

RECORD OF PROCEEDINGS

REGULAR MEETING
TOWN OF GRAND LAKE BOARD OF TRUSTEES
MONDAY, JUNE 8, 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 Johnson, Lanzi, Lewis, Peterson, and Weydert; Town Manager Hale, Town Clerk Kolinske, and Town Planner Wittman.

ABSENT: Trustee Rhone.

APPROVAL OF MINUTES

May 11, 2009: Trustee Peterson moved to approve the minutes of the May 11, 2009 regular meeting as written, seconded by Trustee Weydert. All Trustees voted aye except Trustees Johnson and 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 Rocky Mountain Repertory Theatre will begin its 2009 Summer Season with "Brigadoon" on Friday, June 12 in the Community House.

Mayor Burke then announced that Magnesium Chloride (dust control) will be applied to Town streets on June 11 & 12.

PRESENTATIONS: None.

At 7:34 p.m. Trustee Johnson excused himself and took a seat in the audience.

LIQUOR LICENSING AUTHORITY: CONSIDERATION OF RENEWAL OF THE HOTEL AND RESTAURANT LIQUOR LICENSE FOR BENTON JOHNSON, D/B/A THE BEARS DEN - 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 Benton Johnson, Manager, was seated in the audience.

Trustee Peterson moved to approve the renewal of the Hotel and Restaurant Liquor License for the Bear's Den, LLC, d/b/a The Bear's Den. Trustee Lewis seconded the motion and all Trustees voted aye.

At 7:36 p.m. Trustee Johnson excused himself and left the room.

LIQUOR LICENSING AUTHORITY: CONSIDERATION OF RENEWAL OF THE HOTEL AND RESTAURANT LIQUOR LICENSE FOR ESTES PARK CHALET, INC., D/B/A GRAND LAKE LODGE - 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 Grand County Sheriff's Department reviewed their files and found no adverse information that would affect the status of the license. The Water Department reported that the account was current. Since the Lodge has not been in business, they do not have a business license and no sales tax to report. She then concluded by saying that Kathy James Rinker, was present representing the Lodge.

Trustee Lewis moved to approve the renewal of the Hotel and Restaurant Liquor License for Estes Park Chalet, Inc., d/b/a Grand Lake Lodge. Trustee Weydert seconded the motion and all Trustees voted aye.

Since Trustee Weydert is a Board Member for the Grand Lake Fire Protection District, he announced that he will abstain from voting.

LIQUOR LICENSING AUTHORITY: CONSIDERATION OF APPROVAL FOR A SPECIAL EVENTS LIQUOR PERMIT FOR THE MOUNTAIN FAMILY CENTER FOR THE 26TH ANNUAL COLORADO STATE CHILI COOK OFF - Mayor Burke asked Town Clerk Kolinske to present this matter to the Board. Kolinske stated that this request was for the 26th Annual Colorado State Chili Cook Off to be held in Town Square on Saturday, June 27, 2009 from 9:00 a.m. to 8:00 p.m. Proceeds of this fundraising event will go to the Grand Lake Fire Protection District's Scholarship Fund. She said that the application documents were in order and the appropriate state fee was paid. Public notice was posted on the premises on May 29, 2009 and attested to by Grand County Sheriff Deputy Schmidt. The Grand County Sheriff's Department reviewed the application and found no adverse information which would affect this permit. She stated that the Board must investigate the application and must deny the permit if:

- * its issuance would injure the public welfare by reason of the nature or location of the special event, or failure of the applicant to conduct past special events in compliance with applicable laws and regulations; or
- * the organization fails to show that other existing facilities are not available or are inadequate for the needs of the organization, and that the organization is temporarily occupying premises and that the general public will be served during the special event.

Kolinske then noted that Mindy Everhart, representative of the Mountain Family Center, was present.

Trustee Peterson moved to approve the Special Events Liquor Permit for the Grand Lake Area Chamber of Commerce for the Colorado State Chili Championship, seconded by Trustee Lewis. All Trustees voted aye except Trustee Weydert, who abstained.

