

RECORD OF PROCEEDINGS

REGULAR MEETING  
TOWN OF GRAND LAKE BOARD OF TRUSTEES  
MONDAY, FEBRUARY 9, 2009 7:30 P.M.

CALL TO ORDER: The regular meeting of the Board of Trustees was called to order by Mayor Judy Burke at 7:31 p.m. at the Town Hall, 1026 Park Avenue.

PRESENT: Mayor Burke; Trustees Johnson, Lanzi, Lewis, Peterson, and Weydert; Town Manager Hale, Town Clerk Kolinske, Town Planner Wittman and Town Code Enforcement Officer Korkowski.

ABSENT: Trustee Rhone.

APPROVAL OF MINUTES

January 26, 2009: Trustee Lewis moved to approve the minutes of the January 26, 2009 regular meeting as written, seconded by Trustee Weydert. All Trustees voted aye except Trustee Johnson, who abstained.

ANNOUNCEMENTS: Mayor Burke announced that it would be appreciated if cell phones were turned off during the meeting.

Mayor Burke announced that a poker run to benefit Flight for Life will be held in Grand Lake on Saturday, February 14.

Mayor Burke announced that "Concert in the Pines", sponsored by the Grand Arts Council, will present "Wes Mix and the West End Jazz Band" Saturday, February 21 at 7:30 p.m. in the Community House.

Trustee Peterson then announced that this year's Winter Carnival was financially the most successful ever and thanked all those who participated.

At 7:33 p.m. Trustee Johnson excused himself and left the room.

LIQUOR LICENSING AUTHORITY: CONSIDERATION OF A SPECIAL EVENTS LIQUOR PERMIT APPLICATION FROM THE ROTARY CLUB OF GRAND LAKE FOR PEGGY MANN'S CD RELEASE PARTY - Mayor Burke asked Town Clerk Kolinske to present this matter to the Board. Kolinske explained that an application for a Special Events Liquor Permit has been received, with the appropriate fee, permission for possession, certificate of good corporate standing, and floor diagram, from the Rotary Club of Grand Lake for Peggy Mann's CD Release Party. The request is to sell malt, vinous and spirituous liquor by the drink for consumption on the premises only. The requested date is Saturday, March 28, 2009 from 7:00 p.m. to 10:00 p.m. Proceeds from the sale of alcohol will go to the Rotary Club. The proposed location is the Grand Lake Community House. The Arts Council qualifies for a Special Events

Permit in that it is incorporated with the State of Colorado as a non-profit chartered branch, lodge or chapter. It has been the most recent procedure of this Board to receive the application and then schedule consideration of approval of the permit as a regular item of business at the following meeting. Although a Public Hearing is not required by statute, the Board may choose to set one. The premises are required by statute to be posted for at least 10 days prior to approval of the permit. Approval of the requested permit may be scheduled for the February 23<sup>rd</sup> regular Board meeting, as either a Public Hearing or regular item of business. Kolinske noted that Larry Bacon, representative of the Rotary Club, was present.

Trustee Peterson moved to act on this request as a regular item of business at the February 23, 2009 Board meeting. Trustee Weydert seconded the motion, and all Trustees voted aye.

**LIQUOR LICENSING AUTHORITY: CONSIDERATION OF A SPECIAL EVENTS LIQUOR PERMIT APPLICATION FROM THE GRAND ARTS COUNCIL FOR THE MARCH CONCERT IN THE PINES SERIES** – Mayor

Burke asked Town Clerk Kolinske to present this matter to the Board. Kolinske explained that an application for a Special Events Liquor Permit has been received, with the appropriate fee, permission for possession, certificate of good corporate standing, and floor diagram, from the Grand Arts Council for the final “Concert in the Pines Series” fund raising event. The request is to sell malt, vinous and spirituous liquor by the drink for consumption on the premises only. The requested date is Saturday, March 21, 2009 from 4:00 p.m. to 10:00 p.m. The Arts Council has obtained a Special Events Liquor Permit for this date in the Community House. They would now like to hold this event in the Grand Arts Council Center located at 913 Park Avenue. In order to change location, they must submit a new application as a Special Events Permit is issued for a specific location and is not transferable. It has been the most recent procedure of this Board to receive the application and then schedule consideration of approval of the permit as a regular item of business at the following meeting. Although a Public Hearing is not required by statute, the Board may choose to set one. The premises are required by statute to be posted for at least 10 days prior to approval of the permit. Approval of the requested permit may be scheduled for the February 23<sup>rd</sup> regular Board meeting, as either a Public Hearing or regular item of business. Kolinske noted that Jim Cervenka, representative of the Arts Council, was present.

