

RECORD OF PROCEEDINGS

REGULAR MEETING
TOWN OF GRAND LAKE BOARD OF TRUSTEES
MONDAY, SEPTEMBER 28, 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 7:34 p.m. at the Town Hall, 1026 Park Avenue.

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

ABSENT: None.

APPROVAL OF MINUTES
September 14, 2009: Minutes were not available.

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 Fire Protection District will be conducting a "Fire Prevention Week" Open House, Wednesday, October 7 from 3 – 7 p.m. at the Fire Station. There will be complimentary BBQ and refreshments and guest appearances by Smokey the Bear and Sparky the Fire Dog.

Mayor Burke announced that recycling will no longer be available after September 30, 2009.

Mayor Burke then congratulated Trustee Jim Peterson and his wife, Suzi Maki for being awarded Citizens of the Year by the Grand Lake Rotary Club.

REPORTS: SALES TAX
CASH FLOW REPORT
FOR SEPTEMBER 2009:

Mayor Burke asked Town Clerk Kolinske to present the sale tax cash flow report. Kolinske reported that the amount of revenue received in September for the month of July is \$162,467. This amount is nearly 12% below what was received through September 2008.

REPORTS: FINANCIAL
REPORT:

Mayor Burke asked Financial Trustee Peterson to present the Financial Report for August 2009. Peterson reported that General Fund expenditures through the end of August totaled \$996,738.92 or 39.8% of budget. He said the Water Fund expenditures for the same period totaled \$223,344.05 or 46.9% of budget and the Marina Fund expenditures totaled \$88,615.19 or 31.2% of budget.

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

LIQUOR LICENSING AUTHORITY: CONSIDERATION OF SETTING A PUBLIC HEARING

FOR A NEW TAVERN LIQUOR LICENSE FOR J.R.'S GRILL, LLC, D/B/A J.R.'S GRILL – Mayor Burke asked Town Clerk Kolinske to present this matter to the Board. Kolinske explained that an application for a new Tavern Liquor License was received on September 4, 2009, with the appropriate fees, evidence of possession, and floor diagram, from J.R.'s Grill, LLC, d/b/a J.R.'s Grill. The proposed location is at 1007 Lake Avenue. The property is zoned Commercial. The location is more than 500 feet from any educational institution, and no license has been denied for this location in the last two years; therefore, state statute does not prohibit liquor from being sold from this location. The applicant is required to attend the Board meeting at which the application is received by the Local Authority. The Local Liquor Licensing Authority, the Board of Trustees, may require the applicant to provide evidence of the reasonable requirements of the neighborhood and the desires of the inhabitants. If the Board so requires, it may wish to set the boundaries of the "neighborhood" and establish what is required from the applicant to demonstrate the reasonable requirements of the neighborhood and the desires of the inhabitants. The Board must schedule a Public Hearing on the application not less than 30 days from the date of the application. Staff recommends that a Public Hearing be set for October 12, 2009. Public notice of the hearing must be posted on the premises and published not less than 10 days prior to the date of the hearing. The notice must be published at least once and provide the type of license applied for, the name and address of the applicant, the date of the application, and the date of the hearing. The Local Authority, or clerk, must provide any findings to the applicant at least 5 days prior to the hearing. The Public Hearing is to be conducted as a quasi-judicial proceeding and in a manner which assures all interested parties a fair and reasonable opportunity to present views and information, and such that the applicant's procedural rights of fundamental fairness be protected. The Board must make a specific finding of fact from evidence adduced at the hearing regarding the desires of the adult inhabitants of the Town, and it must deny the application if it finds the sale of liquor at such a location is contrary to those desires. The Board must consider the moral character of the applicant; the reasonable requirements of the neighborhood; the desires of the adult inhabitants of the neighborhood; the number, type and availability of liquor outlets located in or near the neighborhood; and other reasonable restrictions which are or may be placed on the neighborhood by the Local Licensing Authority, Board of Trustees. Kolinske noted that Jon and Alyda Parker, applicants, were present.

