

RECORD OF PROCEEDINGS

REGULAR MEETING
TOWN OF GRAND LAKE BOARD OF TRUSTEES
MONDAY, JULY 23, 2012 7:30 P.M.

CALL TO ORDER: The regular meeting of the Board of Trustees was called to order by Mayor Judy Burke at 7:38 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: None.

APPROVAL OF MINUTES

June 25, 2012: Not available.

July 9, 2012: Not available.

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 Historical Society is sponsoring a "Victorian Tea" to benefit the Smith-Eslick Cottage Camp Campaign. The tea will be held July 25 at 2:00 p.m. at the Grand Lake Lodge.

Mayor Burke announced that the Grand Lake Historical Society will present "History Day" on August 4, 2012 from 1 – 4 p.m. at the Kauffman House Museum. Costumed characters bring history alive.

Mayor Burke announced that a Grand Craftfest, sponsored by the Grand Lake Chamber, will be held August 4 & 5 in Town Square.

Mayor Burke announced that the Independent Sports Club is hosting a Palisade Peach Sale to be held on August 4 & 5 from 8 a.m. – 4 p.m. next to the Grand Lake Hardware Store.

Mayor Burke announced that the Grand Lake Yacht Club Regatta will be held August 4 - 11.

Mayor Burke then announced that our hearts and prayers go out to the victims and families of the Aurora theatre tragedy.

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.

REPORTS: SALES TAX
CASH FLOW REPORT
FOR JULY, 2012:

Mayor Burke asked Town Clerk Kolinske to present the sales tax cash flow report. Kolinske reported that the amount of revenue received in July 2012 for the month of May is \$48,305. This amount is nearly 12% above what was received through July 2012.

REPORTS: FINANCIAL
REPORT FOR
JUNE 2012:

Mayor Burke asked Financial Trustee Peterson to present the Financial Report for June 2012. Kolinske reported that the General Fund expenditures through the end of June totaled \$509,657.55 or 20.1% of budget. She said the Water Fund expenditures for the same period totaled \$185,662.59 or 24.5% of budget, the Marina Fund expenditures totaled \$74,046.62 or 23.8% of budget and the PAYT Fund expenditures totaled \$2,487.50 or 20.3% of budget.

At 7:43 p.m. Trustee Ludwig excused himself and left the room.

LIQUOR LICENSING AUTHORITY: CONSIDERATION OF RENEWAL OF THE RESORT COMPLEX WITH RELATED FACILITY PERMIT LIQUOR LICENSE FOR GRAND LAKE VENTURES, LLC, D/B/A GRAND LAKE LODGE – Mayor Burke asked Town Clerk Kolinske to present this matter to the Board. Kolinske reported that the fees have been paid; the renewal documents are in order and indicate no changes. The water, business license, and sales tax accounts are all current. She noted that the Grand County Sheriff's Department found no adverse information that would affect the status of the license. She concluded by saying that Jeff Larson, Manager, was present.

Trustee Lewis moved to approve the renewal of the Resort Complex with Related Facility Permit Liquor License for Grand Lake Ventures, LLC, d/b/a Grand Lake Lodge. Trustee Peterson seconded the motion and all Trustees voted aye.

LIQUOR LICENSING AUTHORITY: CONSIDERATION OF RENEWAL OF THE HOTEL AND RESTAURANT LIQUOR LICENSE FOR O-A BISTRO, LLC, D/B/A O-A BISTRO – Mayor Burke asked Town Clerk Kolinske to present this matter to the Board. Kolinske reported that the fees have been paid; the renewal documents are in order and indicate no changes. The water, business license, and sales tax accounts are all current. She noted that the Grand County Sheriff's Department found no adverse information that would affect the status of the license. She concluded by saying that Olney Kliever, Managing Member, was present.

Trustee Peterson moved to approve the renewal of the Hotel and Restaurant

Liquor License for O-A Bistro, LLC, d/b/a O-A Bistro. Trustee Lewis seconded the motion and all Trustees voted aye.

