

RECORD OF PROCEEDINGS

REGULAR MEETING
TOWN OF GRAND LAKE BOARD OF TRUSTEES
MONDAY, JANUARY 11, 2010 7:30 P.M.

CALL TO ORDER: The regular meeting of the Board of Trustees was called to order by Mayor Judy Burke at 7:36 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

December 14, 2009: Trustee Lewis moved to approve the minutes of the December 14, 2009 regular meeting as written. Trustee Peterson seconded the motion and all Trustees voted aye.

ANNOUNCEMENTS: Mayor Burke announced that it would be appreciated if cell phones were turned off during the meeting.

Mayor Burke announced that Town Sales Tax Licenses for businesses and Animal Licenses are now due for 2010. Both are available at Town Hall.

Mayor Burke then announced that there will be an emergency community meeting about keeping Grand Lake Elementary open on Wednesday, January 13 at Grand Lake Elementary beginning at 6:30 p.m.

CONFLICTS OF INTEREST:

Mayor Burke stated that if there are any Trustees wishing to announce a conflict of interest with any items on this evening's agenda, they should do so at this time.

Trustee Peterson announced that he had a conflict with the three issues relating to Rocky Mountain Repertory Theatre since his wife is a Board Member.

Trustee Weydert announced that he had a conflict with, "Consideration of Resolution No. XX-2010, a Resolution Upholding a Planning Commission Recommendation for the Approval of a Height Variance Request for Rocky Mountain Repertory Theatre's Proposed Theater Structure to be Located at Lots 6-8, Block 12, Town of Grand Lake" as he owns property within 200'.

Trustee Johnson announced that he had a conflict with the Local Liquor Licensing Authority as he holds a license for The Bears Den.

PRESENTATIONS: **FORMAL "THANK YOU" TO BOB SCOTT, FORMER BOARD OF ADJUSTMENT MEMBER** – Since Bob Scott was not present, Mayor Burke

announced that this will be placed on the agenda of the next regularly scheduled meeting to be held January 25, 2010.

At 7:40 p.m. Trustee Johnson excused himself and left the room.

LIQUOR LICENSING AUTHORITY: **CONSIDERATION OF RENEWAL OF THE RETAIL LIQUOR STORE LIQUOR LICENSE FOR LAKEVIEW GROUP, INC., D/B/A LAKEVIEW GENERAL/LIQUOR STORE** – Mayor Burke asked Town Clerk Kolinske to present this matter to the Board. Kolinske reported that the fees have been paid; all the renewal documents are in order and indicate no changes. The water, business license, and sales tax accounts are all current. She noted that the Grand County Sheriff's Department found no adverse information which would affect the status of the license. She then concluded by saying that Tracy Thamann, President, Secretary and Treasurer, was present.

Trustee Lewis moved to approve the renewal of the Retail Liquor Store Liquor License for Lakeview Group, Inc., d/b/a Lakeview General/Liquor Store. Trustee Peterson seconded the motion and all Trustees voted aye.

At 7:42 Trustee Johnson resumed his seat.

OLD BUSINESS:

CONSIDERATION OF ORDINANCE NO. 1-2010, AN ORDINANCE AMENDING MUNICIPAL CODE SECTION 11-1-8, OF THE CODE OF THE TOWN OF GRAND LAKE, BY REDUCING THE BOARDWALK CLEARANCE WIDTH FOR A COVERED BOARDWALK ON AN 80' RIGHT OF WAY – Mayor Burke asked Town Planner Wittman to present this matter to the Board. Wittman explained that at the last regularly scheduled meeting, it was brought to the Board's attention there is an oversight in the Municipal Code with regards to covered boardwalks on an 80' Right of Way (ROW). As indicated, on a typical 80' ROW, the Town requires a 5' boardwalk but in a different section of the code, the Town requires a mandatory clearance width of 5'. As explained to the Board, in order to achieve this, the boardwalk on 80' ROW's could not be covered as the posts for the covering will undoubtedly encroach into the clearance width. After the Board discussed this matter, the Board directed staff to draft an ordinance approving modifications to the code. Specifically, the Board was comfortable allowing a 4'-4" (four-foot, four-inch) mandatory boardwalk clearance width on an 80' ROW provided that the encroachment was only for a post for a covered boardwalk and that a 5' clearance width was maintained at the point of entry/exit for a structure. Staff has drafted Ordinance No. 1-2010 to reflect the direction from the Board. Staff would urge the Board to consider re-discussing the 4'-4" (four-foot, four-inch) clearance area. As indicated, the 5' (five-foot) clearance area was put into place with the thought of a typical 100' ROW. On 80' ROW's, however, staff feels that it would be acceptable to allow a 4' clearance area given the Building Code requires a minimum 3' (three feet) clearance for landings and walkways. The Board should discuss this matter,

specifically the aforementioned discussion item, and make a motion on this matter. The Board may move to either:

