

CARSON CITY OPEN SPACE ADVISORY COMMITTEE

Minutes of the November 15, 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 15, 2004 in the Community Center Sierra Room, 851 East William Street, Carson City, Nevada.

PRESENT: Vice Chairperson Dan Jacquet
Laura Bird
Margaret Robinson
Bruce Scott

STAFF: Roger Moellendorf, Parks and Recreation Department Director
Juan Guzman, Open Space Manager
Kathleen King, Recording Secretary

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) - Vice Chairperson Jacquet called the meeting to order at 6:03 p.m. A quorum was present. Chairperson Hartman and Members Fischer and Riedl were absent.

CITIZEN COMMENTS ON NON-AGENDIZED ITEMS (1-0016) - None.

1. ACTION ON APPROVAL OF MINUTES (1-0018) - None.

2. CHANGES TO THE AGENDA (1-0021) - Mr. Guzman requested Vice Chairperson Jacquet to address agenda item D following item B.

3. AGENDA ITEMS:

3-A. ACTION TO CONSIDER AND RECOMMEND TO THE BOARD OF SUPERVISORS AN AGREEMENT WITH MR. CHARLES RAFFETY PROVIDING FOR A DONATION OF MONIES TO THE OPEN SPACE PROGRAM FOR THE PURPOSE OF FACILITATING THE PURCHASE OF ADDITIONAL WETLANDS ENVIRONMENTS IN THE VICINITY OF THE NORTHRIDGE SUBDIVISION, APNs 2-101-54, -55, AND -73 (1-0032) - Mr. Guzman provided background information on this item, and reviewed the staff report. He reviewed the provisions of the agreement, and pointed out the subject parcels on a displayed aerial photograph. He described the permitted wetland enhancement project being done by Dwight Millard. Army Corps of Engineers representatives have indicated they will not hold the City responsible for enhancement of the wetland; however, they see the ability to withdraw the ±35 acres of land from the potential for development. He reminded the Committee members that wetlands are distinguished by their associated "uplands." The sections not classified as wetlands could theoretically be developed.

(1-0177) Mr. Raffety acknowledged that Mr. Guzman had accurately described the proposal. Mr. Raffety expressed frustration over the delay in accomplishing the deal, the hope that City representatives are satisfied with the proposal and that Army Corps of Engineers representatives have agreed not to hold the City responsible for development of the wetlands. Vice Chairperson Jacquet thanked Mr. Raffety for his patience.

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In response to a question, Mr. Guzman read paragraphs 3, 4 and 6 of the agreement into the record. He advised that the agreement provides for purchase and, if there are excess funds, for maintenance or development of the wetlands. Mr. Guzman advised that the agreement does not provide for the City to use the entire \$130,000 for development or maintenance. He acknowledged that he was referring to the difference in appraised value because of his firm belief that the City does not own the land. However, he advised he would follow the direction of the District Attorney's staff.

He acknowledged that the entire sum of \$130,000 will revert to Mr. Raffety if the dispute between Landmark Properties and NDOT is not resolved within three years. In response to a question, Mr. Guzman provided background information on the dispute between Landmark Properties and NDOT. He advised that Landmark Properties representatives have requested the City "to slow down" on the subject deal until the dispute is resolved. He explained that the agreement isolates the issue by providing for Mr. Raffety to deposit the \$130,000 in an escrow account. He advised that Army Corps of Engineers are also reviewing the agreement and will provide comments with regard to protecting their interests. Army Corps of Engineers representatives have indicated their full support of the possibility of the 35 acres being set aside for open space, and their belief that the Open Space Program is the "right entity to manage it; they are delighted that this is happening."

