

Parks, Recreation & Cultural Services

PR&CS Administration, 1401 Recreation Way, Colorado Springs, CO 80905



Agenda

TOPS Working Committee

Please silence your phone during the meeting.

Wednesday, October 3, 2018	7:30 a.m.	Open Space Room
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Executive Session		Britt Haley
Agenda Preview		Committee and Staff
Announcements		Staff
Approval of Minutes		Committee
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Citizen Discussion		Citizens
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Committee Pictures		David Deitemeyer
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<u>Action Items</u>		
Amendment to Trails Capital Improvement Projects Budget for the Foothills and Gateway Trails at Garden of the Gods Park		Britt Haley
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<u>Presentations</u>		
Election of TOPS Chair and Vice Chair		Committee
Budget 2019 Update		Kelly Rajab
Ethics Training		Lisa O'Boyle
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Citizen Discussion		Citizens
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Adjournment		

COLORADO SPRINGS PARKS, RECREATION AND CULTURAL SERVICES DEPARTMENT
TOPS WORKING COMMITTEE

Date: October 3, 2018

Item Number: Action Item #1

Item Name: Amendment to Trails Capital Improvement Projects Budget for the Foothills and Gateway Trails at the Garden of the Gods Park

Summary:

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 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 trail 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.

Previous TOPS Working Committee and Parks Board Action:

The TOPS Working Committee reviews and recommends whether to approve TOPS CIP budgets. The Parks, Recreation and Cultural Services Advisory Board approve the CIP budget requests and they become a part of the Mayor's annual budget submittal.

Background:

Each year the Parks, Recreation and Cultural Services Department conducts a process to assist in establishing priorities for the annual CIP Budget. As part of the 2018 CIP budget process, the Parks, Recreation and Cultural Services Department staff prepared projected estimates on available funding and sought public input as part of the CIP budget process. In accordance with the TOPS Ordinance, the TOPS Working Committee is responsible for recommending priority projects for the expenditure of TOPS funds. Currently the TOPS Trails category has nearly \$5.3 million in unobligated budgeted funds approved for a CIP trails project. Some of the funds have rolled forward from prior years due to easement acquisition delays or regulatory delays which have made it impossible to proceed with construction during the assigned budget year. Other projects are in the design phase but require additional funding prior to commencement of construction and could be deferred to accommodate this opportunity.

This summer staff prepared a request for proposals for the Foothills Trail and the Gateway Trail at the Garden of the Gods Park focusing on building a new soft surface trail and returning later to make that trail a Tier 2 concrete trail at a future date with additional funding. Bidders were asked to provide pricing for the soft surface trail and also for colored concrete. The bids were submitted on August 22, 2018, and the pricing for colored concrete used at the Garden of the Gods Park came in at a value price. Staff would like to capitalize on the opportunity to build the new trail to the final trail standard at the prices submitted for colored concrete during this bid process. In order to accomplish this goal, an additional \$400,000 must be identified and

approved for the Foothills Trail and the Gateway Trail projects. 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

Alternative:

The TOPS Working Committee can recommend approval, disapproval, or modification of the request for amendment.

Recommendation:

Staff recommends approval of the proposed amendment to the approved TOPS Trails CIP Budget

Proposed Motion options:

Move to approve the proposed amendment to the TOPS CIP Budget as presented.

City Code of Ethics Training

TOPS Working Committee

October 3, 2018

Lisa O'Boyle, Attorney



Origin of City Code of Ethics

- Colorado Constitution requires cities to adopt either
 - State ethics code legislation or
 - Similar municipal ordinance
- City adopted its own Code of Ethics
 - Chapter 1, Article 3 of City Code
- City modified its Code of Ethics in 2016
 - Ordinance 16-122

Purpose of City Code of Ethics

- Honesty, integrity, fair dealing and ethical behavior
- Independent, objective judgment in performance of duties
- Transparency
- Ensure public confidence

Why Should You Care?

