

JOINT AGENDA FOR THE  
ZONING BOARD OF APPEALS  
WEDNESDAY, MAY 13, 2009 AT 7:00 P.M.  
AND

TOWN COUNCIL REGULAR MEETING  
WEDNESDAY, MAY 13, 2009 AT 7:00 P.M. OR AS SOON AS PRACTICAL THEREAFTER  
AT  
TOWN HALL BUILDING, 5120 HIGHWAY US1, GRANT VALKARIA, FLORIDA 32949

The Town Council Zoning Board of Appeals Meeting of the Town of Grant-Valkaria, Florida, of Wednesday, May 13, 2009 was called to order at 7:00 p.m. by Mayor Del Yonts followed by the Pledge of Allegiance led by Council Member DeMott, 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

Council Member Faden requested adding discussion of the upcoming County Commission agenda item on hangar lease and discussion of ordinance change to government managed lands (GML) zoning to the agenda. Mayor Yonts stated that he would like to change the agenda after the two public hearings where Council discusses Royal Palm Charter school site plan, upcoming county hangar lease, and Government Managed Lands (GML) zoning, respectively, and then continue with the normal agenda from approval of minutes.

PUBLIC HEARING - VARIANCE NO. V-2009-01 (Board Action)

Applicant: Lifestyle Home Builders  
Variance Requested: A variance on 2.5 acre requirement in order to obtain an ingress/egress along Parcel Id # 26-27-25-00-0350.0 to grant Parcel Id # 26-27-25-00-0351.0 access to Corey Road.  
Property currently zoned as: Agricultural residential, AU

Mayor Yonts stated for the record that the rules for the public hearing will be that the applicant will be given fifteen minutes, it will be opened for public comments and then brought back to Council. Mayor Yonts read the above described variance request and stated for the record that the legal notice was published in Florida Today newspaper on April 16, 2009.

Elizabeth Farray, Lifestyle Home Builders representative, stated that the owner of the property is not able to extend the road due to wetlands. After identifying that no one else wished to speak, Mayor Yonts closed the public hearing and brought it back to Council.

Council Member Faden wished to complement the Planning and Zoning Board in the thorough job and having the minutes completed which streamlines the process. Mayor Yonts stated that after reviewing the hardship worksheet he found that all the conditions have been met and the probability of getting permits from the St. Johns River Water Management District may not be there. Motions by Vice Mayor Mahaney, second by Council Member Faden, and vote unanimous to approve Variance No. V-2009-01.

#### ADJOURN ZONING BOARD OF APPEALS MEETING

Motions by Vice Mayor Mahaney, second by Council Member Hackford, and vote unanimous to adjourn the Zoning Board of Appeals Meeting at 7:10 p.m.

#### TOWN COUNCIL REGULAR MEETING CALLED TO ORDER

Mayor Yonts called the Town Council Regular Meeting to order at 7:11 p.m.

#### PUBLIC HEARING - RESOLUTION NO. 07-2009 (Council Action)

A Resolution Of The Town Of Grant-Valkaria, Brevard County, Florida; Granting A Variance Request To Ronald F. DeVitto And Donna M. Robson; Allowing A Variance To The Parent Parcel Minimum Requirement As Per Division 1, Section 1.1 (b) (2) b.4 Of The Town Of Grant-Valkaria Ordinance No. 2008-01 For The Construction Of An Ingress/Egress On The Property Described Herein; Providing For Conditions; Providing For Revocation; Providing An Effective Date.

Mayor Yonts read Resolution No. 07-2009 by title only and opened the public hearing. No one spoke regarding the resolution; therefore, Mayor Yonts closed the public hearing and brought it back before Council. Mayor Yonts stated for the record that legal notice was published in Florida Today newspaper on April 9, 2009. Motions by Council Member Hackford, second by Vice Mayor Mahaney, and vote unanimous to approve Resolution No. 07-2009.

