

RECORD OF PROCEEDINGS

REGULAR MEETING
TOWN OF GRAND LAKE BOARD OF TRUSTEES
MONDAY, JULY 26, 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 Gibbons, Johnson, Lanzi, Lewis, Peterson, and Weydert; Town Manager Hale, Town Clerk Kolinske, Town Planner Wittman and Town Code Enforcement Officer Korkowski.

Trustee Weydert was absent from the afternoon workshop but was excused due to a work related obligation.

ABSENT: None.

APPROVAL OF MINUTES

May 10, 2010: Minutes were not available.

May 24, 2010: Minutes were not available.

June 28, 2010: Trustee Peterson moved to approve the minutes of the June 28, 2010 regular meeting as written. Trustee Johnson seconded the motion and all Trustees voted aye.

July 12, 2010: Trustee Lewis moved to approve the minutes of the July 12, 2010 regular meeting as written. Trustee Weydert 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 the 9th Annual Grand CraftFest, an arts and crafts fair, sponsored by the Grand Lake Metro. Rec. District will be held August 7 and 8 in Town Square.

Mayor Burke announced that the Grand Lake Yacht Club Regatta will be held August 1 through 8.

Mayor Burke then announced that Grand Lake Historical Society presents "History Day" on August 7, 2010 from 1 – 5 p.m. at the Kauffman House Museum. Costumed characters bring history alive.

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.

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

Trustee Lewis announced that she had a conflict with Consideration of a Conditional Use Request for a Pay-As-You-Throw (PAYT) facility to be located at the Town Shops, Grand Lake Estates 2nd Filing due to the location as she resides near the Town Shops.

REPORTS: SALES TAX
CASH FLOW REPORT
FOR JULY 2010:

Mayor Burke asked Town Clerk Kolinske to present the sales tax cash flow report. Kolinske reported that the amount of revenue received in July for the month of May is \$39,149. This amount is nearly 14% below what was received through July 2009.

REPORTS: FINANCIAL
REPORT FOR
JUNE 2010:

Mayor Burke asked Financial Trustee Peterson to present the Financial Report for June 2010. Peterson reported that General Fund expenditures through the end of June totaled \$668,220.18 or 37.9% of budget. He said the Water Fund expenditures for the same period totaled \$204,471.00 or 41.8% of budget and the Marina Fund expenditures totaled \$55,742.58 or 17.1% of budget.

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

LIQUOR LICENSING AUTHORITY: QUASI-JUDICIAL – CONSIDERATION OF RENEWAL OF THE BEER AND WINE LIQUOR LICENSE FOR PIZZA DEL LAGO, INC., D/B/A GRAND PIZZA – Mayor Burke asked Town Clerk Kolinske to present this matter to the Board. Kolinske reported that the fees have been paid and the renewal documents are in order. The water, business license, and sales tax accounts are all current. The Grand County Sheriff's Department found no adverse information that would affect the status of the license. She then concluded by saying that Jay Jackson, President/Treasurer and Delores Jackson, Secretary, were present.

Trustee Lewis moved to approve the renewal of the Beer and Wine Liquor License for Pizza Del Lago, Inc., d/b/a Grand Pizza. Trustee Weydert seconded the motion and all Trustees voted aye.

At 7:42 p.m. Trustee Johnson resumed his seat.

OLD BUSINESS:

CONSIDERATION OF ROCKY MOUNTAIN REPERTORY THEATRE'S PARKING REQUIREMENTS AND PROPOSED PARKING PLAN – Mayor Burke asked Town Planner Wittman to present this matter to the Board. Wittman explained that the approved

building permit application indicated that Rocky Mountain Repertory Theatre (RMRT) will meet their parking requirements by utilizing on-street parking credits at Lots 14-16, Block 10, as well as those credits associated with the commercially-zoned parcel that the Off-Broadway Cabins sit on. Owned by RMRT, the improvements at the Off-Broadway site would be compliant with the Municipal Code. RMRT is proposing to create new parking on the North side of the 800 block of Grand Avenue, thus extending the downtown core by one block to the west on both sides of the street. The proposed plan is consistent with community policies outlined in the Municipal Code (Section 11-1-7) by placing boardwalk in *Mandatory Boardwalk Areas* of the Town of Grand Lake. RMRT is in need of 17 additional parking spaces. The proposed plan depicts 21 parking spaces in this location. The proposed plan allows for boardwalk to start half way through the west boundary of Lot 9, Block 13, and to follow along the southern boundary of Lots 9-11 providing access to these businesses and lodging facilities on Vine Street and Grand Avenue. This portion of the proposal is consistent with the Municipal Street Standards, Policies and Specifications for a typical 100' right-of-way. According to the standard, this area will have an 8' boardwalk and a 6' greenway. Near the border of Lot 11 and Lot 12, the proposed plan includes inverting the boardwalk and greenway to preserve existing mature vegetation around the Terrace Inn. In this location several healthy trees, between 6" and 20" in diameter, are being proposed to be preserved. By inverting the boardwalk and greenway in this location, the boardwalk is also able to be extended around a large boulder that fronts Lot 13. In this location, no greenway would exist and parking in this area would be minimized to one irregular sized parallel parking space. While RMRT is proposing for this space to be designated, the challenges in this area, due to the location of a storm drain inlet, may not permit this parking space. Although the boardwalk width will be reduced in this area, the boardwalk width will be at a minimum of 5' in width. As the boardwalk extends further to the east, it wraps around the boulder and returns to the typical regulation of an 8' boardwalk and a 6' greenway. At the eastern boundary of Lot 14, RMRT is proposing to preserve the existing "open access" to Spirit Lake Lodge to that point where the existing planters and sidewalk are present. In this location, RMRT is proposing to keep the existing planters and will install, at a minimum, a 5' boardwalk to the fullest extent possible. RMRT has indicated the proposal in this location is not in accordance with the Municipal Code as it has been designed to accommodate the desires of the adjacent property owner. The *RMRT Grand Avenue Parking Sketch – to Code* indicates what would be required if the typical standards were met. RMRT is proposing to comply with the Municipal Code wherever possible while preserving natural features and to accommodate for the existing businesses and property owner desires. On July 21, 2010, the Planning Commission received a parking plan proposal from RMRT to construct required parking spaces, in

