

RECORD OF PROCEEDINGS

REGULAR MEETING
TOWN OF GRAND LAKE BOARD OF TRUSTEES
MONDAY, APRIL 27, 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 Rhone; Town Manager Hale, Town Clerk Kolinske, and Town Code Enforcement Officer Korkowski.

ABSENT: Trustee Weydert and Town Planner Wittman.

APPROVAL OF MINUTES

April 13, 2009: Trustee Rhone moved to approve the minutes of the April 13, 2009 regular meeting as written, seconded by Trustee Peterson. 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 Town, in conjunction with the Greenways Committee, will be celebrating its annual Arbor Day with the Grand Lake Elementary School on Monday, May 11th at 10 a.m. Each child in the school will receive a free tree and a pansy and will have the opportunity to plant flowers on the school grounds.

Mayor Burke announced that the Town is seeking volunteers for the annual Town-wide Clean-Up Day on Saturday, May 16th from 8:30-11:30 a.m. Volunteers will be asked to assist the Town in sprucing things up by walking the public places of the Town and removing trash and debris. Volunteers are asked to contact Town Hall for more information as well as be available to meet at the Heckert Pavilion in Town Park at 8:30 that morning. The Town will be hosting a barbeque at the Heckert Pavilion in Town Park from 11:30 to 12:30 to show appreciation for clean-up volunteers.

Mayor Burke announced that the Town is also seeking volunteers for a Thomasson Park clean-up at 8 a.m. on Saturday, May 16th. Volunteers specifically interested in park clean up and trail maintenance, which may require heavy lifting, raking, shoveling, etc., are asked to contact Town Hall for more information as well as be available to meet at the Thomasson Park Trailhead at 8 a.m. The Town will be hosting a barbeque at the Heckert Pavilion in Town Park from 11:30 to 12:30 to show appreciation for clean-up volunteers.

Mayor Burke announced that the Flowering of Grand Lake will host the 21st Annual Gardener's Exchange on Saturday, May 16 from noon – 4 p.m. in the Community House. As a reminder, this is an excellent opportunity to purchase low-cost plants that are suitable for the Grand Lake area.

Mayor Burke then announced that in conjunction with the Gardener's Exchange, the Town will be conducting the 2nd annual "Great Tree and Reusable Bag Give Away". Starting at 1 p.m. on May 16th in Town Park, the Town will be dispersing approximately 800 free trees in Town of Grand Lake reusable bags. The Colorado State Forest Service will be onsite conducting tree-planting demonstrations and be available to discuss matters regarding species diversity, forest health and pine beetle. Residents are encouraged to use their reusable bags at local retailers to help support Grand Lake in the reusable bag challenge.

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

Mayor Burke asked Town Clerk Kolinske to present the sales tax cash flow report. Kolinske reported that the amount of revenue received in April, 2009 for the month of February, 2009 is \$38,266. This amount is 16.79% below what was received thru April, 2008.

REPORTS: FINANCIAL
REPORT:

Mayor Burke asked Financial Trustee Peterson to present the Financial Report for March, 2009. Peterson reported that General Fund expenditures through the end of March totaled \$313,902.38 or 12.52% of budget. He said the Water Fund expenditures for the same period totaled \$67,273.60 or 14.1% of budget and the Marina Fund expenditures totaled \$23,082.19 or 8.1% of budget.

At 7:38 p.m. Trustee Johnson excused himself and left the room.

LIQUOR LICENSING AUTHORITY: QUASI-JUDICIAL – CONSIDERATION OF RENEWAL OF THE HOTEL AND RESTAURANT LIQUOR LICENSE FOR RAYMOND AND JULIA BLANCHARD, D/B/A THE TERRACE INN - 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 found no adverse information that would affect the status of the license. She concluded by saying that Ray and Julia Blanchard, Owners, were present.

Trustee Rhone moved to approve the renewal of the Hotel and Restaurant Liquor License for Raymond and Julia Blanchard, d/b/a The

Terrace Inn. Trustee Peterson seconded the motion and all Trustees voted aye.

