



TOWN OF LOXAHATCHEE GROVES
TOWN COUNCIL MEETING AGENDA
TUESDAY, APRIL 2, 2013

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 of Loxahatchee Groves

Town Council Meeting

Tuesday, April 2, 2013 at 7:00 p.m.

Loxahatchee Groves Water Control District, 101 West "D" Road

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 A. Eichhorn
Town Attorney Michael D. Cirullo, Jr.

PUBLIC NOTICE/AGENDA

Tentative
Subject to Revision

1. OPENING

- a. Call to Order & Roll Call
- b. Pledge of Allegiance & Invocation – Mayor Browning
- c. Approval of Agenda
- d. Appointments:
 1. Mayor
 2. Vice Mayor

2. CONSENT AGENDA

- a. Invoice from Goren, Cherof, Doody & Ezrol, P.A.
- b. Minutes for Approval: March 5, 2013

3. PRESENTATIONS

- a. FPL Presentation Regarding Current Initiatives/Community Involvement – *Max Macon, Area Manager, External Affairs*
- b. Jeff Brophy and Lorrie Simmons regarding : Big Dog Ranch and Proposed ULDC Text Amendment
- c. American Cancer Society Relay for Life Presentation by Valerie Shaughnessy, Team Chair – *Councilman Ron Jarriel*

4. COMMITTEE REPORTS

- a. Finance Advisory & Audit Committee (FAAC) Report and Approval of the February 2013 Financial Reports – *Committee Member Virginia Standish*

5. PUBLIC HEARINGS (Ordinances 2nd Reading) –

- a. ORDINANCE NO. 2013-02

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF

LOXAHATCHEE GROVES, FLORIDA, AMENDING PART III, ENTITLED "SUPPLEMENTAL REGULATIONS," ARTICLE 80, ENTITLED "CONDITIONAL USES," SECTION 80-020, ENTITLED "RESIDENTIAL ENTERPRISE," OF THE TOWN OF LOXAHATCHEE GROVES UNIFIED LAND DEVELOPMENT CODE TO DELETE THE PROPERTY SIZE REQUIREMENTS, THE REGULATIONS RELATING TO NUMBER OF EMPLOYEES AND DELIVERY OF MERCHANDISE; TO PERMIT A LIMITED NUMBER OF CUSTOMERS TO TRANSACT BUSINESS AT THE LOCATION OF A RESIDENTIAL ENTERPRISE; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

6. ORDINANCES (1st Reading)

a. Public Hearing: - *None*

7. RESOLUTIONS

a. Resolution No. 2013-03

Accepting Administrative Policy 3-13

8. ADMINISTRATIVE UPDATE – Town Manager Kutney

9. OLD BUSINESS

- a. Discussion of Manure Ordinance
- b. Roadway Issues – *Councilman Tom Goltzené*

10. NEW BUSINESS

11. CLOSING COMMENTS

- a. Public
- b. Town Attorney
- c. Town Council Members

12. ADJOURNMENT

The next Town Council Meeting is scheduled for Tuesday, April 16, 2013 at 7:00 p.m.

Comment 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.



2.a. Invoice from Goren, Cherof, Doody & Ezrol, P.A.

GOREN, CHEROF, DOODY & EZROL, P.A.
 Attorneys at Law
 3099 East Commercial Boulevard
 Suite 200
 Fort Lauderdale, Florida 33308
 Telephone (954) 771-4500

Page: 1
 03/27/2013
 ACCOUNT NO: 1574-1107560R
 STATEMENT NO: 6

TOWN OF LOXAHATCHEE GROVES
 Att: Mark Kutney, Town Manager
 14579 Southern Blvd., Ste 2
 Loxahatchee Groves FL 33470

Water Control District Matters

MDC

		HOURS	
02/28/2013	MDC	Review title work, documents, prepare for 3/01/13 meeting with LGWCD attorneys.	0.90
03/01/2013	MDC	Review materials, attend meeting with LGWCD counsel, director, MK on roadway issues.	3.30
03/11/2013	MDC	Review materials, prepare update memo to Council.	0.50
03/12/2013	MDC	Review, revise memo on status of roads.	0.30
03/15/2013	MDC	Telephone conference with J. Weig; finalize memo on status of roads.	0.30
		FOR CURRENT SERVICES RENDERED	5.30 980.50

RECAPITULATION

<u>TIMEKEEPER</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTAL</u>
MICHAEL D. CIRULLO	5.30	\$185.00	\$980.50
TOTAL CURRENT WORK			980.50
BALANCE DUE			<u>\$980.50</u>

Water Control District Matters

AMOUNTS PREVIOUSLY BILLED NOT INCLUDED ABOVE.

Please note that this matter has been assigned a new number. Please reference this number when making inquiries or payments and contact Trish Piro at 954-771-4500 with any questions.

GOREN, CHEROF, DOODY & EZROL, P.A.
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TOWN OF LOXAHATCHEE GROVES
Att: Mark Kutney, Town Manager
14579 Southern Blvd., Ste 2
Loxahatchee Groves FL 33470

ACCOUNT NO: 1574-1107562R
STATEMENT NO: 9

adv. Day, Willie and Frankie

		HOURS	
03/26/2013			
MDC	Review status of discovery, miscellaneous telephone calls on status of case.	0.90	
	FOR CURRENT SERVICES RENDERED	0.90	166.50
RECAPITULATION			
<u>TIMEKEEPER</u>		<u>HOURS</u>	<u>HOURLY RATE</u>
MICHAEL D. CIRULLO		0.90	\$185.00
			<u>TOTAL</u>
	TOTAL CURRENT WORK		166.50
	BALANCE DUE		<u>\$166.50</u>

MDC

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TOWN OF LOXAHATCHEE GROVES
Att: Mark Kutney, Town Manager
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03/27/2013
ACCOUNT NO: 1574-1107564R
STATEMENT NO: 4

Wellington Edge Code Matter

		HOURS	
03/05/2013	MDC	Review correspondence on status of records, prepare letter to J. Brown.	0.30
03/13/2013	MDC	Review record, documents; begin preparing Memo of Law.	0.50
03/14/2013	MDC	Review file, materials in case; prepare Memo of Law per Special Magistrate's direction, forward to MK.	2.20
03/15/2013	MDC	Finalize Memo of Law for filing with Special Magistrate.	0.30
03/18/2013	MDC	Review Respondent's Memorandum of Law.	0.40
		FOR CURRENT SERVICES RENDERED	<u>3.70</u> <u>684.50</u>

RECAPITULATION

<u>TIMEKEEPER</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTAL</u>
MICHAEL D. CIRULLO	3.70	\$185.00	\$684.50
TOTAL CURRENT WORK			684.50
			<i>MDC</i>
BALANCE DUE			<u>\$684.50</u>

Wellington Edge Code Matter

AMOUNTS PREVIOUSLY BILLED NOT INCLUDED ABOVE.

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03/27/2013

TOWN OF LOXAHATCHEE GROVES
Att: Mark Kutney, Town Manager
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Loxahatchee Groves FL 33470

ACCOUNT NO: 1574-1107566R
STATEMENT NO: 5

Initiative Committee (PBSC Comp Plan)

MDC

		HOURS
02/28/2013	MDC	
	Review correspondence from committee counsel; prepare response; telephone conference with MK.	0.50
03/06/2013	MDC	
	Review public records request, correspond with committee attorney, telephone conference with MK, forward to Town management.	0.60
03/07/2013	MDC	
	Review Hartsell public records request, miscellaneous telephone calls with Council, review status of pending legislation; telephone conference with counsel for PBSC.	1.50
03/08/2013	MDC	
	Review correspondence from Committee attorney, respond to attorney, update Council.	0.40
03/12/2013	MDC	
	Review materials, documents for public records request.	0.30
03/15/2013	MDC	
	Telephone conference with SE on public records request, status of Town response; review materials from Committee counsel, 3/19/13 meeting.	0.90
03/19/2013	MDC	
	Review materials, charter, correspondence, case law; review letter received from Committee's attorney; prepare for Council review of Determination of Insufficiency.	0.90

Initiative Committee (PBSC Comp Plan)

		HOURS	
03/21/2013	MDC	Review status, telephone conference with PBSC counsel.	0.40
		FOR CURRENT SERVICES RENDERED	5.50
			<u>1,017.50</u>

	RECAPITULATION		
<u>TIMEKEEPER</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTAL</u>
MICHAEL D. CIRULLO	5.50	\$185.00	\$1,017.50

TOTAL CURRENT WORK 1,017.50

BALANCE DUE \$1,017.50

AMOUNTS PREVIOUSLY BILLED NOT INCLUDED ABOVE.

Please note that this matter has been assigned a new number. Please reference this number when making inquiries or payments and contact Trish Piro at 954-771-4500 with any questions.

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Page: 1
03/27/2013
ACCOUNT NO: 1574-1107567R
STATEMENT NO: 4

TOWN OF LOXAHATCHEE GROVES
Att: Mark Kutney, Town Manager
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Loxahatchee Groves FL 33470

Valley Crest Site Plan

		HOURS	
02/21/2013	MDC	Review draft of notices, telephone conference with MK, JF; revise resolution.	1.10
03/13/2013	MDC	Telephone conference with JF, MK on status of case, resolution.	0.30
		FOR CURRENT SERVICES RENDERED	1.40 <u>259.00</u>

RECAPITULATION

<u>TIMEKEEPER</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTAL</u>
MICHAEL D. CIRULLO	1.40	\$185.00	\$259.00
TOTAL CURRENT WORK			259.00
BALANCE DUE			<u>\$259.00</u>

MDC

AMOUNTS PREVIOUSLY BILLED NOT INCLUDED ABOVE.

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 03/27/2013

TOWN OF LOXAHATCHEE GROVES
 Att: Mark Kutney, Town Manager
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 Loxahatchee Groves FL 33470

ACCOUNT NO: 1574-1107568R
 STATEMENT NO: 3

adv. Day, Willie and Frankie (Bert J. Harris Claim

		HOURS	
03/22/2013	MDC	Review statutes, status of case; prepare memo to Council.	0.60
03/25/2013	MDC	Review statutes, continue preparing update memo to Council.	1.00
		FOR CURRENT SERVICES RENDERED	1.60 <u>296.00</u>

		RECAPITULATION		
<u>TIMEKEEPER</u>		<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTAL</u>
MICHAEL D. CIRULLO		1.60	\$185.00	\$296.00
TOTAL CURRENT WORK				296.00
BALANCE DUE				<u>\$296.00</u>

MDC

AMOUNTS PREVIOUSLY BILLED NOT INCLUDED ABOVE.

Please note that this matter has been assigned a new number. Please reference this number when making inquiries or payments and contact Trish Piro at 954-771-4500 with any questions.

