

*Approved as Amended October 9, 2013*  
**OPEN SPACE BOARD OF TRUSTEES**  
Minutes  
Meeting Date September 25, 2013

**BOARD MEMBERS PRESENT**

Allyn Feinberg      Tom Isaacson      Shelley Dunbar      Frances Hartogh      Molly Davis

**STAFF MEMBERS PRESENT**

Mike Patton      Jim Reeder      Eric Stone      Annie McFarland      Mike Orosel  
Phillip Yates      Dave Kuntz      Leah Case      Michele Gonzales

**GUESTS**

Marni Ratzel, Senior Transportation Planner

**CALL TO ORDER**

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

**AGENDA ITEM 1 – Approval of Minutes**

Postponed.

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

Peter Bakwin, Boulder, said right after the flood and before the city closed the trails he hiked up to Green Mountain. He said he saw firsthand the destruction and the damage, and it seemed appropriate that Open Space and Mountain Parks (OSMP) was closed. He said everyone knows that this is a flood prone area and a natural process. In 48 hours the flood did more damage than 100 years of people visiting. He said the damage is done and keeping people out will not change that. He said before the flood, off trail access was allowed on most of Open Space and the flood should not change that in any way. He said outdoor recreation has some sort of risk component and he does not need city staff to tell the public what is safe when it comes to Open Space. He said a large majority of the land is safer now than on a winter day. He reminded the Board that City Council has rejected nighttime closures on trails. He said a lot of people are offering to help; letting people see the damage up close will help with these efforts as people will see what needs to get done.

Joe Glynn, Boulder, said he is a trail runner and photographer. He has spent many hours on every section of OSMP trails taking photographs. He asked the Board to grant him special permission to help document different areas on Open Space; he said it would be a big opportunity wasted to not take advantage of this.

Roger Briggs, Boulder, is representing local and national organizations based in the Boulder area. He said everyone wants to work together to get climbing access restored again. He wanted to remind the Board and staff that people are here to help. He said the Boulder Climbing Community has a list of over 200 people signed up ready to volunteer.

Douglas Green, Boulder, said he wanted the Board and staff to understand how much it means to him to hike up Shanahan Ridge every day. He has had a variety of injuries and hiking this trail helps him to keep strong. There is something magical about this hike, and it allows him to maintain both his physical and mental health. He said people do not need to be taken by the hand up the trail, so please do not make it illegal for him to hike up Shanahan Ridge in the morning.

### **AGENDA ITEM 3 – Director’s Updates**

#### **Update on flood impacts to OSMP**

Mike Patton gave a presentation to the Board showing damage from the flood in various parts of the system. This is saved in S: OSMP\ Admin\OSBT\Minutes\Minutes 2013\ September.

Shelley asked Mike to address how staff is handling volunteer requests. Mike said the city has chosen to have the City Attorney Office (CAO) manage and arrange volunteer projects. He said OSMP will deal with the projects already underway, but everything else will go through the CAO. Allyn asked if OSMP will still be working with the CAO on this. Mike said yes. Shelley asked if a press release was sent out alerting groups in town of this change. Mike said the CAO will send out a notice as soon as they have a system coordinated. Shelley asked if staff would submit to the CAO what areas are in need of projects. Mike responded that the CAO will be more of first point of contact, and will be routing volunteers to the department in which they choose to help.

Tom asked about lifting nighttime closures. Mike clarified that the closure was put in place when staff was trying to open trails immediately and resource issues and off-trail slide areas were unknown. He said staff wanted to make sure that the system was substantially dry before off-trail activity was allowed again. He said that maybe in areas that are dry, the closure could be lifted, but the initial focus has been on trails getting re-opened.

Shelley asked if Joe Glynn could be allowed to photograph on the system. Mike said the system has been documented by staff and they are aware of assessment needs and risks. He said he would rather open the system to the public as a whole rather than a special request. Tom said everyone will have a better understanding about the progress at the next meeting. He requested that this topic be included as an agenda item for the next meeting. Mike said staff will come back with a recommendation for process.

### **AGENDA ITEM 4 – Matters from the Board**

None.

### **AGENDA ITEM 5 – Consideration and recommendation to the city manager and City Council on the prospect for holding a stage of the USA Pro-Cycle Challenge that could impact OSMP-managed property.\***

Mike Patton, OSMP Director, gave a brief update regarding the USA Pro-Cycle Challenge (USA PCC) bicycle race to be held during August of 2014. This was a continuation of the conversation from last month’s meeting.