#### PUBLIC HEARING - REZONING NO. Z-2009-01/ORDINANCE NO. 2009-02 - FIRST READING (Council Action)

An Ordinance Of The Town Of Grant-Valkaria, Brevard County, Florida; Rezoning Property As Follows: Township 29, Range 38, Section 34, Parcel 518 Also Known As 6445 Highway 1, Grant Valkaria, Florida; From Brevard County BU-1 (General Retail Commercial) To Brevard County RU1-9 (Single-Family Residential); Providing For Amendment Of The Official Zoning Map; Providing An Effective Date (Rezoning No. Z-2009-01).

Applicant: Andrew W. and Alison M. Goodrich  
Rezoning Requested: Change existing zoning classification BU1 (General Retail Commercial) to proposed zoning classification RU1-9 (Single-Family Residential) on the following parcel described as 6445 Highway US1 (Parcel ID: Township 29 South, Range 38 East, Section 34, Parcel 518) and containing .38 acres, more or less. A complete description of the property is available at Town Hall.

Mayor Yonts read Ordinance No. 2009-02 by title only, stated that legal notice was published in Florida Today newspaper on April 9, 2009 and opened the public hearing. Town Administrator Hood stated that the applicant has applied for a rezoning from BU-1 to RU1-9 to provide greater flexibility on the side setbacks of the residence. Currently BU-1 zoning requires a 15 foot side setback on the south side of this lot because the BU-1 zoning is abutting a residentially zoned property and a 5 foot setback on the north side of the lot because it abuts other BU-1 zoned property. In both cases the applicant's lot is abutting single family residential uses. They wish to build a new home on this lot and have it centered on the lot instead of the current configuration of being offset because of zoning. RU-1-9 will allow a side setback of 7.5 feet on each side. This request is in compliance with the Comprehensive Plan and the Future Land Use Maps. He further stated that the Planning and Zoning Board recommended approval, and that Mr. Goodrich is in the audience. Motions by Vice Mayor Mahaney, second by Council Member Hackford, and vote unanimous to approved Rezoning No. Z-2009-01 and Ordinance No. 2009-02, First Reading.

### NEW BUSINESS

- 1) Discussion/Action Re Site Plan For Royal Palm Charter School, 7145 Babcock Street (Hood)

Town Administrator Hood stated the applicant has applied for a site plan review for the construction of six new modular units on the existing site of the Royal Palm Charter School located on Babcock Street. Currently there are two modular units located on the existing site along with related unpaved parking and paved driveway connection to Babcock Street. The site currently is served with a well and septic systems and a draft well for fire protection. This proposal includes tying in to the City of Palm Bay's water system for both potable water and fire protection. The proposal includes the associated paved parking, landscaping and lighting as required by Chapter 62 of the land development regulations. The applicant has submitted copies of all required exhibits. Outside agency permits that are required include FDEP water, St. John's River Water Management District storm water, and the State Health Department for the septic system. Copies of the approved permits must be submitted prior to final site plan approval. This property is currently zoned AU. When it was being annexed into Palm Bay they allowed schools in that zoning, but Grant-Valkaria does not allow schools in AU. Mr. Hood recommended to Council if they wish to approve the site plan that they have the condition that all outside agencies permits are submitted prior to final site plan and an agreement to execute an administrative rezoning be submitted by Royal Palm Charter School.

Chris Glatz representing Royal Palm Charter School thanked Council. Vice Mayor Mahaney stated that we should make sure that there is separation distance between buildings. Mr. Glatz stated that the Fire Marshall has reviewed for a single fire alarm system, it is a 140 rated building, and that it meets all requirements. Vice Mayor Mahaney stated that beware that the building department and the fire department are two separate departments and they review for different codes. Town Administrator Hood state if there are any alterations after approval if Council wishes him to handle administratively he would do so.

Motions by Council Member Bryan, second by Council Member Kolar, and vote unanimous to approve the Royal Palm Charter School site plan subject to all outside agencies permits be submitted prior to final site plan, an agreement be executed for an administrative rezoning and

minor site plan changes be determined by Town Administrator which he will handle administratively.