Trustee Lewis moved to act on this request as a regular item of business at the February 23, 2009 Board meeting. Trustee Peterson seconded the motion, and all Trustees voted aye.

**LIQUOR LICENSING AUTHORITY: QUASI-JUDICIAL – CONSIDERATION TO SET A SHOW CAUSE HEARING REGARDING THE BEER AND WINE LIQUOR LICENSE OWNED BY PIZZA DEL LAGO, INC., D/B/A**

**GRAND PIZZA** – Mayor Burke asked Town Clerk Kolinske to present this matter to the Board. Kolinske explained that on June 9, 2008, the Local Licensing Authority (Board of Trustees) approved a Transfer of Ownership Application from B & D Mountain Enterprises, Inc., d/b/a Grand Pizza to Pizza Del Lago, Inc., d/b/a Grand Pizza for the Beer and Wine Liquor License. At that time the Board reserved the right to hold a hearing to discuss suspension or revocation of the license following the out come of Mr. Jackson’s court proceedings and State approval. Because this meeting is Quasi Judicial, the Board cannot discuss any of the issues. The Board can set this matter for a Show Cause Hearing to be held on March 9, 2009. The Board can decide to not have a Show Cause Hearing. The Board can reserve the right to review this matter at time of renewal. Their license has an expiration date of August 4, 2009. Kolinske noted that Jay Jackson, President/Treasurer and Dee Jackson, Secretary, were present.

Following discussion, Trustee Peterson moved to set a Show Cause Hearing to be held on March 9, 2009. Trustee Lewis seconded the motion and all Trustees voted aye.

At 7:56 p.m. Trustee Johnson resumed his seat.

OLD BUSINESS:

**CONTINUATION OF CONSIDERATION OF ORDINANCE NO. 9-2009, AN ORDINANCE APPROVING GRAND CAMP, A COMMERCIAL SUBDIVISION LOCATED AT PART OF TRACT A, SHADOW PARK WEST, TOWN OF GRAND LAKE** - Mayor Burke asked Town Planner Wittman to present this matter to the Board. Wittman explained that at the last regularly scheduled meeting, the Board of Trustees opted to continue the Final Plat review of Grand Camp until Town Attorney Krob had a chance to review, approve and create all of the necessary documentation for the commercial subdivision. Scott Krob has submitted the necessary documents to Town staff (Subdivision Improvement Agreement and Informational Kiosk Agreement) as well as reviewed the Declarations of Covenants, which are acceptable to him. In February 2008, a sketch plan of the Grand Camp, a commercial condo complex, was presented to the Planning Commission for review and conceptual approval. On January 21, 2009, the Planning Commission received a revised Final Plat of Grand Camp and the Commission moved to approve Resolution No. 1-2009, a Resolution Recommending the Approval of Grand Camp, a Commercial Subdivision, Located at a Part of Tract A, Shadow Park West of the Town of Grand Lake. The Resolution was adopted by a four to two vote. The Resolution does state numerous conditions of the approval. Grand Camp has submitted electronic versions and hard-copy versions of the revised plats. Staff has reviewed the newly-submitted plats and all of the Planning Commission conditions have been met. At the last meeting, there was discussion regarding the Board’s willingness to pay for a portion of the

informational kiosk located at the entrance to the building. At that time the Board was favorable to pay up to 1/3 of the \$5500 (estimated cost) of the kiosk; a request will need to be made with cost estimates when a design is developed. The Board was also agreeable to the Town owning one panel and maintaining it indefinitely; the Town will pay for its own panel. The Kiosk Maintenance Agreement has been developed with this understanding. Wittman presented a newly drafted Ordinance No. 9-2009 as a table setting and said that if the Board is agreeable, staff recommends that the Board move to adopt Ordinance No. 9-2009, an Ordinance Approving Grand Camp, a Commercial Subdivision Located at a Part of Tract A, Shadow Park West Subdivision of the Town of Grand Lake with the following conditions:

1. That Section 1j of the Subdivision Improvement Agreement be amended to indicate conformance with the approved lighting and signage plan, instead of street lighting; and
2. That the plat note regarding the Certificate of Occupancy be amended to read:

*No Certificate of Occupancy shall be used for any portion of Grand Camp until all necessary and required improvements to Highway 34 have been completed and approved by the Colorado Department of Transportation.*

She noted that Morris King and Jeff Green were present.

