

MEETING MINUTES OF THE
SPECIAL PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MEETING
MONDAY, JUNE 1, 2009 AT 7:00 P.M.
GRANT COMMUNITY CENTER, 4580 1ST STREET, GRANT VALKARIA, FLORIDA 32949

The Special Planning and Zoning Board/Local Planning Agency Meeting of June 1, 2009 was called to order at 7:12 p.m. by Chairperson Whitehouse, followed by the Pledge of Allegiance, and roll call to the Members with the following present:

Chairperson Don Whitehouse	Town Administrator Richard Hood
Vice Chairperson Dan Robino	Town Clerk Susanne Krueger
Board Member Denni Burr	
Board Member Chris King	
Board Member John Mafera	
Board Member Allen Webb	
Board Member Ron Jenkin, Alternate 1	
Board Member David VanAsdale, Alternate 2	

Chairperson Whitehouse stated for the record that the regular Local Planning Agency meeting scheduled tonight is cancelled.

EXCUSE BOARD MEMBER THIEM

Chairperson Whitehouse stated that Board Member Thiem is in New Zealand. Motions by Board Member King, second by Vice Chairperson Robino, and vote unanimous to excuse Board Member Thiem.

PUBLIC HEARING - ORDINANCE NO. 2009-03 - (Planning and Zoning Board/Local Planning Agency Action)

An Ordinance Of The Town Of Grant-Valkaria Brevard County, Florida; Amending Section 62-1572 Of The Town Land Development Regulations As Adopted By The Town In The Town's Charter; Providing For Limitations On Activities Conducted At Airports Located In The GML Zoning District; Prohibiting Flight Training/Instruction Schools; Providing For Severability; Providing An Effective Date.

Chairperson Whitehouse read Ordinance No. 2009-03 by title only, and stated for the record that legal notice was published in Florida Today newspaper on May 21, 2009. He further explained that Board Members must disclose any ex parte communication regarding this topic, the Town Administrator will give some background information, Board Members may ask questions from his presentation, and the public can give their input. Each speaker will turn in speaker cards to the Town Clerk, each will be given five minutes on the agenda item, and at the end the Board will make their recommendation to Council.

Town Administrator Hood stated that he received an email from Town Attorney Bohne today which states "I am sending you this email to dispel some of the concerns of the aviation community with respect to the proposed ordinance relating to the amendment to the GML zoning district. This ordinance is not intended to nor does it prohibit the use of the airport for aircraft operations. Any rumors that the Town is doing so are blatantly false. Local governments are not preempted from enacting zoning restrictions relating to airport operations. The intent is to prohibit the location of

flight training schools at the Valkaria Airport. In order to dispel any suggestions that the Town is intending to illegally prohibit all aircraft operations at the airport I suggest that the Council consider changing the ordinance to make it clear that it is only intended to prohibit flight training from being “based” at the airport. Furthermore, the ordinance will not affect any current activity at the airport as those activities will be grandfathered and will be allowed to continue as non-conforming.” Mr. Hood stated that Mr. Bohne will be at Town of Malabar Town Council meeting tonight and he will try to join this meeting as soon as possible. Town Administrator Hood stated for the record that he received an email from Board Member Thiem who stated he was against the ordinance.

Comments were made by the following people regarding Ordinance No. 2009-03:

- Paula Raeburn - Florida Aviation Trades Association Executive Director; airport is a valuable asset
- Don Darby - for this ordinance - this ordinance is a litmus test for our town; local benefit is to protect rural; decision should be based on effects of flight training on our community; he handed Town Clerk a compact disc of airport activities
- Robert Manning, Attorney - Dean Mead Law Firm which represents Florida Technology; concerned about the language of the ordinance being discriminatory and in violation of some federal law
- Ron Thornstod - pilot; flight instructor; airport is asset to community as a economic engine
- Milo Zonka - suggested rejecting ordinance based upon case law provided; federal government has purview
- Gregg Little - no comment
- Mike Whaley - bad idea; exposing town to lawsuit
- Rodney Snyder - flight training school should be outlawed; against flight school at Valkaria Airport
- Linda Landrum - passed on making comment
- Chris Pozgar - is not about hating pilots and shutting airport; flying over his house twenty times in one day is too much; would like FIT to regulate themselves; County ensured airport would not change when in fact the master plan changed a lot
- Bob Denton - resident and tenant at airport as flight instructor; important to have airport available; wants ordinance defeated
- John Row - passed on making comment
- Kim Kahler - concerned about fighting this and it could be a losing battle; Steve Borowski doing a good job;
- Tony Sluzenski - instructor; students must be monitored; rules are monitored by FAA; need to consider instructors at airport
- Linda Mason - quality of life issue; questioned if the quality of flight training more important than the whole town; requested passing the ordinance
- Martin McKasty - ruined his quality of life; they fly overhead three to four hours at a time, break for lunch and then start again
- Martin McKasty Jr - did not speak, but did complete a speaker card which stated “I don’t want to speak; however, I’m in favor of ordinance restricting flight school activities.”

