



# **Town of Loxahatchee Groves**

## **Regular Meeting, March 16, 2010 at 7:00 p.m.**

### **MINUTES**

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

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

#### **OPENING ITEMS 1 – 4**

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

Roll call was followed by the Pledge of Allegiance and Invocation.

#### **SWEARING IN CEREMONY**

##### **5) Certification of non-election and declaration of winners by Town Clerk (Attached to Minutes)**

Mr. Spence read the certification that no election was held on March 9, 2010. When the Qualification Period ended on January 26, only one candidate qualified for Seat #2 and one candidate qualified for Seat #2.

##### **6) Swearing in of new Council Members: David Browning (Seat #4) and Jim Rockett (Seat #2)**

David Browning was declared the winner of Seat #4, and Jim Rockett was declared the winner of Seat #2. Both were sworn in as Council Members.

Councilman Bill Louda left the dias, and Jim Rockett assumed Seat #2.

Mayor Browning presented Councilman Louda with a plaque in appreciation of his service to the Town. The Mayor also presented Certificates of Appreciation to Nancy Handweg, Cindy Corum, and Jim Rockett for their participation as members of the Finance Advisory and Audit Committee.

#### **APPROVAL OF AGENDA**

- 7) Additions and Deletions - none**
- 8) Approval of Agenda**

Motion was made by Vice-Mayor Lipp, seconded by Councilman Liang to approve the Agenda.

## CONSENT AGENDA

- 9) Approval of February 2010 invoice from Town Attorney
- 10) Approval of invoice from court reporter 2/2/10
- 11) Approval of January 2010 financial statements

Mr. Spence stated there were several typographical errors on page 3 of the statements, and these will be corrected by the Finance Director prior to filing of the statements.

### 12) Approval of February 16, 2010, Town Council meeting minutes

Motion was made by Vice-Mayor Lipp, seconded by Councilman Liang, to approve the Consent Agenda as amended by the corrections to the January 2010 financial statements. The motion carried by voice vote, 5/0.

## PUBLIC HEARINGS – ORDINANCES – 2<sup>nd</sup> Reading

### 13) ORDINANCE NO. 2010-002

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, DECLARING A MORATORIUM AS TO THE FILING AND/OR RECEIVING OF ANY APPLICATION FOR THE ESTABLISHMENT OF A PAIN MANAGEMENT CLINIC AS DEFINED HEREIN; PROVIDING THAT THE MORATORIUM SHALL BE IN EFFECT FOR A PERIOD WHICH SHALL TERMINATE ON THE EFFECTIVE DATE OF TOWN'S OWN REGULATIONS FOR PAIN MANAGEMENT CLINICS; PROVIDING FOR LEGISLATIVE FINDINGS; PROVIDING FOR INTENT AND PURPOSE; PROVIDING FOR REPEAL; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Spence read the title of the Ordinance. He said because of the recent proliferation of so-called "Pain Management Clinics" throughout the area, a number of cities in Palm Beach County have passed ordinances or regulations placing a moratorium on allowing any more clinics to open until tighter rules and regulations can be adopted. Most of these moratoriums are for a one-year period.

Motion was made by Councilman Liang, seconded by Councilman Jarriel, to approve the Ordinance on second and final reading.

Mayor Browning opened the Public Hearing. No one came forward to speak, and the Public Hearing was closed.

Mayor Browning called for a vote on the Ordinance, which carried as follows:

AYES: Councilman Jarriel, Liang, and Rockett, Vice-Mayor Lipp, and Mayor Browning.

NAYS: None.

## PUBLIC HEARINGS – ORDINANCES – 1<sup>st</sup> Reading

### 14) ORDINANCE 2010 – 003

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, RELATING TO DUMPING OF MANURE WITHIN THE TOWN; PROVIDING FOR AN EXCEPTION FOR THE DEPOSIT OF LIMITED AMOUNTS OF MANURE WHEN SUCH IS TO BE USED FOR BONA FIDE AGRICULTURAL PURPOSES AS DEFINED HEREIN; PROVIDING THAT THE DUMPING OF MANURE IN VIOLATION OF THIS ORDINANCE IS A PUBLIC NUISANCE AND URGING THE PALM BEACH COUNTY SHERIFF'S OFFICE TO PURSUE ALL REMEDIES AVAILABLE UNDER SECTION 403.413, FLORIDA STATUTES, FOR DUMPING WITHIN THE TOWN IN VIOLATION OF THIS ORDINANCE; PROVIDING FOR PERMITS FOR HAULERS AND PROPERTY OWNERS; ESTABLISHING FEES AND PENALTIES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Spence read the title of the Ordinance.

