

RECORD OF PROCEEDINGS

REGULAR MEETING
TOWN OF GRAND LAKE BOARD OF TRUSTEES
MONDAY, NOVEMBER 24, 2008 7:30 P.M.

CALL TO ORDER: The regular meeting of the Board of Trustees was called to order by Mayor Judy Burke at 7:35 p.m. at the Town Hall, 1026 Park Avenue.

PRESENT: Mayor Burke; Trustees Johnson, Lewis, Peterson and Weydert; Town Clerk Kolinske and Town Planner Wittman.

ABSENT: Trustees Lanzi and Rhone and Town Manager Hale.

APPROVAL OF MINUTES

October 27, 2008: Trustee Peterson moved to approve the minutes of the October 27, 2008 regular meeting as written, seconded by Trustee Lewis. All Trustees voted aye except Trustee Weydert, who abstained.

November 10, 2008: Trustee Lewis moved to approve the minutes of the November 10, 2008 regular meeting as written, seconded by Trustee Peterson. All Trustees voted aye except Trustee Johnson, who abstained.

ANNOUNCEMENTS:

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

Mayor Burke announced that the Olde Fashioned Craft Bazaar, sponsored by the Grand Arts Council, will be held November 28 & 29, from 10 – 5, at the Grand Lake Elementary School gym.

Mayor Burke announced that the Kauffman House will be hosting an "Open House", November 28 & 29 from 1 – 4 p.m.

Mayor Burke announce that the Grand County Independent Sports Club is hosting a "Holiday Gala", Saturday, November 29 at Caroline's Cuisine beginning at 6:00 p.m. to benefit the Youth of Grand County. Tickets are available at any Grand Mountain Bank location.

Mayor Burke announced that Town Hall will be closed Friday, November 28 in celebration of Thanksgiving.

Trustee Lewis announced that the 19th annual "Delicious Dishes", a benefit for the Mountain Family Center and needy families throughout the County, will be held on Tuesday, December 9 at the Daven Haven beginning at 5:00 p.m. Tickets are \$10.00.

On behalf of the Town Board and staff, Mayor Burke then wished everyone a Happy Thanksgiving.

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REPORTS: SALES TAX
CASH FLOW REPORT
FOR NOVEMBER 2008:

Mayor Burke asked Town Clerk Kolinske to present the sales tax cash flow report. Kolinske reported that the amount of revenue received in November for the month of September, 2008 is \$104,043. This amount is 4.16% below what was received through November, 2007.

REPORTS: 3RD QUARTER
SALES TAX COLLECTION
BY VENDOR:

Town Clerk Kolinske noted that the Town Treasurer provided a report consisting of Sales Tax Cash Flow for 2008 and a 3rd Quarter Sales Tax Collection by Vendor.

At 7:33 p.m. Trustee Johnson excused himself and left the room.

LIQUOR LICENSING AUTHORITY: CONSIDERATION OF A SPECIAL EVENTS LIQUOR PERMIT APPLICATION FROM THE GRAND ARTS COUNCIL FOR THE CONCERT IN THE PINES SERIES - 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 fee, permission for possession, certificate of good corporate standing, and floor diagram, from the Grand Arts Council for the Concert in the Pines Series. The request is to sell malt, vinous and spirituous liquor by the drink for consumption on the premises only. The requested dates are Saturday, January 17, 2009, Saturday, February 21, 2009 and Saturday, March 21, 2009 from 5:00 p.m. to 10:00 p.m. The proposed location is the Grand Lake Community House. The Arts Council qualifies for a Special Events Permit in that it is incorporated with the State of Colorado as a non-profit social group. 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 December 8th regular Board meeting, as either a Public Hearing or regular item of business. Kolinske noted that Jim Cervenka, representative of the Arts Council, was present.

Trustee Peterson moved to act on this request as a regular item of business at the December 8, 2006 Board meeting. Trustee Lewis seconded the motion, and all Trustees voted aye.

At 7:43 p.m. Trustee Johnson resumed his seat.

