REGULAR MEETING
TOWN OF GRAND LAKE BOARD OF TRUSTEES
MONDAY, JANUARY 14, 2013  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 Gasner, Lanzi, Lewis, Ludwig, Peterson, and
Weydert; Town Manager Hook, Town Clerk Kolinske, Town Planner
Biller, and Town Attorney Krob.

ABSENT:
None.

APPROVAL OF MINUTES
December 10, 2012:
Trustee Weydert moved to approve the minutes of the December 10,
2012 regular meeting as written, seconded by Trustee Peterson. All
Trustees voted aye except Trustee Lewis, who abstained.

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

Mayor Burke announced that Town Sales Tax Licenses for businesses,
Nightly Rental Licenses and Animal Licenses are now due for 2013. All
are available at Town Hall.

Mayor Burke announced that the Three Lakes Ice Fishing Contest is
scheduled for January 25 – 27, three 1-day contests. Enter one, two or
all three days. There will be daily Big Fish Prizes with over a $6,000
purse each day. Call the Granby Chamber of Commerce for more
information.

Mayor Burke then announced that the Grand Lake Nordic Center will be
open for full moon skiing on January 26 from 5 – 9 p.m. with
complimentary hot chocolate all evening.

CONFLICTS OF
INTEREST:
Mayor Burke stated that if there are any Trustees wishing to announce a
conflict of interest with any items on this evening’s agenda, they should
do so at this time.

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

Trustee Lanzi announced that he also had a conflict with the Local
Liquor Licensing issues.
REPORTS: SALES TAX CASH FLOW REPORT FOR DECEMBER 2012:

Mayor Burke asked Town Clerk Kolinske to present the sales tax cash flow report. Kolinske reported that the amount of revenue received in December 2012 for the month of October is $43,395. This amount is nearly 7% above what was received through December 2011.

REPORTS: FINANCIAL REPORT FOR NOVEMBER 2012:

Mayor Burke asked Financial Trustee Peterson to present the Financial Report for November 2012. Peterson reported that the General Fund expenditures through the end of November totaled $1,167,325.30 or 45.9% of budget. He said the Water Fund expenditures for the same period totaled $378,218.30 or 49.9% of budget, the Marina Fund expenditures totaled $154,940.71 or 49.7% of budget and the PAYT Fund expenditures totaled $6,568.81 or 53.5% of budget.

OLD BUSINESS:

None.

NEW BUSINESS:

CONSIDERATION OF RESOLUTION NO. XX-2013, A RESOLUTION ALLOWING THE BURNING OF SLASH PILES IN THE SHADOW PARK WEST SUBDIVISION FOR THE 2013 SEASON – Mayor Burke asked Town Planner Biller to present this matter to the Board. Biller explained that the Town has received an open burning request for slash piles in the Shadow Park West Subdivision located on Tall Pine Circle. The request is for approximately 9 piles of beetle kill slash with dimensions of 10’x10’x6’ for a total volume of 5,400 cubic feet.

Municipal Code 7-1-28 Open Fires Prohibited cites:

Open Fires (any outdoor fire) of any kind are prohibited, unless the prior written consent of the Board of Trustees is obtained. Barbeque and campfire pits or rings not exceeding sixteen (16) square feet in area and liquid or gas fueled stoves and grills and other devices either permanently constructed or purchased for the purpose of outdoor cooking are exempted from the provisions of this Section.

Staff would like to point out the Municipal Code does not require the notification of surrounding property owners as part of this request. Staff has contacted the Grand County Division of Natural Resources regarding this burn request. The County is awaiting Town approval prior to the issuance on an Open Burn Permit. Staff has also contacted the Grand Lake Fire Protection District regarding this request but was unable to make direct contact with the department. The Town has allowed the burning of slash in similar circumstances. Staff recommends the following:
1) The burning is monitored by the contractor at all times; and
2) Burning times are limited to: Monday – Friday; and
3) The maximum pile size is 10'x10'x6'; and
4) The maximum total volume burned is 5,500 cu.ft.; and
5) The fires must be “COMPLETELY EXTINGUISHED” outside of approved burning times; and
6) The Grand Lake Fire Protection District and the Town of Grand Lake must be notified prior to each burn; and
7) The Contractor obtains an Open Burn Permit from Grand County.

Staff recommends the Board adopt the resolution as presented thus allowing Shadow Park West to burn slash piles for the 2013 season. The Board should discuss if the burning of slash is appropriate in this circumstance and if surrounding property owner notification should be conducted by staff as a courtesy. The Board has several options to consider including:

1. Adopt Resolution No. xx-2013 as presented, thus granting the burning of slash; or
2. Adopt Resolution No. xx-2013 with conditions; or
3. Not adopt the resolution.

