

**TOWN OF GREEN MOUNTAIN FALLS
BOARD OF TRUSTEES MEETING
AGENDA FOR REGULAR MEETING
TUESDAY, OCTOBER 7, 2008**

7:00 PM

- 1) CALL TO ORDER / ROLL CALL**
- 2) ADDITIONS, DELETIONS OR CORRECTIONS TO THE AGENDA**
- 3) CONSENT AGENDA: APPROVE MINUTES, 9/16/08
BILLS DUE AND PAYABLE: \$9900.15
PLANNING COMMISSION MINUTES, 9/23/08**
- 4) APPOINTMENT OF AUTUMN HALL TO THE PLANNING
COMMISSION**
- 5) APPROVE RESOLUTION 2008-08 AND RESOLUTION 2008-09
- Interior Lot Line Vacations**
- 6) CITIZENS' INPUT – Items not Listed on the Agenda**
- 7) PUBLIC HEARING - Request for Review of Operational
Changes to the Pantry Gardens; 6980 Lake Street;
Owner/Operator, Ben L. Stephens**
- 8) REQUEST FOR BUDGET AMENDMENT FOR EXPENDITURE OF
FENCE INSTALLATION ON PUBLIC PARKS LAND
- Public Works Director, Robert McArthur**
- 9) REPORTS: Mayor Stevens-Marshall's Department / PPACG
& PPRTA Boards
Trustee Pitrone-Public Works\Regional Building Advisory Board
Trustee King-Grant Research\Administration\PPACG & TES
Alternate
Trustee Newberry-Parks
Trustee Useman-Manitou School District 14 Liaison
Trustee Bratton -Trail's Committee / TES Representative
Trustee Worthey-GIS \ Urban Forestry**
- 10) OLD BUSINESS / NEW BUSINESS**
- 11) MUNICIPAL CORRESPONDENCE**
- 12) ADJOURNMENT**

8:30 PM

**BOARD OF TRUSTEES
TOWN OF GREEN MOUNTAIN FALLS
MINUTES OF REGULAR MEETING
TUESDAY, OCTOBER 7, 2008**

The meeting was called to order at 7:01 p.m. by Mayor Protem Bratton.

ATTENDANCE:	Pitrone	present	Useman	present	King	present
	Stevens	absent	Newberry	present	Worthey	present

ADDITIONS, DELETIONS OR CORRECTIONS TO AGENDA – No request for changes were received.

**CONSENT AGENDA: APPROVE MINUTES, 9/16/08
BILLS DUE AND PAYABLE: \$9,900.15
PLANNING COMMISSION MINUTES, 9/23/08**

M/S King/Pitrone to approve the Consent Agenda as submitted. All yea

APPOINTMENT OF AUTUMN HALL TO THE PLANNING COMMISSION

M/S Pitrone/Worthey to accept the Planning Commission's recommendation to appoint Autumn Hall to the Commission. All yea

APPROVE RESOLUTION 2008-08 AND RESOLUTION 2008-09 - Interior Lot Line Vacations

M/S Useman/Pitrone to accept the Planning Commission's recommendation and approve Resolutions 08 and 09 as submitted. All yea

CITIZEN'S INPUT – No input received.

The Public Hearing was called to order by Mayor Protem Bratton at 7:06 p.m.

PUBLIC HEARING - Request for Review of Operational Changes to the Pantry Gardens; 6980 Lake Street; Owner/Operator, Ben L. Stephens

The petitioner, Ben L. Stephens, submitted a letter dated August 28, 2008 (see Attachment A). In the letter, Stephens outlined the Planned Style of Operation for the Pantry's Backyard Dining area, the Pantry Gardens. He also requested that the Board of Trustees modify a reasonable restriction placed on The Pantry Restaurant's Liquor License renewal on August 9, 2008. The reasonable restriction stated no amplified music; Stephens is requesting allowance for mildly amplified background music on Thursday, Friday and Sunday evenings from 5:30 p.m. to 9:00 p.m. The letter also requests approval for disc jockeys with a sound system that are hired for private parties for Saturday evenings. The petitioner did not desire to make an opening statement but asked that the individuals present at this public hearing be allowed to express their support for the petitioner's request. The petitioner also reminded the Board members to consider letters of support he submitted at the license renewal. Town residents Helen Huseboe, Barbara Gafford, Mike Urban, Roger Morphey, Billie Harwood, Craig Peterson, Dan Macias, Howard and Jane Price spoke in favor of permitting mildly amplified music. They felt the venue was unique to the community and was a welcomed source of entertainment. Macias noted that his wife, Fawn, has been the manager at The Pantry Restaurant since 1983. Everyone who spoke did not feel the music was too loud as to prevent normal table conversation or to interfere with the peace and quiet of the neighborhood. Derek Reid a Green Mountain Falls property owner living in Woodland Park described the music as entertaining, gentle background music. Six audience members who did not individually address the Board showed support for the mildly amplified music when a hand count for was taken. Prior to the public hearing, the town clerk received letters supporting

background music from Patrick and Barbara Jones, Brian Jolly, and Katherine Jolly. Marshal Ford read a statement into the record (see Attachment B) concurring with the Board's decision of August 9, 2008 to attach reasonable restrictions to the liquor license renewal.