conjunction with the erection of the new theatre on Grand Avenue, at an off-site location. At the meeting, the Commission unanimously voted (4-0) to make recommendation to the Town Board for the approval of RMRT's construction of those proposed improvements adjacent to Lots 9-12, Block 13 of the Town of Grand Lake. The Commission discussed their desire to meet the needs of RMRT, the community policies and goals, preserve the existing vegetation as well as consider the requests of the individual property owners. While the Commission was extremely favorable to those improvements associated with Lots 9-13, the Commission was less favorable to the proposed plan associated with Lots 14-16. Predominantly this was due to the desire to preserve the property owner's existing parking and drainage concerns. The Commission could not find a solution that was amicable to all parties involved in order to keep boardwalk connectivity, thus, the recommended plan results in 17 parking spaces, meeting RMRT's parking requirement. As Section 4.2.2, *Boardwalk Extension – West of Ellsworth*, of the 2006 Comprehensive Plan indicates:

Businesses on Grand Avenue, west of Ellsworth to West Portal generally have large building setbacks with parking in front. The feel of this area is quite different from the businesses east of Ellsworth – with their overhead canopies, landscape strips and boardwalks. This plan recommends extending a version of the boardwalk, landscape strips and lights, where feasible, from Ellsworth to West Portal.

Action items indicate:

A4.3: Town Manager and Town Planner to facilitate a workshop with business owners on Grand Avenue and west of Ellsworth to verify boardwalk, landscape strip and lighting extension is desired by the majority....

A4.5: Town Manager and Town Planner to...study probable alignments of...boardwalk extensions from Ellsworth to Highway 34...

Since the Town has overhauled the Parking Requirements, as a part of the Zoning Regulations, there are some inconsistencies between the Zoning Regulations and the Street Development Policies, Standards and Specifications. For example, the Street Standards, Policies and Specifications indicate that the Planning Commission and the Town Board of Trustees must hold a Public Hearing whenever there is a discrepancy between the proposed right-of-way development and the applicable right-of-way standard. The Zoning Regulations, however, indicate *“Upon Board of Trustees approval (based on recommendation by the Planning Commission) Commercial, industrial and mixed used developments may provide on-street parking in areas where parking is under developed so long as the requirements of distance and the design standards set forth herein are met.”* The only applicable Design Standard in this Section of Code indicates *“Off-Site parking areas must*

have positive pedestrian accesses and connectors to and from the principal use and/or structures which shall include mandatory or voluntary boardwalk, sidewalk and community greenways, if applicable." This Section of the Code then further elaborates on variances to the parking requirements and standards. The *Street Development Policies, Standards and Specifications* further indicate that "If a developer responsible to the Town for public improvements desires to design and construct such improvements in variance to criteria in these standards..." then both the Planning Commission and Town Board should hold a Public Hearing. It has been staff's opinion that these improvements are not required with RMRT, therefore, not being "responsible to the Town" until the plan is approved, that the Street Standards merely outline the typical design for a boardwalk but do not regulate the construction of them and that the Municipal Code regarding Boardwalks, Sidewalks and Community Greenways (Chapter 11-1) merely indicates that appeal to a denied the permit would be heard by Board of Trustees. Staff would assess that the proposed parking plan is compliant with the Zoning Regulation's Parking Requirements and, therefore, a variance to the Zoning Regulations is not needed. Staff would further question whether or not *Figure 1: Road Templates – Major Collector Street* of the *Street Development Standards, Policies and Specifications* governs the development of a boardwalk and would assess that since boardwalk design and construction are outlined in Chapter 11-1 that a variance to the Street Standards would not be required. Furthermore, since the Municipal Code outlining the construction of these public improvements does not outline a variance procedure then a Public Hearing is not required at the Board level. Staff has worked with RMRT on the development of a parking plan that would not only be a significant community amenity, but that would also extend amenities one block to the west on Grand Avenue. By encouraging the development of parking and pedestrian improvements in this area, the Town is in support of both the Municipal Code and the 2006 Comprehensive Plan. While the Planning Commission's recommendation does include boardwalk, greenway and parking improvements on Block 13, staff does question whether the long term vision of the Town is being supported when 200' of possible boardwalk connectivity is being forsaken. While the drainage issues at the Spirit Lake Lodge may eventually be too onerous for the RMRT, it does seem prudent to at least request that RMRT's engineer do an initial analysis on the drainage and determine if there are cost effective solutions that do not place a higher burden on the property owner. The Board should discuss the recommendation of the Planning Commission with RMRT. The Board should discuss the merits and drawbacks to the proposed parking plan as well. The Board should further discuss the Board's desire to hold a Public Hearing on this matter. If the Board would like to hold a Public Hearing, RMRT has requested negotiating with the Town Board the Board's willingness to allow for RMRT to obtain a C.O., if applicable, without having this improvement in place as