A) adopt Ordinance No. 1-2010: *An Ordinance Amending Municipal Code Section 11-1-, of the Town of Grand Lake, by Reducing Boardwalk Clearance Width for a Covered Boardwalk on an 80' Right of Way*; or

B) adopt Ordinance No. 1-2010: *An Ordinance Amending Municipal Code Section 11-1-, of the Town of Grand Lake, by Reducing Boardwalk Clearance Width for a Covered Boardwalk on an 80' Right of Way* with the following changes (*noting specific changes to the ordinance, as identified in discussions amongst the Board*).

Following discussion, Trustee Peterson moved to adopt Ordinance No. 1-2010, an Ordinance Amending Municipal Code Section 11-1-8, of the Code of the Town of Grand Lake, by Reducing the Boardwalk Clearance Width for a Covered Boardwalk on an 80' Right of Way with the following changes: Change Part 1. A. 3. a. to Part 1. A. 3. b. and insert, "In all areas where a roof covering post is not located, a five-foot (5') clearance must be maintained" as Part 1. A. 3. a. Trustee Lanzi seconded the motion and all Trustees voted aye.

At 7:54 p.m. Trustee Peterson excused himself and left the room.

OLD BUSINESS:

CONSIDERATION OF RESOLUTION NO. 1-2010, A RESOLUTION APPROVING CERTAIN BOARDWALK IMPROVEMENTS FOR LOT 8, BLOCK 12, TOWN OF GRAND LAKE - Mayor Burke asked Town Planner Wittman to present this matter to the Board. Wittman explained that at the last regularly scheduled meeting, the Board heard an appeal from Rocky Mountain Repertory Theatre (RMRT) for permission to construct a covered boardwalk on the 80' Vine Street Right of Way (ROW) to have a boardwalk clearance width of 4'-4". As a reminder, this request is for an 8" reduction of the mandatory boardwalk width of 5'. As described, this is an oversight in our code as a post for a 5' covered boardwalk will undoubtedly encroach into the 5' walkway. The appeal was brought before the Board after a verbal denial by staff. Per the Board's direction, staff drafted Resolution No. 1-2010: *A Resolution Approving Certain Improvements for the Boardwalk to be located parallel to Vine Street on Lot 8, Block 12, Town of Grand Lake* for the Board's consideration. The resolution indicates the Board's approval of a 4'-4" clearance width of the covered boardwalk on Vine Street in this location. Additionally, the resolution encompasses information regarding Municipal Code Section 11-1-6: *Material and Construction Specifications for Walks*. While this has not been discussed by the Board, it is outlined in the code as a permissible item:

1. *Stamped concrete shall be used in areas of driveway accesses and should be designed simultaneously with boardwalks and greenways.*

a. *Stamped concrete shall have a pattern and coloring similar to the wood or composite decking material used in the boardwalk.*

Staff wanted to bring this matter before the Board for discussion to see if the Board is in agreement with staff. RMRT is proposing a covered boardwalk to the southwest corner of the edge of the proposed theatre structure. At this point, RMRT is proposing to have stamped concrete until the property corner. This is for access to the existing structure as well as a proposed overhead door on the south elevation of the structure. While the request is for a significant portion of the lot and would cover areas that are not merely driveway access, staff believes that to maintain continuity in this location, the stamped concrete would be appropriate. The Board should discuss this matter, particularly the newer component regarding the stamped concrete, with the applicant and amongst the Board. If the Board is favorable, staff recommends the Board move to approve Resolution No. 1-2010. The Board may also move to amend the Resolution to incorporate any discussed changes they feel necessary.

