

RECORD OF PROCEEDINGS

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REGULAR MEETING  
TOWN OF GRAND LAKE BOARD OF TRUSTEES  
MONDAY, NOVEMBER 26, 2012 7:30 P.M.

CALL TO ORDER: The regular meeting of the Board of Trustees was called to order by Mayor Judy Burke at 7:31 p.m. at the Town Hall, 1026 Park Avenue.

ROLL CALL

PRESENT: Mayor Burke; Trustees Gasner, Lanzi, Lewis, Peterson, and Weydert; Town Manager Hook, Town Clerk Kolinske, and Town Attorney Krob.

ABSENT: Mayor Burke announced that Trustee Ludwig was absent because of vacation. Trustee Peterson moved to excuse Trustee Ludwig's absence from the afternoon workshop and this evening's meeting. Trustee Weydert seconded the motion and all Trustees voted aye.

APPROVAL OF MINUTES

November 26, 2012: Not available.

ANNOUNCEMENTS:

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

Mayor Burke said that it is with great sadness that we note the passing of one of the Town of Grand Lake's employees, Tom Powell, on November 14<sup>th</sup>. Tom held the position of Mechanic/Operator I for the past 12 years and he will sincerely be missed.

Mayor Burke announced that the Grand Angels of the Trinity Church in the Pines will host a fundraising concert featuring Peggy Mann's CD release, Sunday, December 2<sup>nd</sup> beginning at 6:30 p.m. in the Community House, unfortunately, the concert is sold out.

Mayor Burke announced that the Grand Chorale's Annual Christmas Concert will be held on Saturday, December 8<sup>th</sup> beginning at 6:00 p.m. in the Community House.

Mayor Burke then announced that on behalf of the Grand Lake Community, thanks go to Robert and Nancy Lavington for the donation of this year's Town Christmas Tree.

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 a conflict of interest with any items on the agenda.

REPORTS: SALES TAX  
CASH FLOW REPORT  
FOR NOVEMBER, 2012:

Mayor Burke asked Town Clerk Kolinske to present the sales tax cash flow report. Kolinske reported that the amount of revenue received in November 2012 for the month of September is \$135,765. This amount is nearly 6 ½% above what was received through November 2011.

3<sup>RD</sup> QUARTER SALES  
TAX COLLECTION  
BY VENDOR:

Town Clerk Kolinske noted that Town Treasurer/Clerk Pro-Tem Dzinski provided a report consisting of the Third Quarter Sales Tax Collection by Vendor report for July – September 2008-2012.

REPORTS: FINANCIAL  
REPORT FOR  
OCTOBER 2012:

Mayor Burke asked Financial Trustee Peterson to present the Financial Report for October 2012. Peterson reported that the General Fund expenditures through the end of October totaled \$1,071,424.98 or 42.1% of budget. He said the Water Fund expenditures for the same period totaled \$339,535.94 or 44.8% of budget, the Marina Fund expenditures totaled \$149,948.30 or 48.1% of budget and the PAYT Fund expenditures totaled \$6,013.41 or 49.0% of budget.

LIQUOR LICENSING AUTHORITY: CONSIDERATION OF A SPECIAL EVENTS LIQUOR PERMIT APPLICATION FROM THE GRAND LAKE HISTORICAL SOCIETY FOR THEIR "HISTORICAL HOLIDAY CELEBRATION" – Mayor Burke asked Town Clerk Kolinske to present this matter to the Board. Kolinske explained that an application for a Special Events Liquor Permit has been received, with the appropriate state fee, proof of possession, certificate of good corporate standing, and floor diagram, from the Grand Lake Area Historical Society. The request is to sell malt, vinous and spirituous liquor by the drink for consumption on the premises only. The requested date is Thursday, December 27, 2012 from 6:00 to 9:00 p.m. for their "Historical Holiday Celebration" fundraising event. The proposed location is the Kauffman House. It has been the most recent procedure of this Board to receive the application and then schedule consideration of approval of the permit as a regular item of business at the following meeting. Although a Public Hearing is not required by statute, the Board may choose to set one. The premises are required by statute to be posted for at least 10 days prior to approval of the permit. Approval of the requested permit may be scheduled for the December 10<sup>th</sup> regular Board meeting, as either a Public Hearing or regular item of business. Kolinske noted that Elin Capps, was present representing the Historical Society.