LIQUOR LICENSING AUTHORITY: QUASI-JUDICIAL – CONSIDERATION OF A SPECIAL EVENTS PERMIT APPLICATION FROM THE FRIENDS OF THE LIBRARY FOR THE “TOPS OF THE ROCKIES” FUNDRAISING EVENT - Mayor Burke asked Town Clerk Kolinske to present this matter to the Board. Kolinske explained that this request is for the “Tops of the Rockies” fundraising event to be held at the Grand Lake Yacht Club, 1128 Lake Avenue on Sunday, June 28, 2009. The application documents are in order and complete. The premises are required by statute to be posted for at least 10 days prior to approval of the permit. She suggested action at the May 11 Board Meeting as a regular item of business or as a Public Hearing. Kolinske noted that Connie Robertson, Representative of The Friends of the Library, was present.

Trustee Peterson moved to act on this request as a regular item of business at the May 11, 2009 Board Meeting. Trustee Rhone seconded the motion, and all Trustees voted aye.

At 7:44 p.m. Trustee Johnson resumed his seat.

OLD BUSINESS:

CONSIDERATION OF ORDINANCE NO. 19-2009, AN ORDINANCE AMENDING THE TOWN OF GRAND LAKE MUNICIPAL CODES BY ADDING MUNICIPAL CODE 7-3-8 PESTICIDE AND FERTILIZER USE REGULATIONS - Mayor Burke asked Town Code Enforcement Officer Korkowski to present this matter to the Board. Korkowski explained that staff has revised proposed Ordinance No. 19-2009 per the direction of the Board when they discussed this item at their last meeting held April 13, 2009. The revisions suggested by the Board, Town Attorney, and public comments are shown in italics and underlined. The Town Attorney has stated the Town can set minimum and maximum fines and make the fines per tree for spraying, and he also suggested one minor change regarding private wells, which staff had included to better explain that scenario. He said that he included correspondence from Larry Malouff who could not be at this meeting, 4 pages of information from Lenny Brooks, and a Sky-Hi news article in the packets. Staff recommends the Board discuss proposed Ordinance No. 19-2009, make any changes, and take what action they deem appropriate.

Trustee Peterson said that supervision of tree spraying has not been good, either by the Town, the County or the State. It is not possible to spray a 40’ tree from the ground and not have overspray. He said, “I don’t like it.”

Trustee Rhone said that what the Town has sprayed in the past has been effective. Most of the trees in the Cemetery are still alive and it's worth a shot to spray what's left.

Trustee Lewis said that she would like to see the trees in Town Square, Thomasson Park and the Cemetery sprayed. She said that she is not in favor of spraying near the lake.

Trustee Lanzi said that there are high value trees that the Town should save. Property owners also have trees that they value and feel they should save. He said that the Town is trying to do all it can, but if property owners choose to break the law, they break the law and pay the consequences.

Trustee Johnson stated that he feels this ordinance is a step in the right direction. He said that perhaps the Town can reduce the amount of spraying over the next couple of years and hopefully get to a point where spraying will no longer be necessary.

Mayor Burke then asked for comments from the audience.

Lenny Brooks, 615 Cairns Avenue, was recognized from the audience and asked if these pesticides are safe? He said that at the afternoon workshop Trustee Johnson suggested watering the trees and planting additional trees in Town Square. Trustee Peterson suggested using a low pressure sprayer and a cherry picker to spray the trees in Town Square to eliminate overspray. Brooks noted that the Town has spent nearly \$75,000 in the past 5 years spraying trees. A lot of trees could have been purchased with that amount of money. He said that he believes that the ordinance is a good starting point. His philosophy has always been, "If you can't solve a problem, you eliminate it." There are other methods of controlling the beetles without using a high pressure hose. He concluded by saying that the Town would be protecting the water supply simply by disallowing people to spray under the Town's Water Supply Protection District's Ordinance.

