

**OPEN SPACE ADVISORY COMMITTEE
STAFF REPORT**

MEETING DATE: October 15, 2012

AGENDA ITEM NUMBER: 3E

STAFF: Juan F. Guzman, Open Space Manager



REQUEST: For discussion only regarding status of the following land acquisitions:

- Joost acquisition
- Potter acquisition

GENERAL DISCUSSION:

It is staff's privilege to inform the Open Space Advisory Committee that the Board of Supervisors approved the Joost acquisition and the designation of Steve of Johnson and Associates as the appraiser towards the Potter acquisition.

In reference to the Potter acquisition, the work will be conducted in steps. We will meet and tour the property with the appraiser, who will collect data and comps available to provide and discuss a range of value. If the range is agreeable to both parties, we will then proceed to identify and appraise City land. We will not proceed with a full appraisal and continue the process unless there is consensus at this stage in order to avoid the unnecessary expenditure of funding towards a transaction that may not be completed. The Board of Supervisors requested that the Potter family pay for half of the cost if the transaction is completed.

RECOMMENDED ACTION:

No action may be taken. This item is for discussion only in order to provide the Committee with a status report.

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A regular meeting of the Carson City Board of Supervisors was scheduled for 8:30 a.m. on Thursday, August 16, 2012 in the Community Center Sierra Room, 851 East William Street, Carson City, Nevada.

PRESENT: Mayor Robert Crowell
Supervisor Karen Abowd, Ward 1
Supervisor Shelly Aldean, Ward 2
Supervisor John McKenna, Ward 3
Supervisor Molly Walt, Ward 4

STAFF: Larry Werner, City Manager
Alan Glover, Clerk - Recorder
Randal Munn, Chief Deputy District Attorney
Kathleen King, Deputy Clerk / Recording Secretary

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

1 - 4. CALL TO ORDER, ROLL CALL, INVOCATION, AND PLEDGE OF ALLEGIANCE (8:32:25) - Mayor Crowell called the meeting to order at 8:30 a.m. Mr. Glover called the roll; a quorum was present. First United Methodist Church Retired Pastor Bill McCord provided the invocation. Mayor Crowell led the pledge of allegiance.

5. PUBLIC COMMENTS AND DISCUSSION (8:33:50) - Mayor Crowell entertained public comment. (8:34:10) Ward 2 Supervisor Candidate Dennis Johnson advised of having sent e-mail correspondence to the Board members regarding the Charter Review Committee recommendations. He requested the Board's consideration and adoption of the same. Mayor Crowell acknowledged having received the e-mail correspondence. He entertained additional public comment; however, none was forthcoming.

6. POSSIBLE ACTION ON APPROVAL OF MINUTES - July 19, 2012 (8:34:50) - Supervisor Aldean advised of a clerical correction which she offered to provide to the recording secretary, and suggested an additional revision to page 9. **Supervisor Aldean moved to approve the minutes, as amended. Supervisor Walt seconded the motion. Motion carried 5-0.**

7. POSSIBLE ACTION ON ADOPTION OF THE AGENDA (8:35:36) - Mayor Crowell entertained modifications to the agenda and, when none were forthcoming, deemed it adopted.

8. CONSENT AGENDA (8:35:58) - Mayor Crowell entertained requests to hear items separate from the consent agenda. Supervisor Abowd requested to hear item 8-3(C) separately. Mayor Crowell entertained additional requests and, when none were forthcoming, a motion. **Supervisor Aldean moved to approve the consent agenda, consisting of three items from the Assessor's Office, three items from Finance, five items from Purchasing and Contracts, two items from Fire, four items from Public Works, one item from Health and Human Services, one item from Parks and Rec, one item from the Carson City Airport Authority, and two items from the City Manager's Office.** At Mr. Munn's request, Supervisor Aldean amended her motion to include adoption of Resolution No. 2012-R-25

