

RECORD OF PROCEEDINGS

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REGULAR MEETING  
TOWN OF GRAND LAKE BOARD OF TRUSTEES  
MONDAY, FEBRUARY 27, 2017 7:30 P.M.

CALL TO ORDER: The regular meeting of the Board of Trustees was called to order by Mayor Jim Peterson at 7:30 p.m. at the Town Hall, 1026 Park Avenue.

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

ROLL CALL PRESENT: Mayor Peterson; Trustees Goodfellow, Jenkins, Kudron, and Lewis; Town Manager White, Town Clerk Nicholls, Town Code Administrator ORourke and Town Attorney Krob.

ABSENT: None.

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

Mayor Peterson announced that announced that a sign-in sheet is located by the door and to please sign in before leaving.

Mayor Peterson then announced that the 6th annual Catch & Release Fishing Contest will be held March 4th & 5th on Grand Lake. Visit [www.grandlakeicefishingcontest.com](http://www.grandlakeicefishingcontest.com) or call 970-798-8021 for more information.

CONFLICTS OF INTEREST: Mayor Peterson 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 issue as it is her application before the Board.

Mayor Peterson announced that he had a conflict with the property insurance claim as he was an involved party.

UNSCHEDULED PUBLIC COMMENTS: Mayor Peterson 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. He then asked if there were any

unscheduled public comments and noted that comments are limited to 3 minutes.

Tom Weydert, 811 Tallaqua Drive, was recognized by the Chair. Mr. Weydert stated that he has noted several issues with the Grand Lake Center. The hallways are not ADA compliant due to the removal of the benches for ice skating. The hallways on the gym side are barricaded creating a potential fire hazard. Finally he noted some water damage in the weight room.

Lance Sabo, 808 Park Avenue, was recognized by the Chair. Mr. Sabo stated his concern with the Town Board revisiting the East Inlet boat docks. He stated the Board always comes back to crib docks each time and all these discussions do is delay the project.

SCHEDULED  
PRESENTATIONS/  
DELEGATIONS:

Mayor Peterson introduced George Coolen, Board President, Grand Lake Metropolitan Recreation District. Mr. Coolen stated they want to continue a relationship of cooperation with the Town and Chamber of Commerce. The sport of pickleball has provided an opportunity for them to work with the Town through the Grand Lake Center. He then presented a check to the Town in the amount of \$2,000 for the support of pickleball and other recreational activities at the Grand Lake Center.

MINUTES APPROVAL:

Trustee Lewis moved to approve the February 13, 2017 Minutes as presented. Trustee Jenkins seconded the motion and all Trustees voted aye, except Trustee Goodfellow who abstained.

REPORTS: SALES TAX  
CASH FLOW REPORT  
FOR JANUARY 2017:

Mayor Peterson asked Financial Trustee Goodfellow to present the sales tax cash flow report. Goodfellow reported that the amount of revenue received in January 2017 for the month of December 2016 was \$61,633 or \$1,215,262 year-to-date. This amount was 4.49% above what was received through December 2015.

REPORTS: SALES TAX  
2012-2016 TOTAL YEAR  
BY INDUSTRY:

Mayor Peterson asked Financial Trustee Goodfellow to present the sales tax 2012-2016 total year by industry report. Goodfellow stated that fixed retail, lodging and overall totals saw the highest sales taxes in 5 years. Restaurants saw a slight down tick, while utilities and miscellaneous remained relatively flat.

REPORTS: FINANCIAL  
REPORT FOR  
JANUARY 2017:

Mayor Peterson asked Financial Trustee Goodfellow to present the Financial Report for January 2017. Goodfellow reported that the General Fund expenditures through the end of January totaled \$137,345 or 4.2% of budget. He said the Water Fund expenditures for the same period totaled \$35,003 or 2.5% of budget, the Marina Fund expenditures totaled \$8,189 or 3.2% of budget, the PAYT Fund expenditures totaled \$1,596 or 4.6% of budget, and the Grand Lake Center expenditures totaled \$46,989 or 24.2% of budget.

At 7:41 p.m. Trustee Jenkins excused herself and took the podium.