Following brief discussion, Trustee Peterson moved to act on this request as a regular item of business at the December 10, 2012 Board meeting. Trustee Lewis seconded the motion, and all Trustees voted aye.

**LIQUOR LICENSING AUTHORITY: CONSIDERATION TO SET A SHOW CAUSE HEARING REGARDING THE TAVERN LIQUOR LICENSE ISSUED TO GRUMPY'S SALOON, INC., D/B/A GRUMPY'S SALOON** – Mayor Burke asked Town Clerk Kolinske to present this matter to the Board. Kolinske reported that she was recently notified by the Sheriff's office of alleged violations that occurred on or about January 28, 2012, September 2, 2012 and September 26, 2012 at Grumpy's. The incident reports indicate possible violations occurred including: (1) failing to conduct the licensed premises in a decent, orderly, and respectable manner, (2) permitting the serving of a visibly intoxicated person on the licensed premise and (3) knowingly permitting acts of disorderly conduct. At its meeting this evening the Board of Trustees, acting as the Local Liquor Licensing Authority, will need to decide whether to set this matter for a hearing to determine whether Grumpy's liquor license should be suspended or revoked. In addition, the Authority will need to consider setting a hearing regarding whether the January 28, 2012 incident violated the provisions of the licensee's previous suspension. The Board can take one of two actions:

1. The Board can set this matter for a Show Cause Hearing to be held on January 14, 2013, to determine whether the license should be suspended or revoked.
2. The Board can decide to not have a Show Cause Hearing.

This is a quasi-judicial matter. Therefore, other than to decide whether the nature of the alleged violations is sufficient to necessitate a Show Cause Hearing, the Board should refrain from discussing the validity or merits of the allegations or any possible penalties it may impose if it concludes the violations have occurred until the time of the Show Cause Hearing. Kolinske noted that there was not a representative present.

Trustee Peterson moved to set this matter for a Show Cause Hearing to be held on January 14, 2013 to determine whether the license should be suspended or revoked and in addition, the Authority will need to consider setting a hearing regarding whether the January 28, 2012 incident violated the provisions of the licensee's previous suspension. Trustee Weydert seconded the motion and all Trustees voted aye.

**OLD BUSINESS:**

**CONTINUATION OF A PUBLIC HEARING TO CONSIDER ORDINANCE NO. XX-2012, AN ORDINANCE AMENDING SECTION 12-2-29 OF THE GRAND LAKE TOWN CODE BY ADDING REQUIREMENTS FOR THE ISSUANCE OF PERMITS**

**FOR BOATHOUSES AND BOAT DOCKS** – Mayor Burke asked Town Manager Hook to present this matter to the Board. Hook explained that staff has drafted an ordinance amending Municipal Code 12-2-29 Shoreline and Surface Water Regulations. The amendment to the Code specifically requires building permit applicants to indemnify the Town as it relates to the Grand Lake shoreline and lakebed issues. The Town held a public meeting with the shoreline owners of Grand Lake on August 13, 2012. At that meeting the Town Attorney suggested a moratorium be placed for new construction permits. The Grand County Board of County Commissioners (BOCC) held a public hearing on September 4, 2012 and considered a “no action” as it pertains to boat houses on Grand Lake. Staff attended this meeting and the BOCC did not take any action to change boathouse regulations. The Board discussed the draft moratorium ordinance at its regularly scheduled workshop on September 10, 2012. At a Public Hearing on October 8, 2012, the Board considered adoption of the moratorium ordinance. The Board directed staff to revise the ordinance and contact Grand County staff. On November 15, 2012, staff informed all surrounding properties owners of Grand Lake and persons who provided contact information at the initial shoreline owners meeting of this meeting via mail. The Town received four emails regarding this matter and copies of those emails have been provided to the Board as table settings. Staff discussed the building permit process as it pertains to boathouses and boat docks with the Grand County Planning Department. Grand County requires the applicant to sign a pre-application form that specifically states the applicant is responsible for building on their property within setbacks or building envelope. This form is required for zoning review and approval. Town Attorney Krob has attempted on several occasions to talk with the County Attorney as it relates to this issue. As of the preparation of this memo those attempts have been unsuccessful. Staff recommends the Board adopt the ordinance as presented. The Board should discuss the revised ordinance and if the revisions meet the Board’s expectations. The Board has many options including:

- Adopt the ordinance; or
- Adopt the ordinance with conditions; or
- Not adopt the proposed ordinance; and/or
- Direct staff at its discretion

Hook concluded by suggesting that there be a motion to adopt the draft ordinance as presented, adopt the draft ordinance with conditions, not adopt the draft ordinance or move to continue the Public Hearing.

Town Attorney Krob said that since the staff memo was provided to the Board, Krob received a call from County Attorney DiCola last Wednesday regarding how the County addresses boat docks and boathouses. He said that DiCola confirmed that the County’s approach is

that they have placed a line in their application that puts the burden on the property owner to build on their own property and within building envelopes. He also confirmed that the County does not have an indemnification requirement for their building permits in connection with boat docks and boathouses. Krob noted that he also confirmed this with the County's Building Official, Scott Penson. Krob stated that he asked Penson if the owner represents that he or she owns the property, does the Building Department make any inquiry into that or require any proof of that and he said no they do not, they just accept that representation. That approach is a little bit different than the Town's as the Town requires a survey as part of the building permit. Krob said that the draft ordinance has three substantive provisions and each of those work independent of each other. The Board could adopt one of them, two of them, all three of them or none of them. The first substantive provision mirrors the County's approach which requires the owner to acknowledge that he or she is responsible for building on their own property within setbacks or building envelopes and affirmatively represents that they are the owner of all property on which construction will occur. The second substantive paragraph is one that Krob encourages the Board to adopt just so that there is no confusion as the Town moves forward and that requires the property owner to acknowledge that by issuing the permit, because there is uncertainty as to the ownership of the lake and surrounding boathouses, the Town is not waiving any claims that it may have to property along the lake or any claims that any other governmental entity may have. Then the third substantive paragraph is the indemnification provision that would require the property owner to indemnify the Town if the Town ends up getting sued because the property owner did not in fact own the property on which they built.

Mayor Burke then opened the meeting to public comment.

Ray Sample, 500 Jericho Road, was the first to be recognized from the audience. He expressed his concern number one about the process, where this is at and what information is out there. The intent has changed so drastically that a lot of people, including his neighbors, are concerned with what are the issues today. It seem like every time we get to this point we have changing details. Some of them seem minor and some seem major. It started out as an emergency ordinance implementing a moratorium and now there are provisions about pathways and ownership being required. I think if the Board is taking the public's input, they have to remember that other things were brought forward such as wharfing and other provisions that may give people the ability to build something out over the water even if they don't own the lakebed. No differently than the Town having their boat ramps at the boat docks. The Town and the people have acted in good faith. There are regulations for setbacks and how much square footage you can build on the lake. It is very consistent between the County and the Town. The last ordinance that he looked at

seemed to vary in several ways. He said that he doesn't know what the intent of a pathway is; it's got a lot of people concerned. All of this could be very simple if it were approached in the same manner as the County did without going through the process of adopting an ordinance. Sample urged the Board to come up with an indemnification process on the application that protects the Town and allows people to continue doing what they have done. He concluded by saying that everybody wants to move on and everybody wants something that will work.