Ray Blanchard, 624 Mountain Avenue, said that Mr. Brooks is very concerned about our community, our people, our micro-environment, and our water quality. He said that he graduated in 1973 from Penn State University with a degree in Ornamental Horticulture and sprayed until 1998 with a sprayers' license. He said that he has never seen such egregious violations of the label instructions as he has seen here. The bottom line is that no one has the control and capability to monitor what is going on. The EPA has guidelines and they are being violated. He said that before this evening's meeting, he and his wife were driving around and witnessed trees being sprayed within 5' of the river. The

spray was blowing into the river and not reaching 40 or 50 percent of the height of the tree. These violations should be reported to the EPA.

Lynnea Godfrioux, 352 N. Inlet Road, wanted to know if the Board has considered using pheromone bags for the high value trees in Town Square. She then provided pictures of trees being sprayed by a professional with a man dressed in street clothing standing close by. The pictures depict the amount of overspray that occurs. (See attached Exhibit A). She said that the ordinance that the Board is considering this evening is an excellent first step.

Brad Pregeant, 352 N. Inlet Road, said that he knows people personally who have said they have sprayed their trees for the past 10 years without a mask or protective gear, has had the chemical sprayed in their face and said that nothing has ever happened to them. He concluded by saying, "Remember it was once said that asbestos was safe".

Trustee Johnson then moved to adopt Ordinance No. 19-2009, an Ordinance Amending the Town of Grand Lake Municipal Codes by Adding Municipal Code 7-3-8 Pesticide and Fertilizer Use Regulations seconded by Trustee Rhone.

During discussion Trustee Peterson said that he doesn't feel that this goes far enough. Neither the Town nor the County has the power to regulate what's happening with spraying. The Town has been successful in saving some trees but at what cost. The 30' setback is fine but it's not close enough. He explained that as a painter, he has two types of sprayers. One is an airless sprayer that sprays approximately 2500 to 3000 psi and he gets overspray. The other sprayer is an air assisted airless sprayer. It pumps material to the tip of the gun and has an air assist. It pumps out stain at approximately 300 psi with minimal overspray. The application is 85% versus 50% to 60%. He feels that there are better ways to apply tree spray. He concluded by saying that he hopes that the Board will readdress this issue.

Trustee Johnson agreed with Trustee Peterson but said that the Town has to start somewhere.

In response to the pheromone bags, Mayor Burke said that she has done a lot of research on them. She spoke with the Forest Service in Idaho, with the State of Wyoming and with the State of South Dakota. She was told that they are effective if used prior to the start of an epidemic. At this point in time it would not be practical. She noted that the ordinance being considered is an attempt to protect the water. She suggested that if anyone sees spraying being done illegally or improperly, they contact those who control spraying.

Following discussion, all voted aye.

At 8:40 p.m. Mayor Burke called for a recess. At 8:45 p.m. the meeting reconvened.

NEW BUSINESS:

QUASI-JUDICIAL – CONSIDERATION TO SET A PUBLIC HEARING FOR A SPECIAL USE APPLICATION FOR GRAND ADVENTURES - Mayor Burke asked Town Code Enforcement Officer Korkowski to present this matter to the Board. Korkowski explained that Don Neumann of Grand Adventures LLC has submitted a Special Use Application to run a seasonal snowmobile rental business at the Sombrero Stables located at Block 28, Lots 9-10, commonly referred to as 304 West Portal Road, from November 15, 2009 to April 30, 2010. The land is zoned Commercial and, while the business is a use by right, because the business is being run from a temporary structure, a Special Use Permit is required per Municipal Code 12-2-31. A Special Use Permit will allow this use of a temporary structure for a maximum of six months. Mr. Neumann has met submission requirements by providing the Town with the application form, a cover letter detailing the business operation, a copy of a current lease that runs through April 30, 2009 (with provisions for renewal for 5 more years), a site plan, and a copy of a valid State of Colorado Sales Tax license. Grand Adventures, LLC has a current Town Business License. The Planning Commission held a Public Meeting on this matter on April 16, 2009 and provided a recommendation to the Board to allow this Special Use Permit by adopting Planning Commission Resolution No. 3-2009. Korkowski said the staff recommendation is for the Board to set this matter for a Public Hearing on Tuesday, May 26, 2009. He noted that Don Neumann was present.

