

Approved as Amended November 13, 2013
OPEN SPACE BOARD OF TRUSTEES
Minutes
Meeting Date October 9, 2013

BOARD MEMBERS PRESENT

Allyn Feinberg Tom Isaacson Shelley Dunbar Frances Hartogh Molly Davis

STAFF MEMBERS PRESENT

Jim Reeder Dean Paschall Eric Stone Annie McFarland Phillip Yates
Andy Pelster Joe Reale Don D'Amico Todd Doherty Dave Kuntz
Jennelle Freeston Leah Case Mark Gershman Michele Gonzales

CALL TO ORDER

The meeting was called to order at 6:00 p.m.

**AGENDA ITEM 1 – Approval of Minutes
September 11, 2013**

Tom Isaacson said on page 1, the word “would” should be added before “have to be turned off” in line two of the last paragraph. He said on page 2, in the second to last paragraph, “Iron Man” should be “Ironman.” On page 7, the language in the middle of paragraph 3 should read, “and trying to put an Open Space regulatory system.” He said in line 6 of paragraph 3, “lager” should be changed to “larger.” Frances Hartogh said on page 5, the language in line 7 of the second to last paragraph should read, “Frances said the effect on animals of loud noises has been documented in numerous studies, and short-term effects can still be significant.” She said on page 7, in the middle of the last paragraph, the language should read, “She said there is no adequate plan for evacuation. If this moves forward, Open Space needs to be fully reimbursed. She added that last year there were many disappointed people who wanted to hike, and not watch this event. She said she saw significant disturbance to bears.” Molly Davis said on page 7, the word “enough” needs to be changed to “more” in the bottom of the last paragraph.

Tom Isaacson moved to approve the minutes from September 11, 2013 as amended. Frances Hartogh seconded. This motion passed unanimously.

September 25, 2013

Tom said on page 2, the language in the middle of the last paragraph should read, “He does not feel that the question of the ownership of the road needs to be answered for this purpose.” He said on page 3, the word “conversations” needs to be changed to “options” in the middle of the third paragraph. On page 5, the “ADA” acronym needs to be corrected to, “Americans with Disabilities Act.” He said to remove Dean Paschall from the list of staff members present. Shelley Dunbar said on page 3, the first line of the third paragraph should say “certain types of use.” She said on page 4, the first sentence of the last paragraph should read, “Shelley questioned whether OSMP has enough staff to manage all of the volunteers.” Frances said on page 3, the language in the middle of the second to last paragraph should read, “Frances said she opposes disposing of the road because that is a slippery slope; every time there is a potential conflict the solution should not be to transfer the land to someone else.” She said in the last paragraph of page 3, the word “would” should be changed to “should.” Molly said on page 6, the word “fire” should be added before “threat” in the last paragraph.

Tom Isaacson moved to approve the minutes from September 25, 2013 as amended. Shelley Dunbar seconded. This motion passed unanimously.

AGENDA ITEM 2 – Public Participation for Items not on the Agenda

Granger Banks, Boulder, said he has had a commercial paragliding operation through Open Space and Mountain Parks (OSMP) for several years. He said while there were aspects of the flood that were not preventable; there were many things that could have been avoided. Right after the flood, OSMP notified all permit holders that Open Space was closed, and to keep watching the Website for updates. He said at one point they visited Wonderland Lake and it was opened. They continued with their paragliding operation, but shortly after this, the area was closed again. He said it is understandable why commercial use is suspended for areas that are crowded, but it does not make sense for areas such as Wonderland Lake. Staff has been unresponsive about when areas will be reopened and no one is accepting offers for volunteers. These areas could be opened much sooner than staff is saying.

Basit Mustafa, Boulder, said OSMP is not respecting the will and the spirit of the people; the policies and land management is turning Open Space into a walled garden. The government lands are for the people and by the people. Open Space continues to acquire land and then close it down. He said there is a broken accountability structure that has been around for many years. The OSMP Board is only representing PLAN-Boulder, a group that represents a very small amount of the population. The City of Boulder has amazing recreational opportunities and the spirit of Boulder is based upon sustainable recreation. Money should not be used to buy more land when existing lands are not being used for recreation and sustainability. The closing of trails was appropriate for a few days, but the continuations of closures are examples of the fact that OSMP is a walled garden; the citizens of Boulder want to be in nature. He urged the Board to consider all voters and not just those with the deepest pockets.

