

RECORD OF PROCEEDINGS

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REGULAR MEETING  
TOWN OF GRAND LAKE BOARD OF TRUSTEES  
MONDAY, SEPTEMBER 12, 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 Treasurer/Clerk Pro-Tem Dzinski and Town Planner Wittman.

ABSENT: Town Clerk Kolinske.

APPROVAL OF MINUTES

August 22, 2011: Trustee Peterson moved to approve the minutes of the August 22, 2011 regular meeting as written, seconded by Trustee Weydert. All Trustees voted aye except Trustees Johnson and Lanzi, who abstained.

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

Mayor Burke announced that Grand Lake's "Race for the Cure", a fundraiser for breast cancer research, will be held on October 2. Register online with Team Grand Lake at [www.komendenver.org](http://www.komendenver.org).

Mayor Burke then announced that the Town of Grand Lake is proclaiming September 16, 2011 as Tim Thorpe Day. She said that Tim was instrumental in getting Grand Mountain Bank in Town.

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 the Public Hearing on this evening's agenda is regarding the re-addressing of certain parcels in the Sunnyside Addition neighborhood; he lives in Sunnyside Addition but his house is not being re-addressed. He said that he would abstain if anyone objected. No one objected and the meeting continued.

LIQUOR LICENSING AUTHORITY: None.

OLD BUSINESS: **PUBLIC HEARING – CONSIDERATION OF RESOLUTION NO. X-2011, A RESOLUTION AUTHORIZING THE FORMAL RE-ADDRESSING OF CERTAIN PARCELS IN THE SUNNYSIDE ADDITION NEIGHBORHOOD WITHIN THE TOWN OF**

**GRAND LAKE** – Mayor Burke asked Town Planner Wittman to present this matter to the Board. Wittman explained that at the end of 2010 the Town readdressed the Lake Kove neighborhood and, at that time, the Board discussed its desire to look at street addressing changes on a neighborhood level to ensure address changes/corrections were consistent throughout any given neighborhood. As staff explained at that time, numerous land use actions have created great confusion in the addressing system in this neighborhood and staff is proposing a unified addressing system to rectify the matters and potentially eliminate any unwanted, negative impacts that could occur as a result of addressing inconsistencies. The Town Board discussed with staff the need to readdress certain parcels in the Sunnyside Addition neighborhood; the Board directed staff to notice for a Public Hearing. On August 18, 2011 legal notice was published in the Middle Park Times advertising the date and time of the Public Hearing. Additionally, property owners in the neighborhood were sent notice to their legal mailing address kept on file with the Grand County Assessor's Office. While staff has received a few phone calls from individual property owners who desired greater clarification, staff has received written comments from three property owners and their comments are as follows:

Louis and Mary Ann LaConte (1240 Grand Avenue) stated their address has been the same since 1975 and should remain 1240 Grand Avenue. Staff did speak with the LaContes; their address is not proposed to be changed.

Sharron Finch (2032 Grand Avenue) indicated her opposition to the proposed readdressing due to business concerns, changing of account information; Ms. Finch indicates the Town should consider changing an address when a property is sold or conveyed. While staff has not been in touch with the Finches regarding this matter; staff would like to note the address of their parcel is not proposed to be changed. In regards to the suggestion of changing addresses upon sale, staff feels this would be ineffective in that the Town is not always noticed of the sale of a property and that this, too, would continue the piecemeal approach to address changes that may have guided the Town to the hodge-podge addressing system that is in place today.

Barbara Coleman and Diana Petrino (Riverside Condos: Pumphouse) express their opposition citing wills, leases, IRS statements, and postal notifications, as well as for personal records that will need to be changed. Their concerns were further expressed in noting issues with address changes have happened with address changes in the past.

The aforementioned items are things the Town does require a property owner to address, though the Town sends notification for the property owner to utilize when making address changes with various

organizations, entities and individuals. Additionally, the Town of Grand Lake staff is always available to assist a property owner in the event there are issues with changes that cannot be made. Though staff has offered assistance to all properties affected by address changes, staff has not had any requests from property owners who have had issues with their address changes. The Coleman/Petrino property, however, is a property that is questioned by staff on how the Town addresses the addresses. Riverside Condos are platted as individually-owned cabins on a common HOA plot of land. Each of the addresses for these cabins is extremely inconsistent. Staff is proposing readdressing the entire parcel, with unit notations of the unit name, as platted. This would be consistent for addressing of other developments where many individually-owned units sit on one commonly shared parcel, such as Lemmon Lodge. Staff has drafted Resolution No. X-2011 for the Board's review, discussion, and consideration. The Board should take public comment and once all comment has been received, the Board should discuss this matter and determine whether or not the Board is in support of staff's proposal. If the Board is favorable, the Board should move to adopt Resolution No. X-2011 and to direct staff to proceed with the formal readdressing of the affected parcels. If the Board is not favorable to staff's proposal, then the Board should deliberate this matter and act according to the Board's desire.

