

RECORD OF PROCEEDINGS

REGULAR MEETING
TOWN OF GRAND LAKE BOARD OF TRUSTEES
MONDAY, JANUARY 28, 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 7:31 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, and Town Planner Biller.

ABSENT:

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

APPROVAL OF MINUTES

January 14, 2013: Not available.

ANNOUNCEMENTS:

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

Mayor Burke announced that this year's Winter Carnival, "*Alice in Winterland*" will be held on Saturday, February 2nd. The events include tea pot curling, snow golf, kid's steeplechase & snowman contest, sled pull, parade, bed sled races, human bowling, movie with popcorn, snow sculptures, fireworks over the lake, the "*Winterland Snow Dance*" and crowning of the King and Queen. Trustee Gasner added that there will be free fishing for kids at 3:00 p.m.

Mayor Burke then announced that Xtreme Mountain Racing comes to Grand Lake on Saturday, February 9th beginning at 9:00 a.m. at Winding River Ranch. High flyin' snocross and vintage snowmobiles will be featured. \$5.00 per entry. The Grand Lake Chamber will host food and beverages.

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 Lewis announced that she had a conflict with the Local Liquor Licensing issue regarding EG's as she is employed there.

REPORTS: SALES TAX
CASH FLOW REPORT
FOR JANUARY, 2013:

Mayor Burke asked Town Clerk Kolinske to present the sales tax cash flow report. Kolinske reported that the amount of revenue received in January 2013 for the month of November 2012 is \$25,568. This amount is roughly 3 ¾% below what was received through January 2012.

REPORTS: FINANCIAL
REPORT FOR
DECEMBER 2012
(UNADJUSTED):

In the absence of Financial Trustee Jim Peterson, Mayor Burke asked Town Clerk Kolinske to present the Financial Report for December 2012 (unadjusted). Kolinske reported that the General Fund expenditures through the end of December totaled \$1,250,123.96 or 49.2% of budget. She said the Water Fund expenditures for the same period totaled \$407,329.44 or 53.7% of budget, the Marina Fund expenditures totaled \$168,513.49 or 54.0% of budget and the PAYT Fund expenditures totaled \$10,333.91 or 84.2% of budget.

At 7:36 p.m. Trustee Ludwig excused himself and took a seat in the audience.

LIQUOR LICENSING AUTHORITY: CONSIDERATION OF REGISTRATION OF A MANAGER FOR TOMLYNSON, INC., D/B/A THE RAPIDS LODGE AND RESTAURANT – Mayor Burke asked Town Clerk Kolinske to present this matter to the Board. The appropriate form to register a manager was received, with the appropriate fees, from Tom Ludwig, President of Tomlynson, Inc., d/b/a The Rapids Lodge and Restaurant at 210 Rapids Lane. In the case of hotel and restaurant licenses, where the owner has not chosen to manage the premises personally, the Liquor Code contains special requirements that there be a registered “manager”. The manager must be registered with both the state and the local licensing authority. Staff recommends the Board make a motion to accept Maxwell Ludwig as the registered manager for The Rapids Lodge and Restaurant.

Trustee Gasner moved to accept Maxwell Ludwig as the registered manager for The Rapids Lodge and Restaurant. Trustee Weydert seconded the motion and all Trustees voted aye.

At 7:38 p.m. Trustees Ludwig and Lewis excused themselves and left the room.

LIQUOR LICENSING AUTHORITY: CONSIDERATION OF A TRANSFER OF OWNERSHIP APPLICATION FROM MTNMAX, INC., D/B/A MAX AND T'S BAR AND GRILL TO LEGS, INC., D/B/A EG'S - Mayor Burke asked Town Clerk Kolinske to present this matter to the Board. The Town has received a Transfer of Ownership Application for the Hotel and Restaurant Liquor License from MTNMAX, Inc., d/b/a Max and T's Bar and Grill at 1000 Grand Avenue to LEGS, Inc., d/b/a EG's. EG's has been operating under a Temporary Transfer