The Public Hearing was closed at 8:25 p.m. Mayor Protem Bratton called a recess in order for the Trustees to review the packet of information presented by Nancy Stephens at the beginning of the hearing and a letter written by Barbara and Patrick Jones submitted by Marjorie White.

The regular meeting continued at 8:43 p.m. Mayor Protem Bratton restated the petitioner's request to modify operations for the backyard dining area and have mildly amplified background music on the night's stated in the letter of request dated 8/28/08. The petitioner also requested being allowed a disc jockey with a sound system with amplification hired for wedding receptions and private parties. Stephens stated that he did not try to cheat on his original liquor application presentation but needed to expand to generate funds. He saw that the outside venue increased the revenues. He has always worked with the Marshal's Department when complaints were received. He was told by the Marshal's Department on several occasions that the complaints were unfounded. He did agree that he found out that the cleanup crew was playing music in the Pantry Restaurant while they cleaned and closed up the backyard area. Stephens has taken steps to see that this no longer happens. He said he needs the summer business with a backyard music venue to get through the slower winter months. He reported that he is barely making it financially but wants to be here for the community. Nan Stephens asked if this was a town with commercial business or is it a suburb choking out commercial business.

Trustees Useman and Pitrone stated that the business of DJ's was to crank up a crowd and get everyone excited and involved with the party and both were skeptical that Stephens could control the noise emanating from DJ's. Pitrone felt that DJ's would jeopardize the Pantry's liquor license if the Marshal's Department received complaints. Stephens said he would not allow the use of DJ's. Useman said that he was satisfied that Stephens had instructed the kitchen staff on quieter closing responsibilities. The trustees encouraged Stephens to work with the neighbors and attempt to heal relationships. None of the trustees wanted the backyard area or the Pantry to close but the trustees did not want the neighbors routinely disturbed. Trustee Worthey stated that he is definitely not anti-business but felt that the neighbors had legitimate concerns and hoped everyone could find some common ground. Trustee Bratton felt the Board should leave the reasonable restriction as is. He stated the Board has been dealing with complaints for four years though the Marshal's Department has not issued any citations. He wondered whether taking a final chance would be effective.

Audience members requested a definition from the Board for mildly amplified background music and asked if bands were going to be allowed to be part of the entertainment. The Board agreed that mildly amplified background music was that music with a low enough sound level as to permit normal table conversation. Bands would be excluded. Stephens agreed with both the definition and the exclusion of bands. Board members felt that the venue could successfully work with one performer. **M/S Useman/King to approve the petitioner's request for a modification to the reasonable restriction of the liquor license of The Pantry Restaurant in regards to the Pantry Gardens to allow mildly amplified background music that is low enough to allow normal table conversation and to exclude DJ's and their sound systems as well as bands that would have more than one performer onstage. All yea**

The Board members stated that the onus was clearly with the petitioner, Ben Stephens to comply with the restrictions placed on the liquor license. The Marshal's Department and the Board of Trustees now have a clear, actionable direction to proceed if there are violations in the future.

REQUEST FOR BUDGET AMENDMENT FOR EXPENDITURE OF FENCE INSTALLATION ON PUBLIC PARKS LAND - Public Works Director, Robert McArthur submitted a cost estimate and drawings for split rail fences at the Pool Park and Gazebo Park at the 9/16/08 meeting. Trustee Bratton requested a site visit with McArthur to further review the fence locations and alignments. Bratton approves of the changes made by McArthur with this revised submittal. The Planning Commission also approved the fence installation drawings as submitted and dated 9/19/08 that McArthur submitted. The Parks fund account will be expensed for this project. **M/S Pitrone/Worthey to approve the expenditures of \$1,388.91 for the pool park fencing and \$1,611.56 for the Gazebo fencing along the Ute Pass Avenue side of the lake. All yea**

