

RECORD OF PROCEEDINGS

REGULAR MEETING
TOWN OF GRAND LAKE BOARD OF TRUSTEES
MONDAY, DECEMBER 14, 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 7:35 p.m. at the Town Hall, 1026 Park Avenue.

PRESENT: Mayor Burke; Trustees Johnson, Lanzi, Lewis, Peterson, Rhone, and Weydert; Town Manager Hale and Town Treasurer/Clerk Pro-Tem Dzinski.

ABSENT: None.

APPROVAL OF MINUTES

November 23, 2009: Trustee Lewis moved to approve the minutes of the November 23, 2009 regular meeting as written, seconded by Trustee Weydert. All Trustees voted aye except Trustees Lanzi and 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 Board of Trustees' second December meeting is cancelled as is traditional during the Holiday Season. The next Board meeting will be January 11, 2010.

Mayor Burke said please enjoy this holiday season with the holiday family melodrama, "*Peril at Pumpernickle Pass*", a reception at the Kauffman House Dec. 26 and Jan. 2, and fireworks on New Year's Eve.

Mayor Burke announced that vacancies exist on the Planning Commission, the Board of Adjustment, and the Cemetery Committee. Anyone interested in serving on any of these boards is encouraged to submit a letter of interest to Grand Lake Town Hall.

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

Mayor Burke asked Town Treasurer/Clerk Pro-Tem Dzinski to present the sale tax cash flow report. Dzinski reported that the amount of revenue received in December for the month of October, 2009 is \$36,130. This amount is over 11% below what was received through December 2008.

REPORTS: FINANCIAL
REPORT:

Mayor Burke asked Financial Trustee Peterson to present the Financial Report for November 2009. Peterson reported that General Fund expenditures through the end of October totaled \$1,617,724.10 or 64.5% of budget. He said the Water Fund expenditures for the same period

RECORD OF PROCEEDINGS

totaled \$320,331.54 or 67.3% of budget and the Marina Fund expenditures totaled \$141,518.58 or 49.8% of budget. He indicated that expenditures are well below budgeted amounts and that investments are tracking as well as could be expected.

Trustee Weydert then moved to alter the agenda and move consideration of the Grand Arts Council special events liquor permits to the end of the agenda to allow time for a representative of the Council to arrive. Trustee Lewis seconded and all Trustees voted aye.

OLD BUSINESS:

PUBLIC HEARING – CONSIDERATION OF ORDINANCE NO. 41-2009, AN ORDINANCE ADOPTING THE SUPPLEMENTAL BUDGET AND APPROPRIATING ADDITIONAL SUMS OF MONEY TO DEFRAY EXPENSES IN EXCESS OF AMOUNTS BUDGETED FOR THE TOWN OF GRAND LAKE DEBT SERVICE FUND FOR THE 2009 BUDGET YEAR – Mayor Burke asked Town Treasurer/Clerk Pro-Tem Dzinski to present this matter to the Board. Dzinski explained that the proposed 2009 Supplemental Budget for the Town of Grand Lake Debt Service Fund was being submitted to the Board of Trustees for consideration at the Public Hearing scheduled for December 14, 2009. Legal Notice No. 4325485, Notice of Proposed Supplemental Budget for the Town of Grand Lake Debt Service Fund, setting the public hearing was published in the *Middle Park Times* on Thursday, November 26, 2009. The Board of Trustees must adopt the Supplemental Budget and appropriate additional sums of money before the end of the fiscal year, December 31, 2009. At 7:40 p.m. Mayor Burke opened the public hearing on the Debt Service Fund 2009 Supplemental Budget. No members of the public were present and there were no comments, written or oral, from the public on the supplemental budget. Mayor Burke closed the public hearing at 7:40. Dzinski then indicated that the Board had before it for consideration Ordinance No. 41-2009, an Ordinance Adopting the Supplemental Budget and Appropriating Additional Sums of Money to Defray Expenses in Excess of Amounts Budgeted for the Town of Grand Lake Debt Service Fund for the 2009 Budget Year. Staff recommended adoption of Ordinance No. 41-2009 in accordance with Colorado budget law. Trustee Rhone moved to adopt Ordinance No. 41-2009, an Ordinance Adopting the Supplemental Budget and Appropriating Additional Sums of Money to Defray Expenses in Excess of Amounts Budgeted for the Town of Grand Lake Debt Service Fund for the 2009 Budget Year. Trustee Lewis seconded. There was no discussion and all Trustees voted aye.