Trustee Johnson moved to approve Ordinance No. 9-2009, an Ordinance Approving Grand Camp, a Commercial Subdivision Located at a Part of Tract A, Shadow Park West Subdivision of the Town of Grand Lake with the following conditions:

1. That Section 1j of the Subdivision Improvement Agreement be amended to indicate conformance with the approved lighting and signage plan, instead of street lighting; and
2. That the plat note regarding the Certificate of Occupancy be amended to read:

*No Certificate of Occupancy shall be used for any portion of Grand Camp until all necessary and required improvements to Highway 34 have been completed and approved by the Colorado Department of Transportation.*

Trustee Peterson seconded the motion and all Trustees voted aye except Trustee Weydert, who voted nay.

NEW BUSINESS:

**CONSIDERATION TO SET A PUBLIC HEARING FOR MARCH 9, 2009 TO CONSIDER AN ORDINANCE UPDATING THE 2006 COMPREHENSIVE PLAN BY UPDATING THE COMPREHENSIVE LAND USE PLAN MAP BY ELIMINATING ALL OF THE CURRENTLY ZONED COMMERCIAL TRANSITIONAL PROPERTIES THAT HAVE NOT ALREADY BEEN CONSIDERED FOR REZONING AND TO CONSIDER APPROVAL OF A 2009 REZONING PROCESS THAT WOULD**

**CREATE TWO SEPARATE REZONING PROCEDURES** - Mayor Burke asked Town Planner Wittman to present this matter to the Board. Wittman explained that at the last regularly-scheduled Planning Commission meeting, the Commission unanimously voted to make a favorable recommendation to the Town Board of Trustees to approve Ordinance XX-2009, updating the 2006 Comprehensive Plan by updating the Comprehensive Land Use Plan map by eliminating all of the currently-zoned Commercial Transitional properties that have not already been considered for rezoning and forward a favorable recommendation approve a 2009 rezoning process that would create two separate rezoning procedures. Town staff discussed with the Commission their willingness to remove all of the properties that are currently zoned Commercial Transitional (CT) from the 2006 Comprehensive Plan Land Use map. As a reminder, since the Town started proceedings in 2006, the Town has modified the CT zone to accommodate for Multiple Family Residences a Use by Right if vertical zoning is implemented. The Commission was favorable to this given that this action would support the Town's Master Plan Policy 4.11: *"Residential Neighborhood should be designed, when appropriate, to mix homes with commercial/retail uses, provide housing options, and encourage mobility without auto reliance."* She referred to the proposed changes indicated on the maps: *Town of Grand Lake Comprehensive Land Use Plan Map* and *Town of Grand Lake Comprehensive Land Use Plan Map – Proposed Properties*. The first map would be the update the Comprehensive Land Use Plan. This is the map that would replace the current map in the 2006 Comprehensive Plan. As a reminder, the map that is in the Comp Plan indicates all of the future land uses in Grand Lake. When this map is compared to the current zoning map, those properties that are being proposed to be rezoned indicate different land uses. This is displayed on the *Town of Grand Lake Comprehensive Land Use Plan Map – Proposed Properties* map. Wittman noted the following errors to the first map: Part of Block 28 is shown as CT and is actually zoned Commercial and should be shown as such, Lots 9-16, Block 14, is shown as CT and should be Single Family Residential and Lot 16, Block 14, Sunnyside Addition to the Town of Grand Lake is shown as Single Family Residential and should be CT. She said that staff also discussed with the Planning Commission their willingness to set a Town-initiated rezoning schedule for 2009. Since the Commission was favorable to removing those parcels currently zoned CT from the Comprehensive Land Use Plan Map, staff proposed having two separate rezoning procedures in 2009. The first would be for all of the properties proposed to be rezoned everything but PUB and Open Space (OS). This would put 14 properties under consideration with approximately 80 property owners being affected. Staff would then propose the final consideration of rezoning of 16 properties from their current zoning to either the PUB or OS zone. The Board should first discuss its willingness to remove all of those properties that are currently zoned CT from Town-initiated

