

Town of Grant-Valkaria
Town Council Minutes
Wednesday, February 28, 2007 at 7:00 P.M.
Grant Community Center

- A. **CALL TO ORDER 7:03 P.M.**
- B. **PLEDGE OF ALLEGIANCE**
- C. **ROLL CALL (BY INTERIM COUNCIL CLERK)**

Del Yonts - present
Joe Hackford – present
Danielle Morgan - present
Pat Bryan – present
Cathy DeMott – (absent, excused)
Dan Faden - present
Jason Mahaney – present

Note: (Rich Riehl, attorney, attending council meeting for Karl Bohne)

- D. **ADDITIONS AND DELETIONS TO AGENDA**

(none)

- E. **CFO REPORT**

(Report provided by Yonts for DeMott) –

Prior balance	\$66,201.87
Monies Received & Deposited	\$25,325.05
Total checks issued	\$0.00
Ending Balance	\$91,526.92
Pending Accounts Payable	\$0.00

Yonts also reported that a check for about \$18,672 was deposited but not included in the above balance. Discussion as to whether that could be the first deposit from the ½ cent sales tax (Faden to check on that).

- F. **APPROVAL OF MINUTES**

Approval of the 02/21/07 Town Council minutes

Motion by Faden to approve the 02/21/07 Town Council minutes as written; Seconded by Hackford.

Voice vote on the motion carried unanimously.

- G. **PUBLIC COMMENT (NON-AGENDA ITEMS ONLY)**

Bonnie Allan provided an FYI to the council that the minutes posted on the town web site from the 1/3/07 council meeting would not open.

- H. **(PREVIOUSLY) TABLED ITEMS**

(This item will be captioned “Old Business” in the future, to avoid the interpretation that the following items are tabled for this meeting)

(Yonts) - QUATRARO ENTERPRISES, INC, Request a change in zoning from BU-1 and BU-2 to BU-1 and BU-2 with a Conditional Use Permit (CUP) for alcoholic beverages for on premises consumption (beer and wine only) in a bar with less than 50 seats on property located on the West side of US 1, approx. 0.27 mile N of Sand Point Road

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(procedural advise provided by council: consideration of tabled issues require a motion to remove from the table)

Motion by Bryan to remove from the table this previously tabled issue;

Seconded by Morgan.

Voice vote on the motion to remove the issue from the table carried unanimously.

Discussion:

Discussion included several general concerns related to having another bar in the town, and a number of specific concerns about what must be done to legally put a bar at that location.

General concerns included the number of bars already in that vicinity, as well as the intended type of bar this would be. Several members of council expressed the opinion that they did not want to see a “bar strip” established in Grant-Valkaria, and letters from several Grant-Valkaria residents read at the meeting expressing the same concern. Concerns about the type of market the bar is to serve were expressed, and what type of clientele was the bar focused on. Mr. Mario Nicolo indicated that the intended clientele local people, some of whom are retired people who’s spouses gamble at the nearby Winnerz and would like a place to enjoy nearby. He indicated that he could bring in live music consisting of a couple musicians, but that the music style would be oriented toward what he expected for retired clientele. He also indicated that rumors that the bar was going to be an adult entertainment establishment (more colorful terminology paraphrased) were entirely false.

Specific concerns discussed included the following:

- a) Parking – Is there enough parking to support Mr. Nicolo’s business enterprises at this location? Some of the 39 parking spaces required by the county are currently near the county construction area and are obstructed by the activity of putting in underground county drainage. It appears that the number of parking spaces will be able to meet requirements. The number of handicapped spaces will also need to meet requirements.
- b) Noise & Live Music - There is a history of complaints about noise in the area generated by nearby businesses which serve alcohol. There is concern about allowing another business into the area which could add to the problem. As stated above, Mr. Nicolo’s intended clientele are retired and he has stated that live music would be limited to one or two musicians. (See CUP conditions cited below)
- c) Number of simultaneous patrons - Mr. Nicolo provided the council with the planned layout of the interior of the bar. Given the current size of the indoor serving area, there is concern about the number of patrons which the bar is intended to serve. Limitations will be placed on Mr. Nicolo by the fire department, as well as the conditions of his current liquor license (less than 50), and any limitations imposed by the CUP. (See CUP conditions cited below)
- d) Code compliance, use of various parts of the building, & modifications to the building - Any of the facility which is used by Mr. Nicolo to conduct business will need to be brought up to code. At least one letter to the council has noted what appears to be ongoing construction activity, for which the letter writer was unable to confirm as being permitted by the county. Mr. Nicolo was reminded at the meeting