Bret Douglas, 32 Hummingbird Lane, was recognized by the Chair. Mayor Burke asked him if he has ever conducted burns like this before. Douglas responded by saying that he has burned hundreds of piles over the past 8 or 9 years.

Trustee Peterson moved to adopt Resolution No. 1-2013, a Resolution Allowing the Burning of Slash Piles in the Shadow Park West Subdivision for the 2013 Season. Trustee Lewis seconded the motion and all Trustees voted aye.

NEW BUSINESS:

CONSIDERATION OF RESOLUTION NO. XX-2013, A RESOLUTION GRANTING AN ENCROACHMENT LICENSE INTO THE GRAND AVENUE PUBLIC RIGHT-OF-WAY FOR CERTAIN IMPROVEMENTS LOCATED ADJACENT TO LOT 3, BLOCK 5, TOWN OF GRAND LAKE – Mayor Burke asked Town Planner Biller to present this matter to the Board. Biller explained that the Town has received an Encroachment License Application for the construction of covered boardwalk in the Town right of way which requires the Boards review.

Section 11-6-1: Public Property Encroachments cites:
A. Encroachment Defined - An encroachment is any item that is placed, erected or built on the public right-of-way by a private property owner. A property owner shall seek permission from the Town to encroach onto Rights of Ways or municipal property prior to the encroachment occurring. Where an encroachment exists without
Town approval, the owner shall be required to remove the encroachment at his own expense or seek permission from the Town for the encroachment to remain.

B. Types of Encroachments
1. Major Encroachments are considered encroachments that are more permanent in nature. Examples include, but are not limited to: buildings or structures, driveways, fences and retaining walls, decks and patios, some components of public utilities, as well as other immovable objects other than minor landscaping.

As per the Municipal Code, staff contacted the following utility companies informing them of this encroachment request:
Three Lakes Water and Sanitation District
Mountain Parks Electric
Comcast of Colorado
Xcel Energy
Century Link
Town of Grand Lake Water Department

Staff received no objections to this encroachment. Staff would like to point out the request is for covered boardwalk for the entire length of the parcel of 45 ft. The applicant has submitted a building permit application for the construction of only 40 ft. Staff recommended the applicant request an encroachment license for the entire length of the parcel for future construction or anticipating building permit plan changes. Currently, covered boardwalk has been constructed to the east of Lot 3 (Tallaqua Square) and no covered boardwalk existing to the west of Lot 3 (Lots 4-6 — Lilliputt Minigolf). However, the covered boardwalk of Tallaqua Square stops 5 ft. shy of the property corner of Lot 3. This will result in roughly a 10 ft. gap in between covered boardwalks of Tallaqua Square and Gifts Unlimited. Staff contacted the Tallaqua Square HOA for possible cooperative effort in construction. The Town has not been contacted by the HOA as of this time. The Public Works Director has no objection to the encroachment. A small concern is the existing Town bench located next to the existing boardwalk. The applicant may be required to adjust the bench to allow for the new structure. Staff recommends the Board grant the encroachment license for the covered boardwalk by adopting the resolution as presented. The Board has several options to consider including:

1. Adopt Resolution No. xx-2013 as presented, thus granting encroachment; or
2. Adopt Resolution No. xx-2013 with conditions; or
3. Deny the request.

Biller noted that Shelley Richmond, owner/applicant, was present.
Shelley Richmond, 1022 Grand Avenue, said that she has decided to extend the cover the full distance. She will place a post at the corner of her property to support the cover to Tallaqua Square so that there won't be a break. She also said that she spoke with Public Works Director, Bernie McGinn, and he determined that the bench could be moved but remain on the same concrete pad.

Trustee Lewis moved to adopt Resolution No. 2-2013, a Resolution Granting an Encroachment License into the Grand Avenue Right of Way for Certain Improvements Located Adjacent to Lot 3, Block 5, Town of Grand Lake with the following conditions:
1. The cover is extended to Tallaqua Square, and
2. The existing bench is moved as required by the Public Works Department.
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 Kolinske to present this matter to the Board. Kolinske explained that the public place or places for posting notice of public meetings of the Town shall be designated each year at the first regular meeting of the year per CRS 24-6-402(2)(c). 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. Kolinske recommended that the Board make a motion to 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. This is the same procedure as has been followed for at least the previous sixteen 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 Hall at least twenty-four (24) hours prior to all public meetings of the Town. Trustee Weydert seconded and all Trustees voted aye.

