



Town of Loxahatchee Groves

Regular Meeting, December 7, 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

Mayor David Browning called the meeting to order at 7:15 p.m. following a Workshop which began at 6 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

Councilman Liang said he would like to add a revisit to Carmine Priorie's request for change of membership on the Palms West Economic Development Task Force as item 9D(1).

Mr. Spence requested that the Mayor move item 8C, 40th Street North Road/Canal Easement and Culvert Update, to be heard before the other subjects under item 8.

E. Approval of Agenda

Motion was made by Councilman Liang, seconded by Councilman Jarriel, to approve the Agenda as amended.

2. CONSENT AGENDA

- A. Approval of October 2010 financial statements (FAAC approved 11/22/10)
- B. Approval of November 2010 Invoice from Goren, Cherof, Doody & Ezrol, P.A., Town Attorneys

Councilman Rockett pointed out that adjustments were made to the Financial Statements by the FAAC at their meeting, but these adjustments were not reflected in the statements in the backup materials. Mr. Spence said that in the future when changes are made, they would be reflected in the statements presented to Council.

Motion was made by Councilman Liang, seconded by Councilman Jarriel, to approve the Consent Agenda as amended.

3. PRESENTATIONS – None

4. COMMITTEE REPORTS

- A. Finance Advisory & Audit Committee Report (November 22 meeting) No report was given
- B. Intergovernmental Coordination Committee (November 19 meeting)
Councilman Rockett reviewed the subjects discussed by the Committee.

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

6. ORDINANCES - 1st Reading – None

7. RESOLUTIONS

A. RESOLUTION 2010-14

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, MAKING LEGISLATIVE FINDINGS THAT COMPETITIVE BIDDING FOR ROAD GRADING SERVICES FOR NON-DISTRICT ROADS IS NOT IN THE BEST INTEREST OF THE TOWN, AND THAT CONTRACTING WITH THE DISTRICT FOR THE SERVICES IS IN THE BEST INTEREST OF THE TOWN PURSUANT TO ORDINANCE 2008-09, SECTION 2(C)(2)(H); APPROVING THE INTERLOCAL AGREEMENT BETWEEN THE TOWN AND THE LOXAHATCHEE GROVES WATER CONTROL DISTRICT FOR THE GRADING OF NON-DISTRICT ROADS WITHIN THE TOWN OF LOXAHATCHEE GROVES AND AUTHORIZING THE EXECUTION THEREOF; AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Spence read the title of the Resolution.

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

Public Comments

Frank Schiola said he not against the Town giving money to the Water Control District for grading but reputable contractors are available who could do it for less.

Council Action

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

- (1) **Interlocal Agreement (ILA) with the Loxahatchee Groves Water Control District establishing policies and procedures for the grading and maintenance of Town Roads**

Councilman Rockett said he would like to put this item back on the next agenda.

Motion was made by Councilman Liang, seconded by Councilman Jarriel, to approve the ILA with the Water Control District for grading and maintenance of Town Roads. The motion carried by voice vote, 5/0.

B. RESOLUTION 2010-13

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA URGING THE PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS AND THE SCHOOL BOARD OF PALM BEACH COUNTY TO LOWER THE SPEED LIMIT ON SEMINOLE-PRATT WHITNEY ROAD TO 35 MILES PER HOUR IN THE VICINITY OF SEMINOLE RIDGE HIGH SCHOOL, AND TO DESIGNATE THE SAME PORTION OF THE ROAD TO BE A SCHOOL SAFETY ZONE; AND PROVIDING FOR AN EFFECTIVE DATE

Mr. Spence read the title of the Resolution.

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

Councilman Jarriel said now would be an opportune time for Council members to come to the County Commission meeting to show their support for installing street lights in front of the high school, continuing the sidewalks and declaring the area a school zone.

