

RECORD OF PROCEEDINGS

REGULAR MEETING
TOWN OF GRAND LAKE BOARD OF TRUSTEES
MONDAY, JANUARY 23, 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; Trustees Lanzi, Lewis, Ludwig, Peterson, and Weydert; Town Clerk/Interim Town Manager Kolinske, Town Treasurer/Clerk Pro-Tem Dzinski, and Town Planner Wittman.

ABSENT: Trustee Johnson. Trustee Peterson moved to excuse the absence of Trustee Johnson. Trustee Lewis seconded the motion and all Trustees voted aye.

APPROVAL OF MINUTES

January 9, 2012: Trustee Lewis moved to approve the minutes of the January 9, 2012 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 Three Lakes Ice Fishing Contest is scheduled for January 27 – 29. There will be daily Big Fish Prizes with over a \$5,500 purse each day. Call the Granby Chamber of Commerce at 887-2311 for more information.

Mayor Burke announced that this year's Winter Carnival, "*Emerald City*" will be held on Saturday, February 4th. The events will include tea pot curling, flag football, kid's steeplechase & snowman contest, sled pull, parade, bed sled races, human bowling, movie with popcorn, snow sculptures, fireworks over the lake, the "*Wizard of Oz Ball*" and crowning of the King and Queen.

Mayor Burke then announced that the Kauffman House Museum will host an "*Open House*" on Saturday, February 4th from 1-4 p.m.

CONFLICTS OF INTEREST:

Mayor Burke stated that if there are any Trustees wishing to announce a conflict of interest with any items on this evening's agenda, they should do so at this time. No Trustees had any conflicts.

REPORTS: SALES TAX
CASH FLOW REPORT
FOR JANUARY 2012:

Mayor Burke asked Town Treasurer/Clerk Pro-Tem Dzinski to present the sales tax cash flow report. Dzinski reported that the amount of revenue received in January 2012 for the month of November 2011 is \$26,566. This amount is over 1% above what was received through January 2011.

REPORTS: FINANCIAL
REPORT FOR
DECEMBER 2011:

Mayor Burke asked Financial Trustee Jim Peterson to present the Financial Report for December 2011. Peterson reported that the unadjusted General Fund expenditures through the end of December totaled \$1,309,979.56 or 89.3% of budget. He said the Water Fund expenditures for the same period totaled \$392,807.38 or 80.0% of budget, the Marina Fund expenditures totaled \$182,630.84 or 54.8% of budget and the PAYT Fund expenditures totaled \$7,994.62 or 75.1% of budget. Trustee Peterson expressed his thanks to Staff for ending 2011 under budget.

LIQUOR LICENSING AUTHORITY: None.

OLD BUSINESS:

CONSIDERATION OF RESOLUTION 2-2012, A RESOLUTION SETTING A COMPLIANCY DEADLINE FOR THE PERMITTED ENCROACHMENTS ADJACENT TO LOT 16, BLOCK 36, TOWN OF GRAND LAKE – Mayor Burke asked Town Planner Wittman to present this matter to the Board. Wittman explained that in 2009 the Town approved an encroachment of a 28’6” long, 3’6” high retaining wall to be placed in the Harmon Street right of way (ROW) adjacent to Lot 16, Block 36, Town of Grand Lake, a/k/a 413 Harmon Street. As the Board has been informed, the wall has not been completed as it currently does not comply with the Town’s Design Review Standard Section 12-7-4E-5:

Retaining walls are intended to be an attractive addition to the overall design of the site plan and the structures on it.

- a. Walls shall be made of natural woods or stone.*
- b. Poured or concrete block of the uncolored or unexposed aggregate type is not allowed unless faced with a stone or wooden veneer.*

At the Board’s last regularly-scheduled workshop the Board indicated they would like to see the wall come into compliance by July 1, 2012. Staff has drafted a resolution based on the discussion of the Board. The Board should review the resolution for determination as to whether it meets the desires of the Board and whether the Board would like to modify the resolution prior to adoption. Wittman further informed the

Board that the property owner has expressed willingness to come into compliance.