LIQUOR LICENSING AUTHORITY: CONSIDERATION OF RENEWAL OF THE HOTEL AND RESTAURANT LIQUOR LICENSE FOR MAMA BEAR'S, LLC, D/B/A MAMA BEAR'S – Mayor Burke asked Town Clerk Kolinske to present this matter to the Board. Kolinske reported that the fees have been paid; the renewal documents are in order and indicate no changes. The water, business license, and sales tax accounts are all current. She noted that the Grand County Sheriff's Department found no adverse information that would affect the status of the license. She concluded by saying that Vickie Johnson, Member, was present.

Trustee Peterson moved to approve the renewal of the Hotel and Restaurant Liquor License for Mama Bear's, LLC, d/b/a Mama Bear's. Trustee Lewis seconded the motion and all Trustees voted aye.

LIQUOR LICENSING AUTHORITY: CONSIDERATION OF A SPECIAL EVENTS LIQUOR PERMIT APPLICATION FROM THE GRAND ART'S COUNCIL FOR "COWBOY CABARET" FUNDRAISING EVENT – 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, proof of possession, 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. The requested date is Saturday, August 18, 2012 from 4:00 to 10:30 p.m. for the 2nd annual "Cowboy Cabaret" fundraising event. The proposed location is the Grand Arts Center at 913 Park Avenue. It has been the most recent procedure of this Board to receive the application and then schedule consideration of approval of the permit as a regular item of business at the following meeting. Although a Public Hearing is not required by statute, the Board may choose to set one. The premises are required by statute to be posted for at least 10 days prior to approval of the permit. Approval of the requested permit may be scheduled for the August 13th regular Board meeting, as either a Public Hearing or regular item of business. Kolinske noted that Jim Cervenka was present representing the Arts Council.

Following brief discussion, Trustee Peterson moved to act on this request as a regular item of business at the August 13, 2012 Board meeting. Trustee Lewis seconded the motion, and all Trustees voted aye.

At 7:54 p.m. Trustee Ludwig resumed his seat.

NEW BUSINESS: **CONSIDERATION TO DRAW UPON THE LETTER OF CREDIT FOR SHADOW VIEW TERRACE** – Mayor Burke asked Town Planner Biller to present this matter to the Board. Biller explained that the Letter of Credit (LOC) for Shadow View Terrace will expire on July 28, 2012. Staff has

contacted the developer, Brian Howard, and the bank regarding the need to renew the performance guarantee as required by the Subdivision Improvement Agreement (SIA). Shadow View Terrace is a planned development approved in 2006. Mr. Howard indicated he would be renewing the letter of credit for the full \$45,854. As of Thursday, July 19 the Town has not received a renewed letter of credit. The last reduction in the letter of credit was granted by the Board of Trustees July 12, 2010. The original SIA was dated April 19, 2006. Completion of improvements as outlined in part 4, states:

“All improvements described in the Agreement shall be completed within 36 months.”

Also stated in part 3 of the SIA are the ramifications of not renewing the SIA:

“If such Performance Guarantee is not timely furnished, then development activities including, but not limited to the issuance of building permits and certificates of occupancy, may be suspended by the Town pending compliance herewith.”

The Town Attorney has been contacted by staff, but his comments are not available at this time. The developer has requested a building permit, right of way permit, and grading permit from the Town for the construction of a new single family residence located at 629 Park Avenue. This project is unrelated to Shadow View Terrace. Staff has not issued these permits to the applicant. If the letter of credit is not renewed for Shadow View Terrace, staff believes this would be an outstanding obligation with the Town and therefore a permit would not be issued. The Planning Commission was given an update from Brian Howard at its regular scheduled meeting on Wednesday, July 19, 2012. At that meeting Brian Howard stated that he has spoken with the bank and that he would have them call the Town. The Town has been contacted by the bank and was told that the letter of credit would be renewed for another year. The Board shall provide staff direction how to proceed with the expiring letter of credit for Shadow View Terrace.

Following discussion, Trustee Peterson moved to direct staff to start proceedings to draw on the letter of credit if the renewed performance guarantee is not received by the Town by the morning of July 27, 2012. Trustee Weydert seconded the motion and all Trustees voted aye.

