

RECORD OF PROCEEDINGS

Minutes of the
Parks, Trails & Recreation Commission of the
City of Cherry Hills Village, Colorado
Held on Thursday, April 8, 2021 at 5:30 p.m.
The meeting was held electronically

PARKS, TRAILS AND RECREATION COMMISSION REGULAR MEETING

Chair Stephanie Dahl called the meeting to order at 5:32 p.m.

ROLL CALL

Chair Stephanie Dahl, Vice-Chair Fred Wolfe, Chelsea Scott, Rob Eber, and Tory Leviton. Also present were Emily Black, Parks and Recreation Coordinator, Jay Goldie, Deputy City Manager/Public Works Director, City Attorney Kathie Guckenberger, and Pamela Broyles, Administrative Assistant.

Absent: Commissioners Aron Grodinsky and Kate Murphy

AUDIENCE PARTICIPATION

There was no audience participation.

CONSENT AGENDA

Commissioner Chelsea Scott moved, seconded by Commissioner Robert Eber to approve the following items on the Consent Agenda:

1. Approval of Minutes – March 11, 2021

The motion passed with 5 ayes.

UNFINISHED BUSINESS

There was no unfinished business.

NEW BUSINESS

- a. Vacation of the City’s Interest (if any) in the Bridle Path Easements on 2 and 4 Cantitoe Lane

Director Goldie provided a brief overview of the request for vacation of the City’s interest in the bridle path easement on 2 and 4 Cantitoe Lane. Mr. Goldie noted that City Council considered a preliminary petition for vacating these easements depicted on the plat for 2 and 4 Cantitoe Lane at its regular meeting on August 18th, 2020. Council determined that the preliminary petition possessed sufficient merit to justify further consideration and authorized further processing of a formal petition for vacation. This public meeting in front of PTRC is the first step in this formal process. The applicant is seeking a formal vacation of the City’s interest, if any, in the easements in an effort to remove any encumbrances that may create ambiguity on the title of these properties. The City has never maintained or improved these bridle path easements and has not placed them on the parks and trails map. The trails are currently inaccessible due to topography and have never been formally developed. Other alternative trails exist in the vicinity that provide access from Holly Street to the High Line Canal.

Director Goldie outlined the next steps where staff will take PTRC’s recommendation to the Planning and Zoning Commission (P&Z) for a public meeting and then both recommendations will go before City Council for a final determination at a public

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hearing. Director Goldie noted that staff is recommending that PTRC make a recommendation to P&Z that the City vacate its interest, if any, in the bridle path easements.

Applicant's Presentation

Ms. Amy Brimah, representative for the applicant, shared a presentation on the application for vacation of the bridle path trail easements at 2 and 4 Cantitoe Lane. She noted that she represents the Thiry-O'Leary Trust and they are formally requesting approval from PTRC for the vacation of any interest that Cherry Hills Village has in the bridle trails easements. She shared the survey which shows the easements to be vacated.

Ms. Brimah shared the following reasons for wanting to vacate the bridle trail easements:

- The bridle trail easements are not part of a viable trail system and have never been used by the public
- They do not lead to a public trail system nor do they go anywhere and are unconnected patches of land
- They have never been improved or maintained to be utilized as bridle path easements by the City of Cherry Hills Village and the City has never treated the bridle path easements as part of their trail system
- No parking exists to support the existing public trail system and no place exists to establish parking for use of either existing public system or the Cantitoe easements
- It is not possible to establish a common law theory of acceptance by the City of Cherry Hills Village of the easements shown on the Lake Cantitoe plat or the Cantitoe plat
- The bridle path easements have always been intended for private use to benefit only the other owners in the Cantitoe subdivision and were never intended for public use
- Cherry Hills Village previously conceded the absence of any dedication or acceptance language on the Cantitoe plat which resulted in a failure to establish any intent that the bridle paths were to be used by anyone other than the Cantitoe residents. The only dedication on the Cantitoe plat is to public utility easements for perpetual use of public utility companies
- State law requires that unless there is an express dedication to and acceptance by the public authority, easements created by subdivision plats are for the benefit of, and burden on, only the owners of property within the subdivision. There is no express dedication to the public on the plats and no acceptance by a public authority with regard to the bridle path easements, as a result, the logic of the prior litigation would also equally apply to the Lake Cantitoe Plat
- The failure to include acceptance language by the City of Cherry Hills Village on the Lake Cantitoe plat further establishes the intent of the City of Cherry Hills Village that the bridle path easements are private

Ms. Brimah addressed one of the criteria as to what happens after the vacation of the bridle trail easements:

- The Thiry-O'Leary Living Trust, the owners of 2 & 4 Cantitoe Lane, will continue to be the Owner of the land encumbered by the vacated easement, subject to the private bridle path easements of Cantitoe and Lake Cantitoe
- The existing Utility Easement will remain intact
- The access will remain the same and use will remain the same, as the public does not currently use the bridle path easement

Ms. Brimah described the legal description of the requested vacated bridle path easements.