Permit issued by the Town Clerk. The fees have been paid and all the proper application documents have been completed. A letter has been received from the Grand County Sheriff's Department which states that they have found no adverse information that would affect the transfer of the license. Town Attorney Krob has reviewed the application documents and is satisfied. The Grand Lake Water Department reports that the account is paid in full through the 1st quarter of 2013, and is therefore considered current. EG's has a current Business License but has not been open long enough to have a history of sales tax returns. For a liquor license transfer, the Board MAY chose to hold a public hearing, or it may approve the transfer without a public hearing. If the Board chooses to hold a public hearing, notice of the hearing must be posted at least 10 days before the hearing. In that case, the Board's action this evening could be to set a public hearing for February 11, 2013. No publication of the notice of the public hearing is required by statute. In the most recent liquor license transfers the Board has chosen to approve the transfers without conducting public hearings. She noted that Judy Lorens, President, was seated in the audience.

Trustee Weydert then moved to approve the transfer of the Hotel and Restaurant Liquor License from MTNMAX, Inc., d/b/a Max and T's Bar and Grill to LEGS, Inc., d/b/a EG's, without a public hearing. Trustee Gasner seconded the motion and all Trustees voted aye.

At 7:41 p.m. Trustees Ludwig and Lewis resumed their seats.

OLD BUSINESS:

None.

NEW BUSINESS:

CONSIDERATION OF RESOLUTION NO. XX-2013, A RESOLUTION ALLOWING THE BURNING OF SLASH PILES AT THE GRAND LAKE LODGE 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 at the Grand Lake Lodge located at 15500 US Hwy 34. The request is for approximately 20 piles of beetle kill slash with dimensions no larger than 10'x10'x10' for a total volume of 37 cubic yards.

Municipal Code 7-1-28 Open Fires Prohibited:

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 Rocky Mountain National Park regarding this burn request. As of this time, staff has not received a response from the Park. Staff has also

contacted the Grand Lake Fire Protection District regarding this request. Chief Long did not have any objections to the permit. The Town has allowed the burning of slash in similar circumstances. Staff recommends the following:

- 1) The burning is monitored at all times; and
- 2) Burning times are limited to: Monday – Friday; and
- 3) The maximum pile size is 10'x10'x10'; and
- 4) The maximum total volume burned is 40 cu.yds.; and
- 5) The fires must be "COMPLETELY EXTINGUISHED" outside of approved burning times;
- 6) The Grand Lake Fire Protection District and the Town of Grand Lake must be notified prior to each burn; and
- 7) The applicant obtains an Open Burn Permit from Grand County.

Staff recommends the Board adopt the resolution as presented thus allowing Grand Lake Lodge to burn slash piles for the 2013 season. The Board should discuss if the burning of slash is appropriate in this circumstance. The Board has several options to consider including:

1. Adopt the 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.

Billier noted that Jeff Larson, Manager of Grand Lake Lodge, was present.

Trustee Ludwig asked Mr. Larson who is going to be in charge of the burning. Larson said that John Lakie, the Lodge's maintenance man will be conducting the burning and that this is not the first time he has done this.

Following discussion, Trustee Lewis moved to adopt Resolution No. 3-2013, a Resolution Allowing the Burning of Slash Piles at the Grand Lake Lodge for the 2013 Season. Trustee Weydert seconded the motion and all Trustees voted aye.

NEW BUSINESS:

CONSIDERATION OF ORDINANCE NO. XX-2013, AN ORDINANCE AMENDING THE TOWN CODE TO REFLECT CORRECTIONS TO THE MODEL TRAFFIC CODE – Mayor Burke asked Town Clerk Kolinske to present this matter to the Board. Kolinske explained that on July 12, 2010, the Board adopted the 2010 Edition of the Model Traffic Code (MTC). The 2010 Edition is the most current version. At that time staff discovered that Section 1702 through 1717 was missing from the published version of the MTC. The online version includes these sections; therefore, Section 7-8-3 of Ordinance No. 9-2010 adopted those missing sections by reference. It was recently brought to staff's attention that the remainder of Section 1701 was also missing, most significantly the sub-section that authorizes a peace officer to place a penalty assessment notice upon an unattended vehicle. Ordinance No. xx-2013 was drafted by the Town's Attorney. The Grand County Sheriff's

Department has reviewed the ordinance and agrees with the amendment. Staff would recommend the adoption of Ordinance No. xx-2013.