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toward the issuance and sale of the bonds. Supervisor McKenna seconded the motion. Supervisor Aldean noted, for the record, "these bonds shall never constitute a debt or indebtedness of the City or a credit against its general credit or taxing power. Mayor Crowell called for a vote on the pending motion. **Motion carried 5-0.**

19(C) POSSIBLE ACTION TO INTRODUCE, ON FIRST READING, AN ORDINANCE DESIGNATED AS THE "2012 HIGHWAY REVENUE BOND ORDINANCE;" AUTHORIZING THE ISSUANCE BY CARSON CITY OF ITS FULLY REGISTERED "CARSON CITY, NEVADA HIGHWAY REVENUE (MOTOR VEHICLE FUEL TAX) SUBORDINATE LIEN REFUNDING BONDS, SERIES 2012," FOR THE PURPOSE OF REFINANCING STREET AND HIGHWAY CONSTRUCTION; PROVIDING THE FORM, TERMS, AND CONDITIONS OF THE BONDS, AND OTHER DETAILS IN CONNECTION THEREWITH; AND PROVIDING THE EFFECTIVE DATE HEREOF (9:11:22) - Mayor Crowell introduced this item. Mr. Providenti provided background information, and reviewed the agenda materials. Mayor Crowell entertained questions or comments of the Board members and of the public. When none were forthcoming, he entertained a motion. **Supervisor Aldean moved to introduce, on first reading, Bill No. 111, an ordinance designated as the "2012 Highway Revenue Bond Ordinance," authorizing the issuance by Carson City of its fully registered "Carson City, Nevada Highway Revenue (Motor Vehicle Fuel Tax) Subordinate Lien Refunding Bonds, Series 2012," for the purpose of refinancing street and highway construction, providing the form, terms, and conditions of the bonds, and other details in connection therewith, and providing the effective date hereof. Supervisor Abowd seconded the motion. Motion carried 5-0.**

20. PARKS AND RECREATION DEPARTMENT, OPEN SPACE PROGRAM

20(A) POSSIBLE ACTION TO APPROVE THE RECOMMENDATION OF THE OPEN SPACE ADVISORY COMMITTEE TO PURCHASE APN 007-101-55, CONTAINING 20.25 ACRES, LOCATED AT ASH CANYON AND OWNED BY THE JOOST LAND AND CATTLE COMPANY, INC., AND TO AUTHORIZE THE MAYOR AND STAFF TO EXECUTE DOCUMENTS TO COMPLETE THE TRANSACTION (9:13:43) - Mayor Crowell introduced this item. Open Space Advisory Committee ("OSAC") Chair Bruce Scott provided background information, and reviewed the agenda materials. He acknowledged satisfaction with the appraised value of the property. "It's a March appraisal ... It does look at two inferior properties, as they describe it. This parcel is a very significant parcel from the potential for development as far as views and that sort of thing." OSAC Chair Scott expressed the opinion that "the value is reasonable and it's not a huge amount but the seller is actually selling it at less than the appraised value. ... the Open Space [Advisory] Committee was pleased with the potential to close this. We feel the appraised value is reasonable given the fact that it's a recent appraisal and ... a lot of the fall in values happened before the appraisal so I'm not uncomfortable suggesting that ... it's a fair price."

Supervisor Aldean inquired as to whether access relative to development was considered as part of the appraisal. OSAC Chair Scott advised that the "State has periodically looked at development of their parcel to the north. Obviously, that's got some hurdles but the State Lands folks have indicated that part of their goal is to maximize value on State-owned lands and that, conceivably, could be development up there. The Joost family did control the access to this, from Ash Canyon, until they sold the parcel to the south to Carson City as part of ... an overall consolidation effort on their part. And so ... you're in a situation now where had they not sold to Carson, there would obviously be direct access. At this point, ... you would have to work to get access. There's no question about it. You would have had to anyway, but they had control

