

RECORD OF PROCEEDINGS

REGULAR MEETING  
TOWN OF GRAND LAKE BOARD OF TRUSTEES  
MONDAY, MARCH 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 7:33 p.m. at the Town Hall, 1026 Park Avenue.

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

ABSENT: Trustees Johnson and Rhone.

APPROVAL OF MINUTES

February 23, 2009: Trustee Peterson moved to approve the minutes of the February 23, 2009 regular meeting as written, seconded by Trustee Weydert. All Trustees voted aye except Trustee Lewis, who abstained.

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

Mayor Burke announced that the Grand Lake Fireworks Committee will hold a spaghetti/corned beef fundraising dinner on Tuesday, March 17<sup>th</sup> at the Bear's Den beginning at 5:00 p.m.

Mayor Burke announced the Rapids Restaurant will be sponsoring the 8<sup>th</sup> Annual K.O.L.E. (Kevin's Outreach for Local Emergencies) Fundraising Dinner on Thursday, March 19<sup>th</sup> beginning at 5:00 p.m. Call 627-3707 for reservations.

Mayor Burke then announced that the Grand Arts Council will host an Open House and free concert featuring "*Kort McCumber*, on Saturday, March 21<sup>st</sup> at the Grand Arts Center. Doors open at 6:00 p.m., concert begins at 7:00 p.m.

LIQUOR LICENSING AUTHORITY: QUASI-JUDICIAL – SHOW CAUSE HEARING – REGARDING THE BEER AND WINE LIQUOR LICENSE OWNED BY PIZZA DEL LAGO, INC., D/B/A GRAND PIZZA – Mayor Burke turned the matter over to Town Attorney Krob. Krob began by introducing the nature and purpose of the hearing then explained the process that will be followed. He stated that there are two parts to the process. The first part is for the Board to determine whether or not there has been a violation. If the Board determines that there has not been a violation, the hearing will be concluded. If the Board determines that there has been a violation, the hearing will proceed to the second part which is the penalty phase. He then swore in Town Clerk Ronda Kolinske to give staff presentation.

Kolinske explained that this is a Beer and Wine Liquor License held by Pizza Del Lago, Inc., d/b/a Grand Pizza. The licensees are Jay Jackson, President/Treasurer and Delores Jackson, Secretary. On April 13, 2008, Delores Jackson received a summons for an illegal sale of alcohol to a minor during an alcohol compliance check. She appeared in court on May 6. According to the Clerk of the Court, Delores was found guilty of providing alcohol to a minor. She received a 2 year deferred sentence. She was fined \$92, ordered to perform 96 hours of public service, and must make a \$500.00 contribution to DARE. On January 15, 2008, Jay Jackson provided false information on his Individual History Record by stating "No" that he has never been convicted of a crime or received a suspended sentence, deferred sentence, or forfeited bail for any offence in criminal or military court or does not have any charges pending. The FBI reported that Jay was arrested on January 15, 1989 by the Police Department in Huntington Beach, CA on the following charges:

    Took vehicle without owner consent vehicle theft – case dismissed.

    Petty theft – convicted/probation.

    Took vehicle for temporary use – convicted/probation.

On May 6, 2008, Jay received a summons for perjury in the second degree which is a class 1 misdemeanor. He appeared in court on June 10, and according to the Clerk of the Court, he plead guilty to the charge. He received a 1 year deferred sentence, was given 1 year of unsupervised probation, was fined \$92, ordered to perform 48 hours of public service, and must make a \$250.00 contribution to Grand Futures. On June 9, 2008, the Local Licensing Authority (Board of Trustees) considered 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. Following lengthy discussion, Trustee Weydert moved to approve the Transfer of Ownership application and extend the Temporary Transfer Permit for a period not to exceed 30 days in order to give Jay Jackson the opportunity to amend his Individual History Record before the application is submitted to the State. Furthermore, the Board reserves the right to hold a Public Hearing to discuss suspension or revocation of the license following the outcome of Mr. Jackson's court proceedings and State approval, if granted, of the license. Trustee Lanzi seconded the motion and all Trustees voted aye. Notice of Hearing and Order to Show Cause for Suspension or Revocation was mailed to Jay and Delores Jackson by Certified Mail on February 26, 2009. Jay Jackson signed as having received the notice on March 3, 2009. Kolinske noted that the Individual History Record for Jay Jackson was amended prior to submission to the State and that the State did issue them a license. For the record, she stated that the Board was given a copy of the Notice of Hearing and Order to Show Cause for Suspension or Revocation as well as a copy of the Certified Mail receipt.