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

C. RESOLUTION NO. 2010-15

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, DESIGNATING THE DATE, TIME AND PLACE TO QUALIFY AND FILE FOR THE OFFICE OF TOWN COUNCIL MEMBER FOR SEAT 5 PRIOR TO THE MUNICIPAL GENERAL ELECTION TO BE HELD ON TUESDAY, MARCH 8, 2011, PURSUANT TO THE TOWN CHARTER, SECTION 7, AND CHAPTERS 97 – 106, FLORIDA STATUTES; THE ELECTION FILING PERIOD OPENS PROMPTLY AT 12:00 NOON ON JANUARY 25, 2011 AND CLOSSES PROMPTLY AT 12:00 NOON ON FEBRUARY 1, 2011; SETTING FILING FEES; AUTHORIZING THE TOWN CLERK TO APPOINT ELECTION BOARDS FOR ELECTION PRECINCT 6080; APPOINTING THE PALM BEACH COUNTY SUPERVISOR OF ELECTIONS TO HANDLE ALL MUNICIPAL ABSENTEE BALLOTS; AND TO REPRESENT THE TOWN OF LOXAHATCHEE GROVES AT ALL LOGIC AND ACCURACY TESTS OF THE OPTICAL SCANNING VOTING EQUIPMENT PRIOR TO THE MUNICIPAL ELECTION; OPTING OUT OF EARLY VOTING; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

Mr. Spence read the title of the Resolution.

Motion was made by Councilman Jarriel, seconded by Councilman Liang, to approve the Resolution. There were no comments by the Council members or by the public.

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

8. OLD BUSINESS

C. (Moved to first place earlier in the meeting) 40th Street North Road/Canal Easement and Culvert Update

Mr. Spence said since the last update on this issue, the Title Company has reduced their offer of \$80,000 to \$50,000. Attorney Barbara Richards said she is representing the Title Insurance Fund.

Council/Staff Comments

Councilman Jarriel said he would like to know whether or not we will have to hire another engineering firm. He would like an RFP issued to install a culvert.

Attorney Richards said that Title Insurance Fund re-evaluated the claim in light of remaining unresolved issues and determined that it was no longer in the Fund's best interest to construct the crossing culvert. Instead, the Fund would pay a flat sum of \$50,000 to be used for the construction.

Attorney Cirullo said it becomes a policy matter whether or not to provide public access across the canal. He said he was looking for direction from the Council on whether it is willing to consider constructing the crossing culvert and funding all costs that exceed \$50,000.

Public Comments

Clete Saunier, Water Control District Supervisor, said we have been working on this for some time. The District wants to implement the project and look at it as a Town road or bridge. This is a new situation, so the Board does not have a policy decision on this. He described two options for funding.

John Ryan referred to the agenda backup information and made suggestions.

Council/Staff Comments

Attorney Cirullo asked for Council direction. He said the Water Control Board has not discussed this problem. He suggested the Town Council authorize us to work with the District and the Title Company to come to an agreement on constructing the bridge, and the Town will be asked to contribute something to the project.

Mayor Browning said he would like this brought up again at a later meeting.

Councilman Jarriel said he would like to know ahead of time how much it will cost to put in a bridge. He would also like to know that the engineering plans are sufficient.

Attorney Cirullo confirmed that the Council direction is to take it up at the next meeting.

A. Discussion of Settlement with Callery-Judge Groves and Seminole Improvement District re Comprehensive Plan Administrative Challenge

Attorney Cirullo said last May, Callery Judge Groves and the Seminole Improvement District (SID) filed a Petition to administratively challenge the Department of Community Affairs (DCA) determination that the Town's Comprehensive Plan was "In Compliance" with requirements of State law. Shortly after that, the Council directed that efforts be taken to seek an amicable resolution of this challenge. Over the past months, multiple meetings have been held, and these discussions have led to a proposed settlement.

The Settlement will involve entering into a Stipulated Settlement Agreement, in which the Town agrees to adopt Remedial Amendments to the Comprehensive Plan, as well as taking other actions. The four main areas of settlement are described in the backup memorandum dated December 7, 2010, which is attached to these minutes.

