



Members Present:

Dave Browning, Mayor
Dennis Lipp, Vice-Mayor
Ryan Liang, Council Member
Ron Jarriel, Council Member

Members Absent:

Dr. J. William Louda, Council Member

Others Attending:

Dr. Irv Rosenbaum, Interim Town Manager (NCS)
Matthew Lippman, Interim Town Clerk (NCS)
Michelle Kantor, Interim Assistant Town Clerk (NCS)
David Tolces., Esq., Town Attorney
Members of the Public

1. – 4. Call to Order/Roll Call/Pledge of Allegiance/Invocation

Mayor Browning called the meeting to order at 7:00p.m. He then requested the roll call by Town Clerk Lippman. Town Clerk Lippman noted that Councilman Louda was absent. Upon completion of the roll, Mayor Browning requested everyone stand for the Pledge of Allegiance and Invocation.

Mayor Browning moved to Item #5.

5. Approval of Agenda

Vice-Mayor Lipp made a MOTION to approve the Agenda, SECONDED by Councilman Jarriel and the MOTION passed unanimously 4-0, with Councilman Louda absent.

Mayor Browning moved to Item #6.

Vice Mayor Lipp said one of the things that has always troubled me with fences is getting little creatures stuck in them, so I think this is a good idea. He said I think having the ability for rabbits and gopher turtles and other critters that roam Loxahatchee Groves to get through without having to go through a wall or a chain link fence is good.

Councilman Liang said I ask is try to use natives or Florida friendly materials for that buffer area.

Town Clerk Lippman explained there is an original Landscaping requirement they have to meet, so we will make sure this happens.

The MOTION passed unanimously 4-0, with Councilman Louda absent.

Mayor Browning moved to Item #11.

11. Presentation of SR80 (Southern Blvd) Corridor Study

Town Clerk Lippman said it has been a long time coming, but we are very happy with the conclusion. He said tonight we have a presentation to give you which is a summary and some of the highlights of the study and by the end of the week you will have a full detailed copy of the study available to you.

Jeff Maxwell, Calvin-Giordano- said it should be ready to be wrapped up and put on the website by this Friday. He went on to give his presentation and said first of all, FDOT classifies Southern Boulevard as a Class 3. He said what that means is it is connection spacing of 660 feet for driveways and 1,320 feet for directional median opening and 2,640 feet for a full median opening and ½ mile for signal spacing. He said we looked at two alternatives, the first is existing land use only, connection spacing of 660 feet and single connection per parcel for non-compliant spacing, he said second we looked at changing all of the land uses of SR80 to Commercial and extension of Tangerine Drive west of C Road, all the way up and past B Road as well, cross access agreements, and compliant access spacing only at 660 feet. He said now for this particular study we are not addressing access to Tangerine Drive or to the lettered roads, that is something you will handle at a future stage with your LDR's and for now we are just looking at SR80 and how to access that road. He said we are proposing no changes to the park and no additional accesses to SR80 to the park. He said we are including a full analysis of all the intersections

Councilman Lipp said on the April 21, 2009 report, Page 3 of 12, you are talking about the various lettered roads. He said C Road and E Road do not go through to Collecting Canal Road-it goes to Collecting Canal but not across the canal.

Mr. Maxwell said I will take a look at that and see how we came up with that.

Councilman Jarriel said the question about the entrance to the park, was that an east side entrance, I thought we had discussed coming off of Southern Boulevard also.

Town Clerk Lippman said we did and it is already being done by the County, so yes that will be done.

Mr. Maxwell said I just focused on access to SR80 and your LDR's is really where you focus on the interior roads.

Vice-Mayor Lipp said thank you Jeff, I am looking forward to seeing that.

Councilman Jarriel made a MOTION to direct Town Attorney to draft a Resolution to be brought back at the May 19, 2009 Town Council Meeting which would adopt the SR80 (Southern Boulevard) Corridor Study, SECONDED by Councilman Liang and the MOTION passed unanimously 4-0, with Councilman Louda absent.

Mayor Browning moved to Item #12.

12. Resolution 2009-008 (Budget Oversight Committee)

A RESOLUTION OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, PROVIDING FOR THE CREATION OF A “BUDGET OVERSIGHT COMMITTEE; PROVIDING FOR DUTIES OF THE BUDGET OVERSIGHT COMMITTEE; PROVIDING FOR THE METHOD OF APPOINTMENT OF THE BUDGET OVERSIGHT COMMITTEE MEMBERS; PROVIDING FOR REQUIREMENTS OF APPOINTMENT; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; & PROVIDING FOR AN EFFECTIVE DATE

Town Attorney Tolces conducted the reading of Resolution 2009-008- Budget Oversight Committee.

Town Attorney Tolces said our office has provided you with a Memo explaining how we have gone ahead and crafted this from the Council's direction at the last meeting.

Vice-Mayor Lipp said I think we were looking for a shopping bag and he brought us back Wal-Mart. He said it is so much overkill and I would like to have an opportunity to redline as much as possible and then let's take it up again at the next meeting.

Town Attorney Tolces asked what specific issues are you looking at.

Vice-Mayor Lipp responded, for example, I don't think the process needs an application and I think the only qualification is that someone lives here and that they are interested in participating in this. He said I don't think there need to be alternates. He said as far as meeting in the Sunshine and posting requirements, those are things we need to do. He said I don't think we are going to have that many meetings and once this committee gets their hands around things, we won't need to have monthly meetings. He said this is very well done, but total overkill for what I had in mind for this committee.

Vice-Mayor made a MOTION that any Council Member that has suggestions send them to Town Staff and to bring Item #12 back at the next meeting on May 19, 2009, and there was no SECOND till later in the discussion:

Town Attorney Tolces asked the Council are you all in agreement to have 5 candidates and no alternates.

Councilman Jarriel said with a quorum of 3, I don't think we need alternates.

Town Clerk Lippman said I hear what you are saying but I can tell you in a Town I ran that was very small, things come up and I hate for you to go through this effort and then schedule a forum and where you didn't have a quorum and you couldn't meet I think it is a safety valve that would help this committee.

Councilman Jarriel said if we have more than enough people that will volunteer their time, I don't want it to be a restriction to have the committee, but I don't have a problem with the alternates and I think the more the Community gets involved the better I like it

Town Attorney Tolces said for the members, I envision each of you would appoint one member and the Council as a whole would pick the 2 alternates and as for the application method, there may be somebody you don't know who would be interested and the application could be posted on the website and when it is filled out, included in your Agenda Packets.

Mayor Browning said it would let us know who was interested.

Councilman Jarriel said I am definitely against applications. He said I have at least 5 people in mind that are professionals and they have done this and are very reputable and I believe when the Council Members are picking the people then before they pick those people they should know the people's capabilities.

Councilman Liang said maybe for the alternates we could do that because since we are all picking them, we may not all know them.

Town Clerk Lippman said let's determine whether you want to deal with the qualifications first. He said if you remove that, then the application is just simply a form to fill out.

Mayor Browning said I think that is a good idea because there might be a name that slips by us.

Town Attorney Tolces said and that is the purpose of the application is so someone could say I am interested. He said the only qualification I currently have in here is that the person must be a registered voter for the Town, and if you want me to change that to anybody who lives in the boundaries within the Town I can, or I can take it out completely and anybody can apply. He said the meetings will meet at the pleasure of the Chair or upon the request of 3 Members.

Mayor Browning asked and they would choose their own Chair.

Town Attorney Tolces responded yes, they would choose their own Chair and Vice-Chair and schedule their own meetings.

Councilman Jarriel said I would like to see us come up with what they call an Ad Hock Committee and that would be made up of professional CPA's, possibly the same people who would do this at no cost and I would like us to vote on an Ad Hock committee tonight to have them go through this Resolution and simplify it. He said we have simplified it a lot tonight and I like that but when I say Ad Hock Committee I am speaking about people who can relate to the simplicity I am looking for and the continuity rather than the complicity.

Town Attorney Tolces said our firm has been very involved in working with committees and I would suggest that we redraft this and bring it back to you at the next meeting. He said I have

heard your concerns and we will go back and redraft it and forward it back to you for consideration at the next meeting.

Councilman Jarriel said my only problem with that is if you redraft it and we are still not satisfied, it is definitely going to cost the taxpayers some money and I would like the Ad Hock Committee to try and simplify it for us and at a meeting where you have to be present anyway, if we could come to the conclusion where the Council Members are satisfied with it, it would save the taxpayers some money. He said I think we could go until May 19, 2009 and we should appoint an Ad Hock Committee tonight.

Vice-Mayor Lipp said so in other words this Ad Hock Committee would get together and give us their report at the next meeting, and then the Town Attorney would then draft the Resolution and have it ready for us by our first meeting in June.

Councilman Jarriel said we would basically prolong it for a couple of weeks. He said I'd hate to see it come back a 2nd or 3rd time and we are still dissatisfied. He said and the purpose of the Ad Hock Committee and I noticed going over the short list they speak about things like that. He said this Ad Hock Committee would probably be most of the same people that are willing to volunteer for the Oversight Committee and they are willing to do this free, so if they are willing to go over this Resolution and simplify it to where they are satisfied, we are satisfied and Legal Staff and Town Staff is satisfied

Councilman Liang handed out some notes on other municipal and county committees to the Council. He said what I just passed out is 2 policies regarding Advisory Boards, one is with the School Board and the other is for the Village of Wellington and I think goes along with what we are looking for and I wanted to show it to everyone involved. He said the other thing I didn't like was the idea of having the scope of the committee being so narrow and limited to the Budget and I would like to see it be a little broader and cover all the financial impacts in the Town. He said I just don't want to spend 4-5 hours in a Town Meeting where we could set aside a proper forum where we could discuss and study matters that require a longer period.