Trustee Peterson moved to adopt Resolution No. 2-2012, a Resolution Setting a Compliancy Deadline for the Permitted Encroachments Adjacent to Lot 16, Block 36, Town of Grand Lake. Trustee Weydert seconded the motion and all Trustees voted aye.

NEW BUSINESS:

PUBLIC HEARING – CONSIDERATION OF ORDINANCE NO. 2-2012, AN ORDINANCE APPROVING THE AMENDED FINAL PLAT OF RAVENWOOD TOWNHOMES LOCATED IN THE TOWN OF GRAND LAKE - Mayor Burke asked Town Planner Wittman to present this matter to the Board. Wittman explained that the Town is in receipt of an Amended Final Plat and an updated As-Built Plat for Ravenwood Townhomes. The application is designed to make corrections to errors that were recorded in November, 2007 on the As-Built Plat. The most predominant issue is that certain elements described as limited common elements have been inadequately represented on the As-Built, and certain elements, such as living rooms, have also been platted as limited common elements. There are no proposed changes to the total open space, the building coverage area, the hardscape surfacing area, parking, nor the overall character of the development.

On January 4, 2012 the Planning Commission reviewed the plat and forwarded a favorable recommendation for approval of the Amended Final Plat for Ravenwood Townhomes. The Planning Commission's recommendation comes with two conditions: that the parking spaces shown on public lands not be labeled as common elements and that the snow storage depicted on public lands be relocated onto the private property, as recommended by staff. The HOA's representative has had these items altered on the amendment and they are depicted on updated plat sheet 6.

Town Attorney Krob has reviewed the Declarations and determined there are no items the Town should be concerned about. Additionally, a Quit Claim Deed has been submitted for the transfer of the HOA lands to the HOA (something that was never done in conjunction with the approval of the Final Plat.) Staff reviewed of the application and determined that the proposed amendment has met all amendment requirements, the nature and character of the development is being preserved, and the amendments proposed are merely designed to fix errors in the recorded Final Plat and As-Built Plat.

As per the Town's Land Development Regulations: "Town Staff shall set a public hearing date before the Board of Trustees, and notice of said hearing shall be published in the official newspaper of the Town at least fifteen (15) days prior to the time of the hearing. The Town Board of

Trustees shall conduct the hearing and either adopt, adopt with modifications, or not approve the proposed amendments." Legal Notice No. 7383726 was published in the Middle Park Times on December 29, 2011. To the date, no comments have been received.

The Board must open the Public Hearing and take public comment. Once all comments have been heard by the Board, the Board should turn the matter over for Board discussion and action. In addition to the amendment the Board should specifically discuss a waiver of fees (\$500) that has been requested by Ravenwood's representative, Georgia Noriyuki. As Ms. Noriyuki indicates, the review and approval process of the former encroachment licenses should have prevented this matter from ever occurring. While staff can understand the hardship that has been created, some of the issues facing the development are not the result of direct action of the Town. Staff would propose that if the a waiver were to be considered it would be for Town Hall staff time in the preparation of the packet materials, review of the development, etc., but would strongly recommend the Board still utilize the deposit/chargeback system for the legal noticing costs, legal review of documents, and recording.

Once all discussion has taken place, the Board should make a motion on this matter. Given that the development has met all the requirements for a plat amendment, staff has drafted an Ordinance for the Board's consideration. Staff recommends the Board adopt Ordinance No. 2-2012 which outlines specific provisions for submission of: updated title work, executed mylars showing the removal of snow storage and common-element parking on public lands, executed Declarations of Covenants, and an executed Quit Claim Deed. Staff recommends the approval of Ordinance 2-2012, An Ordinance Approving the Amended Final Plat of Ravenwood Townhomes Located in the Town of Grand Lake.

Mayor Burke opened the Public Hearing at 7:37 p.m.

Georgia Noriyuki, PO Box 949, Granby, Colorado, was present representing the Applicant of Ravenwood Townhomes. She clarified that the Applicant is not Moomba II, the original developer of Ravenwood, but rather Michael Price, the court-appointed Receiver for Ravenwood Townhomes. Ms. Noriyuki informed the Board that the reason for the requested waiver of the developer fees was because the homeowners and the Receiver are the ones incurring the expenses which should have been taken care of by the developer. The amendments are being made in order to cure various defects, including title defects, in that some of the Ravenwood units are designated as townhomes and some are designated at condominiums.

