

RECORD OF PROCEEDINGS

REGULAR MEETING
TOWN OF GRAND LAKE BOARD OF TRUSTEES
MONDAY, MARCH 23, 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 7:32 p.m. at the Town Hall, 1026 Park Avenue.

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

ABSENT: Trustee Johnson arrived at 7:43 p.m. after the Local Liquor Licensing Authority.

APPROVAL OF MINUTES

March 9, 2009: Trustee Lewis moved to approve the minutes of the March 9, 2009 regular meeting as written, seconded by Trustee Weydert. All Trustees voted aye except Trustee Rhone, 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 Rotary Club of Grand Lake is sponsoring Peggy Mann's CD Release Party on Saturday, March 28 at 7:00 p.m. and on Sunday, March 29 at 2:00 p.m. in the Community House.

Mayor Burke then announced that the Grand Lake Fire Protection District will host an Easter Egg Hunt on Saturday, April 11, in the Town Park beginning at 11:00 a.m.

REPORTS: SALES TAX
CASH FLOW REPORT
FOR MARCH, 2009:

Mayor Burke asked Town Clerk Kolinske to present the sales tax cash flow report. Kolinske reported that the amount of revenue received in March, 2009 for the month of January, 2009 is \$37,893. This amount is 18.24% below what was received thru March, 2008.

REPORTS: FINANCIAL
REPORT:

Mayor Burke asked Financial Trustee Peterson to present the Financial Report for February, 2009. Peterson reported that General Fund expenditures through the end of February totaled \$179,573.21 or 7.2% of budget. He said the Water Fund expenditures for the same period totaled \$36,630.04 or 7.7% of budget and the Marina Fund expenditures totaled \$11,319.60 or 4.0% of budget.

LIQUOR LICENSING AUTHORITY: QUASI-JUDICIAL – CONSIDERATION OF RENEWAL

OF THE HOTEL AND RESTAURANT LIQUOR LICENSE FOR MTNMAX, INC., D/B/A MAX AND T'S BAR AND GRILL - Mayor Burke asked Town Clerk Kolinske to present this matter to the Board. Kolinske reported that the fees have been paid and the renewal documents are in order. The water, business license, and sales tax accounts are all current. She noted that the Grand County Sheriff's Department found no adverse information that would affect the status of the license. She then concluded by saying that Max Ludwig, President/Secretary, was present.

Trustee Peterson moved to approve the renewal of the Hotel and Restaurant Liquor License for MtnMax, Inc., d/b/a Max and T's Bar and Grill. Trustee Rhone seconded the motion and all Trustees voted aye.

LIQUOR LICENSING AUTHORITY: QUASI-JUDICIAL – CONSIDERATION OF RENEWAL

OF THE HOTEL AND RESTAURANT LIQUOR LICENSE FOR PANCHO & LEFTY'S, INC., D/B/A PANCHO AND LEFTY'S - Mayor Burke asked Town Clerk Kolinske to present this matter to the Board. Kolinske reported that the fees have been paid; the renewal documents are in order and indicate no changes from the previous renewal. The water, business license, and sales tax accounts are all current. She noted that the Grand County Sheriff's Department noted that a violation occurred in April 2008. On April 20, 2008, Jacob Schmidt, an employee of Pancho and Lefty's, received a summons for an illegal sale of alcohol to a minor during an alcohol compliance check. Schmidt appeared in court on May 13. According to the Clerk of the Court, Schmidt was found guilty of providing alcohol to a minor. He received a 1 year deferred sentence. He was fined \$92, ordered to perform 96 hours of public service, and must make a \$500 charitable contribution. She then concluded by saying that Bob King, President, was present.

Bob King was recognized from the audience and apologized for the incident. He stated that he has scheduled TIPS Training for all employees on June 9 beginning at 10:00 a.m. and that the restaurant will be closed that day for the training.

During discussion, Trustee Peterson acknowledged the fact that this is the first time that this has happened to Pancho and Lefty's in the many years of being in business; however, he made it very clear to Mr. King that the Board takes matters such as this very seriously.