Town Clerk Lippman said please look at Master Page 108 of 174, Section B, because those 3 duties of the Budget Oversight Committee list everything you are asking for. He read the following duties.

- (B) Duties. The Budget Oversight Committee's duties are as follows:
- (1) To review and evaluate the format of financial reports of the Town and make recommendations that will enhance the Town's effectiveness of financial reporting;
 - (2) To review Town policies and procedures affecting budgetary functions, and make recommendations to the town as deemed appropriate.
 - (3) To review Town revenues and expenditures, relative to the Town's budget, and make recommendations to the Town Council.

Councilman Liang said I understand I just don't want to limit it to only financial aspects.

Town Attorney Tolces asked so you would want something more than just a Budget Oversight Committee. He asked you would like some type of Governmental Oversight Committee. He said to review any aspect of the Town's operations and to provide comments or suggestions to the Town Council based on issues that they feel are important and need to be addressed. He said I understand with respect to the Village of Wellington Ordinance, but I think it provides the same provisions overall when you look at what we are proposing here.

Councilman Liang said the only difference is the title of the Board, because I don't feel that it should be limited to only financial aspects.

Town Attorney Tolces said whatever comments I can get from you tonight I am happy to take back and either meet with you individually and see what you like and come back with a Comprehensive Resolution but based on Councilman Liang's comments we would have to rework the goals and the duties.

Town Clerk Lippman said the government was set up for the Town of Loxahatchee Groves is very thin and there is no beurocracy and we have to be really careful in taking things out of the professional's hands that are handling things for the Town . He said I appreciate citizen feedback and always welcome it but we need to leave the Ordinance and Resolution writing to the Staff. He said that is Town Staff's responsibility.

Vice-Mayor Lipp made a MOTION to table Item #12 until May 19, 2009, SECONDED by Councilman Jarriel and the MOTION passed unanimously 4-0, with Councilman Louda absent.

Town Attorney Tolces said I will hold very brief conversations with each of you to find out what your concerns are and we will pare down the language in here and keep it simple, and show you a draft if it doesn't meet what you want then by all means decide on however you want to operate.

Councilman Jarriel said I personally think that is a good idea but I would rather instead of you speaking to me as a Council Member; you speak to some of the people willing to provide these services.

Town Attorney Tolces said they can call me or email me and I would be happy to talk to them.

Councilman Jarriel said I would be satisfied with that.

Town Clerk Lippman said I would like to recommend the form to discuss this is in front of the Public, so at the meetings it is real important that all of your thoughts are conveyed to the Town Attorney to save him time and also if you are concerned about running the meter up for him, I don't cost anything. He said if any of the Council Members have a concern of something on the Agenda, come and talk to me and I will be glad to convey that to them and if there are Members of the Public who are concerned with the Resolution, come and talk to me and I will take that to him and together we will draft a Resolution that will make all of you happy.

Town Manager Dr. Rosenbaum said we are hearing 2 different things. He said we are hearing some people would like to make suggestions about what they would like the Town to spend the money on, and others would like to look at the Budget. He said I think you want to give people the opportunity to do both of those but in one setting they may not work and I think we need to define that if we bring this back.

Mayor Browning said my thoughts on this is it comes down to this Council is elected to do that and run with things and make those decisions and by making specific committees we are going to involve more people because just like Ron says there may be some people that are very talented in financial and those would be the ones I would want on this committee. He said if another issue comes up we would put together another committee. He said we tabled it and it will come back next time and if we've got any changes or anything please get with Matthew.

Town Attorney Tolces asked can I get a General Consensus with respect to Councilman Liang's comments about broadening the scope of the committee. He said because that will play a large role in how you consider it when it comes back.

Vice-Mayor Lipp said I appreciate all that Ryan has done, but I think we need to have the latitude to see those up as we need them. He said I think that this could also serve as a brainstorming committee because maybe there is an item that isn't on the Budget that should be on the Budget, and that is where I would like to appoint one of the Members of the CERT Team because if we have a big storm, our first line of responders would be the CERT Team. He said so that is how I would like to see that expanded.

Councilman Jarriel said I am still with anything that has to do with finances. He said we still have the ULDS and ERM coming up and if we want a committee for that we need volunteers who are willing to take the time and do it for nothing. He said my main concern is our money, how much we've got and what we are capable of spending it on and keeping the Town going and keeping the financial status, so I am looking for this Financial Oversight Committee to come to us and say, hey we could cut the taxes this year or we have so much funds we could relieve the LGWCD this year so they don't have to raise assessments. He said I am looking for this committee to handle anything that has to do with money and they would have to come to the Council and we would make the decision if we are going listen to them or ignore them.

Councilman Liang said well the only reason I wanted to broaden the scope is I don't think we need to look at the financials aspects every month so if it was monthly it could look at events coming up and help the Town Council make better decisions. He said I am not looking for them to make decisions for us, but I am looking at them as a tool to gather information for us and I feel the ability for them to do research and gather information for us is far more important to me.

Mayor Browning said I've already said how I feel. He said I think when we need them we will form more committees. He asked Staff to contact Councilman Louda to see how he feels on this.

Mayor Browning asked for comments from the Public.

Lung Chu, 3270 B Road- said Councilman Jarriel made a good comment. He said I think forming an Ad Hock committee is a good idea and I think that currently the Resolution we have has a pretty good favor of the requirements but I think the Ad Hock Committee is important and I would like to consider amending the Motion tonight to let them work on the Resolution. He said

you have good people to work through and use everything we have and you guys should determine how we run. He said Legal is very helpful but please let's use our lawyer for legal sufficiency. He said I really hope that tonight we would put a Motion together and let an Ad Hock Committee work on the Resolution, meet as many times as needed, and get input from Legal Staff. He said this bringing back and forth from Legal is going to be costly for me as a tax payer, so please put Ad Hock Committee in motion and let them work for you.

Marge Herzog, 966 A Road- said if you remember last year the Council sent me to a Committees Workshop down in Plantation, Florida and one of the things that they advised very strongly is to make sure you have very good guidelines for these committees, because ultimately you're the ones that are going to be responsible for what goes on in these committees. She said and they also cautioned to make sure that you don't have conflict of interest by having Council Member relatives serving on these boards, so when you make your recommendations think in terms of that also

Ann Parker, 15565 Collecting Canal Road- said I don't think that the Board should appoint the members. I think that it should be by application because you never know what is out there and there might be someone who is much better than whom you have in your mind.

John Ryan, 3508 A Road- said my feeling is the tabling of this till the next meeting would allow a lot of people to input to the Council Members. He said as we've come up with interest in writing letters, considering issues, forming a committee, proposing contracts, what I've seen happen is that there is a discussion, but it is not as focused and the Town Management does not really probe and focus and direct the Town Attorney to an end result that is really reflecting full consideration. He said I mean the idea of having the Town Attorney draft something that gets out of line with what the discussion is, it does get to be expensive and I think when things like this come up they ought to be involved with feedback to the Council Members and then a discussion and a really specific focus so we don't wind up with several drafts of things.

Mayor Browning said to defend Town Attorney Tolces; he basically came back with what we asked him to at the last meeting.

Mr. Ryan responded it was too general and by the tabling of the motion it will allow the Council Members to get some feedback on what people want and how they think it should be constructed.

Elise Ryan, 3508 A Road- said I support the idea of having an Ad Hock Committee. She said I think it would be very beneficial in helping define the scope and I think it should be a financial committee and not go into a lot of other areas. She said the scope that is here seems very narrow and really wouldn't allow a full evaluation of the Budget and it does need to be reworded. She said I think that the committee would actually help save some expense because you wouldn't be going back and forth with the Attorney. She said it needs to be tweaked and I am concerned it is very narrow the way that it is worded. She said it would be strictly advisory.

Vice-Mayor Lipp said I like Anne Parker's suggestion, and I wouldn't go as far as a formal application process, but certainly a form to be filed on line.

Town Attorney Tolces said in response to Ms. Parker's comment, you will appoint the members whether it is by application or not.

Mayor Browning said I think that may be something great for a file if we had applications and when we have a need for a committee it would give Staff the ability to pull out some cards and see who is interesting in serving on a committee for that.

Town Attorney Tolces said and a lot of municipalities do that and they have a form you can fill out and it is kept on file.

Councilman Jarriel asked about a motion for an Ad Hock Committee.

Town Attorney Tolces responded technically by tabling the Item till the next meeting you've taken away further discussion of this Item tonight. He said let me take the comments back and rework the Resolution and if at that time you feel the need for an Ad Hock Committee, then by all means you can go from there.

The MOTION passed unanimously 4-0, with Councilman Louda absent.

Mayor Browning said one of the things I want to be careful of is this Council chose a committee very early on and we got blasted on how we chose the committee, so we have to make sure we do it the right way.

Mayor Browning moved to Item #13.

