

MEETING MINUTES FOR THE
TOWN COUNCIL REGULAR MEETING
WEDNESDAY, JULY 22, 2009 AT 7:00 P.M.
GRANT COMMUNITY CENTER, 4580 FIRST STREET, GRANT VALKARIA, FL 32949

The Regular Town Council Meeting of August 12, 2009 was called to order at 7:00 p.m. by Mayor Yonts, followed by the Pledge of Allegiance led by Council Member Bryan, and roll call to the Council Members with the following present:

Mayor – Del Yonts	Town Administrator Richard Hood
Seat No. 1 – Joe Hackford	Town Clerk Susanne Krueger
Seat No. 2 – Lisette Kolar	Town Attorney Karl Bohne
Seat No. 3 – Pat Bryan	Assistant Town Attorney Erin Harrigan
Seat No. 4 – Jason Mahaney, Vice Mayor	
Seat No. 5 – Dan Faden	
Seat No. 6 – Cathy DeMott	

CHANGES TO AGENDA

Town Administrator Hood requested that “Town Attorney’s Report” be moved after “Discussion/Action Re Paris Case” and it was Council consensus to agree.

PRESENTATION

Mayor Yonts gave Council Member DeMott a Certificate of Completion for her attendance at the Advanced Institute for Elected Municipal Officials presented by Florida State University, Institute of Government. She was congratulated by the Mayor for her accomplishment. She stated that they studied personality styles, maps of Florida from the beginning, basic overview of principles and laws, useful tips for dealing with the public and historical data about state laws.

APPROVAL OF MINUTES

- 1) Town Council Regular Meeting Minutes of July 8, 2009

Motions by Council Member Hackford, second by Vice Mayor Mahaney, and vote unanimous to approve the Town Council Regular Meeting Minutes of July 8, 2009 as submitted with amendments.

PUBLIC COMMENTS (non-agenda items)

There were no public comments.

UNFINISHED BUSINESS

There was no unfinished business.

NEW BUSINESS

- 1) Discussion/Action Re Paris Case (Hood)

Town Administrator Hood stated that July 17, 2008 the Code Enforcement Board heard a case against the Paris’ regarding an RV on vacant land and the Board’s motion to find the Paris’ in violation failed. At the end of July 2008 the Town Council heard information regarding a

possible sunshine law violation occurring at the Code Enforcement Board (Board) meeting and requested the Board to rescind their vote and rehear the case. In August 2008 the Board decided to rehear the case, but before they actually could the Paris' attorney requested an administrative interpretation of farm and farm equipment. Town Administrator Hood stated that he made an administrative interpretation and informed Council at the November 12, 2008 meeting. An appeal of Town Administrator Hood's interpretation was made which was heard before Council on December 10, 2008 at which Council overturned the Town Administrator's interpretation. Before this item could be scheduled before the Code Board again, the Paris' attorney filed a writ of certiorari. After discussion with Council it was agreed the best course of action was to do nothing until the writ was heard before a Judge. Since then, Mr. Paris has offered to remove the RV and would like to replace it with a 48 foot semi-trailer by August 31, 2009. Mr. Paris also is asking that Council vacate all existing code enforcement action relative to the RV, and he would drop the writ. Mr. Hood stated that even though he can approve the request to exchange the RV with the trailer, he does not have the authority to override the Code Enforcement Board. He stated that in an attempt to bring this matter to a close, he would like Council to consider this offer and direct him in the course of action. Mr. Hood stated that our Town Attorney has reviewed this, discussed it with the County Attorney's office as to whether they would approve this use of a trailer on a bona fide farm, and the County Attorney's office responded that this would be permissible in the County. Mr. Hood stated that Ms. King has video that Ms. Paris has been at her property for four consecutive days.

Town Attorney Bohne explained that the writ of certiorari is an appeal to the Circuit Court (the Greater Board) to determine if the Board of Adjustment is correct. He further stated that if the writ is abated he would dismiss with prejudice and Council can decide that they can settle the case. He stated that he spoke to Kristen Dorsey who was Code Enforcement attorney with the County whom said it would not be a violation if used for bona fide farm not as a living facility.

Homer King stated that he did not have a problem with using the semi-trailer as farm equipment. He further stated that Mr. Paris was told he was in violation and he said he would get a permit and use it as a security trailer; the RV has been in violation and has been used as a living facility; information has been delivered to Mr. Hood to substantiate it; if RV is removed then the Town can come to some sort of agreement. Christine King stated that if allowed, she would like the settlement agreement to include that the Code Enforcement Officer can examine entire area for other buildings on site for human habitation, and that she had no problem with him building a house and paying taxes.

Mr. Paris stated that he came on good will, that he will not agree to invasion of property and he requested a copy of the DVD and all correspondence with it.

Mayor Yonts closed the public hearing.

