



Town of Loxahatchee Groves

Regular Meeting, June 15, 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

1 – 3) Opening

Mayor Browning called the meeting to order at 7:05 p.m. In addition to Mayor Browning, the following Council members were present: Councilmen Ron Jarriel, Ryan Liang, Jim Rockett, and Vice-Mayor Dennis Lipp. After the Pledge of Allegiance, Mayor Browning gave the Invocation. Present from Staff were Frank Spence, Town Manager; Michael Cirullo, Town Attorney; and Ann Harper, Town Clerk.

4) Additions and Deletions

Mr. Spence added a new item as Discussion of Extension of Moratorium.

Vice-Mayor Lipp added an item under Administrative Update as "Creation of a Bucket List."

5) Approval of Agenda

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

CONSENT AGENDA

6) Approval of May 4, 2010 Council Meeting Minutes

7) Approval of May 2010 Town Attorney Invoices

Motion was made by Councilman Liang, seconded by Councilman Jarriel, to approve the Consent Agenda.

Vice-Mayor Lipp referred to page 9 of 44 and asked for the status of two items. He was advised that there was no further action to report on either the weight limit on trucks or condemnation process for derelict properties.

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

PRESENTATIONS

8) Introduction to new PBSO Station Commander, Lt. David Combs

Mr. Spence introduced Lt. David Combs as the new District Commander for the area which includes Loxahatchee Groves. Lt. Combs said he will attend as many Town Council meetings as possible, and he invited the Council members to stop by his office to see him.

9) Presentation of plaque to the Town of Loxahatchee Groves from Drowning Prevention Coalition by Councilman Jarriel to Mayor Browning

Councilman Jarriel said that Loxahatchee Groves, along with the Town of Wellington, donated \$500 to the Drowning Prevention Coalition. He spoke of the importance of the program, and thanked the cities for the donations and said he hoped the donations would be made again next year.

COMMITTEE REPORTS

10) Finance Advisory & Audit Committee *(Vice Chair Elise Ryan)*

Mrs. Ryan said the Committee spent most of the meeting discussing the establishment of an enterprise fund for the solid waste program and said the Committee supports the creation of this fund. The Committee also discussed finalizing a "COLA" for the Waste Pro contract, and they also discussed charging a franchise fee for companies supplying dumpster services in the Groves.

Mrs. Ryan said that charges to the new enterprise fund would be the Waste Monitor, legal ads, bulk pickup, tire amnesty day, green day supplies, and administrative overhead.

Vice-Mayor Lipp said that of the thirty-eight other municipalities in Palm Beach County, he did not find another one that had a "Waste Monitor".

Mrs. Ryan said that the Committee discussed whether or not all expenses related to solid waste should be charged to the residents, and the Committee divided the categories into "above and below the line." The categories below the line would be charged to the General Fund. The Committee report is attached to these minutes.

Attorney Cirullo said the time line for your preliminary special assessment resolution is for it to be the next agenda. In order to prepare a resolution for your consideration, it would be useful to know the thoughts of Council. Right now your assessment is tied only to the rate you were charged for residential services. If you do raise your rate over the current year, it will be necessary to send a first class letter to all residents to give notice of an increase in the residential solid waste fee. The cost of the first class mailing can be included in the total cost of solid waste. He will prepare the resolution for agenda purposes. As the Council discusses the costs for the service, after consideration of the FAAC report, the resolution can be amended after the Council makes a decision.

Mrs. Ryan said the FAAC would meet at the end of the month for budget purposes. They feel it would be good to have scenarios on various options for the Council to review. The Council must decide what projects they want to include in the budget, such as roads.

PUBLIC HEARINGS - None

RESOLUTIONS - None

ORDINANCES - None

NEW BUSINESS

11) Groves Medical Plaza Extension of Commencement of Development Deadline

Mr. Spence said this is coming before the Council for informational purposes. Michael Sanchez, Senior Project Manager, will bring the Council up to date. Our attorney, and the attorney for the applicant, confirmed that it is back to the County for approval. This presentation is for the three new Council members who were not on the Council when the project was originally approved.

Mr. Sanchez introduced himself to the Council members and said he represents the owner of the Grove Medical Plaza project. It has been determined that the Town does not have the authority to grant approval of their request for an extension for development, and he would like to give a powerpoint presentation to the Council to show the status of the project. The project is to be located on the NE corner of Southern Blvd., and "F" Road and will be built on 3.6 acres. He reviewed the site plan and explained the time line from the time of project approval by the County through the delay caused by the Town incorporation and further causes of delays.

Comments

Clete Saunier, Water Control District Administrator, outlined the District's work with the Groves Medical Plaza and said that some of the legal review fees owed by the Plaza to the Water Control District have not been paid. He asked, on behalf of the Board of Supervisors, that the Council delay approval of any requests from the Applicant until the fees are paid.

