

**Jefferson Parkway Advisory Committee (JPAC)**  
**July 19, 2018**  
**Westwoods Police Department Station Community Room**  
**6644 Kendrick Drive, Arvada CO, 80007**  
**Meeting Summary – FINAL**

**ATTENDANCE**

*Participants:* Bini Abbott, Rebecca Kallio, Britta Nelson, Ian Owens, Bill Ray, Brent Smith, Randy Stafford, Jill Strauss, Jerry Taylor, Brett Vernon, and Marc Wills

*Facilitation:* Heather Bergman, Sam Haas

**UPDATE ON JPPHA BOARD JUNE AND JULY MEETINGS**

- During the Jefferson Parkway Public Highway Authority (JPPHA) Board of Directors' April 2018 meeting, CDM Smith presented the results of their traffic and revenue study.
- During the JPPHA Board's July meeting, the Board decided to move forward with hiring a transactional attorney, a highly-specialized firm to develop documents related to the procurement of a long-term concession. The Board has received 11 responses to its request for qualifications and has narrowed down the list to two finalists. The Board decided to hire a transactional attorney because the Board authorized the development of a private partner request for qualifications (RFQ) last month, which is the first step in selecting a private partner for the Jefferson Parkway project. There is a lot of interest among potential private partners, as the Jefferson Parkway is currently the only greenfield risk-transfer project in North America.
- JPPHA plans to release the RFQ at the end of July. The process typically takes 90 days: there will be time for proposers to ask questions, and JPPHA may choose to issue an addendum based on these discussions. At the end of the process, the goal is to have up to three qualified respondents who will move forward through the request for proposals (RFP) process. It takes a lot of time and money for proposers to develop a response to the RFP (RFP responders could spend between \$3-5 million on their response). The RFP process will take eight or nine months, after which the Board will review proposers' best and final offers and select a proposal. The process will likely wrap up by the end of 2019.

***Clarifying Questions***

Participants asked clarifying questions about the update on JPPHA Board decisions regarding cost feasibility and traffic. Questions are indicated in italics, followed by the response.

*Will the Jefferson Parkway be a highway with the option to take a toll road or will it strictly be a toll road?*

It will strictly be a toll road.

*Will recommendations from the JPAC be integrated into the RFQ or RFP process?*

JPPHA will likely integrate the JPAC's recommendations into the RFP process.

**UPDATE ON JPPHA BOARD DECISIONS REGARDING COST FEASIBILITY AND TRAFFIC**

- During the April Board Meeting, Ernst and Young (EY) provided financial analysis to demonstrate the feasibility of a public private partnership (P3) procurement for the Jefferson Parkway, presented key opportunities and challenges related to advancing the project, identified a process for efficiently transferring risk to the private partner, and provided strategies for advancing the project through a P3 procurement.

- Over the past few months, EY's feasibility analysis approach consisted of three steps: 1) A survey of key transaction precedents to evaluate approaches to project risk allocation; 2) A solicitation of industry feedback from active P3 market participants; 3) Preparation of feasibility scenarios.
- Different delivery alternatives were considered, including a public-design-bid-build option, a public-design-build option, and a P3-design-build-finance-operate-maintain option. With public-design-bid-build projects, the public holds the risk for everything from design and construction, roadway operation and maintenance, tolling, and financing. With public-design-build options, the private partner holds the risk for design and construction and the public holds the risk for the rest. With the P3 option, the private partner holds risk for all the components. Examples of P3 projects in Colorado include US 36 and Central 70.
- The P3 delivery introduces private equity as a source of financing for construction. The private equity can offset the required upfront public contribution, which may be required if the project is delivered via a design-build or other publicly-financed delivery method.
- The JPPHA Board and financial advisors will consider several factors when selecting a P3 option, including project size and complexity, project risks, schedule, market appetite, public control, and financial feasibility. Private partners will be selected through an RFQ then RFP process and screened based on their experience, technical approach, financial capacity, and financial proposal.
- CDM Smith estimated that the per-mile cost of the Jefferson Parkway would be 29 cents for 40 years. They did not factor in the length of the term and interest rates. E-470 is charging about 36 cents per mile. The JPPHA Board concluded that the Parkway could transfer 100% of the revenue risk to the private sector.