LIQUOR LICENSING AUTHORITY: CONSIDERATION OF A LIQUOR LICENSE

**CONVERSION AND MODIFICATION FOR THE GATEWAY INN, INC, D/B/A THE GATEWAY INN, LOCATED AT 200 WEST PORTAL ROAD** – Mayor Peterson asked Town Clerk Nicholls to present this matter to the Board. Nicholls reported that the Town has received a Permit Application and Report of Changes for the Tavern Liquor License from The Gateway Inn, Inc., d/b/a The Gateway Inn at 200 West Portal Road. The purpose of the application is to convert the existing Tavern License to a Hotel and Restaurant License and modify the liquor license boundaries to include the hotel rooms. The State Liquor Enforcement Division is allowing Tavern Liquor License conversions through August 10, 2017, in an effort to allow licensees currently holding Tavern licenses that do not meet the definitions of a Tavern License a chance to convert to a more appropriate license type. The Gateway Inn is operated as a hotel with a bar and restaurant. Under the current Tavern Liquor License, hotel guests are unable to take their alcoholic beverages back to their rooms; the proposed modification would enable guests to bring their drinks back to their rooms. 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. The premise was posted on February 17, 2017 and attested to by Town Code Administrator Erin O'Rourke. Grand Lake Water Department reports the account is paid in full thru the 1st quarter 2017, and is therefore considered current. The Gateway Inn, Inc has a current Business License from the Town. Their sales tax filings are paid through January 31, 2017, and is, therefore, considered current. She concluded by stating that Lisa Jenkins was present.

Lisa Jenkins, 205 Bella Vista Court Unit 307, was recognized by the chair. Ms. Jenkins stated their desire to change their liquor license. The changes will enable guests to take their drinks to their room and they can do room service.

Trustee Lewis moved to approve the liquor license conversion and modification for The Gateway Inn, Inc, d/b/a The Gateway Inn, located at 200 West Portal Road. Trustee Kudron seconded the motion and all Trustees voted aye.

Trustee Jenkins resumed her seat at 7:45 p.m.

OLD BUSINESS:

**QUASI-JUDICIAL – CONTINUATION OF CONSIDERATION TO GRANT A VARIANCE FOR REQUIRED OPEN SPACE FOR LOTS 3-5, BLOCK 12, TOWN OF GRAND LAKE; MORE COMMONLY REFERRED TO AS 824 GRAND AVENUE** – Mayor Peterson asked Town Manager White to present this matter to the Board. White reported that the purpose of this item on the Board of Trustees meeting is to consider the variances recommended for the proposed development at 824 Grand Avenue. The proposed development is known as Boardwalk Lofts. The variances may be approved, denied or modified by the Town Board. The spokesman for the proposed development, Jim Kruetzer, presented proposed variances to the Grand Lake Municipal Code concerning a mixed use commercial and residential development, to the Planning Commission at their regular meeting on January 18, 2017. These variances include: a variance in the required open space; a variance in the utility locations; and a variance in the onsite parking requirement. After closing the Public Hearing the Planning Commission discussed the matter before them and determined to recommend a variance to the open space requirement and to the parking for the commercial space to be worked on by staff with the developer, as stated, would pay the in-lieu fee. Staff, Mr. Kruetzer, and Mountain Parks Electric have developed potential solutions to the electrical line issues and keeping within the National Electrical Code. The developer would be required to pay all costs involved in the proposed solutions. These solutions include leaving the existing electrical lines in place and moving the proposed building (basically decreasing the dimensions of the building), or burying the electrical lines. Burying the electric lines create an issue with putting the electric power lines closer to the existing water line than is preferable. This issue can be mitigated by encasing the power lines in concrete or flow fill. Another alternative to the electric utility issue would be to move the electric line to the south side of the alley and road. This alternative was deemed to be unacceptable due to the

impact on the property to the south and the ability of the owners of these properties to enjoy the use of their property.

Jim Kruetzer, Senior Project Manager, Sloan Construction Company was recognized by the Chair. Mr. Kruetzer stated that the utilities were resolved and they will be using the parking fee in lieu both of which do not require variances. He then reviewed two updated plans one with a bowling alley and one without. The plan with the bowling alley would require a variance for open space.

A discussion ensued regarding the amount of open space required for the project. Mr. Kruetzer was originally told 25%. The Board and Staff questioned the amount required.

Andy Murphy, 1224 Lake Avenue, was recognized by the Chair. Mr. Murphy stated that the Town should definitively tell Mr. Kruetzer the exact amount of open space required. He stated his support of the project and the many benefits he perceived the project would provide to the community. He concluded by stating the Board should go strictly by the rules and keep emotions out of their decision.

Lance Sabo, 808 Park Avenue, was recognized by the Chair. Mr. Sabo stated his agreement with Mr. Murphy. The project answers a lot of needs of the community. He concluded by stating the Board should approve the variance requested.

Tom Weydert, 401 Ellsworth Avenue, was recognized by the Chair. Mr. Weydert stated that if the applicant meets all the requirements he should be granted the approval. He believes that there is not a need for a variance, and that the standards required for granting a variance are not met, it would be nice, but they are not necessary reasons. He concluded there is no need to grant the variance.

Trustee Kudron referenced a section 12-2-26 from the Town Code. He stated that per his read of the code he believes the open space requirement of the project is 20%.