In response to a question, Mr. Guzman advised that the District Attorney's staff had asked him to look into the status of NDOT's offer refused by Mr. Millard and Mr. Bawden. He advised of an additional concern that the owners of the land, Mr. Millard and Mr. Bawden, believe they are entitled to a new appraisal and that the value of the land will be substantially higher. Mr. Guzman has advised Mr. Millard and Mr. Bawden that when the property was appraised approximately ten years ago, it was done with the consideration that the property extends from Lompa Lane almost to Roop Street on Lone Mountain. A discount cash flow analysis was used to determine an average price of the land, and that figure was applied to the wetland as well as to the remainder of the parcel. The portion of land which was easier to develop was developed, and Mr. Guzman expressed the opinion that a new appraisal may come in lower.

In response to a question, Mr. Guzman advised that mitigation projects were done in conjunction with construction of College Parkway and the Shaheen development. One potential project discussed with Mr. Raffety and his consultant was the possibility of raising the water level on the existing 17-acre wetland 1/4 inch all the way around the perimeter which would be more than the 3:1 ratio Mr. Raffety will be required to provide. The project was not feasible because, among other reasons, there is no additional water for the wetland. The only potential is to use treated effluent which Mr. Guzman hopes to engage in with Development Services at some point in the future to enhance the entire 17 acres in addition to the ±35 acres.

Vice Chairperson Jacquet inquired as to building a contingency into the agreement, such as being able to apply the \$130,000 to an endowment to assist with management of the 17-acre wetland or being able to purchase another, unencumbered parcel in the event that the lawsuit is not settled in three years. Mr. Guzman agreed that these suggestions would be worth considering and helpful to Mr. Raffety, the City, and the Army Corps of Engineers. With Mr. Raffety's permission, he offered to speak with Leslie Burnside. Member Scott suggested that the potential use of treated effluent, especially because it is in the pipe right at the point where College Parkway crosses, would be worthwhile. He expressed a preference to indicate that the City will either further develop the existing wetlands to obtain additional credit and cover the issue that Mr. Raffety needs to address with the Army Corps of Engineers, or purchase property

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from the parties who are presently in dispute with NDOT. He pointed out that Mr. Millard and Mr. Bawden have no real incentive to settle with NDOT soon which could become a problem for the City. He suggested developing a plan for utilizing treated effluent prior to the three-year deadline, and "if the other pieces or portions come along, great; and, if they don't, we'd still have an enhanced wetland with a water system that would work." In response to a question, Mr. Raffety indicated his support of utilizing treated effluent to develop the wetlands.

Mr. Raffety advised of his belief that, from the start, Mr. Millard and Mr. Bawden had an agreement with the City to sell the property at an established price of \$130,000. Mr. Guzman acknowledged this as his understanding. Mr. Raffety expressed the opinion that the property is not more valuable than that and, in fact, may be less valuable because the land now has no commercial development potential. He advised that this was the reason for including the refund provision in the agreement. He noted that the refund provision will also benefit the City because, as the agreement is drafted if the price of the land is less, the City will pay the lesser price and Mr. Raffety will still give a 10% bonus to the City which can only be used for wetlands development.

Member Scott noted the difference of opinion between Mr. Guzman and the District Attorney's staff with regard to whether the Millard/Bawden property was previously purchased. He noted the uncertainty with regard to when an appraisal may be available, and expressed a personal preference for the Committee to entertain moving forward with enhancement of the existing wetland area with the use of treated effluent in order to provide a dependable water supply. He suggested that this would eliminate the necessity to push for some sort of resolution between NDOT and the developers over which the Committee would have no control. He expressed a preference to focus on a project which can move forward, both for Mr. Raffety and the City. Mr. Raffety advised he would be satisfied as long as the proposal will enhance the wetlands to satisfy the Army Corps of Engineers, the Committee, and the City. Member Scott noted that 55-60 acres of wetlands "is a lot," and suggested that developing a successful 15-20 acre wetland would be "something worthwhile." He pointed out the potential of acquiring the land from Mr. Millard and Mr. Bawden after their dispute with NDOT is resolved and, at the same time, providing Mr. Raffety and the Army Corps of Engineers some assurance of a successful wetland. He expressed a preference for quality rather than questionable wetlands. Mr. Raffety heartily concurred and expressed the hope that the wetland would be developed similar to that which is located behind the Catholic Church.