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ACCOUNT NO: 1574-1107569R
 STATEMENT NO: 2

2013 Election Matters

		HOURS		
03/08/2013	MDC	Review statutes for canvassing election.	0.40	
03/11/2013	MDC	Review materials, statutes on canvassing board, PB SOE offices, speak with staff on status of absentee ballots; miscellaneous telephone calls.	1.30	
03/12/2013	MDC	Review statutes; prepare for and attend canvassing of election with Town Canvassing Board.	3.90	
03/18/2013	MDC	Review materials, attend post-election audit; prepare for, attend Canvassing Board meeting.	3.80	
FOR CURRENT SERVICES RENDERED			9.40	<u>1,739.00</u>

RECAPITULATION

<u>TIMEKEEPER</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTAL</u>
MICHAEL D. CIRULLO	9.40	\$185.00	\$1,739.00
TOTAL CURRENT WORK			1,739.00
BALANCE DUE	<i>MDC</i>		<u>\$1,739.00</u>

2013 Election Matters

AMOUNTS PREVIOUSLY BILLED NOT INCLUDED ABOVE.

Please note that this matter has been assigned a new number. Please reference this number when making inquiries or payments and contact Trish Piro at 954-771-4500 with any questions.



2.b. Minutes For Approval

Town of Loxahatchee Groves
Regular Town Council Meeting
Tuesday, March 5, 2013 at 7:00 p.m.
Loxahatchee Groves Water Control District, 101 West “D” Road

MINUTES

1. Opening

- a. Call to Order & Roll Call

Mayor Browning called the meeting to order at 7:00 p.m. Present were Mayor David Browning, Vice Mayor Rockett, and Council Members Tom Goltzené, Ronald D. Jarriel and Ryan Liang. Also present were Town Manager Mark Kutney, Office Coordinator Dennise D. Rodriguez, Town Attorney Michael D. Cirullo, Jr., and Town Planning Consultant Jim Fleishman.

- b. Pledge of Allegiance & Invocation - Mayor Browning
- c. Approval of Agenda

Councilman Ryan Liang requested the addition of Item 10.d to the Agenda – Code Violation issues on Palm West Plaza for Discussion

Motion: Motion made by Councilman Jarriel to approve the Agenda as modified. The motion was seconded by Councilman Liang. The motion passed 5-0.

2. Consent Agenda

- a. Invoices from Goren, Cherof, Doody & Ezrol, P.A.
- b. Minutes for Approval: November 20, 2012, December 4, 2012, February 5, 2013

Motion: Motion made by Councilman Liang to approve the Consent Agenda. The motion was seconded by Councilman Jarriel. The motion passed 5-0.

3. Presentations –

- a. South Florida Water Management District, Laura Corry, Community Outreach Representative, Office of Intergovernmental Programs

The South Florida Water Management thought that this was an opportune time to talk, since the rainy season would be coming. She discussed the local drainage system and how it will affect the Town area in case of a storm and emphasized maintaining clean drainage. The Town should begin preparing for the rainy season. All the debris and vegetation should be kept out of the water drainage. Also, certain structures needed to be taken care of; and also the culverts that share with a canal or a lake. The right-of-way has to be cleared and there should be nothing obstructing the cleaning of the right-of-way in case of a storm. She provided the South Florida Water Management website: www.sfwmd.gov.

Councilman Jarriel mentioned that there is a major drainage problem between Southern Boulevard and Tangerine Drive in the past storm. The Town did not have that problem in prior years because there was a pond in the center of Loxahatchee that allowed drainage to come to the pond and underneath the road to one of the canals; but the pond has been filled in. The State has placed a blockage and now the water stays in front of that street. The problem is that now this causes more flooding. He is requesting recommendation from the South Florida Water Management District, in installing culverts and other sources in order to prevent flooding on such areas.

Ms. Corry indicated that she does not have an answer for him at that moment, but she will take his concerns to her office and provide updates to the Town Manager.

Councilman Liang expressed concern about the levels of the canals during the dry and winter season and the limitation that the Town has to pump water out of the canal for fire control. He wanted to know how much water the Town could pump out of the canal.

Ms. Corry advised that she would follow up and would get back to the Town Manager.

Mayor Browning mentioned that special permission was needed in order to back up into the Town's canals. The biggest issue was that through the wisdom of the South Florida Water Management, we allowed Royal Palm to put their water level to 14th feet, and ours historically was always 16th feet. So we always have an underground migration to the East, and we have to beg for water to be back pumped into our canals and it all goes underground to the East to our neighbor to their ponds and then the Town has to beg for water to go back to our canal. We need some help with that.

Ms. Corry advised that she would follow up and get back to the Town Manager.

Public Comment:

Ken Johnson, Collecting Canal Rd.: Commented that he agreed with what the Council members were expressing; the canal was not cleaned out to the standards that it needed to be cleaned out, causing flooding. There was a washout specifically on B Road.

Howard Voren 1538 E Rd.: Commented regarding people saying that there was a lack of water. He stated that when there is a drought, water is pumped into the rice fields; he stated that there was a major shift on those farms beyond 20 mile bends to shift from sugar cane to rice, and there were hundreds of

acres of rice paddies that were being flooded at the same time that there was a drought. He maintained that was a decision of the South Florida Water Management.

4. Committee Reports

- a. Finance Advisory & Audit Committee (FAAC) Report and Approval of the January 2013 Financial Reports – Board Member Virginia Standish

Virginia Standish presented the Finance Advisory & Audit Committee (FAAC) Report and Approval of the January 2013 Financial Reports. The committee is recommending issuing another credit card for the use of the office.

Motion: Vice Mayor Jim Rockett moved to approve the Finance Advisory and Audit Committee Report and Approval of the January 2013 Financial Report. Councilman Ron Jarriel seconded the motion, which passed 5-0.

Motion: Councilman Ron Jarriel moved to approve that an additional credit card be issued to Town Staff. Councilman Ryan Liang seconded the motion, which passed 5/0.

5. PUBLIC HEARINGS – (Ordinance 2nd Reading) -

- a. Ordinance No. 2012-12

AN ORDINANCE OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, AMENDING THE TOWN OF LOXAHATCHEE GROVES UNIFIED LAND DEVELOPMENT CODE (ULDC), TO AMEND ARTICLE 10 ENTITLED “DEFINITIONS, ABBREVIATIONS, AND CONSTRUCTION OF TERMS,” SECTION 10-015, ENTITLED “DEFINITIONS” TO ADD A NEW DEFINITION FOR “RESIDENTIAL AGRICULTURAL SALES AND SERVICES;” TO AMEND ARTICLE 20, ENTITLED “RESIDENTIAL ZONING DISTRICTS,” SECTION 20-015, ENTITLED “PERMITTED USES,” TO ADD RESIDENTIAL AGRICULTURAL SALES AND SERVICES AS AN ACCESSORY USE SUBJECT TO ARTICLE 80 (CONDITIONAL USE) IN THE AGRICULTURAL RESIDENTIAL (AR) ZONING DISTRICT; TO AMEND ARTICLE 80, ENTITLED “CONDITIONAL USES,” TO ADD A NEW SECTION 80-60, ENTITLED “RESIDENTIAL AGRICULTURAL SALES AND SERVICES,” TO PROVIDE CONDITIONS ON RESIDENTIAL AGRICULTURAL SALES AND SERVICES USES IN THE AGRICULTURAL RESIDENTIAL (AR) ZONING DISTRICT; PROVIDING FOR

CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION;
AND, PROVIDING FOR AN EFFECTIVE DATE.

Town Manager Kutney reviewed the recommendations of the Unified Land Development Code Review Committee (ULDCRC). He advised that the Town Council had two options: to direct staff to review the changes suggested by the ULDCRC or to move forward with the Ordinance.

Discussion took place. Town Attorney Cirullo advised that the Town Council could pass the ordinance as is, or pass the ordinance and still work on the historical legacy portion, or the Town Council could table the ordinance and send it back through the process under the different concept suggested by the ULDCRC. Unless the Town Council directed otherwise, there would be no enforcement activity because the issue was still being resolved, or the Town Council could vote the ordinance down and tell staff to cite the violations,

Howard Voren, 1538 E Rd.: Commented that there was another option and that was the option of the Town Council to vote this ordinance down and work on a new one, giving direction not to cite the Ickes. He further commented on his recommendations made as a member of the ULDCRC.

John Ryan, 3508 A Rd.: Commented that there was substantial discussion and agreement that there needed to be some reasonable number of years prior to the date of incorporation for businesses in place.

Motion: Tom Goltzené move to table Ordinance No. 2012-12 and suspend enforcement on anything that would fall under the concept of historical legacy that was presented by the ULDCRC. The motion was seconded by Vice Mayor Rockett. The motion passed 5/0.

Motion: Council Member Tom Goltzené, made a motion to direct staff to process an ordinance; whether it would go to the ULDCRC or directly to the P & Z Board would be reviewed by the Town Manager. The motion was seconded by Council Member Jarriel. The motion passed 5/0.

John Ryan, 3508 A Rd.: Commented that he did not think that everyone who had any type of business before 2006 should be exempted from the code.

b. Ordinance No. 2013-01

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF
LOXAHATCHEE GROVES, FLORIDA, ESTABLISHING COMPENSATION FOR
COUNCIL MEMBERS; PROVIDING FOR CODIFICATION, CONFLICTS,
SEVERABILITY, AND AN EFFECTIVE DATE.

Town Attorney Cirullo read Ordinance No. 2013-01 by title, as printed above, noting that the ordinance would require an affirmative vote of four in order to pass. The Ordinance would not take effect until the next regular election, following adoption of the Ordinance. That election would be held on March 12,

2013. He explained that the terms of office would begin when the council members were sworn in on March 19, 2013, and that any compensation would be so pro-rated.

Motion: Council Member Ryan made a motion to adopt Ordinance No. 2013-01. The motion was seconded by Council Member Jarriel.

Public Comment:

Dennis Lipp - 13402 North Road. Commented regarding the compensation to Town Council members, and the intent of the incorporation committee.

Marge Herzog - 966 A Rd.: Commented that she was also on the incorporation committee and that the intent was that the people elected would start the compensation, not the whole current seated Council.

Anne Parker - 15565 Collecting Canal Rd.: Complained that the audience could not hear the Council or staff.

Dr. Laura Tindall - 3780 A Rd.: Commented regarding the interpretation of the charter, and that there was no one on the current Council that was part of the incorporation committee.

Howard Voren – 1538 E Rd.: Commented regarding the compensation issue, and intent is only argued when the language is nebulous. The current attorney had indicated how the language was interpreted. That is why he believed that the ULDC must be redone, so that it was clear.

Lung Chui - B Rd, I want to remind you that we have a professional lawyer for interpretation of the law, and he should be listened to.

The motion to adopt Ordinance No. 2013-01 passed 5/0.

