



# Town of Loxahatchee Groves

## Regular Town Council Meeting

Tuesday, July 17, 2012 at 7:00 p.m.

Loxahatchee Groves Water Control District, 101 West "D" Road

### MINUTES

#### 1. Opening

##### a. Call to Order& Roll Call

Mayor Browning called the meeting to order at 7:03 p.m. Present were Mayor David Browning, Vice Mayor Jim Rockett, and Council Members Tom Goltzené, Ronald D. Jarriel and Ryan Liang. Also present were Town Manager Mark Kutney, Town Planning Consultant Jim Fleischmann, Town Clerk Susan Eichhorn, and Town Attorney Michael D. Cirullo, Jr.

##### b. Pledge of Allegiance& Invocation -Mayor Browning

##### c. Approval of Agenda

Vice Mayor Rockett requested that discussion of Item 9.e. take place when budget items were discussed, under Item 7.a. *Item 9.e. – Town Council Consideration of the Provision of a Subsidy for Pyament of Four (4) New OGEM Road Segments*].

**Motion: Vice Mayor Rockett moved to approve the Agenda. Councilman Liang seconded the motion, which passed unanimously. Motion passed 5/0.**

#### 2. Consent Agenda

##### a. Invoices from Goren, Cherof, Doody & Ezrol, P.A.

**Motion: Councilman Liang moved to approve the Consent Agenda. Vice Mayor Rockett seconded the motion, which passed unanimously. Motion passed 5/0.**

#### 3. Presentations - *None*

#### 4. Committee Reports– *None*

**5. Ordinances -1<sup>st</sup> Reading–Public Hearing**

Ordinance No. 2012-08

AN ORDINANCE OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, AMENDING THE TOWN OF LOXAHATCHEE GROVES UNIFIED LAND DEVELOPMENT CODE (ULDC), TO CREATE A NEW ARTICLE 41, ENTITLED “PLANNED UNIT DEVELOPMENT (PUD)”; PROVIDING FOR PURPOSES AND INTENT, LAND USE AND DEVELOPMENT INTENSITY REGULATIONS, OBJECTIVES AND STANDARDS INCLUSIVE OF DESIGN REQUIREMENTS AND PERFORMANCE STANDARDS, APPLICATION REQUIREMENTS, AND AMENDMENTS TO APPROVED PUDS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND, PROVIDING FOR AN EFFECTIVE DATE.

Town Attorney Cirullo read Ordinance No. 2012-08 by title.

Town Planning Consultant, Jim Fleischmann reviewed staff findings, background information, and the purpose of the PUD. He stated that the ordinance had been reviewed by the Planning & Zoning Board for the past four months, and at the July 12, 2012 Planning & Zoning Board meeting, they had recommended approval by a 5/0 vote. He complimented the Planning & Zoning Board members on their diligence and attention to detail. He stated that it was the recommendation of staff to approve Ordinance No. 2012-08.

Councilman Goltzené suggested that the PUD would weaken the Code and encourage development. He requested the removal of all references to Tangerine Dr.

In response to Vice Mayor Rockett, regarding the PUD Performance Standard No. 12, which required coordination with the Roadway Equestrian Trails and Greenway Advisory Committee to determine the need and local of greenways within the PUD. Mr. Fleischmann explained tht the concept was that applicants for PUD approval would take the plan to that committee. The applicant would then need to bring committee recommendations to the Planning and Zoning Board, and to the Town Council. The Town Council would still have the ability to assign conditions.

In further discussion, Vice Mayor Rockett requested more specific language. And Mr. Fleischmann responded that he could draft more specific language to make the input of the committee more formal, as well as their response.

Town Planning Consultant Fleischmann noted that if Tangerine was eliminated, all of the other potential advantages to the Town would remain in place. He also noted that there had been many commercial inquiries made to the Town that were not retail related, but were more related to farming or agricultural businesses, and those would still fall under commercial land use zoning categories.

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Discussion continued regarding east/west access within the Town, and the character of the Town

Public Comments :

Bridget Subramanya, 2926 "C" Road, commented regarding the proposed PUD, nothing that environmental impacts needed to be addressed.

Nina Corning, 2834 "E" Road, commented regarding FDOT approved driveways, and her concern with a potential cluster of commercial properties that would be eligible for a PUD, the limitations as to the depth of the property, and the commercial development in the Town.