NEW BUSINESS:

CONSIDERATION OF RESOLUTION NO. 30-2009, A RESOLUTION SUMMARIZING EXPENDITURES AND REVENUES FOR EACH FUND AND ADOPTING A BUDGET FOR THE TOWN OF GRAND LAKE, COLORADO, FOR THE

CALENDAR YEAR BEGINNING ON THE FIRST DAY OF JANUARY, 2010, AND ENDING ON THE LAST DAY OF DECEMBER, 2010 - Mayor Burke asked Town Treasurer/Clerk Pro-Tem Dzinski to present this matter to the Board. Dzinski explained that the proposed 2010 Budget for the Town of Grand Lake was submitted to the Board of Trustees on October 12, 2009. The Board set the 2010 Budget for public hearing on November 9, 2009. Notice of the Proposed Budget was published in the *Middle Park Times* on Thursday, October 22, 2009, Legal Notice No. 4177792, advising the public of the Public Hearing and of the availability of the draft budget for review. The public hearing was held on November 9, 2009, at the regularly scheduled meeting of the Board of Trustees. There were no comments, written or oral, from the public on the budget. Resolution No. 30-2009 summarizes expenditures and revenues in each Fund and adopts a budget that allows for estimated expenditures in the General Fund, Water Enterprise Fund, Marina Enterprise Fund, and Debt Service Fund in the total amount of \$2,598,094. The total expenditures in each fund are balanced with revenues in the same amount. Staff recommended the Board adopt Resolution No. 30-2009, a Resolution Summarizing Expenditures and Revenues for Each Fund and Adopting a Budget for the Town of Grand Lake, Colorado, for the Calendar Year Beginning on the First Day of January, 2010, and Ending on the Last Day of December, 2010.

Trustee Johnson moved to adopt Resolution No. 30-2009, a Resolution Summarizing Expenditures and Revenues for Each Fund and Adopting a Budget for the Town of Grand Lake, Colorado, for the Calendar Year Beginning on the First Day of January, 2010, and Ending on the Last Day of December, 2010. Trustee Rhone seconded. There was no discussion and all Trustees voted aye.

NEW BUSINESS:

CONSIDERATION OF ORDINANCE NO. 43-2009, AN ORDINANCE APPROPRIATING SUMS OF MONEY TO THE VARIOUS FUNDS AND SPENDING AGENCIES, IN THE AMOUNTS AND FOR THE PURPOSES AS SET FORTH BELOW, FOR THE TOWN OF GRAND LAKE, COLORADO FOR THE 2010 BUDGET YEAR - Mayor Burke asked Town Treasurer/Clerk Pro-Tem Dzinski to present this matter to the Board. Dzinski explained that upon adoption of the budget, with money budgeted to be received and expended, the Board must appropriate sums of monies for the expenditures. Ordinance No. 43-2009 appropriates the necessary monies as follows:

General Fund	\$1,762,696
Water Enterprise Fund	\$ 488,651
Marina Enterprise Fund	\$ 325,130
Debt Service Fund	\$ 21,618

RECORD OF PROCEEDINGS

Staff recommended the Board adopt Ordinance No. 43-2009, an Ordinance Appropriating Sums of Money to the Various Funds and Spending Agencies, in the Amounts and for the Purposes as Set Forth Below, for the Town of Grand Lake, Colorado, for the 2010 Budget Year.