the theatre's aggressive development schedule, coupled with the seasonal challenges, might place a burden on the estimated theatre opening. If this is the case, RMRT has verbally indicated they would be willing to place monies in escrow as a surety until it is completed. Once all discussion has taken place, the Board should make a motion. The Board has several options. The Board may move to:

1. Hold a Public Hearing for August 23rd to determine community interest and neighborhood concerns. Staff will properly notice the hearing in the newspaper as well as all property owners within 200' of the proposed public improvement; or
2. Uphold the recommendation of the Planning Commission and direct staff to draft a resolution, to be brought back for signature, approving the modified parking plan and direct staff to approve a plans change request for the theatre building permit; or
3. Not uphold the recommendation of the Planning Commission and either approve a plan the Board is comfortable with or direct the theatre to work on alternative parking plans to discuss at a later date.

Chad Scott, Managing Director of RMRT, and Jonathon Wulf of Topknot Engineering, were recognized from the audience to speak.

Trustee Johnson expressed concern with the 6" x 6" parking bumpers shown in front of the proposed boardwalk. He suggested using something substantial to keep cars from hitting the boardwalk. His concern was with the boardwalk being hit while pedestrians are on it. Trustee Lewis proposed reducing the boardwalk in width and adding a greenway as a buffer.

Trustee Lanzi expressed concern with connectivity and consistency. This would turn a 3 block Town into a 4 block Town. Without the connectivity it will remain a 3 block Town. He said that it is twice as expensive to do something wrong than it is to do it right in the first place. He then said that the accesses and drainage issues at Spirit Lake Lodge need to be addressed.

Krystyna Sobon, owner of Spirit Lake Lodge, was the recognized from the audience and asked the board to consider her business as well. She mentioned that she has a drainage problem and has spent several thousands of dollars on asphalt to help mitigate the problem. She also said that she needs to have access for big trailers to get in and out.

Jonathon Wulf said that any work done in front of the Spirit Lake Lodge that raises the grade will cause significant drainage concerns.

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Town Manager Hale asked Wulf if there is any way to fix Sobon's drainage problem.

Wulf responded by saying that they are looking into the possibilities to remedy the problem such as reshaping the Town's asphalt.

Chad Scott then said that as they learn more about these drainage issues, the RMRT Board of Trustees, Topknot and their contractors are all concerned about the liabilities involved. Not just during construction on Town property but also with the negative effects that it could have on other properties now and in the future. The liability is such that they will take the necessary steps to ask for waivers to make improvements on public property.

Trustee Gibbons suggested that Krystyna Sobon hire an engineer to solve her problem. The problem is hers not the Theatre's.

Trustee Weydert noted that he was not at the Planning Commission Meeting when this was discussed and he made it clear that the unanimous vote of 4-0 to make recommendation to the Town Board for the approval of RMRT's construction of the proposed improvements means that there were three Commission Members absent. He then expressed concern with the impact of additional parking that the Theatre is creating. He said that this proposal is enhancing but not creating new parking spaces. The Theatre is double dipping with parking. They are remiss in solving the parking issue. He then asked about the possibility of creating parking enhancements on the west side of Vine Street which has not been mentioned.

Town Planner Wittman responded by saying that staff thought that it would be a viable option but RMRT would still be 5 spaces short of meeting their requirement. The idea with this proposal is to keep the traffic in the commercial area and out of the residential area.

Trustee Weydert said that people attending the Theatre will park as close to the Theatre as possible which will be in the residential area. That is why creating parking enhancements on the west side of Vine Street makes more sense. The Town's Public Works Department can delineate the parking on Grand Avenue at any time. He further stated that the property owners along Block 13 would be getting a boardwalk adjacent to their property paid by RMRT that they would otherwise have to pay for, which isn't fair.

Trustee Peterson said that he understands the double dipping but thought RMRT's proposal is a nice solution. He then suggested moving the existing parking in front of Spirit Lake Lodge to allow for a 5' painted crosswalk that would line up with the boardwalk on either side and create

parking to the north and south of the crosswalk. Access for ingress and egress could be to the east and west sides of the crosswalk.