#### **Public Comment**

None.

#### **Return to the Board**

Allyn said the Board needs to come to a resolution on whether a professional bike race can be considered passive recreation under the charter, who Summit Road belongs to and if a paved road can be considered Open Space. Allyn said records related to transactions over the Summit Road were lost in a fire. She said historic records from the Daily Camera indicate the county does not have claim on that part of the road. Tom said the problem is that the city attorney has rendered an opinion on the status of the road and he was not sure if the Board has authority to counter that. Regardless of whether this road is Open Space or not the race still needs to meet a charter purpose; he does not feel that the question of the ownership of the road needs to be answered for this purpose. Allyn said that decision was based on the little evidence the Board has, so they can make as equally strong of a case countering that opinion. Frances said even if it was determined that the pavement belongs to someone else, this race still impacts Open Space. Allyn said last year’s reports showed very little impact to Open Space. With more of an effort, the impact could be

even less in 2014. Tom thanked Allyn for all her historic research; it was done in the highest spirit of public service.

Molly said limiting the numbers of people is important to discuss. Having 10 to 40 thousand people all in one area is certainly not passive use. She said evacuations need to be discussed. Shelley said she looked up the post-race presentation that was given to City Council to get the numbers of attendees and it showed 8 to 10 thousand people estimated on Flagstaff. Mike agreed. Shelley said bike riding is allowed under the charter; competitive use was created as a matter of ordinance. Tom said in the end passive recreation has no set definition, but the most common line is motorized versus not motorized. That means that the bike race could be allowed. He said with proper mitigation and a plan in place, a race on the paved road is not inconsistent with the charter. Frances said if it were just bikes, then she could support the race, but the excess vehicles and noise that go along with a race are not passive. Allyn said an international professional bike race is not passive recreation, even though biking where appropriate on Open Space is allowed.

Shelley said if OSMP were to dispose of Summit Road they would still have to participate in mitigation efforts surrounding this area. Mike said staff could look into the different options and get back to the Board. Shelley asked if it would be possible to grant an easement or right-of-way to another department. Mike confirmed that it would still be a disposal. Allyn said this is an event that the community likes and Open Space will be in the same boat in the future. Mike noted that this is a slippery slope and now might be a good opportunity to really discuss passive recreation. 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 it is clear that this effects more than just the pavement and Open Space would not gain anything. Molly asked if it would be beneficial to have a public forum so the public can express what they feel passive is. Mike said staff has fairly good information about this from surveys asking what people value about Open Space. He said staff could attempt something like this, but it would not be done in time for the council meeting. He would not recommend putting a disposition on the next agenda as there should be a discussion that takes place first.

Shelley asked if the mechanism for defining certain types of use could be discussed. She said areas such as the Cherryvale driveway, which allows cars, is clearly Open Space property. Mike said crafting a conversation is a good thing to do so that the community has a chance to comment. He said there will be a conversation associated with paved surfaces and parking lots. Dave Kuntz added that the Board should not overlook other options for places for the race to finish. Tom said if council decides there is no problem then no further discussion is needed. If it goes the other way, then other options should be discussed. He said let the council know if they kick it back, the Board would like to discuss it further. Allyn said other issues that might impact this decision need to be discussed. Mike said he expects the recommendation to council will be exactly the same for 2014 as it was for 2012. Frances said the Board should recommend that City Council consider routes that do not significantly impact Open Space lands. Mike said the Board needs to decide if a disposal should be put on the table.

### **Motion**

**Tom Isaacson moved the Open Space Board of Trustees recommend to City Council that granting a non-exclusive license for a professional bicycle race finishing on Flagstaff Mountain Summit Road is consistent with the city charter governing Open Space, provided that there is an appropriate management plan to mitigate impacts on Open Space. Shelley Dunbar seconded. This motion does not pass. Allyn Feinberg, Frances Hartogh and Molly Davis dissented.**

**Allyn Feinberg moved the Open Space Board of Trustees recommend to City Council that granting a non-exclusive license for a professional bike race finishing on Flagstaff Mountain Summit Road is not consistent with the city charter governing Open Space, finding that a professional bicycle race**