Mayor Yonts stated that the goal is to come into compliance and resolving the case, and if they remove the RV any code enforcement regarding the RV is mute. Town Administrator Hood stated that he told the Code Enforcement Officer not to act on the complaint about someone living in the RV until there is a decision from the writ of certiorari. Council Member Bryan stated that he was okay with replacing the RV with a semi-trailer, but if there are future

violations they will be checked out. Vice Mayor Mahaney stated that he would like to set a date to remove the RV. Council Member DeMott stated that the issue was farm equipment not if they were living in it; the habitation of the trailer is another issue and it is up to staff to handle it retrospectively. Town Administrator Hood stated that if we move forward with the habitation of the RV the Code Enforcement Officer will review tapes, find cause, cite and give notice to cure; cannot do anything retroactively but if he lives in the trailer it is a different issue.

Christine King requested the DVD provided to the Town be returned. Homer King was concerned about someone living on the property in that it occurred will continue to occur and if the word gets out more and more violations will occur. Mr. King stated that he wants what is fair and hope the Council can get changes made regarding health and sanitation for all.

Motions by Council Member Bryan, second by Council Member Kolar, and vote unanimous to accept a settlement of the violation with the following conditions: 1) RV must be removed by August 31, 2009; 2) writ of certiorari be dropped by August 31, 2009 with prejudice; 3) whatever is placed on the property is not to be used or have accommodations for habitation unless it is permitted; 4) Mr. Paris is given 10 business days to accept offer. It was noted for the record that Mr. Paris agreed to 10 days to accept offer.

REPORTS

1) Town Attorney's Report

Town Attorney Bohne stated that he sent a letter to the Attorney General's Office regarding the airport and received a call requesting that the County also enter into the opinion.

Town Attorney Bohne gave a brief update on the relationship between technology and records. He stated that Coral Springs requested an Attorney General Opinion (AGO) regarding is a City Facebook a public record. He stated according to AGO that if Council Member X has a personal Facebook and he communicates relating to Town business it is a public record and Council Member X should put a statement on it that what anyone puts on there could be a public record.

Mr. Bohne stated that according to AGO notes taken by Council Members for their own personal use during meetings are not public record unless the document is given to Town Administrator.

NEW BUSINESS - CONTINUED

2) Discussion/Action Re Proposed Motor Sports Park In Malabar (Yonts)

Town Attorney Bohne stated that the proposed motor sports park is not locating in Malabar but are looking at Mesa Park in Fellsmere. For the record, this item was not discussed further.

3) Continuation of Total Budget Review (Hood)

Mayor Yonts asked Town Attorney if we increase the budget and can we set aside money in a dedicated account to be used for a specific purpose. Town Attorney Bohne responded that we can freeze it, earmark it, not to be used for anything else but you cannot keep future Council

from moving it. Town Administrator Hood asked if a special assessment can be done. Town Attorney Bohne responded that you cannot have a special assessment to all residents to repair all the roads; Palm Bay had to return all the money they collected; all property owners on Avenue B can be assessed but not Town wide.

Town Attorney Bohne and Assistant Town Attorney Harrigan were excused at 8:26 p.m.

Mayor Yonts called for a brief recess at 8:26 p.m.

Mayor Yonts called the meeting to order at 8:44 p.m.

4) Discussion/Action Re Approval of Budget Adoption Schedule (Hood)

Town Administrator Hood presented Council with the proposed budget showing 1, 1.25 and 1.5 mills as per Council request at the July 15, 2009 meeting. Mayor Yonts stated that at the break even option it would meet obligations and would enable to resurface one mile of road and put \$50,000 to Town Hall purchase but it would take 35 years to pave all roads in Town. Mayor Yonts was concerned that the Town has five years from first establishing an ad valorem to set the correct millage for the Town, that if we do not set the millage correctly we can get behind the curve ball, and that when the Town first set the millage it was using what it thought was the millage the County was using for the Town. Town Administrator Hood stated that when the County Road and Bridge millage was set up most employees in this area were paid for through general fund not District 3 fund and when the Town used their figures they used just Road and Bridge funds not anything from the general fund. Mayor Yonts stated that to get the exact same income the Town would have to use the .685 millage rate. Mr. Hood stated that today the town has enough in unencumbered funds and that without the volunteer road crew the town would have an extra \$30,000 to \$40,000 in expenses. Mr. Hood stated the Council has to set the maximum millage rate and that they have the ability to cut it back after tonight but they cannot increase it; he further stated that it was not his intent to grow government and not to increase staff.

Mr. Hood stated that he has contacted Mr. Conlon to change the partial cut to full cut, one cut next month and on partial in September.

Questions were brought forward from the audience as to what was the average life of a road, and what would be the cost to repave them. Mr. Hood responded that different roads have different years left on them and the cost can be anywhere from \$250,000 per mile more or less. He explained that if 1 mill option is chosen if someone wants their road paved, we can assess everyone on that road, and we will have the money in the account to pave it. Since town charter states that the town cannot go in debt and borrowing of money will require a referendum. Dan Robino, volunteer road crew member, stated that Old Dixie Highway from First Street to Valkaria Road the road is shot, Grant Road is starting to go, and some of the newer roads need work.

