

RECORD OF PROCEEDINGS

REGULAR MEETING
TOWN OF GRAND LAKE BOARD OF TRUSTEES
MONDAY, SEPTEMBER 26, 2011 7:30 P.M.

CALL TO ORDER: The regular meeting of the Board of Trustees was called to order by Mayor Judy Burke at 7:30 p.m. at the Town Hall, 1026 Park Avenue.

ROLL CALL
PRESENT:

Mayor Burke; Mayor Pro-Tem Peterson; Trustees Johnson, Lanzi, Lewis, Ludwig, and Weydert; Town Manager Hale, Town Clerk Kolinske, Town Planner Wittman and Town Code Enforcement Officer Korkowski.

ABSENT: None.

APPROVAL OF MINUTES

September 12, 2011: The minutes of the September 12, 2011 regular meeting were not available.

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

Mayor Burke then announced that the Grand Lake Fire Protection District will be celebrating Fire Prevention Week and will host its annual Open House and BBQ. Everyone is invited to attend on Wednesday, October 5th from 4 – 7 p.m. at the Grand Lake Fire Station. Meet your local firefighters and emergency responders.

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 Ludwig announced that he had a conflict with the Local Liquor Licensing issues as he holds a license for The Rapids Lodge and Restaurant.

REPORTS: SALES TAX
CASH FLOW REPORT
FOR SEPTEMBER 2011:

Mayor Burke asked Town Clerk Kolinske to present the sales tax cash flow report. Kolinske reported that the amount of revenue received in September 2011 for the month of July is \$204,921. This amount is over 12 ½% above what was received through September 2010. This July's receipts are the highest since 2007.

REPORTS: FINANCIAL
REPORT FOR
AUGUST 2011:

Mayor Burke asked Financial Trustee Peterson to present the Financial Report for August 2011. Peterson reported that General Fund expenditures through the end of August totaled \$742,583.22 or 50.6% of budget. He said the Water Fund expenditures for the same period totaled \$242,029.99 or 49.3% of budget, the Marina Fund expenditures totaled \$129,102.84 or 38.8% of budget and the PAYT Fund expenditures totaled \$6,205.74 or 96.7% of budget.

At 7:35 p.m. Trustee Ludwig excused himself and left the room.

LIQUOR LICENSING AUTHORITY: QUASI-JUDICIAL - CONSIDERATION OF RENEWAL OF THE 3.2 PERCENT BEER RETAIL LIQUOR LICENSE FOR CIRCLE D OF GRAND LAKE, INC., D/B/A CIRCLE D FOODS - 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 concluded by saying that Craig Downing, President/Treasurer, was present.

Trustee Peterson moved to approve the renewal of the 3.2 Percent Beer Retail Liquor License for Circle D of Grand Lake, Inc., d/b/a Circle D Foods. Trustee Lewis seconded the motion and all Trustees voted aye.

LIQUOR LICENSING AUTHORITY: QUASI-JUDICIAL - CONSIDERATION OF RENEWAL OF THE RETAIL LIQUOR STORE LIQUOR LICENSE FOR MILES GROUP, LLC, D/B/A LAKEVIEW LIQUOR - 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. There is, however, a past due balance on Pay-As-You-Throw bags purchased for resale. She noted that the Grand County Sheriff's Department found no adverse information which would affect the status of the license. She concluded by saying that Joann Miles, Member, was present.

Trustee Lewis moved to approve the renewal of the Retail Liquor Store Liquor License for Miles Group, LLC, d/b/a Lakeview Liquor contingent upon bringing the past due balance current. Trustee Weydert seconded the motion and all Trustees voted aye.

LIQUOR LICENSING AUTHORITY: QUASI-JUDICIAL - CONSIDERATION OF A TRANSFER OF OWNERSHIP APPLICATION FROM GRUMPY'S, INC., D/B/A GRUMPY'S CIGAR BAR TO GRUMPY'S SALOON, INC., D/B/A GRUMPY'S SALOON FOR THE TAVERN LIQUOR LICENSE - Mayor Burke asked Town Clerk Kolinske to present this matter to the Board. Kolinske explained that the Town received a Transfer of Ownership Application for the Tavern Liquor License from Grumpy's, Inc., d/b/a Grumpy's Cigar Bar at 913 Grand Avenue to Grumpy's Saloon, Inc., d/b/a Grumpy's Saloon. Dustin Barnes has been operating under a Temporary Transfer Permit issued by the Town Clerk. The fees have been paid and all the proper application documents have been completed. A Show Cause Hearing was held on July 11, 2011 for disorderly conduct. The license was suspended for 30 days. Five days are to be served October 1 – 5, 2011, and 25 days are held in abeyance for 1 year. Town Attorney Krob has reviewed the application documents and is satisfied. The Water Department reports that the account is paid in full through the 3rd quarter of 2011,

