

**TOWN OF GRANT-VALKARIA, FLORIDA
TOWN COUNCIL REGULAR MEETING
WEDNESDAY, JUNE 23, 2010 AT 7:00 P.M.
TOWN HALL BUILDING, 4240 HIGHWAY US1, GRANT VALKARIA, FL 32949**

The Regular Town Council Meeting of June 23, 2010 was called to order at 7:00 p.m. by Mayor Yonts, followed by the Pledge of Allegiance led by Council Member Faden, 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. 3 – Pat Bryan	Town Attorney Karl Bohne
Seat No. 4 – Jason Mahaney	
Seat No. 5 – Dan Faden	
Seat No. 6 – Cathy DeMott	

EXCUSE VICE MAYOR KOLAR

Motions by Council Member Mahaney, second by Council Member Faden, and vote unanimous to excuse Vice Mayor Kolar.

CHANGES TO AGENDA

Mayor Yonts requested adding Commissioner Infantini time to speak and to move Ordinance No. 2010-06 first reading, regarding public nudity after the public hearings.

PUBLIC HEARING - ORDINANCE NO. 2010-03 - FIRST READING (Council Action)

An Ordinance Of The Town Of Grant-Valkaria, Brevard County, Florida; Calling And Scheduling An Election Upon Amendments To The Charter Of The Town; Providing For The Manner In Which Such Election Shall Be Conducted; Establishing The Form Of The Ballot For Such Election; Providing For The Availability Of Copies Of The Proposed Amendments To The Town Charter; Providing An Effective Date.

(This ordinance provides to authorize the Town Administrator, under certain conditions, to sign certain legal documents on behalf of the Town; to change the extent and nature for public notice of the purchase, sale and lease of real property by the Town; to ensure the protection of the rural nature of the Town; for an expanded definition of “vacancy” in the office of the Town Council; clarifies that the term of Town Council members is 4 years; clarifies that the term of the Mayor is 4 years.)

Mayor Yonts read Ordinance No. 2010-03 by title only. Town Attorney Bohne recommended getting the word out that these are what the residents are actually voting on as described in Exhibit A. Mayor Yonts opened the public hearing; no one spoke, therefore, Mayor Yonts closed the public hearing. Motions by Council Member Mahaney, second by Council Member Hackford, and vote unanimous to approve Ordinance No. 2010-03, first reading contingent upon correcting referendum question 3 scrivener's error and that it does not apply to the adoption and final approval of the Town's initial long range comprehensive plan, land use map and zoning ordinance.

PRESENTATION BY COMMISSIONER INFANTINI

Commissioner Infantini stated that Mr. Gaffney is the new aviation director at Florida Tech, he is trying to change the flight path and that if anyone has complaints to call him. Council Member Faden stated that he would make it a point to meet with Mr. Gaffney regarding the complaints. Commissioner Infantini stated that she is willing to support donating their piece of land called Alfred Park to the town and that it would be on their agenda end of July.

PUBLIC HEARING - ORDINANCE NO. 2010-04 - FIRST READING (Council Action)