Discussion then continued regarding Trustee Peterson's idea of the painted crosswalk with delineated parking to the north and south, a stamped concrete crosswalk instead of paint, improving the west side of Vine Street and the Planning Commission's recommendation to the Board of Trustees that shows boardwalk ending at the west end of Lot 13, Block 13 versus RMRT's original proposal of continuing the boardwalk around the boulders in front of Lot 13 to the Spirit Lake Lodge property.

At 9:00 p.m. Trustee Gibbons was excused from the meeting as he had to pick up a family member from the airport in Denver.

Following lengthy discussion, Trustee Johnson moved to not uphold the Planning Commission's recommendation but to approve RMRT's original proposal amended as follows: 1) that there be a two to three foot greenway space between the boardwalk and Town right-of-way adjacent to a portion of Lot 11 and all of Lot 12, Block 13; 2) that the boardwalk will end in front of Lot 14 after going around the large boulder; 3) that there will be either stamped concrete or paint used to delineate a 5' crosswalk in front of the Spirit Lake Lodge that would line up with the boardwalk on either side and create parking to the north and south of the crosswalk; and 4) to keep the pedestrian and planting improvements adjacent to and to the east of Lot 16, Block 13 seconded by Trustee Peterson.

Discussion then centered on the third amendment of the motion of whether stamped concrete or paint should be used. Three of the remaining six Trustees were in favor of stamped concrete and the other three were in favor of paint striping.

Chad Scott said that if stamped concrete is required RMRT would ask for a liability waiver.

Dick Lacouture, 142 County Road 4984, was recognized from the audience as a representative of RMRT to say that if stamped concrete is required to be used in the middle of the asphalt, Topknot Engineering will not stand behind whatever happens because of the two different materials abutting one another.

Trustee Johnson then moved to amend the third amendment of his motion to require paint striping be used to delineate a 5' crosswalk and not stamped concrete seconded by Trustee Peterson. All Trustees then voted aye except Trustee Weydert, who voted nay.

Trustee Weydert was upset with the fact that the Board passed a parking plan for what could be considered the most important construction project that's happened in this Town for many years without holding a Public Hearing. He was surprised that the Board can hold a Public Hearing regarding garbage but not on this. He said that the Board needs to brace itself for further public comment.

At 9:30 p.m. Trustee Lewis excused herself and left the room.

NEW BUSINESS:

PUBLIC HEARING – CONSIDERATION OF A CONDITIONAL USE REQUEST FOR A PAY-AS-YOU-THROW (PAYT) FACILITY TO BE LOCATED AT THE TOWN SHOPS, GRAND LAKE ESTATES 2ND FILING – Mayor Burke asked Town Manager Hale to present this matter to the Board. Hale explained that the Town is in receipt of a Conditional Use Request Application to locate a PAYT facility at the Town Shops. The Town went out to bid to have a private contractor operate a PAYT facility, with the intent of keeping the Town completely out of the garbage business. Unfortunately, no one bid to run this facility, so the Town is challenged with opening the facility itself. In previous discussions with the Board of Trustees, the decision was made to try to open a facility as inexpensively as possible, in order to determine if there is indeed a big demand for this type of service. If there is a good demand and this program does address all of the issues that the Town was attempting to solve with the initial mandatory garbage service ordinance, then this Board has expressed its willingness to consider building a permanent facility that may or may not be located eventually at this site. For now though, the request is consideration of the Town Shop site, and if there is a decision later to consider a different site it will be brought back through this same process. Staff wants to reiterate that by taking the route of treating this request as a Conditional Use Request goes beyond what staff believes the Town is actually required to do. Government uses, facilities, services and buildings are a use by right in this zone, and additionally, since this exact site is where the Town had formerly located its recycling bins, this PAYT facility would simply be a continuation of this use. Notwithstanding the above, staff believes that good open government means that the Town should strive to meet the highest standards possible and to apply the Town Code extra conservatively when it comes to the Town itself. Town Code states that Conditional Use Permits will be processed and reviewed according to the following criteria:

Section 12-2-31 B. 2.

b. Procedure before the Board of Trustees

- (a) The Board of Trustees shall vote to approve, modify or disapprove the recommendation of the Planning Commission by resolution. The Board of Trustees may also request a public hearing. Should the Board of Trustees choose so, the process

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identified in Section # 12-2-31 (A)7 shall be followed prior to voting to approve, modify or disapprove the recommendation of the Planning Commission by resolution.

