

RECORD OF PROCEEDINGS

REGULAR MEETING
TOWN OF GRAND LAKE BOARD OF TRUSTEES
MONDAY, MARCH 8, 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 7:35 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, Town Planner Wittman and Town Code Enforcement Officer Korkowski.

ABSENT: Trustee Rhone.

APPROVAL OF MINUTES

August 25, 2010: Trustee Weydert moved to approve the minutes of the August 25, 2010 regular meeting as written, seconded by Trustee Johnson. All Trustees voted aye except Trustees Lewis and Peterson, 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 Grand Lake Fireworks Committee will hold a spaghetti/corned beef fundraising dinner on Wednesday, March 17th at the Bear's Den beginning a 5:00 p.m.

Mayor Burke announced that Concerts in the Pines, sponsored by the Grand Arts Council, will present Jubilant Bridge, featuring guitar and dulcimer, playing both folk and celtic music, Saturday, March 20, at 8:00 p.m. in the Grand Arts Center.

Trustee Peterson then stated that he had the honor of working with a disabled veteran from Ft. Carson through the NSCD Program. This individual ended up losing his lower leg due to a grenade and Trustee Peterson just wanted to remind everyone of those out there risking their lives for us.

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 Resolution No. 9-2010 relating to Rocky Mountain Repertory Theatre since his wife is a Board Member.

PRESENTATIONS: Dan Matthews, James Shockey, Janice Peck, Diane Mahoney and Dan Ostrowski, members of the POST (Parks, Open Space and Trails)

Committee, were present and each gave a presentation of their draft recommendations of Parks and Open Space to the Board based on survey results and their efforts over the past 13 months. This committee was created to draft recommendations for the Board of Trustees to enable the Town to develop a Parks, Trails and Open Space Master Plan. The committee will come back before the Board at a later date to present their recommendations on Trails and funding. Following the presentations, the Board Members all said that they like the recommendations and look forward to their next presentation.

REPORTS: FOURTH
QUARTER SALES TAX
COLLECTION BY
INDUSTRY OCTOBER -
DECEMBER: 2005-2009:

Town Clerk Kolinske noted that Town Treasurer/Clerk Pro-Tem Dzinski provided a report consisting of the Fourth Quarter Sales Tax Collection by Industry report for October-December 2005-2009.

LIQUOR LICENSING AUTHORITY: None.

At 8:24 p.m. Trustee Peterson excused himself and left the room.

OLD BUSINESS:

CONSIDERATION OF RESOLUTION NO. 9-2010, A RESOLUTION WAIVING THE REQUIREMENTS OF MUNICIPAL CODE SECTION 12-10-1, AFFORDABLE HOUSING FEES, FOR ROCKY MOUNTAIN REPERTORY THEATRE'S NEW THEATRE PROJECT TO BE LOCATED AT LOTS 6-8, BLOCK 12, TOWN OF GRAND LAKE – Mayor Burke asked Town Manager Hale to present this matter to the Board. Hale explained that at the last regularly scheduled workshop, the Town Board discussed with representatives of Rocky Mountain Repertory Theatre (RMRT) an agreement for the Town's waiver of the required Affordable Housing Fees. Based on that discussion, the agreement was modified to indicate that based on the continued efforts of RMRT to provide free housing to the majority of its troupe (as outlined in the last *WHEREAS*), a deed restriction would not be placed on the property and the agreement would be in effect for 15 years. Staff has drafted Resolution No. 9-2010 for the Board's consideration with an executed agreement as an attachment to the resolution. He noted that the seventh *WHEREAS* in the draft resolution was amended, based on discussion during the afternoon workshop, to include the following:

“*WHEREAS, RMRT owns, operates and maintains affordable housing in Grand Lake for approximately thirty (30) of its summer program employees, which represents 97% of RMRT's total employees, . . .*”

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If the Board is favorable, the Board should move to adopt Resolution No. 9-2010.

Trustee Weydert moved to adopt Resolution No. 9-2010, A Resolution Waiving the Requirements of Municipal Code Section 12-10-1, Affordable Housing Fees, for Rocky Mountain Repertory Theatre's New Theatre Project to be Located at Lot 6-8, Block 12, Town of Grand Lake and to authorize the Mayor to enter into the attached fee-waiver agreement with RMRT. Trustee Lewis seconded the motion and all Trustees voted aye.

