

January 3, 2008

Meeting began at 7:10 p.m.

Present: Bill Muse, Mayor; Gladys LeFevre, Pete Schaus, Randy Ripplinger, Wendell Roundy, Council members; Judi Davis, Clerk; John Holland, Cookie Schaus, Walt Gove, Ashley Coombs, Don Montoya, Gibbs and Kathryn Smith, Tim Clarke, Serena Stockmann, Joe Parker, Peg Smith and Sergio Femenias, Tom Jerome, Daniel Reeder, Dennis Bertucci, and Caroline Gaudy.

Pledge of allegiance

John Austin requested an addition to the minutes. Judi will take the wording for the requested change from the tape, and we will wait until February to approve the minutes of the December 6 meeting.

Gladys made a motion we approve the minutes of the meeting of December 11 as presented. Randy seconded the motion. The vote was unanimous. (Eva Moore, Corey Folsom, Randy Catmull, Sam Stout, and Ryan Haws came.)

Because council positions begin at noon on the first Monday of January, newly elected officials will not be sworn in at this meeting. They will make arrangements to individually meet with the Town Clerk to be sworn in. The Mayor and Council thanked Pete for his service on the Council and are glad to have him continue as Fire Chief.

John Holland of Tropic is Chair of the Scenic Byway 12 Committee and is here to present their annual report. Scott Brodie is Boulder's representative on the committee. John provided a copy of the annual report for our files. He reviewed the projects they have worked on during the past year. If we have requests for funding, we can submit them through Scott. Anyone who is interested in seeing the draft wording for the interpretive signage for Boulder can call John at 679-8987.

Tim reviewed progress of the design of the town grounds and park. He reviewed the stages of design and reviewed the progress of actual work done. Tree planting on the park is planned for this spring, and Tom is continuing to accept donations of trees. The constructed development will be focused at the town grounds rather than on the park area. If there is money left after the sprinkler/lawn improvements and events shelter projects are finished, the next project ready would be the playground upgrade. Chanda is working with mothers to get input on what playground equipment is preferred. Following that would be the re-siting of the propane tanks and finishing the firehouse parking area. Tim encouraged the town to move forward timely with the design work.

There has been a lot of volunteer work done. The park committee will shift their focus to suggestions on the park area. Randy Catmull suggested putting our extra water hookup on the park acreage. However, that will be decided based on water needs of both properties.

Randy Ripplinger has an opportunity to take the next level of EMT training in Tropic. The county will pay for the course, and he asked if the town would pay for the lodging. Ruby's Inn is charging \$25/night, and the course will run six weeks. His employer will work with his schedule so he can take the course. We have money in the budget for the purpose of training EMT's. Gladys made a motion we fund the costs of meals and lodging for Randy, not to exceed \$500. Pete seconded the motion. Randy abstained from voting; the rest of the council voted in favor.

Gladys made a motion we approve Randy Catmull's applications for local consent and for a limited restaurant liquor license. Randy seconded the motion. The vote was unanimous.

Serena has had trouble with dogs barking in her neighborhood incessantly for four months. She and others have complained in writing to Deputy Ray Gardner, but it seems that he needs more backing to do any kind of realistic enforcement, such as possibly a dog barking ordinance, which could require, after an infraction of a certain amount of barking, a verbal, then written warning, then eviction of the dogs. There is the practice in cattle ranching areas of a quick, definite penalty for dogs harrassing cows, and she asked whether people are less important than cows. Joe, as a nearby neighbor, stated that he supports Serena and feels the dogs have gone beyond being a nuisance; they are disturbing the peace.

Tom pointed out that there are places that have rules against excessive noise during nighttime hours. Corey suggested having a noise ordinance rather than just singling out dogs as noise makers. Dennis, another neighbor, verifies the incessant barking and added that they also get loose. There is constant day and night barking. Serena reported that Ray has talked to the Crawfords several times with little results. Caroline feels that a noise ordinance which is only for nighttime hours would not be effective, as this is incessant. Ashley stated that his neighbors have barking dogs, and that, when he had dogs, he stopped them from barking at night.

Don felt that a dog/nuisance ordinance could take time. Rick did put shock collars on at night, so is trying to work out a solution. He feels Rick is running a kennel, so needs to follow some rules. They are used as part of his livelihood. However, kennels as a business aren't allowed by our Zoning Ordinance. Randy Catmull thinks we need a nuisance ordinance, but enforcement is a problem. An ordinance is no good if it can't be

enforced. The noise ordinance Eva is familiar with was enforced around the clock. The terms that come to mind for Tim that need to be included in some sort of enforcement effort are “public nuisance” and “unreasonable.” Tom wondered if such an ordinance would end up excluding normal ranch animals. Kathryn wondered how the dogs are being treated. If there is continual barking, is there some sort of abuse present? Serena said the noise is worst when the family is gone; when they are there and put shock collars on, the noise subsides, so it seems to her that they don’t seem to like the barking, either. It was suggested that maybe we could appeal to their sense of respect for the community.