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Trustee Lewis asked both Jay Jackson and Delores Jackson if they have paid their fines, paid their contributions, and have completed their public service.

Town Attorney Krob then swore Delores Jackson in prior to responding.

Delores Jackson then responded by saying that they have paid all fines and contributions. She said that she has completed approximately  $\frac{3}{4}$  of her public service and was given 2 years to complete it. She said that Jay has completed approximately  $\frac{1}{2}$  of his public service and was given 1 year to complete it.

Trustee Lewis moved to acknowledge that there were two violations. Delores Jackson made an illegal sale of alcohol to a minor during an alcohol compliance check and Jay Jackson was convicted of perjury for providing false information on his Individual History Record which accompanied their liquor license application. Trustee Weydert seconded the motion and all Trustees voted aye.

Town Attorney Krob then directed the Board to continue to the second part of the hearing to determine the appropriate penalty or penalties for the violations.

Trustee Lewis then asked the Jackson's if they have completed TIPS Training. Delores Jackson responded by saying that Jay was instrumental in bringing TIPS Training to Grand Lake and was told that it was one of the better turn outs for licensees and employees in Grand Lake. She noted that they both received certificates for completion of the training. She said that they have made it a policy to check I.D.'s and that they have posted the birth date, for a person to be of legal drinking age, where the beer and wine is located.

Following discussion of the possible penalties, Trustee Peterson moved to suspend the Beer and Wine Liquor License for Pizza Del Lago, Inc., d/b/a Grand Pizza for a total of 14 days. Have them serve 3 actual days on Wednesday, June 10, 2009, Thursday, June 11, 2009, and Friday, June 12, 2009 and hold 11 days in abeyance for 1 year until March 9, 2010. Trustee Weydert seconded the motion and all Trustees voted aye.

OLD BUSINESS:

**CONSIDERATION TO SET A PUBLIC HEARING FOR MARCH 23, 2009 TO CONSIDER 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 REASONABLY 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 the Town has been operating without a franchise agreement with Mountain Parks Electric for the past year. Negotiations stalled early 2008, and began late 2008 following discussion of this issue in executive session. For a variety of reasons Town staff and Mountain Parks staff have been able to reach an agreement on some key issues that were holding up the past effort, and are now ready to provide a document for your consideration. This franchise will garner a 2% fee for the Town, which will be remitted quarterly. This fee can be renegotiated/reconsidered every five years, or more often if the Town has a special need to raise the fee. Due to the tough economic climate, staff believes that the historic 2% fee should be kept in place versus asking for a higher fee at this time. Also of interest, newly annexed subdivisions shall have their lines installed underground. The only specific section that staff would like to point out is Section 5.3, which contains a section of language proposed by the Town to alleviate concerns that Mountain Parks have with land use processes. This language is a fair compromise, requiring the Town to ensure a timely review for any transmission lines or substation application, while still ensuring that the Town has the opportunity to review all land use procedures. The adoption of franchises needs to follow a statutory procedure, which is advertising the topic for three weeks preceding the first reading (which is tonight), and then advertising for another two weeks prior to the hearing. For the record, Legal Notice No. 3010422 was published in the Middle Park Times on February 19, 26 and March 5. The staff recommendation is for the Board of Trustees to set a Public Hearing for March 23, 2009 to consider adoption of Ordinance No. 12-2009.

Since this evening is the first reading of Ordinance No. 12-2009, Town Attorney Krob explained that according to statute, all thirteen pages of the ordinance must be read. He said that he doubts that anyone will challenge the Town for not reading the entire ordinance. He noted that there was one person in the audience and offered to provide her with a copy.