Vice-Mayor Lipp referred to Mr. Sanchez's letter in the agenda backup and asked him to go back to his firm and tell them that part of our Town was allowing this condition, Exhibit C, number 5, that the OGEM stabilization of F Road from Collecting Canal Road where the current stabilization stops through to Southern Boulevard is a key element. He said the Town would be willing to do what we can to help further the project if they would get the OGEM stabilization of that road done sooner rather than later.

Councilman Jarriel said he agrees with Vice-Mayor Lipp that the residents have been suffering long enough along F Road between Collecting Canal and Southern Boulevard, and the longer it takes to put that OGEM road down, the more it will cost.

Mayor Browning thanked Mr. Sanchez for his presentation.

12) Diamond Ag Request

Tyge Willis asked for Council approval to use the property as a transfer station.

Mr. Spence said this company is in the process of purchasing this five-acre property from Odums, Inc. It includes a 6,000 square foot commercial warehouse with a concrete floor. It has not been in use for years. This site would be good for post-hurricane debris placement. No debris would be left overnight.

Attorney Cirullo said we need to see if it is a permitted use. If not, he should submit an application for the Consultant to review. Tonight you can say whether or not you support this project; that is the most you can do tonight.

Vice-Mayor Lipp said the land use is Agricultural. The fact that the Odums Company was conducting an industrial operation there is shame on Palm Beach County. These are some of the nonconforming uses that we are engaged with now during our LDC process. To grant the applicant an industrial use in an agricultural area is a bit of a stretch.

Mr. Willis said it could be permitted as a transfer station or composting.

Councilman Jarriel asked how the residents around the area feel. One problem would be wear and tear on the roads.

Councilman Liang said he would have to abstain from voting because he knows the Applicant. He is concerned about neighbors and the roads.

Councilman Jarriel said if Council were to approve it, it would have to be with special conditions.

Mayor Browing said a transfer station is industrial, and we are agriculture, and this is not what a residential agricultural community is set up for.

Public Comments

Marge Herzog said this property is around the corner from her and traffic will be prohibitive, and B Road would have to be widened.

Clete Saunier said he is concerned about roadway traffic and conditions. There are strict guidelines on trucks per day on the road, and there would be a dramatic difference in use on A Road.

Vice-Mayor Lipp said he liked Councilman Jarriel's suggestion to call the residents in that area and on A Road. Councilman Jarriel said residents need to come to a meeting, and the Applicant needs to be here.

13) Selection of Date for First Public Hearing for FY 2010-2011 Budget

Mr. Spence said the Town must notify the County of the date and time of the first Budget Public Hearing. He asked the Council members to look at their September calendars and determine when they are available. He noted the dates of the County and the School Board Public Hearings, which are dates that cannot be used by the Town. The Council adopts a tentative millage and budget at the first public hearing.

After discussion, the Council selected Wednesday, September 8th, 2010, at 6 p.m. as the date and time for the first Public Hearing on the FY 2010-2011 Budget.

ADMINISTRATIVE UPDATE

Discussion of Extension of Moratorium (added at beginning of meeting)

Mr. Spence said in view of the interested parties who are here, it would be better to discuss the moratorium before the Administrative Update. The moratorium has been in effect for almost two years and is due to expire on July 1st. The Attorney will advise you on alternatives concerning it.

Attorney Cirullo said the moratorium was extended to July 1, 2010, and we expected two issues to be resolved: the Comprehensive Plan problem and the LDR's. We are now making significant progress in both of them. There are two different types of exceptions: (1) Applications for development orders, such as site plans, in order to proceed under the moratorium, would have to agree to be consistent with the Town's adopted plan and the Town's LDC's when adopted. They can go through the process but would have to agree that any changes to their application for development, as a result of the final approval of the Comprehensive Plan and LDC's, they have agreed to do in exchange for moving the project forward. (2) Land Use amendments allow the same things but not transmittal until completion of the challenge that is pending against the Town. This challenge is not completed, and some applicants have indicated that they want their plans reviewed as soon as possible.

Attorney Cirullo said he contacted DCA and they indicated that if we process any Comprehensive Plan amendments now, they would review it in light of the County Plan. However, if during that process we finish the challenge and our Plan is in compliance, the Applicant would have to comply with our Plan. If you would like to allow Land Use Applications to proceed, we could eliminate the prohibition on transmission but provide for conditions if the Applicants agree to have it reviewed consistent with DCA requirements. Also, in the event of any challenges, that they would be responsible for the cost of defense of the challenge.

Attorney Cirullo said we need direction from you whether or not to bring back an ordinance for first reading on July 6 and continue to provide the same exceptions or if you want to consider the issue of transmittal.

