

**Citizens' Open Space Advisory
Committee
(COSAC IV)
Council Chambers, 445 Marsac Ave.
October 28, 2014**



AGENDA

MEETING CALLED TO ORDER - 8:30 a.m.

ROLL CALL

REGULAR AGENDA

ADOPTION OF MINUTES: July 22, 2014 (Attachment I)

STAFF AND BOARD COMMUNICATIONS/DISCLOSURES

PUBLIC INPUT

Open Meetings Act- Polly Samuels McLean/Mark Harrington

Old Business:

1. Review of Gambel Oak Draft Easement

CLOSED SESSION

ADJOURN

Pursuant to the Americans with Disabilities Act, individuals needing special accommodations during the meeting should notify the Park City Sustainability Department at 435-615-5201 24 hours prior to the meeting.

**Attachment I-
COSAC IV Meeting Minutes
City Council Chambers
July 22, 2014, 8:30 a.m.**

COSAC members in attendance: Cara Goodman, Andy Beerman, Kathy Kahn, Erin Bragg, Rhonda Sideris, Bronson Calder, Suzanne Sheridan, Jan Wilking, Judy Hanley, Bill Cunningham

Staff: Heinrich Deters

CALL TO ORDER

Judy called the meeting to order.

ADOPTION OF MAY27, 2014 MINUTES

MOTION: Kathy Kahn moved to approve the minutes as written. The motion was seconded

VOTE: The motion passed unanimously.

STAFF AND COMMITTEE DISCLOSURES/COMMENTS

Heinrich announced the City is participating in a regional planning exercise called Mountain Accord. The group has been formed for about 2 years now and was initially heavily focused on the Wasatch Front. Erin Bragg represents lands on the environmental group. Heinrich, in addition to dabbling on the environmental group sits on the recreation committee. Andy sits on the executive committee. Charlie sits on the recreation committee. Tim Henney is on the recreation committee as well. The systems committees include: recreation, transportation, economy, and environmental.

Andy explained the group started out as Mountain Transportation and was focused mainly on the Cottonwood Canyons and how to improve transportation and parking. The project has expanded to include the entire central Wasatch and has moved beyond transportation. The committees are taking a good look at environmental protection, recreation and the economy. Preservation is one of the core elements as well, including the buffer zones of Bonanza Flats and Guardsman Pass and the ridgelines in Big Cottonwood Canyon.

There will be a whole series of Mountain Accord meetings that are open to the public this fall.

Heinrich introduced Steve Joyce, who is replacing Stew Gross as the Planning Commission liaison to COSAC.

Heinrich announced the Gambel Oak conservation easement would tentatively be heard before Council on August 21.

PUBLIC COMMUNICATIONS

Heinrich noted he did not see anyone present to give public comment.

Kathy asked if COSAC would be having a meeting in August. Heinrich responded he was unsure, but if there is not anything to be discussed, the meeting would be canceled.

Heinrich asked Jan (BOSAC Chair) to provide an update on BOSAC activities to the committee. Jan said the Summit County Council is considering a \$25 million bond. The bond will be divided into \$10 million and \$15 million, one of the amounts will be for recreation and a portion will be for open space. The Basin Recreation District has to approve the bond first. Then, it goes to the County Council for approval.

Heinrich said that the City and the Basin, along with the County did a Recreation Master Plan exercise. Collectively, the group looked at existing conditions and through open houses and a survey, polled what the community wanted from recreation. A facility similar to the South Summit Rec Center, trails, dog parks, and an ice arena were at the top of the priority list.

Kathy said the fastest growing sports in the nation are curling and pickle ball. Historically, COSAC joint purchases with the Basin and BOSAC have been successful. It is feasible that another joint purchase may occur. Jan commented that because of a land sale near Canyons, BOSAC may have approximately \$5 million to use prior to the bond vote. He reiterated that BOSAC is an advisory committee just like COSAC is. They make recommendations regarding open space purchases that must be approved by the County Council prior to purchase.

Heinrich commended COSAC on the work they did in formulating a criteria matrix and finalizing the easement deed restriction policy.

Jan stated BOSAC frequently struggles with achieving balance between the need for recreation vs. conservation. He noted that a recommendation had been received to put a cemetery on the PRI property, but the rocky soil conditions in the area preclude a use of that type. Caution must be exercised not to restrict property from a use that would be beneficial to the community, like a power substation.