Trustee Peterson then moved to set a Public Hearing for March 23, 2009 to consider 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 Reasonably 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. Trustee Weydert seconded the motion and all Trustees voted aye.

OLD BUSINESS:

**PUBLIC HEARING – CONSIDERATION OF ORDINANCE NO. 13-2009, 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 SCHEDULE THAT WOULD CREATE TWO SEPARATE REZONING PROCEDURES AS OUTLINED ON THE TOWN OF GRAND LAKE PROPOSED REZONING SCHEDULE (2009) MAP, AND TO DIRECT STAFF TO SET THE PUBLIC HEARINGS FOR THE REMAINING PROPOSED REZONINGS** – Mayor Burke asked Town Planner Wittman to present this matter to the Board. Wittman explained that at the regular meeting held February 9, 2009, the Board moved to set a Public Hearing regarding an Ordinance amending the 2006 Comprehensive Plan by updating the Comprehensive Land Use Plan map by eliminating all of the currently-zoned Commercial Transitional (CT) and Planned Development (PD) properties that have not already been considered for rezoning. Legal Notice No. 2988827 was published in the Middle Park Times on February 12, 2009. She said that Town staff discussed with the Board their willingness to remove all of the properties that are currently zoned CT and all PD's 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 as 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.”* In addition, Town staff discussed with the Board their willingness to remove the proposed rezoning of the underlying zoning of all PD's. It is the belief of staff that

rezoning of the underlying zoning of PD's is not only cumbersome but also irrelevant at this time given that all of the existing Planned Developments in the Town are functioning in accordance with their originally approved plats. The only exception to this would be the rezoning of the platted 'Open' parcels in the Shadow Park West Subdivision as the Town is currently in the process of eliminating the 'Open' zone. Staff also discussed with the Board their willingness to set a Town-initiated rezoning schedule for 2009. If the Board is favorable to removing those parcels currently zoned CT from the Comprehensive Land Use Plan Map, staff proposed having two separate rezoning procedures in 2009. Initially, staff proposed the first would be for all of the properties proposed to be rezoned everything but 'Public' (PUB) and 'Open Space' (OS), with the proposed PUB and OS parcels being considered for rezoning in the second round. After consideration, staff would like the Board to still consider conducting two separate rezoning procedures in 2009 but to have them follow the map labeled *Town of Grand Lake Proposed Rezoning Schedule (2009)*. As this map indicates, all of the 'centralized' parcels would be rezoned in the first procedures with the remaining parcels that are proposed to be rezoned to 'Open Space' would be a part of the second rezoning. This would allow the Town to be able to notice most of the property owners in the neighborhood at the same time, as opposed to having to notice the same property owners for two separate rezoning procedures. The Board should first open the Public Hearing and take public comment. Once public comments have been received, the Board should close the Public Hearing and discuss this matter. 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. In addition to the aforementioned items, the Board should discuss its willingness to allow staff to set the dates for the necessary Public Hearings in 2009. If after discussion and if the Board is favorable, staff recommends the Board move to adopt Ordinance 13-2009, 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, to approve a 2009 rezoning schedule that would create two separate rezoning procedures as outlined on the *Town of Grand Lake Proposed Rezoning Schedule (2009)* map, as well as to allow staff to set the Public Hearings for the remaining proposed rezonings.

Mayor Burke then opened the meeting for public comment. Having none, she closed the Public Hearing and turned the matter over to the Board.

Following discussion, Trustee Lewis moved to adopt Ordinance No. 13-2009, 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, to approve a 2009 rezoning schedule that would create two separate rezoning procedures as outlined on the Town of Grand Lake Proposed Rezoning Schedule (2009) map, and to direct staff to set the Public Hearings for the remaining proposed rezonings. Trustee Peterson seconded the motion and all Trustees voted aye.