**is not passive recreation under the charter. Molly Davis seconded. This motion passed three to two. Shelley Dunbar and Tom Isaacson dissented.**

**Allyn Feinberg moved the Open Space Board of Trustees ask staff to investigate alternatives to holding this race and race-related activities on Open Space. Frances Hartogh seconded. This motion passed three to two. Shelley Dunbar and Tom Isaacson dissented.**

**AGENDA ITEM 6 – Consideration of a recommendation to City Council for an Open Space and Mountain Parks supplemental appropriation to provide for repair and reconstruction of land damaged by the recent storm.\***

Mike Orosel, Financial Services Manager, gave a presentation regarding a supplemental appropriation. During the week of Sept. 8, 2013, the City of Boulder experienced an historic rainfall that in the latter half of the week caused flooding and substantial damage to both the OSMP system and city infrastructure. At the time of the writing of this memorandum, department staff was completing an onsite assessment and analysis of the damage. Preliminary reports from staff performing the onsite assessment are that the damage to the system is both extensive and severe. Costs associated with the damage have not been determined; however, the City Council will be requested to approve a 2013 supplemental appropriation to provide funds for repairs to the system.

Tom asked why the staff recommendation included a range. Mike Patton said this gives the Board some flexibility. Mike Orosel said it also gives an indication of magnitude. Shelley asked if there is possibility of funds coming to the city from other entities. Mike Patton said yes, staff toured with Federal Emergency Management Agency (FEMA) today and they have approved considering things like Open Space. Mike Orosel said city staffs have been tracking their personal costs and labor time. Mike Patton said one major bridge was lost and staff will evaluate how to rebuild it. He said the bridge at the top of Mesa Trail will need to be fixed. Mike added that FEMA seems to work better with things that they can see and need to rebuild.

**Public Comment**

Buzz Burrell, Boulder, said the community is really into helping right now. He said Mother Nature did not read any reports and went another direction; it is time to step up and do something different as well. He wanted to encourage the Board and staff to look at this as a great opportunity; great buy in for those people. He asked for specifics on how much is going to be spent; the proposed \$1,000,000 is not too big of a chunk. Staff needs to come up with something and put it out to the public. He asked staff to provide a timeline of when things will be completed; there needs to be specifics and a plan. It is important to provide information of how much things are going to cost. This is an opportunity to connect with the community in a different way.

Bob Manthy, Boulder, said he is the Trail Stewardship Coordinator for Boulder Trail Runners. He said they have a number of trail crew bosses who know how to organize this type of work, so take advantage of that. The energy is there and can be used.

**Return to the Board**

Shelley questioned whether OSMP has enough staff to manage all of the volunteers. She said maybe staff can use some of the appropriated money to seek out more help to manage volunteer projects. Mike Patton said he believes there are enough people on staff to manage volunteers. Mike Orosel said seasonal funds and other options for additional funding were included in the appropriation. Mike Patton said he agrees with Buzz on needing time frames; by the end of the month staff will have a clear picture of this. Currently staff is being redirected as there are projects that they cannot do. Tom asked how many Fixed Term Employees (FTE) are being reallocated. Mike said virtually everyone was included initially, now mainly seasonal staffs are working on flood related projects. Staff is trying to establish who is willing to

work straight through the year as staff members will be needed to manage volunteer projects. The process would be to break trails into segments and have a small group working on each segment. He said staff will need someone to supervise each section. Currently, staff is trying to get a handle on projects that are meaningful for volunteers. Shelley asked if groups who already have established leadership will still need to go through the CAO. Mike said yes. Mike said Tom Carr, City Attorney, was anxious for his staff to contribute. Frances asked if this was a decision driven by liability concerns. Mike Patton said no. Tom asked if it is concluded that going through the CAO is not helping, is there a way to make that known. Mike said yes. Molly wanted to recognize staff members for all of their effort. It is an incredible amount of work and she hopes the public realizes how many hours have been put in. She said the scope of work and the amount of organizing is immense.