13. Resolution 2009-009 (Comp Plan Amendment Procedures)

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN LOXAHATCHEE GROVES, FLORIDA, PROVIDING FOR THE ADOPTION OF THE PROCEDURES, APPLICATIONS AND FEE SCHEDULE FOR THE SUBMITTAL OF APPLICATIONS FOR AMENDMENT OF THE TOWN'S COMPREHENSIVE PLAN; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; PROVIDING FOR AN EFFECTIVE DATE.

Town Attorney Tolces conducted the reading of Resolution 2009-009- Comp Plan Amendment Procedures.

Mayor Browning moved to Item #14.

Vice-Mayor Lipp made a MOTION to approve Resolution 2009-009 which would adopt the procedures, applications, and fee schedule for the submittal of applications for amendment of the Town's Comprehensive Plan, SECONDED by Councilman Jarriel and the MOTION passed unanimously 4-0, with Councilman Louda absent.

14. Ordinance 2009-002 (Extension of Moratorium) (1st reading & public hearing)

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, PROVIDING FOR AN EXTENSION OF THE MORATORIUM ENACTED PURSUANT TO THE TOWN OF LOXAHATCHEE GROVES ORDINANCE NO. 2007-07, AS AMENDED, CONSISTENT WITH THE TOWN CHARTER, ON THE PROCESSING AND REVIEW OF APPLICATIONS FOR DEVELOPMENT ORDERS AND DEVELOPMENT PERMITS, AND APPLICATION FOR AMENDMENTS TO

THE TOWN COMPREHENSIVE PLAN, AND THE CORPORATE BOUNDARIES OF THE TOWN; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVING FOR AN EFFECTIVE DATE.

Town Attorney Tolces conducted the 1st reading of Ordinance 2009-002- Extension of Moratorium.

Vice-Mayor Lipp made a MOTION to approve Ordinance 2009-002-Extension of Moratorium on 1st reading, SECONDED by Councilman Jarriel and discussion was then opened:

Town Attorney Tolces explained the purpose of this Ordinance is to extend the current Moratorium which is set to expire May 30, 2009 until February 28, 2010. He said you have in your materials a chart for the anticipated timeframe for the various planning issues that you will be dealing with for the next nine months and you also have a Memo from Shelly Eichner, Calvin-Giordano explaining the necessity for the Moratorium Extension.

Shelley Eichner, Calvin-Giordano- said in my Memo I did a brief outline as to where we are and where we stand. She said in extending the Moratorium I think it is an important fact that we have been moving in a forward direction. She said by extending the Moratorium up until February of 2010, it will allow for the Town to prepare and adopt your own LDRs, as well as the process to implement these LDR's. She said it's the LDR's and Zoning Code that really has the ability to impact the vision this Town has. She said without that you are still governed by the PBC Code. She said I think that as long as you are moving ahead in a timely manner, extending the Moratorium I believe is in your best interest to make sure the Town turns out the way you vision it.

Councilman Jarriel asked what about the applicants who had their projects in before the Moratorium, do we have any.

Town Attorney Tolces responded we do, and they are a few who were exempted from the Moratorium and are being allowed to proceed. He said also those individuals who have been previously exempted pursuant to the previous Ordinances that were adopted the need to come into compliance that were dealing with code compliance issues as well as entities applying for an Amendment to the Town's Comprehensive Plan they are exempt as well, and this does not change that.

Vice-Mayor Lipp asked on Page 139, can we allow applicants to start the LUPA process.

Town Attorney Tolces responded that will continue and the exemptions that you previously provided are permissible.

Mayor Browning opened the Public Hearing.

There were no Public Comments. The only comment card had been turned in by Mike O'Dell-Loxahatchee Equestrian Partners and he said he no longer had a comment.

Mayor Browning closed the Public Hearing.

Vice-Mayor Lipp said for those of you out there, typically I end up with 6 or 7 comments and this Agenda Packet, I have over 30 comments I've had to put in.

The MOTION passed unanimously 4-0, with Councilman Louda absent.

Town Attorney Tolces announced this will be brought back for 2nd reading and a 2nd Public Hearing on May 19, 2009.

THE MEETING RETURNED TO PREVIOUS AGENDA ITEM #13.

13. Resolution 2009-009 (Comp Plan Amendment Procedures)

Vice-Mayor Lipp asked to go back to Item #13 and said I sit on the planning commission for PBC and one of the things that they are considering is going to only one large scale and two small scale amendment rounds a year, and us right now with two large scale and four small scale amendments per year, that is an awful lot of opportunity for us to spend a lot of money, so I would like to see us have maybe one large scale which is ten acres and above and two small scale which is five acres and under. He said that would cut down on Staff time and the amount of time we have to pay consultants because we are not going to have that many. He said I'd like to see us as opposed to the two and four to go to one and two.

Town Attorney Tolces said I do know that the State Legislature just passed the Senate Bill 360, which is a tremendous re-write, and there may be some line in that Bill about the number of large scale and small scale amendments passed by a local governing body. He said let us take that suggestion back and talk to the planners and if that makes sense come back and revise the procedures.

Vice-Mayor Lipp said that is fine.

Town Clerk Lippman said I do agree with Vice-Mayor Lipp's comments but I just want to point out everything is revenue neutral and it would cost nothing to the Town. He said but I still concur with Vice-Mayor Lipp's decision.

Vice-Mayor Lipp referred to Page 127, Attachment B, Item #2, and asked on non-refundable, I thought we had it set up where if funds were left over they were given back to the applicant.

Town Clerk Lippman continued the purpose of Item #2 is to reinforce the idea that should the Council choose not to process the application and to deny it they are not entitled to the full amount back.

Vice-Mayor Lipp mentioned in other places we reference 1500 feet, so if we could change where in here it says 500 feet to at least 1500 feet.

Jim Fleishman, LRMI- said that is fine.

Town Attorney Tolces said the MOTION regarding this Resolution was made by Vice-Mayor Lipp and SECONDED by Councilman Jarriel. He said I would ask for the record you agree to the MOTION with those changes.

Vice-Mayor Lipp AMENDED his MOTION to include changing all references from 500 feet to 1500 feet and pending Town Attorney's investigation limiting the number of small scale and large scale amendment submittals per year, Councilman Jarriel AMENDED his SECOND.

Mayor Browning moved to Item #15.

15. Ordinance 2009-003 (Amnesty Program) (1st reading)

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, CREATING AN AMNESTY PROGRAM FOR THE TOWN, AND AUTHORIZING THE TOWN COUNCIL TO REVIEW CERTAIN USES THAT WERE IN OPERATION UPON THE DATE OF INCORPORATION THAT DO NOT COMPLY WITH THE PROVISIONS OF TOWN'S UNIFORM LAND DEVELOPMENT CODE, UPON APPLICATION OF THE PROPERTY OWNER; TO GRANT THE TOWN COUNCIL AUTHORITY TO GRANT AMNESTY FROM PROVISIONS OF THE UNIFORM LAND DEVELOPMENT CODE; PROVIDING CRITERIA FOR THE TOWN COUNCIL TO GRANT AMNESTY FROM THE LAND DEVELOPMENT CODE IN ORDER TO PROVIDE AMNESTY FROM THE PROVISIONS OF THE UNIFORM LAND DEVELOPMENT CODE WITHIN THE TOWN; PROVIDING A TIME PERIOD FOR A PROPERTY OWNER TO SUBMIT AN APPLICATION FOR AMNESTY; PROVIDING FOR ABATEMENT OF ENFORCEMENT FOR A TWO YEAR PERIOD; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; PROVIDING FOR AN EFFECTIVE DATE.

Town Clerk Lippman said I know this is going to be a highly contested Item and we need to be considerate of time.

Town Attorney Tolces conducted the 1st reading of Ordinance 2009-003-Amnesty Program. He said we have provided you with a Memo regarding this Ordinance and pursuant to the Town Council's direction; we have drafted this with the goal of providing the Council with the ability of having a property owner apply for amnesty and having the Council decide whether that amnesty should be granted. He went over the following conditions:

- a. the use must have been in operation prior to the Town's date of incorporation, November 1, 2006, and in continuous operation since that time; and,
- b. prior to the Town's date of incorporation, November 1, 2006, Palm Beach County must have issued an occupational license or business tax receipt for the business and use currently operating on the property; and,
- c. the property owner must not owe any ad valorem taxes or other fees to the Town, including any fees required to be paid pursuant to this ordinance; and
- d. the use is currently not permitted under the applicable zoning district designation; and,

e. granting the amnesty would not be inconsistent with the health, safety, and welfare of the residents and citizens of Loxahatchee Groves, and will not be contrary to the public interest or the general purposes sought to be accomplished by the applicable provisions of the Uniform Land Development Code regulations; and,

f. if necessary, appropriate conditions may be imposed to reduce any adverse impacts to properties located in the vicinity of the use.