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Chair Dahl thanked Ms. Brimah for appearing before the Commission.

Ms. Brimah thanked the Commission for their time.

Commissioner Scott shared that she attempted to walk the trail but was unable to find parking and she found it difficult for the public to access the area. She said from her perspective this appears to be private land and she asked Director Goldie if there are any reasons why this vacation would cause any issues in terms of the community utilizing the easement or as part of the City plan.

Director Goldie responded that nothing would change because the City does not maintain the trails, and no one is losing access within the subdivision.

Commissioner Scott asked for clarification on ownership of the land.

City Attorney Guckenberger confirmed that the full ownership of 2 & 4 Cantitoe Lane is held by the Thiry-O'Leary Trust. She explained that these easements overlay that land, but the underlying ownership remains with the Trust.

Ms. Brimah concurred and clarified that this will not affect the private easements that also encumber the land. It would only include any interest that the City of Cherry Hills Village has in those bridle path easements.

Commissioner Leviton asked for clarification on how the easement was created in the first place. He said it is his understanding that in a new development a certain portion has to be dedicated to the City for easements.

City Attorney Guckenberger responded that it depends on the jurisdiction and code requirements. She said she is not sure what the requirements were when this plat was created but it does not appear that these easements were dedicated pursuant to any such requirement.

Ms. Brimah clarified that at the time the Cantitoe Plat and Lake Cantitoe Plat were recorded they were recorded by a private party and the Clerk and Recorder signed on behalf of the City of Cherry Hills Village. She explained that there are two requirements for an easement and a private party does not have the authority to dedicate that to a public body without their acceptance of agreement to take care of it. She stated that in both of these plats there is neither dedication nor acceptance language.

Commissioner Eber responded that this is a rationale presented by the applicant and there is a way to discuss the legal conclusions by the applicant in an executive session.

Commissioner Scott asked if there is any detriment to the City losing this space.

Director Goldie replied that in his opinion and in talking with the City Attorney, the City is not losing anything. He said this is a matter of clearing things up for the applicant who has asked the City to make it clear that these are private easements and not public easements.

Commissioner Leviton asked what the precedent has been in the past when the City actively absorbed easements into public trails and how does this situation compare with other subdevelopments and how they were platted.

Director Goldie replied that this is more of a legal question in how the platting documents with the dedication and acceptance language were recorded. He said other platting documents included a dedication and acceptance language.

City Attorney Guckenberger added that each document is particular to each piece of property. She stated there is specific wording and law that was in place at the time of the

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creation of each plat document and depictions on the plat that accompany that wording. She said the City would have to do a full analysis of every piece of property that has ever been dedicated in order to answer that question as it is a case-by-case basis.

Vice-Chair Wolfe stated that he walked the proposed vacation properties. He said he has heard complaints from residents that they are tired of hikers walking through their properties and basically trespassing when they are going to and from the High Line Canal. He noted that the applicant is wanting to combine both properties. He said while walking on the southern edge he realized it would make the perfect connection to help people get from the Charlou subdivision to the bridge that goes over the High Line Canal. He said it is unfortunate that the residents in Cantitoe do not want to be part of the trail system and for that reason he believes the vacation should be approved.

Commissioner Eber referred to the City's trail map that shows an on-street trail on Union Avenue where directly across would be a perfect connection that already exists by Trail 4750. He said the way he understands the application they are asking the City to vacate the bridle trail along the entire southern edge of Lot 3 Tract 6 or the entire south edge of 2 & 4 Cantitoe Lane. He asked if the City is also being asked to vacate Trail 4750 as it goes east and west.

Vice-Chair Wolfe replied that the City is not being asked to vacate Trail 4750 as it is a dedicated trail that connects to Trail 5247, and the bridge and trail are approved trails.

Chair Dahl asked for confirmation that the vacation of the alleged bridle paths have never been listed on the City's trail system.

