LARIMER COUNTY | DEPARTMENT OF NATURAL RESOURCES

1800 South County Road 31, Loveland, Colorado 80537, (970) 619-4570, Larimer.org

Date: November 16, 2022
Time: 5:00 PM – 8:00 PM
Location: Larimer County Loveland Campus Building, 200 Peridot Avenue, Loveland, CO 80537, Poudre River Room & Zoom Webinar

OPEN LANDS ADVISORY BOARD MINUTES

MEMBERS		STAFF		GUESTS
Paul Hudnut	V	Daylan Figgs	I	Katie Donahue
David Marvin	I	Meegan Flenniken	I	
Gale Bernhardt	I	Zac Wiebe	I	
K-Lynn Cameron	A	*Jody Shadduck-McNally	I	
Linda Stanley	I	Andrea Weber (minutes)	I	
Mark DeGregorio	A	Lori Smith	I	
Gary Miller	I			
Peter Kelly	I			
Ward Nelson	I			
Mike Carter	I			
Steve VanderMeer	V			
Tom Shoemaker	A			

V = virtual attendee I = in-person attendee A = absent *commissioner

Call to Order – 5:04 pm

Public Comment

None

Agenda Review

Review and Approval of Last Minutes

Pete moved to approve the minutes from last meeting, Linda seconded, motion passed unanimously.

Information and Announcements

Natural Resources events for this month: https://larimer.org/naturalresources.

To sign up for Open Lands Advisory Board updates, go to https://apps.larimer.org/subscriptions.cfm, enter your email, click “Subscribe,” and check the “Open Lands Advisory Board” box.

Guest attendee, Katie Donahue, introduced herself as the City of Fort Collins Natural Areas Director. She said the City of Fort Collins held a city council meeting regarding Heaven’s Door and the public asked why the city would purchase something so far away. Katie explained the decision to purchase was a result of the partnership between LC and the city. The collaboration allows the two entities to join resources and work together on projects, providing better habitat and accomplishing greater and important tasks.

- Linda said there was question about why Fort Collins was giving more money than Loveland for the acquisition. Katie said Fort Collins has more resources at this time. Daylan further explained that Loveland is giving what they can afford to give. Gale said the City of Loveland had to consider what tradeoffs they would have had to make if they gave more fund to the Heaven's Door acquisition, and they were not able to give up other important projects.

August 2022 Open Space Tax Distribution Letter

- Daylan reported the sales tax is preforming well.

Instream flow dedications were finalized through the Colorado Water Conservation Board on Redstone Creek and the N. Fork of the Little Thompson River – Meegan and Zac

- Meegan said in 1973, through the Colorado Water Conservation (CWC) Board, the state of Colorado started an instream natural lakes water dedication program. The program dedicates instream and lake water rights to support the environment.
- Many of the instream flow rights are on US Forest Service Land but also expand to other areas. Nominations can be made by any entity or individual. Colorado Parks and Wildlife asses what flow is available by conducting research to collect the measurements to identify what is required to sustain the area.
- Each nomination goes through a review process through the state. CWCB is the only entity that can hold an instream flow right.
- Zac said DNR reviewed all currently nominated stream reaches reside within DNR's property boundaries. All streams that were eligible have been appropriated. The eligible streams on CE's that DNR holds are near completion of being fully appropriated.
- The most recent instream flow rights have been appropriated on a stretch of the North Fork of the Little Thompson River within DNR's Mountain CE (West of Chimney Hollow) and within Redstone Creek (West of Horsetooth).
- Dave asked if the criteria was specific to supporting trout populations and if the minimum flow for trout populations was the only criteria. Zac said there are also other criteria and that flows are bound by temporal and spatial considerations. DNR focuses its efforts on all lands that will have the biggest impact, including areas the department does not own.
- Linda asked for clarification around the process and what it means to appropriate a stream.
- Zac responded that the appropriation that DNR holds cannot injure any senior rights. All rights that are already there will be fulfilled before any others.
- Linda stated for clarification, DNR has received the rights that were asked for and those are then applied towards conservation and natural resources.
    - Meegan confirmed that the instream flows program acquires junior water rights or generally what's left over.
    - Daylan said DNR can also direct water rights it owns towards any instream flows.
- Paul asked, if there is a minimum instream flow and a dry period occurs, what is the value of holding junior rights if the senior rights cannot be harmed?
    - Meegan said if a drought year were to occur, the junior right would likely not come into play and would instead provide general protections. Many of the instream flow rights are temporal and only provide during specific times of the year. DNR looked at water rights on its open spaces and CE's, and wherever there was a stream, DNR nominated them to the state to see if there were any available rights.
- Paul asked if there are other strategies to water rights that might have a bigger conservation impact than the junior water rights?
    - Meegan explained the best and easiest way for DNR to make a quick and good conservation move is through dedication of these water rights. There has been discussion about changing the

