

RECORD OF PROCEEDINGS

REGULAR MEETING
TOWN OF GRAND LAKE BOARD OF TRUSTEES
MONDAY, AUGUST 12, 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

July 8, 2013: Trustee Peterson moved to approve the minutes of the July 8, 2013 regular meeting as written, seconded by Trustee Weydert. 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 the Grand Lake Area Historical Society will host a Victorian Tea at Daven Haven Lodge on August 14th.

Mayor Burke announced that the Grand Lake Area Chamber of Commerce will host the Grand Lake Brews and Crews Fest which will include the Spirit Lake Regatta at the Lakefront and a Brew Fest with music and vendors in the Town Square Park the weekend of August 17th and 18th.

Mayor Burke then announced that Heart of the Mountain Hospice will hold a Cold Water Swimming Event August 17th on Grand Lake.

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 and also has a conflict with the second item under New Business because the Rapids is the property manager for 1129 Mountain Avenue.

At 7:32 p.m. Trustee Ludwig excused himself and left the room.

LIQUOR LICENSING AUTHORITY: CONSIDERATION OF APPROVAL OF A SPECIAL EVENTS LIQUOR PERMIT FROM THE GRAND ARTS COUNCIL FOR "A

NIGHT IN MOROCCO” FUNDRAISING EVENT TO BE HELD SEPTEMBER 14, 2103 – 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, certificate of good corporate standing, and floor diagram, from the Grand Arts Council. The request is to sell malt, vinous and spirituous liquor by the drink for consumption on the premises only for the “A Night in Morocco” fundraising event. The requested date is Saturday, September 14, 2013 from 3:00 to 11:00 p.m. The proposed location is the Grand Lake Community House at 1025 Grand Avenue. Public notice was posted on the premises on July 24, 2013 and attested to by Grand County Sheriff Deputy Payne. The Grand County Sheriff’s Department reviewed the application and found no adverse information which would affect this permit. She then noted that Cathy Walton-Smith was present on behalf of the Arts Council.

Trustee Peterson moved to approve the Special Events Liquor Permit for the Grand Arts Council’s A Night in Morocco fundraising event. Trustee Lewis seconded the motion, and all Trustees voted aye.

LIQUOR LICENSING AUTHORITY: CONSIDERATION OF RENEWAL OF THE BEER AND WINE LIQUOR LICENSE FOR PIZZA DEL LAGO, INC., D/B/A GRAND PIZZA – 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. The Grand County Sheriff’s Department found no adverse information that would affect the status of the license. She then concluded by saying that Jay Jackson, President/Treasurer, was present.

Trustee Lewis moved to approve the renewal of the Beer and Wine Liquor License for Pizza Del Lago, Inc., d/b/a Grand Pizza. Trustee Peterson seconded the motion and all Trustees voted aye.

At 7:37 p.m. Trustee Ludwig resumed his seat.

OLD BUSINESS: None.

NEW BUSINESS: **PUBLIC HEARING - CONSIDERATION OF AN ORDINANCE PERTAINING TO THE REGULATION OF ADULT USE OF RECREATIONAL MARIJUANA IN THE TOWN OF GRAND LAKE** – Mayor Burke asked Town Planner Biller to present this matter to the Board. Biller explained that municipalities must enact a local ordinance by October 1 for the regulation of adult use of recreational marijuana, which requires Board review and action. Staff discussed three (3) alternatives pertaining to the regulation of recreation marijuana with the Board at its afternoon workshop on July 8th.

Municipal Code 7-5-2 Uses Prohibited states:

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It is unlawful for any person to operate, cause to be operated or permit to be operated a medical marijuana center; an optional premises cultivation operation, or a medical marijuana-infused products manufacturing facility in the Town.

The date, time, and place of this Public Hearing were advertised in the Middle Park Times. At the time this memo was prepared, staff had received no comments regarding this issue.

