

OPEN SPACE ADVISORY BOARD MINUTES

Wednesday, July 17, 2019, 3:00 P.M.

City 1 Building (City Hall), 300 N. Campbell

First Floor, City Council Chambers

Members Present: 5

Chairwoman Dr. Sharon Miles-Bonart, Vice-Chairman Don Baumgardt, Charles Stapler, Bob Geyer, and Patricia White

Members Absent: 3

Alicia Benavides Cervantes, Dr. Rebecca Escamilla, and Joanne Burt

Vacancy: 1

District 5

Planning & Inspections Department – Planning

Kevin Smith, Assistant Director; Harrison Plourde, Senior Planner; Karina Brasgalla, Senior Planner; and Nelson Ortiz, Lead Planner

Other City Staff Present/Other Presenters

Roberta Brito, Assistant City Attorney, City Attorney's Office; Russell Abeln, Assistant City Attorney, City Attorney's Office; Jorge Castillo, Open Space, Trails & Parks Coordinator, Parks & Recreation; Patricia Dalbin, El Paso Water; Marcela Navarette, El Paso Water; Jorge Acosta, Senior Land & Contract Administrator, Capital Improvement Department; Elizabeth Triggs, Assistant Director, Economic & International Development

Members of the public: 2

Marilyn Guida and Dr. Richard (Rick) Bonart

Establish a Quorum

A quorum of the Open Space Advisory Board was present.

Meeting Called to Order

Chairwoman Dr. Sharon Miles-Bonart called the meeting to order at 3:19 p.m.

Time Limits for Information Presentations:

There is a 15 minute time limit for presentations, with additional time granted at the discretion of the presiding officer. This limitation is applicable only to the presentation itself and does not include discussion and action elements of an item.

Call to the Public (items not listed on the Agenda):

Members of the public will be allowed 3 minutes to present, with additional time granted at the discretion of the presiding officer.

1. Richard Bonart, member of the public, thanked Board Members for their participation on this Board, it's a very important position. He also thanked the Chairwoman Dr. Sharon Miles-Bonart for doing such a great job for these last few months and all the things you have accomplished:
 - a. getting the trailheads done
 - b. getting the Mountain to River Trail done
 - c. working on Lost DogIt's all on you, you've done a great job and I wanted the public to acknowledge that and hear me say that. Thank you very much Madam Chair.
2. Board Members Bob Geyer, Patricia White, and Vice-Chairman Don Baumgardt commented.

REGULAR AGENDA**1. Discussion and Action:** Changes to the Agenda

Staff requested Board Members move Item 5 to the end of the agenda to give the presenter time to get to the meeting.

Mr. Geyer, Board Member, requested the following item be added to today's agenda:

"To discuss why we do not have on the agenda, under the CLOSED SESSION, about the Open Space list."

We discussed that at length last time and it was decided we could discuss that as long as we discussed not adding any properties or deleting, not changing the list. That was supposed to be on the agenda and it would have to be in EXECUTIVE SESSION, it is not here, unless I don't see it."

Karina Brasgalla responded, per the advice of the City Attorney Karla Nieman, the item was removed from the draft agenda. Furthermore, to prevent a violation of the Open Meetings Act, it is not permissible to add items to the agenda during a meeting.

FOR THE RECORD

Mr. Geyer responded, "Do you know why, why, I, that's not a very good answer, why, I assume it's a she, was it, was it, I, I don't, and that's, that's ridiculous." He requested his comments be part of the record.

Mr. Geyer requested City Attorney Karla Nieman attend the next OSAB meeting and explain to the Board, explain her opinion. He asked Russell Abeln if he had any ideas.

Russell Abeln responded no, he was not familiar with that. He concurred with Karina Brasgalla's statement adding items to the agenda is a violation of the Open Meetings Act.

Mr. Geyer stated okay, that's fine, but we were supposed to have it on the agenda, and you're saying ...

Karina Brascalla would forward Mr. Geyer's comments to City Attorney Karla Neiman.

Mr. Geyer stated yeah, we need an explanation, we need an explanation other than she just decided.