### **Motion**

**Tom Isaacson moved the Open Space Board of Trustees recommend that the City Council approve a supplemental appropriation of \$1,000,000 to the Open Space and Mountain Parks 2013 budget for necessary repairs and reconstruction of resource damage caused by the September storm and floods. Frances Hartogh seconded. This motion passed unanimously.**

### **AGENDA ITEM 7 – Consideration of City of Boulder Transportation Department’s proposal to recommend to the City Council a pilot project allowing electric-assisted bicycles (e-bikes) on certain hard-surfaced, multi-use paths.\***

Mike Patton, OSMP Director, gave a presentation regarding e-bikes. The pilot project proposes to evaluate behavior of e-bike riders to determine whether these vehicles can co-exist with current uses on these city-owned and city-maintained, multi-use paths. The project focuses on the urban service area where there is a network of hard-surface, off-street multi-use paths. The pilot project will not include use on trails that are pedestrian only, intended to preserve the natural environment or are soft surface. The map displayed is saved in S:OSMP\Admin\OSBT\Minutes\Minutes 2013\September.

Tom asked how much of the demand to use e-bikes is from people who would qualify under the Americans with Disabilities Act (ADA). Marni said she does not have a good sense of this as it becomes a personal question to ask if someone qualifies themselves under this standard. She said what she does know is there are a number of e-bike proponents who are aging adults who have some physical limitation. Tom said if someone has a disability they are allowed to use one of these bikes. Marni said yes, the city is required to conform to ADA policy. Mike said OSMP follows the ADA standard that states if you have disability you are allowed to use any device to propel you, even on Open Space. Frances asked if anyone has been ticketed for bringing an e-bike on paths in Boulder. Marni said no; tickets for bikes on sidewalks have been written but nothing to specify whether this was an e-bike or not. She said there have also been no accidents reported. Frances asked if there is enough continuity on non-Open Space trails where a pilot program could still happen. Marni said yes, but as a lot of the Open Space paths are contiguous to a transportation trail (where these bikes are allowed). Excluding Open Space paths would require a lot of additional signage, so clarified the sections of paths where e-bikes would not be allowed.

### **Public Comment**

Ray Bridge, Boulder, FOBOS, said he has not had enough time to look at this in detail but he urged the Board to request staff to have follow-up meetings on how to deal with these requests for the use of paved surfaces. For example South Boulder Creek at Bobolink is inappropriate for this use. The pilot program needs to take care of expenses and enforcement. A lot of these paths are commuter transportation corridors. This will be an issue to deal with in the long run.

### **Return to the Board**

Allyn asked if there is a system identified for what the pilot program would encompass. Marni said the options included in the council memo outlines testing e-bikes on all multi-use paths. They also supported

including hard surface Open Space paths. Mike asked if the whole Boulder Creek Path was included in this pilot. Marni said in one proposed pilot it is included. She said the proposed ordinance that would authorize the pilot project enacts the city manager's rule-making authority; at this point City Council can approve the ordinance and then figure out what trails are included.

Allyn asked Mike is there are certain paved sections that need to be specifically left out. Mike said South Boulder Creek (paved) Trail at Bobolink Trailhead and the trail coming out of KOA Lake to the south should not be included. He said staff can begin conversation with Transportation regarding a potential transfer of some of these areas, if needed. Molly asked if there is a possibility that an e-bike could pose a fire threat. Marni said she does not believe so. Tom said he is not sure if this is passive recreation. Allyn said if this pilot program goes forward, it will be making a use of Open Space that is prohibited by the charter. Shelley asked if OSMP would still have a say in whether the pilot program moves forward if things do get transferred. Mike said it would be good to tell council that until a decision is made on a disposition, the answer is no. He said they should be clear that there are trails that are appropriate, and staff can identify those specifically. Frances said once you add a motor it is a slippery slope. She said she was unsure of who the audience is that would be interested in this mode of transportation. Mike said this is an alternative transportation mode and he supports this as it cuts down on emissions.

**Motion**

**Tom Isaacson moved the Open Space Board of Trustees finds that the use of e-bikes on Open Space paved paths is not appropriate under the charter, however the Open Space Board of Trustees recommends that the Open Space and Mountain Parks staff begin investigating a possible disposal of those identified paved multi use paths on Open Space and Mountain Parks land that principally serve a transportation function. Shelley Dunbar seconded. This motion passed four to one. Frances Hartogh dissented.**

ADJOURNMENT – The meeting adjourned at 9:20 p.m.

*These minutes were prepared by Leah Case.*

APPROVED BY:

\_\_\_\_\_  
Allyn Feinberg  
Board Chair

\_\_\_\_\_  
DATE