2) Discuss upcoming County Commission agenda item on hangar lease (Faden)

Council Member Faden stated that he had a concern about an item in the hangar lease agreement. Town Attorney Bohne was in agreement that the county omitted the Town and that the Town needs to be recognized as a town in whole and that we have a vested interest. Mr. Faden would like to see the Town draft a letter being insistent that the Town laws be included in General Provision V.D and VI.A.2. Mayor Yonts suggested emailing the County Manager, County Commissioners, and Airport Director and follow up with an actual letter which would give them a chance to respond. Council was concerned that the County would not agree and Town Attorney Bohne suggested that maybe the Town needs to show up and make a presence.

Curt Lorenc stated maybe the lease agreement should go before the Town of Malabar and Town of Grant-Valkaria. He stated there are major changes in the new lease agreement. In the old one there was “no commercial”; in the new one “no commercial” has been removed. They built a large hangar where FIT planes are kept, skydiving going on, and passenger carrier service going on. He stated that we need to stand up against commercial, i.e. banner signs; they are changing the direction of airport to commercial and it needs to stay recreational; it will affect properties.

Joe Garbacik questioned some of the pilots’ skills, the Town should be concerned what is going on there and he suggested it will impact the town.

Council Member Kolar stated that we need to check to see if lease is in compliance with the master plan. Council Member Faden stated that they have not followed the master plan yet. Council Member Kolar questioned if we have the right to challenge it. Town Attorney Bohne stated that if we had a business tax receipt we could regulate what goes on there and it would become a code enforcement issue if they operated without a license. Mayor Yonts restated Council concerns as that there is an adverse impact in that the former lease had “no commercial”, the new lease does not and they need to include town regarding ordinances. Town Attorney Bohne stated they need to change paragraph VIII.B where it refers to real property hereinafter described should be described. Council Member Kolar asked if the county did not agree that they would coordinate with the town. Mayor Yonts responded that they did agree and that this should be included in the letter to them. Council Member Bryan stated that they need to recognize that they are land owners in town and we just want recognition of the fact, and that he was concerned that it could be turned into an executive airport. Council Member Kolar asked Town Attorney Bohne as to the status on his research and he responded that we have a long way to go but he will have something for Council within two months.

Council Member Faden requested Town Attorney Bohne to research the Master Plan regarding “no commercial”. Town Administrator Hood stated that he will come up with something tomorrow. Mayor Yonts requested a copy be sent to the Town of Malabar.

Motions by Council Member Faden, second by Council Member Kolar, and vote unanimous to execute a letter addressing the following:

- 1) In Paragraph V.D and VI.A.2 that Town laws be included

- 2) In Paragraph VIII.B where it refers to real property hereinafter described should be described.
- 3) Existing lease having “no commercial” deleted and putting it back in to protect residents
- 4) Adverse impact of commercial business in town in a manner of offering and requesting intergovernmental coordination in that they are not notifying us in timely manner of things going on there

3) Discuss ordinance change to Government Managed Lands (GML) zoning

Council Member Faden stated that he has talked to Town Attorney Bohne regarding drafting an ordinance addressing the GML zoning changing conditional use to “no flight training instruction”, and with a definition of flight school. He would like to fast track this and asked Council to have a joint meeting with the Planning and Zoning Board on the first reading of the ordinance. Mayor Yonts stated he was concerned with having a no flight instruction where there is an existing club that has flight instruction and does not want to restrict them as being independent pilots. Town Attorney Bohne stated that it would cover the club, recurrent training, giving and receiving instruction, and the existing club would be grandfathered in.

Town Administrator Hood stated that the state law does not have a requirement for the Local Planning Agency (LPA) meeting, but Council will need ads to hear the two readings of the ordinance. He stated that if LPA holds a public hearing on the ordinance on June 1<sup>st</sup> and Council holds a public hearing for first reading of the ordinance on June 1<sup>st</sup> immediately following the LPA, an ad needs to run at least ten days prior to June 1<sup>st</sup>. If Council wishes to hold their public hearing for the second reading of the ordinance it will need to be heard at least ten days after the first public hearing which would be June 11<sup>th</sup> and an ad needs to run at least five days prior to this date. It was Council consensus to schedule their meeting immediately following the LPA meeting on June 1<sup>st</sup> and to move forward expeditiously on this topic with the existing clubs not be restricted by this ordinance.