Coordinator Black confirmed that is correct and stated that the application will not affect Trail 4750.

Commissioner Eber asserted that the application seemed to denote an alleged bridle trail that goes all the way to the High Line Canal and asked if Trail 4750 is on 2 or 4 Cantitoe Lane.

Director Goldie confirmed that Trail 4750 is completely within the property to the south and was dedicated separately with Trail 5247 by the property owner at that time. He said it was a single dedication outside of the platting process.

Commissioner Eber asked if the south edge of 2 & 4 Cantitoe Lane is immediately adjacent to Trail 4750.

Vice-Chair Wolfe replied that Trail 4750 is about 20 feet south of the southern edge of 2 & 4 Cantitoe.

Commissioner Eber affirmed that the City already has a partial trail immediately parallel to the south side going east and west. He asked how many linear feet it is from the east edge of Trail 4750 to the west edge of Union Avenue, which is the north edge of the Crapo property. He clarified that he wants to know how many linear feet of trail the City is being asked to vacate.

Director Goldie replied that the south piece from the existing trail to Union Avenue is 662 feet and the other two easements are at 580 feet each totaling 1,822 linear square feet.

Commissioner Eber asked for confirmation that the entire 20-foot bridle path easement that is being discussed is all on 2 & 4 Cantitoe Lane.

Director Goldie confirmed that the entire 20-foot easement is on 2 Cantitoe Lane. He said there is a separate easement on 3 Cantitoe Lane that is not part of this vacation request.

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Ms. Brimah agreed that the 20-foot easement is entirely on 2 Cantitoe Lane.

Vice-Chair Wolfe noted that it appears the same is true for the southern line and that it is entirely on 2 Cantitoe Lane on either side of the fence that is diagonal.

Ms. Brimah confirmed that is correct.

Chair Dahl summed up that everyone agrees that the City is dealing with one owner and not multiple properties.

Commissioner Eber referred to the Lake Cantitoe Plat where it states there is a 20-foot bridle path easement between 2 and 3 Cantitoe Lane that references (Book 177, Pg. 92). He asked what the authority is that shows the granting of the easement between 2 & 4 Cantitoe Lane and also the south edge of 2 & 4 Cantitoe Lane as it does not show a book and page for these easements.

Ms. Brimah explained that there is no book and page because there is no separately recorded easement. She affirmed that the easement Commissioner Eber is referring to that is referenced on the Plat has nothing to do with the easements that she is requesting to be vacated.

Director Goldie added that the Plat is the documented recording of these easements and there is not a separate document.

Commissioner Eber asked when the City turned over the trail system and parks to South Suburban and when did the City take back maintenance of the parks and trail system.

Director Goldie replied that he does not have the date that the City joined South Suburban but confirmed that the City excluded from South Suburban in 2006 or 2007.

Commissioner Eber asked if the applicant is willing to make any settlement or is this an all or nothing deal.

Ms. Brimah confirmed that it is an all or nothing request.

Vice-Chair Wolfe asked if this vacation is approved will the wording for the 20-foot bridle path be expunged and the public utility easement will remain.

Director Goldie replied that it will still be considered a bridle path for the owners within these subdivisions. He said it would only be the City's interest that would be removed.

Ms. Brimah added that the recorded documents and plat maps will not change. She said if City Council approves the vacation an ordinance will be issued vacating the legal description that she requested.

Commissioner Eber referred to the Declaration and Agreement Establishing Protective Covenants in Cantitoe specifically stating these bridle paths are to remain open and no planting is to be done in these bridle paths and public utility easements.

Vice-Chair Wolfe noted that the easements as they exist right now are not open. He described the right side of the southern line as completely landscaped so it is not an open 20-foot easement.

Chair Dahl commented that her understanding of the petition before the Commission is that no one is saying these bridle path easements don't exist and everyone acknowledges that public utility easements exist. She said the issue is whether those bridle path easements were ever conveyed to the City of Cherry Hills Village to be used as public

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trails. She said the question for the Commission is to clear up any confusion and whether to recommend to City Council that they be vacated.

City Attorney Guckenberger clarified that the ultimate question that the City will need to determine is whether or not the requested vacation is in the best interest of the City. She said even if there were no questions about the legality of the vacation the City has the right to vacate if they feel it is in their best interest.

Commissioner Eber referred to the covenants that require these bridle paths to remain open and to the extent that they have been fenced closed already violates their own neighborhood covenants.

