



Town of Loxahatchee Groves  
Town Council Meeting  
Tuesday, December 4, 2012 at 7:00 p.m.  
Loxahatchee Groves Water Control District, 101 West "D" Road

Mayor David Browning (Seat 4)  
Vice Mayor Jim Rockett (Seat 2)  
Councilman Tom Goltzené (Seat 5)  
Councilman Ronald D. Jarriel (Seat 1)  
Councilman Ryan Liang (Seat 3)

Town Manager Mark Kutney  
Town Clerk Susan A. Eichhorn  
Town Attorney Michael D. Cirullo, Jr.

**MINUTES**

**1. OPENING**

a. Call to Order & Roll Call

Mayor Browning called the meeting to order at 7:00 p.m. Upon roll call, those present were Mayor David Browning, Vice Mayor Jim Rockett, and Council Members Tom Goltzené, Ronald Jarriel and Ryan Liang. Also present were: Town Manager Mark Kutney, Town Planning Consultant Jim Fleischmann, Town Attorney Michael D. Cirullo, Jr., and Town Clerk Susan Eichhorn.

b. Pledge of Allegiance & Invocation – Mayor Browning

c. Approval of Agenda

**Motion:** Councilman Jarriel made a motion to approve the Agenda, as amended. The motion was seconded by Councilman Goltzené. The motion passed 5/0.

## 2. CONSENT AGENDA

- a. Invoice from Goren, Cherof, Doody & Ezrol, P.A.

**Motion:** Vice Mayor Rockett made a motion to approve the Consent Agenda. The motion was seconded by Councilman Liang. The motion passed 5/0/.

## 3. PRESENTATIONS

## 4. COMMITTEE REPORTS

- a. Finance Advisory & Audit Committee (FAAC) Report and Approval of the October 2012 Financial report – *Vice Chair Elise Ryan*

Elise Ryan provided the FAAC Report.

**Motion:** Vice Mayor Rockett made a motion to approve the FAAC Report. The motion was seconded by Councilman Liang. The motion passed 5/0.

## 5. PUBLIC HEARINGS (Ordinances 2<sup>nd</sup> Reading)–

- a. Ordinance No. 2012-10

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, AMENDING ORDINANCE NO. 2012-06 TO EXTEND THE MORATORIUM IMPOSED THEREIN UNTIL MARCH 30, 2013; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

Town Attorney read Ordinance No. 2012-10 by title, as printed above.

Mayor Browning opened the Public Hearing.

There was no one desiring to speak.

Mayor Browning closed the Public Hearing.

**Motion:** Vice Mayor made a motion to adopt Ordinance No. 2012-10. The motion was seconded by Councilman Liang. The motion passed 5/0.

b. Ordinance No. 2012-11 – Quasi-Judicial Public Hearing

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, PROVIDING FOR THE REZONING OF LAND CONSISTING OF APPROXIMATELY 1.0028 ACRES MORE OR LESS OF PROPERTY LOCATED ON SOUTHERN BOULEVARD, APPROXIMATELY 350 FEET WEST OF “D” ROAD, AND 5.90 ACRES, MORE OR LESS, LOCATED AT 14579 SOUTHERN BOULEVARD, LOXAHATCHEE GROVES, FLORIDA, LEGALLY DESCRIBED AND AS DESIGNATED ON THE MAP ATTACHED AS EXHIBIT “A” TO THIS ORDINANCE, FROM PALM BEACH COUNTY ZONING DESIGNATION GENERAL COMMERCIAL (GC) TO THE TOWN’S ZONING DESIGNATION COMMERCIAL LOW (CL); PROVIDING FOR THE APPROPRIATE REVISIONS OF THE ZONING DISTRICT MAP; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

Town Attorney Cirullo advised that this matter was quasi-judicial, and would require four affirmative votes to be adopted. He read Ordinance No. 2012-11 by title, as printed above. He then administered the oath to all those who would be speaking to this item.

Since the Town was the applicant, staff then provided the staff report, through Town Planning Consultant Jim Fleischmann. After providing the report, Mr. Fleischmann stated that staff recommended approval.

Mayor Browning requested public comment. There was none

**Motion:** Vice Mayor Rockett made a motion to adopt Ordinance No. 2012-11. The motion was seconded by Councilman Jarriel. On roll call vote, the motion passed 5/0.

