

Town of Grant-Valkaria  
Town Council Minutes  
Wednesday, March 14, 2007 at 7:00 P.M.  
Grant Community Center

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A. **CALL TO ORDER** 7:04 P.M.

B. **PLEDGE OF ALLEGIANCE**

C. **ROLL CALL (by Interim Clerk)**

Mayor, Del Yonts – present  
Council Member, Seat 1, Joe Hackford – present  
Council Member, Seat 2, Danielle Morgan – present  
Council Member, Seat 3, Pat Bryan – present  
Council Member, Seat 4, Cathy DeMott – present  
Council Member, Seat 5, Dan Faden – present  
Council Member, Seat 6, Jason Mahaney – present

D. **ADDITIONS AND DELETIONS TO AGENDA**

**H. 1. (Yonts) Presentation by the Brevard County Fire Department deleted from the agenda.**

E. **CFO Report**

C.DeMott reported that the current balance is \$99,578.76. There was a deposit of \$18,671.76 from the FPL Franchise fee during the month. Checks were issued to Schillinger & Coleman, PA in the amount of \$4,218.50 and to Florida Today in the amount of \$244.50.

F. **PUBLIC COMMENT:**

1. Allan Bland who lives on Leghorn Road near the Valkaria Airport stated that there was a long standing fight with the airport regarding noise. Specifically a helicopter that circles and lands frequently. He further stated that the constant low flying is causing great distress to the Valkaria area. Barbara Bland also stated that the helicopter begins at 6:30 am everyday, all day. The constant noise is her main concern. She believes that something needs to be done about the noise and the time of day. D.Yonts stated that he spoke with the airport and learned that a training program was currently utilizing the airport. He asked that everyone keep in mind that it is an airport and that as long as they can safely perform what they do they are within their rights. He was not sure that there is anything that can be done about it. D.Faden agreed with D.Yonts but would like to verify that the training activities are not occurring outside of the true airport hours. D.Yonts stated that he will talk to the airport manager and trainers about the hours and see what they say.

2. Denni Burr reported that she received two phone calls on behalf of the town that she needed guidance on. She received a call from an individual who wants to buy three parcels of land that are zoned agricultural. Upon purchasing the land he would like to merge the three parcels and build one house on them. The total amount of land would be 1.7 acres. D.Yonts believes that this would be possible but suggested that the land owner call the county as there might be other reasons why the land would not be build able. Denni Burr received an additional call regarding code enforcement. She stated that the call concerned a neighbor on Tadlot who was cutting down trees and allowing pigs to run freely on the property. The pigs were also running into the

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**F. PUBLIC COMMENT (CON'T):**

neighboring yards as there was not a fence to contain them. The complainant wanted to know if she would be refunded for the taxes she was paying towards code enforcement as this service was not currently available in the town? J.Mahaney suggested that the individual contact animal control and that an investigation had already taken place on the trees getting cut down. They were all pepper trees. 3. Pete Belmont stated that he was a property owner in the Valkaria area. He and a few other owners in the same area would like to put an unpaved road in to access their property. His questions – What are the standards they have to follow? Is there a program to recoup the money expended on the development of a road? And would the landowners who participate be required to put a 125% bond up. D.Yonts stated that all road right of ways were determined by the county with the Town of Grant-Valkaria in a position to agree or disagree. In his opinion D.Yonts believes the town intends to adopt the current county standard for now. The 125% bond put up by the interested land owners would be paid back to them by other landowners who do not participate as they develop their property. The town attorney further explained this as a pro rata share. The bond would be posted with the town and if the road did not get developed the town has the option to improve the road themselves. Any money left over after the road was improved would be returned to those who posted the bond.

**G. APPROVAL OF THE MINUTES:**

1. Approval of 03/05/07 special meeting minutes.

**Motion by J. Mahaney; Seconded by J. Hackford**

**Voice vote on the motion carried unanimously**

2. Approval of 03/05/07 Code Enforcement Workshop minutes.

**Motion by J. Mahaney; Seconded by J. Hackford**

**Voice vote on the motion carried unanimously**

3. Approval of 03/07/07 Town Council Meeting minutes.

**Motion by J. Mahaney; Seconded by D. Morgan**

**Voice vote on the motion carried unanimously**

**H. UNFINISHED BUSINESS:**

1. (Yonts) – Interlocal Agreement – QUATRARO ENTERPRISES, INC. Request a change in zoning from BU-1 to 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, approximately 0.27 mile N. of Sand Point Road (Item tabled from February 28 meeting).