Member Bird inquired as to the acceptability of pursuing an agreement which would address the 35 acres north of Northridge Drive and, if that is not progressing within a specified period, reallocating the money to enhancing the wetlands which has already demonstrated a higher level of success. In response to a further question, Member Scott advised that he would be open to allocating funding toward the less successful wetland. He expressed concern regarding the three-year deadline, over which neither Mr. Raffety nor the Committee has any control, and the possibility of losing everything. He expressed a preference to consider the 18 acres as "step 1 and step 2 using Mr. Raffety's resources to help make step 2 a worthwhile wetland." He suggested the possibility of waiting 12-18 months and then moving forward. He expressed the opinion that a good plan and implementation stages for the entire area need to be developed, and suggested that the subject funding could be a good catalyst. In response to a question, Mr. Guzman advised that his original intent for the motion was to recommend that the Board of Supervisors enter into the agreement with Mr. Raffety. Based on the discussion, he suggested that a more appropriate recommendation would be to authorize Member Scott to assist the Open Space Manager in completing the agreement and then move forward to the Board of Supervisors.

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In response to a question, Member Bird suggested that Member Scott working with Mr. Guzman to negotiate the second option would make the entire agreement more workable for Mr. Raffety so that he could move forward with his development as soon as possible and so that there is a fall back position in order that the Army Corps of Engineers' intention with regard to the subject wetland is still met. She further suggested allowing the parties 15 months to work out the dispute and then proceeding with the second option. Vice Chairperson Jacquet expressed a preference that there is some alternative, and the opinion that Member Scott described valid uses for the \$130,000. He noted that using open space funds to bring treated effluent to the site was discussed approximately six months ago. He suggested building into the agreement that purchase of the land is a priority but, if it doesn't happen, the funding would be allocated toward enhancement, including the use of treated effluent. Member Scott suggested that the proposal introduces a guarantee to the Army Corps of Engineers that there will be a mitigation solution. In response to a question, Mr. Guzman advised that Mr. Raffety's consultant, Leslie Burnside, is a trusted liaison between the Army Corps of Engineers and the City. Discussion took place with regard to the appropriate action. Member Robinson expressed a concern that the Open Space Program and the City "have the same escape clause that Mr. Raffety has and that the Army Corps of Engineers buy into whatever this ends up with."

In response to a question, Mr. Guzman requested the Committee to take action to move forward. Member Scott acknowledged a willingness to assist Mr. Guzman to incorporate the second alternative into the agreement. **Member Scott moved to pursue the agreement, with the understanding that the elements discussed at this meeting, including assurances that the Army Corps of Engineers can be satisfied, that there is a way to consider a different way of satisfying wetlands improvements or enhancements so that the three-year time frame does not occur with loss of funds, and to work through some adjustments in the proposed agreement to Mr. Raffety's satisfaction, with the approval of the District Attorney's Office before forwarding the agreement for final action by the Board of Supervisors. Member Bird seconded the motion.** Mr. Raffety expressed an interest in moving forward as soon as possible. He advised that Army Corps of Engineers representatives were "not too impressed with what's available ... in Hot Springs Creek at the present time." He stated that as long as the Army Corps of Engineers' requirements are satisfied and the funding is allocated toward producing more wetland for the City, "that's all I care about." He expressed the hope that the District Attorney's staff will indicate that the land has already been purchased. He advised he is doing all he can to move forward with the project and produce additional wetlands for the City. He expressed appreciation for anything which can be done to move the process forward more quickly. Vice Chairperson Jacquet called for a vote on the pending motion; **motion carried 4-0.**

3-B. ACTION TO CONSIDER AND RECOMMEND TO THE BOARD OF SUPERVISORS AN AGREEMENT WITH CINDERLITE CORPORATION PROVIDING FOR THE OPEN SPACE USE OF 40 ACRES OF LAND AS MITIGATION FOR THE USE OF 40 ACRES OF BUREAU OF LAND MANAGEMENT DESIGNATED OPEN SPACE LAND FOR SAND AND GRAVEL EXTRACTION IN THE VICINITY OF GONI ROAD, APNs 8-011-58, 8-022-50, AND -24 (1-0821) - Mr. Guzman pointed out the existing Cinderlite operation, provided background information on this item, and reviewed the staff report. He referred to the draft agreement, developed using information from the Land Trust Alliance, which was included in the agenda materials. He advised that the draft agreement was reviewed by the District Attorney's staff, and reviewed their suggested revisions. (1-1033) In response to a question, Gary Lehman, of Cinderlite Corporation, advised that he had reviewed the agreement and concurred with its content.

