



Town of Loxahatchee Groves

Town Council Meeting

Tuesday, March 19, 2013 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. Present were Mayor David Browning, Vice Mayor Rockett, and Council Members Tom Goltzené, Ronald D. Jarriel and Ryan Liang. Also present were Town Manager Mark Kutney, Town Clerk Susan Eichhorn, Town Attorney Michael D. Cirullo, Jr., Town Planning Consultant Jim Fleishman, and Town Planning Technician Braeden Garrett.

b. Pledge of Allegiance & Invocation – Mayor Browning

c. Approval of Agenda

Motion: The Agenda was approved through motion of Council Member Liang, seconded by Vice Mayor Rockett. The motion passed 5/0.

d. Swearing in of Council Members Jim Rockett Seats 2 and David Browning Seat 4.
Town Clerk Eichhorn administered the oath of office to Council Members Jim Rockett and David Browning.

*******Cake will be presented for public consumption after the swearing in ceremony*****
*****Short Recess will be taken*******

2. CONSENT AGENDA

3. PRESENTATIONS

4. COMMITTEE REPORTS – None

5. PUBLIC HEARINGS (Ordinances 2nd Reading) –

6. ORDINANCES (1st Reading) -

a. Public Hearing:

ORDINANCE NO. 2013-02

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, AMENDING PART III, ENTITLED “SUPPLEMENTAL REGULATIONS,” ARTICLE 80, ENTITLED

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“CONDITIONAL USES,” SECTION 80-020, ENTITLED “RESIDENTIAL ENTERPRISE,” OF THE TOWN OF LOXAHATCHEE GROVES UNIFIED LAND DEVELOPMENT CODE TO PERMIT A LIMITED NUMBER OF CUSTOMERS TO TRANSACT BUSINESS AT THE LOCATION OF A RESIDENTIAL ENTERPRISE; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

Town Attorney Cirullo read Ordinance No. 2013-02 by title, as printed above.

Town Manager Kutney provided a brief history regarding the ordinance, noting the recommendation to deny the ordinance made by the Local Planning Agency, and their reasons for doing so.

Discussion took place regarding the size of the properties addressed in the ordinance, businesses that had been in operation for a long time, and delivery issues.

Town Attorney Cirullo stated that the only direction that was given was to change the code to allow customers. He noted that in the future the ordinance would need to be reviewed again as part of the Unified Land Development Code Review Committee (ULDCRC) process.

Mayor Browning explained that there was a citizen who had a business selling firearms out of his home for over 27 years. The ATF looked at the Town code and said that in-home business were not allowed to have walk up traffic, and the change in the code was to allow him to stay in business.

Motion: Councilman Goltzené made a motion to eliminate parts B, G and I, and amend part H of Section 2. of the Ordinance as presented tonight. The motion was seconded by Councilman Jarriel.

Public Comments:

Dennis Lipp, 13402 North Rd.: Commented regarding allowing retail to occur as part of a residential enterprise use and suggested that a home occupation use would allow customers in the home.

Howard Voren, 1538 E Rd.: Commented that the five acre requirement was ridiculous.

John Ryan, 3508 A Rd.: Commented that the portion of the code dealing with walk-up traffic could be amended, and that may resolve the issue.

Town Manager Kutney noted that staff had discussed the definition section of the Code regarding home based use, and the definition was very specific.

The motion to eliminate parts B, G, and I and amend part H of Section 2. of Ordinance No. 2013-02 carried 4/1, with Vice Mayor Rockett opposed.

Town Attorney Cirullo read the amended title of Ordinance No. 2013-02 into the record as follows:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, AMENDING PART III, ENTITLED "SUPPLEMENTAL REGULATIONS," ARTICLE 80, ENTITLED "CONDITIONAL USES," SECTION 80-020, ENTITLED "RESIDENTIAL ENTERPRISE," OF THE TOWN OF LOXAHATCHEE GROVES UNIFIED LAND DEVELOPMENT CODE TO DELETE THE PROPERTY SIZE REQUIREMENTS, THE REGULATIONS RELATING TO NUMBER OF EMPLOYEES AND DELIVERY OF MERCHANDISE; TO PERMIT A LIMITED NUMBER OF CUSTOMERS TO TRANSACT BUSINESS AT THE LOCATION OF A RESIDENTIAL ENTERPRISE; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

Motion: Councilman Jarriel made a motion to approve Ordinance No. 2013-02, as amended on first reading. The motion was seconded by Councilman Goltzené. The motion carried 5/0.

7. RESOLUTIONS

8. ADMINISTRATIVE UPDATE – Town Manager Kutney

Town Manager Kutney reported that he had attended an Florida Department of Transportation (FDOT) teleconference regarding widening of Southern Blvd., and pond siting. He noted that future pond siting meetings would take place, that would also be available via teleconference, and that information would be added to the Town website.

9. OLD BUSINESS

a. Initiative Petition Certificate of Insufficiency

Town Clerk Susan Eichhorn reported regarding the Certificate of Insufficiency regarding the Initiative Petition to repeal ordinances 2012-04 and 2012-05.