*What happens if there is a miscalculation and shortfall in the private partner's funding? If there is a disaster, will the state have to come up with the subsidy?*

There is not a subsidy agreement. The private partner will bear the risk. The public partner supplies the right of way and owns the project. When contractors for the Northwest Parkway were concerned that their revenue forecast did not meet expectations, the risk fell to the public until they negotiated an agreement with Brisa (the private partner) to transfer the risk to the private operator. E-470 quarterly reports now indicate that the tollway received \$170 million in transactions last year, and its revenue and projected utilization are projected to keep growing. The JPPHA Board will make decisions about private partners based on best and final offers and negotiate the terms of the project. JPPHA believes it reasonable that will not be a need for public subsidies on this project.

*Are there any examples of similar projects that have gone wrong?*

A toll road in Indiana had a concessionaire who got into so much debt that the State had to step in and restart while it was still in the construction phase. In Virginia, anybody could call their project a "public-private partnership" which created a lot of confusion and the development of some projects that should not have gotten off the ground. In Maryland, there was a change in administration, and the new governor decided to abandon a project that was well underway. Problems arise when the project is not thought-out.

*Do potential proposers know about the risks associated with radioactive materials from Rocky Flats?*

They have had access to the body of literature about Rocky Flats and will have to determine whether they are willing to bear the risks associated with developing the area.

*Does the cost estimate for the Jefferson Parkway include additional structures, such as detention structures, bridges, etc., or is just the cost of the proposed roadway?*

The estimated cost of the Jefferson Parkway is \$250 million. The cost estimate was for a 10% design for the entire Parkway and did consider bridges and drainage structures. The estimate included over 100 items and was independently checked. The bridges were estimated by square footage. However, structures such as a multi-modal path were not included in the estimate. The estimate did not include a provision of special mitigation beyond that required by the State; the estimate included a placeholder price for standard mitigation practices. The contractor will determine the final budget and design.

*Have any consultants taken geologic borings (soil samples) to determine if there is a stable soil foundation?*

PB Americas took soil samples as part of their analysis in 2010, and this information was used to inform the expected high-level bridge types. Some groundwater samples were taken at the Hotchkiss property.

*Will the private partner be aware of previous historical issues in the area (e.g., the Flatirons Mall, which had to be rebuilt because the contractor had little experience working with expansive soils)?* Historical issues may be a part of the risk proposition wherein the concessionaire spells out what it is willing to take on. The concessionaire would benefit from learning about the potential challenges.

*There was some controversy during the final design process of Highway 36 with the contractor and a lack of transparency about the recent expansion. Has the JPPHA Board examined ways to ensure that there will be transparency throughout the project?*

The biggest issue with Highway 36 was that there was a perceived lack of transparency about the toll rates (i.e., how tolls would be charged and who set the rates). The JPPHA Board is committed to being transparent, with the understanding that in public-private partnerships there are certain aspects of the project that the private partner considers to be proprietary.

*Will the final contract include mechanisms for the private contractor to increase the toll cost?*  
That is not yet determined.

*What is the JPPHA Board's vision for the future of the JPAC?*

The JPAC should recommend what it would like its function to be in the future.

*Will there be an independent review of the design?*

The JPPHA will analyze and respond to various aspects of the project design.

#### **FEDERAL AVIATION ADMINISTRATION (FAA) UPDATE**

- On July 19, the JPPHA Board took a tour of Rocky Mountain Metro Airport to understand the physical distance between the runway and the proposed Parkway.
- The FAA has two independent issues with the Jefferson Parkway: 1) The scope of the environmental review (they started from the position that the environmental review should encompass the entire Jefferson Parkway alignment from SH 128 to SH 93. then refined the scope to within the confines of the airport property); 2) Their concerns about safety. The FAA is concerned that a plane may have to land too soon and could fall on the Parkway. They would like for the Jefferson Parkway to adopt an alternative that lowers the road another 20 feet and places a concrete lid on top of the roadway.