Town Attorney Tolces said the property owner who applies for amnesty would have to submit an application along with a fee and that amount is currently blank. He said under the Cost Recovery Ordinance they would also be responsible for paying the fees associated with the Town Planner's time in evaluating the application. He said there would be a Public Hearing held and a Notice would be provided to anyone owning a property within 1500 feet of where the use is currently operating. He said it would be the property owner's responsibility to provide that notice and it would be a quasi-judicial public hearing and at that time the Town Council could approve with the recommendation of the Town Planner as whether or not to approve amnesty, approve it with conditions, or reject the recommendation of the Town Planner. If the Town Council decides to grant amnesty an order would be recorded with the Public Records of PBC, evidencing that and any conditions and the order would be in effect for a period of 20 years and any individual who is granted amnesty would have it at the most 20 years. He said the other option would be if they sell the property the use would cease. He said additionally a concern of ours is how do the property owners find out that they are able to apply for amnesty. He said we proposed that the property owner would have 60 days following the receipt of written notice from the Town as for the availability of the amnesty program to submit an application for amnesty, so you need to come up with a way with Town Staff on how do you want to notify property owners, do you want to do a general mailing to the whole Town, do you want to send notices to the tax roll owners. He said I am not going to say this is perfect but I think it encompasses a lot of the issues we have been discussing the past two years and I am happy to take your comments or suggestions.

Vice-Mayor Lipp made a MOTION to approve Ordinance 2009-003-Amnesty Program, SECONDED by Councilman Jarriel and discussion was then opened:

Vice-Mayor Lipp said I would like just for the record and for everyone in the audience if you could from a land use and a zoning perspective/overview, tell us what we are talking about if someone is using the land under a different code and also what is the impact is of the zoning change.

Town Attorney Tolces said if somebody is operating a use on a piece of property that is not authorized to be operated on that piece of property, such as, mulching, right now if you were never properly permitted by the County prior to the Town incorporating, under the current ULDC, you wouldn't be allowed to expand or operate your business and the Town could and it has brought about Code Enforcement violations against people operating without authorization on their piece of property. He said in order to come into compliance and to resolve any Code Enforcement issues, those property owners would have to apply for a rezoning or the quickest way would be to stop operating on the property to come into compliance. He said the other option would be to look at getting some type of LUPA to change the land use designation and zoning on that property in order to allow that use. He said they could always apply for that once the Town completes its ULDC process and removes the Moratorium that is currently in place.

Vice-Mayor Lipp said I would like it if Staff could come up with a short list of if you are doing these things these things, such as, landscaping, these are the steps you need to follow to come into compliance. He said if you are a resident here. He said I think if you have some sort of lawn maintenance operation that is being operated by someone who lives out of state then that would be different.

Town Attorney Tolces responded once you start talking about ownership of property and where you live, you start getting into Constitutional issues so I am uncomfortable with putting that restriction in there.

Vice-Mayor Lipp said well I think having some type of a short list and a quick method of getting approval.

Town Attorney Tolces responded and said this process doesn't necessarily need to be that complicated and it is just a matter of submitting the application and the materials and providing public notice and hearing. He said and there is no reason that if somebody submits the materials and application that couldn't be reviewed and get on an Agenda within the next four weeks. He said the application can be on the website but I think for the protection of the Council and the Town we need to make sure that everyone knows the rules.

Town Clerk Lippman said I think to answer Vice-Mayor Lipp the way the ULDC stands right now I could tell them if they can do it or can't do it, or what they need to do to comply. He said I am very familiar with this and have been doing this for the Town for two and a half years and if you look at half the uses they don't even apply to this Town.

Vice-Mayor Lipp said Councilman Louda always brings up that same matrix and there is always that reference to a path to what you can't seem to find.

Town Clerk Lippman said I do understand the special notes and can come up with this.

Mayor Browning said I agree with Vice-Mayor Lipp and I look at things a little differently if someone lives out here and has a business, I see that differently then someone who doesn't live here but buys an industrial park and uses it as a congregation for 30 crews going out I think that is a misuse for what our Community is.

Town Clerk Lippman said I do agree but I caution with that because if you have a resident who is doing the exact same thing you have to treat them the same. He said we have to be careful it goes both ways.

Town Attorney Tolces said one other thing with this Ordinance is it provides a 2 year period during which the Town isn't going to enforce these use provisions. He said after that period the abatement would be lifted and the Town would be able to go after uses that haven't been properly established or provided amnesty.

Councilman Jarriel said when we lived in a mobile home we had to get a permit from the County and back then they required the approval of our neighbors in 360 degrees. He said I think looking at the approval of 1500 feet is wrong and I like the 500 feet myself. He said we are trying to make things harder for people who have been here 15 20 30 years and I just disagree with that and the other thing is if you have a father that sells his business to his son and carries

it down to the family that is not included in here, and I like the idea of generation passing down to generation.

Councilman Liang said I think we can probably add some wording, I don't think anyone would be really opposed to that.

Town Attorney Tolces said you are looking for sale to an immediate family member so I would have to find out the definition of immediate family.

Councilman Jarriel said I would go as far as saying the immediate family (wife son daughter), and at least we would be giving a little effort of keeping it in the family.

Town Attorney Tolces said if you want that it is a good idea, we'll just make sure we encompass some language.

GENERAL CONSENSUS WAS GIVEN WITH RESPECT TO THE ISSUE OF THE SALE TO FAMILY MEMBERS BEING INCLUDED IN THE ORDINANCE

Town Clerk Lippman said this lasts for 20 years.

Councilman Jarriel said I'm flexible with that but I'd say give them another 20 years.

Town Clerk Lippman said so within the 20 year window if it is sold they just continue until the 20th year.

Town Attorney Tolces said in the past 500 feet has been seen as too small, so I went with 1500 feet.

Councilman Jarriel asked was it too small for the people trying to keep the business going on, or was it too small for the Council or the County.

Town Attorney Tolces responded just from general comments from the Town Council Members.

Councilman Jarriel said I personally would like to see it stay at 500 feet and that covers the 360 degrees of a person's property and that is my main concern.

Mayor Browning said I agree with somewhere in the middle.

Town Attorney Tolces said what we put in here is from the distance of each property line.

Mayor Browning said I guess our thought was we are out here and noise carries a little more and it is not always just the resident next door that is affected.

Town Attorney Tolces said if you go to 750 feet you are going out to the parcel next door.

Councilman Jarriel said I feel like 500 feet from the existing property line is sufficient.

Mayor Browning and Vice-Mayor Lipp said they were okay with 750 feet.

Councilman Liang said he was okay with 500 feet.

Town Clerk Lippman said Councilman Louda did ask that anything that comes up in the future regarding the distance be 1500 feet.

GENERAL CONSENSUS WAS GIVEN TO CHANGE FROM 1500 FEET TO 660 FEET

Vice-Mayor Lipp asked can you come up with an estimate on Section 2 and what is the hourly fee and go from there.

Town Clerk Lippman said in reviewing this, I do believe that it would take about ½ that time in my opinion and I think between Staff and the Planner the application process is pretty simple but you want to do this right and cover yourself, so I think at least 20 hours.

Jim Fleishman, LRMI- said that sounds okay to start with but I know the way we have the escrow account set up is there is an initial deposit and if time and materials exceed that number we would tell the applicant to replenish the funds. He said so I would say a fairly reasonable initial deposit of \$2000.00-\$2500.00. He said at this point we really don't know how much time these are going to take and as long as we have the ability to have the escrow account replenished then the initial fee is okay.

Town Clerk Lippman said with each parcel it will be different. He said I think the impact, compatibility and the location in the Community will consider how it is done.

Vice-Mayor Lipp said I think in these economic times a \$2000.00 hit on a mom and pop lawn mowing operation would put them out of business.

Town Clerk Lippman said you may not even want an application fee and you may just want the requirements to be they have to pay the cost prior to you considering it. He said the Town is taking a big step here if the Council approves this in even initiating this program and you need the good faith from property owners to know they are going to follow it.

Town Clerk Lippman said I know that in these hard economic times we don't want to put anyone out of business. He said I know that the purpose of this is for every resident to have an equal chance to come into compliance. He said you are making a decision that is a 20 year window and you are making it without even knowing what your LDR's are going to be.

Vice-Mayor Lipp said there seems to be some discrepancy between Section 5 and Section 7 and I read them both a couple of times. He said there seems to be a conflict here with respect to the termination of the amnesty period and the two year invested rights.

Town Clerk Lippman responded that is referring to someone who does not come into compliance. He said if someone does not choose to take advantage of the process then they have two years.

Mayor Browning noted we are not doing anything for two years.

Town Attorney Tolces said from whatever the date is for the adoption of this Ordinance they will have two years and the requirements that they submit an application for amnesty within sixty days upon notice from the Town.

Vice-Mayor Lipp said I think a general mailer to both our newsletter mailing list and the property appraiser mailing list so no one is uncovered.

Town Clerk Lippman said Michelle and I can attest to the fact that no matter how hard you try to get everybody you are not going to, so what I would suggest is what you started years ago with the 3 banners and advertising on them.

Vice-Mayor Lipp responded good idea.

Mayor Browning asked for comments from the Public.

John Ryan, 3508 A Road- said I do think that if we grant amnesty we better be very careful and correct in what we file as Public Record and I think that is really going to be the self enforcing mechanism. He said 20 years from now we are all going to be gone. He said I do think we need to have a well worded recorded statement of the amnesty and in addition to putting the earlier of sale for 20 years, could you put in wording that you would have to contact the Town Manager for a review of the affect of this restriction on the property's use.

Town Attorney Tolces said if the Council approves any amnesty we would prepare an Ordinance and it would specify the approval, any conditions, and the legal description of the property, and it will also include the date that it was granted and the 20 year date when it would expire. He said and in addition if somebody does sell their property and does a title search, it will come up.

