

COSAC V  
07.26.16

Meeting called to order 8:32 am

**Commission members**

Andy Beerman  
Steve Joyce  
Jim Doilney  
Charlie Sturgis  
Jan Wilking  
Rhonda Sideris  
Brooke Hontz  
Cheryl Fox  
Wendy Fisher  
Bill Cunningham  
Carolyn Murray  
Meisha Ross  
Cara Goodman  
Kate Sattelmeier  
Kathy Kahn  
Rick Shand

**Members of the Public**

Ed Parigian  
Sharon Cristensesn  
Diane Bernhard

**Staff**

Heinrich Deters  
EQF  
Harrington

Patt Putt: invited gues

Comments to Minutes

Jim was not listed  
Minutes  
MPD – should be master planned development

Motion: bill  
Second Jan  
Approved

Cheryl asked for a minute before we start

Both Utah Open Lands and Summit Land Conservancy have fund-raisers.

Blue Sky Bash: early bird tix: goes up August 1<sup>st</sup>

September 8<sup>th</sup>

Old Business:

Library preservation

Discussion based on previous direction from the committee's vote to 'add additional protections for the Library Field'. Deters presented research within the staff report which looked at other towns, including Ketchum, Aspen and Vail. Report notes the following.

Vail has written into their town charter, the ability to designate and preserve certain open spaces by presenting options for voter approval. The property, including parks can be designated a certain open space 'status' and that status cannot be changed without voter approval. This is an example of another option for preservation. Vail does utilize third party easements on some of their open spaces. Colorado has different legislatively than Utah so more meat on the bones if something is in the town charter.

Aspen has put easements on some of their urban parks.

Ketchum relies on zoning for their urban parks but there was reference to some easements being placed in the towns of Hailey and Bellevue

Deters spent time on Aspen valley land trust site. Could not find the specific easement documents as an example of the language. Will continue to explore.

Beerman asked if the Hailey and Bellevue references were for actual urban parks and not something else, as he recalled some easements associated with the local highway department.

Deters referenced a 'case study' provided in the staff report which provides a legal analysis of urban parks. The article notes easements are a great tool BUT for example in the Santa Fe Rail yard case study, the devil is in the details. (Determining future compatible or unforeseen uses such as the special event requests)

Deters asked the group for a purpose statement for the appropriate tool, so asking COSAC to go through matrix. 'What are they trying to protect from a value standpoint consistent with the matrix'. Ed said they like it as-is, but we will always get a push for uses...(e.g., Sundance tent). Where does it stop? Temporary versus permanent uses, etc. 'The library field is a community space so the community should weigh in.'

Heinrich discussed a draft statement that focuses on the library field and draft permitted uses. Off-leash dogs and special events OK? Try to create a picture of the 'as-is.' Prohibited uses: permanent structures, anything in conflict with the purpose statement of the conservation easement.

Moving forward: COSAC needs to make a recommendation, which Deters will take to council with the purpose statement. Council will then provide direction. Included in the COSAC recommendation report, will be City department input, including Recreation, Utilities, Community Development, Library, etc. Question to Council would be: If an easement, should staff put out RFP (similar to Clark Ranch) and award.

Steve said current code says restricts open space, but this means little or nothing—ski lifts, golf course, municipal buildings are noted as possible uses. All it takes to move is one vote. The process would not have to come through COSAC. People and planning commission don't get to vote. Because the current code doesn't truly protect, the only vehicle is 3<sup>rd</sup> party easement.

Cara said looked at other cities and said other cities use boards to fund-raising to raise money for their other parks—plant a tree, add a plaque, etc. would a 3<sup>rd</sup> party conservation easement allow us to do something like this in the future? Might be interesting opportunity for fund-raising for future open space purchases. Wendy responded that it usually doesn't get in the way.

Wendy gave kudos to Deters—what the easement should do is list out what is taking place now. From a land trust perspective—the benefit of a 3<sup>rd</sup> party is to help the city say 'no' to things they want to say no to. Specificity needs to be in the RFP and documents—in terms of where we want the easement to head is a devil in the details. It is important to note, a land trust would not want to take on an easement that will have enforceability issues in the future.

Cheryl added that issues come up—the county buys land but can't agree what the easement should look like. Terrifying. SLC drafted initial clauses of a conservation easement just to see what it would look like. "What are we really trying to protect?"—use this, not use this, etc.

Heinrich repeated that he would want the community to be heavily involved in the process. Next, what is the purpose statement/Values—active versus passive, scenic, etc. we need to provide council with more details for a recommendation.

Heinrich is asking for two things:

- Specificity from COSAC on 'what values are you trying to protect?'
- What preservation tool?

Andy definitely wants to see it protected, but COSAC needs to ask themselves 'what is the appropriate tool?' If COSAC had done an easement 10 years ago we possibly would not have been able to do library expansion. There is no value in writing a conservation easement that is so weak that it does not protect anything. Andy Challenged group to find or create another tool that allows for appropriate flexibility, while preserving the intent.

Steve challenged—we just built a coffee shop on a field that's been a field for 100 years. Kind of protected. The City could have rebuilt the library without the coffee shop. There was a lot of talk about rerouting the roads for the dumpster and book pickup as well. It was almost too easy to put in a coffee shop and we almost had a road.

Andy said he does not disagree with Steve BUT the value is that it's a community space—and the coffee shop extends it.