- Applies to:
 - Elected officials, administrative officers, employees, independent contractors, volunteers of the City, members of boards, committees and commissions appointed by the Mayor and/or City Council
 - In your role as a Parks and Recreation Advisory Board member you are a "covered person", subject to the City's Code of Ethics

Why do you have to sit through this training?

- All “covered persons” are required to receive ethics education using the City Ethics Code on an annual basis
- Rules changed—need current training

Primary Areas of Concern

- Gifts
- Conflicts of Interest
- Independent Ethics Commission

Gifts

- General Rule:
 - No covered person or immediate family member shall solicit, accept, or give a gift related to the covered person's duties and responsibilities on behalf of the City

Gifts

- What Is a Gift?
 - A payment, subscription, advance, forbearance, acceptance, rendering or deposit of money, services, or anything of value given, to include **food, lodging, transportation, golf** or other **recreation or entertainment**, and reimbursement for other than necessary expenses for official business on behalf of the City, unless consideration of equal or greater value is received. (Examples in **red**)

Gifts

- Immediate Family Members
 - Broad definition of immediate family member
 - Includes “greats”, cousins, step relatives, and in-laws

Gifts

- Exceptions to the Ban on Gifts
 - If gift could not be considered a bribe or means of improper influence ... the following are permitted:
 - Campaign contributions
 - Under \$59.00 per year from vendor or third party
 - Unsolicited awards—like plaques and prof. awards
 - Compensation in normal course of employment, appointment, volunteer service, or business
 - Scholarship, grant, financial aid for education
 - Charity event benefiting City or affiliated org.
 - Gift solicitation for a charitable purpose
 - Gift to benefit public safety or community purpose

Gifts

- Exceptions to the Ban on Gifts (cont'd)
 - Award at competition open to public
 - Reasonable cost/frequency of conferences, seminars, events, meetings if documented and if participating, vendor contract, or cost paid by govt or 501(c)(3) org.
 - Reasonable cost/frequency of City-sponsored educational events or business meals if documented
 - Perishable or consumable gifts given to City dept. or group
 - Gifts accepted in official capacity that will become property of City

Gifts

- Exceptions to the Ban on Gifts (cont'd)
 - Non-pecuniary award publicly presented by 501(c)(3) org. in recognition of public service
 - Discounts available to all City employees or offered to public in general (or large segment of public)
 - Exemptions granted/recognized by federal or state law
 - Any exemption approved by IEC through inquiry

Gifts

- Inappropriate hospitality or gifts
 - Involve offering or receiving accommodations, tours, event tickets, recreation, entertainment, meals or other similar personal benefits when a substantial interest exists that could influence or be perceived to influence objectivity when interacting with, representing, or conducting business for or on behalf of the City

Gifts

- Inappropriate hospitality or gifts
 - Substantial interest= a situation in which a reasonable person faced with making a decision, after considering the relevant circumstances, would tend to have their decision influenced by a personal or financial stake or consideration

Conflicts of Interest

- 1.3.101: Public service is a public trust.
- 1.3.106: Every covered person owes a duty of loyalty to the City.
 - Including Parks and Recreation Advisory Board members

Conflicts of Interest

- General Rule
 - Covered persons are prohibited from engaging in any behavior that constitutes a conflict of interest

What Is a Conflict of Interest?

- May not directly or indirectly participate in any matter involving the City where the covered person or immediate family member has substantial interest
 - Substantial interest= a situation in which a reasonable person faced with making a decision, after considering the relevant circumstances, would tend to have their decision influenced by a personal or financial stake or consideration
- May not engage in activities that conflict with official duties or fiduciary duty to City

What Is a Conflict of Interest?

- Confidential Information
 - May not knowingly use confidential information gained in capacity with City or allow use of such information to further the financial /personal interest of the covered person or immediate family member
 - May not disclose confidential information to people not authorized to receive the confidential information

What Is a Conflict of Interest?