Mr. Ryan said that is what I want to make sure of, is whatever is recorded on the title serves as the self policing mechanism as much as possible

Town Attorney Tolces said and that is the teeth of this Ordinance is getting it recorded properly in the Public Record.

Clete Saunier, LGWCD Administrator- said I was wondering how many instances of properties and business that we have as of today to create this sledge hammer of an Ordinance.

Town Clerk Lippman said are you asking as far as how many Code Enforcement cases as of today.

Mr. Saunier responded well how many people do you anticipate taking the Town up on this Ordinance, are we talking significant number or a handful.

Town Clerk Lippman and Mayor Browning both said we have no idea.

Mayor Browning said we are basically offering the mechanism and we have heard through the grape vine there are a lot of people here that need this and that is why we are doing it.

Mr. Saunier asked the notice you are referring to with this Ordinance, is it to just the current non-compliance cases or to all the property owners.

Town Attorney Tolces responded this Ordinance would provide that all property owners receive this notice.

Mr. Saunier asked why not wait until the day the ULDC would be adopted. He said you talk about coming into compliance with the ULDC and the LDR's and you haven't developed those yet.

Vice-Mayor Lipp responded good point.

Mr. Saunier asked what about uses that were not permitted by PBC ULDC prior to incorporation and we have no idea who those landowners are.

Town Attorney Tolces responded it is current.

Mr. Saunier asked so if they are not in compliance with that today, you are saying you can be in compliance.

Town Attorney Tolces responded you can apply for amnesty.

Mr. Saunier said even if they were not in compliance prior to the incorporation of the time.

Town Attorney Tolces responded if they provide the proof that is required in this Ordinance.

Mr. Saunier said on your fees can you write your planning services contract to have a lump sum per application no matter what it is and that way the landowner knows up front what he is getting involved in and then maybe add a contingent amount to that for the reporting costs to PBC.

Town Attorney Tolces responded the Town Council could decide to revise that in Section 7 to two year's adoption from the Town's ULDC and we can come back to you with respect to the application fee and we can talk to the planner about a general fee.

Mayor Browning said I think that may punish the guy who has a little bit to do and the guy who has a lot will escape.

Vice-Mayor Lipp said I think Clete brings up a really good point and that is we are going to be interviewing companies at the next meeting that will be writing our ULDC's because right now we don't have them-we have the County's. He said so we would have this 60 day time frame starting which would still put us in the middle of the time frame of when we are writing our ULDC's and I think Mr. Saunier brings up a very good point. He said if we adopt this I think I would like to see that instead of sixty days, have the window extended out to February when our Moratorium ends because we will have our ULDC's adopted by then or just table it until then.

Town Clerk Lippman said Vice-Mayor Lipp I concur greatly. He said the goal of this is at this point in time we are trying to develop what this Town wants. He said we want to make sure that any business that doesn't fit into that motto doesn't get punished, so my recommendation would be to follow what Vice-Mayor Lipp and Mr. Saunier suggested and between now and when the LDR's are adopted by Ordinance we suspend Code Enforcement against businesses, unless it is a health or safety issue, to protect anybody from being enforced upon, then once your LDR's are adopted, we then revisit this Amnesty Ordinance and pass it because then you will know what you want and what could happen now is you may force someone to go through a \$2000.00-\$3000.00 process and then decide you want the use.

Mayor Browning said that sounds pretty good.

Frank Schiola, 13434, Marcella Boulevard- said I'm sort of in a gray area here, you are saying lawn services and I have an occupational license from the County that says lawn service because they have no code for tractor mowing which is 80% of my business, and the other 20% is lawn maintenance because you can't take a tractor up to someone's house and so what I am getting at is if your use is a certain percentage of agricultural I think you should fall into a different place. He said so I am thinking now I have to spend a couple of thousand dollars to find out I fit in all along but they didn't know it, so I agree that we need to write our own codes and everything and then go on from there.

Elise Ryan, 3508 A Road- said I may not understand this Amnesty Ordinance completely but I would probably vote no if I were up there because everybody here knows that our code that we were given by PBD is not appropriate for Loxahatchee Groves, and we all know that and we don't want to have ½ the people having to come in and apply for a land use change. She said I would hold off on it till we know what the codes are going to be. She said if it were me I'd hold off on it. She said landscaping does not require a land use change and it is permitted in our RR10 current zoning, but you have to have a conditional use for them which I believe is the same conditional use you have to have for a commercial stable. She said if you want to board a horse other than your own horse you have to this according to the County code and that is expensive. She said the County code is not appropriate for Loxahatchee Groves; it is not what we need. She said I looked at the Town of Southwest Ranches the other day and their Wholesale Nursery is P for permitted. She said we can come up with a simple form and simple rules for these people and save our people some money.

Sundar Heeraman, 1059 B Road- said I can't understand what is going on. He said Loxahatchee Groves started in 1917 and we've been incorporated for just two years and suddenly there is a big recession in the Country. He said is there anything that is causing a risk to life in Loxahatchee Groves, there is nothing I can see. He said to put pressure on people trying to make a living at this time whether you grandfather these people or not are they doing anything detrimental to our health. He said if so, get rid of those, but people are just trying to make a living in Loxahatchee Groves. He said we should be helping these people. He said I know we need money and stuff but at the end of the day it is the people. He said selling the property is another problem I find. He said leave things alone. He said everybody says Loxahatchee Groves-Love it and Leave it Alone, but suddenly we are making these problems. He said all it does is drive people to the ground and that is how I see it.

Town Attorney Tolces said the process that resulted in the Ordinance that is before you this evening was started many months ago, when the Town first started Code Enforcement and uses were identified that hadn't been properly authorized. He said so through many months of discussion of how to deal with these Non-Conforming uses, we were instructed to write this Ordinance so we did. He said if you would like to wait until after the ULDC is adopted, that is fine, but what I suggest is we go ahead and revisit the Code Enforcement process because it might not make any sense to continue any Code Enforcement with respect to uses that may not have been established properly in the Town, until such time as the ULDC is adopted. He said I know we have some cases pending and a hearing set for May 21, 2009. He said we can put this Ordinance aside and see how the ULDC's go when they are adopted and then revisit the process; I think we've come full circle in this process. He said we were trying to protect those property owners who had been here awhile and this is the method we were doing but if you want to see if we can make it work with the ULDC that is fine as well.

Vice-Mayor Lipp withdrew his MOTION to approve Ordinance 2009-003-Amnesty Program, and Councilman Jarriel withdrew his SECOND.

Councilman Jarriel said I think that the ULDC will solve a lot of these problems and this should be put on hold until after we adopt it.

Councilman Jarriel made a MOTION to table Ordinance 2009-003-Amnesty Ordinance, until such time that the Town adopts its ULDC, SECONDED by Councilman Liang and the MOTION passed unanimously 4-0, with Councilman Louda absent.

Town Attorney Tolces said let's come back and look at the Code Enforcement at the next meeting because it is important and I don't want to rush into that.

Mayor Browning moved to Item #16.

16. Independent Contractor Agreement for Solid Waste Monitoring Services (Frank Schiola)

Town Attorney Tolces said I had an opportunity to speak with Mr. Schiola before the meeting this evening and he has raised some concerns regarding the agreement and wants the opportunity to provide me with his comments, so unless there is anything the Council sees in here that you want to address we will bring this back at the next meeting.

Vice-Mayor Lipp handed out a previous agreement between the Town and Politically Correct Inc. for lobbying services. He said we didn't require any insurance or proof of insurance or liability coverage and she was on the road traveling back and forth to Tallahassee quite a few times and it was a two page agreement and we paid her when the job got done and she walked away. He said I think we should keep it really simple. He said I think the hold harmless is fine and Frank would agree with that. He said a simple 2 page agreement is what I had envisioned for this process.

Councilman Jarriel said I agree with Vice-Mayor Lipp that it should be something very simple and I think Frank would agree to take the liability away from the Town.

Mayor Browning said so we will have Town Attorney bring this back at our next meeting. Town Attorney Tolces said it is a policy decision on your part, the only thing I would just request that you have specific insurance requirements with respect to automobile. He said I understand that Ms. Brosemer did drive up to Tallahassee, but most of her work was primarily carried on inside of an office building, as opposed to him driving on the streets, following trucks, and dealing with cars. He said I will work with Frank to get it done.

Councilman Jarriel said for my auto insurance I have \$50,000.00 bodily injury for each person and \$100,000.00 for each accident and property damage of \$50,000.00 for each accident and I believe that is probably standard and Frank would probably have the same thing so maybe that is something you all can work out.

Mayor Browning said we want to keep it simple but reasonable at the same time. He asked Town Attorney Tolces so you will come back at the next meeting with that.

Town Attorney Tolces responded yes.

Mayor Browning moved to Item #17.

17. Comprehensive Plan Update

Town Clerk Lippman said as of 5pm tomorrow the 21 day Notice of Intent expires. He said as of right now, nothing has been filed to object to our Comprehensive Plan and if there is no notice to intervene then our Comprehensive Plan becomes official as of 5pm tomorrow.

Town Attorney Tolces said typically if I get anything it is just before or just after 5'o clock pm.