Thais Gonzalez, 13090 Raymond Dr., commented regarding how many residents the PUD would affect, and that she did not believe that it would be for the overall good of the Town.

Lawrence Corning, 2834 "E" Road, commented that the PUD was a very bad idea, and urged that it be voted against in order to keep more control and protect development in the Town.

In response to Councilman Goltzené, Mr. Fleischmann explained that the basic impetus for the PUD was cost recovery basis, and the fact that the town had approved multiple land use designations, and did not have a vehicle to implement them. The PUD required one of three land use categories; in those categories there could not be residential use. If an applicant did not have one of the three land use categories, an application for a PUD could not be made. He suggested that the language could be made more specific. He noted that the PUD would give the Town a tremendous opportunity to look at various planning issues, such as intensity, open space, access points, etc., much earlier in the process than is now required.

Discussion continued regarding the use of the PUD.

**Motion: Vice Mayor Rockett moved to approve Ordinance 2012-08 with the changes that were discussed, frontage, depth, perimeter buffers, and deleting all references to Tangerine Drive, and any other changes that were discussed.**

**Councilman Goltzene seconded the motion, with the request that the motion include that the Town Council was directing that the changes be made, and that Ordinance 2012-08 then return to the Town Council.**

**Vice Mayor Rockett so amended the motion. After hearing Public Comment the motion passed 5/0.**

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Town Attorney Cirullo noted that Ordinance 2012-08 would then come back before the Town Council for a first reading at a later meeting date.

**6. Resolutions -**

a. Resolution 2012-07

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, RELATING TO THE PROVISION OF RESIDENTIAL SOLID WASTE COLLECTION SERVICES AND FACILITIES AND PROGRAMS ("SOLID WASTE COLLECTION SERVICES") IN THE TOWN OF LOXAHATCHEE GROVES, FLORIDA; PROVIDING FOR PURPOSE AND DEFINITIONS; PROVIDING FOR LEGISLATIVE DETERMINATIONS; ESTABLISHING THE ESTIMATED RATE FOR THE SOLID WASTE COLLECTION SERVICES ASSESSMENT FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2012; DIRECTING THE PREPARATION OF AN ASSESSMENT ROLL; AUTHORIZING A PUBLIC HEARING AND DIRECTING THE PROVISION OF NOTICE THEREOF; PROVIDING FOR CONFLICT, SEVERABILITY, AND AN EFFECTIVE DATE.

Town Attorney Cirullo read Resolution No. 2012-07 by title.

Town Manager Kutney stated that the solid waste assessment figures were needed by the property appraiser by July 27, 2012. After brief discussion, it was determined that the budget discussion under *Item 7. Administrative Update*, would take place before setting the rate.

*The relevant portion of the discussion under Item 7. Administrative Update is included below:*

**Motion: Councilman Goltzene made a motion to leave the garbage rates the same as this year with the understanding that it would be discussed in the budget meeting, and perhaps made lower.**

Town Attorney Cirullo clarified that the rate could always be lowered, but could not be raised. If it was set for the 100% rate now, it could always be lowered when the hearing was held on September 13, 2012.

**Vice Mayor Rockett seconded the motion. The motion passed 5/0.**

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Town Attorney Cirullo requested a time for the September 13, 2012 Special Town Council meeting for the garbage assessment. He noted that a 20-day notice period was needed, since the Town used the trim notice to notice assessments.

**Motion: Vice Mayor Rockett moved to set a Special Town Council Meeting that will last approximately 10 minutes, on Sept. 13, 2012, at 6:00 p.m. for setting the solid waste/garbage rate. The motion was seconded by Councilman Goltzené. The motion passed 5/0.**

## **7. Administrative Update – Town Manager Kutney**

### **a. Presentation of FY 2012-2013 Draft Preliminary Budget/CIP (2012-2018)**

Town Manager Kutney referred to his memorandum included in the back-up material, and dated July 12, 2012 to the Mayor and Town Council, regarding the recommended FY2012-2013 Draft Annual Town Budget and Capital Improvement Plan. The recommended budget for all funds was \$3,397,975. Revenue generated by Ad Valorem taxes was achieved by a millage rate of 1.2000 mills. He reviewed the budget highlights:

- Transfer of \$220,500 from the General Fund to Solid Waste Fund
- Transfer of \$200,000 from the General Fund to Capital Projects
- Appropriation of \$500,000 for the “kick-off” for Town Hall Development Alternatives
- Appropriation of \$362,466 for the Application of OGEM for Collecting Canal Road
- Capital Improvement Program planned improvements of \$2,200,000 through FY2018-2019

Town Manager Kutney explained that the proposal relative to the Solid Waste Fund was for this year only; a onetime proposal.