Parking has been accommodated per the site plan, since this is a Town facility, snow removal will be addressed by the Town as needed, and the site will easily accommodate two eight-yard dumpsters. The facility will be open 24-7, and will have an onsite 24-hour surveillance camera which will be equipped with motion sensors and night vision capabilities. Additionally, given the fact that this use so closely mirrors the recycling use that operated here until very recently, staff believes that this use is appropriate for the neighborhood. The Planning Commission reviewed this application on June 16, 2010, and forwarded a favorable recommendation to this application, but also recommended that the Board hold a Public Hearing as the Commission believed that a hearing would be most appropriate at this level. The Board directed staff to schedule a Public Hearing for July 26, 2010, for the consideration of a Conditional Use Request for a PAYT Facility to be located at the Town Shops, Grand Lake Estates 2nd Filing, 2.0 AC Sewer Plant site SW4NE4 Sec 6 T3N R75. Public notice number 5248494 was published on July 8, 2010, and certified letters were sent to all property owners within 200' of this proposed use. The Town has received the following comments:

Mrs. Chris Clark is opposed to the proposed use, arguing that "the residents of Hot Sulphur Springs got it overturned as they were trying to place it there. Why should Grand Lake take on the Counties problems and further contribute to a declining economy...?" Staff did respond to Mrs. Clark to clarify that the proposal was not for a transfer station, and did let her know what was being proposed, and has not heard back since.

Mr. Ken Clark is distressed about the Town's decision to consider PAYT, advising that "the proposed location is already an eye sore, which gives the area an appearance that it is one of the least desirable parts of Town even though many property owners...have spent thousands of dollars improving the area..." He advises that "for the sake of property values, locals, second homeowners and the prosperity of the Town as a whole, [he] hopes that this is voted down".

Mr. Alan C. Youngs and Ms. Micheala A. Franklin are concerned about the proposed facility, citing the current condition of the shop area and the park, as well as concerns about illegal dumping at this site as well as plans for lighting.

Mrs. Barbara Oaster is opposed to this proposal and is "NOT in favor of rats and disease anywhere around our property", and questions how property "that was deeded to Grand Lake to be used as a park could be turned into City Shops, much less a dump".

Mr. Stephen and Mrs. Mary Beth Brunston are “concerned about this added use not intended by the present zoning”, but also “are concern(ed) about the global experience at “this end of Town””, citing specifically the lack of landscape screening around the Town Shop area and Winters Pioneer Park.

For the letters of support in favor of this proposal, the Board will recall that the Town has received a lot of correspondence on this topic over the past year; most of which has already been included with former packets. To be fair, the letters of support are in support of PAYT as a way of addressing illegal dumping and wildlife issues, and were not specifically written as it relates to the location of the facility. So, the letters of support are summarized as follows:

Mr. Jay Boisdrenghien believes that “this is a very good idea”, and “hope(s) that the Town approves this.”

Ms. JoAnn Bennet commends the Town for “having some very thoughtful discussions”, and hopes that PAYT will be “cost effective for...us Weekend Warriors”.

Ms. Deanna Inman is in agreement with the waste ordinance, and “especially the PAYT”.

Mr. George Cumings supported PAYT, but does “suggest that this program is being considered to solve a problem and not to construct a profit center for the city”.

Mr. Richard Wagner states “I fully support the Waste Disposal Pay as you Go plan.”

Ms. Shirley Peterson McClintock “think(s) the PAYT is an excellent compromise and solution”.

Ms Gailia A Stryker “think(s) the PAYT possibility would solve the trash problem for all homeowners in Grand Lake in a fair way”.

Ms. Sylvia Farley states that “we totally support the PAYT facility”.

Mr. Greg Hinman states “I would fully support and take advantage of a PAYT”.

Mr. and Mrs. Ted Baertoli states “we too would like to applaud the Town’s effort to address the problem by adopting a pay as you throw system that people can actually use.”

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Ms. Diane Greirson simply stated "Great idea—we're all for it!"

Mr. and Mrs. Salisbury requested that restaurant dumpsters be required to be kept locked (originally suggested by the Bertoli's).

Ms. Carolyn Alcorn states "The PAYT sounds like a good step if it can be efficiently organized and administered".

Ms. Patti Plunkett states "as there have never been any alternatives in the past, once we educate everyone on the PAYT, it should be a great success and go a long way in correcting past problems/issues."

Ms. Joann Bennet advises "I agree with the PAYT system as well..."

Mr. Wagner states "I am totally in support of the PAYT system for managing the trash".

Mr. Jeffery Wood wrote "I would like to echo the sentiments in support of the PAYT trash collection system, and applaud the town's effort to find a solution that is simple and fair-minded."

Mr. Tommasso Candiano advised "I am also supportive of this method and happy to see that there is some great thinking going on!"

Mr. Rich Mendrop wrote "the current proposal to establish a PAYT system a highly positive approach".

Mr. Andrew Kane stated he "hope(s) the Town will implement PAYT."

Mr. Steve Loo wrote "I am pleased with the proposed PAYT option"...and continued "I wish our federal gov't would be as responsive with some common sense".

Mr. Jay Garbarino stated "I really like the pay as you through concept."

Ms. Wanda Wilson advised "This sounds like a great solution and one that is very feasible".

Mr. Patrick Welch wrote "I agree that the PAYT system is a great solution for 2nd home owners.

Ms. Nina Rikoski advised that "we would like to use the PAYT option".

Hale referred to a table setting from Shane White who said "I have no issues with the plan and appreciate you all trying to eliminate illegal trash dumping."

The Board should listen to all testimony regarding this conditional use, should consider all of the information presented in this packet, and then should discuss this conditional use prior to making any decisions. After following this process, the Board may move to adopt, amend or deny Resolution No. 20- 2010.

