

**Boulder Town Council Special Meeting
July 19, 2023 6:00 PM-7:30 PM
Meeting Minutes**

Town Council Members present- Mayor Judy Drain, Steve Johnson via Zoom, Jim Catmul, Gladys LeFevre, Elizabeth Julian, Town Clerk Jessica LeFevre

Public Present- Shelley Price Gibson, Mark Nelson, Jennifer Bach, Jennifer Castle, Blake Spalding, Tamara Stranger, Scott Mader, Nancy Tosta, John Veranth, Dave Mock, Susan Heaton, David Elliott, Jabe Beal, Steve Cox, Judith Geil, Bill Geil, Josh Ellis, Jeff Sanders, Devaki Murch, Walt Gove

Via Zoom- Chris Potter, Peg Smith, Sergio, Tina Karlsson, Ellayna LeFevre, MMV?

Meeting was called to order at 6:03

The Pledge of Allegiance was spoken

Approve the Agenda

Motion to approve the agenda made by Councilmember Catmull. Seconded by Councilmember Julian. All voted Aye. Motion passed unanimously.

Pedestrian Path staff report presented by Town Clerk Jessica LeFevre

Town Clerk LeFevre stated she had been tasked with researching questions that had been presented at the previous meeting about the pedestrian path and had compiled a document with all of the information she had gathered that would be posted to the Town's website for the public to reference. She explained that Jones and DeMille engineering had called the town to make them aware of the grant for the project as they had worked with the town in the past multiple times and Councilmember Catmull met with them on December 15th and they went forward from there. Clerk Lefevre stated Mayor Drain had written and signed a cover letter for the pedestrian path that was signed on December 23rd 2022, the Jones and DeMille paperwork was dated January 4th 2023, and the application was submitted on January 11th 2023.

Town Clerk LeFevre stated there was concern about a short timeline and referred to the Town's website where the document from Chris Potter was posted that stated the application needed to be submitted by January 13th 2023 which had been sent out in October of 2022 but the Town was not aware of the grant until December. She stated that Councilmember Catmull had gone up to Salt Lake City regarding this grant on February 15 and presented this to the Joint Committee.

Clerk LeFevre stated this was not specifically an ADA grant, it was a transportation grant and when it was time to present this, ADA was the focus because Boulder did not

have anything ADA. When the committee heard this they moved Boulder up the list and fast tracked the time frame from 2026 to 2025. She stated they were in the very early phases of this project and nothing was finalized other than being awarded the grant which was why there were no contracts and documents to present to the public. The town was not tied to this money and they needed to decide as a Town whether or not they wanted to accept it.

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Clerk LeFevre stated there had been a lot of questions regarding specifics about the pathway because we are just in the beginning state of this process there are some questions that we don't have the answers to just yet. If they accepted the grant, in 2024 a project manager would be put in place who would answer all of the questions about logistics along the way. She stated that the Council was invested in making sure they went through this process the best way they could.

Clerk LeFevre read from the Q&A document she had compiled. The first question was where exactly the path was going. She stated as of July 19th 2023 the path would go from the south side of the Boulder Town pavilion down along the existing gravel path through the town park, in front of the Boulder Lodge and Burr Trail Grill, going across the Burr Trail Road, and finishing at Kelly Roundy's road just before the government corrals, but since the application had been submitted in December the town had asked to change this and have the path stop at the Burr Trail Grill and take the path up from the south side of the pavilion up to the pavilion entrances around to the bathrooms and over to the wooden bridge so the entire pavilion would become ADA accessible. She stated they would have to present this change to the committee, but she was told this change sounded very doable.

The second question was why would it need to be 8 feet wide. Clerk LeFevre stated the 8-foot distance was so that it would be considered a bike path and that the ADA requirement was only 5-feet.

The third question was why concrete. Clerk LeFevre stated that based on conversations with UDOT and Jones and DeMille, concrete was presented as the most cost efficient and easiest for Boulder to maintain. She commented that because of the remote location of Boulder, asphalt would be more expensive to bring in.

