



# **Town of Loxahatchee Groves**

## **Regular Meeting, November 16, 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

Michelle Mellgren, The Mellgren Planning Group (Contractor)

#### **1. OPENING**

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

Mayor David Browning called the meeting to order at 7:00 p.m. In addition to Mayor Browning, the following Council members were present: Councilmen Ron Jarriel, Ryan Liang, and 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.

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

Mr. Spence added an item as 9 D – Request from American Legion for donation of \$300 for Girls State Program.

Vice-Mayor Lipp added an item under 9 D – Membership on the Palms West Economic Development Task Force.

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

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

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

- A. Approval of Town Council Regular Meeting Minutes:  
August 17, 2010; October 5, 2010; October 19, 2010**
- B. Approval of September 2010 financial statements (FAAC approved on 10/25/10)**
- C. Approval of October 2010 Invoice from Goren, Cherof, Doody & Ezrol, P.A., Town Attorneys**

Councilman Rockett said 2B, September financial statements, should be approved subject to changes identified by the FAAC and other adjustments which are being researched.

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

Mayor Browning welcomed Lt. Combs from the Palm Beach County Sheriff's Office to the Council meeting.

### 3. PRESENTATIONS

- A. Request by Calvin Lyerla, Pastor, Acts II Place of Worship, to address the Council regarding property at "C" Road and Okeechobee Boulevard

Pastor Lyerla said three years ago he acquired the "Hope Estate" property on the corner of C Road and Okeechobee Boulevard. They have been working on possible types of development that the church might be able to do as an extension of their ministry. Previously he brought a conceptual site plan before the Council, and he is bringing it back again. They would like to use the site for fellowship-related activities for the church folks and their families. There is one closed structure on the property. They are moving forward with these plans with the County and with the Church Board.

Vice-Mayor Lipp said that property owners on Okeechobee who want to develop are having a "charette" and that would be an opportunity for Pastor Lyerla to make his facilities available as a meeting place. He suggested that he work with Jim Fleischmann, the Town's Planning Consultant, on any development plans.

#### Public Comments

Dr. William Louda said if the Council is giving a use like this, they will have to put in stringent deed restrictions. The noise and light pollution would be great. If this plan is approved as is, it could very easily go commercial with a ball field and large parking area for cars and buses. There is a potential for a big impact and this project should be watched carefully.

### 4. COMMITTEE REPORTS

- A. Finance Advisory & Audit Committee Report - October 25 meeting *(Chair Lung Chiu)*

Elise Ryan presented the report in the absence of the Chairman. She said the September financials were approved pending corrections and the investigation of several items. The Town is doing well financially, and there will be a surplus at year-end. The process is under way for the development of an accounting policies and procedures manual. Regarding contract monitoring, there will be an over-view of the Code Enforcement Contract at the next meeting.

- B. Intergovernmental Committee - November 3 meeting *(Councilman Rockett)*

Councilman Rockett said several items discussed at the November 3 meeting are on the agenda tonight, including the maintenance of non-district roads and dedication of bridge culverts. The next meeting is scheduled for November 19.

5. ORDINANCES - PUBLIC HEARING – 2<sup>nd</sup> Reading – Continued from Council meeting 10/19/10

A.

ORDINANCE 2010-009

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ADOPTING THE TOWN OF LOXAHATCHEE GROVES UNIFIED LAND DEVELOPMENT CODE; APPROVING A ZONING MAP FOR THE TOWN; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE. (2<sup>nd</sup> Reading)

Mr. Spence said this is a continuation of the Public Hearing of October 19, 2010, for the ordinance to adopt the unified land development regulations. He read the title of the Ordinance into the record.

Attorney Cirullo said the document was provided by Michelle Mellgren and he has identified all of the changes. He suggested starting with the first change on page 19, and proceeding through the document to identify and verify all changes.

List of pages reviewed:

Page 19 – under Home Occupation – changes ok

Page 24 – definition of private road added – ok

Page 25 – residential enterprise – change ok

Restaurant, fast food – changes ok

Page 30 - Wetlands – deleted potholes - ok; wildlife pets – addition approved

Page 37 – Commercial and recreational vehicles – “. . . provided that the vehicles are routinely operated by a permanent, full-time resident”

Motion was made by Vice-Mayor Lipp, seconded by Councilman Jarriel, to leave the phrase in and add “full-time resident of the property.” The motion carried by voice vote, 5/0.

Page 38 – Removed (5) Parking Surfaces

Page 40 – Verified (A) Plot coverage - . . . shall not exceed fifteen (15) percent . . .

