



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: September 1, 2015

AGENDA TITLE: Request for Council Direction Regarding Whether the Chautauqua Leasehold Area Should be Considered “Parks Land” Under the Charter

PRESENTERS

Tom Carr, City Attorney

EXECUTIVE SUMMARY:

On February 17, 2015, Council created a Chautauqua Lease Committee, consisting of two council members, two CCA representatives and one cottage owner. A copy of the charter for that committee is Attachment A. The committee charter provided a process for lease approval that did not include approval by the Parks and Recreation Advisory Board. A community member, who has served on both PRAB and the City Council, has raised the question of whether such approval is necessary. Staff seeks direction about whether Council’s interpretation of the charter would require such an approval.

Requiring PRAB approval of the lease is in derogation of Council’s power. The power to approve includes the power to disapprove. Thus, if PRAB has the power to approve and four of the seven members of the board vote in the negative, the lease approval issue will be taken out of Council’s hands. Therefore, this is an important question of charter interpretation. In reviewing all of the evidence, staff recommends that PRAB be asked to approve the lease.

BACKGROUND AND ANALYSIS:

The Boulder Home Rule Charter includes the following provision:

The council may by motion grant leases, permits, or licenses in or on park lands, but only upon the affirmative vote of at least four members of the parks and recreation advisory board. The council may, by ordinance, delegate all or any part of this authority to the parks and recreation advisory board to approve such leases, permits, or licenses. The parks and recreation advisory board may, by motion,

subdelegate all or any part of its delegated authority to approve such leases, permits, or licenses to the city manager.

Charter § 164. The term “park land” is defined as follows:

As used in this charter, "park land," "park property," and "recreation facilities" means all lands donated to the city for park or recreation purposes, acquired by the city through purchase, dedication, deed, or condemnation for park or recreation purposes, or purchased or improved in whole or in part with funds from the permanent park and recreation fund.

Charter § 154. This language was added to the Charter in 1961. The city acquired the property in 1898, so it long preceded the establishment of the permanent park and recreation fund. There was one document that suggested that any funds necessary for the renovation of the dining hall and auditorium in the 1970s would have to come from the permanent parks fund. However, a report from 1978 makes clear that all of the renovations were funded with grant funds.

The property was “acquired through purchase.” The question is whether that acquisition was for “park or recreation purposes.” This is not as simple a question as it may seem. The original contract between the city and Chautauqua, dated March 18, 1898 includes the following purpose statement:

Whereas it is the desire of said Association to establish a permanent assembly in or near said City of Bolder, for the purpose of conducting summer normal schools, a Chautauqua assembly and a general lecture course, to be participated in by all the members of said Association and such other persons as may desire to avail themselves of the privileges of such assemblies, normal schools and lecture courses. . . .

None of the proposed purposes appear to be parks or recreation purposes. However, in the same contract, the city promised as follows:

Said city agrees that it will order an election under the laws of the State of Colorado, for the purpose of authorizing the City Council to incur indebtedness and issue bonds for the purchase of a City Park, to be located on a tract of land adjoining the City of Boulder and just outside the city limits on the south, consisting of about seventy-five or eighty acres. . . .

City voters approved the acquisition at an election held on April 5, 1898. The City Council approved issuance of the bonds in Ordinance 315, adopted April 9, 1898. The ordinance provides the following reasons for issuing the bonds:

[F]or the purpose of acquiring, establishing and maintaining certain public roads, pleasure grounds, boulevards, park-ways, avenues and roads. . . .

There is no question that for many years, the entire property was referred to as “Texado Park” and later “Chautauqua Park.” It also appears that Chautauqua was considered the responsibility of Parks and Recreation until sometime in the 1980s. Moreover, for both the 1980 and 1998 renewals, PRAB approve the lease before it was submitted to council. It does not appear, however, that PRAB approved the 2002 amendment to the lease.

Finally, the minutes of the September 29, 1980 meeting of the Chautauqua Committee report the following:

[City Attorney Joe] DesRaimés reported that under the City Charter the Parks and Recreation Advisory Board is required to approve (by at least 4 members) the Chautauqua lease before it is presented to Council. The Planning Board is not required to approve it unless a capital improvement program is part of the lease.

While this appears to be a definitive statement, it is interesting that Mr. de Raismes’ name is misspelled. This suggests that he may not have had the opportunity to review these minutes, which might undermine the weight this language should be given.

In reviewing the available documents, it seems clear that the city purchased land to encourage the creation of a Chautauqua. The land was called a park, but this was long before the definition of “park lands” was added to the charter. There is no record of permanent parks fund money being used to “purchase or improve” the area. The land was purchased and the buildings constructed with bond funds. All of the subsequent major improvements appear to have been funded either by CCA or through grants.

The Chautauqua leasehold area, including the city buildings has always been leased to CCA or its predecessor. It has never been managed by the Parks and Recreation Department or its predecessors, although issues related to the lease and the building renovation appear to have been under the purview of the Parks and Recreation Director at least through the 1980s. The entire area has often been called a “park” with the view that a portion of the park was leased to CCA. Although there is support for either interpretation, staff recommends that PRAB be asked to approve the lease. This could either be done at the September 10 meeting or at the September 28 PRAB meeting.

**CREATION OF A CHARTER FOR A COUNCIL SUB-COMMITTEE
FOR ANALYSIS OF, SOLICITATION OF PUBLIC INPUT ON
AND NEGOTIATION OF THE CITY'S LEASE WITH THE
COLORADO CHAUTAUQUA ASSOCIATION**

This is a Charter for a council sub-committee for analysis of, solicitation of public input on and negotiation of the city's lease with the Colorado Chautauqua Association.

1. The sub-committee shall consist of two council members and three representatives of the Colorado Chautauqua Association.

2. The council members shall be George Karakehian and Tim Plass.

3. The Colorado Chautauqua Association representatives shall be the executive director, one cottage owner and one board member who is not a cottage owner.

4. All meetings of the sub-committee shall be held only after public notice of the date, time and place.

5. All meetings shall be open to the public. The sub-committee shall allow time for public comment at each meeting.

6. The sub-committee shall conduct one meeting at which members of the Landmarks Board, the Open Space Board of Trustees, the Parks and Recreation Advisory Board and the Transportation Advisory Board are provided the opportunity to provide their advice regarding the lease.

7. The city manager and the city attorney are directed to provide staff support to facilitate the committee's work.

8. The committee shall select a professional facilitator to assist with the committee's work.

9. The appointed council members shall provide regular updates to the full council about the committee's work.

10. Council intends that the committee will complete its work by the end of May 2015.

APPROVED this 17th day of February, 2015.

Matthew Appelbaum
Mayor

ATTEST:

City Clerk