Trustee Weydert moved to adopt Ordinance No. 1-2013, an Ordinance Amending the Town Code to Reflect Corrections to the Model Traffic Code. Trustee Lewis seconded the motion and all Trustees voted aye.

NEW BUSINESS:

CONSIDERATION OF RATIFICATION OF COMMENTS ON SB 13-025 – 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 submitted to State Senator Baumgardner without advance approval of the Board of Trustees and to consider how to address other legislative issues important to Grand Lake where Board discussion and direction may not be possible prior to certain legislative action. 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 mid-January, CML brought to the Town's attention that a bill had been introduced in the Legislature that would mandate collective bargaining for firefighters at the local government level. Apparently, this is not a new issue to be brought before the Legislature. However, it is one of concern to all local governments, even if that local government does not employ firefighters. CML's concerns with SB 13-025 center on the fact that this bill places the state in the position of imposing an unfunded mandate on local governments and preempting local control. CML characterizes the bill as an intrusion of the state into local government policies and employment practices and as a bill that disenfranchises voters. The comment letter signed by Mayor Burke was submitted to Senator Baumgardner by email and USPS mail on January 23, 2013. On January 23, 2013, the Senate committee considering SB 13-025 (Senate Business, Labor and Technology Committee [Committee]) voted to pass the bill. Senator Baumgardner, a member of the Committee, voted against passage. The next step for this bill will be a vote before the full State Senate on a date to be determined. Comments to Senator Baumgardner needed to be submitted without delay since the Committee hearing was to be held prior to the next Board meeting. Because the Board could not meet to discuss the matter and formally direct staff accordingly prior to the Committee hearing, and because this matter seemed important to small communities such as Grand Lake, Hook said that he and Mayor Burke collaborated on preparing relevant comments in a timely manner with the recognition that we would need to bring them before the full Board at its next meeting. Given that SB 13-025 will continue on to the Senate, and perhaps onto the House, staff respectfully requests Board direction on this matter. Staff anticipates that other issues important to Grand Lake may come up during this legislative session without sufficient time to approach the Board for input and direction on every legislative action. Staff is open to suggestions from the Board on how to address such situations. It seems that the range of possibilities includes the following:

- Carte blanche authorization on when and how to comment

- Exercising prudent judgment on when and how to comment, with the understanding that the matter be brought before the Board at the earliest opportunity for consideration and direction
- Take no action until formal discussions with the Board have occurred

The Board should discuss the comments made on behalf of the Town of Grand Lake on SB 13-025 and how to proceed regarding upcoming actions of the Legislature on SB 13-025. Further, the Board should discuss how to address other legislative issues important to Grand Lake where Board discussion and direction may not be possible prior to certain legislative action. Regarding SB 13-025, staff recommends that the Board ratify the comment letter submitted and that the Board authorize Mayor Burke and Town Manager Hook to take action in opposition to SB 13-025 as the bill makes its way through the legislative process. Regarding other legislative issues important to Grand Lake where Board discussion and direction may not be possible prior to certain legislative action, staff recommends that the Board authorize Mayor Burke and Town Manager Hook to exercise prudent judgment on when and how to comment, with the understanding that the matter be brought before the Board at the earliest opportunity for consideration and direction. The Board should ratify the comment letter or take exception to the comment letter submitted on SB 13-025, provide direction on how to proceed regarding upcoming actions of the Legislature on SB 13-025 and provide direction on how to address other legislative issues important to Grand Lake where Board discussion and direction may not be possible prior to certain legislative action.

During discussion, Trustee Lanzi asked if a simple phone call to each Board Member would be possible. Mayor Burke responded by saying that it would certainly be possible but time consuming.

Trustee Gasner made the comment that it is probably the Board Members' responsibility to be familiar with legislative issues and if a Board Member has a problem with something that is about to be introduced, they can call Town Manager Hook because the Board Member may have a different opinion on the matter. Mayor Burke responded by saying that is probably the better way to go, but again it's time consuming. Town Manager Hook may spend all day trying to get a hold of every Member.

Through discussion, Town Manager Hook mentioned that there are multiple steps to the legislative process. He said, "We may miss a chance to comment on a committee vote but will have a chance to voice our opinion before it goes to the next level." Hook also said that he had provided the Board Members with a handout from CML containing information of future bills and said that CML is very good about making sure municipalities are well informed.