Mayor Burke then opened the meeting for public comment.

Chris Ruske, 257 N. Inlet Road, asked about who will help defray the cost to change these addresses.

Town Planner Wittman responded by saying that the Town will make the legal address change with the County, Mountain Parks Electric, Xcel Energy, Comcast, Quest, the Fire Department, EMS, the Sheriff's Department, Grand Lake Water Department and Three Lakes Water and Sanitation.

Trustee Weydert stated that mortgage companies are more concerned with the legal description and with the physical address. He said that the Assessor's Office will send address verification to a mortgage company or to an insurance company anytime that a request is made.

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

Having been through the process, Trustee Ludwig said that he did not have to notify anyone; the Town did a very good job with the notifications.

Following discussion, Trustee Johnson moved to adopt Resolution No. 21-2011, a Resolution Authorizing the Formal Re-Addressing of Certain Parcels in the Sunnyside Addition Neighborhood Within the Town of Grand Lake. Trustee Peterson seconded the motion and all Trustees voted aye.

NEW BUSINESS:

**CONSIDERATION OF ORDINANCE NO. X-2011, AN ORDINANCE GRANTING AN EASEMENT FOR THE ENCROACHMENT INTO THE ELLSWORTH AVENUE ALLEY PUBLIC RIGHTS-OF-WAY OF CERTAIN EXISTING ENCROACHMENTS ON THE ELLSWORTH AVENUE RIGHTS-OF-WAY AND LOTS 1-5, CAIRNS ADDITION TO GRAND LAKE** - Mayor Burke asked Town Planner Wittman to present this matter to the Board. Wittman explained that the Town was approached in 2008 about the possible vacation of a part of the 400 block of Ellsworth Street that lies directly north of the Heckendorf property. When the family began looking into the possible subdivision and/or sale of their property, it was discovered that some of the property that they believed was theirs, inside of their fence, was in fact Town property, a .075 acre tract of land. The plat references two vacations in this area that occurred in 1918 and 1955 which did deed a portion of public right-of-way (R-O-W) to the property owner. At that time, the Board agreed with staff that since that the Ellsworth R-O-W was already very reduced to 55', the Town vacated a portion over to Eagle's Landing in 1980, this vacation did not make sense. Staff and Board both seem to view vacation of public property differently than the Town did in 1980 with the Eagle's Landing vacation, and probably wouldn't have vacated any of that property either if the request were to be made today. Regardless of the reasoning though, the answer to the Heckendorfs two years ago was that the Town would not be in favor of another vacation in this area. Instead, the Town would consider an encroachment license for the existing structures, but would not allow for any new construction or enlargement or structural alterations. Additionally, the Heckendorfs would be responsible for removing the fencing, and possible maintenance of the property, such as tree removal, while they enjoyed the encroachment. After our last meeting on this issue in 2010, the Board took the position that it would be amiable to granting a revocable encroachment license for the carport and cabin, if the fencing was removed at their expense and the property is maintained by them while the encroachment is in effect.

On September 6, 2011 the Town received a request for the easement for the encroachment of a preexisting garage, cabin and rock wall fence on the Town's property. The request comes to the Town at this time due to a July 29, 2011 dated letter from the Grand County Department of Building and Sanitation. The property owner's representatives, Mr. Pat Ryan, along with Mr. Keith Everhart, have been in discussions with

Town staff on how to appropriately rectify the matter to become compliant with the Building Code. Ryan and Everhart have worked with the property owner to develop a rehabilitation plan for the property which includes a proposal to demolish the carport and covered walk immediately with the work completed by November 15, 2011. Also completed by that same day, if the Board is favorable to the encroachment, the 90' X 3' stone wall would have all log rails removed and the stone wall would be patched with mortar and stone, as needed. The application further requests the Town Board consider an easement for the 6'3" X 6'3" encroachment of the corner of an existing garage as well as for the 19'6" X 14'6" one-story cabin. The rehabilitation plan would include a rehabilitation of the existing garage, which will shrink the corner of the structure from the present size, and exterior restoration of the cabin. Additionally, the proposal calls for the addition of a 7' X 3'6" new front porch.