An Ordinance Of The Town Of Grant-Valkaria, Brevard County, Florida, Pertaining To Adult Entertainment And Sexually Oriented Businesses (Collectively And Frequently Described Herein As Simply Adult Entertainment Establishments); Creating Division 1; Providing For A Short Title; Providing For Findings Of Fact; Providing For Definitions; Providing For A Penalty And Additional Remedies; Providing For Severability; Providing For Interpretation And Construction Of The Ordinance; Providing For Legislative Authority; Providing For Preemption, Applicability Of The Ordinance, Purpose And Presumptions Of Fact; Providing For Proof Of Alcoholic Content Of Beverages; Providing For Administrative Responsibilities And Power Of Administrative Agencies; Providing For General Requirements For Licensed Establishments; Providing For Location Requirements; Providing For Restrictions On Advertising; Providing For Design Of Entrance And Sign Criteria; Providing For Proscriptions; Prohibiting The Admissions Of Minors In Licensed Premises; Prohibiting The Sale Of Adult Materials To Minors; Creating Division 2; Providing For Specific Licensing Requirements; Providing For The Classification Of Adult Entertainment Licenses; Providing For The Disqualification For A License; Providing For Applications For Adult Entertainment Licenses; Providing A Continuing Duty Of A Licensee To Disclose Information To The Town; Providing For Investigations; Providing For The Approval Or Denial Of An Application; Prohibiting Multiple Licenses For A Single Premises; Providing For Requirements For Leased Premises; Providing For Regulatory Fees; Providing For The Display Of License; Providing For Term And Renewal; Providing For License Transfer; Providing For The Change Of Location Or Name Of Business; Providing For The Suspension Or Revocation Of Licenses; Providing For Licensee Records And Reports; Providing For Provisions Related To The Transfer Of Licenses; Providing An Appeal Process For The Suspension Or Revocation Of Licenses; Providing Appeal Procedures For The Suspension And Revocation Of Licenses; Creating Division 3; Providing For Worker Records; Creating Division 4; Providing For Requirements For Leisure Spa Establishments; Providing For The Control Of Communicable Diseases; Providing For Employee Qualifications; Providing For Home Massage Treatment; Providing For The Admission And Treatment Of Minors, Hours Of Operation, Inspections And Prohibitions; Creating Division 5; Providing Requirements For Adult Motion Picture Theaters; Providing For Admission Of Minors, Inspections And Prohibitions; Creating Division 6; Providing For Admission Of Minors, Inspections And Prohibitions; Providing For Provisions Relating To Notice Of Sale Of Adult Materials And Authority To Require Additional Information; Creating Division 7; Providing Provisions For Adult Dancing Establishments; Providing For Inspections; Creating Division 8; Providing For Provisions For Escort Services; Creating Division 9; Providing For Penal Provisions; Providing For Prohibited Acts Where Alcoholic Beverages Are Present; Providing For Prohibited Acts Generally; Providing For Prohibited Acts By Customers; Providing For Immunity From Prosecution For Trespass Relating To Departments, Employees, Attorneys, And Officers Or Agents Of The Town Of Grant-Valkaria Or Any Law

Enforcement Officer; Prohibiting Adult Entertainment Establishments As Home Occupations; Providing For Conflicts, Severability And An Effective Date.

Mayor Yonts read Ordinance No. 2010-04 by title only and noted for the record that legal advertisement was published in Florida Today newspaper on June 20, 2010. Town Attorney Bohne briefly discussed that the town cannot outright ban adult entertainment because of limited protection of First Amendment; however, the town regulate the location where it can be allowed. Mr. Bohne stated that in the findings of fact there are state and federal court cases, articles, reports, studies, and transcripts from other communities on secondary effects of adult entertainment and the impacts on children, property value, traffic and parking; there is an Attorney General report on the secondary impacts of adult entertainment on the community; alcohol is a key factor in the increased activity occurring at these establishments and our ordinance prohibits alcohol on the premise; the town has identified an area as overlay district which is in an industrial area. Mr. Bohne stated that the sign ordinance should reference that there may be different guidelines in the adult entertainment ordinance. Town Administrator Hood stated that there is a scrivener's error in Section 17 (2) where it should read Official Records Book 3118, Page 140. Mayor Yonts opened the public hearing; no one spoke; therefore, Mayor Yonts closed the public hearing. Motions by Council Member Mahaney, second by Council Member DeMott, and vote unanimous to approve Ordinance No. 2010-04 first reading condition upon correcting scriveners error and official records book number to 3118.