Andy commented a lot can be learned from the acquisition of the PRI piece. The purpose of purchasing the property was conservation, but other uses have been proposed that contradict conservation efforts. Going forward, intentions should be made clear prior to purchasing open space to make sure issues will be addressed up front.

Jan added that Boyer holds the deed restriction for the property and are the benefited party. Erin clarified the County and the Basin owns the land, but Boyer has a say in the land use there. The issues surrounding the property are highly complicated.

Kathy noted there is great necessity for an additional cemetery in the Snyderville Basin area. Efforts are being made to reserve plots in the Park City cemetery for residents only. Rates for non-resident plots are substantially higher than for residents. There was general discussion about the number of plots available, price for plots, and transfer of ownership.

MOTION: Kathy made a motion to go into closed session. Jan seconded.

VOTE: The vote was unanimous.

COSAC Staff Report



Subject: Gambel Oak Easement

Author: Heinrich Deters

Department: Sustainability

Date: October 28, 2014

Type of Item: COSAC Discussion

Topic/Discussion:

Draft language associated with the proposed Gambel Oak conservation easement.
(Attachment II- Draft Language Recitals and Uses)

Staff Recommendation:

COSAC should review and approve the draft conservation easement language as provided.

Background

At the July 30th COSAC meeting, the Committee reviewed information associated with the acquisition, funding, historical uses, existing conditions, existing restrictions and easements associated with the approximately 223 acre Gambel Oak/White Acre and Hope parcels. The discussion centered primarily on 'values' associated with the parcels, appropriate permitted uses, definition of passive recreation and if a 'conservation easement' was appropriate for the parcels. Specific notice was taken on the existing conveyance restrictions placed on the Gambel Oak/White Acre parcels via the Congressional Act. Additionally, the Committee discussed omitting the portion of the Gambel Oak parcel which is located to the south of Mellow Mountain Road due to it being within the residential area of Deer Valley Drive because the area does not contain any conservation values.

The Committee ultimately passed a motion, which recommends Council consider a 'conservation easement', consistent with the existing deed restrictions and funding mechanisms and subject to language and details.

On August 21st, City Council approved COSAC's recommendation to place a conservation easement on the Gambel Oak properties. City and SLC staff has worked closely on the draft language provided in the report.

Analysis

Gambel Oak/White Acre Parcels (Exhibit A-shown in green)

The Gambel Oak and White Acre parcels were both acquired by Park City Municipal from the Bureau of Land Management (BLM)/Department of Interior and subsequently Congress in September 2009. The Congressional bill that authorized the conveyance of the parcels to Park City required that the City place a deed restriction on the property: (2) DEED RESTRICTION.— The conveyance of the lands under paragraph (1) shall be made by a deed or deeds containing a restriction requiring that the lands be maintained as open space and used solely for public recreation purposes or other purposes consistent with their maintenance as open space. This restriction shall not be interpreted to prohibit the construction or maintenance of recreational facilities, utilities, or other structures that are consistent with the maintenance of the lands as open space or its use for public recreation purposes.

The parcels were initially part of a long term Recreation and Public Parks lease agreement, initiated in 1985, between PCMC and the BLM to create trails, park facilities and public access. Subsequent negotiations with the Air Force regarding a military recreation facility paved the way

for the ultimate conveyance of the property to PCMC, which included the City buying out mining rights associated with the parcels with open space bond funds and placement of the required recreational and open space deed restrictions placed on the parcels.

Hope Parcel (Exhibit A- shown in yellow)

In December 2004, City Council agreed to purchase the Hope parcel, which consisted of several patented mining claims, most notably, the Emily and Hope claims. The purchase price was \$1.1M for the 112 acres and funded by open space bond proceeds. Deed restrictions were placed on Hope parcel and the language is attached.

Permitted Uses

Permitted use language is consistent with preservation goals, deed restrictions, future and existing utilities and the funding source.

Public Utilities, Access and Easements

There are several existing utilities associated with the parcels. While the previous BLM recreational lease and subsequent right of way easements granted to the City, were cancelled by the BLM as part of the conveyance, because they became moot once of the ownership transfer three existing easements are underground: sewer, water, and gas; and three are above ground: road, water (access) and power. Public access to both parcels was secured through the April Mountain Development Agreement and formalized on the subsequent plat. Permitted uses should be consistent with these existing easements.

