



Meeting Agenda

4:30 – 6:00 PM, Wednesday April 20, 2022 Remote Zoom Meeting

UEB Zoom Meeting access link:

<https://us02web.zoom.us/j/83201655355?pwd=UVY3ODk0ZEhuc1pBWlJlVQmJSdDJVdz09>

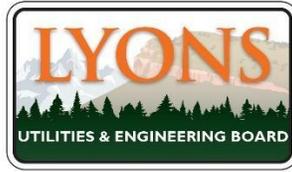
Password: 972968 (New security feature may be required in future)

Or call: +1 346 248 7799

Meeting ID: 832 0165 5355

Password: 972968

1. Amendments to Agenda
2. Audience Business
3. Approve Minutes from March 30, 2021
4. Upcoming Meetings
 - a) MEAN Power Supply/Finance/Oversight Committee Meetings - 31 March
 - b) MEAN Committee and Board Meetings – 18, 19 April
5. Updates
 - a) Board of Trustees – ?
 - b) Staff, Engineering – Aaron Caplan
See BOT agenda section VII.1 Utility Update
https://www.townoflyons.com/AgendaCenter/ViewFile/Agenda/_04182022-1928?html=true
 - c) UEB Chair – Jim Kerr
 - d) Member Updates
6. Referral Request - 423 Reese
7. Undergrounding Electric Lines
8. Charging for electric meters on new or upgraded installations
9. Solar Farm and Battery Storage Status
10. 2021 Utility Financial Reports (continued discussion) – will likely defer to later meeting



UEB Meeting Minutes, March 30, 2022

Meeting Time and Location: Began at 4:30pm. Held remote via Zoom meeting.

Attendance: Jim Kerr, Lee Hall, Mike Jackson, Chris Cope, Chris Meline, Jerry Rotz

Staff: Aaron Caplan

Liaison: Mark Browning (Asked by Mike Karavas to substitute for meeting)

Guests: Brandon Dittman, Town of Lyons Legal Counsel; Philip Strom, Town of Lyons Director of Community Development; Justin Konrad and Zack Tucker representing Planet Bluegrass

1. Amendments to Agenda

None

2. Audience Business.

None.

3. Planet Bluegrass Farm Utilities

Members of UEB and Trustees met with Planet Bluegrass staff on Monday March 28, 2022.

1. Planet Bluegrass said they have no plans for bathhouse for next 5 years.
2. Water share was not paid when house was connected to town water in 1973 but is considered grandfathered in,
3. Town legal counsel said code would require another tap for bathhouse.
4. House is residential and bathhouse is commercial use. Could consider changing house to commercial use and may be cheaper. Slightly different wastewater rates between commercial and residential with residential currently higher.
5. Adding the additional water taps would require 1 CBT share or 1.4 Lake McIntosh water shares. Since Lake McIntosh shares can only be purchased in whole numbers this would require 2 Lake McIntosh shares which are currently much cheaper than CBT shares. Strong opinion from a number of UEB members that Planet Bluegrass should purchase the shares ASAP as this would be financially advantageous to Planet Bluegrass in the long run.
6. Bathhouse will require a new tap fee when the permit is pulled.

7. The residential house will need to connect to wastewater at the same time.
8. There was a lot of conversation around the house and bathhouse taps and could they use a single larger tap. There was a question on the water usage during festival season. Zach answered that it was 60,000 each for July and August. Jim noted that PB has an existing $\frac{3}{4}$ tap, if they want to go to 1" they would have to pay the delta which is the same as another $\frac{3}{4}$ tap. Aaron mentioned that the Town's main water line has moved across the creek along Apple Valley road. Jim asked how many other Apple Valley houses are on that old leftover stub and Aron responded 2. Jim felt it might make sense to have a 1' tap but would expect they would have to go commercial on the residence. Aron said they could have one tap and 2 meters for the two different uses. Lee mentioned that proper design could not accommodate a residence and bathhouse on a single $\frac{3}{4}$ tap. Zach asked if running sewer from the road could include a new water line in the trench. Aron said yes but you would need a big enough trench. Lee emphasized that he hoped Planet Bluegrass understood that they have an opportunity to get Lake McIntosh water shares now for the intended use for a fraction of the cost of a CBT share and this may not hold for the future and strongly suggested getting the water shares now rather than waiting until the bathhouse is permitted. Lee also mentioned that the 270k gallon limit is not a design criterion but a maximum over which you get penalized. Zack stated that they have 60-70K gallons of excess. Lee was concerned that if Planet Bluegrass is shooting for 70% of the limit he is concerned and that much gives us pause on how much you will really be using. Aron stated that 10 businesses in town are at 200k but less than 270k.