Town Manager Kutney explained the issue with the gas tax and transportation related to the LGWCD. The proposal was to give LGWCD approximately \$300,000 for principal and interest relative to the OGEM project. One of the reasons for that proposal was a way to resolve the gas tax concerns, and also allow us to start to meet some of those capital improvement concerns with the Comprehensive Plan. The OGEM project would also increase capacity. It was hoped that by giving money to the District, it would ease the accounting burden on the District. It was the recommendation to substitute the \$360,000 figure for the \$150,000. The funding amount was something the Town Council would need to consider tonight.

Discussion ensued regarding the roadways, with comments from all Town Council members. Vice Mayor Rockett discussed his proposal for Town assistance to normalize cost per acre of

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OGEM roads. He also stated that the Town had committed \$150,000 to LGWCD, and the Town needed to put that in the budget. The LGWCD needed it for their expenses, not for the OGEM improvement loan. Further discussion continued.

**Motion: Vice Mayor Rockett moved to hold the millage at 1.200. The motion was seconded by Councilman Goltzené**

Public Comment:

Don Widing, Board of Supervisors LGWCD, 13169 Marcella Blvd., commented that gas tax revenue issues had been discussed all through the incorporation process. He stated that for over 30 years he had paid his assessment to LGWCD, and had paid taxes to Palm Beach County, and got nothing for it, but the District got the money and the County got the money. He stated that gas tax money should not be used to fund reserves for the Town. Gas tax money to the District was not a subsidy. He urged that the Town and the District work together, and noted that the goal at the District was to try to reduce assessments.

Nina Corning, 2834 "E" Road, commented that there seemed to be strong advice not to use gas tax money for the LGWCD road maintenance, and had some questions related to a grant application to the State.

Town Attorney Cirullo stated that the issues he had reviewed were very specific to the grant, and what she was referring to was a very different issue than what was being discussed tonight.

Clete Saunier, Administrator LGWCD, commented that the accounting procedures required by Town management were no burden; it was just a matter of understanding what was required, as compared with the two other past management companies, and that transitions take some growing pains. He stated that it was a noble idea as to what was proposed by Town management tonight regarding the debt assessment payment, but in terms of schedule and logistics involved, his board had made no policy decisions regarding dedicating roads to the Town, but they had agreed that would be a subject of discussion at the workshop meeting in September with the IGC. There were too many issues to work details out in a timely manner at this time. He urged that the \$150,000 or the \$360,000 be approved or not by the Town Council tonight, because the LGWCD had to have a special meeting on June 24, 2012 to review the budget.

Frank Schiola, 13434 Marcella Blvd., commented that as a neighbor to Don Whiting, he thought Mr. Whiting had hit the nail on the head with his comments. He also explained that the LGWCD had been bound under the law to hold the referendum, no matter the cost.

**The motion made by Vice Mayor Rockett to hold the millage at 1.200 passed 5/0.**

**Motion: Vice Mayor Rockett moved to approve \$150,000, out of gas tax money, to be put into the Town budget as a transfer from the Town to LGWCD district. The motion**

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was seconded by Ryan Liang. Goltzené added that this would take place under the currently existing interlocal agreement and the same requirements for accounting for the \$150,000 that currently exist.. The motion passed 5/0.

*A 5-minute break was taken at this time, 9:50 p.m.*

Mayor Browning resumed the meeting, and requested setting a workshop/special meeting of the Town Council to review the budget.

**Motion: Councilman Liang moved to set a Special Town Council Meeting to review the budget, for Tuesday, July 31, 2012 at 7:00 p.m. The motion was seconded by Councilman Goltzené. The motion passed 5/0.**

In response to Town Manager Kutney, it was the consensus of the Town Council not to include discussion of the moratorium at the July 31<sup>st</sup> meeting.

**8. Old Business- None**

**9. New Business**

*[Item f. was heard at this time – please see transcript under Item f.]*

- a. Banking Services RFP – Selection of Proposer

Town Manager provided a report on the banking services proposals.

