



Town of Loxahatchee Groves

Regular Meeting, July 20, 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. OPENING

- A. Call to Order/Roll Call**
- B. Pledge of Allegiance**
- C. Invocation**

Vice-Mayor Lipp called the meeting to order at 7:05 p.m. In addition to Vice-Mayor Lipp, the following Council members were present: Councilmen Ron Jarriel, Ryan Liang, and Jim Rockett. Mayor Browning was out of town and did not attend the meeting. After the Pledge of Allegiance, Vice-Mayor Lipp gave the Invocation. Present from Staff were Frank Spence, Town Manager; Michael Cirullo, Town Attorney; and Ann Harper, Town Clerk.

D. Additions and Deletions

Councilman Liang said he would like to add an item to discuss adding funds to the Budget for promotional activities. He was advised to bring this up at a budget workshop.

Councilman Rockett said he would like to add a discussion item on contracts. This was added under Agenda Item 10.

E. Approval of Agenda

Motion was made by Councilman Rockett, seconded by Councilman Liang, to approve the Agenda as amended. The motion carried by voice vote, 4/0.

2. CONSENT AGENDA

- A. Approval of May Revenues and Expenses**
- B. Approval of July 6, 2010 Council Meeting Minutes**
- C. Approval of June 2010 Invoice from
Goren, Cherof, Doody & Ezrol, P.A. (Town Attorney)**
- D. Approval of Invoice for Court Reporter service for
Shade Meeting 5/4/10 and Shade Meeting 6/1/10**
- E. Agreement with JC Code & Construction Consultants
for Code Compliance and Building Official Services**

Mr. Spence referred to item E and made a correction on page 31, Section 7.1, from "CSA" to "JC Code." Motion was made by Councilman Rockett, seconded by Councilman Jarriel, to approve the Consent Agenda. The motion carried by voice vote, 4/0.

3. PRESENTATIONS

A. Candidates for Elective Office - None

4. COMMITTEE REPORTS

A. Finance Advisory & Audit Committee (Chairman Lung Chiu) Report

Chairman Chiu said the Committee reviewed and approved the May financial reports which are on the agenda for Council approval tonight. They also reviewed and made recommendations for the proposed millage rate and sanitation fee. Vice-Mayor Lipp said he appreciates the time and work done by the members of the FAAC.

B. Solid Waste Monitoring Report (Frank Schiola) Report

No discussion on report printed in the backup.

5. ORDINANCES - PUBLIC HEARING – 2nd Reading

A. 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. (2nd Reading)

Mr. Spence read the title of the Ordinance.

Attorney Cirullo said the moratorium which was on a previous extension expired July 1st, and Council gave direction to move forward with another extension. This ordinance is the same as the earlier ones, with the exception of allowing for transmittal of applications to the DCA.

Vice-Mayor Lipp opened the Public Hearing.

Ann Parker objected to allow transmittal of applications.

Motion was made by Councilman Rockett, seconded by Councilman Liang, to approve the Ordinance on second and final reading. The motion carried by roll-call vote, as follows:

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

NAYS: None.

ABSENT: Mayor Browning.

