reached a memorandum of understanding on the access. Dan Leck’s appraisal indicated that legal access from Highway 50 would justify a 20-30% increase. Mr. Guzman discussed his understanding that Mr. Fagen had agreed to sell the City the property according to the value determined by the first appraisal. He advised of Mr. Fagen’s disagreement with this understanding, and his clarification that he would continue to improve his property and that the City would need to perform on the offer because of the increasing property value.

In response to a question, Mr. Guzman advised that the conservation easement will most likely provide for access twice annually with sufficient notice to Mr. Fagen. In response to a further question, Mr. Guzman advised that the second appraisal did not consider the two parcels separately. He explained how the value of the parcels was averaged over the entire property. Mr. Fagen explained that the value of each parcel is inherent in the other because a developer would cluster the hillside development units in the meadow. Since the City is purchasing the hillsides, the meadow will be less valuable after the transaction is finalized. Bill Schulz and Mr. Guzman responded to questions regarding access to a higher meadow on U.S. Forest Service property. Mr. Guzman responded to additional questions regarding the appraisal. Chairperson Hartman discussed the importance of the watershed.

Chairperson Hartman suggested revisions to the Offer to Purchase, including to the options section and the addition of a covenant of good faith and fair dealing. In response to a question, Mr. Fagen advised that there is only one seller. Chairperson Hartman agreed to work with Mr. Guzman on the revisions. In response to a question, Mr. Guzman and Mr. Fagen reviewed details of Mr. Fagen’s proposal to construct a retreat center. In response to a comment, Mr. Fagen pointed out that the retreat center is contingent upon the outcome of the City’s major project review process. He acknowledged the City’s good faith understanding with regard to the conservation easement, and pointed out his good faith understanding with regard to sale of the conservation easement because of the value of the property if it were to be sold in its entirety. Member Riedl noted that the conservation easement will develop out of the values indicated for protection. Member Scott suggested that Mr. Fagen may need easements from the fee purchase parcel in order to install water systems for the retreat center. He acknowledged that water rights will be assigned to the conservation easement portion, but noted the possibility of mutual language in terms of coordination for utility installation.

Chairperson Hartman explained potential issues associated with tax exempt financing, and discussion took place with regard to the same. In response to a question, Mr. Guzman advised of discussions with Mr. Fagen with regard to establishing an endowment to ensure enforcement of the conservation easement. Member Bird referred to comments by Laura Crane, of The Nature Conservancy, at the October 18th Committee meeting with regard to an agricultural easement rather than a conservation easement. In response to a question, Mr. Guzman explained that the purpose of the easement is to allow, to the greatest

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extent possible, pastoral use of the meadow. He further advised that Ms. Crane believes Mr. Fagen's retreat center proposal is too much development to qualify as an agricultural easement. Mr. Fagen suggested considering development of a subdivision map and "cut off 20 acres for [his] lodge and do a hundred percent easement on the other 180 acres." Chairperson Hartman advised that Ms. Crane's concern had to do with the provisions of Chapter 111 of the Nevada Revised Statutes, which he explained. He noted that the Committee's concern is the open space in perpetuity, and the types of development allowed for Mr. Fagen and his successors which will maintain the open space in perpetuity.

Mr. Guzman acknowledged that public access will be allowed on the City's land and not allowed on the conservation easement. Chairperson Hartman called for public comment; however, none was provided. **Member Riedl moved to recommend to the Board of Supervisors the purchase of Horse Creek Ranch, located at Kings Canyon Road in Carson City, Nevada, with the Chairman to assist in revising the Offer of Purchase and to pursue the conservation easement option. Member Bird seconded the motion. Motion carried 5-0 -1, Member Scott abstaining.** Chairperson Hartman thanked Mr. Fagen.

3-B. ACTION TO RECOMMEND TO THE BOARD OF SUPERVISORS THE FEE TITLE ACQUISITION OF THE BENTLY 40-ACRE PROPERTY LOCATED AT THE SOUTH REACH OF THE CARSON RIVER, APNs 10-281-41 AND 10-281-42 (1-1052) - Mr. Guzman reviewed the staff report, and a question posed by Chairperson Hartman at a previous meeting with regard to the parcel surrounded by State Prison land. Mr. Guzman advised of having discussed the parcel with Division of State Lands Administrator Pam Wilcox, who expressed understanding for the situation and an interest in assisting to facilitate negotiations with the Department of Prisons. In response to a question, Mr. Guzman diagramed the parcel. Discussion took place with regard to a possible property exchange. In response to a comment, Vice Chairperson Jacquet discussed conservation issues associated with the importance of owning property on both sides of the River. He expressed the opinion that the Division of State Lands will be in a position to consider river restoration on prison property in the future. He suggested there will be more opportunity to develop recreation facilities on the prison land and that owning both sides of the River will provide an advantage to the Open Space Program. Member Scott expressed the opinion that owning the entire parcel would be more advantageous for bargaining purposes.