Trustee Peterson moved to set a Public Hearing for Tuesday, May 26, 2009 to consider a Special Use Application for Grand Adventures. Trustee Johnson seconded the motion and all Trustees voted aye.

NEW BUSINESS:

CONSIDERATION OF ORDINANCE NO. 20-2009, AN ORDINANCE AMENDING THE TOWN OF GRAND LAKE MUNICIPAL CODE CHAPTER 12 ARTICLE 4 STREET DEVELOPMENT POLICIES, STANDARDS, AND SPECIFICATIONS AND CHAPTER 12 ARTICLE 10 SECTION 11 AND REPEALING CHAPTER 11 ARTICLE 2 ENCROACHMENT PERMIT REGULATIONS - Mayor Burke asked Town Code Enforcement Officer Korkowski to present this matter to the Board. Korkowski explained that the Public Works Director has asked him and the Town Planner to update the Encroachment Permit and applicable Municipal Code to bring it more in line with current guidelines, requirements, and best management practices. He said that they also found that Encroachment Permits were outlined in both Municipal Codes

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11-2 and 12-4, and 12-4 was the more current code. The Encroachment Permit will now be named the Right-of-Way (ROW) Permit to better reflect what it covers and to avoid confusion between the Encroachment Permit and the Encroachment License.

The Right-of-Way Permit's major changes are:

1. to remove the old system of bonding with a per project bond procedure of 115% of the cost estimate to restore the affected Town right-of-way to its original condition (this will affect all projects in the ROW including Boardwalk work),
2. to bring minimum standards up to current requirements,
3. to delineate Town staff and Board responsibilities, and
4. to have the **applicant** assume responsibility for the proposed work.

Other changes are merely formatting, grammatical, and better defining what is written to try and avoid misinterpretation. Also, as a result of the above changes to Street Standards, several other Sections needed to have parts either added to better help define a Section or removed as obsolete or containing misinformation. Several of the added standards and requirements are from the Land Use Ordinance No. 17-2009. The Planning Commission reviewed the proposed Ordinance No. 20-2009 at their April 15, 2009 meeting. They agreed with the proposed ordinance with several modifications and unanimously agreed to forward it to the Board.

The major changes the Commission suggested were:

1. to set the surety bond at 115% of the cost estimate to repair the ROW area to original condition
2. to increase the minimum insurance coverage to \$1,000,000.00
3. to increase the permit fee from the doubled \$20.00 fee to \$250.00 in cases where a permit is not obtained prior to beginning work in the Town ROW unless it was an emergency, and
4. to make necessary corrections to differences between Land Use and Street Standards.

The Town Director of Public Works agrees with the proposed changes to Street Standards. The Board may hold a Public Hearing on this matter, but since most changes are more procedural than substantive and both the Planning Commission and Board of Trustees held Public Meetings for both Street Standards and Land Use within the last year, staff recommends the Board review the proposed Ordinance No. 20-2009, make any modifications, and take any action they deem appropriate. If the Board decides to adopt Ordinance No. 20-2009, staff recommends adding a condition to the motion that staff will add the engineered typicals for a T-shaped and Y-shaped terminus when they are complete.

Trustee Johnson moved to adopt Ordinance No. 20-2009, an Ordinance Amending the Town of Grand Lake Municipal Code Chapter 12 Article 4 Street Development Policies, Standards, and Specifications and Chapter 12 Article 10 Section 11 and Repealing Chapter 11 Article 2

Encroachment Permit Regulations with the condition that staff will add the engineered typicals for a T-shaped and Y-shaped terminus when they are complete. Trustee Lanzi seconded the motion and all Trustees voted aye.

NEW BUSINESS:

CONSIDERATION OF ORDINANCE NO. 21-2009, AN ORDINANCE AMENDING THE TOWN OF GRAND LAKE MUNICIPAL CODE CHAPTER 9 ARTICLE 1 BUILDING REGULATIONS - Mayor Burke asked Town Code Enforcement Officer Korkowski to present this matter to the Board. Korkowski explained that the Public Works Director has asked him and the Town Planner to update the Grading Permit and applicable Municipal Code to bring it more in line with current guidelines, requirements, and best management practices. The Grading Permit's major changes are:

1. to better define the difference between a general grading and engineered grading permit and what delineates the two,
2. to bring minimum standards up to current requirements,
3. to better explain the permitting process, and
4. to better define the Town's actions as to approving or denying the permit, and how appeals are to be handled.