6. ORDINANCES - PUBLIC HEARING - 1st Reading

A. ORDINANCE 2010-005

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ADOPTING AN AMENDMENT TO THE TOWN OF LOXAHATCHEE GROVES CURRENTLY EFFECTIVE COMPREHENSIVE PLAN, AS WELL AS THE TOWN OF LOXAHATCHEE GROVE'S ADOPTED COMPREHENSIVE PLAN TO BE EFFECTIVE WHEN THE ADOPTED COMPREHENSIVE PLAN IS EFFECTIVE, IN ACCORDANCE WITH CHAPTER 163, SPECIFICALLY SECTION 163.3184 OF THE FLORIDA STATE STATUTES, CONCERNING A LARGE-SCALE LAND USE PLAN AMENDMENT APPLICATION PROPOSED BY LAND DESIGN SOUTH, DESIGNATED AGENT FOR THE APPLICANT, ATLANTIC LAND INVESTMENTS, LLC, THE CONTRACT PURCHASER FOR PROPERTY OWNED BY ERNEST G. SIMON, AS TRUSTEE OF TRUSTS "A" AND "B" U/W/O ALEXANDER ABRAHAM SIMON TO CHANGE THE DESIGNATION OF THE SUBJECT USE OF LAND FROM RURAL RESIDENTIAL (1 DU PER 10 ACRES) IN THE CURRENTLY EFFECTIVE PLAN AND RURAL RESIDENTIAL (1 DU PER 5 ACRES) IN THE TOWN'S ADOPTED PLAN, TO COMMERCIAL LOW, COMMERCIAL LOW-OFFICE AND INSTITUTIONAL, TO ACCOMMODATE THE FUTURE DEVELOPMENT OF A MAXIMUM OF 100,188 SQ FT OF COMMERCIAL, RETAIL, A MAXIMUM OF 156,816 SQ FT OF COMMERCIAL OFFICE/INSTITUTIONAL AND A 232 SITE RECREATIONAL VEHICLE PARK ON 97 ACRES LOCATED AT THE NORTHWEST CORNER OF SOUTHERN BOULEVARD AND "B" ROAD, LOXAHATCHEE GROVES, FLORIDA (AMENDMENT 09-1.1); PROVIDING FOR AMENDMENT TO THE LAND USE PLANS TO REFLECT SUCH CHANGES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Spence said that the next three Ordinances are all applications for land use amendments, and each will be considered separately. The Ordinances represent requests to change the Comprehensive Plan, and they are presented as Public Hearings. The recommendations of the Local Planning Agency (LPA) will be carried forward to Council. The Staff report is in the agenda backup.

Vice-Mayor Lipp said as a point of order he is concerned about considering land use plans on a text amendment that we have yet to vote on. The land use they are going for is MLU, Multiple Land Use, and as of now we have not voted whether or not we have a MLU.

Jim Fleischmann, Vice President, Land Research Management, Inc. said we recommended that the MLU category be created. The creation of the MLU plus special policies are all part of the Staff recommendation for approval for Application 09-1.1.

In response to Vice-Mayor Lipp's question, Attorney Cirullo explained the procedure for public hearings for transmittal of applications, and also said the Council can decide how they would like to proceed with consideration of the applications. Vice-Mayor Lipp asked for Council comments on his concern about the text amendment. Councilman Rockett said if we pass these two applications, it is included; otherwise, it falls by the wayside.

Marty Perry said he is of counsel to Loxahatchee Groves Equestrian Partners and Solar Sportsystems and is speaking on behalf of the applicants for all three of the petitions. He requested that the Council take two weeks to consider the Applications and allow some time to re-address some of the issues that have been raised. Also, many cities have a Local Planning Agency which is separate and apart from their Council or Commission, so there is usually a two-week period between the two meetings which gives applicants an opportunity to address concerns which were brought up at the LPA meeting.

Attorney Cirullo said no action has been taken as yet by the Council, and it is up to your discretion to take action or delay action.

Motion was made by Councilman Rockett, seconded by Councilman Liang, to continue the Public Hearing on Ordinance 2010-005 to the Council Meeting on August 3, 2010. The motion carried by voice vote, 4/0.

6B.

