

MEETING MINUTES OF THE  
TOWN COUNCIL REGULAR MEETING  
WEDNESDAY, FEBRUARY 11, 2009 AT 7:00 P.M.  
TOWN HALL BUILDING, 5120 HIGHWAY US1, GRANT VALKARIA, FLORIDA 32949

The Regular Town Council Meeting of February 11, 2009 was called to order at 7:00 p.m. by Mayor Del 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	Town Attorney Karl Bohne
Seat No. 3 – Pat Bryan	
Seat No. 4 – Jason Mahaney, Vice Mayor	
Seat No. 5 – Dan Faden	
Seat No. 6 – Cathy DeMott	

PRESENTATION - Barry Pichard, Principal of Sunrise Elementary School To Discuss Impact of School Budget Cuts

Mr. Richard stated the School Board may encounter budget cuts between March 1 through May 1 that may affect approximately 46-56 employees working for them. He stated that there will be a “Love of Learning” on February 18<sup>th</sup> between 5:00-7:00 p.m. at Sunrise Elementary which the Council is invited to attend. He explained that the School Board has about \$19 million in reserves which is about 3.9% of the budget; if the reserves drops to less than 3% the State send in the auditor general and they will recommend raising in up; if it drops to less than 2% the State can made a 5% mandatory pay cut to all school employees. Mayor Yonts thanked Mr. Pichard for coming to this meeting and for allowing the Town to utilize their school.

CHANGES TO AGENDA

Mayor Yonts requested adding to New Business “Comprehensive Plan Amendment requested by County to change of zoning on property immediately adjacent to the southern town limits from Residential 1 zoning to Light/Heavy Industrial zoning”.

APPROVAL OF MINUTES

- 1) Town Council Regular Meeting Minutes of June 11, 2008
- 2) Town Council Regular Meeting Minutes of January 14, 2009
- 3) Town Council Workshop Meeting Minutes of January 21, 2009
- 4) Town Council Regular Meeting Minutes of January 28, 2009

Motions by Council Member Kolar, second by Vice Mayor Mahaney, and vote unanimous to approve the Town Council Regular Meeting Minutes of June 11, 2008, Town Council Regular Meeting Minutes of January 14, 2009, Town Council Workshop Meeting Minutes of January 21, 2009 and Town Council Regular Meeting Minutes of January 28, 2009 with the conditions that the following changes be made:

- January 14, 2009 - page 3 second paragraph, fourth sentence - change from “... and requested hierarchy schedule” to “... and requested a contact listing”
- January 21, 2009 - page 1, third paragraph, last sentence - change from “... and Burton are 1.2 and 1.3 acres” to “...and Burton are all 1.4 and 1.2 on corner lots”

- January 28, 2009 - pag 6 thrid sentence from top of page - change from "...spoke to Mel Scott on February 11<sup>th</sup> ..." to "...spoke to Mel Scott on January 27<sup>th</sup>,"

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

The following people spoke during public comments:

- Curt Lorenc - stated that his comments pertains to last year's Air Fest; noisy all day and violated Noise Control Act of 1972; was performed in reckless endangerment; aerobatics too close to homes; misrepresented insurance coverage; he considered the Town hire consultants to go over all documents submitted because we need outside expertise; there appears to be fraudulent misrepresentation-EAA Class I event was not followed; was told by Board that if violations they would shut it down and they did not.
- Lisa McKasty - stated that she complained about the touch-and-goes on 927 performing repetitive flying over rooftops less than 1,000 feet and received no response from Mr. Borowsky; the hanger size that was approved was for small hangers and not large ones.
- Larry Hopkins - stated that we live in an aviation community; the property value did not decrease because of aviation; if the town is anti-aircraft it will cost us in the wallet with the loss of jobs and that it could be detrimental to set a precedent against aviation; he attended Air Fest and FAA already checked noise level to be okay; it would be a massive mistake to do anything against aviation.
- Janis Walters - stated she is not anti-aviation if aviation protects health and welfare of people in vicinity of airport.