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of that.” OSAC Chair Scott expressed the opinion that “as part of the overall package, this is a reasonable situation because the Joosts have acted in good faith up to now with all parties and ... this is the last step ... in a process that involves a consolidation on their part and a significant benefit, not only to the residents of Wellington Crescent, but obviously to Carson City, and access into Ash Canyon as well as some flood control benefits.” In consideration of the Joosts’ good faith negotiations with the City, selling another piece of property that they controlled which would have afforded this property access, OSAC Chair Scott acknowledged that the Joosts have inadvertently diminished the value of this 20-acre parcel as a result of the sale to Carson City and that he considers the subject action from an equity standpoint. “... they saw it as an overall package effort that came in steps.” OSAC Chair Scott acknowledged sufficient Open Space Program funding to manage the subject property. In response to a question, Mr. Providenti advised of no anticipated costs associated with abandonment of the agricultural deferment.

Mayor Crowell entertained public comment; however, none was forthcoming. Supervisor Aldean recommended a revision to paragraph 5 of the Purchase and Sale Agreement included in the agenda materials. Mayor Crowell entertained a motion. **Supervisor Aldean moved to approve the recommendation of the Open Space Advisory Committee to purchase APN 7-101-55, containing 20.25 acres, located at Ash Canyon and owned by the Joost Land and Cattle Company, Inc., and to authorize the Mayor and staff to execute documents to complete the transaction, subject to the one correction on the record in paragraph 5 of the Purchase and Sale Agreement. Supervisor Abowd seconded the motion. Motion carried 5-0.**

20(B) POSSIBLE ACTION TO ADOPT A RESOLUTION DIRECTING STAFF AND THE OPEN SPACE ADVISORY COMMITTEE TO SUSPEND EFFORTS TO ACQUIRE PROPERTY FOR A PERIOD OF TWO YEARS AND TO EMPHASIZE THE ACTIVE MANAGEMENT OF EXISTING PROPERTIES IN THE OPEN SPACE PROGRAM (9:26:26) - Mayor Crowell introduced this item. Open Space Property Manager Juan Guzman provided background information, and reviewed the agenda materials. Mayor Crowell advised of having done legal work on Patricia Potter’s trust, and that he would abstain from discussion and action on this item.

Supervisor Aldean thanked Mr. Guzman and OSAC Chair Scott for meeting to discuss development of the subject resolution, and provided background information with regard to the same. Mr. Guzman acknowledged that the phrase “active management” includes building substantial financial reserves and / or fire suppression. He discussed the Open Space Program fire suppression budget line item. Supervisor McKenna expressed a preference to extend the resolution’s time frame to five years, and the opinion that debt should never be incurred to purchase open space. OSAC Chair Scott expressed concern that five years “is pretty restrictive because ... we’ll know more within a couple years and be able to bring you back a plan for the operation and management that will then provide ... some sort of a blueprint for costs and the potential for acquiring or accumulating monies that could go to acquisition should we not have them fully utilized in management.” In consideration of future acquisition, he provided an overview of the OSAC’s action relative to the Joost transaction which was the subject of item 20(A). Discussion followed.

In response to a question, Mr. Guzman anticipates having a draft management plan to present to the Board by the beginning of fall. In response to a further question, he advised that the draft management plan includes operations and maintenance cost estimates.

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A regular meeting of the Carson City Board of Supervisors was scheduled for 8:30 a.m. on Thursday, June 21, 2012 in the Community Center Sierra Room, 851 East William Street, Carson City, Nevada.

PRESENT: Mayor Robert Crowell
Supervisor Karen Abowd, Ward 1
Supervisor Shelly Aldean, Ward 2
Supervisor John McKenna, Ward 3
Supervisor Molly Walt, Ward 4

STAFF: Larry Werner, City Manager
Randal Munn, Chief Deputy District Attorney
Kathleen King, Deputy Clerk / Recording Secretary

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1 - 4. CALL TO ORDER, ROLL CALL, INVOCATION, AND PLEDGE OF ALLEGIANCE
(8:31:39) - Mayor Crowell called the meeting to order at 8:31 a.m. Roll was called; a quorum was present. Airport Road Church of Christ Pastor Bruce Henderson provided the invocation. At Mayor Crowell's request, Colonel Harry Ermine led the pledge of allegiance.

