



**TOPS Working Committee Meeting
Meeting Minutes - FINAL
Wednesday, October 3, 2018**

Members Present: Jason Alwine, Lily Weissgold, Lee Milner, Joe Lavorini, Jeff Mohrmann, Bob Falcone, Blaze Panariso

Alternate Present: Paula Krantz

Members Absent: Jim Klever, Nancy Hobbs

Parks Board Liaisons Present: Carol Beckman, Mina Liebert

Parks Board Liaisons Absent: Jason Rupinski

Staff Present: Britt Haley, Karen Palus, Kurt Schroeder, Kim King, Christi Mehew, Scott Abbott, John Stark, Lisa O'Boyle

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Jason Alwine brought the meeting to order at 7:33 a.m.

Closed Executive Session

In accord with the City Charter Art. III, §3-60(d) and the Colorado Open Meetings Act, C.R.S. § 24-6-402(4)(a and e), the TOPS Working Committee, in Open Session, is to determine whether it will hold a Closed Executive Session. The issues to be discussed involve determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations and instructing negotiators regarding a land acquisition matter. The Chair shall poll the TOPS Working Committee members, and, upon consent of two-thirds of the members present, may hold a closed executive session. If consent to the closed executive session is not given, the item may be discussed in open session or withdrawn from consideration.

Motion: To enter into a closed executive session.

1st – Joe Lavorini, 2nd – Lily Weissgold, Approved, Unanimous

Motion: To end the closed executive session.

1st – Joe Lavorini, 2nd – Blaze Panariso, Approved, Unanimous

Citizen Discussion

Agenda Preview Committee Chair Jason Alwine announced the agenda for the meeting.

Announcements

Britt Haley, TOPS Program Manager

- The Committee will be prioritizing TOPS applications during the December TOPS Working

Committee meeting.

- There will not be a TOPS Working Committee tour this month.

Kurt Schroeder, Parks Maintenance and Operations Manager

- Stated the department has received several reports that Rick Bergles has been sighted in the Stratton Open Space area. He has been restricted from the Stratton Open Space area before by court order due to his activity. He twice has received a one year ban from the area. The Parks Department welcomes any feedback on sightings so authorities can be notified.

Joe Lavorini, TOPS Working Committee Member

- Stated that the Rocky Mountain Field Institute (RMFI) in connection with the US Forest Service and Trails and Open Space Coalition (TOSC) recently started a planning process to reopen the the Waldo Canyon area. A public process is underway and there is a survey online at www.waldocanyonplanning.com. The first public meeting will be in January.

Approval of Minutes – September 5, 2018

Motion: To approve the minutes of the September 5, 2018 TOPS Working Committee meeting.

1st – Lily Weissgold, 2nd – Blaze Panariso, Approved, Unanimous

Citizen Discussion

Susan Davies, Trails and Open Space Coalition (TOSC) Executive Director

- Stated that park staff was invited to the last TOSC Advocacy meeting. There was a great discussion about the Legacy Loop and how to close the gap. This provided the group a better understanding of the project and how TOSC can help when the time is right. Thank you to the park staff.
- Denver will be having on their ballot in November a 2.5 sales tax increase for their Parks Department. The Trust for Public Land is assisting them in this grassroots effort. Community leaders were asking about Colorado Springs plans to do something like Denver and the discussion was very positive.
- The last Waldo Waldo 5K is on Saturday, October 20th and RMFI and TOSC are beneficiaries of this event.

Committee Pictures (Taken by David Deitemeyer)

Action Items

Amendment to Trails Capital Improvement Projects Budget for the Foothills and Gateway Trails at Garden of the Gods Park (Presented by Britt Haley, TOPS Program Manager)

Parks, Recreation and Cultural Services staff requests approval of an amendment to the approved TOPS Trails Capital Improvement Projects (CIP) Budget to capture an opportunity to build additional trail at a good price. This request is to modify the funding for prior year trails CIP projects which have either stalled or are able to be deferred to a future year to accommodate an opportunity to complete the TOPS approved Foothills Trail and related portions of the new Gateway Trail at the Garden of the Gods Park. The TOPS Working Committee and the Parks, Recreation and Cultural Services Advisory Board approved \$295,000 for the Foothills Trail at Garden of the Gods. This

request would reallocate up to \$400,000 from other TOPS trail projects to this project to capture excellent pricing. The TOPS Working Committee’s recommendation will be carried forward to the Parks, Recreation and Cultural Services Advisory Board for consideration.