Will O'Donnell, 380 Jericho Road, was then recognized. He stated that he was a little bit confused as to where we are at in this process as this is a totally different ordinance than what was being considered at the last meeting. He referred to the fourth "Whereas" in the ordinance that states, "there is some authority suggesting that the pathway along the shoreline of Grand Lake in the Sunnyside Addition to the Town of Grand Lake may be the property of the Town on behalf of the public". He said that there is no such pathway; therefore, having the words "the pathway" in this ordinance sets the record for the future to be misconstrued that there is a public pathway along Sunnyside Addition. There is none, there never has been and it needs to be removed from the ordinance. O'Donnell said that he doesn't think that the ordinance should be approved in any fashion. A simple acknowledgement like the County has with a slight modification is in order and that is all. There is no need for an ordinance. The second paragraph of Section 1. states, ". . . affirmatively represents that they are the owner of all property on which construction will occur" should read, ". . . affirmatively represents that they have the right to build on all property on which construction will occur." He said, "If we do an acknowledgement on the application we don't have to discuss the ownership of the property. It's in none of our expertise to determine the ownership of the property." It is setting the Town up for litigation if it presumes that the Town is going to be in the position to judge whether a statement of ownership is valid or not. If a permit is issued with the permittee acknowledging that they have the right to build on the property; that is doing what the County does. There is good reason to be consistent with the County. Doing more than that presumes that the Town knows more about the ownership and the entitlement of the property than the property owner does. At the October 8<sup>th</sup> meeting that was held regarding this matter, O'Donnell said that he provided copies of a survey that showed that property lines are all over the board with respect to the shoreline. He also provided copies of a letter from the County Surveyor to the County Attorney that put forth the concept that when you own property along the shoreline, whether you go to the shoreline or not, is not necessarily the issue. The intent was that the property owner is able to get to the water. He read the following excerpts from that letter: "I have received inquiries about the ownership lines along large bodies of water, specifically Grand Lake. In general, unless otherwise specified, private ownership along Grand Lake goes to the shoreline, which is

beyond the government-surveyed "meander line". Case law developed alongside the surveying of the PLSS, which established the doctrine in use today that all natural bodies of water are in a constant state of change, and that private landowners own dry property to the water line. Most of the subdivisions around the lake were platted before 1950, utilizing the doctrine that the meanderline was merely a reference to the PLSS system, but that private ownership of all new lots went to the shoreline according to established case law. The U.S. has at no time, prior to 1950, nor after, designated any strip of land lying between the old meanderline and the shoreline as being owned by any other than private ownership." He said that to his knowledge, two court rulings related to Grand Lake have confirmed his opinion. This whole whereas notion in this latest revised ordinance that there is some pathway along the shoreline of Grand Lake and this whole notion that the Sunnyside Addition Plat shows a public access strip out lake from the lot lines is causing us to debate a matter that is non-debatable. Based on an Alta Survey, that he has, it shows Lots 72 and 73, Sunnyside Addition, going out into the water. He said, "If you all pass this ordinance it will cloud everyone's title along the lakefront within the Town's boundary. It's not the Town's job to be judging the ownership of the property. Also, the Town needs to know where its' boundary is. Just like a lot within Sunnyside Addition, there is a legal description that describes the location of that lot."

Ben Blair, 731 Grand Lake Lane, was then recognized. Before addressing the Board, he distributed a copy of the draft ordinance containing his personal revisions (see attached Exhibit A). He said that he obtained a building permit a couple of weeks ago so that he could add onto his home and the County required him to fill out a waiver stating that he owned the property so we are already doing what is necessary to do. He stated that he agrees with what everyone has said this evening and he doesn't feel that the ordinance should be passed. However, if the Board feels that they need to pass the ordinance, he asked them to consider changing the wording to what he is suggesting so that it makes sense. He then explained his suggested changes. Again, he stated that all of this is unnecessary but should the Board disagree with him and feel that there should be an ordinance, then he hopes the Board will consider his changes.