Contemplated City Needs and Concerns

Future and Existing Utilities

The City has an existing water tank and approved appurtenances located on the Hope parcel. This tank provides water for approximately 5,300 ‘hook ups’ within the adjacent area and will need to be upgraded, replaced and/or expanded in the future. Additionally, access to the tank through the Hope parcel is required and may need to be modified. Draft language, provided, reviewed and agreed upon by the City and SLC staff, secures the ability for the City to address concerns associated with access to the water tank, in addition to the future need to expand and maintain the tank and appurtenances, while also remaining true to the values as stated in the easement.

Significant Impacts:

	World Class Multi-Seasonal Resort Destination (Economic Impact)	Preserving & Enhancing the Natural Environment (Environmental Impact)	An Inclusive Community of Diverse Economic & Cultural Opportunities (Social Equity Impact)	Responsive, Cutting-Edge & Effective Government
Which Desired Outcomes might the Recommended Action Impact?	+ Accessible and world-class recreational facilities, parks and programs	+ Abundant preserved and publicly-accessible open space		+ Well-maintained assets and infrastructure
Assessment of Overall Impact on Council Priority (Quality of Life Impact)	Positive 	Positive 	(Select from List)	Positive 
Comments:				

Funding Source:

Funding associated with the easement and baseline study for the parcel has been addressed. Staff recommends utilizing the Open Space Maintenance funding CIP for costs outside of funds raised privately by SLC.

Consequences of not taking the recommended action:

The properties will remain protected by deed restrictions, subject to utility easements of record.

Recommendation:

COSAC should review and approve the draft conservation easement language as provided.

EXHIBIT A- Gambel Oak/White Acre and Hope Map



Property is also used for picnics and similar recreational purposes consistent with an undeveloped public park.

- ii. Open Space Value: The Property has (a) natural and undeveloped ridgelines and hillsides visible from Deer Valley, Park City Mountain Resort, Old Town, Prospector, Park Meadows and Highway 248, and (b) a variety of wildlife and diverse natural vegetation. Existing unpaved trails, trail amenities and utilities have a minimal impact on the Open Space Value.

C. The Open Space Value and Recreational Value are hereafter described as the “Conservation Values” and are further documented in the Baseline Document Report (the “Baseline Documentation”), a copy of which is on file at the offices of Grantor and Grantee, and the Grantor and Grantee have acknowledged and hereby acknowledge said Baseline Documentation memorializes the condition of the Property as of the effective date of this grant.

D. The Easement is granted with the approval of the Citizens Open Space Advisory Committee (COSAC), appointed by the Park City Council to facilitate the acquisition and preservation of open space within the greater Park City area.

E. The Gambel Oak and White Acre parcels were given and granted by the United States of America, to the Grantor, on or about September 2, 2009, subject to the restriction and requirement that the land be maintained as open space and used solely for public recreation purposes or other purposes consistent with their maintenance as open space, and that the restriction shall not be interpreted to prohibit the construction or maintenance of recreational facilities, utilities or other structures that are consistent with the maintenance of the lands as open space or its use for public and recreation purposes.

F. The Hope Mining parcel was purchased by the Grantor on or about January 3, 2005 with proceeds from a special bond, authorized by Park City voters in a 2002 special bond election, for the express purpose of acquiring open space.

G. The original owners of the Hope Mining parcel conveyed the property subject to the restrictive covenant that the property be maintained in perpetuity as open space, in perpetuity as an undeveloped park and recreational land, and that no improvements are placed on the property except those which are consistent with the preservation and protection of the natural amenities.

H. The Hope Mining parcel has a water tank and appurtenant utilities for the provision of water services, and the Grantor and Grantee acknowledge that the continued operation, maintenance and possible replacement or expansion of the water utility may be in the public interest and shall be permitted pursuant to the terms of this Easement.

I. By entering into this Easement, the Owner and Conservancy intend to protect the afore-mentioned open space interests and purposes in a manner consistent with the terms of the afore-mentioned deed restrictions and the land patent restriction.