Staff is of the opinion that history supports that the property owner's neglect of the property has led to undesirable conditions of structures on the property but with submittal of a rehabilitation plan, a good faith effort is being made. The property owner's request for encroachment easements for the preexisting structures, if those structures are rehabilitated, would not only improve the character of this property but also the public R-O-W intersections in this location. The rehabilitation plan for demolition of the covered walkway and covered carport reduces the overall encroachment and will satisfy the building code violation. Staff is in support of this work. Rehab to the existing garage and restoration of the small cabin would be vital if the Town was favorable to allowing the structures to stay. Given age of the encroachments, and the property owner's willingness to improve and update the structures, staff believes it is appropriate for the Town Board to consider granting the existing encroachments but make the easements null and void in event failure to meet the timelines indicated are not met. The rock wall in its current condition, with log rails fallen and/or missing, is unacceptable on these public lands. Town Public Works Director McGinn indicated he thought if the fence was repaired, the fence could help with containment of snow storage in this area as the Town has been using the area in the Ellsworth R-O-W for snow storage for the last few years. While the applicant is proposing to rehab the stone, railings are not proposed to be reinstalled. Two years ago the Town Board was not favorable to allowing the wall to continue to exist citing the wall, even if in a more desirable condition, gives the appearance the land adjacent to it is private rather than public.

Wittman said that she drafted an ordinance for the Board's consideration. The ordinance is based on the applicant's request, which has been the Town's standard review process for requests of this nature. As indicated in the request, the preexisting improvements shall be granted

encroachment easements; the easements shall remain in perpetuity unless the work is not completed by the dates indicated in the application. The easement does not allow for the Town to remove the permitted encroachments so long as those encroachments are maintained. Staff would like to note this is the procedure the Town followed with the encroachment easement request granted to Mr. Ron Ellis for the Inn at Grand Lake. If the applicant fails to meet the requirements, as outlined in the ordinance, the easement will be revoked. The ordinance further outlines the items the Town will require prior to recording: an executed Indemnification Agreement as well as proof of insurance listing the Town as additional insured. The Board will need to discuss the proposed ordinance as written to determine favorability of the preexisting encroachments: the corner of the garage, the small cabin and the rock wall. Once this discussion has taken place, the Board must also address:

1. Whether or not the Town Board would be favorable to allowing an addition to the cabin, of a front porch. If so, the Board will need to amend the draft ordinance. Staff does recommend that if the Board is favorable, a requirement of the ordinance be the submittal of a new survey after the addition has been made.

The Board should discuss this matter with the applicant and formulate a motion on the matter. The Board may move to adopt Ordinance No. X-2011 as written or the Board may move to direct staff to alter Ordinance No. X-2011, as determined appropriate by the Board, to be brought back before the Town Board's consideration at your next regularly-scheduled meeting. The Board may also move to deny the adoption of the draft ordinance and discuss alternatives to the encroachment easements. Wittman noted that Pat Ryan was present.

Pat Ryan, 581 County Road 4150, Granby, CO, was recognized from the audience. He said that he is with Property Solutions and is working with the Heckendorfs to resolve their issues. He said that the Heckendorfs do not have a problem with executing an Indemnification Agreement as well as providing proof of insurance listing the Town as additional insured and would appreciate consideration of an easement.

During discussion, the Board Members were in agreement with granting an easement for a portion of the garage and a portion of the cabin but had reservations with the stone wall fence given its current state of condition.

Following lengthy discussion, Trustee Weydert moved to adopt Ordinance No. 15-2011, an Ordinance Granting an Easement for the Encroachment into the Ellsworth Avenue Alley Public Rights of Way of Certain Existing Encroachments on the Ellsworth Avenue Rights of Way and Lots 1-5, Cairns Addition to Grand Lake with the amendment that it does not include a portion of the stone wall fence in perpetuity but will be

in a separate non-perpetual Encroachment License that will be drafted and brought back for the Board's consideration at their next regularly scheduled meeting. Trustee Johnson seconded the motion and all Trustees voted aye.

