



Town of Loxahatchee Groves

Regular Meeting, July 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

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 - None
- 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.

6) CONSENT AGENDA

- A. Approval of Town Council Meeting Minutes
 - May 18, 2010
 - June 1, 2010
 - June 15, 2010
- B. Approval of Invoice for Court Reporter service for Shade Meeting 5/4/10

Vice-Mayor Lipp said in the Minutes of the June 1st meeting, page 4, the following should be added: "... advertising signs on trees and telephone poles on Okeechobee ...".

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

7) Candidates for Elective Office

Marsha Andrews, Candidate for Palm Beach County School Board District 6, thanked the Council for the opportunity to speak. She said she has retired after thirty-five years as a teacher and principal. She moved to Wellington in 1985 and is now lives in Royal Palm Beach. She described her qualifications and urged everyone to vote on August 24th.

COMMITTEE REPORTS

8) Intergovernmental Coordination Committee (Councilman Ron Jarriel)

Councilman Jarriel said the Committee discussed the 40th Street North and decided on a speed limit. They also talked about non-district road maintenance policy and said he would like an item on the next IGC meeting to decide on a definition for a Town road. Other topics discussed were joint District/Town funding; acceptance of 22nd Road North from the County; dedication of 140th Terrace North; and a policy for culverts on Town roads and the need for permits for these culverts . The next meeting will be July 23rd at 3 pm.

PUBLIC HEARINGS – None

ORDINANCES

9) ORDINANCE 2010-004

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, CONSISTENT WITH THE TOWN CHARTER, ON THE PROCESSING AND REVIEW OF APPLICATIONS FOR DEVELOPMENT ORDERS AND DEVELOPMENT PERMITS, AND APPLICATIONS FOR AMENDMENTS TO THE TOWN COMPREHENSIVE PLAN; AMENDING EXEMPTIONS TO THE MORATORIUM; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVING FOR AN EFFECTIVE DATE. (1st Reading)

Attorney Cirullo read the title of the Ordinance and said this is first reading and if approved will come back next meeting for a Public Hearing for second reading. This extends the moratorium which is presently in place and will allow for transmittal to the DCA.

Public Comments

Seth Brier said he took the Council's advice and talked to a land planner and asked the Council if they would accept his application for change the zoning on his property to commercial. Attorney Cirullo said there are some uncertainties in moving forward now, but if the applicant agrees to comply with the provisions of the Town's Comprehensive Plan and LDR's, when adopted, the moratorium allows the application to be accepted and reviewed.

Michael O'Dell urged the Council to pass the ordinance tonight.

Council Comments

Motion was made by Vice-Mayor Lipp, seconded by Councilman Jarriel, to approve the Ordinance on first reading and schedule second reading for July 20th, 2010, at 7 pm. The motion carried by roll-call vote, as follows:

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

NAYS: None.

RESOLUTIONS

10)

RESOLUTION NO. 2010-005

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, REPEALING RESOLUTION 2007-017 WHICH ABATED THE ENFORCEMENT OF CERTAIN SETBACK REQUIREMENTS WITH RESPECT TO PROPERTY LOCATED WITHIN THE TOWN OF LOXAHATCHEE GROVES; PROVIDING FOR ENFORCEMENT OF THE CURRENTLY EFFECTIVE SETBACK REQUIREMENTS TO THE EXTENT SUCH IS CONSISTENT WITH THE PROPOSED TOWN LAND DEVELOPMENT REGULATIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

Attorney Cirullo read the title of the Resolution and said he was directed by Council at the last meeting to prepare this for discussion and direction. If approved, this would authorize Town Administration to enforce that part of the County code dealing with setbacks.

Council Comments

Councilman Jarriel said he would like to keep the moratorium in place until the Council completes the LDR's.

Public Comments

Todd McLendon said the Council should not rescind this moratorium because it is unethical.

Council Comments

Councilman Rockett said the Council has established the criteria for setbacks, and there is no reason to wait any longer to enforce them. We can put a piece of the code in place and move forward one step at a time.

Mayor Browning said he would like all of the LDR's to be approved before enforcement begins.

Councilman Rockett made a motion to approve Resolution 2010 - 005. No one seconded the motion.

No action was taken on this agenda item.

11) Discussion of Rescinding Resolution 2009-010 on Abatement of Code Enforcement for Non-conforming Businesses

- A. Petition from residents of Paradise Trail urging rescinding of Resolution 2009-010 and to enforce regulations prohibiting trucking operations in residential neighborhoods

Attorney Cirullo said this item is on the agenda for direction from Council on whether or not to prepare a Resolution to rescind a previous Resolution. A petition was received from residents requesting this action.

Councilman Rockett said he was in favor of rescinding the 2009 Resolution.

Councilman Jarriel said the Council is close to completing the LDR's and he objected to being threatened by residents as they did in the petition.