Page 49 – Grammatical change Sec. 30-010 (A) added s at end of wall

Page 64 – Article 50: Public Nuisances, Section 50-010: Excessive noise (A) (3)

Attorney Cirullo corrected “. . . ten (10) percent of any time period ~~but~~ of not less than ten (10) minutes . . .

Public Comments

Howard Voren distributed copies to the Council of the comments and recommendations he will make regarding setbacks and references to best management practices. Motion was made by Councilman Rockett, seconded by Vice-Mayor Lipp, to receive and file the document. The motion carried by voice vote, 5/0. Mr. Voren said he would like the Council to discuss the two points raised in his letter.

Andrew Bauman, 515 N. Flagler Drive, #1500, West Palm Beach FL 33401, provided the Council with a copy of a letter he sent to Attorney Cirullo. Motion was made by Vice-Mayor Lipp, seconded by Councilman Rockett, to receive and file the document. The motion carried by voice vote 5/0. His comments related to the “right to farm act” and ensuring that the Council will have enforceable codes.

Todd McLendon spoke about setbacks. After discussion, the following change was made and agreed upon by the Attorney and Council:

Section 50-010(B) Sound Level Measurement Compliance "... shall be made with a sound meter at ~~or within~~ the required structural setbacks of . . ."

John Ryan said other States with aviaries have adopted best management practices.

Larry Lefkowitz distributed a document to the Council concerning noise levels. Motion was made by Vice-Mayor Lipp, seconded by Councilman Jarriel, to accept and file the papers. The motion carried by voice vote, 5/0. Mr. Lefkowitz outlined how the noise from the property next door affects his property.

#### Council Comments and Actions

Councilman Rockett commented on the term "public nuisance."

Councilman Liang said he would like to see how the current ordinance works, and then work from that point.

Vice-Mayor Lipp said if this does not work, we can come back and make revisions.

Mayor Browning said we cannot single out any one group on the basis of "best management practices." He favored removing (C) (3)

Motion was made by Councilman Rockett, seconded by Vice-Mayor Lipp, to adopt the wording because it further limits the exceptions. The motion failed by voice vote 2/3, with Mayor Browning, Councilman Jarriel and Councilman Liang voting no.

After discussion, the following was changed:

Section 50-101 (A) The following are prohibited in the Town as ~~public nuisances~~ in that such ~~items~~ activities create excessive noise.

Motion was made by Vice-Mayor Lipp, seconded by Councilman Jarriel, to eliminate Section 50-010 (C) (3) "Farming operations confirming . . . ." The motion carried by voice vote, 5/0. NOTE: (4) AND (5) WERE RENUMBERED TO (3) AND (4).

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Attorney Cirullo reviewed changes to the following pages. Most of the changes were technical; others were made during previous meetings. These changes were approved, unless otherwise noted.

- Page 65 - "agriculture" was removed in (3)
- Page 74 - Technical change in (D) for punctuation
- Page 77 - Format change
- Page 82 - Punctuation changes
- Page 84 - Format changes
- Page 88 - Grammatical change
- Page 90 - Punctuation change
- Page 91 - Punctuation change
- Page 93 - Added (C) The property must have a homestead exemption.
- Page 94 - Renumbering
- Page 100 - Spelling changes
- Page 101 - Added . . . "Commercial Low Retail

Page 105 - (3) Outdoor shelters and cages . . . from view from adjacent properties with a visual barrier.  
Such barriers may include natural vegetation, landscaping, fencing or other  
opaque structures.

Page 107 - (E) " . . . relative close proximity . . . "

Page 110 - (A)(4) " . . . shall not be planted as either required or optional . . . "

Page 117 - (F) reference corrected

Page 123 - Added a cross reference for "Campaign Signs"

Page 124 - Punctuation change

Page 144 - Clarification for barber shop, beauty or nail salon

Page 152 - Section 95-110 (C) " . . . one-way traffic access shall not be used . . . "

Page 157 - After discussion, (4) of Section 100-0145 was removed. ("~~Lanes and travel surface width.~~  
~~Local roadways shall have at least two lanes and a minimum travel surface width~~  
~~of eighteen feet.~~")

Page 181 - Grammar change

Page 202 - Grammar/punctuation clarification

Page 210 - Reference change

Page 212 - Clarification of grammar

This concluded the Attorney's review of the changes.

#### Council Comments

Councilman Rockett referred to page 39, Section 20-020, and said he was in favor of putting those two operations back into the code.

Vice-Mayor Lipp said he favored just leaving the existing operations as non-conforming.

Council consensus was to leave the section as written in the code.

#### Public Comments

Morley Schloss, Board Chairman of Sunsport Gardens, distributed a letter to the Council requesting recognition and acceptance of the "status quo."