REPORTS: Marshal Ford's report was entered into the record by Trustee Bratton. **Mayor Stevens: PPACG/PPRTA:** Bratton reported that the Town held a successful ribbon cutting for the Ute Pass Avenue Widening on 10/7/08. County Commissioners, PPRTA members, Town Board members and staff were present for the event. **Trustee Pitrone: Public Works / Regional Building Department:** Public Works Director Robert McArthur's report was entered into the record. **Trustee King: PPACG Alternate / TES Alternate Rep / Admin / Grant Research** - No report. The clerk presented the September 2008 revenues and expenditures for review. **Trustee Useman: Manitou School District 14** – No report. **Trustee Worthey: GIS – No report. Urban Forestry** - No report. The clerk reminded Board and audience members of the County sponsored slash/household waste event this Saturday, October 11, 2008 from 9:00 am. – 3:00 p.m. at the Ute Pass Elementary School. **Trustee Bratton: Bronc Day Liaison/Annual Trails** – Bratton announced that the Northslope Recreation area is closed for the season and signs have been posted. Bratton reported that he and the trails volunteers are continuing field research on extending the Thomas Trail across Crystal Creek eastward to the town boundaries as they join the land previously owned by H. B. Wallace in Chipita Park. **Trustee Newberry: Parks** – Newberry thanked Public Works for fabricating a bear proof trash container at the lake area.

OLD BUSINESS – Trustee Bratton had previously informed the Board that the Bronc Day Committee was interested in making an electrical improvement to the Gazebo park area. The group received an estimate of \$500.00 from Kurt Riggle of Electricians on Call to install four convenience outlets in a lockable box on an existing power pole behind the Land Company Building. Robert McArthur, Department of Public Works approves of the upgrade.

NEW BUSINESS - No new business was presented that required Board discussion or action.

CORRESPONDENCE - No correspondence was received that required Board discussion or action.

The meeting was adjourned at 9:38 p.m.

ATTEST: 
Chris Frandina, Municipal Clerk


Mayor Tyler S. C. Stevens

Ben Stephens
Proprietor



August 28, 2008

The Board of Trustees
Town of Green Mountain Falls
P.O. Box 524
Green Mountain Falls, CO 80819

RE: Planned Style of Operation of The Pantry's Backyard Dining Area

Dear Board Members:

The Board of Trustees meeting on August 19, 2008 served to air the thoughts and feelings of people on both sides of the sound issue. Generally speaking, we have positive feelings about the discussion and wish to thank the Board for renewing our liquor license.

It seemed obvious to us that there was some confusion over whether the town sound ordinance should even be considered in conjunction with renewing a liquor license. However, as we understood it from staff comments, the operating conditions of an establishment have to be considered when applying for or renewing a liquor license. Accordingly, the purpose of this letter is to present to the Board the proposed operating conditions for The Pantry's backyard dining area and request their approval. In general, weather permitting, we plan on opening the backyard from Memorial Weekend through Labor Day Weekend, which equates to the following:

Months of operation:	June, July and August	(25% of the year)
Days of operation:	Thursday, Friday and Sunday	(43% of the week)
Saturdays reserved for receptions, etc.:	Approximately 1% of the week	(varies according to bookings)
Hours of operation:	5:00 PM until 10:00 PM	(21% of the day)

Thursday, Friday and Sunday on the above schedule, the backyard will be open to the public as an outdoor, family oriented dining venue with mildly amplified background music. The music will be at a low enough sound level to allow normal table conversation within the establishment. We feature amplified acoustic musicians, not bands, and they will be fully informed of the sound issues with our neighbors. Music will stop at 9:00 PM and the last hour of operation will be to allow patrons to complete their dining experience. The backyard dining area will close at 10:00 PM. While we do not plan to open any other nights to the public, we feel that it is intrusive of any governmental agency to dictate what days or nights a restaurant may open for business. We have no objection to the hours of closing being music ceasing at 9:00 PM and the restaurant closing at 10:00 PM.

On Saturdays, we intend to rent the backyard area for private parties that would include such events as birthdays, family reunions and wedding receptions. Hours of closing and music time will remain the same as stated above. These functions provide some of our best business. They often include a disc jockey for music and the renter, not The Pantry, hires that person. All disc jockeys have a sound system with amplification. While this can make

6980 Lake Street P.O. Box 378 Green Mountain Falls, Colorado 80819
Phone: 719-684-9018 Email: thepantry@comcast.net FAX: 719-684-2080

control more difficult, we will explain to potential renters that there are sound restrictions and that the amplified music will have to be kept at an acceptable sound level. We wish to emphasize that any time the backyard dining area is open, either Nan, myself or an appointed manager will be on scene and will be available to talk with the marshal if there are complaints about sound.

We believe the previous paragraphs fairly present our intended style of operation in the backyard dining area for the remainder of the 2008 season (almost over) and the coming year and we seek approval from the Board for our proposed operation as a separate issue from our already approved liquor license.