Other changes are merely formatting, grammatical, and better defining what is written to try and avoid misinterpretation. Staff is also proposing to first remove Sections 8 and 9 of Municipal Code 9-1 as those Sections are redundant to how the Town adopts Ordinances. The Planning Commission reviewed the proposed Ordinance No. 21-2009 at their April 15, 2009 meeting, made a few grammatical changes, and recommended adding a clause which would set the permit fee at \$250.00 for someone starting grading, excavation, or fill work without a permit when one is required. The Planning Commission unanimously recommended approval of the proposed ordinance with the suggested changes. Staff is recommending adding 2 new subsections to Section C which would require the applicant to obtain any necessary permit(s) or waiver(s) from the State or the Federal government for projects which would require a permit from them and provide those items to the Town with the application for the Town permit. The Planning Commission did not see these as this information came up after their meeting. Staff is recommending the Board of Trustees discuss the proposed Ordinance No. 21-2009, take public comment, make any necessary modifications or changes, and take what action they deem appropriate. The Board also has the option to set the matter for a Public Hearing, but a Public Hearing is not required by code.

Trustee Johnson moved to adopt Ordinance No. 21-2009, an Ordinance Amending the Town of Grand Lake Municipal Code Chapter 9 Article 1 Building Regulations. Trustee Rhone seconded the motion and all Trustees voted aye.

NEW BUSINESS:

CONSIDERATION TO DIRECT STAFF TO SET A PUBLIC HEARING FOR THE DRAFT RECOMMENDATIONS OF THE UPDATE OF MUNICIPAL CODE CHAPTER 12-7: *DESIGN REVIEW STANDARDS* - Mayor Burke asked Town Manager Hale to present this matter to the Board. Hale explained that the Town of Grand Lake appointed members to a local Design Review Committee to submit recommendations to the Town for the updating of Municipal Code Chapter 12-7: *Design Review Standards*.

This committee has made recommendations to the Town Planning Commission and the Planning Commission has set this matter for Public Hearing for May 20, 2009. At the request of the Planning Commission, staff is bringing this matter before the Board as it is the desire of the Commission to have this matter addressed and an updated code adopted before the majority of the construction season. The Commission has requested that the Board consider allowing staff to set the Board of Trustees Public Hearing regarding this matter for as soon as possible. If the Board is favorable, the Public Hearing would be set for Tuesday, May 26, 2009, due to the Memorial Day holiday. Staff would recommend that the Board consider this recommendation from the Planning Commission. If the Board of Trustees is favorable, the Board should move to direct staff to set a Public Hearing for the draft recommendations of the update of Municipal Code Chapter 12-7: *Design Review Standards*.

Trustee Peterson moved to direct staff to set a Public Hearing for Tuesday, May 26, 2009 to consider the draft recommendations of the update of Municipal Code 12-7: *Design Review Standards*. Trustee Rhone seconded the motion and all Trustees voted aye.

NEW BUSINESS:

CONSIDERATION OF A PROCLAMATION DESIGNATING GRAND LAKE ARBOR DAY - Mayor Burke asked Town Manager Hale to present this matter to the Board. Hale explained that the Town will be celebrating its annual Arbor Day with the Grand Lake Elementary School on Monday, May 11th starting at 10 a.m. As usual, this event will include flower plantings by the children with each child, faculty and staff, being able to bring a tree home with them. Mayor Burke, members of the local Greenways Committee and Town Planner Wittman will be taking this opportunity to discuss with the children the meaning of Arbor Day. He said that the Town will be conducting its annual Clean-Up Day this year on Saturday May 16 from 8:30 to 11:30 a.m. Staff has switched the clean-up day efforts to a Saturday (as opposed to the Friday before the Friday before Memorial Day), at the desire of the Board to potentially gather more volunteers and garner more support for this event. The clean-up day will feature two volunteer opportunities:

Town-wide Clean Up: Saturday, May 16 from 8:30-11:30 a.m. Volunteers will be asked to assist the Town in sprucing things up by

walking the public places of the Town and removing trash and debris. Volunteers are asked to contact Town Hall for more information as well as be available to meet at the Heckert Pavilion in Town Park at 8:30 that morning. The Town will be hosting a barbeque at the Heckert Pavilion in Town Park from 11:30 to 12:30 to show appreciation for clean-up volunteers.