Michael Price, 4 Bradbury Lane, Littleton, Colorado. Mr. Price identified himself as the Receiver for Ravenwood Townhomes. He

informed the Board that three of the units are owned by individuals, and there are now two new owners, and he acts as receiver for the remaining units. He further explained that the homeowners association was never activated, that all the units should be designated as townhomes, which means that each unit owns the footprint land, and the common areas have been deeded to the HOA.

Mayor Burke closed the Public Hearing at 7:50 p.m.

After further discussion by the Board, Trustee Weydert moved to approve Ordinance No. 2-2012, an Ordinance Approving the Amended Final Plat of Ravenwood Townhomes Located in the Town of Grand Lake, and further moved to deny the request to waive the associated Town fees. Trustee Peterson seconded the motion and all Trustees voted aye.

NEW BUSINESS:

CONSIDERATION OF RESOLUTION NO. 3-2012, A RESOLUTION GRANTING A LICENSE FOR CERTAIN IMPROVEMENTS ON TOWN PROPERTY LOCATED ADJACENT TO REVENWOOD TOWNHOMES LOCATED IN THE TOWN OF GRAND LAKE AND REPEALING RESOLUTION NO. 18-2007 - Mayor Burke asked Town Planner Wittman to present this matter to the Board. Wittman explained that as Ravenwood Townhomes was preparing to submit a request for the Town's consideration of an Amended Final Plat, it was discovered there were certain improvements made in conjunction with the development that were located on public property. While some of these encroachments were permitted through the adoption of Resolution No. 9-2005 and 18-2007, those Resolutions did not cover all encroachments. The HOA is now requesting the Board's consideration of modification to Resolution No. 18-2007 to allow for all encroachments to be permitted by the Town of Grand Lake.

Resolution No. 9-2005 permitted the encroachment of retaining walls and for the planting of numerous trees in the Haskell Street and Grand Avenue Rights of Ways. Resolution No 18-2007, which repealed and replaced the 2005 Resolution, approved the actual location of the walls once the walls were built. However, there were certain improvements that were not depicted nor addressed in the adoption of the 2007 Resolution, specifically:

1. The Exhibit did not depict the Haskell Street Right of Way and the improvements in this area. Those installed improvements include two existing retaining walls;
2. The Ravenwood sign, the "location, size and placement" of which were approved by the Town Board on January 14, 2008, is located in the same area as the Grand Avenue retaining walls but has never been included as part of the encroachment approvals;

3. The southernmost retaining wall located behind Building B encroaches into the Block 27 alley ROW;
4. Portions of the irrigation system are located in the Haskell Street ROW, the Grand Avenue ROW and the Block 27 alley ROW; and
5. The roof overhang of Building B slightly encroaches into the Block 27 alley ROW.

One item shown on the site plan, but not indicated as requested for the Town's consideration, is snow storage that is shown on the Haskell Street ROW. Staff has indicated to the HOA's representative, Georgia Noriyuki, that staff would not recommend the Town Board consider permitting this. As the Town's Code indicates, snow storage must be located on private property. While the Amended Final Plat has been altered to show all snow storage on the HOA lands, the Site Plan will need to be modified to reflect the relocation of the snow storage.

Given Ravenwood has had these improvements installed for some time, that two separate encroachment licenses were approved by the Town, and that the Town Board approved the sign location in 2008, staff has determined these encroachments are reasonable requests and has drafted a new Resolution which would be permit all existing encroachments but would not further permit any improvements in the public ROW without first obtaining permission from the Town.

The Town Board should discuss this matter with the property owner's representative for determination as to whether the Town is comfortable issuing a new encroachment license through the adoption a Resolution. The Board should specifically discuss the following issues.