NEW BUSINESS:

CONSIDERATION TO RATIFY THE SUBMITTAL OF A COMMENT LETTER REGARDING TAX EXEMPT STATUS OF INTEREST ON MUNICIPAL BONDS — Mayor Burke asked Town Manager Hook to present this matter to the Board. Hook explained that the Board needs to consider ratification of the formal comment letter to the Town's federal delegation without advance approval of the Board of Trustees. When submitting formal comments on behalf of the Town of Grand Lake, it is normal practice for staff to seek the authorization of the
Board on the record in advance of submitting the comments. In late December, CML brought to the Town's attention that federal-level discussions regarding "fiscal cliff" issues included the possibility of eliminating the tax-exempt status of municipal bonds. CML encouraged it members to communicate with the members of our federal delegation on this issue because of the potential for adverse impacts to Colorado communities. CML's concerns centered on the fact that municipal bonds are a common form of public infrastructure project financing. The elimination of the tax-exempt status will make the issuance of such bonds more difficult and less attractive to investors. Additionally, municipalities issuing such bonds will experience increased costs of financing. The comment letter signed by Mayor Burke was submitted to each member of the federal delegation by fax and as an email attachment to the federal delegation on December 21, 2012. Additionally, the letter and email were forwarded to CML. Comments to the federal delegation needed to be submitted without delay since they were actively working on "fiscal cliff" solutions in preparation of the year-end deadline. Because the Board did not meet in late December to discuss the matter and formally direct staff accordingly, and because this matter seemed important to small communities such as Grand Lake, he said that he and Mayor Burke collaborated on preparing relevant comments in a timely manner with the recognition that they would need to be brought before the full Board at their next meeting. In reviewing the email chain that CML Executive Director Sam Mamet was pleased with the letter and "tweeted" it to those who follow CML on Twitter. The Board should discuss the comments made on behalf of the Town of Grand Lake on this matter. Staff recommends that the Board ratify the comment letter submitted. The Board should ratify the comment letter or take exception to the comment letter submitted on this matter.

Trustee Weydert moved to ratify the submittal of the comment letter dated December 20, 2012 to Grand Lake's federal delegation regarding Tax-exempt status of interest on municipal bonds. Trustee Lewis seconded the motion and all Trustees voted aye.

ACCOUNTS PAYABLE
December, 2012/
January, 2013:

Trustee Peterson moved to examine the Accounts Payable and Prepaid for all Funds for the Town of Grand Lake. Trustee Weydert seconded the motion and all Trustees voted aye. Trustee Peterson then moved to approve the Accounts Payable and Prepaid for all Funds for the Town of Grand Lake. Trustee Weydert seconded the motion and all Trustees voted aye.

At 8:00 p.m. Trustees Lanzi and Ludwig excused themselves and left the building.
LIQUOR LICENSING AUTHORITY: QUASI-JUDICIAL – SHOW CAUSE HEARING – REGARDING THE TAVERN LIQUOR LICENSE OWNED BY GRUMPY’S SALOON, INC., D/B/A GRUMPY’S SALOON – Mayor Burke asked Town Attorney Krob to present this matter to the Board. Krob explained that the Board of Trustees is sitting as the Local Liquor Licensing Authority to conduct this Show Cause Hearing. Overall, there are three questions the Authority must address:

1) Did Grumpy’s violate either the Colorado statutes or the Colorado regulations governing liquor licenses?

2) Did Grumpy’s violate the terms of the suspension held in abeyance from the code violation found at the July 11, 2011 hearing?

3) If so, what sanctions should the Authority impose as a result of such violations?

To answer these questions, the hearing will proceed as follows:

Krob noted that throughout the presentation by the Clerk or the officers and the presentation by the liquor license holder, members of the Authority should feel free to ask questions of any witnesses or about any of the documents or exhibits that are presented.

1. Presentation by the Clerk

The Clerk will present the results of her investigation, including

a. An explanation of the type of license held by Grumpy’s and how long they have had it. She may provide the Authority with a copy of the liquor license.

b. The events that led to this show cause hearing. There are three separate events which are the basis for this show cause hearing including events on January 29, 2012, September 2, 2012, and September 26, 2012.

