

**MINUTES AND PROCEEDINGS OF THE PARKS AND OPEN SPACE ADVISORY
COMMITTEE, March 27, 2008**

The meeting was called to order at 6:30 p.m. by Christine Quinlan in the Hearing Room of the Board of Commissioners, Third Floor, Boulder County Courthouse, Boulder, Colorado.

POSAC Members in Attendance

Present: Sue Cass, Lisa Dilling, Eric Hozempa, Paul Jurasin, Mary McQuiston, Christian Meyer, Christine Quinlan, and Jason Vogel.

Excused: David Batts, Janice Moore

Staff in Attendance

Jan Burns, Jim Daus, Ellen Flannelly, Renata Frye, Therese Glowacki, Vivienne Jannatpour, Rich Koopmann, Larissa Reed, Ernst Streng, Mel Stonebraker

February 28, 2008 Meeting Minutes

Lisa Dilling moved to accept the February 28 minutes. Christian Meyer seconded the motion. *Motion carried unanimously. Jason Vogel abstained because he was not at the February 28 meeting.*

Public Participation for Items not on the Agenda

None

Management Plans Schedule Update

**Information Only*

Staff Presenter: Rich Koopmann

There is no staff memo for this presentation.

Questions

Jason Vogel asked for clarification regarding NUPUDs and what relationship they have to the open space department. Rich Koopmann explained that the essence of a NUPUD was to give farmers a little cash flow and concentrate the development. You get a bonus density, rather than one per 35 acres you could get up to two per 35 if you put those two houses on 25% of the property and the County got a conservation easement on the remainder. This program was under Land Use but wasn't being monitored like it should so last year they put it under POS to monitor 188 scattered through out the County, plains and mountains. Jason Vogel asked if there are urban, as well as non-urban, PUDs? Rich Koopmann answered that Boulder County doesn't deal with urban PUDs. Jason Vogel: So there is no development allowed on the remaining 75% of that land where a conservation easement exists? Rich Koopmann: That's right. Christian Meyer: Regarding management policies, how soon before the BOCC meeting will POSAC see the plan? Do you plan on bringing plans to POSAC a couple times instead of just once right before it goes to the commissioners? Larissa Read: Yes, in May you will see an update on the prairie dog element for the grasslands policy. In June, an informational update on the Forest Management Policy and the associated neighbors study will be presented.

**Property Transaction: The Independent Reservoir
Company Water Sale**

**Action requested-
recommendation to BOCC*

Proposed sale of 80 shares of the capital stock of

The Independent Reservoir Company

Staff Presenter: Jan Burns

See staff memo for details on transaction

Mary McQuiston asked how the price per share is calculated? Jan Burns answered that the reservoir company owns 50 units of Big T water. The County's proportionate percentage would be eleven units. We valued the eleven units at \$10,000 per unit, the current market price for Big T, then an additional \$75,000 for the Independence Reservoir water right. Christian Meyer asked if the City of Longmont has given any feedback on this sale? Jan Burns responded that she believes they are fine with it. She thinks they would rather not own this reservoir any longer but they have a charter that doesn't allow them to sell water rights. Lisa Dilling asked if there is water available in the system to irrigate Strawberry Holdings? Jan Burns responded that Strawberry Holdings is a property where POS is installing pivot sprinklers. We could consider purchasing more shares of Highland, which would help Strawberry Holdings and other properties north of Longmont. Jason Vogel: The price is \$185,000, is this intended to recoup the County's portion of the engineering reports and repair work? Jan Burns: No, the County has only paid the annual assessments up to this date. Jason Vogel: The County's liability for just the study would be \$50,000-\$60,000? Jan Burns: No, that number would include our share for the estimated cost to repair the dam. Jason Vogel: You are asking us to recommend this sale and to use the money to buy other water rights and water efficiency? Water rights are capital for POS. What is the trade-off for selling capital and using it for water efficiency? Jan Burns: I think we would be more likely to buy more water rights with the revenues. Christine Quinlan: Is there something in particular the County would want to use the money for? Jan Burns: We don't have anything in mind right now. If a share of Highland came available we would certainly look at that. Eric Hozempa: The Dollaghan family was willing to agree to a restrictive covenant. What is that? Jan Burns: It's a recorded document that says the owner agrees to keep that water in the reservoir or for use on the adjacent lands, in perpetuity.

Public Comment

- Shirley Hoffman, 6796 McCall Drive. Her property is north of the lake. She actually has property in the lake. She was not notified of this sale to her neighbor, Mr. Dollaghan. Mr. Dollaghan told her that he intended to drain the lake and that it would be empty for 2 1/2 years. That concerns her because there is significant wildlife habitat near the lake. What other water rights are in the lake beyond the 50 shares of Big T? Water is exchanged all the time through ditches. Did the County consider other landowners around the lake that might be interested in purchasing the water? Why was Mr. Dollaghan chosen to purchase the water?