Trustee Kudron moved to grant the request for variances as recommended by the Planning Commission to maintain the open space requirement found at 12-2-26, which is 20%; also to grant the variance, which is not a variance, on the parking requirement for commercial spaces and impose the parking fee in lieu of \$1,000 for each parking space not found to be in municipal code; and finally to direct Staff in conjunction with the developer and Mountain Parks Electric to develop a solution to the power line issues on the south side of the property that will be favorable to

both the Town and the adjacent owners to be associated with the plan that includes the bowling alley. Trustee Jenkins seconded the motion and all Trustees voted aye, except Trustee Lewis who voted nay.

NEW BUSINESS:

**CONSIDERATION OF RESOLUTION 02-2017, A RESOLUTION OPTING OUT OF 2017 WATER INCREASE** – Mayor Peterson asked Town Manager White to present this matter to the Board. White reported that during budget talks last year, the Board of Trustees decided to defer the 6% annual increase that would begin April 1, 2017 and continue through March 31, 2018. This action will postpone the last scheduled increase from April 1, 2019 to April 1, 2020.

Trustee Lewis moved to adopt Resolution No. 02-2017, a Resolution Opting Out of the Town of Grand Lake Water Enterprise Fund Water Usage Fee Increase established by Resolution No. 8-2008, for the Year 2017 only. Trustee Jenkins seconded the motion and all Trustees voted aye, except Mayor Peterson who voted nay.

NEW BUSINESS:

**CONSIDERATION OF RESOLUTION 03-2017, A RESOLUTION ADOPTING A FINANCIAL POLICIES AND PROCEDURES MANUAL** – Mayor Peterson asked Town Manager White to present this matter to the Board. White reported that based on recommendations from the Town's insurance provider, CIRSA, written financial policies are a good practice for all entities to help promote continuity and stability. Many topics, such as money handling, purchases on credit and fund balance reserves are typically addressed in these policies. These policies are in no way exhaustive and will be updated to be more comprehensive as time permits.

Trustee Jenkins moved to adopt Resolution 03-2017, a resolution adopting a Financial Policies and Procedures Manual. Trustee Goodfellow seconded the motion and all Trustees voted aye.

NEW BUSINESS:

**CONSIDERATION OF GRAND LAKE CLARITY ALTERNATE ASSIGNMENT** – Mayor Peterson asked Town Manager White to present this matter to the Board. White reported that the NEPA process to address the CB-T project and its impacts on water clarity in Grand Lake is underway. The Town Manager is the designated representative for the Town of Grand Lake during this process. The Three Lakes Watershed Association has a sincere interest in the NEPA process now underway to address water clarity for Grand Lake. The Directors of the Three Lakes Watershed Association have been involved to improve Grand Lake Clarity for decades. The NEPA process, as currently

established, does allow them to attend the meetings, yet they do not have a formal seat at the table. Three Lakes has been encouraged to attend all meetings regardless to keep informed. Staff is bringing forward the recommendation for the Board to consider authorization to any director of Three Lakes Watershed to be assigned as an alternate in the event the Town's representative, or any assigned Town alternate, is unable to attend any upcoming NEPA meetings.

A discussion ensued regarding the voting privileges, assigning a specific Trustee as an alternate, and involving Three Lakes Watershed as an advisor to the Town. The Board approved Trustee Kudron to be the alternate.

NEW BUSINESS:

**CONSIDERATION OF ASSIGNMENT OF GRAND GALA TICKETS** – Mayor Peterson asked Town Manager White to present this matter to the Board. White reported that the Town Board provided support at its last meeting for a Bronze Level sponsorship for \$700 for the Grand Gala in April 2017. This was particularly focused on providing transportation to the Gala in the spring. The sponsorship included two tickets for the event, valued at \$250 each, or \$500 total. The Town Board should assign the tickets, or alternately to create a process to assign the tickets. This could be done by a raffle, auction, or a lottery system, as examples. Similarly, the Town could offer the tickets for sale on a first come, first served basis.

After a brief discussion Trustee Jenkins moved to donate the Town's Grand Gala Tickets each and every year to whoever is the seated Citizen of the Year. Trustee Lewis seconded the motion and all Trustees voted aye, except Trustee Kudron who abstained.

NEW BUSINESS:

**CONSIDERATION TO SET A SPECIAL ELECTION TO FILL BOARD OF TRUSTEES VACANCIES** – Mayor Peterson asked Town Clerk Nicholls to present this matter to the Board. Nicholls reported that the resignations of Trustee Jim Gasner on January 9, 2017, and Trustee Lance Sabo on January 20, 2017 has created two vacancies on the Board of Trustees. Both vacancies have term expirations of 2018. The Board of Trustees decided to fill those vacancies by appointment. No letters of interest were received by the Town Clerk for the positions. Colorado Revised Statute 31-4-303 states that *If a vacancy in the board or in such other elective office is not filled by appointment or an election is not ordered within sixty days after the vacancy occurs, the board shall order an election, subject to the municipal election code, to be held as soon as practicable to fill the vacancy until the next regular election and until a successor has been elected and has complied with section 31-4-401.* The 60 day deadline for Jim Gasner's

vacancy is March 10, 2017, which falls before the next Board of Trustees Meeting on March 13, 2017. The Board will need to set a special election in order to comply with State Statute. The Board should take into consideration the out of town residency of Trustee Kathy Lewis. She concluded by stating that Town Attorney Krob had an update.