NEW BUSINESS:

**CONSIDERATION OF RESOLUTION NO. 6-2009, A RESOLUTION SUPERSEDING AND REPLACING RESOLUTION NO. 1-2004 AND ADOPTING REVISED BUILDING VALUATIONS FOR THE PURPOSE OF DETERMINING THE BUILDING AND CONSTRUCTION USE TAX AND RESOLUTION NO. 7-2009, A RESOLUTION SUPERSEDING AND REPLACING RESOLUTION NO. 5-2006 AND ADOPTING THE FORMULAS TO BE USED IN CALCULATING AFFORDABLE HOUSING FEES** – Mayor Burke asked Town Code Enforcement Officer Korkowski to present this matter to the Board. Korkowski explained that staff has been working on updating portions of the building packet which the Town and County Building Departments use. He referred to the Use Tax calculation form and Affordable Housing Fee forms which staff has changed and tried to make easier to use. The Town is transitioning the handling of these forms to the County Building Department and wants to make the forms cleaner, clearer, and more concise. Regarding the Use Tax Form, staff is recommending a complete overhaul of the Use Tax calculation sheet in order to make it more ‘user friendly’. The process for valuation will be the same except re-roofs and remodels will be based solely on the building material cost and not square footage. While this is a tax and subject to TABOR, this new process is allowable under Municipal Code 4-3-32 and does not represent a new tax, but one that is already established. Staff has also updated what category and sub-category of the 2002 ICBO Building Valuation Data table is used in order to better define the base valuation level. The ICBO does not provide these tables anymore, so the Town, along with many other jurisdictions, uses the 2002 table with yearly Denver-Boulder-Greeley CPI (consumer price index) adjustments to allow for cost growth/loss. The Town has never used the regional modifier in the Data table. The 2008 Denver-Boulder-Greeley CPI increased 3.897% per the US Bureau of Labor and Statistics. The proposed Use Tax form reflects that change.

Trustee Weydert moved to adopt Resolution No. 6-2009, a Resolution Superseding and Replacing Resolution No. 1-2004 and Adopting Revised Building Valuations for the Purpose of Determining the Building and Construction Use Tax. Trustee Lewis seconded the motion and all Trustees voted aye.

Regarding the Affordable Housing Form, Korkowski stated that staff is recommending changes to the structure of Affordable Housing Fees in that **all** single family, multi family, and commercial new construction will be based on \$1.00 per square foot, and **all** Accessory Use new construction will be based on \$0.25 per square foot. The current charging procedure has many more categories which are based upon the proposed use (especially commercial properties which can change uses over time) and there is a different fee for each category. The current exemption of 800 sq. ft. for single family units under 2000 sq. ft. would be retained, but staff is recommending the current multi family exemption of 400 sq. ft. be allowed only for units under 1000 sq. ft. and be a per unit exemption. The garage (600 sq. ft.) and decking (16 sq. ft. per entrance not to exceed 2 entrances) exemptions would be removed as they would be based as accessory uses. The current clause for not allowing any exemptions for additions would be retained. Remodels and re-roofs would continue to be exempt from any affordable housing fee as long as there is no change in building size. He noted that the Planning Commission reviewed the forms and the proposed changes (except the CPI increase which was not available then) at their February 18, 2009 regular meeting and agreed to forward the matter to the Board.

Trustee Lewis moved to adopt Resolution No. 7-2009, a Resolution Superseding and Replacing Resolution No. 5-2006 and Adopting the Formulas to be Used in Calculating Affordable Housing Fees. Trustee Weydert seconded the motion and all Trustees voted aye.

NEW BUSINESS:

**CONSIDERATION TO AUTHORIZE THE MAYOR TO SIGN A CONTRACT BETWEEN THE TOWN OF GRAND LAKE AND THE STATE OF COLORADO FOR EIAF#6490 – GRAND LAKE STORMWATER FILTRATION** – Mayor Burke asked Town Manager Hale to present this matter to the Board. Hale explained that the Town was fortunate enough to be awarded an Energy and Mineral Impact Assistance Grant for \$155,370 for the stormwater filtration project (total project cost estimated at \$258,000, with a \$102,670 Town match, or a 60/40 split). The Town budgeted \$265,000 for this project—the costs were still coming in at that time so staff just put in a placeholder on the high side to ensure that enough was budgeted. The Town budgeted the revenues slightly higher at \$159,000, which is still the 60/40 split—so, the State gave the Town a full award. It is just slightly different than the placeholders that were put into the budget. Hale explained that by signing the contract the Town is agreeing to obligate our match towards the project, as well as to expend the funds prior to being reimbursed (although not necessarily all of the funds at once). He said that he believes that being “shovel ready” didn’t hurt the Town’s chances at receiving this grant, so it terminates at the end of the year—a relatively short timeframe, but one that staff intends to work well within. Staff requested that the expenditure section of Exhibit A be amended because