Jan Burns responded that the Independent Reservoir contains Big T shares because when Dollaghan bought the land under the reservoir and the surface rights in 1995, that was part of how he paid the company for that right. The water right is a very junior right. There are field drains that may fill the reservoir. My understanding is that, because it is such a junior right, they

don't know how fast they can fill it after the work is completed because it can only be refilled in priority. The work should only take a couple months, but they are being cautious about the timeline because they might need to wait to refill it. Jason Vogel asked why only Dollaghan had the opportunity to purchase these shares and were any other neighbors notified? Jan Burns: No, the Dollaghans approached us with an offer. Lisa Dilling: So you did not put these shares up for sale? Jan Burns: No. Dollaghan already owns shares that he uses on his property and he is willing to put up the money to make the repairs. Christian Meyer: The County doesn't have a notification policy when it wants to sell shares to neighbors? Jan Burns: No, there has not been a policy regarding water sales. You would be looking for someone who already owns shares and can use it on their own land. Christine Quinlan: The County has such a minority ownership it wasn't just the County's call? Jan Burns: The City of Longmont has the majority share. Lisa Dilling: The wildlife was another issue, but it sounds like the repairs must be done? Jan Burns: Yes, the repairs must be done so the water will need to be reduced anyway, which would probably affect the wildlife.

Motion

Christian Meyer moved to accept staff recommendation for the sale as presented and use the revenues to purchase additional water for use in the County, and Lisa Dilling seconded the motion. ***Motion carried unanimously.***

Discussion on Motion

Christian Meyer would like for the language regarding the restrictive covenant included in the memo to the commissioners. Jan Burns agreed and added that it would be put into the purchase agreement. Lisa Dilling added that the sale makes sense because of the liability for having to repair it. But she is concerned about the lack of a policy regarding notification. Jason Vogel thinks it would be better for POS in the future to use this revenue to purchase other shares of water. Lisa Dilling agreed, adding that although water efficiency is worthwhile, in the long run it would be better to buy other shares of water.

Property Transaction: Legion Park

Boulder Valley School District
request for fiber optic line easement
Staff Presenter: Ellen Flannelly
See staff memo for details on transaction

**Action requested-
recommendation to BOCC*

Questions

Eric Hozempa asked what would be the length of the lease to the County for the fiber optics? Ellen Flannelly answered 20 years.

Public Comments

None.

Motion

Lisa Dilling moved to accept staff recommendation, and Sue Cass seconded. ***Motion carried unanimously.*** Jason Vogel was not in the room for the vote.

Discussion on Motion

Lisa Dilling stated that it seems like a fairly minimal invasion.

Property Transaction: Trillium/Dillon Road

Conveyance to City of Louisville of fee right-of-way and temporary construction easement for Dillon Road widening

Staff Presenter: Ellen Flannelly

See staff memo for details on transaction

**Action requested-
recommendation to BOCC*

Questions

Christian Meyer: How will you clearly specify the \$8,000 overpayment as part of this transaction? Ellen Flannelly: I don't know that there is a need on the deed for the property to indicate the calculations of reaching that, so long as it is clear in the record and our accounting department has a record for how we arrived at that number. Christian Meyer: I'm not suggesting it be on the deed, but rather will it be on the purchase agreement or the memo to the commissioners. Ellen Flannelly: It will be on the commissioners' memo. Christian Meyer: It was part of an IGA from 1999. It doesn't seem like a good idea to agree to sell back, at net cost to the County, in perpetuity. Ellen Flannelly: This and Boulder County Land Venture which we handled last year I think are the only ones where we have agreed to a flat cost, instead of at least having an escalator or determining the cost at the time of the transaction. Christian Meyer: So this is an exception rather than the norm? Ellen Flannelly: Yes. Jason Vogel: I don't know what the sales tax disposition process is. Could you explain it? Ellen Flannelly: The sales tax revenue authorizing legislation says if we want to dispose of open space purchased with sales tax money, we need to advertise in the county's newspaper of record, in fact we advertise in all the County newspapers, to notify the public that it is happening. We also need to hold public hearings in front of the commissioners, which we do anyway. If the commissioners approve the transaction, we cannot deliver the property for 60 days giving the public, if they disagree with the commissioners' decision, an opportunity to petition for a vote to overturn that. Jason Vogel: So what is that rule? Where does it reside? Ellen Flannelly: In the authorizing legislation for the Open Space Sales Tax.