The fourth question was about cracking in the concrete. Clerk LeFevre stated that to protect it there would be a sealant that would be added to it.

The fifth question was could the concrete be colored. Clerk LeFevre stated that yes, the town could decide if they wanted to color it which would add a little bit of a cost but it would be a minute cost.

The sixth question was does the Town's liability go up by making it concrete. Clerk LeFevre stated that as with the rest of the grounds in the Town they had liability

insurance if anyone tried to sue the town. She said they had not actually called the insurance company to see if there would be an increase or not but it was the same risk as other public amenities.

The seventh question was about the Town's cost. She stated the Town was responsible for covering 6.77% of the total cost and in the application it stated \$46,239. The town already had this money from a specific funding source, road B and C money, and at the time Garfield county had committed to \$10,000 and told the Town to come back again the following year to ask for more money. She stated they were also looking into other options to cover the funds and they did not have an estimated comprehensive maintenance plan yet because they did not know what the final project would look like but the Town understood that they were responsible for the maintenance and would come up with a plan as the project progressed.

The eighth question was what B and C funds were and what could they be used for. Clerk LeFevre stated that road B and C funds provided assistance to counties and incorporated municipalities for the improvement of roads and streets throughout the state and the funds could be used to help with transportation purposes.

The ninth question was why wasn't the town using B and C funds for other projects in Boulder such as redoing the Kings Estates roads. Clerk LeFevre stated they had asked the County to redo the Kings Estates roads and they had added it to their list but it was on the County's timeframe and the Town was looking into other grants to cover those costs as well.

The tenth question was why wasn't the town using the B and C funds to help with the housing crisis in Boulder or other projects needed in Boulder. Clerk LeFevre stated these funds had to be used for transportation purposes.

The eleventh question was who did the Town plan on maintaining the path and where would those funds come from. Clerk LeFevre stated Boulder Town had a maintenance person that would be in charge of maintaining the path but as she had stated before they could not provide answers to this until they knew what the final path would look like.

The twelfth question was about the maintenance of snow removal in the winter. Clerk LeFevre stated Boulder already had a side-by-side UTV with a snow plow attachment but they were not required to move the snow and could put up signage indicating that the path would be used at the user's own risk because there was not winter maintenance.

The thirteenth question was were they required to have lights on the path. Clerk LeFevre stated that based on conversations with UDOT representatives they were not required to have lights on the path.

The fourteenth question was how long the project would take. Clerk LeFevre stated that based on conversations with Jones and DeMille it was estimated that once the project started it would take 60-90 days.

The fifteenth question was what time of year would the work be done. Clerk LeFevre stated they were not sure at the time but they could recommend a time once it got closer to the final steps but it would depend on the work crews availability.

The sixteenth question was if they could guarantee there would be no effects to the businesses along the path during construction. Clerk LeFevre stated there was no way they could 100% guarantee there would be no effect during construction and when making plans with the project manager the Town would make sure that they knew the importance of ensuring the businesses were affected as little as possible.

The seventeenth question was where would cars park when the construction was being done in front of the Hell's Backbone Grill, Burr Trail Grill, and Boulder Mountain Lodge. Clerk LeFevre stated the cars would not be allowed to park on or near the path as it was being constructed but they could park next to the government corrals and the Town would support utilizing other areas of the businesses properties to park as well.

The eighteenth question was could the Town guarantee the businesses affected would not lose parking after the path was completed. Clerk LeFevre stated they did not have a definitive answer at the time and they would have to wait for a final project plan.

The nineteenth question was are ATVs allowed on the path and if they were not who would enforce that. Clerk LeFevre stated ATVs were not allowed on the path and there would be signage to indicate who was allowed on the path.

The twentieth question was are skateboarders allowed on this path. Clerk LeFevre stated yes they were.

The next question was if horses were allowed on the path. Clerk LeFevre stated yes they were.