and is therefore considered current. The business license and sales tax accounts are current. Kolinske stated that the Board may set a public hearing before considering the transfer, but was not required to do so. She noted that Dustin Barnes, President/Secretary, and Rachel Terry, Manager, were both seated in the audience.

Rachel Terry, 178 County Road 6522, was recognized from the audience and asked the Board if the dates of their suspension could be changed to another date since the Race for the Cure and the Bar Crawl, which raises money for the Race for the Cure, is scheduled during the time that they are supposed to be closed. She explained that since the Lariat has been closed, they have been busier and they don't want to miss out on this opportunity to make money as well as help the Race for the Cure.

Following discussion, Trustee Peterson moved to change the days of suspension from October 1 – 5, 2011 to November 3 – 7, 2011. Trustee Lanzi seconded the motion and all Trustees voted aye.

Trustee Lewis then moved to approve the transfer of the Tavern Liquor License from Grumpy's, Inc., d/b/a Grumpy's Cigar Bar to Grumpy's Saloon, Inc., d/b/a Grumpy's Saloon, without a public hearing. Trustee Peterson seconded the motion and all Trustees voted aye.

At 7:50 p.m. Trustee Ludwig resumed his seat.

OLD BUSINESS:

PUBLIC HEARING – CONSIDERATION OF ORDINANCE NO. X-2011, AN ORDINANCE AMENDING THE TOWN OF GRAND LAKE MUNICIPAL CODE TO ALLOW FOR ADMINISTRATIVE ENFORCEMENT AND PENALTIES INSTEAD OF CRIMINAL ENFORCEMENT AND PENALTIES FOR SPECIFIC PORTIONS OF THE GRAND LAKE MUNICIPAL CODE – Mayor Burke opened the Public Hearing and asked Town Code Enforcement Officer Korkowski to present this matter to the Board. Korkowski explained that per the direction of the Board of Trustees, staff has drafted an ordinance for the enactment of an administrative enforcement process instead of criminal enforcement for certain violations of the Municipal Code. At their August 8, 2011 regular meeting, the Board set this matter for a Public Hearing for Sept. 26, 2011. Legal Notice #6882704 for the Public Hearing was published in the Middle Park Times on August 18, 2011. Staff has compiled a list of the parts of the Municipal Code they think would be suitable for Administrative Enforcement, but the Board needs to determine if the Municipal Codes listed are appropriate for the Administrative Enforcement process. Staff recommends that the Board look at each listed Municipal Code separately to determine if they want that particular Code decriminalized. The proposed ordinance does include a three tiered listing of offenses and a graduated penalty section for the violations. Tier 1 violations would be subject to a warning notice with a 10 day correction period before an administrative enforcement citation would be issued. Tier 2 violations would be subject to the immediate

issuance of an administrative enforcement citation with a 10 day correction period. Tier 3 violations would be treated the same as Tier 2 except the correction period would only be 24 hours due to the nature of the offense. Staff is also asking the Board to review the listed offenses and determine if they are in the appropriate Tier level. Staff has proposed a graduated penalty system of \$100.00 for the first citation, \$200.00 for the second citation for the same offense/same incident, and \$300.00 for the third citation for the same offense/same incident. After the third citation is given, and if no action is taken by the offender, the Town would then have authority to use other means to correct the offense. These actions would depend on the violation and what needed to be done to correct the violation, but could include the Town doing or having the work done, in some cases, and then going through the process of collecting the costs for the work either civilly or through an abatement process. The draft ordinance also changes numerous Municipal Codes that had specific corrective actions or penalties already listed in them. While most of these changes are only removing the current listed penalties for that specific code, staff did want to bring the following codes which had significant changes to them to the attention of the Board.

7-6-12 Waste Disposal is slightly changed in that there would no longer be a minimum fine for trash being knocked over, but the first penalty listed for a Tier 2 offense is the same amount as currently listed.