6. ORDINANCES (1<sup>st</sup> Reading)

a. Public Hearing:

Ordinance No. 2012-12

AN ORDINANCE OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, AMENDING THE TOWN OF LOXAHATCHEE GROVES UNIFIED LAND DEVELOPMENT CODE (ULDC), TO AMEND ARTICLE 10 ENTITLED "DEFINITIONS, ABBREVIATIONS, AND CONSTRUCTION OF TERMS," SECTION 10-015, ENTITLED "DEFINITIONS" TO ADD A NEW DEFINITION FOR "RESIDENTIAL AGRICULTURAL SALES AND SERVICES;" TO AMEND ARTICLE 20, ENTITLED "RESIDENTIAL ZONING DISTRICTS," SECTION 20-015, ENTITLED "PERMITTED USES," TO ADD RESIDENTIAL AGRICULTURAL SALES AND SERVICES AS AN ACCESSORY USE SUBJECT TO ARTICLE 80 (CONDITIONAL USE) IN THE AGRICULTURAL RESIDENTIAL (AR) ZONING DISTRICT; TO AMEND ARTICLE 80, ENTITLED "CONDITIONAL USES," TO ADD A NEW SECTION 80-60, ENTITLED "RESIDENTIAL AGRICULTURAL SALES AND SERVICES," TO PROVIDE CONDITIONS ON RESIDENTIAL AGRICULTURAL SALES AND SERVICES USES IN THE AGRICULTURAL RESIDENTIAL (AR) ZONING DISTRICT; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND, PROVIDING FOR AN EFFECTIVE DATE.

Town Manager Kutney provided background information regarding the ordinance. Town Planning Consultant Jim Fleischmann provided the staff report.

Councilman Goltzené requested that the ordinance be delayed until next month, so that he would have additional time to review portions of it.

**Motion:** Councilman Goltzene made a motion to continue this item to the January 15, 2013 Town Council meeting. The motion was seconded by Councilman Liang.

Discussion took place, and Vice Mayor Rockett suggested moving forward with the ordinance tonight, as any changes could be made on second reading.

Town Attorney Cirullo advised that any changes made at second reading could not affect the core subject of the ordinance.

**The motion to continue this item, Ordinance No. 2012-12, to the January 15, 2013 Town Council meeting passed 4/1 with Vice Mayor Rockett opposed.**

b. Ordinance No. 2012-13

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, RELATING TO ELECTIONS; PROVIDING FOR VACANCY IN CANDIDACY PROCEDURES; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

Town Attorney Cirullo read Ordinance No. 2012-13 by title, as printed above. He explained that he requested that this ordinance deals with a situation where someone would qualify to run for a Town Council seat and then dropped off the campaign. This ordinance provides a mechanism for the Town to deal with this type of issue. If the Town was left with zero candidates and the inability to re-open qualifying, there was the ability to appoint someone to sit in that seat until the next year's election.

**Motion: Councilman Liang made a motion to approve Ordinance No. 2012-13, on first reading. The motion was seconded by Councilman Jarriel. The motion passed 5/0.**

## 7. RESOLUTIONS

a. Resolution No. 2012-21

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 SEATS 2 AND 4 PRIOR TO THE MUNICIPAL GENERAL ELECTION TO BE HELD ON TUESDAY, MARCH 12, 2013, PURSUANT TO THE TOWN CHARTER AND CHAPTERS 97 – 106, FLORIDA STATUTES; THE ELECTION FILING PERIOD OPENS PROMPTLY AT 12:00 NOON ON JANUARY 29, 2013 AND CLOSES PROMPTLY AT 12:00 NOON ON FEBRUARY 5, 2013; SETTING FILING FEES; AUTHORIZING THE TOWN CLERK TO APPOINT ELECTION BOARDS FOR ELECTION PRECINCT 6094; AUTHORIZING THE SUPERVISOR OF ELECTIONS TO CONDUCT THE TOWN ELECTION AND APPROVING THE AGREEMENT BETWEEN THE TOWN AND THE PALM BEACH COUNTY SUPERVISOR OF ELECTIONS FOR ELECTION SERVICES; AUTHORIZING THE TOWN CLERK OR DESIGNEE TO HANDLE CERTAIN ELECTION MATTERS; OPTING OUT OF EARLY VOTING; PROVIDING FOR CONFLICT, SEVERABILITY, AND AN EFFECTIVE DATE.

Town Attorney Cirullo explained that this annual Resolution sets forth the parameters of the municipal election, and confirms the agreement with the Supervisor of Elections of Palm Beach County. He noted that there would be some changes this year in regard to the Canvassing Board. He read Resolution No. 2012-21 by title, as printed above.

