

**BOARD OF TRUSTEES  
TOWN OF GREEN MOUNTAIN FALLS  
MINUTES OF REGULAR MEETING - TUESDAY, APRIL 20, 2010**

**The meeting was called to order at 7:02 p.m. by Mayor Tyler S. C. Stevens.**

**ATTENDANCE:** Pitrone present Useman absent King present  
Bratton present Newberry present Worthey present  
(at 8:23 p.m.)

**ADDITIONS, DELETIONS OR CORRECTIONS TO AGENDA** – The Town Clerk requested an addition to the Agenda in order for the Board to review a Request for a Special Use Permit for Ute Pass Elementary for a fund raiser in the Gazebo Park area on Saturday, May 8, 2010. Mayor Stevens to recommend that this addition follow the two Special Event Permit requests on this agenda. **M/S Worthey/Bratton to approve the agenda with the addition requested. All yea.**

**CITIZENS INPUT - Items Not Listed on Agenda** Resident and Business owner, Ken Nord, read a six page letter to the Board and audience members. Nord addressed his noise complaints related to the Pantry Restaurant's pre-7:00 a.m. deliveries and their pre-7:00 a.m. set up for the new brunch operation. Nord feels that despite an agreement last year between him and Pantry owners to keep that noise down, the business is currently breaking that agreement. He is concerned with the interpretation of the Town's Noise Ordinance and especially with the Town Attorney's interpretation of what comprises normal business activity. Nord would like the Board members to review the ordinance and his letter and get their interpretation. He would also like a written formal opinion from the Town Attorney. Nan Stephens stated that these are allegations on Nord's part. Pantry Restaurant employees have been to court five times and the charge has been dismissed. Stephens feels the problem is zoning; the area is business and should not contain residential. Mayor Stevens thanked Nord for his input and will forward the letter to Dan Stuart.

**Resident Michael Lohman** was present at the meeting. Lohman entered in a wheel chair from the backdoor of the building with assistance. Lohman stated that he is an American citizen and disabled and feels his rights to free access are being denied by the Town. Lohman said when Dick Bratton (was signed by Mayor Stevens) signed Ordinance 01-2005, adopting the 2005 Edition of the Pikes Peak Regional Building Code, the Town also adopted by reference the 2003 IBC code. (Regional Building officials said that the 2003 IBC code has a section in Chapter 11 that references accessibility). He wants the Town to remove the dutch door at the front of the office. He wants the ramp at the back entrance to be ADA compliant. He stated he is denied access to a bathroom. He submitted a CD for the Town to download that addresses ADA compliance. He stated that should the Town not move towards compliance, the Town will be fined each day it is not in compliance and that noncompliance is a misdemeanor. Public Works Director, and facilities manager, Robert McArthur will contact the Town's general liability insurance provider, Colorado Intergovernmental Risk Sharing Agency (CIRSA) for compliance information. Lohman stated that there may be financial assistance from ADA. He understands ADA compliance for the Town Hall will be costly. Mayor Stevens thanked Lohman for the information.

**CONSENT AGENDA - APPROVE BOARD OF TRUSTEES MINUTES: 4/06/10  
- APPROVE BILLS DUE AND PAYABLE: \$14,474.69**

**M/S Bratton/King to approve the Consent Agenda as presented. All yea**

**REQUEST FOR SPECIAL EVENT PERMITS:**

**SATURDAY, MAY 8, 2010 - UTE PASS ELEMENTARY PONY FUN RUN** - Representative Christie Cuddihy was present. The first Pony Run Special Event request to the Town was made in May 2002 and the run has been proposed for this route since then. Cuddihy stated that there are no changes proposed for times, route, etc. The run requires traffic control from the Marshal's office from 8:30 a.m. to 11:30 a.m. Cuddihy stated that the run raises from \$3-\$4,000 and all the proceeds remain at the elementary school. **M/S Bratton/Worthey to approve the permit with a \$20 special event fee and waive the deposit fees. All yea**

**MONDAY, MAY 10, 2010 - UTE PASS ELEMENTARY FIELD DAY** Representative Dani Hains was present. This will be the second field day event at the pool park. In other years, the school was able to walk across to the Field of Dreams and use the facilities. The event involves Pre-K through 2nd grade students and takes about 2.5 hours. **M/S Worthey/Pitrone to approve the permit with a \$1.00 special event fee and waive the deposit fees. All yea**