Mayor Burke then opened the meeting for public comment.

Carolyn Alcorn, 1304 Grand Avenue, was recognized from the audience and said, "I'm all for this."

Public Works Director, Bernie McGinn, 213 Marina Drive, was then recognized and said that he is definitely in favor of this and hopes that it will help him with picking up trash.

Having no other comments, Mayor Burke closed the Public Hearing and turned the matter over to the Board of Trustees.

Following brief discussion, Trustee Johnson moved to adopt Resolution No. 20-2010, a Resolution Upholding the Planning Commission's Recommendation to Approve a Conditional Use Request for a Pay As You Throw (PAYT) Facility to be located at the Town Shops, Grand Lake Estates 2nd Filing, 2.0 Ac. Sewer Plant Site, SW4NE4 Sec. 6 T3N R75W. Trustee Peterson seconded the motion and all Trustees voted aye.

At 9:47 p.m. Trustee Lewis resumed her seat.

NEW BUSINESS:

PUBLIC HEARING - CONSIDERATION OF LAKESIDE LOFTS CONDOMINIUMS FINAL PLAT VESTED RIGHTS DEADLINE - Mayor Burke asked Town Planner Wittman to present this matter to the Board. Wittman explained that at their last regularly-scheduled meeting, the Planning Commission held a Public Hearing to consider making recommendation to the Town Board for the revocation of the Lakeside Lofts Condominiums Final Plat, conditionally approved to be located at Lots 1-2, Block 4 of the Town of Grand Lake. The Planning Commission unanimously voted (4-0) to make recommendation to the Board of Trustees for the revocation of the approval of the Final Development Plat of Lakeside Lofts Condominiums. At that meeting, the developer was not present. At the July 9th, 2007, Board of Trustees meeting the Board granted approval of Lakeside Lofts Condominiums with conditions. Conditions of the Final Plat approval included:

1. An executed copy of the Subdivision Improvement is received.
2. A bond or letter of credit in the amount of \$490,334.00 is provided for the improvements to the site.
3. A deed for the land that the parking will be provided on is received.

4. A payment for the 7% land dedication is paid in full.
5. An executed copy of the Trash Service Agreement is received.
6. Minor grammatical errors on the Final Plat are fixed prior to recording.
7. Unit #'s are added to the Final Plat Exhibit prior to recording.
8. The acceptance of the Agreement Removing Covenant by the Board of Trustees.
9. An executed copy of the Agreement Removing Covenant is received.
10. An executed copy of Condominiums Declarations is received.
11. The Resolution granting the encroachment of the second story boardwalk is adopted by the Board of Trustees.

To date, the Town has not received the documents necessary to record the Final Plat and, therefore, the plat has not been executed. While Municipal Code indicates an application has three (3) years to act on an approved plat, Town Attorney Krob has indicated that a conditional approval is not approval and if the applicant has not substantially completed the requirements of approval, then the Town may consider revocation of the final plat approval. While the Town has discussed this item with Mr. Brad Olson, Developer, in the past three years, staff wanted to bring this matter before the Planning Commission and Town Board for the consideration of revocation of the Final Plat approval for two significant reasons: 1) the legal property owner, Mr. Bob King, has verbally indicated to staff that the applicant no longer had permission to develop this land and 2) staff had not heard from the developer until May 19, 2010, two months prior to expiration of the three year vesting period. Certified mail was sent to the developer on June 17, 2010; the developer signed as having received notification of this meeting on June 29, 2010. The notification to the developer indicated attendance to this Hearing, as well as the Hearing held by the Planning Commission, was mandatory. No comments have been received and staff has not heard from the developer since staff notified the applicant of the hearing in an email on June 14, 2010. Additionally, Legal Notice #5195580 was published in the Middle Park Times on June 24, 2010. The Board should discuss this item with the developer and, specifically, the developer should provide the Town with sufficient documentation to show good cause why the Town shall not nullify the approval of the Final Plat. Once all discussion has taken place, the Board should make a motion on this matter. The Board has several options for motions. The Board may move to:

Uphold the recommendation of the Planning Commission by revoking the Final Plat approval of Lakeside Lofts Condominiums; or

Not uphold the Planning Commission's recommendation by extending the conditional approval of the Final Plat of Lakeside Lofts

Condominiums then indicate a specific time period for approval to be in effect.

Wittman noted that Brad Olson, Developer, was not present.

Mayor Burke then opened the meeting for public comment.

Having none, Mayor Burke closed the Public Hearing and turned the matter over to the Board of Trustees.

Trustee Johnson moved to uphold the recommendation of the Planning Commission by revoking the Final Plat approval of Lakeside Lofts Condominiums. Trustee Weydert seconded the motion and all Trustees voted aye.

NEW BUSINESS:

CONSIDERATION OF A RELEASE OF COVENANTS FOR LOTS 1 AND 2, BLOCK 4 REGARDING PARKING - Mayor Burke announced that the applicant has requested this item be postponed until the next regularly scheduled meeting to be held August 9, 2010.