NEW BUSINESS:

CONSIDERATION OF A SPECIAL EVENT PERMIT REQUEST FROM THE GRAND LAKE CHAMBER OF COMMERCE FOR A GRAND CRAFTFEST TO BE HELD AUGUST 4 AND 5 - Mayor Burke asked Town Manager Hook to present this matter to the Board. Hook explained that the Town is in possession of a Special Event Permit Application submitted by the Grand Lake Chamber of Commerce for the Annual Grand Craftfest, August 4 and 5. 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 the Chamber proposes to host this event for the first time. In years past, it has been hosted by the Grand Lake Metropolitan Recreation District (GLMRD). The GLMRD has elected to not host it this year. All aspects of the event will be in keeping with prior years. Staff recommends approval and execution of the Special Event Permit as presented. Hook noted that Lisa Jenkins, Executive Director, Grand Lake Chamber of Commerce was present.

Following brief discussion, Trustee Peterson moved to approve the Special Event Permit request from the Grand Lake Chamber of Commerce for a Grand Craftfest to be held August 4 and 5 in Town Square. Trustee Lewis seconded the motion and all Trustees voted aye.

NEW BUSINESS:

CONSIDERATION OF A PROPOSED AGREEMENT TO EXCHANGE REAL ESTATE - Mayor Burke asked Town Manager Hook to present this matter to the Board. Hook explained that the Town is in possession of a proposal from Georgia Noriyuki on behalf of her client, J. Daniel O'Donnell, to exchange real estate. Specifically, the proposal is to exchange land owned by the Town of Grand Lake, Tract B, Coker's Corner Minor Subdivision, for land that Mr. O'Donnell has under contract to purchase, Lots 9, 10 and 11, Grand Lake Estates, Second Filing. The Town acquired ownership of Tract B during the subdivision process to fulfill the requirement of Municipal Code 12-9-11.I.3.f, which reads:

- f. Land Dedication – At the time of submission of the preliminary plan, the developer shall submit proposal for the dedication of land for public parks and school sites.

Said proposal shall outline:

- (1) Seven percent (7%) of the gross land area which shall be dedicated to the Town of Grand Lake for schools, parks, police and fire stations, or other public uses. This shall include the total size of the area to be dedicated.

Tract B was set aside and subsequently deeded to the Town. Earlier this year, Mr. O'Donnell acquired ownership of Tract A, Coker's Corner Minor Subdivision. He desires to acquire the adjacent Tract B from the Town. In exchange for Tract B, Mr. O'Donnell is offering to acquire and give to the

Town the 3 lots located on the west side of Center Street just south of the self-service car wash and just east of the existing Public Works shop area. Hook said that he has discussed this matter with Town Attorney Krob on several occasions. He has provided advice on several key points:

- An exchange of real estate such as this is not required to be approved by the voters of Grand Lake
- Approval of the Board of Trustees by Resolution or Ordinance is not required; the Board authorizing the Mayor to sign an agreement to exchange is sufficient to proceed to closing
- The value of the properties to be exchanged are not required to be identical in value
- Municipal Code 12-9-11.I.3.f permits the Town to have a broad range of possible uses of Tract B and that same range of uses would apply to the 3 lots on Center Street after the exchange

Hook said that he and Town Attorney Krob have reviewed the initial draft of the agreement. Town Attorney Krob has provided comments to Ms. Noriyuki and discussed them with her. I anticipate that the only closing cost that the town may incur would be title insurance on Tract B – a relatively minor expense that could be accommodated by our adopted budget. Ms. Noriyuki indicates that Mr. O'Donnell will close on July 31 on the three Center Street lots. She proposes a closing date in mid-August for the exchange. Based on the information available to date, staff recommends that the exchange move forward. He noted that Georgia Noriyuki was present.

Ms. Noriyuki, attorney representing J. Daniel O'Donnell, noted that Lots 9, 10 and 11, Grand Lake Estates Second Filing each have a paid sewer tap that will run with each lot. Mr. O'Donnell was hoping to keep one or two of those taps but is unable to do so. She also noted that the three lots are significantly more valuable than Tract B. She said that her client feels that he will be getting a good deal because Tract B is what he wants and feels that the Town will be getting a good deal.

