



Town of Loxahatchee Groves Regular Meeting, April 6, 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 1 – 4

Mayor David Browning called the meeting to order at 7 pm. In addition to Mayor Browning, the following were present: Councilmen Ron Jarriel, Ryan Liang, Jim Rockett 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.

5) Additions and Deletions – Mr. Spence added Item 18, Application for water hook-up by Dave Brown, 15714 North Road, and 18A, Selection of a representative to Western Community Council.

6) Approval of Agenda

Councilman Liang said he would like to amend the agenda by striking the word "final" from the title of agenda item #13.

Motion was made by Councilman Liang, seconded by Councilman Jarriel, to approve the Agenda as amended. The motion carried by voice vote, 5/0.

7) Selection of Mayor and Vice-Mayor for the Term 4/6/2010 to 4/5/2011

Mr. Spence said he checked with the Attorney, and the Mayor can preside over the election and does not need to recuse himself.

Councilman Jarriel nominated David Browning for Mayor. Councilman Liang seconded the motion. Mr. Spence asked if there were any other nominations, and there were none. A voice vote was taken, and Mayor Browning was re-elected unanimously (5/0) as Mayor for a one-year term.

Councilman Liang nominated Councilman Jarriel for Vice-Mayor. Councilman Jarriel declined the nomination.

Councilman Jarriel nominated Dennis Lipp for Vice-Mayor, and Councilman Liang seconded the nomination. A vote was taken, and Dennis Lipp was re-elected unanimously (5/0) as Vice-Mayor for a one-year term.

CONSENT AGENDA

8) Approval of Invoice from Attorney's Court Reporter for Shade Session 2/10/10

Motion was made by Vice-Mayor Lipp, seconded by Councilman Liang, to approve the Consent Agenda. The motion carried by voice vote, 5/0.

PRESENTATIONS

9) None

PUBLIC HEARING – Ordinance 2010-003, Second Reading

10) ORDINANCE 2010-003

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, RELATING TO DUMPING OF MANURE AND HORSE BEDDING WITHIN THE TOWN; PROVIDING FOR AN EXCEPTION FOR THE DEPOSIT OF LIMITED AMOUNTS OF MANURE AND HORSE BEDDING WHEN SUCH IS TO BE USED FOR BONA FIDE AGRICULTURAL PURPOSES AS DEFINED HEREIN; PROVIDING THAT THE DUMPING OF MANURE AND HORSE BEDDING 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. (2nd Reading)

Mr. Spence read the title of the Ordinance, and the Mayor opened the Public Hearing.

There were no requests from the public to speak on this agenda item, and the Public Hearing was closed.

Motion was made by Councilman Jarriel to approve the Ordinance on second and final reading. Councilman Rockett said he would like to amend the motion by asking the Attorney to add references to Florida Statutes 823.14 and 570.02 to Section 9 of the Ordinance. The amendment was accepted, and Councilman Rockett seconded the motion. Mayor Browning called for a vote on the motion, which carried as follows:

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

NAYS: None.

COMMITTEE REPORTS

11) Intergovernmental Committee (Vice-Mayor Lipp)

Vice-Mayor Lipp reviewed the agenda items discussed at the meeting, as follows:

- Policies for maintenance of non-district roads are being developed

- Modification of the use of gas tax funds is needed in order to use those funds for paving of the Water Control District parking lot
- Authorization was given to use funds for limerock for 43rd Road North
- April 30th is the date for the closing of 40th North Road and signage will be needed
- The price for bringing grey water for fire suppression to the town is \$2 million, so a grant will be needed
- Discussion of weight restrictions for trucks on the dirt roads was held
- Next meeting April 16 at 4 pm

RESOLUTIONS

12)

RESOLUTION 2010-004

A RESOLUTION OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, REPEALING TOWN RESOLUTION 2007-08 AND RESTATING AND CONFIRMING RESOLUTION 2007 01; UPDATING THE AUTHORITY OF THE MAYOR, THE VICE MAYOR, AND COUNCIL MEMBERS TO SIGN VOUCHERS AND CHECKS, TO MAKE DEPOSITS AND WITHDRAWALS, AND TO AUTHORIZE TRANSACTIONS ON INVESTMENTS AS PROVIDED BY LAW; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

Mr. Spence read the title of the Resolution.

There were no cards received from the public to speak on this item.

Motion was made by Councilman Rockett, seconded by Councilman Liang, to approve the Resolution. The motion carried by voice vote, 5/0.

REGULAR AGENDA ITEMS

13) Discussion of final proposed Land Development Regulation (LDR) Draft

Mr. Spence said this is a process for the Town to develop its LDR's which would give us control of what we want and don't want within the town. Currently we are under the Palm Beach County LDR's. This process began almost a year ago with a previous Council, and more than four workshops have been held. All residents, approximately 1280, were sent a survey asking for their input as to what they wanted and did not want in the Town. The response received was very light. A suggestion has been made to add a preamble to the LDR'S which would provide that everything that the County approved previously would be automatically accepted by the new LDR's. Staff does not recommend that for a number of reasons. We feel that giving Council the right to grant special exceptions and variances to any disallowed or restricted uses would provide that outlet.