The next question was who would be cleaning up the dog and horse poop left behind by owners. Clerk LeFevre stated that just like everywhere else the owner was responsible for picking up the poop and if it was not cleaned up then it was left to the maintenance person.

The next question was where would the water go that flowed down the path. Clerk LeFevre stated as the path was currently engineered, the path from the Boulder Mountain Lodge to the Burr Trail would be curb and gutter and filter down to the catch basin on the corner of the Burr Trail and Highway 12, and from the west side of Highway 12 it would catch into the existing ditches and drains.

The next question was what would they do as a town to provide parking and restrooms for tourists to use. Clerk LeFevre stated that there was currently parking in front of the town pavilion and the town hall and they were looking into extending the parking at the town pavilion to create more parking and the public bathrooms at the park were open 24 hours a day 7 days a week seasonally based on freezing temperatures.

Clerk LeFevre concluded her Q&A session and directed the conversation to Chris Potter for his Q&A session. She clarified that Mr. Potter was a UDOT representative but UDOT

was a very expansive entity, and he might not have all of the answers to their questions. She stated he was a local government programs engineer so he programmed funds into local areas and did not necessarily get into the details of the projects.

Clerk LeFevre stated that when members of the public spoke they needed to make statements and not comments. She explained that statements were to address compliance with the ordinances and the things that they had in place and they would take statements until everyone had a chance and once everyone had a chance to speak there could be a second round but they would not be taking comments, only questions.

Question and Answer with Chris Potter, UDOT representative-

Councilmember LeFevre asked if the Town Council accepted the project and they decided they could not afford it, at what point would they be under contract to do something. Mr. Potter asked for clarification of the question. Councilmember LeFevre asked for a general idea of when they could withdraw throughout the process. Mr. Potter stated that prior to the Town signing a Federal aid agreement, then they could potentially cancel the project at any time but they would have to notify UDOT and tell them why and then they would have to take that to the Governor's appointed transportation commission and present why the Town wanted to cancel the project. He stated when they awarded projects they liked to see them built but they understood that under unique circumstances it made sense to cancel a project but once a federal aid agreement was signed, that was when money started getting spent. He said the first step would be that UDOT would assign a project manager to manage the project and they would work with the Town of Boulder to get a consultant on board to start the design of the project. Once the Town started incurring costs, the Town would have some liability and anytime after that costs were incurred, the Town would be responsible to pay the 6.77% match.

Mr. Potter stated that the project was receiving funding for Federal fiscal year 2025 which began on October 1st 2024 and ran through September 20th 2025 and so sometime shortly after October 1st a project manager would be assigned and one their first tasks would be to meet with the City and get a federal aid agreement in place. Until a federal aid agreement was in place, UDOT could not expend any funds from the award.

Clerk LeFevre opened the Public Comment-

Jennifer Bach asked if the approval for the project was contingent on being an 8 foot bike path or would a 5 foot ADA approved path still qualify for the same approval. Mr. Potter replied that what was presented in the application had been approved so if they were going to go in and significantly change it then they would need to go back into the Joint Highway Committee and propose the change and scope of the project. Clerk LeFevre commented that small changes were not a big deal but major changes would have to go back to the committee.

Ms. Bach asked what the least-like concrete ADA compliant material they could use on a path like this. Mr. Potter replied that usually asphalt or concrete were used and it was not just about the surface being ADA compliant, it was also about durability and long-term maintenance and what was presented was a concrete path so if they were going to significantly change the surface it would have to be re-presented.

Tina Karlson asked if they decided this was not a project the Town felt confident doing, would there be some kind of fallback as far as further grants. Mr. Potter replied that the Joint Highway Committee was not comprised of UDOT employees, it was group of local government representatives across the state from 15 counties and 15 cities appointed by the League of Utah Cities and Towns and the Utah Association of Counties, so it was their own peers that sat on the committee and decided where these funds would go. He stated they tried to be equitable and spread the money around so the same municipalities were not awarded the money year after year, so if Boulder turns it down the committee may feel like Boulder had their chance and not award in the future but he could not speak for them.

