



# **Town of Loxahatchee Groves**

## **Regular Meeting, August 17, 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  
James Fleischmann, Vice President, Land Research Management, Town Planner

#### **1. OPENING**

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

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

#### **D. Additions and Deletions**

Mr. Spence said he received a phone call from Susan Giddings who said she would not be attending the meeting tonight, and item 3B was removed from the Agenda.

#### **E. Approval of Agenda**

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

#### **2. CONSENT AGENDA**

- A. Approval of July 2010 Invoice from Goren, Cherof, Doody & Ezrol, P.A. (Town Attorney)**
- B. Approval of Invoice for Court Reporter service for Shade Meeting on June 15, 2010**

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

#### **3. PRESENTATIONS**

- A. Candidates for Elective Office - none**
- B. Susan Giddings, Palms West Chamber of Commerce Economic Development Task Force – (Request Withdrawn – see above)**
  - (1) Reconsideration of request for Town to apply for Sustainable Communities Initiative Grant with the other Western Communities**

4. COMMITTEE REPORTS - None
5. ORDINANCES - PUBLIC HEARING – 2<sup>nd</sup> Reading - None
6. ORDINANCES - PUBLIC HEARING - 1<sup>st</sup> Reading  
(Continued from Council Meeting August 3, 2010)

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 this is a Public Hearing for first reading of ordinances for land use changes. Town Council, sitting as the Local Planning Agency, recommended approval for consideration by the Council. Approval of the Ordinance by Council requires an affirmative vote of four members. These ordinances have been continued from the last meeting at the request of the applicants.

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Vice-Mayor Lipp noted that a candidate arrived at the meeting, and Mayor Browning interrupted the meeting and invited the candidate to speak.

Michael Jackson introduced himself to the Council and the residents and said he is a candidate for Palm Beach County Commission in District 6. He said he understands and appreciates Home Rule as he is a former Council Member and City Manager of South Bay. He said he would stay for the remainder of the meeting.

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Attorney Cirullo said these ordinances were originally scheduled for first reading on July 20<sup>th</sup> and were then rescheduled for August 3<sup>rd</sup>. If anyone wishes to speak on the ordinances they are to indicate it on the sign-in sheets at the back of the room. These sign-in sheets will be submitted with the applications when they are forwarded to DCA. There are two separate applications and two different ordinances, each requiring four votes to approve the land use changes.

Attorney Cirullo read the title of Ordinance 2010-5, and Mayor Browning called upon Jim Fleischman, Town Planner, to give an overview of the project.

Mr. Fleischmann said he would make introductory remarks, then the Applicant will make a presentation. Following the presentation, Mr. Fleischmann will follow with his Staff summary and recommendations.

Mr. Fleischmann said that the Town's Comprehensive Plan was adopted February 17, 2009. The Department of Community Affairs (DCA) found it in compliance in April 2009. Following that, a petition to intervene was filed in May 2009, and that has not been resolved. The DCA has allowed the Town to submit land use plan amendments which are amendments to the Town's "Effective Plan", which is the Palm Beach County Plan that was in effect in November 2006, the date of incorporation. If the Council chooses to transmit these amendments, they will be simultaneous amendments to both the "Effective Plan" and the "Adopted Plan", which is the Town's Comprehensive Plan adopted in February 2009. This is a complicated procedure and has only been attempted one other time in the State of Florida. Mr. Fleischmann referred to the Staff memo dated August 11, 2010, and said it is a summarization of the applications and Staff recommendations and is an abbreviated version of the longer Staff Reports.

The next item he would like to address is the staff recommendation for a Multiple Land Use (MLU) designation. The best way to implement these amendments is through the adoption of this category which would provide the flexibility to deal with large scale land use projects that front along Southern Boulevard.

Mr. Fleischmann referred to the staff memorandums on the two applications and read the "conditions of approval" on page 4.

The meeting was turned over to Joe Lelonek, Vice President, Land Design South, for a presentation. Mr. Lelonek said he represents Atlantic Land Investments, the purchaser of the "Simon Property." This property is on the Northwest corner of "B" Road and Southern Boulevard (97 acres), which they refer to as Loxahatchee Groves Commons. He described the original development plan and said the present application has reduced the size of the Commercial Low to 21 acres; Commercial Low Office to 21 acres; at the rear of the property they converted "institutional" to "park." He described proposed buffers across the rear of the site and also described equestrian trails and greenways. The proposed ad valorem taxes will be approximately \$61,000 annually. This concluded his presentation and said he would answer questions.