Following discussion, Trustee Lewis moved to approve the renewal of the Hotel and Restaurant Liquor License for Pancho & Lefty's, Inc., d/b/a Pancho and Lefty's. Trustee Rhone seconded the motion and all Trustees voted aye.

OLD BUSINESS:

PUBLIC HEARING - 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 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 the Town's last discussion of this issue in Executive Session. 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 the Board's 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 has 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 this franchise has followed statutory procedure, which is advertising the topic for three weeks preceding the first reading (March 9th), and then advertising for another two weeks prior to this evening's hearing. For the record, notice was published on March 12 and 19 under Ad ID 3097410, 3097429, and 3097449. Tom Sifers, Assistant General Manager and Manager of Finance & Office Services for Mountain Park Electric, advises that their Board will approve the franchise based upon staff recommendation, but they won't formally consider adoption until April 6th. According to the Town Attorney, their signing the agreement doesn't have anything to do with

the actual ordinance being adopted (even though they are the same document). So, since the Town has 30 days after publication for this to be effective, Hale suggested that the Board adopt this ordinance this evening so it can be published immediately. Staff recommendation is for the Board of Trustees to adopt Ordinance No. 12-2009 with an effective date of May 1, 2009. For the record, he noted that in lieu of reading the entire ordinance, he has provided copies of the ordinance to those seated in the audience. He also noted that Tom Sifers was present.

Mayor Burke then opened the meeting for public comment.

Tom Sifers was recognized from the audience and thanked the Town for its cooperation. He expressed his gratitude that the entities were able to reach an agreement. He then presented a book to the Town titled "Rocky Mountain Tour" by Suzanne Silverthorn and gave it to Mayor Burke.

Having no other comments, Mayor Burke closed the Public Hearing and turned the matter over to the Board of Trustees.

Trustee Lewis moved to adopt 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 Rhone seconded the motion and all Trustees voted aye.

OLD BUSINESS:

**PUBLIC HEARING – CONSIDERATION ORDINANCE NO. 4-2009, AN ORDINANCE AMENDING THE TOWN OF GRAND LAKE MUNICIPAL CODE CHAPTER 12, ARTICLE 3, ZONING BOARD OF ADJUSTMENT, AND
ORDINANCE NO. 14-2009, AN ORDINANCE AMENDING CHAPTER 12, ARTICLE 2: ZONING REGULATIONS, OF THE TOWN OF GRAND LAKE MUNICIPAL CODE, AND
ORDINANCE NO. 15-2009, AN ORDINANCE AMENDING CHAPTER 12, ARTICLE 6: LAND SUBDIVISION REGULATIONS, OF THE TOWN OF GRAND LAKE MUNICIPAL CODE, AND
ORDINANCE NO. 16-2009, AN ORDINANCE AMENDING THE TOWN OF GRAND LAKE MUNICIPAL CODE CHAPTER 12, ARTICLE 7, DESIGN STANDARDS, AND**

ORDINANCE NO. 17-2009, AN ORDINANCE CREATING CHAPTER 12, ARTICLE 10: LAND USE DEVELOPMENT PROCEDURES AND STANDARDS OF THE MUNICIPAL CODE OF THE TOWN OF GRAND LAKE – Mayor Burke asked Town Code Enforcement Officer Korkowski to present this matter to the Board. Korkowski explained that staff has taken all of the review procedures and development standards for Land Subdivisions and Planned Developments and combined them together to create the generalized ‘Land Use Development Procedures and Standards’. Staff is proposing the creation of this new Municipal Code Section (12-10) so that all subsequent developments will follow the same submittal/review procedures, as well as development standards. This item for the Board’s review at this time is a culmination of preexisting code. Wherever possible, staff did not propose changes to the processes and standards, as it is the desire of staff to just get everything in one place and then work with the Planning Commission and the Town Board on specific policies, requirements, etc. On January 21, 2009, the Planning Commission held a Public Hearing to hear proposed code changes to Municipal Code Chapter 12, Articles 2: *Zoning Regulations*, Article 6: *Land Subdivision Regulations*, and Article 7: *Design Review Standards* as well as for the creation of Article XX: *Land Use Development Procedures and Standards*. At that time, the Commission reviewed the proposed code changes and additions and directed staff to include various amendments while forwarding a favorable recommendation to the Town Board of Trustees for approval. This recommendation was made with the condition that staff will make a flow-chart outline of the Land Use Development Application submittal and review process. Staff created this item and provided it to the Board as a table setting. The following sections summarize the staff-proposed changes (as reviewed by the Commission on January 4th, 2009) and the Commission-directed changes (as proposed on January 4th and at the Public Hearing).