NEW BUSINESS:

CONSIDERATION OF ORDINANCE NO. 10-2010, AN EMERGENCY ORDINANCE CONCERNING A PAY-AS-YOU-THROW (PAYT) TRASH SERVICE, AND CREATING AN ENTERPRISE OF THE TOWN IN CONNECTION THEREWITH AND CONSIDERATION OF RESOLUTION NO. 21-2010, A RESOLUTION ESTABLISHING FEES FOR THE PAY-AS-YOU-THROW (PAYT) ENTERPRISE 40-GALLON BAGS – Mayor Burke asked Town Manager Hale to present this matter to the Board. Hale explained that in order to operate a Pay-As-You-Throw (PAYT) facility, the Town will need to establish an enterprise fund as this operation will be supported only by fees from the PAYT operation. Exactly like the Water Department and Marina, this program must survive on its own without support from taxpayer monies. As such, a PAYT enterprise supplemental budget will need to be adopted prior to year's end, and every year following the Town will adopt a PAYT budget alongside the general fund and other Town enterprises. The first step in this process is simply to adopt an ordinance that establishes the enterprise. Staff modeled this ordinance off of the one that was adopted to establish the Marina enterprise a few years ago, and it has been reviewed and edited by the Town Attorney. Establishing this enterprise is really only needed if the Board approves the conditional use request for the PAYT facility at the Public Works' Shop, so if that request is denied then the Staff recommendation will be to deny this ordinance as well. For the financial considerations of this enterprise, the staff analysis can only get the Town partially towards what the budget for this operation will ultimately be. The breakdown of number of bags in each dumpster is as follows:

Waste Connections cost per pick-up per dumpster is \$34.71. There are 40 40-gallon bags per 8-yard dumpster at 100% capacity.

100% capacity = 87¢/bag
 90% capacity = 96.5¢/bag
 80% capacity = \$1.09/bag

The initial cost per bag is 35.5¢/bag, \$1,418.88 for 4,000 bags. The distributor gets 50¢/bag they sell. Waste Connections currently charges \$4.00/40-gallon bag, and the Town doesn't want to undercut the private enterprise, so staff's analysis is done from the standpoint that the Board will also choose to charge \$4 per 40 gallon bag to be consistent. Tax on a bag sold at \$3.71 is 29¢, which sets the consumer cost at \$4.00/bag. The Town will receive \$3.21/bag, \$3.71 - .50 vendor fee, out of which we need to subtract the cost of the bag itself, money to recoup the initial investment for the signs, estimated at \$350.00, fencing, estimated at \$700.00, camera cost, waiting for estimate, dumping fees, variable depending on capacity, and staff time, if we decide to charge it.

\$4.00 total cost for the consumer/bag
 \$3.71 sale price of bag for distributor, this allows for 29¢ tax
 \$3.21 amount remitted to Town per bag
 \$2.875 after subtracting cost of bag itself, 35.5¢ per bag

Net per bag retained for initial and future capital costs:

\$2.005 amount per bag for initial costs/capital improvements after dumping fee at 100% capacity
 \$1.785 amount per bag for initial costs/capital improvements after dumping fee at 80% capacity
 \$1.145 amount per bag for initial costs/capital improvements after dumping fee at 50% capacity

Breakeven analysis:

Thus, as long as the dumpsters are emptied at an average of at least 50% capacity, the Town will not only pay for the operations of this program, but will still be able to save \$1.14 per bag for future capital costs. While it is good to know that there is a nice margin, staff has no intention of allowing this program to be run that inefficiently. Staff has spoken with Waste Connections, who is very flexible about how many pickups that they make, whether those pickups are made on a schedule versus on an on-call basis instead. In short, staff will be able to manage the frequency in which these dumpsters are emptied, and is confident that in doing so, there will only be dumpsters that are relatively full being emptied. So, the basic plan is that monies received from this program will go first and always towards the continued operations, tipping fees, secondly will be