NEW BUSINESS:

**CONSIDERATION OF A PLANNING COMMISSION RECOMMENDATION TO APPROVE A DESIGN REVIEW STANDARDS VARIANCE REQUEST FOR THE USE OF PRE-RUSTED METAL ON THE ROOFS OF THE PROPOSED BOATHOUSE AND GARAGE STRUCTURES LOCATED AT LOTS 37-40, CAIRNS ADDITION TO GRAND LAKE, A/K/A 536 CAIRNS AVENUE** - Mayor Burke asked Town Planner Wittman to present this matter to the Board. Wittman explained that the Town of Grand Lake updated the Design Review Standards in 2008 to diversify the Town's permitted and unpermitted materials and color palette for exterior facades. Prior to that time the Town's requirements were vague and, largely, anything that was a color "found in nature" was permitted. When a permit was submitted to the Town, the material selection was rarely inquired about. Since the development of the updated Design Review Standards, Town staff has had to more thoroughly inquire about material selection and determine the appropriateness of the material in relationship to Municipal Code Section 12-7-4B. As a reminder to the Board, and as an FYI for those Board members who were not with the Town in 2008, the Planning Commission and Town Board opted to break up the "Acceptable Exterior Materials" section of the proposed standards to note what would be permitted as accent materials. At that time, the Town's discussion specifically addressed exposed metals and the preference to having this type of material as an accent, as complete wall faces could appear less desirable in the Town.

Staff has received a plan change request for the installation of a pre-rusted metal to be used for roofing on a new garage and boathouse structures to be located at Lots 37-40, Cairns Addition to the Town of Grand Lake, a/k/a 536 Cairns Avenue. Staff indicated the matter would need to go before the Planning Commission for discussion as the proposed metal is not explicitly noted as an "Acceptable Roofing Material" as it is not "Coated Stainless Steel" or "Standing Seam Metal Roofing", as these are permitted in the code. The code does permit, however, "Exposed and Ornamental Metalwork – non reflective", "Standing Seam Terne, Oxidizing Copper and painted/pre-finished metal", "Galvanized metal (non-reflective)", as well as "Cor-Ten or other pre-rusted or exposure rusting steel" as "Acceptable Accent Exterior Materials". Since the adoption of the adopted Design Review Standards, staff has permitted the use of a pre-rusted metal as an accent roofing material, for Kinder in 2008 and Wilhelm in 2011 – as cited by the requesting party. Eagle's Landing's roof is entirely covered in the

pre-rusted metal; this roof was permitted prior to the implementation of the new standards.

Staff brought this matter before the Planning Commission on September 7, 2011. At that meeting the Commission discussed their willingness to allow pre-rusted metal roofing on the whole of rooves. While their conversation discussed the use of metal, in general, as well as the use over the lake on boathouse structures, the Commission did make a favorable motion to the Town Board of Trustees of approval of the use of the material. The Commission has directed staff to bring applicable code modifications back before the Commission for discussion. The Planning Commission forwarded Planning Commission Resolution No. 9-2011, a Resolution Making a Recommendation to the Town Board of Trustees for Approval of a Design Review Standards Variance Request for the Use of Pre-Rusted Metal on the roofs of the Proposed Boathouse and Garage Structures Located at Lots 37-40, Cairns Addition, a/k/a 536 Cairns Avenue, to the Board for consideration. The Board should review the resolution, the applicant's submittal and take testimony from the applicant, if desired. The Board should then discuss for determination whether or not the Board would like to uphold the recommendation of the Planning Commission. While the code does not indicate any applicable review criteria, the Board may want to take into consideration the code indicates:

**Purpose:**

As Grand Lake becomes more densely built, there is a need to create a symbiotic relationship between buildings and public and open spaces. The Town of Grand Lake seeks to preserve the historical, rustic, and unique western small-town character of Grand Lake while also integrating its preservation with new and pioneering creative designs. Intending to help enhance quality and strengthen visual continuity while preserving historically significant properties, allowing innovation and encouraging creativity, the purpose of these standards is to stimulate creative design solutions for individual properties while promoting and preserving a sense of cohesiveness among the entire Town of Grand Lake.

**Material Selection:**

Material selection should take into account the historical and existing perspective of the Town. Materials should consider the multiple elevations and views of the projects while durability and maintenance and long-term performance should also be a consideration in material selection. The objective of material standards is to allow flexibility in the choice and applications of exterior materials...

1. The proposed materials must be appropriate to the surrounding context, both built and natural.

2. The proposed materials must also be durable and maintainable over time and inclement weather.

Once all discussion has taken place by the Board, the Board should make a motion regarding this matter. The Board should move to uphold or to not uphold the recommendation of the Planning Commission and authorize or not authorize the use of a pre-rusted and sealed metal roof for the garage, boathouse and house remodel at Lots 37-40, Cairns Addition Grand Lake. Wittman noted that the applicant, Richard McQueary, was present.