Jon Veranth asked if there was any need for Town Council action at this point in the process and if not, what would be the deadline for the Council to take action. Mr. Potter replied that at the time the project was included in what was called the draft statewide transportation improvement program and every project that had been approved in the spring for this program was currently in the draft stage which was out for Public Comment and once that comment period concluded all of the comments would be addressed and then a final version would be presented to federal highways for their consideration and approval and then it would be finalized around October 1st. Mr. Potter stated that by submitted the application the Town had acknowledged that they wanted the funding and if they changed their mind it could happen any time up until the funding was available and there would be no repercussions against the city, but if they changed their mind after costs started incurring the Town would have to pay the 6.77% matchup for any funds that were spent.

Mr. Veranth asked for information about where he could submit comments to the STIP public comment session. Clerk LeFevre commented she had that information available on the Agenda for the July 1 Council meeting and would attach it to the Agenda for this meeting as well.

Mr. Veranth asked if they went through the design phase and the community had some dissatisfaction and wanted to make a change, who made the call of whether or not that change had to go back to the committee for justification and reapproval. Mr. Potter replied they really needed to narrow down the scope of the project before they started the project because if they wanted to start changing the design in the middle of the project it was going to affect the schedule. He stated the Town had been awarded a certain amount of money and if they wanted to go through multiple redesigns it would cost, and if the Town went over the allotted funding, they would be responsible for all of the extra costs. Mr. Brandt clarified that the Council needed to determine the scope of the project and stay within the determined budget before the project got started. Mr. Potter confirmed and stated it was in the Town's best interest to have a solid idea of

what they wanted to done because the costs would add up quickly if they started changing their minds after the project began.

Jabe Beal asked who owned this section of the Highway the trail would sit on. Mr. Potter replied that UDOT had right-of-way plans for Highway 12 through the town of Boulder and the right-of-way was roughly from fence line to fence line so it varied throughout the corridor, but under Utah law if no right-of-way was defined it stated there was a 66 foot right-of-way on state roads.

Mr. Beal asked who UDOT had the right-of-way with. Mr. Potter replied that the state of Utah owned it. Mr. Beal asked if the town of Boulder would have to obtain a right-of-way to be in the UDOT right-of-way for encroachment. Mr. Potter replied if the Town was doing anything in the right-of-way they should be working with the UDOT permits department to get a permit. He stated he knew there were businesses in Boulder that used the right-of-way for parking and they should technically obtain permits for that. Mr. Beal asked if the permit was based on a time period or if it was in perpetuity. Mr. Potter replied he was not an expert on this topic but he thought it was a yearly fee and they had a business in Boulder apply for the permit in 2017 that was trying to work with UDOT to obtain a permit to use the right-of-way but the business owner did not want to sign the agreement because none of the other businesses in Boulder had permits and were utilizing the right-of-way for parking.

Mr. Beal asked about the bike path on the Paunsaugunt and the proposed bike path from Glendale to Kanab and asked if those would be UDOT paths and who would maintain those. Mr. Potter replied he was not familiar with these projects and he could not answer those questions.

Bill Geil asked if the community of Boulder came up with a scope that was different than the agreed upon application and they had to go back to the Joint Committee what the timeline would look like. Mr. Potter replied it depended on how significant the change in scope and budget was going to be and if they wanted to reduce the width that was a significant change because it reduced greatly the amount of users on the trail and if they wanted to change from concrete to asphalt, it was a completely different surface and asphalt needed around 280 degrees to lay and the closest capable asphalt mixer was in Richfield and they would have to keep the asphalt at that temperature for the two hour drive which had a lot of concerns and issues. He stated concrete was the more practical and economical decision and suggested if they wanted to do asphalt they should present an entirely new application because of the drastic change of material. Mr. Gile asked for the timeline in general of readdressing the Joint Committee.