At 8:26 p.m. Trustee Peterson resumed his seat.

OLD BUSINESS:

CONSIDERATION OF ORDINANCE NO. XX-2010, AN ORDINANCE AMENDING THE TOWN OF GRAND LAKE MUNICIPAL CODE CHAPTER 7, ARTICLE 6, SECTION 12 WASTE DISPOSAL – Mayor Burke asked Town Code Enforcement Officer Korkowski to present this matter to the Board. Korkowski explained that the Planning Commission held Public Hearings on proposed Ordinance No. xx-2010 regarding Waste Disposal at their January 20, 2010 and March 3, 2010 meetings. As a result of those hearings, the Planning Commission has forwarded Ordinance No. xx-2010 to the Board with a favorable recommendation. Staff kept the Public Hearing notices posted and updated information on the Town's website, as well as sent e-mails out, in order to keep the public informed of the progress of the discussions. Staff will continue this process. As a review, the proposed ordinance completely removes recycling and mandatory trash service while adding some definitions, fines, and a possible Pay as You Throw (PAYT) system. The Board has extended the moratorium on enforcing the current Waste Disposal Code until May 1, 2010. Staff was directed by the Planning Commission to provide more concrete numbers on a Town run PAYT system. The Town has identified 2 locations at the Town Shop and 1 location at the Town parking lot in the 1100 block of Park Avenue, staff's preferred site, but has not been able to procure an estimate for the small building yet. The following table reflects Town costs for running a PAYT system based upon a 33 gallon PAYT bag being used:

	8-yard dumpster	
100% capacity	1616 gallons (49 bags)	
95% capacity	1535 gallons (46 bags)	
90% capacity	1454 gallons (44 bags)	
Waste Management 2 dumpsters picked up 2 times per week	\$573.00/month \$6,876.00/year	Averages to \$33.05/pickup Extra pick-up not quoted

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Waste Connections 2 dumpsters picked up once per week	\$400.00/month \$4,800.00/year	Averages to \$46.16/pick-up Extra pick-up not quoted
33-gallon plastic bag cost	8000 printed bag purchase One time \$125.00 print set-up fee	23.5¢/bag Adds 1.5¢/bag (1 st order)
Camera system	Camera – color night- vision Recording System	\$200.00 \$300.00
Building Cost	To Be Determined	

He stated that most PAYT programs use the 95% capacity numbers as bags don't fit exactly into the dumpsters and to account for some illegal dumping. Based upon 95% capacity, the Waste Management cost estimate, and a profit for local distributors (50¢/bag), the sale price to the public for each PAYT bag for the variable and some fixed costs would be approximately \$1.47/bag. The fixed costs for the building would still need to be rolled into this number. This is of course based upon selling 46 bags per pick-up, and if the number of bags per pick-up was less, then the cost per bag would have to be higher, i.e. 30 bags per pick-up would be \$1.85/bag plus the pre-set amount. The Town has been discussing a range of \$5.00 to \$7.00 per bag, and it appears that the Town would be able to set the payment for a PAYT bag of trash towards the low end of the discussed range. If the Town charged \$5.00/bag, then 115 bags would need to be sold per month just to cover the pick-up costs. The Town might also have to contract for more pick-ups in the summer months when dumpsters might be filled faster. Staff has 2 private entities, Waste Connections and Waste Zero, interested in possibly running a private PAYT program, but the talks are just in the preliminary stages at this point. Both of these entities indicated they would need to lease/use public lands to make the enterprise profitable. Any private entity would have to enter into a contract with the Town if public lands were going to be used, and that would have to go in front of the Board for approval. Staff has received a very general written proposal from Waste Connections for the Board to review and Waste Zero would like to conduct a webinar for the Board to answer any questions. Also, any site in Town for a PAYT centralized facility would have to go through a Public Hearing for a Conditional Use as no current zoning allows for it as a Use by Right. Lastly, the proposed ordinance does not mandate a Town run or private PAYT system, but just allows for the Town to run one. The Board might consider adding private run PAYT systems to Subsection D of the proposed ordinance in order to protect a private provider from illegal dumping. If the Town decides not to provide the service, then people would still have to provide for their own means to handle their trash needs within the other guidelines of any adopted ordinance, such as wildlife-resistant containers/enclosures, time

constraints for containers being out for pick-up, and penalties for dumped trash. Staff will obtain an estimate for the building and concrete pads. Staff will also send out a Request for Proposal for private entities to run a PAYT program and have all of this information for the Board at the next meeting on this topic. Staff recommends the Board set this for a Public Hearing at their April 26, 2010 meeting.