Public Comment:

Todd McLendon, 3481 D Rd.: Commented as a member of the Initiative Committee and addressed the insufficiency certificate. He maintained that the Town Charter said that the full text of the ordinance had to be attached when the petition was circulated, not when the petition was turned in.

Dennis Lipp, 13402 North Rd.: Commented regarding going ahead with a referendum.

Marsha Newell, 3508 C Rd.: Commented as a member of the Initiative Committee that people should be allowed to vote.

Howard Voren, 1538 E Rd.: Commented regarding the petition and the residents voting.

Ken Johnson, Collecting Canal: Commented that the college would be the best fit for the property.

John Ryan, 3508 A Rd.: Commented that the petition was asking the Town to violate two State Statutes.

Ann Parker, 15565 Collecting Canal: Commented that someone asked her to sign the petition, and there was nothing attached to it – it was just the petition. At the Landowners meeting the petition was presented and it was just the one sheet with signatures on it.

Grace Joyce, 3886 147th Ave. N.: Commented that she commended the town in the process that was gone through regarding the college, and the transparency, and that the Town Attorney, Town Clerk, and others should be recognized for following the process.

Vice Mayor Rockett pointed out that this discussion was only about whether the petition was sufficient or insufficient. The point of the insufficiency was that the petition did not include the full text of the ordinance, and the petition was received by the Town Clerk that way. He stated

that it was hard to imagine that someone went to the trouble of removing the full text of the ordinance before submitting the petition. He also noted that Mr. McLendon had submitted an affidavit stating that the petition did have the full text of the ordinance to it when it was signed. Mr. Rockett presented an affidavit signed by six people who had signed the petition, stating that the petition did not have the full text of the ordinance attached to it when they signed. He then read a letter into the record from Ms. Lacey Hancotte which stated that she was tricked into signing the petition. He suggested to the Town Council that, in fact, the petition went forward without the full text of the ordinance attached, and thus did not follow the Town charter; it was very simple for the Town Council to support the Town Clerk that the petition was not sufficient.

Councilman Goltzené commented that it would be a disservice to the people of the town to have this be the end of this matter, since there may be a greater deal of dissension and bad will if people cannot vote on the matter.

Councilman Jarriel commented that people had told him that the full text of the ordinance was not there, and some had requested that their names be removed from the petition.

Motion: Councilman Jarriel made a motion to accept the Town Clerk's finding of insufficiency as to both determinations as to each petition. The motion was seconded by Vice Mayor Rockett.

Councilman Liang commented both Councilman Goltzené and Vice Mayor Rockett had brought up some very good points, and that the Town must follow its own rules.

The motion to accept the Town Clerk's finding of insufficiency as to both determinations as to each petition carried 4/1, with Councilman Goltzene opposed.

Town Attorney Cirullo noted that this was the final word on the determination of insufficiency.

b. Discussion of Comprehensive Plan Amendments

Town Manager Kutney reported that a moratorium had been passed in June 2012, and the ordinance would expire as of March 30, 2013. Tonight staff had a presentation and proposal relative to an approach for both Okeechobee Blvd. and Southern Blvd. One of the goals was that the proposal would be adequate so that zoning in progress could be declared, rather than continuing the moratorium. After the Town Council saw the presentation and heard the proposal, staff would go back and start to put together a package of amendments for the Town Council to review and adopt.

Town Planning Consultant Fleischmann and Town Manager Kutney reported regarding the controlling of development, permitting development on a time frame; concepts for Okeechobee Blvd.; an Okeechobee Blvd. master plan to be developed by 2018; implementing certain controls into the Comprehensive Plan now; sunset provisions for certain development approvals; adding requirements to the future land use application; more stringent requirements for buffering and screening for non-residential uses; rural vista guideline specifics to be added to the Comprehensive Plan.

Town Manager Kutney summarized that staff was trying to protect the Town from a community standpoint, while also recognizing the individual property rights on Okeechobee Blvd. and Southern Blvd. He requested support to move forward with this program so that zoning in progress could be declared.

Councilman Goltzene commented that it was a good framework to move forward with. Councilman Liang agreed that it was a good framework, and that the Local Planning Agency (LPA) input would be desired; Vice Mayor Rockett addressed the vision of Okeechobee Blvd., a horse trail network along Okeechobee Blvd., and that it was a good framework to move forward with. Councilman Jarriel commented regarding commercial along Okeechobee Blvd., and concentrating on Southern Blvd. for commercial activity. Mayor Browning commented that the Town would need to be very careful with development on Okeechobee Blvd.

Town Manager Kutney advised that the comments heard tonight would give staff what was needed to move forward to transition from a moratorium to a zoning in progress and he believed a motion was necessary.

Town Attorney Cirullo stated that a motion to direct staff to proceed along the lines of your comments and their proposal tonight would allow staff to move forward

Motion: Councilman Goltzene made a motion, seconded by Councilman Liang to direct staff to proceed along the lines of the Town Council comments, and the proposal presented tonight.