Vice-Mayor Lipp said even though there are people who want this to happen, he would like for the LDR's to be completed.

Public Comments

John Ryan said no one contemplated in 2007 that it would take three years to develop LDR's. The goal should be to bring back these old Resolutions for action in January if the LDR's are in place.

Council

Motion was made by Councilman Rockett to prepare a Resolution to rescind Resolution 2009-010 on Abatement of Code Enforcement for Non-conforming Business. There was no second to the motion.

No action was taken on this agenda item.

Mayor Browning welcomed Lt. David Combs of PBSO to the meeting. Mr. Spence thanked Lt. Combs for the new speed controls which were placed in the Town.

OLD BUSINESS

12) Review of three noise metering proposals

Mr. Spence said he solicited proposals for taking sound measurements throughout the Town to help set benchmarks for various types of sound that could be classified as a nuisance in the development of the Town's own Noise Ordinance. These are the three proposals which were received:

1. JC Code & Construction Consultants, Inc.: \$4,075.00
2. Edward Dugger & Associates: \$6,000.00
3. Geosonics: \$10,364.00
4. Council can review and decide whether or not the services are needed.

Councilman Jarriel said all three prices are outrageous, but he liked the bid from JC Code because it was the lowest and the firm is local. He thinks that one of the biggest problems the Town will face in the future will be noise pollution. For a legal aspect, he thinks it would benefit the Town to have professional recommendations on noise levels.

Councilman Rockett said the question is what are the levels of noise, not what they should be.

Councilman Liang said if they only take noise readings on one day, it is not fair measurement of what is "normal." They would need more days to get an idea of what our levels are.

Vice-Mayor Lipp used his phone for decibel reading and said while we were talking, the peak went up to 105. If you had to listen to that for more than ten minutes, you would be ill. Regular conversation here at this level is in the mid 60's. He referred to the Palm Beach County code and said it has been working for a long time. He read the noise level numbers that appear in their code.

Mayor Browning agreed that the Palm Beach County level is dependable and gives us a standard to use.

Attorney Cirullo said going with a code that has already been justified is preferable

Public Comments

Roberta Schriefer said she wrote a letter to the Town about the noise from her neighbor, who has a non-conforming business at her house. She asked when the problem would be addressed.

Todd McLendon asked whether or not the Town was going with the Palm Beach County codes.

Larry Lefkowitz spoke about the Palm Beach County code for noise levels.

13) Addendum items if necessary - none

NEW BUSINESS

14) Status of RFP for Code Enforcement

Mr. Spence said after advertising in the Town Crier and on-line requesting an RFP for Code Compliance Services with a deadline of today, July 6th, 2010, at 3 pm, we received only one sealed proposal that was opened at 3:05 pm. The respondent was JC Code and Construction Consultants, Inc., with a bid of \$45.00 per hour, with no minimum. They are located nearby in Wellington and provide similar services for other cities in Palm Beach County. Their insurance certificate and State of Florida license are in order.

Inasmuch as this was the only qualified bid, and the hourly rate with no minimum is far less than we are paying now after previously going out for proposals, and the Town is in need of immediate qualified enforcement of our codes, he recommended the Council award this contract for code Compliance Services to JC Code & Construction Consultants, Inc., at this meeting. He commented that this company also provides building inspection services that we also need to attack abandoned and burned out houses. This is a multiple service type company which he will use in the future. The proposer is here to answer any questions the Council members have.

Attorney Cirullo said he will draw up an agreement for the services if the Council approves the proposal.

Councilman Rockett asked whether or not the references were checked. Mr. Spence replied that since the bid was opened after 3 pm, there has not been time to check on references, but acceptance of the proposal is subject to verification of credentials.

Motion was made by Councilman Liang, seconded by Councilman Jarriel, to approve the proposal from JC Code & Construction Consultants.

Attorney Cirullo asked whether or not the Council would like him to include the option of building inspection as part of the scope of services. Mr. Spence said he would like that included because we are going in that direction.

John Farinelli, Vice President of JC Code and Construction, introduced himself to the Council and thanked them for the opportunity to submit a proposal. His company is located in Wellington and has been in business since 2005. He is a licensed Building Official and Building Inspector, and in addition holds other licenses and certifications. He said JC Code is a municipal support company which provides full services and specializes in small communities, which do not need full time code enforcement officers.

Councilman Rockett asked Mr. Farinelli whether or not his company would be available for work assignments at times other than 8 am – 5 pm Monday through Saturday as in the proposal, and what would the cost be. Mr. Farinelli said service calls at other times would be at the same charge, \$45/hour,

and would depend on whether or not an officer is available to respond to the request. Councilman Rockett asked if working "as needed" could be included in the agreement, and Mr. Farinelli agreed to add "as needed as available" in addition to the hours in the contract.