OLD BUSINESS:

CONSIDERATION OF RESOLUTION NO. 15-2008, A RESOLUTION APPROVING A CONDITIONAL USE PERMIT

FOR MORRIS KING TO CONSTRUCT AN INCLINED ELEVATOR AT 1604 GRAND AVENUE (A/K/A LOT 41, BLOCK 3, SUNNYSIDE ADDITION TO THE TOWN OF GRAND LAKE) –

Mayor Burke asked Town Planner Wittman to present this matter to the Board. Wittman explained that at the October 13, 2008, regular Board of Trustees meeting, the Board held a Public Hearing regarding a Conditional Use Permit request from Morris King to construct an inclined elevator ('Tram') at 1604 Grand Avenue (a/k/a Lot 41, Block 3, Sunnyside Addition to the Town of Grand Lake). At that time, the Board moved to approve the Conditional Use Request based on the hardship that the applicant's request was for a single lot with a greater than 94% grade. Trustees Lewis and Weydert did not vote in favor of the approval. At that time, the approval was based on the following conditions:

- 1.) A landscaping plan was submitted and approved by the Board; and
- 2.) That the carriage was made in accordance to the specifications of UBH103; and
- 3.) A maintenance agreement was drafted by Town staff and approved by the Town Board to be recorded as a deed restriction on the property and run with the land in perpetuity or until a time that the Conditional Use is removed; and
- 4.) The color of the track is approved by Town staff at the time of building permit review.

The proposed landscaping plan utilizes existing rock, aspen clumps, as well as five Lodgepole Pines that are labeled 'to be saved and protected'. The landscape plan is proposing three (3) 12'-14' Aspen trees, 3-4' six (6) Fat Albert Colorado Spruce and thirty (30) varying shrubs. When mature, the plants will be between 5' and 30' in height. If properly irrigated and maintained, Town staff does feel that this will be a sufficient plan to properly screen the Tram. The landscape plan does indicate an irrigation plan as well. If the Board is favorable, staff recommends that the Board move to authorize the Mayor to sign the Agreement and Covenants and then move to approve Resolution No. 15-2008, a Resolution Approving a Conditional Use Permit for Morris King to Construct an Inclined Elevator (a/k/a "Tram") at 1604 Grand Avenue (a/k/a Lot 41, Block 3, Sunnyside Addition to the Town of Grand Lake). She noted that Morris King was present.

Following brief discussion, Trustee Peterson moved to authorize the Mayor to sign the Agreement and Covenants and to adopt Resolution No. 15-2008, a Resolution Approving a Conditional Use Permit for Morris King to Construct an Inclined Elevator (a/k/a "Tram") at 1604 Grand Avenue (a/k/a Lot 41, Block 3, Sunnyside Addition to the Town of Grand Lake). Trustee Johnson seconded the motion and all Trustees voted aye.

NEW BUSINESS:

CONSIDERATION OF AN APPRAISAL OF PT. TRACT A, BLOCK 4, SHADOW PARK WEST, TO SATISFY THE 7% LAND DEDICATION FOR GRAND CAMP COMMERCIAL SUBDIVISION LOCATED AT THE CORNER OF MARY DRIVE AND HWY. 34 – Mayor Burke asked Town Planner Wittman to present this matter to the Board. Wittman explained that at the September 3, 2008, Planning Commission Meeting, the Commission did not seem agreeable to the appraised value of Grand Camp. The applicant's valuation of the 'as is' property is \$250,000. This is based on \$130,000 for the rounded 'concluded value of supporting site' and \$120,000 for the rounded 'concluded value of surplus site'. This would equate to approximately \$4.95 per square foot. The Commission directed the applicant to submit a full appraisal to the Town of Grand Lake staff. Staff would ensure that Commissioner Weydert, who requested to view a copy of the appraisal, received a copy. At that meeting, the Planning Commission expressed that they might like to see another appraisal conducted. As a reminder, this is at the cost of the Town of Grand Lake and based on an appraiser that is mutually agreed upon by the applicant and the Town. Town staff presents this matter to the Board for discussion to provide direction to the applicant. The study states land sales that have occurred in comparison to the sale of this property. The appraisal cites four case studies: two of which are located in the Grand Lake Area and two that are located on Hwy. 40 in Granby. Of these Commercial, Commercial Transitional and Tourist-zoned properties, the low and high sales prices were \$2.21 and \$18.67 per square foot. These prices reflect the two sales that were in the Grand Lake area; the average between the two was \$10.44. When all four properties were compared, the mean price per square foot was \$8.83 and the median was \$7.22 per square foot (\$7.22 was the average rate between the two properties located in Granby). This indicates that the rate of sales in the Grand Lake area was, on average, \$3.22 higher than in the Granby area. The Planning Commission discussed the proposal with the applicant to provide the applicant with direction and to assess whether another appraisal should be conducted. Interest to save the Town money (as a new appraisal would be at the cost of the Town) and time for the applicant, the Commission negotiated an accepted appraised value of \$325,000; this equates to \$6.40 per square foot. This dollar figure is approximately 83% of what would be the average between the initial price of \$4.95 per square foot and the Grand Lake average of \$10.44 per square foot. Commissioner Schneller moved to make a favorable recommendation to the Board of Trustees to approve the new value of the raw land to be \$325,000. Commissioner Canon seconded the motion and all Commissioners voted aye. There are three basic directions that the Board can go from here. First, the Board could accept the appraisal. Secondly, the Board could uphold the recommendation of the Planning Commission and move to approve the value of the raw property at

