

CARSON CITY OPEN SPACE ADVISORY COMMITTEE

Minutes of the January 12, 2009 Meeting

Page 1

A regular meeting of the Carson City Open Space Advisory Committee was scheduled for 6:00 p.m. on Monday, January 12, 2009 in the Community Center Bonanza Room, 851 East William Street, Carson City, Nevada.

PRESENT: Vice Chairperson Dan Jacquet
Michael Fischer
Tricia Lincoln
Howard Riedl

STAFF: Roger Moellendorf, Parks and Recreation Department Director
Juan Guzman, Open Space / Property Manager
Thoran Towler, Deputy District Attorney
Kathleen King, Recording Secretary
Jano Barnhurst, Recording Secretary

NOTE: A 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. These materials are on file in the Clerk-Recorder's Office, and available for review during regular business hours.

CALL TO ORDER AND DETERMINATION OF QUORUM (1-0015) - Vice Chairperson Jacquet called the meeting to order at 6:00 p.m. A quorum was present. Chairperson Hartman and Member Scott were absent.

CITIZEN COMMENTS ON NON-AGENDIZED ITEMS (1-0049) - None.

1. ACTION ON APPROVAL OF MINUTES - October 20, 2008 (1-0062) - Member Fischer moved to approve the minutes. Member Riedl seconded the motion. Motion carried 4-0.

2. MODIFICATIONS TO THE AGENDA (1-0052) - At Vice Chairperson Jacquet's suggestion, Mr. Guzman agreed to re-agendize item 3-D to a future meeting.

3. AGENDA ITEMS:

3-A. DISCUSSION AND POSSIBLE ACTION TO RECOMMEND TO THE BOARD OF SUPERVISORS THE ACQUISITION OF A 21-ACRE PARCEL OF LAND BEING A PORTION OF APN 007-101-51, AND TO ENTER INTO AN AGREEMENT TOWARD THE FUTURE DONATION OF A CONDITIONAL PERMANENT ACCESS EASEMENT SUFFICIENT TO ACCOMMODATE A 20-FOOT WIDE ACCESS ROAD, AND FOR THE FUTURE ACQUISITION OF 20 ADDITIONAL ACRES ALSO WITHIN THE JOOST RANCH SOUTH OF ASH CANYON TRAIL AND WEST OF THE WELLINGTON CRESCENT SUBDIVISION, AND OTHER MATTERS SPECIFICALLY PERTAINING THERETO; and 3-B. ACTION TO RECOMMEND TO THE COMMUNITY DEVELOPMENT DEPARTMENT AND THE PARCEL MAP REVIEW COMMITTEE AN APPLICATION FROM THE JOOST LAND AND CATTLE COMPANY TO SPLIT ONE PARCEL INTO TWO PARCELS, THE SMALLEST CONTAINING 28.8 ACRES IN SIZE, A PORTION OF APN 007-101-51 (1-0067) - Mr. Guzman introduced these items, and reviewed the staff reports and the agenda materials. He oriented the committee members to the subject parcels using displayed aerial photographs. He noted that the Joost family's offer is 34 percent below market value, and

CARSON CITY OPEN SPACE ADVISORY COMMITTEE

Minutes of the January 12, 2009 Meeting

Page 2

recommended proceeding with the transaction. He reviewed e-mail correspondence from Dr. David Strull, copies of which were distributed to the committee members and staff prior to the start of the meeting, and provided an overview of the explanation he provided Dr. Strull in response.

In response to a question, Mr. Guzman advised that the Wellington Crescent residents will continue to be part of the public process. He discussed Scott Heaton's belief that final decision regarding the location of the road should be appealable to the Board of Supervisors. He advised of not having had the opportunity to discuss this matter with the Joost family prior to the meeting. He responded to questions regarding the method by which the discounted property price was figured.