Public Comment

None.

Motion

Christian Meyer moved to approve staff recommendation for the sale of the Trillium property, and Eric Hozempa seconded the motion. ***Motion carried unanimously.***

Property Transaction: Peck Lot

Acquisition of 4.33-acre parcel with CE allowing one building right adjacent to Peck Open Space

Staff Presenter: Jim Daus

See staff memo for details on transaction

**Action requested-
recommendation to BOCC*

Questions

Mary McQuiston asked what is to the south of this parcel? Jim Daus answered one house. Mary McQuiston asked if that lot was not a 35-acre lot? Jim Daus: No, it's a 5- or 7-acre lot. Jason Vogel: I'm curious about the term 'reasonable price.' You are asking us to pay \$61,200 per acre for this property. It looks like the biggest reason for doing that is to prevent a mega-mansion from being built there. But there is already a planning process and in Boulder County a mega-mansion would be difficult to build anyway. Jim Daus responded that you can't just look at it on a per-acre basis when it is a small lot. Look at the value of the building right itself. Some properties we may buy for \$25,000-\$30,000 per acre for a 60-80 acre parcel. Four acres at \$30,000/acre is \$120,000. This parcel is certainly going to sell for more than that. Christine Quinlan asked when we acquired the larger Peck parcel? Jim Daus answered the purchase took place in 1998. The Pecks retained the smaller lot, which they sold to the church.

Public Comment

None.

Motion

Mary McQuiston moved to accept staff recommendation for the purchase and Lisa Dilling seconded the motion. **Motion passed 6 to 2** [Jason Vogel and Christian Meyer were opposed].

Discussion on Motion

Lisa Dilling likes that it has good riparian habitat and that it is next to the existing Peck Open Space so it is valuable as a contiguous property. Jason Vogel countered that he does not think this parcel is a good choice for limited POS funds. It doesn't actually contain a riparian area, but rather the outer edge of it. It is right next to a major development so if someone wanted to put a house on it I would not see that as a catastrophic consequence for 4.33 acres. We can find a better way to spend \$265,000. Christian Meyer agreed with Jason. Considering what is across the street, this is not a good use for the money. Christine Quinlan replied that we have done a lot of filling-in over the years and she thinks that would be a good use here. It is related more to the scenic character in that part of the County. These opportunities may not be available in the future. She is curious about why at one time we thought a church of almost unlimited size was a good use for the property but now we think a house would be a problem. Jim Daus replied that, because of the development nearby, he thinks that is all the more reason to protect this buffer. The Longmont/Boulder trail is planned to be within 400 yards of this property. There is a possibility that it could be bought for an institutional use. The owner recently had an offer from a school. We would like to prevent that. Lisa Dilling added that a community garden would be a good use. Jason Vogel: A school would not be tragic here. As a biker I would use the trail going to Longmont but I don't see a \$265,000 aesthetic value in not seeing a house there from the trail. Regarding a community garden, I support community gardens, but I don't think this is our only

opportunity to do that. We could put a massive community garden next door on the Peck Open Space.

Property Transaction: AHI Turkey Farm

156 acres of irrigated farmland located at the southeast corner of 63rd Street & Plateau Road

Staff Presenter: Mel Stonebraker

See staff memo for details on transaction

**Action Requested-
Recommendation to BOCC*

Questions

Mary McQuiston asked if the City has approved the purchase? Mel Stonebraker answered that the City’s advisory board has approved it. Their City Council won’t meet until after the County Commissioners’ meeting. Sue Cass asked where the TDRs are located on the property? Mel Stonebraker explained TDRs are conceptual. Development rights can be removed from this sending site and a developer could use them on receiving sites. Longmont has several receiving sites. Paul Jurasin: Two building rights per 35 acres? You divide the acreage to come up with the number? Mel Stonebraker: Yes, in this kind of an area, you can create two TDRs per 35 acres. Mary McQuiston asked if the commissioners approve this, is it still contingent on the approval of the City Council? Mel Stonebraker: Yes. Mary McQuiston: So if the City decides to opt out of this, is it a dead deal? Mel Stonebraker: We would probably need to bring it around again. Hopefully, it won’t be a dead deal. Christine Quinlan asked if a Phase I has been done? Mel Stonebraker: Yes, it had a Phase I study done in 2005 and a Phase II in one area as well. We are currently having a follow-up Phase I done but we don’t anticipate a problem. ConAgra left it in remarkably clean condition. The buildings are a problem, but there are no environmental hazards. Christine Quinlan: I wanted to be sure our costs weren’t going to skyrocket. Mel Stonebraker: No, and the soil is remarkably good. Lisa Dilling: Why do we need a conservation easement on the land if we are buying the land? Mel Stonebraker: he City would purchase the conservation easement as a means of participating in the deal.