In general, the three (3) options for Board consideration are:

- Prohibition – This ordinance, if adopted, would prohibit the location of marijuana establishments in the Town.
- Permitted Use – This ordinance, if adopted, would permit adult use recreational marijuana by adding regulations to the Municipal Code to establish a retail marijuana local licensing authority. As part of this ordinance, the Board would need to determine the designee such as the Town Board, Municipal Judge, Municipal Clerk, Municipal Manager/Administrator, Liquor Licensing Authority, or some other municipal person or entity.
- Moratorium – This ordinance, if adopted, would allow the general public to vote on the issue. For a general populous vote, a temporary moratorium is necessary until the November 2014 election ballot.

At this time, staff has no recommendation regarding the regulation of adult use marijuana. Staff is compelled to rely on public comment and Board discussion to influence any opinion on the subject matter. However, staff does recommend the Board adopt one (1) of the ordinances by the August 26th Board meeting in order for the ordinance to be effective by October 1st.

The Board should conduct the Public Hearing as follows:

1. Allow staff to present the matter before the Board
2. Take public comment
3. Close the Public Hearing
4. Allow the Board to discuss the regulation of adult use recreational marijuana.

The Board has the following options:

1. Adopt the ordinance prohibiting recreational marijuana use; or
2. Adopt the ordinance permitting use and establishing a local licensing authority; or
3. Adopt the ordinance allowing the general public to vote on the issue; or
4. Continue the matter until the next regular schedule meeting on August 26th.

Mayor Burke then opened the meeting for public comment. Having none, she closed the Public Hearing and turned the matter over to the Board of Trustees.

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Trustee Peterson made the comment that he doesn't think that it's been thought out well enough yet. He said that he would like to prohibit it and see what happens with this law as it matures then perhaps readdress the issue later.

Town Attorney Krob explained that medical marijuana establishments is what this Board discussed in the past and voted to prohibit. Allowing retail marijuana establishments for adults to purchase for recreational use is what is being considered this evening. Under Amendment 64, it is legal for a person to possess up to an ounce of marijuana or six plants that are in certain degrees of flowering. What is contemplated by most municipalities that decide to allow it is much like what is done with liquor licenses. There is a license required by the State and a license required by the local marijuana licensing authority. It would be a dual licensing system.

Trustee Lanzi stated that he doesn't believe that the electorate that voted in favor of Amendment 64 is a bunch of stoners that use marijuana and he said that it should be up to the electorate to decide whether or not retail marijuana establishments should be allowed in the Town of Grand Lake. Marijuana is perhaps a good alternative to the use of alcohol.

Trustee Lewis said that she is not sure she would like to see a marijuana store in Grand Lake but is not against the legal use of it.

Trustee Gasner asked Town Attorney Krob about tax benefits to the Town. Krob explained that there are two types of taxes involved. One is an excise tax and the other is a sales tax. The excise tax is the one applied to the cultivators when they sell to either a marijuana infused producer, for example one who would put marijuana into brownies, or when they sell to a retail store. What is referred to as a wholesale sale from the growers to one of those other types of entities pays a 15% excise tax. This issue is actually going to be on the ballot this November for taxpayer approval of the excise tax. The first \$40 million goes to capital projects for schools with the remainder going to the State's general fund. The second type is the sales tax and the sales tax provided for in the Amendment is 10%. The way that it gets distributed is 15% of that 10% goes to the local government entities. Krob explained that if there were marijuana facilities in Grand Lake 1.5% would go to the Town. Then on top of all of those taxes, some municipalities are imposing their own local tax and are doing it in a lot of different ways. Denver for example is putting a question on their ballot that will ask voters to approve a range of local sales tax just on marijuana that can be anywhere from 3.5% to 15% leaving it up to the City Council at anytime to set by resolution exactly how much that should be. The idea being that you want to get as much tax revenue out of it that you can without making it so expensive that you force people back into the black market or buying it off the street.

Since the use of marijuana is not legal at the federal level, Trustee Gasner asked Krob if marijuana establishments could bank at a federally insured

banking institution. Krob responded by saying no, if a bank is aware that the money was generated from a marijuana facility, most banks won't take it. The facilities cannot accept credit cards because they go through the Federal Reserve System and cannot accept checks because they are ran through the Federal Reserve System, therefore, the facilities are largely a cash only industry which makes sales harder to track.

