



Josh Ellis <suffusive@gmail.com>

Reportable Conflict of Interest Complaint**Josh Ellis** <suffusive@gmail.com>

Wed, Jan 25, 2023 at 3:48 PM

To: tc@boulder.utah.gov, Jim Catmull <jcatmull77@gmail.com>, Judy Drain <jwjadra@scintern.net>, Elizabeth Julian <elizabeth.r.julian@gmail.com>, Gladys LeFevre <gdl36@icloud.com>, stevenmarian78@gmail.com

Boulder Town Council:

Please read the attached letter regarding the persistent/recurring conflict of interest with Jimmy. Judy's statement in the December meeting that no money is involved is false; attached are the September 2018 meeting minutes where TC approved paying Boulder Farmstead on a per-hydrant basis for monitoring.


In general, having a specialized employee of a monopolized private company engage in policymaking that has the potential to give his employer hundreds of thousands of dollars of infrastructure that only he and his father can maintain is grossly inappropriate. The [appearance of impropriety](#), which is the functional standard of conduct in matters of recusal, is so obvious here that my 9-year-old daughter can clearly articulate it. I highly recommend a chat with Barry Huntington.

Please consider passing an ordinance (Mapleton's provided as one reference) to prevent such a situation from recurring.

Due to recurring lack of concern for public trust in this matter, and misinformation being promulgated by familial councilmembers, this is explicitly intended to be an official complaint requiring mandatory reporting to the Political Subdivisions Ethics Review Commission per Utah Code Annotated § 10-3-1311(2)(b)(ii).

Thanks for your consideration,
~Josh

2 attachments

 **September 2018 Minutes.pdf**
2102K

 **Josh Ellis - Catmull COI Letter.pdf**
138K

Josh Ellis
PO Box 1406
Boulder, UT 84716

January 25, 2023

Dear Boulder Town Council:

This letter is regarding a recurring, undisclosed conflict of interest present in the activities of Boulder Town Councilmember Jim Catmull.

Councilmember Catmull is employed as a certified Water Operator (Certificate 161387000) by the privately-owned Boulder Farmstead Water Company. He and his father are the sole Water Operators for the entire water company.

Since his appointment in early 2022, Councilmember Catmull has repeatedly used his position as an appointed officer to attempt to increase the size and scope of the water company's operations by attempting to artificially increase the number of fire hydrants present in the system. Specifically, in the May 2022 meeting he publicly harangued the Town's appointed Fire Authority (Pete Benson) for not requiring hydrants where Councilmember Catmull thinks they should be according to Catmull's interpretation of code. This is very odd considering that the entire purpose of the appointed Fire Authority is to interpret and implement fire-related codes. During this discussion fellow Councilmember Julian brought up Councilmember Catmull's potential conflict of interest in this matter which he denied and failed to disclose.

Back in September 2018 the Boulder Town Council voted to pay Boulder Farmstead Water Company *on a per-hydrant basis* via a 5-year contract with yearly renewal to perform flow/pressure monitoring on all the town's fire hydrants. Being the only Water Operators, Councilmember Catmull and his father are the only qualified people who can execute and receive compensation for this contract at Boulder Farmstead Water Company. Moreover, the addition of fire hydrants inevitably generates ancillary work in the form of planning and executing the initial installation, non-routine maintenance, etc. As such, Councilmember Catmull has both a direct and indirect vested financial interest in the number of fire hydrants present in the water system. This vested financial interest represents a conflict with his duties in this matter as an appointed officer of Boulder Town Council and as such can be interpreted as a use of office for personal benefit which is a violation of Utah Code Ann. §§ 10-3-1304.

In the June 2022 meeting, I requested to be on the agenda to speak publicly about Councilmember Catmull's conflict of interest in this matter and pleaded to the entire Council to pursue additional training to ensure adequate disclosures and recusals are being pursued when conflicts are present. Councilmember Catmull again denied any conflict of interest in this matter. At the time the complainant stated explicitly that, "This is a preliminary step being offered as a personal courtesy and shall not yet be considered an official complaint requiring mandatory reporting to the Political Subdivisions Ethics Review Commission per Utah Code Annotated § 10-3-1311(2)(b)(ii)."

In the November/December 2022 meetings the ordinances regarding fire hydrants were modified and Councilmember Catmull failed to disclose any conflict of interest in the matter or recuse himself from the vote.

In the December 2022 meeting Mayor Drain (who is Councilmember Catmull's aunt) made a statement regarding a conversation initiated with the town's attorney by a subdivision applicant regarding Councilmember Catmull's conflict of interest in the matter of hydrants that was significantly affecting the applicant's proposed minor one-additional-lot subdivision. In that statement Mayor Drain said of Councilmember Catmull, "He makes no money off fire hydrants." Per the September 2018 Town Council resolution, this is not a true statement. That 2018 resolution was the result of a dialog between Boulder Volunteer Fire Department and Boulder Farmstead regarding hydrant monitoring. Being the Assistant Chief of the Fire Department, I can attest that the Fire Department's approach was: "Why would we do it for free when you can get paid to do it?" When we said "when **you** can get paid" in that meeting, it was in person to now-Councilmember Catmull.