Thomasson Park Clean Up: 8:00 a.m on Saturday, May 16. Volunteers specifically interested in park clean up and trail maintenance (which may require heavy lifting, raking, shoveling, etc.) is asked to contact Town Hall for more information as well as be available to meet at the Thomasson Park Trailhead at 8:00 a.m. The Town will be hosting a barbeque at the Heckert Pavilion in Town Park from 11:30 to 12:30 to show appreciation for clean-up volunteers.

Additionally that day and in conjunction with the 'Flowering of Grand Lake', the Town will be conducting the 2nd annual 'Great Tree and Reusable Bag Give Away'. Starting at 1:00 p.m. on May 16 in Town Park, the Town will be dispersing approximately 800 free trees in Town of Grand Lake reusable bags. The Colorado State Forest Service will be onsite conducting tree-planting demonstrations and be available to discuss matters regarding species diversity, forest health and pine beetle. Town staff is requesting assistance for these events from Board members. In addition to offering to volunteer for the clean up opportunities, staff is also asking that any Board member that has a surplus of plastic bags bring them into Town Hall on or by Thursday May 14. Staff will be using these bags to place trees into so that the reusable bags can be preserved from dirt. To volunteer on clean up day, please let staff know in order to get a head count of volunteers. Additionally, he asked that everyone encourage all they know to come help and support this spring-time spruce-up opportunity. Lastly, with the designation of Arbor Day, the Board will need to move to authorize the Mayor to declare May 11, 2009, Arbor Day in the Town of Grand Lake and to sign the proclamation stating such.

Trustee Johnson moved to authorize the Mayor to declare May 11, 2009 as Arbor Day in the Town of Grand Lake and to sign the proclamation stating such. Trustee Rhone seconded the motion and all Trustees voted aye.

NEW BUSINESS:

CONSIDERATION TO AUTHORIZE THE MAYOR TO SIGN A LETTER INVITING PRESIDENT OBAMA TO VISIT ROCKY MOUNTAIN NATIONAL PARK - Mayor Burke asked Town Manager Hale to present this matter to the Board. Hale explained that Secretary of the Interior Salazar encouraged both gateway communities to invite President Obama to visit Rocky Mountain National Park recently at the wilderness bill celebration. A draft letter has been created

RECORD OF PROCEEDINGS

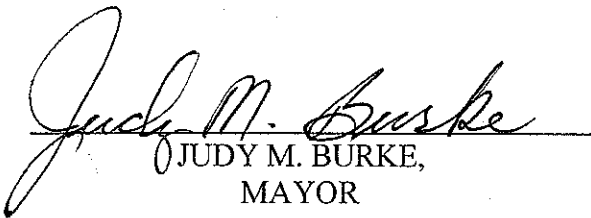
for the Board's consideration. He recommended that they authorize the Mayor to sign the letter.

Trustee Lewis moved to authorize the Mayor to sign a letter inviting President Obama to visit Rocky Mountain National Park. Trustee Rhone seconded the motion and all Trustees voted aye.

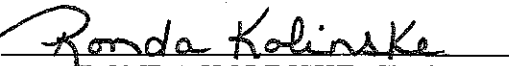
CITIZEN PARTICIPATION:

ADJOURNMENT:

Trustee Rhone moved to adjourn, seconded by Trustee Lewis. All Trustees voted aye, and the meeting was adjourned at 9:07 p.m., April 27, 2009.



JUDY M. BURKE,
MAYOR

ATTEST 

RONDA KOLINSKE, CMC,
TOWN CLERK

Exhibit A