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

15) Third Addendum to the Law Enforcement Service Agreement Between
Palm Beach County Sheriff Ric L. Bradshaw and the Town of Loxahatchee
Groves for the Period of October 1, 2010 to October 1, 2011

Mr. Spence said this is the third addendum to the Law Enforcement Service Agreement between Palm Beach County Sheriff Ric L. Bradshaw and the Town of Loxahatchee Groves for the period 10/1/2010 to 10/1/2011. The Town has an Agreement with the Palm Beach Sheriff's Department to provide non-dedicated law enforcement services. "Non-dedicated" means that Deputies are not assigned exclusively to our Town, like Wellington and Royal Palm Beach do. That is a far more expensive proposition. We receive District-wide services the same as the unincorporated areas of the Acreage, and the Indian Trails and Seminole Improvement District. The letter from the Sheriff's Office which is in the backup shows that the cost of law enforcement services for FY 2011 will increase by 1%, from \$272,064 to \$274,785. He recommended approval of the addendum.

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

Public Comments

Marge Herzog spoke in opposition to the increase in cost and said other residents want to know what other cities pay for the same protection. Mr. Spence responded to her question.

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

ADMINISTRATIVE UPDATE

16) Administrative Update

- A. Notice of meeting with PBC Engineer George Webb on 7/7/10 to discuss Okeechobee Blvd. design

Mr. Spence announced the meeting on 7/7/10 and Mayor Browning said he would also attend. The Mayor asked for Council agreements on installing roundabouts, and Councilman Liang said he was opposed to them.

Public Comment

Seth Brier said for roundabouts, the Council should take into consideration that tractor trailers will be using them.

- B. Notice that Council will sit as the Local Planning Agency (LPA) on July 20, 2010 beginning at 5:30 pm to hear three (3) Applications for Land Use Comprehensive Plan Amendments

Mr. Spence announced the meeting and said Staff has been working with the developers in moving these three projects along. Signs have been posted on the properties, and ads will be published in the Palm Beach Post on Friday, July 9th. Public notices have been sent to the adjoining property owners within fifteen hundred feet of the properties, and Staff has scheduled one-half hour for each application to be discussed at the meeting.

C. July Calendar – no comments

D. List of priority projects

Mr. Spence said Vice-Mayor Lipp suggested that he prioritize the top five projects that he feels are the most important to work on, and devote his time to, out of the twenty or thirty that he has pending. These are the five projects he selected:

- (1) Prepare fiscal year 2011 budget
- (2) Develop policies and procedures for the taking-over of non-district roads and their maintenance; then proceed to get right-of-way easements
- (3) Proceed to take measures to condemn and demolish abandoned and burned-out houses, and file liens against these properties to pay for costs
- (4) Work on resolving 40th Street North right-of-way in cooperation with the Water Control District
- (5) Review 43rd Street drainage problem with possible creation of a special assessment district to pay for the project.

Council should feel free to substitute and change rankings and projects as it sees fit. This is a far from an all-inclusive list, and he devotes many more hours to other tasks that have deadlines. All of these are in addition to many meetings with outside professional and business groups.

Public Comments

Seth Brier asked whether or not his project could be added to the applications to be considered at the LPA meeting, and he was advised that this would not be possible.

Marcel Bosse asked about requesting a zoning change.

Vice-Mayor Lipp commented that the projects on the priority list are important issues, and individually if there is something that one of us can offer help on, if Mr. Spence wants help, we could coordinate with him.

CLOSING COMMENTS

17) Public Comments

Marge Herzog commented on the proposed roundabouts and asked what is going to be done about the garbage monitoring contract. She was advised that it will be presented to the Finance Committee.

Clete Saunier said the residents on 147th Avenue North have requested that the road be taken over by the District and OGEM put on it. This will be on the Monday night agenda, and he will recommend that the Town take over the road. Councilman Jarriel asked for estimated costs on putting OGEM on the road.

18) Town Attorney Comments

A. Request for Shade Session re Callery-Judge Case

Attorney Cirullo said he needs Council consensus to schedule a Shade Session within the next two weeks for ongoing litigation on the Callery-Judge lawsuit. In case the lawsuit cannot be settled, a hearing has been scheduled sometime after November 1st, 2010. Council agreed to meet in Executive Session for this matter.

19) Town Council Member Comments

Vice-Mayor Lipp said the Council needs to schedule workshops to continue working on the LDR's.

Councilmen Jarriel and Liang thanked Lt. Combs for attending the Council meeting.

Councilman Rockett said he would like for the Town to arrange to have shell rock put on the portion of 40th North Road leading to 140th Ave. N in the Acreage (popularly called the Sunsport Cut-thru). Clete Saunier said that area is a canal maintenance access road, and the IGC should have an agenda item to discuss this problem. Another item that the IGC should discuss is the proposed round-about at 140th street.

20) Adjournment

Mr. Spence noted that this is the first meeting when all Council Members were using their new laptop computers for the meeting rather than using paper agendas.

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



DAVID BROWNING, Mayor

July 20, 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**