Public Comment

None.

Motion

Jason Vogel moved to accept staff recommendation for the purchase, and Christian Meyer seconded the motion. ***Motion carried unanimously.***

Discussion on Motion

Jason Vogel: I think this is a fantastic purchase. This is a very large, contiguous piece of land, preserved in perpetuity. We will have the opportunity to restore native grasslands. There is significant wetlands habitat. We are leveraging our money with the City so we don’t bear the entire burden. It is a good value at \$31,700 per acre; \$15,900 per acre is the County’s share. Christian Meyer: I especially like that it is contiguous.

Director’s Update

Vivienne Jannatpour gave updates in Ron Stewart’s absence.

Welcome to the new members, Paul Jurasin, Sue Cass, and Eric Hozempa. There will be a get together to bid farewell to the outgoing members, Melanie Muckle, Sean McCoy and Christine Quinlan and to welcome the new members before next month's meeting on April 24 at 5:30 p.m. in the adjacent conference room. There will also be an orientation for new and existing members on April 15 at 3:00 p.m. That time can be adjusted if needed. This is specifically for POS. Boulder County will hold its own orientation for all board members on April 7.

Updated maps have been distributed to POSAC members as well as a memo update for the items POS plans to present this year. POSAC members will also have an opportunity to request any other updates or field trips.

Jan Burns announced there is a member of the public who would like to make a comment.

- Leonard Corsentino, 1831 Red Cloud Road, Longmont. Acquiring more open space is taking away from our tax schedule. Money received from agricultural leases and other income from the lands should be used to alleviate the tax burden. Half the county is open space now. It's more land than the county can take care of. Acquisition of more open space is just a way to secure jobs for county employees.

Update from Jim Daus regarding the Wetzler property. Last month POSAC voted 4-2 against the Wetzler conservation easement acquisition. BOCC later went on to unanimously approve the acquisition. The reasons cited for the approval include:

It fits in well with other properties in that area that are owned by the County. They felt the price was fairly reasonable. The commissioners stated that the County does not have enough money to buy everything it wants, but this one is worth moving forward on. Regarding concerns about subsidizing prairie castles, Commissioner Toor commented that the argument could be made against any conservation easement where one building right is left. Commissioner Toor went on to add that conservation easements are an important tool to protect land at a lower cost than otherwise would be available, allowing the County to preserve more land than it could if acquired everything in fee. Commissioner Dominico mentioned that rolling dry land hills are valuable. It's an extremely beautiful parcel, one of the most attractive side trips in the north county area. Commissioner Pearlman said that taking a long-term view, considering the activities in Larimer and Weld counties, specifically the Mead planning areas now abuts the county on the east side, they find themselves more concerned with conserving lands on the boundaries of the County. Finally, Jim Daus noted that someone mentioned earlier that the conservation easement allowed too much square footage. Any building right would be subject to Land Use regulations. It's possible that the full extent would not be allowed. The allowance was 16,500 square feet of construction, which includes 10,000 square feet of accessory structures. It is not that uncommon and there are many other developments out there that are significantly larger. The conservation easement acquisition would prevent what could be up to four times that amount of development. That's what we are out there trying to prevent.

Questions

Christian Meyer: You mentioned the commissioners are concerned about conserving land at the boundaries of the County. Obviously you go after what you can get, but I would almost take that

as direction for focus. Did staff view it that way? Jim Daus: Are you asking if they seemed to make that direction to us? Christian Meyer: Yes. Jim Daus: No, it sounded like an important priority but not a new direction. Christian Meyer: I have a comment regarding Land Use. I don't necessarily think the Land Use policy that the County has in place is too onerous. I like the end result that it provides. I always seem to keep that in mind when I'm thinking about development. I know that a landowner will have to jump through a lot of hoops to get a larger property approved. I think of that as a check in the system. That's where I've been coming from in the last couple of recommendations. Jason Vogel: Appreciates that Jim came back with the commissioners' decision that was contrary to POSAC's decision and their reasoning for that. He'd like to see that happen every time the commissioners decide something different from what POSAC recommends. It's educational to know what their reasoning is. Jan Burns: This circumstance of opposing decisions doesn't happen very often. We do listen when POSAC votes against a recommendation and try to let you know the outcome.

Christine Quinlan: Regarding the memo from Ron Stewart asking if there are other updates or field trips POSAC would like to have, did he want to have a discussion next meeting or does he want input before then? Vivienne Jannatpour: I would say either way would work.

Adjournment

The meeting adjourned at 8:47 p.m.