Mr. Potter replied if it was minor enough he would not recommend reapplying and that the Joint Committee only met twice a year and the next meeting was September 15th but if they wanted the aforementioned significant changes the application submission period opened October 1st and closed the second Friday in January.

Mr. Geil commented that he knew from living in Boulder, after enough public discussion the scope of the project. Clerk LeFevre interrupted and reminded Mr. Geil that they were short on time and this hypothetical was getting off track. Mr. Potter stated the funding

was available for what the Town had asked for and if they wanted to make drastic changes then there was no guarantee the funding was available for an entirely different project than what was proposed and approved.

Lyndon Friant commented that this type of funding had not been available for 3 or 4 years and when a project was applied for, it was not guaranteed there would be funding the following year.

Nancy Tosta asked if it was possible that trees would need to be removed for construction and if there were mitigation measures that would be put in place to keep the path from getting hot. Mr. Potter replied the alignment of the new path would be the same of the existing path but this would be a better question for Mr. Friant because he was involved with the actual construction.

Josh Ellis stated he had filed a GRAMA request and appreciated Mr. Potter's response there. Mr. Ellis stated he noticed in the meetings of the Joint Highway Committee that was sent to him, the funding for Boulder had been voted to be kicked up from 2026 to 2025 and asked if it was possible to not do that. Mr. Potter replied that they typically got a fairly limited amount of these transportation alternative funds each year and so they were awarding funds each year but there was never actually enough money to build anything and they were just doing transportation master plans and so they had put this program on hold for three years until they could actually award some funding. He stated when they opened this back up they had funding for fiscal year 2024, 2025, and 2026, and a lot of the applicants were asking for the 2026 money but they needed to fill some slots earlier because if they did not use the money they risked losing it and so they asked if any of the projects would be willing and able to move up into the earlier slots and Boulder told them they thought that was something they could do. Mr. Potter said they could push it back but when they put money on projects they prided themselves on putting that money to work and if the project was not going anywhere, leadership would start asking questions. He stated they could push it back but UDOT would want a significant reason for doing so. Mr. Ellis stated the reason would be having more than three people's input into the design. Mr. Friant commented the downfall to extending it another year was inflation and increasing costs associated with the project.

Clerk LeFevre stated they had fifteen minutes left and it would be good if they had time to get to Mr. Friant's Q&A.

Shelly Price-Gibson asked if this project was approved and completed and there was a problem discovered with water flow would the town be responsible for the costs of fixing the problem or would UDOT help cover it. Mr. Potter replied that was a complex question and it was hard to answer. If it was something that was looked over in the design that was something that might go back on the consultant that was hired and their liability insurance would have to cover it, if it was something that was completely unforeseen this was a Boulder Town project and the Town would have to work through it. He stated they were talking about a fairly simple project and anything really that might occur could probably be fixed by the maintenance person in town and if they had not had any issues with the existing pathway then the likelihood of having issues with the new path were very minimal.

Blake Spalding stated she had never heard about applying for parking in the right-of-way and wished she knew. Ms. Spalding stated the point of this path as stated in the application was to keep people from parking on the path and it had also been stated that the path would be moved and asked who was determining what a mega change and what was a minor change and asked if they had already decided to move the path from extending to the corrals to wrapping around the pavilion, could they change where it ended to before the Boulder Mountain Lodge. Mr. Potter replied he was the one that evaluated any changes in the scope and worked with the Joint Highway Committee Executive Committee to determine that. He stated the proposed change was something the Town Council had probably had because nothing had been presented to him for consideration to determine the level of involvement of the Joint Highway Committee. He stated the Town needed to come to a consensus of what they wanted and at that point he would take it through the process and they wanted to Town to all be on the same page.