**SATURDAY, MAY 8, 2010 - UTE PASS ELEMENTARY FUNDRAISER IN GAZEBO PARK** Representative Todd Reavis was present. This is an event that 3rd and 4th grade students will work from 11:00 a.m. to 1:00 p.m. to raise money to travel to Knoxville, Tennessee on 5/25 to attend the Global Finals of Destination Imagination. The students took first place title in the Colorado State tournament being the first in District 14 to earn this privilege. They will set up face painting, bake sale tables and a recreational bouncer. **M/S Bratton/Pitrone to approve the permit with a \$1.00 special event fee and waive the deposit fees. All yea**

During the special event permit discussion, Trustee Bratton addressed the need for the Town to start charging a fee for special events. This has not been done for over 20 years. Bratton addressed the Town's efforts to increase revenues especially since the economic downturns. Bratton fully supported District 14 and all school events but felt a small permit fee needs to be applied. He stated that the Board purposefully left the fee amount blank on the permit applications so that it can be negotiated depending upon the type of event. He reminded the Board members that for the first time, the Thin Air Car Show was assessed a \$100.00 fee. The Thin Air and Bronc Day events cost the Town approximately \$1,200 per event. Bratton attached \$20.00 to the Pony Run because the Marshal's Department is involved in the traffic control. Bratton donated \$20.00 to Cuddihy for the fee. The Board members stated that the school and the children are an integral part of the community. These events are for the community, by the community. Trustee Worthey stated that should the Board be challenged in the future, their reasoning could easily be explained and defended.

**PLANNING COMMISSION MINUTES OF 4/13/10 were accepted into the record by Mayor Stevens. M/S Bratton/Pitrone to appoint Chairman David Kosley and Vice Chairman Jamie Krall and reappoint Commissioners Dominique Turnbull and John Lowndes. All yea**

**APPOINTMENT TO FILL THE PLANNING COMMISSION VACANT SEAT FROM THE LETTERS OF INTENT** - Trustee Bratton requested that this appointment be done by secret ballot. Three letters of intent were received by the Board of Trustees: Patty Lowndes, Michael Lohman and Lori LoCascio. The votes were collected by the Town Clerk. Mayor Stevens stated that the five votes were unanimous to appoint Lori LoCascio to the Planning Commission for a two year term.

**RESOLUTION 2010-06: A RESOLUTION AMENDING THE TOWN OF GREEN MOUNTAIN FALLS, COLORADO FEE SCHEDULE FOR MODEL TRAFFIC CODE INFRACTIONS AND MUNICIPAL CODE VIOLATIONS** - At the 4/06/10 Board of Trustees meeting Marshal Randy Ford presented five proposed increases to the Town's fee schedule that addressed: speed limits, parking violations and failure to register dogs. The Marshal proposed that the set fee of \$55.00 for code and traffic violations not listed within the Town fee schedule be raised to \$75.00. The Board of Trustees increased the code violation fee schedule in January 2007. Ford stated that the existing fees are within line if not slightly lower than neighboring government agencies. The Board approved Ford's proposed changes.  
**M/S Bratton/Worthey to approve Resolution 2010-06 as submitted. All yea**

**REQUEST TO GRANT A REVOCABLE PERMIT FOR USE OF PUBLIC LAND - Scott Hunt, Business Owner of Pine Gables Stray Dog Saloon, 10530 Ute Pass Avenue; Architect, Robert Seever** were present. Hunt is requesting that the Board of Trustees grant a Revocable Permit for upon the surface use of public property and is proposing to use 600 square feet of public property at the east end of the building. Two trees will be removed from the public land. A concrete patio and stem wall will be poured. A 42" high pipe fencing will enclose the patio from public access except for inside the bar only. Initially, Hunt envisioned the patio to be a destination place for the smokers who currently congregate outside the bar entrance. He found that there were occasions when individuals going to smoke took their alcoholic beverages out with them. A patio with a permitted liquor license would alleviate non-compliance with State liquor codes. Hunt feels a patio would be aesthetically pleasing and enable people to enjoy food and drink with a view of the Gazebo Lake area and the mountains. The space allows for 40 occupants; he is proposing tables and chairs for 34. Hunt wants to make the Pine Gables Stray Dog Saloon an attraction rather than simply a neighborhood bar. He wants to increase revenue to the Town by bringing people to the Town. Hunt is applying for a Modification of the Liquor License Premise to the Board of Trustees in order to serve alcohol in the patio area. The current parking pattern on Lake Street will not be altered. The east side parking will be limited to compact car parking only. A 6' concrete sidewalk will be poured connecting from the sidewalk on Ute Pass Avenue to the sidewalk in front of Urban Electronics. Hunt after discussions with the Marshal's Department and input from the Planning Commission stated that the patio area will be closed to service at 9:00 p.m. Customers would be still be allowed to smoke and take drinks and food out with them but it would be self service. It was noted by Chairman Kosley during the 4/13 meeting that if the proposed overhead door windows were open, smokers could not smoke in the area of the opened windows; they would be in violation of State law. Hunt understood that and said staff will direct smokers to the far end of the patio when the windows were open.

