



Big money is playing Boulder during elections

By **Leora Frankel** - October 26, 2017



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It's May 2014 at an annual event called Boulder Startup Week. The topic is entrepreneurs and politics. Congressman Jared Polis (D) has a taunting message for the tech community (as reported by the business news website Xconomy.com). "Wouldn't it be nice if you could safely ignore politics? But that's not the case. The biggest principle to remember is if you're not at the table, you're on the menu, and that's the same for startups and politics."

Also present at that event is Brad Feld, one of four men who established the Foundry Group, a major venture capital firm with its headquarters on Walnut Street. Feld has by now garnered various titles and awards. In 2011 *Forbes* placed him at No. 100 on its Midas List of Tech's Top Investors, and *Business*

Insider named him the “most respected venture capitalist.” Feld and Polis know each other well, having co-founded TechStars, a Boulder seed-stage investment fund, in 2006, along with two other men. On the subject of attaining political goals, Feld has this to say at the forum: “Signing petitions doesn’t work, but taking action and participating does. Do it the way entrepreneurs do it, and just do shit.” He voices his frustration with his inability to achieve the impact he wants, complaining that his efforts have led to “almost no discernible outcome.”

It is noteworthy that the bandwidth company Zayo Group, led by CEO Dan Caruso, has sponsored this event for years and in 2017 was its largest contributor. All three men are wealthy by any standards (Polis’s net worth is estimated at \$400 million).

This story is about converting money into political power in Boulder.

It is a cautionary tale about how one of the most progressive and educated populations in the country has failed to look behind catchy marketing phrases in recent elections. And it’s a case study of what can happen when nonprofit 501(c)4 groups throw their weight into politics, while concealing their donors, legally. It seems the voters end up on the menu.

In June 2014, a nonprofit corporation soon to be known as Open Boulder was formed and duly registered with the Colorado Secretary of State. We don’t know much about the inner workings of this organization. To this day, Open Boulder refuses to name its major donors. Requests for transparency to board members Jessica Yates, Michelle Estrella and Alexandra Lindsay went unanswered.

What we do know is that in February 2015, Open Boulder announced the hiring of an interim executive director, Andy Schultheiss. The position was salaried. Interestingly, Schultheiss arrived at this job after working as District Director for Congressman Polis. Schultheiss, in his opening press release, stated that the planning of Open Boulder was in the works for a year and a half. (An email to Schultheiss received no response.)

Open Boulder, then and now, describes itself as “a grassroots, nonpartisan movement.” The organization touts itself as the voice of people who came to Boulder to “live, work and play.” The verbiage continues with a long list of “who we are:”

“We are parents, we are young and not-so-young professionals, students and recent grads ... We are employees and business owners,” it goes on. The words are innocuous. They are also bizarrely similar to a guest opinion written for the *Daily Camera* (August 31, 2014) by another member of the Foundry’s original

group of four, Jason Mendelson (along with a couple of colleagues). They wrote: "We are women and men. We are parents. We are veterans of the military ... We are graduating students," and so on. The guest opinion was an angry rebuttal to Councilman Macon Cowles's assertion that Boulder's startup economy consisted of highly paid white men and that it was pricing out families and others. (Cowles later apologized.) The tech writers found this statement "to be ignorant and offensive."

Open Boulder's website today emphasizes the innovation economy, rather than general business interests. It presents opposition to rapid tech growth, in the context of Google coming to town, as "unthinkable in most places."

Trying to learn who its major donors are, I reached out to Colorado House Majority Leader KC Becker (D), who is listed as a member of Open Boulder's steering committee. "I'm not on the steering committee," she told me. "I haven't been involved for a while."

She couldn't tell me when she'd resigned, even whether it was during 2017 or a previous year. It was all very unofficial, she said. Becker, it should be noted, has endorsed the entire Open Boulder slate of candidates for this election. In our conversation, she claimed to know nothing about the source of funding. She followed up by sending me links to bills she sponsored on transparency in politics. This was the day after the story broke about a complaint against Open Boulder for alleged campaign finance violations. I had the distinct feeling that Becker was distancing herself from what could be a political liability.