6. ORDINANCES (1st Reading)

a. Public Hearing: - None

7. RESOLUTIONS

a. Resolution No. 2013-02

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, APPROVING THE VALLEY CREST SITE PLAN, FOR LAND OWNED BY MAGIC PROPERTIES V, LLC, CONSISTING OF 5.0 ACRES MORE OR LESS, LOCATED AT 13710 OKEECHOBEE BOULEVARD; SOUTH SIDE OF OKEECHOBEE BOULEVARD APPROXIMATELY 0.25 MILES WEST OF "F" ROAD, LOXAHATCHEE GROVES, FLORIDA, LEGALLY DESCRIBED IN EXHIBIT "A" TO THIS RESOLUTION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE

Town Attorney Cirullo advised that this was a quasi-judicial hearing on a site plan application for property owned by Magic Properties V, LLC, which was the Valley Crest property on Okeechobee Blvd. The quasi-judicial procedure is as follows: everyone providing testimony would be sworn in; that would include members of the public who wanted to provide facts to the Town Council for consideration in their deliberations; if someone did not want to be sworn in, they could still speak, but those comments could not be considered evidentiary facts. The applicant would present first and is required to provide enough information to support the application. Thereafter town staff would make a presentation and recommendations. The Town Council could ask questions after each presentation. Thereafter, public comment would be opened, with a three minute time limit, unless that was waived by the Town Council. The time limits for the presentations were thirty minutes each. After public comment, staff had five minutes to present any additional information or rebuttal, and then the applicant has five minutes to conclude. Then, the matter is turned over to the Town Council for deliberation and a decision. Site plans were required to be approved by resolution, and if there was a motion to approve, the Town Attorney would then read the resolution by title.

Town Attorney Cirullo administered the oath to all those who would be providing testimony. He noted that the back up in the agenda was part of the record, including pages 86-97, which had been included, but misplaced, in the back up. He requested that anyone speaking to this issue identify themselves and acknowledge that they had been sworn in.

Attorney David Coviello on behalf of Magic Properties presented the site plan application. He noted that the applicant had worked very hard to come up with a fair and valid solution to a fairly complicated set of circumstances. He related the time line of events. He noted that, in this case, it was decided that the applicable ULDC would be the ULDC in place when the property was cited by the code officer. Under those regulations, he submitted that the site plan application was in full compliance with the applicable ULDC. He reviewed the recommendations of the Planning and Zoning Board, and stated that applicant would comply with all of the motions made by that Board at its January 10, 2013, meeting, and applicant accepted all conditions in the staff report.

Comments were heard from the Town Council regarding the size of the debris/vegetative material pile; the fire hazard; the installation of a Knox box, the storage of debris from other locations; a water source for the property; the requirement that 51% of the property is a nursery.

Town Planning Consultant Jim Fleishman provided the staff report, explaining that the proposed use was as a wholesale nursery principal use/landscape service accessory use, and advised that staff recommended approval of the site plan application. He noted that the Planning and Zoning Board had recommended denial of the application at its January 10, 2013, meeting, based on four technical issues. Subsequently, the applicant had submitted a revised site plan which now included buffering requirements, handicapped space and loading space. Staff concluded that the reservations identified by the Planning and Zoning Board had been satisfied. Five independent motions had been adopted by the Planning and Zoning Board for items that they would like to see addressed, and they are addressed either in the site plan or in staff recommendations for approval. Staff recommends approval of the proposed site application subject to the conditions of approval identified in attachment "D" of the staff report

Staff responded to questions from the Town Council.

Mayor Browning stated that he did not see a need to put a nursery in that location, and would rather see a landscape use along Okeechobee; with approval received for that use, and with the property taxed accordingly.

Town Planning Consultant Fleischmann explained that this was really a special case, since the applicant was following a Special Magistrate order, saying that the applicant had to use the County Code that was in effect at the time of violation. It has nothing to do with the Town's ULDC. There was no precedent being set. In response to the Mayor, Attorney Coviello indicated that the property would not have an AG exemption.

Council Member Goltzené stated that he did not want to see a garbage dump. Council Member Jarriel said that he would rather get some tax revenue that would come from a commercial landscape business.

Public Comment:

Dennis Lipp, 13402 North Rd.: Commented that he was Chair of the Planning and Zoning Board and had given some suggestions in regard to the debris piles.

Nina Corning, "E" Rd.: Commented regarding concerns with whether anyone has looked into general policies for any development along Okeechobee, and the use of the right-of-way, and whether there was room for an equestrian/greenway trail along Okeechobee.

Ken Johnson, Collecting Canal Rd.: Commented that he needed to be sworn in. (*At this time Town Attorney Cirullo administered the oath to all those who had not yet been sworn in*). I do agree with Ron Jarriel about bringing illegal trash on town, and not paying the correct trash rates. He suggested that the debris/trash be taken straight to the dump. He also addressed the Valley Crest truck blocking the gate entrance and the associated fire hazard.

Anne Parker, 15565 Collecting Canal Rd: Commented regarding the tax base, whether the project would be a façade nursery, and that when applying for an AG exemption she had to go through a procedure.

Virginia Standish, 14510 North Rd.: Commented that the solution would be to take the debris to the dump or mulch it on the property. There were simple solutions to the problem.

Howard Voren, 1538 "E" Rd.: Commented suggesting removing the requirement to have the nursery component, and allow them to have the landscaping business on Okeechobee Blvd.

Mayor Browning said that there was still concern with the amount of debris/vegetation on the property; concern with hauling in vegetative debris and piling it.

Town Planning Consultant Fleischmann stated that a condition of approval was that the vegetative waste operation should consist solely of importing, temporary storage, decomposing, vertical grinding and on-site use or licensed off-site disposal of materials. He explained that gave them the option that if the nursery could not handle anymore mulch, as long as the operation disposed of it off-site in a licensed or approved manner, that would be permitted.

Attorney Coviello pointed out that the whole reason for getting the site plan approval was so that there were teeth to regulate. All of the issues raised would be addressed. He again noted that the applicant was under a Special Magistrate order.

Town Attorney Cirullo read the Resolution No. 2013-02 by title, as printed above.

Motion: Council Member Liang made a motion to approve Resolution No. 2013-02 the Valley Crest Site Plan. The motion was seconded by Vice Mayor Rockett, which passed unanimously. (Motion passed 5-0).

Council Member Liang commented that he wanted the piles of debris reduced. Eventually, the debris would have to be moved off-site.

Council Member Jarriel commented that Mr. McCabe may have a solution for the applicant. If it was a landscape business and the Town could get revenue, it would have a low impact on Okeechobee Blvd.

Town Attorney Cirullo stated that any condition could be amended in the motion made.

Mayor Browning stated that the pile was too high, and was next to the property line; 100x100 x 15' was too much. He objected to bringing in debris to the Town.

Vice Mayor Rockett suggested a debris pile size of 100 x 100 x 10'.

Town Attorney Cirullo advised that the applicant would need to consent to not applying for an AG exemption for the part that is a nursery. The property is in the AR district, and under the County Code there was not a requirement to have the nursery component. What would happen here is the site plan would need to be revised to take out the nursery component and have the Town Council review it without the nursery component. If the Town Council was receptive to staff looking at that as a possibility, that is something to consider. Staff could bring something back, if the applicant would like

to explore the issue. Town Attorney requested a short recess in order that he could review the County Code.

Town Attorney Cirullo confirmed that the zoning district under the County Code was AR and it was allowed, so to meet the county code, it would not need to be an accessory use to a nursery. The applicant would like to make a request on how they would like to proceed.

Attorney Coviello requested approval of the site plan as is tonight, subject to the modification on the size of the waste pile, and with the condition that the applicant come back and modify the application to remove the nursery component.

Motion: Council Member Liang modified the motion to approve Resolution No 2013-02, with the condition that the applicant return with a site plan amendment within six months to eliminate the nursery component, and the approval also included the modification of the waste pile to be 100 x 100 x 10'. The seconder of the motion agreed with the modifications. The motion passed 5/0.

7. ADMINISTRATIVE UPDATE – Town Manager Kutney

1. Announced the Intergovernmental Coordination Committee (ILG) for March 22, 2013 at 2:00 pm.
2. Canvassing Board meeting on March 18, 2013 at 5:00PM. Councilmen Goltzené, Jarriel and Liang, and the Town Clerk would need to be present.
3. Councilman Ron Jarriel had contacted the Town offices regarding a fence issue regarding Ms. Lorenz; a fence had apparently been put into the roadway without a permit.

Discussion took place regarding legal documents that would allow the Town to work on the roads.

Town Attorney Cirullo stated that he would work with staff on how to get the legal descriptions of the roadways and confirm the proper party to give the Town the rights to the road.

4. Update on traffic signal on Okeechobee and D Road. The Town had allocated \$250,000 for the signal, and the county had indicated that was a good estimate for the design and installation of the signal. There were some concerns regarding the mast arms necessary on each corner, and the northwest corner where there was a canal. His intention was to move forward, and to let the Council know that there may be some intersection improvements down the line that would increase costs beyond \$250,000. He requested any specific direction that the Town Council would like to give him at this time.

Discussion took place regarding the use of cable, a traffic light on B Road, the road being a County road, the ability of the town to get a return from the County of money used for the traffic light

5. Update on the issue with manure; staff and Town Attorney would be working on it, and the necessity of an amendment to the ordinance that would be presented to the Planning and Zoning Board at their March 14, 2013 meeting.

8. OLD BUSINESS - None

9. NEW BUSINESS

- a. Initiative Petition Certificate of Insufficiency

Town Attorney Cirullo addressed the Initiative Petition Certificate of Insufficiency, noting that the Town Clerk had found the Initiative Petition insufficient for two reasons. The Certificate of Insufficiency had been delivered to all members of the Committee. One of the Committee members had filed an affidavit with the Town Clerk indicating that the reasons for insufficiency were not valid. The Town Clerk had interpreted that as a request for the Town Council to review the Certificate. The request tonight was to adopt a motion to receive and file the request, pursuant to the Charter. By charter the decision would be made at the next Town Council meeting, which was March 19, 2013.

Motion: Councilman Jarriel made a motion to receive and file the Certificate of Insufficiency. The motion was seconded by Councilman Liang.

Public Comment:

Marsha Newell, 3508 C Road, stated that she was a member of the Committee and had not received notification, and wanted to see evidence that the notice was sent by certified mail.

Attorney Megan Renea Hodson, of the law firm of Robert Hartselle, P.A., addressed the Town Council on behalf of the Committee and stated that it was the Committee's stand that the petition was filed sufficiently and the Committee would like the Town Council to overrule the Town Clerk's determination.

The motion to receive and file the Certificate of Insufficiency carried 5/0.

- b. Martin McCabe issue – *Councilman Ron Jarriel*

Martin McCabe, 120 Armadillo Way, addressed the Town Council regarding his land clearing business, on D Road and Okeechobee, where he chips and sells the mulch.

Councilman Jarriel stated that the residents of Loxahatchee Groves needed a place to dump their vegetation, they would be welcome to bring it to Mr. McCabe, and he would be willing to give the residents of Loxahatchee Groves free mulch and compost.

Mr. McCabe stated that the only requirement he did not meet was the requirement to have the required ten acres.

Town Manager Kutney explained that there was a code enforcement complaint, and the property owner wanted the business off of the property. Staff had discussed the issue with Mr. McCabe, and were trying to work with him. If he could get a ten acre property to accommodate his mulching, staff would process the request. Staff had interpreted that he could do it as an accessory use to a nursery on five acres.

