

Chautauqua Lease Committee
August 19, 2015
Draft Meeting Summary

Attendance

Committee Members: Susan Connelly, George Karakehian, Tim Plass, Deb van den Honert, Bob Yates

City Staff: Tom Carr

Facilitation: Heather Bergman, Katie Waller

Observers: There were 15 observers present, including Chautauqua residents and interested citizens.

September 10 Advisory Board Meeting

Tom Carr will be presenting a summary of the major changes to the Chautauqua lease at a combined meeting with the Landmarks Board, Open Space and Mountain Parks (OSMP) Board of Trustees, Parks and Recreation Advisory Board (PRAB), and Transportation Advisory Board (TAB) on September 10, 2015, at 5:00 PM. He has coordinated with all applicable boards to ensure member attendance and will be meeting separately with the Landmarks Board at a later date, as not all members are available on September 10. Mr. Carr stated that he and Chautauqua Lease Committee members will explain each major lease change and associated feedback from City Council, opening the floor for discussion between topics. Heather Bergman will facilitate the meeting and has been instructed by the Committee to push members of other boards for specific feedback rather than general statements and to ensure the meeting ends on time. The Committee recognized the importance distinguishing between the thoughts of one and the thoughts of many.

Mr. Carr stated that one specific issue to be addressed at the September 10 meeting is whether Chautauqua Park is property of the Parks and Recreation Department. The pertinent language detailing the control of Parks and Recreation land was added to the City Charter in 1962, while the City of Boulder has been leasing Chautauqua since 1898. Should Parks and Recreation be found to have control over Chautauqua leasehold areas, PRAB would have the right to approve or disapprove the new lease. Mr. Carr reminded the Committee that the 2002 amendment was not brought before PRAB. Although this past decision does not indicate future actions, Mr. Carr will consult with City Council on this matter after the September 10 meeting and will alter further meeting schedules in the future, if necessary.

City Council Meeting

Mr. Carr and Committee members discussed the feedback from City Council that emerged from the Council review and discussion of the preliminary lease. City Council members identified several issues that needed to be discussed further by the Chautauqua Lease Committee. These topics include:

- City representation on the Colorado Chautauqua Association (CCA) Board
- CCA financial transparency
- Cottager sublease rents
- Parking and the associated CAMP process

There were also a few major changes within the lease with which City Council members seemed comfortable at currently drafted. These topics include:

- 20-year lease with a 10-year lease extension
- Rent amount of \$1.00 between the City and CCA
- Timeline of finishing the lease negotiation process before new City Council is elected

Some community members expressed concern at the City Council meeting. Their concerns included:

- Speed of the lease discussions
- Affordable housing within Chautauqua

- \$1.00 rent amount
- Amount of CCA reserve funds

To address City Council member concerns, some members of the Chautauqua Lease Committee agreed that it is important for a City Council member to serve on the CCA Board, as they will be reporting back to other Council members and City staff regarding important decisions and actions. Regarding CCA financial transparency, some members expressed that this has been a concern in the past and will continue to be a concern in the future. Some members clarified the position of some City Council members concerning sublease amounts, stating that they are mainly concerned about equity in how much cottagers pay in rent compared to the rest of the local community. The Committee agreed to discuss sublease amounts later in the meeting. The Committee agreed to discuss the CCA financial transparency and sublease amounts later in the meeting. In regard to CAMP, City Council members requested clarification of the term “user” as it applies to visitors and residents. The Committee agreed to revisit this issue and provide clarification where necessary.

While many of the applicable community concerns were addressed during the City Council meeting, the Committee did discuss the issue of CCA having too much money in the reserves. Some members explained that in the past the public was concerned about CCA not having sufficient reserve funds and now it seems to be an issue of having too much reserve funding. Some Committee members stated that this is a necessary financial situation, as there are many capital improvements to be done in the future that will require more funding than past projects. Some community members wrote a letter to the *Daily Camera* regarding this issue, and Committee members felt it necessary to address these concerns somehow. CCA explained that they have already prepared a response letter that is being submitted on Thursday, August 20, 2015. They told the Committee that the letter was positive and celebratory of CCA and Chautauqua accomplishments and its future role in the community.