NEW BUSINESS

1) Ordinance No. 2010-06 - First Reading

An Ordinance Of The Town Of Grant-Valkaria, Florida, To Be Known As The "Town Of Grant-Valkaria Public Nudity Ordinance"; Stating The Intent Of The Ordinance; Providing For The Definition Of Nudity As Prohibited By This Ordinance And Providing For Other Definitions; Providing For Legislative Findings; Prohibiting Nudity And Sexual Conduct Or The Simulation Thereof; Prohibiting Nudity In Public Places; Providing For Enforcement And Penalties For The Violation Of This Ordinance; Providing For Injunctive Relief; Providing For Effectiveness In The Entirety Of The Town Limits Of Town Of Grant-Valkaria In Accordance With The Provisions Of Article VIII, Section 2, Constitution Of The State Of Florida; Providing For The Repeal Of Ordinances Or Parts Of Ordinances In Conflict Herewith; Providing For The Inclusion In The Town Code; Providing For A Severability Clause; Providing For An Effective Date.

Mayor Yonts read Ordinance No. 2010-06 by title only. Town Attorney Bohne stated that this ordinance is an off-shoot of the adult entertainment ordinance and that federal courts allow us to regulate public nudity. Mayor Yonts opened the public hearing; no one spoke; therefore, Mayor Yonts closed the public hearing. Motions by Council Member Hackford, second by Council Member Mahaney, and vote unanimous to adopt Ordinance No. 2010-06 first reading.

CONSENT AGENDA

- 1) Town Workshop Meeting Minutes of May 5, 2010
- 2) Town Council Meeting Minutes of May 26, 2010

Motions by Council Member Mahaney, second by Council Member Hackford, and vote unanimous to approve the consent agenda.

Mayor Yonts excused Town Attorney Bohne at 8:47 p.m.

PUBLIC COMMENTS (non- agenda items)

Mr. Jim Tonti stated that he is requesting a special event permit (small event) for Amateur Field Day on Saturday, June 26th and Sunday, June 27th at the Grant Community Center, invited Council and the public to attend, and handed the Town Clerk the special event permit application.

UNFINISHED BUSINESS

1) Discussion/Action Re: Church Property Purchase On First Street

Town Administrator Hood stated that as per Council direction the town offered \$100,000 for the church property upon which we have received a counter offer of \$115,000 with condition of \$1,500 deposit after acceptance and \$3,500 additional deposit at end of July. Mr. Hood stated that if Council wishes to accept this offer that as per Section 5.06 of the Charter the town must advertise a public hearing to purchase it, and it could be contingent upon approval after the public hearing. Mr. Hood stated that he has contacted United States Department of Agriculture (USDA) regarding rural facility grants of which we are not eligible for because we are not at the per capita poverty level; however, we can obtain a low interest 4.25% up to 40 years which can be paid off early without penalty; he will contact Mayor McCormack because she has been successful in obtaining USDA grants. Mr. Hood stated that this fiscal year he will carry forward about \$100,000; new budget will have more than \$200,000 in reserves for roadways, town hall or whatever Council wishes; can account for more than \$300,000 to build a new town hall. Council had the following comments: Mayor Yonts – on the fence, does not see church as permanent location; Council Member Bryan – we have a building not meant for what we want, concerned about how the neighbors feel about town hall being there at Alfred Park; Council Member Faden – on fence, park more feasible, building can be built as bunker and properly constructed; Council Member Hackford – on fence, likes both locations, all money saved with rent could go towards the purchase of church; Council Member Mahaney – on fence, unsure what work actually needs to be done at church site, likes idea of church parking being worked out with Grant Community Center, \$400,000 would get us in a 150 mph building; Council Member DeMott – on fence. People from the audience spoke with the following comments: Denni Burr – last year budget was concerned about money for roads, should roads be more important than building at the park; Joe Garbacik – people in Grant outraged about buying a building, unhappy that property tax is being raised, does not support purchase, need to focus money on roads; Vince Wilson – if people are so outraged they should attend the meetings, town should stay where they currently are and see what happens about Alfred Park; Joe Mullins – money should be put aside for roads; Tom Sammon – church is bad idea with too many negatives, wait and see what happens with park. Town Administrator Hood stated that the 5-year capital plan is \$100,000 for roads and \$50,000 for town hall; taxes were not raised to fund roads but to keep from raising taxes each year; town lost \$50 million in taxable value this year. Motions by Council Member Bryan, second by Council Member DeMott, and vote unanimous to not accept counter offer, withdraw current offer, stop all pursuits of the church property and wait for outcome of Alfred Park property.

