

## **OPEN SPACE COMMISSION**

April 22, 2024 Commission Minutes

1. **Call to Order.** Chair Applin called the meeting to order at 4:02 pm
2. **Roll Call.**

Present: Nat White, Bruce Applin, Mary Norton, Lina Wallen, Bruce Fox, and Council Liaison Deborah Harris

Absent: Jacqueline Thomas, and Chelita Borbon Runbeck

Staff: Robert Wallace, Rebecca Sayers, Kevin Fincel, Sylvia Struss, Martin Ince, and Shannon Anderson

Others: Mark Loseth, Kalvan Swanky, Coconino HS Viewer, Michele James, Joan Martini, Espias Esplain, Michael Ben-Horin, Jen Blue, Rick Moore, Joe Hendricks, Cody Routson, Alexis Stack, Steven Stack, Charlie Silver, Barbara Phillips, Duffie Westheimer.

3. **Land Acknowledgment:** Chair Applin read the Land Acknowledgment.
4. **Approval of March 25, 2024 meeting Minutes:** Commissioner Fox motioned to approve the March 25, 2024 meeting Minutes, Commissioner Wallen seconded, all voted in favor.
5. **Public comment:** Chair Bruce Applin called for public comment on items not on the agenda. There was a request to magnify the document on the screen.
6. **Business Items**

### **A. Hidden Hollow Easement Adjustment Recommendation to Flagstaff City Council**

Chair Bruce Applin first called for public comment on this topic.

Alexis Stack, owner of the 2J parcel expressed frustration because the past meetings have gone over the same information and questions repeatedly, without it being retained. She said the landowners have a legal right to the road, and that the parcel owners and the engineers are committed to building out the road in the least invasive way. This Commission wanted to look at founding documents, but it seemed disorganized. She quoted from the Conservation Easement regarding use and access to private property owners of Right of Way [hereafter ROW]. With regards to the 20 acres to develop under the easement, she said, the City would be getting back several acres as Open Space.

Cody Routson, owner of the 2L parcel, said it seemed like there is misunderstanding or confusion about what the commission is voting about. The question, he said, is do we want to make the road as near to the existing road. If not, we'd have to make a new road next to the existing disturbance. The parcel owners want to make their driveway within the existing disturbance to minimize the impact.

Chair Applin stated that the Commission's goal was to come to a decision about making a recommendation to City Council, this evening, so as to conclude this business. City Council can accept it all or in part, or reject it, or make some other decision.

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Commissioner White said that his concern was not whether the private parcel owners have a legal right to use the ROW, but whether amending the ROW conflicts with the AZ State Parks held Conservation Easement; and that City Council will want to know that too. Open Space Supervisor Robert Wallace reported that Arizona Game and Fish recommended keeping the road dirt for wildlife, and they preferred no fencing since fencing could prohibit wildlife movement into Observatory Mesa Natural Area (OMNA). Mr. Wallace also reported on a meeting with Mickey Rogers of Arizona State Parks. Mr. Rogers confirmed that Flagstaff has the authority to make a recommendation to AZ State Parks regarding the amendment of the ROW. He also said that work done in the ROW will impact the 10% allowance of development to the Conservation Easement land. If the work was inside the current existing ROW, it would not impact the 10%, but any work outside of the existing ROW would, and AZ State Parks would need to monitor the construction activities. Mr. Rogers also said that AZ State Parks would need to approve an amended ROW easement. He did not have an answer yet about how the work outside the ROW would affect the baseline documentation of the Conservation Easement.

The Commission then reviewed the proposed conditions noted in the March 25, 2024 Minutes. There was discussion about whether to recommend the ROW adjustment with conditions, or make it known that the Commission felt they didn't have everything they needed to fully support the change.

The conditions referenced were:

- a. Require the creation of an HOA to provide a legal entity responsible for maintaining the conditions.
- b. Require a performance bond for the adjustment of the dirt road to ensure that the work will be completed and to warranty the work for three years to ensure proper construction.
- c. Require all construction on OMNA property to go through the Arizona State Parks and Trails Conservation Easement review requirements, which include but are not limited to an archeological survey, Arizona State Parks and Trails review, and State Historic Preservation Office review before construction can begin.
- d. During the road construction, require a revegetation specialist (i.e., ecologist, botanist, vegetation specialist) who is experienced in restoration ecology and local native plant communities be included in the project team to assist with project planning, direction, construction observation, monitoring, to document any impacts to the Natural Area, and provide prior notification to the open space Section impacts and planned mitigation efforts.
- e. All sections of the existing roadway that are not utilized in the proposed alignment must be decommissioned and restored to open space standards cited in the Restoration Guidelines.
- f. Require the road to be constructed on the private property where the ROW easement currently parallels the OMNA property on the east boundary.
- g. Require the entry to be gated at the OMNA boundary to prevent non-resident motorized vehicle use into the OMNA but allow for pedestrian, bicycle, and equestrian access.
- h. Submit an as-built certified survey to the City within 60 days of completion.
- i. Require the parcel owners to revegetate the road's cut and fill locations and abandoned alignments to open space standards cited in the Restoration Guidelines.
- j. Require ongoing road maintenance.
- k. Require all future utilities to be placed underground in the ROW so as not to interfere with the viewsheds on OMNA.