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that construction activity must be accompanied by appropriate permits. During the course of the discussion, Mahaney noted that his observations of the facility conditions indicated that various parts of the facility (including the deck and open walkway) were not up to code and could not be used to support the conduct of business until they were brought up to code. It was also noted by the council that floor space utilization diagrams, indicated patron seating on a non-enclosed porch. The porch would need to be fully enclosed, habitable space, in order to be considered an indoor space acceptable for the consumption of alcoholic beverages.

- e) Name associated with the CUP - The council and members of the town have variously seen the terms "Quatraro Enterprises, Inc." "Mario Nicolo" and "Billy Boys Inc." indicated as the name associated with the CUP and the business to be established. This leaves the council with questions about who to question about the conditions under which the CUP is being requested, and nature of the business to be conducted. (See CUP conditions cited below)

Pat Bryan (council member) performs as a live musician, and asked the opinion of the legal council as to whether he should recuse himself from participating in a decision on the CUP. During the course of discussions, Mr. Nicolo indicated that could on occasion consider having 1 or 2 live musicians in the establishment, and that the type of music which he anticipated was oriented toward retired clientele, and would not be the loud heavy beat-type. Pat indicated that since the music style did not match what he does, he could affirm that he would not consider employment at the establishment, and would not need to recuse himself.

Mr. Nicolo indicated that an alcohol-serving establishment had been there 10 years ago, and that 81 flyers had been sent out and that only 4 complained about the CUP, and the others must not mind. Dell responded, indicating that no response from residents was not and indication of support, it was an indication that they did not respond, either positively or negatively.

Ed Pfeiffer indicated that they did not intend to have bands, that they intended to cater to an older clientele, with solo guitar, two at the most. These would not be outside, they did not want to annoy the neighbors, and did not intend to do business like RJs. Their clientele would be mostly from Barefoot Bay, and noise would not satisfy their customers.

Four letters were read at the 2/28 council meeting. Two commended Mr. Nicolo's generosity in contributing to charitable causes, one from Sandy LoBello, Barefoot Bay Recreational District; one from Barbara Lupton of Devereux in Viera. Two were from Grant-Valkaria residents expressing objection to granting the CUP. One of the letters of objection was from Jim Emery stating concerns about public safety resulting from alcohol consumption at that location, noise (based on experience with similar establishments in the area for which the CUPs are not adequately enforced), proximity to a gambling establishment in a different building on the same property, and inconsistencies he has observed in a description of the type of business which will be conducted there. The other of these letters was from Linda Landrum, expressing concern about the kind of businesses we want to attract to our town, the kind of town we expect to become, noting the similarity to the negative evolution that occurred in south Florida when she was growing up, and

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encouraging the council to enact ordinances which would protect the town from more bars or adult entertainment arcades in the future. She expressed concern about the appropriateness of the facility for its stated intended purpose, in terms of floor space, and parking capacity. Also of concern was the appearance of current construction at the site, the inability to locate any information about current building permits from the county, and the information disparities making it hard for anyone to determine who is requesting/getting the CUP, and who should be considered the source of information to declare what the character of the business will be.

Yonts made it a point to state that letters which did not deal with the particulars of the CUP, such as attestations of generosity were not material in the facts of whether or not to grant a CUP.

Morgan stated that this request for a CUP is a separate issue from noise controversy revolving around other business in the area.

According to Mr. Riehl, attending legal council, the town can set conditions on the CUP as to change of operator, owner, or landlord. These conditions would have to be imposed on the CUP in the form of a resolution.

The timeframe for resolving this issue was discussed. During this meeting, the CUP can be either approved or denied. If conditions are applied to the CUP, then they must be documented and effected as a resolution which would be approved at a subsequent council meeting.

As defined in the charter, any increase in either density or intensity can only be approved by an affirmative vote of 6 out of the 7 council members. At tonight's meeting, one member is absent, which would mean that if the vote were to be held, that approval of the CUP would require a unanimous vote.