Trustee Peterson moved to set a Public Hearing for October 12, 2009 to consider a new Tavern Liquor License for J.R.'s Grill, LLC, d/b/a J.R.'s Grill and to set the boundary of the Town of Grand Lake. Trustee Weydert seconded the motion and all Trustees voted aye.

LIQUOR LICENSING AUTHORITY: **CONSIDERATION OF A MODIFICATION OF PREMISES REQUEST FROM GRAND LAKE BOWLING LANES, LLC, D/B/A GRAND LAKE LANES** – Mayor Burke asked Town Clerk Kolinske to present this matter to the Board. Kolinske explained that an Application for Modification of Premises was received, with the appropriate fees, from Grand Lake Bowling Lanes, LLC, d/b/a Grand Lake Lanes at 824 Grand Avenue. The request is to add the 17' 9" x 44' covered entry area porch to the premises. The porch is under construction and near completion. Physical changes, alterations or modifications of the licensed premises, or in the usage of the premises, by Local Authority and State Authority, shall include, but not be limited to, the following:

1. Any increase or decrease in the total size or capacity of the licensed premises.
2. The sealing off, creation of, or relocation of a common entryway, doorway, passage or other such means of public ingress and/or egress, when such common entryway, doorway or passage permits access to the licensed premises from or between public streets or thoroughfares, adjacent or abutting building, rooms or premises.
3. Any substantial or material enlargement of a bar, or relocation of a bar, or addition of a separate bar.

A copy of the completed application has been sent to the Grand County Sheriff's Department for approval but as of this date staff has not received a reply, therefore, should the Board approve this request, a motion should be made contingent upon receiving approval from the Grand County Sheriff's Department. Kolinske noted that Tom Tompkins, Manager, was present.

Trustee Peterson moved to approve a Modification of Premises request from Grand Lake Bowling Lanes, LLC, d/b/a Grand Lake Lanes contingent upon receiving approval from the Grand County Sheriff's Department. Trustee Rhone seconded the motion and all Trustees voted aye.

At 7:48 p.m. Trustee Johnson resumed his seat.

OLD BUSINESS:

PUBLIC HEARING – CONSIDERATION OF ORDINANCE NO. 33-2009, AN ORDINANCE AMENDING THE TOWN OF GRAND LAKE MUNICIPAL CODE CHAPTER 12, ARTICLE 2, ZONING REGULATIONS – Mayor Burke asked Town Planner Wittman to present this matter to the Board. Wittman explained that on August 24, the Board of Trustees reviewed proposed changes to Municipal Code Chapter 12, Article 2: *Zoning Regulations*, as recommended by the

Planning Commission. The Board chose to schedule a Public Hearing for this matter to be held on September 28, 2009. Legal Notice No. 3932729 was published in the Middle Park Times on the 27th of August. No comments have been received. At the meeting in August, the Board reviewed the proposed changes to: *Uses Permitted By Right, Conditional Uses, Definitions, Parking Regulations, Special and Conditional Uses*. At that time, the Board specifically directed staff to alter the proposed ordinance to incorporate desired changes to Special Use. Staff has overhauled this section of the code and incorporated it into the draft ordinance; the Board should review this section to ensure that it meets the desires of the Board. Staff has also incorporated, where applicable, staff's ability to set a Public Hearing, if one is required, as well as the provision that all payments must be made to the Town for any debts, including to Town enterprises, prior to staff review or permit issuance. Town staff had previously made the recommendation that the parking requirement calculation for restaurants, bars, lounges and coffee shops would now be calculated on a per occupancy rate. This was discussed as a means for calculation for these types of businesses as it may be more of an appropriate calculation of how many spaces would be needed, as opposed to square footage. In configuring the calculations for various structures, it has come to the attention of Town staff that, for the most part, structures/establishments have not been given an occupancy rating by the Building Department and to conduct these sorts of calculations, Town staff would have to work with the property owners to measure the property, draw a scaled floor plan and then pass this onto Grand County Building Department to obtain an occupancy rating; there was no determination in discussion with the Building Department that we would have this completed in a timely fashion. Staff is proposing that at this time these types of establishments are calculated on total square footage at one parking space per every 250 square feet. This is what the current calculation is and a greater requirement than is set forth by many of the other uses listed but it is also the approximate average of "per square foot" calculations that are conducted by five other Colorado communities. Wittman presented the Board with a table setting of a revised draft ordinance with changes that were discussed at the afternoon workshop. The changes are as follows:

1. The excess table was removed regarding parking regulations.
2. Section 31, Article 2, Chapter 12, 17. 2. (2) (O) 1. the damage deposit has been changed to \$100.
3. Section 31, Article 2, Chapter 12, 17. 2. (2) (P) was added to read, "The applicant shall indemnify the Town of Grand Lake. Proposed events involving alcohol, livestock, or events that could cause harm to persons or property, or items of similar nature as determined by the Town."

The Board should open the Public Hearing and take comments. Once all comments have been received, the Board should close the Public

RECORD OF PROCEEDINGS

Hearing and discuss. Once all discussion has taken place, the Board should move to either:

Approve Ordinance 33-2009: *An Ordinance Amending the Town of Grand Lake Municipal Code Chapter 12, Article 2: Zoning Regulations* with the noted changes; or

Continue the review of Ordinance 33-2009: *An Ordinance Amending the Town of Grand Lake Municipal Code Chapter 12, Article 2: Zoning Regulations* and direct staff to incorporate any discussed changes and bring back to the Board for review at a later date.

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 brief discussion, Trustee Johnson moved to adopt Ordinance No. 33-2009, an Ordinance Amending the Town of Grand Lake Municipal Code Chapter 12, Article 2 Zoning Regulations with the noted changes. Trustee Rhone seconded the motion and all Trustees voted aye.

OLD BUSINESS:

CONSIDERATION OF RESOLUTION NO. 24-2009, A RESOLUTION APPOINTING GEORGIA NORIYUKI AS GRAND LAKE MUNICIPAL COURT JUDGE AND RICHARD MCQUEARY AS AN ADDITIONAL GRAND LAKE MUNICIPAL COURT JUDGE – Mayor Burke asked Town Code Enforcement Officer Korkowski to present this matter to the Board. Korkowski explained that Judge Noriyuki has requested the Town appoint an additional judge for the Municipal Court in cases where she might be unavailable for the scheduled court date or the issue of a conflict of interest arises. The Town currently has 2 such cases going to trial next month. The Board has the authority to appoint additional Municipal Court Judges under Municipal Code 5-2-1. Although Colorado Court Rules do not specify that a judge in a Municipal Court – not of record, which is what Grand Lake’s Municipal Court, needs to be a lawyer, the Town should consider appointing a person who has legal training at a minimum. Judge Noriyuki has talked with Richard McQueary, a local resident and lawyer, who has agreed to stand in for her when she is unavailable. Staff has discovered that Judge Noriyuki was appointed by the Board to be the Municipal Court Judge, but that no resolution was ever presented to the Board for adoption. Municipal Code requires the judges be appointed by resolution. At their 09-14-09 meeting, the Board wanted clarification on the surety bond that is listed in Municipal Code. Per the Town Attorney, there is no State requirement, but the Town may require it, for a required surety bond, and he recommends removing that requirement from Municipal Code. Staff will be coming back to the Board at a later meeting with several changes to the Municipal Code in

reference to surety bonds and procedures for appointing several Town positions. Staff recommends the Board confirm the appointment of Georgia Noriyuki as Municipal Court Judge and appoint Richard McQueary as an additional Municipal Court Judge by adopting Resolution #24-2009, *A Resolution Appointing Georgia Noriyuki as Grand Lake Municipal Court Judge and Richard McQueary as an additional Grand Lake Municipal Court Judge.*

Trustee Johnson moved to adopt Resolution #24-2009, A Resolution Appointing Georgia Noriyuki as Grand Lake Municipal Court Judge and Richard McQueary as an additional Grand Lake Municipal Court Judge. Trustee Rhone seconded the motion and all Trustees voted aye except Trustee Lanzi, who abstained.