Commissioner Eber stated that he has heard the Commission's comments and the applicant has provided a rationale for many reasons why the City should vacate. He said many are legal conclusions and if the Commission wants to discuss whether they are accurate the Commission needs to go into executive session.

Commissioner Eber reminded the Commission that they are the Parks, Trails and Recreation Commission with a fiduciary duty on behalf of the citizens of Cherry Hills Village that states "To enhance and preserve trails and parks in Cherry Hills Village." He said that statement alone should lead the Commission to conclude that it should vote against the vacation of this property because to give up something that could potentially be a trail is not in the best interest of the Village. He referred to the recent discussion on e-bikes where the Commission received approximately 130 comments that talked about the bucolic nature of Cherry Hills Village and he believes this is one of the most bucolic areas within the Village that should be enhanced and preserved. He encouraged the Commission to vote against this vacation regardless of what other Commissions decide as there is no way in good conscience that the Commission should be voting to allow this vacation.

Commissioner Eber continued that the applicant's action to vacate is the improper forum in which to make the determination as it should go through a quiet title action. He said the petition states they are seeking to vacate any alleged or possible interest that the City may have. He believes they should move to vacate and acknowledge that the City does have an interest and if the City does not have any interest it is a moot point. He believes the applicant is asking the City to do its dirty work and the Commission should not be the one making this decision. He suggested that if the owner of this property believes there is no public access and no public component of these bridle trails then they should move for a quiet title action. He said if the applicant wants to acknowledge that the City has a legitimate claim to these properties then the Commission should consider whether or not there is a proper vacation petition before them otherwise this petition is not appropriate.

Chair Dahl said she understands where Commissioner Eber is coming from but in terms of whether this is the proper action for the applicant to take is not for PTRC to determine. She said the question before PTRC is whether they are going to recommend to vacate or not to vacate.

Commissioner Eber said he believes this is a legal discussion that needs to be discussed in executive session.

City Attorney Guckenberger noted that the purpose of this vacation process was adopted to supplement the vacation of rights-of-way process provided in the state statute and it specifically defines within this section of right-of-way pedestrian or equestrian trail easements. She said there is a process established in the City Code that supplements the statewide vacation process and this process is an alternative to quiet title action.

Commissioner Eber stated that he is personally offended that the Commission is being asked to do the work that he believes is not appropriate. He said if it is their own property, and the City doesn't have any interest then it is none of the City's business.

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Commissioner Eber continued that if the Commission is being asked for a recommendation on whether to vacate the bridle trail easements, the request is inconsistent with the City's Master Plan. He referenced the Parks section that states "The Village should explore new ways to acquire public open space." He further stated that he strongly differentiates the value of the east/west request from the north/south request. He said the north/south request only benefits the property owner and the east/west request is 600 feet of access that is either already public and should stay public or based on the Master Plan the Commission should move to add it to its open space. He pointed out that the City is not asking the property owner to let people go through the middle of their property, they are only asking them to concede 20 feet out of 12 acres of land. He concluded that to give up this land or any argument to this land is directly contrary to the Master Plan that states the goal is to preserve the existing trail system and identify and investigate opportunities to increase connectivity, which is exactly what this trail provides. He stressed there is no better connection possible than this trail that would allow direct access east and west onto the High Line Canal.

Chair Dahl referenced the map and said it appears to her that the City would need to get another easement from the property owners off of Forest for the trail to line up.

Vice-Chair Wolfe disagreed and said he does not read it that way. He referenced the land survey plat for Cantitoe Lane where the 20-foot easement is to the north of the property line so the future bridle path would be completely on the Thiry's bridle path which at this point is basically open.

Director Goldie pointed out that there is no trail easement on 7 Cantitoe so there would still be a gap between Union Avenue and this trail.

Chair Dahl reiterated that the easement does not go all the way through to Union.

Commissioner Eber noted that the trail does go to Cantitoe Lane and so the question is whether Cantitoe Lane at the very top where it joins Union is private or if it is part of Union.

Ms. Brimah confirmed that there would still be a gap.

Commissioner Eber stated that his point is that this has direct opportunities for connectivity to the trail.

Chair Dahl asked if the easement was never conveyed to the City of Cherry Hills Village, then what are the next steps since it appears the homeowners are not willing to concede that easement for public use.