**P. Bryan motioned to remove item from the table.**

**Motion by P. Bryan; Seconded by D. Morgan**

**Voice vote on the motion carried unanimously**

**H. UNFINISHED BUSINESS (CON'T):**

Mario Nicolo owners of Winnerz reported that there were not any problems with the plans and the county was almost finished with their drainage project behind the property. He hoped that he would be able to move forward after tonight. D.Yonts read the following conditions to the CUP to all that were present at the council meeting:

***NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF GRANT-VALKARIA , BREVARD COUNTY, FLORIDA, that:***

**Section 1.** Quatraro Enterprises, Inc, and Philly Boyz, Inc., Lessee, are hereby granted a conditional use permit, CUP 2007-01, to operate a bar or cocktail lounge to serve beer and wine for consumption on premises on the Property subject to the following conditions:

- A. The applicant shall comply with all requirements as set forth in applicable Brevard County ordinances and codes and future codes and ordinances of the Town;
- B. The applicant and Philly Boyz, Inc., Lessee, shall comply with the State of Florida Beverage Laws, Title XXXIV, of the Florida Statutes concerning the sale of beer and wine for consumption on premises;
- C. This conditional use shall only be allowed for this applicant and Lessee at 5890 Highway U.S. 1, Grant, Fl, 32949 and is non-transferable to any other person, firm, corporation or other entity or to any other property and shall not be transferable to any other building on the Property. If the applicant and/or Lessee are a corporation, partnership, limited partnership, limited liability company or other similar legal entity, the transfer of more than fifty (50) percent of the legal or equitable interest in such legal entity to any other person, firm, corporation, or other entity shall be deemed a prohibited transfer hereunder;
- D. The CUP shall only be for and applicable to the western building on the Property. No alcohol sales or consumption shall be permitted in or on any other building located on the Property;
- E. Applicant shall apply to the Council for an amendment to the CUP in the event of future expansion of the Property and any improvements to the western building located thereon, except as provided in subparagraph K;
- F. No adult entertainment, as that term is defined by the Brevard County Code of Ordinances, except that the current adult arcade operated in the eastern building, shall be operated on the Property. If the current adult arcade operated in the eastern building on the Property is subsequently determined to be a violation of Florida Law by a court of competent jurisdiction or due to a change in Florida Law, then such adult arcade use shall immediately cease;
- G. The hours of sale and/or service of alcoholic beverages shall be 10 a.m. – 10 p.m. Sunday through Thursday and 10 a.m. – 11 p.m. Friday and Saturday;
- H. The maximum number of patrons shall not exceed forty-nine (49);
- I. No outside music or public address (p.a.) system shall be allowed;
- J. There shall be no sale or service of alcoholic beverages until the applicant obtains a State of Florida alcohol beverage license for the consumption of beer and wine on premises;

- K. There shall be no sales or consumption of alcoholic beverages outside of the walls of the western building as it exists as of the effective date of this Resolution. The Town Council recognizes that there is a wrap around porch on the western building and a portion of it is currently outside. If the owner or Billy Bob, Inc., Lessee, desires to close this area in, then this CUP will be applicable to this newly closed in area, without the necessity of a new or amended CUP. Any such enclosure must be approved by the Town including the issuance of proper permits for such enclosure;
- L. No noise or vibration from any source shall be audible or discernible to a person of normal sensibilities located on any residentially zoned property in the Town from the property line from which the noise or vibration is emanating.

**Section 2.** Any violation of any of the conditions set forth in section 1 of this Resolution may result in a revocation of the CUP, change in conditions set forth in section 1 or other action the Council deems appropriate. Before the Council takes any action on the CUP due to an alleged violation of any condition in section 1, the Council will provide the owner and Philly Boyz, Inc., Lessee, notice of hearing and an opportunity to be heard at the scheduled hearing.

**Section 3.** This Resolution shall take effect immediately upon its adoption.

After the conditions were read, P.Bryan stated that he was satisfied with the conditions set forth in the CUP. D.Faden stated that a good job had been done pulling all together. He believed that this was a good example of what the town has an impact on. He did not believe that the county would have reacted in the same fashion. C.DeMott asked where the name Billy Bob, Inc came from. It was noted that a correction to the name would be Philly Boyz, Inc. and represented the applicant's name. She further asked how many seats would be available in the establishment. Mario Nicolo stated that the occupancy was 49 people. She asked about the parking spaces and D.Yonts stated that the establishment needed to meet parking code requirements set by the county. D.Yonts further reiterated that there would be no consumption of alcoholic beverages on the open deck unless enclosed. A motion was made to grant the CUP with the stated conditions.