Council Comments

Mayor Browning said he has been the one involved in these negotiations. We are talking about some neighborhood connections, and they have not been determined as yet. They will not be through roads. We are trying to get this resolved so we will not have to go to court.

Vice-Mayor Lipp said it has taken a long time to work through this, and he is glad it could come to an end. He would like to see a few things changed.

Councilman Jarriel said he hopes that we can settle this without going before a judge.

Councilman Liang said he hopes everyone can appreciate the compromises that we made.

Public Comments

Neil Schiller, Attorney with Becker & Poliakoff, said he represents William Day. He suggested that the Town reach out to the sixty-six owners on Okeechobee and have a workshop on how it affects them. Some of the property is at risk. He objected at this point to the settlement agreement.

Frank Schiola said we need to have a map to show where these roads will go through, and this has the potential of opening Loxahatchee Groves to two-lane paved roads. This also has the potential of costing the Town a lot in acquisition of property.

John Ryan said this looks like a worst case scenario. There will be a large cost to the Town because of Callery Judge, and we should see if they will provide funding for the roads. We don't want to use our emergency reserves to fund development of these roads to assist Callery Judge.

Marge Herzog said she is concerned about the Okeechobee Boulevard requirements. A lot of properties will have to have expensive culverts over canals.

Council Action

Motion was made by Councilman Rockett, seconded by Councilman Jarriel, to authorize the Attorney to move forward with the process. The motion carried by voice vote, 5/0.

B. Consideration of accepting four parcels from Palm Beach County (Councilman Liang) (Continued from Council Meeting 10/19/10)

- 1) 22nd Road N. (previously accepted)
- 2) 147th Ave. N.
- 3) 24th Ct. N.
- 4) 131st St. (2)
- 5) Raymond Dr. (2)

Mr. Spence said Councilman Liang requested that this item be placed back on the agenda. The Council previously accepted two parcels on Raymond Drive. Shortly after we received title to the property, we received a Delinquent Tax Bill from the County's Tax Collector saying that we owed a total of \$685.89 for unpaid assessments for the past three years. It turns out that the County does not pay taxes or levies on County property, which this parcel and four others that we have under consideration, fall under. It seems that these unpaid levies were from the Loxahatchee Groves Water Control District. The County says that the District should not be placing a levy on County property, but do admit that Districts levy on anything with a PCN number.

Mr. Spence said he wrote to the County protesting this bill and the fact that we were never advised that there were levies on these parcels. The responsible department head admitted that he did not go back

and check for any assessments before they conveyed the title. The solution is for the Water Control District to waive or cancel their assessment on these parcels.

Motion was made by Councilman Liang, seconded by Vice-Mayor Lipp, to request that the Water Control District forgive the debt. The motion carried by voice vote, 5/0.

Councilman Jarriel said rather than accept the other properties from the County; the County should give them to the residents. Mr. Spence said that the County told him it was the Town's decision whether or not to give the property to the residents. Councilman Jarriel asked whether or not there would be a cost to the Town when giving the property to residents. Attorney Cirullo said there would be costs associated with the process of transferring the property, which usually involves transfer by ordinance or resolution as long as there is no public use for the property. Also, the property owners must accept the property conveyed to them. Councilman Ryan Liang offered to volunteer his time and equipment to clean the swale along 22nd Road to fix the drainage problem. He also suggested using some of the Town's pine tree seedlings on some of the properties or possibly using one of the properties to create a community garden.

Vice-Mayor Lipp made a motion to accept the additional properties pending the outcome of our request to the Water Control District to forgive the debt on the original parcel. Councilman Liang seconded the motion. Mayor Browning called for a vote on the motion, which carried 5/0.

C. 40th Street North Road/Canal Easement and Culvert Update

This item was moved to the earlier part of the meeting.