Two concept presentations were made by Hunt and Seever; the 3/02 Board of Trustees meeting and the 3/09 Planning Commission meeting. A formal presentation with final drawings was made at the 4/13/10 Planning Commission meeting. Interior remodel was included in the 4/13/10 submittal. The increase in occupancy from 97 to 137 precipitates a full review by the El Paso County Health Department. The bathrooms will be gutted and remodeled to allow for handicap accessibility. The two stationery octagonal windows on the exterior wall will be removed and 6' glazed overhead door/windows will be installed that will remain open during service hours. The owner said that the open windows, while aesthetically pleasing for customers, would create more efficient service and a line of sight for staff to police the area. The existing bar will be removed and reconfigured. The band platform will be relocated to the east wall directing the sound into the interior of the room. Hunt will remove the existing

skylights and swamp cooler to allow for additional ceiling insulation to mitigate noise and Hunt will install air conditioning. Hunt said his proposed investment will be over \$25,000.

Revocable permit code is addressed in Section 18-61, Article III of the Green Mountain Falls Municipal Code. The code applies to the space below the surface, upon the surface, and above the surface of public property. The Town passed this code several years ago when the Lake Street and El Pueblo Building businesses' septic systems were failing. There was limited private property and most of that was in the flood zone. The businesses needed another location to install a system. The public land allocated within a Revocable Permit agreement was once called Squire's Park and is now often referred to as the flagpole park or Marshal's Park. The Planning Commission and the Board of Trustees is authorized to impose on the permittee at any time additional conditions or provisions relating to the revocable permit for the use of occupancy of public property. Fees are attached to the permits.

Hunt confirmed that he understands the revocable ordinance procedures and that a revocable permit can be rescinded by the Board of Trustees. Hunt realizes that the area he is proposing for a patio remains public land and that he would be financially responsible for restoring the area to pedestrian use should the permit be rescinded. He was aware that there will be annual fees attached to the revocable permit; that the Planning Commission and Board of Trustees are authorized to impose at any time additional conditions or provisions relating to the revocable permit; that the board may consider the requirement of a bond or cash deposit, and that public liability and property damage insurance policies were required.

Hunt stressed that he has a substantial financial investment to protect with this revocable permit and modification of premise. He said enforcement and success will come down to his management structure and skills. Hunt said he will work with the Marshal's department; the Planning Commission, Board of Trustees and residents to provide a use that will compliment the business, surrounding businesses and increase the revenue sources to the town. He wants to take Pine Gables Stray Dog in a new direction. Hunt will assure that his staff manages the patio area so as not to impede gazebo park events and gatherings or the peace of surrounding neighbors and businesses. Nan Stephens, The Pantry Restaurant said she appreciated the effort going into this proposal which would help rejuvenate the Town and bring in revenue. She feels it is in line with the Town's Comprehensive Plan guidelines.