A tantalizing trail of crumbs led to Feld and Caruso. In a helpful email, Feld confirmed: "I've been a supporter of Open Boulder since their inception in 2014. I've been writing about the issue of progress for many years, and a post I wrote in 2014 titled 'The Endless Struggle that Boulder Has with Itself' probably happened around the time that I got involved in Open Boulder."

Feld further clarified that this included financial support. The post to which he refers appeared at the end of December 2014. On April 30, 2015, Feld and Caruso hosted a meet-and-greet at Zayo, announced by Feld in a since-deleted post from April 24. Caruso was unavailable for comment.

Looking back at that period, it becomes clear that executives at the Foundry were growing increasingly unhappy with the Boulder community, which it seems they perceived as ungrateful for the prosperity brought to the city by hi-tech. There is a distinctly us-versus-them mentality in their blog and newspaper writings. The anxiety escalated later that year with the introduction by Livable Boulder of ballot measures 300 and 301, designed to empower neighborhoods

and impose additional fees on developers. The four founding members, Feld, Mendelson, Seth Levine and Ryan McIntyre, posted a joint call to vote against the measures, issuing a dire warning: "The city we love risks shutting its doors."

Much has been written on the battle over these ballot measures by the pro-growth and slow-growth camps. What is relevant here is that Open Boulder and Better Boulder joined forces to create One Boulder with the aim of defeating these measures. The campaign's image depicted a snapshot of the Flatirons ripped in two, with the accompanying words: "Don't Divide Boulder." The slogan should not have been effective, as either side could have made that plea. Yet earlier this fall it was recycled in the title of a controversial guest opinion in the *Daily Camera* by candidates Bill Rigler, Jill Grano and Matt Benjamin.

Few voters knew much about One Boulder, though the donations were a matter of public record. In total, the new organization raised over \$180,000. The donors are a who's who list of realtor associations and developers, including companies associated with W.W. Reynolds, Stephen Tebo, Dan Otis and Lou DellaCava. Colorado House Majority Leader Becker appears as the first donor, chronologically. One Boulder tried hard to portray itself as a grassroots organization, prominently listing residents supporting its position.

Of the 265 names, only 59 made donations to One Boulder. Once you remove board and steering committee members of Open Boulder, Better Boulder and Boulder Tomorrow, you learn that fewer than one sixth of the people on the list were committed enough to make a donation, however small, to One Boulder. Looked at another way, almost \$150,000 was donated by fewer than 40 companies and individuals. One of those groups was the Foundry, which provided \$5,000 to the cause.

The backers of the two measures raised about \$40,000, less than a quarter of the war chest of the opposition. About 140 individuals contributed. While the measures were flawed, it is unlikely they would have been so roundly defeated without the imbalance in funding.

The 2016 elections showed Open Boulder spending large sums of money (from unreported donors) to influence the political process. It single-handedly financed the issues committee Boulder Voters for Term Limits. About \$45,000 dollars were spent trying to persuade Boulder voters to support a three-term limit for City Council members. About \$30,000 consisted of in-kind donations, including over \$3,000 for Schultheiss's salary and over \$20,000 to collect signatures. Caruso donated \$1,000 directly to the issues committee. Nothing in the public records indicates either grassroots donations or extensive volunteering. "Diversity" on Council was one of the selling points, yet Open Boulder's

endorsements for City Council in 2015 consisted of four white men and one white woman. As opponents showed, Boulder has experienced a healthy turnover on Council, so the motivation for term limits was unclear.