LIQUOR LICENSING AUTHORITY: CONSIDERATION OF APPROVAL FOR A SPECIAL EVENTS LIQUOR PERMIT FOR THE ROCKY MOUNTAIN REPERTORY THEATRE FOR THE "CABARET/ALL THAT JAZZ" FUNDRAISING EVENT

– Mayor Burke asked Town Clerk Kolinske to present this matter to the Board. Kolinske stated that this request was for a fundraising event to be held at the Grand Lake Yacht Club, 1128 Lake Avenue, on Sunday, July 26, 2009 from 1:00 p.m. to 10:00 p.m. She said that the application documents were in order and the appropriate state fee was paid. Public notice was posted on the premises on May 29, 2009 and attested to by Grand County Sheriff Deputy Schmidt. The Grand County Sheriff's Department reviewed the application and found no adverse information which would affect this permit. She stated that the Board must investigate the application and must deny the permit if:

- * its issuance would injure the public welfare by reason of the nature or location of the special event, or failure of the applicant to conduct past special events in compliance with applicable laws and regulations; or
- * the organization fails to show that other existing facilities are not available or are inadequate for the needs of the organization, and that the organization is temporarily occupying premises and that the general public will be served during the special event.

Kolinske then noted that Sally Scott, Company Manager, was present representing the Theatre.

Trustee Peterson moved to approve the Special Events Liquor Permit for the Rocky Mountain Repertory Theatre for "Cabaret/All That Jazz". Trustee Lewis seconded the motion and all Trustees voted aye.

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

OLD BUSINESS:

None.

NEW BUSINESS:

CONSIDERATION OF RESOLUTION NO. 13-2009, A RESOLUTION GRANTING A LICENSE FOR THE ENCROACHMENT INTO THE PUBLIC RIGHT-OF-WAY OF CERTAIN IMPROVEMENTS LOCATED ADJACENT TO LOTS 9-11, BLOCK 11, TOWN OF GRAND LAKE - Mayor Burke asked Town Planner Wittman to present this matter to the Board. Wittman explained that on June 3, 2009, Town administrative staff was made aware that Eagle's Landing, Inc., Eagle's Landing Condominiums, was making landscaping improvements to the Ellsworth Avenue right-of-way. She said that by the time that she got in touch with Mr. Darrell Herk, their contractor had already conducted the work. Public Works Director McGinn had been

in discussions with Eagle's Landing regarding these improvements for over the past year and the property owner believed that they had permission from the Town to make the improvements. The consensus amongst Town staff is that since the property owner had believed that they had permission that it was not the intent of the property owner to have this work conducted without the permission of the Town Board of Trustees. Mr. Herk has submitted an official request for an Encroachment License from the Town. Eagle's Landing is located on Lots 9-11, Block 11, Town of Grand Lake. The request is to encroach 30' into the Ellsworth Avenue right-of-way with landscaping. In the planning process for the development, the Town elected to vacate a portion of the Ellsworth right-of-way for the development. The landscape improvements are located directly north of the vacated portion of the Ellsworth right-of-way. Staff has no recommendation on this matter but has outlined the options of the Board. The Board may:

- Move to approve Resolution 13-2009: *A Resolution Granting a License for the Encroachment into the Public Right-of-Way of Certain Improvements Located Adjacent to Lots 9-11, Block 11, Town of Grand Lake*; or
- Move to approve Resolution 13-2009: *A Resolution Granting a License for the Encroachment into the Public Right-of-Way of Certain Improvements Located Adjacent to Lots 9-11, Block 11, Town of Grand Lake*, with the condition that an Indemnification Agreement is signed by Eagle's Landing, Inc.; or
- Move to deny Resolution 13-2009: *A Resolution Granting a License for the Encroachment into the Public Right-of-Way of certain Improvements Located Adjacent to Lots 9-11, Block 11, Town of Grand Lake*.

Darrell Herk, Building Manager, was recognized from the audience. He apologized to the Board and said that he had no idea that an Encroachment License was needed.