Bryan Williams, Erie, said it is depressing not to be able to use Open Space. Hiking is a stress relief and allows him time to be with his family and friends. This flood has been really difficult for many people, and not being able to hike is how he has been affected. The trails that are open do not connect to a lot of other trails which makes hiking very limited. He said several people that he knows have been trespassing, and they reported that all of the trails are fine. Any damage that is there made for a more adventurous time. He said he used to be able to run at night, and now even the trails that are open are closed at night; these trails are not any more dangerous now than they were before the flood.

Jorge Latre, Boulder, said he is a pilot. No one tells him where to fly or where to land. After Sept. 11, the airways were closed for three days, but once they reopened he was able to resume making his own decisions. He said in addition, he has been walking for 50 years, and no one until now has felt the need to tell him whether he can walk or not. He is confident in his ability to make decisions. He would appreciate OSMP's recognition of that, and his good judgment.

Johannes Rudolph, Boulder, said thank you to OSMP for opening what they have of the trails already. He said his daily hiking experience is necessary for his well being. He encouraged OSMP to keep opening the trails as rapidly as possible.

Ben Kadlec, Boulder, said he does not know why trails are still closed. There have been many times in the middle of winter when trail conditions are worse than they have been during the flood. He said he is capable of determining for himself when a trail is safe or unsafe. These conditions add a component of adventure which is favored. He does not think OSMP needs to make blanket rules for the whole system.

Mike Barrow, Lafayette, on behalf of Boulder Mountain Bike Alliance (BMA), said the trails which were built recently did not get hit as hard from the flood because they were built sustainably. He said everyone needs to learn from this experience; just because this trail has been here a long time does not mean it will hold up. The BMA sent out a call for volunteers, and received over 500 responses. Currently, OSMP is the only place where these volunteers can be utilized, as there is no current access to County Parks and

Open Space or to the Forest Service. He said this is the window of opportunity for OSMP to use the help of this tremendous community. He said the Wildlands Restoration Volunteers (WRV) and BMA have the resources to put on a really great event. He said OSMP is not moving fast enough to get this done. This is the time to take advantage of volunteers because once other areas open, people will disperse for those projects.

Wendy Drake, Boulder, said she runs Open Space trails every week. She said the trails are really important as it is a place to practice and a way to be a part of this community. She said people are responsible for their own actions and can make their own decisions. The Boulder Trail Volunteers have over 1000 people willing to come out and work on the trails. She does not think that the trails need to be closed during this period simultaneously. She said if OSMP's management team cannot step up, they need to find someone who can. She thanked OSMP for what they have already opened up.

Jay Rawlings, Boulder, said hiking is deeply personal to him, and he wants to be able to introduce his family to what he grew up with. He acknowledged OSMP for its work so far, and asked that the rest of the trails be opened immediately or as soon as possible. He said people will not be able to do any more damage than what nature already has. Each individual should be allowed to decide their own level of risk. He suggested posting the risks as an alternative to keeping the trails closed. There are many people who want to volunteer and this is an opportunity for OSMP to build a bridge with the community. He said people who use the trails at night are more competent and safe than the general user and should be allowed this access. He asked what standard the system needs to be at in order to allow off-trail access.

Kevin Bains, on behalf of the Colorado Mountain School, said OSMP needs to lift the ban on commercial use. He asked the Board to help save the rest of their season and these businesses. All of the commercial guides who operate on Open Space have a business based on taking private citizens onto public land; they do not have Federal Emergency Management Agency (FEMA) assistance. He said allowing these guides back onto public lands are bringing professionals back to work. All guides are stewards of the land and ambassadors of Boulder; please allow them the opportunity to work before the season is over.

Greg German, Broomfield, said he would like to see the restrictions lifted on: off-trail access, nighttime access and commercial use.

Mark Oveson, on behalf of the Flatirons Climbing Council (FCC), said this group acts as an interface between OSMP and the climbing community. He said the memo OSMP sent out regarding flood closures reported that very few people have been calling about the nighttime closures. He begged that their patience not be interpreted as not caring. He said it has been four weeks since the end of flooding and climbing areas are still restricted. The FCC contacted OSMP immediately after the flood, and has just recently been granted a meeting so that training can begin; he requested that things move faster in the future. He asked that OSMP recognize FCC's mission and please consult them in the future when thinking about closing climbing areas. He noted that Rocky Mountain National Park (RMNP) was closed for a few days, but when they re-opened they opened their whole system and posted signs with potential risks. This is what Open Space should have done.