During the meeting, the following list of CUP conditions was discussed. During the course of the discussion, Mr. Nicolo was questioned, and these conditions appeared to be consistent with his stated business objective in addition to addressing concerns of both the council and the community. These conditions must be written as a resolution which will form the conditions upon which a CUP will be based.

1. Cup is for the western bldg. only (need to add legal description) and is nontransferable to any other site.
2. CUP only runs in favor of the property owner (Quatraro Enterprises), the lessee (Billy Boys Inc., Mr. Nicolo's official company name), and applicant for the liquor license, Mario Nicolo. [the CUP could be conditioned on changes of any of these]
3. No adult entertainment as defined by county code except that the current adult arcade being conducted in the eastern bldg. shall be permitted to continue so long as such an establishment is valid under Florida law.
4. Hours of sale and or service of Alcohol shall be 10 am-10pm Sun-Thurs and 10am-11pm Fri and Sat.
5. Limit # of patrons to 49

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6. No noise shall be audible on any property zoned for residential use at the time the CUP is issued.
(we also need to define noise better, we thought about continuous audible sound, but we also need to cover too much base vibrating things)
7. No outside music or P.A. system
8. Must obtain a state license for beer and wine consumption on premises
9. No sale, service or consumption of alcohol out side of building. (we need to work on this wording) Southern portion of wrap around porch is currently outside. If applicant or owner wishes to close in this southern wrap around porch, he may, and the CUP applies to this portion as well. Any other building modification that would increase the size of the inside or service area, would require a new CUP.
10. Any violation of any condition may result in a revocation of the CUP after notice and hearing before the Council

This list of CUP conditions is preliminary, will be submitted to town legal counsel for review, and may be subject to additional change by the council.

This item will be scheduled to be addressed at the council meeting on 3/14/07 when the town legal counsel can be present. The CUP will be scheduled to be addressed at 7:00 P.M. prior to the Fire Department presentation at 7:30.

**Motion by Bryan to table CUP application until the 3/14 Town Council meeting,
Seconded by Hackford.**

Voice vote on the motion carried unanimously.

Motion by Morgan to table CUP conditions resolution until the 3/14 Town Council meeting,

Seconded by Mahaney

Voice vote on the motion carried unanimously.

I. NEW BUSINESS

1. (Yonts) - Second Reading **Ordinance 2007-02: AN ORDINANCE OF THE TOWN OF GRANT-VALKARIA, BREVARD COUNTY, FLORIDA, PROVIDING FOR INCLUSION OF THE TOWN OF GRANT-VALKARIA IN THE BREVARD COUNTY LAW ENFORCEMENT MUNICIPAL SERVICES TAXING UNIT**

In the absence of objection, the ordinance was read by-title.

Motion by Mahaney to accept 2007-02 as-read,

Seconded by Morgan

ROLL CALL VOTE:

Yonts	aye
Hackford	aye
Morgan	aye
Bryan	aye
DeMott	(absent – excused)
Faden	aye

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Mahaney aye
Voice vote on the motion carried unanimously.

Ordinance 2007-02 was hereby adopted.

2. (Yonts) - Second Reading Ordinance 2007-04: AN ORDINANCE OF THE TOWN OF GRANT-VALKARIA, BREVARD COUNTY, FLORIDA RELATING TO PLANNING AND ZONING; CREATING A PLANNING AND ZONING BOARD;

In the absence of objection, the ordinance was read by-title.

Discussion:

The residency requirement to serve on the board, as provided in the current ordinance, was discussed. Since the board advises the council and does not make decisions, a residency requirement is less of a factor in qualifying for the board. It was concluded, however, that planning and zoning decisions are founded on familiarity with the local area, and that familiarity is related to having lived in the area for some reasonable period of time. The council concurred that a 6 month residency requirement should be applicable.

Yonts proposed modification of the ordinance to change the meeting dates specified in the current copy from the “2nd Wednesday” of the month to “once a month”. The council concurred that this was an appropriate change.

Motion by Bryan to accept 2007-04 with the agreed to changes for meeting time and residency requirement, Seconded by Faden

ROLL CALL VOTE:

Yonts	aye
Hackford	aye
Morgan	aye
Bryan	aye
DeMott	(absent – excused)
Faden	aye
Mahaney	aye

Voice vote on the motion carried unanimously.