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In response to a question, Mr. Guzman explained that paragraph 8 is necessary to establish the legal basis for the document. Member Bird expressed concern that the agreement is very clear with regard to full rehabilitation of the lands in accordance with the special use permit. Mr. Guzman advised that the special use permit includes an approved reclamation plan which requires full rehabilitation. In response to a question, Mr. Lehman pointed out the existing mining operation and the 40-acre mitigation property. He responded to questions regarding visibility of the mining operations from various points in town. Member Scott suggested that termination of the agreement should be tied to termination of the BLM Lease, as may be extended. Discussion took place with regard to the same and, in response to a question, Mr. Lehman advised that the mining operation could last up to 30 years. He acknowledged that the agreement will remain in effect during the mining operation and reclamation process.

(1-1152) Lynn Zong expressed support for the agreement, and concern with regard to the appearance of the property. She advised that Mr. Lehman has been “really wonderful” about allowing public access onto his property. She stated that the spring area went from being very well vegetated to “completely and totally trashed.” She inquired as to whether the City will manage or monitor the easement, and discussed concerns with regard to the area being destroyed by OHVs. Vice Chairperson Jacquet presumed that the Open Space Program would be responsible for management of the open space values, similar to a conservation easement.

Mr. Guzman advised that the agreement provides for Mr. Lehman to protect the open space values and for the City to provide oversight. He indicated that there is no management plan, and that there have been no discussions with regard to management of the open space values. He pointed out that motorized vehicle access is usually prohibited on open space properties. Mr. Lehman advised that he is in the process of fencing off the lower 40 acres to prohibit motorized vehicles. He further advised that there are no access roads to the upper 40 acres, and there is very little travel in the area other than foot traffic. Member Scott agreed with Ms. Zong’s concerns and suggested that the Parks Department’s two new park rangers should patrol the area. Mr. Lehman advised that the Sheriff has increased patrol in the area, and suggested that fencing off the area should help to deter access. He discussed future plans to employ a security guard to protect the equipment and property. Member Scott expressed the hope that pedestrians and mountain bikers will have access to the property. Mr. Lehman advised that he informs people the property is privately owned; however, he doesn’t mind having the public access the property to enjoy the view. Discussion took place with regard to the same, and Mr. Lehman requested the Committee to consider requesting the City to reinstall the sign which cited the Carson City Municipal Code against dumping trash.

(1-1350) Ms. Zong discussed the importance of sufficient signage, additional patrol, and public education and outreach. Vice Chairperson Jacquet agreed and advised of discussions with Mr. Guzman and Mr. Fahrenbruch over the importance of the City taking a leadership role in OHV management.

In response to a question, Mr. Guzman explained that the language of the agreement provides for Mr. Lehman’s responsibility over preservation of open space values because he owns the property. Carson City’s responsibility is to provide oversight. Mr. Guzman advised that if the agreement is entered into, the City Park Rangers will patrol the property. He acknowledged that the City will assist with enforcement. Member Scott referred to the recent Parks, Recreation, and Trails master plan public workshops, and advised that a number of representatives of various recreation organizations were present. He suggested these representatives as contact points for education. Member Scott advised Mr. Lehman that the property, if appraised, could become a tax benefit, and offered the Committee’s assistance.