rezoning. The Board should also discuss its willingness to conduct two (2) rezoning procedures in 2009. If the Board if favorable, staff recommends the Board move to hold a Public Hearing for March 9, 2009 to consider Ordinance XX-2009, *An Ordinance Updating the 2006 Comprehensive Plan by updating the Comprehensive Land Use Plan map by eliminating all of the currently-zoned Commercial Transitional properties that have not already been considered for rezoning* and to consider approval of a 2009 rezoning process that would create two separate rezoning procedures.

Trustee Weydert moved to set a Public Hearing for March 9, 2009 to consider Ordinance XX-2009, *An Ordinance Updating the 2006 Comprehensive Plan by updating the Comprehensive Land Use Plan map by eliminating all of the currently-zoned Commercial Transitional properties that have not already been considered for rezoning* with corrections to the map as noted by staff and to consider approval of a 2009 rezoning process that would create two separate rezoning procedures. Trustee Johnson seconded the motion and all Trustees voted aye.

NEW BUSINESS:

**CONSIDERATION OF RESOLUTION NO. 2-2009, A RESOLUTION REVISING THE RULES, REGULATIONS, AND FEES FOR THE TOWN OFF-PREMISE SIGN PROGRAM (TOPS) IN THE TOWN OF GRAND LAKE, COLORADO** - Mayor Burke asked Town Code Enforcement Officer Korkowski to present this matter to the Board. Korkowski explained that since the draft resolution was not included in the Board's packet for them to review, he recommended that this matter be continued until the next regularly scheduled Board Meeting to be held on February 23, 2009.

Trustee Peterson moved to continue consideration of Resolution No. 2-2009, a Resolution Revising the Rules, Regulations, and Fees for the Town Off-Premise Sign Program (TOPS) in the Town of Grand Lake, Colorado. Trustee Weydert seconded the motion and all Trustees voted aye.

NEW BUSINESS:

**CONSIDERATION OF ORDINANCE NO. 7-2009, AN ORDINANCE AMENDING THE TOWN OF GRAND LAKE MUNICIPAL CODE CHAPTER 8, ARTICLE 1, ANIMALS** - Mayor Burke asked Town Code Enforcement Officer Korkowski to present this matter to the Board. Korkowski explained that staff has revised the Animal Municipal Code 8-1. The current code was adopted in 1985 and was taken verbatim from the County Ordinances. Staff is recommending changes primarily to the penalty section since Grand Lake Municipal Court penalties are more limited than those of the County Courts. The Municipal Court is not a court of record and is limited to a maximum fine of \$300.00 and/or 90 days in jail. The

existing code exceeds those limits. Other changes include reformatting to match our current code, grammatical corrections, references to current State laws and regulations, and increasing the preset Penalty Assessment fines. Both the Grand County Animal Control and Sheriff's Department have reviewed the proposed changes and they have no objections. Staff recommends the Board review the proposed changes and, if acceptable, adopt Ordinance No. 7-2009.

Trustee Weydert moved to adopt Ordinance No. 7-2009, an Ordinance Amending the Town of Grand Lake Municipal Code Chapter 8, Article 1, Animals. Trustee Johnson seconded the motion and all Trustees voted aye.

NEW BUSINESS:

**CONSIDERATION OF ORDINANCE NO. 10-2009, AN ORDINANCE AMENDING THE TOWN OF GRAND LAKE MUNICIPAL CODE CHAPTER 6, ARTICLE 1, PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS** - Mayor Burke asked Town Code Enforcement Officer Korkowski to present this matter to the Board. Korkowski explained that staff has revised Municipal Code 6-1 Peddlers, Solicitors, and Transient Merchants. Staff is recommending changes primarily to the penalty section in order to decriminalize it by taking away the possibility of incarceration and to the procedure for revoking the license. The current procedure is to provide the licensee with written notice giving them a date for the hearing which has to be at least 5 days later. The license is only good for 3 days, so the license would expire before it could ever be revoked. The new procedure would be for the Town Manager or his designee to revoke the license immediately for the listed violations and then the licensee would have to request a hearing. Other changes include grammatical corrections, clarifications, references to current Municipal Code, and some slight reformatting. Staff recommends the Board review the proposed changes and, if acceptable, adopt Ordinance No. 10-2009.