**Motion by P. Bryan; Seconded by D. Morgan**

**Voice vote in favor by D.Yonts, J.Hackford, D.Morgan, P.Bryan, D.Faden, and J.Mahaney.**

**Voice vote opposed by C.DeMott.**

**Motion carries 6-1. Increase in intensity requires affirmative vote of 6 or more members, therefore CUP is approved.**

**Motion by D.Faden; Seconded by J.Hackford to approve Resolution 04-2007.**

**Voice vote in favor by D.Yonts, J.Hackford, D.Morgan, P.Bryan, D.Faden and J. Mahaney.**

**Voice vote opposed by C.DeMott.**

**Motion carries 6-1.**

**2. (Yonts) – Second Reading of Ordinance – 2007-05: An Ordinance of the Town of Grant-Valkaria, Brevard County, Florida Establishing A Zoning Moratorium**

D.Yonts read by title only. D.Yonts asked for comments with none following. P.Bryan made a motion that Ordinance 2007-05 be accepted.

**Motion by P.Bryan; seconded by D.Morgan.**

**Voice vote on the motion carried unanimously**

**I. REPORTS:**

**P.Bryan** stated that he has not received any RFP's for the Comprehensive Plan. All proposals must be post marked no later than March 19, 2007.

**D. Faden** reported that he was scheduled to meet with county regarding the Paint Ball Park and will report the outcome of that meeting at the next council meeting. He further reported that the Communications Service Tax and whether or not the town has the ability to set the rate. The town attorney Karl Bohne stated that at the 1<sup>st</sup> reading of the ordinance, an open discussion could occur on the tax amount. At the first reading the council can dissect and alter the ordinance before the final vote to approve the reading of the 1<sup>st</sup> ordinance. He further clarified that this could only take place at the 1<sup>st</sup> reading. At the 2<sup>nd</sup> reading the council is not at liberty to change the substance of the ordinance.

**D.Morgan** reported that she will be contacting the Sheriff's Department regarding the problems with ATV's off of Corey and Vally Road in Valkaria. She will provide an update at the next council meeting. G. Wolfe further stated that there have been problems with ATV's in the River Terrace area as well. He has been in touch with the State Wildlife people to view the damage the ATV's have caused to the wetlands.

**D.Yonts reports as follows:**

- 1) D.Yonts requested a status report from last meeting in regard to the Town Administrator applicants. D.Morgan stated that she had not heard back from J.Schneiger but had received an updated resume from him that showed that he was currently working city of Palm Coast. She further stated that M.Rupp had not yet been heard from as well.
- 2) D.Yonts asked C. DeMott for an update on a town accountant. C.DeMott reported that all would be finalized by the next council meeting scheduled for Wednesday 03/21/07. The immediate need will be to handle the town's taxes for 2006.
- 3) D.Yonts reported that he and Karl Bohne met with the county on various ordinances and interlocal agreements. The proposed Municipal Service Contract will expire by September 30<sup>th</sup> of this year. Other concerns include Fire, Zoning, Storm Water and Solid Waste. He stated that we could contract back with the county on some of the towns needs. L.Kolar interjected that some of these services should be covered under the RFP that was recently submitted. Both D.Yonts and the town attorney remarked on the possibility of the town maintaining the dirt roads. D.Yonts stated that the county collects money for the maintenance of Grant-Valkaria roads. They will be repaving a mile of Grant Road and a mile of Valkaria Road. He confirmed that whatever the county collects will be spent on the town and not diverted elsewhere. Karl Bohne the town attorney stated that the counties contract licensing is stricter than state standards and that it makes sense to let them continue, as they already have a mechanism in place. Karl Bohne further reported that the town could do the following with solid waste: 1) The town could piggyback onto the counties agreement; 2) The town could do their own solid waste agreement. K. Bohne suggested that the town use the counties agreement at first and consider doing their own at a later date. He is more concerned with getting other things in place with the town first.
- 4) D.Yonts reported on the Impact Fee Assessments which is used in the region the fees came from. Grant-Valkaria has 90 roads that are in some manner part of an MSBU. D.Yonts stated that the main issue on the roads is that Valkaria and Grant Roads will not be maintained as county responsibility. Road repaving projects are the responsibility of the town that generates the most traffic. They will be responsible for most of the cost. He stated that the gas tax would

**I. REPORTS (CON'T):**

yield approximately \$60,000.00 and will offset some of the road maintenance cost. K. Bohne further stated that the MSTU's with the Sheriffs Department also needed to be done.