Public Comment:

Phyllis Maniglia, 3508 W. D Rd.: Commented that she would be pleased to have somebody come in to get her vegetation off of her property.

John Ryan, 3508 A Rd.: Commented that the last 20 minutes did not belong in this Town Council meeting. Mr. McCabe needed to deal with the Town staff. The Town Council could not be turned into the Planning and Zoning Board, or the Unified Land Development Code Committee. Mr. McCabe really has no business in bringing this issue to the Town Council. This is something that he needed to work out with Town staff.

Marge Herzog , A Rd.: Commented that she was concerned that there were already two other mulching operations on Okeechobee, and there was noise involved with such operations.

George Perez, 1538 B Rd.: Commented that he agreed with Mr. John Ryan regarding his comments concerning Mr. McCabe, as well as other similar operations on Okeechobee Blvd.

Councilman Jarriel commented that, out of courtesy, he had endorsed having Mr. McCabe speak tonight, so that he could provide information to the Town Council that may stop him from having to go before the Special Magistrate. He added that he thought that the Town Council could allow 20 minutes to hear from the people of the Town.

c. Abandonment/Foreclosure Properties – *Councilman Ron Jarriel*

Councilman Jarriel referred to the abandonment property list of 49 residences, and his concern was that the management team could contract out with a firm to handle the abandoned property in Town, or ask code enforcement to proceed to put liens against the property so that the banks would be accountable for keeping the properties up. He stated that he was bringing it up tonight as something that would bring revenue into the Town.

Town Manager Kutney advised that there was a policy in place for this issue, noting that staff was aware of the property on C Road that was mentioned in discussion tonight, and he advised that staff would do whatever was directed by the Town Council.

Mayor Browning stated that it would be as simple as sending Frank Schiola by the properties.

d. *Code Enforcement of Commercial Property – Loxahatchee Plaza*

Councilman Liang stated that Howard Voren had requested that he address this issue.

Howard Voren, 1538 E Rd: Addressed the Town Council, stating that he was present when the Town Council had directed proactive code enforcement on commercial properties, however, he had remembered the language used by Town Manager Kutney as “egregious violations.” He stated that he believed code enforcement needed specific direction from the Town Council about what to do and what not to do. Mr. Voren maintained that there were a lot of things that we promised would not happen that are now happening. When someone lodged a code enforcement complaint against someone else, a code enforcement officer was to go to that property and only look at what was complained about. He stated that they do not do that – they go there and cite violations for whatever is noticed at that time, and it was promised that was not going to happen. It was also promised that there would be no anonymous code complaints. What has happened in the Loxahatchee Plaza is going out of control. He suggested that Town Management needed to be given clear direction on what things they should proceed with and what things they should leave alone.

Councilman Jarriel commented that the vote for proactive commercial passed 4/1, with Councilman Liang opposed. He stated that he agreed with Mr. Voren, and that he believed proactive was meant to be when there was a health hazard or something dangerous was involved. If there was not a complaint, then it should be left alone. He stated that he personally thought that it was a mistake to go proactive on commercial code enforcement and he suggested that the Town go back to complaint driven, unless there was a health hazard or danger to the community.

Town Manager Kutney addressed the code violations, and stated that staff was doing what the Town Council had directed, and that if the Town Council wanted staff to stop enforcing the codes, staff would do so. He noted that all of the Town Council members had expressed concern with the Plaza, and that the Plaza had a development order on it from 1988 that staff was bound to enforce. He noted that the Hay sales operation in the Plaza was given a Business Tax Receipt (BTR), with a conditional approval on the BTR. He addressed the accusation of racism that had been made, and stated that was simply not the case. He stated that he would be happy to go to the State Attorney, the Office of the Inspector General, or wherever Mr. Hart-Woods wanted to go.

Mayor Browning stated that we all were surprised by the aggravation in the Loxahatchee Plaza. We need to make sure that when there are problems we need to give people time to fix them.

Further discussion took place.

Motion: Councilman Goltzené moved to approve stopping the Pro-Active Code Enforcement, seconded by Councilman Ron Jarriel.

Public Comment:

Tim Hart-Woods, 15201 Timberline Place: Commented regarding the code enforcement issue, and commented on his Business Tax Receipt.

Howard Voren, 1538 E Rd.: Commented regarding code enforcement and commented on the remarks made by Mr. Woods. He stated that he saw an extremely offensive person that was accusing the Town of outrageous things, although that should not cause further code enforcement on that person.

Perla Underwood , Underwood Management Services Group, LLC, addressed the Town Council stating that the Management Group, which was her company, and was a minority company, did not involve itself in the petty attacks by residents, and were respectful to everyone. She addressed the letter sent to the Town Council by Mr. Tim Hart-Woods with his remarks regarding racism.

Tim Hart-Woods, 15201 Timberline Place: Commented regarding the letter sent to the Town Council, and maintained that there was selective code enforcement taking place.

Town Manager Kutney explained that selective code enforcement referred to an issue when you see two people doing the same thing, and you only pick on one to comply with the codes, and that there was not any sort of selective code enforcement going on.

Lawrence Corning, E Rd.: Commented that the Town incorporated to get away from the County and to limit development. He spoke about the County codes and the Town codes, and the ULDC Review Committee.

Mayor Browning stated that it was a requirement for a Town to come up with a Comprehensive Plan and a ULDC.

The motion to approve stopping the Pro-Active Code Enforcement carried 5/0.

10. CLOSING COMMENTS

a. Public

Marge Herzog, 966 A Rd.: Commented regarding a letter regarding sound walls along State Road 80 between F and D Roads.

Virginia Standish, 15410 North Rd.: Commented that she had listened to the remarks tonight, and that the town was a unique community and some of the most exceptional businesses in the Town were nonconforming; that the current ULDC was a nightmare. She stated that she would like to see the Town remain a unique community, and not some overgrown strip mall.

Howard Voren, 1538 E Rd.: Commented that staff was not given any direction on how to treat the violations that were created by the code enforcement action in the Plaza.

Mayor Browning asked if there was anything that could be done to ease off on that.

Town Manager Kutney stated that at the direction of the Town Council, staff could ease off, and just address those issues that are important to the councilmembers. He noted that the county had come to the Town with a number of fire issues and they wanted to move forward.

The Town Council was in agreement with the fire issues moving forward. Mr. Kutney noted that all fire violations were public record.

b. Town Attorney

Town Attorney Cirullo advised that he had no report.

c. Town Council Members

Councilman Tom Goltzené commented that this was a good meeting and reflected the reality of what is going on in the Town. He encouraged the ULDC Review Committee.

Councilman Jarriel commented that he had faith in the ULDC Review Committee. He read a letter from a resident into the record, concerning a situation of mailboxes and property being torn up by ATV drivers on 161st Terrace North. Mr. Jarriel stated that he had spoken with Lt. Combs regarding this issue, and there was nothing that the PBSO could do about it. The only way that could perhaps solve the problem is to establish a time that the street was used as a quick cut-through for the western communities; PBSO could then be alerted to that. The other suggestion was that the road could be paved so that PBSO could monitor it.

Councilman Liang commented that this meeting was very long, and thanked everyone for coming.

Vice Mayor Rockett thanked everyone for coming to the meeting.

Mayor Browning commented that he still had his old Loxahatchee Groves shirt; we all want to love it or leave it alone. He stated that he would love to simplify things when possible; his feelings were that if there were no codes, it would be easier for developers to come in.

12. ADJOURNMENT

There being no further business, the Town Council meeting of March 5, 2013, was adjourned at 11:25 p.m.. The next Town Council Meeting is scheduled for Tuesday, March 19, 2013 at 7:00 p.m.

**These minutes were approved by the
Town Council on Tuesday, April 2, 2013.**

Susan Eichhorn, Town Clerk

David Browning, Mayor

(SEAL)



3.a. Florida Power & Light Presentation



3.b. Jeff Brophy and Lorrie Simmons Presentation RE:
Big Dog Ranch and Proposed ULDC Text Amendment



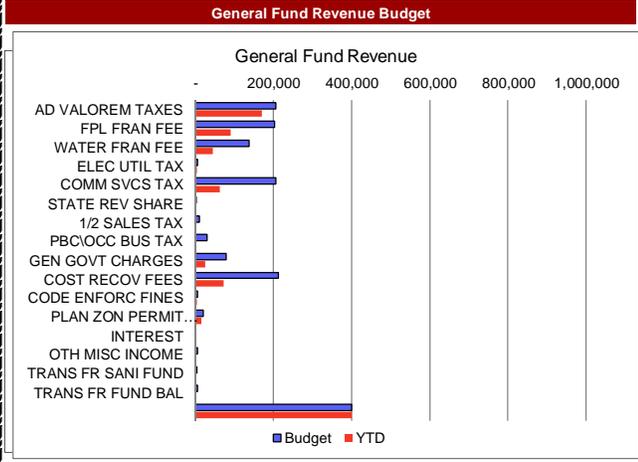
3.c. American Cancer Society Relay for Life Presentation by Valerie Shaughnessy, Team Chair
Councilman Ron Jarriel



4.a. FAAC Report – February 2013 Financial Reports



Town of Loxahatchee Groves
Financial Activity Report as of February 28, 2013
 (42% of year elapsed)



General Fund Revenues			
Revenues	Budget	Year-to-Date	%
AD VALOREM TAXES @ 1.2000	206,025	169,202	82.1%
ELECTRIC UTILITY TAX	202,000	90,492	44.8%
COMMUNICATION SERVICES TAX	136,726	43,878	32.1%
COUNTY OCCUPATIONAL LICENSES	5,000	3,491	69.8%
FPL FRANCHISE FEE	206,000	63,072	30.6%
HAULER LICENSE FEE	2,000	1,500	75.0%
PBC WATER UTILITY FRANCHISE	10,500	2,567	24.5%
PLANNING & ZONING PERMIT FEES	30,000	76	0.3%
STATE REVENUE SHARING	77,873	25,535	32.8%
HALF CENT SALES TAX	212,024	72,659	34.3%
GENERAL GOVERNMENT CHARGES	5,000	3,718	74.4%
COST RECOVERY FEES	20,000	15,699	78.5%
COURT FINES	-	1,240	-
CODE ENFORCEMENT FINES	5,000	300	6%
INTEREST	3,600	119	3.3%
OTHER MISC. INCOME	5,000	-	0
TRANSFER FROM FUND BALANCE*	400,000	400,000	100.0%
Total Revenues	1,526,748	893,548	58.5%

General Fund Expenditures			
Expenditures	Budget	Year-to-Date	%
LEGISLATIVE	39,235	6,187	15.8%
EXECUTIVE	275,259	111,463	40.5%
FINANCIAL AND ADMINISTRATIVE	23,750	1,798	7.6%
LEGAL COUNSEL	60,000	38,327	63.9%
COMPREHENSIVE PLANNING & ZONING	148,700	67,087	45.1%
OTHER GENERAL GOVERNMENT	695,519	566,371	81.4%
LAW ENFORCEMENT	275,285	114,494	41.6%
PUBLIC WORKS	9,000	783	8.7%
Total Expenditures	1,526,748	906,510	59.4%
Excess(deficiency)	-	(12,962)	