Member Riedl suggested that the Joosts hire a professional engineer to design the road in that engineers are held to safety standards for the public good. He expressed concern over attempting to mitigate "somewhat amorphous values from one property owner compared to another." He suggested the committee's primary objective is to develop a solution that works for the Joost family and the Wellington Crescent Homeowners Association ("WCHA"). In response to a question, Mr. Guzman anticipated the road would be designed prior to the Board of Supervisors being requested to make a final decision. He described the expected design of the road. In response to a further question, he expressed the opinion that the transaction is "worth doing." One benefit is that it solves an access problem into the west side. Mr. Guzman discussed Public Works Department resources available to design and construct the roadway, and noted this committee's role to facilitate the easement. "That's why we buy the property. And then that is made available to other jurisdictions in the City that will be the ones building." He acknowledged the parcel proposed for purchase is north of the existing easement. In response to a further question, he advised that the public access easement into the Wellington Crescent subdivision will be eliminated. He pointed out a portion of the easement which will remain accessible to the Utilities Division to perform maintenance. He responded to questions regarding the possibility of rehabilitating the easement. In response to a further question, he advised that rehabilitation has only been discussed "in the most general terms. If it's not in use, it makes sense to try to rehabilitate or at least to grade it off." Mr. Guzman acknowledged no need to maintain a regular access for Utilities Division personnel from Wellington Crescent "up to the apex of this new road." In response to a further question, Mr. Guzman noted the assumption in the Joost proposal that the road will be built in 2009. The Purchase and Sale Agreement will contain more specificity. Funding for construction of the road will be the responsibility of the Public Works Department.

In response to a comment regarding Dr. Strull's e-mail correspondence, Vice Chairperson Jacquet noted that considering mitigation of impacts to neighbors of open space property is part of this committee's standard operating procedure. He suggested a recommendation to the Board of Supervisors would be subject to reasonable consideration for the Wellington Crescent subdivision. Mr. Guzman referred to the staff report and agenda materials pertinent to this item, and distributed to the committee members, staff, and the citizens present a summary prepared by Scott Heaton following the November 5, 2008 committee meeting.

Vice Chairperson Jacquet opened this item to public comment. (1-0865) Wellington Crescent resident and Homeowners Association Board representative Scott Heaton expressed appreciation to the Joost family for "a very gracious offer." He concurred "it's very beneficial to our subdivision to have open space adjacent ... and the end result of getting rid of the public easement through our subdivision which the people very much want and which the City committed to a long time ago when the easement was initially granted." He advised of having already endorsed the Joost's previous proposal which located the roadway 30 feet

CARSON CITY OPEN SPACE ADVISORY COMMITTEE

Minutes of the January 12, 2009 Meeting

Page 3

from the westerly boundary of the subdivision in a northerly direction. Although not all the property owners were in agreement, the WCHA Board voted to approve the proposal which was subsequently ratified by most of the residents.

Mr. Heaton advised that the Joost family had been “kind enough to listen to some of the opposition from a few of the Wellington Crescent homeowners at the last meeting, who wanted the roadway further from their property,” for which Mr. Heaton expressed understanding. He expressed the opinion that the language of the proposal “is acceptable, as drafted, where they’ll put it with the contours, safety, taking into account drainage, etc.” He suggested receiving “input from both the Wellington Crescent Homeowners Association and the City in connection with the location and design and that that location and design be agreed to prior to this deal closing.” He expressed concern over problems “if you don’t have a roadway, in terms of location and design agreed to, prior to the closing of the property.” He explained concerns over the public access easement through the Wellington Crescent subdivision not being eliminated. He noted the Joost family’s desire to close the transaction on March 31, 2009, and saw “no reason why we can’t have their engineer meet with the City and Wellington Crescent and get a design and location.” He agreed with Mr. Guzman that neither this committee nor the Board of Supervisors should be concerned over the design and location of the roadway. He suggested that his proposal to schedule a meeting between City representatives, the engineer, and the Wellington Crescent homeowners would provide an opportunity for participation. He expressed the opinion that if the roadway is designed along the contour of the property, “it is going to be further away than the 30 feet previously proposed.” He expressed assurances that “as long as it’s more than 30 feet away, you’re not going to have any problem with the [Wellington Crescent Homeowners Association] Board. You may still have problems from a few of the individuals.”

