

December 4, 2008

Meeting began at 7:05 p.m.

Present: Bill Muse, Mayor; Randy Ripplinger, Dennis Bertucci, Councilmembers; Judi Davis, Clerk; Marvin Bagley, Attorney; Bos and Bobbie Bosworth, Mark Nelson, Peg Smith and Sergio Femenias, Denise Pennington, Pete and Cookie Schaus, BJ Orozco, Ashley Coombs, Matt Cochran and Constance Lynn, Jacob Hansen, Julie Ketchum.

Pledge of allegiance

Randy made a motion we approve the minutes of the November 6 meeting. Dennis seconded the motion. The vote was unanimous.

The Mayor recognized this as Marvin's last meeting with us, as he has been appointed to a judgeship, and expressed heartfelt thanks to him for his service to Boulder for the past nearly ten years. He has helped us handle changes and formulate ordinances and has kept us out of litigation. Marvin expressed his thanks to Boulder for letting him serve us. He expressed his belief that there is more participation in government in Boulder than in any other community in the state. We express our congratulations to him and wish him well.

Tom Jerome (with help from Tim and Scott) trimmed the trees under the power lines across the street on the north end of the tract park. We need to write a letter to Garkane stating that we will take over the maintenance of those trees and release them from liability. (Scott Brodie came.)

The next item on the agenda is a report from Walt Gove on the County Trails Committee meeting. He also had a question on the SITLA situation. He had not arrived at the meeting at this point, but the Mayor reviewed the discussion on SITLA from last month's meeting. The result of that discussion was that we decided to postpone any more discussion on the matter for the time being. (Tim Mutcher and John Austin came.) The Mayor read a letter from Lou Brown which he received today. They will not make any decision on a proposal for several more months at the very soonest. If Brock and Chris do a small development and put the rest of the land into a conservation easement, we will get basically what we want by protecting the sensitive lands. Mark still feels a trade-out is the best way to go.

Caroline Gaudy submitted an application for a business license as a massage therapist. The Council approved it.

Walt Gove arrived and reported on the County Trails Committee meeting. There is a new direction in trails. He believes the County is withdrawing money from the Trails Committee. We need to stay active in the committee. He thinks that, if we pull back, the motorized trail people will jump in. There is a potential for money from other sources, such as the Forest Service. Walt voiced his feeling that he doesn't think the Robinson-LeBaron proposal will go through because they won't be able to raise the money. This may leave an opening for us to move ahead on the land trade.

At the end of the year there will be vacancies on the Planning Commission (Elaine Roundy) and Board of Adjustment (Larry Ripplinger.) Anyone who is interested in filling either of these vacancies should let us know.

Two months ago, Don Montoya presented a complaint and discussion on the issue of John Austin's airstrip. Marvin has done some research and reported that the FAA is not involved in regulating private airstrips, though there are regulations against landing too close to residences. Therefore, it becomes a land use issue for the town. Our ordinance has a table of uses. Any use not listed is specifically prohibited. We cannot regulate what happens in the air. It seems the concerns are noise, safety, and enforcement. Marvin asked whether there is really a problem? In order for the town to regulate anything, there has to be a rational reason to do so. If we go too far, it becomes a taking. So, the question again is, is there a problem?

If it's a noise problem, we can compare it to the barking dog issue, in which there were many complaints over an extended period of time. The outcome was that a prolonged period of dog noise is now a violation of an ordinance. Again, the questions were asked: What are the problems? What are we trying to regulate? Why?

John stated that the place he lands his plane is not an airstrip, but rather a road. It used to be winding, but he straightened it and graveled it. It is not available for public use. He stated that it is fairly traditional for ranchers to land airplanes on their ranches. He is not asking for permission to have an airstrip—he is just landing on a road on his ranch. He has also, at the request of certain neighbors, adjusted his flying habits (days, times of day, approaches, etc.) as a result of their concerns. His research shows that, in the last five years, there have been no airplane accidents causing fatalities to people on the ground in rural areas. A crash is more dangerous to the people on the plane than to those on the ground.

Loch, who has been a licensed commercial pilot, stated that he doesn't think there is a problem. He doesn't think this road is the safest strip because John takes off and lands from the same direction, but his planes are well maintained and he has a safe record. The odds of anything bad happening are very remote. John has two airplanes, and his

traveling plane is very quiet. Since he's willing to work with people and there are no safety issues, what's the problem? Mark replied that this is a land use issue, not an effort to stop John from flying. He doesn't want a lot of planes in town. He thinks we should make airstrips a conditional use and not let it be an ignored use. John feels the whole thing is an issue only because it's an airplane and people react to it. It is in reality just another piece of equipment. Are we going to regulate the kind of equipment he can drive on his roads? It's an emotional thing because it goes into the air, so it seems different. Once he's off the ground, we can't regulate what he does.