Curt Lorenc stated that presently the ordinance for the airport has no commercial without approval of County Manager and if we took it in as “no commercial” it might give the Town the time that they need. He stated that the County should not have the final approval on the new hangars, but it should be the Town.

After acknowledging that there was no Town Attorney report, Mr. Bohne was excused by Council at 8:30 p.m.

#### APPROVAL OF MINUTES

- 1) Town Council Workshop Meeting Minutes of April 15, 2009
- 2) Town Council Joint Regular and Workshop Meeting Minutes of April 22, 2009

Curt Lorenc stated that the minutes of April 15<sup>th</sup> did not mention a third letter regarding flight safety to praise them for following the County’s rules and regulations and that the Town Administrator was tasked to investigate with the Sheriff’s Department and get back with Mayor.

Council Member Faden requested Town Administrator Hood write letter to County to enforce their own policy with a copy to FIT and Mr. Borowski. Town Administrator Hood stated that he is waiting for a response from the Sheriff's Department regarding the complaint filed by Mr. Borowski against a resident.

Motions by Council Member Hackford, second by Council Member Faden, and vote unanimous to approve the Town Council Workshop Meeting Minutes of April 15, 2009 as is and approve the Town Council Joint Regular and Workshop Meeting Minutes of April 22, 2009 with the change as explained by Curt Lorenc in above statement.

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

There were no public comments on non-agenda items.

Motions by Council Member Bryan, second by Vice Mayor Mahaney, and vote unanimous to have a ten minute break at 8:40 p.m. Mayor Yonts called the meeting to order at 8:50 p.m.

#### UNFINISHED BUSINESS

There was no unfinished business.

#### NEW BUSINES

##### 1) Discussion/Action Re Grant Flatwoods Sanctuary Management Plan (Hood)

Chris O'Hara, Brevard County Environmentally Endangered Lands (EELs) Program stated that as per Florida state statute it is required to have a thirty day public review of the management plan, and then hold a Public Advisory Committee review of which no date has yet been set. He stated that if anyone has comments to submit them by May 25<sup>th</sup>. He further explained that part of the Flatwoods is in the town and part in the county which have protected species and which restoration is needed; the Recreational Advisory Committee suggested trails; the Town will have an opportunity to comment during the entire process; parking area will be placed at Crepe Myrtle. It was noted by Council Member Kolar that this plan is posted on the town website and Mr. O'Hara stated that a copy is also available at the Barefoot Bay library. Council thanked Mr. O'Hara and Mr. David DeMeyer for attending this meeting.

##### 2) Discussion/Action Re Environmentally Endangered Lands (EELs) and Florida Inland Navigation Department (FIND) (Jenny Ashbury and Mike McKnight)

Mr. Mike McKnight, Program Manager, gave an update on the exchange of the EELs and FIND properties. He was notified by FIND that they wished to get a decision regarding the swap of their property before the end of May, it will go before the County Commission on May 19<sup>th</sup>, and he would like to show County Commission that there is interest in working towards this. Mr. Knight stated that the proposal would be for the County to convey 14 acres to the Graham's, County convey 70 acres to FIND, and FIND to convey 70-110 acres to County. However, he stated there are still some issues with these proposals. Town Administrator Hood stated that the Graham's will probably want to maintain Light Industrial on the new property. Mr. McKnight stated that there would be a forest buffering the area to the south of the property which would help with the odor. Council stated they had concerns about having trucks coming in and tearing

up the roads instead of it being pumped, protecting the scrub jays, and what type of impact would be on the horse farm. He stated that only conceptual negotiations have been done and asked if the Town is interested in exploring negotiations.

Motions by Council Member DeMott, second by Council Member Bryan, and vote unanimous to approve the concept with consideration that this does not open up trucks to Old Dixie Highway, that the Town would rather have it pumped as they originally planned, the exchange would be better use of land concerning trucks and method of disposal, subject to negotiations in involvement in zoning based on degree of impact.