Ordinance 2007-04 was hereby adopted.

3. (Yonts) - Second Reading Ordinance 2007-03: AN ORDINANCE OF THE TOWN OF GRANT-VALKARIA, BREVARD COUNTY, FLORIDA; CREATING A LOCAL PLANNING AGENCY

In the absence of objection, the ordinance was read by-title.

**Motion by Morgan to accept 2007-03 as-read,
Seconded by Hackford**

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ROLL CALL VOTE:

Yonts	aye
Hackford	aye
Morgan	aye
Bryan	aye
DeMott	(absent – excused)
Faden	aye
Mahaney	aye

Voice vote on the motion carried unanimously.

Ordinance 2007-03 was hereby adopted.

4. (Yonts) - First Reading Ordinance 2007-05: AN ORDINANCE OF THE TOWN OF GRANT-VALKARIA, BREVARD COUNTY, FLORIDA ESTABLISHING A ZONING MORATORIUM

In the absence of objection, the ordinance was read by-title.

Discussion:

The moratorium is directed toward zoning changes which impact density or intensity..

**Motion by Bryan to approve the first reading of ordinance 2007-05 as-read,
Seconded by Morgan**

Voice vote on the motion carried unanimously.

J. UNFINISHED BUSINESS

Motion by Hackford to to move item 8 forward in the agenda to here

Seconded by Seconded by Mahaney

Voice vote on the motion carried unanimously.

(See minutes under 8 below)

1. (Yonts) Interim Town Clerk volunteer for 03/05/07 special meeting
Interim Town Clerk volunteer for 03/12/07 meeting

Jo Faden volunteered to act as Interim Town Clerk for the 3/5/07 special meeting.

Karlene Folts volunteered to act as Interim Town Clerk for the 3/12/07 Town Council meeting.

2. (Yonts) - Status of meeting with Brevard County Fire Department

The Brevard County Fire Department will do a presentation at the 3/14/07 Town Council meeting.

3. (Wolfe) - Comprehensive Emergency Management Plan and Hurricane Preparedness Workshop/EOC Presentation information follow up.

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George Wolfe reported that he received a call from the State and they were expediting the insurance papers. A question, which was later withdrawn, dealt with how administration funds are shown on the budget. The State has received the grant requests and are moving forward.

Terri Wolfe reported that per the question posed by the Council last week, she checked into how many municipalities have established their own Comprehensive Plan for Emergency Management or have continued to use the County plan. She said only three municipalities – Palm Bay, Titusville, and Cocoa – have their own plan. She also stated that the County plan put all under the sheriff and makes no mention of CERTS (she has mentioned this to Bob Lay). She said Bob Lay is willing to come for the Hurricane Preparedness presentation which he estimated to run about an hour plus time for questions and answers. It is preferred to have this presentation on a separate night from a regular Town Council meeting. Terri is to see if 4/23/07 at 7 PM would work for Bob Lay to make that presentation. Terri will report back as to concurrence of date and time at the 3/7/07 Council meeting. Terri also said that a booth at the Grant Seafood Festival resulted in about twenty-two people interested in CERTS for the South Mainland area (from Malabar to the southern-most Brevard County line).

4. (Morgan/Burr) - Town Manager & Town Clerk Job Update

Morgan reported that the job offer for the position of Town Clerk had been turned down by the applicant-of-choice. She said we need to look at getting a temp worker from one of the temporary services. The temporary services companies charge a 40% mark-up. Lisette Kolar also added that if the Council is considering getting a temp worker to just take the weekly Council minutes and establish the weekly agenda, there are still many Town Clerk duties to be covered beyond those duties. Morgan said \$12 per hour excluding the 40% mark-up was probably a reasonable rate of pay for a temporary worker performing town clerk duties discussed. Jo Faden suggested three or four persons share the weekly minute-taking and agenda preparation for 1-2 months rather than trying to hire a temp worker. That time period should allow the Town to hopefully get an Interim Town Manager who can then hire a Town Clerk. Currently the minute-taking and agenda preparation duties is being shared by Jo Faden, Karlene Folts, and Chris Hackford. Terri Wolfe said that if someone could show her what to do and when to do it, she could help with those duties in this interim period. Morgan agreed to e-mail the Town Clerk applicants, as suggested by the Council, to say the job opening is going a different direction.