Town Attorney Krob stated that he suggests the Board not set an election. He further clarified that due to the lack of interest in filling the vacancies by appointment it could be argued to be impracticable to run an election. It would not be practicable to have an election until you have more interest than vacancies.

A discussion ensued regarding appointing someone after the 60 day period, the cost and time of an election, term expiration of the vacancies, and Trustee Lewis' out of Town status.

Trustee Kudron moved to extend the invitation for applicants to show interest in appointment as a Trustee until April 30, 2017. Trustee Goodfellow seconded the motion and all Trustees voted aye.

Trustee Kudron raised a question to Attorney Krob if there is statute that requires a Trustee to be in person to vote. Attorney Krob stated that the statute stated a Trustee must be present and that is generally interpreted to be in person. He further clarified that there has been no case in Colorado that has determined you can be present on the phone, skype, or in another manner. Most municipalities that have addressed the issue have held to the standard that being present is defined as in person, with the only exceptions, he is aware of, for active military service where they were allowed to participate by skype.

At 8:48 p.m. Mayor Peterson excused himself and left the room.

NEW BUSINESS:

**CONSIDERATION OF A PROPERTY CLAIM BETWEEN THE TOWN OF GRAND LAKE AND JAMES PETERSON** – Mayor Peterson asked Town Clerk Nicholls to present this matter to the Board. Nicholls reported that on Saturday, February 11, 2017 an incident occurred between the Town and James Peterson. Public Works Director Bernie McGinn was driving the 1979 John Deere Grader plowing snow when the incident occurred. Damages occurred to Mr. Peterson's truck. The incident was reported to the Grand County Sheriff's Department that day and reported to the Town's insurance provider, CIRSA, on Monday, February 13, 2017. Since the incident involved the grader, which is considered heavy machinery, the Town has government immunity and is, therefore, not liable to pay. However, if the Town chooses it can pay some or



all of the damages incurred as a “good neighbor” gesture. Any claims in the past that the Town has opted to pay on with government immunity had circumstances that had dangerous conditions that would create the potential for the waiving of immunity. The Town decided it was in the best interest to pay those claims. The claim for the incident between Public Works Director McGinn and Mr. Peterson does not involve a dangerous condition. CIRSA stated that if the incident had involved a regular plow truck, the incident would not be immune and it would be CIRSA’s determination to pay the claim as the incident occurred from a vehicle backing up. The Board must determine if the Town would like to pay some or all of the damages incurred as a “good neighbor” gesture, or pay nothing based on the government immunity received. The Board should weigh the precedent that will be set with a decision in either circumstance, as it will affect future claims against the Town and the Town budget.

Trustee Jenkins stated that normally these circumstances are not brought to the Board, but due to the unique situation of the incident involving a tractor and a truck it is being brought to the Board.

Town Clerk Nicholls confirmed this and further stated that due to the incident involving the Mayor she felt it was important for the decision to be transparent to the public.

Trustee Kudron moved to inform James Peterson that because of recommendation by the Town’s insurance carrier, CIRSA, and because of government immunity in this case the Town will pay zero of the claim against it and recommend that he follow up with CIRSA directly to dispute that or engage his own insurance company on his behalf as is consistent with the past practices of the Town. Trustee Goodfellow seconded the motion and all Trustees voted aye.

Mayor Peterson resumed his seat at 8:53 p.m.

Judy Burke, 390 West Mary Drive, was recognized by the Chair. Ms. Burke stated that she believes Three Lake Watershed group should have more involvement in the decision making for the NEPA process. Three Lake Watershed group initiated and spent hundreds of thousands of dollars to work on the water clarity situation and have extensive experience. She concluded that the Town should closely maintain their relationship with them.

RECORD OF PROCEEDINGS

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MAYOR'S REPORT  
AND COMMENT:

Mayor Peterson stated that he felt that the motion on the Boardwalk Lofts was a bit dramatic and the Board may catch some grief. He thanked everyone for their hard work so far.

ADJOURNMENT:

Trustee Lewis moved to adjourn, seconded by Trustee Jenkins. All Trustees voted aye, and the meeting was adjourned at 8:58 p.m., February 27, 2017.

  
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JAMES C. PETERSON,  
MAYOR

ATTEST:

  
\_\_\_\_\_  
KATIE NICHOLLS,  
TOWN CLERK