Trustee Lewis moved to adopt Ordinance No. 43-2009, an Ordinance Appropriating Sums of Money to the Various Funds and Spending Agencies, in the Amounts and for the Purposes as Set Forth Below, for the Town of Grand Lake, Colorado, for the 2010 Budget Year. Trustee Rhone seconded. There was no discussion and all Trustees voted aye.

NEW BUSINESS:

CONSIDERATION OF RESOLUTION NO. 31-2009, A RESOLUTION LEVYING GENERAL PROPERTY TAXES FOR THE YEAR 2009, TO HELP DEFRAY THE COSTS OF GOVERNMENT FOR THE TOWN OF GRAND LAKE, COLORADO, FOR THE 2010 BUDGET YEAR - Mayor Burke asked Town Treasurer/Clerk Pro-Tem Dzinski to present this matter to the Board. Dzinski explained that once the budget is adopted, the Town is allowed to levy general property taxes to help defray the costs of government. Resolution No. 31-2009 preserves the tax of 9.409 mills established in 1994, with a temporary mill levy rate reduction of 5.660, resulting in a total mill levy for the Town of Grand Lake of 3.749 for budget year 2010. This mill levy is in compliance with the 5.5% statutory limitation and with the TABOR Amendment. Resolution No. 31-2009 authorizes the Mayor to certify the temporarily reduced mill levy of 3.749 to the Grand County Board of Commissioners. Staff recommended the Board adopt Resolution No. 31-2009, a Resolution Levying General Property Taxes for the Year 2009, to Help Defray the Costs of Government for the Town of Grand Lake, Colorado, for the 2010 Budget Year.

Trustee Rhone moved to adopt Resolution No. 31-2009, a Resolution Levying General Property Taxes for the Year 2009, to Help Defray the Costs of Government for the Town of Grand Lake, Colorado, for the 2010 Budget Year. Trustee Lewis seconded. There was no discussion and all Trustees voted aye.

NEW BUSINESS:

CONSIDERATION OF ORDINANCE NO. 44-2009, AN AMENDMENT TO ORDINANCE NO. 14-2007 THAT UPDATES AND REPLACES EXHIBIT 2, A SERVICE AGREEMENT BETWEEN THE TOWN OF GRAND LAKE AND THE GRAND LAKE CHAMBER OF COMMERCE - Mayor Burke asked Town Manager Hale to present this matter to the Board. Hale explained that the abovementioned agreements for 2010 were attached. Beginning with the Service Agreement, the Town Attorney suggested minor grammatical changes to Sections 1(c), 1(d); the Board of Trustees didn't have any

challenges with these suggested changes. Hale asked if the Board wanted to specify the hours of operation as outlined in Section 2(a); the Board agreed that this was not a necessary change. Town Manager Hale advised that Section 2(b) had been amended to specify the days during the holidays that the Chamber would be open; the Board of Trustees agreed with this amendment. Hale explained that the Town Attorney suggested that the Town add a date certain in 2(b) and 2(e), and suggested October 25th because it coincides with the Board of Trustees second meeting in October and the review of this Agreement with the Chamber as well as their third quarter report. The Board of Trustees agreed with this date. Hale explained that he copied/pasted the exact same language from Section 8 in the Marketing Agreement into this agreement as well, so the Town's intent to audit the Chamber is spelled out in both Agreements. The Town Attorney also suggested copying some additional information over from the Marketing Agreement, so Section 6, Severability, Section 7, Consultation with Council, and Section 8, Limitation of Liability, Indemnification, are all new to this Agreement. Finally, Section 9(c) is newly suggested language by the Town Attorney as well. The Board of Trustees agreed with these amendments to the Agreement. Hale then reviewed the suggested changes to the Marketing Agreement. The Town Attorney suggested minor grammatical changes to Sections 2(b) and 2(c), which the Board of Trustees agreed with. Hale asked whether the Board of Trustees preferred to receive verbal or written reports quarterly, and the Board advised that all members preferred to receive both written and verbal reports quarterly and directed Hale to amend Section 2(e) accordingly. Hale advised the Board that Sections 2(f) and 2(g) were suggested additions; the Board had no challenges with this new language. Hale outlined two directions that the Town could take as it relates to termination of the agreement in Section 4. The Board directed Hale to add "beyond the amounts budgeted by the Town as of the date of termination", to the end of the last sentence in this Section, as they felt strongly that the Town should hold up to all of its commitments, even if there is a separation from the Chamber in the future. Hale reminded the Board that the Town had a definite issue with the "audit" that they provided for operations in 2008, and that the whole issue of requesting an audit became an ugly and contentious fight between the two entities. Hale advised that he had changed Section 8, review requirements, by replacing the word "compilation" with word "audit", adding the word "independent" before any type of accountant, and defined what the Town means by independent. Furthermore, he confirmed that the Town Attorney has reviewed this new language as well. The Board discussed whether the Town should require an audit of the Town monies only, or rather require an audit of all funds received and expended by the Chamber. After some discussion, the consensus was that the Town should require an audit of all monies received and expended by the Chamber and directed Town Manager Hale to amend both Agreements