PUBLIC HEARING - Ordinance No. 2009-01 - Second Reading (Hood)An Ordinance Of The Town Of Grant- Valkaria, Brevard County, Florida, Amending Division 2, Section 2.5 And Section 2.6 And Section 2.7 Of Ordinance No. 2008-01; Relating To Bonding Requirements; Clarifying When A Bond Is Required; Clarifying The Improvement Process; Providing For Severability; Providing For Conflicts; Providing An Effective Date.

Mayor Yonts read Ordinance No. 2009-01 by title only, stated for the record that legal advertisement was published in Florida Today newspaper on January 28, 2009, and declared the public hearing open. No one spoke; therefore, Mayor Yonts closed the public hearing. Town Administrator Hood stated that this ordinance changes the way the applicant pays for the construction of roads in that they no longer pay for both the bond and the cost of the road. Motions by Council Member Kolar, second by Council Member Bryan, and vote unanimous to approve Ordinance No. 2009-01, second reading.

### UNFINISHED BUSINESS

There was no unfinished business.

### NEW BUSINESS

- 1) Resolution No. 04-2009 - Special Event Permit For Air Fest (Hood)  
A Resolution Of The Town Of Grant-Valkaria, Brevard County; Approving An Application For A Special Event Permit For "Air Fest" At 2865 Greenbrooke Street

Submitted By Valkaria Aviation Association Inc; Imposing Conditions; Providing For Severability, Repeal And An Effective Date.

Town Administrator Hood stated that in discussion with Town Attorney Bohne and because of several issues he would like Council to pull Resolution No. 04-2009 but have Council discuss what is in the resolution, clarification, and the application. He stated that Mr. Cross has submitted to him prior to the meeting a certificate of waiver from FAA.

The following people spoke during public comments on the Air Fest topic:

- Allen Bland - asked what qualifications does he have to be a plane boss
- Jeanette Murray - stated that Council needs to keep in mind that the qualifications imposed are the same as Seafood Fest; there needs to be same restrictions on both
- Janis Walters - there needs to be a safety plan - who is in charge of what; parking addressed; no permission from Parks and Recreation to use Habitat parking; Mr. Cross was checked on the internet and showed Council all that was listed; item 8 on application does not have a notarized document authorizing use of property; the applicant has not gotten their portable toilets; certificate of insurance for \$1 million is not enough; aerobatic box map is not to scale; the car and motorcycle rally is not indicated on map; wants the event to be carefully insured and managed
- Lisa McKasty - stated that LeRoy Rotgers was supposed to publicize to people in surrounding area and neighborhood about the Air Fest; asked if they were a 501c corporation - if not they should require a percentage of income; requested from Council a letter to ensure safety of her family and home; complained about the high speed aerobatics at a low altitude; she did not enjoy the air show and wants it away from her backyard
- Tom Sammons - stated that this is a one day a year event and hopes the town approves it
- Rick Schmidt - stated that the air show is a super deal and it did not bother him; percentage of aircraft falling on him is slight and not a realistic concern
- Larry Hopkins - stated that people are more prone to getting in an auto accident than air show accident; amount of insurance is more than adequate; it was overbearing and petty to not approve and deprive others of enjoyment
- Vince Wilson - stated that why are they complaining about the air show if they live next to the airport; in favor of the air show

Mayor Yonts stated that the town makes no income from the event, that he had concerns about aerobatics over homes and that there were safety violations last year about not having wing walker and the traffic needs to be addressed. He asked Town Attorney Bohne if the Town has any legal obligations to issue a letter to Ms. McKasty. Town Attorney Bohne stated that the town has no liability because they issued the permit, that sovereign immunity applies, and that he would not recommend town issue a document to residents. Mr. Bohne stated that it must be a minimum of \$1 million per county laws and whatever insurance they have it must cover the town for all as additional insured. Mr. Joe Cross stated that he is the air show manager and Mr. Wayne Boggs is the air boss.