OLD BUSINESS:

CONSIDERATION OF ORDINANCE NO. 32-2009, AN EMERGENCY ORDINANCE DETERMINING THE ACCEPTANCE OF, THE DETERMINATION OF PUBLIC VALUE FOR, AND CONVEYANCE OF PROPERTY (TO THE EXTENT THERE IS NO PUBLIC VALUE FOR) CERTAIN LANDS LOCATED IN THE TOWN OF GRAND LAKE OWNED BY THE GRAND COUNTY BOARD OF COUNTY COMMISSIONERS – Mayor Burke asked Town Planner Wittman to present this matter to the Board. Wittman explained that at the last meeting a Public Hearing was held for the determination of the acceptance of, the public value for and the conveyance of, if there was no public value determined, for those parcels that are located in the Town of Grand Lake and currently owned by the Board of County Commissioners. At that time, the Board directed staff to draw up an ordinance for consideration at their next regularly scheduled meeting. Ordinance No. 32-2009 has been drafted per the Board’s discussion. Staff has drafted this ordinance to be considered for adoption as an emergency ordinance to ensure that the Town will accept and convey the parcels in a timely fashion given the constraints that may become an issue if winter weather persists. Town Attorney Krob has prepared Quit Claim Deeds for the conveyance of the parcels. She asked the Board to review the draft ordinance for any further discussion and for determination that the actions described in the ordinance are still the desirable actions. If the Board is favorable, staff makes the recommendation that the Town Board move to adopt Ordinance No. 32-2009, *An Emergency Ordinance Determining the Acceptance of, the Determination of Public Value for, and the Conveyance of Property (To the Extent There is no Public Value For) Certain Lands Located in the Town of Grand Lake Owned By the Grand County Board of County Commissioners* as well as to direct staff to proceed with the recording of the appropriate documents.

During discussion of the Parcels, Trustee Peterson noted that he is opposed to the Town retaining a 15' wide easement on Parcel D.

Following discussion, Trustee Lewis moved to adopt Ordinance No. 32-2009, An Emergency Ordinance Determining the Acceptance of, the Determination of Public Value for, and the Conveyance of Property (To the Extent There is no Public Value For) Certain Lands Located in the Town of Grand Lake Owned By the Grand County Board of County Commissioners and directed staff to proceed with the recording of the appropriate documents. Trustees Lewis, Rhone, Weydert and Mayor Burke voted aye. Trustees Johnson, Lanzi and Peterson voted nay. Motion carried.

NEW BUSINESS:

ORDINANCE NO. 34-2009, AN ORDINANCE AMENDING CHAPTER 12, ARTICLE 7: DESIGN REVIEW STANDARDS, OF THE MUNICIPAL CODE OF THE TOWN OF GRAND LAKE – Mayor Burke asked Town Planner Wittman to present this matter to the Board. Wittman explained that during the last meeting of the Planning Commission, the Commission reviewed draft Ordinance No. 34-2009 for updates to Municipal Code Chapter 12, Article 7: *Design Review Standards*. As a reminder, the Town adopted this section of the code in May, 2009. At that time, there were ideas that were present in the ordinance that have not been the most easy to effectively administer. Staff and the Planning Commission have had conversations regarding rolled roofing and trash receptacles and whether or not the policies that were adopted in May were really the intention that the Town may have had when developing and adopting this ordinance. Over the last few meetings, staff has brought components of the Design Review Standards to the Commission for discussion for the creation of the ordinance. Draft Ordinance No. 34-2009 aims to clean up the aforementioned sections of this Article of the Code. In summary each of the individual sections of the ordinance are outlined as follows:

Part 1: Excludes Boathouse and Boat Docks from the provisions of this section. As a reminder, the Town is working with Grand County Planning and Zoning on uniform development practices for these types of developments. That section of the Code outlines design criteria, significantly more strict than this section of the code.

Part 2: Defines – ‘Community Trash Receptacle’, ‘Trash Receptacle’ and ‘Waste’

Part 3: Allows for 1:1 replacement of rolled roofing, otherwise needing PC approval, and including AWAPLAN, or similar material, as an “Approved Roofing Material”. This section also addresses Trash Receptacles on the public Rights-of-Way. Essentially, all new community trash facilities will be required to be accessed through the

alley. For those that cannot be, they will need to be screened from public view and if it is proposed to be located on the public rights-of-way, permission will need to be obtained by the Town.