Following discussion, Trustee Peterson moved to authorize Mayor Burke to sign the Agreement to Exchange Real Estate upon receipt of an Agreement executed by Mr. O'Donnell with a closing date on or before August 15, 2012. Trustee Gasner seconded the motion and all Trustees voted aye.

NEW BUSINESS:

CONSIDERATION OF DIRECTION TO STAFF REGARDING UPCOMING WINDY GAP FIRING PROJECT PUBLIC HEARING - Mayor Burke asked Town Manager Hook to present this matter to the Board. Hook explained that on August 1 and 2, 2012, the Grand County Board of County Commissioners will hold a public hearing regarding the 1041 permit application of the Municipal Subdistrict of the Northern Colorado Water Conservancy District for the Windy Gap Firing Project. The BOCC has up to 120 days after the close of the public hearing to render a decision on the application. The purpose of this Board of Trustees agenda item is to consider direction to staff on the possibility of providing formal comments/testimony to

the BOCC at the public hearing in early August. On July 11, 2012, the Grand County Planning Commission held a public hearing on the application. After a presentation by Grand County staff, a presentation by the applicant, hearing public comment and then deliberating on the matter, the Planning Commission voted that evening to forward a recommendation to the BOCC to deny the application. Hook said that he provided comment at the Planning Commission public hearing. He developed his comments from correspondence that he has come across since becoming Town Manager. Hook provided the Board with a copy of the Certificate of Recommendation (COR), 39 pages, developed by Grand County staff and a Windy Gap Firing Project Overview, 1 page, developed by the applicant. Both were presented at the July 11 Grand County Planning Commission meeting. A summary of the project and a large amount of detail are included in these documents. Grand County staff will present a revised Certificate of Recommendation to the BOCC. Modifications will be based on comments and discussion at the recent Planning Commission meeting. Staff recommends the Board authorize Mayor Burke and/or Town Manager Hook to provide comment to the BOCC at the upcoming public hearings for the WGFP. While the entire permit is very complex and involves issues along the Colorado River downstream of the three lakes area as well as issues related to the Colorado-Big Thompson Project on both sides of the Continental Divide, staff suggests that the Town limit its comments to issues closely related to the Town's realm of interest. The following is a list of simplified points for the Board's consideration, in no particular order of importance:

- It appears that Grand County staff has reviewed the application carefully and developed the COR in keeping with prior discussions and updates with the Town.
- The conditions presented within the COR allow for a win-win scenario for both sides. The applicant gets several things they desire that some, like Grand County and the Town, may not consider ideal, but in return the applicant is providing enhancements that give others, like Grand County and the Town, things they value.
- If the WGFP permit application is not approved, there is no certainty that the Northern Colorado Water Conservancy District will continue to voluntarily cooperate with efforts to improve the water clarity and quality in Grand Lake.
- Some of the relevant issues addressed in COR include:
 - An ongoing focus on improving the water quality and clarity in Grand Lake
 - Full compliance with Senate Document 80 is essential for the project to move forward
 - Ongoing monitoring of water quality
 - Provision to provide water for the environment
 - NCWCD will meet state standards for Grand Lake water clarity
 - All parties remain committed to the ongoing Bureau of Reclamation study regarding water quality problems and solutions in Grand Lake

RECORD OF PROCEEDINGS

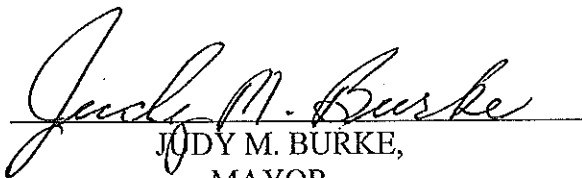
- The Three Lakes Nutrient Study has confirmed that nutrients and non-algae particulates are a problem and will continue to be a problem.
- Additional pumping associated with the WGFP will exacerbate an already unacceptable situation regarding water clarity and quality in Grand Lake.
- NWCCOG's 208 Plan supports the Town's concerns about water clarity and quality in Grand Lake.
- A supplemental agreement between the NCWCD and the Bureau of Reclamation is essential for the project to move forward.

Following brief discussion, Trustee Weydert moved to authorize Mayor Burke and/or Town Manager Hook to provide comment to the Board of County Commissioners on the Windy Gap Firing Project at the upcoming 1041 application public hearings. Trustee Lewis seconded the motion and all Trustees voted aye.

