

MEETING MINUTES FOR THE  
TOWN COUNCIL REGULAR MEETING  
WEDNESDAY, AUGUST 26, 2009 AT 7:00 P.M.  
TOWN HALL BUILDING, 5120 HIGHWAY US1, GRANT VALKARIA, FL 32949

The Regular Town Council Meeting of August 26, 2009 was called to order at 7:00 p.m. by Mayor Yonts, followed by the Pledge of Allegiance led by Council Member Kolar, 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	
Seat No. 4 – Jason Mahaney, Vice Mayor	
Seat No. 5 – Dan Faden	
Seat No. 6 – Cathy DeMott	

Mayor Yonts stated for the record that Council Member Bryan will be arriving shortly.

#### CHANGES TO AGENDA

Mayor Yonts requested allowing GVCA to make a presentation to the Council and adding discussion of Waste Management at end of “New Business”.

#### PRESENTATION

Ms. Denni Burr stated that GVCA raises funds and promotes lasting traditions for the residents and presented Council presented Council with a \$1,000 check towards the construction of the official municipal seal.

#### PUBLIC HEARING - RESOLUTION NO. 11-2009 (Hood)

A Resolution Of The Town Of Grant-Valkaria, Brevard County, Florida, Providing For Ratification, Confirmation, And Certification Of Annual Stormwater Utility Assessment Roll; Providing An Effective Date.

(A resolution is adopted each year ratifying, confirming, and certifying the annual stormwater utility assessment roll prior to placing on the tax bill as a non ad valorem assessment.)

Mayor Yonts read Resolution No. 11-2009 by title only, stated for the record that legal notice was published in Florida Today newspaper August 13, 2009, and opened the public hearing. Town Administrator Hood stated that the County collects the money which will be going towards the Valkaria Lakes Project on Valkaria Road where there is a three pond retention system being designed, and additional funds to start a master stormwater plan. Ms. Carolina Alvarez, Brevard County Stormwater Management, stated that EPA will be coming next week to check the Valkaria Lakes Project and that she stated that she has rates for several qualified people so the Town does not have to go through the bid process for stormwater master plan. Ms. Alvarez stated that last year

\$82,255 was collected and this year \$84,574 will be collected.

(For the record Town Attorney Bohne and Assistant Town Attorney Harrigan arrived at ~~7:00~~10 p.m.)

Motions by Vice Mayor Mahaney, second by Council Member Hackford, and vote unanimous to approve Resolution No. 11-2009.

#### APPROVAL OF MINUTES

There were no minutes ready for approval.

#### PUBLIC COMMENTS (non- agenda items)

There were no public comments.

#### UNFINISHED BUSINESS

There was no unfinished business.

#### NEW BUSINESS

- 1) Resolution No. 15-2009 - A Resolution Of The Town Of Grant -Valkaria, Brevard County, Florida; Amending Conditional Use Permit, CUP-2009-01, To Quatraro Enterprises, Inc.; Providing For Conditions; Providing For Revocation; Providing An Effective Date. (Hood)

(This amends the previous resolution on the eastern building located at 5890 Highway US1 by removing Filly Boyz but keeping Quatraro Enterprises Inc. on the Conditional Land Use, and keeping all the previous conditions.)

Mayor Yonts read Resolution No. 15-2009 by title only and deferred to Town Administrator Hood. Mr. Hood stated that this resolution amends the existing conditional use permit which has Filly Boyz and Quatraro Enterprises Inc and contain the exact conditions as existing conditional use permit. Town Attorney Bohne stated that this allows the conditional use permit to run with the land.

(For the record Council Member Bryan arrived at 7:14 p.m.)