- **Underlined, Bolded and Italics** = Items that are currently in the Municipal Code but have been rearranged from a different location in the Code.
- ***Bolded and Italics*** = Items that are proposed to be new additions to the Municipal Code.

As a reminder, the aforementioned notations do not apply to the newly proposed 12-10 code section. This item was brought before the Board on February 23, 2009. At that time, the Board moved to hold a Public Hearing for March 23. Legal Notice No. 3056815 was published in the Middle Park Times on February 26, 2009. Staff has not received any comments regarding the proposed Municipal Code Changes.

Chapter 12, Article 2: Zoning Regulations

Staff is proposing numerous additions to the code definitions: carport, deck, enclosed, kennel, open, patio, and unclosed. Staff is also allowing for kennels to be a Conditional Use in the Commercial and both Industrial (Light and General) Zoning Districts. In addition, and if approved, the Town will now be requiring lienholder review for all Planned Developments that contain preexisting lots and structures; lienholders will not be required to sign on plats but will be notified and are entitled to express comments as any other agency. Staff is proposing allowing variances for height and area regulations to be reviewed and decided upon by the Town Board of Trustees with recommendation from the Planning Commission. As a reminder, this provision is currently placed before the Board of Adjustment (BOA) but, as staff explained in January, the BOA is legally bound to only grant variances that are based on hardships. Currently, the Town indicates specific instances where some items may exceed the maximum allowances. To provide for these, the Town must remove the responsibility from the BOA. Staff has indicated factors that should be considered when reviewed these variance requests. Staff also provided for on-street parking credits in all Zoning Districts with the exception of Single Family zones. As a reminder, these residences are required to have their parking requirements met onsite. In addition, staff has incorporated the provision that creation of new parking lots will trigger creation of mandatory boardwalks and greenbelts in those areas where they are required by Municipal Code. Town staff has also included that Special Use Permits that are eligible to be signed by the Mayor may be granted in the Commercial Transitional zone and has developed review criteria for the Mayor in the event that applications may need to be brought before the Town Board of Trustees. Staff has also incorporated that those events that are sponsored by a governmental entity shall also be considered for the Mayor's review and approval. The Commission directed staff to remove the provision that porches, patios, decks and vestibules may projects into the side and/or front yard setback. This is a current code allowance that has been removed by staff. The Commission also agreed that the Town should place 'wind turbines' in the category of items that may exceed the maximum allowable height in a given zoning district. Currently this section of the Code indicates that specific items may be granted a height variance (by the BOT) up to 60'. This does not mean that these items will automatically be granted the variance; the request will be made with a recommendation from the Planning Commission. The Commission, also, expressed interest in making the provision that off-site parking must be under single ownership as on-site parking. Also, at the direction of the Commission, staff has changed the provision that in those areas where asphalt is required, that a minimum of 4" compacted depth is required. The current code states that 3" will be the minimum with a preference of 4". At the direction of the Commission, staff has eliminated the provision that *'All uses and structures shall be presumed to be in compliance with the*

Town's off-street parking requirements' as well as the allowance to variance to parking requirements. The Town will be addressing numerous parking issues throughout the winter; these items will be revisited at that time.

Chapter 12, Article 7: *Design Review Standards*

Staff proposed that applications for appeals to design review standards are to be granted or denied by the Town Board of Trustees with recommendation from the Planning Commission. Currently this is a responsibility of the BOA but, as stated, the BOA has no legal authority to hear these appeals.