Commissioner Eber responded that we don't know if a settlement could be reached with the applicant or if there is a way to allow an on-street trail along Cantitoe that would then allow an easement along the north edge of 2 Cantitoe lane. He said he spoke with neighbors who said they would love to be able to walk directly to the High Line Canal and this connection would provide the ability to do that. He said in his opinion there is no argument that can be made that this does not pose an important connectivity of the trail system and he questioned why the owner voluntarily bought the property without clearing this issue up first.

Vice-Chair Wolfe agreed that the original plat clearly states bridle path easement and the owner didn't do anything about it way back then. He asked Ms. Brimah what she thinks of the idea of providing a trail on the southern side.

Ms. Brimah said she would need to communicate with her applicant but in past discussions all of this came up because the City had not previously taken the position that there was any interest. She said it wasn't until the litigation related to 2 Tenaya Lane that

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the City took the position that they had an interest in this property or in these bridle path easements. She said she does not think since it is not shown on the City's public trail map that the City had previously taken that position and she does not believe they have any interest in conceding this issue. She said the litigation was clear that the City does not have a public interest in these easements.

Chair Dahl asked Ms. Brimah if it was her client's position that when they purchased the property, they never had a belief that it was ever conveyed to the City. She also asked for confirmation that they are not trying to totally vacate the bridle path, but just clear up the City's interest in it.

Ms. Brimah confirmed that is correct.

Commissioner Eber said his belief is that the Commission represents the public's interest and requires the City to spend time, energy and money on trails that enhance and benefit the trail system overall. He suggested that the City can make these natural trails that don't have to be developed but provide access directly to the High Line Canal.

Commissioner Scott thanked Commissioner Eber for his analysis. She said until this meeting she never knew about this access point and when she was there today it felt inappropriate like she was in the homeowners back yard or on their property. She asked what the City's obligation would be to make this more accessible because there are costs associated and no available parking. She said she personally does not believe it is a welcoming access point and she is concerned that if the trails go from private to public how would people, other than the people in the immediate area, actually get there. She also noted that when you pull into Cantitoe Lane there is a sign that reads, "Private Road" and "No Turn Around." She said the connectivity piece Commissioner Eber is referring to does not feel accessible from her experience.

Commissioner Eber responded that he does not believe parking is an argument as there are many places in the Village that were originally set up as bridle trails and not places for people to park cars. He said walking, biking or equestrian use does not require a car and there are places to the south and west that do not have parking, but they provide viable interconnectivity. He said imagine if you are able to walk off the High Line Canal, walk through these areas and return back to the High Line Canal where no parking is needed. He reiterated that the Master Plan directs PTRC to seek and connect pieces of the City that are not connected. He feels this is the best chance and best rationale to do exactly what the Master Plan is asking.

Commissioner Scott said she understands there are many nooks and crannies in the connectivity of the trail system, but she said there are usually fence lines and markers that make it clear they are trails. She asked if there would be some financial commitment from the City if this becomes part of the trail system to make it appear more accessible and not private land.

Vice-Chair Wolfe replied there would be, but it would be minimal. He expressed that he completely agrees with Commissioner Eber that to walk away from an opportunity like this would be irresponsible for PTRC.

Chair Dahl said she understands PTRC's duty in preserving trails, but she asked how the Commission will justify going forward if the City has no legal interest. She sees it as the applicant is trying to clear something up and now PTRC is trying to enter into a settlement to take part of their land for a public bridle path when it was never the City's to begin with.

Vice-Chair Wolfe commented that it is such a small portion of land that is being discussed that he is surprised the applicant is being this unreasonable.

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Chair Dahl alleged that it is two separate issues and if the City doesn't have a claim, it does not preclude PTRC asking the applicant in a different context if they would be willing to donate this easement.

Vice-Chair Wolfe asked if PTRC's recommendation could be crafted to say PTRC completely approves the vacation of the proposed north/south diagonal and it reserves judgment on the south side to allow further study.

City Attorney Guckenberger explained that the requirement is that PTRC make a recommendation to P&Z on whether or not to vacate and asking for more time would be unusual.

Vice-Chair Wolfe suggested the Commission could be more specific and say they recommend that the proposed vacations occur on the diagonal and the north side and propose that the south side be a dedicated City trail connecting Union to the High Line Canal.

City Attorney Guckenberger confirmed that PTRC can make that recommendation.

Vice-Chair Wolfe asked Ms. Brimah how many residents are in the Cantitoe area and if they have all discussed the proposal and agree with it.