- May not knowingly make unauthorized commitments or promises purporting to bind City
- In official capacity, may not
 - Endorse any private org./individual,
 - Request/grant any private org./individual special consideration, treatment, or advantage
- May not misappropriate services/resources of City for personal benefit

Conflicts of Interest

- Examples:
 - You or your family member own or have ownership/financial interest in a property seeking board approval for master plan or PK zoning
 - You use the financial information you receive as a committee member to solicit a contract with a developer
 - You have City staff make copies of flyers for your personal event

Conflicts of Interest

- You have a prohibited conflict of interest.
What should you do?
 - Disclose the conflict of interest
 - Recuse yourself from participation
 - Don't attempt to influence committee's decision
 - Don't communicate with members of committee or by social media regarding the matter
 - Physically leave the room before matter is considered
 - Don't vote or take action on matter

What Is a Conflict of Interest?

- Appearance of Impropriety
 - When a covered person takes a direct official action that may create a reasonable perception that the covered person is not able to carry out his/her official duties with integrity, impartiality and competition

Conflict of Interest

- A covered person with an appearance of impropriety may:
 - Disclose and recuse (same as prohibited conflict of interest); OR
 - Declare in writing or orally at an appropriate public meeting that the appearance of impropriety will not impact the covered person's ability to participate fairly and impartially

Independent Ethics Commission

- Covered persons subject to IEC jurisdiction
 - Elected officials, administrative officers, Municipal Court Judges, and members of boards, committees and commissions appointed by the Mayor and/or City Council
- Covered persons subject to HR jurisdiction
 - Independent contractors, employees, volunteers of the City

Independent Ethics Commission

Creation and Purpose:

- IEC gives recommendations to City Council on ethical complaints and issues written advisory opinions in response to inquiries

Subpoena and Recommendations:

- IEC has power to subpoena documents and witnesses
- Recommendations by IEC are based on the preponderance of evidence before it



Independent Ethics Commission

Complaints; Inquiries:

- Any person may file written complaint or inquiry for consideration by the IEC
- Filed with City Attorney
- Confidential
- Written complaint or inquiry only considered for matters occurring within last twelve (12) months
- Members of boards, committees, or commissions are subject to IEC jurisdiction

Independent Ethics Commission

Frivolous Complaints; Inquiries:

- IEC may dismiss frivolous complaints or inquiries without further action
- Frivolous dismissals maintained as confidential

Nonfrivolous, Formal Complaints; Inquiries:

- IEC investigates nonfrivolous complaints
- IEC will issue confidential written recommendation to City Council containing its investigative findings of fact and statement as to whether the IEC finds Ethics Code violations occurred

Independent Ethics Commission

Council Action:

- Proceed with allegations of ethics violations it determines in its independent judgment are appropriate
 - Accused party may request hearing
 - Legal representation available / reservation of rights
- Issue finding of no violation
- Dismiss all or part of IEC recommendation
- Accept recommendation of IEC



Independent Ethics Commission

Final Action:

Decision of City Council is final action, subject to any appeal to a court with proper jurisdiction

Penalty:

Reprimand (oral or written), censure (elected officials), fine for up to double the amount of financial equivalent of any benefits obtained, suspension/removal

Independent Ethics Commission

Legal Representation

- Those subject to IEC jurisdiction who are subject to an ethics violation investigation are entitled to independent legal representative
- City will pay up to \$10,000 in legal fees if requested
- City-paid legal fees must be paid back if person is found to have committed ethics violation

Advisory Opinions

- Any covered person may request an advisory opinion (confidential or non-confidential) from the IEC or City Attorney
 - IEC opinion should be your first choice
- Must be regarding future action
- Must fully disclose all pertinent facts and circumstances in writing
- Defense if you, in good faith, follow the advisory opinion
- Verbal advisory opinions are not binding – ask for writing
- Covered person must provide opinion to IEC if investigation
- Please give advance warning if you need an opinion



Many Ethical Issues Are Not Clear Cut

- Feel free to call if you have any questions or specific situations
- City Attorney's Office
 - (719) 385-5909