Motion was made by Councilman Jarriel, seconded by Councilman Liang, to approve the Ordinance on first reading and schedule second reading for April 6, 2010.

Mr. Spence said Section 7 has blanks to be filled in by the Council for permit costs for the transporter and the property owner. He said that usually these permit costs are an escalator type, such as "costs up to \$500.00."

Attorney Cirullo reviewed the Sections of the Ordinance and explained how they relate to F.S. 403.413. He said the Council needs to give direction to fill in the blanks in Section 7 for permit costs for the hauler and for the landowner.

Councilman Rockett said that once this ordinance is adopted, what methods of enforcement will be used. He also said that something should be developed so that everyone will be alerted about these new requirements.

Mayor Browning said he was concerned about enforcement and the collection of the fees. He objected to people who let haulers dump on their property and then have piles that are fifteen feet high or higher.

Vice-Mayor Lipp said when someone delivers a load to a property, there should be a time limit on the spreading, and code enforcement costs must be covered by the permits and fines .

Councilman Jarriel said to keep in mind that most trucks hold 20 yards, and he thinks that the landowner should pay \$1 per yard.

Mayor Browning said a permit should be required for anyone hauling into Loxahatchee Groves, and the property owner should pay the volume cost. That would be a permit for the hauler, and a fee for the land owner.

Councilman Liang said the hauler should pay for both permits.

#### Public Comments

Jorge Perez, B Road, said he was glad to see Council doing something about this problem, and the Ordinance should have some "teeth" in it.

Vice-Mayor Lipp brought up the subject of the dumping of horse bedding and said we should consider prohibiting this dumping also. Attorney Cirullo said if the Council directs, he could adjust the ordinance to read "horse manure and horse bedding" throughout the document.

Councilman Liang said he is trying to think of something that would not burden the property owner too much. He suggested issuing a general permit to the property owner which would just pay for administrative fees and then there should be an extremely heavy fine for someone who we determine is excessive. No one has a problem with anyone when the manure is properly used and properly spread. The problem is someone who is abusing it. The homeowner who is doing it responsibly should not incur a burden.

#### Public Comments

Nancy Drysdale said she is a grower of rare fruit and she uses horse manure around her trees to keep the weeds down and the roots protected. She does not want to pay a private hauler to bring in the manure.

Justin Hickey said he is a hauler, and it is wrong to jeopardize the property owners. He described the registration process in Wellington for haulers doing business there.

Councilman Jarriel re-stated his motion to approve the Ordinance on first reading, and Councilman Liang seconded the motion again. The motion carried by voice vote, 5/0.

Attorney Curillo reviewed the changes and additions to the document: (1) the addition of horse bedding along with references to Horse Manure; (2) hours specified when dumping is prohibited such as 7 pm to 7 pm and on Sundays; (3) permit costs set up to be an annual permit for haulers and the property owner will be charged by volume; property owner is to let the Town know where the manure is going.

## COMMITTEE REPORTS

### 15) Finance Advisory & Audit Committee (FAAC)

Report

#### Recommendations:

##### a. Repeal of Resolution 2007-008

Mr. Spence said in March 2007 Council passed Resolution 2007-001 which authorized two Council Members to sign checks for the Town. Resolution 2007-008 was subsequently approved that amended the previous resolution by adding the Town Manager to be an authorized signatory on checks, by himself, which contradicted the two signature requirements of the original resolution. Since this resolution does not provide for a checks and balance process for monitoring check processing, it is the recommendation of the FAAC and the current Town Manager to rescind Resolution No. 2007-008.

Motion was made by Vice-Mayor Lipp, seconded by Councilman Jarriel, to authorize preparation of a Resolution to repeal Resolution 2007-008. The motion carried by voice vote, 5/0.

##### b. Request to PBC for waiver on use & restriction of 5 cent gas tax

Mr. Spence said State Statutes establish the specific uses for the five and six cent gas taxes. Counties may impose more restrictive guidelines, but not more lenient ones. In the case of the five cent gas tax, most everyone presumed that it would be used fully for road maintenance and repairs; however, a closer reading of the County code states that fifty percent must be allocated for transportation and fifty percent for transit, such as bus stops and bus shelters. Because of the unique rural nature of Loxahatchee Groves, and the fact that most of our roads are not paved and we do not operate a bus system, nor does one run through the Town, the FAAC recommends the Council request the County to grant us a waiver to allow us to use the transit funds for road maintenance instead.