J. Owner intends, as owner of the Property, to convey to Conservancy the right to preserve and protect the Conservation Values in perpetuity and represents that the Property is free and clear of all encumbrances except for rights-of-way, easements and reservations of record as of the effective date of this grant.

K. Owner warrants and represents that Owner has the authority to enter into the Easement and that Owner freely and voluntarily conveys this Easement to Conservancy in perpetuity. Owner acknowledges receipt of the information and disclosures required under Utah Code Section 57-18-4 more than three days prior to executing this Easement.

L. As of the Effective Date, Conservancy is a nonprofit corporation incorporated under the laws of Utah as a tax-exempt public charity described in Sections 501(c)(3) and 509(a)(1) of the IRS Code (defined below), organized to protect and conserve natural areas and ecologically significant land in its natural, scenic, historical, agricultural, forested and/or open space condition for scientific, charitable, and educational purposes; and is a qualified "holder" of a conservation easement under the Utah 'Land Conservation Easement Act' statute, sections 57-18-1 to 57-18-7.

M. Conservancy agrees by accepting this grant to honor the intentions of Owner stated herein and to preserve and protect in perpetuity the Conservation Values of the Property for the benefit of this generation and generations to come.

EASEMENT TERMS

IN CONSIDERATION of the recitals set forth above, the mutual covenants, terms, conditions, and restrictions contained in this Easement and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, and pursuant to the Utah state law, in particular, the 'Land Conservation Easement Act', Owner irrevocably grants and conveys to, and the Conservancy accepts, a perpetual easement in, on, over, and across the Property, subject to the terms and conditions set forth in this Easement, restricting forever the uses that may be made of the Property and granting the Conservancy certain rights in the Property; and Owner and the Conservancy agree as follows:

CONSERVATION PURPOSES. In keeping with Park City Municipal's stated goals to maintain a world-class, multi-seasonal resort destination and to preserve and enhance the natural environment, the purposes of this Easement are to preserve and protect in perpetuity for the public trust and, in the event of their degradation or destruction, to assure the restoration of the Conservation Values of the Property. In particular, the primary purpose of this Easement is to protect forever the Property's Recreation Value for non-motorized "passive" public recreation consistent with an undeveloped park and its Open Space Value with undeveloped view-shed, natural vegetation and wildlife habitat.

**EXHIBIT C
TO
EASEMENT**

PERMITTED AND RESTRICTED USES AND PRACTICES

The Property shall not be used for residential or commercial purposes except as permitted in this Exhibit C. Industrial uses are not permitted. The uses set forth in this Exhibit C detail specific activities that are permitted or prohibited under this Easement. The uses set forth in this Exhibit C are also intended to provide guidance in determining the consistency of other activities with the Conservation Purposes. Notwithstanding the uses set forth in this Exhibit C and, notwithstanding any provision of this Easement to the contrary, Permitted uses of the Property (whether set forth in this Exhibit C or elsewhere in this Easement) shall not be conducted in a manner or to an extent that diminishes or impairs the Conservation Values or that otherwise violates this Easement, unless such conduct is otherwise permitted by the terms of this Easement or by pre-existing documents, recorded with Summit County.

1. RECREATIONAL USES. The property may be used for non-motorized, recreational activities including, but not limited to, hiking, snowshoeing, cross-country skiing and horse-back riding on designated recreational trails, as well as, uses consistent with an undeveloped park.

MANAGEMENT. The Property will be managed by the Owner according to best practices for natural and undeveloped open space, with specific attention to maintaining the wildlife habitat. No dwelling, structure, or above-surface equipment or facilities of any kind shall be erected or placed on the Property except for the following: (a) improvements that maintain the natural qualities of the open space; (b) improvements necessary to protect the safety and physical integrity of the surrounding properties; (c) recreational improvements for trails and/or an undeveloped park; and (d) public utility improvements consistent with the terms of this Easement. The Property shall not be used for any purpose that is inconsistent with it being held as open space.

TRAIL MAINTENANCE AND CONSTRUCTION. The maintenance of existing trails or construction of new trails is permitted upon prior written approval to Conservancy, not to be unreasonably withheld. Trail uses, routing, construction and maintenance shall be managed in a way that minimizes impacts to the Conservation Values.