Jim Fleischmann said the property, located at the Northwest corner of Southern Boulevard and "B" Road, known as the "Simon Property," is 96.73 acres and is currently vacant. The current land use designation is RR-5 in the Adopted Plan (Town Plan) and RR-10 in the Effective Plan (Palm Beach County). The applicant initially proposed a combination of three land use categories and a maximum development concept. The applicant also proposed a text amendment to allow recreational vehicle resorts (232 sites) and equestrian facilities. Following the Local Planning Agency public hearing, the initial plans were revised and the square footages were reduced for the categories of Retail, Commercial Office. The recreational vehicle park would be retained at 232 spaces. The category of Institutional is no longer being sought.

Mr. Fleischmann continued that Staff finds the new proposal consistent with Town planning documents and recommends approval of the application with four conditions:

1. Multiple Land Use (MLU) category should be incorporated within the Comprehensive Plan.
2. MLU category should be assigned to the subject site on the Future Land Use (FLU) map.
3. MLU identified on the FLU map should be supported by specific reference to the text of the FLU element which limits development potential to the revised proposed maximum.
4. Parks & Recreation FLU category should be amended to permit privately owned recreational facilities to give the applicant flexibility to have the recreational vehicle park to be developed by a private or public entities.

#### Public Comments

Ann Parker submitted petitions signed by residents who are in opposition to the two applications.

Motion was made by Vice-Mayor Lipp, seconded by Councilman Jarriel, to receive and file the petitions. The motion carried by voice vote, 5/0.

Mrs. Parker said she is opposed to the density of the projects and wants to know the number of buildings and the height of the buildings.

Marge Herzog said she went to Lion Country Safari and inquired about the operation of their private RV Park, and she reported on her findings.

Joe Verdone spoke against the Council considering the two applications because the Town does not have an approved Comprehensive Plan and recommends waiting until the Plan is approved.

Valerie Solaas spoke in opposition to the proposed RV park.

Ken Johnson said some type of commercial development will go on Southern Boulevard, but it has to be something that is in keeping with the wishes and needs of the community.

Nina Corning said she was in opposition to the application and presented a letter from another resident for the record.

Motion was made by Vice-Mayor Lipp, seconded by Councilman Jarriel, to receive and file the letter. The motion carried by voice vote, 5/0.

#### Council Comments

Councilman Rockett questioned the validity of the numbers in the Floor-Area-Ratio (FAR) and said he would like to make sure the numbers are accurate. Mr. Fleischmann and Mr. Lelonek responded to his questions and said these are the maximum densities allowable in these districts.

Councilman Liang said he understands the need for developer to get the maximum density for end usage, but he asked the applicants to keep in mind that residents are concerned about density.

Councilman Jarriel said he would like the paving to take place before the whole development is completed.

Vice-Mayor Lipp said during the visioning process, part of the vision was to keep Loxahatchee Groves a unique community.

Mayor Browning said "maximum" is not a term that is used in Loxahatchee Groves, and we are not a "maximum allowable" community. He spoke about the proposed size of the RV park and the proposed retail areas.

After further discussion, Vice-Mayor Lipp made a motion to defer the Public Hearing to defer action on the Ordinance and to schedule a special workshop on Saturday, September 25, 2010 to give input on the application. Councilman Jarriel seconded the motion. Mayor Browning called for a voice vote on the motion, which carried 5/0.

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The meeting was recessed at 9:10 p.m. The meeting was reconvened at 9:15 p.m.  
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**B.**

#### **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 GROVES' 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, AN ELDERLY LIVING FACILITY CONSISTING OF UP TO 120 AGE-RESTRICTED ATTACHED DWELLING UNITS, A 180 BED CONGREGATE LIVING CARE FACILITY, AND A DAY CARE

CENTER OF UP TO 15,000 SQUARE FEET ON 90.34 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.

Attorney Cirullo read the title of the Ordinance and said this is a quasi-judicial public hearing, and the same procedure will be followed with this application as was with the first application. He asked those residents wishing to speak to sign the forms in the back of the room.

