

August 1, 2013

Meeting began at 7:05 p.m.

Present: Bill Muse, Mayor; Steve Cox, Tom Jerome, Gladys LeFevre, Council Members; Judi Davis, Clerk; Mark McIff, Attorney.

Absent and excused: Sue Inman, Council Member.

Public Present: Caroline Gaudy, Dennis Bertucci, Loch and Kelly Wade, Cindy Wilson, Bob and Naomi Brems, Colleen Thompson, Ana Sanders, Haylee Haning, Mike Nelson and Alyssa Thompson, Peg Smith, Grace Totherow, Jennifer Geerlings, Eden Gal, Matt Cochran and Constance Lynn, Jade Sherer, Eric and Mary Feiler, Jabe Beal, Ashley Coombs, John Veranth, Susan and Christ O'Dell, Scott, Brynn and Larkin Brodie, Bill and Judith Geil, Erin Adams, Pam and Matt Furches, Van Lewis, Blake Spalding, Stephanie Flake, Aspen Sanchez, Eric Bresselsmith and Lisa Kolk, Jen Castle, and 3 others.

Pledge of allegiance

Steve made a motion the minutes of May 23 be approved. Tom seconded the motion. Bill, Steve and Tom voted in favor. Gladys was not at that meeting and abstained.

Gladys made a motion the minutes of the July 11 meeting be accepted. Judi asked that a sentence be inserted on page 2 after the statement that a vote was taken approving the changes to the General Plan. Tom made a motion we accept the language as presented. Gladys seconded the motion. The vote was unanimous. (The sentence reads: After the vote was taken, the clerk clarified that the changes have to be adopted by ordinance, and we didn't have the ordinance prepared this time in case it wasn't approved, so we'll have to vote again next month to adopt it by ordinance.)

Bill and Steve met with Danon Hulet to learn the details of becoming a **Tree City**. The Mayor has signed a proclamation that we will celebrate Arbor Day and encourage citizens to protect trees and woodlands within the Town. Details of a celebration will be discussed next month. We can leave the program at any time. The only requirement of us is that we make a commitment to spend \$2/capita in this effort, and the grants that we will qualify for are expected to more than cover that. It is very likely that we will qualify for a \$25,000 grant as soon as we begin participating.

Bill gave an update on the court's decision on Boulder Irrigation Company's lawsuit to regain water that was illegally taken from the Company. It is a landmark decision on water rights statewide. (Clerk note: Bill and Donna Jean are to be congratulated on their tireless work in defending the rights of all water owners on the irrigation system).

Meeting held August 1, 2013

Page 2

We need to appoint a liaison for the **Community Covenant program**. Tom made a motion we become part of the Community Covenant program and that we nominate Kay White to be the liaison, pending his acceptance. Gladys seconded the motion. The vote was unanimous.

Judi explained voting options for this **November's election**. The County, who holds their elections on even years, has to conduct an extra election for the School District this year. We can either: 1) each have our own election; or put both issues on one ballot and 2) have the County mail ballots, count them, and send the results of our election to us to canvass, or 3) vote at our polls, count the ballots, and send the results of the County's issue to them to canvass. Any way we do it, each entity will canvass their own results. There was some discussion on costs, which would probably be somewhat less if the County mails ballots. Gladys prefers to have the County do it. Judi and Bill feel that there is a small-town feeling of participation when we come to the polls to vote, as does Tom, who feels like we're doing our civic duty when we come and vote. Steve is in favor of saving the cost by going with the County. Gladys made a motion we have the County administer our election. Steve seconded the motion. Gladys, Tom and Steve voted yes. Bill voted no. The citizens present at the meeting were asked to show by raising hands which they prefer. All those who raised their hands to show a preference wanted to vote at the polls, and there was concern that people wouldn't recognize that the mailed ballot was their only option. We will make an effort to inform the voters of this change.