There was some discussion of the septic system and the language around how to stipulate that if the septic goes bad and needs major repairs, Planet Bluegrass should be required to upgrade to wastewater service at that time. There was conversation about the code and when properties on septic needed to convert and it was decided that the interpretation was if the property is within town they need to convert over to town wastewater. Zach noted that if there was a catastrophic failure, they would not rebuild knowing they would have to connect to sewer down the road.

Jim reiterated the major points:

1. Have consensus for requirement for a separate tap. Lee consensus is that there would need to be an additional tap or increasing in size of existing tap. Require at least an additional $\frac{3}{4}$ inch tap or increase to a 1-inch tap. Jerry is there an analysis of bathhouse use. Aron yes from existing bathhouse. Jim, we know $\frac{3}{4}$ tap will work and there will be less usage on the Farm than the Ranch property that has $\frac{3}{4}$ tap. Zack said that there are no plans drawn up but it would be

smaller than the ranch bathhouse, about 1000 campers on main portion of the property and about 600 campers on the south side of the river. There was some discussion of RVs which were self-sufficient except for shower use. Zach noted that there were no plans. Jim made the point that it would require an additional base fee and Aron stated there can be multiple base fees on a single account. It was decided that we did not need to make a motion on this. There appeared to be consensus that when water is upgraded, that the connection is not made to the Old Apple Valley water main stub.

2. On septic – require bathhouse to be on town wastewater and convert the house to town waste water at that time or sooner if the existing septic system fails. At the last UEB meeting it was noted a preference to require the wastewater connection within the next two years. Jim noted that Larry Quinn, unable to attend today's UEB meeting, provided written recommendation for the two year time limit. There appeared to be consensus that no specific time period was required for conversion of septic to town wastewater.

Motion – Jim moved that the UEB recommend that the town require PB provide an additional $\frac{3}{4}$ water tap or increase to 1' tap with associated water rights when the bathhouse is built and require an additional base fee. Further recommend that the bathhouse be required to be on town wastewater and the existing house be converted to town wastewater once the bathhouse is built or if the house septic system requires significant modification. Connection to the town wastewater will require separate taps and base fees for house and bathhouse. Lee seconds.

Approved Unanimously

4. Approve Minutes from March 16, 2022

Approved Unanimously

5. Upcoming Meetings

- No UEB meeting April 6th
- MEAN Power Supply/Finance/Oversight Committee Meetings - 31 March

6. Updates

a) Board of Trustees, Mark Browning

At the last BOT meeting Spirit Hounds requested that the town donate Lake Macintosh shares. That request was declined and Spirit Hounds was given 60 days to provide the previously agreed to Lake Macintosh shares.

b) Staff, Engineering. Aaron Caplan

Longs Peak Drive will be finished tomorrow. New stormwater pipe completed along 4th Ave from Railroad to Park. Pedestrian bridge is on schedule to be completed by the end of April/May. School potholes need to be fixed. Discussions at a high level about installing a credit card reader for bulk water and potential idea was to put in dump station and bulk water over by recycling and water plant. Jim – can see issues with water next to wastewater. Lee - what's happening on 4th Ave next the church. Aaron - the sidewalk work is being accomplished as part of pedestrian bridge safe passage to schools grant funding.

c) UEB Chair – Jim Kerr
None

d) Other UEB Members
None

7. Miscellaneous Utility Fee Issues

- Aaron mentioned that wastewater units used in base rate calculations are already mentioned in LMC but may need to be clarified/cleaned up some.
- Next time residential wastewater rates are adjusted consideration should be given to having a minimum calculated winter usage as is done in other towns such as Fort Collins
- Given the recent inflation the town should likely increase water and wastewater rates per the LMC by the inflation rate. Any inflation increase should be applied to both residential and nonresidential rates and not just residential rates as appears to have happened in the past.

8. Solar Farm and Battery Storage Status

Jim, Lee, and Aaron met yesterday concerning the solar farm RFP. Aaron continues to work on the RFP but does not want to release prior to the DOLA grant award contract with Town.

8. 2021 Utility Financial Reports (continued discussion) – Aaron

Main discussion delayed until next meeting. Would be useful to focus on the fund balances. Aaron - Jill closed out 2021 so can use net revenue to project current fund balance as of January 1 2022. Jerry will work with Aaron to get the data. Will try and focus on utility financials at the next meeting.