Due to the repeated impropriety involved in this matter (both in reality and in appearance) which has been voiced publicly by many people within the community over many months, and explicitly false statements and defenses from familial councilmembers, this shall now be considered an official complaint requiring mandatory reporting to the Political Subdivisions Ethics Review Commission per Utah Code Annotated § 10-3-1311(2)(b)(ii).

Moving forward I respectfully request that Councilmember Catmull, being an employee of Boulder Farmstead Water Company, abstain from any discussion/vote on agenda items that can or could affect, however remotely, Boulder Farmstead Water Company's contracts, operations, scale/scope, water availability/rights, and/or infrastructure. His extensive expertise and experience as a Water Operator and therefore stakeholder in these matters can be leveraged in the same way that other non-voting stakeholders are welcome to engage the municipal political process.

Additionally, I request that the Council consider adopting a formal set of rules and guidelines which clearly define how and when abstaining from a vote/recusal is required and/or recommended. As an example, see the Mapleton, Utah ordinance:

https://codelibrary.amlegal.com/codes/mapletonut/latest/mapleton_ut/0-0-0-899

With Regards,

A handwritten signature in black ink, appearing to read "Josh Ellis". The signature is stylized with a large "J" and "E".

Josh Ellis

September 6, 2018

Meeting began at 7:05 p.m.

Present: Steve Cox, Mayor; Gladys LeFevre, Pete Benson, Conrad Jepsen, Council Members; Judi Davis, Clerk. Absent and excused: Farlan Behunin.

Public Present: Randy Catmull, Cheryl Cox, Tina Karlsson, Tessa Barkan, Elizabeth Julian, Bill and Judith Geil, Jill Trombley, Dianne Oberhansly.

Pledge of allegiance

Pete made a motion to approve the minutes of the August 2, 2018, meeting. Gladys seconded the motion and approval was unanimous.

Cheryl Cox reported on the activities of the **Boulder Arts Council**. Their new event this year was the Saturday Music in the Park program held the first Saturdays of June, August, and September. It was easy to set up, the flags were up, and it was a good event, with 60-100 people attending each time. They look forward to doing it next year. It was hard to survey, as people were coming and going. They will hold a collage workshop this Saturday. They are also collaborating with the Escalante Arts Festival to let participants know of arts events in Boulder. On September 25 they will hold a Samba Festival at the Red House Barn, and the Cliff Notes Writing Conference will be in early October and will be held for an extended period of time. On December 8 they will hold their big Artrageous fundraiser. They are looking at re-granting. The traveling art exhibit "Go Out and Play" will be posted on December 17. The next community exhibit will be the Art of Drama which will begin on October 10 and go through the holiday market. All of these events are provided through volunteer effort. Steve thanked all of the Council for their volunteer time and efforts and gave them certificates of appreciation.

The order of the agenda was changed to move the Boulder Farmstead Water Company discussion to this point. There is an agreement between the Town and BFWC dated 1984 on **maintenance of the fire hydrants**, and Randy explained the maintenance needs. BFWC has presented the Town with a new fire hydrant agreement. He is open to discussing changes that we feel we need. Gladys stated that Boulder Farmstead provides fire protection for the Town, so the taxpayers should pay for that service whether they use Boulder Farmstead water or wells. Not all homeowners have BFWC water, but that Company provides fire protection to everyone.. There are now 72 hydrants in Town, and they are not being maintained to necessary standards. Randy reviewed the maintenance needed for each hydrant and estimated that complete maintenance would cost \$50 each per year. Pete felt that \$50 is fair and reasonable, and he would like an annual report of what work has been done. He proposed a five-year term but with an annual renewal. That way we aren't obligating future Councils and/or Water Boards to a sum they may not be comfortable with. We need to clarify what changes need to be made now. Conrad suggested wording that makes it clear that this Council is not obligating future Councils to commit funds that may not be available. He suggested wording that he felt would make this

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point. Randy is understanding and just wants to get something that we can both work with. Steve asked about the budget and if there is money anywhere that could be assigned to this project. Gladys asked if there was money in the Fire Department budget to cover it. We have always budgeted more there than we've used, so we'll plan to pay for it from that fund. Pete will work with Randy to make the changes as discussed, and we'll each send the revised contract to our own attorneys.

Suggested changes should include the following: 1) The term of the agreement should be five years but with a yearly annual renewal, and there should be a 90-day notice of non-renewal (instead of six months) under the Termination of Agreement section. If either party wants to end the agreement before five years, the Town needs to have an alternate plan for maintenance of the hydrants. 2) BFWC should present the Town with an annual report showing what work was completed.