It was proposed that we ask Marvin to write a letter asking them to quiet their dogs, and that we ask him to bring samples of ordinances next month. Joe feels that, if it qualifies as disturbing the peace, Ray should enforce it. We will see if Marvin will write a letter to Rick as suggested above and to Ray and the County Attorney asking them to enforce this disturbance of the peace problem. We will hope that will solve the problem and that we won’t need to adopt an ordinance.

Joe wants to keep the road issue alive until it is resolved. He wants us to report on how it’s going forward and what is happening. We’ve discussed the issue but haven’t come to a decision as to what action, if any, to take. Bill understands that Jeff Ostler has filed suit against John claiming fraud in obtaining the property the shed is on. John communicated with the Town Council a desire to talk and compromise. Marvin will come next month and we can discuss it further. Jeff and John will go to court before then. We are not ready yet to take a stand on the “public-ness” of the road. Bill would rather mediate/negotiate than go through litigation.

Joe asked for a thorough investigation through the county attorney and Ray. There is a lot of information that we don’t have. The pieces of the puzzle need to be brought together. Bill has asked Randy Ripplinger to contact Marvin and discuss with him what Randy has read and learned. Bill talked to Farlan, who has maintained the road as far as Steve Stoner’s house. We will take as long as we need to be sure we cover all the bases, whether it is eight days or eight months.

Randy has a copy of John’s deed to the Nature Conservancy. He (Randy) feels we own the road and should enforce the opening of it. Randy is concerned that we aren’t aggressively pursuing the road issue and wants the town to ask Ray, through the county attorney, to investigate the whole issue. He wants him to take pictures of the fence across the road, the gate, the rocks and rubble piled across the road, etc., and to find out who put them there. He wants the investigation to include the whole road up to the Forest Service boundary. Because the upper gate is now open and there is no public safety issue, Bill is not in a hurry to do something until we have further legal advice.

In reference to a picture Randy introduced with a caption referencing “the Haws Road,” Cookie asked if the name meant that it was the Haws family’s private road. Randy replied that it was just given that name to identify it.

Tim challenged Randy in his role as Town Council member to be impartial. In taking his oath of office, Randy has sworn to represent all the people, not just Jeff Ostler. He feels that Randy individually has decided it is a town road. It is up to a judge to make that decision. The track is not a platted town road. Wendell responded that it is public access. Tim replied that walking down a path doesn’t make it public. The town is on dangerous ground making a decision a judge should make.

Gladys has also done some research and wants Marvin’s input on all the information. Pete and Bill agree. Joe responded that a town road is a town road. Tim replied that there are so many views. Tim and Bill agreed that we are not a court. Marvin needs to hear everything. The county attorney is the one who would have Ray do a formal investigation. Gladys would like the mayor to ask Marvin if having the county attorney call for an investigation is the way to go. Judi and Peg asked what the investigation is for. Peg asked what the goal is. There have to be parameters on an investigation.

Bill replied that the town isn’t and can’t be in a hurry. Joe asked us to get the facts together and document everything, as John intends to involve us in a lawsuit. Bill replied, “Haven’t you heard me tonight?” Joe responded angrily and with several expletives and exited the meeting. We need counsel from our attorney. The council is trying to do things right. Gladys suggested that we talk to Marvin. If he thinks having the county do an investigation is a good way to go, we will have him make the request.

Randy made a motion we go to executive session to discuss personnel and litigation. Gladys seconded the motion. Roll call vote was as follows:

Wendell	Aye
Gladys	Aye
Pete	Aye
Randy	Aye
Bill	Aye

The council went to executive session in the library room at 9:05 p.m. and returned at 9:11. Gladys made a motion we resume the open meeting. Randy seconded the motion. Roll call vote was as follows:

Wendell	Aye
Gladys	Aye
Pete	Aye
Randy	Aye
Bill	Aye

Bill appointed B. J. Orozco to fill the vacancy on the Planning Commission. The council supported the appointment unanimously.

Wendell is concerned about the construction pits at the landfill. He is concerned that, at the rate we are going and with continuing building, we will be out of landfill space sooner than anticipated. We will discuss it further next month.

Fire Department personnel will be attending winter fire academy soon.

The Planning Commission is continuing work on clustering, Planned Use Developments, and the general plan.

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

The meeting adjourned at 9:20 p.m.

Minutes prepared by Judith Davis, Town Clerk

Approved by Bill Muse, Mayor