accordingly. Hale advised that if the Board supports the changes discussed, the Board of Trustees should adopt Ordinance No. 44-2009 and authorize the Mayor to sign the 2010 Service Agreement. Secondly, Staff recommends that you authorize the Mayor to sign the 2010 Marketing Agreement.

Trustee Weydert moved to adopt Ordinance No. 44-2009, an Amendment to Ordinance No. 14-2007 That Updates and Replaces Exhibit 2, a Service Agreement Between the Town of Grand Lake and the Grand Lake Chamber of Commerce, with Staff to make changes as directed, and to authorize the Mayor to sign the Service Agreement between the Town of Grand lake and the Grand Lake Chamber of Commerce after the Agreement has been executed by the Chamber. Trustee Peterson seconded the motion. All Trustees voted aye except Trustee Johnson, who abstained.

NEW BUSINESS:

CONSIDERATION OF A REQUEST FROM ROCKY MOUNTAIN REPERTORY THEATRE (RMRT) FOR A BOARDWALK OBSTRUCTION WITHIN THE VINE STREET RIGHT-OF-WAY - Mayor Burke asked Town Manager Hale to present this matter to the Board. Hale explained that while working with RMRT on their development of construction plans for the new theatre, Town staff has discovered an oversight in Municipal Code Chapter 11-1: Boardwalks, Sidewalks and Community Greenways for 80' Right-of-Ways that require a mandatory boardwalk. For a typical 80' Right-of-Way, the boardwalk requirement is 5' and the greenway is mandated to be 3'; the Town encourages covered boardwalk, but it is not required. Additionally, the Town's requirement is that there shall be no obstructions that would instigate less than 5' of clearance width on a boardwalk. In 2009, the Town changed this section of the Code indicating that an obstruction is any "thing". The oversight occurs when a 5' boardwalk is covered and the post for that covering is located on the boardwalk; the post for the boardwalk is considered an obstruction, thus encroaching into the 5' clearance area if the post is located on the boardwalk. In aiming to work through this with RMRT, it has been suggested that the post for the boardwalk be located in the greenway. If this is the placement for the post, the shed of snow, from the covered boardwalk, would not fall into the greenway, as desired for the Town, rather it would fall onto the street. Since this Section of the Code does not have an outlined variance procedure, staff (orally) denied the application before it was submitted and suggested that we bring an "appeal" before the Board to determine whether or not the Board would be favorable to allowing for the post of the covered boardwalk to encroach into the 5' clearance area. Staff acknowledges that this item has been brought up in the past with the construction of Juniper Library, but would like to point out to the Board that this will continue to be an issue for any 80' Right-of-Way where a mandatory boardwalk is

required, which would essentially be all of our cross-streets in downtown. Staff acknowledges that the Code may need to be altered to reflect a more accurate assessment of the clearance width on a mandatory 5' boardwalk area. Hale explained that a request from O'Bryan Partnership, Inc was attached, submitted for RMRT, for the Board's consideration of a 4'-4" clearance for the mandatory boardwalk to be located on Vine Street (at Grand Avenue). He further explained that their request was accompanied with a drawing indicating the encroachment into the clearance area. If the Board is favorable to the approval of the encroachment, staff will have to draft a Resolution and bring this matter back for formal approval at the January 11, 2010, Board meeting, and would also have a draft ordinance to change this oversight in code.