CITIZEN PARTICIPATION: Pat Farmer, 433 Harmon Street, was recognized from the audience. She passed out a copy of a letter from her and Richard Farmer to the Board of Trustees (see attached Exhibit A). She then read the letter pertaining to the retaining wall that encroaches into Town right-of-way adjacent to their property.

During discussion, Town Manager Hook said that because this is not a formal agenda item where the Board can take action, he suggested that this matter be placed on the agenda for the Board's consideration at their regularly scheduled meeting to be held on August 27, 2012.

ADJOURNMENT: Trustee Peterson moved to adjourn, seconded by Trustee Weydert. All Trustees voted aye, and the meeting was adjourned at 8:40 p.m., July 23, 2012.


JUDY M. BURKE,
MAYOR


ATTEST: 
RONDA KOLINSKE, CMC,
TOWN CLERK

Exhibit A

To the Grand Lake Board of Trustees:

Several years ago, the rock retaining wall in front of our property at 433 Harmon St. started to fall apart. In 2009, the wall was in very bad condition and, although it is in the town right of way, we were advised it was our responsibility to fix it. We asked permission from the BOT to fix the wall and in a two page resolution (23-2009) permission was granted.

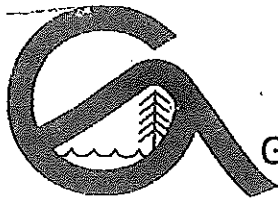
There were a few problems constructing the wall, and the project dragged on for a couple of years. I was in contact with the Town and on Jan. 20, 2011, the Town sent us a letter about the project, with a new completion date of Sept. 23, 2011, and stating "the standards indicate the concrete must be painted." A copy of that letter is attached. Our contractor completed constructing the wall in the fall of 2011, but it was too late (too cold) to add any kind of finish.

The Town contacted us in January, 2012, to notify us of a BOT meeting where this project would be discussed and Abbi said the wall would have to be at least painted by July 1, 2012. We sent the Town an email that the wall would be finished by July 1, 2012, and we completed painting the wall in June.

On July 16, 2012, I received a letter from Joe Biller telling me of the latest decision of the BOT along with a copy of Resolution 2-2012, which we had not seen before. The Design Review Standard quoted in the resolution states: "poured or concrete block of the uncolored or unexposed aggregate type is not allowed unless faced with a stone or wood veneer." The cement/block wall is not uncolored, it is painted brown.

We feel as if we have complied with the Town's requirements as stated in the Town's Jan. 20, 2011 letter. We cannot afford to face the wall with stone or wood veneer at this time, and respectfully request that the project be approved as is which is in accordance with our understanding from conversations with former town planner Abbi Wittman.

Richard and Pat Farmer



TOWN OF
GRAND LAKE

Mailed Certified, receipt requested

January 20, 2011

Richard and Pat:

As you are aware, with the adoption of Resolution No. 23-2009 the Town of Grand Lake permitted your proposed encroachment of a solid concrete retaining wall to be built in the Harmon Street Right of Way. Please see the attached documentation regarding this matter. In 2010 Town staff discussed this matter with Mr. Kevin Leppke (representative of KL Construction, your contractor). At that time staff informed Mr. Leppke the retaining wall, in its current condition, was not in compliance with the approved Resolution. The Resolution indicates the solid retaining wall that will be in compliance with the Town's Design Review Standards. The standards indicate concrete must be painted as well as plywood (if used as an exterior material must be "*Rough-sided plywood rated for weather exposure including board and batten style (or reverse board and batten style) contingent upon being painted, stained and with provision that joints are not exposed.*" Mr. Leppke indicated the matter would be rectified in 2010.

I am writing to inform you the Town is requesting the completion of the retaining wall by September 23, 2011, otherwise we will have to bring this matter back before the Town Board for discussion and their potential action. Please do not hesitate to contact me to discuss this matter if you need. Thank you for your time and consideration towards the completion of this improvement.

Sincerely,

Abbi Jo Wittman,
Town Planner

gplanning@townofgrandlake.com

Attached: Resolution 23-2009 with Attachments

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