A few community members were concerned that the speed of the lease revision process was too fast. Some members stated that all processes face this type of criticism, and it is not beneficial to break from the timeline if the work is being done efficiently and effectively.

Lease Changes

Lease Term – Section 1

Tom Carr introduced new wording to explain the 20-year lease term with a 10-year extension. He explained that the new wording still accomplishes the same goals as before and included no substantive changes. At any time after 10 years into the 20-year lease have passed, either City Council or CCA would be able to object to the lease terms and trigger a revision process for a new 20-year lease. Absent this intervention, the lease would continue through the original 20-year term and automatically renew for an additional 10 years. Some members of the Committee were concerned that the new language did not expressly state that the lease is to be automatically renewed under the exact same terms as it was originally signed. Members in favor of this clarification stated that it is important to make the auto-renewal process as clear as possible as to save time going forward.

Some members of the Committee stated that there were members of the City Council that may be able to be convinced to approve a 30-year lease term, if supporting information were presented by CCA. Other members were concerned that this would be challenging to accomplish given the current timeframe and the fact that a 30-year lease would be setting a precedent within the City. CCA stated that they will talk to their Board members at the next meeting to approve the 20-year lease term with an extension, and if they do not get in touch with Mr. Carr or Committee members, it is proper to assume that the Board has accepted these terms. The Committee agreed that Mr. Carr should clarify the new wording in order to express that the auto-renewed lease will have the same terms as the previous lease.

Maintenance Obligations – Section 3, Subsection C

Tom Carr presented new language regarding maintenance responsibilities at Chautauqua. He explained that the new language defines the relationship between the City and CCA when it comes to maintenance obligations and capital improvements. Some members thought that it could be beneficial to preemptively discuss the amounts for which each party is responsible in funding capital improvements. These members expressed that this issue is certain to come up again at future City Council meetings and in the cottage subleases. Other members were concerned that the new language was not clear in what it was trying to accomplish. Mr. Carr clarified that the new wording reflects the current practice of the City taking care of maintenance issues and the discussion of sharing the burden of capital improvement costs between multiple parties.

Some members were concerned about the usage of the word “majority.” These members interpreted the number to mean anything larger than 50 percent, and if the capital improvement charges were \$10 million, the City would pay 51 percent while 49 percent of the cost would come down on CCA and the cottagers. These members thought it prudent to outline the distribution of responsibility as a matter of clarity for all parties. Other members expressed that when the time comes to fund these capital improvement projects, CCA will be coming to the City to request funds in a manner similar to a negotiation. These members viewed this new wording as a clarification of the statement of relevant responsibilities rather than a strict division of costs. Other members countered that it is important to know the division of costs and how it impacts each party. For example, the financial burden on cottagers will affect the sublease rent amounts and may require new wording that establishes a cottager assessment that would funneled into a capital needs fund rather than a general fund. The Committee agreed to add the word “be” before “prioritized” in the first sentence of Section 3, Subsection C.

By-Laws and Articles of Incorporation – Section 5

Mr. Carr presented the Committee with new language and an opportunity to define the number of City-appointed representatives on the CCA Board. The City Council was accepting of having Council representation on the CCA Board, but was not able to come to a consensus regarding the number of Council members or City-appointed representatives. Some Committee members were unsure of the benefit of having more City representatives on the Board. Others explained that some City Council members think that nonprofit boards tend to attract the same type of person over and over again, resulting in little new thinking on a board. In the eyes of some Council members, appointing more people to represent the City would make the Board may be more likely to have diverse opinions and backgrounds. While some Committee members were neutral about adding more City representation to the Board, others were concerned about City Council’s history of making political appointments. While this has not been a problem for CCA in the past, raising the number of appointments could disrupt the balance. Some viewed this solution as addressing theoretical problems, rather than real ones.