Mayor Yonts inquired if it is normal to have unencumbered funds. Mr. Hood responded that it is called that because we have not reserved it to any account; the town should always want a little amount in unencumbered funds in case of a revenue shortfall. Mr. Hood stated that by placing

money in the unencumbered funds, the City of West Melbourne was able to pay by check for their new town hall building without incurring any debt.

Dean Atkins was concerned about 1 mill doubling the rate, acknowledged that the town will not be getting a lot of money from other sources, people are not happy with the increase, but he understands the need for roads. Tom Sammon stated that the mill should be set at 1 mill; the amount people pay for cable TV or cell phone is comparable to the increase of millage. Council Member DeMott stated that we should stress the small percentage of the money that goes to the town.

5) Discussion/Action Re Establishment Of Rolled-Back Rate/Proposed Millage (Hood)

Motions by Council Member Hackford, second by Vice Mayor Mahaney, and vote unanimous to approve the budget schedule as submitted. Motions by Council Member Hackford, second by Council Member Kolar, and vote unanimous to adopt millage rate of 1.

Council Member DeMott stated that 1 mill would allow for leeway if town should go to 1.25 mills. Council Member Faden stated that he was not happy at first with the millage but it is a price we have to pay to keep it rural rather than seeing condos or quarter acre lots; it is a trade off of what the future will be in our town giving us the option for a rural life. Council Member Kolar stated she supported the 1 mill; we have to do what is prudent to the town; do not want to go into debt. Council Member Bryan stated that there was no guarantee what would happen if we stayed in the county; have to decide if we want no services or no taxes; there is no fat or waste in our budget.

REPORTS - CONTINUED

2) Town Administrator's Report

Town Administrator Hood stated that staff has been working on the Waste Management billing for the past couple of weeks the billing against the assessment roll and has spent about 100 man hours doing so. He noted that seeing this as an assessment on the tax bill would benefit Waste Management about \$60,000 per year at our expense because of staff time and advertising costs involved. If we collect \$100,000 from residents, we write \$100,000 to Waste Management; every year they change the rate we start over; 100-190 people do not pay; 50 people are not billed; there is no advantage to our residents to be billed on the tax bill; other towns that collect for Waste Management get paid for it. Mr. Hood requested Council authority to sit with Mr. Geletko to get reimbursed for our expenses. It was Council consensus to have Town Administrator Hood meet with Waste Management.

3) Financial Report

There was no financial report other than the budget that was submitted to Council.

4) Council Reports and Comments

Council Member Faden stated that he will be attending the August 6th Grant Valkaria Business Association meeting. Council Member Hackford stated that at the boat ramp meeting in Viera he attended they moved some sea grass, opened bids on demucking, finish date is next year and he is scheduling Greg Minor to attend August 12th meeting to discuss this project. Mayor Yonts stated that he will be attending the Greater Palm Bay Chamber of Commerce Mayor Breakfast on Friday and will be coming back to Council whether this is an organization we want to continue attending and requested Council Member Faden bring up the topic at the next meeting of the Grant-Valkaria Business Association's next meeting whether it would be beneficial for the town or their organization to join; Florida League of Cities have published their resolutions and Town Clerk will send a copy to Council; Saturday he and Council Member Kolar attended an Emergency Procedures Meeting co-sponsored by the Town and Barefoot Bay where he obtained copies of handouts for Town Hall, Swine Flu update is that there is enough cases in the County to get shots in place sometime in October, and if anyone is interested in obtaining a weather radio they can contact town hall who will help getting them from Emergency Operations Center and maybe have COPs install them; Space Coast League of Cities (SCLOC) discussed TABOR which will dictate a maximum millage of 13.5 where state decides who gets what, Senate Bill 360, Space Coast League of Cities Scholarship, Economic Development Committee, and Communities for a Lifetime. Handouts were provided to the Town Clerk by Mayor Yonts regarding SCLOC to scan and email to Council. Mayor Yonts requested Council input regarding First Responders being paid to the cities to staff assisted life support (ALS) people who have their own departments. It was Council consensus that the town support ALS on trucks and support funding however funding needs to be corrected and general fund use for County residents. Mayor Yonts requested Council input regarding the County Charter amendment where any zoning, planning and annexations would have to be approved by the county. Mayor Yonts explained that if the voters of the town support the Charter amendment the town will have to go by the changes, but if the voters of the town did not support the Charter amendment the town would not go by the changes. It was Council consensus to support the County Charter amendments based on this explanation. Vice Mayor Mahaney requested that discussion of the town seal be placed on the August 12th meeting.

5) Board Reports and Comments

There were no Board Reports.

ADJOURN

Motion by Council Member Hackford, second by Vice Mayor Mahaney, and vote unanimous to adjourn the meeting at 11:20 p.m.

(signature on file)

Del Yonts, Mayor

ATTEST:

(signature on file)

Susanne R. Krueger, Town Clerk