Jan asked Steve—has the expansion of the building hurt the value of the field? He thinks no. Steve agreed but said it was really easy for the city to decide to build into the space. 10 years from now—the city could decide something again—affordable housing, etc. Jim said he's with Steve, not Jan. There's always going to be another great idea.

Charlie said 30 years ago we almost gave the property away. All they did was give notice to properties on 100 yards. Charlie likes flexibility but agrees that you don't know what needs to or might happen. He noted it's interesting that Vail has a tool that requires 2/3 vote of populace.

Mark said whether an easement or something different—it can be structured like you want. Whatever it is, it is stronger doing it with a 3<sup>rd</sup> party or as a transaction. If non transactional, then future council could declare a use forever, through an easement, deed restriction or resolution, noting the mcpolin barn resolution is still in place, etc. You can build in as much or as little as want with a fair amount of leeway that way. Andy's request that you consider flexibility is wise. There is an affirmative distinction between wild places and something that's an active area like urban parks. You don't want to dilute expectation of conservation. The group could consider recreation easement so that the community has an expectation. We have oversimplified conservation easements and their meaning. If something is strictly conservation then use a conservation easement, if not, don't. Additional alternatives could include building in something like a 2/3<sup>rd</sup> or something else.

Wendy added to Andy's thoughts—you don't want to craft a document that 'pretends' to be a conservation easement but can't be enforced. Want to use the strongest mechanism to preserve what it is you are preserving. Regardless of the motion that gets made, there should be the ability to say 'we prefer conservation easement' for these reasons—strength of the tool, want to make sure have the

strongest mechanism possible. If not that is not the case, look at slightly different tool. Do not water down easements if they cannot be enforced.

Andy said we should definitely preserve this BUT again, maybe this is an opportunity to come up with another tool that does what it should—something for urban parcels. Andy pointed out the issues with the current rail trail easement—can we put in a water feature? There were issues simply trying to get it paved for a while. Don't use a tool that's too heavy. Andy also pointed out the coalition park easement.

Cheryl offered a different perspective—without the easement on it, who knows what the rail trail or coalition park would look like today. They were bought with open space, so there are restrictions.

Steve noted Cheryl's different perspective: the first mistake—if you really didn't want it to be open space, then you should not buy with open space. If you are not purchasing something with open space funds, then it is good to have flexibility. Maybe it is the time to develop a new tool. Going down the right path of what's really important to us. Maybe it's as simple as a different kind of easement, but maybe it's something new in the code.

Heinrich asked the group—do you want a 3<sup>rd</sup> party involved or not? This would help staff.

Mark noted we just need two things:

- Determine what we want protected
- Identify the tool.

We can then narrow specificity. These discussions are challenging---city wants to make sure Council looks before they leap. Balance the measures of restrictions and future flexibility. Distrust of government causes people to assign motive. We can give you suggestions:

- Out of the box ideas, similar to what Andy is saying
- Recreation open space easement that staff asked for in the report
- 3<sup>rd</sup> party easement which is stronger

Bill made motion that we permanently protect library field with a conservation easement. Carolyn seconded.

Discussion

Charlie noted the lukewarm response to the motion.

Wendy proposed a more friendly option: Recommend a preservation easement as most likely the best tool. The committee could recommend that if there is a 3<sup>rd</sup> party

enforcement, there is protection from development and we could have flexibility built in.

Cheryl said first two points are good:

- We want a conservation easement because of 3<sup>rd</sup> party enforcements
- We want the permanent protection from development

Rhonda said she could vote on 3<sup>rd</sup> party piece.

Steve said there is value in 3<sup>rd</sup> party legal strength. Stronger but not impossible to change versus the city making a declaration. Is this really a difference between 3<sup>rd</sup> party and the City making a declaration? Mark said yes.

Rhonda said even when her kids were 18 when went out of town—still had someone stay at the house, similar to a ‘3<sup>rd</sup> party’.

Wendy said it should be a different motion.

Cara said when we come back with the motion—it is important to distinguish from sage grouse habitat. Whether called a recreation easement or something different or new, it is important that this distinction comes through and we’re not diluting from critical conservation.

Motion on the floor: Bill withdrew.

New motion:

Cara made motion for

- Recommend a 3<sup>rd</sup> party easement
- Would protect from development
- The easement should distinguish that it is different from critical conservation easement
- 

Cheryl said if you want the strength of a conservation easement, you need to be very clear in wording:

- protect as city park
- permanent protection
- 3<sup>rd</sup> party

Cheryl said if you create something new, there is no case law to ensure it is legally sound. Mark said that is not true. He suggested “preservation easement” which is enforceable.

Rhonda made the motion:

- Preservation easement
- Held by a 3<sup>rd</sup> party

- Would restricted from further development  
Brooke seconded.

Vote: Unanimous approval....none opposed  
No abstains.

Ed gave public perspective—we don't want flexibility—we want it left as-is—no restrooms, no promenade, no gazebo, no public garden.....nothing. Maybe a tree or two.....just leave it as a field of grass. We don't see where the flexibility comes in. The coffee shop is not really on the field. We don't want to give the city the opportunity to build on it 50 or 100 years down the road through sleight of hand. We want preservation to take away the flexibility. If you want a sculpture or water fountain, put over by the library: don't make it an attraction.

Charlie said anything we vote on can still be changed...it just guides staff for the report.

Jan made a motion to close the meeting for property at 9:27 am.  
Brooke seconded  
Motion passed unanimously  
Meeting closed.