Attorney Cirullo said nothing can be done tonight; Sunsport is now non-conforming. They will be requesting the Town go through a process to establish legal rights for what is on the ground today. Mr. Spence said the Council will be addressing this in the future as a zoning issue.

Bill Louda asked whether or not there is a definition of "eyesore" in the new code because it is mentioned several times in descriptions.

#### Council Action

Motion was made by Councilman Rockett, seconded by Councilman Liang, to adopt the Unified Land Development Code subject to the revisions authorized tonight.

The motion carried by roll-call vote, as follows:

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

NAYS: None

The Mayor recessed the meeting at 8:40 p.m.

The Mayor reconvened the meeting at 8:45 p.m.

6. ORDINANCES - 1<sup>st</sup> Reading - None

7. RESOLUTIONS

**RESOLUTION 2010-012**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, SUPPORTING THE LEGISLATION REQUESTED BY LOXAHATCHEE GROVES WATER CONTROL DISTRICT AUTHORIZING LEGISLATION TO PROVIDE FOR THE APPLICABILITY OF SECTION 95.361, FLORIDA STATUTES, TO THE DISTRICT; AND PROVIDING FOR AN EFFECTIVE DATE**

Attorney Cirullo read the title of the Resolution.

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

Public Comments

Marge Herzog said she objected to this Resolution because the Town is giving up its rights to the Water Control District.

Council Action

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

**8. OLD BUSINESS**

- A. Status of Settlement Discussions with Callery Judge and Seminole Improvement District in Comprehensive Plan Administrative Challenge  
*(Mayor Browning)*

Mayor Browning said we have had many meetings and are now getting close to completion. Attorney Cirullo said he would like authorization to schedule one more Shade meeting during the week of November 29. Council agreed to this meeting. He also requested and received authorization to have representatives from Calvin Giordano & Associates to attend the December 7 meeting.

- B. Discussion of scheduling next date to hear revised Applications 09-1.1 (Simon Property) and 09-1.2 (Loxahatchee Groves Commons) projects

Mr. Spence said the applicants for development on the two parcels of land on Southern Boulevard at B Road are ready to present revisions to their plans.

Mike O'Dell, representing Loxahatchee Groves Commons, said they have been working with Staff to fine tune their plans since the Town's workshop in September. He is looking for direction from the Council and would like to present their revised plans to the Council in some form of a workshop, then present them again at a scheduled Council meeting in December or January. Council agreed to hold a workshop beginning at 6 pm on December 7<sup>th</sup>, before the regularly scheduled Council meeting begins at 7 pm.

C. Consideration of membership in the Palm Beach County Intergovernmental Coordination Program Clearinghouse (Continued from Council Meeting 10/5/10)

Mr. Spence recommended the Town join the Palm Beach County Intergovernmental Coordination Program and Clearinghouse. This program has been around since 1993 to serve as a forum for addressing interjurisdictional plan amendment review and countywide issues of multi-jurisdictional significance. Any proposed change must be compatible with the surrounding cities plan and the County's. Most cities in Palm Beach County are already members. Since we are the newest municipality, we are being invited to join. The annual membership fee is currently \$895, and membership in this clearinghouse satisfies the requirements in Florida Statutes, the Growth Management Law.

Motion was made by Vice-Mayor Lipp, seconded by Councilman Liang, to join the Clearinghouse as recommended, and authorize the Mayor to sign the interlocal agreements. The motion carried by voice vote, 5/0.

D. Discussion of status of SunSport Gardens and possible code violations *(Vice-Mayor Lipp)*

Vice-Mayor Lipp said he has nothing against SunSport Gardens; the issue he has is that the ordinance passed by Palm Beach County sets the number of campsites as 88 RV sites; 19 sites with power; 3 "primitive" sites. This law is entirely different from what is there. The solution would be to repeal this ordinance, then it would be up to the Town to establish through our own ordinance how SunSport would fit. He asked Staff to research this and find out what our options are.

Attorney Cirullo said at some point it will become a policy issue with the Council. They represent that it is the same as it was when they purchased it in 2001. We need to get a firm understanding of what needs to be done.

## 9. NEW BUSINESS

A. Discussion of requesting Palm Beach County to install traffic lights on Seminole Pratt Whitney Road at Seminole Ridge High School *(Councilman Jarriel)*

Councilman Jarriel said there are already two traffic lights at the school, where a lot of Loxahatchee Groves kids attend. What we need is a Resolution to the County and the School Board requesting flashing lights and a reduced speed limit to 35 mph.