Trustee Peterson moved to direct staff to: (1) draft a resolution permitting a 4'4" boardwalk clearance on Vine Street for the Rocky Mountain Repertory Theatre's proposed theatre to be located on Lots 6-8, Block 12, Town of Grand Lake; (2) draft an ordinance modifying Chapter 11-1: *Boardwalks, Sidewalks and Community Greenways* to allow for posts for a covered boardwalk to be an allowable obstruction encroachment into the 5' clearance on an 80' Right-of-Way area provided that the allowable encroachment is not in an area where the primary entrance is located; and that the allowable encroachment maintains a 4'4" clearance; and (3) bring the draft Resolution and Ordinance to the Board for its consideration at the January 11, 2010 Board of Trustees meeting. Trustee Weydert seconded and all Trustees voted aye.

Added to the agenda, Mayor Burke announced the **RESIGNATION OF BOARD OF ADJUSTMENT MEMBER ROBERT SCOTT**. She said that that Bob Scott had submitted his resignation from the Board of Adjustment as he had moved out of Town. Mayor Burke read Mr. Scott's letter for the Board.

Trustee Lewis moved to accept Mr. Scott's resignation. Trustee Rhone seconded and all Trustees voted aye.

At 8:15 p.m. Trustee Johnson excused himself and left the room.

LIQUOR LICENSING AUTHORITY: CONSIDERATION OF APPROVAL FOR SPECIAL EVENTS LIQUOR PERMITS FOR THE GRAND ARTS COUNCIL'S "CONCERT IN THE PINES" SERIES - Mayor Burke asked Town Treasurer/Clerk Pro-Tem Dzinski to present this matter to the Board. Dzinski explained that an application for a Special Events Liquor Permit has been received, with the appropriate state fee, proof of possession, certificate of good corporate standing, and floor diagram, from the Grand Arts Council. The request is to sell malt, vinous and

RECORD OF PROCEEDINGS

spirituous liquor by the drink for consumption on the premises only for their "Concert in the Pines" series. The requested dates are Saturday, January 23, 2010, Saturday, February 20, 2010 and Saturday, March 20, 2010 from 4:00 to 10:30 p.m. The proposed location is the Grand Arts Center at 913 Park Avenue. Public notice was posted on the premises on December 1, 2009 and attested to by Grand County Sheriff Deputy Payne on December 4. The Grand County Sheriff's Department reviewed the application and found no adverse information which would affect this permit. She then noted that Cathy Walton-Smith, President, was present.

Trustee Peterson moved to approve the Special Events Liquor Permits for the Grand Arts Council's "Concert in the Pines" series. Trustee Lewis seconded the motion, and all Trustees voted aye.

At 8:17 p.m., Trustee Johnson resumed his seat.

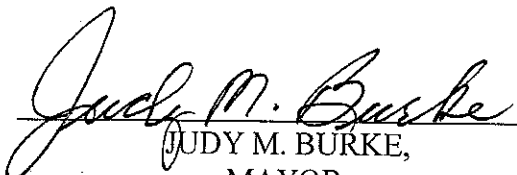
ACCOUNTS PAYABLE
November, 2009:

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

CITIZEN PARTICIPATION: None.

ADJOURNMENT:

Trustee Rhone moved to adjourn, seconded by Trustee Lewis. All Trustees voted aye, and the meeting was adjourned at 8:20 p.m., December 14, 2009.



JUDY M. BURKE,
MAYOR

ATTEST:



GAY DZYNSKI,
TOWN TREASURER/CLERK PRO-TEM