#### **PRELIMINARY THOUGHTS ON POTENTIAL RECOMMENDATIONS TO THE JPPHA BOARD**

JPAC members suggested and discussed potential recommendations to be presented to the JPPHA Board. The group did not make any decisions about the recommendations.

### **Recommendation #1**

- JPAC should send the following material from the May JPAC meeting to the JPPHA Board to consider and review:
  - Randy Stafford's position paper
  - Jon Lipsky's presentation (PowerPoint and the meeting summary)
  - The video tape recording and transcript of Kristen Iversen's talk.
- The JPAC should specify what they would like the JPPHA Board to do with this information. It is important that the JPAC send the information that it has learned to the JPPHA Board.

### ***Group Discussion***

- Other speakers at the May meeting (from the Colorado Department of Public Health and the Environment) should send their presentations to the Board.
- The recommendation should clearly state the action that the JPAC would like the Board to take. The JPAC would like the Board to carefully consider the materials that JPAC sends to it and respond with a statement about how it will incorporate the information into future decisions.
- JPAC may want to consider recommending that a subset of JPAC members present the package of recommendations to the Board. Peak Facilitation will prepare a final report that summarizes the JPAC's process and recommendations.

### **Recommendation #2**

- The Board should require independent testing for plutonium and other contaminants before allowing any design and construction-related, surface-disturbing activities within the Indiana corridor of the Parkway and should require public posting of the testing results. Results showing elevated levels of contaminants should be reported to CDPHE and any other relevant agencies. If contaminant levels exceed CDPHE's standards, construction should pause while mitigation measures are followed, then a resampling should be conducted.
- Resampling is important because there are unknown factors and conflicting reports about the adequacy of the clean-up and remediation of contaminants at the former Rocky Flats nuclear weapons plant site and surrounding areas, including Indiana Street. Publicly sharing test results would improve the community's understanding of the issue, help build trust, and improve transparency. Reporting elevated levels of contaminants to CDPHE would allow for a proper response and would improve CDPHE's monitoring data of the site.

### ***Group Discussion***

- Several independent entities could conduct independent testing. One is Michael Ketterer, who is a retired analytical chemist and has made a career of studying plutonium; he used to work for the Environmental Protection Agency and is retired from academia. Another potential option is Marco Kaltofen, who has done many independent studies and recently published a paper about nuclear workers tracking contaminants outside of nuclear facilities. Six local governments applied for a federal land access grant program to fund construction of trail crossings on the Rocky Mountain Greenway Trail, and some of the governments made their approval contingent on future testing, which will be conducted by a contractor called Engineering Analytics. As part of this recommendation, the JPPHA Board may choose to issue an RFP to find a suitable independent contractor for this work.

- During preparation for construction of the Parkway, the contractor will have to make borings more than a foot deep to find suitable bedrock. There may be an opportunity to take soil samplings at the same time, which would increase efficiency and decrease costs. However, the sampling concentration may vary for a structural concern versus an environmental concern.
- The independent testing is unlikely to find more or less plutonium than the existing studies; however, there are questions about the significance of the existing plutonium levels and about how much contamination is safe.

### **Recommendation #3**

- JPPHA should change the alignment of the Jefferson Parkway to go up Highway 93 instead of Indiana Street to avoid conflict regarding public health and contaminants from Rocky Flats; the west side of Rocky Flats is less contaminated than the east side.

### ***Group Discussion***

- The Department of Energy retained the area in the middle of Rocky Flats, and all of the land outside the central operating unit was not cleaned up. Within the central operating unit, a lot of contaminated soil was dug up, boxed up, and moved.
- Moving the Jefferson Parkway to the east of Indiana Street would not alleviate the concerns related to contamination.