YTD-Total Funds Expen. Budget			
Expenditures	Budget	Year-to-Date	%
Total Townwide Budget	3,675,754	1,119,622	30.5%

Selected Other Funds			
Transportation Fund	Budget	Year-to-Date	%
FIRST LOCAL OPTION FUEL TAX (6 CENT)	249,245	79,951	32.1%
SECOND LOCAL OPTION FUEL (5 CENT)	117,326	37,108	31.6%
CONTRIBUTION FROM GENERAL FUND	-	-	-
TRANSFER FROM FUND BALANCE	-	-	-
Total Revenues	366,571	117,059	31.9%
TRAFFIC CONTROL SIGNS (6 CT) MAINT.	9,245	9,589	103.7%
NON-DISTRICT ROADS (6 CT) MAINT.	40,000	10,480	26.2%
DISTRICT ROADS (6 CT) MAINT.	-	-	-
ROADS AND STREETS (5 CT)	150,000	-	-
SPECIAL PROJECTS (6 CT)	50,000	-	-
148th TERR BRIDGE(5)/CULVERT	-	-	-
CONSTRUCTION TOWN RDS & STREETS	-	-	-
TRANSFER TO FUND BALANCE	117,326	-	-
Total Expenses	366,571	20,069	5.5%
Excess(deficiency)	-	96,990	

Solid Waste Fund			
Budget	Year-to-Date	%	
SOLID WASTE ASSESSMENTS	346,361	245,523	70.9%
DISCOUNT FEES	(10,392)	(9,392)	90.4%
SWA RECYCLING INCOME	8,000	4,507	56.3%
CONTRIBUTION FROM GENERAL FUND	126,000	126,000.00	100.0%
Total Revenues	469,969	366,637	78.0%
CONTRACTUAL-WASTE OVERSIGHT	12,000	2,745	22.9%
PBC ADMINISTRATION FEE 1%	3,463	2,117.93	61.2%
POSTAGE & FREIGHT	500	-	-
SOLID WASTE CONTRACTOR	451,634	188,181	41.7%
OTHER SANITATION SERVICES	1,500	-	0.0%
LEGAL ADVERTISING	872	-	0.0%
MANAGEMENT FEES	-	-	-
Total Expenses	469,969	193,043	41.1%
Excess(deficiency)	-	173,594	

Capital Improvement Program (CIP) Fund			
Budget	Year-to-Date	%	
CONTRIBUTION FROM GENERAL FUND	400,000	400,000	100.0%
TRANSFER FROM FUND BALANCE	912,466	-	-
Total Revenues	1,312,466	400,000	30.5%
DEVELOP TOWN HALL ALTERNATIVES	500,000	-	-
TRAILS	200,000	-	-
OGEM PAVING/COST SHARING	-	-	-
ROAD & DRAINAGE IMPROVEMENT	362,466	-	-
TRAFFIC LIGHT OKEECHOBEE	250,000	-	-
Total Expenses	1,312,466	0.0%	
Excess(deficiency)	-	400,000	

Contract Services Expenditures			
Expenditures	Budget	Year-to-Date	%
Waste Pro	451,634	188,181.00	41.7%
Palm Beach County Sheriff	275,285	114,493.75	41.6%
Underwood Management Services Group	330,835	136,929.85	41.4%
Goren, Cherof, Doody, Ezrol	60,000	40,407.45	67.3%
Tew & Associates	35,000	14,898.10	42.6%
Land Research Management	-	12,085.50	-
Calvin Giodorno	-	507.50	-
Frank Schiola	25,000	8,024.96	32.1%
YEE's Corporation	10,800	5,400.00	50.0%
Loxahatchee Water Control District	150,000	7,420.78	4.9%
Total Expenses	1,338,554	528,348.89	



BUDGET VS ACTUAL
as of February 28, 2013
 42% Elapsed
 General Fund
 Revenues

Account Number	Account	Month to Date	Year to Date	Encumbrance	Annual Budget	Annual Variance	% Used
001-311-100-000	Ad Valorem Taxes	33,100.37	169,202.18	-	206,025.00	(36,822.82)	82.1%
	Ad Valorem Taxes Subtotal	33,100.37	169,202.18		206,025.00	(36,822.82)	
001-314-100-000	Electric Utility Tax	17,869.39	90,491.56	-	202,000.00	(111,508.44)	44.8%
001-315-100-000	Communications Services	11,806.56	43,878.40	-	136,726.00	(92,847.60)	32.1%
001-316-200-000	County Occupational License	239.17	3,491.28	-	5,000.00	(1,508.72)	69.8%
	Local Taxes Subtotal	29,915.12	137,861.24		343,726.00	(205,864.76)	
001-323-100-000	FPL Franchise Fee	12,134.74	63,071.77	-	206,000.00	(142,928.23)	30.6%
001-323-125-000	Haulers License Fee	500.00	1,500.00	-	2,000.00	(500.00)	75.0%
001-323-300-000	PBC Water Utility Franchise	433.00	2,567.40	-	10,500.00	(7,932.60)	24.5%
001-329-100-000	Planning & Zoning Permit	-	76.00	-	30,000.00	(29,924.00)	0.3%
	Permits, Franchise Fees & Special Subtotal	13,067.74	67,215.17		248,500.00	(181,284.83)	
001-335-120-000	State Revenue Sharing	6,383.99	25,534.75	-	77,873.00	(52,338.25)	32.8%
001-335-180-000	Half Cent Sales Tax	21,325.08	72,659.48	-	212,024.00	(139,364.52)	34.3%
	Intergovernmental Revenue Subtotal	27,709.07	98,194.23		289,897.00	(191,702.77)	33.9%
001-341-000-000	General Government Charges	712.45	3,717.55	-	5,000.00	(1,282.45)	74.4%
001-343-349-000	Cost Recovery Fees	1,648.00	15,698.90	-	20,000.00	(4,301.10)	78.5%
	Charges for Services Subtotal	2,360.45	19,416.45		25,000.00	(5,583.55)	
001-351-100-000	Court Fines	62.77	1,240.10	-	-	1,240.10	
001-354-100-000	Code Enforcement Fines	-	300.00	-	5,000.00	(4,700.00)	6.0%
	Code Enforcement Fines Subtotal	62.77	1,540.10		5,000.00	(3,459.90)	
001-361-100-000	Interest	15.44	118.77	-	3,600.00	(3,481.23)	#N/A
001-369-000-000	Other Misc Income	-	-	-	5,000.00	(5,000.00)	0.0%
	Other Misc Revenue Subtotal	15.44	118.77		8,600.00	(8,481.23)	
001-399-000-000	Transfer from Fund Balance	400,000.00	400,000.00	-	400,000.00	(400,000.00)	0.0%
	Other Non-operating Sources Subtotal	400,000.00	400,000.00		400,000.00	(400,000.00)	
	Grand Total Revenue	506,230.96	893,548.14		1,526,748.00	(1,033,199.86)	58.5%



**TOWN OF LOXAHATCHEE GROVES
BUDGET VS ACTUAL**

42% Elapsed
General Fund
Expenditures

Account Number	Account	Month to Date	Year to Date	Encumbrance	Annual Budget	Annual Variance	% Used
001-511-310-000	Professional Services	-	-	-	20,000.00	20,000.00	0.0%
001-511-400-000	Travel	-	92.00	-	3,000.00	2,908.00	3.1%
001-511-492-000	Other Operating Expenses	-	1,084.00	-	1,500.00	416.00	72.3%
001-511-500-000	Education & Training	-	-	-	1,000.00	1,000.00	0.0%
001-511-510-000	Office Supplies	-	11.20	-	300.00	288.80	3.7%
001-511-520-000	Operating Supplies	-	-	-	300.00	300.00	0.0%
001-511-540-000	Books, Publications & Subscriptions	-	3,714.00	-	7,785.00	4,071.00	47.7%
001-511-820-000	Special Events/Contributions	-	1,286.18	-	5,350.00	4,063.82	24.0%
	Legislative Total	-	6,187.38	-	39,235.00	33,047.62	15.8%
001-512-340-000	Other Services	20,885.20	105,391.24	-	254,635.00	149,243.76	41.4%
001-512-400-000	Travel	152.47	623.64	-	1,000.00	376.36	62.4%
001-512-410-000	Communication Services	(677.23)	130.00	-	-	(130.00)	-
001-512-420-000	Postage & Freight - NEW	-	191.05	-	1,000.00	808.95	19.1%
001-512-490-000	Legal Advertising	227.04	436.88	-	500.00	63.12	87.4%
001-512-492-000	Other Operating Expenses	5.00	95.19	-	944.00	848.81	10.1%
001-512-493-000	Election Expense	462.00	752.88	-	8,010.00	7,257.12	9.4%
001-512-510-000	Office Supplies	704.22	2,692.21	-	8,600.00	5,907.79	31.3%
001-512-521-000	Loxahatchee Groves CERT - MOVED	-	1,149.67	-	-	(1,149.67)	-
001-512-540-000	Books, Publications & Subscriptions	-	-	-	570.00	570.00	0.0%
	Executive Total	21,758.70	111,462.76	-	275,259.00	163,796.24	40.5%
001-513-320-000	Accounting and Auditing	-	-	-	18,000.00	18,000.00	0.0%
001-513-470-000	Printing and Binding	887.85	887.85	-	4,750.00	3,862.15	18.7%
001-513-490-000	Legal Advertising	-	910.00	-	1,000.00	90.00	91.0%
001-513-493-000	Election Expense (moved)	-	-	-	-	-	0.0%
	Financial & Administrative Total	887.85	1,797.85	-	23,750.00	21,952.15	7.6%
001-514-310-000	Professional Services	8,726.45	38,327.05	-	60,000.00	21,672.95	63.9%
	Legal Total	8,726.45	38,327.05	-	60,000.00	21,672.95	63.9%



TOWN OF LOXAHATCHEE GROVES
BUDGET VS ACTUAL
AS OF FEBRUARY, 2013
 42% Elapsed
 General Fund
 Expenditures