Bill turned the **Red House Farm discussion** to Tom, as Enforcement Officer. He expressed his own feelings. Any community needs rules because everyone doesn't always get along. The Planning Commission recently conducted a community survey and made some changes to the General Plan. We are not here to rehash those things but to discuss how to enforce them and how to work with the Red House Farm if they are found to be in noncompliance. He then asked for statements from each of the parties:

Caroline spoke for herself and Dennis. The complaint was not made because they didn't try to have a dialogue—they did. The escalation and intensity of the events held there have prevented their quiet enjoyment of their life. There is noise, light, and dust from the sales and events. People are not intentionally noisy. They related one week's events that were enumerated in the complaint and asked the community to try to put themselves in their shoes.

Scott spoke for himself and Brynn. Fifteen years ago there wasn't much socially going on, so they had potluck dinners at their place in the Draw. As more people moved into town, there were more activities, so there wasn't the need and they stopped that activity. Two years later they approached the Town Council about establishing the free box. There was some skepticism at first, but it is successful now. They bought the farm with no plan in mind, but tried things as people suggested them. He feels the complaint is exaggerated

and that there hasn't been an open door of communication. He stated that these things don't happen all the time and that they shouldn't be happening often in a residential area. They do have lots of activities, but not all at once. The week cited was atypical. Brynn said they started by wanting to grow their own food; that the experienced people were passing on and they wanted to create a place to help younger people learn how to garden. They felt being in the center of town was an advantage. They are open to ideas, and others were doing the same thing. Their activities are based on people's wants. They would like the harvest festival to rotate between farms, but no one else has stepped forward.

Tom stated that it is the general consensus that what they do is valuable. The Town Council's responsibility is to enforce the process and the laws. If someone wants to do something, they come to the Planning Commission for a Conditional Use Permit (CUP) so their neighbors can have a say, and parameters can be set.

Loch stated that, if an activity is not in the Table of Uses, it is not allowed, so we approach it with common sense. He is not of the opinion that, legally, we can make that stick and that counsel probably wouldn't want to enforce it. Enforcement is problematic. The alternative is that everyone would have to get a CUP for everything. Everyone should be selfless, but everyone isn't. We can make laws and all kinds of conditional uses, but people are already trying to get around things. If Brynn and Scott could enforce no parking along the road and provide parking at their place, that might help. If the parties could work together, it would be better than making all kinds of laws.

Tom said that if everyone could get along, that would be great, but it isn't realistic. Loch replied that we know people can't get along but that making more laws isn't the answer. Tom said the process is to look at the laws we have, do a survey, look at the results, and adjust our ordinances accordingly. That is our job as community leaders. It is not about trying to find ways around the laws or to work without using the laws to accommodate every dispute. It's about redoing the laws to create a community that works better for us. He's not trying to force anyone to do anything except to have a conversation we need to have and haven't been having.

Caroline stated that we have a new Community Center at which events can be held. We also have the Community Market at which people can sell their goods. We have facilities that can be used for these activities.

Judith said they own a five-acre parcel zoned LDR and restated Bruce Parker's advice that regulations and exceptions shouldn't be site or party specific. If anything is changed, we need to be aware of all similarly situated parcels. If we change things for this parcel, be aware that it will apply to all other LDR parcels.

Colleen said this situation is difficult because it is personal. The Zoning Ordinance and General Plan were created some time ago with the agreement of the community. She will be interested to see what is going to happen after seeing what is in place. The ordinances call for open skies and clean air over and over again. She'd like to see us move forward with what we already have and what the people have already voted for.

Cindy feels that, because it seems to be an attack on one group and that noise is a concern, there should be limitations on excessive noise. On the other hand, if someone wants to have a free pruning class that anyone can come to, she doesn't think that should be an issue at all.

As Tom went through the ordinances prior to preparing his report, he found problems with the ordinances. For example, "retail" is a use, but is not defined. He is working with the Planning Commission on fixing some of these problems. This project is directed at a situation and at activities, not at the people themselves.

Scott said that one issue is traffic on a town road. He feels that Dennis and Caroline looked for something they were out of compliance with. Scott was told by the Council that ag uses didn't need a permit. A Recreation Center sounded like it was commercial. Bruce told him that the town needs to come up with a definition. As far as Scott knew, he had all the permits that were required. He feels like it is a personal issue.

