

RECORD OF PROCEEDINGS

REGULAR MEETING
TOWN OF GRAND LAKE BOARD OF TRUSTEES
MONDAY, SEPTEMBER 14, 2015 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.

PLEDGE OF ALLEGIANCE: Mayor Burke led everyone in reciting the Pledge of Allegiance.

ROLL CALL PRESENT: Mayor Burke; Trustees Baird, Jenkins, Lanzi, Lewis, and Sabo; Town Manager White, Town Clerk Kolinske and Town Planner Biller.

ABSENT: Mayor Burke announced that Trustee Gasner was absent from both the afternoon workshop and this evening's meeting due to a work related matter.

Trustee Lanzi moved to excuse Trustee Gasner from this afternoon's workshop and this evening's meeting. Trustee Sabo seconded the motion and all Trustees voted aye except Trustee Lewis who voted nay.

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

Mayor Burke announced that Grand Lake's 4th Annual Constitution Week will be held September 14th – 19th. This year's celebration will include speakers, trivia, "Honoring a Commitment" movie, parade and ceremony, bingo, a 5K "Run for the Republic", and fireworks over Grand Lake.

Mayor Burke then announced that the 2015 "Taking Steps to End All Cancer Race" to benefit the Mountain Family Center Cancer Services will be held Sunday, September 27th beginning at 10 a.m. Register online at www.mountainfamilycenter.org/Events.

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 Jenkins announced that she had a conflict with the Local Liquor Licensing issues as her family holds an interest in the license for the Gateway Inn and had a conflict with the first item under New Business pertaining to a variance request at Lemmon Lodge.

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Trustee Sabo announced that he had a conflict with the Local Liquor Licensing issues as he holds an interest in the license for Grand Lake Lanes.

UNSCHEDULED
PUBLIC COMMENTS:

Mayor Burke announced that this time is reserved for members of the public to make a presentation to the Board on items or issues that are not scheduled on the agenda. The Board will not discuss/debate these items, nor will the Board make any decisions on items presented during this time, rather, the Board will refer the items to staff for follow up. She then asked if there were any unscheduled public comments and noted that comments are limited to 3 minutes.

Jennifer Brown, 408 Park Avenue, was recognized by the Chair. She said that last year she and Laura Kratz from Whispering Pines organized a Town-wide Open House on the first Saturday in December and said they would like to do it again this year. The merchants kept their doors open later into the evening toward 9:00 p.m. and offered beverages and snacks. Grand Lake Plumbing joined in on the event and provided an amazing smores bar in Town. She said that she would consider the event to have been a success for the first year. The event is being scheduled for December 5th this year. Last year the Town contributed \$700 for the event to cover costs to advertise in the newspaper and for posters that were distributed throughout Town and the County. She then asked if the Board would be willing to make a contribution toward this year's event.

Mayor Burke responded by saying that they will need a written request from her and for her to have the request placed on a future agenda.

Steve Kudron, 408 Park Avenue, was then recognized. He thanked the Mayor, Board of Trustees and staff for their dedication and continued efforts in making the Grand Lake Center something special. He expressed how pleased he is to know that the Disney Way will be using the facility and highlighting Grand Lake. He concluded by saying, "Keep up the good work."

SCHEDULED
PRESENTATIONS/
DELEGATIONS:

Mayor Burke introduced the Town's new Town Clerk, Katie Nicholls, and welcomed her aboard. She will take the position September 24th.

CONSENT AGENDA:

Mayor Burke introduced the Consent Agenda which contained the following: Minutes from the July 27, 2015 Meeting, Minutes from the August 10, 2015 Meeting, Minutes from the August 24, 2015 Meeting, and Accounts Payable for August 2015.

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Trustee Lewis moved to approve the Consent Agenda as presented. Trustee Baird seconded the motion and all Trustees voted aye.

At 7:42 p.m. Trustees Jenkins and Sabo excused themselves and left the room.

LIQUOR LICENSING AUTHORITY: CONSIDERATION OF RENEWAL OF THE HOTEL AND RESTAURANT LIQUOR LICENSE FOR EL PACIFICO, LLC, D/B/A EL PACIFICO – Since there was not a representative present Trustee Lewis moved to table consideration of this matter until the next regularly scheduled meeting and said that since this is the third time this matter has been tabled, it will not be tabled again. Trustee Baird seconded the motion and all Trustees voted aye.

At 7:45 p.m. Trustees Jenkins and Sabo resumed their seats.

OLD BUSINESS: None.

At 7:46 Trustee Jenkins excused herself and left the room.