Following discussion, Trustee Johnson moved to adopt Resolution No. 1-2010, a Resolution Approving Certain Boardwalk Improvements for Lot 8, Block 12, Town of Grand Lake with the following changes: Lot 6 is changed to Lot 8 in the title of the draft resolution and that the first THAT is changed from, "The Town Board of Trustees hereby approves a 4'-4" clearance width for the covered boardwalk to be located at Lot 6, Block 12, Town of Grand Lake" to "The Town Board of Trustees hereby approves a 4'-4" clearance width for the covered boardwalk to be located at Lot 8, Block 12, Town of Grand Lake with the provision that the 5' clearance width is maintained in all other locations and under no circumstances shall it be permitted at ingress and egress points to the structure in this location." Trustee Weydert seconded the motion and all Trustees voted aye except Trustee Peterson, who abstained from voting.

At 7:59 p.m. Trustee Weydert excused himself and left the room.

NEW BUSINESS:

CONSIDERATION OF RESOLUTION NO. XX-2010, A RESOLUTION UPHOLDING A PLANNING COMMISSION RECOMMENDATION FOR THE APPROVAL OF A HEIGHT VARIANCE REQUEST FOR ROCKY MOUNTAIN REPERTORY THEATRE'S PROPOSED THEATER STRUCTURE TO BE LOCATED AT LOTS 6-8, BLOCK 12, TOWN OF GRAND LAKE - Mayor Burke asked Town Planner Wittman to present this matter to the Board. Wittman explained that on January 6, 2010, the Planning Commission held a Public Hearing for a 3' height variance request from Rocky Mountain Repertory Theatre (RMRT) for the construction of a stage tower or theatre scenery loft. The Commission adopted Planning Commission Resolution No. 2-2010, *A Resolution Recommending the Approval of a Height Variance Request for Rocky Mountain Repertory Theatre's Proposed Theater Structure to be Located at Lots 6-8, Block 12, Town of Grand Lake.* Wittman then explained that on December 10, 2009, the Town received a Height Variance Request from RMRT and Mr. Ben Schwab

with O'Bryan Partnership in relationship to the construction of a new theater to be located on Lots 6, 7 & 8, Block 12, Town of Grand Lake. The 3' variance request is to exceed the maximum allowable height, of 35' in the commercially-zoned district, for a 38' stage tower or theatre scenery loft as outlined in Municipal Code 12-2-27a-3B: *Additional Height Regulations* which permits the aforementioned use, among others, "may exceed the maximum height regulations of the zone district in which they are located provided the maximum height for the use under question is set by the procedures outlined...but in no instance shall such use exceed Sixty Feet (60')." According to the variance procedure outlined in 12-2-27: *Supplemental Regulations for Setbacks, Height and Area*, "Variances for these supplemental regulations to supplemental setback, area and height regulations may be granted by the Town Board of Trustees with recommendation from the Planning Commission." As a reminder to the Board, this is the same section of the code that permits cell towers in the Town of Grand Lake. Staff urges the Board to assess the variance in relationship to the use when considering this request. As Mr. Schwab's request, and accompanied plat indicate, the proposed theatre's maximum building height is located at the southwest corner of the proposed building, located on the edge of Vine Street, as indicated on Plat 0.0. As Plat 0.1 indicates, this corner of the structure is proposed to be 37'-7½" above the original grade. Per Municipal Code Section 9-1, *Building*, the Town measures height based on the total measurement in height from the original or finished grade, whichever is more restrictive, to the highest point of the structure. As the plats also indicate, with the exception of the northwest corner of the structure, proposed to be 35.64' above the original grade, the structure is compliant with the Town's maximum allowable height for this zoning district. The following are summarized comments that were received by the Town upon noticing of the neighborhood:

Ms. Fran Farmer and Ms. Steven T. Floyd – as the owners of the property across the street, they are in favor of allowing the proposed height increase. Additionally they urge the Town to consider the need of the proposed use and the overall economic impact the theatre brings to the community.

Gay Shaffer – objects to the variance as it is not compatible with the area and surroundings, depth to the structure should be considered as an alternative factor, the flat lot will create the appearance of a high wall and this will generally encourage variance requests.