Part 4: Proposes alterations to commercial design review. Staff is proposing that if it is a new commercial development, the review will still go to the Commission but if it is a remodel and all of the materials proposed are items that are included in the code as acceptable, then staff should be able to conduct the design review but may retain the right to bring the matter before the Commission.

Part 5: Code error in that the Building Official needs to be omitted and replaced.

Part 6: Repeals the sunset that was enacted in May and delineates a sunset for one year after the approval date of the draft ordinance, to give ample time for compliancy.

Staff recommends that the Board discuss the aforementioned parts of the ordinance. Once all discussion has taken place, the Board should act on the item. This section of the code is not required to have a Public Hearing held on the matter but the Board may choose to do so. She said that during discussion at the afternoon workshop it seems that there needs to be more discussion regarding trash receptacles, therefore, she recommended that the Board table this matter until October 12 which will be enough time to take this back before the Planning Commission on October 7, 2009.

Following discussion, Trustee Weydert moved to continue consideration of Ordinance No. 34-2009, An Ordinance Amending Chapter 12, Article 7: Design Review Standards of the Municipal Code of the Town of Grand Lake until October 12, 2009. Trustee Lewis seconded the motion and all Trustees voted aye.

NEW BUSINESS:

CONSIDERATION TO AWARD THE VISITOR'S CENTER AND FIRE DEPARTMENT LANDSCAPING ENGINEERING/PROJECT MANAGEMENT TO MC DOWELL ENGINEERING, LLC AND TO AUTHORIZE THE TOWN MANAGER TO ENTER INTO A COST PLUS FIXED FEE TYPE OF CONTRACT WITH MCDOWELL ENGINEERING, LLC FOR THIS PROJECT ONCE IT HAS BEEN REVIEWED AND APPROVED BY COLORADO DEPARTMENT OF TRANSPORTATION (CDOT) – Mayor Burke asked Town Manager Hale to present this matter to the Board. Hale explained that per CDOT requirements, the Town advertised for the project manager/engineering portion of the Visitor's Center Landscaping Project. CDOT has a few requirements; the first of which is that the design engineer must be

different from the project engineer, which is why the Town is not using Vision Land for the entire project. CDOT also requires that they be selected based upon qualifications, and not upon other considerations, like cost. Finally, CDOT requires that the Town enter into a cost plus fixed fee type of contract that CDOT reviews prior to execution. The Town received two statements of qualifications; the first from McDowell Engineering of Fraser and the second from Carroll & Lange—Manhard of Winter Park. Per the Town's purchasing policies, he said that the qualifications were reviewed by three staff members, Town Code Enforcement Officer Korkowski, Town Planner Wittman, and himself. Each reviewer scored McDowell the highest, with the total aggregate score being McDowell: 231; Carroll & Lange - Manhard: 193. If the Board agrees with staff, the recommendation is to award the Visitor's Center and Fire Department Landscaping Engineering/Project Management to McDowell Engineering, LLC. Secondly, the staff recommendation is for the Board to authorize the Town Manager to enter into a cost plus fixed fee type of contract with McDowell Engineering for this project once it has been reviewed and approved by CDOT. Hale noted that Kari McDowell was present.

Trustee Rhone moved to award the Visitor's Center and Fire Department Landscaping Engineering/Project Management to McDowell Engineering, LLC. Trustee Peterson seconded the motion and all Trustees voted aye.

Trustee Rhone then moved to authorize the Town Manager to enter into a cost plus fixed fee type of contract with McDowell Engineering for this project once it has been reviewed and approved by CDOT. Trustee Peterson seconded the motion and all Trustees voted aye.

NEW BUSINESS:

CONSIDERATION OF AN EXCEPTION TO RESOLUTION NO. 5-2009, A RESOLUTION REVISING THE RULES, REGULATIONS, AND FEES FOR THE TOWN OFF-PREMISE SIGN PROGRAM (TOPS) IN THE TOWN OF GRAND LAKE, COLORADO FOR TRINITY CHURCH IN THE PINES – Mayor Burke asked Town Code Enforcement Officer Korkowski to present this matter to the Board. Korkowski explained that Ann Stark of Trinity Church in the Pines has submitted a request to add a third line to their TOPS sign located on the southeast corner of Grand and Broadway. The third line would add information about the days the Food Bank at the church is open. The TOPS sign Resolution No. 5-2009 limits a TOPS sign to only 2 lines of information. Ann Stark is asking the Board to allow a third line. Korkowski concluded by saying that staff does not have the authority to approve this exception to the Municipal Code.