NEW BUSINESS: **QUASI-JUDICIAL - CONSIDERATION TO GRANT A VARIANCE TO THE 30' SHORELINE SETBACK LOCATED AT LEMMON LODGE; MORE COMMONLY REFERRED TO AS 1224 LAKE AVENUE** – 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 grant a variance request for improvements located within the 30' setback of Grand Lake which requires Board review. The request is to allow a fence along the west property line. The property is owned by the Lemmon Lodge Homeowners Association.

The Town received a complaint on 6/19/15 from a neighboring property owner regarding the construction of a new fence. Town Staff reviewed the construction of a fence in progress and issued a Administrative Warning Citation for removal of the fence from the 30' setback. Subsequently, Town Staff met with the contractor trying to accommodate their needs to “repair the existing fence”. Unfortunately, the contractor failed to obtain Town Staff review and approval for the fence which is considered a non-conforming structure per our Municipal Code.

Municipal Code 12-2-29 Shoreline and Surface Water Regulations states:

(A) Stream and Lake Setbacks

- 1. In order to help preserve the environmental quality of the water in the Grand Lake, a thirty (30) foot stream and lake setback from the mean identifiable high water mark shall be*

maintained for buildings, parking, snow storage areas and other improvements to a site. The setback applies to a stream, creek, river, irrigation ditch (dry or wet), lake, pond, wetland, or any other body of water.

2. *When activities are proposed within the 30' setback, a variance may be requested by an Applicant. As scheduled by Town Staff and based on agenda availability, The Planning Commission shall review the request at a Public Hearing and make a recommendation to the Town Board of Trustees, who shall make the final determination..... The Town Board of Trustees may opt to hold a Public Hearing. The Town Board of Trustees will hold a Public Hearing within 45 days from receiving a recommendation from the Planning Commission.*
4. *The first five (5) feet of this setback shall be a non-disturbance zone, except in the cases of bridges, irrigation structures, flood control devices, boathouses, commercial marinas, boat rentals, boat repair and maintenance facilities and walkways and stairways less than four feet in width leading directly from the shoreline to the principal structure.*

Municipal Code 12-2-32 Non-Conforming Uses and Structures states:

(A) Non-Conformance - Certain uses of land and buildings may be found to be in existence at the time of the passage of this Article which does not meet the requirements as set forth herein. It is the intent of this Article to allow the continuance of such non-conforming use.

1. A building or use that is in violation of the requirements of this Code and was constructed or established since the adoption of this Code without the necessary approvals, permits or authorizations from the Town is considered nonconforming. The owner and/or operator of a nonconforming building or use shall be subject to actions and penalties allowed by this Code and all other applicable Town Ordinances and shall be required to correct the nonconforming situation to come into conformance with all applicable standards and regulations of this Code.

(C) Repairs and Maintenance - The following changes or alterations may be made to a non-conforming building or building containing a non-conforming use:

1. Maintenance repairs that are needed to maintain the good condition of a building, except that if a building has been officially condemned, it may not be restored under this provision.
2. Any structural alteration or change in use that more than insignificantly reduces the degree of non-conforming or changes the use to conforming use.

(D)1.Purposeful destruction. Any nonconforming building or building containing a nonconforming use which is purposefully demolished or destroyed may be replaced with a different building only if the replacement building is in conformance with the current provisions of this Code.

The replat of Lemmon Lodge appears to show an existing fence located within the 30' shoreline setback.

It appears the old fence was purposefully destroyed and altered. The new fence is taller than original fence, appears to violate the 5 ft no disturbance zone, and cantilevers over the water of Grand Lake.

Staff recommends the Board grant the variance request by adopting the draft resolution which contains the following conditions of approval:

1. The Applicant is allowed to construct and maintain the fence as shown on the attached Site Plan; and,
2. The height of the fence is restricted to the original height as shown in the attached photo (assumed to be 3'-6"); and
3. The fence does not extend beyond the high water mark of Grand Lake; and,
4. The Applicant has until October 15th, 2015 to complete the improvements; and,
5. The Applicant is obligated to reasonably maintain the improvements. Failure of the Applicant to reasonably maintain the improvements, the Town, at its sole discretion, may take whatever action is required to protect the waters of Grand Lake, including, but is not limited to, removal of the improvements; and,
6. The granting of this variance does not set precedence for any future variance requests nor obligate the Town to grant similar variance requests in the future; and,
7. The Applicant complies with all other federal, state, and local regulations.

The Board should first determine if a Public Hearing is necessary. If the Board determines a Public Hearing is not necessary the Board should discuss the variance request.