Motion was made by Councilman Jarriel, seconded by Councilman Liang, to authorize the Attorney to prepare a Resolution to the School Board and County Commission requesting the speed limit be reduced to 35 mph on Seminole Pratt-Whitney Road in the area of Seminole Ridge High School and to install appropriate lighting for safety.

### Public Comments

John Ryan spoke about the 35 mile per hour speed limit and flashing lights on Pierson Road in Wellington for horse crossings.

### Council Action

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

B. Request for Attorney to draft an Interlocal Agreement with the Loxahatchee Groves Water Control District adopting a policy and criteria for the courtesy grading of Town Roads *(Town Manager)*

Mr. Spence referred to his memorandum in the backup which outlines the proposed criteria for the courtesy grading of Town roads. These criteria are based on the existing guidelines used by the Water Control District. Since the District will be the Town's contractor, our criteria must meet theirs in order for them to do the grading. After Council has reviewed the criteria and made any necessary changes, he recommends that the Council authorize the Town Attorney to draft an agreement between the Town and the Water Control District to recognize and authorize the District to undertake the courtesy grading based on the Town's guidelines. This has been presented to the Water Control Board, and they are eager to move forward with this program

Motion was made by Vice-Mayor Lipp, seconded by Councilman Liang, to authorize the Attorney to prepare agreement for courtesy grading.

Vice-Mayor Lipp asked whether or not we are looking to get right-of-way easements dedicated to the Town. Mr. Spence responded yes, eventually. That will be a major program, and we plan to start after the first of the year.

#### Public Comments

Margaret Goodman said she does not like the wear and tear on the equipment and objects to taking graders off the main roads.

Frank Schiola spoke about competitive bidding and the need for a comparison for the cost of grading.

#### Council Action

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

- A. Consideration of request for a \$500 donation to the Loxahatchee Groves Elementary School to support their annual school carnival  
*(Councilman Jarriel)*

Motion was made by Councilman Jarriel, seconded by Councilman Rockett, to donate \$500 to the Loxahatchee Groves Elementary School Parent-Teachers Association (PTA) for the school's annual carnival.

Vice-Mayor Lipp asked whether or not the funds were budgeted. Mr. Spence said \$2,000 was placed in the budget for donations requests such as this. Vice-Mayor Lipp cautioned that in Palm Beach County, many organizations request funding, and over a period of time the organizations develop a sense of entitlement.

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

- C. Addendum Items (if needed)

- (1) Request by Marge Herzog, American Legion Auxillary, for Girls State Program (added earlier in the meeting)

Marge Herzog requested the Town fund \$300 of the \$600 total cost to send a junior high school girl to study in Tallahassee for one week. Mayor Browning asked whether or not the girl would be from Loxahatchee Groves, and Mrs. Herzog said she would be from a "western community." After further discussion, Council took no action on the request and asked that Mrs. Herzog notify them when the student is selected.

- (2) Membership on Palms West Chamber Economic Development Task Force  
(added earlier in the meeting)

Vice-Mayor Lipp said last week he received a phone call from Frank Spence that Carmen Priore does not feel he is fit to sit as a member of the Palms West Chamber Economic Development Task Force because he is an employee of Jess Santamaria. He wanted to bring it to the Council since it is a Council decision. After discussion, the Council took no action.

**10. ADMINISTRATIVE UPDATE**

- A. Administrative Update  
1. Bucket List

Mr. Spence said the Finance Policies and Procedures Manual will be presented to the FAAC in January 2011 and to Council in February.

Councilman Liang said he would like the signs removed from Okeechobee Boulevard before January 2011. Vice-Mayor Lipp volunteered to remove signs from Folsom to E Road said he would take pictures of the signs before they are removed.

- B. November/December Calendar

Council will decide at the December 7<sup>th</sup> meeting whether or not they will meet December 21<sup>st</sup>.

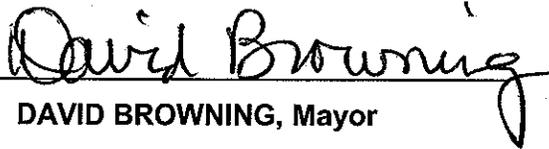
**10. CLOSING COMMENTS**

- A. Public Comments

Marge Herzog announced a LGLA meeting on Thursday, November 18.

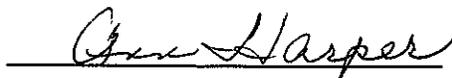
- B. Town Attorney Comments - none  
C. Town Council Member Comments - none  
D. Adjournment

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

  
\_\_\_\_\_  
DAVID BROWNING, Mayor

\_\_\_\_\_  
January 18, 2011  
Date Council Approved

**Attest:**

  
\_\_\_\_\_  
Ann Harper, Town Clerk