In a letter to the editor of the *Daily Camera*, I referred to a passage in Jane Mayer's *Dark Money*, in which she described nationwide attempts in the 1990s to impose term limits. Experts had suggested to wealthy conservatives that term limits would "strengthen the power of outsiders with money." The reaction from Open Boulder was swift. Current board member Alex Lindsay claimed I was spreading "dark conspiracies." Her letter followed what has by now become a familiar pattern in Open Boulder writing (as I've noticed on the op-ed pages of the *Camera*): a person introduces herself, usually as young and often as a newcomer looking for a welcoming town — and then goes for the jugular.

It is paradoxical that attempts to shed light on the dark nature of a 501(c)4 corporation that is unaccountable to the public, yet plays a decisive role in our local elections, are consistently met with accusations of this sort, including the now favored "fear-mongering" charge.

The term limits measure passed. Lisa Morzel, a longtime advocate for ordinary Boulderites, who points out that she is neither a wealthy elite nor a member of that circle, will vacate her seat on Council in two years.

Boulder, as anyone who lives here knows, is facing an affordability crisis. Last year the *Camera* reported that the median home sales price had topped one million dollars. The recent spate of commercial construction has increased the number of daily commuters to over 60,000. Boulder, according to the *National Geographic*, is also the happiest city in the country. This suggests extreme demand. Any individual or organization with a political message has to address these issues.

The most influential local organization for decades was PLAN Boulder, associated with slow and steady growth and open space acquisition. Its primary source of funding is members' dues, according to board officer Leonard May. PLAN, which has posted a broad, affordable housing proposal on its website, is losing ground. It has become a punching bag for other organizations and some city council members.

PLAN, according to this school of thought, wants to fossilize Boulder, turning it into an exclusionary enclave. This, in my opinion, is a caricature, deliberate or not. Meanwhile, Open Boulder prefers to use the term "attainable housing." Several people pointed out to me that Open Boulder has a distinctly libertarian, as in non-interventionist, free-market, bent. Both Open Boulder and Better

Boulder are touting density as a solution to problems of affordability. Boulder now has a decent supply of apartments, vacant at above-average rates, that are not affordable to the middle class; I find the density arguments unpersuasive but cannot delve into them further here due to space limitations.

The Foundry has emerged as a powerful force in the 2017 elections. Three of its founding members — Feld, Mendelson and McIntyre — are allied with Caruso's recently established Engage Boulder. The newcomer backs the same slate of five candidates as do Open Boulder and Better Boulder: Mark McIntyre, Bill Rigler, Jill Grano, Jan Burton and Eric Budd. McIntyre is on the steering committee of Open Boulder.

Meanwhile, the fourth Foundry member, Levine, is chair of candidate Rigler's campaign. In an email inviting people to an event at Galvanize to meet Rigler, he wrote: "There are groups in Boulder that want to take us back 30 years and squash anything that looks like progress and they're organizing around their candidates for Council." This level of involvement is not exactly surprising, as the Foundry views Boulder as its home turf. Feld's 2012 book, *Startup Communities: Building an Entrepreneurial Ecosystem*, dedicates a section to Boulder. In it Feld explains that he has "come to think of Boulder as [his] laboratory for thinking about startup communities."

The stakes are high. Trying to control the outcome of political processes makes sense. Feld has made himself available for election events aimed at the tech community, including one held at the Oskar Blues brewery, which drew a young crowd, and another in mid-October that sold out.

It is widely assumed that Caruso is trying to obtain a contract with the City of Boulder for the Zayo Group to supply local fiber optic broadband. Two Council members, both supported by Open Boulder in 2015 — Jan Burton and Bob Yates — oppose the closely-watched issue of municipalization of the electrical utility, which is closely intertwined with choice of broadband for reasons of infrastructure. A third Council member endorsed by the organization back then, Aaron Brockett, wrote in an email, "I still support the goals of municipalization but haven't officially endorsed for or against the current ballot measures." Yates's history includes working with Caruso at Level 3 Communications. Already in the summer of 2016, in a report prepared by the city manager, the city attorney, the director of information technology and a policy advisor, exploration of the public broadband option, as in "the model deployed by Longmont," was dismissed on grounds of lack of interest by "Council and the community."