Mr. Heaton noted that once the design is done, “the City still has to pay for that road.” He expressed concern “if the design is such that the cost to the City is something that they don’t want to bear, that’s something again ...” He expressed objection to “a situation ... where you approve the purchase and then we don’t eventually get to a roadway location and design that works, and that our subdivision becomes the access to the new open space.” He reiterated the suggestion to “get the location and design agreed to prior to the closing of the deal, and that will mean that their engineer has got to get on it.” He reiterated no anticipation of problems from the WCHA Board. “Overall, it’s just a wonderful deal for us, very nice of the Joost family, and we’re very supportive of it.” Mr. Heaton requested the committee to include in their action the “restrictions on the type of roadway to mitigate some of the issues, dust, etc., speed, that we talked about at the November meeting, ... and the requirement that the roadway location and design be agreed to prior to the closing and payment of the funds.”

In response to a question, Mr. Heaton reiterated that the WCHA Board’s approval of the alignment of the roadway 30 feet from the westerly boundary had already been ratified by most of the homeowners. He didn’t anticipate a significant change in the decision. He reiterated concerns over drainage, dust, speed “which I think we tried to mitigate with some of the restrictions on the roadway.” The WCHA Board acknowledged, at its November meeting, “that for the Joosts to agree to a 30-foot buffer, a 20-foot roadway, at no additional cost to the City was a very generous offer.” Mr. Heaton reiterated that the WCHA Board had “already been through it; we’ve let everyone speak their piece.”

Mr. Guzman acknowledged the committee is considering purchase of 20 acres and the offer of an easement on an adjoining piece of property subject to a future alignment designed by an engineer. Vice Chairperson Jacquet advised that the committee was not prepared to discuss or make recommendations as to the surface of the roadway. Mr. Heaton expressed understanding, but requested some consensus between the Joost family, the City, and the WCHA. Mr. Guzman acknowledged that Public Works Department personnel

CARSON CITY OPEN SPACE ADVISORY COMMITTEE

Minutes of the January 12, 2009 Meeting

Page 4

will be involved in design of the road. He noted that, at the November 5th meeting, the committee had accepted language referring to general concerns to take into consideration.

Mr. Guzman expressed disagreement with Mr. Heaton's suggestion that the sale should be predicated upon design of the roadway. He advised that the Joost family had demonstrated "incredibly good faith in negotiating with us, in lowering the property, in agreeing to an easement that will bisect some of their land." He committed to supporting construction of the roadway as soon as possible, but reiterated his inability to commit the Public Works Department. He expressed concern over ensuring no impediments to purchasing the property. "Buying the land should not be predicated on completing all negotiations on the road." Mr. Guzman acknowledged that granting the easement is a separate transaction. He advised that the Wellington Crescent homeowners will have the opportunity to testify before the Board of Supervisors. He reiterated that construction of the roadway is not within the purview of the Open Space Program, and that "this very good deal should not be jeopardized by a condition like that."