Following discussion, Trustee Peterson moved to set a Public Hearing for April 26, 2010 to consider Ordinance No. xx-2010, an Ordinance Amending the Town of Grand Lake Municipal Code Chapter 7, Article 6, Section 12 Waste Disposal. Trustee Lewis seconded the motion and all Trustees voted aye.

NEW BUSINESS:

CONSIDERATION OF ORDINANCE NO. 4-2010, AN EMERGENCY ORDINANCE EXTENDING ORDINANCE NO. 30-2009, AN EMERGENCY ORDINANCE IMPOSING A TEMPORARY MORATORIUM ON THE SUBMISSION, ACCEPTANCE, PROCESSING, AND APPROVAL OF ANY APPLICATION FOR A LICENSE OR PERMIT RELATED TO THE OPERATION OF A BUSINESS THAT SELLS OR DISTRIBUTES MEDICAL MARIJUANA PURSUANT TO THE AUTHORITY GRANTED BY ARTICLE XVIII, SECTION 14 OF THE COLORADO CONSTITUTION; DIRECTING THE PROMPT INVESTIGATION OF THE TOWN'S REGULATORY AUTHORITY OVER SUCH BUSINESSES; DECLARING THE INTENTION OF THE TOWN BOARD OF TRUSTEES TO CONSIDER THE ADOPTION OF APPROPRIATE TOWN REGULATIONS WITH RESPECT TO SUCH BUSINESSES IF PERMITTED BY LAW; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE OF THIS ORDINANCE –

Mayor Burke asked Town Manager Hale to present this matter to the Board. Hale explained that the Town, along with the County and most other municipalities, recently placed a moratorium on Medical Marijuana Dispensaries (MMDs). On September 14, 2009, the Town Board unanimously adopted Ordinance No. 30-2009. While the Town has been working with other agencies and organizations within the County in open dialogues for greater understanding, recently Grand County has opted to move forward with consideration of recommended regulations. The Planning Commission will hear them in March to be forwarded to the Board of County Commissioners (BOCC) on March 23. On November 4th this matter came back before the Planning Commission as Colorado v. Clendenin, where the Court of Appeals rejected the argument that someone who sells medical marijuana is by definition a primary caregiver, concluding that “the act of supplying marijuana for medical use, by itself, is insufficient to constitute significant management responsibility for a patients well being”, helped to add even more uncertainty to a questionable subject. At that time, there was unanimity

among the Planning Commission and the Board of Trustees with staff's opinion that all signs, court actions, interim development of state regulation, etc., seem to point to the same direction: keep the moratorium in place, keep a close eye on the legislation, and re-approach this issue once the dust settles. Since that time other actions have taken place to further muddle the understanding of the implementation of the legislation, including a case in the City of Centennial and a recent DEA raid on a house in Highlands Ranch. The Planning Commission adopted Resolution No. 6-2010 on March 3rd, recommending the Board adopt a new ordinance, extending the originally approved ordinance for another six (6) months. If adopted, this ordinance would allow staff adequate time to continue to monitor affecting legislation, work with regional entities on concise regulations, and develop code modifications for proposal to the Commission and Board of the Town of Grand Lake. If the Board of Trustees is favorable, the staff recommendation is for you to adopt Ordinance No. 4-2010.

Following discussion, Trustee Peterson moved to adopt Ordinance No. 4-2010, an Ordinance Extending Ordinance No. 30-2009, an Emergency Ordinance Imposing a Temporary Moratorium on the Submission, Acceptance, Processing, and Approval of any Application for a License or Permit Related to the Operation of a Business That Sells or Distributes Medical Marijuana Pursuant to the Authority Granted by Article XVIII, Section 14 of the Colorado Constitution; Directing the Prompt Investigation of the Town's Regulatory Authority Over Such Businesses; Declaring the Intention of the Town Board of Trustees to Consider the Adoption of Appropriate Town Regulations With Respect to Such Businesses if Permitted by Law; and Providing for an Immediate Effective Date of This Ordinance. Trustee Lewis seconded the motion and all Trustees voted aye.