- Lisa McKasty - when former Commissioner Higgs was in office the airport, residents got along, few pilots violated, and flight schools were reprimanded; FIT planes are disobeying rules on a daily basis; want flight schools kept out of here
- Neal Chancellor - Past Chairman of Valkaria Airport Board; local flight instructor; he brings students for touch and goes because airport is convenient, useful and legal; town attorney should be present
- Oswald Venzen - FAA certified mechanic; aircraft safety is his job; maintains aircraft at flight school in Valkaria and Melbourne
- Nelson Rhodes - Florida Aircraft Owners and Pilots Association; opposes ordinance; use of land at airport is for aeronautical activity; federal government supersedes local ordinance
- Jo Faden - does not want commercial activity at airport; trusts the judgment of the Board
- Steve Bowman - pilot out of Valkaria; this ordinance may affect future funds and grants
- Theo Adkins - left, but completed a speaker card stating "no need for our taxes to go to a big legal fight"
- Marcie Kinney - left, but completed a speaker card stating "I say no. No need to restrict and have a huge legal fight."
- John Macusznok - cannot sell house with them flying overhead; request voting for ordinance and protect citizens
- Andy Pederson - pilot at Valkaria; has problem with wording of commercial flight training; if grandfathered activity where will it end to exclude; recommend scrap ordinance
- Casey Allen - flying out of Valkaria for five years; instructor for three years; sole source of income; who will take his place if he is grandfathered
- Don Facciobene - Karl Bohne is a great attorney, has researched and has a lot of experience; need to prevent helicopter training school descending on us
- Paul Rooy - attorney presenting airport users, proposed Valkaria pilots, AOPA; FAA and EPA have total control of airport noise; if ordinance passes and not legal standing they can tax attorney fees against the town by prohibiting this; no legal basis for passing this; quoted Embry Riddle noise abatement
- Jim Tonti - by not restricting commercial activity the door would be open for more commercial activity; urge Council and Planning and Zoning Board to ban future Valkaria Airport flight training
- Amon Modine - flight instructor at Valkaria; flight schools would be strong economic engine to commercial use; suggested they tell them to comply with the noise abatement; highly recommended not passing ordinance but encourage flight school to come in and get involved with them
- Curt Lorenc - airplane noise problems with FIT; the ordinance will not stop flight training but will stop them from basing at airport; in old County lease it said no commercial without approval from County Manager; misconception that the airport will generate money to town is incorrect; supported passing ordinance as written
- Kurt Stafflinger - it is not an issue with flying or not flying but for zoning; before the Master Plan had both sides in agreement of no commercial activity, now it is used as a door stop; ordinance needs to be passed to prevent commercial development at airport
- David Allen - past participant of Civil Air Patrol; confident that if a dialog is made with FIT it could be resolved; supported scratching ordinance and control noise

- Bernadette Knudson - supports this ordinance
- Janis Walters - zoning issue, land use issue; Town wants to control land use where Valkaria Airport will not be center for flight training; supports ordinance
- John Bailey - may have violation in requirements regarding changes made in advertisement requirements; may have expensive litigation

Chairperson Whitehouse closed the public hearing and brought the topic back to the Board Members. Board Member Robino stated that we are not restricting flight training but there cannot have commercial businesses at airport. Board Member Burr stated that she is not personally affected by the airport but supports the residents and in no way does she want to shut down the airport; the intent is to prohibit new commercial flight schools in GML and to have some control over it; open dialog has not worked before; wants to be on record that she is for ordinance. Board Member Webb stated he was concerned that we are going to remove an industry we might want in town and that he is not for this ordinance. Alternate Member VanAsdale stated that he was concerned that we are a rural nature community and it should not be constantly disturbed by airplanes. Board Member Mafera asked if the town has received opinions from FAA or DOT and how many flight schools are located at the airport. Town Administrator Hood responded that he has not received any response from FAA or DOT and he only knows of private pilots at the airport. Mr. Mafera stated that he has a history in aviation; concerned about the threat of future cost and lawsuits; requested more support from attorney; did not support ordinance. Board Member King stated that she had a problem with Attorney Bohne not being present; felt being pushed too quickly; do not think Town should do anything based on legal action and should not run scared; unknown how she will vote. Alternate Member Jenkin stated that he agrees with Board Member King; supports ordinance but would like more information. Vice Chairperson Robino stated that he does not want private pilots to be punished by prohibiting teaching to fly. Alternate Member VanAsdale stated the he has two clients that fly. Chairperson Whitehouse stated that he feels that they are moving too fast on this and maybe a conditional use on this rather than ban it would be better. Town Administrator Hood stated that staff did not write this ordinance but it was drafted by our attorney and reminded board members about ex parte communication. Alternate Member Jenkin stated that one gentleman spoke to him at his home about the ordinance.

Motions by Board Member King, second by Vice Chairperson Robino, to table this ordinance for a future meeting with town attorney present. Motion failed with a tie vote as follows: Ayes - Whitehouse, Robino, King; Nays - Burr, Mafera, Webb.

Town Administrator Hood stated for the record that the entire Town Council has been present during the entire meeting, they have heard all discussions, and they will meet immediately following this meeting.

Motions by Board Member Burr to accept Ordinance No. 2009-03. Motion failed due to lack of second. Motions by Board Member Webb, second by Board Member Mafera, to recommend to Town Council for denial of Ordinance No. 2009-03. Motion passes with 5-1 vote as follows: Ayes - Whitehouse, Robino, King, Mafera, Webb; Nays - Burr.

ADJOURN

Motions by Board Member Mafera, second by Vice Chairperson Robino, and vote unanimous to adjourn meeting at 9:05 p.m.

Don Whitehouse, Chairperson

ATTEST:

Susanne Krueger, Town Clerk