Trustee Gasner then asked Town Attorney Krob about driving under the influence of marijuana. Krob responded by saying that driving under the influence of drugs is already prohibited under the existing law but they are coming out with some new guide lines and new methodologies for testing and if you are above the established limit then it will be just like a DUI.

Mayor Burke stated that their job, as Board Members, is to consider what happens to this community. Seventy to eighty percent of Grand Lake's population is second homeowners who support this Town but cannot vote. The Board should protect the interests of these homeowners and protect the reputation of the Town as a family destination. She said that she would be in favor of prohibiting marijuana establishments in the Town.

Trustee Peterson said that he is not opposed to the use of marijuana but does not see the plus side of allowing establishments in the Town.

Trustee Lanzi objected to going against the electorate.

Trustee Gasner said that this is a Public Hearing and the perfect opportunity for the public or the electorate to speak but noted that there was no one in the audience present to speak on this matter.

Following a lengthy discussion, Trustee Weydert moved to adopt Ordinance No. 5-2013, an Ordinance of the Board of Trustees of the Town of Grand Lake Prohibiting the Location of Marijuana Establishments in the Town Pursuant to Amendment 64, as presented, seconded by Trustee Peterson. The motion passed when Trustees Gasner, Ludwig, Peterson, Weydert and Mayor Burke voted aye. Trustee Lanzi voted nay and Trustee Lewis abstained.

At 8:10 p.m. Trustee Ludwig excused himself and left the room.

NEW BUSINESS:

CONSIDERATION OF RESOLUTION NO. XX-2013, A RESOLUTION GRANTING A ZONING VARIANCE TO MAXIMUM ALLOWABLE FLOOR AREA FOR AN ACCESSORY DWELLING UNIT LOCATED AT BLOCK 1, LOTS 1-3, TOWN OF GRAND LAKE; MORE COMMONLY REFERRED TO AS 1129 MOUNTAIN AVENUE UNIT B – Mayor Burke asked Town Planner Biller to present this matter to the Board. Biller explained that the Planning Commission has forwarded a favorable recommendation to a variance request to the zoning regulations from Jean Demmler and John Kane. The request is to exceed the maximum allowable

floor area for an Accessory Dwelling Unit (ADU) by 115 sq.ft. for the construction of a greenhouse addition.

September 2005 -- A 1053 sq.ft. detached garage with living space was approved by Town staff and constructed by the applicant.

October 2005 -- A lot line agreement was recorded combining Lots 1-3 "*to forever remain one building site....unless all provisions of the Town zoning regulations then in effect are complied with.....*".

August 2010 -- A 334 sq.ft. addition to the existing cabin (ADU) was approved by Town staff and constructed by the applicant.

The property has four (4) structures located on three (3) lots. The primary residence (1504 sq.ft.), the detached garage with livable space (1053 sq.ft.), the accessory dwelling unit (615 sq.ft.), and a shed (120 sq.ft.+/-).

Municipal Code 12-2-12 Regulations for Single Family Residential -- High Density -- RSH states:

(D) Area Regulations

1. Minimum and Maximum Floor Area

(b) Accessory Dwelling Unit (ADU)

- 1. Minimum: Five-hundred square feet (500 sq. ft.) per Dwelling Unit.*
- 2. Maximum: Eight Hundred square feet (800 sq. ft.) per Dwelling Unit.*

Municipal Code 12-2-6 Definitions states:

Total Floor Area - The total number of square feet of floor space within the exterior walls of a building, not including space in cellars, carports or garages.

Municipal Code 12-2-27 (B) Variance Request Procedure states:

- 3. The following factors should be considered by the Planning Commission and Town Board of Trustees in determining whether to issue a variance:*
 - (a) The compatibility of the proposed action with the surrounding area; and*
 - (b) Whether the proposed action is in harmony with the character of the neighborhood; and*
 - (c) The need for the proposed action; and*
 - (d) The effect of the proposed action upon future development in the area; and*
 - (e) The shape, size, topography, slope, soils, vegetation, and other physical characteristics; and*
 - (f) Whether alternative designs are possible; and*
 - (g) With due consideration for the Town's Comprehensive Plan*

The Town received one (1) written comment. Donna Dewey and Michael Stano of 1113 Mountain Avenue endorsed the variance request and stated "this extension of the property will be a welcome addition". Staff believes alternative designs are possible, including a smaller greenhouse footprint. However, considering the large size of the parcel, the increase in floor area is negligible when weighing all the factors in determining the issuance of a variance. Staff recommends the Board adopt the resolution as presented which contains the following conditions:

1. The maximum floor area of the accessory dwelling unit does not exceed 915 sq.ft.
2. The applicant complies with all other requirements of the Municipal Code.