Staff reevaluated the TOPS Trails CIP Budget and identified the following projects that have either stalled or can be deferred to a future date to allow their assigned funding to be amended.

Skyline Trail	\$16,144	Remaining balance from prior project at Union and Skyline Trail.
Sinton Trail @ Chestnut	\$172,162	Remaining balance from prior year construction. Acquisition of trail easement required.
Chamberlain Trail-Zoo	\$100,000	Project on hold. Negotiation with adjacent HOA required.
Sand Creek Hancock Crossing	\$111,694	Project on hold pending easement acquisition.
Total potential funding	\$400,000	

Stakeholder process:

The TOPS Working Committee Meetings and Parks and Recreation Advisory Board Meetings provide opportunity for public comment. The approval timeline and process for an amendment is:

TOPS Working Committee consideration: October 3, 2018

City Council Budget Committee Presentation: October 9, 2018

Parks, Recreation and Cultural Services Advisory Board consideration: Oct. 11, 2018

City Council Work Session Presentation: October 22, 2018

City Council Regular Session Approval: November 13, 2018

TOPS Working Committee member Lee Milner asked how much money is needed. Britt Haley responded \$400,000 from the TOPS budget.

TOPS Working Committee member Lee Milner inquired if this project meets the guidelines of a new trail. Britt Haley replied yes it does and an accessible trail is needed for the gateway.

Susan Davies, Trails and Open Space Coalition (TOSC) Executive Director, stated she has received comments from Foothills Trail bicyclists that they are having trouble getting through the parking lot and continuing onto 30th Street. David Deitemeyer, Senior Landscape Architect, stated this project will improve the situation. The overflow parking lot went in this summer and disrupted the existing Foothills Trail through Rockledge Ranch property. Staff was able to add signs to get people back onto the road. The Foothills Trail will align closer to 30th Street and the Parks Department hopes to have the project completed by Thanksgiving. The overall project will include replacing several sections of cracked concrete on the trail north of Gateway.

Bill Koerner, citizen, asked will the road expansion of 30th Street effect this in the future. Britt Haley replied they are not expanding into the park and any widening or expansion will go on the other

side into the hill.

Kurt Schroeder, Parks Maintenance and Operations Manager, stated the 30th Street project will not impact the park and it will go to the east. The current preliminary plans are for the intersection of Gateway and 30th to be a roundabout. Staff has been pushing hard to have an underpass for the Foothills Trail.

TOPS Working Committee member Bob Falcone stated if money is taken away from these projects that are stalled, how are these projects ensured to not get lost in the process. Britt Haley said when there is progress on any of the projects on the list, she will come back to the TOPS Working Committee and provide an update to move forward.

Motion: Move to approve the proposed amendment to the TOPS CIP Budget as presented.
1st – Lee Milner, 2nd – Blaze Panariso, Approved, Unanimous

Presentations

Election of TOPS Chair and Vice Chair

Motion: Move to nominate Jason Alwine for Chair and Joe Lavorini for Vice Chair.
1st – Lee Milner, 2nd – Blaze Panariso, Approved, Unanimous

Budget 2019 Update (Presented by Kelly Rajab, Parks Financial Analyst)

[Link to PowerPoint presentation](#)

Ethics Training (Presented by Lisa O'Boyle, Parks Attorney)

[Link to PowerPoint presentation](#)

Citizen Discussion

Glenn Pressman, citizen, asked if the City Attorney was present to state their opinion regarding a conservation easement on the White Acres property. Britt Haley stated that at the last TOPS Working Committee meeting the committee had requested from the Legal Department answers to questions regarding the conservation easement. She sent these questions to the Legal Department to review. She was not aware that Lisa O'Boyle, Parks Attorney, contacted a staff member to discuss this matter today in an executive session. The Committee can call an executive session to review this information; however, how the Committee chooses to act after receiving this information is their decision.

TOPS Working Committee member Lee Miner asked why does the Committee need to go into an executive session to discuss this matter. Britt Haley stated that legal advice is always given in the form of attorney-client privilege. There is a process if the Committee wants to waive this privilege. Lisa O'Boyle prefers to answer questions during an executive session.

Shanti Toll, Friends of Red Rock Canyon, asked what is the process to submit changes to a master

plan in regards to public input. Britt Haley stated this is a master plan discussion and TOPS Chair Jason Alwine mentioned it will be on the November agenda.