3) Discussion/Action Re Nominations To The Charter Review Committee (Hood)

Town Administrator Hood requested each of Council's selection for the Charter Review Committee as follows: Council Member Bryan appointed Denni Burr, Council Member Faden appointed Dave Folts, Council Member Kolar appointed Jim Tonti, Mayor Yonts appointed Tim Reynolds, Council Member Hackford appointed Joe Mullins, Vice Mayor Mahaney appointed Tom Sammon, Council Member DeMott appointed Linda Landrum. It was noted for the record that all committee members were present. It was the consensus of all the committee members to have a meeting June 16<sup>th</sup> at 7:00 p.m. at Town Hall building. Council Member Kolar stated that she participated with the County Charter Review, that they always had an attorney present and that we need to run it by the attorney and have him participate.

4) Discussion/Action Re Resolution No. 08-2009 - Street Naming Of Luxury Road (Hood)

Town Administrator Hood read Resolution No. 08-2009 by title only and stated that this resolution was requested by County Address Assignment on an accepted road. Motions by Vice Mayor Mahaney, second by Council Member Hackford, and vote unanimous to approve Resolution No. 08-2009.

## REPORTS

1) Town Administrator's Report

Town Administrator Hood read his report as follows:

- A) Christenson Boat Ramp - Equipment has moved in to begin construction of the Christenson boat ramp facilities and he has not yet received notice of a ribbon cutting ceremony but he will keep everyone informed as he finds out details.
- B) Honda - Honda has submitted copies of their boat dock permit, anticipate receiving their ramp permit in the next couple of weeks, and will be beginning construction in the coming weeks. Once the ramp and dock are in place they will be a full operation and we will begin the clock for the 6 month review.
- C) Mowing and ditch clearing - He has requested the mowing contractor begin mowing the rights-of ways and ditch side beginning mid May. He has met with the ditch contractor and has released him to begin some ditch clearing next week. Mowing and ditch work will begin on Berry Road and move north to Brabrook Avenue, Mooney Lane, and around Vally Road. The mowing of rights of ways, side slopes and cutting back Brazilian peppers will be done on Weber Road, Corey Road and north end of Leghorn within the next two weeks.

Council Member Hackford requested ditch cleaning on the east side of Los Paltos, north end of road by Berry Road because it gets clogged there. Mr. Chilcott stated that the vacant property next to his is overgrown with pepper trees and is spreading in the ditch. Town Administrator Hood stated that he will take a look at the problem, but to remember that the town is doing the best it can with the money we have.

- D) Road grading - road grading has been hampered due to the lack of rain. We are still maintaining our schedule for grading but the results have not been as effective with the lack of rain. Usually we can remix the roadways by cutting 2-3 inches into the roadway material and continuously turn the material over to remix it. With lack of rain we are attempting to just keep the roads in driving shape without trying to remix the materials.
- E) Miscellaneous - received a call from Barbara Meyers regarding the Fellsmere US1 Scenic Highway Corridor which is going before the County and she requested support from surrounding towns. He wanted to bring to Council attention that on May 21<sup>st</sup> a comprehensive plan change will be going before the City of Palm Bay Council which would create a new land use category, a regional land use center, for a project entitled "Emerald City" located south of the town limits off Babcock Street past SE Plantation Circle. He encouraged Council to attend this meeting and to go to the City of Palm Bay website. He stated that he will be on vacation May 26, 27 and 28 but will be available May 27 for the Town Council meeting.

It was Council consensus to bring back to them the Fellsmere US1 Scenic Highway Corridor in a resolution.

- F) Town Hall lease - He stated that he has been in contact with Mr. Surles to gather more answers from the April 30<sup>th</sup> meeting and requested Council input regarding moving or not. He received an email from Lori Chase that the area in the back is cleaned out. Dan Robino met with John Chase regarding the gate and the neighboring property regarding the parking. He received an email from Linda Landrum stating that we need to move. He presented a copy of his report on the projector for the audience.