Motion was made by Councilman Rockett, seconded by Vice-Mayor Lipp, to authorize the request of a waiver to use the transit funds for road maintenance.

Councilman Rockett said the FAAC thought we should approach our County Commissioner with the request.

Vice-Mayor Lipp said that public comments are allowed to at 2 pm at the first monthly meeting of the County Commission, which next month is April 6<sup>th</sup>. He suggested that the Council authorize the Manager or the Mayor or another Council person to speak on this request. He also suggested that the Council approve a Resolution for this request.

Councilman Rockett suggested that a note be sent to our County Commissioner so he will be aware of our request.

Attorney Cirullo said a Resolution could be prepared for the Council's April 6 agenda, if desired, but the Council could give direction by a motion also.

Councilman Rockett amended his motion by authorizing the Manager and/or a Council member to make the Town's request at a County Commission meeting. Vice-Mayor Lipp agreed with the amendment, and the motion carried by voice vote, 5/0.

#### **16) Solid Waste Monitor – Frank Schiola**

Mr. Schiola said that he is continuing to find property owners who use the Waste Pro service but do not pay the assessment. He also recommended that another tire amnesty day be scheduled and the Town should notify residents of the date by postcards. He also recommended that the Town schedule another free bulk pickup around the first of June.

Councilman Liang said an annual fixed date should be scheduled for the free tire pickup. Mr. Schiola said it should be done twice a year.

#### **REGULAR AGENDA ITEMS**

##### **17) Appointment to the Finance Advisory & Audit Committee (FAAC) by Councilman Liang to replace Jim Rockett**

Councilman Liang appointed Elise Ryan.

##### **18) Appointment to the Finance Advisory & Audit Committee (FAAC) by Councilman Rockett to replace Nancy Handweg, whose term ended with The term of Councilman Louda**

Councilman Rockett appointed Cheryl Miller.

#### **ADMINISTRATIVE UPDATE**

##### **19) Administrative Update Town Calendar for April**

Mr. Spence updated the Council as follows:

- Authorized the use of gas tax funds to fill in the low spots along 43<sup>rd</sup> Road North
- Has not been able to pursue the issues involved with the Town assuming responsibility of maintaining non-District Roads but expect to have a report at the April 6<sup>th</sup> meeting
- Map Review Committee met to continue work on aerial maps
- Will meet with PBC Water Utility Department for update on installing gray water line and to pursue some fact-finding for the cost of extending potable water lines to Citrus Drive
- Filed an official complaint with State Board of Ethics regarding the Donna Brosemer case
- ERM Committee met and finalized their review of draft regulations

#### **CLOSING COMMENTS**

##### **20) Public Comments**

Frank Schiola said the elementary school's carnival will be April 9, and he asked the Town to sponsor a bounce house. He also requested the Town to pass a Resolution asking AT&T to add more ports for residents who would like to have internet access.

Marge Herzog said the Adopt-A-Road clean-up will be this Saturday, and the Landowners Association social event will be March 25.

John Ryan said there will be a dunking booth at the elementary school fair and asked for volunteers.

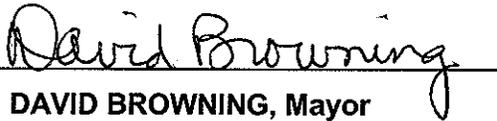
**21) Town Attorney Comments** – Attorney Cirullo requested a Shade Meeting for the Callery Judge lawsuit to be held on Friday, March 26<sup>th</sup> at Town Hall beginning at 4 p.m.

**22) Town Council Member Comments**

Council members Liang, Jarriel and Lipp congratulated Jim Rockett and David Browning on their election to Council.

**23) Adjournment**

There being no further discussion and no additional public comment, the meeting was adjourned at 9:05 p.m.

  
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**DAVID BROWNING, Mayor**

\_\_\_\_\_  
April 20, 2010  
**Date Council Approved**

**Attest:**

  
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**Ann Harper, Town Clerk**

**Following the adjournment of the Regular Council meeting, a Public Workshop was held at the request of Loxahatchee Equestrian Partners LLC; Solar Sportsystems, LLC.; and the Loxahatchee Commons Project.**