**Motion: Councilman Goltzené moved to approve the selection of Wells Fargo. The motion was seconded by Councilman Liang. The motion passed 5/0.**

- b. Town Council Special Meeting Related to Moratorium on Amendments to the Loxahatchee Groves Comprehensive Plan.

After discussion, it was determined by Town Council consensus that the meeting would be held on August 7, 2012, at which time staff would make recommendations for amendments to the Loxahatchee Groves Comprehensive Plan.

Councilman Goltzené recommended that staff keep in mind the objective of no commercial development on Okeechobee, no more commercial development on Southern Blvd., and not encouraging a move towards development.

Town Manager Kutney stated that the information could be brought back to the Town Council at the August 21, 2012 meeting, if the Town Council desired the input of the Planning and Zoning

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Board first; otherwise, it would be brought back at the August 7, 2012, Town Council meeting.  
*[Consensus to be brought back August 7, 2012]*

- c. Work Authorization to Complete Amendments Pertaining to the Capital Improvements, Transportation and related Elements of the Comprehensive Plan

After discussion, this item was deferred, by Town Council consensus, to the upcoming budget meeting, to be scheduled.

- d. Discussion related to the Town Setting Speed Hump Standards for All Roads In Loxahatchee Groves – Vice Mayor Jim Rockett

Vice Mayor Rockett suggested that all members of the Town Council use every type of vehicle and drive over the segments of road on 44<sup>th</sup> Ave. and Persimmon where there were wider speed humps. He noted that because of its size, the speed humps compensated for different type vehicles. He explained that he would like to consider taking action to review these sites, and then adopt the same type of speed hump standards, with a standard size and width of speed humps. He requested that this be considered as an item for consideration at the next Town Council meeting

- e. Town Council Consideration of the Provision of a Subsidy for Payment of four (4) New OGEM Road Segments – Vice Mayor Jim Rockett

Vice Mayor Rockett referred to document he had prepared with information and costs related to Town assistance to normalize cost per acre of OGEM Roads. The amount of the subsidy would be approximately \$28,000-\$30,000. He noted that the LGWCD would need to have enough information and time to recalculate their assessments; therefore, it would be necessary to make a decision tonight. He suggested that the funding could be pledged from the general fund, with the understanding that next year it could probably be taken out of gas tax money. He clarified that his proposal was to normalize, not to pay for the roads, and to make it so that wherever one lived in the area, the rate would be the same – no more than \$100 out of pocket. He noted that the subsidy rate he had suggested was \$104 as the tax charge, and if paid in November, there would be a 4% discount, equaling a payment of \$100.

**Motion: Vice Mayor Rockett made a motion to pay to the LGWCD a subsidy out of the general funds an amount up to \$30,000, for one year, based on the worksheet rate that**

**was presented tonight of \$104.17 per acre, with the Town subsidizing anything over that amount.**

After discussion related to the agreement for North Road, and the amount that was agreed upon to pay for that project, Mayor Browning called for a second to the motion of Vice Mayor Rockett.

**Councilman Liang seconded the motion. The motion passed 3/2, with Vice Mayor Rockett, Councilman Liang and Mayor Browning casting affirmative votes; Councilmen Jarriel and Goltzené casting dissenting votes.**

Public Comment:

Nina Corning, 2834 “E” Road, commented regarding the road paving issues.

John Ryan, 3508 “A” Road, and Board of Supervisors LGWCD, commented regarding the paving of the roadways and the payment methodology.

Councilman Jarriel suggested that further discussion of road paving and payment methods take place at the next Town Council meeting.

- f. Determination of a Non-Conforming Plot of Record per Section 75-015, and Subject to the Development Standards in Section 75-030 of the ULDC *[Item f. was heard out of order, as the first item under New Business.]*

Town Planning Consultant Jim Fleischmann reported that a request had been made by Comerica bank to make a determination that the subject property was a legal lot of record prior to consummating a sale. The buyer wanted to know that the property was a legal lot of record. Based on the Town Code, the Town Council cannot make the determination that it was a legal lot of record, because a chain of title needed to be run back to 1972 in order to establish that. The Town Council could declare the parcel as a legal non conforming lot. There were two deeds filed on the property – one after the date of the ULDC code, and one filed in 2000 prior to the incorporation of the town. Legal description on both documents was the same, and on that basis staff had concluded that the Town Council could approve the lot as a legal nonconforming lot. It was assumed that will satisfy the applicant and the bank requirements.