    use of existing water rights the county holds at Red Mountain and River Bluffs, to be applied to instream flow benefits.
  - DNR was unable to acquire the water at Heaven's Door due to the cost. However, the Colorado Water Trust and Colorado Conservation Board have money they use to acquire water rights, giving them more senior instream flow rights.
    - Daylan said Heaven's Door water is also classified as CBT water and thus cannot be used for instream flow, it has other uses that it must be used for.
- Paul thinks it would be beneficial to understand what DNR's opportunities are, including what water rights the department currently has, what it can do with them, and where it might be able to go.
- Pete asked if there a reason or need for DNR to consider acquiring water for any current projects or properties. He then asked if DNR has properties that could benefit from more water, noting the scarcity of water now and in the future.
  - Daylan explained from time to time the department acquires water from the land its purchases. DNR does not directly seek out water to purchase because it is very expensive. He said that DNR's properties are sufficiently stocked with the water they require, however, water is something the department is closely tracking.

Update and Reports

Board of County Commissioner update

- Commissioner Shadduck-McNally said she attended the South Platte Basin Round Table. The meeting included discussions around projects and proposals from counties around the state. There was a collective awareness around water and water issues in Colorado, which is encouraging entities to look at water differently. These issues are something the BOCC are very engaged in.
- Counties and Commissioners Acting Together Association meeting scheduled for 11/17/2022.
- Colorado Forest Health Council is scheduled to meet on 11/18/2022. Commissioner Shadduck-McNally planned to present virtually.
- Natural Resources, Wildfire and Transportation Committee is planning a meeting as there is much happening with the governor's wildfire budget that has been released. There will be many conversations that will impact open lands and building codes near wildfire areas.
- LC has initiated a water planning process, which will be a focus of 2023. The second phase will include land use and conservation. The county is also going through its climate plan which will look at buildings, cars, land conservation, etc.
  - Daylan said both plans affect how DNR will do business and change DNR's strategies for the future.
- The BOCC is actively working through the budget and is proud of the ARPA dollars the county was able to acquire.
- There has been much discussion around short term rental regulations, specifically about processes, changes, and land-use hearings.
  - Rocky Mountain National Park has asked to be a referral agency.
  - There are many non-approved short-term rentals operating near Horsetooth, Pinewood, and Carter Reservoirs. This causes concern for safety as well as unauthorized use of LC properties.
  - She asked the board to use the Planning Website to provide feedback on new regulations that the BOCC would like to implement, including short term rentals and floodplain zones. She reflected on the possible need to increase visitor awareness around natural areas and respecting wildlife (not feeding wildlife, etc.).
- The behavioral health center is on schedule for LC to take over in August 2023 and to begin taking patients in November. There will be a few trails on the 40-acre property and an art collaboration project. LC will host a few open houses. There is currently a nationwide recruiting effort underway for staff. LC is also reaching out to Physician Assistants to acquire a diverse collection of staff. (Phase I)
- She gave a thank you to the board for the hard work, prospective and feedback they continue to provide.

2022 Quarter 3 Board Report – Daylan

- Daylan encouraged the board members to look through the board report to get updates on the happenings within the department. He said the Heaven's Door acquisition is the biggest highlight.
- He also highlighted the 25-year mark of the Small Grants Program. It is not a large program but has made huge impact in the community.
- The volunteer day was a huge success and many people showed up to participate. The volunteers were able to complete the 0.5 miles of the Nomad Trail Connector.
    - Commissioner Shadduck-McNally said the commissioners joined together to purchase LC socks to give out to the volunteers. She noted the VOC were the main volunteers. She felt the operation was very well organized and safe. The trail building took a lot of work and effort, and the county staff were great. She complimented the trail staff on their efforts and hard work.