As indicated, the Board may hold a Public Hearing prior to taking action on the matter but is not required to do so. The Board should discuss this matter with the applicant and amongst themselves. As the code indicates the Board should take the following factors into consideration, as well as any additional consideration factors the Board deems necessary, in determining whether to issue a variance:

1. The compatibility of the proposed action with the surrounding area; and
2. Whether the proposed action is in harmony with the character of the neighborhood; and
3. The need for the proposed action; and
4. The effect of the proposed action upon future development in the area; and
5. The shape, size, topography, slope, soils, vegetation, and other physical characteristics; and
6. Whether alternative designs are possible; and
7. With due consideration for the Town's Comprehensive Plan.

After all discussion has taken place, the Board should make a motion on this matter. While staff has drafted Resolution No. XX-2010 as a means for discussion amongst the Board, the Board has option for action. The Board may move to:

A) hold a Public Hearing regarding RMRT's height variance request for a stage tower or theatre scenery loft for February 8, 2010, to gain additional input from the community; or

B) amend the recommendation of the Planning Commission and/or deny the applicant's request (*stating specific reasons – in relationship to the aforementioned Code*); or

C) uphold the recommendation of the Planning Commission by adopting Resolution No. 2-2010 (*with notations based on the evening's discussion*) – OR – direct staff to update the resolution and bring back before the Board for adoption at their next regularly scheduled meeting.

Wittman noted that Carol Wolff and Dot Weber, representatives of RMRT, were present.

Wolff and Weber were recognized by the chair and exhibited a picture of what the proposed theater building will look like. Weber explained that there will be changes to the height that was shown, the color will be more of a rust color than what was shown and that there will be no rocks around the pillars.

Following discussion, Trustee Lanzi moved to adopt Resolution No. 2-2010, a Resolution Upholding a Planning Commission Recommendation for the Approval of a Height Variance Request for Rocky Mountain Repertory Theatre's Proposed Theater Structure to be Located at Lots 6-8, Block 12, Town of Grand Lake. Trustee Johnson seconded the motion and all Trustees voted aye except Trustees Peterson and Weydert, who abstained from voting.

At 8:09 Trustee Weydert resumed his seat.

NEW BUSINESS:

CONSIDERATION OF A REQUEST FROM ROCKY MOUNTAIN REPERTORY THEATRE FOR THE TOWN TO WAIVE THE AFFORDABLE HOUSING FEES FOR THEIR NEW THEATER - Mayor Burke asked Town Planner Wittman to present this matter to the Board. Wittman explained that on January 4, 2010, the Town received a request from Rocky Mountain Repertory Theatre (RMRT). The request is for the Board's consideration of a waiver of Affordable Housing Fees. As Code Section 12-10-1 states, "*The Town shall collect a fee set by a resolution adopted by the Grand Lake Board of Trustees for new construction that occurs within the Town boundaries. This fee shall be considered an impact fee and shall be used to mitigate the housing need created by the new development.*" The Code further states, "*Certain development or annexations may be eligible for a waiver of this Section based on criteria established by the Grand Lake Board of Trustees,*" but outlines no criteria. The fee is currently set at \$1.00 per square foot and for RMRT's project, the fee would be approximately \$12,500. Staff recommends the Board discuss this item with representatives of RMRT. The Board should then turn the matter over to the Board for discussion and consideration. Specifically, the Board should discuss the 'pros' and 'cons' in realistic measurements with due consideration to the effect the request, if granted, will have on future requests of this nature. After discussion, the Board should make a motion on the matter. Specifically, the Board may move to either:

- A) direct staff to draft a resolution to be brought back before the Board, at their next regularly scheduled meeting, approving the request (*stating specific items discussed by the Board*); or
- B) deny the request.

Again, Wittman noted that Carol Wolff and Dot Weber, representatives of RMRT, were present.

Carol Wolff, 329 Mountain Avenue, was recognized from the audience. She stated that RMRT currently provides free housing for 97% of their staff and company with their Off Broadway Cabins which houses 24 people and two of the Riverside Cabins which houses 5 people. And because of this, she asked the Board to consider waiving the Affordable Housing Fees.

During discussion, there was concern expressed about the possibility of RMRT selling their properties and no longer providing 97% housing. It was suggested that RMRT and the Town enter into an agreement that would require RMRT to continue to provide 97% housing anywhere within the Town limits. Town Manager Hale noted that it may be hard for the Town to keep track of unless there was something of record tied to both of their properties. Town Planner Wittman mentioned that this is the first time that the Town has dealt with meeting a need versus tied to construction. Trustee Johnson made the comment that if the Town agrees with RMRT providing 97% housing, it

should be 97% of today's numbers and not 97% of a future number. Trustee Lewis suggested that it be noted that RMRT is a non-profit organization and not a developer whose intention is to make a profit.