Account Number	Account	Month to Date	Year to Date	Encumbrance	Annual Budget	Annual Variance	% Used
001-515-310-000	Professional Services	(10,975.11)	20,336.25	-	40,000.00	19,663.75	50.8%
001-515-340-000	Other Services	19,422.61	27,486.36	-	76,200.00	48,713.64	36.1%
001-515-343-000	Planning & Zoning Contract	-	-	-	-	-	0.0%
001-515-347-000	Comprehensive Plan	-	-	-	5,000.00	5,000.00	0.0%
001-515-349-000	Cost Recovery Expenditure	1,648.00	15,725.90	-	25,000.00	9,274.10	62.9%
001-515-490-000	Legal Advertising - NEW	233.92	3,538.00	-	2,500.00	(1,038.00)	141.5%
	Comprehensive Planning & Zoning Total	10,329.42	67,086.51		148,700.00	81,613.49	45.1%
001-519-315-000	Special Magistrate	2,040.00	4,290.00	-	16,000.00	11,710.00	26.8%
001-519-354-000	Code Compliance	3,555.00	11,595.50	-	41,000.00	29,404.50	28.3%
001-519-410-000	Communications Services	1,152.35	2,198.38	-	5,100.00	2,901.62	43.1%
001-519-440-000	Rentals and Leases	2,008.35	7,622.52	-	16,305.00	8,682.48	46.8%
001-519-450-000	Insurance	-	12,316.00	-	16,500.00	4,184.00	74.6%
001-519-460-000	Repair & Maint - Building	200.00	1,000.00	-	2,126.00	1,126.00	47.0%
001-519-470-000	Printing and Binding	(887.85)	-	-	-	-	0.0%
001-519-480-000	Promotional Activities	-	-	-	-	-	0.0%
001-519-490-000	Computer Repair	(412.50)	634.65	-	4,500.00	3,865.35	14.1%
001-519-491-000	Computer Services	537.50	714.25	-	11,131.00	10,416.75	6.4%
001-519-494-000	Inspector General Office	-	-	-	5,280.00	5,280.00	0.0%
001-519-820-000	Loxahatchee Groves CERT	-	-	-	2,000.00	2,000.00	0.0%
001-519-900-000	Transfer to Transportation Fund	-	-	-	-	-	0.0%
001-519-910-000	Transfer to Sanitation Fund	126,000.00	126,000.00	-	126,000.00	-	100.0%
001-519-920-000	Transfer to Capital Projects	400,000.00	400,000.00	-	400,000.00	-	100.0%
001-519-990-000	Contingency	-	-	-	49,577.00	49,577.00	0.0%
	Other Governmental Services Total	534,192.85	566,371.30		695,519.00	129,147.70	81.4%
001-521-341-000	Professional Services-PBSO	22,898.75	114,493.75	-	274,785.00	160,291.25	41.7%
001-521-342-000	Contractual-ADDL PBSO	-	-	-	500.00	500.00	0.0%
	Law Enforcement Total	22,898.75	114,493.75		275,285.00	160,791.25	41.6%
001-539-310-000	Other Services	-	-	-	-	-	0.0%
001-539-340-000	Professional Services	-	783.46	-	9,000.00	8,216.54	8.7%
	Public Works Total	-	783.46		9,000.00	8,216.54	8.7%
	Grand Total Expenditure	598,794.02	906,510.06	-	1,526,748.00	620,237.94	59.4%
	Net Revenue	(92,563.06)	(12,961.92)		-		



TOWN OF LOXAHATCHEE GROVES
BUDGET VS ACTUAL
AS OF FEBRUARY, 2013
 42% Elapsed
Transportation Fund
Revenues

Account Number	Account	Month to Date	Year to Date	Encumbrance	Annual Budget	Annual Variance	% Used
101-312-410-000	1st Local Option Fuel Tax	20,684.47	79,950.58	-	249,245.00	(169,294.42)	32.1%
101-312-420-000	2nd Local Option Fuel Tax	9,716.40	37,108.24	-	117,326.00	(80,217.76)	31.6%
101-363-990-000	Contribution from General Fund	-	-	-	-	-	0.0%
101-399-000-000	Transfer from Fund Balance	-	-	-	-	-	0.0%
Total Revenue		30,400.87	117,058.82		366,571.00		31.9%

Transportation Fund
Expenditures

Account Number	Account	Month to Date	Year to Date	Encumbrance	Annual Budget	Annual Variance	% Used
101-541-467-000	Traffic Control Signs (6 ct) Maint.	4,234.00	9,589.00	-	9,245.00	(344.00)	103.7%
101-541-468-000	Non-District Roads (6 ct) Maint.	-	10,479.94	-	40,000.00	29,520.06	26.2%
101-541-469-000	District Roads (6 ct) Maint.	-	-	-	-	-	0.0%
101-541-631-000	Road and Streets (5 cent)	-	-	-	150,000.00	150,000.00	0.0%
101-541-632-000	Special Projects (6 cent)	-	-	-	50,000.00	50,000.00	0.0%
101-541-634-000	148th Terr Bridge (5)/Culvert	-	-	-	-	-	0.0%
101-541-636-000	Construct Town Rds & Sts	-	-	-	-	-	0.0%
101-541-990-000	Transfer to Fund Balance	-	-	-	117,326.00	117,326.00	0.0%
Total Expenditure		4,234.00	20,068.94	-	366,571.00		5.5%
Net Revenue		26,166.87	96,989.88		-	-	



TOWN OF LOXAHATCHEE GROVES
BUDGET VS ACTUAL
AS OF FEBRUARY, 2013
 42% Elapsed
Capital Improvement Program
Revenues

Account Number	Account	Month to Date	Year to Date	Encumbrance	Annual Budget	Annual Variance	% Used
305-363-990-000	Contributions from General Fund	-	-	-	400,000.00	(400,000.00)	0.0%
305-399-000-000	Transfer from Fund Balance	400,000.00	400,000.00	-	912,466.00	(512,466.00)	43.8%
	Total Revenue	400,000.00	400,000.00	-	1,312,466.00	(912,466.00)	30.5%

Capital Improvement Program
Expenditures

Account Number	Account	Month to Date	Year to Date	Encumbrance	Annual Budget	Annual Variance	% Used
305-519-600-000	Develop Town Hall Alternatives	-	-	-	500,000.00	500,000.00	0.0%
305-541-341-000	Trails (changed from Linear Park/Grant Match)	-	-	-	200,000.00	200,000.00	0.0%
305-541-346-000	OGEM Paving/Cost Sharing	-	-	-	-	-	0.0%
305-541-434-000	Road & Drainage Improvement	-	-	-	362,466.00	362,466.00	0.0%
305-541-436-000	Traffic Light Okeechobee	-	-	-	250,000.00	250,000.00	0.0%
	Total Expenditure	-	-	-	1,312,466.00	1,312,466.00	0.0%
	Net Revenue	400,000.00	400,000.00		-	400,000.00	



TOWN OF LOXAHATCHEE GROVES
BUDGET VS ACTUAL
AS OF FEBRUARY, 2013
 42% Elapsed
Solid Waste Fund
Revenues

Account Number	Account	Month to Date	Year to Date	Encumbrance	Annual Budget	Annual Variance	% Used
405-323-125-000	Haulers Licensing Fee - MOVED TO GF	-	-	-	-	-	0.0%
405-325-205-000	Solid Waste Assessments	21,360.50	245,522.89	-	346,361.00	(100,838.11)	70.9%
405-325-206-000	Discount Fees	(583.59)	(9,392.38)	-	(10,392.00)	999.62	90.4%
405-343-120-000	SWA Recycling Income	854.41	4,506.50	-	8,000.00	(3,493.50)	56.3%
405-363-990-000	Contributions from General Fund	126,000.00	126,000.00	-	126,000.00	-	100.0%
	Total Revenue	147,631.32	366,637.01	-	469,969.00	(103,331.99)	78.0%

Account Number	Account	Month to Date	Year to Date	Encumbrance	Annual Budget	Annual Variance	% Used
405-534-345-000	Contractual - Waste Over	26.50	2,744.50	-	12,000.00	9,255.50	22.9%
405-534-346-000	PBC Administration Fee 1	-	2,117.93	-	3,463.00	1,345.07	61.2%
405-534-420-000	Postage & Freight	-	-	-	500.00	500.00	0.0%
405-534-434-000	Solid Waste Contractor	37,636.20	188,181.00	-	451,634.00	263,453.00	41.7%
405-534-436-000	Other Sanitation Service	-	-	-	1,500.00	1,500.00	0.0%
405-534-490-000	Legal Advertising	-	-	-	872.00	872.00	0.0%
405-534-595-000	TOLG Management Fee	-	-	-	-	-	0.0%
	Total Expenditure	37,662.70	193,043.43	-	469,969.00	276,925.57	41.1%
	Net Revenue	109,968.62	173,593.58		-		



5.a. Ordinance No. 2013-02



TOWN OF LOXAHATCHEE GROVES
OFFICE OF THE TOWN MANAGER
AGENDA REPORT

Revised March 15, 2013

Revised March 26, 2013

TO: Mayor and Town Council
Local Planning Agency

FROM: Mark A. Kutney, Town Manager, AICP, ICMA-CM

DATE: March 8, 2013

SUBJECT: Amendment to Residential Enterprises ULDC

I. BACKGROUND/HISTORY

At the February 5, 2013 Town Council meeting, the Town Council deliberated on a matter related to a local business owner that sells guns under a Residential Enterprise approval. An issue occurred with the Federal Bureau of Alcohol Tobacco, Firearms and Explosives (ATF) advising the Town that the gun business owner needed to meet all of the Town's regulations as well as Federal regulations to be considered in compliance. Specifically, the ATF was concerned that the business in question was not meeting Section 80-020 (H) of the ULDC which relates to clients or customers being allowed on the premises of a Residential Enterprise (based upon their observation at the site). The owner came to Town Council seeking relief to this provision. **At the LPA Meeting held on March 14, 2014 The LPA on a motion by Member Joyce and seconded by Alternate Member #2 Byrnes Guillaume denied Ordinance 2013-02 by a 5-0 vote.**

The reasons that were articulated in the motion include: "by allowing customers to go into accessory buildings, are we changing the occupancy of the accessory buildings from residential to commercial, and if so, what building code requirements need to be addressed; ADA requirements, signage as far as now I have a commercial business. I would also not approve this because I don't see any language that this language is consistent with our Comp Plan; in addition, there are no hours of operation limitation addressed in the ordinance. There is no way to enforce the number of clients at one time. We are creating more work for ourselves. The unintended consequences where we are creating commercial uses to be allowed throughout the

residential community.” On March 19, 2013, Councilman Tom Goltzene made a motion to adopt the ordinance on first reading with the additional removal of subsections (B), (G) and (I). The motion was seconded by Councilman Ron Jarriel. The motion passed by a 4-1 vote with Vice-Mayor Jim Rockett dissenting.

II. DISCUSSION

After discussion and deliberation of the matter above, the Town Council elected to direct Town Management to prepare an amendment to the ULDC granting relief for all Residential Enterprises relative to the prohibition of client/customers being allowed on the premises to transact business. The effect of this amendment would be to allow all Residential Enterprises to have up to three (3) clients or customers present at the same time to transact business on the premises.

III. FISCAL IMPACT

Needs to be determined

IV. ATTACHMENTS

Ordinance 2013-02 as revised

V. REQUESTED ACTION

Motion to Approve Ordinance 2013-02

Loxahatchee Groves Landowners' Association

P.O. Box 96

Loxahatchee, FL 33470

**Marge Herzog-President
Claus von Grote-Sgt-at-Arms**

**Ken Johnson-Vice-President
Diane von Grote-At Large**

**Virginia Standish-Treasurer
Robin McLeod-At Large**

March 22, 2013

Dear Town Council Members,

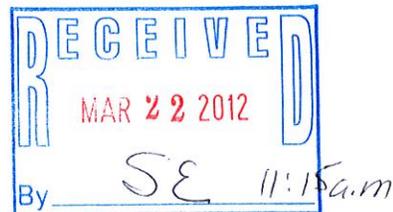
The members in attendance at the March 21, 2013 LGLA meeting discussed the residential enterprise Ordinance No. 2013-02 that the Town Council members approved on first reading on March 19.