Member Robinson expressed concern that the Request for Board Action form and the purchase agreement indicate the possibility of future trade of the parcel in order to avoid any hindrances. Extensive discussion took place with regard to subsequently disposing of property once acquired by the Open Space Program, the various options available to acquire the property, and management of the property. Member Bird requested Mr. Guzman to explore the potential for segregating the funding. Additional discussion took place regarding property management.

Member Bird moved to recommend to the Board of Supervisors the fee acquisition of the Bently property, but allow staff to accommodate options which include the flexibility of segregating funds. Member Scott seconded the motion. In response to a question, **Member Bird amended her motion to include the flexibility of segregating funds and/or value in trade. Member Scott continued his second.** Chairperson Hartman requested Mr. Guzman to include in the Request for Board Action an overview of the Committee's discussion with regard to this item. Mr. Guzman agreed to review the Request for Board Action with Members Robinson and Bird. Additional discussion took place regarding the potential to exchange the property. Chairperson Hartman called for a vote on the pending motion; **motion carried 6-0.**

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3-C. ACTION TO RECOMMEND TO THE BOARD OF SUPERVISORS REGARDING A MEDIUM-TERM MUNICIPAL OBLIGATION FOR OPEN SPACE ACQUISITIONS FOR APPROXIMATELY \$3.1 MILLION (1-1667) - Mr. Guzman reviewed the staff report and, in response to a question, advised that the balance in the Open Space fund is currently \$2.7 million. He reviewed anticipated increases to the fund after the first of the year and, in response to a question, advised that there is no prepayment penalty on the bond. **Member Scott moved to approve. Member Riedl seconded the motion.** Mr. Guzman acknowledged that bond funding can be allocated toward purchase of the Horse Creek conservation easement. He provided background information on the original intent of the bond. Chairperson Hartman called for a vote on the pending motion; **motion carried 6-0.**

3-D. UPDATE ON THE WATERFALL FIRE REHABILITATION ACTIVITIES, INCLUDING DRILL SEEDING OPERATIONS, SALVAGE OPERATIONS, AND THE FEDERAL EMERGENCY MANAGEMENT ACT ("FEMA") (1-1790) - Mr. Guzman reviewed the staff report, and advised that RCI has developed a very detailed plan for the drill seeding operation. With regard to the timber salvage operation, he reminded the Committee of the FEMA grant funding to rehabilitate the roads.

Mr. Guzman provided an overview of the timber salvage plan, and advised that archaeological/cultural resource surveys will be conducted in the areas proposed for helipads. He further advised that the most important aspect of the timber salvage operation is to provide management for both the burned and unburned areas. He described an additional timber salvage operation being coordinated for the Quill Ranch property. The timber will be cut and transported to the mill, which will issue payment upon receipt of the logs. Once the loggers are on site, they will evaluate the 40-acre Lakeview property for a salvage operation. Member Robinson requested Mr. Guzman to ensure that the consultant evaluates the marked trees prior to cutting.

Mr. Guzman described a FEMA project proposed for Rhodes Street. He advised that the U.S. Forest Service is continuing to do improvements on Kings Canyon Road. He provided an overview of the October 20, 2004 letter to Bert Prescott included in the agenda materials. He advised that City staff is still arguing with FEMA representatives the importance of noxious weed treatment.

4. NON-ACTION ITEMS:

STATUS REPORTS AND COMMENTS FROM COMMITTEE MEMBERS (1-2360) - Member Riedl reported that the Open Space initiative in Washoe County failed.

STATUS REPORTS AND COMMENTS FROM STAFF (1-2245) - Mr. Guzman reported on the Off-Site Learning Institute which he conducted, together with Mr. Moellendorf, Parks and Recreation Department Director of Operations Scott Fahrenbruch, and former Parks and Recreation Director Steve Kastens. He advised that the Off-Site Institute was rated the best of the National Recreation and Parks Association Annual Conference. He reviewed the remaining "FYI" items included in the agenda materials.

FUTURE AGENDA ITEMS FROM COMMITTEE MEMBERS (1-2300) - Mr. Guzman reviewed the tentative November 15th agenda. (1-2377) Member Scott suggested considering discussion of the concept of multi-use development.

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5. **ACTION ON ADJOURNMENT** (1-2568) - Member Scott moved to adjourn the meeting. Vice Chairperson Jacquet seconded the motion. Motion carried 6-0.

The Minutes of the November 8, 2004 meeting of the Carson City Open Space Advisory Committee are so approved this 24th day of January, 2005.

STEPHEN D. HARTMAN, Chair