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\$325,000. Finally, the Board could move to have another appraisal conducted. If this is the direction of the Board, the Board should include in its motion to direct staff to find a mutually-agreed upon appraiser to bring back to the Board for review. She noted that the applicant, Morris King, was present.

Morris King was recognized from the audience and said that he feels the appraisal of \$250,000 was a correct amount. He said that when he purchased the property it had no water, sewer, and no other utilities. He has to run them all in and the property is a hard site to build on. He said that he agreed with the Planning Commission to come to a middle ground.

Following brief discussion regarding the cost of a new appraisal, Trustee Lewis moved to approve the value of Pt. Tract A, Block 4, Shadow Park West, at \$325,000 to satisfy the 7% land dedication for Grand Camp Commercial Subdivision located at the corner of Mary Drive and Hwy. 34. Trustee Peterson seconded the motion and all Trustees voted aye.

NEW BUSINESS:

CONSIDERATION OF ORDINANCE NO. 18-2008, AN ORDINANCE ADOPTING THE OFFICIAL TOWN OF GRAND LAKE ZONING MAP - Mayor Burke asked Town Planner Wittman to present this matter to the Board. Wittman referred to an updated Town of Grand Lake Zoning Map. The changes on the map reflect zoning changes that have occurred since she came on board. She noted that the north arrow will need to be amended (the adobe reader program did not recognize the north arrow character the Town has on its map) as well as the Ordinance Number on the map. Wittman referred to Parcel Identification Map #1 and said that it was 484 Pitkin Avenue. This property recently went through a land use review process with the Town of Grand Lake. This property is owned by Mr. Jim Williams and has been recorded as 'Williams Lake Cabin Planned Development'. The underlying zoning of the property is commercial but it will be displayed as 'Planned Development' on the updated zoning map. Parcel Identification Map #2 shows two parcels that were the only parcels that the Town of Grand Lake elected to rezone in the 2008 rezoning process. The larger parcel, owned by Ms. Carolyn Alcorn, was approved to be rezoned from 'Open' to 'Residential Estate'. The second parcel, owned by Trinity Church of the Pines, was approved to be rezoned from 'Open' to 'Public'. Parcel Identification Map #3 was an error on the part of the Town when the current official zoning map was adopted, or when the Town went from a paper with colored pencils style zoning map to an electronic zoning map. This property is Lake Kove. It is currently one (1) structure made up of multi-family dwellings. The Town's current zoning map indicates that it is in the Single Family Residential – High Density District when it should be zoned 'Multiple Family Residential – Medium Density'. The Board does not need to hold a hearing regarding

this matter since, with the exception of the error and oversight of Lake Kove (and its original zoning district was Multiple Family), all the parcel zone changes were heard in a Public Hearing. Staff recommends that the Board review the proposed zoning map and Ordinance No. 18-2008. If the Board is favorable, staff recommends that the Board move to approve Ordinance No. 18-2008 with the recommended change that the north arrow on the attached Town of Grand Lake Zoning Map be amended as well as the change of Ordinance No. 17-2008 to No. 18-2008.

Trustee Johnson moved to adopt Ordinance No. 18-2008 with the recommended change that the north arrow on the attached Town of Grand Lake Zoning Map be amended as well as the change of Ordinance No. 17-2008 to No. 18-2008. Trustee Weydert seconded the motion and all Trustees voted aye.