Following lengthy discussion, Trustee Weydert moved to direct staff to draft a resolution allowing RMRT to move forward with the building permitting process providing that a notation is placed on the building permit stating that a Certificate of Occupancy (CO) will not be issued until an agreement has been reached between the Town, RMRT and respective attorneys regarding the Affordable Housing Fee requirement. Trustee Lewis seconded the motion and all Trustees voted aye except Trustee Peterson, who abstained from voting.

At 8:43 Trustee Peterson resumed his seat.

NEW BUSINESS:

CONSIDERATION OF APPOINTMENT, BY THE MAYOR WITH THE CONSENT OF THE BOARD OF TRUSTEES, OF A MEMBER TO THE GRAND LAKE PLANNING COMMISSION - Mayor Burke asked Town Planner Wittman to present this matter to the Board. Wittman explained that on January 6, 2010, the Planning Commission moved to adopt Planning Commission Resolution No. 1-2010 forwarding a favorable recommendation to the Town Board for the appointment of Mr. James Shockey to the Town Planning Commission. While Chairman Fischer was not able to sign the Resolution, Mayor Burke has reviewed the Resolution on behalf of the Commission. As a reminder to the Board, staff has been seeking letters of interest from parties willing to serve on the Planning Commission since the resignation of Vice-Chairman Schneller this past fall. On November 29, 2009, staff received an inquiry letter to the Commission from Mr. James Shockey; Mr. Shockey's inquiry is the only inquiry received by the Town. Following discussion, the Board should take action on the matter. If the Board is favorable, staff recommends the Board move to uphold the recommendation of the Planning Commission and appoint Mr. James Shockey as a member appointed by the Mayor with the consent of the Board of Trustees to the Town of Grand Lake Planning Commission.

Mayor Burke then moved to uphold the recommendation of the Planning Commission and appoint Mr. James Shockey as a member appointed by the Mayor with the consent of the Board of Trustees to the Town of Grand Lake Planning Commission. Trustee Peterson seconded the motion and all Trustees voted aye.

NEW BUSINESS:

CONSIDERATION OF APPOINTMENT OF A REGULAR MEMBER TO THE GRAND LAKE BOARD OF ADJUSTMENT - Mayor Burke asked Town Planner Wittman to present this matter to the Board. Wittman explained that at your last regularly-scheduled meeting, the Board was informed Mr. Bob Scott had taken residence outside the Town of Grand Lake and would no longer be eligible to serve on the Town's Zoning Board of Adjustment (BOA). Leaving a vacancy on the BOA staff inquired with the

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BOA's alternate, Ms. Cindy Southway, if she would be willing to sit as a member on the BOA and Ms. Southway agreed. Cindy has served as an alternate since March of 2006. If the Board is favorable to the appointment of Ms. Southway to the BOA, staff recommends the Board move to appoint Ms. Cindy Southway as a regular member to the Town of Grand Lake Board of Adjustment. As a reminder to the Board, the Town still seeks two (2) alternate members to serve on the BOA.

Trustee Peterson moved to appoint Ms. Cindy Southway as a regular member to the Town of Grand Lake Board of Adjustment. Trustee Lewis seconded the motion and all Trustees voted aye.

ACCOUNTS PAYABLE

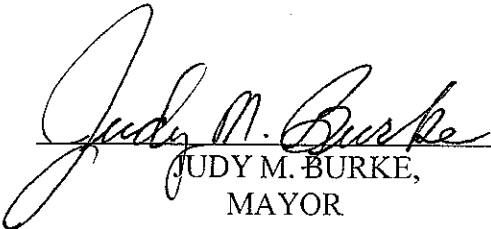
December, 2009:

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

CITIZEN PARTICIPATION: None.

ADJOURNMENT:

Trustee Lewis moved to adjourn, seconded by Trustee Weydert. All Trustees voted aye, and the meeting was adjourned at 8:49 p.m., January 11, 2010.



JUDY M. BURKE,
MAYOR

ATTEST: 

RONDA KOLINSKE, CMC,
TOWN CLERK