The Board should discuss the merits of the variance request and determine if a Public Hearing is necessary. The Board has several options to consider including:

1. Grant the variance request by adopting Resolution XX-2013; or
2. Grant the variance with conditions; or
3. Deny the variance request.
4. Continue the matter until a Public Hearing can be scheduled.

Billier noted that George Davis, representative, was present.

Following discussion, Trustee Weydert moved to adopt Resolution No. 12-2013, a Resolution Granting a Zoning Variance to the Maximum Allowable Floor Area for an Accessory Dwelling Unit Located at Block 1, Lots 1-3, Town of Grand Lake; More Commonly Referred to as 1129 Mountain Avenue Unit B, as presented. Trustee Lewis seconded the motion and all Trustees voted aye.

At 8:16 p.m. Trustee Ludwig resumed his seat.

NEW BUSINESS:

CONSIDERATION OF A SPECIAL EVENT PERMIT REQUEST FOR A DANCE WORKSHOP AND STAGE SHOW BY GRAND ARTS COUNCIL – Mayor Burke asked Town Manager Hook to present this matter to the Board. Hook explained that staff is in possession of a Special Event Permit Application submitted by the Grand Arts Council (GAC) for a dance workshop and stage show. Both will be fundraisers for GAC. The dance workshop is proposed to be held in the Community House on Friday, September 13 through Sunday, September 15, 2013. The stage show, A Night in Morocco, is proposed to be held in the Community House the evening of Saturday, September 14, 2013. Portions of Town Hall (kitchen, dressing room, Board Room) will also be used in association with the Community House use. According to the Town of Grand Lake Municipal Code, Chapter 11, Article 6, Section 3.A.3 - Special Event Permit Application Review and Approval:

The Mayor, or the Mayor's designee, will refer the matter to the Board of Trustees for approval if the event involves a Special Events Liquor Permit, the event is a first time event, or if the event has had known issues in the past. The Board of Trustees shall take the following factors into consideration:

- a. The predominant use of the primary facility being used; and*
- b. The proposed event and the event hours; and*
- c. Neighborhood compatibility; and*
- d. Effect of the proposed event on the community; and*
- e. The Town's anticipated cost in Staff time and equipment use; and*
- f. Duplication of services or sales items; and*
- g. Nature of the past event issues.*

This Special Event Permit Application is being referred to the Board of Trustees because GAC has also applied for a Special Events Permit Liquor License and because this is the first time that this event will be held in a Town facility. Staff believes that this event is not in conflict with the consideration factors listed above and should be a successful event for GAC. Approval of this Special Event Permit will allow the Special Event Permit Liquor License process to move forward in advance of the event. The Board should review and discuss the application, taking into consideration the factors listed above. Staff recommends approval and execution of the Special Event Permit as presented. The Board should approve, deny or table the Special Event Permit application. Hook noted that Cathy Walton-Smith was present representing the Arts Council.

Following brief discussion, Trustee Peterson moved to authorize Mayor Burke to sign the Special Event Permit for the Grand Arts Council event known as a dance workshop and stage show as described in the application, upon confirmation from staff that all other application requirements have been met and the permit is ready for signature. Trustee Lewis seconded the motion and all Trustees voted aye.