9. NEW BUSINESS

A. Community of Hope Site Plan Amendment

Chris Barry, Planner with Jon E. Schmidt and Associates, said this is a request to update the plans previously approved by Council. The amendments to their plan are:

- (1) To replace the previously-approved structure with a cross which has an elevated rock fountain surrounded by landscaping and pavers.
- (2) To revise the previously-approved trellis structure which will be surrounded by landscaping and pavers.
- (3) To revise the architectural style of the previously-approved sign.

Mr. Barry illustrated the requests with a power-point presentation showing the proposed changes.

After discussion, a motion was made by Vice-Mayor Lipp, seconded by Councilman Liang, to approve the three changes as outlined. The motion carried by voice vote, 5/0.

B. Proposed procedures for Finance Advisory and Audit Committee (FAAC) Meetings

Councilman Jarriel said it has gotten to the point that we are getting input from people not on the Committee, and we need to get the Committee back in control. He recommended that the Council direct the FAAC to follow the following procedures:

- (1) Adopt the format followed the Intergovernmental Coordinating Committee (IGC) where discussion of agenda items is only between the members and staff, with Public Comment at the end of the meeting; OR the Town Council's format or the Water Control District's format where only after the Supervisors and Staff have discussed the agenda item thoroughly is the public allowed to speak on that subject with a time limit of three minutes.
- (2) As with both of these boards, discussion of an agenda item will only take place between the FAAC members and the Town Manager and his Finance Director.

- (3) All speakers will be treated with the utmost respect and courtesy, whether one is speaking for or against an item. Personal attacks will not be tolerated.
- (4) Individual FAAC members should be discouraged from requesting the Town Manager or Finance Director to do work not authorized by a vote of the full Committee. Depending on mitigating circumstances or a matter of great concern, members may contact the Committee Chair to see if he can intervene and request the Manager's consideration.

Motion was made by Councilman Jarriel, seconded by Councilman Liang, for Council to direct the FAAC to follow procedures 1 through 4 as outlined.

Council Comments/Action

Councilman Rockett said we should give it back to the Committee to come up with their own procedures.

Councilman Liang said he thought the Council should set up a formal structure for the Committee to follow and if the Committee did not like it, they could come back and request changes.

Councilman Jarriel agreed.

Vice Mayor Lipp said the FAAC Committee should get back to its knitting and focus on the financials. He said they did not need to get off into contracts as this was the Council's job.

After discussion, the motion was amended to direct the FAAC to follow procedures 1 through 4 as outlined, but the Committee could decide which meeting format (IGC or Town Council) they would like to use concerning public comments. (Item 1)

Mayor Browning called for a voice vote on the motion as amended. The motion carried 4/1 with Councilman Rockett voting no.

B1. Proposed procedures for amending FAAC meeting minutes

Mr. Spence said the subject of amending minutes came up at the last FAAC meeting. After consulting with the Town Attorney, he prepared the following procedures:

- (1) Minutes of a meeting do not have to be verbatim. Verbatim statements made at the meeting do not have to be recorded in the minutes.
- (2) At a minimum, the only requirement is the noting of the time, place, and date of the meeting, who was present, if there was a quorum, agenda topics discussed, a general summary, any motions, and the vote on the motion.
- (3) Re: Amending Minutes: One cannot add anything that is not in the original recording. You cannot add any statements or explanations of what you had intended to say or forgot to say. The Attorney calls this "revisioning", and it is not permitted.
- (4) For clear direction, it is recommended that members make a specific motion on what they would like done by the Committee or the Town Manager or the Finance Director, and a vote taken. This then provides a very clear record for the minutes and a clear recommendation to the Council. However, in the spirit of cooperation, the Manager and/or the Finance Director will acknowledge and undertake the requested action in the motion prior to it coming before the Town Council. Confusion or unclear direction results when individual members might make certain requests and it/they are not recorded in the minutes. Brief cautionary word about two or more Council members being present at the same meeting.
- (5) In an abundance of caution and not violating the Government in the Sunshine Law, Council members should not participate in any discussion held by the Committee. This is because the Committee is advisory and their motions and actions will come before the whole Council for affirmation, and you do not want the appearance of influencing their actions.