**Motion:** Council Member Liang made a motion to approve Resolution 2012-21. The motion was seconded by Council Member Goltzené. The motion passed 5/0.

b. Resolution No. 2012-22

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, EXPRESSING SUPPORT FOR PALM BEACH STATE COLLEGE'S NEW LOXAHATCHEE GROVES CAMPUS WITHIN THE TOWN, AND STRONG OPPOSITION TO THE INITIATIVE EFFORT TO REPEAL THE TOWN ORDINANCES 2012-04 AND 2012-05 WHICH COLLECTIVELY AMENDED THE TOWN'S COMPREHENSIVE PLAN PURSUANT TO THE EXCLUSIVE

**PROCEEDINGS IN CHAPTER 163, FLORIDA STATUTES, APPROVED THE CHANGE IN LAND USE FOR THE SUBJECT PROPERTY TO ACCOMMODATE THE NEW CAMPUS AND CREATED SPECIAL POLICIES TO REGULATE THE DEVELOPMENT OF THE CAMPUS; URGING THE PETITION COMMITTEE TO DISBAND AND RESCIND THE EFFORT; ADVISING THE RESIDENTS AND COMMUNITY OF THE ADVERSE IMPACTS ON THE TOWN AND ITS RESIDENTS AND PROPERTY OWNERS SHOULD THE REFERENDUM PROCEED; REQUESTING THAT A COPY OF THIS RESOLUTION BE POSTED ON THE TOWN'S WEBSITE, AND THAT COPIES BE DELIVERED TO PALM BEACH STATE COLLEGE AND MEDIA OUTLETS; PROVIDING FOR CONFLICT, SEVERABILITY, AND AN EFFECTIVE DATE**

Town Attorney Cirullo stated that he had prepared this Resolution at the request of the Town Council. He read the Resolution No. 2012-22 by title, as printed above.

**Motion: Councilman Goltzené moved that the size of this Resolution be reduced, to indicate that the Town Council affirms its vote in favor of the college and leave it at that.**

**Mayor Browning asked if there was second? There was not, and the motion failed for lack of a second.**

**Motion: Vice Mayor Rockett moved approval of Resolution No. 2101-22. The motion was seconded by Councilman Jarriel.**

Public Comment

Todd McLendon, 3481 "D" Rd.: Commented regarding the Palm Beach State College issue, the decision of the Town Council, the rights of the residents to be heard.

Ken Johnson, Collecting Canal Rd: Commented that he thanks people for their support while he was absent; supported the college, urged the Town Council to analyze and deal with traffic control.

Lung Chiu, 3270 "B" Road: Commented in support of the college.

John Ryan, 3508 "A" Road: Commented in regard to the petition to repeal the ordinances approving the location of the college; commented regarding the legality of the petition, the

public meetings that had been hold prior to approval of the ordinances, and the costs that may be incurred with a referendum.

Phil Liu, 4245 148 Terrace North: Commented that it was important for people to remember that just because people do not agree with the Town Council does not mean that it is incorrect; they were elected to represent the citizens.

Thias Gonzalez, 13090 Raymond Drive: Commented that she wished to clarify some things: said that we tried to tell you what we felt before; she maintained that when the college was approved, there were more comment cards against than in favor; she referred to F.S. 163.3167(8).

Howard Voren, 1538 "E" Road: Commented in support of the college, and noted that the location was not in the Groves, but on the edge of the Groves, along Southern Blvd.

**The motion to approve Resolution No. 2012-22 passed 4/1, with Councilman Goltzené in opposition.**

#### **8. ADMINISTRATIVE UPDATE – Town Manager Kutney**

- Town Manager Kutney reported that the Loxahatchee Groves Water Control District (LGWCD) was going through transition, and meetings of the Intergovernmental Coordination Committee (IGC) would not be scheduled until January/February 2013. He requested approval and comments regarding that.

After discussion, it was the consensus of the Town Council to agree with that scheduling.

Councilman Jarriel commented that he believed the Town Council needed to have input as to what was being looked for in an LGWCD administrator.

- Town Manager Kutney then referred to the Community of Hope application, and requested consideration of the Town Council. He explained that any approval would be conditional, because of some conditions that had not yet been met, regarding a performance bond, and traffic management. He noted that he had conveyed the point to the Community of Hoppe that in 5-6 months when the Town had permit issues resolved, staff would be dealing with matters such as this from a much stronger standpoint. He advised that any approval would be a conditional approval, based on staff concerns regarding conditions that were not met.

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After discussion, regarding the performance bond, the nature of the event, the concerns related to selective enforcement of the Code, it was the consensus of the Town Council to approve the administrative conditional approval of the holding of the event.

