



Town of Loxahatchee Groves

Regular Meeting December 1, 2009 at 7:00 p.m.

MINUTES

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

Frank R. Spence, Town Manager
Ann Harper, Deputy Town Clerk
Michael Curillo, Town Attorney; Goren, Cherof, Doody & Ezrol, P.A.

Mayor Dave Browning called the meeting to order at 7 pm. In addition to Mayor Browning, the following were present: Councilmen Bill Louda, Ryan Liang, and Ron Jarriel, and Vice-Mayor Dennis Lipp. Present from staff were Frank R. Spence, Town Manager; Mike Cirullo, Town Attorney, and Ann Harper, Deputy Town Clerk.

The Pledge of Allegiance and Invocation followed the roll-call.

Motion was made by Councilman Louda, seconded by Councilman Ryan, to approve the Agenda. The motion carried by voice vote, 5/0.

CONSENT AGENDA

- 6) a. Proclamation – Year of the Everglades
- b. Approval of 11-03-2009 Town Council Meeting minutes
- c. Approval of Contract & Engagement letter with Nowlen, Holt & Miner, Inc. CPA (Auditors)
- d. Approval of Town Attorney invoices for month of November 2009

Councilman Louda asked that item 6a be removed from the Consent Agenda. Vice-Mayor Lipp asked that item 6c also be removed for discussion.

Motion was made by Councilman Louda, seconded by Vice-Mayor Lipp, to approve Consent Agenda items b and d. The motion carried by voice vote, 5/0.

Regarding item 6a, Councilman Louda volunteered to represent the Town at the "Year of the Everglades" event. Motion was made by Vice-Mayor Lipp, seconded by Councilman Jarriel, to authorize Councilman Louda to represent the Town at the Everglades meeting. The motion carried by voice vote, 5/0.

Regarding item 6c, Vice-Mayor Lipp said he had questions regarding the role of the Finance Advisory and Audit Committee (FAAC) in the audit process and wanted to go on record that the FAAC will see the audit before the Council sees it.

Attorney Curillo reviewed the changes made to the revised auditing agreement (Nowlen, Holt & Miner, Inc.) which was distributed to the Council members prior to the meeting. The changes were made in 4.1.2 (a typographical error) and 9.1 (added Exhibit C).

Motion was made by Vice-Mayor Lipp, seconded by Councilman Louda, to accept the Agreement for Auditing Services as modified in the revised copy. The motion carried by voice vote, 5/0.

Public Comments:

John Ryan said there is an inconsistency in the number of years covered by the auditing agreement. Changes were made to sections 7.1 and 7.2 and approved by Council consensus. The changes corrected the dates to show reporting periods ending September 30, 2011, 2012, and 2013.

Mr. Ryan also said the Proclamation declaring the Year of the Everglades states that the Everglades must be protected "at all costs," and he recommended removing these three words.

PUBLIC HEARING

**7) Quasi Judicial Hearing - Plat Approval - Community of Hope
Resolution 2009-24**

RESOLUTION NO. 2009-024

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, APPROVING THE COMMUNITY OF HOPE PLAT, FOR LAND OWNED BY COMMUNITY OF HOPE, A UNITED METHODIST CONGREGATION, INC., CONSISTING OF 15.29 ACRES MORE OR LESS, LOCATED AT THE NORTHWEST CORNER OF OKEECHOBEE BLVD AND E ROAD, LOXAHATCHEE GROVES, FLORIDA, LEGALLY DESCRIBED IN EXHIBIT "A" TO THIS RESOLUTION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Browning said that anyone wishing to speak on this item must be sworn in.

Mr. Spence read the agenda memo into the record, and it is attached to these minutes. He said the Community of Hope has run into a problem, and even though the Consultants and Town Staff has worked hard to get this project completed by the end of the calendar year, it has been delayed. The County has not approved an easement, which is causing the delay. He recommended that this item be deferred to the Council meeting January 19, 2010.