Loch, in response to its being a land use, asked, What if a lot of people move in and want flying machines? He feels the odds of that happening are remote considering the economy. Dennis discussed other types of flying machines, such as motorized hang gliders, which are very noisy. He and others reported having seen one in the valley very recently. BJ feels that, if the current airstrip were maintained, it could invite more air traffic, which is the very thing we're trying to prevent. There was discussion on the airstrip on Home Bench. It is not maintained and is not secure. John has, in the past, done what he could to make it usable, but no one is responsible to keep it in good condition.

Cookie likes seeing planes in the air, but she is concerned about talk some time ago about the possibility of subdividing a large ranch in Lower Boulder and having an airstrip for the subdivision owners to fly in. Something like that could be regulated. Jacob thinks that is not a problem now. Everything at this point is balanced, but the main concern is what might happen. The odds may be slim that many pilots would want to land here, but who knows what might happen? Maybe the Planning Commission should look at it.

Mark feels that people can find loopholes. If we allow it by not taking action now, and it later becomes an issue, legally it may put the Town at a disadvantage. Marvin's response was that there are a lot of things that aren't permitted under the ordinance that we do (i.e. ride bicycles, have swimming pools, etc.) Technically, they're all illegal. Do we want to get to the point that we will allow people to ride horses to herd cows but not for pleasure? Jacob said we may be over-regulating. Marvin stated that it was his opinion that we regulate too much. If there are a lot of complaints, like the dog matter, then we should act on it.

Bill speculated as to what would happen if we don't do anything, because it doesn't seem to be bothering very many people, but then Mark's and Cookie's fears come about. Then can we do something? But, if "what if" doesn't happen . . .? Mark just wants us to plan for the future. A discussion ensued about issuing John a Conditional Use Permit, but making the conditions so strict that no one else could meet them. Judi asked what the CUP would be for and wondered if we would then require every conceivable use to

appear on the table of uses so that everyone has to have a permit to do anything. Pete wondered if the best thing to do is to wait until a lot of complaints are made about a particular situation and then deal with it. Marvin's opinion and answer is "Yes."

Dennis then asked what we would do if someone else wants to put in an airstrip and we tell them "No" and they then say, "But you let John." Then what do we say? Marvin's response was that John is landing on what was a pre-existing road. Loch related an airplane noise ordinance experience he had in which the ordinance was basically unworkable. If noise or safety become problems, then we should deal with it, but wait until it becomes an actual problem. John has worked with people to correct the problems that have been brought to his attention. Dennis asked if we can wait until there are complaints. He understands the concerns of the people about future places for landing strips.

Walt asked if other airplane issues develop and become a problem, would John be grandfathered in? Marvin replied that, to be grandfathered in, you have to have been doing it before the ordinance was enacted. Mark thinks a magazine article suggesting that pilots buzz town so someone could pick them up started the whole concern about landing in town. Constance feels the complaints seem to be about noise and wondered if there is an ordinance against certain noise levels? Bill responded that the dog barking ordinance is our first effort to control noise and that it isn't realistic to believe we can enforce a noise ordinance. We will table the issue. If anyone wants to fill out a request for an amendment to the Zoning Ordinance, it will be considered. The Town is in no legal jeopardy if it does nothing. Mark defended Don's right to bring up a concern without being harassed, and anyone should be able to do the same.

Because the Planning Commission has just Gibbs Smith's CUP sign application pending, and he wants to wait until January when he is here to discuss it, their December meeting may be cancelled.

Pete reported that the Fire Department needs radios and other equipment, which they will buy from the excess grant money. Randy will advertise an upcoming EMT course which will be held this winter. We need more EMT's.

The Mayor suggested that he may have been hasty in suggesting last month that we need a maintenance employee. Perhaps it would be better to hire someone to trim the trees along the roadsides and deal with other things as they come along. He would like not to hire anyone right now. No building permits were issued in November.

The Clerk reminded everyone to study the General Plan before the January meeting. Bill will vote our irrigation shares at their meeting next week. The School-Town Christmas

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party will be held Monday, December 22.

Dennis made a motion the meeting adjourn. Randy seconded the motion. The vote was unanimous.

The meeting adjourned at 8:30 p.m.

Minutes prepared by Judith Davis, Town Clerk

Approved by Bill Muse, Mayor