Ann Meyer, 1530 Grand Avenue, was then recognized. She stated that she agrees with what everyone has said this evening and further stated that she feels like she is being backed into a corner and feels like she is between a rock and a hard place when it comes to protecting, managing and enjoying her property. As she understands, the new draft ordinance has only been available for public scrutiny for a matter of a few days. Meyer said that she was away for the Thanksgiving holiday and saw the draft ordinance for the first time last night. She said that she has attended every meeting that the Town has had regarding this matter and the word

“pathway” was never mentioned in any document that the Board was considering. She said that her property is in Sunnyside Addition, therefore, affecting her property. She then said that she does not understand the indemnification language. She needs more time than this to have someone look at it for her. If the Board passes any portion of the ordinance this evening, she is placed in a position where if the winds or the ice damages her dock next spring she will have to sign something that she truly does not understand and hasn’t had a chance to look at. If at some point down the road the issue of the ownership of the lake bed is settled then we will all abide by whatever decisions are made. For the time being, she asked the Board not to pass any portion of the ordinance until it is right and doesn’t feel band aided together.

Ray Sample, 500 Jericho Road, then addressed the Board for a second time. He said that if the intent of this ordinance is to protect the Town from liability in the future then the Town is going about this all wrong. Perhaps the Board will want to take a step back and do what the County is doing. The County felt that they had a process that covered the problems associated with building out onto the water of Grand Lake. Their ordinance applies to every building permit that is issued. There may be situations that occur where people do have to build outside of their property line. There are probably times where there are conflicting surveys of a property and there are issues that have to be resolved. He suggested the Board consider applying such requirements to all building permits issued not just those on Grand Lake.

Will O’Donnell, 380 Jericho Road, then addressed the Board for a second time. He referred to the fourth paragraph of Section 1. where it states, “The property owner agrees to indemnify and hold the Town of Grand Lake harmless against any and all claims . . .”, he said that no one’s council will let them sign this as an applicant. If Donna applies for a building permit to replace boards on the boardwalk in the Town right-of-way and she has to sign the permit with this indemnification language in it and someone comes along and trips and falls on the boardwalk, the Town has indemnified itself and then Donna has to pay for the legal defense. It’s a provision in this unnecessary ordinance that is not going to fly with the applicant’s legal advice. The Town should apply a universal acknowledgement to all building permits that states the property owner owns the property and the owner is entitled to build on the property and call it good.

Town Attorney stated that he didn’t feel that there is any hurry for the Board to act on this ordinance this evening. The comments made this evening both favor the indemnification idea and oppose the indemnification idea. The Board is still faced with what looks like conflicting surveys. As far as determining who owns a property that is really part of the purpose of a survey. We have at least one survey of the



Sunnyside land that shows the land ends well short of the lake and aren't tied at all to a meander line and we have other surveys that indicate that they are tied to a meander line. Krob said that it seems to him that there is some misinformation out there as far as where the Town's borders are. He doesn't think that there is any dispute with the Town's borders being the edge of the lake and the meander line. But there is some misinformation out there about the platting of Sunnyside and what the plat looks like. There may be a benefit of having discussion with staff and some of the surveyors to see where it is that they reach some of these conclusions and what they are relying on. He said that he doesn't necessarily disagree with most of the conclusions that are in the County Surveyor's letter. All he is really saying is that when they patented the land it stopped at the water and that the Town's limits stopped at the water and that they based it on a meander line that may change from time to time. That is really not the issue, the issue is whether someone came along later and platted a piece of property that only part of which was to be sold off as lots and what was to happen to the rest of it. There is still some leg work that probably needs to be done before the Board decides which way to go.