Staff recommended that the Town Council declare the lot a legal nonconforming lot, per Section 75-015 of the Unified Land Development Code (ULDC) and subject to the development standards in Section 75-030 of the ULDC. Mr. Fleischmann noted that there were many properties in the same situation, and that would eventually need to be addressed in the ULDC.

**Motion:** Vice Mayor Rockett made a motion to grant the legal nonconforming status to the property at 2762 “F” Road, Loxahatchee, Florida. The motion was seconded by Councilman Liang. The motion passed 5/0.

Public Comment:

Todd McLendon, 3481 “D” Road, commented that there were many legal nonconforming lots, and that the ULDC was a complete disaster.

**10. Closing Comments**

a. Public

Virginia Standish, 15410 North Road, commented regarding commercial development in the Town, grant funds that may be available, putting the focus back on residents, and suggested that Town management check to be sure that roads are entitled to collect gas tax money.

Nina Corning, 2834 “E” Road, commented that it would be appreciated if the agenda and back-up could be prepared and put online earlier.

b. Town Attorney

1. Code Enforcement Issues

Town Attorney Cirullo reported that staff had received a request from Palm Beach County Commissioner Santamaria to meet with the Town staff regarding one of the code enforcement issues. There had been a good dialogue between staff, Commissioner Santamaria and Palm Beach County staff, on the way the county looks at agricultural classifications and their ULDC. The information received at the meeting was being reviewed, and staff would report back to the Town Council.

Public Comment:

Todd McLendon, 3481 “D” Road, commented regarding the ULDC and those issues that were affecting residents. He urged the Town Council to work on making changes to the ULDC.

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Nina Corning, 2834 "E" Road, commented that a tremendous amount of time was spent bending over backwards for developers, while there were huge problems that just get pushed aside. Those things needed to be addressed.

Discussion took place regarding issues related to the ULDC, such as setback issues on agricultural properties, and the requirements of Florida Statutes for agricultural properties

Town Attorney Cirullo stated that he is reviewing the ULDC and the related issues.

2. Assignment of Conservation Easements and Restrictive Covenants from Palm Beach County to the Town.

Town Attorney Cirullo reported that there was no action needed regarding this item. He explained that Palm Beach County still held a number of conservation easements and declarations of restrictive covenants over real property that is now within the jurisdiction of the Town. County staff recommended adopting a standard form assignment of conservation easement and standard for assignment of declaration of restrictive covenant to assign such conservation easements and declarations of restrictive covenants to the Town of Loxahatchee Groves. He noted that the request would be taken to Palm Beach County next month. All of the properties were private properties.

c. Town Council Members

**Councilman Rockett** thanked everyone for coming and thanked Town staff.

**Vice Mayor Liang** thanked everyone for coming, and commented that some people's ideas of growth may be different from his idea. It was about providing more services and improving infrastructure. When he said growth, it did not necessarily mean more commercial.

**Councilman Jarriel** thanked everyone for coming.

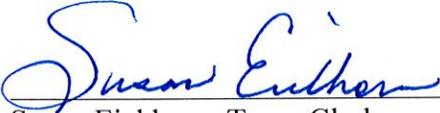
**Councilman Goltzené** thanked Town Attorney Cirullo for the information on the easements and restrictive covenants, noting that there were several preserves that had not been maintaining properly, and there were a lot of these issues that needed to be resolved.

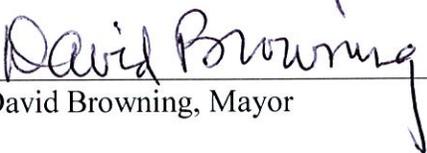
**Mayor Browning** commented that in creating the ULDC, it had been compared with Palm Beach County documents, and there had been an effort to try to help out the agricultural people. He noted that there was a balance to be maintained in the agricultural/residential community, that he wanted to be fair and that all should consider their neighbors. He thanked everyone for coming.

**11. Adjournment**

There being no further business, the meeting was adjourned at 11:10 p.m.

**These minutes were approved by the  
Town Council on Tuesday, August 21, 2012.**

  
Susan Eichhorn, Town Clerk

  
David Browning, Mayor

SEAL