Michael O'Dell said he represents Loxahatchee Equestrian Partners and Solar Sportsystems and we are here to talk about a Comprehensive Land Use Amendment to change the property use to Commercial Low, Commercial Low Office and Institutional uses. The application is to amend both the "Effective Plan" and the "Adopted Plan."

Mr. O'Dell continued saying the property is located at the Northeast Corner of "B" Road and Southern Boulevard, and is comprised of 90.3 acres. It is South of Collecting Canal Road and North of Southern Boulevard between "B" and "C" Roads. The project proposes to extend Tangerine from "B" to "C" Road. The development includes 17 acres of Commercial-Low, Retail; 7 acres of Commercial-Low, Office; 8.2 acres of Institutional – Day Care Facility; and 58 acres Institutional, Congregate Living Facility. He described proposed buffer areas around the institutional facilities. The Multiple Land Use (MLU) category is fitting for this development, and we request that it be applied to this application. Anticipated tax revenue is \$57,570, not including sales tax revenue. Approval of this application will enable the owners to begin seeking end users. No end users have been identified at this point. Mr. O'Dell outlined the changes to the application which were made in response to comments from residents at the last public hearing.

Mr. O'Dell invited Martin Perry of Perry & Taylor, Attorneys, to address the audience regarding the voting issue and the congregate living facility. Mr. Perry said he distributed copies of a letter to the Council which he had written to Attorney Cirullo. The letter relates to the concern of Council members of the possibility that residents of the congregate living facility might form a voting block. He described his experience in dealing with such facilities in different municipalities and said that he has not encountered any organized voting blocks. He urged Council members to transmit the application to the State.

Jim Fleischmann concluded the presentation saying that Staff recommended transmittal of the application with conditions similar to those outlined for the first application (09-1.1). An additional condition would be a request to allow equestrian facilities in the institutional land use category.

#### Public Comments

Ken Johnson spoke in opposition to the project.

Ann Parker presented petitions to the Council members. Motion was made by Councilman Liang, seconded by Vice-Mayor Lipp, to receive and file the petitions. The motion carried by voice vote, 5/0. Mrs. Parker spoke in opposition to the project.

Marge Herzog spoke about Tangerine Drive.

Seth Briar spoke about changing his property to Commercial.

Mayor Browning read two letters into the record which opposed the applications.

Joe Verdone said the Council should not take action until after the workshop.

#### Council Comments and Action

Councilman Rockett said his comments would be similar to those he made about the first application regarding buffering.

Councilman Liang said regarding the upcoming workshop, it would help developers if we as residents try to come up with an idea of what we would like to have, such as what size and density.

Councilman Jarriel said he agrees that we need to come up with some examples that they can work on.

Vice-Mayor Lipp said the overall concept is good, and he mentioned the concerns raised by the residents of Collecting Canal about the intensity. He thinks that if the application is transmitted to the State, it will probably come back with a denial.

Mr. O'Dell said a meeting was held with the County to discuss the two projects together. Andrea Troutman said the firm is required to include both properties in the zoning process.

Mayor Browning said he thinks the applicants are heading in the right direction, but the Commercial is too high. He also has problems with 120 attached dwelling units, because apartments do not fit in Loxahatchee Groves. He sees the need for congregate living facility, and agrees that day care will generate a lot of traffic.

Motion was made by Councilman Liang, seconded by Councilman Rockett, to deter action on the application and to hold a workshop on September 25, 2010. The motion carried by voice vote, 5/0.

7. **RESOLUTIONS – None**

8. **OLD BUSINESS**

**A. Amend Interlocal Agreement with Loxahatchee Groves Water Control District (LGWCD) to provide \$130,000 for use of gas tax funds for the maintenance of roads**

Attorney Cirullo said this is the agreement which the Council directed him to work on with the District. If approved by Council, it will be on the next agenda for approval by the District.

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

**B. Consideration of Palm Beach County's Counter-offer to contribute \$5,000 for the upgrade of 22<sup>nd</sup> Road N and execute the transfer of ownership to the Town**

Mr. Spence said that some months ago the County advised us that they had a parcel of land along 22<sup>nd</sup> Road N that they had acquired through tax certificates, which they wanted to donate to the Town. Upon inspection of this road, where incidentally a number of our residents live, it was determined that a drainage swale is clogged with trees and bushes and needed to be cleaned out. A survey of the parcel is also needed. After discussion with Council, I sent a letter to the County asking them to pay for the clearing out of the ditch and the survey; or, we would do it and they could reimburse us. Both were rejected. Their counter offer was they would give us \$5,000 and we would pay for any costs above that. Inasmuch as the Town is taking over responsibility for the maintenance of all non-district roads, and a number of our residents already live on and use this road daily, we should accept this offer of \$5,000.