Financial Projections Overview– Lori Smith

- Daylan introduced Lori Smith and explained the importance of the financial model, created from expert input and previous studies from the past.
- The current sales tax began in 2019 and will end in 2043. The master plans for the departments open spaces and parks are directed by the ballot language. 35% of the sales tax revenue goes to land conservation and restoration, 50% to long term management, and the remaining towards either. The goal of the department is to identify how to spread these dollars out over the life of the tax.
- There are key metrics the department uses with the financial model: a per capita basis, for example, X acres and X miles of trails per person. The department ensures that its growth in these areas keeps up with population growth.
    - DNR also looks at the "Our Lands Our Future" survey to get a better understanding of what taxpayers want to see tax dollars spent on. This is a foundational piece of the model that helps to make sure the department keeps a healthy budget through the life of the sales tax, ensures it's on the desired path and it drives DNR's approach to conservation and recreation development.
- The plan is to rebuild the model in 2023 so the financial strategy can be readjusted as needed. Tradeoffs are often built into the model to make sure it works and during mid-year updates the department can decide if those were the appropriate tradeoffs.
- Projections meet requirements of the sales tax (minimum 35% acquisition/restoration, 50% operating/development, 15% discretionary)
        - Need to set aside maintenance funds for current properties.
        - DNR is in a place of front-loading acquisitions. It's best to utilize the money now while land is available.
        - These projections are not a crystal ball nor an annual budget.
        - This model is realistic but conservative. DNR has been tracking parks revenues/expenditures since 1954 and open lands funds since 1996, providing DNR with the opportunity to observe the financial history and find patterns. The model is often built and adjusted based on growth data that is observed and provided by experts in the field.
            - Meegan said that DNR can quickly outspend acquisition funds on purchases, but there is caution because these areas also need to have funds budgeted for both capital and long-term management. Many of these considerations are built into DNR's land acquisition and management strategies. There is a fine balance of spending the money and meeting the departments goals without taking on more long-term costs.
        - The model provides a flexible plan to help guide decisions over an extended period and a way to track how decisions affect future choices.
    - Financial Model Assumptions
        - Covers 2019-2043

        - Projected operating growth including revenues (sales tax, permits, camping, other) and operating expenses.
        - Estimated capital needs
            - Projected needs for the master plans, deferred maintenance, and expansions/improvements.
            - Projected funding sources from the sales tax, lottery, and net revenues from operations.
                - Model considers grants/partnerships from the previous 20 years to include and exclude as they come and go.
    - Next steps are to update the projections model mid-2023.
- Discussion/Feedback
    - Linda asked, with the different sources of revenue, does DNR need to follow the specific percentage guidelines (35% on acquisition, etc.) for all sources?
        - Lori said there are different rules for each revenue source. The percentages guidelines are just for the sales tax.
        - Daylan commented that the other restriction in place for fees is that federal properties must stay within the federal system.
    - Dave said it's important to look at how the financials flow over time and what timeline that creates for capital management and what is done with what properties at what time. Based on the "Our Lands Our Future" survey, DNR's master plan and the public, the department can have a base foundation on how all parties would like things to go. There is also opportunity to mark areas that need to be accelerated, changed, or strategized differently. The board is an excellent platform to have these strategic discussions using the financial model as a starting point. He thinks board inclusive conversations will help identify alternatives to funding, creative thinking, and partnerships.
        - Daylan said DNR will be re-running the model in 2023 and believes it would be good to include the board in the strategy conversations.
    - Mike asked how about the possibility of running different scenarios and changing inputs in the model.
        - Lori explained the model is complex and starts with base assumptions and then focuses on trade-off such as when to open a new open space or choosing instead to put that towards managing another area. If too much is added or changed the model becomes very convoluted. It would take a lot of effort to re-enter and change the model every year, so it's only done every few years.
    - Mike asked if DNR looks at the models of other counties that are similar in size and revenue?
        - Daylan said the department examines model presentations given at COSA. It seems most counties are all doing something different. However, there is a great deal of information sharing and model creation during these conferences.
    - Pete asked Dave about a model/excel spreadsheet he created with DNR in 2019 to project financial changes of what would happen when certain actions were taken or not taken. He asked what expenses that spreadsheet included and how those are currently impacted.
        - Dave said the spreadsheet allowed DNR to look at fees at Horsetooth Mountain and Devils Backbone open spaces and identify when they would be in deficit.
        - Lori said the model assumed DNR would charge fees in 2020 at Devil's Backbone at a lower rate. Lori said Daylan has brought new things and options to the table and the previous model might not be relevant anymore.
        - Gale said DNR projected ½ million in revenues from Devil's Backbone and asked if that was reached.
        - Lori explained the revenues are unknown at this time as many months were spent providing education instead of ticketing. Daylan said DNR would like to go through a full year of fees at Devil's Backbone before deep diving into the revenues.
    - Pete asked, of the total budget, how much revenue does DNR operate with that is outside of the sales tax, and how does the department grow that revenue?