NEW BUSINESS:

CONSIDERATION OF A SPECIAL EVENT PERMIT REQUEST FOR THE 4TH ANNUAL CORVETTE CAR SHOW – Mayor Burke asked Town Manager Hook to present this matter to the Board. Hook explained that staff is in possession of a Special Event Permit (SEP) Application submitted by the Chamber related to the annual Corvette car show. The Chamber has coordinated with the Colorado Corvette Club on this SEP Application. The 2013 show is scheduled for 10a to 2p on Saturday, August 24. As the Board may recall, in recent years this event has been held in conjunction with the Brew & Crew Fest. Due to a date change for the Brew & Crew Fest to August 17, this event will be a standalone event in 2013. According to the Town of Grand Lake Municipal Code, Chapter 11, Article 6, Section 3.A.3 - Special Event Permit Application Review and Approval:

The Mayor, or the Mayor's designee, will refer the matter to the Board of Trustees for approval if the event involves a Special Events Liquor Permit, the event is a first time event, or if the event has had known issues in the past. The Board of Trustees shall take the following factors into consideration:

- a. The predominant use of the primary facility being used; and*
- b. The proposed event and the event hours; and*
- c. Neighborhood compatibility; and*
- d. Effect of the proposed event on the community; and*
- e. The Town's anticipated cost in Staff time and equipment use; and*
- f. Duplication of services or sales items; and*
- g. Nature of the past event issues.*

This SEP Application is being referred to the Board of Trustees (Board) because the Chamber and the Colorado Corvette Club propose to include several new elements in the 2013 event. Sixty to ninety cars are expected to enter, making this a bigger show than in 2012 when about 50 cars participated. Proceeds from the show will benefit Project Sanctuary US. As a part of the show activities, a food drive to benefit Grand County Mountain Family Services and a downtown treasure hunt for show participants will be held. Significant elements of the proposed 2013 Corvette car show include the following:

- Reservation of on-street parking stalls for show participants between 6a, Saturday the 24th and 4p, Saturday the 24th:
 - the north side of Grand Avenue, Garfield to Pitkin
 - the south side of Grand Avenue, Garfield to Pitkin
 - the east side of Garfield, Grand to Park
 - the west side of Pitkin, Grand to Park
- Closure of Grand Avenue, Garfield to Pitkin (with detour using Garfield, Park & Pitkin) between 7a and 4p on Saturday the 24th
- Reservation of Heckert Pavilion for:
 - promotional banner for the event between 8a and 4p on Saturday the 24th
 - participant registration between 8a and 10a on Saturday the 24th
 - awards ceremony and clean-up between 2p and 4p on Saturday the 24th
- Town staff will:
 - block off the reserved parking stalls
 - set up the Grand Avenue closure and detour

The 2012 Corvette car show had reserved parking only on Grand Avenue with a closure of Grand Avenue to through traffic. The Chamber and the Colorado Corvette Club are in the process of gathering feedback from the entities along the proposed reserved parking areas regarding the event and will share that feedback with staff prior to the Board meetings on the 12th and with the Board at those meetings. Staff awaits this feedback to evaluate if it provides new insight. Staff has considered the issues surrounding the closure of Grand

Avenue and its related detour. It seemed to work well in 2012. Hook said that he believes that it is a reasonable request, that it will improve pedestrian safety and that it should be workable to implement. While staff is excited at the prospect that the number of show participants might increase, there are some concerns about parking, traffic flow and pedestrian safety on Garfield, Park and Pitkin. The original application included requests to reserve parking on Park Avenue and to close one lane of traffic on Garfield and one lane of traffic on Pitkin. These requests were deleted after Town and Chamber staff discussed the complications to traffic flow. Staff suggests that show participants be allocated display locations down the middle of Grand Avenue before use of Pitkin or Garfield begins. Additionally, staff suggests that, once Grand Avenue display area is full, the reserved stalls on Pitkin be allocated to participants first and use of stalls along Garfield be used only if the number of show participants grows to need that area. For cars displayed in stalls along Pitkin and along Garfield, viewers will have to exercise caution while on the street side of the car. While Town staff can block off the requested parking stalls, there would be no guarantee that those stalls will not be occupied by cars not in the show. Show organizers should plan to monitor the reserved stall areas the morning of the 24th. The Board should review and discuss the merits of the proposed event activities described in application, taking into consideration factors mentioned. As long as the pending feedback from adjacent entities is not negative and no new safety issues comes to staff's attention, staff supports approval and execution of the Special Event Permit as presented. The Board should approve, deny or table the application. Hook noted that Kacey Beres, Executive Director for the Chamber of Commerce was present.