applied to the initial capital investment, fence, camera, signs, bags, and third towards future capital investments, permanent location. For staff, Hale said that he would like to put Code Enforcement Officer Korkowski as the liaison to the PAYT Enterprise. Unlike the other enterprises, the Town doesn't really have staff per se, as the majority of the work will be done by contract. Korkowski will be in charge of ensuring that the site is kept orderly, will work with the Sheriff's Department on any illegal dumping issues, and will be generally keeping up with the dumping schedule to ensure that we're having dumps at appropriate intervals. Town Treasurer Dzinski will be primarily responsible for invoicing and collecting monies from any of our local vendors. Public Works will obviously be helpful in letting Town Hall staff know if a dumpster were hit over the night, illegal dumping, etc. Now for the things that we really won't know until we operate for awhile, or learning by doing as they call it in academia. First, while telling the Board what efficiencies will be needed to see in the program to break even, staff can't really anticipate with any accuracy how many bags will be sold either through the remainder of this year, or for the next year at this point. On that same note, expenditures can't be anticipated at this point either; we know our initial and capital costs, including bags \$1,418.88, the fencing materials \$700, signage \$350. The camera equipment is still unknown, as staff has had challenges in getting return phone calls from different vendors this time of year, but staff will make every effort to have a verbal estimate by this evening. Even with the known and soon to be known costs outlined above, we can't know how much we'll pay in tipping fees, which will be the majority cost driver for the program. Hale said that staff anticipates that the initial implementation of this program will be time consuming for primarily the office staff, Code Enforcement Officer Korkowski, Town Treasurer Dzinski and himself, but once it's really up and running it is not anticipated that this program will be a large drain of time or resources. So, based upon how much time it actually takes to manage this program, we can discuss how much if any of the monies in this program go towards a portion of the salaries for the Town staff working on them. Code Enforcement Officer Korkowski is the only person that will be spending any amount of time even worth tracking, and given the amount of time that he currently spends on this issue as Code Enforcement Officer, there is a very good chance that he'll be spending less time once the program is established. There may not be a need to charge back any of Staff's time towards this project. This is all a way of explaining that adopting a supplemental budget in July doesn't really make a lot of sense, because we really won't be able to accurately forecast for our revenues or our expenditures until we've operated for a few months. As long as we adopt a supplemental prior to the end of the year, we are compliant with state statute so there is really no reason to rush. This approach will also benefit the Town because if enough bags are sold in this year, there is a chance that there may not be much of a loan that is needed from the general fund to the enterprise to get it

established. The capital costs are really quite small at this point, so if enough bags are sold in 2010, the hit to the paper budget of the general fund isn't anticipated to be much, if anything at all. Staff will also note that while a budget will be adopted for the 2011 year with this enterprise, there is a high probability that we'll need to do a supplemental budget at the end of next year as well as having only a few months of data at the end of the year won't be a whole lot to go on when anticipating the volumes for next year and the height of summer. So for this evening and following any discussion on the financial considerations, the staff recommendation is for the Board to adopt Ordinance No. 10-2010. Secondly, staff recommends that the Board adopt Resolution 21-2010.

Trustee Weydert moved to adopt Ordinance No. 10-2010, an Emergency Ordinance Concerning a Pay-As-You-Throw ("PAYT") Trash Service, and Creating an Enterprise of the Town in Connection Herewith. Trustee Peterson seconded the motion and all Trustees voted aye.

Trustee Peterson then moved to adopt Resolution No. 21-2010, a Resolution Establishing Fees for the Pay-As-You-Throw (PAYT) Enterprise 40-Gallon Bags. Trustee Weydert seconded the motion and all Trustees voted aye.

NEW BUSINESS:

CONSIDERATION OF ORDINANCE NO. 11-2010, AN ORDINANCE AUTHORIZING THE LEASE OF REAL PROPERTY BY THE TOWN OF GRAND LAKE TO THE TOWN OF GRAND LAKE PAY-AS-YOU-THROW (PAYT) ENTERPRISE AND ESTABLISHING THE TERMS THEREOF – Mayor Burke asked Town Manager Hale to present this matter to the Board. Hale explained that the Town should probably enter into a lease with the PAYT enterprise since it will be located on Town property. Staff has tried to delete many of the provisions that are normally included in the Town's leases as they seemed redundant and ridiculous given our circumstances, and what remains looks to be possibly the bare minimum document. Staff has used the default of \$1 per year, which is what we currently honor with GCWIN, GLMRD and GLAHS, but the Town could certainly choose to charge its enterprise more if that was the direction that the Board chose. The staff recommendation is for the Board to adopt Ordinance No. 11-2010.

Trustee Peterson moved to adopt Ordinance No. 11-2010, an Ordinance Authorizing the Lease of Real Property by the Town of Grand Lake to the Town of Grand Lake Pay-As-You-Throw ("PAYT) Enterprise and Establishing the Terms Thereof. Trustee Johnson seconded the motion and all Trustees voted aye.

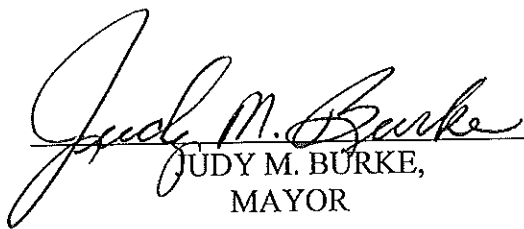
RECORD OF PROCEEDINGS

CITIZEN PARTICIPATION: Carolyn Alcorn, 1304 Grand Avenue, was recognized from the audience and asked if the PAYT dumpsters will be covered and she also asked about large items that people want to dispose of.

Town Code Enforcement Officer Korkowski responded by saying that the dumpsters will be wildlife resistant with metal covers and will have a door for the bags to fit through. Korkowski then said that the Transfer Station will take certain large items. He suggested contacting them before hand.

ADJOURNMENT:

Trustee Peterson moved to adjourn, seconded by Trustee Lewis. All Trustees voted aye, and the meeting was adjourned at 10:03 p.m., July 26, 2010.



JUDY M. BURKE,
MAYOR

ATTEST. 

RONDA KOLINSKE, CMC,
TOWN CLERK