



Town of Loxahatchee Groves
Town Council/Loxahatchee Groves Water Control District
Joint Workshop Meeting
Tuesday, October 16, 2012 at 7:00 p.m.
Central Palm Beach County Chamber of Commerce
13901 Southern Boulevard, Loxahatchee Groves, Florida 33470

Mayor David Browning (Seat 4)
Vice Mayor Jim Rockett (Seat 2)
Councilman Tom Goltzené (Seat 5)
Councilman Ronald D. Jarriel (Seat 1)
Councilman Ryan Liang (Seat 3)
Town Manager Mark Kutney
Town Clerk Susan Eichhorn
Town Attorney Michael D. Cirullo, Jr.

Chairman David DeMarois
Vice Chairman Robert Snowball
Board Supervisor John Ryan
Board Supervisor Frank Schiola
Board Supervisor Don Widing
District Administrator Clete Saunier
District Attorney Mary Viator

PUBLIC NOTICE/AGENDA

Tentative
Subject to Revision

1. OPENING

- a. Call to Order & Roll Call
- b. Pledge of Allegiance & Invocation
- c. Procedural Matters Related to Public Input

2. ITEMS TO BE DISCUSSED

a. Discussion Items Will Include The Following:

1. District action required to convert perpetual Deed of Easement from Southern States Land and Timber to fee simple ownership (probably without mineral rights) – legal presentation by Town/District Attorneys.

- a. Quiet title action (with notification to SSL&T)
- b. Any Amendment (local bill) to District enabling legislation required
- c. Relevant Florida Statutes
- d. Consider current District enabling legislation and acre assessment authority

2. Alternative futures for LGWCD as it relates to the Town

a. Independent Special District

- 1. With periodic assignment of OGEM/speed hump road segments to Town
- 2. Providing contract services to Town for all roads (District and Non-District)
- 3. Continuing sharing of revenues associated with gas tax funds received by the Town

b. Dependent Special District

- 1. Ad valorem tax basis for non-assigned roads and canals
- 2. Acre assessment basis for non-assigned roads and canals

3. District handling maintenance work on both assigned District roads and non-District roads

- a. Per Town approved schedule and as needed/on call
- b. Payment/reimbursement arrangements – ILA and process documentation involved.
- c. Speed humps – design and liability issues.

3. PUBLIC COMMENT

4. WRAP-UP/CLOSING COMMENTS

5. ADJOURNMENT

Comments Cards: Anyone from the public wishing to address the Town Council must complete a Comment Card before speaking. This must be filled out completely with your full name and address and given to the Town Clerk. During the meeting, before public comments, you may only address the item on the agenda in which is being discussed at the time of your comment. During public comments, you may address any item you desire. Please remember that there is a three (3) minute time limit on all public comment. Any person who decides to appeal any decision of the Council with respect to any matter considered at this meeting will need a record of the proceedings and for such purpose, may need to ensure that a verbatim record of the proceedings is made which included testimony and evidence upon which the appeal is to be based. Persons with disabilities requiring accommodations in order to participate should contact the Town Clerk's Office (561-793-2418), at least 48 hours in advance to request such accommodation.

TOWN OF LOXAHATCHEE GROVES

MEMORANDUM NO. 2012-05

TO: Mayor David Browning
Members of the Town Council
Mark Kutney, Town Manager

CC: Jan Moore, Town Clerk

FROM: Michael D. Cirullo, Jr., Office of the Town Attorney *MDC*

DATE: May 8, 2012

RE: Town of Loxahatchee Groves ("Town")/Loxahatchee Groves Water Control District ("District")

This Memorandum is intended to address the process for converting the Loxahatchee Groves Water Control District (the "LGWCD") from its current status as an Independent Special District to a Dependent Special District of the Town of Loxahatchee Groves. Although it has been spoken in terms of a "merger," there is no direct process for merging a local general purpose government such as the Town and an Independent Special District such as the LGWCD.¹

The process for accomplishing a transition of LGWCD responsibilities to the Town is a two-step process: (1) the dissolution of the LGWCD; and (2) the establishment of a Dependent Special District by the Town. I have conferred with the LGWCD's counsel, Mary Viator, and we agree on the analysis set forth herein.