To explain those events, the Clerk may present the Authority with the written reports of the police officers involved in the matter. She may also have the officers or their supervisors testify about what happened on the above dates and afterwards, including subsequent discussions with the license holder and any subsequent criminal prosecutions involved in these cases.

c. The sections of the statute and/or regulations the Clerk believes may have been violated as a result of the actions of the liquor license holder. According to the notice of
hearing provided to the license holder, the Regulation the Clerk believes the license holder may have violated is Regulation 47-900, Disorderly Conduct by (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 premises, and (3) knowingly permitting acts of disorderly conduct on the licensed premises. In addition, the statute the Clerk believes the license holder may have violated is § 12-47-901, C.R.S., Unlawful Acts. Copies of Regulation 47-900 and § 12-47-901, C.R.S. have been provided to the Authority for its reference.

The events of January 28 and 29, 2012, may have also violated the previous sanctions of the June 11, 2011, hearing in which the Authority suspended Grumpy's liquor license for 30 days, 25 of which were held in abeyance for 1 year.

d. Possible sanctions the Authority may want to consider.
Krob said that he anticipates this will consist primarily of a tabulation of sanctions imposed by the various liquor license authorities throughout the State. The Clerk provided you a copy of this compilation for your reference.

To the extent the Clerk calls any witnesses to testify before the Authority, the liquor license holder can ask the witnesses questions about their testimony or the exhibits (cross examination). At the conclusion of the Clerk's initial presentation, any documents provided by the Clerk to the Authority should be noted and made a part of the official record.

2. Presentation by the license holder

After the Clerk's presentation, the license holder can then testify and/or present any witnesses or documents they want the Authority to consider to show (1) that the liquor license holder did not commit the violation as alleged, and/or (2) matters in mitigation to suggest that a less severe sanction should be imposed by the Authority if there was a violation. The liquor license holder may make their presentation themselves, or they may have an attorney do it on their behalf. At the conclusion of the liquor license holder's presentation, any documents provided by the liquor license holder to the Authority should be noted as exhibits and made a part of the official record.

3. Follow up by the Clerk

To the extent the Clerk has any response to the witnesses and exhibits
provided by the liquor license holder, she should provide them at this time.

4. Deliberation by the Authority

Once the presentation of the evidence by the Clerk and the license holder is complete and the Authority has asked any questions it has of the parties, the matter is then turned over to the Authority for decision and action. Again the two questions are:

a. Has the license holder violated Regulation 47-900 or C.R.S. § 12-47-901?

b. Has the license holder violated the terms of the July 11, 2011 suspension held in abeyance, by the activities that took place on January 28 and 29, 2012?

c. If the license holder has violated Regulation 47-900, C.R.S. § 12-47-901, or the terms of the previous suspension, what sanction should be imposed?

If the Authority reaches this issue, the possible sanctions it may impose include:

1) Revocation

2) Suspension

3) Optional fines. If the Authority suspends the license for a period of less than 14 days, then the license holder can petition the Authority to impose a fine in lieu of the suspension for all or part of the suspension period. However, this petition and its granting may only occur if the Board has previously adopted a resolution or ordinance to allow for this alternative. It does not appear that the Town has adopted such a resolution or ordinance.

Once the Authority has reached a decision as to whether a violation has occurred and if so, what sanction should be imposed, it should make a motion reflecting its decision.

During the Clerk's presentation Kolinske stated that this is a Tavern Liquor License held by Grumpy's Saloon, Inc., d/b/a Grumpy's Saloon. The licensee is Dustin Barnes, President. Dustin has been in operation since on or about May 5, 2011.

It is alleged that on January 29, 2012, the Licensee or Licensee's employees or agents knowingly failed to conduct the licensed premises
in a decent, orderly and respectable manner, permitted the serving of a visibly intoxicated person on the licensed premise and knowingly permitted acts of disorderly conduct on a liquor licensed premise. See Grand County Sheriff’s Office Incident Report 12-000095-0. The person involved in the incident pled guilty to 3rd degree assault, he received a deferred judgment and sentence for 1 year, he has to complete 40 hours of community service and has to pay $209.50 in fines and costs.

It is alleged that on September 2, 2012, the Licensee or Licensee’s employees or agents knowingly failed to conduct the licensed premises in a decent, orderly and respectable manner, permitted the serving of a visibly intoxicated person on the licensed premise and knowingly permitted acts of disorderly conduct on a liquor licensed premise. See Grand County Sheriff’s Office Incident Report 12-000766-1. The person involved in the incident pled guilty to an amended charge of disorderly conduct which is a Misdemeanor II, he was sentenced to 1 day in jail, he has to complete 100 hours of community service and has to pay $709.50 in fines and costs. The possession of marijuana and introducing contraband charges were dismissed.

