



Town of Loxahatchee Groves

Regular Meeting, August 3, 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 and Michael Cirullo, Town Attorney.

D. Additions and Deletions

Motion was made by Councilman Rockett, seconded by Councilman Jarriel, to add item 9C, discussion of new contract with Field Monitor. The motion carried by voice vote, 4/0.

E. Approval of Agenda

2. CONSENT AGENDA

- A. Approval of June Financials

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

NOTE: For future agendas, include the date for Finance Committee approval of financial statements.

3. PRESENTATIONS

- A. Appreciation Plaque from US Census Bureau

Mr. Spence read into the record the letter received from the Atlanta Regional Director, U. S. Department of Commerce, thanking the Town for the support received in helping the Census Bureau achieve an accurate census count. Mr. Spence thanked Cindy Corum and Marge Herzog for their assistance to the Census Bureau.

Vice-Mayor Lipp noted that Lt. Combs from the Palm Beach County Sheriff's Office was in the audience.

B. Candidates for Elective Office - none

4. COMMITTEE REPORTS

Finance Advisory & Audit Committee Report

(Vice Chair Elise Ryan)

Mrs. Ryan said the Committee met on July 28th and approved the June financial statements. They also reviewed the proposed budget for next fiscal year and said the Committee recommended no increase in the millage rate or the sanitation fee. They also reviewed the renewal terms of the Waste Pro contract and the Committee received a listing of all contracts executed by the Town. Next Committee meeting is scheduled for Monday, August 23rd.

5. ORDINANCES - PUBLIC HEARING – 2nd Reading – None

6. ORDINANCES - PUBLIC HEARING - 1st Reading
(Continued from Council Meeting July 20, 2010)

6a. 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.

1) Letter to defer

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.

1) Letter to defer

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

1) Request for Withdrawal of Comprehensive Plan Amendment 09-1.3 by Urban Design Kilday Studios and client Bill Day

Mr. Spence said these three Ordinances were continued from the previous Council meeting. The Applicants in the first two Ordinances submitted letters to Council requesting deferral to the next meeting. The Applicant in the third Ordinance, known as the Day property, has officially withdrawn the Application.

Motion was made by Councilman Liang, seconded by Councilman Jarriel, to continue the Public Hearing for Ordinance 2010-5, Amendment 09-1.1 to the August 17, 2010, meeting.

Councilman Rockett asked whether or not the Applicants would give the Council updates on their projects.

Attorney Cirullo said since there is a motion on the floor, it should be withdrawn if Council members would like to hear from the Applicants.

Councilman Liang withdrew his motion, and Councilman Jarriel withdrew his second to the motion.

Councilman Liang made a motion to defer Ordinance 2010-5, Amendment 09-1.1, to the Council meeting on August 17th, and to ask the representative of Atlantic Land Investments to update the Council on the project and answer questions from Council members. Councilman Jarriel seconded the motion.

Councilman Rockett asked Mr. Lelonek for an update on where they are and how does he feel about his discussions with people in the Town.

Joe Lelonek, Vice President, Land Design South, said they listened to the comments of residents and the Council and have made revisions and reduced the square footage and intensity. They followed some Staff recommendations regarding the rv park area. They contacted and spoke with many residents and would welcome any additional feedback.

Councilman Liang said he has given thought to both properties, and he asked Mr. Lelonek to leave more open space and also to provide for more "equestrian parking."

Councilman Rockett said when we get to a point where density is acceptable, is there a possibility that the actual building be done in a modular fashion. Attorney Cirullo said that could be considered during the zoning phase of development.

Councilman Jarriel asked Mr. Lelonek to make sure that the road improvement part of the project is completed before the entire project is finished.

Vice-Mayor Lipp called for a vote on the motion to continue Application 09-1.1 to August 17th, which carried 4/0.

Councilman Liang made a motion to continue item 6b, Ordinance 2010-6, Amendment 09-1.2, to the next Council meeting on August 17, 2010, after hearing comments from the Applicant's representative, Michael O'Dell. Councilman Jarriel seconded the motion.