CCA explained that in order to change the number of Council appointees on the Board, they would have to change the organization’s by-laws. In order to change the by-laws, CCA would have to hold a vote for all members and would have to reach a quorum of 10 percent in order to hold the vote. In an organization in which many members are members in name only, having 10 percent of members participate in an election has proven difficult in the past. CCA Board representatives explained that legally all they can commit to do in the lease is conduct a vote regarding a change in by-laws and abide by the results of the vote. Given this new information, Committee members discussed the various options for City Council to mandate a change that impacts CCA by-laws. Some members articulated that this will reveal how strongly City Council members feel about the subject and if they are willing to hold up the lease process because of it. City Council could choose to not approve the lease until the CCA voting results come back and reflect a desired change in City appointee numbers, or they can temporarily sign the lease with a clause that invalidates the lease if the results of the election are not available within a year. Others outlined another possible option of decreasing the number of overall CCA Board members, so that the

number of City appointments does not need to change but their proportional representation would increase. This action would still require a change to the by-laws.

Some members were concerned about adding a condition subsequent to the lease, as it creates uncertainty. These members were in favor of delaying the signing instead of inserting a condition subsequent, but they were not opposed to presenting both options to City Council members. Other members were in favor of a third option, which would state that CCA would do its best to change its by-laws but if the effort was not successful, the lease would still be signed. Members agreed to retain their previous recommendation of two City appointees on the CCA Board, while informing City Council members of the hurdles associated with making changes, including its impacts on the timeline of the lease approval and signing process. CCA stated that they will compile pertinent information for City Council members, including a breakdown in the diversity of past Board members and explain how the Board operates differently from other area nonprofit organizations. CCA will submit this information to City Council before the meeting on September 15, when Tim Plass and George Karakehian will provide City Council with an update on the topic.

Access and Parking Management – Section 6

Some members of City Council were concerned that CAMP approach to parking management at Chautauqua was not balanced enough between users of Chautauqua and users of nearby open space. Mr. Carr added additional language to further define the term “user” within the lease. Members stated that the term was referring to those using the historic district of Chautauqua, rather than those who use the parking and then go elsewhere. The Committee agreed to change the phrase “historic core” to “leasehold area” as a matter of clarification.

Annual Report and Audit – Section 13

Mr. Carr stated that some members of the community have expressed that CCA financials be available to the public at all times. He did not incorporate this change, as it would be a very unique practice compared to other City leases. He stated that CCA must advise the Committee on how to practically address this concern, if at all. CCA representatives stated that the organization is very transparent. Although there have been statements of discontent from the public regarding financial transparency, there has never been a public request to provide additional information that CCA does not already provide. They went on to explain that they have adjusted their financial reporting formats based on public requests and all Board meetings are open to the public with meeting minutes available online. Other members stated that the public was more concerned about the salaries of high-level CCA employees. These members explained that there is a public perception that Chautauqua is like a country club and providing the IRS form 9-90 document publically would be helpful in dispelling these rumors. CCA stated that it is already a public document, and they would have no problem sharing this information with the City. Members agreed to add new language to the lease stating that CCA will provide a 9-90 document in its annual report provided to the City on June 15 of every year, and all meeting will minutes will be published publicly or provided to the City.

Subleases – Section 15

Tom Carr presented the Committee with new language regarding sublease rent amounts. The new wording serves as a guideline and does not include specific rent amounts or market rates. Deb van den Honert, cottage owner representative, expressed that cottagers contribute to Chautauqua financially through taxes, rent, and fees and that these dollars directly benefit the public. Aside from financial contributions, she stated that cottage owners uphold the property and its historic nature, are co-stewards of this important resource, and represent the spirit of the Chautauqua. Preservation of spirit is just as important as preservation of buildings, and the cottage owners contribute a significant amount of time to achieve this. She explained that all owners of Chautauqua cottages accept a risk of forfeiture due to the

City lease and want recognition of their spiritual contribution and benefits to the public included in the lease.

Some members of the Committee were uncertain of why City Council should be involved in setting sublease rent amounts when they do not get involved in the same matter with other subleases. These members felt that it was unfair to hold Chautauqua to standards that are not required of other nonprofit organizations with which the City has a working relationship, such as the Dairy Center for the Arts. Others stated that Chautauqua, as part of its history and prominent role in the community, is not viewed the same as other organizations in the eyes of City Council members.