Trustee Lewis made the comment that she agrees with Town Attorney Krob. With respect to the "pathway", she said that she has walked around the lake and there is no "pathway" in Sunnyside so that is something that needs to be researched. She said that the Board needs to step back and listen to the concerned citizens and perhaps it may take revising the ordinance.

Trustee Weydert stated that he has seen recorded surveys of Sunnyside where some of the property lines go to the water line and some of the surveys show that they do not. It's that space in between, what do you call it? The word "pathway" is just a label that was given to describe it.

Trustee Peterson said that he likes the revisions that Mr. Blair has suggested. When it comes to that potential strip along Sunnyside, he said that he would be failing if he did not question it and that is basically why we are all here. Peterson said that his job is to look into things to protect the public. He stated that he has been sitting on the Town Board for the past fifteen years and he knows that the issue of the lakebed will never be solved.

Trustee Weydert said that comments were made earlier in the evening about the changes in the draft ordinance; that the ordinance was changed again. He explained that this is what the purpose of these meetings are and that is to consider the public's input, consult with the Town's Attorney and make revisions.

Following discussion, Trustee Peterson moved to continue the Public Hearing until a later date so that staff can seek information from surveyors on how these conclusions came about. Trustee Weydert seconded the motion and all Trustees voted aye.

NEW BUSINESS:

**CONSIDERATION OF ORDINANCE NO. XX-2012, AN ORDINANCE AUTHORIZING THE LEASE OF REAL PROPERTY TO THE GRAND LAKE HISTORICAL SOCIETY BY THE TOWN OF GRAND LAKE AND ESTABLISHING THE TERMS THEREOF, AND TO AUTHORIZE THE MAYOR TO SIGN THE LEASE AGREEMENT** – Mayor Burke asked Town Manager Hook to present this matter to the Board. Hook explained that the Lease Agreement with the Grand Lake Area Historical Society (Society) will expire December 31, 2012. Staff reviewed the existing Lease Agreement and made a few changes, formatting and minor word changes; nothing substantial. The proposed Lease Agreement has been reviewed and executed by the Society. It is attached as Exhibit 1 to the ordinance. The new Lease Agreement runs through December 31, 2013 and the 2013 rent in the amount of \$1 has been paid to the Town. The lease arrangement has been a good fit for the Town and the tenants, the Society, Grand County Water Information Network, and the Grand Lake Metropolitan Recreation District. All of the tenants get along, the Town gets a building that is put to use and we no longer have to pay the utilities. The Board should review the Lease Agreement and discuss the concept of leasing a portion of the modular building to the Society, in combination with the separate Lease Agreements for the Grand County Water Information Network and the Grand Lake Metropolitan Recreation District. Staff recommends adoption of the ordinance and for the Board to authorize the Mayor to sign the Lease Agreement. Hook noted that Elin Capps was present representing the Grand Lake Area Historical Society.

Trustee Peterson moved to adopt Ordinance No. 6-2012, an Ordinance Authorizing the Lease of Real Property to the Grand Lake Area Historical Society by the Town of Grand Lake and Establishing the Terms Thereof, and authorize the Mayor to sign the Lease Agreement. Trustee Lewis seconded the motion and all Trustees voted aye.

NEW BUSINESS:

**CONSIDERATION OF ORDINANCE NO. XX-2012, 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, AND TO AUTHORIZE THE MAYOR TO SIGN THE LEASE AGREEMENT** – Mayor Burke asked Town Manager Hook to present this matter to the Board. Hook explained that the Lease Agreement with the Grand Lake Metropolitan Recreation District (District) will expire

December 31, 2012. Staff reviewed the existing Lease Agreement and made a few changes, formatting and minor word changes; nothing substantial. The proposed Lease Agreement has been reviewed and executed by the District. It is attached as Exhibit 1 to the Ordinance. The new Lease Agreement runs through December 31, 2013 and the 2013 rent in the amount of \$1 has been paid to the Town. The lease arrangement has been a good fit for the Town and the tenants, the District, Grand County Water Information Network, and the Grand Lake Area Historical Society. All of the tenants get along, the Town gets a building that is put to use and we no longer have to pay the utilities. The Board should review the Lease Agreement and discuss the concept of leasing a portion of the modular building to the District, in combination with the separate Lease Agreements for the Grand County Water Information Network and the Grand Lake Area Historical Society. Staff recommends adoption of the ordinance and for the Board to authorize the Mayor to sign the Lease Agreement.