The majority on Boulder City Council is usually referred to as "pro-growth." For

two years, residents' concerns over annexations, rezoning and building height variances have been given short shrift. Council has gone further, eliminating long-standing checks and balances, such as reducing the four-body review process to three, and removing a middle-of-the-road member of the planning board, John Gerstle, in an attempt to obtain desired outcomes. (Gerstle is now running for Council.) Council members Yates and Burton, in the spring, expressed a desire to strip the planning board, which is less politicized than Council, of some of its power. Said Yates, according to the *Camera*: "It's always mystified me that the Planning Board, which we appoint, has veto power."

Democracy requires informed voters, a fairly level playing field and politicians with a mission of public service. At every tier — national, state and municipal — we have a dearth of all three elements. The latest twist in the ongoing Open Boulder story raises serious concerns about the viability of the City's campaign finance laws, which date back to 1999. Committees registered with the city clerk, the legal fundraising vehicles for campaigning, are, in this city, restricted to a \$100 donation per individual or entity. Yet Open Boulder, not its unofficial candidate committee, recently sent registered voters color fliers titled "Boulder Council Elections 2017," asking "14 Candidates ... How do I decide?" The text includes instructions to "See inside for Open Boulder's endorsements for City Council." In response to a complaint to the city clerk, Schultheiss told the *Camera*: "The advertisements and statements ... were either properly funded by Open Boulder's unofficial campaign committee, or merely publicized the slate of Council candidates that Open Boulder has endorsed." The claim, in plain English, is that five photos with positive descriptions of these candidates, accompanied by the question 'how do I decide?' do not amount to a call to vote for them. This stretches credulity. Yet, City Attorney Tom Carr, and the office of the city clerk dismissed the complaint, arguing in an email that "under both the U.S. and Colorado constitutions," the City can only regulate "express advocacy," which means use of words such as 'vote for' or 'Smith for Council.' The elections literature, as it appeared in fliers and in the *Camera*, with its patently unsubtle message, was deemed not to be "express advocacy."

This matter could well continue to the courts. To date, with almost two weeks to go before the elections, Open Boulder's spending to promote its chosen candidates is estimated at \$15,000, at the very least. To put this in perspective, most candidates opt for matching funds and are then restricted to a total budget of \$20,000 for their entire run, collected in small amounts. Yet now a 501(c)4 organization can spend an unlimited sum of money collected from one or two major, anonymous donors.

This type of action, even if it is deemed legal, washes away the level playing field.

It is paradoxical that a city that voted 2-to-1 for Bernie Sanders over Hillary Clinton — one of the most progressive cities in the country — may not be able to reject the influence of extreme wealth and the spectacle of City Council members serving special interests. The problem is not restricted to one side of the aisle or the other, to Republicans or Democrats. If there is a dividing line in Boulder it is between moneyed interests and ordinary people (of all income levels). The Foundry, readying itself for influence on the state level and heeding the eat-or-be-eaten advice, has historically been one of Polis's top contributors, as he makes his run for governor. In 2017-18, employees of the Foundry donated a cumulative amount of \$15,800 to Polis' congressional campaign fund, which is separate from his gubernatorial campaign fund, Polis for Colorado. Mara Sheldon, communications director for Polis for Colorado, says "Jared's campaign for governor is limiting contributions to \$100."

It sounds good, and that's all that matters these days.

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This opinion column does not necessarily reflect the views of Boulder Weekly.

This story was edited on Oct. 26 to clarify that contributions made from the Foundry Group were done by individual employees of the group, and that contributions to Jared Polis' congressional campaign are separate from those to his gubernatorial campaign.

This story was edited on Oct. 27 to clarify that Aaron Brockett has not taken a stance on the municipalization ballot measures, and has supported previous municipalization efforts.