Mr. O'Dell spoke to the Council members about the alternatives for paving the roads in and around the property and said they need to move forward with this land use part of the process. They have not met with any residents but have responded in writing to the residents who signed the paper at the earlier meeting.

Vice-Mayor Lipp called for a vote on the motion to continue the Public Hearing, which carried 4/0.

Vice-Mayor Lipp announced that Application 09-1.3 as covered in Ordinance 2007-3 has been withdrawn by the applicants, Willie and Frankie Day.

7. RESOLUTIONS - None

8. OLD BUSINESS

- A. Appeal of certain conditions of proposed contract for code enforcement services by JC Code & Construction Consultants, Inc.

Mr. Spence said that this is an appeal of certain conditions in the code enforcement services contract. At the July 6, 2010 Council meeting, Council approved the proposal for code enforcement services from JC Code and authorized the Town Attorney to draft an agreement. This agreement was approved by Council at the July 20th meeting. The applicant received an email copy of the proposed agreement prior to the meeting, but did not respond at that time.

Mr. Spence continued that JC Code responded by letter on July 27 outlining areas of concern: (1) compensation terms; (2) insurance coverage requirements; (3) termination provisions; (4) use of subcontractors. These proposed changes were discussed with the Town Attorney, and we recommend Council approve these modifications:

- (1) Compensation – agree that Town will be billed on a bi-weekly basis;
- (2) Insurance – agree that their insurance is adequate for a small office operation;
- (3) Termination – agree: by either party; 14 days

- (4) Subcontractors – agree with use of subcontractors subject to JC Code notifying Town of their names and trade credentials.

Motion was made by Councilman Liang, seconded by Councilman Rockett, to approve the contract with the four changes and authorize Town officials to execute the contract.

Public comments

Marge Herzog commented on the effective date of coverage for JC Code's insurance.

Vice-Mayor Lipp called for a vote on the motion to approve the contract as amended. The motion carried by voice vote, 4/0

9. NEW BUSINESS

A. Discussion of Sustainable Communities Grant Program

Mr. Spence said the Palms West Chamber of Commerce is urging all Western Communities to jointly apply for a Sustainable Communities Initiative Grant. An explanation of the program is attached, as well as the Resolution from the Village of Wellington. If the Council is interested in pursuing this application, the Council can authorize the Town Attorney to prepare a resolution similar to this one for consideration at the next meeting.

Vice-Mayor Lipp asked for comments from the Council members. Councilman Jarriel said he had concerns about the role of HUD in this project, and Mr. Spence said that the grant funds come from HUD. Councilman Jarriel said he did not think the residents would favor having affordable housing constructed within the Town.

Vice-Mayor Lipp said this project was originally introduced in this country by Rio de Janiero, and this is a United Nations project for redistribution of wealth. The project has never been approved by the U. S. Congress, and he is not in favor of the Town becoming involved.

Public Comments

Frank Schiola said he read the proposal and agrees with Vice-Mayor Lipp that the Town should not participate in the project or become involved in any way.

There was no action taken on this agenda item.

B. Addendum items (if needed)

Discussion of Waste/Field Monitor Position (Added earlier in meeting)

Mr. Spence said he needs someone he can send out into the Town to investigate incidents and situations that have been called to the Town's attention. Frank Schiola has done a good job in the past dealing with illegal trash piles and missed trash and garbage, but now the Town's needs have expanded and increased. I need someone to be my "eyes and ears, and even a hammer, if need be" out in the field. Our records indicate violations have fallen to a level that we do not need to pay anyone to drive up and down our roads looking for violations and illegal dumping. Calls that come into the Town Office are forwarded to Waste Pro, and they respond quickly to these complaints. What we need is to have someone respond when other similar complaints are received at the Town's Offices. Such direction would be given by the Town Manager, or his designee. If Council agrees to authorize this expanded operation, then you can direct the Town Attorney to draw up a new agreement, or modify the existing agreement with Frank Schiola, and the Town Manager oversees all contracts.