1. Whether the Board is in support of staff's determination that the snow storage should be depicted on the private lands.
2. The 2005 and 2007 Resolutions indicate the retaining walls are 'temporary'. As staff sees it, the retaining walls are fairly permanent in nature. While staff has drafted the Resolution with the same language as that of the previous license, staff believes the Town should remove the 'temporary' notation in the Resolution.
3. Since the 2007 approval the Town has modified the Municipal Code indicating the Town may require insurance. The Town has done this when improvements, permanent in nature, have been placed on public lands. The HOA is willing to execute a new Indemnification Agreement since the walls, though placed on public lands, are indicated as a common element of the HOA.
4. A waiver of fees (\$250 deposit from which a \$100 license fee will be deducted, if approved) is requested by the representative. As Ms. Noriyuki has indicated, the review and approval process of the former encroachment licenses should have prevented this matter. Upon inspection of submitted site plans in connection with the earlier

Resolutions, it is staff's opinion that if these encroachments were depicted they, too, would have been included during the consideration of the license.

Once the Board has discussed this matter, the Board must make a motion. If the Board is favorable to adopting the attached Resolution, staff would recommend the adoption be conditional up:

1. The Town's receipt of an updated Site Plan (indicating changes to snow storage, if desired by the Board); and
2. The Town's receipt of an executed Indemnification Agreement.

Wittman noted that Georgia Noriyuki was present on behalf of Reavenwood Townhomes. Ms. Noriyuki informed the Board that the the property owners were voluntarily bringing those items left out of the encroachment license to the Board's attention in order to clean up all of the remaining issues of the entire project. After further discussion, Trustee Lewis moved to approve Resolution No. 3-2012, a Resolution Granting a License for Certain Improvements on Town Property Located Adjacent to Ravenwood Townhomes Located in the Town of Grand Lake and Repealing Resolution No. 18-2007, with the conditions that the Town receives an updated Site Plan, including changes to snow storage, and an executed Indemnification Agreement and that the fees above the \$100.00 license fee be waived. Trustee Lanzi seconded the motion and all Trustees voted aye.

NEW BUSINESS:

CONSIDERATION OF DESIGNATION OF POSTING OF NOTICES OF PUBLIC MEETINGS – Mayor Burke asked Town Clerk/Interim Town Manager Kolinske to present this matter to the Board. Kolinske stated that, per CRS 24-6-402(2)(c), at the first regular meeting of the year, the Town shall designate the public place or places for posting notice of public meetings. Public meetings are those at which the adoption of any proposed policy, position, resolution, rule, regulation, or formal action occurs or at which a majority or quorum of the body is in attendance, or is expected to be in attendance. Public meetings include all meetings of a quorum or three or more members of any local public body, whichever is fewer, at which any public business is discussed or at which any formal action may be taken. Meetings shall be held only after full and timely notice to the public. Staff recommends that the Board designate that notice of public meetings shall be posted in the Grand Lake Post Office and at the Grand Lake Town Hall at least twenty-four (24) hours prior to all public meetings of the Town. Kolinske concluded by stating that this has been the procedure followed for at least the past fifteen years.

Trustee Peterson moved to designate that notice of public meetings shall be posted in the Grand Lake Post Office and at the Grand Lake Town



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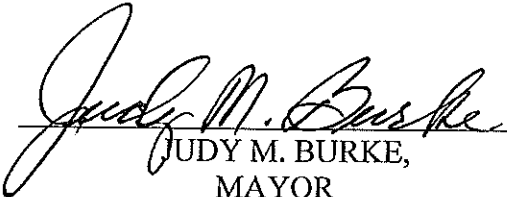
Hall at least twenty-four (24) hours prior to all public meetings of the Town. Trustee Weydert seconded and all Trustees voted aye.

CITIZEN PARTICIPATION: None.

Prior to adjournment of the meeting, Trustee Weydert moved to direct Staff to prepare correspondence concerning the East Grand School District to be signed by the Mayor and Trustees after review by the Town's attorney. Trustee Lanzi seconded the motion and all Trustees voted aye.


ADJOURNMENT:

Trustee Peterson moved to adjourn, seconded by Trustee Weydert. All Trustees voted aye, and the meeting was adjourned at 8:25 p.m., January 23, 2012.



JUDY M. BURKE,
MAYOR

ATTEST:



GAY DZINSKI,
TOWN TREASURER/CLERK PRO-TEM