Motion was made by Councilman Louda, seconded by Vice-Mayor Lipp, to continue the Public Hearing to the January 19, 2010, Council meeting.

Christopher Barry, Planner with Jon E. Schmidt & Associates, Land Planning and Landscape Architecture, addressed the Council and he said he appreciates Staff's efforts in getting this project approved.

Mayor Browning called for a vote on the motion to continue the Public Hearing, which was approved by voice vote, 5/0.

REGULAR AGENDA

**8) Recognition of resident Pat Johnson for being named 'Volunteer
Of the Year' by Palm Beach County's Division of Emergency Management**

Mr. Spence read the "Volunteer of the Year" award which was presented to Pat Johnson by Palm Beach County on November 18, 2009. Mr. Spence said that Mrs. Johnson was out of town tonight. Councilman Jarriel suggested that the Council recognize Mrs. Johnson at the January 5, 2009, meeting.

9) Discussion of Proposed EPA Water Quality Standard

Mr. Spence read the background information from the agenda memo into the record, and it is attached to these minutes.

Clete Saunier, Loxahatchee Groves Water Control District Administrator, said this is another entity pursuing legislation to put a stop to this. This measure would cost taxpayers millions of dollars.

Motion was made by Vice-Mayor Lipp, seconded by Councilman Jarriel, to authorize preparation of a letter from the Mayor in opposition to the numeric nutrient criteria.

Councilman Louda said this will be a 4/1 vote for approval, because he opposes the statement that Florida is being singled out for this. He explained his position on this issue and said that water is the issue of this century, and regulation of water quality standards is needed.

Mr. Saunier said this issue is litigation-driven by organizations and is not based on scientific data.

Mayor Browning called for a voice vote on the motion to prepare a letter in opposition, and the motion carried 4/1 with Councilman Louda voting no.

10) Support of Loxahatchee Groves Water Control District Pilot Study

Mr. Spence read the background and backup material from the agenda memo into the record, and the memo is attached to these minutes.

Motion was made by Councilman Louda, seconded by Vice-Mayor Lipp, to approve.

Councilman Louda said it is this type of interlocal agreement that will force DEP to change their water quality criteria. He commented that this helps us in the dry season to get water in, but how does this help us in the wet season.

Clete Saunier, District Administrator of Loxahatchee Groves Water Control District (LGWCD), said we are in a conceptual phase of this whole thing. When it does come to more fulfillment, you should be aware of what is going on.

After further discussion, Councilman Louda amended his motion to say that we acknowledge the effort and concept and request to be kept "in the loop". Vice-Mayor Lipp accepted the amendment. Mayor Browning called for a voice vote on the motion, which carried 5/0.

11) Supplemental Service by Calvin Giordano & Associates for Additional Studies along Okeechobee Boulevard

Approval

Mr. Spence said this agenda item is to consider supplemental service by Calvin Giordano & Associates for additional studies along Okeechobee Boulevard.

Attorney Curillo said we have been in administrative proceedings with Callery-Judge and the Seminole Improvement District. He reviewed the Council's previous actions in connection with these proceedings and said we now have a proposal to do a further review, and Jeff Maxwell is here to discuss the scope of services and answer questions.

Mr. Maxwell outlined the scope and the intent of the proposal. He said they will look at all options and come up with a solution that is acceptable for everyone who has land adjacent to the road. Ultimately everyone would like to see Okeechobee Boulevard work as a high efficiency corridor. They will not be taking new traffic counts, and the total for the new study would be about \$48,000.

Mayor Browning said we have been working with Callery-Judge to get them to dismiss their objections to our Comprehensive Plan. If we do not show the cooperation and we get into court, it will cost us a lot more.

Motion was made by Councilman Louda, seconded by Councilman Liang, to approve the contract with Calvin-Giordano as contained in their proposal No. 09-3037 for \$48,685.

Councilman Jarriel said he disagreed with \$48,685. He gave his objections to the study and Mr. Maxwell responded. Mr. Jarriel said he would have preferred that the Finance Advisory and Audit Committee had gone over the proposal before it was presented to the Council.