(1-1350) Mr. Heaton noted that granting the easement was directly connected to sale of the property at the November 5th committee meeting. "That's what has been presented to our board and that's what our board approved." Mr. Heaton reiterated that the WCHA Board approved the proposal because "we've been trying with the City for years, since the early '90s when we granted the easement and the City committed to rescind the easement when they found alternate access, we've been trying to get the access of the public out of our subdivision." He was uncertain as to what the homeowners "would say if you told them that there isn't going to be a new easement, there isn't going to be the revocation of your existing easement; that's something that we're going to leave to the future. Maybe it will happen, maybe it won't ..." Mr. Heaton expressed support for public use of the open space, but opposition to the access remaining through the Wellington Crescent subdivision. "I don't see why, in light of the fact that the board has previously told you that they would accept a roadway 30 feet from the westerly boundary, ... you would expect there's going to be any problem from us in getting a new alignment. Where you're going to have the problem, in my opinion, is a potential new alignment having the City tell you, 'Oh boy, that's going to be costly ...'" Mr. Heaton noted that Senior Project Manager Robb Fellows had "specifically indicated," at the November 5th committee meeting, that construction would take "two building seasons." Mr. Heaton reiterated there would be "no problems" from the WCHA Board "unless you locate it literally adjacent to the westerly boundary." He further reiterated concern over "getting the City to commit to when it's going to be built and accepting." He further reiterated the suggestion to condition the purchase on the easement being in place at that time. "It's not worth it, from our perspective, to support the open space purchase and then have to deal with the City." Mr. Heaton reiterated the historic information on the City's commitment to identify alternate access, "and here we are 16 years later with an opportunity." He expressed extreme opposition, on behalf of the WCHA Board, "to leaving this issue of the roadway open-ended." He advised of no doubt the Joosts would deal in good faith and that the WCHA would deal in good faith "as long as it's consistent or better than what we previously agreed to." "We need, as part of this package when it's presented to the Board of Supervisors, that this roadway will be constructed by the end of the 2010 building season, and that the City commits to doing it."

As an advisory committee to the Board of Supervisors, Member Riedl expressed reluctance to present the proposed purchase to the Board of Supervisors without an easement being considered and approved by the WCHA Board. In response to a question, Mr. Heaton advised of the WCHA Board's desire to "be part of the process." "We want a specific alignment of that easement when the purchase is consummated. We don't want it constructed. ... And if the construction takes to the end of the 2011 building season, so be it. But we want a commitment on where the alignment's going to be, on the basic design, and when it will be constructed by the City. And if we don't get that, ... the City won't do what we hoped that they would do."

CARSON CITY OPEN SPACE ADVISORY COMMITTEE
Minutes of the January 12, 2009 Meeting
Page 5

He reiterated concerns over years-long drainage problems, fire abatement, etc. In response to a question, Mr. Heaton reviewed the WCHA Board's understanding of the proposal to include granting a 20-foot wide easement from the end of Ash Canyon "up to whatever point." Discussion took place to clarify the original proposal, and the action taken at the committee's November 5th meeting.

(1-1770) Karen Joost provided background information on the three-part proposal presented following the November 5th committee meeting. "The sale of the land seems very simple and straightforward and most everybody seems to be in agreement that that's a good thing. Then we need this easement which will provide access not only to the open space but to Ash Canyon and also solve, hopefully, the Wellington Crescent problem. Then if we're going to put the easement in a spot that's not really good for us, ... we're hoping for the commitment, somewhere down the road, that the City will buy most of the property that's getting oddly bisected by the road." Ms. Joost explained that her family is considering the proposal as "three separate things. First one being, we can sell it. ... Then we will have the funds to hire the engineer and work on these other problems, and locate the road in the best spot, wherever that falls. We've been a little concerned, too, how do we make that commitment to the City without tying it to the sale of the land." Ms. Joost acknowledged the need for the sale proceeds in order to hire the engineer. In response to a further question, she advised of having anticipated this meeting would focus on the 20+ acres. Member Lincoln read a portion of paragraph 2 of the proposal into the record, which clearly indicated Ms. Joost's intentions.

Member Lincoln expressed doubt that public access will be substantially increased with the purchase of the 20 acres north of the existing roadway. She expressed understanding for the WCHA Board wanting to ensure the City moves forward, but reluctance to predicate purchase of the land upon final design of the roadway. Member Riedl expressed understanding for Member Lincoln's position, but noted the length of time the issue had remained and "we're so close to a resolution." He inquired as to the possibility of structuring the purchase in such a way as to provide the Joosts partial payment sufficient to hire the engineer. He noted the requirement for Board of Supervisors approval, but suggested an engineer could design the road in coordination with the WCHA Board in a timely manner.