Chapter 12, Article 10: *Land Use Development Procedures and Standards*

This section is a combination of the procedures and standards that are in the existing Municipal Code sections 12-2 and 12-6. Staff has not proposed any changes other than the Town will not be able to charge \$500 for a fine of presales of a development; we are governed by law to have a fine limit of \$300. A few grammatical errors were noted by the Commission and staff has made the appropriate changes. The Town will now be asking for a Compact Disc (CD) of the AutoCAD drawings, as requested by the Commission. The Commission indicated to staff that they would only like to have the opportunity to periodically review ongoing developments. Staff has altered the *Amendments to Land Use Developments* section to indicate that a deposit shall be collected, as opposed to a fee. Agency notifications for developments will not be sent certified as this is not a practice of the Town. Staff has also altered the introduction to the *Standards* section which includes the provision that 'solar access' shall be preserved and protected for all new developments. This, too, has been noted in the 'Lot Requirements'. As per the direction of the Commission, the Town will no longer be requiring the provisions for developments to provide public phones. The Commission may still require them if they so desire. Current code indicates that commercial facilities (greater than 5,000 s.f.) must have them. In addition, the Planning Commission desired to have the Colorado Division of Housing seal on all mobile homes in mobile home subdivisions. Lastly, staff has incorporated into the Code the provision that fair-market values for raw land may be determined upon in negotiations between the developer and the Board of Trustees, as the Town occasionally currently operates.

Korkowski noted that the Board has been given a new copy of Ordinance No. 15-2009, as a table setting, showing a couple of corrections. He then recommended that the Board of Trustees open the Public Hearing to take public comment. After all comments have been made, staff recommends the Board discuss this matter. If the Board is favorable, staff recommends that the Board move to continue or to approve Ordinance No. 4-2009: *An Ordinance Amending the Town of Grand Lake Municipal Code*

Chapter 12, Article 3, Zoning Board of Adjustment, Ordinance No. 14-2009: An Ordinance Amending Chapter 12, Article 2: Zoning Regulations, of the Town of Grand Lake Municipal Code, Ordinance No. 15-2009: An Ordinance Amending Chapter 12, Article 6: Land Subdivision Regulations, of the Town of Grand Lake Municipal Code Ordinance No. 16-2009: An Ordinance Amending the Town of Grand Lake Municipal Code Chapter 12, Article 7, Design Standards, and Ordinance No. 17-2009: An Ordinance Creating Chapter 12, Article 10: Land Use Development Procedures and Standards of the Municipal Code of the Town of Grand Lake with the condition that staff will insert an outlined flowchart for the land use review process.

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

Following discussion, Trustee Rhone moved to adopt Ordinance No. 4-2009, an Ordinance Amending the Town of Grand Lake Municipal Code Chapter 12, Article 3 Zoning Board of Adjustment. Trustee Peterson seconded the motion and all Trustees voted aye.

Trustee Rhone moved to adopt Ordinance No. 14-2009, an Ordinance Amending Chapter 12, Article 2: *Zoning Regulations*, of the Code of the Town of Grand Lake. Trustee Lewis seconded the motion and all Trustees voted aye.

Trustee Rhone moved to adopt Ordinance No. 15-2009, an Ordinance Amending Chapter 12, Article 6: *Land Subdivision Regulations*, of the Code of the Town of Grand Lake as amended in the table setting. Trustee Lewis seconded the motion and all Trustees voted aye.

Trustee Rhone moved to adopt Ordinance No. 16-2009, an Ordinance Amending the Town of Grand Lake Municipal Code Chapter 12, Article 7 Design Standards. Trustee Peterson seconded the motion and all Trustees voted aye.

Trustee Rhone moved to adopt Ordinance No. 17-2009, and Ordinance Creating Chapter 12, Article 10: *Land Use Development Procedures and Standards* of the Code of the Town of Grand Lake with the condition that staff will insert an outlined flowchart for the land use review process. Trustee Peterson seconded the motion and all Trustees voted aye.

NEW BUSINESS:

CONSIDERATION TO AUTHORIZE THE TOWN MANAGER TO ENTER INTO A SERVICE AGREEMENT WITH LODGEPOLE CONSTRUCTION TO COVER UP THE "I" BEAMS AT THE PUBLIC BOAT DOCK – Mayor Burke asked Town Manager Hale to present this matter to the Board. Hale explained that

this year the Board budgeted to cover up the "I" beams at the public boat docks (\$2,000). Public Works Director McGinn solicited bids from Lodgepole Construction and DSD Construction (both local companies), and received the following:

Lodgepole Construction: \$1,820 (cost not to exceed). Additionally, the Town would be responsible for purchasing the material, for \$316, so the total cost (assuming material costs remain consistent), is \$2,136.