Council Comments

Councilman Rockett said there are times when three Council members are present at a meeting, and he would like to comment on items.

Attorney Cirullo said to the extent that it is a public meeting, the issue is if an item will come before you on the Council. That is where you start getting into a gray area. It is not appropriate to be talking to each other through the Board. He said it is frowned upon to have Council members speak at advisory board meetings.

No action was taken on this Agenda item.

C. Preliminary Election Time Schedule for March 8, 2011 Election

Mr. Spence reviewed the action items listed on the schedule. No action was needed by the Council on this schedule.

(1) Review of Carmine Priore's request to remove Vice-Mayor Lipp from the Palms West Economic Development Task Force (added earlier in the meeting by Councilman Liang)

Councilman Liang reviewed an article from the Town Crier and asked why Vice-Mayor Lipp abstained from voting on one of the subjects on the Task Force agenda.

Councilman Jarriel said he felt that Vice-Mayor Lipp was between a rock and a hard place because it was a spur-of-the-moment subject that was brought up before the Task Force and he feels Vice-Mayor Lipp did the right thing.

Vice-Mayor Lipp thanked Councilman Liang for bring up this subject, and both statements in the Town Crier article are correct. For one reason, he abstained from voting because he felt the Town Council should have the opportunity to talk about the issue of increased traffic from the proposed development.

Mayor Browning said he also felt Vice-Mayor Lipp did the right thing in abstaining.

Councilman Rockett said the Town should give Vice-Mayor Lipp support and direction.
There was no action taken on this agenda item.

10. ADMINISTRATIVE UPDATE

A. Administrative Update

Mr. Spence said the Palms West Chamber of Commerce parade will be this Sunday, December 12, beginning at 1 pm. Cars are available, and all Council members are invited to ride in the parade. Councilman Liang said this year he would like for the Council members to have candy to distribute.

Mr. Spence asked whether or not the Council wished to hold their regularly scheduled second meeting in December.

Motion was made by Councilman Jarriel, seconded by Councilman Liang, to cancel the December 21st meeting and schedule the next meeting for January 4, 2011. The motion carried by voice vote, 5/0.

Mr. Spence reviewed the items on the list and said that he is considering renting a room in the new Palms West Chamber of Commerce building for use by the Magistrate for Code Enforcement cases. The new Code Enforcement officer will begin issuing violations notices.

11. CLOSING COMMENTS

A. Public Comments

Frank Schiola spoke about the property in front of Boonies Restaurant being "no man's land" because of jurisdictional complications. He said he had contacted both the County and the State regarding Boonie's sign on wheels and did not get any results.

Marge Herzog said the property which Mr. Schiola was referencing was not included in the Town's boundaries because it would have cost too much to put it within our boundaries. She also referred to a letter from Laura Tindall and said the Town would be setting a precedent by giving up some of its municipal powers regarding the LGWCD planned legislative bill.

Ann Parker said she wants the Council to meet only once a month.

John Ryan responded to Mrs. Herzog's comments on municipal powers.

Council/Staff Discussion

Councilman Rockett asked for clarification. Attorney Cirullo said the issue is road maintenance. The legislative bill is intended to allow the Water Control District the same rights as the Town. It does not affect the Town's home rule authority. It would expand some of the rights of the District.

Clete Saunier, Water Control District Supervisor, said the bill doesn't take rights away from the Town; it enables the District to start construction on right-of-way projects.

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

Attorney Cirullo and all Council members wished everyone a very Merry Christmas.

D. Adjournment

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



DAVID BROWNING, Mayor

_____ January 4, 2011 _____
Date Council Approved

Attest: 

Ann Harper, Town Clerk