Town Council made the following comments/concerns:

- Mayor Yonts - was concerned about parking; staff desks being exposed during the public meetings; Council parking at the bar gives a different perception; carpeted room of the Grant Community Center is about the same size of the planned Council Chamber
- Council Member Hackford - new building would correct the parking problem; it would be a lot more room; he has a lot of Town Hall inventory at his house; inquired if how quick can we get out of lease - Town Administrator Hood responded that after one year a six month notice will be required, Mr. Surles needs eighteen months to recoup the most of remodeling for town hall, that he is willing to sit down and negotiate, and Mr. Surles is looking for a tenant to take care of building and Mr. Hood's biggest concern is what will be available twelve months from now

- Council Member DeMott - it was sentimental in the beginning but the new building will serve our future needs; wants the residents to know that they have a place to park and a seat to sit in
- Council Member Faden - supported moving from the beginning; that we need our own building; need parking; we owe it to our residents and to staff
- Council Member Bryan - concerned about the cost of an upgraded sound system; if Mr. Surles was building out that he should install wiring for speakers; people in the back should be able to hear
- Council Member Kolar - did not have a problem with new building; it is what town hall should be; more professional

The following public comments were made:

- Denni Burr - have to be practical and will support Council decision; concerned about Mr. Surles being financially secure
- Bonnie Allan - voted Council in and is confident they know what they are doing

Motions by Council Member DeMott, second by Council Member Kolar, and vote unanimous to move forward with pursuing a lease with Mr. Surles. Town Administrator Hood suggested a committee to be part of the negotiation process. Motions by Vice Mayor Mahaney, second by Council Member DeMott, and vote unanimous to appoint Mayor Yonts to be part of negotiation committee. Motions by Council Member Hackford, second by Vice Mayor Mahaney, and vote unanimous to appoint Denni Burr to be part of the negotiation committee.

It was noted for the record by Mayor Yonts that it was 11:00 p.m. Motions by Council Member DeMott, second by Council Member Faden, and vote unanimous to continue the meeting.

## 2) Finance Report

It was noted by Mayor Yonts that if anyone had any questions regarding the finance report to call Town Administrator Hood.

## 3) Council Reports and Comments

Council Member Bryan announced that Council Member Hackford had the winning dolphin fish at the fishing tournament at Sebastian this past weekend. Council Member Kolar stated that 49 anglers have signed up for the fishing tournament, awards will be at the picnic on Sunday, and the leader board is posted on our website which also shows all the sponsors. She thanked everyone who helped at the anglers meeting and if anyone wants to help in Grant-Valkaria Day she will be there at 10:00 .a.m. Denni Burr requested assistance for several items still needed for Grant-Valkaria Day and received confirmation from the audience and Council that she would receive them. Mayor Yonts stated he had four topics to be addressed: 1) request by ABATE motorcycle association for a resolution - it was Council consensus to have this not be brought back as a resolution; 2) Brevard County Charter is being reviewed and they are looking for appointees - it was Council consensus that no one is interested in this; 3) grand opening of new fire department - there was a great turnout and they have a meeting room that is available; 4) he attended the business meeting of the new local business group and they requested a reference to their non-profit organization, Grant-Valkaria Business Association, on our website if they make

their own website - it was Council consensus to allow this. It was noted by Mayor Yonts that they did request a Council Member attend their meetings and it was Council consensus to rotate who attends at their meetings which meet the first Thursday of the month. Council Member Faden will attend the next one and they will go down by seat number as to who will attend the next meeting.

4) Board Reports and Comments

Don Whitehouse, Local Planning Agency/Planning and Zoning Board Chairperson, stated that they will be addressing BU1 and BU2 as per Council request. Town Administrator Hood stated that the Code Enforcement Board will be having a meeting in June where they will receive an update from the Code Enforcement Officer.

ADJOURN TOWN COUNCIL REGULAR MEETING

Motions by Council Member Bryan, second by Council Member Hackford, and vote unanimous to adjourn the meeting at 11:23 p.m.

(signature on file)

ATTEST:

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Del Yonts, Mayor

(signature on file)

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Susanne Krueger, Town Clerk