NEW BUSINESS (continued)

2) Discussion/Action Re Support Distribution of Byrne Grant Monies To The Brevard County Sheriff's Department

Town Administrator Hood stated that each year Brevard County Sheriff's Department requests our support for this grant. Motions by Council Member Mahaney, second by Council Member Hackford, and vote unanimous to approve supporting distribution of Byrne Grant monies.

REPORTS

1) Town Administrator's Report

Town Administrator Hood gave his report as follows:

- A) While attending a workshop regarding property and liability insurance Town Clerk Krueger was informed by Debbi Franklin, Town Clerk of Malabar that the town had a substantial amount of monies in the transportation impact fee fund with the county; the town has \$1,114,741 in the fund which can be used for traffic improvements like bike lanes or turn lanes; need to submit a request to the county as to what we wish to use the money for, then it goes to a committee to approve and then it goes before the County Commission. Mayor Yonts stated that there should be something in the minutes indicating that the town opted-in on the impact fees.

The following people spoke regarding the impact fees: Joe Garbacik requested a traffic light at First Street and US1; Joe Mullins stated that when the county placed the sidewalk along Valkaria Road there was money there for it but when the town incorporated the project stopped. Town Administrator Hood responded to Council Member Bryan's concern from several meetings back regarding people crossing US1 at Treasure Coast Marina in that he met with Bonnie of Treasure Coast Marina who stated that the people crossing US1 in front of her place of business were people going across the street to Ray's Boathouse Grill for some food and then coming back to her place to drink.

- B) ATV activity – Council Member Faden stated that Marv Hatten called him complaining about the ATV activity at the end of Ponderosa Road; Mr. Hood responded that he spoke to Mr. Hatten today and he was not aware that the Sheriff's Department had ATV's however he would look into it.
- C) Florida League of Cities conference – requested if anyone wished to attend the conference. Mayor Yonts stated he would look into it and would get back to him at next Council meeting.
- D) Workshop – next workshop is scheduled for June 30th to continue discussion of the personnel manual.

2) Council Reports and Comments

Council Member DeMott stated that she attended the Chamber of Commerce's grand opening of Panera Bread. Council Member Bryan stated he would not be able to attend the August 25th meeting. Mayor Yonts stated that he attended the Space Coast League of Cities meeting last

Monday where they discussed the Home Rule Dual Vote Proposal being in its final stages of consideration before the County's Charter Review Committee; they requested a minimum of one representative from each town to speak at the hearings on July 1st and July 8th. Mayor Yonts stated he attended the City of West Melbourne's open house at their new town hall; spoke to George Geletko of Waste Management and requested that he come before Council with some options and reduced rates because City of Palm Bay and City of Melbourne recently renewed their contracts which went down from previous contract; had dinner with City of Palm Bay City Manager and Assistant City Manager whom recommended a traffic light at Valkaria Road and Babcock Street splitting the costs with Grant-Valkaria, and Mayor Yonts requested Council input regarding this topic. It was Council consensus that the town is not interested in paying for the light because all four corners of that intersection are in the City of Palm Bay. Mayor Yonts stated that since the Bayside and Stone schools borders have changed that the principal from the local charter school would like to come to one of our meetings to speak about residents have the option to have their children attend his charter school; it was Council consensus to have him come in to speak. Mayor Yonts stated that at the Space Coast League of Cities meeting they also brought up that Tax Payer's Bill of Rights (TABOR) may have an opt out mechanism, and the state may require septic tanks to be inspected every five years.

3) Board Reports and Comments

There were no Board reports or comments.

Motions by Council Member Bryan, second by Council Member Hackford, and vote unanimous to adjourn the meeting at 8:30 p.m.

(Signature on file)

Del Yonts, Mayor

ATTEST:

(signature on file)

Susanne R. Krueger, Town Clerk