It is alleged that on September 26, 2012, the Licensee or Licensee’s employees or agents knowingly failed to conduct the licensed premises in a decent, orderly and respectable manner, permitted the serving of a visibly intoxicated person on the licensed premise and knowingly permitted acts of disorderly conduct on a liquor licensed premise, as well as violating § 12-47-901, C.R.S., Unlawful Acts. See Grand County Sheriff’s Office Incident Report 12-000845-1. The person involved in the incident pled guilty to DWAI and to 3rd degree assault. He received a 2 year deferred sentence, he has to complete 90 hours of community service and has to pay $632.50 in fines and costs. 180 days of jail time was suspended. The reckless driving, disregarding a Stop Sign and possession of marijuana charges were dismissed.

And it is alleged that the January 29, 2012 incident violated the provisions of the licensee’s previous suspension.

Notice of Hearing and Order to Show Cause for Suspension or Revocation was mailed to Dustin Barnes by Certified Mail on December 21, 2011. I have not received notice of it having been received.

Town Attorney Krob then asked Undersheriff Campbell, Grand County Sheriff’s Department, if he would like to comment. He stated that, as common practice of the Department, he submits copies of reports to the Town Clerk concerning incidents that have occurred in different liquor establishments. Referring to the first incident that occurred at Grumpy’s, Report #12-000095-0, there were three patrons there on January 29, 2012, two males and one female. One male had given some cigarettes to
the female. The female went to the upstairs patio of the bar to have a cigarette with the second male. The first male then went to the upstairs patio to get his cigarettes back; that resulted in a physical disturbance. The aggressor then left the establishment and was subsequently located near Granby and charged with 3rd degree assault.

Dustin Barnes, who was seated in the audience, asked Undersheriff Campbell if there was any indication of intoxication due to alcohol. Campbell responded by saying that he saw nothing in the report that indicated how much the people had to drink. Mr. Barnes then noted that a call was made to the Sheriff’s Department right after the incident happened. Mr. Barnes asked if there were any DUI charges. Undersheriff Campbell responded by saying no.

Trustee Weydert stated that this incident appears to be more of a disorderly conduct versus the serving of a visibly intoxicated person because of the physical disturbance. Undersheriff Campbell said that is correct.

Mr. Barnes noted that the person involved in the incident recently had back surgery and was on pain medication that night and they didn’t know about it.

Town Attorney Kroh explained what the three categories of violations are that the Authority might be looking at: 1.) Failure to conduct the licensed premises in a decent, orderly and respectable manner, 2.) permitted the serving of a visibly intoxicated person on the licensed premise, and 3.) knowingly permitted acts of disorderly conduct on a liquor licensed premise. Regulation 47-900 addresses the first one, conduct of an establishment. It cites, “Each licensee shall conduct the licensed premises in a decent, orderly and respectable manner.” It doesn’t really say exactly what that means. For the second one, statute cites, “The license holder shall not serve any person who displays any visible signs of intoxication.” And for the third one regarding disorderly conduct, statute cites, “The licensee shall not knowingly permit any activity or acts of disorderly conduct as defined by and provided for in Section 18-9-106.” Section 18-9-106 cites, “A person commits disorderly conduct if he or she makes a coarse and obviously offensive utterance, gesture, or display in a public place and the utterance, gesture, or display tends to incite an immediate breach of the peace; or fights with another in a public place except in an amateur or professional contest.”

Referring to the second incident that occurred at Grumpy’s, Report #12-000766-1, Undersheriff Campbell continued by saying that this incident occurred on September 2, 2012 at about 1:30 a.m. He said that Mr. Barnes had contacted Deputy Stilen directly regarding a disturbance at
Grumpy's. Deputy Stilen then received a second call from Mr. Cody Holt advising that there may have been a gun involved. When Deputy Stilen arrived on the scene everybody was in the street and he subsequently made contact with two suspects, one of which was arrested. In Deputy Stilen's report, he stated that the person appeared to be visibly and highly intoxicated.

Dustin Barnes made the comment that they did everything by the book. There was a disturbance and they called the Sheriff's Department. He also mentioned that the person involved in the incident could have been under the influence of marijuana. He then asked Undersheriff Campbell if there was any proof that the person involved in the incident was overserved. Campbell responded by saying that he saw nothing in the report that indicated anything about service.

Referring to the third incident, Report #12-000845-1, Undersheriff Campbell stated that this incident occurred on September 26, 2012 at 10:58 p.m. Deputy Falatko was on duty and observed a violation, made contact and determined that the driver was suspected of operating a motor vehicle while under the influence of alcohol. During his investigation of the traffic violation a woman approached him and said that this particular person assaulted a friend of hers at Grumpy's. Deputy Falatko then continued with the traffic violation by arresting the person while Deputy Reed returned to Grumpy's to investigate the alleged assault. During his investigation, he contacted Rachel Terry who provided a written statement stating that she had seen the altercation in the bar. Ken Fife also provided a statement saying that he had served this individual four drinks within a period of four hours.