7-6-13 and 7-6-14, which are nuisance codes, are both extensively changed to remove the notification process and abatement process listed in them. The proposed ordinance takes the notification procedure away from the Mayor and moves it to the Code Officer. It also removes the requirement that the Board needs to order the Mayor to send the letter. There is an abatement process set up in the Administrative Enforcement Section that is proposed.

7-6-15 Camping on Public Property is significantly changed as there is no mandatory court appearance and the penalties could go up to \$300.00 instead of just \$100.00 for multiple offenses.

7-9-2 Boat Regulations is significantly changed in that there is no mandatory court appearance for the third offense.

9-1-6 Building Permits is slightly reworded and has the penalty section removed.

10-1-11 Water Ordinance had higher fines listed (\$500.00) than the proposed administrative enforcement has (up to \$300.00), but since our Municipal Court is not a "court of record", the fine cannot be more than \$300.00 per offense or day of offense per State law.

10-3-1 Water Supply Protection District has the same issues as 10-1-11 in that the fine listed there is \$1,000.00 which is over the statutory limit.

11-4-13 Boardwalks/Sidewalks and Greenways takes out all of the notification and penalty sections as the proposed administrative enforcement Code has a process listed.

13-1-7 Abatement of Nuisance, Environmental Protection, is also significantly changed in that it contains a notice and abatement process that would need to be removed to allow for the notice and abatement process in administrative enforcement.

Staff has included the changes to the ordinance that were recommended at the last meeting. Staff sent letters out to attorneys in Grand County to see if they would be willing to be an Administrative Hearing Officer. The Town has received 1 response from a licensed attorney who would be willing to sit as an Administrative Hearing Officer. Staff recommends the Board take public comment, discuss the issue, make what changes deem appropriate, and take what action deems appropriate.

Mayor Burke then asked for public comment. Having none, Mayor Burke closed the Public Hearing and turned the matter over to the Board.

Following brief discussion, Trustee Peterson moved to adopt Ordinance No. 17-2011, an Ordinance Amending the Town of Grand Lake Municipal Code to Allow for Administrative Enforcement and Penalties Instead of Criminal Enforcement and Penalties for Specific Portions of the Grand Lake Municipal Code. Trustee Lewis seconded the motion and all Trustees voted aye.

NEW BUSINESS:

CONSIDERATION OF AN EXTENSION TO A GRADING PERMIT ISSUED TO TODD AND AMANDA HAMMERLUND FOR THE GRAND AVENUE RIGHT-OF-WAY ADJACENT TO LOTS 1-2, BLOCK 27, TOWN OF GRAND LAKE – Mayor Burke asked Town Planner Wittman to present this matter to the Board. Wittman explained that on September 13, 2011 the Town received a request for an extension to a Grading Permit, issued to Lots 1-2, Block 27, Town of Grand Lake from Todd and Amanda Hammerlund. This request comes before the Town Board after the Board authorized an extension of the work through the approval of Resolution No. 23-2010. Prior to the Town's approval of the resolution, the Board discussed the need for sediment, erosion and dust control; the property owner has made sure any runoff areas have been graded after heavy storms. At that time the Board indicated they would like to see the work proposed to be completed by mid-October of this year. Resolution No. 23-2010 authorized the work to be completed by October 11, 2011. In April, 2010, the Town Board of Trustees approved Resolution No. 14-2010 which authorized grading work to be performed in the Grand Avenue and Jefferson Street right-of-ways. The work to be performed was done in conjunction with an April, 2010, approved Grading Permit. At the time of the Board's consideration of Resolution No. 14-2010, the Board indicated they would like to be the reviewing body for extensions to the Grading Permit, if requested. Since the permit approval, the Town has not received any complaints about the work being performed. The

Board should discuss this matter with the property owner for determination of the Board's willingness to grant an extension of the Grading Permit. Outside of the approved permit, the resolution allowing for the work to be conducted in the Jefferson Street right-of-way, and Resolution No. 23-2010, the Board should discuss changes to the excavation process, storage of excess materials, etc. with the Hammerlunds. Once all discussion has taken place, the Board should make a motion on this matter. The Board may move to direct staff to draft a resolution authorizing an extension of the grading permit, for a specific time period, noting any conditions the Town Board would like to require, and to have staff bring the matter back before the Town Board at their next regularly-scheduled meeting. If the Board is not favorable to the extension request, the Board must further discuss the matter with the property owner for determination if final requirements are needed for the site in its current condition. Wittman noted that Todd Hammerlund was present.