Trustee Peterson moved to authorize Mayor Burke to sign the Special Event Permits for the Chamber event known as the 4th Annual Corvette Mountain Madness People's Choice Car Show as described in the application with the following changes: 1) the parking stalls be reserved from 6 a.m. to 4 p.m. on Saturday the 24th and 2) the Grand Avenue closure will be from 7 a.m. to 4 p.m. on Saturday the 24th, and upon confirmation from staff that all other application requirements have been met and the permit is ready for signature. Trustee Lewis seconded the motion and all Trustees voted aye.

NEW BUSINESS:

CONSIDERATION TO AUTHORIZE MAYOR BURKE TO SIGN A LETTER OF SUPPORT FOR FUNDING FOR LAND ACQUISITION WITH RMNP – Mayor Burke asked Town Manager Hook to present this matter to the Board. Hook explained that the Johnson property is a former inholding within the Kawuneeche Valley area of the Colorado River District of Rocky Mountain National Park (RMNP). The Johnson property was purchased by Rocky Mountain Nature Association (RMNA) in February 2013 using funds from their land acquisition fund. It is the intent of RMNA to deed this property to federal ownership once federal funds are available to 'reimburse' RMNA. RMNP is interested in acquiring the Johnson property for the purpose of removing the cottage and access road and restoring the area to

natural conditions. RMNA is a non-profit cooperating association that works with the National Park Service (NPS) and RMNP on a number of issues related to RMNP, including land acquisition. Once federal funds reimburse RMNA, RMNA will be able to replenish their land acquisition fund for use on other high priority land acquisitions. A collaborative of several federal agencies has assembled a proposal for funding from the Federal Land and Water Conservation Fund. That proposal focuses on the National Trail System to achieve a number of objectives, including reimbursing RMNA for the Johnson property so that it can become federally owned and RMNP managed. The National Trail System relates to this parcel because the access road to the Johnson property is a part of the Continental Divide National Scenic Trail. RMNP has requested the Town's support for the grant funding request of The National Trail System on this matter. In the past, the Board has provided letters of support for funding requests for land acquisition related to Arapaho-Roosevelt National Forest. Staff believes that support from the Town can make a positive difference in the consideration of funding requests by funding agencies. Staff believes that the Town should support this opportunity to obtain federal funds to reimburse RMNA so that the Johnson property can be federally owned and RMNP managed. Suggestions on modifying the letter to accurately capture the Board's thoughts are welcome. The Board should discuss the merits of supporting the request of RMNP regarding the grant funding opportunity and the contents of the draft letter of support. Staff recommends the Board authorize Mayor Burke to sign the letter of support. The Board should authorize or not authorize execution of the letter of support.

Trustee Lanzi moved to authorize Mayor Burke to sign the letter of support as presented. Trustee Lewis seconded the motion and all Trustees voted aye.

ACCOUNTS PAYABLE

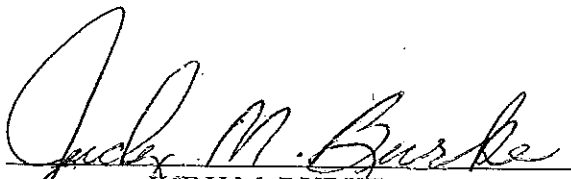
July, 2013:

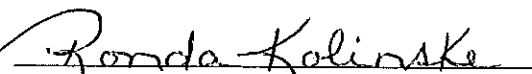
Trustee Peterson moved to examine the Accounts Payable and Prepaid for all Funds for the Town of Grand Lake. Trustee Weydert seconded the motion and all Trustees voted aye. Trustee Peterson then moved to approve the Accounts Payable and Prepaid for all Funds for the Town of Grand Lake. Trustee Weydert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

CITIZEN PARTICIPATION: None.

ADJOURNMENT:

Trustee Weydert moved to adjourn, seconded by Trustee Gasner. All Trustees voted aye, and the meeting was adjourned at 8:34 p.m., August 12, 2013.


JUDY M. BURKE,
MAYOR

ATTEST: 
RONDA KOLINSKE, CMC,
TOWN CLERK