Trustee Lewis suggested that language be added to the resolution stating that the Grantee is responsible for maintenance.

Following brief discussion, Trustee Lewis moved to adopt Resolution No. 13-2009, A Resolution Granting a License for the Encroachment Into the Public Right-of-Way of Certain Improvements Located Adjacent to Lots 9-11, Block 11, Town of Grand Lake with the with the condition that an Indemnification Agreement is signed by Eagle's Landing, Inc. and that the resolution is amended to acknowledge the Indemnification Agreement which will be attached as Exhibit C and that Section 4 of the resolution is amended to require the Grantee to perform normal maintenance. Trustee Weydert seconded the motion and all Trustees voted aye.

NEW BUSINESS:

CONSIDERATION TO AUTHORIZE THE MAYOR TO SIGN A CONTRACT AND GRANT OF EASEMENT BETWEEN THE TOWN OF GRAND LAKE AND THE UNITED STATES OF AMERICA DEPARTMENT OF ENERGY WESTERN AREA POWER ADMINISTRATION (WAPA) – Mayor Burke asked Town Manager Hale to present this matter to the Board. Hale explained that WAPA received many phone calls when they cut down trees in their easement last year. Through discussions with Paul Harrington, Landscape Contractor, and adjoining property owners, four areas have been identified for replanting along West Portal Road. They are replanting at the McKinstry/McWilliams parcel; hydro seeding in the swale on the north side of West Portal across from the Coker Parcel, Peterson/Maki residence, etc.; replanting in front of the Reed's; and replanting just east of Triangle Park. All but the latter are actually outside of Town, but within Town right-of-way. For this effort, WAPA has set aside \$17,000, and Paul Harrington has plans not to exceed \$17,000. Additionally, the lion's share of the replanting effort will go towards the stretch east of Triangle Park; which is the most devastated portion, and the area that the Town had highlighted as being in need of replanting. Staff's unease with all of these replantings was the future maintenance. Thus, staff has spoken with property owners in all three sections, excluding the hydro-seed which doesn't need to be watered, and they are willing to water the plantings. The Town would be contracting directly with the landscaper and treating WAPA's money as an unbudgeted pass-through cost. So, because the Town is working with WAPA on this replanting effort, they decided that it would be nice to clarify their easement language. The agreement includes suggested language from the Town Attorney, with the exception of his #6, referring to Section 10. For this Section, Hale spoke with the Town Attorney Scotty and it was agreed that there is a very low probability that the Town would have a liability with this language. The Town's basic liability is that if WAPA were dissolved, and it weren't taken over by another power supplier, and if they decided not to remove their former infrastructure, then we could be left with the bill of pulling down these power poles. So, if it actually happened that way then the Town would have an enormous liability, but the chances of all of that happening is very slim indeed. Finally, it's the liability that the Town already has; since the Town doesn't currently have anything in place now that would require WAPA to remove its infrastructure, the Town is not giving up anything by entering into this agreement. If the Board is comfortable with the information provided, the staff recommendation is for the Board to authorize the Mayor to sign the Contract and Grant of Easement between the Town of Grand Lake and the United States of America Department of Energy Western Area Power Administration.

Trustee Weydert moved to authorize the Mayor to sign the Contract and Grant of Easement between the Town of Grand Lake and the United States of America Department of Energy Western Area Power Administration. Trustee Johnson seconded the motion and all Trustees voted aye.

NEW BUSINESS:

CONSIDERATION TO AUTHORIZE THE MAYOR TO SIGN THE LICENSE AGREEMENT BETWEEN THE TOWN OF GRAND LAKE AND WESTERN AREA POWER ADMINISTRATION (WAPA) FOR THE FIRE DEPARTMENT BIOSWALE PROJECT AND CONSIDERATION TO AUTHORIZE THE MAYOR TO SIGN THE WAPA RIGHT-OF-WAY USE APPLICATION - Mayor Burke asked Town Manager Hale to present this matter to the Board. Hale presented a copy of the License Agreement as well as a Right-of-Way Use Application from WAPA. Once signed, these documents will allow the Town to proceed with its replanting efforts at the fire department bioswale, Colorado Department of Transportation project. The crux of the agreement begins in section (h), where the Town, the licensee, will limit plantings to 15' maximum mature height and the Town agrees to keep it trimmed so it doesn't ever exceed that height. These details have been worked out with Gary Rossler, Landscape Architect, and Paul Harrington, Landscape Contractor, and both believe that this should not be a problem. To be clear, it is possible that at full growth, some of the shrubs may reach or even try to exceed the maximum height but they should be relatively easy to maintain if they do. Harrington doesn't believe that it is likely that they will ever get that tall at this elevation/with these conditions, but in the event that these really take off, a maintenance schedule should be easy to implement.

1. The staff recommendation is for the Board of Trustees to authorize the Mayor to sign the License Agreement between the Town and WAPA for the Fire Department bioswale project.
2. Additionally, the staff recommendation is for the Board of Trustees to authorize the Mayor to sign the WAPA Right-of-Way Use Application.

Trustee Peterson moved to authorize the Mayor to sign the License Agreement between the Town and WAPA for the Fire Department bioswale project. Trustee Lewis seconded the motion and all Trustees voted aye.

Trustee Peterson then moved to authorize the Mayor to sign the WAPA Right-of-Way Use Application. Trustee Weydert seconded the motion and all Trustees voted aye.

NEW BUSINESS:

CONSIDERATION TO AUTHORIZE THE TOWN MANAGER TO ENTER INTO AN AGREEMENT FOR ARCADE SERVICES WITH GREG BARNES FOR THE 2009 SEASON, ONCE APPROPRIATE INSURANCE IS PROVIDED TO THE TOWN - Mayor Burke asked Town Manager Hale to present this matter to the Board. Hale explained that the marina evolved from an arcade agreement that was base upon a percentage to one that is based on a negotiated flat rate. The payments in this agreement are the same as 2008, \$5,500 which will be payable over a five month period. Hale noted that Greg Barnes has executed the agreement and that he has received the required proof of insurance. The staff recommendation is for the Board of Trustees to authorize the Town

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Manager to enter into an Agreement for Arcade Services with Greg Barnes for the 2009 season.

Trustee Johnson moved to authorize the Town Manager to enter into an Agreement for Arcade Services with Greg Barnes for the 2009 season. Trustee Peterson seconded the motion and all Trustees voted aye.

ACCOUNTS PAYABLE

May, 2009:

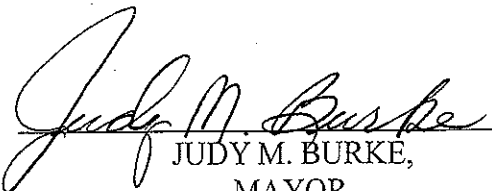
Trustee Peterson moved to examine the Accounts Payable and Prepaid for all Funds for the Town of Grand Lake. Trustee Weydert seconded the motion and all Trustees voted aye. Trustee Peterson moved to approve the Accounts Payable and Prepaid for all Funds for the Town of Grand Lake. Trustee Weydert seconded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

CITIZEN PARTICIPATION: Karen Norberg was recognized from the audience. She is the owner of the six small cottages at 207 Garfield Street and the owner of the house at 1117 Park Avenue known as "Arts on Park" and the cottage next door. She explained that because of her age and the fact that she has a bad right hip, she purchased an electric golf cart to run supplies and laundry between the two properties through the alley. She said that at the time she purchased it, she had no idea that it was not legal. She then asked the Board for permission to use her golf cart in the alley between her two properties.

During discussion, the Board of Trustees agreed that they would be willing to conduct a Public Hearing regarding this matter and asked staff to draft an ordinance for consideration.

ADJOURNMENT:

Trustee Johnson moved to adjourn, seconded by Trustee Peterson. All Trustees voted aye, and the meeting was adjourned at 8:23 p.m., June 8, 2009.



JUDY M. BURKE,
MAYOR

ATTEST: 

RONDA KOLINSKE, CMC,
TOWN CLERK