Motion was made by Councilman Liang, seconded by Councilman Jarriel, to approve and accept the offer.

Councilman Liang said he feels that the County is dumping problem properties on us. Councilman Rockett said if we don't accept this, then they will not come in and do anything towards maintenance. Attorney Cirullo said we would have the burden of maintenance without the benefit of ownership. Councilman Jarriel said we can justify taking it from the County since some of our residents live there.

Public Comments

Frank Schiola said this sets a bad precedent for the Town when it comes to improving roads.

### Council Action

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

#### **C. Schedule date for the Local Planning Agency (LPA) to Review the proposed ERM Ordinance**

Council agreed to schedule an LPA meeting beginning at 6 pm on Tuesday, September 7, which will be followed by the regularly scheduled meeting of the Council which begins at 7 pm.

#### **D. Schedule date for next Workshop on LDR's**

Vice-Mayor Lipp suggested that the Council consider saying that their work on the LDR's is complete.

Mr. Spence said he was going to suggest the Council authorize the Manager and the Attorney to meet with Michelle Mellegren to complete the work.

Councilman Jarriel said he would like the definition for "bona fide ag" to be reconsidered and revised by the Council.

After further discussion, the Council agreed to hold a workshop on LDR's on Tuesday, August 24<sup>th</sup>, immediately following the scheduled Budget Workshop which begins at 7 pm on that day.

### Public Comments

Elise Ryan said to make sure everything written in the LDR's is legal.

John Ryan spoke about changes to the LDR's and agreed that another meeting should be held.

## **9. NEW BUSINESS**

#### **A. Official Presentation of Town Manager's Proposed Budget for Fiscal Year 2011. (Referred to Workshop on August 24, 2010, at 7 pm)**

Mr. Spence said that the two major points for the budget are that the millage will remain the same and so will the solid waste assessment, so the residents will have no increase in their taxes.

#### **B. Addendum items (if needed) - none**

## **10. ADMINISTRATIVE UPDATE**

#### **A. Administrative Update**

Mr. Spence said he would be attending a FEMA meeting tomorrow, August 18, and an LMS meeting on Thursday, August 19. He also said the contracts with Frank Schiola and the new Code Enforcement Company have been executed.

Councilman Rockett asked about one of the provisions in Frank Schiola's contract, and Attorney Cirullo said the current contract is based upon his previous contracts, and many of the provisions are the same. Councilman Rockett also commented that minutes from the last Council meeting were not on this agenda approval, and minutes are supposed to be completed for approval at the following meeting. He also asked about the status of the assessment roll for the collection of sanitation fees. Mr. Spence advised

that the assessment roll is being reviewed and updated and will be completed before September 13 for transmittal to the County.

**B. Council "Bucket" List**

**11. CLOSING COMMENTS**

**A. Public Comments**

John Ryan spoke about the contract with Frank Schiola.

Frank Schiola spoke about the category of bona fide ag.

Marge Herzog said the Town of Loxahatchee Groves had a 74% return rate for the Census and said that was a good number for the first time of participation.

Ann Parker said the Council members should remember that Loxahatchee Groves is the "last frontier."

**B. Town Attorney Comments – no comments**

**C. Town Council Member Comments**

Vice-Mayor Lipp spoke about the category of bona fide ag and said he objects to the resident who runs a retail establishment on his property which has a bona fide ag designation for tax purposes.

Councilman Liang thanked candidate Michael Jackson for staying for the Council meeting.

Councilman Rockett also thanked the candidate and the residents who stayed for the meeting.

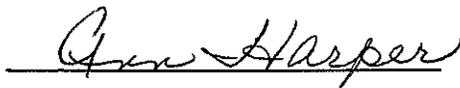
**D. Adjournment**

There being no further discussion and no additional public comment, the meeting was adjourned at 11 p.m.

  
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DAVID BROWNING, Mayor

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November 16, 2010  
**Date Council Approved**

**Attest:**

  
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Ann Harper, Town Clerk