    - Daylan said the total revenue is 44% sales tax, 34% fees, and 12% from other sources. Lori said open spaces bring in $2.6 million in revenue but require $4.3 million in operating costs, and that difference is paid by the sales tax.
  - Dave asked, outside of meeting the covenants, what opportunities does DNR have to grow the budget separate of the sales tax.
    - Daylan explained that as DNR adds properties and infrastructure, there is also an added management cost. It's important to maintain and care for what property DNR already has while also adding new property. He would like to see an extended sales tax in perpetuity.
    - Mike asked if there was a way to grow capabilities through grants? Daylan said the department is largely successful in acquiring grants for acquisition and new building infrastructure, but it is very difficult to find grants that support operating costs. They assist with capital projects but not long-term management. They also come and go quickly and are difficult to plan for. Meegan said DNR will have a grants and partnerships presentation in January or February 2023.
  - Dave asked, if and when LTF is sold, what money bucket those funds will go into. Lori said all sales revenues from the LTF will go back into acquisitions. There was a small amount that was used for development and the money used on that will go back into that bucket.
  - Linda thinks the only way to get more money would be to go back to the voters and ask for more. She suggested something like a capital acquisition for maintenance only.
  - Commissioner Shadduck-McNally said the BOCC worked hard and advocated to get the $2 million in ARPA money to help with infrastructure and capital, removing some pressure, but its only one-time money.
  - Pete asked about the possibility of introducing a lodging tax. Commissioner Shadduck-McNally said this is something Estes Park does, and they are collecting on it. It is something that can be considered.
  - Daylan said DNR is not in dire straits right now; the department has until 2043 and will deal with the challenges along the way.
  - Gale said visitors to DNR's properties have a great impact on the trails and open spaces. She argued for a new tax perpetuity because user fees do not cover the maintenance of open spaces and would hope users would be open to it.
  - Dave encouraged this type of conversation and believes these discussions are helpful. He thinks the 25-year projections can aid the board in talking with the public/citizens about ongoing projects. He would like DNR to be able to show the public the benefits of buying property now even though they won't be publicly accessible for 10-15 years.
  - Pete asked if there were enough dollars in the budget to continue to make big land acquisitions. Daylan said the department is trying to front-load things in the master plan and would like to make the big acquisitions in the first 5 – 7 years.
  - Gale brought up the imminent discussion around the turnaround time of new open space properties and how to address public concerns if they aren't opened for many years.
    - Linda said the people voted on the sales tax for the ecological benefits purchasing these properties provides. There are many different groups that support the sales tax and DNR must balance the diverse user and interest groups.
    - Daylan advised to not forget that DNR works together with its neighbors and partners on many projects.
    - Zac said DNR is working with municipal partners to revamp the "Our Lands Our Future" surveys to go out in 2023 to really help understand the communities' values. Daylan said the survey is a statically valid and county wide survey and will include new and relevant questions.
- Dave said the board will take a high-level look at the properties DNR has in fee and what are the plans for them over time. There are many elements to these properties and will continue to be a topic over the coming months.

Little Thompson Farm Conservation Buyer Update – Meegan

- Meegan reported DNR has released the “Notice of Sale” for the farm on October 31st. The application deadline is December 15th, 2022.
- DNR hosted a site visit and many local landowners participated. The department is optimistic by the interest that has been shown.
- She requested a volunteer from the board to assist in reviewing the applications once the deadline has been reached. A volunteer from the Agriculture Advisory Board has also been requested.
    - K-Lynn offered to be the volunteer. All board members were in agreeance.

Discussion Items

None

Action Items

None

Other Business

- Gary asked about updates on the disposition of parcels in the Big Thompson Canyon.
    - Meegan said the board level conversation in a previous meeting was to inform the board on how DNR is making decisions and what criteria is being used to divest those parcels. The criteria were originally informed by the Big Thompson Recreation and Conservation Plan, which was developed by a range of partners after the Big T. flood. The department is taking fresh look at the criteria and running it by the county attorney in 2023. DNR owns properties in this zone that no longer fit the larger goals of the department.
    - Daylan said there are property values that DNR keep, and these areas are hard to value, and tend to be heavily developed.

Next Meeting Scheduled

December 15, 2022 at the Larimer County Loveland Campus Building, 200 Peridot Avenue, Loveland, CO 80537, Poudre River Room & Zoom Webinar

Executive Session

Pursuant to C.R.S. (24-6-402(4)(a)) for discussion pertaining to the purchase, acquisition, lease, transfer or sale of any real, personal or other property interest.

Adjournment – 7:08 pm