NEW BUSINESS:

CONSIDERATION OF RESOLUTION NO. 8-2010, A RESOLUTION REGARDING APPOINTMENT OF JUDGES FOR THE APRIL 6, 2010 TOWN OF GRAND LAKE REGULAR MUNICIPAL ELECTION - Mayor Burke asked Town Clerk Kolinske to present this matter to the Board. Kolinske explained that Statutes require at least three election judges for a municipal election. The judges are sworn to "... studiously endeavor to prevent fraud, deceit, and abuse in conducting ..." the election. The only qualifications for a judge are to be a registered elector at least 18 years of age. The requirement that judges live within the boundaries of the body holding the election no longer is in effect. The judges in the 2008 elections were compensated one hundred fifty dollars and unless otherwise directed, she said that she would like to do the same. For what is probably a fifteen-hour day, \$150.00 amounts to \$10.00 per hour. Statute requires appointment of judges at least fifteen days before the election, and allows the governing body to delegate the

authority and responsibility to appoint judges to the clerk, by resolution. Kolinske requested that the Board adopt Resolution No. 8-2010.

Trustee Lewis moved to adopt Resolution No. 8-2010, a Resolution Regarding Appointment of Judges for the April 6, 2010 Town of Grand Lake Regular Municipal Election. Trustee Johnson seconded the motion and all Trustees voted aye.

NEW BUSINESS:

CONSIDERATION TO AUTHORIZE THE MAYOR TO SIGN THE BOULDER COUNTY AGREEMENT FOR THE CHERRY CREEK TREE FARM OPEN SPACE TREE DONATION PROGRAM AND SERVICES BY AND BETWEEN THE COUNTY OF BOULDER AND THE TOWN OF GRAND LAKE – Mayor Burke asked Town Manager Hale to present this matter to the Board. Hale said that at the last meeting, staff explained to the Board that the Town had been contacted by representatives from Boulder County regarding their tree donation program. During that discussion, the Board agreed that this would be a worthwhile program to pursue, set the budget for this unplanned expenditure at a target of \$5,000, and directed staff to bring back the Boulder County Agreement once it was prepared. He presented the agreement to the Board and said that it's fairly straightforward, and follows the format of the program as staff explained. The trees are free and the Town can either contract with one of their vendors or utilize Town personnel, and all of the digging, balling, loading and hauling costs will be borne by the Town. Once the agreement is executed by Boulder County, staff will be able to coordinate for a site visit, where we'll be able to tag the trees that are desired, with Paul Harrington's help. If the Board continues to desire that staff pursue this program, the staff recommendation is for the Board of Trustees to authorize the Mayor to sign the Boulder County Agreement for the Cherry Creek Tree Farm Open Space Tree Donation Program and Services by and between the County of Boulder and the Town of Grand Lake.

Trustee Peterson moved to authorize the Mayor to sign the Boulder County Agreement for the Cherry Creek Tree Farm Open Space Tree Donation Program and Services by and between the County of Boulder and the Town of Grand Lake. Trustee Johnson seconded the motion and all Trustees voted aye.

ACCOUNTS PAYABLE

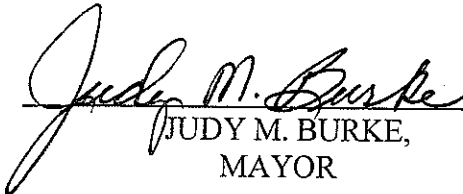
February, 2010:

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 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.

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CITIZEN PARTICIPATION: None.

ADJOURNMENT: Trustee Peterson moved to adjourn, seconded by Trustee Weydert. All Trustees voted aye, and the meeting was adjourned at 9:09 p.m., March 8, 2010.



JUDY M. BURKE,
MAYOR

ATTEST 

RONDA KOLINSKE, CMC,
TOWN CLERK