Public Comments

Elise Ryan distributed a power point report to the Council members which she had prepared relating to the waste monitor position.

Vice-Mayor Lipp directed his question to the Attorney. He verified that this is a discussion of a contract with a vendor, then asked since Mrs. Ryan is a member of the Finance Committee, does the Town Charter, as it relates to ethics, do committees fall under that category. As a Finance Committee member where decisions are made, would it be appropriate for the Vice-Chair to make a proposal promoting this position.

Councilman Jarriel said this is to justify what Frank has done in the past.

Attorney Cirullo said she is going to convey information to the Council, and there is nothing to prohibit any committee member from doing this.

Mrs. Ryan presented her report with charts showing revenue attributed to Mr. Schiola's work, the corresponding expenses for his services, and the financial benefit to the Town.

Public Comments

Marge Herzog asked why Frank Schiola could not give this report himself and said we are seventy percent over budget in what he has received from the Town, and the Manager should have monitored this account.

Councilman Jarriel responded to Mrs. Herzog's comments and explained how Mr. Schiola has responded to problems and complaints from residents under the direction of the Town Manager.

Ann Parker said the job should go out for bid.

Doreen Baxter said public servants should not be involved in hand-picking contractors, and she recommended a "no vote" until the entire Council is present.

Council Comments

Councilman Rockett spoke in favor of approving a contract with Mr. Schiola. He asked that the contract include six hours to continue with "waste monitoring" and place Mr. Schiola's phone number on the website so residents can contact him directly. The rest of his time would be as directed by the Town Manager.

Councilman Liang said Mr. Schiola's contract probably should have been amended earlier, but he is happy that Mr. Schiola is pro-active in solving problems that arise in the Town.

Councilman Jarriel said he agreed with Councilmen Rockett and Liang, and before the Town hired Mr. Schiola as Waste Monitor, the Town looked terrible with trash piles everywhere. He continued saying that he and his wife rode around Town one day before the scheduled pickup and counted 70 properties with trash piles. He and his wife will ride around the day after pickup and see how many properties still have trash. He likes it that Mr. Schiola is available to work on Saturdays. He thinks there will be more illegal dumping if the monitoring is discontinued. He does not think it is necessary to go out for an RFP.

Public Comments

Nina Corning said when she sees recyclables or trash that needs to be picked up, she calls Waste Pro directly, and other residents should be pro-active and do the same thing.

Council Comments

Vice-Mayor Lipp said he believes Frank Schiola has done a good job. When he was over budget, he called Mr. Schiola and told him that he would bring it up at the council meeting. This is not a job that requires an RFP. He said that the Town Manager's budget should be modified because he is going to need more part-time people. He suggested an additional annual budget of \$12,000.

Vice-Mayor Lipp made a motion to increase Frank Spence's management contract by one thousand dollars a month for him to pay sub-contractors, including Frank Schiola as a "field inspector." Councilman Liang seconded the motion, for discussion.

Councilman Rockett said he would like to propose another motion, but he was advised that there cannot be two motions on the floor at the same time.

Councilman Liang said he would like to hear from Mr. Spence. Mr. Spence said there are less than two months remaining in this fiscal year, and the Council must schedule a Budget Workshop soon. In his new budget, Mr. Spence is recommending to keep \$12,000 in the Fiscal Year 2010-2011 budget. The Council must decide whether or not to keep funds for the bulk pickup and tire amnesty day, both of which require funding which would influence the funds needed for monitoring.

Vice-Mayor Lipp withdrew his motion, and Councilman Liang withdrew his second to the motion.

Councilman Rockett made a motion to direct the Town Attorney to draw up a new agreement called "Field Inspector" with Frank Schiola; to officially expand operations; maximum of \$12,000 annually; schedule "waste monitoring" up to six hours per week, including monitoring on Saturdays; and schedule up to four hours to be used at the direction of the Town Manager.

Councilman Liang said he would second the motion with the provision that if Mr. Schiola goes over the \$12,000 annually, such as in the event of a hurricane Mr. Schiola would help with debris removal, it must be approved by the Council. Councilman Rockett accepted the change.