GATHERINGS OF PEOPLE AND EVENTS. Public recreational events on established trails and making use of undeveloped park areas are permitted, provided such events are approved by Owner pursuant to Park City Municipal's special event application process, and/or other municipal requirements applicable from time to time. Such special events may include but are not limited to, mountain bike events, trail running races, organized hikes and small gatherings of people for educational or recreational purposes. Events likely to have a substantial or long-term effect on the Conservation Values are prohibited. Temporary uses and facilities incidental to the event are permitted, such as a water station for a trail running event. Motorized vehicles may not be used for events.

RECREATIONAL AND TRAIL AMENITIES. Recreational facilities and amenities that have a minimal impact on the Open Space Conservation Value and a

minimal impact to wildlife may be permitted upon prior written approval from Conservancy.

PARKING AND MOTORIZED VEHICLE USE. Motorized vehicles are not permitted on the property other than for emergency services, for trail and Property maintenance, the maintenance of utilities, or for the construction of new trails or amenities approved by Conservancy. Parking is not permitted anywhere on the property other than temporarily, for the purposes described above.

ADA ACCESS. The terms of this Easement shall not prevent the Owner from allowing the use of electric wheelchairs on the Property, or other power-driven mobility devices pursuant to Owner's obligations under the American's With Disabilities Act of 1990, or other laws and regulations pertaining to the rights of persons with disabilities.

HABITAT RESTORATION ACTIVITIES. Activities to restore or enhance native plant communities or wildlife habitat will be permitted pursuant to a restoration plan approved by both Owner and the Conservancy.

UTILITIES. Limitations on the maintenance of existing utilities and construction of new utilities pursuant to this Easement shall be subject to pre-existing utility easements and rights of record. The installation of new utilities on parts of the Property not subject to existing utility easements is subject to the Conservancy's prior written approval. Conservancy shall approve the installation of new utilities if, in Conservancy's reasonable opinion, (a) such utility will have a minimal impact to the Conservation Values, or (b) the utility is vital to the people of Park City and it's highly impractical to locate it anywhere other than on the Property, or (c) such new utility is to be located underground in an existing utility corridor. If the installation of a new utility and appurtenant road is considered necessary, the parties shall make all efforts to locate the utilities and road in a manner that minimizes the impact to the Conservation Values. Owner will notify the Conservancy prior to any use, modification, or work on the existing utility easements on the Property, and to the extent practicable, will conduct any such work in a way that minimizes any impact to the Conservation Values. To the extent practicable, any above-ground improvements to the existing water facilities shall be (i) designed to minimize the visual impact to the ridge line view; (ii) water tanks or appurtenant facilities made obsolete by new improvements shall be removed from the Property; and (iii) upon completion of the improvements, the Property shall be restored to its natural condition.

ROADS. The construction of new roads and the improvement or expansion of old roads for the purpose of vehicular access is prohibited, other than for the construction, improvement or maintenance utilities pursuant to paragraph 9 of this Exhibit. Any new road shall be constructed of an impervious surface. If construction of a new road is considered necessary, the parties shall make all efforts to locate the road in a manner that minimizes the impact to the Conservation Values. Owner may post signs, design trails and place a gate across the utility access road to water tank area.

CHEMICAL AND BIOLOGICAL CONTROLS. In accordance with all applicable federal, state and local laws and regulations, Owner has the right to use agrichemicals and biological controls on the Property as necessary to control noxious weeds, pests and for mosquito abatement. Chemical and biological controls may only be used in accordance with all applicable laws, and in those amounts and with that frequency of application constituting the minimum necessary to accomplish reasonable noxious

weed, pest and mosquito abatement objectives. The use of such agents shall be conducted in a manner to minimize adverse effects on the natural values of the Property and to avoid any impairment of the natural ecosystems and processes.

PROBLEM OR DISEASED ANIMALS. Owner may use legal methods to control diseased and/or problem animals as permitted by state and federal laws.

ALTERATION OF WATERCOURSES AND TOPOGRAPHY. Owner may not make any change, disturbance, alteration, excavation, or impairment to any watercourse or the topography of the ground on the Property except as otherwise permitted by this Easement.

WATER RESOURCES. Owner may enhance, if applicable, water quality on the Property recognized as necessary or beneficial to wildlife, ecological or habitat values on the Property, provided such enhancements are consistent with the terms of the easement and the Conservation Values, and comply with all applicable laws and regulations.