Tom said that neighbor issues can get out of control, so we have to have laws. People can come to the Town Council to solve these issues.

Matt Cochran said that the Red House Farm situation is a new one and doesn't fit in the old ordinances or "in the box." In some ways it is a part of the community that is desirable to many. Rather than shut it down, we should create a new slot for such things.

Tom thinks that, by the end of the meeting, he'll be able to make some kind of proposal that will address the issue and then will ask the Council to decide whether that will be the way they want to go.

Blake said that Scott and Brynn and she and Jen moved here at the same time and that they have similar values systems about building community and teaching town children to work. She wants to build the economy, and they have created a place for diverse populations to meet. This is complicated for her because of personal ties with Dennis and Caroline. She doesn't want conflict, but she believes the needs of the many outweigh the needs of a few. She's very concerned that we're going to start enforcing the ordinances that she feels are broadly written, when the conflicts may be resolvable in other ways. Then what? We enforce them any time a complaint is filed by a neighbor? She doesn't want to live in a community like that.

Meeting held August 1, 2013

Page 5

Tom agrees. This isn't just about an enforcement complaint. We need a discussion on who we want to be. He invited everyone to come to the Planning Commission work sessions if they don't like things the way they are.

Naomi went through the era when the ordinances were made. A lot of work went into it. She doesn't think we need to change them to fit every situation. She thinks what the Red House Farm does is good, but the problem seems to be in the conduct of the participants, not in the laws. We should each look at ourselves to see if we are causing the problem for the Brodies who are trying to do a good thing..

Constance understands the complaint that is before us but feels that we need to be able to speak from our hearts. We're trying to fit something into a box, but times are changing, and RHF represents a new paradigm.

John Veranth is not a full-time resident but has been participating in activities and meetings for 16 years. We have some discretion in interpreting the ordinances. The sales facility at RHF doesn't look like a retail store—it's more like a farm stand. Rather than looking like a recreational facility with someone selling tickets, the barn is more like a big party where friends get together. It doesn't look like an ordinance violation to him.

Colleen feels like there was the same passion 10-12 years ago when the ordinances were created. She's glad to see everyone here having a civil discussion. She hopes it will keep moving forward and that people keep talking to each other about what they want in the town.

Loch agrees. We will be looking at some of these things. Tom is right about the need to craft the ordinances to meet the needs of the town. We have been placed in a dilemma in that, if we enforce our ordinances, it leaves us in a position where it restricts people in the manner that Blake is fearful of. On the other hand, if we change the ordinances to allow a lot of the things that are happening, it leaves Dennis and Caroline with the same set of problems they now have. Only with the changes, the RHF is legal and there is less possibility for the neighbors to get relief from the problems. Some change is necessary, but we have to address the impacts of what is happening. A settlement between the parties may be the best way.

Eric Scott read his comments and presented a written copy to the Council. It will be part of the record of the meeting.

Eric Feiler asked that we address the issue of direct farm sales. Tom called that Department, and they told him that they do not regulate direct farm sales. He believes there is an easy solution to the retail problem—it's a non-issue. We could ask that reasonable hours of operation be set. What he did learn is that you can sell fresh produce

without being regulated. However, the minute you cut up a vegetable, produce or bake anything in your kitchen, you have to have a certified kitchen. He asked the Brodie's to please get their certification. Brynn replied that they are working on it and, in fact, the man was supposed to be here today but didn't come.

Mike Nelson commented that gatherings of this nature have been a part of Boulder for generations and hopes that we can continue.

Stephanie agreed with Mike and also, because she lives nearby, appreciates what Dennis and Caroline are going through. There is traffic and there is an impact, but she also thinks the value to the community outweighs those impacts.

Jennifer recounted her history here and wants to emphasize that place does matter.

Tom closed general comments and gave an opportunity to both parties to make a closing statement.