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Member Bird moved to recommend to the Board of Supervisors this agreement, with the changes discussed at the advice of the District Attorney's office, with Cinderlite Corporation providing for the open space use of 40 acres of land as mitigation for the use of 40 acres of Bureau of Land Management designated open space land for sand and gravel extraction in the vicinity of Goni Road with the stated Assessor's Parcel numbers. Member Scott seconded the motion with the inclusion of the legal description mentioned by Mr. Guzman rather than APNs only. Motion carried 4-0. Vice Chairperson Jacquet thanked Mr. Guzman and Mr. Lehman, and commented that this is a good solution for the community. He recessed the meeting at 7:30 p.m. and reconvened at 7:35 p.m.

3-C. UPDATE ON THE WATERFALL FIRE REHABILITATION ACTIVITIES, INCLUDING DRILL SEEDING OPERATIONS, SALVAGE OPERATIONS, AND THE FEDERAL EMERGENCY MANAGEMENT AGENCY ("FEMA") (1-2050) - Mr. Guzman provided an overview of the agenda materials pertinent to this item. He advised that the first timber salvage operation in Kings Canyon is scheduled to begin on Monday, November 22nd. In addition, Nevada Division of Forestry staff continues to prepare for the drill seeding operation. Mr. Guzman reviewed the FEMA projects being proposed for C-Hill, and advised that FEMA will pay the full costs for the archaeological surveys for each of the project areas. He advised of discussions with regard to repairing the roads for the timber salvage operation, where the heliports will be located, and who will be involved in the salvage. He is awaiting a plan from Sierra Pacific Industries regarding the salvage operations. Vice Chairperson Jacquet thanked Mr. Guzman.

In response to a question, Mr. Guzman advised that drill seeding was supposed to begin last week, and that he anticipates the operation to begin very soon. In response to a further question, Mr. Guzman advised that State Forester Pete Anderson has been very, very cooperative and has taken a leadership role. The drill seeding operation is still in the logistical preparation stage. Member Scott requested Mr. Guzman to ensure the Committee thanks those who have helped the City.

3-D. DISCUSSION ONLY WITH REPRESENTATIVES OF THE BUILDERS ASSOCIATION OF WESTERN NEVADA REGARDING OPEN SPACE PROGRAM ACQUISITIONS (1-1487) - Mr. Guzman introduced Rick DeMar, Executive Director of the Builders Association of Western Nevada ("BAWN"), and reviewed the staff report. Mr. DeMar read into the record a written statement. Vice Chairperson Jacquet thanked Mr. DeMar for his comments and advised that his concerns have been considered by the Committee since the beginning of the Open Space Program, in development and implementation of the Open Space Master Plan element, and in drafting and executing the Open Space Ordinance. He discussed the importance of balancing open space preservation with development.

Vice Chairperson Jacquet advised of discussions, in conjunction with the update of the City's comprehensive master plan, regarding alternatives to traditional land use for development. Member Scott suggested that Vice Chairperson Jacquet's comments lead the Committee, from a construction perspective, to a need to determine priorities for available land. He suggested that the builders could have important input to the Committee as well as to the comprehensive master plan process. He advised that many private properties are located in the interface area and suggested that the builders could present combination developments, typical clustering or planned unit developments with open space. There may be ways to marry Open Space goals with those of the development community and still have an open space component that would benefit everyone. Member Scott expressed an interest in having more interface with

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builders/developers. He discussed the importance of remembering that the community was informed, at the time Question #18 passed, it wasn't intended to purchase all the developable land. He acknowledged the need to determine a balance between open space values and development needs. He expressed appreciation for Mr. DeMar's attendance and participation, and discussed the importance of hearing from builders with regard to open space.

Mr. DeMar discussed the shift in the development industry to incorporate employment opportunities with residential areas. He referred to the Millennium Project by Landmark Homes on Long Street as an example.