Following discussion amongst the Board and Mr. McQueary, Trustee Peterson moved to uphold the Planning Commission's recommendation and approve a Design Review Standards variance request for the use of pre-rusted metal on the roofs of the proposed boathouse and garage structures located at Lots 37-40, Cairns Addition to Grand Lake, a/k/a 536 Cairns Avenue. Trustee Lewis seconded the motion and all Trustees voted aye.

NEW BUSINESS:

**CONSIDERATION OF A BUILDING AND ZONING CODE VIOLATION APPEAL AT LOTS 24 – 26, CAIRNS ADDITION TO GRAND LAKE** - Mayor Burke asked Town Planner Wittman to present this matter to the Board. Wittman explained that on August 29, 2011, the Town received a request from Mr. Paul Harrington for the Planning Commission's consideration of a matter pertaining to a boathouse structure located at Lots 24-26, Cairns Addition to Grand Lake. Staff has been working with the property owner and their representative since a June 30<sup>th</sup> violation notice was sent to the property owner. The violation is twofold: a Zoning Code violation exists in that a dock, attached to a boathouse structure, was increased in size greater than 35' beyond the natural shoreline and a Building Code violation exists due to the fact the extension was unpermitted. Staff indicated to the property owner that the offending portion of the dock would need to be removed in order to come into compliance or a variance request could be made to the Town's Zoning Board of Adjustment (BOA). In discussions with the property owner's representative, Mr. Paul Harrington, Mr. Harrington concluded that the item should be heard before the Planning Commission due to the nature the Commission has been working on Municipal Code changes that could possibly allow for this dock to be conforming with future codes. While this could be true, the real nature of the request, in staff's opinion, is whether or not a variance/appeal request of the Zoning and Building Code violations should be heard before the BOA or the Planning Commission and Town Board of Trustees.

Staff brought this matter before the Planning Commission on September 7, 2011. Commissioner Shockey indicated he thought the review of the violations is two-fold and that the Town Planning Commission should

not hear the Building Code violation until the Zoning Code violation is addressed; Shockey concluded the Zoning violation, while not entirely clear in the code, should be heard before the Zoning Board of Adjustment. In their discussion, they determined that while five of the members felt the matter should be heard before the Zoning Board of Adjustment, two members did believe the matter should be heard before the Planning Commission and Town Board. The Commission moved to forward a recommendation to the Town Board of Trustees that the Zoning Code violation of an extension of a dock greater than 35' from the natural shoreline should be heard before the Zoning Board of Adjustment; the motion passed unanimously.

Municipal Code Section 9-1-7: Appeals (in the Building Regulations Section of the Code) indicates: *“Unless otherwise indicated in this Chapter or in Chapter 12, any person adversely affected by any interpretation, requirement, application or enforcement of these Regulations may file an application for an appeal, to be considered by the Planning Commission. Such application for appeal shall be filed with Town Staff on a furnished form specifying the grounds of appeal and after paying the appropriate fee.”*

Municipal Code Chapter 12-2-29 does indicate appeals to decisions to the Town Board of Trustees, of the review of a boathouse or covered boat dock (prior to construction) , may be heard by the Board of Adjustment.

Chapter 12-3: Zoning Board of Adjustment outlines the matters which the BOA may hear:

- A. *The Board of Adjustment shall have all of the following powers and duties, all of which shall be exercised subject to the laws of the State of Colorado.*
- (a) *To hear and decide appeals taken by any person aggrieved by:*
    - (1) *the decision of any administrative officer based upon or made in the course of the administration or enforcement of the provisions of Municipal Code 12-2-8 to 12-2-24 and 12-2-29 (if applicable) Zoning Regulations as they relate to Sub-sections 3 below.*
    - (b) *Appeals to the Board of Adjustment may be taken by any officer, board, or bureau of the Town affected by the granting or refusal of a Building Permit or by any other decision of an administrative officer or agency based on or made in the course of the administration or enforcement of the provisions of Municipal Code 12-2-8 to 12-2-24 and 12-2-29 (if applicable) Zoning Regulations as they relate to Sub-sections 3 below.*

(1) *The concurring vote of four (4) members of the Board of Adjustment shall be necessary to reverse a decision made by an administrative officer or agency.*

(c) *To authorize, upon appeal in specific cases, variances to the:*

- (1) *Minimum area of lot.*
- (2) *Minimum lot frontage.*
- (3) *Minimum front yard/setback.*
- (4) *Minimum side yard/setback.*
- (5) *Minimum rear yard/setback.*
- (6) *Maximum height of buildings.*
- (7) *Minimum floor area.*