Dustin Barnes asked Undersheriff Campbell if there was any proof of over service with this incident. Campbell responded by saying that he did not see any reference to service at all in the report.

Since no one of the Liquor Licensing Authority had questions of Undersheriff Campbell, Town Attorney Krob told him he could have a seat then asked Mr. Barnes if there was anyone that he would like to call to testify. Mr. Barnes, 604 Marina Drive, approached the podium and said that his employees have all the tools they need. He has the strictest operating procedures of anyone in the County. No employee is allowed to drink while on the job. He said that he is at both bars, Grumpy's and the Lariat, quite often overseeing the operations and said that he and his staff are doing everything in their power to make them run as smooth as possible but sometimes there is no way to control what happens. He said, "It seems like we call the cops like we are suppose to do and do everything right and we get in trouble. We don't call the cops and we still get in trouble. I don't understand what procedures we need to be doing."
Cody Holt, 31 Phlox Lane, was then recognized to speak. He reiterated what Mr. Barnes had to say about calling the police or not calling the police. He said that they are getting mixed opinions from the Board on what they should be doing. He noted that Grumpy’s caters to a younger crowd and has more bouncers on the floor than any other bar in Grand County. They have very strict Standard Operating Procedures (SOP’s). Every employee is required to read over them before they begin work. They have SOP’s on what to do in almost every scenario. A camera system was installed after the first two incidents. He said that Mr. Barnes brought Valley Taxi Service to Grand Lake this past summer and paid for it out of his own pocket. The taxi service wasn’t exclusively for Grumpy’s or the Lariat, but for all of the bars in Grand Lake.

Mayor Burke asked if the film was available from the camera system. Mr. Barnes answered by saying that there is video of the third incident showing the person that was assaulted. He had no cuts or scratches on him and appeared to be fine. He left the bar, came back a half an hour later, had a drink then all of a sudden the paramedics showed up and took him away.

Trustee Weydert addressed Mr. Holt’s confusion of what is expected from the Town Board. He acknowledged them having their written SOP’s in place but noted that calling the police should be the last resort. He stated that it would seem that the SOP’s would be to preclude having to contact the Sheriff’s Department. He asked, “Isn’t your staff trained well enough to prevent things from happening before hand?”

Mr. Holt responded by saying, “To the extent that we can but we are not going to put staff in danger.” Weydert said that he understands that an assault like the one that happened can happen in an instant but what about visible intoxication. Mr. Barnes responded by saying that the person involved in the first incident was on pain medication and was served one beer and did not appear to be visibly intoxicated. Weydert said that he can understand when there is interaction with drugs and alcohol but the liquor license holder has a responsibility for people who have been drinking elsewhere. From the moment that they walk into your establishment, they become your responsibility. If you are the one serving them and you over serve them, that is also your responsibility. Mr. Holt agreed with Weydert and said that all of their bartenders are TIPS certified and trained to watch for that. He said that there have been many people who have come in intoxicated, they are not served and they go above and beyond to make sure they get home safely. They do not have one bartender who is intimidated to cut someone off.

Trustee Peterson stated that the reason for this hearing is because there was a suspension with time set aside for a year and another incident happened within that year. “You are not here because you called the
Sheriff’s Department or because you didn’t call the Sheriff’s Department.”

Trustee Lewis said that she agrees with Dustin Barnes. She stated that she worked for Mr. Barnes for a very short period of time at the Lariat. She said, “He is very strict with his employees and they are very conscience of what goes on. Like Trustee Peterson said, one of the reasons we are here is because of the previous suspension. Another reason is because there were police reports. It is not because the Board is picking on you. This is our Standard Operating Procedure. From what I have read and from what I have heard, not even the Sheriff’s Department has said that they have done anything wrong.” In reference to the first incident, where the confrontation happened upstairs and the bartender was down stairs, there’s no way the bartender can be both places at once. “You can’t go upstairs every time someone goes outside to have a cigarette. From what I know about these people, not from what I know about the incidents, I really think they did the right things. They have done and gone beyond what they should be doing. I understand why they are here but I have to say that I am sticking up for them. I believe what they have done is the right thing.”