Member Bird thanked Mr. DeMar for his attendance and participation. She advised that the action taken by the Committee on items A and B is not unusual. Committee members spend time reviewing the materials provided by staff, and consider decisions in the best interests of the community. Member Bird advised that the Committee has never proposed, nor does the Open Space Master Plan element propose, that the Open Space Program purchase all developable lands. She suggested reviewing the Committee's record, and advised that decisions have been made in the past to forego what would have been significant purchases. She pointed out that land is only purchased from willing sellers at appraised value. She advised that all of the Committee's actions are done in the public eye to ensure that the Quality of Life funding is used in a way that will best serve the community. She assured Mr. DeMar that the Committee members understand part of the City's quality of life is a balance between development and preservation.

Mr. DeMar expressed appreciation for the efforts and time of the Committee members. He advised that the BAWN has never felt the need to scrutinize the actions of the Committee in that the approach has always been balanced. Member Robinson thanked Mr. DeMar and reminded him that the visual resource is one of the reasons many of the current residents have chosen to live in Carson City. She discussed the importance of maintaining as much of the visual resource as possible. Vice Chairperson Jacquet thanked Mr. DeMar and assured him the Committee will continue its quest to balance quality of life issues with economic development. He advised that the Committee is comprised of thoughtful people, who are consistently aware of the importance of balance. He discussed creative ideas which have come out of the comprehensive master plan process, such as allowing increased densities in exchange for commitments to maintain public land open space.

Member Scott discussed the successful dialogue, coordination, and communication which exists in Carson City. He noted that the City's growth management ordinance has been in place for over twenty years, and that it was enacted with the full support of the development community. He suggested that the builders and the Committee work together to "help give the builders a community that sells and, at the same time, the builders can help us be able to do some of those things that help make the community" desirable. He expressed appreciation for the cooperation demonstrated over the years. Mr. DeMar assured the Committee that the BAWN is available and willing to work together. He thanked the Committee members for their time.

4. NON-ACTION ITEMS:

STATUS REPORTS AND COMMENTS FROM COMMITTEE MEMBERS (1-2198) - None.

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STATUS REPORTS AND COMMENTS FROM STAFF (1-2204) - Mr. Moellendorf advised of a recent meeting with Sierra Pacific Power Company (“SPPC”) representatives, hosted by Planning and Community Development Department Director Walter Sullivan. Mr. Moellendorf distributed copies, to the Committee members and staff, of an e-mail from Mr. Sullivan and reviewed the same. Member Scott discussed the importance of participating in development of the electric master plan in order to provide guidance to SPPC. Mr. Moellendorf advised that the SPPC representatives were receptive to the comments provided by City staff, and expressed a willingness to work with City representatives.

Mr. Guzman reviewed the “Half Public, Half Private, One West” conference information included in the agenda materials, and advised that the Committee members were welcome to attend. He reported that Division of State Lands Administrator Pam Wilcox requested him to participate in a panel as part of the “Nevada Rural Land Use Planning and Natural Resources Conference.” He invited the Committee members to participate as well. He reviewed the University of Nevada Cooperative Extension meeting and workshop information included in the agenda materials, and the newspaper articles regarding the Horse Creek Ranch. He advised that the Board of Supervisors will consider, at their November 18th meeting, the mid-term obligation loan for \$3.1 million and conservation easement and fee purchase of Horse Creek Ranch. He invited the Committee members to attend. He expressed appreciation for Chairperson Hartman’s assistance in revising the Offer of Purchase for the Horse Creek Ranch. It was reviewed by Mr. Fagen and will be forwarded to the Board of Supervisors.

(1-2375) In response to a question, Mr. Guzman provided a status report on the comprehensive master planning process. He acknowledged that the Committee will have a formal role in reviewing the master plan.

FUTURE AGENDA ITEMS FROM COMMITTEE MEMBERS (1-2359) - Vice Chairperson Jacquet requested Mr. Guzman to agendaize discussion of OHV issues in relation to open space for a future meeting.

5. ACTION ON ADJOURNMENT (1-2415) - Member Scott moved to adjourn the meeting at 8:20 p.m. Member Bird seconded the motion. Motion carried 4-0.

The Minutes of the November 15, 2004 meeting of the Carson City Open Space Advisory Committee are so approved this 24th day of January, 2005.

STEPHEN D. HARTMAN, Chair