5) D.Yonts reported that the Fountainhead Rezoning application had been submitted and that an ad would need to be posted and mail outs sent. The cost for advertisements and mail-outs will be absorbed by the applicant. It is not likely that the applicant will be responsible for any of the fees generated by the town attorney.

6) D.Yonts and D.Morgan attended the Space Coast League of Cities Dinner and received an offer to help from the Mayor of Cape Canaveral.

7) D.Yonts stated that they would be appointing a Planning and Zoning Board on March 28, 2007 so that all will be in place for the April 17, 2007 meeting. He recommends that they set up the P&Z board on April 11, 2007 and elect a chairman to the board. He further stated that the Town Administrator issues will be back on the March 21, 2007 meeting agenda.

8) D.Yonts reported that he spoke with John Chase the owner of the Grant Motor Sport Building and based on the lack of parking the building may not work. The owner can not guarantee use of additional parking with Grant Motor Sports next store. In addition, the owner may want to keep an office available for himself. D.Yonts did recommend that the town proceed and use the building but, without a guarantee on the parking. This will work as long as he does not lease to someone with evening hours in the future. It may be necessary for some town meetings to continue to be held at the Grant Community Center. D.Yonts intends to meet with J.Chase tomorrow and look at a one year lease. He does not for see a problem with the owner utilizing an office space in the same building.

9) D.Yonts provided a clarification on the Sebastian Beach and Tennis Village use of water and sewer. There is a conflict in prior meetings minutes. Per our charter "future" developments must use well and septic. Since SBTV was in process prior to incorporation, those restrictions in the charter do no apply and SBTV can utilize water and sewer from the Barefoot Bay system. D.Yonts further stated that we may need to address the restriction in the charter as he felt it was intended to be typical, but not required to have well and septic service.

**J. PUBLIC COMMENT:**

**Bonnie Allan** wanted to know when the Winnerz second building would be brought up to code. J.Mahaney reported that once a county permit is pulled, everything will need to be brought up to code before a Certificate of Occupancy is issued. B. Allan further asked about variances for setbacks. D.Yonts stated that this was part of the agreement with the county. K. Bohne (attorney) stated that variances are granted or denied by the County Board of Adjustments. All variance issues need to be addressed at the county. The procedure would be for the resident to 1) Make a request to the county, 2) The county reviews, accepts and make recommendations; 3) Request with recommendations is sent to the Town of Grant-Valkaria for final review.

**Lisette Kolar** reported that the legislature is doing things with the state property taxes and ask the council to give their views on how this will affect our town in the event it comes up for vote in November. She would like information provided to town residents so that they can make an informed decision when voting. L.Kolar stating they she is looking for guidance from the town council. D.Yonts stated that the League of Cities was already researching the issue and intended to send a delegation to Tallahassee.....In regard to ordinances; L.Kolar verified with the council that all ordinances only needed to go in an

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**J. PUBLIC COMMENTS (CON'T):**

ordinance book. Resolutions required a certified copy to be recorded at the clerk's office. Lastly, L Kolar had a general question in regard to adult arcades becoming illegal in the future. Would the town be responsible for closing down those located in their area? D.Yonts stated that this would be an issue to be handled at the state level and the town would not be required to intervene.

**George Wolfe** reported that we were 2 1/2 months away from hurricane season. He has not heard anything yet about the RFP that has been submitted. He is still looking for volunteers and will be doing a CERT Training class on April 12, 2007. Please sign up in advance. He further reported that there will be a Hurricane Preparedness Meeting on April 23, 2007.

**K ADJOURNMENT:**

Motion made to adjourn.

**Motion by P. Bryan; Seconded by D. Morgan**  
**Voice vote on the motion carried unanimously**  
Meeting adjourned at 9:04 P.M.

BY:  
(Signature on File)

\_\_\_\_\_  
Del Yonts  
Mayor

ATTEST:  
(Signature on File)

\_\_\_\_\_  
Christine Hackford  
Interim Clerk

DATE: 3/21/07  
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