Bill Koerner, citizen, asked if the public can talk about this matter after the executive session. TOPS Working Committee member Blaze Panariso stated no because the Committee hasn't received the legal advice yet. They will receive the advice and then decide as a Committee what they feel comfortable discussing with the public. Bill Koerner stated the Friends of Red Rock Canyon have addressed the Committee on two occasions and need some explanation on this issue so they know how to proceed.

Motion: To enter into a closed executive session.

1st – Lee Milner, 2nd – Blaze Panariso, Approved, Unanimous

Executive Session

Closed Executive Session – Lisa O'Boyle

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Motion: To end the closed executive session.

1st – Blaze Panariso , 2nd – Joe Lavorini, Approved, Unanimous

Motion: To wave attorney/client privilege to discuss the conservation easement on the White Acres property during open session.

1st – Bob Falcone, 2nd – Joe Lavorini, Approved, Unanimous

Lisa O'Boyle, Parks Attorney

Questions/Answers in regards to a post-acquisition conservation easement on the White Acres property:

- Has the position of the City Attorney's office changed from their 2011 position to not put a conservation easement on the White Acres property? The City Attorney's office position has not changed and they still advise against a conservation easement on the property.
- Has the adoption of the Red Rock Canyon Open Space Master Plan in 2013 changed their recommendation with regards to the conservation easement? Master plans are not developed in conjunction with the City Attorney's office.
- How can a conservation easement be placed on a TOPS property after acquisition? Conservation easements are placed contemporaneous to acquisition and usually is a requirement of a funding source. A subsequent placement of a conservation easement post acquisition falls under 4.6.202 of city code which suggests a process will need to have

approval through an election prior to being able to put a conservation easement on the property. The City Attorney's office believes that a conservation easement would be considered a conveyance. Specifically referencing halfway through city code 4.6.202.F, it states under part 2 that (land) "may be sold, traded or otherwise conveyed". Legally, the conservation easement is likely covered under the "otherwise conveyed" language of 4.6.202.F part 2. The process that would need to be followed is that after a recommendation is given by the Advisory Board then City Council will need to consider it, place on a ballot and receive approval before a conservation easement could be placed on the property.

- Does the City Attorney's office have any additional information in light of the request from the Friends Groups? Background information was provided on what has transpired on the White Acres property based on research and the Friends Group was present during the initial purchase and should have this information as well.
- This is the information provided to the TOPS Working Committee and is the best advice on this matter from the City Attorney's office.

Citizen Discussion

Bill Koerner, citizen, asked for a written copy of Lisa O'Boyle's statement. Lisa O'Boyle stated she does not have a written advisory opinion. She serves the TOPS Working Committee and can give written advisory opinions and privileged information to the TOPS Working Committee and does not generate this information for the public. Britt Haley stated that she informed Lisa O'Boyle that a written response was not necessary if it was causing a delay. The minutes from the meeting will capture this information.

Lisa O'Boyle stated there is a process to get to a public vote. She was not able to find any relevant examples. This is the City Attorney's office best advice; however, they do not know for sure the court's interpretation. The City Attorney's office does say it is a conveyance.

Glenn Pressman, citizen, stated he disagreed with the City Attorney's office position. This case is based on interpretation of the Colorado Supreme Court. He prepared a short legal memo on these issues. This committee can't resolve legal issues and it has to be resolved by City Council. He suggests addressing at the next meeting the general issue of a conservation easement on White Acres and put aside the legal issue. This will move this matter along and when it is in front of City Council they can address the legal issues with the City Attorney's office.

Britt Haley stated that in 2010/2011 the Parks Board and TOPS Working Committee was unaware of the City Attorney's office position at the time. They approved the item and it went to City Council and at that point the City Attorney's office gave their legal opinion. She wants this to be heard and fully discussed and wants the Committee to know the City Attorney's opinion. A discussion on policy can take place if the Committee wants to approve or make a recommendation on this matter. Based on her prior experience at the Colorado State Land Board they used an alternative management tool to do long term conservation management agreements to protect property. This can be discussed during the November meeting.

Glenn Pressman, citizen, stated that in 2010 the item was pulled from the City Council's agenda and they were never presented the item for approval.

Bill Koerner, citizen, stated he would like to hear Britt Haley's alternative management tool idea.

TOPS Working Committee member Blaze Panariso asked what protections are in place with conservation easements.

Adjournment

Motion: To adjourn the TOPS Working Committee meeting at 10:11a.m.

1st – Bob Falcone, 2nd – Blaze Panariso, Approved, Unanimous