Vice-Mayor Lipp said I've known Rita Miller for a very very long time and although we don't always see eye to eye on a lot of things I do have a lot of respect for her. He asked if Ms. Eichner has seen the seven page letter from Ms. Miller and if she could respond to it.

Town Clerk Lippman said Ms. Eichner has seen the letter and I think I will get together with her to come up with a Memo that responds to Ms. Miller's letter.

Vice-Mayor Lipp thanked Town Clerk Lippman.

Mayor Browning moved to Item #18.

18. Gas Tax Revenue Funding for LGWCD 09-10 Budget

Town Clerk Lippman said at the last IGC Meeting that Councilman Louda attended; there was a request to bring forward discussion about the gas tax revenue, as you know last year we agreed we would do project funding by needs for the LGWCD. He said the gas tax Budget for this year is \$392,000.00 and should be statistically about the same next year. He said we now have \$162,000 we have not used. He said on the horizon we see an Item coming up later on the Agenda tonight about school zone flashing lights and discussion to the funding of our part of the Roundabouts on Okeechobee which I don't see as happening as part of this fiscal year anyway. He said what I recommend is I have met with Clete Saunier as directed by the Town Council and the most important thing that my understanding of the Town Council is the gas tax revenue needs to be used to benefit as many residents as possible, and I think the way to do that is to assist the in providing a service to the community in which they wouldn't have to increase their assessment. He said Town Staff is recommending the Town Council approve for the LGWCD Budgetary purposes, the expenditure of \$240,000.00 for fiscal year of 2009-2010 for the B Road Canal project and the surveying for A Road. He said I highly recommend this because I think it would be the greatest impact for the community and the money is there, I think we should do it. He said I know there is going to be some discussion of the coincidence of the surveying of A Road coming up at the same time as the OGEM is approved and it just happened that way and there is evidence showing that over the last 10 years.

Councilman Jarriel made a MOTION to direct Town Staff to have an ILA drawn up to provide funding of \$240,000.00 to the LGWCD for fiscal year 2019-2010, SECONDED by Councilman Liang and discussion was then continued:

Vice-Mayor Lipp asked can you tell us about how much we are saving per acre for our residents.

Town Clerk Lippman responded I believe it is about \$30.00 per acre.

Vice-Mayor Lipp said I think it is money well spent.

Councilman Jarriel said I believe we can justify for the simple fact that we are going to put OGEM down on North A Road, and North D Road, and before we put the OGEM down these are residents that have already agreed to pay for this. He said and before we put the OGEM down on North D Road, we definitely need to dredge the canal out and that way everything is taken care of. He said I went over the survey with Clete and like you said it is over 10 years old, and I think it is great that as a Town we can work with the LGWCD and keep from raising assessments by doing this.

Mayor Browning said just for the record, I think it is great but I cannot vote on this because I live on D Road. He then passed the gavel to Vice-Mayor Lipp.

Town Attorney Tolces noted there is a Conflict of Interest Form you will have to fill out.

Vice-Mayor Lipp asked for comments from the Public.

Clete Saunier, LGWCD Administrator- said I want to say Thank you and just wanted to compliment your Town Staff on their ability to work very well together. He said we are having another IGC Meeting and if we can have that draft discussed at that next IGC Meeting that would be a recommendation. He said as far as disclosing any direct benefit to you, your Attorney can advise you on that but you don't give up your rights at the door when you walk in here, if you are a landowner here, you are a landowner here and that project has been on the books long before incorporation was ever in process.

Marge Herzog, 966 A Road- said I was wondering since the Town uses this building so much, could we allocate some of the A Road money for the survey and some of it for the paving of this parking lot here and asked what the fee would be for the parking lot to be paved.

Town Clerk Lippman responded it would be \$40,000.00 so the total would be \$280,000.00.

Councilman Jarriel asked Town Clerk Lippman can we afford all three.

Mayor Browning said I think we need to be careful because we are limited to what we can spend on roads.

Town Clerk Lippman said I will research that with the Town Attorney and I'll come back to you with that answer.

Mr. Saunier said the \$40,000.00 is an approximation and if that project is done in coordination with any one or more of the OGEM projects for North A Road, North C Road, and North D Road, it could be a considerably less amount.

Lung Chu, 3270 B Road- said I think it is a good idea to help the LGWCD and also I think you should consider the gas tax in the future to OGEM all the roads. He said the gas tax is there and I think we should consider this and it would benefit all the residents and the citizens.

The MOTION passed unanimously 3-0, with Mayor Browning abstaining and Councilman Louda absent.

Vice-Mayor Lipp passed the gavel back to Mayor Browning.

Mayor Browning moved to Item #19.

19. Loxahatchee Groves Elementary School Zone Flashers

Town Clerk Lippman said back in August 2007 there was a request for the Town to look into installing school zone flashers on both sides of 162nd Street North for Loxahatchee Groves Elementary School on Okeechobee. He said at that particular point in time they couldn't come to an agreement and the Town couldn't afford to put the flashers in, so at that point in time there was the installation of a School Zone sign with the speed limit on it. He said Councilman Jarriel has requested to revisit the idea of providing for school zone flashers and in following up with George Webb and David Weisberg the Town could spend \$12,000 for 2 sets of flashing lights and once they are installed the County would be able to work with the Town in order to maintain them and we would not have the responsibility.

Councilman Jarriel said there are a couple of people here tonight who would like to speak. He then read a letter for the record from the Principal and the Vice-Principal of Loxahatchee Groves Elementary School (see below).



Richard Myerson
Principal

Loxahatchee Groves Elementary



Judy Jones
Assistant Principal

To: The Town of Loxahatchee Groves

From: Rich Myerson 
Principal

Date: May 4, 2009

RE: School Zone Designation with Flashing Signs

As this school year ends and a new year approaches, I would like to bring to your attention to the need for the school zone demarcation with flashing lights on Okeechobee Blvd., by 162nd Drive, North. Before the traffic signal was installed, we did have the school zone designation and flashing signs as vehicles approached the intersection, from both the east and west. Our parents fought hard and long to get this done.

As traffic increased, we fought to get a traffic signal to assist us with the morning arrival and afternoon dismissal. Once the signal was installed, we were told that we could no longer have the flashing signs indicating the school zone. They were consequently removed.

We would like to point out that H. L. Johnson Elementary has both. Additionally, Royal Palm Beach Elementary has a signal and the school zone marked with flashing yellow lights. In light of recent events at the high school, we feel that the installation is even more critical. Our top priority is the safety of our children. The average speed on Okeechobee Blvd. is 45-50mph, with most vehicles not even slowing down for the school zone.

Any assistance the Town Board can give us in getting the school zone designation with flashing signs again would be greatly appreciated. Our top priority is keeping our students safe. Thank you for your consideration.

The School District of Palm Beach County is an Equal Education Opportunity Provider and Employer



16020 Okeechobee Blvd, Loxahatchee, FL 33470
Phone: 561-904-9200 Fax: 561-904-9250
LGES@palmbeach.k12.fl.us

Councilman Jarriel said I called County Engineering and you can't have too many warning devices in a school zone, especially an Elementary School and I'm sure Seminole Ridge High

School would verify that especially after the accident they had with the two teenagers. He said it bothers me that the County removed those two flashing lights. He said I've approached Commissioner Santamaria and his Staff and asked for help, but they may be out of funds. He said if I believe if there are funds left and we can get on the list they might assist us with that.

Councilman Jarriel said County Engineering explained to me that if your school faces the highway then you warrant a red light with flashing lights and I explained to the County that their danger zone is Okeechobee not 162nd and the County kind of laughed it off and said well we will get you your lights for \$12,000.00.

Councilman Jarriel then handed in photos for the record of pictures he took of several schools in the area. He said one of the main problems we have is eastbound on Okeechobee in the morning and when you're looking at the high red light and the sun is blinding. He said the good thing about the good flashing lights is they are eye level and you can't help but see them. He said they do slow you down and in the past we have put up the signs that say school zone-slow down 20mph at certain times. He said I noticed the westbound sign is favoring A Road and I took some pictures of that, but basically when you are travelling west on Okeechobee you pass that sign and don't even notice it is there because you've got other signs there. He said the eastbound sign does show up but it does not stick out. He said I would like to see us as a Town make the commitment that if we can't get help from the County that by the next school year we'll have those flashing lights for the kids. He said it may cost us \$12,000.00 out of our pocket but personally I think that is money well spent.

Councilman Jarriel made a MOTION to draft a Resolution authorizing the expenditure not to exceed \$12,000.00 of local gas revenue funds to construct and install 2 sets of school zone "flashers" on Okeechobee Boulevard on both the east and west sides of 162nd Street North, and to work with the County on an agreement to get that done, SECONDED by Councilman Liang and discussion was then continued:

Councilman Jarriel said County Engineering said they can go solar and like I said I will work with Commissioner Jess Santamaria to see if there is a possibility we can get some help but I want a sure way to know these kids are going to get their lights in.

Vice-Mayor Lipp asked as far as the Town border goes wouldn't the one to the west be in Indian Trails.

Town Clerk Lippman said the way that particular area is it is under the County jurisdiction and they don't warrant putting in flashing lights anywhere so if we choose to put them in on our side it is like half the battle so we have to pay to put them on both sides.

Town Attorney Tolces said it sounds to me like we are going to need some type of agreement with the County in order to get this done.

Mayor Browning asked for comments from the Public.