Vice-Mayor Lipp, Councilman Jarriel, and Councilman Rockett expressed consent with allowing Land Use applications to proceed.

Mike O'Dell spoke on behalf of Equestrian Partners and said they would like the Town to continue processing their applications.

Mayor Browning said he hopes by the time we settle the Comprehensive Plan, the LDR's will be ready.

Motion was made by Vice-Mayor Lipp to extend the moratorium; however, allow Land Use Plans to continue forward through transmittal under the appropriate guidance of the appropriate Comprehensive Plan (County and/or Town). Councilman Liang seconded the motion.

Vice-Mayor Lipp said he was surprised that the Day property is still in play. It has been in our plan that all commercial is on Southern. He said he is concerned about seeing a flood of applicants coming in from properties on the north side of Okeechobee at Folsom, and they are betting that our Comp Plan doesn't make it. The property next to the Portuguese-American Club has a "for sale" sign with "commercial" on it.

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

14) Administrative Update

Mr. Spence advised the Council of his schedule of upcoming meetings he will be attending next week.

15) Code Enforcement RFP

Mr. Spence said the Code Enforcement Ad will be printed in the Town Crier on Friday, June 25th.

Vice-Mayor Lipp suggested deleting "individual" in the ad and saying "the successful candidate must be State certified."

Council Bucket List (added at beginning of meeting)

Vice-Mayor Lipp said one of the management philosophies he has operated under is to have a priority list, because when you have a priority list, those things tend to get done. The "A" list should have only five items on it, and the "B" list things need to be done, but not right away, and "C" list is for things that you would like to be done. He would like to propose that the Town Council determine what the five things are so instead of a "punch list", Mr. Spence would have five things to report on. Staff is to determine the best way to get minutes to us in a timely manner. Waiting a month is inappropriate.

Mr. Spence said he will come back with a list, and the Council can prioritize it. Also, he asked individual members of the Council to advise him of things they would like in the budget, such as projects and

equipment and things the Town should have. He will also compile a list of projects that are not included in the budget, and he will place them on an "unfunded" list which can be carried forward.

CLOSING COMMENTS

16) Public Comments

Marge Herzog asked whether or not there is an agenda item regarding the Attorney General's opinion for the road issue for the Intergovernmental Committee meeting. The issue was who has the power to move forward when people don't want their road paved. She also asked whether or not the Diamond Ag applicants would be held up by the moratorium. Attorney Cirullo responded. She commented on Frank Schiola's contract with the Town and said he spends more time driving around looking for business than serving the needs of residents and he should go out on an on-call basis.

17) Town Attorney Comments - none

18) Town Council Member Comments

Vice-Mayor Lipp said the Town will be hosting the Western Community Council on June 24th at 7 p.m. and a Refreshment Committee needs to be formed.

Councilman Jarriel thanked Vice-Mayor Lipp for obtaining the determination from the County that the 5 cent gas tax funds can be spent on maintenance of roads.

Councilman Liang said he would be glad to help with refreshments for the meeting on June 24th.

Councilman Rockett (1) requested consent of Council to ask the Attorney to prepare for the next meeting a revision of the Resolution on abatement of enforcement of setbacks; (2) requested that a meeting be scheduled for Tuesday, June 22, beginning at 6 p.m., to continue LDR review.

Mr. Spence asked for clarification of the abatement issue. Councilman Rockett said he would like to address the issue that caused the Resolution to be created and say that it does not apply to horses and livestock but enforce it in other cases. Council agreed to ask Attorney Cirullo to prepare a Resolution for the next meeting to rescind the old Resolution and have a new one which agrees with the new LDR's.

Mayor Browning spoke about the misuse of Tire Amnesty Day and said he is not in favor of keeping that day or the unlimited vegetation pickup in the budget next year.

A meeting was set for Tuesday, June 22nd, at 6 p.m., to discuss LDR's.

Councilman Jarriel said he agrees with Mayor Browning about not renewing the Tire Amnesty and bulk vegetation pickups in the budget for next year. He also introduced representatives from Craig A. Smith & Associates, grant specialists and lobbyists, and said he hopes that after the Town completes its current projects, that an RFP for a grant specialist will be issued.

20) Adjournment

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



DAVID BROWNING, Mayor

July 6, 2010
Date Council Approved

Attest:



Ann Harper, Town Clerk

NOTICE

**THIS MEETING WILL BE PRECEDED BY A WORKSHOP
ON THE TOWN'S LAND DEVELOPMENT REGULATIONS (LDR'S)
BEGINNING AT 6 PM. THE WORKSHOP WILL BE CONTINUED
IMMEDIATELY AFTER CONCLUSION OF THE REGULAR TOWN
MEETING**