Ms. Helen Quatraro stated that she is trying to rent out the building and trying to keep it as a restaurant. Town Attorney Bohne stated that the conditional use permit is tied to a restaurant and anything else would require a new conditional use permit. Don Whitehouse, Chairperson of the Local Planning Agency (LPA), stated that the LPA discussed having a person building a residence next to BU1 and BU2 zone that they would be required to sign a waiver that they are aware of BU1 and BU2 zone next to them. Vice Mayor Mahaney asked if the changes are substantive enough to justify rehearing and advertising. Town Attorney Bohne responded that the Supreme Court rule if the intent is changed then the town would have to rehear and advertise.

Motions by Council Member Hackford, second by Vice Mayor Mahaney, and vote unanimous to approve Resolution No. 15-2009 with the following amendments: 1) Change L. to read “ No noise or vibration from any source shall be audible or discernible to a person of normal sensibilities located on any residentially zoned property as of the date of adoption of this resolution in the Town from the property line from which the noise or vibration is emanating”; 2) Change M. to read “The primary use of the eastern building shall be a restaurant. Should the primary use of the eastern building cease as a restaurant for a period in excess of 365 days from the date of adoption of this resolution, then this CUP shall be null and void.”

- 2) Resolution No. 16-2009 - A Resolution Of The Town Of Grant-Valkaria, Brevard County, Florida; Amending Resolution No. 05-2009; Providing For Conditions; Providing For Revocation; Providing An Effective Date. (Hood)

(This amends the previous resolution on the western building located at 5890 Highway US1 by removing Philly Boyz but keeping Quatraro Enterprises Inc. on the Conditional Land Use, and keeping all the previous conditions.)

Mayor Yonts read Resolution No. 16-2009 by title only. Town Attorney Bohne stated that this resolution makes it from applicant specific to run with the land.

Motions by Vice Mayor Mahaney, second by Council Member Faden, and vote unanimous to approve Resolution No. 15-2009 with the following amendment: 1) Change K. to read “No noise or vibration from any source shall be audible or discernible to a person of normal sensibilities located on any residentially zoned property as of the date of adoption of this resolution in the Town from the property line from which the noise or vibration is emanating.”

### 3) Discussion of Waste Management

Mayor Yonts stated that the big piles of bulk yard waste are not being picked up for instance last Thursday on Valkaria Road there was a small pile and he thought that it would be picked up before the mowing started. Mayor Yonts recognized that a Waste Management representative is present and that the town should start keeping track and start fining Waste Management; it seems that there has been a dispute between trucks as to who picks up what and Mayor requested to know what was going on with the rest of Council. Council Member Kolar responded that they finally picked up on Berry Road, Brabrook Avenue and Cypress Creek; Council Member Hackford responded that they picked up his but the pile on Berry Road is eroding the ditch where CDM repaired it; Council Member Faden responded that for four to five weeks there were some 80 foot long yard waste and the end of Ponderosa. Mayor Yonts stated that the Grant Community Center has volunteered the use of their land and he was informed that pick up would be on Tuesdays for the south end of town and on Saturdays for the north end of town. Town Administrator Hood stated that the town can fine \$50 each time and \$20 each day until cured if Waste Management does not pick up yard waste with clam shell truck. Mr. Hood further stated that that he will need Council help to enforce this by emailing Town staff when you saw it. Mayor Yonts suggested that each Council Member pick a day to note piles, quantity, and dates and send information to Town Administrator Hood. Council Member Kolar stated that she has