FOR THE RECORD

Chairwoman Dr. Sharon Miles-Bonart stated, "One of the problems we are running into, Mr. Geyer, is that according to the ordinance, our founding ordinance, there seems to be some disruption as far as understanding. I have been in conference with Ms. Nieman and also Mr. Westin and they were in agreement that we did have more latitude than our purview and if one looks at the Ordinance 017770 part of our duty is actually to review acquisitions and I agree with you, Mr. Geyer, that it appears that this is something that is within our purview and it is questionable as to why it was removed. And I think that that needs to be on the record. Thank you."

Mr. Geyer stated it was in our purview when Ms. Nieman served as the legal advisor to this group previously, she even met ...

Chairwoman Dr. Sharon Miles-Bonart (inaudible, talking over each other) ... it was on the draft agenda.

Mr. Geyer stated "Let me finish. It was on the draft agenda. That's what I don't understand, people are entitled to change their mind like Ms. Nieman did but based on what. Thank you."

Chairwoman Dr. Sharon Miles-Bonart stated one of the problems that we are running into is the understanding of we, meaning the Board, the understanding, what the purview is of this Board and according to the founding ordinance, we do have, this Board does have the responsibility to review and advise City Council concerning acquisitions, open space acquisitions, I believe that is part of what the priority list has to do with.

Vice-Chairman Baumgardt added we're likely going to have different Board Members in the future which means that would be a great time for us to share with the new members of the Board what our duties and responsibilities are, with regard to the ordinance, hopefully we can get, we all have an understanding, both ways, and so maybe that's an important thing to have on the next agenda.

Karina Brascalla explained Staff had considered reviewing the Board's duties and the enabling ordinance at the Annual Business Meeting, September 4th. She would take that under advisement.

Vice-Chairman Baumgardt asked if new Chair and Vice-Chair are elected at the Annual Business Meeting.

Karina Brascalla replied, elected, yes sir.

Chairwoman Dr. Sharon Miles-Bonart asked Board Members if there was any further discussion.

Mr. Geyer replied, yes, and noted Ms. Brito had arrived.

Chairwoman Dr. Sharon Miles-Bonart interrupted Mr. Geyer and stated she did not believe she's (Ms. Brito) available right now ...

Ms. Brito interjected I'm sorry, excuse me, go ahead ...

Mr. Geyer continued we had been discussing the item that we wanted on the agenda regarding the discussion on the list, Open Space list, and putting on EXECUTIVE SESSION, with the intent that there would be nothing added or deleted. I thought that we had agreed to that at the last meeting, and I thought you had too, and now we've been told that basically Karla Nieman said we couldn't put that on the agenda.

Ms. Brito understood it wasn't exclusively Ms. Nieman's decision. She did speak with Ms. Neiman and after Ms. Nieman met with other city staff and it was decided that it should go to City Council who will look at it before it is placed on EXECUTIVE SESSION.

Mr. Geyer asked Ms. Brito if Ms. Nieman was fully aware the Board Members did not intend to delete or change the list in any way.

Ms. Brito replied I believe so, yes.

Chairwoman Dr. Sharon Miles-Bonart commented on the Board receiving a letter of clarification as to what our duties are and that has gone through, so that would have been something that could have facilitated more information on this. In other words, it was taken off ...

Ms. Brito thought the item was never put on the agenda.

Chairwoman Dr. Sharon Miles-Bonart remarked, excuse me, it was put on, because I have a draft copy of it.

Ms. Brito explained the Chairwoman sends her a draft of the agenda which she reviews the content then approves. The draft of the agenda emailed to her by the Chairwoman did show the item on the agenda; however, Ms. Brito took it off, she did not approve it.

Chairwoman Dr. Sharon Miles-Bonart replied okay, you are the person who took it off.

Ms. Brito responded, "Yes, Ma'am, does that clarify ..."

Chairwoman Dr. Sharon Miles-Bonart clarified so it was your decision to take it off.

Ms. Brito replied, "Yes, after consulting with Mrs. Nieman."