Morgan reported that the job posting had been for the Interim Town Manager position although resumes had indicated interest in both an Interim and permanent Town Manager position for some applicants. Bryan said that he could not read any of the resumes sent by Denni Burr as they were scrambled. Morgan said she would scan the resumes and e-mail them to all the Council members. Council decided that by the 3/7/07 Council meeting that all applicants' resumes should be rated as to the Interim and permanent positions.

5. (Mahaney) - Code Enforcement - Workshop set for 03-05-06

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Mahaney reported that the detail for the code enforcement workshop should be available in the form of a computer presentation by tomorrow. He will e-mail the agenda to Lisette Kolar when it is complete so that she can publish the meeting notice.

6. (Yonts) - Status of County Contacts-Update on County/Town Inter-local for P&Z;
- Update on County/Town Inter-local establishing ownership of town
right-of-ways

Landscape ordinance still being worked by Karl Bohne. A 3/13/07 meeting is scheduled for 2 PM at Viera with the County and about 18 people to meet on the road ownership issue and to discuss the two inter-local agreements. Del will attend on behalf of the Town and report back.

7. (Bryan) - Zoning and Land Use Committee – Status of application for serving on Town advisory boards

Bryan reported that he picked up the parcel map with related zoning per parcel. The maps cost \$450.00. Bryan got approval to store the maps at his home pending getting a flat-file for the Town. Have final draft of the application for the P&Z. Will put info on the Town web-site, advertise on the GVPC web-site, and announce at the beginning of the 3/7/07 Council meeting that they have advisory boards positions open.

(Bryan) – Status of Planner Request for Proposal (RFP)

Bryan reported that he has received no responses from potential planners. Discussion arose as to whether the Town mail was being collected presently. Lisette Kolar agreed to check the PO box. Rick Enos has information on a recommended person who used to be with the County and is now with a firm who might be interested in the position.

8. (Faden/Hackford) - Town Hall Location: Status of zoning at GCC with possible options and trailer availability update

Lengthy discussion occurred related to potential issues related to a temporary trailer located on the Grant Community Center property. Items of discussion included:

Three site for a trailer; septic systems; rezoning to Government Managed Land; surveys, site plans, set-backs, lease to accommodate the site-plan; and water containment requirements.

There is a possibility that rezoning which includes the buildings on the community club could impact the community club business. Faden to follow up to determine if this is an issue.

It was determined that the Council should check as to the agreement of residents living within the 1,500 foot limit of the proposed sites as well as expected cost before moving forward.

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After discussing alternatives to a temporary construction trailer on the GCC site, a suggestion was made to look at the building South of Grant Motor sports. Charlie Christensen made a call to inquire about the rent. The council agreed to go look at the facility (no discussion during the showing), with Bonnie Allan agreeing to coordinate and get the key.

9. (Faden) - Franchise Fee Update

It's coming in so "don't rock the boat". Faden to confirm the \$18,672 monies received was the first of the ½ cent sales tax and if not, will follow-up to see where the end-of-February monies is in the process.

K. REPORTS

(Yonts) – Fountainhead is moving forward, P&Z meeting between 4/4 and 4/11/07.

(Morgan) – Has spoken to Lt. Drinkwater who says the Town can get more involved in the crime situation. He suggested a Community newsletter.

(Hackford) – The workers party for volunteers for the Grant Seafood Festival will be at 5:30 PM on Saturday 4/14/07.

(Mahaney) – Believe we are incurred more cost on the conditional-use-permits than just the mailing within the feet limitation. Suggests we might want to look at developing a fee schedule based on some historical costs.

L. PUBLIC COMMENT

AJ Morgan stated he is conducting a kite-boarding event on US 1 (on private property) for 3/9/07 through 3/11/07. All parking will also be on private property yet the event will be open to the public. Lt Maddox said they will provide a bit of additional coverage.

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M. ADJOURNMENT

**Motion made by Morgan to adjourn;
Seconded by Hackford
Voice vote on the motion carried unanimously.**

Meeting adjourned at 10:45 P.M.

BY:
(Signature on file)

Del Yonts
Mayor, Grant-Valkaria

ATTEST:
(Signature on File)

Karlene Folts
Interim Clerk, Grant-Valkaria

DATE: 3/7/07