While “extension beyond the shoreline” is not a matter for the BOA’s consideration, procedures for variances, including after-the-fact variances, for boathouse and boat docks are not listed in the code. Given this, staff agreed with the property owner’s representative to bring this matter before the Board for the Board’s interpretation of the code and which municipal body is most applicable to hear the property owner’s request. The Board should discuss this matter for determination if this appeal to the violations of the Building and Zoning Code should be heard by the Planning Commission and Town Board of Trustees or by the Zoning Board of Adjustment. If the Board does determine this matter is for their consideration, the Board should move to set the matter for a Planning Commission Public Hearing for October 5<sup>th</sup> for consideration of an after-the-fact variance request for the extension of an uncovered, attached boat dock. If this is the desire of the Board, the Board must be careful in that discussion of this item prior to a Public Hearing may be inappropriate due to the Town’s municipal policies regarding conflicts of interests and quasi-judicial proceedings. If the Commission does not determine this matter is applicable for the Planning Commission and Town Board to hear but, rather, a matter for the BOA, the Board should make a motion to uphold the Planning Commission recommendation and to direct the matter to the Zoning Board of Adjustment. Wittman noted that there was not a representative present.

Following discussion, Trustee Weydert moved to have the Planning Commission and the Board of Trustees hear this Building Code violation and Zoning Code violation at Lots 24-26 Cairns Addition as a variance hearing in a quasi-judicial manner. Trustee Lanzi seconded the motion and all Trustees voted aye.

NEW BUSINESS:

**CONSIDERATION OF RESOLUTION NO. X-2011, A RESOLUTION AUTHORIZING THE OPENING OF A TOWN OF GRAND LAKE NON-INTEREST BEARING CASH ACCOUNT FOR THE PURPOSE OF DEPOSITING FUNDS DRAWN ON**

**DEVELOPER LETTERS OF CREDIT AND DESIGNATING INDIVIDUALS AUTHORIZED TO CONDUCT TRANSACTIONS WITH RESPECT TO THE TOWN OF GRAND LAKE'S DEVELOPER LETTER OF CREDIT FUNDS CASH ACCOUNT -**

Mayor Burke asked Town Planner Wittman to present this matter to the Board. Wittman explained that in August of this year the Board met with Mr. Morris King regarding an interim stormwater management plan (plan) for Grand Camp. At that time the Board required Mr. King to execute the plan; failure to execute the plan within 30 days would necessitate the Town to draw on the Letter of Credit (LOC) for various landscaping improvements to be installed to achieve site stabilization. Mr. King did not comply with the provisions of the Board's approval and, therefore, Town staff is starting the process of making a draw on the LOC for the Town to be able to have the work completed through the Town's bid and approval process. This is the first time the current Town staff has worked through this process. In discussions with Town Attorney Krob, the Town must open a separate account to have drawn funds transferred to. Town Treasurer Dzinski has drafted a resolution for the Board's consideration. The resolution has been drafted to allow for the creation of a non-interest bearing account for the purposes of LOC funds. Once the account is opened, the Town will send notice to the bank for the draw. Concurrently, Town staff is starting the procedures for formal bidding and will bring the matter before the Board when Town staff feels comfortable with a contract for services.

Trustee Lewis moved to adopt Resolution No. 22, 2011, a Resolution Authorizing the Opening of a Town of Grand Lake Non-Interest Bearing Cash Account for the Purpose of Depositing Funds Drawn on Developer Letters of Credit and Designating Individuals Authorized to Conduct Transactions With Respect to the Town of Grand Lake's Developer Letter of Credit Funds Cash Account. Trustee Lanzi seconded the motion and all Trustees voted aye.

NEW BUSINESS:

**CONSIDERATION OF RESOLUTION NO. X-2011, A RESOLUTION ALLOWING FOR CERTAIN BUILDING PERMITS TO BE PERMITTED TO HAVE EXTERIOR FAÇADE MATERIALS COMPLIANT WITH FORMER SETBACK PROVISIONS ALLOWING FOR THOSE MATERIALS TO BE LOCATED IN A SETBACK** – Mayor Burke asked Town Planner Wittman to present this matter to the Board. Wittman explained that on November 23, 2009, the Town of Grand Lake adopted Ordinance No. 36-2009 which included definitions: Projection – Cornices, exterior balconies, chandeliers, including exterior wall coverings, and similar projections extending beyond the exterior wall; and Set-Back - The required distance, and the land resulting there from, between the closest edge of the public right-of-way, or some other designated line, and the nearest possible line, including projections, of a conforming structure,

portable shed/garage or temporary facility. The effective date of those definitions was December 24, 2009. At that time, Town staff changed the Municipal Code as well as the Preliminary Acceptance Letter the Town utilizes, onsite, when conducting a Setback Inspection. While these items were changed, Town staff failed to alter the Building Permit Packet, distributed to architects, builders, homeowners, etc. to reflect the changes in how the Town measures setbacks to include the building façade. The error in the Building Permit Packet was discovered on August 12<sup>th</sup> of this year; the packet was changed on August 15, 2011. This was discovered for two reasons. First, the Town is in receipt of an Improvement Survey Plat for a newly constructed structure that depicts the façade sitting into its Front Yard Setback. In this circumstance, collectively Town staff agreed that since we could point to the error of the Town, the building should be permitted to stay as it is, though it would be considered non-conforming. The matter was brought up by the architect who drew the plans for the newly constructed structure as plans for another Single Family Residence was approved by the Town this summer; those plans were approved by the Town with the measurement to the foundation line, as opposed to the exterior wall face. This is when staff began to realize the problem could be far greater than just an isolated incident. The Town is now running into, and will continue to run into, circumstances where projects in the Town, after the change of the code, submitted plans, that were approved by the Town, indicating the setback on the plans as to the foundation wall as opposed to the outside edge of the building façade materials. Given this, staff is of the opinion that the error was on the part of the Town and that those permits, issued prior to August 15, 2011, should be required to meet the original regulations of the Town, to have a setback measured from the property line to the edge of the façade. Staff has assessed the building permit files and determined less than ten (10) current projects could be noncompliant as they had been permitted between December 24, 2009 and August 15, 2011. Permits issued prior to December 24, 2009 would be compliant with the provisions in effect when the permit was reviewed by the Town. Staff brought this matter before the Planning Commission on September 7, 2011. The Commission discussed the matter and determined their agreement with staff's opinion of the situation. Commissioner Burke made a motion to send a favorable recommendation to the Town Board of Trustees for the allowance of those structures, permitted before August 15<sup>th</sup>, 2011 and should be given allowance for exterior façade materials located in a setback. Staff has drafted Resolution No. X-2011, a Resolution Allowing for Certain Building Permits to be Permitted to have Exterior Façade Materials Complaint with Former Setback Provisions Allowing for Those Materials to be Located in a Setback based on the Planning Commission's recommendation. The Board should discuss this matter and once all discussion has taken place, the Board should make a motion on the matter.

Following discussion, Trustee Lanzi moved to adopt Resolution No. 23-2011, a Resolution Allowing for Certain Building Permits to be Permitted to Have Exterior Façade Materials Compliant with Former Setback Provisions Allowing for Those Materials to be Located in a Setback. Trustee Johnson seconded the motion and all Trustees voted aye.

NEW BUSINESS:

**CONSIDERATION OF RESOLUTION NO. X-2011, A RESOLUTION SUPPORTING THE GRANT APPLICATION FOR A LOCAL PARKS AND OUTDOOR RECREATION LAND ACQUISITION GRANT FROM THE STATE BOARD OF THE GREAT OUTDOOR COLORADO TRUST FUND FOR THE ACQUISITION OF THE 8 ACRE PARCEL KNOWN AS THOMASSON PARK** – Mayor Burke asked Town Manager Hale to present this matter to the Board. Hale explained that the Board adopted Resolution No. 19-2011 at the August 22, 2011 meeting. During that meeting, Hale mentioned that he had sent a draft of the grant to GOCO staff and was awaiting feedback. Upon receiving the feedback, he learned that the Town couldn't count the in-kind donation of interpretive signage from Rocky Mountain National Park because we were looking for a land acquisition grant; however, if we were looking at any kind of other grant from them, it would have been allowable. While a minor change in the grant, what this change really meant is that all of our numbers needed to change; he said that he was able to make all of the adjustments in the grant, but the resolution had already been adopted. Hale explained the situation to Jake Houston at GOCO and he advised that the Town just adopt a new resolution with the new correct numbers, and that Staff will ensure that each reviewer has the correct one. For specifics, the Town had asked for \$240,000 from GOCO; that request is now only \$238,000. Also, the Town's match has gone up to \$99,205; still below the \$100,000 threshold that staff had set as a goal. The staff recommendation is for the Board to adopt Resolution No. x-2011, a Resolution Supporting the Grant Application for a Local Parks and Outdoor Recreation Land Acquisition Grant from GOCO for the Acquisition of Thomasson Park.