ORDINANCE 2010-006

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ADOPTING AN AMENDMENT TO THE TOWN OF LOXAHATCHEE GROVES CURRENTLY EFFECTIVE COMPREHENSIVE PLAN, AS WELL AS THE TOWN OF LOXAHATCHEE GROVE'S ADOPTED COMPREHENSIVE PLAN TO BE EFFECTIVE WHEN THE ADOPTED COMPREHENSIVE PLAN IS EFFECTIVE, IN ACCORDANCE WITH CHAPTER 163, SPECIFICALLY SECTION 163.3184 OF THE FLORIDA STATE STATUTES, CONCERNING A LARGE-SCALE LAND USE PLAN AMENDMENT APPLICATION PROPOSED BY THE OWNERS OF THE PROPERTY, SOLAR SPORTSYSTEMS, INC. AND LOXAHATCHEE EQUESTRIAN PARTNERS, LLC TO CHANGE THE DESIGNATION OF THE SUBJECT USE OF LAND FROM RURAL RESIDENTIAL (1 DU PER 10 ACRES) IN THE CURRENTLY EFFECTIVE PLAN AND RURAL RESIDENTIAL (1 DU PER 5 ACRES) IN THE TOWN'S ADOPTED PLAN, TO COMMERCIAL LOW, COMMERCIAL LOW-OFFICE AND INSTITUTIONAL, TO ACCOMMODATE THE FUTURE DEVELOPMENT OF A MAXIMUM OF 74,052 SQ FT OF COMMERCIAL RETAIL, A MAXIMUM OF 60,984 SQ FT OF COMMERCIAL OFFICE FOR MEDICAL OFFICES, AND AN AGED RESTRICTED ELDERLY LIVING FACILITY CONSISTING OF UP TO 120 AGE-RESTRICTED ATTACHED DWELLING UNITS AND A 180 BED CONGREGATE CARE FACILITY AND A DAY CARE CENTER OF UP TO 15,000 SQUARE FEET ON 90 ACRES LOCATED AT THE NORTHEAST CORNER OF SOUTHERN BOULEVARD AND "B" ROAD, LOXAHATCHEE GROVES, FLORIDA (**AMENDMENT 09-1.2**); PROVIDING FOR AMENDMENT TO THE LAND USE PLANS TO REFLECT SUCH CHANGES; 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 Rockett, seconded by Councilman Liang, to continue the Public Hearing on Ordinance 2010-006 to the Council Meeting on August 3, 2010. The motion carried by voice vote, 4/0.

6C.

ORDINANCE 2010-007

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ADOPTING AN AMENDMENT TO THE TOWN OF LOXAHATCHEE GROVES CURRENTLY EFFECTIVE COMPREHENSIVE PLAN, AS WELL AS THE TOWN OF LOXAHATCHEE GROVE'S ADOPTED COMPREHENSIVE PLAN TO BE EFFECTIVE WHEN THE ADOPTED COMPREHENSIVE PLAN IS EFFECTIVE, IN ACCORDANCE WITH CHAPTER 163, SPECIFICALLY SECTION 163.3184 OF THE FLORIDA STATE STATUTES, CONCERNING A LARGE-SCALE LAND USE PLAN AMENDMENT APPLICATION PROPOSED BY THE OWNERS OF THE PROPERTY, WILLIE AND FRANKIE DAY, TO CHANGE THE DESIGNATION OF THE SUBJECT USE OF LAND FROM RURAL RESIDENTIAL (1 DU PER 5 ACRES) IN THE CURRENTLY EFFECTIVE PLAN AND RURAL RESIDENTIAL (1 DU PER 5 ACRES) IN THE TOWN'S ADOPTED PLAN, TO COMMERCIAL LOW-OFFICE TO ACCOMMODATE THE FUTURE DEVELOPMENT OF A MAXIMUM OF 81,021 SQ FT OF COMMERCIAL OFFICE SPACE FOR PROFESSIONAL AND MEDICAL OFFICES ON 9.3 ACRES LOCATED AT THE SOUTHWEST CORNER OF OKEECHOBEE BOULEVARD AND FOLSOM ROAD, LOXAHATCHEE GROVES, FLORIDA (**AMENDMENT 09-1.3**); PROVIDING FOR AMENDMENT TO THE LAND USE PLANS TO REFLECT SUCH CHANGES; PROVIDING FOR CONFLICTS; PROVIDING FOR AMENDMENT TO THE LAND USE PLANS TO REFLECT SUCH CHANGES; 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 continue the Public Hearing on Ordinance 2010-007 to the Council Meeting on August 3, 2010. The motion carried by voice vote, 4/0.

7. PROPOSED BUDGET

A. Presentation and submittal of Town Manager's Proposed Budget for Fiscal Year 10/1/10 – 9/30/11

Mr. Spence said under the provisions of the Town Charter and Florida Statutes, he is transmitting his proposed budget for the fiscal year 2010-2011. Everyone is aware of the continuous serious decline in property values over these past few years. The Town's property tax value this year is 12.89% lower than it was last year. At the current millage rate of 1.4, this means a loss of approximately \$41,046 in ad valorem revenues. There are some areas of increased activity in the next fiscal year that will impact the budget. First and foremost is Code Enforcement. With the adoption of the Town's own LDR's, there will be an increase in code violations cited and appeals to the Town's Magistrate. Also, as the Town gets aggressive in its program to rid the Town of derelict abandoned and burned out houses, there will be up-front costs that cannot be recovered for some time afterwards.