Town Attorney Krob further explained how the licensee ended up at this hearing. It’s not because the Board is picking on them and it’s not because the Sheriff’s Department is picking on them. There were incidents that happened and there were reports written. It is the duty of the Sheriff’s Department to forward them to the Town Clerk especially prior to a license renewal. It is not up to the Sheriff’s Department to determine which incident is serious enough and which incident is not to warrant a Show Cause Hearing. If there is reason to believe that the incidents were alcohol related, the Board of Trustees sitting as the Local Liquor Licensing Authority conducts a hearing. For example in the second incident, the Deputy reported that the party involved was visibly and highly intoxicated. That there is enough for the Board to ask how did that person end up in that state and was there any problem with what the licensee did. In the third report, it was reported that the person involved had glassy/watery eyes, was experiencing difficulty standing still and keeping his balance. These are things that say to the Board that there may be something alcohol related here that the Board, as a governing regulatory body needs to at least have a hearing with the licensee to find out what exactly happened. It is then up to this Authority to determine with each incident whether or not the licensee controlled the premises in a decent, orderly and respectable manner or whether or not someone was over served. Krob then asked for public comment.

Ken Fife, 582 County Road 41, Granby, CO, was recognized from the audience. He said that he was the bartender on duty the night of the third
incident. When he came on duty at 6:00 p.m. Mr. Wes Puckett, the man involved in the incident, was already there. The previous bartender transferred his one drink tab to the evening shift. Over a four hour period Mr. Fife said that he served him three more drinks of Jim Beam and Coke. Fife said that Puckett left the bar four, five or six time during that four hour period. Once he pushed his drink toward Fife and said that he would be back in a minute and by the time he came back, twenty or thirty minutes later, all the ice had melted from his drink. Maybe a half an hour later he turned his back and turned back around and the incident had happened that quickly. “Slap, slap, done, over. Fortino was sitting there in his seat with his drink holding his cheek. Puckett was standing there with a jovial funny look on his face and I wondered what just happened here.” Fife said that Rachel Terry, Manager, then escorted Puckett outside. In the mean time Fife said that he asked what happened and was told that Puckett “slapped” Fortino over an incident that happened over month ago; the two of them are neighbors. Puckett was not visibly intoxicated. No one knows where he went when he left multiple times during that four hour period. From the time that Puckett was ejected from the bar to the time that he was picked up, thirty minutes had lapsed. “Where was he for that thirty minutes?” He said that they do the best that they can to keep an eye on everyone but sometimes people slip through the crack. “We try our hardest.”

Michel Sabo, 808 Park Avenue, said he was also there on the night of the third incident. He said that he has personal video of Fortino, who is a good friend of his, after the incident happened. He stated that he has eight to ten minutes worth of video of Fortino laughing and joking around. Fortino then left, went back to El Pacifico, talked to everybody over there then that whole group came back to Grumpy’s demanding that action be taken. Sabo said that he works at Grumpy’s all the time and sees Wes Puckett all the time. That night he was the same as he is any other night. He did leave multiple times. “A lot of locals do that. We don’t know if they go to another bar or what they do when they leave there.” He said that he has caught multiple people outside the bar with alcohol and ejected them. He said that he watches people as they come in and go out of the bar. When they go outside, a lot of times he said that he will follow them out to make sure there isn’t any illegal activity going on out there. On a night when there are a hundred people in there it gets a little tough. There is a door man, a back door man and two people on the floor at all times and the manager is there. The night of the incident involving Fortino, it was during the week and there were maybe eight people in the bar. Sabo said that he helped Rachel Terry eject Puckett from the bar and he was very sympathetic, sorry and very apologetic. It’s not like he was all “razzed” up. Then forty-five minutes to an hour later he was pulled over. Fortino stayed there the whole time. He said that he had another couple of drinks before the ambulance showed up. He stated that he doesn’t know who called for the ambulance.
Gary Gates, 2050 West Portal, introduced himself as the previous owner of Grumpy’s. He said, “As I recall, Mr. Campbell, back in my day of running Grumpy’s for five years there were multiple incidents yet you say that whenever I came before the Board to renew my license none of the incidents were ever brought up. Why are they being nailed?” Town Attorney Kroh said that if criminal charges were ever filed on those incidents, unless the prosecution was dropped, the Town would normally get a copy of those incidents and the Local Authority would hold a hearing like this one. Before taking a seat Gates said that they were doing a great job.

Once the presentation of the evidence by the Clerk and the license holder was complete, the matter was turned over to the Authority for decision and action.

Following discussion, the Authority unanimously determined that no violations occurred on January 29, 2012 and voted “no”.

Following discussion, the Authority unanimously determined that no violations occurred on September 2, 2012 and voted “no”.