room in the newsletter for an article about this and Town Administrator Hood suggested that it read where the yard waste should be placed, when it should be placed out and the requirements, and if they have concerns contact him at [townadmin@grantvalkaria.org](mailto:townadmin@grantvalkaria.org) . Mr. Joe Pizzurro, Operations Manager for Waste Management admitted that some things were done wrong, but assured everyone that he is trying to remedy the situation by tagging owners if their yard waste is mixed. Mr. Pizzurro stated that the yard waste should be in 4 foot lengths stacked in a uniform method, the more the waste is containerized and fewer than 50 pounds the more they can pick up on truck. Mr. Pizzurro stated that DCI is their subcontractor and will be picking up yard waste with their big black clam truck; in regards to the Grant Community Center he stated that it was a timing thing. Council Member Hackford stated that he met with someone from Waste Management and it was agreed that they could use the area but it was to be picked up immediately and restore land if damaged. It was Council consensus that if yard waste is not picked up for more than one week, that residents are to call or email Town Hall. It was suggested by Council Member Faden that Waste Management should have their drivers get out of the truck with a pitchfork and not take out our ditches. It was Council consensus to allow a two-week grace period for Waste Management to catch up with bulk yard waste before reporting piles. Denni Burr stated that the Waste Management subcontractors did get out of the truck, fixed the pile and picked up more with the clam truck. Mayor Yonts stated that he will be looking for piles and sending emails.

## REPORTS

### 1) Town Attorney's Report

Town Attorney Bohne gave his report as follows:

- He stated that he has received the FAA response letter, it does not address the issue, but regulating land use is a prerogative of the Town and that the Town cannot be doing something changing land use in guise of controlling noise
- He stated that he has requested a copy of the Keene vs. Swanzey case opinion from Mr. Cross but has not yet received it
- He informed Council that the Town cannot use back door noise with land use, the FAA seems to think we are trying to regulate flight operations, and the County has not made a decision to join in with us for the Attorney General opinion
- He suggested that the Town go forward if the Attorney General says it is okay, but if the Attorney General says it cannot happen it will not
- He disclosed that he received a call from FIT attorney to sit down and talk with Town Administrator Hood and Mr. Bohne - he told FIT attorney that the Town has a grandfather clause regarding the airport, there are no flight schools based out of the airport now, and the Town is not trying to infringe on rights
- Advertising would require at least 5 days prior to public hearing
- People are thinking that the Town is out to shut down the airport which is not ~~was~~ what the Town is trying to do - we are prohibiting them from operating out of the airport - we are regulating what occurs in a GML zone - the ordinance does not say the word "noise" once in it
- Safety could be read in different context - some of towns that allow land use address safety

Council Member Kolar stated that the Local Planning Agency made changes to reduce intensity and not expanding Industrial use area and that reducing intensity at the airport is a continuation of this policy. Council Member Kolar reported that she received calls from our State Representatives who suggested that the Town ~~play nice~~ try to work with the County. Mr. Bohne suggested that she bring the history of reducing intensity throughout the town this-up at next deliberation on this ordinance. It was Council consensus to set the date for the second hearing on Wednesday, September 2, 2009 at the Grant Community Center if we can meet the advertising requirements otherwise to have the hearing on Thursday, September 10, 2009 and let the Town of Malabar know when this is scheduled.

It was Council consensus to excuse Town Attorney Bohne from the remainder of the meeting at 8:57 p.m.

#### 2) Town Administrator's Report

Town Administrator Hood gave his report as follows:

- A copy of the budget handed to Council with the reduction due to solid waste calculations being more accurate after staff reviewed Waste Management files
- Received email from Council Member Kolar inquiring about insurance regarding attorney fees - the City of Venice was sued for Sunshine law violation (no monetary damage) - the City spent more than \$300,00 in attorney fees plus \$2.2 million more in additional lawsuits with \$10,000 insurance coverage - our Town limits is \$25,00 with Florida Municipal Insurance Trust for extra contractual legal expenses - if we were being sued and demanded monetary damage the Florida League of Cities would pay for that. Mr. Hood offered to contact other managers to see what they have and bring back to Council. It was Council consensus to see what other towns are doing and bring back to Council.
- Talked to Mr. Surlis regarding new town hall building that the town will lease and he stated that he had some ~~issued~~ issues with the electrical, hoping by end of week to obtain a permit and that he feels that October 1<sup>st</sup> he may be able to give us a key. It was Council consensus for Town Administrator Hood to notify the current landlord of 60 days when the building is permitted.