Trustee Weydert announced that he would abstain from discussion and from voting on the next agenda item since he is an adjacent property owner.

NEW BUSINESS:

CONSIDERATION OF ORDINANCE NO. 19-2008 AN ORDINANCE APPROVING THE 1ST AMENDMENT TO THE FINAL PLAT OF THE DAVEN HAVEN COTTAGES PLANNED DEVELOPMENT AS DESCRIBED IN GRAND COUNTY REC. NO. 2002-007245 IN THE TOWN OF GRAND LAKE - Mayor Burke asked Town Planner Wittman to present this matter to the Board. Wittman explained that on September 23, 2008, Town staff received an Amended Final Plat request from Greg and Carey Barnes for the Daven Haven Cottages Planned Development. On July 10, 2000, the subject property was recorded as a part of the Marina Drive Minor Subdivision. This subdivision created four parcels. In 2001, the Town approved the Final Plat of the Daven Haven Cottages Planned Development. This Planned Development (PD) included two parcels of the land that was previously subdivided, Parcel 3 and Parcel 4, which was recorded on July 16, 2002. The 2002 PD identified 18 sites with five (5) of the site to be future building sites for townhomes. In 2005 the Planning Commission approved Resolution No. 2-2005. This proposal rearranged the parcel lines for Parcel 3 and 4 as well as created Parcel 5. In 2006 the Town of Grand Lake approved an ordinance approving an amended Daven Haven Cottages. This approval was contingent on the Town receiving a mylar of the approved plat for recording with Grand County. The mylar was never received and the plat has not been recorded. According to Municipal Code Section 12-2-25f3-B8D, *Amendments to the Final Development Plan*, "No change authorized by this subsection may cause: A change in the use or character of the development; An increase in overall coverage of structures; An increase in the intensity and density of use; An increase in the problems of traffic circulation and public utilities; A reduction in approved open space; A reduction of off-

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street parking and loading space; A reduction in required pavement widths. All other changes in use, or rearrangements of lots, blocks, and building tracts, or any changes in the provision of common open spaces must be approved by the Board of Trustees after report of the responsible administrative staff and recommendation by the Planning Commission. Such amendments may be made only if they are shown to be required by changes in conditions that have occurred since the Final Development Plan was approved or by changes in community policy. Any changes which are approved in the Final Development Plan must be recorded as amendments in accordance with the procedure established for the recording of the initial Final Development Plan documents with the exception that prior to making its recommendation to the Board of Trustees, the Planning Commission shall hold at least one (1) Public Hearing with the applicant being responsible for publishing notice of said hearing in the official publication of the Town of Grand Lake at least fifteen (15) days in advance of the hearing." The Town's Municipal Code Section for Amendments to a Final Development Plan are vague. In this section, there are no requirements for submission. The Amended Final Plat of the Daven Haven Cottages depicts the removal of those areas which were labeled as 'Future Townhome Site' on the recorded Final Plat. According to Section 12-2-25f-3B-8D, "minor changes in the location of buildings, citing, and height of the buildings and structures may be authorized by the Planning Commission without additional Public Hearings if required by engineering of other circumstances not foreseen at the time the Final Development Plan was approved." This project would not change in the use or character of the development, increase coverage, intensity, or density, in the problems of traffic circulation, parking and loading spaces, or public utilities, and would include an increase in common open space. However, if it is the desire of the applicant to include any of the changes that were proposed and approved by the Town of Grand Lake with the 1st Daven Haven amendment, then this would be considered a change in the lots, blocks and building tracks. Since this application is necessitated by "other circumstances not foreseen at the time the Final Development Plan was approved", staff recommended that the Planning Commission not hold a public hearing regarding this matter unless the applicants would like to incorporate any of the changes that were previously approved by the Town. The applicant has stated that they would not like to incorporate changes that were a part of the previously recorded plat. The Planning Commission heard this item at their regular meeting on November 5, 2008. The Commission agreed that there would be no adverse effects as a result of the approval of this amendment. Town Public Works Director McGinn made the recommendation to the Planning Commission that he would like to see some of this area labeled and used as snow storage, as snow storage that is indicated on the recorded Final Plat is inaccessible in some areas. He proposes that the 3205.49 s.f. of snow storage located behind units #35 on the Final Plat be moved to the areas where Future