Bill Louda, 1300 E Rd.: Commented regarding the development of Okeechobee Blvd., and the neighborhood plan concept. He stated that he would like to see additional workshops held to receive public input.

Ken Johnson, Collecting Canal Rd.: Commented regarding keeping Okeechobee as a two lane road, with turn lanes; round-abouts at each end of Okeechobee, traffic lights at B and D Roads,

and lowering the speed limits. He requested that the Town Council provide any influence they could to the County in this regard.

Marsha Newell, 3508 C Rd.: Commented regarding the statement that had been made regarding everyone knowing about the Palm Beach State College, and noted that she did not read the newspaper and knew absolutely nothing about the Palm Beach State College, and had never heard of a workshop regarding the college.

Mayor Browning commented that he was looking for a better way to get information out to all people.

The motion to direct staff to proceed along the lines of the Town Council comments, and the proposal presented tonight carried 5/0.

10. NEW BUSINESS

- a. Administrative Policy 2-13 – Ethics Training

Town Manger Kutney presented the policy regarding Ethics Training, and requested that the training be completed by any Town Council Member who had not yet done so.

Motion: Councilman Liang made a motion to approve Policy 2-13 – Ethics Training. The motion was seconded by Councilman Goltzene. The motion carried 5/0.

Councilman Goltzene commented that the training video could be shown with the Town Council members and all members of the other boards/committees present.

11. CLOSING COMMENTS

- a. Public

Robert Hall, 15531 42nd Rd. N.: Commented regarding the Wellington horse manure dumping in Loxahatchee Groves, and read a letter, addressed to Mayor Browning into the record, including signatures of homeowners affected by the problem.

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Virginia Standish, 15410 North Rd.: Commented that she has lived across from the property in question and has taken videos and built a history of what is going on, and that there were multiple issues with the manure dumping permit issued.

Bill Louda, 1300 E Rd.: Commented that he has done two studies on phosphorous in the waterways and horse manure, and that he had to dilute the sample five times to get it on scale for high range phosphorous. He suggested that citizens attend the FDOT siting meetings, and request that there be two ponds on both sides of Loxahatchee Ave. He asked Town Manager Kutney to add the road plans that were passed at the Roadway, Equestrian Trails and Greenway Advisory Committee (RETGAC) meeting on the Town Council agenda for the next meeting. He added that he had some handouts for a community garage sale.

Marge Herzog, A Rd.: Commented that the Loxahatchee Groves Landowners meeting would be held on Thursday, with Lt. Combs talking about the dirt bike issues, and Grace Joyce talking about the Palm Beach State College issue.

Grace Joyce, 147th Ave. N.: Commented that she was representing the Town's Local Planning Agency (LPA), and was concerned that the recommendations of the LPA were not considered in regard to the residential enterprise ordinance. She respectfully requested that the Town Council consider the recommendations made by the LPA.

Ken Johnson, Collecting Canal Rd.: Commented regarding the manure dumping trucks.

Virginia Standish, 15410 North Rd.: Commented that the issue was not with the dumping of manure, but with the ag classification, and that she did not support fronting as a banana tree farm when it was really an illegal waste site.

Nina Corning, 2834 E Rd.: Commented regarding the RETGAC road recommendations, noting that the Committee had allowed Town Manager Kutney to present it to the Town Council.

b. Town Attorney

Town Attorney Cirullo had nothing to report.

c. Town Council Members

Councilman Goltzene: Good Night.

Councilman Jarriel: Requested that Town staff issue a stop and decess until the manure dumping could be investigated, and suggested that staff needed to be given some direction

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tonight. Town Manager Kutney responded that the property in question did show the document for bona fide ag, and he suggested that staff could discuss the matter and consider pulling the permit. Mr. Kutney also noted that five responses had been received on the ITB issued for road grading and other road services.

Councilman Liang: Congratulated Dave Browning and Jim Rockett.

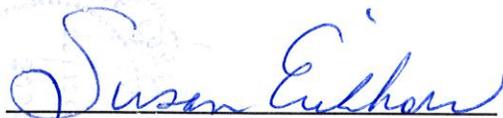
Vice Mayor Rockett: Questioned if a complaint was necessary in order for staff to pull the manure dumping permit. Town Manager Kutney noted that staff had submitted a policy on code enforcement that was approved, and then the Town Council had rescinded the policy. A complaint was not needed in order for the permit to be pulled. He noted that the manure ordinance needed to be re-visited and discussed on April 2, 2013.

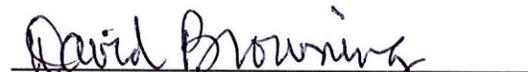
Mayor Browning: Commented regarding communicating with the public.

12. ADJOURNMENT

There being no further business, the Town Council meeting of March 19, 2013, was adjourned at 10:00 p.m.

**These minutes were approved by the Town Council
on Tuesday, May 7, 2013**


Susan Eichhorn, Town Clerk


David Browning, Mayor

(SEAL)