This is a continuation of the Council hearing input from their residents. We are required to have land development regulations adopted within one year of the adoption of the Comprehensive Plan. Our Consultant, Michelle Mellgren, assured us that the proposed LDR's are in compliance with the Comprehensive Plan.

Mayor Browning asked whether or not Council members had any changes to make. Councilman Liang said there are a lot of changes he would like to make. Mayor Browning said speakers would be limited to two minutes.

Councilman Rockett said we need another workshop with Council members, the public, and possibly Michelle Mellgren. This would be in addition to the workshop tonight.

Motion was made by Councilman Rockett, seconded by Councilman Liang, to schedule another workshop.

Vice-Mayor Lipp he appreciates what Councilman Rockett said, but this process has been going on for a year. It is doubtful we would get a good turnout at another workshop. We sent out over twelve hundred questionnaires and got back less than ten percent.

Mayor Browning called for a vote on the motion, which carried 5/0.

The workshop was set for Saturday, April 17th, starting at 10 a.m.

Mayor Browning opened the meeting for public comments.

Bill Gurney said he has seen various things going on that need action. For example, there is a property on E Road that has trailers and work sheds and is being used as a storage site. Vice-Mayor Lipp asked the Attorney to explain "legal" and "non-conforming." Attorney Cirullo said whatever you put in your Code will be legal and conforming. What exists now and is legal, if it is not going to be covered in the land development codes, it will be "legal non-conforming," which means it can continue, but is not conforming with the current Code. If it is abandoned or destroyed, then the building must be brought up to code. Also, it cannot be expanded. The courts view non-conforming uses without favor. Uses that are permitted must be consistent with the Comprehensive Plan. The LDR's can be amended for unanticipated issues.

Michael O'Dell representative Equestrian Partners said he had fourteen comments on the Code and will turn them over to Staff. He commented that he wants to put in an ACLF and there is no provision for a PUD.

Bruce Pearson said he wants to maintain agricultural uses and the rural life style.

Dr. Bill Louda suggested the Attorney write a preamble to the LDR's and explain "non-conforming" and "conforming" and say we are going to be protecting the ones who are here legally and make sure the rest of it conforms to the preamble.

Todd McClendon commented that the LDR's did not conform to the results of the surveys which were returned.

Paul Reillo said he favored keeping the community rural.

Susan Chubb said she strongly opposes restrictions on aviaries.

Howard Voren said he favored a preamble for the LDR's and spoke about definitions.

Cassie Suchy said the current LDR is too restrictive.

Morley Schloss asked for a definition of "commercial recreation."

Damon Howell said he opposes the proposed LDR's.

Kathleen Szabo said she breeds birds and commented on restrictions.

Kevin Carroll said he raises birds and he opposes the restrictions on aviaries.

John Ryan said he regrets that the people here have not been to the other meetings on this subject. He feels that consideration of neighbors is a major consideration in looking at the Code. The restrictions are not intended to drive people out of business but to protect neighbors.

Marge Herzog spoke in favor of more community participation.

Terry Timberlake said he opposes this agenda item, and it is imperative that we continue to allow residents to continue to use their property as they choose.

Michael Breen spoke against having restrictions.

Larry Lefkowitz said he lives next door to Todd McClendon who has 400 birds and he played a recording of the noise which he and his family hear in their home from the birds. He said he has been unable to sell his house because of this noise and that he needs some help and protection.

Frank Schiola commented that people did not come to the earlier workshops, and we should protect the people who are here.

Mayor Browning read the names of other residents who did not wish to speak but indicated that they opposed the agenda item.

There were no more comments from the public.

14) Consideration of establishing a Qualifying Fee for candidates in future elections *(Town Manager)*

Mr. Spence said the Town Charter does not provide for the collection of a Qualifying Fee from candidates for office. It has been my experience that most municipalities in Broward and Miami-Dade Counties charge candidates a Qualifying Fee when they submit papers to run for office. The fees charged by nearby cities are listed on the memorandum in your notebooks, and these fees run from \$10 in Royal Palm Beach to \$1,500 in West Palm Beach. We are recommending a \$25 fee. If the Council agrees, the next step is to authorize the Town Attorney to bring back an ordinance to create the fee.

After discussion, the Council consensus was to not charge candidates to run for office since Council members do not receive a salary.

15) Discussion of the need for control of signage *(Mayor Browning)*

Mayor Browning said he has noticed signs all over the place, and this is something that we need to deal with. There are signs on telephone poles and on trees along all of our roads and even in the right-of-ways. People should be required to move their out-of-date signs for garage sales and things like that. He just wanted to put this on the agenda so everyone would be aware of the problem.

16) Consideration of purchasing tree seedlings from the Florida Department of Agriculture's Division of Forestry *(Mayor Browning)*

Mayor Browning referred to an email which is printed in the backup information and said he thought someone should take advantage of these seedlings which are available. Some group, such as the Landowners Association could have a money-making project by selling them, and it would help the community by replacing trees which have been lost.