Councilman Jarriel said he would go along with the motion except for the working on Saturdays; he thinks Wednesday should be the most effective day to work on picking up vegetation so problems will be taken care of before a weekend.

After further discussion, Attorney Cirullo reviewed the motion with the provisions as follows: to prepare an agreement with Frank Schiola which will include field inspecting; waste monitoring; budget cap of \$12,000 annually; any excess over \$12,000 to be subject to Council approval; hours capped at 10/week; all work under the direction of Town Manager; term of contract is to be from August 18, 2010, to September 30, 2011; include termination clause of 14 days. Councilman Rockett agreed that his motion included those provisions; Councilman Liang restated his second to the motion.

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

10. ADMINISTRATIVE UPDATE

A. Administrative Update

Mr. Spence asked the Council to set dates for another LDR Workshop and a Budget Workshop. After discussion, the following dates were selected: Monday, August 9, 6 pm – Workshop on Land Development Regulations; Tuesday, August 24, 7 pm, Budget Workshop.

Attorney Cirullo requested authority from Council to schedule a Shade meeting for the Callery-Judge lawsuit. The date was not selected. The date will be set after Attorney Cirullo receives information from the other Attorney.

Councilman Rockett said he wants to be informed about input from the Community. He asked that a log be created in the Town Management Offices which records all incoming phone calls, emails, and visits to the office from residents, and also records the subject matter, such as code complaints, requests for water service, and any other subject.

B. Council "Bucket List"

Councilman Jarriel asked that Mr. Spence remove item #5 on the Bucket List and replace it with a request for FPL to move the power poles on C Road, as that is a higher priority than drainage improvement on 43rd Road.

Councilman Rockett asked that item #4, 40th Street North, be made a part of the Intergovernmental Coordinating Committee agenda.

C. Discussion of Field Monitor Position – moved to 9B

11. CLOSING COMMENTS

A. Public Comments

Ann Parker said it is difficult for the audience to hear speakers who are seated where the Manager and the Attorney are seated.

Marge Herzog said she requested that an Attorney General question regarding jurisdictional issues be placed on the IGC agenda.

- B. Town Attorney Comments
- C. Town Council Member Comments
- D. Adjournment

Adjournment

There being no further discussion and no additional public comment, the meeting was adjourned at 10:15 p.m.



DAVID BROWNING, Mayor

September 7, 2010

Date Council Approved

Attest:



Ann Harper, Town Clerk



UNITED STATES DEPARTMENT OF COMMERCE
Economics and Statistics Administration
U.S. Census Bureau
Washington, DC 20233-0001

July, 22, 2010

Town of Loxahatchee Groves
14579 Southern Blvd., Ste. 2
Loxahatchee, Florida 33470

*Read into the record @
Council meeting of 8/3/10.
Plaque presented.
D. Spruill*

Dear Town of Loxahatchee Groves,

This letter is to express appreciation for the support received from the Town of Loxahatchee Groves in helping the U.S. Census Bureau to achieve a complete and accurate census count in 2010. Conducting the decennial census is a massive and vitally important undertaking—one which the Census Bureau could only accomplish with the assistance and support of partners like you. We value the time and resources the Town of Loxahatchee Groves dedicated in helping to ensure a successful 2010 Census.

Your commitment to motivate the public to complete and return the census form will have a lasting impact. As a census partner, you can take pride in knowing that the civic involvement demonstrated by Town of Loxahatchee Groves helped ensure that the communities you serve are accurately represented in Congress and eligible for the funding needed for important community programs, services and facilities. The 2010 Census data will aid your community and government in making strategically and fiscally sound decisions to spur and sustain economic development and growth, and improve the quality of life in every neighborhood.

Once again, thank you for your contributions and unparalleled efforts to the 2010 Census to assure Florida residents are accurately reflected in the 2010 *Portrait of America*. Your partnership is appreciated and we look forward to continued opportunities to work together in the future.

Sincerely,

George Grandy, Jr.
Atlanta Regional Director