Scott and Brynn feel that the real issue is the impacts to the neighbors. He wants to be a good neighbor and doesn't want to cause unreasonable impacts to them. He feels that the location of the house they rent is inherently a noisy location. They are in the process of getting their kitchen certified in order to be legal. Brynn feels that the ordinance is vague on the matters of recreational facilities and leisure activities. Tom stated that we don't want things so narrow that everyone is out of compliance. Scott said they would like to work with the neighbors with signs. They have ingress and egress for emergency vehicles and no one parks by the fire hydrants. He would like the Town to authorize money to oil the road to mitigate the dust problem.

Caroline said this whole issue is not a popularity contest. She suggested that if people like the activities, they find a way to have it by their own house. She stressed that these things happen more than four times a year and that the retail outlet is more than a farm stand.

Tom has talked to the Planning Commission about fixing the retail definition problem; it should be an easy fix. He also stressed that the gathering here tonight is not a full representation of everyone in town. Much of the complaint is a neighbor issue. The RHF started small, but has grown, and there are neighbors, which hasn't been addressed. This isn't about pounding people into submission. Go to the Planning Commission and ask to help solve the problem. He would hate to see it shut down in the middle of the season because there are a lot of worthwhile events that people enjoy, but a way needs to be found to accommodate for the neighbors. Solve the problem. If necessary, open the farm stand only three days a week. If it's a movie, finish by 10:30. If they're coming to your property, furnish parking space on your property. The PC process will take a couple of

months. If the Brodie's will do what he's suggested, we can give them some leeway. If not, we have no choice. He then asked the Council to discuss it.

Gladys is grateful to these people for coming and going through the process. We are not looking at Red House Farm but at all the LDR areas and the possibility of the same thing happening at any one of them. Looking at the other side of the issue, if you live in a residential area, you expect it to be quiet.

Steve is a neighbor and accepts the activity there as part of a growing community. We have to live with ordinances and not give preference to anyone. We need to make clear ordinances. He respects the complaint and hopes we can work something out that will be for the good of everyone. He is glad everyone came and wonders why we don't have turnouts like this when the ordinances are being made. The issue will be taken to the Planning Commission, and he hopes the parties can work things out.

Bill stated that this group shows how well the system works. The ordinances are made to be reviewed if needed. He would like to see some mediation between the parties. He empathizes with Dennis and Caroline's situation. Dennis stated that the problem is more than the ordinances. We need to follow the process and have the ordinance changed.

Tom wants to form parameters, go through the channels, and solve the problem so we don't have to go through this again. Everything can be worked out if everyone will talk to each other and be reasonable. It might be more effective if he were appointed to be the Mediation Officer rather than the Enforcement Officer.

Bill said that the problem is deeper than just this matter. We have all kinds of things to deal with. Our system is working well. This dialogue will continue, and the PC will take it up, possibly to create some kind of conditional use. Both parties need to participate in the discussion on that level.

Mark is probably the only objective person here. He sees two possible ways to go. There are certain legal rights that every property owner has which are available to them. The Council can't take those away from you. The Town Council doesn't control Dennis and Caroline's future. By asking the town to solve their problem, understand that it has to go by its own rules. If the town wants him to enforce the ordinances in the court, everyone runs a risk. He would like it better if the ordinance were more specific, i.e., you can't have more than 40 people somewhere without this, this and this, or that's a no parking zone, or you can only have so many cars. There is some ambiguity in the ordinance right now. So when you go to court, you get into "what's the intent?" You don't know until you get there what the judge is going to decide. So you (Dennis and Caroline) run the risk that the judge will say, "It's not specific enough, so I'm not going to stop them from doing it." But you (RHF) run the risk of being shut down. So there's reason for both of

Meeting held August 1, 2013

Page 8

you to do what they suggest, which is come up with some things that everyone can live with. If you don't, both parties run the risk of the town saying, "We have no choice. We'll have to go to court to try to enforce it." It may go for you; it may go against you. Everyone has a reason to work it out.

Cindy stated that it is a public road, so anyone can drive up and down it all they want.

Alyssa asked everyone to please show at the Planning Commission meetings. Meeting schedules and agendas are posted. The activities being held at the RHF are in the General Plan. What if we want to do them at our house? She doesn't feel that the complaint has any ground to stand on within the ordinances because they are vague with a lot of gray areas. We need to work on that.