The Board has the following options:

1. Continue review at a Public Hearing; or
2. Grant the variance by adopting the resolution as presented; or
3. Adopt the resolution with modifications; or
4. Not grant the variance.

Billier noted that Kevin Delaney, Secretary of the Lemmon Lodge Homeowners Association, was present.

Following discussion, Trustee Lanzi moved to adopt Resolution No. 23-2015; a Resolution Granting a Variance to the 30' Shoreline Setback for Certain Improvements Located at Lemmon Lodge; More Commonly Referred to as 1224 Lake Avenue, as presented. Trustee Sabo seconded the motion and all Trustees voted aye.

At 7:55 p.m. Trustee Jenkins resumed her seat.

NEW BUSINESS:

CONSIDERATION TO GRANT INITIAL ACCEPTANCE OF IMPROVEMENTS FOR THE SHADOW VIEW TERRACE PLANNED DEVELOPMENT – Mayor Burke asked Town Planner Biller to present this matter to the Board. Biller explained that the Town has received a request for Initial Acceptance and the release of the Performance Guarantee for Shadow View Terrace Planned Development. The developer is LJH, LLC, represented by Brian Howard, and has submitted the request to release \$27,334 of the development security.

Background Information

Apr. 2006 – The SIA was executed.

July 2007 – The developer discussed making changes to the approved plat with the Commission.

Apr. 2009 – The SIA expired.

July 2010 – The Board of Trustees released a portion of the letter of credit.

June 2014 – Staff received a request for initial acceptance from the developer.

July 14, 2014 – The Town called the Letter of Credit in the amount of \$45,854.

Aug. 4, 2014 – The Developer submitted an amendment request.

Sept. 17, 2014 – The Planning Commission adopted Resolution 22-2014 recommending certain amendments to the development.

Sept. 29, 2014 – The Developer submitted dates for project completion as required by the Planning Commission with a completion date of 10/24/14.

Oct. 22, 2014 - The Town received Initial Acceptance Request from the Developer.

Oct. 28, 2014 – The Town conducted a site visit as required by the SIA.

Nov. 3, 2014 – The Town sent “punch list” items for project completion.

Nov. 4, 2014 – The Town received an amended completion date of 11/15/14.

Nov. 10, 2014 – The Board tabled consideration until Nov. 24.

Nov. 24, 2014 – The Board denied the developer’s request for Initial Acceptance.

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The release of the Performance Guarantee will ultimately start the two (2) year warranty period. Per the SIA, an \$18,520 Warranty Performance Guarantee is held by the Town for two (2) years. Currently this guarantee is held by the Town in a separate cash account.

Staff has reviewed the As-Built Drawings, conducted many site visits, and believes the developer has satisfied the minimum requirements of the planned development per the SIA. The As-Built Plat and As-Built Construction Plans show the completed improvements.

Staff recommends the Board adopt the resolution as presented which contains the following conditions of approval:

1. The Applicant provides the Town with all executable documents for recording, including but not limited to a mylar as-built plat and plans.
2. The Applicant reimburses the Town for costs associated with review, approval and recording fees.

The Board should discuss the initial acceptance request made by the developer and the request to release a portion of the development securities.

The Board should be aware the as-built conditions require revisions to the encroachment license granted by Resolution 2-2006. Staff has prepared a draft resolution that revises the encroachments as constructed.

The Board has many options including:

1. Grant initial acceptance of the development by adopting the (2) draft resolutions as presented; or
2. Grant acceptance with revised conditions; or
3. Deny the request.

Trustee Jenkins moved to adopt Resolution No. 21-2015, a Resolution Granting a License for Certain Improvements on Town Property Located Adjacent the Shadow View Terrace Planned Development. Trustee Baird seconded the motion and all Trustees voted aye.

Trustee Lewis then moved to adopt Ordinance No-10-2015, an Ordinance Approving the As-Built Drawings for the Shadow View Terrace Planned Development a Replat of Lots 1-5, 12 & 13, Block 30, Town of Grand Lake, County of Grand, State of Colorado at Grand County Reception #2006-004779 and the Details Thereof. Trustee Lanzi seconded the motion and all Trustees voted aye.