Chairwoman Dr. Sharon Miles-Bonart stated as Vice-Chairman Baumgardt mentioned there will be new members on the Board, maybe they can get some current information as to what the duties are of the Open Space Advisory Board if they've been changed since the enabling ordinance was passed.

Ms. Brito explained the EXECUTIVE SESSION is something that is controlled by the City Attorney's office. Everything has to happen in open meetings, it is up to the City Attorney's office to determine what is appropriate and what is not. It is for that reason, when the item for EXECUTIVE SESSION was on the draft agenda, she went to her boss for information.

Mr. Geyer reiterated what he said, when Ms. Nieman was the attorney for this Board we did that very thing more than one time and she sat in the back room with us, during the discussion. So, what I asked was could Ms. Nieman come before the Board next time and explain her reasoning and her decision. I think we have a right to know what she's basing it on rather than just she said or she decided.

Ms. Brito will convey Mr. Geyer's request to Mrs. Nieman.

Chairwoman Dr. Sharon Miles-Bonart asked staff if there were any further changes to the agenda.

Ms. Brasgalla replied, not at this time.

MOTION:

Motion made by Mr. Stapler, seconded by Ms. White AND UNANIMOUSLY CARRIED TO APPROVE THE AGENDA AS AMENDED.

2. Discussion and Action: Approval of the Minutes for June 5, 2019.

Chairwoman Dr. Sharon Miles-Bonart asked Board Members if they had any additions, corrections and/or revisions to the minutes.

MOTION:

Motion made by Mr. Stapler, seconded by Ms. White AND UNANIMOUSLY CARRIED TO ACCEPT THE MINUTES AS PRINTED.

ABSTAIN: *Vice-Chairman Baumgart*

- 3. Information and Discussion:** Quarterly report from the Planning Division, Subdivisions Section, regarding land studies and plats approved in the Mountain and Hillside Development Areas pursuant to City Code Section 2.22.050 (B) (2). **Contact:** Nelson Ortiz, ortiznx@elpasotexas.gov

Nelson Ortiz gave a presentation on the one re-plat, within the Hillside Development Area, approved by the City Plan Commission between April 4, 2019 and June 27, 2019.

There were no comments or questions from Board Members.

- 4. Information and Discussion:** Financial report on Quality-of-Life Bond revenue for Acquisitions, Paved Trails, and Trailhead Parking to include schedule of fund flow and all funds commitments. **Contact:** Jorge Acosta, acostaja1@elpasotexas.gov

Mr. Acosta gave a presentation and responded to comments and questions from Vice-Chairman Baumgardt, Chairwoman Dr. Sharon Miles-Bonart, and Mr. Geyer.

Mr. Geyer wondered if Ms. Patricia Dalbin, EPW, may have some information regarding Cement Lake.

From the audience, Ms. Dalbin stated she was not a presenter for this agenda item.

Kevin Smith explained this agenda item refers to Quality-of-Life Bond expenditures. He suggested adding an agenda item for the status of Cement Lake on next month's OSAB agenda.

Item 5 was moved to the end of the agenda

- 5. Information, Discussion and Action:** Presentation on options to secure the perpetual preservation of the Northwest land included on the May 4th ballot initiative, which includes the Lost Dog Trail. **Contact:** Kevin Smith, smithkw@elpasotexas.gov

Elizabeth Triggs, Economic & International Development, gave a presentation and responded to comments and questions from Board Members.

Ms. Brito commented.

Marcela Navarette, El Paso Water, spoke.

Chairwoman Dr. Sharon Miles-Bonart gave a presentation and responded to questions from Board Members.

The following members of the public commented:

1. Rick Bonart, prior member of the Public Service Board, City Plan Commission, and Open Space Advisory Board
2. Marilyn Guida

Chairwoman Dr. Sharon Miles-Bonart asked Rick Bonart to speak on FEMA flow paths.

Ms. Brito requested Chairwoman Dr. Sharon Miles-Bonart suspend the Rules of Order to allow Rick Bonart to speak on FEMA flow paths.