Following discussion, Trustee Weydert moved to ratify the submittal of the comment letter to Senator Baumgardner dated January 22, 2013, to authorize to Mayor Burke and Town Manager Hook to take action in opposition to SB

13-025 as the bill makes its way through the legislative process, and to authorize Mayor Burke and Town Manager Hook to exercise prudent judgment on when and how to comment, with the understanding that the matter be brought before the Board at the earliest opportunity for consideration and direction. Trustee Lewis seconded the motion and all Trustees voted aye.

NEW BUSINESS:

CONSIDERATION OF POSSIBLE ACTION AS A RESULT OF EXECUTIVE SESSION DISCUSSION – Mayor Burke noted that an Executive Session was held that afternoon and it was continued to the next regularly scheduled meeting to be held on February 11, 2013 therefore there is no formal action for the Board to consider.

CITIZEN PARTICIPATION: Judy Lorens, 12224 Highway 34, had a comment regarding legislation. She said that Senator Baumgardner has a bill that will be introduced that basically says, “If laws are passed in the State that affects businesses they have to give a financial review of those.” It is her understanding that this is not something that has previously been passed but is not the first time they have tried to pass. She said, “This bill is really important to small businesses because the State can come down with laws that can break you.”

Dustin Barnes, 604 Marina Drive, was then recognized from the audience. He referred to a letter from him and Amber Felts that had been given to the Board as a table setting apologizing for cutting down the Town Christmas tree. He said that it was not malicious even though the cops are trying to say that it was a malicious act against Tom Weydert. He stated, I’ve known Town for a long time and I think he knows that I would never do something like that to intentionally hurt him or his family. I know that this is a serious issue. It was never meant to be anything like that and I just want to apologize.

Mayor Burke thanked Mr. Barnes.

Amber Felts was then recognized and said, “I don’t know my physical address but my Post Office Box is 3530, Grand Lake. I would also like to apologize for my participation in the prank pulled with the Town Christmas tree. And I would also like to say that it was not a malicious act against anyone, just following the tradition that a few others have set in this Town and we never meant to hurt anybody by it or hurt the Town or disrespect the Town in any way. Thank you.”

Mayor Burke thanked Ms. Felts.

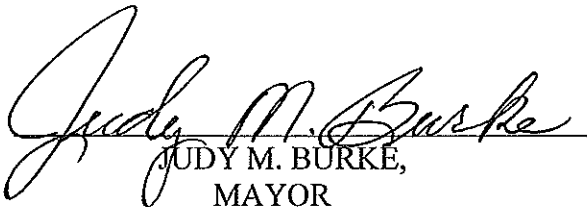
Colin Sabo, 808 Park Avenue, then said, “I was also involved in the Christmas tree thing. I don’t know Tom personally so it was not a malicious act toward him at all. Was it stupid? 100% yes. I’m sure everybody regrets any participation in it. If there is any way to make it up to the Town at all, community service wise, participation in an event wise, anything to give back a little bit to Grand Lake, I personally myself would be more than happy to be

involved in any activity like that; anything to give back. It was certainly not malicious; we got to talking about Gene, the Lariat and the old days and one thing lead to another and stupid mistakes were absolutely made. Was it intentionally to hurt anyone? Definitely not. Was it two days before Christmas? No. It doesn't excuse it by any means but stupid things happen. People think they are funny at the time then later on as time goes on you realize that it wasn't funny to everybody. While it might have been funny to a few people, it certainly was not a funny thing that the Town would have participated in. I do take responsibility and I apologize for any actions that I had in this event and if there is any way that we can make it up to the Town I'm sure that all of us would be more than happy to do any type of community service or any type of thing to make this right. Thank you."

Again, Mayor Burke said, "Thank you."

ADJOURNMENT:

Trustee Weydert moved to adjourn, seconded by Trustee Gasner. All Trustees voted aye, and the meeting was adjourned at 8:07 p.m., January 28, 2013.


JUDY M. BURKE,
MAYOR

ATTEST: 
RONDA KOLINSKE, CMC,
TOWN CLERK