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Townhome Sites #1 and #2 or Sites #4 and #5 have been located. The Commission discussed this matter with the applicant and both parties agreed that this could be achieved. Although Municipal Code does indicate that the amendments may be “authorized by the Planning Commission”, the Planning Commission did make recommendation to the Town Board regarding this matter. The Commission made a favorable recommendation to the Board of Trustees to rescind Town of Grand Lake Ordinance No. 1-2006 and approve the Amendment to the Final Plat of Daven Haven Cottages on the basis that it should be amended due to unforeseen circumstances, that the overall common open space will be enlarged, and that the density in this neighborhood would be reduced with the following conditions:

1. The title of the plat is changed to read: *1st Amendment to the Final Plat of Daven Haven Cottages as Described in Grand County Rec. No. 2002-007245; and*
2. The applicant must provide to the Town evidence that the tax lien has been satisfied by the applicant; and,
3. A current title commitment is received and reviewed to indicate any additional signature blocks that may be needed and that the amended final plat be altered to reflect any necessary changes; and,
4. 3205.49 s.f. of Snow Storage be depicted on the areas where the Future Townhome Sites #1 and #2 or #3 and #4 are located on the recorded Final Plat.

At the time of this memo development, the applicant had submitted evidence that the tax lien had been satisfied. The applicant also submitted a current title commitment and it has been reviewed for any changes that may need to be made. Staff has conveyed the necessary changes to the applicant's architect but at the time of memo development, staff had not received an updated plat nor a mylar for recording. Wittman concluded by saying that the Board should discuss this matter with the applicant. Once the Board is satisfied, staff recommends that the Board move to uphold the recommendation of the Planning Commission by rescinding Town of Grand Lake Ordinance No. 1-2006 and moving to approving Ordinance No. 19-2008, an Ordinance Approving the 1st Amendment to the Final Plat of Daven Haven Cottages Planned Development in the Town of Grand Lake as Described in Grand County Rec. No. 2002-007245 with the following conditions:

1. The title of the plat is changed to read: *1st Amendment to the Final Plat of Daven Haven Cottages as Described in Grand County Rec. No. 2002-007245; and*

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2. 3205.49 s.f. of Snow Storage be depicted on the areas where the Future Townhome Sites #4 and #5 are located on the recorded Final Plat; and
3. A mylar, signed by the property owner and Northern Trust Bank of Florida is submitted to Town staff for recording; and
4. The Townhome Declarations for Daven Haven Cottages Planned Development be amended and submitted to Town staff and Town Attorney for review prior to recording.

Town Planner Wittman noted that that Carey Barnes was present.

Following brief discussion, Trustee Peterson moved to adopt Ordinance No. 19-2008, an Ordinance Approving the 1st Amendment to the Final Plat of Daven Haven Cottages Planned Development in the Town of Grand Lake as Described in Grand County Rec. No. 2002-007245 with the above mentioned four conditions. Trustee Johnson seconded the motion and all Trustees voted aye.

NEW BUSINESS:

CONSIDERATION TO AUTHORIZE THE TOWN MANAGER TO SUBMIT AN ENERGY AND MINERAL ASSISTANCE GRANT APPLICATION FOR THE STORMWATER FILTRATION PROJECT – Mayor Burke asked Town Planner Wittman to present this matter to the Board. Wittman explained that the Board will need to take official action for the Town Manager to submit the Energy and Mineral Assistance Grant Application. All of the numbers are preliminary, and quite frankly, Hale believes a little inflated (better to ask for more than you need than less), but currently look as follows: Total project: \$258,040; Grant request: \$155,370; Town match: \$102,670; GCWIN In-Kind: \$910. This works out to be a 60/40 request, which seems appropriate given the Town's distant relationship to energy and mineral impacts (employees employed by the mine, water quality issues from exploratory drilling, etc.), as well as the fact that the Town's general fund reserves are good, and the Town doesn't want to look greedy. The Town's liability will be around what we've spent on beetle kill tree removal each year \$100,000 +/-, so this project is still very doable. If the Board is comfortable in proceeding, the staff recommendation is for the Board to authorize the Town Manager to submit an Energy and Mineral Assistance Grant Application for the Stormwater Filtration Project.