Trustee Peterson moved to adopt Ordinance No. 10-2009, an Ordinance Amending the Town of Grand Lake Municipal Code Chapter 6, Article 1, Peddlers, Solicitors, and Transient Merchants. Trustee Lewis seconded the motion and all Trustees voted aye.

NEW BUSINESS:

**CONSIDERATION TO UPHOLD THE PLANNING COMMISSIONS RECOMMENDATION TO AUTHORIZE THE MAYOR TO SIGN A LETTER ADDRESSED TO THE GRAND COUNTY COMMISSIONERS REGARDING THE TRANSFER STATION** - Mayor Burke asked Town Manager Hale to present this matter to the Board. Hale explained that Grand County is currently in the process of locating a transfer station just outside the limits of the Town of Hot Sulphur Springs (HHS). The newspaper has been inundated by letters to the editor, and the citizens of HSS have begun the

process of organizing and meeting to discuss the impacts of this land use decision. Staff normally shies away from these types of conflicts between other governmental agencies; for example, the gravel pit just outside of Granby that went through a large battle a couple of years ago was a great fight that staff wanted absolutely no part of. What separates this issue from all of the others is that the Town is also surrounded by properties located/zoned by Grand County (including business zoning north of Portal and east of the Tonahutu). If a transfer station is a use by right in the business zone, then the County's decision could affect the Town of Grand Lake in a very real way, with a precedent that would include the ability to do the exact same here. The bigger issue though is that a liberal interpretation of the County's Code without public input could negatively impact us in any zone theoretically; the public process just isn't evident in this instance. As controversial as mandatory garbage collection has been, prior to the Boards adoption there had been eight public meetings, two of which that were Public Hearings, not to mention the fact that the Board had also discussed it twice at their long-range planning retreats. Furthermore, there will be at least one more round of Public Hearings prior to awarding the contract after the RFP process (which means at least two more meetings). He said that he certainly doesn't know what the ultimate outcome will be, but the public will have a chance to voice their concerns for mandatory garbage service in Grand Lake. Staff believes that the most important message to get across is that the citizens of HSS should be given input on this project and that the County should attempt to mitigate the negative impacts. The Planning Commission agreed that the best direction for the County to take would be to treat this as a Special Use Permit; following a process that they would almost surely require anyone else to follow. They have provided a favorable recommendation for the Town to send a letter stating so. Hale noted that he, Mayor Burke and Trustee Weydert attended the Mayor/Manager/Commissioner Meeting this morning and heard a presentation from the County regarding the Transfer Station. He now feels that the draft as presented to the Board is too strongly worded and offered the following recommendations: 1. direct staff to not send a letter at all, or 2. direct staff to draft another letter less strongly worded and to delete all recommendations to a Special Use Permit.

Following discussion, Trustee Weydert moved to authorize the Mayor to sign a new letter drafted by staff outlining the Town's current position in regards to the County's Transfer Station. Trustee Peterson seconded the motion and all Trustees voted aye.

NEW BUSINESS:

**CONSIDERATION OF ORDINANCE NO. 11-2009, AN ORDINANCE OF THE TOWN OF GRAND LAKE, COLORADO, THE FRANCHISE TO FURNISH, SELL AND DISTRIBUTE GAS TO THE TOWN AND TO ALL PERSONS, BUSINESSES AND INDUSTRY WITHIN THE TOWN GRANTED BY THE TOWN**