### **Recommendation #4**

- JPPHA should provide clarity for the public on how the Jefferson Parkway helps achieve current Front Range transportation objectives and why the JPPHA chose the Indiana Street alignment over other alternative alignments (e.g., Highway 93).
- Providing this information to the public would increase transparency around the project and build goodwill with the community.

### ***Group Discussion***

- CDOT conducted an environmental Impact statement (EIS) process between 2003 and 2008 and the draft EIS identified what is now the Jefferson Parkway alignment as the preferred alignment CDOT considered 73 alternatives and went through a five-year analysis before agreeing to the current alternative. CDOT did consider contamination issues in their process.
- During the decision-making process that determined the current alignment, CDOT did not choose many alternative alignments for various reasons. It may be possible to better describe the considerations that informed the conclusions and how the conclusions meet the Front Range objectives.

### **Recommendation #5**

- JPPHA should find an alternative alignment for the Jefferson Parkway that goes along Highway 93.
- The proposed Parkway would increase traffic along Indiana Street because it is strictly a toll road. Not many locals will want to get onto a tollway.

### **Recommendation #6**

- JPPHA should sponsor an independent review of all the past studies of both soil contamination and public health impact by a qualified national institution that is independent of the Department of Energy (e.g., the National Academy of Sciences). The

independent reviewer should assess risks and conclusions surrounding public health impact, and review sampling techniques.

- The soil contamination studies have caused conflict because they all used different sampling techniques, so an independent review may be informative. There have been five epidemiological studies, and all but one (CDPHE's study) indicate that there is an increased cancer occurrence surrounding Rocky Flats.

#### **Recommendation #7**

- JPPHA should require dust control and mitigation during the construction of the Jefferson Parkway to deal with high winds.
- Additionally, air pollution control measures and strategies are required under Colorado's State Implementation Plan for the Denver Metro/North Front Range non-attainment area under the Clean Air Act. Dust control measures should be taken along the entire length of the Jefferson Parkway.

#### **Recommendation #8**

- JPPHA should mitigate noise associated with the project.
- Other JPAC members will propose an additional recommendation about noise mitigation.

#### **Recommendation #9**

- JPPHA should carefully consider the site and design of the Greenway Trail.
- JPPHA should consult with the Colorado Department of Transportation (CDOT) about options for wildlife crossings. JPPHA could consider examples of successful wildlife crossings in Salida and Kremmling.

#### **Recommendation #10**

- JPPHA should seek to open the records of the Special Grand Jury 89-2.
- The records of the Grand Jury may contain previously undisclosed information about the Rocky Flats contamination. The local governments that make up the JPPHA Board may be able to invoke some of their privileges to access this information.

#### ***Group Discussion***

- The Federal Grand Jury requested that the records be released, and the Federal District Court of Colorado had a hearing and denied the request. It does make a difference who requests access. Grand Jury proceedings are confidential; the only people who attend are the prosecution, the witnesses, and the grand jurors.

#### **Recommendation #11**

- JPPHA should require the incorporation of design features into the Jefferson Parkway that help to achieve objectives from Arvada's community plans, including the Arvada Arts and Culture Master Plan, the Arvada's Bicycle Master Plan, and the Parks Plan. These objectives include expanding the arts and culture throughout Arvada and improving bicycle and pedestrian access (i.e., reducing barriers to access). Putting bike paths along the Parkway would maximize multi-modal travel opportunities.
- Including these features in the design will 1) reduce the need to retrofit Jefferson Parkway to meet other City objectives, 2) help to achieve the City of Arvada's objectives, and 3) help to build good will in the community toward the Parkway.

#### ***Group Discussion***

- There is a lack of north-to-south bike paths in the area.
- The trail should connect to neighborhoods and parks, which is an objective in the Arvada Bicycle Master Plan.

#### **NEXT STEPS**

- At the next meeting, which is on August 16, members of the JPAC will continue to present recommendations. Marc, Jerry, and Brent all indicated that they will present ideas.
- JPAC members should consider making a recommendation regarding the future of the JPAC committee. If no one plans to present an idea on this topic, Peak will add a specific agenda item to discuss the future of the JPAC committee.