Mayor Browning called for public comments.

Michael Odell representing the Equestrian Partners said they submitted an application six months ago, and are concerned that they will be sent back to the drawing board. Because of the moratoriums, they may have added two years to the process. He said the moratorium scheduled to end in February and asked whether or not the Town is considering an extension. He said they will do whatever they can legally, and asked when they can move forward.

John Ryan said the Town needs to have FAAC review this (the Calvin-Giordano Contract). He does not want it to cost more money.

Jeff Maxwell answered Councilman Louda's questions regarding representation in the Callery-Judge proceedings and the Comprehensive Plan.

Mayor Browning called for a vote on the motion to approve the proposal, and the motion passed 4/1 with Councilman Jarriel voting no.

12) Establishing a Panel or Group to address Land Development Codes and Non-conforming Businesses *(Councilman Liang)*

Discussion

Councilman Liang said he fears the land development regulations will not address many non-conforming existing businesses. He wants to hold a meeting or brain-storming session with all groups represented.

Councilman Louda said he wants to go on record that non-conforming businesses will have to come into conformity status unless we do something to let them continue to operate, but that does not go with the land. The next owner would have to bring it up and do only what is allowed on the land. There is a need for a panel before the regulations are completed.

Councilman Jarriel said a panel should make a recommendation to Council.

Mayor Browning said if everyone is invited, it will take on the concept of a workshop.

Councilman Liang said he did not want to call it a workshop; he wanted specifically to invite people who do not ordinarily come to meetings.

Councilman Louda said the Council needs to define which groups they want to invite, and get three representatives from each group.

Attorney Cirullo said it sounds like the Council is talking about a Town Hall issue and would not require the formality of setting up a committee and appointing members.

The consensus was to include a notice to residents in the next newsletter that a town meeting will be scheduled to discuss the results of the recent survey on land development regulations and the question of existing non-conforming and unlicensed businesses.

13) Administration Update

- a. December 2009 and January 2010 Meeting Calendar - approved
- b. Consideration of cancelling regularly scheduled Council meeting 12/15/09

Motion by Councilman Liang, seconded by Councilman Jarriel, to cancel the second Council meeting in December. The motion carried by voice vote, 5/0.

- c. Election Schedule

Mr. Spence said there will be an item on the January 5, 2010, Council meeting to approve a contract with the Palm Beach Supervisor of Elections.

- d. Western Communities Holiday Parade – Marge Herzog will arrange for representation.
- e. Report on companies and prices for removal of carcasses from canals

Mr. Spence said he received bids from four different companies. One company was called to remove a carcass last week.

- f. Solid Waste / Town Monitor Garbage Log – report was given

- g. G.F.O.A. Auditor Certificate of Achievement – Mr. Spence said Dr. Irv Rosenbaum received the plaque from the Government Finance Officers Association.

ITEMS AT THE REQUEST OF THE PUBLIC

- 14) Angela Johnson – Census Bureau / Complete Count Committee** – Mrs. Johnson was not present at the meeting. Marge Herzog asked each Councilman to appoint three residents to serve on the Complete Count Committee. .

15) Public Comments

Karl Syben requested approval to create a paintball facility.

Seth Brier thanked Staff and Councilmen for assistance in obtaining County approval to hold a rodeo on his property.

Marge Herzog said she will be a candidate for Seat #2 in the upcoming election. She also said unnamed roads in the Town need to be identified before the census begins.

Lung Chiu reminded the Town Manager of follow-up items requested by the Finance Committee.

16) Town Management Comments

Mr. Spence said the Town offices are scheduled to be moved to new offices on Thursday, January 10.

- 17) Town Attorney Comments** - none
18) Town Council Member Comments - none
19) Adjournment

There being no further discussion and no additional public comment , the meeting was adjourned at 9:00 p.m.



DAVID BROWNING , Mayor

January 19, 2010
Date Council Approved

Attest:



Ann Harper, Town Clerk