Bill brought up some concerns to Randy. Gladys asked if there are any other problems between Boulder Town and Boulder Farmstead Water Company. It was emphasized that no individual is allowed to hook up to a hydrant; it must be done by someone from the water company or by Fire Department personnel on official business. Randy asked that the Fire Department be made aware that the hydrants have to be fully open when in use. Gladys made a motion to accept the agreement with changes as discussed, with Pete and Randy working together. Conrad seconded the motion and the vote was unanimous.

Garfield County has a **dumpster ordinance** requiring anyone living in the County who has a building permit to have an on-site container for construction/demolition waste. In that ordinance, the Building Inspector is required to issue a stop-work order and to red-tag anyone not in compliance. Do we want a similar ordinance for people living in Town? Our landfill permit allows only construction/demolition waste, yard waste, inert waste, dead animals, waste tires, and petroleum contaminated soils. There was a discussion on whether the Town wants a similar ordinance and, if so, if there should be a regulation on the size of the building as to whether the builder needs a roll off on-site. If the County ordinance is enforced, the problem we are having may be solved, as that is where the majority of c/d waste is coming from. The landfill attendant on duty will be instructed to ask where a load is coming from. If it didn't originate within Town limits, they must deny them access. We will use this approach for a while and see what effect it has on our landfill. We will wait to consider an ordinance until we see if things change. We can revisit it later if needed.

Regarding the **Landfill Attendant**, Steve talked to Steve Wilson about being the assistant landfill attendant. He's always available. Gladys wondered if there would be any weekday use since we will no longer accept material generated in the County. The Mayor suggested that anyone who comes during the week would probably be there for two hours and that a fee of \$25 shouldn't be too much. In order to cover an assistant with Workers Compensation Insurance, we need to hire him as an employee. Gladys made a motion that we begin charging a flat rate of \$25

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for a weekday trip to the landfill. Pete seconded the motion, and the vote was unanimous.

The list of **checks issued** in July and August was reviewed. Gladys made a motion to approve them, Conrad seconded the motion, and the vote was unanimous.

Department reports were made. In Farlan's absence, Steve reported that Dwight's Auto Wrecking took all of the metal from the landfill, and Sam cleaned up after it was gone.

Gladys met with the Cemetery Committee and would like next month's agenda to include a discussion on charging a fee for being buried at the cemetery, possibly \$200, and a policy for reserving plots. We will have further discussion next month, and will probably need an ordinance setting forth requirements.

Pete reported that the committee working on the Wildland Fire Preparedness Plan will meet this Monday. Judith Geil is working with them. Randy is concerned that the pond at the corner is a fire hazard. It may need to be burned during the winter, and it may take a while. Pete hasn't been here for a few weeks and isn't up to speed on what the Planning Commission is doing. On Wednesday, October 10 between 8:30 and 2:30 Lee Nellis will be here to meet with the Planning Commission and anyone else who is interested in the process. Steve encouraged the Council to come to the meeting so they can understand the reasoning behind decisions that will be forwarded to them. We need representatives of every opinion to participate. On the 13th, the Planning Commission is having a public hearing to receive comments and to answer questions on ADU's. After that, they will work on the possibilities of vacation homes, such as Air BnB's.

Tina reported that the Park Committee is ready to go ahead with the signs (2' x 1') for the south Tract Park gate and that they have plans for a self-closing gate. Brandie Hardman is checking on the rolling doors for the maintenance shed. Organization of the tools has already started. They need to put together the tool rack and shelving. The Tree City will work with them on planting trees. They would like to place some at the park entrance and by the restrooms. They would like to have more maple trees, and also discussed the desire to have the Farmer's Market move to the Tract Park to alleviate traffic and parking problems at the corner. Gladys asked Judi to check with our attorney to see if there is any liability to the Town if the Farmer's Market is held at the park. Randy may have paint, and if so, Tina and Julie will paint the shed. The Park Committee would like to design a barbeque set up for both large and small groups. They will work with BCA.

In the area of enforcement, Conrad reported that he is working on letting people who are building without permits know that they need to get one.

There was a question in a prior meeting as to whether Justin Fisher could help us with the next stage of the planning updates. Steve reported that he cannot, as he doesn't do that work any

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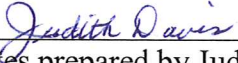
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more. He also talked with Ryan Crosier in Escalante about getting more Post Office boxes. He will take measurements and get back to him.

The annual Boulder Farmstead Water Company meeting will be held on the 15th. Either Gladys or Judi will vote the Town's water shares.

There were no public comments, so Pete made a motion to adjourn. Gladys seconded the motion, and the vote was unanimous.

The meeting adjourned at 8:45.



Minutes prepared by Judith Davis, Town Clerk