5. PUBLIC COMMENTS AND DISCUSSION (8:34:36) - At Mayor Crowell's request, Colonel Ermine introduced himself as the Battle Born Civil War Re-enactors' President, a member of the Sons of Union Veterans, and Battle Born Days Executive Director. Mayor Crowell entertained public comment. (8:35:58) In reference to item 20(A), Jerry Vaccaro advised "there will be a follow-up investigation. This is a matter of the Capitol City Loans property which has been kicking around for illegal use for over 19 years and what you're trying to do today is a little premature." Mr. Vaccaro advised of having been "noticed on this two days ago that it was on the agenda." He further advised of information "to show that he has had full knowledge of the violation for well over 19 years and it's been in front of this Board before ... and it was swept under the carpet at that time and here we go again." Mr. Vaccaro requested the Board to defer item 20(A), "and anything having to do with the Capitol City Loans; easements, purchases, or whatever. That was illegally used. ... he used it for a car lot, paid no rent for over 19 years and now you're wanting to sell him an easement for \$30,000 which doesn't compute to \$1,500 a year." He provided background information on the BLM patent which provided for the City acquiring the property. He advised of a "titled document that shows when he purchased the property that he knew ... well that he did not own any frontage on Highway 50. So he's playing a little dumb here on this appraisal." Mr. Vaccaro again requested the Board to defer item 20(A) "until next month's meeting" at which time he would "provide ... proof that this is a frivolous approach to try to sweep it under the carpet once again." He expressed the opinion the Board should "have full knowledge of the past history of that property before you can make a decision."

Mayor Crowell entertained additional public comment. (8:38:31) Tom Leahy advised of having attended a Board meeting approximately a month ago at which time he was informed that "Eagle Valley Golf Course owed the City about \$100,000. Subsequent to that, ... that is going to exceed \$640,000 and, at the time, we were discussing an increase in property tax rates. In light of the fact that you want to increase our property

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In response to a question, Mr. Guzman advised that the appraisal was conducted just after approval of the federal lands bill. He acknowledged that the sales proceeds from the easements would be allocated to the Bureau of Land Management. He further acknowledged that the City is following the BLM's process, and advised that the Nevada Revised Statutes are being applied "to the part of the process that we have control." Discussion followed, and Mr. Guzman advised that the appraiser can be requested to revise his data relative to current values. At Mayor Crowell's request, Mr. Johnson referenced NRS 244.2795(1)(a), a copy of which was included in the agenda materials.

(12:04:06) Jerry Vaccaro expressed the opinion that "they're trying to make it look like Mr. Burnaugh has been hoodwinked ... by purchasing a piece of property that his building encroached on." Mr. Vaccaro provided historic information on ownership of the property and the building. He referred to his earlier request to defer this item to a future meeting to provide the opportunity to "bring you proof." He alleged that Mr. Burnaugh has used "City property and not paying one penny of rent or anything" for the past 19 years. In response to a comment, he expressed the opinion that "it would be illegal for you to sell easements to a property which is going to effect the overall value of the total real estate after the fact that you've let him purchase easements." He reiterated the request to defer action on this item and on item 21, and continued reviewing historic information relative to the subject property. He expressed the opinion that selling the easements prior to offering the property for public auction "is backwards." At Supervisor Aldean's request, Mr. Vaccaro expressed a willingness to provide documentation to the District Attorney's Office.

In reference to Dennis Johnson's earlier comments, Supervisor McKenna pointed out that the March 30, 2012 letter included in the agenda materials serves as an addendum to the summary appraisal. (12:13:09) Ward 2 Supervisor Candidate Dennis Johnson clarified his earlier comments relative to the date of valuation in the original appraisal. In response to a question, he explained the significance of the date of valuation.