Councilman Jarriel suggested that, after the event was over, he would like residents to let the Town Council and staff know how it went.

Marge Herzog, 966 "A" Road: Commented that when the Loxahatchee Land Owners group worked cleaning the roadsides in the area, they were always asked by their insurance company to provide a save harmless.

Town Attorney Cirullo advised that, unless the Town Council said otherwise, it had now been reported to them that it would be administratively approved without the performance bond and Palm Beach Sheriff's Office documentation.

**It was the consensus of the Town Council to allow the conditional administrative approval for the Community of Hope event.**

- Town Manager Kutney presented the Certificate of Excellence in Financial Reporting received by the Town from the Government Finance Officers Association.

## **9. OLD BUSINESS**

## **10. NEW BUSINESS**

- a. Discussion of Code Enforcement – *Council Member Ron Jarriel*

Councilman Jarriel commented regarding the mulching and chipping businesses in Town, with material coming from other areas, and then being dumped in Loxahatchee Groves. He noted that the materials were being piled up, and some could cause spontaneous combustion. He also suggested that there must be a turnaround time for people dumping things in Loxahatchee Groves. He addressed the problems with the foreclosures in the Town, citing Vila & Sons as one that most troubled him.

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Public Comment:

Virginia Standish, 15410 North Rd.: Commented regarding asphalt dumping and whether the Environmental Protection Agency (EPA) or Occupational Safety and Health Administration (OSHA) had been contacted. As far as Vila & Sons, she suggested that maybe the Town Council should buy the property and flip it and make some money.

Ken Johnson, Collecting Canal Rd.: Commented regarding trash pick-up when there are no residences located on property and the properties are still paying residential rates.

Town Manager Kutney commented that, regarding foreclosures, unless there was a complaint from someone, staff could not do anything as far as Code enforcement was concerned. As far as the ag items that Councilman Jarriel had discussed, an Attorney General Opinion in regard to ag was in progress. If the Town Council wanted to direct staff to review some particular items, staff would be happy to do that. He cautioned the Town Council that in Florida, the code enforcement process was not pretty and it was not quick. The idea was to ensure compliance and compliance did not happen quickly.

Discussion took place regarding code enforcement. Mayor Browning stated that when a problem was brought up at a Town Council meeting, it should be considered a complaint. Discussion also took place regarding proactive monitoring of commercially zoned properties. It was the consensus of the Town Council to proceed with complaint driven code enforcement for most of the Town; if there is a danger issue that is brought to the Town Council, staff would treat that as a written complaint, and for zoned commercial properties the Town Council wanted proactive monitoring.

Councilman Goltzené commented that something was needed in place to provide for the cleaning up of properties on Southern Blvd.

Public Comment:

Howard Voren, 1538 "E" Rd.: Commented that he did not understand giving ag classifications to chipping and mulching operations that haul material in that is grown elsewhere.

John Ryan 3508 A Rd.: Commented regarding the property being discussed with piles of material on it, and suggested that the owner could put up a bond, so that if the property is abandoned, the material could be disposed of. He suggested that it ought to be a legitimate concern of the Town.

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Thias Gonzalez, 13090 Raymond Dr.: Commented regarding code enforcement issues.

Todd McLendon, 3481 "D" Rd.: Commented regarding code enforcement issues.

Councilman Jarriel commented that he would at least like to start with the Vila & Sons property, and the person dumping asphalt on property

Town Manager Kutney advised that he would appreciate a motion as it relates to policy direction for Town Council approval on January 15, 2013.

**Motion: Vice Mayor Rockett made a motion to direct proactive code enforcement on commercially zoned property. The motion was seconded by Council Member Goltzené. The motion passed 4/1, with Council Member Liang in opposition.**

b. Discussion of Town Council Salary – *Council Member Tom Goltzené*

Councilman Goltzené advised that there was a salary survey included in the agenda packet, from selected cities in the State of Florida. He also referred to a newspaper article with salary surveys of various cities in Palm Beach County. He explained that right now there was no compensation for the Town of Loxahatchee Town Council, and that is out of line with most municipalities in Palm Beach County. He stated that he thought the lack of salaries detracted from the pool of people that want to serve, and that he felt that he, and other members of the Town Council do a significant amount of work and should be compensated. He referred to the section of the Town Charter regarding compensation and expenses for Town Council members.

Councilman Jarriel agreed with Councilman Goltzené; Councilman Liang suggested more discussion on the matter; Vice Mayor Rockett commented that he did not want to be considered an employee of the Town and suggested some other form of payment, rather than a salary

Town Manager Kutney stated that staff would like direction. One option would be to have a stipend or car allowance.