Ms. Spalding asked if Mr. Potter was aware how controversial this was and there were serious allegations of ethics violations in the Town Council right now and that this felt like it was intended to harm the business community. Mr. Potter replied he was aware it was very controversial and of the 26 projects that had been recommended by the committee that year, this was the only project he had gotten any correspondence on so he was fully aware, but being from UDOT he was not there to weigh in on the issue and this was a local issue that they needed to come to an agreement on. He stated there were three options he saw happening. They could continue with the project as proposed and it would be funded and delivered, they could as a community decide this was not what they wanted and they could cancel the project, or they could come up with some sort of hybrid and re-present to the Highway Committee for approval, but UDOT was not going to weigh in on the politics of the project.

Ms. Spalding asked what the real timing for when things needed to be finalized. Mr. Potter replied it depended on what the Town decided to do and the processes they would need to follow per what was decided. Ms. Spalding asked if there had ever been funding for the removal of a project like this if the town had decided they did not like the finished product. Mr. Potter replied the agreement the Town would be signing was with the Federal Government so the state would not come in and fix any of the problems for the Town.

Clerk LeFevre closed the Public Comment.

Question and Answer with Lyndon Friant, Jones and DeMille Engineering representative-

Mr. Friant introduced himself and stated he was the one who had approached Councilmember Catmull about the availability of these funds.

Councilmember LeFevre clarified if they reduced the width to 5-feet that would drastically change the view of the purpose of the project. Mr. Potter confirmed. Councilmember LeFevre clarified that concrete had been recommended because of the cost efficiency and ease of maintenance. Mr. Friant confirmed.

Councilmember Julian asked that if because it was a federal highway department, and because of the different contracts that needed to be made because it was funded federally, would Jones and DeMille be creating those contracts. Mr. Friant replied that once the project funds became available, UDOT would create a project identification number and at that time a project manager from UDOT would be assigned to manage that project who would work with the Town to select a consultant and get a contract in place for the consultant to design the project, which would be where Jones and DeMille would come in.

Councilmember Julian asked if additional fees were required would those be included in the project. Mr. Friant replied they would be included in the scope of the project.

Councilmember Julian stated this was an informational meeting to gather facts and it seemed appropriate that they have an additional work meeting to keep working through this as a community because their responsibility as Town Council was to act for the good of the community and it seemed like this topic alone needed to more time for the community to come to a consensus.

Mayor Drain asked if the change from the corral to the pavilion was considered significant enough to go back to the Joint Committee. Mr. Friant deferred the question to Mr. Potter. Mr. Potter stated that he would say yes. He said in November Governor Cox had expressed desire to build a trail network across the state of Utah, connecting towns and cities, and the last legislative session allocated \$90 million in the first year and up to \$45 million dollars each consecutive year to build out this trail network and UDOT had created a Transit and Trails group to help deliver that program. He said they were not looking at putting in 5-foot sidewalks, they were looking at putting in multi-use paths and it made sense to put in a trail that was consistent with what the Governor wanted to do across the state.

Councilmember Julian asked about the application where it stated it would be a connection at the Burr Trail Road and that it seemed like this would be phase 1 of a project. She asked who would be funding phase 2 and what was phase 2. Mr. Friant replied that through the Joint Highway Committee there were several subcommittees and so the bike path was funded through the non-urban track funding and they had also put in an application through the non-urban fund which addressed roadway improvements on major collector roads. He stated the Burr Trail was classified as a major collector and so when they put these applications in, they had put them in independent of each other and the second application was not successful, but that was why there was language implying a connection.

Councilmember Julian clarified that having the ADA as part of the path, would the parking lot at the pavilion need to be paved to also be ADA compliant? Mr. Friant replied that they were two separate things and so no they would not. Councilmember Julian stated that having the clarification provided by Mr. Potter and Mr. Friant was essential for the community to come to a consensus and thanked them for being present.

Adjourn-

Motion to adjourn made by someone. All voted Aye. Motion passed unanimously.

Meeting adjourned.



Minutes prepared by Jessica LeFevre, Town Clerk

08/04/2023

Date