FENCES. Fencing that exists on the Property as of the Effective Date may be repaired and replaced. New fences may be built on the Property upon prior approval of Conservancy, not to be unreasonably withheld and provided such fences (a) are reasonably necessary for the protection of property, wildlife resources or public safety, (b) will not unduly restrict or impair wildlife movement, and (c) will not unduly interfere with the Open Space Value of the Property.

SIGNS AND BILLBOARDS. Billboards and signs are prohibited on the Property, other than signs for the following purposes:

- A. To indicate that the Property is conserved with a "Conservation Easement" held by the Conservancy; and
- B. To identify trails or interpretive sites on the Property and provide educational information; and
- C. To state rules and regulations, safety, or hazardous conditions found on the Property in accordance with the Owner and the Conservancy's established guidelines for properties they own; and
- D. To close trails temporarily on the Property in order to protect wildlife; and
- E. To post "No Hunting or Trapping" signs; and
- F. To notify the public of temporary events, including but not limited to, directional markers for bike/running race participants, provided such signs are removed within two days after the culmination of the event; and
- G. For such other purposes as the Conservancy, in its discretion, approves

FIRE SUPPRESSION. Owner may remove brush and vegetation necessary to minimize the risk of wildfire on the Property. Potential means to reduce or remove high risk fuel loads may include, but would not be limited to: mechanized methods; biological controls, including short-duration grazing; slash, stack and burn; or controlled burns.

COMMERCIAL RECREATION. Owner may permit use of the Property for otherwise lawful commercial recreational uses that do not conflict with the Conservation Values and are consistent with the Conservation Purposes.

SUBDIVISION. The legal or de facto division, subdivision, or partitioning of the Property is prohibited. Notwithstanding the fact that, as of the Effective Date, the Property is comprised of separate legal parcels, the terms and conditions of this

Easement will apply to the Property as a whole, and the Property will not be sold, transferred, or otherwise conveyed except as a whole, intact, single piece of real estate; it being expressly agreed that neither the Owner nor the Owner's personal representative, heirs, successors, or assigns will sell, transfer, or otherwise convey any portion of the Property that constitutes less than the entire Property. The existence of any separate legal parcels, if any, as of the Effective Date will not be interpreted to permit any use or activity on an individual legal parcel that would not have been permitted on such individual legal parcel under the terms and conditions of this Easement as applied to the Property as a whole.

MINING AND NATURAL RESOURCE DEVELOPMENT. Subject to pre-existing mineral rights of record, the exploration for or extraction of minerals, gas, hydrocarbons, soils, sands, gravel, or rock, or any other material on or below the surface of the Property is prohibited. Owner will not grant any rights to any minerals, oil, gas, or hydrocarbons, including the sale or lease of surface or subsurface minerals or any exploration or extraction rights in or to the Property, and Owner will not grant any right of access to the Property to conduct exploration or extraction activities for minerals, oil, gas, or hydrocarbons, or other substances on any other property.

NO HAZARDOUS MATERIALS. Use, dumping, storage, or other disposal of non-compostable refuse, trash, sewer sludge, unsightly or toxic materials or Hazardous Materials is prohibited. This Easement does not permit Conservancy to control any use of the Property by Owner which may result in the storage, dumping or disposal of hazardous or toxic materials; provided, however, Conservancy may bring an action to protect the Conservation Values of the Property. This prohibition does not impose liability on Conservancy, nor shall Conservancy be construed as having liability as a "responsible party" under CERCLA or other similar state or federal statutes.

NON-NATIVE SPECIES. Introduction of any non-native plant or animal species is prohibited other than those generally accepted for habitat improvement or as mutually agreed upon by Grantor and Grantee.

DUMPING AND WASTE. No dumping, burying, storing, applying or releasing of waste, sewage, garbage, vehicles or appliances is allowed on the Property, except (a) appropriate routine storage of garbage and wastes from permitted uses of the Property pending transport for proper disposal and (b) garbage and wastes which flow into proper septic or other appropriate waste disposal systems.

DESTRUCTION OF NATIVE VEGETATION. The removal, cutting or destruction of native vegetation is prohibited except as reasonably incident to permitted activities or as otherwise permitted by this Exhibit C, for disease or insect control or to prevent property damage or personal injury