Mayor Yonts stated that he will be looking at procedures for large events to make sure that everything is here early enough and is asking Town Administrator Hood to work on a policy. Council Member Bryan stated that the Grant Community Club has been extremely cooperative with

everything asked and that the Air Fest for the past three years been scrambling to get things done; wants it a safe successful event and has same type of concerns as Seafood Fest. Council Member Faden stated that the town held a special workshop in October and Council stated then that they wanted things well in advance in case the event was turned down because of documents not being there; recommended more than \$1 million during aerobatics time frame; requested letter from Mr. Borowsky that the NOTAM will include listed items and letter from FAA who will be on site as FAA official; wants parking across Valkaria Road indicated on map; requested insurances on fights for hire; requested temporary food service permit from Environmental Health. Council Member Kolar agreed that they need to start earlier in getting the paperwork in. Council Member Mahaney stated that there is no need to discuss items if they are not in. Mayor Yonts stated that Council needs to have someone from Town potentially be present and that he will not be able to attend. It was Council consensus to have Town Administrator, Mayor or someone designated on Council. Council Member DeMott stated she was in favor of event, enjoys Air Fest, but concerned about the lateness of documents submitted and paying town attorney to be here; if documents are not received she will not approve event.

Mayor Yonts opened the discussion for public comments with the following people speaking:

- Curt Lorenc - agreed with above Council comments and that Council did everything possible to have them come in early; they failed to disclose honestly what they are doing; asked what Mr. Joe Cross' credentials are and if he was a licensed pilot; he handed a document to Council (Exhibit A) showing the boundaries of air box; he handed a document to Council (Exhibit B) which is the Attorney General of Florida informal opinion dated March 23, 2006 subject: Sunshine Law, electronic discussion board.
- Barbara Bland - stated she had a problem with the fixed wing in formation barely above the tree tops and wanted to know what Council is going to do to stop this or move this
- Denni Burr - requested Council move forward and make a list

It was Council consensus to require the following documents from applicant:

- a. Provide Certificate of Insurance from Valkaria Aviation Association Inc. (VAA) reflecting Town of Grant-Valkaria as the additional insured and have each of the detailed events like aerobatics inside the airbox and air rides listed on the certificate for \$1 million per event/occurrence
- b. Provide updated list of sponsors, exhibitors, vendors, and companies that will be "flight's for hire" vendors along with copies of all their certificates of insurance, tax and agricultural certificates, and hold harmless agreements
- c. Provide Town with a copy of NOTAM (Notice To Airmen) issued by Federal Aviation Authority (A letter will be accepted from Mr. Borowsky of Valkaria Airport listing the items requested for a waiver until the actual FAA NOTAM is received by the Town)
- d. Provide Town with verification from FAA that they will have someone on-site at sometime during the day
- e. Provide Town with verification that there will be a sufficient number of Deputies as determined by Brevard County Sheriff's Department on site for traffic control and law enforcement
- f. Provide notarized document authorizing use of property from property owner
- g. Provide letter for approval to use golf course entry road

- h. Provide new map showing sponsors, exhibitors, car/motorcycle rally parking, and additional parking across from Valkaria Road
- i. Provide to scale map clearly denoting where the aerobatic box is located
- j. Provide portable toilet supplier name
- k. Hold harmless agreement should be VAA, not Airfest
- l. Install signs throughout town at Corey and Weber Roads at north town limits both ways, and in Valkaria Heights area (1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Avenues)
- m. Department of Business and Professional Regulation, Division of Hotels and Restaurant temporary food service permit
- n. Chain of command listing with phone numbers and what function they do
- o. All documents must be in at close of business Feb 17<sup>th</sup>

Motions by Council Member Bryan, second by Council Member Hackford, and vote unanimous to require minimum \$1 million liability insurance and to include anyone that utilizes air rides and aerobatics inside air box.

Town Attorney Bohne was excused at 10:15 p.m.

Mayor Yonts called for a brief recess at 10:15 p.m. Mayor Yonts called the meeting to order at 10:28 p.m.