Councilman Liang commented that the Town does not have a place to keep and take care of the seedlings before they are sold.

Mr. Spence said the deadline for ordering the seedlings is April 12. The Council authorized the purchase of eight boxes (1,000 seedlings) for \$160.

17) Consideration of purchasing laptop computers for Council members use at meetings
(Councilman Rockett)

Councilman Rockett said if the Town purchases laptops for the Council, each Councilman could share his computer (after a Council meeting) with a member of the Finance Accounting & Audit Committee (FAAC) to use for their monthly meeting. This would cut down on the paper agendas for both groups. He suggested buying the computers with unexpended funds which were allocated for the election.

Councilman Liang suggested getting the computers using a "business lease" which provides for exchanging them after the lease expires.

Motion was made by Councilman Rockett, seconded by Councilman Jarriel, to purchase the computers now, not in three or four months.

Councilman Liang said he would vote for the motion with the stipulation that Mac's not be purchased.

Vice-Mayor Lipp said he would like to amend the motion to provide that the computers have Windows and Office 7 and Acrobat 9. The amendment was accepted.

Staff was instructed to come back with a report on purchasing the laptops, with a cost not to exceed one thousand dollars.

Mayor Browning called for a voice vote on the motion, which carried 5/0.

18) ADDENDUM

Application for Non-residential water service from Palm Beach County Water Utilities Department by Dave Brown, 15714 North Road.

Mr. Spence said this application for hook-up for County water service requires the approval of Council.

Motion was made by Councilman Jarriel, seconded by Vice-Mayor Lipp, to approve the application.

Public Comments

John Ryan said we should look at the intended use of the property since they have indicated it is non-residential.

Staff was instructed to research the reason for Town approval of water service applications.

Mayor Browning called for a voice vote on the motion to approve, which carried 5/0.

18B) Representation on the Western Community Council

Mayor Browning said the Western Community Council meets on a Thursday night every other month, and he would like someone to volunteer to attend these meetings. Vice-Mayor Lipp said he attends this meeting for the County, and he would be glad to also represent the Town.

ADMINISTRATIVE UPDATE

Mr. Spence commended Frank Schiola for his work in identifying properties which were using Waste Pro services but were not paying the annual sanitation assessment. As a result of his work, 27 of these property owners were sent invoices to pay the annual assessment of \$372.73. These accounts will be added to the tax rolls next year.

Mr. Spence said that he and the Finance Director recommend that Sanitation become an Enterprise Fund for the next budget year. All expenses related to Sanitation, including the newspaper advertisement for the cost of solid waste disposal, would be included.

Regarding the transition of non-District roads to the Town for maintenance, Mr. Spence said he and the Town Attorney met with Clete Saunier and the Attorney for the Water Control District this afternoon to work out details. They are requesting that the Council authorize the Town Attorney to begin the necessary paper work to cover the first segment of the project which deals with the closing of North Rd Canal/40th Street N. Council authorized the Attorney to continue to work on the project and bring back a report at the next meeting.

Mr. Spence said he submitted the final mileage figures for gas tax purposes and thanked Cindy Corum, Frank Schiola, and Ken Johnson for their help in completing this project.

CLOSING COMMENTS

19) Public Comments

Todd McClendon said the ULDC should reflect "leave things as they are."

Paul Reillo thanked the Council members for their service and urged them to come forward and tell the residents what they think.

Howard Voren asked Council members to tell us where you stand and put it in writing. He spoke about not being able to attend workshops and meetings because of his work.

Frank Schiola said the Council meetings should be broadcast and asked Council members to consider putting it in the budget for next year. He also said the elementary school carnival is this Friday (April 9). He mentioned illegal dumping is becoming a problem again.

20) Town Attorney Comments - none

21) Town Council Member Comments

Vice-Mayor Lipp spoke about the rights of neighbors and explained why things need to be written into the ULDC.

Councilman Jarriel spoke about the Drowning Coalition and requested Council and resident support for their Golfing Tournament on May 7. Council agreed to donate \$500 to the organization

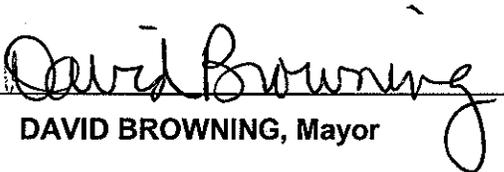
Councilman Liang said we need input from residents at the workshop scheduled for April 17.

Councilman Rockett requested that residents speaking on the proposed UDLC's make reference to the Section number in the draft document which concerns the subject they are speaking about.

Mayor Browning thanked the Council for electing him as Mayor for another term. He said the public speakers at meetings need to show respect for Council members and refrain from name calling.

22) Adjournment

There being no further discussion and no additional public comment, the meeting was adjourned at 9:35 p.m.



DAVID BROWNING, Mayor

May 4, 2010
Date Council Approved

Attest:



Ann Harper, Town Clerk