(1-2035) Mr. Heaton relayed a suggestion by Jim Kiernan to "tie a floating easement that cannot be closer than 30 feet to the westerly boundary to be decided upon by the parties," and then when the engineer comes up with it, we can do that. Ms. Joost agreed to the suggestion.

Member Lincoln expressed appreciation for the Joost family's offer and for their willingness to cooperate with the WCHA. The committee members agreed, and Vice Chairperson Jacquet discussed the benefit to the entire community. He summarized the discussion, as follows: To close on the 20 acres with an easement over the adjoining 20 acres that would provide for an access road to be designed at a future date. Mr. Guzman suggested a one-year time frame, and referred to Ms. Joost's proposal letter. Member Lincoln read that portion of the proposal letter into the record, as follows: That the planning stage would be finished during the 2009 calendar year and the City would be responsible for building the roadway by the end of 2010, not closer than 30 feet to the western property line of Wellington Crescent.

Vice Chairperson Jacquet called for additional public comment; however, none was forthcoming. In response to a question, Ms. Joost advised of the intent to grant a 20-foot wide easement in a to-be-determined location at least 30 feet from the westerly boundary. Vice Chairperson Jacquet entertained a motion. **Member Riedl moved to recommend to the Board of Supervisors the acquisition of a 21-acre parcel of land, being a portion of APN 7-101-51, concurrent with a floating easement not more than 20-feet wide and not closer than 30 feet to the Wellington Crescent subdivision, the permanent**

CARSON CITY OPEN SPACE ADVISORY COMMITTEE

Minutes of the January 12, 2009 Meeting

Page 6

easement to be designed within a period of one year from the purchase of the parcel, and for the future acquisition of 20 additional acres also within the Joost Ranch, south of Ash Canyon Trail and west of the Wellington Crescent subdivision, and other matters specifically pertaining thereto. Member Fischer seconded the motion. Motion carried 4-0.

Vice Chairperson Jacquet entertained a motion for item 3-B. **Member Riedl moved to recommend to the Community Development Department and the Parcel Map Review Committee an application from Joost Land and Cattle Company to split one parcel into two parcels, the smallest containing 21.88 acres, a portion of APN 7-101-51. Member Fischer seconded the motion.** Vice Chairperson Jacquet called for public comment. (1-2385) Jim Kiernan, an adjacent property owner, inquired as to whether there was a description of the original 50-foot strip “that was going to be the easement.” Mr. Guzman so acknowledged, and Mr. Kiernan suggested incorporating the description in the easement which will become permanent. He explained that the language in the document creating the easement would establish that the easement will, at some later date, be permanently defined using an engineer’s legal description. He expressed concern over using a floating easement in that it will “tie up all of [Ms. Joost’s] property because it doesn’t say where it is.” Mr. Guzman provided background information on Mr. Kiernan’s experience with property titles. Vice Chairperson Jacquet noted that Mr. Kiernan’s comments were pertinent to item 3-A, and advised that his statements were concurrent with the committee’s understanding; “that they would grant an easement that would be defined later with a survey.” Mr. Guzman advised that the parcel map will serve as an instrument to express the first motion, and that staff would ensure the committee’s intentions are conveyed. Vice Chairperson Jacquet reiterated the committee’s understanding, and called for a vote on the pending motion. **Motion carried 4-0.** Mr. Guzman thanked the Joost family and the Wellington Crescent representatives for their attendance and participation.