Members of City Council have recently been spending time looking at mobile home rent amounts, which typically range from \$500 to \$700 a month. By comparison, Chautauqua cottage owners pay an average of \$1,580 in rent and \$900 in fees a year. Thinking back to the City Council meeting, some members brought up that only one City Council member was concerned about comparing the rent amount to those of mobile homes, while the others expressed a general unease about such a low rent amount. Some City Council members expressed at the Council meeting that perhaps the City would not have to contribute as much money toward capital improvements if cottager rent was higher or CCA was able to contribute more. They view these cottages as nice, desirable, and clearly below market value. Some members asked if there was a way to include non-financial contributions in the discussion about sublease rent amounts in the lease. Other members expressed that such new language would not be a convincing argument before City Council.

In trying to brainstorm solutions to this problem, one member suggested that an increase in rent could go into a capital improvement fund rather than a general CCA fund. Other members expressed that increasing rent, even for the purpose of funding capital improvements, would be a burden to cottage owners and would make it increasingly difficult for some cottagers to stay. As City Council is working to expand affordable housing, these members questioned if it was logical to be taking actions to make some housing less affordable. Other members countered that City Council was not as concerned with affordability as it was equity. These members stated that City Council members will simply not approve a lease that does not include an increase in sublease rent amount, so it would be strategic to have the increase go toward funding capital improvements. They suggested that the best way to accomplish this increase would be to create a standard percentage increase in rent, all of which directly funds large capital projects.

Some members thought City Council would be most supportive of setting a specific sublease rent amount. Others thought that picking a rent amount and applying it across the board would force some cottage owners to default on their payments, skewing the balance of CCA-owned and privately-owned cottages. Some members expressed that this could be addressed with the inclusion of a financial hardship clause, which was included in the new proposed language by Mr. Carr. He explained that he chose not to include specific rates, because any rate that was viewed favorably by City Council would be viewed as too high by the cottagers. While not all members agreed with this choice, they discussed the possibility of creating new language that stated CCA must increase rent to cottagers in order to raise \$1 million for capital improvements in a specific time frame, either 10 or 20 years. This would avoid the need for City Council to become involved in setting specific rent rates, while still raising rent. Others thought that instead of raising \$1 million dollars, CCA could require a rent increase of 10 percent of total capital improvement costs. CCA members expressed that this would be more difficult to assess than a dollar amount, despite the fact that CCA would be responsible in covering the cottagers' contribution before it reaches \$1 million dollars.

The Committee took a short break for the cottagers viewing the meeting to discuss this issue with their representative. When the meeting resumed, the present cottagers agreed to include language in the lease

that stated ground rent will go up \$200 a month 20 years as long as they work with CCA to develop a hardship clause to be included in the subleases rather than the lease between CCA and the City. Mr. Carr recommended that the language in the new lease be more generic and state that CCA will significantly increase cottager rent and only reference \$200 a month over 20 years in the sublease. The Committee agreed to accept Mr. Carr's original proposed language other than the third sentence of Section 15, which will be deleted. The Committee further agreed to create new language noting the increase in rent for cottagers. CCA will alter language in the sublease that deals with additional assessments in order to ensure consistency between all documents.

Public Comment

Sharon Caulfield

Ms. Caulfield has been a neighbor of Chautauqua for 30 years and is glad to see that other neighbors are starting to get involved. She explained that access issues regarding Chautauqua are very impactful on local neighborhoods. Many neighbors are glad to see the changes outlined by CAMP and hope that it creates more sustainability of resources than in the past. Ms. Caulfield explained that there is a large rush of traffic entering Chautauqua right when it opens and the resource is being over-utilized. In her view, the OSMP trails the public is utilizing are not sustainable and pose a resource management issue. Parking is just the tip of the iceberg and is only a symptom of a larger problem. Ms. Caulfield also explained that she is in favor of a fair-market analysis of Chautauqua cottages as it is imperative that a nonprofit monitors the utilization of its resources in a fair manner as to not be looked badly upon by the IRS.

Catherine Long Gates

Ms. Long Gates explained that her great aunt built their Chautauqua cottage in 1899, and it has been operating as a model ever since. Her family understands that their ownership is a privilege and is happy to pay the associated fees and costs. The family has never received any income from their model cottage since it was built. In the past, it was not livable in the winter and they have made improvements when appropriate and necessary. She views herself and her family as stewards of Chautauqua, willing to give tours to anyone who is interested. She said cottagers are unable to quantify their contributions to the community and the associated public benefits. They do their best to contribute financial and non-financial ways.