NEW BUSINESS:

CONSIDERATION OF RESOLUTION NO. XX-2015, A RESOLUTION AUTHORIZING THE NEGOTIATION, EXECUTION, AND DELIVERY OF A LEASE-PURCHASE

AGREEMENT (THE "LEASE"), IN THE PRINCIPAL AMOUNT OF \$135,284.91, BETWEEN THE TOWN OF GRAND LAKE, COLORADO, AND U.S. BANCORP GOVERNMENT LEASING AND FINANCE, INC.; PROVIDING FOR ONE HUNDRED TWENTY (120) LEASE PAYMENTS OF \$1,337.15 EACH FROM LEGALLY AVAILABLE FUNDS; AND PRESCRIBING OTHER DETAILS IN CONNECTION THEREWITH – Mayor Burke asked Town Manager White to present this matter to the Board. White explained that the Town has received documents from U.S. Bancorp Government Leasing and Finance, Inc. in connection with the Lease Purchase of Town Equipment (the John Deere 624K loader for Public Works), including the resolution for the Board's consideration authorizing the Town to enter into the lease purchase agreement for this equipment. This documentation has been forwarded to the Town Attorney, Scott Krob, for his review.

Staff recommends that the Board make a motion adopting the draft resolution and the Board make a motion authorizing the Mayor to execute a Lease Purchase Agreement between U.S. Bancorp Government Leasing and Finance, Inc. and the Town of Grand Lake, and the accompanying documentation.

Trustee Jenkins moved to adopt Resolution No. XX-2015, a Resolution Authorizing the Negotiation, Execution, and Delivery of a Lease-Purchase Agreement (The "Lease"), in the Principal Amount of \$135,284.91, Between the Town of Grand Lake, Colorado, and U.S. Bancorp Government Leasing and Finance, Inc., Providing for One Hundred Twenty (120) Lease Payments of \$1,337.15 Each From Legally Available Funds; and Prescribing Other Details in Connection Therewith. Trustee Baird seconded the motion and all Trustees voted aye.

Mayor Burke then announced that **CONSIDERATION OF A MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN COLORADO DEPARTMENT OF LOCAL AFFAIRS – UNIVERSITY OF COLORADO DENVER, COLORADO CENTER FOR COMMUNITY DEVELOPMENT AND THE TOWN OF GRAND LAKE, CO** was added to the agenda and asked Town Manager White to present this matter to the Board. White explained that the MOU would provide assistance in repurposing of former Grand Lake Elementary (Grand Lake Center) in partnership with the Grand County Economic Development. It is estimated that work on this project will be \$11,500 and the Town is requested to contribute or match a not to exceed amount of \$5,750 of the project costs to cover the time, travel expenses, follow-up review and preparation of the final documents. It is anticipated that work will begin when the MOU is fully executed and completed by September 1, 2016.

Trustee Jenkins moved to authorize Town Manager White to execute the Memorandum of Understanding (MOU) between Colorado Department of Local Affairs – University of Colorado Denver, Colorado Center for Community Development and the Town of Grand Lake, CO with an amount not to exceed \$5,750. Trustee Lewis seconded the motion and all Trustees voted aye.

Mayor Burke then announced that **CONSIDERATION OF A STIPEND FOR THE TOWN CLERK** was added to the agenda and asked Town Manager White to present this matter to the Board. White explained that in consideration of Town Clerk Kolinske's twenty years of service to the Town of Grand Lake, the Board discussed at the afternoon workshop options to honor her service. One of the recommendations was she be given a stipend of \$50 per year for the twenty years of her time totalling \$1,000.

Trustee Lewis moved to give Town Clerk Kolinske a stipend in the amount of \$50 per year for the twenty years she has been here for a total of \$1,000. Trustee Baird seconded the motion and all Trustees voted aye.

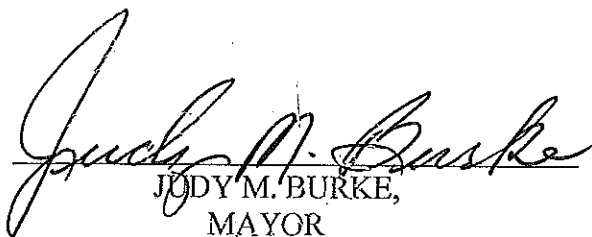
MAYOR'S REPORT
AND COMMENT:

Mayor Burke said that they are going to miss Town Clerk Kolinske, she has been a rock that they have depended upon for a number of years and wished her good luck.

She then made the comment that she was surprised with how busy Town was this past weekend. She said she is hoping for a great Constitution Week and hopes everyone will have an opportunity to attend some of the events.

ADJOURNMENT:

Trustee Lewis moved to adjourn, seconded by Trustee Baird. All Trustees voted aye, and the meeting was adjourned at 8:13 p.m., September 14, 2015.


JODY M. BURKE,
MAYOR

ATTEST:


KATIE NICHOLLS,
TOWN CLERK