MOTION:

Motion made by Vice-Chairman Baumgardt, seconded by Ms. White THAT THE OSAB PASSES ON TO CITY COUNCIL OUR RECOMMENDATIONS THAT THE LAND BE REZONED NATURAL OPEN SPACE, THAT TIRZ 12 BE RESCINDED, AND THAT A CONSERVATION EASEMENT BE PLACED ON THE LAND AS THE ONLY TRUE METHOD TO PRESERVE IT IN PERPETUITY.

Chairwoman Dr. Sharon Miles-Bonart asked staff if more than one item can be listed in a motion.

Kevin Smith understood you can add as many items as you would like in a motion.

Chairwoman Dr. Sharon Miles-Bonart reworded the motion as follows:

Motion made by Vice-Chairman Baumgardt, seconded by Ms. White RECOMMENDING TO CITY COUNCIL THAT THE LAND INVOLVED WITH THE ORDINANCE 018943 WHICH IS THE INITIATIVE PETITION BALLOT, THAT THAT LAND BE REZONED AS NOS, THAT THE TIRZ 12 BE TAKEN OFF OF THAT LAND, AND THAT A CONSERVATION EASEMENT BE PLACED ON THAT LAND.

No vote was taken.

Mr. Geyer suggested *eliminating TIRZ 12 as a separate issue, a separate motion.*

Vice-Chairman Baumgardt was okay with all three issues in one motion; however, he does want the funding issue as a separate motion.

Mr. Stapler stated he was confused but he would go on his gut instinct.

FINAL MOTION:

Motion made by Chairwoman Dr. Sharon Miles-Bonart, seconded by Ms. White AND UNANIMOUSLY CARRIED THAT THE OPEN SPACE ADVISORY BOARD RECOMMEND TO CITY COUNCIL THAT THE LAND IN THE ORDINANCE 018943 BE REZONED AS NATURAL OPEN SPACE; THAT THE TIRZ 12 THAT IS CURRENTLY ON IT BE RESCINDED; AND THAT A CONSERVATION EASEMENT BE PLACED ON IT.

Vice-Chairman Baumgardt asked if Board Members wanted to start a motion for the funding to please go ahead.

Chairwoman Dr. Sharon Miles-Bonart made the following motion:

Motion made by Chairwoman Dr. Sharon Miles-Bonart, seconded by Mr. Stapler **THAT THE OPEN SPACE ADVISORY BOARD ADVISE CITY COUNCIL THAT USING THE 10% STORMWATER FUNDS IS INAPPROPRIATE ON THE CITY OWNED REAL PROPERTY REFERRED TO IN THE ORDINANCE 018934 BECAUSE THE 249 ACRES WHICH COULD HAVE POTENTIAL DUAL PURPOSE OF STORMWATER MANAGEMENT AND PRESERVATION OF THE CITY'S OPEN SPACE HAD AN APPRAISED VALUE OF \$0 DOLLARS.**

Vice-Chairman Baumgardt suggested adding *that the land remain in PSB ownership or in the PSB trust.*

Chairwoman Dr. Sharon Miles-Bonart suggested the wording be *that the land remain in PSB inventory.* She accepted the additional wording from the Vice-Chairman.

MOTION:

Motion made by Chairwoman Dr. Sharon Miles-Bonart, seconded by Mr. Stapler **THAT THE OPEN SPACE ADVISORY BOARD ADVISE CITY COUNCIL THAT USING THE 10% STORMWATER FUNDS IS INAPPROPRIATE ON THE CITY OWNED REAL PROPERTY REFERRED TO IN ORDINANCE 018934 BECAUSE THE 249 ACRES WHICH COULD HAVE POTENTIAL DUAL PURPOSE OF STORMWATER MANAGEMENT AND PRESERVATION OF THE CITY'S OPEN SPACE HAVE AN APPRAISED VALUE OF \$0 DOLLARS AND THAT THIS LAND REMAIN IN PSB INVENTORY.**

Mr. Geyer suggested adding *we want the whole property to be in the PSB inventory.*

Vice-Chairman Baumgardt suggested *the entire property.*

Mr. Geyer suggested the Chairwoman *cite the date when the property appraisal occurred.*

Chairwoman Dr. Sharon Miles-Bonart added the language *December 2017.* She accepted the additional wording from Mr. Geyer.