Mayor Browning read the following two comments into the record.

Judy Jones, 905 Stallion Drive, Loxahatchee, FL- I have worked at Loxahatchee Groves Elementary School since 1990. Please consider the importance of flashing lights at the intersection of 162nd and Okeechobee Boulevard.

Dartland Drew, 16887 W. Stallion Drive, Loxahatchee, FL- Recent events at the Seminole Ridge Community High School should make it obvious that this is critical and a priority.

There were 17 other comment cards turned in on this Agenda Item by people supporting the item. Some were in attendance and some were not. These comment cards are on file for viewing at the Town Office. These individuals did not request their comments be READ into the record publically.

Mayor Browning called on the Members of the Public who were present and wished to comment on the issue.

Frank Schiola, 13434, Marcella Boulevard- said this is a personal issue to me; both of my kids go to that school. He said this is sometimes that not only Loxahatchee Groves should be in charge of, but also Indian Trails Improvement District. He said this is a Community School and not only our kids go to that school but there kids as well. He said we need to look at this as a Community problem as a whole and not just a Loxahatchee Groves problem. He said I think if the Town Council directed Councilman Jarriel to go to the next Indian Trails Meeting and bring this up to them, I think it may bring up some favorable results from them and to also get with Commissioner Santamaria we may get some money chipped in for this. He said and I think after we get done with this, the next thing we need to do is work on Seminole Ridge High School because our kids from Loxahatchee Groves go there also and I would ask the Town Council to direct Staff to get a hold of the PBSO office to start doing radar saturation in the morning and the afternoon and if we have a cop out there it will slow people down and suffice until we get a flashing light in there.

Sandra Love Semande, 8258 Avocado Boulevard, West Palm Beach, FL – introduced herself and said I am a resident and past Board Member of Indian Trails Improvement District and I will be at the meeting next week as well, asking for their support, and I have no doubt that they will be in support of this and unfortunately I was an actual eye witness to that accident in front of the high school last week. She said it was not the drivers fault, it was the girls who were crossing the street, had there been school zone signs, yes it could it have been prevented, because hopefully the driver would have been doing the 20mph speed limit to go through the school zone. She said I have been told that the School Board won't put school guards in front of a high school and in this instance if there would have been a school guard there this wouldn't have happened. She said I am currently one of your school guards at Loxahatchee Groves Elementary School right now, so I know the importance of having school flashing lights east and westbound on Okeechobee Boulevard, as well as, north and southbound on 162nd Street and believe it or not, 90% of the people speeding through there are parents taking their kids to school. She said it is a crazy scene but it is very important that this Board along with Indian Trails get behind putting flashing lights at these intersections. She said it took me 3 years and a lot of help from the Board of Indian Trails and Seminole Ridge High School but we finally got a sidewalk for the students to get to and from school. She says I implore this Council, Indian Trails, and the School District as responsible for making this happen, it's their schools, and to me no school should even be allowed to be opened, not even one day without sidewalks and signage, and proper guards for these children to be able to walk to and from school. She said I am going to continue seeking the possibility of putting school guards in front of Seminole Ridge High School because it is a 4 lane highway, and I am going to ask maybe if you draft a Resolution to present to County Commissioners, as well as, the School Board because there are tons of children who do walk every day.

Marge Herzog, 966 A Road- said at the Western Communities Council Meeting last Wednesday, Mike Erikson got up and professed that he would assist with any of the roads in the Western Communities and he is on the Indian Trails Board so we have that as a justification that they will cooperate with us. She said so by all means just pick up the phone and call and I'm sure something will happen. She said also at the LGLA Meeting there was a representative there who asked for any members who want to be on the Loxahatchee Groves alert email list to sign up for it and I did ask Mike to give me some background because it didn't sound like it applied to us, but I will send out the information about her now that Mike has cleared up the information. She suggested the parking of an empty patrol car there until these lights are installed might slow down some of these speeding cars.

The MOTION passed unanimously 4-0, with Councilman Louda absent.

Vice-Mayor Lipp made a MOTION to allow Councilman Jarriel to contact Commissioner Santamaria and to work with Indian Trails and any of the other Western Communities on this issue and to assist with the funding for it, SECONDED by Councilman Liang and the MOTION passed unanimously 4-0, with Councilman Louda absent.

Mayor Browning moved to Item #20.

20. Administration Update:

(a) Imposing of Lien Search Fee to 3rd parties

(b) DEP Grant Timeline

(c) PBC LAP Funding for Okeechobee Roundabouts Timeline

Town Clerk Lippman said Michelle brought to my attention that we have been doing a few lien searches for the Town and I think a small fee of just \$10.00 would be appropriate and I am asking the Council to approve that.

Vice-Mayor Lipp made a MOTION to authorize Town Staff to charge \$10.00 for a Lien Search Fee, SECONDED by Councilman Jarriel and the MOTION passed unanimously 4-0, with Councilman Louda absent.

Town Clerk Lippman said for information purposes only at the last meeting we approved the projects to seek funding for the FDEP as well as the PBC LAP Funding for the Okeechobee Roundabouts and in your packets I provided you with the scope of services that will be provided for both of these projects and we will keep you in the loop as both these things progress.

Vice-Mayor Lipp asked what is the timeline on the DEP Grant.

Jeff Maxwell, Calvin-Giordano- responded the DEP first submittal is May 22, 2009 and we expect a little back and forth from May until September, and September is when they make their decision and once that is decided you will probably get an approved date probably in January.

Vice-Mayor Lipp asked can you get that in a Memo form.

Town Clerk Lippman responded absolutely.

Mayor Browning moved to Item #21.

21. Public Comments

Roy Parks, 14900 North Road- read the following letter into the record (see below).

May 5, 2009

To:

Loxahatchee Groves Town Council

From:

Roy A. Parks
14900 North Road
Candidate for Loxahatchee Groves Water Control District Supervisor

Subject: Request Town of Loxahatchee Groves Resolution:

Resolution:

“An Elected Town Council Member will not solicit, assist in the solicitation or present proxy votes at the Loxahatchee Groves Water Control District Board of Supervisor Election. Violation of this resolution may subject the Town Council Member to the discipline of removal from office.”

Issues:

- 1) Independence of the Loxahatchee Groves Water Control District – 3 seats are up for election, in a majority rule/quorum of 3 of 5 supervisors. If an Elected Town Council Member and/or Members control a majority portion of the proxy votes the Elected Town Council Member(s) control the seating/electing of the Loxahatchee Groves Water Control District Supervisors.
- 2) Ethical - Undue influence by being an elected authority figure to directly or indirectly influence an elector's vote by asking for the elector to turn their vote over to the elected Town Council Member(s) control.
- 3) Elected Town Council Member threat to a Loxahatchee Groves Water Control District Supervisor Candidate that the running of an opposition a Loxahatchee Groves Water Control District campaign is a waste of taxpayer money.

To ensure future independence of the Loxahatchee Groves Water Control, prevent public Town of Loxahatchee Groves shame or humiliation and ensure no appearance of ethical or Florida Statute 104.061 (1) Felony electoral interference I strongly encourage the Town Council to immediately adopt the proposed resolution due to the June 22, 2009 Loxahatchee Groves Water Control District Board of Supervisors Election.

Mr. Parks continued basically what we have here is a new condition where we have seated Council Members from the LGWCD who are actively obtaining proxies from landowners and I see this as a slippery slope here and it difficult to bring this up with friends and I consider you

guys all friends, but this is new for this Town and I believe we need to address these type of procedures and as a Town how we need to have high standards for all of us.

Frank Schiola, 13434 Marcella Boulevard- said today I attended a meeting at the SWA and it was a Hurricane Kick-off Meeting which brought together people from multiple agencies under one roof. He said I was there, Carmen from LGWCD was there, Matt was there and a lot of good information was given out but unfortunately they ran out of packets, that is how many people showed up, so there will be information coming forward on the SWA Website. He presented the Public with "No Dumping" signs, with the Town's permission and said maybe if people put these on their property it will discourage some of the illegal dumping that is going on.

Marge Herzog, 966 A Road- said I just wanted to announce that at the LGLA Meeting in May we will have a Candidates Forum for the candidates running for the LGWCD seats and everyone has been notified by email.

Lung Chu, 3270 B Road- said I have a question regarding Item #12 on the Agenda tonight. He said I heard Vice-Mayor Lipp, Councilman Jarriel and Councilman Liang all mention an Ad Hock Committee and I am not sure if the action taken tonight calls for the Attorney to redraft the Resolution tonight or for an Ad Hock Committee to work on it.

Town Attorney Tolces responded based on the motion being tabled tonight and the direction I was given, I will receive comments back from anyone who wants to provide them and then I will redraft the Resolution.

Vice-Mayor Lipp responded I think it is going to be an Ad Hock-Ad Hock Committee, in other words, anyone who wants to call me and give me comments; it will all make it through.

Mr. Chu said if you read the Resolution as it is right now on how to form a committee, how are we going to get into this.

Councilman Jarriel said personally I would like to see the same people who were interested in the Ad Hock Committee to come together and to communicate with Matthew and he can relay it to the Attorney, but I think it will work out that way and the problems can be solved. He said basically there would be an informal Ad Hock Committee working with Matthew.

Mr. Chu said right now we as citizens of Loxahatchee Groves should call him and tell him our suggestions and what we would like to see and he will give them to the Attorney.