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- l. Prohibit future lot splits and subdividing of the parcels.
- m. Prohibit (or limit) Accessory Dwelling Units on all parcels.
- n. Require Dark Skies Compliant Lighting on all light sources within the parcels.
- o. Require parcel holder to monitor for future impacts to adjacent city property caused by road use or maintenance and report impacts to the open space Section to gain approval to perform mitigation by the easement holder and rehabilitate to specified standards.

Chair Applin asked if members of the public had a chance to review the conditions? Ms. Stack confirmed that they had, saying that some of the conditions are already expressed in the existing ROW, while others are limited by zoning ordinances already. She stated that some, however, are ridiculous, particularly putting deed restrictions on the private properties. Joe Hendricks, owner of Parcel 2C (the 40 acres on the north end) spoke, saying the plan is a minimally invasive road where the existing road is. There is no intention to fence it or put-up barriers or walls. He clarified that the existing ROW is not a 2-track, it is a 20-foot-wide road. He reiterated that the parcel owners were requesting adjustment to accommodate emergency vehicles, and firefighting. He said the parcel owners were fine with keeping the existing gate, but would ask the City to maintain it, because of snow load. He was concerned that we get into legal issues when we limit the use people's land, echoing that this was about minimizing the impact to Open Space. Mr. Hendricks said the parcel owners cannot split their lots much as it is, that their rights are minimized fairly well already. With regard to utilities, he said there won't be water in there, that if they did have access to electricity, it would be from Hidden Hollow Rd, and they would want it under the road.

There was discussion about whether the road would be a driveway of a public ROW. Deputy City Attorney Kevin Fincel confirmed that the current ROW says it is a Public ROW, but the parcel owners were amenable to making it a private driveway with pedestrian and bicycle access by the public, which would be part of the amendment to the easement. If it was kept a public road, the City would have all of the maintenance.

There was discussion about the various proposed conditions, including concerns about interfering with parcel owners' legal rights, limiting traffic going through OMNA to this area, and recommending City Council consider approval while including conditions for their consideration in order to protect OMNA. Mr. Fincel assured the Commission that he will be drafting the revised ROW easement with the details of the responsibilities (such as annual road maintenance, erosion issues, snow removal, restoring damaged and unused portions, as-built survey etc.) will be included. He presented a proposed motion based on the Commission's discussion:

Recommend that the request to amend the ROW easement #16-8802 be considered by the City Council, subject to the conditions in the current easement, and conditions A, B, C, D, E, F, I, J, K, N as listed in the staff summary and revised during this meeting.

Chair Bruce Applin asked the parcel owners present if they thought this looked reasonable, and they confirmed that did. Commissioner Fox motioned to approve the recommended language, Commissioner Wallen seconded, all voted in favor, with no opposed.

### **B. Observatory Mesa Trail Planning**

Mark Loseth of Southwest Decision Resources provided a presentation to review the process of the trail plan, and the changes that have been made over time. He briefly revisited the discussion from

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the March meeting and is seeking final recommendations from the Commission in order to bring the final plan to one last public meeting before bringing it to City Council.

Regarding directional and single-use trails, the Commission expressed a preference that all trails to be multi-use and bidirectional.

About mountain biking trails, the Commission preferred multiuse trails, with no mtn bike specific trails or features. There is concern about drainage and erosion damage on “Hot Pockets,” citing other trails in Flagstaff with mountain biking features. Concern was expressed that “Hot Pockets” trail (3.36 on the latest map version) is illegal under the Conservation Easement, in that it does not protect crevices/oak canyons, it was developed illegally by bikers, and it is not passive recreation. On the other hand, if we decommission that trail, mountain bikers may just recreate it, unless there is a plan for enforcement.

On E-bikes, the Commission seemed disposed to recommend to not allow e-bikes on OMNA. It was pointed out that e-bikes are allowed on FUTS trails and Forest Service roads. An idea of granting permits to elderly folks to ride e-bikes was raised.

Regarding adaptive trails, the Commission was supportive of having adaptive bike trails.

The Commission also supported proposed 4.41 trail to provide connectivity to Ft Valley area.

Regarding maintenance, enforcement and funding, the Commission expressed a desire for the Trail Plan to discuss these in the plan.

The Commission voiced a need to balance preservation with recreation. Mr. Loeth pointed out that the Concept 3 map was the attempt to achieve this balance, and the Commission agreed that it did balance preservation of habitat and recreation.

Chair Applin opened the discussion to the public. Charlie Silver expressed that the plan still feels recreation-heavy, vis-à-vis preservation, and expressed his concerns about the need for maintenance and enforcement. He also raised the issue of emergency medical services being able to access OMNA, and the impact on the neighborhoods surrounding OMNA—if this is built as a destination area, there are impacts to the neighborhoods.