Tom stated that a use that is not defined is not a legal use. He feels that if you have more than a certain number of people and you make a public announcement of an event, you have a use, so he feels we need some real guidelines so it doesn't get out of control.

Blake feels it is bad management to pass new rules to address one situation; it results in unintended consequences. This is not a personal issue, rather it is about the soul of Boulder. We can tighten the rules and enforce them against anybody. We are opening this up to be quite a disaster.

Peg stated the ways to find out when meetings are held. By law, we have to post notice of meetings on the bulletin board 24 hours in advance. They are also on the town website (boulder.utah.gov) and, by subscribing at pmn.utah.gov, you can get the notice sent directly to your email. Judi added that the full year's schedule is published in the Insider at the beginning of the year.

As a temporary solution as the matter goes back to the PC for events that are already scheduled, Stephanie offered an area at her home across the street for people to park, and they could walk over from there.

Eden is hearing objections about the ordinances not being respected, but he hasn't heard whether the ordinances are being violated in this case. No one should make assumptions one way or the other.

Tom replied that any determinations of vague laws have to be made on the side of the town—the general community—instead of the individual. We want to find a way to help all parties.

Alyssa asked what is being passed to the PC in the way of non-compliance. Gladys replied that the Brodies will go and say we want to do this and we want you to help us

figure out how. She has some questions about how the PC can do this, because they're not just solving it for the Brodies, they're doing something that will affect every other LDR property. Bill suggested that what we are asking is that they come up with a conditional use with specific definitions. Tom would like us to look at the existing ordinance and decide that something is or is not allowable under these conditions and put something like "farm events" in the table of uses that better fits our community than "recreational facility." If we don't have some kind of definition for what has happened here, then he is not safe from his neighbors doing the same thing, and his only recourse is to go to court. As a community, we have three places in the General Plan that say "quiet" and two places that say "agriculture." He wants to look at the GP and find a definition that keeps us from running into these kinds of problems. He doesn't know if we even need conditional uses. We're asking the PC to look at this and help us find a way to solve this problem.

Loch isn't sure how to put it on the agenda. They will plan to have a work meeting with free discussion and hope something comes out of it. If they get stuck, they can call Bruce Parker for advice. He hopes people will come and participate. Ordinarily work meetings do not include public discussion, although there are no set rules and they can amend their previous practice to allow for such. The real difference between the work meeting and the public meeting is that no decisions are made in the work meeting. Loch decided that, because of the volume of work that needs to be done, they will start PC meeting at 6:00 and go for two hours. The discussion on this ZO complaint was closed.

The mayor has been approached about lifting the ban on open fires, etc., in town. After some discussion, Tom made a motion we **lift the fire ban**. Gladys seconded the motion. The vote was unanimous.

The Planning Commission meeting will start at 6:00 p.m. this Tuesday and they will be studying the Table of Uses.

Steve gave Corry and Shelly the go ahead to get the signs and paint the no parking lines. The Tract Park is moving ahead. Bill stated that the Tree City program can have an impact on our park.

Gladys reported that a stop sign and the Boulder sign by the power plant have been knocked down. It probably is UDOT's responsibility to fix them. The floor tiles in the Post Office are breaking up and need to be replaced with some kind of flooring. Farlan has taken care of pushing the green material into the burn pit and was going to dig the new construction pit. He is willing to finish out the year doing the landfill work and see how he feels then. Gladys has asked Dell to have the County commit to some number of work days for each town, but they don't. If Steve will let Gladys know when they need more gravel, she'll talk to Dell.

Meeting held August 1, 2013
Page 10

Tom has purchased a ladder, and the last blind has been hung. The new petroglyph rock has been placed by the front walk.

Steve made a motion we **adopt Ordinance 70 Adopting the General Plan**. Tom seconded the motion. The vote was unanimous.

Tom made a motion the meeting adjourn. Gladys seconded the motion. The vote was unanimous.

The meeting closed at 9:34 p.m.

Minutes prepared by Judith Davis, Town Clerk