it's easier to fix it now than amend it later. Hale said he wasn't really sure about running into a change order if the State considered construction documents a part of the design. Thus, other than this section being amended as outlined in the letter to DOLA, everything looks good. To keep this project moving along, staff is requesting that the Mayor be authorized to sign the contract once the requested amendment has been made by the State. The total project expenditures will remain the same. The staff recommendation is for the Board to authorize the Mayor to sign a Contract between the Town and the State of Colorado for EIAF#6490—Grand Lake Stormwater Filtration.

Trustee Weydert moved to authorize the Mayor to sign a Contract between the Town and the State of Colorado for EIAF#6490—Grand Lake Stormwater Filtration. Trustee Lewis seconded the motion and all Trustees voted aye.

NEW BUSINESS:

**CONSIDERATION TO AUTHORIZE THE MAYOR TO SIGN A MEMORANDUM OF UNDERSTANDING (MOU) WITH THE GRAND COUNTY WATER INFORMATION NETWORK (GCWIN)** - Mayor Burke asked Town Manager Hale to present this matter to the Board. Hale presented a memo and a proposed MOU from Jane Tollet, GCWIN Administrator to the Board. He explained that this is the same MOU that the Town has entered into each year, although he said that he suggested that Jane consider offering one that covers a longer period of time. For this evening though, the Board's consideration is for adoption of the 2009 MOU. The amount requested is the amount that was budgeted. The staff recommendation is for the Board of Trustees to authorize the Mayor to sign a Memorandum of Understanding between Grand County, The Towns of Fraser, Granby, Grand Lake, Kremmling, and Winter Park, bodies corporate and politic, other participants, and the Grand County Water Information Network.

Trustee Peterson moved to sign a Memorandum of Understanding between Grand County, the Towns of Fraser, Granby, Grand Lake, Kremmling, and Winter Park, bodies corporate and politic, other participants, and the Grand County Water Information Network. Trustee Lewis seconded the motion and all Trustees voted aye.

NEW BUSINESS:

**CONSIDERATION TO AUTHORIZE THE MAYOR TO SIGN A PROCLAMATION PROCLAIMING THE WEEK OF MARCH 8-14, 2009 AS GIRL SCOUT WEEK** - Mayor Burke asked Town Manager Hale to present this matter to the Board. Hale explained that the Town received a request to proclaim the week of March 8-14, 2009 as Girl Scout Week. The draft proclamation is adapted from the language that was requested. The staff recommendation is that the Board authorize the Mayor to proclaim the week of March 8-14, 2009 as Girl Scout Week.

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Trustee Lewis moved to authorize the Mayor to sign a proclamation proclaiming the week of March 8-14, 2009 as Girl Scout Week. Trustee Weydert seconded the motion and all Trustees voted aye.

ACCOUNTS PAYABLE

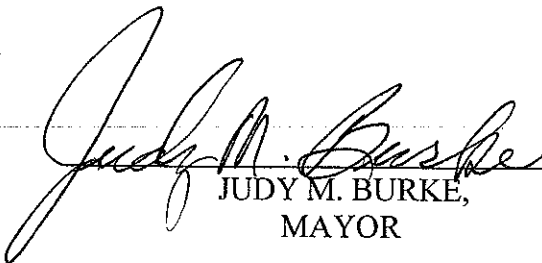
February, 2009:

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: None.

ADJOURNMENT:

Trustee Lewis moved to adjourn, seconded by Trustee Peterson. All Trustees voted aye, and the meeting was adjourned at 8:43 p.m., March 9, 2009.

  
JUDY M. BURKE,  
MAYOR

ATTEST:   
RONDA KOLINSKE, CMC,  
TOWN CLERK