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**OF GRAND LAKE, COLORADO TO PUBLIC SERVICE COMPANY OF COLORADO; SETTING FORTH DETAILS IN RELATION THERETO; AND, DECLARING AN EMERGENCY THEREFORE** - Mayor Burke asked Town Manager Hale to present this matter to the Board. Hale explained that the Town has been operating on a temporary franchise agreement with the Public Service Company (XCEL) over the past six months while Town staff (including the Town Attorney) and representatives from XCEL have discussed the new 20 year instrument. These franchises are fairly standard across jurisdictions, so he and the Town Attorney did jockey for a few language changes (some were granted and others were not). He said that they both believe that this is a good franchise and worth executing. For quick highlights, the franchise fee will remain at 3%, and will be remitted monthly, which staff estimates to equate to \$10,000 - \$12,000 per year based upon the Town's August - December receipts. XCEL has use of the Town's rights-of-way to distribute gas, but must still comply with the Town's rules for street cuts, excavating, digging, restoration, etc. They agree to serve new areas, provide reliable service, respond to emergencies, etc. The existing franchise agreement runs through February 28, 2009. The staff recommendation is for the Board of Trustees to set a Public Hearing for February 23, 2009 to consider Ordinance No. 11-2009.

Trustee Lewis moved to set a Public Hearing for February 23, 2009 to consider Ordinance No. 11-2009, an Ordinance of the Town of Grand Lake, Colorado, the Franchise to Furnish, Sell and Distribute Gas to the Town and to all Persons, Businesses and Industry within the Town Granted by the Town of Grand Lake, Colorado; Setting Forth Details in Relation Thereto; and, Declaring an Emergency Therefore. Trustee Peterson seconded the motion and all Trustees voted aye.

NEW BUSINESS:

**CONSIDERATION OF ORDINANCE NO. 12-2009, AN ORDINANCE GRANTING A FRANCHISE BY THE TOWN OF GRAND LAKE TO MOUNTAIN PARKS ELECTRIC, INCORPORATED, ITS APPROVED SUCCESSORS AND ASSIGNS THE RIGHT TO FURNISH, SELL AND DISTRIBUTE ELECTRICITY TO THE TOWN AND TO ALL PERSONS, BUSINESSES, AND INDUSTRY WITHIN THE TOWN AND THE RIGHT TO ACQUIRE, CONSTRUCT, INSTALL, LOCATE, MAINTAIN, OPERATE AND EXTEND INTO, WITHIN AND THROUGH SAID TOWN, ALL FACILITIES REASONABLE NECESSARY TO FURNISH, SELL AND DISTRIBUTE ELECTRICITY WITHIN THE TOWN AND THE RIGHT TO MAKE REASONABLE USE OF ALL STREETS AND OTHER PUBLIC PLACES AND PUBLIC EASEMENTS AS HEREIN DEFINED, AS MAY BE NECESSARY; AND THE RIGHT TO COLLECT A FRANCHISE FEE TO BE PAID TO THE TOWN**

**AND FIXING THE TERMS AND CONDITIONS THEREOF -**  
Mayor Burke asked Town Manager Hale to present this matter to the Board. Hale explained that this evening's consideration was to set a Public Hearing for February 23, 2009 to consider Ordinance No. 12-2009, however, since this matter was not properly noticed, he recommended that consideration of this matter be continued until March 9, 2009.

Trustee Peterson moved to continue consideration of Ordinance No. 12-2009 until March 9, 2009. Trustee Johnson seconded the motion and all Trustees voted aye.

**ACCOUNTS PAYABLE**

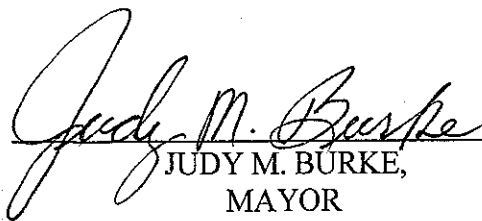
January, 2009:

Trustee Peterson moved to examine the Accounts Payable and Prepaid for all Funds for the Town of Grand Lake. Trustee Weydert seconded the motion and all Trustees voted aye. Trustee Peterson moved to approve the Accounts Payable and Prepaid for all Funds for the Town of Grand Lake. Trustee Weydert seconded the motion and all Trustees voted aye.

**CITIZEN PARTICIPATION:**

ADJOURNMENT:

Trustee Weydert moved to adjourn, seconded by Trustee Lewis. All Trustees voted aye, and the meeting was adjourned at 8:29 p.m., February 9, 2009.

  
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JUDY M. BURKE,  
MAYOR

ATTEST.   
\_\_\_\_\_  
RONDA KOLINSKE, CMC,  
TOWN CLERK