Trustee Peterson moved to authorize the Town Manager to submit an Energy and Mineral Assistance Grant Application for the Stormwater Filtration Project. Trustee Lewis seconded the motion and all Trustees voted aye.

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Mayor Burke announced that **CONSIDERATION OF RESOLUTION NO. 18-2008, A RESOLUTION GRANTING A LICENSE FOR THE ENCROACHMENT INTO THE PUBLIC ALLEY RIGHT-OF-WAY OF CERTAIN IMPROVEMENTS LOCATED ADJACENT TO LOTS 10 - 12, BLOCK 9, TOWN OF GRAND LAKE** was added to the agenda and asked Town Planner Wittman to present this matter to the Board. Wittman explained that, as discussed at the afternoon workshop, the Grand Arts Council will need to obtain an Encroachment License for the construction of two temporary ADA compliant entrance pads to the Community Cultural Center located on Lots 10 - 12, Block 9, Town of Grand Lake. This Encroachment License would be in effect until the Town opted to revoke the license or until a time that permanently constructed pads were made. Staff recommends that the Board review the resolution and if satisfied, staff recommends the Board of Trustees move to approve Resolution No. 18-2008.

Trustee Weydert moved to adopt Resolution No. 18-2008, a Resolution Granting a License for the Encroachment into the Public Alley Right-of-Way of Certain Improvements Located Adjacent to Lots 10 - 12, Block 9, Town of Grand Lake with the inclusion of an Indemnification Agreement and a drawing. Trustee Peterson seconded the motion and all Trustees voted aye.

Mayor Burke announced that **CONSIDERATION OF RESOLUTION NO. 19-2008, A RESOLUTION GRANTING THE BOARD OF TRUSTEES TO GRANT A TEMPORARY ZONING RELEASE TO THE GRAND ARTS COUNCIL FOR THE TEMPORARY OPENING AND OCCUPANCY OF THE COMMUNITY CULTURAL CENTER LOCATED AT LOTS 10 - 12, BLOCK 9, TOWN OF GRAND LAKE** was added to the agenda and asked Town Planner Wittman to present this matter to the Board. Wittman explained that, as discussed at the afternoon workshop, the Grand Arts Council is seeking a temporary zoning release from the Town of Grand Lake for the opening of the Community Cultural Center. Although the Board was not agreeable to offering a temporary zoning release based on an agreed upon timeline for the necessary exterior improvements, the Board was amenable to allowing the Grand Arts Council use of the facility for the holiday season. The Board was favorable to allowing the opening of the Community Cultural Center from December 10, 2008 through January 12, 2009. This temporary release would be to allow for the Grand Arts Council to develop a more detailed, deadline specific, timeline to be developed while utilizing the facility through the holiday season when there are more visitors in the Grand Lake Area. It is expected that the Grand Arts Council will have a more detailed timeline to be placed on the agenda for the January 12, 2009 Board of Trustee's Meeting. Staff

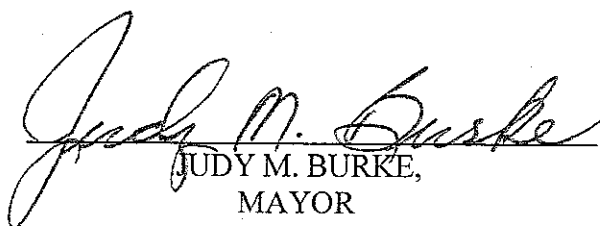
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recommends that the Board of Trustees move to approve Resolution No. 19-2008.

Trustee Peterson moved to adopt Resolution No. 19-2008, a Resolution Granting the Board of Trustees to Grant a Temporary Zoning Release to the Grand Arts Council for the Temporary Opening and Occupancy of the Community Cultural Center Located at Lots 10 – 12, Block 9, Town of Grand Lake with the amendment of Section 3 stating that if the timeline is not approved, the building will close on January 13, 2009. Trustee Lewis seconded the motion and all Trustees vote aye.

CITIZEN PARTICIPATION: None.

ADJOURNMENT: Trustee Peterson moved to adjourn, seconded by Trustee Lewis. All Trustees voted aye, and the meeting was adjourned at 8:30 p.m., November 24, 2008.


JUDY M. BURKE,
MAYOR

ATTEST:


RONDA KOLINSKE, CMC,
TOWN CLERK