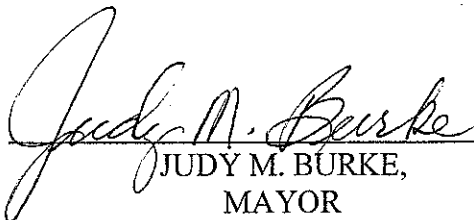
Trustee Lewis suggested that they remove their second sign which reads, "in the Pines" and add the food bank as their second line.

RECORD OF PROCEEDINGS

Following discussion, Trustee Johnson moved to deny the request to add a third line to Trinity Church in the Pines' TOPS sign. Trustee Lanzi seconded the motion and all Trustees voted aye.

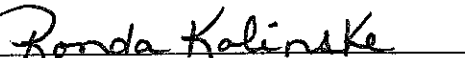
CITIZEN PARTICIPATION: Alan Olson, 587 County Road 4454, was recognized from the audience. He read a statement regarding ACORN (see attached Exhibit A). The Board explained to Olson that in light of the Town's crackdown on voter registration in 2008, Grand Lake has shown that it is serious about the subject. Town Manager Hale further explained that due to reports that individuals with ACORN were involved with voter registration malfeasance, not the organization accused as a whole, the Town Board opted to refrain from taking a stand. This decision was further supported by Congress's and the Census Bureau's recent actions.

ADJOURNMENT: Trustee Lewis moved to adjourn, seconded by Trustee Rhone. All Trustees voted aye, and the meeting was adjourned at 8:30 p.m., September 28, 2009.



JUDY M. BURKE,
MAYOR

ATTEST.



RONDA KOLINSKE, CMC,
TOWN CLERK

Exhibit A

Statement on ACORN

Last ~~week~~^{MEETINGS} you were presented a resolution opposing any activity in Grand Lake by the Association of Community Organizations for Reform Now. (ACORN) I have no complaint about the resolution as presented to you, but I'd like to read to you the resolution as originally submitted.

"Whereas the Association of Community Organizations for Reform Now, commonly known as ACORN, has committed voter registration fraud on a large scale in various states, co-mingled taxpayer funds directed to 501(c)(3) organizations with those used for partisan political activities and suborned embezzlement by one of its own officers, the Town of Grand Lake wishes it to be known that we consider ACORN a threat to the election process, and therefore, in the interests of our citizens do oppose any activity in our community by representatives of ACORN or any of its affiliates, including census taking, and ask the federal government to not distribute any further money to these organizations."

At the time the resolution was submitted ACORN was in line to receive over \$8 billion in taxpayer funds, much of that for assistance with the next census. Even though just a few days before your last meeting the Census Bureau dropped them, that by no means eliminated the threat posed by this conglomerate of political and not for profit organizations. Across the country ACORN representatives have been arrested and convicted of voter registration fraud. Apparently, agents were in Granby during the 2008 campaign.

A month ago we submitted copies for each of you of the 10 page Executive Summary of the Congressional Oversight Committee's report on its investigation of ACORN. If you read those, you have a good idea of the nefarious activities of this probably criminal organization.

We feel the Town Board has the responsibility to be a voice for the community. This resolution was an opportunity for Grand Lake to speak out in defense and support of our town's independent nature. The government of Grand Lake should have gone on record that it would not condone the activities of this corrupt organization. There is no partisanship in this resolution. Just this week both houses of Congress voted overwhelmingly to cut off funding for ACORN, and the IRS dropped them from their taxpayer assistance program. We could have been proud to be ahead of the news. ACORN isn't going away, and we need to speak out and be sure our own state stops any funding for ACORN organizations. We are very disappointed, but we're ready to move forward and write this off as a missed opportunity.