3-C. ACTION TO RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF A TEMPLATE DOCUMENT CONTAINING A REVISED PERMANENT DEED RESTRICTION AND FUNDING AGREEMENT FROM THE STATE OF NEVADA TO BE USED BY CARSON CITY TO RECEIVE MONIES GRANTED AS PART OF THE STATE OF NEVADA QUESTION #1 CONSERVATION GRANT PROGRAM (1-2540) - Mr. Guzman introduced this item, and reviewed the agenda materials. At Vice Chairperson Jacquet’s request, he provided an overview of the most recent revisions to the funding agreement template and advised that it is more equitable. He thanked Supervisor Shelly Aldean for her efforts in negotiating with Division of State Lands representatives.

Member Riedl thanked the new Division of State Lands administrator for his assistance. He noted that the new language reflects the seriousness of assigning perpetuity to open space property. Vice Chairperson Jacquet entertained a motion. **Member Riedl moved to recommend to the Board of Supervisors approval of a template document containing a revised, permanent deed restriction and funding agreement from the State of Nevada to be used by Carson City to receive monies granted as part of the State of Nevada Question #1 Conservation grant program. Member Fischer seconded the motion.** Vice Chairperson Jacquet called for public comment and, when none was forthcoming, a vote on the pending motion. **Motion carried 4-0.**

3-D. ACTION TO ELECT A CHAIRPERSON AND VICE CHAIRPERSON FOR THE OPEN SPACE ADVISORY COMMITTEE FOR THE 2009 CALENDAR YEAR - Deferred.

CARSON CITY OPEN SPACE ADVISORY COMMITTEE

Minutes of the January 12, 2009 Meeting

Page 7

4. NON-ACTION ITEMS:

STATUS REPORTS AND ANNOUNCEMENTS FROM STAFF (2-0037) - Mr. Guzman reviewed the “FYI” items included in the agenda materials. He reiterated that a special committee meeting would be scheduled within the next two weeks. He advised that the Board of Supervisors would conduct interviews for three committee member positions on Thursday, January 15th. In response to a question, he reviewed the applications.

MEMBERS’ ANNOUNCEMENTS AND REQUESTS FOR INFORMATION - None.

4-A. UPDATE REGARDING THE WATERSHED PHASE 1 PROJECT (1-2857) - Mr. Guzman provided background information on funding for the subject project, described its location, and discussed its purpose to accommodate sedimentation and “meter out” the waters accumulated across the Long Ranch subdivision. He offered to tour the project site with any interested committee member. He responded to questions regarding the location of the project, and discussed the cost estimates which came in “way below bid.” He advised that a separate fuels grant associated with the property calls for a grazing plan, and that consideration has been given to developing a utility plan with the remainder of the grant funding associated with the subject project. He advised that Open Space Coordinator Ann Bollinger and Senior Project Manager Robb Fellows are working with the project consultants.

4-B. UPDATE ON THE HORSE CREEK RANCH CONSERVATION EASEMENT (1-3014) - Mr. Guzman introduced this item, and reported that “we have come almost 360 degrees.” Mr. Fagen has agreed, after being requested by Division of State Lands Administrator Jim Lawrence, to consider providing for the free movement of wildlife to the water sources along the west side of the land. Mr. Guzman provided background information on the discussion which led to extension of the easement, and pointed out the route of the new proposed easement on a displayed area detail map. He advised that a special committee meeting will be scheduled in the near future. He further advised that Mr. Fagen’s appraiser had been discussing values, and that the City is in the process of hiring the review appraisers. Discussion followed.

4-C. UPDATE ON THE WILSON TRUST ACQUISITION (2-0008) - Mr. Guzman advised that the Wilson Trust transaction had closed. Staff will proceed quickly to acquire the funding from the Legacy Program.

5. FUTURE AGENDA ITEMS - Previously covered.

6. ACTION ON ADJOURNMENT (2-0109) - Member Fischer moved to adjourn the meeting at 7:26 p.m. Member Riedl seconded the motion. Motion carried 4-0.

The Minutes of the January 12, 2009 Carson City Open Space Advisory Committee meeting are so approved this 26th day of January, 2009.

STEPHEN D. HARTMAN, Chair