Duffy Westheimer complemented the Commission on being very thoughtful. Regarding the commission’s thoughts about granting permits to elderly folks to ride e-bikes because of the steep terrain, she pointed out that A-1 Mountain Road is an option for those that can’t bike up the steep access points. She thought that with adaptive trails, it made more sense to have them be loops. She shared Mr. Silver’s concern about the impact on neighborhoods: Most trails are on the east side of OMNA, with limited parking. The residents already deal with so much impact with downtown events at Thorpe Park, Wheeler Park, Flagstaff High School traffic, and Rt 180 traffic, and now there is construction projects at Flagstaff Junior Academy, Marshall Elementary, and Rio de Flag projects. She encouraged those present to think about the timing of other impacts going on at the same time. The 20+ neighborhoods surrounding OMNA access the mesa, it is very precious to us, and those neighborhoods have not been consulted, and she encourages staff and the consultant to have face-to-face meetings in those neighborhoods. She expressed that their comments felt diluted, like their voices are not being heard. She stated they need a quiet area for the west side of town. She clarified

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that it wasn't that they don't want to share access to OMNA, they just don't want more traffic/impact. Ms. Westheimer was happy to see the plan/map scaled back. She expressed that our Land acknowledgment is real—but if we take a quiet area and turn it into a recreation area, then we'll need a land acknowledgment for OMNA, and let's learn from experience.

Rick Moore thanked the Commission for putting their time and energy into managing open spaces. He expressed concern that the plan has become too focused on bikes and their needs, citing virtually no discussion about wildlife, solitude, escape from urban areas, peace and quiet, and family events. He urged the Commission, as they consider recommendations to City Council, to please take all of these into account, and not focus on one user's needs.

Mr. Loseth said that the next steps were to get more detail from the Commission on two particular areas: E-bikes, and mountain biking trails such as "Hot Pockets" (trail 3.36 on the Concept 3 map).

### **C. Recommended Code Changes to Incorporate Open Spaces into the BBB Recreation Tax Allocation**

Parks, Recreation, Open Space and Events (PROSE) Director Rebecca Sayers presented proposed code changes to the Commission, outlining the changes to Chapter 2-03 (Parks and Recreation Commission) and Chapter 2-20 (Open Spaces Commission), and Chapter 3-06 (BBB Tax), to clean up outdated language, to include the Open Spaces Commission to make funding recommendations related to the parks and recreation share of the BBB tax, together with Parks and Recreation Commission, and to include open spaces in the definition of "parks and recreation" to benefit from the 33% of the BBB tax allocated to PROSE.

Commissioner Fox motioned to approve the recommended changes, seconded by Commissioner White, and all voted in favor. Ms. Sayers indicated these changes would be presented to City Council on April 23, 2024 for discussion, and said these changes would go a long way to addressing funding for maintenance needs as discussed under the Observatory Mesa Trail Plan, as well as being able to build a fund balance for land acquisition when needed, or provide grant match funding.

## **7. Reports and Updates**

A. **Council Representative Report:** Councilmember Deborah Harris encouraged everyone to attend upcoming Water Rate meetings. She noted that the Council's Budget Retreat would be the upcoming Thursday and Friday April 25 and 26, which are open meetings where people can come, listen, and ask questions. She is encouraging all Commissioners to attend those meetings, since the more we know city-wide, the better job we can do as Commissioners.

B. **Planning and Zoning (P&Z) Commission Representative Report.** Commissioner Norton noted that at the April 24, 2024 P&Z meeting, the Land Availability and Sustainability Study (LASS) was again coming to P&Z Commission for discussion. There will also be a hearing on an application for Juniper Point along JW Powell Blvd, and she was hoping that some Open Space/FUTS may be available. Ms. Norton said that regarding the JW Powell Boulevard plan, City Council got an update on April 9, 2024, though not a full specific plan, about an updated road alignment. Ms. Norton requested that the Open Spaces Commission get the same update, since the purchase of open space in this area is one of the Commission's priorities. The rest of the Commission agreed to have this as a future agenda item.

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- C. **Open Space Management Report:** Open Space staff reported on Earth Day activities, partnering with Flagstaff Fire Department and AmeriCorps on OMNA, a 4/23/24 Full Moon Hike, and more upcoming trail restoration work at Picture Canyon.
8. **Informational Items to and from Commissioners and Staff.** Commissioner Wallen reported that she went to a Land Availability and Suitability Study and Code Analysis Project meeting with the City's consultant, and was concerned it was focused on housing, but nothing for Parks and Rec or Open Space. Councilmember Harris clarified that the consultants identified parcels (public, private, and city-owned land) that were available, not necessarily which should be housing or open space, but rather what do we have in the whole city (around 180 parcels). Next will be discussions about what to do with those parcels. Ms. Sayers stated that she is on the Steering Committee, and in her role to represent PROSE, is looking for opportunities for parks, recreation, and open space.
9. **Potential Future Agenda Items:** Next meeting 5/13/24 4-6pm. The items noted on the agenda will be future agenda items, in addition to Ms. Norton's requested update regarding the JW Powell Blvd plan and the LASS update. Ms. Sayers noted the Commission could take off the BBB issue the from future agenda items list, though she will provide updates as they are available.
10. **Adjournment.** Commissioner Fox motioned to adjourn, Commissioner White seconded. The meeting ended at 6:26pm.