A motion was made by Bill Louda and seconded by Elise Ryan asking that the members of the Town Council pay more serious attention to the LPA input and accept their recommendations on residential enterprises.

Sincerely,



Marge Herzog--LGLA President



TOWN OF LOXAHATCHEE GROVES

ORDINANCE NO. 2013-02

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, AMENDING PART III, ENTITLED "SUPPLEMENTAL REGULATIONS," ARTICLE 80, ENTITLED "CONDITIONAL USES," SECTION 80-020, ENTITLED "RESIDENTIAL ENTERPRISE," OF THE TOWN OF LOXAHATCHEE GROVES UNIFIED LAND DEVELOPMENT CODE TO DELETE THE PROPERTY SIZE REQUIREMENTS, THE REGULATIONS RELATING TO NUMBER OF EMPLOYEES AND DELIVERY OF MERCHANDISE; TO PERMIT A LIMITED NUMBER OF CUSTOMERS TO TRANSACT BUSINESS AT THE LOCATION OF A RESIDENTIAL ENTERPRISE; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the Town Council believes that the regulations relating to Residential Enterprises should be amended to permit a limited number of customers to transaction business at the location of a Residential Enterprise; and,

WHEREAS, at its March 14, 2013, meeting, the Town's Planning and Zoning Board reviewed the proposed amendments to the regulations at a public hearing and recommended approval of the amendments;

WHEREAS, at first reading of the ordinance, the Town Council voted to amend Section 80-020 to delete regulations relating to property size, number of employees and the delivery of merchandise; and,

WHEREAS, the Town Council finds it in the best interest of the Town to amend the Residential Enterprise regulations as set forth herein.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, THAT:

Section 1. The foregoing "WHEREAS" clauses are hereby ratified and confirmed as

being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

Section 2. Part III, entitled “Supplemental Regulations,” Article 80, entitled “Conditional Uses,” Section 80-020, entitled “Residential Enterprise,” of the Town of Loxahatchee Groves Unified Land Development Code is amended as follows:

Section 80-020 Residential Enterprise.

Residential enterprises as defined in Article 10, "Definitions, Abbreviations, and Construction of Terms" shall be permitted in all residential zoning districts as a use accessory to a principal residential use and subject to the following limitations:

(A) Resident of property. The plot on which a residential enterprise is located shall be occupied by the owner who shall provide proof of a homestead exemption within one year of establishing the residential enterprise.

~~(B) Size of property. Residential enterprises shall be permitted on properties of five acres or more in size.~~

~~(C)~~ (B) Location of residential enterprise. A residential enterprise shall be conducted only within an accessory building on the property where the main dwelling is located, and not within the dwelling.

~~(D)~~ (C) Number of accessory buildings. There shall be a maximum of two accessory buildings used for a residential enterprise.

~~(E)~~ (D) Size of accessory buildings. The total floor area ratio (F.A.R.) of all accessory buildings used for a residential enterprise shall not exceed 0.01.

~~(F)~~ (E) Appearance of accessory buildings. The accessory buildings used for a residential enterprise shall be in the same style and have the same architectural appearance as the principal residential use.

CODING: Words in ~~struck through~~ type are deletion from existing law; words in underlined type are additions

~~(G)~~ Employees or contractors. In addition to any person(s) who are the residents of the property, there shall be a maximum of two outside employees or contractors who assist with the residential enterprise.

~~(H)~~(F) Clients or customers. No client or customer shall be allowed on the premises to transact business of any nature. Up to three (3) clients or customers may be present at the same time to transact business on the premises.

~~(I)~~ Delivery. Merchandise or goods shall be shipped by way of the U.S. Postal Service, United Parcel Service, Federal Express or similar small package carrier. If other commercial carriers are required, the residential enterprise shall be deemed to require a ~~Special Exception pursuant to Article 170.~~

~~(J)~~(G) Commercial vehicles. Commercial vehicles associated with the residential enterprise shall be subject to Section 20-010(G).

~~(K)~~(H) [Adult entertainment.] Adult entertainment or the production of adult entertainment materials is prohibited.

Exceptions to the foregoing limitations shall be subject to approval by the Town Council, and such requests shall be considered in conjunction with the criteria set forth in Section 170-025(A) for Special Exceptions.

Section 3. **Repeal of Laws in Conflict.** All Ordinances or part of Ordinances in conflict herewith are in the same are hereby repealed to the extent of such conflict.

Section 4. **Severability.** If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by the Court to be unconstitutional, inoperative, or void, such holding shall not affect the remainder of this Ordinance.

Section 5. **Codification.** It is the intention of the Town Council of the Town of
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Loxahatchee Groves that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the Town of Loxahatchee Groves, Florida, and that the Sections of this ordinance may be re-numbered, re-lettered, and the word "Ordinance" may be changed to "Section", "Article" or such other word or phrase in order to accomplish such intention.

Section 6. Effective Date. This Ordinance shall become effective immediately upon its passage and adoption.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ON FIRST READING, THIS 19th DAY OF MARCH, 2013.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN LOXAHATCHEE GROVES, ON SECOND READING AND PUBLIC HEARING, THIS 2nd DAY OF APRIL, 2013.

**TOWN OF LOXAHATCHEE GROVES,
FLORIDA**

ATTEST:

Mayor David Browning

TOWN CLERK

Vice Mayor Jim Rockett

APPROVED AS TO LEGAL FORM:

Council Member

Council Member

Office of the Town Attorney

Council Member

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7.a. Resolution No. 2013-03

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, AUTHORIZING AND ADOPTING ADMINISTRATIVE POLICY 3-13, RULES OF PROCEDURE FOR TOWN COUNCIL MEETINGS; PROVIDING FOR CONFLICT, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Loxahatchee Groves deems it appropriate to adopt Rules of Procedure for the implementation of the Agenda and conduct of Town Council Meetings.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA:

Section 1. The foregoing "Whereas" clause is hereby ratified and confirmed as being true and correct and is hereby made a specific part of this Resolution upon adoption hereof.

Section 2. Administrative Policy 3-13, Rules of Procedure for Town Council Meetings, is hereby attached and considered part of Resolution No. 2013-03.

Section 3. All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

Section 4. If any clause, section, other part or application of this Resolution is held by any court of competent jurisdiction to be unconstitutional or invalid, in part or application, it shall not affect the validity of the remaining portions or applications of this Resolution.

Section 5. This Resolution shall become effective upon adoption.

RESOLVED AND ADOPTED by the Town Council of the TOWN OF LOXAHATCHEE GROVES, Florida this 2nd day of April, 2013.

ATTEST:

TOWN OF LOXAHATCHEE GROVES,
FLORIDA

TOWN CLERK

Mayor

APPROVED AS TO LEGAL FORM:

Vice Mayor

Office of the Town Attorney

Council Member

Council Member

Council Member



TOWN OF LOXAHATCHEE GROVES
OFFICE OF THE TOWN MANAGER
AGENDA REPORT

TO: Mayor and Town Council

FROM: Mark A. Kutney, Town Manager, AICP, ICMA-CM

DATE: March 27, 2013

SUBJECT: Administrative Policy 3-13 Procedures and Practice for Town Council Meetings

I. BACKGROUND/HISTORY

Town Management research was unable to find any policies or specific procedure that addressed rules of procedure for the implementation of the Town Council Agenda and conduct of Town Council Meetings. Additionally, the Town Manager has had discussions with several Town Councilmembers regarding various aspects of agenda implementation and conduct of Town Council meetings. These Councilmembers expressed concern and the need for improvement in these areas. Therefore, Town Management believes that it is necessary and prudent to develop a policy that comprehensively addresses the issues cited above.

II. DISCUSSION

Town Management has drafted Administrative Policy 3-13 and Resolution 2013-03 for Town Council adoption at the April 2, 2013 Town Council Meeting. The policy provides procedures for the aforementioned issues above. More Specifically, the policy concentrates on Council decorum for discussion and deliberation; reinforces the use of Robert's Rules of Order if not addressed by this policy; voting on decisions and other official acts; public comments; consent agenda; the procedure for placement of business items on the agenda; protocol for the handling of business items; and the placement order of items on the agenda.

III. FISCAL IMPACT

None

IV. ATTACHMENTS

Resolution 2013-03

Administrative Policy 3-13 Rules of Procedure for Town Council Meetings

V. REQUIRED ACTION

Motion to adopt Administrative Policy 3-13 and Resolution 2012-03

TOWN OF LOXAHATCHEE GROVES ADMINISTRATIVE POLICY 3-13

SUBJECT: Administrative Policy 3-13 Rules of Procedure for Town Council Meetings

PURPOSE: In order to promote efficient and effective procedures and practices during Town Council Meetings it is necessary to establish Rules of Procedure for all Town Council Meetings, Special Meetings and workshops

BACKGROUND: The Town currently has no specific policy that addresses, in a comprehensive fashion, a set of rules and procedures for the implementation of the agenda and conduct of Town Council Meetings. This policy, 3-13, will provide the Rules of Procedure for agenda preparation and conduct of meetings

- POLICY:**
1. All meetings of the Town Council whether such meetings are regular, special meetings or workshops shall be governed by the Rules of Procedure set forth herein, where applicable.

 2. Any Councilmember desiring to speak must be recognized by the Mayor or Acting Chair by raising his or her hand. The Mayor or Acting Chair shall announce the order in which the hands were raised, and grant the floor in the order the hands were raised. If the Mayor or Acting Chair desires to participate in a discussion, he or she shall do so only when all members of the Council have spoken at least once (if so desired). No member of the Council shall interrupt another member of the Council who has been recognized by the Mayor or Acting Chair and no member shall dominate the floor in excess of five minutes without offering to yield to other members of Council.

 3. The Mayor or Acting Chair shall not use that position to dominate debate or discussion, nor unreasonably cut short or prolong any debate, discussion or taking of any vote.

4. Any matters not specifically addressed by this policy, will be governed by Robert's Rules of Order to the extent possible.
5. Except when abstaining from voting in accordance with Florida Statutes, each Council member who is present at a meeting must vote on each decision, ruling or other official act. A roll call vote shall be recorded for each Councilmember present. The order of each Councilmember vote will rotate after each roll call vote.
6. Public comments shall be placed on the Agenda at the beginning of the meeting (following the consent agenda) and at the end of meeting. Public comments will also be entertained at the start of each agenda item. However, once public comments are completed at the start of an agenda item and Town Council deliberations have started, no further public comments will be entertained. Public comment during Public Hearings and Quasi-Judicial matters will occur after comment/testimony has been provided by the principals related to the matter.
7. There shall be a consent agenda during each regular Town Council meeting. The Consent Agenda shall contain matters that can be handled and implemented without necessity of comments. Notwithstanding the foregoing, any item placed on the Consent Agenda may be removed from the Consent Agenda by any Councilmember and discussed and deliberated by the Town Council.
8. Any Councilmember, the Town Manager or Town Staff may place items on the Town Council Agenda for a regular meeting for discussion, review or consideration of any action, and must be submitted by a written request referencing the business item, stating the purpose of the item/action, the major points to be covered, the reasons for the action and the action requested by The Town Council. All appropriate background

material shall accompany the signed written request. Items must be approved by the Town Manager before placement on the Agenda. The deadline for such submission shall be noon on the Tuesday prior to the scheduled Council meeting (i.e. one week prior). Failure to adhere strictly to this schedule shall result in the requested item being scheduled for the next available meeting. A waiver may be granted for an exigent circumstance, however, such waiver must be approved by the Town Manager and the Mayor.