## 2) Discussion/Action Re Residential Density Requirement (Hood)

Town Administrator Hood stated that at the last meeting they discussed setting density as 1 unit per 1.25 acre, 1 unit per 1.4 acre or 1 unit per 1.3 acre on the future land use, and that the current county code has 1 unit per acre.

Mayor Yonts opened the discussion to public comments with the following people speaking:

- Denni Burr, Local Planning Agency (LPA) member - the LPA Board gave a lot of thought to the decision to increase the density to 1.25 to give more land and that it would affect the least amount of land owners.
- Tom Sammons - when the town incorporated they recommended 1 unit per 1.4 acres
- Rick Schmidt - 1.25 would be consistent with zoning and if changes down the road it would have less confusion
- Dan Robino, LPA member - the LPA Board recommended 1.25

Council Member Faden stated that he is concerned that less than 15% of parcels are over 2.5, 85% up to 90% of lots are between 1.5 and 1.9 acres and the Charter states to leave more green space. He stated he spoke to the largest land owner north of Vally Road who stated he recommended 1.5 or 1.4. Mr. Faden stated that 1.25 is not what the organizers of town wanted; he respects the LPA time and work they put into the recommendation, but leans toward the 1.4. Council Member Kolar inquired if density and lot size can be the same. Town Administrator Hood responded that in a subdivision setting if density and zoning are identical you will never hit density because you normally give up about 20% for retention and roadway. Council Member DeMott stated that she wants the density as 1.4 because by the time a person develops the property it will be down to 1.25. Council Member Bryan stated that would like density and lot size 1.25 but 1.40 is acceptable. Vice

Mayor Mahaney stated 1.3 to 1.4 acres lots cover about 52% of the lots. Motions by Council Member Hackford, second by Council Member Bryan, and vote by majority vote to approve density as 1 unit per 1.25 acres. (AYE: Hackford, Kolar, Mahaney, Bryan; NAYE: Yonts, DeMott, Faden). Town Administrator Hood stated for the record that the LPA will be recommending 1.25 minimum lot size.

Mayor Yonts noted for the record that the time was 11:01 p.m. It was Council consensus to continue with the remainder agenda items.

- 3) Comprehensive Plan Amendment requested by County to change of zoning on property immediately adjacent to the southern town limits from Residential 1 zoning to Light/Heavy Industrial zoning (Yonts)

Town Clerk Krueger read a letter received by Mayor Yonts from Mr. Charles R. Borders Jr. regarding proposed Brevard County plan amendment 2009-1.5, rezoning of 80+ acres in southwest Brevard abutting Riverview Terrace subdivision. In the letter it stated that only several owners of Riverview properties adjacent to this rezoning were notified of the rezoning from Residential 1 to Industrial classification; vast majority of homeowners in Riverview Terrace oppose changing the use to accommodate waste reclamation, sludge storage, and other such industrial uses in their "front yard"; he recommended opposing the location of this project and the proposed zoning because they would have a severe negative impact.

Mr. George Wolfe stated that the property will be incompatible with the current land use and that it is surrounded by residential. He stated that all Riverview Terrace property owners will be contacted so they can carpool to the public hearing opposing the rezoning.

The following people spoke opposing the rezoning:

- Jack Moyer - borders the proposed site and that it was a bad idea to rezone
- Sharon Parker - concerned about well water contamination, odor and high volume of waste; only 3-4 homeowners were originally notified; strongly opposes rezoning
- Dan Robino - it would have a great impact on town roads
- Terry Moyer - concerned about open air compost pile, dredge, sludge and ground water contamination; strongly opposes rezoning
- Rick Schmidt - it is a jump from Industrial to Residential zone; concerned that it does not fit with what is there
- Janis Walters - comprehensive plan amendment is in violation of comprehensive plan
- Curt Lorenc - concerned about heavy amount of metal contamination and infiltration in ground water
- George Wolfe - concerned about leaching into the water supply

It was Council consensus to oppose the comprehensive plan amendment. Town Administrator Hood stated that he would meet with the County planning director to discuss a joint planning agreement where there would be a mutual notification of zoning changes. Mr. Hood stated that he spoke to Town Attorney Bohne who agreed we have the right to close off Edisto Drive. Motions by Council Member Kolar, second by Council Member Bryan, and vote unanimous to oppose change

in comprehensive plan amendment 2009-1.5 from Residential 1 to Light/Heavy Industrial and at next workshop have a plan of action on this topic.