Trustee Lewis moved to adopt Ordinance No. 7-2012, 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, and authorize the Mayor to sign the Lease Agreement. Trustee Weydert seconded the motion and all Trustees voted aye.

NEW BUSINESS:

**CONSIDERATION OF ORDINANCE NO. XX-2012, AN ORDINANCE AUTHORIZING THE LEASE OF REAL PROPERTY TO THE GRAND COUNTY WATER INFORMATION NETWORK BY THE TOWN OF GRAND LAKE AND ESTABLISHING THE TERMS THEREOF, AND AUTHORIZE THE MAYOR TO SIGN THE LEASE AGREEMENT** – Mayor Burke asked Town Manager Hook to present this matter to the Board. Hook explained that the Lease Agreement with Grand County Water Information Network (GCWIN) will expire December 31, 2012. Staff reviewed the existing Lease Agreement and made a few changes, formatting and minor word changes; nothing substantial. The proposed Lease Agreement has been forwarded to GCWIN for their review and execution. As of this date, the signed Lease Agreement has not been returned to the Town. An unsigned copy of the Lease Agreement is attached as Exhibit 1 to the Ordinance. The new Lease Agreement runs through December 31, 2013 and the 2013 rent in the amount of \$1 has not been paid to the Town. Jane Tollett, Director of GCWIN, has acted as the prime point of contact between the Town and the three tenants, arranging the utility payments, addressing maintenance issues, etc. Staff appreciates that Jane has taken on that role. The lease arrangement has been a good fit for the Town and the tenants, GCWIN, Grand Lake Metropolitan Recreation District, and the Grand Lake Area Historical Society. All of the tenants get along, the Town gets a building that is put to use and we no longer have to pay the

RECORD OF PROCEEDINGS

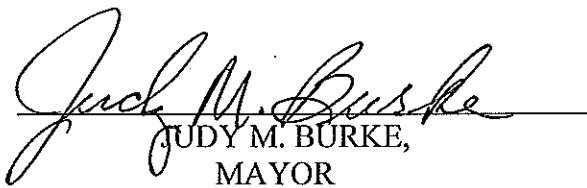
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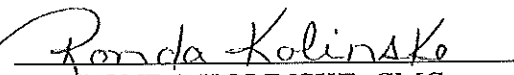
utilities. The Board should review the Lease Agreement and discuss the concept of leasing a portion of the modular building to GCWIN, in combination with the separate Lease Agreements for the Grand Lake Metropolitan Recreation District and the Grand Lake Area Historical Society. Staff recommends adoption of the ordinance and for the Board to authorize the Mayor to sign the Lease Agreement upon staff's confirmation of receipt of the executed Lease Agreement and the 2013 rent payment from GCWIN.

Trustee Lewis moved to adopt Ordinance No. 8-2012, an Ordinance Authorizing the Lease of Real Property to the Grand County Water Information Network by the Town of Grand Lake and Establishing the Terms Thereof and authorize the Mayor to sign the Lease Agreement upon staff's confirmation of receipt of the executed Lease Agreement and the 2013 rent payment from GCWIN. Trustee Peterson seconded the motion and all Trustees voted aye.

CITIZEN PARTICIPATION: Will O'Donnell was recognized from the audience. He made an official request to the Board to get a copy of the document containing the legal description of the Town's boundary.

ADJOURNMENT: Trustee Peterson moved to adjourn, seconded by Trustee Weydert. All Trustees voted aye, and the meeting was adjourned at 8:50 p.m., November 26, 2012.