Councilman Jarriel said and I would hope that the Attorney would hold off on drafting that Resolution until this is done. He said I would like to see this group meet with Matthew in person to get this done.

Mayor Browning said or call one of us.

Town Attorney Tolces said the best thing to do is if you have comments, put them in writing for the Town Clerk and he will compile them and forward them to me in advance of the next meeting and I will do my best to simplify and revise the Resolution to meet those needs.

Town Manager Dr. Rosenbaum said let's keep this brief; we don't need to have meetings, just suggestions that are welcome.

Mr. Chu said it is hard to put everything in writing.

Vice-Mayor Lipp said we have it in our Charter of how committees are formed, so we have the basis that was in our founding document.

Mayor Browning moved to Item #22.

22. Town Clerk & Manager Comments

Town Clerk Lippman said one of the things I'm going to be bringing up to you at the next meeting is before we had a Water Utility Agreement executed with PBC we were bringing forward to you any water requests to be approved, and I think now that we have a process in place I don't think that is necessary. He said and any of the ones for non-residential/commercial properties are either going to be in the approval that comes to the Town or if they are existing Commercial it is because they are being forced on it because they serve a certain number of people. He said there are properties on Southern and Okeechobee that are receiving letters that they are being forced on it. He said so that will be coming up at the next meeting and I will be asking for approval to remove that now that we have a mechanism in place. He said I am just letting you know it will be coming up at the next meeting. He said the Public Participation ERM Workshop is coming up on Saturday, May 16, 2009 at 10am at Loxahatchee Groves Elementary School and I know some of the Council Members cannot be there. He said the newsletter is going to go out in the next two days and I will send an email out to all on the email list for the Town. He said it will be a very productive day.

Town Clerk Lippman said my responsibility is to every resident, land owner, and especially to the 5 of you and we are a team-that means the 4 of you, the 3 of us, and Michelle we are a team-we are one. He said and that means in order for us to be able to be a strong team, we have to be able to share information and you have to arm us with the ability to come to you with the right information. He said it is very difficult to respond to things that come up to us this evening-it is hard, and it is very frustrating that we don't give you the answer you want and then there is a criticism that it costs money to come back with an answer. He said to me, I think it is a very unfair criticism. He said I would encourage all 4 of you to work with Town Staff. He said you are concerned about research and I can tell you this right now, you want something done that is what I get paid to do. He said if you need something that is what you pay \$96,000.00 a year to Town Staff to do. He said I have no problem for feedback from any of the Community, but this is what we as paid professionals do for a living and I feel like we are very good at it. He said one of the things that I want you to understand is this is what Town Staff are for and any citizen with an idea can come forward and I have received emails from some citizens. He said one of the things I would encourage is the citizens who are very outspoken and have very good ideas and strong opinions of how things should be run, I challenge anyone of them to come to my office and email me and interact with me so to share the information. He said but again it is very hard for me to hear this information at a meeting and I am not prepared for it. He said we are never all going to see eye to eye but I am very respectful in dealing with anyone and we can interact and agree to disagree. He said but without that interaction before a Public Forum we are just setting ourselves up for failure and that is why our meetings are 4 hours long, because we are getting hit with information that none of us 3 knew about and we can't be successful that way-it just cannot happen. He said I encourage any Member of the Public to spend time with me to see how I come up with the Agenda, to see the detailed research I do to make sure you have the right information and to make sure that you are fully prepared to do your job. He said there is a difference between great participation and good ideas and professional management. He

said there is nothing wrong with an Ad Hock Committee but we are not a big Town, we are not a beaurocracy. He said these people here earn a salary and the criticism of the money that is made by the Town Staff and the Town Attorney doesn't make sense. He said this is your Town it is 4 people, I don't know what you are expecting for anything less and we work and earn every penny for you and if you want to be successful we need to work together as a team and that is the only way we are going to be able to succeed. Thank you.

Mayor Browning moved to Item #23.

23. Town Attorney Comments

Town Attorney Tolces said I provided you with a Memo regarding the City of West Palm Beach Comprehensive Plan Amendment proceeding and we received an order from the Administrative Law Judge and he dismissed the Town from the proceeding and I would be happy to answer any questions you might have.

Mayor Browning moved to Item #24.

24. Council Member Comments

Vice-Mayor Lipp said for our next Council Meeting and I discussed this with Town Clerk Lippman prior to this meeting, the RFP we have out there for the LDR's was pretty clear that there had to be a section on implementation and I think there were only 2 of the 9 firms that provided that. He said we have selected four to come back and I would ask that Town Staff contact all four and remind them that the implantation portion of this is a key component and if they are not prepared to offer an implementation and the related costs that they don't need to come in and waste our time, well I wouldn't put it that way.

Town Attorney Tolces said I would like to have the opportunity to look at that issue with Town Staff as well with respect to how that may impact the presentations. He said from a legal perspective we need to make sure we provided everybody with the same opportunity and what they submitted was efficient in order to get to the point in the bidding process they are at right now.

Vice-Mayor Lipp commented I just want to make sure we are looking at a level playing field on that at the next meeting and good job tonight.

Councilman Jarriel said this past Saturday, Councilman Liang and I went to the Workshop for 40th Street North and the Equestrian Trail and I was very disappointed in the participation and there was not one equestrian there to represent the equestrians. He said I want to compliment Clete on doing an outstanding job, he clarified everything and he came up with solutions and stuff but no recommendations from him that is for the people to decide. He said PBSO quite often they do park a car right there at the crosswalk and if you ask the crossing ladies they issue quite a few tickets with people speeding through there and most of the tickets are for the eastbound traffic because like I said, they are blinded by the sun and are in a hurry. He said it is not a bad thing to talk them into parking a car there; the biggest thing would be the eastbound traffic seeing the car because of the sun situation. He said I see us as the Town of Loxahatchee Groves and Indian Trails Improvement District and their situation with Seminole Ridge High School coming together to solve our problem along with their problem because we've got our kids involved. He said when I was elected to this office I didn't get elected as a Public Servant to

give up my rights as an individual, a landowner and a resident and I will not give up those rights. He said if people give me their proxies no matter which Board I am on, they give it to me because I have done a good job in the past, because I've got good character, and because they respect me, and I don't pay people for their proxies. He said so for all the people in this room, be aware I will not give up my individual rights to sit on this Board and I will not be unethical, I am a very ethical person.

Councilman Liang said on May 29, 2009 the League of Cities is having their gala and I really don't feel like going but if the Town decides we need to go I will get gussied up and go.

Vice-Mayor Lipp responded my office is next door to the gala so I would go in your favor. He said last year the attorneys bought a table and asked are they doing that this year.

Town Attorney Tolces responded not this year.

Town Clerk Lippman said if you are okay with authorizing the expenditure then I'm sure that Vice-Mayor Lipp would have no problem attending the function.

GENERAL CONSENSUS WAS GIVEN TO AUTHORIZE THE EXPENDITURE OF UP TO \$125.00 FOR VICE-MAYOR LIPP TO ATTEND THE LEAGUE OF CITIES ANNUAL GALA IN PLACE OF COUNCILMAN LIANG.

Mayor Browning said at the Western Communities Council Meeting Mike brought up some really good ideas. He said one is they are looking for our support for the extension of Seminole Pratt Whitney Road so I would like to get a Resolution put together. He said that I think is a very good thing that we can work together with them on and that would relieve traffic on our roads.

Town Attorney Tolces asked if a Resolution had been previously drafted by someone else to support this.

Mayor Browning responded it has been talked about but I don't know if any has because the County is kind of stone walling it by putting a very high price tag on the road. He said there are some departments that don't want that road to go through.

GENERAL CONSENSUS WAS GIVEN TO HAVE TOWN STAFF DRAFT A RESOLUTION TO SUPPORT THE EXTENSION OF SEMINOLE PRATT WHITNEY ROAD.

Councilman Jarriel said I've also spoken with Mike Erikson and he is supposed to be getting me paperwork but he said what he heard that the County was supposed to stop the procedure of Seminole Pratt Whitney Road but they were going to go through with four laning Okeechobee Boulevard do west and hopefully that is a rumor. He said so if he can get me something in black and white that shows that is where the County is headed, we need to come together as a Community so we can put a stop to it.

Vice-Mayor Lipp said I saw that the County had Okeechobee 4 laned to E Road but that was only for right of way investigation, they only had like \$5000.00.

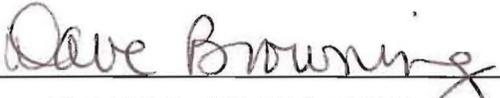
Mayor Browning thanked everyone for coming and complimented the Staff on a great job.

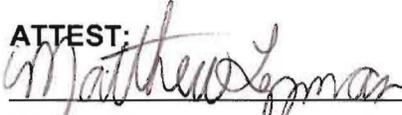
Mayor Browning moved to Item #25.

25. Adjournment

Vice-Mayor Lipp MOTIONED to adjourn the meeting, SECONDED by Councilman Liang and the Motion passed unanimously 4-0, with Councilman Louda absent.

There being no further discussion and no additional public comment the meeting was adjourned at 9:53 p.m.


MAYOR DAVE BROWNING

ATTEST:

Matthew Lippman, Town Clerk

6/2/09
Date Approved