Mark McIntyre, Boulder, said he recently wrote a letter to the Daily Camera about where the Open Space department was deficient. After watching the OSMP staff presentation at the City Council meeting, he realized he had been naïve. Rather than a deficiency he realized the department has a strategy. He said OSMP is using this crisis to further their goal of rerouting trails and changing access policies. At the City Council meeting, staff's presentation was preceded by other department presentations, and the contrast was striking on two fronts: money and activity. He said it was presented that the cost to rebuild dirt trails is more expensive than the repair of all city streets. OSMP's goal is to have only 50% of trails open by Jan. 1, 2014 and some trails may never open again. He said staff is dramatizing the damage in order to

maximize FEMA funds. He asked the Board to request council to stop these delays. The land should be signed with “use at your own risk” language, and have any truly dangerous areas flagged. The OSMP department needs to be held to a high standard.

Jason Markel, Boulder, said the day that Wonderland Lake was opened he took a group up there to paraglide. The trails are in excellent shape and it is unclear why they are closed again. He said he is the project lead for Donate Boulder and the Mud Slingers; these groups have hundreds of volunteers. These groups have helped a lot with flood recovery, and OSMP needs to take advantage of them. He said a higher number of people need to be utilized and they should be working on more substantial projects. OSMP needs to reconsider their efforts because if volunteers were used appropriately timelines could be bumped up

Bob Manthy, Boulder, on behalf of the Boulder Trail Runners, said they are trying to be patient and understanding. He said two weeks ago he heard how many people were offering to help, and still there are no real volunteer projects going on. OSMP needs to use the large population of people who want to be involved; this would have a positive impact on the attitude of the recreation community. He said thank-you to the Board for listening attentively.

Chris Ratay, Boulder, said thank you to the Board for listening to all speakers. Lately, there has been a lot of frustration by those willing to help with no response from OSMP. He said he just recently moved into a house close to Open Space in order to be close to the paraglide launch site. With this area closed, people have to travel far distances just to be able to fly; this is not sustainable and goes against the Boulder way. Everyone is willing to help get the system open again, and it would be unfortunate not to tap into the currently available resource.

Jamie Mieras, Boulder, said she was a Junior Ranger and every summer they worked on the trails while they were still open; she wanted to note that is a possibility.

AGENDA ITEM 3 – Director’s Updates

Update on Flood Impacts to OSMP

Andy Pelster, Land and Facilities Operations Supervisor; Todd Doherty, Water Resources Administrator; Don D’Amico, Ecological Systems Supervisor; Annie McFarland, Visitor Access Coordinator; Jennelle Freeston, Volunteer Coordinator; Joe Reale, Ranger Supervisor; and Mark Gershman, Planning Supervisor, gave updates to the Board on flood damage throughout the OSMP system. All presentations are saved in S:OSMP\admin\OSBT\Minutes\Minutes 2013\October.

Frances asked how many people Andy has in his work group. Andy said 10. Frances asked Todd if e-coli are a risk to animals. Todd said he said he has not heard of that risk in Boulder as it is higher in the watershed. Shelley asked if there is a strategy for getting the water back to its original course. Todd said this will be handled on a case by case basis; there will be a team put together to look at long-term fixes. Molly asked if using volunteers to dig out sediment is a useful project. Todd said this has only taken place on one recent project at Silver Lake Ditch, but was appreciated by the neighbors of that area.

Shelley asked Don how the cost estimate is determined. Don said OSMP is still going through the FEMA process, so the cost estimate will not necessarily be a direct cost to the city. He said staff will continue to work with ditch companies where infrastructure has been impacted as well as continue writing grants.