1. Dissolution of the LGWCD

In a Memorandum dated January 12, 2012, to the LGWCD's Board of Supervisors, the LGWCD's counsel outlined the dissolution process. Dissolution of an Independent Special District, such as the LGWCD, is set forth in Section 189.4042, Florida Statutes. This statute was significantly amended by the Florida Legislature during the most recent legislative session. The new law was approved by the Governor on March 23, 2012. It is currently enacted as Chapter 2012-16, Laws of Florida, and is effective July 1, 2012. Although the LGWCD counsel's analysis was done under the previous statutory language, it is consistent with the amended Section 189.4042, Florida Statutes.

¹ There is a statutory process for merging two Independent Special Districts, but not a municipality or county with an Independent Special District.

Effective July 1, 2012, pursuant to Chapter 2012-16, Laws of Florida, the process for dissolving the LGWCD would be as follows:

- The LGWCD Board of Supervisors could vote to dissolve the LGWCD.
 - The vote must be by a majority plus one of the Board.
 - It must be effectuated by the Florida Legislature, which requires a Special Act.
- The amended law contemplates involuntary dissolution. Language in the statute suggests that it could be initiated by the local purpose government, in this case the Town, through an ordinance or resolution supporting the dissolution.
- Whether initiated by the LGWCD Board, or otherwise (such as through a Town ordinance or resolution), the Florida Legislature must adopt a Special Act to dissolve the LGWCD.
- The Special Act must be approved by a majority of the landowners in the LGWCD, voting in the same manner as they do for the election of those LGWCD supervisors elected by acreage. *Note that if the Town adopted a resolution or ordinance to support the dissolution of the LGWCD, the Town would be responsible for paying the costs of the referendum.*
- Unless otherwise provided in the Special Act, upon the dissolution of the LGWCD, title to all property owned by the LGWCD would be transferred to the Town.
- Unless otherwise provided in the Special Act, upon the dissolution of the LGWCD, the Town shall assume all indebtedness of the LGWCD.

2. Establishment of a Dependent Special District of the Town

A Dependent Special District is defined by Section 189.403, Florida Statutes, as a special district that meets one of the following criteria:

- (a) The membership of its governing body is identical to that of the governing body of a single county or a single municipality.
- (b) All members of its governing body are appointed by the governing body of a single county or a single municipality.
- (c) During their unexpired terms, members of the special district's governing body are subject to removal at will by the governing body of a single county or a single municipality.

(d) The district has a budget that requires approval through an affirmative vote or can be vetoed by the governing body of a single county or a single municipality.

Section 189.403, Florida Statutes.

A Dependent Special District is created by ordinance of the local government having jurisdiction over the area. The Ordinance must contain the following:

- (a) The purpose, powers, functions, and duties of the district.
- (b) The geographic boundary limitations of the district.
- (c) The authority of the district.
- (d) An explanation of why the district is the best alternative.
- (e) The membership, organization, compensation, and administrative duties of the governing board.
- (f) The applicable financial disclosure, noticing, and reporting requirements.
- (g) The methods for financing the district.
- (h) A declaration that the creation of the district is consistent with the approved local government comprehensive plans.

Section 189.4041, Florida Statutes.

Therefore, in order to create a Dependent Special District, the Town Council would need to adopt an Ordinance containing all of the information required by Sections 189.403 and 189.4041, Florida Statutes.

Prior to the adoption of the Ordinance, the Town would need to review and confirm how to address the issues that must be included in the ordinance. For example, the Town's Comprehensive Plan will need to be reviewed to confirm that the establishment of a Dependent Special District by the Town is consistent with the Comprehensive Plan. It may be necessary to amend text within the Comprehensive Plan since there are references in the Comprehensive Plan to the LGWCD. For example, the Infrastructure Element provides that Drainage will be provided by the LGWCD, and the Intergovernmental Coordination Element identifies coordination with the LGWCD. ***Note that there may be additional parts of the Comprehensive Plan that need to be reviewed.***

Note that a Dependent Special District's area is limited to the boundaries of the municipality creating it. This is important since the boundaries of the LGWCD include property not within the Town. A Dependent Special District established by ordinance adopted by the Town Council could not include property beyond the Town's boundaries.

One issue is funding the Dependent Special District. A special district is authorized to levy non-ad valorem special assessments, which can be collected on the annual tax bills. A special assessment is not a property tax, which is based upon property value; rather, it is an assessment that corresponds to the benefits received by properties through the services that would be provided by the special district. The amount of the special assessment on property within the special district could be set by acreage or some other methodology.

Once a Dependent Special District is created by Ordinance, there are statutory obligations that will be imposed on the Town/Dependent District, which can be outlined through a supplemental memorandum if requested by the Town Council.

Please feel free to contact our office if you have any additional questions or if we may be of further assistance.

MDC