  
JUDY M. BURKE,  
MAYOR

ATTEST:   
RONDA KOLINSKE, CMC,  
TOWN CLERK

TOWN OF GRAND LAKE  
ORDINANCE NO. \_\_\_-2012

AN ORDINANCE AMENDING SECTION 12-2-29 OF THE GRAND LAKE  
TOWN CODE BY ADDING REQUIREMENTS FOR THE  
ISSUANCE OF PERMITS FOR BOATHOUSES AND BOAT DOCKS

WHEREAS, Section 12-2-29 of the Grand Lake Town Code governs and regulates the construction of boathouses and boat docks, and requires a public hearings before the issuance of a Building Permit; and

WHEREAS, issues have recently been brought to the attention of the Town regarding the ownership of property on which boathouses and boat docks may be located; and

WHEREAS, there is some authority suggesting that the bed of Grand Lake on which some of the boathouses and boat docks have been built and are proposed to be built may be the property of the State of Colorado; and

WHEREAS, there is some authority suggesting that the pathway along the shoreline of Grand Lake in the Sunnyside Addition to the Town of Grand Lake may be the property of the Town on behalf of the public; and

WHEREAS, it is in the Town's interest to insure that the construction of boathouses and boat docks is regulated in a manner to protect the Town against claims relating to the construction of boathouses and boat docks on lands not belonging to the building permittee;

*what pathway*

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF GRAND LAKE, COLORADO, THAT:

1. The Code of the Town of Grand Lake, Colorado, is hereby amended by adding the following provisions to Section 12-2-29(2)(B):

Notwithstanding any other provisions contained in this section, building permit applications for property within the Town and which borders Grand Lake, as well as land within the Sunnyside Addition to Grand Lake shall include the following provisions, signed by the owner of the property.

*Remove*

The property owner hereby acknowledges that he/she is responsible for building on their own property within the setbacks or building envelopes and affirmatively represents that they are the owner of all property on which construction will occur *or otherwise have the right to build on the property on which a boat dock and/or*

The property owner further acknowledges and agrees that by issuing the building permit requested in the application, the Town of Grand Lake does not waive, relinquish, release, or weaken in any manner any claim the public, the Town of Grand Lake, the State of Colorado or any other

*boat house is proposed to be built under this permit*

governmental entity may have of an interest in or relating to the bed of Grand Lake, the surface of Grand Lake, or lands along or adjoining Grand Lake, or regulating Grand Lake.

*permitted*  
The property owner agrees to indemnify and hold the Town of Grand Lake harmless against any and all claims relating in any manner to the Town's issuance of the requested building permit and the ownership of the lands on which the permitted structure is built or is to be built. Such indemnification shall include reimbursing the Town for all costs and expenses, including but not limited to attorneys fees incurred by the Town in defending any such claim.

2. Severability: If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Trustees declares that it would have passed this Ordinance and each part or parts thereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.
3. Repeal: Existing Ordinances or parts of Ordinances covering the same matters as embraced in this Ordinance are hereby repealed and all Ordinances or parts of Ordinances inconsistent with the provisions of this Ordinance are hereby repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any Ordinance hereby repealed prior to the taking effect of this Ordinance.

**DULY MOVED, SECONDED AND ADOPTED BY THE BOARD OF TRUSTEES OF THE TOWN OF GRAND LAKE THIS 26<sup>th</sup> DAY OF NOVEMBER, 2012.**

Votes Approving: \_\_\_\_\_  
 Votes Opposing: \_\_\_\_\_  
 Absent: \_\_\_\_\_  
 Abstaining: \_\_\_\_\_

**ATTEST:**

**TOWN OF GRAND LAKE**

\_\_\_\_\_  
Ronda Kolinske, CMC  
Town Clerk

By: \_\_\_\_\_  
Judy M. Burke  
Mayor