Todd Hammerlund, 564 County Road 6470, was recognized from the audience. He explained that when he took on this project he had a plan to put the material that he was removing on the Grand Camp property. Since that time the Grand Camp development has failed and he doesn't have a place to put that much dirt and rock. If he would have known that the project was going to fail he said that he wouldn't have taken the property or taken on this project.

Following discussion, Trustee Weydert moved to direct staff to draft a resolution granting an extension once staff has received a timeline of completion from Todd Hammerlund to be brought before the Board for consideration at the next regularly scheduled meeting to be held October 10, 2011. Trustee Lewis seconded the motion and all Trustees voted aye.

NEW BUSINESS:

CONSIDERATION OF RESOLUTION NO. X-2011, A RESOLUTION EXTENDING A MEMORANDUM OF UNDERSTANDING BETWEEN THE GRAND ARTS COUNCIL AND THE TOWN OF GRAND LAKE – Mayor Burke asked Town Planner Wittman to present this matter to the Board. Wittman explained that at the Board's last regularly scheduled workshop meeting the Board discussed with Mr. Kevin Leppke, representing the Grand Arts Council, the Board's willingness to extend the 2009 Memorandum of Understanding between the Arts Council and the Town for the temporary occupancy of the first floor of the Arts Council's structure located at Lots 10-12, Block 9, Town of Grand Lake, prior to the completion of certain exterior improvements. At that meeting, the Board indicated while they are amenable to continuing to work with the Arts Council, the Board would like to have a better understanding of the Arts Council's business and marketing plan for the structure. The Board indicated they would like to see a business and marketing plan submitted to the Town no later than November 15th, 2011; the matter will be brought before the Town Board at their regularly scheduled November 28th meeting for review and discussion with the Arts Council. Staff has drafted a resolution indicating that a plan must be submitted to the Town by November 15, the plan will be reviewed by the Town and the Arts Council on November 28, and failure to meet the requirements will

RECORD OF PROCEEDINGS

necessitate removal of the temporary occupancy. Staff's recommendation is for the Board to move to adopt the resolution. Staff will continue to work with the Arts Council to achieve the requirements of the resolution and bring this matter before the Board should updates be necessary prior to the second Board meeting in November. Wittman noted that Kevin Leppke was present.

Following discussion, Trustee Lanzi moved to adopt Resolution No. 25-2011, a Resolution Extending a Memorandum of Understanding Between the Grand Arts Council and the Town of Grand Lake. Trustee Peterson seconded the motion and all Trustees voted aye.

NEW BUSINESS:

CONSIDERATION OF RESOLUTION NO. X-2011, A RESOLUTION DESIGNATING AN AUTHORIZED DRIVER FOR BLACK BEAUTY – Mayor Burke asked Town Clerk Kolinske to present this matter to the Board. Kolinske explained that on May 24, 2010, the Town entered into a Memorandum of Understanding (MOU) with the Heckert Memorial Fund regarding the operation of a 1955 Jeep Willy's wagon that was donated by Louie Heckert and is known as Black Beauty. According to the MOU the Heckert Fund will provide the Town with a list of drivers that will be designated to drive Black Beauty, and the Town shall designate those drivers by resolution. Anyone that isn't named by resolution is not allowed to operate the jeep at any time. Peter Esmonde, through the Heckert Memorial Fund is requesting that John "Mickey" Rourke be added as an individual authorized to drive Black Beauty. If the Board is in support of this request, staff would recommend that the Board adopt the draft resolution.


Trustee Peterson moved to adopt Resolution No. 26-2011, a Resolution Designating an Authorized Driver for Black Beauty. Trustee Lewis seconded the motion and all Trustees voted aye.

CITIZEN PARTICIPATION: None.

ADJOURNMENT:

Trustee Lewis moved to adjourn, seconded by Trustee Lanzi. All Trustees voted aye, and the meeting was adjourned at 8:35 p.m., September 26, 2011.





JUDY M. BURKE,
MAYOR

ATTEST: 

RONDA KOLINSKE, CMC,
TOWN CLERK