Meeting ended: 6:07 pm. Minutes Submitted by: Mike Jackson and Jim Kerr

6. Referral Request - 423 Reese

See separately provided referral request document

From: Aaron Caplan <ACaplan@townoflyons.com>

Sent: Wednesday, April 13, 2022 12:37 PM

Subject: RE: 423 Reese Referral Request

Actually, it turns out after all of the concerns on this property that these 2 buildings have individual wastewater and electric connections and they have individual water meters. While they do have 1 physical tap that was connected to the water main, it then T's and each building has a meter. It appears that it has always had this since back to the time the water was connected to the buildings. This was in place well before Lyons went to Longmont water and both of these were considered 2 individual service connections already accounted for with Longmont and the Town's original water shares allocation to Longmont. There should be no additional fees or water rights required for Longmont as everything is already accounted for.

I don't think anyone looked at the utilities a few years back when they went to condominiumize. The only issue in this should be the fact that subdividing a property has a water rights dedication requirement. There are other lots in town that previously split what was one lot before it became a concern and was codified as not being allowed. Both buildings pre date 1950. If someone would have had the foresight to actually split the lot many many years ago as others did, we would not be in this predicament.

I can't remember if I saw and email or not, but there was mention that Planner Glasgow was the one who advised them to condominiumize. It really does not appear there were any issues and it is really to bad that we were not aware that both buildings have all their own individual utilities, and pay individual base fees. As soon as this came up, I went to physically look and saw 2 individual water meters.

Thank You,

From: Brandon Dittman <brandon@kandf.com>

Sent: Wednesday, April 13, 2022 2:45 PM

Subject: RE: 423 Reese Referral Request

Concerning the legal question of water is required to be dedicated upon subdivision I think that answer is very clear in LMC 17-14-20 which provides that the dedication requirements of LMC 17-14-10 shall apply to any major subdivision, minor subdivision, or PUD. This was a major reason for making condominiumization of existing structures a subdivision, because it would close the loophole on dedicating water in these instances. Now the Board always has the power to waive that and given the history in this case that may make sense if two water shares have already been accounted for (however that seems to be unlikely in future cases), but only the Board has that power. Any variance allowing subdivision would have to be expressly conditioned on a dedication of water or a waiver by the BOT.

Best,

Brandon

Case for charging additional tap fees:

It can be argued that the existing two houses on a single lot possibly got a break on water and wastewater tap fees when first connected. Are there any records of the tap fees paid for this property. Sec. 13-4-100. - Wastewater system connection permit and charges. has first connection fee of \$8,600 and second as \$6,375. If we assume it was charged similar based on this formula then a delta tap charge of \$2,225 may be appropriate.

Section Sec. 13-3-90. - Connection or tap fees and water rights dedication requirement. is a little less clear. The 3/4" tap fee dedication is \$17,500 with additional primary units an additional \$11,500.00 for a delta of \$6,000.

Note that similar tap fee discounts for electric in LMC Sec. 13-2-110. - Electric community investment fee. were not found.

Potential Motion:

The UEB notes that there are no anticipated changes to town utility revenues and expenses if the BOT approves the subdivision of 423 Reese per the referral request and the UEB recommends the BOT waive additional water rights dedication as required in LMC sections 17-14-20 and 17-14-10, if the subdivision at 423 Reese approved, as there are already separate water shares allocated to each house.

Possible add-on:

The UEB also recommends the BOT require additional water and wastewater tap fees of \$6,000 and \$2,225 respectively to cover the previous potential tap fee discounts given for secondary taps on the same property.

7. Undergrounding Electric Lines

Message from Aaron Caplan on April 14, 2022:

“Been getting a lot of requests to upgrade service panels in older buildings and some require upgrading the size of the wire and possibly transformers. I think we should look into requiring any upgrade of electrical service or modifications to any part of the service from the service panel out to the transformer shall underground their electrical service if not already underground.

I think we could put it in 13-1-270 - Modification of existing Connections. I also think we should move this section up to become 13-1-120 because it seems like it would be better before getting into the rest of the discussion on fines and other housekeeping items.

Thank You,”

Jim comments:

In addition we should likely have a UEB position on undergrounding electric lines. Although it can be more expensive cities like Fort Collins are nearly completely undergrounded now. The previous BOT had also directed Aaron move to underground electric lines. Undergrounding electric lines reduces wildfire hazard which appears to be a focus on most of the incoming BOT members. If the UEB agrees to add this focus it should also likely be added to the update of the comprehensive plan.

8. Charging for electric meters on new or upgraded installations

Message from Aaron Caplan on April 5, 2022

I had noticed the building dept bills new houses for water meters, but we do not charge for electric meters. Staff is not aware of a reason. Just wanted to check with UEB to confirm we should add this item to the fee schedule.