MOTION:

Motion made by Chairwoman Dr. Sharon Miles-Bonart, seconded by Mr. Stapler **THAT THE OPEN SPACE ADVISORY BOARD ADVISES CITY COUNCIL THAT USING THE 10% STORMWATER FUNDS IS INAPPROPRIATE ON THE CITY OWNED REAL PROPERTY REFERRED TO IN ORDINANCE 018934 BECAUSE THE 249 ACRES WHICH COULD HAVE POTENTIAL DUAL PURPOSE OF STORMWATER MANAGEMENT AND PRESERVATION OF THE CITY'S OPEN SPACES HAVE AN APPRAISED VALUE OF \$0 DOLLARS, THIS APPRAISAL WAS DONE DECEMBER OF 2017. THIS APPRAISAL IS ON THE ENTIRE PROPERTY IS TO REMAIN IN PSB INVENTORY.**

Mr. Geyer suggested adding language referencing the other 7?? acres that does not qualify for stormwater funds.

FINAL MOTION:

Motion made by Chairwoman Dr. Sharon Miles-Bonart, seconded by Mr. Stapler AND UNANIMOUSLY CARRIED THAT THE OPEN SPACE ADVISORY BOARD ADVISES CITY COUNCIL THAT USING THE 10% STORMWATER FUNDS IS INAPPROPRIATE ON THE CITY OWNED REAL PROPERTY REFERRED TO IN ORDINANCE 018934 BECAUSE THE 249 ACRES WHICH COULD HAVE POTENTIAL DUAL PURPOSES OF STORMWATER MANAGEMENT AND PRESERVATION OF THE CITY'S OPEN SPACES HAS BEEN APPRAISED AS HAVING \$0 DOLLAR VALUE AND THE ENTIRE PROPERTY IS TO REMAIN IN THE PSB INVENTORY.

Item 6 was discussed following Item 4.

6. **Discussion and Action:** Review of Open Space Master Plan list of Trail and Trailhead projects for recommendation/advisement to Council.

Contacts: Karina Braggalla, braggallakx@elpasotexas.gov and
Jorge Castillo, castillojx1@elpasotexas.gov

Karina Braggalla gave a presentation/overview of the Open Space Master Plan – Trails.

Jorge Castillo gave a presentation and responded to comments and questions from Board Members and members of the public.

Kevin Smith commented on the City of El Paso's Comprehensive Bicycle Plan one part has many hike and bike trails, urban pathways that tie into these type of future bicycle paths, creating a comprehensive network to lead from urban areas to open space and an alternative mode of traversing the city. He responded to comments and questions from the Board.

Chairwoman Dr. Sharon Miles-Bonart suggested including hike and bike trails linkages as they integrate with the trailheads in future presentations.

Mr. Geyer explained that while hiking with his brother they were unable to locate the beginning of the Jan Sumrall Trail.

Ms. Burt commented on a Transmountain Trail to city limits and Jackson to Transmountain Trail.

The following members of the public commented:

1. Richard Bonart
2. Marilyn Guida

CLOSED SESSION

FOR THE RECORD

The Open Space Advisory Board of the City of El Paso may retire into CLOSED SESSION pursuant to Section 3.5A of the El Paso City Charter and the Texas Government Code, Chapter 551, Subchapter D, to discuss any of the items on this agenda, consistent with the terms of the Open Meetings Act. The Open Space Advisory Board will return to open session to take any final action.

SECTION 551.071 CONSULTATION WITH ATTORNEY

SECTION 551.072 DELIBERATION REGARDING REAL PROPERTY

SECTION 551.073 DELIBERATION REGARDING PROSPECTIVE GIFTS

SECTION 551.074 PERSONNEL MATTERS

SECTION 551.076 DELIBERATION REGARDING SECURITY DEVICES

SECTION 551.087 DELIBERATION REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS

There was no Closed Session.

7. Adjournment

MOTION:

Motion made by Vice-Chairman Baumgardt, seconded by Mr. Stapler AND UNANIMOUSLY CARRIED TO ADJOURN.