Additionally, the Town's Comprehensive Plan calls for us to have a five-year Capital Improvement Plan. With the settlement of the Callery-Judge case in late fall, there is a possibility of capital expenditures being required by the Town that would not be covered by the gas tax. Also, as the Town takes over the responsibility of maintenance of all non-district roads from the Water Control District, there will probably be some costs involved that the gas tax would not cover.

For the first time a separate Sanitation Fund will be created that will show the true full cost of providing garbage and trash service to the residents. Currently the \$373.72 annual assessment only pays for the cost of the contractor, Waste Pro, to pick up the garbage and trash. All other costs are being absorbed by the General Fund. If all other costs were to be included in the assessment, the fee would have to be increased. The Finance Advisory and Audit Committee has indicated that it does not want the assessed fee to be increased and for the General Fund to continue to subsidize this operation. My proposed budget for the Sanitation Fund shows no increase in the fee.

Regarding the millage, should other sources of designated revenue continue to drop and lower our total below the threshold figure, the State could force the Town to increase its millage to make up for any shortfall. If we were not in compliance, we would lose approximately \$300,000, and we could not be reinstated for a period of two years.

In conclusion, the Town will continue to grow and expand at its own will and direction as it takes over more and more responsibilities from Palm Beach County in this coming year. That means more challenges as we struggle to get on our feet in order to carry out our new responsibilities, but we will persevere and we will succeed into making Loxahatchee Groves an even better place to live than it was last year.

Mr. Spence thanked the Mayor and Council Members for their support in this first year of a new management company, and said the purpose of this meeting is to set the tentative millage and sanitation rates. He said the Finance Committee recommended that the rates remain the same. What is required is for Council to approve the tentative millage rate. We will be going into workshops, so it is not necessary to go into details at this time.

8. RESOLUTIONS

A. RESOLUTION 2010- 007

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES ADOPTING A PROPOSED OPERATING MILLAGE RATE OF 1.4000 FOR GENERAL OPERATING BUDGET PURPOSES FOR FISCAL YEAR 2010/11; APPROVING AND AUTHORIZING TRANSMITTAL OF THE FORM DR 420 TO THE PROPERTY APPRAISER; PROVIDING FOR THE ESTABLISHMENT OF AND SETTING FORTH THE DATE, TIME AND PLACE OF THE PUBLIC HEARING TO CONSIDER THE FY 2010/11 MILLAGE RATE AND TENTATIVE BUDGET; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Spence read the title of the Resolution, which recommends the millage of 1.4000.

Motion was made by Councilman Rockett, seconded by Councilman Jarriel, to approve the Resolution.

In response to Councilman Liang's question, Mr. Spence said this proposed budget does not have the use of reserve funds; we are handling expenses without dipping into reserves.

Vice-Mayor Lipp called for a voice vote on the motion, which carried 4/0.

B. RESOLUTION 2010-006

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, RELATING TO THE PROVISION OF RESIDENTIAL SOLID WASTE COLLECTION SERVICES AND FACILITIES AND PROGRAMS ("SOLID WASTE COLLECTION SERVICES") IN THE TOWN OF LOXAHATCHEE GROVES, FLORIDA; PROVIDING FOR PURPOSE AND DEFINITIONS; PROVIDING FOR LEGISLATIVE DETERMINATIONS; ESTABLISHING THE ESTIMATED RATE FOR THE SOLID WASTE COLLECTION SERVICES ASSESSMENT FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2010; DIRECTING THE PREPARATION OF AN ASSESSMENT ROLL; AUTHORIZING A PUBLIC HEARING AND DIRECTING THE PROVISION OF NOTICE THEREOF; AND PROVIDING AN EFFECTIVE DATE.

Mr. Spence read the title of the Resolution which recommends keeping the sanitation rate of \$372.73 for FY 2010-2011.

Motion was made by Councilman Rockett, seconded by Councilman Liang, to approve the Resolution. The motion passed by voice vote, 4/0.