Further discussion of the August 19th Board meeting and the sound issue is in order. It was obvious from the turnout at that meeting that sound is an important issue both for those who complain and those who wish to have music and singing as part of their dining experience. Sound is a very arbitrary thing; one person's loud and annoying maybe another person's reasonable and enjoyable. Green Mountain Falls exists in a kind of bowl, open at the east end, and sound tends to carry very easily in the mountain atmosphere. The issue will be very hard to arbitrate, but we stand ready to cooperate in trying to keep sound levels to an acceptable level.

We would like to suggest that perhaps the marshal's office get a little more involved with complaints in that they visit the property of a complaint to determine in their view if the sounds heard are in fact loud enough to warrant a complaint. This way they would begin to get a feel for what level of sound is annoying to complaining residents.

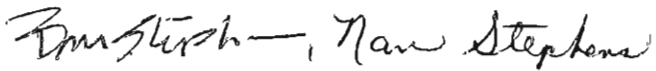
This brings up another point. There are many residents in earshot of the garden area who do not complain at all. Those who live directly in the commercial area will undoubtedly have to put up with some sounds from the open-air venue, but with music stopping at 9:00 PM and closing the restaurant at 10:00 PM, it seems reasonable for a few months of the year. On an hourly basis for a year with the proposed schedule, the backyard dining area is open less than 3% of the time. It hardly seems to us that we are "destroying the lives" of the few complainers.

We would also like to point out that our town was founded as and has always been a resort community, mainly enjoyed in the summer months. If you look back at our history and geography, the commercial activities, which used to span a much greater area of our valley (consider the hotels, the livery stables, the Midland Railway train path and depot and other retail establishments that used to offer the citizens of this valley their services), have practically been squeezed into the last remaining area, which is the block directly west of Gazebo Lake. This town has granted mixed use zoning in this last remaining area so that business owners could reside in their business properties. That does not make it a residential area. Most communities put a buffer zone between their commercial districts and residential properties. We feel it is unreasonable to expect to live in or adjacent to a commercial district and demand residential only conditions. A person who chooses to make their abode in such an area should be ready to co-exist with those businesses operating therein. Enclosed is a map marking the properties of the complainers at the August 19th meeting. Four households were represented with two of them being directly in the commercial district and bordering our restaurant and the other two being adjacent to and in close proximity to the commercial district as it exists today. A few years past, these properties would have been right in the heart of all the hustle and bustle of life in a growing resort community, with a train rumbling right past their doors, stables nearby and the community recreation area being under their noses. The vast majority of residents in our community have accepted us and are glad that we are here to offer them our services and contribute to the economic health of our town.

Finally, everybody...the Trustees, the staff, the marshals, the complainers, our clientele and certainly we

are tired of the annual hassle over the sound issue year after year. We also resent the issuance of our liquor license being held hostage to the sound issue. We are residents too. We are part of this community. We want to cooperate but we also feel that our musician's contributions are a necessary part of the backyard dining experience and pertinent to our economic viability in regard to our competition. Also, please consider that we have not once since the start in 2004 had a liquor license violation. Thank you for considering our comments.

Sincerely,

A handwritten signature in cursive script that reads "Ben Stephens, Nan Stephens". The signature is written in dark ink and is positioned below the word "Sincerely,".

Ben and Nan Stephens

cc: Green Mountain Falls Marshal's Office



10545 Ute Pass Avenue • P.O. Box 549
Green Mountain Falls, Colorado 80819

Phone & Fax: (719) 684-9415



To: Board of Trustees

October 7, 2008

Reference: Pantry Gardens

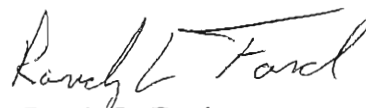
Dear Trustees,

In regard to the recent submittal of the operational changes for the above listed business establishment, it is desired by the Marshal's Office that the following points be emphasized as reminders and as guidelines to the business owner;

1. It is the owner's responsibility that compliance be monitored by him or a trusted staff member when ensuring that the reasonable restrictions are not violated. The Marshal's Office does not have the time or the manpower to continually visit the establishment to affirm compliance.
2. The number of complaints and the number of neighbors lodging complaints is sufficient to give due consideration to those citizens. The business does not have the right to infringe upon the rights of those citizens living in close proximity to the business.
3. The establishment is an outdoor, liquor serving business which in itself is unique in the Town and in the Ute Pass area. No where else in the area is there a combination of such as this without the issuance of a special event permit.

The business has demonstrated it's capability to live in harmony with its neighbors through the efforts of the proprietor. This should be given the proper consideration in deference.

With the continued dedication to his neighbor's right to privacy and quiet by the proprietor, the Marshal's Office concurs with the Trustee's decision to attach reasonable restrictions to their liquor license.


Randy L. Ford
Town Marshal