#### 3) Finance Report

Town Administrator Hood stated that the Town has received about 95% of the fiscal year budgeted revenues and spent about 65% of the budgeted expenditures; most unspent funds are the Valkaria Lakes project, comprehensive planning and unencumbered funds; most savings from moving full-time to part-time administrative assistant.

#### 4) Council Reports and Comments

Council Member Faden requested that the mowers try to do a better job at side streets and that the I-95 overpasses need weed-eat along with some signs in town. Town Administrator Hood stated that there will be one more full cut with side slopes and bottoms during Labor Day week, one more time for ditches, and that he will contact the State regarding the overpass maintenance.

Council Member Kolar stated that the newsletter is at the printers and that she will give them the articles regarding Waste Management before actually printed. Vice Mayor Mahaney suggested using the H1N1 article to be published in the newsletter. Council Member Kolar stated that the Barbara Meyer will be at the October 28<sup>th</sup> Council meeting to talk about what trails are planned, etc. Council Member Kolar inquired about the status of the comprehensive plan. Town Administrator Hood responded that he has not received a response from Miller Legg, the Local Planning Agency is moving forward, and he has some of the elements with changes. Mr. Hood explained that the Miller Legg work order is to specify what their intent is to finish the comprehensive plan and land development regulations being very specific completing the land use element and school element with a zero dollar amount. Council Member Hackford inquired about having a warehouse unit to put shelving in and the map file; informed Council of services for Martha King will be at 10:30 a.m. at the Palm Dale Presbyterian Church on Saturday next to Kelly Ford on US1, Melbourne and afterwards a gathering at the Grant Community Center. Bonnie Allan stated that someone will be at the Grant Community Center at 9:00 a.m. if anyone wants to bring any food, but let her know what; also the COPs will be there to help with traffic and hopefully a Sheriff Deputy. Vice Mayor Mahaney inquired about the status on residents giving the Fire Department their gate codes and who paid for the headwall at Valkaria Road. Town Administrator Hood responded that he is working on the gate code procedure and that the motorist's insurance company paid for the headwall repair. Mayor Yonts stated that at the Space Coast League of Cities meeting he received information from Palm Shores regarding the County Charter Review Committee and he inquired if the town has received any calls regarding the TRIM notice. Town Administrator Hood responded that he has received one negative response which turned out to be a resident that was receiving free garbage service since incorporation; one resident did not like it on the tax bill and all the rest did; in regards to TRIM notice he received a lot of support even though it is tough economic times they were in agreement for rationale; has not received one ugly call; real objection is that it is going up. Mayor Yonts stated that he received an email from Captain Porter who inquired about us doing our own garbage and Mayor Yonts responded that we are in a 5 year contract. Town Administrator Hood stated that the solid waste assessment is not clearly written when it is effective; it is his intention that effective October 1 with Waste Management not getting their first payment until December; if we begin in January we can amend the contract to add 3 months to it; we will notify everyone through "Newschannel" of the billing; the County takes all the money in escrow account and pays the same amount each month. It was Council consensus to pay Waste Management as the money comes in. Vice Mayor Mahaney requested to start 1 year ahead of contract end so it would be a smooth transition to stay on the tax roll. Town Administrator Hood stated that the Town will need to know the rates by August 1<sup>st</sup> to be in the notices we have to send out.

#### 5) Board Reports and Comments

Bonnie Allan stated that the COP's have started traffic count at several intersections and in the middle of September they will have a full report. Town Administrator Hood stated that the Code Enforcement Board will not be meeting in September, the Planning and Zoning Board and the Local Planning Agency has met this month. Mr. Hood stated that the Planning and Zoning Board defeated the mobile vendor ordinance unanimously.

ADJOURN

Motion by Council Member Hackford, second by Vice Mayor Mahaney, and vote unanimous to adjourn the meeting at 9:50 p.m.

(signature on file)

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Del Yonts, Mayor

ATTEST:

(signature on file)

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Susanne R. Krueger, Town Clerk