(12:15:20) Stephen Johnson, of Johnson-Perkins & Associates, introduced himself for the record. In response to a question, he advised that the effective date of valuation is June 23, 2011. "That was the date I prepared the initial appraisal on this property and this assignment has gone on and on and on. ... the value ... is reflective of my opinion of value ... on June 23, 2011." He advised that the sales data would need to be researched to determine any change in the market conditions from one year ago.

Mayor Crowell suggested the necessity of an updated appraisal, and postponed action on the subject item and item 21. In response to a question, Mr. Johnson estimated a summary update could be provided within thirty days. Mayor Crowell entertained additional public comment; however, none was forthcoming.

20(B) POSSIBLE ACTION TO APPROVE THE RECOMMENDATION OF THE OPEN SPACE ADVISORY COMMITTEE TO PURCHASE APN 007-101-55, CONTAINING 20.25 ACRES, LOCATED AT ASH CANYON AND OWNED BY THE JOOST LAND AND CATTLE COMPANY, INC., AND TO AUTHORIZE THE MAYOR AND STAFF TO EXECUTE DOCUMENTS TO COMPLETE THE TRANSACTION (11:17:32) - Mayor Crowell introduced this item, and Open Space Property Manager Juan Guzman reviewed the agenda materials in conjunction with displayed maps. In response to a question, Mr. Guzman pointed out the subject property on a map included in the agenda materials. In response to a further question, he advised that the subject property has a conservation reserve zoning designation. In response to a further question, he described the property's

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topography in conjunction with a displayed map. Supervisor Aldean noted the Open Space Advisory Committee's shift from acquisition to management "and to use creative ways of acquiring property without actually buying the property." In response to a further question, Mr. Guzman provided background information on previous negotiations to acquire the property, beginning in 2008. In response to a further question, he advised of a different budget line item designated for open space property maintenance, the balance of which is approximately \$135,000. "We believe we have plenty of monies to manage not only this property but all the other ones that we have acquired, including the lands bill properties." Mr. Guzman acknowledged that a maintenance budget has been developed for FY 2012 / 2013. In response to a question, Mr. Werner explained that the open space property maintenance budget is not specifically designated by property. Parks and Recreation Department Director Moellendorf confirmed the accuracy of the statement, and explained that the Open Space Program is currently in transition from acquisition to management. In addition, a management plan is in the process of being developed for properties acquired through the federal lands bill, "and we intend on using that management plan as a model for all of our properties and, at that point, we're really going to be able to set specific budgets for the management of those properties." In response to a question, he anticipates the management plan will be completed before the autumn of 2012.

Mr. Guzman advised that open space properties are currently managed, including fuels reduction projects, road maintenance, patrol and enforcement, etc. He reiterated that funding has been specifically budgeted for open space property management. Mr. Werner suggested that the subject purchase "fits in to the whole Ash Canyon / Kings Canyon management unit ... So, there wouldn't be specific things that we would do here that would not be related to the rest of Ash Canyon." Mr. Moellendorf noted that maintenance of the subject property will be fairly low in consideration of the passive recreation associated with open space property.

Mr. Guzman acknowledged that acquisition of property is by fee simple deed, but clarified that the property will be acquired using Open Space Program funding which "specifically call for passive recreation." He further acknowledged that the residents of Wellington Crescent West will be very interested in the uses allowed on the property. Mr. Werner advised that, once the property is purchased using Open Space Program funding, "it's pretty much as you see it today."