9. OLD BUSINESS - none

10. NEW BUSINESS

A. Addendum items (if needed)

Contracts (added at beginning of meeting)

Councilman Rockett said the Town is not good at tracking its contracts. He would like to know the status of all current contracts. He commented that recently it was determined that a contract had expired without the Council having any input. He would like to see it on the list of top five priority "bucket list" items instead of one of the street projects. A list of contracts could be used as a tool.

Vice-Mayor Lipp said the contract expiration dates could be put on Outlook and Outlook could be set to give a one-month alert when the contract is about to expire.

Councilman Jarriel said this refers to the Waste Monitoring Contract, He would like Council consensus for Mr. Schiola continue to provide services to the Town as directed by the Town Manager.

Attorney Cirullo said he would recommend bringing back a contract at the next meeting, but in the meantime the Manager could authorize his services. This would all be at the direction of Council.

Motion was made by Councilman Jarriel, seconded by Councilman Rockett, to direct the Attorney to bring back a new contract and in the meantime authorize the Town Manager to use Mr. Schiola's services consistent with the terms of the expired contract.

Councilman Liang said everyone on Council appreciates the services of Mr. Schiola, and residents who have had their trash problems resolved also appreciate his work. It was never intended for the contract to go on indefinitely, and now that the calls have been reduced, it is an appropriate time to review and maybe change the scope of the contract.

Vice-Mayor Lipp said we have outgrown the need for a Waste Monitor, and we are the only municipality in Palm Beach County who has a Waste Monitor. If we continue to have one, we should issue an RFP and let other people bid for these services.

Public Comments

Doreen Baxter spoke about setting up calendars and contracts on Outlook.

Marge Herzog said the Town needs to monitor Frank Schiola, and the contract should be reviewed.

John Ryan said this is an unfortunate situation, and people totally misunderstand what is being done. Solid Waste Authority has monitors, and in other cities the Code Enforcement staff does this function.

Lung Chiu said the Town Manager should monitor the contract.

Elise Ryan said Mr. Schiola has done a combination of monitoring and an assessment process in addition to handling illegal dumping, all at the direction of the Town Manager. He has also taken care of Code Enforcement items. Mrs. Ryan said she also serves on the Finance Committee, and she determined that for the period of 1/1/10 to 5/30/10 Mr. Schiola was paid \$6,800 but brought in over \$10,000 in previously unpaid sanitation assessments.

Ann Parker said we should go out to bid for the services.

Council

Vice-Mayor Lipp requested that the motion reflect that the Monitor works at the discretion of the Town Manager.

Vice-Mayor Lipp called for a voice vote on the motion to bring back a contract for the Monitor, and for the Monitor to work under the direction of the Town Manager in the meantime. The motion carried by voice vote, 4/0.

B. ADMINISTRATIVE UPDATE

- A. Administrative Update
- B. August Calendar
- C. Council "Bucket" List

Mr. Spence announced the following meetings:

- July 27th at 5 pm – Shade meeting for Council
- 6 pm – Workshop on LDR's
- July 28th – Palm Beach County League meeting at noon
- Finance Committee meeting at 7 pm at the Hospital

C. CLOSING COMMENTS

A. Public Comments - none

B. Town Attorney Comments - Attorney Cirullo requested that the Council approve of holding a Shade Session on Tuesday, July 27, 2010, at 5 pm, relating to the Petition filed by Callery Judge and the Seminole Improvement District .

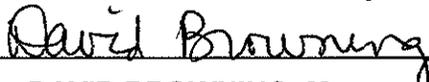
A) Town Council Member Comments

Councilman Jarriel complimented Doreen Baxter for working in the Town Management Office this week in the absence of the Assistant Clerk. He said he would like to remove one item on the Manager's "Bucket List" and replace it with another priority. He suggested removing the issue of the drainage on 43rd Road North and replacing it with the removal of power poles on C Road. He also would like the power pole subject placed on the IGC agenda.

Councilmen Liang and Rockett thanked people for coming to the meeting tonight

Adjournment

There being no further discussion and no additional public comment, the meeting was adjourned at 10:25 p.m.



DAVID BROWNING, Mayor

August 3, 2010
Date Council Approved

Attest:



Ann Harper, Town Clerk