Ms. Brimah responded that she believes there are 11 lots. She said she has not reached out to all 11 homeowners, but she said several reached out to her and one or two sent letters of support. She said she is not aware of anyone that is opposed to the vacation.

Commissioner Eber stated that they received two public comments, one from the Crapo family and one from a neighbor on Tenaya Lane who were both in support of the application but nobody else weighed in. He said he recently spoke to a resident on Tenaya Lane who said they would love the opportunity to walk down Union straight to the Canal. He also spoke to two people from the Charlou neighborhood, and both were in favor of this trail existing to connect Holly to the High Line Canal and also creating a loop in Cantitoe.

Vice-Chair Wolfe asserted that if all the residents were aware of the discussion on this trail connection, he believes a lot of people would not be in favor of this vacation. He said he could understand if this trail cut across a critical area of the Thiry property, but the area is in an open pasture far away from the applicant's home and just follows the fence line. He is in favor of pursuing this further and informing more people about the proposal.

Commissioner Eber suggested the Commission should table the discussions and work with the applicant to reach a mutual resolution. He reiterated that this area provides substantial services to the trails in the City that are open to every person in the City. He said he understands the privacy concerns of the Thiry's but there are several people in the Village who have trails next to their property and that is what makes Cherry Hills Village so great. He brought up similar litigation with the Maven property just to the north of Cantitoe where some of the same arguments were raised on whether the bridle trail between two properties was public or non-public. He suggested the Commission should go into executive session for further discussion, so the Commission has a better understanding of the pros and cons of the litigation with the Maven Property.

Commissioner Eber moved, seconded by Vice-Chair Wolfe that the Commission go into executive session under Section 24-6-402(4)(b) Colorado Revised Statue to receive legal advice from counsel on specific legal questions regarding the petition to vacate the City's interest (if any) in the bridle path easements on 2 & 4 Cantitoe Lane.

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The following votes were recorded:

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| Dahl | nay |
| Wolfe | aye |
| Eber | aye |
| Leviton | aye |
| Scott | nay |

The motion failed with 3 ayes and 2 nays; a two-thirds vote is required to enter executive session.

Chair Dahl commented that she has reviewed everything in the packet and while she understands PTRC's role and the importance of City trails, she also believes that residents value their rights as landowners. She said she is not a proponent of entering into a settlement if it is not appropriate. She noted that there is access to the High Line Canal through Trail 5247 into Trail 4750. She said she is not opposed to looking into whether these homeowners would be willing to provide an easement, but her recommendation is to go forward with the motion as proposed by the City.

Commissioner Eber stated that there has been a lot of discussion about whether the City has claim to these easements and he believes PTRC is missing an opportunity to determine whether or not the City has a claim. He said he is not trying to force people to give away anything that the City does not deserve but to the extent the City has a claim on these properties PTRC should pursue it in its entirety based on its mission. He is concerned that the argument from the applicant's counsel is that these trails were not properly dedicated or accepted, and he is hesitant to accept that not knowing what it means for the rest of the trail system. He brought up that if the City decides to approve the vacation request the Code allows for the City to ask for consideration. He asked if the applicant is willing to make payment of consideration for vacation of these trails as part of the application process.

Commissioner Scott said she understands how special the trails are, but she is struggling with the following questions:

1. Where is there evidence that the City has any claim to these trails
2. If it is the applicant's land and we deny this request, why would they want to work with us
3. Will the trail really enhance connectivity, and why are the neighbors who say they want it not using it now
4. The bridle path has never been maintained by the City so what obligation would the City have if it were to take this over

Commissioner Scott said she likes the idea of getting the community more involved to get a better understanding of why it is so important to keep this right-of-way.

Vice-Chair Wolfe stated that based on his conversations with the City there is not time to delay this decision. He questioned why the City is even talking about this if it doesn't have any legal interest. He perceives that this issue is coming before PTRC as a procedural step and the City is not looking for PTRC to approve or disapprove but to make a recommendation to P&Z and City Council. He said he understands there are still two public hearings on this issue and he hopes that PTRC's points can be brought up at that time.

Coordinator Black confirmed that the process is for PTRC to make a recommendation to P&Z. The P&Z meeting will be a public meeting that will be noticed the same way as the PTRC meeting with letters sent to all property owners within 500 feet of 2 & 4 Cantitoe Lane. She said the first City Council meeting is a public meeting noticed the same way with letters sent to neighbors. The second City Council meeting is a public hearing that has additional notice requirements and will be published in the paper and

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noticed on site. She said there is still plenty of opportunity for neighbors to make their voices heard.