In reference to the appraisal included in the agenda materials, Supervisor Aldean noted that the zoning and master plan designations do not correspond. In response to a comment, Mr. Werner advised that Ash Canyon Road has been extended behind the Wellington Crescent subdivision. "... there's no more sportsmen access necessary through Wellington Crescent." In response to a further question, Mr. Werner provided background information on the previous access easement. "It was an access provided until we found an alternative route and then that access expires by its own definition." In response to a comment, Mr. Werner advised that the property now has full public access. In response to a further question, he explained that the road was built as a right-of-way. "The agreement we had with the Joosts is that you can't do anything beyond using it as it is today. If they were to try to develop a roadway for development, it'd have to go along the north side of Wellington Crescent. There are some easements that we're proposing, along with WNC, but it would have to be on the north side of Wellington Crescent. It could not go through Wellington Crescent nor could it be used for access through the Joost property ... Those are limited to just public access but not development." Discussion followed and, in response to a further question, Mr. Werner advised that the Joost family does not want any development to take place on the property. He acknowledged that the decision has rendered the property less valuable. In response to a further question,

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he reminded the Board "this was a whole package," and advised that the Board previously agreed to purchase the property "once we got all the details worked out." Supervisor Aldean expressed concern with regard to having "obligat[ed] the Board to buy a piece of property at any price. If we're unable to negotiate something that we feel is a fair deal, then I don't think we're under any legal obligation, even under the terms of that agreement to buy it." Mr. Werner reviewed details of the previous agreement to purchase the property.

Supervisor Abowd expressed understanding that the price is better if the property is purchased with cash, and inquired as to the timing of the purchase. Mr. Guzman advised of having committed to purchase the property prior to December 31, 2012. He advised of having researched the possibility of purchasing the property in installments "and it was not a good proposition. ... [Ms. Joost] was willing to carry the property without interest but just the fact that we are government means that we would have to enter into a medium term obligation and create bonds and create an ordinance and create very special procedures in order to be able to accomplish that. And it was roughly estimated close to \$30,000 to be able to buy in installments versus just paying cash. So, at that point in time, ... once ... the Open Space Advisory Committee was given that information, decided ... to proceed on a cash basis." In response to a further question, Mr. Guzman advised of approximately \$100,000 available to fight wildfire. "The idea is that catastrophic events, ... the cost is borne by the whole organization, not only by one department or one division." Mr. Guzman further advised of having worked with Fire Chief Stacey Giomi to "put some of those monies to use in prevention." In addition, Mr. Guzman advised of a Southern Nevada Public Lands Management Act grant for the purpose of fire prevention measures.

In reference to the Purchase and Sale Agreement included in the agenda materials, Supervisor Aldean advised of no reference to the agreement obligating the City to purchase the property. She expressed a preference to re-review the agreement, and concern regarding the stated direction of the Open Space Advisory Committee to transition from acquisition to management. Mr. Werner reiterated that the proposed acquisition was contemplated "way before that plan was developed. We were assuming that this was going to be added to the inventory so this is not outside of that agreement. This actually started before that Open Space document you just read from. ... this has been going on for three or four years." Supervisor Aldean noted that the Open Space Advisory Committee annual report did not reference an outstanding obligation. Mayor Crowell suggested reagendaizing this item in order to provide an opportunity for the Board members to re-review the previous agreement and for the Open Space Advisory Committee Chair to be present to provide testimony. Mr. Werner assured the Board that staff doesn't move forward without Board direction, and expressed concern with regard to changing direction at this point in time. Supervisor Aldean expressed understanding for the concerns expressed, and reiterated a preference to re-review the previous agreement or record, as appropriate. Mr. Guzman offered to request Planning Division Director Lee Plemel testify with regard to the zoning and master plan designations.

Supervisor McKenna expressed no problem with waiting, and uncertainty with regard to other alternatives. He expressed a willingness to rely on assurances that delaying action will not jeopardize the deal. (11:47:08) In response to a question, Karen Joost expressed a willingness to delay action. Mayor Crowell requested staff to reagendaize the item and to provide the Board with copies of the appropriate record and agreements. Mayor Crowell entertained public comment; however, none was forthcoming.