Tom asked Annie what the plan is for opening the Cottonwood Trail. Annie said staff needs to coordinate with Greenways and then it can be opened. Tom asked what staff’s standard is for safe. Annie said a few factors that deem an area unsafe are: fissures that could cause future hazards, bridges that are out, areas where staff would like to make a more defined path (need for fencing, flagging, etc), and large holes that

need filling. Shelley asked how many trailheads will be open for access and how many will be open just for staging of equipment. Annie said all trailheads that are currently open, are open for access. She said South Mesa Trailhead is the only area that will be opened solely for staging; currently there are no opened trails which lead out of that trailhead. Shelley asked if work can happen while a trail is open. Annie said each area will have a different scenario. Frances asked why some trails may never be reopened. Annie said in some areas staff is unsure of a solution at this time. Molly asked for clarification on the difference between opening trails and opening them up to meet OSMP standards. Annie said the trails that have been opened, were opened quickly (by eliminating high risk areas/obstacles), but staff will most likely revisit areas to fix them at a higher standard.

Tom asked Jennelle how many people have participated in hands-on projects. Jennelle said roughly 200. Shelley asked what the biggest challenge is for getting more projects going. Jennelle said trails and field staffs were tied up with opening a high volume of trails quickly, but now that the process is slowing down these staff members will have more time to help with projects. Shelley asked if more staff members are needed to help implement projects. Jennelle said there are roughly 40 staff members who work with volunteers, so once a project is given the green light OSMP has the staff to take on the project. Shelley said OSMP should try to use groups with experienced leadership, such as BMA or WRV. Jennelle said staff will be meeting with these other agencies about long term goals and ways in which those skills can be utilized. Molly asked if staff has to conform to FEMA. Jennelle said yes, there is a template for the City Attorney Office (CAO) that needs to be completed, all participants sign a risk and release, and all time has to be tracked closely. After the project is completed, all forms are sent to the CAO. Allyn said being able to use volunteer hours towards FEMA is really great. Frances asked if the public is aware that the CAO in charge of coordinating volunteers. Jennelle said yes this has been posted on the Website.

Tom asked Joe if OSMP has the authority to make people pay for their own rescue. Joe said no, and that is the way it should be. He said you do not want people to hesitate to call. If they are in a closure then they will be issued a summons. Frances asked how well the public is being educated of the risks. The trails that are open are available to all people, and not just those that are young and agile. Joe said the message is out there, and people are aware of the risks. He noted that the majority of people are following the rules; however, with such a high volume of people it only takes a small percent to break the rules and put themselves and others at risk.

Frances said to Mark that the city must operate exactly to FEMA standard or they do not get the 75%. Mark said that is correct, and noted that the state has also offered to contribute 12%. The city manager's approach has been for departments to make all reasonable efforts to get any reimbursement.

Public Meetings

Dean Paschall said the city will be hosting a series of neighborhood open houses for flood recovery, and OSMP has been asked to host one specific to Open Space. Jim Reeder said the city manager would like the Board's input on how to move forward. Shelley said there is a lot of merit in having an open house. Allyn said it seems that there is not just pent up frustration but missing information; this open house should take place sooner rather than later. Shelley added that the frustration level will just get more intense. Frances said there is value to having this meeting within the next week; staff could provide a short version of tonight's meeting. She said people need to understand why these trails are still closed. Shelley said those that would not think to come to an OSBT meeting might be inclined to come to an open house.

Open Space Access During Flood Recovery

Eric Stone, Resource Systems Division Manager, gave a brief update on Open Space access. This memo is saved in S:OSMP\admin\OSBT\Memos\Memos 2013\October.

Tom said commercial use should be allowed on all trails that are open. Eric said this program was suspended because right after the flood there was very little access for the public; allowing commercial users would create too much congestion. Eric said it is important for the residents of Boulder to have trails to walk on. He said at some point more trails would be open and this could be discussed again. Tom said that point has been reached. Shelley agreed; this is about people's livelihood. She said guides are among the safest users and they have insurance. Eric said there are only so many climbs and trails open so there is too much potential for congestion and dangerous situations. Tom said these guides are very experienced and having them out there makes the system safer. Shelley said if there are damaged trails that lead to climbing access, the climbing community would be able to help. Eric said volunteers are being trained to help with trail assessment. Allyn said the paragliders are only in one location. Eric agreed, but that area is still an active slide area. Shelley said maybe this group could be granted a special permit, or sign a waiver saying they will operate at their own risk. She asked if the trail to the launch site was reopened, along with commercial use, if these groups could resume activity. Annie said she does not know when this area will open, but it has been included as a trail to be assessed by FCC and Rocky Mountain Rescue (RMR). Frances asked how it is decided whether an area is safe or not. Eric said OSMP will be working with a geologist to assess the area. Frances asked if there is another place where paragliding could take place. Eric said this is the only place they can fly.