4) Florida East Coast Railways Payment Alternatives For Shell Pit Road Improvements (Hood)

Town Administrator Hood stated that Valkaria Road work has been successful verbally to be pushed out to January 2010; Florida East Coast Railways (FEC) stated that Valkaria Road has met its expected life. It was Council consensus to have Mr. Hood check with Palm Bay to see what they did when they challenged FEC and to see the test results conducted by FEC. Motions by Vice Mayor Mahaney, second by Council Member DeMott and vote unanimous to make a one-time payment for Shell Pit Road improvement using gas tax money if possible.

REPORTS

1) Town Administrator's Report

The Town Administrator Report consisted of the following:

- A) Request for Administrative Opinion - he received a request from Mr. Jim Beadle, Attorney for the Paris' seeking an interpretation of several of our ordinances. Our Town Attorney and he will be providing a response to Mr. Beadle. He will keep Council informed of the final letter. The Paris' matter that was to go before the Code Enforcement Board on February 3, 2009 has been rescheduled by him to March 3, 2009 as requested by Mr. Paris due to a conflict in his schedule on February 3, 2009
- B) FCCMA Membership - He has applied to membership to the Florida City County Management Association as required by his contract. He has successfully completed the ethics courses that is required to be considered for membership and should hear something regarding the application next month.
- C) Volunteers - He would like to thank Jessica Williams, Denni Burr, Bobbie Putnam and Linda Landrum for volunteering their time to assist Sue and himself at Town Hall. Their help is greatly appreciated. We can still use some assistance in the road department. Dan Robino has been having some severe back problems which has limited him quite a bit. He has been nice enough to at least drive the others around but we could find ourselves short of help as well as a truck. If you know anyone who is as dependable and as hard working as the rest of the group please send them his way.

Town Administrator Hood stated that he received a call from Marci Kinney for Council to consider appointing a Council representative as a liaison between the Town and City of Palm Bay regarding drainage issues so we do not get impacted on their decisions. Mr. Hood stated that Council might want to consider budgeting for the next fiscal year a drainage study in town. Council Member Faden stated that Ms. Kinney also contacted him.

2) Town Attorney's Report

There was no report given.

3) Finance Report

Town Administrator Hood stated that the current budget to actual are in the council package and if Council has any questions to please contact him.

#### 4) Council Reports and Comments

Council Member Kolar stated that the business roundtable meeting will be March 5<sup>th</sup> at the Grant Community Center and that of 248 businesses in town 38 have store fronts; she is organizing a week long fishing tournament starting Saturday or Sunday before Grant-Valkaria Day. Council Member Hackford suggested having the fishing tournament on Saturday or Sunday before Grant-Valkaria Day and awarding the prizes on the day of Grant-Valkaria Day. Vice Mayor Mahaney stated that he may be late at the meeting next week. Mayor Yonts requested a Council Member attend in his place the Mayor's breakfast on March 18<sup>th</sup>; Council Member Kolar will attend. Mayor Yonts stated that he will not be able to attend the Sunshine Meeting with the Florida League of Cities on Saturday; Economic Development Commission (EDC) is trying to get a grant for older workers training. It was Council consensus to use sample letter provided by EDC.

#### 5) Board Reports and Comments

There were no Board reports or comments.

#### ADJOURN

Motions by Council Member Bryan, second by Council Member Hackford, and vote unanimous to adjourn meeting at 12:30 p.m.

(signature on file)

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Mayor Del Yonts

ATTEST:

(signature on file)

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Susanne Krueger, Town Clerk