Town Attorney Cirullo encouraged giving some general direction as to what the ultimate goal would be, since there was a time factor; discussion could take place at the January 15, 2013, Town Council meeting, and an ordinance could be brought back at the two meetings in

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February. The ordinance would have to specify what that salary was; even a stipend may come with the same issues as a salary.

Town Manager Kutney summarized that staff was being authorized to look into the mechanics of compensation and report back, as well as to identify if there were any additional costs involved.

Public Comment:

John Ryan, 3508 "A" Rd.: Commented in support of Town Council compensation.

Thias Gonzalez, 13090 Raymond Dr.: Commented in support of Town Council compensation.

Lung Chiu, 3270 "B" Rd.: Commented in support of Town Council compensation.

c. Unified Land Development Code (ULDC) Committee appointments

The members of the Town Council provided their appointees for the ULDC Committee:

Council Member Liang: has not yet decided  
Council Member Jarriel: Howard Voren  
Council Member Goltzené: Virginia Standish  
Vice Mayor Rockett: John Ryan  
Mayor Browning: Beck Hyslop

Town Manager Kutney advised that the committee could start with the four members named tonight. Town Attorney Cirullo noted that before the fifth person could participate in the meetings, he or she would need to be formally appointed at a public meeting. The fifth member could attend, but could not participate as a member of the board until formally appointed.

In response to Council Member Goltzené, Town Attorney Cirullo advised that he did not see a conflict with the appointment of John Ryan as a result of his relationship with the LGWCD; the individual would make that call.

- d. Appointment of Byrnes Guillaume as alternate member #2 of Planning and Zoning Board.

Town Manager Kutney advised that the Town Clerk had confirmed with Mr. Guillaume that he was interested in serving as alternate member #2 on the Planning and Zoning Board.

Vice Mayor Rockett expressed concern regarding some comments that had been attributed to Mr. Guillaume during the past municipal election. Council Member Liang stated that he had been disappointed in the comments, however, if Mr. Guillaume was willing to serve the Town, he was willing to give him that opportunity.

**Motion: Council Member Liang made a motion to appoint Byrnes Guillaume as alternate #2 on the Planning and Zoning Board. The motion was seconded by Council Member Goltzené. The motion passed 5/0.**

## **11. CLOSING COMMENTS**

- a. Public

Rob Robinson American Legion Post # 367 commented that they were ready to go forward, and that he would like to meet with any residents that have any concerns, and that he would wait outside after the meeting to discuss it. He noted that he would be addressing the Planning and Zoning Board soon.

Todd McLendon, 3481 "D" Rd.: Commented regarding the initiative/petition regarding Palm Beach State College, stating that he wanted the people to vote on whether the college should be here or not, having an equal say so. He referred to the comment that it was a waste of money, and maintained that it was not.

Virginia Standish, 15410 North Rd.: Commented regarding the discussion related to special event permits; if someone did not apply for a permit then would the Town not require one? Town Manager Kutney clarified that a special event is an outdoor event that would bring in people from all over to come into your site; he offered that staff would be reviewing that with the new ULDC Committee.

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Marge Herzog, 966 "A" Rd.: Announced that Loxahatchee Groves Landowners Association would be having a holiday event on December 20, 2012.

b. Town Attorney

Town Attorney Cirullo thanked everyone for the opportunity to provide services to the Town, and wished everyone a Happy New Year and Merry Christmas.

c. Town Council Members

**Council Member Goltzené:** Thanked everyone for coming, and wished everyone a Merry Christmas, Happy New Year, Happy Chanukah.

**Council Member Jarriel:** Thanked everyone for coming, and wished everyone a Merry Christmas and Happy New Year.

**Council Member Liang:** Thanked everyone for coming; welcomed Ken Johnson back and wished everyone Happy Holidays

**Vice Mayor Rockett:** Thanked everyone for coming, and wished everyone Merry Christmas, Happy New year, and Happy Holidays.

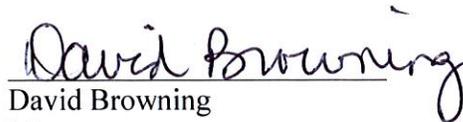
**Mayor Browning:** Thanked everyone for coming, and wished everyone a Merry Christmas.

**12. ADJOURNMENT**

There being no further business, the Town Council Meeting of December 4, 2012, was adjourned at 9:20 pm.



Susan Eichhorn  
Town Clerk



David Browning  
Mayor

(SEAL)

**These minutes were approved by the  
Town Council on Tuesday, March 5, 2013**