Trustee Johnson moved to adopt Resolution No. 24-2011, a Resolution Supporting the Grant Application for a Local Parks and Outdoor Recreation Land Acquisition Grant from GOCO for the Acquisition of Thomasson Park. Trustee Lewis seconded the motion and all Trustees voted aye.

NEW BUSINESS:

**CONSIDERATION OF A REQUEST FROM ROCKY MOUNTAIN REPERTORY THEATRE** - Mayor Burke asked Town Manager Hale to present this matter to the Board. Hale explained that the former lease agreement with the Repertory Theatre required that they either pay the Town \$3,100 per year, or to make improvements to the building of that

value or greater each year. The Rep has made improvements throughout the years; replacing the double doors, installing new carpet, electrical upgrades, etc., although each lease has expired with some balance in arrears that the RMRT requests be forgiven, which it always has been. The Town entered into a three year agreement with the Rep in 2009, with the understanding that the term would likely only be two years, but still wanting to cover our bases. With all of the business that the Rep had going on over the past year, staff thought that it would be best to wait to close out this lease until they were both through with their construction and their first season. Now that we're nearing the end, we need to close out this last piece of business with them. Their request is fairly self-explanatory. They are requesting that we accept in trade the equipment that they've left behind, a \$1,000 value, the improvements to the building, as well as 100 chairs, which would be a substantial upgrade to the blue-concrete chairs that we currently have. If the Board is amiable, the staff recommendation is for the Board to move to agree to accept the chairs, equipment and other improvements to the Community House in lieu of a lease payment in the amount of \$6,200. Hale noted that Carol Wolff, Executive Director, was present.

Trustee Weydert moved to accept the chairs, equipment and other improvements to the Community House in lieu of a lease payment in the amount of \$6,200 from the Rocky Mountain Repertory Theatre. Trustee Johnson seconded the motion and all Trustees voted aye.

NEW BUSINESS:

**CONSIDERATION OF AN ORDINANCE NO. X-2011, AN ORDINANCE AUTHORIZING THE LEASE OF REAL PROPERTY TO THE GRAND LAKE METROPOLITAN RECREATION DISTRICT BY THE TOWN OF GRAND LAKE AND ESTABLISHING THE TERMS THEREOF** - Mayor Burke asked Town Manager Hale to present this matter to the Board. Hale explained that the lease with the Recreation District for their portion of the modular is getting ready to expire. The lease has been a good fit—all of the tenants get along, the Town gets a building that is put to use and no longer have to pay the utilities. As staff would like to get all three leases on the same schedule, versus a September, December and February, this Lease is only written as a three month term in order to get us to December 31, 2011. As the District has some TABOR restrictions, they cannot enter into a 15 month lease, so this is the only way to meet their requirements. Staff is in possession of an executed lease, therefore, the recommendation is to adopt the ordinance and to authorize the Mayor to sign the Lease Agreement.

Trustee Peterson moved to adopt Ordinance No. 16-2011, an Ordinance Authorizing the Lease of Real Property to the Grand Lake Metropolitan Recreation District by the Town of Grand Lake and Establishing the

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Terms Thereof and to authorize the Mayor to sign the Lease Agreement. Trustee Weydert seconded the motion and all Trustees voted aye.

ACCOUNTS PAYABLE

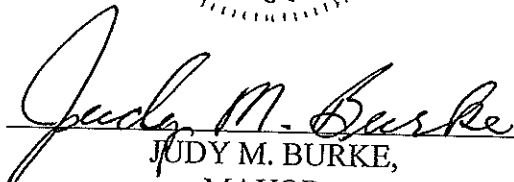
August, 2011:

Trustee Lewis 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 Lewis 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: Carolyn Alcorn was recognized from the audience. She spoke in defense of the stone wall fence belonging to the Heckendorfs. She noted that she does not know the Heckendorfs but likes the fence and considers it to have historical significance.

ADJOURNMENT: Trustee Johnson moved to adjourn, seconded by Trustee Peterson. All Trustees voted aye, and the meeting was adjourned at 9:19 p.m., September 12, 2011.



  
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JUDY M. BURKE,  
MAYOR

ATTEST:   
\_\_\_\_\_  
GAY DZINSKI,  
TOWN TREASURER/CLERK PRO-TEM