During discussion of the alleged incident that occurred on September 26, 2012, Trustee Peterson said that this was the hardest one. Puckett was seen in the bar, he had four drinks within four hours and pled guilty to DWAI but in the report there is no reference to over service. He said that it sounds like the assault was quick and barely noticed. The report did not indicate how the ambulance got there.

Ken Fife then addressed the Board to explain how the ambulance got there. After Fortino got slapped he went over to El Pacifico to get his cronies to come over and fight back but by this time Puckett had already been ejected and 86’ed from the bar. Fortino was holding his cheek and they were all talking. “It was jovial. It was back to business as usual; he was completely fine.” He said that out of the kindness of Rachel Terry’s heart or because she felt sympathy for Fortino, she went and got a rag and put some ice in it so that Fortino could hold it on his cheek. An officer came in to investigate the incident and saw the rag on his cheek and asked what happened. Fortino responded by saying that this guy, Wes Puckett, punched him in the face. The officer then said that this could have been an orbital something or another that can cause a concussion and he called the paramedics. Fife said that he didn’t think that Fortino wanted to go to the doctor but after they showed up he just kind of went with it. The entire bar was laughing at him for going off on a stretcher for a slap in the face.

Trustee Peterson then said that this one is grey. There is not enough evidence to say that there was gross negligence.
Town Attorney Krob noted that the officer’s supplemental report indicated why the ambulance was called. There may have been a language issue. The report said, “Rios advised that Fortino did want medical attention and was in a lot of pain and was worried about his eye.” Krob said that it was the deputy that called EMS not the victim.

Trustee Weydert said that he believed that there was cause for this one, a violation of 12-47-901 and 47-900, over service and failing to conduct the licensed premises in an orderly manner. He said that the assault was a difficult one. He said that he understands how quickly something like this can happen but believes that the employees are down playing it. Weydert said that he doesn’t believe that it was as jovial as they described it.

Trustee Gasner said “no” he did not see that violations occurred with any of the three incidents.

Trustee Lewis also said “no”. She said that Puckett kept leaving the bar and coming back and wasn’t stopped until sometime after he was ejected. “Who knows what he was doing after he was ejected. I don’t think that Grumpy’s was negligent.” She indicated that one drink per hour is about right according to the TIPS training that she has had. She said that the Board has asked them to call the Sheriff’s Department, and that is the reason for these reports. “They are doing exactly what this Board has asked them to do”.

Mayor Burke said that she believes that there was over service.

Trustee Peterson noted that in the span of nine months there were three incidences that have Sheriff’s Reports. He said, “That’s not good. We are going to continue with these hearings if this keeps going.”

Trustee Weydert said that he would go one step further than that and said, “It’s disturbing to me that we have had this number of incidences in this short period of time from one establishment.” He noted that there are twenty-two liquor licenses in Town but the Town seems to be concentrating on one establishment. “That concerns me as to what pattern we are establishing here. If you have a liquor license, there is extra responsibility. You take on the extra burden to make sure that these incidences don’t escalate to a point where you have to call the Sheriff’s Department.”

Greg Barnes, 604 Marina Drive, was then recognized from the audience. He brought up the fact that Tom Weydert had a liquor license at the bowling alley and said, “I’ve seen many, many, many people leave your establishment totally drunk, me being one a few times. I remember someone leaving your establishment, going less than a quarter of a mile
away from the bowling alley, crashing their car and almost dying. No police report, no nothing. It’s amazing, you being on that side of the table now, how you’re reacting versus when you had a liquor license.” Tom Weydert said that he was not aware of that incident.

When the vote was taken, Trustees Jim Gasner, Kathy Lewis and Jim Peterson determined that no violations occurred on September 26, 2012 and voted “no”. Mayor Burke and Trustee Weydert voted “yes” they believed that over service occurred on that date. The “no” vote passed three to two.

LIQUOR LICENSING AUTHORITY: QUASI-JUDICIAL - CONSIDERATION OF RENEWAL OF THE TAVERN LIQUOR LICENSE FOR 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 the fees have been paid and the renewal documents are in order. The water, business license, and sales tax accounts are all current. She concluded by saying that Dustin Barnes, President, was present.

Trustee Lewis moved to approve the renewal of the Tavern Liquor License for Grumpy’s Saloon, Inc., d/b/a Grumpy’s Saloon. Trustee Gasner seconded the motion and all Trustees voted aye.

CITIZEN PARTICIPATION: None.

ADJOURNMENT: Trustee Weydert moved to adjourn, seconded by Trustee Lewis. All Trustees voted aye, and the meeting was adjourned at 9:06 p.m., January 14, 2013.