DSD Construction: \$2,400 (cost not to exceed). This cost includes material, but Dan is proposing a rough slab bark material, versus the treated 2 x 12 wood that we're specking above.

The Personnel Policy allows the Board to award bids without advertisement when they are under \$10,000. The staff recommendation is for the Board to award the bid to Lodgepole Construction for a cost not to exceed \$1,820 and to authorize the Town Manager to execute a service agreement with Lodgepole Construction.

Trustee Johnson moved to award the bid to Lodgepole Construction for a cost not to exceed \$1,820 and to authorize the Town Manager to execute a service agreement with Lodgepole Construction. Trustee Lewis seconded the motion and all Trustees voted aye.

NEW BUSINESS:

CONSIDERATION OF RESOLUTION NO. 8-2009, A RESOLUTION ESTABLISHING A MORATORIUM ON EXECUTION OF ORDINANCE NO. 6-2009, WASTE DISPOSAL – Mayor Burke asked Town Code Enforcement Officer Korkowski to present this matter to the Board. Korkowski explained that Town staff is still receiving phone calls, visits, e-mails, and letters in reference to the recently adopted Waste Disposal Ordinance. At the direction of the Board at their last workshop on March 9, 2009, staff has drafted Resolution No. 8-2009 which would impose a moratorium on the execution of Ordinance No. 6-2009 which established Municipal Code 7-6-12 Waste Disposal. This moratorium is based primarily on the fact that the Grand County Trash Transfer Station is still undecided and the location of that facility will impact the Request for Proposal and the bids required by this ordinance and that this Board has no control over the transfer station issue. He said that the moratorium will be in place until November 1, 2009 or until the Town Board of Trustees has had the opportunity to review the results of the Request for Proposals, whichever is sooner. Staff recommendation is for the Board to review the proposed Resolution No. 8-2009, make any changes necessary, and adopt *Resolution No. 8-2009, a Resolution Establishing a Moratorium on Execution of Ordinance 6-2009 Waste Disposal* if deemed appropriate.

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Trustee Peterson stated for the record that during the time that this moratorium is in place, the Town plans to establish an Ad Hoc Committee to investigate every possible option for waste disposal.

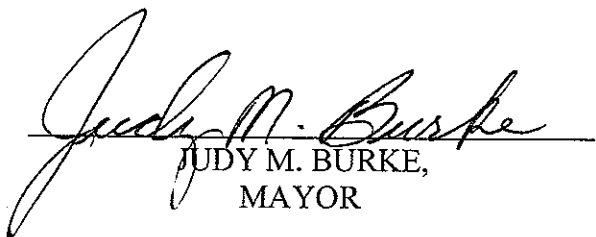
Mayor Burke then asked for comments from the audience.

John Inman, 321 Elk Lane, was recognized by the Chair. He introduced himself as the President of the Grand Lake Estates Homeowners Association. He thanked the Board, on behalf of the Homeowners Association, for consideration of this resolution and would support the moratorium and additional time for discussion. He said that he and others from the Association would be willing to volunteer to sit on the Ad Hoc Committee if there are seats available. He stated that even though there may be a moratorium in place he will continue to encourage the homeowners by mail and through their annual meeting scheduled for June 13, 2009 to be responsible citizens regarding their trash. He assured the Board that they will do what they can to help with the situation.

Trustee Lewis moved to adopt Resolution No. 8-2009, a Resolution Establishing a Moratorium on Execution of Ordinance 6-2009 Waste Disposal. Trustee Rhone seconded the motion and all Trustees voted aye.

CITIZEN PARTICIPATION: None.

ADJOURNMENT: Trustee Rhone moved to adjourn, seconded by Trustee Lewis. All Trustees voted aye, and the meeting was adjourned at 8:28 p.m., March 23, 2009.


JUDY M. BURKE,
MAYOR

ATTEST.


RONDA KOLINSKE, CMC,
TOWN CLERK