Shelley asked if OSMP could mimic RMNP by opening up certain areas and posting the risks. Eric said this has been part of the discussion. Tom said if a trail is being actively worked on it is appropriate to remain closed, but the goal of only 50% opened by Jan. 1 is not high enough. The public paid for the system and have charter rights to use it. Shelley said areas should be opened with the risks posted on signs; staff owes it to the public to listen to what they are saying. Eric said there are some trails in good condition, but the access trails are still damaged. Allyn said she would defer to people who evaluate this situation with understanding that they would like to open as many trails as they can. She agreed that 50% does not seem satisfactory. Frances said this needs to happen safely, and if the system is not in a place to open then it should not be opened. Jim said it is likely that staff will exceed the goal of 50%. Allyn said staff can be more ambitious especially with the help of so many volunteers. Staff should try to accommodate commercial use as quickly as possible. Shelley said an idea for the open house would be to have people sign up for how they would prioritize the opening of trails. Molly said it would be reasonable to sign multi-use trails with why trails are closed. Shelley said staff needs to have a dialogue with paragliders to know where the hazards are. Annie said generally there is a trail that leads to the launch site; it will just be a matter of deciding if this trail is open. The Board said they recommend opening commercial use to all areas where trails are open.

Frances asked how nighttime use is defined. Eric said when headlights need to be used. Frances asked if nighttime users have been ticketed. Joe said no. Eric said most people are respecting this restriction. Frances asked if someone is on a run at 5:30 a.m. if that is considered nighttime use. Eric said yes. Tom said with winter coming, the nighttime closure is a bigger deal. Shelley said for trails that are in good condition, staff should go back to business as usual. Frances said if people are running on these conditions at night there will be injuries; this is a risk to both the user and those rescuing. Tom said he is against this as a fair portion of Greenways are on Open Space and they should not be closed at night.

Update on McClintock Trail Area Dog Closure

The Board has read this memo and has no further discussion.

E-Bikes

Dean asked the Board to review the staff recommendation for e-bikes in the council memo. Allyn said it will be difficult for this pilot project to take place when Open Space paths are excluded. Shelley asked if there is any exception to this. Dean said operation of a motor vehicle is counter to the charter. There is no way to exempt motor vehicles on Open Space. Allyn said disposing Open Space is a big deal. It is worth

having public input and to do the disposal appropriately. Dean said staff can evaluate which trails would be included in disposal. Allyn said it needs to be made clear that along with soft surface trails there are some hard surface trails that would not be part of the pilot program. Dean said a possible change of language could be that use of e-bikes is prohibited on OSMP property. He noted that at National Oceanic and Atmospheric Administration (NOAA)/ National Institute of Standards and Technology (NIST) there is a Conservation Easement (CE), OSMP has responsibility of management in protective areas but bike paths are viewed as transportation. Allyn said a transfer inside the city is still considered a disposal of Open Space; once given away they can do whatever they want with it.

Xcel/Flagstaff

Jim Reeder asked the Board for a recommendation on an Xcel exposed high pressure natural gas line that serves the Flagstaff House Restaurant. The county said they need to move this and put it onto Open Space. Jim said the Board needs to approve a non-exclusive revocable license and make a recommendation. He said after Flagstaff Road is rebuilt it will be up to OSMP and Xcel to decide whether this pipe gets moved back under the road, or stays on Open Space. If they do not move it back they will need an easement. Frances asked how far onto Open Space would they move this. Jim said he is unsure. Shelley asked if this poses a current safety issue. Jim said yes.

Allyn Feinberg moved the Open Space Board of Trustees recommend that Open Space and Mountain Parks grant a non-exclusive license to Xcel Energy to relocate the pipeline for some period of time. The OSBT recommends that when Xcel finds a permanent location, if at all possible, it be in the road and not on Open Space. Shelley Dunbar seconded. This motion passed unanimously.

AGENDA ITEM 4 – Matters from the Board

None.

ADJOURNMENT – The meeting adjourned at 10:30 p.m.

These minutes were prepared by Leah Case.