9. Once an item has been placed on the Agenda in accordance with the terms and conditions of this policy, it may be only removed by the person who originally placed it on the agenda.
10. For the presentation/explanation of Agenda items the Mayor shall call on the Town Manager or a designated spokesperson for a brief explanation of the item under consideration. Upon completion of the presentation/explanation the item shall be opened for public hearing or Town Council discussion as necessitated by requirements of the Agenda item.
11. All items on the Agenda shall be listed in the following order: Opening; Consent Agenda; Public Comment; Presentations; Committee Reports; Public Hearings; Ordinances; Resolutions; Administrative Update; Old Business; New Business; Closing Comments; and Adjournment.



9.a. Discussion of Manure Ordinance

TOWN OF LOXAHATCHEE GROVES

ORDINANCE NO. 2012-03

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, AMENDING AND RESTATING ORDINANCE 2010-003, RELATING TO DUMPING OF MANURE AND HORSE BEDDING WITHIN THE TOWN; PROVIDING THAT ONLY THOSE PROPERTIES DESIGNATED AGRICULTURE OR IN THE PROCESS OF APPLYING FOR SUCH, OR DESIGNATED RESIDENTIAL, ON PROPERTY TAX RECORDS MAY RECEIVE MANURE AND HORSE BEDDING FOR AGRICULTURAL USE ON THE PROPERTY; AMENDING THE PERMITTED HOURS FOR DEPOSITING MANURE AND HORSE BEDDING; AMENDING PERMIT APPLICATION REQUIREMENTS FOR PROPERTY OWNERS AND HAULERS; ADDING PROVISIONS ON THE LOCATION OF DUMPING ON PROPERTY; AMENDING PROVISIONS RELATING TO HAULER PERMIT FEES; PROVIDING THAT EXCEPT AS AMENDED HEREIN, ORDINANCE 2010-003 IS RESTATED AND IN FORCE AND EFFECT; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on April 6, 2010, the Town Council of the Town of Loxahatchee Groves adopted Ordinance 2010-003, to provide requirements for permits by landowners and transporters of manure and horse bedding in the Town; and,

WHEREAS, the Town Council believes that Ordinance 2010-003 should be amended to provide for additional items relating to permit requirements and fees; and,

WHEREAS, except as amended herein, Ordinance 2010-003 shall remain in full force and effect in the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, THAT:

Section 1. The foregoing “Whereas” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof. Ordinance 2020-003 is amended as set forth herein.

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Section 2. It shall be prohibited for a property owner to permit the depositing of Manure and Horse Bedding onto real property within the Town except when the Manure and Horse Bedding is being used by the property owner for bona fide agricultural purposes in appropriately limited quantities after obtaining a permit from the Town.

Section 3. It shall be prohibited for any person to deposit Manure and Horse Bedding on any property within the Town, regardless of the consent of the property owner, unless such person, and the property owner, has obtained a permit from the Town confirming that the Manure and Horse Bedding is to be used for bona fide agricultural purposes; and, in no case may the amount of Manure and Horse Bedding deposited exceed the amount set forth in the permit issued to the Property Owner by the Town. With the exception of a Town Manager-approved permit for residential property hereinafter provided, the property on which the Manure and Horse Bedding is to be deposited must be designated as agricultural by the Palm Beach County Tax collector for property tax purposes; provided that when a property owner applies for the first time for a permit, the property owner may obtain its initial permit notwithstanding not having the agricultural use tax designation when the property owner certifies to the Town Manager that the property owner is making a good faith effort to obtain the agricultural use tax designation. This exception shall not apply to subsequent years Property owners of property designated as residential by the Palm Beach County Tax Collector may obtain a permit from the Town Manager when the property owner of the residential property demonstrates to the Town Manager that the Manure and/or Horse Bedding is solely for private, personal use on-site. The Town Manager shall advise the Town Council of all permits approved for residential properties. The determination of the appropriate quantity of Manure and Horse Bedding for use for bona fide

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~~agricultural purposes shall be based upon uses and custom associated with the specific agricultural use on the property, which may include recognized formulas of government agencies or published studies. A permit issued to a property owner pursuant this Ordinance is limited to one transporter, and a property owner may have only one permit at a time.~~

Section 4. Notwithstanding the issuance of a permit, the depositing of manure and horse bedding shall be prohibited between the hours of ~~sunset and sunrise~~ 7:00 p.m. and 7:00 a.m. on Mondays through Saturdays, and prohibited at all times on Sundays. A hauler shall not dump Manure and Horse Bedding within fifty (50) feet of the property line or within seventy five (75) feet of any well on the property. The limitations in this Section do not apply to the spreading or use of the manure and horse bedding.

Section 5. The Town Council hereby finds that a violation of this ordinance presents a public nuisance for purposes of enforcement of Section 403.413, Florida Statutes, and law enforcement officers charged with the enforcement of state and local laws within the Town shall strictly enforce Section 403.413, Florida Statutes.

Section 6. The Town Administration is authorized to use the Town's Code Enforcement process to enforce violations of this ordinance where a law enforcement officer has not otherwise issued violations of Section 403.413, Florida Statutes. In such instances, the fine shall be \$250 for the initial violation and \$500 for each subsequent violation, with each load or each day being a separate violation. Each day a violation remains, and each haul for which there is no permit, constitutes a separate violation of this ordinance.

Section 7. Upon the issuance of a violation notice under Section 403.413, Florida Statutes, or this ordinance, any permits issued by the Town shall be suspended and all Manure

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and Horse Bedding deposit activity stopped until such time as a hearing is conducted or the fines paid. Should a person violate this ordinance on more than one (1) occasion during a calendar year, that person shall not be granted a permit from the Town for a period of one (1) calendar year from the date of the last violation.

Section 8. Permits shall be obtained by both property owners and transporters from the Town.

a. Property Owners shall obtain a permit from the Town for each use of manure or horse bedding, regardless of the number of loads, during which time the Property Owner shall advise in writing: (1) whether the real property on which the manure and/or horse bedding is to be dumped is designated agriculture or residential on the tax roll for property tax purposes; (2) the volume being used under the permit; (3) and the transporter for the material; (4), and will certify that the manure or horse bedding is being used for bona fide agricultural purposes, and for residential properties include sufficient information to enable the Town Manager to determine whether the use is for private, personal use on site; (5) confirming through a property site drawing or layout that the manure and horse bedding will not be dumped within fifty (50) feet of the property line or within seventy five (75) feet of any well on the property; and (6) that the property owner has verified that the transporter for the materials has a permit from the Town. One of the conditions on the issuance of a permit to a property owner is that it shall provide consent for a Town representative to inspect the property solely for purposes of ensuring compliance with the terms of the permit. There shall be no charge for a Property Owner Permit. The Property Owner shall spread the manure and horse bedding within seventy-two (72) hours of receipt of the materials.

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b. Transporters shall obtain an annual permit from the Town for the deposit of up to twenty (20) loads of Manure and Horse Bedding within the Town. For purposes of this ordinance, a “load” shall be approximately twenty (20) to twenty-five (25) cubic yards. In obtaining the permit, the transporter will acknowledge that it is aware of the Town’s regulations relating to the deposit of manure and horse bedding, and that it will confirm upon receipt of a request for materials from a property owner within the Town that the purpose for such manure and horse bedding is for bona fide agricultural purposes, and that the property owner has obtained the necessary permit from the Town. All permits for transporters shall expire each September 30 regardless of the date of issuance. Transporters are responsible for the timely renewal of its annual permit. The annual permit fee shall be Five Hundred Dollars (\$500.00). A hauler may exceed twenty (20) loads permitted that it pays, in advance, an additional fee of forty dollars (\$40.00) per load. A transporter who applies for an application subsequent to transporting manure into the Town shall be charged a fee of Two Thousand Dollars (\$2,000.00), and for permitted haulers that exceed the permitted number of loads and do not pay in advance for additional loads, the cost per additional load shall be one hundred dollars (\$100.00); The application fees set forth herein ~~which~~ may be adjusted by the Town Council by resolution. No permit shall be issued to a transporter who has not remedied previous violations of this Ordinance.

Section 9. As used in this ordinance “bona fide agricultural purposes” means farming, pasture, grove, or forestry operations, including horticulture, floriculture, viticulture, dairy, livestock, poultry, bee and aquaculture, consistent with Section 823.14, Florida Statutes (Right to Farm) and Section 570.02, Florida Statutes (Agriculture).

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Section 10. **Effect on Ordinance 2010-003.** Except as amended herein, Ordinance 2010-003 remains in full force and effect.

Section 11. **Repeal of Laws in Conflict.** All Ordinances or part of Ordinances in conflict herewith are in the same are hereby repealed to the extent of such conflict.

Section 12. **Severability.** If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by the Court to be unconstitutional, inoperative, or void, such holding shall not affect the remainder of this Ordinance.

Section 13. **Codification.** It is the intention of the Town Council of the Town of Loxahatchee Groves that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the Town of Loxahatchee Groves, Florida, and that the Sections of this ordinance may be re-numbered, re-lettered, and the word "Ordinance" may be changed to "Section", "Article" or such other word or phrase in order to accomplish such intention.

Section 14. **Effective Date.** This Ordinance shall become effective immediately upon its passage and adoption.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ON FIRST READING, THIS 6th DAY OF March, 2012.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN LOXAHATCHEE GROVES, ON SECOND READING AND PUBLIC HEARING, THIS 3rd DAY OF April, 2012.

**TOWN OF LOXAHATCHEE GROVES,
FLORIDA**

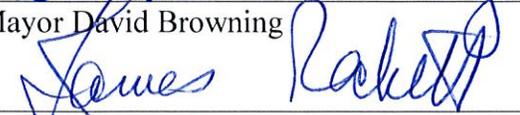
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ATTEST:


Janice M. Moore, Town Clerk


Mayor David Browning

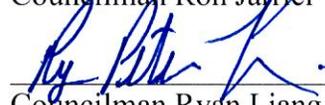

Vice Mayor Jim Rockett

APPROVED AS TO LEGAL FORM:


Michael D. Cirullo, Jr., Town Attorney

not present
Councilman Goltzené


Councilman Ron Jarriel


Councilman Ryan Liang

MDC:aw

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9.b. Roadway Discussion – *Councilman Tom Goltzené*

(no back up provided)