Vice-Chair Wolfe noted that there are trails in the Village that are dead ends that could be vacated because they don't go anywhere, but he believes when you look at the trail map this particular trail leaves an obvious blank spot that should be filled in.

City Attorney Guckenberger pointed out that there are other ways to acquire interest in real property other than debating a vacation petition.

Commissioner Leviton questioned how the petition got this far if the City has no chance of declaring a right. He said if there is any chance that the City has a right to these bridle paths then he agrees that the Commission should pursue it and slow the process down.

Coordinator Black reminded the Commission that PTRC is only the first step in this process.

The Commission discussed the notice requirements and timeline for the petition to go before City Council for final approval.

Commissioner Scott asked if P&Z and City Council can change PTRC's recommendation and can the recommendation include reasons why the PTRC came to its decision.

City Attorney Guckenberger responded that P&Z and Council can choose to accept PTRC's recommendation or not. She verified that the Code is written that the authorization to vacate the land rests with City Council and PTRC and P&Z serve as advisory bodies in making that determination and whether it is in the best interest of the City. She said City Council may impose reasonable conditions upon the vacation of right-of-way which includes a payment of consideration or other conditions, but conditions are only authorized by City Council.

Vice-Chair Wolfe asked if the application can be broken up into pieces or is it an all or nothing deal.

City Attorney Guckenberger replied that the applicant is seeking this as a package. She said it is within PTRC's right to make a recommendation that City Council impose a condition and Council can choose to accept, reject or impose whatever it feels is appropriate. She noted that with PTRC's familiarity with the trails Council will be very interested in whatever recommendation it makes.

Commissioner Leviton added that he believes the Commission can find some common ground rather than abandon what might be a valuable bridle path. He said his observation is that the Commission is only interested in a vacation along the southern bridle path due to potential connectivity.

Chair Dahl asserted that when you look at the City's trail map the City has never included this trail and she does not believe this vacation application is the proper way to go after that piece of property. She said her suggestion is that PTRC recommend going forward with the vacation and simultaneously speak to the homeowners to see if they would consider granting an easement on the southern edge of their property to make it more accessible.

Vice-Chair Wolfe stated that this would not be a discussion if it were not for the existing bridge over the High Line Canal that is the key to this connection.

Commissioner Eber responded to Commissioner Scott's comments and said he fully agrees that the community needs to be widely aware of this issue. He said he hopes the P&Z and City Council meetings bring out as much discussion as PTRC did on the e-bike issue. He addressed her question on maintenance and said it could be as simple as a

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natural trail that is marked as an undeveloped nature trail, or it could be a crusher fine trail. He said with regard to evidence of the claim, they are legal arguments and if PTRC would have gone into executive session he would have provided his thoughts from a lawyer's perspective and would have discussed evidence that this is within the City's inventory.

Commissioner Scott asked if the Commission denies this vacation does it stay the way it is and if they approve this vacation does everything remain the same except the public will no longer be able to use the trails.

City Attorney Guckenberger responded that things will change for the landowner if the City vacates any interest that it may have in these easements because if the ordinance is approved it gets recorded and there is evidence that the City does not lay claim to these easements outlined.

Commissioner Eber proposed that if PTRC makes a recommendation to approve the vacation, that it seek consideration that is for multiples of fair market value. He asserted that the applicant is requesting this vacation for the purpose of privacy and excluding the public. He believes that the consideration of walling out other people should be more than just the market value of what is being given up as only the applicant benefits by combining the two lots. He feels the City should ask for more than just the market value on a per acre basis.

City Attorney Guckenberger noted that although City Council has the authority to impose conditions there is a qualifier in that authority that says City Council may impose reasonable conditions. She asked that any condition the Commission might seek to recommend be thought through in terms of reasonableness.

Chair Dahl said her suggestion is for PTRC to approve vacating the easement and make the recommendation to P&Z and ultimately City Council that they work with the homeowners to see if they would be willing to grant a proper easement on the south edge of the properties, where there is no litigation involved, so the trail system can be connected.

Commissioner Eber said he respectfully disagrees and believes that the only option to maintain any discussion about a solution is if the City continues to assert that it has every right to all three of these easements.

Coordinator Black reminded the Commission that the minutes from this meeting will be forwarded to P&Z and City Council so they will see all of the considerations that were made in these discussions.