Potential noise complaints were a concern as evidenced from discussions during the three prior presentations with Hunt and Seever, within the Marshal's memorandum and discussion at this meeting. Ken Nord, owner of Stones, Bones and Wood and Brian Jolly, owner of the Falls Motel stated that Hunt will find it difficult to control the noise from the patio area with an occupancy for 40. It was originally planned for 22 occupants. Nord stated that if customers were allowed to take food and drink to the patio area after 9:00 p.m. rather than just being allowed to smoke out there, noise will be a problem. Customers will naturally linger on the patio, mingling, talking and finishing their drink. His concerns were that noise travels under the best of intentions and there are residents as well as lodging businesses in close proximity. Pine Gables Stray Dog's liquor license permits the operation to stay open until 2:00 a.m. seven days a week; though any live music must end at midnight. Nan Stephens stated that the noise complaints are a zoning problem. The business area should be zoned business only without mixed uses.

It was noted throughout the discussion that in the past, noise complaints involving the Gables have been received. There have been noise complaints generated from another business with

an outdoor service area and a modification of liquor license premise. Background music is required to end by 9:00 p.m.; outside service area to close at 10:00 p.m. Hunt stated that his business establishment is not the same business it was in the past. He wants to be a good neighbor. He requested the opportunity to prove that he can make it work and benefit the Town. Hunt stated that the initial period will be experimental. The patio operation and hours can be modified if the Marshal and Board receive complaints.

Seever and Hunt were requested to rework the size of the 6' glazed overhead door windows and make them smaller. Trustee Pitrone stated between the door leading out to the patio, the two overhead garage door windows and the emergency backdoor, there was more than 60 square feet of open space for noise to emanate from. Reducing the size of the windows would be another step in noise mitigation. Discussion ensued regarding the potential for an increase in Marshal's department calls to service reports due to noise complaints investigation and subsequent follow up action. Pitrone confirmed as did other trustees that if the operation is not working for the good of the community, the revocable permit can be rescinded by the Board. Due to the time and the other agenda items still to be addressed, it was recommended that further discussion be tabled until the 5/4/10 meeting. The Trustees listed potential conditions and provisions to be written into a Revocable Permit Agreement by the Town Attorney should the permit be granted. The provisions and conditions included items discussed at this meeting, conditions from the Planning Commission minutes, from the Marshal's memorandum of input and from the Public Works Director's memorandum.

**M/S Bratton/Newberry to table until May 4, 2010. All yea**

**REQUEST FOR A MODIFICATION OF LIQUOR LICENSED PREMISE**

**Scott Hunt, Business Owner of Pine Gables Stray Dog Saloon, 10530 Ute Pass Avenue  
M/S Bratton/Newberry to table until the May 4, 2010 meeting. All yea**

**TOWN WEBSITE DISCUSSION - Mayor Stevens and Trustee Worthey** meeting with the El Paso County IT personnel has been scheduled for Thursday, April 22, 2010.

**REPORTS: The Marshal's** Department report was entered into the record by Mayor Stevens.

**Mayor Stevens: PPACG/PPRTA:** No report.

**Trustee Pitrone: Regional Building -** No report. **Public Works Department: DPW Director** Robert McArthur's report was entered into the record by Trustee Pitrone.

**Trustee King: PPACG Alternate / TES Alternate Rep / Admin / Pool-** No report.

**Trustee Useman: Manitou School District 14 -** No report.

**Trustee Worthey: GIS website -** No report.

**Urban Forestry:** No report.

**Trustee Bratton:** No report.

**Trustee Newberry: Parks -** No report.

**OLD BUSINESS -** No old business was presented.

**NEW BUSINESS -** No new business was presented.

**CORRESPONDENCE: Nan Stephens** asked if the Board had gotten a letter from Ben Stephens dated April 11. The Mayor affirmed that they had. Robert McArthur gave Stephens a copy of a memorandum dated 4/14/10 that he prepared for the Board that addressed Stephen's recommendations and concerns. Mayor Stevens acknowledged that pursuing funding for the Gazebo Lake Rehabilitation Project is a priority with the Board and staff as it is with Stephens.

**The Town Clerk** received notification from the Kirkpatrick Family Fund that a \$3,600 grant request was awarded to the Town as a sponsorship for the tennis court upgrade. The clerk submitted this grant request on March 2, 2010. The \$3,600 has been deposited with the Pikes Peak Community Fund. The Town will receive notification the second week of June if GOCO's grant request has been approved.

**No other** correspondence was received requiring Board discussion or action.

**The meeting was adjourned at 10:00 p.m.**

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Mayor Tyler S. C. Stevens

**ATTEST:** \_\_\_\_\_  
Chris Frandina, Municipal Clerk