Commissioner Eber moved, seconded by Commissioner Leviton to recommend to the Planning and Zoning Commission that the City not vacate the City's interests (if any) in the bridle path easements at 2 & 4 Cantitoe Lane as depicted in the vacation petition.

The following votes were recorded:

| | |
|---------|-----|
| Dahl | nay |
| Wolfe | aye |
| Eber | aye |
| Leviton | aye |
| Scott | nay |

The motion carries with 3 ayes and 2 nays.

Commissioner Eber noted that the Commission can appear before Planning and Zoning as members of the public to give individual opinions and discuss the minutes on record from PTRC.

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Coordinator Black said she will confirm the date that Planning and Zoning will discuss this issue and she will email the Commission.

REPORTS

a. PTRC Chair Report

Chair Dahl reported that she spoke at City Council during the last study session and shared PTRC's decisions regarding ebikes and permitting of motorized vehicles on trails. She relayed Council's feedback and request that PTRC review etiquette on trails, including speeding, notifying about passing, wearing headphones, and general behavior on the trails. She noted City Council would like PTRC to review those items and ensure everyone feels safe using the trails.

Chair Dahl also shared that she is Treasurer of the Cherry Hills Village Elementary PTCO and connected the school with Coordinator Black; the school is planning to hold 5th Grade Continuation at John Meade Park and Alan Hutto Memorial Commons. She reported that it was exciting to be able to see families able to make use of the park.

b. Commission Members Report

Commissioners Leviton and Scott had no report.

Commissioner Eber thanked City staff for their work clearing the last snowstorm. He noted that on-street trails as shown on the City trail map are not formally designated as trails. He explained he would like PTRC to recognize them as formal trails and to add signage noting there are trails on public streets and to please drive slowly. He explained he had spoken with other residents and they were in agreement.

Commissioner Eber continued that dirt roads that are plowed near public open space (by plowing companies; not the city) occasionally deposit dirt from the road along with the snow piles into the edges of parks. He noted this kills the grass.

Commissioner Eber continued that there is erosion and widening of trails in public spaces and the city should work to re-establish grasses that grow taller. He stated he would like to have a discussion with Parks Operations Supervisor Roberts to get longer, better grass in open spaces.

Commissioner Eber added that as discussed earlier, the City can request reasonable consideration when vacating a piece of property. He stated that 'reasonable' does not necessarily mean 'market' and explained he would like to propose a factor that is greater than the market value of the land for future applications and discuss it with PTRC.

Commissioner Eber continued and recommended that the police lower the speed limit on on-street trails or provide additional enforcement.

Next, Commissioner Eber requested that PTRC review the underlying reservation policy for all City parks and trails to make revisions that are more protective of the spaces while allowing more people to use them.

Finally, Commissioner Eber stated he received many comments from people who have visited the redeveloped John Meade Park and love it. He thanked the City for spending a lot of money, time and energy on the new park. He noted the wading area is also popular, and brings up the point that the municipal code should be amended since it currently prohibits wading in all city water. He continued that it should be reinforced however that swimming in the ponds is prohibited.

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Vice Chair Wolfe reported that he appreciated his conversation with Director Goldie last week regarding an encounter Mr. Wolfe had with a family riding ebikes. He suggested adding signs in the Village at twelve access points off the High Line Canal. Mr. Wolfe continued that additional signs should be added at other major trail intersections. He relayed that he was now working on a sign plan per Mr. Goldie's suggestion. He agreed with Mr. Eber's suggestion regarding signage for on-street trails.

c. Staff Report

Coordinator Black reported that she would bring a summary of City Council's requests regarding trail etiquette (as Chair Dahl reported) to PTRC at their next meeting for the Commission to review. She also noted that staff was beginning to plan special events for the year and working to understand new guidelines. She stated she would bring more details to the Commission at the May meeting.

ADJOURNMENT

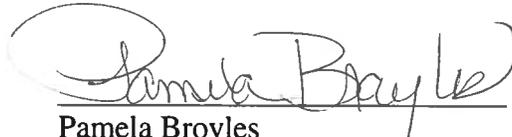
The meeting adjourned at 8:18 p.m. The next PTRC meeting is scheduled for May 13th at 5:30 p.m.



Stephanie Dahl – Chair



Emily Black
Parks and Recreation Coordinator



Pamela Broyles
Administrative Assistant